

Brookline School and Town Services Study Committee  
(STSSC)

Growth Management Study  
and  
Committee Findings

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# Background

The Brookline School & Town Services Study Committee (STSSC) was formed by the Brookline Planning Board pursuant to a warrant article passed in March of 2021 by the citizens of Brookline.

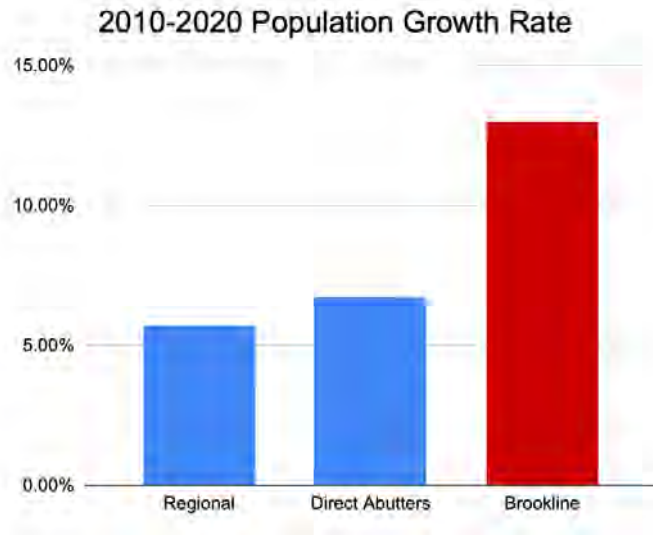
The STSSC began its work on May 27, 2021 and conducted approximately 20 public meetings including but not limited to, as a full Committee, subcommittee activities and Planning Board meetings. The committee put in hundreds of hours of combined meetings, research, and consultation time. Members of the STSSC consulted with Brookline community entities, including but not limited to, the Brookline School District, the Brookline Fire Department, the Brookline Police Department, the Brookline Ambulance Department, Brookline Public Works and the Well Water Committee.

Additionally, members of the STSSC consulted with outside entities, including but not limited to; the Nashua Regional Planning Commission (NRPC), the New Hampshire Department of Environmental Services (NHDES), the New Hampshire Office of Strategic Initiatives (NH OSI), and the New Hampshire Municipal Association (NHMA). Members of the STSSC reviewed data from New England School Development Council (NESDEC), and reviewed Ordinances and Bylaws from towns within the State of New Hampshire.

# Summary of Growth Management Study

The Brookline School & Town Services Study Committee (STSSC) reviewed thousands of data points included in the datasets below. The culmination of the review of datasets resulted in a determination that Brookline’s growth is outpacing the Town’s ability to scale school and town service capacities.

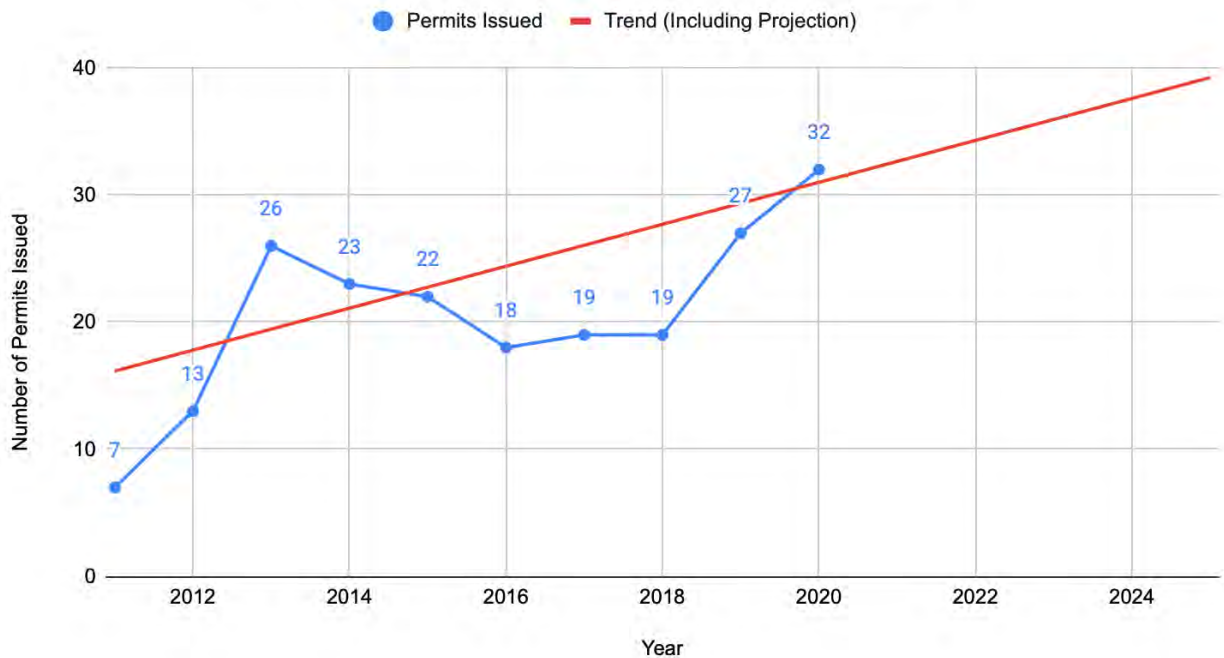
Brookline’s growth is demonstrated by several datasets. The population data from 2020 U.S. Census Bureau shows that Brookline grew at a rate of 12.98% over the last 10 years, which is the highest growth rate in the Nashua Regional Planning Commission (NRPC) region. Brookline’s growth exceeded the regional average growth rate of (5.7%) by approximately 227%. Even more indicative of outsize growth, Brookline’s growth rate exceeded its direct abutters average growth rate (6.7%) by approximately 194%. The increasing issuance of building permits provides further evidence of Brookline’s rapid growth. Between 2011 and 2020, new home building permit activity increased from 7 to 32 new home permits - a 457% increase.



When the Growth Management Ordinance sunset in 2011, the Town had issued seven (7) building permits for that year. The number of building permits subsequently increased to fourteen (14) in 2012 then to twenty-six (26) in 2013, nearly 100% growth sustained for two years in a row.

In 2020, the Town issued thirty-two (32) building permits. This rate of development reflects an annual average growth rate equal to approximately 320% greater than the annual average growth rate of the NRPC region.

## Permits Issued By Year with Linear Trendline



In 2021, it appears there are approximately 30 pre-approved subdivision lots where a building permit has not yet been issued. If these homes were to be developed in the next year along with the building permits already issued for 2021 Brookline would reach an all-time high annual average growth rate of approximately 430% greater than the annual average growth rate of the NRPC region.

A linear trendline (figure above) is calculated by looking at all the data points and determining an equation that best predicts how many permits will be issued in a given year. This won't be entirely accurate – but it does provide a reasonable estimate of future increases in permits based on what Brookline has issued in new home permits in the last ten years. Based on the trendline calculation above, if Brookline took no action related to controlling growth, Brookline would issue approximately 179.75 building permits between 2021- 2025. Based on the U.S. Census Bureau Data of an average of 3.08 people per household in Brookline. The corresponding population increase just from new development would be approximately 553.63 people or 344% greater than the current annual average growth rate of the NRPC region. This population increase does not include organic growth through the expansion of families already in town or from homes which are sold and more people move into town than moved out of town.

While the Town of Brookline is currently under a moratorium for 2021, it is important to note that the 2021 annual average growth rate indicated above reflects building permits issued prior to the moratorium taking effect (approximately five (5) issued prior to the moratorium). Ten (10) building permits have been issued since the moratorium took effect, each deemed exempt from the moratorium. The remaining approximately 30 pre-approved subdivision lots where a building permit has not yet been issued are also exempt from the moratorium and could be built at any time, at the discretion of the developer.

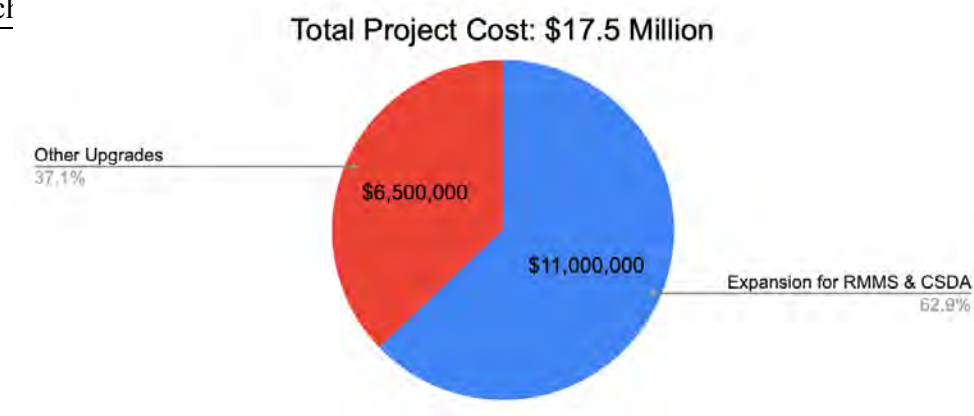
In order for Brookline to manage its average annual growth rate to meet the annual average growth rate of the NRPC region under the current circumstances of pre-approved subdivision lots yet to be built, Brookline would have to stop issuing all building permits for a period of three (3) years, providing exceptions only for the pre-approved subdivisions. This would allow the effect of the average annual growth rate to stabilize.

The growth rate demonstrated above (12.98%), along with an enrollment increase of 14.2% from 2017 (514) - 2021(587) has had significant impacts on the Brookline School District. School data began to indicate that the Brookline School District was rapidly approaching capacity. In the 2020-2021 school year Brookline added a 4th full day Kindergarten class. In the 2021- 2022 the next school year (current school year) Brookline added a 5th full day Kindergarten class and 5th 1st grade class.

In response to the rapid growth rate, the strain being placed on the classroom space within the school buildings and the fact that children new to the school system are primarily entering the district in Kindergarten and First Grade, the Brookline School Board engaged the engineering firm Energy Efficient Investments, Inc. to conduct an analysis of the current capacity and potential capital improvements that the school district would require. Energy Efficient Investments, Inc. findings (Sep 2021) found a lack of physical space for education in both district buildings. The Brookline School Board is currently evaluating the findings to determine what if anything can be done to reduce the cost of the project.

Energy Efficient Investments, Inc. findings are summarized below.

Brookline Sch



1. Total costs for both school district buildings repairs, upgrades and expansion are projected to be approximately \$17.5 million
2. Costs strictly related to expansion for both school district buildings to accommodate growth in student populations, are projected to be approximately \$11 million

- a. Expansion for RMMS was proposed to be five (5) additional classrooms at a cost of approximately \$8 million
  - b. Expansion for CSDA: 6750 feet of classroom space; five (5) additional classrooms at a cost of approximately \$3 million
3. Other upgrades in the estimated project cost not related to expansion include ADA compliance (elevator, RMMS), boiler, and HVAC repairs amongst others.

#### Brookline School District

1. Current Number of Students Enrolled: 587
2. Current Number of classrooms being utilized at CSDA & RMMS: All
3. RMMS and CSDA could not support an additional class at this time based on the current School Board Policy IIB without reconfiguration of the building space.

#### Richard Maghakian Memorial School (RMMS)

1. Specialist teachers do not have their own classrooms and are now teaching “off of a cart.”
2. Library had to be split to facilitate additional classroom space.
3. There is an overall lack of space in the building for education needs.
4. There are needed ADA and code upgrades.
5. Building lacks a sprinkler system.
6. Building has three (3) inefficient oil boiler furnaces.
7. Ventilation systems are at the end of life.
8. No elevator for ADA access for lower level.
9. Main office is separated from the main entrance creating a security risk.
10. School lacks a modern kitchen and a dedicated cafeteria.

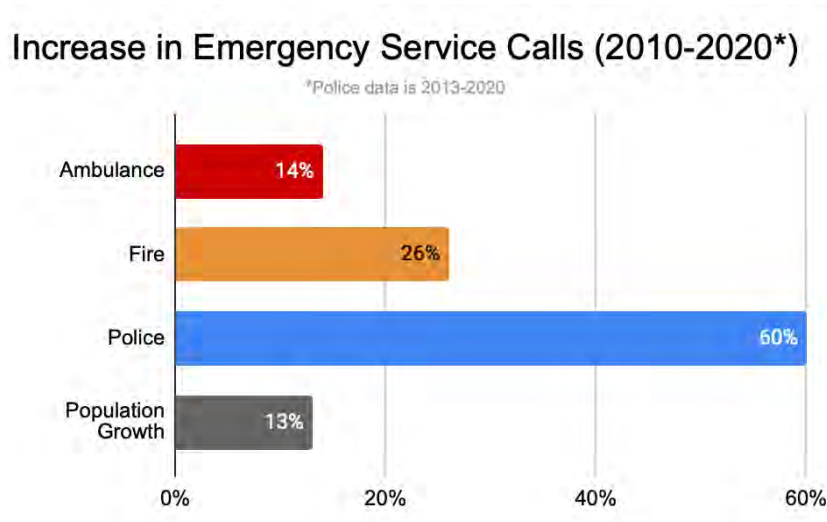
#### Captain Samuel Douglass Academy (CSDA)

1. School relies on modular classrooms as space inside the building is strained.
2. HVAC controls and fire alarm system nearing end of useful life.
3. HVAC system does not allow for dehumidification or recommended ASHRAE filtration.
4. Building has inefficient fluorescent lighting.
5. Cafeteria is undersized for student usage.
6. Building lacks a sprinkler system.

The rapid growth demonstrated above has also started to impact the availability of a potable water supply for residents. Residents in Brookline began reporting well-water issues immediately after new developments were added to their neighborhoods. In response, the Planning Board created a Well Water Committee (2020) to study how the Town could address the issue. The Well Water Committee published a report with findings and recommendations in the fall of 2020. The STSSC has incorporated those findings and recommendations into its findings.

Other town services have been similarly impacted. Data from 2020 US Census Bureau Data demonstrates that there was a 12.98% increase in Brookline’s population from 2010 - 2020. The STSSC analyzed the emergency services dataset included as part of the Growth Management Dataset and was able to determine the following correlating increase of Emergency Services:

- a. Brookline Fire Department: 26% increase in calls
- b. Brookline Ambulance Department: 14% increase in calls
- c. Brookline Police Department: 60% increase in calls (2013 – 2020)



The data shows that emergency services are being impacted at a rate even greater than the population growth rate.

Finally, growth in the town has resulted in the Town transitioning from a Road Agent to a full time Brookline Department of Public Works (BPW). The BPW is currently significantly understaffed, forcing the town to continue to rely on subcontractors. Based on research conducted by the STSSC, a town should have approximately one (1) BPW employee for every ten (10) miles of roads. Brookline has approximately sixty (60) miles of roads, requiring six (6) full time employees. Brookline is currently operating with only two (2) full time employees. Further, in 2020 Brookline Town Meeting approved the construction of a BPW building at a cost of \$2.67 million in response to the town’s growth and the corresponding need to provide public works services. The building is currently under construction, further hampering the Town’s ability to provide increased town services until such time that construction has been completed.

In summary, the STSSC reviewed thousands of data points included in the datasets below to compile the summary above. The culmination of the review of datasets resulted in a determination that Brookline’s growth is outpacing the Town’s ability to scale school and town service capacities. As a result of this determination, the Committee has made the following findings and recommendations.



# Committee Findings and Recommendations

## 1. Reinstate the Growth Management Ordinance

- a. With the goal to pace the growth in Brookline to meet our region's annual average rate of population growth while allowing the Town to:
  - i. meet the demand for high quality education and school services while maintaining classroom sizes in accordance with the current and long-standing school board policies;
  - ii. provide the town time to conduct a town-wide hydrogeological study of existing well water capacity and to protect existing water resources; and
  - iii. plan for increases in Town services in an efficient manner.

## 2. Update the Workforce Housing Ordinance to allow Workforce Housing development when the Town falls short of its Regional Fair Share of Workforce Housing by

- a. Providing long-term sustainable affordability;
- b. Removing square footage limitations and aligning with affordability standards in accordance with RSA 674:58;
- c. Updating Applicability Section to expand where mixed developments may occur;
- d. Providing reduced lot size and frontage requirements for Workforce Housing;
- e. Encouraging Mixed Developments;
- f. Providing greater clarity with conforming definitions (IAW RSA 674:58) and resolving a conflict in definitions between Town and State definitions (aligned with the RSA's) to provide greater flexibility in the use of 2, 3 or 4 family dwellings;
- g. Aligning paragraphs under the appropriate sections; and
- h. Requiring an annual determination by the Planning Board on workforce housing to determine the Town's compliance with RSA 672:1, III-e and RSA 674:59 in accordance with the provisions of RSA 674:59 III.

## 3. Implement a Well and Water Ordinance

- a. Provide wells that are able to supply long term sustainable water yields of at least four (4) gallons per minute over a four (4) hour period; and
- b. Provide wells that are safe for drinking and meet minimum testing requirements for potable water.

## 4. Update the Zoning Ordinance (Section 600, 900, 1500)

- a. Changing the Residential/Agricultural District minimum lot size to be two (2) acres.

5. Update the Subdivision, Cluster Development & Site Plan Regulations

- a. Requiring a hydrogeological study before subdivision approval; and
- b. Ensuring that Reasonable Standards including, but not limited to, Environmental Protection, Water Supply, Sanitary Disposal, Traffic Safety, Fire and Life Safety Protection are met for all new developments in Brookline; and
- c. Add language to allow for maintenance bonds for any subdivision, cluster development, and Site Plan that includes residential uses.

6. Update the Master Plan

- a. Revising the Housing Chapter with 2020 U.S. Census Data and current information on housing goals and objectives; and
- b. Conducting a review of the CIP, in light of faster than anticipated growth.

7. Update Impact Fee Schedule

- a. Potential additions and renovations to the two elementary schools.

Committee Recommendations for Future Work

1. Review and revise Phased Development, if needed;
2. Establish an Independent Well Water Committee reporting to the Select Board;
3. Evaluate the need for a community well water monitoring survey/program;
4. Updates to the Zoning Ordinance to include, but not be limited to, Definitions; and
5. Review of Zoning Ordinance - Review/Recommendations by NRPC.

# Growth Management Dataset

1. All relevant materials from all datasets are included here by reference.
2. 2010 - 2020 Census Data
3. 2019 Regional Housing Needs Assessment – NRPC
4. Current Estimates and Trends in New Hampshire’s Housing Supply Update 2010-2019 Report NH OSI
5. Current Estimates and Trends in New Hampshire’s Housing Supply Update 2010-2019 Webinar 01.8.2021
6. Innovative Land Use Controls (1990) – UNH
7. NH Municipal Land Use Regulation Process - NH Office of Energy and Planning
8. How to... Manage Community Growth - Strafford Regional Planning Commission (SRPC)
9. Brookline, NH Growth Management Ordinance - 2009
10. Brookline, NH Growth Management Ordinance - 1994
11. Growth Management Ordinance - Town of Deering
12. Growth Management Ordinance - Town of Lyndeborough
13. Growth Management Ordinance - Town of Hollis
14. Brookline, NH Zoning Ordinance - 2020
15. Brookline, NH Subdivision Regulations – 2021
16. Brookline, NH Subdivision Regulations Appendices – 2021
17. Hollis Zoning Ordinance - 2021
18. Mason Planning Ordinance (Zoning Ordinance) - 2016
19. Milford Zoning Ordinance (R-district) - 2020
20. Town of Amherst Ordinances, Laws, and Regulations - 2020
21. Mont Vernon Zoning Ordinance
22. Lyndeborough Zoning Ordinance 2019
23. Wilton Zoning Ordinance - 2021
24. Hudson Zoning Ordinance
25. Surrounding Communities Lot Size
26. Brookline New Home-ADU Building Permits 2010-2020
27. Brookline Building Permits 2016 – 2020
28. Brookline List of All Planning Board Cases Since 1998
29. Brookline Planning Board Meeting Minutes 2011
30. Brookline Planning Board Meeting Minutes 2010
31. Brookline Planning Board Meeting Minutes 1994
32. Brookline Planning Board Meeting Minutes 1993
33. Brookline Planning Board Meeting Minutes 1992
34. Brookline Planning Board Meeting Minutes 1991
35. Energy Efficient Investments, Inc. Findings - Sep 2021
36. SAU41 Superintendent Letter dated March 17, 2021
37. SAU41 Superintendent Letter dated March 22, 2021
38. SAU41 Superintendent Letter dated October 21, 2021

39. Brookline School District Class Size
40. NESDEC EP METHODOLOGY 2021
41. NESDEC Methodology Overview
42. NESDEC to Actual Enrollment Assessment (This is the data compilation created by STSSC)
43. 2011-Brookline, NH SAU#41-11-9-11
44. 2012- FY13 Brookline NESDEC-11-15-12
45. 2013-Brookline NH SAU#41-11-14-13
46. 2014-Brookline Projections 2014-12-1-14
47. 2015-16 NESDEC Projections-10-26-15
48. 2016-NESDEC Projections-10-4-16
49. 2017- NESDEC Projections 10-2017-BSD
50. 2018- FY19 NESDEC Projections 10-2018
51. 2019- FY20 NESDEC Projections 10-2019-BSD
52. 2020- FY21 NESDEC Projections 10-2020-BSD
53. RSA 674-21
54. RSA 674-22
55. RSA 674-39
56. RSA 675-6
57. RSA 675-7



**QuickFacts**

**Brookline town, Hillsborough County, New Hampshire**

QuickFacts provides statistics for all states and counties, and for cities and towns with a *population of 5,000 or more*.

**Table**

All Topics	<b>Brookline town, Hillsborough County, New Hampshire</b>
<b>Population, Census, April 1, 2020</b>	<b>5,639</b>
<b>PEOPLE</b>	
<b>Population</b>	
Population estimates, July 1, 2019, (V2019)	5,453
Population estimates base, April 1, 2010, (V2019)	4,989
Population, percent change - April 1, 2010 (estimates base) to July 1, 2019, (V2019)	9.3%
<b>Population, Census, April 1, 2020</b>	<b>5,639</b>
Population, Census, April 1, 2010	4,991
<b>Age and Sex</b>	
Persons under 5 years, percent	▲ 5.7%
Persons under 18 years, percent	▲ 28.0%
Persons 65 years and over, percent	▲ 10.3%
Female persons, percent	▲ 51.4%
<b>Race and Hispanic Origin</b>	
White alone, percent	▲ 95.3%
Black or African American alone, percent (a)	▲ 1.0%
American Indian and Alaska Native alone, percent (a)	▲ 0.0%
Asian alone, percent (a)	▲ 0.6%
Native Hawaiian and Other Pacific Islander alone, percent (a)	▲ 0.0%
Two or More Races, percent	▲ 3.1%
Hispanic or Latino, percent (b)	▲ 2.1%
White alone, not Hispanic or Latino, percent	▲ 93.3%
<b>Population Characteristics</b>	
Veterans, 2015-2019	327
Foreign born persons, percent, 2015-2019	4.0%
<b>Housing</b>	
Housing units, July 1, 2019, (V2019)	X
Owner-occupied housing unit rate, 2015-2019	94.4%
Median value of owner-occupied housing units, 2015-2019	\$329,100
Median selected monthly owner costs -with a mortgage, 2015-2019	\$2,492
Median selected monthly owner costs -without a mortgage, 2015-2019	\$1,139
Median gross rent, 2015-2019	\$1,447
Building permits, 2020	X
<b>Families &amp; Living Arrangements</b>	
Households, 2015-2019	1,736
Persons per household, 2015-2019	3.08
Living in same house 1 year ago, percent of persons age 1 year+, 2015-2019	87.4%
Language other than English spoken at home, percent of persons age 5 years+, 2015-2019	4.6%
<b>Computer and Internet Use</b>	
Households with a computer, percent, 2015-2019	97.3%
Households with a broadband Internet subscription, percent, 2015-2019	95.6%
<b>Education</b>	
High school graduate or higher, percent of persons age 25 years+, 2015-2019	95.6%
Bachelor's degree or higher, percent of persons age 25 years+, 2015-2019	55.6%

**Health**

With a disability, under age 65 years, percent, 2015-2019	3.7%
Persons without health insurance, under age 65 years, percent	▲ 2.4%

**Economy**

In civilian labor force, total, percent of population age 16 years+, 2015-2019	74.9%
In civilian labor force, female, percent of population age 16 years+, 2015-2019	66.3%
Total accommodation and food services sales, 2012 (\$1,000) (c)	4,153
Total health care and social assistance receipts/revenue, 2012 (\$1,000) (c)	195
Total manufacturers shipments, 2012 (\$1,000) (c)	D
Total retail sales, 2012 (\$1,000) (c)	15,917
Total retail sales per capita, 2012 (c)	\$3,157

**Transportation**

Mean travel time to work (minutes), workers age 16 years+, 2015-2019	36.4
--	------

**Income & Poverty**

Median household income (in 2019 dollars), 2015-2019	\$141,875
Per capita income in past 12 months (in 2019 dollars), 2015-2019	\$50,237
Persons in poverty, percent	▲ 0.9%

** BUSINESSES****Businesses**


Total employer establishments, 2019	X
Total employment, 2019	X
Total annual payroll, 2019 (\$1,000)	X
Total employment, percent change, 2018-2019	X
Total nonemployer establishments, 2018	X
All firms, 2012	513
Men-owned firms, 2012	267
Women-owned firms, 2012	182
Minority-owned firms, 2012	F
Nonminority-owned firms, 2012	498
Veteran-owned firms, 2012	90
Nonveteran-owned firms, 2012	412


** GEOGRAPHY****Geography**

Population per square mile, 2010	252.4
Land area in square miles, 2010	19.77
FIPS Code	3301108100

About datasets used in this table

**Value Notes**

 Estimates are not comparable to other geographic levels due to methodology differences that may exist between different data sources.

Some estimates presented here come from sample data, and thus have sampling errors that may render some apparent differences between geographies statistically indistinguishable. Click the Quick Info  icon to row in TABLE view to learn about sampling error.

The vintage year (e.g., V2019) refers to the final year of the series (2010 thru 2019). *Different vintage years of estimates are not comparable.*

**Fact Notes**

- (a) Includes persons reporting only one race
- (c) Economic Census - Puerto Rico data are not comparable to U.S. Economic Census data
- (b) Hispanics may be of any race, so also are included in applicable race categories

**Value Flags**

- Either no or too few sample observations were available to compute an estimate, or a ratio of medians cannot be calculated because one or both of the median estimates falls in the lowest or upper open ended distribution.
- F Fewer than 25 firms
- D Suppressed to avoid disclosure of confidential information
- N Data for this geographic area cannot be displayed because the number of sample cases is too small.
- FN Footnote on this item in place of data
- X Not applicable
- S Suppressed; does not meet publication standards
- NA Not available
- Z Value greater than zero but less than half unit of measure shown

QuickFacts data are derived from: Population Estimates, American Community Survey, Census of Population and Housing, Current Population Survey, Small Area Health Insurance Estimates, Small Area Income and Estimates, State and County Housing Unit Estimates, County Business Patterns, Nonemployer Statistics, Economic Census, Survey of Business Owners, Building Permits.

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2019

# HOUSING NEEDS ASSESSMENT FOR THE NASHUA REGION

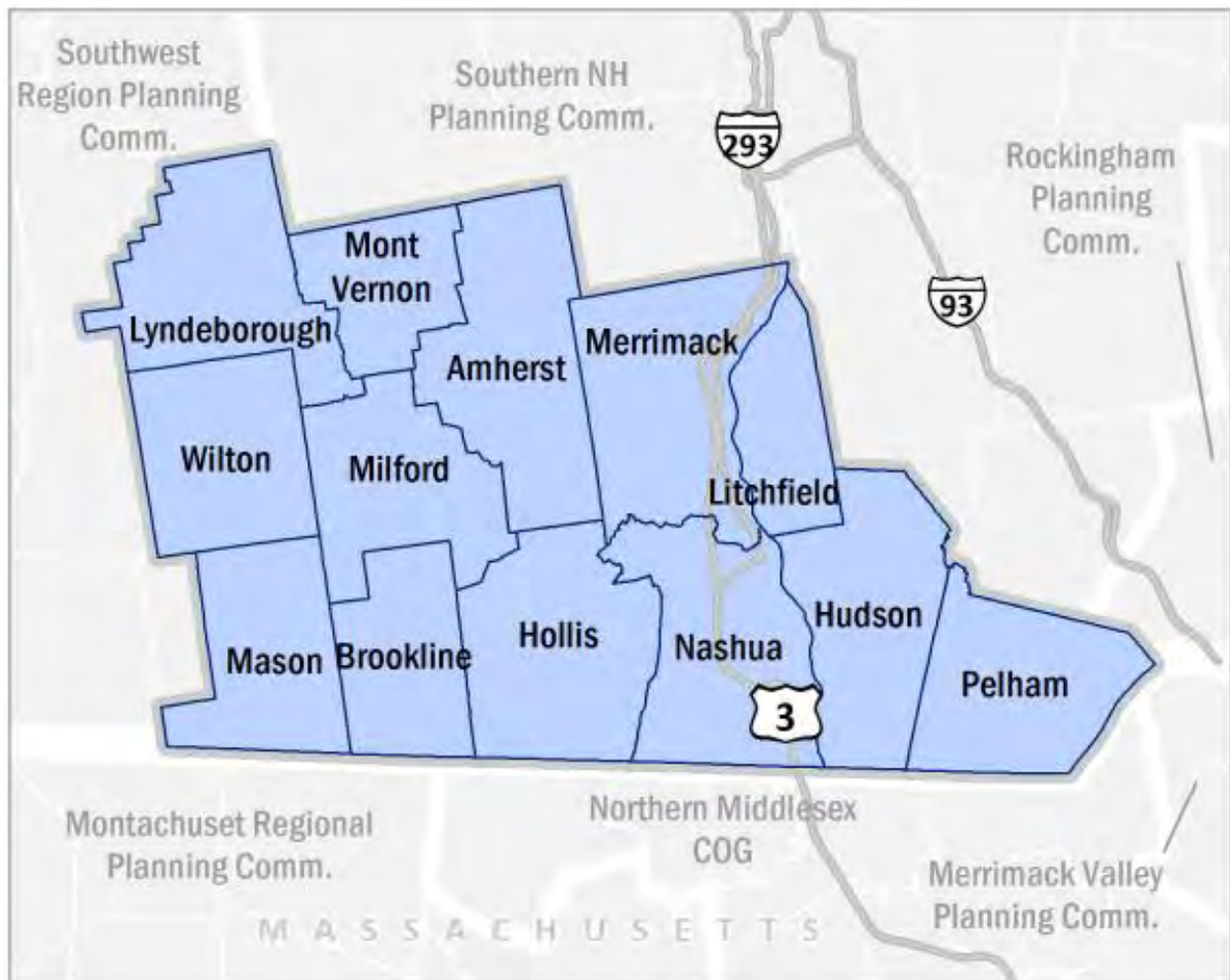


NASHUA REGIONAL  
PLANNING COMMISSION  
12/19/2019



## ABSTRACT

The Nashua Region boasts one of the most diverse range of housing options in the state with an abundant mix of home types, styles and settings including a large supply of multi-family housing, a variety of suburban single-family neighborhoods and extensive rural-residential areas. Proximity to large concentrations of employment in southern New Hampshire and Greater Boston, together with access to expansive recreational and cultural opportunities, makes the region a highly desirable place to live. The region's desirability, however, also creates pressures on the housing market in terms of both supply and affordability. In addition, changing demographics including an aging population and a trend toward smaller households has significant implications for housing type, size and cost. This Assessment is designed to provide an overview of the Region's housing supply by type, cost and location, together with an analysis of current and future needs. It is also designed to meet the requirements of NH RSA 36:47.



NRPC Region

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## EXECUTIVE SUMMARY

The Nashua region has one of the most diverse housing supplies in the state. Housing options include a wide range of rental and owner-occupied multi-family homes at varying densities and cost levels; especially along our major transportation networks and within our city and town centers, as well as a large supply of single-family homes located throughout the region's urban, suburban and rural areas. The mix of housing options and variety of residential settings provides residents with the opportunity to enjoy access to open space and natural areas alongside urban conveniences and a wealth of job opportunities. Over the past few years, the region has recovered from the Great Recession of 2007-2009 and is currently experiencing record low unemployment, healthy job creation and rising home values. The pace of the strengthening economy however, coupled with residential construction levels that have failed to recover to pre-recessionary levels, has resulted in a housing market that is increasingly competitive.

Since 2010, the region has experienced a 7.7% growth in employment while the unemployment rate has fallen to 2.6%. Over the same period, the region's population has grown by only 1.45%, an indication that more workers and additional housing to accommodate them, is necessary to support a strong economy. Failure to accommodate the region's workforce needs on-the-other-hand, could stifle economic growth.

The region's lagging supply of housing coupled with strong demand is steadily driving housing prices up, especially in the rental housing market. Since the 2014 Housing Needs Assessment, there has been a continuing shift toward more renter-occupied housing units across all income levels and rental units now make up about 30% of all units in the region – up 3% since 2014. The location of these units remains heavily concentrated portions of the City of Nashua, downtown Milford, eastern Merrimack and parts of Hudson where public water and sewer are available to support higher housing densities. The remainder and far larger part of the region's housing stock is generally made up of single-family homes situated in suburban and rural settings. Other notable trends include an aging population and a decline in the number of households with children. Shifting housing preferences, declining household sizes and an aging population raise questions as to whether the region's existing housing stock is aligned with future demand. Recent building permit activity, however, suggests that development in the region is responding to demographic and market shifts and we are constructing a wider variety of housing options, including more duplexes and larger multi-family rental complexes, though demand continues to outpace supply. Single-family construction has also increased though, perhaps appropriately, it remains below pre-recessionary levels. Despite increasing housing costs, the region does provide an adequate supply of affordable housing overall, though housing cost, affordability and availability varies considerably across the region and many households remain cost burdened.

The term “affordable”, in this document generally aligns with the state and US Department of Housing and Urban Development (HUD) definition meaning housing costs that do not exceed 30% of a household's gross annual income. The term “workforce housing” is also defined by the state, meaning housing for sale which is affordable to a household with an income of no more than 100% of the median income for a 4-person household or housing for rent which is affordable to a household with an income

of no more than 60% of the median income for a 3-person household. These workforce housing limits are published annually by HUD for each metropolitan area. The Nashua metropolitan area income limits were used as the basis for calculations and comparisons and typically hovered around \$100,000 or 100% AMI for homeowner households and \$60,000 or 60% AMI for renter households.

This document contains a compilation of relevant demographic and housing data for the region's thirteen municipalities. In addition, the assessment identifies the need for overall and workforce housing in each municipality through 2040. Chapter sections are designed to help the region and its communities understand and plan for housing needs. The Regional Housing Needs Assessment includes an analysis of existing demographics, housing supply, market conditions, cost and affordability, projected housing demand, a regional fair share analysis and a description of workforce housing legislation and related issues. Additionally, it includes a review of existing resources available for meeting local housing needs. The assessment also includes a discussion of issues related to increasing diversity, race and ethnically, concentrated poverty, fair housing and housing discrimination.

To continue to be a great area to live, work and raise a family, the region needs to ensure that a sufficient range of housing options are available, affordable and well located in proximity to transportation and employment opportunities. Local land use regulations and policies need to be flexible and adaptable to respond to changing demographics, housing preferences and market conditions. The Regional Housing Needs Assessment is intended to assist communities in understanding the existing landscape for housing in the region and as a tool for meeting the housing needs of all current and future residents.



## INTRODUCTION

This Regional Housing Needs Assessment report has been completed by the Nashua Regional Planning Commission (NRPC) in accordance with RSA 36:47, II which states that:

“...each regional planning commission shall compile a regional housing needs assessment, which shall include an assessment of the regional need for housing for persons and families of all levels of income. The regional housing needs assessment shall be updated every 5 years and made available to all municipalities in the planning region.”

This report has been written as an update to the 2014 NRPC Regional Housing Needs Assessment and is also meant to aid member communities in complying with RSA 674:2, III (I), which states that a town’s master plan may include:

“A housing section which assesses local housing conditions and projects future housing needs of residents of all levels of income and ages in the municipality and the region as identified in the regional housing needs assessment performed by the regional planning commission pursuant to RSA 36:47, II, and which integrates the availability of human services with other planning undertaken by the community.”

In addition to the statutes stated above, and accordance with RSA 674:59, I, the State also required that:

“In every municipality that exercises the power to adopt land use ordinances and regulations, such ordinances and regulations shall provide reasonable and realistic opportunities for the development of workforce housing, including rental multi-family housing. In order to provide such opportunities, lot size and overall density requirements for workforce housing shall be reasonable. A municipality that adopts land use ordinances and regulations shall allow workforce housing to be located in a majority, but not necessarily all, of the land area that is zoned to permit residential uses within the municipality. Such a municipality shall have the discretion to determine what land areas are appropriate to meet this obligation. This obligation may be satisfied by the adoption of inclusionary zoning as defined in RSA 674:21, IV(a). This paragraph shall not be construed to require a municipality to allow for the development of multifamily housing in a majority of its land zoned to permit residential uses.”

This assessment contains seven sections which highlight various aspects of the region’s profile. Each section aggregates updated information and provides an analysis. The seven sections consist of:

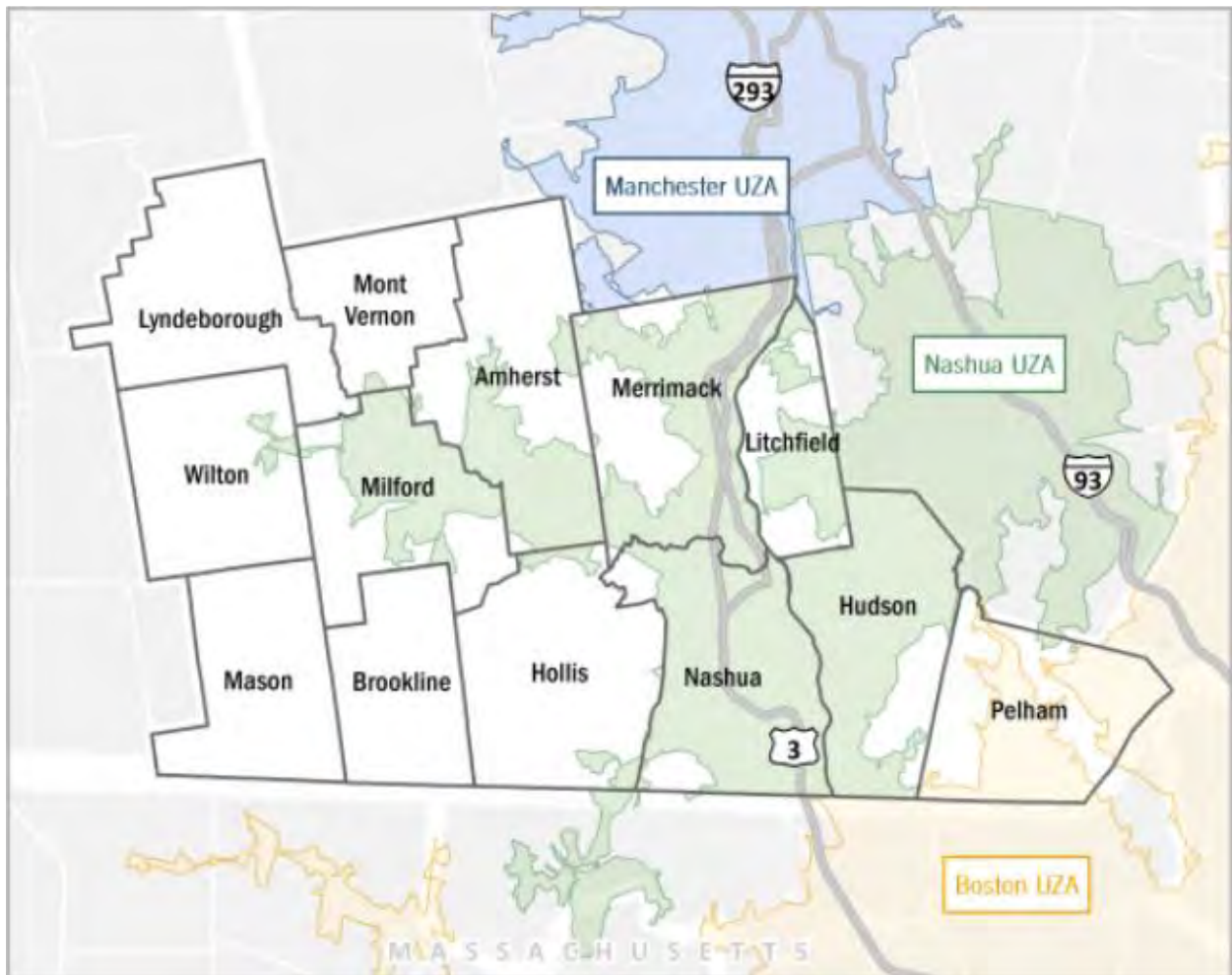
- 1.) existing demographic conditions including population and household trends, public school enrollment, employment, commuter patterns and communities of interest;
- 2.) existing housing unit trends and characteristics including housing supply, building permit activity, occupancy, tenure and vacancy rates, age of housing stock, and assisted housing;
- 3.) housing market, costs and affordability including household income, home values, rental costs, market trends, and cost burdened households;
- 4.) housing choice opportunities and barriers including infrastructure, environment, transportation, employment, economic development and fair housing legislation;
- 5.) housing supply projections for both population and housing units, regional fair share of workforce housing, and housing preferences;
- 6.) resources for meeting local needs including alternative housing and regulatory options, local tools and resources, and state and federal programs; and
- 7.) workforce housing across the region including state definitions and a matrix of regulations implemented by each member community.

Primarily, data used in this report is from the 2010 US Census and the American Community Survey (ACS). However, figures from ACS data are estimates based on the 2010 Census and tend to have larger margins of error. In some cases, it has been noted within the document's text when ACS data should be more carefully considered. In addition to Census and ACS data, this assessment also utilizes information from the New Hampshire Housing and Finance Authority (NHHFA). In many cases, NHHFA is collecting their data directly from community departments and representatives, research agencies, internal and external housing experts, and community members. Some NHHFA data may readjust and build off decennial censuses, particularly the 2010 Census in this case. Because this report utilizes data in-between decennial censuses, all figures and trends should be critically examined for limitations and consider their potentially larger margins of error.

An understanding of the current housing supply, types, availability, affordability, projected population, shifting demographics and migration patterns, can be used to better predict future housing needs for both the region and individual member communities. Further, this information can be utilized to help establish and carry out policies that address and seek to improve the quality of life within the region.

There are certain factors that have an enormous impact on the demand and supply of housing in an area. First, the supply and cost of housing are influenced by the availability of necessary infrastructure, such as public water and sewer, and access to transportation routes. In addition, employment opportunities and income levels factored in with the cost of housing and consequently people's ability to afford adequate housing, must be evaluated. In addition, NHHFA has cited the 5L's which impede adequate housing development: land, labor, lumber, laws and loans (NHHFA, 2019). As a result, NHHFA suggests that the state, its regions and municipalities must critically consider areas where housing development is possible (land), what the current conditions are for workforce availability (labor), what are the development costs (lumber), are there regulatory practices that discourage or slow housing development (laws) and what type of financing is available to developers and borrowers (loans). These factors have shaped and influenced the state of housing within the NRPC region and will seemingly continue into the future.

There are thirteen communities which comprise the Nashua Regional Planning Commission: Amherst, Brookline, Hollis, Hudson, Litchfield, Lyndeborough, Mason, Merrimack, Milford, Mont Vernon, Nashua, Pelham and Wilton – all of which are in Hillsborough County. Generally, low-density residential development has characterized growth in the region’s outlying communities, while higher density development has occurred in the City of Nashua, along the F.E. Everett Turnpike/DW Highway corridor along the town line of Merrimack and Litchfield, in west-central Hudson and in the core of Milford. Generally, the region’s proximity to Greater Boston has been the most influential factor influencing growth together with access to the mountains, lakes, beaches and other recreational and cultural attractions.



(NRPC, 2019)

## EXISTING DEMOGRAPHIC CONDITIONS

### POPULATION

The region has more than tripled in population over the last 50 years. However, the rate of growth has been decreasing in more recent years. Between 2000-2010, the region grew by 4.5% and since, it has slowed to 1.45%. This evidence of a slower growth begs to question: does the region still need to increase housing supply given the slowing population growth or is the slowing population growth a result of decreased housing development?

The projected population for the NRPC region in 2040 is 220,967, a 12,209-person increase from the 2017 estimate of 208,758. The region's slowing growth rates could possibly be explained by lower fertility rates with the number of deaths exceeding births and a slowing of net migration. It is anticipated that the 2040 senior population will be 2 to 3 times the current levels. This would mean that one-fourth of the population in 2040 will be 65 years of age or older with limited change to the projected younger populations. Through there is recent evidence of a slight uptick in the net migration of young people (Johnson, 2018), the region needs to think about developing and maintaining a housing supply that meets the needs and preferences of an aging population, alongside strategies for creating and maintaining a housing stock that appeals to and retains younger individuals.

2010 - 2017 Population Growth in NRPC Region				
Community	2010 Census	2017	Numeric Growth	Percent Growth
Amherst	11,201	11,241	40	0.38%
Brookline	4,991	5,190	199	3.99%
Hollis	7,684	7,779	95	1.24%
Hudson	24,467	24,858	391	1.60%
Litchfield	8,271	8,424	153	1.85%
Lyndeborough	1,683	1,771	88	5.28%
Mason	1,382	1,489	107	7.74%
Merrimack	25,494	25,566	72	0.28%
Milford	15,115	15,288	209	1.14%
Mont Vernon	2,409	2,501	92	3.82%
Nashua	86,494	87,642	1,148	1.32%
Pelham	12,897	13,323	426	3.30%
Wilton	3,677	3,686	9	0.24%
<b>NRPC Region</b>	<b>205,765</b>	<b>208,758</b>	<b>3,553</b>	<b>1.45%</b>
<b>Hillsborough County</b>	<b>399,555</b>	<b>406,371</b>	<b>6,816</b>	<b>1.75%</b>
<b>New Hampshire</b>	<b>1,313,939</b>	<b>1,331,848</b>	<b>17,909</b>	<b>1.36%</b>

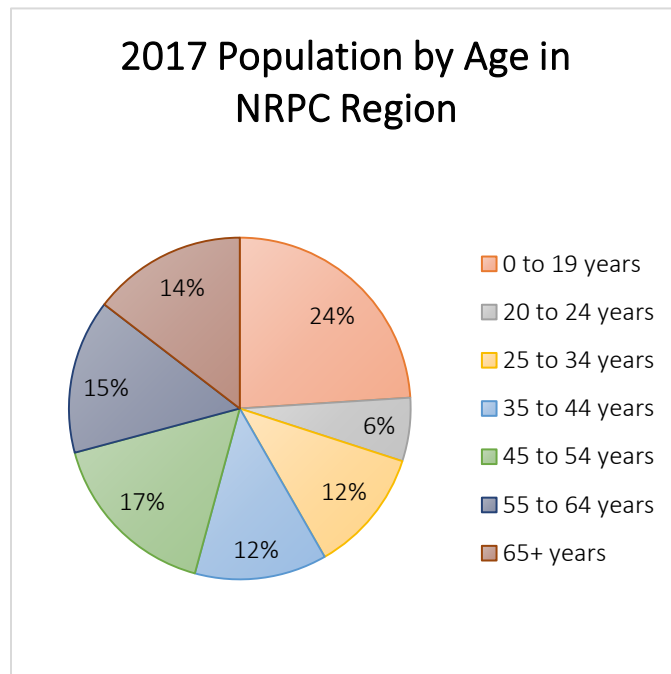
(US Census, 2013-2017 5-year Estimates)

Though the region's population growth rates are very similar to both Hillsborough County and the State, rates among the individual communities varied. Communities such as Lyndeborough and Mason

experienced larger percentage changes, 5.28% and 7.74% respectively, since 2010 due to their relatively small population bases. Their increases only amounted to a total of 195 people: 88 new residents for Lyndeborough and 107 for Mason. While Pelham experienced a modest 3.30% growth rate, that resulted in over 400 new residents to the community. Amherst and Merrimack experienced growth rates below 1%, while Wilton experienced nearly no growth.

## POPULATION BY AGE GROUP

Younger populations often struggle to balance their housing decisions between quality and affordability. Middle-aged populations have recognized that there are job opportunities in region but sometimes feel that price tag does not always meet their needs, wants or budget. Retirement-aged and elderly residents have expressed concern about the costs associated with aging in place; whether that be taxes, heating costs or access to transportation.



In the Nashua region, 24% of the population is under the age of 19, a decrease from 26.5% in 2010. Thirty percent of the population falls between the ages of 20 and 44, also a decrease from 31.5% in 2010. However, residents making up the 45 to 64 age brackets, now account for 32% of the total population, which is an increase from 30.4% in 2010. The rate of increase was even higher for those age 65 and older, now 14% of the total population and an increase from 11.6% in 2010.

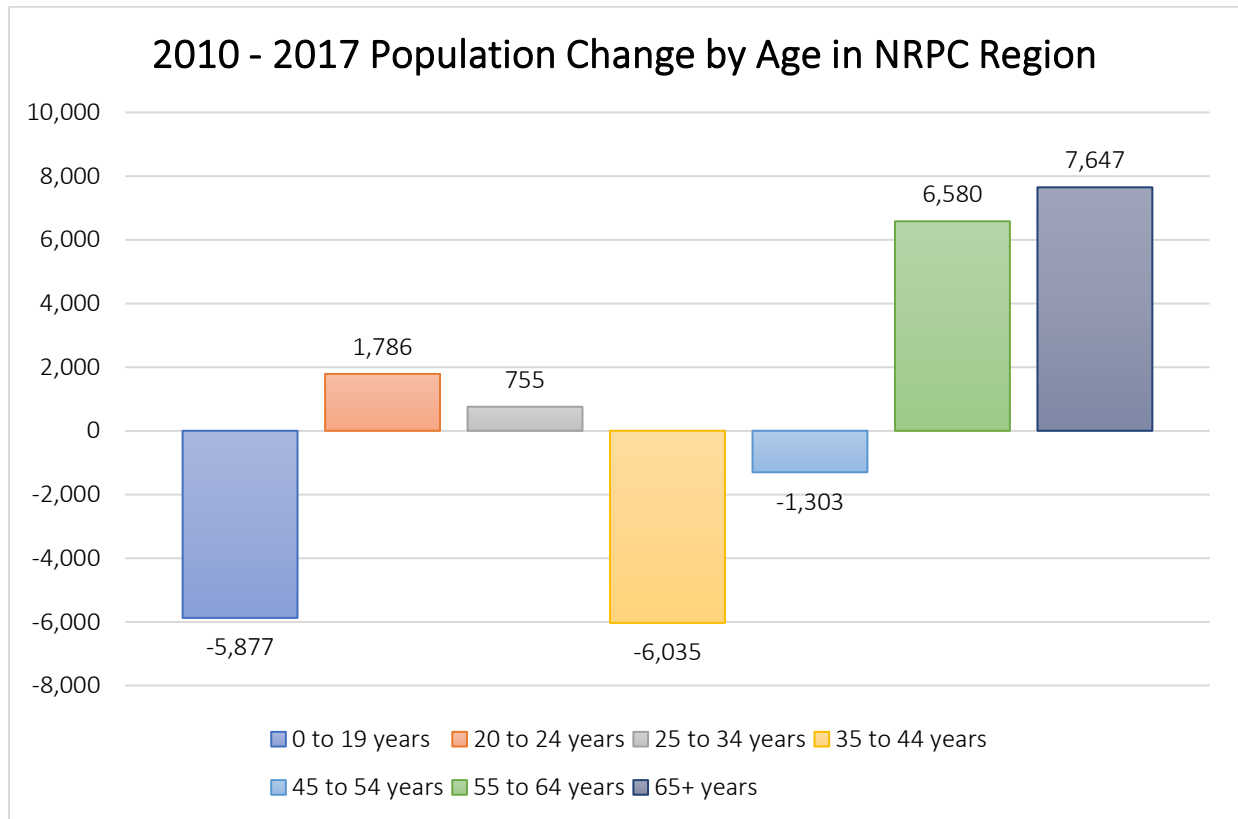
The percentage of the population under the age of 44 has been decreasing since 1990, while the “baby boomer” generation and those that are over the age of 65 has been increasing across the state and the nation.

(US Census, 2013-2017 5-year Estimates)

Population trends indicated in the graph below demonstrate the graying of the region. Most notably, are the significant decreases in children (0-19) and those in the 35-44 and 45-54 age ranges. The region has nearly 12,000 fewer residents within these age groups. These middle-aged populations are typically a large portion of homebuyers who are in their prime earning and purchasing years, often with children who are in their formative years and filling our schools.

As previously noted, the region has experienced significant growth in age groups over 55 years old. From 2010-2017, the region has gained approximately 14,000 residents within this age group. These populations make up a large percentage of homeowners without children in their residents and include those considering retirement, downsizing or aging place.

There were also modest increases for the young adult age groups, from 20-24 and 25-34 years old. These populations grew by over 2,500 from 2010-2017. This coincides with recent studies indicating a net in-migration of young adults that bucks the perception that young adults are leaving the region and state. These population groups are important because they impact both the homeownership and rental markets and are vital to maintaining a viable workforce. People in these age ranges are typically starting families, considering homebuying and contemplating short and long-term commitments to our region.

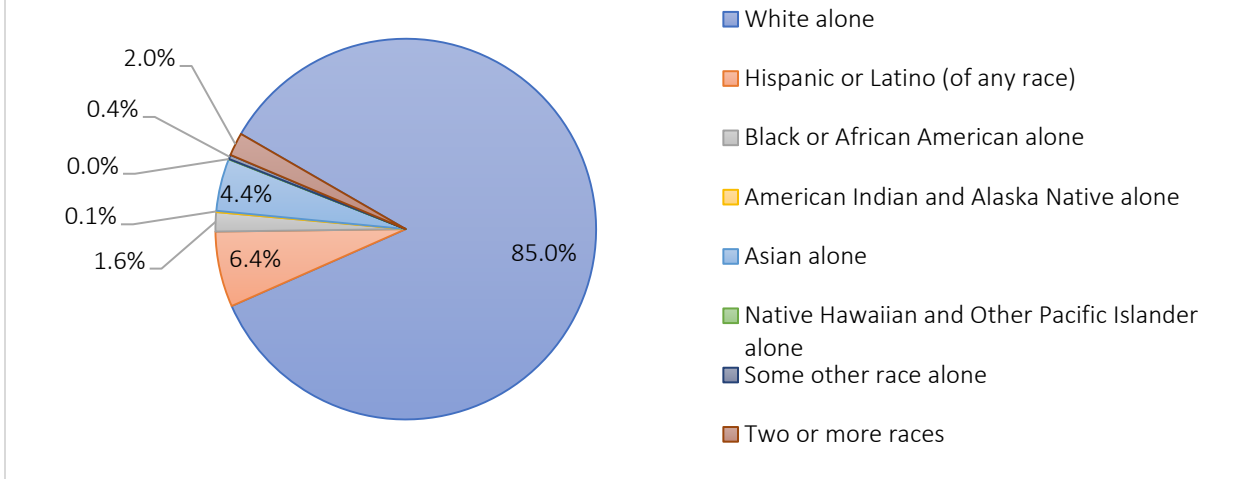


(US Census, 2013-2017 5-year Estimates)

## POPULATION BY RACE AND ETHNICITY

The US Census defines minorities as individuals who, when completing the US Census Decennial Survey, check any race other than white or more than one race on the race question or check any of the yes boxes on the Hispanic question. Conversely, whites are those who check only the white box on the race question and check the no box on the Hispanic question. Technically speaking, in contrast with minorities, whites are defined as “white-alone non-Hispanic” and minorities are all other persons.

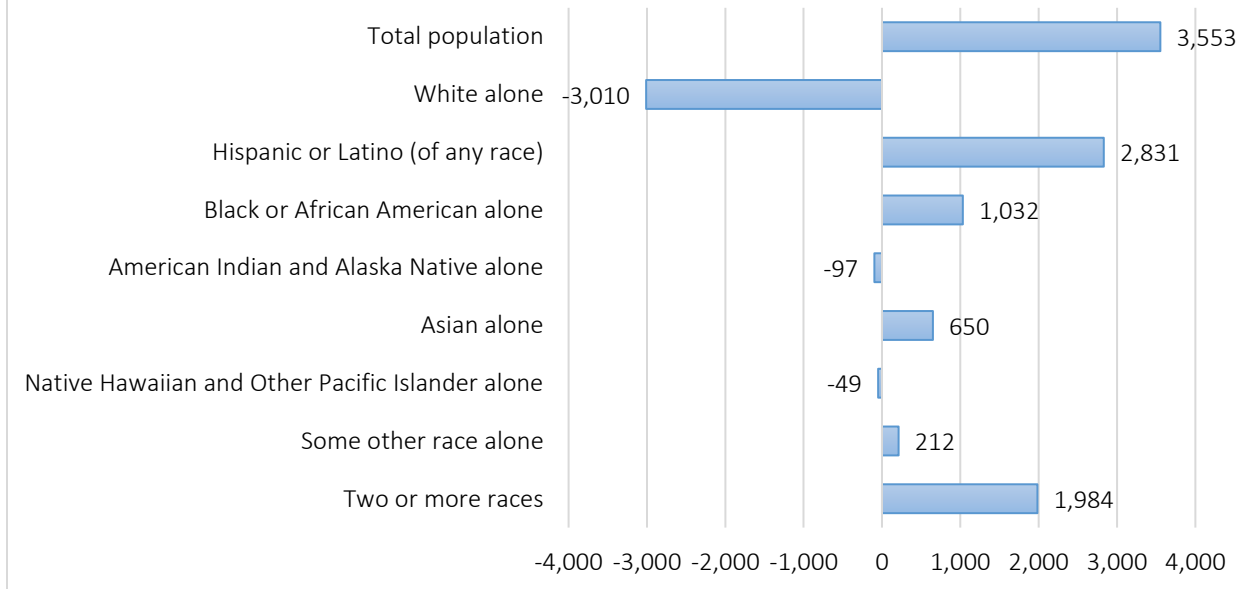
## 2017 Population by Race in NRPC Region



(US Census, 2013-2017 5-year Estimates)

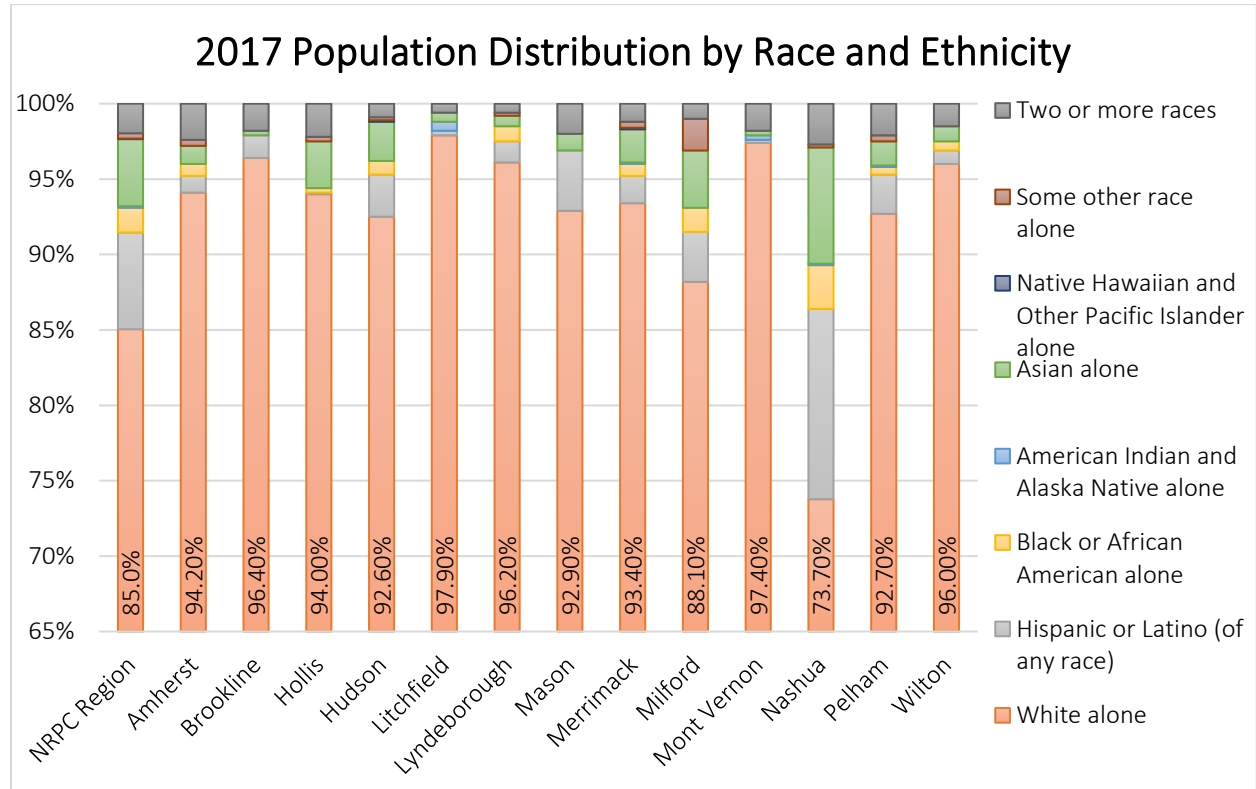
The Nashua Region is one of the most diverse in the State with 85% of the total population identified as white alone, compared to a State-wide average of 90%. Approximately 6.4% of the region’s population is Hispanic or Latino and nearly 4.4% are Asian. While minorities represented 13% in 2010 and 15% in 2017, they accounted for approximately 185% of the region’s growth during that same time period. Six communities saw a net decrease in minority populations while the remaining seven all experienced an uptick. Most notably were Nashua, Milford and Pelham with gains of 6,144, 776 and 398 people, respectively.

## 2010 - 2017 Population Growth by Race in NRPC Region



(US Census, 2013-2017 5-year Estimates)

The City of Nashua has the highest concentration of the region’s minority population. For most communities in the region, about 2-12% of the population is comprised of racial minorities. Within Nashua, approximately 26% of the overall population is comprised of minorities; nearly 8% of the population is Asian and 12.5% are Latino or Hispanic. Combined, the region’s largest communities (Nashua, Merrimack and Hudson) represent 66% of the overall population and 85% of the region’s minority population in 2010, compared to 68% and 87% respectively in 2000. This indicates a very slight shift of population away from the region’s more populous communities to more rural and suburban towns for all populations, regardless of race or ethnicity.

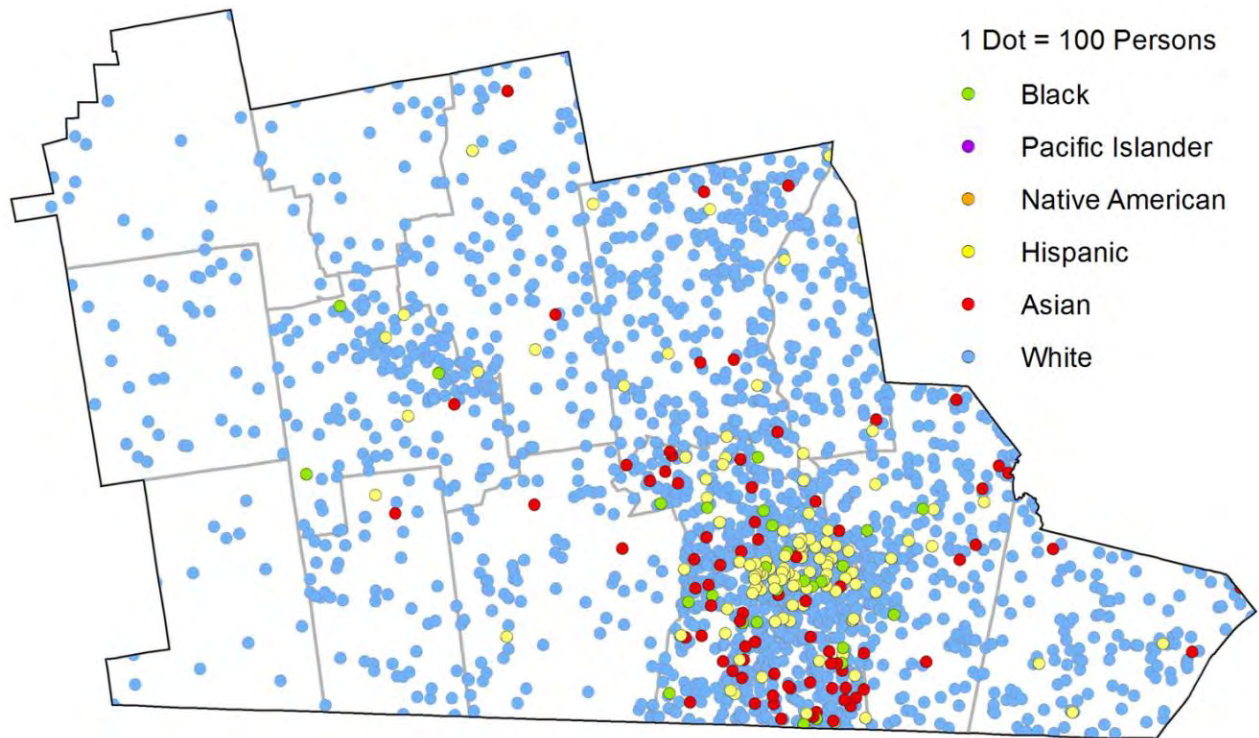


(US Census, 2013-2017 5-year Estimates)

Shown below is a 2010 Census population dot density map. Each dot represents 100 persons in the corresponding census tract and is shaded according to racial background. The map shows that our region is more densely settled in the east, concentrated in the City of Nashua and radiating outward along the region’s largest corridors such as the F.E. Everett Turnpike/ DW Highway running north and south, Route 101 westward through Milford, and Route 111 into Hudson. Similarly, the map depicts that the extent of racial heterogeneity is limited to the most populated locations and corridors.



## Population Density by Race and Ethnicity in NRPC Region



(US Census, 2010)

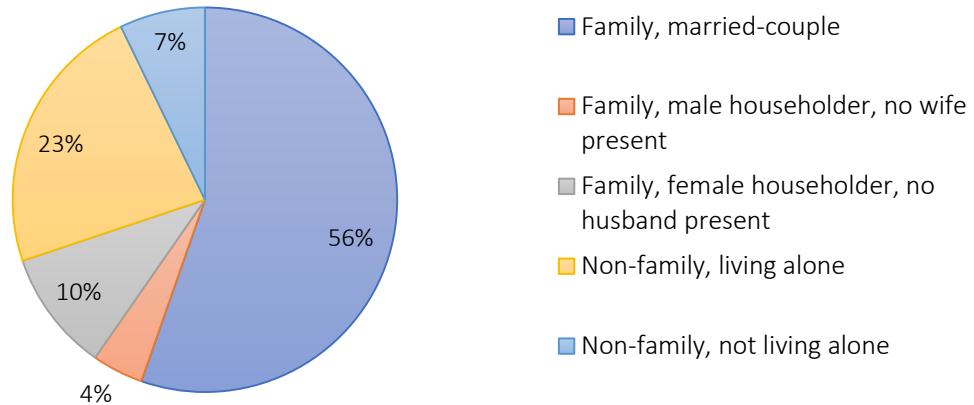
As the data is analyzed, some questions arise: on a conceptual level, to what degree does racial background, or other factors such as income, affect where people live? Additionally, to what degree do our planning and zoning practices affect who lives where, either purposefully or even inadvertently?

## HOUSEHOLDS

### HOUSEHOLD COMPOSITION

The US Census Bureau splits household composition into two primary categories: family households and non-family households. Family households consist of married couples or single householders living with other family members. Non-family households consist of those living alone or those living with unrelated occupants. As seen the following graphic, family households account for 70% of all households in the region, however it's important to note that approximately 14% of all households are made up of single parents, while 56% of the region is made up of specifically married couples. Conversely, non-family households make up the remaining 30% of all households.

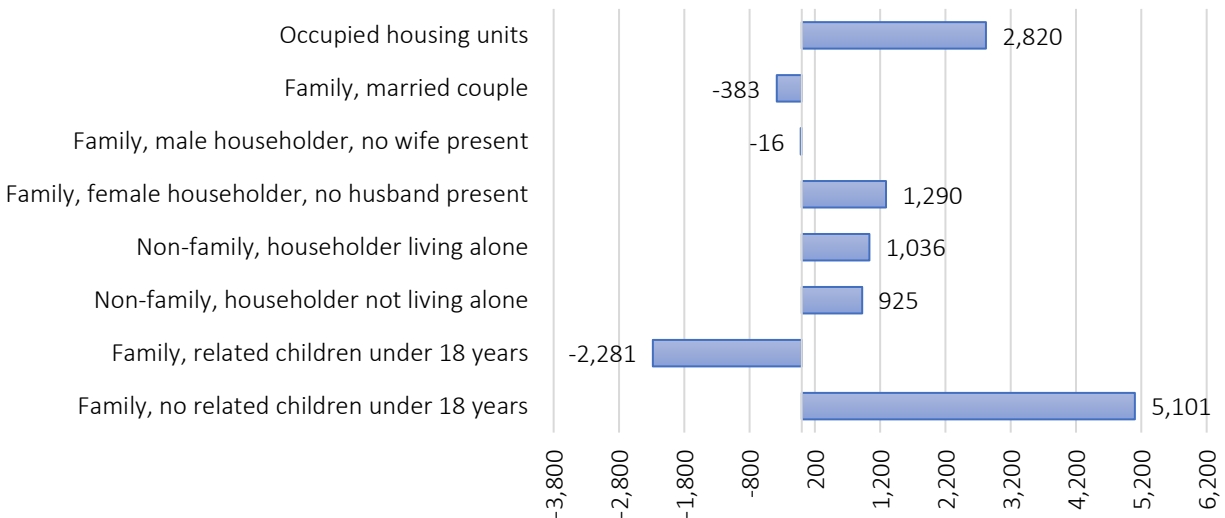
## 2017 Occupied Housing Units by Household Composition in NRPC Region



(US Census, 2013-2017 5-year Estimates)

As a continuing trend of the 2000s, the years between 2010-2017 also indicated a decreasing percentage of family occupied units for married couples and single-parent households led males. During that same time period, there was substantial growth of occupied units with families led by single-parent females. The presence of children within families also decreased while those families without children increased at a similar rate. Units occupied by non-family households grew across the board. Those living alone had slight increase while non-family households which were not living alone, grew significantly from 2010-2017.

## 2010 - 2017 Household Composition Changes in NRPC Region



(US Census, 2013-2017 5-year Estimates)

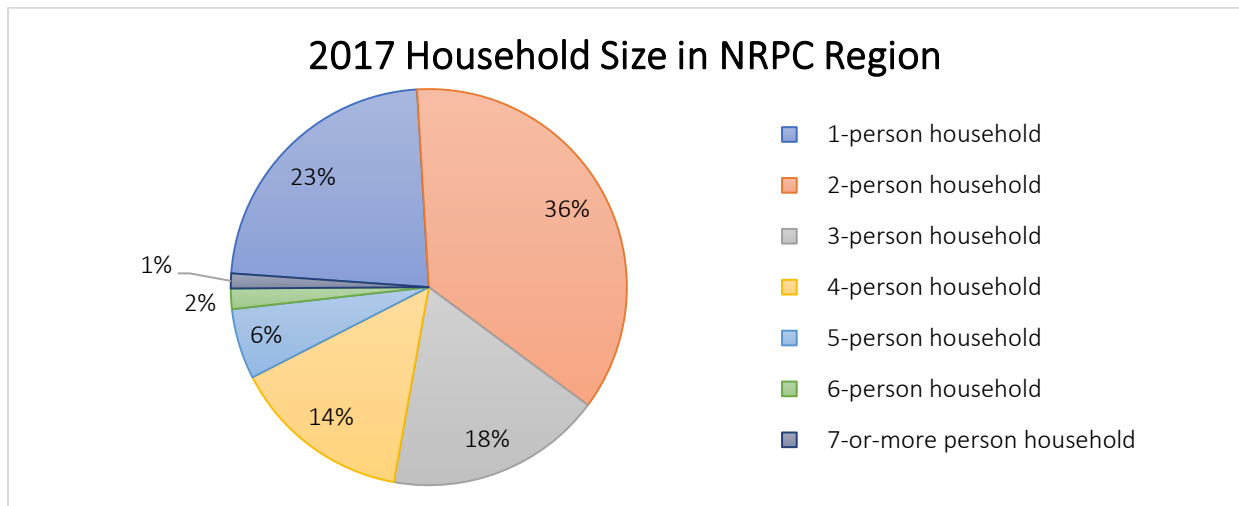
As household compositions continue to shift away from larger, more traditional makeups, the region and its individual communities must question whether their current housing mix or development trajectory conforms with these changes. Approximately 61% of the region’s housing stock is single-family while 37% is made up multi-family units with the remaining 2% comprised of manufactured housing. However, in terms of the overall numbers, the city of Nashua contains about 64% of the region’s total number of multi-family units, down from 72% in 2010.

Implications: Do our current and/or ideal zoning practices match our existing and future land use visions? Specifically, is the predominance of single-family housing in most of our region meet the needs of younger, smaller households? Will older persons continue to prefer larger single-family homes?

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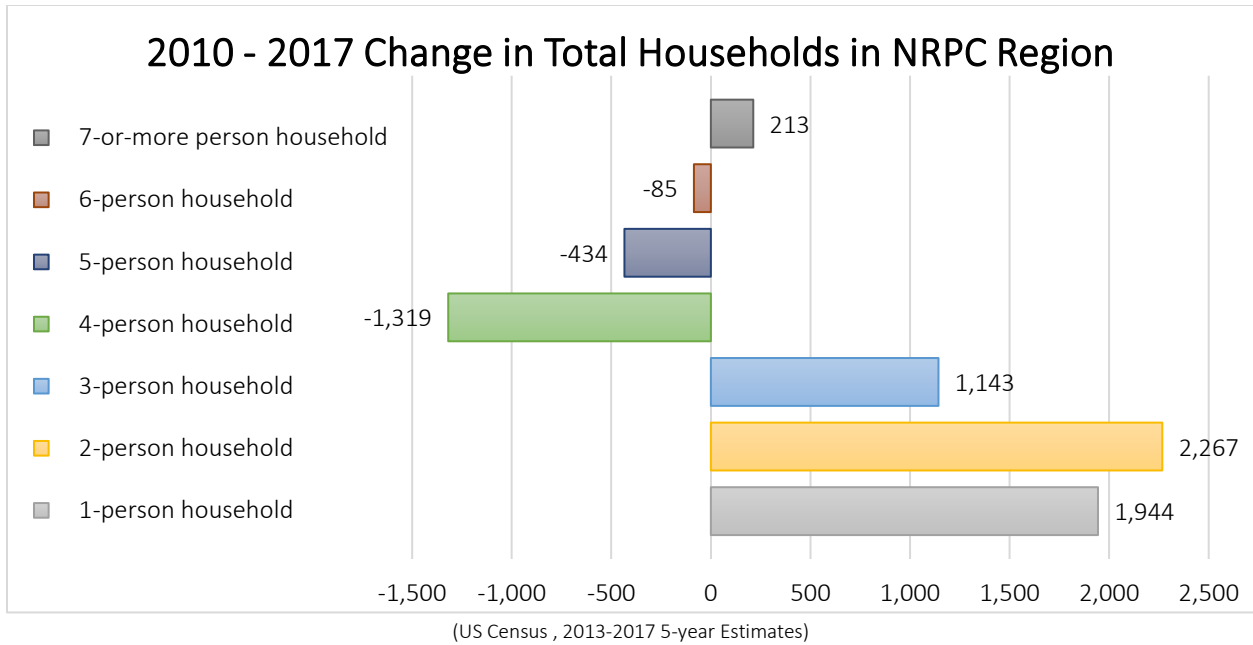
## HOUSEHOLD SIZE AND AGE

In harmony to changes in household composition, the region is experiencing a continued shift toward smaller and older household heads. As of 2017, the average household size was 2.56-persons where about 77% of households were comprised of 3 people or less. In comparison, the last Regional Housing Needs Assessment reported that 75% of households at below the 3-person threshold. Overall, the region is showing a trend toward smaller families with fewer children. Other data shows that overall net migration has been modest, and that natural population is negative. The consequences of these demographic shifts are among the most significant issues facing the region.

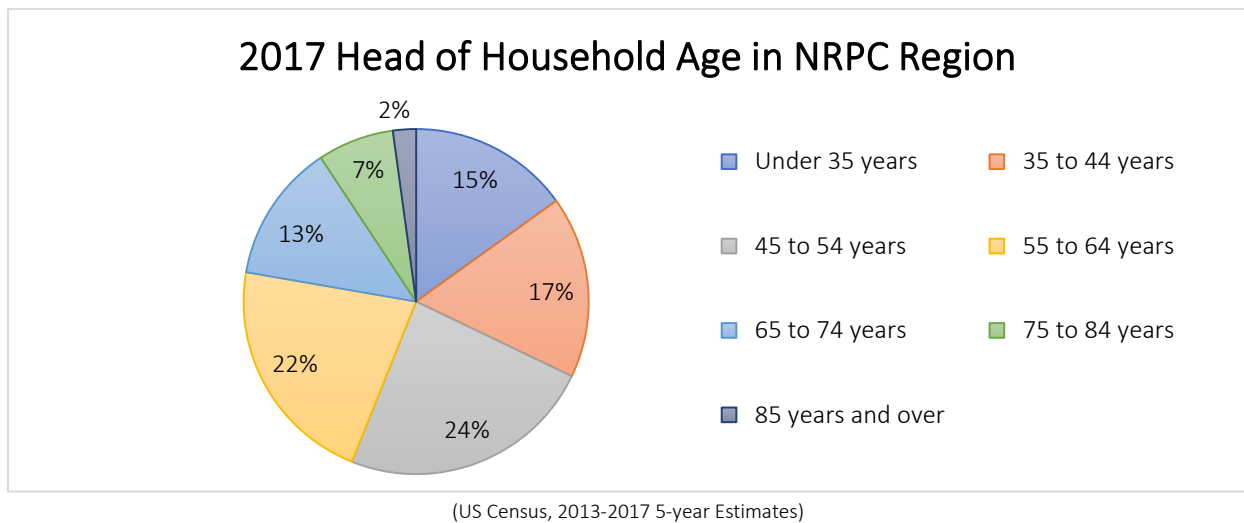


(US Census , 2013-2017 5-year Estimates)

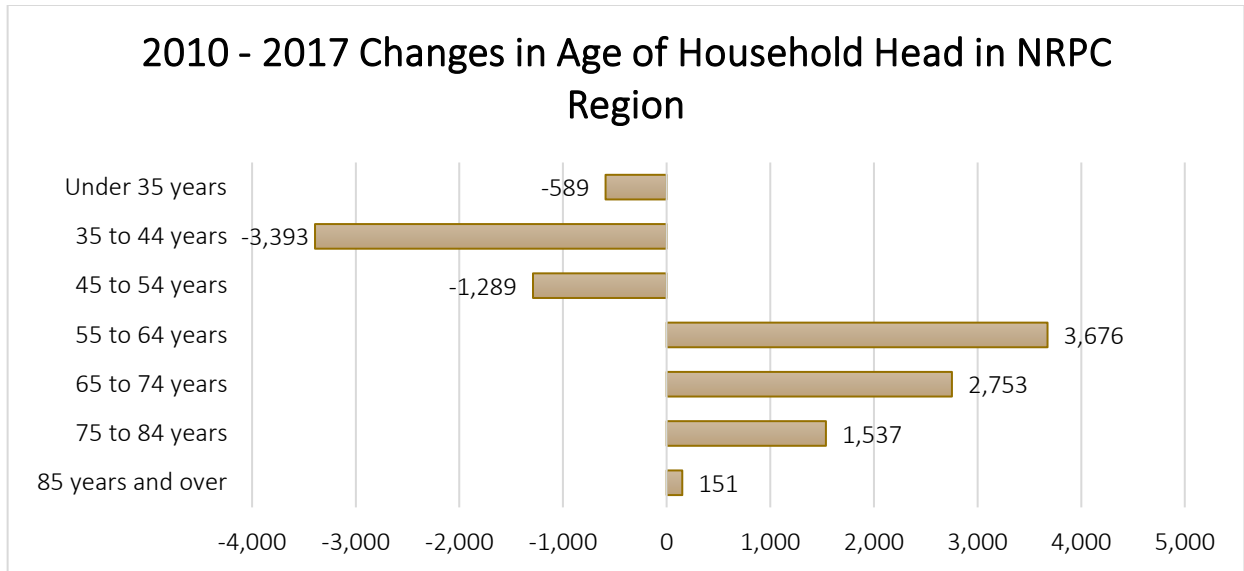
Significant contributors to smaller households include aging of the population and that younger households are delaying or avoiding marriage and child-rearing. Interestingly, the region has also experienced small growth in the number of 7-person households. The 7-person households may consist of large traditional families, group quarters with people splitting housing costs or multigenerational housing configurations. Large, multi-generational households or house-sharing among unrelated individuals can be a way of addressing the housing needs of a diverse range of family types and age groups while taking advantage of the region’s supply of larger single-family homes.



As of 2017, 15% of the region's households included heads aged 35 over younger, a slight decrease from the 16% in the 2010 Census. Additionally, 22% of household heads were identified to be 65 years or older, an increase from 19% in 2010. The percentage of household heads aged 35-64 decreased from 65% in 2010 to 63% in 2017. Though this trend continues to support our findings of an aging population.



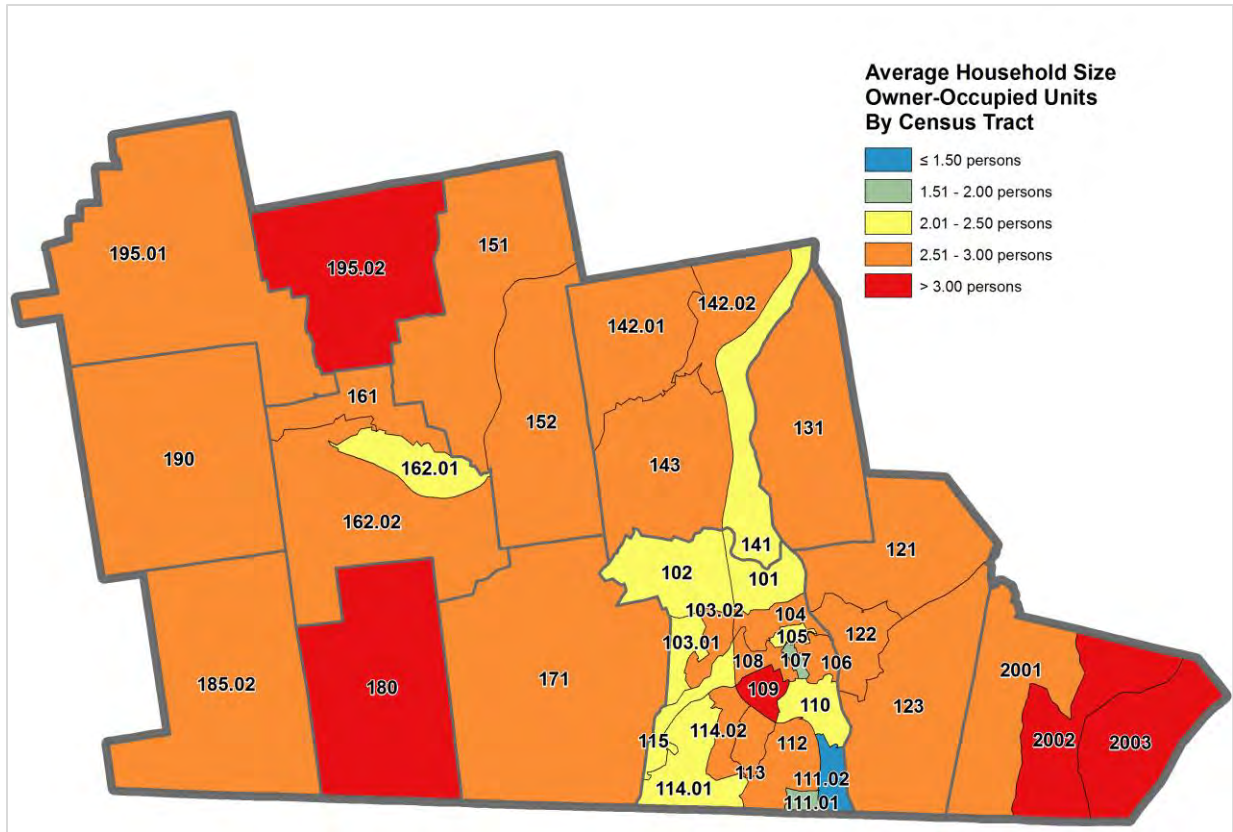
To put these percentages and their associated numerical changes into context, the following graphic further details these fluctuations from 2010-2017. The largest gain in household heads since 2010 was those aged 55-64 years old while the largest loss in household heads was for those aged 35-44. In total, household heads under 55 years old decreased by 5,271 and those aged over 55 years old increased by 8,117. These figures correspond to changes in the overall composition of the population discussed previously.



(US Census, 2013-2017 5-year Estimates)

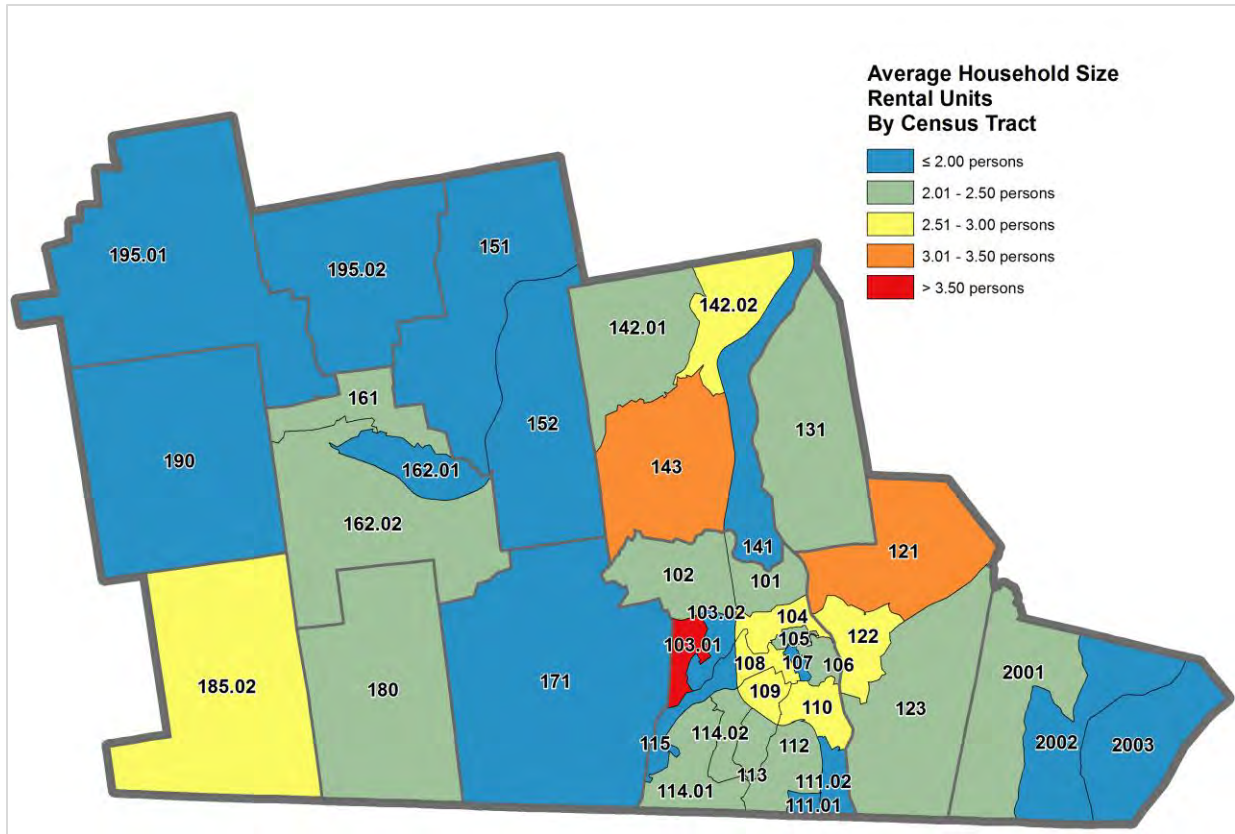
## HOUSEHOLD DISTRIBUTION

Household distribution for owners and renters varies greatly throughout the region. Most notably, Mont Vernon, Brookline, a large portion of Pelham and a pocket of Nashua have the largest owner-occupied households averaging three or more people per unit. The smallest owner-occupied households are located in portions of central and southeast Nashua. Other portions of Nashua, areas along the F.E. Everett/DW Highway Corridor in Merrimack and the downtown core of Milford that have smaller average owner-occupied household sizes. Areas with smaller owner-occupied households tend to be characterized by high concentrations of multi-family units including condominiums which often attract homebuyers with smaller households or tend to have an older housing stock. Not surprisingly, larger households tend to be found in suburban and rural areas where large-lot single-family housing development dominates.



(US Census, 2013 - 2017 5-year Estimates)

When analyzing the distribution of renter-occupied households, the results vary greatly across the region. Renter households averaging more than three people per unit are found in south Merrimack, northern parts of Hudson and a small section of western Nashua. In contrast to owner-occupied housing units, renter-households in more suburban and rural areas tend to be smaller in size. This likely reflects both a smaller number of rental units available in rural and suburban areas as well as the possibility that a larger percentage of rental units in these areas are comprised of accessory dwelling units. This data can assist the region and individual communities to design appropriate housing. It may be more appropriate, for example to emphasize the development of smaller accessory dwelling units in rural and some suburban areas, a variety of smaller-scale multi-family options, such as duplexes and triplexes near town and city centers and larger multifamily rental developments in more urban areas with access to public water and sewer, transportation, employment and convenient services. It should be noted, though, that small scale multi-family developments can be uniquely integrated into rural areas, especially on larger lots where large existing homes with multiple additions out buildings are common.



(US Census, 2013 - 2017 5-year Estimates)

## NH PUBLIC SCHOOL ENROLLMENT

From 2000-2017, most of the State and region’s net population growth were for the ages of 55 and older, and for the same time period, school age population declined. In 2000, there was an average of 0.45 children per household for all structure types and 0.45 children per household in 2010.

A Study commissioned by NHHFA on Housing and School Enrollment in New Hampshire found that the number of children per household is tied to the number of bedrooms in the residence opposed to the type of home. The Census’s American Community Survey indicates that single family units generate fewer than 0.5 students on average. Structures with more units, typically garden-style apartment complexes generate only 0.17 students (school age children) per unit. We also know that the number of bedrooms is the principal variable structuring enrollment per unit. This is especially true among newer, larger houses. Overall, new housing generates an average of less than ½ a student (0.48) per unit.

For both new and existing housing units, the number of school age children on average per household, based on the number of bedrooms is:

- An average 0.73 children live in four-bedroom homes, regardless of the house’s age.
- New four-bedroom homes average 0.99 children per home.
- Among all 3-bedroom homes there are 0.29 children per household and in new homes 0.64.

- For 2- or less bedroom homes, the number of school age children on average per household compares at less than 0.1.

Overall, the study found that traditional single-family residential development with 3 or more bedrooms was the greatest generator of children. Why is that? Most families choose a larger home with more bedrooms to accommodate their family size. At the opposite end of the spectrum, multifamily residential with 5 or more units in the structure or 2 or less bedrooms, typically appeals to households without school-aged children, such as young professionals and empty nesters.

As our population ages and we have more households that are small and have fewer children, consideration should be given as to how we address changing housing needs within current planning and zoning practices. What will the housing demand be, and will the region have an oversupply of existing larger homes? If so, can these larger homes be reconfigured to provide for smaller households?

## EMPLOYMENT

The region has experienced considerable growth in employment since 2010 and the Great Recession. The table below depicts the number of jobs that located in the Nashua Region by municipality in 2010 and 2017, as calculated by the New Hampshire Employment Security. The number of jobs in the region totaled 91,049 in 2010 and then rose 98,079 jobs in 2017, equating to a 7.7% increase. Note that over the same period, the region's population grew by only 1.45%, an indication that lack of housing supply may be limiting population growth.

The communities in the western part of the region, Mont Vernon (14.8%), Lyndeborough (18.1%) and Wilton (13.4%) saw the greatest declines in total employment, though the small size of their employment bases make them susceptible to significant percentage swings. Hollis (2.1%) also experienced a slight decrease in the total number of jobs. All other communities in the region saw an increase in the total number of jobs: Brookline (22.7%), Merrimack (21.7%), Litchfield (16.7%) and Pelham (14.6%) all made substantial percentage gains in the number of jobs.

Overall, Nashua and Merrimack combined to add nearly 6,000 jobs which accounted for approximately 82% of all job growth in the region and was completely driven by the private sector. Government jobs across the region decreased by 243 jobs, or roughly 2.4%. Private sector jobs grew by 7,030 and equated to an 8.9% growth. However, the total number of jobs in 2017 is similar to the number of jobs in 2000, when there were roughly 11,000 less people. Given that unemployment rates have recently been at historic lows, this appears to reflect a decline in the number of people participating in the workforce due lingering impacts of the Great Recession, aging of the population and an increase in people commuting to jobs here from outside the region.

According to ACS data, the median age of workers in Hillsborough County has increased by a full year, from 43.6 years old in 2010 to 44.6 years old in 2017. While many of the communities had median ages for workers in the range of 44-47 years old, Wilton and Hollis had the oldest median worker ages at 49.7 and 50.6, respectfully (US Census, 2013-2017 5-year Estimates).



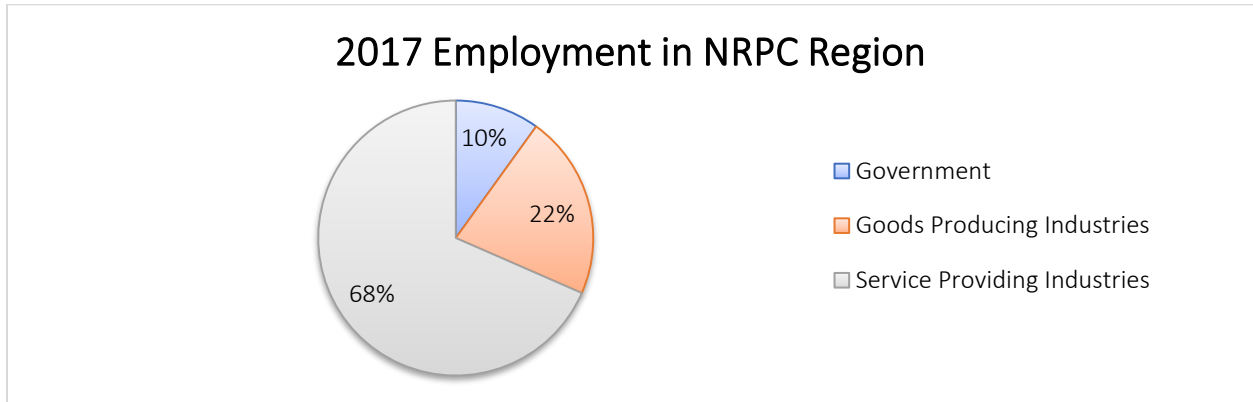
## 2010 - 2017 Changes in Employment per NRPC Community

Municipality	2010				2017				2010-2017			2010-2017		
	Total	Private	Gov't	% of NRPC Employ.	Total	Private	Gov't	% of NRPC Employ.	Change in Total	Change in Private	Change in Gov't	% Change in Total	% Change in Private	% Change in Gov't
Amherst	4,470	3,872	598	4.9%	4,714	4,133	581	4.8%	244	261	-17	5.5%	6.7%	-2.8%
Brookline	516	327	189	0.6%	633	448	185	0.6%	117	121	-4	22.7%	37.0%	-2.1%
Hollis	1,920	1,432	488	2.1%	1,880	1,417	463	1.9%	-40	-15	-25	-2.1%	-1.0%	-5.1%
Hudson	10,274	9,348	926	11.3%	10,496	9,562	934	10.7%	222	214	8	2.2%	2.3%	0.9%
Litchfield	826	486	340	0.9%	964	621	343	1.0%	138	135	3	16.7%	27.8%	0.9%
Lyndeborough	111	75	36	0.1%	90	60	30	0.1%	-21	-15	-6	-18.9%	-20.0%	-16.7%
Mason	163	120	43	0.2%	181	140	41	0.2%	18	20	-2	11.0%	16.7%	-4.7%
Merrimack	14,687	13,515	1,172	16.1%	17,869	16,793	1,076	18.2%	3,182	3,278	-96	21.7%	24.3%	-8.2%
Milford	6,254	5,456	798	6.9%	6,534	5,840	694	6.7%	280	384	-104	4.5%	7.0%	-13.0%
Mont Vernon	156	77	79	0.2%	133	65	68	0.1%	-23	-12	-11	-14.7%	-15.6%	-13.9%
Nashua	48,137	43,484	4,653	52.9%	50,912	46,278	4,634	51.9%	2,775	2,794	-19	5.8%	6.4%	-0.4%
Pelham	2,183	1,697	486	2.4%	2,502	2,000	502	2.6%	319	303	16	14.6%	17.9%	3.3%
Wilton	1,352	1,164	188	1.5%	1,171	969	202	1.2%	-181	-195	14	-13.4%	-16.8%	7.4%
<b>NRPC Region</b>	<b>91,049</b>	<b>81,053</b>	<b>9,996</b>	<b>100.0%</b>	<b>98,079</b>	<b>88,326</b>	<b>9,753</b>	<b>100.0%</b>	<b>7,030</b>	<b>7,273</b>	<b>-243</b>	<b>7.7%</b>	<b>9.0%</b>	<b>-2.4%</b>

(NHES, 2017)

As displayed in the follow graphics, the region’s employment can be further broken down into three main employment categories:

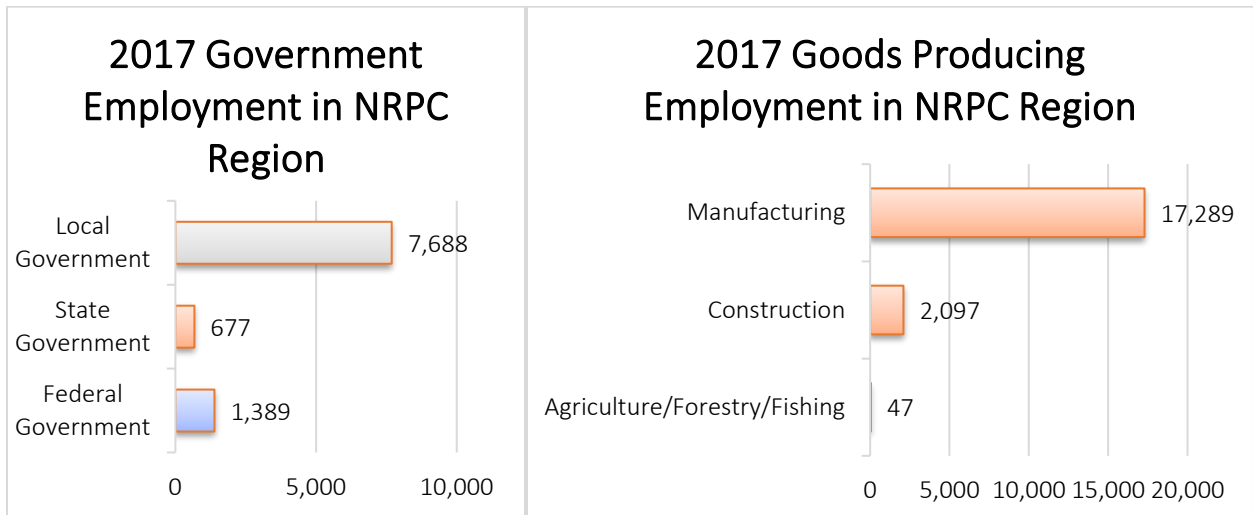
- Government including local, state and federal;
- Goods producing industries including construction and manufacturing; and
- Service providing industries like professional and technical services, retail, finance, health care accommodations and food.



(NHES, 2017)

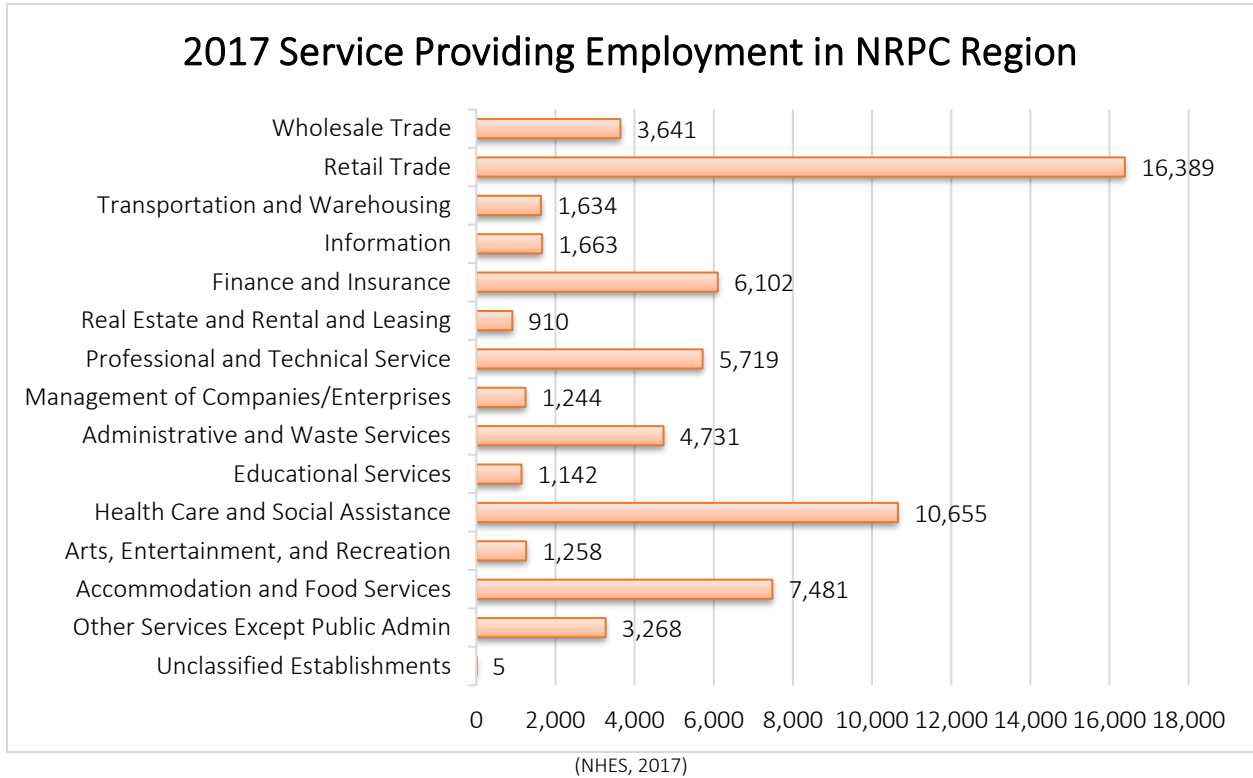
Approximately two-thirds of the region’s 98,000 jobs were in service producing industries where the average wage was \$1,142 a week (\$28.55/hour, \$59,384/year). Goods producing industries accounted for 22% of employment and on average earned a worker \$1,593 a week (\$39.83/hour, \$82,836) with the highest wages, \$1,800 to \$1,900 a week, coming from manufacturing and construction for those in Merrimack and Nashua. Finally, about 10% of regional employment were for government jobs earning about \$1,044 a week (\$26.10/hour, \$54,288/year).

Tables with greater detail about employment numbers and wages can be found in Appendix A, under *Regional Employment and Wages*.



(NHES, 2017)

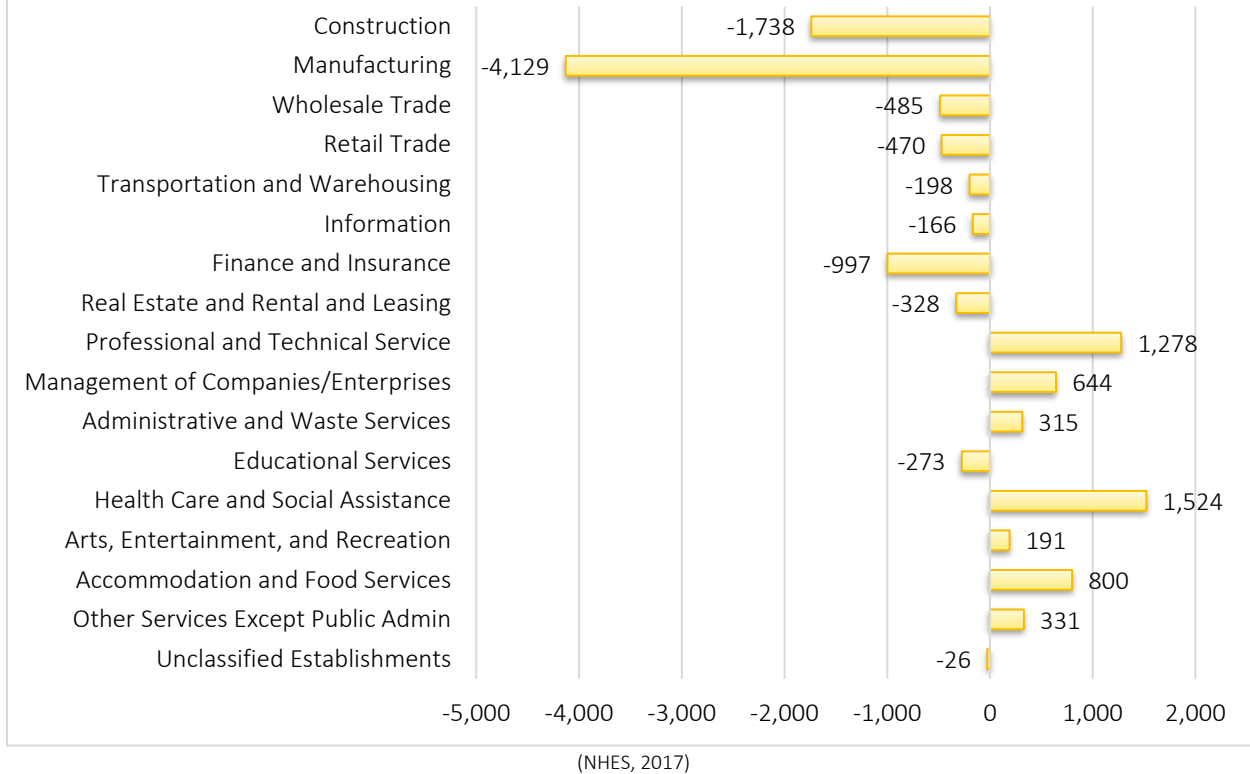
The goods producing industry (shown above) was driven by manufacturing with over 17,000 employees in the region. Wages within this sector were above industry average and paid approximately \$1,679 a week (\$42/hour, \$87,308/year). Some of the major manufacturing employers in the region include BAE Systems, Amphenol and Hitchiner Manufacturing.



Several areas stand out in the region’s service providing employment sector such as retail trade, health care, and accommodations food services. These three sectors accounted for nearly 51% of all employment. Some of the larger employers in the region in this sector include Fidelity Investments, Merrimack Premium Outlets, Southern New Hampshire Health and St. Joseph Hospital.

The growth in government jobs since 2005 has been relatively flat. However, the region has continued to shift toward more service providing industries rather than goods producing (i.e. manufacturing and construction). Major shifts since 2005 can be found in the following graph and more detailed tables can be found in Appendix A, *Regional Employment and Wages*.

## 2005-2017 Change in Employment by Sector in NRPC Region

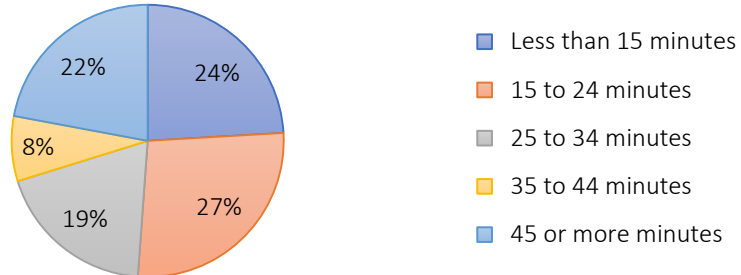


All of the sectors listed are within the service providing industry except manufacturing and construction. Most relevant and worrisome to the production of housing, is the decreasing number of construction workers. The construction industry only employed 2,097 workers in 2017, a 1,738-worker decrease from 2005, and accounted for only 2.1% of the region's entire workforce, down from 3.9% in 2005. And while construction workers are earning moderate wages (\$30.2/hour, \$1,232/week and \$64,064), there is still a challenge of replacing the workers of past generations.

Empirical evidence within the region points to the lack of construction workers with skilled labor as a contributing reason why development costs are so high. As potential solutions to this issue, the region may want to consider further encouraging and educating our workforce about the pay and opportunities within the trades including professions such as construction managers, electricians, plumbers and mechanical technicians. Collaborations could be explored between high schoolers and workers in transition with technical schools, developers and construction firms.

## COMMUTER PATTERNS

### 2017 Commute Times to Work in NRPC Region



(US Census, 2013-2017 5-year Estimates)

Most of the region spends between 15-24 minutes commuting to work. The next most typical commute times were less than 15 minutes, followed by 45 minutes or more. Not surprisingly, communities with close access state roads have shorter commutes while those with longer commutes were further from these corridors, such as Lyndeborough and Mason.

Mean Commute Time (minutes)	
Amherst	33.5
Brookline	35.7
Hollis	31.1
Hudson	30.7
Litchfield	30.7
Lyndeborough	37.2
Mason	44.2
Merrimack	29.5
Milford	29.4
Mont Vernon	32.8
Nashua	26.9
Pelham	31.7
Wilton	30.9
NRPC Region	29.4
Hillsborough County	27.9
New Hampshire	27.2

(US Census, 2013-2017 5-year Estimates)

## COMMUNITIES OF INTEREST

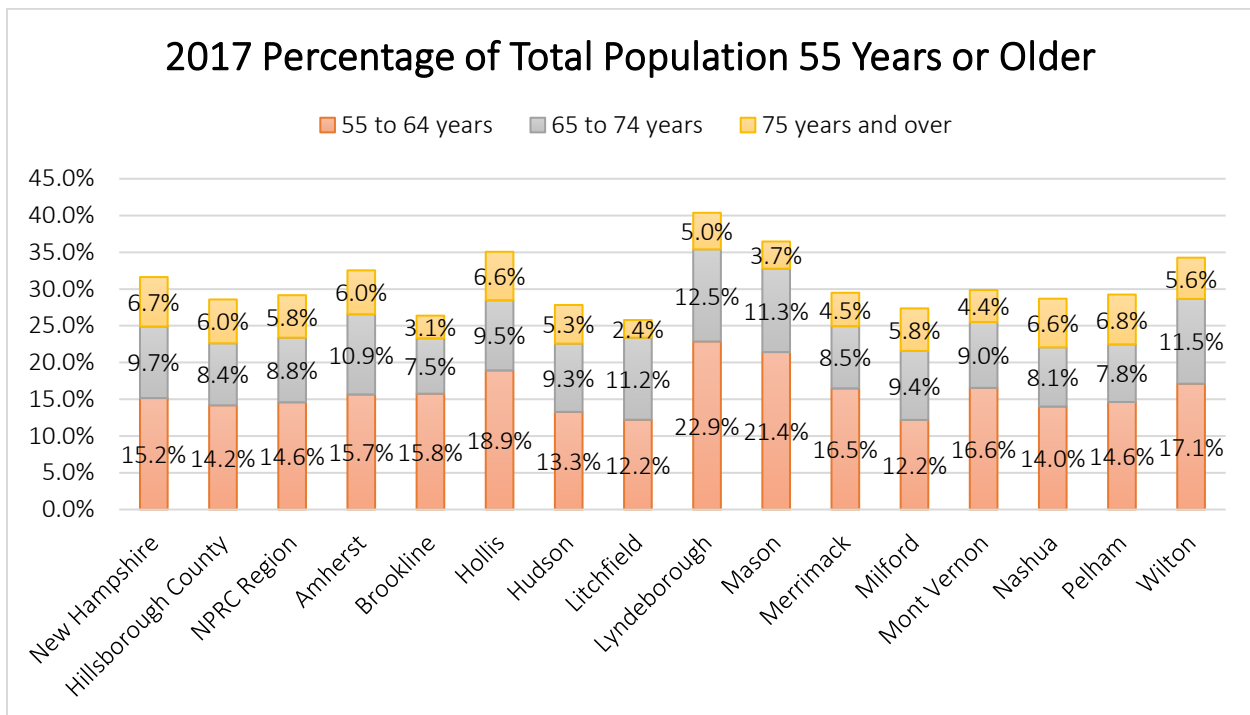
Groups such as seniors and the elderly, minorities, single parents, individuals without access to a car, persons in poverty, those with limited English proficiency or disabilities often have lower household or family incomes and may find it difficult to secure safe, decent and affordable housing. The following

section looks at where there may be concentrations of such populations and their relative housing choice options.

## SENIORS AND ELDERLY

Seniors and the elderly often live on a limited income after retirement, limiting their housing choices if they don't already own their home or choose to downsize. As of 2017, 5.8% of the region was 75 years and older.

Nashua has the region's youngest population with a median age of 39, however approximately 6.6% of its population is 75 plus and has the greatest share of the region's oldest residents (7.3%). Further, within the City of Nashua there are several Census Tracts with what may be deemed a significant concentration of elderly persons. Lyndeborough, with the oldest median age (49.9) has about 5% of its population age 75 or older. While Litchfield is often cited as having a large share of age-restricted housing units, they have the smallest share of their population in this oldest cohort (2.4%).



(US Census, 2013-2017 5-year Estimates)

## SINGLE PARENTS

While many family households have two wage earners contributing to rent or a mortgage payment, single parent households typically do not have that benefit. Across the region approximately 14% of family households are led by single parents. Four percent of households are headed by single men with children under age 18 and 10% of households are led by single women with children. The thirteen communities are fairly homogeneous when it comes to single parent households, with no overall concentration. Those neighborhoods with the greatest number of single parent households are the same as those with the

highest rental cost burdens. In particular there are three Census Tracts in the City of Nashua where both the highest share of single parents and highest rental cost burdens coincide. Across the region, the percentage of single parents are lowest within Hollis at just under 5% and highest in Milford and Nashua at just over 10% each.

In past outreach efforts, single parents expressed that they feel hit harder than most sometimes. This is especially true for those that are just above the poverty line and receive no government assistance. These individuals said that as a single parent, finding housing that is affordable, safe, close to public transportation, amenities, and other services is extremely hard.

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## PERSONS WITH DISABILITIES

Nearly 10% of non-institutionalized persons in the region have some form of disability. Living with a disability limits what housing may be suitable or available. Most common are ambulatory disabilities (43.4% of all disabilities) that limit an individual's ability to walk or climb stairs. Nearly 42% of disabled persons have difficulty living independently and 40.8% have cognitive difficulties. Thirty percent of the disabled have hearing difficulties. There is little to no concentration of individuals with disabilities within any of the region's municipalities. Nearly 12% of individuals have some form of disability in Nashua to a low of 4.9% of individuals in Mason. Within the City of Nashua however, there is a concentration of approximately 20% to 25% of all individuals living with disabilities in four Census Tracts.

During outreach conducted in 2014, we talked to residents who work with disabled adults in the Region. Their main concern was transportation, since many towns in the Region are rural and mostly residential neighborhoods it is sometimes hard to get them public transportation services in order to get to appointments and other services. Housing that is close to public transit access points and is in a safe and walkable community is most sought after for this population.

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## LIMITED ENGLISH PROFICIENCY

Those with limited English skills face additional challenges when searching for housing. However, in the Nashua region the numbers of individuals who do not speak English well or not at all were so few, less than two percent of the population, that statistical analysis is unreliable. That said, using the data available, we know that there are virtually no individuals with limited English proficiency in Brookline, Lyndeborough, Mason, and Wilton. In Nashua, approximately fewer than 3.5 percent of individuals have limited English skills. The remaining communities in the region have one percent or fewer of their residents with limited language skills.

As a part of NRPC's outreach efforts in 2014, we heard from refugee advocates as well as refugees recently relocated to the Region and they mentioned that finding housing and other resources is challenging. There are many things standing in the way such as language barriers and sometimes even discrepancies based on ethnicity. Some felt that this demographic is often taken advantage of when finding housing, or possibly discriminated against due to accents and cultural or ethnic background.

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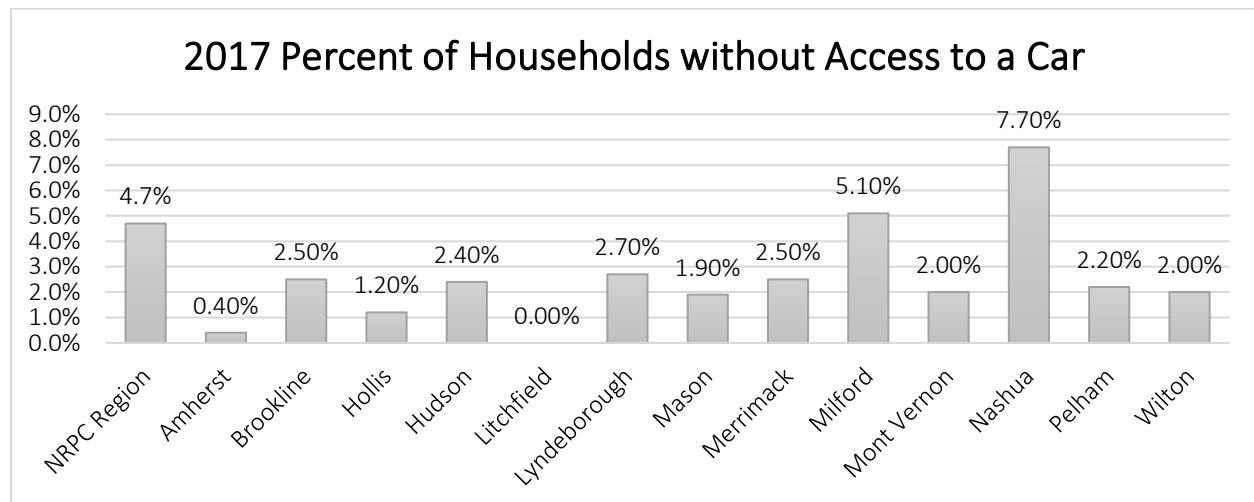
## REFUGEES AND RECENT IMMIGRANTS

Between 1998 and 2013 the State of New Hampshire has been home to the relocation of over 7,000 refugees. The Nashua region has seen a total of 218 refugees since 2005. Years with the highest numbers of relocated persons were 2005 (51), 2012 (41), and 2013 (90). The only other municipality in the region where refugees have been placed is Milford, with a total of 8 refugees between 2000 and 2004. Except for 2009, every year since 2006 over 70% of refugees relocated to the state have found employment and in all but one year, over 80% found employment. Average hourly wages for fulltime employed refugees across the State have risen almost every year since 2006 (almost a one-dollar dip in 2010). In 2012 hourly wages reached \$9.63 meaning the average full-time refugee employee makes approximately \$20,000 per year before taxes. To qualify as affordable housing rent or mortgage costs should not exceed 30% of monthly income (roughly \$1,600 per employed person), leaving residents the choice of housing at or below around \$500 per month. After speaking to refugees during outreach it has been noted that finding affordable housing is indeed an issue in or near Nashua (NHDHHS, 2019).

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## LIMITED VEHICLE AVAILABILITY

In a region where the 83% of workers drive their own vehicle to work, households without access to a vehicle are limited in their choice of where to live with few neighborhoods in the region having both jobs and transit in close proximity. In communities with lower shares of workers of driving alone to work (Lyndeborough at 77% and Mont Vernon at 78%), there is a much larger number of persons who work from home, which in turn requires access to high speed internet. Given that the City of Nashua is the only community in the region with regular transit service, it is not unexpected that there is a concentration of households without access to a car in the City (7.7% of households). Similarly, there are four tracts within the city with the highest concentrations of those without access to a car, with up to nearly 37% of households in one Census Tract.



(US Census, 2013 - 2017 5-year Estimates)



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## VETERANS

The Department of Veterans Affairs which handles the entire State of New Hampshire is located just outside the Region in Manchester. This office provides veteran benefit services such as disability compensation, pensions, rehabilitation, specially adapted housing, and home loan guaranties to more than 130,000 veterans in the State of New Hampshire as well as New England, and New York State. Itinerant services provided outside the building are connected to the VA medical center in Manchester, VAMC clinic in Portsmouth, and the Portsmouth Naval Shipyard. Based on time served, disability, and other factors servicemen and women can be eligible for VA home loans which can be used for the following; buy a home or condominium unit in a VA-approved project, build a home, simultaneously purchase and improve a home, improve a home by installing energy related features or making energy efficient improvements, and buying a manufactured home or lot. When we heard from Veterans through outreach in 2014, many mentioned that they would like to see more affordable home choices and better public transportation infrastructure. These concerns are similar to most other communities of interest analyzed in this report, which coincides with the fact that New Hampshire has an affordability issue afflicting those looking to find housing (USVA, 2019; USVA Manchester, 2019).

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## YOUTH

When we talked to youths in the region as a part of prior outreach efforts, overall, they were happy with their housing situations. A few had seen troubling displays of violence in their neighborhood but are positive about the resources available to them such as the PAL center in Nashua where they know they can be safe. Youth interviewed in the City of Nashua love amenities such as public pools and skateboard parks. Some said that there have been times their family couldn't afford rent which scared them. Like most interest groups in the region, public transportation systems are vital for youth to get to and from school and other activities and many of them travel alone, so it is imperative that this system is safe and reliable. We have heard from outreach that every so often a family in need will rent a room in one of the boarding houses in the region where children and youth are not legally allowed, which means that more affordable housing in safe neighborhoods is an inherent need in the greater Nashua area where this is most common.

Homelessness in the youth population has devastating side effects. Making sure there are resources available to all homeless people in the region but especially families with children should be a priority. According to a 1999 report published by the Institute for Children and Poverty, Center for Mental Health Services, and DHHS, it is shown that children are far more affected by homelessness. On average 47% of school-age children who are homeless experience anxiety and depression, 36% exhibit delinquent or aggressive behavior.

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## HOMELESS POPULATIONS

Housing cost can be a significant factor in the number of homeless people in any given area. In the Nashua region average rental costs are over \$1,000 per month for two bedrooms. This is a barely attainable rental cost for those with entry level jobs or any profession making less than \$18 per hour. In

2003, the Continuum of Care, a collaborative group of service organizations in the Greater Nashua Region, conducted a one-day count of the homeless in the Greater Nashua Area and the count was over 800 people. In the Continuum of Care report on ending homelessness, they state that New Hampshire was recently ranked the 7th worst nationally in wage affordability index, making it hard for service level professionals to afford housing, and much harder for the homeless population. The state of New Hampshire Bureau of Homeless and Housing Services provides funding to 42 programs that offer shelter services for men, women and children, and victims of domestic abuse. Throughout the state more than 700 homeless persons are served nightly in emergency shelters, less than the total number of homeless people in Nashua alone (NHDHHS, 2019).

## CONCLUSIONS

The region's net population growth primarily came from age groups 45 years old and older and particularly, by the older subcategories: 55-64 and 65 years or older. At the same time, the number of children within the region continued to decline substantially. However, there has been a modest increase in the 20-24 age group, potentially indicating a trend toward greater in-migration or retention of the region's youth.

Population projections still indicate a decline in growth rates through 2040. This decrease can be explained by lower fertility rates, deaths expected to exceed births starting in 2020 and for all communities by 2025 and a slowing of overall net migration. Unless there is a change in one of these factors, the 2040 senior population is projected to be 2 to 3 times current population, a quarter of the population in 2040 will be 65 or older, and there will be limited change in younger populations. What considerations do we need to be thinking about as our population ages? Will our housing supply meet the needs and preferences of the aging population? With the little momentum the region has in attracting young, how can we further nurture, create and maintain housing stock that appeals to them?

Since 2000, the region has experienced changes in household composition and sizes. Households now consist of more non-traditional, unrelated, childless members and the number of household members has continued to decrease. Has the region adjusted, or should there be additional alterations to the way we approach and develop housing for shifting household composition and sizes? Contrary to this, there have been very slight upticks in the number of households with 7 or more people within them. Is this a continuing trend of multigenerational or shared housing?

How does the distribution of household sizes across the region affect the way we approach housing in a rural versus small town versus urban setting? Can distribution indicators help guide strategies and methods for addressing the different types of housing options. Do some of these implications guide strategies toward more accessory units, duplexes, triplexes, or larger complexes? Do we have the appropriate mix of housing types to meet demand of our demographic indicators including employment growth?

## EXISTING HOUSING UNIT TRENDS AND CHARACTERISTICS

### EXISTING HOUSING SUPPLY

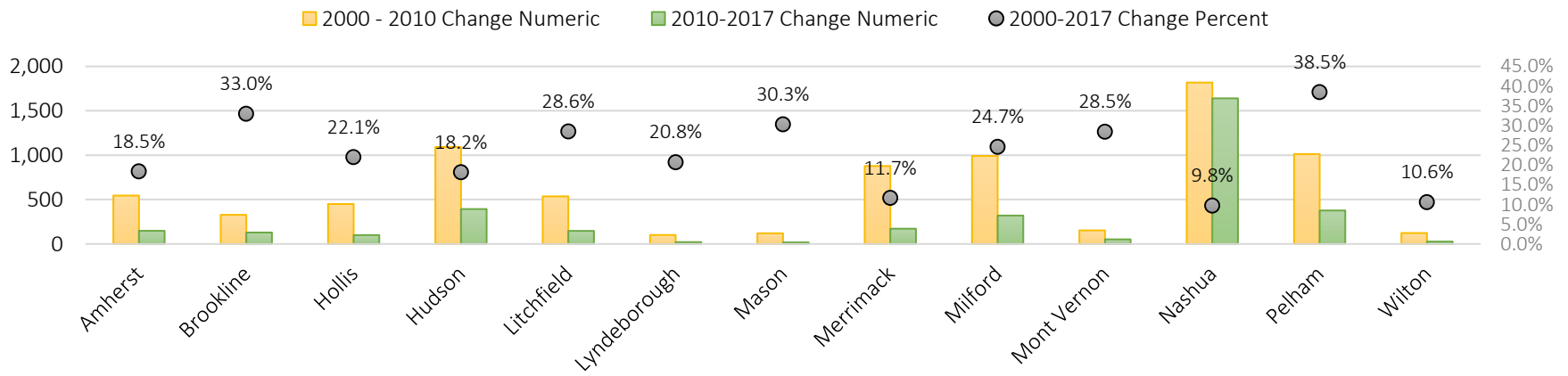
The region experienced a 10.9% (8,147 units) growth in housing units from 2000 to 2010, according to the US Census. Then, from 2010 to 2017, the region's housing unit growth slowed to 4.3% by only adding a total of 3,544 units, according to the New Hampshire Office of Strategic Initiatives (OSI). Communities such as Litchfield, Milford, Mont Vernon, Brookline and Pelham all saw a growth in total housing units over 5% from 2010 to 2017. However, this is much less impressive than the double-digit growth rates nearly all communities were experiencing from 2000 to 2010. Given the turbulent housing market, it is somewhat surprising to see that Nashua was able to nearly replicate and stay consistent with their housing production between these two periods (the 2000's and 2010's). The significantly higher population, available resources and infrastructure could be reasons why Nashua have been able to steadily produce and maintain around 45% of all housing units in the region. Barring any major developments between 2018 and 2020, it is reasonable to expect that the region's overall growth rate and housing unit distribution levels for the decade will remain comparable to those reported in the table below.

The categorizing of row- or townhouses, often referred to as condominiums, is difficult. To avoid confusion across all municipalities, OSI made the decision in 1990 that any structure that is attached will be reported as a multi-family. This includes condominium units as well as structure that may have been single-family houses but now have accessory dwelling units (NHOSI, 2018).

## 2000 - 2017 Housing Unit Supply

Municipality	Total housing units			2000 - 2010 Change		2010-2017 Change		2000-2017 Change		2000 Distribution within NRPC Region	2010 Distribution within NRPC Region	2017 Distribution within NRPC Region
	2000	2010	2017	Numeric	Percent	Numeric	Percent	Numeric	Percent			
Amherst	3,752	4,297	4,445	545	14.5%	148	3.4%	693	18.5%	5.0%	5.2%	5.1%
Brookline	1,384	1,712	1,841	328	23.7%	129	7.5%	457	33.0%	1.9%	2.1%	2.1%
Hollis	2,491	2,941	3,041	450	18.1%	100	3.4%	550	22.1%	3.3%	3.6%	3.5%
Hudson	8,165	9,257	9,650	1,092	13.4%	393	4.2%	1,485	18.2%	10.9%	11.2%	11.2%
Litchfield	2,389	2,925	3,072	536	22.4%	147	5.0%	683	28.6%	3.2%	3.5%	3.6%
Lyndeborough	587	688	709	101	17.2%	21	3.1%	122	20.8%	0.8%	0.8%	0.8%
Mason	455	575	593	120	26.4%	18	3.1%	138	30.3%	0.6%	0.7%	0.7%
Merrimack	8,959	9,837	10,009	878	9.8%	172	1.7%	1,050	11.7%	12.0%	11.9%	11.6%
Milford	5,316	6,307	6,627	991	18.6%	320	5.1%	1,311	24.7%	7.1%	7.6%	7.7%
Mont Vernon	720	873	925	153	21.3%	52	6.0%	205	28.5%	1.0%	1.1%	1.1%
Nashua	35,387	37,205	38,845	1,818	5.1%	1,640	4.4%	3,458	9.8%	47.4%	45.0%	45.0%
Pelham	3,606	4,618	4,995	1,012	28.1%	377	8.2%	1,389	38.5%	4.8%	5.6%	5.8%
Wilton	1,410	1,533	1,560	123	8.7%	27	1.8%	150	10.6%	1.9%	1.9%	1.8%
<b>NRPC Region</b>	<b>74,621</b>	<b>82,768</b>	<b>86,312</b>	<b>8,147</b>	<b>10.9%</b>	<b>3,544</b>	<b>4.3%</b>	<b>11,691</b>	<b>15.7%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>

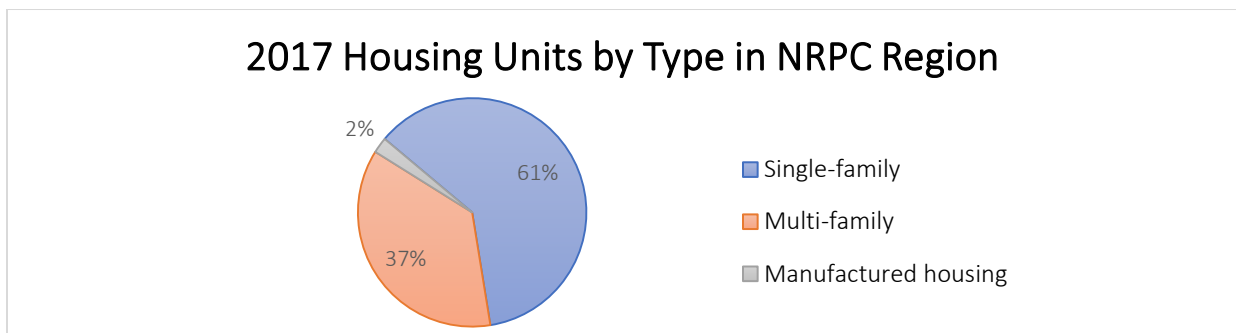
### 2000 - 2017 Changes in Housing Units



(NHOSI, 2018)

The decreased production rates, or lack of significant growth, can be lingering effects of the Great Recession and its effect on various housing related markets such as real estate, construction and housing finance. Empirical evidence from housing industry experts contest that housing production has yet to fully recover to the pre-recession rates due to a shortage of skilled labor, high construction wages, high material costs, conservative consumer lending and lengthy permitting processes. NHHFA summarizes the five major impediments that affect the development of housing as the “5 L’s”: land, labor, lumber, laws and loans (NHHFA, 2019).

There is a significant variation in the nature of the regional housing stock. On a community-level, the number of housing units per community differs by over two orders of magnitude, from 593 units in Mason to over 38,800 units in Nashua. Housing patterns in the region are largely dictated by economic opportunity, access to assets such as roads, utilities (gas and 3-phase electric), schools, the price of land and zoning. While not all zoning ordinances currently permit the construction of new multi-family housing, all communities in the region have some existing multi-family options. Typically, the larger, more urban communities boast the more diverse housing options in the region, while the smaller, more rural communities tend to be predominantly limited to single-family housing.



(NHOSI, 2018)

Sixty-one percent of the region’s housing stock is single-family while the rest is made up of multi-family (37%) and manufactured housing (2%). However, in terms of overall numbers, approximately 91% the region’s multi-family housing units are in four of the thirteen communities; Nashua comprises of 64%, Hudson 10%, Merrimack 9% and Milford 8%, according to OSI. All four of these communities have near, or above, 30% of their of total housing stock designated as multi-family units, likely due to their proximity to economic opportunity and major transportation networks. It is also interesting to point out that Wilton, one of the region’s smallest and most rural communities, has also been able to provide diverse housing options for its community with similar percentages (29.7% of Wilton stock is multi-family) to the previously four larger, more urban communities. However, Wilton’s reasoning for a higher percentage of multi-family housing may be because of concentrated, historical development and lack of new development rather than proximity to economic hubs.

## 2017 Total Housing Units by Type in NRPC Region

Municipality	Total	Single-family		Multi-family			MFG housing			
	Numeric	Numeric	Percent of Community Total	Percent of Region Total	Numeric	Percent of Community Total	Percent of Region Total	Numeric	Percent of Community Total	Percent of Region Total
Amherst	4,445	3,804	85.6%	4.4%	575	12.9%	1.8%	66	1.5%	3.5%
Brookline	1,841	1,746	94.8%	2.0%	95	5.2%	0.3%	0	0.0%	0.0%
Hollis	3,041	2,651	87.2%	3.1%	286	9.4%	0.9%	104	3.4%	5.5%
Hudson	9,650	6,469	67.0%	7.5%	3,032	31.4%	9.6%	0	0.0%	0.0%
Litchfield	3,072	2,445	79.6%	2.8%	567	18.5%	1.8%	60	2.0%	3.1%
Lyndeborough	709	596	84.1%	0.7%	82	11.6%	0.3%	31	4.4%	1.6%
Mason	593	572	96.5%	0.7%	5	0.8%	0.0%	16	2.7%	0.8%
Merrimack	10,009	7,041	70.3%	8.2%	2,915	29.1%	9.2%	53	0.5%	2.8%
Milford	6,627	3,578	54.0%	4.1%	2,667	40.2%	8.4%	382	5.8%	20.1%
Mont Vernon	925	873	94.4%	1.0%	18	1.9%	0.1%	34	3.7%	1.8%
Nashua	38,845	17,500	45.1%	20.3%	20,357	52.4%	64.2%	988	2.5%	51.9%
Pelham	4,995	4,330	86.7%	5.0%	665	13.3%	2.1%	0	0.0%	0.0%
Wilton	1,560	1,083	69.4%	1.3%	455	29.2%	1.4%	22	1.4%	1.2%
<b>NRPC Region</b>	<b>86,312</b>	<b>52,688</b>	<b>61.0%</b>	<b>100.0%</b>	<b>31,719</b>	<b>36.7%</b>	<b>100.0%</b>	<b>1,905</b>	<b>2.2%</b>	<b>100.0%</b>

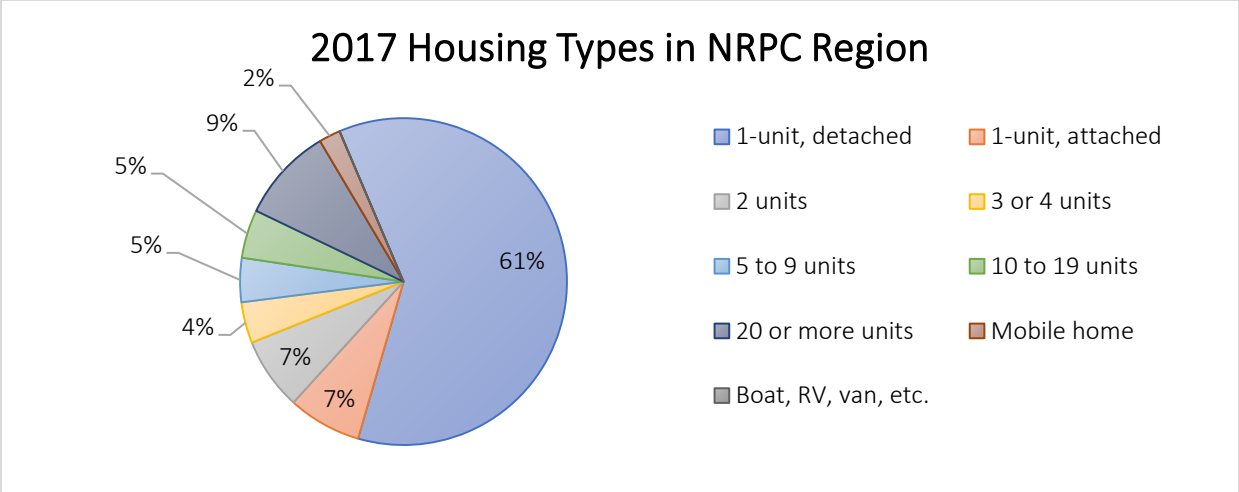
(NHOSI, 2018)

The following table further details building permit activity from 2010-2017 for each individual community, as reported by OSI. The 3,544 units that were produced during this time, 54.3% of them were for single-family units, 44.9% were for multi-family units and 0.8% were for manufactured housing. The region experienced an overall 3.8% growth for single-family, 5.3% for multi-family and 1.5% for manufactured since 2010. All but three communities, Litchfield, Milford and Nashua, had at least 75% their total housing construction driven by single-family housing. Nashua had a staggering 74.8% of their construction driven by multi-family units.

<b>2010 - 2017 Percentage of Building Permit Activity by Type</b>				
<b>Municipality</b>	<b>Total</b>	<b>Single-family</b>	<b>Multi-family</b>	<b>Manufactured</b>
Amherst	148	76.4%	24.3%	-0.7%
Brookline	129	94.6%	5.4%	0.0%
Hollis	100	93.0%	7.0%	0.0%
Hudson	393	87.8%	11.7%	0.0%
Litchfield	147	46.3%	53.7%	0.0%
Lyndeborough	21	85.7%	9.5%	4.8%
Mason	18	100.0%	0.0%	0.0%
Merrimack	172	85.5%	10.5%	4.1%
Milford	320	59.7%	39.4%	0.9%
Mont Vernon	52	98.1%	0.0%	1.9%
Nashua	1,640	24.3%	74.8%	0.9%
Pelham	377	88.3%	11.7%	0.0%
Wilton	27	100.0%	0.0%	0.0%
<b>NRPC Region</b>	<b>3,544</b>	<b>54.3%</b>	<b>44.9%</b>	<b>0.8%</b>

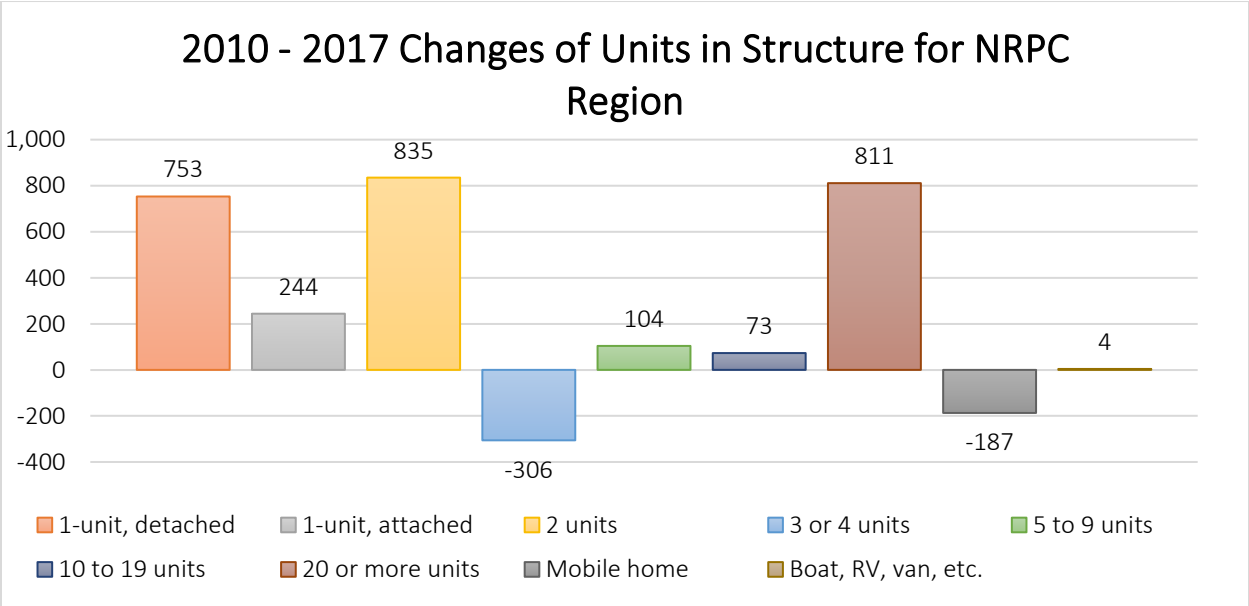
(NHOSI, 2018)

The American Community Survey (ACS) goes into greater detail about the housing types in the region, however, it does report at a much higher margin of error so comparison between ACS and OSI numbers must be understood and taken in consideration. According to the ACS, and like OSI, they also report a 61% portion of all housing units are for detached single-family units. Housing identified as 1-unit attached in ACS were categorized as multi-family units in OSI reporting.



(US Census, 2013 - 2017 5-year Estimates)

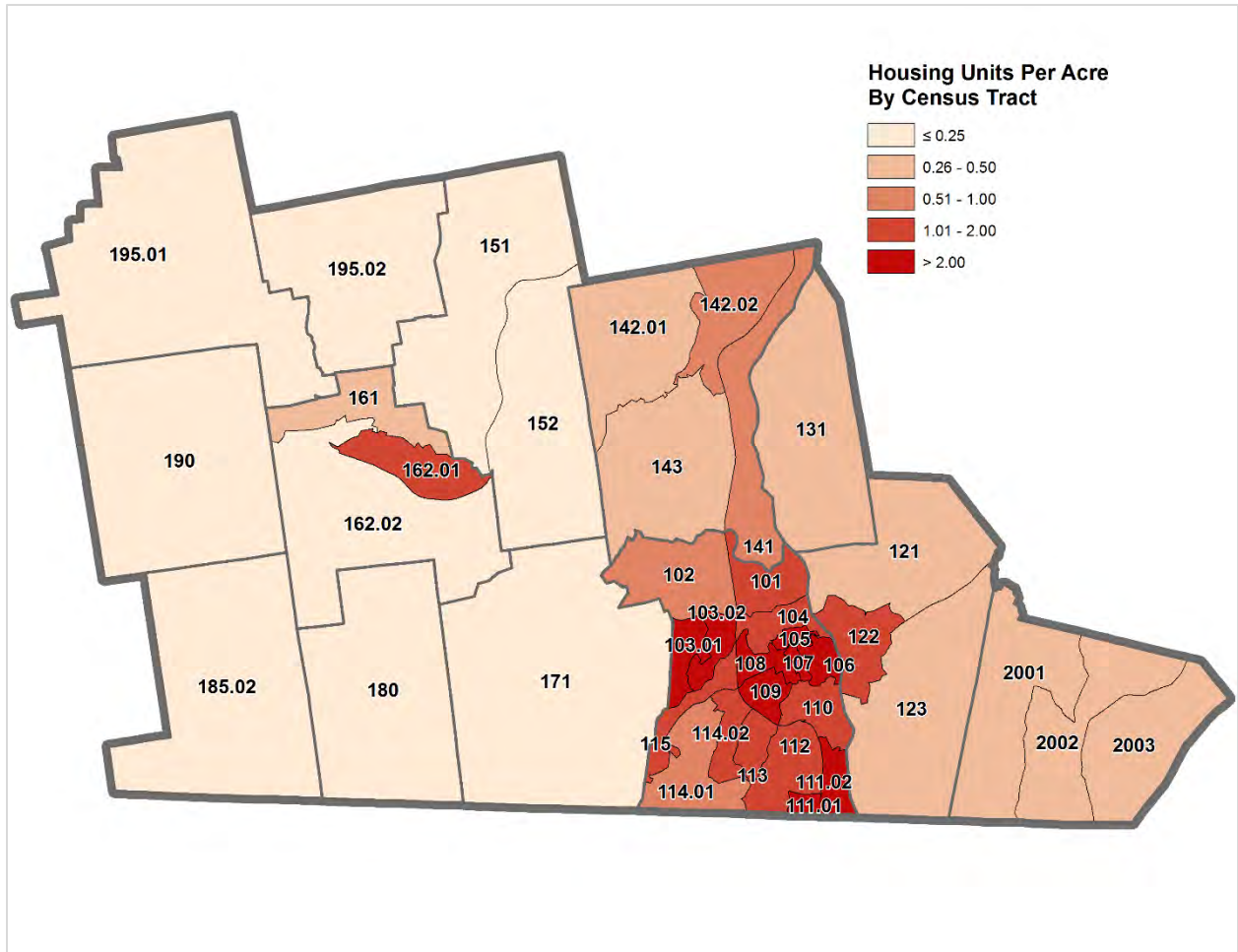
Reporting from 2010-2017 ACS, which does vary from OSI reported data, indicated significant growth among three housing types: single-family, 2-unit and 20-unit structures within the region. This growth reflects the likely structures that balance rural, small town and urban development. Other housing types such as 1-unit attached, 5-9-unit and 10-19-unit structure also experienced modest to small growth while 3-4-unit structures and mobile homes experienced moderate decreases.



(US Census, 2013 - 2017 5-year Estimates)

The variations of housing patterns in the region are largely dictated by zoning and access to assets, as previously stated. Housing density by census tracts can be seen in the following map.

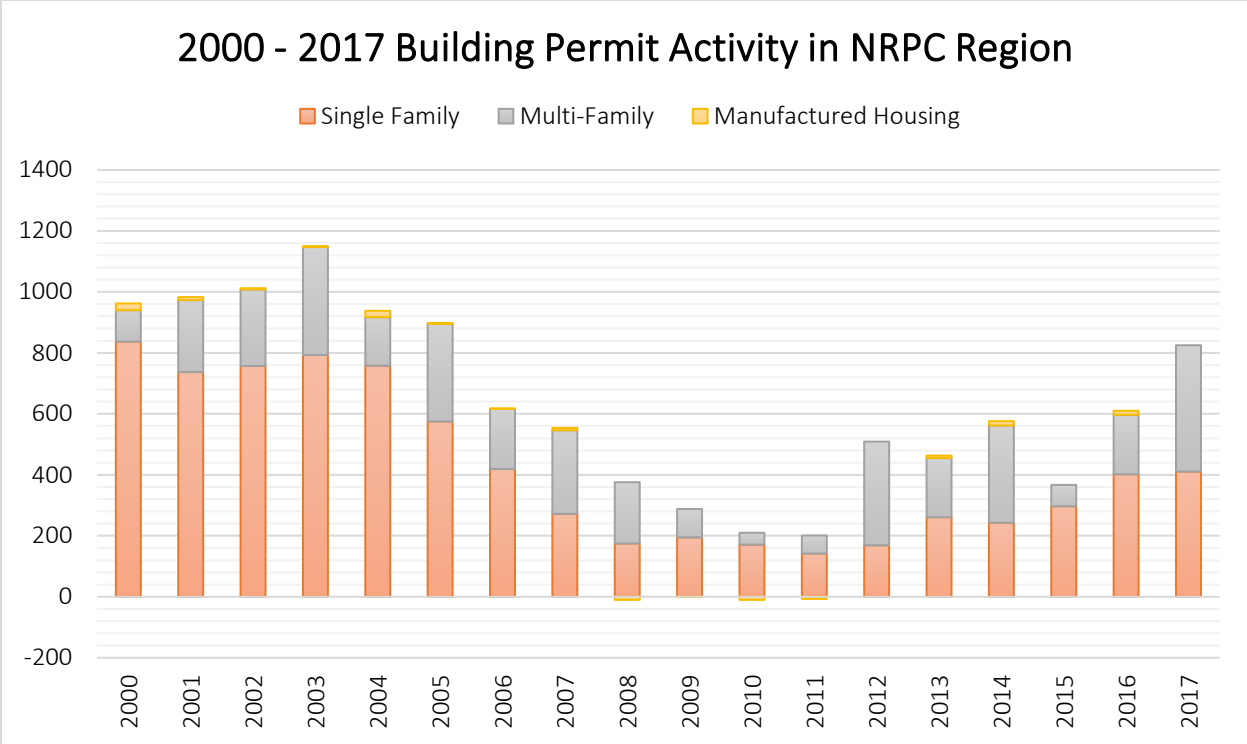




(US Census, 2013 - 2017 5-year Estimates)

## BUILDING PERMIT ACTIVITY

Since 2000, building permit activity has greatly fluctuated. High building permit activity in the early 2000's was a result high demand and readily accessible consumer financing. However, this widely accessible financing came to be the detrimental to the years that followed. Major decreases in building permit activity, from roughly 2006 through 2011, coincided with the Great Recession and devastated many housing related industries, especially construction. Since its low point in 2011, building permit activity has slowly recovered but has not yet reached and sustained pre-recession levels.



(NHOSI, 2018)

From 2010 to 2017, there was a total of 3,544 residential building permits issued the region. Most permits (55.9% or 2,096) were issued for single-family housing units while multi-family and manufactured housing permits totaled 1,630 (43.5%) and 18 (<0.01%), respectively. In comparison to 2000 through 2009, the region experienced a split in residential housing permits of 71.1% for single-family units, 28.2% for multi-family units and <0.01% for manufactured housing.

The towns of Hollis, Hudson, Litchfield, Merrimack and Milford also displayed a significant level of commitment toward providing diverse housing options. Though this was a promising trend, it should be noted that Nashua accounted for approximately 57% of all new multi-family building permits from 2000-2017.

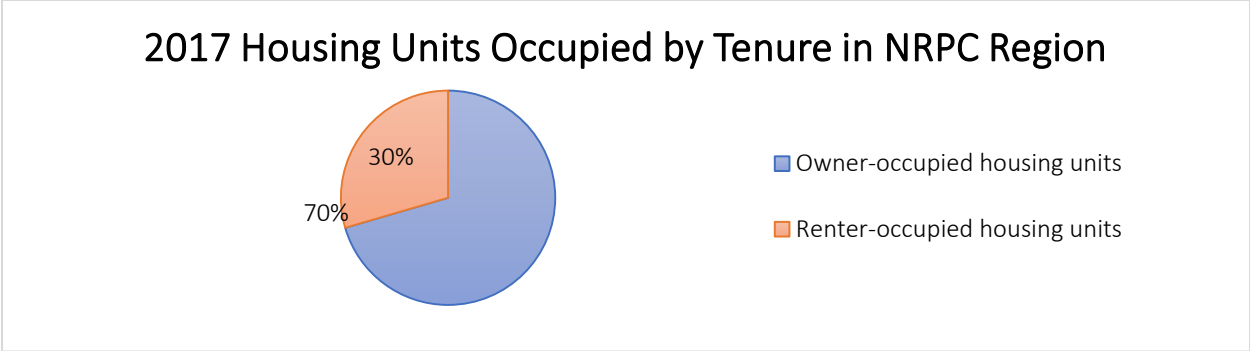
2000 - 2017 Building Permit Activity per NRPC Community							
Community	Total	Single-family		Multi-family		Manufactured Housing	
		Numeric	Percent	Numeric	Percent	Numeric	Percent
Amherst	659	586	88.9%	67	10.2%	6	0.9%
Brookline	469	455	97.0%	15	3.2%	-1	-0.2%
Hollis	475	360	75.8%	112	23.6%	3	0.6%
Hudson	1,472	1,056	71.7%	414	28.1%	2	0.1%
Litchfield	712	469	65.9%	243	34.1%	0	0.0%
Lyndeborough	131	121	92.4%	8	6.1%	2	1.5%
Mason	161	161	100.0%	0	0.0%	0	0.0%
Merrimack	1,098	746	67.9%	330	30.1%	22	2.0%
Milford	1,139	788	69.2%	334	29.3%	17	1.5%
Mont Vernon	221	216	97.7%	-1	-0.5%	6	2.7%
Nashua	3,609	1,429	39.6%	2,167	60.0%	13	0.4%
Pelham	1,147	1,027	89.5%	113	9.9%	7	0.6%
Wilton	216	200	92.6%	15	6.9%	1	0.5%
<b>NRPC Region</b>	<b>11,509</b>	<b>7,614</b>	<b>66.2%</b>	<b>3,817</b>	<b>33.2%</b>	<b>78</b>	<b>0.7%</b>

(NHOSI, 2018)

Overall, the region and its municipalities should be encouraged by the recovering permit levels and the increasing mix of housing options. However, the region must also question where this development trend may go? What mix of permits and types of development are wanted and needed? Are there are areas where the permitting process can be improved and expedited? How should individual communities plan and disperse regional need in a more equitable manner among all communities?

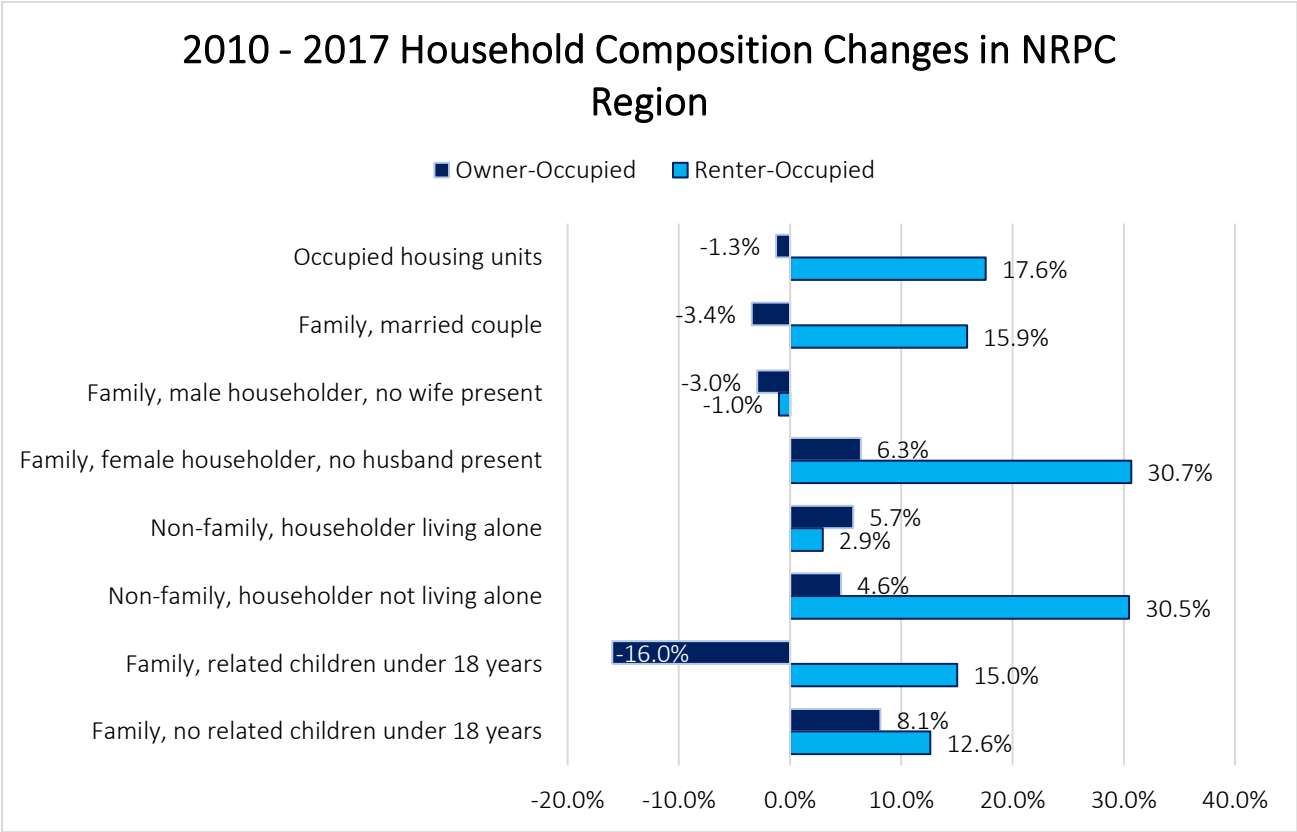
## OCCUPANCY, VACANCY, AND TENURE

The total share of owner-occupied housing has hovered between 69% to 74% since 2000, according to the American Community Survey (ACS). Owner-occupied percentages in the region were highest in 2010, approximately 74%, during the Great Recession and eventually lowered to 70.5% in 2017. This resulted in a decrease in the number of homeowners from 57,276 down to 56,554. Reciprocal to these decreases, renters eventually came to occupy 29.5% of all housing units, an increase from 20,137 to 23,679 from 2010 to 2017.

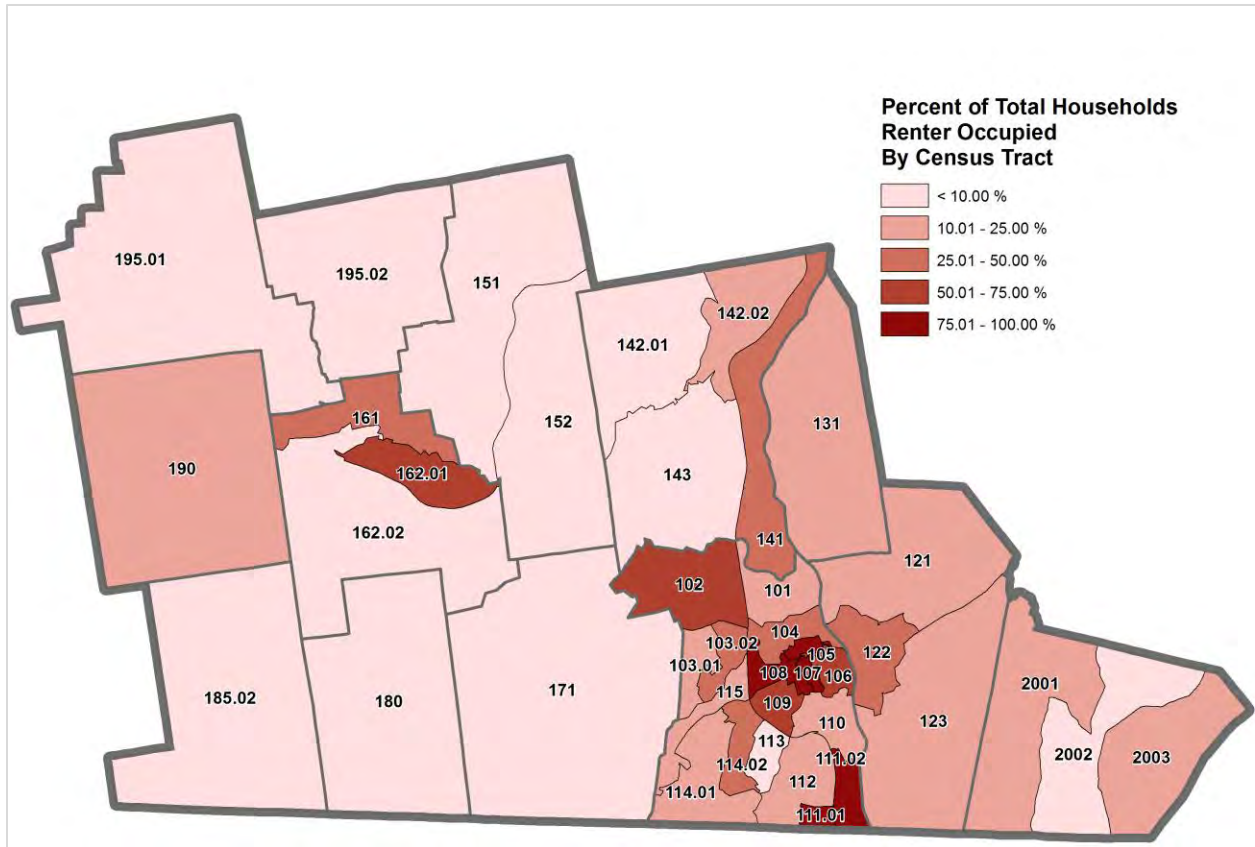


(US Census, 2013 - 2017 5-year Estimates)

The following chart further details the region’s substantial movement toward more renter-occupied units by housing composition. Overall, the percentage of owner-occupied units dropped by 1.3% while renter-occupied units grew by 17.6%. Any growth for owner-occupied units primarily came from non-traditional households which excluded married couples.



(US Census, 2013-2017 5-year Estimates)



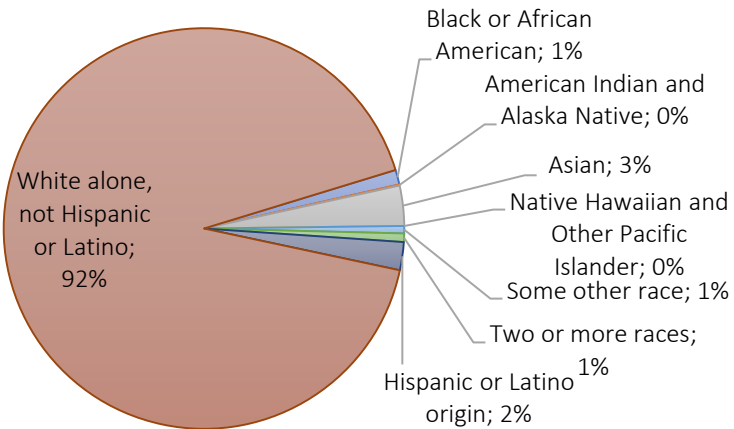
(US Census, 2013 - 2017 5-year Estimates)

While an increased number of the region’s housing stock has been occupied by renters, most renters are located within the City of Nashua, the center of Milford, along the F.F. Everett/DW Highway corridor in Merrimack and west-central Hudson. It should also be noted that renter-occupied units are not always synonymous with multi-family housing. Rental housing options are vital for lower income, transient or younger households who do not have the equity or ability to purchase a home. There is anecdotal evidence that multi-generational households are on the rise and in-law attachments or accessory dwelling units are gaining in popularity. This could either mean that retired or elderly parents move into an attached dwelling with their children or choose to not downsize from their large single-family home so that they have room for children and grandchildren to stay when needed. However, these are sometimes difficult measures for the ACS or municipalities to capture.

The growth in renter households since 2010 has been noticeable and while changes in demographics and/or housing preferences may have contributed, there is considerable evidence that points toward the lack of affordable housing supply and economic conditions that lingered from the Great Recession, such as the ability to obtain loan and high construction costs (labor and lumber). The competition between first time home buyers and the aging population needing smaller housing, or more well-situated housing, has saturated demand for housing under \$300,000. Furthermore, new construction of single-family homes priced above \$300,000 have outpaced those below. The result has been more households into the rental market or more households becoming cost burdened by housing costs (NHHFA, 2019).

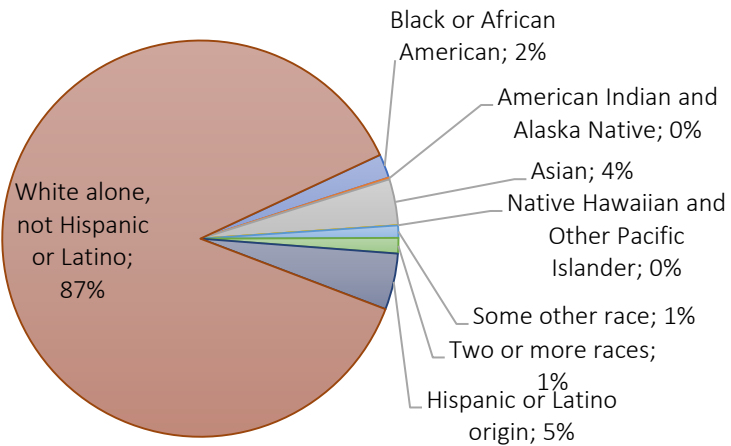
Only 8% of the owner-occupied units in our region are owned by minorities, while a slightly larger, 13% of renter-occupied units are inhabited by minorities.

### 2017 Owner-Occupied Housing Units in NRPC Region



(US Census, 2013-2017 5-year Estimates)

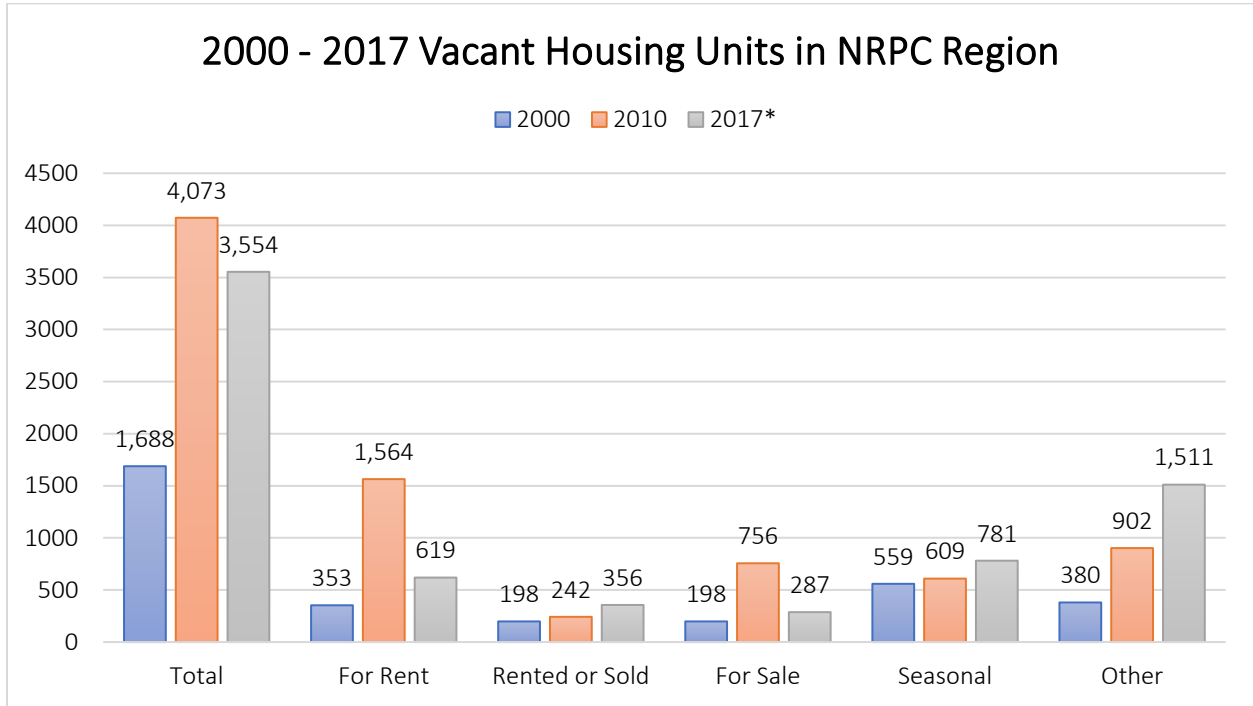
### 2017 Renter-Occupied Housing Units in NRPC Region



(US Census, 2013-2017 5-year Estimates)

The number of vacant units in the region rose from 1,683 units (2% of all units) in 2000, to 4,073 units (5% of all units) in 2010, according to the decennial US Census. During this time, the region experienced an uptick in owner-occupied units and a decrease in renter-occupied units. However, as a higher percentage of people became renters from 2010 to 2017, the number of vacant units in the region decreased by approximately 500 units down to a total of 3,554. For 2017, the ACS reported homeowner

vacancy rates below 1% and rental vacancy rates around 2.5% for the region. However, ACS data typically has higher margins of error and less accurate data in comparison to the Census. NHHFA reported a less than 1% rental vacancy rate for the region (NHHFA, 2019) and an approximate 3.5-month turnover rate from listing a home to closing (NHHFA, 2019).



(US Census Bureau, 2000, 2010; \*US Census Bureau, 2013-2017 5-year Estimates)

## 2017 Housing Units Occupied and Tenure

Municipality	Total units	Occupied		Vacant		Owner occupied		Renter occupied	
		Number	Percent	Number	Percent	Number	Percent	Number	Percent
Amherst	4,143	3,996	96.5%	147	3.5%	3,691	92.4%	305	7.6%
Brookline	1,760	1,750	99.4%	10	0.6%	1,620	92.6%	130	7.4%
Hollis	3,183	3,010	94.6%	173	5.4%	2,743	91.1%	267	8.9%
Hudson	9,254	8,976	97.0%	278	3.0%	7,187	80.1%	1,789	3.5%
Litchfield	3,080	3,080	100.0%	0	0.0%	2,591	84.1%	489	15.9%
Lyndeborough	750	679	90.5%	71	9.5%	615	90.6%	64	9.4%
Mason	632	583	92.2%	49	7.8%	547	93.8%	36	6.2%
Merrimack	10,087	9,745	96.6%	342	3.4%	8,457	86.8%	1,288	13.2%
Milford	6,368	6,074	95.4%	294	4.6%	3,923	64.6%	2,151	35.4%
Mont Vernon	907	854	94.2%	53	5.8%	800	93.7%	54	6.3%
Nashua	37,054	35,374	95.5%	1,680	4.5%	19,121	54.1%	16,253	45.9%
Pelham	4,866	4,575	94.0%	291	6.0%	4,079	89.2%	496	10.8%
Wilton	1,703	1,537	90.3%	166	9.7%	1,180	76.8%	357	23.2%
NRPC Region	83,787	80,233	95.8%	3,554	4.2%	56,554	70.5%	22,205	27.7%

(US Census, 2013 - 2017 5-year Estimates)



Whether referencing either the ACS or NHHFA, the impact of very low vacancy rates remains the same. A decreasing inventory of available housing “for sale” drives home prices up. As mentioned, this forces lower income households into the rental market until something more affordable comes online or forces them into a situation to take on more debt, become more cost burden with housing costs and less able to pay for other essential needs like medical services, transportation or groceries. Housing experts have stated that healthy vacancy rental rates typically hover around 6-8%, and healthy homeowner vacancy rates are closer to 2% or below (Florida, 2018; Kasulis, 2016). In addition to decreasing number of vacant units, the number of foreclosures across the state have significantly decreased; from about 4,000 a year at its peak in 2010, down to approximately 900 a year in 2018 (NHHFA, 2019). Simply put, the lack of a sufficient supply of affordable housing is driving vacancy rates down and prices up.

## AGE OF HOUSING STOCK

Like all other structures, housing units and their expensive components have a useful life. As housing units age, maintenance needs and costs increase. Additionally, older units may have fewer of the features and layouts that consumers are seeking. However, it should be noted that the historic nature of some older homes also appeals to certain households willing to preserve and update the units. In a more typical fashion, the older units move down through the housing market and are eventually replaced by newer stock. For analysis purposes, housing units aged 60 years or older has been identified as the threshold for those most likely to be in substandard condition. A large percentage of older units are found in two types of situations within the region: rural communities with relatively slow growth rates and the older town and city centers which developed in the earlier half of the 20th century.

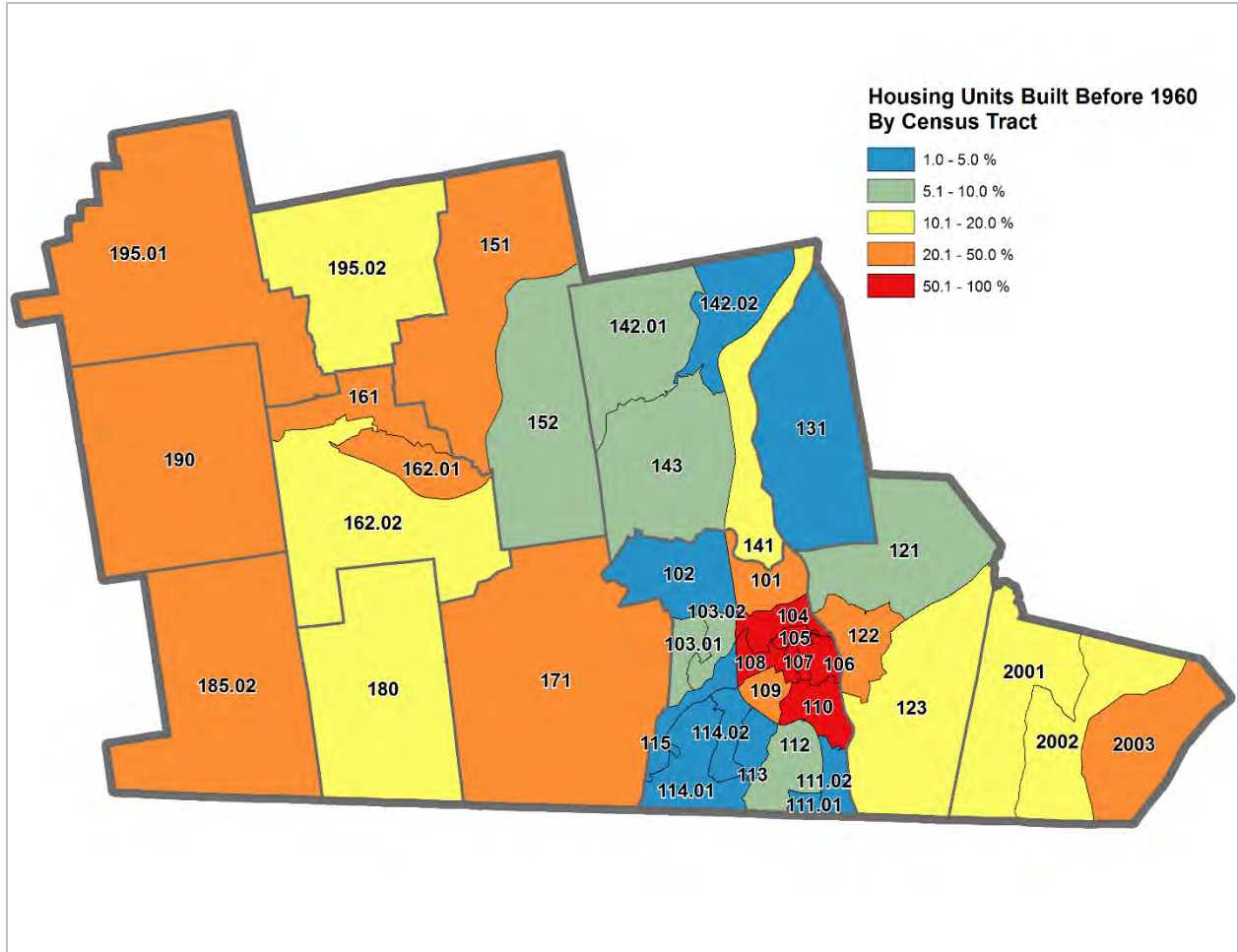
2017 Housing Stock by Year Built in NRPC Region						
Municipality	Total housing units	Built pre-1960	Built 1960 to 1969	Built 1970 to 1979	Built 1980 to 1989	Built 1990 or later
Amherst	4,143	16.2%	16.1%	22.8%	19.8%	25.1%
Brookline	1,760	14.0%	5.0%	8.1%	19.0%	54.0%
Hollis	3,183	20.7%	6.8%	12.1%	24.2%	36.2%
Hudson	9,254	12.8%	10.9%	20.5%	29.2%	26.7%
Litchfield	3,080	3.7%	4.2%	24.4%	21.2%	46.4%
Lyndeborough	750	26.1%	4.1%	18.9%	17.9%	32.9%
Mason	632	22.5%	3.2%	14.2%	27.1%	33.0%
Merrimack	10,087	9.5%	12.0%	24.4%	29.7%	24.4%
Milford	6,368	26.6%	7.8%	13.1%	23.9%	28.6%
Mont Vernon	907	18.7%	2.3%	19.7%	20.0%	39.3%
Nashua	37,054	30.8%	12.9%	18.2%	23.5%	14.6%
Pelham	4,866	16.1%	13.8%	19.8%	15.0%	35.4%
Wilton	1,703	42.6%	5.9%	9.7%	18.1%	23.6%
<b>NRPC Region</b>	<b>83,787</b>	<b>22.6%</b>	<b>11.3%</b>	<b>1.5%</b>	<b>18.7%</b>	<b>36.4%</b>

(US Census, 2013 - 2017 5-year Estimates)

The rural communities of Wilton and Lyndeborough, which have experienced comparatively lower growth rates in the region, are comprised of larger portions of housing stock built before 1960; 42.6% and 26.1% respectively. The city and town centers of Nashua and Milford have high percentages, 30.8% and 26.6%, of pre-1960 housing stock due to their development in the decades earlier. The census tracts in the center of Nashua have the highest percentage of units built prior to 1960 as well as those built during the 1960's. In Tract 105 within Downtown Nashua, 80% of the housing stock was built before 1960. The newer, formerly rapidly developing suburbs of Litchfield, Merrimack and Hudson had some of the lowest percentages of older units.

It is reasonable to consider that older buildings in the region are not as energy efficient as newer structures and could result in households paying higher costs to heat homes through the winter. Nowadays, residents are interested in more energy efficient construction and heating options. Additionally, there is concern that older housing stock may be at higher risk for lead poisoning.

It is interesting to look further into the coming decades for communities which will have high percentage of housing stock 60 years or older. Those communities such as Brookline, Hudson, Merrimack, Nashua and Pelham all have over 30% of their housing stock built between 1960 and 1979. These communities will have a substantial percentage of their existing housing stock potentially susceptible to deteriorating conditions. Community representatives, homeowners and developers will need to prepare for the increased maintenance or replacements costs associated with an aging housing stock in addition to new demand.



(US Census, 2013 - 2017 5-year Estimates)

## ASSISTED HOUSING UNITS

Approximately 77.8% (or 1,848 of 2,373 units) of all assisted housing in the region is in the City of Nashua, the second largest concentration of assisted housing the State behind Manchester. The town of Milford (8.7% or 207 units) does provide a supplemental number of units outside of Nashua and while the other 11 communities in the region make up the remaining 13.5%, or 318 units.

2019 Assisted Housing Units in the NRPC Region							
Community	Total housing units	Assisted housing units					
		Total assisted housing units	Elderly	General occupancy	Transitional	Special needs	Substance abuse
Amherst	70	49	21	28	0	0	0
Hollis	24	24	24	0	0	0	0
Hudson	64	64	64	0	0	0	0
Litchfield	40	30	0	30	0	0	0
Merrimack	120	55	55	0	0	0	0
Milford	214	207	157	50	0	0	0
Nashua	2,174	1,848	1,125	554	100	13	56
Pelham	72	65	65	0	0	0	0
Wilton	33	31	31	0	0	0	0
<b>NRPC Region</b>	<b>2,811</b>	<b>2,373</b>	<b>1,542</b>	<b>662</b>	<b>100</b>	<b>13</b>	<b>56</b>

(NHHFA, 2019)

Past outreach efforts have shown that some residents in the region believe affordable housing options were scarce. Most residents said that they would like to see affordable housing options spread out in different neighborhoods; some also believe that zoning regulations are too stringent and would like to see more housing situated closer to employment and activity centers.

Assisted housing developments may include a mix of unit types including both rent assisted and market rate units (or only a percentage of units allocated as “assisted”). Therefore, not all housing units in such developments are classified as assisted and this difference can be seen when comparing “Total housing units” on the far left of the previous table to “Total assisted housing units” categorized under the Assisted housing units’ section. Approximately 65% of all assisted housing units are designated for elderly or senior populations. Of that, about 73% of those elderly or senior assisted living units are in Nashua, with another 10% in Milford. The remaining 17% of assisted housing for elders or seniors serves all other towns, a portion that makes up 49% of the total population. This has been concern raised in the past *Analyses of Impediments to Fair Housing Choice in New Hampshire*.

## CONCLUSIONS

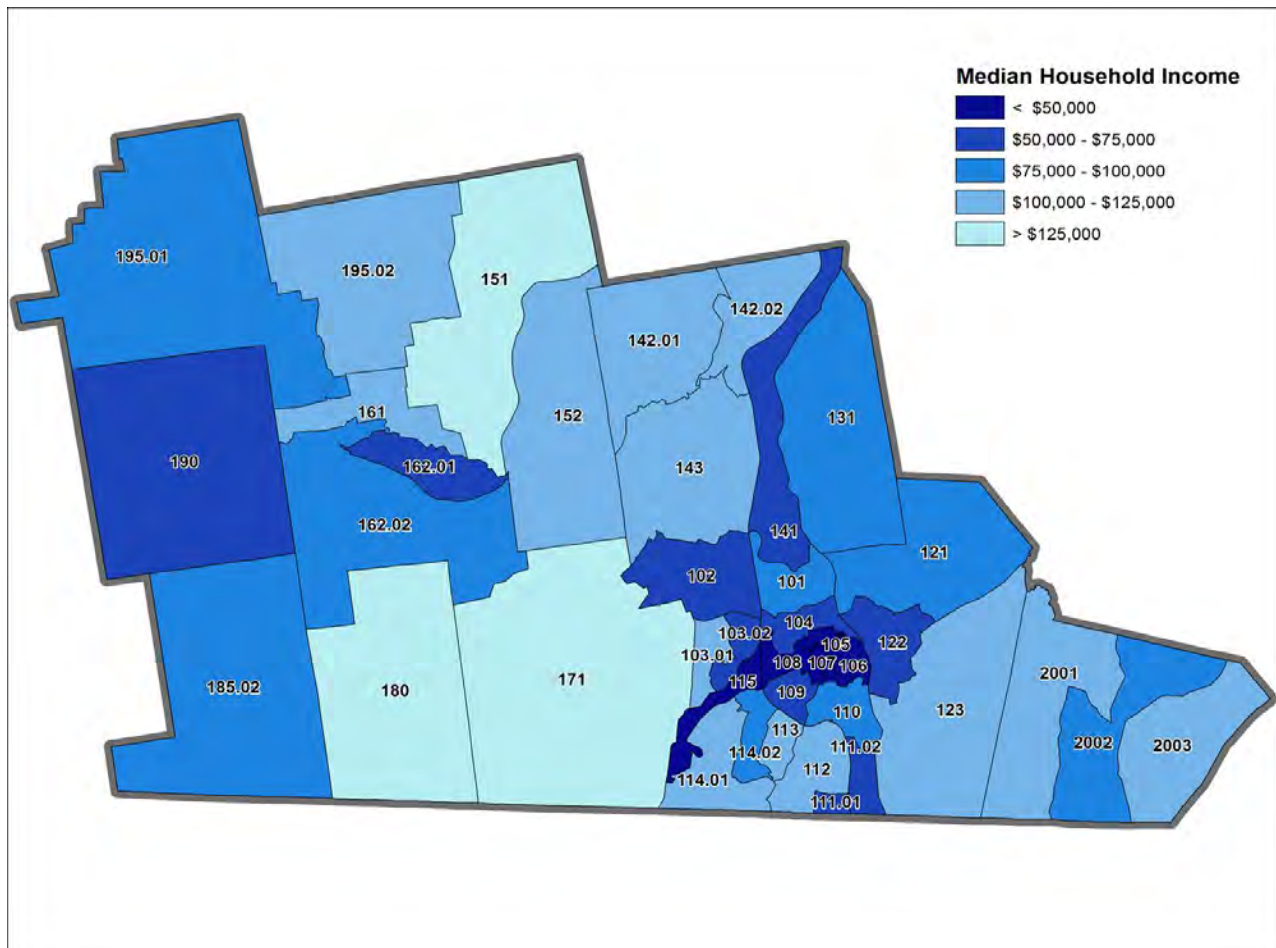
Approximately 61% of the region's housing stock is comprised of single-family housing and about 37% is designated as multi-family. Four of the thirteen communities encompass 91% of the region's multi-family stock. The total housing stock has increased by 15.7% or 11,691 units from 2000-2017. However, it should be noted that trends during this time-period did coincide with the Great Recession. From 2000-2010, 69.6% or 8,147 units were built while the remaining 30.4% or 3,544 additional units were constructed from 2010-2017. All communities throughout the region experienced significant decreases in construction levels from the decades before and after 2010 with one exception: Nashua. The city had similar construction levels when comparing the two time periods – 1,818 and 1,640 units per period – and accounted for approximately 30% of all housing construction in the region – 22.3% before 2010 and 46.3% after.

As the first half of the 2000s unfolded, housing construction was booming. From 2000 through 2005, the region averaged 990 building permits annually, roughly 24% of which were for multi-family units. From 2006 through 2011, building permits continued to decrease every year and had averaged 370 permits per year, with roughly 39% of them for multi-family units. Starting in 2012, there has been a slow recovery in building permit numbers. From 2012 through 2017, the region averaged 558 building permits a year with nearly 46% of them for multi-family units. The most encouraging takeaways were that 1.) in 2017, the number of building permits reached pre-2006 levels 2.) the percentage of multi-family has been rising and indicates a further diversifying of housing options for residents, and 3.) the region is finally able to start moving onto the next chapter of increasing overall stock which, ideally, would create healthier vacancy rates and lower housing costs. Questions going forward include: Will these production levels continue to rise? Will a variety of housing types continue to be built? How receptive will communities be increased production of multi-family housing? Do our zoning and land use regulations match our community visions and goals? How will municipalities and their voting residents maintain and update the zoning and land use regulations that govern the balance between development and community character? Does the predominance of single-family housing in most of our region align with changing demographics? How will housing preferences change over time?

## HOUSING MARKET, COST AND AFFORDABILITY

### MEDIAN HOUSEHOLD INCOME

Household income is the most important factor in determining housing affordability. The standard measure of household income, as reported by the U.S. Census, is median household income. The median household income is the mid-point in the distribution of incomes, with an equal number of households either higher or lower than the value. Household income measures all sources of income for all members of the household. A large disparity between household income and housing cost will lead to a variety of impacts on a region. If the cost of housing in a region is higher than the income earned by a typical household in that region, those households that cannot afford housing and have a limited number of strategies available to meet their housing needs. Housing experts have established a benchmark that the average household should not pay in excess of 30% of household income for gross housing costs, including rent and utilities. Once housing costs begin to exceed that figure, the household's ability to meet other normal expenses is compromised and the household is placed under increasing financial stress. These households are then categorized as being cost-burdened. The map below depicts the overall household income for each community and census tract in the region in 2017.



(US Census, 2013-2017 5-year Estimates)

Overall, the median household income for owner-occupied units ranged from the low- to mid- \$130,000 range for communities like Amherst, Brookline and Hollis to about \$80,000 in Wilton. The median household income for renter-occupied units ranged from the low- \$70,000 range for Amherst and Lyndeborough to about \$24,000 in Mason. The median household income for renters in Nashua was \$46,947, which was significant because 68.6% of all regional households renting were in Nashua. The median household income for owners in Hillsborough county was \$97,588 compared to \$44,730 for renters.

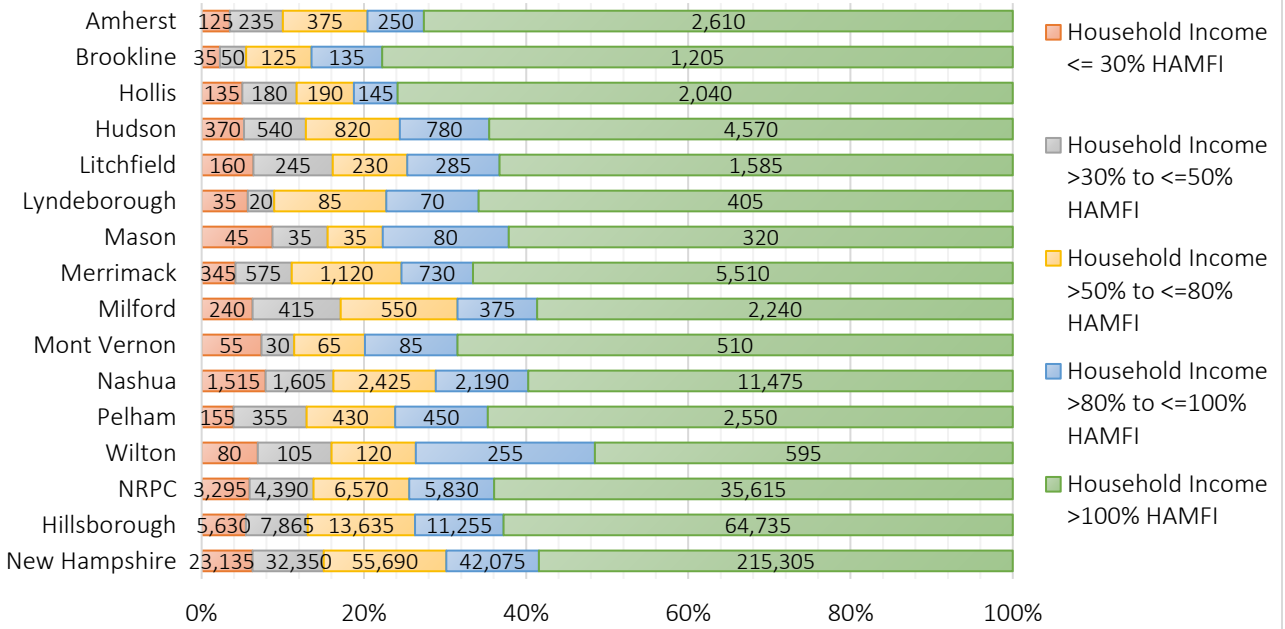
<b>2017 Median Household Income</b>			
<b>Municipality</b>	<b>All households</b>	<b>Owners</b>	<b>Renters</b>
Amherst	\$127,246	\$130,276	\$71,016
Brookline	\$127,222	\$134,079	\$45,000
Hollis	\$126,379	\$136,306	\$46,830
Hudson	\$93,042	\$104,215	\$58,633
Litchfield	\$93,715	\$108,592	\$69,730
Lyndeborough	\$84,948	\$87,891	\$71,250
Mason	\$94,653	\$97,813	\$23,571
Merrimack	\$97,400	\$105,419	\$56,750
Milford	\$73,601	\$97,667	\$42,002
Mont Vernon	\$107,143	\$114,167	\$52,667
Nashua	\$70,316	\$93,327	\$46,947
Pelham	\$102,577	\$111,779	\$51,250
Wilton	\$74,162	\$79,688	\$41,982
<b>Hillsborough</b>	<b>\$75,777</b>	<b>\$97,588</b>	<b>\$44,730</b>
<b>New Hampshire</b>	<b>\$71,305</b>	<b>\$87,002</b>	<b>\$41,638</b>

(US Census, 2013-2017 5-year Estimates)

HUD’s Comprehensive Housing Affordability Strategy (CHAS) tool provides a more detailed breakdown of the distribution of income per community, and more specifically, the number and percentage of households earning in comparison to the HUD Area Median Family Income (HAMFI). HAMFI is calculated by HUD for each jurisdiction, in order to determine Fair Market Rents (FMRs) and income limits for HUD programs. HAMFI will not necessarily be the same as other calculations of median income (such as a simple Census or ACS number), due to a series of adjustment that are made (HUD, 2019).

In 2016, the latest release date of CHAS calculated information, the median income for families in the Nashua metropolitan area was \$89,200 (HUD, 2016). The following two figures display household income distributions by community and relative to the \$89,200 HAMFI for the Nashua metropolitan area. Percentages of communities earning different income levels can be read from the x-axis, the numbers with each bar represent the number of households earning at each income level.

## 2016 Owner-Occupied Household Income Distribution as a Percentage of HAMFI

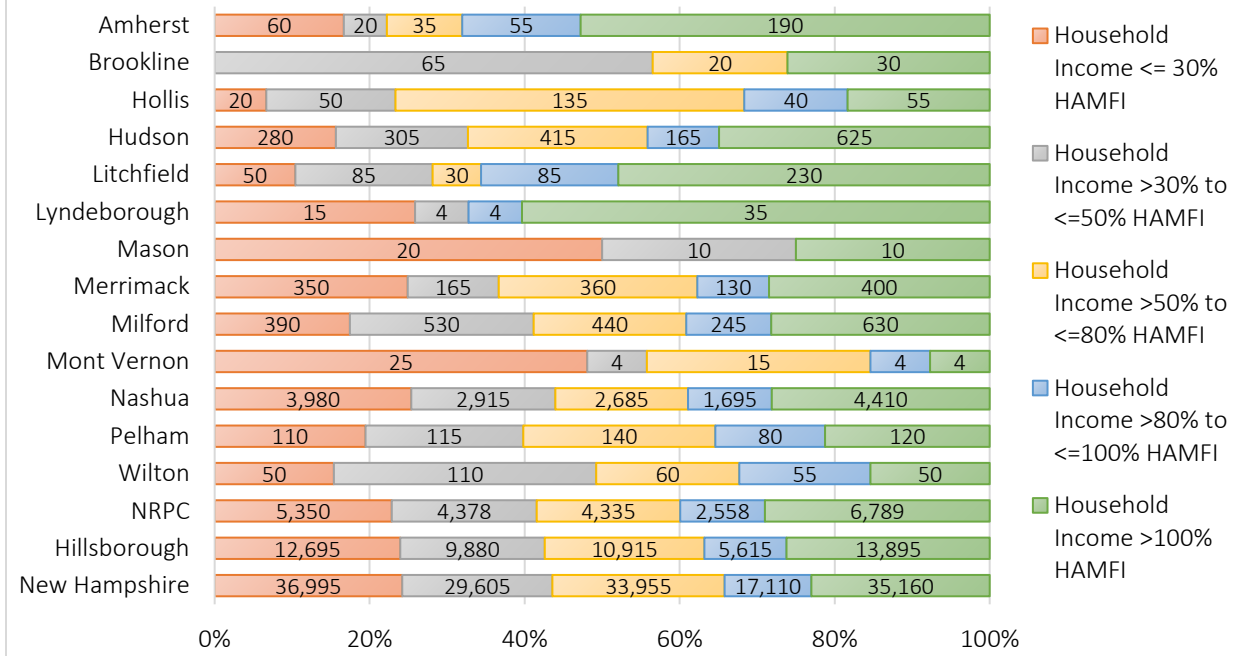


According to the figure above, the following summarizations can be made for owner-occupied households:

- Amherst, Brookline and Hollis were the only communities who had more than 70% of homeowners earning *more* than 100% of HAMFI.
- Milford, Nashua and Wilton all had over 40% of their homeowners earning *less* than 100% HAMFI.
- Litchfield, Milford, Nashua and Wilton all had about 15% of their homeowners earning *less* than 50% HAMFI.



## 2016 Renter-occupied Household Income Distribution as Percentage of HAMFI per Community



According to the figure above, the following summarizations can be made for renter-occupied households:

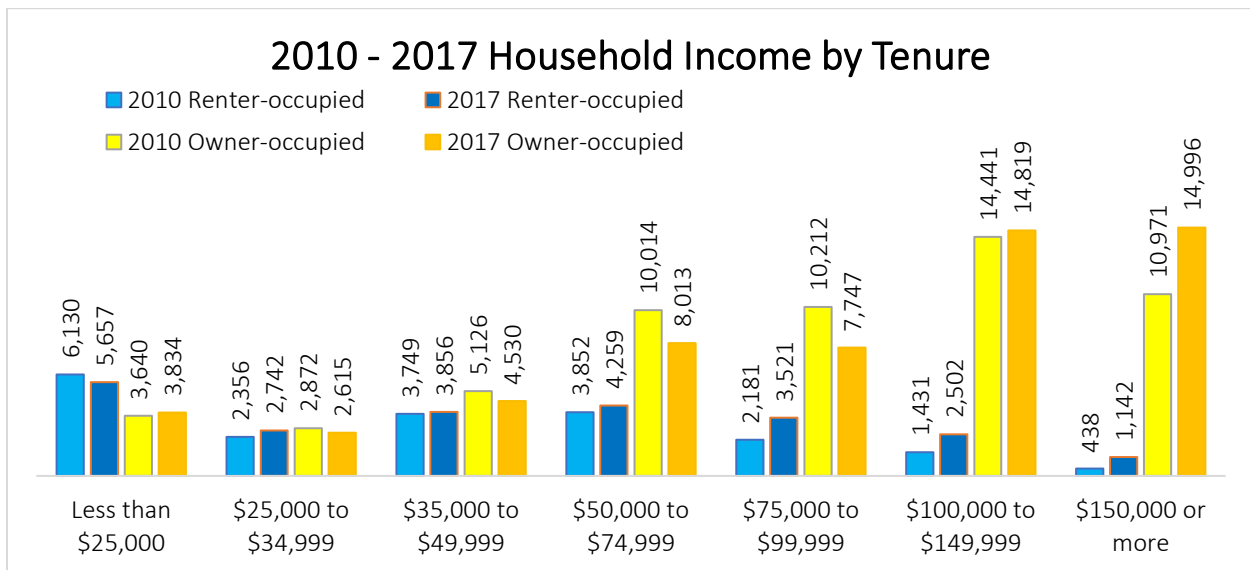
- All communities, except Amherst, Hudson, Litchfield and Lyndeborough, had over 60% of their renters earn *less* than 80% HAMFI.
- 60.0% of the entire region's renter households earn *less* than 80% HAMFI.
- 74.3% of all renter households earning *less* than 30% HAMFI are located within Nashua.

In 2017, the largest number of owner-occupied households in the region had incomes in excess of \$100,000 per year. The data, derived from the ACS, indicates that there were 29,815 households who met or exceed this \$100,000 income level, compared to 25,412 households in 2010. This group accounted for 51.7% of all owner-occupied units. The second and third largest groups for owner households was from \$50,000 to \$74,999 with 8,013 (13.9%) households and \$75,000 to \$99,999 with 7,747 (13.4%) households. In comparison to 2010, there were significant decreases in the percentage of homeowners who earned between \$50,000 and \$99,999; and conversely, significant increases in the percentage of homeowners earning \$150,000 or more.

2017 Percentage of Household Income by Tenure				
	2010	2017	2010	2017
	Owner-occupied	Owner-occupied	Renter-occupied	Renter-occupied
Less than \$25,000	6.2%	6.6%	28.8%	22.7%
\$25,000 to \$34,999	4.9%	4.5%	11.1%	11.0%
\$35,000 to \$49,999	8.8%	7.8%	17.6%	15.5%
\$50,000 to \$74,999	17.2%	13.9%	18.1%	17.1%
\$75,000 to \$99,999	17.5%	13.4%	10.3%	14.1%
\$100,000 to \$149,999	24.7%	25.7%	6.7%	10.0%
\$150,000 or more	18.8%	26.0%	2.1%	4.6%

(US Census, 2013-2017 5-year Estimates)

For renters in 2017, the lowest income group, earning less than \$25,000 per year, made up the largest percentage of renter households at 22.7%, or 5,567 households. The same was true in 2010 but curiously enough, the total number of households and their percentage of total renters significantly decreased. Where did low-income renters go? One could guess that they shifted up to a higher bracket, adjusted to a multi-generational living arrangement, cohabitated with non-family member or moved out of the region altogether. There were also other noteworthy shifts in the rental demand for higher income earners, as the following graphic will illustrate how housing tenure changed among the different income groups.

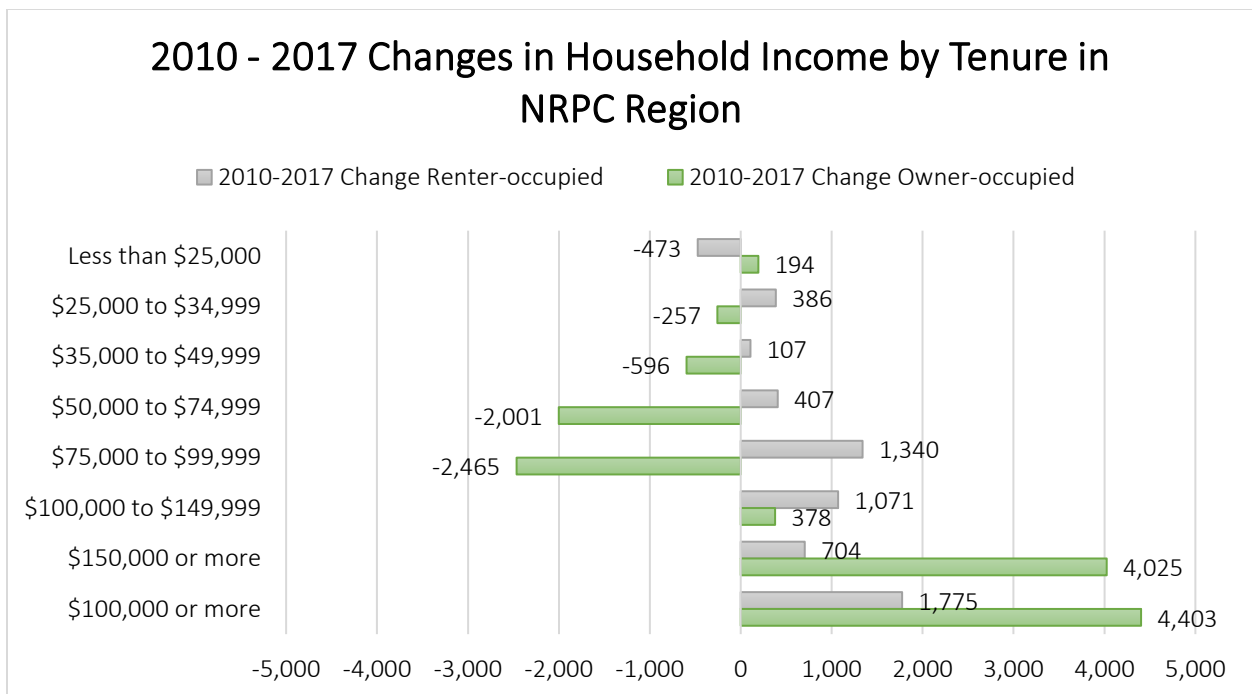


(US Census, 2013-2017 5-year Estimates)

Income groups earning \$75,000 or more all experienced hikes in their percentage of total renters in comparison to 2010. This trend potentially points to the possibility that previous homeowners moved into the rental market due to foreclosures, downsizing, reduced maintenance or housing preference. Furthermore, it is possible that young adults delayed their entry into homeownership as student loans, affordability, preference or lack of trust in the housing market. Even when considering the rate of

inflation between these two periods, both owner-occupied and renter-occupied units became increasingly inhabited by higher income households and provided less stock for low-income households.

The following graphic displays the same information in a different manner. One which shows net changes in housing tenure across each individual income group. The most drastic summarizations from this graphic are that the net number of renters across all income groups increased, except one, the lowest earning household income group making less than \$25,000 a year. The other takeaway is the decline in homeownership for households earning less than \$100,000 a year. Coincidentally, this threshold is right above to the 2017 household area median income of \$94,100 (HUD, 2017) for the Nashua metropolitan area and right below the 2018 mark of \$106,300 (HUD, 2018). This information drives home the point that it is becoming increasingly difficult for those earning less than the area median income to afford housing in the area.



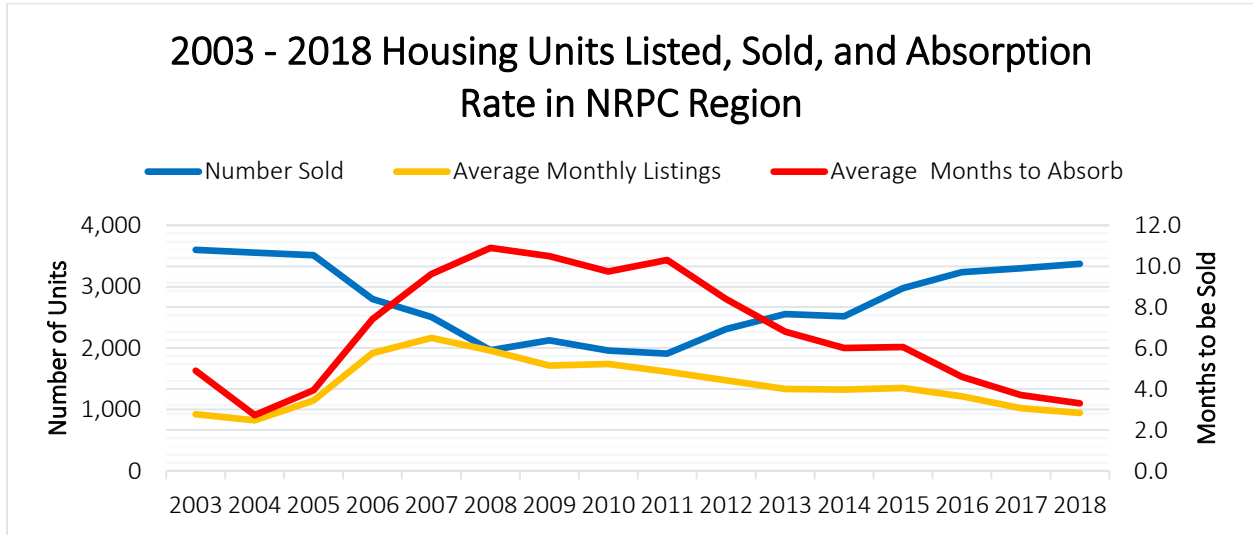
(US Census, 2013-2017 5-year Estimates)

## HOMEOWNERSHIP MARKET

There are various reasons why households are moving toward the rental market, whether that be for affordability, proximity to amenities or services, employment opportunity, short-term living or just preference. However, one aspect that is contributing to this trend is the tightness of the housing market.

The following graphic, provided by NHHFA, gives light to the reason why the housing market is so tight. A promising trend from this graphic is that number of housing units being sold is increasing. This increasing trend tells us that homebuyers are more confident, demand is high and there is a sign of recovery from the Great Recession. However, the number of monthly listings is steadily decreasing.

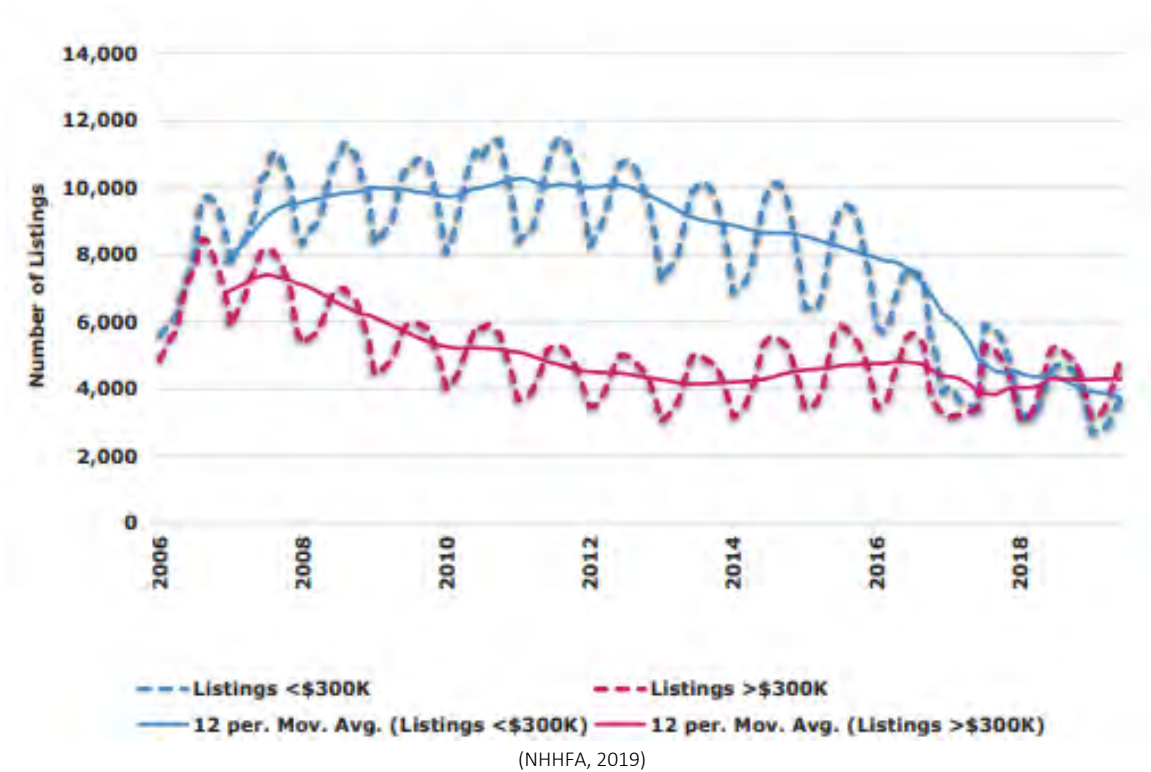
One way that NHHFA assesses these two trends is through a measurement called *absorption rate*. Absorption rate is the average time it takes for a home to be listed and sold. The red line in the following graph indicates a decreasing trend that, as 2018, was about 3.3 months. The combination of low inventory and speedier absorption rates put upward pressure on overall housing prices.



(NHHFA, 2019)

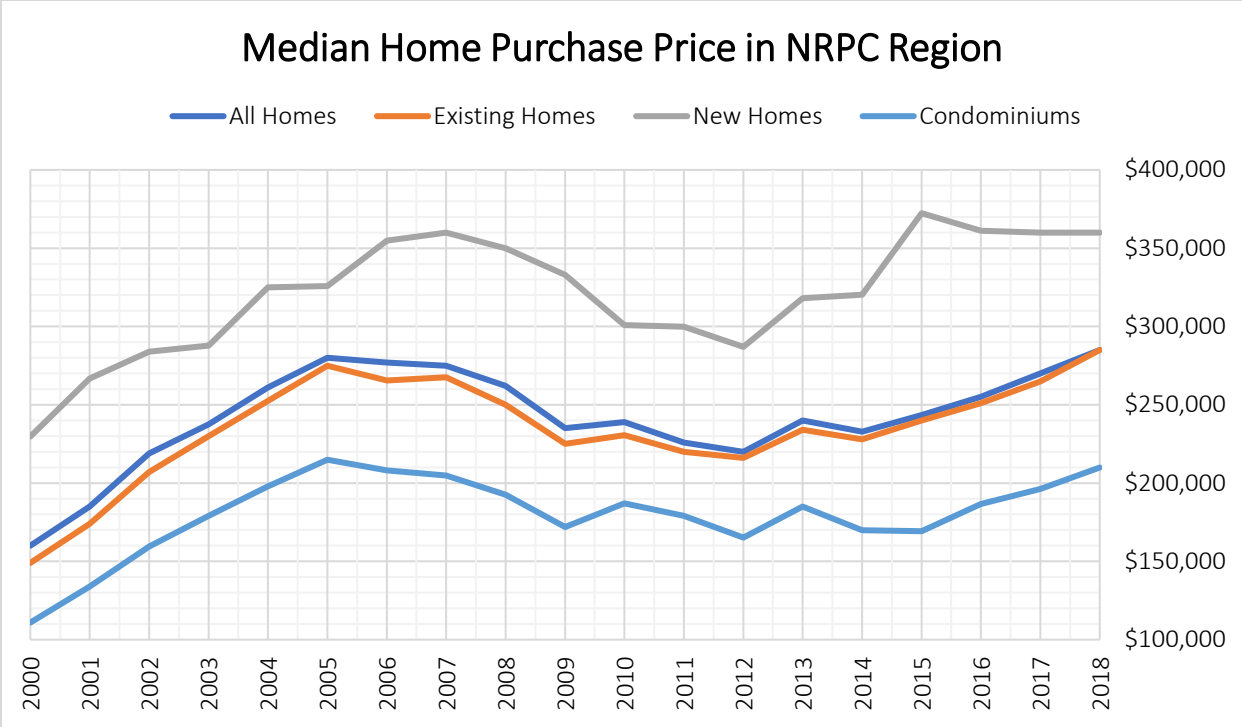
Statewide information from NHHFA also indicates that the number of housing units listed under \$300,000 has now been surpassed by those listed above that mark in a 43/57-percent split (NHHFA, 2019). The region and State are in a challenging and competitive environment for housing under \$300,000. In this market, those competing for these homes are typically retirement-aged households looking to retire and younger first-time homebuyers. In this scenario, younger households typically lose out because they usually have more financial obligations, less cash for down payments, lower lines of credit and overall higher dependency on financial institutions. In-turn, this relates back higher levels of renters for young people or migration out of the region.

## Home Listings in New Hampshire



### MEDIAN HOME VALUES

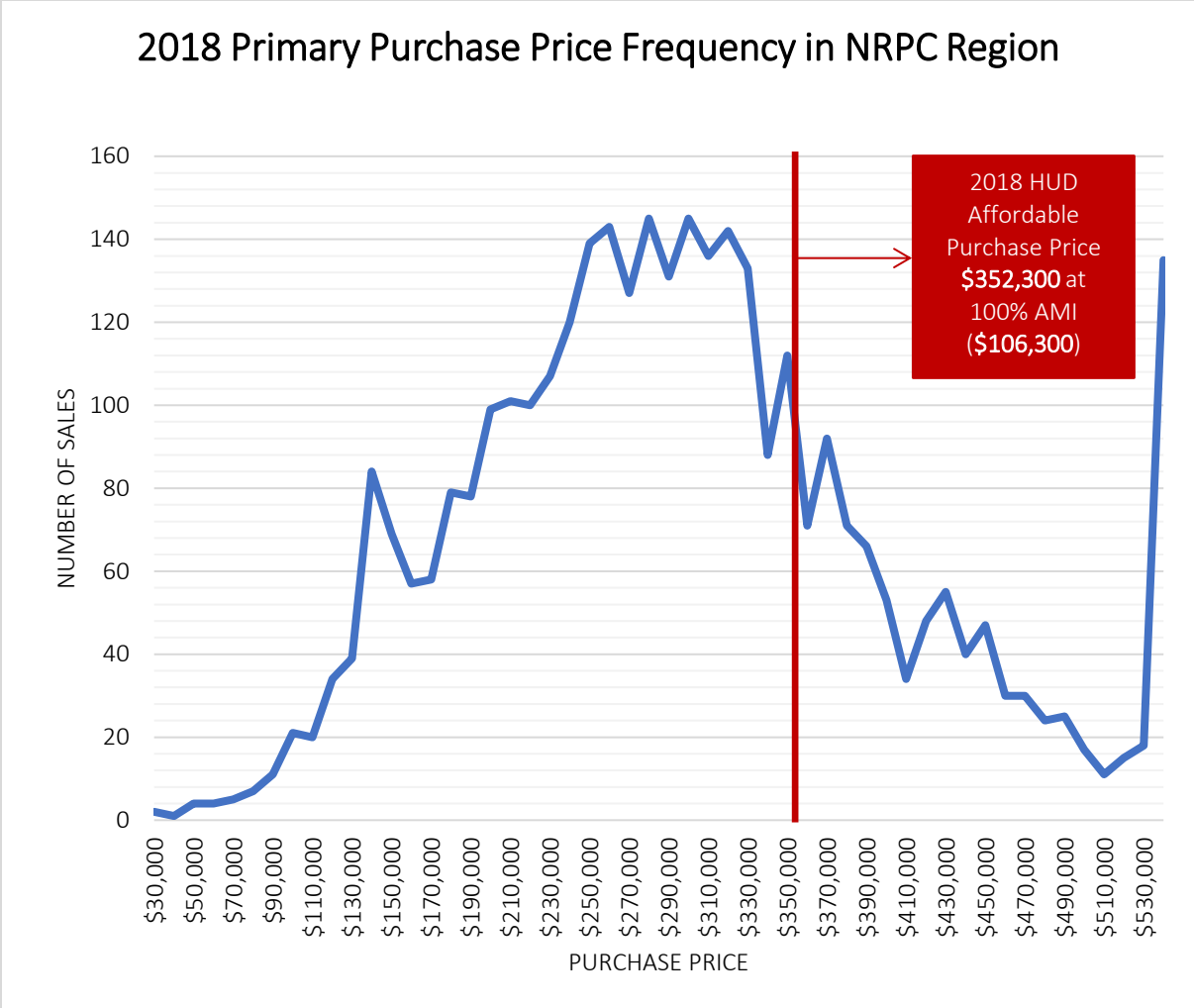
The value of residential properties in the NRPC region was on a steady upward trend from 2000-2007 when demand was high, and lending was readily available. In 2000, the median price for all homes was \$160,000, while the median price for a new home was \$229,713, according to the NHHFA. Condominiums in 2000 had a median purchase price of \$110,900. The recession of the late 2000's led to a steep decline in values with the median purchase price hitting a low point in 2012. Since that time, median purchase prices for all homes has been increasing, reaching \$285,000 in 2018. This 6-year period, from 2012 to 2018, yielded an annual increase of 4.4% and resulted in home values near pre-recession, 2005 levels.



(NHHFA, 2019)

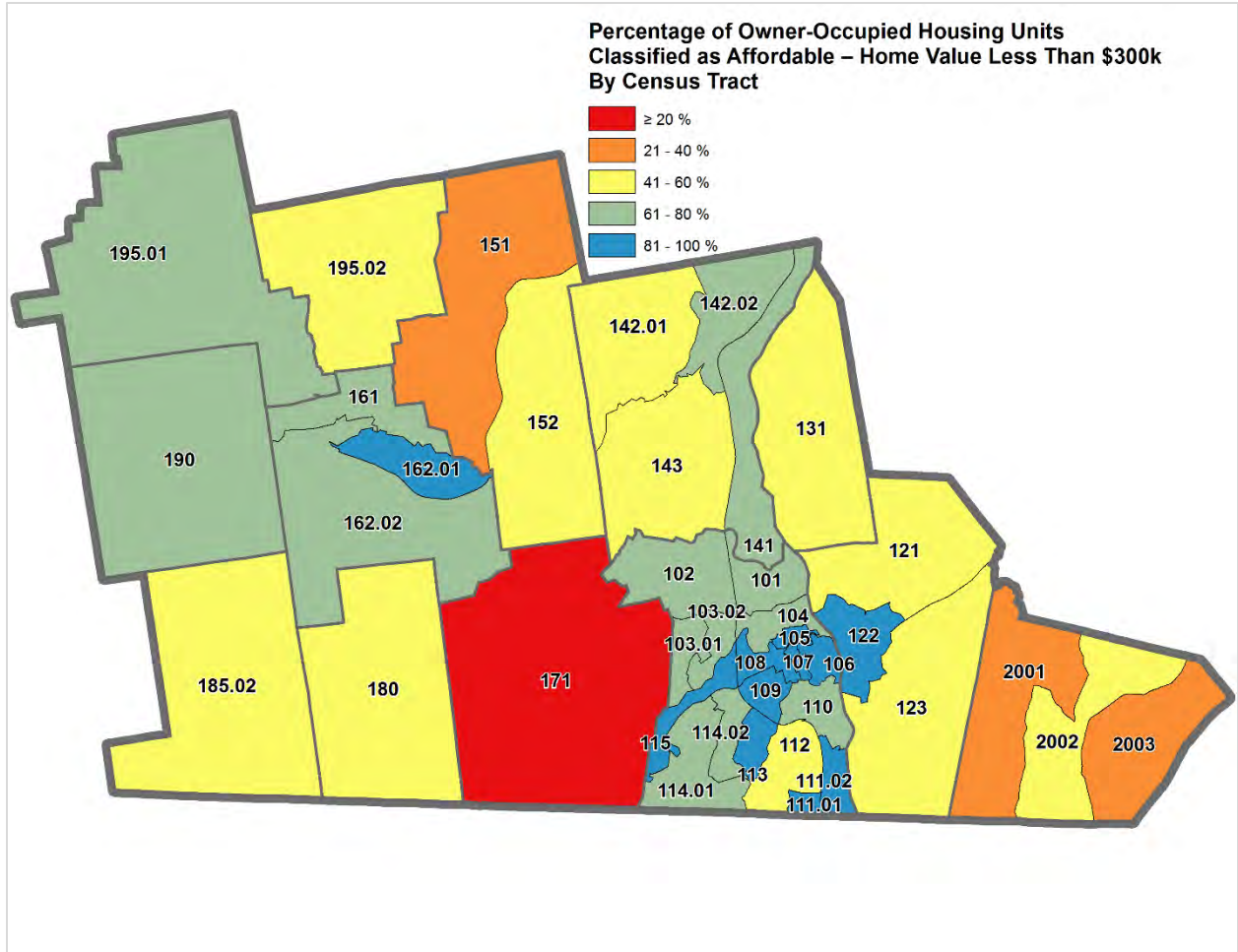
### AFFORDABLE OWNER-OCCUPIED HOUSING UNITS

In 2018, the estimated workforce housing purchase price (considered to be affordable) for the Nashua HUD Metropolitan Fair Market Area (HMFA) was \$352,500 for a family of four making 100% of the HUD median area income, which was \$106,300 per year. Using this reference point for analysis, approximately 74.2% of the housing sold in the NRPC for 2018 fell below HUD’s workforce housing purchase limit for affordability. Even though roughly three-quarters of the housing stock was identified as “affordable” for owners, it does not exhibit the extremely low vacancy rates and the fact that the number of homeowners in the lowest income brackets have decreased since 2010. It is reasonable to conject that buyers in 2018 were wealthier and did not need as much financing (i.e. had more cash for a down payment) to gain a competitive advantage over lower income, cash-strapped, heavily financed home buyers.



(NHHFA, 2019)

For households earning below the median income, the housing options become more limited. The following map shows the percentage of owner-occupied units which are less than \$300,000 by census tract. Due to ACS data limitations, the \$300,000 threshold was used as most comparable data point relative to HUD’s workforce housing purchase limit for affordability. Across the region, the percentage affordably owned housing was highly varied. Communities that are adjacent to the F.E. Everett Turnpike, DW Highway, and NH 101 typically had higher percentages of affordable housing. The town and city cores of Milford and Nashua had the highest percentage of affordable housing and Hollis had the least percentage of affordable housing. In a University of New Hampshire survey, 10% of residents in the region found housing to be very affordable in their community while 60% of residents found housing somewhat affordable, and 22% said not affordable.

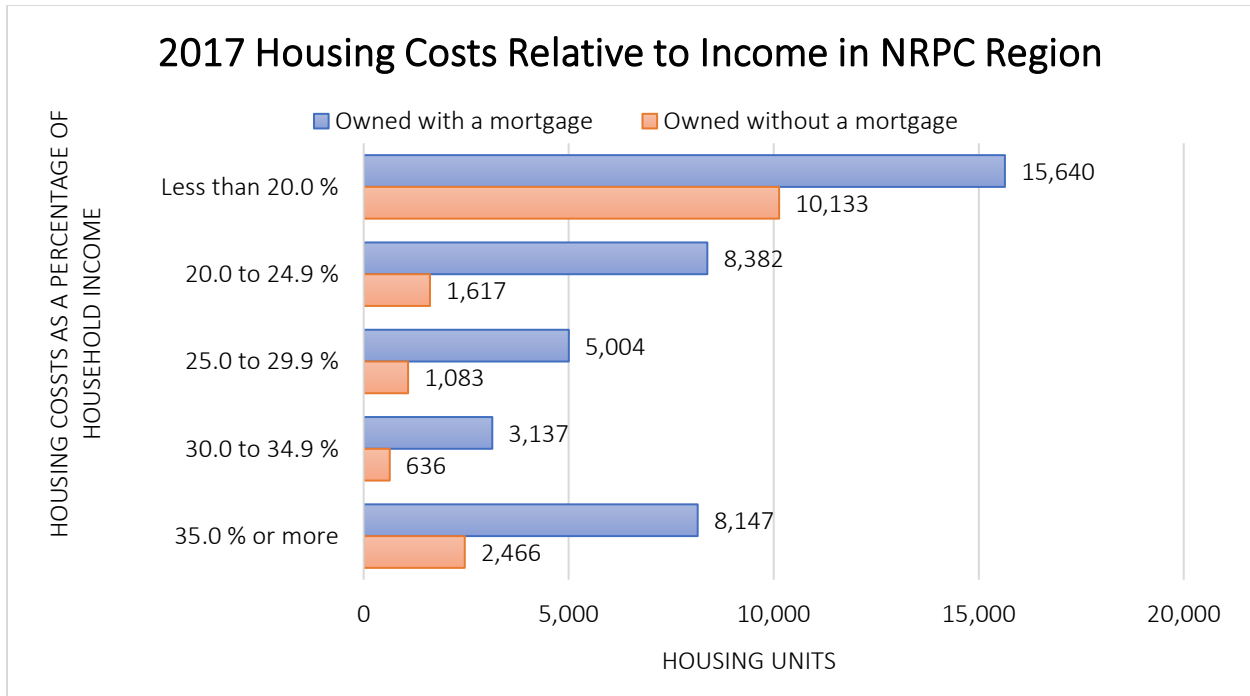


(US Census, 2013 - 2017 5-year Estimates)



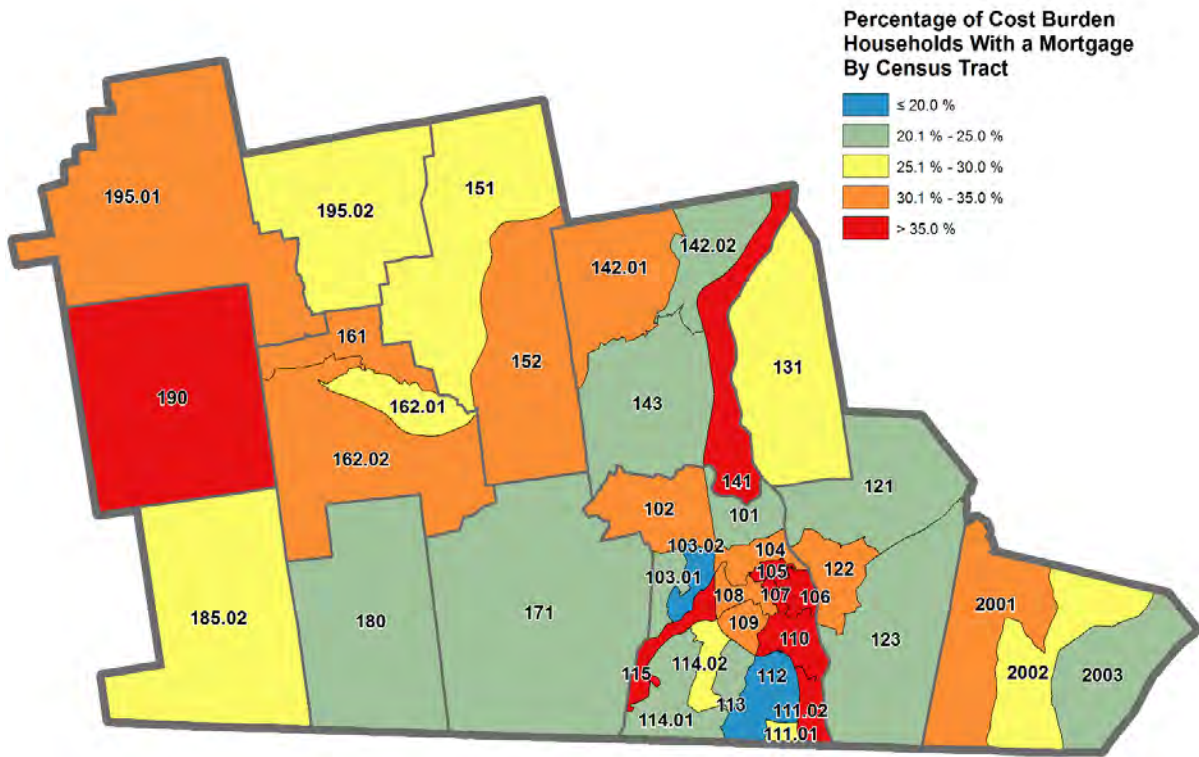
## COST BURDEN HOMEOWNERS

As affordable homes under the \$300,000 mark varied across the region and its census tracts, so did the percentage of household that are cost burdened. Cost burdened is defined as those households which pay more than 30% of their gross income on housing costs, including utilities. As of 2017, over 14,300 households or about 25% of owner-occupied households in the region were considered cost burdened.

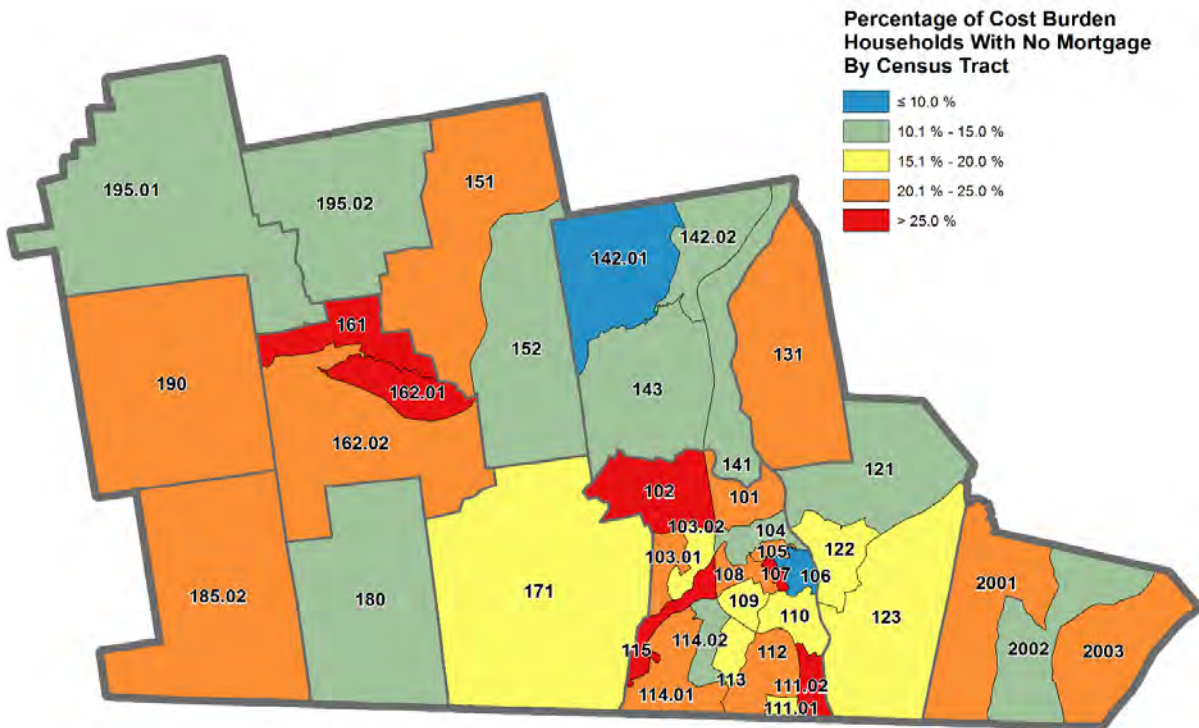


(US Census, 2013 - 2017 5-year Estimates)

Some census tracts may have affordable home prices, however, incomes within those tracts or more broadly those municipalities, may not support the purchase of a \$300,000 home. Once again, as the following maps show, the percentage of cost burden households varied greatly across the region. Even households without mortgages can be cost burdened by property taxes, utilities and maintenance, etc. Communities need to consider all aspects such as income, affordability and cost burden when drafting regulation changes, initiatives and housing strategies.



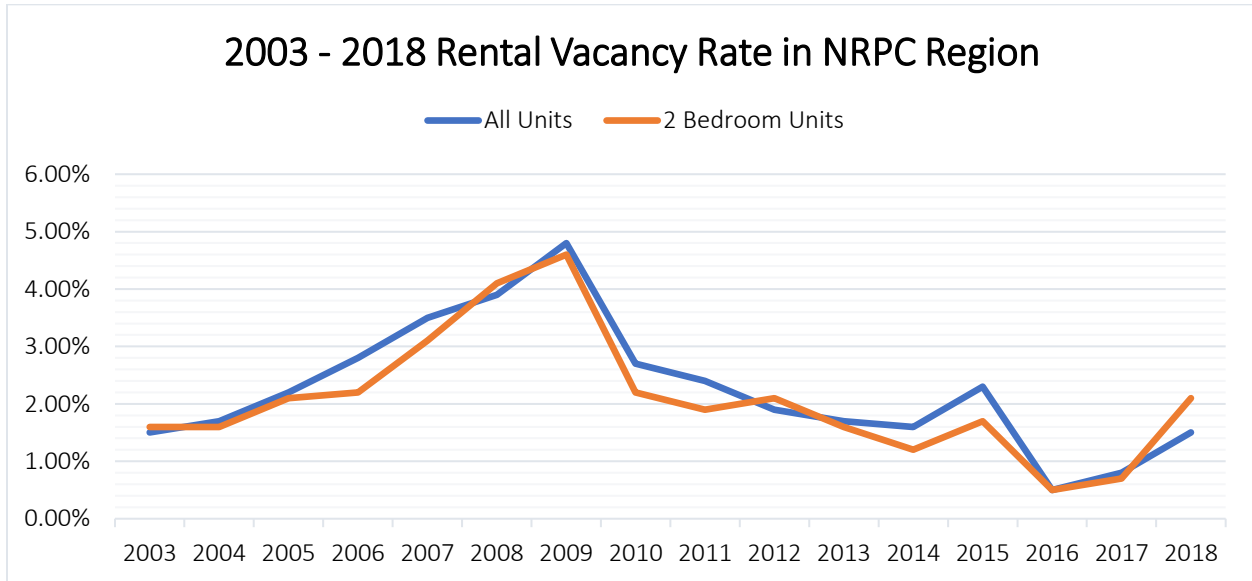
(US Census, 2013 - 2017 5-year Estimates)



(US Census, 2013 - 2017 5-year Estimates)

## RENTAL MARKET

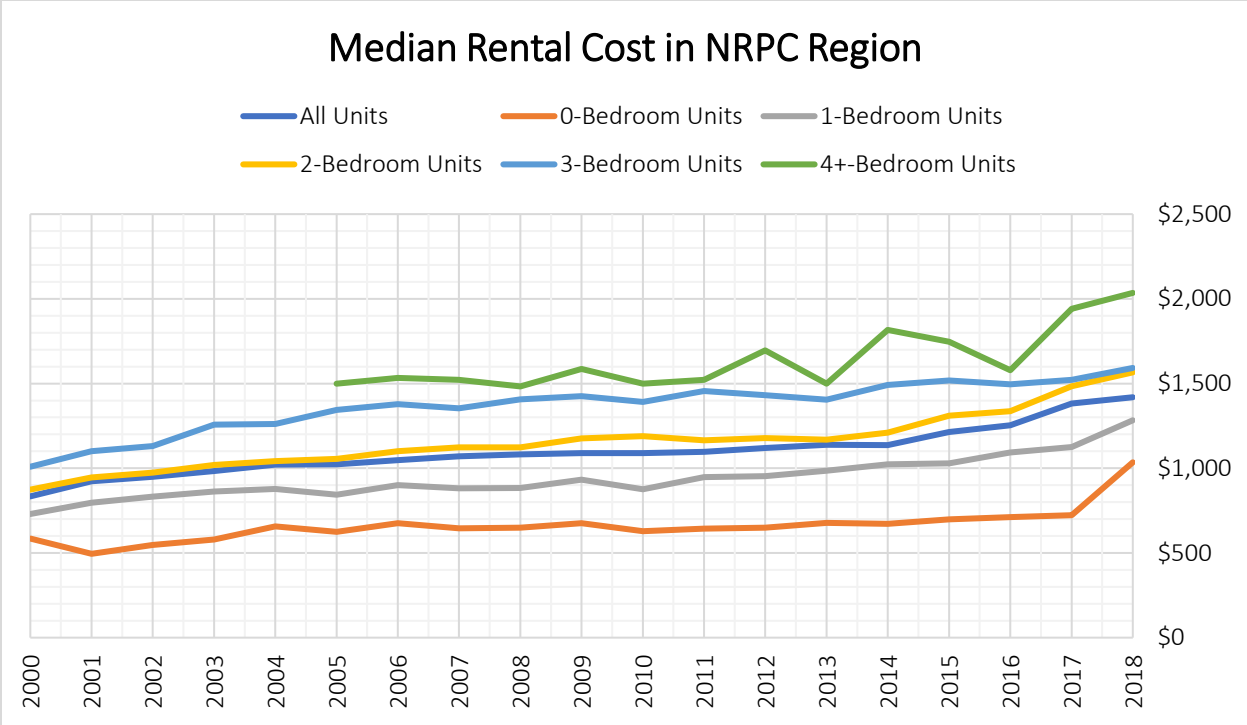
As more people move from the homeownership to rental market, this applies pressure to supply and ultimately the prices of rental units. Before the Great Recession when the construction of home and the lending for them was rising, so were rental vacancy rates – more rental units were available, and prices were relatively flat. This trend continued right up to the collapse in 2009. Since then, rental vacancy rates have been on a steady decline and as 2018, were still at or below the 2% for all units. Early indications on 2019 report an even lower vacancy rate, at or below 1% (NHHFA, 2019).



(NHHFA, 2019)

## MEDIAN RENTAL COST

According to the NHHFA, the median gross rent per month in 2000 was \$834, \$1,048 in 2006, \$1,120 in 2012 and \$1,419 in 2018. This represented a 3.9% annual growth. Just from 2016 to 2018, the median rental cost jump \$163 per month and represented over a 13% hike. The lack of *available* overall stock for purchase has moved these potential homeowners into the rental market and driven demand for higher quality and more expensive rental units. This coupled with anecdotal evidence that households may prefer more downtown, walkable-centric housing, the overall rental market and cost to rent has steadily climbed.



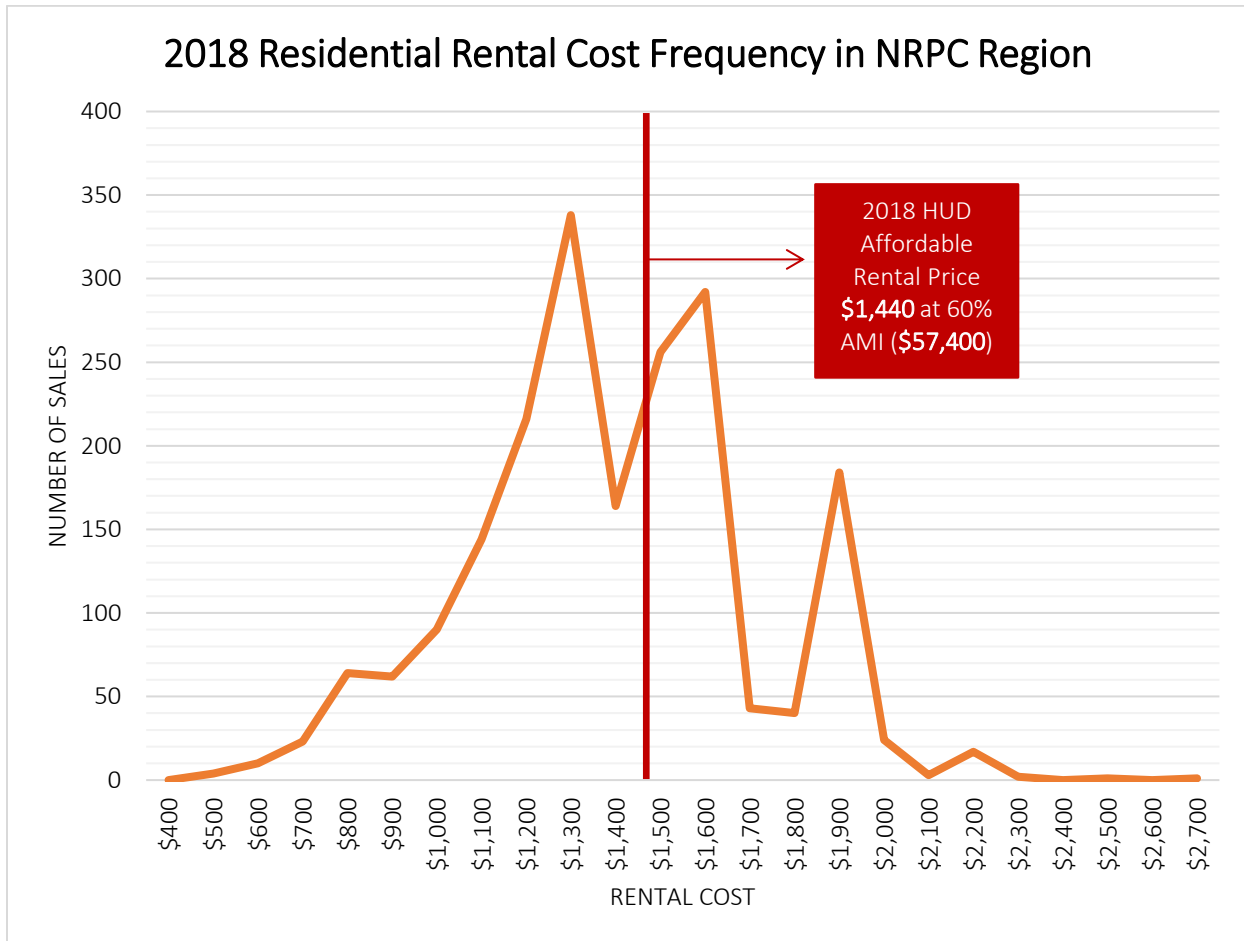
(NHHFA, 2019)

Data from the 2017 ACS provides a snapshot of the median gross rents being paid by the households of individual communities across the region. Rents vary considerably across the region and except for Mont Vernon and Wilton, all were higher than the statewide median. Curiously, the town of Mason was indicated to have the highest median gross rent, but this should be taken lightly. The ACS data normally reflects higher margins of error than the Census and this is compounded by very small sample size for the Town. Amherst and Hollis have the next highest rents at \$1,592 and \$1,573. Milford and Nashua are home to the largest share of the region’s rental supply and had the fifth and seventh highest rental costs (US Census, 2013-2017 5-year Estimates).

2017 Median Gross Rent in NRPC Region	
Community	Estimate
Amherst	1,592
Brookline	1,172
Hollis	1,573
Hudson	1,336
Litchfield	1,214
Lyndeborough	1,163
Mason	1,750
Merrimack	1,426
Milford	1,123
Mont Vernon	927
Nashua	1,196
Pelham	1,168
Wilton	979

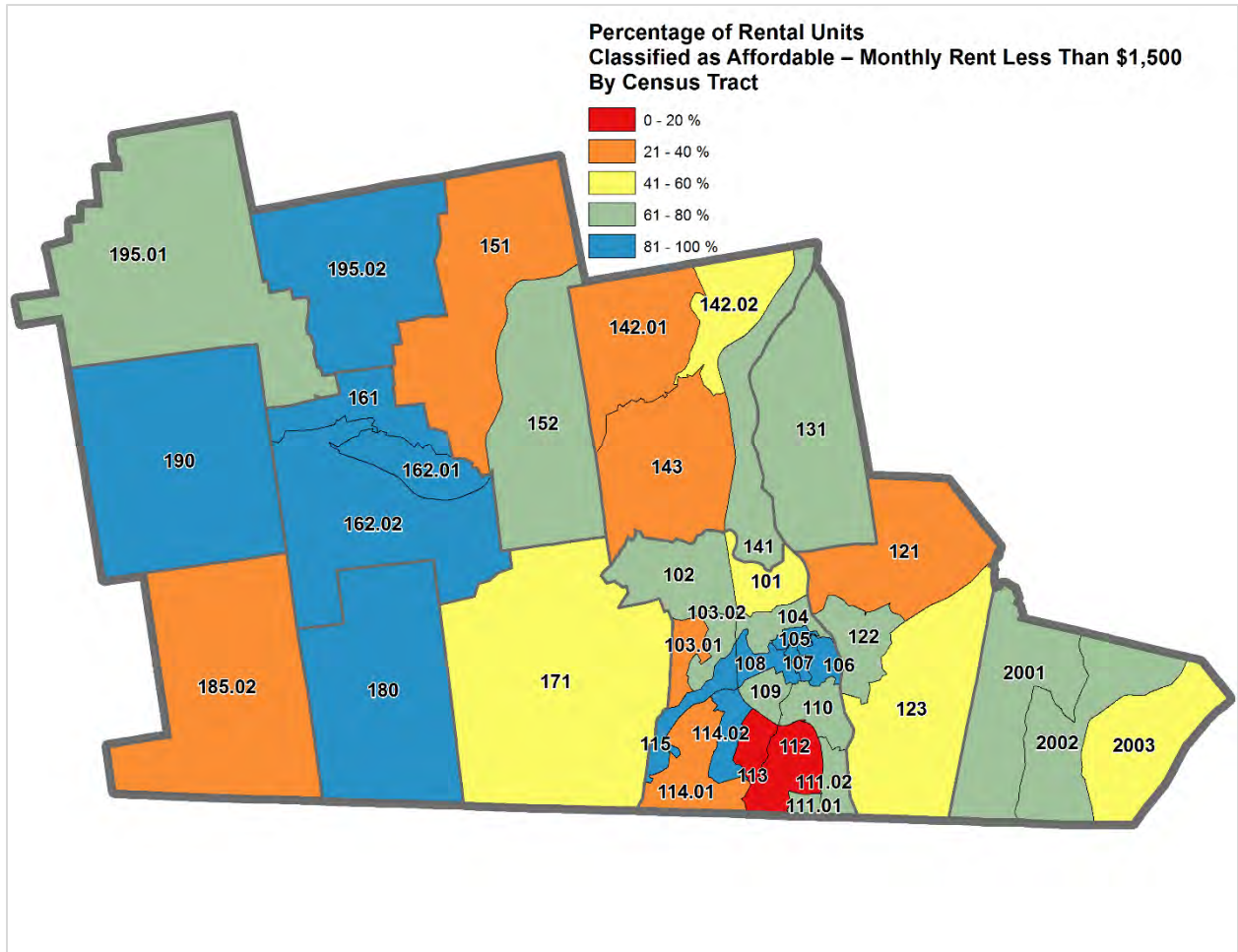
## AFFORDABLE RENTER-OCCUPIED HOUSING UNITS

The 2018 estimated workforce housing limit (considered to be affordable) for monthly rent in the Nashua HUD Metropolitan Fair Market Area was \$1,440 for a family of three making 60% of the HUD median area income, which was \$57,400. Based on the HUD’s workforce housing limit for affordable rental housing, approximately 62.8% of rental units in the region sampled in 2018 were affordable. However, residents in the region found it hard to find affordable rental properties that met their needs.



(NHHFA, 2019)

The following map shows the percentage of renter-occupied units which are less than \$1,500 a month by census tract. Due to ACS data limitations, the \$1,500 a month threshold was used as most comparable data point relative to HUD’s workforce rental limit of \$1,440 a month for a household earning 60% AMI. Across the region, the availability of the affordable rental housing was highly varied but there were some key indicators. Census tracts adjacent to the F.E. Everett Turnpike, DW Highway, and NH 101 typically had higher percentages of affordable housing. The town and city cores of Milford and Nashua also had high percentages of affordable housing while southern Nashua had the least percentage of affordable housing.

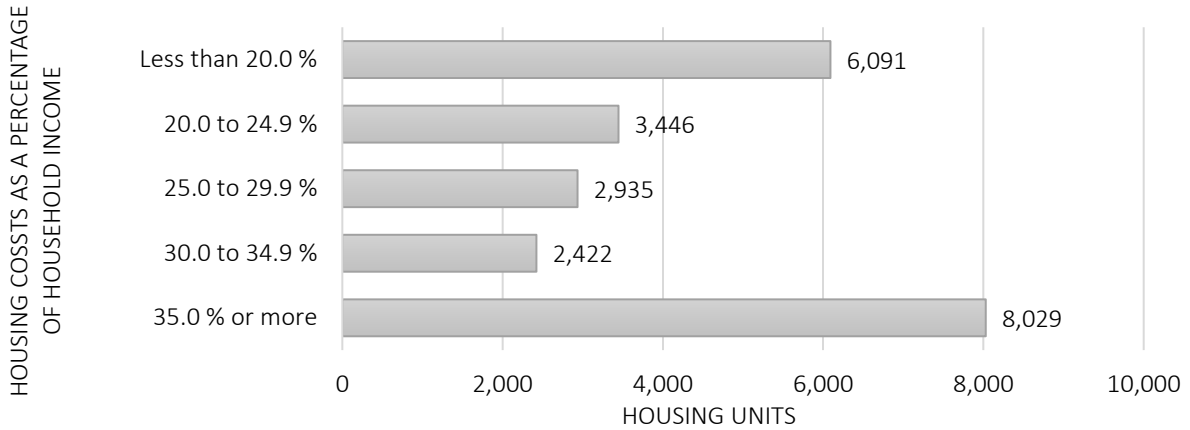


(US Census, 2013 - 2017 5-year Estimates)

## COST BURDENED RENTERS

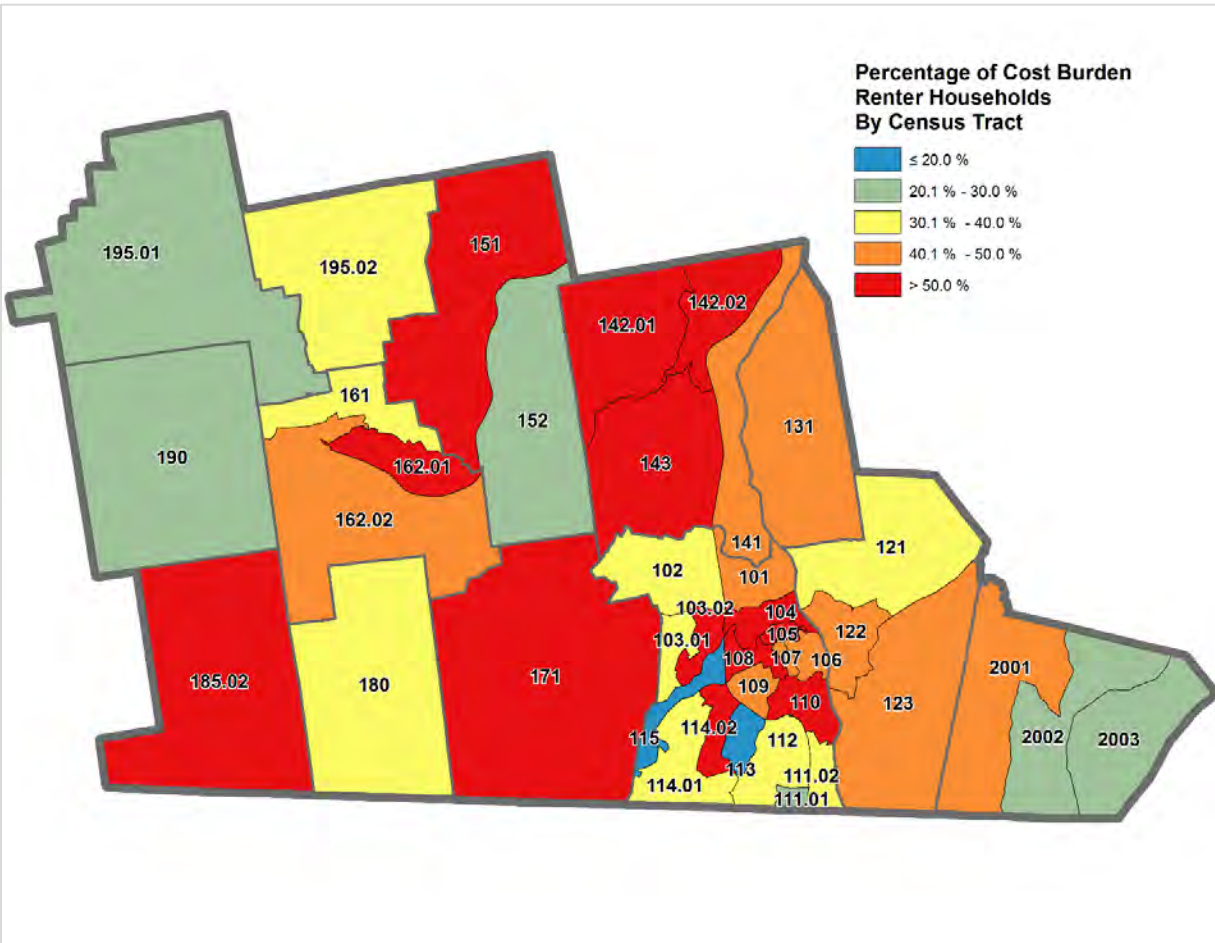
As rental units under the \$1,500 a month varied across the region and its census tracts, so did the percentage of households who were cost burdened. Cost burdened is defined as those households which pay more than 30% of their gross income on housing costs, including utilities. As of 2017, about 10,500 households or about 46% of all rental units were considered cost burdened.

## 2017 Housing Costs Relative to Income in NRPC Region



(US Census, 2013 - 2017 5-year Estimates)

Some census tracts may have affordable rental prices, however, incomes within those tracts or those renting these units may not have income that support a \$1,500 a month rent. Once again, as the following maps show, the percentage of cost burdened households varied greatly across the region.



(US Census, 2013 - 2017 5-year Estimates)

## CONCLUSIONS

The housing market, for both purchase and rent, has been increasingly tightening since the Great Recession. Between 2000 and 2007, the median purchase price of new and existing homes rose significantly. However, purchase prices steadily decreased from 2007 until about 2012 in response to the sub-prime lending and foreclosure crisis of the Great Recession. Then, from 2013-2018, median home prices for all homes grew at a rate of 4.5% per year from about \$240,000 in 2013 to \$285,000 in 2018. Early reports for 2019 also indicate a continuing trend of rising prices for both new and existing homes (NHHFA, 2019).

The 2018 estimated affordable purchase price for the Nashua HUD Metropolitan Fair Market Area is \$352,300 for a family of four making 100% of the HUD median area income, which was \$106,300. In 2018, about 70% of homes were considered affordable to households making the median income. However, the number of housing units being sold are rising and the number of units available are drastically decreasing. The absorption rate for home purchases has hit historic lows and currently sits around 3.3 months. Households earning below the median income are being pushed out of the home purchasing market by those higher earning, less-financed households. Furthermore, 25% of all owner-occupied units are categorized as being cost burdened.

Since 2010, the region has experienced greater portion of households becoming renters whether that be because of the price to income ratio, limited purchasing power, preference to more urban centric living or low maintenance housing options. This shift has driven down rental vacancy rates, created a demand for higher quality rental units and applied upward pressure to rental costs.

As rental prices averaged 2.3% annual price increase from 2000 through 2014, the annual price since then has ballooned to a 5.7% annual rate (NHHFA, 2019). The rental market and the cost to rent has steadily climbed with even greater demand for 2- bedroom units. While the 2018 estimated workforce housing limit has significantly risen, approximately 63% of all rental units in the region were affordable according to HUD's standards. However, 45% of renter households are cost burdened and paying more than 30% of their income to rental costs. While in theory there is a supply of affordable rents relative to incomes, those units are not always available when needed.



## HOUSING CHOICE OPPORTUNITIES AND BARRIERS

### INVESTMENT AND INFRASTRUCTURE

Land use controls and investments made by communities in infrastructure can either further or hinder opportunities for development of a wide range of housing options for all households; especially lower-income households.

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#### LOCAL LAND USE CONTROLS

The 2015 Analysis of Impediments to Fair Housing Rights in New Hampshire identified local land use controls as one of the greatest barriers to the ability to construct affordable and equitable housing choice opportunities. In particular, land use regulations limit housing variety through restrictions on the creation of multi-family housing, incentives for age-restricted housing for older persons, and large lot requirements. These types of restrictions can have a distinct impact on minority households. Black and Latino households are more likely to live below the poverty line and generally need more affordable housing, likely multi-family rental homes (NHHFA, 2015). Most all communities in the NRPC region allow for multi-family housing under their existing zoning ordinances and those that don't have been actively working to develop new regulatory provisions that allow for multi-family homes.

Many communities in New Hampshire during the height of population growth established incentives for the development of housing for older persons as permitted under state and federal law. Given that the State has an aging population, the development of age restricted housing was partially in response to meeting a growing demand. Additionally, senior housing theoretically had lower tax implications to municipalities than housing with children, making it more desirable. While such developments are exempt from familial status and age discrimination complaints, their proliferation came at the detriment of meeting housing demands for families with children. Some communities, such as Litchfield and Pelham, have repealed such zoning provisions that might provide incentives to housing for older persons. By doing so, communities are allowing the market to act more independently.

Large lot zoning, two acres or more per lot, and additional requirements and fees placed on subdivisions can drive up the cost of single-family development. Again, where Blacks and Latinos have a lower median income than other households, housing options begin to decrease as costs increase. These additional requirements can put minorities at a disadvantage when trying to purchase a home in a higher cost more rural community. Across New Hampshire, the Workforce Housing Law requires that all communities ensure that the cumulative impact of their land use regulations and ordinances do not limit the ability to construct workforce housing in a majority of the residentially zoned land area. As a result, many communities such as Milford and Amherst have conducted an audit of their ordinances impact or developed amendments to allow for smaller lots and a greater variety of home types, sizes, and prices.

Participants at NRPC's 2013 housing workshop expressed the need for more flexible zoning and land use regulations to allow the housing market to adapt to the demand for smaller, more affordable homes, particularly for young adults and elderly relatives. Many spoke about instances where young adults are

“doubling-up” because they could not find an affordable rental home. Even more frequently noted was that too often zoning ordinances in the region limited the ability to create permanent or temporary smaller apartments, particularly accessory dwelling units, and in many instances where they were permitted they were limited to occupancy by a family member. Planning for the future, flexibility will be essential to meet changing demand and allow for accessory apartments to allow for tenancy regardless of age or relation. Specific examples of need included live in care for elderly residents seeking to age in place, or young adults seeking a chance to rent a small space and build savings for the future. In addition to flexible regulations, participants called for additional opportunities to enable development of affordable homes near community and employment centers.

As a result of this feedback and a tightening of the housing market, the state of New Hampshire established NH RSA 674:71-73 for Accessory Dwelling Units in 2017. The statutes require that any municipality that adopts a zoning ordinance shall allow accessory dwelling units as a matter of right or by conditional use. The subsection *Accessory Housing* within the *Resources for Meeting Local Needs* section further details the nuances of the statutes.

The City of Nashua’s Analysis of Impediments of Fair Housing further discussed the impact of land use regulations and building codes. Specifically related to building codes, often violations are under reported by minority groups out of fear of reprisal from landlords. Additionally, the City noted that its appointed boards making decisions for land use regulation and tax policy do not reflect the diverse population in Nashua. Within the City itself, lot area requirements are not restrictive and thus represent an opportunity. Further still less than 10% of the vacant lands in the City are constrained or have other characteristics that would prohibit development (City of Nashua, 2010).

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## INFRASTRUCTURE AND ENVIRONMENT

The region’s public water and sewer supply is limited to the most densely settled locations. This limitation reduces the potential to develop at higher densities and can increase the costs of development for affordable housing in locations without infrastructure. A map of the region’s water and sewer infrastructure has, for several reasons, been one of the more difficult pieces of information to collect for assessment. Previous iterations have been included in past assessments, however, the most current mapping, as indicated by NH Department of Environmental Services (NHDES), has been only able to map a portion of the total system. It should be a top priority for both NRPC and individual communities to begin properly recording and maintaining the water and sewer infrastructure systems which dictate levels and dispersion of development throughout the region.

The region’s relatively older housing stock creates a higher risk of lead paint poisoning for families. The City of Nashua has an extensive lead paint prevention program that other communities in the region could benefit from. Educational materials could be shared and disseminated among communities across the region. The presence of lead paint is considered to be an impediment to fair housing for families with children, particularly in the City of Nashua (City of Nashua, 2010).

In a recent Workforce Housing Charrette with the town of Pelham, the need and desire to develop workforce was undeniably present however, the charrette concluded that the limiting factor to creating affordable workforce housing was due to the lack of water and sewer infrastructure. Developers eventually could not propose viable projects at affordable prices due to the restricted number of units possible based on engineering and septic requirements. This is a case for exemplifying the importance of water and sewer infrastructure and its ability to impeded affordable workforce housing developments. Mapping of this essential infrastructure data can be critical to the planning and feasibility of workforce housing in the future.

## TRANSPORTATION

Transportation is another key element in the development of workforce housing. Access to reliable transportation is not always possible for all residents in the region, whether that be access to an automobile, fixed bus routes, on-demand services and ADA compliant vehicles. However, the region fares well in regard to vehicle access. Nearly 95% of all households have access to at least one vehicle, with about 68% of households having access to two vehicles, and about 83% of workers drive alone to work. The mean commute times vary across the region. Reasonably, those communities located further from major state roads have higher commute times, specifically Lyndeborough and Mason. Even as the percentage of remote workers increases, it should be another top priority to maintain and improve transportation services and accessibility throughout the region.

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### TRANSPORTATION CHOICES

According to ACS data, Nashua boasts the seventh highest share of residents who utilize public transit for commuting trips in New Hampshire, and the second highest share among cities with a population above 10,000. The region offers a couple of intercity transit services including Boston Express, a public-private bus service linking Nashua to Boston and the Manchester Transit Authority which operates its Nashua Express service between downtown Manchester and the Nashua Mall (FEE Turnpike Exit 6). This service allows a connection to the Nashua Transit System Routes 8 and 9 which run to the NTS Transit Center where passengers have full access to the Nashua Transit System route network.

As a share of commuting trips, residents of the region who walk or bike represent a relatively small share of the region, comprising only 2% of the population. Additionally, the region contains a handful of very walkable areas, proving a strong foundation for the expansion of pedestrian and bicycle-friendly infrastructure and development. Across the region, approximately 28% of residents and 27% of jobs are located within a half mile of downtowns or town centers with generally well-connected sidewalk networks.

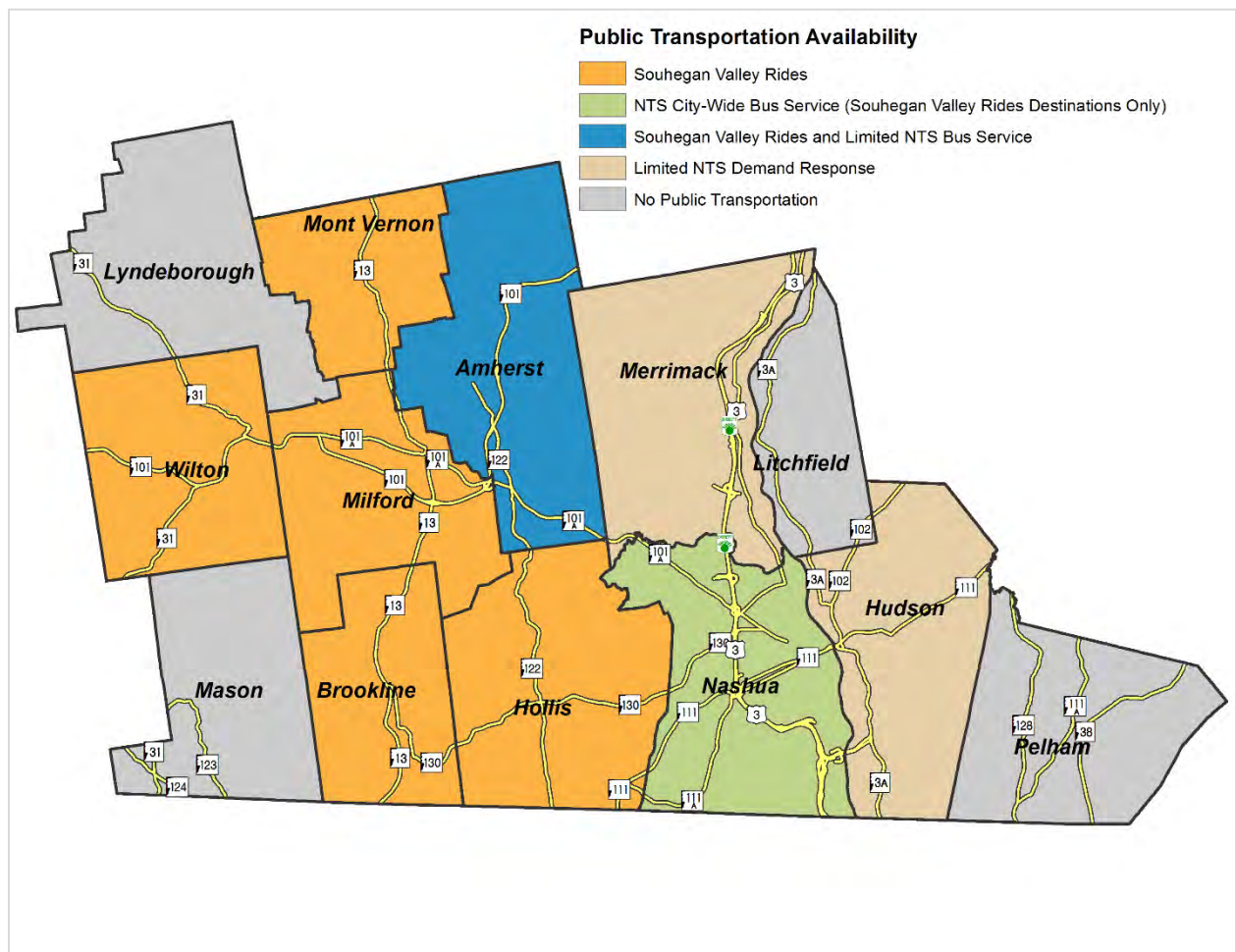
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### TRANSIT ACCESS

While HUD has prepared a transit accessibility index for some parts of the nation, this data is not available for the NRPC region. Instead, NRPC looked at the location of adults in poverty and those areas designated as low to moderate income areas in the region and their proximity to transit choices in the region. A low

to moderate income area is determined by HUD using special tabulations of Census data to determine areas where at least 51% of households have incomes at or below 80% of the area median income (AMI).

Nine out of the thirteen communities in the region have some access to transit services. Fixed route transit services provided by the Nashua Transit System (NTS), while limited to the City of Nashua, serves the greatest share of the region’s low-income population and low to moderate income areas. As of 2019, approximately 86% of Nashua households are within a quarter mile of an NTS fixed route; 97% are within a half mile and about 99% are within three-quarters of a mile. Additionally, there are three park and ride locations within the City which enable a central point for carpooling in the region. The Souhegan Valley Transportation Collaborative contracts with NTS to provide Souhegan Valley Rides, an on-demand transit service offering affordable, wheelchair accessible transportation for non-emergency healthcare appointments and other essential activities in six of the region’s communities. Due to funding requirement, this service is primarily geared towards seniors and residents living with disabilities. Additional on-demand transit service is available in Merrimack and Hudson.



(NRPC, 2019)

Within Nashua, parts of the central city enjoy significant transit use. For example, 9.4% of residents who live along the city’s downtown Main Street corridor (Census tract 107) reported taking transit to work.

That is the highest rate of transit ridership of any census tract in the state. Additionally, 5.5% of residents in the city’s ‘Tree Streets’ neighborhood (Census tract 108) reported taking transit for commuting trips, the 4th highest rate of transit use in the state. Higher transit ridership appears to be somewhat correlated to personal income in the region. Both census tracts have a poverty rate of approximately 30%, one of the highest rates in the region.

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## HOUSING AND TRANSPORTATION COSTS

The U.S Department of Housing and Urban Development and Department of Transportation partnered to develop the Housing and Transportation Affordability Index. Given currently available data, they estimated housing and transportation costs at the Census block-group level. The Index covers 942 Core Based Statistical Areas (similar to metropolitan areas), accounting for 94% of the U.S. population. To calculate the housing and transportation costs for a given location, the model employs demographic data and features of the built environment known to influence these costs: income, average household size, average commuters per household, population density, walkability, transit access, and employment access. Using these inputs and statistical regression – a widely used statistical technique that assesses the relationship between one or more inputs and an output – the index generated a series of mathematical models for the relationship between all these data points and housing and transportation costs. By plugging data into these models, we can estimate components of housing and transportation costs at the Census block-group level that can then be used to calculate the Index. Further the model was used to produce estimates for different household types. The typical household is based upon the county’s average household size and median income. Low income households are estimated using a 3-person household earning 50% of the HUD Area Median Family Income.

Much as expected, the region’s more rural communities, located further away from regional employment centers and transit systems have greater household transportation costs, a greater number of cars per home, travel a greater number of vehicle miles each year and take fewer transit trips. Conversely, costs are lower in the city of Nashua where there is a greater reliance on transit and less need to travel a greater number of miles. Comparatively while the average household in the NRPC region spends just over 17% of their income on transportation costs, low income households contribute 26% of their income to transportation costs alone. While the typical household in the region contributes just under 50% of their income to their combined housing and transportation costs, low income households spend about 70% on their combined costs, leaving 30% of their income for food and other necessities.

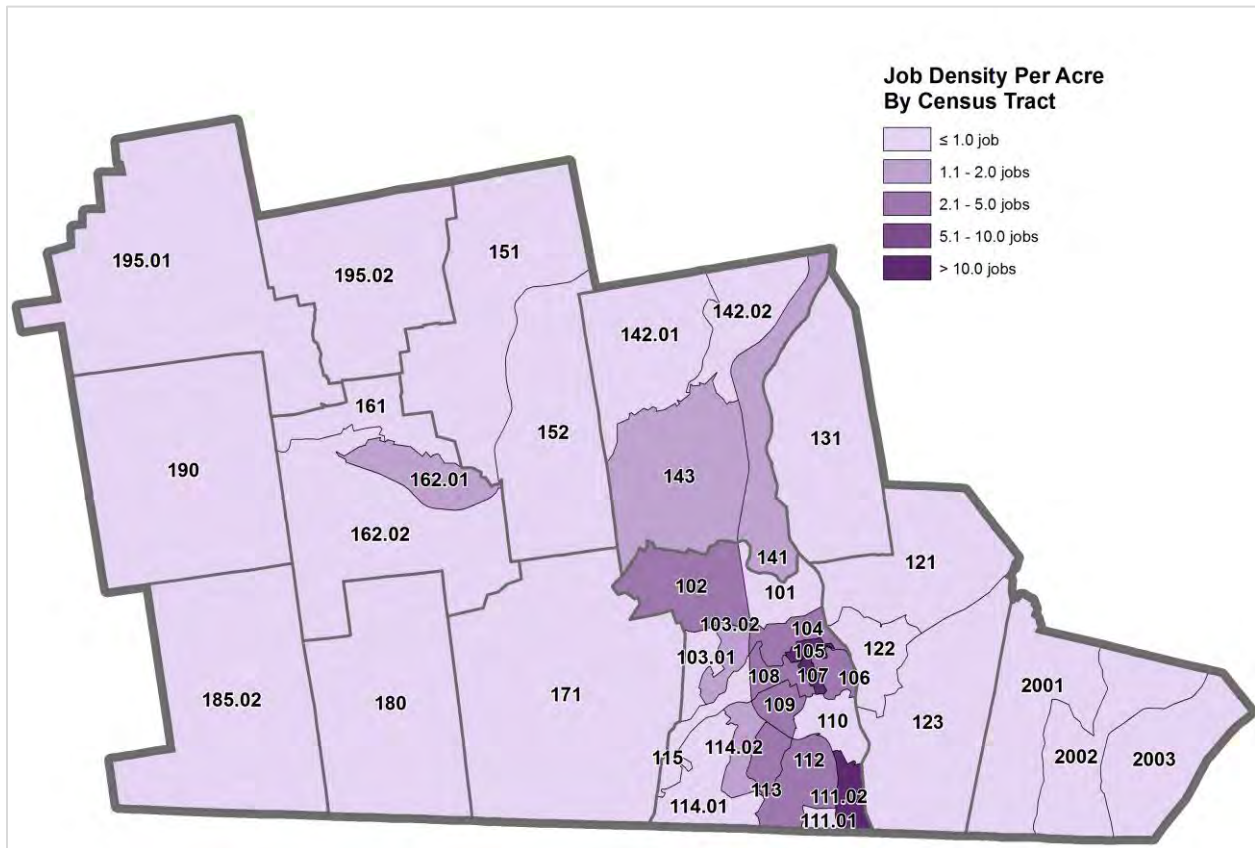
<b>Housing and Transportation Costs as a Percent of Income in the NRPC Region</b>		
	<b>All Households</b>	<b>Low Income Households</b>
Housing & Transportation Costs - All	48.5%	70.6%
Housing & Transportation Costs - Owners	52.1%	76.0%
Housing & Transportation Costs - Renters	37.8%	57.2%
Transportation Costs	17.5%	26.0%
Vehicles per HH	2.0	1.8
Annual Household VMT	23,188	21,298

(HUD, 2014)

Detailed tables of housing and transportation costs by municipality can be found in Appendix A.

## EMPLOYMENT OPPORTUNITIES

Employment opportunities within the region are highly concentrated in the Nashua area, along the F.E. Everett/DW Highway corridor and in the core of Milford. Naturally, job density also aligns with regional zoning, population distribution and housing density. However, this also means that residents living in our more rural areas, or those further from major transportation networks, typically have to travel further distances for job opportunities, consider working remotely or possibly earn smaller wages closer to home.



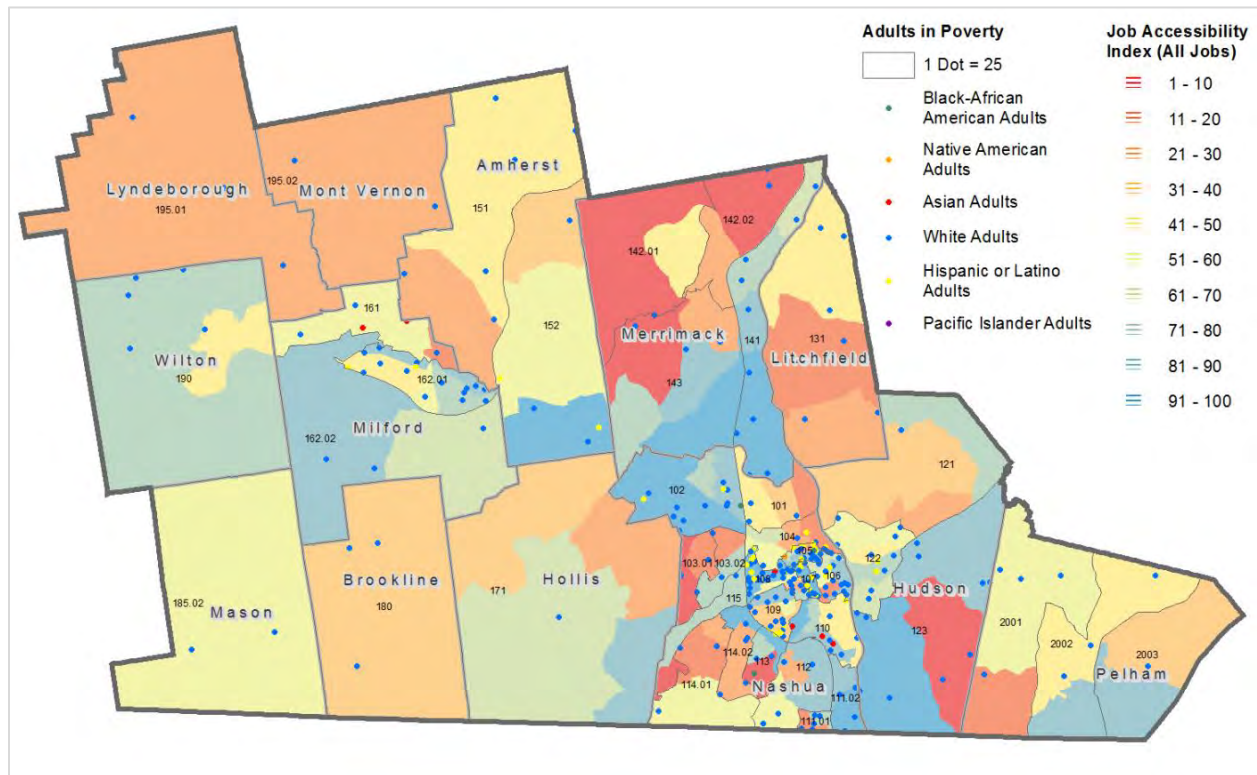
(HUD, 2019)

## JOB ACCESSIBILITY INDEX

The job access index summarizes the accessibility of a given residential neighborhood as a function of its distance to all job locations, with distance to larger employment centers weighted more heavily. Specifically, a gravity model is used, where the accessibility of a given residential block group is a summary description of the distance to all job locations, with the distance from any single job location positively weighted by the size of employment (job opportunities) at that location and inversely weighted by the labor supply (competition) to that location.

Considering the region as a whole, there are equally moderate levels of job accessibility for all populations, regardless of race, ethnicity or income. Variation in job accessibility instead occurs by neighborhood dependent on distance to employment centers. The regions more remote or rural communities have lower levels of job accessibility compared to those in community centers or along major regional corridors.

## Job Accessibility and Adults in Poverty by Race and Ethnicity



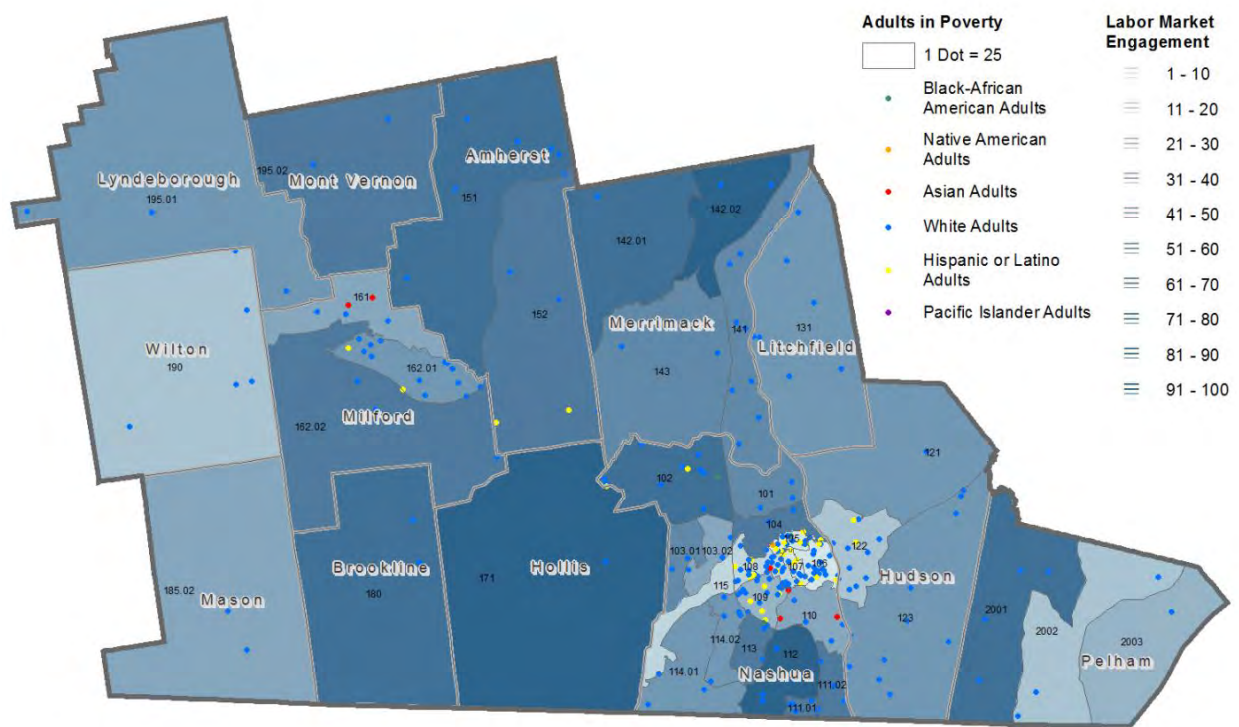
(HUD, 2013)

## LABOR MARKET ENGAGEMENT INDEX

The labor market engagement index provides a summary description of the relative intensity of labor market engagement and human capital in a neighborhood. This is based upon the level of employment, labor force participation and educational attainment in that neighborhood. Formally, the labor market engagement index is a linear combination of three standardized vectors: unemployment rate, labor force participation rate, and percent of the population with a bachelor's degree or higher.

Amherst, Hollis, Merrimack, and neighborhoods in Pelham and Nashua have some of the highest levels of labor market engagement given high levels of employment and education. However, there are neighborhoods in Nashua with very low levels of labor market engagement that are also home to many of the region's lowest income residents. Persons living below the poverty line, as well as Hispanic and Latino persons have moderate, but lower levels of labor market engagement than white or Asian persons in the region.

## Labor Market Engagement and Adults in Poverty by Race and Ethnicity



(HUD, 2012)

### FAIR HOUSING INFRASTRUCTURE

The following review of fair housing infrastructure is essential to further identify barriers and opportunities to the provision of affordable housing choices in the region. In particular, what are the existing statutes and case law that shape housing choices? What are the common complaints in the region? And what resources exist to help provide fair housing choices for all residents?

Fair housing was first legislated in 1968 during the civil rights movement and in the wake of Dr. Martin Luther King, Junior's assassination. The Federal Fair Housing Act (FHA) was initially adopted to prohibit discrimination based on race, color, national origin, and religion. It has since been amended to further



include gender or sex, familial status, disability and gender identity. Combined these represent the “protected classes.” The Act’s goals were to promote integration and suppress segregation in housing and to stop discriminatory practices against these protected classes in the housing arena. Since enactment of the FHA, The Department of Housing and Urban Development (HUD) has been active in promoting fair housing practices and requires all grantees to further fair housing opportunities. To support improvements in Fair Housing, HUD also houses a fair housing complaint process which allows residents to bring fair housing issues to the forefront.

Local efforts to promote fair housing in New Hampshire predate the FHA with adoption of the State’s anti-discrimination laws in 1965 (RSA 354-A), which created a legal obligation for those renting or selling to do so independent of an individual’s race, color, national origin, religion, gender, disability or familial status, and including age, marital status, or sexual orientation. New Hampshire Housing Finance Authority (NHHFA) was established in 1981 to further housing opportunities for NH residents. NHHFA furthers fair housing opportunities in the state through their grant funding programs for municipalities, affordable housing financing mechanisms, and education programs. They are also responsible for adoption of the State’s Analysis of Impediments to Fair Housing, which is the primary source for a complete understanding of fair housing barriers and opportunities in the in the State. Additionally, in 2014 NHHFA produced “Fair Housing for Regional and Municipal Planning: A Guidebook for New Hampshire Planners” that provides a full background of the legal history of federal and state fair housing law and case law, highlights of which follow. (Christine Wellington, NH Legal Assistance, 2014)

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## FAIR HOUSING CASES AND LEGISLATION

There is wealth of existing reports on Fair Housing Cases and Legislation already published in:

- *Fair Housing for Regional and Municipal Planning: A Guidebook for New Hampshire Planners*, prepared for NH Housing Finance Authority by NH Legal Assistance.
- *Analysis of Impediments to Fair Housing Choice in New Hampshire*, prepared for NH Housing Finance Authority and NH Community Development Finance Authority by NH Legal Assistance.
- *Analysis of Impediments to Fair Housing*, City of Nashua, NH.

Readers are referred to the first resource, *Fair Housing for Regional and Municipal Planning*, for a thorough review of both federal and state cases of particular relevance to land use planning and zoning and related to each of the protected classes. The following is intended to provide relevant highlights of importance to planners from recent case law and legislation in New Hampshire that have either shaped or responded to the local fair housing landscape, planning, and zoning. Unless otherwise noted, the following was developed based upon information found in the three above noted reports.

**New Hampshire’s Constitution** plays a key role in protection from discrimination. Selected related provisions from the New Hampshire Bill of Rights include:

- *All men have certain natural, essential, and inherent rights among which are, the enjoying and defending of life and liberty; acquiring, possessing, and protection property; and, in a word, of*

*seeking and obtaining happiness. Equality of rights shall not be abridged by this state on account of race, creed, color, sex or national origin. (Article 2)*

- *Every member of the community has a right to be protected by it, in the enjoyment of his life, liberty, and prosperity. (Article 12)*
- *No subject shall be...deprived of his life, liberty, or estate, but by the judgment of his peers, or the law of the land [due process of law]. (Article 15)*

**Britton v. Town of Chester (1991)** is the landmark affordable housing case in New Hampshire that challenged the constitutionality of the Town's exclusionary zoning ordinances under which the construction of housing affordable to low- and moderate-income households was impossible. The State's Supreme Court ruled that every municipality must provide a reasonable and realistic opportunity for the development of affordable housing when exercising its zoning authority as enabled by NH's Legislature and granted the appellant a "builders remedy" allowing the multi-family units to be built. The decision also upheld the Mount Laurel, New Jersey cases, and reiterated that communities need to consider regional needs for and provide a proportionate "fair share" of affordable housing.

**Great Bridge Properties v. Town of Ossipee (2004-2005)** in many ways was similar to and enforced the Chester case. Great Bridge Properties was planning a multi-family housing project in Ossipee and found the zoning ordinance to be overly restrictive and discriminatory based on familial status. Again, the Court found that the Town did not provide opportunity for its "fair share" of affordable housing and that the zoning ordinances effectively precluded the construction of housing affordable to low- and moderate-income households.

**New Hampshire's Workforce Housing Law (RSA 674:58-61)** was established in 2008 by the State Legislature in an attempt to codify and clarify the findings of Britton v. Chester. The law requires communities to provide a reasonable and realistic opportunity for the provision of workforce housing, which is defined as owner occupied homes affordable at the median area income or rental homes affordable at 60% of the median area income.

Not all housing fair case law deals exclusively with affordability, in **Trovato v. City of Manchester (1997)** the plaintiff and her daughter filed a lawsuit against the City of Manchester when they were refused a request to construct a paved parking space in front of their home. Both plaintiffs were disabled, and a paved space was necessary for them to be able to navigate up to their front door safely. The City's Zoning Board had denied the request based on their belief that they did not have statutory authority to grant the variance. The Court ruled against the City and clarified that the injunction would terminate if and when the plaintiffs moved from their residence. The case highlighted that local ordinances are obligated to accommodate disabled persons under the Fair Housing Act and under such instances, a variance would not run with the land as is typical.

As a result, the State's statutes relative to variances (**RSA 674:33, V**) were amended in 1998 to authorize zoning boards to grant variances for persons(s) with a recognized disability without a finding of hardship as would otherwise be required. Codifying the findings of Trovato v. Manchester the variance could be granted when reasonable accommodations were necessary for a person to reside in or use a property.

Such variances were to be granted only if in harmony with the zoning ordinance and were only valid as long as the person(s) continued to reside at or use the premises.

Additionally, in 2008 NH Legislature established the **Code for (Architectural) Barrier Free Design** that is intended to ensure architectural barriers do not prevent persons with disabilities access to publicly funded buildings and facilities. The Committee on Architectural Barrier Free Design, a permanent committee of the Governor's Commission on Disability, is responsible for enforcement of the Code, which names the 2010 Americans with Disabilities Act Standards for Accessible Design as its source. (NH Governor's Commission on Disability, 2010)

**Community Resources for Justice v. Manchester (2008)** was the second case filed by Community Resources for Justice (CRJ), a non-profit that sought to construct a halfway house for federal prisoners in the City. The City denied the application citing the prohibition of "correctional facilities" under the local zoning. In CRJ's appeal, the court found that the City's zoning ordinance violated the Zoning Enabling Act (RSA 674:26- 23) and did not "promote or provide for the general welfare of the community." Additionally, the court stated that there was no evidence that such a ban furthered an important government interest and thus violated CRJ's equal protection rights under the State Constitution.

To assist municipalities in meeting their fair housing obligations, the NH Legislature enabled the adoption of Inclusionary Zoning Ordinances under **NH RSA 674:21's Innovate Land Use Controls**. Additionally, NH's Regional Planning Commissions are to update a **Regional Housing Needs Assessment (NH RSA 36:47, II)**, this Chapter of the Regional Plan, to assist municipalities in their planning for housing needs.

New Hampshire **RSA 479, Mortgages of Realty**, was amended in 2007 to protect homeowners from predatory foreclosure "prevention" schemes. The 2010 updated to the Analysis of Impediments to Fair Housing Choice in New Hampshire noted that many members of protected classes, particularly low income and less informed borrowers, were targeted by these schemes that included high fees, transference of ownership to another party, and lease or buyback deals with impossible terms. The new statutory language required a foreclosure contract be provided that discloses and describes the terms, costs and services to be provided and is accompanied by a notice of the right to cancel the contract. The intent was to eliminate the unknowing loss of home ownership and provide specific protection to persons with limited English proficiency.

Data analysis of NHHFA's 2010 Fair Housing Survey (discussed in the following Indicators of Discrimination Section) found that domestic violence, among other factors, figured into respondents' perceptions of discrimination. Domestic violence survivors reported being denied rental housing, a mortgage or being evicted in higher numbers than those who did not report domestic violence. Simultaneously, the NH Legislature in 2010 included additional provisions in **NH RSA 540 Actions Against Tenants** to protect victims of domestic violence from eviction. Landlords may not terminate tenancy solely based on a household member having been a victim of domestic violence, sexual assault, or stalking, with the condition that the victim provides the landlord with written verification that they have obtained a valid protective order against the perpetrator. There are however exceptions for lessors or owners of single-family homes if the owner possesses three or fewer homes, rental units in owner-occupied buildings with

four or fewer dwelling units, and single-family homes acquired by banks or other mortgagees through foreclosure. The statute also provides support for sole eviction of the tenant or household member accused of domestic violence, sexual assault, or stalking through a court process. The statute does not protect against eviction due to nonpayment of rent. (NH General Court, 2010)

The most recent fair housing case in New Hampshire was **the Amanda D. et al, v. Margaret Hassan, Governor, et al. Class Action Settlement Agreement** issued in February 2014 by the US District Court in New Hampshire. The Agreement aims to provide adequate mental health services and housing in the State through the expansion of opportunities aimed to help thousands of persons with serious mental illness. Part of the agreement includes the establishment of 450 new supported housing units intended to serve 1,500 persons. These new supported housing units are to be integrated across scattered sites and permanent housing with mental health and tenancy support services. This is coupled with additional programs to expand employment opportunities and greater access to health care support designed to reduce the need for emergency room visits and inpatient beds. (United States District Court for the District of New Hampshire, 2014)

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## INDICATORS AND ALLEGATIONS OF DISCRIMINATION WITHIN THE REGION

The 2010 Analysis of Impediments to Fair Housing in New Hampshire included the results of a Fair Housing Survey mailed to all heads of household on NHHFA's Housing Choice Voucher waiting list. While most of the data is only available on a statewide level, given the relatively large number of persons in Nashua on the waiting list, some data can be extracted specific to the City. The survey results can only be used to make inferences about those on the waiting list and cannot be used to draw conclusions to any populations beyond the waiting list. More than half of survey respondents live outside of the State's largest communities, 5.6% live in the City of Nashua, compared to 14% that live in Manchester, 5.5% in Concord, and 4% in Rochester.

Over 12% of survey respondents across the State perceived housing discrimination in their past, which is influenced by Manchester where only 11.7% perceived discrimination, compared to 16.4% in Nashua. Generally, among all respondents, households that had suffered domestic violence, women, families with children, and persons with a disability were more likely to have reported being denied rental housing or a mortgage, perceived rental housing discrimination, or have been evicted. Gender and marital status are more likely to affect the ability to obtain a mortgage than rental housing. Additionally, income level appears to impact evictions for non-payment, where the higher the income, the less likely to be evicted. Non-English-speaking households, experienced fewer or almost no rental or mortgage denials or perceptions of housing discrimination. However, removing Manchester, 11% of non-English speaking respondents cited they perceived discrimination. Non-Whites outside of Manchester, particularly Blacks and Native Americans, reported higher frequency of perceived housing discrimination than Whites, 20% compared to 12%, but reports of access to housing or eviction rates were about equal. The most frequent reasons cited for perceived housing discrimination were monetary, children, and disabilities.

Of those that reported perceived discrimination, over three-quarters took no action in response. Most often those that took no action noted that they did not think it would help or didn't know where to

complain. Nearly 14% complained to the person discriminating, who in more than half the instances was the landlord. Five percent filed a complaint with a government agency. Only 2% consulted a lawyer or other fair housing group and only 0.2% filed a lawsuit.

In New Hampshire there are three avenues individuals may take to file a fair housing complaint. The following reports on data collected from NH Legal Assistance (NHLA), the NH Human Rights Commission (HRC) and HUD's New England Office of Fair Housing for 2008 through 2013 (HRC reports on October 1-September 30 fiscal years). There is some duplication of numbers among the three organizations as a complaint may initially be received by NHLA and then forwarded to either HUD or HRC as appropriate.

Housing complaints represent instances when a person felt or perceived housing discrimination. Complaints may be resolved with a variety of outcomes including settlement arrangements without a finding of fault, withdrawal, or a finding of no probable cause. Complaints are withdrawn for several reasons including frustration, personal problems, or other priorities.

NH Legal Assistance receives and tracks intakes with a fair housing component by town and the protected class alleged. The adverse party for these intakes could be, but is not limited to, the town, a landlord, rental agent, etc. The outcome of these intakes varies on a case by case basis. Because these are New Hampshire Legal Assistance intakes there are a number of different paths these cases usually take including a resolution prior to a complaint being filed, a complaint being filed with HUD, or a complaint being filed with the NH Commission for Human Rights and resolution through court action. Generally, the types of relief that can be ordered for violation of the fair housing act include but are not limited to, damages and costs, education and/or monitoring. (Detailed table of intakes is included in Appendix A).

Fair housing complaints received by HUD may include cases forwarded by NHLA or received directly by HUD from the complainant. HUD tracks cases based upon the basis of the complaint – whether it was discrimination against a protected class or retaliation, as well as, the outcomes of the case. Again, detailed tables of complaints are included in Appendix A. There were no probable cause housing cases filed with the NH Human Rights Commission during fiscal years 2006 to 2014 (through 5/6/2014) within any of the 13 NRPC communities.

Discrimination against those with disabilities represents by far the largest share of complaints. More than two-thirds of NHLA's intakes for the NRPC region and 52% of cases filed with HUD in the NRPC region were based upon a disability compared to 47% of HUD's New Hampshire cases. Housing discrimination by familial status was relatively low in the region and accounted for 19% of cases filed with HUD and 7% of NHLA intakes in the region, compared to 29% of HUD cases statewide.

Discrimination by national origin was slightly higher in the region accounting for 19% of HUD cases and 7% of NHLA intakes for the region, compared to 13% of HUD cases statewide. Race represented 11% of NHLA intakes in the region and 7% of HUD cases, while the state levels were slightly higher at 11%.

While discrimination in the region was slightly lower for race, by color, it was slightly higher than state levels, 11% of regional cases and 4% State of cases. Data on gender is only available from NHLA where 7% of intakes in the region were due to gender. HUD data reports that 7% of cases in the region were due to

retaliation, consistent across the State. There is no data on discrimination by age, religion, marital status or sexual orientation for the NRPC region.

There were no fair housing complaints in many of the region's communities. As could be expected, complaints are roughly proportional to a community's share of the region's rental housing. As such, the largest share two-thirds of HUD cases and threequarters of NHLA intakes are within the City of Nashua, which is a HUD entitlement community that is required to complete its own Analysis of Impediments to fair housing. This chapter is not intended to reiterate all of Nashua's findings.

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## CAPACITY TO RESPOND

There are numerous Federal, and State Resources dedicated to promoting and protecting fair housing opportunities for residents outlined in the Analysis of Impediments to Fair Housing in New Hampshire 2010 updated including:

- US Department of Housing and Urban Development is the federal agency designated to enforce federal fair housing laws and provisions. HUD maintains extensive resources online at [www.hud.gov](http://www.hud.gov) and receives housing discrimination complaints via telephone, web, fax or mail.
- The US Department of Justice, Civil Rights Division is responsible for prosecuting civil violations of federal housing discrimination laws.
- New Hampshire complainants, via the US Federal District Court, District of New Hampshire, have direct access to filing private discrimination lawsuits.
- NH Commission for Human Rights is the NH state agency with the responsibility to receive and investigate housing discrimination complaints as previously noted.
- NH's Attorney General's Office may receive referrals from the NH Human Rights Commission for cases that require injunctive relieve and may investigate and enforce NH Civil Rights Act violations.
- Housing discrimination complainants may bring cases to the NH State Courts after filing with the HRC and requesting to move the matter to court.
- As previously mentioned, NH Legal Assistance, a non-profit law firm serving low-income persons in New Hampshire is the only entity in NH that receives HUD funds for fair housing enforcement activities.
- The Disability Rights Center, another statewide non-profit law firm, provides legal service to disabled persons related to housing discrimination, among other legal advocacy roles.

## HOUSING SUPPLY PROJECTIONS

### POPULATION AND HOUSING PROJECTIONS

The region's population is projected grow by approximately 12,200 to 14,500 persons by the year 2040, according to the NHHFA's Population Headship Model (NHHFA, 2013), NHOSI's Population Projections by County Subdivisions (NHOSI, 2016) and NRPC's Individual Municipal Projections for Scenario Planning (NRPC, 2014). As of 2017, the average household size was 2.56 persons per household and vacancy rates were around 2%. By averaging the projected populations, dividing them by the average household size, and projecting a 2% vacancy rate, the region's future need for housing would equate to the construction of an additional 4,900-5,800 housing units. As the recent housing market has indicated, the limited stock and low vacancy rates (<2%) are putting additional stresses on households to find affordable units or avoid heavy cost burdens. If vacancy rates were projected at a healthier 5%, the region's future housing needs would be in the range of 5,000-6,000 units.

However, we know that shifts in demographics and housing preferences make projections like these more difficult to pinpoint. The most accurate need for future housing units will depend on household sizes and age, employment, personal preferences, healthy vacancy rates and factors alike. Will household sizes continue to shrink? How will household composition and size differ from one community to another? Will multigenerational and group housing continue to rise? While quantitative factors may provide a more structured and logic approach for projecting need, how will qualitative aspects be factored into the project? The region will need to consider a potential range of possibilities, both on the scale of the individual communities themselves and the broader, more holistic purview of the region.

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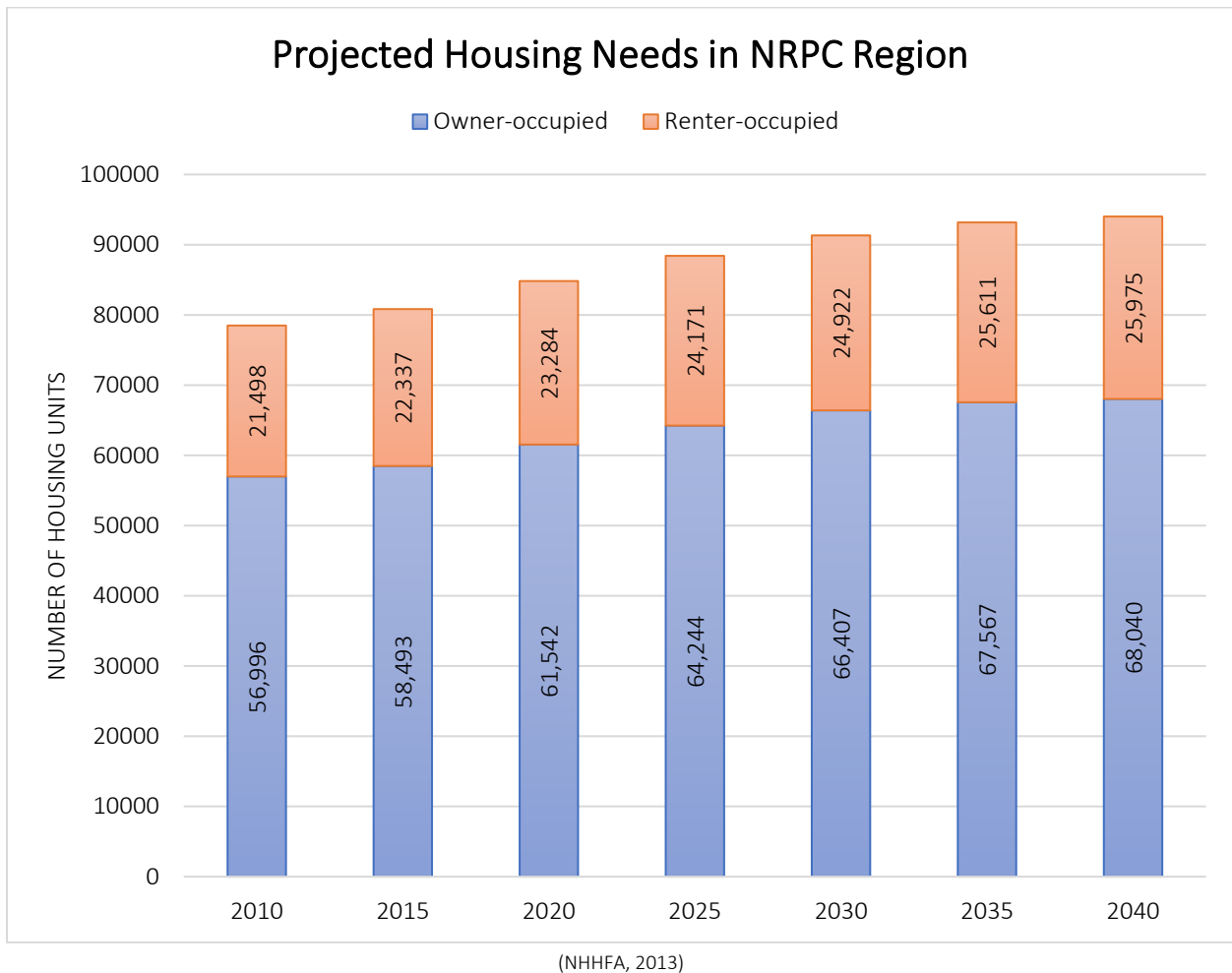
### POPULATION HEADSHIP TENURE MODEL

The following housing forecast is based upon the Population Headship Tenure Model included in *The Evolving Environment and Housing's Future* produced by the NH Center for Public Policy Studies for NHHFA as part of the State's Housing Needs Assessment. The model estimates the future need for housing using anticipated changes in household size, tenure, and age group. Headship is defined as the ratio of the number of household heads relative to the total population. For this model the headship ratio is computed for each population cohort and the total population. The projections are based upon headship rates by age group.

The aging population has become a greater share of all households in the region and State, leading to decreased household sizes. Decreased fertility rates have further reduced household sizes with fewer children per household, and young families represent a smaller share of all households than they have historically. This model accounts for these trends in household formation and homeownership trends dependent on the age of the head of household, and thus presents a more accurate reflection of future housing production needs to meet demand of a changing demographic. As a result, there is a need for between 7,800 to 10,200 (depending on reference to ACS or NHHFA data for existing structures) additional units for roughly 12,500 persons in the region. However, it should be noted that new units do

not equal new structures. Many have looked to small apartment or accessory units within existing single-family homes as solutions; those better suited in size to single person households.

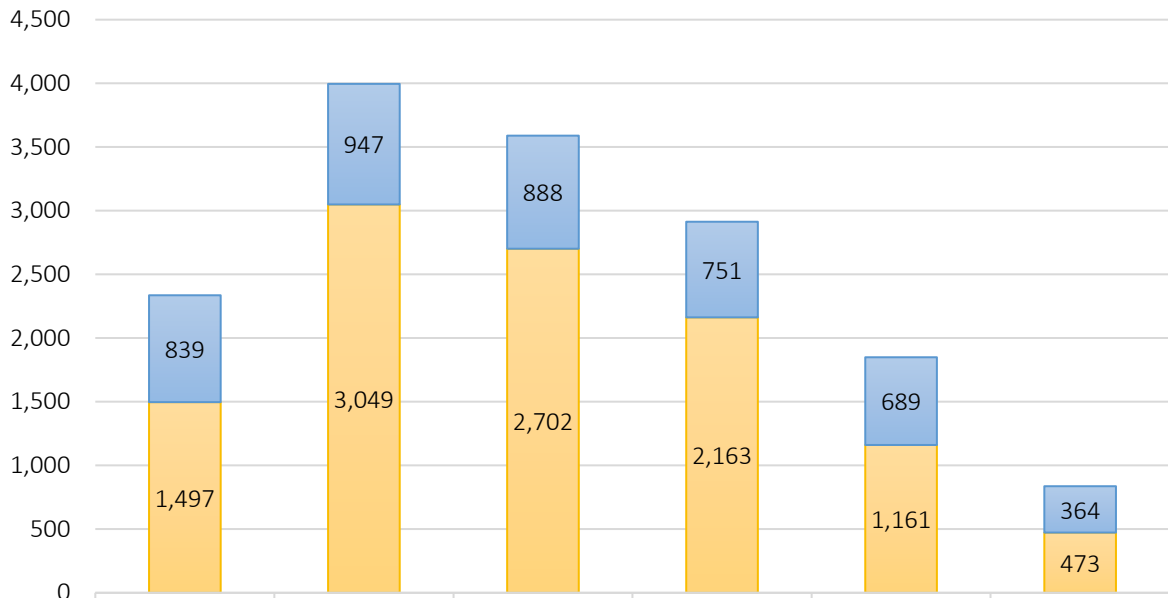
It is important to note, housing projections by tenure in the follow graph may be skewed or underestimates given ACS margin of error and the recently high production of rental units that were constructed before the projection was made by the model in 2013. The number of rental housing units estimated in 2017 by the ACS indicate an excess of 1,400 rental units when compared to the State’s 2020 projection. However, this may be an estimate issue with the ACS, or it may be an indication of an acceleration toward more renter-occupied units than projected. For the past few decades, the percentage of renter-occupied units has fluctuated between 27%-30%. As of 2017, it stands at 30% and it would reasonable to project a decreasing percentage if the region produces more affordable housing for single-family detached homeownership. Data collected during the next decennial Census will be vital for more accurate estimates.



A series of tables that walk through the process of developing the housing unit projections using the headship model can be found in Appendix A.



## Projected Housing Needs in NRPC Region, 2010-2040



■ Renter-occupied	839	947	888	751	689	364
■ Owner-occupied	1,497	3,049	2,702	2,163	1,161	473
Units/Year	467	799	718	583	370	167

■ Owner-occupied ■ Renter-occupied

(NHHFA, 2013)

These results are largely driven by the region’s demographic shift toward a greater share of households in the 65 plus range. The region’s traditionally larger households, those between 35 and 64 years of age, are projected to shrink by at least 3,000 households by 2025 and nearly 4,500 by 2040. Whereas, senior households, those age 65 plus are anticipated to add over 9,500 households by 2025 and 18,000 new households by 2040.

Homeownership is projected to remain strong as more senior households, where growth will be greatest, have higher homeownership rates compared to younger households. This model has approximated that 30% of all units are anticipated to be for the rental market to meet the demand of the youngest households.

Per the NH State Statutes, NH RSA 674:58-61, workforce housing is defined as purchase prices affordable to households earning 100% of the area median income (AMI) or rents affordable at 60% of AMI. It is estimated that 26,724 homeowners (39% of all homeowners) in the region will be earning at or below 100% AMI by 2040. It is also estimated 20,476 renters (57% of all renters) in the region will be earning below 60% AMI by 2040.

Refer to Appendix A for detailed estimates the number of households by tenure and income range.

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## REGIONAL FAIR SHARE OF HOUSING

The fair share of workforce housing needs table on the following page gives a best estimate of the number of workforce housing units (owner and renter units combined) for each community in our region. This exercise is an attempt to give our member communities an idea of the number of workforce units they should be providing for their residents. The table will read left to right and the following descriptions are given to help each column:

Column	Description
A	Each member community
B	Estimated number of households per community for 2017 according to ACS. Projected number of households for the years 2025 and 2040 according to NHHFA's Population Headship Model.
C	Share of regional housing per community. These percentages were held constant throughout all time periods.
D	Percent of households earning less than HUD defined affordable incomes for owners (100% AMI) and renters (60% AMI). The number and relative percentage of households within each AMI, and the projections, were derived from NRPC's 2014 Housing Assessment. The detailed table "Projected 2025 and 2040 Households by Tenure, Income Range" can be found in Appendix A.
E	The estimated number of workforce housing units needed was a calculation of the number of estimated or projected households (column B) multiplied by percent earning below HUD's affordable AMI threshold (column D).
F	The number of workforce housing units needed in total and annually, per time period. A more detailed look into column E.

Since this exercise utilizes the projected the number of future households based on NHHFA's Population Headship Model, it does account the shifting dynamics of household size and composition. However, the Population Headship Model was based on the NRPC region as a whole and not the individual aggregation of each member community. As so, the share of regional households per community (column C) was kept constant when redistributing NHHFA's regional household projection for 2025 and 2040. It is reasonable to assume these regional share percentages would slightly differ as some communities grow and shrink at different rates. In addition, the exercise also assumed the percentage of households earning within each income range would remain constant (column D). It is important to stress that even though the percentage of households earning below the AMI threshold vary per municipality, a regional percent was used for the exercise because it's a *regional* fair share that coincides with the *regional* responsibilities defined by the workforce housing statute. The nuances of this exercise must obviously be considered when decision makers are referencing this information, but the intent and methodology are sound. This information is to serve as a guide for both the region and the individual member communities.

A	B			C	D	E			F			
Municipality	Estimated Households			2040 Town Share of Regional Households	Percent of Households earning below Affordable AMI	Estimated Workforce Need			2017-2025		2017-2040	
	2017	2025	2040			2017	2025	2040	Total	Annual	Total	Annual
Amherst	3,996	4,404	4,682	5.0%	44.2%	1,766	1,946	2,070	180	23	303	13
Brookline	1,750	1,928	2,051	2.2%	44.2%	774	852	906	79	10	133	6
Hollis	3,010	3,317	3,527	3.8%	44.2%	1,330	1,466	1,559	136	17	229	10
Hudson	8,976	9,891	10,518	11.2%	44.2%	3,967	4,372	4,649	405	51	681	30
Litchfield	3,080	3,394	3,609	3.8%	44.2%	1,361	1,500	1,595	139	17	234	10
Lyndeborough	679	748	796	0.8%	44.2%	300	331	352	31	4	52	2
Mason	583	642	683	0.7%	44.2%	258	284	302	26	3	44	2
Merrimack	9,745	10,739	11,419	12.1%	44.2%	4,307	4,747	5,047	439	55	740	32
Milford	6,074	6,693	7,117	7.6%	44.2%	2,685	2,958	3,146	274	34	461	20
Mont Vernon	854	941	1,001	1.1%	44.2%	377	416	442	38	5	65	3
Nashua	35,374	38,981	41,450	44.1%	44.2%	15,635	17,230	18,321	1,594	199	2,686	117
Pelham	4,575	5,042	5,361	5.7%	44.2%	2,022	2,228	2,370	206	26	347	15
Wilton	1,537	1,694	1,801	1.9%	44.2%	679	749	796	69	9	117	5
NRPC Region	80,233	88,415	94,015	100.0%	44.2%	35,463	39,079	41,555	3,616	452	6,092	265

Table Key	
Column	Explanation
A	RPC Municipality
B	Total number of households: 2017 ACS estimates, 2025 and 2040 NHHFA Population-Headship projections
C	Share of <i>regional</i> households, percentage held constant throughout all time periods
D	Percent of <i>regional</i> households earning less than 100% for homeowners or 60% for renters
E	Estimated number of workforce housing units based on projected household and percent earning less than affordable
F	Number of housing units needed to be built per time period and annually

2018 HUD Income Limits for Nashua, NH HMFA			
	% AMI	Income	Maximum Affordable
Home-owner	100%	\$106,300	\$352,500
Renter	60%	\$57,400	\$1440/mo

As the previous table indicated, the projected need for affordable housing between 2017-2025 is for 3,616 units and then, from 2025-2040, the need is for an additional 2,476 units. This front-loaded need is representative of the population trends projected by NHHFA. From 2017-2025, the region is expected to add more than 8,000 new households while in the ensuing 15 years after that, the region is only expected to add about 5,500 new households. NHHFA has also predicted that the regional ratio of owners-to-renters is to hover around a 72/28 split throughout these time periods. This will evidently vary for each community and impact their split of workforce housing among homes for purchase and those for rent. Communities should assess their current number of units, which fall within the State's workforce housing limits, in cross reference to these estimates and projections to see how they fare in providing their "fair share" of regional housing.

With the trend for both median house prices and median gross rents moving constantly higher, it seems likely that residents earning the median income in the RPC region will continue to find housing costs a challenge. Communities may also want to consider not only reaching these projected numbers but also surpassing them to help increase overall stock, cultivate healthy vacancy rates, alleviate housing prices, attract workforce residents, spur economic activity and ultimately increase their tax base. For many reasons stated throughout this assessment, the housing issue and its affects are not just a problem our individual communities are facing – it is statewide, countywide and regionally an issue that should be addressed as such. Housing strategies, incentives and the such should be implemented in a continuing, cooperative and comprehensive manner.

## HOUSING PREFERENCES

With the understanding that the demographic composition of the State is changing, New Hampshire Housing as part of its regular state housing needs assessment update conducted a new qualitative study of housing preferences across the State, *Big Houses, Small Households: Perceptions, Preferences and Assessment*. In addition to consulting with the nine regional planning commissions to collect and understand findings from the RPCs vast regional plan outreach efforts, the authors met with realtors, builders, local officials, and others connected to the housing market, to understand current preferences for different households. Through a series of focus groups, they asked questions such as how many bedrooms do people want in a home? How big of a home? Where do people prefer to live? And what impediments exist to meeting demand? Similarly, *Senior Housing Perspectives*, part three of Housing Needs in New Hampshire, looks at a series of quantitative research in conjunction with the focus group conversations to discern future housing demand to meet the needs of a rapidly growing senior population.

The following represents some of the key findings from these two studies of relevance to the NRPC region highlighting current issues and preferences that may impact future housing demand in the region and municipalities ability to enable housing supply that meets preferences and demand.

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## CHANGING DEMAND

The existing supply of housing in New Hampshire is not well matched to changing demand. While projections call for a significant increase in the total number of dwelling units, this does not necessarily indicate a call for significant building of new dwelling units. Both the region and the State must adapt to slower population growth, smaller households with fewer children and declining school enrollments, and an indication that seniors are choosing to downsize to one-level living. These factors imply that large housing will be less in demand and preferences shifting to smaller houses. Many housing professionals and residents have reported that local regulations lack flexibility to provide temporary or more adaptable smaller homes such as accessory dwelling units – either for the rubber band generation of young adults returning to live with their parents because they cannot afford their own place or seniors no longer comfortable with independent living. Location preference is also changing, New Hampshire’s realtors have noted that residents are preferring to live closer to employment centers and that there has been a decline in home purchases and new housing growth beyond a radius of towns outside employment corridor (Delay & Thibeault, 2014).

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## YOUNGER HOUSEHOLDS

New Hampshire’s young adults are delaying marriage and are less likely to form new households compared to their peers from the 1980s and the trend has been increasing since 1990. As a result, young adults are looking for flexibility and mobility in their housing preferences, including cost, type and location. Further, a decreasing percentage of younger households are likely to be homeowners. Homeownership among New Hampshire’s young adults aged 25-34 decreased from 52% 1990 down to 46% in 2010 and is estimated to be around 37% as of 2017. That being said, about 50% of participants in NeighborWorks Southern New Hampshire’s homebuyer education classes are between the age of 25 and 34, indicating that the interest is there, but that there are other factors precluding home purchase.

The Great Recession has influenced young adults housing preferences beyond affordability, being witness to recent housing declines associated with the recession, some young professionals are distrustful of the housing market, less inclined to purchase a home and do not find it a prudent investment. Additionally, young professionals are concerned about the level of services and school quality available; concerned that the recession has negatively impacted municipal budgets and as a result quality services and schools. When they settle down, they want to know there are quality schools for their children and services to support a family.

While the median house prices are lower in the region and across the State than prerecession prices, it is not necessarily more affordable for younger households or first time home buyers that the market depends upon to purchase the homes of those looking to “move-up” or “downsize.” Simultaneously, rental prices continued to increase, and vacancy rates have continued to decrease, further limiting housing choice options and increasing housing costs. Younger households are facing lower quality and lower-paying job prospects combined. Additionally, approximately 76% NH college graduates have some level of student debt, an average of about \$36,000, and over \$7,000 more than the national average (The

Institute for College Access and Success, 2019). Combined, high rents, low paying jobs, and student debt levels make it difficult to adequately save for a down payment or meet rigorous lending requirements.

As a result of limited market options and financial pressures, younger generations have gravitated toward more nonconventional and flexible housing solutions. Renters are often “doubling up” with friends or another couple to help share costs. Some are instead choosing to move back home and live with their parents, commuting longer distances or leaving the region altogether. The few that are purchasing homes are often purchasing a single- or multi-family where they can rent a room or apartment to defray costs. Some are taking the chance to purchase a fixer-upper, renovate, and then sell with the hopes of moving up (Delay & Thibeault, 2014).

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## OLDER HOUSEHOLDS

Nearly 24,000 residents in the NRPC region were age 65 plus in 2010 and there will be an estimated 44,500 seniors in 2025 and 55,500 in 2040. Currently, the 65 plus population represents 14% of the total population but is projected to rise to 20% in 2025 and 25% in 2040, like statewide trends. While the senior population, including renters and homeowners, is expected to double over the next three decades there is little to no projected change among younger populations, resulting in seniors occupying a greater share of the region’s housing units, approximately one in three occupied homes by 2025.

Most commonly, senior households are comprised of only one or two persons, which are ideally served by two-bedroom homes. However, only slightly more than a third of the region’s homes (33,200) are two bedrooms or smaller, compared to the 50,600 units with three or more bedrooms. More than half of the two bedrooms or smaller homes are rentals. Given the relatively limited number of younger households in the region and the state and their lack of interest in purchasing homes, it is uncertain there will be enough interest from future buyers should the boomers decide to downsize. Residents entering retirement years prefer to “age in place” or stay in their own homes. When they do move, they prefer to remain in the same region. Given seniors preference to remain in their existing homes implies less possible demand for age restricted or 55 plus housing.

While seniors generally desire to age in place, this is limited by their ability to do so:

- 14.1% of seniors have a hearing difficulty;
- 5.1% of seniors have a vision difficulty;
- 6.9% of seniors have a cognitive difficulty;
- 17.4% of seniors have an ambulatory difficulty;
- 5.9% of seniors have a self-care difficulty; and
- 12.0% of seniors have an independent living difficulty.

The median income of the State’s senior households is slightly above half (55%) that of the State average for all households and while seniors tend to have more assets than other households, home equity is significantly reduced since the economic downturn. This limited income and savings contributes to the fact that 43% of all households age 65 plus pay more than 30% of their income to rent or mortgage

(compared to 54% across the State). Comparatively, 60% of renter households age 65 plus in the region pay 30% or more of their income to rent costs.

Slightly more than a third of the region's housing stock is more than 50 years old, and an even larger share of rental housing is older stock that tends to be multi-floored and less conducive to aging in place where the ideal home would include a first floor bedroom and bathroom, entrances without steps, and wide doorways. Lastly, given the projected shift in the ratio of younger to older persons there is a projected declining potential caregiver population. AARP defines the caregiver support ratio as the ratio between persons aged 45 to 64 to the age 80 and over population. In 2014, the NRPC region had 10.3 potential caregivers for each person over the age of 80, compared to 7 nationally and 8.1 for the State. By 2025 that ratio is expected to drop to 6.5 possible caregivers for each person over 80 in the NRPC region, compared to 4.8 at the State. That number is further expected to drop to 2.9 potential caregivers per person over 80 in 2040.

According to Medicare data it is not until age 85 that residents seek to move to an assisted living or other long-term care facility, and even then, 78% remain in a traditional home. Significant increases in the over 85 population are not anticipated until 2030. In 2017 there were 3,113 persons in the NRPC region age 85 or older which is projected to rise to 4,860 in 2025 and 10,820 in 2040.

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## HOMEOWNERSHIP

There are several factors that continue to limit affordability or homeownership. Young college graduates in New Hampshire have one of the highest levels of student loan debt in the nation. Additionally, recovering demand and lack of additional has kept baby boomers in homes larger than their needs and limited options for seniors.

According to NHHFA November 2019 Housing Market Report:

“Foreclosures dropped 12% in Q3 2019 from the same period in 2018; the trend indicates that annual foreclosures in 2019 will be far lower than in 2018, when there were 860 foreclosures statewide. With the increase in median sales price and lack of inventory in the state, borrowers who cannot make their mortgage payments still have a favorable market to sell their homes, and thus avoid foreclosure”.

While New Hampshire's employment levels have slowly recovered since the Great Recession, a concern raised in “Housing Needs in New Hampshire” was that the growth in employment has been in lower wage sectors, particularly accommodation, food services, administrative and waste services, and retail trade. Such low skill industries pay below average wages limiting housing affordability and choices. Lastly, with a slow but continued economic recovery, housing prices have increased once again limit affordability (Delay & Thibeault, 2014).

The Route 3 and 101 corridors remain an attractive housing market and sellers are receiving multiple offers. However, both data trends and real estate professionals' observations noted a decline in demand in communities that are more than two towns removed from major transportation networks.

Comparatively, this places the Nashua region at an advantage to those further removed such as the North Country or Monadnock region (Delay & Thibeault, 2014).

## CONCLUSIONS

The housing supply across the region varies from dense urban centers with more multi-family and rental units, to rural and small-town communities that are dominated by owner-occupied, single-family-units. NHHFA's Population Headship Model projects that households within our region will continue to age and become smaller. The projected growth in households from 2017-2025 is expected to be near 8,000, while between 2025-2040, the projected growth in households is only expected to about 5,500 – primarily the result of slowed population growth during that time period. The percentage of renters within the region is predicted to remain around 28%, however, this will differ greatly from community-to-community.

The need for affordable housing across the region will also be reflective of population and household growth rates. There will be a greater need for affordable housing production between now and 2025 than there will be for the ensuring years leading up to 2040. Even though this assessment projects the number of workforce housing units needed across the region and within each community, the actual measurement and recording of affordable units currently within our communities will require a deeper dive with on-going updates. NRPC and its member communities should consider formalizing a method for recording the number of affordable units with the intent of comparing this to the projected need and including this information in the next housing needs assessment. Use of the more reliable 2020 Census data would be another valuable source for obtaining this information, however, it may require some manipulation or the use of internal recording mechanisms (town records) to ensure accuracy.

Even though the models presented in this section accounted for shifts in household size and composition, there are several other factors such as changing demand and housing preferences which are hard to predict. We currently see a rise in the percentage of renters within our region, but it is unclear whether this is the result of necessity or preference. Are there factors such as land use controls, transportation access or economic activity that are impacting affordability and preference? Though forecasting preferences is an inexact exercise at best, the empirical and quantitative evidence indicates that addressing the region's long-term housing needs requires cooperative and comprehensive solutions.



## RESOURCES FOR MEETING LOCAL NEEDS

The NRPC region's housing needs are broad and encompass a range of income groups and family types. Several methods for meeting these diverse housing needs are described in the following section, including incentives that can be provided through innovative local land use regulation as well as various state and federal government programs. Each community should assess its own housing needs within the context of local conditions. Communities that are currently updating or planning to update their master plan should provide a housing section in accordance with RSA 674:2 III.

## COMMUNITY CHARACTER

It is critical to balance the need for affordable housing with the desire to maintain community character. Community character should never have to be sacrificed to achieve affordable housing goals. There are several simple principals that should be considered and applied when a municipality, particularly rural communities, plans for affordable housing:

- Affordable housing developments should never out-scale the other structures near it. If the typical structure in a village is two stories and 4,000 square feet, the affordable housing should be of a similar size. Grouping several units within such a building would maintain community character while also enhancing affordability.
- Affordable housing should blend with other housing in its vicinity. The affordable housing should be constructed of materials that are typically found in other nearby structures. Housing that does not blend with its surroundings can stigmatize the project.

Affordable housing, particularly for very low-income individuals and the elderly should be located within walking distance of services. Individuals without automobiles will be isolated in poorly sited affordable housing developments. Rather, such housing should be located close to stores and medical services.

## ALTERNATIVE HOUSING AND REGULATORY OPTIONS

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### ACCESSORY HOUSING

Under the state law, RSA 674:71-73, which went into effect on June 1, 2017, accessory dwelling units (ADUs) means:

“a residential living unit that is within or attached to a single-family dwelling, 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.” (NH RSA 674, 2019)

Municipalities that adopt a zoning ordinance pursuant to the authority granted by RSA 674, shall allow ADUs as a matter of right, by a conditional use permit or special exception in all zoning districts that permit single-family dwellings. If the municipality’s zoning ordinance is silent on the topic of ADUs, the municipality must allow at least one attached ADU in any single-family home. Municipalities are not

required to allow more than one ADU for each single-family dwelling, however, they may prohibit ADUs associated with multiple single-family dwellings. Regardless of how ADUs are allowed, the municipality cannot impose greater dimensional standards on homes with ADUs that it does for homes without ADUs. The state also leaves it to the Town's choice as to whether or not the ADU can be attached or detached. Other regulations included are, but not limited to (NH RSA 674, 2019):

- Municipalities may limit the maximum number of bedrooms to two, but not one;
- Municipalities can require off-street parking or some other demonstration of parking adequacy;
- Property owners must demonstrate the adequacy of water supply and sanitary disposal, but separate systems shall not be required for the principal and ADU;
- The owner may be required to have a new septic system designed and approved if the existing systems does not meet NH DES standards for the housing including the addition of the ADU;
- A new septic system does not need to be built unless the existing system is unlicensed or has failed;
- Municipality may require the owner to occupy one of the units;
- Municipalities may not limit ADUs occupancy to family members of the owners of the principal dwelling;
- Municipalities may establish standards for ADUs for the purpose of maintaining aesthetic continuity with the principal dwelling unit;
- Municipalities cannot require ADUs to be smaller than 750 square feet; and
- Accessory dwelling unit may be deemed a unit of workforce housing for the purposes of satisfying the municipality's obligation under RSA 674:59 if the unit meets the criteria in RSA 674:58, IV for rental units.

The last bulleted point is important because the state law provides another tool for communities to utilize and help provide workforce housing in new ways which are different from the traditionally larger developments that require a substantial amount of land and build significantly more units. The ADUs law provides for incremental development which may be more feasible and justifiable for many.

ADUs provide a housing alternative that can serve a wide range of needs. For the elderly, an accessory apartment can allow the individual to maintain a degree of independence while still receiving the support of family members. The same is true for younger family members. Where student housing is scarce, accessory dwelling units can provide a housing alternative within a family setting. For older or younger homeowners, the modest rent that may be received for such a unit may make home ownership a possibility that would otherwise not exist. Provisions restricting the size of the unit, its entrance, and other restrictions keep the unit from being rented as a traditional apartment thus maintaining the single-family character of the area. Furthermore, because such units are usually not separated from the principal residence, they can readily be reincorporated into the main dwelling.

Age-restricted or elderly housing zones are increasingly becoming a way that communities are addressing the need for specialized housing for older populations without allowing for general multi-family housing or overall increases in density. These usually take the form of overlay zones and function in a way similar to that of cluster ordinances. In a few communities, actual parcels of land have been zoned for age-restricted housing. In most cases, age-restricted housing ordinances provide for a far higher density than allowed in the underlying zone and contain a separate set of regulations and restrictions than those found in other zones. Some ordinances contain provisions for subsidized housing, others do not. Nearly all the communities in the NRPC region have some type of age-restricted housing zone. It is important to note that RSA 674:58- 61 specifically states that housing in which a majority of the units are limited to those 55 and over cannot be counted towards meeting the community's workforce housing need.

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## CLUSTERED HOUSING

Clustered housing is a form of zoning that eases the dimensional standards for lots compared to the normally required standards. This regulatory strategy allows for greater flexibility in configuring structures, preserving open space and reflecting the community's local character while meeting overall density requirements. Ordinances around the state may identify similar provisions under the title of "cluster development", "open space development" or "conservation development".

Homes in cluster developments are generally configured on smaller lots that do not meet the community's traditional lot size, road frontage, and setback requirements. The altered design requirements are attractive to potential developers as it may reduce development costs and in-turn, increase profitability and reduce housing costs to potential buyers. In some cases, under the use of a clustered housing provision, municipalities may provide developers with the opportunity to earn housing density bonuses. A density bonus grants a developer additional housing unit density beyond that which is normally permitted, in exchange for more open space, recreational facilities, affordable housing, etc. The word "opportunity" is emphasized here because any proposed cluster development may or may not actually meet the density bonus requirements set forth in a community's zoning ordinance, and the developer may or may not be allowed to build more dwelling units than traditional regulations would permit. The permitted housing types, configurations, percentage of open space, required amenities and other conditions for meeting the clustered housing definition varies from one municipality to another.

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## GROUP HOUSING

Group homes are an important means of providing housing for the elderly and for special needs groups such as deinstitutionalized individuals, the homeless, handicapped individuals and other special needs groups. Generally, a group home is a single-family home which houses several unrelated individuals with common needs. This allows for mutual support for people with common needs in a family type setting. The homes provide individual or shared bedrooms with common living areas.

A provision for group homes usually requires a community to amend its zoning ordinance to provide a definition of "family" that would allow for a group home to be placed in a single-family area. Because group homes are not subdivided, they are not considered to be multi-family housing. A typical ordinance

may provide a definition, for example, that would allow ten unrelated elderly, handicapped or de-institutionalized individuals to be considered a family for zoning purposes, provided that the home is not subdivided and that the individuals live together as a single housekeeping unit. An alternative would be to provide for group homes under a special exception provision.

The largest impediment to providing for group homes is neighborhood resistance. Individuals purchasing homes in single-family areas have an expectation that the neighborhood will be maintained with a certain character. While a house that is purchased for a small group of older residents may pose little threat to neighbors, a home for de-institutionalized mental health patients, ex-convicts or those battling opioid recovery may trigger such resistance. Great care must be provided to avoid disruption of existing neighborhoods. Regulations that may mitigate some of the potential negative impacts associated with the group homes in single-family areas would be similar to those found in ordinances governing home-occupations and accessory housing. The intent should be to provide restrictions related to parking, entrances, and the appearance of the home to maintain the single-family character of the area.

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## INCLUSIONARY HOUSING

Inclusionary housing programs are a way of encouraging private developers to provide housing for moderate-, low- and very-low-income households in exchange for density bonuses or zoning changes. Generally, a residential developer seeking a higher density than normally allowed under the zoning ordinance would be required to set aside a certain percentage of the units for lower-income households. Many inclusionary housing programs also require a certain percentage of the units be designated for elderly or handicapped households. Depending on the ordinance, developers interested in applying for a density bonus or zone change apply either to the local zoning board of adjustment or to the planning board. New Hampshire statutes require inclusionary housing programs to be voluntary and ordinances typically apply only where the municipality attempts to use zoning as an incentive to provide for a recognized need within the community. The developer receives an incentive, usually increased density, which provides the impetus for developing the desired housing type. The percentage of units that must be set aside for target groups could vary based on the local ordinance.

In general, most ordinances require the below market rate units to be provided within the site. The units may be smaller than market rate and may lack some amenities but may not be recognizably different from the other units in the development. Some ordinances allow below market rate units to be clustered within a portion of the development. Other ordinances encourage the below market rate units to be distributed throughout the complex.

Because most ordinances require below market rate units to be provided on-site, the maintenance, management and marketing of the units remains a private responsibility. Local ordinances usually include a provision requiring that below market units, whether rental or owner-occupied, remain at below market levels for a fixed period of time. The time period can vary from 10 to 99 years. Municipalities, however, must take the responsibility of ensuring that below market units remain at target levels. This is particularly difficult for below market rate owner-occupied housing as the resale of the property must be regulated to ensure that a lower or moderate-income family can purchase the unit while allowing the

seller to capture some equity from the property. In most cases, the monitoring of inclusionary housing programs is the responsibility of a local housing authority, community development department, or planning department.

The greatest constraint to implementing an inclusionary housing program in the region's municipalities is the difficulty of administering the program. Although market studies have been done which indicate that developments with below market rate units do not suffer from lowered real estate values, public perception is difficult to overcome. Another barrier is the difficulty of amending zoning ordinances to allow for the flexibility to provide for density bonuses in many municipalities. The greatest advantages to inclusionary housing programs are that the below market rate units are generally built, managed, and maintained by private developers. The municipality avoids having to maintain an inventory of housing to manage and avoids the difficulty of locating sites and building needed housing.

By including a small number of moderate and low-income units within a mix of market rate units, the community avoids the problems associated with over concentration. The families that occupy the units are integrated with the greater community and are provided with the same level of maintenance and the same public facilities and services as the general population. Furthermore, programs that also encourage the provision of elderly and handicapped housing, as well as three-bedroom rental units, allow for an even greater integration of household types. In this way, the housing needs of most family types, including various age and income groups, can be accommodated within a single residential development with only minimal public sector involvement.

Communities interested in implementing an Inclusionary Housing Ordinance should consult the Innovative Land Use Planning Techniques Handbook, published by the NH Department of Environmental Services, which includes a model ordinance and background information for New Hampshire municipalities.

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## MANUFACTURED HOUSING

Manufactured housing, as defined in RSA 674:31, is term that includes what are traditionally known as trailers or mobile homes. Although State legislation has been adopted that requires all municipalities to provide for reasonable opportunities for the location of manufactured housing, many communities still severely restrict such housing. This is often due to aesthetic considerations as well as the association of manufactured housing with lower-income groups. In general, manufactured housing is situated either in higher density parks, on individual lots or in manufactured housing subdivisions.

Manufactured housing parks can provide an important housing alternative for low and moderate-income groups. The purchase price is relatively low, because the lots in the park must be rented. As a result, many residents in manufactured housing parks face eviction if the land is sold. The lack of new manufactured housing parks makes relocation nearly impossible unless the family can afford to purchase a lot. Mobile homes on individual lots or within subdivisions are only a limited form of affordable housing due to the very high land costs within the region. Although a manufactured home on an individual lot may

be only 10% less expensive than a conventional home on a similar lot, this can make the difference in affordability for many moderate- and middle-income families.

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## MULTIFAMILY HOUSING

Multi-family, as defined in RSA 674:58, is housing *for the purpose of workforce housing developments*, means a building or structure containing 5 or more dwelling units, each designed for occupancy by an individual household. The emphasis is on the italicized words specifically clarifies this definition as other State statutes define multi-family units to be any structure containing more than 2 dwelling units. This difference is important as structures with 5 or more dwelling would qualify under the “reasonable and realistic opportunity” for workforce housing, whereas anything less, would not.

Multi-family housing is a common way in which municipalities and developers can provide affordable housing options to residents within the region. The development of multi-family housing units typically looks to density and proximity as avenues to a solution. There higher densities are typically located in more centralized locations with access to a variety of employment opportunities, amenities and services. Development costs, landowner mortgages and overall maintenance costs are reduced when expenses are spread among more occupants, and ideally, these cost savings are then transferred over to eventual occupants. Although the basic idea of increasing density to spread expenses is sound, the strategy is not always implemented in a way that provides for more affordable housing. The combination of increasing demand among moderate- and high-income households into the urban cores, preference to the rental market and very low vacancy rates have, in-turn, increased the cost of multi-family housing.

## TOOLS

There is a significant amount of research, data, and guidance materials available to help communities in New Hampshire meet their local housing needs. The following represents some of the key resources and tools for municipalities in the NRPC region.

NH Housing’s [Meeting the Workforce Housing Challenge Guidebook](#) provides resources for municipalities to address the requirements of the State’s Workforce Housing Statute.

The [NH Innovative Land Use Handbook](#), published by the NH Department of Environmental Services, includes model ordinances and guidance on numerous means to create a flexible set of incentives to support more affordable choices, including:

- Cluster or Conservation Open Space Subdivisions,
- Mixed Use Development,
- Infill Development,
- Energy Efficient Development,
- Inclusionary Housing

NH Housing’s [Housing Solutions Handbook](#) includes examples and case studies from New Hampshire of zoning ordinances that provide workforce housing opportunities, such as:

- Flexible zoning and land use regulations that allow for a mix of housing choices,
- Planned unit and cluster development,
- Examples multi-unit structures that maintain rural and single-family character,
- Redevelopment of existing housing stock,
- Examples and case studies from New Hampshire of multi-unit structures that maintain rural and single-family character,
- Accessory dwelling units, and
- Regulatory provisions that encourage a variety of housing sizes and types (i.e. cottage housing, accessory dwelling units, condominiums, single family homes, etc.).

[NH Housing](#) collects and reports on a variety of [housing data](#) including demographic, purchase price and rental cost trends; HUD’s income limits and allowances; and assisted housing for every municipality in the State.

NRPC has developed several [fact sheets](#) including:

- Inclusionary Zoning,
- Overlay Districts,
- Performance Zoning,
- Village Plan Alternative, and
- Form Based Codes.

The NH Office of Energy and Planning [reports on building permits](#) issued in every NH community that municipalities can use to monitor rates of residential growth to assess whether future rates are projected to increase beyond current low levels of growth.

[The Planning Board in New Hampshire: A Handbook for Local Officials](#), written by the NH Office of Energy and Planning, provides guidance and resources to help municipalities prepare a Capital Improvements Program to ensure municipal services can keep pace with growth rates.

The Community Development Finance Authority’s [CDFA Neighborhood Stabilization Program](#), Community Development Block Grants and [Community Development Improvement Program](#) provide financial resources to help municipalities invest in existing neighborhoods.

NH RSA 79-e, the [Community Revitalization Tax Relief Incentive](#) enables communities to provide tax relief in exchange for investment designed to enhance downtowns and town centers, promote economic development and rehabilitate historic structures.

## LOCAL RESOURCES

In addition to the above tools and resources available statewide, there are several organizations within the NRPC region that can provide valuable support to municipalities.

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## NEIGHBORWORKS SOUTHERN NH

NeighborWorks Southern New Hampshire is a non-profit organization dedicated to helping individuals and families in Southern New Hampshire region by providing access to quality housing services, revitalizing neighborhoods and supporting opportunities for personal empowerment. Based in Manchester, in recent years NeighborWorks expanded its service area to include the Nashua region and acquired the former Neighborhood Housing Services of Greater Nashua. Additionally, in the NRPC region, Neighborworks developed Casmir Place in Nashua (2006) and Hidden Pond Apartments in Amherst (fall 2013) and most recently (2019), purchased two residential buildings (8 units) on McLaren Ave and Ledge St in Nashua to begin capital improvements and energy upgrades totaling \$450,000. Additionally, NeighborWorks has been working with residents of Nashua's Tree Streets on various community initiatives including NeighborFest, a celebration of community among neighborhood residents, and the Neighborhood Mural Initiative, a project to fuse local art with significant historical events. Other major programs include:

- Home ownership: Help underserved families understand critical components of home ownership, including financial responsibilities, maintenance and repair; home ownership as an opportunity improve economic viability; and guidance and assistance in the loan process;
- Affordable housing development: Develop affordable housing for sale or rent for low- and moderate-income families and individuals;
- Resident services: Involve tenants and other community residents in the civic life of the community and provide a variety of enrichment services.

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## SOUTHERN NEW HAMPSHIRE SERVICES

Southern New Hampshire Services (SNHS) assists low-income members of the region achieve self-sufficiency through a series of child development; health, food and nutrition; housing and homeless; workforce development; energy; volunteer, community, and multi-cultural services programs. Through their programs to prevent and address homelessness, SNHS provides shorter term assistance to those that are at risk of eviction or utility termination, connects homeless persons with the local service system, and provides supportive housing for the homeless. Mary's House, located in Nashua, NH, consists of forty rehabilitated apartments for homeless women. SNHS Management Corporation, a housing management subsidiary of SNHS, provides specialized elderly housing services, sponsors supportive housing for homeless projects, and serves as general contractor for construction projects that include low-income housing development and rehabilitation. Working with the City of Nashua Lead Paint program, SNHS conducts outreach and education relative to the dangers of lead paint and benefits of abatement. Lastly within the housing programs, SNHS provides supportive elderly housing to low-income senior citizens and has 6 properties with a total of 248 units in the City of Nashua (SNHS, 2019).

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## HABOR HOMES

Harbor Homes is another non-profit serving low income and vulnerable populations in the NRPC region. While Harbor Homes works throughout the state, their primary focus is the greater Nashua area serving Nashua, Amherst, Brookline, Hollis, Hudson, Litchfield, Merrimack, Milford, Mont Vernon, Mason, Manchester, and Wilton. They provide residential, primary and behavioral health care, and supportive



services to more than 1,200 low-income individuals and families who are homeless, at risk of homelessness, or living with mental illness and other disabilities each year. Services provide a holistic approach to providing food, shelter, and basic needs to help families maintain sustainable independence. Harbor Homes focuses on providing affordable housing, health care, mental health care, workforce development and employment assistance, supportive services for veterans and homeless prevention (Harbor Homes, 2019).

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## NASHUA HOUSING AUTHORITY

Historically, housing authorities were formed principally to develop lower income rental housing and to conduct urban renewal activities using financing and subsidies from the U. S. Department of Housing and Urban Development. Nashua Housing Authority oversees the local distribution of federal low- income Section 8 and Housing Choice Voucher programs for the City, working to place low-income individuals and families in affordable housing. According to the City of Nashua’s 2010 Analysis of Impediments to Fair Housing and as reiterated multiple sources as recently as 2014, the Nashua Housing Authority has a total of 662 housing units that it owns and manages including 188 for elderly residents, 221 for those with disabilities, and 253 for families. The NHA properties include 13 developments throughout Nashua, five of which are “scattered sites.” The authority also has 853 housing choice vouchers, 75 of which are for locations outside the City of Nashua (City of Nashua, 2010).

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## OTHERS

While not expressly dedicated to meeting local housing production needs, there are several other organizations within the NRPC region that play a critical role in supporting residents housing needs and promoting equal opportunities. The City of Nashua has formed the **Cultural Connections Committee**, comprised of city officials and residents, was created to act as a sounding board for ethnic community problems, act as a communications link between organizations, assist in community program ideas and publications, inform and educate, and encourage awareness and appreciation of cultural differences. The Gate City Immigrant Initiative is a subcommittee of the Cultural Connections Committee. The Mission of the Gate City Immigrant Initiative is to provide support to orient and empower newcomers and the broader community to fully integrate as citizens of Greater Nashua in good health and well-being.

The **Continuum of Care** is a collaborative group of Federal, State and City governments, housing program directors, hospitals, veterans, social service agencies, homeless and formerly homeless individuals, financial community and private sector representatives, and religious institutions of several denominations that meet regularly to promote comprehensive, cohesive, and coordinated approaches to housing and community resources for homeless persons and families. The Continuum works to identify and address service gaps and risk factors in the community and prioritize unmet service needs for a system of prevention, intervention, outreach assessment, direct care and aftercare for homeless individuals and families. The collaborative group serves the communities of Nashua, Brookline, Amherst, Hollis, Merrimack, Milford, Mont Vernon, Hudson, Litchfield and Mason. Particularly the Continuum works to end homelessness and is funded through annual applications to HUD to provide housing and supportive services. The Greater Nashua COC is also responsible for the development and

implementation of the Greater Nashua Ten Year Plan for Ending Homelessness. (“Nashua Continuum of Care,” 2014)

Similarly, **Elder Wrap** is another social service community collaborative comprised of public and private agencies in the Greater Nashua area that recognizes that many elders have complex health, housing, support and social needs. A core group of agencies meets monthly to review specific cases and discuss broader community issues affecting elders. Professionals from other agencies are invited to join meetings when their specialized focus is relevant to the individuals being discussed. Sometimes elders and their families attend a Wrap Around meeting to participate in the discussion of their needs and services.

## STATE AND FEDERAL PROGRAMS

Within the State of New Hampshire, most federal and state housing programs are administered through the New Hampshire Housing Finance Authority (NHHFA). The NHHFA programs are described below. In addition to these programs, Veterans Administration (VA) and Federal Housing Administration (FHA) loans are available through those agencies.

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### SECTION 8 HOUSING CHOICE VOUCHER PROGRAM

This rental assistance program provides a direct subsidy to the owner of rental housing to allow low-income families to occupy privately owned and maintained housing units without spending in excess of 30% of their total annual household income for shelter. Qualification is based on income and fair market rent guidelines established by the US Department of Housing and Urban Development (HUD). The intent of the program is to allow for federal housing assistance to low-income households without building government owned and operated housing. The owner of a unit qualified under the program is paid the difference between what the tenant can pay and the actual rent. Limited funds have restricted the program to very low-income female-headed households and very low-income elderly households. The program is administered by HUD through the NHHFA. Program eligibility and assistance is based upon income and household size. To be placed on the program, applicants must have incomes below 30% AMI, however, NHHFA is able to accept a limited number of admissions for applicants with incomes below 50% AMI.

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### SECTION 8 NEW CONSTRUCTION AND SUBSTANTIAL REHAB PROGRAM

The New Construction and Substantial Rehabilitation Programs provide assistance to developers to rehabilitate existing rental housing or to construct new rental housing within HUD guidelines. The maximum term of assistance provided by HUD under the New Construction and Substantial Rehabilitation Programs for a project financed with the proceeds of a loan insured by the Federal Housing Administration is 20 years. Rather than allowing the Section 8 certificate to be used by a qualifying family to obtain housing in any qualifying rental unit, the program attaches the Section 8 certificate to the unit. This program encourages the construction of new rental housing for very low-income households. The voucher program merely provides a subsidy for existing units without increasing the housing stock available to low-income families.

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## HOUSING CHOICE VOUCHER HOMEOWNERSHIP PROGRAM

New Hampshire Housing offers the option for households currently receiving a Housing Choice Voucher to apply it towards homeownership for first-time homebuyers. There are eligibility requirements established by HUD and New Hampshire Housing. Generally, for those under the age of 62 the household head must have been employed for at least 30 hours a week for a full year, earn minimum wage, have established credit and had a bank account for at least 6 months. Choosing to use a voucher for homeownership increases the mortgage a household can afford.

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## EMERGENCY HOUSING PROGRAM

This program aids households in imminent danger of eviction due to financial difficulty with short-term assistance when local welfare programs are unable to offer assistance. New Hampshire Housing's Emergency Housing Program supports approximately 25 households at a time for a maximum of 3 months. Households must first seek any other possible source of assistance before turning to this program and their household income must be below 50% of the area median income.

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## LOW-INCOME HOUSING TAX CREDITS

Low Income Housing Tax Credits (LIHTC) encourage private investment in new, affordable rental housing and is the most commonly used affordable multi-family rental financing mechanism today. Projects are selected by NH Housing on a competitive basis and use of the LIHTC requires that a project provide a minimum of 20% of its units to households earning up to 50% of the area median family income (AMFI). Alternatively, at least 40% of its units may be offered to renters at or below 60% of AMFI. The balance of the units may be rented at prevailing market rents. Mixed income projects may be feasible in stronger rental markets. Typically, an LIHTC development will be affordable to households earning 40-60% of AMFI. Most of today's LIHTC projects are not subsidized with project-based Section 8 contracts, though tenants holding vouchers may use them in such projects and may be necessary for those earning less than 40% AMFI to afford rents. Therefore, many of today's "subsidized rental housing" cannot reach the households with the lowest incomes, however, LIHTC rental housing does, support an important component of workforce rental housing.

The maximum LIHTC allocation that any single general occupancy project may receive in any single funding round is \$800,000. The maximum LIHTC allocation that any single age-restricted project may receive in any single funding round is \$600,000. From 2014 through 2018, the State received and allocated between \$2.1 and \$3.4 million per year (\$2.8 million on average) to affordable housing projects across the state. Some of the more recent assisted housing projects in the area since 2010 include (NHHFA, 2019):

- Cotton Mill, Nashua (2011-2012)
- Pine Valley Mill, Milford (2013)
- Salmon Brook Senior, Nashua (2015)

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## FEDERAL HISTORIC PRESERVATION TAX CREDIT

Historical structures are key components to downtowns, village centers and rural settings across the region. The New Hampshire Division of Historical Resources administers the federal tax credit program in New Hampshire. The federal law provides a federal income tax credit equal to 20% of the cost of rehabilitating a historic building for commercial use – even residential properties or outbuildings have been, or can be, adapted to serve as income-producing uses. To qualify for the credit, the property must be a certified historic structure on the National Register of Historic Places or contributing to a registered historic district. Non-historic buildings built before 1936 qualify for a 10% tax credit. Substantial rehabilitation is necessary and must meet the Secretary of the Interior’s Standards for Rehabilitation. Applications for the credits are available through the State’s historic preservation office. Investment in the rehabilitation and continued use of these buildings makes a substantial contribution to preserving community character and maintaining a vibrant local economy.

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## NEW MARKET TAX CREDITS

The New Markets Tax Credit (NMTC) program is administered by the US Department of Treasury and was designed to increase the flow of capital to businesses and low-income communities by providing a modest tax incentive to investors. NMTC investors provide capital to community development entities, and in exchange are awarded credits against their federal tax obligations. Investors can claim their allotted tax credits in as little as seven years – 5% of the investment for each of the first three years and 6% of the project for the remaining four years- for a total of 39% of the NMTC project. The credit is currently set to expire at the end of 2019 but two bills (H.R. 1680 and S.750) have been proposed to extend the program and are awaiting a decision from Congress.

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## CONSTRUCTION LENDING PROGRAM

The Construction Lending Program provides construction financing for multi-family rental projects utilizing other New Hampshire Housing funding. In addition, funds may be used in certain circumstances to bridge investment from Low Income Housing Tax Credit investors. Rates and terms are competitive with the market, and this program offers the convenience and cost savings of a single source of financing for an affordable housing rental project.

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## SPECIAL NEEDS HOUSING PROGRAM

The Special Needs Housing Program is designed to provide financing for projects serving populations that need more intense services than are typically provided in traditional rental housing. The financing may be primary or gap lending that is frequently structured on a deferred payment basis. Developers of these projects are typically service providers of such diverse groups as the homeless, the mentally or physically challenged, women and children in crisis, and families and children in need of transitional housing.

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## TAX-EXEMPT BONDS FINANCING AND PORTFOLIO PRESERVATION PROGRAM

The Tax-Exempt Bond Financing and Portfolio Preservation Program is designed to provide construction and/or permanent debt financing through the sale of tax exempt or taxable bonds and equity financing through the use of the 4% Low Income Housing Tax Credit. The program is well-suited for the preservation of existing subsidized housing. Projects using this program typically have an income stream that allows the project to service significant long-term debt.

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## COMMUNITY DEVELOPMENT BLOCK GRANTS

Community Development Block Grant (CDBG) funds can be combined with other funds to support the creation of housing units, or can be used for related community needs such as encouraging home ownership, developing infrastructure, revitalizing downtown, rehabilitating rental housing, and other uses that have a primary benefit to households earning less than 80% of AMFI. This program is sponsored by HUD and managed by NH's Community Development Finance Authority (CDFA). Grants are available to municipalities or counties, and non-profits if they have partnered with and are applying through a municipality. Grants are awarded for up to \$500,000 per applicant each year and NH receives approximately \$8-10 million annually, approximately half of which goes to housing and public facilities projects.

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## OPPORTUNITY ZONES

The Opportunity Zones incentive is a new community investment tool established by Congress in the Tax Cuts and Jobs Act of 2017 to encourage long-term investments in low-income urban and rural communities nationwide. Opportunity Zones are low income census tracts nominated by governors and certified by the U.S. Department of the Treasury into which investors put capital to work financing new projects and enterprises in exchange for certain federal capital gains tax advantages. As of 2018, the State of New Hampshire has identified 27 census tracts throughout the state, 2 of which are located in the NRPC Region (both in Nashua).

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## PUBLIC LAND/AFFORDABLE RENTAL HOUSING PROGRAM

The Public Land/Affordable Rental Housing Program is a State program passed by the General Court in 1986 (RSA 204-D). The program allows surplus public land to be transferred at no consideration to the NHHFA for the development of low-income housing. The intent of the program is to remove the land cost from the cost of development to allow for the construction of low-income housing that can be economically feasible. The NHHFA will self-finance, construct and manage the housing. The greatest limitation facing the program is the availability of properly zoned surplus lands.

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## FEDERAL HOME LOAN BANK OF BOSTON AFFORDABLE HOUSING PROGRAM

The Federal Home Loan Bank of Boston offers both grants and loans to member institutions who are working with developers of affordable rental or home-ownership opportunities. In general, Affordable Housing Program (AHP) for ownership initiatives must benefit households earning less than 80% of AMFI; use of funds for rental developments is limited to projects having at least 20% occupancy by households at or below 50% of AMFI. For 2019, the subsidy limits for any one AHP application is \$650,000 in direct subsidy and \$1 million in total subsidy, including the subsidized advance interest-rate subsidy.

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## SINGLE-FAMILY MORTGAGE PROGRAM

The Single-Family Mortgage Program is by far the most significant State housing program. The program provides low-interest loans for first-time homebuyers within established housing price and income guidelines. The program is financed through the issuance of tax-exempt bonds by the NHHFA. In general, a first-time homebuyer applies for a NHHFA loan through a conventional mortgage institution and generally approved if the applicant as well as the home qualifies. Loan products offered include funds for down payment and closing costs, low or no private mortgage insurance, purchase and rehabilitation programs, emergency home repair, voucher assisted mortgages, and a tax credit program. The program provides assistance to a large number of first-time homebuyers; and as of April 2014, increased its income limit to \$110,000 for all communities, counties and family sizes, capturing all families below the median income level.

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## HOME HELP NH

HomeHelpNH is a statewide foreclosure counseling initiative sponsored by the New Hampshire Department of Justice, New Hampshire Banking Department and New Hampshire Housing Finance Authority. The initiative's goal is to help at-risk homeowners find solutions through free, comprehensive pre- and post-foreclosure counseling. Over the course of the first year of this three-year statewide initiative funded through the National Mortgage Servicing Settlement, HomeHelpNH counselors assisted more than 800 households and provided approximately 5,600 hours of free foreclosure guidance on mortgage modifications, mortgage document review, credit and budgeting analysis, rental help and legal service referrals to at-risk households.

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## FEDERAL HOUSING ADMINISTRATION AND VETERANS ADMINISTRATION LOANS

These Federal Government programs are not administered through the NHHFA. Rather than provide low-interest loans, the programs provide assistance to qualifying home buyers primarily by: 1) allowing for a higher percentage of household income to be devoted to housing costs; 2) providing mortgage insurance or guarantees; and 3) by allowing for down payments as low as 5%. Both programs are far less restrictive than NHHFA single-family home programs and are less limited in terms of funding. These programs provide essential assistance to moderate-income households throughout the Nation.

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## USDA RURAL DEVELOPMENT HOUSING AND COMMUNITY FACILITIES PROGRAMS

USDA's Housing and Community Facilities Programs help rural communities and individuals by providing loans and grants for housing and community facilities. Within the NRPC region, all communities except Hudson, Merrimack, and Nashua, are eligible for USDA's Rural Housing programs. Funding and programs assist with single family home purchase, apartments for low-income persons or the elderly, housing for farm laborers, and community facilities such as childcare centers, fire and police stations, hospitals, libraries, nursing homes, and schools.

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## CONCLUSIONS

The greatest planning and zoning practice fair housing concern is the prevention disparate impacts, ensuring that regulations and practices do not have a discriminatory effect or distinct impact on a group of persons. Land use controls have been identified in New Hampshire's Analysis of Impediments of fair housing as key impediment to fair housing choice. Frequently through outreach NRPC heard many calls for flexible housing regulations to allow for a more adaptable housing market. Large lot zoning and fees drive up cost and limit financing options. Other limiting factors include water infrastructure, key to higher densities and an older housing stock leads to higher lead poisoning risks. Transportation improvements can reduce costs and provide greater access to opportunities. Economic development improves job opportunities and mitigates environmental hazards creating cleaner, safer neighborhoods.

There are many factors that influence housing options and can further support or hinder future opportunities. The Nashua Region is fortunate to have many great resources to help react and respond to local housing needs. The Story of the Hughes family included in "The Nashua Region: A Story Worth Telling" highlights many of the challenges faced by families across the region after the housing market crash and Recession. When jobs became scares and unemployment grew, many families went through foreclosures and struggled to find an affordable home. The Hughes family was able to recover thanks to hard work and great resources such as Anne Marie House, NeighborWorks Southern NH, and Habitat for Humanity.

## WORKFORCE HOUSING ACROSS THE REGION

Recent studies, on the national, state and local levels, have pointed to the significant role of local land use regulations have on the development of affordable workforce housing. These include traditional zoning provisions such as minimum lot sizes and density requirements, as well as alternative or “innovative” provisions such as cluster zoning, density bonuses, phasing requirements, and impact fees.

According to NH RSA 672:1, III-e:

“all citizens of the state benefit from a balanced supply of housing which is affordable to persons and families of low and moderate income. Establishment of housing, which is decent, safe, sanitary and affordable to low- and moderate-income persons and families is in the best interests of each community and the state of New Hampshire and serves a vital public need. Opportunity for development of such housing shall not be prohibited or unreasonably discouraged by use of municipal planning and zoning powers or by unreasonable interpretation of such powers”.

This remainder of this section will take a deeper dive into the workforce regulations which are being implemented throughout the region. The Definitions subsection will reiterate the meaning and thresholds for workforce housing and how the State measures the performance of municipalities who are obligated to provide workforce housing. The following subsection, Municipal Regulations, will detail what workforce housing strategies are being implemented by member communities within the region and their relative compliance to State requirements. The chapter will conclude with a summary and recommendations for regulatory improvements throughout the region.

## DEFINITIONS

### WORKFORCE HOUSING

"Workforce housing" means housing which is intended for sale and which is affordable to a household with an income of no more than 100% of the median income for a 4-person household for the metropolitan area or county in which the housing is located as published annually by the United States Department of Housing and Urban Development. "Workforce housing" also means rental housing which is affordable to a household with an income of no more than 60% of the median income for a 3-person household for the metropolitan area or county in which the housing is located as published annually by the United States Department of Housing and Urban Development. Housing developments that exclude minor children from more than 20% of the units, or in which more than 50% of the dwelling units have fewer than two bedrooms, shall not constitute workforce housing for the purposes of this subdivision. Per NH RSA 674:58.

In 2018, the 100% median income for a family of four was \$106,300 the 60% median income for a family of three was \$57,400. At these income levels, it was estimated that the affordable purchase limit for the family of four would be \$352,300 while affordable rent limit for the family of three would be \$1,440 per



month (NHHFA, 2018). These limits are 2019 have remained relatively unchanged with income limits of \$102,900 (4-person home purchasers) and \$55,620 (3-person renters), respectively (NHHFA, 2019).

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## WORKFORCE HOUSING OPPORTUNITIES

The State measures a municipality's ability to provide workforce housing through a semi-subjective test that assess its capability to offer "reasonable and realistic opportunities for the development of workforce housing", as defined NH RSA 674:59. The statute references measurements of "opportunity" as they relate lot size, density, residential zoning, existing stock and its regional fair share of affordable housing. The State asserts that the all citizens benefit from a balanced supply of housing which is affordable to persons and families of low- and moderate-income, and that it's in the best interest of the state and each community, and that the opportunity for development shall not be prohibited discouraged by use of municipal planning and zoning powers, per NH RSA 672.

The State also includes some housing regulation examples of what may qualify as an opportunity, including but not limited to, multi-family housing which contains 5 or more dwelling units, inclusionary zoning for property owners to produce affordable housing units in exchange for density bonuses, growth control exemptions and/or streamlined application processes, and the implementation of accessory dwelling unit provisions which qualify as affordable.

The next section will summarize the workforce housing regulations which have been implemented across the region to identify strategies, review compliance, recognize gaps and opportunities, and provide suggestion. The governing state statutes for workforce housing, NH RSA 674:58-61, have been provided in their entirety below.

- I. In every municipality that exercises the power to adopt land use ordinances and regulations, such ordinances and regulations shall provide reasonable and realistic opportunities for the development of workforce housing, including rental multi-family housing. **In order to provide such opportunities, lot size and overall density requirements for workforce housing shall be reasonable.** A municipality that adopts land use ordinances and regulations shall allow workforce housing to be **located in a majority, but not necessarily all, of the land area that is zoned to permit residential uses** within the municipality. Such a municipality shall have the discretion to determine what land areas are appropriate to meet this obligation. This obligation may be satisfied by the adoption of inclusionary zoning as defined in RSA 674:21, IV(a). This paragraph shall not be construed to require a municipality to allow for the development of multifamily housing in a majority of its land zoned to permit residential uses.
- II. A municipality shall not fulfill the requirements of this section by adopting voluntary inclusionary zoning provisions that rely on inducements that render workforce housing developments economically unviable.

- III. **A municipality's existing housing stock shall be taken into consideration** in determining its compliance with this section. If a municipality's existing housing stock is **sufficient to accommodate its fair share of the current and reasonably foreseeable regional need** for such housing, the municipality shall be deemed to be in compliance with this subdivision and RSA 672:1, III-e.
- IV. Paragraph I shall not be construed to require municipalities to allow workforce housing that does not meet reasonable standards or conditions of approval related to environmental protection, water supply, sanitary disposal, traffic safety, and fire and life safety protection.

## MUNICIPAL REGULATIONS

As the previous section indicated, the State's measurement for reasonable and realistic opportunity for the development of workforce housing is mostly subjective. The only quantifiable measurement is whether some sort of workforce qualified housing provision is permitted within the *majority* of the residential districts. Furthermore, as of 2017, the State now requires that all municipalities which adopt zoning ordinances *shall* allow for accessory dwelling as a matter of right or by special exception, per NH RSA 674:72, and that accessory dwelling units may qualify for workforce housing for the purposes of satisfying the municipality's obligation for "reasonable and realistic opportunities" so long as they meet the 100% or 60% AMI thresholds. Essentially, the black and white measurement for assessing workforce housing has been boiled down to verifying that municipalities simply fulfill their state requirement to allow accessory units within a majority of their residential zones and if it is stated they must be deemed affordable.

This assessment, so far, has identified the number of existing affordable units for owners and renters, by census tract and community (Housing Market, Cost and Affordability chapter and appendix A), and has estimated the number of affordable units needed for each community (Housing Supply Projections chapter) to accommodate fair share throughout the region. This section will attempt to shed light on the current regulations which govern our local municipalities.

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## REGIONAL MATRIX OF REGULATIONS

The following matrix identifies which workforce housing provisions have been implemented within each member municipality. To varying degrees, each municipality addresses their need for affordable/workforce housing in a number of different manners. All the municipalities have allowed for the opportunity for workforce housing development in the majority of their residential zones, most commonly through the permitted use of accessory dwelling units, clustered housing or multi-family development.

Residential Zoning Ordinances Across the NRPC Region									
	Accessory Units	Age-Restricted	Cluster/Open Space	Inclusionary	Manufactured/Mobile Home	Multi-family	Workforce Housing Specific Regulations	Workforce-Related Density Bonuses	Workforce-Related Modified Lots
Amherst	X	X	X	X	X	X	X	X	X
Brookline	X	X	X	X	X	X	X	X	X
Hollis	X	X	X	X	X	X	X	X	X
Hudson	X	X	X		X	X			
Litchfield	X		X		X	X			X
Lyndeborough	X		X		X				
Mason	X				X	X			
Merrimack	X	X	X		X	X			
Milford	X		X		X	X			
Mont Vernon	X	X			X	X			X
Nashua	X	X	X	X	X	X		X	X
Pelham	X		X		X	X		X	X
Wilton	X	X	X		X	X			

However, there are significant differences among the municipalities. Some have very comprehensive regulations that directly addressed multiple aspects of workforce housing regulations. Communities such as Amherst, Brookline and Hollis have dedicated individual chapters to defining workforce housing, including those which identify specific income ranges which would qualify, minimum percentage of total units which should be reserved for workforce qualified households, and density bonuses and reduced lot requirements for the inclusion of workforce housing units.

Other municipalities went with a more universal strategy for allowing for the reasonable and realistic opportunity for workforce housing. They included generalized regulations which allow for accessory dwelling units, housing for older persons, manufactured housing and multi-family structures. As these alternative types of housing were indicated in the last chapter as regulatory options for meeting local needs of affordability, they do not always result in housing for those categorized within the 60%-100% AMI range. However, in theory, they typically reduce the need for infrastructure and closely resemble the region’s need for smaller, 2-3-bedroom units – so this could be considered reasonable and realistic.

Across the entire region and within each alternative housing type and its associated regulations, there were varying aspects which further defined each type, like lot requirements and qualified zoning. More specifically, they varied on a few key points:

- Accessory Housing
  - Attached or detached to primary unit
  - Required to owner-occupied
  - Allowed by-right or conditional use
- Age-Restricted Housing
  - Threshold of 55 or 62 years old
  - Maximum number of units
  - Potential for density bonuses or if restricted to the underlying zoning
- Clustered Housing
  - Percentage of reserved open space, configuration of site, shared amenities
  - Potential for density bonuses or if restricted to the underlying zoning
  - Reference to a percentage of workforce units
- Inclusionary Housing/ Workforce Housing Specific Regulations
  - Percentage of units set aside for workforce qualified households
  - Level of density bonus increases
  - Architectural design and continuity within neighborhoods
- Manufactured/Mobile Housing
  - Reserved to designated parks or not
  - Allowable number of units and unit size
  - Temporary and/or permanent, any associated permitting
- Multi-Family Housing
  - Qualifying number of units to be considered a multi-family structure
  - Alignment with State definition for multi-family workforce housing
  - Architectural design and continuity within neighborhoods

In general, there was a wide range of strategies for encouraging and regulating affordable/workforce housing across the region. The most significant difference was in not the housing types which were being regulated, but rather, the level of intent, and specificity, which they were created and how they direct relate back the State's definition of workforce housing – i.e. how each community addressed income specific thresholds, density increases and/or allowable lot modifications. Some communities may be more defined and clearer with their regulations where others may be more relaxed and open to interpretation. It may be that the region as a whole should establish some common language and cultivate a cohesive strategy for regulating and fulfilling the need for workforce housing.

## CONCLUSIONS AND RECOMMENDATIONS

For some time now, the lack of affordable workforce housing has received extensive press coverage in New Hampshire, and there has been a number of interested parties who have come together in the context of conferences, forums, coalitions and committees at the local, regional, and statewide level to discuss, understand and implement possible solutions. Elected officials, local advocates, associations and even residents have identified the lack of workforce housing as a serious threat to the state's economy and demographic diversity. Some economic studies have cited that the tight workforce housing market may limit New Hampshire's to add new, essential and/or high-paying jobs, and a reduction of millions to the State's GDP and revenues. Furthermore, there has been increasing pressure in some areas within the region due the expanding challenges the Greater Boston area is also experiencing. For much of the past two decades, demographic research has shown a net loss in the number of young people and its entry level workers. However, in recent years, there is indication of a reversing trend which could emphasize the importance to continue the momentum, provide housing and retain that workforce and tax base.

As the need and awareness becomes more apparent, some towns, land use boards and local organizations have been making these developments a reality. In August of 2018, the Town of Merrimack Planning Board approved a site plan application from NeighborWorks Southern New Hampshire for the development of an 8-acre, 45-unit townhouse project along the DW Highway. The townhouses, slated for completion by October 2020, are planned to be offered as affordable housing options for low- and moderate-income families and individuals (Town of Merrimack, 2018; Houghton, Kimberly, 2019).

More recently, in June of 2019, the Town of Hudson Planning Board approved the subdivision and site plan of "Friars Court" along Lowell Road for the 11-acre development of workforce housing. It was noted in June 26<sup>th</sup>, 2019 Planning Board minutes that 75% of the proposed 81-unit development would be reserved as workforce housing units under the State's definition while the remaining 25% would be offered at market rate (Town of Hudson, 2019).

This attitude is further supported by NHHFA Executive Director Dean Christon when considering the relationship between the state's housing needs and economic prosperity.

"While the growth of our statewide median income offers a reassuring reflection of the state's economy, it also adds weight to the questions about where our workforce will live. There remains a significant challenge getting people to understand that for the economy to continue to flourish, you need a balanced level of housing" (Currie, 2019).

As recently as mid-2019, Governor Sununu formed a task force made up of the Governor's Office staff, state and local officials, and industry experts, to work together on recommendations to address what has become of New Hampshire's housing crisis (Office of the Governor, 2019). The Task Force's three key recommendations focus on:

- 1.) Enhancing local control by providing greater learning opportunities to local boards, emphasizing planning to define and plan for growth, enhancing cities and towns' capacity by providing a toolbox for zoning/planning tools and models;

- 2.) Improving process predictability for everyone by streamlining existing approval processes to ensure predictability, creating a fair and predictable appeals process, requiring all development fees to be public and transparent, improving definition of workforce housing and ensuring fairness in housing incentives.
- 3.) Accelerating investment in housing by expanding the use of Tax-Increment Financing (TIF) districts and Community Revitalization Tax Relief Program (NH RSA 79-E), using tax restricting to incentivize investment, establishing a housing champion certification program to incentivize housing development

The lack of affordable workforce housing has become an undeniably major influence on the economy and demographic diversity of our State and communities – our future growth will greatly depend on our ability to supply affordable workforce housing.

## MEASURING PROGRESS

### SHIFTING DEMOGRAPHICS AND HOUSEHOLDS

The region has experienced slow population growth since 2010 with most of that growth coming from those who are 55 years or older. There were significant decreases in workforce age groups, especially those 35-44 years old. Consequently, the region also experienced a significant decrease in the number of children. There were slight gains for people aged 20-24 years old which may indicate slight momentum toward attracting a younger workforce. In addition, the composition of the region's population is continuing to diversify as the largest net population gains were for Hispanics or Latinos and those of two or more races.

Household composition continued to shift toward more non-traditional families as married couples, single-parent fathers and families with children were the only groups who experienced net declines since 2010. Most households (over half) in the region are made up of 1- or 2-persons, while nearly three-quarters of all households are 3-persons or less. A trend toward these smaller households was evident as all three categories saw significant net increases. Like the aging population, the age of households had massive gains for those 55 years or older and substantial decreases for those 35-44 years old.

There is a broad range of housing options in the region, but current housing stock may not match housing references or future needs. Many elderly residents in the region are looking to age in place for as long as possible and for those who can't, new questions arise. Who will buy their larger homes? Will they be able to find a supportive living environment? The elderly, young adults, low income families, minorities, and new Americans alike are all in search of opportunities to maximize their home value and maintain access to transportation, supportive services, employment, shopping, and entertainment options. Many in the region called for greater flexibility in land use and zoning regulation to encourage smaller homes or accessory apartments to help meet shifting demands.

Benchmarks:

- **132%** projected increase in the region's senior population from 2010 to 2040.

- **14%** of the region’s population is over age 65 – up from 11% in 2010.
- **25%** of the region is projected to be over 65 by 2040.
- **5,877** decrease in the number of children from 2010 to 2017.
- **6,035** decrease in the number of adults aged 35-44 from 2010 to 2017.
- **59%** of all households are comprised 2 or fewer persons.
- **77%** of all households are comprised of 3 or fewer persons.
- **44%** of all households are comprised of non-family living situations or single parents.
- **8%** decrease in the total number of families with children in the region from 2010 to 2017.
- **23%** of persons in the region live alone – up from 13% in 2010.

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## RECOVERING CONSTRUCTION, SHIFT TOWARD MULTI-FAMILY UNITS

As significant increases in older populations continue to rise and slight net increases for the youngest adults are gaining momentum, how has the region supplied housing to fit the needs of smaller households? The slow recovery from the Great Recession nearly 10 years ago has indicated a noticeable shift in the type of housing the region is producing. However, production has only just barely hit pre-recession levels and has yet to make up for the lost production of the previous decade. Housing stock remains low and the region will need to continue to improve and maintain production to adequately supply the region. We must ask if there are ways, we can craft legislation to help support this housing need. Can we strategically increase stock where these population prefer to reside – near employment centers, entertainment, transportation, amenities and services? Are there strategies for enabling developers to produce smaller homes and still turn a profit in the face of rising development costs?

Benchmarks:

- **37%** of the region’s housing supply is multi-family.
- **64%** of the region’s multi-family housing stock is located in the City of Nashua.
- **3,544** building permits have been issued since 2010, nearing pre-recession annual rates.
- **2,399** housing units were constructed for single-family, 2-unit and 20 plus unit structures – all roughly accounted 800 units each year since 2010.
- **46%** of building permit activity has been for multi-family units since 2011 – compared to 39% in the previous 6-year period (2006-2011) and 24% in the period (2000-2005) before that.
- **30%** of all housing units were renter occupied – up from 27% in 2010.
- **8%** of homes are owned by minorities – up from 5% in 2010.
- **13%** of renter-occupied unit are inhabited by minorities – down from 14% in 2010.
- **23%** of all homes in the region were built before 1960.
- **10%** of residents in the region have some form of a disability.
- **2,373** assisted housing units are within the region.
- **78%** of all assisted housing units are within the City of Nashua.

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## TIGHT HOUSING MARKET, HIGH COST BURDENS

For many in the region, housing is affordable; household incomes in the region are high compared to other areas. However, housing costs and availability vary significantly by community, and the region continues to be impacted by a tight housing market. Lack of stock, rising rent and purchase prices and increasing student loan debt burdens make home ownership a challenge for many. Access to affordable housing in the NRPC region is also limited by transportation and credit issues and many young adults in the region are unable to find affordable rental housing near employment opportunities. Additionally, residents with a disability have limited accessible housing choices where most of the single-family housing supply is made up of older multi-storied homes. Large lot size requirements and restrictive zoning have often been cited as impediments to providing a greater diversity of housing options. Benchmarks:

- **\$106,300** median income in Nashua, NH HMFA in 2018 for households earning 100% AMI.
- **\$352,500** estimated maximum affordable purchase price for households earning 100% AMI in 2018.
- **3.7-month** absorption rate for homes for purchase.
- **74%** of homes for sale in 2018 were affordable to households earning 100% AMI.
- **25%** of all homeowners were cost burdened.
- **\$57,400** median income in Nashua, NH HMFA for households earning 60% AMI.
- **<2%** vacancy rate for rental units.
- **\$1,440** estimated maximum affordable rent for household earning 60% AMI.
- **63%** of rental units in 2018 were affordable to households earning 60% AMI.
- **46%** of all renters were cost burdened.

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## LOCATION, LOCATION, LOCATION

Without question, residents love the combination of the region's rural character and small-town feel coupled with more urban amenities including businesses, economic development, jobs, and cultural offerings. While many residents want more walkable neighborhoods and mixed-use development, more than half wish to live in purely residential neighborhoods. Slightly more than half of residents (55%) in the region said they would prefer to live in a small home with a short commute rather than a large home with a long commute. There is a large share of assisted housing in the region; however, there is concern that is concentrated in a few neighborhoods where crime rates are often higher. That said most of the region's affordable housing is conveniently located to employment centers and transit.

### Benchmarks

- **64%** of residents prefer residential neighborhoods to mixed use neighborhoods
- **43%** of NRPC residents live near transit.
- **28%** of all homes in the region are within a half mile of a community center or downtown.



## PRIORITY PROJECT RECOMMENDATIONS

### **Development technical resources to help communities measure their regional housing needs**

*Description:* There are several technical assistance products that NRPC can develop to help communities measure and meet their regional housing needs. This housing needs assessment lays the groundwork for measuring housing needs. Data is regularly updated and markets continually changing. NRPC can continue to track trends and regularly provide data update bulletins.

*Implementation Strategy:* Publish a concise housing report for the region based on a multitude of measurements and indicators included within this and previous assessments. Also include new updates to housing policies, municipal ordinance changes, housing developments and initiatives.

*Frequency/Timeline:* Annual, first report to be published July 2020.

### **Develop a template process for communities to audit their regulations**

*Description:* Building upon regular data updates, once communities have established their quantitative projected needs the next step is to audit existing ordinance to discern whether it is feasible to meet projected needs and amend where needed. NRPC can develop template audit or process checklist that communities could use to assess their existing regulatory framework to ensure the existing language meets the objectives of the Workforce Housing Law.

*Implementation Strategy:* Work with individual communities to formalize a process for recording workforce qualified housing through annual Town Reports (i.e. standardize the categorization building permits reporting or Planning Board plan approvals). Create and maintain a database that tracks workforce qualified housing. Create a template questionnaire which town boards could verify compliance to Workforce Housing Law.

*Frequency/Timeline:* On-going, template process and questionnaire to be completed by September 2020.

### **Development model ordinances to help communities meet their regional housing needs**

*Description:* Once a community has established their projected needs and conducted an audit of existing ordinances to the next step is to amend or adopt new regulations where needed. NRPC can develop model ordinances and accompanying technical guidance to help communities take that next step toward implementation. This might include updating the Inclusionary Housing Ordinance currently found in the Innovative Land Use Handbook, a model multi-family housing ordinance, or even compiling basic regulatory quick fixes towns can apply to existing districts to minimize the cumulative impact of regulations on housing costs.

*Implementation Strategy:* For the immediate future, NRPC may utilize the existing resources such as NHDES's Innovative Land Use Handbook, NHHFA's Housing Solutions and Accessory Dwelling Unit Guides, and its own fact sheets. In time and as resources allow, NRPC could explore updating or drafting, workforce-housing-specific fact sheets and model ordinances. The drafting new and updating of existing

model ordinances should be done in conjunction with the NH Municipal Association, NHHFA and others as necessary.

*Frequency/Timeline:* On-going, initial fact sheets to be completed by January 2021 with more to follow as needed; model ordinance updates (inclusionary and ADUs) to be completed by June 2022 with more to follow as needed – potentially target multi-family structures which qualify as workforce housing for June 2023.

### **Illustrate well designed affordable and multi-family housing and how it can be achieved**

*Description:* One of the greatest impediments to adopting regulations that allow for affordable, workforce, or multi-family is the fear that it will be unattractive. There are many superb examples of such housing across the state and region that could illustrate the types of attractive housing that could be developed and meet local housing needs. To support, NRPC can develop design guidelines and case studies of well-designed housing developments in the region. This can be supplemented with model ordinances such as design guidelines, form-based codes and performance zoning model ordinances.

*Implementation Strategy:* Collect examples and case studies to be published with or integrated into fact sheets. Expand upon design guidelines and incorporate with model ordinances.

*Frequency/Timeline:* On-going, examples and case studies to be completed for January 2021; design guidelines to be completed with associated model ordinances by June 2022.

### **Map community key destinations and assets that enhance access to opportunity for residents**

*Description:* Residents in the NRPC region have identified access to amenities a key attraction to living in the NRPC region. Additionally, such features are indicative to locations where residents have greater access to opportunity. Mapping key destinations, recreation facilities and public spaces and identifying opportunities to access natural resources and open space will provide communities and decision makers with more complete information on key attractions in their region. Further the data can be used to analyze the various fiscal impacts of disperse versus more village like development patterns.

*Implementation Strategy:* Identify “key destinations” based historical feedback from public outreach, master plans, new developments and academic sources. Organize existing and new spatial data into a regional map which displays key destinations. Integrate key destinations into NRPC’s geographic information system platform and potentially create regional and municipal story maps for print.

*Frequency/Timeline:* On-going, to be partially completed as possible or fully completed by December 2024

### **Collaborate with City of Nashua’s Urban Programs to share programs of regional interest**

*Description:* Several of the projects that the City of Nashua’s Urban Programs Department has undertaken to fulfill the identified actions in the City’s Analysis of Impediments to Fair Housing are applicable to and of potential interest to several communities in the region. NRPC can identify transferable initiatives,

particularly education, outreach and technical assistance related, and work to share information and resources with other communities in the region. One such program is the Lead Paint program which has valuable education resources that would be of interest in numerous communities given the region's relatively older housing stock, particularly in rental housing.

Implementation Strategy: Schedule meetings/discussions between the two organizations on a regular and semi-frequent basis. Include a section in the 2024 Regional Housing Needs Assessment which reports on the interaction and results of the collaboration.

Frequency/Timeline: Quarterly meetings/discussions with on-going collaboration

### **Further education and outreach programs to promote affordable housing in the region**

*Description:* There are several existing initiatives in the region to promote affordable housing. Rather than establish duplicative efforts, NRPC can partner with local governments and non-profits to build upon existing efforts. For example, NRPC can collaborate with the City of Nashua to support area wide initiatives for workforce housing, to create diverse housing opportunities throughout the region. Another would be to assist and support fair housing education efforts, such as those provided by NH Legal Services and NeighborWorks Southern NH. Additionally, the Commission can promote Neighborworks Southern New Hampshire home buyer counselling programs.

Implementation Strategy: NRPC can identify education outreach programs across the region and consolidate these events into a centralized calendar on the NRPC website. Additionally, NRPC may conduct roundtable discussions with local boards and committees with specific emphasis on workforce housing.

Frequency/Timeline: As possible and on-going



APPENDIX A: DETAILED TABLES

NHOSI'S INDIVIDUAL MUNICIPAL POPULATION PROJECTION

Municipality	2000 Census	2010 Census	Total Projected Population					
			2015	2020	2025	2030	2035	2040
<b>Amherst</b>	10,769	11,201	11,276	11,374	11,520	11,743	11,882	11,931
<b>Brookline</b>	4,181	4,991	5,168	5,452	5,767	5,878	5,948	5,972
<b>Hollis</b>	7,015	7,684	7,754	7,931	8,145	8,302	8,401	8,435
<b>Hudson</b>	22,928	24,467	24,781	25,232	25,799	26,297	26,610	26,718
<b>Litchfield</b>	7,360	8,271	8,395	8,662	8,972	9,145	9,254	9,291
<b>Lyndeborough</b>	1,585	1,683	1,702	1,730	1,765	1,799	1,820	1,828
<b>Mason</b>	1,148	1,382	1,391	1,452	1,520	1,550	1,568	1,574
<b>Merrimack</b>	25,119	25,494	25,427	25,362	25,398	25,889	26,196	26,303
<b>Milford</b>	13,535	15,115	15,212	15,609	16,089	16,393	16,588	16,655
<b>Mont Vernon</b>	2,034	2,409	2,478	2,602	2,741	2,794	2,827	2,838
<b>Nashua</b>	86,605	86,494	87,551	87,626	88,057	89,759	90,826	91,195
<b>Pelham</b>	10,914	12,897	13,117	13,698	14,352	14,269	14,803	14,863
<b>Wilton</b>	3,743	3,677	3,678	3,642	3,619	3,689	3,733	3,748
<b>NRPC Region</b>	196,935	205,765	207,930	210,372	213,744	217,507	220,456	221,351

(NHOSI, 2016)

NRPC INDIVIDUAL MUNICIPAL POPULATION PROJECTION

Individual Municipal Population Projections in NRPC Region 2015-2040								
Municipality	Projected Population						Annual Growth Rate	
	2015	2020	2025	2030	2035	2040	2010-40	2010-20
Amherst	11,346	11,452	11,550	11,563	11,579	11,121	0.09%	0.22%
Brookline	5,185	5,470	5,681	5,857	5,984	6,060	0.65%	0.92%
Hollis	7,790	8,034	8,226	8,380	8,534	8,648	0.39%	0.45%
Hudson	25,141	25,692	26,119	26,369	26,581	26,596	0.28%	0.49%
Litchfield	8,541	8,808	9,087	9,312	9,571	9,764	0.55%	0.63%
Lyndeborough	1,730	1,798	1,826	1,837	1,819	1,790	0.21%	0.66%
Mason	1,437	1,524	1,565	1,587	1,577	1,548	0.38%	0.98%
Merrimack	25,696	25,949	26,312	26,380	26,908	27,120	0.21%	0.18%
Milford	15,553	16,203	16,629	17,146	17,756	17,738	0.53%	0.70%
Mont Vernon	2,496	2,635	2,731	2,814	2,873	2,901	0.62%	0.90%
Nashua	86,937	88,166	89,593	90,457	90,759	90,360	0.15%	0.19%
Pelham	13,359	13,905	14,357	14,723	15,063	15,282	0.57%	0.76%
Wilton	3,776	3,871	3,928	3,958	3,954	3,921	0.21%	0.52%
<b>NRPC Total</b>	<b>208,987</b>	<b>213,507</b>	<b>217,605</b>	<b>220,381</b>	<b>222,959</b>	<b>223,249</b>	<b>0.27%</b>	<b>0.37%</b>

(NRPC, 2014)

AMHERST

Age Groups	2000 Census	2010 Census	Total Projected Population					
			2015	2020	2025	2030	2035	2040
0 to 4	664	552	490	518	559	589	628	628
5 to 9	929	742	564	513	565	606	665	704
10 to 14	1,136	991	754	589	563	614	686	745
15 to 19	931	878	987	747	576	550	594	666
20 to 24	236	397	848	928	635	464	370	414
25 to 29	288	338	395	843	921	629	456	362
30 to 34	533	401	367	454	959	1,037	821	649
35 to 39	938	559	420	406	532	1,035	1,162	947
40 to 44	1,205	869	565	435	440	565	1,086	1,213
45 to 49	1,063	1,126	862	561	435	440	566	1,083
50 to 54	944	1,196	1,104	838	531	406	396	521
55 to 59	678	949	1,164	1,068	795	494	356	346
60 to 64	440	801	914	1,118	1,014	749	444	311
65 to 69	287	581	756	858	1,041	942	676	386
70 to 74	218	371	532	691	779	948	850	605
75 to 79	136	215	321	460	597	675	820	735
80 to 84	88	145	171	256	367	476	541	656
85+	55	90	134	169	241	344	461	550
<b>TOTAL</b>	<b>10,769</b>	<b>11,201</b>	<b>11,346</b>	<b>11,452</b>	<b>11,550</b>	<b>11,563</b>	<b>11,579</b>	<b>11,521</b>

BROOKLINE

Age Groups	2000 Census	2010 Census	Total Projected Population					
			2015	2020	2025	2030	2035	2040
0 to 4	385	280	252	274	287	298	311	318
5 to 9	437	476	302	319	318	331	341	353
10 to 14	406	515	492	350	351	350	361	371
15 to 19	260	408	511	480	342	343	342	354
20 to 24	87	170	378	423	422	284	287	286
25 to 29	122	168	159	344	400	399	262	265
30 to 34	321	205	182	201	372	428	425	289
35 to 39	560	322	229	255	250	419	473	470
40 to 44	490	467	338	282	290	284	451	505
45 to 49	347	624	472	362	297	305	299	464
50 to 54	255	502	618	473	362	298	306	300
55 to 59	191	309	488	595	457	349	286	293
60 to 64	111	216	296	463	570	437	332	270
65 to 69	77	143	202	269	432	535	408	308
70 to 74	42	81	129	180	244	394	489	372
75 to 79	50	57	70	110	155	210	340	424
80 to 84	18	23	44	53	85	122	164	267
85+	22	25	24	36	47	73	108	149
<b>TOTAL</b>	<b>4,181</b>	<b>4,991</b>	<b>5,185</b>	<b>5,470</b>	<b>5,681</b>	<b>5,857</b>	<b>5,984</b>	<b>6,060</b>

HOLLIS

Age Groups	2000 Census	2010 Census	Total Projected Population					
			2015	2020	2025	2030	2035	2040
0 to 4	459	296	267	317	353	376	389	381
5 to 9	634	475	354	385	423	458	499	513
10 to 14	668	695	535	477	495	533	587	628
15 to 19	443	629	680	505	450	468	501	556
20 to 24	143	237	492	402	257	201	177	211
25 to 29	148	177	231	481	392	247	190	167
30 to 34	362	190	323	529	747	659	560	503
35 to 39	726	319	287	521	706	923	865	767
40 to 44	764	583	361	374	598	781	1,010	953
45 to 49	679	933	583	367	380	601	784	1,011
50 to 54	650	808	892	518	312	324	533	714
55 to 59	484	690	759	809	450	247	249	453
60 to 64	276	580	643	684	737	389	185	187
65 to 69	197	422	524	555	600	650	312	117
70 to 74	149	259	374	455	486	528	570	259
75 to 79	103	166	221	318	390	417	452	489
80 to 84	63	122	137	186	261	319	342	371
85+	67	103	127	151	193	259	327	369
<b>TOTAL</b>	<b>7,015</b>	<b>7,684</b>	<b>7,790</b>	<b>8,034</b>	<b>8,226</b>	<b>8,380</b>	<b>8,534</b>	<b>8,648</b>

HUDSON

Age Groups	2000 Census	2010 Census	Total Projected Population					
			2015	2020	2025	2030	2035	2040
0 to 4	1,704	1,441	1,423	1,383	1,370	1,379	1,430	1,439
5 to 9	1,882	1,648	1,456	1,454	1,430	1,418	1,475	1,527
10 to 14	1,880	1,837	1,664	1,489	1,505	1,481	1,519	1,577
15 to 19	1,469	1,772	1,831	1,654	1,476	1,491	1,455	1,493
20 to 24	972	1,204	1,730	1,750	1,535	1,357	1,258	1,222
25 to 29	1,299	1,249	1,198	1,721	1,739	1,526	1,345	1,246
30 to 34	2,071	1,439	1,285	1,277	1,838	1,857	1,768	1,588
35 to 39	2,459	1,799	1,460	1,335	1,354	1,912	2,014	1,926
40 to 44	2,276	2,216	1,800	1,475	1,363	1,382	1,974	2,075
45 to 49	1,656	2,319	2,196	1,785	1,466	1,354	1,377	1,963
50 to 54	1,557	2,133	2,278	2,149	1,737	1,422	1,288	1,310
55 to 59	1,120	1,512	2,079	2,212	2,077	1,673	1,338	1,207
60 to 64	774	1,305	1,458	1,999	2,122	1,991	1,578	1,254
65 to 69	588	872	1,234	1,371	1,878	1,996	1,848	1,455
70 to 74	463	627	800	1,129	1,250	1,716	1,815	1,679
75 to 79	352	447	545	694	979	1,082	1,485	1,573
80 to 84	209	328	355	435	553	778	863	1,180
85+	197	319	350	380	447	553	749	881
<b>TOTAL</b>	<b>22,928</b>	<b>24,467</b>	<b>25,141</b>	<b>25,692</b>	<b>26,119</b>	<b>26,369</b>	<b>26,581</b>	<b>26,596</b>



LITCHFIELD

Age Groups	2000 Census	2010 Census	Total Projected Population					
			2015	2020	2025	2030	2035	2040
0 to 4	682	442	429	435	460	484	517	522
5 to 9	754	634	462	469	498	524	581	614
10 to 14	690	740	655	505	536	565	626	683
15 to 19	481	679	734	644	488	520	540	600
20 to 24	248	385	630	636	492	337	290	310
25 to 29	389	300	382	625	628	485	328	281
30 to 34	729	364	350	485	785	788	731	574
35 to 39	910	573	396	418	592	890	950	893
40 to 44	754	813	585	425	464	636	958	1,018
45 to 49	581	878	807	583	427	465	639	957
50 to 54	472	710	856	776	544	390	412	582
55 to 59	253	541	684	815	724	498	328	350
60 to 64	156	518	515	644	761	673	440	275
65 to 69	95	296	483	471	582	693	594	372
70 to 74	79	185	268	435	418	520	615	524
75 to 79	44	98	159	231	375	360	447	529
80 to 84	29	74	79	130	188	302	294	363
85+	14	41	68	83	125	181	283	317
<b>TOTAL</b>	<b>7,360</b>	<b>8,271</b>	<b>8,541</b>	<b>8,808</b>	<b>9,087</b>	<b>9,312</b>	<b>9,571</b>	<b>9,764</b>

LYNDEBOROUGH

Age Groups	2000 Census	2010 Census	Total Projected Population					
			2015	2020	2025	2030	2035	2040
0 to 4	97	67	74	80	82	82	78	75
5 to 9	127	99	79	98	94	95	91	87
10 to 14	119	109	111	103	111	107	104	100
15 to 19	113	109	106	105	100	108	105	102
20 to 24	70	66	81	50	74	69	87	84
25 to 29	80	77	65	79	49	73	68	86
30 to 34	109	81	106	125	112	82	95	90
35 to 39	133	99	100	146	147	134	97	109
40 to 44	195	137	107	118	155	156	140	103
45 to 49	165	187	137	108	118	155	155	140
50 to 54	103	180	179	123	100	110	148	148
55 to 59	104	146	170	162	114	91	103	140
60 to 64	60	107	136	154	151	104	84	95
65 to 69	27	105	96	118	140	137	95	75
70 to 74	24	55	94	83	106	126	124	86
75 to 79	24	31	47	80	71	92	109	107
80 to 84	23	17	26	39	64	58	73	87
85+	12	11	17	26	38	59	63	75
<b>TOTAL</b>	<b>1,585</b>	<b>1,683</b>	<b>1,730</b>	<b>1,798</b>	<b>1,826</b>	<b>1,837</b>	<b>1,819</b>	<b>1,790</b>

MASON

Age Groups	2000 Census	2010 Census	Total Projected Population					
			2015	2020	2025	2030	2035	2040
0 to 4	65	58	58	65	63	62	62	62
5 to 9	88	117	63	69	72	69	67	66
10 to 14	77	73	118	65	70	73	70	68
15 to 19	73	78	70	112	62	66	70	68
20 to 24	39	52	71	57	105	54	61	65
25 to 29	44	53	47	62	52	99	50	57
30 to 34	73	77	62	66	72	63	106	58
35 to 39	118	89	88	84	79	85	72	115
40 to 44	143	100	96	102	92	86	91	77
45 to 49	130	154	109	115	112	103	94	98
50 to 54	101	165	158	121	121	118	107	98
55 to 59	56	128	163	157	119	120	117	106
60 to 64	43	104	126	161	154	118	117	115
65 to 69	39	51	99	119	153	147	112	112
70 to 74	24	46	49	96	112	144	137	105
75 to 79	16	21	37	37	80	94	123	117
80 to 84	9	9	15	26	27	61	72	96
85+	9	7	7	10	19	24	49	66
<b>TOTAL</b>	<b>1,147</b>	<b>1,382</b>	<b>1,437</b>	<b>1,524</b>	<b>1,565</b>	<b>1,587</b>	<b>1,577</b>	<b>1,548</b>

MERRIMACK

Age Groups	2000 Census	2010 Census	Total Projected Population					
			2015	2020	2025	2030	2035	2040
0 to 4	1,731	1,368	1,319	1,265	1,263	1,235	1,343	1,356
5 to 9	2,107	1,716	1,421	1,331	1,332	1,329	1,495	1,603
10 to 14	2,250	1,878	1,754	1,430	1,387	1,387	1,544	1,710
15 to 19	1,753	1,807	1,795	1,732	1,398	1,355	1,268	1,426
20 to 24	902	1,185	1,514	1,718	1,547	1,215	656	570
25 to 29	1,379	1,260	1,050	1,476	1,646	1,476	955	398
30 to 34	1,938	1,469	1,413	1,085	1,612	1,782	2,021	1,502
35 to 39	2,618	1,791	1,579	1,436	1,192	1,716	2,208	2,446
40 to 44	2,646	2,049	1,813	1,578	1,479	1,237	1,908	2,396
45 to 49	1,989	2,525	2,016	1,793	1,581	1,484	1,296	1,960
50 to 54	1,930	2,399	2,438	1,974	1,758	1,550	1,428	1,243
55 to 59	1,374	1,757	2,304	2,375	1,928	1,718	1,503	1,383
60 to 64	901	1,652	1,654	2,220	2,295	1,861	1,638	1,430
65 to 69	558	1,048	1,514	1,560	2,098	2,170	1,717	1,506
70 to 74	422	668	933	1,387	1,442	1,936	2,017	1,599
75 to 79	306	410	571	809	1,228	1,275	1,763	1,836
80 to 84	210	304	327	452	669	1,001	1,126	1,510
85+	105	208	281	329	456	653	1,022	1,248
<b>TOTAL</b>	<b>25,119</b>	<b>25,494</b>	<b>25,696</b>	<b>25,949</b>	<b>26,312</b>	<b>26,380</b>	<b>26,908</b>	<b>27,120</b>

MILFORD

Age Groups	2000 Census	2010 Census	Total Projected Population					
			2015	2020	2025	2030	2035	2040
0 to 4	984	898	878	876	888	905	927	911
5 to 9	1,072	1,068	914	943	916	962	1,014	954
10 to 14	1,103	1,113	1,091	1,008	1,001	1,023	1,121	1,054
15 to 19	893	1,057	1,109	1,079	1,000	986	1,002	1,115
20 to 24	595	810	1,002	895	947	759	630	911
25 to 29	946	851	800	971	875	913	710	616
30 to 34	1,145	899	903	1,021	1,103	1,125	1,284	801
35 to 39	1,339	1,107	925	1,021	1,090	1,236	1,324	1,329
40 to 44	1,246	1,233	1,117	988	1,056	1,161	1,343	1,344
45 to 49	995	1,377	1,232	1,151	1,006	1,097	1,224	1,349
50 to 54	865	1,182	1,352	1,192	1,120	965	1,042	1,197
55 to 59	621	914	1,149	1,289	1,146	1,059	889	1,005
60 to 64	434	810	883	1,104	1,244	1,101	1,012	858
65 to 69	349	608	776	862	1,063	1,208	1,083	972
70 to 74	310	421	568	743	811	1,011	1,160	1,011
75 to 79	250	264	364	484	640	693	860	1,005
80 to 84	189	258	217	319	403	541	601	693
85+	199	245	272	257	318	402	529	614
<b>TOTAL</b>	<b>13,535</b>	<b>15,115</b>	<b>15,553</b>	<b>16,203</b>	<b>16,629</b>	<b>17,146</b>	<b>17,756</b>	<b>17,738</b>

MONT VERNON

Age Groups	2000 Census	2010 Census	Total Projected Population					
			2015	2020	2025	2030	2035	2040
0 to 4	117	100	101	106	114	122	127	125
5 to 9	191	183	115	130	128	136	144	149
10 to 14	192	213	205	159	163	161	169	177
15 to 19	147	211	217	213	165	169	167	175
20 to 24	46	112	192	180	185	137	141	139
25 to 29	66	55	91	149	147	153	105	110
30 to 34	122	64	59	98	155	153	158	110
35 to 39	202	152	83	97	127	183	181	186
40 to 44	237	204	170	121	125	155	211	208
45 to 49	210	264	216	198	141	146	175	230
50 to 54	137	257	266	225	204	148	153	181
55 to 59	107	207	253	263	223	202	147	151
60 to 64	75	142	203	251	259	220	199	147
65 to 69	55	85	132	187	234	242	205	185
70 to 74	55	56	76	117	169	213	220	185
75 to 79	31	49	49	67	103	148	187	192
80 to 84	27	38	39	39	53	81	117	148
85+	17	17	30	33	36	46	69	102
<b>TOTAL</b>	<b>2,034</b>	<b>2,409</b>	<b>2,496</b>	<b>2,635</b>	<b>2,731</b>	<b>2,814</b>	<b>2,873</b>	<b>2,901</b>

## NASHUA

Age Groups	2000 Census	2010 Census	Total Projected Population					
			2015	2020	2025	2030	2035	2040
			<b>0 to 4</b>	5,644	5,472	5,509	5,364	5,288
<b>5 to 9</b>	6,307	5,235	5,292	5,445	5,359	5,283	5,181	5,053
<b>10 to 14</b>	6,147	5,018	5,027	5,222	5,442	5,357	5,280	5,178
<b>15 to 19</b>	5,281	5,642	4,796	4,950	5,216	5,436	5,349	5,272
<b>20 to 24</b>	5,001	5,836	5,539	4,755	4,939	5,205	5,435	5,348
<b>25 to 29</b>	6,600	6,050	6,082	5,608	4,743	4,927	5,238	5,468
<b>30 to 34</b>	7,133	5,879	6,334	6,160	5,591	4,730	4,963	5,273
<b>35 to 39</b>	7,863	5,989	5,663	6,241	6,131	5,565	4,708	4,941
<b>40 to 44</b>	7,379	6,343	5,728	5,553	6,201	6,092	5,526	4,675
<b>45 to 49</b>	6,332	7,075	6,069	5,602	5,499	6,141	6,032	5,472
<b>50 to 54</b>	5,481	6,666	6,800	5,925	5,521	5,421	6,056	5,949
<b>55 to 59</b>	4,185	5,683	6,385	6,609	5,800	5,405	5,313	5,934
<b>60 to 64</b>	3,210	4,627	5,316	6,123	6,403	5,619	5,237	5,149
<b>65 to 69</b>	2,800	3,280	4,208	4,993	5,826	6,092	5,347	4,982
<b>70 to 74</b>	2,496	2,350	2,874	3,826	4,598	5,364	5,614	4,928
<b>75 to 79</b>	2,049	2,052	1,983	2,479	3,327	3,996	4,675	4,891
<b>80 to 84</b>	1,462	1,693	1,615	1,567	1,962	2,630	3,174	3,710
<b>85+</b>	1,235	1,604	1,716	1,746	1,745	2,010	2,575	3,157
<b>TOTAL</b>	<b>86,605</b>	<b>86,494</b>	<b>86,937</b>	<b>88,166</b>	<b>89,593</b>	<b>90,457</b>	<b>90,759</b>	<b>90,360</b>

## PELHAM

Age Groups	2000 Census	2010 Census	Total Projected Population					
			2015	2020	2025	2030	2035	2040
			<b>0 to 4</b>	804	729	708	715	726
<b>5 to 9</b>	891	951	757	765	770	781	816	845
<b>10 to 14</b>	914	1,073	989	835	841	845	874	909
<b>15 to 19</b>	772	906	1,074	993	838	844	850	878
<b>20 to 24</b>	433	582	857	976	898	744	729	734
<b>25 to 29</b>	531	516	544	781	902	824	655	640
<b>30 to 34</b>	860	606	539	593	828	948	882	713
<b>35 to 39</b>	1,191	935	662	655	705	938	1,085	1,019
<b>40 to 44</b>	1,128	1,184	977	754	745	794	1,047	1,193
<b>45 to 49</b>	820	1,363	1,200	1,023	800	791	852	1,103
<b>50 to 54</b>	749	1,193	1,357	1,209	1,034	814	811	871
<b>55 to 59</b>	554	793	1,168	1,328	1,184	1,013	798	794
<b>60 to 64</b>	413	708	768	1,131	1,286	1,146	980	772
<b>65 to 69</b>	276	473	668	719	1,065	1,213	1,077	920
<b>70 to 74</b>	228	337	432	609	656	974	1,109	983
<b>75 to 79</b>	171	251	296	385	538	578	857	974
<b>80 to 84</b>	121	166	199	236	307	428	459	680
<b>85+</b>	58	131	164	199	235	299	406	468
<b>TOTAL</b>	<b>10,914</b>	<b>12,897</b>	<b>13,359</b>	<b>13,905</b>	<b>14,357</b>	<b>14,723</b>	<b>15,063</b>	<b>15,282</b>

WILTON

Age Groups	2000 Census	2010 Census	Total Projected Population					
			2015	2020	2025	2030	2035	2040
0 to 4	239	195	210	211	214	217	222	227
5 to 9	307	234	196	213	213	216	219	224
10 to 14	295	280	239	206	220	220	223	226
15 to 19	246	226	276	232	200	215	215	218
20 to 24	155	172	219	263	222	191	205	205
25 to 29	178	197	170	216	260	219	188	202
30 to 34	279	172	200	176	220	265	223	192
35 to 39	357	238	178	212	185	229	273	232
40 to 44	338	290	240	183	215	189	232	276
45 to 49	316	358	290	243	185	217	191	234
50 to 54	313	337	356	292	244	187	219	192
55 to 59	184	307	332	353	289	242	186	217
60 to 64	131	235	295	317	338	276	230	177
65 to 69	120	152	224	282	303	323	264	220
70 to 74	110	93	141	208	260	280	298	244
75 to 79	74	99	83	127	184	230	247	262
80 to 84	62	44	78	65	101	145	181	195
85+	39	48	49	74	74	98	138	176
<b>TOTAL</b>	<b>3,743</b>	<b>3,677</b>	<b>3,776</b>	<b>3,871</b>	<b>3,928</b>	<b>3,958</b>	<b>3,954</b>	<b>3,921</b>

NRPC REGION

Age Groups	2000 Census	2010 Census	Total Projected Population					
			2015	2020	2025	2030	2035	2040
0 to 4	13,575	11,898	11,717	11,610	11,667	11,680	11,866	11,810
5 to 9	15,726	13,578	11,973	12,135	12,117	12,208	12,587	12,691
10 to 14	15,877	14,535	13,634	12,437	12,684	12,716	13,165	13,424
15 to 19	12,862	14,402	14,186	13,446	12,311	12,552	12,460	12,923
20 to 24	8,927	11,208	13,554	13,034	12,258	11,016	10,326	10,500
25 to 29	12,070	11,291	11,213	13,355	12,756	11,969	10,550	9,897
30 to 34	15,675	11,846	12,124	12,271	14,394	13,916	14,037	12,342
35 to 39	19,414	13,972	12,069	12,829	13,089	15,266	15,413	15,380
40 to 44	18,801	16,488	13,896	12,387	13,224	13,518	15,979	16,038
45 to 49	15,283	19,183	16,188	13,891	12,447	13,298	13,683	16,063
50 to 54	13,557	17,728	18,653	15,814	13,588	12,153	12,898	13,306
55 to 59	9,911	13,936	17,097	18,036	15,305	13,108	11,612	12,382
60 to 64	7,024	11,805	13,207	16,368	17,335	14,685	12,477	11,039
65 to 69	5,468	8,116	10,918	12,365	15,416	16,349	13,739	11,612
70 to 74	4,620	5,549	7,269	9,958	11,330	14,154	15,017	12,581
75 to 79	3,606	4,160	4,748	6,281	8,667	9,849	12,366	13,135
80 to 84	2,510	3,221	3,300	3,801	5,040	6,943	8,007	9,953
85+	2,029	2,849	3,240	3,491	3,975	5,000	6,777	8,173
<b>TOTAL</b>	<b>196,935</b>	<b>205,765</b>	<b>208,987</b>	<b>213,507</b>	<b>217,605</b>	<b>220,381</b>	<b>222,959</b>	<b>223,249</b>

REGIONAL EMPLOYMENT AND WAGES

2005-2017 Employment in NRPC Region

	Total Employment			Change in Employment, 2005-2017	
	2017	2010	2005	Numeric	Percent
Government	9,754	9,995	10,085	-331	-3.3%
Federal Government	1,389	1,474	1,426	-37	-2.6%
State Government	677	675	611	66	10.8%
Local Government	7,688	7,846	8,049	-361	-4.5%
Total Private	88,326	81,053	89,201	-875	-1.0%
Goods Producing Industries	21,193	20,370	25,382	-4,189	-16.5%
Agriculture/Forestry/Fishing	47	n	90	-43	-47.8%
Mining	n	n	39	NA	NA
Construction	2,097	2,715	3,835	-1,738	-45.3%
Manufacturing	17,289	17,578	21,418	-4,129	-19.3%
Service Providing Industries	67,133	60,683	63,819	3,314	5.2%
Utilities	n	133	117	NA	NA
Wholesale Trade	3,641	3,725	4,126	-485	-11.8%
Retail Trade	16,389	15,238	16,859	-470	-2.8%
Transportation and Warehousing	1,634	1,665	1,832	-198	-10.8%
Information	1,663	1,778	1,829	-166	-9.1%
Finance and Insurance	6,102	5,099	7,099	-997	-14.0%
Real Estate and Rental and Leasing	910	914	1,238	-328	-26.5%
Professional and Technical Service	5,719	5,409	4,441	1,278	28.8%
Management of Companies/Enterprises	1,244	936	600	644	107.3%
Administrative and Waste Services	4,731	3,462	4,416	315	7.1%
Educational Services	1,142	1,269	1,415	-273	-19.3%
Health Care and Social Assistance	10,655	10,255	9,131	1,524	16.7%
Arts, Entertainment, and Recreation	1,258	1,234	1,067	191	17.9%
Accommodation and Food Services	7,481	6,643	6,681	800	12.0%

Other Services Except Public Admin	3,268	2,917	2,937	331	11.3%
Unclassified Establishments	5	8	31	-26	-83.9%
n = data does not meet disclosure standards					

(NHES, 2017)

**BUILDING PERMIT ACTIVITY**

<b>Residential Permits, Single Family</b>														
	<b>NPRC Region</b>	<b>Amherst</b>	<b>Brookline</b>	<b>Hollis</b>	<b>Hudson</b>	<b>Litchfield</b>	<b>Lyndeborough</b>	<b>Mason</b>	<b>Merrimack</b>	<b>Milford</b>	<b>Mont Vernon</b>	<b>Nashua</b>	<b>Pelham</b>	<b>Wilton</b>
2000	837	70	35	53	42	71	17	10	174	96	30	120	99	20
2001	737	50	44	42	112	13	20	29	87	64	29	115	109	23
2002	757	70	31	30	95	52	9	22	40	94	22	114	156	22
2003	793	64	35	25	113	50	20	18	76	88	18	141	119	26
2004	758	43	55	51	118	56	9	22	90	73	22	124	79	16
2005	575	55	49	15	96	41	10	19	35	58	19	113	38	27
2006	419	46	21	25	44	47	8	8	29	47	8	81	33	22
2007	272	25	22	9	26	14	4	5	15	27	5	88	28	4
2008	175	25	15	1	4	11	5	2	17	20	2	56	13	4
2009	195	8	14	4	17	35	1	4	27	14	4	47	13	7
2010	171	17	12	12	44	11	0	4	9	16	6	31	7	2
2011	142	12	7	4	13	6	5	2	15	15	6	52	5	0
2012	169	5	14	12	25	9	0	1	8	6	6	48	34	1
2013	261	1	26	19	50	16	2	0	14	16	7	76	30	4
2014	243	10	21	18	42	9	6	4	19	14	10	59	27	4
2015	297	14	22	15	71	15	3	1	17	28	5	54	50	2
2016	402	40	16	9	69	11	1	3	37	49	5	57	97	8
2017	411	31	16	16	75	2	1	7	37	63	12	53	90	8
<b>Total</b>	<b>7,614</b>	<b>586</b>	<b>455</b>	<b>360</b>	<b>1,056</b>	<b>469</b>	<b>121</b>	<b>161</b>	<b>746</b>	<b>788</b>	<b>216</b>	<b>1,429</b>	<b>1,027</b>	<b>200</b>



Residential Permits, Multi-Family														
	NPRC Region	Amherst	Brookline	Hollis	Hudson	Litchfield	Lyndeborough	Mason	Merrimack	Milford	Mont Vernon	Nashua	Pelham	Wilton
2000	103	0	0	3	6	0	0	0	11	0	0	71	10	2
2001	236	0	0	26	6	4	4	0	150	0	0	40	6	0
2002	251	0	6	35	118	12	1	0	31	46	0	0	2	0
2003	354	12	0	29	64	16	0	0	19	17	0	197	0	0
2004	159	0	2	9	22	10	0	0	0	71	0	41	0	4
2005	321	1	0	5	30	84	0	0	19	61	0	111	6	4
2006	197	2	0	0	64	0	0	0	54	1	0	67	7	2
2007	274	16	0	0	27	34	1	0	0	0	0	194	2	0
2008	201	0	0	-2	14	2	0	0	11	6	0	148	19	3
2009	91	0	0	0	17	0	0	0	7	4	-1	60	4	0
2010	39	0	0	0	0	2	0	0	10	2	0	12	13	0
2011	59	0	0	0	1	8	0	0	3	1	0	36	7	3
2012	340	28	0	1	7	8	0	0	6	0	0	289	3	-2
2013	194	0	0	0	11	6	0	0	3	0	0	164	10	0
2014	319	2	2	0	0	8	0	0	4	0	0	292	8	3
2015	70	0	0	0	8	0	2	0	0	0	0	56	6	-2
2016	195	2	2	0	4	2	0	0	2	1	0	182	0	0
2017	414	4	3	6	15	47	0	0	0	124	0	207	10	-2
Total	3,817	67	15	112	414	243	8	0	330	334	-1	2,167	113	15

Residential Permits, Manufactured Housing														
	NPRC Region	Amherst	Brookline	Hollis	Hudson	Litchfield	Lyndeborough	Mason	Merrimack	Milford	Mont Vernon	Nashua	Pelham	Wilton
2000	22	3	0	0	0	0	0	0	0	10	2	4	3	0
2001	10	0	0	0	0	0	0	0	2	7	1	0	0	0
2002	4	0	0	0	1	0	1	0	1	0	1	0	0	0
2003	3	0	0	0	0	0	0	0	2	0	1	0	0	0
2004	21	0	0	0	0	0	0	0	7	2	0	8	4	0
2005	1	1	0	0	0	0	0	0	0	1	-2	1	0	0
2006	2	1	0	0	0	0	0	0	0	0	0	0	0	1
2007	8	2	0	3	0	0	0	0	2	0	1	0	0	0
2008	-10	0	-1	0	0	0	0	0	0	0	1	-9	0	-1
2009	-1	0	0	0	-1	0	0	0	1	-1	0	0	0	0
2010	-10	0	0	0	0	0	0	0	0	-5	0	-6	0	1
2011	-7	0	0	0	-2	0	0	0	1	-3	0	-4	0	1
2012	0	0	0	0	0	0	0	0	1	-1	1	0	0	-1
2013	8	0	0	-1	0	0	0	0	2	0	0	7	0	0
2014	14	-1	0	0	4	0	0	0	0	0	0	11	0	0
2015	0	0	0	0	0	0	0	0	1	0	0	-1	0	0
2016	13	0	0	1	0	0	0	0	2	6	0	4	0	0
2017	0	0	0	0	0	0	1	0	0	1	0	-2	0	0
Total	78	6	-1	3	2	0	2	0	22	17	6	13	7	1

Residential Permits, Total Housing														
	NPRC Region	Amherst	Brookline	Hollis	Hudson	Litchfield	Lyndebo rough	Mason	Merrima ck	Milford	Mont Vernon	Nashua	Pelham	Wilton
2000	962	73	35	56	48	71	17	10	185	106	32	195	112	22
2001	983	50	44	68	118	17	24	29	239	71	30	155	115	23
2002	1,012	70	37	65	214	64	11	22	72	140	23	114	158	22
2003	1,150	76	35	54	177	66	20	18	97	105	19	338	119	26
2004	938	43	57	60	140	66	9	22	97	146	22	173	83	20
2005	897	57	49	20	126	125	10	19	54	120	17	225	44	31
2006	618	49	21	25	108	47	8	8	83	48	8	148	40	25
2007	554	43	22	12	53	48	5	5	17	27	6	282	30	4
2008	366	25	14	-1	18	13	5	2	28	26	3	195	32	6
2009	285	8	14	4	33	35	1	4	35	17	3	107	17	7
2010	200	17	12	12	44	13	0	4	19	13	6	37	20	3
2011	194	12	7	4	12	14	5	2	19	13	6	84	12	4
2012	509	33	14	13	32	17	0	1	15	5	7	337	37	-2
2013	463	1	26	18	61	22	2	0	19	16	7	247	40	4
2014	576	11	23	18	46	17	6	4	23	14	10	362	35	7
2015	367	14	22	15	79	15	5	1	18	28	5	109	56	0
2016	610	42	18	10	73	13	1	3	41	56	5	243	97	8
2017	825	35	19	22	90	49	2	7	37	188	12	258	100	6
Total	11,509	659	469	475	1,472	712	131	161	1,098	1,139	221	3,609	1,147	216

(NHOSI, 2018)

Median Home Purchase Price in NRPC Region					
Year	All Homes	Existing Homes	New Homes	Non-Condominiums	Condominiums
2018	\$285,000	\$285,000	\$360,000	\$312,000	\$210,000
2017	\$270,000	\$265,000	\$359,933	\$295,066	\$196,266
2016	\$255,000	\$251,000	\$361,233	\$280,000	\$186,733
2015	\$243,500	\$239,933	\$372,333	\$266,966	\$169,333
2014	\$232,766	\$228,000	\$320,333	\$254,933	\$169,933
2013	\$240,000	\$234,000	\$318,105	\$254,500	\$185,000
2012	\$220,000	\$216,000	\$287,000	\$235,000	\$165,093
2011	\$225,900	\$220,000	\$299,900	\$239,000	\$179,000
2010	\$239,000	\$230,500	\$300,900	\$255,000	\$187,000
2009	\$235,000	\$225,000	\$332,900	\$252,000	\$172,000
2008	\$262,000	\$249,900	\$349,900	\$281,050	\$192,500
2007	\$275,000	\$267,500	\$359,900	\$309,900	\$204,900
2006	\$277,000	\$265,500	\$354,865	\$305,474	\$208,000
2005	\$280,000	\$275,000	\$325,832	\$324,900	\$214,900
2004	\$261,000	\$252,500	\$325,000	\$298,500	\$197,900
2003	\$237,500	\$229,900	\$287,772	\$273,400	\$179,000
2002	\$219,000	\$207,000	\$284,000	\$246,000	\$159,500
2001	\$185,000	\$174,000	\$266,676	\$214,000	\$134,000
2000	\$160,000	\$149,000	\$229,713	\$179,900	\$110,900

(NHHFA, 2019)

## 2018 Median Gross Rental Cost

Year	All Units	0-Bedroom Units	1-Bedroom Units	2-Bedroom Units	3-Bedroom Units	4+-Bedroom Units
2018	\$1,419	\$1,035	\$1,283	\$1,566	\$1,592	\$2,035
2017	\$1,383	\$722	\$1,125	\$1,484	\$1,522	\$1,942
2016	\$1,253	\$712	\$1,093	\$1,336	\$1,496	\$1,579
2015	\$1,214	\$698	\$1,028	\$1,310	\$1,519	\$1,747
2014	\$1,137	\$672	\$1,023	\$1,210	\$1,491	\$1,817
2013	\$1,139	\$677	\$985	\$1,169	\$1,405	\$1,499
2012	\$1,120	\$650	\$953	\$1,179	\$1,432	\$1,695
2011	\$1,096	\$644	\$948	\$1,164	\$1,455	\$1,522
2010	\$1,090	\$628	\$875	\$1,189	\$1,391	\$1,499
2009	\$1,089	\$676	\$932	\$1,176	\$1,425	\$1,586
2008	\$1,082	\$650	\$884	\$1,124	\$1,406	\$1,483
2007	\$1,071	\$645	\$881	\$1,123	\$1,353	\$1,521
2006	\$1,048	\$675	\$900	\$1,101	\$1,379	\$1,533
2005	\$1,024	\$625	\$843	\$1,056	\$1,344	\$1,500
2004	\$1,021	\$657	\$878	\$1,042	\$1,262	#N/A
2003	\$984	\$580	\$862	\$1,019	\$1,257	#N/A
2002	\$949	\$547	\$832	\$974	\$1,130	#N/A
2001	\$923	\$495	\$796	\$945	\$1,100	#N/A
2000	\$834	\$585	\$730	\$874	\$1,009	#N/A

(NHHFA, 2019)

ANALYSIS OF AREAS OF CONCERN WITHIN THE NRPC REGION, 2012

Municipality	Census Tract	Population Age 75+	Minority Population	Single Parents with Children <18	Households without Access to a Vehicle	Persons Below Poverty Level	Limited English Proficiency*	Rent Exceeds 50% of Income*	Disabled Population*	Factors Indicating an Area of Concern
Amherst	151	4.0%	4.8%	6.2%	0.0%	2.1%	0.8%	5%	5.9%	0
Amherst	152	4.0%	6.2%	5.4%	1.8%	4.9%	0.0%	9%	8.4%	0
Brookline	180	2.1%	5.1%	6.9%	1.2%	2.9%	0.0%	6%	5.7%	0
Hollis	171	5.1%	5.8%	4.7%	3.3%	1.2%	1.0%	17%	8.7%	0
Hudson	121	3.6%	8.8%	8.5%	1.2%	1.0%	0.2%	15%	8.3%	0
Hudson	122	5.5%	8.4%	10.7%	2.3%	7.0%	1.1%	12%	13.4%	0
Hudson	123	4.4%	9.2%	8.4%	1.2%	4.1%	1.5%	<b>36%</b>	8.0%	0
Litchfield	131	2.6%	4.8%	8.6%	1.1%	4.8%	0.3%	<b>43%</b>	7.6%	0
Lyndeborough	195.01	3.5%	6.1%	7.0%	0.7%	4.9%	0.1%	7%	5.8%	0
Mason	185.02	2.7%	2.5%	4.9%	1.8%	10.9%	0.0%	18%	4.9%	0
Merrimack	141	6.3%	9.3%	10.9%	5.3%	7.7%	1.6%	26%	11.1%	0
Merrimack	142.01	2.3%	6.0%	5.5%	0.7%	2.3%	0.7%	12%	6.9%	0
Merrimack	142.02	3.1%	4.7%	7.6%	0.0%	1.0%	0.0%	0%	9.5%	0
Merrimack	143	3.1%	6.5%	6.0%	3.5%	1.5%	0.4%	33%	7.7%	0
Milford	161	4.6%	7.2%	10.8%	1.6%	4.7%	0.7%	10%	8.6%	0
Milford	162.01	6.8%	7.4%	11.4%	6.2%	8.5%	2.1%	14%	12.0%	0
Milford	162.02	3.0%	5.4%	8.4%	2.7%	3.2%	0.3%	30%	6.8%	0
Mont Vernon	195.02	4.3%	4.1%	5.5%	0.5%	4.2%	0.3%	<b>39%</b>	5.2%	0
Nashua	101	5.9%	11.5%	6.1%	1.2%	1.7%	0.0%	7%	9.1%	0
Nashua	102	3.1%	<b>24.8%</b>	10.6%	1.9%	6.7%	<b>3.7%</b>	14%	7.3%	1
Nashua	103.01	5.9%	13.4%	6.0%	1.3%	0.7%	1.2%	9%	7.6%	0
Nashua	103.02	<b>8.5%</b>	15.2%	7.3%	5.0%	2.6%	0.6%	10%	8.2%	1
Nashua	104	6.1%	12.8%	10.6%	6.3%	3.7%	4.2%	22%	8.5%	0
Nashua	105	3.0%	<b>31.3%</b>	<b>18.3%</b>	<b>13.8%</b>	<b>29.2%</b>	<b>13.1%</b>	<b>38%</b>	<b>25.7%</b>	<b>6</b>
Nashua	106	6.2%	<b>25.3%</b>	<b>17.4%</b>	<b>23.8%</b>	<b>27.2%</b>	1.8%	<b>38%</b>	<b>18.3%</b>	<b>6</b>
Nashua	107	<b>16.7%</b>	<b>26.4%</b>	7.7%	<b>36.7%</b>	<b>30.5%</b>	<b>12.0%</b>	27%	<b>25.9%</b>	<b>5</b>

Municipality	Census Tract	Population Age 75+	Minority Population	Single Parents with Children <18	Households without Access to a Vehicle	Persons Below Poverty Level	Limited English Proficiency*	Rent Exceeds 50% of Income*	Disabled Population*	Factors Indicating an Area of Concern
Nashua	108	4.4%	<b>39.7%</b>	<b>20.9%</b>	<b>23.7%</b>	<b>29.3%</b>	<b>10.4%</b>	<b>37%</b>	<b>20.5%</b>	<b>6</b>
Nashua	109	<b>8.7%</b>	18.5%	<b>14.3%</b>	5.8%	9.8%	<b>3.8%</b>	23%	10.1%	2
Nashua	110	7.0%	11.5%	6.6%	2.8%	7.1%	0.0%	6%	9.9%	0
Nashua	111.01	2.3%	<b>28.8%</b>	8.7%	2.8%	6.3%	<b>5.1%</b>	18%	8.6%	1
Nashua	111.02	6.0%	<b>33.6%</b>	7.8%	8.4%	6.6%	3.9%	18%	11.9%	1
Nashua	112	<b>8.5%</b>	21.8%	5.1%	4.8%	2.4%	2.2%	20%	7.2%	1
Nashua	113	<b>8.8%</b>	7.4%	5.5%	1.8%	3.4%	0.7%	0%	9.1%	1
Nashua	114.01	6.7%	15.7%	6.1%	8.7%	1.8%	0.3%	19%	12.2%	0
Nashua	114.02	2.5%	<b>26.1%</b>	9.3%	0.9%	3.5%	2.2%	19%	8.7%	1
Nashua	115	<b>8.9%</b>	8.1%	6.6%	6.9%	2.2%	1.0%	19%	<b>15.1%</b>	1
Pelham	2001	4.2%	5.3%	6.6%	1.8%	3.3%	1.5%	17%	5.9%	0
Pelham	2002	4.3%	5.0%	7.1%	1.1%	2.3%	0.7%	9%	6.5%	0
Pelham	2003	4.2%	5.7%	6.3%	4.2%	5.2%	0.5%	7%	9.0%	0
Wilton	190	5.2%	4.1%	9.4%	5.1%	7.1%	0.0%	21%	11.0%	0
NRPC Region		5.0%	12.5%	8.9%	5.0%	6.2%	1.8%	23%	9.8%	
Standard Deviation		2.7%	9.7%	3.7%	7.4%	7.9%	3.1%	11.4%	4.9%	
Concentration Threshold		7.7%	22.3%	12.6%	12.4%	14.1%	3.5%	34.4%	14.7%	
U.S. Census Bureau Sources:		2010 Census, SF-1			U.S. Census Bureau, 2008-2012 American Community Survey					
Table:		QTP1	P5	P21	B25045	S1701	B16004	B25070	S1810	

\* While the values for some Census Tracts exceeded the identified concentration threshold, the analysis indicated that the data was not statistically significant or reliable. As such, those that were not statistically significant are not counted toward the area of concern score. Values that are statistically significant are shaded in yellow. Values that exceed the concentration threshold are bolded

## ACCESS TO NEIGHBORHOOD OPPORTUNITY INDICES BY CENSUS TRACT

Index Key	
Index	Description
0-20	Very Low (worst)
21-40	Low
41-60	Moderate
61-80	High
81-100	Very High (best)

	Bottom 5 Tracts
	Top 5 Tracts

Municipality	Census Tract	Poverty Index	School Proficiency Index	Labor Market Engagement	Health Hazards Exposure Index	Index Average
Amherst	151	81	87	89	94	88
Amherst	152	70	87	80	92	82
Brookline	180	47	74	90	93	76
Hollis	171	94	85	91	89	90
Hudson	121	83	79	59	89	77
Hudson	122	39	41	25	85	48
Hudson	123	64	54	55	88	65
Litchfield	131	49	80	56	91	69
Lyndeborough	195.01	23	48	53	95	55
Mason	185.02	41	36	48	95	55
Merrimack	141	68	76	66	90	75
Merrimack	142.01	87	80	83	93	86
Merrimack	142.02	52	75	93	93	78
Merrimack	143	96	69	70	90	81
Milford	161	72	44	47	92	64
Milford	162.01	33	44	53	93	56
Milford	162.02	57	44	72	93	66
Mont Vernon	195.02	67	49	72	94	71
Nashua	101	78	68	62	85	73
Nashua	102	42	66	86	87	70
Nashua	103.01	77	58	61	83	70



Nashua	103.02	43	58	47	80	57
Nashua	104	89	31	75	82	69
Nashua	105	16	21	6	82	31
Nashua	106	11	20	8	83	30
Nashua	107	14	20	4	81	30
Nashua	108	8	8	12	74	26
Nashua	109	18	10	36	70	33
Nashua	110	80	28	50	82	60
Nashua	111.01	98	97	77	83	89
Nashua	111.02	38	58	73	79	62
Nashua	112	86	76	94	83	85
Nashua	113	90	60	74	77	75
Nashua	114.01	48	54	51	81	59
Nashua	114.02	60	50	58	74	60
Nashua	115	44	54	14	83	49
Pelham	2001	93	65	82	91	83
Pelham	2002	100	65	29	92	72
Pelham	2003	85	65	34	94	69
Wilton	190	41	26	21	94	46

Source: (HUD Office of Policy Development & Research, 2012a)

## HOUSING AND TRANSPORTATION COSTS

Housing and Transportation Costs as a Percent of Income for the Typical NRPC Household

Municipality	Housing and Transportation Costs			Transportation Costs	Vehicles per HH	Annual HH	
	All Households	Owners	Renters			VMT	Transit Trips
Amherst	55.2%	56.7%	38.2%	19.4%	2.1	27,072	15
Brookline	57.5%	58.7%	38.4%	19.8%	2.2	28,062	11
Hollis	58.3%	59.7%	44.7%	19.4%	2.1	26,936	13
Hudson	49.2%	51.7%	37.6%	17.9%	2.0	23,836	20
Litchfield	51.1%	53.4%	34.8%	18.9%	2.1	25,811	17
Lyndeborough	50.2%	54.5%	32.8%	21.1%	2.2	31,003	6
Mason	54.8%	55.1%	41.0%	21.5%	2.3	31,121	23
Merrimack	50.5%	51.8%	40.1%	18.3%	2.0	24,817	15
Milford	47.5%	52.3%	37.3%	18.4%	2.0	25,446	13
Mont Vernon	57.7%	58.7%	43.1%	20.4%	2.2	29,286	7
Nashua	44.6%	49.8%	37.8%	16.0%	1.9	20,143	39
Pelham	54.8%	58.1%	31.0%	18.9%	2.1	25,998	21
Wilton	50.5%	53.0%	34.5%	19.9%	2.1	28,374	9
NRPC Region	48.5%	52.1%	37.8%	17.5%	2.0	23,188	26

Housing and Transportation Costs as a Percent of Income for Low Income NRPC Households

Municipality	Housing and Transportation Costs			Transportation Costs	Vehicles per HH	Annual HH	
	All Households	Owners	Renters			VMT	Transit Trips
Amherst	81.9%	84.0%	57.4%	29.3%	1.9	25,338	17
Brookline	83.6%	85.1%	58.5%	30.1%	1.9	26,418	13
Hollis	86.1%	88.0%	69.1%	29.3%	1.9	25,238	18
Hudson	71.5%	74.8%	57.4%	26.7%	1.8	21,925	26
Litchfield	74.2%	77.2%	54.2%	28.4%	1.9	24,015	21
Lyndeborough	73.6%	79.8%	49.2%	32.4%	2.0	29,670	6
Mason	80.1%	80.3%	66.1%	33.0%	2.1	29,545	22
Merrimack	73.8%	75.4%	62.9%	27.4%	1.8	22,957	19
Milford	69.2%	75.6%	55.7%	27.6%	1.8	23,633	15

Mont Vernon	84.0%	85.3%	64.0%	31.0%	2.0	27,771	8
Nashua	64.7%	72.7%	56.3%	23.5%	1.6	18,134	49
Pelham	79.3%	84.0%	46.4%	28.5%	1.9	24,243	24
Wilton	73.7%	77.1%	52.5%	30.2%	1.9	26,840	10
NRPC Region	70.6%	76.0%	57.2%	26.0%	1.8	21,298	33

(HUD, 2014)

Note: Transit Trips presented in the tables above are an estimated average number and may include anything from riding the Nashua Transit Service bus to driving to the Boston Express station in Nashua and taking the bus to Boston.

## POPULATION HEADSHIP TENURE HOUSING PROJECTION MODEL

### 2010 Base Year Ratios Held Constant in Forecast

Age Group	Headship Ratio	Percent Own	Percent Rent
15 to 24	0.0794	17.0%	83.0%
25 to 34	0.4271	49.6%	50.4%
35 to 44	0.5270	71.3%	28.7%
45 to 54	0.5600	79.3%	20.7%
55 to 64	0.5802	83.1%	16.9%
65 to 74	0.6163	81.9%	18.1%
75 to 84	0.6500	75.3%	24.7%
85 & older	0.5978	57.4%	42.6%

### Forecast Simulation - Total Population and Households by Age of Head

Age Group	2010		2017*		2025		2040	
	Population	Households	Population	Households	Population	Households	Population	Households
Under 15	40,011		36,950	12,099	35,474		33,960	
15 to 24	25,610	2,033	25,643		23,524	1,867	22,535	1,789
25 to 34	23,137	9,882	24,508		28,158	12,027	24,414	10,427
35 to 44	30,460	16,051	26,122	13,676	28,812	15,183	28,422	14,977
45 to 54	36,911	20,671	34,659	19,221	25,562	14,315	30,117	16,866
55 to 64	25,741	14,934	30,462	17,366	30,215	17,530	24,116	13,991
65 to 74	13,665	8,422	18,352	10,399	25,098	15,468	23,277	14,346
75 to 84	7,381	4,798	8,949	5,738	14,030	9,120	23,308	15,151
85 & older	2,849	1,703	3,113	1,734	4,860	2,905	10,819	6,467
<b>Total (#)</b>	<b>205,765</b>	<b>78,494</b>	<b>208,758</b>	<b>80,233</b>	<b>215,734</b>	<b>88,415</b>	<b>220,967</b>	<b>94,015</b>
Under 65 (#)	181,870	63,571	178,344	62,362	171,746	60,922	163,564	58,050
65 Plus (#)	23,895	14,923	30,414	17,871	43,988	27,493	57,404	35,964
Under 65 (%)	88.4%	81.0%	85.4%	77.7%	79.6%	68.9%	74.0%	61.7%
65 Plus (%)	11.6%	19.0%	14.6%	22.3%	20.4%	31.1%	26.0%	38.3%
Headship Ratio		0.3815				0.4098		0.4255

Note: projections utilize the statewide population projections published in 2013 by the Office of Energy and Planning. \*2017 estimates are from ACS S2502 and DP05

### Forecast Simulation - Ownership and Rental Tenure by Age Group

Age Group	2010		2017*		2025		2040	
	Owners	Renters	Owners	Renters	Owners	Renters	Owners	Renters
15 to 24	345	1,688	4,521	7,578	317	1,551	304	1,485
25 to 34	4,900	4,982			5,963	6,063	5,170	5,257
35 to 44	11,451	4,600	9,162	4,514	10,832	4,351	10,685	4,292
45 to 54	16,399	4,272	14,718	4,503	11,357	2,959	13,381	3,486
55 to 64	12,411	2,523	14,043	3,323	14,568	2,961	11,627	2,364
65 to 74	6,900	1,522	8,638	1,761	12,673	2,795	11,753	2,593
75 to 84	3,612	1,186	4,322	1,416	6,866	2,254	11,406	3,745
85 & older	978	725	1,150	584	1,668	1,237	3,714	2,753
<b>Total (#)</b>	<b>56,996</b>	<b>21,498</b>	<b>56,554</b>	<b>23,679</b>	<b>64,244</b>	<b>24,171</b>	<b>68,040</b>	<b>25,975</b>
Under 65 (#)	45,506	18,065	42,444	19,918	43,037	17,885	41,167	16,884
65 Plus (#)	11,490	3,433	14,110	3,761	21,207	6,286	26,873	9,091
<b>Total (%)</b>	<b>72.6%</b>	<b>27.4%</b>	<b>70.5%</b>	<b>29.5%</b>	<b>72.7%</b>	<b>27.3%</b>	<b>72.4%</b>	<b>27.6%</b>
Under 65 (%)	71.6%	28.4%	68.1%	31.2%	70.6%	29.4%	70.9%	29.1%
65 Plus (%)	77.0%	23.0%	78.9%	21.1%	77.1%	22.9%	74.7%	25.3%

Forecast Simulation - Group Quarters Population	2010	2025	2040
Total	2,067	2,509	3,913
Underage 65	1,365	1,311	1,247
65 & Older	702	1,198	2,666

Forecast Simulation - Average Number of Persons per Household (excluding GQ Population)	2010	2025	2040
Total	2.60	2.41	2.31
Underage 65	2.84	2.80	2.80
65 & Older	1.55	1.56	1.52

Net Production Need Calculation	2010	2025	2040
Vacant for Sale Units	756	649	687
Vacant for Rent Units	1,564	1,007	1,082
Vacant-Rented/Sold - Awaiting Occupancy	242	Not Projected	

Vacant-Occasional Use, Seasonal, Migratory	609
Other Vacant Units	903
Total Vacant, Seasonal, Occasional Use Units	4,074
Total Housing Units	82,568

Vacancy Rate Ownership	1.3%	1.0%	1.0%
Vacancy Rate Rental	6.8%	4.0%	4.0%
Vacancy Rate Total	2.9%	1.8%	1.8%

Add Replacement for Deterioration, Demolition - Ownership	433	866
Add Replacement for Deterioration, Demolition - Rental	346	692
Add Replacement for Deterioration, Demolition - Total	779	1,558

<b>Housing Supply Available for Year-Round Occupancy</b>	<b>2010</b>	<b>2025</b>	<b>2040</b>
Total Ownership Stock Except Sold, Not Occ.	57,752	65,326	69,594
Total Rental Units Except Rented, Not Occ.	23,062	25,525	27,749
<b>Total Stock Occupied or Available</b>	<b>80,814</b>	<b>90,850</b>	<b>97,343</b>

## PROJECTED 2025 AND 2040 HOUSEHOLDS BY TENURE, INCOME RANGE

Homeowners	2008-2012 ACS	Projection 2025	Projection 2040
Under 30% AMI	3,709	4,167	4,413
Under 50% AMI	8,394	9,429	9,986
Under 60% AMI	11,042	12,404	13,137
Under 80% AMI	16,707	18,767	19,875
Under 100% AMI	22,463	25,233	26,724
Under 120% AMI	28,287	31,775	33,652
All Homeowners	57,192	64,244	68,040

Renters	2008-2012 ACS	Projection 2025	Projection 2040
Under 30% AMI	6,124	6,958	7,478
Under 50% AMI	10,213	11,604	12,470
Under 60% AMI	12,184	13,843	14,876
Under 80% AMI	14,692	16,692	17,938
Under 100% AMI	16,770	19,054	20,476
Under 120% AMI	18,393	20,898	22,457
All Renters	21,274	24,171	25,975

Total Households	2008-2012 ACS	Projection 2025	Projection 2040
Under 30% AMI	9,834	11,125	11,891
Under 50% AMI	18,608	21,033	22,457
Under 60% AMI	23,226	26,247	28,013
Under 80% AMI	31,398	35,459	37,814
Under 100% AMI	39,233	44,286	47,199
Under 120% AMI	46,680	52,673	56,110
All Households	78,466	88,415	94,015

Assumes 2008-2012 ACS Income Distribution (ACS Table 25118; 2012 Inflation Adjusted Dollars)

	2008-2012	2025	2040
Owners <100% AMI	22,463	25,233	26,724
Renters <60% AMI	12,184	13,843	14,876
Owners + Renters	34,647	39,076	41,600
Total Households	78,466	88,415	94,015
% of Total Households	44.2%	44.2%	44.2%

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# Current Estimates and Trends in New Hampshire's Housing Supply

**Update: 2010-2019**



Prepared by



**STATE OF NEW HAMPSHIRE**  
**OFFICE OF STRATEGIC INITIATIVES**  
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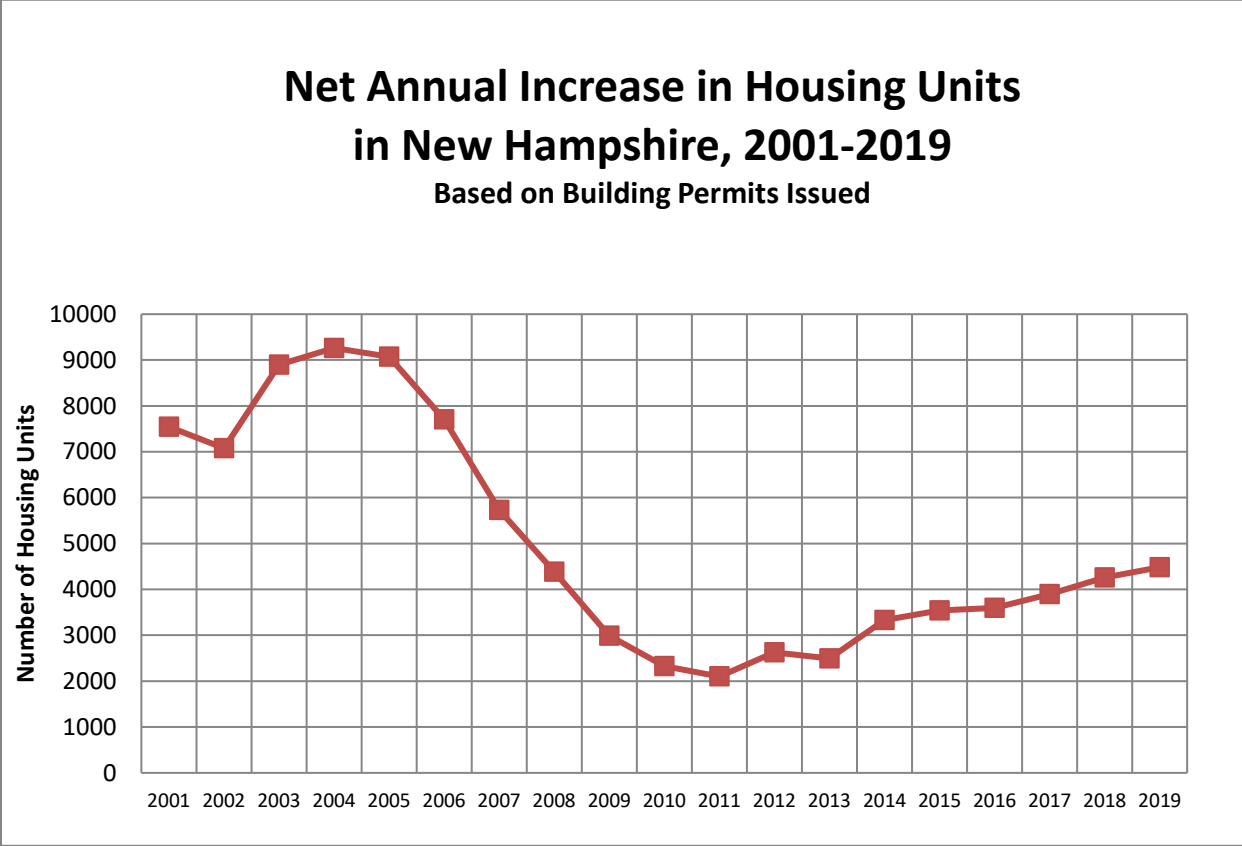
**December 2020**

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# New Hampshire’s Housing Supply: Current Estimates and Trends

**2019 is sixth consecutive year to see an increase in building permits issued statewide; again driven by increase in multi-family units**

New Hampshire’s housing supply in 2019 increased by a greater amount than in any other year of this decade, with building permits representing 4,483 housing units being issued by municipalities. This is the sixth year in a row in which there was an increase in the total number of new housing units permitted statewide. However, the level of building activity continues to be less than half of the level at its peak in the early 2000s. The following graph shows the number of housing units for which permits were issued each year since 2001.



Single-family homes comprised 50.4% of permits issued statewide in 2018, while multi-family were 47.3%, and manufactured housing were 2.3%. The number of multi-family permits issued increased by over 200 compared to 2018, while the number of single-family permits increased by just 40. The total housing supply in the state in 2018 is estimated to be 646,889 units, 5.3% more than at the 2010 census.

**G**rowth by county in 2019 largely followed existing patterns of development around the state. Map 1, included after the analysis section, illustrates the number and proportion of building permits issued within the state in 2019, summarized by county. The highest number of single-family permits were in Rockingham County (579), followed by Hillsborough (537), Merrimack (290), and Carroll (200). The highest number of multi-family units permitted were in Hillsborough County (765), followed by Rockingham (696), Strafford (313), and Grafton (149).

**M**unicipalities in seven counties issued more permits overall for single-family housing units than for multi-family, while in three counties (Hillsborough, Rockingham, and Strafford) more multi-family units were permitted. (Note that these data cannot distinguish between multi-family rental units and multi-family condominiums or row houses.)

**A**t the community level, 33 towns across New Hampshire issued permits that added more than 1% to their single-family housing stock of the previous year, down from 40 towns in 2018. Salem issued permits for 67 single-family homes, the most in the state, while Hart's Location (3 permits, 4.9%) issued the most single-family permits as a percentage of their stock. 50 cities and towns issued multi-family permits that added more than 1% to their existing multi-family total, up from 42 in 2018. Gilsum added the highest number of permits as a percentage of its multi-family total: 2 units, or 50% growth. The town of Merrimack added the greatest number of multi-family units (358, a gain of 11.5%), and six other cities and towns (Salem, Bedford, Dover, Londonderry, Rochester, and Portsmouth) permitted more than 100 multi-family units in 2019.

# Map 1: Building Permits Issued in New Hampshire

2019



## Distribution of New Housing Units Permitted per County



Numerals next to each circle shows the total number of units permitted by municipalities in the county. Size of circle corresponds to total number of units.



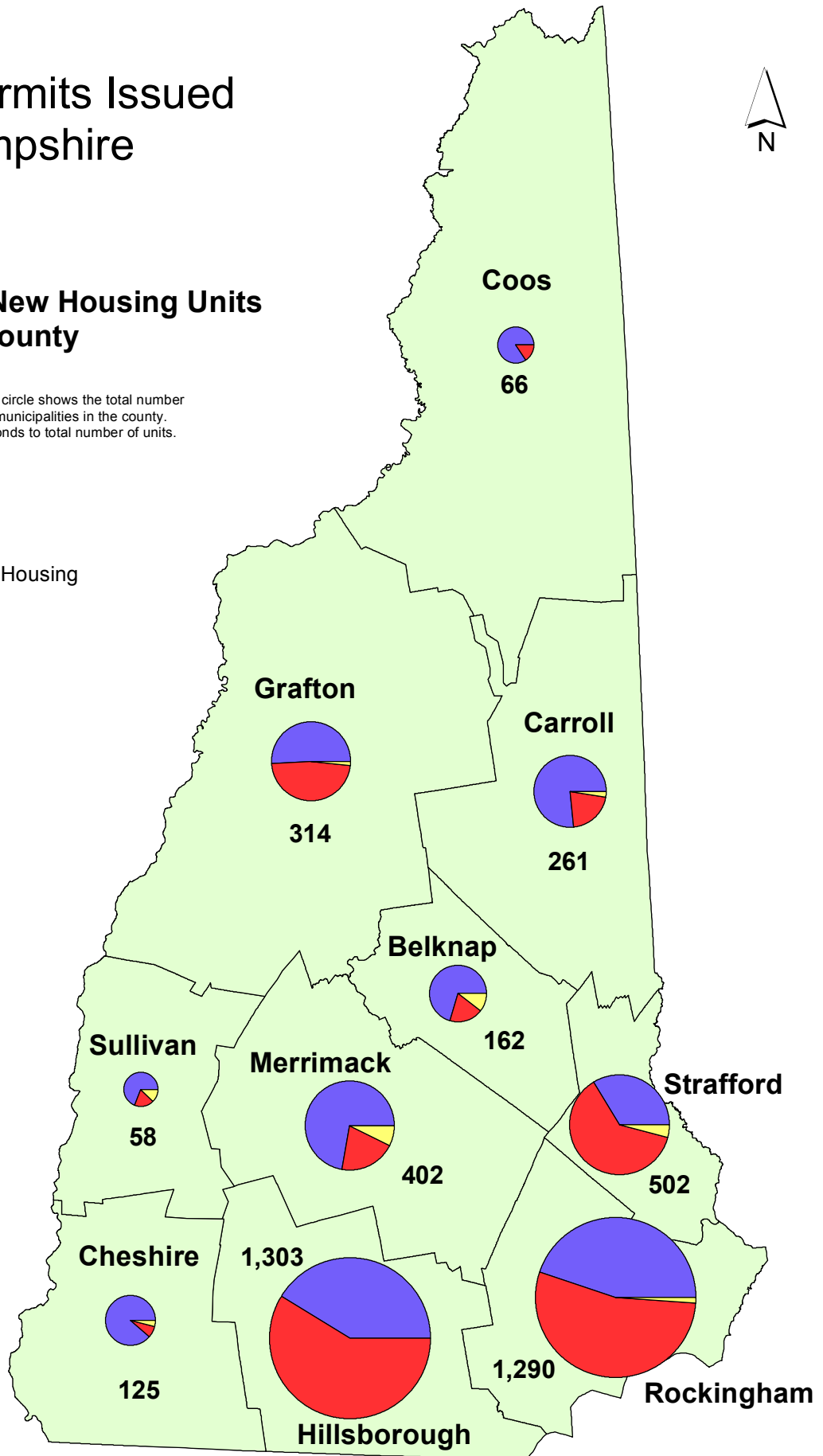
Single Family



Multi Family



Manufactured Housing





## About the data and this series

This report is one in a series of reports published as *Current Estimates and Trends in New Hampshire's Housing Supply*, last published in December 2019. The State Data Center at the Office of Strategic Initiatives (OSI) has been issuing this series of reports since the mid-1970s. The reports present data that show short- and long-term trends in housing construction and total housing supply.

The permit data in this report update the 2010 Census and American Community Survey data and are collected via an annual mail survey of municipalities. Thanks to the efforts of municipalities statewide, the survey enjoys a 100 percent response rate. OSI devotes considerable time checking and refining survey returns to ensure as much consistency as practical. OSI does not conduct any field checks as part of the quality control process and relies upon municipal responses for accuracy.

The *Housing Supply* series is intended to present the latest annual trends based on reported building permit activity. Data users interested in long-term housing trends (which may span two or three decades) are urged to analyze patterns shown by combining decennial census years with mid-decade permit data. Year-to-year comparisons that mix permits and census years are not valid.

## Definition change

To the extent possible, the figures contained herein represent total housing units. In prior years (pre 1990), our data represented only year-round housing units. From 1990 on, the data do not distinguish between year-round and seasonal units because virtually all homes were built with similar construction characteristics. All units are included in the census and permit data. Some housing units have all of the characteristics of year-round units, but are in fact used on a seasonal or leisure-time basis.

The data user should remember that the decennial census is essentially a questionnaire asking persons to respond. It is not a detailed field survey of characteristics of housing units. The census effort is not aimed at quantifying or analyzing the seasonal or leisure home sector. Nevertheless, this sector does have an impact on the year-round data.

The problem of distinguishing between seasonal and year-round units also applies to the permit data. Building permits usually do not request information regarding intended use. For this reason, all permits issued for new dwellings are included in this report.

## Data limitations

Accounting for conversions is another difficulty in compiling housing supply data. Conversions may increase or decrease the total housing stock. There are many types of conversions: for example, a dwelling could be converted to an office, a single family home may be converted to two or more dwelling units, or an accessory dwelling unit may be added. Many municipal permit systems are not adept at tabulating the pluses and minuses in dwelling units due to conversions. The same is true of demolitions. Often, a demolition permit does not require reporting the number of dwelling units involved.

The categorizing of row- or townhouses, often referred to as condominiums, is difficult. In the past, local officials were asked to report them under the single-family category. Nevertheless, this structure type has caused confusion among some local officials. Beginning with the 1990 report, any structure that is attached is reported as multi-family. This includes condominium units as well as structures that may have been single-family houses but now have accessory dwelling units.

Building permits are typically valid for one year. Some permits never result in actual construction and the permit expires. Starting in 1990, OSI requested each municipality to report any expired permits from the previous year. These figures should show the number of structures and units not completed due to the expiration of the building permit or change in plans by the builder. Without this information, there is a possibility of double counting if a permit is re-issued. When expired permits are reported, OSI reduces the number of permits reported in the prior year.

### **Contact OSI**

For further information about the data used in this report, please contact Ken Gallager at [ken.gallager@osi.nh.gov](mailto:ken.gallager@osi.nh.gov) or (603) 271-2155.

# New Hampshire Housing Supply Report

## Table 1: County and State Summary

Thursday, December 03, 2020

County	Housing Type	Dwelling Units	Residential Permits, Net Change of Units										Total Estimated
			2010 Census	2010	2011	2012	2013	2014	2015	2016	2017	2018	
Belknap	Single Family	27,153	107	80	74	54	106	120	136	130	130	114	28,204
	Multi-Family	7,347	6	15	22	55	67	138	15	21	19	31	7,736
	Manuf. Housing	2,886	3	4	-7	24	3	9	21	31	3	17	2,994
	Total Housing	37,386	116	99	89	133	176	267	172	182	152	162	38,934
Carroll	Single Family	30,109	109	119	118	90	154	127	153	182	201	200	31,562
	Multi-Family	7,034	1	32	24	23	-6	7	24	4	11	54	7,208
	Manuf. Housing	2,565	-7	1	-10	10	5	2	22	15	7	7	2,617
	Total Housing	39,708	103	152	132	123	153	136	199	201	219	261	41,387
Cheshire	Single Family	23,640	71	43	36	41	40	40	61	88	73	111	24,244
	Multi-Family	8,704	69	73	26	43	85	17	61	157	138	9	9,382
	Manuf. Housing	2,429	4	12	4	1	0	29	11	12	6	5	2,513
	Total Housing	34,773	144	128	66	85	125	86	133	257	217	125	36,139
Coos	Single Family	14,107	50	14	29	16	49	38	43	52	77	59	14,534
	Multi-Family	4,734	-31	-6	-36	-60	-19	-3	-1	15	9	11	4,613
	Manuf. Housing	2,068	4	1	-3	2	1	9	5	10	13	-4	2,106
	Total Housing	20,909	23	9	-10	-42	31	44	47	77	99	66	21,253
Grafton	Single Family	31,687	161	128	70	113	102	107	135	140	140	160	32,943
	Multi-Family	15,353	275	53	61	42	139	52	37	130	180	149	16,471
	Manuf. Housing	4,084	3	-1	4	12	3	12	17	18	17	5	4,174
	Total Housing	51,124	439	180	135	167	244	171	189	288	337	314	53,588
Hillsborough	Single Family	94,637	292	240	286	385	379	463	578	616	585	537	98,998
	Multi-Family	67,961	150	307	504	283	477	653	409	359	487	765	72,355
	Manuf. Housing	3,452	-14	-7	2	7	11	-2	13	1	7	1	3,471
	Total Housing	166,050	428	540	792	675	867	1,114	1,000	976	1,079	1,303	174,824
Merrimack	Single Family	41,709	157	96	107	162	175	183	183	228	194	290	43,484
	Multi-Family	18,181	81	44	191	-22	116	149	146	34	46	82	19,048
	Manuf. Housing	3,651	12	3	13	12	-15	20	54	22	7	30	3,809
	Total Housing	63,541	250	143	311	152	276	352	383	284	247	402	66,341
Rockingham	Single Family	81,630	403	395	470	569	635	562	577	540	559	579	86,919
	Multi-Family	37,454	121	112	335	239	397	452	497	523	536	696	41,362
	Manuf. Housing	7,625	16	13	29	39	28	19	46	20	15	15	7,865
	Total Housing	126,709	540	520	834	847	1,060	1,033	1,120	1,083	1,110	1,290	136,146
Strafford	Single Family	29,485	159	164	144	116	151	174	169	236	225	169	31,192
	Multi-Family	17,127	63	133	41	190	200	99	104	232	471	313	18,973
	Manuf. Housing	5,087	8	-3	48	7	7	3	30	41	51	20	5,299
	Total Housing	51,699	230	294	233	313	358	276	303	509	747	502	55,464

County	Housing Type	Dwelling Units	Residential Permits, Net Change of Units										Total Estimated
			2010 Census	2010	2011	2012	2013	2014	2015	2016	2017	2018	
Sullivan	Single Family	15,506	37	28	34	33	37	48	34	22	35	40	15,854
	Multi-Family	4,832	5	2	6	1	1	1	6	1	4	11	4,870
	Manuf. Housing	2,001	13	6	5	7	3	11	11	13	12	7	2,089
	<b>Total Housing</b>	<b>22,339</b>	<b>55</b>	<b>36</b>	<b>45</b>	<b>41</b>	<b>41</b>	<b>60</b>	<b>51</b>	<b>36</b>	<b>51</b>	<b>58</b>	<b>22,813</b>
State Totals	<b>Single Family</b>	<b>389,663</b>	<b>1,546</b>	<b>1,307</b>	<b>1,368</b>	<b>1,579</b>	<b>1,828</b>	<b>1,862</b>	<b>2,069</b>	<b>2,234</b>	<b>2,219</b>	<b>2,259</b>	<b>407,934</b>
	<b>Multi-Family</b>	<b>188,727</b>	<b>740</b>	<b>765</b>	<b>1,174</b>	<b>794</b>	<b>1,457</b>	<b>1,565</b>	<b>1,298</b>	<b>1,476</b>	<b>1,901</b>	<b>2,121</b>	<b>202,018</b>
	<b>Manu. Housing</b>	<b>35,848</b>	<b>42</b>	<b>29</b>	<b>85</b>	<b>121</b>	<b>46</b>	<b>112</b>	<b>230</b>	<b>183</b>	<b>138</b>	<b>103</b>	<b>36,937</b>
	<b>Total Housing</b>	<b>614,238</b>	<b>2,328</b>	<b>2,101</b>	<b>2,627</b>	<b>2,494</b>	<b>3,331</b>	<b>3,539</b>	<b>3,597</b>	<b>3,893</b>	<b>4,258</b>	<b>4,483</b>	<b>646,889</b>

# New Hampshire Housing Supply Report

## Table 2: Municipal Summary

Thursday, December 03, 2020

Town or City	Housing Type	Dwelling Units	Residential Permits, Net Change of Units										Total Estimated Housing Units
			2010 Census	2010	2011	2012	2013	2014	2015	2016	2017	2018	
<b>Belknap</b>													
Alton	Single Family	3,731	7	15	6	11	16	5	33	14	32	21	3,891
	Multi-Family	268	0	0	0	0	0	0	0	0	0	0	268
	Manufactured Housing	282	0	0	0	0	2	0	0	0	0	0	284
	Total Housing	4,281	7	15	6	11	18	5	33	14	32	21	4,443
Barnstead	Single Family	2,241	3	6	6	3	5	14	14	20	18	15	2,345
	Multi-Family	8	0	0	0	0	0	0	0	0	0	0	8
	Manufactured Housing	70	1	3	1	1	1	1	1	6	0	0	85
	Total Housing	2,319	4	9	7	4	6	15	15	26	18	15	2,438
Belmont	Single Family	2,425	5	4	6	2	10	10	3	12	10	4	2,491
	Multi-Family	459	-2	1	-3	0	0	0	0	0	0	0	455
	Manufactured Housing	731	0	0	-12	1	-6	2	-2	6	-2	1	719
	Total Housing	3,615	3	5	-9	3	4	12	1	18	8	5	3,665
Center Harbor	Single Family	744	0	0	0	3	0	3	5	2	-1	3	759
	Multi-Family	35	0	0	1	0	0	0	0	2	0	2	40
	Manufactured Housing	16	0	0	-1	0	0	0	0	0	0	0	15
	Total Housing	795	0	0	0	3	0	3	5	4	-1	5	814
Gilford	Single Family	3,701	17	2	14	13	13	25	26	23	13	16	3,863
	Multi-Family	847	0	0	0	0	0	0	0	0	3	0	850
	Manufactured Housing	563	0	1	3	4	0	0	0	0	1	2	574
	Total Housing	5,111	17	3	17	17	13	25	26	23	17	18	5,287
Gilmanton	Single Family	2,087	1	0	1	0	1	2	10	16	14	2	2,134
	Multi-Family	15	0	0	0	0	0	0	0	1	0	2	18
	Manufactured Housing	16	0	0	0	0	0	0	0	0	0	0	16
	Total Housing	2,118	1	0	1	0	1	2	10	17	14	4	2,168
Laconia	Single Family	4,979	54	36	27	1	34	32	26	18	14	12	5,233
	Multi-Family	4,425	-4	10	4	50	64	138	10	5	9	4	4,715
	Manufactured Housing	475	0	0	0	0	0	0	1	3	1	0	480
	Total Housing	9,879	50	46	31	51	98	170	37	26	24	16	10,428
Meredith	Single Family	3,726	17	6	1	15	19	12	15	16	15	31	3,873
	Multi-Family	604	0	0	0	0	0	0	5	2	6	6	623
	Manufactured Housing	398	0	0	0	0	0	0	1	0	-1	3	401
	Total Housing	4,728	17	6	1	15	19	12	21	18	20	40	4,897

Town or City	Housing Type	Dwelling Units	Residential Permits, Net Change of Units										Total Estimated Housing Units
			2010 Census	2010	2011	2012	2013	2014	2015	2016	2017	2018	
New Hampton	Single Family	982	4	7	4	1	2	9	3	2	0	1	1,015
	Multi-Family	39	2	0	1	5	3	0	0	4	1	1	56
	Manufactured Housing	62	1	0	1	4	2	5	6	16	0	11	108
	Total Housing	1,083	7	7	6	10	7	14	9	22	1	13	1,179
Sanbornton	Single Family	1,548	0	5	6	4	2	6	0	3	6	3	1,583
	Multi-Family	58	0	0	0	0	0	0	0	2	0	3	63
	Manufactured Housing	6	2	0	0	0	0	0	0	0	0	0	8
	Total Housing	1,612	2	5	6	4	2	6	0	5	6	6	1,654
Tilton	Single Family	989	-1	-1	3	1	4	2	1	4	9	6	1,017
	Multi-Family	589	10	4	19	0	0	0	0	5	0	13	640
	Manufactured Housing	267	-1	0	1	14	4	1	14	0	4	0	304
	Total Housing	1,845	8	3	23	15	8	3	15	9	13	19	1,961

Town or City	Housing Type	Dwelling Units	Residential Permits, Net Change of Units										Total Estimated Housing Units
			2010 Census	2010	2011	2012	2013	2014	2015	2016	2017	2018	
<b>Carroll</b>													
Albany	Single Family	452	0	2	2	2	3	1	1	2	7	1	473
	Multi-Family	18	0	0	0	0	0	0	0	0	0	0	18
	Manufactured Housing	90	1	-1	-2	0	0	1	0	2	0	0	91
	Total Housing	560	1	1	0	2	3	2	1	4	7	1	582
Bartlett	Single Family	1,861	15	14	18	6	29	7	17	6	15	28	2,016
	Multi-Family	2,192	0	0	0	0	0	4	0	0	0	0	2,196
	Manufactured Housing	62	0	0	0	0	0	0	0	0	0	0	62
	Total Housing	4,115	15	14	18	6	29	11	17	6	15	28	4,274
Brookfield	Single Family	328	1	1	0	0	0	0	3	4	5	6	348
	Multi-Family	2	0	0	0	0	0	0	0	0	1	0	3
	Manufactured Housing	8	0	0	0	0	0	0	0	0	0	1	9
	Total Housing	338	1	1	0	0	0	0	3	4	6	7	360
Chatham	Single Family	233	2	1	0	0	0	2	3	3	0	1	245
	Multi-Family	12	0	0	0	0	0	0	0	0	0	0	12
	Manufactured Housing	25	0	-2	0	0	0	0	0	1	0	0	24
	Total Housing	270	2	-1	0	0	0	2	3	4	0	1	281
Conway	Single Family	3,995	16	6	7	-6	14	14	28	17	22	28	4,141
	Multi-Family	2,193	0	32	0	-2	-5	2	22	-3	3	32	2,274
	Manufactured Housing	733	-11	0	-8	7	-1	-2	15	5	3	2	743
	Total Housing	6,921	5	38	-1	-1	8	14	65	19	28	62	7,158
Eaton	Single Family	266	2	4	0	3	0	3	0	2	1	1	282
	Multi-Family	25	0	0	0	1	0	0	0	2	2	0	30
	Manufactured Housing	0	0	0	0	0	0	0	1	0	0	0	1
	Total Housing	291	2	4	0	4	0	3	1	4	3	1	313
Effingham	Single Family	816	2	8	1	2	1	2	2	3	6	4	847
	Multi-Family	48	1	0	0	0	0	0	0	0	0	0	49
	Manufactured Housing	99	0	1	1	-1	1	0	2	1	1	1	106
	Total Housing	963	3	9	2	1	2	2	4	4	7	5	1,002
Freedom	Single Family	1,338	14	6	14	15	9	9	31	18	17	1	1,472
	Multi-Family	96	0	0	0	0	0	0	0	0	0	0	96
	Manufactured Housing	146	0	0	0	0	0	0	2	0	0	0	148
	Total Housing	1,580	14	6	14	15	9	9	33	18	17	1	1,716
Harts Location	Single Family	54	1	0	1	0	0	0	1	2	2	3	64
	Multi-Family	0	0	0	0	0	0	0	0	0	0	0	0
	Manufactured Housing	0	0	0	0	0	0	0	0	0	0	0	0
	Total Housing	54	1	0	1	0	0	0	1	2	2	3	64

Town or City	Housing Type	Dwelling Units	Residential Permits, Net Change of Units										Total Estimated Housing Units
			2010 Census	2010	2011	2012	2013	2014	2015	2016	2017	2018	
Jackson	Single Family	799	1	5	5	10	10	6	-3	4	9	4	850
	Multi-Family	203	0	0	0	0	0	4	-2	2	0	5	212
	Manufactured Housing	7	0	0	0	0	0	0	0	0	0	0	7
	Total Housing	1,009	1	5	5	10	10	10	-5	6	9	9	1,069
Madison	Single Family	1,634	14	18	21	6	16	13	16	18	7	21	1,784
	Multi-Family	127	0	0	0	0	0	0	0	0	0	0	127
	Manufactured Housing	115	0	0	0	0	0	0	0	1	2	0	118
	Total Housing	1,876	14	18	21	6	16	13	16	19	9	21	2,029
Moultonborough	Single Family	4,677	21	29	19	17	21	21	1	12	33	25	4,876
	Multi-Family	227	0	0	0	0	-1	0	0	0	1	6	233
	Manufactured Housing	36	0	0	0	0	0	0	0	0	0	0	36
	Total Housing	4,940	21	29	19	17	20	21	1	12	34	31	5,145
Ossipee	Single Family	2,174	13	10	8	8	13	19	20	24	11	10	2,310
	Multi-Family	341	0	0	0	0	0	0	0	-1	0	0	340
	Manufactured Housing	541	0	0	0	2	5	1	2	2	-1	2	554
	Total Housing	3,056	13	10	8	10	18	20	22	25	10	12	3,204
Sandwich	Single Family	1,024	2	3	4	5	1	3	3	7	3	6	1,061
	Multi-Family	14	0	0	0	0	0	0	0	0	0	0	14
	Manufactured Housing	19	0	0	0	1	0	1	0	1	2	1	25
	Total Housing	1,057	2	3	4	6	1	4	3	8	5	7	1,100
Tamworth	Single Family	1,556	6	2	6	9	4	7	1	8	10	6	1,615
	Multi-Family	226	0	0	0	0	0	0	0	0	0	0	226
	Manufactured Housing	187	2	1	3	1	1	0	1	1	0	0	197
	Total Housing	1,969	8	3	9	10	5	7	2	9	10	6	2,038
Tuftonboro	Single Family	2,121	5	3	4	2	8	9	8	16	12	12	2,200
	Multi-Family	134	0	0	0	0	0	0	0	0	0	0	134
	Manufactured Housing	179	1	0	0	-1	0	1	-1	1	0	0	180
	Total Housing	2,434	6	3	4	1	8	10	7	17	12	12	2,514
Wakefield	Single Family	3,395	3	7	6	3	13	6	15	21	19	13	3,501
	Multi-Family	289	0	0	0	0	0	-3	4	2	2	5	299
	Manufactured Housing	148	0	2	-3	1	-1	0	0	0	0	0	147
	Total Housing	3,832	3	9	3	4	12	3	19	23	21	18	3,947
Wolfeboro	Single Family	3,386	-9	0	2	8	12	5	6	15	22	30	3,477
	Multi-Family	887	0	0	24	24	0	0	0	2	2	6	945
	Manufactured Housing	170	0	0	-1	0	0	0	0	0	0	0	169
	Total Housing	4,443	-9	0	25	32	12	5	6	17	24	36	4,591



Town or City	Housing Type	Dwelling Units	Residential Permits, Net Change of Units										Total Estimated Housing Units
			2010 Census	2010	2011	2012	2013	2014	2015	2016	2017	2018	
<b>Cheshire</b>													
Alstead	Single Family	826	6	1	2	3	7	2	0	4	2	6	859
	Multi-Family	73	0	0	0	0	0	0	0	0	0	0	73
	Manufactured Housing	92	1	0	0	0	0	0	0	1	-2	0	92
	Total Housing	991	7	1	2	3	7	2	0	5	0	6	1,024
Chesterfield	Single Family	1,600	4	5	4	3	6	1	10	9	4	8	1,654
	Multi-Family	167	0	0	0	0	0	0	9	13	6	0	195
	Manufactured Housing	35	0	0	0	0	0	0	0	0	0	0	35
	Total Housing	1,802	4	5	4	3	6	1	19	22	10	8	1,884
Dublin	Single Family	714	0	0	0	0	-1	2	1	3	3	5	727
	Multi-Family	60	0	0	0	0	0	0	0	0	0	0	60
	Manufactured Housing	11	0	0	0	0	0	0	0	0	0	0	11
	Total Housing	785	0	0	0	0	-1	2	1	3	3	5	798
Fitzwilliam	Single Family	1,020	5	1	2	2	3	2	3	7	4	1	1,050
	Multi-Family	164	0	0	0	0	0	0	0	0	0	1	165
	Manufactured Housing	73	0	0	0	0	0	1	0	-1	0	0	73
	Total Housing	1,257	5	1	2	2	3	3	3	6	4	2	1,288
Gilsum	Single Family	349	2	0	1	1	2	2	2	2	0	2	363
	Multi-Family	4	0	0	0	0	0	0	0	0	0	2	6
	Manufactured Housing	25	0	0	-1	0	0	0	0	0	0	0	24
	Total Housing	378	2	0	0	1	2	2	2	2	2	4	393
Harrisville	Single Family	622	5	2	0	0	-2	0	1	4	2	4	638
	Multi-Family	47	0	0	0	0	0	0	2	0	1	3	53
	Manufactured Housing	26	-1	-1	0	0	0	0	0	0	0	0	24
	Total Housing	695	4	1	0	0	-2	0	3	4	3	7	715
Hinsdale	Single Family	953	-1	-6	0	0	0	2	2	6	-1	-1	954
	Multi-Family	415	0	4	3	-5	0	0	0	-1	0	0	416
	Manufactured Housing	459	0	10	-2	1	0	10	2	-2	4	0	482
	Total Housing	1,827	-1	8	1	-4	0	12	4	3	3	-1	1,852
Jaffrey	Single Family	1,744	1	2	3	2	4	3	8	7	2	6	1,782
	Multi-Family	547	0	0	-1	-6	0	0	0	2	2	0	544
	Manufactured Housing	256	0	0	0	0	-2	-1	0	0	0	-5	248
	Total Housing	2,547	1	2	2	-4	2	2	8	9	4	1	2,574
Keene	Single Family	4,728	-1	10	1	6	1	3	1	-1	1	2	4,751
	Multi-Family	4,637	33	61	18	4	0	4	51	141	122	-1	5,070
	Manufactured Housing	354	8	1	6	0	-1	7	4	10	0	0	389
	Total Housing	9,719	40	72	25	10	0	14	56	150	123	1	10,210

Town or City	Housing Type	Dwelling Units	Residential Permits, Net Change of Units										Total Estimated Housing Units
			2010 Census	2010	2011	2012	2013	2014	2015	2016	2017	2018	
Marlborough	Single Family	616	2	2	1	1	1	0	2	2	0	1	628
	Multi-Family	312	0	0	0	24	0	0	0	0	0	0	336
	Manufactured Housing	18	0	0	0	0	2	11	0	1	0	0	32
	Total Housing	946	2	2	1	25	3	11	2	3	0	1	996
Marlow	Single Family	378	3	1	0	1	0	0	0	1	2	1	387
	Multi-Family	3	0	0	0	0	0	0	0	0	0	0	3
	Manufactured Housing	27	0	0	0	0	0	0	0	0	0	0	27
	Total Housing	408	3	1	0	1	0	0	0	1	2	1	417
Nelson	Single Family	398	0	0	0	1	0	0	-2	5	1	0	403
	Multi-Family	51	0	0	0	0	0	0	1	0	1	0	53
	Manufactured Housing	11	0	0	1	0	1	0	1	0	0	0	14
	Total Housing	460	0	0	1	1	1	0	0	5	2	0	470
Richmond	Single Family	473	4	0	1	2	0	0	3	1	4	7	495
	Multi-Family	9	0	0	0	0	0	0	0	0	0	0	9
	Manufactured Housing	10	0	0	0	0	0	0	0	1	0	0	11
	Total Housing	492	4	0	1	2	0	0	3	2	4	7	515
Rindge	Single Family	1,739	8	2	0	1	4	6	10	18	24	21	1,833
	Multi-Family	384	24	0	0	0	6	11	10	1	1	3	440
	Manufactured Housing	101	0	0	0	0	0	0	1	1	0	1	104
	Total Housing	2,224	32	2	0	1	10	17	21	20	25	25	2,377
Roxbury	Single Family	89	0	0	0	0	0	0	0	0	-1	0	88
	Multi-Family	7	0	0	0	0	0	0	0	0	0	0	7
	Manufactured Housing	5	0	0	0	0	0	0	0	0	0	0	5
	Total Housing	101	0	0	0	0	0	0	0	0	-1	0	100
Stoddard	Single Family	1,005	10	7	10	3	4	6	5	3	5	10	1,068
	Multi-Family	2	0	0	0	0	0	0	0	0	0	0	2
	Manufactured Housing	37	0	0	1	0	0	0	0	0	0	4	42
	Total Housing	1,044	10	7	11	3	4	6	5	3	5	14	1,112
Sullivan	Single Family	263	1	1	1	3	3	2	0	1	1	1	277
	Multi-Family	15	0	0	0	0	0	0	0	0	1	0	16
	Manufactured Housing	31	0	0	0	0	0	0	0	0	0	0	31
	Total Housing	309	1	1	1	3	3	2	0	1	2	1	324
Surry	Single Family	309	3	1	2	1	1	0	1	3	4	3	328
	Multi-Family	5	0	0	0	0	0	0	1	0	0	0	6
	Manufactured Housing	10	0	0	0	0	0	0	0	0	0	0	10
	Total Housing	324	3	1	2	1	1	0	2	3	4	3	344

Town or City	Housing Type	Dwelling Units	Residential Permits, Net Change of Units										Total Estimated Housing Units
			2010 Census	2010	2011	2012	2013	2014	2015	2016	2017	2018	
Swanzy	Single Family	2,282	5	7	4	6	2	6	6	3	8	19	2,348
	Multi-Family	641	8	6	6	26	9	0	0	0	4	0	700
	Manufactured Housing	282	-4	0	-1	0	0	0	2	2	4	8	293
	Total Housing	3,205	9	13	9	32	11	6	8	5	16	27	3,341
Troy	Single Family	542	5	3	0	1	0	1	1	0	2	3	558
	Multi-Family	283	0	0	0	0	1	0	-3	1	0	0	282
	Manufactured Housing	107	0	0	0	0	-2	0	2	-1	0	-3	103
	Total Housing	932	5	3	0	1	-1	1	0	0	2	0	943
Walpole	Single Family	1,291	8	3	3	2	-1	2	3	4	1	5	1,321
	Multi-Family	397	1	0	0	0	67	0	-10	1	0	0	456
	Manufactured Housing	27	0	0	0	0	0	0	0	-1	0	0	26
	Total Housing	1,715	9	3	3	2	66	2	-7	4	1	5	1,803
Westmoreland	Single Family	630	0	0	1	3	3	0	3	3	1	2	646
	Multi-Family	36	0	0	0	0	0	0	0	0	0	0	36
	Manufactured Housing	14	0	0	0	0	0	0	0	0	0	0	14
	Total Housing	680	0	0	1	3	3	0	3	3	1	2	696
Winchester	Single Family	1,069	1	1	0	-1	3	0	1	3	4	5	1,086
	Multi-Family	445	3	2	0	0	2	2	0	-1	0	1	454
	Manufactured Housing	418	0	2	0	0	2	1	-1	1	0	0	423
	Total Housing	1,932	4	5	0	-1	7	3	0	3	4	6	1,963

Town or City	Housing Type	Dwelling Units	Residential Permits, Net Change of Units										Total Estimated Housing Units
			2010 Census	2010	2011	2012	2013	2014	2015	2016	2017	2018	
<b>Coos</b>													
Berlin	Single Family	2,686	-3	-9	-12	-9	-2	-3	-1	0	1	1	2,649
	Multi-Family	2,192	-31	-24	-61	-64	-22	-3	-14	6	2	0	1,981
	Manufactured Housing	32	0	0	2	1	0	0	1	2	0	-4	34
	Total Housing	4,910	-34	-33	-71	-72	-24	-6	-14	8	3	-3	4,664
Carroll	Single Family	520	4	9	6	4	6	5	6	11	5	17	593
	Multi-Family	336	0	0	1	2	0	0	10	8	9	0	366
	Manufactured Housing	42	0	0	1	0	0	0	0	0	0	0	43
	Total Housing	898	4	9	8	6	6	5	16	19	14	17	1,002
Clarksville	Single Family	374	6	6	0	2	4	-1	2	3	4	2	402
	Multi-Family	17	0	0	0	0	0	0	0	0	0	0	17
	Manufactured Housing	49	0	0	0	1	0	0	0	-1	0	1	50
	Total Housing	440	6	6	0	3	4	-1	2	2	4	3	469
Colebrook	Single Family	763	2	2	0	2	5	3	0	0	3	4	784
	Multi-Family	435	1	0	0	0	0	0	0	3	0	2	441
	Manufactured Housing	231	0	2	1	-1	0	0	2	2	5	3	245
	Total Housing	1,429	3	4	1	1	5	3	2	5	8	9	1,470
Columbia	Single Family	420	1	1	0	1	0	0	2	1	8	1	435
	Multi-Family	4	0	0	0	0	0	0	1	0	0	0	5
	Manufactured Housing	94	2	1	0	2	0	0	0	0	3	0	102
	Total Housing	518	3	2	0	3	0	0	3	1	11	1	542
Dalton	Single Family	407	5	0	-1	0	4	2	3	3	2	2	427
	Multi-Family	15	1	0	-2	0	0	0	0	0	0	0	14
	Manufactured Housing	155	-2	1	0	1	-1	2	-1	2	2	-1	158
	Total Housing	577	4	1	-3	1	3	4	2	5	4	1	599
Dummer	Single Family	248	-1	-1	1	0	1	0	0	1	1	-2	248
	Multi-Family	9	0	0	0	0	0	0	0	0	0	0	9
	Manufactured Housing	37	0	0	0	0	0	1	0	0	0	0	38
	Total Housing	294	-1	-1	1	0	1	1	0	1	1	-2	295
Errol	Single Family	420	0	0	2	1	2	-1	3	2	5	1	435
	Multi-Family	13	0	0	0	0	0	1	0	0	0	0	14
	Manufactured Housing	74	0	0	-1	1	1	-1	1	1	0	0	76
	Total Housing	507	0	0	1	2	3	-1	4	3	5	1	525
Gorham	Single Family	797	0	0	0	-1	-2	0	-2	3	3	2	800
	Multi-Family	521	-1	1	0	4	-1	0	1	-1	-1	0	523
	Manufactured Housing	169	1	2	-6	0	0	-1	-1	3	3	-2	168
	Total Housing	1,487	0	3	-6	3	-3	-1	-2	5	5	0	1,491

Town or City	Housing Type	Dwelling Units	Residential Permits, Net Change of Units										Total Estimated Housing Units
			2010 Census	2010	2011	2012	2013	2014	2015	2016	2017	2018	
Jefferson	Single Family	530	1	-2	1	2	3	3	4	4	9	2	557
	Multi-Family	48	0	0	0	0	0	0	0	0	0	0	48
	Manufactured Housing	98	0	0	1	-1	1	0	0	0	-1	0	98
	Total Housing	676	1	-2	2	1	4	3	4	4	8	2	703
Lancaster	Single Family	1,102	3	0	3	4	2	2	2	2	4	2	1,126
	Multi-Family	351	0	0	20	0	1	0	1	0	0	0	373
	Manufactured Housing	235	1	0	2	0	0	1	0	0	0	0	239
	Total Housing	1,688	4	0	25	4	3	3	3	2	4	2	1,738
Milan	Single Family	667	2	-1	0	1	1	0	1	0	0	0	671
	Multi-Family	26	0	0	0	0	0	0	0	0	0	0	26
	Manufactured Housing	117	1	1	3	1	1	2	0	1	1	0	128
	Total Housing	810	3	0	3	2	2	2	1	1	1	0	825
Northumberland	Single Family	808	2	3	3	-1	1	1	5	0	3	-1	824
	Multi-Family	231	-1	-2	2	1	-3	0	0	-3	-1	-1	223
	Manufactured Housing	82	-2	-3	-2	-2	-1	-1	0	-1	-1	-4	65
	Total Housing	1,121	-1	-2	3	-2	-3	0	5	-4	1	-6	1,112
Pittsburg	Single Family	1,572	8	3	6	4	4	12	7	9	8	18	1,651
	Multi-Family	49	0	0	0	0	0	0	0	0	0	0	49
	Manufactured Housing	126	0	0	-2	0	0	0	0	1	0	-1	124
	Total Housing	1,747	8	3	4	4	4	12	7	10	8	17	1,824
Randolph	Single Family	296	1	0	0	0	0	0	0	0	0	0	297
	Multi-Family	6	0	0	0	0	0	0	0	0	0	0	6
	Manufactured Housing	10	0	0	0	0	0	0	0	0	0	0	10
	Total Housing	312	1	0	0	0	0	0	0	0	0	0	313
Shelburne	Single Family	191	1	0	2	0	0	0	0	1	3	0	198
	Multi-Family	10	0	0	0	0	0	0	0	0	0	0	10
	Manufactured Housing	15	0	0	0	0	0	0	0	0	0	0	15
	Total Housing	216	1	0	2	0	0	0	0	1	3	0	223
Stark	Single Family	366	0	-1	8	0	2	4	1	2	1	1	384
	Multi-Family	15	0	2	0	0	0	0	0	0	0	0	17
	Manufactured Housing	65	0	0	0	0	0	0	0	0	0	0	65
	Total Housing	446	0	1	8	0	2	4	1	2	1	1	466
Stewartstown	Single Family	701	13	1	4	5	11	6	1	3	10	4	759
	Multi-Family	100	0	0	0	-4	0	0	0	0	0	0	96
	Manufactured Housing	119	0	-2	-1	-1	-1	0	0	-1	-1	3	115
	Total Housing	920	13	-1	3	0	10	6	1	2	9	7	970

Town or City	Housing Type	Dwelling Units	Residential Permits, Net Change of Units										Total Estimated Housing Units
			2010 Census	2010	2011	2012	2013	2014	2015	2016	2017	2018	
Stratford	Single Family	421	2	2	2	1	2	2	4	4	3	3	446
	Multi-Family	80	0	0	0	0	0	-1	0	2	0	0	81
	Manufactured Housing	73	0	0	0	0	-1	1	0	1	1	0	75
	Total Housing	574	2	2	2	1	1	2	4	7	4	3	602
Whitefield	Single Family	818	3	1	4	0	5	3	5	3	4	2	848
	Multi-Family	276	0	17	4	1	6	0	0	0	0	10	314
	Manufactured Housing	245	3	-1	-1	0	2	5	3	0	1	1	258
	Total Housing	1,339	6	17	7	1	13	8	8	3	5	13	1,420

Town or City	Housing Type	Dwelling Units	Residential Permits, Net Change of Units										Total Estimated Housing Units
			2010 Census	2010	2011	2012	2013	2014	2015	2016	2017	2018	
<b>Grafton</b>													
Alexandria	Single Family	781	5	6	1	8	5	3	2	0	2	1	814
	Multi-Family	90	0	0	0	0	0	0	0	0	0	0	90
	Manufactured Housing	97	0	0	1	2	0	0	0	0	2	0	102
	Total Housing	968	5	6	2	10	5	3	2	0	4	1	1,006
Ashland	Single Family	693	3	7	3	2	3	2	0	1	6	2	722
	Multi-Family	616	0	0	0	0	0	0	0	0	0	0	616
	Manufactured Housing	47	0	0	-1	3	0	0	2	0	0	0	51
	Total Housing	1,356	3	7	2	5	3	2	2	1	6	2	1,389
Bath	Single Family	512	2	4	2	2	1	0	4	0	2	4	533
	Multi-Family	16	0	0	0	0	0	0	0	1	0	1	18
	Manufactured Housing	51	0	1	0	2	1	1	2	1	2	1	62
	Total Housing	579	2	5	2	4	2	1	6	2	4	6	613
Benton	Single Family	146	2	0	2	2	0	1	1	0	1	0	155
	Multi-Family	0	0	0	0	0	0	0	0	0	0	0	0
	Manufactured Housing	18	0	0	-1	0	0	0	0	1	0	0	18
	Total Housing	164	2	0	1	2	0	1	1	1	1	0	173
Bethlehem	Single Family	984	7	3	4	2	3	3	0	4	5	3	1,018
	Multi-Family	404	12	0	-11	0	6	-1	2	2	6	17	437
	Manufactured Housing	128	1	1	1	0	1	0	0	0	1	0	133
	Total Housing	1,516	20	4	-6	2	10	2	2	6	12	20	1,588
Bridgewater	Single Family	823	2	2	4	3	5	2	3	2	7	4	857
	Multi-Family	57	0	0	0	0	0	0	0	0	0	0	57
	Manufactured Housing	115	1	0	1	1	0	0	0	1	0	0	119
	Total Housing	995	3	2	5	4	5	2	3	3	7	4	1,033
Bristol	Single Family	1,720	5	9	3	1	3	4	4	3	3	9	1,764
	Multi-Family	635	0	-2	-1	6	0	0	1	35	-8	-3	663
	Manufactured Housing	133	0	1	1	0	0	0	2	1	0	0	138
	Total Housing	2,488	5	8	3	7	3	4	7	39	-5	6	2,565
Campton	Single Family	1,426	6	7	5	9	8	6	9	14	2	15	1,507
	Multi-Family	425	0	0	0	0	0	0	0	5	0	0	430
	Manufactured Housing	356	0	0	0	0	0	0	0	0	0	-1	355
	Total Housing	2,207	6	7	5	9	8	6	9	19	2	14	2,292
Canaan	Single Family	1,387	2	7	5	1	5	4	6	5	7	3	1,432
	Multi-Family	99	2	0	0	0	0	0	2	0	0	0	103
	Manufactured Housing	444	0	0	2	3	1	5	2	3	6	2	468
	Total Housing	1,930	4	7	7	4	6	9	10	8	13	5	2,003

Town or City	Housing Type	Dwelling Units	Residential Permits, Net Change of Units										Total Estimated Housing Units
			2010 Census	2010	2011	2012	2013	2014	2015	2016	2017	2018	
Dorchester	Single Family	203	2	2	1	0	0	0	0	2	0	1	211
	Multi-Family	4	0	0	0	0	0	0	0	0	0	0	4
	Manufactured Housing	33	0	1	0	0	0	0	0	0	0	0	34
	Total Housing	240	2	3	1	0	0	0	0	2	0	1	249
Easton	Single Family	189	3	2	1	1	1	2	2	2	1	1	205
	Multi-Family	15	0	0	0	0	0	3	0	0	0	0	18
	Manufactured Housing	3	0	0	0	0	0	0	0	0	0	0	3
	Total Housing	207	3	2	1	1	1	5	2	2	1	1	226
Ellsworth	Single Family	73	0	5	-2	2	0	-2	1	0	1	0	78
	Multi-Family	17	0	0	0	0	0	0	0	0	0	0	17
	Manufactured Housing	6	0	0	0	0	0	0	0	0	0	0	6
	Total Housing	96	0	5	-2	2	0	-2	1	0	1	0	101
Enfield	Single Family	1,575	11	10	9	11	14	6	15	14	10	3	1,678
	Multi-Family	698	0	2	0	0	0	0	0	0	0	8	708
	Manufactured Housing	235	2	-2	0	-2	0	0	1	3	0	0	237
	Total Housing	2,508	13	10	9	9	14	6	16	17	10	11	2,623
Franconia	Single Family	666	7	3	3	9	4	2	5	6	3	7	715
	Multi-Family	140	0	0	0	0	0	0	0	0	0	0	140
	Manufactured Housing	53	0	0	0	0	0	0	0	0	0	0	53
	Total Housing	859	7	3	3	9	4	2	5	6	3	7	908
Grafton	Single Family	670	4	8	1	6	1	2	0	1	2	0	695
	Multi-Family	28	0	0	0	0	0	0	0	0	0	0	28
	Manufactured Housing	141	0	0	0	3	0	0	0	1	0	1	146
	Total Housing	839	4	8	1	9	1	2	0	2	2	1	869
Groton	Single Family	322	3	1	2	-1	2	1	5	3	4	3	345
	Multi-Family	4	0	0	0	0	0	0	0	0	0	0	4
	Manufactured Housing	111	0	0	-2	0	0	0	0	1	0	1	111
	Total Housing	437	3	1	0	-1	2	1	5	4	4	4	460
Hanover	Single Family	2,190	4	-4	0	6	7	5	5	1	5	1	2,220
	Multi-Family	1,242	9	-15	0	8	0	0	-3	0	-1	25	1,265
	Manufactured Housing	14	0	0	0	0	0	0	0	0	0	0	14
	Total Housing	3,446	13	-19	0	14	7	5	2	1	4	26	3,499
Haverhill	Single Family	1,512	6	4	5	4	-1	6	4	2	0	2	1,544
	Multi-Family	499	0	5	0	1	0	1	0	3	0	2	511
	Manufactured Housing	368	0	1	3	5	0	0	2	6	0	1	386
	Total Housing	2,379	6	10	8	10	-1	7	6	11	0	5	2,441



Town or City	Housing Type	Dwelling Units	Residential Permits, Net Change of Units										Total Estimated Housing Units
			2010 Census	2010	2011	2012	2013	2014	2015	2016	2017	2018	
Hebron	Single Family	574	7	8	2	2	3	6	3	2	1	6	614
	Multi-Family	23	0	0	0	0	0	0	0	0	0	0	23
	Manufactured Housing	3	1	0	1	0	0	0	0	0	0	0	5
	Total Housing	600	8	8	3	2	3	6	3	2	1	6	642
Holderness	Single Family	1,267	4	0	2	4	4	3	6	5	0	7	1,302
	Multi-Family	101	0	0	0	0	0	3	0	6	2	4	116
	Manufactured Housing	142	-1	0	0	0	0	0	0	-3	0	0	138
	Total Housing	1,510	3	0	2	4	4	6	6	8	2	11	1,556
Landaff	Single Family	203	1	1	1	1	-1	0	1	1	1	1	210
	Multi-Family	22	0	0	0	0	0	0	0	1	0	0	23
	Manufactured Housing	5	0	0	0	0	0	0	0	1	0	0	6
	Total Housing	230	1	1	1	1	-1	0	1	3	1	1	239
Lebanon	Single Family	3,159	13	10	-3	1	0	5	6	4	16	20	3,231
	Multi-Family	3,369	252	-16	63	21	45	5	28	36	143	66	4,012
	Manufactured Housing	122	0	0	-1	0	0	0	0	0	0	0	121
	Total Housing	6,650	265	-6	59	22	45	10	34	40	159	86	7,364
Lincoln	Single Family	508	8	7	3	7	6	7	4	10	1	11	572
	Multi-Family	2,319	0	1	0	0	85	40	2	9	8	10	2,474
	Manufactured Housing	161	1	0	0	0	0	0	0	1	0	0	163
	Total Housing	2,988	9	8	3	7	91	47	6	20	9	21	3,209
Lisbon	Single Family	524	4	2	-1	4	1	1	2	5	2	1	545
	Multi-Family	169	0	0	1	0	0	0	0	32	0	0	202
	Manufactured Housing	116	1	1	0	0	0	0	3	0	0	0	121
	Total Housing	809	5	3	0	4	1	1	5	37	2	1	868
Littleton	Single Family	1,745	5	3	7	5	2	4	4	7	6	7	1,795
	Multi-Family	1,058	0	22	0	0	0	0	0	0	0	0	1,080
	Manufactured Housing	262	-5	-5	-1	-6	0	0	-3	-2	4	2	246
	Total Housing	3,065	0	20	6	-1	2	4	1	5	10	9	3,121
Lyman	Single Family	319	5	2	1	1	2	-1	3	1	0	3	336
	Multi-Family	6	0	0	0	0	0	0	0	0	0	0	6
	Manufactured Housing	44	0	0	0	0	0	0	0	1	0	0	45
	Total Housing	369	5	2	1	1	2	-1	3	2	0	3	387
Lyme	Single Family	709	0	1	0	2	1	4	2	4	1	3	727
	Multi-Family	75	0	0	0	0	0	0	0	0	0	0	75
	Manufactured Housing	25	0	0	0	0	0	0	1	0	0	0	26
	Total Housing	809	0	1	0	2	1	4	3	4	1	3	828

Town or City	Housing Type	Dwelling Units	Residential Permits, Net Change of Units										Total Estimated Housing Units
			2010 Census	2010	2011	2012	2013	2014	2015	2016	2017	2018	
Monroe	Single Family	355	0	1	-1	2	0	2	3	4	2	1	369
	Multi-Family	4	0	0	0	0	0	0	0	0	0	1	5
	Manufactured Housing	13	0	0	0	2	0	2	0	0	0	-1	16
	Total Housing	372	0	1	-1	4	0	4	3	4	2	1	390
Orange	Single Family	150	0	-1	-1	1	1	0	1	1	1	1	154
	Multi-Family	2	0	0	0	0	0	0	0	0	0	0	2
	Manufactured Housing	15	0	0	0	1	0	0	0	0	0	0	16
	Total Housing	167	0	-1	-1	2	1	0	1	1	1	1	172
Orford	Single Family	503	-1	0	3	0	2	-1	1	2	6	2	517
	Multi-Family	52	0	1	1	3	0	0	0	0	0	0	57
	Manufactured Housing	101	1	1	-1	0	0	0	2	0	0	-1	103
	Total Housing	656	0	2	3	3	2	-1	3	2	6	1	677
Piermont	Single Family	434	0	1	0	0	0	0	1	1	2	2	441
	Multi-Family	28	0	0	0	0	0	0	0	0	0	0	28
	Manufactured Housing	12	0	0	0	0	0	0	0	0	0	1	13
	Total Housing	474	0	1	0	0	0	0	1	1	2	3	482
Plymouth	Single Family	1,333	11	-1	1	6	2	7	4	5	3	10	1,381
	Multi-Family	719	0	30	1	1	0	0	6	0	30	15	802
	Manufactured Housing	179	0	-2	-1	1	1	0	0	0	2	0	180
	Total Housing	2,231	11	27	1	8	3	7	10	5	35	25	2,363
Rumney	Single Family	814	3	1	2	2	10	3	1	-1	3	5	843
	Multi-Family	68	0	0	0	2	2	0	0	0	0	0	72
	Manufactured Housing	51	0	0	0	-4	-1	0	0	1	0	0	47
	Total Housing	933	3	1	2	0	11	3	1	0	3	5	962
Sugar Hill	Single Family	401	2	3	3	1	-1	6	1	5	0	3	424
	Multi-Family	26	0	0	0	0	0	0	0	0	0	0	26
	Manufactured Housing	2	0	0	0	0	0	0	0	0	0	0	2
	Total Housing	429	2	3	3	1	-1	6	1	5	0	3	452
Thornton	Single Family	1,112	17	7	2	5	6	8	19	14	28	7	1,225
	Multi-Family	556	0	0	4	0	1	1	-1	0	0	2	563
	Manufactured Housing	194	0	0	1	0	0	2	0	-1	0	0	196
	Total Housing	1,862	17	7	7	5	7	11	18	13	28	9	1,984
Warren	Single Family	513	0	0	0	0	1	4	2	2	-1	2	523
	Multi-Family	10	0	7	0	0	0	0	0	0	0	0	17
	Manufactured Housing	89	2	1	0	0	1	2	3	2	0	-2	98
	Total Housing	612	2	8	0	0	2	6	5	4	-1	0	638

Town or City	Housing Type	Dwelling Units	Residential Permits, Net Change of Units										Total Estimated Housing Units
			2010 Census	2010	2011	2012	2013	2014	2015	2016	2017	2018	
Waterville Valley	Single Family	178	4	3	2	1	1	1	0	1	3	0	194
	Multi-Family	1,011	0	0	3	0	0	0	0	0	0	0	1,014
	Manufactured Housing	0	0	0	0	0	0	0	0	0	0	0	0
	Total Housing	1,189	4	3	5	1	1	1	0	1	3	0	1,208
Wentworth	Single Family	463	2	4	-1	-1	-1	0	1	4	2	6	479
	Multi-Family	20	0	2	0	0	0	0	0	0	0	0	22
	Manufactured Housing	50	1	0	0	2	0	0	0	0	1	0	54
	Total Housing	533	3	6	-1	1	-1	0	1	4	3	6	555
Woodstock	Single Family	551	2	0	-1	1	2	1	4	3	2	3	568
	Multi-Family	726	0	16	0	0	0	0	0	0	0	1	743
	Manufactured Housing	145	-2	0	1	-1	-1	0	0	0	-1	1	142
	Total Housing	1,422	0	16	0	0	1	1	4	3	1	5	1,453

Town or City	Housing Type	Dwelling Units	Residential Permits, Net Change of Units										Total Estimated Housing Units
			2010 Census	2010	2011	2012	2013	2014	2015	2016	2017	2018	
<b>Hillsborough</b>													
Amherst	Single Family	3,674	17	12	5	1	10	14	40	31	24	24	3,852
	Multi-Family	539	0	0	28	0	2	0	2	4	14	10	599
	Manufactured Housing	67	0	0	0	0	-1	0	0	0	0	1	67
	Total Housing	4,280	17	12	33	1	11	14	42	35	38	35	4,518
Antrim	Single Family	1,046	2	2	5	2	2	-2	2	4	6	0	1,069
	Multi-Family	233	0	0	0	0	0	0	0	0	0	0	233
	Manufactured Housing	49	0	0	0	0	0	-2	0	0	0	0	47
	Total Housing	1,328	2	2	5	2	2	-4	2	4	6	0	1,349
Bedford	Single Family	6,265	33	16	25	40	22	24	20	27	14	21	6,507
	Multi-Family	1,316	0	166	0	0	144	182	41	0	0	238	2,087
	Manufactured Housing	54	0	0	0	0	0	-1	0	0	0	0	53
	Total Housing	7,635	33	182	25	40	166	205	61	27	14	259	8,647
Bennington	Single Family	430	0	0	1	-1	0	0	0	10	2	0	442
	Multi-Family	186	0	0	0	0	0	0	0	0	0	0	186
	Manufactured Housing	50	0	0	0	0	0	0	0	0	0	0	50
	Total Housing	666	0	0	1	-1	0	0	0	10	2	0	678
Brookline	Single Family	1,612	12	7	14	26	21	22	16	16	18	20	1,784
	Multi-Family	88	0	0	0	0	2	0	2	3	0	0	95
	Manufactured Housing	0	0	0	0	0	0	0	0	0	0	0	0
	Total Housing	1,700	12	7	14	26	23	22	18	19	18	20	1,879
Deering	Single Family	741	1	0	-1	-1	1	3	2	2	6	1	755
	Multi-Family	52	0	0	2	0	0	0	0	0	0	0	54
	Manufactured Housing	139	0	2	0	-1	0	-1	0	1	0	0	140
	Total Housing	932	1	2	1	-2	1	2	2	3	6	1	949
Fracestown	Single Family	670	2	3	0	2	1	1	2	4	3	4	692
	Multi-Family	78	0	0	1	0	0	0	0	0	0	0	79
	Manufactured Housing	6	0	0	0	0	0	1	1	0	0	-1	7
	Total Housing	754	2	3	1	2	1	2	3	4	3	3	778
Goffstown	Single Family	3,966	13	9	18	13	13	14	9	14	5	8	4,082
	Multi-Family	1,942	2	0	0	50	5	2	13	16	0	16	2,046
	Manufactured Housing	433	0	0	0	0	0	0	0	2	0	0	435
	Total Housing	6,341	15	9	18	63	18	16	22	32	5	24	6,563
Greenfield	Single Family	603	4	5	2	3	1	2	3	1	3	2	629
	Multi-Family	84	0	0	0	0	0	1	0	0	0	0	85
	Manufactured Housing	12	0	0	0	0	0	0	0	0	0	0	12
	Total Housing	699	4	5	2	3	1	3	3	1	3	2	726

Town or City	Housing Type	Dwelling Units	Residential Permits, Net Change of Units										Total Estimated Housing Units
			2010 Census	2010	2011	2012	2013	2014	2015	2016	2017	2018	
Greenville	Single Family	437	1	0	0	1	0	0	1	3	-2	1	442
	Multi-Family	273	0	0	0	0	0	0	0	0	0	0	273
	Manufactured Housing	222	-3	-2	0	0	0	3	0	0	1	0	221
	Total Housing	932	-2	-2	0	1	0	3	1	3	-1	1	936
Hancock	Single Family	729	0	0	2	0	1	4	4	1	3	4	748
	Multi-Family	123	0	0	0	1	0	0	0	0	0	0	124
	Manufactured Housing	12	0	0	0	0	0	0	0	0	0	0	12
	Total Housing	864	0	0	2	1	1	4	4	1	3	4	884
Hillsborough	Single Family	2,200	0	-2	-2	1	-1	3	3	2	6	5	2,215
	Multi-Family	496	4	0	3	0	0	9	3	0	0	0	515
	Manufactured Housing	200	0	0	1	0	1	0	0	-2	0	3	203
	Total Housing	2,896	4	-2	2	1	0	12	6	0	6	8	2,933
Hollis	Single Family	2,546	12	4	12	19	18	15	9	16	31	51	2,733
	Multi-Family	279	0	0	1	0	0	0	0	6	4	4	294
	Manufactured Housing	104	0	0	0	-1	0	0	1	0	0	0	104
	Total Housing	2,929	12	4	13	18	18	15	10	22	35	55	3,131
Hudson	Single Family	6,080	44	13	25	50	42	71	69	75	54	12	6,535
	Multi-Family	2,986	0	1	7	11	0	8	4	15	16	8	3,056
	Manufactured Housing	147	0	-2	0	0	4	0	0	0	-1	-2	146
	Total Housing	9,213	44	12	32	61	46	79	73	90	69	18	9,737
Litchfield	Single Family	2,366	11	6	9	16	9	15	11	2	7	14	2,466
	Multi-Family	486	2	8	8	6	8	0	2	47	4	7	578
	Manufactured Housing	60	0	0	0	0	0	0	0	0	0	0	60
	Total Housing	2,912	13	14	17	22	17	15	13	49	11	21	3,104
Lyndeborough	Single Family	578	0	5	0	2	6	3	1	1	3	2	601
	Multi-Family	80	0	0	0	0	0	2	0	0	0	1	83
	Manufactured Housing	30	0	0	0	0	0	0	0	1	0	0	31
	Total Housing	688	0	5	0	2	6	5	1	2	3	3	715
Manchester	Single Family	18,482	28	36	41	28	57	51	56	68	67	47	18,961
	Multi-Family	30,683	102	21	158	33	10	336	152	-9	35	74	31,595
	Manufactured Housing	123	0	0	1	1	0	0	0	0	0	0	125
	Total Housing	49,288	130	57	200	62	67	387	208	59	102	121	50,681
Mason	Single Family	550	4	2	1	0	4	1	3	7	5	5	582
	Multi-Family	5	0	0	0	0	0	0	0	0	0	0	5
	Manufactured Housing	16	0	0	0	0	0	0	0	0	0	0	16
	Total Housing	571	4	2	1	0	4	1	3	7	5	5	603

Town or City	Housing Type	Dwelling Units	Residential Permits, Net Change of Units										Total Estimated Housing Units
			2010 Census	2010	2011	2012	2013	2014	2015	2016	2017	2018	
Merrimack	Single Family	6,885	9	15	8	14	19	17	37	37	31	57	7,129
	Multi-Family	2,887	10	3	6	3	4	0	2	0	198	358	3,471
	Manufactured Housing	46	0	1	1	2	0	1	2	0	2	2	57
	Total Housing	9,818	19	19	15	19	23	18	41	37	231	417	10,657
Milford	Single Family	3,371	16	15	6	16	14	28	49	60	74	52	3,701
	Multi-Family	2,539	2	1	0	0	0	0	1	124	0	5	2,672
	Manufactured Housing	384	-5	-3	-1	0	0	0	6	1	4	0	386
	Total Housing	6,294	13	13	5	16	14	28	56	185	78	57	6,759
Mont Vernon	Single Family	816	6	6	6	7	10	5	5	12	24	14	911
	Multi-Family	18	0	0	0	0	0	0	0	0	0	0	18
	Manufactured Housing	33	0	0	1	0	0	0	0	0	0	0	34
	Total Housing	867	6	6	7	7	10	5	5	12	24	14	963
Nashua	Single Family	17,070	31	52	48	76	59	54	57	57	51	53	17,608
	Multi-Family	19,119	12	36	289	164	292	56	182	114	166	14	20,444
	Manufactured Housing	979	-6	-4	0	7	11	-1	4	-1	-2	-4	983
	Total Housing	37,168	37	84	337	247	362	109	243	170	215	63	39,035
New Boston	Single Family	1,662	10	8	12	18	17	38	36	32	32	20	1,885
	Multi-Family	247	2	0	0	0	0	0	0	0	0	2	251
	Manufactured Housing	57	0	0	0	0	0	0	0	1	1	1	60
	Total Housing	1,966	12	8	12	18	17	38	36	33	33	23	2,196
New Ipswich	Single Family	1,597	10	3	5	5	20	17	10	18	19	16	1,720
	Multi-Family	290	0	0	0	2	0	0	0	0	2	6	300
	Manufactured Housing	29	0	0	0	0	0	0	0	0	0	0	29
	Total Housing	1,916	10	3	5	7	20	17	10	18	21	22	2,049
Pelham	Single Family	3,990	7	5	34	30	27	50	97	90	51	45	4,426
	Multi-Family	608	13	7	3	10	8	6	0	10	43	11	719
	Manufactured Housing	0	0	0	0	0	0	0	0	0	0	0	0
	Total Housing	4,598	20	12	37	40	35	56	97	100	94	56	5,145
Peterborough	Single Family	1,585	-1	4	-2	1	-3	-3	11	7	9	9	1,617
	Multi-Family	1,371	0	60	0	3	-2	51	0	28	3	6	1,520
	Manufactured Housing	0	0	0	0	0	0	0	0	0	0	0	0
	Total Housing	2,956	-1	64	-2	4	-5	48	11	35	12	15	3,137
Sharon	Single Family	158	1	0	0	1	0	1	0	0	3	3	167
	Multi-Family	6	0	0	0	0	0	0	0	0	0	0	6
	Manufactured Housing	0	0	0	0	0	0	0	0	0	0	0	0
	Total Housing	164	1	0	0	1	0	1	0	0	3	3	173

Town or City	Housing Type	Dwelling Units	Residential Permits, Net Change of Units										Total Estimated Housing Units
			2010 Census	2010	2011	2012	2013	2014	2015	2016	2017	2018	
Temple	Single Family	445	-1	0	0	1	1	3	2	2	0	2	455
	Multi-Family	84	0	0	0	0	1	0	3	1	0	0	89
	Manufactured Housing	13	0	0	0	-1	-1	-2	0	-2	0	0	7
	Total Housing	542	-1	0	0	0	1	1	5	1	0	2	551
Weare	Single Family	2,897	18	14	11	10	3	8	14	8	20	26	3,029
	Multi-Family	408	1	1	0	0	0	2	2	2	2	0	418
	Manufactured Housing	161	-1	0	0	0	-3	0	-1	0	2	1	159
	Total Housing	3,466	18	15	11	10	0	10	15	10	24	27	3,606
Wilton	Single Family	1,054	2	0	1	4	4	2	8	8	15	18	1,116
	Multi-Family	455	0	3	-2	0	3	-2	0	-2	0	5	460
	Manufactured Housing	21	1	1	-1	0	0	0	0	0	0	0	22
	Total Housing	1,530	3	4	-2	4	7	0	8	6	15	23	1,598
Windsor	Single Family	132	0	0	0	0	1	2	1	1	1	1	139
	Multi-Family	0	0	0	0	0	0	0	0	0	0	0	0
	Manufactured Housing	5	0	0	0	0	0	0	0	0	0	0	5
	Total Housing	137	0	0	0	0	1	2	1	1	1	1	144

Town or City	Housing Type	Dwelling Units	Residential Permits, Net Change of Units										Total Estimated Housing Units
			2010 Census	2010	2011	2012	2013	2014	2015	2016	2017	2018	
<b>Merrimack</b>													
Allentown	Single Family	806	3	-1	1	3	0	1	1	9	8	5	836
	Multi-Family	679	0	2	0	-6	0	8	0	0	0	0	683
	Manufactured Housing	396	3	3	1	0	2	-1	9	-3	0	2	412
	Total Housing	1,881	6	4	2	-3	2	8	10	6	8	7	1,931
Andover	Single Family	1,012	3	1	0	1	1	2	4	1	1	4	1,030
	Multi-Family	59	0	0	0	0	0	0	0	0	0	0	59
	Manufactured Housing	51	0	0	0	0	0	0	1	0	0	0	52
	Total Housing	1,122	3	1	0	1	1	2	5	1	1	4	1,141
Boscawen	Single Family	909	2	1	0	4	7	3	0	6	5	7	944
	Multi-Family	329	0	1	0	-2	-1	0	50	0	1	0	378
	Manufactured Housing	215	0	-1	0	0	0	-4	0	0	-5	-1	204
	Total Housing	1,453	2	1	0	2	6	-1	50	6	1	6	1,526
Bow	Single Family	2,631	31	5	19	16	9	16	27	18	17	20	2,809
	Multi-Family	176	0	0	0	0	16	0	0	5	0	0	197
	Manufactured Housing	0	0	0	0	0	0	0	0	0	0	0	0
	Total Housing	2,807	31	5	19	16	25	16	27	23	17	20	3,006
Bradford	Single Family	831	4	1	5	4	2	5	2	2	3	5	864
	Multi-Family	59	0	0	0	0	0	0	0	0	0	0	59
	Manufactured Housing	27	0	0	0	0	1	0	0	0	0	0	28
	Total Housing	917	4	1	5	4	3	5	2	2	3	5	951
Canterbury	Single Family	921	2	4	0	4	4	2	5	5	6	8	961
	Multi-Family	63	1	0	0	0	0	0	0	0	0	0	64
	Manufactured Housing	18	0	-1	0	0	0	0	0	0	0	0	17
	Total Housing	1,002	3	3	0	4	4	2	5	5	6	8	1,042
Chichester	Single Family	856	8	0	2	5	9	3	3	5	10	3	904
	Multi-Family	82	3	0	0	0	0	-1	0	0	0	0	84
	Manufactured Housing	25	0	0	1	0	0	1	0	2	0	0	29
	Total Housing	963	11	0	3	5	9	3	3	7	10	3	1,017
Concord	Single Family	8,003	10	-1	11	26	31	30	31	20	22	26	8,209
	Multi-Family	9,949	77	16	-14	-35	49	140	38	6	18	45	10,289
	Manufactured Housing	900	0	0	0	0	-9	-1	10	8	6	14	928
	Total Housing	18,852	87	15	-3	-9	71	169	79	34	46	85	19,426
Danbury	Single Family	565	2	1	3	1	3	4	5	4	2	4	594
	Multi-Family	25	0	0	1	0	0	0	0	0	0	0	26
	Manufactured Housing	94	1	-3	1	0	0	0	2	1	0	2	98
	Total Housing	684	3	-2	5	1	3	4	7	5	2	6	718



Town or City	Housing Type	Dwelling Units	Residential Permits, Net Change of Units										Total Estimated Housing Units
			2010 Census	2010	2011	2012	2013	2014	2015	2016	2017	2018	
Dunbarton	Single Family	999	4	5	1	4	10	4	8	20	10	9	1,074
	Multi-Family	59	0	0	0	2	0	0	0	2	0	3	66
	Manufactured Housing	19	0	0	1	0	0	0	0	0	1	0	21
	Total Housing	1,077	4	5	2	6	10	4	8	22	11	12	1,161
Epsom	Single Family	1,342	12	10	8	8	10	11	7	9	2	29	1,448
	Multi-Family	87	1	3	2	5	2	2	0	2	0	1	105
	Manufactured Housing	410	5	2	2	1	1	5	6	0	1	8	441
	Total Housing	1,839	18	15	12	14	13	18	13	11	3	38	1,994
Franklin	Single Family	2,334	2	3	3	0	9	0	0	2	5	5	2,363
	Multi-Family	1,387	0	2	1	0	1	0	48	0	-6	-4	1,429
	Manufactured Housing	217	2	2	5	10	6	21	17	11	0	2	293
	Total Housing	3,938	4	7	9	10	16	21	65	13	-1	3	4,085
Henniker	Single Family	1,183	-1	3	1	4	-1	5	5	10	9	15	1,233
	Multi-Family	553	1	0	0	0	3	0	0	14	0	0	571
	Manufactured Housing	192	0	0	0	0	-1	-1	0	1	0	-1	190
	Total Housing	1,928	0	3	1	4	1	4	5	25	9	14	1,994
Hill	Single Family	421	2	1	0	2	1	1	0	0	0	3	431
	Multi-Family	40	0	0	0	0	0	0	0	1	0	0	41
	Manufactured Housing	52	0	0	0	0	1	0	0	2	1	0	56
	Total Housing	513	2	1	0	2	2	1	0	3	1	3	528
Hooksett	Single Family	3,622	29	27	14	33	15	26	14	31	36	64	3,911
	Multi-Family	1,376	0	16	192	2	6	0	7	0	6	10	1,615
	Manufactured Housing	186	0	0	-1	0	-17	-1	0	0	0	0	167
	Total Housing	5,184	29	43	205	35	4	25	21	31	42	74	5,693
Hopkinton	Single Family	2,103	5	4	3	8	5	10	11	10	10	13	2,182
	Multi-Family	213	0	0	0	5	-1	0	0	0	9	0	226
	Manufactured Housing	66	0	0	0	0	0	0	0	0	0	0	66
	Total Housing	2,382	5	4	3	13	4	10	11	10	19	13	2,474
Loudon	Single Family	1,706	6	1	10	20	20	24	29	30	12	15	1,873
	Multi-Family	105	0	4	0	2	2	0	0	2	4	8	127
	Manufactured Housing	270	0	0	2	0	0	0	9	-2	0	0	279
	Total Housing	2,081	6	5	12	22	22	24	38	30	16	23	2,279
New London	Single Family	1,848	7	0	2	-1	9	3	3	4	-1	8	1,882
	Multi-Family	455	0	0	4	4	1	0	0	0	6	0	470
	Manufactured Housing	0	0	0	0	0	0	0	0	0	0	1	1
	Total Housing	2,303	7	0	6	3	10	3	3	4	5	9	2,353

Town or City	Housing Type	Dwelling Units	Residential Permits, Net Change of Units										Total Estimated Housing Units
			2010 Census	2010	2011	2012	2013	2014	2015	2016	2017	2018	
Newbury	Single Family	1,487	9	12	7	8	7	7	7	7	13	10	1,574
	Multi-Family	66	0	0	0	0	34	0	0	0	4	13	117
	Manufactured Housing	6	0	0	0	0	0	0	0	0	0	0	6
	Total Housing	1,559	9	12	7	8	41	7	7	7	17	23	1,697
Northfield	Single Family	1,357	0	2	0	1	4	3	4	10	8	6	1,395
	Multi-Family	457	0	0	1	1	2	0	1	2	2	0	466
	Manufactured Housing	155	0	0	1	0	0	1	0	-1	2	2	160
	Total Housing	1,969	0	2	2	2	6	4	5	11	12	8	2,021
Pembroke	Single Family	1,787	1	0	2	2	8	1	2	-2	1	1	1,803
	Multi-Family	1,042	-2	0	4	0	2	0	2	0	0	0	1,048
	Manufactured Housing	42	0	1	0	0	0	0	1	0	0	0	44
	Total Housing	2,871	-1	1	6	2	10	1	5	-2	1	1	2,895
Pittsfield	Single Family	1,051	-2	2	1	1	1	3	-1	1	0	5	1,062
	Multi-Family	548	0	0	0	0	0	0	0	0	2	4	554
	Manufactured Housing	170	1	0	0	1	0	0	0	2	0	1	175
	Total Housing	1,769	-1	2	1	2	1	3	-1	3	2	10	1,791
Salisbury	Single Family	571	2	4	2	2	2	4	2	6	2	7	604
	Multi-Family	11	0	0	0	0	0	0	0	0	0	0	11
	Manufactured Housing	16	0	0	0	0	1	0	0	0	0	0	17
	Total Housing	598	2	4	2	2	3	4	2	6	2	7	632
Sutton	Single Family	955	3	2	5	3	3	3	4	8	5	6	997
	Multi-Family	30	0	0	0	0	0	0	0	0	0	0	30
	Manufactured Housing	0	0	0	0	0	0	0	0	0	0	-2	-2
	Total Housing	985	3	2	5	3	3	3	4	8	5	4	1,025
Warner	Single Family	1,004	6	5	7	2	4	5	3	3	3	6	1,048
	Multi-Family	274	0	0	0	0	0	0	0	0	0	2	276
	Manufactured Housing	80	0	0	1	0	0	0	0	1	1	1	84
	Total Housing	1,358	6	5	8	2	4	5	3	4	4	9	1,408
Webster	Single Family	817	3	2	0	0	2	3	3	6	3	4	843
	Multi-Family	15	0	0	0	0	0	0	0	0	0	0	15
	Manufactured Housing	16	0	0	-1	0	0	0	-1	0	0	0	14
	Total Housing	848	3	2	-1	0	2	3	2	6	3	4	872
Wilmot	Single Family	588	4	2	0	1	0	4	4	3	2	2	610
	Multi-Family	42	0	0	0	0	0	0	0	0	0	0	42
	Manufactured Housing	28	0	0	0	0	0	0	0	0	0	1	29
	Total Housing	658	4	2	0	1	0	4	4	3	2	3	681

Town or City	Housing Type	Dwelling Units	Residential Permits, Net Change of Units										Total Estimated Housing Units
			2010 Census	2010	2011	2012	2013	2014	2015	2016	2017	2018	
<b>Rockingham</b>													
Atkinson	Single Family	1,898	5	4	5	8	3	6	3	4	27	20	1,983
	Multi-Family	890	0	-1	-1	0	0	12	30	44	41	0	1,015
	Manufactured Housing	0	0	0	0	0	0	0	0	0	0	0	0
	Total Housing	2,788	5	3	4	8	3	18	33	48	68	20	2,998
Auburn	Single Family	1,656	8	30	39	27	35	31	30	33	17	27	1,933
	Multi-Family	118	1	2	2	5	3	3	6	3	8	3	154
	Manufactured Housing	40	0	0	0	0	0	0	0	0	0	-1	39
	Total Housing	1,814	9	32	41	32	38	34	36	36	25	29	2,126
Brentwood	Single Family	1,139	8	26	30	27	7	1	0	10	18	32	1,298
	Multi-Family	127	0	0	0	0	-3	0	2	0	0	0	126
	Manufactured Housing	84	0	0	0	0	0	0	-2	0	0	0	82
	Total Housing	1,350	8	26	30	27	4	1	0	10	18	32	1,506
Candia	Single Family	1,399	1	3	5	2	2	0	6	4	8	6	1,436
	Multi-Family	56	0	0	0	0	0	0	2	2	2	1	63
	Manufactured Housing	39	2	0	0	0	0	0	0	0	0	2	43
	Total Housing	1,494	3	3	5	2	2	0	8	6	10	9	1,542
Chester	Single Family	1,438	9	14	21	19	23	17	28	30	15	11	1,625
	Multi-Family	129	0	0	0	6	4	16	16	18	4	2	195
	Manufactured Housing	29	0	0	0	0	0	0	0	0	0	0	29
	Total Housing	1,596	9	14	21	25	27	33	44	48	19	13	1,849
Danville	Single Family	1,283	13	9	2	3	3	0	5	6	13	24	1,361
	Multi-Family	119	8	0	0	2	10	0	6	0	0	1	146
	Manufactured Housing	282	0	0	0	0	0	0	0	0	7	4	293
	Total Housing	1,684	21	9	2	5	13	0	11	6	20	29	1,800
Deerfield	Single Family	1,542	19	15	13	14	14	28	26	24	20	20	1,735
	Multi-Family	123	0	2	0	0	0	0	0	0	0	0	125
	Manufactured Housing	78	0	0	0	0	1	2	0	0	1	0	82
	Total Housing	1,743	19	17	13	14	15	30	26	24	21	20	1,942
Derry	Single Family	6,954	11	18	19	37	19	15	6	22	17	24	7,142
	Multi-Family	5,717	6	0	4	-3	5	4	39	11	0	32	5,815
	Manufactured Housing	606	0	2	0	2	-4	1	5	8	4	0	624
	Total Housing	13,277	17	20	23	36	20	20	50	41	21	56	13,581
East Kingston	Single Family	781	6	2	5	9	6	0	4	3	1	3	820
	Multi-Family	91	0	0	0	0	0	0	0	2	2	0	95
	Manufactured Housing	35	0	0	0	0	0	0	0	-1	0	0	34
	Total Housing	907	6	2	5	9	6	0	4	4	3	3	949

Town or City	Housing Type	Dwelling Units	Residential Permits, Net Change of Units										Total Estimated Housing Units
			2010 Census	2010	2011	2012	2013	2014	2015	2016	2017	2018	
Epping	Single Family	1,875	40	20	32	51	38	24	15	17	14	21	2,147
	Multi-Family	561	1	3	6	9	10	1	18	3	5	25	642
	Manufactured Housing	287	3	-1	-2	2	-2	1	-4	1	-5	-1	279
	Total Housing	2,723	44	22	36	62	46	26	29	21	14	45	3,068
Exeter	Single Family	3,065	15	13	13	15	8	11	16	2	1	-3	3,156
	Multi-Family	2,552	39	9	58	1	71	129	106	91	30	10	3,096
	Manufactured Housing	879	-12	-8	-5	0	0	-8	0	0	0	0	846
	Total Housing	6,496	42	14	66	16	79	132	122	93	31	7	7,098
Fremont	Single Family	1,302	2	3	7	16	7	12	10	5	8	7	1,379
	Multi-Family	232	6	24	18	22	16	16	4	0	0	0	338
	Manufactured Housing	39	0	0	3	2	3	5	7	1	0	0	60
	Total Housing	1,573	8	27	28	40	26	33	21	6	8	7	1,777
Greenland	Single Family	1,077	14	15	19	25	28	15	60	36	7	5	1,301
	Multi-Family	350	4	4	14	12	10	0	0	0	2	0	396
	Manufactured Housing	16	0	0	0	0	0	0	0	0	0	0	16
	Total Housing	1,443	18	19	33	37	38	15	60	36	9	5	1,713
Hampstead	Single Family	2,491	6	0	11	6	18	15	6	11	7	8	2,579
	Multi-Family	1,009	0	0	2	6	2	2	2	6	2	2	1,033
	Manufactured Housing	227	4	1	5	9	8	9	1	2	2	1	269
	Total Housing	3,727	10	1	18	21	28	26	9	19	11	11	3,881
Hampton	Single Family	5,496	2	13	11	15	9	13	8	17	10	8	5,602
	Multi-Family	4,150	-26	9	84	26	40	78	0	-2	-3	36	4,392
	Manufactured Housing	275	0	0	0	0	1	0	-2	0	1	0	275
	Total Housing	9,921	-24	22	95	41	50	91	6	15	8	44	10,269
Hampton Falls	Single Family	830	0	3	3	3	1	0	1	2	3	5	851
	Multi-Family	63	2	0	0	0	0	0	24	0	48	0	137
	Manufactured Housing	7	0	0	0	0	0	0	0	0	0	0	7
	Total Housing	900	2	3	3	3	1	0	25	2	51	5	995
Kensington	Single Family	758	1	0	0	3	2	3	2	0	6	6	781
	Multi-Family	24	0	0	0	0	0	0	0	0	4	1	29
	Manufactured Housing	24	0	0	0	0	0	-1	0	0	-1	-1	21
	Total Housing	806	1	0	0	3	2	2	2	0	9	6	831
Kingston	Single Family	1,867	3	3	8	8	14	16	25	35	8	-1	1,986
	Multi-Family	498	0	0	0	2	5	0	2	0	1	9	517
	Manufactured Housing	115	0	-1	0	0	0	-1	-1	-2	-1	-1	108
	Total Housing	2,480	3	2	8	10	19	15	26	33	8	7	2,611

Town or City	Housing Type	Dwelling Units	Residential Permits, Net Change of Units										Total Estimated Housing Units
			2010 Census	2010	2011	2012	2013	2014	2015	2016	2017	2018	
Londonderry	Single Family	5,956	20	13	41	49	79	91	74	28	29	41	6,421
	Multi-Family	2,399	1	3	1	8	155	106	25	53	96	132	2,979
	Manufactured Housing	416	0	-2	6	9	-2	0	8	4	1	3	443
	Total Housing	8,771	21	14	48	66	232	197	107	85	126	176	9,843
New Castle	Single Family	479	2	2	2	-1	1	0	0	0	2	2	489
	Multi-Family	58	-2	0	0	0	0	0	0	0	0	0	56
	Manufactured Housing	0	0	0	0	0	0	0	0	0	0	0	0
	Total Housing	537	0	2	2	-1	1	0	0	0	2	2	545
Newfields	Single Family	553	1	1	3	3	1	4	4	3	2	2	577
	Multi-Family	32	0	0	0	0	0	0	0	0	1	0	33
	Manufactured Housing	6	0	0	0	0	0	0	0	0	0	0	6
	Total Housing	591	1	1	3	3	1	4	4	3	3	2	616
Newington	Single Family	237	1	-1	0	4	3	7	2	2	2	4	261
	Multi-Family	61	0	0	0	0	0	3	2	0	0	0	66
	Manufactured Housing	24	0	0	0	0	0	0	0	0	0	0	24
	Total Housing	322	1	-1	0	4	3	10	4	2	2	4	351
Newmarket	Single Family	1,677	2	4	5	1	10	16	39	21	13	13	1,801
	Multi-Family	2,266	0	0	112	4	2	4	36	2	8	10	2,444
	Manufactured Housing	196	0	2	0	0	0	0	0	1	0	2	201
	Total Housing	4,139	2	6	117	5	12	20	75	24	21	25	4,446
Newton	Single Family	1,398	27	15	20	30	30	18	10	0	2	10	1,560
	Multi-Family	246	0	0	0	0	0	0	4	4	0	2	256
	Manufactured Housing	107	0	0	0	0	0	1	1	1	0	0	110
	Total Housing	1,751	27	15	20	30	30	19	15	5	2	12	1,926
North Hampton	Single Family	1,450	9	16	6	6	3	9	5	5	8	1	1,518
	Multi-Family	146	0	4	0	10	12	0	4	4	0	0	180
	Manufactured Housing	318	7	14	11	10	10	-2	1	-1	1	4	373
	Total Housing	1,914	16	34	17	26	25	7	10	8	9	5	2,071
Northwood	Single Family	1,716	4	10	0	-3	0	2	13	9	15	14	1,780
	Multi-Family	115	0	0	0	0	0	0	0	2	0	0	117
	Manufactured Housing	298	0	0	1	1	0	0	2	1	2	2	307
	Total Housing	2,129	4	10	1	-2	0	2	15	12	17	16	2,204
Nottingham	Single Family	1,869	20	10	9	12	26	30	29	17	23	24	2,069
	Multi-Family	56	0	0	0	0	0	0	0	0	0	0	56
	Manufactured Housing	61	0	0	0	0	0	0	0	0	3	3	67
	Total Housing	1,986	20	10	9	12	26	30	29	17	26	27	2,192

Town or City	Housing Type	Dwelling Units	Residential Permits, Net Change of Units										Total Estimated Housing Units
			2010 Census	2010	2011	2012	2013	2014	2015	2016	2017	2018	
Plaistow	Single Family	1,797	0	1	0	10	20	34	13	6	6	6	1,893
	Multi-Family	1,205	0	0	2	0	2	0	0	0	3	1	1,213
	Manufactured Housing	14	0	0	0	0	0	0	0	0	0	0	14
	Total Housing	3,016	0	1	2	10	22	34	13	6	9	7	3,120
Portsmouth	Single Family	4,219	1	3	21	10	6	8	25	27	22	6	4,348
	Multi-Family	6,079	46	40	10	114	26	32	154	61	120	104	6,786
	Manufactured Housing	327	0	0	0	-1	12	3	11	5	4	5	366
	Total Housing	10,625	47	43	31	123	44	43	190	93	146	115	11,500
Raymond	Single Family	2,586	31	10	9	15	15	10	6	15	43	32	2,772
	Multi-Family	1,035	0	5	2	3	6	11	0	6	15	6	1,089
	Manufactured Housing	633	0	1	0	0	0	1	1	0	-6	-8	622
	Total Housing	4,254	31	16	11	18	21	22	7	21	52	30	4,483
Rye	Single Family	2,298	3	5	4	5	18	22	-3	3	3	15	2,373
	Multi-Family	449	0	0	6	0	0	2	3	0	0	3	463
	Manufactured Housing	105	0	0	0	0	-2	0	0	0	0	0	103
	Total Housing	2,852	3	5	10	5	16	24	0	3	3	18	2,939
Salem	Single Family	7,806	-1	13	21	27	39	35	36	49	67	67	8,159
	Multi-Family	3,167	8	0	4	4	10	29	10	162	127	294	3,815
	Manufactured Housing	837	0	0	0	0	0	0	16	1	1	0	855
	Total Housing	11,810	7	13	25	31	49	64	62	212	195	361	12,829
Sandown	Single Family	1,901	35	25	19	24	25	8	0	14	12	14	2,077
	Multi-Family	273	2	0	0	0	0	0	0	43	6	0	324
	Manufactured Housing	40	0	0	0	-6	-1	0	0	0	1	1	35
	Total Housing	2,214	37	25	19	18	24	8	0	57	19	15	2,436
Seabrook	Single Family	1,886	30	18	20	15	17	12	11	3	10	0	2,022
	Multi-Family	1,637	2	2	0	2	0	0	0	3	5	14	1,665
	Manufactured Housing	1,021	12	5	10	11	4	8	2	-2	0	1	1,072
	Total Housing	4,544	44	25	30	28	21	20	13	4	15	15	4,759
South Hampton	Single Family	424	1	-1	1	2	1	1	2	3	1	0	435
	Multi-Family	22	0	0	0	0	0	0	0	2	1	1	26
	Manufactured Housing	58	0	0	0	0	0	0	0	0	0	0	58
	Total Housing	504	1	-1	1	2	1	1	2	5	2	1	519
Stratham	Single Family	2,093	3	14	9	17	18	14	16	18	30	51	2,283
	Multi-Family	704	2	0	2	0	2	4	0	3	8	1	726
	Manufactured Housing	67	0	0	0	0	0	0	0	0	0	-1	66
	Total Housing	2,864	5	14	11	17	20	18	16	21	38	51	3,075

Town or City	Housing Type	Dwelling Units	Residential Permits, Net Change of Units										Total Estimated Housing Units
			2010 Census	2010	2011	2012	2013	2014	2015	2016	2017	2018	
Windham	Single Family	4,434	51	46	37	55	86	34	44	56	69	54	4,966
	Multi-Family	695	21	6	9	6	9	0	2	0	0	6	754
	Manufactured Housing	35	0	0	0	0	0	0	0	1	0	0	36
	Total Housing	5,164	72	52	46	61	95	34	46	57	69	60	5,756

Town or City	Housing Type	Dwelling Units	Residential Permits, Net Change of Units										Total Estimated Housing Units
			2010 Census	2010	2011	2012	2013	2014	2015	2016	2017	2018	
<b>Strafford</b>													
Barrington	Single Family	3,022	37	20	19	17	26	26	26	41	33	15	3,282
	Multi-Family	239	0	2	0	0	0	0	0	0	8	6	255
	Manufactured Housing	400	2	0	2	3	2	0	5	0	1	-1	414
	Total Housing	3,661	39	22	21	20	28	26	31	41	42	20	3,951
Dover	Single Family	6,182	53	46	68	60	57	44	60	52	41	39	6,702
	Multi-Family	7,124	20	9	23	54	13	38	18	112	237	169	7,817
	Manufactured Housing	379	0	1	4	1	0	0	4	5	3	3	400
	Total Housing	13,685	73	56	95	115	70	82	82	169	281	211	14,919
Durham	Single Family	1,764	5	52	4	17	8	6	4	1	8	11	1,880
	Multi-Family	1,318	6	121	17	133	164	6	1	0	155	1	1,922
	Manufactured Housing	9	0	0	0	0	0	0	0	0	0	0	9
	Total Housing	3,091	11	173	21	150	172	12	5	1	163	12	3,811
Farmington	Single Family	1,630	8	6	2	5	6	5	15	5	-8	3	1,677
	Multi-Family	685	1	1	0	1	1	3	0	2	4	6	704
	Manufactured Housing	517	1	-1	0	1	-5	0	5	3	7	6	534
	Total Housing	2,832	10	6	2	7	2	8	20	10	3	15	2,915
Lee	Single Family	1,162	5	4	2	4	1	6	11	11	26	16	1,248
	Multi-Family	346	0	0	0	0	0	0	0	2	3	0	351
	Manufactured Housing	258	0	0	0	-1	1	0	0	0	5	0	263
	Total Housing	1,766	5	4	2	3	2	6	11	13	34	16	1,862
Madbury	Single Family	498	2	1	3	0	3	5	3	4	9	2	530
	Multi-Family	105	4	0	0	0	0	0	0	0	0	0	109
	Manufactured Housing	50	0	0	0	0	0	0	0	0	1	0	51
	Total Housing	653	6	1	3	0	3	5	3	4	10	2	690
Middleton	Single Family	778	1	0	0	1	0	5	4	1	6	1	797
	Multi-Family	3	0	0	0	0	0	4	0	0	0	1	8
	Manufactured Housing	70	0	1	0	0	1	0	0	0	0	0	72
	Total Housing	851	1	1	0	1	1	9	4	1	6	2	877
Milton	Single Family	1,617	3	6	-2	-1	2	3	4	4	1	1	1,638
	Multi-Family	223	2	0	1	0	0	0	0	1	0	0	227
	Manufactured Housing	341	0	-4	0	2	0	0	8	5	6	6	364
	Total Housing	2,181	5	2	-1	1	2	3	12	10	7	7	2,229
New Durham	Single Family	1,417	4	-3	-1	-2	3	5	2	6	9	12	1,452
	Multi-Family	39	0	0	0	0	-2	0	0	0	0	2	39
	Manufactured Housing	67	0	0	0	0	0	1	0	0	0	1	69
	Total Housing	1,523	4	-3	-1	-2	1	6	2	6	9	15	1,560



Town or City	Housing Type	Dwelling Units	Residential Permits, Net Change of Units										Total Estimated Housing Units
			2010 Census	2010	2011	2012	2013	2014	2015	2016	2017	2018	
Rochester	Single Family	6,622	20	20	39	0	27	45	7	71	61	33	6,945
	Multi-Family	4,349	31	0	0	0	24	51	71	113	58	123	4,820
	Manufactured Housing	2,402	5	0	36	3	7	0	10	28	24	5	2,520
	Total Housing	13,373	56	20	75	3	58	96	88	212	143	161	14,285
Rollinsford	Single Family	797	2	0	1	1	2	6	8	9	4	3	833
	Multi-Family	300	0	0	0	2	0	0	0	0	0	2	304
	Manufactured Housing	2	0	0	1	0	0	0	0	0	0	0	3
	Total Housing	1,099	2	0	2	3	2	6	8	9	4	5	1,140
Somersworth	Single Family	2,447	13	2	3	4	0	10	14	19	14	18	2,544
	Multi-Family	2,282	-1	0	0	0	0	-3	14	0	0	0	2,292
	Manufactured Housing	470	0	0	5	-2	1	0	-2	0	4	-1	475
	Total Housing	5,199	12	2	8	2	1	7	26	19	18	17	5,311
Strafford	Single Family	1,549	6	10	6	10	16	8	11	12	21	15	1,664
	Multi-Family	114	0	0	0	0	0	0	0	2	6	3	125
	Manufactured Housing	122	0	0	0	0	0	2	0	0	0	1	125
	Total Housing	1,785	6	10	6	10	16	10	11	14	27	19	1,914

Town or City	Housing Type	Dwelling Units	Residential Permits, Net Change of Units										Total Estimated Housing Units
			2010 Census	2010	2011	2012	2013	2014	2015	2016	2017	2018	
<b>Sullivan</b>													
Acworth	Single Family	479	5	4	0	1	0	1	0	0	3	1	494
	Multi-Family	22	0	0	0	0	0	0	0	0	0	0	22
	Manufactured Housing	55	0	0	0	2	0	0	0	0	2	0	59
	Total Housing	556	5	4	0	3	0	1	0	0	5	1	575
Charlestown	Single Family	1,233	2	3	5	2	5	0	2	1	-4	1	1,250
	Multi-Family	313	1	-4	-1	0	0	0	2	0	2	0	313
	Manufactured Housing	717	6	0	0	-1	3	2	1	11	2	1	742
	Total Housing	2,263	9	-1	4	1	8	2	5	12	0	2	2,305
Claremont	Single Family	3,241	1	-2	2	-1	0	1	3	-2	0	-1	3,242
	Multi-Family	2,636	0	3	0	-5	0	-2	0	-2	0	0	2,630
	Manufactured Housing	416	1	3	4	5	-1	2	-2	0	3	1	432
	Total Housing	6,293	2	4	6	-1	-1	1	1	-4	3	0	6,304
Cornish	Single Family	639	1	1	3	3	1	0	3	1	0	1	653
	Multi-Family	47	0	0	0	0	0	0	0	0	0	2	49
	Manufactured Housing	61	1	0	0	0	0	0	0	1	0	0	63
	Total Housing	747	2	1	3	3	1	0	3	2	0	3	765
Croydon	Single Family	370	1	0	1	1	0	0	3	3	2	1	382
	Multi-Family	8	0	0	0	0	0	0	0	0	0	0	8
	Manufactured Housing	18	0	0	0	-1	0	0	1	0	1	2	21
	Total Housing	396	1	0	1	0	0	0	4	3	3	3	411
Goshen	Single Family	400	1	0	0	0	0	3	1	0	0	0	405
	Multi-Family	15	0	0	0	0	0	1	0	0	0	0	16
	Manufactured Housing	29	0	0	0	1	0	0	0	0	0	0	30
	Total Housing	444	1	0	0	1	0	4	1	0	0	0	451
Grantham	Single Family	1,455	5	6	3	5	7	17	3	3	6	4	1,514
	Multi-Family	304	0	0	0	2	0	0	0	1	0	0	307
	Manufactured Housing	14	0	0	0	0	0	0	0	0	0	0	14
	Total Housing	1,773	5	6	3	7	7	17	3	4	6	4	1,835
Langdon	Single Family	271	1	0	3	0	0	2	1	1	0	1	280
	Multi-Family	20	0	0	0	0	0	0	0	0	0	0	20
	Manufactured Housing	15	0	0	0	0	0	0	0	0	0	0	15
	Total Housing	306	1	0	3	0	0	2	1	1	0	1	315
Lempster	Single Family	596	1	3	3	4	1	1	2	0	5	0	616
	Multi-Family	18	0	0	0	0	0	0	0	0	1	0	19
	Manufactured Housing	65	1	2	0	0	1	2	0	-2	1	2	72
	Total Housing	679	2	5	3	4	2	3	2	-2	7	2	707

Town or City	Housing Type	Dwelling Units	Residential Permits, Net Change of Units										Total Estimated Housing Units
			2010 Census	2010	2011	2012	2013	2014	2015	2016	2017	2018	
Newport	Single Family	1,664	3	-2	3	3	0	4	-1	-6	3	4	1,675
	Multi-Family	993	4	3	2	0	-9	0	0	0	2	2	997
	Manufactured Housing	281	3	-3	0	0	-2	4	8	2	1	1	295
	Total Housing	2,938	10	-2	5	3	-11	8	7	-4	6	7	2,967
Plainfield	Single Family	859	5	3	3	5	7	4	4	8	5	5	908
	Multi-Family	51	0	0	0	0	2	2	0	2	0	5	62
	Manufactured Housing	73	0	0	0	0	0	0	0	0	0	0	73
	Total Housing	983	5	3	3	5	9	6	4	10	5	10	1,043
Springfield	Single Family	662	2	6	2	5	1	3	2	4	2	4	693
	Multi-Family	5	0	0	0	0	0	0	1	0	0	0	6
	Manufactured Housing	35	0	1	0	0	0	1	0	-1	0	0	36
	Total Housing	702	2	7	2	5	1	4	3	3	2	4	735
Sunapee	Single Family	1,992	9	8	4	8	7	11	10	3	6	8	2,066
	Multi-Family	358	0	0	5	4	8	0	3	0	-1	2	379
	Manufactured Housing	81	1	1	0	0	0	0	2	0	0	0	85
	Total Housing	2,431	10	9	9	12	15	11	15	3	5	10	2,530
Unity	Single Family	607	-2	-5	-1	-5	5	-2	0	-1	2	1	599
	Multi-Family	26	0	0	0	0	0	0	0	0	0	0	26
	Manufactured Housing	103	0	2	1	0	2	0	0	2	1	0	111
	Total Housing	736	-2	-3	0	-5	7	-2	0	1	3	1	736
Washington	Single Family	1,038	2	3	3	2	3	3	1	7	5	10	1,077
	Multi-Family	16	0	0	0	0	0	0	0	0	0	0	16
	Manufactured Housing	38	0	0	0	1	0	0	1	0	1	0	41
	Total Housing	1,092	2	3	3	3	3	3	2	7	6	10	1,134



# **Current Estimates and Trends in New Hampshire's Housing Supply**

Update: 2010-2019

Kenneth R. Gallagher, Principal Planner

NH Office of Strategic Initiatives, Planning Division




# Welcome!

- Webinar presented January 8, 2021
- Please use the **chat** to ask questions



# New Hampshire State Data Center

- NH liaison to U.S. Census Bureau
- Distributes and interprets US Census data
- Supplies state data to the Census
- Conducts annual population estimates



# New Hampshire Population Estimates Program

- ▶ RSA 78-A:25 directs the Office of Strategic Initiatives (OSI) to “**estimate annually the resident population for all cities and towns...as of July 1 of the preceding year**”, and to certify to the state treasurer on or before August 19
- ▶ Purpose is to determine the distribution of the state meals and rooms tax to municipalities
- ▶ But the population estimates serve many other purposes



# Components of State Population Estimates

- Previous decennial census
- Change in dwelling units
- Change in group quarters population



# Dwelling Unit Method

- ▶ HU2010: Number of housing units at 2010 Census
- ▶ HU2011-18: Number of housing units permitted by each municipality
- ▶ OCC: 2010 Occupancy rate
- ▶ PPH: 2010 Population per household

Example:

$$\begin{aligned} & ((\text{HU2010} + \text{HU2011-18}) \times \text{OCC}) \times \text{PPH} = \text{HHPOP2019} \\ & (4,281 + 141) \qquad \qquad \qquad \times 0.501 \qquad \qquad \qquad \times 2.45 = \mathbf{5,428} \\ & 4,422 \qquad \qquad \qquad \times 0.501 \qquad \qquad \qquad \times 2.45 = \mathbf{5,428} \\ & \qquad \qquad \qquad 2,216 \qquad \qquad \qquad \times 2.45 = \mathbf{5,428} \end{aligned}$$

# Sample Dwelling Unit Survey

- Permits issued during Calendar Year 2019
- Assume constructed by July 1, 2020

## 2019 DWELLING UNIT RESPONSE FORM New Hampshire Office of Strategic Initiatives

Code Enforcement Officer  
Town of Conover  
123 Main Street  
Conover, NH 03000  
Central County  
Address Correction (if different from what is listed):

Completed by (please print clearly)  
Title  
Signature  
Telephone Number  
E-mail Address

Last year the response form was completed by: **Firstname Lastname, Code Enforcement Officer**

NOTE: The Office of Strategic Initiatives is interested only in permits that change the number of residential dwelling units in your community. Permits for alterations (room additions, decks/porches, sheds, etc.) or non-residential garages should not be tabulated on this form. If your community does not have a permit system in place, please use the best comparable information available (i.e., certificate of occupancy).

CALENDAR YEAR 2019  
(January 1, 2019 through December 31, 2019)  
Please review the instructions on the back of this form.

PERMITS ISSUED THAT RESULTED IN NEW RESIDENTIAL DWELLING UNITS	NEW RESIDENTIAL CONSTRUCTION		RESIDENTIAL DEMOLITIONS		EXPIRED RESIDENTIAL PERMITS FROM 2018 <u>NOT</u> RESULTING IN A NEW BUILDING FOR 2019 (see back of form)		FOR OSI USE ONLY
	NUMBER OF BUILDINGS	NUMBER OF DWELLING UNITS	NUMBER OF BUILDINGS	NUMBER OF DWELLING UNITS	NUMBER OF BUILDINGS	NUMBER OF DWELLING UNITS	TOTAL UNITS
1 Family*	20	20	3	3			17
2 Family**	3	6					6
3 or 4 Family	2	8					8
5+ Family							
Conversions***	2	3					3
Manufactured Housing	1	1	4	4			-3
<b>TOTAL HOUSING UNITS</b>	<b>28</b>	<b>38</b>	<b>7</b>	<b>7</b>			<b>31</b>

\* Excluding manufactured housing.

\*\* A new single family home with an ADU attached is counted as 2 family.

\*\*\* Conversions: Count only the number of residential units created or lost. Examples of conversions include: (a) conversion of a single family house to a multifamily house (increasing the number of dwelling units), (b) construction of accessory dwelling units (increasing the number of dwelling units), and (c) conversion of a residence to an office or restaurant or other non-residential use (decreasing the number of dwelling units - enter this number in the demolitions column).

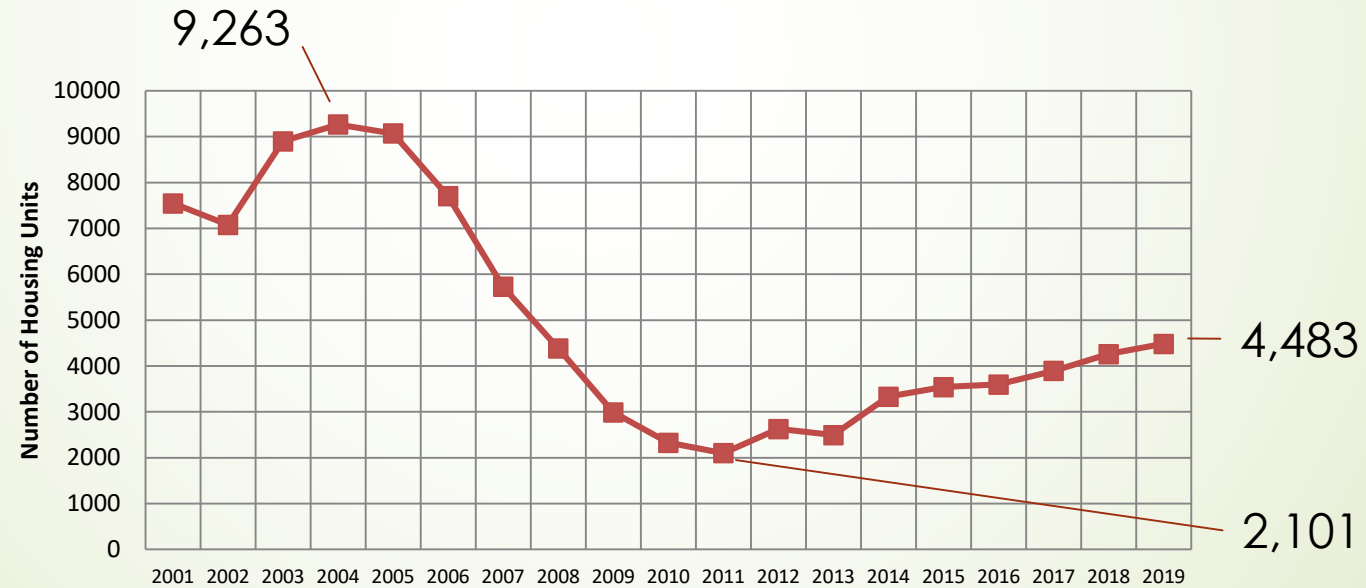
Should you have questions, please contact Ken Gallager, Principal Planner, at 271-2155 or [ken.gallager@osi.nh.gov](mailto:ken.gallager@osi.nh.gov)

Submit completed form to:  
Office of Strategic Initiatives  
Johnson Hall, 107 Pleasant Street  
Concord, NH 03301  
Email: [ken.gallager@osi.nh.gov](mailto:ken.gallager@osi.nh.gov)

# Results

- ▶ Continued gradual increase in total housing units since 2011

**Net Annual Increase in Housing Units  
in New Hampshire, 2001-2019**  
Based on Building Permits Issued





# Permits issued – State totals

- ▶ 2019 - Permits issued for 4,483 dwelling units:
  - ▶ Single-family: 2,259 (50.4%)
  - ▶ Multi-family: 2,121 (47.3%)
  - ▶ Manufactured housing: 103 (2.3%)

*Compare to:*

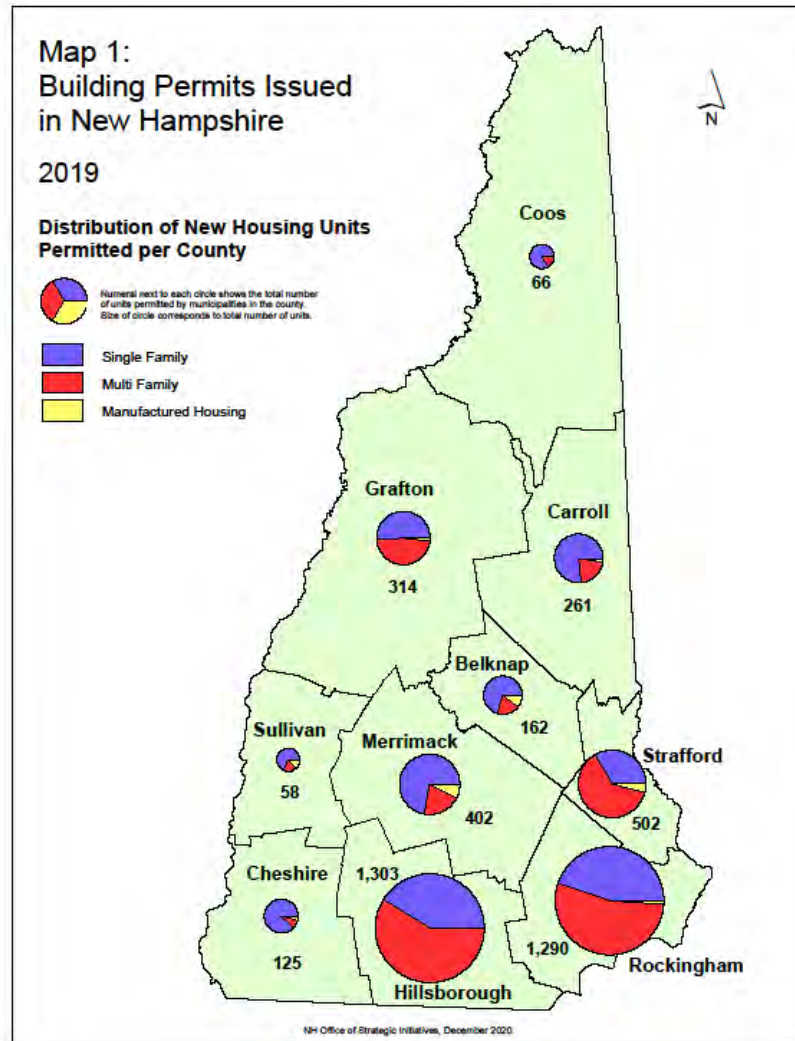
- ▶ 2010 – Permits issued for 2,328 dwelling units:
  - ▶ Single-family: 1,546 (66.4%)
  - ▶ Multi-family: 740 (31.8%)
  - ▶ Manufactured: 42 (1.8%)



# Differences by county

- ▶ Most single-family units permitted:
  - ▶ Rockingham (579), Hillsborough (537), Merrimack (290), Carroll (200)
- ▶ Most multi-family units permitted:
  - ▶ Hillsborough (765), Rockingham (696), Strafford (313), Grafton (149)
- ▶ Three counties (Rockingham, Hillsborough, and Strafford) issued permits for more multi-family than single-family housing

# County Overview





# Municipalities

- ▶ Most single-family units permitted:
  - ▶ Salem (67)
  - ▶ As a percentage of existing stock: Hart's Location (3 units, 4.9%)
- ▶ Most multi-family units permitted:
  - ▶ Merrimack (358)
  - ▶ Salem, Bedford, Dover, Londonderry, Rochester and Portsmouth also issued permits for more than 100 units
  - ▶ As a percentage of existing stock: Gilsum (2 units, 50%)



# On-line viewer





# Takeaways

- Housing growth continues to be focused in the southern and eastern regions of the state
- Much of the growth is in towns/cities that are already larger
- Further research needed into relation between housing growth and towns/cities with innovative land use regulations
- 2020 Census data will reset the formula we use for estimating populations



# Accessing the Data

- ▶ Report:

- ▶ <https://www.nh.gov/osi/data-center/documents/housing-estimates-trends.pdf>

- ▶ Data:

- ▶ <https://www.nh.gov/osi/data-center/documents/hse2010-2019.csv>

- ▶ Viewer:

- ▶ <https://nhosi.maps.arcgis.com/apps/Styler/index.html?appid=e28326e2b67a49419fec163381b00a81>



# Questions?

- ▶ Contact Ken Gallager, Principal Planner
  - ▶ [kenneth.r.gallager@osi.nh.gov](mailto:kenneth.r.gallager@osi.nh.gov)
  - ▶ (603) 271-1773
- ▶ NH State Data Center: [www.nh.gov/osi/data-center](http://www.nh.gov/osi/data-center)

In 1990, the Merrimack County office of UNH Cooperative Extension provided a series of fact sheets about innovative zoning including: Incentive Zoning, Phased Development, Transfer of Development Rights, Planned Unit Development, Cluster Development, Performance Standards/Impact Zoning, Environmental Characteristics Zoning, Accessory Dwelling Unit Standards, and Floating Zone. These fact sheets were intended to give a brief overview of the land use controls listed in RSA 674:21. The fact sheets on the following pages are provided for historical reference.

## INNOVATIVE LAND USE CONTROLS

### *introduction to the series*

Conventional zoning is a means the municipality has to guide the growth and development of private property (RSA 674:16). Through zoning, voters are able to divide the municipality into districts and regulate the use of land and the use, height, and area of buildings in that district. The purpose of zoning is to avoid the undesirable side effects of development by segregating incompatible uses.

Legislative actions over the past several years have given municipal officials additional growth management tools to supplement traditional zoning and guide the growth of the municipality (RSA 674:21). ***Innovative Land Use Controls*** offer the municipality's legislative body the opportunity to adopt standards that could provide

cost savings, reduce design monotony, implement community goals (e.g. low cost housing, the "New England Village" look, or environmental protection) and be better able to address larger-scale development. Use of these innovative techniques may require greater planning expertise and often requires negotiation with the developer; but, they allow greater flexi-

bility in land use and design than traditional zoning.

This fact sheet series is intended to give a brief overview of the land use controls listed in RSA 674:21. Liberty has been taken to combine some of the control methods. Flexible and discretionary zoning is a general category covering numerous techniques. Three of them, planned unit development, incentive zoning, and trans-

fer of development rights, are listed in the RSA and are addressed in separate fact sheets. Overlay zoning, the most common technique to implement environmental characteristic zoning, is referenced in that fact sheet. Two other innovative techniques, conditional rezoning and contract zoning, don't apply to

#### ***The following innovative land-use control methods are covered in the series.***

- Incentive zoning
  - Timing incentives
  - Intensity and use incentive
  - Inclusionary zoning
- Phased development
- Transfer of development rights
- Planned unit development
- Cluster development
- Performance standards
  - Impact zoning
- Environmental characteristics zoning
- Accessory dwelling unit standards
- Floating zone (one of the flexible techniques)

New Hampshire.

Local officials are encouraged to search for land-use control techniques that will assist them in implementing the goals and objectives of their community. Professional assistance to develop master plans and ordinances is available through regional planning commissions and consultants. Technical, educational, and other assis-

tance also is available through the staff of the Office of State Planning, USDA Soil Conservation Service, UNH Cooperative Extension, and public interest groups (e.g. Society for the Protection of New Hampshire Forests, the Farm Bureau, County Conservation Districts, and the New Hampshire Timberland Owners Association).

### **Adoption and Implementation of Innovative Land Use Controls**

by William Klubben  
Executive Director

Central N.H. Regional Planning Commission

To be fully functional, innovative land use controls must be adopted as a zoning amendment according to standard procedures outlined in statute (RSA 675:1,II). The procedures include a properly noticed public hearing held by the planning board, access by the public to the full text of the amendment, and an affirmative vote by the legislative body. Depending on the form of local government, the legislative body is the city council, board of aldermen, town council, or town/precinct meeting.

The planning board, through subdivision and site plan review regulations, may partially implement innovative techniques which function like "phased development" and "environmental characteristics zoning." The planning board may adopt or amend its regulations, following a properly noticed public hearing, under the general authority granted by the town or city through RSA 674:35 and 43.

The amendment implementing any innovative land use control must contain the standards and criteria applicable under the control and should specify who has the authority to administer it and issue permits. If the planning board isn't designated to administer the control, the administrative procedure established must include review and comment by the planning board prior to final consideration of permit applications.

Due to the complex nature of innovative land use controls, and the lack of planning board experience with such techniques, professional planning assistance is recommended. Assistance is available through regional planning commissions and private consultants.

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The idea and funding for this project came from the Merrimack County Commissioners, and members of the Delegation of Merrimack County. This concept was further developed through efforts of the Merrimack County UNH Cooperative Extension Council.

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The authors of these fact sheets assume responsibility for content. All join to express appreciation to their advisors:

**Karen Bennett**, Committee Chair and Extension Educator, Forestry, Merrimack County

Attorney **David Harrigan**, Vice President for Policy of the Society for the Protection of New Hampshire Forests and Planning Board member from Pembroke

**Brooks McCandlish**, Extension Council member and member of the Bradford Planning Board

**James Rollins**, Office of State Planning

**William Klubben**, Director, Central NH Regional Planning Commission

*Special appreciation is extended to Marcia Keller of the Office of State Planning for her reviews of the material.*

**Table**  
**Innovative Control Techniques Appropriate For Specific Community Issues**

Community Problem	Innovative Land Use Technique								
	Incentive Zoning	Phased Zoning	Transfer of Devel. Rights	Planned Unit Development	Cluster Devel.	Perform.Stan. Impact Zoning	Envi. Char. Zoning	Acc.Dwelling Unit Stand.	Floating Zone
Rapid growth		✓				✓		✓	
Traffic congestion		✓	✓	✓	✓	✓			
Noise and odors						✓			
<b>Community Need</b>									
Upgrade services		✓							
Encourage Commercial Development	✓			✓					✓
Allow compatible but mixed uses	✓			✓		✓			
Encourage affordable housing	✓			✓	✓			✓	✓
Provide housing for minorities	✓								
Day care	✓								
Zone transition easing	✓			✓	✓				
Open space maintenance			✓	✓	✓				
Aquifers, wetlands, & flood plains protection			✓		✓		✓		
Maintenance of scenic views			✓		✓		✓		
Protection of agricultural lands			✓		✓		✓		
Protection of wildlife habitat			✓		✓		✓		
<b>Technique Characteristics</b>									
Board negotiates with developer	✓			✓	✓				
Criteria spelled out in ordinance	✓	✓	✓	✓	✓	✓	✓	✓	✓
Easy to administer		✓					✓	✓	
Somewhat complex to administer	✓		✓	✓	✓	✓			✓

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College of Life Sciences and Agriculture, County Governments, N.H. Departments of Resources and Economic Development and Fish and Game, U.S. Department of Agriculture, and U.S. Fish and Wildlife Service cooperating.



## INCENTIVE ZONING

by Lynda Brushett, Consultant  
Department of Resource Economics and Development

### Definition

Incentive zoning is a voluntary exchange of development incentives for public benefits between the community and a property owner. The community offers the property owner an incentive or bonus which reduces development costs or improves marketability. In exchange, the property owner contributes a desired amenity or benefit to the community that can't be mandated. The exchange system supplements existing land use regulations; it links specific development incentives with specific public benefits in predetermined formulas. Incentive zoning gives all parties to land use decision-making new opportunities to satisfy community and development needs frustrated by traditional zoning systems.

Zoning and subdivision regulations are inflexible by design. Lists of permitted or prohibited uses, specific design requirements, and the zoning map fix what can and can't be done on a given piece of property. In practice, traditional regulatory systems limit the community's options as well as the developer's. Both find great difficulty making land use decisions which respond to changing public policies, the peculiarities of individual land parcels, changes in building technology, innovative design principles, market needs, new development pressures,

development on the edge of zoning districts, the unforeseen effects of existing development, or the complex interplay of social, economic, and environmental issues that surround land development.

Incentive zoning helps overcome some of these limitations. Based on a mutual exchange of needs and interests, incentive zoning enables communities and developers to be more

sensitive to change and to individual development circumstances. It gives the community the opportunity to exercise site-specific land-use control and gives developers the opportunity for greater economic return.

*"Incentive zoning encourages improved building and site design, phased development, and lower development costs. In addition, community officials gain an improved ability to implement public policy goals related to social equity, fiscal responsibility, economic development, and environmental quality."*

### Technique

Incentive zoning systems are authorized by the community's legislative body and become part of the basic zoning ordinance. Regulations spell out formulas matching the provision of a development incentive to the provision of a public benefit. Participation is an option extended to the developer by the community.

Development incentives usually permit the developer to exceed the established requirements of the community's land use regulations. They can grant the developer a greater, more intensive, or different use of the property. They can speed the application review and approval process, change the effect of a growth manage-

ment ordinance, or alter the construction time frame of a project.

- **Intensity incentives** allow developers a greater or more intensive use of the property. Intensity incentives permit higher density in terms of lot sizes, units, floor area or height. Greater intensity can generate construction savings from consolidated utilities or roads or add income by increasing the number of units the developer can sell or lease.

- **Use incentives** permit mixing of uses in a development or provide for unspecified uses. For example, a convenience store might be allowed in a housing project, or residential units in a retail development. Use incentives can provide design flexibility and improve the economics of a development.

Public amenities or benefits which either go beyond the requirements of the community's regulations or are desired as a matter of public policy are given by the developer in exchange for the development incentive.

- Public benefits contributed by the developer include such items as parks, boat ramps, swimming or fishing access, recreational facilities, plazas, pedestrian facilities, day care centers, public transit access, observation decks, bike paths, parking, more open space, preservation of special environments, or cluster development design.

- **Inclusionary incentives** (sometimes called *inclusionary zoning*) help implement public goals to expand housing opportunities for racial minorities or low and moderate income residents. The inclusion of a specified number of affordable housing units is tied to a development incentive. For example, a zoning ordinance allowing one unit per acre as a right could

include an incentive of two additional units per every ten acres if the additional units were designed for low or moderate income families.

### Administrative Requirements

Incentive zoning requires well-designed basic zoning regulations which state what is permitted as by a right. The incentive zoning ordinance defines how much bonus or deviation is allowed. Development incentives should be attractive enough to encourage the participation of the developer while at the same time fulfilling the intent of the zoning ordinance.

Incentive zoning regulations must contain clearly stated purposes and policies, such as improving pedestrian traffic or encouraging certain housing mixes, and must relate to the goals and objectives of the master plan. Based on these purposes, specific benefits and amenities are selected, their values determined and the formula for the benefit incentive exchange defined. The regulation must state how the system will be administered, either as a right or through special permits.

Specialized expertise may be needed to decide how much of an incentive each benefit is worth and to ensure the rights of the public and the developers are protected. Incentive zoning systems should be reviewed periodically to ensure their continuing conformance with community policies and their effectiveness in producing desired results.

Legal concerns center on issues related to uniformity of treatment requirements, balance of costs and benefits and conformity to the master plan. There has been little litigation of incentive zoning schemes, perhaps because participation is voluntary. Careful drafting of the regulations should preclude legal challenges.

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College of Life Sciences and Agriculture, County Governments, N.H. Departments of Resources and Economic Development and Fish and Game, U.S. Department of Agriculture, and U.S. Fish and Wildlife Service cooperating.

## PHASED DEVELOPMENT

by John F. Damon, Extension Specialist  
Community Planning  
Department of Resource Economics and Development

### Definition

Phased development is a land use technique which matches the rate of development with the capacity of the community to provide the facilities and services the development requires.

### Technique

If the legislative body in a New Hampshire town (town or city council or the town meeting) has adopted phased zoning, the planning board is authorized to evaluate the current infrastructure conditions in the community to determine if there's a need to require a developer to spread construction of a development over a specific period of time. Using the master planning and capital improvements program planning processes, the community has had the opportunity to develop a schedule for expansion of facilities and services that is consistent with projected growth of population and infrastructure needs. By limiting the number of units that can be built in a specific development in any one year, the community can ensure that the expansion of facilities and services is consistent with long-term community growth.

A phasing plan is developed at the beginning of the subdivision or site review process. The phasing plan details construction schedule, consequences of that schedule not being met, and the community's commitments to the developer. Examples of a community commitment

include: allowing the entire development to be built based on the regulations at the time of initial approval, relaxed requirements before occupancy permits are granted (e.g. final road finish), or density, or other incentive. (See *Incentive Zoning*, Fact Sheet #2.)

Phased development is situation specific. While other growth management techniques apply their criteria broadly to the entire community and to all development, phased development is applied only in situations for which the planning board feels it's appropriate, having determined that services aren't adequate to handle the added units for a specific application.

### Administrative Requirements

The zoning ordinance authorizing the planning board to require phasing of a development whenever the development would put a strain on services will need to give broad guidelines under which the board must operate. Needed are a statement of purpose which stresses that the intent is to accommodate development at a rate the services can support, and an indication of a time period over which the development is to be phased. The length of time doesn't need to be specific but does need to relate to the expansion of services.

A well-developed master plan and capital improvements plan are needed so the planning board will have a criteria to justify their actions.

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## TRANSFER OF DEVELOPMENT RIGHTS

by D.E. Morris, Associate Professor  
Department of Resource Economics and Development

### Definition

Transfer of Development Rights is an innovative land use technique that allows the community to identify areas where higher density could occur (*receiving zone*), areas where there's a need or desire to limit development (*sending zone*); and it establishes development rights for various classes of property and allows development rights to be transferred from the sending zone to the receiving zone.

### Technique

Transfer of development rights (*TDR*) is based on the principle that there are a number of rights attached to real property. Among these are rights to minerals, water, air space, and development. A development right refers to the landowner's entitlement to the benefits of developing a given parcel of land for its highest valued use as defined by local zoning. In a TDR program, an unused development right can be removed from one parcel and transferred to another. The legality of transfer has been extensively reviewed and generally upheld by the courts. However, recent court rulings show that legal questions persist.

In a typical TDR program, a landowner is restricted from developing a parcel in the sending or preservation area and receives negotiable development right certificates (*DRC's*) as compensation. Landowners in the receiving or transfer zone are allowed to purchase *DRC's*, which enable them to develop parcels at higher densities than permitted by existing zoning.

### Administrative Requirements

TDR is a flexible land use tool which can be modified to the specific legal, political, or economic situation in a community. Nevertheless, there are three critical design issues which are common to all programs. These issues are: 1) whether the program is mandatory or voluntary; 2) how the development right certificates are allocated; and 3) how the transfer zone is designed.

TDR programs can be mandatory or voluntary, and both types of programs are currently in existence. The mandatory program automatically restricts development in the preservation zone and thus ensures that the resource will be protected. However, mandatory programs have been more susceptible to legal challenges. In *Fred F. French Investing Co., Inc. v. City of New York* (1976), the New York Court of Appeals concluded that the uncertain economic value of the particular development rights in that case violated the just compensation requirement of the U.S. Constitution. When there is some uncertainty concerning the marketability of the *DRC's*, a voluntary TDR program will obviate any legal challenge because landowners freely elect to give up their development rights. The trade-off is that the voluntary program may not provide adequate protection of the resource.

*DRC's* can be distributed in a number of different ways; but there are two primary ones: 1) distribution by area, and 2) distribution by value. In the first case, *DRC's* are awarded per unit of area (acreage or building lot). In the

second case, DRC's are assigned per unit of development value. It's much simpler to determine the number of DRC's using the area method; however, it's less equitable in areas where the land differs in quality. While the value method is more accurate and equitable, an economic model must necessarily be devised to estimate the development value for each parcel in the program.

The transfer or receiving zone can be structured in different ways. Transfers can be made between parcels owned by one or more landowners. Permitting transfers between landowners is the most flexible approach. In addition, transfer zones can be designated or they can float. Designated transfer zones are specific areas defined at the outset of the program. Floating transfer zones can be defined by a set of criteria (e.g., the presence of sewers and public water, or the absence of farmland and wetlands). The floating transfer zone approach lends flexibility to the program, but may violate good planning standards. The best solution may be to have a designated component and a floating component to the transfer zone.

The adoption of TDR programs in the Northeast has been very low in comparison to other land use programs. Considering this region has been the leader in development and adoption of innovative measures, the future of TDR's is uncertain. The continued success of preferential assessment programs and the growing support and implementation of purchase of development rights programs is presently overshadowing the TDR approach. Between 1972 and 1980, 12 counties or townships in the Northeast adopted TDR programs. Actual transfers have been few in number.

The fact that TDR ordinances have resulted in very few transfers doesn't altogether preclude the possibility that, with the proper planning and market conditions, TDR provisions would be used. There are a number of possible reasons for the lack of use of enacted ordinances:

1. Incentives for a landowner to sell aren't strong enough to induce a sale or offset the beliefs that a better price will exist in the future or zoning will be relaxed.
2. Incentives for a developer aren't great enough to compensate for additional costs and complication of transfer. In addition to the allowed increase in density, necessary incentives include assurance that the local government is committed to facilitating development in the development area.
3. Demand for development isn't great enough to justify higher densities (i.e., incentives provided for developers are irrelevant).
4. Opposition by neighbors to the development tract is too great.

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## PLANNED UNIT DEVELOPMENT

*by Gerald W. Howe, Extension Specialist  
Community Resource Development  
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### Definition

A planned unit contains a mix of building types, land uses, or densities, or a combination of these categories within a parcel. A planned unit development (PUD) is a development that integrates a variety of land uses within the same development proposal. A planned residential development (PRD) integrates a variety of residential types within the same development. And a planned unit residential development (PURD) combines both of these.

### Technique

Such development recreates a traditional rural village center that isn't possible using other types of zoning. The planned unit (PUD, PRD, or PURD) would be difficult to apply to the areas of a community that have already experienced growth and development; but, it would be a useful option for those outlying areas that are relatively undeveloped.

Planned units enhance community well-being by intermingling a variety of land uses. The enhancement might be proximity to services such as small grocery stores, laundromats, or restaurants. It's conceivable that a person could live, work, shop, and worship in the same development. That was the philosophy behind the old village center, which was a self-contained community that provided, within reason,

all that a person needed. It creates a neighborhood feeling and identity that many times is lost when other types of zoning are employed.

Traditional zoning that establishes zones for specific types of land use had been developed to separate incompatible uses from each other. This was a response to the threat to property values posed by land use conflicts.

The most appropriate use of planned units is to integrate compatible uses. As a community grows, the private sector support services that residents use get farther and farther away from the home. It makes sense to have a

***"It creates a neighborhood feeling and identity that many times is lost when other types of zoning are employed."***

commercial enterprise located near the people who'll use it. Planned units accomplish this. They can be used to create a mixture of residence types, recreational facilities, and businesses that would be a center of activity within a larger community.

The types of allowable uses to be integrated would be specified by the community that is using this innovative method of land use control. It might integrate multi-unit housing with single-family housing and allow some commercial sites to serve residents, or it might integrate light commercial with residential and recreational uses. Planned residential developments, simply a mix of residence types or densities, encourage different dwelling opportunities, but don't allow business or industrial uses.

At this time in New Hampshire's rural communities, it doesn't make sense to apply planned units to industrial developments or intensive commercial complexes. There are times when the scale of the commercial or industrial development might lend itself to the concept of planned unit developments; but, in those rare cases, it might be better to use something like discretionary zoning or special exceptions. There's a relative scale of use compatibility, and the closer together on that scale the uses are found, the more they'd lend themselves to being included in a planned unit.

### **Administrative Requirements**

The administrative requirements associated with planned units apply during the development approval process. They don't require continual monitoring. The planning board is responsible for evaluating them based on the criteria established by the community. There are no unique skills other than those required

for adequate site plan review or to operate the equipment necessary for the administrative process. The administrative requirements are very similar to those needed for traditional zoning, though applied on a much smaller scale.

Like cluster developments, planned units demand the most energy and resources during the developmental phase. Assistance could come from the regional planning commissions, the Office of State Planning, or from private sector consultants. Once developed, they don't have intensive administrative demands.

Planned units are a zoning tool, implemented like other zoning regulations by a town vote. The planning board drafts and proposes the ordinance based on the goals of the community master plan. They then hold public information sessions and place the ordinance before the community's appropriate legislative body, town meeting, or council meeting.

### **Definitions**

**Planned Unit** contains a mix of building types, land uses, or densities, or a combination of these categories within a parcel.

**Planned Unit Development (PUD)** is a development that integrates a variety of land uses within the same development proposal.

**Planned Residential Development (PRD)** integrates a variety of residential types within the same development.

**Planned Unit Residential Development (PURD)** combines PUD's and PRD's.

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## CLUSTER DEVELOPMENT

by Gerald W. Howe, Extension Specialist  
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Department of Resource Economics and Development

### Definition

Cluster development is the grouping of residential, commercial or industrial units within a subdivision, reducing the size of the lot, and leaving the remaining undeveloped area undivided as *permanent open space*.

### Technique

Cluster development allows for an adjustment in the location and density of construction on a particular site as long as the total number of units involved doesn't exceed the allowed density for the entire parcel. The number of units may, in some instances, increase because less land within the parcel is needed for roads than would be in a "traditional" subdivision plan.

A cluster development can be designed to conform to the unique constraints and potential of a particular parcel or site. For example, slope, soil types, and wildlife, wetland and scenic area preservation can all be considered when a community allows a developer to use a cluster approach. Both the community and the developer benefit. Some communities offer a

bonus incentive to developers to encourage the use of clustering. The developer benefits from the reduction in cost of development: fewer feet of road to construct, smaller investment in providing utilities to the site, and less site work in general.

Clustering allows communities to protect and preserve environmentally sensitive areas, to lower the cost of providing community services, and to provide development and open space on

designated sites. It doesn't necessarily increase the developmental density in a community – it merely shifts the development on a site to meet the objectives as set forth in the master plan. Because the units are all in one area, the cost of providing services such as school bus

pick-up, snow removal, and road repair are minimized. If sites are served by public sewer, eliminating restrictions on lot size because on-site disposal isn't required, clustering becomes a viable option and should be considered. A secondary benefit to the community is diversity of landscape through the provision of the open space which is derived from cluster development.

In New Hampshire, the most appropriate use of cluster development would be to preserve, as

### Community Advantages of Cluster Development

- *Protects and preserves environmentally-sensitive areas*
- *Lowers the cost of providing community services*
  - *School bus pickup*
  - *Snow removal*
  - *Road repair*
- *Provides development and open space on designated sites, diversity of landscape*



much as possible, the open appearance and feel of the traditional rural community.

There are very few communities in the state that will escape the pressures of growth and development. Those communities that do experience the pressure will try to manage the change while preserving the traditional look and feel of the town. Minimum lot sizes applied equally across the entire community won't accomplish this since that approach tends to homogenize the look of the community. Clustering, on the other hand, does allow for the preservation of relatively large tracts of open space.

When a cluster development proposal is submitted to the planning board, the *entire* parcel is considered. The subdivision plan, when recorded with the registry of deeds, includes the protected open space. This ensures that the open space won't be developed in the future, one of the fears in communities when clustering is first considered. RSA 674:21-a addresses this issue by explaining that, while no recording at the Registry of Deeds is necessary, it *is* recommended to avoid uncertainty.

The ability to save open space could also be an important consideration for those with agricultural land who've been under considerable pressure to develop it. Agricultural producers who are faced with selling land, for whatever reason, can protect their most productive land by the use of cluster development.

Cluster development also creates a sense of community that many times is missing in new development in rural areas. The cluster can be planned in such a way that a rural feeling will be

achieved without the accompanying feeling of isolation that often occurs in sparsely settled areas.

Cluster development isn't the answer to problems of growth for every site in every community. However, it can provide the answer on specific sites in many communities.

### Administrative Requirements

The administrative requirements for clustering or cluster development are relatively simple. The community must first have an operative and contemporary master plan that clearly articulates the goals and objectives of the town. Cluster provisions must be in the zoning ordinance and implemented through subdivision regulation.

As with other subdivision regulations, the planning board is required to hold public hearings prior to the adoption of those that implement cluster development. The ordinance and the regulations must be specific enough to permit only "clusters" which are consistent with the concept and in keeping with the community master plan. However, the ordinance must be flexible enough to adapt to design features of diverse sites.

There is no specialized equipment or technical expertise required for the *administration* of this innovative land use technique. If additional expertise is needed, it would probably be in the drafting of the regulations for clustering. Help with this is available through the regional planning agencies, the Office of State Planning, or private sector consultants.

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## PERFORMANCE STANDARDS/ IMPACT ZONING

*by Gerald W. Howe, Extension Specialist  
Community Resource Development  
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### Definition

Performance standards/impact zoning establishes both the standards which must be met by a development and the process which determines the impact that development would have on the physical, social, economic, and environmental conditions within its community.

A performance standard, when applied to land use controls, is a "provision that substitutes a quantitative measurement of an effect for a qualitative description of that effect" [Office of State Planning OSP 1980]. It establishes definite measurements that determine whether the effects of a particular use will be within preestablished limits.

### Technique

Performance standards address the *effects* of a use, rather than the particular use itself. In performance standards zoning, undesirable *impacts* rather than *uses* are excluded. If a use performs to a set standard — one that has been quantitatively established by the overseeing body — then it's allowed.

The standards may be applied to the entire community or they may be used in conjunction

with traditional zoning, which would mean variable standards for different locations in a community.

The standards can be related to natural resources such as soil and groundwater or to the community infrastructure, such as roads, schools, or sewage capacity. Specifically, for example, they might relate to the size and illumination of signs, the amount of noise that's audible off-site, the generation of odor, and the increase in certain types of vehicle traffic.

These standards are set by the planning board, based on community concerns and acceptable limits. Performance standards allow for

flexibility of design and use, enabling the community to diversify areas by integrating compatible uses while protecting property values and community finances.

The development of performance standards that allow heavy industrial and residential uses to coexist requires a great deal of time. The standards are quite complex and cumbersome to administer. And for industry to comply with the standards requires substantial expense in either land or technology.

### *Examples of Categories for Performance Standards*

- soil and groundwater quality
- sewage capacity
- roads
- schools
- size and illumination of signs
- amount of noise audible off-site
- generation of odor
- vehicle traffic flow

## Administrative Requirements

The critical administrative component for performance standards is the technical analysis needed for development, monitoring, and enforcement. Monitoring, unlike traditional zoning, must be continuous. It increases the administrative burden; but this burden must be weighed against the community benefits of integrated development.

In the 1980 OSP publication, Performance Standards for New Hampshire Communities, there are three basic administrative requirements when considering any land use control: 1) equipment, 2) personnel/skills, and 3) finances.

**Equipment:** The equipment will vary with the technical complexity of the standards. For example, if a performance standard stipulates a maximum noise level, the community must have, or have access to, equipment that can measure noise in decibels. If the standard merely stipulates that the activity not be visible from the street, the necessary "equipment" is much less complex. It will be the level of sophistication and complexity of the standards that dictate the equipment necessary to monitor technical compliance.

**Personnel/Skills:** The monitoring is usually done by the Code Enforcement Officer. However, the number and skill level of these officers will depend on the complexity of both the standards and equipment necessary to monitor the standards. Also, because monitoring is

ongoing, the number of staff needed will be more than that needed for a one-time check. It might be possible to make arrangements with other communities to share monitors for checking compliance or to use computer-assisted evaluation tools when reviewing proposals under a performance standard system.

**Finances:** The cost of administering performance standards is tied directly to complexity of monitoring equipment and number of personnel required to enforce those standards. These costs, however, don't have to come out of community revenues. Many communities use application fees as a source of money to pay costs directly associated with the application. Equipment costs may also be borne by the applicant.

Performance Standard Zoning is a variation of traditional zoning that uses *performance standards* to regulate development instead of separating zones by *uses*. However, performance standards may also be used within traditional zoning to regulate certain kinds of uses.

The responsibility for developing performance standards is in the hands of the Planning Board. Once enacted, the administration of the standards are the responsibility of the person or board designated by the town.

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## ENVIRONMENTAL CHARACTERISTICS ZONING

*by John M. Halstead, Assistant Professor, and  
John F. Damon, Extension Specialist  
Department of Resource Economics and Development*

### Definition

Environmental characteristics zoning is zoning which considers two factors: the potential impact of development on the environment, and the extent that change of these environmental features is acceptable.

### Technique

Ecologically, carrying capacity defines the point beyond which the environment cannot sustain further change without degradation of the target resource. For example, within a community, a piece of land has the ability to absorb and clean the waste water from a given number of septic systems. When that capacity is exceeded, it's likely the water will

become contaminated and/or waste water will surface and cause health and odor problems.

Environmental protection is necessary to assure people that their community's natural resources will be available when needed, and to protect the residents' health, safety, and property. Wetlands recharge groundwater, control flooding, and provide wildlife habitat. Floodplains serve as floodwater storage to protect downstream residents; and the "meandering" of rivers on floodplains slows the water, reducing

erosion. Farm and forest lands provide food, fuel, wildlife, lumber, open space, promote clean air and water, and supply potential recreation sites. Scenic areas provide both an added "quality of life" value and an economic benefit as a tourist attraction.

Often, we've been unaware of the damaging impact we can have on our environment, and the effect of that damage on our lives. Construction on wetlands leads to problems related to

foundation stability, wet basements, and sewage disposal. Building on floodplains eventually results in lost or damaged property. While the scenic value of steep slopes often draws us to them as construction sites, that results in problems for road building and re-

pair, utility and service access, and erosion. Aquifers are the present and future suppliers of significant amounts of water, and contamination is costly.

The extent human beings are permitted to affect this environment is determined by the standards set by the community, as well as state and federal laws. The establishment of community standards is done through the master planning process. The standards are set forth in the zoning ordinance, site review pro-

Although not commonly known as Environmental Characteristics Zoning, this method is commonly used in New Hampshire to regulate development.

Current and potential uses of this technique include limiting or prohibiting development that would adversely affect wetlands, floodplains, prime or important farmlands, unique forest or wildlife areas, steep slopes, aquifers, scenic areas, or other environmentally sensitive resources of importance to the community.



cedures, sub-division regulations, and other regulations that control operations within the community (e.g. gravel pits). They can be specific to a zone (such as agricultural, scenic view, or river corridor), or to a resource (such as aquifer or capacity of soils to accept effluent).

In the water quality area, an example of standards would be regulations related to construction and runoff from a construction site that influences the quality of water off-site. The water quality is changed but the standards set limits on how *much* it can be changed.

In some situations, planning to protect one environmental entity conflicts with other goals. For example, restrictions against building on steep slopes may be relaxed to provide additional setback for scenic vistas, even though this may also increase erosion. In these cases, the community has to decide which objective has highest priority.

The "overlay zone" technique (superimposing one zone over another) is one way to single out environmental concerns that have well-defined boundaries. It's a good technique to use to identify and control management of aquifers, wetlands, farmland, shorelines, scenic areas, and unique features. Environmental constraints are in addition to other restrictions placed on development by traditional zoning.

## Administrative and Monitoring Requirements

A natural resource inventory provides the basis for the *Environmental Characteristic Zoning* technique. This inventory becomes part of the Master Plan. It provides needed base information from which municipal officials and study committees decide the future use or change of these resources.

The inventory includes soils, surface and

ground water, farmland, slopes over 15 percent, floodplains, wetlands, and unique forest, wildlife, and scenic areas of importance to the community. It identifies what exists, the use and pressure on each resource, and the potential for use and mis-use in the near future.

A High Intensity Soil Survey (HISS) identifies soil types and their locations on specific parcels of land, providing soil characteristics accurate to twenty feet. This information is valuable to planners and developers for administering regulations and planning roads, lot sizes, wetlands, drainage, building location, and other features in a development.

Goals for the management of each resource need to be developed so there can't be any misinterpretation about a resource's importance to the community. There's usually negotiation between those who believe there should be no change and those who feel change is beneficial. Air and water quality are examples of standards that may require change if the current conditions are below acceptable levels.

The tools needed to reach these goals are created by the community legislative body (the town meeting, town council, or the city council) or the planning board, depending on the implementation technique. Zoning always needs to be approved by the legislative body.

Monitoring to guarantee standards are being met is necessary at the plan review stage, the construction stage, and periodically thereafter. The depth and frequency of review depends on the potential for degradation.

Specialized help in developing the inventory and environmental standards is available from the local Conservation Commission, Regional Planning Commissions, the U.S. Soil Conservation Service, UNH Cooperative Extension, Conservation Districts, and private consultants.

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## ACCESSORY DWELLING UNIT STANDARDS

*by John F. Damon, Extension Specialist  
Community Planning  
Department of Resource Economics and Development*

### Definition

An accessory dwelling unit is a second dwelling unit, detached or attached, which is permitted on the same lot as the principal dwelling unit.

### Technique

A common practice in a residential zone is to limit residences in a building and on a lot to one household. A household is often defined as a family, a single person, or unrelated individuals (the number of whom is often limited) residing in a dwelling unit that includes eating, sanitary, living, and sleeping facilities.

There are situations in which the need for housing can be met by increasing the density of residences in areas already developed. This can be done in several ways: adding an accessory apartment to an existing structure by remodeling the interior of an existing building; adding living space to an existing building; or, adding a detached unit to the property.

Other advantages to accessory dwelling units are that they could help reduce sprawl, provide

older residents with income and/or labor to maintain property, or provide residences with "mother-in-law" units. When such units wouldn't adversely affect the intent and character of a zone, a relaxation of traditional rules may be appropriate.

### Administrative Requirements

The real challenge to the municipality will be to develop criteria that ensure that the second dwelling unit will actually be "accessory." To be accessory, it would need to be smaller than the main residence in size.

Conditions imposed to allow accessory dwelling units must be site-specific in order to predetermine whether the existing lot is adequate to provide on-site water and/or sewerage treatment (if applicable), proper setbacks from lot lines, and other amenities that affect the character of the zone.

The town meeting or town or city council must authorize the establishment of accessory dwelling unit standards as part of the zoning ordinance.

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## FLOATING ZONE

### *a flexible zoning technique*

by John F. Damon, Extension Specialist  
Community Planning  
Department of Resource Economics and Development

#### Definition

A floating zone is a zoning district for which requirements have been developed in the written part of the ordinance but the location hasn't yet been noted on a zoning map. The location won't be indicated on the zoning map until an application for development has been made, the requirements met, and an amendment approved to the zoning map.

#### Technique

While not used extensively in New Hampshire, the floating zone can be used to accomplish a community objective while maintaining flexibility in terms of identifying the specific site.

The decision about site is influenced by criteria in the ordinance as accepted by the legislative body.

The technique has application to the future needs for manufactured housing developments, multi-family developments, industrial areas, and shopping centers.

The floating zone can control both type and amount of development. If, for example, a municipality needs 200 units of housing for the elderly, it can create a floating zone establishing acres, access, units per building, water,

sewer, recreation, screening, security, and other factors of importance to the community. This sends a message to those with business and development interests to look for and propose a development that will meet those criteria.

#### Administrative Requirements

Designers of the floating zone should be particularly careful to see that the criteria and process reflect the intent as developed in the master plan.

It should be clear that the floating zone serves an identified public need and not just a private need. If it can be shown that a floating zone ordinance is designed primarily to assist private special interests, it's likely the ordinance will be called "spot zoning" and be declared invalid.

Professional assistance is recommended in the development of criteria that need to be met by an applicant.

The application and review stages should be relatively straightforward.

If the criteria are met to the satisfaction of the review board (often the planning board) and an amendment is adopted by the legislative body of the community, the location is fixed on the zoning map.

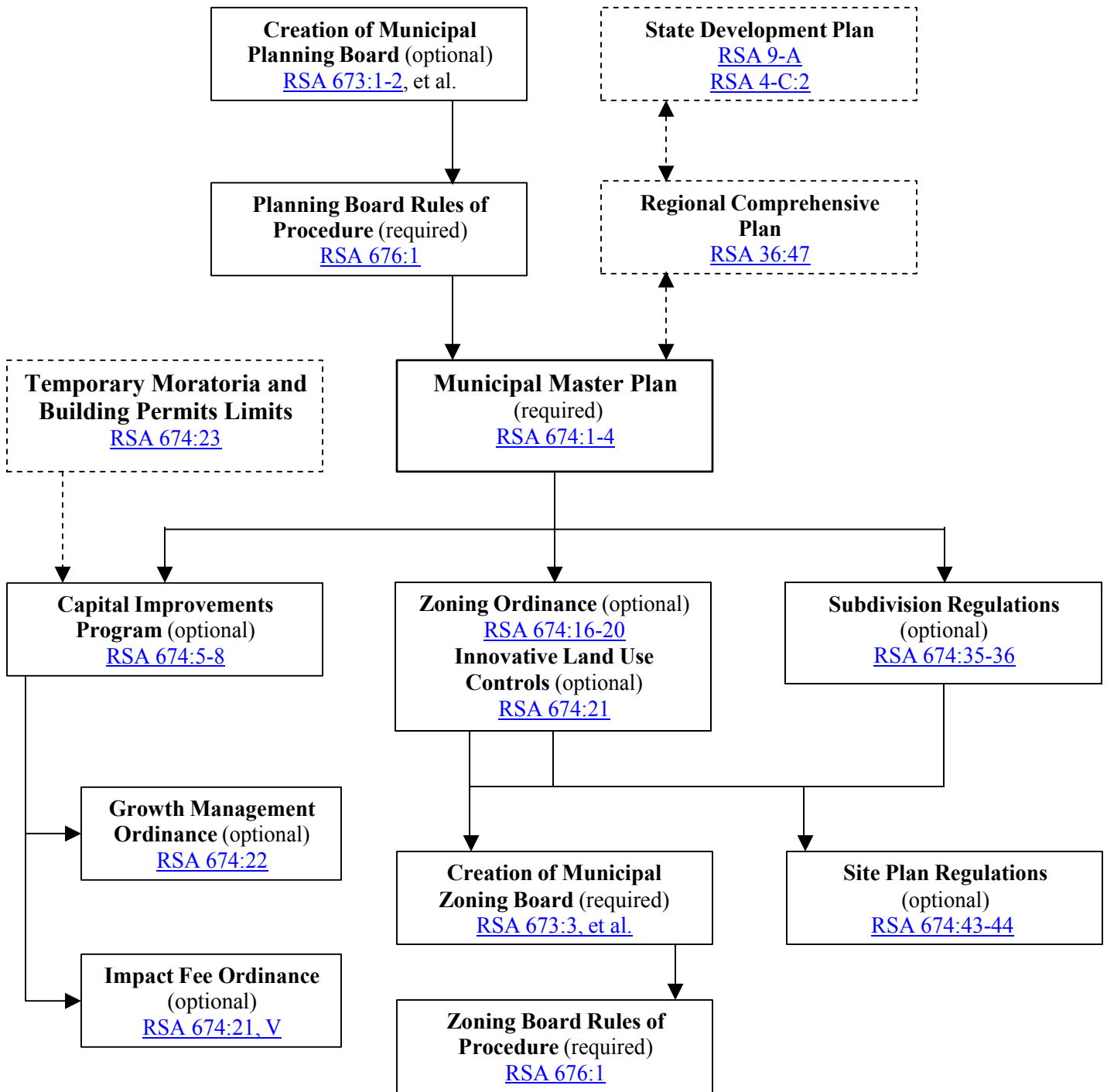
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# NH Municipal Land Use Regulation Process



<b>Municipal Boards and Entities</b>	
<b>Regulatory Entities</b> <ul style="list-style-type: none"> <li>• Planning Board</li> <li>• Zoning Board</li> <li>• Building Code</li> <li>• Historic District</li> </ul>	<b>Non-Regulatory Entities</b> <ul style="list-style-type: none"> <li>• Conservation Commission</li> <li>• Heritage Commission</li> <li>• Agricultural Commission</li> <li>• Housing Commission</li> </ul>



# How To...

# Manage Community Growth

*“We can grow in ways that fit our traditional patterns of settlements, and that enhance already sprawled areas.”*

*“Good local land use laws can set the stage for great and sustainable development.”*

Community Rules: A NE Guide to Smart Growth Strategies, 2002, p8.

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## Introduction

As a Planning Board Member you may be asked: What are you doing to control growth and sprawling development? What is smart growth? How can we plan growth to achieve sustainable development that balances community well-being, economic vitality, and environmental protection needs?

More people are asking these questions because of their importance to the quality of our living and working environments. People want Planning Boards to address traffic jams, open lands sold and subdivided, inadequate public facilities and services, and rising costs (i.e. taxes) to pay for public services.

The answer to these questions is the fundamental purpose of community planning. The art and science of planning has evolved from initial layouts aimed at arranging buildings and streets. The focus then was on architectural design and physical appearance. Today, the focus is as broad as the multiple issues that confront community decision-makers: population changes, economic development, social equity, housing development, transportation, education, health, and environment.

The community planning process consists of identifying issues, projecting needs, setting goals, developing options, making and implementing decisions. This process is comprehensive in scope, coordinated with other issues, and value added/results oriented. It recognizes growth and change are inevitable and aims to accommodate them with minimal, unintended consequences. Called by another name, it is growth management.

## Integrate Growth Management with Master Planning Activities

So to answer the questions, Planning Boards need to link growth management with traditional Master Planning. This Guide describes the elements of a growth management program and places it in the context of traditional planning activities, such as land use planning, zoning, and capital improvement programming. It will provide Planning Board members with ways to address growth management, and with policies and implementation strategies they can adopt and implement (e.g. growth permit process, development impact fees, transfer development rights).

Use of the Guide will increase understanding of planning concepts and their interrelationships, provide knowledge needed to implement planning techniques, meet local public demand to address this critical issue, and result in better policies to achieve sustainable development.



Aerial photo shows growth pattern resulting from mill development on the Lamprey River in Newmarket, NH

“ The problems of growth are not to be solved by limiting the scope, program or location of development. They must be resolved by rethinking the nature and quality of growth itself, in every context. People argue heatedly about growth: where, how much, what type, what density and if it is really necessary at all.”

“Any region with a high growth demand has several options. [The region] can try to limit overall growth; let the surrounding communities grow uncontrollably until they become a continuous mass; attempt to accommodate growth in re-development and infill locations, or plan new ... growth areas within reasonable transit proximity of the city center. Every region needs to find an appropriate mix of these very different options.”

*The New Urbanism*, 1994, p.xiii



Use Site Analysis to show current development as a first step in managing growth.

## Growth Management in New Hampshire

The concept of growth management evolves from state planning law. New Hampshire law, RSA 9-A:1:III (a), states: “the [state] comprehensive development plan shall include: state policies to provide for the orderly growth and development of the state and to maximize smart growth.”

Further New Hampshire law, RSA 9-A:1:IV, states: “local planning boards are encouraged to develop plans which are consistent with the policies and priorities established in the [state] comprehensive development plan.”

In addition, New Hampshire law, RSA 9-B:3, states: “smart growth means the control of haphazard and unplanned development and the use of land, which results over time, in the inflation of the amount of land used per unit of human development, and of the degree of dispersal between such land areas. “

And finally, New Hampshire law, RSA 674:22, states: “The local legislative body may ... regulate and control the timing of development. Any ordinance imposing such a control may be adopted only after preparation and adoption by the planning board of a master plan and a capital improvement program and shall be based upon a growth management process intended to assess and balance community development needs and consider regional development needs.”

## Growth Management in Communities

Within this context, many communities in NH are beginning to include growth management policies in their Master Plan. Managing growth (the development of land to accommodate population increases and related public facility and service needs) is the fundamental purpose of community planning. An effective community planning program is an effective growth management program. Is there any substantial difference between planning and growth management?

No! The purpose of growth management, as the RSAs state, is to regulate and control the timing of development to balance growth with competing needs both within the community and its region.

Similarly, the application of smart growth and sustainable development principles at the community level is intended to balance competing economic, fiscal, environmental, and social needs within a geographic location.

## Growth Management Issues

To manage growth a Planning Board needs planning policies and implementation strategies that address the amount, type, location, appearance, costs, timing, and financing of growth.

**Amount** The amount involves understanding demographics and projecting population and characteristics of people living and moving into the community. Planning and managing the amount of growth is important because the demand drives the need for the number, type, and cost of housing; the number and type of supporting land uses (e.g. commercial, grocery, and related support service stores); and public facility and service needs (e.g. streets, parks, police, schools, fire protection, water and sewage treatment).

**Type** The type involves identifying what kind of growth will be accommodated. Typically this is residential housing development, but may include other forms of growth for commercial, recreational, industrial, government, or other land uses.

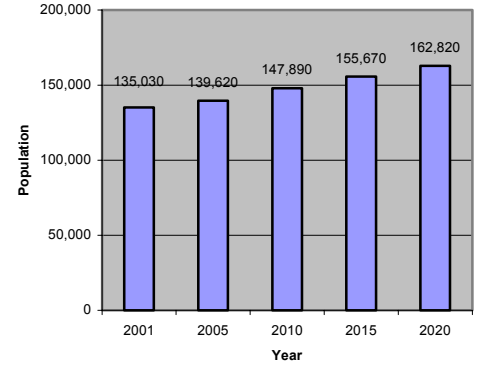
**Location** The location involves identifying where several types of land uses will be located to accommodate the projected growth. This includes residential neighborhood areas whether in a town center, suburban, or rural locale; various commercial areas in a town center, neighborhood service, or regional service locale; industrial areas; recreation areas, and public facilities and services. This information should be in the Master Plan Land Use element.

**Appearance** The appearance involves what the development will look like. The appearance includes the site or subdivision design, as well as the physical appearance or architecture of the development.

**Costs** Growth costs money, but it also produces benefits. Planning smartly means knowing the costs as well as the benefits. Costs include construction and ongoing operation and maintenance of public facilities and services. They also include negative, sometimes unquantifiable, consequences, e.g., loss of open lands or views.

**Timing** The timing involves establishing when the growth will be accommodated. This is done by writing policies and strategies to stage or phase development over time. It may involve defining growth boundaries or limiting the number of residential building permits issued each year. Or it may mean only permitting development when timed with public and private infrastructure investments.

**Financing** The financing involves determining who will pay for additional public facilities and services, capital expenditures and operational costs, and how they will be paid for, e.g. bonds, annual budget, or developer payment of impact fees.



Amount: Population Chart for SRPC Region



Location: Types of land uses in proposed New Durham Master Plan



Type of development: Municipal service center in Lee, NH



Type of development: Residential, multi-family, infill development in Dover, NH

*“Planners must remind themselves—and their constituencies—to reach beyond the hot topics of the moment to understand, long-range, how to manage community growth and change. And that still requires the tried and tested techniques of growth management and comprehensive planning.”*

Doug Porter, *APA Planning*, Viewpoint, November 2003.

For more on Issues, Policies, and Implementation Strategies see: “Achieving Smart Growth in New Hampshire”, NH Office of Energy and Planning, April 2003.



Type of development: Business Park in Farmington, NH

## Growth Management Issues, Polices, and Strategies

Growth Management Issues & Location in the Master Plan	Policies & Strategies
<p><b>Amount of Development</b></p> <p><b>Master Plan</b> Land Use Section Housing Section</p>	<p><b>Policy:</b> State what level of development is desired, e.g. permit the construction of 250 dwelling units per year.</p> <p><b>Strategy:</b> State how the policy will be achieved, e.g., adopt a Growth Management Ordinance to set the amount of development permitted per year at 250 dwelling units.</p>
<p><b>Location of Development</b></p> <p><b>Master Plan</b> Land Use Section</p>	<p><b>Policy:</b> State where the development is desired, e.g. Town center.</p> <p><b>Strategy:</b> Amend the Zoning Ordinance to define growth areas and land use districts.</p>
<p><b>Timing of Development</b></p> <p><b>Master Plan</b> Land Use, Community Facilities, Public Finance Sections</p>	<p><b>Policy:</b> State timeframe in which development is desired.</p> <p><b>Strategy:</b> Adopt an ordinance to insure new development only is permitted when adequate facilities are provided.</p>
<p><b>Type of Development</b></p> <p><b>Master Plan</b> Land Use Section Transportation Section Housing Section Public Facilities Section</p>	<p><b>Policy:</b> State what type of development is desired, e.g. research park.</p> <p><b>Strategy:</b> State how the type of development will be achieved, e.g., amend the Zoning Ordinance to permit the desired land uses.</p>
<p><b>Appearance of Development</b></p> <p><b>Master Plan</b> Vision Section Character and Appearance Section</p>	<p><b>Policy:</b> State what is the desired community appearance for various types of development</p> <p><b>Strategy:</b> State how the desired appearance of the community will be achieved, e.g., adopt architectural design guidelines</p>
<p><b>Financing of Development</b></p> <p><b>Master Plan</b> Public Finance Section Capital Improvement Program</p>	<p><b>Policy:</b> State the community’s desired fiscal condition, e.g. balanced budget.</p> <p><b>Strategy:</b> State how the desired fiscal condition will be achieved, e.g. adopt an impact fee ordinance requiring developer payment of costs of growth.</p>

## Growth Management and the Master Plan

A local Master Plan describes a community's vision for the future and how it plans to achieve that vision. A Master Plan can address growth management by including these issues in each section of the Master Plan. The Land Use section addresses where; the Housing section addresses type and affordability; the Transportation section addresses how to move the population and goods; the Public Facilities section addresses service and facility needs; and the Capital Improvement Program addresses costs, timing, and financing.

By adding a Population and Growth Management section to your Master Plan, the community could address timing. This section should include policies that address the following questions:

- How much population growth does your community want?
- Where should the population be located?
- How should it be accommodated (i.e., single family, duplex, multi-family housing)?
- Will it be affordable by the target population?
- What will be the appearance or design for the development?
- How much will it cost?
- How will it be timed to balance it with environmental, public facilities and fiscal constraints of the municipality?
- How will the growth be financed?

Policy answers to these questions are linked to other Master Plan sections, such as land use, housing, public facilities, character and appearance, as well as the Capital Improvement Program. A well-developed population and growth management section will define how the community's population growth relates to the regional growth, the community's vision for growth, and the intended way to accommodate the growth. The population and growth management section for a Master Plan might include:

- Policies (i.e. what you want to achieve or commitments to do something—in the form of goals, principles, and standards).
- Implementation Strategies (i.e. how you intend to achieve it).
- Background research and analysis for the policies and implementation strategies (located in the Master Plan Appendix) including:
  - Description of existing population, social and economic demographic characteristics.
  - Population growth projections for the community and region.
  - Current housing stock by type and cost.
  - Current and projected costs.
  - Current and potential sources of revenue for costs.
  - Potential methods to reduce costs or accommodate growth more efficiently.



Appearance: New England style gas station complex in Durham, NH

*“For the region [New England] to retain its charms, and for our generation to do its part by leaving New England better than we found it, we must take an active interest in how the land is developed.”*

*“Development, depending on what it is, where it is sited, and how it is designed, can add or detract in various ways. Rarely is it all good or all bad. But what is built, where it is sited, and how it is designed, ends up making a real difference in how New England looks and feels, and how it functions, both economically and environmentally.”*

Community Rules: A NE Guide to Smart Growth Strategies, 2002, p.2.



Appearance: Conventional design gas station in Any Town, NH



Timing and Amount: Milton, NH on the west bank of the Salmon Falls River

## Growth Management Issues During Site Plan or Subdivision Plan Review

When the Planning Board is reviewing site or subdivision plans, consider some growth management issues as well as the basic questions (see SRPC *How To Get the Development You Planned*):

Where is the proposed site development or subdivision located?

What type of land use is proposed? Is it consistent with the Master Plan?

What is the appearance or design of the development? Does it reflect smart growth management principles, e.g. nodal development, controlled access management, clustered residential neighborhood)? Does it reflect the traditional New England architectural character?

What is the timing of the site development or subdivision in relation to needed public facilities and services? Compare the development to the municipality's Six Year Capital Improvement Program. Is there an adopted Capital Improvement Program?

What is the overall impact (i.e., physical, social, environmental and fiscal) of the development? You may require the developer to conduct a growth impact analysis to help assess the impact the growth from the development will have on the area and determine what measures must be taken to minimize the impacts. For a full description of what should be included in a growth impact analysis, see the Strafford Regional Planning Commission's Guide to Growth Impact Analysis. A growth impact analysis may not answer all of your questions, or it may claim there are no impacts. The Planning Board may require a peer review by a professional planner. Payment for the review can be requested from the applicant.

How will the impacts of the site development or subdivision be mitigated, and how will the costs of development be paid? Will the costs be offset by the benefits? Should development impact fees be charged? (Does your community have a Development Impact Fee ordinance?) Is financing or bonding required? (Does your community have a standard Performance Guarantee Agreement to insure the site and any graded open areas are stabilized or infrastructure improvements completed in case the developer has difficulties and the project is terminated?)

Clear answers to these and other questions will provide your community with the best information to make an informed decision and insure you get the development you planned.

*“And you may ask yourself  
What is that beautiful house?  
And you may ask yourself  
Where does that highway go?  
And you may ask yourself  
Am I right? ... am I wrong?  
And you may tell yourself  
... what have I done?”*

Talking Heads, “Once in a Lifetime”, from the Remain in Light album, 1980.



Appearance: Commercial use of historic building in Durham, NH

## Growth Management & Smart Growth

Some people see smart growth and growth management as the same, and others see them as different. Similarly with community planning, some people say they have been implementing community planning and growth management programs for years. The issue is whether you are reviewing and permitting subdivisions or site plans based on implementing basic community planning. For example, your municipality may be permitting single lot subdivisions without implementing a design principle for creating a traditional, compact residential neighborhood. Or, you could be in the situation of making decisions without knowing which principles to apply to make “smart” planning decisions. It is like playing baseball in a sandlot game versus in a professionally coached, trained, and organized game with strategies, plays, and techniques.

To accomplish “smart” growth management—that is being effective—it is important to have professional community planning guidance and knowledge. Growing “smart” can save millions of dollars in the operating costs of your public facilities and services, as well as add millions of dollars to real property values and appreciation.

## Growth Management & Sustainable Development

The goal of “smart” growth management is to achieve sustainable development. Sustainable development balances three community goals: economic vitality, community well-being, and environmental resource management. When only one or two of these goals are considered, it usually results in an imbalance in another area. The objective is to understand the whole picture, not just the immediate impacts a project may have on the site. Any land use decision that disrupts this delicate balance can affect the community’s character. Sustainability is a goal that planners and community decision-makers strive for every time a decision is made affecting development. It is about ensuring a better quality of life now, and for generations to come. It is “smart growth planning.”

Again, the Master Plan describes what, where, when, and how smart growth or sustainable development should occur. It may address the need to protect open lands, which leads the Planning Board to make a recommendation to adopt new open space subdivision regulations. Or the Master Plan may state minimum lot sizes or maximum densities for residential development. The community’s land use regulations are driven by the Master Plan policies and standards. The Master Plan empowers the Planning Board to adopt “smart” growth regulations, and makes regulations easier to defend if challenged.

### NH Principles for Smart Growth

1. Maintain traditional compact settlement patterns to efficiently use land, resources, and investments in infrastructure;
2. Foster the traditional character of New Hampshire downtowns, villages, and neighborhoods by encouraging a human scale of development that is comfortable for pedestrians and conducive to community life;
3. Incorporate a mix of uses to provide a variety of housing, employment, shopping, services, and social opportunities for all members of the community;
4. Provide choices and safety in transportation to create livable, walkable communities that increase accessibility for people of all ages, whether on foot, bicycle, or in motor vehicles;
5. Preserve New Hampshire's working landscape by sustaining farms, forests, and rural resource lands to maintain contiguous tracts of open land and to minimize land use conflicts;
6. Protect environmental quality by minimizing impacts from human activities and planning for and maintaining natural areas that contribute to the health and quality of life of communities and people in New Hampshire;
7. Involve the community in planning and implementation to ensure that development retains and enhances the sense of place, traditions, goals, and values of the local community;
8. Manage growth locally in the New Hampshire tradition, and work with neighboring towns to achieve common goals and address common more effectively.

Source: “Achieving Smart Growth in New Hampshire”, NH Office of Energy & Planning, April 2003.



*Strafford  
Regional  
Planning  
Commission*

*Visit our website at  
[www.trafford.org](http://www.trafford.org)*

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## **Addressee**

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## **Growth Management is Master Planning and It Must be Smart!**

- Growth management is the fundamental purpose of Master Planning.
- Growth management guides the amount, type, location, appearance, costs, timing, and financing of development and public facilities and services.
- Smart growth includes the use of professional planning advice.
- Planning decision-makers can achieve sustainable development by adopting and implementing Master Plan policies for smart growth management.
- Smart growth implementation strategies include:
  - Land use zoning districts with densities and intensities of uses balanced with a ...
  - ...growth management ordinance to phase in the issuance of residential building permits
  - Adequate public facilities ordinance
  - Capital improvement ordinance
  - Impact fee ordinance

We can achieve sustainable development and improve the quality of life.



**1400.00 GROWTH MANAGEMENT / RESIDENTIAL PHASING ORDINANCE**

**1401.00 Purpose**

*1401.01* Based on the Master Plan, which assesses and balances community development needs and considers regional development needs, the following Ordinance is deemed necessary to manage the rate of growth in the Town for the following reasons:

The Town of Brookline has had a Growth Limitation Ordinance in place in recent years which combined a feature which controlled the issuance of building permits together with a conscious effort to impose phasing requirements as a condition of subdivision approval. Both of these mechanisms were necessary to address the growth issue in view of the inventory of existing lots. As part of the Town's continuing effort to review growth issues and to determine the efficacy or necessity of particular growth control regulations, the Town believes that it is now reasonable to replace the previously existing building permit limitation which provided for growth management, with a regulation that seeks to distribute the impact of any new subdivision over a period of time that will allow the Town to react to the provision of services occasioned by such development in a controlled and reasonable manner and to plan for those impacts in an orderly way. Accordingly, the purpose of this ordinance is to provide a mechanism which imposes a requirement of phasing as a condition of subdivision approval in a consistent and orderly manner, in order to:

- a. Promote public health, safety, convenience, welfare, and prosperity;
- b. Ensure that adequate and appropriate facilities are available to individuals who may come to be located in the Town of Brookline, New Hampshire, and allow the Town the opportunity to absorb increases in Town services in an orderly way;
- c. Prevent scattered or premature development of land as would involve danger or injury to health, safety, or prosperity by reason of the lack of drainage, transportation, schools, fire protection or other public services, or necessitate the excessive expenditure of public funds for the supply of such services;
- d. Provide for the harmonious development of the municipality and its environs; and
- e. Insure that Brookline does not receive more than its fair share of the regional population growth. As shown in the Master Plan, Brookline is growing faster in recent years than most of the communities in the Nashua region.

*1401.02* Providing for the phasing of all future subdivision approvals serves the Master Plan directed goal of allowing the Town a sufficient amount of time to plan for school and municipal expansions occasioned thereby.

**1402.00 Authority**

This ordinance is adopted as an Innovative Zoning Provision as provided for in RSA 674:21 (I)(b).

**1403.00 Application**

This article only applies to those lots shown on subdivision plans accepted by the Planning Board after November 24, 1993.

**1404.00 Definitions**

1404.01 Building Permit. A building permit obtained for the construction of a new single family home or duplex. (A duplex requires only one building permit). This Ordinance does not apply to non-residential building permits or permits for expansion or alteration of existing structures.

1404.02 Calendar Year. January 1 to December 31.

**1405.00 Effective Date**

This Ordinance will not become effective until January 1, 1994.

**1406.00 Annual Review and Minimum Permits Available**

1406.01 Annual Review

The growth rate which the Town has attempted to achieve in recent years has been a 3% growth rate based on the number of dwellings that were in existence on November 30<sup>th</sup> of any given year.

This growth rate has been based on an analysis of the appropriate factors as required by law. This ordinance seeks to create an objective standard for phasing which considers the size of the subdivision and allows for a phased build out, depending on the number of lots in the subdivision, which standards are set forth in the table and rules contained in the following sections. While the process contained herein does not correlate directly with the intended growth rate, it is the intent and desire of the Town that this rate of growth be maintained as nearly as possible in future years.

To that end, this ordinance will be reviewed annually by the Planning Board in order to determine the extent to which that goal was achieved and, in the event that modifications in the table or regulations are necessary to accomplish said goal, the planning board is directed to present appropriate modifications for the consideration of the voters at future meetings, in accordance with the process set forth in § 1407, below.

1406.02 Minimum Permits.

The intent of this section is to ensure that each developer will be assured a number of permits that is appropriate to the size of his/her subdivision and investment. The intent of this section is also to ensure that each subdivision receive a building permit, not for a subdivider to create small subdivisions or to sell off individual lots circumventing the purpose of this Ordinance.

**TOWN OF BROOKLINE, NH**  
**ZONING AND LAND USE ORDINANCE**

# of new building lots	Year One	Year Two	Year Three	Year Four	Year Five	Year Six	Year Seven	Year Eight	Year Nine	Year Ten	Year Eleven +
Less than 10	1 *	1	1	1	1	1	1	1	1		
10 - 19	2 *	2	2	2	2	2	2	2	2	1	
20 - 29	3 *	3	3	3	3	3	3	3	3	2	
30 - 39	4 *	4	4	4	4	4	4	4	4	3	
40 +	5 *	5	5	5	5	5	5	5	5	5	

**Notes:** This table shows the number of building permits available for various size subdivisions for the years following Brookline Planning Board approval. Year One denotes the year in which the subdivision was approved by the Brookline Planning Board. \* If there is no house on the original pre-existing undeveloped buildable lot (parent parcel), then an additional building permit is available the first year. The example provided for a subdivision of “Less than 10” lots is for a 9-lot subdivision. The other above examples provided are for the maximum size subdivision in each category (19, 29 and 39 lots, respectively) so as to illustrate the full build-out period for subdivisions in each size range. A 55-lot subdivision is illustrated for the “40+” size category. If more than 55 lots are involved, either a maximum of five or the remaining number of permits, whichever is less, are available in subsequent years until the total number of permits available in the subdivision is issued.

- a. Each subdivision may receive their building permit allocation at any time during the calendar year as illustrated in the table above.
- b. A subdivision may bank and carry over a maximum of one year’s building permit allocations to the next calendar year. Any allocation that is carried over from the first year and not used by the end of the second year is postponed to the end of the subdivision buildout.

The following examples are meant to help understand the intent of this section. The ability to hold permits and carry them over one (1) year may make capital expenditures, such as road construction, more affordable. It is not intended to allow additional permits to be issued, or more than the maximum of two (2) year’s permits to be issued in any calendar year. The carry over may be exercised multiple times, however, Example 3 demonstrates the risk of miscalculating.

*(Example 1) A 29-lot subdivision would be eligible for a maximum of three (3) building permits in a calendar year. If the developer chose to hold these permits until the following calendar year, there would then be a maximum of six (6) building permits available. If the entire six (6) available permits were used, the following calendar year there would only be three (3) permits available. The result of a carry over can never exceed a total of two (2) year’s available permits, in this example six (6) permits.*

*(Example 2) On a 29-lot subdivision, the developer has carried his maximum number of permits for the first year, three (3), over to the second year. There are now six (6) permits available. The developer only uses four (4) permits in the second year. There are now five (5) permits available in the third year – two (2) carried over from the previous year and three (3) permits available for the calendar year. Any portion of a previous year’s permits may be carried over to the following calendar year up to the maximum permits allowed in a two-year period.*

*(Example 3) On a 29-lot subdivision, the developer carried over his maximum number of permits for the first year, three (3), over to the second year. There are now six (6) permits available. The developer only uses one (1) permit, leaving five (5) unused permits for the second year. The developer may only carry over three (3) permits to the third year. The maximum number of permits that can be carried over to the following calendar year is three*

(3). *In this example, two (2) permits were deferred to the end of the subdivision buildout period because of a failure to use the permits in earlier years.*

1406.07 *Expiration.* A building permit expires and becomes invalid if construction, which is deemed to be installation of footing and foundation, has not started within six (6) months from the date of issuance (as explained in the Brookline Building Code).

1406.08 *Transferability.* A lot can be transferred with or without a building permit. Building permits are tied to lots and cannot be transferred between lots.

**1407.00 *Sunset Clause***

This article expires at Town Meeting 2011, unless the following occurs:

An annual review by the Planning Board to determine if the population and growth data, in conjunction with the CIP, justifies the continued application of this Ordinance. If, after making findings, the Board feels that this article is no longer appropriate, it is no longer effective. If, after making findings, the Board feels that this article is both appropriate and necessary to meet the purposes outlined above, this article would be effective for another year, when another annual review shall occur.

## ARTICLE XVI

## GROWTH MANAGEMENT ORDINANCE

Purpose

Based on the Master Plan, which assesses and balances community development needs and considers regional development needs, the following ordinance is deemed necessary to flatten the rate of growth in the Town for the following reasons:

- Meet the demand for the schools with the existing capacity, especially the Hollis/Brookline Junior High which is closest to capacity. The Elementary and High Schools are projected to be over capacity in 1995-1996. This is noted in Table IX-13 of the Master Plan.
- Provide taxpayers a slower rate of growth and prevent an unacceptably high growth in the tax rate;
- Allow the Town the opportunity to absorb increases in Town services in an orderly way;
- Insure that Brookline receives its fair share of the regional population growth. As shown in Table IX-2 of the Master Plan, Brookline is growing faster in recent years than all communities in the Nashua region.

The Master Plan recommends a 3% growth rate maximum. This would still allow Brookline to grow faster than all nearby communities while allowing the Town time to plan for school expansions.

Authority

This article is adopted as a growth management ordinance under RSA 674:22.

Application

This article only applies to those lots shown on subdivision plans accepted by the Planning Board after November 24, 1993.

Definitions

**Building Permit:** A building permit obtained for the construction of a new single family home or duplex. (A duplex requires only one building permit). This ordinance does not apply to non-residential building permits or permits for expansion or alteration of existing structures.

**Calendar Year:** January 1 to December 31.

Effective Date

This ordinance will not become effective until January 1, 1994.

Requirements

1. The number of building permits that may be issued to any individual, partnership, or corporation in any calendar year shall be limited to the following:
  - a) The total number of building permits which can be issued in a calendar year is stated in section 4. If the total number is not issued, then those can carry over to the next calendar year.
  - b) The building permits shall be distributed on a first-come-first-served basis. If there is a greater demand than supply, then a waiting list shall be established. Any permits that expire shall be given to the people on the waiting list (also first-come-first-served).
2. A building permit expires and becomes invalid if construction, which is deemed to be installation of footing and foundation, has not started within six (6) months from the date of issuance (as explained in the Brookline Building Code).
3. A lot can be transferred with or without a building permit. Building permits are tied to lots and cannot be transferred between lots.
- 4a. The maximum number of building permits that may be issued per year will reflect a 3% annual growth rate in dwellings.
- b. Although lots existing prior to November 24, 1993 are exempt from limitations on building permits, the building permits issued on those lots will be included in the building permit calculation.
- c. A minimum of 10 building permits may be issued annually.
5. For calculation purposes, the Planning Board has determined that the number of dwellings as of January 1, 1994 is 1,232.

Sunset Clause

This article expires at Town Meeting 1997, unless the following occurs:

An annual November review by the Planning Board to determine if the population and growth data, in conjunction with the CIP, justifies the continued application of this ordinance. If, after making findings, the Board feels that this article is no longer appropriate, it is no longer effective. If, after making findings, the Board feels that this article is both appropriate and necessary to meet the purposes outlined above, this article would be effective for another year, when another annual review shall occur. After making findings, the Planning Board may change the number of permits issued annually based on data received during the year to ensure the goals of the ordinance.

## SECTION 9: GROWTH MANAGEMENT ORDINANCE 18(Enacted March 14, 2006)

9.1 Authority This section of the Zoning Ordinance is enacted in accordance with RSAs 674:21 and 674:22.

9.2 Purpose -- The purposes of this section are as follows:

1. Promote public health, safety, convenience, welfare and prosperity; 2. Ensure that Deering does not receive more than its fair share of regional population growth; 3. Manage orderly growth in Deering in coordination with the Master Plan and Capital Improvements Program. 4. Ensure that adequate and appropriate facilities are available to individuals who may come to be located in Deering, and allow the Town the opportunity to absorb increases to Town services in an orderly manner. 5. Provide a temporary mechanism when municipal services are strained or overloaded to reduce the rate of residential growth and thereby allow the Town time to correct any deficiencies that have developed.

9.3 Findings -- The town hereby finds that:

9.3.1 According to the U.S. Census, Deering's population grew from 1,707 in 1990 to 1875 in 2,000, an increase of 168 people or slightly less than 1% per year (.9%) in the last decade. Since 2000, Deering's estimated population, (NH Office of Energy and Planning) has grown to 2,010, which is an annual rate of increase double that of the last decade, or slightly less than 2% (1.9%) per year. If this same rate of increase were to continue, over the next four years the town's growth would be 3.6% per year, or an increase of 289 or 14.4%, for a population of 2,299 by 2008.

9.3.2 In 2004 Deering had an increase in building permits from 17 in 2003 to 30. This is a 78% increase in permits over the 2003 level. Assuming conservatively that the building permit rate does not increase above the 2004 level rate, but remains 30 each year and each permit 91 represents a household of approximately 2.3 persons, this would mean an increase over the next four years of 120 buildings, or a population increase of 276 persons. The increase through 2011 would be 483, or 24% above the present population.

9.3.3 The Planning Board adopted an update to the Deering Master Plan in December 2004. As noted in the document, the overall Existing and Future Land Use Goal is to "maintain Deering's rural character and protect areas of special value to the Town while providing for population growth in ways compatible with other goals of this Master Plan."

9.3.4 Following a recommendation contained in the 2004 Master Plan, the Planning Board adopted the 2006-2011 Deering Capital Improvements Program (CIP) on December 14, 2005. The CIP examines tax rates, past municipal expenditure trends, and presents a detailed proposed schedule of capital expenditure over the next six years for use by the Budget Advisory Committee, Board of Selectmen, and all citizens of Deering.

9.3.5 The CIP outlined capital needs for the Police Department, Fire/Rescue Department, Emergency Management, Highway Department, Planning Board, Board of Selectmen, and Cemetery Committee. The projected impact of capital needs on the municipal portion of the tax rate ranges from \$2.05 to \$2.61 per thousand over the six-year period. 9.3.6 The 2004 full value tax rate for the Town of Deering was \$18.63 per thousand. This rate was higher than the average full value tax rate (\$18.01) of the six communities that directly abut Deering. Abutting communities are Antrim, Bennington, Frankestown, Henniker, Hillsborough, and Weare. 9.3.7

The Hillsborough Deering Cooperative School District (SAU #34) Long-Range Facilities Master Plan has identified a number of potential options for future facilities improvements, including a possible addition to H-D Elementary School or a new PK-2 school in Hillsborough or Deering. Future growth rates in Deering will be an important element in future decision making by the SAU.

9.3.8 Deering has many large undeveloped areas of residentially zoned land that if developed could put sizeable pressure on Town facilities, services and overall quality of life. Large developments could put an immediate strain on the Town's infrastructure.

9.4 Administration

9.4.1 Data: The baseline data for developing housing unit counts in Deering and the six abutting communities is the 2000 U.S. Census Summary Tape File 1. Building permits issued by each community are to be used in the Planning Board's annual reporting as described in section 9.4.2 below.

9.4.2 Annual Reporting: The operation of this section shall be reviewed by the Planning Board at its first regular February meeting each year to insure that the annual maximum growth rate has not become inconsistent with Deering's responsibility and capability of planning, developing, and implementing the necessary municipal systems and facilities to serve the growing town and to insure that Deering is assuming its fair share of housing growth.

9.4.3 In addition, the Planning Board at its first regular December meeting each year and thereafter as the Board deems beneficial or necessary, will report on the number of building permits issued for the previous calendar year for all residential dwelling units in Deering and the six abutting communities. In addition, the Planning Board will report on the overall annual average percent increase in residential dwelling units (based upon building permits issued) for the six abutting communities, as well as Deering, for the previous calendar year. The Planning Board shall also prepare the analysis of building permit data as required in Section

9.5.1. All reports prepared by the Planning Board relative to growth management shall remain on file at the Town Office for as long as the reports are in effect.

9.5 Equitable Allocation of Available Building Permits

9.5.1 The number of building permits available for the calendar year for the Town of Deering shall be determined by calculating the previous five year average percent increase in building permits in the six towns abutting the Town of Deering and calculating the previous five year average percent increase in building permits for the Town of Deering. These two five year averages shall be combined and divided by two, thus producing a combined weighted five year average for Deering and the surrounding six towns. The resultant weighted five year average shall be multiplied by the Town of Deering's housing unit base at the conclusion of the immediate past calendar year and shall be rounded up to the next whole unit to determine the number of available for the calendar year for the Town of Deering 93

9.5.2 To ensure equitable distribution of available permits, no individual, partnership, corporation, or other entity or its related or affiliated entities, or in the case of individuals, their relatives or persons associated with them in business, may receive more than twenty (20) percent of the permits, or permits for seven units, whichever is less, available during any given calendar year.



9.5.3 In order to be complete, building permit applications must be for lots approved by the Deering Planning Board and recorded in the Hillsborough County Registry of Deeds. Lots must meet all applicable state and local regulations.

9.5.4 Twenty five (25) percent of the available permits shall be reserved for owners of single lots, which are not part of a subdivision of three lots or more, and are not created within one (1) year from the date of the building permit application.

9.5.5 Permits issued shall lapse and be returned to the pool of available permits if substantial construction on the dwelling has not begun within one (1) year. Site preparation work shall not be considered construction.

9.5.6 In the event that more permits are requested than are available, the earlier application shall prevail based upon the date and time of receipt of the completed application at the Town office. The Building Inspector may maintain a waiting list in the event that another permit becomes available during that calendar year, or it can apply to the next calendar year.

9.5.7 In the event that any available permits for the year are not issued, they shall be carried forward and applied to the following year's quota. No more than two year's building permits shall be issued in any given calendar year.

9.5.8 Transferability: A residential building permit approved under this section shall be valid only for the site specified on the permit application. Should the property be conveyed, the permit shall be transferred to the new owner, but the expiration date shall remain unchanged, so long as the number of dwelling units remains the same.

9.5.9 Application: This section applies to building permits for new residential dwelling units, as well as repair, replacement, reconstruction, or alteration of any existing seasonal dwelling units if the proposed work results in year-round residency in the unit. This 94 section does not apply to non-residential building permits or permits for expansion or the alteration of existing year-round structures.

9.6 Subdivision Phasing --The intent of this section is to ensure that each developer will be assured a number of permits that is appropriate to the size of his/her subdivision and investment, within the overall number of available permits.

Table 9.1: Phasing Schedule by Subdivision Size Number of new building lots Year 1 Year 2 Year 3 Year 4 Year 5 Less than 5 2 2 - - - 5 - 9 3 3 3 - - 10 - 16 4 4 4 4 - 16 + 5 5 5 5 5 Notes: Table 9.1 shows the number of building permits available for various size subdivisions following Deering Planning Board approval. Year 1 denotes the year in which the subdivision was approved by the Planning Board. If there is no dwelling on the original pre-existing undeveloped buildable lot (parent lot), then an additional building permit is available the first year. The example provided for a subdivision of "less than 5" lots is for a 4-lot subdivision. Other examples provided are for the maximum size subdivision in each category (9 and 16 lots, respectively) so as to illustrate the full build out period for subdivisions in each size range. A 25- lot subdivision is illustrated for the "16+" category. If more than 25 lots are involved, either a maximum of five or the remaining number of permits, whichever is less, are available in subsequent years until the total number of permits available in the subdivision are issued.

9.7 Exceptions

9.7.1 Proposals for senior housing may be excluded from this Section upon a finding by the Planning Board that the proposed project does provide such housing.

9.7.2 In the event of damage, destruction, or demolition of any dwelling, the dwelling may be rebuilt, provided that construction is started within one year of its damage, destruction, or demolition and completed within two years.

9.7.3 In each December, the Planning Board shall review the number of permits issued to date during that calendar year, determine the number of available permits, and consider the issuance of additional permits (within the available permits) to applicants that had previously received their maximum number of permits as calculated in Sections 9.5 and 9.6.

# **Town Of Lyndeborough**

## **Growth Management Ordinance**

### **I. Background**

#### **A. Purpose of the Ordinance**

A major purpose of this Ordinance is to prevent a crisis condition caused by abnormal spurts of growth resulting in inadequate public facilities, loss of control over tax rates, and health and safety problems. The Master Plan specifically spells out the potential for these spurts unless some control mechanism is invoked. The Master Plan specifically refers to neighboring towns which have experienced unmanaged growth with extremely negative effects and predicts that Lyndeborough has a high probability of suffering the same condition. Thus it makes a specific recommendation for a growth ordinance such as this. It is in response to that recommendation that this Growth Management Plan is adopted, pursuant to RSA 674:22. In the case of Planned Residential Developments, growth permits will be limited to a total of one per year, as stipulated in the Planned Residential Development Ordinance.

#### **B. Growth in Lyndeborough**

Lyndeborough's growth is defined in a number of ways:

- 1) Both the Master Plan (Chapter 2) and the Capital Improvements Plan (Chapter 2) present estimates of population increase from the Office of State Planning (DSP) and the Nashua Regional Planning Commission (NRPC).
- 2) The Master Plan (Chapter 2) compares Lyndeborough's past and future population growth to that of surrounding towns.
- 3) The School Building Committee Report of November 12, 1987 indicates the actual number of pre-school children and projects a total school population for future years.
- 4) The Master Plan (Chapter 2) indicates the housing inventory for Lyndeborough and the number of dwelling units added and the number of building permits being issued.

All these measures indicate the level of growth that is taking place in Lyndeborough and the surrounding towns. Based on these measures a "normal" growth rate was arrived at. This was defined as a percentage increase in population from one year to the next, which would reflect the Town's ability to accommodate growth, and the Town's obligation to accommodate a "fair share" of the region's expected growth.

Lyndeborough's region is defined as Lyndeborough, the seven immediately surrounding towns, and the ring of fourteen surrounding those. Historically, as stated in the current Master Plan, the region's population has increased 3.2% per year. Lyndeborough has, therefore, adopted this figure for its planned annual growth, subject to periodic changes as may be required by changes in the region's annual growth rate. In addition, the 3.2%

figure is the rate used in the Capital Improvements Plan (CIP) to estimate the need for capital improvements.

Therefore this ordinance is based on allowing this 3.2% growth level. As shown in Table II-12 of the current Master Plan, the annual estimated population increases range from 3.23% to 3.58% through 1995, and the corresponding increase in the allowable growth permits range from 3.2% to 3.60% during that same period. Thus both categories always equal or exceed this 3.22% "fair share" projected growth rate.

#### C. Restrictions on Growth

Growth in Lyndeborough is restricted by means other than this Ordinance:

- 1) The Zoning By-Laws and the Sub-Division Regulations permit the Town to regulate development in conformity with the Master Plan. These restrictions were adopted for purposes of public benefit other than growth control as such.
- 2) The topography of the Town Of Lyndeborough presents a unique set of constraints to development due to the following characteristics which are more prevalent in Lyndeborough than in the neighboring communities: soils suitability, high elevations, steep slope conditions, extensive wetlands, and the like (Master Plan, Chapters 1 and 7). Such conditions place a natural limit of the kind, location and amount of growth Lyndeborough can accommodate.

#### D. Efforts to Increase Municipal Services

Through the Capital Improvements Plan and the Master Plan, the Town makes an "orderly" and "good faith" effort to increase municipal services at a reasonable rate consistent with the 3.2% forecasted annual growth rate described above. The Capital Improvements Plan is updated annually and outlines a budget and timetables for major capital outlays increase and improve facilities and services of the Town to meet the needs of growth. The adoption of such a plan (as indicated in the CIP document) shows a good faith effort on the part of the Town to provide those services at some later date.

#### E. Cost and Services to be Provided

The specific problem areas identified in the CIP (Chapter 5) and the Master Plan (Chapter 3) include: replacement of fire equipment and a new fire sub-station; additional and replacement of police vehicles and office facilities, a Town barn, gas tanks, replacement and additional road equipment, library facility upgrade, Town building renovation and expansion, local school expansion and cooperative school renovations. The schedule of costs is detailed in Chapter 5 of the CIP.

#### F. Ability of Town to Accommodate Tax Burden

The CIP covers the next six years and is designed to level scheduled expenditures to avoid major swings in the amounts to be raised by taxation each year (Chapter 4). Expenditures are targeted to increase at the same rate that is projected for the tax base (assessed valuation) to increase. This careful planning as well as other good financial management practices are essential in order to keep property taxes at a level where they do not become overly burdensome. This is a serious consideration as property tax

increases in Lyndeborough for the past ten years have consistently exceeded the rate of inflation (CIP, Chapter 3).

G. Use of the Dwellings

As indicated in Chapter 2 of the Master Plan, new dwelling units in Lyndeborough are year-round, single family units of the type which have historically incurred municipal services equal or greater in cost to the increase in taxes paid.

H. Availability of Land in Surrounding Towns

As indicated in Chapters 1 and 2 of the Master Plan, surrounding towns have different topography than Lyndeborough which allows for more concentrated development and as a result those towns are growing rapidly.

I. Overall Regional Growth

As pointed out above and in Chapter 2 of the Master Plan, regional growth is intense and Lyndeborough is attempting to bear its share of that growth. Passage of this ordinance assures that the rate of growth of the Town is consistent with that of the area and that the rate of growth will not exceed the planned rate of growth of the Town's services and facilities.

**II. Definitions**

- A. Dwelling Unit: a single unit providing complete, independent living facilities for one or more persons, including permanent provision for living, sleeping, eating, cooking and sanitation.
- B. New dwelling units: a newly constructed dwelling unit which is free-standing, part of, or included in an existing structure.
- C. Lot: a single, undivided parcel of land whose description and ownership are recorded at the Hillsborough County Registry of Deeds.
- D. Approved lot: a lot of suitable size and character, and with suitable soil conditions, to have received the necessary permits to allow construction of a dwelling unit.

**III. The Ordinance**

- A. One growth permit shall be required for the construction of each dwelling unit. Conversion of a single family dwelling to a two family dwelling shall require one growth permit for the additional dwelling unit.
- B. The number of growth permits available in any year is determined by referencing Chapter II in the current Master Plan.
- C. No record holder, either individual, partnership or corporation, may be issued more than two growth permits in a calendar year except under the circumstances explained in paragraph IV. D. below. "Record holder" shall mean the owner (s) of a lot or lots in

Lyndeborough on record at the time of application. Land owned as joint tenancy or as tenants in common shall not entitle the owners to more than the number of growth permits which would be available if the land were owned by one individual. If an applicant has any direct or indirect financial interest in any other lot or building for which a permit has been previously issued, in this permit year, under this Ordinance, the previously issued permit(s) shall be deducted from the number of permits which would otherwise be available to the applicant.

- D. The “growth permit year” is January 1 to December 31.
- E. Any unused growth permits at the end of the year, less the previous year’s rollover, will be rolled over, when the result is a positive number, and added to the number calculated to be available in the next year.
- F. This ordinance shall not apply to the repair, replacement, reconstruction or alteration of any existing structures, so long as no new dwelling units are created thereby.
- G. A growth permit will be valid for one year from the date of issuance. If the foundation has not been completed by that date the permit will be withdrawn and added to the pool for the current year. The applicant will have to re-apply in the normal manner.
- H. If a building permit is withdrawn by the permit holder, the corresponding growth permit will be withdrawn and added to the number available in the year of withdrawal. Should the applicant re-apply, such request will be processed as a new application and all rules then in effect will apply.
- I. Growth permits are not transferable for any reason, and shall apply to a specific project, location and applicant only. New owners of the same property must apply for their own permit and can not use the permit of someone else. However, if foundation construction is completed and continued construction would result in no more dwellings than originally applied for, such a partially completed structure may be completed without acquiring a new growth permit.

#### **IV. Issuance Procedure**

- A. To be considered for a growth permit, an applicant must have satisfied all the requirements for a building permit, i.e. septic approval, approved lot, house plans, etc., and must have executed a Growth Permit Application Form. However, owners of an approved lot of record who, in good faith, are prepared to go forward with a building project for a new dwelling unit may reserve a growth permit, if otherwise available, by indicating their intention to the building inspector. Any such reservation will expire automatically sixty days from the date of issuance if all requirements for a building permit have not been met, unless extended by the building inspector for good cause. The building inspector may, in his discretion, deny a reservation to anyone who, in his judgment, is not prepared to go forward in good faith.
- B. At the completion of the Building Permit evaluation process, if the applicant qualifies for a building permit, the building inspector will determine if the applicant qualifies for a growth permit. (This entails ensuring the applicant has not already received the maximum number of permits allowable and permits are still available.)

- C. If all permits for the present year have been issued, or if the applicant has been issued the maximum number allowable, the application and its relative sequential position will be held until permits are again available.
- D. Should there remain a number of unused permits as of December 1, applicants that have already been issued the allowed permits may apply for an additional single permit according to their relative sequential position. (3-14-06)
- E. It is only after the issuance of the growth permit that the Building Permit will be issued and construction can commence. Meeting all the requirements for a Building Permit in no way ensures the issuance of a growth permit.

**V. Annual Review and Termination of Ordinance**

- A. This Ordinance shall be reviewed by the Planning Board during the autumn of each year as follows:
  - 1) The Planning Board shall continue to determine the growth rate which is appropriate to the Town Of Lyndeborough and may use all information available including the Master Plan and Capital Improvements Plan and any updates of those that may exist.
  - 2) The Planning Board shall also consider whether the growth permit limitations are no longer necessary and should be abolished.
  - 3) The Planning Board shall recommend to the Town Meeting, Pursuant to RSA 675:3, proposed amendments to or repeal of this ordinance as a result of the review conducted according to 1 and 2 above.
- B. This ordinance shall terminate at the conclusion of Town Meeting in March 2009, unless sooner changed, cancelled or extended.

**VI. Severability**

Should any section or provisions of this Ordinance be declared by a court of appropriate jurisdiction to be invalid, such decision shall not invalidate any other section or provisions of the Ordinance.

Renewed 7-17-01 by town vote  
Renewed 3-8-05 by town vote  
Revised 3-14-06 by town vote

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**TOWN OF BROOKLINE, NEW HAMPSHIRE**

**SUBDIVISION REGULATIONS**



*Adopted*

*March 18, 1974*

*Amended*

*September 11, 1985*

*May 10, 1988*

*May 9, 1989*

*September 7, 1993*

*August 21, 1997*

*June 15, 2000*

*May 17, 2001*

*November 1, 2001*

*June 3, 2004*

*August 4, 2005*

*June 18, 2009*

*August 02, 2012*

*October 16, 2014*

*July 16, 2020*

*June 25, 1986*

*November 29, 1988*

*November 19, 1991*

*November 7, 1995*

*May 6, 1999*

*September 7, 2000*

*October 4, 2001*

*September 5, 2002*

*October 21, 2004*

*November 15, 2007*

*September 16, 2010*

*February 21, 2013 (appendices)*

*September 17, 2015*

*August 19, 2021*



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## ***SECTION 1. AUTHORITY***

Pursuant to the authority vested in the Brookline Planning Board by the voters of the Town of Brookline, in accordance with the provisions of Chapter 674: Sections 35-37, 43-44 inclusive, NH Revised Statutes Annotated 1983 as amended, the Brookline Planning Board adopts the following regulations governing subdivision of land in the Town of Brookline, New Hampshire.

## ***SECTION 2. DEFINITIONS***

**Abutter**: Shall mean any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration by the local land use board. For purposes of receiving testimony only, and not for purposes of notification, the term "abutter" shall include any person who is able to demonstrate that his land will be directly affected by the proposal under consideration. For purposes of receipt of notification by a municipality of a local land use board hearing, in the case of an abutting property being under a condominium or other collective form of ownership, the term abutter means the officers of the collective or association, as defined in RSA 356-B:3, XXIII. For purposes of receipt of notification by a municipality of a local land use board hearing, in the case of an abutting property being under a manufactured housing park from the ownership as defined in RSA 205-A:1, II, the term "abutter" includes the manufactured housing park owner and the tenants who own manufactured housing which adjoins or is directly across the street or stream from the land under consideration by the local land use board, as amended. **(08-19-2021)**

**Active and substantial development or building**: In the absence of a condition of approval by the Planning Board, specific to the subject project, in the absence of a specific finding by the Planning Board, active and substantial development or building shall be deemed to have occurred when at least twenty percent (25%) of the total building foundations or one building foundation – whichever is greater – on the site has been installed, inspected and approved by the Building Inspector, utilities have been extended to the site, and a certified plot plan of the foundation, if requested by the Building Inspector, has been submitted. All erosion control measures as specified on the approved plan for the area of disturbance must be installed.) (8/21/97) (08/02/2012)

**Agent**: Shall mean any person designated in writing by the owner to be the representative of the owner in any matter before the Board. (8/21/97)

**Approval**: Shall mean recognition by the Planning Board, certified by written endorsement on the plat, that the final plat submission meets the requirements of these regulations and satisfies, in the judgment of the Planning Board, all criteria of good planning and design.

**Approval, Conditional**: Shall mean an expression by the Planning Board that the Plat is approved but requires additional information or must meet specific conditions for the approval to be valid. Conditional Approval does not constitute, nor should it be construed as, approval, either implied or granted, of the final plat, nor does it bind the Planning Board to approval of the Final Plat.

**Board**: Shall mean the Planning Board of the Town of Brookline.

**Bond**: Shall mean a bond or other form of surety filed with the Selectboard whose purpose is to ensure that work specified by the Planning Board is completed satisfactorily. The amount of the Bond shall be determined by the Planning Board with such assistance as it deems necessary. The amount shall be sufficient to cover all costs for completion of the work by the Town in the event that the applicant defaults. In all other respects, the action of the Board shall be governed by NH RSA 674:36 III.

**County Conservation District**: Shall mean the Hillsborough County Conservation District (HCCD).

**Completion Bond**: A performance bond, letter of credit or other type of security which shall be filed with the Selectboard in an amount sufficient to ensure that the road system and other improvements approved by the Planning Board are constructed and installed properly. This bond shall comply with the requirements set out in sections 4.8 and 4.9. (9/7/93)

**Completed Application**: A completed application sufficient to invoke jurisdiction to obtain approval from the Planning Board shall mean that sufficient information is included or submitted to allow the Board to proceed with consideration

and to make an informed decision. A completed application is one which meets all of the requirements set out in section 4.6.05 of these regulations, and Appendix E of these regulations. (5/9/89)

Dwelling Unit: Shall mean one room or rooms connected together, constituting a separate, independent housekeeping establishment physically separated from any other dwelling units in the same structure, and containing independent cooking and sleeping facilities.

Disturbed Area: Shall mean any area where the ground cover is destroyed, changed or removed leaving the land subject to accelerated erosion.

Easement: Shall mean the land area created through authorization by a property owner for the use by another and for a specified purpose of any designated portion of his property.

Erosion: Shall mean the detachment and movement of soil or rock fragments by water, wind, ice, or gravity.

Final Plat: Shall mean the final drawing or drawings on which the subdivider's plat of subdivision is indicated, prepared as required under the provisions of section 4.

Grading: Shall mean the excavating, grubbing, filling, (including hydraulic fill), or stockpiling of earth materials and or combination thereof, including the land in its excavated or filled condition.

Site Specific Soils Map: Shall mean a soils map of a parcel of land being considered for development in accordance with the site specific soil mapping standards (SSSMS) for New Hampshire and Vermont as adopted by the Society of Soil Scientists of Northern New England. (9/05/02)

Inspector: Shall mean a duly designated inspector appointed by the Board to inspect all aspects of the project.

Licensed Land Surveyor: Shall mean a person who engages in the practice of land surveying and is licensed by the State of New Hampshire.

Licensed Professional Engineer: Shall mean a person who, by professional education and practical experience, is qualified and licensed to practice engineering by the State of New Hampshire.

Lot: Shall mean a parcel of land or any combination of several lots of record, created by subdivision to fulfill the minimum lot size requirements for building as provided in the Brookline Zoning Ordinance.

Lot Line Adjustment: Shall mean the subdivision of land which does not create buildable lots, or the creation of lots for non-building development purposes.

Maintenance Bond: A performance bond, letter of credit or other type of security which shall be filed with the Selectboard to ensure that the road system and other improvements were constructed and installed properly. This bond shall comply with the requirements set out in sections 4.8 and 4.9. (9/7/93)

Maintenance Guarantee: A required monetary commitment on the part of a construction contractor to ensure that the improvements to a development have been completed in a satisfactory manner for a fixed period of time. See Section 4.9.06. (08/02/2012)

Master Plan: Shall mean the comprehensive plan or plan of development for the Town of Brookline.

Performance Guarantee: A required monetary commitment on the part of a construction contractor to complete a development in a satisfactory manner, or when a specific activity ends, remove a potentially hazardous or undesirable situation. See Section 4.9.06. (08/02/2012)

Soils Scientist: Shall mean a person experienced in on-site field work pertaining to classifying and mapping soils by soil types according to physical characteristics of depth, color, horizon, texture, slope, and drainage under the Standards of the National Cooperative Soil Survey or other standard classification system. Such persons shall be subject to the approval of the Planning Board. Soil Scientist should be licensed in the State of New Hampshire. **(08-19-2021)**

Sediment: Shall mean any deposit of material, either mineral or organic, that is in suspension, is transported, or has been moved from its site of origin by erosion.

Soil Erosion and Sediment Control Plan: Shall mean a plan for soil erosion and sediment control developed as specified in the Erosion and Sediment Control Design Handbook for Developing Areas of New Hampshire (1981), as amended.

Street: Shall mean any existing public vehicular ways, except alleys. All streets shall be within dedicated rights-of-way which have been properly processed, approved and recorded.

Street, Local: Shall mean a street used primarily to give access to abutting properties.

Street, Collector: Shall mean a street which, in addition to giving access to abutting properties, serves primarily to carry traffic from local streets to arterial streets and to public and other centers of traffic concentration. A collector street may be further classified as major or minor, depending on average daily traffic counts.

Street, Arterial: Shall mean a street or highway used primarily for heavy and/or through traffic.

Subdivider: Shall mean the owner of record of the land to be subdivided, including any subsequent owner of record making any subdivision of such land or any part thereof, or the duly authorized agent of any such owner. (8/21/97)

Subdivision: Shall mean the division of the lot, tract, or parcel of land into two (2) or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale, rent, lease, condominium conveyance or building development. It includes re-subdivision and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided. The division of a parcel of land held in common and subsequently divided into parts among the several owners shall be deemed a subdivision under this title.

Subdivision, Minor: Shall mean the subdivision of land into three (3) or fewer lots, with no potential for re-subdivision, and requiring no new roads, utilities or other municipal improvements.

Substantial Completion: In the absence of a condition of approval by the Planning Board, specific to the subject project, substantial completion of the development shall be deemed to have occurred when a Certificate of Occupancy for all buildings shown on the approved subdivision plan shall have been issued by the Brookline Building Inspector, and all other on-site and/or off-site improvements have been determined by the Town of Brookline or its agent to be in compliance with the approved subdivision plan or satisfactory financial guarantees remain on deposit with the Town to insure completion of such improvements. (08/02/2012) **(08-19-2021)**

Time Periods: Shall mean all time periods are calculated in terms of calendar days unless otherwise noted.

Winter Season: Shall mean the period of time between November 1st and May 1st. (8/21/97)

## **SECTION 3. PROCEDURE**

### **Section 3.1. General**

- 3.1.01. The Board shall, in the exercise of the authority granted pursuant to NH RSA 674:36, review all proposed subdivisions with a view toward determining the impact that the proposed subdivision will have on various Town services, and to that end, the Board shall also review all such proposed subdivisions with a view toward determining whether such proposed subdivision, if permitted, would create one of the following conditions:
- a. Constitute a scattered or premature subdivision of land as would involve danger or injury to health, safety, or prosperity by reason of the lack of water supply, drainage, transportation, schools, fire protection, or other public services,
  - b. Necessitate an excessive or unreasonable expenditure of public funds for the supply of such services.
- 3.1.02. The procedure for subdivision approval consists of: Preliminary Conceptual Consultation Phase, Design Review Phase and a Final Phase, as defined in NH RSA 676:4, II. **(08-19-2021)**
- a. Preliminary Conceptual Consultation Phase - is the conceptual review with the Planning Board and the Developer. This phase is optional and used for reviewing the basic concept of the proposal and suggestions which might be of assistance in resolving problems with meeting requirements during final consideration. It is strongly encouraged that all open space developments take advantage of the preliminary conceptual consultation phase and the design review phase in order to discuss general design concepts and determine the number of lots allowed on a tract. The applicants, their representatives or designees must attend a Conservation Commission meeting prior to discussion with the Planning Board. (07/16/2020).
  - b. Design Review Phase - consists of the review of the technical details of the subdivision application by the Planning Board. This phase is optional and used for reviewing more specific design and engineering details of the development.
  - c. Final Phase - begins upon acceptance of the application by the Planning Board. It is to ensure that all technical Requirements, State approvals, and legal data have been submitted as required.
- 3.1.03. Before any subdivision is made, or the transfer or sale of any part thereof, or before the construction of streets, or before the installation of municipal services therein, or before any application for a permit for the erection of a structure thereon shall be made, the owner thereof or his authorized agent, shall apply in writing to the Board and be granted approval of such subdivision. The application shall be made on the form provided by the Board.
- 3.1.04. All applications made to the Board shall be filed with the Board's Secretary at least thirty (30) days prior to the date of a Board meeting at which the applicant or his agent wishes to appear.
- 3.1.05. Applications and plats will be reviewed by the Board's Designated Representative within ten (10) days after the filing of the application to determine if the application and plats conform to the requirements of these regulations. Applicants will be notified of any deficiencies which must be corrected in order for the application to be considered complete and placed on a Board agenda for formal consideration.
- 3.1.06. After such notice of non-conformance, the applicant may revise the plat(s). The revised plat(s), which must meet the requirements of a completed application as determined by the Planning Board, shall be resubmitted at least fifteen (15) days prior to the Board's meeting at which the applicant or his agent wishes to appear. (5/9/89, 11/19/91) **(08-19-2021)**
- 3.1.07. Any plans, revisions, or re-submittals to be placed on the Board's agenda, must be submitted to the Planning Board secretary at least fifteen (15) days before the meeting at which the applicant or his agent wishes to appear. (5/9/89, 11/19/91)
- 3.1.08. A completed application sufficient to invoke jurisdiction of the Board, shall consist of all data required as reflected on an attached checklist (Appendix E) and section 4.6.05 of these regulations, a complete list of

abutters as indicated in Town records not more than five (5) days before the day of filing, the name and business address of every engineer, architect, land surveyor, or soil scientist whose professional seal appears on any plat submitted to the Board, payment of fees per the approved schedule, eight (8) prints of all drawings to be recorded, and eight (8) prints of topography and road profiles. (5/9/89, 11/7/95)

- 3.1.09. Adherence to these requirements will qualify a completed application to be placed on the Board's agenda. The Board will accept a completed application (as defined in Sections 3.1.08) only at a properly noticed public meeting of the Board. (5/9/89) **(08-19-2021)**
- 3.1.10. A sixty-five (65) day review period begins on the date of the meeting at which the completed application is formally accepted by the Board. The Board must begin formal consideration of the application within thirty (30) days of acceptance. If the Board fails to act on the application within the sixty-five (65) day period, the applicant may either apply to the Selectmen for an order directing the board to act on the application within 30 days, or consent to an extension of the sixty-five (65) day review period. If the planning board does not act within that time, then within 40 days of the issuance of the order, the selectmen shall certify on the applicant's application that the plat is approved unless the selectmen have identified some specific subdivision regulation, zoning, or other ordinance with which the application does not comply. If the selectmen do not issue an order or approve the subdivision, the applicant may appeal to superior court. (11/19/91) (9/05/02) (07/16/2020)
- 3.1.11. The Board may apply to the Selectmen for an extension not to exceed an additional sixty-five (65) days before acting to approve or disapprove an application. The applicant may waive the requirement for planning board action within the time periods specified in section 3.1.10 and consent to such extension as may be mutually agreeable. **(08-19-2021)**.
- 3.1.12. Abutters and applicant, as well as every engineer, architect, land surveyor, or soil scientist whose professional seal appears on any plat submitted to the Board will be notified by certified mail, return receipt requested, of the date and time of the meeting at which the application will be formally submitted to the Board for acceptance. Notice will be mailed at least ten (10) days prior to the meeting. Notice to the General Public shall also be given at the same time by posting in two (2) public places in the Town of Brookline at least ten (10) days prior to the meeting, or publication in a newspaper of general circulation. The notice will include a description of the proposal, the name of the applicant and the location of the proposal. If the time, date and place of an adjourned session of any properly noticed public hearing is made known at the hearing, additional notice for the continuance is not required. (11/7/95)
- 3.1.13. Application Fees shall be submitted in accordance with the fee schedule outlined in APPENDIX B: FEES and shall accompany the submission of subdivision plans. Failure to pay such costs shall constitute valid grounds for the Planning Board to terminate further consideration of the application. (5/6/99)
- 3.1.14. The Board may, at its discretion, and upon written request of the applicant, hold the acceptance and approval meeting, and the public hearing at the same time. Such an expedited review process shall be only for minor subdivisions.
- 3.1.15. No application for expedited review shall be approved without full and proper notice to abutters and the general public as is required elsewhere in these regulations.
- 3.1.16. Approval of the subdivision plat shall be by affirmative vote of the majority of the Board present at the meeting. The plan is certified by the signatures of the Board Chairman or Co-Chairman, Vice-chairman and Secretary and the date of approval on the plat. The Board will transmit the signed and dated mylar copy of the plat to the Hillsborough County Register of Deeds along with the recording fees paid by the applicant. The approved plat will not be recorded until all fees have been paid by the applicant. (11/7/95) (9/05/02)
- 3.1.17. The Board may grant conditional approval of an application if the remaining actions on the application: are administrative in nature; do not involve discretionary judgment by the Board; and/or involve the applicant's possession of permits and approvals granted by other boards or agencies, such as the NH DES or NH DOT. In these instances, final approval may be granted without further public hearing. A public hearing will be required to demonstrate compliance with the terms of all other conditions pursuant to RSA 676:4,I(i). Final approval will be granted when the conditions have been met to the satisfaction of the

Board. The plat will not be recorded at the Hillsborough County Registry of Deeds until all of the conditions have been met. Whenever a plat is recorded to memorialize an approval issued by the Board, the final written decision, including all conditions of approval, shall be recorded with or on the plat. (09/16/2010). **(08-19-2021)**.

- 3.1.18. If an application is not approved, the reasons for the disapproval will be clearly stated in the Board's records and in written notice provided to the applicant within ten working days of the public hearing. (11/7/95)
- 3.1.19. Every plan approved by the Planning Board and properly recorded in the registry of deeds shall be exempt from all subsequent changes in subdivision regulations and zoning ordinances as set forth in RSA 674:39, as that law is from time to time amended. For the purposes of RSA 674:39 and this section, "active and substantial development or building" is defined in section 2 of these regulations. (8/21/97)
- 3.1.20. The Board shall impose fees for subdivision procedures in accordance with the approved fee schedule contained in Appendix B. Expenses for plan review, pursuant to RSA 676:4,I(g) incurred by the Planning Board in having the proposed subdivision plan reviewed by a consulting engineer or other planning consultant, in making environmental impact, hydrological impact, ground water quality impact, traffic impact, and other special studies, or any other study deemed necessary by the Planning Board in order to make an informed decision on the subject plan; and in preparing or reviewing performance bonds, deeds and other documents shall be borne by the applicant. All plan reviews, impact studies, and document reviews shall be made by planners, surveyors, engineers, soil scientists, wetland scientists, technical consultants, attorneys, and other professionals retained by the Planning Board. No employment or other contractual relationship shall exist between the professional and the applicant. All expenses incurred by the Planning Board and the Town of Brookline in processing an application for subdivision approval and inspections of such subdivisions shall be borne by the applicant. (5/6/99)
- 3.1.21. For each minor and major subdivision plan, engineering review may be required at the discretion of the Planning Board at the expense of the applicant in accordance with RSA 676:4-I(g). Cost for such services shall be paid by the applicant to the Town of Brookline. (11/01/01) (2007) (08/02/2012)
- 3.1.22. Costs for engineering inspections, Town Planner review, Consultants hired by the Town of Brookline, and Town Counsel review of any legal document shall be borne by the applicant and paid to the Town of Brookline. Upon receipt of the invoice sent by the Town Engineer, Town Planner, Consultant, or Town Counsel for inspections and reviews performed, the Planning Board will bill the applicant directly. The applicant will be given a maximum period of 30 (thirty) days to pay the bill, by check or money order. If a payment is not received within the initial 30-day period, an administrative fee will be charged to the applicant to resend the bill. If a payment is not received within 30 (thirty) days after a second bill is sent to the applicant, all inspections will stop, and no building permit will be issued until the payment is received by the Town of Brookline. (2007) **(08-19-2021)**.
- Engineering review for subdivisions may be required by the Planning Board at the expense of the applicant in accordance with RSA 676:4I(g). Funds for such services shall be paid by the applicant and shall be deposited with the Town of Brookline in an escrow account, to be dispersed on a monthly basis upon satisfactory completion of services. The Planning Board reserves the right to add to and/or enlarge the Scope of Services agreed to be provided hereunder when and if the Planning Board, in the course of review of the application, determines that further advice of the engineer is necessary. Additional review shall commence upon deposit of fees to cover the cost of consultant services. **(08-19-2021)**
- 3.1.23. All State and Local approvals shall be obtained as required elsewhere herein, prior to the Final Approval by the Board.
- 3.1.24. Applications for proposed subdivisions may be presented in an optional Preliminary Conceptual Consultation Phase and/or an optional Design Review Phase and a Mandatory Final Phase (except in the case of minor subdivisions).
- 3.1.25. The subdivider is encouraged to appear before the Board in a Preliminary Conceptual Consultation Phase which carries no obligations. This is intended to provide an open forum for the discussion of general



concepts of a proposed subdivision and suggestions which might be of assistance in resolving problems with meeting requirements during final consideration, prior to the formal application procedure.

- 3.1.26. The subdivider is strongly encouraged to appear before the Board in a Design Review Phase for any subdivisions with more than seven (7) lots. This phase provides for non-binding discussions with the applicant and is intended to provide an open forum for the discussion of all technical requirements and engineering details applicable to the subdivision prior to the formal application. A notice to the general public and abutters is required as per section 3.1.12 of these regulations.
- 3.1.27. The Final Phase is intended to ensure that all technical requirements, State approvals, and legal data have been submitted as required.
- 3.1.28. The subdivider is encouraged to discuss his application with the Board's Designated Representative in order to discuss general concepts of a proposed subdivision and suggestions which might be of assistance in resolving problems with meeting requirements during final consideration, prior to the formal application procedure. (5/9/89)
- 3.1.29. Agreement with the concepts and design of a proposed subdivision in the Design Review Phase carries no assurance that approval will follow in the Final Phase, as discussions in the design review phase are non-binding.

***Section 3.2. Preliminary Conceptual Consultation Phase***

- 3.2.01. The Preliminary Conceptual Consultation Phase is a conceptual, first draft, review of a proposed subdivision.
- 3.2.02. Abutter notification is not necessary for the Preliminary Conceptual Consultation Phase.
- 3.2.03. The Preliminary Conceptual Consultation Phase implies no commitment by either the Planning Board or the Subdivider.

***Section 3.3. Design Review Phase***

- 3.3.01. The Design Review Phase are non-binding discussions with the applicant beyond conceptual and general discussions which involve more specific design and engineering details.
- 3.3.02. The Design Review Phase may proceed only after identification of and notice to abutters and the general public, as required.

***Section 3.4. Final Phase***

- 3.4.01. The Board shall review the plat(s) submitted in the Final phase from the point of view of a total project. Acceptance and approval by the Board shall constitute an agreement between the Town and the Applicant that the subdivision and development of the land in question shall be done as detailed on the final plat(s).
- 3.4.02. Deviation from the approved final plat(s) requires the approval of the Board.

## ***SECTION 4. PLAT REQUIREMENTS***

### ***Section 4.1. Compliance***

- 4.1.01. The subdivider shall be familiar with all State and Town regulations relative to health, buildings, roads and other pertinent data, so that he/she is aware of the obligations and standards expected.

### ***Section 4.2. Character of Land***

- 4.2.01. All land to be subdivided shall be, in the judgment of the Board, of such character that it can be used for the building purposes without danger to public health or safety, or to the environment.
- 4.2.02. Land of such character that cannot be safely used for building purposes because of exceptional danger to the health, or peril from fire, flood, or other menace shall not be plotted for residential occupancy, nor for any other uses as may increase danger to health, life, or property or aggravate the flood hazard until appropriate measures have been taken by the owner or his agent to lessen such hazards.
- 4.2.03. Lots created shall provide adequate capacity for sanitary sewage disposal.
- 4.2.04. Plats for the subdivision of land shall conform to all regulations of the Board, the Zoning Ordinances, NHDES Regulations, and other applicable by-laws, ordinances and regulations at the Federal, State and Local levels. **(08-19-2021)**
- 4.2.05. Reserve strips prohibiting access to streets or adjoining property shall not be permitted, except where, in the opinion of the Board, such strips shall be in the public interest.

### ***Section 4.3. Lot Layout***

- 4.3.01. The layout of lots shall conform to the requirements of the Zoning Ordinance and shall be appropriate for the intended construction.
- 4.3.02. Each lot shall have a width of not less than seventy (70) percent of the required frontage at all points between the lot sidelines, to a point half the depth of the lot, measured from the frontage line. Such width shall be measured along a line which is parallel to frontage line. Backlots are exempt from these provisions. **(08-19-2021)**.

### ***Section 4.4. Existing Features***

- 4.4.01. The subdivider shall preserve all existing trees and shrubbery to the fullest extent possible. Special consideration shall be given to the arrangement and ultimate improvement or development of the lots to this end. Precautions shall also be taken to protect existing trees, shrubbery, vegetation and stone walls during the construction of roads and utilities.

### ***Section 4.5. Fire Protection***

Any lot on which a dwelling unit, commercial building or occupied structure that requires a building permit shall be subject to the requirements of this section for the purpose of protecting life and safety. Any water supply constructed or upgraded for the purpose of fire protection shall be approved by the Planning Board, after consultation with the Board of Fire Engineers and Town Engineer, prior to final subdivision approval. The final determination to require the construction of a fire protection water supply and the type of water supply to be constructed rests with the Planning Board and the Board of Fire Engineers. (6/15/00) **(08-19-2021)**

- 4.5.01. General Provisions. Buildable lots, not within 2,500 feet of an approved water supply system (as measured by using driveways, roads and access areas for fire trucks as approved by the Board of Fire Engineers), and three lots or less can have a cistern or sprinklers. Four lots or greater will require a cistern(s) to be installed at a location approved by the Board of Fire Engineers in accordance with the provisions of Appendix G,. An alternative water supply system or fire protection measure may be presented to the Board of Fire Engineers for approval (or disapproval.) Sprinkler plans must be submitted by a fire sprinkler company in accordance with the requirements of Appendix H. (10/21/04) Notwithstanding the provisions above, when the Brookline Board of Fire Engineers so deems that, due to specific conditions, there is a sufficient threat to life and property, it may recommend to the planning board that additional fire protection measures be provided, even if sprinkler systems are proposed. **(08-19-2021)**.
- 4.5.02. Easements. An easement to the fire protection water supply shall be provided to the Town. All easements shall have standard language acceptable to the Town of Brookline and shall be reviewed and approved by Town Counsel and the Planning Board prior to final subdivision approval. (6/15/00)
- 4.5.03. Access to Gates. For commercial sites or locations in which a gate or chain is present, the placement of an approved “Knox Box” shall be required for emergency access to the property. (6/15/00)
- 4.5.04. Inspections. Inspections’ fee shall be paid in accordance with sections 3.1.22, 3.1.23, ~~7.6~~ **7.7** and Appendix B of the Town of Brookline, NH Subdivision Regulations. (6/15/00) (5/17/01) (11/15/07)
- The Board of Fire Engineers and Town Engineer or Inspector shall be notified with a minimum of (two) 2 full working days prior to commencement of any activity requiring inspection. Inspections shall typically include, but are not limited to:
- a. Erosion control measures
  - b. Compliance with State permits (dredge and fill)
  - c. Installations and compliance with specifications prior to back filling
  - d. Slopes and drainage ways prior to filling of water source
  - e. Witness pump and leak tests
  - f. Final inspection and approval. **(08-19-2021)**
- 4.5.05. Conditions and Bonding. Cisterns shall be completed and receive final inspection by Fire Engineer and Town Engineer, or be fully bonded, in accordance with section 4.9, Bonding, prior to the issuance of a Building Permit for any lot dependent on that water supply for fire protection. No Certificate of Occupancy shall be granted to dependent lots before presentation of the final inspection report from the Fire Engineer and the Town Engineer to the Building Inspector. (6/15/00) (9/05/02)

***Section 4.6. Submission Documents Required***

- 4.6.01. In all design review or final cases, applications shall include the names and addresses of the applicant and all abutters as indicated in the Town records not more that five (5) days before the filing of the application.
- Three (3) sets of names and addresses shall be provided on self adhesive labels for use on correspondence size envelopes.

**PRELIMINARY CONCEPTUAL CONSULTATION PHASE:**

- 4.6.02. Suggested guidelines for submission are as follows: plats may be drawn in pencil. Data may be tentative but shall be sufficiently clear to show site conditions. Any maps should be appropriately scaled to show the amount of detail required, but not more than one hundred (100) feet to the inch.
- 4.6.03. Preliminary Conceptual Consultation Phase plats and documents should include the following information:

- a. Site survey map showing boundary of subdivision area, topography, streams, existing features, and foliage lines, existing roads, structures, adjacent development, and soil type by U.S.S.C.S
- b. Site location map (at scale of municipal base map or official map) showing proposed subdivision in relation to major roads, community facilities, and utilities of the Town.

4.6.04. Suggested guidelines for Design Review Phase submission are as follows: plat(s) should be submitted in eight (8) paper print copies and one printable 11"x17" electronic format. Dimensions and data shall be sufficiently clear to illustrate all conditions and clarify the design requirements for the subdivision plat. Maps shall be at a scale of not more than one hundred (100) feet to the inch. The Design Review Phase plat(s) should contain at least the following information: (08/02/2012)

- a. Name and location of the subdivision, name and address of the subdivider, owner of record, applicant, engineer and designer.
- b. Names and addresses of abutting property owners; subdivisions, names and business addresses of every engineer, architect, land surveyor, or soil scientist whose professional seal appears on any plat submitted to the Board; location of wells, septic systems and buildings within one hundred (100) feet of the parcel of land to be subdivided; intersecting roads and driveways within two hundred (200) feet of the subdivision; and frontage on existing roads. (11/7/95)
- c. Location of all existing buildings.
- d. Existing and proposed street right-of-way lines, widths of streets, proposed names of new streets, existing and proposed lot lines.
- e. Location of existing and proposed easements, deed restrictions, building set back lines, parks, recreation facilities, conservation areas, and other open space, water courses with direction of flow indicated (including seasonal), foliage lines and significant natural and man-made features, storm water drainage structures and drainage ways, flood hazard areas.
- f. If utility company(s) requires an easement to provide service, no final approval shall be granted by the Board until such easements are secured. Also, a letter of intent to provide service from the utility company(s) must accompany the application.
- g. Boundaries of Zoning Districts lying within the subdivision, municipal boundary if any, land use designation per zoning.
- h. A general site location map at the scale of the Municipal base map, locating exactly the subdivision boundary and proposed streets in relation to at least two existing intersecting streets or other features shown on the municipal base map.
- i. A statement of conditions of land as to suitability for residential development based on data from Soils Potentials for Development, (HCCD 1986, as amended).
- j. A statement and contours in sufficient detail to indicate clearly the method of storm water drainage on and off the subdivision.
- k. A Site-Specific soil map shall be required, reviewed and certified by a licensed soil scientist (11/15/07)
- l. Watershed areas and drainage computations proving a no-net increase in rate or volume of offsite flow (11/15/07).
- m. Preliminary road profiles: cross sections may be requested by the Planning Board if warranted.
- n. Location of fire ponds and fire protection drafting sites, if any. (11/15/07)
- o. Access for fire fighting apparatus.
- p. Wet Areas as defined by Wetlands Ordinance, in square feet of wet and non-wet.
- q. A letter stating the proposed disposal of tree stumps. If they are to be disposed of on site, areas shall be shown on the plat, and a reclamation plan shall be submitted as part of the application. Stump

burial shall be directed to the side and rear set back areas along property boundaries as possible. Stump burial sites shall be located a minimum of 25' from the edge of septic systems, 75' from wells, and 75' from the edge of a wetland. (5/6/99)

- r. Location of soil test pits and accompanying test pit and perc test data.
- s. For subdivisions and site plans that involve land designated as "Special Flood Hazard Areas" (SFHA) by the National Flood Insurance Program (NFIP), the Planning Board shall:
  - A. Review the proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendment of 1972, 33I.S.C. 1334,
  - B. Require that all proposals for development greater than 50 lots or 5 acres, whichever is the lesser, include Base Flood Elevation (BFE) data within such proposals (i.e. floodplain boundary and 100-year flood elevation),
  - C. Require the applicant to submit sufficient evidence (construction drawings, grading and land treatment plans) so as to allow determination that:
    - (i) all such proposals are consistent with the need to minimize flood damage;
    - (ii) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and
    - (iii) adequate drainage is provided so as to reduce exposure to flood hazards. (8/21/97) (11/15/07)
- t. Location and size of the area considered necessary for septic leach fields and any proposed connections of alternative means for sewage disposal.
- u. Number of lots to be created.
- v. Magnetic and true north point.

**THE FINAL PHASE PLAT(s):**

4.6.05. Final Phase Plat(s) shall be in permanent black ink, on a reproducible Mylar (electrostatic Mylars are not acceptable). It shall be filed together with eight (8) blue (black) line prints on paper and one printable 11"x17" electronic format. Sheet sizes shall be in accordance with the requirements of the Register of Deeds, Hillsborough County. Space shall be reserved on the Plat for the endorsement by the Planning Board Chairman and Secretary. The plat shall contain the following statement: "The Subdivision Regulations of the Town of Brookline are a part of this plat, and approval of this plat is contingent on completion of all the requirements of said Subdivision Regulations, except any variances or modifications made in writing by the Board and attached hereto." In addition to the above information, the following shall be required: (08/02/2012) (07/16/2020)

- a. All suggested guidelines of the Design Review Phase.
- b. Name and seal of the engineer and land surveyor registered with the State of New Hampshire.
- c. Final disposition of land into lots, streets, open spaces, drainage courses and any easements running with the land.
- d. The subdivision plat shall be based on a boundary survey with a maximum error of closure of 1 in 10,000 the State of New Hampshire, distances shall be to the nearest 100th of a foot and bearings to the nearest 10 seconds.
- e. Stations, radii, curve data and paving widths for proposed streets.
- f. Lot dimensions, area in square feet and acres, and street numbers for the lots as determined by the Brookline Emergency Management Director; (8/21/97) (9/05/02)

- g. Accurate locations of all easements, either on or off the site.
- h. A written acknowledgment of the subdivider's responsibility for maintenance, and the assumption by him/her of liability for injuries and damages that may occur on any land to be dedicated for public use, until such land has been legally accepted by the Town.
- i. Names of proposed streets and roads cannot be duplicated nor bear phonetic resemblance with existing street names in the community; all streets will, as far as practical, follow past practice of naming streets after long-time Brookline families or residents; the Brookline Historical Society should be contacted for assistance. The applicant shall contact the Brookline Emergency Management Director with proposed street names for approval in coordination with State E911 requirements. **(08-19-2021)**.
- j. Accurate locations of all monuments to be set at street intersections, points of curvature and tangents of curved streets and angles of lots.
- k. Existing and proposed contours at five (5) foot intervals.
- l. Existing and proposed plans for telephone, electricity, and other public utilities; a letter of intent from the utility companies to provide service.
- m. Proposed twenty-five (25) year storm drainage accompanied by a drainage analysis map and computations for the entire watershed area. (5/6/99)
- n. Final road profiles.
- o. 75 foot well radii. (11/19/91)
- p. School bus stops and areas shown on plans. The Brookline School Board shall be contacted by the applicant for assistance. (9/7/93) **(08-19-2021)**
- q. If the subdivision abuts a State Highway, or if a proposed street intersects a State Highway, a driveway permit from the NH Department of Public Works and Highways approving said access.
- r. The Final plat shall contain a volume and page reference sufficient to indicate the subdivider's derivation of title in the event only one parent tract is involved, and if the subdivision constitutes an assemblage of several tracts, the plat shall contain a title reference of each and indicate where each of the lots shall be numbered so as to coincide with the Town of Brookline Tax Map numbers.
- s. Copies of all applicable federal, state and local approvals and permits, including:
  - N.H. Department of Environmental Services (NH DES) **(08-19-2021)**
  - New Hampshire Department of Transportation Curb Cut Permit (NH DOT). **(08-19-2021)**
- t. All permit numbers and written decisions including conditions of approval shall be noted on the plat. (8/21/97) (08/02/2012)
- u. All engineer prints shall be done by a qualified, registered engineer by the State of New Hampshire and have his seal affixed to each sheet.
- v. Provide a signed statement of off-site improvements agreed upon between the applicant/developer and the Selectboard.
- w. A check to the Town of Brookline to cover filing fees, mailing, advertising, recording, special investigative and consulting studies, and other costs.
- x. A traffic study, if required by the Board. (5/9/89)
- y. A fiscal impact analysis, if required by the Board. (5/9/89)
- z. Payment of a fee to update the Town's computerized parcel map as specified in Appendix B. (8/21/97)

### **Section 4.7. Legal Data Required**

- 4.7.01. When applicable to a specific subdivision, the following are required, in form and substance as approved by the Town Counsel **prior to the approval of the subdivision plat**:
- a. Agreement to convey to the Town land to be used for streets and other public purposes, with the transfer of title to such interests to be effective on such date as the Town accepts such land;
  - b. Covenants which shall include a definitive statement of the method of private ownership of the common land or open space (the intent herein is to guarantee that ownership and taxation of common land be equitably apportioned to individual owners for his/her lot/unit and common land);
  - c. Covenants permanently restricting the common land or open space from any future subdivision;
  - d. Easements and right-of-ways over property to remain in private ownership (e.g. drainage, conservation, utility easements, etc.);
  - e. Rights to drain onto or across other property, whether public or private, including a street; and
  - f. Performance Guarantee as detailed in section 4.9.01. (9/7/93) (08/02/2012)
- 4.7.02. Deeds covering any land to be used for public purposes, easements, right-of-ways over property to remain in private ownership, right to drain onto or across private property shall be submitted to, and approved by the Selectboard with approval of Town Counsel or any other appropriate Town agency or agent.
- 4.7.03. All documents required hereunder shall be submitted in final, executable, recordable form satisfactory to the Brookline Town Counsel as part of the Final Phase.
- 4.7.04. Information on the open space land included as part of an open space development to ensure its perpetual protection shall be submitted as part of the approval process. This shall include any deeds, covenants or easements used to protect the common open space. A notation in the notes section of the plan should also be included indicating how the open space is to be protected and maintained. (9/7/93)

### **Section 4.8. Roads**

Any subdivision which requires road system layout and construction shall have such improvements installed in accordance with the following:

- 4.8.01. Road Construction Specifications as specified in Appendix A.
- 4.8.02. The subdivider, developer, or his successors shall elect to comply with option (1) or option (2) as listed below and so notify the Planning Board prior to commencement of construction:
- Option (1). The road system shall be built according to the Current Specifications as stated in section 4.8.01 and accepted by the Town in the approved manner and deeded to the Town prior to the issuance of any building permit for any structure whose frontage would include any part of the proposed road system. This option carries a requirement to file a Performance Guarantee for the road top course, drainage, curbs and sidewalks as well as a Maintenance Guarantee for the maintenance of the entire road system. (8/21/97) (08/02/2012)
- Option (2). Upon provision of suitable financial guarantees acceptable to the Planning Board and town Counsel, building permits may be issued on any portion of a road covered by such Performance Guarantee or funding; however, no building permits shall be issued until the four (4) inch crushed gravel layer has been installed and approved by the Town's Consulting Engineer. The Performance Guarantee shall include separate itemized amounts for the completion of the base course and the top course. (8/21/97) (08/02/2012)
- 4.8.03. Until the road has been accepted, the subdivider, developer, or his successors shall be responsible for the maintenance of the streets, including winter maintenance of snow plowing, sanding, and other protection, which obligation shall be made part of the requirements of the Performance Guarantee. If required by the Planning Board or Selectboard, the developer shall provide a written agreement to undertake this maintenance with suitable sureties to guarantee performance. The road shall be posted "PRIVATE WAY" until accepted by the town. (9/7/93) (08/02/2012)

- 4.8.04. As-Built plans and profiles, including plans requirements by the Town Engineer, shall be submitted before any consideration of roadway acceptance. Upon satisfactory completion of the road system to such specifications as required by the approved plan, the Selectboard and Town's Consulting Engineer, said road system will be presented to the Selectboard, for acceptance. (8/21/97) (08/02/2012) **(08-19-2021)**.
- 4.8.05. Except for roads designated as private roads, all roads shall be properly deeded by the applicant to the Town of Brookline by a Warranty Deed or other suitable instrument as determined by the Planning Board or Town Counsel. (09/16/2010). (08/02/2012)
- 4.8.06. A Maintenance Guarantee needs to be filed once the work specified in the Performance Guarantee is completed and the road is accepted by the Planning Board and the Selectboard. (9/7/93) (08/02/2012)
- 4.8.07. Before acceptance of any legal deeds by the Town, the subdivider, developer, or his successors shall provide the Town with a Maintenance Guarantee for a period of two (2) years. (08/02/2012)

**Section 4.9. Financial Guarantees**

- 4.9.01. Prior to the issuance of a building permit, a Performance Guarantee or other surety shall be submitted to the Planning Board (for filing with the Selectboard), by the subdivider, developer, or his successors, in an amount sufficient to cover the cost of construction or completion of streets, utilities, public improvements, drainage structures, traffic signals, setting road bounds and bounds at all angles of individual lots, public parks or public recreation areas or other such improvements as required by the Board as shown on the Final Plat.(11/15/07) (08/02/2012) (09/17/2015)
- 4.9.02. Requirements of the Performance Guarantee shall identify, precisely, the work to be performed, the standards by which satisfactory performance shall be judged. The Consulting Engineer shall determine whether or not there has been satisfactory performance and shall be part of the Final phase approval. (08/02/2012)
- 4.9.03. This Performance Guarantee may be reviewed by Town Counsel and approved or disapproved as to compliance with the requirements and sureties by the Planning Board. (8/21/97) (08/02/2012)
- 4.9.04. As phases or portions of the secured improvements or installations are completed and approved by the Planning Board or its designee, the Town shall partially release said security to the extent reasonably calculated to reflect the value of such completed improvements or installations. (9/7/93)
- 4.9.05. After completion of a road system, or other improvements as required by the Board, a Maintenance Guarantee shall be filed with the Planning Board in such amount as to indemnify and save harmless the Town of Brookline from all claims, loss, damage, or expense of any kind involved in the maintenance of such system or improvement for a period of two (2) winter seasons from the date of road acceptance by the Selectmen, or a lesser term if approved by the Planning Board in consultation with the Consulting Engineer and/or Road Agent. (11/7/95) (8/21/97) (08/02/2012)

This amount should be between 10% and 20% of the total roadway construction cost, in an actual amount needed to complete the guaranteed improvements and installations. Various estimates, including actual contractual and competitively bid costs, should be compared by the Planning Board in consultation with the Consulting Engineer and/or Department of Public Works Director to ensure that the most appropriate amount in setting the Maintenance Guarantee is used. (08/02/2012) **(08-19-2021)**

The Planning Board is responsible for recommending the release of the Maintenance Guarantee when the time period established has expired. (9/7/93) (8/21/97) (08/02/2012)

- 4.9.06. **Performance/Maintenance Guarantee:** A surety provided through a cash savings account held by the Town of Brookline or a local regulated financial institution, by a Letter of Credit issued by a local regulated financial institution, or through a bond issued by a regulated insurance company authorized to do business in the State of New Hampshire. The Letter of Credit format must be approved by Town Counsel and must include a "self-calling" provision: *"If thirty (30) days before expiration, the issuer has not been advised in writing by the town of Brookline that all improvements and/or maintenance guaranteed by the letter of credit have been satisfactorily complete, the surety is automatically called fifteen (15) days prior to expiration. In such an event, the issuing institution shall immediately, without any action on the part of*



*the town, forward payment to the Town of Brookline in the amount of the Performance/Maintenance Guarantee". All Bonds must include a notification provision whereby BOTH the Planning Board AND the Selectboard receive any cancellation notices. All bonds must either be issued by a domestic New Hampshire insurance company or contain specific terms subjecting the issuer to the jurisdiction of New Hampshire Courts and to New Hampshire law other than "choice of law" provisions. All surety packages shall include language or a document explicitly authorizing the Town of Brookline to take ownership of the Guarantee proceeds upon any default by the applicant or successor in interest or any violation of Planning Board approval. All surety packages shall also include language or a document that, upon an event of default, explicitly grants the Town of Brookline the right to enter onto the subject private property in order to complete the work set forth and required by the Planning Board approval. (08/02/2012)*

#### **Section 4.10. Design for Open Space**

- 4.10.01. Where a proposed park, playground, or other open space shown on the Master Plan is located in whole or part in a proposed subdivision, the Board shall require substantial compliance with such master plan.
- 4.10.02. If not shown on the master plan, all subdivisions of twenty (20) acres or greater, and any other subdivisions which may produce a need for more open space and/or recreational areas within the community, may be required to provide one suitably located area as a park, playground, or other open space if this open space area is necessary to provide recreational open space for the subdivision's residents (5/9/89).
- 4.10.03. There are two approaches to determining the number of allowable lots in an open space development. The applicant may choose either method a. or method b.:
- a. Develop a preliminary conventional plan, showing at least:
    - (i) Site specific soils, major wetlands areas, steep slopes (9/05/02)
    - (ii) Preliminary road locations
    - (iii) Lot areas in square feet and/or acres
    - (iv) Amount of wetlands and non-wetlands
    - (v) Number of lots to be created
    - (vi) Floodplain data

After reviewing this design review plan to ensure that it is likely to meet the zoning for a conventional subdivision, the Planning Board will allow the applicant to propose an open space development with the number of lots which the Planning Board deems acceptable under the above conventional plan.
  - b. The applicant may use a general 1 unit per 80,000 square foot calculation, subtracting out slopes greater than 25% and wetlands. For this calculation, the applicant must present a plan showing:
    - (i) Site specific soils, major wetlands areas, steep slopes (9/05/02)
    - (ii) Amount of wetlands and non-wetlands
    - (iii) Floodplain data
- (08-19-2021).**
- 4.10.04. Areas set aside for parks, playgrounds, or open space shall be dedicated to the town for public use.
- 4.10.05. Whenever such dedication of land is required, the land shall be left in an acceptable state, clear of construction debris.
- 4.10.06. The Planning Board shall consult with the Recreation and Conservation Commissions as to the suitability of a proposed park or playground.
- 4.10.07. In the case of open space development, open space shall be not less in area than as provided in the Zoning Ordinances.

- 4.10.08. Such areas of open space, whether privately owned (as a result of Zoning Ordinances) or publicly owned (as a result of dedication to the Town), shall have a sufficient legal description and restrictions recorded in the Hillsborough County Register of Deeds Land Records to assure permanence of use as open space.
- 4.10.09. Open space land in private ownership shall be protected in such a way that it will assure operation or maintenance of the land in an orderly manner suitable for the purpose intended.
- 4.10.10. On land to be used as recreation space, undesirable growth and debris shall be removed. Wooded and brook areas shall be left in their natural state.
- 4.10.11. Recreation open spaces shall be graded properly to dispose of surface water and shall be seeded with lawn grass.
- 4.10.12. If an area, not to exceed one (1) acre, is to be used for the purpose of burying stumps, boulders, and other natural waste, it shall be designated on the Final Plat with appropriate State approvals.
- 4.10.13. This area must be filled in on an "as you go" basis and finally covered with at least four (4) inches of topsoil and seeded with lawn grass or other suitable ground cover such that the area is protected from erosion and is as close to its natural condition as possible two (2) years after the seeding.
- 4.10.14. There shall be no deposition, dumping, or storage of waste, or other natural or man-made material, supplies, or equipment on any subdivision land designated as open space excepting that specifically designated for the disposal of natural waste as described above.
- 4.10.15. No work, removal, or filling shall be done, nor shall the existing natural characteristics of open space land be altered from the original condition until a site plat, prepared by the surveyor or engineer licensed by the State of New Hampshire, shall have been approved by the Board.

***Section 4.11. Trees and Plantings***

- 4.11.01. Due consideration shall be given to the preservation of existing features, trees, scenic points, and other natural historic resources within subdivisions.
- 4.11.02. The Board may require additional tree planting and other landscaping appropriate to the area being developed.
- 4.11.03. Removal of topsoil or surplus materials from the subdivision area shall not be permitted unless in accordance with the Zoning Regulations.
- 4.11.04. Existing trees on lots and open space land shall be preserved wherever feasible, unless otherwise directed by the Board.
- 4.11.05. Proper permits for cutting must be obtained.

***Section 4.12. Open Space Development***

- 4.12.01. If allowed in the Zoning Ordinances, a subdivision plat may be designed for open space development, provided all requirements of the Zoning Ordinances and the Subdivision Regulations are met.
- 4.12.02. As noted in section 3.1.32 and 4.10.3, it is strongly encouraged that an open space development goes before the Planning Board. This will allow the Planning Board to determine the maximum number of lots allowable in the proposed open space development. **(08-19-2021)**  
This optional phase will present the applicant an opportunity to demonstrate why an open space development may not be appropriate on this site. (9/7/93)
- 4.12.03. The 50-foot perimeter setback, or a value as deemed necessary by the Planning Board, is a buffer between the structures in the open space development and any adjacent parcels. This area should include natural vegetation where it exists, or appropriate landscaping where there is no natural buffer. This buffer may include part of any house lot and/or the common open space. (9/7/93) (09/16/2010).
- 4.12.04. Open space land in an open space development shall be permanently protected through easement or deed or homeowners association. (9/7/93)

- 4.12.05. Open space as part of an open space development shall be left in an acceptable state, if possible, clear of construction debris. A pre-conveyance open space conservation easement deed shall be recorded and shall have an easement sunset upon conveyance to the Town or homeowners association. (9/7/93) (07/16/2020)

***Section 4.13. Phasing***

- 4.13.01. The Board may specify the extent to which the particular subdivision may be developed in any given year, and establish the maximum duration of time for the total development of the proposed subdivision in order to assure harmonious development of the town.

***Section 4.14. Hours of Construction***

- 4.14.01. All road construction activities related to plans approved by the Board shall take place within the hours of 7 a.m. to 7 p.m., except for Saturdays, Sundays and federal holidays when construction activities shall occur within the hours of 9 a.m. to 5 p.m., unless otherwise modified by the Board. (8/21/97)

## **SECTION 5. ROAD AND UTILITY STANDARDS**

### **Section 5.1. Street Design**

- 5.1.01. Street patterns shall give due consideration to contours and natural features.
- 5.1.02. Where required by the Board, provision shall be made for the extension of the street pattern to abutting and adjacent property by merely the indication on the plat of a sufficiently wide area of undeveloped land to provide future potential access.
- 5.1.03. Every proposed street in a subdivision shall be laid out and constructed as required by these regulations.
- 5.1.04. Where a subdivision abuts an existing street with an inadequate alignment, or right-of-way width, the subdivision plat shall include in the street dedication all land needed to meet the standards established by these regulations, and as approved by the Board.
- 5.1.05. Dead-end streets shall not exceed twelve hundred (1,200) feet in length and shall terminate with a minimum turn around of one hundred fifty (150) feet in diameter, i.e. seventy-five (75) feet from the center of the turn around to the outside of the right-of-way or a hammerhead with a minimum of 55 feet on each leg as measured from the centerline of the street. The length of the dead-end street shall be measured along the center line from the edge of the street, for the entire length of the road, including the turn around (5/9/89). (11/15/07)
- 5.1.06. Where land for future extensions to another outlet is approved by the Board, and where indicated on the plat, the full width of the right-of-way to the subdivision property line shall be deeded to the Town.
- 5.1.07. The intersection of any street shall have a corner rounding at the property line with a radius of one half (1/2) the width of the right-of-way.
- 5.1.08. The plat of any proposed subdivision shall show work required to connect and complete the improvements and utilities between the proposed street pattern and any connecting street in an existing subdivision.
- 5.1.09. All streets shall be constructed and paved, and all bridges, culverts, drainage structures, storm sewers, gutters, drainage ditches, and other improvements required by the subdivision plat and accompanying documents shall be installed in conformance with the Standards and Specifications as set forth in section 4.8.
- 5.1.10. All street intersections shall have all season safe sight distance which should be connected to designated speed limits in both directions. **(08-19-2021)**
- 5.1.11. All season safe sight distance is defined as a line which encounters no visual obstructions between two points, each at a height of three (3) feet nine (9) inches above the pavement, and so located as to represent the critical line of sight between the operator of a vehicle using the access and the operator of a vehicle approaching from either direction.

### **Section 5.2. Drainage**

- 5.2.01. An adequate surface storm water drainage system for the entire subdivision area shall be provided, based upon a 25-year storm event. (8/21/97)
- 5.2.02. Storm drainage shall be carried to existing water courses or connected to existing storm drains.
- 5.2.03. If the storm water drainage system creates any additional peak rate flow over any adjacent property, the subdivider shall obtain an easement therefore from the adjacent owner and shall hold the Town of Brookline harmless from any claims for damage resulting therefrom. (8/21/97)
- 5.2.04. In general, drainage shall be discussed with the Town Engineer and shall be based on New Hampshire Stormwater Manual for both peak flow rates and volumes. **(08-19-2021)**

### **Section 5.3. Utilities**

- 5.3.01. The Board may require the installation of street lighting meeting Town requirements in any subdivision where it deems them appropriate and/or necessary, especially at the intersection of a subdivision road,

way, drive, street or any other mean of access with an arterial or collector road. All required new street lights are done at the sole cost of the developer. All applications, including a single lot subdivision, which include the creation of a new or upgraded road, way, drive, street, driveway, or any other mean of access to a created lot for a new subdivision shall have underground utilities, installed according to specifications set by the appropriate utility companies. A new driveway shall have underground utilities the entire way to the house. If a single new lot is across the street from an existing utility pole, overhead wires could be used, if desired by the developer/homeowner, from the end of the new driveway to the house. Utilities shall be located a minimum of seventeen (17) feet off the centerline of the roadway pavement. Utilities shall be located so as not to conflict with new or existing roadside drainage systems. (8/21/97) (6/18/09) (9/17/15) (07/16/2020)

#### ***Section 5.4. Street Names***

Please, refer to section 4.6.06 (i). **(08-19-2021)**

#### ***Section 5.5. Site Reclamation Standards for On-Site Stump Burial***

- 5.5.01. The Planning Board or its designee shall periodically inspect subdivision operations and shall perform a final reclamation inspection in order to ensure that the approved plans have been followed.
- 5.5.02. No slope in soil material shall be left steeper than 3:1 (three horizontal feet for each one foot of vertical drop) unless it can be demonstrated by the applicant that a steeper grade can be adequately vegetated and stabilized. Under no case shall a soil material slope be left steeper than 2:1.
- 5.5.03. All debris, boulders, etc. shall be lawfully disposed of in a manner acceptable to the Regulator or its designee.
- 5.5.04. Ground levels and grades shall be established as shown on the approved reclamation plan to a maximum of 6 feet above the existing grade. Reclamation shall be completed as soon as practical but no later than one year after burial.
- 5.5.05. Reclaimed area shall be backfilled with 18” to 24” of select material above top level of stumps. Stockpiled topsoil shall be spread over select material to a 4-6” depth to allow and maintain vegetation. Additional topsoil may be brought onto the site if required by the Planning Board or its designee for proper reclamation. The disturbed area(s) shall be fertilized, if necessary, and seeded with a grass or grass-legume mixture.
- 5.5.06. Plantings in accordance with an approved reclamation plan shall be protected from erosion during an appropriate establishment period by mulch and structural erosion control devices. No area shall be left in such a condition that erosion of the area after completion of the work may result in water pollution by silt or other deleterious substances.
- 5.5.07. Upon completion of the reclamation operations, the topography of the land shall be left so that water draining from the site leaves the property according to the approved reclamation plan.
- 5.5.08. Unless waived in writing or otherwise stipulated by the Planning Board, areas adjacent to the stump burial (which location shall clearly noted on a recorded subdivision plan), including access points, from which trees have been removed shall be planted with two-year old plants or plants furnished under a standard nursery order. Type of plants selected shall be included in Trees and Shrubs in New Hampshire – A Guidebook for Natural Beauty Projects (Extension Bulletin No. 163, revised, published May 1980 by the Cooperative Extension Service of the University of New Hampshire, Durham, New Hampshire.) Seedlings without center buds or seedlings with pruned roots will not be accepted. **(08-19-2021)**
- 5.5.09. The applicant shall provide a reclamation plan with the Subdivision Application. On-site stump burial and reclamation plans shall comply with all requirements of these regulations and State of NH Requirements, as amended.

(Section 5.5 adopted 5/6/99)

## **SECTION 6. ADMINISTRATION AND ENFORCEMENT**

### **Section 6.1. Modification**

- 6.1.01. The requirements of the foregoing regulations may be modified when, in the opinion of the Board, specific circumstances surrounding a subdivision, or condition of the land in such subdivision, indicate that such modification will properly carry out the purposes and intent of the Master Plan and of these regulations.

### **Section 6.2. Acceptance of Streets**

- 6.2.01. Nothing herein is intended to modify the requirements of the law with reference to the acceptance of streets by the Town. Nothing herein is intended to modify or control the construction, reconstruction, or extension of roads by the Town or State.

### **Section 6.3. Other Regulations**

- 6.3.01. Where these regulations are in conflict with other Local or State Ordinances, the more stringent shall apply.

### **Section 6.4. Enforcement**

- 6.4.01. These regulations shall be enforced by the Selectboard or its duly authorized representative.

### **Section 6.5. Violations and Penalties**

- 6.5.01. If, during the course of execution of a subdivision, the subdivider, developer, or his successors shall violate the conditions of the subdivision approval, Zoning Ordinances, or the Subdivision Regulations of the Town of Brookline, the Planning Board may notify the Selectmen of such violation and request that no further building permits be issued until the violation has been satisfactorily corrected.
- 6.5.02. As per RSA 676:16, any owner, or agent of the owner of any land located within a subdivision who transfers or sells any land before a plat of the subdivision has been approved by the Board and filed in the Office of the Register of Deeds shall forfeit and pay a penalty of Five Hundred (500) Dollars for each lot or parcel so transferred or sold; and the description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties.

### **Section 6.6. Appeals**

- 6.6.01. Any person aggrieved by an official action of the Board, may appeal therefrom to the Superior Court as provided by RSA 677:15.

### **Section 6.7. Validity**

- 6.7.01. If any Section, Subsection, or phrase of these subdivision regulations is found for any reason to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of these regulations.

## **SECTION 7. DRIVEWAY REGULATIONS**

Pursuant to the provisions of RSA 236:13, the following driveway regulations are hereby established for the Town of Brookline, NH and shall comply with the Zoning and Land Use Ordinance, Section 1800.00, Driveway Ordinance. (11/15/07).

### **Section 7.1. Purpose**

7.1.01. The purposes of these regulations are as follows:

- a. In as much as driveways and entrances are, in effect, intersections, they require certain controls as to size and location in order to provide safe and efficient access to property fronting on the road, as well as to provide for the proper and suitable discharge and control of surface drainage in and around said driveway.
- b. Ensure public safety through the orderly control of traffic movement onto and from highways, streets, and roadways.
- c. Provide a uniform practice and procedure relative to the design and construction of driveway entrances and exits.
- d. Enhance the access to buildings and properties for emergency services. (11/15/07)

### **Section 7.2. Definition**

7.2.01. The term "driveway" is defined as an improved or unimproved area serving as an entrance, exit, or approach from any street or to any parcel of land, regardless of public or private ownership.

### **Section 7.3. Design Features (11/15/07) (10/16/2014)**

Any newly constructed driveway shall be constructed in a manner to ensure public safety, accessibility for all emergency vehicles and to keep water away from the public way with adequate drainage and slopes. This shall be accomplished by constructing the driveway in the following manner:

- a. Approach to the public way shall be as near 90 degrees as possible.
- b. Maximum grade shall be ten (10) percent with the Building Inspector and the Fire Department approval and at the discretion of the Planning Board.
- c. Grade shall be pitched away from the public way for the first five (5) feet.
- d. The driveway shall be paved fifteen (15) feet from the edge of existing pavement or to the property line, whichever distance is less.
- e. Culverts or water crossings must comply with Section 6 of Appendix A: *Road Construction Specifications* of these regulations.
- f. For driveways one thousand (1,000) feet or more in length, the issuance of a driveway permit will require a drainage plan by a New Hampshire licensed engineer, or other source acceptable to the Building Inspector, to ensure that stormwater and spring meltwater will not result in erosion, endanger the integrity of the driveway surface, or cause siltation of drainage systems or surface waters.
- g. (Section removed 07/16/2020)

### **Section 7.4. Permit and Penalty**

7.4.01. Anyone desiring to construct, alter or relocate a driveway in order to obtain access to an existing or proposed street or roadway, shall first apply for and obtain a permit from the Building Inspector's Office, which permit shall provide for the construction, alteration or relocation of such driveway in accordance with the following specifications.

7.4.02. No construction of any driveway shall be allowed without such permit.

- 7.4.03. Anyone violating the provisions of this regulation may be punished by a fine not to exceed fifty (\$50) dollars for each offense and may be enjoined from causing vehicular traffic to traverse any part of town property to gain access to the town road from other property.

**Section 7.5. Common Driveways** (Section amended 06-15-2000 – Revised 11-15-2007 – 10-16-2014)

Common driveways will be permitted in the Town of Brookline in accordance with the following specifications. The common driveway is defined as that portion of the driveway that provides access to two or more individual parcels. The common driveway becomes a private access at the point at which it provides access to one parcel. A plan and profile shall be prepared by a licensed professional engineer and submitted for approval by the Planning Board.

- 7.5.01. Number of Lots. A maximum of four (4) lots can be served by one (1) common driveway.
- 7.5.02. Length. The common portion of the driveway shall not exceed 1,200 feet in length. A turnaround for emergency vehicles shall be provided at the end of the common driveway. (11/15/07).
- 7.5.03. Design. Common driveways shall be designed and built in accordance with the approved subdivision plan to allow for the passage of all vehicles expected to use the driveway year-round.
- a. The traveled way shall be a minimum of fourteen (14) feet with three-foot maintained shoulders on each side. (9/05/02).
  - b. Maximum grade shall be ten (10) percent with the DPW Director and the Fire Department approval and at the discretion of the Planning Board. **(08-19-2021)**.
  - c. Minimum grade shall be 0.5 percent.
  - d. Grades at intersecting roadways shall not exceed 3 percent for the first thirty (30) feet from the sideline of the intersecting edge of pavement.
  - e. The driveway may be gravel or paved. A minimum gravel base of twelve inches (gravel shall have no aggregate larger than 6 inches) shall be required. An additional two (2) inch wearing surface shall be dense, graded, crushed stone for all common driveways.
  - f. The driveway shall be paved fifteen (15) feet from the edge of existing pavement or to the property line, whichever distance is lesser.
  - g. Culverts or water crossings must comply with Section 6 of Appendix A: *Road Construction Specifications* of these regulations.
  - h. For driveways one thousand (1,000) feet or more in length, the issuance of a driveway permit will require a drainage plan by a New Hampshire licensed engineer, or other source acceptable to the DPW Director to ensure that stormwater and spring meltwater will not result in erosion, endanger the integrity of the driveway surface, or cause siltation of drainage systems or surface waters. **(08-19-2021)**.
  - i. Grade shall be pitched away from public ways for the first five (5) feet.
- 7.5.04. Common Driveway Identification. All common driveways, regardless of how many homes they serve, shall have a permanent granite marker, of minimal dimensions five (5) feet in height from grade level, two (2) feet in width and seven (7) inches in depth, and shall be placed two and one half (2.5) feet below grade level at the end of the driveway where it meets the public way. The marker shall be single faced and placed at an optimal angle and location to the road. The granite marker shall be engraved with a diagram of the driveways showing locations and street numbers. The bottom edge of the diagram shall be a minimum of 30 inches above the finished grade. Should the common driveway split, a permanent granite marker complying to the above regulations, indicating which homes are located on either side of the split, must also be placed at the intersections. All common driveways shall be designated a “Way”, with the name and house numbering as designated by the Brookline Emergency Management Director. In addition to the granite marker, a standard Town street sign must also be placed at the entrance to the “Way” prior to the issuance of a Certificate of Occupancy by the Building Inspector. (6/03/04) **(08-19-2021)**



- 7.5.05. Guarantee. Reference Section 1800.00, Driveway Ordinance, of the zoning ordinance for bonding requirements. (08/02/2012)
- 7.5.06. Inspections. All common drives shall be inspected by the Town Engineer to ensure the use of the required materials and proper construction. Any cost for engineering inspections shall be borne by the applicant as set forth in section 3.1.22, Procedure and Appendix B of the Subdivision Regulations. (11/15/07) **(08-19-2021)**.
- 7.5.07. Building Permits and Certificates of Occupancy. The common driveway must be complete up to a point fifteen feet beyond the common access point, between the home and the Town road, including drainage, crushed gravel and grading, and all identification markers must be installed prior to the issuance of a building permit. The Certificate of Occupancy for the last building shall not be issued until after a final satisfactory inspection report is submitted to the Planning Board, the DPW Director, and the Building Inspector by the Town Engineer. (08/02/2012) **(08-19-2021)**.

***Section 7.6. Easement and Performance Guarantee – For Single and/or Common Driveways***

- 7.6.01. The applicant may, at the discretion of the Selectboard, as a condition of the granting of the permit, be required to provide to the Town of Brookline, an easement to the extent deemed necessary by the said Selectboard for the purposes of entering upon the premises of the applicant to control or maintain surface drainage and to do all things necessary for and incidental to such drainage. To that end, and where appropriate and necessary, in the discretion of the Planning Board, the applicant may be required to provide a Performance Guarantee in such sum as is deemed necessary for the proper construction of such culvert, piping, ditching or other efforts incidental to and necessary for the proper discharge and control of surface and subsurface drainage in and around the vicinity of the proposed driveway, both on the property of the applicant or on the property of the Town. (11/19/91) (8/21/97) (08/02/2012)

***Section 7.7. Fees***

- 7.7.01. No permit shall be issued until a payment of a fee, which fee shall be established from time to time by the Selectboard as they see fit, said fee to be paid to the Town of Brookline.

(Section 7 adopted 5/9/89 – **Last revision: August 19, 2021**)

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## ***APPENDIX A: ROAD CONSTRUCTION SPECIFICATIONS***

### ***A.1 Location and Alignment***

- a. Proposed streets in the subdivision shall be coordinated with each other and with existing streets with due consideration given to contours and other natural features.
- b. Provision may be made for the projection of streets to adjoining property which is not subdivided.
- c. Reserve strips prohibiting access to streets or adjoining property will not be permitted, except where, in the opinion of the Board such strips shall be in the public interest.
- d. Streets entering opposite sides of another street shall be laid out either directly opposite one another or with a minimum offset of 125 feet between their center lines.
- e. The minimum center line radii of curved streets shall be 150 feet for local and 300 feet for collector and arterial streets. Sight Distance shall refer to AASHTO Guidelines. All reverse curves shall be separated by a tangent of at least 100 feet. (8/21/97) (9/05/02) **(08-19-2021)**.
- f. Streets shall be laid out so as to intersect as nearly as possible at right angles. No street shall intersect any other street at less than sixty (60) degrees.
- g. Property lines at street intersections shall be cut back to provide for a property line radius of not less than twenty-five (25) feet.
- h. Street right of way widths shall be a minimum of fifty (50) feet.
- i. A design speed of 30 miles per hour shall be used. However, some sites may benefit from a lower design speed to limit the impact from a development. (8/21/97) **(08-19-2021)**.

### ***A.2 Grade***

- a. The minimum center line grade for any street shall not be less than 0.75%.
- b. The maximum center line grade shall not be more than eight (8) percent except where in the opinion of the Board a greater grade is required for short distances due to unusual topographic conditions. However, in no case shall the grade be more than ten (10) percent. (8/21/97)
- c. Grades at intersecting roadways shall not exceed three (3) percent for the first 75 feet from the sideline of the intersecting edge of pavement. (8/21/97)
- d. Grades at cul-de-sacs shall be restricted to a maximum of four (4) percent along the roadway baseline and perpendicular to it.
- f. All changes in grade exceeding three (3) percent shall be connected by vertical curves of sufficient length to provide a sight distance of at least 200 feet for all local and collector streets and 300 feet for arterial streets. (8/21/97)

### ***A.3 Dead End Streets***

- a. Dead-end streets shall not exceed twelve hundred (1,200) feet in length and shall terminate in a circular turnaround 150 feet in diameter, with an outside paved diameter of 138 feet. The width of the paved roadway shall not be diminished at the turn around. (5/9/89) (11/15/07) **(08-19-2021)**

### ***A.4 Easements***

- a. Easements for storm drains, water courses, utilities and other purposes shall be provided where such are located outside the right-of-way and shall be at least 25 feet in width.
- b. Where possible easements shall be on rear or side lot lines.
- c. All lines of all easements will be calculated, described and shown on the final plat with bearings and distance.

#### **A.5 Construction**

- a. As a minimum, roadway construction shall conform to the typical cross section included with these regulations. Where specifications relative to materials and construction requirements are not included in these regulations, the specifications found in the Standard Specifications for Highways and Bridges, State of NH DOT, in its latest issue shall be used. (11/19/91)
- b. The entire area of each right-of-way shall be cleared of all stumps, brush, roots, and trees not designated for preservation.
- c. The full length and width of the entire proposed roadway section (including the fill sections, road and shoulder areas) shall be excavated or filled as necessary, to a depth of at least nineteen (19) inches below the finished grade as shown on the profile. However, if the soil is soft and yielding, or contains undesirable material such as loam, peat, soft clay, or any other material detrimental to the base gravel grade, such material shall be removed and replaced with suitable well compacted material. In fill areas, no stone greater than one (1) foot in largest dimensions shall be placed within two (2) feet of the gravel base. (8/21/97) **(08-19-2021)**.
- d. The center line of the paved roadway area shall coincide with the center line of the right-of-way unless a minor variance is specifically approved by the Board.
- e. As a minimum, the paved roadway shall be provided with a foundation of 12" of gravel and 6" of crushed gravel. These materials shall conform to the State of NH Standard Specifications 304.2 gravel, and 304.3 crushed gravel for both material quality and construction requirements. (11/19/91, 11/7/95) **(08-19-2021)**
- f. The gravel shall be spread and then rolled true to line and grade with a roller of proper size. Any depressions that appear during or after rolling shall be filled with additional gravel and re-rolled until the surface is true and even.
- g. The wearing surface shall consist of 4 inches of plant mixed bituminous concrete. It shall be applied in two (2) courses, 2" base course and 1" top course. There shall be a minimum of one (1) year and a maximum of five (5) years between placing the base pavement and the completion of the finish paving course. (8/21/97) (09/16/2010). **(08-19-2021)**
- h. Stabilized shoulders having a width of 4'-0" shall be constructed on each side of the paved roadway as shown on the typical cross section. (11/19/91)
- i. The area in back of the shoulders shall be sloped no steeper than a rate of three feet horizontal to one foot vertical to a point where it coincides with the ditchline or the finished grade of abutting lots. Loam shall be applied to a depth of four (4) inches, rolled and seeded or covered with other suitable mulching materials. (8/21/97)
- j. Guardrails shall be installed in locations where required in the AASHTO Guidelines for Roadside Design and constructed in accordance with NH DOT Standards and Details. (11/19/91, 8/21/97) **(08-19-2021)**.

#### **A.6 Drainage**

- a. Storm drains, culverts, and related installations, including catch basins, gutters and manholes shall be installed within the subdivision as necessary to adequately dispose of surface water. Where ground water conditions necessitate it, the Board may require the use of sub drain to drain the base course of the road.
- b. Storm drains shall be reinforced concrete pipe, corrugated plastic pipe, or plain aluminum corrugated pipe. The minimum size of pipe shall be 12 inches inside diameter and shall be of greater size when required by the Board. The minimum pitch shall be 0.5%. All drains shall be laid to uniform grades and carefully back filled so that the pipe is supported throughout its entire length with compacted earth. (8/21/97) (11/15/07)
- c. Catch basins, where required, shall be installed on both sides of the roadway at intervals of not more than 350 feet, at low points, and near the corners of the roadway grade, at intersecting streets. Any change in alignment or grade, if not normally the location of a catch basin, shall be made by using a manhole.

- d. Catch basins shall comply with NH DOT Specifications and Details. (8/21/97) **(08-19-2021)**.
- e. Where adjacent property is not subdivided, provision shall be made for the extension of the drainage system by continuing appropriate drains to the exterior boundaries of the subdivision, at such size and grade as will allow for their proper future connection. (8/21/97)
- f. Ditches when designed for drainage in cut sections shall have their flowline grade at least 27" below center line finished grade. (11/19/91, 8/21/97)

**A.7 Monuments**

- a. Monuments shall be installed on both sides of the right-of-way, at all street intersections, at all points of change of direction or curvature of streets and at other points where in the opinion of the Board, permanent monuments are necessary. Such monuments shall be of granite or reinforced concrete not less than four (4) inches square and not less than four (4) feet long set flush with the finished grade. When surface ledge is encountered, a one (1) foot by three quarter inch 1" x 3/4" iron pin inserted in the ledge may be substituted.
- b. No monuments shall be installed until all construction which would destroy or disturb the monument is completed.
- c. The setting of the monuments shall be supervised by a registered land surveyor.

**A.8 Street Signs**

- a. The subdivider shall furnish and erect street signs at all street intersections. These signs shall be of the same type being used in the Town at the same time of Subdivision approval.
- b. The subdivider shall also furnish and set such other traffic control signs as the Board shall require. (5/9/89)

**A.9 Clean up**

- a. Upon completion of all work on the ground, the subdivider shall remove from the streets and adjoining property, all temporary structures and all surplus material and rubbish which may have accumulated during construction and shall leave the work site in a neat and orderly condition.

**A.10 Inspection**

- a. The Board shall designate an inspector for all construction in an approved subdivision to ensure full compliance with the foregoing rules and regulations. This inspector shall not authorize any changes from these regulations or from the approved record plan for the subdivision without specific approval of the Board. He/she will inspect the work in progress during reasonable hours as he will see fit; but in any case it will be the subdivider's responsibility to request his inspection at the following progress steps:
  1. After grubbing stumps, but before any fill is placed. (8/21/97)
  2. After excavation and/or filling has been started but before the gravel placement operation has been started.
  3. After drainage system is installed, but before it is covered. The inspector shall check the pipe alignment and any defective runs shall be corrected before approval is given.
  4. After each type of gravel has been placed and shaped and before the bituminous concrete surface has been applied. (8/21/97)
  5. After bituminous concrete surface has been placed and while shoulder work is in progress.
  6. Before acceptance by the Town of Brookline.
  7. At other specific times deemed necessary by the Board.
- b. The subdivider shall give at least 24 hours notice to the inspector whenever an inspection is indicated. He shall also furnish the necessary baseline and grade stakes to allow the inspector to properly carry out his function.

- c. Records of inspections shall be kept on file at the Town Hall and shall be signed and dated by the authorized inspector.

**APPENDIX B: FEES  
BROOKLINE PLANNING BOARD**

**FEE SCHEDULE**

**Subdivision Development:**

\$60.00 (sixty) per lot (including parent lot)	\$ _____
\$40.00 (forty) for the first Mylar sheet	\$ _____
\$30.00 (thirty) for each additional Mylar sheet to be recorded	\$ _____
\$25.00 (twenty five) <b>to</b> Hillsborough County Treasurer (plan recording)	\$ _____

**Lot Line Adjustment Fee:**

\$50.00 (fifty) for the entire adjustment (not per lot)	\$ _____
\$40.00 (forty) for the Mylar sheet	\$ _____
\$25.00 (twenty-five) <b>to</b> Hillsborough County Treasurer (plan recording)	\$ _____

**Notification Fee:**

Postage Cost <b>plus</b> \$2.00 (two) per abutter	\$ _____
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**Discretionary Easement Applications:**

\$30.00 (thirty) application fee	\$ _____
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**Parcel Boundary Digitizing Fee:**

\$10.00 (ten) per lot (not applicable if digital file is provided)	\$ _____
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**Total Amount Due:** \$ \_\_\_\_\_

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**Other Fees:**

- Nashua Regional Planning Commission
- Town Planner
- Town Counsel Review
- Site Inspections
- Town Engineer
- Road Inspector
- Other Consulting
- Off-Site Improvement Agreement, plat or legal document Recording

**To be billed separately, based on time spent for reviews and inspections**

(Fees amended 10/3/89, 11/19/91, 11/7/95, 8/21/97, 5/6/99, 5/17/01, 10/04/01, 11/15/07 and 06/18/09)



***APPENDIX C: APPLICATIONS***

***BROOKLINE PLANNING BOARD***

***APPLICATION FOR PRELIMINARY CONCEPTUAL CONSULTATION PHASE***

Case # \_\_\_\_\_ Date \_\_\_\_\_

Name \_\_\_\_\_

Address \_\_\_\_\_

Telephone \_\_\_\_\_ Fax \_\_\_\_\_

Email Address \_\_\_\_\_

I respectfully request a meeting with the Brookline Planning Board to discuss in general terms the Board's subdivision regulations and how they pertain to a potential subdivision I am considering. I understand that this discussion, by law, can only be conceptual in nature and that the proposal can only be discussed in general terms. Such consultation shall not bind either myself or the Planning Board, and statements made by Planning Board members shall not be the basis for disqualifying said members or invalidating any action taken.

I also understand that this meeting is informal in nature and is separate and apart from subdivision consideration, and that the time limits for Planning Board action provided in NH R.S.A. 676:4(I)(c) as amended, do not apply.

Signed \_\_\_\_\_

Date \_\_\_\_\_

***APPENDIX C: APPLICATIONS***  
***BROOKLINE PLANNING BOARD***  
***APPLICATION FOR DESIGN REVIEW PHASE***

Case # \_\_\_\_\_ Date \_\_\_\_\_

Name \_\_\_\_\_

Address \_\_\_\_\_

Telephone \_\_\_\_\_ Fax \_\_\_\_\_

Email Address \_\_\_\_\_

Name of Agent \_\_\_\_\_

Address of Agent \_\_\_\_\_

The names and addresses of abutters (as defined by NH R.S.A. 672:3) on three (3) sets of adhesive labels need to be attached with this application.

I respectfully request a meeting with the Brookline Planning Board to discuss a preliminary layout of the above proposed subdivision. I understand that the Planning Board must have this application on file fifteen (15) days prior to a regularly scheduled meeting of the Brookline Planning Board in order to provide adequate time to notify abutters as required by NH R.S.A. 676:4 (I)(d) and the Brookline subdivision regulations. Such consultation shall not bind either myself or the Planning Board, and statements made by Planning Board members shall not be the basis for disqualifying said members or invalidating any action taken.

I also understand that this meeting is informal in nature and is separate and apart from formal subdivision consideration, and that the time limits for Planning Board action provided in NH R.S.A. 676:4(I)(c) as amended, do not apply.

Signed \_\_\_\_\_

Date \_\_\_\_\_

***APPENDIX C: APPLICATIONS***

***BROOKLINE PLANNING BOARD***

**APPLICATION FOR SUBDIVISION APPROVAL**

***File Number*** \_\_\_\_\_

Name and Address of Applicant \_\_\_\_\_

Name of Subdivision \_\_\_\_\_

Location \_\_\_\_\_ Tax Map Number \_\_\_\_\_ Parcel \_\_\_\_\_

Name and Address of Surveyor \_\_\_\_\_

Name and Addresses of all persons with 10% or more interest

\_\_\_\_\_

Names and Addresses of abutters as defined by NH R.S.A. 672.3, as amended \_\_\_\_\_

\_\_\_\_\_

Total Acreage \_\_\_\_\_ Number of Proposed Lots \_\_\_\_\_

The undersigned subdivider hereby submits to the Brookline Planning Board on \_\_\_\_\_, 20\_\_\_\_, a Completed Application as required by the Brookline Planning Board subdivision regulations and respectfully requests its approval of said Application. In consideration for approval and the privileges occurring thereto, the Applicant hereby agrees:

1. To carry out the improvements agreed upon and as shown and intended by said plat, including any work made necessary by unforeseen conditions which become apparent during construction.
2. To post all streets "Private" until accepted by the Town and to provide and install standard street signs as approved by the Town for all street intersections.
3. To give the Town on demand, proper deeds for land or rights-of-way reserved on the plat for streets, drainage or other purposes as agreed upon.
4. To save the Town harmless from any obligation it may incur, or repairs it may make, because of my failure to carry out any of the foregoing provisions.
5. To make no changes whatsoever in the Final Plat as approved by the Board unless a revised plat or a plat of re-subdivision is submitted to and approved by the Board.
6. To agree to pay for all engineering studies and reviews contracted for by the Town (5/9/89).

The undersigned subdivider understands that the Brookline Planning Board must have on file a Completed Application as outlined in its subdivision regulations thirty (30) days prior to a regularly scheduled meeting of the Board and that once the Board accepts the Completed Application at a regularly scheduled meeting, it has ninety (90) days to approve or disapprove the Completed Application subject to extension or waiver as provided in accordance with New Hampshire R.S.A. 676:4 (I)(f), as amended.

**APPENDIX C: APPLICATIONS**  
**BROOKLINE PLANNING BOARD**  
**APPLICATION FOR SUBDIVISION APPROVAL**

**File Number** \_\_\_\_\_

I do hereby designate: \_\_\_\_\_

Name \_\_\_\_\_

Address \_\_\_\_\_

Town \_\_\_\_\_ Zip Code \_\_\_\_\_

Phone Number \_\_\_\_\_ Fax \_\_\_\_\_

Email Address \_\_\_\_\_

as the person(s) to whom all communications to the Applicant may be addressed and the person to whom legal process may be served in connection with any proceedings arising out of this agreement.

Signed \_\_\_\_\_  
(Applicant)

Date \_\_\_\_\_

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**FOR PLANNING BOARD USE ONLY:**

Date completed application filed: \_\_\_\_\_

Date Fees paid: \_\_\_\_\_

Date of Notices to abutters: \_\_\_\_\_

Date completed application accepted/rejected: \_\_\_\_\_

Date of Public Hearing: \_\_\_\_\_

Date of Final Plat approval/disapproval: \_\_\_\_\_

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**APPENDIX D: SAMPLE FORM OF ACCEPTABLE LETTER OF CREDIT**

(Today's date)

Selectboard  
Town of Brookline  
PO Box 360  
Brookline, NH 03033

Re: Irrevocable Letter of Credit #: \_\_\_\_\_  
Project: \_\_\_\_\_ Tax Map \_\_\_\_\_ Lot \_\_\_\_\_  
(Name of Subdivision)

Developer(s) name: \_\_\_\_\_  
Developer(s) address: \_\_\_\_\_  
Bank: \_\_\_\_\_ Credit Amount: \_\_\_\_\_  
Expiration Date: \_\_\_\_\_ Termination/Completion Date: \_\_\_\_\_

By this document the Bank establishes an Irrevocable Letter of Credit Number \_\_\_\_\_ in favor of the Town of Brookline at the request of the Developer(s) of the above Project. This Irrevocable Letter of Credit is issued to guarantee completion of all improvements required by the Brookline Planning Board and the Brookline subdivision regulations in conjunction with a plan entitled \_\_\_\_\_, which was approved by the Brookline Planning Board on: \_\_\_\_\_.

Funds up to the Credit Amount shall be available at sight drawn on the Bank by draft executed by the Chairman of the Town of Brookline Planning Board which shall refer to the Developer as above, identify the Project as above, and make a demand for a specific sum. All draft must be marked "Drawn under the [bank name] Irrevocable Letter of Credit # \_\_\_\_\_, dated \_\_\_\_\_.

All drafts as provided for in this Irrevocable Letter of Credit must be received by the Bank not later than the expiration date, after which date all liability of the Bank shall cease. If all improvements guaranteed by this Irrevocable Letter of Credit are not completed by \_\_\_\_\_, and if a final road inspection has not been made by the road inspector for this project, then this Letter of Credit shall automatically be considered to be called without further action of the Brookline Planning Board. The Bank shall then forward a check to the Town in the amount of the Credit Amount to be used for completion of the guaranteed work. The funds forwarded to the Town of Brookline shall be used exclusively for the completion of work on this project. Any funds not used shall be returned to the Bank.

The Bank engages with the Town of Brookline that drafts drawn under and in compliance with the terms of this Irrevocable Letter of Credit will be duly honored by us up to the Credit Amount on delivery.

Except as otherwise expressly stated, this Irrevocable Letter of Credit is subject to the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce.

**BANK** BY: \_\_\_\_\_ DATE: \_\_\_\_\_

I have read this letter of credit and agree to its terms.  
\_\_\_\_\_  
(Signature of Developer) DATE: \_\_\_\_\_

***APPENDIX E: CHECKLIST FOR SUBDIVISION REVIEW***

**BROOKLINE PLANNING BOARD**

This checklist is to be used as a guide for complying with the Town of Brookline's subdivisions site plan review regulations. It is to be used for each individual subdivision site plan review application submitted.

The following information shall be required for a **completed application**. (Section 4.6.06 of the regulations) The information with an asterisk (\*) next to it is also recommended for the design review phase. All references are to the current Brookline subdivision regulations.

**Y N NA**

- Eight (8) (black) print copies *and one printable 11"x17" electronic .pdf format* prepared by a registered land surveyor. [4.6.05](\*) (08/02/2012)
- Scale is not more than one hundred (100) feet per inch. [4.6.05](\*)
- Parcel tax lot number and total acreage. [4.6.05a, 4.6.06f](\*)
- Name of the subdivision.[4.6.05a](\*)
- Name and address of the owner of record.[4.6.05a](\*)
- Name and address of the subdivider and designer.[4.6.05a](\*)
- Names and addresses of every engineer, architect, land surveyor, or soil scientist whose professional seal appears on any plat submitted to the Board.
- Boundaries of zoning districts lying within the subdivision and any municipal boundaries.[4.6.05g](\*)
- Location or "locus" map at the scale of the municipal base map.[4.6.05h](\*)
- Date the plans were first drafted. Any revision(s) made to any of the sheets first submitted are to be so noted in the **Revision Block**. The Revision Block is to be placed on the Mylar original(s) of the revised sheet(s). Additional paper copies are to be made and submitted to the Planning Board to replace those sheets previously submitted.(\*)
- Topography for site with the contour interval not to exceed five (5) feet.[4.6.05j, 4.6.06k](\*)

**Abutting Property Information**

- The names and addresses of all abutting property owners (with three sets of labels) as indicated in the Town records not more than five (5) days before the date of filing.[4.6.05b](\*)
- Name(s) and location(s) of abutting subdivisions.[4.6.05b](\*)
- Name(s) and location(s) of abutting streets, easements, and alleys within one hundred (100) feet of the parcel to be subdivided.[4.6.05b,d,e](\*)
- Name(s) and location(s) of abutting parks and open space.[4.6.05e](\*)
- Location of existing abutting buildings.[4.6.05b](\*)

- Location of existing abutting water supply wells or springs.[4.6.05b](\*)
- Location of existing abutting septic system leach field(s).[4.6.05b](\*)
- Road and/or driveway intersection(s) within two hundred (200) feet of property lines.[4.6.05b](\*)
- Fees paid to secretary.[3.1.13](\*)
- Properly completed application form. [Entire Appendix C](\*)

**Existing Property Information**

- Location of property lines, dimensions and bearings and lot areas, and the source of that information.(\*)
- Location and dimensions of all easements.[4.6.05e](\*)
- Location and dimensions of all buildings.[4.6.05c](\*)
- Location of all building setback lines.[4.6.05e](\*)
- Location of electric or other utilities, both for existing and proposed subdivision property with letter of intent from utilities companies.[4.6.05f] (08/02/2012)
- High Intensity Soil Survey.[4.6.05k](9/7/93)
- Watershed areas and drainage computations.[4.6.05l](\*)
- Location, name, and widths of streets with their grades, profiles, both existing and proposed. Design criteria for proposed roads also need to be shown.[4.6.05m](\*)
- Location of fire ponds and fire protection drafting sites, if any.[4.6.05n](\*) (11/15/07)
- Access for fire fighting apparatus.[4.6.05o](\*)
- Wet areas as defined by the Wet Lands Ordinance, in square feet of wet and non-wet.[4.6.05p](\*)
- A letter stating the proposed disposal of tree stumps. If they are to be disposed of on-site, areas shall be shown on the plat.[4.6.05q](\*)
- Location of soil test pits and accompanying test pit and perc test data.[4.6.05r](\*)
- Location of Special Flood Hazard Areas (SFHA) designated by the National Flood Insurance Program (NFIP), permits received from SFHA and NFIP. Subdivisions with any development within a SFHA shall submit evidence (construction drawings, grading and land treatment plans) so as to allow determination that (i) all such proposals are consistent with the need to minimize flood damage (ii) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage and (iii) adequate drainage is provided so as to reduce exposure to flood hazards. [4.6.05s](\*) (8/21/97) (11/15/07)
- Base Flood Elevation (BFE) data for subdivisions greater than fifty (50) lots or five (5) acres, whichever is lesser. [4.6.05s](\*) (8/21/97)

- Location and size of the area considered necessary for septic leach fields and any proposed connections of alternative means for disposal of sewage. [4.6.05t](\*)
- Number of lots to be created.[4.6.05u](\*)
- Magnetic and true north point.[4.6.05v](\*)
- Eight (8) blue (black) print copies *and one printable 11"x17" electronic .pdf format* of the Final Plat.[4.6.06] (08/02/2012)
- One (1) permanent, reproducible mylar copy suitable for recording.[4.6.06]
- Name and seal of the engineer and land surveyor registered with the State of New Hampshire.[4.6.06b]
- Final disposition of land into lots, streets, open spaces, drainage courses and any easements running with the land.[4.6.06c]
- Sufficient, acceptable information to readily determine the location, bearing, and length of every street line, lot line, and property boundary line and to reproduce such lines on the ground. Dimensions shall be shown to hundredths of a foot and bearings to the nearest second. The error of closure shall not exceed 1 to 10,000.[4.6.06d]
- Stations, radii, curve data and paving widths for proposed streets. [4.6.06e]
- Lot dimensions, area in square feet and acres, street numbers for the lots as determined by the Brookline Emergency Management Director.[4.6.06f] (8/21/97) (08/02/2012)
- Location and engineering design calculations for culverts, drainage requirements and connection of alternative means to provide water supply and disposal of surface drainage.
- Location of all parcels of land to be dedicated to public use, the conditions of such dedication, and a copy of applicable deed restrictions.
- Proposed twenty-five (25) year storm drainage accompanied by a drainage analysis map and computations for the entire watershed area.[4.6.06m] (5/6/99)
- 75 foot well radii [4.6.06o] (11/19/91).
- If the subdivision abuts a State Highway, or if a proposed street intersects a State Highway, a driveway permit from the NH Department of Transportation approving said access.[4.6.06q] (8/21/97)
- Plan and profile for common driveways (Added August, 2003)
- Building Inspector review (Added June, 2003)
- Determination of off-site improvements by the Planning Board based on a special study or letter from the DPW Director. The Planning Board needs to send a letter to the Selectmen on recommendation prior to final action on the plan. (Added April, 2004)



- The Final plat shall contain a volume and page reference sufficient to indicate the subdivider's derivation of title in the event only one parent tract is involved, and if the subdivision constitutes an assemblage of several tracts, the plat shall contain a title reference of each and indicate where each of the lots shall be numbered so as to coincide with the Town of Brookline Tax Map numbers. [4.6.06r]
  
- Copies of all applicable approvals and permits [4.6.06s] (8/21/97) (08/02/2012)
 

NHWSPC	#	_____
NH Site Specific	#	_____
NH Dredge & fill	#	_____
Army Corp. Dredge & Fill	#	_____
NH DOT Curb Cut	#	_____
  
- All final permit numbers and written decisions including conditions of approval and **requirement for streetlights (at the sole cost of the developer)** noted on the final plat. [4.6.05t] [5.3.01] (8/21/97) (08/02/2012)
  
- School bus stops and areas shown on plans. The Brookline School Board should be contacted for assistance. [4.6.06p] (9/7/93)
  
- Open Space determination made.
  
- All engineer prints shall be done by a qualified, registered engineer by the State of New Hampshire and have his seal affixed to each sheet. [4.6.06u]
  
- A statement of off-site improvements requested, based on a meeting with the Selectmen. [4.6.06v]
  
- Separate, permanent, reproducible sheets (24" x 36") with three (3) prints thereof, **for each street or way within the subdivision.** Plan view and profile of the street is to be at a horizontal scale of forty (40) feet per inch and at a vertical scale of four (4) feet per inch. Profile shall also show this size, elevation, and location of existing and proposed storm drains and shall extend on hundred (100) feet into adjacent land. The plan is to show street dimensions, bearings, curve lengths, center line stationing, proposed bound location, lot numbers, radii, curve data paving widths, and the location of all existing and proposed utilities.
  
- A check payable to the Town of Brookline to cover filing fees, mailing, advertising, recording, special investigative and consulting studies, and other costs.[4.6.06w]
  
- A traffic study, if required by the Board. [4.6.06x] (5/9/89)
  
- A fiscal impact analysis, if required by the Board [4.6.06y], (5/9/89).
  
- Payment of a fee to update the Town's computerized parcel map as specified in Appendix B. [4.6.06z] (8/21/97)
  
- All necessary and/or required legal data in form and substance as approved by town Counsel prior to the approval of the final plan [4.7] (08/02/2012)
  
- Any other information felt necessary by the Planning Board to allow the Board to proceed with consideration and to make an informed decision.

## ***APPENDIX F: DRAFTING BASIN SPECIFICATIONS***

### ***BROOKLINE FIRE DEPARTMENT***

1. The pipe shall be ~~either ductile iron or a galvanized corrugated metal pipe~~, minimum 18" HDPE in diameter, with bands at each coupling. **Rip rap shall be added to weigh the pipe down. (2021)**
2. The pipe will be level from the pond to the basin with no bends in the pipe. Minimum pipe cover will be 5' to be well below the frost line.
3. The inlet pipe must be a minimum of 2' off the bottom of the water source.
4. There shall be a 2' sump below the invert of the basin pipe. The inlet pipe penetration into the draft basin shall be sealed to prevent silt infiltration.
5. The basin shall be a standard concrete manhole with a minimum 4' inside diameter and with minimum 5" reinforced concrete walls.
6. The basin will have a vertical wall from the bottom to the top at the steps location. Cast iron or aluminum steps shall be provided at maximum 12" on center, vertically, for the full height of the basin.
7. The base section will be a concrete structure having a solid bottom.
8. The top shall have a 24" diameter cast iron manhole cover and frame centered over the steps.
9. The lift of water shall not exceed 12' between the bottom of the pipe and the top of the manhole cover.
10. The manhole cover is to be flush with the ground level. A paved apron of asphalt, at least 2" thick, shall extend for 30' in front and 10' behind and to each side of the basin, and shall slope 1/4" per foot away from the cover.
11. The bollard shall be set 4' below ground level, in concrete and shall extend 3' above ground, 4' directly behind manhole cover. **The bollard shall be painted red. (6/15.00) (11/15/07) (2021)**
12. A minimum of 12" of well compacted bank run gravel with a minimum 4" top course of crushed gravel is required for the access road to the fire pond and basin. (6/15.00)
13. The vehicle pad shall be paved and of sufficient length to permit convenient access to the basin when the pumper is set at 45 degrees to the road. (11/15/07)
14. The area adjacent to the fire pond needs to have a place for a second fire truck to pump directly out of the pond.
15. All construction, backfill, and grading materials to be in accordance with proper construction practices and acceptable to the fire department.
16. The basin shall be situated for year-round, all weather access and away from traffic. The location is to be approved by the Planning Board with input from the Fire Engineers and the Town Engineer during the Subdivision or Site Plan Review Process.(6/15/00)

17. The contractor/developer shall provide a drawing of the location, design, and elevation to the fire department for approval prior to the start of any construction
18. All permits and approvals are to be accomplished by the contractor/developer at their expense, prior to the start of any construction.
19. The basin must be tested by the fire department before final acceptance.
20. The contractor/developer shall notify the fire department at least two (2) business days before construction of the fire pond or basin. (11/15/07)
21. The 50,000-gallon water source shall be completed and operational before any occupancy permits will be issued pursuant to final inspection by Fire Engineer and Town Engineer. (6/15.00)
22. The contractor/developer is responsible for maintaining access to the pond and basin until acceptance of the road by the Town. Snowplowing shall be done at the same time the road is cleared.
23. **“No Parking” sign(s) shall be installed before and after the drafting site. (2021)**

## ***APPENDIX G: CISTERN SPECIFICATIONS***

### ***BROOKLINE FIRE DEPARTMENT***

1. The Brookline Fire Department expects the design of a cistern to be trouble free and last a lifetime.
2. The minimum cistern capacity is to be 30,000 gallons.
3. The suction piping system is to be capable of delivering a minimum of 1,000 gallons per minute for three quarters of the cistern capacity. (Velocity and friction losses plus static head may not exceed 16 feet.)
4. The design of the cistern is to be submitted to the Planning Board for approval prior to construction. All plans must be signed and stamped by a professional structural engineer registered in the State of New Hampshire. (6/15.00)
5. The entire cistern is to be rated for H-20 highway loading.
6. The attached drawings are only a guide and are not to be used as the design.
7. Each cistern must be sited to the particular location by a registered professional engineer and approved by the Planning Board. (6/15.00)
8. Cast-in-place concrete is to achieve a minimum twenty-eight (28) day strength of 3,000 psi. It must be vibrated in place.
9. The concrete is to be mixed, placed, and cured without the use of calcium chloride. Winter placement and curing must follow the accepted ACI codes.
10. All suction and fill pipe are to be ASTM Schedule 40 galvanized steel **and painted red**. All vent piping is to be ASTM Schedule 40 PVC with glued joints. (2021).
11. All PVC piping is to have glued joints.
12. The final suction connection is to be 5" National Hose male thread. It must be capped with a hydrant cap with a safety chain. The safety chain shall be connected to the pipe so that the cap is not lost. (6.15.00) (11/15/07)
13. The filler pipe is to have a 4-inch Storz Coupling with a 90-degree elbow, cap and chain. The chain shall be connected to the pipe to prevent the cap from being lost. (11/15/07)
14. The entire cistern is to be completed and inspected by a town engineer before any backfilling is done. The tank may then be backfilled but not covered for a four-week leak test. (11/15/07)
15. The completed cistern **shall be subject to a financial guarantee** for 1 year from the date of acceptance by the town. This guarantee includes watertightness of the tank and all appurtenances associated with the operation of the cistern. The completed cistern will be inspected for compliance by the ~~road inspector~~ **Town Engineer** prior to the release of the maintenance bond, and a report to that effect will be submitted to the Town. (2021).
16. All backfill material shall be screened gravel with no stones larger than 1-1/2 inches and shall be compacted to 95% of maximum, ASTM 1557.

17. Bedding for the cistern shall be a minimum of 12 inches of 3/4 to 1-1/2 inch crushed, washed stone, compacted. No other fill shall be allowed under this stone.
18. The filler and vent pipes are to be 36 inches above finish grade. **Pipes shall be painted red.** (11/15/07) (2021).
19. The suction pipe connection is to be 20 - 24 inches above the level of the fire truck wheels when the cistern is in use.
20. Pipe bollards or minimum 1 cubic yard boulders are to be placed 2 feet off each side and 12 inches in front of the suction pipe for the protection of the pipe. Bollards shall be set in concrete 4 feet below ground level and shall extend 10 inches above the suction pipe. **Bollards shall be painted red** (11/15/07) (2021).
21. Suction pipe is to be supported by the top of the tank.
22. The cistern must be designed so that it will not float when empty. (6/15.00)
23. The perimeter of the tank at floor/wall joint, if not monolithic, is to be sealed a water stop. (6/15.00)
24. Backfill over tank shall be:
  - a) 4 feet of fill; or
  - b) the top and highest 2 feet of the sides of the cistern shall be insulated with a vermin resistant foam insulation, minimum 2" thick, and 2 feet of fill.
25. All backfill shall extend 10 feet beyond the edge of the cistern, then maximum 3:1 slope, loamed and seeded.
26. After backfilling, the tank is to be protected by fencing or large stones.
27. The bottom of suction pipe to pumper connection vertical distance must not exceed 14 feet.
28. Pitch of shoulder and vehicle pad from edge of pavement to pumper connection must be 1 - 6% downgrade.
29. **The apron, and any other components of the access road to the cistern, must be paved with a 2" binder base and 1" layer of top. (2021)**
30. Shoulder and vehicle pad must be of sufficient length to permit convenient access to suction connection when pumper is set at 45 degrees to road.
31. All construction, backfill, and grading materials are to be in accordance with proper construction practices and acceptable to the Planning Board in accordance with the approved design. (6/15.00)
32. All horizontal suction piping must slope slightly uphill (1 - 3%) towards the pumper connection.
33. **Before the cistern is filled with water, the interior must be inspected by the Fire Chief or Fire Inspector. (2021).**
34. Installer is responsible for completely filling cistern until accepted by the Fire Department. This includes refilling after each flow test until acceptance.

35. Two (2) “No Parking – Fire Lane” signs must be installed. The placement of these signs will be one at either side of the cistern easement. (11/15/07)

## ***APPENDIX H: RESIDENTIAL SPRINKLER SYSTEM REQUIREMENTS***

### ***BROOKLINE FIRE DEPARTMENT***

- 1. Requirements for approval to install:**
  - A. Submit drawings showing pipe sizes, lengths, and type of pipe used.
  - B. Submit a cut sheet and performance graph for the pump.
  - C. Submit sprinkler head cut sheets.
  - D. Submit pressure switch cut sheets.
  - E. Documentation of type and concentration of antifreeze solution used.
  - F. Submit 1 and 2 sprinkler head operating calculations.
  - G. Submit details of the tank size.
  - H. Provide a description of the tank type.
  - I. An electric bell Number 2N (sprinkler system shall have an external electric bell that will activate when the pump is running). (2021)**
  - J. The pump shall make the detectors go off if it turns on Number 2 O (sprinkler system shall be interconnected with the fire alarm system). (2021).**
  
- 2. Additional requirements for inspection approval:**
  - A. An attached garage shall be sprinkled.
  - B. The attic shall be sprinkled if utilities are present.
  - C. The pump shall have 10 PSI between off and on.
  - D. Closets shall NOT have sidewall heads.
  - E. Sprinkler heads shall be located from all heat sources per table 3-5,2.3 of NFPA 13-D.
  - F. The Tank shall have a level indicator.
  - G. A manual fill line shall be provided.
  - H. A vent for the tank shall be provided.
  - I. All sprinkler control valves should be locked-open.
  - J. A lock to the pump circuit breakers shall be installed.
  - K. A lock shall be provided to any pump power switches.
  - L. All wiring from the pump to the electric breaker panel shall be in metal conduit.
  - M. All bathrooms shall be sprinkled.
  
- 3. Inspections:**
  - A. Pipe rough in. (if additional fittings or major changes are made from the approved Drawings, a new calculation sheet shall be required.)
  - B. Inspection fee. (2021)**
  - C. Final Inspection and function test.

The Fire Department must be notified at least five (5) working days in advance for approvals and inspections. (11/15/07)

## **APPENDIX I: IMPACT FEE SCHEDULE**

The Planning Board may modify the following fee schedules from time to time, after public hearing, when data becomes available indicating that the variables used in the impact fee schedule calculations have changed or are no longer in effect.

### **A. Impact Fee Schedule – Captain Samuel Douglas Academy**

\*Article I, March 6, 1999 Brookline School District Annual Meeting

**I. Variables.** Variables may be re-assessed by the Planning Board on an annual basis, or periodically as better information becomes available, after public hearing. The following is a residential impact fee.

1.	Total Project Cost (principal and interest)	\$8,793,563.98
2.	Principal only	\$5,367,912.00
3.	State of NH reimbursement for capital projects (30% of principal)	\$1,610,373.60
4.	Net Debt (# 1 - # 3)	\$7,183,190.30
5.	Current Enrollment (2003-2004)	198
6.	Total Capacity	300
7.	Future demand capacity (#6 - #5)	102
8.	Cost per student (based on total students: #4 / #6)	\$23,943.97
9.	<b>Total Impact Future Demand (#8 x #7)</b>	\$2,442,284.94
10.	CSDA students per housing unit	.12
11.	<b>Impact Fee per Housing Unit (#10 x #8)</b>	<b>\$2,873.28</b>

**II. Credits.** Credits are estimated in order to factor out the amount in taxes a unit subject to an impact fee is likely to pay for the portion of project cost that is likely to be financed through impact fees. The Planning Board may adjust the calculation of credits on an annual basis if changes are made to the variables located above in section I.

1.	Total assessed valuation of Brookline, 2003:	\$406,476,988
2.	Total residential buildings and land, 2003:	\$386,508,200
3.	Average residential assessment (#2 / 1,478 housing units)	\$261,507.58
4.	Total impact future demand (#9 above / total assessed valuation)	.0060
5.	Credit per Housing Unit (#4 x #3)	\$1,569.04

**III. Calculation of Fee.** The Planning Board may adjust the calculation of credits on an annual basis if changes are made to the variables located above in section I and resulting changes to section II.

1.	Impact Fee per Housing Unit	\$2,873.28
2.	Credit per Housing Unit	\$1,569.04
3.	<b>Net Fee per Housing Unit (Includes all new housing units)</b>	<b>\$1,304.24</b>



**IV. Number of Permits to be Issued.** When the impact fee is established, a tally of the number of impact fees that have been paid shall be recorded. The impact fee will automatically be terminated when the total number of permits issued, as herein described, has been reached. The Planning Board may adjust the total number of permits to be issued on an annual basis or when better information becomes available, if changes are made to the variables located in section I.

1.	Average number of units built in Town each year:	40
2.	Number of housing units to be assessed impact fee: 102 future students / .12 CSDA students per unit =	850
3.	Subtract out the number of building permits that have been issued since the school became operational in 1998-1999: 850 – 223 =	<b>627</b>
4.	The total amount to be collected through impact fees: 627 units x \$1,304.24 =	<b>\$817,758.48</b>
5.	The CSDA impact fee will sunset when <b>627</b> building permits have been issued.	

**V. Other exemptions.** In addition to the types of development excluded from a residential impact fee in the zoning ordinance, the following conditions and circumstances shall be precluded from the payment of a CSDA impact fee and shall not be included in the number of permits to be issued:

Elderly housing units developed under the Housing for Older Persons section of the Brookline Zoning Ordinance.

This impact fee shall become effective on January 1, 2004.

## B. Impact Fee Schedule – New Ambulance Facility

\* Article 3, March 13, 2003 (Continuation) Brookline Town Meeting

**I. Variables.** Variables may be re-assessed by the Planning Board on an annual basis, or periodically as better information becomes available, after public hearing. The following is a residential impact fee.

### Assumptions:

- The current ambulance facility is 3,011 sq.ft., the new facility will be 5,426.5 sq.ft.
- It is assumed that this increase in space will accommodate the Town's population through the life of the bond (*20 year bond*) Since the number of housing units in 20 years is estimated at 2,358 (1,478 in 2003 plus 880 (20 years x 44 units per year), and since the size of the planned facility is 5,426.5 sq.ft., it can be assumed that the amount of ambulance space needed per housing units is 2.30 sq.ft. (facility sq.ft. / future number of housing units).

1.	Total amount of ambulance space needed to accommodate the current number of housing units (1,478 units x 2.30 sq.ft.) =	3,399.40 sq.ft.
2.	Amount of the new facility to accommodate new growth: 3,399.40 sq.ft. / 5,426.5 sq.ft. = .626 1.00 (entire demand) - .626 (proportion existing demand) = .374 or	37.4%
3.	Total project cost:	\$1,392,500.00
4.	Project cost attributable to new development (#3 x #2)	\$520,795.00
5.	Approx. 85.7% of all ambulance calls are attributable to residences. Therefore the <b>total impact future demand</b> = #4 x 85.7% =	\$446,321.32
6.	Impact fee per unit (#5 / 880 future units) =	<b>\$507.18</b>

**II. Credits.** Credits are estimated in order to factor out the amount in taxes a unit subject to an impact fee is likely to pay for the portion of project cost that is likely to be financed through impact fees. The Planning Board may adjust the calculation of credits on an annual basis if changes are made to the variables located above in section I.

1.	Total assessed valuation of Brookline, 2003:	\$406,476,988
2.	Total residential buildings and land, 2003:	\$386,508,200
3.	Average residential assessment (#2 / 1,478 housing units)	\$261,507.58
4.	Total impact future demand (#5 above / total assessed valuation)	.00109
5.	Credit per Housing Unit (#4 x #3)	<b>\$ 285.04</b>

**III. Calculation of Fee.** The Planning Board may adjust the calculation of credits on an annual basis if changes are made to the variables located above in section I and resulting changes to section II.

1.	Impact Fee per Housing Unit	\$507.18
2.	Credit per Housing Unit	\$285.04
3.	<b>Net Fee per Housing Unit (Includes all new housing units)</b>	<b>\$222.14</b>

**IV. Number of Permits to be Issued.** When the impact fee is established, a tally of the number of impact fees that have been paid shall be recorded. The impact fee will automatically be terminated when the total number of permits issued, as herein described, has been reached. The Planning Board may adjust the total number of permits to be issued on an annual basis or when better information becomes available, if changes are made to the variables located in section I.

1.	Impact Fee per housing unit	\$222.14
2.	Life of the bond	20 years
3.	880 new housing units to be built over the life of the facility and to be charged ambulance impact fee.	
4.	The total amount to be collected through impact fees: 880 units x \$222.14 =	<b>\$195,483.20</b>
5.	The ambulance facility impact fee will sunset when <b>880</b> building permits have been issued from 2/01/04.	

**V. Other exemptions.** In addition to the types of development excluded from a residential impact fee in the zoning ordinance, the following conditions and circumstances shall be precluded from the payment of an ambulance facility impact fee and shall not be included in the number of permits to be issued:

Commercial and Industrial.

This impact fee shall become effective on January 1, 2004.

**C. Residential Impact Fee Schedule - H/B Cooperative Middle School Renovation/Expansion\*  
(Brookline Portion)**

\* Article 4, March 3-4, 2004 Hollis Brookline Cooperative School District Annual Meeting

**I. VARIABLES:** Annual or periodic review is necessary by the Planning Board as updated or better information becomes available. A public hearing is required to amend this fee schedule. A change in methodology requires a zoning amendment at Town meeting.

1	Total Project Cost (Gross Debt) (Principal and Interest)	\$12,349,166.09
2	Project Cost (Principal Only)	\$7,900,000.00
3	State of NH reimbursement for capital projects (40% of principal)	\$3,160,000.00
4	Net Project Cost (Net Debt) (#1 - #3)	\$9,189,166.09
5	Brookline's share of Net Debt is 36%	\$3,308,099.79
6	Current Brookline Enrollment - grades 7 & 8 (2004-2005)	182
7	Total HBMS (classroom) Capacity (Brookline and Hollis)	550
8	Brookline average proportion of students at HBMS (38.7%)	0.387
9	Brookline's future total capacity (38.7% of 550) - Per apportionment	213
10	Brookline's future demand capacity (#9 - #6)	31
11	Cost per student (Brookline) (#5 / #9)	\$15,530.98
12	Total Impact Future Demand (Brookline) (#10 x #11)	\$481,460.53
13	HBMS students per housing unit (Brookline)	0.139
14	<b>IMPACT FEE per HOUSING UNIT (#13 x #11)</b>	<b>\$2,155.11</b>

**II. CREDITS:** A credit provided for estimated taxes likely to be paid per housing unit (Brookline) for the portion of the HBMS expansion likely to be paid for by Impact Fees. The Planning Board may adjust the calculation of credits on an annual basis or periodically concurrent with changes made to the variables located above in Section I.

1	Total assessed valuation of Brookline (2004)	\$414,965,696.00
2	Total assessed value of residential buildings and land (2004)	\$412,302,729.00
3	Average residential assessment (#2 / 1,535 housing units) <i>Source: 12/18/03 Growth Mgmt. Building Inspectors Report through 2004</i>	\$268,601.13
4	TOTAL IMPACT FUTURE DEMAND (#12 (sec. I) / #1 (sec. II))	0.0012
5	<b>CREDIT per HOUSING UNIT (#4 x #3)</b>	<b>\$311.64</b>

**III. CALCULATION of FEE:** The Planning Board may adjust the calculation of the Net Impact Fee on an annual basis or periodically concurrent with changes made to variables located in Section I and Section II above.

1	Impact Fee per Housing Unit	\$2,155.11
2	Credit per Housing Unit	\$311.64
3	<b>NET IMPACT FEE per Housing Unit (Includes all new housing units)</b>	<b>\$1,843.47</b>

**IV. NUMBER of PERMITS to be ISSUED:** As of the effective date noted below, there shall be a record kept of all building permits issued for new housing units assessed an impact fee under the Hollis Brookline Cooperative Middle School Renovation. The impact fee shall automatically expire when the number of housing units to be assessed an impact fee in Section IV, 5 has been reached. The Planning Board may adjust the total number of permits on an annual basis or periodically as better information becomes available concurrent with changes made to the variables located above in Section I.

1	Average number of housing units built in Town each year ( 1994-2004) <i>Source:</i> <i>Building Inspectors Report</i>	44
2	Number of housing units to be assessed impact fee: 31 future students/.139 HBMS students per housing unit (Sec. I. #10/Sec. I. #13) =	223
3	Deduct the number of building permits issued for housing units since the renovation/expansion was completed.	0
4	The total amount to be collected through the HBMS impact fee: housing units(#2 - #3) x \$1,843.47 (Sec. III. #3) =	\$411,838.48
5	The HBMS impact fee will sunset when 223 building permits for housing units have been issued. (#2 - #3)	<b>223</b>

**V. OTHER EXEMPTIONS:** In addition to the types of development excluded from a residential impact fee, the following shall be exempt from payment of the Hollis Brookline Cooperative Middle School Renovation impact fee and shall not be included in the number of housing units to be assessed an impact fee in Section IV, 5.

1	Elderly housing units under Brookline's Housing for Older Persons zoning ordinance	
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**This Impact Fee shall become effective on: August 4, 2005**

#2101-26-1

## D. Impact Fee Schedule – New Police Station

Article # 3, March 14, 2012 Brookline Town Meeting

**I. Variables.** Variables may be re-assessed by the Planning Board on an annual basis, or periodically as better information becomes available, after public hearing. The following is a residential impact fee.

### Assumptions:

- The current police station is 1,570 sq.ft. The new facility will be 6,050 sq.ft.
- It is assumed that this increase in space will accommodate the Town's population through the life of the bond (*20 year bond*). Since the number of housing units in 20 years is estimated at 2,288 (1,688 in 2012 plus 600 (20 years x 30 units per year\*)), and since the size of the planned facility is 6,050 sq.ft. it can be assumed that the amount of police space needed per housing units is 2.64 sq.ft. (New facility sq.ft. / Future number of housing units).

1.	Total amount of police station space needed to accommodate the current number of housing units (1,688 units x 2.64 sq.ft.) =	4,456.32 sq.ft.
2.	Amount of the new facility to accommodate new growth: 4456.32 sq.ft. / 6050.00 sq.ft. = .737 1.00 (entire demand) - .737 (proportion existing demand) = .263 or	26.3 %
3.	Total project cost:	\$1,390,000.00
4.	Project cost attributable to new development (#3 x #2)	\$365,570.00
5.	Approx. 82% of all police calls are attributable to residences. Therefore the <b>total impact future demand</b> = #4 x 82% =	\$299,767.40
6.	Impact fee per unit (#5 / 600 future units) =	<b>\$499.61</b>

**II. Credits.** Credits are estimated in order to factor out the amount in taxes a unit subject to an impact fee is likely to pay for the portion of project cost that is likely to be financed through impact fees. The Planning Board may adjust the calculation of credits on an annual basis if changes are made to the variables located above in section I.

1.	Total assessed valuation of Brookline, **	\$591,633,209.00
2.	Total residential buildings and land ***	\$508,980,400.00
3.	Average residential assessment (#2 / 1,688 housing units)	\$301,528.67
4.	Total impact future demand (#5 above / total assessed valuation)	.00051
5.	Credit per Housing Unit (#4 x #3)	<b>\$ 153.78</b>

**III. Calculation of Fee.** The Planning Board may adjust the calculation of credits on an annual basis if changes are made to the variables located above in section I and resulting changes to section II.

1.	Impact Fee per Housing Unit	\$499.61
2.	Credit per Housing Unit	\$153.78
3.	<b>Net Fee per Housing Unit (Includes <u>all</u> new housing units)</b>	<b>\$345.83</b>

**IV. Number of Permits to be Issued.** When the impact fee is established, a tally of the number of impact fees that have been paid shall be recorded. The impact fee will automatically be terminated when the total number of permits issued, as herein described, has been reached. The Planning Board may adjust the total number of permits to be issued on an annual basis or when better information becomes available, if changes are made to the variables located in section I.

1.	Impact Fee per housing unit	\$345.83
2.	Life of the bond	20 years
3.	600 new housing units to be built over the life of the facility and to be charged police impact fee.	
4.	The total amount to be collected through impact fees: 600 units x \$345.83 =	<b>\$207,498.00</b>
5.	The New Police Station impact fee will sunset when 600 building permits have been issued from March 01, 2013.	

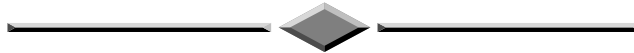
**V. Other exemptions.** In addition to the types of development excluded from a residential impact fee in the zoning ordinance, the following conditions and circumstances shall be precluded from the payment of a Police Department facility impact fee and shall not be included in the number of permits to be issued:

***Commercial and Industrial***

This impact fee shall become effective on **March 01, 2013**.

Amended February 21, 2013.

- \* Average number of building permits issued over past 10 years (Jan. 2002 – Dec. 2011)
- \*\* As of April 01, 2012 (Summary Inventory of Valuation, Form MS-1)
- \*\*\* As of April 01, 2012 (Assessors’ Office – Parcel Count)

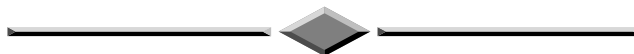


***TOWN OF BROOKLINE, NEW HAMPSHIRE***

***ZONING AND LAND USE ORDINANCE***



***March 2020***





**ZONING AND LAND USE ORDINANCE**

***Adopted March 12, 1968***

**Amended**

***March 7, 1972***

***March 8, 1977***

***March 12, 1985***

***March 8, 1988***

***March 13, 1990***

***March 10, 1992***

***March 8, 1994***

***March 11, 1997***

***March 9, 1999***

***March 13, 2001***

***March 10, 2004***

***March 14, 2006***

***March 12, 2008***

***September 25, 2009***

***March 8, 2011***

***March 11, 2014***

***March 10, 2016***

***March 13, 2018***

***March 10, 2020***

***March 6, 1973***

***November 2, 1982***

***March 10, 1987***

***March 15, 1989***

***March 12, 1991***

***March 9, 1993***

***March 12, 1996***

***March 10, 1998***

***March 14, 2000***

***March 13, 2003***

***March 8, 2005***

***March 14, 2007***

***March 10, 2009***

***March 9, 2010***

***March 13, 2012***

***March 10, 2015***

***March 21, 2017***

***March 12, 2019***

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**100.00     *PREAMBLE***

In pursuance of authority conferred by New Hampshire Revised Statutes Annotated Chapter 674:16 through Chapter 674:34 inclusive as amended and for the purpose of promoting the health, safety, morals, and general welfare of the inhabitants of the incorporated Town of Brookline, New Hampshire, by securing safety from fire, panic, and other dangers, providing adequate areas between buildings and various rights-of-way, by preserving the rural charm of the town, preventing the overcrowding of land, avoiding undue concentration of population, facilitating the adequate provisions for transportation, water, sewage, schools, parks, and other public requirements, and by other means in accordance with a comprehensive plan, the following ordinance is hereby adopted by the voters of the Town of Brookline, New Hampshire, in official Town meeting convened.

## **200.00 DEFINITIONS**

Accessory Building. A subordinate building located on the same lot with the main building or use, the use of which is customarily incidental to that of the main building or to the use of the land.

Accessory Dwelling Unit (ADU). A secondary dwelling unit which is accessory and subordinate to a permitted principal single family dwelling unit or to an accessory building.

Accessory Use. A use customarily incidental to that of the main building or to the use of the land, not including the exterior storage of junk, dismantled or abandoned cars, or any other storage detrimental to health, safety, or general welfare.

Adult Sexually Oriented Business. A business where one of its purposes is for the display and sale of sexually explicit goods and services including, but not limited to sexually explicit books, videos, movies, computer software, or other visual or audio representations, including ones which meet the definition of “harmful to minors” and/or “sexual conduct” as set forth in RSA 571-B:1; or instruments, devices, or paraphernalia which are designed or used in connection with “sexual conduct” as set forth in RSA 571-B:1, other than birth control devices. Examples of adult sexually oriented business uses include, but are not limited to places where a regular and substantial course of business operation involves the sale and display of sexually explicit goods and services such as: adult motels and theaters where sexually explicit films or videos are shown; places with mini-motion picture or coin operated displays; motels and theaters where sexually explicit films or videos are shown; adult cabaret; nude modeling studios; adult bookstores; escort agencies; or sexual encounter centers.

Alteration. Any change or modification to a building which modifies the structural plan, manner of construction, or the kind of material used, or in any way varies the character or its use.

Attached. Joined or connected.

Apartment Building. A building intended to be occupied by three or more families living independently of each other.

Back Lots. Lots which have less than the minimum frontage requirement but which meet lot size and setback requirements and can be serviced by a private driveway leading to a public road.

Buildable Area. An area capable to accommodate a house site (or commercial structure if so planned) and all required utilities such as water supply and wastewater disposal. The buildable area is the area of a lot excluding wetlands, land with slopes over twenty-five (25) percent, water bodies, regulatory floodways, setback requirements and land restricted from development by easements, covenants or other legal restrictions. The buildable area is intended to ensure that the lot is capable of meeting all Town of Brookline zoning requirements.

Camp. A building of such a nature that it may only be used for recreational and dwelling purposes during seasonal parts of the year.

Dwelling. A structure that is designed or used as a place of residence for one or more families.

Dwelling Unit. A single unit providing complete independent living facilities for one or more persons with permanent provisions for living, sleeping, eating, cooking and sanitation.

Elderly. For the purposes of this Ordinance shall mean that portion of the population 65 years and older.

Family. One or more persons related by blood, marriage, legal adoption or those placed in the home for adoption, and foster children, or a group of not more than five persons (excluding no more than two servants) not related by blood or marriage, living together as a single non-profit housekeeping unit.



Farm. Land on which farming takes place.

Farm Stand. A structure for the seasonal sale of agricultural, horticultural or silvicultural products.

Farming. This term shall have the same meaning as that set forth in RSA 21:34-a, as that term is from time to time amended. The definition of this term as of the date of the passage of this Ordinance is set forth as follows: Any land or buildings or structures on or in which agriculture and farming operations are carried on and shall include the residence or residences of owners, occupants, or employees located on such land. Farming shall mean all operations of a farm such as the cultivation, conserving, and tillage of the soil, dairying, greenhouse operations, the production, cultivation, growing and harvesting of any agricultural, floricultural, sod or horticultural commodities, the raising of livestock, bees, fur-bearing animals, fresh water fish or poultry, or any practices on the farm as an incident to or in conjunction with such farming operations including, but not necessarily restricted to, the following: preparation for market, delivery to storage or to market, or to carriers for transportation to market, of any products or materials from the farm; the transportation to the farm of supplies and materials; the transportation of farm workers; forestry or lumbering operations; the marketing or selling at wholesale or retail or in any other manner any products from the farm and of other supplies that do not exceed in average yearly dollar volume the value of products from such farm.

Floor Area. The gross horizontal area of a floor of the building excluding areas used for accessory garage purpose and basement areas. All horizontal dimensions shall be taken from the exterior faces of walls, including walls or other enclosures.

Forestry. The science of silviculture and the practice and art of managing and using for human benefit forestlands and the natural resources that occur in association with forestlands, including trees, other plants, animals, soil, water, and related air and climate. Forestry is exempt from site plan review if no off-site products are for sale, or if there is no change or expansion of use.

Free Standing Sign. A sign supported by one or more upright poles, columns, or braces placed in or on the ground and not attached to any building or structure.

Front Yard. A yard extending across the full width of the lot and lying between the front line of the lot and the nearest line of the principal building.

Frontage. That continuous portion of a lot line bordering on a highway, street, or right-of-way of class five or better.

Funeral Home. A building or part thereof used for the preparation of the deceased for burial and the display of the deceased and rituals connected therewith before burial or cremation. Such building may contain space and facilities for embalming and the performance of other services used in preparation of the deceased for burial; the performance of autopsies and other surgical procedures; the storage of caskets, funeral urns, and other related funeral supplies; and the storage of funeral vehicles, but shall not include facilities for cremation. Where a funeral home is permitted, a funeral chapel shall also be permitted.

Home Business. A small-scale business operated within a residence and/or accessory structure whose primary commercial activity takes place at the location of the residence and/or the accessory structure *or* a business in which employees, other than employees who are residents of the home, are required to be on the property in a work related capacity. The business must be incidental and subordinate to the use of the lot for residential purposes and not detract from the residential character of the lot. All home businesses must comply with the criteria set forth in Section 1702.00 through Section 1706.

Junk. Unregistered motor vehicles no longer intended or in condition for legal use on the public highways; used parts of motor vehicles or old or used iron, metal, glass, paper, cordage, plastic, rubber, cotton, or woolen wastes or discarded or second-hand material which has been a part or intended to be a part of any motor vehicle; or any

machinery, scrap metal or other worn out, cast off, or discarded articles or materials ready for destruction or collected or stored for salvage or conversion to some use. Any article or material which unaltered or unchanged and without further reconditioning can be used for its original purpose as readily as when new, shall not be considered as junk. Farm trucks, tractors, and machinery are excluded from the above definition.

Junkyard. Any business and any place of storage or deposit, whether in connection with another business or not, which has stored or deposited 2 or more unregistered motor vehicles which are no longer intended or in condition for legal use on the public highways, or used parts of motor vehicles or old iron, metal, glass, paper, cordage, or other waste, or discarded or secondhand material which has been a part, or intended to be a part, of any motor vehicle, the sum of which parts or material shall be equal to 2 or more motor vehicles. Junk yard shall also include any place of business or storage or deposit of motor vehicles purchased for the purpose of dismantling the vehicles for parts or for use of the metal for scrap and where it is intended to burn material which are parts of a motor vehicle or cut up the parts thereof. This definition includes garbage dumps and sanitary landfills. This definition does not include any motor vehicle dealers registered with the director of motor vehicles under RSA 261:104 and controlled under RSA 236:126.

Lot. A lot is a registered or recorded parcel of land, occupied or capable of being occupied by one building or use and the building or uses accessory thereto, including such open spaces and yards as are required by this Ordinance. A lot may or may not be the land shown or described as a lot on the recorded deed or plan.

Lot Line. The established division line between lots or between a lot and a street.

Manufactured Housing. This term shall have the same meaning as that set forth in RSA 674:31, as that term is from time to time amended. The definition of this term as of the date of the passage of this Ordinance is set forth as follows: 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.

Motel. A building or buildings containing units consisting of a room or a suite of rooms; each unit having a separate exterior entrance, to be offered as sleeping accommodations for transient guests for compensation, and where a general kitchen and dining room may be provided within the central building or in an accessory building.

Nonconforming Lot. A lot which does not conform to the frontage or area requirements of the district in which it is located.

#### Nonconformities

Nonconforming Structure. A structure that legally existed prior to the adoption of the Ordinance and does not conform to the current ordinance requirements for the district in which it is located.

Nonconforming Use. A non-conforming use is the use of any building or land lawfully occupied at the time of the passage of this Ordinance which does not conform to the regulations of the district in which it is located.

Personal Services. Establishments primarily engaged in providing services involving the care of a person or his or her personal goods or apparel, such as beauty shops, dry cleaners and domestic services.

Public Right-of-Way. All town, state, and federal highways and roads and the land on either side of the same as covered by statutes to determine the widths of rights-of-ways.

Rear Yard. A yard extending across the full width of the lot and lying between the rear lot line of the lot and the nearest line of the principal building.

Regulatory Floodway. 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 cumulatively increasing the water surface elevation more than one foot.

Restaurant. An establishment in which food and drink are prepared, served and consumed primarily within the principal building.

Setback. The minimum horizontal distance between the street or way line and the line of the building.

Side Yard. A yard extending between the side lot line of the lot and the nearest line of the principal building and then extending from the front yard to the rear yard.

Sign. Any device visible from a public place that displays either commercial or noncommercial messages by means of graphic presentation of alphabetic or pictorial symbols or representations. Noncommercial flags or any flags displayed from flagpoles or staffs will not be considered to be signs.

Sign, Abandoned. Any sign that does not display a well-maintained message for a consecutive 120-day period – A sign the owner of which cannot be located after reasonable efforts have been made – A sign no longer fully supported, by the structure designed to support the sign, for a consecutive 120-day period – Any sign no longer advertising bona fide business and/or products sold.

Sign, Alteration. Any change or modification to a sign which modifies the structural plan, manner of construction or the kind of material used, or in any way varies the character or its use.

Sign, Animated. Any sign which includes action or motion, such as changing electronic sign or electronic message center. Also see “Moving, Blinking, flashing and rotating signs”

Sign, Area. The space, on the largest single face of a sign, within and including a perimeter which forms the outside shape of a sign.

Sign, Awning. A sign painted on or attached flat or flush against the surface of the awning, but not extending above, below or beyond the awning or attached to the underside. The copy area on awnings is computed as all or portion of the allowed wall sign area.

Sign, Background Area. The total area of a sign face on which copy could be placed, often referenced to in connection with wall signs.

Sign, Banner. A temporary sign of lightweight material (paper, plastic or fabric) hung either with or without frames. Flags and insignias containing markings or any government, corporation or business are not considered banners, and are defined as flags. Banner signs are regulated as “Long-Term Temporary Signs” for the purpose of this ordinance.

Sign, Billboard. See “Sign, Off-Premises”

Sign, Blinking. See “Sign, Flashing”

Sign, Canopy or Marquee. Any sign attached to or part of a canopy or marquee. The copy area on such signs is computed as all or a portion of the allowed wall sign area.

Sign, Changeable (manual). A sign that is designed so that the message, characters, letters or illustrations can be manually (as opposed to electronically) changed or rearranged without altering the face or the surface of the sign. A sign permit is required for the initial establishment of the sign. (Also, see “Changing Sign (electronic)”, “Electronic Message Center”, “Temporary Sign” and “Portable Sign”.

Sign, Changing (electronic). A sign that is either electronically or electrically controlled to illustrate different copy changes on the same sign. This sign's message may be changed by electronic switching or automatic switching of lamps or alteration in the level of illumination or other illumination source to form words, letters, designs, figures, numerals and pictures often through the apparent vertical or horizontal movement of light. Such signs shall not include a flashing light source. In the case of a changing sign (electronic), flashing shall be defined as an interval of illumination less than five (5) minutes in duration; provided, however, that time and temperature text shall be maintained for a period of fixed illumination of not less than five (5) seconds in duration. A changing sign includes, without limitation, time, temperature, date and message centers or reader boards, indexing signs, and those known as electronic message centers (Also, see "Flashing Sign").

Sign, Copy. Those letters, numerals, figures, symbols, logos and graphic elements comprising the content or message of a sign, excluding numerals identifying a street address only.

Sign, Directional. Any sign that is designed and erected for the purpose of providing direction and/or orientation for pedestrian or vehicular traffic.

Sign, Electronic Message Board or Center. An electrically activated changeable sign whose variable message capability can be electronically programmed (Also, see "Changing Sign (electronic)").

Sign, Fascia. See "Sign, Wall".

Sign, Flashing. A flashing sign contains an intermittent light source or includes the illusion of intermittent light by means of animation or an externally mounted intermittent light source. Flashing signs are prohibited in all zoning districts in the town (See section 1604.09).

Sign, Free Standing. See "Sign, Monument".

Sign, Government. Sign authorized by the Town of Brookline, another governmental agency, the State of New Hampshire, or the federal government such as directional, warning, or information signs.

Sign, Ground. A sign supported by one or more uprights, poles, pylons, or foundation elements in or upon the ground and not attached to a building.

Sign, Illuminated. A sign characterized by the use of artificial light, either projecting through its surface(s) (internally illuminated); or reflecting off its surface(s) (externally illuminated).

Sign, Long-Term Temporary (LTT). Any sign established for a temporary period of not more than six (6) months.

Sign, Marquee. See "Sign, Canopy".

Sign, Monument. A sign established on a freestanding frame, mast or pole and not attached to any building. Where such signs are established back to back the larger face shall be calculated for the purposes of determining allowable area. Also known as detached sign, freestanding sign, pole sign, ground sign and pylon sign.

Sign, Moving. Characterized by repetitive motions and/or rotation activated by a mechanical system powered by electric motors or other mechanically induced means. Also animated signs or devices motivated by wind, thermal changes or other natural environmental input. Includes spinners, pinwheels, pennant strings, and/or other devices or displays that respond to naturally occurring external motivation. Moving signs are prohibited in all zoning districts in the town (See section 1604.09).

Sign, Off-Premise. Any sign visible from a public right-of-way identifying or advertising a business, person, activities, goods, products or services not located on the premises where the sign is installed and maintained.

Sign, On-Premises. Any sign visible from a public right-of-way identifying or advertising a business, person, activity, goods, products or services located on the premises where the sign is installed and maintained.

Sign, Permanent. A permanent sign is any sign established for a period of greater than six (6) months.

Sign, Portable. A sign that is not permanently affixed to a building, other unmovable structure, or the ground.

Sign, Roof. A sign mounted on, and supported by, the main roof portion of a building, or above the uppermost edge of a parapet wall of a building and which is wholly or partially supported by such a building. Signs mounted on mansards facades, pent eaves and architectural projections such as canopies or marquees shall not be considered to be roof signs.

Sign, Rotating. See “Sign, Moving”

Sign, Short-Term Temporary (STT). Any sign which is established for no more than fourteen (14) calendar days.

Sign Structure. Any structure supporting a sign.

Sign, Temporary. A sign intended for use for a limited period of time (See Sign, Long-Term and Sign, Short-Term)

Sign, Time and Temperature. A Sign which typically refers to the current time and temperature only.

Sign, Wall. Any external sign which is painted on, incorporated into, or affixed to the wall or roof of a building.

Sign, Window. A sign affixed to the surface of a window with its message intended to be visible to and readable from the public way or from adjacent property.

Structure. Anything constructed that is of necessity attached directly or indirectly to the ground.

Subdivision Sign. A sign intended to identify the name of a residential subdivision.

Temporary Sign. A sign intended for use for a limited period of time.

Tourist Home. A dwelling in which accommodations are provided or offered for transient guests for compensation.

Tourist or Motor Courts. Two or more overnight cabins operated as part of a single business.

Two Dwelling Unit Dwelling. A dwelling occupied by two families with two separate housekeeping units.

**300.00 GENERAL PROVISIONS**

**301.00** No junk yard or place for the storage of discarded machinery, vehicles, glass, paper, cordage, garbage, refuse, or other waste or discarded materials shall be maintained in the Town, exclusive of the area known as the Town Dump.

**302.00** No owner or occupant of the land shall permit fire or other ruins to be left, but shall remove same to ground level within one year.

**303.00 Sanitary Protection**

**303.01** No waste waters or sewage shall be permitted to run free into a public water body or be discharged in any way that may be offensive or detrimental to health.

**303.02** All dwellings and sanitary systems should be constructed and maintained in accordance with standards set and enforced by the New Hampshire Water Supply and Pollution Control Commission.

**304.00** Within the Regulatory Floodway, any development or encroachment (including fill) which would result in any increase in flood levels during the base flood discharge is prohibited.

**305.00** No subsurface storage of petroleum or related products (including gasoline) and the subsurface transmission of petroleum or related products through pipelines shall be allowed within Town, with the following exceptions: 1) Propane or liquefied natural gas; 2) Storage tanks not in excess of 1,100 gallons. Storage tanks in excess of 1,100 gallons must comply with the New Hampshire Water Supply and Pollution Control Division's Code of Administrative Rules Part Ws 411, Control of Nonresidential Underground Storage and Handling of Oil and Petroleum Liquids.

**306.00** For the purpose of this part, "development" is defined to mean "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 operations."

**307.00** **Building Permits** – The State of New Hampshire Building Code pursuant to RSA 155-A including adopted Appendix Chapters and amendments, shall govern and regulate the construction, alteration, movement, enlargement, replacement, repair, equipment, location, removal and demolition of all dwelling units and all commercial and industrial buildings in the Town of Brookline, said Codes also provide for the issuance of permits and collection of fees. Accessory Buildings of 100 square feet or less shall not require a building permit but shall be required to meet all setback requirements.

**400.00**     ***DISTRICTS***

For the purpose of this Ordinance the entire Town of Brookline shall be divided into two districts which shall be called:

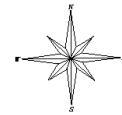
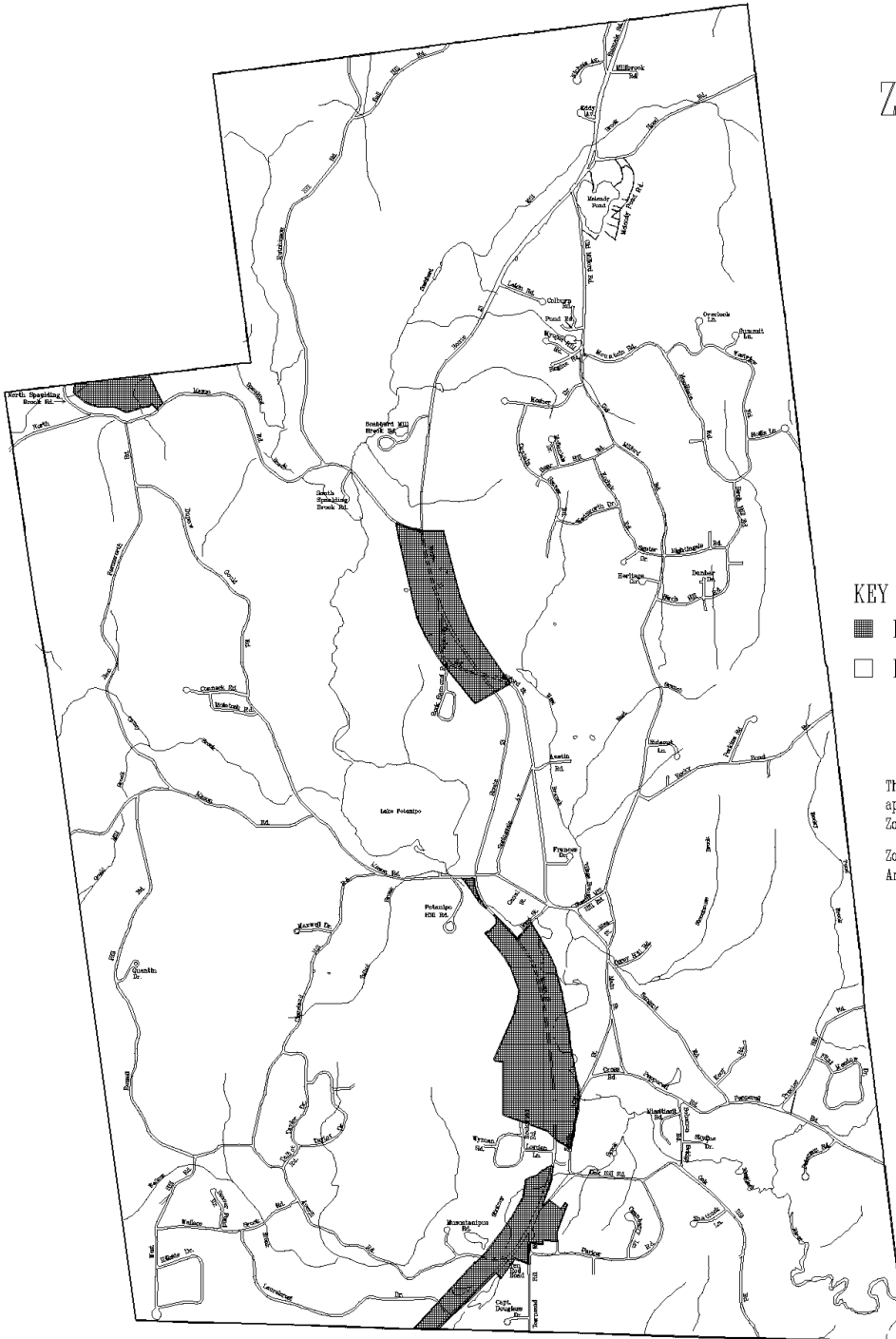
- A. Industrial-Commercial District
- B. Residential-Agricultural District

These two districts may also include areas designated Regulatory Floodway as delineated on the Flood Insurance Maps of the Town of Brookline dated May 19, 1987, as prepared by the Federal Emergency Management Agency - Federal Insurance Administration, or as amended.



Other overlay zones include the Wetlands Conservation District and the Aquifer Protection District.

**TOWN OF BROOKLINE  
ZONING DISTRICTS**

Town of  
**BROOKLINE**  
ZONING MAP



**KEY**

-  INDUSTRIAL/COMMERCIAL
-  RESIDENTIAL/AGRICULTURAL

The districts shown on this map are approximate. Please refer to the Brookline Zoning Ordinance for exact boundaries.

Zoning prepared by NRPC  
Amended by NRPC - Date Printed: 4-8-97.





**500.00 INDUSTRIAL-COMMERCIAL DISTRICT**

**501.00 Location**

The Industrial-Commercial District shall be:

- a. bounded by NH Route 13 to the east; the portion of all lots (excluding lots J-41 and J-41-1) within 500 feet of NH Route 13, between the Massachusetts State Line and northern boundary of lot J-20; and lot J-19.
- b. bounded by NH Route 13 to the east; Lot G-27; the portion of lot G-52 east of the old tract line (approximately 528 feet west of lot G-27); lot G-52-2; G-59; lot G-52-1; the portion of lot G-53 within 500 feet of NH Route 13, lot G-55; lot G-53-1; and lot G-54.
- c. the area within 500 feet of NH Route 13 from a point 500 feet south of Route 130 North to North Mason Rd. on both sides of NH Route 13; and lot C-42.
- d. Lots K-76, K-77.
- e. the area within 500 feet east of NH Route 13 from Bond St. south to South Main St., then following South Main St. to the southern boundary of Lot H-23-1.
- f. Lot G-20.
- g. Lots K-81 and K-75.
- h. A portion of Tax Map Parcel A-6 of approximately 35 acres, located within the following boundaries:

Beginning at a point on the northerly side of the North Mason Road, said point being 800 feet easterly of the centerline intersection of North Mason Road and Ben Farnsworth Road; thence by said northerly sideline of said North Mason Road

  1. Easterly 250 feet to a point; thence through said Tax Map Parcel A-6
  2. Northerly perpendicular to the Brookline/Milford Town Line to a point on said Town Line; thence by said Town Line
  3. Westerly to a point, said point being 200 feet easterly of and perpendicular to the easterly sideline of Spaulding Brook Road; thence by a line 200 feet easterly from and parallel to said easterly sideline of Spaulding Brook Road
  4. Southwesterly and Southeasterly to a point that is 200 feet northerly of and perpendicular to said northerly sideline of North Mason Road; thence by a line that is 200 feet northerly from and parallel to said northerly sideline of North Mason Road
  5. Easterly to a point that is directly opposite and perpendicular to the point of beginning; thence
  6. Southerly 200 feet to the point of beginning.
- i. Lots F-2 and F-4.
- j. Lot K-26

**502.00 Uses Permitted**

- a. Excavations (as per Section 1000)
- b. Establishments offering goods for sale including dry goods, foods, hardware, clothing and apparel, motorized vehicles, and other general retail commodities
- c. Farming & Forestry
- d. Lumber Yards and lumber mills
- e. Health care facilities
- f. Theaters
- g. Hotels/motels
- h. Warehousing, assembling & manufacturing
- i. Office parks
- j. Residential dwelling units existing prior to March 14, 1992 and home businesses within these units subject to the provisions of Section 1700
- k. Banks and financial institutions
- l. Restaurants
- m. Professional offices
- n. Personal services and offices
- o. Churches and associated parsonages
- p. Public, private, or non-profit recreational facilities, fraternal orders, or membership clubs
- q. Schools, nurseries and day care centers
- r. Funeral homes
- s. Automobile fueling, service and repair stations
- t. Post offices
- u. Police and fire stations
- v. Any commercial use which does not offend by emission of smoke, dust, gas, noise, odor, or fumes
- w. Telecommunication towers and co-location of telecommunication facilities on existing towers or structures which are in compliance with Section 1900 and subject to Planning Board review and approval under the Non-Residential Site Plan regulations
- x. Adult sexually oriented businesses in accordance with Section 504.00 of this Ordinance

**503.00**     ***Lot Requirements***

**503.01**     ***Frontage.*** Every building lot shall have at least 150 feet of frontage.

503.02 Setbacks:

- a. *Front.* Each structure shall be setback at least 30 feet from the front lot line.
- b. *Side and Rear.* Each structure shall be at least 15 feet from side and rear lot lines. In the case of a corner lot, the side distance shall be increased to 25 feet on the side bordering the frontage.

503.03 Land Area. Each building lot shall be at least one (1) contiguous acre excluding wetlands.

503.04 Site Coverage. No more than seventy-five percent (75%) of the gross area of any lot may be occupied by structures and impervious surfaces. Commercial buildings, structures and parking areas in existence as of March 12, 1996 that exceed the permitted lot coverage within the district may be maintained at, or rebuilt to, the existing level. Any increase in impervious area will not be permitted.

503.05 Building Requirements.

1. Height: Except for structures not intended for human occupation (such as chimneys, water towers, and church spires), maximum building height is 35 feet, calculated from the average finished ground level adjoining the building at all exterior walls.
2. Accessory Buildings: Accessory buildings of 100 square feet or less shall not require a building permit but shall be required to meet all setback requirements and Section 300.00, General Provisions.

**504.00 *Adult Sexually Oriented Businesses***

The purpose of this ordinance is to establish reasonable and uniform regulations to prevent the concentration of adult sexually oriented businesses within the Town of Brookline, NH; to promote the health, safety and general welfare of its citizens; and, to prevent problems of blight and deterioration which accompany and are brought about by the concentration of adult sexually oriented businesses. The provisions of this ordinance have neither the purpose nor the effect of imposing limitations or restrictions on the content of any communicative materials, including sexually oriented materials. It is neither the intent nor the effect of this article to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this article to condone or legitimize the distribution of obscene material.

- a. No adult sexually oriented business shall be permitted within five hundred (500) feet of a Residential-Agricultural District. With the exception of distances between two separate adult businesses, distance shall be measured in a straight line, without regard to intervening structures, from the closest property line or boundary of any adjacent district, place or use to the closest exterior wall or temporary or permanent physical divider for the structure housing the adult sexually oriented business.
- b. No adult sexually oriented business shall be permitted within seven hundred fifty (750) feet of any public sports/ recreation park, church, place of worship, parish house, convent, public, parochial, or private school, drug free zone, kindergarten, licensed day care or nursery school, or State approved day care center.
- c. No adult sexually oriented business shall be permitted within five hundred (500) feet of town boundaries.

- d. No adult sexually oriented business shall be permitted within seven hundred fifty (750) feet of another existing adult sexually oriented business or one for which a non-residential site plan has been submitted. Distance shall be measured in a straight line, without regard to intervening structures, from the closest exterior wall or temporary or permanent physical divider for the a structure housing an adult sexually oriented business to the closest exterior wall or temporary or permanent physical divider for another structure housing an adult sexually oriented business.
- e. No adult sexually oriented business shall be permitted within a property, building, premise, structure, or other facility that contains an existing adult sexually oriented business or within one for which a certificate of occupancy has been applied.
- f. No sexually explicit material or advertising shall be visible from outside the building.
- g. No private viewing rooms or booths shall be constructed unless one side is always lighted and open to a public central area.
- h. For those uses permitted in the district which sell sexually explicit goods and paraphernalia, such sexually explicit goods and paraphernalia must not be located within ready view to children and minors under the age of 18.
- i. Hours of operation - 10 AM to 11 PM Monday to Saturday and 12 noon to 9 PM Sundays.
- j. No one under 18 years of age allowed on the premises of an adult sexually oriented business.
- k. The site shall be maintained daily in a condition that is free and clear of litter. All discarded sexual paraphernalia and/or packaging materials shall be placed in a locked dumpster.
- l. The use shall not create undue traffic, congestion or hazard, including vehicular and pedestrian movement.
- m. When reviewing site plan applications the planning board may impose reasonable restrictions for buffering, outdoor lighting, and landscaping and building aesthetics as provided in the 'Town of Brookline: Non-Residential Site Plan Regulations'.
- n. Such a use will be subject to all other federal, state statutes and local permitting requirements.

**600.00 RESIDENTIAL-AGRICULTURAL DISTRICT**

**601.00 Location**

The Residential-Agricultural District shall be:

- a. All areas of town not designated as the Industrial-Commercial District.

**602.00 Uses Permitted**

- a. Single dwelling unit dwellings, two dwelling unit dwellings.
- b. Churches, synagogues, parish houses, convents, day nurseries, kindergartens, and day care centers.
- c. Municipal buildings, schools, and institutions of higher learning.
- d. Recreation and community center buildings and grounds for games and sports.
- e. Farming and Forestry activities are permitted when incidental to primary residential use.
- f. Farm stands, provided that the stand is set back a minimum of 30 feet from abutting road right-of-way lines; the building area of the farm stand is not greater than two hundred (200) square feet; a minimum of two off-street parking spaces meeting the dimensional requirements of this Ordinance are provided; and the stand does not pose a threat to public health, safety and welfare. Year-round, permanent structures for the sale of farm products must receive Non-Residential Site Plan approval from the Planning Board.
- g. Manufactured housing in approved Manufactured Housing Districts subject to the provisions of Section 700.
- h. Any use injurious, obnoxious, or offensive to the neighborhood is prohibited.
- i. Telecommunication towers and co-location of telecommunication facilities on existing towers or structures which are in compliance with Section 1900 and subject to Planning Board review and approval under the Non-Residential Site Plan regulations.

**602.01 Uses Permitted by Special Permit**

- a. **Home businesses** shall be allowed by special permit, and pursuant to authority provided by RSA 674:21, the Planning Board is authorized to determine whether such special permit shall issue, after a hearing in which the Planning Board determines that the proposed use is capable of being carried out in a manner consistent with the standards set forth in Section 1700 of this ordinance. Applications to the Planning Board to such a special permit shall be made in the same manner and subject to the same approval requirements of an application for non-residential site plan approval, as identified in section 6.2.A, submission requirements for home businesses.
- b. **Bed and Breakfasts** shall be allowed by special permit, and pursuant to authority provided by RSA 674:21. The Planning Board is authorized to determine whether such special permit shall be issued, after a hearing in which the Planning board determines that the proposed use is capable of

being carried out in a manner consistent with the standard set forth in Section 2400 (Bed and Breakfast) of this ordinance. Applications to the Planning Board for such a special permit shall be made in the same manner and subject to the same approval requirements of an application for non-residential site plan approval, as identified in Section 6.2.B, submission requirements for Bed and Breakfasts.

**603.00**     ***Lot Requirements***

603.01     Frontage. Every building lot shall have at least 200 feet of frontage except back lots.

603.02     Setbacks:

- a.   *Front*. Each structure shall be setback at least 30 feet from the front lot line.
- b.   *Side and Rear*. Each structure shall be at least 15 feet from side and rear lot lines. In the case of a corner lot, the side distance shall be increased to 30 feet on the side bordering the frontage.

603.03     Land Area. Each building lot shall have at least 80,000 contiguous square feet, excluding wetlands.

603.04     Number of Dwelling Units. Only one dwelling unit shall be permitted per individual building lot, except as provided in Section 2000.00, Accessory Dwelling Units. A two-family dwelling unit shall require at least 160,000 contiguous square feet of land excluding wetlands.

603.05     Building Requirements.

1. Height: Except for structures not intended for human occupation (such as chimneys, water towers, and church spires), maximum building height is 35 feet, calculated from the average finished ground level adjoining the building at all exterior walls.
2. Square Footage: Any new dwelling unit shall contain at least 576 square feet of first floor living area and manufactured housing to have 320 square feet.
3. Accessory Building: Accessory Building of 100 square feet or less shall not require a building permit but shall be required to meet all setback requirements and Section 300.00, General Provisions.

603.06     Back Lots.

- a.   Requires a minimum lot area of at least five (5) acres with a buildable area of at least 80,000 contiguous square feet of land excluding wetlands.
- b.   A back lot requires minimum frontage of 30 feet.
- c.   No building shall be erected closer than 100 feet from an existing public road.
- d.   A two-family dwelling unit requires a minimum lot area of ten (10) acres with a buildable area of at least 160,000 contiguous square feet of land excluding wetlands.

**610.00**     ***LEFT INTENTIONALLY BLANK***

**620.00**     ***WORKFORCE HOUSING OPTION***

**621.00 Purpose**

The purpose of this Section is to provide an option for including workforce housing as a permitted use in the Residential-Agricultural District, consistent with the requirements of NH RSA 674:58-61. The section is intended to:

1. Provide opportunity for the development of affordable workforce housing;
2. Ensure the continued availability of a diverse supply of home ownership and rental opportunities;
3. Meet the goal of providing safe, affordable housing opportunities as set forth in the town’s Master Plan;
4. Address the regional need for workforce housing as documented in the Nashua Regional Planning Commission’s most recent Needs Assessment; and
5. Be consistent with the planning goals in the Town of Brookline, NH.

**622.00 Authority**

This section is adopted under the authority of RSA 674:21, Innovative Land Use Controls, and is intended as an “Inclusionary Zoning” provision as defined in RSA 674:21(I)(k) and also intended to comply with NH RSA 674:58 – 61, inclusive.

**623.00 Applicability**

1. Permitted Uses

Single family, duplex, multi-family and manufactured housing can qualify as workforce housing. A mix of housing types within the same development is permitted only along the NH Route 13 corridor, defined as land in the Residential / Agricultural District within 500 feet of the NH Route 13 right of way on both sides of the highway. Only single family and duplex units outside of the NH Route 13 corridor are permitted in the Residential / Agricultural District as workforce housing. A multi-family building unit shall have no more than five (5) contiguous/attached units per building on at least three (3) acres. The proposed development could consist entirely of workforce housing units or could be a mix of workforce and market rate units.

**624.00 Procedural Requirements**

Any applicant who applies to the Planning Board for approval of a development that is intended to qualify as workforce housing under this section shall follow the Town’s normal application procedure for a subdivision approval as defined in the Town’s Subdivision Regulations. Any such applicant shall also file a written statement of such intent as part of the application as per RSA 674:60.

**625.00 Definitions**

The following terms as used in this section shall have the following definitions and are intended to be consistent with NH RSA 674:58 Definitions, as amended.

1. Affordable: Housing with combined rental and utility costs or combined mortgage loan debt services, property taxes, and required insurance that do not exceed 30 percent of a household’s gross annual income.
2. Multi-family Building: For the purpose of this ordinance, means a building or structure containing no less than two (2) and no more than five (5) dwelling units, each designed for occupancy by an individual household.

3. Reasonable and Realistic Opportunities for the Development of Workforce Housing: Opportunities to develop economically viable workforce housing within the framework of Brookline's municipal ordinances and regulations adopted pursuant to this chapter and consistent with RSA 672:1, III-e.
4. Workforce Housing - Owner occupied: housing which is intended for sale and which is affordable to a household with an income of no more than 100 percent of the median income for a 4-person household for the metropolitan area in which the housing is located as published annually by the US Department of Housing and Urban Development. Brookline is located within the greater Nashua metropolitan area.
5. Workforce housing - Renter occupied: rental housing which is affordable to a household with an income of no more than 60 percent of the median income for a 3-person household for the metropolitan area or county in which the housing is located as published annually by the US Department of Housing and Urban Development. Housing developments that exclude minor children from more than 20 percent of the units, or in which more than 50 percent of the dwelling units have fewer than two bedrooms, shall not constitute workforce housing for the purposes of this ordinance.
6. Area Median Income (AMI): the median income of the greater region, the HUD Fair Market Rent Area to Brookline's, as established and updated annually by the US Department of Housing and Urban Development. Income considers both wage income and assets.

**626.00      *General Requirements of Workforce Housing Units***

1. Dwelling Units qualifying as workforce housing shall be compatible in architectural style and exterior appearance with the market rate dwellings of similar type in the proposed development. For a proposed mixed development consisting of market rate and work force housing units, the split should be 50% market rate and 50% workforce housing, allowing for a variation of 10%. When possible, the workforce housing units should be interspersed throughout the overall development and not concentrated in a separate area of the development.
2. The minimum parcel size for a workforce housing development shall be at least ten (10) contiguous acres excluding wetlands.
3. The minimum lot size for a single family market value unit or a single family workforce housing unit shall be one (1) contiguous acre excluding wetlands. The minimum lot size for a two-family dwelling unit shall be one and one half (1.5) contiguous acres excluding wetlands. The minimum lot size for a three (3), four (4) or five (5) unit multi-family building shall be three (3) contiguous acres excluding wetlands.
4. The frontage shall be as follows: for a single family unit eighty (80) feet; for a duplex one hundred twenty five (125) feet; for a multi-family building two hundred forty (240) feet.
5. The development shall have a vegetated buffer of fifty (50) feet or a value as deemed necessary by the Planning Board on all boundaries of the original parcel except for access to connecting roads.
6. The minimum building setback shall be fifteen (15) feet on the back and side and thirty (30) feet on the front of each individual lot created.
7. The single family dwelling units should have a maximum of 1,500 square feet of gross living area above ground and no more than a two (2) car garage (max. 600 square feet). There should be no limitation in square footage for market value dwellings.
8. There shall be no increase in the amount of gross living area above ground.



9. For units designated and approved as workforce housing, Section 1400 Growth Management / Residential Phasing Ordinance shall not apply. Section 1400 shall apply for market rate units.
10. At the time of application, the applicant or developer shall identify the organization responsible for compliance with Section 629.00 of this ordinance.
11. At the time of application the applicant or developer shall prepare a management plan, acceptable to the Planning Board, that demonstrates compliance with this ordinance.

**627.00      *Density Bonus***

1. The Planning Board may also allow a reduction of the minimum lot size up to 25% per unit in order to accommodate increased site density as long as soil conditions permit the siting of septic system and water supply system within the decreased lot size.
2. The following are considerations in the Planning Board's granting of a reduction in the minimum lot size:
  - a) Designation of 100% of the units as workforce housing units;
  - b) Provision for building design consistent with Brookline's historic architectural style and blends in with the surrounding neighborhood;
  - c) Minimization of impact to environmental resources through the use of low impact design features;
  - d) Provision of a trail or green space connection with adjacent properties; and
  - e) Incorporation of energy saving techniques or the equivalent of Energy Star rating in all building designs.

**628.00      *Road, Way, Access to Development***

1. Access to development containing multi-family units shall be accessed from the Route 13 corridor as described in Section 623.00.
2. Construction, maintenance, plowing, sanding, cleaning of roads, ways, driveways and any other means of access to a workforce housing development shall be, at all times, the entire responsibility of the developer and/or the organization or property management entity.
3. Unless deemed unnecessary by the Planning Board, access to a development shall be via a through roadway connecting existing roads and neighborhoods in order to provide a safe and rapid access to the development / dwelling units for all emergency vehicles.

**629.00      *Affordability***

1. Affordability Compliance

All of the workforce housing units approved under this provision must meet the affordability requirements for workforce ownership housing in Section 625.00 of this ordinance.

2. Assurance of continued affordability

Workforce ownership housing units must retain the development criteria and affordability standards herein for a minimum period of thirty (30) years with a renewable clause through a suitable deed restriction, easement and/or mortgage deed instrument deemed acceptable to the Brookline Planning Board and as monitored through reports provided to the Brookline Planning Board by the designated third-party agent prior to the time of unit sale or resale.

**630.00 Administration**

A third party non-profit or for-profit organization or property management entity shall be responsible for income verification and ongoing affordability compliance. The designated organization or company shall provide appropriate reports to the Brookline Planning Board on these two issues, when necessary.

**631.00 Conflict**

If any provision of this Section is in conflict with the provisions of any other provisions of this ordinance, the more restrictive provision shall apply, except for any provision relating to reductions in standards for lot size, setbacks, or density, in which case the provisions of this Section shall apply.

**632.00 Effective Date**

The effective date of this ordinance shall be as stated in RSA 674:58-61.

**700.00**     **MANUFACTURED HOUSING**

**701.00**     No trailer or manufactured house shall be occupied or maintained as a living unit except in an approved Manufactured Housing District.

**701.01**     Manufactured Housing District Requirements. The Planning Board may approve the location and designation of Manufactured Housing Districts within the Residential-Agricultural District and shall allow the placement of manufactured housing on individual lots within Manufactured Housing Districts intended for occupancy as permanent single dwelling unit dwellings. Any area approved as a Manufactured Housing District, in addition to conforming to the Zoning Ordinance, shall also satisfy the following conditions:

- a. Each proposed Manufactured Housing District must be a minimum of twenty (20) contiguous acres in size excluding wetlands.
- b. Each proposed Manufactured Housing District must contain a vegetated buffer of fifty (50) feet wide, or a value as deemed necessary by the Planning board, on all boundaries of the original parcel except for access to connecting roads.
- c. Each proposed Manufactured Housing District shall conform to the Subdivision Regulations now in existence or as may be amended.
- d. Any dwelling unit shall contain at least 320 square feet of living area.

**701.02**     Application. Any application for the establishment and designation of a Manufactured Housing District shall be an attachment to, and a part of, the application for subdivision approval required by the Subdivision Regulations and shall contain certification by the owner (if different from applicant) of the request for Manufactured Housing District Designations.

**702.00**     The provisions of this section shall not apply to the continued use and occupancy of any manufactured housing used as a dwelling as of the date of the passage of this section, nor to a manufactured house hereafter acquired as a replacement by the owner of a manufactured house so used.

**703.00**     The placement of manufactured housing is prohibited within the designated Regulatory Floodway, except in existing manufactured housing parks.

## **800.00      *NONCONFORMING USES, STRUCTURES AND LOTS***

The purpose of this section is to allow for the lawful continuance of nonconforming uses, structures and lots, in accordance with the criteria outlined below and to allow for a reasonable level of alteration, expansion or change to occur by special exception when it can be demonstrated that the proposed alteration, expansion or change will not change the nature of the use, unduly impact the neighborhood or provide inadequate subsurface disposal of waste.

### *800.01      Nonconforming Uses*

- a. Any nonconforming use may continue in its present use, however, it shall not be changed to another nonconforming use.
- b. Whenever a nonconforming use has been intentionally discontinued or abandoned for a period of one year the use shall not be reestablished.
- c. Except for proposal “B” (see diagram in section 800.03), any alteration, expansion or change of a nonconforming use or structure shall only be permitted by special exception by the Zoning Board of Adjustment if it finds that:
  1. The proposed alteration, expansion or change will not change the nature and purpose of the original use; and
  2. The proposed alteration, expansion or change would involve no substantially different effect on the neighborhood; and
  3. Any increase in heated living space which, in the judgment of the Zoning Board of Adjustment, is capable of increasing the number of bedrooms for a nonconforming dwelling or lot, may require that the septic system be approved by the NH Division of Water Supply and Pollution Control and the Town of Brookline in accordance with the provisions of RSA 485-A:38 and the Town’s regulations for the number of bedrooms currently in the home or proposed for the home.

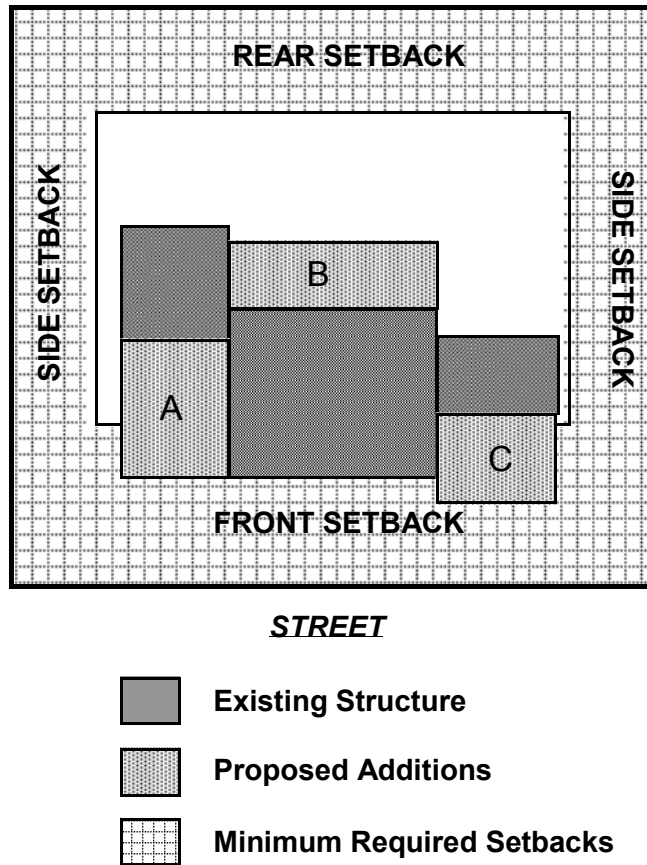
### *800.02      Nonconforming Lots*

- a. A nonconforming lot that has been developed with a structure may continue in its present use; however any alteration or expansion, shall comply with Section 800.01 c.
- b. A nonconforming lot which is recorded and taxed as a lot of record at the time of passage of this Ordinance may be used for any permitted use in the district in which it is located. Every attempt shall be made to conform to the lot size/setback requirements of the zone.
- c. Where two (2) or more nonconforming, undersized, lots abut and are under common ownership, prior to the issuance of a building permit the parcels shall be merged into one lot and shall comply with the zoning requirements to the best of their ability. Every attempt shall be made to conform to the lot size/setback requirements of the zone.
- d. Any changes to existing septic systems on nonconforming lots must comply with all local and state requirements for septic systems to the maximum extent possible.

800.03 *Nonconforming Structures*

Any lawful nonconforming structure existing at the time of adoption of this Ordinance, may be occupied, operated and maintained; however, any alteration, expansion or change of the structure that further aggravates a front, side or rear setback shall only be permitted by special exception in accordance with Section 800.01 c and the diagram below.

**Expansions of structures with nonconforming setbacks**  
(Not drawn to scale)



**Explanation:** Proposal “A” requires a special exception;  
Proposal “B” requires no action by the Board of Adjustment;  
Proposal “C” requires a grant of variance by the Board of Adjustment, provided, however, that in addition to meeting the legal standard for a variance, the proposal also meets the general criteria for a special exception found in this Ordinance;  
Accessory structures that can meet the setbacks do not require a special exception.

**900.00 LOT OF RECORD**

**901.00 Ownership Classifications**

901.01 Where a lot in separate ownership, the deed to which is duly recorded on or before 12 March 1968 and which is recorded and taxed according to the 1972 tax records of the Town of Brookline, NH, does not conform to the area and frontage requirements of the zone in which it is located, such lot may be used for any purpose permitted in that zone on said date provided that such use conforms with the requirements of the Water Supply and Pollution Control Commission (WSPCC).

901.02 Any lot in separate ownership the deed to which is duly recorded between 13 March 1968 and 29 October 1971 and which is recorded and taxed according to the 1972 tax records of the Town of Brookline, NH, may be used for any purpose permitted between said dates in the zone in which it is located provided that it contains an area of 40,000 square feet, has a frontage of not less than 150 feet, and complies with the requirements of the WSPCC.

**902.00 Requirements**

902.01 Any person having a lot size of 40,000 square feet for a single dwelling unit dwelling or 80,000 square feet for a two-family dwelling, 150 feet of frontage, and who can meet the set back and side line requirements as set forth in the Zoning and Land Use Ordinance shall not require a variance in order to obtain a building permit.

902.02 Any person having a lot size of less than 40,000 square feet for a single dwelling unit dwelling or 80,000 square feet for a two-family dwelling, and/or less than 150 feet of frontage or who cannot meet the Zoning Ordinance requirements shall require a variance prior to the issuance of a building permit if the changes will either:

- a. increase the exterior dimensions of the structure so that is not in compliance with the Building Code\* (See Appendix A: Table of Amendments, 2010) and Zoning Ordinance; or
- b. increase the sewage flow as determined by New Hampshire Water Supply and Pollution Control Commission and the Brookline Health Codes.

902.03 An application requesting a permit to occupy a lot not conforming in size and/or frontage as otherwise required under this Ordinance shall be accompanied by the original or a certified copy of the recorded deed in question.

902.04 A lot shall not be used as a building site unless it has frontage in the amount specified in the Ordinance on a Class V or better road and access is obtained directly from a Class V or better road.

**1000.00 EARTH REMOVAL**

**1000.01** Excavation shall be deemed to be a use allowed by special exception in the Industrial-Commercial District as provided in RSA 674:33 IV.

**1000.02** Excavations performed exclusively for the lawful construction, reconstruction, or maintenance of a class IV or V highway by the Town of Brookline shall be permitted within Town by special exception as provided in RSA 674:33 IV.

**1000.03** The Zoning Board of Adjustment shall grant such a special exception upon a finding that the applicant has demonstrated that:

- a. The excavation will not cause an unreasonable diminution in area property value or unreasonably change the character of the neighborhood;
- b. The excavation will not unreasonably accelerate the deterioration of highways or create safety hazards in the use thereof;
- c. The excavation will not create any unreasonable nuisance or create health or safety hazards;
- d. The excavation site shall contain natural buffers or other visual buffers to adequately protect the health, safety, and welfare of abutters and Town residents. This buffer shall be used to minimize noise impact, dust impact, visual impact and biological impact of the excavation;
- e. The excavation will not cause erosion of adjacent property;
- f. The excavation will not destroy a habitat of an endangered species.

**1001.00** The Planning Board shall not grant an extension of an excavation permit unless extenuating circumstances exist. A limit of one extension of an excavation permit shall not exceed a period of one (1) year.

**1002.00** No new development can be approved or built on a lot which has an existing excavation until reclamation has been completed, as this will be considered premature development.

**1003.00** Any excavation must also meet the Excavation Regulations and get an Excavation Permit from the Planning Board.

**1004.00** In addition, the excavation will adhere to the Brookline Zoning and Land Use Ordinance including, but not limited to the Aquifer Protection Ordinance and Wetlands Conservation District.

## **1100.00 WETLANDS CONSERVATION DISTRICT**

### **1101.00 Purpose and Intent**

The purpose of the Wetlands Conservation District is to protect the public health, safety and general welfare by controlling and guiding the use of land areas which have been found to be subject to high water tables for extended periods of time. It is intended that this Ordinance shall:

- a. Prevent the destruction of, or significant changes to, natural wetlands which provide flood protection, discharge and recharge of groundwater supplies, and continuing existence of important wildlife areas;
- b. Prevent the development of structures and land uses on naturally occurring wetlands, which would contribute to pollution of surface and groundwater by sewage or toxic substances;
- c. Protect sensitive, unique and unusual natural areas;
- d. Protect the quality and quantity of existing and potential water supplies, aquifers and aquifer recharge areas;
- e. Encourage those uses that can be appropriately and safely located in wetland areas.

### **1102.00 Definitions**

For the purposes of the Wetlands Conservation District the following definitions apply:

**1102.01** Accessory Structure: For purposes of this Ordinance an accessory structure shall be considered any structure that serves and is in addition to a primary structure. Examples of an accessory structure include, but are not limited to sheds, gazebos and detached garages.

**1102.02** Best Management Practices: When referring to forestry *Best Management Practices* are defined in a publication entitled "Best Management Practices for Erosion Control on Timber Harvesting Operations in New Hampshire" prepared by the New Hampshire Department of Resources and Economic Development, and Wt. 304.05 Logging Operations, Rules Governing Wetlands, April 21, 1997, as amended. When referring to stormwater management and erosion and sediment control, technical standards are contained in "Stormwater Management and Erosion and Sediment Control for Urban and Developing Areas in New Hampshire", DES, RCCD, 1992 and "Manual of Best Management Practices to Control Non-point Source Pollution: A Guide for Citizens and Town Officials," DES, November, 1997. When referring to agriculture, Best Management Practices are defined in the publications entitled "Manual of Best Management Practices for Agriculture in New Hampshire", Department of Agriculture, Markets & Food, June 1995, and "Best Management Wetlands Practices For Agriculture" July 1993, as amended.

**1102.03** Bog: A wetland area distinguished by stunted evergreen trees and shrubs, peat deposits, poor drainage and/or highly acidic soil and/or water conditions.

**1102.04** Buffer Zone: An upland area adjacent to a wetland or surface water where construction is not permitted.

**1102.05** Certified Soil Scientist: A person qualified in soil classification and mapping who is certified by the State of New Hampshire Board of Natural Scientists, as defined by RSA 310-A:76, II.



- 1102.06 Certified Wetland Scientist: A person qualified to delineate wetland boundaries and prepare wetland maps who is certified by the State of New Hampshire Board of Natural Scientists, as defined by RSA 310-A:76, II-a.
- 1102.07 Erosion Control Measures: For purposes of this district, all construction and/or development shall incorporate design standards for erosion and sedimentation control which at a minimum reflect the standards set forth in the document, "Stormwater Management & Erosion & Sediment Control for Urban & Developing Areas in New Hampshire", DES, RCCD, 1992, and Chapter Env-Ws 415 of the NH Code of Administrative Rules.
- 1102.08 Hydric Soils: Soils that are saturated or flooded during a sufficient portion of the growing season to develop anaerobic conditions in the upper soil layers.
- 1102.09 Natural Vegetative Buffer: For purposes of this district shall mean, where existing, a natural woodland buffer shall be maintained within the Wetland Conservation District.
- 1102.10 Prime Wetland: Under the New Hampshire statute (RSA 482-A) for protecting wetlands from "despoliation and unregulated alteration", municipalities are able to designate some of their high value wetlands as "Prime Wetlands" (RSA 482-A:15). These designated wetlands are given special consideration by the Wetlands Board in permit application reviews within the scope of RSA 483-A and NH Code of Administrative Rules WT 700.
- 1102.11 Primary Structure: For purposes of this Ordinance a primary structure shall be considered the main structure on a lot that serves as a residence or a place of business.
- 1102.12 Site Specific Soils Map: A map developed from information prepared in accordance with "Site Specific Soils Mapping Standards for New Hampshire and Vermont," Society of Soil Scientists of Northern New England Publication No. 3, 1997, as amended.
- 1102.13 Special Exception: A use of land or buildings that may be permitted, subject to specific conditions that are set forth in the Ordinance. RSA 674:33 gives the local zoning board the power to grant those exceptions, which are clearly specified in the Ordinance.
- 1102.14 Surface Waters: Those waters, as defined by RSA 484-A:4, which have standing or flowing water at or on the surface of the ground. This includes but is not limited to rivers, streams, lakes, and ponds.
- 1102.15 Wetland: An area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal conditions, does support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include, but are not limited to, swamps, marshes, bogs, vernal pools and similar areas. For the purpose of determining buffer zones for site plan and subdivision review wetland boundaries shall be delineated on the basis of hydrophytic vegetation, hydric soils, and wetlands, by either a certified soil scientist or a certified wetland scientist according to the Corps of Engineers Wetlands Delineation Manual, 1987, and the Regional Field Indicators for Identifying Hydric Soils in New England, 1998.
- 1102.16 Wetlands Conservation District: The Town of Brookline Wetlands Conservation District is defined as all wetland areas, surface water bodies, and the associated buffers as defined in Section 1102.04 Buffer Zone. The limits of the Wetlands Conservation District are determined to include designated Prime Wetlands, as described in the Brookline Prime Wetlands Report dated January 1992.
- 1102.17 Wet Meadow: An area typically dominated by herbaceous non-woody vegetation less than three feet in height, saturated for long periods during the growing season, but seldom flooded. Wet

meadows develop on predominantly poorly drained soil conditions as defined by “Site Specific Soils Mapping Standards for New Hampshire and Vermont,” Society of Northern New England Publication No. 3, 1997, as amended.

1102.18 *Vernal Pool:* A confined basin depression which, at least in most years, holds water for a minimum of two continuous months during the spring and/or summer, provides essential breeding habitat for certain amphibians and invertebrates and is free of adult fish populations.

**1103.00 *Jurisdiction***

1103.01 *Relation to Other Districts.* In all cases where the Wetlands Conservation District is superimposed over another zoning district in the Town of Brookline, that district whose regulations are more restrictive shall apply.

1103.02 *State and Federal Regulations.* The Town of Brookline Wetlands Conservation District Ordinance is in addition to state and federal regulations governing wetlands and surface waters, including any permitting process.

1103.03 *Existing Unimproved Lots.* This Ordinance shall not prohibit the construction of, or additions to, principal and accessory structures within the buffer zone on unimproved lots that were approved for subdivision by the Planning Board or which otherwise legally existed on or before March 9, 1999. Unimproved lots that have been approved for subdivision or which otherwise legally existed on or before March 10, 2004 may use wetlands to satisfy up to 25% of the minimum lot area requirements. New construction on a legal previously approved vacant lot will only be permitted upon determination by the Planning Board that it is not reasonably feasible to locate the structure outside of the buffer zone, prior to the issuance of a building permit. Any construction permitted within the buffer zone shall minimize harm to the wetland or surface water. The Planning Board may seek input from the Conservation Commission during the review process. (March 10, 2004)

1103.04 *Existing Improved Lots.* For lots with improvements legally existing on or before March 9, 1999, all additions to principal and accessory structures, and the erection of new accessory structures within the Wetland Conservation District require a wetland special exception prior to the issuance of a building Permit.

1103.06 *Preexisting Uses.* This Ordinance shall not prohibit the continuation of a legally preexisting use in the Wetland Conservation District, however, the use may not be expanded without a special exception granted by the ZBA.

1103.07 *Prime Wetlands.* These wetlands are described in the Brookline Prime Wetlands Report dated January 1992, and are as follows:

<u>Wetland Number</u>	<u>Location</u>	<u>Tax Map Sheet</u>
2	W. of Route 13 near Milford	B
3	Scabbard Mill Brook N.	B
5	Palmer land w. of Route 13	B
6	Scabbard Mill Brook S.	B, D
9	Spaulding Brook	A, C
10	North Stream	C, E
12	Lake Potanipo	E, L
15	Talbot-Taylor area	G
16	Pout Pond	H
18	Wallace Brook	J
20	Nissitissit River/Campbell's Meadow	K

**1103.08** Prime Wetland Designation. The designation of each prime wetland is included on separate maps correlated to the report. Both the aforementioned maps and report are incorporated in this Ordinance by reference and are on file at Town Hall. Designated prime wetland boundaries shall be delineated by either a certified soil scientist or a certified wetland scientist according to the Corps of Engineers Wetlands Delineation Manual, 1987, and the Regional Field Indicators for Identifying Hydric Soils in New England, 1998.

**1103.09** Wetlands Incorrectly Delineated. In the event that an area has been incorrectly delineated as part of the Wetland Conservation District or as a Prime Wetland, and evidence to that effect is presented to the satisfaction of the Planning Board or their representative in site plan reviews or subdivision, or to the satisfaction of the Selectboard or their representative in other cases, or the Conservation Commission, the restrictions contained in this Ordinance shall not apply. Wetland boundaries shall be delineated by either a certified soil scientist or a certified wetland scientist according to the Corps of Engineers Wetlands Delineation Manual, 1987, and the Regional Field Indicators for Identifying Hydric Soils in New England, 1998.

**1103.10** Wetlands Exempt. The regulations and restrictions set forth in this District shall not apply to the following wetland areas or their buffer zones:

- a. manmade ditches and swales
- b. sedimentation/detention basins or ponds
- c. manmade agricultural/irrigation ponds and swales
- d. fire ponds, drafting basins and cisterns
- e. a septage or manure lagoon
- f. silage pits
- g. an isolated wetland or surface water of 3000 s.f. or less which does not meet the definition of a bog, vernal pool, or wet meadow

**1104.00** Wetlands Conservation District Permitted Uses

1104.01 Permitted uses are those that do not result in the erection of any structure or alter the surface configuration by the addition of fill, and that are otherwise permitted by the Brookline Zoning Ordinance. Such uses include the following:

- a. Forestry and tree farming, using the best management practices, as defined in Section 1102.02, to protect streams from damage and to prevent sedimentation;
- b. Cultivation and harvesting of crops according to recognized soil conservation practices, as defined in “Best Management Practices for Agriculture in New Hampshire”, Department of Agriculture, Markets and Food, June, 1995, including the protection of wetlands from pollution caused by fertilizers, pesticides and herbicides used in such cultivation;
- c. State-approved water impoundments;
- d. Construction of wells and water feed lines for water supply;
- e. Maintenance of existing drainage ways, such as streams, creeks or other paths of normal runoff water;
- f. Conservation areas, nature trails, parks and recreation uses consistent with the purpose and intent of this Ordinance;
- g. Dry hydrants, drafting basins and fire protection ponds.

1104.02 The following uses shall be permitted in the Wetland Conservation District, provided applicable erosion control measures are in place, there is repair and restoration of any disturbed areas and all available mitigation measures to address changes in water quality and quantity as required by Town Staff and recommended by the Conservation Commission are employed. However, all projects listed below together with any disturbance of the buffer zones involved therein shall be presented to the Conservation Commission, with a request for review in writing, as required by the New Hampshire Wetlands Bureau, for its intervention, opinion, recommendations and/or approval.

- a. Streets, roads, driveways and other access ways and utility right of way easements, including power lines and pipe lines, if essential to the productive use of land not so zoned and if so located and constructed as to minimize any detrimental impact of such uses upon the Wetlands Conservation District;
- b. Drainageways, swales, culverts, and other devices to control the volume and timing of stormwater runoff.
- c. Stormwater detention basins, settling basins and other methods of improving the quality of stormwater runoff.
- d. Regrading of the ground surface within the buffer zone of the Wetland Conservation District but not inside the wetland boundaries.

**1105.00 Prohibited Uses in the Wetland Conservation District**

Land uses that pose a particular threat to wetlands and surface waters shall be prohibited within the Wetland Conservation District:

- a. Salt storage sheds

- b. Automobile junk yards
- c. Solid or hazardous waste facilities
- d. Use of fertilizer, except lime and/or wood ash
- e. Bulk storage of chemicals, petroleum products or hazardous materials
- f. Sand and gravel excavations as defined in RSA 155-E
- g. Processing of excavated materials
- h. Dumping or disposal of snow collected from roadways or parking areas

**1106.00 General Requirements**

- a. The buffer zone shall include an area of fifty (50) feet, measured on a horizontal plane from the delineated edge of a wetland or the mean high water mark of a surface water, as appropriate.
- b. Appropriate erosion control measures must be in place prior to construction, properly inspected and maintained through stabilization, and removed with appropriate disposal of silt, debris and erosion control materials.
- c. Any disturbance to the surrounding buffer zone due to construction must be repaired upon completion of the project.
- d. Provision must be made for wildlife access corridors to promote the free migration of wildlife along the length of the Wetland Conservation District.
- e. Construction or enlargement of septic tank or leach field shall follow New Hampshire State regulations regarding setbacks from wetland areas (50'), except in those locations where the soil type is coarse textured with rapid to very rapid permeability, as referenced in the Soil Survey for Hillsborough County, where a 125' setback shall be required from the edge of any wetland that shall be protected by the Wetland Conservation District.
- f. Construction involving the erection of any structure and alteration of the ground surface configuration, which requires a building permit, shall not occur within any portion of the Wetland Conservation District, without required approvals. The applicant must provide written documentation in compliance with Section 1102.15 to the Building Inspector, prior to the issuance of a building permit, verifying that the proposed construction is in compliance with the buffer zone requirements of this Ordinance.
- g. There shall be no net increase in peak flow or overall volume of stormwater runoff in the Wetland Conservation District as a result of any development, in accordance with "Stormwater Management and Erosion and Sediment Control for Urban and Developing Areas in New Hampshire", DES, RCCD, 1992, and Chapter ENV-Ws 415 of the "NH Code of Administrative Rules. Calculations shall be based on 2 and 10 year storm events.
- h. The Brookline Conservation Commission may require design construction and maintenance methods be prepared by a professional engineer (PE) and shall include restoration of the site, as nearly as possible to its original grade and condition. In the case of a development which involves only a single-family or a two-family dwelling unit or the carving out of a single lot

designated for construction of only a single-family or two-family dwelling unit, this requirement may be waived by the BCC, with a written request by the applicant.

- i. Construction shall not proceed until all applicable state and federal permits have been issued.

## **1107.00 Special Exceptions**

### *1107.01 Procedure*

- a. The application for Special Exception must be submitted to the Conservation Commission for review. The Conservation Commission may require review by the Natural Resources Conservation Service, upon submission of applicable fees by the applicant for this service. The Conservation Commission shall make findings of fact regarding the quality of the affected wetlands and the suitability of the proposal.
- b. Evidence to support the application shall be submitted in writing to the Zoning Board of Adjustment, with fees for proper notification, accompanied by written findings of fact from the Conservation Commission.

### *1107.02 Additions to existing structures within the buffer zone*

#### *a. Requirements*

- i. Structures within the buffer zone are permitted to expand within the buffer zone up to 600 square feet beyond the footprint that existed on March 9, 1999.
- ii. Expansion may only be permitted to occur away from the edge of the wetland or high water mark, unless a finding made in accordance with Section 1107.04 determines that there will be no negative impact on the wetland and a previous disturbance prior to the adoption of this Ordinance is documented, in which case the expansion may extend to encompass the previous disturbance, but in no case should the buffer be reduced to less than 25 feet.
- iii. Expansion outside the buffer zone is not limited by this Section of the Ordinance.

#### *b. Criteria*

The Zoning Board of Adjustment shall grant a special exception permitting the expansion of an existing structure within the buffer zone upon determining that, in light of findings of fact from the Brookline Conservation Commission, the proposed expansion does not conflict with the purpose of the Wetland Conservation District and is otherwise permitted by the Zoning Ordinance.

### *1107.03 Accessory structures within the buffer zone*

#### *a. Requirements*

- i. The accessory structure shall not exceed twenty feet in height.
- ii. The accessory structure must have a total building footprint no larger than two hundred fifty (250) square feet.
- iii. The accessory structure and associated limits of construction must be set back at least 25 feet from the delineated edge of the wetland or surface.

- iv. The land on which the accessory structure is to be built must have a slope no greater than 25%.

b. *Criteria*

The Zoning Board of Adjustment shall grant a special exception permitting an accessory structure within the buffer zone upon determining that, in light of findings of fact from the Brookline Conservation Commission, the accessory structure does not conflict with the purpose of the Wetland Conservation District and there is no land outside the buffer zone where the accessory structure could reasonably be placed.

1107.04 *Reduction of the Wetland Conservation District Buffer Zone*

a. *Requirements*

- i. A Wetland Functions and Values Assessment (using the New Hampshire Method for the Evaluation of Wetlands) shall be performed by a Certified Soil Scientist or Certified Wetland Scientist, at the applicant's expense.
- ii. Under no circumstances shall a reduction be permitted to the buffer surrounding any designated Prime Wetland.

b. *Criteria*

The Zoning Board of Adjustment shall grant a special exception permitting a reduction of the buffer zone upon determining that, in light of findings of fact from the Brookline Conservation Commission, the results of the Wetland Functions and Values Assessment indicate that the wetland is of such value that the proposed use will not conflict with the purpose of this Ordinance.

1107.05 *Use of wetlands to satisfy minimum lot size requirements*

a. *Requirements*

- i. The lot must be unimproved.
- ii. The lot must have been approved for subdivision or must otherwise have legally existed on or before March 10, 2004.

b. *Criteria*

The Zoning Board of Adjustment shall grant a special exception permitting the use of wetlands to satisfy up to 25% of the minimum lot size requirements upon determining that, in light of findings of fact from the Brookline Conservation Commission, the proposed use will not conflict with the purpose of this Ordinance.

1108.00 ***Severability***

If any section, provision, portion, clause or phrase of this Ordinance shall be held to be invalid or unconstitutional by any court or competent authority, such holding shall not affect, impair, or invalidate any other section, provision, portion, clause or phrase of this Ordinance.

## **1200.00 FLOODPLAIN ORDINANCE**

*The following regulations shall apply to all lands designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its "Flood Insurance Study for the County of Hillsborough, N.H." dated September 25, 2009 or as amended, together with the associated Flood Insurance Rate Maps dated September 25, 2009 or as amended, which are declared to be a part of this ordinance.*

### **1201.00 Definition of Terms**

- 1201.01 Area of Special Flood Hazard. The land in the floodplain within the Town of Brookline subject to a one percent (1%) or greater chance of flooding in any given year. The area is designated as Zone A on the Flood Insurance Rate Map.
- 1201.02 Base Flood. The flood having a one percent (1%) chance of being equaled or exceeded in any given year.
- 1201.03 Basement. Any area of the building having its floor subgrade (below ground level) on all sides.
- 1201.04 Building. See Structure.
- 1201.05 Breakaway Wall. A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation.
- 1201.06 Development. 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 or storage of equipment or materials.
- 1201.07 FEMA. Federal Emergency Management Agency.
- 1201.08 Flood or Flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from:
- a. The overflow of inland or tidal waters.
  - b. The unusual and rapid accumulation or runoff of surface waters from any source.
- 1201.09 Flood Elevation Study. An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevation, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood related erosion hazards.
- 1201.10 Flood Hazard Boundary Map. (FHBM) an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the flood, mudslide (i.e., mudflow) related erosion areas having special hazards have been designated as Zones A, M, and/or E.
- 1201.11 Flood Insurance Rate Map. (FIRM) an official map of a community, on which the Federal Emergency Management Agency has delineated both the special hazard areas and the risk premium zones applicable to the community.
- 1201.12 Flood Insurance Study. See Flood Elevation study.



- 1201.13 Flood Plain or Flood-Prone Area. Any land area susceptible to being inundated by water from any source (see definition of flooding).
- 1201.14 Floodproofing. 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 sanitary facilities, structures and their contents.
- 1201.15 Floodway. See Regulatory Floodway.
- 1201.16 Functional Dependent Use. 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 facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship facilities, but does not include long-term storage or related manufacturing facilities.
- 1201.17 Highest Adjacent Grade. Means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- 1201.18 Historic Structure. Any structure that is:
- 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; or
  - 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, or
    2. Directly by the Secretary of the Interior in states without approved programs.
- 1201.19 Lowest Floor. 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 buildings lowest floor provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Ordinance.
- 1201.20 Mean Sea Level. For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.
- 1201.21 Manufactured Home. 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 attached to the required utilities. For floodplain management purposes the term "manufactured home" includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. This includes manufactured homes located in a manufactured home park or subdivision.

- 1201.22 Manufactured Home Park or Subdivision. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
- 1201.23 New Construction. For the purposes of determining insurance rates, structures for which the “start of construction” commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, “new construction” means structures for which the “start of construction” commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.
- 1201.24 100-year Flood. See Base Flood.
- 1201.25 Recreational Vehicle. A vehicle which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projection; (iii) designed to be self-propelled or permanently towable by a light duty truck, and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- 1201.26 Regulatory Floodway. 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 cumulatively increasing the water surface elevation more than one foot at any point. These areas are designated as floodways on the Flood Boundary and Floodway Maps.
- 1201.27 Riverine. Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.
- 1201.28 Special Flood Hazard Area. See “Area of Special Flood Hazard”.
- 1201.29 Structure. 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.
- 1201.30 Start of Construction. Includes substantial improvement, 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 a site, such as the pouring of columns, or any work beyond the stage of excavation; or the placement of a 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 not part of the main structure.
- 1201.31 Substantial Damage. 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.
- 1201.32 Substantial Improvement. Any combination of repairs, reconstruction, alteration, or improvements to a structure in which the cumulative cost equals or exceeds fifty (50) percent of the market value of the structure. The market value of the structure should be (1) the appraised value of the structure 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. 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 structure listed on the National Register of Historic Places.

1201.33 *Violation.* The failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44CFR Chapter I, part 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

1201.34 *Water Surface Elevation.* 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 flood plains of coastal or riverine areas.

## **1202.00 Provisions**

1202.01 All proposed development in any special flood hazard areas shall require a permit.

1202.02 The Building Inspector 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 in a flood-prone area, all new construction and substantial improvements shall;

- a. be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic load, including the effects of buoyancy,
- b. be constructed with materials resistant to flood damage,
- c. be constructed by methods and practices that minimize flood damages,
- d. be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located components during conditions of flooding.

1202.03 Where new and replacement water and sewer systems (including on-site systems) are proposed in flood-prone areas the applicant shall provide the Building Inspector with assurance that new and replacement sanitary sewage 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.

1202.04 The Building Inspector shall maintain for public inspection, and furnish upon request, any certification of flood-proofing and the as built elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and include whether or not such structures contain a basement. If the structure has been floodproofed, the as built elevation (in relation to mean sea level) to which the structure was floodproofed. This information must be furnished by the applicant.

1202.05 The Building Inspector shall review proposed developments to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334. It shall be the responsibility of the applicant to certify these assurances to the Building Inspector.

1202.06 In riverine situations, prior to the alteration or relocation of a watercourse, the applicant for such authorization shall notify the Wetlands Bureau of the New Hampshire Department of Environmental Services and submit copies of such notification to the Building Inspector, in addition to the copies

required by the RSA 482-A:3. Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Building Inspector, including notice of all scheduled hearings before the Wetlands Bureau.

With the altered or relocated portion of any watercourse, the applicant shall submit to the Building Inspector, certification provided by a registered professional engineer assuring that the flood carrying capacity of the watercourse has been maintained.

Along watercourses that have a designated Regulatory Floodway no encroachments, including fill, new construction, substantial improvements, and other development are allowed within the designated Regulatory Floodway that would result in any increase in flood levels within the community during the base flood discharge. The Building Inspector shall obtain, review, and reasonably utilize any floodway data available from a Federal, State, or other source as criteria for requiring that all developments located in Zone A meet the floodway requirements: *“No encroachments, including fill, new construction, substantial improvements and other developments are allowed within the floodway that would result in any increase in flood levels with the community during the base flood discharge”*.

1202.07 In Zone A, the Building Inspector shall obtain, review and reasonably utilize any 100-year flood elevation data available from any Federal, State or other sources including data submitted for development proposals submitted to the community (i.e., subdivisions, site plan approvals).

1202.08 The Building Inspector's 100 year flood elevation determination will be used as criteria for requiring in Zone A that:

- a. All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated to or above the 100 year flood level;
- b. All new construction and substantial improvements of nonresidential 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;
  1. Be floodproofed so that below the 100 year flood elevation the structure is watertight with walls substantially impermeable to the passage of water or be constructed with materials resistant to flood damage;
  2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy and;
  3. 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 base flood level; and be securely anchored to resist flotation, 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. Recreational vehicles placed on sites within Zone A 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 44CFR Chapter I part 60.3 (b) (1) of the National Flood Insurance Program regulations and

the elevation and anchoring requirements for Manufactured Homes in paragraph (c) (6) of section 60.3

- e. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding are permitted providing the enclosed areas meet the following requirements:
  - 1. The enclosed area is unfinished or flood resistant, usable solely for 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 floodwaters. 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) 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.
    - b) The bottom of all openings shall be no higher than one foot above grade.
    - c) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters;

*1202.09* This Ordinance may be amended by a majority vote of any legal Town meeting when such amendment is included in the Official Town Warrant.

*1202.10* It shall be the duty of the Selectboard to enforce the provisions of this Ordinance.

*1202.11* The Building Inspector shall not in any case be liable for any damage resulting from construction done under his permit whether or not such construction is in conformity with the provisions of the Ordinance.

*1202.12* The invalidity of any provision or part of a provision of this Ordinance shall not affect the validity of any other provisions.

*1202.13* Every person, persons, firm, or corporation violating any of the provisions of this Ordinance shall be fined as determined by the Selectboard for each day such violation may exist.

### ***1203.00 Variance and Appeals Procedure***

*1203.01* Any order, requirement, decision or determination of the building inspector made under this Ordinance may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5.

*1203.02* 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.

*1203.03* 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.

*1203.04* 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.

## **1300.00 *AQUIFER PROTECTION ORDINANCE***

### **1301.00 *Purpose and Intent***

The Town of Brookline adopts this Ordinance for the promotion of the health, safety, and general welfare of its residents by preserving, maintaining and protecting from contamination the existing and potential ground water resources of the Town and protecting the surface waters that are fed by groundwater. The purpose is to be accomplished by regulating land use practices generally related to commercial-industrial land use (such as but not limited to the disposal or storage of solid wastes, sludge, subsurface waste disposal, road salting materials, gas or other petroleum products), and including home businesses, that might reduce the quality of water that is now -- and in the future will be -- available for use by municipalities, individuals and industries.

### **1302.00 *Definitions***

Any term not defined here shall have the same meaning as defined in Section 200 of this Ordinance.

1302.01 *Aquifer*. Geologic formation composed of rock, stratified sand and/or gravel that contains significant amounts of potentially recoverable water.

1302.02 *Domestic Wastewater*. Wastewater from human sanitary uses including, but not limited to bathing, clothes washing and toilets.

13.02.03 *Ground Water*. Subsurface water that occurs beneath the water table in soils and geologic formations. In this Ordinance the term refers to the slowly moving subsurface water present in aquifer recharge areas.

1302.04 *Hazardous Waste*. Materials or liquids that pose a threat to the environment, whether in use, storage, or transit, including without exception hazardous wastes identified and listed in accordance with the State of New Hampshire Department of Environmental Services Hazardous Waste Rules, Env-Wm 110-1000.

1302.05 *Impervious*. Not readily permitting the infiltration of water.

1302.06 *Impervious Surface*. A surface through which regulated substances cannot pass when spilled. Impervious surfaces include concrete unless unsealed cracks or holes are present. Asphalt, earthen, wooden, or gravel surfaces, or other surfaces which could react with or dissolve when in contact with the substances stored on them are not considered impervious surfaces.

1302.07 *Junkyard*. Any business and any place of storage or deposit, whether in connection with another business or not, which has stored or deposited 2 or more unregistered motor vehicles which are no longer intended or in condition for legal use on the public highways, or used parts of motor vehicles or old iron, metal, glass, paper, cordage, or other waste, or discarded or secondhand material which has been a part, or intended to be a part, of any motor vehicle, the sum of which parts or material shall be equal to 2 or more motor vehicles. Junk yard shall also include any place of business or storage or deposit of motor vehicles purchased for the purpose of dismantling the vehicles for parts or for use of the metal for scrap and where it is intended to burn material which are parts of a motor vehicle or cut up the parts thereof. This definition includes garbage dumps and sanitary landfills. This definition does not include any motor vehicle dealers registered with the director of motor vehicles under RSA 261:104 and controlled under RSA 236:126.

- 1302.08 Leachable Wastes. Waste materials, including solid wastes, sludge and agricultural wastes that are capable of releasing contaminants to the surrounding environment.
- 1302.09 Non-Conforming Use. Any building or land lawfully occupied by a use at the time of passage of the Ordinance or amendment thereto which does not conform after the passage of this Ordinance or amendment thereto with the regulations of the district in which it is situated.
- 1302.10 Non-domestic Wastewater. Wastewater generated from other than human sanitary uses including but not limited to industrial and commercial wastewater, and a combination of domestic and non-domestic wastewater (for example a home business that would generate wastewater amounts in excess of a normal household).
- 1302.11 Outdoor Storage. Storage of materials where they are not protected from the elements by a roof, walls and a floor with an impervious surface.
- 1302.12 Protective Well Radius. The area around a well which must be maintained in its natural state as required by Env-Ws 378 or 379 (for community water systems) and Env-Ws 372.13 (for other public water systems).
- 1302.13 Public Water System. A system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year.
- 1302.14 Regulated Substance. Petroleum, petroleum products, including gasoline; and substances listed under 40 CFR 302, 7-1-90 edition, excluding the following substances: ammonia; sodium hypochlorite; sodium hydroxide; acetic acid; sulfuric acid; potassium hydroxide; potassium permanganate; and propane and other liquefied fuels which exist as gases at normal atmospheric temperature and pressure.
- 1302.15 Secondary Containment. A structure such as a berm or dike with an impervious surface which is adequate to hold at least 110% of the volume of the largest regulated substances container that will be stored there.
- 1302.16 Solid Wastes. Useless, unwanted, or discarded solid material with insufficient liquid content to be free flowing. This includes but is not limited to rubbish, garbage, scrap materials, junk, refuse, inert fill material, landscape refuse and sludge.
- 1302.17 Structure. Anything constructed or erected, except a boundary wall or fence, the use of which requires location on the ground or attachment to something on the ground. For the purposes of this Ordinance, buildings are structures.
- 1302.18 Surface Water. Streams, lakes, ponds and tidal waters, including marshes, water courses, and other bodies of water, natural or artificial.

**1303.00 District Boundaries**

The extent of the Aquifer Protection District shall be the outermost edge of the surficial extent of all aquifer deposits presently designated as stratified drift, as supported by information included in the U.S.G.S. (United States Geological Survey) Aquifer Delineation study entitled "Geohydrologic Appraisal of the Nashua Area, South-central New Hampshire, by K. W. Toppin, (1986)" or most recent studies. The Aquifer Protection District is a zoning overlay district which imposes additional requirements and restrictions to those of the underlying, base district. In all cases, the more restrictive requirement(s) and permitted uses shall apply.



**1304.00 Permitted Uses**

Permitted uses, with the exception of those expressly prohibited in Section 1305.00, shall be the same as the underlying zoning districts within which the aquifer lies. All uses must comply with the Performance Standards unless specifically exempt under Section 1309.00. Other permitted uses are:

- a. Industrial or commercial uses, including home businesses, which do not discharge non-domestic wastewater on site (domestic wastewater only in approved septic systems);
- b. Residential and Agricultural Development;
- c. Other Uses:
  1. Activities designed for conservation of soil, water, plants, and wildlife.
  2. Outdoor recreation, nature study, boating, fishing and hunting where otherwise legally permitted.
- d. Subsurface storage of propane/liquefied natural gas.

**1305.00 Prohibited Uses**

The following uses are prohibited:

- a. Outdoor storage and disposal of solid wastes, other than above ground brush and stump dumps less than 6 (six) feet above the E.S.H.W.T. (Estimated Seasonal High Water Table);
- b. **Any** storage of regulated substances, including gasoline, and the subsurface transmission of regulated substances, including gasoline, through pipelines, except by conditional use permit approval;
- c. The disposal of non-domestic wastewater, including animal manure;
- d. The covering of more than 15% of the lot in the Residential Zone and 15% of the lot in the Commercial-Industrial Zone by impervious surfaces, except by conditional use permit approval;
- e. Storage of road salt or other de-icing chemicals unless covered and on an impervious surface with berms on any open sides;
- f. Excavation of sand or gravel, excepting fire ponds and operations conducted in accordance with an approved Earth Removal Permit issued pursuant to Section 1000 of the Town of Brookline Zoning Ordinance where such operations will be permitted to within 6 (six) feet of the ESHWT;
- g. Storage/treatment/disposal of hazardous waste or the siting or operation of a hazardous waste disposal facility as defined under RSA 147-A;
- h. Dumping of snow containing de-icing chemicals brought in from other parts of town(s);
- i. The siting or operation of a junkyard;
- j. The siting or operation of a wastewater or septage lagoon; and
- k. The siting or operation of a solid waste landfill.

**1306.00 Conditional Uses**

1306.01 The Planning Board may grant a conditional use permit for a use which is otherwise permitted within the underlying district, if the use is or involves:

- a. Above ground storage, handling and use of regulated substances in quantities exceeding 100 gallons (aggregate) or 800 pounds dry weight (aggregate) at any one time, provided that an adequate plan is in place to prevent, contain and minimize releases from catastrophic events such as spills or fires which may cause large releases of regulated substances.
- b. Any use that will render impervious more than 15% or 2,500 square feet of any lot, whichever is greater, up to a maximum of 30% of a lot in the Residential District and 60% of the lot in the Industrial-Commercial District, provided that the Planning Board finds in its judgment, that the proposed additional impervious area can be implemented without unreasonable departure from the purposes of the Aquifer Protection District.

Any applicant granted such a Conditional Use Permit by the Planning Board shall be required to adhere to the following additional conditions in the conduct of the use:

1. No use may be conducted on the site which is the subject of the Conditional Use Permit that is a Prohibited Use defined under Section 1305.00
2. Any such use will continuously be conducted so as to be in compliance with the applicable Performance Standards of Section 1307.
3. The use shall be maintained in compliance with all applicable local, state and federal requirements.

1306.02 The Planning Board may, at its discretion, require a performance guarantee or bond, in an amount and with surety conditions satisfactory to the Board, to be posted to ensure completion of construction of any facilities required for compliance with the Performance Standards.

**1307.00 Performance Standards**

The following Performance Standards apply to all uses in the Aquifer Protection District unless exempt under Section 1309.00.

- a. For any use that will render impervious more than 15% or more than 2,500 square feet of any lot, whichever is greater, a stormwater management plan shall be prepared which the Planning Board determines is consistent with the Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire, Rockingham County Conservation District, August 1992, and Best Management Practices for Urban Stormwater Runoff, NH Department of Environmental Services, January 1996, as updated and amended.
- b. Stormwater management plans prepared pursuant to Paragraph a. shall demonstrate that stormwater recharged to groundwater will not result in violation of Ambient Groundwater Quality Standards (Env-Wm 1403) at the property boundary.
- c. Animal manure, fertilizers, and compost must be stored in accordance with the Manual of Best Management Practices for Agriculture in New Hampshire, NH Department of Agriculture, Markets and Food, August 1998, and any subsequent revisions.
- d. All regulated substances stored in containers with a capacity of 5 gallons or more must be stored in product-tight containers on an impervious surface designed and maintained to prevent flow to

exposed soils, floor drains and outside drains in accordance with Env-Wq 401, Best Management Practices for Groundwater Protection (formerly Env-Ws 421).

- e. Facilities where regulated substances are stored must be inspected bi-weekly by the facility owner or his designate and must be secured against unauthorized entry by means of doors and/or gates which are locked when authorized personnel are not present.
- f. Outdoor storage areas for regulated substances must be protected from exposure to precipitation and must be located at least 50 feet from surface water or storm drains, at least 75 feet from private wells and outside the protective well radius of public water supplies, in accordance with Env-Wq 401.
- g. Secondary containment must be provided for outdoor storage of regulated substances in an aggregate of 275 gallons or more on any particular property, in accordance with Env-Wq 401.
- h. Containers in which regulated substances are stored must be clearly and visibly labeled and must be kept closed and sealed when material is not being transferred from one container to another.
- i. Whenever a business is required to notify the NH Department of Environmental Services (DES) of a release, including but not limited to the requirements of Env-Wm 4112 and Env-Wm 1403, the Town of Brookline Emergency Management (EM) Director must also be notified. Furthermore, the EM Director must also be notified when a business notifies the NH DES of a failed tank tightness test.

#### **1308.00 Existing Non-Conforming Uses**

Existing nonconforming uses may continue without expanding or changing to another nonconforming use, but must be in compliance with all applicable state and federal requirements, including Env-Wq 401, Best Management Practices and Performance Standards c, d, e and h of Section 1307.

#### **1309.00 Exemptions**

The following uses are exempt from the specified provisions of this Ordinance as long as they are in compliance with all applicable local, state and federal requirements.

- a. Any private residence is exempt from all Performance Standards except 1307.00 c. Animal wastes shall be handled in accordance with a manure storage and management plan approved by the Hillsborough County Conservation District.
- b. Any business or facility, including home businesses, where regulated substances are in quantities of less than 5 gallons is exempt from Performance Standards 1307.00 e through g.
- c. Storage of heating fuels for on-site use or fuels for emergency electric generation provided that storage tanks are indoors on a concrete floor or have corrosion control, leak detection for both tank and piping, and secondary containment in place is exempt from Performance Standard 1307.00 e.
- d. Storage of motor fuel in tanks attached to vehicles and fitted with permanent fuel lines to enable the fuel to be used by that vehicle is exempt from Performance Standards 1307.00 e through h.
- e. Storage and use of office supplies is exempt from Performance Standards 1307.00 e through h.

- f. Temporary storage of construction materials on a site where they are to be used is exempt from Performance Standards 1307.00 e through g.
- g. The sale, transportation and use of pesticides, if compliant with RSA 430:49 XXVL, are exempt from all provisions of this Ordinance.
- h. Household hazardous waste collection projects regulated under NH Code of Administrative Rules Env-Wm 401.03(b)(1) and 501.01(b) are exempt from Performance Standards 1307.00 e through g.
- i. Underground storage tank systems and aboveground storage tank systems that are in compliance with applicable state rules are exempt from inspection under Section 1310.00 of this Ordinance provided adequate documentation, including but not limited to state tank registrations, state permit to operate, inventory monitoring records and tank tightness test, is available and is on file with the Brookline Fire Department and the Emergency Management Director.

**1310.00 Maintenance and Inspection**

1310.01 For uses requiring Planning Board approval for any reason, a narrative description of maintenance requirements for structures required to comply with the Performance Standards shall be recorded so as to run with the land on which the structures are located at the Hillsborough County Registry of Deeds. The description shall comply with the requirements of RSA 478:4-a.

1310.02 Inspections

- a. Inspections may be required to verify compliance with Performance Standards. Such inspections will be performed by the Conservation Commission at reasonable times with prior notice to the landowner.
- b. All properties within the Aquifer Protection District known to the Conservation Commission as using or storing regulated substances in containers with a capacity of 5 gallons or more, except for facilities where all regulated substances storage is exempt from this Ordinance under Section 1309.00, shall be subject to inspections under this section.
- c. The Selectboard may require a fee for compliance inspections. The fee shall be paid by the property owner. A fee schedule shall be established by the Selectboard as provided for in RSA 41-9:a.

**1311.00 Releases and Tank Tightness Test Failures**

Whenever a business is required to notify the NH Department of Environmental Services of a release, including but not limited to the requirements of Env-Wm 4112 and Env-Wm 1403, the Town of Brookline Emergency Management Director must also be notified. Furthermore, the EM Director must also be notified when a business notifies the NH DES of a failed tank tightness test.

**1312.00 Administration**

All subdivision proposals and other proposed new developments within the Aquifer Protection District shall be reviewed by the Planning Board and shall conform to the provisions of this Ordinance, and further shall assure that:

- a. All such proposals are consistent with the need to protect the groundwater of the Town of Brookline and adjacent communities;

- b. For the purpose of minimizing or eliminating leakage or discharges from septic systems into the groundwater, all systems shall be at least 4 (four) feet above the estimated seasonal high water table;
- c. On-site waste disposal systems shall be located to avoid or minimize groundwater contamination;
- d. Streets, roads, and parking areas are constructed so that direct application of road salt is not required for winter safety, and so that runoff from such uses is channeled to avoid or minimize groundwater contamination;
- e. Any increase in surface storm water generated by development is kept on-site and handled in such a manner as to allow the water to infiltrate into the ground before leaving the site;
- f. Written approval of the State of New Hampshire Water Supply and Pollution Control Division has been obtained.

**1313.00 Conservation Commission Review**

The Conservation Commission shall review, within a reasonable time (not to exceed 60 days from date of submittal of a plan to the Planning Board), each plan for development in the Aquifer Protection District and shall make a recommendation to the Planning Board to approve, approve with conditions and/or recommendations, or disapprove the plan, with reasons for disapproval.

**1314.00 Incorrectly Delineated Zones**

Where the bounds, as delineated, are in doubt or in dispute, the burden of proof shall be upon the owner(s) of the land in question to show where they should be properly located. At the request of the owner(s), the Town may engage a professional geologist or soil scientist to determine more accurately the location and extent of an aquifer, and may charge the owner(s) for all or part of the cost of the investigation. The delineation can be modified by the Planning Board upon receipt of findings of the detailed on-site survey techniques.

**1315.00 Enforcement**

These regulations shall be enforced by the Selectboard or its duly authorized representatives.

**1316.00 Validity and Conflict with Other Ordinances**

*1316.01* Validity. Should any section or provisions of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

*1316.02* Conflict With Other Ordinances. This Ordinance shall not repeal, annual, or in any way impair or remove the necessity of compliance with any other ordinance, law, regulation or by-law. Where this Ordinance imposes a higher standard for the promotion and protection of health, safety and welfare, the provisions of this Ordinance shall prevail.

***1400.00 GROWTH MANAGEMENT / RESIDENTIAL PHASING ORDINANCE***

**Deleted March 2011**

(Reference to HB 1260 and NHRSA 674:22 and 23 – Effective July 8, 2008)

**1500.00 OPEN SPACE DEVELOPMENT**

Open Space Development is necessary to meet the goals established in this article and in the Brookline Master Plan. Therefore, an Open Space Development plan will be required for all developments of the minimum tract size or greater. An Open Space Development plan will not be required when in the judgment of the Planning Board topography, wetlands, soils or other considerations prevent the proposal from accomplishing the purposes of this article, or when an Open Space Development is unnecessary to meet the purposes of this Ordinance. All conventional subdivision plan applicants shall submit evidence to the Planning Board, at a public hearing, documenting the constraints that make a conventional subdivision a preferable choice.

**1501.00 Purpose**

- a. To promote the conservation of the natural environment, and the development of the community in harmony with the natural features of the land.
- b. To provide for an efficient use of land, streets, and utility systems.
- c. To stimulate alternative approaches to land and community development.
- d. To establish living areas within the Town that provide for a balance of community needs, such community needs as adequate recreation and open space areas, and pedestrian and vehicular safety.
- e. To maintain the rural character of Brookline.
- f. To maintain the current density of Brookline (1 unit per 80,000 sq. ft.)
- g. To promote residential construction on the most appropriate and buildable areas of a tract of land.

**1502.00 Zone/Location**

1502.01 The use of an Open Space Development is limited to the Residential-Agricultural District as shown on the Zoning Map.

**1503.00 Permitted Uses**

1503.01 All uses allowed in the Residential-Agricultural District are allowed in an Open Space Development.

**1504.00 Open Space**

1504.01 All land not devoted to house lots, roads, and driveways shall be set aside as permanent open space.

1504.02 A minimum of thirty-five (35) percent of the gross tract area shall be set aside as open space for low-impact recreation, agriculture, or conservation uses, intended for the use and enjoyment of the residents of this development and/or the general public. This open space shall be permanently restricted through easement or deed. Though the open space cannot be resubdivided, accessory structures and improvements appropriate for low-impact recreation, agriculture, or conservation uses are allowed subject to Planning Board approval.

1504.03 Not more than 45 percent of the open space shall consist of open water, wetlands and slopes greater than 25 percent.

**1505.00 Dimensional Requirements**

1505.01 *Density.* The maximum density of an Open Space Development shall be the same as for a conventional development in the Residential-Agricultural District. An Open Space Development shall have no more lots than can be created using conventional development on the same land.

1505.02 *Frontage.* 80 feet minimum per lot.

1505.03 *Setbacks.* 15 foot setback from the front, rear, and side per lot, measured from the property lines.

1505.04 *Site Perimeter Buffer.* Each development must be situated within a permanently protected undeveloped site perimeter buffer, where no structure shall be built, identified on the site plan, not less than **50 feet** wide or a value as deemed necessary by the Planning Board on all boundaries of the original parcel except for access to connecting roads, which, unless it is already wooded and satisfactory to the Planning Board, must be planted and landscaped so as to provide a visual barrier between the development and adjacent properties. The Planning Board may require additional buffer width where unique circumstances of an abutting use or property warrant. The site perimeter buffer shall not count towards the required minimum protected open space.

1505.05 *Lot Size.* Each building lot shall have a minimum of 1 acre, excluding wetlands. Only one dwelling unit shall be permitted per individual building lot, except as provided in Section 2000.00, Accessory Dwelling Units. A two-family structure shall require two times the minimum land area.

1505.06 *Development Tract Size.* An Open Space Development tract shall have a minimum of 20 acres.

**1506.00 Open Space Ownership and Management**

1506.01 The open space shall be conveyed to a homeowners association whose membership includes all the owners of lots or units contained in the tract. Where the Planning Board feels that it is in the best interests of the Town, this land may be conveyed to the Town or shall be permanently protected in other suitable ways which would ensure the continued use of the land for intended purposes and proper maintenance of the land. A pre-conveyance open space conservation easement deed shall be recorded and shall have an easement sunset upon conveyance to the Town or homeowner association.

1506.02 The developer shall be responsible for the formation of the homeowners association of which the developer or owner shall be a member until a majority of the lots of record are sold.

1506.03 The homeowners association shall be structured so as to provide that the membership and obligation of unit purchasers in the homeowners association will be automatic upon the conveyance of title or lease of dwelling units.

1506.04 Open Space Development land which counts towards the minimum open space requirements or towards the minimum lot size cannot be put in current use.

**1507.00 Procedures**

1507.01 All Open Space Developments, as is the case with conventional developments, shall go through the subdivision review process and meet the review criteria as outlined in the subdivision regulations.

**1508.00 Other Provisions**

1508.01 All Open Space Developments must also meet the requirements listed in other articles of this Zoning Ordinance, except those which are superseded in this article.



**1600.00 SIGN ORDINANCE**

**1601.00 Purpose and Intent**

The purpose of this Ordinance is to:

- a. Encourage the effective use of signs as a means of communication in the Town of Brookline,
- b. Preserve the aesthetics and rural character of Brookline,
- c. Enhance pedestrian and vehicle traffic safety,
- d. Encourage signage and lighting which aid communication, orientation, identify activities, and express local history and character,
- e. Retain the Town's ability to attract and encourage economic development and growth,
- f. Address new technologies,
- g. Enable fair and consistent enforcement of the sign regulations.

**1602.00 Conditional Use Permit (new section)**

Any signs, banners, flags, or other advertising devices covered under this ordinance shall require the issuance of a Conditional Use Permit by the **Planning Board** pursuant to RSA 674:21 and in accord with procedures established by the Planning Board, **unless** the proposed sign fully complies with the provision of this ordinance, in which case the Building Inspector may issue a sign permit. If the Building Inspector issues a permit for a fully compliant sign, he shall submit a record of such permit to the Planning Board, which shall include the dimensions of the sign, the lighting (if any) of the sign and a photograph or accurate and to scale rendering of the sign. If the application requires a waiver of any provision, no matter how minor, the applicant shall apply to the Planning Board, which shall consider the application for a waiver during a regularly scheduled public hearing with notice to abutters and the public.

**1602.01** The Planning Board, in its review of a Conditional Use application, shall conduct a hearing and the Planning Board shall grant approval for such conditional use only upon a showing by the applicant that the proposal meets the following requirements:

- (a) The use is specifically authorized in the Ordinance as a conditional use,
- (b) If completed as proposed by the applicant, the development in its proposed location will comply with all requirements of this section, and with the specific conditions or standards established in this Ordinance for the particular use,
- (c) The use will be compatible with the neighborhood and with adjoining or abutting uses in the area in which it to be located,
- (d) The use will not have a substantial adverse impact on vehicular or pedestrian safety,
- (e) The use will not have a substantial adverse impact on the appearance and visual quality of the surrounding neighborhood. In evaluating visual impact, the Planning Board may consider architectural and design elements, and
- (f) The use will be adequately serviced by necessary public utilities and by community facilities and services of a sufficient capacity to ensure the proper operation of the proposed use.

**1602.02 Stipulations of Approval** - In granting a Conditional Use Permit application, the Planning Board may attach reasonable conditions to its approval, including but not limited to the

phasing of a development, where such conditions are shown to be necessary to further the objectives of this Ordinance or the Master Plan, or which would otherwise allow the general conditions of this Section to be satisfied. Representations made at a public hearing or in material submitted to the Planning Board by an applicant in order to obtain a Conditional Use Permit shall be deemed to be conditions of the issuance of the permit. The Planning Board may require that conditions of approval be annotated on a Site Plan or Subdivision plat, or otherwise recorded at the Hillsborough County Registry of Deeds. In the case of approval conditions, a Conditional Use Permit shall be null and void unless all such conditions have been fulfilled within six (6) months, or other time limit as approved. Following fulfillment of approval conditions, or from date of approval if there are no approval conditions, a Conditional Use Permit shall be null and void if active and substantial development or building has not begun within two (2) years, unless approved for a longer period of time. A Conditional Use Permit so implemented continues with the land, irrespective of ownership.

**1603.00 General Provisions**

1603.01 Sign Permits. Unless specifically exempted or otherwise regulated in this ordinance, a permit is required for all permanent signs.

1603.02 Application. Any person intending to erect or make a major alteration to a sign shall, before doing so, obtain a permit from the Building Inspector. Repairs, general upkeep, and minor alterations of wording and graphics shall be exempt from the permit process.

Applicants shall submit design documents that include:

- a. A scale drawing of the proposed sign, showing size, height, lighting, and single or double sided.
- b. All proposed materials shall be indicated, including the support system configuration and design.
- c. The location of the proposed sign on the lot shall be included, showing all dimensions and measurements to property lot lines, principal building, edge of roadways and other permanent structures.

1603.03 Fees. Permit fees shall be established by the Selectboard and paid upon application.

1603.04 Administration.

- a. Reviews
  1. The Building Inspector shall review and act upon all applications for sign permits and amendments thereto, within 5 working days after filing. If the application or amendment conforms to the Sign Ordinance and is complete, the Building Inspector shall issue the sign permit. If the application or amendment does not conform or is not complete, the Building Inspector shall notify the applicant in writing, stating any deficiencies and advising the applicant of the right to amend and resubmit the application.
  2. Any permit issued shall become invalid if the sign is not erected within 6 months after the date of issuance.

b. Appeal

*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)*

c. Violations

If the Building Inspector finds that any sign does not comply with this ordinance or is in his opinion unsafe, or in disrepair, then he shall immediately notify the owners to correct the improper condition. Owners or any other persons violating any of the provisions of the zoning ordinance shall be subject to a fine as authorized by RSA 676:17, and may also be subject to other enforcement procedures as authorized by RSA 676. Per the provisions of 676:17 (II), in the event that any legal action is brought by the Town to enforce this ordinance by way of injunctive relief or to seek the payment of any fine levied per RSA 676:17, the Town shall recover its costs and reasonable attorney's fees actually expended in pursuing the legal action if it is found to be prevailing party in the action.

1603.05 Exempt Signs. The following signs are exempt from this ordinance but must comply with other applicable State Regulations:

- a. Political signs.
- b. Event Specific signs for non-profit organizations.
- c. Historical signs/plaques.
- d. Trail signs.
- e. Official notices authorized by a court, public body or public safety official.
- f. Government signs.

1603.06 Trades signs. Trades people shall be allowed one temporary sign not to exceed 16 square feet on a property without a permit while their work is actively being performed on the property.

1603.07 Real Estate Signs. A real estate sign is a temporary sign advertising the sale, lease or rental of the property or premises upon which it is located.

Without review or approval, any sign advertising the sale, lease or rental of the premises, or a portion thereof, upon which the sign is located can remain until 15 days after the closing of the sale, the rental or lease of the premises. Any sign must conform to the following standards:

- a. Only one wall or ground sign per premises, two on corner lots.
- b. Maximum area: 6 square feet for residential signs, 32 square feet for Commercial-industrial signs.
- c. Off-site real estate signs advertising the location of a property for sale, an open house or a subdivision are limited to one sign per intersection per Real Estate Company. Name riders shall not be permitted on off premise signs. A maximum of two off premise for sale signs will be permitted for any particular property. In addition, two (2) open house signs may be displayed off-site. In the case of subdivision marketing and multiple listings by a real estate company, a maximum of two (2) off premise signs will be permitted.

1603.08 Subdivision Signs

- a. Signs **associated with the development, construction, and financing of a subdivision** are allowed only with Planning Board approval and shall be removed prior to the sale of the last lot and it shall be the responsibility of the owner of record to remove all signs associated with the development.
- b. The Town of Brookline reserves the right to take down such signs not removed within six (6) month after the issuance of the last Certificate of Occupancy.
- c. Signs “**Naming**” a new subdivision or “Estates’ signs (“White Pine Estates” for example) are allowed only with Planning Board approval. These signs shall be kept in good repair for reasons of public safety and aesthetics. It shall be at the discretion of the Building Inspector to require repair or removal.

1603.09 Prohibited Signs

- a. Wall signs that extend above the roof peak of the building.
- b. Moving, blinking, flashing and rotating signs that interfere, obstruct or impair vision or traffic or in any manner create a hazard to the health and welfare of the general public.
- c. Signs in the road right-of-way.
- d. Any other signs that interfere obstruct or impair vision or traffic or in any manner create a hazard to the health and welfare of the general public.
- e. Electronic message boards, video display panels or other electronic matrix display devices.
- f. Balloons, streamers or pinwheels except those temporarily displayed as part of a special sale, promotion or community event. For the purposes of this subsection, “temporarily” means no more than 20 days in any calendar year.

1603.10 Non-Conforming Signs (previously “Grandfather Clause” section)

- a. All **legally** existing signs which did not conform to the provisions of this ordinance on March 11, 2014, shall be considered non-conforming structures.
- b. **Continuance:** A nonconforming sign lawfully existing at the time of adoption or subsequent amendment of this Section may continue, although such sign does not conform to the provisions of this Section. Portable signs with permanent and/or changeable copy (including trucks and trailers) are exempt from treatment under this section for continuance and shall, therefore, require sign permits and compliance with the provisions of this Section.
- c. **Maintenance:** A non-conforming sign must be maintained in good repair for reasons of public safety and aesthetics. Ordinary maintenance and minor repairs shall not include replacement of the structural framing and supports, enlargement of the area of a sign face, or relocation of the sign.
- d. **Alteration, relocation and replacement:** Alterations, relocation and/or replacement of a legal non-conforming sign structure is permitted when damage or deterioration does not exceed fifty percent (50%) of the area of the sign and structure. A non-conforming sign that is damaged by

any casualty or force majeure may be replaced by an identical sign in the same location that is identical to the damaged sign. The replacement sign retains its status as a permitted, non-conforming use.

e. Removal: A non-conforming sign shall be removed within three hundred and sixty-five (365) days if any one of the following conditions exists:

1. If the damage or deterioration of the sign structure exceeds fifty percent (50%) of the area;  
or,
2. If the building to which the sign structure is accessory is damaged or demolished to an extent exceeding fifty percent (50%) of the building's appraised value and no plans have been submitted for the building's reconstruction or restoration pursuant to applicable codes and ordinances, or,
3. If the sign has been abandoned for at least three hundred sixty-five (365) days.

f. Any sign that has been removed due to any of the conditions listed in 1602.10 (e.) above shall not be replaced and any succeeding sign shall conform to the provisions of this Section. If any portion of the sign structure is removed, then all parts and components of the sign shall also be removed.

#### **1604.00 General Sign Requirements**

1604.01 Design guidelines. All signs shall be constructed of durable material and maintained in good condition at all times. Signs should complement the building on which they are located and add to the community image as a whole. Materials, color, lettering, and shape should be compatible with surrounding building materials, colors, and textures. Use of sandblasted, carved, or painted signs of traditional materials, such as wood, granite, or metal, is encouraged.

1604.02 Lighting. Lighting for the Commercial/Industrial district as well as Residential Home Businesses shall comply with the Lighting ordinance (Section 2300), with NFPA 70 as well as any requirements in this ordinance.

1604.03 Portable Signs: Portable signs shall be permitted only in the Commercial/Industrial District, subject to the following limitations:

- a. No more than one such sign may be displayed on any property.
- b. Such signs shall be displayed not more than 20 days in any calendar year.
- c. Any electrical portable signs shall comply with NFPA 70.
- d. No portable sign shall be displayed prior to obtaining a sign permit.

1604.04 Supporting structure. Size of supporting structure and framework not containing the signs are not included in computation of signs size.

1604.05 Maintenance. All signs shall be kept in a good repair for reasons of public safety and aesthetics. It will be at the discretion of the Building Inspector to require repair or removal.

#### **1605.00 Residential/Agricultural District Requirements**

1605.01 Number. Only **approved home businesses** are allowed one sign per street or road on which they have frontage. Corner lot properties are allowed one sign on each street or road.

1605.02 Size. Total square footage of signs shall be 32 square feet or less, with individual signs not exceeding 16 square feet. On two-sided signs, only one side is used to compute the sign's area.

1605.03 Height. Signs shall not exceed 8 feet in height. This is measured from the top of the sign to the surrounding grade of the ground.

1605.04 Lighting.

- a. Internally lit signs are not allowed.
- b. Bottom mounted sign lighting shall not be used.
- c. Hours of sign lighting must not exceed the hours of operation.

1605.05 Long-Term Temporary On-Premise Signs

- a. Number per site = 2
- b. Total Area per sign and permit: For properties consisting of less than 5 acres of land, maximum area permitted is 5 square feet. For properties 5 acres or larger, maximum area permitted is 12 square feet without a permit and 16 square feet with a permit
- c. Permit required for signs with an area greater than 12 square feet.
- d. Such signs shall be displayed no more than 6 months

1606.00 **Commercial/Industrial District Requirements**

1606.01 Requirements.

**Awning / Marquee / Canopy Signs**

- a. Number per site = 3
- b. Total area = 50% of the storefront's linear measure or maximum 100 square feet, whichever is less
- c. The total amount is included with the total allowed square footage of the Wall Signs

**Wall Signs**

- a. Number per store front = 1
- b. Total area = 50 % of the storefront's linear measure or maximum 100 square feet, whichever is less
- c. The total amount is included with the total allowed square footage of the awning/marquee/canopy signs

**Monument Signs**

- a. Number per site = 1
- b. Total area = 75 square feet
- c. Total height = 15 feet

**Directional Signs**

- a. Total area = 4 square feet
- b. Directional information ("in", "out", "parking", etc.) must be at least 65% of the area of the sign
- c. No permit required if part of Sign Master Plan

**Short-Term Temporary On-Premise Signs**

- a. Number per site = 2
- b. Total area per sign = 50 square feet
- c. Permit required for signs with an area greater than 12 square feet.
- d. Such signs shall be displayed no more than 14 days in any calendar year

**1607.00 Off-Premise Signs**

The purpose of this section is to allow permanent, off-premise signs to provide direction to businesses and points of interest.

**1607.01** Size. Off-premise signs shall conform to the following dimensions: 30 inches wide, 8 inches high. Letter size shall be a minimum of 3 inches and a maximum of 4 inches in height.

**1607.02** Number. No more than one off-premise sign is allowed per lot in the residential district, and no more than one sign per 100 feet of lot frontage in the commercial-industrial district.

**1608.00 Sign Master Plan**

Master Sign Plan Required: All landlords or single-owner controlled multiple-occupancy development complexes such as shopping centers, shall submit to the **Planning Board** a Master Sign Plan prior to the issuance of new sign permits. The Master Sign Plan shall establish standards and criteria for all signs in the complex that require permits, and shall address, at a minimum, the following:

- Proposed sign locations
- Materials
- Type of illumination
- Design of free-standing sign structures
- Size
- Quantity
- Uniform standards for non-business signage, including directional and informational signs

Development Complex Sign: In addition to the free-standing business identification signs otherwise allowed by this ordinance, every multiple-occupancy development complex shall be entitled to one free-standing sign per street front, at the maximum size permitted for business identification free-standing signs, to identify the development complex. No business identification shall be permitted on a development complex sign. Any free-standing sign otherwise permitted under this ordinance may identify the name of the development complex.

Compliance with Master Sign Plan: All applications for sign permits for signage within a multiple-occupancy development complex shall comply with the Master Sign Plan.

Amendments: Any amendments to an approved Master Sign Plan shall be approved by the Planning Board and must be signed and approved by the owner(s) within the development complex before such amendment will become effective.

1609.00 Conditional use Permit Application

**Brookline Planning Board  
Conditional Use Permit Sign Application**

This application must be submitted to the Planning Board Secretary /Town Planner at least 30 days prior to the date of the Planning Board meeting at which the applicant wishes to appear.  
(Section 3.2 of the Non-Residential Site Plan Regulations, Submission Procedure)

Map/Lot# \_\_\_\_\_ Zone \_\_\_\_\_ Date \_\_\_\_\_  
Applicant Name \_\_\_\_\_ Phone # \_\_\_\_\_  
Applicant E-Mail \_\_\_\_\_  
Applicant Address \_\_\_\_\_  
Location of Activity \_\_\_\_\_  
Property Owner Name & Address \_\_\_\_\_  
Owner(s) Signature \_\_\_\_\_ Date \_\_\_\_\_  
Applicant(s) Signature \_\_\_\_\_ Date \_\_\_\_\_

*Signatures of both owner and applicant are required.*

**You must include at least the following information with this application and submit 4 complete copies:**

- Rendering of proposed sign and its supporting structure (including the building for a wall sign)
- Photograph of sign location
- Completed waiver request form, if one or more waivers are requested.
- Dimensions of proposed sign
- Color(s) of proposed sign
- Detailed location such as a copy of the site plan showing the proposed location
- Manner of lighting (must comply with all town regulations and ordinances).

**Fees for Conditional Use Permit application (sign)**

Application fee \$ 20.00

Application Review fee \$50.00

Notice per abutter by certified mail \$2.00 plus postage cost

Other fees – Billed separately when applicable, based on the time spent for review, inspections and meeting attendance by the Town Planner, Town Engineer, and Town Counsel.

**\*Abutters list: List of names and addresses of abutters; 3 sets of Avery 5160 address labels with names and addresses of abutters (to address envelopes). Abutters include owner and applicant if not the same.**

Payment Amount \_\_\_\_\_ Received by \_\_\_\_\_ Date \_\_\_\_\_



**1610.00 Waiver Request Form – Conditional Use Permit Application**

**Brookline Planning Board  
Waiver Request Form – Conditional Use Sign Permit Application**

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Lot Number \_\_\_\_\_

Date: \_\_\_\_\_ Meeting Date: \_\_\_\_\_

Applicant: \_\_\_\_\_

Address: \_\_\_\_\_

Owner of Property: \_\_\_\_\_

What provision of the Site Plan, Subdivision or Excavation Regulations are you asking to be waived?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

***Conditional Use requires meeting the standard as set in section 1602.00. Please state the reasons your request should be approved:***

**Note:** This application is not acceptable unless all required statements have been made. Additional information may be supplied on separate pages if the space provided is inadequate.

The use is specifically authorized in the Ordinance as a conditional use because:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The development in its proposed location will comply with all requirements of this section, and with the specific conditions or standards established in this Ordinance for the particular use because:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The use will be compatible with the neighborhood and with adjoining or abutting uses in the area in which it is to be located because:

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The use will not have a substantial adverse impact on vehicular or pedestrian safety because:

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The use will not have a substantial adverse impact on the appearance and visual quality of the surrounding neighborhood. In evaluating visual impact, the Planning Board may consider architectural and design elements because:

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The use will be adequately serviced by necessary public utilities and by community facilities and services of a sufficient capacity to ensure the proper operation of the proposed use because:

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Applicant \_\_\_\_\_ Date \_\_\_\_\_

(Signature)

**1700.00 HOME BUSINESSES**

**1701.00 Purpose and Intent**

The Town of Brookline receives a relatively large number of applications for home-based businesses, owing to the rural character of the town and to the rising popularity of home employment due to technological advances. While the town may legally prohibit all commercial activities in the residential-agricultural district, it recognizes that many Home Businesses may be beneficial to the community as a whole and can be carried on with minimal or no impact on the neighborhood in which they are situated. Therefore, the Town of Brookline has determined that the right to conduct a home business should be subject to an initial screening by an appropriate land use board to determine if the proposed use complies with the standards enunciated herein and, upon such determination, the issuance of a special permit to conduct such use. Therefore, pursuant to RSA 674:21, the Planning Board is authorized to conduct a hearing on any request for a special permit to conduct a home business, and shall determine, at said hearing, whether the proposed use is compatible with the standards set forth below. The Planning Board, in exercising this authority, following hearing, may grant the permit, deny the permit, or grant the permit subject to reasonable restrictions, as it deems necessary to preserve the character of residential neighborhoods and to provide residents freedom from nuisance and potential negative impacts resulting from commercial activity in residential areas.

**1701.01 Definition of a Home Business**

A small-scale business operated within a residence and/or accessory structure whose primary commercial activity takes place at the location of the residence and/or the accessory structure *or* a business in which employees, other than employees who are residents of the home, are required to be on the property in a work related capacity. The business must be incidental and subordinate to the use of the lot for residential purposes and not detract from the residential character of the lot. All home businesses must comply with the criteria set forth in Section 1702.00 through Section 1706. (March 10, 2004)

**1702.00 General Requirements**

1702.01 A Home Business which is evident to the general public shall be required to apply for and obtain an approval pursuant to the Non-Residential Site Plan Review regulations adopted by the planning board that govern such uses. Evidence of the Home Business includes but is not limited to the following: increased traffic, external signs, external display of goods, vehicle or equipment parking and storage, septic expansion, and request for a building permit.

1702.02 The Home Business shall be secondary to the use of the property as a residence. The home business can occupy up to 25% of the combined gross floor area of the existing home and/or any accessory structures, or 1,500 sq.ft., whichever is less.

1702.03 No additions or changes shall be made to the residence that will make it impractical to revert the building to purely residential use.

1702.04 Objectionable circumstances such as noise, vibration, dust, smoke, excessive traffic, electrical disturbances, odors, heat, glare, visual disharmony or other offensive emissions shall not be produced in excess of that normally associated with residential use. .

- 1702.05 Home Businesses shall be conducted by the resident, resident members of the owner's family, a resident tenant, or resident members of the tenant's family. Two employees at any one time, in addition to home inhabitants, are permitted to work on the premises.
- 1702.06 All signs must comply with the requirements of Section 1600, Sign Ordinance.
- 1702.07 Home business activities apparent to the general public shall be limited to the hours between 8:00 a.m. and 7:00 p.m.
- 1702.08 Sufficient off-street parking shall be provided for any non-resident employees, customers and suppliers who may be normally expected to need parking spaces at one time. Driveways may be used for client parking.
- 1702.09 Home Businesses shall be conducted in accordance with all Town regulations, state laws and licensing requirements.
- 1702.10 Once a proposed home business has obtained a special permit from the Planning Board and operation of the use has commenced, the continuation of such use shall remain subject to compliance with the standards of this section. In the event that a home business is operated in a manner that violates the standards of this section, then the Building Inspector may direct such business to be brought into compliance, or, alternatively, to cease such violation. Any such directive shall be appealable to the Zoning Board of Adjustment pursuant to RSA 676:5.

**1703.00 *Non-Conforming Home Businesses***

- 1703.01 The following shall apply to any nonconforming home business in existence at the time of the passage of this ordinance, and as amended. Although such a home business may not conform to the standards specified in this section, the following provisions shall apply:
- a. No nonconforming home business may be extended to occupy a greater area of land upon which the business is situated than is owned by the property owner at the time of adoption of this ordinance, and as amended.
  - b. If any nonconforming use is discontinued, changed, or abandoned, any subsequent home business shall conform to the standards specified in this ordinance.
  - c. If any use is wholly discontinued for any reason, except pursuant to a valid order of a court of law, for a period of six months, it shall be conclusively presumed that such use has been abandoned, and all future home businesses shall comply with the standards of this ordinance.

**1704.00 *Day Care as a Home Business***

- 1704.01 Child day care operations operated out of a private home must comply with the standards provided herein. All day care operations must satisfy the applicable criteria as set forth in RSA 170-E and the rules of the New Hampshire Department of Health and Human Services.
- 1704.02 A child day care operation involving a household's own children and up to three (3) unrelated non-resident children does not require a home business site plan review and does not require a state license. However, such a day care operation must comply with all other federal, state and local health code and other requirements that may apply.

1704.03 A child day care operation involving four (4) to twelve (12) non-resident children requires home business site plan review and a state license. Such a day care operation must provide at least 35 square feet of heated floor space per child, and the total must comply with the 25% rule (1702.02) to qualify as a home business. A day care operation involving greater than twelve (12) non-resident children is considered a group child care center, which shall be considered a full business use not permitted as a home occupation.

1704.04 Any non-exempt child care business operated in a non-residential building requires a home business site plan review and a state license. Such a day care operation must provide at least 35 square feet of heated floor space per child.

**1705.00 *Prohibited Uses and Limitations***

1705.01 The home business may not involve any process which results in the discharge of any hazardous material (as defined by the State of New Hampshire) into the ground or into any surface waters.

1705.02 The Home Business cannot involve any use hazardous to the public health, safety and welfare.

1705.03 The maintenance or repair of automobiles or motor vehicles shall not be permitted as a home business.

1705.04 Home businesses shall not involve the on-site use or storage of heavy equipment such as back-hoes, graders, dump trucks, tractor trailers, semi-trucks and other large vehicles or stationary equipment of an industrial nature. When a controversy arises as to whether a certain piece of equipment or vehicle falls into the class of prohibited heavy equipment, the Planning Board shall make a finding as to whether or not such equipment or vehicle is prohibited as part of the home business operation prior to taking final action on the application.

1705.05 Traffic generated by the Home Business shall not create safety hazards or be substantially greater in volume than would normally be expected with residential use. Any business that generates more than an average of twenty-four (24) business-related trips per day is prohibited.

**1706.00 *Procedure***

1706.01 Requests for Home Businesses shall be presented to the Planning Board in accordance with Sections 3.2, Submission Procedures, and 6.2, Submission Requirements for Home Businesses, of the Non-Residential Site Plan Review regulations.

**1800.00 DRIVEWAY ORDINANCE**

**1801.00 Authority**

Pursuant to the provisions of RSA 236:13, the following Driveway Ordinance is hereby established for the Town of Brookline, NH

**1802.00 Purpose**

1802.01 In as much as driveways and entrances are, in effect, intersections, they require certain controls as to size and location in order to provide safe and efficient access to property fronting on the road.

1802.02 To provide for the proper and suitable discharge and control of surface drainage in and around the driveway.

1802.03 To ensure the public safety through the orderly control of traffic movement onto and from highways, streets, and roadways.

1802.04 To provide a uniform practice and procedure relative to the design and construction of driveway entrances and exits.

1802.05 To prevent the existence of unsafe conditions resulting from improper placements of any driveway.

1802.06 To prevent erosion or other damage to existing Town roads from the construction of driveways.

**1803.00 Definitions**

1803.01 Driveway. Any improved or unimproved area serving as entrance, exit, or approach from any or to any parcel of land, regardless of public or private ownership.

1803.02 Common Driveway. A private driveway that serves as a common access from a public road for two (2) or more lots.

1803.03 Driveway Inspector. A local official designated by the Selectboard with the responsibility of certifying that the specifications set forth in this Ordinance are met.

**1804.00 Permit and Penalty**

1804.01 Anyone desiring to construct, alter or relocate a driveway in order to obtain access to an existing or proposed street or roadway, shall first apply for and obtain a permit from the Building Inspector's office.

1804.02 This permit shall provide for the construction, alteration or relocation of such driveway in accordance with the following specifications:

- a. No use of such driveway (except of a temporary nature during construction) shall take place until the Driveway Inspector inspects the construction of the driveway and certifies that the driveway conforms to the specifications set forth in this Ordinance.

**1805.00 Requirements**

**1805.01 Design Features**

- a. Maximum width at property line--Twenty-five (25) feet
- b. Minimum distance from intersection--One hundred (100) feet
- c. Minimum sight distance--Two hundred (200) feet
- d. No driveway shall intersect the street at less than a sixty (60) degree angle

1805.02 Driveways shall be so located as to most adequately protect the safety of the traveling public.

1805.03 On any paved road, the driveway apron shall be paved 15 feet from the edge of existing pavement or to the property line, whichever distance is lesser, unless other specifications are made by the Driveway Inspector as per this article.

All driveway aprons shall be paved or bonded to be paved prior to the issuance of a Certificate of Occupancy. From April 1 to September 30 the driveway apron shall be paved prior to the issuance of a Certificate of Occupancy. Driveway aprons that cannot be paved between October 1 and March 31 shall provide the Town with a bond for paving prior to the issuance of a Certificate of Occupancy. All bonded driveways shall be paved between April 1 and July 1 of the following spring. Arrangements shall be made with the Driveway Inspector to schedule.

1805.04 Upon any application for a driveway permit, the applicant shall confer with the Driveway Inspector who shall determine specifications as to sloping, culverts, and other aspects of construction of said driveway in order to properly provide for adequate drainage, snow removal, safety, etc. to prevent undue interference with the proper use of existing access roads. It shall be a requirement of construction that such specifications of the Driveway Inspector be complied with prior to use of such driveway.

**1806.00 Common Driveways**

A common driveway is permitted to serve as access to all legal frontage lots in all zoning districts in accordance with all other provisions of the Zoning Ordinance and Section 7 of the Town of Brookline Subdivision Regulations to a maximum of four (4) lots.

**1807.00 Easement and Bond**

1807.01 The applicant shall as a condition of the granting of the permit, be required to provide to the Town of Brookline, an easement to the extent deemed necessary for the purposes of entering upon the premises of the applicant to control or maintain surface drainage.

The applicant shall provide a letter of credit or cash bond in the sum of \$1,000.00 or up to an amount necessary as security for the proper construction of the paved portion of the driveway, and such culvert, piping, ditching, loaming and seeding, or other efforts incidental to and necessary for the proper discharge and control of surface and sub-surface drainage in and around the vicinity of the proposed driveway, both on the property of the applicant or on the property of the Town. The performance surety shall also cover damages to the road surface, edges and shoulders along the frontage of the property.

*1807.02* All funds provided to the Town in satisfaction of this obligation shall be deposited in an escrow savings account maintained by the Town for said purpose, and portions of said funds may be withdrawn by the Selectboard from time to time to apply against the cost of any portion of said construction which the Town is obliged to undertake to complete. Provided, however, that no funds shall be expended by the Town at any site in excess of the amount on deposit pertaining to such site.

***1808.00 Fees***

*1808.01* No permit shall be issued until payment of a fee, which shall be established by the Selectboard, is paid to the Town of Brookline.

***1809.00 Other Provisions***

*1809.01* Driveways existing as of March 12, 1996 are exempt from this Ordinance unless the driveway is being relocated.



**TOWN OF BROOKLINE, NEW HAMPSHIRE**  
**DRIVEWAY PERMIT APPLICATION**

Application Date: \_\_\_\_\_

Permit Number: \_\_\_\_\_

Lot Number: \_\_\_\_\_

Subdivision (if applicable): \_\_\_\_\_

Owner (or applicant): \_\_\_\_\_

Address of Applicant: \_\_\_\_\_

Phone Number of Applicant: \_\_\_\_\_

Street Address of Driveway: \_\_\_\_\_

- 
- 
- 1) The driveway will be inspected by the Driveway Inspector, who will ensure that the driveway is in compliance with Section 7 of the Brookline Subdivision Regulations.
  - 2) The fee for a driveway permit, as established by the Brookline Selectboard. I have submitted this fee.
  - 3) Any necessary State permits such as Wetlands, Timber Cutting, and Curb Cut permits have already been obtained. Curb cuts need to be shown on the subdivision plans.
  - 4) On any paved road, the driveway needs to be paved 15 feet from the edge of the road, or from the road to the property line, whichever distance is smaller, to encourage proper drainage and sedimentation & erosion control. This paving is required unless other specifications are made by the Department of Public Works Director as per Section 1800 of the Zoning Ordinance.

I have read and understand the above and Section 7 and Section 1800 (attached) which pertain to driveways. The driveway that I propose is in compliance with those regulations.

Signature of Applicant: \_\_\_\_\_

Fee Paid: \_\_\_\_\_ (Date)

CASH  
 CHECK # \_\_\_\_\_

**1900.00 TELECOMMUNICATION FACILITIES ORDINANCE**

**1901.00 Authority**

This Ordinance is adopted by the Town of Brookline in accordance with the authority granted in New Hampshire Revised Statutes Annotated 674:16 and 674:21 and procedurally under 675:1, II.

**1902.00 Purpose and Goals**

In recognition of the requirements of the federal Telecommunications Act of 1996, this Ordinance is designed and intended to balance the interests of the residents of Brookline, telecommunications providers, and telecommunications customers in the siting of telecommunications facilities within the town of Brookline so as to ensure coordinated development of communications infrastructure while preserving the health, safety and welfare of the Town and its residents. This Ordinance establishes general guidelines for the siting of telecommunications towers and antennas to enhance and fulfill the following goals:

- a. Preserve the authority of Brookline to regulate and to provide for reasonable opportunity for the siting of telecommunications facilities, by enhancing the ability of providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently;
- b. Reduce adverse impacts such facilities may create, including, but not limited to, impacts on aesthetics, environmentally sensitive areas, historically significant locations, flight corridors, health and safety by injurious accidents to person and property, and prosperity through protection of property values;
- c. Provide for co-location and minimal impact siting options through assessment of technology, current locational options, future available locations, innovative siting techniques, and siting possibilities beyond the political jurisdiction of the Town;
- d. Permit the construction of new towers only where all other reasonable opportunities have been exhausted, and to encourage the users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas;
- e. Require cooperation and co-location, to the highest extent possible, between competitors in order to reduce cumulative negative impacts upon the Town;
- f. Provide constant maintenance and safety inspections for any and all facilities;
- g. Provide for the removal of abandoned facilities that are no longer inspected for safety concerns and Building Code\* (See Appendix A: Table of Amendments, 2010) compliance. Provide a mechanism for the Town to remove these abandoned towers to protect the citizens from imminent harm and danger; and
- h. Provide for the removal or upgrade of facilities that are technologically outdated.

**1903.00 Definitions**

- 1903.01 Alternative Tower Structure. Innovative siting techniques such as artificial trees, clock towers, bell towers, steeples, light poles, and similar alternative design mounting structures that camouflage or conceal the presence of antennas or towers.
- 1903.02 Antenna. Any exterior apparatus designed for telephonic, radio, television, personal communications service (PCS), pager network, or any other communications through the sending and/or receiving of electromagnetic waves of any bandwidth.
- 1903.03 Co-Location. The use of an existing tower or an existing telecommunications facility, for multiple purposes or users.
- 1903.04 Elevation. The measurement of height above sea level.
- 1903.05 Guy wires. A cable used to secure and steady a tower.
- 1903.06 Guyed Tower. A monopole or lattice tower that is tied to the ground or other surface by diagonal cables.
- 1903.07 Height. The vertical distance measured from the average elevation of the finished grade surrounding the tower or other structure to the highest point on the tower or other structure, including antennas.
- 1903.08 Lattice Tower. A type of mount that is self-supporting with multiple legs and cross-bracing of structural steel.
- 1903.09 Monopole. A type of mount that is self-supporting with a single shaft of wood, steel or concrete and a platform (or racks) for panel antennas arrayed at the top, constructed without guy wires.
- 1903.10 Preexisting towers and antennas. Any tower or antenna lawfully constructed or permitted prior to the adoption of this Ordinance. Also, any tower or antenna lawfully constructed in accordance with this Ordinance that predates an application currently before the Town.
- 1903.10 Secondary Use. A use of land or of a building or portion thereof which is unrelated to the principal use of the land or building.
- 1903.11 Telecommunications Facilities. Any structure, antenna, tower, or other device that provides commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), and personal communications services (PCS), and common carrier wireless exchange access services.
- 1903.12 Tower. A structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice or monopole towers but not including guyed towers. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, alternative tower structures, and the like.

**1904.00**    ***Applicability***

1904.01    *Public Property*

Antennas or towers located on property owned, leased, or otherwise controlled by the Town may be exempt from the requirements of this Ordinance, except that uses are only permitted in the zones and areas as delineated in Section 1904.03. This partial exemption shall be available if a license or lease authorizing such antenna or tower has been approved by the governing body and the governing body elects, subject to state law and local ordinance, to seek the partial exemption from this Ordinance.

1904.02    *Amateur Radio, Receive-Only Antennas*

This Ordinance shall not govern any tower, or the installation of any antenna that is under 70 feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas. This application adopts the provisions and limitations as referenced in RSA 674:16, IV. In addition, no commercial uses/providers shall operate on a private, amateur or receive only tower.

1904.03    *Essential Services and Public Utilities*

Telecommunications facilities shall not be considered infrastructure, essential services, or public utilities, as defined or used elsewhere in the Town's Ordinances and Regulations. Siting for telecommunications facilities is a use of land, and is subject to the Town's Zoning Ordinance and all other applicable Ordinances and Regulations.

**1905.00**    ***Siting Standards***

1905.01    *General Provisions*

The uses listed in this section are deemed to be permitted uses in the designated district in accordance with all other applicable Ordinances and Regulations of the Town including Non-residential Site Plan Review and approval by the Planning Board.

- a. Antennas and towers may be considered either principal or secondary uses. A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.
- b. For purposes of determining whether the installation of a tower or antenna complies with district development standards, the dimensions of the entire lot shall control, even though the antennas and towers may be located on leased parcels within such lots.
- c. Towers that are constructed, and antennas that are installed, in accordance with the provisions of this Ordinance, shall not be deemed to constitute the expansion of a nonconforming use or structure.
- d. Applicants receiving approval to construct new telecommunication towers must execute a written agreement with the Town specifying that the applicant agrees to provide for maximum shared use of the tower with other telecommunication providers and with governmental agencies at industry standard lease rates. This agreement shall include use by the Town for municipal communication purposes. The applicant shall also provide notice to all commercial carriers in the region that a new facility is to be erected and that an opportunity for co-location exists.

1905.02 Districts Permitted

New tower construction and co-location of telecommunication facilities shall be permitted in the Industrial-Commercial District and Residential-Agricultural District subject to all applicable local, state and federal regulations and Non-Residential Site Plan review and approval by the Planning Board.

1906.00 **Bonding, Security, and Insurance**

Recognizing the extremely hazardous situation presented by abandoned and unmonitored towers, the Planning Board shall set the form and amount of security that represents the cost for removal and disposal of abandoned towers in the event that the tower is abandoned and the tower owner is incapable and/or unwilling to remove the tower in accordance with Section 1907. Bonding and surety shall be consistent with the provisions in the Subdivision Regulations. Furthermore, the Planning Board shall require submission of proof of adequate insurance covering accident or damage.

1907.00 **Removal of Abandoned Antennas and Towers**

Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned and hazardous to the public health and safety, unless the owner of said tower provides proof of quarterly inspections. The owner shall remove the abandoned structure within ninety (90) days of receipt of a declaration of abandonment from the Town notify the owner of such abandonment. A declaration of abandonment shall only be issued following a public hearing, noticed according to RSA 676:4, with notice to abutters and the last known owner/operator of the tower. If the abandoned tower is not removed within ninety (90) days, the Town may execute the security and have the tower removed. If there are two or more uses of a single tower, this provision shall not become effective until all uses cease using the tower.

1908.00 **Waivers**

1908.01 General

The Planning Board may approve waivers to the requirements of Section 1900 where it finds that extraordinary hardships, practical difficulties, or unnecessary and unreasonable expense would result from strict compliance with the foregoing terms, or the purposes of these regulations may be served to a greater extent by an alternative proposal. The purpose of granting waivers under the provisions of this Ordinance shall be to insure that an applicant is not unduly burdened as opposed to merely inconvenienced by the terms of the Ordinance. The Board shall not approve any waiver(s) unless a majority of those present and voting shall find that all of the following apply:

- a. The granting of the waiver will not be detrimental to the public safety, health, or welfare or be injurious to other property and will promote the public interest.
- b. The waiver will not, in any manner, vary the provisions of the Town's Zoning Ordinance or Master Plan.
- c. The waiver will substantially secure the objectives, standards, and requirements of this Ordinance.
- d. A particular and identifiable hardship exists or a specific circumstance warrants the granting of a waiver. Factors to be considered in determining the existence of a hardship shall include, but not be limited to:

1. Topography and other site features.
2. Availability of alternative site locations.
3. Geographic location of the property.
4. Size/magnitude of the project being evaluated and availability of co-location.

*1908.02*     Conditions

In approving waivers, the Board may impose such conditions as it deems appropriate to substantially secure the objectives of the standards or requirements of this Ordinance.

*1908.03*     Procedures

A petition for any such waiver shall be submitted in writing by the applicant with the application for Planning Board Review. The petition shall state fully the grounds for the waiver and all of the facts relied on by the applicant. Failure to submit petition in writing shall require an automatic denial of the waiver request.”

## **2000.00 ACCESSORY DWELLING UNITS**

### **2001.00 Purpose**

To provide expanded housing opportunities and flexibility in household arrangements of a permitted, owner occupied, single-family dwelling, while maintaining aesthetics and residential use compatible with homes in the neighborhood.

### **2002.00 Requirements/Limitations**

Accessory dwelling units (ADU) shall be permitted in the Residential/Agricultural district by special exception granted by the Zoning Board of Adjustment and shall remain with the property. In addition to meeting the criteria for a special exception, the accessory dwelling unit shall meet or adhere to the following:

- 2002.01 Accessory dwelling units shall be within or attached to a principal single-family dwelling unit or accessory building. The accessory dwelling unit shall be connected to the containing or attached structure by a door in an interior common wall. Any exterior entrances or exits shall be located to the side or rear of the building.
- 2002.02 One of the two dwelling units shall be the primary residence and legal domicile of the property owner.
- 2002.03 Only one accessory dwelling unit shall be allowed per principal dwelling unit and/or lot .
- 2002.04 The gross living area of an accessory dwelling unit shall not be less than 350 square feet and not greater than 1,000 square feet and shall contain no more than two bedrooms.
- 2002.05 The creation of the accessory dwelling unit shall not reduce the floor area of the principal dwelling to less than that of the accessory dwelling unit.
- 2002.06 A building permit for an accessory dwelling unit shall be approved and issued prior to the start of any construction. The Emergency Management Director shall determine the house number for the accessory dwelling unit at the time of building permit application.
- 2002.07 The accessory dwelling unit shall have a fire alarm system that is interconnected with the rest of the principal dwelling unit and any applicable accessory building in such a manner that the activation of one alarm will activate all of the alarms in the principal dwelling unit and any applicable accessory building.
- 2002.08 The driveway shall be designed to appear as a driveway of a single-family residence, and no new curb cut from the street shall be constructed.
- 2002.09 The existing, replacement or proposed septic system shall be certified by a licensed septic designer or engineer as adequate to support the accessory dwelling unit in accordance with New Hampshire RSA 485-A:38 and the Town of Brookline septic regulations.

### **2003.00 Change of Ownership**

If a property containing an approved accessory dwelling unit is conveyed and the new owner wishes to maintain the accessory unit, the new owner shall comply with this section.

**2004.00**    ***Procedural Requirements***

An application for a special exception under the auspices of this Section shall be filed with the Zoning Board of Adjustment. Such application shall meet the following requirements:

2004.01    Plans approved by the Fire Department and the Building Inspector denoting, describing and/or identifying the intended accessory dwelling unit area as such shall be submitted with any application for an accessory dwelling unit and shall show two (2) means of egress from the accessory dwelling unit, other than a window.

2004.02    A building permit application shall have been submitted to the Building Inspector.

**2005.00**    ***Special Exceptions***

The Zoning Board of Adjustment shall grant a special exception permitting an accessory dwelling unit upon finding that the applicant has demonstrated the following:

- a.    The use of the accessory dwelling unit is secondary and accessory to that of the structure in which the accessory dwelling unit is contained or to which it is attached.
- b.    The accessory dwelling unit is developed in a manner which does not alter the character or appearance of the principal dwelling unit as a single-family residence.

**2006.00**    ***Failure to Comply***

2006.01    If the owner fails to comply with the requirements of this section, the use of the accessory dwelling unit shall be terminated within 6 months of the date of notice from the Selectboard [Building Inspector]. The owner shall be subject to penalty under RSA 676:17 for each day the accessory dwelling unit fails to comply with the requirements of this section after March 9, 1999.

**2007.00**    ***Enforcement Authority***

2007.01    The Selectboard shall be the final authority on compliance and enforcement issues of this article.



**2100.00 IMPACT FEES**

**2101.00 Purpose**

2101.01 This ordinance is enacted pursuant to RSA 674:16 and 674:21, and in order to:

- a. Promote public health, safety, convenience, welfare, and prosperity;
- b. Ensure that adequate and appropriate facilities are available to individuals who may come to be located in the Town of Brookline, New Hampshire;
- c. Prevent scattered or premature development of land as would involve danger or injury to health, safety, or prosperity by reason of the lack of drainage, transportation, schools, fire protection or other public services, or necessitate the excessive expenditure of public funds for the supply of such services;
- d. Provide for the harmonious development of the municipality and its environs; and
- e. Ensure the proper arrangement and coordination of streets.

**2102.00 Definitions**

Any term not defined here shall have the same meaning as defined in Section 200.00 of this Ordinance.

2102.01 Impact Fee. A fee or assessment imposed upon development, including subdivision, building construction or other land use change, in order to help meet the needs occasioned by that development for the construction or improvement of capital facilities owned or operated by the municipality, including and limited to water treatment and distribution facilities; wastewater treatment and disposal facilities; sanitary sewers; storm water, drainage and flood control facilities; public road systems and rights-of-way; municipal office facilities; public school facilities; the municipality's proportional share of capital facilities of a cooperative or regional school district of which the municipality is a member; public safety facilities; solid waste collection, transfer, recycling, processing and disposal facilities; public library facilities; and public recreational facilities not including public open space.

2102.02 Off-site Improvement / Exaction. Those improvements that are necessitated by a development but which are located outside the boundaries of the property that is subject to a subdivision plat or site plan approval by the planning board. Such off-site improvements shall be limited to any necessary highway, drainage and sewer and water upgrades pertinent to that development.

**2103.00 Authority**

2103.01 The Planning Board may, as a condition of approval of any subdivision or non-residential site plan, and when consistent with applicable Board regulations, require an applicant to pay an impact fee for the applicant's fair share of off-site improvements to public facilities affected by the development.

2103.02 Nothing in this section shall be construed to limit the existing authority of the Planning Board to disapprove proposed development which is scattered or premature, or which would require an excessive expenditure of public funds, or which would otherwise violate applicable ordinances and regulations. Nothing in this section shall be construed to limit the Planning Board's authority to require off-site work to be performed by the applicant in lieu of paying an impact fee, or the Board's authority to impose other types of conditions of approval. Nothing in this section shall be construed to affect types of fees governed by other statutes, town ordinances or regulations.

**2104.00 *Assessment Methodology and Establishment and Review of Fees***

2104.01 *Proportionality*

The amount of the impact fee shall be calculated by the Planning Board to be a proportional share of municipal capital improvement costs which is reasonably related to the capital needs created by the development, and to the benefits accruing to the development from the capital improvements financed by the fee.

2104.02 *Existing Deficiencies*

Upgrading of existing facilities and infrastructures, the need for which is not created by new development, shall not be paid for by impact fees.

2104.03 *Impact Fee Schedule*

The Impact Fee Schedule shall be prepared in accordance with RSA 674:21, and shall be calculated using the following factors, based upon the most recent data available or a conservative estimate:

- a. A determination of the size of the capital facility.
- b. An estimate of the proportion of users from future Brookline households subject to the impact fee that will use the facility when it has reached its capacity.
- c. Projections of future users based upon residential building permit projections.
- d. Estimates of the cost of the facility to the Town of Brookline, including financing and excluding non-municipal funding sources.
- e. Credits subtracted from a base fee accounting for property taxes paid by the proportion of the project to be financed by impact fees.
- f. A fee assessed per housing unit or the most appropriate factor for the specific impact fee being charged.
- g. A determination of the number of building permits that will need to be issued in order to finance the impact fee.
- h. An accounting of the number of permits issued, with a maximum number of permits to be assessed an impact fee prior to the fee's termination.
- i. Exemptions, if any.

2104.04 *Computation of Impact Fees*

- a. The amounts of the impact fees shall be determined using the values contained in the Impact Fee Schedules for the following types of facilities:
  1. School Facilities
  2. Municipal Facilities
  3. Public Libraries
  4. Public Recreation Facilities

**2104.05**     Review of Impact Fees

The Planning Board shall review an established impact fee schedule on an annual basis, based upon a recommendation of the Capital Improvements Committee. The Planning Board shall modify the impact fee schedule if it finds that new data is available that will refine the schedule. This may include the replacement of figures used in the impact fee schedule with more accurate or recent projections, data and figures.

**2104.06**     Relationship to the Capital Improvements Program

Whenever an impact fee or off-site improvement is assessed in accordance with this ordinance, the project shall become part of the Capital Improvements Program (CIP) as an administrative adjustment. The CIP, when modified by the Town, shall include all projects that are funded through impact fees and all off-site improvements / exactions.

**2105.00**     ***Off-site Improvements / Exactions***

**2105.01**     Ability to assess off-site improvements / exactions

An improvement that is required by the Planning Board for either a site plan or subdivision that is necessary for the project to operate properly shall be considered to be an off-site improvement or exaction. Off-site improvements for site specific applications shall be assessed on a case by case basis and shall be in addition to other impact fees imposed pursuant to this ordinance. The applicant shall be assessed their proportionate share for the need for the project. In cases where it is determined that such an improvement is necessary for the proper functioning of the project, the Planning Board shall so notify the applicant and the applicant may be required to present to the Board a study which identifies the proportionate share of the cost of such improvement that the applicant's project necessitates. The Board may, at the expense of the applicant, refer such study to a consultant of its own to determine the reliability of the findings which shall be considered by the Board to arrive at a resolution of this issue. The applicant shall be assessed their proportionate share for the need for the project. In cases where it is determined that an improvement is necessary for the proper functioning of a site plan or subdivision, but that the applicant, for whatever reason, is determined to contribute more than its proportionate share to the improvement under this section, and, therefore, that the improvement will also accommodate other future development, the Town, at the request and expense of the applicant, may establish a separate project related impact fee that assesses other future site plans or subdivision for their proportionate share of the improvement to reimburse the applicant for such disproportionate share of the improvement to reimburse the applicant for such disproportionate contribution. Such impact fees shall be provided to the original applicant with any interest.

**2106.00**     ***Administration***

2106.01 Accounting

In accord with RSA 673:16, II and RSA 674:21, V(c), impact fees shall be accounted for separately, shall be segregated from the Town's general fund, may be spent upon order of the Selectboard, and shall be used solely for the capital improvements for which they are collected, or to recoup the cost of capital improvements made in anticipation of the needs for which the fees were collected to meet.

2106.02 Assessment

All impact fees imposed pursuant to this section shall be assessed prior to, or as a condition for, the issuance of a building permit or other appropriate permission to proceed with development, as determined by the Planning Board. . The amount of the impact fee to be imposed is that which is in place at the time of subdivision or site plan approval.

2106.03 Reserved

2106.04 Collection

Impact fees shall be collected as a condition for the issuance of a certificate of occupancy; provided, however, in projects where off-site improvements are to be constructed simultaneously with a project's development, and where a municipality has appropriated the necessary funds to cover such portions of the work for which it will be responsible, that municipality may advance the time of collection of the impact fee to the issuance of a building permit. Nothing in this section shall prevent the Planning Board and the assessed party from establishing an alternate, mutually acceptable schedule of payment.

2106.05 Refund

Any portion of an impact fee which has not become encumbered or otherwise legally bound to be spent for the purpose for which it was collected, shall be refunded, with any accrued interest, to the assessed party or successor in interest:

- a. When the subdivision or site plan approval expires under the respective rules of the Planning Board, or under the terms of the decision, without having become vested under RSA 674:39, and without any extension being granted by the Planning Board; OR
- b. When such approval is revoked under RSA 676:4-a; OR
- c. Six years after its collection, or, if any extension of approval is granted by the Planning Board, six years after such extension is granted; OR
- d. Six years after its collection, whenever the calculation of an impact fee has been predicated upon some portion of capital improvement costs being borne by the Town, and the Legislative Body of the Town has failed to appropriate the Town's share of the capital improvement costs.

**2107.00**    *Appeals*

In accord with RSA 676:5, III, appeals of the decision of the Planning Board in administering this ordinance may be made to Superior Court, as provided in RSA 677:15.

## **2200.00 HOUSING FOR OLDER PERSONS DEVELOPMENTS**

The Town of Brookline recognizes the need to provide special housing opportunities for older persons. Such housing must be well sited and designed to meet the special needs of this age group. Housing for Older Person Developments may be located as an overlay zone wherever the conditions described in the sitting requirement standards, below, can be met. Housing for Older Person Developments shall be reviewed under the **site plan regulations** of the Town of Brookline in addition to the requirements of this ordinance. Whenever a conflict occurs between this ordinance and the site plan regulations, the more restrictive requirements shall apply.

### **2201.00 Purpose and Intent**

- a. It is a goal of the Town of Brookline to promote the development of housing designed to meet the special needs of older persons.
- b. This ordinance operates as an Overlay Zoning District.
- c. It is the intent of the Town of Brookline to provide for the special needs of older persons by allowing for Housing for Older Persons developments with unique dimensional and institutional requirements that meet the social, mobility and safety needs of this age group.
- d. Housing developed in this section must be established and maintained in compliance with all applicable state and federal laws with respect to such housing and/or medical care, including the Fair Housing Act, as amended, 42 USC Sec 3601 et seq., NH RSA 354-A:15 and the NH Code of Administrative Rules, Hum 300 et seq.
- e. Pursuant to RSA 354-A:15, II and III, it is recognized that prohibitions against housing discrimination do not apply to housing for older persons, which conforms to all applicable rules and regulations.
- f. The intent of this ordinance is to foster development of housing for older persons while detailing local planning standards and, where practical, promoting consistency with land use policies in the Brookline master plan, zoning ordinance and subdivision and site plan regulations.
- g. It is the intent of this ordinance to regulate the intensity and mix of different types of dwelling units required to meet the needs of those citizens so as to provide ample indoor and outdoor livable space and to retain a sense of personal identity, intimacy and human scale within the development.
- h. It is the intent of this ordinance to review the density, scale and spacing of buildings, and the traffic circulation and parking pattern within the development to ensure that adequate light, air, privacy, community space, landscaping and open space for passive and active recreation are provided within the development.

**2202.00 Definitions**

**2202.01 Housing for Older Persons (HOP)**

A development qualifies as HOP when in compliance with all applicable Federal, State and Local laws, regulations and rules. Section 2200.00 of Brookline's zoning ordinance references some specific statutes, rules and requirements. The Fair Housing Amendments Act of 1988, 42 U.S.C. 3607(b)(2), as amended, including the Housing for Older Persons Act (HOPA) of 1995, supports the Town of Brookline's requirement that restrictions shall be established in legal covenant and approved by Town Counsel, which restricts the occupancy of units within a development specifically designed for older persons as defined in RSA 354-A:15 III, where units are intended for, and occupied by at least one person 55 years of age or older per unit.

Housing for Older Person developments must meet all the standards of this ordinance as described herein. HOP is an Open Space/Cluster development and is an Innovative Land Use Control as set forth in RSA 674:21, I,(f) and subject to additional requirements found in Brookline's zoning ordinance and site plan regulation.

**2202.02 Undeveloped**

Land that has not been subject to any man-made change including, but not limited to, building, mining, dredging, filling, grading, paving, excavation or drilling operations.

**2203.00 Siting Requirements**

**2203.01 Development Tract Size.** A single parcel of land with a minimum of ten (10) contiguous acres of land. Multiple lots must be consolidated prior to approval under this ordinance. As an Overlay District, and requiring a single parcel of land, HOP developments are exempt from the single dwelling per building lot requirement of the zoning ordinance, as approved by the Planning Board following Site Plan review and recorded at the Hillsborough County Registry of Deeds (HCRD). Land divided by a legally accepted or dedicated pre-existing public road shall not be deemed contiguous. Following approval, the development site may not be re-subdivided.

**2203.02 Development and Unit Requirements.**

- a. Open Space – There shall be an open space component to every housing for older persons development. At least twenty (20) percent of the total tract area must be set aside as permanently protected open space for low-impact recreation, conservation, agriculture or forestry-related uses. No more than 45% of the required open space can consist of wetlands or slopes exceeding 25%. At least fifty (50) percent of the required open space area shall be available and managed for the passive or active recreational activities of the residents. This area may consist of walking trails, informal meeting areas, gardens, active recreation areas, or other recreational amenities.

The open space shall be either conveyed to an association of unit owners in the development, or, where the Planning Board finds it in the public interest, this land may be conveyed to the Town or shall be permanently protected in other suitable ways which would ensure the continued use and maintenance of the land for its intended purpose.

b. Dimensional Requirements

1. Frontage: Tracts being developed for Housing for Older Persons developments require at least fifty (50) feet of frontage on a public road.

2. Dwelling Unit Density:

a) Residential/Agricultural District: Each dwelling unit requires a minimum of one-half (.5) acre of contiguous non-steep slope upland associated with it. Adequate and appropriate on-site space must be provided for parking, buildings, wells, septic systems and all other infrastructure and utilities, regardless of the maximum allowable density. The tract must be able to accommodate wells and septic systems for all units in a manner that meets Brookline and State of New Hampshire requirements. Community well and septic systems are permitted provided they meet all Brookline and State of New Hampshire requirements.

b) Commercial/Industrial District: There shall be no more than six (6) bedrooms per acre of usable land. Adequate and appropriate on-site space must be provided for parking, buildings, well, septic systems and all other infrastructure and utilities, regardless of the maximum allowable density. Community well and septic systems are permitted provided they meet all Local and State requirements.

3. Site Perimeter Buffer:

a) Residential/Agricultural District: Each development must be situated within a permanently protected undeveloped site perimeter buffer, identified on the site plan, not less than 50 feet wide or a value as deemed necessary by the Planning Board on back and all boundaries of the original parcel except for access to connecting roads, which, unless it is already wooded and satisfactory to the Planning Board, must be planted and landscaped so as to provide a visual barrier between the development and adjacent properties. The Planning Board may require additional buffer width where unique circumstances of an abutting use or property warrant. The site perimeter buffer shall not count towards the required minimum protected open space.

b) Commercial/Industrial District: When abutting residential/agricultural properties, each development must provide a permanently protected undeveloped buffer not less than 50 feet wide from the common property line or a value as deemed necessary by the Planning board on the boundaries of the



original parcel except for access to connecting roads, which, unless it is already wooded and satisfactory to the Planning Board, must be planted and landscaped so as to provide a visual barrier between the development and adjacent properties. The Planning Board may require additional buffer width where unique circumstances of an abutting use or property warrant. The 50 feet buffer shall not count towards the required minimum protected open space.

4. Setbacks and unit separation: All structures shall be set back at least 25 feet from the 50-foot site perimeter buffer. In addition, developments located on public roads must meet the standard building setbacks as specified for the applicable district in the Brookline Zoning Ordinance. One (1) story buildings must be separated by at least twenty-five (25) feet. Two (2) or more story buildings must be separated by at least thirty-five (35) feet.

5. Unit Standards:

- a) Residential/Agricultural District: There shall be no more than two (2) bedrooms per dwelling unit. One (1) bedroom units must contain at least five hundred-fifty (550) square feet of heated living space. Two (2) bedroom units must contain at least seven hundred and fifty (750) square feet of heated living space. Units may be single and detached or attached in duplex fashion, with a maximum of four (4) units per building. Attached garages and breezeways are acceptable but do not count towards the minimum required living space. Each building with dwelling unit(s) can be a one or a two-story structure.

- b) Commercial/Industrial District: There shall be no more than two (2) bedrooms per dwelling unit. One (1) bedroom units must contain at least five hundred-fifty (550) square feet of heated living space. Two (2) bedroom units must contain at least seven hundred and fifty (750) square feet of heated living space. Units may be single detached or attached in duplex fashion, or be part of an apartment building. Each apartment building must not be more than a 3-story structure.

The following standards will be reviewed in accordance with the Town of Brookline site plan regulations and/or design guidelines:

- c. Building Design

Architectural renderings of a typical unit, the community center and all accessory buildings shall be provided to the Planning Board for evaluation in accordance with the site plan review regulations and design guidelines to ensure that the proposed development is appropriate in scale and arrangement in relation to the underlying district, the prominence of the site, viewsheds, adjacent land uses and the surrounding neighborhood.

- d. Landscape Plan

A landscaping plan describing the number, species and location of all plantings within the site perimeter buffer and the development itself shall be submitted for the Planning Board's review. No invasive species may be used as planting materials.

e. Parking

There shall be a minimum of one (1) off-street parking space per dwelling unit. Where deemed to enhance the appearance, design and functionality of the development, shared driveways for up to four (4) dwelling units are acceptable.

f. Pedestrian Linkage and Circulation

The use of interconnecting walkways, trails and natural walking paths shall be an integral part of all Housing for Older Persons developments. These pedestrian amenities shall be designed to facilitate access between housing units, the Community Center, active recreation areas, open space areas and public trails, ways that may exist outside of the development, and provide access to stores/businesses when an HOP development is part of a commercial/retail development. Primary (paved) walkways in proximity to housing units and the Community Center shall meet American with Disabilities (ADA) requirements. Natural walking and hiking trails are exempt from this requirement.

g. Lighting

All roads, primary walkways and access to buildings shall be adequately lighted. The use of "full cut-off" lighting is required. Every effort shall be made to prevent light trespass, nuisance glare and over illumination due to excess wattage or inappropriate light fixtures. A lighting plan shall be submitted for the Planning Board's review, which shall be consistent with the standards found in the current lighting ordinance and site plan regulations. Lighting of common and public areas shall be independently controlled from that for the residential units.

**2204.00 Community Center**

2204.01 Community Center requirements. Each Housing for Older Persons development must provide a Community Center intended to serve as the locus of community life and activities for the residents. Whenever possible, the Community Center shall be centrally located in relation to the housing units. The Community Center must be a minimum of one thousand (1,000) square feet in size, and must include an activities / social room as well as a kitchen, laundry room and bathroom facilities. The main entrance to the community center must be handicapped accessible. The community center requires one parking space to be provided per 200 sq.ft. of interior heated space. At least two handicapped parking spaces must be provided adjacent to the handicapped accessible main entrance.

## **2205.00 *Safety Considerations***

### **2205.01 Unit Identification**

Each dwelling unit identification shall be subject to final approval from the Brookline Emergency Management Director.

### **2205.02 Common Driveway Identification**

All common driveways must be identified with signage and markers per the requirements of section 1806.00, Common Driveways, of the Brookline Zoning Ordinance; and section 7.4, Common Driveways, of the Brookline Driveway Regulations.

## **2206.00 *Exemptions***

Housing for Older Persons developments shall be exempt from the Brookline Growth Management Ordinance, due to the minimal impacts on Town services associated with this type of development.

## **2207.00 *Compliance***

It is the responsibility of applicants to certify at the time of an application before the Planning Board that a development will comply with all applicable rules and regulations established by the New Hampshire Human Rights Commission, for age discrimination in housing, including, if required by the Human Rights Commission, that every development shall provide significant facilities and services specifically designed to meet the physical and social needs of older persons, or if the provision of such facilities and services is not practicable, that such housing is necessary to provide important housing opportunities for older persons, as set forth in NH Administrative Rules Hum 302.03, as the same may from time to time be amended. Furthermore, while the Planning Board will not define what constitutes significant facilities and services, information that may be required by the Human Rights Commission in evaluating an application shall be submitted to the Planning Board, including a description of applicable provisions of the Human Rights Commission administrative rules and regulations, and whether there are requests for exemptions.

In the event the foregoing 55 year old age restriction is determined to be in violation of the laws of the State of New Hampshire, then in order to qualify as Housing For Older Persons, the development must contain an age restriction that complies with New Hampshire RSA 354-A:15, and as the same may from time to time be amended.

Every Older Persons development shall certify annually their full compliance with the age requirements set forth in this section and the method for determining compliance shall be incorporated in the Association Documents, and approved by Town Counsel. A notarized legal copy of the annual age certification shall be provided to the Towns designated enforcement body (Selectboard/Code Enforcement Officer) and to the Planning Board, to verify compliance.

**2208.00** *Enforcement, Conflict and Severability*

Enforcement, conflict and severability shall be in accordance with Sections 2400.00, ENFORCEMENT, 2800.00, CONFLICT and SEVERABILITY of the Brookline zoning ordinance. Additional enforcement action under applicable local, state and federal law shall insure full compliance with the purpose and intent and specific requirements of the Housing for Older Persons ordinance and Brookline's Land Use Laws.

## **2300.00 OUTDOOR LIGHTING**

### **2301.00 Purpose and Intent**

The purpose of this ordinance is to preserve the rural atmosphere and dark skies of Brookline. One key difference between rural towns and cities is the darkness of the night sky and the amount of glare and sky glow resulting from outdoor lighting. Natural dark skies are the nighttime aspect of rural character. Increasing light pollution and glare from inappropriate lighting degrades such rural character. Effective outdoor lighting can help preserve the dark night sky while maximizing safety and security by minimizing glare and light trespass. This regulation is intended to enhance public safety and welfare by providing for adequate and appropriate outdoor lighting, providing for lighting that will complement the character of the town, reduce glare, minimize light trespass, reduce the cost and waste of unnecessary energy consumption and prevent the degradation of the night sky.

### **2302.00 Definitions**

- a. Full-Cutoff. A light fixture such that all of its light output is aimed below horizontal to the ground. Full cut-off fixtures cut off all upward transmission of light.
- b. Flood or Spot Luminaires. Any downward facing light fixture or lamp that incorporates a reflector or refractor to concentrate the light output into a directed beam in a particular direction.
- c. Glare. Direct view of a light source that results in discomfort to the observer and possible temporary visual impairment.
- d. IESNA. Illuminating Engineering Society of North America. An organization that recommends standards for the lighting industry.
- e. Light Trespass. The shining of light produced by a luminaire beyond the boundaries of the property on which it is located.
- f. Light Pollution. Night-sky brightness (skyglow) caused by the scattering of light in the atmosphere. Sources include light projected above the horizontal plane or light reflected from illuminated sources such as roadways.
- g. Lumen. A measure of light energy generated by a light source.
- h. Luminaire. Complete lighting unit including fixture, lamp, and other parts.
- i. Temporary 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. All seasonal and temporary lighting should be rated less than 1,800 lumens.

### **2303.00 Applicability**

The lighting requirements of this section shall apply to all new non-residential developments requiring site plan approval from the Brookline Planning Board.

Though they are not subject to permitting through this ordinance, residential homeowners are encouraged to use full cutoff lighting fixtures and prevent light trespass onto neighboring properties. Residential lighting guidelines can be obtained at Town Hall during normal business hours.

**2304.00**    ***Lighting Standards***

- a. Any luminaire or lamp of 4,000 or more lumens shall be full cutoff as installed.
- b. Flood or spot luminaires shall be full cutoff if they are 1,500 lumens or more. The center beam from flood or spot lights shall not be angled any greater than 45 degrees from a downward pointing direction.
- c. The maximum height of any luminaire shall not exceed 25 feet.
- d. Commercial lighting shall meet minimum IESNA illumination levels while not exceeding IESNA uniformity ratios and average illuminance recommendations.
- e. Outdoor signage illumination shall comply with these regulations. In addition, there shall be no light trespass to any other property or glare when viewed from the road. Bottom-mounted outdoor sign lighting shall not be used.
- f. Outdoor lighting at places of business or public venues shall be turned off no later than one hour after closing, except what is needed for basic security. Vacant parking lots shall not remain lighted except as needed for basic security and as specified in section 1602.00 of the Brookline Zoning Ordinance. In addition, there shall be no light trespass to any other property or glare when viewed from the road.
- g. No outdoor sporting or entertainment event requiring outdoor lighting shall start after 10:00 p.m. or extend beyond 11:00 p.m.

**2305.00**    ***Special Uses***

- a. All temporary emergency lighting needed by police or fire departments or other emergency vehicles shall be exempt from these requirements.
- b. Hazard warning lighting required by federal regulatory agencies are exempt, except that all such night lighting must be red and must be shown to be close to the federally required minimum lumen output required for such task.
- c. The use of searchlights by civil authorities for public safety.
- d. Temporary lighting of low wattage for public festivals, celebrations or holiday observances, are exempt except where they create a hazard or nuisance from glare. Such light shall not light trespass. Wherever possible, lighting should be full cut-off.
- e. Airport lighting for navigational purposes is exempt.
- f. Sports venue lighting is exempt from any lumens per acre standards for the playing field only. Full-cutoff fixture design is required and light trespass requirements apply.

**2306.00 Prohibitions**

- a. The use of search lights for advertising purposes is prohibited.
- b. The nighttime use of white or white strobe lighting on communications towers is prohibited.
- c. Illumination of outdoor advertising off-site signs between the hours of 11:00 p.m. and sunrise is prohibited.
- d. The use of laser source light or any similar high intensity light for outdoor advertising or entertainment, when projected above the horizontal, is prohibited.

**2307.00 Grandfathering of Nonconforming Luminaires**

- a. Any luminaire lawfully in place prior to this ordinance shall be grandfathered indefinitely except in the case of change, repositioning or replacement described below.
- b. Any significant change or replacement to an existing luminaire, such as lamp type, structural alteration, movement, repositioning, replacement or removal of the luminaire cover must meet the standards of this ordinance.

**2308.00 Lighting Plan**

Applicants for site plan or subdivision review with outdoor lighting fixtures shall submit evidence that the proposed work will comply with the standards of this ordinance. The evidence submitted shall contain but not be limited to the following:

- a. The location of the site where outdoor lighting fixtures will be installed.
- b. Scaled plans indicating the location of outdoor lighting fixtures on the site, the height of each fixture and the type(s) of outdoor lighting proposed and the level of wattage and initial lumens for all light sources.
- c. A description of the outdoor lighting fixtures including but not limited to manufacturer's catalog descriptions and drawings. The required plans and descriptions shall be sufficiently complete to enable the Planning Board to readily determine compliance with the requirements of this ordinance. If such plans and descriptions cannot enable this ready determination, by reason of the nature or configuration of the devices, fixtures, or lamps proposed, the applicant shall submit further evidence of compliance enabling such determination. Examples of recommended lighting fixtures are available from the Town Planning Board Office and the Building Inspectors Office.
- d. For plans showing a high level of illumination, the Planning Board may require an iso-lux / footcandle plan indicating levels of illumination, in footcandles, at ground level. The maintained horizontal illuminance standards set by the Illuminating Engineering Society of North America (IESNA) shall be observed.
- e. If any subdivision proposes to have installed street or common or public area outdoor lighting, the final plat shall contain a statement certifying that the applicable provisions of the Town of Brookline will be adhered to.
- f. Should any outdoor light fixture, or the type of light source therein, be changed after the permit has been issued, a change request must be submitted to the building inspector for his

approval, together with adequate information to assure compliance with this code, which must be received prior to substitution.

**2309.00** *Law Governing Conflicts*

Where any provision of local, county, state or federal law conflicts with any provision of this ordinance, the most restrictive shall govern unless otherwise specified by law.

**2310.00** *Separability*

The invalidity of a section of this ordinance shall not have any effect upon the validity of any other section or provision.



## **2400.00 *BED AND BREAKFASTS***

### **2401.00 *Purpose and Intent***

While the Town of Brookline may legally prohibit all commercial activities in the residential-agricultural district, it recognizes that Bed and Breakfast entities may be beneficial to the community as a whole provided they demonstrate that they can be carried on with minimal or no impact on the neighborhood in which they could be situated and that residential character of the neighborhood can be preserved and the neighborhood be protected from nuisances and/or potential negative impacts from such use. Therefore, the Town of Brookline has determined, pursuant to RSA 674:21, (I)(i) (flexible and discretionary zoning), that the operation of a Bed and Breakfast establishment may be permitted conditioned on obtaining a special permit from the Planning Board following a public hearing and a determination by the planning board that the applicant has demonstrated that such use may be conducted in a manner that complies with the standards enunciated herein compatible with the standards set forth below. The Planning Board, in exercising this authority, following the hearing, may grant the permit, deny the permit, or grant the permit subject to reasonable restrictions, as it deems necessary to preserve the character of residential neighborhoods and to provide residents freedom from nuisance and potential negative impacts resulting from commercial activity in residential areas.

### **2402.00 *Definition of a Bed and Breakfast***

A transient lodging and feeding establishment that is the personal residence of its owner, is occupied by the owner at the time of rental to a patron, and in which the only meal served is breakfast to in-house patrons. The establishment must be incidental to the main residential use of the building. Individual guests are prohibited from staying at a particular Bed and Breakfast establishment for more than thirty (30) days in one year period. A bed and breakfast shall have an area of dining capable of accommodating the number of registered patrons. Posted room rates shall include breakfast.

### **2403.00 *Hearing Before Planning Board and Standards for Issuance of Permit***

Upon submission of an application for a special permit for a Bed and Breakfast use, the Planning Board is hereby authorized pursuant to RSA 674:21 to conduct a hearing with notice in the same manner as required for site plan applications. The Planning Board shall hear the evidence presented in support of the application and, following such hearing, shall determine whether the applicant has presented sufficient evidence to allow the Planning Board to make the findings that the use as proposed:

1. Will not detract from the residential character of the lot.
2. Will have an area of dining capable of accommodating the number of registered patrons.
3. Is subordinate and incidental to the main residential use of the building.
4. Will not create excessive traffic, noise or odors in the neighborhood where it is proposed.
5. Will not adversely affect the neighborhood, nor otherwise be injurious, obnoxious or offensive.

### **2404.00 *Issuance of the Permit***

The Planning Board may approve such permit only after making findings that the conditions set forth in the above section have been demonstrated. Such permit, however, shall be subject to the requirement that the applicant also comply with all the General Requirements set forth in the following section, which requirements shall constitute performance standards that must

be complied with during the life of the use, failing which the permit shall be subject to revocation or other enforcement action as indicated in Section 2402.10 below.

**2405.00    *General Requirements***

A Bed and Breakfast establishment shall be subject to the following regulations:

- 2405.01    Rooms used for sleeping shall be part of the primary residential structure and shall not have been specifically constructed for rental purposes. “Cottages” or the use of an axillary structure is prohibited.
- 2405.02    No exterior alterations, other than those required by law to ensure safety of the structure and to preserve the residential and rural aesthetic of the surrounding neighborhood, shall be made to any building for the purpose of providing a bed and breakfast establishment.
- 2405.03    The bed and breakfast operation shall not use more than 50% of the heated floor area of the principal residence. Areas such as kitchens and bathrooms are not included in this calculation.
- 2405.04    Adequate sewage disposal service shall be provided.
- 2405.05    All signs must comply with the requirements of Section 1600, Sign Ordinance.
- 2405.06    Off-street parking shall be provided for non-residents and shall be limited to one per guestroom. A minimum of two parking spaces for the dwelling unit and one additional for each guest room shall be required.
- 2405.07    A Bed and Breakfast shall be conducted in accordance with all applicable Town regulations, state laws and licensing requirements.
- 2405.08    Once a proposed bed and breakfast has obtained a special permit from the Planning Board and operation of the use has commenced, the continuation of such use shall remain subject to compliance with the standards of this section. For safety reasons, a yearly inspection of the entire establishment shall be conducted by the Fire Department. In the event that a bed and breakfast is operated in a manner that violates the standards of this section, then the Code Enforcement Officer may direct such business to be brought into compliance, or, alternatively, to cease such operation. Any such directive shall be appealable to the Zoning Board of Adjustment pursuant to RSA 676:5.
- 2405.09    Special Permits to operate a bed and breakfast **are not transferable** upon change of property ownership.

**2406.00    *Procedure***

Requests for Bed and Breakfasts shall be presented to the Planning Board in accordance with Sections 3.2, Submission Procedures, and 6.2.B, Submission Requirements for Bed and Breakfasts, of the Non-Residential Site Plan Review regulations, and in accordance with building codes, Fire codes, Rules for the Sanitary Products and Distribution of Food, and all local and State requirement for business owners.

**2500.00 ENFORCEMENT**

2501.00 It shall be the duty of the Selectboard and the Board is hereby given power and authority to enforce the provisions of this Ordinance. The Selectboard has the authority to appoint a Code Enforcement Officer (CEO) to enforce this Ordinance under their general supervisory authority.

2502.00 Upon well-founded information that this Ordinance is being violated, the Selectboard or Code Enforcement Officer shall take immediate steps to enforce the provisions of this Ordinance pursuant to applicable laws, including but not limited to RSA 676:15-17, as amended.

2503.01 *Procedures.* The Selectboard may adopt rules of procedure for governing the manner in which the Code Enforcement Officer will be expected to address land use violation complaints. Information of alleged violation of these ordinances shall be provided in writing to the Code Enforcement Officer or Selectboard and shall be investigated by the Code Enforcement Officer, the Selectboard or their designee.

- a. Minimum written information of alleged violations of these ordinances shall include a description of the alleged violation(s), the location of the alleged violation, the name, address and telephone number of the individual providing the information of the alleged violation(s) and the date of submission to the town authority.
- b. The Brookline Code Enforcement Officer or the Selectboard shall provide a copy of the complaint to the owner of the property of the alleged violation.
- c. An appeal of an administrative decision may be made pursuant to applicable to laws, including but not limited to RSA 676:5, Appeals to the Board of Adjustment, as amended.

**2600.00 BOARD OF ADJUSTMENT**

The Selectboard shall make appointments to a Board of Adjustment of five members conforming in duties to the provisions of Chapter 674:33 of the NH RSA as amended. Thereafter as terms expire or vacancies occur, the Selectboard shall be responsible for filling vacancies and maintaining full membership on the Board of Adjustment. The Board of Adjustment here provided shall conform in membership and terms of office to the provisions of Chapter 673:5 of the NH RSA as amended. In addition to the general powers granted, the Board of Adjustment by Chapter 673:5 of the NH RSA, may, in harmony with and subject to its provisions:

- a. Permit a non-conforming temporary use for an initial period of not more than one year. A permit may be renewed by the Board of Adjustment for a period of not more than one year at a time.
- b. Permit in the Residential-Agricultural District an industrial or commercial use which a public hearing demonstrates that it can meet the requirements of Section 500, paragraphs 502 (v) and 503 and is not otherwise detrimental to the neighborhood.

**2700.00 AMENDMENTS**

**2701.00** This Ordinance may be amended in accordance with RSA Chapter 675, Enactment and Adoption Procedures, as amended.

**2800.00 FINES AND PENALTIES**

The penalties for violation of any of the provisions of this title, including but not limited to any local ordinance, code, regulation, or any provision, specification or condition of any application, plat or plan approved by, or any requirement or condition of a permit or decision issued by any local administrator or Land Use Board acting under the authority of this title shall be subject to such sanctions as are authorized by the Court pursuant to applicable laws, including, but not limited to RSA 676:15-17, as amended.

**2900.00 CONFLICT AND SEVERABILITY**

**2900.01** If any section of this Ordinance is found to be in conflict with any other section of the Ordinance or with any local, state, or federal regulation, the more stringent standard shall apply. The invalidity, unconstitutionality or illegality of any Section or provision of this Ordinance or of any zoning district boundary shown on the zoning map shall not have any effect upon the validity, constitutionality or legality of any other Section, provision or zoning district boundary.

**3000.00 WHEN EFFECTIVE**

This Ordinance shall take effect upon its passage.

This Ordinance was passed at the annual Town Meeting of March 12, 1968 and was amended by a vote of the townspeople at the annual Town Meetings of March 7, 1972, March 6, 1973, March 8, 1977, November 2, 1982, March 12, 1985, March 10, 1987, March 8, 1988, March 15, 1989, March 13, 1990, March 12, 1991, March 10, 1992, March 9, 1993, March 8, 1994, March 12, 1996, March

11, 1997, March 10, 1998, March 9, 1999, March 14, 2000, March 13, 2001, March 13, 2003, March 10, 2004, March 8, 2005, March 14, 2006, March 14, 2007, March 12, 2008, March 10, 2009, September 25, 2009, March 09, 2010, March 8, 2011, March 13, 2012, March 11, 2014, March 10, 2015, March 10, 2016, March 21, 2017, March 13, 2019, and March 12, 2019. Amendments have been incorporated in this Ordinance as printed.

***APPENDIX A: TABLE OF AMENDMENTS***

- IV, A***     ***1997:***   Add portion of Tax Map Parcel A-6 to district (*new section 501*).
- B***       ***1997:***   Clarify list of permitted uses by specifying 11 previously unspecified activities. Add home businesses as permitted use (*new section 502*).
- C***       ***1997:***   Reduce frontage, side and rear setback, and land area requirements. Add building height limitation (*new section 503*).
- V, B***       ***1997:***   Replace “single (two) family dwelling” terminology with “single (two) dwelling unit dwelling”. Add farm stands as new permitted use. Specify manufactured housing as currently permitted use (*new section 602*).
- VI***         ***1997:***   Replace “Mobile Home” terminology with “Manufactured Housing” (*new section 700*).
- VII,A***      ***1997:***   Reword provision #2. Delete provision #4 which prohibits rebuilding after damage exceeding 50% of value (*new section 800*).
- VIII***       ***1997:***   Update definitions for dwelling unit and manufactured housing. Remove home produce and products definition. Replace “Two-family house” term with “two dwelling unit dwelling”. Add definitions for farm, farm stand, farming, funeral home, personal services, and restaurant (*new section 200*).
- XIII, D***     ***1997:***   Clarify dry area requirement (*new section 1104.01*).
- XVI, F***      ***1997:***   Add description of building permit allocation procedure. Add provisions to allow a minimum number of building permits based on subdivision size, and to allocate permits on a quarterly basis. (*new section 1406*)
- XVIII, H***   ***1997:***   Add new provision for a sign permit process (*new section 1608*).
- 200.23***      ***2000:***   Add a new definition as *Section 200.23, Junkyard*, and renumber subsequent sections.
- 200.30***      ***2000:***   Add a new definition as *Section 200.30, Off-Premise Sign*, and renumber subsequent sections.
- 800.00***      ***2000:***   Amend *Section 800.00, Non-Conforming Uses and Buildings*, to better define non-conforming uses, structures and lots, and to allow for reasonable expansion and alteration. (See *Sections 800.00 - 800.03*.)
- 1000.00***     ***2000:***   Amend *Section 1000.00, Earth Removal*, to allow for some flexibility in the amount of material that can be removed on an annual basis while maintaining the maximum for the 3-year time frame.
- 1000.03***     ***2000:***   Special Exception, Item d amended.

- 1105.01**     **2000:** Amend the Special Provisions Section of the Wetlands Conservation District to allow a maximum of 25% of the minimum lot area to be wetland.
- 1106.01**     **2000:** Amend the Special Exceptions section of the Wetlands Conservation District to eliminate the written review of findings of fact from the Planning Board. Also amend Item 3 to clarify the conditions under which expansions of existing structures within the buffer will be permitted.
- 1300.00**     **2000:** Repeal the existing language in *Section 1300.00, Brookline Aquifer Protection Ordinance*, and replace with a new *Section 1300.00, Aquifer Protection Ordinance*.
- 1406.02**     **2000:** Amend *Section 1406.02, Minimum Permits*, Item c, of the Growth Management Ordinance to allow a subdivision to bank and carry over a maximum of one year's building permit allocations.
- 1603.05**     **2000:** Amend *Section 1603.05*, which limits the application of the Sign Ordinance to signs larger than 3 square feet to exclude off-premise signs.
- 1604.04**     **2000:** Delete *Section 1604.04* of the Sign Ordinance dealing with real estate rental/sale signs and replace it with newly worded *Section 1604.04*.
- 1605.01**     **2000:** Delete *Section 1605.01*, dealing with off-premise signs, and replace it with *Section 1607.00, Off-Premise Signs*, and renumber subsequent sections.
- 1607.00**     **2000:** Replacement section for Off-Premise Signs. (See also new *Sections 1607.01 & 1607.02*.)
- 1800.00**     **2000:** Amend *Section 1800.00, Driveway Ordinance*, to define (*Section 1803.01*) and allow for the use of common driveways to serve more than one dwelling unit (*1806.00*), and renumber subsequent sections.
- 1805.03**     **2000:** Amend *Section 1805.03* to clarify when driveways are to be paved or bonded prior to the issuance of a certificate of occupancy.
- 2000.00**     **2000:** Amend *Section 2000.00, Accessory Dwelling Units*, to remove the reference to elderly (*2001.00*), to clarify who is to determine the house numbers for the accessory dwelling unit (*2002.15*), to eliminate the terms for a special exception, and replace it with the requirement that new owners of a home with an accessory dwelling unit obtain a certificate of occupancy to certify that the home is owner-occupied (*Section 2003.00* eliminated and replaced), and to eliminate the reference to "existing legal non-conforming" accessory dwelling units from the title of *Section 2005.00*.
- 2500.00**     **2000:** Delete *Section 2500.00, Saving Clause*, and replace it with a new *Section 2500.00, Conflict and Severability*.
- 200.04**       **2001:** Add a new definition as *Section 200.04, Adult Sexually Oriented Business*, and renumber subsequent sections.
- 502.00**       **2001:** Amend the Industrial-Commercial District, *Section 502.00, Permitted Uses*, to allow Adult Sexually Oriented Businesses as a permitted use.
- 504.00**       **2001:** Add a new section to the Industrial-Commercial District, *Section 504.00, Adult Sexually Oriented Business*, to define the location and operation standards for these types of businesses within the district.

- 1000.03**     **2001:**     Amend the criteria for granting a special exception for Earth Removal, *Section 1000.03*, by deleting the limitation on the maximum amount of material that can be removed in a three year period and by deleting the three year time limit on excavation permits.
- 1300.00**     **2001:**     Amend *Section 1300.00 Aquifer Protection Ordinance*, by replacing the terms “human waste” and “non-human waste” with the terms “domestic wastewater” and “non-domestic wastewater” throughout this Section and add definitions for “domestic wastewater” and “non-domestic wastewater” to *Section 1302.00, Definitions*, and renumber subsequent sections.
- 1904.02**     **2001:**     Amend the Telecommunications Ordinance, *Section 1904.02, Amateur Radio, Receive Only Facilities*, to prohibit commercial use of private amateur radio towers.
- 2100.00**     **2001:**     Add a new section, *Section 2100.00, Impact Fees*, to allow for the assessment of fees imposed upon new development, including subdivision and non-residential site plans, and renumber subsequent sections.
- 2200.00**     **2001:**     Renumber to become *Section 2300.00* and change all references to such within the Ordinance.
- 2300.00**     **2001:**     Renumber to become *Section 2400.00* and change all references to such within the Ordinance.
- 2400.00**     **2001:**     Delete *Section 2400.00, Penalty* and replace it with a new section, *Section 2400.00, Fines and Penalties*. Renumber to become *Section 2500.00* and change all references to such within the Ordinance.
- 2600.00**     **2001:**     Renumber to become *Section 2600* and change all references to such within the Ordinance.
- 1106.01**     **2003:**     Amend the wetland ordinance such that certain minor work in the wetland buffer zone no longer requires a special exception.
- 2200.00**     **2003:**     Add a new section, “Housing for Older Persons Developments”, and renumber subsequent sections accordingly.
- 2300.00**     **2003:**     Add a new section, “Outdoor Lighting”, and renumber subsequent sections accordingly.
- 200.22**       **2004:**     Include a new definition of home business consistent with the revised text of section 1700.
- 602.01**       **2004:**     Provide a new subsection 602.01 to provide for the granting of special permits by the Planning Board for home businesses that meet the requirements of section 1700.
- 603.05 (f)**   **2004:**     Delete this section of the back lot provisions so as not to allow the use of wetlands to satisfy the minimum lot size requirements and renumber subsequent sections accordingly.
- 1103.04**     **2004:**     Amend this section to state that the ordinance will not prohibit the use of wetlands to satisfy 25% of the minimum lot size on unimproved lots that were approved for subdivision by the Planning Board or which otherwise legally existed on or before March 10, 2004.
- 1105.01**     **2004:**     Delete this section of the wetland ordinance entirely so as not to allow the use of wetlands to satisfy minimum lot size requirements and renumber subsequent sections.

- 1106.01 (c) 2004:** Add a new section to provide for special exception review by the ZBA to allow up to 25% of the required minimum lot size to be wetlands for unimproved lots which existed prior to March 10, 2004.
- 1700.00 2004:** Provide for the granting of home business permits by special permit from the Planning Board and develop more specific standards for home business review in other sections of the ordinance accordingly.
- 2100.00 2004:** Amend the Impact Fee ordinance to reference and describe the factors used to calculate the Impact Fee schedules, as well as to provide for the collection of off-site improvements, as distinct from impact fees, to address specific capital improvements necessitated by development.
- 2100.00 2005** AMEND Section 2100.00, *Impact Fees*, to replace the definition in section 2101.02, Off-site Improvement/Exaction, to match State statute; to clarify section 2105.01, *Ability to assess off-site improvements/exactions*, by replacing "shall" with "may" regarding the requirement of providing a study to the Planning Board identifying the proportionate share of costs; to clarify section 2106.02, *Assessment*, that impact fees are assessed at the time of subdivision or site plan approval, to maintains compliance with amended State statutes and recent case law; and to remove and reserve section 2106.03, *Security*.
- 1400.00 2005** AMEND Section 1400.00, *Growth Management Ordinance*, to adopt a comprehensive update replacing the existing text. This amendment simplifies many of the existing provisions and clarifies the number of building permits available to approved subdivisions in a calendar year. The overall intent of the existing ordinance is maintained.
- 1600.00 2005** AMEND Section 1600.00, *Sign Ordinance*, to adopt a comprehensive update replacing the existing text. This amendment updates the sign ordinance to preserve the aesthetic and rural character of the Town while maintaining highway safety and allowing reasonably positioned and sized signs to advertise local businesses attractions and events. The ordinance would allow a greater square footage of sign but prohibit electronic message boards, video display panels and moving, blinking and rotating signs.
- 501.00 2006** AMEND Section 501.00, Location; to add text to section "b" **to correct an error in the current textual description of the Industrial-Commercial District boundaries** that should include all of lot G-52-2 and the portion of all lots north of lot G-52-2 within 500 feet of NH Route 13 to the east, and the northern boundary of lot G-53-1. This correction is supported in Planning Board minutes regarding the original zoning amendment, is depicted on the current Zoning District map and has historically been in commercial use.
- In addition; to combine and simplify the text in 501.00, a, and b, and place it into section "b"; to move and simplify a portion of the existing text from section "d" and place it into section "a." This begins an ongoing process of logically reorganizing and simplifying this portion of the ordinance.
- 501.00 (b) 2006** AMEND Sections 501.00, b; to include lot G-53-1 (Big Bear/B4 Function Hall) in its entirety (As recorded as of March 14, 2006) within the Industrial Commercial District, which converts the Residential-Agricultural portion of the parcels to Industrial-Commercial. This is the beginning of an ongoing program by the Planning Board to eliminate "split-zoned" lots, wherever possible, within the Town, and is supported by the landowners.



- 501.00 (c) 2006** AMEND Sections 501.00, c; to include lot C-42 (former Tapply Lumber) in its entirety (As recorded as of March 14, 2006) within the Industrial Commercial District, which converts the Residential-Agricultural portion of the parcel to Industrial-Commercial; and to simplify the textual description in section “c”. This is the beginning of an ongoing program by the Planning Board to eliminate “split-zoned” lots, wherever possible, within the Town, and is supported by the landowners.
- 603.03 2006** AMEND Sections 603.03, Land Area, 603.05 a, and d, Back Lots, and 1505.04, Lot Size; to add “excluding wetlands” when determining minimum lot size for standard residential, back lots, and open space building lots.
- 603.05 (a,d) 1505.04**
- 603.04 2006** AMEND Sections 603.04, Number of Dwelling Units; 603.05, b, and c, Back Lots; 1505.01, Density; 1505.04, Lot Size, to clarify one dwelling unit is permitted per building lot by; replacing the existing text in Sections 603.04 and 1505.04, “...permitted per minimum land area” with “...permitted per individual building lot, except as provided in Section 2000.00, Accessory Dwelling Units.” Delete 603.05, b, which is repetitive. Delete “...for each dwelling unit,” from 603.05, c. Delete “(1 unit per 80,000 square feet) in 1505.01.”
- 603.05 (b,c) 1505.01 1505.04**
- 2200.00 2006** AMEND Section 2200.00, Housing for Older Persons (HOP); to clarify HOP developments as an overlay district and references applicable statutes in the 2201.00, Purpose and Intent; and 2202.01, Definitions; to add section 2204.00, Compliance, referencing applicable statutes and requiring annual reporting to the Town of proof of compliance with the ordinance; and add section 2205.00, Enforcement, Conflict and Severability; to specify enforcement and reference applicable sections of the zoning ordinance.
- 2400.00 2006** AMEND Section 2400.00, Enforcement; to clarify the authority of the Selectboard to designate a Code Enforcement Officer (CEO) to enforce Brookline Land Use Laws (Ordinance) as provided in state statutes; to provide for the Selectboard to adopt procedures for how the CEO will address land use violation complaints; to identify procedures for receiving notice of violations; and referencing the statute for appeals to the Board of Adjustments.
- 2600.00 2006** AMEND Section 2600.00, Amendments; to simplify section 2601.00 to reference RSA Chapter 675, Enactment and Adoption Procedures.
- 2700.00 2006** AMEND Section 2700.00, Fines and Penalty; to simplify and reference RSA 676:15-17.
- 200.00 2007** AMEND Section 200.30, Non-Conforming Use to replace the word “regulations” with “permitted uses”. The intent was to clarify that a use is nonconforming if it is not one of the **uses** that is permitted in the district it is located in when the nonconforming Ordinance was passed and  
ADD a definition to Section 200.30 to define the term which is used in Section 800.03, Nonconforming Structures. Section 200.30 was renamed “Nonconformities” with the definitions for Nonconforming Structure and Nonconforming Use included in this section as a. and b. respectfully.
- 800.00 2007** AMEND Section 800.02, Nonconforming Lots, to replace the reference to Section 800.03c with Section 800.01c. The reference to Section 800.03 c was incorrect.
- 1200.00 2007** AMEND Section 1200.00, Floodplain Ordinance, to include required ordinance changes by the most recent “compliance review” conducted by the NH Office of Energy and Planning. The changes needed to be made and adopted by the Town in order to remain compliant in the NFIP Program.

- 1300.00**    **2007**    AMEND the Aquifer Protection Ordinance, Section 1305.00, Prohibited Uses, b and d, to clarify that conditional use permits are necessary for **any** storage of regulated substances and covering of impervious surfaces greater than 15%. This clarification is consistent with Section 1306.01, conditional uses, which allows the Planning Board to grant a conditional use permit for any use that proposes up to 30% impervious surface on a lot in the Agricultural-Residential District and up to 60% impervious surface on a lot in the Industrial-Commercial District and  
AMEND Section 1306.00, Conditional Uses, to give the Planning board more guidance as to how to consider a request for conditional use permit as well as to make their role more statutorily appropriate. This change required that Section 1306.01 be renumbered to 1306.02 because the (former) Section 1306.02 was merged with Section 1306.01.
- 1500.00**    **2007**    AMEND the Open Space Development Ordinance, Section 1505.03, Setbacks, to clarify both the setbacks between lots in a newly subdivided Open Space Development and the 50-foot setback around the perimeter of the **entire** development. The setbacks footage was not changed, only the definition, to create a clearer setback requirement.
- 1600.00**    **2007**    AMEND the Sign Ordinance, Section 1602.04, Exempt Signs, to replace the word “except” with “exempt” to correct a grammatical error.
- 2200.00**    **2007**    AMEND the Housing for Older Persons, to ADD Section 2202.02, Undeveloped, to define the term which is used in Section 2203.02, b, 3, to clarify the meaning of undeveloped and the required protection of the site perimeter buffer in a Housing for Older Persons Development.
- 2300.00**    **2007**    AMEND the Outdoor Lighting Ordinance, Section 2302.00, Definitions, to remove “with a shield” in order to remove repetitive language.
- 200.00**      **2008**    AMEND Section 200.02, Definitions, to update the definition of Accessory Dwelling Units.
- 500.00**      **2008**    AMEND Section 500.01, Industrial-Commercial District, Location, to change the zoning district for lots J-41 and J-41-1 and make them part of the residential-agricultural district in their entirety. Properties are surrounded by residential properties or commercial properties with residential uses.
- 1400.00**    **2008**    AMEND Section 1407.00, Growth Management / Residential Phasing Ordinance, Sunset Clause, to change the date to year 2011 for the Planning Board to revisit the Growth in Brookline.
- 2000.00**    **2008**    AMEND Section 2000.00, Accessory Dwelling Units. The entire section has been amended in order to redefine that the ordinance is intended to provide a temporary living arrangement and expand housing opportunities.
- 2500.00**    **2008**    AMEND Section 2500.00, Board of Adjustment, to refer to the correct NH RSA’s that guide the board of Adjustment in its duties.
- 600.00**      **2009**    ADD Section 620.00, Workforce Housing Option.
- 1200.00**    **2009**    AMEND Floodplain Ordinance – Amended **September 25, 2009** – Per RSA 674:57 and per NH Office of Energy and Planning, after the Selectboard voted to adopt the Flood Insurance Map (FIRM).

- 200.00**      **2010**      AMEND the definition of “Accessory Dwelling Units” – ADD a definition of “Attached” – AMEND the entire definition of “Family”.
- 300.00**      **2010**      AMEND Section 305.00, General Provision, to specify that Storage tanks shall NOT be in excess of 1,100 gallons
- 600.00**      **2010**      ADD Section 603.05, Building Height in R/A district, and renumber subsequent section
- 620.00**      **2010**      AMEND Workforce Housing Ordinance:
- 623.00, Applicability, to read: “A multi-family building shall have no more than 5 contiguous/attached units
  - 625.00, Definitions of Multi-family building (...) containing more less 2 and no more than 5 dwelling units
  - 626.00, General Requirements, (3) to read: The minimum lot size for a single family market value unit shall (...)
  - 626.00, General Requirements (5) to read: The development shall have a vegetated buffer of 50 feet or a value as deemed necessary by the Planning Board on all boundaries of the original parcel except for access to connecting roads.
  - 626.00, General Requirements (6) New Section: “The minimum building setback shall be 15 feet on the back and side and 30 feet on the front of each individual lot created.
  - 626-00, General Requirements (7) to read: (...) should have a maximum of 1,500 sq/ft of gross living area above ground and no more than 2 car garage (max. 600 sq/ft). There should be no limitation in square footage for market value dwellings.
  - 626-00, General Requirements (8) to read: “There shall be no increase in the amount of gross living area above ground”.
  - 628.00 New Section, Road, Way, Access to Development
    - 1. Access to development containing multi-family units shall be accessed from the Route 13 corridor as described in Section 623.00.
    - 2. Construction, maintenance, plowing, sanding, cleaning of roads, ways, driveways and any other means of access to a workforce housing development shall be, at all times, the entire responsibility of the developer and/or the organization or property management entity.
    - Renumber subsequent sections.
- 800.00**      **2010**      AMEND Section 801 (c), nonconforming uses, to read: “except for proposal “B” (see diagram in section 800.03), any alteration, expansion or change (...)”  
AMEND Section 803.03, diagram, to replace the work “yard” by “Setback”
- 1800.00**      **2010**      AMEND Section 1803.01, driveway Ordinance, definition of Driveway, to remove “area of access”
- 2000.00**      **2010**      AMEND Accessory Dwelling Ordinance:
- 2001.00, Purpose, to read: “To provide expanded housing opportunities (...), owner or owner’s family occupied, (...). Accessory dwelling units (ADU) shall be permitted in the R/A district by special exception granted by the Board of Adjustment and shall remain with the property.”
  - 2002.01, Requirements/Limitations, to read: “Accessory Dwelling Units shall be secondary and accessory to a principal single family dwelling unit or accessory building.”
  - 2002.07, Requirements/Limitation, to put back the entire section that was removed in 2008 and that reads: “An accessory dwelling unit shall not be considered to be an additional dwelling unit for the purpose of determining minimum lot size.”

<b>2200.00</b>	<b>2010</b>	AMEND Section 2203.02 (b) 3, Housing for Older Persons Developments, Site Perimeter Buffer, to read: “Each development (...) of fifty (50) feet or a value as deemed necessary by the Planning Board (...)
<b>2500.00</b>	<b>2010</b>	AMEND Section 2500.00 (a), Board of Adjustment, to read: “(...) for a period of not more than one year at the time.”
<b>Building Code</b>	<b>2010</b>	<p>REPEAL the Town of Brookline Building Code adopted in 1971 and as subsequently amended. <u>Note</u>: As off March 9, 2010, in accordance with RSA 115-A, the Building Department will be enforcing the State of New Hampshire Building Codes as amended:</p> <p>For all Commercial or Industrial Construction, including renovations, alterations and additions:</p> <ul style="list-style-type: none"> <li>- International Building Code</li> <li>- International Energy Conservation Code</li> <li>- National Electrical Code</li> <li>- International Mechanical Code</li> <li>- International Plumbing Code</li> </ul> <p>For all Residential construction, including renovations, alterations and additions:</p> <ul style="list-style-type: none"> <li>- International Residential Code (building, plumbing, electrical, gas piping, etc.)</li> <li>- International Energy Conservation Code</li> </ul> <p>For all gas piping work:</p> <ul style="list-style-type: none"> <li>- NFPA 54 and NFPA 58</li> </ul>
<b>100.00</b>	<b>2011</b>	AMEND the Preamble to refer to the correct NHRSA 674:16. – NHRSA Chapters 31:60 to 89 were repealed in 1983 and replaced by chapter 674, “Local Land Use Planning and Regulations Powers”.
<b>300.00</b>	<b>2011</b>	ADD Section 307.00 – Building Permits – To specify that the Town of Brookline follows the State of NH Building Code, pursuant to RSA 155-A and require that accessory building of 100 square feet or less shall not require a building permit but shall be required to meet all setback requirements. ( <u>Note</u> : the Brookline Building Code repealed March 2010 town meeting)
<b>500.00</b>	<b>2011</b>	AMEND Sections 503.03 and 503.05 – Exclude wetlands from the minimum lot size. Rename Section Building Height with “Building Requirements” keeping current wording and specifying how 35 feet building height is calculated and that an accessory building of 100 feet or less does not require a building permit but must meet all setback requirements. ( <u>Note</u> : the Brookline Building Code was repealed at the March 2010 town meeting)
<b>600.00</b>	<b>2011</b>	AMEND Section 603.05 – Rename Section Building Height with “Building Requirements” keeping current wording and specifying the minimum square footage for any new dwelling unit and for manufactured housing and that an accessory building of 100 feet or less does not require a building permit but must meet all setback requirements. ( <u>Note</u> : the Brookline Building Code repealed March 2010 town meeting)
<b>620.00</b>	<b>2011</b>	<p>AMEND Section 620.00 (Workforce Housing Option) – 626.00, general requirements: (2.) To specify that the minimum parcel size shall be for a workforce housing development shall be at least ten (10) contiguous acres excluding wetlands; (3.) To specify that the minimum lot size for market value and single workforce housing units, duplexes and multi-family buildings shall exclude wetlands; (10.) to correct reference so section 629.00 instead of 628.00.</p> <p>ADD Section 628.00 (3.) to specify requirement to access to the development.</p>

- 700.00**      **2011**      AMEND Section 700.00 (Manufactured Housing) – 701.01, requirement: to exclude wetlands from the minimum parcel size and specify requirements for a vegetated buffer.
- 1400.00**      **2011**      DELETE Section 1400.00 (Growth Management) – Section Deleted, expired March 2011 (referring to HB 1260 and NHRSA 674:22 and 23, effective July 8, 2008.)
- 200.00**      **2012**      ADD definition of Buildable Area: An area capable to accommodate a house site (or commercial structure if so planned) and all required utilities such as water supply and wastewater disposal. The buildable area is the area of a lot excluding wetlands, land with slopes over twenty-five (25) percent, water bodies, regulatory floodways, setback requirements and land restricted from development by easements, covenants or other legal restrictions. The buildable area is intended to ensure that the lot is capable of meeting all Town of Brookline zoning requirements.
- 500.00**      **2012**      AMEND Section 502.03 Land Area. Each building lot shall be at least one (1) *contiguous* acre excluding wetlands
- 600.00**      **2012**      AMEND Section 603.02 Land Area. Each building lot shall have at least 80,000 *contiguous* square feet, excluding wetlands.
- AMEND Section 603.04 Number of Dwelling Units. Only one dwelling unit shall be permitted per individual building lot, except as provided in Section 2000.00, Accessory Dwelling Units. A ~~two-family house~~ *two-family dwelling unit* shall require ~~two times the minimum land area~~ *at least 160,000 contiguous square feet of land excluding wetlands.*
- AMEND Section 603.06 Back Lots, sub-sections a. and d.
- a. Requires a minimum lot area of *at least five* (5) acres *with a buildable area of at least 80,000 contiguous square feet of land* excluding wetlands.
- d. ~~Duplexes~~ *A two-family dwelling unit* requires *a minimum lot area of* ten (10) acres ~~minimum lot size~~ *with a buildable area of at least 160,000 contiguous square feet of land* excluding wetlands.
- 620.00**      **2012**      AMEND Section 626.00, 3. - The minimum lot size for a single family market value *unit* or a single *family* workforce housing unit shall be one (1) *contiguous* acre excluding wetlands. The minimum lot size for a ~~duplex~~ *two-family dwelling unit* shall be one and one half (1.5) *contiguous* acres excluding wetlands. The minimum lot size for a *three (3), four (4)* or five (5) unit multi-family building shall be three (3) *contiguous* acres excluding wetlands.
- 1500.00**      **2012**      AMEND Section 1505.03 Setbacks. 15 foot setback from the front, rear, and side per lot, measured from the property lines. ~~The subdivision perimeter will contain a 50-foot setback where no structure shall be built.~~

ADD Section 1505.04 Site Perimeter Buffer: *Each development must be situated within a permanently protected undeveloped site perimeter buffer, identified on the site plan, not less than 50 feet wide or a value as deemed necessary by the Planning Board on all boundaries of the original parcel except for access to connecting roads, which, unless it is already wooded and satisfactory to the Planning Board, must be planted and landscaped so as to provide a visual barrier between the development and adjacent properties. The Planning Board may require additional buffer width where unique*

*circumstances of an abutting use or property warrant. The site perimeter buffer shall **NOT** count towards the required minimum protected open space.*

AMEND Section 1505.04 and RENUMBER to 1505.05 - Lot Size. *Each building lot shall have a minimum of one (1) contiguous acre excluding wetlands. Only one dwelling unit shall be permitted per individual building lot, except as provided in Section 2000.00, Accessory Dwelling Units. A two-family ~~structure~~ dwelling unit shall require ~~two times the minimum land area~~ a minimum of two (2) contiguous acres, excluding wetlands.*

Subsequent sections were renumbered

- 2000.00**    **2012**    AMEND Section 2002.11 - The gross living area of an accessory dwelling unit shall not be less than 350 square feet *and* ~~or~~ not greater than 1,000 square feet. (To clarify that both conditions are required)
- 2200.00**    **2012**    AMEND Section 2203.02. b. 3) Site Perimeter Buffer: Each development must be situated within a permanently protected undeveloped site perimeter buffer, identified on the site plan, not less than 50 feet wide or a value as deemed necessary by the Planning Board on all boundaries of the original parcel except for access to connecting roads, which, unless it is already wooded and satisfactory to the Planning Board, must be planted and landscaped so as to provide a visual barrier between the development and adjacent properties. The Planning Board may require additional buffer width where unique circumstances of an abutting use or property warrant. The site perimeter buffer shall **NOT** count towards the required minimum protected open space.
- 200.00**    **2014**    **Definitions** - ADD all necessary definitions related to the revised Sign Ordinance (see below, section 1600.00)
- 500.00**    **2014**    AMEND Section 502.00, Uses Permitted, to add the word "**Commercial**" to subsection v. to read as follow: "Any commercial use which does not offend by emission of smoke, dust, gas, noise, odor, or fumes".
- 1600.00**    **2014**    AMEND the entire Section 1600.00, Sign Ordinance. The revised ordinance gives more flexibility to the Planning Board when reviewing a sign application and act on a case by case basis by having the authority to grant a *Conditional Use Permit* as allow by the RSA instead of having an applicant going to go to the Zoning Board of Adjustment.
- 1700.00**    **2014**    AMEND the Home Business ordinance, subsection 1702.05 to ADD "at any one time" to read as follow: "Home Business shall be conducted by the resident, resident members of the owner's family, a resident tenant, or resident members of the tenant's family. Two employees **at any one time**, in addition to home inhabitants, are permitted to work on the premises."
- 2200.00**    **2015**    AMEND the entire Section 2200.00, Housing for Older Persons Developments. Summary of amendments:
- Change the age requirement for residents from 62 to 55 years and older,
  - Reduce the minimum development tract size to 10 acres and reduce the minimum percentage of the total tract area to be set aside as open space to 20 percent,
  - Provide alternative options when such developments are proposed in the Residential/Agricultural district or the Commercial/Industrial district such as:
    - Dwelling unit density
    - Site perimeter buffer

- Setbacks and unit separation
  - Unit standards
  - Pedestrian linkage and circulation
- 600.00**     **2016**     ADD Bed & Breakfast as a Use Permitted by Special Permit in the Residential / Agricultural District.
- 2000.00**     **2016**     AMEND Accessory Dwelling Units (ADUs) ordinance:
- Clarify that ADUs shall be within or attached to the building which houses it,
  - Property owner must occupy one of the two dwelling units,
  - Shall comply with fire alarm system interconnections requirements,
  - Clarify that in case of change of ownership, new owner must comply with the entire section 2000.00,
  - Edit section 2004.00 to provide steps that must be taken prior to applying for a special exception.
- 2400.00**     **2016**     CREATE a New Section: Bed & Breakfast and renumber the subsequent sections.
- 200.00**     **2017**     REVISE the definition of “frontage”.
- 603.06**     **2017**     REMOVE “on a Class I, II, or V road” from the back lot minimum frontage requirements.
- 1102.04**     **2017**     REVISE “buffer zone” definition to combine it with (to be deleted) section 1103.01 (jurisdiction, buffer zone).
- 1105.01**     **2017**     CHANGE septic system setback from wetland areas from 75’ to 50’ in order to match State requirements.
- 1300.00**     **2017**     UPDATE the “Aquifer Protection District Performance Standards” reference related to Best Management Practices to be consistent with the NH DES code numbering to ENV-Wq 401.
- 1505.03**     **2017**     REMOVE “The subdivision perimeter will contain a 50’ setback where no structure shall be built”.
- 1505.04**     **2017**     ADD “where no structure shall be built” after “protected undeveloped site perimeter buffer”.
- 2002.00**     **2017**     AMEND the entire Accessory Dwelling Units (ADUs) ordinance in order to comply with SB 146 that will take effect on June 1, 2017.
- 1506.01**     **2018**     REMOVE “subject to the approval of voters at Town Meeting”.
- 2002.02**     **2018**     AMEND to read: One of the two dwelling units shall be the primary residence and the legal domicile of the property owner.
- 500.00**     **2019**     AMEND the Industrial-Commercial District (By Petition) to include Lot K-26 (Brookline Animal Hospital) in the Town I-C district, which already abuts the I-C District along Route 13.
- 1100.00**     **2019**     AMEND the entire Wetland Conservation District Ordinance to reorganize its section to make the ordinance clearer. No major changes were proposed.

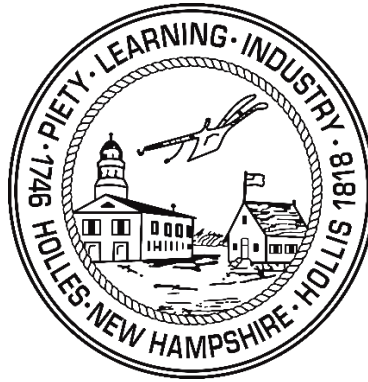
1506.01 2020 AMEND the Open Space Development Ordinance and add the following language to the end of the existing paragraph: “A pre-conveyance open space conservation easement deed shall be recorded and shall have an easement sunset upon conveyance to the Town or homeowner association”.

1800.00 2020 AMEND the Driveway Ordinance. Paragraph #4 of the Driveway Permit Application: change “Road Agent” to “Department of Public Works Director”.



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***TOWN OF HOLLIS, NEW HAMPSHIRE***  
***ZONING ORDINANCE***



*Amended*

*Recodification April 3, 2001*

*March 12, 2002, March 12, 2003*

*March 10, 2004, March 9, 2005*

*March 14, 2006, March 13, 2007*

*March 11, 2008, March 10, 2009*

*Adoption of Revised Flood Maps – June 22, 2009*

*Amended March 10, 2010, Amended March 9, 2011*

*Recodification March 2011*

*Amended March 13, 2012*

*Amended March 12, 2013*

*Amended March 19, 2014*

*Amended March 10, 2015*

*Amended March 08, 2016*

*Amended March 21, 2017*

*Amended March 17, 2018*

*Amended March 12, 2019*

*Amended March 10, 2020*

*Amended March 9, 2021*

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An ordinance to promote the health, safety, morals, and general welfare of the community by regulating the use of land in the Town of Hollis.

## **PREAMBLE**

In pursuance of authority conferred by Chapter 674:16-34; New Hampshire Revised Statutes Annotated as amended and for the purpose of promoting the health, safety, morals, and general welfare of the inhabitants of the incorporated Town of Hollis, New Hampshire, by securing safety from fire, panic, and other dangers, providing adequate areas between buildings and various rights-of-way, by preventing the overcrowding of land, avoiding undue concentration of population, facilitating the adequate provisions for transportation, water, sewage, schools, parks, and other public requirements, and by other means in accordance with a comprehensive plan, the following ordinance is hereby adopted by the voters of the Town of Hollis, New Hampshire, in official Town meeting convened.

## **SECTION I: AUTHORITY**

- A. AUTHORITY:** This ordinance has been adopted by Town Meeting Vote of the Town of Hollis, New Hampshire.
- B. AMENDMENTS:** This ordinance may be amended by a majority vote of any legal Town Meeting in accordance with provisions of the New Hampshire Revised Statutes Annotated. The Planning Board has the authority to assign such section numbers to this ordinance and to the Building Code as it may deem appropriate, provided that no substantive change shall occur as a result of such renumbering.
- C. PLANNING BOARD:** The Planning Board is authorized to require, when the scope of the impact of a proposed application warrants, an applicant to participate in a preliminary conceptual consultation or design review

## **SECTION II: SEPARABILITY CLAUSE**

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

## **SECTION III: WHEN EFFECTIVE**

This Ordinance shall take effect upon its passage.

## **SECTION IV: ENFORCEMENT AND ADMINISTRATION**

- A.** The Building Inspector established under RSA 673:1 shall also serve as the Code Enforcement Officer.
- B.** The Code Enforcement Officer, or the Board of Selectmen's designee, shall have the duty, and is hereby authorized, to enforce the provisions of this ordinance.
- C.** Upon any violation of this Ordinance, the Selectmen shall, on their own initiative, take immediate steps to enforce the provisions of this ordinance by seeking an injunction in the Superior Court or by any other proper legal action.
- D.** All applications for building permits shall be accompanied by a plat drawn to a scale of not smaller than 1" =100', showing the actual dimensions of each lot to be built upon, the size and location of each building to be erected upon each lot, and such other information as may be necessary to enable the Building Inspector to determine that the proposed structure and use of land will conform to the provisions of this Ordinance. A record of such applications and plats shall be kept in the office of the Building Inspector.
- E.** No excavation for foundation, nor erection, construction or structural alteration of any structure or part of a structure, or occupancy of streets or alleys with building materials or temporary structures for construction purposes shall be undertaken until a permit shall have been issued by the Building Inspector. No such permit shall be issued before application has been made for a Certificate of Occupancy.
- F.** No vacant land shall be occupied until a Certificate of Occupancy shall have been issued by the Building Inspector.
- G.** A Certificate of Occupancy (CO), either for the whole or part of a new building or for the alteration of an existing building shall be applied for at the same time as the application for a building permit is applied for. The CO shall be issued within 90 days after notice of erection or alteration of such building or part of such building and shall have been completed in conformity with the provisions of this Ordinance.
- H.** A Certificate of Occupancy for the use or occupancy of vacant land, or for a change in the use of an existing building, shall be applied for and issued before any such land shall be occupied or used, or such land or building changed in use, and such certificate shall be issued within 15 days after application has been made, provided such proposed use is in conformity with the provisions of this Ordinance.

- I. A record of all Certificates of Occupancy shall be kept on file in the office of the Building Inspector and a copy shall be furnished on request to any person having proprietary and tenancy interest in the building or land affected.
- J. A building permit shall be valid for one year from the date of issuance. Said permit period may be extended for one or more times with the approval of the Building Inspector. If said permit expires, the building materials and equipment on the ground shall be removed or stored according to the requirements of the Building Inspector.

### ***SECTION V: PENALTIES AND FINES***

Pursuant to NH RSA 676:17, any violation of this Ordinance, or any other regulation adopted pursuant to Title LXIV of the NH Revised Statutes Annotated, by the Town of Hollis, shall be punishable by either:

- A. A civil fine of not more than \$100 for each day that such violation is found by a court to continue after the conviction date, or after the date on which the violator receives written notice from the municipality that he/she is in violation of such ordinance or regulations, whichever date is earlier; or
- B. A criminal penalty, which shall be;
  - 1. a misdemeanor if the violation is committed by a natural person; or
  - 2. a felony if the violation is committed by any other person.
- C. Additionally, the Town of Hollis hereby adopts by reference Paragraphs II through IV of NH RSA 676:17 regarding the recovery of municipal attorneys' fees and costs, other municipal costs, and the posting of a bond by alleged violators with the Superior Court.

### ***SECTION VI: BOARD OF ADJUSTMENT***

- A. The Board of Selectmen shall make appointment to a Board of Adjustment consisting of five members conforming in duties to the provisions of Chapter 674:33 of the NH Revised Statutes Annotated, as amended. Thereafter, as terms expire or vacancies occur, the appointing Authority shall be responsible for filling vacancies and maintaining full membership on the Board of Adjustment. The Board of Adjustment shall conform in membership and term of office to the provisions of Section 5, Chapter 673, NH Revised Statutes Annotated, as amended. In addition to the general powers granted to the Board of Adjustment by Chapter 674:33, it may, if in harmony with and subject to its provisions, authorize the following exceptions to be made and permits to be issued:
  - 1. For the erection or use of a structure in any District by a public utility corporation when such erection or use is reasonably necessary for the service of the public and not unreasonably detrimental to the character of the development.
  - 2. For a cemetery or a municipal utility in any District.
  - 3. For churches, religious buildings, auditoriums, municipal buildings, and other similar places of public assembly.
- B. In the determination of a decision with regard to an exception, the Board of Adjustment shall consider that:
  - 1. The use shall not be detrimental to the character, environment, scenic value or general welfare of the Town; and
  - 2. The use shall not materially affect traffic or the physical condition of the Town roads.

**SECTION VII: ZONING**

**A. ZONING DISTRICTS**

The zoning map officially entitled, “Hollis Zoning Map” is hereby adopted as part of this ordinance. It shows a division of the Town into the following zones:

1. **AGRICULTURAL AND BUSINESS ZONE (A&B):** To include the entirety of the following lots:

17-15	52-5	52-16	52-26	52-36	53-7
17-15.1	52-6	52-17	52-27	52-37	53-13
17-16	52-7	52-18	52-28	52-38	53-14
17-16.1	52-8	52-19	52-29	52-39	53-15
17-17	52-9	52-20	52-30	52-41	53-16
17-21	52-10	52-21	52-31	52-42	53-17
	52-12	52-22	52-32	52-43	
18-4	52-13	52-23	52-33	53-3	56-1
18-5	52-14	52-24	52-34	53-4	56-27
	52-15	52-25	52-35	53-6	

Also to include a portion of the following lots, consistent with the Zoning Map:

17-18	18-9	24-2	52-11	53-8
17-19			52-40	

Also to include an area on both sides of Silver Lake Road to a depth of three hundred (300) feet, north of the intersection of Ames Road to the Amherst line.

2. **COMMERCIAL ZONE (C):** To include an area east of Route 111, north of the Mobile Home-2 Zone, and west of the Recreational Zone, centered on part of a private road known as Pineola Drive.
3. **INDUSTRIAL ZONE (IN):** To include land in an area on Proctor Hill Road to a depth of 1,000 feet on the south side and 2,000 feet on the north side, extending 2,000 feet easterly into Hollis from the Brookline line, and all the land westerly from Runnells Bridge Road (Route 111) to a depth of 1,500’ from the northern boundary of the Trailer Park Zone thence northerly to Twiss Lane and Depot Road.
- i. **MOBILE HOME-1 ZONE (MH-1):** To include land on the west side of the Runnells Bridge Road as shown on the official zoning map as follows: Starting from an iron pipe 600’ north of the Pepperell line on the west side of Rt. 111; South 87° 38’ 54”, West 1,320’ to an iron pipe, thence North 0° 14’ 42”, West 1,291.10’ to a stone bound, thence South 88° 45’ 00”, East 404’ to an iron pipe, thence North 4° 00’ 00”, East 99’ to a stone bound, thence North 89° 00’ 00”, East 1,160’ to a stone bound on Route 111, thence South 9° 46’ 00”, West 1,369.98’ to the point of beginning.
  - ii. **MOBILE HOME-2 ZONE (MH-2):** To include approximately 110 acres; extending east from the northeastern-most boundary of the trailer park to the Recreational Zone and to follow the Recreational Zone south/southwest to the Massachusetts line, then west to Route 111, thence in a northerly direction along Route 111 to the starting point.
  - iii. **RECREATIONAL ZONE (R):** To include all the land within 600’ of the shores of Silver Lake, Pennichuck Pond, Rocky Pond, Flint Pond, the Nissitissit River, Nashua River, and Dunklee Pond.
  - iv. **RESIDENTIAL AND AGRICULTURAL ZONE (R&A):** To include those areas as shown on the official Hollis Zoning Map.
  - v. **RURAL LANDS ZONE (RL):** To include those areas as shown on the official Hollis Zoning Map.
  - vi. **TOWN CENTER ZONE (TC):** To include that area as defined on the official Hollis Zoning Map.

- vii. **WATER SUPPLY CONSERVATION ZONE (WSC):** To include all of the area between Proctor Hill Road and the Recreational Zone west of Silver Lake delineated by the U.S.G.S. as having a stratified drift aquifer, and as delineated by the Aquifer Protection Overlay Zone (APO); also to include the area of Map 17, Lot 12 and the area between the delineated aquifer and the intersection of Proctor Hill Road and Rocky Pond Road.

**B. OVERLAY ZONING DISTRICTS**

- 1. **AQUIFER PROTECTION OVERLAY ZONE (APO):** To include those areas indicated as having stratified drift aquifers, as shown on maps produced by the U.S. Geological Survey as part of its study, Hydrogeology of Stratified-Drift Aquifers and Water Quality in the Nashua Regional Planning Commission Area South-Central New Hampshire, 1987, and as delineated on the map, "Stratified Drift Aquifers, Town of Hollis, NRPC, 1991."

- viii. **FLOOD PLAIN OVERLAY ZONE (FPO):** To include land within the 100 year flood boundary as shown on the Flood Insurance Rate Map for the Town of Hollis, NH, published by U.S. Department of Housing and Urban Development, Federal Insurance Administration, effective 16 April 1979. Community Panel Numbers 330091 0005 B and 0330091 0010 B.

**WETLAND CONSERVATION OVERLAY ZONE (WCO):** To include wetlands, surface waters, hydric soils, and a buffer zone of one hundred (100) feet around these wetlands, hydric soils and surface waters. All measurements for determining the buffer zone, which are under the jurisdiction of the Town of Hollis, shall be taken from the mean high water mark of a surface water, the delineated edge of a wetland, or the limits of hydric soils (whichever is most restrictive).

**MULTI-FAMILY ZONE:** To include those land areas zoned R & A located east of the Nashua River.

**C. COPIES OF ZONING MAP**

Regardless of the existence of other printed copies of the zoning map, which from time to time may be made or published, the official zoning map shall be located in the Office of the Planning Board and shall be signed by the Chairman of the Planning Board. Where there is conflict between the official zoning map and the text of this ordinance, the text of this ordinance shall control and shall be the final authority as to current zoning status of the land and water areas, buildings, and other structures in the Town.

**D. BOUNDARIES**

- 1. **LOCATION OF BOUNDARIES:** Boundaries shown within the lines of roads, streams, and transportation rights-of-way shall be deemed to follow the center lines. The abandonment and non-use of roads shall not affect the location of such boundaries. When the Building Inspector cannot definitely determine the location of a boundary by such center lines, by the scale or dimensions stated on the zoning map, or by the fact that it clearly coincides with the property line, s/he shall refuse action, and the Board of Adjustment, upon appeal, shall interpret the location of the boundary with reference to the scale of the zoning map and the purposes set forth in all relevant provisions of this ordinance.

**xi. LOTS DIVIDED BY A ZONING DISTRICT BOUNDARY**

- 1. The Zoning Board of Adjustment may grant by Special Exception a reasonable extension of the regulations of either District over a lot divided by a district boundary line, when all parts of such lots are held under the same ownership at the time of the passage of this paragraph of this Ordinance. This shall not, however, allow for the extension of other district regulations into either the Recreational or Water Supply Conservation Districts, and it shall not relieve an owner of meeting the standards of any overlay zone.
- 2. The standards of an overlay zone shall only apply to that portion of a lot where the overlay zone appears.

## ***SECTION VIII: DEFINITIONS***

For the purpose of this ordinance, certain terms or words used herein are defined as follows:

***ACCEPTABLE LAND:*** Acceptable land is land which consists of the following soil drainage classes: excessively drained, well drained and/or moderately well drained. These soil drainage classes are considered acceptable because they indicate soils that have slight to moderate limitations for building site and leach field development. The remaining soil drainage classes and delineated wetlands indicate soils that have severe limitations for building site and leach field development because they have a high water table or are otherwise unsuitable for development because of wetland and hydric conditions. Soil information shall be determined, at the Planning Board's discretion, by a certified soil scientist in accordance with Site Specific Soil Mapping Standards for New Hampshire and Vermont, Society of Soil Scientists of Northern New England Publication No.3, 1997. Please see the buildable lot definition for the amount of acceptable land required in each type of residential lot found in Hollis.

***ACCESSORY BUILDING OR USE, CUSTOMARY:***

- a. A customary accessory building or use is one which:
  - (i) is secondary to and serves the principal building or principal use;
  - (ii) is secondary in area, extent, or purpose to the principal building or principal use served;
  - (iii) contributes to the comfort, convenience, or necessity of occupants of the principal building or principal use served;
  - (iv) is located on the same lot as the principal building or principal use served; and
  - (v) contributes activity to the principal use;
- b. Attached garages, porches and other appenditures, and other attached structures are considered a part of the principal building and are not considered an accessory building or use;
- c. All accessory structures greater than 250 square feet building footprint or greater than 12 feet in height must comply with the setback requirements for principal buildings.

***AGRICULTURAL ENTERPRISE:*** Any duly-permitted farm, agricultural or farming activity as defined in NH RSA 21:34-a.

***ALTERNATIVE TREATMENT CENTER:*** An "alternative treatment center" as defined in RSA 126-X:1, I, namely, a not-for-profit entity registered under RSA 126-X:7 that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies, and dispenses cannabis, and related supplies and educational materials, to qualifying patients and alternative treatment centers. Alternative Treatment Centers are defined as one of two types of facilities:

- a. ***Alternative Treatment Center - Cultivation Location:*** A "cultivation location" as defined in RSA 126-X:1, IV, namely, a locked and enclosed site under the control of an alternative treatment center where cannabis is cultivated, secured with one or more locks or other security devices in accordance with RSA 126-X and the Department of Health and Human Service's administrative rules.
- b. ***Alternative Treatment Center - Non-Cultivation Location:*** An alternative treatment center operated in accordance with RSA 126-X and the Department of Health and Human Services administrative rules that has a separate location for the cultivation of cannabis.

***APPLICABLE ACRES:*** Applicable acres refers only to undeveloped land. Land within the minimum lot area of a residence on a developed lot, areas within required buffers, required recreation lands or open space, lands within road ways or public rights-of-way, and sand and gravel excavations shall be considered to be developed land for the purposes of this ordinance. Conservation lands or agricultural lands shall not be considered developed land for the purposes of this ordinance.

***ARTERIAL STREET:*** Arterial streets serve to move large volumes of traffic through a town or to connect one section of town with another section. These streets include and are limited to: NH Route 111 & 111A, NH Route 130, NH Route 122, NH Route 101A, Broad Street and Depot Road.

***BACKLAND LOTS:*** Lots which have a reduced minimum frontage requirement, but which have a greater minimum lot size requirement and which can be serviced by a private driveway leading to a public road.



**BED AND BREAKFAST:** A Bed and Breakfast is defined as a transient lodging facility, that is the personal residence of its owner, is occupied by the owner at the time of rental to a patron, and in which the only meal served is breakfast to in-house patrons. Residents, patrons and non-resident employees must be provided with off-street parking. The bed and breakfast must also comply with all state regulations and have an adequate septic system.

**BUILDABLE LOT:** A lot will be deemed buildable for residential purposes when it contains a minimum of one and one-half (1 1/2) contiguous acres of acceptable land which is not divided by utility easements, rights-of-way or waterways. HOSPD lots are required to contain a minimum of one contiguous acre of acceptable land. For all lots, the contiguous area of acceptable land must be able to contain a Building Area. The Planning Board reserves the right to require that a Site Specific Soil Map be performed for any lot, or portion of a lot, in a subdivision for which Planning Board approval is sought.

**BUILDING AREA:** An area on a buildable lot that is capable of accommodating a house site (or commercial structure if so planned) and all required utilities such as water supply and wastewater disposal. The Building Area shall be made up of Acceptable Land and may be either a rectangle measuring one hundred (100) feet by two hundred (200) feet or a circle with a diameter of one hundred sixty (160) feet. No portion of the Building Area may be located within a building setback or wetland buffer or on altered/unaltered slopes greater than 25%. The home or building is not required to be placed within the building area. Rather, the building area is intended to ensure that the lot is capable of meeting all Town of Hollis zoning requirements. The applicant shall demonstrate that driveway access from the lot's Frontage can be provided to the Building Area without the need for any waivers. Said driveway shall lie entirely on the subject lot.

**CLUSTER HOUSING:** Cluster housing is an attached unit housing style where common, soundproof and fireproof walls vertically join the separate units, which are side by side. No separate dwelling units may be placed one above the other.

**CONGREGATE CARE FACILITY:** An elderly housing development with communal dining facilities and services, such as housekeeping, organized social and recreational activities, transportation services, and other support services appropriate for the residents.

**DENSITY:** The quantity of dwelling units per acre.

**DWELLING UNIT:** A dwelling unit is a single residential unit of living space, with its own living area, sleeping area, bathroom, and facilities for cooking, approved for occupancy by the Town of Hollis. Dwelling units may be attached, as in accessory dwelling units, apartments, or multifamily configurations, or detached single family structures

**DWELLING, ATTACHED:** A dwelling unit which is attached to one or more dwelling units, each of which has independent access to the outside of the building to ground level and which has no less than 2 exterior walls fully exposed and not in common with the exterior walls of any other unit.

**DWELLING, SINGLE FAMILY:** A dwelling unit which is unattached to any other dwelling unit.

**DWELLING, TWO FAMILY:** Two dwelling units attached, designed, arranged, or used exclusively for 2 families living independently of each other. This definition does not include accessory apartments.

**EARNED RIGHT:** Building Rights earned by a record holder based on the ownership of land within Hollis during the building year.

**ESSENTIAL SERVICES:** The erection, construction, alteration, or maintenance by public utilities, municipal or other governmental agencies of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems; including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, traffic signals, hydrants, and other similar equipment and accessories reasonably necessary for furnishing adequate service or for the public health, safety, or general welfare.

**EXTERIOR STORAGE:** The outdoor storing of equipment or materials on a permanent or long-term basis without permanent protection from the elements, such that these materials or equipment are in plain view from surrounding properties. This does not include registered personal vehicles or one registered business vehicle per residence.

**FAMILY:** One or more persons occupying the premises and living as a single housekeeping unit.

**FARM STAND:** An Agricultural Enterprise which displays and sells agricultural products raised, produced and processed on the premises, and which may include a Structure(s) used in the operation. All Farm Stands Structures must be set back at least 35 feet from the adjacent Public Road and have adequate off street parking. A Farm Stand shall remain an Agricultural Enterprise and shall not be considered a commercial use, provided that at least 35% of the products sales in dollar volume are attributable to products produced on the farm or farms of the stand owner. Owners

of Farm Stands, based upon review by town staff, may be required to obtain site plan review approval from the Planning Board.

**FLEA MARKET:** An informal market place for sellers of used and new goods. Usually a seasonal operation, with open air tables and stands.

**FLOATING ZONE:** A floating zone refers to flexible regulations which may be overlaid on any residential zone. The regulations of a floating zone (i.e., HOSPD) may vary the normal requirements of the zone overlaid.

**FLOOD: 100-Year Frequency:** The highest level of flooding that, on the average, is likely to occur once every 100 years, according to studies performed for the National Flood Insurance Program and adopted by the Town.

**FLOOD PLAIN OR FLOOD PRONE AREA:** Any normally dry land area that is susceptible to being inundated by water from any source, as defined under the Flood insurance rate maps.

**FRONTAGE:** That continuous portion of a lot line bordering on a highway, street or right-of-way of class V or better, capable of providing the principal route of access to the lot in a manner that meets all Town of Hollis land-use ordinances and regulations without requiring any waivers there from.

**FRONT YARD:** An open unoccupied space extending for the full width of a lot between the extreme front line of the building thereon and the nearest existing edge of the public road.

**HOME OCCUPATION:** Professional occupations or those occupations traditionally carried on in the home.

**HOSPD:** A Hollis Open Space Planned Development (HOSPD) is a floating zone development standard for land subdivision where the density of dwelling units is no greater than that which would be permitted in the district in which the HOSPD is located, but where the lot size and other dimensional standards may be reduced in exchange for the preservation of permanently-protected open space, recreational land, forests, and/or farmland.

**HOUSING FOR OLDER PERSONS:** The occupancy of units within a development specifically designed for older persons and their families. The age of the occupants of the project will be regulated by private covenants in a manner that will insure that it complies with the federal and state laws relating to Housing for Older Persons as that term is defined in RSA 354-A:15 as well as any federal counterpart of that statute as they may be amended.

**IMPROVED LAND:** Land that is occupied by a principal or accessory structure, utilities, roads or driveways suitable for automobiles, or other manmade improvements, including impervious surfaces, related to occupation of the land for habitation or commercial uses.

**JUNK:** Any old metal, bottles, paper, plastic, or rubber products, cotton or woolen wastes, two or more unregistered motor vehicles which are unfit for use on the highways, used parts and materials of motor vehicles, the accumulation of which is detrimental or injurious to the neighborhood.

**LANDSCAPE MATERIALS YARD:** A facility for the processing, storage and sale of landscaping materials including loam, landscape stone of various sizes, mulch, stumps and brush, sawdust and compost. The property on which the proposed use will operate shall be a minimum of 30 acres, consisting of one or more contiguous lots under common ownership.

**LEASABLE AREA, GROSS:** The total floor area designed for tenant occupancy and exclusive use, measured from the exterior walls and including all tenant-related interior space, but not to include common areas accessible to more than one tenant and which are not directly related to the tenants' business.

**LOT:** A parcel of land or any combination of several contiguous lots of record, occupied or intended to be occupied by a principal building or a building group, as permitted herein, together with their accessory buildings or uses and such access, yards, and open space required under this ordinance.

**LOT OF RECORD:** A parcel of land described according to a specific plat, survey or deed which has been officially accepted under the terms of this ordinance and any other applicable ordinances and regulations of the Town and statutes and regulations of the State, and recorded in the Hillsborough County Registry of Deeds.

**LOW-INCOME HOUSING:** Housing developed to remain affordable for a period of not less than twenty (20) years to households with gross annual incomes at or below 80% of the median household income for the Nashua PMSA.

**MAJOR COLLECTOR STREET:** Collector streets act to feed traffic to and from local roads and Arterials. Collector roads provide direct access to abutting properties and distribute it to or from Arterials. South Merrimack Road is a Major Collector Street.

**MOBILE HOME:** Any mobile structure which is intended, designed, and used for the permanent or temporary residence of a person, family, or a household, mounted upon wheels or supports, or supported and/or capable of being moved or transported by another vehicle. For the purpose of this ordinance, the removal of wheels and/or the attachment of a foundation to said mobile structure shall not change its classification. Double width mobile structures, which are fabricated on individual chassis with wheels and are designed to be joined, shall be considered a mobile home for purposes of this ordinance.

**MODERATE-INCOME HOUSING:** Housing developed to remain affordable for a period of not less than twenty (20) years to households with gross annual incomes at or below 100% of the median household income for the Nashua PMSA.

**NET TRACT AREA:** The net tract area of the parcel is determined by subtracting the total area calculated for wetlands, surface waters, hydric soils, flood plain, road rights-of-way, and altered/unaltered slopes greater than 25% from the total (gross) tract area.

**MULTI-FAMILY DWELLINGS:** Three (3) or more dwelling units attached, designed, or arranged as separate housekeeping units.

**NONCONFORMING LOT:** A lot which was lawfully created but which does not conform to the current minimum dimensional requirements specified for the zone in which it is located.

**NONCONFORMING USE OR STRUCTURE:** An activity or a building, sign, fence, structure, or a portion thereof, which lawfully existed before the adoption or amendment of this ordinance, but which does not conform to all of the current terms and standards contained in this ordinance.

**OPEN SPACE:** Any area of essentially unimproved land designated on a plan as reserved for public or private use.

**PUBLIC ROAD:** A road or highway approved or maintained by the Town or State of New Hampshire including any federal Highway.

**RECORD HOLDER:** A legal owner of record with clear title to any land in the Town of Hollis, NH.

**RESTAURANT, GENERAL:** An establishment in which food is prepared and served and customers' orders are taken and served at dining tables or a dining counter; a single inside takeout station, serviced by one cash register, shall be allowed. This definition excludes those uses defined by "Fast-Food Restaurant."

**RESTAURANT, FAST FOOD:** An establishment for the sale of food or drink prepared on or off premises and served in disposable containers or wrappers for immediate consumption on or off premises unless such sales are wholly incidental to a General Restaurant or other permitted use. Orders are taken and served at a service counter, and table service is not regularly provided. This definition shall include any establishment utilizing either 'drive-in' or 'drive-through' service.

**RETIREMENT COMMUNITY:** A large-scale elderly housing development that includes recreational facilities specifically designed for the residents of the development, and that may also include the following: congregate care facilities, medical facilities for the care of the residents of the development; commercial establishments intended to serve the needs of the residents of the development. Retirement communities shall accommodate the needs of an older population seeking living arrangements capable of providing a continuum of care in a campus setting

**Setback:** The minimum distance between the nearest portion of a building or structure, a lot line, a right-of-way line, a leachfield, a well, or a terrain feature such as shoreline or wetlands area. Setbacks are required in this ordinance to support the purposes of Zoning Ordinances as specified in state law. (2020)

**SEASONAL AGRICULTURAL SIGN:** Sign displayed by an agricultural enterprise during the harvest season for the on-site sale of the enterprise's site-grown product. Such sign may be either off-premises or on-premise.

**SIGN:** Any fabricated sign or outdoor display structure, including its structure, consisting of any letter, figure, character, mark, point, plane, marquee sign, design, poster, pictorial, picture, stroke, stripe, line, trademark, reading matter or illuminating device, which is constructed, attached, erected, fastened or manufactured in any manner so that the same shall be used for the attraction of the public to any place, subject, person, firm, corporation, public performance, article, machine or merchandise, and displayed in any manner out of doors, or indoors as a window sign, for recognized advertising purposes. See sign ordinance for other definitions.

**SITE SPECIFIC SOIL MAP:** A map developed from information prepared in accordance with Site Specific Soil Mapping Standards for New Hampshire and Vermont, Society of Soil Scientists of Northern New England Publication

No. 3, 1997, as amended.

**STRUCTURE AND/OR BUILDING:** That which is erected or assembled using a combination of materials for occupancy or use, whether portable or affixed to the ground. This includes structures of permanent or temporary construction, plastic, fabric, and/or canvas covered frame structures, structures for agricultural uses, structures installed on skids, blocks or permanent foundations and all sheds and storage facilities. All structures will require a building permit. Structures shall not include fences, basketball and tennis courts.

**SUBDIVISION:** The division of a lot, tract, or parcel of land into two or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale, rent, lease, transfer, condominium conveyance, or building development. It includes a re-subdivision and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided. The division of a parcel of land held in common and subsequently divided into parts among the several owners shall be deemed a subdivision.

**TEMPORARY STRUCTURE:** A structure, which is designed, built, created or occupied for short and/or intermittent periods of time. This shall include, but is not limited to, plastic, fabric, and/or canvas covered frame structures. All temporary structures will require a building permit. Temporary structures shall comply with all applicable setbacks, except as noted in the Farm Stand definition, and/or height requirements for accessory or principal structures, as outlined in Section X. Zoning Districts. Structures which are in use for a period of less than 7 days are exempt from the permit requirement. Temporary structures located within the Historic District shall be appropriately screened from public view and must obtain prior approval from the Historic District Commission.

**TRAILER PARKS:** An area set aside for occupancy and use by house trailers or mobile homes.

**TOWN RIGHTS:** The rights to residential building permits earned by the Town of Hollis based on the total applicable acreage under Town ownership.

**UNALTERED SLOPES:** Slopes that are unaltered by human activity since December 1, 1999, except for legally permitted uses such as gravel pits.

**UNIMPROVED LAND:** Land that has not been developed with a principal building or other structures, utilities, roads or driveways suitable for automobiles, or other manmade improvements, including impervious surfaces, related to occupation of the land for habitation or commercial uses.

**USE, PERMITTED:** A use, which may be lawfully established in a particular zone, provided it conforms with all requirements of such zone.

**WETLAND:** A wetland is an area that is inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal conditions, does support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include, but are not limited to, swamps, marshes, bogs, and similar areas. For the purpose of determining buffer zones for site plan and subdivision review, wetland boundaries shall be delineated by either a certified soil scientist or a professional wetland scientist according to the Corps of Engineers Wetlands Delineation Manual, 1987, and the Regional Field Indicators for Identifying Hydric Soils in New England, 1998.

## **SECTION IX: GENERAL PROVISIONS**

### **A. DAMAGED STRUCTURES**

No owner of land in any district shall permit fire or other ruins to be left, but shall remove the same to ground level, or repair or rebuild the structure within one year from written notice from the Board of Selectmen.

### **B. JUNK STORAGE**

No place for the storage of junk shall be maintained in any district. See Definitions, Section VIII.

### **C. MOBILE HOMES**

Mobile homes shall be permitted in the Mobile Home-1 (MH-1) Zone and in the Mobile Home-2 (MH-2) Zone as allowed in Section VIII or for those persons who are in the process of building a new home or rebuilding one which was destroyed by fire or other involuntary acts. Before use of a mobile home, except in the MH-1 or MH-2 Zones, a permit must be obtained from the Building Inspector for a 12 month period, with one 6 month extension allowable for demonstrated hardship only. No further extension may be granted. Upon receipt of a permit annually renewable by the Building Inspector, an unoccupied mobile home (excluding recreational vehicles) may be stored on its owner's property, but not within 25' of a public right of way or within 35' of front lot lines or within 15' of side and rear lot lines. The Building Inspector shall determine a reasonable location on the property for such storage.

### **D. ONSITE WASTEWATER TREATMENT**

1. No cesspool, or sewage disposal leach field, including the associated limits of disturbance, shall be constructed less than one hundred (100) feet from wetlands and surface waters or from wells. Septic tanks must be at least seventy-five (75) feet from a private water supply well. No cesspool, septic tank or sewage disposal system shall be constructed within seventy-five (75) feet of drainage swales and/or stormwater detention basins.
2. No waste waters or sewage shall be permitted to run free into wetlands or surface waters or be discharged in any way that may be offensive or detrimental to the health of others. All such waste shall be conveyed away underground through use of an accepted sanitary system or in such a way that it will not be offensive or detrimental to health.
3. All sanitary systems shall be constructed and maintained in accordance with standards set and enforced by the Department of Environmental Services.
4. Where ledge and high seasonal water tables are involved, at least four (4) feet of in-place soil shall exist above ledge or any other impermeable strata and two (2) feet of in-place soil shall exist above the seasonal high water mark before fill. In the Aquifer Protection Overlay Zone, at least four (4) feet of in-place soil shall exist above the seasonal high water table before fill, and the bottom of the leaching field shall be at least six (6) feet above the seasonal high water table.
5. The Town Septic Inspector may waive the provisions of this section for the repair or replacement of pre-existing septic systems.

### **E. IMPERMEABLE SURFACES AND BUILDING COVERAGE**

Impermeable surfaces shall include buildings, paved and unpaved vehicular access and parking areas, and any other area generally incapable of percolating water at a rate comparable to dry uncompacted ground.

1. Impermeable surfaces may cover no more than the following percentages of a lot in the indicated district:
  - a. Industrial (I) and Commercial (C): 60%
  - b. Agriculture & Business (A&B): 50%
2. Buildings may cover no more than the following percentages of a lot in the indicated district:
  - a. Industrial (I) and Commercial (C): 50%
  - b. Agriculture & Business (A&B): 35%
3. Except for the Industrial Zone, impermeable surfaces may cover no more than 15% of any lot in the Aquifer Protection Overlay Zone and the Wetland Conservation Overlay Zone.
4. In all other districts, maximum impermeable surface coverage shall be 25%.

5. Where Planning Board review is required, new development shall be permitted by the Planning Board only upon provision by the developer of mitigation measures designed to maintain stormwater runoff at the same level as before the new development. The Planning Board may, at its discretion, require greater mitigation measures. Mitigation measures shall consider both the need to control stormwater flow and the need to enhance infiltration/groundwater recharge.
6. For other standards relating to open space, see Hollis Open Space Planned Development, XX.

**F. SWIMMING POOLS, OUTDOOR STORAGE TANKS, COMMERCIAL FISHING PONDS**

Any facility for water recreation such as private swimming pools, outdoor water storage tanks, swimming clubs, and commercial fishing ponds, or any other water storage facility such as reservoirs, fish hatcheries, lobster ponds, and sewage lagoons shall comply with the following requirements:

1. The facility shall conform with the setback requirements for principal buildings. Except for in-ground swimming pools which shall conform with the setback requirements for an accessory structure.
2. Any swimming pool shall be enclosed by a fence no less than four (4) feet high with a self-closing gate to prevent uncontrolled access.
3. The facility, if operated to attract visitors, shall comply with parking requirements established under this ordinance.
4. All swimming pools require a building permit from the Hollis Building Inspector.
5. Where appropriate and necessary, in the opinion of the Building Inspector, the applicant will be required to provide a bond of a minimum of \$2,000 for an in-ground swimming pool or \$500 for an above-ground swimming pool, or other amount as set by the Building Inspector, as security for the proper construction of a fence around the area of the swimming pool as required by the Town's building code.

**G. OFF STREET LOADING**

1. **SPACES REQUIRED:** Every non-residential building or structure, which is used for acceptance or distribution of materials or merchandise by vehicles, and having up to 5,000 square feet of gross floor area, shall provide at least one loading and/or unloading space. One additional space shall be provided for every additional 10,000 square feet of gross floor area in the building. If it can be shown that these requirements are too restrictive for the operation in question, the Planning Board may reduce these requirements during its site plan review.
2. **SIZE OF OFF-STREET LOADING SPACE:** Each off-street loading space shall be at least 12 feet in width and at least 60 feet in length, exclusive of aisle and maneuvering spaces and shall have a vertical clearance of at least 14 feet; however, when it is demonstrated that a particular loading space will be used by shorter trucks, the minimum length may be reduced to 35 feet.
3. **LOCATION:** All required loading and/or unloading spaces shall be located on the same lot as the use served. No loading space for vehicles over 2 ton capacity shall be closer than 50 feet to any property in a residential zone unless completely enclosed by a fence, wall, or screen that will serve as an effective barrier to sound and exhaust.
4. **OFF-STREET LOADING SPACES** shall be designed and constructed so that all maneuvering for loading and/or unloading can take place entirely within the property lines of the use. Off-street loading spaces shall not hinder the free movement of pedestrians and vehicles over a sidewalk, street, road, highway, or deeded rights-of-way.
5. **ENLARGEMENT OF BUILDINGS:** The off-street loading requirements, shall apply at any time any building is enlarged or increased in capacity.
6. **SCREENING:** Parking and loading areas shall be screened from adjacent residentially-zoned properties, as required by Section IX.I.

**H. SCREENING**

1. Screening shall be provided for visual separation of incompatible uses as required in each zone. When screening is required it shall provide a reasonably effective year-round visual buffer by:
  - a. Use of existing vegetation and terrain where possible or,
  - b. New plantings, grade separations, fences.
2. Where screening is required, it must be approved by the Building Inspector before issuance of a certificate of

occupancy. For non-residential projects, screening shall be reviewed by the Planning Board during its site plan review procedure.

**I. HEIGHT REGULATIONS:**

1. **MAXIMUM HEIGHT:** Structures shall not exceed 38 feet in height in any district.
2. **EXCEPTIONS:**
  - a. Non-residential farming structures.
  - b. Non-residential structures such as church spires, utility and communication towers, smoke stacks, cupolas, etc.
  - c. Commercial and industrial structures if approved by the Planning Board according to its Site Plan Review Regulations.
3. **METHOD OF MEASUREMENT:** Height shall be measured vertically from the average elevation of the finished grade within 5 feet of the structure to the highest point on the roof.
4. **BUILDING PERMITS:** A single building permit shall be issued for each structure, irrespective of the number of attached dwelling units within each structure. The Planning Board shall determine whether or not the dwelling units have been attached in accordance with the requirements of the site plan regulations for housing for older persons.
5. **MINIMUM SAFETY STANDARDS**
  - a. The development shall meet all applicable building codes and life safety codes that have been adopted by the Town of Hollis, as well as other State and Federal statutes and regulations.
  - b. The Planning Board and/or Building Inspector may make requirements that exceed Federal and State requirements.

**J. NUMBER OF RESIDENTIAL UNITS WHICH MAY BE CONSTRUCTED ON A LOT**

One single family dwelling unit, or one 2 family dwelling unit, as the case may be, may be constructed on a single lot, except under the provisions of the accessory dwelling units, elderly/disabled housing, and condominium sections of this Ordinance, where the number of dwelling units which may be permitted on a lot is determined by a Special Exception granted by the Board of Adjustment and/or approval by the Planning Board under its Site Plan Review Regulations, as required.

**K. ACCESSORY DWELLING UNITS (Adopted March 1993, Amended March 2017)**

1. **PURPOSE:** For the purpose of providing expanded housing opportunities and flexibility in household arrangements, accessory dwelling units (in-law apartments) shall be permitted by special exception granted by the Board of Adjustment in any district in conformance with these regulations.
2. **DEFINITION:** As defined by RSA 674:71 as amended "Accessory Dwelling Unit" means a residential living unit that is within or attached to a single family dwelling, 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.
3. **REQUIREMENTS/LIMITATIONS:**
  - a. Accessory dwelling units are intended to be secondary and accessory to a principal single-family dwelling unit. In granting a special exception, the Board of Adjustment must find that the secondary dwelling unit is developed in a manner which does not alter the character or appearance of the principal dwelling unit as a single-family residence. Only one accessory dwelling unit shall be allowed per principal dwelling unit and/or lot. The accessory dwelling unit shall have a separate house number from the principal dwelling.
  - b. There shall be no exterior alterations, enlargements, or extensions of the structure which alter its character or appearance as a single-family residence (or other detached accessory structure, when applicable). Any necessary additional entrances or exits shall be located to the side or rear of the building whenever possible.
  - c. An accessory dwelling unit shall not be considered to be an additional dwelling unit for the purposes of determining minimum lot size.

- d. Detached accessory dwelling units are only allowable when located on a lot that has twice the minimum lot size required in the applicable district for that type of lot (e.g., backland lot). Detached accessory dwelling units cannot be converted to a principal dwelling unit.
  - e. An accessory dwelling unit shall have an area of no less than 300 square feet and no greater than 800 square feet measured by the outside dimension of the exterior wall or the interior dimension of a common wall. An attached accessory dwelling unit shall occupy no more than 30 % of the total heated, above grade floor area of the total dwelling unit, including the accessory dwelling unit.
  - f. Attached accessory dwelling units shall be designed to allow for re-incorporation into the principal dwelling units. Internal access to the principal dwelling unit shall be maintained or constructed. The accessory dwelling units and principal dwelling units must share internal heated living space access through a common wall.
  - g. The existing or proposed septic systems must be certified by a licensed septic designer or engineer as adequate to handle and treat the increased waste volumes generated by the accessory dwelling unit in accordance with New Hampshire RSA 485-A:38 and the Town of Hollis septic regulations. If the existing septic system is not capable of adequately handling and treating the waste of the principal dwelling unit and the accessory dwelling unit in accordance with New Hampshire RSA 485-A:38 and the Town of Hollis septic regulations, a new or upgraded septic system conforming to the most recent state and local septic standards and regulations shall be required.
  - h. Adequate off-street parking shall be provided.
  - i. Adequate provisions must exist or be made for ingress, egress and turning of vehicles within the site.
  - j. The use of an ADU shall not be deemed to include such transient occupancies as hotels, motels, rooming or boarding houses. This limitation includes short-term rentals (less than four weeks at a time) of dwelling units. Short-term rentals are only authorized as specifically provided for Bed and Breakfast (Inn) establishments.
4. **EXISTING NONCONFORMING ACCESSORY DWELLING UNITS:** To be considered a nonconforming use, an accessory dwelling unit must have either:
- a. Been constructed or installed prior to January 21, 1952, or
  - b. Have otherwise been legally granted a building permit or certificate of occupancy between the year 1952 and the date of passage of the occupancy dwelling unit amendment.
5. **EXISTING ILLEGAL ACCESSORY DWELLING UNITS:** Accessory dwelling units constructed after January 21, 1952 and before March 1992, which do not have either a building permit or certificate of occupancy, shall apply to the Building Inspector for a determination of compliance with Section IX.K.3 Applications shall be accompanied by the filing fee, plans and other documentation requested by the Building Inspector to enable him/her to evaluate compliance with Section IX.K.3 The Building Inspector shall issue one of the following:
- a. A determination of compliance with Section IX.K.3 and a certificate of occupancy;
  - b. A conditional determination of compliance with Section IX.K.3 and a description of the corrective changes needed to bring the accessory dwelling unit into compliance. The required changes shall be completed within 90 days of the date of the determination of conditional compliance. Upon successful completion of the required changes, the Building Inspector shall issue a certificate of occupancy; or
  - c. A determination of non-compliance with one or more of the requirements of Section IX.K.3, together with a listing of those requirements and conditions for which compliance cannot be achieved through corrective changes.
6. **FAILURE TO COMPLY:** If an owner fails to comply with the requirements of this section, the use of the accessory dwelling unit shall be terminated within 6 months of the date of notice from the Building Inspector. The owner shall be subject to penalty under RSA 676:17 for each day the accessory dwelling unit fails to comply with the requirements of this section after March 31, 1994.
7. **OWNER OCCUPIED:** The principal dwelling unit or the Accessory dwelling unit shall be owner occupied. If the property owner cannot comply with this provision due to hardship such as but not limited to, job relocation



or a medical/family emergency; the owner may apply to the Board of Adjustment for a Special Exception. Such relief may be reviewed by the Board of Adjustment annually but in no case shall the relief granted be greater than two years.

**L. *SITE PLAN REVIEW***

Pursuant to RSA 674:43, the Planning Board shall review and approve or disapprove site plans for the development or change or expansion of use of tracts for nonresidential uses or for multi-family dwelling units, which are defined as any structures containing more than two (2) dwelling units, whether or not such development includes a subdivision or resubdivision of the site. A complete site plan review may be waived by the Planning Board when a proposed new use is similar in scope to the previous one.

**M. *MAXIMUM DRIVEWAY SLOPE***

All new driveways established to serve structures intended for human occupancy shall have a maximum grade of 8%. The purpose of the maximum grade requirement is to ensure public safety and accessibility for emergency vehicles. This standard shall not apply to driveways intended to serve non-occupancy structures, such as utility service buildings, and other private ways intended for purposes such as logging, silviculture, agriculture, and recreational access.

**N. *UNREGISTERED VEHICLES***

No more than one disabled or unregistered motor vehicle shall be visible from public view on any property, other than a permitted business in that zone. Registered vehicles shall have current inspections.

**O. *DETERMINATION OF DENSITY FOR CONDOMINIUM DEVELOPMENTS.***

The number of permissible dwelling units in a condominium subdivision shall be the same as that which would be applicable for a conventional subdivision of the contemplated housing type. Similarly, any buildings proposed to be built as part of a condominium development shall be required to demonstrate compliance with the Building Area requirements set forth herein

**P. *CONDITIONAL USE PERMIT- LANDSCAPE MATERIALS YARD***

1. ***PLANNING BOARD TO ADMINISTER:*** Wherever a conditional use is authorized by this ordinance, the authority to administer or grant conditional use permits shall be vested in the Planning Board.
2. ***APPLICATION AND REVIEW PROCEDURE:*** An Application for a conditional use shall be initiated by filing with the Planning Board for an application for a conditional use permit. The following procedures shall apply to the processing of such application:
  - a. Site Plan Approval Required. A site plan application shall be submitted with any application for a Conditional Use Permit. The application and review procedure for a conditional use permit shall be made concurrently and in accordance with the Site Plan Regulations as applicable to the particular development.
3. ***STANDARDS OF REVIEW:*** Following a fully noticed public hearing on the proposed use, the Planning Board may issue a conditional use permit, if it finds, based on the information and testimony submitted with respect to the application, that:
  - a. The use is specifically authorized by Section X.G. as a conditional use;
  - b. The development in its proposed location will comply with all requirements of the Hollis Site Plan Regulations, as well as specific conditions established by the Planning Board. In considering the proposal, the Planning Board will consider all requirements of the Site Plan Regulations in particular (but not limited to) those set forth in Section IV.2.C,D,E and F;
  - c. The use will not materially endanger the public health or safety;
  - d. The use will not have a substantial adverse impact on highway or pedestrian safety;
  - e. Access to the site shall be achieved from frontage on a State road;
  - f. Appropriate Best Management Practices shall be employed to address all processes associated with a Landscape Materials Yard.

**Q. *CONDITIONAL USE PERMIT- ALTERNATIVE TREATMENT CENTERS***

1. **AUTHORITY:** Pursuant to the authority provided in RSA 674:21, the Planning Board may grant a Conditional Use Permit for Alternative Treatment Centers (Cultivation and Non-Cultivation Locations) within the Industrial District. (Rt. 130 – Industrial District Only)
2. **PURPOSE & INTENT:** The purpose of this Section is to implement NH RSA 126-X, authorizing the use of therapeutic cannabis and to regulate the locations and operations of Alternative Treatment Center uses so as to promote and protect the public health, safety, and welfare of the residents of Hollis. The intent of this Section is to:
  - a. Provide for the safe sale and distribution of therapeutic cannabis to patients who qualify to obtain, possess, and use cannabis for medical purposes under RSA 126-X and as managed by the New Hampshire Department of Health & Human Services; and
  - b. Protect public health and safety through reasonable limitations on business operations as they relate to noise, air and water quality, food safety, building safety, neighborhood and patient safety, security for the business and its personnel and other health safety concerns.
3. **STANDARDS OF REVIEW:** Following a fully noticed public hearing on the proposed use, the Planning Board may issue a Conditional Use Permit, if it finds, based on the information and testimony submitted with respect to the application, that:
  - a. The use is specifically authorized by Section X Zoning Districts as a conditional use;
  - b. The development in its proposed location will comply with all requirements of the Hollis Site Plan Regulations, as well as specific conditions established by the Planning Board.
  - c. The use will not materially endanger the public health or safety;
  - d. The use shall provide adequate vegetative buffering to ensure adjacent property values are not adversely impacted. Buffering may be provided by maintaining existing vegetation or through the installation of site specific landscaping or a combination of both. The buffering shall be of such quality & quantity as to adhere to and meet the Objectives of the Hollis Rural Character Preservation Ordinance.
  - e. In granting a conditional use permit pursuant to this section, the planning board may impose any reasonable conditions or restrictions deemed necessary to carry out the intended purpose of this ordinance.
4. **MINIMUM CONDITIONS:** If the planning board grants a conditional use permit pursuant to this section, any such use shall be conducted in a manner compliant with any conditions imposed by the planning board as well as the following minimum standards:
  - a. An Alternative Treatment Center shall not be located within a pre-existing designated drug free school zone or within 1,000 feet of the property line of a pre-existing public or private school and daycare facility; and
  - b. The Alternative Treatment Center shall be located in a permanent structure and may not be located in a trailer, manufactured home, cargo container, or any structure that has axles with wheels. Drive-Thru services at an Alternative Treatment Center are prohibited; and
  - c. The Alternative Treatment Center shall provide for the proper disposal of cannabis remnants or byproducts, which remnants or byproducts shall not be placed in the facility's exterior refuse containers; and
  - d. The applicant shall provide a detailed narrative and floor plan, as well as any other relevant documentation, describing how the Alternative Treatment Center shall be secured. The security plan must take into account the measures that will be taken to ensure the safe delivery of any product to the facility (including permitted times for delivery), how the product will be secured on site, and how patient transactions will be facilitated in order to ensure safety. The security plan shall be reviewed and approved by the Hollis Police Department; and
  - e. The use of cannabis on the premises is prohibited; and
  - f. The Alternative Treatment Center shall emit no cannabis related fumes, vapors or odors which can be smelled or otherwise perceived from beyond the lot lines of the property where the facility is located.
  - g. Official written comments shall be received from both the Fire Chief and Police Chief.
  - h. Alternative Treatment Centers that have received a Conditional Use Permit and Site Plan approval from the Planning Board shall be subject to the applicable requirements of the NH Health & Human Services Department (DHHS) Administrative Rules He-C 400, as most recently published or amended by DHHS) pertaining to Advertising Restrictions.

- i. An Alternative Treatment Center shall not be allowed as a Home Based Business.

**R. *PLANNED UNIT DEVELOPMENT (PUD) SETBACK REQUIREMENTS***

For those residential subdivisions that were approved by the Planning Board under the former Planned Unit Development ordinance (pre 1993), building setback requirements shall adhere to the Building Setbacks provisions outlined in Section XX Hollis Open Space Planned Development, Section 5e Building Setbacks.

## **SECTION X: ZONING DISTRICTS**

### **A. AGRICULTURAL AND BUSINESS ZONE (A&B)**

**INTENT:** The Agricultural and Business Zone is intended to provide for an accessible, well planned area for local community shopping functions. Clusters of shops or small scale shopping centers as well as individual shops are encouraged for this zone. Large regional shopping type uses, such as department stores, are not permitted. In addition, the wholesale/retail sale of vehicle fuel is prohibited.

#### **1. PERMITTED USES IN THE AGRICULTURAL AND BUSINESS ZONE:**

- a. Agricultural uses  
Also, the following retail sales or services are permitted:
- b. Antique shops
- c. Art supply and gallery sales
- d. Bakeries
- e. Banks
- f. Barber shops
- g. Beauty shops
- h. Book or stationary stores
- i. Camera and photo supplies
- j. Candy, soda fountain, or ice cream stores
- k. Clothing stores
- l. Craft or hobby shops
- m. Delicatessens
- n. Drug stores
- o. Dry cleaners
- p. Florist shops
- q. Furniture stores
- r. Food store/local supermarket
- s. Funeral Home
- t. Gift or notion shop
- u. Glass, china, jewelry stores
- v. Garden shops
- w. Home produce - may be bought, sold, and exposed for sale
- x. Hardware stores
- y. Laundromat
- z. Music stores
- aa. Offices (professional, medical, business)
- bb. Paint and wallpaper stores
- cc. Personal and professional service operations, except tattoo parlors
- dd. Police and fire stations
- ee. Post Office

- ff. Recreational equipment
- gg. Repair shops
- hh. Restaurants, General
- ii. Shoe stores
- jj. Single family residences
- kk. Small appliance stores
- ll. Studios for professional work (art, dance, photography)
- mm. Tailor shops
- nn. Utilities: essential services
- oo. Mixed-Use Occupancy - a permitted business or commercial use along with a dwelling unit(s) that occupies up to 50% of the total heated above-grade floor area of the building, provided all other ordinance and regulation requirements are met.
- pp. Temporary structures.
- qq. Roof Mounted Solar Energy Systems. All proposals in the Historic District shall be reviewed and approved by the Historic District Commission.
- rr. Private Schools and Day Cares

**2. OTHER RELATED PERMITTED USES IN THE AGRICULTURAL AND BUSINESS ZONE:**

- a. Housing for older persons, subject to the procedures in Section IX.L.

**3. SPECIAL EXCEPTIONS IN THE AGRICULTURAL AND BUSINESS ZONE**

- a. Home based businesses as defined and described in Section XXII.
- b. Accessory dwelling units according to Section IX.K.

**4. ACCESSORY USES PERMITTED IN THE AGRICULTURAL AND BUSINESS ZONE:**

- a. Uses, which are customary accessory uses to a legal conforming use in this zone, providing site plan approval is given by the Planning Board.
- b. Signs as regulated in Section XIV.

**5. PERMITTED USES ALLOWED BY CONDITIONAL USE PERMIT IN THE AGRICULTURAL AND BUSINESS ZONE:**

- a. Mixed-Use Occupancy II – A permitted business or commercial use along with a dwelling unit(s) that occupies up to 50% of the total heated above-grade floor area of the building, provided all other ordinance and regulation requirements are met. Dwelling units occupying 100% of the total above-grade floor area of a building may be permitted, provided that 25% of the total units are workforce housing units/renter occupied, according to the provisions detailed in Section XVIII, Workforce Housing Ordinance.
- b. Ground-Mounted Solar Energy Systems. All proposals in the Historic District shall be reviewed and approved by the Historic District Commission.

**6. AREA AND HEIGHT REQUIREMENTS IN THE AGRICULTURAL AND BUSINESS ZONE (Amended 1994): (NOTE: Per NH RSA 289:3.III, a 25' buffer is required around all cemeteries for the purposes of new construction).**

- a. **MINIMUM LOT SIZE:** 3/4 acre for individual businesses. Clusters of shops require three-quarter 3/4 acre minimum plus adequate space to meet all parking, loading, setback and open space requirements of this ordinance; for residences the minimum lot size shall be 2 acres per dwelling unit, except as provided in section X.A.1.qq above.
- b. **MINIMUM FRONT YARD SETBACK:** 50 feet from public roads, 25 feet from internal roads.

- c. **MINIMUM SIDE YARD:** 15 feet; 35 feet when abutting a residential zone.
- d. **MINIMUM REAR YARD:** 15 feet; 35 feet when abutting a residential zone.
- e. **MAXIMUM BUILDING HEIGHT:** 38 feet. (Section IX.I)
- f. **FRONTAGE:** 100 feet.
- g. **BUILDING AREA:** No lot shall be subdivided unless it contains a compliant building area as described in Section VIII.6 (Definitions) of the Hollis Zoning Ordinance.

**BACKLAND LOTS:**

- (i) Backland lots for commercial uses shall be at least 1.5 acres; backland lots for residential uses shall be at least 4 acres.
- (ii) On public roads, a minimum frontage of 20 feet must be provided for each backland lot.
- (iii) No building shall be erected on backland under this regulation closer than 200 feet from an existing public road.
- h. **MAXIMUM COMMERCIAL BUILDING SIZE:** 12,000 square feet total floor area.

**7. OTHER DEVELOPMENT REGULATIONS IN THE AGRICULTURAL AND BUSINESS ZONE:**

a. **PARKING:**

- (i) **Adequacy.** Adequate off-street parking facilities shall be made available for workers and the patrons of businesses with drives and roadways with clear visibility and non-hazardous access to the public road. Parking requirements and required loading and unloading areas and design standards must conform to Sections IX,H and I and Planning Board’s site plan review.
- (ii) **Location and Design.** Parking for all uses except single family residences shall be laid out in a manner that minimizes visual impact from the public way. In all cases, establishment of parking areas in the front of commercial buildings shall not be permitted, unless parking in the rear, which is preferable, or on the sides is not possible, as determined by the Planning Board. Landscaping shall be provided to minimize the impact of headlights on abutting and nearby residential properties.
- b. **OPEN SPACE:** 20% of the total lot area must be landscaped open space. A minimum 15-foot-wide strip of landscaped open space is required between internal roads or parking areas and the adjacent public right-of-way.
- c. **OUTDOOR STORAGE:** No outdoor storage of any material (usable or waste) shall be permitted, except within enclosed containers and/or visually screened (fences or shrubbery) areas. Customary outdoor displays of goods for sale which are in keeping with the surrounding area and are inoffensive are permitted.
- d. **SCREENING:** Screening shall be provided according to Section IX,I of this Ordinance and according to the Town’s Site Plan Review Regulations.

**8. A CERTIFICATE OF OCCUPANCY IS REQUIRED IN THE AGRICULTURAL AND BUSINESS ZONE.**

- 9. **HISTORIC DISTRICT ORDINANCE:** The portion of the A&B Zone that falls within the Town's Historic District also falls under the jurisdiction of the Historic District Ordinance and the Historic District Design Guidelines and Regulations.

**B. COMMERCIAL ZONE (C)**

**INTENT:** The Commercial Zone is intended to provide for the location of general retail uses.

**1. PERMITTED USES IN THE COMMERCIAL ZONE:**

- a. Retail and wholesale sales
- b. Business services
- c. Professional offices
- d. Banks
- e. Restaurants, general
- f. Restaurants, fast-food
- g. Funeral homes
- h. Theaters, halls, and clubs
- i. Motels and hotels
- j. Vehicular, trailer, and recreational vehicles sale and service facilities
- k. Storage facilities
- l. Essential services
- m. Hospitals, clinics, nursing homes, and rehabilitation centers
- n. Filling stations and/or service stations
- o. Veterinary hospitals
- p. Kennels, with a minimum lot size of five acres and a setback of 100 feet from all lot lines for all structures
- q. Day care centers
- r. All uses permitted in the Agriculture and Business (A&B) Zone, except single family residences.
- s. Roof Mounted Solar Energy Systems. All proposals in the Historic District shall be reviewed and approved by the Historic District Commission.

**2. AREA AND HEIGHT REQUIREMENTS IN THE COMMERCIAL ZONE. (NOTE: Per NH RSA 289:3.III, a 25' buffer is required around all cemeteries for the purposes of new construction.)**

- a. **MINIMUM LOT SIZE:** One acre for individual businesses.
- b. **MINIMUM FRONT YARD SETBACK:** 50 feet from public roads, 25 feet from internal roads.
- c. **MINIMUM SIDE YARD:** 15 feet; 35 feet when abutting a residential zone.
- d. **MINIMUM REAR YARD:** 15 feet; 35 feet when abutting a residential zone.
- e. **MAXIMUM BUILDING HEIGHT:** 38 feet. (Section IX.I)
- f. **MAXIMUM BUILDING COVERAGE:** 50% of the lot
- g. **FRONTAGE:** 200 feet.
- h. **BUILDING AREA:** No lot shall be subdivided unless it contains a compliant building area as described in Section VIII.6 (Definitions) of the Hollis Zoning Ordinance.
- i. **BACKLAND LOTS:**
  - (i) Backland lots for commercial uses shall be at least 1.5 acres;
  - (ii) Minimum frontage: 20 feet;
  - (iii) No building shall be erected on backland under this regulation closer than 200 feet from an existing public road.

**3. OTHER DEVELOPMENT REGULATIONS IN THE COMMERCIAL ZONE:**

- a. **PARKING:** Adequate off-street parking facilities shall be made available for workers and the patrons of businesses with drives and roadways with clear visibility and non-hazardous access to the public road. Parking requirements and required loading and unloading areas and design standards must conform to Sections IX. I and J and Planning Board's site plan review.
- b. **OPEN SPACE:** 20% of the total lot area must be landscaped open space. A minimum 15-foot-wide strip of landscaped open space is required between internal roads or parking areas and the adjacent public right-of-way.
- c. **OUTDOOR STORAGE:** No outdoor storage of any material (usable or waste) shall be permitted, except within enclosed containers and/or visually screened (fences or shrubbery) areas. Customary outdoor displays of goods for sale which are in keeping with the surrounding area and are inoffensive are permitted.
- d. **SCREENING:** Screening shall be provided according to Section IX.H of this Ordinance and according to the provisions of the Town's Site Plan Review Regulations.

**4. PERMITTED USES ALLOWED BY CONDITIONAL USE PERMIT IN THE COMMERCIAL ZONE:**

- a. Ground-Mounted Solar Energy Systems. All proposals in the Historic District shall be reviewed and approved by the Historic District Commission.



### **C. INDUSTRIAL ZONE (I)**

**INTENT:** The Industrial Zone is intended to provide for the location of industry and light manufacturing and the Special Exceptions uses noted in paragraph 4.

1. **PERMITTED USES IN THE INDUSTRIAL ZONE:** Within this district only the following uses will be permitted subject to the following regulations:
  - a. Offices, laboratories, contractor's storage and equipment yards, machine shops, printing, publishing shops, business or industrial schools, saw mills, and wood yards.
  - b. Manufacturing - provided that smoke emitted by any stack shall not equal or exceed in density Ringelman No. 2 for periods aggregating more than 4 minutes in any half-hour period, and that all state air quality standards are met. In order to ensure that noise outside of lot lines is not objectionable due to intermittence, beat frequency, or shrillness, noise shall be limited to no more than that of average weekday traffic on the surrounding streets. No objectionable, obnoxious, or dangerous concentrations or quantities of odor, dust, fly ash, gases, or fumes are emitted and no excessive vibration is caused. The items listed under prohibited uses are intended as a guide and not a complete list. Waste water must be of equal quality to that of the proposed receiving waters.
  - c. Storage or wholesaling and warehousing in enclosed building which meets fire safety recommendations. Retail facilities permitted in conjunction with other permitted uses.
  - d. Trucking terminals.
  - e. Essential services (as defined by this ordinance).
  - f. Tattoo parlors
  - g. Roof Mounted Solar Energy Systems. All proposals in the Historic District shall be reviewed and approved by the Historic District Commission.
  - h. Indoor sports or fitness businesses, including but not limited to batting cages, health clubs, golf driving ranges, and gymnastic clubs.
  
2. **PROHIBITED USES IN THE INDUSTRIAL ZONE:** The following uses are specifically prohibited in this area:
  - a. Abattoir operations
  - b. Any use which consumes large quantities of water or which requires special waste treatment.
  - c. Cremation except cemeteries
  - d. Electro plating
  - e. Industrial fermentation
  - f. Kiln firing or drying of materials other than wood
  - g. Leather tanning or processing
  - h. Manufacture, compounding, or processing of chemicals
  - i. Manufacture of charcoal
  - j. Manufacture or compounding of solvent, water or oil based paints, varnishes or coatings.
  - k. Petroleum or tar refining or processing
  - l. "Recycling" of metals, organic or inorganic chemicals
  - m. Smelting or melting of metals and ores
  - n. Synthesis or blending of artificial or natural fertilizers
  - o. Stockyards and feed lots

3. **AREA AND LOT REQUIREMENTS IN THE INDUSTRIAL ZONE:** (NOTE: Per NH RSA 289:3.III, a 25' buffer is required around all cemeteries for the purposes of new construction.)

- a. **MINIMUM LOT SIZE:** One acre (providing all requirements of this ordinance can be met).
- b. **MINIMUM FRONTAGE:** 200 feet.
- c. **MINIMUM SETBACK FOR FRONT YARDS:** 100 feet when abutting a state highway and 50 feet on all other roads.
- d. **MINIMUM SIDE AND REAR YARD SETBACKS:** 1 story buildings shall set back 25 feet from side and rear lot lines, with increased setback from side and rear lot lines of 25 feet for each additional floor of height.
- e. **MAXIMUM HEIGHT:** 38 feet or as approved by the Planning Board in site plan review. (see Section IX.I)
- f. **MAXIMUM BUILDING AREA:** Buildings may occupy no more than 50 percent of the lot on which they are located.
- g. **BUILDING AREA:** No lot shall be subdivided unless it contains a compliant building area as described in Section VIII.6 (Definitions) of the Hollis Zoning Ordinance.

4. **SPECIAL EXCEPTIONS IN THE INDUSTRIAL ZONE:**

The following uses may be permitted if granted a special exception by the Board of Adjustment, if site plan approval is granted by the Planning Board and the use is in keeping with an industrial zone:

- a. Building materials sales yard.
- b. Sales and service of heavy vehicles or machinery (trucks, construction equipment, farm equipment).
- c. Sales and/or service of heavy residential, commercial, or industrial equipment, appliances, utilities and conveniences.

5. **OTHER DEVELOPMENT REGULATIONS IN THE INDUSTRIAL ZONE:**

- a. Parking and loading areas as required by Sections IX,H and I of this ordinance.
- b. Signs as regulated by Section XIV of this ordinance.
- c. No waste may be stored which may cause leaching of chemicals or other pollutants into the surrounding water table or surface runoff, or the emission of toxic or harmful gases. Fluid discharges from the plant must be adequately treated so as not to pollute the surrounding water table or surface runoff.
- d. Screening:
  - (i) Side and rear yards: 25 feet wide, wherever industrial uses abut residential zones or uses;
  - (ii) Front yards: 50 feet wide.

6. **A CERTIFICATE OF OCCUPANCY IS REQUIRED IN THE INDUSTRIAL ZONE.**

7. **PERMITTED USES ALLOWED BY CONDITIONAL USE PERMIT IN THE INDUSTRIAL ZONE:**

- a. Ground-Mounted Solar Energy Systems. All proposals in the Historic District shall be reviewed and approved by the Historic District Commission.
- b. Alternative Treatment Centers: Pursuant to the authority provided in RSA 674:21, the Planning Board may grant a Conditional Use Permit for an Alternative Treatment Center, Cultivation & Non-cultivation, subject to the requirements of Section IX General Provisions, Paragraph P. This use shall be limited to that portion of the Industrial Zone located along Proctor Hill Road (NH Rt. 130)

**D. MOBILE HOME-1 ZONE (MH-1)**

**INTENT:** The Mobile Home-1 Zone is intended to provide an area in Town in which individual lots for mobile homes as well as mobile-home parks are allowed.

**1. PERMITTED USES IN THE MOBILE HOME-1 ZONE:**

- a. Mobile Homes
- b. Temporary structures
- c. Roof Mounted Solar Energy Systems. All proposals in the Historic District shall be reviewed and approved by the Historic District Commission

**2. ACCESSORY USES IN THE MOBILE HOME-1 ZONE:**

- a. Customary accessory buildings and uses.
- b. Other accessory structures needed to operate the park such as storage sheds, community centers, permanent residence of owner/operator as approved by the Planning Board under site plan review.

**3. SPECIAL EXCEPTIONS IN THE MOBILE HOME-1 ZONE:** As granted by the Board of Adjustment.

- a. Public and private recreational facilities which serve the park residents.
- b. Home based businesses according to Section XXII.

**4. AREA AND HEIGHT REGULATIONS FOR PERMITTED USES AND SPECIAL EXCEPTIONS IN THE MOBILE HOME-1 ZONE:** (Note: Per NH RSA 289:3.III, a 25' buffer is required around all cemeteries for the purposes of new construction.)

- a. **MINIMUM LOT AREA/MOBILE HOME:** 15,000 square feet (5,000 of which must be unencumbered open space).
- b. **MINIMUM LOT WIDTH:** 100 feet at the minimum setback line.
- c. **MINIMUM SIDE YARD:** 15 feet.
- d. **MINIMUM FRONT YARD:** 25 feet.
- e. **MINIMUM WIDTH OF MOBILE HOME PARK ROAD RIGHTS-OF-WAY:** 40 feet.
- f. **MINIMUM SIZE OF MOBILE HOME PARK:** 10 acres.

**5. OTHER DEVELOPMENT REGULATIONS IN THE MOBILE HOME-1 ZONE:**

- a. No mobile home shall be parked closer than 15 feet square feet to the side or rear lot lines of the park.
- b. Each mobile home shall have a minimum of 150 square feet for each resident and in any event a mobile home shall have a minimum of 300 square feet of floor space.
- c. Mobile home park sanitary regulations promulgated by the State Board of Health under authority of Chapter 147, NH Revised Statutes Annotated, shall be adhered to.

**6. PERMITTED USES ALLOWED BY CONDITIONAL USE PERMIT IN THE MOBILE HOME-1 ZONE:**

- a. Ground-Mounted Solar Energy Systems. All proposals in the Historic District shall be reviewed and approved by the Historic District Commission.

## **E. MOBILE HOME-2 ZONE (MH-2)**

**INTENT:** The Mobile Home-2 Zone is intended to provide an area in Town in which individual lots for mobile homes as well as residential development and agricultural purposes are allowed.

### **1. PERMITTED USES IN THE MOBILE HOME-2 ZONE:**

- a. Mobile Homes.
- b. Farms.
- c. Farm Stand.
- d. Stables.
- e. Hollis Open Space Planned Development according to Section XX.
- f. Housing for older persons, subject to the procedures in Section XXI.
- g. Condominiums according to the provisions of RSA 356-B.
- h. Customary accessory buildings and uses.
- i. Signs according to Section XIV.
- j. Temporary structures.
- k. Roof Mounted Solar Energy Systems. All proposals in the Historic District shall be reviewed and approved by the Historic District Commission.

### **2. SPECIAL EXCEPTIONS IN THE MOBILE HOME-2 ZONE:** As granted by the Board of Adjustment.

- a. Cemeteries.
- b. Churches and other buildings for the purpose of religious worship providing they are located adjacent to an arterial street.
- c. Day care for more than six (6) children.
- d. Police and fire stations provided they are located adjacent to an arterial street.
- e. Public and private schools provided they are adjacent to an arterial street.
- f. Post Offices if adjacent to an arterial street.
- g. Publicly owned and/or operated parks, playgrounds, golf courses, community recreational centers, including public swimming pools, and libraries.
- h. Recreational uses, privately owned as follows:
  - (i) Golf courses,
  - (ii) Country Clubs,
  - (iii) Semi-public swimming pools,
  - (iv) Tennis courts/clubs,
  - (v) Fishing lakes,
  - (vi) Sporting Clubs.
- i. Municipal buildings and public or private facilities for Town services provided it is located on an arterial or major collector street.
- j. Riding academies.
- k. Home based businesses according to Section XXII.

3. **AREA AND HEIGHT REGULATIONS FOR PERMITTED USES AND SPECIAL EXCEPTIONS IN THE MOBILE HOME-2 ZONE:** (NOTE: Per NH RSA 289:3.III, a 25' buffer is required around all cemeteries for the purposes of new construction.)

- a. **MINIMUM LOT AREA:** Two acres/dwelling unit.
- b. **MINIMUM FRONTAGE ON A PUBLIC ROAD:** 200 feet.
- c. **MINIMUM FRONT YARD DEPTH:** 50 feet (100 feet on scenic roads).
- d. **MINIMUM SIDE YARD WIDTH:** 35 feet from house or principal structures to the property line. 15 feet from accessory structures
- e. **MINIMUM REAR YARD DEPTH:** 35 feet for principal structures, 15 feet for accessory structures or uses.
- f. **MAXIMUM HEIGHT:** 38 feet (see Section IX.I)
- g. **BUILDING AREA:** No lot shall be subdivided unless it contains a compliant building area as described in Section VIII.6 (Definitions) of the Hollis Zoning Ordinance.
- h. **BACKLAND LOTS:**
  - (i) Each building lot shall be at least 4 acres. Minimum lot area 4 acres per dwelling unit.
  - (ii) A minimum frontage on a public road of 20 feet for each dwelling on a back lot.
  - (iii) No building shall be erected on backland under this regulation closer than 200 feet from an existing public road.

4. **PERMITTED USES ALLOWED BY CONDITIONAL USE PERMIT IN THE MOBILE HOME-2 ZONE:**

- a. Ground-Mounted Solar Energy Systems. All proposals in the Historic District shall be reviewed and approved by the Historic District Commission.

## F. RECREATIONAL ZONE (R)

**INTENT:** The recreational zone is intended to allow residential and recreational development around local bodies of water while protecting water quality and the recreational aspects of the area. Careful placement of homes and cautious septic system construction and reconstruction are imperative.

### 1. **PERMITTED USES IN THE RECREATIONAL ZONE:**

- a. Single and two family dwellings.
- b. Farm.
- c. Farm Stand.
- d. Hollis Open Space Planned development according to Section XX.
- e. Condominiums according to the provisions of RSA 356-B.
- f. Customary accessory buildings and uses.
- g. Signs according to Section XIV.
- h. Temporary structures.
- i. Roof Mounted Solar Energy Systems. All proposals in the Historic District shall be reviewed and approved by the Historic District Commission.

### 2. **SPECIAL EXCEPTIONS IN THE RECREATIONAL ZONE:** As granted by the Board of Adjustment.

- a. Publicly owned and/or operated parks, playgrounds, golf courses, community recreational centers, including public swimming pools, and libraries.
- b. Recreational uses, privately owned as follows:
  - (i) Golf courses,
  - (ii) Country Clubs,
  - (iii) Semi-public swimming pools,
  - (iv) Tennis courts/clubs,
  - (v) Fishing lakes,
  - (vi) Sporting Clubs.
- c. Home based businesses according to Section XXII.
- d. Accessory dwelling units according to Section IX.K.

### 3. **AREA AND HEIGHT REGULATIONS FOR PERMITTED USES AND SPECIAL EXCEPTIONS IN THE RECREATIONAL ZONE: (NOTE: Per RSA 289:3.III, a 25' buffer is required around all cemeteries for the purposes of new construction.)**

- a. **MINIMUM LOT AREA:** Two acres/dwelling unit.
- b. **MINIMUM FRONTAGE:** Two hundred feet on a road and the waterfront where applicable.
- c. **MINIMUM FRONT YARD DEPTH:** Fifty feet (100 feet on scenic roads).
- d. **MINIMUM SIDE YARD DEPTH:** 35 feet from house or principal structure to the property line, 15 feet for accessory structures or 50 feet from high water line, if applicable.
- e. **MINIMUM REAR YARD DEPTH:** 35 feet for principal structures or 50 feet from the high water line, 15 feet for accessory structures.
- f. **MAXIMUM HEIGHT:** 38 feet (see Section IX.I)
- g. **BUILDING AREA:** No lot shall be subdivided unless it contains a compliant building area as described in Section VIII.6 (Definitions) of the Hollis Zoning Ordinance.

h. ***BACKLAND LOTS:***

(i) Each building lot shall be at least 4 acres. Minimum lot area 4 acres per dwelling unit.

(ii) A minimum frontage on a public road of 20 feet for each dwelling on a back lot.

No building shall be erected on backland under this regulation closer than 200 feet from an existing public road or 50 feet from the high water line.

4. ***PERMITTED USES ALLOWED BY CONDITIONAL USE PERMIT IN THE RECREATIONAL ZONE:***

a. Ground-Mounted Solar Energy Systems. All proposals in the Historic District shall be reviewed and approved by the Historic District Commission.

**G. RESIDENTIAL AND AGRICULTURAL DISTRICT (R & A)**

**INTENT:** The two-fold intent of the R & A zone is to encourage farming in Town while recognizing that growth and development will occur and should therefore be located in these areas where physical site conditions may be favorable, and critical Town services are available without costly extensions to the Town.

**1. PERMITTED USES IN THE RESIDENTIAL AND AGRICULTURAL DISTRICT:**

- a. (i) Single and two family dwellings.
- (ii) Conversion of Existing Residential Buildings. A residential building existing prior to January 21, 1952, may be converted to provide for not more than three (3) families provided the structure is not increased in volume and meets the Town of Hollis fire and health regulations.
- b. Farms.
- c. Farm Stand.
- d. Stables.
- e. Hollis Open Space Planned Development according to Section XX.
- f. Housing for older persons, subject to the procedures in Section IXI.
- g. Condominiums according to the provisions of RSA 356-B.
- h. Customary accessory buildings and uses.
- i. Signs according to Section XIV.
- j. Retirement community.
- k. Temporary structures.
- l. Roof Mounted Solar Energy Systems. All proposals in the Historic District shall be reviewed and approved by the Historic District Commission.

**2. SPECIAL EXCEPTIONS IN THE RESIDENTIAL AND AGRICULTURAL DISTRICT:** As granted by the Board of Adjustment.

- a. Cemeteries.
- b. Churches and other buildings for the purpose of religious worship providing they are located adjacent to an arterial street.
- c. Day care for more than six (6) children.
- d. Police and fire stations provided they are located adjacent to an arterial street.
- e. Public and private schools provided they are located adjacent to an arterial street.
- f. Post offices if adjacent to an arterial street.
- g. Publicly owned and/or operated parks, playgrounds, golf courses, community recreational centers, including public swimming pools and libraries.
- h. Recreational uses, privately owned as follows:
  - (i) Golf courses,
  - (ii) Country Clubs,
  - (iii) Semi-public swimming pools,
  - (iv) Tennis courts/clubs,
  - (v) Fishing lakes,
  - (vi) Sporting Clubs.
- i. Municipal buildings and public or private facilities for Town services provided they are located on an arterial or major collector street



- j. Riding academies.
  - k. Home based businesses according to Section XXII.
  - l. Accessory dwelling units according to Section IX.K.
  - m. Bed and Breakfast, according to the definition in Section VIII.
3. ***USES ALLOWED BY CONDITIONAL USE PERMIT IN THE RESIDENTIAL AND AGRICULTURAL DISTRICT:***
- a. Landscape Materials Yard
  - b. A residential building existing prior to January 21, 1952, may be converted to provide for not more than four (4) families provided the structure is not increased in volume and meets the Town of Hollis fire and health regulations and one of the units qualifies as a workforce housing unit/renter occupied, as more particularly specified in Section XVIII of this ordinance.
  - c. Workforce housing units as specified in Section XVIII.
  - d. Ground-Mounted Solar Energy Systems. All proposals in the Historic District shall be reviewed and approved by the Historic District Commission.
4. ***AREA AND HEIGHT REGULATIONS FOR PERMITTED USES AND SPECIAL EXCEPTIONS IN THE RESIDENTIAL AND AGRICULTURAL DISTRICT: (NOTE: Per NH RSA 289:3, III, a 25' buffer is required around all cemeteries for the purposes of new construction.)***
- a. ***MINIMUM LOT AREA:*** Two acres/dwelling unit.
  - b. ***MINIMUM FRONTAGE ON A PUBLIC ROAD:*** 200 feet.
  - c. ***MINIMUM FRONT YARD DEPTH:*** 50 feet (100 feet on scenic roads).
  - d. ***MINIMUM SIDE YARD WIDTH:*** 35 feet from house or principal structure to the property line, 15 feet for accessory structures.
  - e. ***MINIMUM REAR YARD DEPTH:*** 35 feet for principal structures, 15 feet for accessory structures or uses.
  - f. ***MAXIMUM HEIGHT:*** 38 feet (see Section IX.I)
  - g. ***BUILDING AREA:*** No lot shall be subdivided unless it contains a compliant building area as described in Section VIII.6 (Definitions) of the Hollis Zoning Ordinance.
  - h. ***BACKLAND LOTS:***
    - (i) Each building lot shall be at least 4 acres. Minimum lot area 4 acres per dwelling unit.
    - (ii) A minimum frontage on a public road of 20 feet for each dwelling on a back lot.
    - (iii) No building shall be erected on backland under this regulation closer than 200 feet from an existing public road.

## **H. RURAL LANDS ZONE (RL)**

**INTENT:** The two-fold intent of the Rural Lands Zone is to encourage farming in Town and to permit limited development in areas where physical site conditions are problematic or access to Town services is restricted.

### **1. PERMITTED USES IN THE RURAL LANDS ZONE:**

- a. Single and two family dwellings.
- b. Farms.
- c. Farm Stand.
- d. Stables.
- e. Hollis Open Space Planned Development according to Section XX.
- f. Condominiums according to the provisions of RSA 356-B
- g. Temporary structures
- h. Roof Mounted Solar Energy Systems. All proposals in the Historic District shall be reviewed and approved by the Historic District Commission.

### **2. ACCESSORY USES IN THE RURAL LANDS ZONE:**

- a. Customary accessory buildings and uses.
- b. Signs, according to Section XIV.

### **3. SPECIAL EXCEPTIONS IN THE RURAL LANDS ZONE:** As granted by the Board of Adjustment.

- a. Cemeteries.
- b. Churches and other buildings for the purpose of religious worship providing they are located adjacent to an arterial street.
- c. Day care for more than six (6) children.
- d. Police and fire stations provided they are located adjacent to an arterial street.
- e. Publicly owned and/or operated parks, playgrounds, golf courses, community recreational centers, including public swimming pools, and libraries.
- f. Recreational uses, privately owned as follows:
  - (i) Golf courses,
  - (ii) Country Clubs,
  - (iii) Semi-public swimming pools,
  - (iv) Tennis courts/clubs,
  - (v) Fishing lakes,
  - (vi) Sporting Clubs.
- g. Municipal buildings and public or private facilities for town and school services, provided the facility is located on an arterial or major collector street.
- h. Home based businesses according to Section XXII.
- i. Accessory dwelling units according to Section IX.K.
- j. Riding Academies

4. **AREA HEIGHT REGULATIONS FOR PERMITTED USES AND SPECIAL EXCEPTIONS IN THE RURAL LANDS ZONE:** (NOTE: Per NH RSA 289:3.III, a 25' buffer is required around all cemeteries for the purposes of new construction.)

- a. **MINIMUM LOT AREA:** 2 acres/dwelling unit.
- b. **MINIMUM FRONTAGE:** 200 feet.
- c. **MINIMUM FRONT YARD DEPTH:** 50 feet (100 feet on scenic roads).
- d. **MINIMUM SIDE YARD DEPTH:** 35 feet from house or principal structures to the property line. Accessory structures must be at least 15 feet from the property line.
- e. **MINIMUM REAR YARD DEPTH:** 35 feet for principal structures, 15 feet for accessory structures.
- f. **MAXIMUM HEIGHT:** 38 feet. (see Section IX.I)
- g. **BUILDING AREA:** No lot shall be subdivided unless it contains a compliant building area as described in Section VIII.6 (Definitions) of the Hollis Zoning Ordinance.
- h. **BACKLAND LOTS:**
  - (i) Each building lot shall be at least 4 acres. Minimum lot area 4 acres per dwelling unit.
  - (ii) A minimum frontage on a public road of 20 feet must be provided for each dwelling on a back lot.
  - (iii) No building shall be erected on backland under this regulation closer than 200 feet from an existing public road.

5. **PERMITTED USES ALLOWED BY CONDITIONAL USE PERMIT IN THE RURAL LAND ZONE:**

- a. Ground-Mounted Solar Energy Systems. All proposals in the Historic District shall be reviewed and approved by the Historic District Commission.

## **I. TOWN CENTER (TC)**

**INTENT:** The Town Center Zone designates the non-commercial part of the Town's Historic District. All permitted uses in the Town Center zone are subject to the regulations of the Historic District Ordinance.

### **1. PERMITTED USES IN THE TOWN CENTER:**

- a. (i) Single and two family dwellings.
- (ii) Conversion of Existing Residential Buildings. A residential building existing prior to January 21, 1952, may be converted to provide for not more than three (3) families provided the structure is not increased in volume and meets the Town of Hollis fire and health regulations.
- b. Farms.
- c. Farm Stand.
- d. Stables.
- e. Hollis Open Space Planned Development according to Section XX.
- f. Housing for older persons subject to the procedures in Section XXI.
- g. Condominiums according to the provisions of RSA 356-B.
- h. Retirement community.
- i. Temporary structures.
- j. Roof Mounted Solar Energy Systems. All proposals in the Historic District shall be reviewed and approved by the Historic District Commission.

### **2. ACCESSORY USES IN THE TOWN CENTER:**

- a. Customary accessory buildings and uses.
- b. Signs according to Section XIV.

### **3. SPECIAL EXCEPTIONS IN THE TOWN CENTER:** As granted by the Board of Adjustment.

- a. Cemeteries.
- b. Churches and other buildings for the purpose of religious worship providing they are located adjacent to an arterial street.
- c. Institutions for higher education providing they are located adjacent to an arterial street.
- d. Nursery Schools.
- e. Police and fire stations provided they are located adjacent to an arterial street.
- f. Public and parochial schools provided they are located adjacent to an arterial street.
- g. Post offices if adjacent to an arterial street.
- h. Publicly owned and/or operated parks, playgrounds, golf courses, community recreational centers, including public swimming pools, libraries, and tennis courts.
- i. Recreational uses, privately owned as follows:
  - (i) Golf courses,
  - (ii) Country Clubs,
  - (iii) Semi-public swimming pools,
  - (iv) Tennis courts/clubs,
  - (v) Fishing lakes,
  - (vi) Sporting Clubs.

- j. Municipal buildings and public or private facilities for Town services.
  - k. Home based businesses according to Section XXII.
  - l. Accessory dwelling units according to Section IX.K.
4. ***USES ALLOWED BY CONDITIONAL USE PERMIT IN THE TOWN CENTER DISTRICT:***
- a. A residential building existing prior to January 21, 1952, may be converted to provide for not more than four (4) families provided the structure is not increased in volume and meets the Town of Hollis fire and health regulations and one of the units qualifies as a workforce housing unit/renter occupied, as more particularly specified in Section XVIII of this ordinance.
  - b. Workforce housing units as specified in Section XVIII.
  - c. Ground-Mounted Solar Energy Systems. All proposals in the Historic District shall be reviewed and approved by the Historic District Commission.
5. ***AREA AND HEIGHT REGULATIONS FOR PERMITTED USES AND SPECIAL EXCEPTIONS IN THE TOWN CENTER: (NOTE: Per RSA 289:3.III, a 25' buffer is required around all cemeteries for the purposes of new construction.)***
- a. ***MINIMUM LOT AREA:*** 2 acres/dwelling unit.
  - b. ***MINIMUM FRONTAGE:*** 200 feet.
  - c. ***MINIMUM FRONT YARD DEPTH:*** 50 feet (100 feet on scenic roads).
  - d. ***MINIMUM SIDE YARD WIDTH:*** 35 feet from house or principal structure to property line, 15 feet from accessory structures to property line, and one hundred 100 feet minimum between houses.
  - e. ***MINIMUM REAR YARD DEPTH:*** 35 feet for principal structures, 15 feet for accessory buildings.
  - f. ***MAXIMUM HEIGHT:*** 38 feet. (See Section IX.I)
  - g. ***BUILDING AREA:*** No lot shall be subdivided unless it contains a compliant building area as described in Section VIII.6 (Definitions) of the Hollis Zoning Ordinance.
  - h. ***BACKLAND LOTS:***
    - (i) Each building lot shall be at least 4 acres per dwelling unit.
    - (ii) A minimum frontage on a public road of 20 feet for each dwelling on a back lot.
    - (iii) No building shall be erected on backland under this regulation closer than 200 feet from an existing public road.

**J. WATER SUPPLY CONSERVATION ZONE (WSC)**

**INTENT:** The Water Supply Conservation Zone represents an area of large, high quality underground water, which is serving the Hollis school system and some residences with water. Some nearby areas of older, small lot development may eventually experience pollution from closely placed sewage disposal systems, requiring provisions of a public water system. The large amounts of good quality water in the WSC Zone should, therefore, be protected from pollution to keep this resource as a future water supply area.

**1. PERMITTED USES IN THE WATER SUPPLY CONSERVATION ZONE:**

- a. Single family dwellings
- b. Forestry, tree farming
- c. Wildlife refuge
- d. Temporary structures
- e. Roof Mounted Solar Energy Systems. All proposals in the Historic District shall be reviewed and approved by the Historic District Commission.

**2. ACCESSORY USES IN THE WATER SUPPLY CONSERVATION ZONE:**

- a. Customary accessory buildings and uses.
- b. Signs, according to Section XIV.

**3. SPECIAL EXCEPTIONS IN THE WATER SUPPLY CONSERVATION ZONE:** As granted by the Board of Adjustment.

- a. Home based businesses according to Section XXII.
- b. Accessory dwelling units according to Section IX.K.

**4. AREA AND HEIGHT REGULATIONS FOR PERMITTED USES AND SPECIAL EXCEPTIONS IN THE WATER SUPPLY CONSERVATION ZONE: (NOTE: Per NH RSA 289:3.III, a 25' buffer is required around all cemeteries for the purposes of new construction.)**

- a. **MINIMUM LOT AREA:** 2 acres/dwelling unit.
- b. **MINIMUM FRONTAGE:** 200 feet.
- c. **MINIMUM FRONT YARD DEPTH:** 50 feet (100 feet on scenic roads).
- d. **MINIMUM SIDE YARD WIDTH:** 35 feet from house of principal structure to the property line, 15 feet for accessory structures.
- e. **MINIMUM REAR YARD DEPTH:** 35 feet for principal structure, 15 feet for accessory structures.
- f. **MAXIMUM HEIGHT:** 38 feet. (see Section IX.I)
- g. **BUILDING AREA:** No lot shall be subdivided unless it contains a compliant building area as described in Section VIII.6 (Definitions) of the Hollis Zoning Ordinance.
- h. **BACKLAND LOTS :** 4 acres for backland, provided that:
  - (i) Each building lot shall be at least 4 acres. Minimum lot area 4 acres per dwelling unit.
  - (ii) A minimum frontage on a public road of 20 feet for each dwelling on a 4 acre lot.
  - (iii) No building shall be erected on backland under this regulation closer than 200 feet from an existing public road.

**5. OTHER DEVELOPMENT REGULATIONS IN THE WATER SUPPLY CONSERVATION ZONE:**

- a. No septic tank or leach field shall be located closer than 150 feet to any wetland or standing water. All sewage disposal systems must be designed by a professional sanitary engineer.

**6. PERMITTED USES ALLOWED BY CONDITIONAL USE PERMIT IN THE WATER SUPPLY CONSERVATION ZONE:**

- a. Ground-Mounted Solar Energy Systems. All proposals in the Historic District shall be reviewed and approved by the Historic District Commission.

## **SECTION XI: OVERLAY ZONING DISTRICTS**

### **A. AQUIFER PROTECTION OVERLAY ZONE (APO) (Amended March 2017)**

**INTENT:** By the authority granted in New Hampshire RSA 674:16-17 and 674:20, the Aquifer Protection Overlay Zone is intended to protect, preserve and maintain existing and potential groundwater supply and groundwater recharge area of known aquifers, as delineated by the United States Geological Survey (as identified on the Hollis stratified drift aquifer map available in the Planning Department) thereby assuring the proper use of natural resources and thus protecting public health, safety and general welfare of the people in the Town of Hollis from adverse development, land uses, practices and activities which might result in their depletion or contamination. Additional purposes of the APO Zone include, but are not limited to:

- Assuring adequate private and public drinking water supply
- Assuring the hydrologic integrity of surface waters and wetlands
- Reducing the effects of non-point source pollution
- Protecting in-stream habitat for fish and wildlife
- Limiting the development of structures and land uses which contribute to the pollution of ground water by sewage and hazardous substances
- Encouraging those uses that can be safely and appropriately located in the APO Zone
- Assuring adequate water supply for domestic, agricultural, commercial and industrial uses
- Assuring adequate water supply for recreational uses

The standards used in the Aquifer Protection Overlay Zone reflect the recommendations of the Town of Hollis Master Plan, 1998, the Town of Hollis Water Resources Management Plan, 1989, and the recommendations of the Town of Hollis Conservation Commission Water Resources Subcommittee. The Aquifer Protection Overlay Zone is a zoning overlay district, which imposes additional requirements and restrictions to those of the underlying district zoning. In all cases the more restrictive requirement(s) shall apply.

#### **1. LOCATION**

The extent of the Aquifer Protection Overlay Zone shall be the outermost edge of the surficial extent of all aquifer deposits presently designated as stratified drift in the USGS study, Hydrogeology of Stratified-Drift Aquifers and Water Quality in the Nashua Regional Planning Commission Area, South-Central New Hampshire, 1987.

- a. When the actual boundary of the Aquifer Protection Overlay Zone is in dispute by any owner or abutter actually affected by said boundary, the Planning Board (or the Board of Adjustment or other Town authority, as appropriate), at the owner's or abutter's expense and request, may engage a certified soil scientist to conduct a Site Specific Soil Map of the area in dispute. Areas determined by the USGS as containing stratified drift aquifer and which also have excessively drained soils will be presumed to lie within the APO Zone.
- b. If the results of the Site Specific Soil Mapping are inconclusive or are unsatisfactory to the Planning Board, the owner, or the abutter, the Planning Board, at the owner's or abutter's expense, may engage a professional geologist or hydrologist to conduct a hydrogeological study of the area to determine more accurately the precise boundary of the APO Zone.

#### **2. DEFINITIONS:** For purposes of the Aquifer Protection Overlay Zone, the following definitions shall apply:

- a. **Groundwater:** Subsurface water that occurs beneath the water table in soils and geologic formations.
- b. **Surface Water:** Those waters, which have standing or flowing water at or on the surface of the ground. This includes but is not limited to, rivers, streams, lakes, ponds and tidal waters.
- c. **Water Related Resources:** A natural resource that is dependent on water, such as fish, amphibians and plants.
- d. **Wetland:** Areas as defined in Section VIII of the Hollis Zoning Ordinance.

#### **3. DIMENSIONAL STANDARDS IN THE AQUIFER PROTECTION OVERLAY ZONE**



The standards of the underlying zone shall apply except as specified below

- a. ***IMPERMEABLE SURFACE COVERAGE:*** Impermeable surfaces may cover no more than 15% of any lot in the APO Zone. However, in the underlying Industrial Zone, the Planning Board may grant a waiver from the maximum 15% standard, but in no case more than 30%, provided that the applicant shows that the proposal is otherwise incapable of reasonably complying with this standard. Any such waiver shall be conditioned on the following:
  - (i) The applicant shall submit a stormwater management plan, prepared by a New Hampshire licensed professional engineer and approved by the Planning Board.
  - (ii) The plan shall comply with all performance standards under Section XI.A. 4.a. of the Hollis Zoning Ordinance.
  - (iii) Regardless of the area of disturbance, all groundwater infiltration shall be in compliance with the State of New Hampshire Alteration of Terrain Best Management Practices.
- b. ***SEWAGE DISPOSAL SYSTEMS:*** At least four (4) feet of in-place soil shall exist above the seasonal high water table before fill; the bottom of the leaching field shall be at least six (6) feet above the seasonal high water table. This subparagraph shall not apply to lots approved for subdivision by the Planning Board on or before March 11, 1997.

**4. PERFORMANCE STANDARDS IN THE AQUIFER PROTECTION OVERLAY ZONE:**

- a. Uses shall conform to the standards and practices delineated in the following documents on file with the Planning Board, unless this Ordinance specifies more strict standards:
  - (i) Manual of Best Management Practices for Agriculture in New Hampshire, NH Dept. of Agriculture, June 1993, or as amended.
  - (ii) Pesticide Management Guidelines for Groundwater Protection, UNH Cooperative Extension, November 1992, or as amended.
  - (iii) Buffers for Wetlands and Surface Waters: A Guidebook for New Hampshire Municipalities, Audubon Society of NH, NH Office of State Planning, UNH Cooperative Extension, and NRCS, November 1995, or as amended.
  - (iv) Manual of Best Management Practices--Biosolids, UNH Cooperative Extension, 1995, or as amended.
  - (v) Best Management Practices to Control Nonpoint Source Pollution--A Guide for Citizens and Town Officials, NH DES, May 1994, or as amended.
  - (vi) Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire, NH DES, August 1992, or as amended.
  - (vii) Best Management Practices, New Hampshire Code of Administrative Rules, Env-Ws 421, or as amended.
  - (viii) State of New Hampshire Septage and Sludge Management Rules, New Hampshire Code of Administrative Rules, Env-Ws 800, or as amended.
  - (ix) Best Management Practices for Erosion Control on Timber Harvesting Operations in New Hampshire; NH DES, August 1992, or as amended.
  - (x) Hazardous or Toxic Materials: Any materials, as defined under RSA 147-A (as amended) which pose a present or potential hazard to human health or the environment when improperly handled, stored, transported for off-site disposal, or otherwise managed. Activities that engage in the handling and/or generation of hazardous and/or toxic materials shall demonstrate to the satisfaction of the Planning Board, through site plan review, that proper controls for the storage, handling, transportation and off-site disposal of these substances are in place and maintained and conform to the Performance Standards and BMP's noted in this Section. If proper handling, use and storage safeguards cannot be adequately demonstrated to the satisfaction of the Planning Board, then the storage and use of said material shall be prohibited.

Exemptions to this review shall include:

- a. Any private residence,
  - b. Any business or facility where Hazardous or Toxic Materials are stored in containers with a capacity of less than five gallons;
  - c. Storage of heating fuels for on-site use or fuels for emergency electric generation, provided that storage tanks are indoors on a concrete floor or have corrosion control, leak detection, and secondary containment in place;
  - d. Storage of motor fuel in tanks attached to vehicles and fitted with permanent fuel lines to enable the fuel to be used by that vehicle;
  - e. Storage and use of office supplies;
  - f. Temporary storage of construction materials on a site where they are to be used;
  - g. The sale, transportation, and use of pesticides as defined in RSA 430:29 XXVI;
  - h. Household hazardous waste collection projects regulated under NH Code of Administrative Rules Env-Wm 401.03(b)(1) and 501.01(b); and
  - i. Underground storage tank systems and aboveground storage tank systems that are in compliance with applicable state rules.
- b. The Planning Board, while reviewing any development application (including, but not limited to subdivisions, site plans, and excavations) shall apply the following criteria when the development occurs in the APOZ:
- (i) The proposed use will not detrimentally affect the quality of the groundwater contained in the aquifer by directly contributing to pollution or by increasing the long-term susceptibility of the aquifer to potential pollutants;
  - (ii) The proposed use will discharge no wastewater on site other than that typically discharged by domestic wastewater disposal systems. not cause a significant reduction in the long term volume of water contained in the aquifer or in the storage capacity of the aquifer;
  - (iii) The proposed use will discharge no wastewater on site other than that typically discharged by domestic wastewater disposal systems.
  - (iv) The proposed use complies with all other applicable sections of this ordinance.
- c. The Planning Board may require that the applicant provide data or reports prepared by a professional engineer or qualified groundwater consultant, hydrologist, or fisheries biologist to assess any potential damage to the aquifer that may result from the proposed use. The Planning Board shall engage such professional assistance as it requires to adequately evaluate such reports and to evaluate, in general, the proposed use in light of the above criteria. Costs for any of the above mentioned services shall be charged to the applicant. When assessing impacts, the following may be required:
- Preliminary water resource and water related resource use and inventory
  - Estimation and verification of effects of the activity. Based upon the potential for impacts, monitoring shall be conducted to verify worst-case conditions (i.e. low flow summer conditions, maximum impact). Monitoring may have a range of sampling designs, including but not limited to single season evaluation or pre and post implementation evaluation.
  - Final water resources and water related resources and uses inventory.
  - Description of the impacts to water resources and water related resources used and inventory.

**5. PERMITTED USES IN THE AQUIFER PROTECTION OVERLAY ZONE:**

- a. All uses permitted, by right or by special exception, in the underlying zone shall be permitted unless said use shall be in conflict with the intent and purpose of the Aquifer Protection Overlay Zone, and/or unless the use is specifically prohibited, below. In all cases, the more restrictive requirement(s) shall apply.\

- 6. PROHIBITED USES IN THE AQUIFER PROTECTION OVERLAY ZONE:** The following uses shall not be permitted in the Aquifer Protection Overlay Zone:
- a. Disposal of solid waste other than brush or stumps.
  - b. Disposal of liquid or leachate wastes, except from single or multi-family residential subsurface disposal systems.
  - c. Outdoor unenclosed or uncovered storage of road salts.
  - d. Dumping of snow brought from outside the Aquifer Protection Overlay Zone.
  - e. Commercial animal feedlots.
  - f. Excavation of sand or gravel except where conducted in accordance with an approved excavation or movement of earth materials permit.
  - g. Automotive service and/or repair shops.
  - h. Junk and salvage.
  - i. Car washes.
  - j. Laundromats
  - k. Landfills, solid waste transfer stations and recycling facilities and incinerators.
  - l. Subsurface storage of petroleum, other refined petroleum products, or other Hazardous or Toxic Materials as defined in RSA 147-A.

**7. NONCONFORMING USES IN THE AQUIFER PROTECTION OVERLAY ZONE:**

- a. Any nonconforming use may continue and may be maintained, repaired and/or replaced, and to the extent that it shall be made less nonconforming improved, unless such use is determined to be an imminent hazard to public health and safety by the Selectmen and/or Health Officer. No nonconforming use may be expanded, changed to another nonconforming use, or renewed after it has been discontinued for a period of 12 months or more.
- b. Notwithstanding subparagraph 7. a. above, no underground storage tanks for petroleum, other refined petroleum products, or hazardous materials may be repaired or replaced unless repaired or replaced in kind with no expansion or modification to approved site plans. All failed underground storage tanks must be removed according to standards established by NH state statutes and regulations.

**B. FLOOD PLAIN OVERLAY ZONE (FPO)** (Adopted March 1990, amended March 1994, 2007 & 2009)

Certain areas of the Town of Hollis, New Hampshire, are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968. Therefore, the Town of Hollis, New Hampshire, has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.I. 90-488, as amended) as detailed in this Floodplain Management Ordinance

**AUTHORITY:** This ordinance, adopted pursuant to the authority of RSA 674:16, shall be known as the Town of Hollis Flood Plain Development 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.

**INTENT:** All lands designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its "Flood Insurance Study for the County of Hillsborough, NH" dated September 25, 2009, together with the associated Flood Insurance Rate Maps dated September 25, 2009, are declared to be part of the Hollis Flood Plain Ordinance and are hereby incorporated by reference.

1. **DEFINITIONS:** The following definitions shall apply only to this Flood Plain Development Ordinance and shall not be affected by the provisions of any other ordinance of the Town of Hollis.
  - a. **AREA OF SPECIAL FLOOD HAZARD:** is the land in the flood plain within the Town of Hollis subject to a 1 percent or greater possibility of flooding in any given year. The area is designated as zone A and AE on the Flood Insurance Rate Map.
  - b. **BASE FLOOD:** means the flood having a 1% possibility of being equaled or exceeded in any given year.
  - c. **BASEMENT:** means any area of a building having its floor subgrade on all sides.
  - d. **BUILDING:** see "structure".
  - e. **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, drilling operations, or storage of equipment or materials.
  - f. **FEMA:** means the Federal emergency management agency.
  - g. **FLOOD OR FLOODING:** means a general and temporary condition of partial or complete inundation of normally dry land areas from:
    - (i) the overflow of inland or tidal waters;
    - (ii) the unusual and rapid accumulation or runoff of surface waters from any source.
  - h. **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 Hollis.
  - i. **FLOOD INSURANCE STUDY:** means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e. mudflow) and/or flood-related erosion hazards.
  - j. **FLOOD PLAIN OR FLOOD-PRONE AREA:** means any land area susceptible to being inundated by water from any source (see definition of "Flooding").
  - k. **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.
  - l. **FLOODWAY:** see Regulatory Floodway.
  - m. **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.

- n. **HIGHEST ADJACENT GRADE:** means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure
- o. **HISTORIC STRUCTURE:** means any structure that is:
- (i) 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; or
  - (ii) 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; or
  - (iii) 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; or
  - (iv) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
    - By an approved state program as determined by the Secretary of the Interior, or
    - Directly by the Secretary of the Interior in states without approved programs.
- p. **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.
- q. **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 flood plain management purposes the term "manufactured home" includes park trailers, travel trailers, and other similar vehicles placed on site for greater than 180 consecutive days. This includes manufactured homes located in a manufactured home park or subdivision.
- r. **MANUFACTURED HOME PARK OR SUBDIVISION:** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
- s. **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.
- t. **NEW CONSTRUCTION:** means, for the purposes of determining insurance rates, structures for which the start of construction commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, *new construction* means structures for which the *start of construction* commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.
- u. **100-YEAR FLOOD:** see base flood.
- v. **RECREATIONAL VEHICLE:** means a vehicle which is
- (i) built on a single chassis;
  - (ii) 400 square feet or less when measured at the largest horizontal projection;
  - (iii) designed to be self propelled or permanently towable by a light duty truck; and
  - (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- w. **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 more than a designated height.
- x. **SPECIAL FLOOD HAZARD AREA:** see "Area of Special Flood Hazard".

- y. **STRUCTURE:** means for flood plain 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.
  - z. **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 improvements 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 a 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 street 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 dwellings units or part of the main structure.
  - aa. **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 % of the market value of the structure before the damage occurred.
  - bb. **SUBSTANTIAL IMPROVEMENT:** means any combination of repairs, reconstruction, alteration, or improvements to a structure in which the cumulative cost equals or exceeds 50 % of the market value of the structure. The market value of the structure should equal:
    - (i) the appraised value prior to the start of the initial repair or improvement, or
    - (ii) 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 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.
  - cc. **VIOLATION:** means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44CFR & 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.
  - dd. **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 flood plains.
2. All proposed development in any special flood hazard area shall require a permit. The Building Inspector 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 an area of special flood hazard, all new construction or substantial improvements shall:
    - a. be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, and
    - b. be constructed with materials resistant to flood damage, and
    - c. be constructed by methods and practices that minimize flood damages, and
    - d. 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.
  3. 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 Building Inspector 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.

4. For all new or substantially improved structures located in Zones A or AE, the applicant shall furnish the following information to the building inspector:
  - a. The as-built elevation (in relation to NGVD) of the lowest floor (including basement) and whether or not such structures contain a basement.
  - b. If the structure has been flood proofed, the as-built elevation (in relation to NGVD) to which the structure was flood proofed.
  - c. Any certification of flood proofing
  - d. The Building Inspector shall maintain for public inspection and shall furnish such information upon request.
5. The Building Inspector 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 or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
6. In riverine situations, prior to the alteration or relocation of a watercourse, the applicant for such authorization shall notify the Wetlands Board of the New Hampshire Environmental Services Department and submit copies of such notification to the Building Inspector, in addition to the copies required by RSA 482-A:3. Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Building Inspector, including notice of all scheduled hearings before the Wetlands Board.
  - a. The applicant shall submit to the Building Inspector certification, provided by a registered professional engineer, assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.
  - b. Along watercourses with a designated Regulatory Floodway no encroachments, including fill, new construction, substantial improvements, and other development are allowed within the floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed encroachment would not result in any increase in flood levels within the community during the base flood discharge.
  - c. Until a Regulatory Floodway is designated along watercourses, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zone AE on the FIRM, unless it is demonstrated by the applicant that the cumulative effect of the proposed development, when combined with all existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
  - d. The Building Inspector shall obtain, review, and reasonably utilize any floodway data available from Federal, State, or other sources as criteria for requiring that all development located in 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".

#### **7. BUILDING IN THE FLOOD PLAIN**

- a. In special flood hazard areas the Building Inspector shall determine the 100 year flood elevation in the following order of precedence according to the data available:
  - (i) In zone AE refer to the elevation data provided in the community's Flood insurance study and accompanying FIRM.
  - (ii) In Zone A the Building Inspector 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).
  - (iii) In zone AO the flood elevation is determined by adding the elevation of the highest adjacent grade to the depth number specified on the FIRM or if no depth number is specified on the FIRM at least 2'.
- b. The Building Inspector's 100 year flood elevation determination will be used as criteria for requiring in zones

A and AE that:

- (i) All new construction or substantial improvement of residential structures have the lowest floor (including basement) elevated to or above the 100 year flood elevation;
  - (ii) 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:
  - (iii) Be flood proofed so that below the 100 year flood elevation the structure is watertight with walls substantially impermeable to the passage of water;
  - (iv) Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
  - (v) 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 recreational vehicles placed on sites within Zones A and AE shall either:
- (i) be on site for fewer than 120 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) (6) of Section 60.3
- 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:
- (i) the enclosed area is unfinished or flood resistant, usable solely for the parking of vehicles, building access or storage;
  - (ii) the area is not a basement;
  - (iii) 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 2 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. 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 base flood level; and be securely anchored to resist flotation, 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.

**8. VARIANCES AND APPEALS IN THE FLOOD PLAIN:**

- a. Any order, requirement, decision or determination of the Building Inspector made under this ordinance may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5.
- b. 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:
  - (i) that the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense;
  - (ii) 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;
  - (iii) that the variance is necessary, considering the flood hazard, to afford relief.
- c. 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 \$25.00 for \$100.00 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 action.

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

### C. **WETLAND CONSERVATION OVERLAY ZONE (WCO)**

#### 1. **PURPOSE**

By the authority granted in New Hampshire RSA 674:16-17 and 674:20-21, the purpose of the Wetland Conservation Overlay Zone is to protect the wetlands, surface waters and their buffer zones, to assure the proper use of natural resources and thereby protect the public health, safety and general welfare of the people in the Town of Hollis. Additional purposes of the WCO Zone include, but are not limited to:

- a. Protecting persons and property from flood damage by preserving the natural flood storage area;
- b. Reducing the effects of non-point pollution;
- c. Reducing sedimentation of wetlands and surface waters;
- d. Protecting surface waters, groundwater and aquifers as current or potential drinking water supply sources;
- e. Limiting the development of structures and land uses which contribute to the
- f. Pollution of surface and groundwater by sewage, hazardous substances or siltation;
- g. Protecting and promoting fish and wildlife habitat;
- h. Conserving natural beauty and open space;
- i. Encouraging those uses that can be appropriately and safely located in the WCO Zone;
- j. Preventing those uses that could harm or degrade the wetland buffer, the wetlands, or surface waters.

#### 2. **DEFINITIONS**

For the purposes of the WCO Zone Ordinance, the following definitions apply:

- a. **BEST MANAGEMENT PRACTICES:** When referring to forestry, Best Management Practices are defined in a publication entitled Best Management Practices for Erosion Control on Timber Harvesting Operations in New Hampshire prepared by the New Hampshire Department of Resources and Economic Development, and Wt. 304.05 Logging Operations, NH Code of Administrative Rules, April 21, 1997, as amended. When referring to agriculture, Best Management Practices are defined in the publications entitled Manual of Best Management Practices for Agriculture in New Hampshire as prepared by the Agricultural Best Management Practices Task Force and the USDA Natural Resources Conservation Service for the New Hampshire Department of Agriculture, and Best Management Wetlands Practices For Agriculture July, 1993, as amended. Other sources of technical information and standards used for performance guidance include, Stormwater Management and Erosion and Sediment Control for Urban and Developing Areas in New Hampshire, DES, RCCD, 1992, as amended; Manual of Best Management Practices to Control Nonpoint Source Pollution: A Guide for Citizens and Town Officials, DES, November, 1997, as amended; BMP's: Biosolids- UNH Cooperative Extension Service, June 1995, as amended; BMP's-Env-WS 421 (hazardous materials), as amended; and BMP's for Urban Stormwater Runoff, DES, WSPCD, January 1996, as amended and BMP's for Erosion Control During Trail Maintenance and Construction, as amended.
- b. **BOG:** A wetland area distinguished by stunted evergreen trees and shrubs, peat deposits, poor drainage and/or highly acidic soil and/or water conditions, Wt. 101.08, N.H. Code of Administrative Rules, April 21, 1997, as amended.
- c. **BUFFER ZONE:** An upland area adjacent to a wetland or surface water. This buffer zone, under the jurisdiction of the Town of Hollis, shall include an area of one hundred (100) feet, measured on a horizontal plane from the mean high water mark of a surface water, the delineated edge of a wetland, or the limits of hydric soils (whichever is most restrictive).
- d. **BULK WATER TRANSPORTER;** Bulk water transporters are those companies that offer services such as

filling swimming pools, hydro seeding, fertilizer and pesticide applications, spraying for dust control and roadbed compaction at construction sites, and similar activities that often withdraw water from surface waters at convenient access points on a short-term or occasional basis.

- e. **CERTIFIED SOIL SCIENTIST:** A person qualified in soil classification and mapping who is certified by the State of New Hampshire Board of Natural Scientists.
- f. **CERTIFIED WETLAND SCIENTIST:** A person qualified to delineate wetland boundaries and prepare wetland maps who is certified by the State of New Hampshire Board of Natural Scientists, as defined by RSA 310-A:76, II-a.
- g. **EROSION CONTROL MEASURES:** For purposes of this ordinance, all construction and/or development shall incorporate design standards for erosion and sedimentation control which at a minimum reflect the standards set forth in the document, " Stormwater Management & Erosion & Sediment Control Handbook for Urban & Developing Areas of New Hampshire", August, 1992, as amended and Env-Ws 415.
- h. **HYDRIC SOILS:** Soils that are saturated or flooded during a sufficient portion of the growing season to develop anaerobic conditions in the upper soil layers. Hydric soils consist of very poorly drained and poorly drained soil drainage classes as defined in "Field Indicators for Identifying Hydric Soils in New England", Version 2, July 1998.
- i. **IMPROVED LOT:** A parcel of land or any combination of several contiguous lots of record occupied by a principal building or a building group, as permitted herein, together with their existing accessory buildings or uses and such access, yards, and open space required under this ordinance.
- j. **MAJOR WETLAND PROJECT:** A project involving alteration of wetlands and surface waters in excess of 20,000 square feet. Major wetland projects of such size and scope have the potential to create significant impacts on wetlands or surface waters, pursuant to NH Code of Administrative Rules, Wt 303.02, April 21, 1997. Projects altering wetlands and surface waters are under the jurisdiction of the State of New Hampshire and require permitting.
- k. **MINIMUM WETLAND IMPACT PROJECT:** A project involving alteration of wetlands and surface waters less than 3,000 square feet. A minimum wetland impact project, by virtue of its size and nature, is likely to have a negligible impact by itself or in the aggregate pursuant to NH Code of Administrative Rules, Wt 303.04, provided adequate measures are employed to protect the environment. Projects altering wetlands and surface waters are under the jurisdiction of the State of New Hampshire and require permitting.
- l. **MINOR WETLAND PROJECT:** A project involving alteration of wetlands and surface waters less than 20,000 square feet. A minor wetland project is of such size, scope or nature that it has the potential of having more than a negligible impact upon wetlands or surface waters pursuant to NH Code of Administrative Rules, Wt 303.03, provided adequate measures are employed to protect the environment. Projects altering wetlands and surface waters are under the jurisdiction of the State of New Hampshire and require permitting.
- m. **PRIMARY STRUCTURE:** For purposes of this ordinance a primary structure shall be considered the main or principal structure on a lot that serves as a residence or a place of business.
- n. **PRIME WETLAND:** Under the New Hampshire statute (RSA 482-A) for protecting wetlands from "despoliation and unregulated alteration", municipalities are able to designate some of their high value wetlands as "Prime Wetlands" (RSA 482-A:15). These designated wetlands are given special consideration by the Wetlands Board in permit application reviews. At this time the Town of Hollis has no wetlands designated as "Prime Wetlands", however, the Hollis Master Plan (1998) and the Conservation Commission have recognized the following surface waters and associated wetlands in the Town of Hollis as sensitive environmental areas that should be given special consideration and protection during application reviews.
  - (i) Bailey Brook- from Hayden Reservoir to the entrance of Hayden's Mill Pond
  - (ii) Birch Brook – from Birch Hill to Witches Brook
  - (iii) Flints Brook- from Flints Pond to the Nashua River
  - (iv) Beaver Brook- from Rocky Pond Road to the Nissitissit River
  - (v) Rocky Pond Brook- from Rocky Pond to the Hollis town border
  - (vi) Witches Brook- from Hayden's Reservoir to the Hollis town border

- (vii) Pennichuck Brook- from Dunklee Pond to Pennichuck Pond
  - (viii) Muddy Brook- from Parker Pond to Pennichuck Pond
  - (ix) Nashua River
  - (x) Nissitissit River
  - (xi) Flint Pond
  - (xii) Pennichuck Pond
  - (xiii) Dunklee Pond
  - (xiv) Rocky Pond
  - (xv) Silver Lake
  - (xvi) Hayden's Mill Pond
  - (xvii) Hayden's Reservoir
  - (xviii) Parker Pond
  - (xix) Worcester Pond
  - (xx) Sucker Brook - from Jewett Lane to the Nashua River
  - (xxi) High School Brook - from the Hollis -Brookline High School to Jewett Lane
- o. **SITE SPECIFIC SOILS MAP:** A map developed from information prepared in accordance with Site Specific Soils Mapping Standards for New Hampshire and Vermont, Society of Soil Scientists of Northern New England Publication NO. 3, 1997, as amended.
  - p. **SPECIAL EXCEPTION:** A use of land or buildings that is permitted, subject to specific conditions that are set forth in the ordinance. RSA 674:33 gives the local zoning board the power to grant those exceptions which are clearly specified in the ordinance.
  - q. **SURFACE WATERS:** Those waters which have standing or flowing water at or on the surface of the ground. This includes but is not limited to rivers, streams, lakes, ponds and tidal waters.
  - r. **UNIMPROVED LOT:** A parcel of land or any combination of several contiguous lots of record not currently occupied by a principal or accessory building or use.
  - s. **WETLAND:** Areas as defined in Section VIII.50 of the Zoning Ordinance.
  - t. **WETLAND CONSERVATION OVERLAY ZONE (WCO):** Areas as defined in Section VII.B.3. of the Zoning Ordinance.
  - u. **WET MEADOW:** An herb-dominated area typically with non-woody vegetation less than three feet in height, saturated for long periods during the growing season, but seldom flooded. Wet meadows develop on predominantly poorly drained soil conditions as defined by Env-Ws 1014.02.
  - v. **VERNAL POOL:** A confined basin depression which, at least in most years, holds water for a minimum of two continuous months during the spring and/or summer, provides essential breeding habitat for certain amphibians and invertebrates and is free of adult fish populations

### 3. JURISDICTION

- a. The town recognizes that the state and federal governments have regulations, including a permitting process, governing the alteration of wetlands and surface waters. However, the Town of Hollis has jurisdiction over the one hundred (100) foot buffer zone and all Dredge and Fill Applications must first be reviewed by Planning Board Staff and approved by the Planning Board and the Conservation Commission for compliance with this ordinance.
- b. The WCO Zone shall be considered as overlaying any other zone established by this Ordinance. Any use permitted in the portions of the zone so overlaid shall only be permitted subject to all provisions of this section.
- c. **EXISTING LOTS:** This ordinance shall not prohibit the construction of principal and accessory structures

on an unimproved lot or the expansion of a legally pre-existing use on a lot that legally existed before March 11, 1997. However, such construction or expansion will only be permitted upon determination by Planning Staff (or Planning Board per staff recommendation) that:

- (i) it is not feasible to place the structure outside the buffer zone
  - (ii) the structure must be set back as far as possible from the delineated edge of the wetland or surface water
  - (iii) appropriate erosion control measures must be in place prior to and during construction
  - (iv) any disturbance to the surrounding buffer zone must be repaired and restored upon completion of construction
  - (v) all available mitigation measures to address changes in water quality and quantity be implemented, if required by Planning Staff/ Planning Board
- d. The 100 foot buffer regulations and restrictions set forth in this Ordinance shall not apply to the following wetland areas or their buffer zones:
- (i) manmade ditches and swales
  - (ii) sedimentation/detention basins or ponds
  - (iii) manmade agricultural/irrigation ponds and swales
  - (iv) fire ponds
  - (v) a septage or manure lagoon
  - (vi) silage pits
  - (vii) a wetland or surface water of 3,000 square feet or less not associated with any other wetland, drainage-way, or surface water which does not meet the definition of a bog or vernal pool

**4. LOT REQUIREMENT AREA:** Wetland area excluding surface water may be used to satisfy minimum lot area requirements provided that seventy-five (75) percent of the minimum required lot size is contiguous non-wetland. For two (2) acre minimum lots, one and one-half (1 1/2) acres must be contiguous non-wetland. For four (4) acre minimum back lots, three (3) acres must be contiguous non-wetland.

**5. DRAINAGE**

- a. There shall be no net increase in peak flow or overall volume of stormwater runoff in the WCO Zone as a result of any development.
- b. Calculations shall be based on 2, 5 and 25-year storm events in accordance with NRCS Technical Release 55 or Technical Release 20, or other calculation methods as approved by the Planning Staff.
- c. Drainage design shall be in accordance with the Town of Hollis Subdivision and Site Plan regulations.

**6. PERMITTED USES WITHIN THE WETLAND CONSERVATION OVERLAY ZONE:**

- a. The following uses shall be permitted in the WCO Zone without a special exception:
  - (i) Forestry performed in accordance with Best Management Practices as defined in Section XI.C.2. of this ordinance
  - (ii) Agriculture, including growing and harvesting of crops, in accordance with Best Management Practices as defined in Section XI.C.2. of this ordinance.
- b. Water withdrawals from surface waters for bulk transport and delivery are permitted with the following conditions and limitations:
  - (i) Anti-backflow devices are required on all vehicles withdrawing water from surface waters in the Town of Hollis.
  - (ii) The withdrawal must have permission of the property owner whose frontage is on the river, stream, lake or pond from which the withdrawal is being made.
  - (iii) The withdrawal must not create an adverse impact on aquatic life, recreation, or other public use of

the water body. Adverse impacts include, but are not limited to: lowering of stream flow or lake levels and introducing potential pesticides and pollutants into the waters through backflow discharge or spillage. (Any discharges, including accidental discharges, are subject to enforcement action and penalties by the NH Department of Environmental Services under the provisions of the Clean Water Act.)

- (iv) The withdrawal must be “reasonable” in that it will not impact the drinking water supply, health of the indigenous aquatic life, public recreational activities and other uses dependent on the surface water.
  - (v) Large water withdrawals from single locations that exceed 20,000 gallons per day averaged over any 7-day period or that exceed a total of 600,000 gallons during any 30-day period must be registered with the DES-NH Geological Survey. (Chapter Env-Wr 700 Water Use Registration and Water Use Reporting, under RSA 482:87).
  - (vi) Water withdrawals from vernal pools and wetlands (other than constructed fire ponds and farm irrigation ponds) are prohibited.
  - (vii) Water withdrawals for emergency services are exempt from this ordinance.
  - (viii) If it is determined that the foregoing areas of regulation are or have been pre-empted by the State of New Hampshire, such sections shall be void.
- c. The following uses which do not alter the surface configuration by the addition of fill, do not obstruct or change in any manner the natural flow or quality of ground or surface water, and that are otherwise permitted by the Zoning Ordinance shall be permitted in the WCO Zone without a special exception, provided applicable necessary mitigation measures to address changes in water quality and quantity are in place, and there is restoration and repair of any disturbed area.
- (i) Conservation areas, and wildlife refuges
  - (ii) Open space as permitted by subdivision regulations and other sections of this ordinance. Only the buffer zone may be used in the calculation of open space. Jurisdictional wetlands, surface waters, flood plains, and unaltered slopes greater than 25% are excluded from this calculation.
  - (iii) Parks and outdoor recreational uses and activities as are consistent with the purposes and intentions of the WCO Zone
  - (iv) Planting of native species and wetland vegetation as identified by NHDES publication "Native Shoreland/Riparian Buffer Plantings for New Hampshire", dated March 2006 as amended.
  - (v) Monitoring wells for observation purposes
  - (vi) The removal of dead, diseased, unsafe, or fallen trees, however stumps and their root systems shall be left intact in the ground within one hundred (100) feet of the delineated edge of the wetland boundary. Dead trees that provide dens and nesting sites for wildlife are encouraged to be preserved
  - (vii) All projects detailed in Wt 303.05 Projects in Jurisdiction That Do Not Require a Permit, NH Code of Administrative Rules, April 23, 1997, except for (i)- landscaping, gardening, deck or stair construction in the upland (delete tidal) buffer zone which are not permitted by this ordinance. This shall be replaced with: The Town of Hollis WCO Ordinance requires that the existing woodland buffer shall be maintained in its natural state. A copy of this document is on file at the planning office.
- d. The following uses shall be permitted in the WCO Zone without a special exception, provided applicable erosion control measures are in place, there is repair and restoration of any disturbed area and all available mitigation measures to address changes in water quality and quantity as required by staff and recommended by the Conservation Commission are employed. However, all projects listed below together with any disturbance of the buffer zones involved therein shall be presented to the Conservation Commission, with a request for review in writing, as required by the New Hampshire Wetlands Bureau, for its intervention, opinion, recommendations and/or approval. The results of such intervention by the Conservation Commission, together with its written opinion, recommendations, and/or approval shall be forwarded to the Planning Board, within twenty (20) days from the date of the first Conservation Commission meeting at which it receives such project details. These "minimum wetlands impact" projects are defined in full detail

in Wt. 303.04, NH Code of Administrative Rules, April 21, 1997, and after approval by Town Boards require a permit from the New Hampshire Wetlands Bureau.

- (i) Seasonal docks on non-tidal frontage for two (2) slips
- (ii) Repair or replacement of existing retaining walls
- (iii) Decks raised above the ground in such a manner as to permit the natural flow of any surface water.
- (iv) Potable water supply wells
- (v) Maintenance of existing docking structures
- (vi) Control of aquatic weeds by harvesting
- (vii) Control of exotic weeds in accordance with NH RSA 487:17
- (viii) Installation of culverts or rock fords for driveways or woods roads where wetland impact is less than three thousand square feet on existing lots approved prior to March 11, 1997
- (ix) Bridge crossings
- (x) Temporary crossings for maintenance of utility pipes or lines, or for transportation of forestry products
- (xi) Projects located in the right-of way of an existing public road
- (xii) Temporary coffer dams for repair or replacement of existing structures
- (xiii) Pond construction in poorly drained soils only
- (xiv) Restoration of altered or dredged wetlands
- (xv) Construction of nature trails in accordance with BMP's for Erosion Control During Trail Maintenance and Construction, as amended.
- (xvi) Buffer disturbances for driveway access. Buffer disturbances do not need approval from the NH Wetlands Bureau.
- (xvii) Buffer disturbances for Planning Board approved subdivision road access.
- (xviii) Stormwater management facilities in accordance with New Hampshire Department of Environmental Services Alteration of Terrain Regulations.

**7. SPECIAL EXCEPTIONS IN THE WETLANDS CONSERVATION OVERLAY ZONE:**

- a. A special exception may be granted by the Zoning Board of Adjustment for projects classified as “minor wetlands impact” as set forth in NH Code of Administrative Rules, Wt. 303.03, April 21, 1997, as amended, and as defined in Section XI.C.2 of this ordinance provided:
  - It is not feasible for the proposed use, including necessary mitigation measures, to be placed outside the buffer zone.
  - The proposed use is designed to have the least amount of impact on the wetland and the buffer
  - With the exception of Town approved and State permitted wetlands crossings, and stormwater management facilities in accordance with the New Hampshire Department of Environmental Services Alteration of Terrain Regulations, the non-disturbance buffer zone shall be maintained to at least 50 feet from the delineated edge of the wetland unless the lot existed prior to March 11, 1997.
  - The Zoning Board of Adjustment will consider (but is not necessarily bound by) the recommendations of the Planning Board and the Hollis Conservation Commission.
- b. Application Procedure: The following outlines the application requirements and procedures for special exceptions to the Wetlands Conservation Overlay Zone:
  - (i) Submit written request for review of special exception concurrently to the Conservation Commission and the Planning Board no later than fifteen (15) days prior to their respective next meeting dates. This request must include:

- delineation of the impacted wetland and the buffer zone by a certified soil or certified wetland scientist
- design, construction, and maintenance methods including erosion control measures for the site
- restoration and repair measures for the site

The Conservation Commission and the Planning Board may require additional information including but not limited to:

- water quality calculations
  - mitigation measures to address changes in water quality and quantity
  - wildlife assessment performed by a natural resource professional (wetland scientist, soil scientist, wildlife biologist or forestry professional as appropriate)
  - hydrological calculations based on drainage requirements in accordance with Section XI.C.4.b. of this Ordinance.
- (ii) Submit an application for special exception, including all supporting plans, documentation and recommendations from the Conservation Commission and the Planning Board to the Zoning Board of Adjustment at least fifteen (15) days prior to a Zoning Board of Adjustment meeting following the Planning Board meeting at which the request is scheduled for input.
- (iii) Upon approval of the Zoning Board of Adjustment, submit dredge and fill application to the State if applicable.

**8. PROHIBITED USES WITHIN THE WETLAND CONSERVATION OVERLAY ZONE**

a. The following uses are specifically prohibited within the WCO Zone:

- (i) Any project classified as "major wetland impact" as set forth in NH Code of Administrative Rules, Wt 303.02, April 21, 1997, as amended, and as defined in Section XI.C.2 of this ordinance.
- (ii) Location of a primary structure and related improvements, including the associated limits of construction, within the WCO Zone unless the lot legally existed before March 11, 1997, in accordance with Section XI.C.3.c. of this ordinance.
- (iii) Location of an accessory structure and related improvements, including the associated limits of construction, within the WCO Zone unless the conditions for a special exception in accordance with Section XI.C.7 of this ordinance are met or the lot legally existed before March 11, 1997, in accordance with Section XI.C.3.c of this ordinance
- (iv) All other construction activity, including but not limited to parking lots, except in cases where the proposed use meets the criteria for a special exception (Section XI.C.7) and such a permit has been issued.
- (v) Any land use that harms or degrades the wetlands buffer, the wetland or surface waters, including but not limited to:
- uncovered or unenclosed storage of road salt and salt storage sheds
  - automobile junk yards/salvage
  - hazardous waste facilities
  - use of fertilizers except for lime and/or wood ash, on lawns or areas with grass
  - bulk storage of chemicals; petroleum products or hazardous materials
  - sand and gravel excavations as defined in RSA 155-E
  - processing of excavated materials
  - dumping or disposal of snow and ice collected from roadways or parking areas.
  - disposal of solid waste, landfills, solid waste transfer stations, recycling facilities, incinerators, and composting facilities.

- laundromats
- car washes
- automotive service and/or repair shops
- commercial animal feedlots
- disposal of liquid or leachate wastes
- storage or disposal of animal waste or byproducts
- trails, paths, tracks, or other ways, if the traffic caused by these uses compacts and erodes soils in the wetlands buffer or the wetlands.



**D. MULTI-FAMILY ZONE (MF) (Workforce Housing)**

**1. PURPOSE**

The intent of this Section is to define the requirements related to the development of multi-family housing. The opportunity to construct multi-family housing must include considerations to prevent overutilizing of the land. The development plan must follow all applicable federal, state, and local laws with respect to such housing. Compliance with local planning standards, land use policies, good building design, and requirements for the health, safety, and general welfare of all the inhabitants of the Town must be ensured.

**2. GENERAL STANDARDS**

In order to provide for a variety of workforce housing units in the community, which includes both owner and renter occupied units, the following criteria shall be required for developments proposed in the Multi-family Zone:

- a. Dwelling unit density shall be no greater than four (4) units per acre, based upon the Net Tract Area of the property or the minimum number of units required to make the project economically viable whichever is less.
- b. For any multi-family workforce housing development proposal, a minimum of 25% of the total number of rental units (market rate and affordable) shall be designated as workforce housing/renter occupied units. For any multi-family workforce housing/owner occupied development proposal, a minimum of 30% of the total number of owner occupied units (market rate and affordable) shall be designated as workforce housing/owner occupied units.
- c. Multi-family development projects shall consist of one or two bedroom units. At least 50% of workforce housing units shall consist of two bedroom units.
- d. Adequate on-site space must be provided for off-street parking, water and sewage disposal systems. The applicant shall demonstrate that the site can accommodate the permitted density as it pertains to its impact on soil as part of the application for review by the Planning Board.
- e. Building types and styles, including exterior aesthetics and unit arrangements, shall be suitable and appropriate for their intended purpose, in light of the size and scale of the project, the prominence and the visibility of the proposed project in the community, the surrounding neighborhood, and other similar factors.
- f. The dwellings qualifying as workforce housing units shall be compatible in architectural style and appearance with the market rate units in the proposed development. The workforce housing units should be interspersed throughout the overall development and not clustered together in one area.
- g. Workforce housing developments shall be exempted from Section IX.J., which limits the number of dwelling units that can be constructed on a lot.
- h. The minimum lot area shall be 4 acres and the lot shall have at least 50 feet of frontage. Garden style structure shall be limited to two stories. Townhouse style may be two stories, provided that a portion of the first floor area is allocated to a garage use.
- i. Multi-family workforce housing developments submitted under this section shall to the maximum extent practicable, seek to infiltrate the volumetric increase between the existing condition and the proposed condition for the 24-hour, 25-year storm. Standard practices used in hydrology shall be used to determine the volumetric increase and the recharge capacity of the stormwater management system. All groundwater infiltration shall be in compliance with the State of New Hampshire Alteration of Terrain Best Management Practices.

- j. The development shall be landscaped so as to enhance its compatibility with the Town with emphasis given to the use of existing, natural features where possible.
- k. In order to minimize potential intrusion on neighboring land uses, the Planning Board shall require the installation of a 50 foot landscaped buffer strip along the perimeter of the site. The Planning Board shall determine the exact nature of the buffer strip, after taking into consideration existing vegetation, topography and other relevant factors.
- l. The development shall provide for 40% open space, exclusive of wetlands, surface waters, hydric soils, flood plain, and altered/unaltered slopes greater than 25%.
- m. A proposed site shall have adequate soil to accommodate on-site wastewater treatment. Water supply shall be adequate for, and the water system shall be designed to provide, the maximum flow practical for firefighting purposes.
- n. To ensure that the application is completed as permitted, a phasing plan for the project shall provide for the development of workforce housing units concurrently with the market rate housing units. The dwellings qualifying as workforce housing shall be made available for occupancy on approximately the same schedule as a project's market rate housing units, except that the certificates of occupancy for the last 10 percent of the market rate housing units shall be withheld until certificates of occupancy have been issued for all the workforce housing units. A schedule setting forth the phasing of the total number of units in a project under this section, along with a schedule setting forth the phasing of the required workforce housing units shall be established prior to the issuance of a building permit for any development subject to the provisions of this section.

**3. *BUILDING RIGHTS LIMITATION***

- a. Multi-family workforce housing developments, both market rate housing and workforce housing units shall be exempt from the provisions of Section XIII, Residential Construction Timing and Phasing Ordinance. (Repealed March 2017)

## **SECTION XII: NONCONFORMING USES, STRUCTURES AND LOTS** (*Amended 1993*)

**INTENT:** The intent of this section is to allow for the lawful continuance of nonconforming uses, structures and lots, and to allow a certain reasonable level of alteration, expansion or change to occur by special exception when it can be demonstrated that the proposed alteration, expansion or change will not change the nature of the use, unduly impact the neighborhood or provide inadequate subsurface disposal of waste. Of particular concern is the preservation of the quality of the groundwater, which is Hollis' source of domestic drinking water. Specific attention to the potential of groundwater contamination arising from septic systems which are inadequate or located without adequate setbacks from other septic systems and/or drinking water wells was given in the development of this ordinance.

### **A. NONCONFORMING USES**

1. **CONTINUANCE:** A nonconforming use may be continued although such use does not conform to the current provisions of this ordinance.
2. **DISCONTINUED USE:** Whenever a nonconforming use has been discontinued for more than two (2) years for any reason, such nonconforming use shall not thereafter be reestablished, and the future use of the property shall be in conformity with the provisions of this ordinance.
3. **ALTERATIONS:** Alteration, expansion or change of a nonconforming use or structure shall only be permitted by Special Exception by the Zoning Board of Adjustment if it finds that:
  - a. the proposed alteration, expansion or change will not change the nature and purpose of the original use, and
  - b. the proposed alteration, expansion or change would involve no substantially different effect on the neighborhood, and
  - c. any increase in heated living space, as proposed by the plans submitted which, in the judgment of the Zoning Board of Adjustment, is reasonably capable of increasing the number of bedrooms for a nonconforming dwelling or lot, may require the septic system to be approved by the New Hampshire Division of Water Supply and Pollution Control and the Town of Hollis in accordance with the provisions of New Hampshire RSA 485-A: 38 and the Town of Hollis' septic regulations for the number of bedrooms currently in the home or proposed for the home.

### **B. NONCONFORMING LOTS**

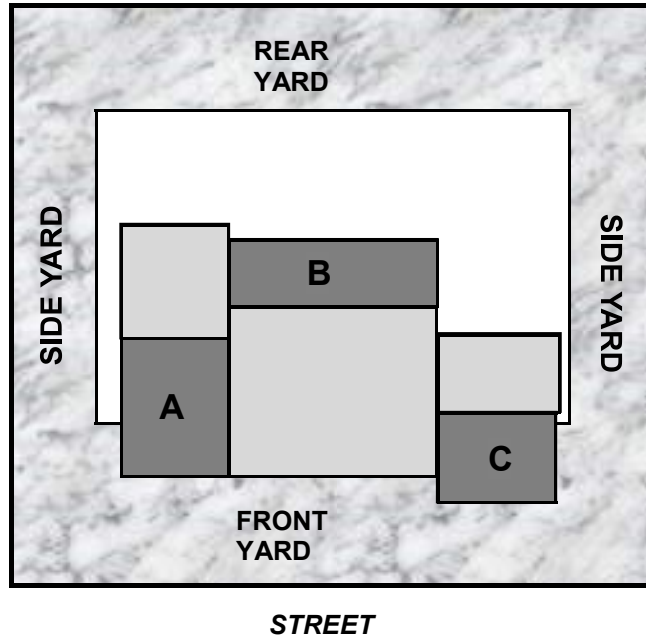
1. A nonconforming lot which has been developed with a structure may be continued for the same use but any alteration, expansion, new construction or change shall only be permitted according to the provisions set forth in item number 3, ALTERATIONS, as described above for A. NONCONFORMING USES. Provided, however, that any alteration, expansion, new construction or change that can be accomplished in a manner that will comply with the applicable setbacks for that district, shall be permitted.
2. A separate lot which does not conform to the provisions of this Ordinance, which is recorded and taxed as a lot of record at the time of passage of this Ordinance may be used for any conforming use of this district.
3. Any changes to existing septic systems on nonconforming lots must meet the Town of Hollis' Board of Health Subsurface Disposal Regulations.
4. The Zoning Board of Adjustment may grant a special exception to setback requirements for non-conforming lots of less than two acres in the Historic District if the Zoning Board finds that:
  - a. Strict adherence to the existing setbacks would detrimentally impact the Historic District and disturb the streetscape; or
  - b. Strict adherence to the existing setbacks would cause inconsistency in the massing of buildings; or
  - c. Strict adherence to the existing setbacks would be inconsistent with setbacks of existing adjacent buildings; or
  - d. If the structure as designed takes into consideration architectural and spatial elements of adjacent buildings an exception may be granted.
  - e. The ZBA will consider (but is not necessarily bound by) the recommendations of the HDC.

**C. NONCONFORMING STRUCTURE:**

**CONTINUANCE:** Any lawful nonconforming structure existing at the time of adoption of this Ordinance, may be occupied, operated, and maintained in a state of good repair, but any alteration, expansion, new construction or change of such structure that does not further aggravate a front, side, or rear yard setback nonconformity shall only be permitted according to the provisions set forth in item number 3, ALTERATIONS, paragraphs a and b, as described above for A. NONCONFORMING USES, and according to the diagram below.

**Expansions of structures with nonconforming setbacks**

(Not drawn to scale. Assume that the lot is conforming.)



**Explanation:** Proposal “A” requires a special exception;  
Proposal “B” requires no action by the Board of Adjustment;  
Proposal “C” requires a grant of variance by the Board of Adjustment. Proposal C does not include landings or stairs.

**SECTION XIII: RESIDENTIAL CONSTRUCTION TIMING AND PHASING ORDINANCE**  
(Adopted March 1992, March 2017 Repealed by Town Vote)

**SECTION XIV: SIGN ORDINANCE** (*Adopted March 1994, Amended 1996, 2004, 2012, 2013, 2014, 2016, 2017*)

- A. **SCOPE:** This Sign Ordinance provides for the installation, maintenance and display of signs in the Town of Hollis. The provisions of this section shall govern the construction, alteration, repair and maintenance of all signs together with the associated appurtenant and auxiliary devices in respect to structural and fire safety.

When reading and using this document, the INTENT of each section should carry more weight in decision making than the specific wording of each section. An attempt is made to state the intent at the beginning of each section. This statement of intent should be used as a guide to interpretation of any specific paragraph, article or provision.

It is the intent of this Sign Ordinance to support the general provisions of the 1991 Hollis Town Master Plan which seeks to preserve the visual New England rural character of Hollis and its Historic District. The following provisions were designed to encourage reasonable uniformity in the size, treatment and presentation of signs used to call attention to the existence of a business, activity, product or service. The ultimate goal of this Sign Ordinance is to ensure traffic safety, prevent obstructions in rights-of-ways, allow the existence of signs that aid orientation and identification of uses and activities to the public without degradation of the surrounding property or properties in any area, while, at the same time, understanding and meeting the need for adequate business identification and advertising.

B. **DEFINITIONS**

**ADMINISTRATIVE BOARD:** The person(s) or board appointed by the Board of Selectmen to be responsible for the interpretation and administration of the provisions of this Sign Ordinance.

**AWNING SIGN:** Any visual message incorporated into an awning attached to a building.

**COPY-CHANGE SIGN:** A sign on which the visual message may be periodically changed. Example: Reader boards.

**DIRECTIONAL SIGN:** A sign limited to providing directional or guide information on the most direct or simple route for on-site public safety and convenience. Directional signs may be located adjacent to driveways. Examples: "IN", "OUT", "ENTRANCE", "EXIT", and "PARKING".

**EVENT-SPECIFIC SIGN:** A non-prohibited temporary sign to be used to announce a non-profit organization event such as a festival, dance, meeting, fund-raiser, parade and other events which have a short term conclusion. These signs shall not promote a business.

**FREE STANDING SIGN:** A self-supporting sign not attached to any building, wall or fence but separate and affixed in or upon the ground. Included are pole signs, pylon signs, monolith and masonry wall-type signs. This does not include portable or mobile trailer type signs.

**GRANDFATHERED SIGN:** A non-conforming sign which legally exists and is allowed to remain even though it may not meet the terms of this ordinance.

**GROUND SIGN:** A sign supported by uprights or braces in or upon the ground surface.

**HISTORIC PLAQUE:** A marker, erected by federal, state, or local authority, identifying a historic place, name and/or date.

**HOLIDAY PERIOD:** A 30 day, or less, period of time surrounding a state recognized holiday, all of which time may be spent before or after the holiday.

**HOME OCCUPATION SIGN:** A sign which identifies a home occupation.

**ILLUMINATED SIGN:** Any sign illuminated by electricity, gas or other artificial light either from the interior or exterior of the sign and which includes reflective and/or phosphorescent surfaces.

**INFORMATION SIGN:** A sign, without advertising, designed and intended to convey information about a permitted use, to convey regulations or restrictions, or otherwise to provide needed guidance to the general public.

**LINEAL BUILDING FRONTAGE:** The length of a ground level straight line or lines parallel to and equaling the length of the building front that includes the main public entrance(s) or the side of the building fronting on the principal roadway. In the case of a multi-unit development, the frontage of each separate building is additive for the purpose of determining permissible sign area.

**MOBILE SIGN:** See Portable Sign.

**NON-CONFORMING SIGN:** A sign which does not comply with the provisions of this ordinance, but which

legally existed prior to the adoption of this Sign Ordinance.

**OFF-PREMISES SIGN:** A sign unrelated to a business or a profession conducted, or to a commodity or service sold or offered, upon the premises where such sign is located and/or a sign placed more than 300 feet from the main vehicular entrance to the advertised business or activity.

**PERSON:** Any individual, corporation, unincorporated association or other legal entity.

**PORTABLE SIGN:** A sign capable of being readily removed or relocated, and not attached to the ground, a building, a structure or another sign. This includes moveable signs mounted on a chassis, "A" frame and/or wheels, or supported by legs.

**PROJECTING SIGN:** A sign that is attached to the building wall or structure and which extends horizontally more than 6 inches from the plane of such wall, or a sign which is placed perpendicular to or at no less than a 45 degree angle to the face of such wall or structure.

**REAL ESTATE SUBDIVISION SIGN:** A sign that is erected to inform the public that a subdivision is being constructed and that one or more real estate agents represent the sale of lots or buildings within this subdivision.

**REFLECTING SIGN:** A sign which uses glass beads or some artificial substance whose primary purpose is to reflect light and cause this sign to "glow" when illuminated.

**REPRESENTATIONAL SIGN:** A three-dimensional sign built to physically represent the object advertised.

**RESIDENTIAL SIGN:** A sign which gives a name to a residence or farm such as "LAZY ACRES".

**ROOF SIGN:** A sign which is erected, constructed and maintained above the roof of the building. This includes any painting on the roof of a structure or design in the roofing material which effectively constitutes a sign.

**SIGN:** Any fabricated sign or outdoor display structure, including its structure, consisting of any letter, figure, character, mark, point, plane, marquee, design, poster, pictorial, picture, stroke, stripe, line, trademark, reading matter or illuminating device, which is constructed attached, erected, fastened or manufactured in any manner so that the same shall be used for the attraction of the public to any place, subject, person, firm, corporation, public performance, article, machine or merchandise, and displayed in any manner out of doors, or indoors as a window sign, for advertising purposes.

**SIGN DIRECTORY:** A listing of two or more business enterprises, consisting of a matrix and sign components.

**SIGN STRUCTURE:** The supports, uprights, bracing and framework for the sign.

**SIGN SURFACE AREA:** The entire area within a single, continuous perimeter enclosing all elements which form an integral part of the sign. The structure supporting a sign and pole covers or architectural embellishments shall be excluded unless the structure is designed in a way to form an integral background for the display. For purposes of calculating sign surface area, only one face of a double-faced, free-standing sign shall be included as surface or area of such sign. In the case of a sign consisting of 2 or more sides where the angle formed between any 2 or more sides or the projections exceed 30 degrees, each side shall be considered a separate sign area.

**SUBDIVISION SIGN:** A sign which states the name of the subdivision only and does not advertise lots and/or homes for sale nor agents to contact for such sales. Examples of such signs are: "CRESTWOOD", "FIELDSTONE", "RICHLAND ESTATES", and "SUNSET HEIGHTS".

**TEMPORARY SIGN:** A sign constructed of cloth, fabric, or other lightweight temporary material with or without a structural frame intended for a limited period of display.

**TOWN:** The Town of Hollis and/or its governing body.

**WALL SIGN:** A sign that is painted on, incorporated into or affixed parallel to the wall of a building and which extends not more than 6 inches from the surface of the building.

**WINDOW SIGN:** A sign visible from a sidewalk, street or other public place, painted onto or affixed to glass or other window material, or located inside within 2 feet of the window, but not including graphics in connection with customary window display of products.

- C. **ADMINISTRATION:** This section contains the requirement and application procedures that govern all matters concerning any sign which is to be erected, displayed, altered, reconstructed or maintained, including its supporting structure and any associated auxiliary devices in respect to structural and fire safety.

1. **ADMINISTRATION:** The Board of Selectmen shall appoint an Administrative Board or the Building Inspector/Code Enforcement Officer to interpret and administer this Sign Ordinance. The Building Inspector/Code Enforcement Officer has great discretion in many areas, as spelled out in the Ordinance.
2. **RELIEF:** Any relief, exception or variance sought from this Sign Ordinance, having been denied by the Building Inspector/Code Enforcement Officer may be brought before the Hollis Zoning Board of Adjustment.
3. **ENFORCEMENT:** The Building Inspector/Code Enforcement Officer shall be the enforcement authority of all provisions of this Ordinance. The Building Inspector/Code Enforcement Officer shall notify the violator(s) of the violation(s), along with any corrective action required.

#### **D. GENERAL REQUIREMENTS**

1. Unless otherwise specifically provided for in other sections of this Ordinance, no person shall erect, display, relocate, repair or reconstruct any sign, sign structure or outdoor display structure, in any district without first obtaining a permit from the Building Department
2. All signs and their structures that are to be erected, altered, relocated, repaired or reconstructed in any district must be approved by the Building Inspector/Code Enforcement Officer.
3. In the Historic District, all signs and their structures that are to be erected, altered, relocated, maintained, repaired or reconstructed are subject to the provisions of the Historic District Ordinance and must be approved by the Historic District Commission.
4. A permit and/or approval from the Building Inspector/Code Enforcement Officer is not required for maintenance of an existing sign as long as the maintenance does not include the cutting away of the sign structure or any alteration changing the original sign's appearance including, but not limited to, color, wording, and other sign attributes.

#### **E. APPLICATION FOR PERMIT**

1. All applications for sign permits shall be filed, by the property owner, building owner or owner in fee. Applications shall be filed with the Building Inspector, on forms provided by the Building Department. All applications shall bear the signature of the building or property owner or shall include a signed affidavit, by the owner, granting authorization for the applicant to apply for and install the proposed sign. All approved applications shall bear the signature of the Building Inspector/Code Enforcement Officer, Historic District Commission or Zoning Board of Adjustment, whichever applies.
2. All applicants for sign permits shall indicate all proposed materials to be used, including the support system configuration and design. The location of the proposed sign shall be included, showing all dimensions and measurements to property lot lines, principal building and other permanent structures.
3. All applicants for sign permits shall submit construction documents that include a scale drawing of the proposed sign showing size, color and lettering styles.
4. All applicants for sign permits shall include any and all information deemed necessary by the Building Inspector, to insure that the proposed sign complies with all applicable codes and Zoning Ordinance regulations.
5. All applicants for sign permits shall be required to submit a fee for filing and no permit shall be deemed complete until all applicable fees are paid to the Town of Hollis, NH. A schedule of fees for sign permits will be established and/or amended from time to time by the Board of Selectmen. Such fee changes shall not be deemed to be an amendment to this Ordinance.

#### **F. PERMITS**

1. The Building Inspector shall review and act upon all applications for sign permits and amendments thereto, within 7 days after filing. If the application or the construction documents conform to the Sign Ordinance or Building Code and are complete. The Building Inspector/Code Enforcement Officer shall issue a permit within 30 days. If the application or the construction documents do not conform or are not complete, the Building Inspector/Code Enforcement Officer shall notify the applicant in writing, stating the deficiencies and advising the applicant of his right to amend and resubmit the application or appeal directly to the Zoning Board of Adjustment.
2. Any permit issued shall become invalid if the sign is not erected within 6 months after the date of issuance.
3. Any person, applicant or agency representing a property owner who has been denied a permit can appeal such

decision to the Zoning Board of Adjustment, within 20 days after receipt of the notice of denial for a permit.

4. Violations of this Ordinance shall be subject to fines and penalties specified in the NH Revised Statutes Annotated.

**G. GENERAL PROVISIONS:** Unless specifically addressed under a particular section, all signs must comply with the general provisions listed under this section. This section also provides guidance and standards for construction of signs requiring permits and shall also serve as guidance for the construction of exempt signs.

1. **SIZE:** Reference by this Ordinance to size of a sign shall mean the sign surface area of a sign as defined herein.
2. All signs and sign structures shall be painted/fabricated in a professional manner in keeping with generally accepted construction standards of quality and design.
3. All signs, sign structures, and their appurtenant illumination devices shall be constructed in accordance with the Town adopted codes and regulations.

**H. PROHIBITED SIGNS:** This section intends to list specifically some prohibited signs. This list is not meant to be inclusive. Rather, it should be representative of the kinds of signs, which are prohibited in the community. The following are examples of prohibited signs:

1. Animated or moving signs, or signs which are made to appear to move;
2. Any internally lit signs, reflecting signs or "neon" signs which emit light or utilize any flashing light;
3. Any off premises sign (unless where expressly permitted);
4. Any off-premises directional signs bearing advertising or which are not a part of an approved Sign Master Plan;
5. Mobile or portable signs except as may be permitted in Section XIV.P.2 of this ordinance;
6. Roof signs;
7. Free standing signs exceeding 16 feet in height as measured from the average ground or road elevation, whichever is greater, to the top of the sign or its supporting structure;
8. Signs which impair or cause confusion of vehicular or pedestrian traffic in their design, color, placement or display characteristics. No sign shall impair visibility for the motorist at a street corner or intersection by placement and location within 25 feet of the intersection of the street or highway lines;
9. Banners, pennants, ribbons, streamers, spinners or similar moving fluttering or revolving devices except OPEN FLAGS as described in EXEMPTIONS section;
10. An advertising message extended over more than one sign placed along a street or highway unless as an integral part of a Sign Master Plan;
11. Signs attached to fences, trees, utility poles, rocks or other parts of a natural landscape, or in a position that will obstruct or impair traffic or in any manner create a hazard or disturbance to the health, safety and welfare of the general public;
12. Two permitted or exempt signs combined to create a larger sign;
13. Representational signs;
14. Outdoor displays or display structures, except that display stands on a farm premises shall be permitted, subject to other provisions of the Zoning Ordinance;
15. Temporary signs except as may be permitted as an EVENT-SPECIFIC sign;
16. Umbrella signs except as may be permitted by the discretion of the Building Inspector/Code Enforcement Officer;
17. Any other sign not expressly permitted by this Sign Ordinance.

**I. EVENT-SPECIFIC SIGNS:** This section provides for any sign, which is not intended for permanent display with the exception of some real estate signs as described in the REAL ESTATE SIGNS section and seasonal agricultural signs. This section is intended to allow for event-oriented signs including but not limited to signs which display information about political candidates, festivals, dances, business openings, sales, meetings, fund-raisers, parades and events which have a definite short term conclusion. It is the intent of this section that a single physical sign, with the exception of copy-change signs, or different signs displayed consecutively shall be considered as one sign and the



days that these signs are displayed shall be cumulative. Such signs shall not be displayed for more than 35 days in any 12 month period (this is not intended to mean a calendar year).

Any sign which is displayed for more than 35 days in any consecutive 12 month period is considered a permanent sign and shall not be considered under this section of the Ordinance. It will be the discretion of the Building Inspector/Code Enforcement Officer to require a permanent sign such as a copy-change sign, window sign, etc. as an alternative to a proposed event-specific sign.

1. Event-specific signs must have permission of the property owner.
2. An application for event-specific signs must be submitted to and approved by the Building Department. A sticker will be issued upon approval, and must be displayed on the sign.
3. Event-specific signs may be displayed no more than 30 days in advance of an event (including the date of the event) and must be removed no more than 5 days after the event.
4. Event-specific signs may not be attached to utility poles nor positioned where they will obstruct or impair traffic or in any manner create a hazard or disturbance to the health, safety and welfare of the public.
5. Event-specific signs shall not exceed 32 square feet of sign surface area.
6. No one parcel shall be allowed more than three event-specific signs at one time.
7. The Building Inspector/Code Enforcement Officer has the discretion to vary the terms and conditions identified in this EVENT-SPECIFIC SIGNS section.

**J. ILLUMINATION STANDARDS:** This section is intended to allow for the illumination of signs for public visibility during non-daylight hours. Any device and/or electrical component shall illuminate the sign only and shall not cast light, glare or reflected light on adjacent buildings or roadways or create a nuisance to abutters. Nor shall such illumination cause distraction to drivers of passing vehicles. Illumination shall be of low intensity and shall be directed so that the sign is adequately lit with a subdued light falling only on the subject sign. The minimum amount of lighting required to allow this sign to be visible shall be used and be appropriate to the character of the sign and surroundings.

1. A sign shall be illuminated only by a steady or continuous white light.
2. A sign must not flash either from interior or exterior light sources.
3. A sign shall not contain any "neon" lighting.
4. Holiday displays are the only instance when illuminated bulbs or strings of lights are allowed, except for those lights directed at and intended to illuminate a sign. Holiday displays may only remain lighted during the specific Holiday period.
5. Signs shall be illuminated so that no hazard is created to pedestrian or vehicular traffic due to intensity or direction of illumination.

**K. CONSTRUCTION AND SAFETY STANDARDS:** This section provides for signs and sign structures that will be structurally sound and built to withstand New England weather. This section also intends to provide for the safety of the general public with respect to any erected sign.

1. All signs and sign structures are to be constructed of good quality material and should be structurally safe in design and installation.
2. Signs shall not be permitted to be poorly located, improperly maintained, abandoned, or allowed to deteriorate, so as to pose a threat to public safety or to degrade the aesthetic appearance of the Town.
3. Signs shall not impede the visibility of traffic or create other dangerous conditions with respect to vehicular drivers and/or pedestrians.
4. Permanent signs should be built to last ten years or more.
5. All signs should be kept in proper repair and should not be allowed to deteriorate structurally or fade beyond recognition.
6. All signs, sign finishes, supports and electric work shall be kept clean, neatly painted and free from all hazards, such as, but not limited to, faulty wiring and loose supports, braces, guys and anchors.
7. All signs should be constructed to withstand 80 mile per hour winds and shall be maintained to continue to meet

this safety standard.

8. All signs, with the exception of OPEN FLAGS, shall be securely anchored.
9. The Historic District Commission, when acting on a sign permit application for property within the Historic District, may determine specific requirements as outlined in its policies.

**L. EXEMPTIONS:** The following types of signs may be erected and maintained without permits or fees, provided that such signs otherwise comply with the general requirements of this Sign Ordinance, and adhere to general construction and safety standards and other conditions specifically imposed by all other regulations. Signs otherwise exempt, may nonetheless require review by the Historic District Commission, as noted below. Any sign required by state or federal regulations may supersede the requirements of this Ordinance.

1. Signs erected or posted and/or maintained for public safety and welfare or pursuant to governmental function, law, regulation or ordinance.
2. Directional signs solely indicating entrance and exit placed at driveway locations. These should contain no advertising and shall not exceed 3 square feet of sign surface area nor extend higher than 4 feet above the average ground level. Subject to Historic District Commission approval within the Historic District.
3. Signs relating to trespassing, and/or hunting, hiking, walking. These signs shall not exceed 2 square feet of sign surface area unless part of a Conservation Area Sign Master Plan. Subject to Historic District Commission approval within the Historic District.
4. Historic plaques which depict a historic site, stone, monument, marker or other item/place of historic significance. These such markers shall not exceed 2 square feet in sign surface area. This paragraph shall not be deemed to regulate any plaque which is mounted on and is a part of the historic monument, but merely the plaque which advertises such an item or place. For example, a list of names mounted on a monumental stone or other edifice shall not be regulated under this Ordinance, subject to Historic District Commission approval within the Historic District.
5. Open Flags: These are flags of approximately 3 feet by 5 feet in size, usually red, white and blue in color and solely contain the word "OPEN". Properties are limited to one Open Flag unless the property is located on a corner and has 2 sides on a public way in which case that property may use 2 Open Flags.
6. Flags and insignia of any government except when displayed in connection with commercial promotion.
7. Number and name plates identifying residents, mounted on a house, an apartment, or a mailbox, not exceeding 2 square feet in sign surface area.
8. Lawn signs identifying residents with no more than 2 faces and not exceeding 2 square feet of sign surface area per face. Such signs are to be non-illuminated except by a light which is an integral part of a lamp post if used as a support with no advertising message thereon.
9. Yard Sale/Private owner merchandise sale signs for garage sales and auctions, not exceeding 2 square feet of sign surface area for a period not exceeding 7 days.
10. Temporary non-illuminated "FOR SALE", "FOR RENT", real estate signs and signs of similar nature, concerning the premises upon which the sign is located. All such signs shall not exceed 5 square feet of sign surface area and must be removed within 3 days after the sale, lease or rental of the premises. Refer to REAL ESTATE SIGNS section.
11. Non-illuminated window signs and posters not exceeding 25% of the window surface on which the sign(s) is displayed.
12. Holiday decorations and lighting may be displayed without a permit.
13. Integral graphics or attached price signs on fuel pumps at automobile service stations.
14. Decals used to reference authorized services (e.g. credit or bank cards) when not exceeding 144 square inches in total display area per business.
15. Political signs, which are regulated under RSA 664:17 as amended.

**M. RESIDENTIAL AND SUBDIVISION SIGNS:** This section addresses those signs, which pertain to residences and subdivisions.

1. Residential signs (signs which names a residence such as 'LAZY ACRES') and permitted Home Occupation signs can contain no more than 4 (four) square feet of sign surface area.
  2. Subdivision signs (which state the name of the subdivision) shall contain the name of the subdivision only and shall not exceed 16 square feet of sign surface area. Subdivision signs shall not advertise lots and/or homes for sale nor agents to contact for such sales. Examples of such signs are: "CRESTWOOD", "FIELDSTONE", "RICHLAND ESTATES", "SUNSET HEIGHTS"
- N. *AGRICULTURAL SIGNS:*** This section addresses signs erected by agricultural enterprises and is intended to give more latitude to agricultural enterprises in keeping with the goals of the Hollis Town Master Plan to preserve the rural/agricultural character and assets of Hollis.
1. Permanent agricultural signs: When affixed to a building, a sign shall not exceed 20 square feet of sign surface area. A free standing sign shall not exceed 20 square feet of surface area with no one horizontal or vertical dimension greater than 6 feet. Posts supporting a free-standing sign shall have a total width of no more than 1 foot (unless specified otherwise by building code requirements).
  2. Seasonal agricultural signs.
    - a. General. All seasonal agricultural signs:
      - i. Shall be removed within one week of the end of the pertinent harvest season;
      - ii. Shall conform to the pertinent substantive requirements of the Hollis Sign Ordinance; and;
      - iii. Shall not require approval by the Historic District Commission.
    - b. On-premises seasonal agricultural signs. All such signs:
      - i. Shall not exceed 20 square feet of sign surface area with no one horizontal or vertical dimension being greater than 6 feet.
      - ii. May be placed at any location on the enterprise's premises;
      - iii. Shall be limited in number to one sign, with the exception of pick-your-own opportunities, where 1 (one) additional sign may be displayed per crop picked where it has been grown (such as "Apples", "Peaches" & "Strawberries", etc.) provided that it displays directional information;
      - iv. Shall not require approval by the Building Inspector/Code Enforcement Officer; and
      - v. Shall not require approval by the Building Department.
    - c. Off-premises seasonal agricultural signs. All such signs:
      - i. Shall not exceed 4 (four) square feet of sign surface area;
      - ii. Shall contain directional information;
      - iii. Shall require initial permits from the Building Inspector/Code Enforcement Officer and the Building Department, which permits shall automatically renew for subsequent seasons; and
      - iv. May be relocated by permit only.
      - v. A maximum of 3 (three) off-premises seasonal signs are permitted per each Agricultural Enterprise.
  3. An Agricultural Enterprise may adopt a Sign Master Plan to increase the maximum amount of sign surface area available for marketing purposes at the enterprise's primary location. Refer to the SIGN MASTER PLAN section.
- O. *REAL ESTATE SIGNS:*** This section provides for those signs normally used by real estate agents in the advertising of lots or homes for sale. Such signs are considered "Sales Signs" and are not those signs which are erected to inform the public that a subdivision is being constructed and that one or more real estate agents represent the sale of lots or buildings within the subdivision. This latter type of sign is considered a "Real Estate Subdivision Sign", is an advertisement and should not be construed to be a SUBDIVISION SIGN as described in the RESIDENTIAL AND SUBDIVISION SIGNS section.

This section allows a new subdivision to erect a larger sign than is normally permitted at its entrance, for the purpose of marketing of lots and buildings. It is not intended to allow for the marketing of older or pre-sold homes or lots. Real Estate Subdivision Signs shall not be erected to advertise one or more lots or buildings on a particular street after the newly built subdivision has been marketed. This type of marketing calls for “Sales Signs.”

1. Sales Signs do not require a permit or approval by the Historic District Commission.
2. Sales Signs may not exceed 5 square feet of sign surface area.
3. Sales Signs shall not exceed one per lot except that corner or double frontage lots may have one on each front.
4. Sales signs shall not be used as off-premises advertising.
5. Sales Signs must be removed within 3 days after a sales transaction is complete.
6. Off-premises directional signs are allowed for the purpose of directing the public to an “OPEN HOUSE” and do not require a permit. Such signs may not exceed 4 square feet of sign surface area. Messages shall be limited to name or identification, arrow or direction, and distance. Off-premises directional signs may be erected no earlier than three (3) days prior to the “OPEN HOUSE” has begun and must be removed no later than one (1) day after the “OPEN HOUSE” has ended.
7. Real Estate Subdivision Signs require a permit.
8. Real Estate Subdivision Signs located within the Historic District shall not exceed 20 square feet of sign surface area and will be single-faced.
9. Real Estate Subdivision Signs located within an Industrial Zone shall not exceed 32 square feet of sign surface area and may be double-faced.
10. Real Estate Signs located in areas not mentioned above shall not exceed 32 square feet of sign surface area and will be single-faced.
11. Real Estate Subdivision Signs shall be removed when the active marketing of unsold lots or homes has ceased.

**P. HISTORIC DISTRICT SIGNS:** The intent of this section is to ensure the appropriateness of the placement, design, size, color and execution of signs within the Historic District so that they are visually compatible with structures and environment in the area.

1. Any proposed sign, sign structure or existing sign to be changed in either size, color, or lettering, and other similar attributes is subject to approval by the Historic District Commission. The following are required for application to the Historic District Commission:
  - a. A detailed, to scale drawing showing the type of lettering, all dimensions and colors;
  - b. A description of materials to be used and methods of illumination, if any; and
  - c. A plan showing the sign’s location on the building or property.
2. Signs should not contain more than 3 colors, except in instances of an illustration. Dark backgrounds with light colored lettering are encouraged. Signs with white background and traditionally colored lettering are allowed. Fluorescent or glowing colors are prohibited.
3. Signs shall not obscure important architectural details or features such as windows, transom panels, sills, moldings or cornices.
4. Signs on adjacent storefronts, within the same building, shall be coordinated in design, height, and proportion.
5. A storefront should not have more than 2 signs, one primary and one secondary.
6. Colors should harmonize with the facade color of the building.
7. The size of the signs should be restricted to ensure that signs do not overpower the facades to which they are affixed. Not more than 1.5 square feet of total signage area will be permitted per lineal foot of the storefront, not to exceed 32 square feet. The width of the primary sign shall be 2/3 of the width of the building street frontage or less.
8. Awnings can serve as signs with contrasting letters painted or sewn onto the valance. Usually, 6 to 8 inch letters are sufficient.

**Q. BUSINESS AND INDUSTRIAL SIGNS:** This section provides for those signs used by business entities in the Agricultural & Business Zone, Commercial Zone, and the Industrial Zone. This section is meant to address anything which advertises, names, calls attention to or informs the general public of any product sold or service performed on the premises.

**1. GENERAL REQUIREMENTS**

- a. A single business, single building, may have one sign per entrance not to exceed 32 square feet of sign surface area.
- b. A single business, single building, which is located on a corner lot may have 2 signs facing each public view. The total maximum sign surface area is not to exceed 32 square feet.
- c. A group of 2 or more businesses and/or industrial buildings may have one sign per entrance from a public road. Each sign is limited to a maximum of 32 square feet of sign surface area and must be free standing. Individual occupants within a building or collection of buildings may have, in addition, 1 sign with up to 6 square feet of sign surface area per occupant on the exterior of the building. In addition to the above, each individual occupant may have 1 sign with up to 2 square feet of sign surface area at its rear entrance.
- d. A group of 2 or more industrial buildings located in an Industrial Zone may have one sign per entrance from a public road. Each sign is limited to a maximum of 50 square feet of sign surface area and must be free-standing. Individual occupants within a building or collection of buildings may have, in addition, one sign with up to 6 square feet of sign surface area per occupant on the exterior of the building. In addition to the above, each individual occupant may have one sign with up to 2 square feet of sign surface area at its rear entrance.
- e. The total cumulative area of all signs permitted on any lot shall not exceed 2 square feet of sign surface area per lineal foot of building street frontage and in no case shall exceed 80 square feet, whichever is less, except as allowed in Sign Master Plans.

**2. MOBILE AND PORTABLE SIGNS**

- a. One self-supporting freestanding ("A-frame style") sign, which meets the construction standards of the ordinance, will be permitted at individual places of business. The maximum sign size is 25" x 36", with the top to be no more than 46" from the ground. Signs must be taken in at the close of business each day. These signs are used to promote a business and shall be placed on the parcel (lot) where the business resides out of the town/state right-of-way.
- b. An application for these signs must be submitted to and approved annually by the Building Inspector/Code Enforcement Officer using the same procedure as for event-specific signs. A sticker will be issued upon approval, which must be displayed on the sign.

**3. PROJECTING SIGNS**

- a. May not exceed 6 square feet of sign surface area.
- b. May have a structure that is attached to the building wall or structure and extends horizontally more than 6 inches from the plane of such wall or structure and can be no closer than 2 feet from the public right of way.
- c. Must be placed at a perpendicular angle or at an angle no less than 45 degrees from the wall or structure.
- d. Shall conform to Town-adopted ground clearance codes.
- e. Which overhang a public way, private street/road or sidewalk or path where pedestrians travel shall be covered by a public liability insurance policy which indemnifies the Town of Hollis. A certificate of insurance shall be forwarded to the Town which shall also be notified by insurance company should the coverage be discontinued for any reason.
- f. Must not interfere with fire and rescue operations.

**4. AWNINGS**

- a. Graphics may be painted, affixed or flat on the surface of the front or sides.
- b. Graphics shall indicate only the name and/or address of the enterprise or premises.

c. Shall conform to Town-adopted ground clearance codes.

**5. COPY-CHANGE SIGNS**

a. Are allowed to display daily specials

b. Must be part of the permanent signage and adhere to general construction standards and be professionally manufactured. Lettering is limited to 4 inches in height and should be made from rigid polycarbonate materials.

6. **CONTRACTOR'S SIGNS** shall not exceed 4 square feet of sign surface area and may be displayed while the contractor is actually working on the property and shall not be displayed more than one week prior to such work commencing and no later than one week after the work is complete.

**R. VENDING MACHINES:** It is the intent of this section to control where and when exterior vending machines are allowed. This section means to provide a special process for dealing with vending machines on an individual basis.

1. Exterior vending machines are permitted by special exception in any zoning district where they are compatible with the surroundings.

2. Any applicant who applies for a special exception to install a vending machine shall also specifically address in the application the method of lighting desired, if any. Approval of a vending machine does not automatically grant approval of lighting.

3. The Zoning Board of Adjustment shall hear and act on a vending machine request in the same manner as it acts on other special exception applications except that, in cases where a special exception is requested for a vending machine for a location within the Historic District, the Zoning Board of Adjustment may consider, but not necessarily be bound by, recommendations of the Historic District Commission.

**S. SIGN MASTER PLANS:** This section details additional signage allowed for those clusters of businesses and/or buildings, agricultural enterprises, and land conservation areas where adherence to the standard provisions of this Ordinance could result in a clutter of signs and detract from the aesthetic appearance of the environment. The intent of this section is to promote a uniform and aesthetic message presentation that is designed to provide information to the general public through its design and coordination of elements.

1. Unless specifically provided for in this section or at the discretion of the Building Inspector/Code Enforcement Officer, the general provisions of the other sections of this Sign Ordinance shall govern.

2. Sign Master Plans are encouraged in the following situations:

a. Where groups of 3 or more contiguous commercial and/or industrial units/lots are to be located together in a development.

b. Where one or two businesses total not less than 20,000 square feet of gross leasable area.

c. Where 3 or more individual businesses on contiguous lots so elect.

d. For all agricultural enterprises.

e. For land conservation areas.

3. The development (described in b. above) may adopt a Sign Master Plan to govern advertising and shall present such plan to the Building Inspector/Code Enforcement Officer for approval.

4. A Sign Master Plan approved by the Building Inspector/Code Enforcement Officer shall detail the placement, design, color coordination, visibility, informational messages and compatibility with the general design of the cluster of businesses or development.

**5. GENERAL REQUIREMENTS**

a. Total signage area for the entire development or cluster shall be calculated at the rate of 2 square feet of sign surface area per foot of lineal building front if applicable.

b. Each Sign Master Plan may provide for one common, free standing, sign denoting the name of the facility, not exceeding 80 square feet in sign surface area and with a bottom panel not less than 6 feet above the average ground or road elevation, whichever is greater, and a maximum height of 16 feet as measured from the same point.

- c. All secondary signs in the Sign Master Plan shall be attached to buildings, or walls and shall be coordinated in material, shape, lettering, color and/or decorative elements.
- d. Informational and directional signs, with the exception of uniform traffic control devices, shall be consistent with the general sign design of the development or cluster and are exempt from the total sign area calculation provided they do not contain advertising.

**T. GRANDFATHERED SIGNS:** It is the intention of this Ordinance to encourage GRANDFATHERED signs to come into conformity with the provisions of this Ordinance. The Building Inspector/Code Enforcement Officer shall use its discretionary powers to grant incentives to any person who presents a plan to reconstruct their GRANDFATHERED sign to meet or better approximate the provisions of this Ordinance. Ultimately, any GRANDFATHERED sign which is to be structurally altered, relocated or replaced so as to be more compliant with other provisions of this Ordinance shall be allowed at the discretion of the Building Inspector/Code Enforcement Officer.

1. GRANDFATHERED signs are allowed to remain even though these signs may not meet the terms of this Ordinance. These signs may be maintained and continue to exist as long as they present the same message and image to the public eye.
2. A GRANDFATHERED sign shall not be enlarged or replaced by another more non-conforming sign.

**SECTION XV: HOLLIS RURAL CHARACTER PRESERVATION ORDINANCE** (Adopted March 2004)

- A. **AUTHORITY:** This ordinance is promulgated by the Town of Hollis Town Meeting as an amendment to the existing zoning ordinance, pursuant to the authority provided to said Town by RSA 674:15.
- B. **APPLICABILITY:** This ordinance applies to the entire area of the Town of Hollis and to every zoning district therein as an overlay district. The provisions of this ordinance do not alter the list of permissible uses or the dimensional requirements of any district in any way, but address the manner in which development occurs and its placement on the landscape. All subdivision plans and site plans for commercial or industrial uses are required to comply with the provisions of this section. The Planning Board is empowered to modify or waive the requirements of this section as described in Section E below. The Planning Board is also empowered to adopt regulations to implement the intent of purposes of this ordinance.
- C. **OBJECTIVE:** To preserve and maintain Hollis' scenic vistas and rural character, particularly as seen from Public Roads, and maintain woodlands and open spaces through the use of visually unobtrusive and environmentally sound development, while permitting the landowner to exercise his/her property rights in a manner that does not affect the density of development.

**Means:** This ordinance shall provide a mechanism for the Planning Board to reasonably regulate the design, placement and buffering or screening of buildings, other structures, roads and driveways in the process of subdivision and site plan application review, in such a way as to best preserve the rural and scenic qualities of Hollis' landscape, in order to:

- 1. Eliminate the siting of new construction on or near the crest of prominent hilltops and ridges, particularly as seen from Public Roads.
- 2. Fit development into the landscape to minimize significant landscape alterations.
- 3. Buffer or screen development with vegetation where a natural wooded buffer or screen is sparse or non-existent.

**D. DEFINITIONS**

- 1. **ANLA STANDARDS:** Refers to the American Nursery and Landscape Association's publication, "American Standards for Nursery Stock", as amended.
- 2. **BUFFERING:** The use of vegetation or other visual barriers to soften or reduce the visual impact of buildings, manmade features and/or clearings associated with development.
- 3. **SCREENING:** The use of vegetation or other visual barriers to block the view of buildings and manmade features associated with development.
- 4. **CLEAR-CUTTING:** For purposes of this ordinance, clear-cutting is defined as the cutting of at least 50% of the total forest cover on a lot.
- 5. **FOREST COVER:** The total canopy expanse of a contiguous group of trees.
- 6. **NATIVE SPECIES/NATIVE VEGETATION:** Those species whose presence in the area extends to pre-Colonial times.
- 7. **RETAINING STRUCTURES:** A wall or other structure designed by a qualified professional engineer and placed at the toe (bottom) of a slope.
- 8. **RIDGELINE:** The long, relatively narrow crest or horizontal line of hills, usually at the highest elevation.

**E. WAIVERS**

The Planning Board is expressly empowered to modify or waive any requirement of this Rural Character Preservation Ordinance when requested in writing, if the applicant demonstrates and the Planning Board finds, after a hearing, that:

- 1. The requirements of this ordinance will prevent the applicant from being able to develop the subject property to a density otherwise acceptable to the Hollis Planning Board and permitted in the Hollis Zoning Ordinance; and,
- 2. The requested waiver is the minimum deviation necessary to permit the applicant the maximum permissible density acceptable to the Hollis Planning Board, and that the remainder of the submission, to the extent possible, conforms to the purposes and intent of this ordinance.



## **F. DESIGN STANDARDS**

It is the intent of this ordinance to complement the Hollis zoning ordinance and subdivision and site plan regulations. This ordinance protects the scenic landscape of Hollis through standards governing the placement and buffering or screening of structures and other man-made features on the landscape.

### **1. Standards for vegetative buffering and screening of building sites and cleared areas**

Screening should be placed in the open space areas of developments as much as possible. Open space in subdivisions should be configured so as to maximize the buffering and/or screening of building sites and disturbed areas. The Planning Board may determine whether buffering and/or screening is appropriate in each situation. The following design standards should be used where appropriate.

- a. Minimize the removal of existing vegetation that serves to buffer or screen proposed buildings and other manmade features. Trees may only be removed for the construction of streets, driveways, structures, well and septic systems and lawn or meadow areas or as part of a timberstand improvement program.
- b. Do not use stone riprap as a substitute for plantings in areas disturbed by earthmoving operations. Such areas are to be re-vegetated by appropriate means for screening, buffering and/or erosion control, and using appropriate plants. (See also 4, Road and Driveway Design and Placement Standards, paragraph f.)
- c. Use plantings to screen or buffer buildings in open or visibly prominent areas. If existing vegetation provides insufficient buffering or screening, use plantings that are compatible with existing vegetation, and/or are composed of native species. Plant trees in random clusters, not in rows, to simulate the appearance of natural tree stands.
- d. Do not use plants considered to be exotic invasive by the New Hampshire Department of Agriculture, and/or included on the State of New Hampshire's list of Prohibited Plants, or Prohibited Plants with restrictions.
- e. Follow the most current ANLA minimum size standards for plants used as vegetative buffering or screening as follows:
  - Deciduous shade trees: not less than 2 inch caliper and 8 feet tall
  - Deciduous ornamental trees: not less than 1.5 inch caliper and 6 feet tall
  - Deciduous shrubs: not less than 3 to 4 feet tall
  - Coniferous evergreen trees: not less than 5 feet tall
  - Coniferous and broadleaved evergreen shrubs: not less than 24 to 30 inches tall, or wide, if of a spreading nature.
- f. Plant vegetative buffering or screening of such a size and density to provide a reasonable expectation of buffering or screening development within five years.
- g. Include a canopy layer and an understory layer in vegetative buffering or screening, unless the specific situation warrants otherwise.
- h. Submit a management plan describing maintenance procedures for all plantings with the subdivision or site plan application. The management plan should address such issues as the schedule of planting, watering, fertilizing, pest control, trimming/tree maintenance and similar matters.
- i. Any property that has been clear-cut within the preceding ten (10) year period, and/or will be as a result of any proposed development, shall be required to conduct revegetation or other mitigation as deemed necessary by the Planning Board in order to comply with the intent and purposes of this ordinance.

### **2. Standards pertaining to construction on slopes, hillsides and/or ridgeline situations.**

- a. In the course of its review of a subdivision or site plan, the Planning Board may identify any characteristic, view or vista, as seen from a Public Road, that it deems of sufficient importance to warrant consideration pursuant to this ordinance. Once such characteristics, view or vista are so identified, the design of the project shall be governed by the following:
  - Building sites (structures plus the lawn area cleared of trees) and aboveground utilities, shall be located downgrade of the ridgeline whenever possible, and located so they do not interfere with the identified

characteristic or view or vista identified in the course of Planning Board review.

- In addressing this standard, the Planning Board may require the applicant to locate building sites downgrade from the identified characteristic, view or vista and may impose conditions limiting the vertical or horizontal distance of the building site(s) from the identified characteristic, view or vista so as to give effect to the purposes and objectives of this ordinance.
  - The Planning Board can modify this requirement when doing so does not detract from the purpose of this ordinance, and mitigation measures, such as plantings or topographical features, effectively screen the building site or otherwise mitigate any impact to the identified characteristic, view or vista as seen from a Public Road.
- b. Maintain the natural appearance of the crest of a hill or ridgeline with tree planting and other landscaping measures so the post-development profile of the ridgeline or crest matches, or very closely approximates, its pre-development profile.
  - c. Conduct grading or earth moving operations so the final, post-development contours appear to be consistent with the pre-development terrain, both on and adjacent to building sites.
  - d. Employ "contour grading" techniques where feasible. "Contour grading" means creating artificial slopes with curves of varying slope ratios in the horizontal plan designed to match the appearance of the surrounding natural terrain. Use the following techniques to accomplish this:
    - (i) Incorporate varied cut and fill banks and drainage terraces to alleviate monotony and allow for natural appearing landscaping.
    - (ii) Incorporate berms at the top of slopes and other locations to screen and direct drainage away from steep slopes.
    - (iii) Use retaining structures, compatible with the natural surroundings, when they will significantly reduce grading and land disturbance.
  - e. Avoid long linear slopes, except in cases where the natural slopes, except in cases where the natural slope configuration displays this form. When appropriate, cut and fill slopes shall have curved configurations that reflect the surrounding topographical context. Round the toe (bottom) and top of slopes to avoid forms at the convergence of manufactured and natural slopes.
3. Standards for development in open fields and other situations with sparse existing vegetation
- a. Locate buildings in the least visually intrusive manner possible. Locate buildings on the edge of open fields, or just within the edge of bordering woodlands, or create new tree lines, buffers or screening measures.
  - b. Locate new roads and driveways in the least visually intrusive manner possible. Follow existing contours instead of cutting across the field at the shortest distance between the building and the roadway.
  - c. When development is proposed on land in active agricultural use, it is preferable to keep some land in agricultural production through means such as limited development, agricultural restrictions, easements and other planning tools.
  - d. Cluster building lots and structures (whether or not the application in also a HOSPD subdivision) to preserve open areas and vistas into and out of the site.
  - e. Use landscaping and plantings to buffer and/or screen buildings in open or visibly prominent areas. Use landscaping and plantings that are compatible with existing vegetation. Any plant used as vegetative buffering or screening must not be considered to be an exotic invasive, by the New Hampshire Department of Agriculture and/or included on the State of New Hampshire's list of Prohibited Plants, or Prohibited Plants with Restrictions.
  - f. Plant trees in random clusters, not in rows, to simulate the appearance of natural tree stands.
  - g. Retain existing stone walls and stone foundations and incorporate them into the overall landscaping design.
  - h. Create or recreate meadows in disturbed open areas by mechanical seeding and/or landscaping. Use plants that are appropriate to the conditions of the site, with an emphasis on the use of native species. Do not use the seeds or roots of plants that are considered to be exotic/invasive by the New Hampshire Department of Agriculture, and/or included on the State of New Hampshire's list of Prohibited Plants, or Prohibited Plants

with Restrictions.

**4. Road and Driveway Placement Design Standards**

- a. Align roadways and driveways to conform to the natural contours of the land.
- b. Avoid long stretches of straight road by using gentle horizontal and vertical curves,
- c. Do not place roadways parallel to one another to avoid creating a "shelving" effect on hillsides.
- d. Use cul-de-sacs, loop streets, and common driveways to reduce the amount of impermeable surfaces, without sacrificing legitimate safety and road maintenance concerns.
- e. Reduce roadway width when such design minimizes the amount of necessary earthwork and does not compromise safety concerns.
- f. Stabilize and restore cuts and fills on slopes by using plantings and other measures approved by Town staff.

**5. Utilities**

- a. Construct and route utilities underground except in those situations where natural features prevent their underground siting or where or where safety considerations necessitate aboveground construction or routing.
- b. Construct and route aboveground utilities to minimize detrimental effects on the scenic qualities of the site and surrounding area.

**6. Erosion Control**

- a. Restrict the post development runoff rate and volume to match the pre-development rate or volume for each offsite flow area based upon a ten-year rainfall event. The first 1/2 inch of runoff from all impervious areas is to be retained on site. Treated runoff should infiltrate into the ground in an amount approximately equaling pre-development runoff conditions. Roof runoff is considered "treated" for the purposes of infiltration. If, after a recommendation by the Town Engineer, the Planning Board makes the determination that strict adherence to the above rate and volume regulations may cause more environmental harm than good, then offsite rates and/or volumes may be increased above pre-development conditions by as much as 25%. However, drainage in wetland conservation overlay (WCO) zones must adhere to the standards provided in Section XI.C.4 of the Hollis Zoning Ordinance, which requires that there be no net increase in peak flow or overall volume of stormwater runoff in the WCO zone as a result of any development. At no time shall offsite flow increases be allowed onto an objecting abutter's property.
- b. Use appropriate sediment and erosion control measures to minimize the impacts during and after construction. Any such measures using man-made materials such as woven synthetic textiles must be removed from the site after the soils are stabilized and vegetation is established.

**SECTION XVI: ADULT SEXUALLY ORIENTED BUSINESSES ORDINANCE.** (Adopted March 2006).

**A. PURPOSE:** The purpose of this ordinance is to establish reasonable and uniform regulations to prevent the concentration of adult sexually oriented businesses within the Town of Hollis, NH; to promote the health, safety and general welfare of its citizens; and, to prevent problems of blight and deterioration which accompany and are brought about by the concentration of adult sexually oriented businesses. The provisions of this ordinance have neither the purpose nor the effect of imposing limitations or restrictions on the content of any communicative materials, including sexually oriented materials. It is neither the intent nor the effect of this article to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this article to condone or legitimize the distribution of obscene material.

**C. DEFINITIONS:**

**1. ADULT SEXUALLY ORIENTED BUSINESS:** A business where one of its purposes is for the display and sale of sexually explicit goods and services including, but not limited to, sexually explicit books, videos, movies, computer software, or other visual or audio representations, including ones which meet the definition of “harmful to minors” and/or “sexual conduct” as set forth in RSA 671-B:1; or instruments, devices, or paraphernalia which are designed or used in connection with “sexual conduct” as set forth in RSA 571-B:1, other than birth control devices. Examples of adult sexually oriented business uses include, but are not limited to, places where a regular and substantial course of business operation involves the sale and display of sexually explicit goods and services such as: adult motels and theaters where sexually explicit films or videos are shown; places with mini-motion picture or coin operated displays; motels and theaters where sexually explicit films or videos are shown; adult cabaret; nude modeling studios; adult bookstores; escort agencies; or sexual encounter centers.

**C. GENERAL REQUIREMENTS**

2. Adult sexually business shall be permitted only within the Industrial and/or Commercial Zones. With the exception of distances between two separate adult businesses, distance shall be measured in a straight line, without regard to intervening structures, from the closest property line or boundary of any adjacent district, place or use to the closest exterior wall or temporary or permanent physical divider for the structure housing the adult sexually oriented business.
3. No adult sexually oriented business shall be permitted within seven hundred fifty (750) feet of any public sports/recreation park, church, place of worship, parish house, convent, public, parochial, or private school, drug free zone, kindergarten, licensed day care or nursery school, or State approved day care center.
4. No adult sexually oriented business shall be permitted within five hundred (500) feet of town boundaries.
5. No adult sexually oriented business shall be permitted within seven hundred fifty (750) feet of another existing adult sexually oriented business or one for which a non-residential site plan has been submitted. Distance shall be measured in a straight line, without regard to intervening structures, from the closest exterior wall or temporary or permanent physical divider for a structure housing an adult sexually oriented business to the closest exterior wall or temporary or permanent physical divider for another structure housing an adult sexually oriented business.
6. No adult sexually oriented business shall be permitted within a property, building, premise, structure, or other facility that contains an existing adult sexually oriented business or within one for which a certificate of occupancy has been applied.
7. No sexually explicit material or advertising shall be visible from outside the building.
8. No private viewing rooms or booth shall be constructed unless one side is always lighted and open to a public central area.
9. For those uses permitted in the district which sell sexually explicit goods and paraphernalia, such sexually explicit goods and paraphernalia must not be located within ready view to children and minors under the age of 18.
10. Hours of operation – 10 AM to 11 PM Monday to Saturday and 12 noon to 9 PM Sundays.
11. No one under 18 years of age allowed on the premises or an adult sexually oriented business.
12. The site shall be maintained daily in a condition that is free and clear of litter. All discarded sexual paraphernalia and/or packaging materials shall be placed in a locked dumpster.

- 13.** The use shall not create undue traffic, congestion or hazard, including vehicular and pedestrian movement.
- 14.** When reviewing site plan applications the planning board may impose reasonable restrictions for buffering, outdoor lighting, and landscaping and building aesthetics.
- 15.** Such a use will be subject to all other federal and state statutes and local permitting requirements.

**SECTION XVII: HISTORIC DISTRICT ORDINANCE.** (Adopted March 2008)

A. **PURPOSE:** By Ordinance, adopted in 1971 the Town of Hollis has established a Historic District. As set forth in RSA 674:45, the preservation of cultural resources, and particularly of Structures and places of historic, architectural and community value is hereby declared to be a public purpose. The heritage of the municipality will be safeguarded by:

1. Preserving districts in the municipality which reflect elements of its cultural, social, economic, political, community and architectural history;
2. Conserving property values in such districts;
3. Fostering civic beauty;
4. Strengthening the local economy; and
5. Promoting the use of historic districts for the education, pleasure and welfare of the citizens of the municipality.

B. **BOUNDARIES OF THE HISTORIC DISTRICT**

The Historic District is defined on the town zoning maps, which are on file in the Town Clerk's office of the Town of Hollis.

C. **DEFINITIONS**

1. **ACCESSORY BUILDING OR USE, CUSTOMARY:** Refer to Section VIII, Definitions.
2. **ALTERATION:** any repair, reconstruction, restoration, replacement, rehabilitation, demolition, addition, or new construction proposed for the exterior of a building or its site. The work may involve changes in materials, dimensions, design, configuration, texture, color, or visual appearance.
3. **ARCHITECTURAL FEATURE:** the architectural style, design, detail or general arrangement of outer surfaces of a structure and or building that, if altered or removed, would affect its appearance and character. Examples of architectural features include, but are not limited to, building materials, windows, doors, cornices, roofs, porticos, storefronts, and signs.
4. **CERTIFICATE OF APPROVAL (COA):** written authorization from the Commission to the building owner or project applicant that allows the owner/applicant to conduct any of the regulated activities specified in this ordinance.
5. **COMMERCIAL USE:** any use that requires site plan review under the zoning ordinance and regulations of the planning board
6. **DEMOLITION:** the razing, destruction, removal, or relocation, entirely or in significant part and including its facade, of a building, structure or other resource.
7. **LANDSCAPING:** The use of existing vegetation and terrain, or new permanent plantings, grade separations and/or fences intended to screen a building, structure, or place.
8. **MAINTENANCE:** see Repair.
9. **PUBLIC ROAD:** Refer to Section VIII, Definitions.
10. **RECONSTRUCTION:** the act of recreating a property that has been destroyed, through documentary research and the use of new materials
11. **REHABILITATION:** the process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving the character-defining features that are significant to its architectural, historical and cultural values.
12. **RELOCATION:** the act of removing a building, structure or other feature from its existing foundation or location to another foundation or location, including on the same site. For purposes of this ordinance, applications for relocation shall be subject to the same standards as demolition.
13. **REPAIR:** any work, which will involve no change in materials, dimensions, or design.

14. **SIGNIFICANT TREE:** Any tree that contributes to the character of the district and that exceeds 15” in diameter at a height of 4’ above grade and is located forward of the main building on the property and/or provides a canopy to the street.

15. **STRUCTURE AND OR BUILDING:** Refer to Section VIII, Definitions.

16. **TEMPORARY STRUCTURE:** Refer to Section VIII, Definitions.

**D. SCOPE OF REVIEW AND CERTIFICATE OF APPROVAL**

Uses permitted within the District shall be those permitted in the underlying zoning district. Notwithstanding any inconsistent ordinance, local law, code, rule or regulation concerning the issuing of building permits, no change in any Architectural Feature or other activities (as defined below in Section E) that is visible from a Public Road shall be commenced without a Certificate of Approval from the Historic District Commission, herein called the Commission, nor shall any building permit for such change be granted without such a Certificate of Approval having first been issued. The Certificate of Approval required by this section shall be in addition to and not in lieu of, any building permit that may be required by any ordinance, local law, code, rule or regulation of the Town of Hollis.

**E. ACTIVITIES REQUIRING REVIEW**

The following activities, if visible from a Public Road, shall require a Certificate of Approval from the Commission, whether or not such activity requires the issuance of a building permit. Screening by Landscaping shall not exempt an activity from review.

1. Erection, construction, Alteration, Relocation, or Demolition of a Building, Accessory Structure and or Building;
2. Erection, construction, Alteration, Relocation or Demolition of any Architectural Feature of a Structure and or Building;
3. Construction, erection, Reconstruction, significant Repair or removal of any stonewall, fence, granite work, walkway, sidewalk, paving (new or expansion of existing), exterior lighting, street light, or permanent sign;
4. Removal of a Significant tree(s), except where removal of such tree(s) is necessary for safety reasons as determined by a professional arborist or other qualified professional or by authorization of the Board of Selectmen in accordance with RSA 213:145;
5. Any site work involving changes to the grade, topography, or Landscaping of new multifamily dwellings or new commercial construction will be reviewed for visual appropriateness. The Planning Board may consider, but not necessarily be bound by, recommendations of the Commission for site work;
6. Any change or expansion in use will be reviewed for visual appropriateness. The Planning Board may consider, but not necessarily be bound by, recommendations of the Commission for any such changes;
7. Addition or Alteration of existing exterior siding (e.g. vinyl, aluminum, stucco, wood, glass, etc.), windows or doors of a Structure and or Building;
8. Painting in part or whole of a brick, stone, masonry, or concrete Structure and or Building; and
9. Erection of a Temporary Structure.

Roof Mounted Solar Energy Systems. All proposals in the Historic District shall be reviewed and approved by the Historic District Commission.

**F. ACTIVITIES EXEMPT FROM REVIEW**

The following activities shall not require a Certificate of Approval from the Commission.

1. Ordinary Maintenance and Repair of any Architectural Feature, which does not involve a change in the design, dimensions, materials or appearance of the feature or involve removal thereof;
2. Painting or repainting of a wood surface and/or an already painted brick, stone, masonry, or concrete Structure and or Building on the condition that the color is selected from the Commission’s palette of colors and is registered with the Commission;
3. Alteration or replacement of any existing roof covering or surface, provided that said Alteration or replacement is with the same material, patterns and colors of the existing roof covering or surface, and provided the roof plane

remains the same;

4. Installation or replacement of storm doors and storm windows provided that the historic Architectural Features are not altered, obscured, removed or demolished;
5. Landscaping on properties in residential use, with the exception of the removal of a Significant tree as described under Section E.4 and any site work described under Section E.5;
6. Interior Alterations;
7. Activity that is not visible from a Public Road and where lack of visibility is not due to screening by Landscaping as determined by the Commission and the Code Enforcement Officer; and
8. Agricultural greenhouses, including high hoop tunnels.

**G. INTERPRETATION**

As set forth in RSA 674:48, nothing in this subdivision shall be construed to prevent ordinary Maintenance or Repair of any Structure or place within any historic district nor to prevent the construction, Alteration, Repair, moving or Demolition of any Structure under a permit issued by the building inspector or other duly delegated authority prior to the establishment of any historic district.

**H. PERMITTED USES ALLOWED BY CONDITIONAL USE PERMIT IN THE HISTORIC DISTRICT:**

- a. Ground-Mounted Solar Energy Systems. All proposals in the Historic District shall be reviewed and approved by the Historic District Commission.



**SECTION XVIII: WORKFORCE HOUSING** (Adopted March 2009 - Amended March 2020)

- A. PURPOSE.** The purpose of this section is as follows: 1. To encourage and provide for the development of affordable workforce housing; 2. To ensure the continued availability of a diverse supply of home ownership and rental opportunities for low to moderate income households; 3. To meet the goals related to affordable housing provisions set forth in the town's Master Plan; and 4. To comply with the requirements of SB 342, an Act establishing a mechanism for expediting relief from municipal actions which deny, impede, or delay qualified proposals for workforce housing (RSA 674:58-61).
- B. AUTHORITY:** This innovative land use control section is adopted under the authority of RSA 674:21, and is intended as an "Inclusionary Zoning" provision as defined in RSA 674:21(I) (k) and 674:21(IV)(a), as well as RSA 672:1, III-e, effective July 2009.

RSA 674:21 II provides the authority for Planning Boards to grant Conditional Use Permits.

**C. APPLICABILITY:**

1. Workforce Housing Developments, constructed in accordance with the provisions of this section, are permitted as a Conditional Use Permit within the following zoning districts as defined in this zoning ordinance:
  - a. Agricultural and Business Zone (A&B)
  - b. Residential and Agricultural Zone (R&A)
  - c. Town Center (TC)
  - d. Multi-family Overlay Zone
2. Permitted Uses: Single family, duplex, and multi-family units are permitted within an application under this Section.

**D. CONDITIONAL USE PERMIT CRITERIA:**

The Planning Board may issue a Conditional Use Permit (CUP) if it finds, based on the information and testimony submitted with respect to the Workforce Housing Application, that:

- a. The application is consistent with the stated Purpose of the Workforce Housing Ordinance.
- b. If completed, the development in its proposed location will comply with all requirements of Section XVIII and other applicable workforce housing provisions contained in other sections of the zoning ordinance without the benefit of waivers.
- c. The applicant has demonstrated that the proposed use shall meet reasonable standards or conditions of approval related to environmental protection, water supply, sanitary disposal, traffic safety, and fire and life safety protection.
- d. Adequate provisions have been made to ensure that workforce housing units remain affordable consistent with Section G Assurance of Continued Affordability.

**E. DEFINITIONS:**

**Affordable:** Affordable means housing with combined rental and utility costs or combined mortgage loan debt services, property taxes, and required insurance that do not exceed 30 percent of a household's gross annual income.

**Workforce housing units/owner occupied:** Housing which is intended for sale and which is affordable to a household with an income of no more than 100 percent of the median income for a 4-person household for the metropolitan area or county in which the housing is located as published annually by the United States Department of Housing and Urban Development. Housing developments that exclude minor children from more than 20 percent of the units, or in which more than 50 percent of the dwelling units have fewer than two bedrooms, shall not constitute Workforce housing units for the purposes of this subdivision.

**Workforce housing units/renter occupied:** Rental housing which is affordable to a household with an income of no more than 60 percent of the median income for a 3-person household for the metropolitan area or county in which the housing is located as published annually by the United States Department of Housing and Urban Development. Housing developments that exclude minor children from more than 20 percent of the units, or in which more than 50 percent of the dwelling units have fewer than two bedrooms, shall not constitute Workforce housing units for the purposes of this subdivision.

**Area Median Income (AMI):** The median income of the greater region, either the HUD Metropolitan or Non-Metropolitan Fair Market Rent Area to which the community belongs, as is established and updated annually by the United States Department of Housing and Urban Development. Income considers both wage income and assets.

**Market Rate Housing:** Any units or lots within a development, whether the unit is to be owner or renter occupied, that is intended to be available for sale or occupancy at the prevailing market value for the area similar to comparable real estate transactions.

**F. *WORKFORCE HOUSING INCENTIVES:***

As noted in Section C, as well as specified in other sections of the zoning ordinance, workforce housing developments are a permitted use through a Planning Board approved Conditional Use Permit (CUP) process in the following zoning districts: Agricultural and Business; Residential and Agricultural; Town Center, as well as in the Multi-family Overlay Zone, provided that the workforce housing criteria outlined in Section XVIII and elsewhere in the zoning ordinance are met. Residential unit densities shall be permitted to increase so as to afford a reasonable and realistic opportunity for the development of workforce housing units.

**G. *WORKFORCE HOUSING GENERAL REQUIREMENTS:***

1. In order to be considered as a “completed” application eligible for “acceptance” under RSA 676:4.I, and application under this section must contain, at a minimum, the following information:
  - a. Calculation of the number of units provided under this section and how these units will be consistent with the Purpose of the Ordinance.
  - b. Description of each unit’s size, type, estimated cost and other relevant data.
  - c. Documentation of affordable household eligibility as required in Section H.
  - d. The Planning Board shall request additional information if, in their judgment, it is necessary to make a meaningful determination of affordability.
2. At the Planning Board’s discretion, the applicant shall be required to submit project cost estimates including land, development and construction costs; financing, profit, and sales costs; and other cost factors shall be provided. The planning board shall request updates of these cost reports as the project progresses.

**H. *ASSURANCE OF CONTINUED AFFORDABILITY:***

In order to qualify as workforce housing under this section, the application shall make a binding commitment that the workforce housing units will remain affordable for a period of years. This shall be enforced through a deed restriction, restrictive covenant, or some other contractual arrangement through a local, state or federal housing authority or other non-profit housing trust or agency or through the town itself as selected by the Planning Board to administer this provision. No workforce housing unit shall be occupied until written confirmation of the income eligibility of the tenant or buyer of the unit has been documented and all required legal documents outlined in the administrative rules have been completed and recorded. The planning board shall adopt a set of administrative rules detailing the parameters to enforce this binding commitment.

**I. *ADMINISTRATION, COMPLIANCE AND MONITORING:***

1. This article shall be administered by the Planning Board. Applications for the provisions provided under this section shall be made to the Planning Board and shall be part of the submission of an application for site plan or subdivision plan approval.
2. The Planning Board shall not approve any workforce housing proposal unless it complies with all applicable standards of this ordinance including but not limited to environmental protection, water supply, sanitary disposal, traffic safety, and fire and life safety protection.

**SECTION XIX: EXCAVATION OR MOVEMENT OF EARTH MATERIALS**

A copy of the REGULATIONS GOVERNING THE EXCAVATION, REMOVAL OR MOVEMENT OF EARTH IN THE TOWN OF HOLLIS, NH (EXCAVATION Regulations) may be obtained at the Planning Board Office in the Town Hall.

**A. PURPOSE AND AUTHORITY:** Pursuant to NH RSA 674:16 (Grant of Power) and 674:17 (Purposes of Zoning Ordinance), the Town of Hollis hereby establishes the locations and zoning districts in which the excavation or movement of earth materials shall be a permitted use. The intent of this Ordinance is to establish the locations in which excavations may be permitted, while also protecting sensitive natural resources, cultural and historic areas, and existing residences from the adverse impacts of excavations.

**B. EXCAVATIONS:** Districts where permitted, prohibited and allowed by special exception:

a. Excavation or movement of earth materials shall be permitted or prohibited within certain zoning districts as follows:

(i) Permitted: Within the boundaries of the Industrial Zone-(I);

(ii) Prohibited: Within the boundaries of each of the following zones:

NAME	ABBREVIATION
Town Center	TC
Agriculture and Business	A&B
Commercial	C
Recreation	R
Mobile Home-1	MH-1
Mobile Home-2	MH-2
Water Supply Conservation	WSC
Wetland Conservation Overlay	WCO

(iii) Within all other zones (Rural Lands (RL), Residential and Agricultural (R&A), Flood Plain Overlay (FPO), and Aquifer Protection Overlay (APO)), excavations of less than 5,000 cubic yards/year may be permitted by the Regulator in accordance with the Town’s Excavation Regulations (promulgated 11/28/83, and as amended) provided that:

- No more than 50% of abutting property (as determined in Section IX,A.3.a, below) is used for residential purposes at the time of application;
- Traffic generated by the excavation does not increase average weekday traffic by more than 20% on any affected roadway; and
- No permit shall be granted for a duration of more than one year, but may be renewable at Regulator’s option if conditions existing at issuance of permit have not materially changed.

(iv) Within all other districts (Rural Lands (RL), Residential & Agricultural (R&A), Flood Plain Overlay (FPO), and Aquifer Protection Overlay (APO)), excavation of more than 5,000 cubic yards/year shall be permitted only by special exception granted by the Hollis Zoning Board of Adjustment, pursuant to paragraphs 3-6 of this sub-section.

(v) Any excavation or movement of earth materials, whether permitted by right or by special exception granted by the Zoning Board of Adjustment, shall also be required to obtain a permit from the Regulator in accordance with all regulations governing such activity as have been adopted or amended or shall be adopted or amended.

- C. **SPECIAL EXCEPTIONS:** The Hollis Zoning Board of Adjustment, in acting on requests for special exceptions under this Ordinance, shall be guided in its deliberations by the following considerations:
- a. **THE PROXIMITY OF EXISTING RESIDENCES** to the site of the proposed excavation, such that no excavation shall be permitted which cannot maintain the required 75-foot buffer from all property lines. Generally, excavations shall not be permitted where 50% or more of abutting property is used for residential purposes at the time of application. This standard shall be interpreted to mean:
    - (i) an abutting property shall be deemed used for residential purposes where a residential structure is located within 200' of the excavation site property line; and
    - (ii) the percentage of residentially-used abutting property is determined by measuring the length of shared property boundary between such abutting property and the excavation site, relative to the total external dimensions of the excavation site property.
  - b. **TRAFFIC AND TRANSPORTATION** impacts such that: To the extent feasible all excavations shall take direct access from a “collector” class street or better. Additionally, all proposed excavations shall submit to the Zoning Board of Adjustment a proposed truck-routing plan and traffic impact study which estimates annual, weekly, and daily truck trips to and from the site, as well as actual traffic counts for all roads to be affected by the excavation. Any excavation proposal which will have the effect of increasing average hourly volume during weekday periods of operation by 20% or more on any affected road shall be prohibited. Excavations shall only take access from or to a designated scenic road where the Zoning Board of Adjustment determines that use will not adversely affect the roadway’s physical capacity or quality of its scenic character.
  - c. **WATER RESOURCE PROTECTION:** Such that any excavation proposed to occur in the Aquifer Protection Overlay Zone (APO) shall not be permitted to be excavated to a depth of less than 8 feet above the seasonal high water mark, unless development rights are deeded to the Town of Hollis for such areas, in which case excavation shall not be permitted within 2 feet of the seasonal high water mark. Acceptance of such development rights shall be at the discretion of the Regulator.
  - d. **DIMINUTION OF VALUE** of surrounding or abutting property shall be considered. Any excavation which will have the effect of permanently and unavoidably diminishing the value of abutting properties shall not be permitted. Temporary (up to 3 years) impacts on property values shall not be the sole basis of denial of a special exception for excavations.
  - e. **PROJECT SCALE, INTENSITY, AND DURATION:** Reasonable limitations on the amount of material to be excavated, the traffic generated, and the duration of the proposed excavation may be established by the Zoning Board of Adjustment in approving special exceptions.
  - f. **OTHER PROHIBITED PROJECTS** as described in NH RSA 155-E:4, shall not be permitted by special exception. Any excavation proposed to occur below road level within 100' of any public right of way, unless such excavation is for the purpose of such right of way, shall be prohibited.
2. **NOTHING IN THIS ORDINANCE** shall limit or abridge the jurisdiction of the Hollis Planning Board to act as “Regulator” of excavation or removal of earth materials pursuant to RSA Chapter 155-E and regulations lawfully promulgated pursuant thereto.
  3. **THIS ORDINANCE SHALL NOT** apply to such excavation or removal of earth materials as is excepted from the effect of RSA 155-E by the provisions of RSA 155-E:2, provided, however, that excavation excepted under RSA 155-E:2 shall continue to be subject to this Ordinance.
  4. **APPEALS:** Decisions of the Zoning Board of Adjustment regarding excavations may be reheard by the Zoning Board of Adjustment pursuant to RSA 676:5-7. Decisions of the Planning Board, acting as Regulator, may be reheard by the Planning Board, pursuant to RSA 155-E:9.
  5. **EARTH** or **EARTH MATERIALS** shall mean sand, gravel, rock, soil, or construction aggregate.
  6. **REGULATOR** shall mean the Hollis Planning Board acting in its capacity and powers under RSA Chapter 155-E.

**SECTION XX: HOLLIS OPEN SPACE PLANNED DEVELOPMENT** (*Adopted March 1993, Amended March 1994*).

1. **AUTHORITY:** This ordinance has been adopted by Town Meeting Vote of the Town of Hollis, New Hampshire pursuant to RSA 674:21, Innovative Land Use Controls.
2. **DEFINITION:** A Hollis Open Space Planned Development (HOSPD) is a land subdivision where the density of dwelling units is no greater than would be permitted in the district in which the HOSPD is located, but where the lot size and other dimensional standards may be reduced in exchange for the preservation of permanently protected open space, recreational land, forests, and/or farmland.
3. **PURPOSE:** The purpose of the HOSPD is to:
  - a. Promote a more efficient use of land requiring a smaller network of streets and utilities;
  - b. Promote the preservation of open space, farmland, recreation areas, green space, fields and woods, valuable wildlife habitat, and outstanding topographic, natural, and historic features;
  - c. Discourage the sprawling, land-consuming form of development usually resulting from conventional subdivisions;
  - d. Promote the efficient provision of municipal services and protect existing and potential water supplies;
  - e. Maintain the rural and scenic character of the Town of Hollis;
  - f. Promote siting of buildings which is sensitive to existing natural and historic features;
  - g. Protect the value of real property; and
  - h. Provide a variety of types of living spaces and environments.

**4. APPLICABILITY AND PROCEDURES IN A HOSPD**

- a. **APPLICABILITY:** To facilitate achievement of the goals of the Hollis Master Plan, all major subdivisions shall be presented to the Planning Board in accordance with the Hollis Open Space Planned Development (HOSPD) standards as specified in this section and in the Land Subdivision Regulations. In all cases it shall be assumed that a HOSPD plan is necessary to meet the goals and objectives of this section and of the Master Plan. In cases where the Planning Board determines that a parcel is unsuited to development as a HOSPD, it may waive the requirements of this Section IX,J and permit the parcel to be developed as a conventional subdivision subject to the Point Criteria System, below.
- b. **EXEMPTIONS:** Subdivisions creating five (5) or fewer lots are exempt from this requirement, provided there is no potential for further subdivision of any of the lots therein or the parent parcel. However, an applicant, may, at his/her option, develop subdivisions of five (5) or fewer lots according to HOSPD standards. Any major subdivision not subject to HOSPD requirements shall meet the Point Criteria System.

Subdivisions solely creating lots which will not be used for building purposes shall be exempt from HOSPD requirements.

Subdivisions where each lot is at least 5 acres shall be exempt from HOSPD requirements, provided the deed for each lot contains a restriction prohibiting the further subdivision of the lot, such deeds to be presented to the Planning Board for recording in the Hillsborough County Registry of Deeds within one month after final approval of the subdivision, and further provided that a note shall be included on the final subdivision plan containing the same restriction and specifically identifying the lots so restricted.

- c. **CONCEPTUAL LONG RANGE PLAN:** When a subdivision plan is proposed to include lots which are capable of further subdivision, or, when after subdivision a parcel(s) remains which is capable of further subdivision, the Planning Board may require that a conceptual long range plan for the entire parent parcel be presented so that the board may consider the entirety of a project and its impacts. This long range plan is non-binding, and is intended to guide the Planning Board in its assessment of the environmental, social, and economic impacts of current and possible future development. In such cases, point system review per the Land Subdivision Regulations shall be based on the long range plan.
- d. **PROCEDURES:** HOSPD plan submission, review and approval procedures shall be as described in the Hollis Land Subdivision regulations.

**5. DENSITY, DIMENSIONAL, OPEN SPACE AND HEALTH REQUIREMENTS IN A HOSPD**

**a. DENSITY**

- (i) The density of dwelling units in a HOSPD shall be no greater than one dwelling unit per 2 acres of Net Tract Area.
- (ii) The number of dwelling units permitted in a HOSPD shall be no greater than the number of units that would be possible if the parent parcel were wholly subdivided in a conventional manner (i.e.: without an open-space set-aside). In order to arrive at this number, the applicant may either submit a conceptual plan showing how the parcel could be subdivided in a conventional manner, or otherwise demonstrate the possible number of conventional lots in a manner acceptable to the Planning Board. The possible number of conceptual conventional lots will be determined with the use of Site Specific Soil Mapping. For purposes of determining the number of HOSPD lots, each conceptual conventional lot must meet the requirements of a buildable lot as defined in the Hollis Zoning Ordinance, and meet all other applicable requirements of the Zoning Ordinance and Land Subdivision Regulations.

**b. LOT SIZE**

- (i) While the overall density of dwelling units in a HOSPD shall be no greater than one dwelling unit per 2 acres, individual lots may be reduced to a minimum of one acre, provided that all lots have a contiguous area of at least one acre of acceptable land.
- (ii) Backland lots in a HOSPD may be reduced to a minimum of 2 acres, provided they have a minimum of 20 feet of frontage and a contiguous area of at least one and one-half (1 1/2) acres of acceptable land.
- (iii) All lots in a HOSPD need not necessarily be reduced in size or frontage as compared to lots in a conventional subdivision. The Planning Board encourages a diversity of lots sizes and styles so as to ensure that a diversity of housing types and lifestyles remains available in the Town.
- (iv) HOSPD lots developed on a preexisting road shall have a minimum size of two (2) acres.
- (v) No portion of a reduced acreage HOSPD lot (less than two acres per lot, or less than four acres per backland lot) shall be located within two hundred feet of an existing road. Reduced acreage lots shall be separated from existing roads by open space, as described in Section IX.J.5.d below. "Existing road" shall mean any public highway not developed as a part of a PUD or HOSPD.

**c. FRONTAGE**

- (i) For HOSPD lots developed along a pre-existing Town road: 200 feet minimum per lot.
- (ii) For HOSPD lots developed along a new subdivision road: 125 feet average per lot. The absolute minimum frontage for a HOSPD building lot on a new subdivision road shall be 100 feet.
- (iii) For Backland lots: 20 feet minimum per lot. Backland lot frontage shall not be included in calculating the average frontages cited in Section IX.J.5.c.(i-ii).

**d. OPEN SPACE REQUIREMENTS**

- (i) Open space, as defined in Section VIII of the Hollis Zoning Ordinance, shall have a shape, dimension, character and location suitable to assure its use for park, recreation, conservation or agricultural purposes. In determining whether the intent of this section has been satisfied, the Planning Board shall consider the extent to which land having one or more of the following characteristics is included in the proposed open space:
  - Preservation of land for the town greenway system as described in the Hollis Master Plan
  - Preservation and utilization of areas designated as prime agricultural soils as mapped by the NRCS (Natural Resources Conservation Service) in their latest report.
  - Preservation and utilization of active farmland or orchards
  - Preservation of large tracts of interconnected woodlands, wetlands, or other wildlife habitat, or preservation of open lands that connect to protected land in adjacent parcel(s).

- Provision of active and/or passive outdoor recreational areas
  - Protection of land along scenic roads and highways
  - Protection of existing trail networks on land on which new trails will be developed as part of the HOSPD for integration into an existing trail network.
- (ii) For a HOSPD with a density of 3 or more acres per one dwelling unit of the gross tract area: 40% of the tract must be set aside as permanently protected open space for recreation, conservation, or agricultural uses. No portion of the open space land may consist of wetlands, hydric soils, surface waters, flood plains, and areas with unaltered slopes greater than 25%. Roadways rights-of-way and driveways shall not be counted as open land.
- (iii) For a HOSPD with a density of less than 3 acres per one dwelling unit of the gross tract area: 50% of the tract must be set aside as permanently protected open space for recreation, conservation, or agricultural uses. No portion of the open space land may consist of wetlands, hydric soils, surface waters, flood plains, and areas with unaltered slopes greater than 25%. Roadway rights-of-way and driveways shall not be counted as open space land.
- (iv) The open or common land must be contiguous to each house lot in the HOSPD. The Planning Board may waive this requirement only when conditions of topography, wetlands, or other physical site constraints prevent such an arrangement; or when the land best suited for open land use, in the judgment of the Planning Board, is situated towards one end of the tract or contiguous to existing conservation lands. In such cases, the open land must be configured so as to achieve the conservation or recreation objectives of this section.
- (v) When, due to physical constraints such as soils, topography, wetlands or other natural features, application of the open space requirements cited in Section IX,J.5.a and Section IX,J.5.b prevents an applicant from realizing the same number of lots/units as would be possible by a conventional subdivision, the Planning Board may consider and approve a reduction of the open space requirement. Such a reduction shall nonetheless otherwise maximize open space.
- (vi) **OPEN SPACE OWNERSHIP AND MANAGEMENT** Open space shall be conveyed to a homeowner's association, whose membership includes all the owners of lots or units contained in the tract, or shall be permanently protected in other suitable ways which would ensure the continued use of the land for intended purposes and proper maintenance of the land. Conveyance of open space to the Town would be another option available to the developer with agreement from the Conservation Commission and the Board of Selectmen.

e. ***BUILDING SETBACKS***

The following setbacks shall apply to all principal structures, except that no principal structure may be located within the 35 feet of the perimeter boundary of a HOSPD development:

- Front Yard: 50 feet
- Side Yard: 17 ½ feet
- Rear Yard: 17 ½ feet

Accessory Structures shall be a minimum of 15 feet (fifteen feet) from side and rear lot lines.

**6. *WORKFORCE HOUSING UNITS/OWNER OCCUPIED***

Single family workforce housing units/owner occupied are permitted, provided the following criteria are adhered to:

1. **Density:** The maximum number of allowable dwelling units that could be developed under the provisions outlined in Section 5.a shall be determined following the standard practice for a Market Rate Housing development. Once the number of HOSPD lots has been determined and agreed to by the Planning Board then that lot figure may be increased by up to 20% if it is shown that construction of workforce housing would otherwise not be economically viable. These additional lots shall be designated as workforce housing units/owner occupied.
2. **Lot Size:** There is no minimum lot size for workforce housing units. The proposed site shall have adequate soils to accommodate on-site wastewater treatment and an adequate water supply adhering to both local and state requirements. A Building Area shall be required and at least 50% of the lot shall be Acceptable Land. In addition,

wells serving both workforce housing and market rate housing lots may be located in designated Open Space areas.

With the goal of meeting the Open Space requirements in Section 5.d., the size of Market Rate Housing lots, as outlined in Section 5.b. may be reduced in order to accommodate the permitted workforce housing units. If it is determined, to the satisfaction of the Planning Board, that market Rate Housing lots cannot be reduced enough or at all because of septic and/or water supply regulations in order to accommodate the total permitted housing unit density, then the Planning Board may consider one or more of the following options in order to accommodate the increased density:

- a. The building area requirement for Market Rate Housing lots may be reduced in size.
  - b. Open space areas can be used to satisfy lot area requirements. The amount of Open Space area used shall be the minimum needed in order to accommodate the permitted project density.
  - c. Septic system areas may be located in designated Open Space areas. The Planning Board shall consider the following: the environmental sensitivity of the Open Space; the proximity of wetland areas; the ability to consolidate septic systems in one area to create an “open field” environment; the quality of the Open Space soils and other factors deemed appropriate by the Planning Board.
3. Frontage: Workforce housing lots shall have a minimum of 20 feet of frontage. Workforce housing lots shall not be developed or front along an existing road. In order to meet the lot size and open space goals noted above, the frontage requirements outlined in Section 5.c.ii may be reduced for Market Rate lots if deemed necessary by the Planning Board in order to meet the Purpose of Section XVIII.
  4. Building Setbacks: Shall be as noted in Section 5.e.
  5. The dwellings qualifying as Workforce housing units shall be compatible in architectural style and appearance with the Market Rate units in the proposed development. To achieve this, workforce housing units may be interspersed throughout the overall development, or clustered together in one or more area(s).
  6. Workforce housing units shall contain no more than three bedrooms.
  7. To ensure that the application is completed as permitted, a phasing plan for the project shall provide for the development of workforce housing units concurrently with the market rate housing units. The dwellings qualifying as workforce housing shall be made available for occupancy on approximately the same schedule as a project’s market rate housing units, except that the certificates of occupancy for the last 10 percent of the market rate housing units shall be withheld until certificates of occupancy have been issued for all the workforce housing units. A schedule setting forth the phasing of the total number of units in a project under this section, along with a schedule setting forth the phasing of the required workforce housing units shall be established prior to the issuance of a building permit for any development subject to the provisions of this section.
  8. Projects proposing to include workforce housing units shall be exempt from the provisions of Section XIII, Residential Construction Timing and Phasing Ordinance for both market rate housing and workforce housing units. (Repealed March 2107)



## **SECTION XXI: HOUSING FOR OLDER PERSONS** (Amended March 2017)

**A. PURPOSE:** The regulations in this section have been established for the purpose of encouraging the construction of housing for older persons. The intent is to provide for such housing by the provision of a waiver from the otherwise applicable density requirements while complying with all applicable state and federal laws with respect to such housing, and at the same time, ensuring compliance with local planning standards, land use policies, good building design, and the requirements for the health, safety, and general welfare of all the inhabitants of the Town.

**1. GENERAL STANDARDS:** All housing for older persons shall conform to the following standards:

- a. Dwelling unit density shall not be greater than one (1) two-bedroom dwelling units /net tract acre when the type of housing that is being proposed is that which complies with NH RSA 354-A:15, Housing for Older Persons.
- b. Adequate on-site space must be provided for off-street parking, water, and sewage disposal systems, regardless of maximum allowable densities. The applicant shall demonstrate that that the site can accommodate the permitted density through a Site Specific Soil Survey as part of the application for review by the Planning Board.
- c. Building types and styles, including exterior aesthetics and unit arrangements, shall be suitable and appropriate for their intended purpose, in light of the size and scale of the project, the relevant zoning district, the prominence and the visibility of the proposed project in the community, the surrounding neighborhood, and other similar factors, in accordance with the requirements of the site plan regulations for housing for older persons.
- d. Housing developments for older persons shall be exempted from the provision, which allows only one dwelling unit to be constructed on each lot.
- e. The minimum lot area shall be 30 acres and the lot shall have at least 50 feet of frontage on those roadways listed in Section XXI.A11.
- f. No more than fifteen (15%) percent of the tract may be covered by impermeable surfaces.
- g. The design and site layout of the development shall emphasize the rural character of the Town, maximize the privacy of the dwelling units, preserve the natural character of land, provide for the separation of parking and living areas, and consider such factors as orientation, energy usage, views.
- h. The development shall be landscaped so as to enhance its compatibility with the Town with emphasis given to the use of existing, natural features where possible.
- i. The perimeter of the development shall be treated with a landscaped buffer strip to minimize its intrusion on neighboring land uses.
- j. The development shall provide for 40% open space, exclusive of wetlands, surface waters, hydric soils, flood plain, and unaltered steep slopes greater than 25%.
- k. A proposed site shall have adequate soil to accommodate on-site wastewater treatment. Water supply shall be adequate for, and the water system shall be designed to provide, the maximum flow practical for fire-fighting purposes.
- l. For reasons of public and resident safety and timely emergency response, housing for older persons developments shall only be sited where the frontage and primary access for such developments is located along the following roadways: NH Route 130, NH Route 122, NH Route 111, NH Route 111A (South Depot Road), NH Route 101A, or Depot Road.

**2. PLANNING BOARD APPROVAL:** The Planning Board shall review and approve or disapprove the location and site plans for all proposed housing for older persons. The Planning Board may impose additional conditions not inconsistent with this or other sections of the Zoning Ordinance and all state and federal applicable laws.

**3. MAXIMUM PERMITTED DWELLING UNITS:** The maximum number of housing for older persons dwelling units shall not exceed 10% of the total number of dwelling units in town.

**4. BUILDING PERMITS:** A single building permit shall be issued for each structure, irrespective of the number of attached dwelling units within each structure. The Planning Board shall determine whether or not the dwelling units have been attached in accordance with the requirements of the site plan regulations for housing for older

persons.

**5. MINIMUM SAFETY STANDARDS**

- a. The development shall meet all applicable building codes and life safety codes that have been adopted by the Town of Hollis, as well as other State and Federal statutes and regulations.
- b. The Planning Board and/or Building Inspector may make requirements that exceed Federal and State requirements.

- 6. BUILDING RIGHTS LIMITATION:** The Planning Board, in its consideration of a proposal for housing for older persons, may determine that the proposal, when implemented, will have less impact on the availability of town services and other impacts on the community than would be the case for a conventional housing development. If such a finding is made, the Planning Board is authorized, in its judgment, to waive the application of all or part of the building rights limitation regulations (Section XIII of the Ordinance, Repealed March 2017), as the same may apply to the proposal, or any previously approved proposal, thus allowing the accelerated construction of the housing units contemplated hereby.

## **SECTION XXII: HOME BASED BUSINESSES**

- A. PURPOSE:** The Town of Hollis recognizes the need for some citizens to use their residence for limited business use. However, the Town believes that it is important to protect the residential character of neighborhoods. Therefore, the purpose of this section is to allow a limited business use in a residential area only to the extent that the business use does not adversely affect the appearance, character or condition of the residence or surrounding area. Only one Home Occupation or Home Shop use shall be allowed per residential unit.

### **1. DEFINITIONS:**

- a. **HOME-BASED BUSINESS:** Any business, occupation or activity for gain, operated by the resident of the residential dwelling unit. The home-based business shall be secondary to the use of the property as a residence. If the home-based business is located within the residential unit, it shall not occupy a space greater than fifty (50) percent of the total heated floor space of the unit. If it is located in a structure other than the principal residential structure, no specific space limitation shall apply, but the home-based business shall nonetheless remain secondary to the use of the property as a residence.
- b. **HOME OCCUPATION:** A home-based business which is conducted on the premises by the resident of the dwelling and may have customers/clients on the premises.
- c. **HOME OFFICE:** A home-based business, which is conducted on the premises by a resident of the dwelling that has no employees other than the owner and no customers/clients on the premises.
- a. **HOME SHOP:** A home-based business, which provides sales and/or service operations off the premises and will not have customers/clients on the premises.

### **2. HOME OFFICES**

- a. Home offices, which include intellectual products and services provided by the resident of the dwelling and conducted on the premises, shall be permitted without a special exception provided the following criteria are met; however if written approval is necessary for tax and/or insurance purposes, a Conditional Use permit may be issued by the Building Inspector:
  - (i) Home offices shall be conducted in a manner which does not impact the character of the neighborhood.
  - (ii) Home offices shall have no specialized vehicles or exterior equipment.
  - (iii) Home offices shall have no customer/client visitations and no regular deliveries.
  - (iv) Home offices shall have no merchandise, stock, commodities or parts stored or transferred on the premises.
  - (v) Home offices shall not employ any persons who are not residents of the dwelling.
  - (vi) Home offices shall not display any exterior commercial signage.

### **3. HOME OCCUPATIONS**

- a. Home occupations shall be permitted only as a special exception upon approval of the Board of Adjustment. In granting such exceptions, the Board must find such home occupations to be in compliance with the provisions of this section as well as the general provisions of the Town Zoning Ordinance for the district in which the proposed home occupation is located.
- b. A home occupation shall meet the following criteria:
  - (i) Home occupations shall be conducted in a manner which does not affect the residential character of the neighborhood.
  - (ii) One sign announcing the home occupation is allowed, provided that it does not exceed 4 square feet of sign surface area. Mailboxes designed as an advertisement shall not be allowed for a home

occupation. No business vehicle or equipment may be parked in such a way as to be used as advertising for the home occupation.

- (iii) No merchandise, stock, commodities, or parts shall be offered for sale to the public on the premises.
  - (iv) No more than one non-resident of the dwelling shall work on the premises of the home occupation.
  - (v) Except as otherwise provided, the home occupation shall not create any exterior evidence of its activity (e.g. outside storage of material, specialized equipment, etc.) or create any visual variation from the residential character of the property.
  - (vi) Any motor vehicle and equipment used for the commercial purposes of the home occupation shall not be visible from the public way or any surrounding properties.
  - (vii) Parking for customers/clients and non-resident employee must be provided with off-street parking. No more than three (3) parking spaces shall be provided for business use and not more than three (3) vehicles shall be parked simultaneously on the premises at any time for business purposes.
  - (viii) The home occupation may not generate more than an average of 12 vehicular trips per day on days of operation, with the exception of childcare service, which may generate a maximum of 24 vehicular trips per day. "Trip" shall be as defined in the ITE Trip Generation Manual, 5th Ed.
  - (ix) Objectionable circumstances such as noise, vibration, dust, smoke, excessive traffic, electrical disturbances, odors, heat, or glare shall not be produced.
  - (x) The home occupation may not involve any process, which results in the discharge of any hazardous material (as defined by the State of New Hampshire) into the air, ground or into any surface water bodies.
  - (xi) Any home occupation, which will involve the use, production, or storage of any hazardous material (as defined by the State of New Hampshire) shall submit a written request for review to the Hollis Fire Department, prior to submitting an application for special exception. This request shall list all such materials that may be used, produced or stored for the home occupation. The ZBA may deny or conditionally approve said application, based on the Hollis Fire Department's written recommendations, if it is determined that said operation may be a potential public hazard.
  - (xii) The existing or proposed septic systems must be certified by a licensed septic designer or engineer as adequate to handle and treat the increased waste volumes generated by the home occupation in accordance with New Hampshire RSA 485-A:38 and the Town of Hollis septic regulations. If the existing septic system is not capable of adequately handling and treating the waste of the principal dwelling unit and the home occupation in accordance with New Hampshire RSA 485-A:38 and the Town of Hollis septic regulations, a new or upgraded septic system conforming to the most recent state and local septic standards and regulations shall be required.
- c. Childcare may be permitted as a Home Occupation but shall be limited to a maximum of 6 children who are not residents of the dwelling.
  - d. The maintenance or repair of automobiles, motor vehicles or small engines shall not be permitted as a home occupation.

#### **4. HOME SHOPS**

- a. Home shops shall be permitted only as a special exception upon approval of the Board of Adjustment. In granting such exceptions, the Board must find such home shops to be in compliance with the provisions of this section as well as the general provisions of the Town Zoning Ordinance for the district in which the proposed home shop is located.
- b. A home shop shall be any business which provides sales and/or service operations off the premises and meets the following criteria:
  - (i) Home shops shall be conducted in a manner which does not affect the character of the neighborhood.
  - (ii) One sign announcing the home shop is allowed, provided that it does not exceed 4 square feet of sign surface area. Mailboxes designed as an advertisement shall not be allowed for a home shop. No business vehicle or equipment may be parked in such a way as to be used as advertising for the home

shop.

- (iii) No merchandise, stock, commodities, or parts shall be offered for sale to the public on the premises.
- (iv) Not more than three (3) employees are permitted on the premises at any time, including the resident employee(s). Parking for these employees must be off-street.
- (v) Except as otherwise provided, the home shop shall not create any exterior evidence of its activity (e.g. outside storage of material, specialized equipment, etc.) or create any visual variation from the residential character of the property
- (vi) Any motor vehicles and equipment used for the commercial purposes of the home shop shall not be visible from the public way or any surrounding properties.
- (vii) The home shop may not generate more than an average of 12 vehicular trips per day on days of operation. "Trip" shall be as defined in the ITE Trip Generation Manual, 5th Ed.
- (viii) Objectionable circumstances such as noise, vibration, dust, smoke, excessive traffic, electrical disturbances, odors, heat, or glare shall not be produced.
- (ix) The home shop may not involve any process which results in the discharge of any hazardous material (as defined by the State of New Hampshire) into the air, ground, or into any surface water bodies.
- (x) Any home shop, which will involve the use, production, or storage of any hazardous material (as defined by the State of New Hampshire) shall submit a written request for review to the Hollis Fire Department, prior to submitting application for special exception. This request shall list all such materials that may be used, produced or stored for the home shop. The ZBA may deny or conditionally approve said application, based on the Hollis Fire Department's written recommendations, if it is determined that said operation may be a potential public hazard.
- (xi) The existing or proposed septic systems must be certified by a licensed septic designer or engineer as adequate to handle and treat the increased waste volumes generated by the home shop in accordance with New Hampshire RSA 485:-A:38 and the Town of Hollis septic regulations. If the existing septic system is not capable of adequately handling and treating the waste of the principal dwelling unit and the home shop in accordance with New Hampshire RSA 485-A:38 and the Town of Hollis septic regulations, a new or upgraded septic system conforming to the most recent state and local septic standards and regulations shall be required.

#### **5. *EXISTING NONCONFORMING USE.***

To be considered a nonconforming use, a home-based business must have been legally established prior to any zoning ordinance that restricts such use. Although such a home-based business may not conform to the regulations specified in this section, the following provisions shall apply:

- a. No nonconforming home-based business may be extended to occupy a greater area of land upon which the business is situated than is owned by the property owner at the time of adoption of this ordinance.
- b. If any nonconforming home-based business is discontinued for any reason for a period of (1) year, except pursuant to a valid order of a court of law, it shall be conclusively presumed that such use has been abandoned within the meaning of this title, and all future home-based businesses shall comply with the regulations as specified in this ordinance.

## **SECTION XXIII: TELECOMMUNICATIONS**

This ordinance is adopted pursuant to RSA 674:16 and 674:21.

### **1. PURPOSE AND GOALS**

In recognition of the requirements of the Federal Telecommunications Act of 1996, this ordinance is designed and intended to balance the interests of the residents of Hollis, telecommunications providers, and telecommunications customers in the siting of telecommunications facilities within the Town of Hollis so as to ensure coordinated development of communications infrastructure while preserving the health, safety and welfare of the Town and its residents. This ordinance establishes general guidelines for the siting of telecommunications towers and antennas to enhance and fulfill the following goals:

- a. Preserve the authority of Hollis to regulate and to provide for reasonable opportunity for the siting of telecommunications facilities, by enhancing the ability of providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently;
- b. Reduce adverse impact such facilities may create, including, but not limited to, impacts on aesthetics, environmentally sensitive areas, historically significant locations, flight corridors, health and safety by injurious accidents to persons and property, and prosperity through protection of property values;
- c. Provide for co-location and minimal impact siting options through assessment of technology, current location options, future available locations, innovative siting techniques, and siting possibilities beyond the political jurisdiction of the Town;
- d. Permit the construction of new towers only where all other reasonable opportunities have been exhausted, and to encourage the users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers upon the Town;
- e. Require cooperation and co-location, to the greatest extent possible, between competitors in order to reduce cumulative negative impacts upon the Town;
- f. Provide consistent maintenance and safety inspections for any and all facilities;
- g. Provide for the removal of abandoned facilities. Provide a mechanism for the Town to remove these abandoned towers to protect the citizens from imminent harm and danger; and
- h. Provide for the removal or upgrade of facilities that are technologically outdated.

### **2. DEFINITIONS**

- a. **ALTERNATIVE TOWER STRUCTURE.** Innovative siting techniques such as artificial trees, clock towers, bell towers, steeples, utility poles, and similar alternative design mounting structures that camouflage or otherwise conceal the presence of antennas or towers.
- b. **ANTENNA.** Any exterior apparatus designed for telephonic, radio, television, personal communications service (PCS), pager network, or any other communications through the sending and/or receiving of electromagnetic waves of any bandwidth.
- c. **CO-LOCATION.** The use of an existing tower or an existing telecommunications facility for multiple purposes of users.
- d. **GUY WIRE.** A cable used to secure and steady a tower.
- e. **HEIGHT OF TELECOMMUNICATIONS FACILITY.** The vertical distance between the lowest point of the natural terrain 15 feet from the base of the telecommunications facility to the highest point of the telecommunications facility, including antennas and other tower components.
- f. **HEIGHT OF SURROUNDING EXISTING VEGETATION.** The average height of dominant species within 200 feet of the site as measured by or available from a Certified Land Surveyor or Professional Civil Engineer at the time the application for a telecommunications facility is submitted.
- g. **MONOPOLE.** A tower that is self-supporting with a single shaft of wood, steel, or concrete and a platform (or racks) for antennae arrayed at the top.
- h. **PREEXISTING TOWERS AND ANTENNAS.** Any tower or antenna lawfully constructed or permitted

prior to the adoption of this ordinance. Also, any tower or antenna lawfully constructed in accordance with this ordinance that predates and application currently before the Town.

- i. **PRINCIPAL USE.** The primary use of land or of a building or a portion thereof.
- a. **SECONDARY USE.** A use of land or of a building or portion thereof that is unrelated to the principal use of the land or building.
- b. **TELECOMMUNICATIONS FACILITIES.** Any structure, antenna, tower, or other device that provides commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), personal communications services (PCS), common carrier wireless exchange access services, and any other personal wireless service as defined by the Telecommunications Act of 1996.
- c. **TOWER.** A structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, alternative tower structures, and the like.

### 3. **APPLICABILITY**

- a. **ESSENTIAL SERVICES AND PUBLIC UTILITIES:** Telecommunications facilities shall not be considered infrastructure, essential services, or public utilities, as defined or used elsewhere in the Town's ordinances and regulations. Siting for telecommunications facilities is a use of land, and is subject to the Town's zoning ordinance and all other applicable ordinances and regulations.

### 4. **SITING STANDARDS**

#### a. **GENERAL PROVISIONS**

- (i) The uses listed in this section are deemed to be permitted uses in the designated district in accordance with all other applicable ordinances and regulations of the Town including Telecommunications Site Plan Review and approval by the Hollis Planning Board.
- (ii) Antennas and towers may be considered either principal or secondary uses. A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.
- (iii) For purposes of determining whether the installation of a tower or antenna complies with district development standards, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lots.
- (iv) Towers that are constructed, and antennas that are installed, in accordance with the provisions of this ordinance on a nonconforming lot or in conjunction with a nonconforming use, shall not be deemed to constitute the expansion of a nonconforming use or structure.

- b. **DISTRICTS PERMITTED.** New tower construction and co-location of telecommunications facilities shall be permitted in all zoning districts, subject to a Conditional Use Permit granted by the Planning Board, but towers shall be prohibited from the Town's Historic District. All telecommunications facilities shall be subject to Telecommunications Site Plan Review by the Planning Board.

- c. **CONDITIONAL USE PERMIT.** All new telecommunications facilities and the replacement of or significant modification of telecommunications facilities built before or after the passage of this ordinance shall require a Conditional Use Permit granted by the Planning Board, pursuant to authority granted by RSA 674:21,II. While reviewing an application for a Conditional Use Permit for a telecommunications facility, the Planning Board shall determine the following:

- (i) That the use shall not be detrimental to the character, environment, scenic value or general welfare of the Town.
- (ii) That a good faith effort has been made by the applicant to determine that no feasible and appropriate opportunities for co-location exist.
- (iii) That the proposed facility is necessary to meet the regional telecommunications needs of the applicant. Telecommunications facilities built on speculation shall not be permitted.

A Conditional Use Permit shall expire if substantial work is not performed within two years of approval. Conditional Use Permits shall require renewal every five (5) years, starting from the date of approval.

Telecommunications Site Plan Review shall be in addition to the Conditional Use Permit.

- d. **GENERAL DEVELOPMENT STANDARDS.** Towers and antennae shall be no higher than 10 feet above surrounding existing vegetation, unless an alternative tower structure or other camouflage device is used that effectively conceals the presence of the tower and antennae. Where existing vegetation is used as a buffer, it must effectively conceal the presence of the tower and antennae, and a conservation easement protecting that vegetation, enforceable by the Town pursuant to RSA 674:21-a, shall be recorded in the registry of deeds in form approved by the Planning Board.

**5. BONDING SECURITY AND INSURANCE**

Recognizing the extremely hazardous situation presented by abandoned and unmonitored towers, the Planning Board shall set the form and amount of security that represents the cost for removal and disposal of abandoned towers in the event that the tower is abandoned and the tower owner is incapable and/or unwilling to remove the tower in accordance with this ordinance. Bonding and surety shall be consistent with the provisions in the Subdivision Regulations. The Planning Board shall require submission of proof of adequate insurance covering accident or damage.

**6. REMOVAL OF ABANDONED ANTENNAS AND TOWERS**

Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned and hazardous to the public health and safety, unless the owner of said tower provides proof of quarterly inspections to the satisfaction of the Building Inspector. The owner shall remove the abandoned structure within ninety (90) days of receipt of a declaration of abandonment from the Town. A declaration of abandonment shall only be issued following a public hearing, noticed in accordance with RSA 676:4. With notice to abutters and the last known owner/operator of the tower. If the abandoned tower is not removed within ninety (90) days, the Town may execute the security and have the tower removed. If there are two or more uses of a single tower, this provision shall not become effective until all uses cease.

**7. TELECOMMUNICATIONS SITE PLAN REVIEW REGULATIONS**

The Planning Board shall have the authority to adopt Telecommunications Site Plan Review Regulations to implement this ordinance, pursuant to RSA 674:43-44.

**8. SEVERABILITY**

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

**9. EFFECTIVE DATE**

This Ordinance shall take effect March 10, 1998



## **SECTION XXIV: SOLAR ENERGY SYSTEMS** (Adopted March 2016)

**A. AUTHORITY AND PURPOSE** This renewable energy systems ordinance is enacted in accordance with RSA 674:17(I)(j), 674:62-66, and the purposes outlined in RSA 672:1-III-a as amended. The purpose of this ordinance is to accommodate Solar Energy Systems and Distributed Generation Resources in appropriate locations, while protecting the public's health, safety and welfare. The Town of Hollis intends to facilitate the State and National goals of developing clean, safe, renewable energy resources in accordance with the enumerated polices of NH RSA 374-G and 362-F that include national security and economic and environmental sustainability.

### **B. GOALS**

- a. Allow for the use of Solar Energy Systems in the community while maintaining Hollis's scenic vistas.
- b. Preserve the community's rural character, particularly as seen from public roads.
- c. Minimize potential adverse impacts of Solar Energy Systems in the community by ensuring that such facilities are properly screened and are properly sited within existing topographic features of the property.
- d. Ensure consistent maintenance and safety procedures are in place to protect public health.

### **C. DEFINITIONS**

Solar Access: The access of a Solar Energy System to direct sunlight. Solar Collector: A device, structure or a part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical, or electrical energy.

Solar Energy: Radiant energy received from the sun that can be collected in the form of heat or light by a Solar Collector.

Solar Energy System: An arrangement of Solar Collectors and other electrical and/or mechanical devices, located on the property of a Customer-Generator, and whose primary purpose is to transform solar energy into electricity or another form of energy, using mechanical, electrical, or chemical means. Solar Energy Systems shall not exceed a footprint greater than 15% of the land area of lots 3 acres or less and no more than 20% of a lot greater than 3 acres. In no case shall any Solar Energy System exceed 43,560 square feet in area. The footprint of the Solar Energy System shall include all above ground components and Solar Access ways and shall be calculated by including the entire area within a single, continuous perimeter enclosing all elements of the Solar Energy System.

Solar Energy System, Ground-Mounted: A Solar Energy System that is structurally mounted to the ground and is not roof-mounted.

Solar Energy System, Roof-Mounted: A Solar Energy System that is structurally mounted to the roof of a building or structure; may be of any size.

Solar Thermal System: A Solar Energy System that uses collectors to convert the sun's rays into useful forms of energy for water heating, space heating, or space cooling.

### **D. SOLAR ENERGY SYSTEM CONDITIONAL USE PERMITS**

1. **Permit Required**: No Solar Energy Systems, except Roof Mounted Systems, shall be erected, constructed, installed or modified without first receiving a Conditional Use Permit (CUP) from the Planning Board. All Roof-mounted Solar Energy Systems shall be reviewed by Planning Staff prior to the issuance of a building permit. The CUP shall clearly set forth all conditions of approval and shall list all plans, drawings and other submittals that are part of the approved use. Everything shown or otherwise indicated on a plan or submittal that is listed on the CUP shall be considered to be a condition of approval.
2. **Application and Review Procedure**: An Application for a Conditional Use shall be initiated by filing with the Planning Board for an application for a Conditional Use Permit. The following procedures shall apply to the processing of such application: **Site Plan Approval Required**: A site plan application shall be submitted with any application for a Solar Energy System Conditional Use Permit. The application and review procedure for a CUP shall be made concurrently and in accordance with the Site Plan Regulations as applicable to the particular development.

3. Standards of Review: Following a fully noticed public hearing on the proposed use, the Planning Board may issue a Conditional Use Permit, if it finds, based on the information and testimony submitted with respect to the application, that:
  - a. The use is specifically authorized by Section X as a conditional use;
  - b. The development in its proposed location will comply with all requirements of the Hollis Site Plan Regulations, as well as specific conditions established by the Planning Board.
  - c. The use will not materially endanger the public health or safety;
  - d. The use shall provide adequate screening to ensure adjacent property values are not adversely impacted. Screening may be provided by maintaining existing vegetation or through the installation of site specific evergreen landscaping, suitable fencing, or a combination thereof. Such screening shall be maintained during the operative lifetime of the Solar Energy System Conditional Use Permit. The screening shall be of such quality & quantity as to adhere to and meet the Objectives of the Hollis Rural Character Preservation Ordinance.
  - e. In granting a conditional use permit pursuant to this section, the Planning Board may impose any reasonable conditions or restrictions deemed necessary to carry out the intended purpose of this ordinance.
  - f. The Planning Board reserves the right to waive the Height conditions of the Conditional Use Permit if the Applicant proves to the Planning Board that the requested waiver will not be detrimental to public safety, adjacent property values or the rural character.
  
4. Duration of Solar Energy System Conditional Use Permit: Any ground-mounted solar energy system which has been abandoned or is no longer operational shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Planning Board by certified mail of the proposed date of discontinued operations and plans for removal.
  
- E. Minimum dimensional regulations: If the Planning Board grants a Conditional Use Permit pursuant to this section, any such use shall be conducted in a manner compliant with any conditions imposed by the Planning Board as well as the following minimum standards:
  1. Height  
The maximum height of any ground mounted Solar Energy System shall be 10 feet off the ground. Roof Mounted Solar Energy Systems shall be considered exempt for height requirements as allowed for in Section IX, General Provisions, 1. Height Regulations, 2. Exceptions, b.
  
  2. Setbacks  
All ground-mounted Solar Energy Systems shall adhere to applicable required front, side and rear yard requirements, along with all required Wetland Setbacks, and shall not be considered accessory structures when determining required setback provisions. A detailed screening plan, as determined necessary by the Planning Board, may be required to address specific neighborhood sensitivities, mitigate visual impacts, and maintain the rural character of the neighborhood. Based upon the specific character of neighborhood, greater setbacks may be required by the Planning Board in order to meet the goals of the Rural Character Preservation Ordinance.
  
- F. Minimum Construction Standards
  1. All Solar Energy Systems shall conform to applicable building, electrical codes and fire codes.

## APPENDIX A: TABLE OF AMENDMENTS

**SECTION I: AUTHORITY. 1998.** entire ordinance amended to replace all references to “High Intensity Soil Surveys (HISS) and/or Order 1 Soil Surveys” with “Site Specific Soil Map(s).”

**C. 2006:** Add new section **PLANNING BOARD** authorizing pre-application review. *Justification for amendment:* Provide authority for site plan and subdivision regulations enabling planning board to require pre-application review.

### **SECTION IV: ENFORCEMENT AND ADMINISTRATION**

**A. & B. 2010:** Clarification that the Building Inspector is the Code Enforcement Officer and is authorized to enforce the Hollis Zoning Ordinance.

**B. 2011:** Wording adding to provide flexibility as to who can enforce the provisions of the Hollis Zoning Ordinance

### **SECTION V: PENALTIES AND FINES**

**A. 1996:** generally amended.

### **SECTION VI: BOARD OF ADJUSTMENT**

**C. 2009:** Delete C. referencing specific fee amount.

### **SECTION VII: ZONING**

**A. ZONING DISTRICTS 1996:** amended to eliminate need for Town Clerk to certify zoning map.

- 1. AGRICULTURAL AND BUSINESS ZONE (A&B). 1996:** redefined boundaries of zone to follow lot lines; added to zone, extending it eastward to Wheeler Road and westward to vicinity of Rocky Pond Road; generally amended. **1998:** corrected typographical error by deleting Map 17, Lot 18 from section VII,A.1. **2013:** Permitted Uses; r. added Sale of vehicle fuel prohibited ; added to cc. except tattoo parlors; removed ii. Sale of motor vehicles; section 6, Area and Height Requirements; removed e. minimum separation between commercial buildings; 30 feet
- 2. COMMERCIAL ZONE (C). 1996:** created new zone in vicinity of Pineola Drive. **2013:** Permitted Uses; added r. Tattoo parlors; section 2, Area and Height Requirements; removed e. minimum separation between commercial buildings; 50 feet
- 3. FLOOD PLAIN ZONE. 1996: moved to SECTION VII.B.2. OVERLAY ZONING DISTRICTS**
- 4. INDUSTRIAL ZONE (IN). 1996:** reduced depth of zone on south side of Proctor Hill Road from 4,000 feet to 2,000 feet.
- 5. MOBILE HOME-1 ZONE (MH-1). 1996:** changed name from Trailer Park (Mobile Home) Zone.
- 6. MOBILE HOME-2 ZONE (MH-2). 1996:** changed name from Mobile Home Zone; generally amended.
- 7. RESIDENTIAL AND AGRICULTURAL ZONE (R&A). 1996:** generally amended.
- 8. RURAL LANDS ZONE (RL). 1996:** generally amended.
- 9. TOWN CENTER ZONE (TC). 1996:** changed name from Historical Center Zone; generally amended.
- 10. WATER SUPPLY CONSERVATION ZONE (WSC). 1996:** redefined zone generally to match the boundary of the underlying stratified drift aquifer.

**B. OVERLAY ZONING DISTRICTS. 1996:** created new section.

**7. PROTECTION OVERLAY ZONE (APO). 1996:** added description of zone boundaries. 2013: Performance Standards in the Aquifer protection Overlay Zone; added (x) Hazardous or Toxic Materials; section 2, Area and Height Requirements; removed e. minimum separation section b. (ii) removed; not cause a significant reduction in the long term volume of water contained in the aquifer or in the storage

capacity of the aquifer.

1. **FLOOD PLAIN OVERLAY ZONE (FPO). 1996:** moved from Section VII.A; generally amended.
  2. **WETLAND CONSERVATION OVERLAY ZONE (WCO). 1996:** moved from Section VII.A; redefined to refer to Hillsborough County Soil Survey soil drainage classifications.  
**1997:** Added 100-foot buffer; deleted reference to soil types; added reference to delineated wetland. **1999:** amend description of the Overlay Zoning District to be consistent with the Revised Wetland Conservation Overlay Zone Ordinance. **2000: Justification for amendment:** When the definition of wetlands changed to the three parameter approach in accordance with state and federal definitions, some hydric soils which used to be included by the Town in the Wetland Conservation Overlay District were no longer protected by the buffer. This ensures that all hydric soils are once again protected.
  4. **2009:** Added 4. **MULTI-FAMILY ZONE:** to include those land areas zoned R&A located east of the Nashua River.
- C. **COPIES OF ZONING MAP. 1996:** requires Chairman of Planning Board to sign official copy of zoning map; changed to make text of zoning ordinance control in cases of conflict between text and map; formerly Section VII.B.
- D. **BOUNDARIES. 1996:** formerly Section VII.C; amended to include gender neutral language.
1. **1998:** existing section renumbered VII.D.1 and titled “**LOCATION OF BOUNDARIES;**
  2. **1998.** added new section VII.D.2 “**LOTS DIVIDED BY A ZONING DISTRICT BOUNDARY.**”

**SECTION VIII DEFINITIONS. 1996:** changed from letters to numeral sequence. Note: numbers omitted to facilitate additions, deletions and amendments to definitions.

**ACCEPTABLE LAND. 1996:** changed “SCS” to “NRCS”. **1997:** First sentence: inserted “the following.” Third sentence: inserted “and delineated wetlands”; deleted reference to wetland soils; inserted “or are otherwise unsuitable for development because of wetland and hydric conditions.” **1999:** Amend definition to include the provision that Site Specific Soil Mapping Standards for New England and Vermont, Society of Soil Scientists of Northern New England Publication No.3, 1997, shall be used by a certified soil scientist to determine soils information.

**ACCESSORY BUILDING OR USE, CUSTOMARY. 1996:** reorganized to clarify intent. **1999:** Clarify that the 250 sq. ft. building footprint rather than floor area determines the setback of a structure, and add that structures greater than 12 feet in height must also comply with setback requirements for principal buildings.

**APPLICABLE ACRES. 1996:** changed “under” to “within”.

**ARTERIAL STREET. 2011:** new definition. The purpose of adding this definition is to define which streets in Town are considered Arterial Streets. This term is used elsewhere in the ordinance.

**BACKLAND LOTS. 1996:** generally amended.

**BUILDING AREA. 2008:** generally amended. **2012:** Add sentence clarifying the requirement for driveway access

**BUILDABLE LOT. 1996:** added “soils” following “non-wetland”; deleted reference to standard and backland lots; changed reference to High Intensity or Order 1 Soil Survey from “site specific soil analysis”; generally amended. **1997:** First sentence: deleted “non wetland soils” and inserted “acceptable land and/or land with soil drainage class ‘somewhat poorly drained’” **1998:** replaced dimensional specifications with “Building Area.” **2000: Justification for amendment:** The minimum contiguous area provides enough land for house, driveway, septic, garage, and accessory structures without the need to disrupt sensitive lands and wetland buffers.

**BUILDING AREA. 1998:** new definition. **1999:** amend definition to exclude land with slopes greater than 25% from the Building Area. **2000: Justification for amendment:** The intent of this amendment is to deter construction on excessively steep slopes to prevent erosion, loss of vegetation, and for viewshed protection. **2005:** Clarify that building does not have to be placed in the building area. **2008:** Definition

amended to include “altered” slopes as well as “unaltered” slopes.

**BUILDING RIGHT. 1996:** added “The certificate is not transferable, except under the terms of this ordinance” for clarification.

**CLUSTER HOUSING. 1996:** changed “are” to “may be”.

**CONGREGATE CARE FACILITY. 1997:** *new section.*

**DENSITY. 2000:** new definition added. *Justification for Amendment:* The intent is to state the meaning of density as applied in various sections of the ordinance.

**DWELLING UNIT. 2000:** Amended definition *Justification for Amendment:* The intent is to state the meaning of density as applied in various sections of the ordinance.

**DWELLING UNIT, TWO FAMILY:** Dwelling, two family. **1996:** added “two”; added “This definition does not include accessory apartments.”

**ELDERLY HOUSING. 1996:** added “specifically designed for elderly or disabled individuals and their families” following “development”; generally amended. **2000:** ~~deleted~~ and replaced with **HOUSING FOR OLDER PERSONS**

**EXTERIOR STORAGE. 1996:** generally amended.

**FAMILY. 1996:** deleted “related by blood, marriage, or adoption” following “persons”.

**FLOATING ZONE. 1996:** generally amended.

**FLOOD PLAIN OR FLOOD PRONE AREA. 1996:** deleted “Hollis” following “under the”.

**FRONTAGE. 1999:** Clarify that in order for land to be considered as having frontage, it must abut a Class V or better road, and the land must be capable of providing access, without seeking relief from any other part of the Hollis Zoning Ordinance. **2005:** Clarify that frontage be capable of providing the primary means of access to a lot without requiring waivers.

**FRONT YARD. 1996:** deleted “residential lot” following “width of a”.

**HOSPD. 1996:** added “floating zone development standard for” following “is a”; generally amended.

**HOUSING FOR OLDER PERSONS. 2000:** new definition added. *Justification for amendment:* The purpose of this definition change is to comply with State and Federal definitions of elderly housing.

**IMPROVED LAND. 2003:** *New definition.*

**LANDSCAPE MATERIALS YARD. 2011:** New definition. The purpose of this amendment is to define and set requirements for the establishment of a Landscape Materials Yard.

**LEASABLE AREA, GROSS. 1996:** added “but not to include common areas accessible to more than one tenant and which are not directly related to the tenants’ business” following “interior space”.

**LOT OF RECORD. 1996:** added “under the terms of this ordinance and any other applicable ordinances and regulations of the Town and statutes and regulations of the State” following “officially accepted”.

**LOW-INCOME HOUSING. 1996:** *generally amended.*

**MAJOR COLLECTOR STREET. 2011:** New definition. The purpose of adding this definition is to define which streets in Town are considered Major Collector Streets. This term is used elsewhere in the ordinance.

**MODERATE-INCOME HOUSING. 1996:** *generally amended.*

**MULTI-FAMILY DWELLINGS. 1996:** added “Three”.

**NET TRACK AREA. 2000:** new definition added. *Justification for amendment:* The intent is to spell out the specific land types to be subtracted from the tract before calculating density or open space. **2008:** Amended to add road rights-of way and altered slopes to the land types to be subtracted before calculating the density or open space.

**NONCONFORMING LOT. 1996:** deleted “area of” following “minimum”.

**NONCONFORMING USE OR STRUCTURE. 1996:** changed “regulations” to “terms and standards”.

**NON-WETLAND SOIL. 1996:** generally amended. **1997:** deleted.

**OPEN SPACE. 2003:** New definition.

**PUBLIC ROAD. 1996:** deleted reference to Town of Hollis Highway Map.

**RESTAURANT, FAST FOOD. 1996:** new definition added.

**RESTAURANT, GENERAL. 1996:** new definition added.

**RETIREMENT COMMUNITY. 1997:** new section. **2000: Justification for amendment:** The purpose of this amendment is to include a concise description of the unique features of the retirement community.

**SIGN. 1996:** generally amended.

**SITE SPECIFIC SOIL MAP. 1998:** new section.

**STRUCTURE AND/OR BUILDING. 2006.** new definition added. The **purpose** of this amendment is to define *Structures and/or Buildings* and add them as permitted uses to various zoning districts. **2011:** Definition amended to exclude fences, basketball and tennis courts. The purpose of this amendment it to clarify that fences, basketball and tennis courts are not considered structures and do not have to meet lot setback requirements.

**TEMPORARY STRUCTURE. 2006.** new definition added. The **purpose** of this amendment is to define *Temporary Structures* and add them as permitted uses to various zoning districts. **2008:** Definition amended to delete “for residential properties”. **2013:** added; except as noted in the Farm Stand definition,

**UNALTERED SLOPES. 2000:** new definition added. **Justification for amendment:** The intent of this amendment is to provide a definition of slopes that have not been disturbed by man prior to December 1, 1999, to clarify from what date steep slopes may not be included in certain calculations in the ordinance. The purpose is to deter construction on excessively steep slopes to prevent erosion and vegetation loss, and to provide viewshed protection. **2008:** generally amended. Replaces “man” with “human activity”.

**UNIMPROVED LAND. 2003:** New definition.

**WETLAND SOILS. 1996:** generally amended. **1997:** entirely replaced with federal/state wetland definition under new title “Wetland.” **1999:** Change the manner in which the Town defines wetlands to match state and federal definitions, particularly regarding the method for delineating wetlands.

**AGRICULTURAL ENTERPRISE. 2013:** New Definition.

**FARM STAND. 2013:** New Definition

**SEASONAL AGRICULTURAL SIGN. 2013:** New Definition

**BUILDING AREA: 2013:** added; Said driveway shall lie entirely on the subject lot.

#### **SECTION IX. GENERAL PROVISIONS.**

**1996:** Moved IX.E. **SIGN ORDINANCE** to new Section XIV and renumbered accordingly.

**2011. Reconfigured. Moved IX. A. EXCAVATION OR MOVEMENT OF EARTH MATERIALS** to new Section XIX. Moved K. **HOLLIS OPEN SPACE PLANNED DEVELOPMENT** to new Section XX. Moved M. **HOUSING FOR OLDER PERSONS** (formerly Housing for Elderly and Disabled) to new Section XXI. Moved N. **HOME BASED BUSINESSES** (formerly Home Occupations) to new Section XXII. Moved T. **TELECOMMUNICATIONS** to new Section XXIII. Entire Section IX. amended accordingly.

**DAMAGED STRUCTURES: 2011. Formerly B.**

A. **JUNK STORAGE: 2011.** Formerly C.

B. **MOBILE HOMES 1996:** generally amended. **2011.** Formerly D.

D. **2011: Amended lettering Formerly E. SEWAGE DISPOSAL SYSTEMS. 1996:** generally amended. **1997:** Title: added “and structural setbacks from wetlands”. **1999: Delete Sewage Disposal Systems and rename ONSITE WASTEWATER TREATMENT.**

1. **1997:** Changed “75” to “one hundred (100) feet”; deleted “the edge of” and inserted “a wetland, from hydric soils, from” **1999:** Amend to prohibit any portion of a septic system, including associated grading, to encroach into the wetland buffer, and delete “from a wetland, from hydric soils, from a public body of water, from a well, or from a dwelling other than that to which it is appurtenant” and change to “from

wetlands and surface waters or from wells.” **2000: Justification for amendment:** In order to ensure the quality of stormwater run-off, it makes sense to provide a reasonable distance of 75' from septic wastewater. **2005:** Clarify setback of 100' to leach fields and 75' setback for septic tanks from private wells. Revise requirement for in-place soil to 4 feet above ledge. Amend to allow septic inspector to grant waivers to expedite repair of failed septic systems.

2. **1999:** clarify language
3. **1999:** amend to correct enforcement agency.
4. **1997:** added second sentence.
5. **1997:** new section. **1999:** delete section **2005:** new section *Justification: This section gives the Town Septic Inspector authority to waive provisions of this section.*
6. **1997:** new section. **1999:** delete section

**E. (Formerly F.) IMPERMEABLE SURFACES AND BUILDING COVERAGE. 1996:** replaced entire section entitled “Required Open Space”.

- 1.a **1999:** Decrease the area of impermeable coverage allowed in Industrial and Commercial Zones from 75% to 60%.
3. **1997:** inserted new section; renumbered succeeding sections. **1999:** Add Wetland Conservation Overlay Zone to areas not permitted more than 15% impermeable surface coverage. **2010:** Impermeable Surface Coverage. Amended to modify the 15% maximum coverage requirement to allow for the reasonable development or expansion of existing businesses located in the Industrial Zone only. New State requirements are in place that mandate groundwater recharge and regulate the quality of water that is recharged, and any waiver is conditioned on adherence with these standards as well as a stormwater management plan.
5. **1999:** Amend to require that any change to a property requiring Planning Board review would include mitigation measures to maintain stormwater runoff at the same level as prior to development.

**F. (Formerly G.) SWIMMING POOLS, OUTDOOR STORAGE TANKS, COMMERCIAL FISHING PONDS 1996:** generally amended. **2004:** add item to allow for bonding of swimming pool fence. *Justification for amendment:* To add a provision for a bond as security for the proper construction of a fence around the area of the swimming pool as required by the Town's building code. **2005:** Distinguish bond amount for in-ground vs. above-ground pools.

**(Formerly H.) OFF-STREET PARKING. 1996:** added “or existing use expanded” following “new use is established; generally amended. **2002: Delete section IX.H. Off-Street Parking. Justification for amendment:** The purpose of this amendment is to delete the parking standards from the zoning ordinance. Revised parking standards have been adopted as a Planning Board Regulation to allow for greater flexibility.

**G. OFF STREET LOADING 2002: Renamed and amended lettering due to deletion of former section IX, H Off Street Parking**

3. **LOCATION. 1996:** added “that will serve as an effective barrier to sound and exhaust” following “fence, wall, or screen”.

**H. (Formerly J.) SCREENING 1996: generally amended. 2002:**

**I. Formerly L. HEIGHT REGULATIONS. 1996:** generally amended. **2003:** Renumbered to IX. K **2011.** Re-lettered I.

2. **EXCEPTIONS:** b. Add cupolas to the list of exceptions.

3. Amend to reduce the distance for measuring the average height of building from 15' to 5'.

**J. (Formerly O.) 2011. NUMBER OF RESIDENTIAL UNITS WHICH MAY BE CONSTRUCTED ON A LOT. 1996:** generally amended. **2003:** Renumbered IX,N: **2011:** Renumbered (K) Amended to add “and condominium”. The purpose of this amendment is to clarify that condominiums are also allowed as an exception to the number of units that can be constructed on a lot.

- K. ACCESSORY DWELLING UNITS (Adopted 1993).** 1996: generally amended. 2003: Renumbered IX,O. 2008: Amend item f. The purpose of this amendment is to require accessory dwelling units to share internal living space with the principal dwelling unity through a common wall. 2011:
3. **REQUIREMENTS/LIMITATIONS:** 1999: P.3.e. Clarify that the above grade floor area of the total dwelling unit includes the accessory dwelling unit. 2001: P.3.b. delete "existing". P.3.f. delete "existing", add "or constructed". *Justification for Amendments:* The intent of the changes is to clarify the requirement for internal access in an accessory dwelling unit.
- L. SITE PLAN REVIEW.** 1996: new section added. 2003: Renumbered IX, P. 2011. Re-lettered L.
- M. MAXIMUM DRIVEWAY SLOPE.** Formerly (R). 1998: new section. 2000: Section re-lettered from T to S. 2002: Added The purpose of the maximum grade requirement is to ensure public safety and accessibility for emergency vehicles. Deleted: This standard also shall not apply to lots of record or to lots that have otherwise been approved for subdivision and that have been recorded in the Registry of Deeds prior to March 10, 1998. *Justification for amendment:* The purpose of this amendment is to clarify the intent of this section and to delete the "grandfathering" provision for lots of record. 2003: Re-lettered S to R.
- N. UNREGISTERED VEHICLES.** Formerly S. 2000: new section. *Justification:* The purpose of this new section is to restrict the number of unregistered vehicles permitted on any property to avoid potential unsightly storage of vehicles, which detracts from the character of neighborhoods. 2003: Re-lettered T to S 2005: Clarify language re: Permitted businesses.
- O. 2011:** Add new section. **DETERMINATION OF DENSITY FOR CONDOMINIUM DEVELOPMENTS.** The purpose of this amendment is to allow non-conforming structures to be expanded without ZBA approval, provided they adhere to applicable zoning district setbacks.
- P. 2011:** New Section. **CONDITIONAL USE PERMIT.** The purpose of this amendment is to outline the specific procedures and requirements for obtaining a Conditional Use Permit. 2012: 3. Standards of Review. e. Clarification: Reword to read Access to the site shall be achieved directly from a State road.
- (T.) 2007: CUL-DE-SAC LENGTH.** Add new Item. The purpose of this amendment is to establish a maximum length for cul-de-sacs for the purpose of safety. 2011: Delete paragraph in its entirety. The purpose of this amendment is to remove this section from the ordinance, and to insert this provision into the Subdivision Regulations.

**SECTION X: ZONING DISTRICTS: SPECIAL EXCEPTIONS.** The purpose of this amendment is to delete any reference to site plan review for Special Exceptions in Zoning Districts **MH-1, MH-2, Recreational, R&A, RL, Town Center, and Water Supply Conservation Zone**. Site plan review is required for some , but not all, categories of Special Exceptions. The Site Plan Review Regulations govern what activities require review.

**A. AGRICULTURAL AND BUSINESS ZONE**

1. **PERMITTED USES IN THE AGRICULTURAL AND BUSINESS ZONE.** 1996: changed “Restaurants, EXCEPT drive-ins and fast food restaurants” to “Restaurants, general”; added “Single Family Residences”. 2004: add new item qq: Mixed Use Occupancy. *Justification for amendment:* to allow for mixed use occupancy in the Agricultural and Business Zone. 2006: add new item rr: Temporary Structures added as a permitted use.
2. **OTHER RELATED PERMITTED USES.** 1996: added “or disabled” following “elderly”. 2003: Delete home occupations.
  - a. 2000: *Justification for amendment:* The reference to elderly housing as a permitted use was changed to housing for older persons in all sections to be consistent with the amended definition of elderly housing.
3. 2003: Add new section **SPECIAL EXCEPTIONS** for home occupations and accessory dwelling units.
4. Formerly 3. **ACCESSORY USES PERMITTED IN THE AGRICULTURAL AND BUSINESS ZONE.**
5. 2009: Added. **PERMITTED USES ALLOWED BY CONDITIONAL USE PERMIT IN THE A&B**



- ZONE:**
- a. MIXED-USE OCCUPANCY II.**
6. Formerly 5. **AREA AND HEIGHT REQUIREMENTS.** 1996: generally amended. 201?. Note added regarding the requirement of a 25' buffer around all cemeteries for the purposes of new construction.
- a. MINIMUM LOT SIZE.** 1996: added "for residences the minimum lot size shall be 2 acres per dwelling unit".
- h. BUILDING AREA.** 2003: add section to require compliant building area. 2004: Amend to read "...except as provided in section X.A.1.qq above".
- (i). Backland Lots. 1996: changed "Each backland lot shall be at least 1.5 acres" to "Backland lots for commercial uses shall be at least 1.5 acres; backland lots for residential uses shall be at least 4 acres"; generally amended.
- i. MAXIMUM COMMERCIAL BUILDING SIZE.** 1996: new section added.
7. **OTHER DEVELOPMENT REGULATIONS IN THE AGRICULTURAL AND BUSINESS ZONE:**
- b. OPEN SPACE.** 1996: deleted "Buildings in the commercial zones used for commercial purposes shall occupy no more than 50% of the lot upon which they are located and"; changed "arterial street" to "public right-of-way".
- d. SCREENING.** 1996: added section title; replace section text with "Screening shall be provided according to Section IX,J of this Ordinance and according to the Town's Site Plan Review Regulations".
9. A&B Zone. **HISTORIC DISTRICT ORDINANCE. 2001: Justification for amendment:** This change more clearly defines the portion of the A&B zone that falls under the jurisdiction of the Historic District Overlay.
- B. COMMERCIAL ZONE.** 1996: new section added.
2. **AREA AND HEIGHT REQUIREMENTS IN THE COMMERCIAL ZONE**
- h. MAXIMUM IMPERMEABLE SURFACE COVERAGE.** 2000: deleted. **Justification for amendment:** This section is deleted because impermeable surfaces are covered in Section IX,E. which was amended in 1999, to 60% maximum permeable coverage, and is not consistent with this section
- i. BUILDING AREA.** 2003: add section to require compliant building area.
- C. INDUSTRIAL ZONE.**
3. **AREA AND LOT REQUIREMENTS IN THE INDUSTRIAL ZONE**
- g. BUILDING AREA.** 2003: add section to require compliant building area.
6. 1996: deleted reference to Site Plan Review, formerly X,C.6.
- D. MOBILE HOME-1 ZONE.** 1996: changed name of zone from "Trailer Park (Mobile Home) Zone".
1. **PERMITTED USES IN THE MOBILE HOME-1 ZONE.**
- b. 2006:** Added Temporary Structures as a permitted use.
3. **SPECIAL EXCEPTIONS IN THE MOBILE HOME-1 ZONE.** Remove reference to site plan
- b. 2003:** add new item to permit Home based businesses (formerly home occupations) by special exception
- E. MOBILE HOME-2 ZONE.** 1996: changed name of zone from "Mobile Home Zone"
1. **PERMITTED USES.**
- f. 2000: Justification for amendment:** The reference to elderly housing as a permitted use was changed to housing for older persons in all sections to be consistent with the amended definition of elderly housing.
- i. 2003**Add new item – Home occupations. **2003:** Delete Home occupations. **2006:** add new item **j.** Temporary Structures added as a permitted use.

2. **SPECIAL EXCEPTIONS IN THE MOBILE HOME-2 ZONE. 2009:** Delete reference to site plan review.
    - h. (v) **1999.** Amend list of exceptions, delete “and clubs” and add (vi) sporting clubs. **2012:** Delete j. Farm Stands. The purpose of this amendment is to clarify that farm stands are an allowed use in this district. Re-letter k. Riding academies
  3. **AREA AND HEIGHT REULATIONS FOR PERMITTED USES AND SPECIAL EXCEPTIONS IN THE MOBILE HOME-2 ZONE**
    - g. **2003. BUILDING AREA:** add section to require compliant building area.
- F. RECREATIONAL ZONE. 1996:** generally amended.
1. **PERMITTED USES IN THE RECREATIONAL ZONE.**
    - 2003: g and i.** Delete home occupations and accessory dwelling units.
    - 2006:** add new item h. Temporary Structures added as a permitted use.
  2. **SPECIAL EXCEPTIONS IN THE RECREATIONAL ZONE. 2009:** Delete reference to site plan review.
    - b. (v) amend list of exceptions, delete “and clubs” and add (vi) sporting clubs.
    - c and d. **2003:** Add new items to permit home occupations and accessory dwelling units by special exception.
  3. **AREA AND HEIGHT REGULATIONS FOR PERMITTED USES AND SPECIAL EXCEPTIONS IN THE RECREATIONAL ZONE.**
    - d. **1999:** delete “length” and replace with “depth”.
    - g. **2003. BUILDING AREA.** Add section to require compliant building area.
- G. RESIDENTIAL AND AGRICULTURAL ZONE. 1996:** generally amended.
1. **PERMITTED USES IN THE RESIDENTIAL AND AGRICULTURAL ZONE. 2009.**
    - a. Delete Section a. and replace with a.(i) Single and Two Family Dwellings and (ii) Conversion of Existing Residential Buildings.
      - f. Rename. Housing for Older Persons, subject to the procedures in **Section XXI. 2000: Justification for amendment:** The reference to elderly housing as a permitted use was changed to housing for older persons in all sections to be consistent with the amended definition of elderly
      - i. and k. **2003:** Delete home occupations and accessory dwelling units. **2006:** add new item k. Temporary Structures added as a permitted use.
  2. **SPECIAL EXCEPTIONS IN THE RESIDENTIAL AND AGRICULTURAL ZONE. 2009.** Delete reference to site plan review.
    - j. **2012:** Delete Farm Stands (re-letter J. Riding Academies). The purpose of this amendment is to clarify that farm stands are a permitted use in this district.
    - h. (v) **1999:** amend list of exceptions, delete “and clubs” and add (vi) sporting clubs.
    - i. and m. **2003:** Add new items to permit home occupations and accessory dwelling units by special exception. **2012.** Re-letter l. to k. and rename Home based businesses according to Section XXII. Re-letter m. to l.
  3. **2009: New Section added. USES ALLOWED BY CONDITIONAL USE PERMIT IN THE R&A ZONE.** The purpose of this amendment is to allow for workforce housing.
    - a. **2011:** Landscape Materials Yard added to uses allowed in the R&A Zone by conditional use permit.
  3. **AREA AND HEIGHT REGULATIONS FOR PERMITTED USES AND SPECIAL EXCEPTIONS IN THE RESIDENTIAL AND AGRICULTURAL DISTRICT.**
    - g. **2003. BUILDING AREA.** add section to require compliant building area.

- H. RURAL LANDS ZONE. 1996:** added “Lands” to section title. **2009:** Delete reference to site plan review.
1. **g. 2006:** add new item g. Temporary Structures added as a permitted use.
  2. **b. and d. 2003:** Delete and accessory dwelling units
  3. **SPECIAL EXCEPTIONS IN THE RURAL LANDS ZONE.**
    - f.(v) 1999:** amend list of exceptions, delete “and clubs” and add **(vi)** sporting clubs.
    - h and i 2003:** Add new items to permit Home based businesses (formerly home occupations) and accessory dwelling units by special exception.
    - j. 2012:** Add Riding Academies. The purpose of this amendment is to allow riding academies by special exception in this zoning district, which the Planning Board feels is appropriate.
  4. **AREA AND HEIGHT REGULATIONS FOR PERMITTED USES AND SPECIAL EXCEPTIONS IN THE RURAL LANDS ZONE.**
    - g. BUILDING AREA. 2003:** Add section to require compliant building area.
- I. TOWN CENTER ZONE. 1996:** changed name of zone from “Historic Center” to “Town Center”.
1. **PERMITTED USES IN THE TOWN CENTER ZONE.**
    - a. 2009:** Delete Section and replace with **a. (i)**, Single and Two Family Dwellings and **(ii)**, Conversion of Existing Residential Buildings
    - f. 2000: Justification for amendment:** The reference to elderly housing as a permitted use was changed to housing for older persons in all sections to be consistent with the amended definition of elderly housing.
    - i. 2006:** add new item **i.** Temporary Structures added as a permitted use.
  2. **ACCESSORY USES IN THE TOWN CENTER ZONE**
    - b. and d. 2003:** Delete home occupations and accessory dwelling units.
  3. **SPECIAL EXCEPTIONS IN THE TOWN CENTER ZONE. 2001:** delete "see Section VII".  
**Justification for amendment:** This is a housekeeping change.**2009:** Delete reference to site plan review.
    - i.(v) 1999:** amend list of exceptions, delete “and clubs” and add **(vi)** sporting clubs.
    - k. and l. 2003:** Add new items to permit Home based businesses (formerly home occupations) and Accessory dwelling units by special exception.
  4. **2009:** Add Uses allowed by Conditional Use Permit in the Town Center Zone a. and b. Amend numbering. The purpose of this amendment is to allow workforce housing.
  5. **AREA AND HEIGHT REGULATIONS FOR PERMITTED USES AND SPECIAL EXCEPTIONS IN THE TOWN CENTER ZONE.**
    - d. 2000: Justification for amendment:** Dimensional requirements for accessory structures were added to this section because it was not addressed under Area and Height Requirements for the Town Center zone as it was in all other zones in the ordinance.
    - g. 2003. BUILDING AREA.** add section to require compliant building area.
- J. WATER SUPPLY CONSERVATION ZONE. 1996:** generally amended.
2. **ACCESSORY USES IN THE WATER SUPPLY CONSERVATION ZONE.**
    - b. 2003.** Delete home occupations.
  3. **SPECIAL EXCEPTIONS IN THE WATER SUPPLY CONSERVATION ZONE. 2009:** Delete reference to site plan review.
    - 3.b. and c. 2003:** Add new items to permit Home based businesses (formerly home occupations) and Accessory dwelling units by special exception.

4. **AREA AND HEIGHT REGULATIONS FOR PERMITTED USES AND SPECIAL EXCEPTIONS IN THE WATER SUPPLY CONSERVATION ZONE.**

g. **2003. BUILDING AREA.** add section to require compliant building area.

h. **2003. BACKLAND LOTS.** Formerly g.

**SECTION XI. OVERLAY ZONING DISTRICTS. 1996:** new section added, replacing and including Section XI. Aquifer Protection Overlay Zone

A. **AQUIFER PROTECTION OVERLAY ZONE. 1996:** generally amended. **1997:** Preamble: generally amended; added references to Master Plan, etc. **2003:** Intent: Amend and expand section.

1. **LOCATION. 1997:** generally amended; added procedure allowing use of certified soil scientist.

2. **2003:** new section – **DEFINITIONS** Renumbered sections. **2013:** removed numbering.

**1997:** new section.

3 **Formerly 2. 1997:** new section. **2010: DIMENSIONAL STANDARDS IN THE AQUIFER PROTECTION OVERLAY ZONE.** Amended because of new State requirements for groundwater recharge.

4. **2003: PERFORMANCE STANDARDS.** Expand section to specify what additional studies may be required.

5. **1996: PERMITTED USES IN THE AQUIFER PROTECTION OVERLAY ZONE.** added “and/or unless the use is specifically prohibited, below.”

6. **PROHIBITED USES IN THE AQUIFER PROTECTION OVERLAY ZONE.**

e. **1996:** deleted “containing de-icing chemicals” following “Dumping of snow”. **1997:** added “Aquifer Protection”

f. Prohibited Uses. **1996:** deleted “where animals are kept” following “animal feedlots”. **1997:** deleted “where animals are kept”

k.-m. **1997:** new sections. **2011: m.** Delete “and composting facilities”

**1998:** delete section and renumber section XI,A.7 as new XI,A.6.

7. **1997:** new section. **NONCONFORMING USES IN THE AQUIFER PROTECTION OVERLAY ZONE:**

b. Addresses underground storage tanks

B. **FLOOD PLAIN OVERLAY ZONE. 1996:** moved from Section X. **2007:** Generally amended to comply with the requirements of the National Flood Insurance Program.

7. **BUILDING IN THE FLOOD PLAIN**

e. **2009:** Amended Sec. 7(e). to comply with the requirements of the National Flood Insurance Program

C. **WETLAND CONSERVATION OVERLAY ZONE. 1996:** changed name of section from “Wetland Conservation Areas”; generally amended. **1998:** Renumber sections 2-4 as 3-5, respectively; add new section 2 “Jurisdiction.” **1999:** Delete Section XI.C. in its entirety and replace with revised Wetlands Conservation Overlay Zone Ordinance. **2000: Justification for amendment:** The majority of amendments to the WCO Zone Ordinance were clarifications to sections that were vague or caused problems with implementation. There were a few specific changes to sections intended to provide further protection to wetlands and surface waters. Most other amendments were suggested by the ZBA, Conservation Commission, Planning Board, or Staff to make the ordinance clearer to the public and easier to administer. Among these amendments were organizational changes to the sections addressing the wetland special exception process. **2002:** generally amended. *Justification for amendments:* The purpose of this amendment is to streamline application procedures for "grandfathered" lots and to give Town boards flexibility in determining submission requirements for special exception applications. The amendments reflect procedural changes only and do not affect rules and restrictions regarding wetlands, surface waters and the one hundred foot buffer zone.

1. **PURPOSE.**

j. **2003:** add additional purpose statement.

2. **DEFINITIONS. 2002:** Delete Accessory Structures definition. *Justification for amendment:* Defined in Section VIII.2. Add BMPs for Erosion Control During Trail Maintenance and Construction, as amended. *Justification for amendment:* Adoption of state guidelines for trails construction and maintenance in and around wetlands and surface waters.

**2006:** Add definition for Bulk Water Transporter

3. **JURISDICTION.**

a. **2000:** The amendment to **Section XI.C.3.a** specifies that applications involving alterations to wetlands, which are under State jurisdiction, go through the appropriate Town process to protect the buffer.

b. **2002:** Grammatical corrections and deletion of last sentence. *Justification for amendment:* Sentence already included in Section XI.7.

c. **2002:** Delete wording that states applicants on grandfathered lots must go to Planning Board. *Justification for amendment:* Eliminates inequity in review of applications for existing lots and streamlines process to allow planning staff to review and approve construction and expansion in the buffer for existing lots of record.

c (v). **2002:** Add: Planning Board. *Justification for amendment:* Provision for review by Planning Staff/Planning Board.

d. **2002: Delete (i) and (ii).** *Justification for amendment:* Allows all improvements/expansions on grandfathered lots to be dealt with by Planning Staff/Planning Board eliminating the need for ZBA approval for expansions greater than 250 sq.ft. Add: 100 foot buffer *Justification for amendment:* clarification.

d. **2002: (iv)** Delete: cisterns. *Justification for amendment:* Cisterns do not need buffers

5. **2010: DRAINAGE.** Delete paragraphs c. and d. The purpose of these amendments are to comply with the NH DES Alteration of Terrain rules for groundwater treatment and recharge.

6. **PERMITTED USES WITHIN THE WETLAND CONSERVATION OVERLAY ZONE.**

b. **2006:** Add new section b. to address water withdrawal from surface waters for bulk transport and delivery. *Justification for amendment:* To establish conditions and limitations in accordance with State regulations for water withdrawals for bulk transport and delivery from surface waters.

c.(ii). **2002:** Add: greater than 25%. *Justification for amendment:* clarification.

d. (xv.) Add: reference to BMPs. *Justification for amendment:* Adds reference to guidance document for performance standards.

d.(xvi.) Add: Buffer disturbances for driveway access. Buffer disturbances do not need approval from the NH Wetlands Bureau. *Justification for amendment:* To allow Conservation and Planning Staff/Planning Board to review and set conditions on applications that show wetland buffer disturbance for driveway access (including common driveways for no more than two lots)

d. **2010: add section (xvii) and (xviii).** Amendment allows buffer disturbances for Planning Board approved subdivision road access, putting review and approval of these cases under the jurisdiction of the Planning Board and its engineering consultant. Allows the placement of stormwater management facilities in the WCO Zone in accordance with the NH Department of Environmental Service Alteration of Terrain Regulations.

7. **SPECIAL EXCEPTIONS IN THE WETLAND CONSERVATION OVERLAY ZONE. 2002:** a. Amend entire section. *Justification for amendment:* Clarifies ZBA criteria for granting special exceptions.

a. **2010:** Amend item a. This amendment allows stormwater management facilities to be located to within 50' of a wetland as long as the facilities comply with the State Regulations.

b. Application Procedure: Amend entire section. *Justification for amendment:* Entire section revised to give boards flexibility in determining information needed for special exception hearing on a site specific

basis.

**c. Delete section c.** Reword and replace in section 7.a. *Justification for amendment:* Puts criteria for granting special exceptions at beginning of section.

**8. PROHIBITED USES WITHIN THE WETLAND CONSERVATION OVERLAY ZONE. 2003: a. (iv). 2010:** Amend item (iv). Delete ~~roadways and~~ from the paragraph. The purpose of this amendment is to allow buffer disturbances for Planning Board approved subdivision road access, putting review and approval of these cases under the jurisdiction of the Planning Board and its engineering consultant

**a.(v.)**Add two additional items and amend generally to broaden the scope of prohibited land uses that harm or degrade the wetland buffer and/or wetlands.

**D. 2009:** Add D. **MULTI-FAMILY ZONE.**

**2. 2012: GENERAL STANDARDS.**

**b.** Delete paragraph in its entirety. The purpose of this amendment is to eliminate the requirement that a portion of a multi-family project shall be owner occupied. This complies with the State Statute.

## **SECTION XII. NONCONFORMING USES, STRUCTURES AND LOTS. 1993. generally amended.**

### **A. NONCONFORMING USES.**

#### **3. ALTERATIONS.**

**c. 1999:** Clarify the language so that it is clear that only the changes proposed by the plans submitted are to be considered, and not possible future alterations.

**d. e. Nonconforming Uses: 2000:** new sections added intended to clarify alteration of a nonconforming use. **2001:** delete sections d. and e. *Justification of amendment:* This change eliminates text inserted by petition in 2001 for one specific case.

### **B. NONCONFORMING LOTS:**

**1. 2011:** Add new text. ...”Provided, however, that any alteration, expansion, new construction or change that can be accomplished in a manner that will comply with the applicable setbacks for that district, shall be permitted. The purpose of this amendment is to allow non-conforming structures to be expanded without ZBA approval, provided the structures adhere to applicable zoning district setbacks.

**4. 2000:** new section. *Justification for amendment:* The intent of these changes is to allow special exceptions to zoning setback requirements on non-conforming lots in the Historic District where strict adherence to these zoning setback requirements may not be desirable.

**C. NONCONFORMING STRUCTURE., CONTINUANCE: 1997:** inserted “that does not further aggravate a front, side, or rear yard setback nonconformity” and “and according to the diagram below”; added diagram and explanatory text. **1999:** Clarify the intent of this section by limiting the provisions for an expansion or change of use to consideration of the provisions in Section XII.A.3 Alterations: paragraphs a and b.

**2006:** Add to item C. Non-conforming structure – “Proposal C does not include landings or stairs”. **2012:** Explanation of Diagram-Add. Proposal “C” requires a grant of variance by the ZBA. The purpose of this amendment is to clarify that a variance, not a special exception, is required for proposal “C”.

## **SECTION XIV. SIGN ORDINANCE. 1996:** moved from Section XI; changed “Regulations” to “Ordinance” in section title; changed “Administrating Board” to “Administrative Board” throughout.

**A. SCOPE. 1996:** generally amended.

### **B. DEFINITIONS.**

**1. ADMINISTRATIVE BOARD. 1996:** added “or board” following “person(s)”.

**5. EVENT SPECIFIC SIGN. 1996:** generally amended. **2013:** added; non-profit event; These signs shall not promote a business; removed business opening, sale

- 9. **HISTORIC PLAQUE.** 1996: generally amended.
- 11. **HOME OCCUPATION SIGN.** 1996: generally amended.
- 12. **ILLUMINATED SIGN.** 1996: changed “light/paint” to “surfaces”.
- 13. **INFORMATION SIGN.** 1996: generally amended.
- 14. **LINEAL BUILDING FRONTAGE.** 1996: changed “additive” to “cumulative”.
- 16. **NON-CONFORMING SIGN.** 1996: added “but which legally existed prior to the adoption of this Sign Ordinance”.
- 28. **SIGN.** 1996: generally amended.
- 32. **SUBDIVISION SIGN.** 1996: deleted “in this or any other development” following “such sales”.
- 36. **WINDOW SIGN.** 1996: generally amended.
- I. **EVENT SPECIFIC SIGNS:** 7. Removed; Multi business locations with Master Sign will not
- N. **AGRICULTURAL SIGNS: 2013:** changed section
- 2. **MOBILE AND PORTABLE SIGNS: 2013:** (a) added; “These signs are used to promote a business...resides.”
- C. **ADMINISTRATION.** 1996: generally amended.
- D. **GENERAL REQUIREMENTS.** 1996: generally amended.
- E. **APPLICATION FOR PERMIT.** 1996: generally amended.
- F. **PERMITS.**
  - 4. 1996: changed “Planning and Land Use Regulations” to “Revised Statutes Annotated”.
- G. **GENERAL PROVISIONS.** 1996: generally amended.
- H. **PROHIBITED SIGNS.** 1996: deleted “The primary intention here is to ensure that signs be constructed of standard material with standard paint”; generally amended.
  - 1. 1996: added “or signs which are made to appear to move” following “moving signs”.
  - 5. 2004: Add new item 5. for section reference.
  - 14. 1996: added “except that display stands on a farm premises shall be permitted, subject to other provisions of the Zoning Ordinance” following “display structures”.
- I. **EVENT-SPECIFIC SIGNS.** 1996: generally amended. 2012: This amendment clarifies procedures for obtaining a permit for an event-specific sign 2004:
  - 7. Add new item 7. *Justification for amendment:* clarify standards for event-specific signs..
- J. **ILLUMINATION STANDARDS.** 1996: deleted “A sign must not contain motorized or electronic parts which cause it to move or appear to move”; generally amended.
- K. **CONSTRUCTION AND SAFETY STANDARDS.** 1996: generally amended.
- L. **EXEMPTIONS.** 1996: generally amended.
- M. **RESIDENTIAL AND SUBDIVISION SIGNS.** 1996: added “and Subdivision” following “Residential”; generally amended.
- O. **REAL ESTATE SIGNS.** 1996: generally amended.
  - 6. Formerly 10. 1996: Off premise directional signs. added “must be” before “removed; changed “within 3 days” to “no later than one (1) day”.
- P. **HISTORIC DISTRICT SIGNS.** 1996: generally amended.
  - 4. 1996: added “design” following “coordinated in”.

- Q. BUSINESS AND INDUSTRIAL SIGNS. 1996:** added “Agricultural and” before “Business”; added “Commercial”; generally amended. **2004:**
2. Add new section for **MOBILE AND PORTABLE SIGNS.** Justification for amendment: to permit freestanding A-frame type signs in front of businesses. **2012:**
    - b. **2012.**The purpose of this amendment is to clarify procedures for obtaining permits for mobile and portable signs
- R. VENDING MACHINES. 1996:** generally amended.
3. **2001:** delete "shall sit jointly with the" added "may consider, but not necessarily be bound by, recommendations of" **Justification for amendment:** This change allows the Zoning Board of Adjustment to consider, but not necessarily be bound by, recommendations from the Historic District Commission.
- S. SIGN MASTER PLANS. 1996:** generally amended.
- T. GRANDFATHERED SIGNS. 1996:** generally amended.
- U. SEPARABILITY. 1996:** deleted section.

**SECTION XV. HOLLIS RURAL CHARACTER PRESERVATION ORDINANCE. 2004:** Add new section, *Justification for amendment:* To preserve and maintain Hollis' scenic vistas and open spaces through the use of visually unobtrusive and environmentally sound development, while permitting the landowner to exercise his/her property rights in a manner that does not affect the density of development.

**C. OBJECTIVE: 2010:** and C.1. Amended to replace “public ways” with “public roads” .

**D. DEFINITIONS. 2006:** Amend definition of Clear-Cutting. Add new definition for Forest Cover.

**F. DESIGN STANDARDS.**

1. **b.** Insert new item regarding use of stone rip-rap.

**h.** Revise item regarding clear-cutting. *Justification for amendments:* To require revegetation for property that is to be clear-cut for future development and to require revegetation in areas disturbed by earthmoving operations.

2. **a. 2010:** Delete entire text and replace with new wording. The purpose of this amendment is to delete all references to “public way” and replace with “public road”. This will clarify the location(s) from which the feature(s), which are proposed to be protected may be viewed. This amendment also allows the Planning Board flexibility in siting considerations for proposed construction along or near significant features.

4. **e. 2009:** Delete: “The minimum paved width of a road is 20 feet”. The **purpose** of this amendment is to delete a specific road standard from the Zoning Ordinance because: (1) the number is no longer correct, and (2) this standard is found in the Subdivision Regulations.

**SECTION XVI. ADULT SEXUALLY ORIENTED BUSINESSES ORDINANCE. 2006:** Add new section – *Justification for amendment:* To establish locations and conditions under which adult sexually oriented businesses are allowed in order to provide the Town of Hollis the opportunity to regulate this activity.

**SECTION XVII. HISTORIC DISTRICT ORDINANCE. 2008:** Add new section – **2013:** Section E.5; added or expansion in use; removed in use from residential to commercial.

**SECTION XVIII. WORK FORCE HOUSING ORDINANCE. 2009:** Add new section-

**SECTION XIX. EXCAVATION OR MOVEMENT OF EARTH MATERIALS: 2011.** Reconfigured: Moved **Section IX. A.** to new **Section XIX.** Renumbered and re-lettered.

**SECTION IX amendments.**

**A. EXCAVATION OR MOVEMENT OF EARTH MATERIALS**



- 2.a(ii) 1996: added Wetland Conservation Overlay Zone; generally amended.
- 2.a(iii) 1996: added Aquifer Protection Overlay Zone; generally amended.
- 2.a(iv) 1996: generally amended.
- 2.b. 1996: generally amended.
- 3. **SPECIAL EXCEPTIONS: 1996:** generally amended.
- 5. **THIS ORDINANCE SHALL NOT...1997:** added (ii).

**SECTION XX. HOLLIS OPEN SPACE PLANNED DEVELOPMENT (HOSPD)** Adopted March 1993. Amended March 1994. Renumbered new Section 2011. Formerly in Section IX

**2003:** Renumbered Section. Open Space Requirements. **2003:** Add new item (i). Add language to insure that open space in HOSPDs will be useable for park, recreation, conservation or agricultural purposes. **2008:** Amend section J. Hollis Open Space Planned Development (HOSPD). Amend item 5.a. Density (i) The purpose of this amendment is to revise the standards for determining HOSPD density to reflect Net Tract Area rather than gross parcel area. Amend 5.d. (ii) and (iii) to clarify the method of determining HOSPD open space. **2009:** Add new section 6. Workforce Housing Units/Owner Occupied.

4. **APPLICABILITY AND PROCEDURES IN A HOSPD**

- a. **APPLICABILITY 1997:** added third sentence.
- b. **EXEMPTIONS. 1996:** deleted “Minor”; generally amended. **1997:** added “Any major subdivision not subject to HOSPD requirements shall meet the Point Criteria System. **1997:** deleted “each lot has less than 200 feet of frontage or is otherwise incapable of further subdivision”; replaced with “the deed for each lot..”
- d. **PROCEDURES. 1996:** deleted “Sections III. 1, SUBDIVISION PROCEDURE, and IV. 1, GENERAL REQUIREMENTS”.

5. **DENSITY. 1996:** generally amended.

- a. **(i) 2000: Justification for amendment:** This would provide a density based on buildable land, and increase the protection of sensitive areas. Open space would become totally usable.
- b. **LOT SIZE**
  - (ii) 2000: Justification for amendment:** The purpose of this amendment is to keep minimum lot requirements for HOSPD backland lots consistent with contiguous area requirements for all lots.
  - (iv-v) 1997:** new sections.
- c. **FRONTAGE**
  - (i) 1997:** changed to “For HOSPD lots developed along a pre-existing Town road: 200 feet minimum per lot.”
- d. **OPEN SPACE REQUIREMENTS(**
  - ii) 1999:** Increase open space area requirement from 30% to 40% for HOSPD lots with a density of one dwelling unit per 3 to 5 acres. **2000: Justification for amendment:** Open space would become more desirable because it would increase usable land and have the potential to serve a number of purposes, depending upon the location. Sensitive areas would be further protected. Subdivisions could be designed with a true conservation approach by carving out the sensitive land first, enabling the protection of systems, rather than creating isolated pockets.
  - (iii) 1999:** Increase the open space area requirement from 40% to 50% for HOSPD lots with a density of one dwelling unit per 2 to 3 acres. **2000: Justification for amendment:** Open space would become more desirable because it would increase usable land and have the potential to serve a number of purposes, depending upon the location. Sensitive areas would be further protected. Subdivisions could be designed with a true conservation approach by carving out the sensitive land first, enabling the protection of systems, rather than creating isolated pockets.

(v) **1996:** changed “development” to “subdivision” following “conventional”; changed “to the minimum feasible extent required to achieve the density possible by a conventional development” to “Such a reduction shall nonetheless otherwise maximize open space.”

(vi) **OPEN SPACE OWNERSHIP AND MANAGEMENT. 2000: Justification for Amendment:** This section was added to require that the conveyance of open space land and its management be clearly indicated on the plan and in the appropriate deeds and covenants as part of the plan approval, in accordance with recommendations from the Town Attorney.

- e. **BUILDING SETBACKS. 1998:** new section. **2013:** added; Accessory Structures 15 feet side and rear lot lines.

**SECTION XXI. HOUSING FOR OLDER PERSONS:** formerly Section XIII. **Elderly Housing.** Generally amended. New section 2011.

**1996:** deleted “Subsidized” from section title and added “and Disabled”; added “and disabled” throughout section following “elderly”; generally amended. **1997:** deleted limitation to one mile radius from Monument Square; deleted limitation to 3% of total dwelling units in Town. **2000:** Entire section deleted and replaced with CONDITIONS FOR THE WAIVER OF THE HOUSING DENSITY REQUIREMENTS **Justification for amendment:** The intent of these ordinance amendments is to provide housing for older persons that meets community needs while complying with applicable State and Federal laws, by providing a waiver to otherwise applicable density requirements, allowing four times single family density. Depending upon the predetermined age of occupants of a community for older persons the ordinance specifies the varying levels of compliance prescribed by statute for the provision of community facilities and services and provides the same waiver of conventional density requirements to all. Additionally, the ordinance amendments, along with the recently approved Housing for Older Persons Site Plan Regulations, will ensure that this type of housing provides community amenities in a setting that is characteristic of the surrounding community. The new Section M incorporates most of the provisions of deleted Section R: Retirement Community, with the exception of discretionary items, which were incorporated into regulations for elderly housing.

**Retirement Community. 1997:** new section. **2000:** Section entirely deleted and replaced with new section IX. M. **Justification for amendment:** The intent of these ordinance amendments is to provide housing for older persons that meets community needs while complying with applicable State and Federal laws, by providing a waiver to otherwise applicable density requirements, allowing four times single family density. Depending upon the predetermined age of occupants of a community for older persons the ordinance specifies the varying levels of compliance prescribed by statute for the provision of community facilities and services and provides the same waiver of conventional density requirements to all. Additionally, the ordinance amendments, along with the recently approved Housing for Older Persons Site Plan Regulations, will ensure that this type of housing provides community amenities in a setting that is characteristic of the surrounding community. The new Section M incorporates most of the provisions of deleted Section R: Retirement Community, with the exception of discretionary items, which were incorporated into regulations for elderly housing.

**2001:** Renamed, "Housing For Older Persons". **2003:** Renumbered IX. L.

- A. Purpose: **2001:** delete "housing units determined to be desirable for the town as well as necessary to meet community needs, including, but not limited to"
1. **GENERAL STANDARDS: 2001:** delete Section a.1 and a.2. Replace with a. to establish dwelling unit density. Amend d. delete "elderly and disabled", change to "older persons". Amend e. increase minimum lot acreage to 30 acres. Add l. restricting development to sites with frontage on specific roads.
  3. Maximum Permitted Dwelling Units: **2001:** delete "fifteen percent (15%)", change to "ten percent (10%)".
  7. Retirement Community. **2001:** delete entire section, replace with new 6. "Building Rights Limitation".

**Justification for Amendments:** These changes were made to better enable the development of Housing for Older Persons. The changes include: restricts projects to persons 62 years of age and older; revises minimum lot size; restricts development location to specific roadways; replaces "building rights" with construction phasing; eliminates Retirement Community category.

**SECTION XXII. HOME BASED BUSINESSES.** Formerly Section IX. N. **HOME OCCUPATIONS (Adopted March 1989).** **1996:** generally amended. **2003:** Renumbered IX, M. Special Exceptions. **1996:** added reference to use, production, and storage of hazardous materials, **2013:** Purpose: added; Only one Home Occupation or Home Shop use shall be allowed

per residential unit.

formerly found at IX,O.16.

6. **1997:** deleted “and shall not physically occupy an area greater than 15% of the total heated floor space of the home and shall not exceed 300 square feet”; added second sentence.
9. **2001:** amended to clarify that only one non-resident is permitted to be employed at the work site of a home occupation.
13. **1996:** changed “6” to “12”; changed “12” to “24”; added “‘Trip’ shall be as defined in the ITE Trip Generation Manual, 5th Ed.”.
17. **1996:** added “on the premises” following “sales or services”. **2008.** Add new item **M. 17.** The purpose of this amendment is to allow the Zoning Board of Adjustment to review septic system capacity as part of the home occupation criteria)

**2009:** Delete entire section and replace with new section: **HOME BASED BUSINESSES** with three sections: **2. HOME OFFICES**; **3. HOME OCCUPATIONS**; and **4. HOME SHOPS**. The purpose of this amendment is to allow a limited business use in a residential area by Special Exception from the Zoning Board of Adjustment.

**3.4. & 5. 2010:** Amended to prohibit a non-conforming home based business, home occupation or home shop from extending its activity beyond the boundary within which it was originally permitted; and to address home based businesses, home occupations and home shops that have “substantially change” or been abandoned.

**3. HOME OCCUPATIONS. 2012:** b(ii) and **4. HOME SHOPS. b (ii).** Amended to resolve a conflict between the Home Shop and the Sign Ordinance with respect to the allowable size for signs.

**SECTION XXIII. TELECOMMUNICATIONS. Formerly Section IX.S. Personal Wireless Facilities. 1997:** new section. **1998:** delete section and replace with “Telecommunications.” **2000:** Section re-lettered from **S** to **R** **2003:** Re-lettered **R** to **Q.** **2011:** moved to new section XXIII. Telecommunications.

**S(Q).1999:** Amend definition **2.e.** Height of telecommunications facility and add definition **2.f.** Height of surrounding existing vegetation to be consistent with definitions in Telecommunications Facilities Regulations. Change lettering for remaining definitions.

#### **March 2014**

##### **Section XIV, Sign Ordinance, paragraph m; Residential and Subdivision Signs**

1. Remove the words .....or farm.

##### **Section XIV, Sign Ordinance, paragraph n; Agricultural Signs; c; Off-Premises seasonal agricultural signs,**

1. Change to read not to exceed 4 (four) square feet

##### **Section XIV, Sign Ordinance, paragraph n; Agricultural Signs; b, On-Premises seasonal agricultural signs,**

1. Remove product and change to read; Crop picked where it has been grown (such as “Apples”; “Peaches” & “Strawberries” etc.) provided that it displays directional information.

##### **Section IX, General Provisions, paragraph p; Conditional Use Permit-Landscaping Material Yard, 3, Standards and Review, e;**

1. Remove directly from a State Road and change to from frontage on a State Road.

##### **Section XI, Overlay Zoning District, paragraph c; Wetland Conservation Overlay Zone, 6.c (iv)**

1. Remove or naturalized and the United States Fish and Wildlife Service.....New Hampshire
2. Change to read Planting of native.....NHDES publication “Native Shoreland/Riparian Planting for New Hampshire date March 2006, as amended.

**Section XI, General Provisions, paragraph K; Accessory Dwelling Unit.**

1. Add new paragraph 7, Owner Occupied; The principal dwelling unit or accessory dwelling unit shall be owner occupied. If the property owner cannot comply with the provision due to hardship such as, but not limited to, job relocation or a medical/family emergency; the owner may apply to the Board of Adjustment for a Special Exception, such relief may be reviewed by the Board of Adjustment annually but in no case shall the relief be granted be greater than 2 years

**March 2015**

Amended **Section X Zoning Districts: Paragraph: G. Residential/Agricultural Zone. 2. Special Exception** by adding the following new use:

m. Bed and Breakfast according to the definition in Section VIII

and amended Section VIII – Definitions by adding the following new definition:

Bed and Breakfast: A Bed and Breakfast is defined as a transient lodging facility, that is the personal residence of its owner, is occupied by the owner at the time of the rental to a patron, and in which the only meal served is breakfast to in-house patrons. Residents, patrons and non-resident employees must be provided with off-street parking. The bed and breakfast must also comply with all state regulations and have an adequate septic system.

Amended **Section IX General Provisions, F Swimming Pools, Outdoor Storage Tanks, Commercial Fishing Ponds** by amending paragraph 1 as follows:

The facility shall conform with the setback requirements for principal buildings. (Except for in-ground swimming pools which shall conform with the setback requirements for an accessory structure)

Amended existing **Section IX General Provisions, Section K Accessory Dwelling Unit, 3e** by amending the existing Section as follows:

An accessory dwelling unit shall have an area of no less than 300 square feet and no greater than 800 square feet. (Measured by the outside dimension of the exterior wall or the interior dimension of a common wall) An attached accessory dwelling unit shall occupy no more than 30% of the total heated, above grade floor area of the total dwelling unit, including the accessory dwelling unit.

Amended **Section IX: General Provisions**, by adding the following new paragraph:

Q. Planned Unit Development (PUD) setback requirements: For those residential subdivisions that were approved by the Planning Board under the former Planned Unit Development ordinance (pre 1993), building setback requirements shall adhere to the Building Setbacks provisions outlined in Section XX Hollis Open Space Planned Development, Section 5e Building Setbacks.

Amended **Existing Section XII: NONCONFORMING Uses, Structures and Lots, Section B. Nonconforming Lots, 2** to read as follows:

A separate lot which does not conform to the provisions of this Ordinance, which is recorded and taxed as a lot of record at the time of passage of this Ordinance may be used for any conforming use of this district.

Amended existing **Section XII: NONCONFORMING Uses, Structures and Lots, Section A. Nonconforming Uses, 2 Discontinued Use** as follows:

Whenever a nonconforming use has been discontinued for more than two years for any reason, such nonconforming use shall not thereafter be reestablished, and the future use of the property shall be in conformity with the provisions of this ordinance.

**March 2016**

**By creating new Section XXIV; Solar Energy Systems**

**Amend Section X, Zoning Districts Agriculture and Business Zone A&B, Commercial Zone (C), Industrial Zone (I), Mobile Home-1 Zone (MH-1) and Mobile Home -2 Zone (MH-2), Recreation Zone (R), Residential and Agriculture District (R&A), Rural Lands Zone (RL), Town Center (TC), Water Supply Conservation Zone & Historic District (HC) to allow Solar Energy Systems uses as follows:**

**Permitted Uses**

Roof-Mounted Solar Energy Systems. All proposals in the Historic District shall be reviewed and approved by the Historic District Commission.

**Uses Allowed by Conditional Use Permit**

Ground-Mounted Solar Energy Systems. All proposals in the Historic District shall be reviewed and approved by the Historic District Commission.

**Amend Section X Zoning Districts, Section B. Section C, Industrial Zone (I) by adding a new paragraph: 7. Uses Allowed by Conditional Use Permit:**

Alternative Treatment Centers: Pursuant to the authority provided in RSA 674:21, the Planning Board may grant a Conditional Use Permit for an Alternative Treatment Center, Cultivation & Non-cultivation, subject to the requirements of Section IX General Provisions, Paragraph P. This use shall be limited to that portion of the Industrial Zone located along Proctor Hill Road (NH Rt. 130).

**March 2017**

**Amended Section IX General Provisions, paragraph K Accessory Dwelling Units, 2. Definition, Accessory Dwelling Unit (ADU) by deleting the existing definition and replacing it with the following:** As defined by RSA 674:71 as amended, “means a residential living unit that is within or attached to a single family dwelling, 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 principle dwelling unit it accompanies.”

**In addition, amended Section 3 Requirements/Limitations by adding the following:** The use of an ADU shall not be deemed to include such transient occupancies as hotels, motels, rooming or boarding houses. This limitation includes short-term rentals (less than four weeks at a time) of dwelling units. Short-term rentals are only authorized as specifically provided for Bed and Breakfast (Inn) establishments.

**Amended Section VIII Definitions, Structure and/or Building, by adding the following to the existing paragraph:** Structures and/or Building(s) 120 square feet or less shall not require a building permit, but shall be required to meet all setback requirements.

**Amended SECTION XIV: SIGN ORDINANCE as follows: Amend paragraph C. Administration, D. General Requirements, E. Application for Permit, F. Permits, H. Prohibited Signs and I. Event-Specific Signs by deleting reference to the Administrative Board and replacing it with the Building Inspector/Code Enforcement Officer. In addition, clarify the roles of the Board of Selectmen and the Zoning Board of Adjustment as it relates to the sign code.**

**Amended by deleting, in its entirety, Section XIII Residential Construction Timing and Phasing Ordinance, along with the Definitions outlined in Section VIII; Building Right, Building Year and Transferred Rights.**

**Amended Section XXI Housing for Older Persons as follows:**

GENERAL STANDARDS: All housing for older persons shall conform to the following standards:

Dwelling unit density shall not be greater than two (2) ~~one (1)~~ two-bedroom dwelling units or two (2) one-bedroom dwelling units/net tract acre when the type of housing that is being proposed is that which complies with NH RSA 354-A:15, II Housing for Older Persons, ~~which provides an exception to the rule against restricted housing for housing that is "... (II) Intended for, and solely occupied by, persons 62 years of age or older."~~

The minimum lot area shall be 20-~~30~~ acres and the lot shall have at least 50 feet of frontage on those roadways listed in Section XXI, A,1,L.

MAXIMUM PERMITTED DWELLING UNITS: The maximum number of housing for older persons dwelling units approved in a calendar year, when added to all previously approved units of housing for older persons, shall not exceed twenty-five ~~ten~~ percent (~~10%~~) (25%) of the total dwelling units existing in the Town for the previous year.

**Amended Section XI Overlay Zoning Districts as follows:**

6. PROHIBITED USES IN THE AQUIFER PROTECTION OVERLAY ZONE: The following uses shall not be permitted in the Aquifer Protection Overlay Zone: ~~b. Subsurface storage of petroleum or other refined petroleum products.~~

7. NONCONFORMING USES IN THE AQUIFER PROTECTION OVERLAY ZONE:

~~b. Notwithstanding subparagraph 7.a above, no underground storage tank for petroleum or other refined petroleum products may be repaired or replaced. All failed underground storage tanks must be removed according to standards established in state statutes and regulations.~~

**Amended Section X: Zoning Districts by adding the following Intent Sections as follows:**

C. INDUSTRIAL ZONE (I)

INTENT: The Industrial Zone is intended to provide for the location of industry and light manufacturing and the Special Exceptions uses noted in paragraph 4.

D. MOBILE HOME-1 ZONE (MH-1)

INTENT: The Mobile Home-1 Zone is intended to provide an area in Town in which individual lots for mobile homes as well as mobile-home parks are allowed.

H. RURAL LANDS ZONE (RL)

INTENT: The two-fold intent of the Rural Lands Zone is to encourage farming in Town and to permit limited development in areas where physical site conditions are problematic or access to Town services is restricted.

**March 2018**

**Amend Section X Zoning Districts, Agriculture/Business Zone**

1. Permitted Uses in the Agriculture and Business Zone, to allow private schools and day care providers as allowable uses.

**Amend Section XIV Sign Ordinance by removing reference to Administrative Board** in Sections N.2.Ciii; Q.2.b.; S.1.3.4.; and T. and replace with the term Building Inspector/Code Enforcement Officer.

**Amend Section IV Enforcement and Administration**, paragraph J. by deleting the paragraph in its entirety ~~If, after the issuance of a permit, the operations authorized there under are not commenced within one year after day of permit or, if after the commencement of operations the work is discontinued for a period of one year, such permit shall be void and work may not again be commenced until a new permit shall have been issued for the original work, and building materials and equipment on the ground shall be removed or stored according to the requirements of the Building Inspector~~ and replacing it with "A building permit shall be valid for one year from the date of issuance. Said permit period may be extended for one or more times with approval of the Building Inspector. If said permit expires, the building materials and equipment on the ground shall be removed or stored according to the requirements of the Building Inspector.

**Amend Section VIII Definitions, Structure and/or Building**, by deleting the last sentence in the paragraph. That which is erected or assembled using a combination of materials for occupancy or use, whether portable or affixed to the ground. This includes structures of permanent or temporary construction, plastic, fabric, and/or canvas covered frame structures, structures for agricultural uses, structures installed on skids, blocks or permanent foundations and all sheds and storage facilities. All structures will require a building permit. Structures shall not include fences, basketball and tennis courts. ~~Structures and/or Building(s) 120 square feet or less shall not require a building permit, but shall be required to meet all setback requirements.~~

**Amend Section XIV Sign Ordinance, N Agriculture Signs**, by deleting paragraph 1. ~~Permanent agricultural signs shall not exceed 20 square feet of sign surface area.~~ And replacing it with the following: Permanent agricultural signs: When affixed to a building, a sign shall not exceed 20 square feet of sign surface area. A free-standing sign shall not exceed 20 square feet of surface area with no one horizontal or vertical dimension greater than 6 feet. Posts supporting a free-standing sign shall have a total width of no more than 1 foot (unless specified otherwise by building code requirements). In addition, amend Section

N.2. Seasonal agricultural signs, b. i. by deleting ~~Shall not exceed 20 square feet of sign surface area~~ and replacing it as follows: Shall not exceed 20 square feet of sign surface area with no one horizontal or vertical dimension being greater than 6 feet.

### March 2020

**Amended Section VIII, Definitions**, by adding the following: **Setback** - The minimum distance between the nearest portion of a building or structure, a lot line, a right-of-way line, a leachfield, a well, or a terrain feature such as shoreline or wetlands area. Setbacks are required in this ordinance to support the purposes of Zoning Ordinances as specified in state law.

**Amended Section XI, D: Multifamily zone (MF) (Workforce Housing) by changing the following:**

**1. PURPOSE**

The intent of this Section is to ~~define the requirements related to the development of multi-family housing and to prevent the overcrowding of land while provide for the opportunity to construct multi-family housing by the provision of a waiver from the otherwise applicable density requirements, while complying with all applicable state and federal laws with respect to such housing and at the same time,~~ ensuring compliance with local planning standards, land use policies, good building design, and requirements for the health, safety, and general welfare of all the inhabitants of the Town.

**2. GENERAL STANDARDS**

In order to provide for a variety of workforce housing units in the community, which includes both owner and renter occupied units, the following criteria shall be required for developments proposed in the Multi-family Zone:

- a. Dwelling unit density shall be no greater than four (4) units per acre, based upon the Net Tract Area of the property ~~or the minimum number of units required to make the project economically viable whichever is less.~~
- h. The minimum lot area shall be 4 acres and the lot shall have at least 50 feet of frontage. Garden style structure shall be limited to two stories. Townhouse style may be ~~three-two~~ stories, provided that a portion of the first floor area is allocated to a garage use.
- i. Multi-family workforce housing developments submitted under this section shall ~~be exempt from the requirement of Section IX, General Provisions, F, 1-4, Impermeable Surface and Building Coverage and Section XI, Aquifer Protection Overlay Zone (APO), A.3. Dimensional Standards in ch APO provided that all development proposals shall,~~ to the maximum extent practicable, seek to infiltrate the volumetric increase between the existing condition and the proposed condition for the 24-hour, 25-year storm. ...
- k. In order to minimize potential intrusion on neighboring land uses, the Planning Board ~~may shall~~ require the installation of a 100 foot landscaped buffer strip along the perimeter of the site. The Planning Board shall determine the exact nature of the buffer strip, after taking into consideration existing vegetation, topography and other relevant factors.

**Amended Section XVIII: Workforce Housing by changing the following:**

**A. PURPOSE.** The purposes of this section are as follows:

~~The purpose of this section is to define the requirements related to the development of workforce housing in compliance with RSA 674:58-61 and to prevent the overcrowding of land while complying with all applicable state and federal laws with respect to such housing and at the same time, ensuring compliance with local planning standards, land use policies, good building design, and requirements for the health, safety, and general welfare of all the inhabitants of the Town. 1. To encourage and provide for the development of affordable workforce housing;~~

~~2. To ensure the continued availability of a diverse supply of home ownership and rental opportunities for low to moderate income households;~~

~~3. To meet the goals related to affordable housing provisions set forth in the town's Master Plan; and~~

~~4. To comply with the requirements of SB 342, an Act establishing a mechanism for expediting relief from municipal actions which deny, impede, or delay qualified proposals for workforce housing (RSA 674:58-61).~~

**B. AUTHORITY:** This innovative land use control section is adopted under the authority of RSA 674:21, and is intended as an "Inclusionary Zoning" provision as defined in RSA 674:21(I) (k) and 674:21(IV)(a), as well as RSA 672:1, IIIe, effective July 2009. ,which states: "All citizens of the state benefit from a balanced supply of housing which is affordable to persons and families of low and moderate income. Establishment of housing which is decent, safe, sanitary and affordable to low and moderate income persons and families is in the best interests of each community and the State of New Hampshire, and serves a vital public need. Opportunity for development of such housing shall not be prohibited or unreasonably discouraged by use of municipal planning and zoning powers or by unreasonable interpretation of such powers". In addition RSA 674:21 II also provides the authority for Planning Boards to grant Conditional Use Permits.

2. Permitted Uses: Single family, duplex, and multi-family units ~~or mix of housing types within the same development, or a mix of commercial and multi-family housing is~~ are permitted within an application under this Section.

**D. CONDITIONAL USE PERMIT CRITERIA:**

The Planning Board ~~shall~~ may issue a Conditional Use Permit (CUP) if it finds, based on the information and testimony submitted with respect to the Workforce Housing Application, that:...

- b. If completed, the development in its proposed location will comply with all requirements of Section XVIII and other applicable workforce housing provisions contained in other sections of the zoning ordinance without the benefit of waivers.

**G. WORKFORCE HOUSING GENERAL REQUIREMENTS:**

- 1. In order to be considered as a “completed” application eligible for “acceptance” under RSA 676:4.I, an application under this section must contain, at a minimum, the following information:
  - a. Calculation of the number of units provided under this section and how these units will be consistent with the Purpose of the Ordinance.
  - b. Description of each unit’s size, type, estimated cost and other relevant data.
  - c. Documentation of affordable household eligibility as required in Section H
  - ~~d. The Planning Board may request additional information if, in their judgment, it is necessary to make a meaningful determination of affordability.~~
- 2. ~~At the Planning Board’s discretion, the applicant may be required to submit project cost estimates~~ Documentation to establish the economic viability of the proposal including land, development and construction costs; financing, profit, and sales costs; and other cost factors shall be provided. The planning board shall request updates of these cost reports as the project progresses.

**H. ASSURANCE OF CONTINUED AFFORDABILITY:**

In order to qualify as workforce housing under this section, the application shall make a binding commitment that the workforce housing units will remain affordable for a period of years. This shall be enforced through a deed restriction, restrictive covenant, or some other contractual arrangement through a local, state or federal housing authority or other non-profit housing trust or agency or through the town itself as selected by the Planning Board to administer this provision.

**I. ADMINISTRATION, COMPLIANCE AND MONITORING:**

- 2. Where workforce housing applicants propose a development of single family homes or ~~mixed single family and multi-family homes~~, all provisions of the subdivision and site plan regulations shall apply ~~unless waived by the Planning Board. Where workforce housing applicants propose a development of multi-family units or mixed commercial and multi-family units, the site plan regulations shall apply unless waived by the Planning Board.~~
- 3. The Planning Board shall not approve any workforce housing proposal unless it complies with all applicable standards of this ordinance including but not limited to ~~related to~~ environmental protection, water supply, sanitary disposal, traffic safety, and fire and life safety protection.

**Amended Section XX: Hollis Open Space Planned Development by changing the following:**

3. **PURPOSE:** The purpose of the HOSPD is to:

- a. Promote a more efficient use of land requiring a smaller network of streets and utilities;
- b. Promote the preservation of open space, farmland, recreation areas, green space, fields and woods, valuable wildlife habitat, and outstanding topographic, natural, and historic features;
- c. ~~Deleted Discourage the sprawling, land-consuming form of development usually resulting from conventional subdivision;~~
- d. Promote the efficient provision of municipal services and protect existing and potential water supplies;
- e. Maintain the rural and scenic character of the Town of Hollis;
- f. Promote siting of buildings which is sensitive to existing natural and historic features;
- g. Protect the value of real property; and
- ~~h. Provide a variety of types of living spaces and environments.~~

**4. APPLICABILITY AND PROCEDURES IN A HOSPD**

- a. **APPLICABILITY:**, ~~To facilitate achievement of the goals of the Hollis Master Plan, a~~ All major subdivisions shall be presented to the Planning Board in accordance with the Hollis Open Space Planned Development (HOSPD)



standards as specified in this section and in the Land Subdivision Regulations ~~In all cases it shall be assumed that a HOSPD plan is necessary to meet the goals and objectives of this section and of the Master Plan, unless the contrary is demonstrated by the applicant.~~ In cases where the Planning Board determines that a parcel is unsuited to development as a HOSPD, it may waive the requirements of this Section IX,J and permit the parcel to be developed as a conventional subdivision subject to the Point Criteria System, below.

## **6. WORKFORCE HOUSING UNITS/OWNER OCCUPIED**

Single ~~and two~~ family workforce housing units/owner occupied are permitted, provided the following criteria are adhered to:

1. Density: The maximum number of allowable dwelling units that could be developed under the provisions outlined in Section 5.a shall be determined following the standard practice for a Market Rate Housing development. Once the number of HOSPD lots has been determined and agreed to by the Planning Board then that lot figure may be increased by up to 30% ~~10%~~ if it is shown that construction of workforce housing would otherwise not be economically viable. These additional lots shall be designated as workforce housing units/owner occupied.
2. Lot Size: There is no minimum lot size for workforce housing units. The proposed site shall have adequate soils to accommodate on-site wastewater treatment and an adequate water supply adhering to both local and state requirements. A Building Area shall ~~not be required~~ and however at least 50% of the lot shall be Acceptable Land. In addition, wells serving both workforce housing and market rate housing lots may be located in designated Open Space areas. With the goal of meeting the Open Space requirements in Section 5.d., the size of Market Rate Housing lots, as outlined in Section 5.b. may be reduced in order to accommodate the permitted workforce housing units. If it is determined, to the satisfaction of the Planning Board, that market Rate Housing lots cannot be reduced enough or at all because of septic and/or water supply regulations in order to accommodate the total permitted housing unit density, then the Planning Board may consider one or more of the following options in order to accommodate the increased density
6. Workforce housing units shall contain no more than ~~three~~ two bedrooms.

### **March 2021**

**Amend Article XIV, Sign Ordinance, paragraph I, Event Specific Signs** by removing the reference to “political candidates”, deletes 6. ~~Political posters shall not exceed 6 square feet of sign surface area.~~ In addition, amend **paragraph L. Exemptions** by adding a new 15. Political signs, which are regulated under RSA 664:17 as amended.

**Amend Article XXI: Housing For Older Persons, I. General Standards, a.** as follows: “Dwelling unit density shall not be greater than ~~one two (1 2)~~ two-bedroom dwelling units ~~or two (2) one bedroom dwelling units~~/net tract acre..”, and e. “The minimum lot area shall be ~~20 30~~ acres and..”. **paragraph 3. MAXIMUM PERMITTED DWELLING UNITS:** The maximum number of housing for older persons dwelling units ~~approved in a calendar year~~ **shall not exceed 10% of the total number of dwelling units existing in town.** ~~, when added to all previously approved units of housing for older persons, shall not exceed twenty five percent (25%) of the total dwelling units existing in the Town for the previous year.~~

**Amend Section XI, Overlay Zoning Districts, A. Aquifer Protection Overlay Zone (APO), paragraph 6. PROHIBITED USES IN THE AQUIFER PROTECTION OVERLAY ZONE,** by adding the following: *A. Subsurface storage of petroleum, other refined petroleum products, or other Hazardous or Toxic Materials as defined in RSA 147-A.* **And paragraph 7. NONCONFORMING USES IN THE AQUIFER PROTECTION OVERLAY ZONE,** by adding a new **paragraph b.** *Notwithstanding subparagraph 7. a. above, no underground storage tanks for petroleum, other refined petroleum products, or hazardous materials may be repaired or replaced unless repaired or replaced in kind with no expansion or modification to approved site plans. All failed underground storage tanks must be removed according to standards established by NH state statutes and regulations.*

**Amend Section X, Zoning Districts, (C) Industrial Zone (I), 1 Permitted Uses in the Industrial Zone, b.** as follows: Manufacturing - provided that smoke emitted by any stack shall not equal or exceed in density Ringelman No. 2 for periods aggregating more than 4 minutes in any half-hour period, and that all state air quality standards are met. ***In order to ensure that noise outside of lot lines is not objectionable due to intermittence, beat frequency, or shrillness, noise shall be limited to no more than that of average weekday traffic on the surrounding streets. No objectionable, obnoxious, or dangerous concentrations or quantities of odor, dust, fly ash, gases, or fumes are emitted and no excessive vibration is caused.*** ~~Provided also, that noise outside of lot lines does not exceed in intensity that of average weekday traffic on the surrounding streets so as not to be objectionable due to intermittence, beat frequency, or shrillness, and no objectionable, obnoxious, or dangerous concentrations or quantities of odor, dust, fly ash, gases, or fumes are emitted and no excessive vibration is caused~~ The items listed under prohibited uses are intended as a guide and not a complete list. Wastewater must be of equal quality to

that of the proposed receiving waters.

**Amend Section XI: Overlay Zoning Districts, D. Multi-family Zone, Paragraph 1 Purpose**, to read as follows: *The intent of this Section is to define the requirements related to the development of multi-family housing. The opportunity to construct multi-family housing must include considerations to prevent overutilizing of the land. The development plan must follow all applicable federal, state, and local laws with respect to such housing. Compliance with local planning standards, land use policies, good building design, and requirements for the health, safety, and general welfare of all the inhabitants of the Town must be ensured.* ~~The intent of this Section is to define the requirements related to the development of multi-family housing and prevent overcrowding of land while ensuring compliance with local planning standards, land use policies, good building design, and requirements for the health, safety, and general welfare of all the inhabitants of the Town.~~  
**Amend 2. General Standards, Amend paragraph k.** as follows: “In order to minimize potential intrusion on neighboring land uses, the Planning Board shall require the installation of a ~~400~~ **50** foot *landscaped* buffer strip along the perimeter of the site.”

**Amend Section XVIII Workforce Housing, Section A, Purpose**, as follows: *The purpose of this section is as follows: 1. To encourage and provide for the development of affordable workforce housing; 2. To ensure the continued availability of a diverse supply of home ownership and rental opportunities for low to moderate income households; 3. To meet the goals related to affordable housing provisions set forth in the town’s Master Plan; and 4. To comply with the requirements of SB 342, an Act establishing a mechanism for expediting relief from municipal actions which deny, impede, or delay qualified proposals for workforce housing (RSA 674:58-61).* ~~is to define the requirements related to the development of workforce housing in compliance with RSA 674:58-61 and to prevent the overcrowding of land while complying with all applicable state and federal laws with respect to such housing and at the same time, ensuring compliance with local planning standards, land use policies, good building design, and requirements for the health, safety, and general welfare of all the inhabitants of the Town.~~

**Amend Section G, Workforce Housing General Requirements**, by adding the following: *d. The Planning Board shall request additional information if, in their judgment, it is necessary to make a meaningful determination of affordability.* And 2. ~~Documentation to establish the economic viability of the proposal~~ *At the Planning Board’s discretion, the applicant shall be required to submit project cost estimates* including land, development and construction costs; financing, profit, and sales costs; and other cost factors ~~will~~ *shall* be provided. The planning board shall request updates of these cost reports as the project progresses. **Amend Section I. Administration, Compliance and Monitoring, paragraph 2.** by deleting the sentence: ~~Where workforce housing applicants propose a development of single family homes all provisions of the subdivision and site plan regulations shall apply.~~

**Amend Section XX: Hollis Open Space Planned Development, Section 3. Purpose**, as follows: by adding c. *Discourage the sprawling, land-consuming form of development usually resulting from conventional subdivision and h. Provide a variety of types of living spaces and environments.* **Amend Section 4. Applicability and Procedures in a HOSPD** as follows: A. Applicability: *To facilitate achievement of the goals of the Hollis Master Plan*, all major subdivisions shall be presented to the Planning Board in accordance with the Hollis Open Space Planned Development (HOSPD) standards as specified in this section and in the Land Subdivision Regulations. *In all cases it shall be assumed that a HOSPD plan is necessary to meet the goals and objectives of this section and of the Master Plan.* **Amend Section 6. Workforce Housing Units/Owner Occupied, paragraph 1. Density:** The maximum number of allowable dwelling units that could be developed under the provisions outlined in Section 5.a shall be determined following the standard practice for a Market Rate Housing development. Once the number of HOSPD lots has been determined and agreed to by the Planning Board then that lot figure may be increased by up to ~~40~~ **20%** if it is shown that construction of workforce housing would otherwise not be economically viable. These additional lots shall be designated as workforce housing units/owner occupied. Amend paragraph 6 to read as follows: Workforce housing units shall contain no more than ~~three~~ **two** bedrooms.

# **TOWN OF MASON, NEW HAMPSHIRE**

**PLANNING ORDINANCE,  
(Zoning Ordinance)  
(Including Floodplain Development Ordinance)  
Enacted 1967  
Most Recent Amendment June 2016**

**FEMA Flood Hazard Boundary Maps  
Flood Insurance Rate Map (FIRM) Effective Date; September 25, 2009**

**(Incorporating Amendments through June 2016)**

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# THE PLANNING ORDINANCE OF 1967

## TOWN OF MASON

(Incorporating Amendments through March 2011)

### ARTICLE I: PREAMBLE AND TITLE

#### A. Preamble

In pursuance of authority conferred by Chapter 674, Sections 16-50, and Chapter 672, Sections 10-14, of the State of New Hampshire Revised Statutes Annotated, 1955, and as it may be amended and for the purpose of promoting the health, safety, morals, prosperity, convenience or general welfare, as well as efficiency and economy in the process of development of the incorporated Town of Mason, New Hampshire, by securing from fire, panic and other dangers, providing adequate areas between buildings and various rights of way, by preserving the rural charm now attached to the town, the promotion of good civic design and arrangements, wise and efficient expenditure of public funds, and the adequate provision of public utilities and other public requirements and by other means, now therefore, the following ordinance is hereby enacted by the voters of The Town of Mason, New Hampshire in official meeting convened.

#### B. Title

This ordinance shall be known and may be cited as the "Town of Mason Planning Ordinance of 1967" hereinafter referred to as "this Ordinance".

### ARTICLE II: ESTABLISHMENT OF ZONING DISTRICTS

#### A. Districts

For the purpose of this Ordinance the Town of Mason is divided into the following three zoning districts hereinafter referred as "District" and including the following: (1) Village Residential (VR) District; (2) General Residential, Agricultural, and Forestry (GRAF) District; (3) Historic Preservation (HP) District.

#### B. Zoning Map

The Zoning districts listed above shall be bounded as shown on the Map entitled "Town of Mason Zoning Map of 1967" which map is attached hereto and made part of this Ordinance and is hereinafter referred to as the "Zoning Map".

#### C. Boundaries

Unless otherwise indicated, District boundaries as shown on the Zoning Map, are the centerlines of highways and streets, the middle of the channel of waterways or other bodies of water, or where such boundary is also a town boundary then to the limits of the town boundary. Where boundaries are so indicated that they parallel the centerline of highways or streets, such

boundaries shall be interpreted as parallel thereto and the distance therefrom as shown on the Zoning Map. Any boundary within ten feet of a property line shall be considered as the property line. Where no dimension is given on the Zoning Map, distances shall be determined by the scale shown on the map.

### **ARTICLE III: INTERPRETATION AND APPLICATION**

#### **A. Interpretation**

In interpreting any provision of this Ordinance, it shall be held as the minimum requirement, adopted for the promotion of the public health, morals, safety or the general welfare. Whenever any requirement of this Ordinance is at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the highest standard, shall govern.

#### **B. Application**

The provision of this Ordinance shall apply to all uses, structures, and lots within the Town of Mason, New Hampshire, except those publicly owned by a unit of government. Whenever any existing use or structure is not in conformity with the provisions of this Ordinance, it may continue to exist subject to the provisions of Article VI. Any use not listed as a permitted use shall be construed to be prohibited. No conforming use or structure shall become nonconforming or any nonconforming use or structure become further nonconforming by any manner or action whatsoever except in accordance with the provisions of this Ordinance or by other legal action of a jurisdiction setting aside a provision of this Ordinance.

### **ARTICLE IV: GENERAL PROVISIONS**

- A. No junk yard or place for the storage of discarded machinery, vehicles, or other scrap materials shall be permitted in any Districts, except that after a public hearing in which evidence on both sides is heard, the Board of Adjustment shall have authority to decide whether the permit shall be issued or not, and then only in the GRAF District and as approved in accordance with New Hampshire Revised Statutes Annotated, 1955, as amended in 1965, Chapter 236:111-129, MOTOR VEHICLE JUNK YARDS.
- B. No owner or occupant of land shall permit fire or other ruins to be left, but shall remove the same within one year.
- C. Any use that may be obnoxious or injurious by reason of the production or emission of odor, dust, smoke, refuse matter, fumes, noise, vibrations, glare, or similar conditions, or that are dangerous to the comfort, peace, enjoyment, health or safety of the community or lending to its disturbance or annoyance are prohibited.
- D. The removal of clay, sod, loam, sand, or gravel is permitted in any District, provided that:
  - 1. No sod or loam is taken out of the town, (sod grown commercially on a sod farm is exempt from this restriction);
  - 2. Such removal shall require, as the Board of Selectmen deem necessary:
    - a. control of the unfinished level and grading;



- b. control of the placing of topsoil upon completion of excavation, seeding, and planting with approved materials to restore the area to a usable condition protected from erosion and reforested as necessary;
  - c. control of temporary and permanent drainage;
  - d. disposition of boulders, vegetation, stumps and other debris including unused material and any structure used in connection with the operation;
  - e. the construction of necessary fencing to protect against hazards;
  - f. vegetation to remain as a visual barrier;
  - g. hours of operation, except that, hours of operation will not be limited during the normal working day;
  - h. routing and means (including load limits) for transportation of materials;
  - i. posting of a performance bond with sufficient sureties or other security in the amount sufficient to cover items "a" through "f" and any other conditions said Board may require.
3. The removal of more than 1000 cubic yards of clay, sand, gravel or peat in any one year shall require in addition a permit from the Board of Selectmen.
- E. The production, cutting, and processing of forest products shall be permitted in any District provided that no processing or attendant operation, except cutting, shall be carried on or slash left within 100 ft. of any dwelling or residence, 50 ft. from the edge of any roadway, and 25 ft. from any other property line.
- F. In any District, no person shall be permitted to live in a cellar or basement for longer than one year pending completion of the upper portion of the residence.
- G. No privy, septic tank, or any portion of a sewage disposal area shall be constructed or maintained less than 75 feet from the edge of a public water body, from a well, from adjoining property, or from a building or dwelling other than that to which it is appurtenant.
- H. No waste waters or sewage shall be permitted to run free into a public water body or be discharged in any way that may be offensive or detrimental to the health of others. All such waste shall be conveyed away underground through use of an accepted sanitary system or in such a way that it will not be offensive or detrimental to health.
- I. All buildings and sanitary systems shall be constructed and maintained in accordance with the standards set and enforced by the New Hampshire State Department of Health and by the New Hampshire Water Pollution Commission. (A set of such standards is on file with the Town Clerk.)
- J. A private well or other private water system shall be constructed and maintained in accordance with the requirements of the Public Health Service Drinking Water Standards. (A set of such standards is on file with the Town Clerk.)
- K. If any proposed use is such as to attract vehicles, ample space shall be provided on the property to accommodate all such vehicles attracted by the use. If vehicles attracted by use may cause damage to roads because of weight, size, operation or spillage, a bond satisfactory to the Selectmen shall be posted to cover anticipated repair costs.
- L. (Deleted.)

- M. The use of land for the accommodation or storage of recreational vehicles and/or mobile homes for payment is prohibited. Any property owner or lessee may accommodate a recreational vehicle of a non-paying guest for a period not exceeding ninety (90) days in any one year. Mobile homes may be used as permanent dwellings only in the GRAF District, providing that they comply with all area, frontage, setback and other requirements as set forth for that District. Mobile homes shall be in accord with US Department of Housing and Urban Development Mobile Home Construction and Safety Standards. This Section shall apply only to mobile homes utilized for residential purposes and is not intended to restrict the storage or parking of a single recreational vehicle. A single mobile home may be stored on the premises of the owner during periods of non-use, upon approval of the Board of Selectmen.
- N. Dwellings shall require a full frost-free foundation which complies with the current Mason Building Code.
- O. Commercial advertising signs in Mason, with the exception of directional signs described in paragraph O.1.b below, must be on the property on which the enterprise being advertised is located. Such signs shall conform to the following provisions:
1. Signs in the GRAF district (as defined in Article V) in Mason are subject to these stipulations:
    - a. Signs advertising enterprises in Mason must conform to one of the following classes:
      1. Class 1: A single free-standing sign is allowed. The total area of the signboard shall not exceed fifteen square feet in area; both sides of the signboard may be used. The top of the signboard shall not exceed twelve feet in height.
      2. Class 2: Signs affixed to the building housing the enterprise are allowed. The total area of the sign or signs shall not exceed fifteen square feet in aggregate area. None of these signs shall be attached to or protrude above the roof.
      3. Class 3: A single temporary sign is allowed, only for purposes of indicating that the property is for sale or lease. This sign may be either: free-standing, in which case it must conform to the provisions in paragraph O.1.a.1; or affixed to the building, in which case it must conform to the provisions in paragraph O.1.a.2.
    - b. In addition, directional signs may be placed on property other than that on which the enterprise is located, but only with the consent of the owner of the property. These signs shall not be in the town or state right of way. Each sign is restricted to no more than one and one-half square feet in area. For a given enterprise, no more than one sign shall be placed within any two-mile section of road; with the exception that if directional signs are required at more than one corner within a two-mile section of road, such additional signs shall be allowed. No enterprise shall have more than twelve directional signs within the town of Mason.

- c. No sign shall be neon, animated, or flashing. All illumination of signs shall conform to the requirements of Article XXIII, Outdoor Lighting Ordinance.
  - d. No sign for a business shall be positioned in such a manner that it impedes the line of sight of drivers in or on public ways.
2. Signs in the VR district (as defined in Article V) in Mason shall comply with the requirements listed in O.1 and further shall be limited to fifteen square feet in aggregate area, not including a temporary sign as defined in paragraph O.1.b.
  3. Signs in the Historic District (as defined in Article V) in Mason shall comply with the requirements listed in O.1, shall be limited to fifteen square feet in aggregate area, not including a temporary sign as defined in paragraph O.1.b, and must be approved by the Historic District Commission.
  4. Existing signs on enterprises in Mason at the time of this amendment are exempt from the amended provisions. However, if an existing sign is changed or removed, by intent or act of God, any replacement must conform to the amended provisions.
- P. Conventional accessory structures such as play equipment, tent, mail box, outdoor fireplace, and similar structures normally found on such lots, also roadside stands, fences, warning signs, walls, trees, shrubs and all vegetation may be located on the lot in any location that does not interfere with the normal flow of traffic on a public right-of-way.

**ARTICLE V: ZONING DISTRICTS**

The following Districts shall be established for the following purposes and shall be subject to the following provisions:

**A. The Village Residential (VR) District**

The Village Residential (VR) District shall enjoy the following provisions: (It shall be mainly a District of dwellings.)

1. One-family, year-round, seasonal or farm dwelling.
2. Home produce and products may be bought and sold, and exposed for sale in this District.
3. Dwellings may be used to house such uses by the owner or tenant as offices for doctor, engineer, architect, lawyer, real estate and insurance, or other recognized profession, or such home occupation as hairdressing, dressmaking, manufacture of craft products for sale, or manufacture of food products, provided: (a) official residence shall be maintained on the premises in question, (b) professional home-occupation use shall not occupy more than forty percent of the floor area of the dwelling, and (c) not more than one non-resident shall be employed therein.
4. Uses by Special Exception as outlined in Article VIII, Section A2.

5. Accessory buildings such as barn, shed, kennel, private garage, or similar outbuildings normally found in residential and farm areas and not involving the conduct of a business, except for the exclusive sale of home produce and products.
6. Frontage and Lot Area. The minimum frontage shall be 200 ft. on a Class V highway or better and the minimum lot size shall be 88,000 sq. ft. per dwelling.
7. Front, Side and Rear Set Back. No building shall be located within 35 ft. of any right-of-way or lot line.

**B. The General Residential, Agricultural, And Forestry (Graf) District**

The General Residential, Agricultural, And Forestry (GRAF) District shall enjoy the following provisions: (It shall be mainly a District of farms, dwellings and woodlands.)

1. Any use permitted in the VR District subject to the same provisions of use.
2. Mobile homes (excluding recreational vehicles) when placed on a permanent foundation as set forth in Article IV, Section M of this Ordinance.
3. General farming, including horticulture, dairying, livestock and poultry raising, and other agricultural enterprises or uses, general forestry and granite quarrying.
4. Frontage and Lot Area. A conventional lot shall be 350 ft. on a Class V highway or better and the minimum lot area shall be 174,240 sq. ft. per dwelling unit.

Notwithstanding the frontage and lot area imposed by this section, a lot approved by the Planning Board prior to March 11, 2008 shall be deemed conforming to the minimum size and frontage requirements of the GRAF zone.

5. Front, Side and Rear Set Back. No building shall be located within 35 ft. of any road right-of-way or of any other lot.

**C. The Historic Preservation (Hp) District**

The Historic Preservation (HP) District shall enjoy the following provisions: (The purpose shall be to preserve and protect from encroachment the historical heritage of buildings and lands in the District.)

1. Any use permitted in the VR District subject to the same provisions of use and area, with the additional provision that the existing colonial or other architectural treatment of the District shall be maintained in any alterations or improvements to existing buildings or in the construction of new buildings.

**ARTICLE VI: NONCONFORMING USES AND STRUCTURES**

- A. Any nonconforming use or structure may continue in its present use and form, except that any nonconforming use or structure may not be:
  1. Altered for use for a purpose or in a manner substantially different from the use to which it was put before alteration.

2. Changed to another nonconforming use.
3. Re-established after discontinuance for one year except to a use and structure conforming to the District in which it is located.

## **ARTICLE VII: ADMINISTRATION AND ENFORCEMENT**

### **A. Duty**

It shall be the duty of the Selectmen and they are hereby given power and authority to administer and enforce the provisions of this Ordinance. The Selectmen shall appoint a Building Inspector to accept and issue permits and inspect, but not to enforce this Ordinance.

### **B. Permit Issuance**

The Building Inspector shall issue any and all permits requested when such permit is in accordance with the provisions of this Ordinance.

### **C. Permit Required**

After passage of this Ordinance, it shall be unlawful to erect and use any structure, sign, or building, or relocate any building (except an accessory building less than 200 sq. ft. in size not for human occupancy), in any District without first obtaining a permit from the Building Inspector.

### **D. Remodeling**

No permit shall be required for remodeling or repairing where the purpose for which the building or structure is to be used is not changed, or the building is not enlarged or the use extended.

### **E. Enforcement**

Upon any well-founded information that this Ordinance is being violated, the Selectmen shall take immediate steps to enforce the provisions of this Ordinance by notifying the violator and by seeking an injunction in Superior Court.

## **ARTICLE VIII: BOARD OF ADJUSTMENT**

A Board of Adjustment is hereby created and its members shall be appointed by the Board of Selectmen in accordance with, and shall have the terms and powers hereby conferred upon the Board of Adjustment by the provisions of Chapter 673:3 and 674:3, New Hampshire Revised Statutes Annotated, 1955, and as may be amended. Hereafter as terms expire or vacancies occur, the Board of Selectmen shall be responsible for filling vacancies and maintaining full membership on the Board of Adjustment. The Board of Adjustment shall adopt rules to govern its proceedings in accordance with the provisions of this Ordinance, and the provisions of Chapter 673, New Hampshire Revised Statutes Annotated, 1955, and as may be amended. The Board of Adjustment may hear and decide a case where it is alleged there is an error in any order, requirement, decision, or determination made by the Selectmen or the Building Inspector in the enforcement of this Ordinance.

- A. In addition to the general powers granted said Board by said Chapter 674:33, it may, in harmony with and subject to its provisions:

1. Waive the Residential frontage requirements where there are unusual conditions of street curvature. In such cases, however, the average width of the lot shall be equal to or greater than the frontage requirements.
  
2. Special Exceptions: The following uses may be permitted as special exceptions in the districts designated, subject to the satisfaction of the requirements and standards set forth herein in addition to all other requirements and standards of this Ordinance. The Board of Adjustment shall have the power to grant special exceptions after due notice and hearing, and each case shall be deemed to be unique and shall be considered individually.
  - a. Uses Permitted by Special Exception in the Historic Preservation District: church, school and municipal facility.
  
  - b. Uses Permitted by Special Exception in the Village Residential District: any use permitted in the Historic Preservation District, plus inn, tourist home or lodging house (including such retail business within these permitted buildings as are conducted exclusively for the convenience of the residents or guests), retail store or service establishment (the principal activities of which shall be the offering within the building or on the premises of goods or services at retail for the use or consumption within the building or off the premises), restaurant, a business or professional office, bank, indoor live theater or hall, health care facility.
  
  - c. Uses Permitted by Special Exception in the General Residential, Agricultural and Forestry District: any use permitted in the Village Residential District plus light manufacturing enterprise, automobile repair shop, service station, recycling center, office building, public utilities (telephone exchange, transformer station, and pumping station) and seasonal outdoor entertainment use (limited to three (3) or less events per week from Memorial Day Weekend to and including Columbus Day Weekend, ending no later than eleven (11) PM holidays and weekends and ten (10) PM on weekdays).
  
  - d. Standards:
    - (A) Before such approval shall be given, the Board of Adjustment shall determine:
      1. that the use will be in harmony with and promote the general purposes and intent of this ordinance;
      2. that the safety, the health, the welfare and the order of the Town will not be adversely affected by the proposed use and its location;
      3. that the use will not prevent the orderly and reasonable use of permitted or legally established uses in the district wherein the proposed use is to be located or of permitted or legally established uses in adjacent use districts;
      4. that the use will not prevent the orderly and reasonable use of adjacent properties or of properties in adjacent use districts.

- (B) In making a decision, the Board of Adjustment shall determine:
1. that the intent of the preamble is upheld;
  2. that the character of the existing and probable development of uses in the district, and the peculiar suitability of such district for the location of any of such permissive uses;
  3. that the most appropriate use of the land is encouraged and that there will be no devaluation of surrounding properties;
  4. that the location of the proposed use will not overburden the public streets or highways;
  5. that there will be adequately surfaced space for purposes of off-street parking of vehicles incidental to the use, and whether such space is reasonably adequate and appropriate and can be furnished by the owner of the plot sought to be used within or adjacent to the plot wherein the use shall be had;
  6. that there will be adequate and proper facilities for the treatment, removal or discharge of sewage, refuse or other effluent (whether liquid, solid, gaseous or otherwise) that may be caused or created by or as a result of the use;
  7. that the use or materials incidental thereto, or produced thereby, will not give off obnoxious gases, odors, smoke or soot;
  8. that the use will not cause excessive emission of electrical discharges, dust, light, vibration or noise;
  9. that no hazard to life, limb or property because of fire, flood, erosion or panic will be created by reason of, or as a result of the use, or by the structures to be used therefore, or by the inaccessibility of the property or structures thereon for the convenience of entry and operation of fire and other emergency apparatus or by the undue concentration or assemblage of persons upon such plot;
  10. that the use, or the structures to be used therefore, will not cause an overcrowding of land or undue concentration of population;
  11. that the plot area is sufficient, appropriate and adequate for the use and the reasonable anticipated operation and expansion thereof;
  12. that the use to be operated is not unreasonably near to a church, school, theater, recreational area or other place of public assembly; and,
  13. that the use will be adequately landscaped including greenbelts and or setbacks as necessary to preserve the rural charm.

**ARTICLE IX: AMENDMENT**

This ordinance may be amended in accordance with the provisions of Chapters 675:3 through 675:9, New Hampshire Revised Statutes Annotated, 1955, and as may be amended.

**ARTICLE X: PENALTY**

Every person, persons, firm or corporation violating any of the provisions of this Ordinance shall be fined not more than Fifty Dollars (\$50) upon conviction for each day such violation exists.

**ARTICLE XI: SAVING CLAUSE**

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

**ARTICLE XII: WHEN EFFECTIVE**

This Ordinance shall take effect immediately upon its passage.

**ARTICLE XIII: (DELETED)**

**ARTICLE XIV: DEFINITIONS**

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

1. ***Accessory Building*** - a detached building subordinate to the main building on a lot and used for purposes customarily incidental to those of the main building.
2. ***Accessory Use*** - a land use located on the same lot which is incidental and subordinate to the main structure or use of the land.
3. ***Building*** - a structure having a roof and intended for the shelter, housing or enclosure of persons, animals or chattel.
4. ***Dwelling*** - one or more living or sleeping rooms arranged for the use of one or more individuals living as a single housekeeping unit with cooking, living, sanitary and sleeping facilities.
5. ***Family*** - one or more persons related by blood, marriage or adoption, or maintaining a single household on the premises and living as a single housekeeping unit.
6. ***Granite Quarrying*** - the extraction and processing of granite, but not including stone crushing.
7. ***Home Produce and Products*** - includes everything of an agricultural nature grown, produced, conditioned or otherwise carried on the property of the resident; also such



articles that are manufactured or altered by members of the household or the bona-fide resident of the property.

8. **Junk** - any old metals; old bottles; cotton, woolen, or wood-mill wastes; unfinished cloth; unfinished cotton or woolen-mill yarns; old paper products; old rubber products; two or more unregistered motor vehicles which are unfit for use on highways, used parts and materials for motor vehicles; and other second-hand articles.
9. **Lot** - a parcel of land occupied or capable of being occupied by one structure or use and the structures or uses accessory thereto including such open spaces and setbacks as are required by this Ordinance. A lot may or may not be the land shown or described as a lot on a recorded deed or plan.
10. **Mobile Home** - a manufactured residential dwelling unit designed for transportation after fabrication, on streets or highways, on its own wheels or on a flatbed or other trailer, and arriving on the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly, location on a foundation, connections to utilities and the like. A recreational vehicle is not to be considered a mobile home.
11. **Recreational Vehicle** - a travel trailer, motor home, camper, van, or the like.
12. **Permanent Resident** - a family who have used any building continuously as a residence for a period of six months or more.
13. **Public Hearing** - a hearing as defined by New Hampshire Revised Statutes Annotated, 1955, Chapter 675:7, and as amended.
14. **Right-of-Way** - all state, town and federal highways and the land on either side of same as covered by statutes to determine the width of rights of way.
15. **Seasonal Building** - a building of a design or character suitable for seasonal purposes, or not more than 180 days occupancy in any one calendar year.
16. **Sign** - any device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public.
17. **Structure** - anything constructed or erected, the uses of which require location on the ground and includes a building or sign.
18. **Structure, Nonconforming** - a structure which is lawfully maintained at the time this Ordinance became effective and which does not conform with the regulations of the District in which it is located.
19. **Substantially Different Use** - a use not permitted within the District in which the particular use in question is located.
20. **Inn, Motel, Tourist Home or Lodging House** - a building, or portion thereof, or a group of buildings on a single lot, intended to be used for temporary accommodation, consisting of not more than six (6) lodging units with or without meals and which major

provision for cooking may be made in a central kitchen, but may not be in the individual rooms or suites.

21. **Rooming or Boarding House** - a building or premises, other than an inn, motel, tourist court or lodging house, where rooms are let and where meals may be regularly served by prearrangement for compensation; not open to transient guests, in contrast to restaurants and tourist homes, which are open to transients.
22. **Travel Trailer** - a vehicle designed for temporary recreational use and not intended for residential purposes.
23. **Use, Nonconforming** - a use which lawfully occupied or used a structure or lot at the time this Ordinance became effective and which does not conform with use regulations of the District in which it is located.
24. **Year-Round Building** - a building of a design or character suitable for year-round purposes, or more than 180 days occupancy in any one calendar year.
25. **Service Station** - a structure or lot used for the sale of gasoline and minor servicing. No storage beyond seventy-two (72) hours of such motor vehicles on the premises other than those in process or awaiting repair or pickup after repair.
26. **Auto Repair Shop** - a shop or garage for major repair of motor vehicles and sale of gasoline. All vehicles in storage shall be screened from public view.
27. **Store** - an establishment where merchandise is sold.
28. **Establishment** - a place of business together with its employees, merchandise, etc.
29. **Recycling Center** - a structure or area, singular or in combination, devoted to the collection, packaging and dispersal of refuse (excluding garbage). It must be enclosed by a fence not less than ten (10) feet high, surrounded by a natural buffer zone not less than two hundred (200) feet in depth on all sides and situated on a minimum ten (10) acre site. The operating equipment shall not exceed the height of the buffer zone.
30. **Light Manufacturing Enterprise** - a facility limited to six (6) employees, not greater than 2,500 enclosed square feet, subject to all aforementioned standards; e.g. noise, pollution, waste generation.
31. **Commercial Use** - the buying and selling of goods and services in retail businesses, wholesale buying and selling, and financial establishments.
32. **Industrial Use** - the manufacture, fabrication, processing, reduction or destruction of any article, substance or commodity, or any other treatment thereof in such a manner as to change the form, character or appearance thereof, and including storage elevators, truck storage yards, warehouses, wholesale storage and other similar types of enterprise.

**ARTICLE XV: DISTRICT BOUNDARIES****A. Boundaries of Village Residential (VR) District**

Due east from the intersection of Darling Hill Rd. and the Mason town line for exactly one mile; thence, south-south-easterly in a direct line to the intersection of the Boston and Maine RR and Jackson Rd., thence southerly along the railroad tracks to the Mason town-line; westerly along the Mason line to Mason Brook, thence northerly along Mason Brook to a point due east of the southeast corner of Greenville, thence due west to Greenville's southeast Corner, and northerly along the Mason town-line to Darling Hill Rd. The area included in the HP District is not part of the VR District.

**B. Boundaries of Historical Preservation (HP) District**

From a point on Mason Brook 500 ft. north of Merriam Hill Rd. in a straight line northeasterly to a point on Darling Hill Rd. due west of the intersection of Meeting House Hill Rd. and Scripps Lane; thence, easterly across Meeting House Hill Rd. to a point 500 ft. northeasterly on Scripps Lane; southwesterly then southeasterly along Meeting House Hill Rd. and Valley Rd. keeping 500 ft. from the road at all times to a point due east of the intersection of Cascade Rd. and Valley Rd., due west to the intersection, westerly along Cascade Rd., to Mason Brook, thence northerly along Mason Brook to point of origin.

**C. Boundaries of the General Residential, Agricultural, and Forestry (GRAF) District**

The boundaries of the GRAF District shall be the Town Boundaries, excluding the land included in the VR and HP Districts.

**ARTICLE XVI: WETLANDS CONSERVATION DISTRICT ORDINANCE****A. Purpose And Intent**

In the interest of public health, safety, and welfare, the regulations of this District are intended to guide the use of areas of land with extended periods of high water tables:

1. To prevent the development of structures and land uses on naturally occurring wetlands which would contribute to pollution of surface and groundwater.
2. To prevent the destruction of natural wetlands which provide flood protection, recharge of groundwater supply, and augmentation of stream flow during dry periods.
3. To protect potential water supplies and existing aquifers (water-bearing strata) and aquifer recharge areas.
4. To prevent unnecessary or excessive expenses to the Town to provide and maintain essential services and utilities.
5. To encourage those uses that can safely and appropriately be located in wetland areas.

**B. District Boundaries**

1. Wetlands Conservation District Defined

The Wetlands Conservation District is hereby determined to be all surface waters and wetlands as determined by the following criteria. The edge of the wetland shall be defined by NH RSA 482-A:2, X as established and defined by the Corps of Engineers Wetlands Delineation Manual, Technical Report Y-87-1, Environmental Laboratory, Department of the Army, 1987:

“Wetlands” means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

## 2. Delineation of Wetlands

Wetlands in the Town of Mason shall be determined in accordance with NH RSA 482-A and the criteria referenced under Article XVI.B.1 through site specific delineation conducted by a soil or wetland scientist certified by the State of New Hampshire. A certified soil or wetlands scientist determination is not required for minimum impact projects unless they are part of a subdivision.

## 3. Wetlands Incorrectly Delineated

In the event that the Planning Board or the Zoning Board of Adjustment disputes the delineation of an area as determined by the applicant’s certified soil or wetland scientist, the Planning Board or Zoning Board of Adjustment may, at the expense of the applicant, retain its own soil or wetland scientist certified by the State of New Hampshire to delineate the area in question.

## C. Relation To Other Districts

In all cases where the Wetlands Conservation District conflicts with the provisions of another zoning district in the Town of Mason, that district whose regulations are more restrictive shall apply.

## D. Permitted Uses

Any use that does not result in the erection of any structure or alter the surface configuration by the addition of fill and that is otherwise permitted by the zoning ordinance:

1. Forestry, tree farming, using best management practices in order to protect streams from damage and to prevent erosion and sedimentation;
2. Cultivation and harvesting of crops according to recognized soil conservation practices, including the protection of wetlands from pollution caused by fertilizers, pesticides, and herbicides used in such cultivation;
3. Water impoundments and construction of wells for water supply;
4. Maintenance of existing drainage ways - streams, creeks, or other paths of normal runoff water;
5. Wildlife habitat management;

6. Parks and such recreational uses as are consistent with the purposes and intent of this ordinance;
7. Conservation areas and nature trails;
8. Open space as permitted by subdivision regulations or zoning ordinance.

#### **E. Special Exceptions**

Special exceptions may be granted by the Board of Adjustment for the following uses within the Wetland Conservation District. The Mason Conservation Commission will be requested to comment on applications requiring special exception.

1. Streets, roads, and other access ways and utility rights of way easements including power lines and pipe lines if essential to the productive use of land not so zoned and if so located and constructed as to minimize any detrimental impact of such uses upon the wetlands;
2. The undertaking of a use not otherwise permitted in the Wetland Conservation District, which may include the erection of a structure, dredging, filling, draining, or otherwise altering the surface configuration of the land, if it can be shown that such proposed use will not conflict with the purpose and intentions of this ordinance and if such proposed use is otherwise permitted by the zoning ordinance. Proper evidence to this effect shall be submitted in writing to the Board of Adjustment and shall be accompanied by the findings of a review by the Hillsborough County Conservation District.

#### **F. Special Provisions**

1. No septic tank or leach field may be constructed or enlarged closer than seventy-five (75) feet to any wetland.
2. Wetland areas may be used to satisfy minimum lot areas and setback requirements provided that at least one and one-half acres per lot exist that can fulfill all state standards for sewage disposal and water supply. For on-site septic tank and leach field systems, this shall include both a primary and secondary leach field location.

### **ARTICLE XVII: GROWTH MANAGEMENT ORDINANCE**

Enacted September 1987, repealed March 1991.

### **ARTICLE XVIII: FLOODPLAIN DEVELOPMENT ORDINANCE**

The Federal Emergency Management Agency (FEMA) New Hampshire Model Floodplain Ordinance for Communities with Special Flood Hazard Areas, Meets the Minimum Requirements of Section 60.3(b) of the National Flood Insurance Program Regulations, dated February 21, 1975, as reissued with an effective date of December 1, 1992, and any revisions thereafter, are declared to be a part of this ordinance and are hereby incorporated by reference. The text of this model ordinance is reproduced below in Appendix A. Copies of later revisions, as they become available, will be kept for public inspection at the Town Offices.

**ARTICLE XIX: TELECOMMUNICATIONS FACILITITES ORDINANCE**

**ITEM I AUTHORITY:**

This Ordinance is adopted by the Town of Mason on March 8, 2005 in accordance with the authority granted by the New Hampshire Revised Statutes Annotated 674:16 and 21, II.

**ITEM II PURPOSE:**

These regulations have been enacted in order to establish general guidelines for the siting of towers and antennas and to enhance and fulfill the following goals:

1. Preserve the authority of the Town of Mason to regulate and provide for reasonable opportunity for the siting of telecommunications facilities.
2. Enhance the ability of providers of telecommunications services to provide such services to the community effectively and efficiently.
3. Reduce the adverse impacts such facilities may create on, including, but not limited to: migratory bird flight corridors, impacts on aesthetics, environmentally sensitive areas, historically significant locations, health and safety by injurious accidents to person and property, and diminution of property values.
4. Preserve unique viewsheds and scenic values.

**ITEM III DEFINITIONS:**

1. Antenna - Means any exterior apparatus designed for telephonic, radio, television, personal communications service, pager network, or any other communications through the sending and/or receiving of electromagnetic waves of any frequency and bandwidth.
2. Average Tree Canopy Height - Means the average height found by inventorying the height above ground level of all trees over 20 feet in height for a radius of 150 feet.
3. Tower - Means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas.
4. Telecommunications Facilities - Means any antenna, tower, or other structure intended for use in connection with the transmission or reception of radio or television signals or any other electromagnetic transmission/receptions.

**ITEM IV LOCATION OF TELECOMMUNICATIONS FACILITIES**

Telecommunications facilities may be permitted in all districts, provided that they are camouflaged, hidden or disguised. Historic Districts are specifically exempted from this provision. In no case, however, shall such a facility be sited in a location that would impact any scenic view.

**ITEM V PERMITTED USES**

1. ***Principal or Secondary Use*** - Telecommunications facilities may be considered either principal or secondary uses. Having an existing-permitted use on site shall not preclude the addition of a facility as a Secondary Use as long as all other provisions of the Ordinance are met. A different existing use or an existing structure on the same lot shall not preclude the installation of a facility on such lot. For purposes of determining whether the installation complies with district development regulations, including but not limited to setback and lot coverage requirements, the dimensions of the entire lot shall control, even though the facility may be located on leased parcels within such lots. Facilities that are installed in accordance with the provisions of this Ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure.

Any alteration of the original permitted use and device configuration of the facility will require a new approval.

2. ***Amateur Radio; Receive-Only Antennas*** - This Ordinance does not apply to any antenna used exclusively in the amateur radio services that is eligible under the Amateur Radio Preemption, 101 FCC 2nd 952 (1985).
3. ***Essential Services & Public Utilities*** - Telecommunication facilities shall not be considered infrastructure, essential services, or public facilities, as defined or used elsewhere in the Town's ordinances and regulations. Siting for telecommunications is a use of land, and is addressed by this Section.

**ITEM VI CONSTRUCTION PERFORMANCE REQUIREMENTS**

1. ***Federal Requirements*** - All facilities must meet or exceed current standards and regulations of the FAA, FCC, and any other agency of the federal government with the authority to regulate such facilities. If such standards and regulations are changed, the owners of facilities governed by this Ordinance shall bring these into compliance within six (6) months of the effective date of the changes, unless a more stringent compliance schedule is mandated by the controlling federal agency. Failure to bring facilities into compliance with any changes shall constitute grounds for the removal of the tower or antenna at the owner's expense, in accordance with Section X through the execution of the posted security.
2. ***Building Codes/Safety Standards*** - To ensure the structural integrity of towers and antennas, all facilities will be inspected every (one, two, three? Years) by an engineer approved by the Town, with the cost to be paid by the owner. The engineer will submit a report to the Town. If the report concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, the owner will receive notice that he/she has 30 days to bring such tower into compliance with the standards. If the owner fails to comply within 30 days, such action shall constitute an abandonment and grounds for the removal, in accordance with Section X, of the tower or antenna, at the owner's expense through execution of the posted security.
3. ***Additional Requirements for Telecommunications Facilities*** - These requirements shall supersede any and all other applicable standards found elsewhere in Town Ordinances or Regulations that are less strict.

4. **Height** - All efforts should be made to keep tower height at a minimum; in no case shall a tower exceed 200 feet.
5. **Setbacks and Separation** - In addition to compliance with the minimum zoning district setback requirements for all structures, towers shall be set back a distance equal to 125% of the height of the tower from all property lines.
6. **Security Fencing** - Towers shall be enclosed by security fencing not less than six (6) feet in height and shall also be equipped with an appropriate anti-climbing device.
7. **Landscaping** - A buffer shall be provided that effectively screens the view of the compound from adjacent residential property. The standard buffer shall consist of a landscaped strip at least 10 feet wide outside the perimeter of the compound. Natural vegetation is preferred.

In locations where the visual impact of the compound would be minimal or non-existent, the landscaping requirement may be reduced or waived entirely.

Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large wooded lots, natural growth around the property may be deemed a sufficient buffer.

8. **Camouflaging** –
  - a. At a tower site, the design of the buildings and related structures shall, to the maximum extent possible, use materials, colors, textures, screening, and landscaping that will blend the tower facilities with the natural setting and built environment.
  - b. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment visually unobtrusive.
9. **Balloon Test** - The applicant shall provide notice of a date on which a balloon (or balloons) will be floated at the proposed site, and provide pictures from all locations around town and within 20 miles from which the balloon(s) is visible.

## ITEM VII CONDITIONAL USE PERMITS

1. **General** - Telecommunications Facilities are permitted only after obtaining a Conditional Use Permit from the Planning Board. All such uses must comply with other applicable ordinances and regulations of the Town of Mason.
2. **Issuance of Conditional Use Permits** - In granting the Conditional Use Permit, the Planning Board may impose conditions to the extent the Board concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties, and preserve the intent of this Ordinance.
3. **Permit Renewal** - Permits shall be renewable annually. When possible, this time frame shall be consistent with the timing for performance bond renewal.



**ITEM VIII PROCEDURE ON APPLICATION**

The Planning Board shall act upon the application in accordance with the procedural requirements of the Site Plan Review Regulations and RSA 676:4.

All towns within 20 miles of the proposed location will be notified of the public hearing, by certified mail, to be paid by the applicant. A notice will also be posted in the newspaper customarily used for legal notices by these municipalities. Such notice shall be published not less than 7 days nor more than 21 days prior to the public hearing date.

All decisions shall be rendered in writing. A denial must be based upon substantial evidence contained in the written record.

**ITEM IX PLAN REQUIREMENTS**

Each applicant requesting a Conditional Use Permit under this Ordinance shall submit a scaled plan showing or accompanied by the following information:

1. Title block that shows the name of the development or project.
2. North arrow, date of plat, scale; name, address and seal of all persons preparing the plat.
3. Signature block for Planning Board endorsement.
4. Vicinity sketch and zoning district(s).
5. Total area of the parcel in acres and square feet.
6. Lot frontage.
7. Boundary lines and approximate dimensions and bearings.
8. Tax map and lot numbers.
9. Locations and descriptions of any existing or proposed easements, deed restrictions, or covenants.
10. Physical features on the site and within 200 feet of the site.
11. Soil information based on the Hillsborough County Soil Survey.
12. All natural features, such as streams, ponds, wetlands, etc.
13. Existing and proposed grades and contours, and base flood elevations.
14. Shape, size, height, location and use of existing and proposed structures on the site.
15. Existing buildings and structures within 500 feet of the site.
16. Access to the site, with location and width of existing and proposed driveways.

17. A driveway permit been granted from either the NH DOT or the Town of Mason.
18. Locations, names, right-of-way and travel widths of any existing and proposed roads on the property and within 200 feet of the site.
19. Final road profiles and cross sections for any new roads.
20. Locations and sizes of all electric and telephone lines on the site.
21. Existing and proposed fire hydrants and/or fire ponds.
22. Existing and proposed methods of handling stormwater runoff, and the direction of the flow indicated by arrows.
23. Sizes and locations of all stormwater drainage lines, catch basins, drywells, drainage ditches, retention basins, and culverts.
24. Location, types, and sizes of all existing and proposed landscaping and screening.
25. Location of any proposed lighting.

Other Information Required:

In order to assess compliance with this Ordinance, the Planning Board shall require the applicant to submit the following prior to any approval by the Board:

1. Propagation map showing proposed radio frequency coverage.
2. Photographic documentation of the balloon test(s).
3. The applicant shall submit written proof that the proposed use/facility complies with the FCC regulations on radio frequency (RF) exposure guidelines.
4. The applicant shall submit written proof that it has conducted an evaluation of any requirements of the National Environmental Policy Act (NEPA) pertaining to the proposed facility, as may be required under applicable FCC rules, and the results of any such evaluation. If an Environmental Assessment (EA) or an Environmental Impact Statement (EIS) is required under the FCC rules and/or NEPA, the applicant shall submit the EA or EIS to the Board prior to the beginning of the federal 30-day comment period; the Town proceedings with respect to the proposed facility shall become part of the FCC application requirements.
5. The applicant will provide the Board with the following information:
  - a. the number of sites for telecommunication facilities each provider will require;
  - b. sites outside of the Town for the particular coverage area that are being considered;

- c. how the siting of a telecommunication facility will affect the ability to allow a competitor's antennas on the same property;
6. The applicant will provide the Board with studies of alternative sites in Town that have been considered for siting.
7. The applicant shall submit an agreement with the Town that allows for the maximum allowance of co-location upon the new structure. Such statement shall, at a minimum, require the applicant to supply available co-location for reasonable fees and costs to other wireless telecommunication providers. An opportunity for co-location is not to be considered a justification for excessive height of towers. Co-location opportunities shall also not exclude the investigation of alternative sites.
8. The applicant will provide the Board with any copies of the federal license from the FCC proving that they, or their contracted client, are eligible to deploy their systems under the Federal Telecommunications Act of 1996.
9. Upon request, the applicant will provide:
  - a. detailed maps showing all of the carrier's current externally visible tower and monopole locations in the state within a 20-mile radius, both active and inactive; and
  - b. site descriptions for each of the above locations showing the antenna height and diameter, and all externally visible structures.
10. The applicant will submit an agreement to the Town to the effect that the Town will be held harmless for any extraordinary fire or safety events.

#### **ITEM X WAIVERS**

1. Any portion of these regulations may be waived or modified when, in the opinion of the Board, strict conformity would pose an unnecessary hardship to the applicant and such waiver would not be contrary to the spirit and intent of these regulations.
2. Conditions - In approving waivers, the Board may impose such conditions as it deems appropriate to substantially secure the objectives of the standards or requirements of these regulations.
3. Procedures - A petition for any such waiver shall be submitted in writing by the applicant for Board review. The petition shall state fully the grounds for the waiver and all of the facts relied upon by the applicant.

#### **ITEM XI BONDING AND SECURITY INSURANCE**

The applicant shall provide a bond to the Town in an amount that would be sufficient to cover the costs of removal and disposal of the facility components. The Planning Board shall set the form and amount of the security. The Planning Board shall also require the applicant to submit proof of appropriate liability insurance with respect to the proposed facilities prior to construction.

The term of the bond shall be negotiated with the Planning Board and administered by the Selectmen. In addition, if the Board requires an engineering assessment in order to set the amount of the bond, the cost shall be borne by the applicant.

**ITEM XII REMOVAL OF ABANDONED ANTENNAS AND TOWERS**

Any antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned and hazardous to the public health and safety, unless the owner of said tower provides proof of quarterly inspections. The owner shall remove the abandoned structure within 90 days of receipt of a declaration of abandonment from the Town. A declaration of abandonment shall only be issued following a public hearing, noticed per Town regulations, with notice to abutters and the last known owner/operator of the tower. If the abandoned tower is not removed within 90 days, the Town may execute the security and have the tower removed. If there are two or more users of a single tower, this provision shall not become effective until all users cease using the tower.

In cases of co-location, the agreement shall make clear which owner is responsible for the removal of which facilities and pieces of equipment.

**ITEM XIII ADMINISTRATION AND ENFORCEMENT**

It shall be the duty of the Board of Selectmen, and they are hereby given the power and authority, to enforce the provisions of this ordinance. The Selectmen may appoint an agent to enforce this ordinance.

Upon any well-founded information that this ordinance is being violated, the Selectmen shall take immediate steps to enforce the provisions of this ordinance by seeking an injunction in the Superior Court or by any other legal action.

**ITEM XIV SEVERABILITY**

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

**ITEM XV APPEALS**

Pursuant to RSA 676:5, any decision made under this ordinance cannot be appealed to the Board of Adjustment, but to the superior court as provided by RSA 677:15.

**ARTICLE XX: ACCESSORY DWELLING UNIT ORDINANCE**

An Accessory Dwelling Unit (ADU) is a second dwelling unit permitted by this ordinance to be located on the same lot as the principal dwelling unit. The ADU may be attached or interior to the principal dwelling unit. It is a complete housekeeping unit with independent cooking, living, sanitary and sleeping facilities.

**A. Purpose and Intent**

1. To provide expanded rental housing opportunities in the Town of Mason, including rental opportunities that qualify as workforce housing.

2. To provide flexibility in household arrangements by permitting a second dwelling unit on a single residential lot, to the benefit of the owner occupants and tenants (elderly persons, extended family members, etc).
3. To preserve the single-family residential character of the neighborhood by ensuring that the accessory dwelling unit preserves the appearance of the principal dwelling unit as a residence, is permitted only on owner-occupied property, and does not endanger the health, safety and welfare of the public.

## **B. Authority**

This ordinance is adopted under the authority of RSA 674:21, Innovative Land Use Controls and the authority of NH RSA 674:58 – 61, Workforce Housing.

RSA 674:58, IV states: "Workforce housing" ... means rental housing which is affordable to a household with an income of no more than 60 percent of the median income for a 3-person household for the metropolitan area or county in which the housing is located as published annually by the United States Department of Housing and Urban Development. Housing developments that exclude minor children from more than 20 percent of the units, or in which more than 50 percent of the dwelling units have fewer than two bedrooms, shall not constitute workforce housing for the purposes of this subdivision.

Rental housing provided by ADUs is not constructed in developments, but by individual landowners. Landowners designing ADUs shall be made aware of these criteria; however, these shall not be requirements for ADUs under this Ordinance.

## **C. Requirements and Limitations**

1. An accessory dwelling unit shall be secondary and accessory to a principal single family dwelling unit.
2. Accessory dwelling units may be established in the General Residential, Agricultural and Forestry zone (GRAF), the Village Residential zone (VR) or the Historic Preservation district (HP).
3. One accessory dwelling unit shall be allowed on a lot containing a single residential structure.
4. The ADU shall be similar in appearance to the principal dwelling unit and not change the character of the principal dwelling unit as a single family residence.
5. In relationship to the principal dwelling unit, an ADU may be:
  - a. Interior to the principal dwelling.
  - b. Attached to the principal dwelling.
6. Accessory dwelling units shall be designed to allow for reincorporation with the principal dwelling unit.
7. The owner of record of the principal dwelling unit must reside in either the principal dwelling unit or the accessory dwelling unit.

8. Size limitations:
  - a. The gross living area above ground (GLAAG) of an ADU shall be a minimum of 350 square feet for a 1-bedroom ADU, 500 sq. ft. for a 2-bedroom ADU and a maximum of 1,000 sq. ft. for any ADU.
  - b. Attached accessory dwelling units shall occupy no more than 40% of the GLAAG of the principal dwelling. (E.g. Existing principal dwelling = 2,000 sq. ft. - 40% of 2,000 sq. ft. = 800 sq. ft ADU maximum size).
  - c. Where interior to the principal dwelling, the ADU shall not reduce the principal dwelling GLAAG to less than 1200 sq. ft. (E.g. Before ADU, principal dwelling GLAAG = 2,000 sq. ft. – Interior ADU = 800 sq. ft., leaving a remainder of 1,200 sq. ft. as principal dwelling GLAAG)
9. Access:
  - a. ADUs shall have one interior direct access between the ADU and the principal dwelling unit, and one exterior access.
  - b. If an exterior access requires stairs to a level higher than the entry level of the principal dwelling unit, it shall be at the side or rear of the ADU.
10. Vehicular Access:
  - a. Adequate space shall be provided within the property for ingress, turning around and egress of vehicles.
  - b. Adequate off street parking shall be provided for the combined needs of the principal dwelling unit and the accessory dwelling unit.
11. Health and Safety:
  - a. An accessory dwelling unit shall meet all fire and building safety codes.
  - b. The existing, replacement and/or new septic system shall be certified by a licensed septic designer or engineer as adequate to support the accessory dwelling unit and principal dwelling unit in accordance with New Hampshire regulations.
  - c. Well capacity shall be demonstrated to be sufficient to support the accessory dwelling unit and principal dwelling unit.

#### **D. Procedural Requirements**

An accessory dwelling unit (ADU) shall be granted a Special Exception by the Board of Adjustment provided the Board of Adjustment finds the submitted complete plan set for the ADU to be in compliance with all requirements specified in Section C of this article.

1. Establishment of an accessory dwelling unit requires:

- a. A Special Exception for an ADU shall be granted to the owner of record of the principal dwelling unit by the Board of Adjustment before a building permit can be obtained (Appeal period shall expire prior to final approval and granting of Certificate of Occupancy).
  - b. A Building Permit for an ADU shall be approved and issued by the Building Inspector prior to the construction of an accessory dwelling unit.
  - c. A Certificate of Occupancy shall be approved and issued by the Building Inspector. Required inspections of the accessory dwelling unit shall be performed by the Town Building Inspector, Fire Chief, or their designees.
  - d. A License to Rent shall be obtained by the property owner before any tenant can reside in an accessory dwelling unit, or within 12 months of the date the Certificate of Occupancy was granted, whichever comes first.
  - e. The License to Rent requires inspection(s) of the accessory dwelling unit by the Town Building Inspector, Fire Chief, or their designees. If the inspections required to obtain the Certificate of Occupancy have occurred within the previous 90 days, these inspections may be waived.
2. Maintenance of an accessory dwelling unit requires:
- a. The License to Rent is issued for a period of 3 years. The License must be renewed before expiration, unless the ADU is discontinued. Renewal requires inspections to be performed by the Town Building Inspector and Fire Chief, or their designees.
  - b. If the license is not renewed before its expiration date, a fine shall be levied to the owner of the property, according to the provisions of RSA 676:17-a, Cease and Desist Orders. This fine shall be \$25 per day, commencing 14 days after the license expiration and continuing until the license is renewed or the accessory dwelling unit is discontinued.
3. Discontinuance of an accessory dwelling unit:
- a. A property owner can notify the Board of Selectmen in writing that he or she wishes to discontinue use of an accessory dwelling unit.
  - b. The accessory dwelling unit shall not be occupied at the time it is discontinued.
  - c. An accessory dwelling unit is deemed to be discontinued when the Board of Selectmen revokes the Certificate of Occupancy and the License to Rent.
4. If the owner of record of the property ceases to reside on the property, a fine shall be levied to the owner of the property, according to the provisions of RSA 676:17-a, Cease and Desist Orders. This fine shall be \$50 per day, commencing 14 days after the owner is no longer a resident and continuing until an owner resides on the property or the accessory dwelling unit is discontinued.

- a. Owners who are temporarily absent from the property, such as members of the armed forces called to active duty, may apply for relief from this provision to the Board of Selectmen. (Reference: Service-members Civil Relief Act, Public Law 108-189, December 2003.)
- 5. If a property with an accessory dwelling unit is conveyed to a new owner, the new owner may either:
  - a. Obtain a new License to Rent to continue use of the accessory dwelling unit, following the provisions above, or
  - b. Discontinue the accessory dwelling unit, following the provisions above.
  - c. If a new license is not obtained or the use is not discontinued, a fine shall be levied to the owner of the property, according to the provisions of RSA 676:17-a, Cease and Desist Orders. This fine shall be \$25 per day, commencing 14 days after the property has been conveyed to the new owner and continuing until the license is renewed or the accessory dwelling unit is discontinued.

**E. Enforcement Authority**

The Board of Selectmen and/or their designated code enforcement officer shall be the final authority on compliance and enforcement of this article.

**ARTICLE XXI: MULTI-FAMILY HOUSING OVERLAY DISTRICT ORDINANCE**

Multi-family housing is defined in the New Hampshire RSA 674:58, Workforce Housing Definitions, as five (5) or more dwelling units within a single structure. RSA 674:59 states that a municipality must allow development of multi-family housing at some locations within its borders. The Institute of Transportation Engineers (ITE) Trip Generation, 6th edition, Average Vehicle Trip Ends (one way) per dwelling unit (Low-Rise Apartment/Multi-Family) average about seven (7) trip ends per day. A five (5) unit multi-family dwelling could therefore generate an average of 35 trips per day, either incoming or outgoing.

Consequently, the Multi-Family Housing Overlay District is located along State Highway 31 (NH 31), a state maintained roadway with a good line of sight along the portions within the Town of Mason.

**A. Purpose and Intent**

To provide a reasonable and realistic opportunity for affordable multi-family housing as required by New Hampshire RSA 674:58-61.

**B. Authority**

The Multi-Family Housing Overlay District Ordinance defines an overlay district which imposes additional permitted uses, requirements and restrictions to those of the underlying base district. It is established under the powers granted under NH RSA 674:21, Innovative Land Use Controls.

If any provision of this Ordinance is in conflict with other provisions of the Town of Mason Planning Ordinance or other Town ordinances or regulations, the more restrictive provision shall



apply, except for any provision relating to standards for duplex or multiple family dwellings, lot size, frontage, or setbacks, in which case the provisions of this Ordinance shall apply.

**C. Location**

The Multi-Family Housing Overlay District overlays the General Residential, Agricultural, and Forestry (GRAF) District along both sides of NH State Highway 31, and is comprised of lots that meet the following frontage and size requirements:

1. The lot meets the minimum frontage requirement of the underlying zoning district and the minimum frontage used to meet this requirement is located along NH 31.
2. The lot meets the minimum lot size of the underlying zoning district.

Additional lot size requirements may apply as described in Section E.

**D. Permitted Use**

Multi-family residential units are permitted on lots that belong to the Multi-Family Housing Overlay District and meet the requirements of this Ordinance. A multi-family residential unit, for the purpose of this Ordinance, is defined as a single structure containing between two (2) and five (5) residential dwellings.

**E. Requirements for Multi-Family Housing Units**

1. The lot shall belong to the Multi-Family Housing Overlay District.
2. The lot shall contain one acre, exclusive of wetlands, steep slopes (25% or greater) or rock outcroppings, for each planned and existing residential dwelling.
3. A setback of 75 feet from all boundaries of the lot shall be required for any structure existing or to be constructed.
4. More than one multi-family structure may be located on one lot, provided all lot location, size, frontage and setback requirements are met. If multiple multi-family structures are to be located on one lot, the access way to residential structures must be constructed to Class V road standards as prescribed in applicable Town of Mason regulations.
5. The water supply or supplies shall meet all State design and permitting requirements and submitted plans shall carry the seal of a qualified NH licensed engineer/professional.
6. The septic disposal system or systems for the site shall meet all state design and permitting requirements and submitted plans shall carry the seal of a qualified NH licensed engineer/professional.
7. No residential structure shall be greater than 2 stories in height, to protect the safety of residents.
8. All structures must comply with the Town of Mason Building Code.

9. The site design shall take into consideration any natural, historic or cultural resources located on the lot.
10. The site design shall reserve areas for recreation and/or open space preservation for the benefit of the residents.
11. If a Site Layout Design Process has been incorporated into the Town of Mason Subdivision Regulations, the site shall be designed cooperatively with the Town of Mason Planning Board.
12. A site plan review is required.
13. Exterior design shall be compatible with Mason's rural New England village character.

## **ARTICLE XXII: AQUIFER AND WELLHEAD PROTECTION OVERLAY DISTRICT ORDINANCE**

### **A. Authority**

The Town of Mason hereby adopts this Aquifer and Wellhead Protection Overlay District Ordinance pursuant to the authority granted under RSA 674:16 and RSA 674:21.

### **B. Purpose**

The Aquifer and Wellhead Protection (AWP) Overlay District Ordinance is established for the purpose of protecting the quality and quantity of Groundwater resources available to be used as current and/or future drinking water supplies. This Ordinance is intended to:

1. Maintain public health and welfare by protecting existing and potential sources of Groundwater and associated recharge areas.
2. Prevent land use practices and development that could reduce the volume of recharge available to Aquifers identified as current or potential sources of drinking water.
3. Prevent land use practices and development that could contaminate or adversely impair the quality of Groundwater within Aquifers identified as current or potential sources of drinking water.
4. Provide for future growth, in accordance with the Town's Master Plan, by protecting the long-term availability of clean, safe potable water.
5. Identify land uses that can safely be sited in Aquifer recharge areas and in the proximity of water supply wells.

### **C. Definitions**

1. **Animal Feedlot:** A lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. Confined winter shelter areas are not considered feedlots.

2. **Aquifer:** A geologic formation composed of rock, sand, or gravel that contains significant amounts of potentially recoverable water.
3. **Bulk Petroleum Plant or Terminal:** That portion of a property where petroleum products are received by tank vessel, pipeline, tank car, or tank vehicle and are stored or blended in bulk for the purpose of distributing such liquids by tank vessel, pipeline, tank car, tank vehicle, portable tank, or container.
4. **Best Management Practices:** A method or technique that has consistently shown results superior to those achieved with other means, and that is used as a benchmark. In addition, a "best" practice can evolve to become better as improvements are discovered. BMP's derived from public agencies or other sources shall be utilized as guidelines, the Planning Board may approve an alternative method if it is found to achieve a similar result.

The most recent editions of the following publications are considered Best Management Practices:

- a. Best Management Practices for Erosion Control on Timber Harvesting Operations in New Hampshire, prepared by the New Hampshire Department of Resources and Economic Development;
  - b. Manual of Best Management Practices for Agriculture in New Hampshire, prepared by the Agricultural Best Management Practices Task Force and the USDA Natural Resources Conservation Service for the New Hampshire Department of Agriculture;
  - c. Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire, prepared by the New Hampshire Department of Environmental Services in conjunction with the Rockingham County Conservation District;
  - d. Manual of Best Management Practices to Control Nonpoint Source Pollution: A Guide for Citizens and Town Officials prepared by the New Hampshire Department of Environmental Services; and
  - e. Rock Blasting and Water Quality Measures That Can Be Taken to Protect Water Quality and Mitigate Impacts, prepared by Brandon Kernen, NHDES Drinking Water Source Protection Program.
5. **Community Water System:** A Public Water System having at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents. The well serving the Mason Elementary School and the Mann House is designated as a community water facility.
  6. **Groundwater:** Subsurface water that occurs beneath the water table in soils and geologic formations.

7. **Gasoline Station:** Means that portion of a property where petroleum products are received by tank vessel, pipeline, tank car, or tank vehicle and distributed for the purposes of retail sale.
8. **Hazardous Waste:** Any solid, semisolid, liquid or contained gaseous waste, or any combination of these wastes, which:
  - a. May cause or contribute to an increase in irreversible or incapacitating reversible illness.
  - b. Poses a present or potential threat to human health or the environment if improperly managed.
  - c. Has been identified as a hazardous waste by the New Hampshire Department of Environmental Services Waste Management Division.
9. **Impervious:** Not readily permitting the infiltration of water, including packed gravel surfaces such as parking areas, driveways or traveled ways.
10. **Impervious Surface:** A surface through which Regulated Substances cannot pass when spilled. Impervious Surfaces include concrete unless unsealed cracks or holes are present. Earthen, wooden, or gravel surfaces, or other surfaces which could react with or dissolve when in contact with substances stored on them, are not considered Impervious Surfaces.
11. **Injection Well:** A well where hazardous wastes are injected.
12. **Junkyard:** An establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automotive recycling yard, as defined in RSA 236:112, as amended. The word does not include any motor vehicle dealers registered with the Director of Motor Vehicles under RSA 261:104 and controlled under RSA 236:126.
13. **Outdoor Storage:** Storage of materials not protected from the elements by a roof, walls, and a floor with an Impervious Surface.
14. **Positive Limiting Barrier:** A depression (e.g., groove) in the surface of an otherwise level impervious area designed to impede the flow of and contain spilled substances within the perimeter of the impervious area. These are typically constructed and maintained to contain small spills or releases (five to fifteen gallons).
15. **Regulated Substance:** Any of the following, with the exclusion of ammonia, sodium hypochlorite, sodium hydroxide, acetic acid, sulfuric acid, potassium hydroxide, potassium permanganate, propane or other liquefied fuels which exist as gases at normal atmospheric temperature and pressure:
  - a. Oil as defined in RSA 146-A:2, III;
  - b. Any substance that contains a regulated contaminant for which an ambient groundwater quality standard has been established pursuant to RSA 485-C:6; and

- c. Any substance listed in 40 CFR 302, 7-1-05 edition, as amended.
16. **Sanitary Protective Radius:** The area around a public water supply well which must be maintained in its natural state as required by Env-Dw 301 or 302 (for community water systems); Env-Dw 373.12 and Env-Dw 372.14 (for other Community Water Systems), as amended.
  17. **Seasonal High Water Table:** The depth from the mineral soil surface to the upper most soil horizon that contains 2% or more distinct or prominent redoximorphic features that increase in percentage with increasing depth as determined by a Licensed Hydrogeologist, Soil Scientist, Wetlands Scientist, Engineer or other qualified professional approved by the Planning Board.
  18. **Secondary Containment:** A structure such as a berm or dike with an Impervious Surface which is adequate to hold at least 110 percent of the volume of the largest regulated-substance container stored within.
  19. **Snow Dump:** For the purposes of this Ordinance, a location where snow, which is cleared from roadways and/or motor vehicle parking areas situated beyond the Aquifer and Wellhead Protection District, is placed for disposal.
  20. **Stratified-Drift Aquifer:** A geologic formation of predominantly well-sorted sediment deposited by or in bodies of glacial meltwater, including gravel, sand, silt, or clay, which contains sufficient saturated permeable material to yield significant quantities of water to wells.
  21. **Surface Water:** Streams, lakes, ponds and wetlands, including marshes, water-courses and other bodies of water, natural or artificial.
  22. **Wellhead Protection Area:** The surface and subsurface area surrounding a water well or wellfield supplying a Community Water System, through which contaminants are likely to move toward and reach such water well or wellfield.

#### **D. Applicability**

This Ordinance shall apply to all uses of land situated within the Aquifer and Wellhead Protection Overlay District, except for those uses exempt under Section H of this Ordinance.

#### **E. District Boundaries**

1. Aquifer and Wellhead Protection (AWP) Overlay District boundaries are as identified on a map on file with the Town Clerk entitled “Aquifer and Wellhead Protection Overlay District Map”.
2. The AWP is an Overlay District which is superimposed over all underlying Districts.
3. Data resources used to produce the map include:
  - a. Aquifer areas as delineated on a map prepared by the U.S. Geological Survey entitled: “Saturated Thickness, Transmissivity, and Materials of Stratified-Drift

Aquifers in the Middle Merrimack Basin, South-Central New Hampshire”. This map is found in a study entitled: “Geohydrology and Water Quality of Stratified-Drift Aquifers in the Middle Merrimack River Basin, South-Central New Hampshire”, prepared Ayotte, J.D. and Toppin, H.W., 1995: U.S. Geological Survey Water-Resources Investigation Report 92-4192, and as may be amended or superseded by the U.S.G.S.

- b. Wellhead Protection Areas associated with public water supply wells shown on the AWP District map and New Hampshire Department of Environmental Services.
4. Incorrectly Designated Zones. In instances where the actual boundary of the Aquifer and Wellhead Protection Overlay District are disputed, the Planning Board, at the Applicant's expense and authorization, may engage a qualified professional geologist or hydrogeologist to determine the precise location of the AWP District boundaries. A report of the professional's findings shall be submitted to the Planning Board, which shall include but not be limited to the following:
    - a. A revised soils map of the area in question along with a written report of on-site field inspection and test boring data.
  5. If the information provided to the Planning Board is accepted by the Board, the boundary of the AWP District shall be adjusted based on the evidence provided. The Planning Board may reserve the right to withhold action on any application pending the results of an on-site inspection by the Board or its appointed agent.

#### **F. Permitted Uses**

All uses permitted in the underlying Zoning District are permitted in the Aquifer and Wellhead Protection Overlay District unless identified as Prohibited Use or Conditional Use under this Ordinance. All uses within the AWP District shall comply with Performance Standards specified in Section K unless specifically exempt under Section H of this Ordinance.

#### **G. Prohibited Uses**

1. The following uses are prohibited in the Aquifer and Wellhead Protection Overlay District:
  - a. Development or operation of a Hazardous Waste Disposal Facility, as defined under RSA 147-A, as amended;
  - b. Development or operation of a Solid Waste Landfill, as defined under RSA 149-M, as amended;
  - c. Outdoor Storage of road salt or other deicing compounds;
  - d. Development or operation of a Junkyard;
  - e. Development or operation of a Snow Dump;

- f. Development or operation of a wastewater or septage lagoon;
- g. Subsurface storage of regulated substances, including gasoline, diesel fuel, oil and other refined petroleum products, and the subsurface transmission of regulated substances, including gasoline, diesel fuel, oil, natural gas and other refined petroleum products through pipelines.
- h. Development or operation of Gasoline Stations;
- i. Development or operation of Injection Wells;
- j. Development or operation of an Animal Feedlot;
- k. Development or operation of a dry cleaning facility, using or storing dry cleaning chemicals on site;
- l. Non-municipal wells that may result in an aquifer volume reduction that exceeds the recharge rate.

#### **H. Exempted Uses**

- 1. The following uses shall be exempt from the provisions of this Ordinance provided they remain in compliance with all applicable local, state, and federal requirements:
  - a. Any single family dwelling, including a single family dwelling with an Accessory Dwelling Unit;
  - b. Any business or facility where Regulated Substances are stored in containers having a capacity of not more than five gallons per container;
  - c. Storage of heating fuels for onsite use, or fuels for emergency electric power generation, provided that storage tanks are indoors on a concrete floor or have corrosion control and leak detection, and Secondary Containment accommodations;
  - d. Storage of motor fuel in tanks attached to vehicles fitted with permanent fuel lines to enable the fuel to be used by that vehicle;
  - e. Storage and use of office supplies;
  - f. Temporary storage of construction materials on a site where they are intended to be used;
  - g. The transportation and storage of pesticides, as defined in RSA 430:29 XXVI, as amended;
  - h. Household hazardous waste collection projects regulated under NH Code of Administrative Rules Env-Wm 401.03(b)(1) and 501.01(b);
  - i. Agricultural uses as defined under RSA 21:34-a, as amended, provided such uses do not meet the criteria of an Animal Feedlot operation.

**I. Conditional Uses**

1. Any use not Prohibited under Section G, but which will require one or more of the following conditions, shall only be permitted by a conditional use permit issued by the planning board in accordance with the following sections. A conditional use permit under this section shall be required for any of the following:
  - a. Storage, handling, and use of Regulated Substances in quantities exceeding 55 gallons or 660 pounds dry weight at any one time, provided an adequate Spill Prevention Control and Countermeasure (SPCC) Plan, prepared in accordance with Section J of this Ordinance, and is approved by the Fire Department;
  - b. Any activities that involve blasting of bedrock;
  - c. Truck and automotive repair facilities; or
  - d. Expansion of existing non-conforming uses or structures shall be allowed when demonstrated that the expansion will result in a more conforming site or use with greater protection for groundwater resources.
2. In granting such approval the Planning Board shall find such use or uses will remain in compliance with the Performance Standards in Section K of this Ordinance as well as all applicable local, state and federal requirements. The Planning Board may, at its discretion, require a performance guarantee or bond in an amount and form acceptable to the Board, be posted to insure compliance with terms and conditions of the Conditional Use Permit.

**J. Conditional Use Permit Application Procedures**

1. Application for a Conditional Use Permit shall be made on forms supplied by the Planning Board and shall include a narrative and/or site plan containing the following information on one or more pages at a scale suitable to illustrate relevant details of the project, as well as a report demonstrating compliance with applicable requirements of Section I of this Ordinance. As a minimum, each application shall depict or identify:
  - a. North arrow and date of site plan preparation;
  - b. Property boundaries and total parcel area;
  - c. Location of Aquifer and Wellhead Protection Overlay District boundaries;
  - d. Names and addresses of applicant, owners, abutters and holders of conservation restrictions and easements on abutting properties;
  - e. Location of Wetland Conservation District boundaries;
  - f. Soil mapping units;
  - g. Topographic contours at intervals not more than 2 feet;



- h. Existing and proposed development, including removal of vegetation and alteration of terrain;
  - i. Stormwater management accommodations, both existing and proposed. The applicant shall demonstrate:
    - 1) Post development peak stormwater discharge volumes exiting the site are less than or equal to predevelopment discharge volumes for the 10-year return frequency design storm;
    - 2) Volume of site generated stormwater to be infiltrated on site under post-development conditions is greater than or equal to the volume infiltrated under the predevelopment condition based on evaluation of the 2 year return frequency design storm;
    - 3) Stormwater management facilities shall provide for the removal of sediment;
  - j. Identification of potential risks to the District anticipated as a result of proposed site development together with proposals for mitigation;
  - k. Identification of hazardous materials to be stored or used on site together with a plan for proper management of the same;
  - l. If required by the Planning Board, provisions for monitoring of Groundwater and/or Surface Water quality.
2. Proposals for Conditional Uses, which involve Regulated Substances, shall also be required to submit a Spill Prevention Control and Countermeasure (SPCC) Plan to the Fire Department for review and approval. A SPCC Plan shall include:
- a. A description of the physical layout and a facility diagram, including all surrounding Surface Waters, Wellhead Protection Areas and all water supply facilities on the property or within 100 feet of the property boundaries;
  - b. A contact list with telephone numbers (including cell phone) and email addresses of the facility response coordinator, cleanup contractors, and all appropriate federal, state, and local agencies who must be contacted upon release to the environment;
  - c. A list of all Regulated Substances to be stored on the premise;
  - d. A description of containment and/or diversionary structures or equipment to prevent Regulated Substances from infiltrating into the ground.
3. The Planning Board shall: Consider all relevant facts and information prior to making a decision on any application for a Conditional Use Permit; find the proposal is consistent with the stated Purpose of this Ordinance; and find that to the extent possible, the project avoids and minimizes impacts to land situated within the District, including but not limited to the following:
- a. The proposed activity minimizes degradation of land situated within the District.

- b. The proposed activity will have no significant negative environmental impact to abutting or downstream properties and/or hydrologically connected water resources.
  - c. The proposed activity incorporates the use of those Best Management Practices recommended by the New Hampshire Department of Environmental Services and/or other State Agencies having jurisdiction.
  - d. All applicable Federal and/or State Permit(s) have been received for the proposed activity in accordance with New Hampshire Code of Administrative Rules – Part Env-Wt 100-800 and Section 404 of the Federal Clean Water Act, as amended.
  - e. Prior to making a decision in regard to the possible approval of any Conditional Use Permit application, the Planning Board shall afford the Conservation Commission an opportunity to review and comment on the application. The Conservation Commission, after consideration and review of an application for a Conditional Use Permit, may recommend the Planning Board impose conditions of approval, if deemed necessary, to mitigate the potential for adverse effects caused by the proposed activity or use.
4. All costs associated with the Conditional Use Permit application and review will be at the Applicant's expense.

**K. Performance Standards**

The following Performance Standards shall apply to all uses of land in the Aquifer and Wellhead Protection Overlay District unless such use or uses enjoy an exemption under Section H of this Ordinance:

1. For any use that will render more than 15 percent of the total parcel area Impervious, a stormwater management plan consistent with New Hampshire Stormwater Manual Volumes 1-3, December 2008, as amended; published by NH Department of Environmental Services, shall be prepared and submitted to the Planning Board.
2. Conditional uses, as defined under Section I, shall develop stormwater management and pollution prevention plans and include information consistent with *Developing Your Stormwater Pollution Prevention Plan: A Guide for Industrial Operators* (US EPA, Feb 2009, as amended). The plan shall:
  - a. Meet minimum stormwater discharge setbacks between water supply wells and constructed stormwater practices as found within the *Innovative Land Use Planning Techniques: A Handbook for Sustainable Development*, Section 2.1 Permanent (Post-Construction) Stormwater Management, (NHDES 2008, as amended);
  - b. Minimize, through a source control plan that identifies pollution prevention measures, the release of Regulated Substances into stormwater;
  - c. Stipulate that expansion or redevelopment activities shall require an amended stormwater plan and may not infiltrate stormwater through areas containing

- contaminated soils without completing a Phase I Environmental Site Assessment in conformance with ASTM E 1527-05; and
- d. Maintain a vertical separation of not less than four feet between the bottom of a stormwater management facility which infiltrates or filters and the seasonal high water table elevation as determined by a Licensed Hydrogeologist, Soil Scientist, Engineer or other qualified professional as determined by the Planning Board.
3. The proposed use, either alone or on a cumulative basis, will not cause a significant reduction in the long-term volume of water contained in the underlying aquifer or in the storage capacity of the aquifer.
  4. Animal manures, fertilizers, and compost must be stored in accordance with Manual of Best Management Practices for Agriculture in New Hampshire, NH Department of Agriculture, Markets, and Food, June 2011 or as updated;
  5. All Regulated Substances stored in containers with a capacity of more than five gallons must be stored in product-tight containers on an Impervious surface designed and maintained to prevent flow to exposed soils, floor drains, and the out-of-doors;
  6. Facilities where Regulated Substances are stored must be secured against unauthorized entry by means of a door and/or gate that is locked when authorized personnel are not present and must be inspected weekly by the facility owner;
  7. Outdoor Storage areas for Regulated Substances, associated material or waste must be protected from exposure to precipitation and must be located at least 50 feet from Surface Water or storm drains; and outside of protective radii of wells;
  8. Secondary Containment must be provided for Outdoor Storage of Regulated Substances in regulated containers and the containment structure must include a cover to minimize accumulation of water in the containment area and contact between precipitation and storage container(s);
  9. Containers in which Regulated Substances are stored must be clearly and visibly labeled and must be kept closed and sealed when material is not being transferred from one container to another;
  10. Prior to any land clearing or alteration of terrain, any inactive wells on the property shall be identified and must be decommissioned in accordance with Part We 604 Abandonment of Wells of the New Hampshire Water Well Board Rules, as amended. Proposed site activity shall not impact the integrity of any well located on the property.
  11. Blasting activities shall be planned and conducted in a manner consistent with best management practices published by the NHDES to minimize Groundwater contamination.
  12. All transfers of petroleum products from delivery trucks and storage containers over five gallons in capacity shall be conducted over an Impervious Surface having a Positive Limiting Barrier at its perimeter.

13. At the option of the Planning Board, monitoring wells may be established for all industrial and commercial uses utilizing or storing hazardous or toxic materials. The number and location of monitoring wells shall be determined by the Planning Board. The required frequency and protocol for sampling and testing of Groundwater shall be specified by the Planning Board.
14. Storage of pesticides, herbicides, fertilizers, manure, and other potentially dangerous leachable substances shall be setback from water supply wells in accordance with state regulations including Chapter PES 500, managed in accordance with NH Best Management Practices for Agriculture, and controlled in a manner determined by the Planning Board. Appropriate and applicable Best Practices shall be implemented as recommended by the New Hampshire Department of Environmental Services.
15. When an industrial or commercial use within the AWP District changes to one which involves the use, storage, or disposal of hazardous or toxic materials (Regulated Substances), a Site Plan Review shall be required.
16. Not more than 35% of the total area of any lot or parcel shall be rendered Impervious.
17. Sodium chloride salt stored and used for deicing activities shall be properly managed and applied in accordance with accepted best management practices as published by NHDES to minimize impacts to groundwater and reduce the amount necessary for public safety. Alternatives such as calcium magnesium acetate (CMA) and/or potassium acetate (KA) are encouraged.
18. Floor drains are prohibited unless drain is directed to a dry well used to temporarily store fluids until such time they are legally removed.
19. An impermeable barrier membrane (minimum 20 mil) shall be installed beneath slab floors to prevent the infiltration of any spilled liquids within the building from percolating into the ground. The Planning Board has the discretion to impose any other requirements as necessary to achieve the stated purpose.

**L. Existing Nonconforming Uses**

Existing nonconforming uses may continue to operate without complying with the terms of this Ordinance provided that any expansion of said use shall require that a Conditional Use Permit be obtained as provided for herein. Existing non-conforming uses must be in compliance with all applicable state and federal requirements, including Env-Wq 401, Best Management Practices Rules.

**M. Administration and Enforcement**

See Article VII, Section E, "Enforcement".

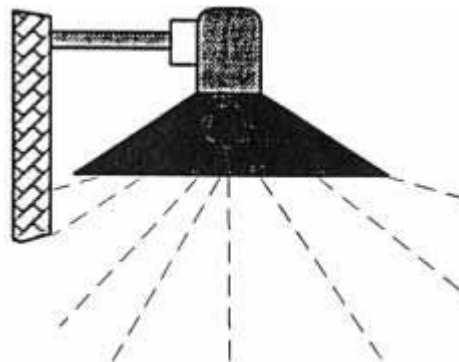
## ARTICLE XXIII: OUTDOOR LIGHTING ORDINANCE

### A. Purpose

The purpose of this ordinance is to enhance public safety and welfare by providing for adequate and appropriate outdoor lighting, while preserving the natural dark skies that are an important aspect of the rural character of the Town of Mason. This ordinance recognizes the importance of lighting for safety and security while encouraging energy efficiency and reduction of light pollution and glare.

### B. Definitions

1. **Luminaire:** A lighting fixture that includes a lamp or lamps.
2. **Lamp:** The component of a luminaire that produces light.
3. **Glare:** Light emitted by a lamp in direct line-of-sight contact with the viewer.
4. **Light trespass:** Light that is produced by a luminaire beyond the property line on which it is located.
5. **Sky glow:** Light from a luminaire that is emitted above the horizontal plane that passes through the lowest part of the luminaire.
6. **Fully-shielded lighting:** Lighting in which the light rays emitted by the fixture are projected no higher than the horizontal plane that passes through the lowest part of the luminaire.



Fully Shielded Lighting Fixture

### C. Requirements

1. Applicability

All Commercial and Industrial outdoor lighting installed in the Town of Mason shall comply with the requirements specified below. Private residential lighting is encouraged to comply with these specifications.

2. General Lighting Restrictions
  - a. All luminaires shall be fully shielded and not cause sky glow.
  - b. No luminaire shall emit glare beyond a property line or be positioned such that it impedes the vision or line of sight of drivers in or on public ways.
  - c. Lighting shall be turned off after business hours except for lighting necessary for security or safety. It is recommended that motion detectors be used with security lighting.
  - d. It is recommended that total illumination be the lowest intensity possible for the intended use.
3. Gas Station-Type Canopies
  - a. Luminaires mounted on a canopy shall be recessed in the ceiling of the canopy so that the lens cover is recessed or mounted flush with the ceiling of the canopy and fully shielded. Luminaires shall not be mounted on the sides or top of the canopy, and the sides or fascias of the canopy shall not be illuminated.
4. Lighted Advertising Signs
  - a. Signs may be illuminated only by externally mounted white light sources.
  - b. Bottom-mounted lighting is prohibited.
  - c. Moving, blinking, or flashing lights or signs and electronic message signs are prohibited.
  - d. The outdoor operation of searchlights, lasers, or other high-intensity beams for advertising purposes is prohibited.
5. Pre-existing Outdoor Lighting
  - a. Any luminaire that replaces a non-conforming, pre-existing luminaire, or any luminaire that is moved, shall meet the standards of this Ordinance.

**D. Exceptions**

The following are exempt from this Ordinance:

- a. Temporary luminaires required for construction projects.
- b. Luminaires related to police, fire, or other emergency services.
- c. Luminaires used for signal illumination to ensure roadway safety.
- d. Hazard warning luminaries required by federal regulatory agencies.
- e. Low-intensity temporary seasonal lighting.



## **APPENDIX A: NH MODEL FLOODPLAIN DEVELOPMENT ORDINANCE**

### **New Hampshire Model 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

Written by the Federal Emergency Management Agency (FEMA)

This ordinance, adopted pursuant to the authority of RSA 674:16, shall be known as the *Town of Mason Floodplain Development Ordinance*. The regulations in this ordinance shall overlay and supplement the regulations in the Town of Mason Planning (Zoning) Ordinance, and shall be considered part of the Planning (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 Planning (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 Study for the County of Hillsborough, NH" dated September 25, 2009 or as amended, together with the associated Flood Insurance Rate Maps (FIRM) dated September 25, 2009 or as amended, 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 Mason.

**"Area of Special Flood Hazard"** is the land in the floodplain within the Town of Mason subject to a one-percent or greater possibility of flooding in any given year. The area designated as Zone(s) A on the Flood Insurance Rate Map (FIRM).

**"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, drilling operation, or storage of equipment or materials.



"**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 Study**" means an examination, evaluation, and determination of flood hazards and if appropriate, corresponding water surface elevations, or an examination and determination of mudslide or flood related erosion hazards.

"**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 Mason.

"**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 is:

- (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; or
- (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, or
- (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. This includes manufactured homes located in a manufactured home park or subdivision.

**"Manufactured home park or subdivision"** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**"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.

**"New Construction"** means, for the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, *new construction* means structures for which the *start of construction* commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such improvements.

**"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 measure 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 cumulatively increasing the water surface elevation more than a designated height. These areas are designated as floodways on the Flood Boundary and Floodway Map.

**"Special flood hazard area"** (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".

**"Violation"** means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 Code of Federal Regulations (CFR) §60.3(b)(5), (c)(4), (c) (10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

**"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 building permit.

**Item III.**

The building inspector 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 Building Inspector 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 building inspector:

- (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 Building Inspector shall maintain for public inspection, and shall furnish such information upon request.

**Item VI.**

The Building Inspector 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 or state law, 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 of the New Hampshire Environmental Services Department and submit copies of such notification to the Building Inspector, in addition to the copies required by the RSA 482-A:3. Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Building Inspector, including notice of all scheduled hearings before the Wetlands Bureau.
2. The applicant shall submit to the Building Inspector, 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 Building Inspector 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. The Building Inspector 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 Building Inspector'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;

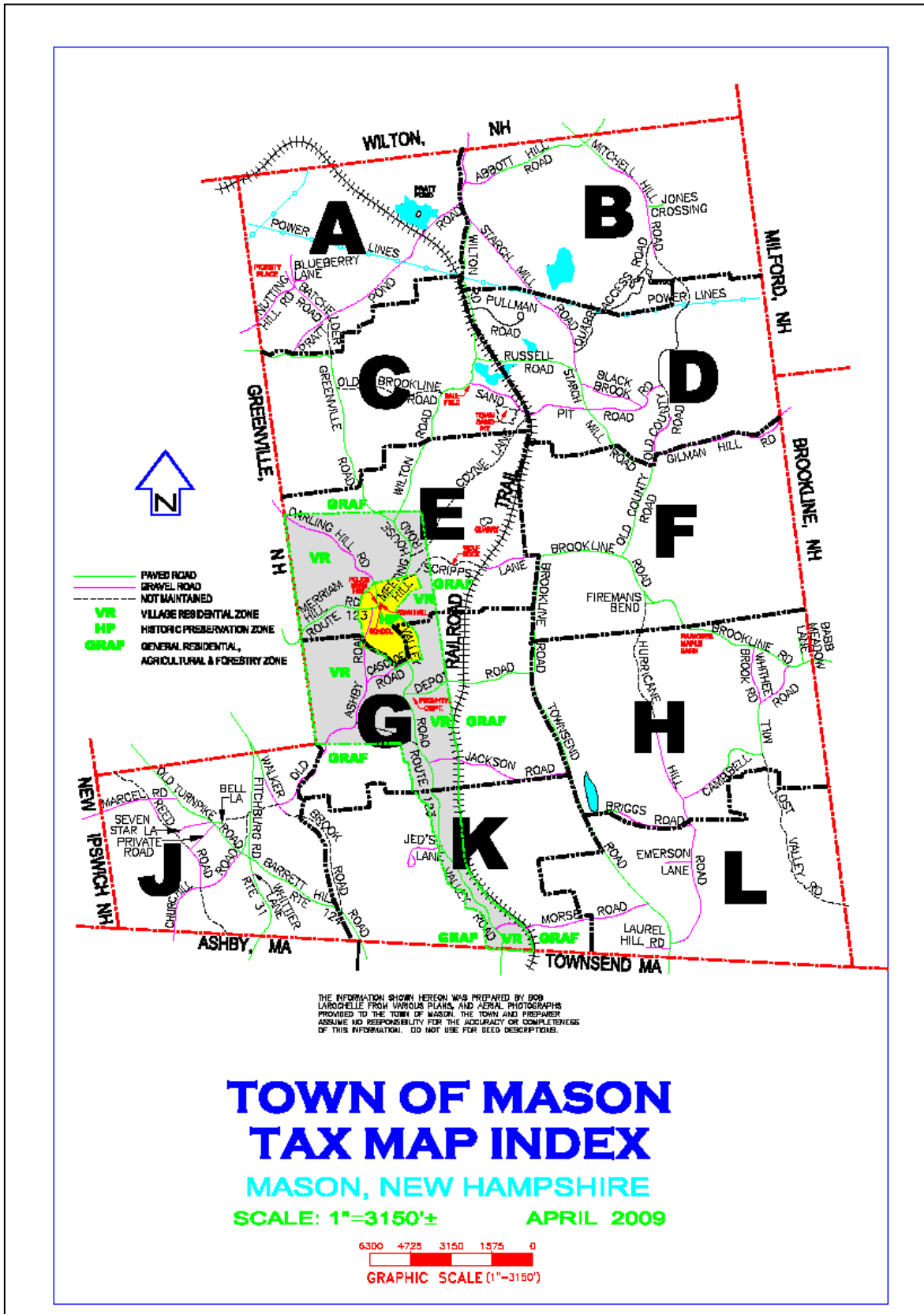
- (ii) have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
  - (iii) be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting 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. recreational vehicles placed on sites within zone A shall either (i) be on the site for fewer than 120 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) (6) of Section 60.3.
- e. 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.

#### **Item IX Variances and Appeals:**

1. Any order, requirement, decision or determination of the building inspector 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.

# MAP OF MASON ZONING DISTRICTS AND TAX MAPS





## **FEMA FLOOD HAZARD BOUNDARY MAPS**

**Article XVIII, Floodplain Development Ordinance  
Appendix A: NH Model Floodplain Development Ordinance  
Hillsborough County FIS and FIRM updates effective September 25, 2009  
Adopted by Resolution on August 25, 2009, in accordance with RSA 674:57**

**See Selectmen's Office for maps.**



# Town Of Milford Zoning Ordinance

Adopted March 11, 1969

2020 Edition

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## **ARTICLE I: INTRODUCTION**

### **1.01.0 PURPOSE**

The regulations set down in this Ordinance are for the purpose of promoting the public health, safety, morals, general welfare and civil rights of the inhabitants of the Town of Milford as provided by Title 64 of the NH RSA, Chapters 672-677 inclusive and, as such may be amended from time to time. (1986)

### **1.02.0 AUTHORIZATION**

**1.02.1** The Planning Board is hereby authorized to make such textual revisions as may be necessary and appropriate to correctly restate statutory citations throughout the remainder of the Ordinance so as to achieve consistency with the purpose and authority, provided that such changes result in no contradictions within the Ordinance or with state law, and further provided that no substantive changes shall occur as a result of any such correction. (1985)

**1.02.2** The Planning Board has the authority to assign such section numbers to the Zoning Ordinance as it may deem appropriate provided that no substantive change to the Ordinance shall occur as a result of this renumbering. (1985)

**1.02.3** Provisions of this Ordinance are activated by “shall” when required, “should” when recommended and “may” when optional. (2012)

### **1.03.0 AMENDMENTS**

This Ordinance may be amended by a majority vote of any legally constituted Town vote when such amendment has received public notices and hearings in accordance with the procedure established in Chapter 31, NH RSA, 1955 as amended.

### **1.04.0 EFFECTIVE DATE**

This Ordinance shall take effect immediately upon its passage.

### **1.05.0 OTHER REGULATIONS, ORDINANCES AND STATUTES**

In addition to complying with the regulations established herein, the applicant shall comply with all other applicable regulations, Ordinances and Statutes of the Town, the State of New Hampshire, and the United States Government, particularly but not limited to the Zoning Ordinance, Open Space and Conservation Zoning District, Wetland Conservation District, Flood Plain Management Ordinance, Development Regulations, Road Specifications, Building Codes and Permits, and the State of New Hampshire Statutes and Regulations relating to land sales and pollution.

### **1.06.0 SEVERABILITY**

If any section, clause, provision, portion or phrase of this Ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect, impair or invalidate any other section, clause, provision, portion or phrase of this Ordinance.

**ARTICLE II: GENERAL PROVISIONS**

**2.01.0 LOT OF RECORD (2012)**

Lot of record shall be considered to meet the minimum lot size and frontage requirements of the Ordinance if it was in existence prior to the adoption of the Zoning Ordinance (3/11/69) as long as the lot of record has fifteen (15) feet of frontage on a Class V or better road.

**2.02.0 NON-CONFORMING USES AND STRUCTURES (2013)**

A use or structure lawfully existing prior to the enactment of the Zoning Ordinance (3/11/69), and that is maintained after the effective date of the Ordinance, although it does not comply with the zoning restrictions applicable to the district in which it is situated.

**2.03.0 NON-CONFORMING USE AND STRUCTURES – CONTINUANCE, DISCONTINUANCE, OR CHANGE (2013)**

**2.03.1 INTENT:** The intent of this section is to allow for the lawful continuance of non-conforming uses, and/or structures and to allow a certain reasonable level of alteration, expansion or change that will not change the nature of the use and unduly impact the neighborhood.

- A. **Continuance:** A non-conforming use or structure may be continued, although such use or structure does not conform to the current provisions of this Ordinance.
- B. **Discontinued use:** Whenever a non-conforming use has been discontinued for more than one (1) year for any reason, such non-conforming use shall not thereafter be reestablished, and the future use of the property shall be in conformity with the provisions of this Ordinance.
- C. **Alteration, Expansion, or Change:** Alterations, expansion or change of a non-conforming use or structure shall only be permitted by Special Exception by the Zoning Board of Adjustment if it finds that:
  - 1. The proposed alteration, expansion or change shall not change the nature of the original use or structure and the proposed alteration, expansion, or change shall involve no substantially different effect on the neighborhood; or, (2013)
  - 2. In the case of Home Based Businesses (Article VII, Section 7.12.0), Accessory Dwelling Units (ADU) (Article X, Sec. 10.02.6) and Office in the Residence A and B Districts (Article X Sec. 10.02.7), the proposed alteration, expansion, or change to a non-conforming use or structure complies with those specific Special Exception criteria governing those uses.

**2.04.0 PUBLIC NUISANCE (2008)**

No residential, business, commercial or industrial use shall be permitted which could cause any undue hazard to health or safety or which is offensive to the public because of noise, vibration, noxious odor, smoke or other similar reason.

### **2.05.0 USES/STRUCTURES NOT PERMITTED**

Any uses of land and/or structures not specifically included in each zoning district as either acceptable or acceptable by special exception shall be considered as not permitted within that zoning district. (1997)

### **2.06.0 EQUITABLE WAIVER (2012)**

Entire section moved to Section 10.7.0



## **ARTICLE III: ZONING MAP - ZONING DISTRICT CHANGES (2014)**

### **3.01.0 DISTRICTS**

For the purpose of this Ordinance, the Town of Milford is hereby divided into districts located and bounded as shown on the map entitled "Official Zoning Map, Town of Milford, New Hampshire", as amended to reflect most current zoning districts per town vote, copies of which are on file and may be obtained in the Town offices. The Official Zoning Map, as amended from time to time, with all accompanying explanatory material, is hereby made a part of this Ordinance. The Official Zoning Map shall be revised by the Planning Board to incorporate such amendments as may be made by Town vote. This Official Zoning Map shall be the final authority as to the current zoning status of land in the Town. (2010)

#### **RE-ZONING OF THE FOLLOWING LOTS:**

- 1996 Rezone the following parcels on Elm St. from Industrial to ICI (Integrated Commercial-Industrial): Map 11, Lots 11 and 12; Map 12, Lot 15, also, Map 12, Lot 14 on Elm St. from Commercial to ICI (Integrated Commercial-Industrial).
- 1996 Rezone the following parcels on Nashua St. from Industrial to ICI (Integrated Commercial-Industrial): Map 44, Lots 12, 13 and 13-1.
- 1996 Rezone the following parcels on Nashua St. from Residence "B" to Limited Commercial-Business: Map 32, Lots 2, 3, 4, 5, and 6; Map 43, Lots 51, 52 and 53; and Map 44, Lot 3.
- 1997 Rezone the following parcels on Emerson Rd. from Residence "R" to ICI (Integrated Commercial-Industrial): Map 48, Lots 35, 35-1, 35-2, 37, 38 and 39.
- 2003 Rezone the following parcels on Emerson Rd. from ICI (Integrated Commercial-Industrial) to "C" Commercial: Map 48, Lots 35, 35-1, 35-2, 37, 38 and 39.
- 2003 Rezone the following parcels on Emerson Rd. from Residence "R" to "C" - Commercial: Map 48, Lots 36, 36-1, and that portion of Lot 52 lying westerly of a line beginning at a point on the southerly right-of-way line of Emerson Road, said point being 223.67 feet westerly of the northeasterly corner of Lot 52; said line extending in a southeasterly direction to a point on the southerly boundary line of Lot 52 lying 234.52 feet southwest of the southeast property corner of said lot.
- 2003 Rezone the following parcels on Emerson Rd. and Federal Hill Rd. from Residence "A" to "C" - Commercial: Map 48, Lot 42, and that portion of Map 48, Lot 41 lying northerly of a line extended from the southeasterly corner of Map 48, Lot 44 to the southwesterly corner of Map 48, Lot 52.

- 2005 Rezone the following parcels of land on: Bear Court, Bobby Lane, Colburn Road, Dear Lane, Federal Hill Road, Foster Road, Fox Run Road, Heritage Way, Mountain View Court, Ponemah Hill Road, Settlement Lane, Stone Court, Tarry Lane, Wallingford Road, and Wildflower Way from Residence "A" to Residence "R": Map 48, Lot 15-1 (that portion zoned "A" only), Lots 20, 20-1, 21, 22, 23, 23-1, 24, 25, 26, 27, 28, 29, 30, 46, 47, 51; Map 53, Lots 1, 2, 2-1, 2-2, 2-3, 3, 3-1, 4, 5, 6, 6-1, 6-2, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 21-1, 21-2, 21-3, 21-4, 22, 22-A, 23, 23-1, 24, 25, 29, 30, 30-1, 30-2, 31, 32, 33, 33-1, 34, 34-1, 34-2, 34-3, 34-4, 34-5, 34-6, 35, 35-1, 35-2, 35-3, 35-4, 35-5, 35-6, 35-7, 35-8, 35-9, 35-10, 35-11, 35-12, 35-13, 35-14, 35-15, 35-16, 35-17, 35-18, 35-19, 35-20, 35-21, 35-22, 35-23, 35-24, 35-25, 35-26, 35-27, 35-28, 35-29, 35-30, 35-31, 35-32, 35-33, 35-34, 35-35, 35-36, 35-37, 35-38, 35-39, 35-40, 35-41, 35-42, 35-43, 35-44, 35-45, 35-46, 35-47, 35-48, 35-49, 36, 37, 37-1, 37-2, 38, 38-1, 38-2, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 67-1, 67-2, 68, 69, 70, 70-1, 71, 72, 79-1, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, PSNH R.O.W, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106; Map 56, Lots: 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, PSNH R.O.W., 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43.
- 2007 From Industrial (I) to Integrated Commercial-Industrial 2 (ICI-2): Map 7, Lots 16, 16-1, 18, 19, 20, 21, 22, 23, 25, 26, 27, and 28; Map 14, Lots 4 and 5; Map 38, Lots 3,4,5,5-1, 6,9,10,11,12, 13 and 14; from Residence "R" to Integrated Commercial-Industrial 2 (ICI-2) that portion of Map 38, Lot 9 currently zoned "R"; and from Industrial "I" to Residence "R" that portion of Map 38, Lot 50 currently zoned "I".
- 2014 Rezone the following parcels of land: a portion of Map 43, Lot 20 from Residence A to Limited Commercial Business "LCB", and a portion from Residence A to Commercial "C"; a portion of Map 43, Lot 69 from Residence "B" to Limited Commercial Business "LCB" and a portion from Residence B to Commercial "C".

## **ARTICLE IV: DEFINITIONS**

### **4.01.0 PURPOSE**

For the purpose of this Ordinance, the word "shall" is mandatory, the word "may" is permissive, and the following terms shall have the following meanings.

**Abutter:** Any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration by the local land use Board. For purposes of receiving testimony only, and not for purposes of notification, the term "abutter" shall include any person who is able to demonstrate that his/her land will be directly affected by the proposal under consideration. For purposes of receipt of notification by a municipality of a local land use Board hearing, in the case of an abutting property being under a condominium or other collective form of ownership, the term abutter means the officers of the collective or association, as defined in NH RSA 356-B:3, XXIII. For purposes of receipt of notification by a municipality of a local land use Board hearing, in the case of an abutting property being under a manufactured housing park form of ownership defined in NH RSA 205-A:1, the term "abutter" includes the manufactured housing park owner and the tenants who own manufactured housing which adjoins or is directly across the street or stream from the land under consideration by the local land use Board. (2007)

**Accessory Dwelling Unit (ADU):** A residential living unit that is within or attached to a single-family dwelling, or its detached accessory structure, or as a stand-alone dwelling unit subordinate to the principal single-family dwelling unit, 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. For the purpose of this Ordinance, an accessory dwelling unit is not considered an accessory use or structure(s). (2017)

**Accessory Use or Structure:** A use or structure on the same lot with, and of a nature incidental and subordinate to, the principal use or structure. For the purpose of this Ordinance an accessory dwelling unit is not considered an accessory use or structure(s). (2013)

**Agriculture:** (Deleted 2010)

**Agriculture and Farming:** As defined in NH RSA 21:34-a, and as amended from time to time, shall mean all operations of a farm, including: the cultivation, conservation, and tillage of the soil; the storage, use of, and spreading of commercial fertilizer, lime, wood ash, sawdust, compost, animal manure, septage, and, where permitted by municipal and state rules and regulations, other lawful soil amendments; the use of and application of agricultural chemicals; the raising and sale 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 (*Cervus elephus Canadensis*), fallow deer (*Dama dama*), red deer (*Cervus elephus*), and reindeer (*Rangifer tarandus*); the breeding, boarding, raising, training, riding instruction, and selling of equines; the commercial raising, harvesting, and sale of fresh water fish or other aquaculture products; the raising, breeding, or sale of poultry or game birds; the raising of bees; the raising, breeding, or sale of domesticated strains of fur-bearing animals; the production of greenhouse crops; the production, cultivation, growing, harvesting, and sale 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.

Agriculture and farming shall also mean any practice on the farm incident to, or in conjunction with such farming operations, including, but not necessarily restricted to: preparation for market, delivery to storage or to market, or to carriers for transportation to market of any products or materials from the farm; the transportation to the farm of supplies and materials; the transportation of farm workers; forestry or lumbering operations; the marketing or selling at wholesale or retail, on-site and off-site, products from the farm; irrigation of growing crops from private water supplies or public water supplies where not prohibited by State or local regulation; the use of dogs for herding, working, or guarding livestock as allowed above; the production and storage of compost and the materials necessary to produce compost, whether such materials originate, in whole or in part, from operations of the farm. (2010)

**Animal feedlot:** Deleted. (2015)

**Aquifer:** Geological formation composed of rock or sand and/or gravel that contains significant amounts of potentially recoverable potable water.

**Assisted Living Facility:** An Assisted Living Facility shall include, but not be limited to, a facility where rooms, meals, personal care and supervision of self-administered medication are provided pursuant to NH RSA 151:9, VII(a) and He-P 804.3 or as amended. Other services may be provided as an accessory use only, such as recreational activities, financial services, and transportation. (2011)

**Bed & Breakfast:** A building for transient occupancy which also provides breakfast to registered guests only and is owner occupied. (1997)

**Building:** Any structure used or intended for supporting or sheltering any use or occupancy. (1992)

**Church:** A building or structure, or groups of buildings or structures that by design and construction are primarily intended for conducting organized religious services. See also House of Worship (1996)

**Community Center:** A building used for recreational, social, educational and cultural activities, open to the public or a designated part of the public, usually owned and operated by a public or non-profit group or agency. (1996)

**Congregate Care Facility:** A Congregate Care Facility shall include, but not be limited to, a facility where communal dining facilities and services such as housekeeping, organized social and recreational activities, transportation services, and other support services appropriate for the residents are provided pursuant to NH RSA 151:9, VII(a) and He-P 814.3 or as amended. (2011)

**Day Care Facility:** Those facilities, as licensed by the State of New Hampshire, and defined by NH RSA 170-E:2 as providing child care under one or more of the following categories: (2007)

**A. Pre-School Program** - A facility regularly providing a structured program up to five (5) hours per day for seven (7) or more children who are three (3) years of age or older and who are not attending a full-day school program. The number of children shall include all children present during the period of the program.

**B. Group Pre-School Center** - A facility regularly providing full-day or half-day child care for thirteen (13) or more pre-school children, whether or not the service is known as a day nursery, nursery school, kindergarten, cooperative, child development center, day care center, center for the developmentally disabled, progressive school, Montessori school, or by any other name.

**C. After-School Program** - A facility in which child care is regularly provided up to five (5) hours per school day, before and/or after regular school holidays, for six (6) or more children who are enrolled in a full day program.

Day Care facility, for the purposes of this Ordinance, does not include "family day care home" as defined in NH RSA 170-E:2.

**Density:** For the purposes of this Ordinance, density is used to define residential dwelling units per acre, and is based on the allowable units per acre in each residential district. High density refers to allowable densities in the Residence "B" District, medium density refers to allowable densities in the Residence "A" District; and low density refers to allowable densities in the Residence "R" District. (1997)

**Distribution and Mailing Facilities:** Uses which constitute the temporary storage and/or shipping of goods, including mail order processing, package distribution and mailing. (1995)

**Drive Aisle:** The traveled passageway by which vehicles enter and depart parking spaces. (2002)

**Driveway:** A vehicular passageway providing access between a road and a parcel of land. (2002)

**Driveway, common commercial/industrial:** A single driveway that provides access between a road and two (2) or more conforming commercial and industrial lots. (2002)

**Driveway, common residential:** A single driveway that provides access between a road and not more than two (2) conforming residential lots. (2002)

**Dwelling Unit:** One room or rooms connected together, constituting a separate, independent housekeeping establishment physically separated from any other dwelling units in the same structure, and containing independent cooking and sleeping facilities.

**Dwelling, Single-family:** A detached residential dwelling unit, other than a mobile home, designed for one family only.

**Dwelling, Two-family:** A structure which contains two (2) separate dwelling units, each provided with complete and independent living facilities for one or more persons, including provisions for living, sleeping, eating, cooking, and sanitation as well as independent access and egress to and from each dwelling unit. (2013)

**Dwelling, Multi-family:** A structure consisting of three (3) or more dwelling units designed for occupancy by three or more families. (1995)

**Dwelling, Mixed-use:** One room or rooms connected together and designed for use as a dwelling unit; located in a non-residential building with no more than two (2) dwelling units that are in addition to the primary non-residential use. (2012)

**Family:** One or more persons occupying a dwelling unit and living as a single non-profit housekeeping unit.

**Family Day Care Home:** An occupied residence in which child care is regularly provided for less than twenty-four (24) hours per day, except in emergencies, for one (1) to six (6) children from one or more unrelated families. The six (6) children shall include any foster children residing in the home and all children who are related to the caregiver except children who are (ten) 10 years of age or older. In addition to the six (6) children, one (1) to three (3) children attending a full-day school program may also be cared for up to five (5) hours per day on school days and all day during school holidays. (1994)

**Farm:** As defined in NH RSA 21:34-a, and as amended from time to time, shall mean any land, buildings, or structures on or in which agriculture and farming activities are carried out or conducted and shall include the residence or residences of owners, occupants, or employees located on such land. Structures shall include all farm outbuildings used in the care of livestock, and in the production and storage of fruit, vegetables, or nursery stock; in the production of maple syrup; greenhouses for the production of annual or perennial plants; and any other structures used for 'agriculture' and 'farming' as defined in this Ordinance. A Farm may include a 'Farm roadside stand' as defined by this Ordinance. A farm may include wholesale and retail sale of feed and grain products, incidental and subordinate to agriculture and farming activities, produced either on-site or off-site, along with accessory structures utilized for feed and grain product storage. (2010)

**Farm roadside stand:** An agricultural operation, and not be considered commercial, where at least thirty-five percent (35%) of the product sales in dollar volume is attributable to products produced on the farm or farms of the farm roadside stand owner. Product sales not attributable to the farm or farms of the farm stand owner or farm stand operator shall be agriculturally related and may include, but not necessarily limited to, the sale of garden accessories, cheese, home crafts, cut flowers, dried flowers, value added products such as jams, jellies and baked goods from a licensed kitchen. Proof of farm income may be required to determine conformity with these provisions. (2010)

**Farmer's market:** A seasonal outdoor event or seasonal outdoor series of events, subject to applicable Town health and safety codes, at which two (2) or more vendors of agricultural commodities gather for purposes of offering for sale such commodities to the public. Commodities offered for sale must include, but are not limited to, products of agriculture as defined in this Ordinance. A 'farmer's market' shall not include any event held upon the premises owned, leased, or otherwise controlled by any individual vendor selling therein. (2010)

**Filling Station:** A building or structure, or part thereof, or any premises used in connection with tanks, pumps, and other appliances for supplying motor vehicles with gasoline, oil, water, compressed air and similar supplies, but not used for the purpose of making repairs. (1995)

**Floor Area, Gross:** The floor area within the inside perimeter of the exterior walls of the building under consideration, exclusive of vent shafts and courts, without deduction for corridors, stairways, closets, the thickness of interior walls, columns or other features. The gross floor area shall not include shafts with no openings or interior courts. (2016)

**Frontage, minimum:** That continuous portion of a lot bordering on a road(s) from which access can be taken, that meets the minimum requirements of the underlying zoning district. (2006)

**Funeral Home:** A building used for the preparation of the deceased for burial and the display of the deceased and rituals connected therewith before burial or cremation. (1996)

**Groundwater:** Subsurface water that occurs beneath the water table in soils and geologic formations. [NH RSA 485-C, Groundwater Protection Act] (2015)

**Groundwater Recharge Areas:** Areas composed of permeable stratified sand and/or gravel and certain wetlands, which collect precipitation surface water and carry it to aquifers.

**Harvesting of Natural Resources:** the removal of natural resources, such as timber, freshwater, and earth materials from their existing natural state on-site. (2011)

**Hazardous or Toxic Materials or Liquids:** Materials or liquids that pose a threat present or future to the environment whether in use, storage or transit, including without exception hazardous waste identified and listed in accordance with Section 3001 of the Resource Conservation and Recovery Act of 1976 as amended. (1993)

**Health Service Facilities:** A Health Service Facility shall include but not be limited to a facility providing clinically related outpatient diagnostic, treatment, or rehabilitative services, as well as preventative services, and includes, without limitation, alcohol, drug abuse, and mental health services. (2011)

**Height:** The height of a building or structure shall mean the vertical distance from the average elevation of the finished grade within five feet of the building or structure to the highest point of the building or structure. (2005)

**Home Based Business:** A business use conducted on a property within a dwelling or an accessory building that is secondary and incidental to a primary residential use. (2019)

**Hospice house:** A Hospice House shall include but not be limited to free standing 24-hour residential setting licensed under NH RSA 151 as a supported residential care facility for terminally ill individuals with less than one year to live who no longer have a home or cannot remain safely there. Palliative care such as room, meals, personal care, medication monitoring and emotional support, is provided. Additional health care services may be provided to residents through arrangements with outside organizations as is currently available if the resident was in his/her home. (2011)

**Hospital:** A Hospital shall include but not be limited to an institution licensed by the State of New Hampshire which is engaged in providing to patients, under supervision of physicians, inpatient and outpatient diagnostic and therapeutic services for medical diagnosis, treatment and care of injured, disabled, or sick persons, or rehabilitation services for the rehabilitation of such persons. The term hospital includes psychiatric and substance abuse treatment facilities. (2011)

**Hotel:** A facility offering transient lodging accommodations to the general public supervised by a person in charge at all hours, and which may include additional facilities and services such as restaurants, bars, meeting and function rooms, entertainment, personal services, and recreational facilities. (2011)

**Hotel/Motel:** Deleted. (2011)

**House of Worship:** A building or structure, or groups of buildings or structures, that by design and construction are primarily intended for conducting organized religious services. See also Church (2001)

**Independent Senior Housing Units:** Deleted. (2015)

**Junkyard:** An establishment or place of business which is maintained, operated, or used for storing and keeping, or storing and selling, trading or otherwise transferring old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste or junked, dismantled or wrecked motor vehicles, or parts thereof, iron, steel or other old or scrap ferrous or nonferrous material. Junkyard shall also include any place of business for the maintenance or operation of an automotive recycling yard, and includes garbage dumps and sanitary fills. Also includes any business and any place of storage or deposit, whether in connection with another business or not, which has stored or deposited two (2) or more unregistered motor vehicles which are no longer intended or in condition for legal use on the public highways, or used parts of motor vehicles or old iron, metal, glass, paper, cordage, or other waste or discarded or second-hand material which has been a part, or intended to be a part, of any motor vehicle, the sum of which parts or material shall be equal in bulk to two (2) or more motor vehicles. Junkyard shall also include any place of business or storage or deposit of motor vehicles purchased for the purpose of dismantling the vehicles for parts or for use of the metal for scrap and where it is intended to burn material, which are parts of a motor vehicle or cut up the parts thereof. Also, includes any yard or field used as a place of storage in which there is displayed to the public view, junk machinery or scrap metal that occupies an area of five hundred (500) square feet and as amended by NH RSA 236:112. (2009)

**Kennel:** Deleted. (2012)

**Leachable Wastes:** Deleted. (2015)

**Lot:** The whole area of a single parcel of land, with assertable boundaries in single or joint ownership undivided by a street and established by deeds of record. (1999)

**Lot line, front:** The lot line of record separating a lot from a road. (2002)

**Lot of Record:** Lot of record shall be considered to meet the minimum lot size and frontage requirements of the Ordinance if it was in existence prior to the adoption of the Zoning Ordinance (3/11/1969) as long as the lot of record has fifteen feet (15') of frontage on a Class V or better road. (2012)

**Lot Use:** A parcel of land occupied or capable of being occupied by a building(s) or use(s), and the buildings or uses accessory thereto, including such open spaces and yards as are required by this Ordinance. (2007)

**Manufactured Housing:** 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 attached to the required utilities. The term manufactured housing does not include a recreational vehicle. Generally, manufactured homes must meet the same requirements as stick built or conventional housing. Because they are usually residential buildings, they must be elevated so that the lowest floor is above the Base Flood Elevation (BFE). (2015)



**Manufactured Housing Park:** A parcel of land upon which two (2) or more manufactured homes are, or are intended to be, placed and occupied as dwellings. (1995)

**Manufacturing:** The making of goods or materials from raw materials or unfinished products, includes assembling and processing. (1997)

**Mining of Land:** The removal or relocation of geological materials such as topsoil, sand, gravel, metallic ores or bedrock.

**Motor Vehicle Repair Facility:** A building or structure or part thereof, or any premises used for making changes, adjustments or repairs to motor vehicles, may also include structural repairs, painting and work involving use of machinery. May also include retail sale of motor vehicle parts and accessories and retail sale of petroleum products. (1995)

**Motorized Vehicles Sales Facility:** A building or structure, or part thereof, or any premises used for the commercial display, sale, lease, or rental of new or used internal combustion engine vehicles in operable condition and where no repair work is done. (2007)

**Net Tract Area:** Deleted. (2007)

**Nursery:** Deleted. (2012)

**Nursery Stock:** Deleted. (2012)

**Nursing home or facility:** A Nursing Home or Facility shall include but not be limited to a facility, licensed by the State of New Hampshire, which shall provide, for two (2) or more persons, basic domiciliary services (room, board, and laundry), continuing health supervision under competent professional medical and nursing direction, and continuous nursing care as may be individually required. (2011)

**Office:** The building, room or series of rooms in which the affairs of a business, profession or branch of government are conducted. (1995)

**Open space:** Permeable surface on a lot that is unoccupied by buildings, unobstructed to the sky, not devoted to service driveways or off-street parking that is available to all occupants of the premises. (1995)

**Parking Space:** An off-street space sufficient in size to accommodate the parking of one motor vehicle exclusive of the area necessary for internal access driveways and passageways on any site. The Planning Board shall develop such standards and requirements regulating the size and arrangement of parking spaces, as it may deem necessary and appropriate. (1985)

**Person:** Any individual, firm, co-partnership, corporation, company, association, joint stock association or body politic, trustee, receiver, assignee, or other similar representative thereof.

**Portable Sign:** Deleted. (2013)

**Pre-site Built Housing:** Any structure designed primarily for residential occupancy which is wholly or in substantial part made, fabricated, formed or assembled in off-site manufacturing facilities in conformance with the United States Department of Housing and Urban Development minimum property

standards and local building codes, for installation, or assembly and installation on the building site. For the purposes of this definition, pre-site built housing does not include manufactured housing. (See manufactured housing) (1995)

**Principal Route of Access:** Deleted. (2009)

**Private Way:** A driveway which the Town has no duty to maintain which provides access to no more than two (2) building lots but not including any Class VI Highway as defined by NH RSA and subject to Section 7.040 Private Ways. (See Driveway; Driveway, Common) (1995)

**Processing and Warehousing:** The storage of materials in a warehouse or terminal where such materials may be combined, broken down, or aggregated for distribution or storage and where the original material is not chemically or physically changed. Processing and warehousing is considered to be storage and shipment as opposed to manufacturing. (1997)

**Processing of Natural Resources:** A series of operations, usually in a continuous and regular action or succession of actions, performed to create products from materials supplied by nature. (1997)

**Public Utility:** Deleted (2014)

**Recreation, active:** Leisure time activities, usually of a formal nature and often performed with others, requiring equipment and taking place at prescribed places, sites, or fields. (2002)

**Recreation, passive:** Leisure time activities that involve relatively inactive or less energetic activities such as walking, sitting, picnicking, card games, chess, checkers, or similar table games. (2002)

**Recreational Facility, Commercial:** A place designed and equipped for the conduct of leisure-time activities, operated as a business for profit and open to the public for a fee. This includes, but is not limited to, places of amusement such as bowling alleys, miniature golf courses, movie theaters, health and fitness clubs, sports fields, golf courses, accessory food service and concessions, and similar types of establishments. (1997)

**Recreational Facility, Not-for-Profit:** A place designed and equipped for the conduct of leisure-time activities open to the general public, owned and operated by a not-for-profit organization. (1996)

**Recreational Vehicle:** A temporary dwelling for travel, recreation, and vacation use including but not limited to, camping trailer, travel trailer, pick-up coach to be mounted on a truck chassis, or a self-propelled motor home.

**Research and Development:** A place devoted to activities engaged in refinement, investigation or experimental study of methods to improve processes or products. Manufacturing of products is not included within this definition. (1994)

**Retail Businesses:** Uses which constitute the sale of goods or the delivery of service and/or repair. (1994)

**Right-of-way:** A section of land acquired by easement, reservation, dedication, prescription, or condemnation, duly recorded in the Hillsborough County Registry of Deeds, and intended to be occupied by a road, crosswalk, railroad, utility lines, and/or other similar uses; and furthermore, the right to pass over the property of another. (2002)

**Road:** Any vehicular right-of-way that: (1) is an existing federal, state, Town, or privately owned and maintained roadway; (2) is shown upon a plan approved pursuant to NH RSAs; (3) is shown on a plan duly filed and recorded in the Office of the Hillsborough County Registry of Deeds; or (4) is approved by any other official action of the Town of Milford. A road contains all the land within the right-of-way. (2002)

**Roadway:** The traveled portion of a road within a right-of-way. (2002)

**Self-Storage Facility:** A building, group of buildings or other facility having compartments, rooms, spaces, containers or other type of units that are individually leased, rented, sold or otherwise contracted for, by customers solely for the storage of personal or business goods or property. Items prohibited from being stored include: flammable liquids, hazardous or toxic chemicals or explosives (including fireworks) and/or items that would create noxious or offensive odors, dust, noise, or vibration. Self-storage facilities are those where the facility owner/operator has limited access to the units. For purposes of this Ordinance, "self-storage facility" shall be considered synonymous with self-storage warehouse, self-service storage facility, mini-warehouse or mini-storage, and/or portable storage containers. (2019)

**Setback:** That horizontal distance measured between the right-of-way of a road or a side or rear lot line and the closest point of any building or structure contained on the lot.

**Schools:** Any building, part thereof, or group of buildings, the use of which meets State requirements for elementary, secondary, vocational or higher education. (1996)

**Sign:** Any device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public, but not including any flag.

**Small Wind Energy Systems (SWES):** A wind energy conversion system consisting of a wind turbine, a 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. (2009)

**Solid Waste Disposal Sites:** Areas for disposal of any matter consisting of putrescible material, refuse, or residue from an air pollution control facility; and other discarded or abandoned material. It includes solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations and from community activities. For the purpose of this Chapter, namely NH RSA 149-M and the rules specified in ENV-WM 101.01 Applicability, "it does not include hazardous wastes as defined in NH RSA 147-A:2; solid or dissolved materials in irrigation return flows; cut or uprooted tree stumps incident to clearing of land depicted on a site plan showing burial locations and mailed to the director, provided that such burial locations are not located within seventy-five (75) feet of any well as defined in NH RSA 485:37; municipal and industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended; source, special nuclear or by-product materials as defined by the atomic energy act of 1954, as amended, or septage or sludge as defined in NH RSA 485-a:2, IX-a and XI a" ("Solid Waste" shall not include deceased persons). (1995)

**Solid Wastes:** Useless, unwanted, or discarded solid material with insufficient liquid content to be free flowing including, but not limited to rubbish, garbage, scrap materials, junk refuse, inert fill material and landscape refuse.

**Structure:** A combination of materials for occupancy or use, such as, but not limited to, a building, bridge, trestle, tower, tunnel, pier, wharf, fences and retaining walls over six (6) feet in height above grade, and swimming pools. (1992) (amended 2001)

**Structure, Non-conforming:** A structure which is lawfully maintained at the time this Ordinance became effective and which does not conform with the regulations of the district in which it is located.

**Usable land:** Land that does not consist of wetland and slopes over fifteen (15) percent. (2002)

**Use, Non-conforming:** A use existing prior to the enactment of the Zoning Ordinance (3/11/69) and that is maintained after the effective date of the Ordinance, although it does not comply with the zoning restrictions applicable to the district in which it is situated. (2012)

**Utility, public or private:** Any agency that, under public franchise or private ownership, or under certificate of convenience or necessity, or by grant of authority by a government agency, provides the public, or itself with electricity, gas, heat, steam, communication, transportation, water, sewerage collection, stormwater collection, or similar service. (2017)

**Veterinary Clinics:** A structure in which animals are given medical or surgical treatment and are cared for during the time of treatment only. (1994)

**Warehouse:** A building used primarily for the storage of goods and materials. (1997)

**Wetland:** An area that is inundated or saturated by surface or ground water at a frequency or duration sufficient to support, and under normal conditions, does support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands include, but are not limited to, swamps, marshes, bogs and similar areas. (1996)

**Wholesale Businesses:** Uses which constitute the sale of goods in quantity, usually for resale. (1994)

**Yard:** A required open space parallel to the lot lines which is open to the sky and unoccupied and unobstructed by a building or buildings.

**Yard, Front:** A yard between the building and front lot line, extending the full width of the lot or, in case of a corner lot extending along all streets.

**Yard, Rear:** A yard extending between side lot lines across the rear of the lot.

**Yard, Side:** A yard extending from the rear line of the required front yard to the front line of the required rear yard.

## **ARTICLE V: ZONING DISTRICTS AND REGULATIONS**

### **5.01.0 (Intentionally Blank)**

### **5.02.0 RESIDENCE "A" DISTRICT (1995)**

**INTENT:** The intent of the Residence "A" District is to provide for low-density or low-intensity uses, primarily single-family residential on individual lots.

#### **5.02.1 ACCEPTABLE USES**

- A. Single-family dwellings and their accessory uses and structures
- B. Telecommunication facilities (2000)
- C. Farm roadside stands (2010)
- D. Solar Collection Systems in accordance with Section 7.11.0 (2019)
- E. Home Based Business in accordance with Section 7.12.0 (2019)

#### **5.02.2 ACCEPTABLE USES AND YARD REQUIREMENTS BY: (2009)**

##### **A. Special Exception**

- 1. Home Based Business in accordance with Section 7.12.0 (2019)
- 2. Recreational facility, not-for-profit (1997)
- 3. Day care facilities
- 4. Family day care homes
- 5. Churches or Houses of Worship (2011)
- 6. Deleted (2014)
- 7. Schools
- 8. Reduced front, side and rear setbacks (2001)
- 9. Bed & breakfast (1997)
- 10. Recreational facility, commercial (1997)
- 11. Building and structure height greater than allowed in 5.02.6:A and 5.02.6:B (2005)
- 12. Deleted (2015)
- 13. Accessory Dwelling Units (2008)
- 14. Utility, public or private (2011)
- 15. Office in accordance with Section 10.02.7 (2011)

##### **B. Conditional Use Permit (2009)**

- 1. Small Wind Energy Systems (2009)

#### **5.02.3 USES NOT SPECIFIED (2010)**

Any uses of land and/or structures not specifically included in the "A" District as acceptable, acceptable by Special Exception, or acceptable by Conditional Use Permit shall be considered as not permitted.

#### **5.02.4 LOT SIZES AND FRONTAGES (2009)**

The minimum lot size and frontage for single-family residence and all other acceptable uses in the Residence "A" District shall be:

- A. Those areas serviced by both municipal sewerage and water systems shall have lots not less than fifteen thousand (15,000) square feet in area with one hundred (100) feet of frontage on a Class V or better road.
- B. Those areas not serviced by both municipal sewerage and water systems shall have single-family lots not less in area than forty thousand (40,000) square feet, or larger depending on soil and slope conditions, as may be suitable to sustain development according to State standards, with one hundred fifty feet (150') of frontage on a Class V or better road.

#### **5.02.5 YARD REQUIREMENTS (1996)**

- A. Each structure shall be set back at least thirty (30) feet from the front property line.
- B. Each structure shall be at least fifteen (15) feet from the side and rear property lines. In case of a corner lot, the side distance shall be increased to thirty (30) feet on the side bordering the street, lane or public way.
- C. Accessory structures, one hundred-twenty (120) square feet or less, shall have a minimum setback from the side and rear property lines of six (6) feet. (2011)

#### **5.02.6 HEIGHT REQUIREMENTS (2005)**

- A. The maximum height of a building or structure in the Residence "A" District shall be thirty-five (35) feet, except as noted in B. below.
- B. The maximum height of school and municipal buildings or structures in the Residence "A" District shall be forty-five (45) feet.
- C. A Special Exception shall be required for heights greater than allowed in either A or B above.

### **5.03.0 RESIDENCE "B" DISTRICT (1995)**

**INTENT:** The intent of the Residence "B" District is to provide areas for increased residential density and other uses which are compatible with these residential densities.

#### **5.03.1 ACCEPTABLE USES**

- A. Single-family dwellings and their accessory uses and structures
- B. Two-family dwellings and their accessory uses and structures
- C. Multi-family dwellings with municipal sewerage and water systems and their accessory uses and structures
- D. Telecommunication facilities (2000)
- E. Deleted (2015)
- F. Farm roadside stands (2010)
- G. Solar Collection Systems in accordance with Section 7.11.0 (2019)
- H. Home Based Business in accordance with Section 7.12.0 (2019)

#### **5.03.2 ACCEPTABLE USES AND YARD REQUIREMENTS BY: (2009)**

##### **A. Special Exception**

- 1. Hospital and/or related facilities licensed by the State of NH
- 2. Schools
- 3. Funeral homes
- 4. Home Based Business in accordance with Section 7.12.0 (2019)
- 5. Day care facilities
- 6. Family day care homes
- 7. Recreational facility, commercial (1997)
- 8. Recreational facility, not-for-profit (1997)
- 9. Deleted (2014)
- 10. Bed & breakfast (1997)
- 11. Reduced front, side and rear setbacks (amended 2001)
- 12. Building and structure height greater than allowed in 5.03.8:A and 5.03.8:B (2005)
- 13. Accessory Dwelling Units (2008)
- 14. Hospice House (2011)
- 15. Nursing home or facility (2011)
- 16. Utility, public or private (2011)
- 17. Office in accordance with Section 10.02.7 (2011)

##### **B. Conditional Use Permit (2009)**

- 1. Small Wind Energy Systems (2009)

#### **5.03.3 USES NOT SPECIFIED (2010)**

Any uses of land and/or structures not specifically included in the "B" District as acceptable, acceptable by Special Exception or acceptable by Conditional Use Permit shall be considered as not permitted.

#### **5.03.4 ALLOWABLE DENSITY**

Multi-family residences in the Residence "B" District shall adhere to the following conditions for development:

- A. Multi-family dwellings shall be served by both municipal sewerage and water systems and may have a maximum of five (5) units per acre. The maximum density may be reduced by the Planning Board based on recommendations of other qualified consultants.
  - 1. Section Deleted. (2007)
- B. In the conversion of an existing house to apartments or multi-family dwellings, a maximum of five (5) units per acre of land associated with the existing house shall be permitted, given the following conditions:
  - 1. The proposal meets the standards set forth for maximum density 5.03.4, yard requirements 5.03.6 and usable open space 5.03.7. (1996)

#### **5.03.5 LOT SIZES AND FRONTAGES**

- A. The following provisions shall apply to all other acceptable uses in this District, except single-family residences. (2009)
  - 1. In those areas serviced by both municipal sewerage and water systems, the minimum lot size in Residence "B" shall have as a minimum, twenty thousand (20,000) square feet in area with one hundred fifty (150) feet of frontage on a Class V or better road.
  - 2. In those Residential "B" areas not serviced by both municipal sewerage and water systems, the minimum lot size shall be sixty thousand (60,000) square feet in area or larger, depending on soil and slope conditions, as may be necessary to sustain development according to state standard with two hundred, twenty-five (225) feet of frontage on a Class V or better road.
  - 3. The minimum lot size and frontage for a single-family residence in this District shall be the same as those set forth for the Residence "A" District in section 5.02.4 of this article.

#### **5.03.6 YARD REQUIREMENTS (2011)**

- A. Each structure shall be set back at least thirty (30) feet from the front lot line.
- B. Each structure shall be at least fifteen (15) feet from side and rear property lines. In case of a corner lot, the side distance shall be increased to thirty (30) feet on the side bordering the street, lane or public way.
- C. Accessory Structures, one hundred-twenty (120) square feet or less shall have a minimum setback from the side and rear property lines of six (6) feet.

#### **5.03.7 OPEN SPACE**

Open space shall be provided for all uses, other than single-family and two-family dwellings in an amount equal to not less than thirty (30) percent of the total lot area.

#### **5.03.8 HEIGHT REQUIREMENTS (2005)**

- A. The maximum height of a building or structure in the Residence "B" District shall be thirty-five (35) feet, except as noted in B. below.



- B. The maximum height of school and municipal buildings or structures in the Residence "B" District shall be forty-five (45) feet.
- C. A Special Exception shall be required for heights greater than allowed in either A or B above.

#### **5.04.0 RESIDENCE "R" DISTRICT (2001)**

**INTENT:** The intent of the Residence "R" District is to provide for low-density residential and agricultural land uses, and other compatible land uses, that are sensitive to the rural character and environmental constraints existing in the district.

#### **5.04.1 ACCEPTABLE USES**

- A. One single-family dwelling and its accessory uses and structures, per lot
- B. Agriculture and Farming (2010)
- C. One single-family manufactured housing unit, per lot
- D. Harvesting of natural resources
- E. Telecommunication facilities (2000)
- F. Deleted (2011)
- G. Farm Roadside Stands (2010)
- H. Solar Collection Systems in accordance with Section 7.11.0 (2019)
- I. Home Based Business in accordance with Section 7.12.0 (2019)

#### **5.04.2 ACCEPTABLE USES AND YARD REQUIREMENTS BY: (2009)**

##### **A. Special Exception**

- 1. One two-family dwelling per lot (2001)
- 2. Veterinary clinics
- 3. Home Based Business in accordance with Section 7.12.0 (2019)
- 4. Day care facilities
- 5. Family day care home
- 6. Schools
- 7. Reduced front, side and rear setbacks (2001)
- 8. Bed & breakfast (1997)
- 9. Processing of natural resources on parcels of a minimum five (5) acres in size (2011)
- 10. Recreational facility, not-for-profit (1997)
- 11. Recreational facility, commercial (1997)
- 12. Churches or Houses of Worship (2011)
- 13. Building and structure height greater than allowed in 5.04.7:A or 5.04.7:B (2005)
- 14. Accessory Dwelling Units (2008)
- 15. Hospice house (2011)
- 16. Nursing home or facility (2011)
- 17. Utility, public or private (2011)

##### **B. Conditional Use Permit (2009)**

- 1. Small Wind Energy Systems (2009)
- 2. Solar Collection Systems in accordance with Section 7.11.0 (2019)
- 3. Home Based Business in accordance with Section 7.12.0 (2019)

#### **5.04.3 USES NOT SPECIFIED (2010)**

Any uses of land and/or structures not specifically included in the "R" District as acceptable, acceptable by Special Exception or acceptable by Conditional Use Permit shall be considered as not permitted.

#### **5.04.4 LOT SIZES AND FRONTAGES (2009)**

- A. The minimum lot size and frontage for a single-family dwelling or a single-family manufactured housing unit and all other permitted uses, unless stated otherwise, in the residence "R" District shall be two (2) acres (87,120 SF), or greater, depending on soil and slope conditions, with a minimum two hundred (200) feet of frontage on a Class V or better road.
- B. The minimum lot size and frontage for a two-family dwelling as allowed by Special Exception in the Residence "R" District shall be four (4) acres (174,240 SF), or greater, depending on soil and slope conditions, with a minimum three hundred (300) feet of frontage on a Class V or better road.

#### **5.04.5 YARD REQUIREMENTS (2011)**

- A. Each structure shall be set back at least thirty (30) feet from the front lot line.
- B. Each structure shall be at least fifteen (15) feet from side and rear property lines. In case of a corner lot, the side distance shall be increased to thirty (30) feet on the side bordering the street, lane or public way.
- C. Accessory Structures, one hundred-twenty (120) square feet or less shall have a minimum setback from the side and rear property lines of six (6) feet.

#### **5.04.6 OPEN SPACE**

Open space shall be provided for all uses, other than single-family and two-family dwellings, in an amount equal to not less than thirty (30) percent of the total lot area.

#### **5.04.7 HEIGHT REQUIREMENTS (2005)**

- A. The maximum height of a building or structure in the Residence "R" District shall be thirty-five (35) feet, except as noted in B. below.
- B. The maximum height of school and municipal buildings or structures in the Residence "R" District shall be forty-five (45) feet.
- C. A Special Exception shall be required for heights greater than allowed in either A or B above.

### **5.05.0 COMMERCIAL “C” DISTRICT (1995)**

**INTENT:** The intent of this District is to provide areas for those businesses, institutional, financial, governmental and compatible residential uses which constitute the commercial requirements of the Town.

#### **5.05.1 ACCEPTABLE USES**

- A. Retail businesses
- B. Wholesale businesses
- C. Restaurants
- D. Filling stations (2011)
- E. Offices
- F. Banks and financial institutions
- G. Hospitals (2011)
- H. Schools
- I. Hotels (2011)
- J. Churches or Houses of Worship (2011)
- K. Bed & breakfast (1997)
- L. Deleted (2011)
- M. Newspaper and job printing
- N. Funeral homes
- O. Single-family dwellings and their accessory uses and structures, with their respective related conditions set forth in Residence "A" District
- P. Two-family and multi-family dwellings and their accessory uses and structures, with their respective related conditions set forth in Residence "B"
- Q. Deleted (2019)
- R. Recreational facility, not-for-profit (1997)
- S. Recreational facility, commercial (1997)
- T. Telecommunication facilities (2000)
- U. Motor vehicles sales facilities (2011)
- V. Deleted (2015)
- W. Farm roadside stands (2010)
- X. Farmer's market (2010)
- Y. Day care facilities (2011)
- Z. Motor vehicle repair facilities (2011)
- AA. Health services facilities (2011)
- BB. Hospice house (2011)
- CC. Veterinary clinics (2011)
- DD. Nursing home or facility (2011)
- EE. Agriculture and farming (2011)
- FF. Utility, public or private (2011)
- GG. Dwelling, Mixed-use (2012)
- HH. Solar Collection Systems in accordance with Section 7.11.0 (2019)

### **5.05.2 ACCEPTABLE USES AND YARD REQUIREMENTS BY: (2009)**

#### **A. Special Exception**

1. Deleted (2011)
2. Family day care homes
3. Reduced front, side and rear setbacks
4. Manufacturing (2011)
5. Building and structure greater than allowed in 5.05.8:A and 5.05.8:B (2005)
6. Accessory Dwelling Units (2008)
7. Distribution and mailing facilities (2011)
8. Research and development (2011)

#### **B. Conditional Use Permit (2009)**

1. Small Wind Energy Systems (2009)

### **5.05.3 USES NOT SPECIFIED (2010)**

Any uses of land and/or structures not specifically included in the Commercial District as acceptable, acceptable by Special Exception or acceptable by Conditional Use Permit shall be considered as not permitted.

### **5.05.4 LOT SIZES AND FRONTAGES (2009)**

- A. In those areas serviced by both municipal sewerage and water systems, the minimum lot size in Commercial District shall be twenty thousand (20,000) square feet, together with one hundred and fifty (150) feet of frontage on Class V or better road.
- B. In those commercial areas not serviced by municipal sewerage and water systems, the minimum lot size shall be sixty thousand (60,000) square feet, together with two hundred twenty-five (225) feet of frontage on a Class V or better road.

### **5.05.5 YARD REQUIREMENTS (1995)**

- A. Each structure shall be set back at least thirty (30) feet from the front lot line.
- B. Each structure shall be at least fifteen (15) feet from side and rear property lines. In case of a corner lot, the side distance shall be increased to thirty (30) feet on the side bordering the street, lane or public way.

### **5.05.6 OPEN SPACE**

Open space shall be provided for all uses, other than single-family and two-family dwellings, in an amount equal to not less than thirty (30) percent of the total lot area.

**5.05.7 OVAL SUBDISTRICT:**

**EXEMPTION FROM YARD AND OPEN SPACE REQUIREMENTS (2007)**

The following area shall be exempt from the open space and yard requirements for all allowable uses in the Commercial District except multi-family residences: bounded by and beginning at the intersection of Great Brook and the Souhegan River, proceeding East along the southern bank of the Souhegan River to the Swinging Bridge, proceeding south along the west line of Pine Street to the intersection with Nashua Street, continuing south along the west line of Franklin Street to its intersection with High Street, then proceeding west along the north line of High Street and continuing west along the south line of Lot 39 on Tax Map 25 to the southwest corner of that parcel intersection with Great Brook and then proceeding north along the east bank of Great Brook to the beginning.

**5.05.8 HEIGHT REQUIREMENTS (2005)**

- A. The maximum height of a building or structure in the Commercial District shall be forty (40) feet, except as noted in B. below.
- B. The maximum height of school and municipal buildings or structures in the Commercial District shall be forty-five (45) feet.
- C. A Special Exception shall be required for heights greater than allowed in either A or B above.

### **5.06.0 INDUSTRIAL “I” DISTRICT (1995)**

**INTENT:** The intent of the Industrial District is to provide areas for manufacturing, processing, assembly, wholesaling, research and development.

#### **5.06.1 ACCEPTABLE USES**

- A. Harvesting of natural resources (2011)
- B. Manufacturing (from Light manufacturing 2003)
- C. Offices (2011)
- D. Research and development
- E. Distribution and mailing facilities
- F. Processing and warehousing
- G. Telecommunication facilities (2000)
- H. Farm roadside stands (2010)
- I. Processing of natural resources (2011)
- J. Newspaper and job printing (2011)
- K. Agriculture and farming (2011)
- L. Utility, public or private (2011)
- M. Solar Collection Systems in accordance with Section 7.11.0 (2019)
- N. Home Based Business in accordance with Section 7.12.0 (2019)

#### **5.06.2 ACCEPTABLE USES AND YARD REQUIREMENTS BY: (2009)**

##### **A. Special Exception**

- 1. Building and structure greater than allowed in 5.06.7:A and 5.06.7:B (2005)
- 2. Accessory Dwelling Units for existing single-family dwellings (2008)
- 3. Reduced front, side and rear setbacks (2009)
- 4. Hotels (2011)

##### **B. Conditional Use Permit (2009)**

- 1. Small Wind Energy Systems (2009)
- 2. Solar Collection Systems in accordance with Section 7.11.0 (2019)

#### **5.06.3 USES NOT SPECIFIED (2010)**

Any uses of land and/or structures not specifically included in the Industrial District as acceptable, acceptable by Special Exception or acceptable by Conditional Use Permit shall be considered as not permitted.

#### **5.06.4 LOT SIZES AND FRONTAGES**

- A. In those areas serviced by both municipal sewerage and water systems, no minimum lot size and frontage shall be required, other than those requirements that relate to usable open space so long as access to sewer and water is obtained.

- B. In those areas not serviced by municipal sewerage and water systems, a minimum of forty thousand (40,000) square feet shall be required, depending on soil and slope. No minimum frontage shall be required.

**5.06.5 YARD REQUIREMENTS**

- A. Each structure shall be set back at least thirty (30) feet from the front lot line.
- B. Each structure shall be at least fifteen (15) feet from side and rear property lines. In case of a corner lot, the side distance shall be increased to thirty (30) feet on the side bordering the street, lane or public way.

**5.06.6 OPEN SPACE**

Open space shall be provided for all uses in an amount equal to not less than thirty (30) percent of the total lot area.

**5.06.7 HEIGHT REQUIREMENTS (2005)**

- A. The maximum height of a building or structure in the Industrial District shall be forty (40) feet, except as noted in B. below.
- B. The maximum height of school and municipal buildings or structures in the Industrial District shall be forty-five (45) feet.
- C. A Special Exception shall be required for heights greater than allowed in either A or B above.



### **5.07.0 LIMITED COMMERCIAL-BUSINESS “LCB” DISTRICT**

**INTENT:** The intent of the Limited Commercial-Business District is to provide areas for those business activities which are compatible with surrounding residential neighborhoods.

#### **5.07.1 ACCEPTABLE USES**

- A. Offices
- B. Health service facilities (2011)
- C. Schools
- D. Bed and breakfast
- E. Churches or Houses of Worship (2011)
- F. Funeral homes
- G. Single-family dwellings and their accessory uses and structures, with their respective related conditions set forth in the Residence "A" District
- H. Two-family and multi-family dwellings and their accessory uses and structures, with their related conditions set forth in the Residence "B" District
- I. Deleted (2019)
- J. Telecommunication facilities (2000)
- K. Deleted (2015)
- L. Farm roadside stands (2010)
- M. Day care facilities (2011)
- N. Hospice house (2011)
- O. Utilities, public or private (2011)
- P. Dwelling, Mixed-use (2012)
- Q. Solar Collection Systems in accordance with Section 7.11.0 (2019)

#### **5.07.2 ACCEPTABLE USES AND YARD REQUIREMENTS BY: (2009)**

##### **A. Special Exception**

- 1. Deleted (2011)
- 2. Family day care homes
- 3. Recreational facility, not-for-profit (1997)
- 4. Reduced front, side and rear setbacks
- 5. Building and structure height greater than allowed in 5.07.7:A and 5.07.7:B (2005)
- 6. Accessory Dwelling Units (2008)

##### **B. Conditional Use Permit (2009)**

- 1. Small Wind Energy Systems (2009)

#### **5.07.3 USES NOT SPECIFIED (2010)**

Any uses of land and/or structures not specifically included in the Limited Commercial-Business District as acceptable, acceptable by Special Exception or acceptable by Conditional Use Permit shall be considered as not permitted.

#### **5.07.4 LOT SIZES AND FRONTAGES (2009)**

- A. In those areas serviced by both municipal sewerage and water systems, the minimum lot size in Limited Commercial-Business District shall be twenty thousand (20,000) square feet, together with one hundred and fifty (150) feet of frontage on a Class V or better road.
- B. In those Limited Commercial-Business areas not serviced by municipal sewerage and water systems, the minimum lot size shall be sixty-thousand (60,000) square feet, together with two hundred twenty-five (225) feet of frontage on a Class V or better road.

#### **5.07.5 YARD REQUIREMENTS**

- A. Each structure shall be set back at least thirty (30) feet from the front lot line.
- B. Each structure shall be at least fifteen (15) feet from the side and rear property lines. In case of a corner lot, the side distance shall be increased to thirty (30) feet on the side bordering the street, lane or public way.

#### **5.07.6 OPEN SPACE**

Open space shall be provided for all uses, other than single-family and two-family dwellings, in an amount equal to not less than thirty (30) percent of the total lot area.

#### **5.07.7 HEIGHT REQUIREMENTS (2005)**

- A. The maximum height of a building or structure in the Limited Commercial-Business District shall be thirty-five (35) feet, except as noted in B. below.
- B. The maximum height of school and municipal buildings or structures in the Limited Commercial-Business District shall be forty-five (45) feet.
- C. A Special Exception shall be required for heights greater than allowed in either A or B above.

### **5.08.0 INTEGRATED COMMERCIAL-INDUSTRIAL “ICI” DISTRICT (1995)**

**INTENT:** The intent of the Integrated Commercial-Industrial District is to provide an area for sales and service activities, both wholesale and retail, as well as industrial activities. This District is intended to be the area in which vehicular oriented business can occur.

#### **5.08.1 ACCEPTABLE USES**

- A. Wholesale businesses
- B. Retail businesses
- C. Restaurants
- D. Offices
- E. Hotels (2011)
- F. Day care facilities (2011)
- G. Utility, public or private (2011)
- H. Manufacturing (from Light manufacturing 2003)
- I. Distribution and mailing facilities
- J. Research and development (2011)
- K. Motor vehicle repair facilities
- L. Harvesting of natural resources
- M. Banks and financial institutions
- N. Processing and warehousing (1997)
- O. Adult Entertainment Businesses (2000)
- P. Telecommunication facilities (2000)
- Q. Motor vehicle sales facilities (2011)
- R. Farm roadside stands (2010)
- S. Farmer’s market (2010)
- T. Bed and breakfast (2011)
- U. Churches or Houses of Worship (2011)
- V. Processing of natural resources (2011)
- W. Hospitals (2011)
- X. Health services facilities (2011)
- Y. Newspaper and job printing (2011)
- Z. Veterinary clinics (2011)
- AA. Nursing home or facility (2011)
- BB. Agriculture and farming (2011)
- CC. Dwelling, Mixed-use (2012)
- DD. Filling Station (2012)
- EE. Solar Collection Systems in accordance with Section 7.11.0 (2019)
- FF. Home Based Business in accordance with Section 7.12.0 (2019)

## **5.08.2 ACCEPTABLE USES AND YARD REQUIREMENTS BY: (2009)**

### **A. Special Exception**

1. Schools
2. Recreational facility, not-for-profit (1997)
3. Recreational facility, commercial (1997)
4. Deleted (2011)
5. Building and structure height greater than allowed in 5.087.A and 5.087.B (2005)
6. Deleted (2015)
7. Accessory Dwelling Units for existing single-family dwellings (2008)
8. Reduced front, side and rear setbacks (2009)

### **B. Conditional Use Permit (2009)**

1. Small Wind Energy Systems (2009)
2. Solar Collection Systems in accordance with Section 7.11.0 (2019)

## **5.08.3 USES NOT SPECIFIED (2010)**

Any uses of land and/or structures not specifically included in the ICI (Integrated Commercial-Industrial) District as acceptable, acceptable by Special Exception or acceptable by Conditional Use Permit shall be considered as not permitted.

## **5.08.4 LOT SIZES AND FRONTAGES (2009)**

- A. In those areas serviced by both municipal sewerage and water systems, the minimum lot size in the Integrated Commercial-Industrial District shall be twenty thousand (20,000) square feet, together with a minimum of one hundred fifty (150) feet of frontage on a Class V or better road.
- B. In those areas not serviced by municipal sewerage and water systems, a minimum of forty thousand (40,000) square feet shall be required, depending upon soil and slope conditions, together with a minimum of one hundred fifty (150) feet of frontage on a Class V or better road.

## **5.08.5 YARD REQUIREMENTS**

- A. Each structure shall be set back at least thirty (30) feet from the front lot line.
- B. Each structure shall be set back at least fifteen (15) feet from side and rear property lines. In the case of a corner lot, the side distance shall be increased to thirty (30) feet on the side bordering the public way.

## **5.08.6 OPEN SPACE**

Open space shall be provided in an amount equal to not less than thirty (30) percent of the total lot area.

## **5.08.7 HEIGHT REQUIREMENTS (2005)**

- A. The maximum height of a building or structure in the Integrated Commercial-Industrial District shall be forty (40) feet, except as noted in B. below.

- B. The maximum height of school and municipal buildings or structures in the Integrated Commercial-Industrial District shall be forty-five (45) feet.
- C. A Special Exception shall be required for heights greater than allowed in either A or B above.

## **5.09.0 INTEGRATED COMMERCIAL-INDUSTRIAL 2 “ICI-2” DISTRICT (2007)**

**Intent:** The intent of the Integrated Commercial-Industrial 2 District is to provide an area for mixed commercial and industrial development in commercial and industrial park-like settings.

### **5.09.1 ACCEPTABLE USES**

- A. Wholesale businesses
- B. Retail businesses
- C. Restaurants
- D. Offices
- E. Hotels (2011)
- F. Day care facilities (2011)
- G. Utilities, public or private (2011)
- H. Manufacturing
- I. Distribution and mailing facilities
- J. Research and development
- K. Motor vehicle repair facilities
- L. Harvesting of natural resources
- M. Processing and warehousing
- N. Telecommunication facilities
- O. Recreational facility, commercial
- P. Farm roadside stands (2010)
- Q. Farmer’s market (2010)
- R. Banks and financial institutions (2011)
- S. Bed and breakfast (2011)
- T. Churches and Houses of Worship (2011)
- U. Hospitals (2011)
- V. Health services facilities (2011)
- W. Processing of natural resources (2011)
- X. Filling stations (2011)
- Y. Nursing home or facility (2011)
- Z. Newspaper and job printing (2011)
- AA. Veterinary clinics (2011)
- BB. Hospice house (2011)
- CC. Agriculture and farming (2011)
- DD. Solar Collection Systems in accordance with Section 7.11.0 (2019)

### **5.09.2 ACCEPTABLE USES AND YARD REQUIREMENTS BY: (2009)**

#### **A. Special Exception**

- 1. Schools
- 2. Deleted (2011)
- 3. Building and structure height greater than allowed in 5.09.7:A and 5.09.7:B
- 4. Accessory Dwelling Units for existing single-family dwellings (2008)

5. Reduced front, side and rear setbacks (2009)

**B. Conditional Use Permit (2009)**

1. Small Wind Energy Systems (2009)
2. Solar Collection Systems in accordance with Section 7.11.0 (2019)

**5.09.3 USES NOT SPECIFIED**

Any uses of land and/or structures not specifically included in the ICI-2 (Integrated Commercial-Industrial 2) District as acceptable, acceptable by Special Exception or acceptable by Conditional Use Permit shall be considered as not Permitted.

**5.09.4 LOT SIZES AND FRONTAGES (2009)**

- A. In those areas serviced by both municipal sewerage and water systems, the minimum lot size in the ICI-2 (Integrated Commercial-Industrial 2) District shall be twenty thousand (20,000) square feet, together with a minimum of one hundred fifty (150) feet of frontage on a Class V or better road.
- B. In those areas not serviced by municipal sewerage and water systems, a minimum of forty thousand (40,000) square feet shall be required, depending upon soil and slope conditions, together with a minimum of one hundred fifty (150) feet of frontage on a Class V or better road.

**5.09.5 YARD REQUIREMENTS**

- A. Each structure shall be set back at least thirty (30) feet from the front lot line.
- B. Each structure shall be set back at least (15) feet from side and rear property lines. In the case of a corner lot, the side distance shall be increased to thirty (30) feet on the side bordering the public way.

**5.09.6 OPEN SPACE**

Open space shall be provided in an amount equal to not less than thirty (30) percent of the total lot area.

**5.09.7 HEIGHT REQUIREMENTS**

- A. The maximum height of a building or structure in the Integrated Commercial-Industrial 2 (ICI-2) District shall be forty (40) feet, except as noted in B. below.
- B. The maximum height of school and municipal buildings or structures in the Integrated Commercial-Industrial 2 (ICI-2) District shall be forty-five (45) feet.
- C. A Special Exception shall be required for heights greater than allowed in either A or B above.

**ARTICLE VI: OVERLAY DISTRICTS**

**6.01.0 GROUNDWATER PROTECTION DISTRICT (2003)**

**6.01.1 GENERAL**

- A. **Purpose:** In the interest of public health, safety, and general welfare, the purpose of this Ordinance is to preserve, maintain, and protect from contamination existing and potential groundwater supply areas.

This is to be accomplished by regulating land uses that could contribute pollutants to existing and/or planned public and/or private wells and/or ground water resources identified as being needed for present and/or future public water supply.

- B. **Definitions:**

**Groundwater:** subsurface water that occurs beneath the water table in soils and geologic formations. [NH RSA 485-C, Groundwater Protection Act]

**Impervious:** (with respect to stormwater infiltration) not readily permitting the infiltration of water.

**Impervious surface:** (with respect to containment of regulated substances) a surface through which regulated substances cannot pass when spilled. Impervious surfaces include concrete unless unsealed cracks or holes are present. Asphalt, earthen, wooden, or gravel surfaces; or other surfaces which could react with or dissolve when in contact with the substances stored on them are not considered impervious surfaces. [Env-Ws 421.03(c)]

**Junkyard:** An establishment or place of business which is maintained, operated, or used for storing and keeping, or storing and selling, trading or otherwise transferring old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste or junked, dismantled or wrecked motor vehicles, or parts thereof, iron, steel or other old or scrap ferrous or nonferrous material. Junkyard shall also include any place of business for the maintenance or operation of an automotive recycling yard, and includes garbage dumps and sanitary fills. Also includes any business and any place of storage or deposit, whether in connection with another business or not, which has stored or deposited two (2) or more unregistered motor vehicles which are no longer intended or in condition for legal use on the public highways, or used parts of motor vehicles or old iron, metal, glass, paper, cordage, or other waste or discarded or second-hand material which has been a part, or intended to be a part, of any motor vehicle, the sum of which parts or material shall be equal in bulk to two (2) or more motor vehicles. Junkyard shall also include any place of business or storage or deposit of motor vehicles purchased for the purpose of dismantling the vehicles for parts or for use of the metal for scrap and where it is intended to burn material, which are parts of a motor vehicle or cut up the parts thereof. Also, includes any yard or field used as a place of storage in which there is displayed to the public view, junk machinery or scrap metal that occupies an area of five hundred (500) square feet and as amended by NH RSA 236:112. (2013)



**Liquid Petroleum Products:** Any petroleum product that maintains a liquid state when exposed to ambient temperature and atmospheric pressure. Such as but not limited to: gasoline, diesel, home heating fuel, motor oil, etc. (2011)

**Outdoor storage:** storage of materials where they are not protected from the elements by a roof, walls, and a floor with an impervious surface.

**Public water system:** a system for the provision to the public of piped water for human consumption, if such system has at least fifteen (15) service connections or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year. [NH RSA 485:1-a, XV]

**Regulated substance:** petroleum, petroleum products, and substances listed under 40 CFR 302, 7-1-90 edition or as amended, excluding the following substances: (1) ammonia, (2) sodium hypochlorite, (3) sodium hydroxide, (4) acetic acid, (5) sulfuric acid, (6) potassium hydroxide, (7) potassium permanganate, and (8) propane and other liquefied fuels which exist as gases at normal atmospheric temperature and pressure. [1-7 are used in the treatment of water supplies and are not considered to pose a significant risk to groundwater]

**Sanitary protective radius:** The area around a well, which must be maintained in its natural state as required by Env-Ws 378 or 379 (for community water systems) and Env-Ws 372.13 (for other public water systems).

**Secondary containment:** a structure such as a berm or a dike with an impervious surface that is adequate to hold at least one hundred ten (110) percent of the volume of the largest regulated substance container that will be stored. [Env-Ws 421.03(g)]

**Snow dump:** a location where snow, which is cleared from roadways and/or motor vehicle parking areas, is placed for disposal.

**Stratified-drift aquifer:** A geologic formation of predominantly well-sorted sediment deposited by or in bodies of glacial meltwater including gravel, sand, silt, or clay, which contains sufficient saturated permeable material to yield significant quantities of water to wells. [NH RSA 485-C:2, XIV]

**Surface water:** streams, lakes and ponds, including marshes, watercourses and other bodies of water, natural or artificial. [NH RSA 485-A:2 XIV]

**Temporary Storage:** means storage for less than six months.

**Wellhead protection area:** The surface and subsurface area surrounding a water well or well-field supplying a community water system, through which contaminants are reasonably likely to move toward and reach such water well or well-field. [NH RSA 485-C:2, XVIII]

- C. **Location:** The Groundwater Protection District includes all land areas designated as Level I and/or Level II Protection Areas on the map entitled "Groundwater Protection District - Milford, NH", dated October 24, 2002 or as amended. A copy of the map is located in the offices of the Town of Milford

Planning Department. The Groundwater Protection District is an overlay district which is superimposed over the existing underlying zoning.

**D. Applicability:** The Groundwater Protection District applies to all uses in the District, except for those uses exempt under 6.01.3:E. (2010)

1. The Groundwater Protection District is an overlay district which imposes additional requirements and restrictions to those of the underlying base district established under the powers granted under NH RSA 674:21. In case of conflict between the requirements of Section 6.01.0 and the requirements presented elsewhere in the Milford Zoning Ordinance, the provisions of 6.01.0 shall apply.

### **6.01.2 PERFORMANCE STANDARDS**

The following Performance Standards apply to all uses in the Groundwater Protection District unless exempt under 6.01.3:E.

- A. For any use that will render impervious more than fifteen (15) percent or more than two thousand five hundred (2,500) square feet of any lot, whichever is greater, a stormwater management plan shall be prepared which the Planning Board determines is consistent with Town of Milford Regulations;
- B. Stormwater management plans prepared pursuant to paragraph A shall demonstrate that stormwater recharged to groundwater will not result in violation of Ambient Groundwater Quality Standards (Env-Wm 1403.05) at the property boundary;
- C. All stormwater discharges to surface waters must be in compliance with EPA Phase II regulations;
- D. Post development stormwater discharges must be no greater than predevelopment stormwater discharges;
- E. Animal manures, fertilizers, and compost must be stored in accordance with Manual of Best Management Practices for Agriculture in New Hampshire, NH Department of Agriculture, Markets, and Food, August 1998, and any subsequent revisions;
- F. All regulated substances stored in containers with a capacity of five (5) gallons or more must be stored in product-tight containers on an impervious surface designed and maintained to prevent flow to exposed soils, floor drains, and outside drains;
- G. Facilities where regulated substances are stored must be secured against unauthorized entry by means of a door and/or gate which is locked when authorized personnel are not present;
- H. Outdoor storage areas for regulated substances must be protected from exposure to precipitation and must be located at least one hundred (100) feet from surface water or storm drains, at least seventy-five (75) feet from private wells, and outside the sanitary protective radius of wells used by public water systems;

- I. Secondary containment must be provided for outdoor storage of regulated substances if an aggregate of three hundred thirty (330) gallons or more of regulated substances are stored outdoors on any particular property;
- J. Containers in which regulated substances are stored must be clearly and visibly labeled and must be kept closed and sealed when material is not being transferred from one container to another.

**6.01.3 USES**

**A. Permitted Uses**

All uses permitted by Milford Zoning Ordinance in the underlying district or allowed by special exception in the underlying district are permitted in the Groundwater Protection District unless they are Prohibited Uses, 6.01.3:B or Uses Requiring a Permit, 6.01.3:C. All uses must comply with 6.01.2 Performance Standards unless specifically exempt under section 6.01.3:E.

**B. Prohibited Uses**

The following uses are prohibited in the Groundwater Protection District Level I Protection Area:

- 1. The siting or operation of a hazardous waste disposal facility as defined under NH RSA 147-A;
- 2. The siting or operation of a solid waste landfill;
- 3. The outdoor storage of road salt or other deicing chemicals in bulk;
- 4. The siting or operation of a junkyard;
- 5. The siting or operation of a snow dump;
- 6. The siting or operation of a wastewater or septage lagoon;
- 7. Storage of liquid petroleum products, except the following:
  - a. That product necessary for the private business use occupying the lot, subject to all applicable State and Federal requirements. The aggregate tank capacity on each lot shall not exceed five thousand (5,000) gallons. No wholesale or retail sale of petroleum products.
  - b. Normal household use and heating of a structure;
  - c. Waste oil retention facilities required by statute, rule, or regulation;
  - d. Emergency generators required by statute, rule, or regulation;
  - e. Treatment works approved by NHDES for treatment of ground or surface waters;

Provided that such storage, listed in items a. through e. above, is in free-standing containers within buildings or above ground with secondary containment adequate to contain a spill one hundred ten (110) percent the size of the aggregate capacity of the stored containers.

**C. Uses Requiring a Permit in Level I and/or Level II**

- 1. The Code Administrator may grant a Permit for a use which is otherwise permitted within the underlying district, if the permitted use is or is involved in the storage, handling and/or use of a regulated substance in quantities exceeding five (5) gallons or forty (40) pounds dry weight at any one time. Prior to issuing a permit, a containment plan shall be provided or in place to prevent, contain, and/or minimize releases from a spill, which may cause large releases of regulated substances.

2. Planning Board approval is required for any use that will render impervious more than fifteen (15) percent or two thousand five hundred (2,500) square feet of any lot, whichever is greater.
  - a. Prior to the granting of such approval, the Code Administrator must first determine that the proposed use is not a prohibited use.
  - b. The Planning Board shall determine that the use will be in compliance with all the Performance Standards as well as all applicable local, state and federal requirements. The Planning Board may, at its discretion, require a performance guarantee or bond, in an amount and with surety conditions satisfactory to the Board, to be posted to ensure completion of construction of any facilities required for compliance with the Performance Standards.

#### **D. Existing Non-Conforming Uses**

Existing nonconforming uses may continue without expanding or changing to another nonconforming use, but must be in compliance with all applicable state and federal requirements, including NH Code of Administrative Rules Env-Ws 421, Best Management Practices.

#### **E. Exemptions**

The following uses are exempt from the specified provisions of this Ordinance as long as they are in compliance with all applicable local, state, and federal requirements:

1. All private residences are exempt from the provisions of this Ordinance provided no portion of the residence is part of a home business that violates the standards or conditions set forth in sections 6.01.2 and 6.01.3 of this Ordinance;
2. Any business or facility where regulated substances are not stored in containers with a capacity of five (5) gallons or more is exempt from Performance Standards G through J;
3. Storage of heating fuels for on-site use or fuels for emergency electric generation, provided that storage tanks are indoors on an impervious concrete floor or have corrosion control, leak detection, and secondary containment in place, is exempt from Performance Standard G;
4. Storage of motor fuel in tanks attached to vehicles and fitted with permanent fuel lines to enable the fuel to be used by that vehicle is exempt from Performance Standards G through J;
5. Storage and use of office supplies is exempt from Performance Standards G through J;
6. Temporary storage of construction materials on a site where they are to be used is exempt from Performance Standards G through J;
7. The sale, transportation, and use of pesticides as defined in NH RSA 430:29 XXVI. are exempt from all provisions of this Ordinance;
8. Household hazardous waste collection projects regulated under NH Code of Administrative Rules Env-Wm 401.03(b)(1) & 501.01(b) are exempt from Performance Standards G through J.

### **6.01.4 ADMINISTRATIVE**

#### **A. Relationship Between State and Local Requirements**

Where both the State and the municipality have existing requirements the more stringent shall govern.

#### **B. Maintenance and Inspection**

1. For uses requiring Planning Board approval for any reason, a narrative description of maintenance requirements for structures required to comply with 6.01.2 Performance Standards, shall be recorded so as to run with the land on which such structures are located, at the Town of Milford Planning Department. All maintenance required is the responsibility of the owner and as such shall be maintained by the owner. The description so prepared shall comply with the requirements of NH RSA 478:4-a.
2. Inspections may be required to verify compliance with 6.01.2 Performance Standards. Such inspections shall be performed by the Code Administrator at reasonable times with prior notice to the landowner.
3. All properties within the Groundwater Protection District known to the Code Administrator as using or storing regulated substances in containers with a capacity of five (5) gallons or more, except for facilities where all regulated substances storage is exempt from this Ordinance under section 6.01.3:E, shall be subject to inspections under this section.
4. The Board of Selectmen may require a fee for compliance inspections. The fee shall be paid by the property owner. A fee schedule shall be established by the Board of Selectmen as provided for in NH RSA 41:9-a.
5. Underground storage tank systems and above-ground storage tank systems that are in compliance with applicable state rules are exempt from inspections under 6.01.4:B of this Ordinance.

#### **C. Enforcement Procedures and Penalties**

Any violation of the requirements of this Ordinance shall be subject to the enforcement procedures and penalties in NH RSA 676.

#### **D. Saving Clause**

If any provision of this Ordinance is found to be unenforceable, such provision shall be considered separable and shall not be construed to invalidate the remainder of the Ordinance.

## **6.02.0 WETLAND CONSERVATION DISTRICT (2017)**

### **6.02.1 GENERAL**

- A. The Wetland Conservation District shall be considered as overlaying any other district established by this Ordinance. Any use permitted in the portions of the district so overlaid shall only be permitted subject to all provisions of this section.
- B. Except for the permitted uses as listed in 6.02.5 of this section, there shall be no impact of wetlands or surface waters, unless all federal, state and local permits are in place.
- C. All impacts to wetlands shall be regulated in accordance with NH Code of Administrative Rules, Wt. Env-Wt 100-900 as may be amended from time to time and require the receipt of the appropriate permit from the State of New Hampshire Department of Environmental Services Wetlands Bureau. The state process requires a review by the Milford Conservation Commission. (2017)
- D. The Milford Conservation Commission, established under NH RSA 36-A, has statutory standing before the Department of Environmental Services under NH RSA 482-A:11, III and provides a local source of assistance to both the department and the applicants for Dredge & Fill Permits.
- E. A special exception approved by the Milford Zoning Board of Adjustment shall be required for any use within the wetland except for those listed in 6.02.5. Note that state and/or federal permits may be required for uses not requiring a special exception under this Ordinance.
- F. The Wetland Conservation District is an overlay district which imposes additional requirements and restrictions to those of the underlying base district established under the powers granted under NH RSA 674:21. In case of conflict between the requirements of Section 6.02.0 and the requirements presented elsewhere in the Milford Zoning Ordinance, the provisions of 6.02.0 shall apply. (2010)

### **6.02.2 PURPOSE**

By the authority granted in NH RSA 674:16-17 and 674:20-21, the purpose of the Wetlands Conservation District is to protect the values and functions of wetlands, surface waters and their associated buffer zones. It is further intended, but shall not be limited to, the following:

- A. Protect the public health, safety, general welfare and property;
- B. Reduce sedimentation of wetlands and surface waters;
- C. Aid in the control of non-point source pollution; (2017)
- D. Provide a vegetative cover in the case of the buffer zones for filtration of runoff and the prevention of erosion;
- E. Protect fish spawning grounds, aquatic life, and bird and other wildlife habitats;
- F. Conserve natural beauty and open spaces;
- G. Preserve ponds, rivers and streams in their natural state,
- H. Protect persons and property from flood damage by preserving the natural flood storage areas,
- I. Control the development of structures and land uses which contribute to the pollution of surface and groundwater by sewerage, hazardous substances or siltation;

- J. Protect aquifers, which serve as existing or potential water supplies as well as the aquifer recharge system;
- K. Prevent unnecessary or excessive expenses to the Town to provide and maintain essential services and utilities which arise because of the inharmonious use of wetlands;

### 6.02.3 LOCATION OF THE WETLAND CONSERVATION DISTRICT

The areas within the town of Milford to which this section applies are as follows:

- A. **Streams:** This includes both perennial and intermittent streams wherever fresh water flows for sufficient time to develop and maintain a defined channel. The area of the stream shall lie within the banks as defined by the ordinary high water mark established by the fluctuations of water and indicated by physical characteristics such as a clear natural line impressed on the immediate bank, or shelving, or changes in the character of the soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.
- B. **Ponds:** The pond area shall be the extent of water at the full pond as determined by the top of the impoundment structure in artificial ponds or by the natural high water mark in natural ponds.
- C. **Wetlands:** A wetland area shall be delineated based on hydrophytic vegetation, hydric soils and wetland hydrology in accordance with techniques outlined in the Corps of Engineers wetlands Delineation Manual, Technical Report Y-87-1 (January 1987) and defined by NH RSA 482-A:2.X (as amended). (2017)
- D. **Buffers:** The buffer area shall be measured from the edge of any stream, pond, or wetland in a horizontal plane. The buffer is the area adjacent to a wetland and/or open water which should be kept free of uses that may introduce or facilitate pollution, sedimentation or other harmful effects to the wetland. The buffer shall include the area within twenty-five (25) feet from any wetland, stream, or pond area, or vernal pool. For the water bodies named in 6.02.3:E, the buffer shall be fifty (50) feet from the edge of any stream, pond, or wetland in a horizontal plane. (2017)
- E. **Surface waters with 50 foot buffer area:** The following water bodies together with any adjacent very poorly drained wetlands are protected by a fifty (50) foot buffer. These 2<sup>nd</sup> Order and higher streams are described in the Conservation Plan, an Appendix of the Town Master Plan. (2017)
  - 1. **Birch Brook:** from its commencement at the wetland lying between Whitten Road and Chappell Drive to its junction with Great Brook,
  - 2. **Compressor Brook:** from its commencement as follows:
    - a. Compressor Brook, East Branch: from its entry into Milford at the Milford/Brookline Town Line in the southeast portion of Milford to its junction with Compressor Brook south of Melendy Road and east of Ruonala Road,
    - b. Compressor Brook, West Branch: from its beginning at a wetland on the west side of Ball Hill Road to its junction with Compressor Brook, East Branch, as described in a. above,

- c. **Compressor Brook:** from the junction of the East Branch and the West Branch south of Melendy Road and east of Ruonala Road to its junction with Great Brook,
- 3. **Great Brook:** from its commencement at Mile Slip Road, approximately one thousand five hundred (1,500) feet south of Mason Rd. to Railroad Pond, and from Railroad Pond to the Souhegan River, including its passage through said pond,
- 4. **Hartshorn Brook:** from the Mont Vernon/Milford Town line, through Hartshorn Pond to its junction with the Souhegan River,
- 5. **Mitchell Brook:** from its entrance into Milford at the Milford/Mason Town line to its junction with Spaulding Brook,
- 6. **Ox Brook:** from its beginning in a wetland west of Melendy Road to its junction with Compressor Brook,
- 7. **Purgatory Brook:** from its entrance into Milford at the Milford/Lyndeborough Town line, to its junction with the Souhegan River,
- 8. **Spaulding Brook:** from its entrance into Milford at the Milford/Mason Town line to its exit from Milford at the Milford/Brookline Town line,
- 9. **Tucker Brook:** from its entrance into Milford in the vicinity of the granite bound on the Milford/Wilton Town line, to its junction with the Souhegan River,
- 10. **Compressor Pond,**
- 11. **Hartshorn Pond,**
- 12. **Railroad Pond,**
- 13. **Osgood Pond,**
- 14. **Souhegan River, see 6.02.3.G.**

F. Surface waters with one hundred (100) foot buffer:

**Peatlands:** Due to their rarity and fragility, these unique wetlands shall be protected by a one hundred (100) foot buffer.

G. Shoreland Water Quality Protection Act (2017)

Osgood Pond and the Souhegan River with the exception of the Urbanized Exemption Parcels are subject to the Shoreland Water Quality Protection Act, NH RSA 483-b as may be amended from time to time. The Shoreland Water Quality Protection Act addresses activities within two hundred and fifty (250) feet of great ponds and fourth order streams. The Souhegan River is a fourth order stream.

#### 6.02.4 DEFINITIONS

**Bank/Edge of Wet:** The transitional slope immediately adjacent to the edge of a surface water body, the upper limit of which is usually defined by a break in slope, or, for a wetland, where a line delineated in accordance with New Hampshire Code of Administrative Rules Chapter Env-Wt 301.01 indicates a change from wetland to upland. (2017)



**Buffer:** An upland area adjacent to a wetland and/or surface water which serves to filter surface water flowing into the wetland.

**Bog:** A wetland distinguished by stunted evergreen trees and shrubs, peat deposits, poor drainage, and/or highly acidic soils and/or water conditions.

**Great Pond:** Any natural water body having an area of ten (10) acres or more.

**Fen:** Unique wetlands characterized by saturated organic soils (well-decomposed peat) fed by neutral to somewhat alkaline groundwater.

**Marsh:** A wetland that is distinguished by the absence of trees and shrubs, which is dominated by soft-stemmed herbaceous plants such as grasses, reeds, and sedges; and where the water table is at or above the surface throughout the year, but can fluctuate seasonally.

**Peatlands:** Wetlands with thick organic soil, often with a characteristic floating mat of mosses, sedges, shrubs, and/or trees in very acidic conditions, includes bogs and fens.

**Stream, Intermittent:** A place where water flows for sufficient duration and/or in sufficient quantity to maintain a channel.

**Stream, Perennial:** Any channel, natural or manmade, which has water present for twelve (12) months of a normal year but which may dry up during a period in which the rainfall is less than sixty (60) per cent of average for more than three consecutive months.

**Surface water:** Streams, lakes and ponds, including marshes, watercourses and other bodies of water, natural or artificial. [NH RSA 485-A:2 XIV]. (2015)

**Vernal Pool:** A surface water or wetland, including an area intentionally created for purposes of compensatory mitigation, which provides breeding habitat for amphibians and invertebrates that have adapted to the unique environments provided by such pools and further defined in New Hampshire Code of Administrative Rules Chapter Env-Wt 101.108 (as amended). (2017)

**Very poorly drained:** Water is removed from the soil so slowly that free water remains at or on the surface during most of the growing season.

**Wetland:** An area that is inundated or saturated by surface or ground water at a frequency and duration sufficient to support and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

### 6.02.5 ACCEPTED USES: (2017)

- A. **Wetlands:** Any of the following uses, the execution, construction or placement of which do not permanently and significantly alter the natural flow of ground or surface water, and that are otherwise permitted by the Zoning Ordinance. (2011)
1. Projects that fall under the Wetland Bureau's Minimum Impact Expedited Permit Application. These projects, however, must be approved by the Conservation Commission prior to approval by the Wetlands Bureau. (2017)
  2. Repair or reconstruction of an existing legal structure that meets the following conditions:
    - a. Where the size, location and configuration remain the same
    - b. The work shall not require the utilization of tracked or wheeled equipment in the water or wetland; (2017)
    - c. The work shall not require the utilization of tracked or wheeled equipment in the water or wetland;
    - d. The structure has not been abandoned. Failure to maintain an existing structure in a state so that it is functional, and intact, for a period of five (5) years shall be prima facie evidence of abandonment or non-use.
  3. Mowing or cutting of vegetation in a wet meadow, red maple swamp, hemlock swamp, spruce/fir swamp, or white pine swamp, provided that the roots of the vegetation are not disturbed, and that the ground is frozen or sufficiently dry to avoid making ruts and that the area is stabilized once thawed and that the project is not located in prime wetlands.
  4. Hand raking of leaves or other organic debris from the shoreline or lake bed provided that:
    - a. At the time raking is done, the area is exposed by draw down, or
    - b. Raking does not disturb vegetative roots and is limited to less than nine-hundred (900) square feet of area.
  5. Management of a beaver dam as provided in NH RSA 210:9 (as amended). (2017)
  6. Removal of a beaver dam by hand or machine provided:
    - a. Machinery does not enter the water or create any impact by filling or dredging to adjacent surface waters, wetlands, or their banks;
    - b. All dredged materials are placed out of wetlands and out of the defined buffer area, and
    - c. Removal of the dam is done in a gradual manner that does not allow a sudden release of impounded water to cause erosion or siltation.
  7. Addition of native vegetation to enhance wetlands, but not the removal of wetlands vegetation except as provided in 6.02.5:A.3.
  8. Drilling of test wells by a public agency for purposes of exploring for public water supplies or hazardous materials.
  9. Other activities as noted in NH Wetlands Bureau Code of Administrative Rules Wt. 303.05.
- B. **Buffer Zones:** Any of the following uses that do not alter the surface configuration by the addition of fill, removal of soil, or obstruct in any manner the natural flow of ground or surface water, or disturb in any manner the ground itself to any depth and that are otherwise permitted by the Zoning Ordinance.

1. Forestry, subject to the provisions of RSA 227-J:6, as amended, and tree farming in accordance with good silvicultural practices, outlined in *Good Forestry in the Granite State: Recommended Voluntary Management Practices for New Hampshire*, as amended. (2017)
2. Agriculture, as defined in NH RSA 21:34-a, as amended, including growing and harvesting of crops using best management practices detailed in *best Management Wetland Practices for Agriculture in NH*, as amended. (2017)
3. Buildings and structures not to exceed one hundred twenty (120) square feet and without sanitary plumbing and raised above-ground on concrete or similar blocks placed on the ground surface in such a manner as to permit the natural flow of any surface water,
4. Decks raised above the ground so as to permit the natural flow of any surface waters,
5. Potable water supply wells and their associated water lines and associated power lines, provided there are adequate erosion control measures in place during work and repair of any disturbance,
6. Monitoring wells for observation purposes, provided there are adequate erosion control measures in place during work and there is repair of any disturbance,

#### **6.02.6 A SPECIAL EXCEPTION IS REQUIRED FOR:**

- A. **Wetlands:** A Special Exception Permit from the Board of Adjustment is required for any project not listed in 6.02.5:A that is located within a wetland and is not in the right-of-way of a public road. (2017)
- B. **Buffer:** A Special Exception from the Board of Adjustment is required for any project not listed in 6.02.5 that is located within a wetland buffer and not in the right-of-way of a public road. (2011)
- C. The Board of Adjustment, in acting on an application for a special exception in the Wetlands Conservation District, shall take into consideration the conditions as noted in 10.02.1.
- D. The Board of Adjustment may grant a Special Exception for such projects after the application for the Special Exception has been reviewed and reported upon by the Milford Conservation Commission and forwarded to the Board of Adjustment within forty (40) days of a public meeting at which the Conservation Commission first received detailed plans on the project.
- E. The Planning Board may also be required to submit a report to the Board of Adjustment, if requested by the Board of Adjustment. The Planning Board shall submit its report within the above specified forty (40) day period.

#### **6.02.7 CRITERIA FOR EVALUATION**

- A. For all projects requiring a Special Exception the applicant shall demonstrate by plan or example that the following factors have been considered in their design:
  1. The need for the proposed project;
  2. The plan proposed is the alternative with the least impact to the wetlands, surface waters and/or their associated buffers;
  3. The impact on plants, fish and wildlife;
  4. The impact on the quantity and/or quality of surface and ground water;

5. The potential to cause or increase flooding, erosion, or sedimentation;
  6. The cumulative impact that would result if all parties owning or abutting a portion of the affected wetland, wetland complex and/or buffer area were also permitted alterations to the wetland and buffer proportional to the extent of their property rights;
  7. The impact of the proposed project on the values and functions of the total wetland or wetland complex.
- B. The Town of Milford shall place emphasis in preserving peatlands and marshes. This priority shall be based upon the rarity of those environments and the difficulty in restoration of the value and function of those environments.

### **6.03.0 FLOODPLAIN MANAGEMENT DISTRICT (2020)**

#### **6.03.1 PURPOSE**

A. This ordinance, adopted pursuant to the authority of RSA 674:16, RSA 674:17, and 674:56, shall be known as the Town of Milford Floodplain Management Ordinance (“Ordinance”). The regulations in this Ordinance shall overlay and supplement the regulations in the Town of Milford Zoning Ordinance, and shall be considered part of the Zoning Ordinance for purposes of administration and appeals under state law.

B. The purpose of this Ordinance is to promote the public health, safety, and general welfare; minimize hazards to persons and property from flooding; to protect watercourses from encroachment; and to maintain the capability of floodplains to retain and carry off floodwaters.

#### **6.03.2 FINDINGS OF FACT AND APPLICABILITY**

A. Certain areas of the Town of Milford are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968. Therefore, the Town of Milford chosen to become a participating community in the National Flood Insurance Program (NFIP), and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as detailed in this Ordinance.

B. The following regulations in this Ordinance shall apply to all lands within Town of Milford and designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its “Flood Insurance Study (FIS) for Town of Milford, NH” dated September 25, 2009 together with the associated Flood Insurance Rate Map (FIRM) panels 33011C0451D, 33011C0452D, 33011C0453D, 33011C0454D, 33011C0456D, 33011C0457D, 33011C0458D, 33011C0459D, 33011C0465D, 33011C0470D, 33011C0478D, 33011C0486D dated September 25, 2009 and associated amendments and revisions, which are declared to be a part of this Ordinance and are hereby incorporated by reference.

C. This Ordinance establishes a permit system and review procedure for development in a special flood hazard area of the Town of Milford.

#### **6.03.3 ADMINISTRATIVE PROVISIONS**

A. If any provision of this Ordinance differs or appears in conflict with any other ordinance or regulation, the provision imposing the greater restriction or more stringent standard shall be controlling.

B. Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

C. In accordance with RSA 676, the Floodplain Administrator shall enforce and administer the provisions of this Ordinance.

D. The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur, and flood heights may be increased by man-made or natural causes. This Ordinance does not imply that land outside of a special flood hazard area or uses that are permitted within such areas will be free from flooding or flood damage.

#### **6.03.4 DEFINITIONS**

The following definitions shall apply only to this Floodplain Management Ordinance, and shall not be affected by the provisions of any other Ordinance.

**Accessory Structure** means a structure which is: 1) detached from and clearly incidental and subordinate to the principal use or structure on a lot, 2) located on the same lot as the principal structure or use, 3) clearly and customarily related to the principal structure or use, and 4) only used for vehicle parking, storage, or primarily building access. Examples include garages, garden and tool sheds, and playhouses.

**Base Flood or 1 Percent Annual Chance Flood** means the flood having a one-percent possibility of being equaled or exceeded in any given year.

**Base Flood Elevation (BFE)** means the elevation of the base (one-percent annual chance) flood referenced to a specified vertical datum (National Geodetic Vertical Datum of 1929 or North American Vertical Datum of 1988).

**Basement** means any area of a structure having its floor subgrade (below ground-level) on all sides.

**Building** - see "Structure".

**Conditional Letter of Map Revision (CLOMR)** means FEMA's comment on a proposed project that would, upon construction, affect the hydrologic and/or hydraulic characteristics of a flooding source and thus result in the modification of the existing floodway, base flood elevation, or the special flood hazard area. CLOMRs do not revise an effective FIRM since they do not reflect as-built conditions.

**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, excavating or drilling operations or storage of equipment or materials.

**Elevation Certificate** means a form developed by FEMA to collect surveyed elevations and other information about a building, which can be used for the purposes of compliance with a community's floodplain regulations, flood insurance rating, and Letters of Map Amendment applications.

**Enclosed Area** means an area created by a crawlspace or solid walls that fully enclose an area below an elevated building.

**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:

- a. the overflow of inland or tidal waters, or
- b. the unusual and rapid accumulation or runoff of surface waters from any source.

**Flood Damage-Resistant Materials** means any building product (material, component or system) capable of withstanding direct and prolonged contact with floodwaters without sustaining significant damage. See FEMA "Technical Bulletin 2, Flood Damage- Resistant Materials Requirements."

**Flood Insurance Rate Map (FIRM)** means the 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 community. The FIRM is a graphic representation of the data contained in the accompanying Flood Insurance Study.

**Flood Insurance Study (FIS)** means a compilation and presentation of flood risk data for specific watercourses, lakes, and coastal flood hazard areas within a community. The FIS report contains detailed flood elevation data in flood profiles and data tables.

**Flood Opening** means an opening in a foundation or enclosure wall that allows automatic entry and exit of floodwaters. See FEMA "Technical Bulletin 1, Openings in Foundation Walls and Walls of Enclosures."

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

**Floodplain Administrator** means a person responsible for administering and implementing the community's local floodplain ordinance and ensuring that the community is complying with minimum NFIP standards and enforcing any locally imposed higher standards.

**Floodproofed or Floodproofing** means any combination of structural and non-structural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures and their contents.

**Floodproofing Certificate for Non-Residential Structures** means the form developed by FEMA for use in the certification of non-residential dry floodproofing designs.

**Floodproofing, Dry** means making a structure watertight below the level that needs flood protection to prevent floodwaters from entering.

**Floodproofing**, Wet means permanent or contingent measures applied to a structure and/or its contents that prevent or provide resistance to damage from flooding by allowing flood waters to enter the structure.

**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 cumulatively increasing the water surface elevation more than a designated height 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 is:

- 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; or
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - (i) by an approved state program as determined by the Secretary of the Interior; or
  - (ii) directly by the Secretary of the Interior in states without approved programs.

**Letter of Map Change** means an official document issued by FEMA that revises or amends the flood hazard information shown on the FIRM without requiring the FIRM to be physically revised and/or re-published. Letters of Map Change can include Letters of Map Amendment, Letters of Map Revision, and Letters of Map Revision Based on Fill.

**Letter of Map Revision (LOMR)** means FEMA's modification to an effective FIRM, usually as a result of physical changes to the flooding source and floodplain that result in the modification of the existing Regulatory floodway, base flood elevations, or special flood hazard area. LOMRs are a cost effective way to keep FIRMs up to date without republishing an entire map panel or panels. The LOMR is generally accompanied by an annotated copy of the affected portions of the FIRM and/or FIS report.

**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 built in compliance with the applicable non-elevation design requirements in 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 consecutive days. This includes manufactured homes located in a manufactured home park or subdivision.

**Manufactured Home Park or Subdivision** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**Mean Sea Level** means the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other vertical datum to which base flood elevations shown on a community's FIRMs are referenced.

**National Flood Insurance Program (NFIP)** means the program created by the Congress of the United States in 1968 through the National Flood Insurance Act of 1968 (P.L. 90-448). The program enables property owners in participating communities to purchase insurance protection, administered by the government, against losses from flooding.

**Natural Grade** means the grade unaffected by construction techniques such as fill, landscaping or berming.

**New Construction** means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

**Recreational Vehicle** means a vehicle:

- 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 (less than 180 consecutive days) for recreational, camping, travel or seasonal use.

**Special Flood Hazard Area (SFHA)** means the land in the floodplain subject to a one-percent or greater possibility of flooding in any given year. The area is designated on the FIRM as Zones A, AO, A1-30, AE, or VE.

**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 a 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.

**State Building Code** means the current codes adopted by the state of New Hampshire.

**State NFIP Coordinating Agency** means the agency of the state government (or other office designated by the Governor of the state or by state statute) that, at the request of the Federal Insurance Administrator, assists in the implementation of the National Flood Insurance Program (NFIP) in that state.

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

**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. The market value of the structure should equal the appraised value of the structure prior to the damage occurring.

**Substantial Improvement** means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- b. Any alteration of a “historic structure,” provided that the alteration will not preclude the structure's continued designation as a “historic structure”.

**Violation** means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations.

### **6.03.5 FLOODPLAIN ADMINISTRATOR DUTIES AND RESPONSIBILITIES**

A. The Building Inspector is hereby appointed to administer and implement these regulations and is referred to herein as the “Floodplain Administrator.”

B. The duties and responsibilities of the Floodplain Administrator shall include, but are not limited to:

1. Ensure that permits are obtained for proposed development in a special flood hazard area.
2. Review all permit applications for completeness and accuracy, and coordinate with the applicant for corrections or further documentation, as needed.
3. Interpret the special flood hazard area and floodway boundaries and determine whether a proposed development is located in a special flood hazard area, and if so, whether it is also located in a floodway.
4. Provide available flood zone and base flood elevation information pertinent to the proposed development.
5. Make the determination as to whether a structure will be substantially improved or has incurred substantial damage as defined in this Ordinance and enforce the provisions of this Ordinance for any structure determined to be substantially improved or substantially damaged.
6. Issue or deny a permit based on review of the permit application and any required accompanying documentation.
7. Ensure prior to any alteration or relocation of a watercourse that the required submittal and notification requirements in this Ordinance are met.
8. Review all required as-built documentation and other documentation submitted by the applicant for completeness and accuracy and verify that all permit conditions have been completed in compliance with this Ordinance.
9. Notify the applicant in writing of either compliance or non-compliance with the provisions of this Ordinance.
10. Ensure the administrative and enforcement procedures detailed in RSA 676 are followed for any violations of this Ordinance.
11. Submit to FEMA, or require applicants to submit to FEMA, data and information necessary to maintain FIRMs, including hydrologic and hydraulic engineering analyses prepared by or for the Town of Milford, within six months after such data and information becomes available if the analyses indicate changes in base flood elevations, special flood hazard area and/or floodway boundaries.
12. Maintain and permanently keep and make available for public inspection all records that are necessary for the administration of these regulations, including: local permit documents, flood zone and base flood elevation determinations, substantial improvement and damage

determinations, variance and enforcement documentation, and as-built elevation and dry floodproofing data for structures subject to this Ordinance.

13. Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, inspectors, or other community officials as needed.

#### **6.03.6 FLOOD ZONE AND FLOODWAY DETERMINATIONS**

A. The Floodplain Administrator shall determine whether any portion of a proposed development is located in a special flood hazard area and if so, whether it is also located in a floodway, using the effective FIRM. If the development is located wholly or partially in a special flood hazard area, the Floodplain Administrator shall determine the flood zone and the applicable requirements in the Ordinance that shall apply to the development.

B. Where it is unclear whether a site is in a special flood hazard area and/or in a floodway, the Floodplain Administrator may require additional information from the applicant to determine the development's location on the effective FIRM.

C. If any portion of a development including a structure and its attachments (e.g., deck posts, stairs) is located in multiple flood zones, the flood zone with the more restrictive requirements documented in this Ordinance shall apply.

D. Where a conflict exists between the floodplain limits illustrated on the FIRM and actual natural ground elevation, the base flood elevation(s) in relation to the actual natural ground elevation shall be the governing factor in locating the regulatory floodplain limits.

E. Within a riverine special flood hazard area designated as Zone A, the Floodplain Administrator shall obtain, review, and reasonably utilize any floodway data available from Federal, State, or other sources. If floodway data is available, the applicant shall meet the floodway requirements in Section 6.03.13 (floodway requirements) of this Ordinance.

#### **6.03.7 SUBSTANTIAL IMPROVEMENT AND DEMANAGE DETERMINATIONS**

A. For all development in a special flood hazard area that proposes to improve an existing structure, including alterations, movement, enlargement, replacement, repair, additions, rehabilitations, renovations, repairs of damage from any origin (such as, but not limited to flood, fire, wind or snow) and any other improvement of or work on such structure including within its existing footprint, the Floodplain Administrator, in coordination with any other applicable community official(s), shall be responsible for the following:

1. Review description of proposed work submitted by the applicant.

2. Use the community's current assessed value of the structure (excluding the land) to determine the market value of the structure prior to the start of the initial repair or improvement, or in the case of damage, the market value prior to the damage occurring. If the applicant disagrees with the use of the community's assessed value of the

structure, the applicant is responsible for engaging a licensed property appraiser to submit a comparable property appraisal for the total market value of only the structure.

3. Review cost estimates of the proposed work including donated or discounted materials and owner and volunteer labor submitted by the applicant. Determine if the costs are reasonable for the proposed work, or use other acceptable methods, such as those prepared by licensed contractors or professional construction cost estimators and from building valuation tables, to estimate the costs.

4. Determine if the proposed work constitutes substantial improvement or repair of substantial damage as defined in this Ordinance.

5. Notify the applicant in writing of the result of the substantial improvement or damage determination. If the determination is that the work constitutes substantial improvement or substantial damage, the written documentation shall state that full compliance with the provisions of this Ordinance is required.

6. Repair, alteration, additions, rehabilitation, or other improvements of historic structures shall not be subject to the elevation and dry floodproofing requirements of this Ordinance if the proposed work will not affect the structure's designation as a historic structure. The documentation of a structure's continued eligibility and designation as a historic structure shall be required by the Floodplain Administrator in approving this exemption.

#### **6.03.8 FLOODPLAIN PERMITTING REQUIREMENTS**

A. All proposed development within a special flood hazard area shall require a permit from the Town of Milford, prior to the commencement of any development activities. Development, as defined in this Ordinance, includes both building and non-building activities.

B. To obtain a permit, the applicant shall first submit a completed application in writing on a form furnished by the Town of Milford, for that purpose. Every application shall include, but is not limited to:

1. The name, address and phone number of the applicant, owner, and contractor(s);
2. A map indicating the location of the proposed development sufficient to accurately locate property and structure(s) in relation to existing roads and waterbodies;
3. A description of the proposed development and the use or occupancy for which the proposed development is intended;
4. If the development involves proposed work on an existing structure, a description of the total costs of the proposed work including all materials and labor;

5. In a Zone A, for proposed developments either greater than 50 lots or greater than 5 acres, the base flood elevation(s) established for the area, including any data such as hydraulic and hydrologic analyses, used to determine the elevation(s);

6. Submittal of evidence that all necessary permits have been obtained from those Federal, State, or local government agencies from which prior approval is required; and

7. Such other material and information as may be requested by the Floodplain Administrator to determine conformance with, and provide enforcement of, this Ordinance.

C. The Floodplain Administrator shall review all permit applications for completeness and accuracy, and coordinate with the applicant for corrections or further documentation, as needed. If the proposed development will comply with this Ordinance, the Floodplain Administrator shall approve the application and issue a permit. If the proposed development will not comply with this Ordinance, the Floodplain Administrator shall deny the permit application and return to the applicant with a written explanation of denial.

D. Following completion of new construction of a structure or an existing structure that was substantially improved or replaced, or that incurred substantial damage, or the placement or substantial improvement of a manufactured home, the applicant shall submit the following to the Floodplain Administrator:

1. A completed and certified copy of an Elevation Certificate that includes the as-built elevation (in relation to mean sea level) of the lowest floor of the structure and whether or not the structure has a basement.

2. If a non-residential structure includes dry floodproofing, a completed and certified copy of the Floodproofing Certificate for Non-Residential Structures that includes the as-built elevation (in relation to mean sea level) to which the structure was dry floodproofed and certification of floodproofing.

E. The Floodplain Administrator shall review all required as-built documentation and other documentation submitted by the applicant for completeness and accuracy and verify that all permit conditions have been completed in compliance with this Ordinance.

The Floodplain Administrator shall either:

1. Issue a Certificate of Compliance to the applicant if it has been determined that full compliance with this Ordinance has been met; or

2. Notify the applicant in writing of any violation of this Ordinance and the actions required to bring the development into compliance with this Ordinance if it has been determined that full compliance with this Ordinance has not been met.

### **6.03.9 FLOOD ELEVATION DETERMINATIONS**

A. The Floodplain Administrator shall determine the flood elevation for a structure as applicable for each permit application in the following flood zones:

1. For Zone AE, the base flood elevation is determined from the data provided in the community's FIS and accompanying FIRM.
2. For Zone A with no base flood elevation shown in the FIS or on the FIRM:
  - a. The Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation data available from any Federal, State or other source including data submitted to the community for development proposals (i.e. subdivisions, site plan approvals).
  - b. Where a base flood elevation is not available or not known, the base flood elevation shall be determined to be at least 2 feet above the highest adjacent grade.
  - c. For a development either greater than 50 lots or greater than 5 acres, the applicant shall develop a base flood elevation for the site and provide it to the Floodplain Administrator with their permit application.

B. If a structure is affected by multiple base flood elevations, the highest base flood elevation shall apply.

### **6.03.10 FLOODPLAIN DEVELOPMENT REQUIREMENTS**

A. All development located in a special flood hazard area shall be:

1. Reasonably safe from flooding;
2. Designed and constructed with methods and practices that minimize flood damage;
3. Designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement (including structures and above ground gas or liquid storage tanks);
4. Constructed with flood damage-resistant materials;
5. 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;
6. Adequately drained to reduce exposure to flood hazards.

### 6.03.11 STRUCTURE REQUIREMENTS

A. New construction of a residential structure, or an existing residential structure to be substantially improved or replaced, or that has incurred substantial damage, located in a special flood hazard area shall have the lowest floor elevated at least to the base flood elevation.

B. New construction of a non-residential structure, or an existing non-residential structure to be substantially improved or replaced, or that has incurred substantial damage, located in a special flood hazard area shall:

1. Have the lowest floor elevated at least to the base flood elevation; or
2. Together with attendant utility and sanitary facilities:
  - a. Be floodproofed at least one foot above the base flood elevation so that below this elevation the structure is watertight with walls substantially impermeable to the passage of water;
  - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
  - c. Be certified by a registered professional engineer or architect that the dry floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided to the Floodplain Administrator in the form of a completed and signed Floodproofing Certificate for Non-Residential Structures.

C. A fully enclosed area for new construction of a structure, or an existing structure to be substantially improved or replaced, or that has incurred substantial damage located in a special flood hazard area that is below the lowest floor of a structure, below the base flood elevation, and therefore subject to flooding, shall meet the following requirements:

1. Be constructed with flood damage-resistant materials;
2. Be used solely for the parking of vehicles, building access, or storage;
3. Be constructed with the floor of the enclosed area at grade on at least one side of the structure; and
4. Be constructed with flood openings installed in the enclosure walls so that they are 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. A minimum of two flood openings on different sides of each enclosed area 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;
- b. The bottom of all flood openings shall be no higher on the enclosure wall than one foot above either the interior or exterior grade, whichever is higher; and
- c. Flood openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

D. A fully enclosed area that has a floor that is below grade on all sides, including below-grade crawlspaces and basements are prohibited for new structures, existing structures to be substantially improved or replaced, or that have incurred substantial damage located in a special flood hazard area.

#### **6.03.12 MANUFACTURED HOMES AND RECREATIONAL VEHICLES**

A. A new manufactured home to be placed, or an existing manufactured home to be substantially improved or replaced, or that has incurred substantial damage, located in a special flood hazard area shall:

1. Have the lowest floor elevated at least to the base flood elevation;
2. Be on a permanent, reinforced foundation;
3. Be installed using methods and practices which minimize flood damage;
4. Be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Methods of anchoring are authorized to include, but are not to be 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; and
5. Comply with the requirements of Section 10(C) of this Ordinance in cases where fully enclosed areas are present below an elevated manufactured home, including enclosures surrounded by rigid skirting or other material attached to the frame or foundation. Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have flood openings.

B. A recreational vehicle located within a special flood hazard area shall meet one of the following requirements:

1. Be on a site for fewer than 180 consecutive days; or
2. Be fully licensed, on wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or

3. Meet the requirements for “manufactured homes” as stated in Section 12(A) of this Ordinance.

### **6.03.13 WATER SUPPLY AND SEWAGE DISPOSAL SYSTEMS**

A. The following standards shall apply to all water supply, sanitary sewage, and on-site waste disposal systems located in a special flood hazard area:

1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems;
2. New and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the systems and discharge from the system into flood waters; and
3. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

### **6.03.14 FLOODWAY REQUIREMENTS**

A. Within a floodway, for any development, including fill, new construction, substantial improvements and other development or land disturbing-activity the applicant must, prior to a permit being issued by the Floodplain Administrator, submit certification prepared by a registered professional engineer, along with supporting technical data and analyses, that demonstrates that such development will not cause any increase in the base flood elevation at any location in the community.

If the analyses demonstrate that the proposed activities will result in any increase in the base flood elevation, the applicant must obtain a Conditional Letter of Map Revision (CLOMR) from FEMA prior to permit issuance by the Floodplain Administrator. The Floodplain Administrator reserves the right to deny a permit for the project if concerns about the development being reasonably safe from flooding remain following issuance of the CLOMR. If a permit is issued and the project completed, the applicant must also obtain a Letter of Map Revision (LOMR) from FEMA. CLOMR and LOMR submittal requirements and fees shall be the responsibility of the applicant.

B. Within a riverine special flood hazard area where a base flood elevation has been determined but a floodway has not been designated, for any development, including fill, new construction, substantial improvements and other development or land disturbing-activity, the applicant must, prior to a permit being issued by the Floodplain Administrator, submit certification prepared by a registered professional engineer, along with supporting technical data and analyses, that demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the base flood elevation more than one (1) foot at any point within the community.

If the analyses demonstrate that the proposed activities will result in more than a one (1) foot increase in the base flood elevation, the applicant must obtain a Conditional Letter of Map Revision (CLOMR) from FEMA prior to permit issuance by the Floodplain Administrator. The Floodplain Administrator reserves the right to deny a permit for the project if concerns about the development being reasonably safe from flooding remain following issuance of the CLOMR. If a permit is issued and the project completed, the applicant must also obtain a Letter of Map Revision (LOMR) from FEMA. CLOMR and LOMR submittal requirements and fees shall be the responsibility of the applicant.

### **6.03.15 WATERCOURSE ALTERATIONS**

A. Prior to a permit being issued by the Floodplain Administrator for any alteration or relocation of any riverine watercourse, the applicant shall:

1. Notify the Wetlands Bureau of the New Hampshire Department of Environmental Services and submit copies of such notification to the Floodplain Administrator, in addition to the copies required by RSA 482-A: 3; and
2. Submit to the Floodplain Administrator certification provided by a registered professional engineer, assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.

B. Prior to a permit being issued for any alteration or relocation of any riverine watercourse, the Floodplain Administrator shall notify adjacent communities and the State NFIP Coordinating Agency, and submit copies of such notification to FEMA's Federal Insurance Administrator.

### **6.03.16 VARIANCES AND APPEALS**

A. Any order, requirement, decision or determination of the Floodplain Administrator made under this Ordinance may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5.

B. 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 variance standards under state law that:

1. The variance will not result in increased flood heights of any magnitude, additional threats to public safety, fraud on or victimization of the public; or extraordinary public expense;
2. The issuance of the variance will not conflict with other State, Federal or local laws or Ordinances;
3. If the requested variance is for activity within a floodway, no increase in flood levels during the base flood discharge will result; and
4. The variance is the minimum necessary, considering the flood hazard, to afford relief.

C. The Zoning Board of Adjustment shall notify the applicant in writing that:

1. The issuance of a variance to construct below the base flood elevation may result in increased premium rates for flood insurance coverage; and
2. Such construction below the base flood elevation increases risks to life and property.

Such notification shall be maintained with a record of all variance actions.

D. The community shall:

1. Maintain a record of all variance actions, including their justification for their issuance; and
2. Report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.

## **6.04.0 OPEN SPACE AND CONSERVATION DISTRICT (2018)**

### **6.04.1 PURPOSE**

The Open Space and Conservation District is intended to encourage environmentally sound planning to permanently protect open space in order to retain and protect important natural and cultural features, and provide for efficient use of land and community services to advance the goals stated in the master plan. This section is being adopted pursuant to the authority of RSA 674:21 and it is expressly intended to establish an innovative land use provision that allows the Planning Board the discretion to establish the scope and intensity of a proposal under this section.

### **6.04.2 OBJECTIVES AND STANDARDS**

The standards that shall guide the Planning Board in the administration of this section are set forth as follows:

- A. To create permanently protected open space without decreasing the allowable density of the site;
- B. To promote the preservation of and to minimize the adverse impacts on environmental resources and areas of highest ecological value, including but not limited to: streams, ponds, floodplains, wetlands, drinking water supplies, steep slopes, scenic views, open fields, farmland, forests, wildlife habitat, unfragmented blocks of undeveloped land, habitat of rare and endangered species, and historic, archaeological, and cultural sites and features;
- C. To enhance the quality of life with the provision of space for low impact passive recreation and aesthetic enjoyment;
- D. To promote development that incorporates efficient design and siting of the transportation network and infrastructure, to reduce the use of and the impact on natural resources and to minimize maintenance costs;
- E. To maintain rural character;
- F. To locate buildings and structures on those portions of the site that are the most appropriate for development, avoiding constraints such as, but not limited to: poor soil conditions, high water table, areas subject to frequent flooding and excessively steep slopes (greater than 25%).
- G. To create a contiguous network of open spaces or “greenways” by linking the common open spaces within the subdivision to open space on adjoining lands wherever possible.
- H. To reduce impacts on water resources by minimizing land disturbance, impervious surfaces and stormwater runoff.
- I. To minimize the impact of residential development on the municipality, neighboring properties, and the natural environment.
- J. To exclude high functioning wetlands from house lots when practicable.

### **6.04.3 GENERAL REGULATIONS**

- A. Any plan submitted under the Open Space and Conservation District section of Milford's Zoning Ordinance (hereinafter Open Space Preservation Design or OSPD) shall mean a development in which the provisions of this Section are met.
- B. All Open Space shall be dedicated as permanently preserved from future development.
- C. The overall dwelling unit density shall not exceed that which would be allowed in the underlying zoning district.
- D. Open Space set asides are ineligible as contributing land area in any subsequent development.
- E. Permitted uses are the same as those allowed in the underlying zoning district.

### **6.04.4 LOCATION AND SCOPE OF AUTHORITY**

- A. The Open Space and Conservation District is an overlay district which imposes additional requirements and restrictions to those of the underlying base zoning district established under the powers granted by NH RSA 674:21. In case of conflict between the requirements of 6.04.0 and the requirements presented elsewhere in the Milford Zoning Ordinance, the provisions of 6.04.0 shall apply. (2010)
- B. All subdivisions of land into five (5) or more residential lots, or developments of five (5) or more dwelling units, must incorporate the criteria in OSPD, except as set forth below. The Planning Board will examine the subdivision proposal using the list of resources desirable for preservation (see Open Space Design 6.04.6.D.1) to ensure that the proposed open space is consistent with the criteria set forth and the purpose of the zoning district. At the discretion of the Planning Board, and if the proposed development does not meet the criteria, the development may be required to incorporate the criteria of a conventional subdivision as permitted by the underlying zoning district.
- C. Properties with subdivision proposals of four (4) or fewer residential lots or for development of four (4) or fewer dwelling units will be examined by the Planning Board using the list of resources desirable for preservation (see Open Space Design 6.04.6.D.1). At the discretion of the Planning Board, these developments may be required to incorporate the criteria in OSPD.
- D. Developments of four (4) or fewer lots, or four (4) or fewer dwelling units, that have not been identified by the Planning Board as needing to comply with OSPD, are exempt from the OSPD requirement, provided there is no potential for further subdivision or development of any lots or dwelling units therein or of the parcel from which the four (4) or fewer lots or dwelling units have been subdivided.
- E. Residential subdivisions of land in any zoning district, where each lot is at least 5 times the size required in the underlying zoning district, shall be exempt from OSPD requirements, provided the deed and the subdivision plan for each lot(s) contains a restriction prohibiting the further subdivision of the lot(s).

- F. When a subdivision or development is proposed which includes a lot(s) which may be capable of further subdivision or development, the Planning Board may require that a conceptual, long range plan for the entire parent parcel be presented so that the Board may consider the entirety of a parcel and its impacts. This long-range plan is non-binding. Any future development of the lot or lots will be reviewed by the Planning Board with reference to this long-range plan.

In accordance with Section 5.011 of the Town of Milford Development Regulations, the Planning Board, with input from the Conservation Commission, may require the applicant to submit an 'Environmental Study'.

#### **6.04.5 REVIEW PROCESS**

All applicants for review of Open Space subdivisions are required to follow the review process stated in the Milford Development Regulations ARTICLE IV: PERMITTING PROCEDURE – SITE PLAN AND SUBDIVISION APPLICATIONS.

#### **6.04.6 OPEN SPACE DESIGN**

- A. Every OSPD shall avoid or minimize adverse impacts on and promote the protection and enhancement of the town's natural, cultural and historic resources by incorporating permanently protected Open Space into the design.

#### **B. Minimum Required Open Space:**

1. Subdivisions in Residence A and B shall have a minimum of fifteen (15%) percent of the gross tract area placed into permanently protected open space. The amount to be included in open space shall include land deemed to serve the public's interest by the Planning Board. Features deemed in the public interest include but are not limited to: land for bike lanes, public walkways, trail connections, public transit stops, pocket parks, stormwater management, and high value natural resources such as the Souhegan River, its tributaries, wetlands and buffers.
2. Subdivisions in Residence R shall place not less than forty (40) percent of the gross tract area into permanently protected open space.

- C. Of the minimum required Open Space fifty (50) percent must consist of non-wetland soils and soils with slopes less than twenty-five (25) percent. The remaining fifty (50) percent may consist of a mix of high value natural resources as listed in D.1 below and buildable land.

#### **D. Design Standards:**

##### **1. List of Resources to Consider for Preservation:**

- a. Open water, waterways, stream channels, floodplains and very poorly drained soils, including adjacent buffer areas as defined in 6.02.0 Wetland Protection District;
- b. The habitat of species listed as endangered, threatened, or of special concern by the NH Natural Heritage Inventory or by the NH Fish & Game Department's Non-game & Endangered Wildlife Program;
- c. Moderate slopes, fifteen to twenty-five (15-25) percent, and steep slopes, greater than twenty-five (25) percent, particularly those adjoining water courses and ponds.

- d. Prime (Federal designation) and Important (State designation) Agricultural Soils, as shown on the Agricultural Soils Map in the current Milford Conservation Plan;
- e. Historic sites and features;
- f. Existing or planned trails connecting the tract to other locations, including, but not limited to, the trails on the town trails map maintained by the Milford Conservation Commission of formal and informal trails;
- g. Other space or resources as required by the Planning Board for low-impact recreational or public interest use consistent with Section 6.04.1.
- h. Scenic views and elements of the town's rural character such as forested margins and agricultural fields.
- i. Undeveloped frontage along existing roads to manage increased density by minimizing views of new development from existing roads.

**2. Design and Use considerations for preserved Open Space:**

- a. The preserved open space shall include as many of the resources listed in Section 6.04.6.D.1 (Resources to Consider for Preservation) as practical;
- b. The preserved open space shall be free of all structures except historic sites, features, and structures related to permitted open space uses;
- c. Subsurface disposal systems may not be placed in the preserved open space;
- d. Water supplies may be placed in the preserved open space;
- e. Stormwater management systems may, at the discretion of the Planning Board, be placed in the preserved open space;
- f. Preserved open space shall be accessible to all the lots or units within the development,
- g. Narrow open space strips (of less than fifty (50') feet) shall not be permitted unless the incorporation of the open space strips provides a logical and practical link to, or expansion of, existing or known planned adjacent preserved open space;
- h. Preserved open spaces shall be interconnected wherever possible to provide a contiguous network of open space lands within and adjoining to the development;
- i. Public access, regardless of ownership, shall be provided to trails within open space if they are linked to other publicly accessible pathway systems.

**6.04.7 Protection and Ownership:**

- A. All open space shall be permanently protected by a conservation easement or by covenants and restrictions in perpetuity, approved by the Planning Board after review by the Conservation Commission. The Planning Board may require further legal review of any documents submitted, the cost of which shall be borne by the applicant.
- B. All approved open space shall be marked in the field by the developer with signage approved by the Conservation Commission to distinguish these areas from house lots. The signage for a lot must be in place prior to issuance of a Certificate of Occupancy for that lot.



- C. The Planning Board will be responsible for providing a recommendation, with input from the Conservation Commission, on ownership of the preserved open space to the Board of Selectmen for its consideration and acceptance.
- D. At the completion of the project, the open space shall be owned in one of the following ways:
  - 1. Owned by the Town of Milford and managed by the Conservation Commission.
  - 2. Owned by a Non-Profit Organization dedicated to conservation principles.
  - 3. Owned by a private individual or organization.

**6.04.8 DENSITY AND DIMENSIONAL STANDARDS**

**A. Density:**

- 1. The density of the proposed development shall be equal to or less than the density allowed in the underlying zoning district;
- 2. The maximum density of a proposed development shall be established by one of the following two methods. The method used is at the discretion of the Applicant:

- a. Conventional Plan Approach:

A preliminary plan, based on accurate topographic field survey information, shall show the number of lots or units which could be laid out in a conventional subdivision or site plan without the need to obtain variances, special exceptions, and/or waivers for lot frontage, setbacks, area, road and driveway grades, and soil types for subsurface disposal systems (if used).

The purpose of the conventional subdivision or site plan is to provide the applicant at the completion of the design review stage a maximum number of lots or dwelling units to proceed to final design. However, if more detailed final engineering indicates the maximum number of lots/dwelling units approved at the design review stage cannot be reasonably incorporated into the final plan based on the elements noted above, the Planning Board reserves the right to reduce the allowable number of lots/units in the final design.

- b. Formula Approach: Under the formula approach, the base number of dwelling units is determined by the following formula:

$[Total\ Area\ of\ Parcel - (Wetlands + Steep\ Slopes)] \times Factor \div Minimum\ Lot\ Size = Maximum\ Number\ Dwelling\ Units$

Percentage of Parcel that is Wetlands and/or Steep Slopes* [*≥25%]	Factor
0 – <10%	0.75
10 – <20%	0.70
20– <30%	0.65
30% or more	0.60

**B. Dimensional Standards:**

**1. Lot Size**

Once the maximum number of lots has been determined utilizing one of the methods outlined above, the actual minimum size of the individual lots in the subdivision may be determined by the Planning Board which may establish lots in sizes smaller than the prevailing minimum lot size requirement applicable in the underlying zoning district; provided, nevertheless, all such approved lots shall have the required area to meet applicable safety and health requirements.

**2. Other Dimensional Standards:**

All lots, including lots the size of which is reduced pursuant to Section B.1, above, shall comply with the following additional dimensional standards provided; nevertheless, the Planning Board, at its discretion, may expressly waive any of the other dimensional requirements set forth (below):

- a. The minimum lot frontage shall be fifty (50) feet.
- b. The building shall be setback at least thirty (30) feet from the front property line. The building shall be at least fifteen (15) feet from the side and rear property lines.

**3. Waiver Process**

The Planning Board, when exercising the discretion to establish minimum lot sizes under Section B.1, above and to waive otherwise applicable dimensional standards under Sections B.2, above, shall consider evidence relating to the same at a noticed public hearing and, pursuant thereto, shall grant such waivers and/or reduce the minimum lot sizes, only after the Planning Board determines that the waiver and/or reduction, if allowed, will meet the standards set forth in Section 6.04.2.

**C. Miscellaneous Requirements:**

- 1. Village Plan alternatives as outlined in NH RSA 674:21.VI shall be permitted. No increase in density will be permitted.

2. The Planning Board may require site plans for individual lots containing slopes greater than fifteen (15) percent, soils rated as having "severe" limitations for septic systems if not on municipal sewer (as determined by the USDA), very poorly drained soils, or when the Board questions the adequacy of a proposed lot to support a dwelling unit and related structures.

## **6.05.0 NASHUA AND ELM STREETS CORRIDOR DISTRICT (2012)**

### **6.05.1 AUTHORITY**

- A. Title: This Ordinance shall be known as the Nashua and Elm Streets Corridor District. (2012)
- B. Authority: The Planning Board is hereby authorized to administer this Ordinance under the provisions set forth in NH RSA 674:21, Innovative Land Use Controls.

### **6.05.2 PURPOSE**

The purpose of this Ordinance is to implement the Town of Milford's vision for the future as set forth in the Community Character Chapter of the Master Plan 2007 Update:

*Goal No. 2: Foster the traditional character of Milford's neighborhoods by encouraging a human scale of development that is similar in setbacks, size and height, and that is comfortable and safe for pedestrians and non-motorized vehicles while allowing for an efficient and safe roadway network.*

In carrying out this goal, this Ordinance is designed to accomplish the following:

- A. Promote development that reflects the intended character of Milford's residential, commercial, and industrial neighborhoods relative to height, lot coverage, and setbacks.
- B. Encourage the development of entryway corridors and gateways relative to architectural and historic heritage, landscaping, stormwater management, traffic management, and parking.
- C. Preserve and enhance the architectural and visual character of the corridors.
- D. Encourage development to reflect the historic pattern of development in Town and enhance Milford's sense of community and place.
- E. Encourage attractive pedestrian scale development.
- F. Improve the overall streetscape of major corridors.
- G. Improve transportation efficiency.
- H. Promote alternative modes of transportation, particularly pedestrian and biking.

The following standards are tools that create a flexible framework to guide the appearance of future development that is compatible with the historic nature of Milford, while allowing for innovation and architectural creativity in order to enhance a special place.

### **6.05.3 FINDINGS**

- A. The Nashua and Elm Streets corridor is becoming increasingly congested due to additional curb cuts and traffic from both local and regional development.
- B. Access management will increase the efficiency, safety and mobility of the corridor.

- C. Inter-site connections are needed to reduce the potential conflict points along major corridors.
- D. Milford's historical architecture is recognized as an important element of community character.
- E. Non-residential development that is indifferent to Milford's architectural heritage constitutes a significant threat to the character and future of the community.
- F. Future development can be guided to encourage building design that is functional, aesthetically pleasing and compatible with the architectural heritage of the community.
- G. The architecture of the community is varied and necessarily will evolve as the community grows. The regulation of architectural design must allow for flexibility, creativity and innovation within the context of an articulated framework.

**6.05.4 APPLICABILITY**

The provisions as set forth in this Ordinance shall apply to the following activities within the Corridor Overlay District:

- A. Applications for site plan and subdivision review.
- B. New building construction used for non-residential or multi-family purposes.
- C. Additions or alterations to buildings used for non-residential or multi-family purposes which significantly increases or decreases the square footage of a building.
- D. Additions or alterations to a site plan or buildings used for non-residential or multi-family purposes which significantly alter the visual appearance of the site or a façade visible from a public way.
- E. The Nashua and Elm Streets Corridor District is an overlay district which imposes additional requirements and restrictions to those of the underlying base district established under the powers granted under NH RSA 674:21. In case of a conflict between the requirements of 6.05.0 and the requirements presented elsewhere in the Milford Zoning Ordinance, the provisions of 6.05.0 shall apply. (2010)

**6.05.5 DISTRICT BOUNDARIES (2012)**

The Nashua and Elm Streets Corridor District boundaries include the area along Nashua and Elm Streets from Ponemah Hill Road to (and including) Granite Town Plaza, more fully depicted on the map entitled "Nashua and Elm Streets Corridor Overlay District Boundaries" dated 8/6/07, and incorporating the Tax Map lots as listed in Appendix I.

**6.05.6 PERFORMANCE STANDARDS**

**A. General**

1. Pre-Application Review. The Community Development Director, or designee, shall review all proposals to determine applicability as stated in Section 6.05.4 above.

2. **Development Review.** Upon determination by the Community Development Director, or designee, that an application meets the Section 6.05.4 applicability requirements, the applicant shall consult with the Planning Board using the Development Review Procedure set forth in the Town of Milford Development Regulations.
3. **Consistency with Plans.** In addition to providing the required development review information, the applicant shall demonstrate how the proposed plan will address the specific site recommendations as well as the general principles set forth in the following studies and documents:
  - a. *Evaluation of Highway Improvement Alternatives in Milford, NH (2002)*; Prepared by Hoyle, Tanner and Associates
  - b. *Route 101A Corridor Master Plan and Improvements Program, (2002)*; Prepared by VHB and Nashua Regional Planning Commission
  - c. *Milford Transportation and Community Systems Preservation (TCSP) Plan (2006)*; Prepared by Nashua Regional Planning Commission
  - d. *Town of Milford Nashua and Elm Street Corridor Design Guidelines (2007)*; Prepared by Nashua Regional Planning Commission

## **B. Transportation Standards**

1. **Access Management:**
  - a. All projects subject shall construct wherever feasible interconnecting driveways to adjacent properties or provide secure future connections through easements to adjacent property boundaries. This includes bicycle-pedestrian access to adjacent residential developments, where practical.
  - b. New access points onto Nashua or Elm streets shall only be created when it is not feasible to combine or share existing access points.
  - c. Interior parking lots shall provide for shared use and interconnected drives
  - d. Interior driveways should provide adequate throat length for vehicle stacking (queuing) and unobstructed views for exiting safely.
  - e. Interconnecting driveways shall promote vehicular and pedestrian access between adjacent lots without accessing the roadway.
2. **Transit Facilities.** The development of future transit facilities shall be incorporated within all major site plan developments that could generate high volumes of transit use, particularly senior housing or other multi-family housing as well as retail areas.
  - a. Potential transit routes, access points, bus pull-outs, bus stop, signage and shelter locations may be designated along major roadways and within the perimeter of such projects, and easements reserved for such facilities.
  - b. Transit facilities shall be provided in a manner to encourage transit as an alternative mode of travel.

3. **Bicycle Facilities.** Separate bicycle facilities may be required by the Planning Board where recommended by the studies listed in section VI.A.2. or where otherwise appropriate.
  - a. Bicycle routes may be provided in the form of a separate off-street path or on-street marked bicycle lanes.
  - b. Bicycle racks and other amenities may be required for all developments and shall be located in a convenient and secure location.
4. **Pedestrian Facilities.** Sidewalks shall be constructed as recommended by the studies listed in section VI.A.2. or where otherwise appropriate.
  - a. Sidewalk corridors shall be easily accessible to all users, whatever their level of ability and comply with the Americans with Disabilities Act (ADA) standards.
  - b. The sidewalk shall provide for a landscaped buffer (esplanade) between the roadway pavement and the sidewalk where adequate right of way exists.
  - c. The walking route along a sidewalk corridor shall connect destinations and shall not require pedestrians to travel out of their way unnecessarily.
  - d. Buildings should be sited so as to create pedestrian-scale plazas and gathering places.
  - e. Sidewalk construction shall be in accordance with Department of Public Works specifications.
5. **Gateways.** Some locations contribute to the landscape character of the community because of their location and scenic qualities. Many such properties and approaches act as gateways, providing first impressions and reinforcing Milford's sense of place. Consideration should be given towards complementing these resources through the careful siting of new buildings, and the application of the Site Design Standards. The locations of proposed gateways are identified on the Nashua and Elm Streets Corridor Overlay District Boundaries Map. In these areas, appropriate landscaping or other improvements may be required.
  - Nashua Street Neighborhood Gateway – Ponemah Hill Road and Nashua Street
  - Elm Street Neighborhood Gateway – Elm Street at Granite Town Plaza
  - Oval Area Gateways –
    - Elm Street and Cottage Street
    - Nashua Street and Tonella Road
  - Other potential gateway locations outside of the District which should be considered for special treatment include:
    - Amherst Street and Souhegan Street (outside of St. Patrick's Church)
    - Mont Vernon Street and Granite Street
    - South Street and Lincoln/Prospect Street

## C. Site Design Standards

1. **Natural Features.** Buildings, lots, impervious surfaces and accessory structures shall be sited in those portions of the site that have the most suitable conditions for development.
  - a. Environmentally sensitive areas, including but not limited to, wetlands, steep slopes in excess of 15%, floodplains, significant wildlife habitats and corridors, wooded areas, fisheries, scenic areas, habitat for rare and endangered plants and animals, unique natural communities and natural areas, and sand and gravel aquifers, shall be maintained and preserved to the maximum extent.
  - b. Natural drainage areas shall be preserved to the maximum extent. The development shall include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.
2. **Parking Areas**
  - a. Parking lots shall be located to the rear or side of a building.
  - b. Parking shall not be permitted in front of a building or along the frontage of a lot.
  - c. Side yard parking shall be well buffered from the street.
  - d. Shared parking provisions for any combination of uses on site and adjacent sites are encouraged.
  - e. Offsite parking shall be protected with a shared parking easement agreement which shall be reviewed and recorded with the approved plans, except in areas exempt from parking standards such as but not limited to the Oval Sub-district.
3. **Build-to-Zone.** Building setbacks influence the character of the street. New structures shall be constructed so as to maintain a traditional streetscape edge. The setbacks of adjacent structures and context of spacing between buildings shall be considered in determining the appropriate building setback. At a minimum, a new structure shall be constructed within a Build-to-Zone between 15' and 35' from the public street right of way. If site circumstances dictate a new structure may be constructed within 10' of the public street right of way.
4. **Landscaping.** Required landscaping coverage shall be in accordance with the Town of Milford Subdivision and Site Plan Regulations, and shall be required for all proposals in the Nashua and Elm Streets Corridor District.
  - a. Trees. Required street trees should be species which are native to New Hampshire as set forth on the "*List of NH Native Trees*" (as amended) published by UNH Cooperative Extension (See Appendix II). Recognizing that site and growing conditions vary other appropriate street trees may be considered and approved by the Planning Board.
  - b. Landscaping plants. Landscaping with native plants and materials is strongly encouraged. However, recognizing the need to accommodate varying site and growing conditions, non-native landscaping plants may be permitted in accordance with published recommendations from the UNH Cooperative Extension and Hillsborough County Conservation District. See "*Alternatives to Invasive Landscape Plants*", UNH Cooperative Extension (as amended).
  - c. Prohibited Plants and Trees. Plant species as listed on the "*NH Prohibited Invasive Species List*" (as amended) by the NH Department of Agriculture are prohibited. As of 2007, the list includes the species listed in Appendix III. (2012)

## D. Architectural Design Standards

### 1. General Criteria



- a. Plans shall show all building elevations and portray the design of all buildings and the relationship of the development to surrounding properties, buildings, natural features and built features.
  - b. The Planning Board may require that development proposals be reviewed by an historic preservation consultant or architect, and be designed by a NH licensed architect at the cost of the applicant.
2. **Building Orientation.** New structures shall orient their main entrance or storefront to a public street.
- a. New structures shall maintain an appropriate street edge in relationship to adjacent structures. (See 6.05.6:C.3 Build-to-Zone)
  - b. Buildings shall be sited so that entrances are clearly identifiable and directly accessible from a sidewalk and shall be accessible for pedestrians, bicyclists and future public transit users.
3. **Building Massing, Forms and Pedestrian Scale.** The size, mass and form of new structures must relate to the appropriate scale of neighboring buildings as well as the context of the corridor. The following architectural features and treatments should be used to enhance the character of new development and the corridor:
- a. Avoid blank walls at ground-floor levels through the use of windows, trellises, wall articulation.
  - b. Arcades, materials changes, awnings or other features.
  - c. Reduce the apparent scale of the building by introducing small-scaled architectural features, creating an irregular footprint and variations in roof forms and height of roof elements.
  - d. Enhance definition of each floor of the building through terracing, articulated structural elements, changes in materials, belt courses and horizontal trim bands.
4. **Building Heights.** Building heights shall be generally compatible with and transition from the height of adjacent development within the historic context of the corridor. The overall building height and number of floors shall comply with the dimensional requirements of the Town of Milford Zoning Ordinance; however, wall plane heights shall be “stepped back” to minimize the mass of the structure along the frontage or public way.
5. **Roof Forms and Materials.** Rooflines shall be characteristically sloped and articulated with architectural features such as dormers, chimneys, gables, cupolas, etc.
- a. Rooflines shall not run in continuous planes, and shall be broken into appropriately scaled masses.
  - b. Flat roofs are prohibited unless the Planning Board finds that a proposal can provide appropriate visual appeal and does not detract from the character of the corridor.
  - c. Where appropriate roofs shall provide adequate overhangs for pedestrian activity.
  - d. Roof materials shall be composed of high quality, durable and architecturally consistent materials, including but not limited to concrete tile, asphalt shingles and standing seam metal.

6. **Architectural Features and Materials.** Architectural features and details shall be considered in every building design.
  - a. Traditional features and details such as columns, pilasters, canopies, porticos, awnings or arches associated with Milford's architectural heritage are strongly encouraged.
  - b. Long expanses of repetitive architectural elements and flat unarticulated wall surfaces shall be avoided.
  - c. Use of traditional materials or materials that have the same visual effect shall be used including but not limited to wood, brick, tile, or stone.
7. **Windows.** With the exception of retail storefronts, modestly scaled vertically proportioned windows are the most appropriate to the local building vernacular.
  - a. Building facades should have an abundance of windows that use clear non-reflective glass.
  - b. Windows on higher floors should align vertically with windows below, if possible.
  - c. Walls facing streets and pedestrian approaches shall have display windows, recessed windows, detailed entry areas, awnings or prominent sills and a pedestrian scaled lighting element. Storefronts should use windows to reveal indoor amenities, activities and displays.
8. **Building Entrances.** All building entrances shall be clearly defined and highly visible using a variety of the following details (*Please refer to the Town of Milford Design Guidelines for examples*):
  - a. Porticos
  - b. Canopies
  - c. Overhangs
  - d. Arcades
  - e. Recesses or projections
  - f. Raised cornice parapets over doors
  - g. Arches with detail (tile work or moldings) integrated with the building
  - h. Outdoor patios
  - i. Display windows
  - j. Integral planters
  - k. Wing walls with planters or seating
9. **Mechanical Equipment and Building Accessory Screening.** All rooftop air conditioning, heating equipment, other large mechanical equipment and building accessories such as dumpsters shall be screened from public view. The screening may be part of the articulation of the building.
10. **Existing Structures.** Existing buildings and structures of historic value should be preserved and if renovated or expanded done so in a manner that is respectful of the character, features and details of the existing structure.

11. **Signs.** Signs shall comply with the Town of Milford Sign Ordinance and should be designed to meet the needs of the individual uses while complementing the building, site and surroundings.
  - a. Wall signs shall be appropriately scaled to the building or surface on which it is placed and should not obscure important architectural features.
  - b. Signs shall be readable for both pedestrians and drivers approaching a site.
  - c. Consideration should be given to form, color, lighting and materials that are compatible with the building and its surroundings.
12. **Lighting.** All new developments shall include pedestrian-scaled light fixtures that are appropriate to the building and location. The use of floodlights, wall packs and tall light posts intended for lighting large areas shall be prohibited.

#### **6.05.7 WAIVER PROVISION**

There may be unusual or exceptional circumstances that exist where the application of one or more of the Performance Standards of Section 6.05.6 would entail practical difficulty or unreasonable hardship when balanced against the public purposes sought to be achieved by this Ordinance. In such circumstances, the Planning Board may waive the applicability of some or all of the Performance Standards in accordance with the Development Regulations waiver process (Section 5.020).

#### **6.05.8 APPEALS**

A decision of the Planning Board made pursuant to the Nashua and Elm Streets Corridor District shall not be appealed to the Zoning Board of Adjustment, but rather shall be appealed to the Superior Court as provided by NH RSA 677:15 and NH RSA 676:5, III.

#### **6.05.9 SAVING CLAUSE**

Where any provision of this Ordinance is found to be invalid, such determination shall not affect the validity of the remainder of this Ordinance.

#### **6.05.10 EFFECTIVE DATE**

The Nashua and Elm Streets Corridor District Ordinance was adopted by the Town of Milford on Tuesday, March 11, 2008 and is effective the same date.

**Appendix I – Parcels included in the Nashua and Elm Streets Corridor District**

**Map and Lot Numbers:** 19/3 thru 19/8, 19/10-19/14, 19/15-1, 19/15-2, 19/16, 19/16-1, 19/17, 19/21, 19/25, 19/25-1 thru 19/25-9, 20/44, 20/45, 20/47, 20/49 thru 20/52, 20/54 thru 20/61, 25/1 thru 25/7, 25/9, 25/9-1, 25/10, 25/11, 25/11-1, 25/12 thru 25/27, 25/32 thru 25/36, 25/38 thru 25/40, 25/42 thru 25/52, 25/56 thru 25/76, 25/112 thru 25/120, 25/122 thru 25/126, 25/126-1, 25/127 thru 25/133, 26/90 thru 26/99, 26/99-1, 26/100 thru 26/103, 26/103-1, 26/104 thru 26/109, 26/111 thru 26/166, 26/166-1, 26/167 thru 26/184, 26/184-1, 30/1 thru 30/4, 30/9, 30/10, 30/31 thru 30/37, 30/40 thru 30/53, 30/57 thru 30/63, 30/63-1, 30/64, 30/65, 30/65-1, 30/66, 31/2 thru 31/13, 31/32, 31/32-1, 31/32-2, 31/33, 31/52 thru 31/55, 32/1 thru 32/7, 32/11, 32/16, 32/17, 32/19 thru 32/24, 32/24-1, 32/28 thru 32/30, 43/46 thru 43/51 and 43/54.

**Appendix II – “List of NH Native Trees”**

Arborvitae	Hackberry	Poplar
Ash	Hawthorn	Sassafras
Basswood	Hemlock	Serviceberry
Beech	Hickory	Spruce
Birch	Hophornbeam	Sumac
Cherry	Juniper	Sycamore
Chestnut	Larch	Viburnum
Dogwood	Maple	Walnut
Elm	Mountain ash	White cedar
Fir	Oak	Willow
Gum	Pine	Witch-hazel

**Appendix III – Invasive Species**

Tree of Heaven	European Frogbit	Yellow Floating Heart
Garlic Mustard	Water-flag	Common Reed
European Barberry	Blunt-leaved Privet	Japanese Knotweed
Flowering Rush	Showy Bush Honeysuckle	Curly-leaf Pondweed
Fanwort	Japanese Honeysuckle	Common Buckthorn
Oriental Bittersweet	Morrow’s Honeysuckle	Glossy Buckthorn
Black Swallow-wort	Tartarian Honeysuckle	Multiflora Rose
Pale Swallow-wort	Purple loosestrife	Water Chestnut
Brazilian elodea	Parrot Feather	Burning Bush
Autumn Olive	Variable Milfoil	Norway Maple
Giant Hogweed	European Water-Milfoil	Japanese Barberry
Hydrilla	European Naiad	

## **6.06.0 COMMERCE AND COMMUNITY DISTRICT**

Entire article removed in 2020.

**6.07.0 WEST ELM STREET GATEWAY DISTRICT**

**6.07.1 AUTHORITY**

- A. Title: This Ordinance shall be known as the West Elm Street Gateway District.
- B. Authority: The Planning Board is hereby authorized to administer this Ordinance under the provisions set forth in NH RSA 674:21, Innovative Land Use Controls.

**6.07.2 PURPOSE**

The intent of this District is to encourage economic development in the West Elm Street Gateway District by enhancing, preserving and protecting the natural, historic and cultural resources of the Town. The purpose of this Ordinance is to implement the Town of Milford’s vision for the future as set forth in the Community Character Chapter of the Master Plan 2007 Update:

*Goal No. 2: Foster the traditional character of Milford’s neighborhoods by encouraging a human scale of development that is similar in setbacks, size and height, and that is comfortable and safe for pedestrians and non-motorized vehicles while allowing for an efficient and safe roadway network.*

The Ordinance implements the Master Plan vision for Milford’s gateway corridors and is designed to accomplish the following:

- A. Encourage and promote commercial, industrial and mixed use development sensitive to Milford’s agricultural, architectural and historic heritage by preserving and enhancing the streetscape, the unique scenic vistas, views of the Souhegan River, and visual character of the corridor.
- B. Encourage development to reflect the historic pattern of development in Town and enhance Milford’s sense of community and place.
- C. Encourage attractive pedestrian scale development.
- D. Improve transportation efficiency, landscaping, stormwater management, traffic management, and parking.
- E. Promote alternative modes of transportation, particularly pedestrian and biking.
- F. Promote development that reflects the intended character of Milford’s residential, commercial, and industrial neighborhoods relative to height, lot coverage, and setbacks.

The following standards are tools that create a flexible framework to guide the appearance of future development that is compatible with the historic nature of Milford, while allowing for innovation and architectural creativity in order to enhance a special place.

**6.07.3 FINDINGS**

- A. Milford’s West Elm Gateway District is a unique area with distinctive natural features, scenic vistas and a streetscape that reflects Milford’s agricultural and commercial history.

- B. Non-residential development that is indifferent to Milford’s history and economic needs constitutes a significant threat to the character and future of the community.
- C. Future development can be guided to encourage building design that is functional, aesthetically pleasing and harmonious with the agricultural and architectural heritage of the community as well as provide positive economic return to the Town and property owners.
- D. The architecture of the community is varied and necessarily will evolve as the community grows. The regulation of architectural design must allow for flexibility, creativity and innovation within the context of an articulated framework.
- E. Access management will increase the efficiency, safety and mobility of the corridor, and inter-site connections are needed to reduce the potential conflict points along the corridors.
- F. Future development should incorporate bicycle, pedestrian, and public transportation amenities as important features that add to Milford’s character, sense of place and public health.

**6.07.4 APPLICABILITY**

The provisions as set forth in this Ordinance shall apply to the following activities within the Corridor Overlay District:

- A. Applications for site plan and subdivision review.
- B. New building construction for non-residential or multi-family purposes greater than 600 SF.
- C. Additions or alterations to buildings for non-residential or multi-family purposes greater than 600 SF.
- D. Additions or alterations to a site plan or buildings used for non-residential or multi-family purposes which significantly alter the visual appearance of the site or a façade visible from a public way.
- E. The West Elm Street Gateway District is an overlay district which imposes additional requirements and restrictions to those of the underlying base district established under the powers granted under NH RSA 674:21. In case of a conflict between the requirements of 6.07.0 and the requirements presented elsewhere in the Milford Zoning Ordinance, the provisions of 6.07.0 shall apply.

**6.07.5 DISTRICT BOUNDARIES**

**6.07.6 PERFORMANCE STANDARDS**

“The West Elm Street Gateway District consists of a significant portion of Elm St and Route 101, from the Granite Town Plaza to the Wilton Town Line. It is bounded to the north by the Souhegan River until the fork at Wilton Road and Elm Street, where it is then bounded by North River Road and Wilton Road. The study area is bounded to the south by Elm Street and both sides of Old Wilton Road, and Route 101. The southern boundary also includes Meadowbrook Drive, Scarborough Lane and two large parcels just south of Route 101 and west of Savage Road. The area is fully depicted on the map entitled “West Elm Street Gateway District Boundaries”.

## A. General

The West Elm Street Gateway District is a major economic driver in Town and contributes to the overall character of the community because of its location, landscape and scenic qualities. This District provides a first impression and should reinforce Milford's sense of place. Consideration shall be given towards complementing these resources through the careful siting of new buildings, appropriate landscaping and the application of the Site Design Standards.

1. **Pre-Application Review.** The Community Development Director, or designee, shall review all proposals to determine applicability as stated in Section 6.07.4 above.
2. **Development Review.** Upon determination by the Community Development Director, or designee, that an application meets the Section 6.07.4 applicability requirements, the applicant shall submit an application to the Planning Board in accordance with the Development Review Procedure set forth in the Town of Milford Development Regulations.
3. **Consistency with Plans.** In addition to providing the required development review information, the applicant shall demonstrate how the proposed plan will address the specific site recommendations as well as the general principles set forth in the following studies and documents:
  - a. *The Milford Master Plan and subsequent updates.*
  - b. *Town of Milford West Elm Street Gateway District Design Guidelines (2011);* Prepared by Nashua Regional Planning Commission.

## B. General Provisions

1. **General**
2. **Viewshed:** Development must take into account the varied and natural beauty of the corridor. Building scale and siting must foster and enhance the unique natural amenities and landscape.
  - a. Wooded and agricultural areas shall be maintained and preserved to the maximum extent possible.
  - b. Development along the Souhegan River shall be situated to provide views from adjacent buildings as well as pedestrian amenities and lookouts near the River's edge. Natural drainage areas shall be preserved to the maximum extent. The development shall include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.
  - c. Development should be situated in such a way as to not impede views of Dram Cup Hill and Pack Monadnock. Where possible buildings and pedestrian areas should be located to maximize views of these natural features.
3. **Underground Utility Lines:** Utility lines shall be located underground whenever possible in all new developments and during significant upgrades and renovations to existing sites.



4. **Streetscaping:** Amenities such as public art, lighting, street furniture, special sidewalk treatments and banners should be incorporated into site design proposals.
5. **Gateways:** Some locations contribute to the landscape character of the community because of their location and scenic qualities. Many such properties and approaches act as gateways, providing first impressions and reinforcing Milford's sense of place. Consideration should be given towards complementing these resources through the careful siting of new buildings, and the application of the Site Design Standards. The locations of proposed gateways are identified on the West Milford Gateway District Design Guidelines, *Corridor Overlay District and Potential Gateways Map*.

In these areas, appropriate landscaping or other improvements may be required.

- a. Near the Wilton Town Line on Route 101
  - b. North River Road just north of the Elm Street / Route 101 intersection
  - c. Near Map 7, Lot 12 on Elm Street
  - d. Just west of the Route 13 / Route 101 intersection
6. **Screened Loading Docks and Storage Areas:**
    - a. All loading docks shall be well screened to conceal delivery trucks and bays from public right-of-way and viewsheds.
    - b. Supplies should be stored inside of buildings.
    - c. Outside storage of supplies shall be heavily screened with attractive landscaping or fencing.
  7. **Natural Features:** Buildings, lots, impervious surfaces and accessory structures shall be sited in those portions of the site that have the most suitable conditions for development.
    - a. Environmentally sensitive areas, including but not limited to, wetlands, steep slopes in excess of 15%, floodplains, significant wildlife habitats and corridors, wooded areas, fisheries, scenic areas, habitat for rare and endangered plants and animals, unique natural communities and natural areas, and sand and gravel aquifers, shall be maintained and preserved to the maximum extent.
    - b. Natural drainage areas shall be preserved to the maximum extent. The development shall include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.

C. **Mixed Use Development:** Mixed use development as permitted under the Zoning Ordinance can include a combination of residential, commercial or industrial development in either the same building or on the same site.

1. On mixed use development sites, the design shall complement the multiple uses with care placed on creating visual integration of features such as building setbacks, driveways, building entrances, windows, landscaping and pedestrian amenities.
2. In general, any residential uses should be in upper stories of multi-storied buildings with the commercial or industrial use below.

D. **Commercial Development:** Commercial development should be scaled appropriately to provide for a mix of building styles and traditional architectural features and materials, that foster Milford's sense of place.

1. Buildings and building entrances shall be human scale and close to the street when practical.
2. Building siting shall be such that the mass is scaled smaller in appearance.
3. Parking should be situated to the side and rear of the building whenever possible.

E. **Mixed Use and Commercial – Design**

1. **Building Orientation** - New structures shall orient their main entrance or storefront to a public street.

- a. New structures shall maintain an appropriate street edge in relationship to adjacent structures.
- b. Buildings shall be sited so that entrances are clearly identifiable and directly accessible from a sidewalk and shall be accessible for pedestrians, bicyclists and future public transit users.

2. **Building Massing, Form and Height**

The mass, form and height of new structures must relate to the appropriate scale of neighboring buildings as well as the context of the corridor. The following architectural features and treatments should be used to enhance the character of new development and the corridor:

- a. Reduce the apparent scale of the building by introducing small-scaled architectural features, creating an irregular footprint and variations in roof forms and height of roof elements.
- b. Enhance definition of each floor of the building through terracing, material changes, articulated structural elements, changes in materials and horizontal trim bands.

3. **Architectural Features and Materials**

Architectural features and details shall be considered in every building design.

- a. Traditional features and details such as columns, pilasters, porticos, awnings or arches associated with Milford's architectural heritage are strongly encouraged.
- b. Long expanses of repetitive architectural elements and flat unarticulated wall surfaces shall be avoided.
- c. Traditional materials or materials that have the same visual effect shall be used, including but not limited to, wood, brick, tile, or stone.

4. **Pedestrian Scale**

Building design should take into consideration pedestrians at the ground level.

- a. Avoid blank walls at ground-floor levels through the use of windows, trellises, material changes, arcades, or other features to increase visual interest.
- b. Pedestrian scale lighting shall be used wherever possible and be consistent with the existing building and location.
- c. Floodlights and tall light posts are not encouraged.

## 5. **Parking Areas**

- a. Parking lots should be located to the rear or side of a building whenever possible.
- b. Side yard parking shall be well buffered from the street.
- c. Shared parking provisions for any combination of uses on site and adjacent sites are encouraged.
- d. Offsite parking shall be protected with a shared parking easement agreement which shall be approved by the Zoning Administrator and recorded with the approved plans.

## 6. **Existing Structures**

Existing buildings and structures of historic value should be preserved and if renovated or expanded done so in a manner that is respectful of the character, features and details of the existing structure.

## 7. **Roof Form and Materials**

Rooflines shall be characteristically sloped and articulated with architectural features such as dormers, chimneys, gables, cupolas, etc.

- a. Rooflines shall not run in continuous planes, and shall be broken into appropriately scaled masses.
- b. Flat roofs are generally discouraged.
- c. Where appropriate roofs shall provide adequate overhangs for pedestrian activity.
- d. Roof materials shall be composed of high quality, durable and architecturally consistent materials, including but not limited to concrete tile, asphalt shingles and standing seam metal.

## 8. **Windows**

Modestly scaled vertically proportioned windows are the most appropriate to the local building vernacular.

- a. Building facades should have an abundance of windows that use clear non-reflective glass.
- b. Windows on higher floors should align vertically with windows below, if possible.
- c. Walls facing streets and pedestrian approaches shall have display windows, recessed windows, detailed entry areas, awnings or prominent sills and a pedestrian scaled lighting element. Storefronts should use windows to reveal indoor amenities, activities and displays.

## 9. **Building Entrances**

All building entrances shall be clearly defined and highly visible using a variety of the following details (*Please refer to the West Milford Gateway District Design Guidelines for examples*):

- a. Porticos
- b. Canopies
- c. Overhangs

- d. Arcades
- e. Recesses or projections
- f. Raised cornice parapets over doors
- g. Arches with detail (tile work or moldings) integrated with the building
- h. Outdoor patios
- i. Display windows
- j. Integral planters
- k. Wing walls with planters or seating

#### 10. **Signage**

Signs shall comply with the Town of Milford Sign Ordinance and should complement the building site and surroundings.

- a. Wall signs shall be appropriately scaled to the building or surface on which it is placed and should not obscure important architectural features.
- b. Signs shall be readable for both pedestrians and drivers approaching a site.
- c. Consideration should be given to form, color, lighting and materials that are compatible with the building and its surroundings.

#### 11. **Screening**

All rooftop air conditioning, heating and large mechanical equipment, building accessories, and refuse shall have noise reduction screening and be screened from public view and have noise reduction screening.

### F. **Mixed Use and Commercial – Traffic Standards**

#### 1. **Access Management**

- a. All projects shall construct wherever feasible interconnecting driveways to adjacent properties or provide secure future connections through easements to adjacent property boundaries. This includes bicycle-pedestrian access to adjacent residential developments, where practical.
- b. New access points onto Elm Street shall only be created when it is not feasible to combine or share existing access points.
- c. Interior parking lots shall provide for shared use and interconnected drives.
- d. Interconnecting driveways shall promote vehicular and pedestrian access between adjacent lots without accessing the roadway.

#### 2. **Driveway Throat Length**

Interior driveways should provide adequate throat length for vehicle stacking (queuing) and unobstructed views for exiting safely.

#### 3. **Bicycle Facilities**

Separate bicycle facilities may be required by the Planning Board where recommended by the studies listed in section 6.07.6 A.3. or where otherwise appropriate.

- a. Bicycle routes may be provided in the form of a separate off-street path or on-street marked bicycle lanes.
- b. Bicycle racks and other amenities may be required for all developments and shall be located in a convenient and secure location.

#### 4. **Pedestrian Facilities**

Sidewalks shall be constructed as recommended by the studies listed in section 6.07.6 A.3 or where otherwise appropriate.

- a. Sidewalk corridors shall be easily accessible to all users, and comply with the Americans with Disabilities Act (ADA) standards.
- b. The sidewalk shall provide for a landscaped buffer (esplanade) between the roadway pavement and the sidewalk where adequate right of way exists.
- c. The walking route along a sidewalk corridor shall connect destinations and shall not require pedestrians to travel out of their way unnecessarily.
- d. Buildings should be sited so as to create pedestrian-scale plazas and gathering places.
- e. Sidewalk construction shall be in accordance with Department of Public Works specifications.

#### 5. **Transit Facilities**

The development of future transit facilities shall be incorporated within all major site plan developments that could generate high volumes of transit use.

- a. Potential transit routes, access points, bus pull-outs, bus stops, signage and shelter locations may be designated along major roadways and within the perimeter of such projects, and easements reserved for such facilities.
- b. Transit facilities shall be provided in a manner to encourage transit as an alternative mode of travel.

G. **Industrial Development:** All industrial sites should be visually appealing and well integrated with adjacent sites, the natural landscape and viewsheds.

##### 1. **Building Orientation and Siting**

- a. Buildings should orient their main entrances toward the street when practical.
- b. Buildings with main entrances not oriented toward the street shall be oriented toward internal roadways and sidewalks within the site.
- c. Main entrances shall have human scale features, architectural details, landscaping and adequate signage.

##### 2. **Building Massing, Form, and Height**

- a. New industrial buildings should have massing, form and height that is compatible with adjacent properties.
- b. Buildings should be designed so as to minimize the appearance in mass and scale.

- c. Architectural features, windows, entrances and building materials may be utilized to reduce the appearance of building size.

### **3. Architectural Features and Materials**

- a. Buildings and adjacent walkways shall use a variety of architectural materials, colors and features to create attractive and visually appealing structures.
- b. Corrugated metal buildings and large flat wall surfaces should not be located within view of both internal and external street networks, or shall be screened, or given architectural treatments to break up large surface areas, and situated in less visible areas of the site.

### **4. Access Management**

- a. Industrial sites should be limited to two main entrances.
- b. If the site is large enough a tree lined roadway through the campus will provide access to smaller connector roads and parking areas.
- c. Where feasible interconnecting driveways should be constructed to provide access to adjacent properties or easements should be provided for interconnecting driveways for future development.

### **5. Parking**

- a. Parking should be located to the rear and side of buildings when practical to avoid large parking lots in front of buildings adjacent to the public right-of-way.
- b. Landscaping and small street trees shall be densely planted on medians.
- c. Special crosswalk and sidewalk treatments shall be used to create safe internal pedestrian access between parking lots and buildings.

### **6. Bicycle and Pedestrian Design**

- a. Connections to adjacent trails and networks shall be made where applicable.
- b. Separate bicycle facilities may be required by the Planning Board where recommended by the studies listed in section 6.07.6 A.3. or where otherwise appropriate.
  - i. Bicycle routes may be provided in the form of a separate off-street path or on-street marked bicycle lanes.
  - ii. Bicycle racks and other amenities may be required for all developments and shall be located in a convenient and secure location.

### **7. Transit**

- a. All sites over 2 acres will be evaluated to determine if the site is a feasible location for future public transit service. An easement to accommodate future bus turnouts and shelters may be required.
- b. Internal sidewalks should be planned to provide access to this easement area.

## H. Campus Style Development

Campus style development refers to business and industrial parks that are interconnected by internal roadway and sidewalk networks and accommodate multiple buildings, parking areas and uses. All campus developments should be visually appealing and well integrated with other internal buildings, the natural landscape and viewsheds.

### 1. Building Orientation and Siting

- a. Buildings should be oriented toward internal streets and sidewalks.
- b. Front entrances shall have human scale features, architectural details, landscaping, and adequate signage indicating the main entrance.
- c. All entrances shall have direct access to sidewalks.

### 2. Building Massing, Form and Height

- a. Campus buildings on the same site should have similar massing, form and height.
- b. Buildings should be designed to minimize the appearance of mass and must conform to the height requirements of the zoning ordinance. Architectural features, windows, entrances, and building materials should be consistent among buildings and should also help to reduce the appearance of building size.

### 3. Architectural Features and Materials

- a. Buildings and adjacent walkways shall use a variety of architectural standards, colors and features to create attractive and visually appealing structures.
- b. Similar materials should be incorporated on buildings and walkways throughout the campus to create a cohesive look.
- c. Interesting features such as brick, patterns, detailed entrances and varied setbacks should be incorporated.

### 4. Lighting

- a. Attractive downcast lighting shall be incorporated in a uniform manner throughout the campus.

### 5. Green Space

- a. Campus style developments must set aside a green space that can accommodate bicycle and pedestrian use.
- b. This space should include landscaping, benches, tables, fountains or public artwork.
- c. This space shall connect to the internal sidewalk network.
- d. This space can be counted towards total open space requirements.

### 6. Directional Signs

- a. Uniform directional signs shall be located at main entrances and throughout the campus. Directional signs should provide clear directional information for deliveries and visitors.

### 7. Access Management

- a. Access to campus styles developments should be limited to two main driveways.
- b. In the case of large sites, a main tree-lined access drive through the campus should provide access to smaller connector drives and parking areas.

#### **8. Parking**

- a. Parking should be located to the rear and side of buildings to avoid large parking lots in front of buildings.
- b. Landscaping and small street trees shall be densely planted on medians.
- c. Special crosswalk and sidewalk treatments shall be used to create safe internal pedestrian access between parking lots and buildings.

#### **9. Bicycle and Pedestrian Design**

- a. Connections to adjacent trails and networks shall be made where applicable.
- b. Separate bicycle facilities may be required by the Planning Board where recommended by the studies listed in section 6.07.6 A.3. or where otherwise appropriate.
  - i. Bicycle routes may be provided in the form of a separate off-street path or on-street marked bicycle lanes.
  - ii. Bicycle racks and other amenities may be required for all developments and shall be located in a convenient and secure location.

#### **10. Transit**

- a. All sites over 2 acres will be evaluated to determine if the site is a feasible location for future public transit service. An easement to accommodate future bus turnouts and shelters may be required.
- b. Internal sidewalks should be planned to provide access to this easement area.



**6.07.7 WAIVER PROVISION**

There may be unusual or exceptional circumstances that exist where the application of one or more of the Performance Standards of Section 6.07.6 would entail practical difficulty or unreasonable hardship when balanced against the public purposes sought to be achieved by this Ordinance. In such circumstances, the Planning Board may waive the applicability of some or all of the Performance Standards in accordance with the Development Regulations waiver process (Section 5.020).

**6.07.8 APPEALS**

A decision of the Planning Board made pursuant to the West Elm Street Gateway District shall not be appealed to the Zoning Board of Adjustment, but rather shall be appealed to the Superior Court as provided by NH RSA 677:15 and NH RSA 676:5, III.

**6.07.9 SAVING CLAUSE**

Where any provision of this Ordinance is found to be invalid, such determination shall not affect the validity of the remainder of this Ordinance.

**6.07.10 EFFECTIVE DATE**

The West Elm Street Gateway District Ordinance was adopted by the Town of Milford on Tuesday, March 13, 2012 and is effective the same date.

## **ARTICLE VII: SUPPLEMENTARY STANDARDS**

### **7.01.0 GRAVEL AND EARTH REMOVAL (2014)**

Loam, sand, gravel and similar earth materials may be removed from a lot or land area in Zoning Districts which allow such use only after a permit for earth removal has been issued by the Planning Board. All applications for gravel or earth products removal shall be in conformance with the conditions set forth in NH RSA Chapter 155-E, as amended and the Town of Milford's Gravel and Earth Removal Regulation, that may be amended from time to time.

## **7.02.0 ON-SITE SEWAGE DISPOSAL SYSTEMS**

**7.02.1** No septic tank, leach field, or other on-site sewage disposal system shall be constructed or enlarged within twenty five hundred (2,500) feet of any well of the Milford Town Water System subject to the following exceptions:

- A. On-site sewage disposal systems for one and two family residences shall be permitted.
- B. On-site sewage disposal systems for the treatment of organic wastes with flow not in excess of one thousand (1,000) gallons per twenty-four (24) hour period shall be permitted, however only one disposal system shall be permitted on each parcel of land held in single ownership.
- C. The Board of Adjustment, after proper public notice and public hearing, may grant a Special Exception for the installation or modification of an on-site sewage disposal system within twenty-five hundred (2,500) feet of a town well, when it is satisfied that no pollution of any town well shall result from the action. The application for a Special Exception shall include a written report(s) prepared by a licensed professional engineer, ground water geologist and/or hydrologist, who has been approved in advance by the Board. This report shall be based on on-site inspections, testings, and/or scientific analysis of the ground water transmigration. The report(s) shall include an analysis of the type of pollutants to be introduced into the disposal system, the maximum daily flows that are anticipated, soil types, and other relevant engineering and soils factors. All costs for the preparation of the required reports and any on-site testing shall be borne by the applicant for the Special Exception.
- D. On-site sewage disposal systems shall be permitted when the disposal system is located on one side of a river, stream or other body of water which has a year round flow and the town well is located on the other side.

**7.02.2** However, in no case shall any on-site sewage disposal system be constructed or enlarged within four hundred (400) feet of a town well.

## **7.03.0 CLUSTER OPEN SPACE DEVELOPMENT *Deleted (2000)***

## **7.04.0 PRIVATE WAYS *Deleted (2001)***

## **7.05.0 EXISTING MANUFACTURED MOBILE HOME PARKS**

### **7.05.1 ALLOWABLE USES (1992)**

Additions to manufactured housing in existing manufactured home parks shall be allowed when it can be shown that adequate water and sewer facilities exist.

### **7.05.2 ALLOWABLE USES IN THE INDUSTRIAL DISTRICT BY SPECIAL EXCEPTION**

Any manufactured housing park in existence at the time of the passage of this Ordinance that has a minimum of thirty (30) units may expand subject to the limitations contained herein and provided the Board of Adjustment has approved a Special Exception for such expansion pursuant hereto.

The Board of Adjustment in determining whether such a park is entitled to a Special Exception to expand shall apply the following criteria:

- A. The proposed shall only apply to a park with municipal water and sewer service or one which has received permission from the Selectmen to construct such water and sewer services at the park owner's expense;
- B. The proposed shall include a commitment to improve all existing and contemplated roads within the park to such standards as required by the Selectmen for current road improvements;
- C. The Board of Adjustment shall determine that there exists or will be provided, parks, playgrounds, open green space or other amenities sufficient to provide for existing and proposed occupants of the park;
- D. The Board of Adjustment shall determine the extent to which the park shall be allowed to expand provided that they shall not approve any expansion that will result in a total park density greater than the existing multi-family housing density in the Town;
- E. The Board of Adjustment shall consider the proposed expansion and may impose any reasonable conditions on the grant of the Special Exception which are, in the judgment of the Board of Adjustment, necessary to insure that the proposed expansion meets the above criteria, the general criteria for a special exception (set forth in Article X, Para. 10.02.0 of the Ordinance) and also provide for the safety of existing and further occupants in terms of fire safety, flooding, traffic and any other appropriate considerations.

It is understood that once a Special Exception is granted hereunder the applicant will thereafter present a Site Plan to the Planning Board in accordance with existing Development Regulations. All required improvements will be bonded as normally required.

A joint meeting of the Planning Board and Board of Adjustment is permissible if said boards concur. (1989)

## **7.06.0 SIGN ORDINANCE (2019)**

### **7.06.1 PURPOSE AND INTENT**

- A. The purposes of these sign regulations are to:
1. Encourage the effective use of signs as a means of communication in the Town of Milford;
  2. Retain the Town's ability to attract and encourage economic development and growth;
  3. Improve pedestrian and vehicle traffic safety;
  4. Respect the environment;
  5. Address new technologies;
  6. Minimize potential adverse effects of signs on nearby public and other private property;
  7. Complement the character of the zoning districts' existing land uses, including, without limitation, the Oval Sub-District's central role in the social, political and economic life of the Town; and,
  8. Enable fair and consistent enforcement of the sign regulations.
  9. To ensure that the constitutionally guaranteed right of free speech is protected.
- B. It is further intended that this Article will help the Town in its efforts to protect the safety and welfare of the public, implement the Town's Master Plan and reduce potential visual clutter by encouraging the effective use of signs.
- C. This Article is structured on a graduated basis that allows a progressively greater variety and size of signs as the zoning districts increase in scale and minimum lot area required for development. Conversely, as the zoning districts increase in density, this Article allows progressively smaller numbers of types and sizes to reflect the corresponding intensity of mixed land uses and the density of development.
- D. The "Applicability" subsection of each sign structure described in this Article provides a definition of the type of sign subject to this Article. To the extent that a provision of this Article and another section of the Zoning Ordinance conflict, the provisions of this Article shall control.
- E. This Article shall be liberally construed to effectuate its purposes; provided, however, that no sign shall be subject to any limitation based on the content of the message contained in such sign.
- F. If any section, clause, provision, portion or phrase of this Ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect, impair or invalidate any other section, clause, provision, portion or phrase of this Ordinance.

### **7.06.2 SHORT TITLE**

This article shall be known as the Town of Milford Sign Ordinance or the Sign Ordinance. The Sign Ordinance is enacted as part of the Town's Zoning Ordinance.

### 7.06.3 DEFINITIONS

The following words and phrases in this Article shall have the meaning described herein for all purposes associated with the construction and interpretation of the Sign Ordinance.

**Abandoned sign:** The cessation of the use of a sign as indicated by the visible or otherwise apparent intention of an owner to discontinue the use of a sign and/or structural framework; or the removal of the characteristic equipment or furnishing of the sign, without its replacement by similar equipment or furnishings; or the replacement of a nonconforming sign with a conforming sign.

**Animated Sign:** Any sign employing actual motion, the illusion of motion, or light and/or color changes achieved through mechanical, electrical, or electronic means. Animated signs, which are differentiated from manually activated changeable signs as defined and regulated by this Code, include the following types: Mechanically Activated signs, Electrically Activated Changeable Signs as define herein.

1. Flashing: Animated signs or animated portions of signs whose illumination is characterized by a repetitive cycle in which the period of illumination is either the same as or less than the period of non-illumination. For the purposes of this ordinance, flashing will not be defined as occurring if the cyclical period between on-off phases of illumination exceeds five (5) seconds.
2. Patterned Illusionary Movement: Animated signs or animated portions of signs whose illumination is characterized by simulated movement through alternate or sequential activation of various illuminated elements for the purpose of producing repetitive light patterns designed to appear in some form of constant motion.

**Area:** The space, on the largest single face of a sign, within and including a perimeter which forms the outside shape of a sign. Where signs are established back to back, the larger face shall be calculated for purposes of determining allowable area. The space of a sign having no such perimeter or border shall be computed by enclosing the entire copy area within the outline of a parallelogram, triangle, circle or any other easily recognized geometric shape and then computing the area. Where a sign is of a three-dimensional, round or irregular shape, the largest cross section shall be used in a flat projection for the purpose of computing sign area.

**Awning:** A removable shelter of canvas, metal or similar material extending over a doorway or window to provide shelter from natural elements.

**Awning sign:** A sign painted on or attached flat or flush against the surface of the awning, but not extending above, below or beyond the awning or attached to the underside. The copy area on awnings is computed as all or a portion of the allowed wall sign area. A minimum clearance of eight (8) feet above sidewalk level must be maintained for pedestrian clearance.

**Background area:** The total area of a sign face on which copy could be placed, often referenced to in connection with wall signs.

**Banner sign:**—A sign made of fabric or other similar non-rigid material supported or anchored at four corners or along top with weighted bottom. A larger banner will require additional support and anchor points.

**Billboard:** A large board on which advertisements are shown, esp. at the side of a road; a Billboard may or may not be an off-premise sign.

**Building face or wall:** All window and wall or façade areas of a building in one (1) plane or elevation.

**Building fascia:** The exterior linear length of a building that has frontage along a right-of-way or the exterior linear length of a building utilized for public access.

**Building frontage:** The linear length of a building parallel to or closely facing the right-of-way at street level.

**Building marker sign:** A sign lettered to give the name of a building and/or date of construction of the building. Such signs shall include signs recessed into the surface, cut into any masonry surface, or constructed of metallic or other noncombustible material. For purposes of this Article, “building name signs” are deemed to be directional signs.

**Canopy (or marquee):** A permanent roof-like shelter extending from part or all of a building face over a public right-of-way and constructed of a durable material such as metal, glass or plastic.

**Canopy or marquee sign:** Any sign attached to or part of a canopy or marquee. The copy area on such signs is computed as all or a portion of the allowed wall sign area.

**Changeable Sign** - A sign with the capability of content change by means of manual or remote input, includes the following types:

1. Manually Activated - Changeable sign whose message copy or content can be changed manually on a display surface. A manually activated changeable sign may be part of any sign type.
2. Electrically Activated - Changeable sign whose message copy or content can be changed by means of remote electrically energized on-off switching combinations of alphabetic or pictographic components arranged on a display surface. Illumination may be integral to the components, such as characterized by lamps or other light-emitting devices; or it may be from an external light source designed to reflect off the changeable copy area. See also: Electronic Message Center.

**Code Administrator:** The term “Code Administrator” shall also include the designees of the Code Administrator.

**Copy:** The wording or message on a sign surface in either permanent or temporary (removable/changeable) letter or organic form.

**Copy area:** The area in square feet of the smallest geometric figure which describes the area enclosed by the actual copy of a sign. When referring to a wall sign or fascia sign, the copy area refers to the actual message or total area within a border or area highlighted within a contrasting background, not to the illuminated background. Also see “area”.

**Directional sign:** Signage which is necessary for on-site public safety and convenience.

**Directory sign:** Permanent signs which are necessary to identify and locate occupants of a building when there is more than one occupant in a building or on a site.

**Display Time** – The amount of time a message and/or graphic is displayed on an Electronic Message Center or Sign (EMC).

**Dissolve** – A mode of message transition on an Electronic Message Sign accomplished by varying the light intensity or pattern, in which the first message gradually appears to dissipate and lose legibility with the gradual appearance and legibility of the second message.

**Dynamic Frame Effect** – An Electronic Message Sign frame effect in which the illusion of motion and/or animation is used.

**Electronic awning sign:** A fireproof space frame structure with translucent covering designed in awning form, but whose purpose and use is signage. Such signs are internally illuminated by fluorescent or other light sources in fixtures approved under national and local electrical codes. The copy area is computed as all or a portion of the allowed wall sign area.

**Electronic Message Center or Sign (EMC)** - An electrically activated changeable sign (also referred to as digital signs or computer-controlled electronic signs) whose variable message and/or graphic presentation capability can be electronically programmed by computer from a remote location. Also known as an EMC. EMCs typically use light emitting diodes (LEDs) as a lighting source. (See also following terms principally associated with Electronic Message Centers: Display Time, Dissolve, Dynamic Frame Effect, Fade, Frame, Frame Effect, Scroll, Transition, Travel)

**Establish:** This term shall mean to attach, alter, build, construct, reconstruct, enlarge, move, hang, place, suspend, affix, erect, manufacture, and includes the painting of wall signs, but does not include copy changes on any permitted sign.

**Façade sign:** See “wall sign.”

**Face of sign:** The entire area of the sign on which copy could be placed. Also see “copy area” and “area.”

**Fade** – A mode of message transition on an Electronic Message Sign accomplished by varying the light intensity, where the first message gradually reduces intensity to the point of not being legible and the subsequent message gradually increases intensity to the point of legibility.

**Fascia sign:** See “wall sign.”

**Flag:** A sign made of fabric or other similar non-rigid material supported or anchored along one edge or two corners. If any side is more than three times as long as any other side the flag becomes a banner.

**Flashing sign:** Animated signs or animated portions of signs whose illumination is characterized by a repetitive cycle in which the period of illumination is either the same as or less than the period of non-illumination. For the purposes of this ordinance, flashing will not be defined as occurring if the cyclical period between on-off phases of illumination exceeds five (5) seconds.

**EMC Frame** – A complete, static display screen on an Electronic Message Sign.

**Frame Effect** – A visual effect on an Electronic Message Sign applied to a single frame. See also Dynamic Frame Effect.

**Freestanding sign:** See “Monument sign.”

**Frontage, minimum:** That continuous portion of a lot bordering on a road(s) from which access can be taken, that meets the minimum requirements of the underlying zoning district.

**Height of sign:** The vertical distance measured from the adjacent undisturbed grade of the sign to the highest point of the sign.

**Historic marker sign:** A marker that identifies an historic place, person event or date and is erected by a historical organization or by a government agency.

**Illuminance** – The amount of light falling upon a real or imaginary surface, commonly called “light level” or “illumination” measured in foot candles (lumens/square foot).



**Illuminated sign:** Any sign which emanates light either by means of exposed tubing, electrical bulbs, fluorescent lights, neon tubes or lamps on its surface, or by means of illumination transmitted through the sign faces. Any decorative lighting that is used expressly for the purpose of advertisement shall be constructed as a sign.

**Individual letter sign:** Any sign made of self-contained letters that are mounted individually. See “copy area.”

**Landmark sign:** An older sign of artistic or historic merit, uniqueness, or extraordinary significance, as identified by the local historic commission or society. The character of landmark signs warrants their preservation in original condition, or their restoration.

**Location:** Any lot, premises, building, structure, wall, or any place upon which a sign is located.

**Long-term temporary (LTT) sign:** Any sign established for a temporary period of not more than six (6) months, but not less than 14 days. (see Short-term Temporary Sign definition.)

**Luminance** – The light that is emitted by or reflected from a surface. Measured in units of luminous intensity (candelas) per unit area and units as foot lamberts and equivalent. This can be measured by means of a luminance meter.

**Maintain:** To permit a sign, sign structure or any part of each to continue; or to repair or refurbish a sign, sign structure or any part of each. A sign shall be maintained in good repair for reasons of public safety and aesthetics.

**Marquee:** See “canopy.”

**Marquee sign:** See “canopy sign.”

**Mechanically Activated sign (animated):** Animated signs characterized by repetitive motion and/or rotation activated by a mechanical system powered by electric motors or other mechanically induced means.

**Message:** The wording or copy on a sign. See “copy.”

**Monument sign:** A sign established on a freestanding structure, frame, mast or pole and not attached to any building. Where such signs are established back to back, the larger face shall be calculated for the purposes of determining allowable area. Also known as detached sign, freestanding sign, pole sign, ground sign and pylon sign.

**Nonconforming sign:** Any sign which was lawfully established prior to the date this Article was adopted, and which fails to conform to the specifications of this Article.

**Off-premises sign:** A sign unrelated to a business or a profession conducted, or to a commodity or service sold or offered, upon the premises where such a sign is located. It is recognized that, unlike on-premises signs which are actually a part of a business, off-premise signs are a separate and distinct use of the public thoroughfare.

**On-premises sign:** Any sign visible from a public right-of-way located on the premises where the sign is installed and maintained.

**Parking signs:** Signs that identify available spaces or areas for parking of vehicles. Parking signs are deemed “Directional signs” for the purposes of this Article.

**Permanent sign:** A permanent sign is any sign established for a period of greater than six (6) months.

**Pole sign:** See “Monument sign.”

**Political sign:** Signs erected on residential property by or with the consent of the property owner, where such signs coincide with the timing of a political campaign or other matter on which voters may vote. Political signs are considered temporary signs for the purpose of this ordinance.

**Portable sign:** Movable sign that is not attached to a structure or the ground, includes: A-boards, portable reader-boards and similar signs.

**Premises:** A lot or number of lots on which are situated a building or group of buildings designed as an unit or on which a building or a group of buildings are to be constructed. The premises and the sign to which it relates must have a physical connection.

**Projecting Sign:** A sign which is affixed to any building wall or structure and extends beyond the building wall, structure, building line or property line more than twelve (12) inches.

**Public right-of-way:** A public right of way includes the portion of a public street, road or highway dedicated to and accepted by the Town and/or the State as measured from property line to property line. When property lines on opposite sides of the public street are not parallel, the public right-of-way width shall be determined by the Code Administrator.

**Real estate rider board:** A typically small sign that either hangs from the base of or is established on top of a real estate sign. The area of these signs shall be included in the total allowable sign area for real estate signs.

**Register:** The register of signs shall consist of an official record maintained by the Code Administrator as to the purpose of signage and containing the date of establishment and removal.

**Roof line:** The top edge of the roof or the top of the parapet, where the junction of the roof and the perimeter wall of the structure forms the top line of the building silhouette.

**Roof sign:** A sign established upon, against, or directly above a roof, or on the top of or above the parapet of a building.

**Rotating sign:** Any sign or portion of a sign which moves in a revolving or similar manner, but not including multi-prism indexing signs. See also Mechanically Animated sign.

**Scroll:** A mode of message transition on an Electronic Message Sign in which the message appears to move vertically across the display surface.

**Short-term temporary (STT) sign:** Any sign which is established for no more than fourteen (14) calendar days.

**Sign:** A permanent or temporary device, structure, light, letter, word, two- or three-dimensional, object or copy, model, banner, streamer, pennant, display, insignia, emblem, trade flag, presentation by figures, designs, pictures, logos or colors visible to the public from outside a building, from a traveled way or otherwise. The purpose of a sign is to convey a message to the public, to advertise, direct, invite, announce, or draw attention to, directly or indirectly, a use conducted, goods, products, services or facilities available, either on the lot or on any other premises, includes any permanently installed or prominently situated merchandise. For the purpose of removal, signs shall also include all sign structures and appurtenances.

**Sign structure:** Any framework, either freestanding or an integral part of the building, which supports or is capable of supporting any sign, including decorative cover.

**Storefront:** The side of the store or business facing the public right-of-way or from which provides primary customer or business access measured at street level.

**Snipe Sign:** any sign that is attached to any public utility pole or structure, streetlight, tree, fence, fire hydrant, bridge, curb, sidewalk, park bench or the location on public property.

**Street:** A public highway, road or thoroughfare which affords the principal means of access to adjacent lots, and measured from property line to property line. Also see “public right-of-way.”

**Suspended Sign:** Any sign that hangs from below a roof, porch or eave and hangs in a horizontal orientation to the ground.

**Temporary sign:** Any sign established for any period of less than six (6) months. Please see definitions for portable, short term temporary, and long term temporary signs.

**Temporary message:** a message that may be changed manually or digitally as part of a permanent sign structure.

**Transition** – A visual effect used on an Electronic Message Sign to change from one message to another.

**Travel** – A mode of message transition on an Electronic Message Sign in which the message appears to move horizontally across the display surface.

**Use:** The purpose for which a building, lot, sign or other structure is arranged, intended, designed, occupied or maintained.

**Utility sign:** These signs are noncommercial in nature and identify the location of gas lines, water lines or phone cables, often warning of the potential hazard of digging or excavation in the immediate area.

**Wall sign:** Any sign attached parallel to the building wall or other surface to which it is mounted that does not extend more than twelve (12) inches from said surface and has only one (1) sign face that is intended to be read parallel to the wall or other surface to which it is mounted. Window signage shall not be included in the total allowable wall sign area. Wall sign also includes any sign established on any other part of a building provided that the sign is on a plane parallel to the wall of the building. Wall signs may not project above the top of a parapet, wall or the roof line at the wall, whichever is highest. A wall sign is also that sign established on a false wall or false roof that does not vary more than thirty (30) degrees from the plane of the building’s parallel wall. See also, fascia signs or façade signs.

**Window sign:** A sign affixed to the surface of a window or within twelve (12) inches of the window plane with its message intended to be visible to the exterior environment. Such sign shall not be construed to include merchandise located in a window.

#### **7.06.4 PROHIBITED SIGNS**

Any sign not specifically authorized by this Article is prohibited unless required by law. The following signs and conditions are prohibited:

- A. Any sign located within, on, or projecting over a property line which borders a public or private street, highway, alley, lane, parkway, avenue, road, sidewalk, or other right-of-way, except as

provided in this Article. The Code Administrator may cause to be removed any temporary or portable sign erected or displayed upon, or projecting into public property; and,

- B. Any sign attached to any public utility pole or structure, street light, tree, fence, fire hydrant, bridge, curb, sidewalk, park bench, or other location on public property, also known as “snipe signs,” except as provided herein; and,
- C. Any sign placed, which by reason of its location, will obstruct the view of any authorized traffic sign, signal or other traffic control device or which by reason of shape, color, or position interferes with or could be confused with any authorized traffic signal or device; and,
- D. Any sign which is placed so as to prevent or inhibit free ingress to or egress from any door, window, or any exit way required by the Building Code or the Fire Code; and,
- E. Any flashing sign, strobe containing sign or other sign or lighting device, on the exterior of the building, except as provided for herein.
- F. Any sign with unshielded incandescent, metal halide, or fluorescent light bulbs; and,
- G. Any sign which emits audible sound, odor, smoke, steam, laser or hologram lights, or other visible matter, including any sign that employs any stereopticon or motion picture projection; and,
- H. Any sign mechanically animated by attachment affected by the movement of the air; and,
- I. Any rotating sign; and,
- J. Signs placed on or painted on a motor vehicle or trailer parked with the primary purpose of providing signage not otherwise allowed by the Code; Prohibited is any sign displayed on a parked trailer or truck or other vehicle where the primary purpose of the vehicle is to advertise a product, service business, or other activity. This regulation shall permit the use of business logos, identification or advertising on vehicles primarily and actively used for business purposes and/or personal transportation.
- K. Any roof signs; and,
- L. Any billboards.

#### **7.06.5 GENERAL ADMINISTRATION**

- A. **PERMITS:** No sign may be established without a sign permit issued by the Code Administrator, except as provided for in (C) below.
- B. **MAINTENANCE:** All signs must be maintained in good repair for reasons of public safety. Ordinary maintenance and minor repair shall not include replacement of the structural framing and supports, enlargements of the area of a sign face or relocation of the sign-
- C. **PERMIT NOT REQUIRED:** The following signs are exempt from the permit requirements of this Article, but are otherwise subject to the standards contained herein. Any failure to comply with

these standards and any other provisions of this Article shall be considered a violation of the Zoning Ordinance.

1. Nameplate signs giving property identification names or numbers, or names of occupants; and,
2. Signs on mailboxes or newspaper tubes; and,
3. **Security and Warning Signs** - On-premise signs regulating the use of the premises, such as “private parking”, “no hunting” and “no soliciting” signs that do not exceed one (1) sign two (2) square feet in area in residential areas and one (1) sign five (5) square feet in area in commercial and industrial zones. These limitations shall not apply to the posting of conventional “no trespassing” signs in accordance with RSA 635:4 as amended.
4. **Public Signs** erected by government agencies or utilities, including traffic, utility, safety, railroad crossing and identification signs for public facilities and any signs erected by the Town of Milford;
5. Historic marker signs, erected by any historical organization or governmental agency, provided that said signs are no more than two (2) square feet:
6. Flags of any governmental organization when not displayed in connection with a commercial promotion or as an advertising device. No flag shall be flown from a pole that is more than fifty (50’) feet in height;
7. One temporary sign per lot placed on property which is actively marketed for sale. Such signs shall not be illuminated. In residential districts, such signs shall not exceed sixteen (16) square feet in area and the maximum sign height shall be six (6) feet above grade to the top of the sign and its supporting structure. In non-residential districts, such signs shall not exceed thirty-two (32) square feet in area and the maximum sign height shall be ten (10) feet above grade to the top of the sign and its supporting structure. In all districts, such signs shall be removed immediately after sale, lease, or rental;
8. A temporary sign placed within a parcel of property upon which construction activities of any type are being actively performed. Such signs shall not be illuminated, and may identify the project, the owner or developer, architect, engineer, contractor and subcontractors, funding sources, and may contain information related to sale or leasing of the premises. In residential districts, such signs shall not exceed sixteen (16) square feet in area and the maximum sign height shall be six (6) feet above grade to the top of the sign and its supporting structure. In non-residential districts, such signs shall not exceed thirty-two (32) square feet in area and the maximum sign height shall be ten (10) feet above grade to the top of the sign and its supporting structure. In all districts. Such signs shall not be erected prior to the issuance of a building permit and shall be removed within fourteen (14) days after the issuance of the Final Certificate of Occupancy;
9. Signs erected on residential property by or with the consent of the property owner, where such signs coincide with the timing of a political campaign or other matter on which voters may vote pursuant to NH RSA 664:14-No such sign may exceed the sign area permitted for other signs within the zoning district in which it is located; provided, however, that political signs must be removed within seventy-two (72) hours of the election to which they refer, unless the sign seeks to notify the public of the winner of the said election, in which case, the sign must be removed

within ten (10) days of the election to which it refers;

10. Building marker signs that do not exceed four (4) square feet in area;
11. Signs that are located on, or are an integral part of, a property that has been placed on or determined eligible for the National and State Register of Historic Places, provided that such signs are recognized as contributing to the National Register status of the property;
12. Signs which are not visible from a public roadway; however, these signs must comply with any building and construction provisions enacted by the IBC;
13. Signs inside a building beyond twelve (12) inches of the window plane;
14. Signs carved into a building or raised in integral relief on a building;
15. Painted and/or applied wall accents and decorations;
16. Public Art, including Permitted Original Art Murals;
17. Decals - Decals and/or logos affixed to windows or door glass panels, such as those indicating membership in a business group or identifying credit cards accepted at the establishment.
18. The Oval, as distinct from the Oval Subdistrict, is owned by the Town of Milford. Signs on the Oval are regulated pursuant to Chapter 7.16 of the Milford Municipal Code.

#### **D. APPLICATION PROCEDURE**

An application for a sign permit may be obtained from the Community Development Department of the Town of Milford. The Code Administrator shall complete the review of an application for a sign permit within thirty (30) days of the receipt of said application by the Town. A permit shall be approved if a proposed sign conforms to all Town Ordinances and any currently adopted Building Codes that may be applicable.

1. An applicant for a sign permit shall submit to the Code Administrator the following:
  - a. A completed sign permit application form;
  - b. A non-refundable application review fee in an amount to be set by the Board of Selectmen, which may be changed by the Board of Selectmen in their discretion. The Code Administrator shall display notice of the applicable fee in the offices of the Code Administrator in a form and manner designed to give reasonable notice to the public of the amount of the application review fee.
  - c. An illustration of the proposed sign(s) shall be submitted, drawn to scale, that includes the following information:
    - i. The total area of the proposed sign(s) in square feet;
    - ii. The total copy area of the proposed sign(s);
    - iii. The support structure for the proposed sign(s);
    - iv. The overall height, width and depth of the proposed sign(s);
    - v. Any structural, electrical, animation, illumination and other essential characteristics for the proposed sign(s);

- vi. The location(s) of the proposed sign(s) on the property and/or building(s);
  - vii. A photograph of existing signage, if any, including dimensions drawn onto the photograph; for multi-unit properties, condominiums and the like, the applicant need only submit a photograph detailing existing signage for the Applicant's particular unit;
  - viii. The material from which the proposed sign(s) is to be constructed;
  - ix. Any sign may be required to provide engineer licensed stamped plans, at the discretion of the Code Administrator, upon review.
2. Completeness Review: The Code Administrator shall determine whether the sign permit application is complete within ten (10) calendar days after the application is filed.
3. Decisions:
  - a. The Code Administrator shall either approve or deny the sign permit application within the time periods specified below after the Code Administrator determines that the application is complete. Applications found to be incomplete shall not be acted upon but returned to the applicant identifying the items needed for completion.
  - b. Upon a finding by the Code Administrator that the sign permit application complies with the provisions of this Article, the Code Administrator shall cause to be issued a sign permit for installation by the applicant. The sign permit shall be issued within ten (10) calendar days of the date on which the application was deemed complete.
  - c. If the sign permit application is denied, the applicant shall be notified within ten (10) calendar days of the date on which the application was deemed complete. The notice of denial shall specifically explain any deficiencies in writing in the application and how the applicant may proceed under this Section and Article 10 of the Zoning Ordinance.
  - d. No sign permit may be issued until all fees have been paid and other requirements of the Sign Ordinance have been satisfied.
4. Approval Criteria: The Code Administrator shall issue the requested sign permit if the sign permit application complies with this Article. Otherwise, the Code Administrator shall deny the sign permit application.
5. Revised Applications: When a sign permit application is denied by the Code Administrator, an applicant may resubmit a revised sign permit application that conforms to the requirements of Section 7.06.5 and specifies what changes were adopted by the applicant to remedy the cause(s) for denial. The Code Administrator may suggest alternative locations or design modifications.
6. Appeal: An applicant may appeal the decision of the Code Administrator pursuant to Article VIII of the Zoning Ordinance within thirty (30) calendar days of the date of Code Administrator's decision.
7. Amendments: No new sign or modification of the size, materials or design characteristics of any existing sign shall occur unless a new sign permit is issued in accordance with the procedures established by this Article.
8. Signs approved as a part of a Site Plan or Subdivision Approval shall meet the requirements set

forth within the Milford Development Regulations for a Signage Plan and Approval.

- E. **VARIANCE; APPEALS OF THE ZONING BOARD OF ADJUSTMENT:** The Zoning Board of Adjustment may grant relief by authorizing a variance of this Article. Variances from this Article shall be governed by Article X of the Zoning Ordinance, NH RSA Chapter 677, and applicable case law.
- F. **ENFORCEMENT VIOLATIONS:** The Code Administrator is authorized, empowered and directed to enforce the provisions of this Article. Any person, including, without limitation, an owner of real property, who violates, suffers a violation to occur or refuses to comply with any provision of this Article may be subject to the penalty provisions as described in Article VIII of the Zoning Ordinance.
- G. **NOTICE OF NON-COMPLIANCE:** If the Code Administrator determines that any sign is unsafe, insecure, dilapidated, or deteriorated, the Code Administrator shall give written notice to remove or replace said sign to the person or persons responsible, in accordance with this Ordinance.

#### H. **ORDER OF REMOVAL**

1. If the permit holder, owner of the sign, or owner of the property on which the sign is located fails to remove or repair the sign within ten (10) days after said notice or fails to file an allegation of error in accordance with this Ordinance, the Code Administrator is hereby authorized to cause the removal of such sign.
2. Any expense incident to the removal of said sign shall be paid by the permit holder, owner of the sign, or owner of the property on which the sign is located.
3. Nothing contained herein shall prohibit the immediate removal, without notice, of any sign or portion of a sign, which is determined by the Code Administrator to be an immediate threat or danger to the health, safety, and general welfare of the public.
4. The removal of the sign or portion of the sign shall be limited to the extent necessary to eliminate the threat to the health, safety, and general welfare of the public.
5. The Town is authorized to file a lien against any property, which is not otherwise exempt, to recover expenses incurred by the Town for the removal of a sign or portion of a sign from a property.

#### **7.06.6 NO DISCRIMINATION AGAINST NON-COMMERCIAL SIGNS OR SPEECH:**

The owner of any sign which is otherwise allowed under this Article may substitute non-commercial copy in lieu of any other commercial or non-commercial copy. This substitution of copy may be made without any additional approval or permitting. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over non-commercial speech, or favoring of any particular non-commercial message over any other non-commercial message. This provision prevails over any more specific provision to the contrary. This provision does not create a right to increase the total amount of signage on a parcel.

#### **7.06.7 NONCONFORMING SIGNS**

- A. **CONTINUANCE:** A nonconforming sign lawfully existing at the time of adoption or subsequent



amendment of this Article may continue, although such sign does not conform to the provisions of this Article. Portable not eligible under this section for continuance and shall, therefore, require sign permits and compliance with the provisions of this Article.

- B. **MAINTENANCE:** A nonconforming sign must be maintained in good repair for reasons of public safety. Ordinary maintenance and minor repairs shall not include replacement of the structural framing and supports, enlargement of the area of a sign face, removable sign panel changes, illumination increase or changes, or relocation of the sign.
- C. **ALTERATION, RELOCATION AND REPLACEMENT:** Alterations, relocation, and/or replacement of a legal nonconforming sign structure is permitted when damage or deterioration does not exceed fifty percent (50%) of the area of the sign and structure. A non-conforming sign that is damaged by any casualty or *force majeure* may be replaced by an identical sign in the same location that is identical to the damaged sign-within three hundred and sixty-five (365) days of such casualty. The replacement sign retains its status as a permitted, non-conforming use.
- D. **REMOVAL:** A nonconforming sign shall be removed within three hundred and sixty-five (365) days if any one of the following conditions exist:
  - 1. If the damage or deterioration of the sign structure exceeds fifty percent (50%) of the area; or,
  - 2. If the building to which the sign structure is accessory is damaged or demolished to an extent exceeding fifty percent (50%) of the building's appraised value and no plans have been submitted for the building's reconstruction or restoration pursuant to applicable codes and Ordinances; or,
  - 3. If the sign has been abandoned for at least three hundred sixty-five (365) days.
- E. Any sign that has been removed due to any of the conditions listed in 7.06.6:D above shall not be replaced and any succeeding sign shall conform to the provisions of this Article. If any portion of the sign structure is removed, then all parts and components of the sign shall also be removed.

#### **7.06.8 GENERAL PROVISIONS FOR SIGN TYPES**

A. The following section contains general standards for different types of signs. These standards regulate the dimensions, location and design of signs based upon their structural characteristics and location. The following section lists sign requirements within specific Zoning Districts.

#### **B. ELECTRICALLY ACTIVATED CHANGING SIGNS**

- 1. **Applicability:** This subsection applies to any sign that is either electronically or electrically controlled to illustrate different copy changes of the same sign. This sign's message may be changed by electronic switching or automatic switching of lamps or alteration in the level of illumination or other illumination source to form words, letters, designs, figures, numerals and pictures often through the apparent vertical or horizontal movement of light. Such signs shall not include a flashing light source. In the case of an Electrically Activated Changeable Sign, flashing shall be defined as an interval of illumination less than five (5) seconds in duration. These signs are commonly used to display time, temperature, date and message centers or

reader boards, indexing signs, and those known as Electronic Message Centers.

2. **Electronic Message Center (EMC):** Where EMC's are permitted, they shall be subject to all of the following restrictions:
  - a. The EMC may not exceed fifty (50) percent of the total of the sign area or twenty-four (24) square feet, whichever is smaller. The remaining 50% shall not include blank area that would be seen as a border, frame or otherwise non-sign area;
  - b. All illumination elements on the face of an EMC shall remain at a fixed level of illumination for a period of not less than ten (10) seconds; provided, however, that time and temperature text shall remain at a fixed level of illumination for a period of not less than five (5) seconds;
  - c. Changes from one message to another shall be accomplished by the change of all illumination elements on the face of a EMC simultaneously, with the provision that the sign may fade to complete darkness and then re-illuminate with or fade to the new message;
  - d. An EMC shall be equipped with down-cast lighting and the ability to adjust the brightness of the sign. No sign can be a danger to public health and safety and cannot exceed seven hundred fifty (750) cd/m<sup>2</sup> or Nits at least one-half hour before Apparent Sunset, All illuminated signs must comply with this maximum luminance level throughout the night, if the sign is energized, until Apparent Sunrise, at which time the sign may resume luminance levels appropriate for daylight conditions, when required or appropriate;
  - e. All EMC signs shall have automatic dimming controls, either by photocell (hardwired) or via software settings, in order to bring the EMC lighting level at night into compliance with requirements stated herein;
  - f. All EMC and other electronically or electrically changing signs must submit a Certificate of Compliance for said sign prior to a Building Permit being issued for said sign.

### C. **AWNING SIGNS/CANOPY SIGNS/MARQUEE SIGNS/PROJECTING AND SUSPENDED SIGNS**

1. There must be a minimum clearance of eight (8) feet above sidewalk level must be maintained for pedestrian clearance.
2. The copy area of Awning/Canopy/Marquee signs is computed as all or a portion of the allowed wall sign area.
3. Copy Area: The copy area on any awning sign, canopy sign, electronic awning sign, or marquee sign is computed as all or a portion of the allowed wall sign area. Copy located on the canopy or awning sign shall not exceed one-half (1/2) of the area bounded by the edges of the canopy or awning visible from the public right-of-way. If copy is only found in fringe drip-flap portion of the canopy, the entire portion of said area may be utilized for signage.
4. Right-of-Way: An awning or canopy sign which projects into the right-of-way in the Oval Sub-District may be approved and permitted by the Code Administrator as long as the sign does not interfere with the health and safety of the public use of the right-of-way. If an awning or canopy sign projects into the right-of-way in any allowed district other than the Oval Sub-district, a special exception is required from the Zoning Board of Adjustment.
5. Electric Awning Signs: Electric awning signs shall be located on multistory buildings between

the first and second story windows, or on single-story buildings above the first story windows. Electric awning signs located on multiple storefronts shall be allowed copy space no more than eighty (80) percent of the individual storefront width, in order to maintain adequate separation between tenant spaces.

6. Height/Clearance: Awning, canopy, marquee, projecting and suspended signs shall not exceed five (5) feet in height and shall maintain a minimum of eight (8) feet clearance.

**D. WALL SIGNS (FASCIA SIGN OR FAÇADE SIGN)**

Permitted wall signs shall be calculated using the formula in Chart 7.06.2-A, for the maximum square footage of any particular sign. See “storefront” both single and multi-story building to determine other values.

**Chart 7.06.2-A**

Distance of Storefront from Property Line with main point of access of abutting street	Storefront Multiplied By	Maximum sign area in square feet
50-99	1.0	100
100-249	1.5	110
250 and over	2.0	120

1. The total area for all wall signage shall not exceed the allowable maximum sign area per storefront.
2. The copy area of Awning/Canopy/Marquee signs shall be included in the total area of the allowed wall signage for any individual storefront.
3. One (1) directory wall sign may be located per building entrance or driveway access with frontage on a street or parking area. Maximum area shall be one (1) square foot per tenant with a combined area not to exceed thirty-two (32) square feet. Directory signs shall not require permits if located so as not to be viewed from a public right of way or adjoining premises. If a directory sign can be viewed from a public right of way or adjoining property, the directory sign shall be included in the maximum area allowed for the premises.
4. For the purpose of this section, in the case of multi-tenant buildings, the location of the storefront and its linear measure shall be used to determine distance from abutting street.

**E. DIRECTIONAL SIGNS**

1. The text must be at least sixty-five percent (65%) of the area of the sign.
2. Supplemental Standards for Directional Signs:
  - a. Directional Signs are allowed in addition to other permitted signage on-site.
  - b. A sign permit is required for directional signs that are setback less than fifteen (15) feet from

a property line, or located so as to be visible from a public right-of-way.

- c. Directional signs may be located adjacent to a driveway provided it does not impede lines of sight or visibility.
- d. Directional signs shall conform to the Manual of Uniform Traffic-Control Devices where applicable.

**F. MONUMENT SIGN - ALSO KNOWN AS: GROUND, IDENTIFICATION, DETACHED, FREESTANDING, POLE OR PYLON SIGN**

- 1. Address number(s) must be displayed on each face of the sign so as to be visible from the public way with Arabic numerals or Alphabet letters a minimum of four (4") inches in height. The required address identifier is not considered as part of the total allowable sign area calculation.
- 2. Monument signs shall be located on the property where the businesses exist and no portion of the sign shall be allowed in the public right of way.
- 3. Monument signs shall be located at least the same distance from a sidewalk or roadway as the height of the sign. This shall be known as the "fall zone".
- 4. All monument signs will require stamped engineered plans for signs greater than six (6') in height.
- 5. The Community Development Office may require building, electrical and other permits to insure code compliance for any monument sign.
- 6. Permanent subdivision signs are considered monument signs.

**G. PERMANENT OFF-PREMISE SIGNS**

- 1. Permanent off-premise signs are directional in nature.
- 2. For each off-premise sign, written permission of the land owner must be filed with the applicant's sign permit application.
- 3. No off-premise sign, may be established in any public right-of- way. The purpose of this restriction is to ensure that any type of off-premise sign does not impede pedestrian or vehicle traffic or otherwise create a public safety hazard in any area that is regularly traveled by the public on foot or by vehicle.

**H. PORTABLE, SHORT-TERM TEMPORARY (STT) AND LONG-TERM TEMPORARY (LTT) ON-PREMISE SIGNS**

- 1. An applicant may apply no more than six (6) times in any twelve months for a permit for a STT sign. A permit for a STT sign is valid for thirty (30) days and expires without further action by the Code Administrator. The fee for temporary sign permits is waived.
- 2. An applicant may apply no more than two (2) times in any twelve months for a permit for an LTT sign. A permit for a LTT sign is valid for seven (7) months and expires without further action by the Code Administrator. The fee for LTT sign permits is waived.
- 3. An applicant in a non-residential district may apply to the Zoning Board of Adjustment for a

special exception to be allowed a LTT sign.

4. No STT or LTT signs may be established in any public right-of-way. The purpose of this restriction is to ensure that temporary signs do not impede pedestrian or vehicle traffic or otherwise create a public safety hazard in any area that is regularly traveled by the public on foot or by vehicle.

#### **7.06.9 SIGN REQUIREMENTS BY ZONING DISTRICT**

- A. There are eight (8) zoning districts in the Town of Milford: Residence “A” District, Residence “B” District, Residence “R” District, the Commercial District (“C”), the Industrial District (“I”), the Limited Commercial-Business District (“LCB”), the Integrated Commercial Industrial District (“ICI”) and Integrated Commercial Industrial 2 District (ICI-2) and one Oval Sub-District (“OSD”). The maximum cumulative number and maximum cumulative area of all sign structures permitted for any lot, parcel or business within a zoning district is set forth in following sections.
- B. Any property requiring a site plan approval or subdivision approval shall create a comprehensive sign master plan for the property adhering to the requirements for the various sign types specified in this ordinance.
- C. Please see Section 7.06.9 General Provisions for Sign Types for additional requirements.

#### **D. RESIDENCE “A”, RESIDENCE “B”, and RESIDENCE “R” DISTRICTS**

1. Permitted Sign Types.
  - a. Home Based Business signs not to exceed the allowed signage in Section 7.12.
  - b. Subdivision and Site Plan approved signs.
  - c. Long-Term Temporary (LTT) Off-Premise Signs.
    - i. A permit is required for this sign.
    - ii. Two signs are allowed per site.
    - iii. The area per sign cannot exceed 16 square feet.
  - d. Permanent Off-Premise Signs.
    - i. A permit is required for this sign. The applicant must apply for and receive a special exception from the Zoning Board of Adjustment. The Milford Zoning Board of Adjustment may impose additional conditions or restrictions, as the Board deems appropriate to the public interest.
    - ii. One sign is allowed per site.
    - iii. The area per sign cannot exceed 16 square feet.
    - iv. The maximum height is 8 feet.
  - e. Portable On-Premise Signs.
    - i. A sign with an area that is equal to or less than six (6) square feet does not require a permit. A sign with an area that is greater than six (6) square feet must have a permit.

- ii. Two signs are allowed per site
  - iii. The area per sign cannot exceed 6 square feet.
- f. Long-Term On-Premise Signs.
- i. A sign with an area that is equal to or less than six (6) square feet does not require a permit. A sign with an area that is greater than six (6) square feet must have a permit.
  - ii. Two signs are allowed per site.
  - iii. The sign area depends on the total acreage of the property where the sign is to be established. For properties consisting of less than five (5) acres of land, the maximum area permitted is six (6) square feet. For properties five (5) acres or larger, the maximum area permitted is six (6) square feet without a permit and sixteen (16) square feet with a permit.

2. Prohibited Sign Types.

- a. Awning Signs, Canopy Signs, Marquee Signs, Projecting and Suspended Signs, Electronic Message Centers, Electronically Activated Changing Signs.

**E. COMMERCIAL, INTEGRATED COMMERCIAL INDUSTRIAL, INTEGRATED COMMERCIAL INDUSTRIAL 2, and INDUSTRIAL DISTRICTS**

1. Permitted Sign Types.

- a. Changeable Signs.
- b. Awning Signs, Canopy Signs, Marquee Signs, Projecting and Suspended Signs.
  - i. A permit is required for this sign.
  - ii. 3 signs are allowed per site.
  - iii. Fifty percent (50%) of the storefront's linear measure or maximum of one hundred (100) square feet, whichever is less.
- c. Walls Signs (Fascia or Façade Signs).
  - i. A permit is required for this sign.
  - ii. Changeable signs are permitted.
  - iii. For storefronts located within fifty (50) feet from the property line of an abutting street a maximum of fifty (50 %) percent of the storefront's linear measure or one hundred (100) square feet, whichever is less shall be allowed.
  - iv. For storefronts located greater than fifty (50) feet from the property line of an abutting street, please see the requirements under 7.06.8.E.
- d. Directional Signs.
  - i. No permit required in permitted district if part of site plan package; otherwise, permit required.
  - ii. The maximum area per sign is four (4) square feet.

- e. Monument Sign, Also Known as Ground, Identification, Detached, Freestanding, Pole or Pylon Sign
    - i. A permit is required for this sign.
    - ii. Only one ground sign per site is allowed.
    - iii. The maximum area permitted is seventy-five (75) square feet.
    - iv. The maximum height is fifteen (15) feet.
  - f. Short-Term Temporary (STT) Off-Premise Signs.
    - i. A permit is required for this sign. The applicant must apply for and receive a special exception from the Zoning Board of Adjustment. The Milford Zoning Board of Adjustment may impose additional conditions or restrictions, as the Board deems appropriate to the public interest.
    - ii. Two signs are allowed per site.
    - iii. The area per sign cannot exceed fifty (50) square feet.
  - g. Permanent Off-Premise Signs.
    - i. A permit is required for this sign.
    - ii. Two signs are allowed per site.
    - iii. The area per sign cannot exceed 16 square feet.
    - iv. The maximum height is 8 feet.
  - h. Portable On-Premise Signs.
    - i. A sign with an area that is equal to or less than six (6) square feet does not require a permit. A sign with an area that is greater than six (6) square feet must have a permit.
    - ii. Two signs are allowed per site.
    - iii. The area per sign cannot exceed 6 square feet.
  - i. Short-Term On-Premise Signs.
    - i. A sign with an area that is equal to or less than six (6) square feet does not require a permit. A sign with an area that is greater than six (6) square feet must have a permit.
    - ii. Two signs are allowed per site.
    - iii. The maximum area per sign is fifty (50) square feet.
2. Prohibited Sign Types.
- a. Long-Term Temporary (STT) Off-Premise Signs.
  - b. Long-Term Temporary (STT) On-Premise Signs.

**F. LIMITED COMMERCIAL-BUSINESS DISTRICT**

- 1. Permitted Sign Types.

- a. Awning Signs, Canopy Signs, Marquee Signs, Projecting and Suspended Signs.
  - i. A permit is required for this sign.
  - ii. 2 signs are allowed per site.
  - iii. The maximum area per sign is seventy-five percent (75%) of the storefront's linear measure or maximum of fifty (50) square feet, whichever is less.
- b. Walls Signs (Fascia or Façade Signs).
  - i. A permit is required for this sign.
  - ii. Manually Activated Changeable signs are permitted.
  - iii. The area per storefront for storefronts located within fifty (50) feet from the property line of an abutting street is a maximum of fifty (50 %) percent of the storefront's linear measure or one hundred (100) square feet, whichever is less shall be allowed
  - iv. For storefronts located greater than fifty (50) feet from the property line of an abutting street, please see the requirements under 7.06.8.E.
- c. Directional Signs.
  - i. No permit required in permitted district if part of site plan package; otherwise, permit required.
  - ii. The maximum area per sign is four (4) square feet.
- d. Monument Sign, Also Known as Ground, Identification, Detached, Freestanding, Pole or Pylon Sign.
  - i. A permit is required for this sign.
  - ii. Only one ground sign per site is allowed.
  - iii. The maximum area permitted is thirty-two (32) square feet.
  - iv. The maximum height is ten (10) feet.
  - v. Manually Activated Changeable signs are permitted.
- e. Short-Term Temporary (STT) Off-Premise Signs.
  - i. A permit is required for this sign.
  - ii. Two signs are allowed per site.
  - iii. The area per sign cannot exceed thirty-two (32) square feet.
- f. Permanent Off-Premise Signs.
  - i. A permit is required for this sign. The applicant must apply for and receive a special exception from the Zoning Board of Adjustment. The Milford Zoning Board of Adjustment may impose additional conditions or restrictions, as the Board deems appropriate to the public interest.
  - ii. Two signs are allowed per site.
  - iii. The area per sign cannot exceed 16 square feet.



- iv. The maximum height is 8 feet.
- g. Portable On-Premise Signs.
  - i. A sign with an area that is equal to or less than six (6) square feet does not require a permit. A sign with an area that is greater than six (6) square feet must have a permit.
  - ii. Two signs are allowed per site
  - iii. The area per sign cannot exceed 6 square feet.
- h. Short-Term On-Premise Signs.
  - i. A sign with an area that is equal to or less than six (6) square feet does not require a permit. A sign with an area that is greater than six (6) square feet must have a permit.
  - ii. Two signs are allowed per site.
  - iii. The maximum area per sign is thirty-two (32) square feet.
- 2. Prohibited Sign Types.
  - a. Long-Term Temporary (LTT) Off-Premise Signs.
  - b. Long-Term Temporary (LTT) On-Premise Signs.
  - c. Electronic Message Centers.

## **G. OVAL SUBDISTRICT**

- 1. Permitted Sign Types.
  - a. Awning Signs, Canopy Signs, Marquee Signs, Projecting and Suspended Signs.
    - i. A permit is required for this sign.
    - ii. 2 signs are allowed per site.
    - iii. The maximum area per sign is seventy-five percent (75%) of the storefront's linear measure or maximum of fifty (50) square feet, whichever is less.
  - b. Walls Signs (Fascia or Façade Signs).
    - i. A permit is required for this sign.
    - ii. Manually Activated Changeable signs are permitted.
    - iii. The area per storefront for storefronts located within fifty (50) feet from the property line of an abutting street is a maximum of fifty (50%) percent of the storefront's linear measure or one hundred (100) square feet, whichever is less shall be allowed
    - iv. For storefronts located greater than fifty (50) feet from the property line of an abutting street, please see the requirements under 7.06.8.E.
  - c. Directional Signs.
    - i. No permit required in permitted district if part of site plan package; otherwise, permit required.

- ii. The maximum area per sign is four (4) square feet.
  - d. Monument Sign, Also Known as Ground, Identification, Detached, Freestanding, Pole or Pylon Sign.
    - i. A permit is required for this sign.
    - ii. Only one ground sign per site is allowed.
    - iii. The maximum area permitted is thirty-two (32) square feet.
    - iv. The maximum height is ten (10) feet.
    - vi. Manually Activated Changeable signs are permitted.
  - e. Short-Term Temporary (STT) Off-Premise Signs.
    - i. A permit is required for this sign.
    - ii. Two signs are allowed per site.
    - iii. The area per sign cannot exceed sixteen (16) square feet.
  - f. Portable On-Premise Signs.
    - i. A sign with an area that is equal to or less than six (6) square feet does not require a permit. A sign with an area that is greater than six (6) square feet must have a permit.
    - ii. One sign is allowed per site.
    - iii. The area per sign cannot exceed 6 square feet.
  - g. Short-Term Temporary On-Premise Signs.
    - i. A sign with an area that is equal to or less than six (6) square feet does not require a permit. A sign with an area that is greater than six (6) square feet must have a permit.
    - ii. Two signs are allowed per site.
    - iii. The maximum area per sign is sixteen (16) square feet.
- 2. Prohibited Sign Types
  - a. Long-Term Temporary (LTT) Off-Premise Signs.
  - b. Long-Term Temporary (LTT) On-Premise Signs.
  - c. Permanent Off-PreAmise Signs.
  - d. Electronic Message Centers.

**7.07.0 SENIOR HOUSING DEVELOPMENT (DELETED 2014)**

## **7.08.0 STANDARDS FOR ADULT ENTERTAINMENT BUSINESSES (2000)**

### **A. Purpose**

It is the purpose of this to establish reasonable and uniform regulations to prevent the concentration of adult entertainment businesses within the Town of Milford.

### **B. Intent**

1. It is the intent to promote the health, safety, and general welfare of the citizens of the Town of Milford; and, it is the intent of this that the regulations be utilized to prevent problems of blight and deterioration which accompany and are brought about by the concentration of adult entertainment businesses; and, the provisions of this have neither the purpose nor effect of imposing limitation or restriction on the content of any communicative materials, including sexually oriented materials;
2. It is not the intent nor the effect of this to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market; and, neither is it the intent nor effect of this to condone or legitimize the distribution of obscene materials.

### **C. Allowed locations and Location Restrictions of Adult Entertainment Businesses**

#### **1. Allowed Locations**

Adult entertainment businesses, defined in 7.08.1 are permitted only in the ICI (Integrated Commercial-Industrial District) provided that all other regulations, requirements, and restrictions for the zone in which the adult entertainment business is to be located are met; and no entertainment business shall be permitted within one thousand (1,000) feet of another existing adult entertainment business or one for which a building permit has been applied for; and

#### **2. Location Restrictions**

- a. No adult entertainment business shall be permitted within one thousand (1,000) feet of all other zoning boundaries, except for the Industrial (I) Zone.
- b. No adult entertainment business shall be permitted within one thousand (1,000) feet of any church, place of worship, parish house, convent, public, parochial, or private school, kindergarten, State approved Day Care Center, or Commercial or Not-for Profit Recreational Facilities and no adult entertainment business shall be permitted within one thousand (1,000) feet of the Town boundaries;
- c. No adult entertainment business shall be permitted within five hundred (500) feet of an existing residence; and
- d. No adult entertainment business shall be permitted within one thousand (1,000) feet of another existing adult entertainment business on the date of the passage of this and, no adult entertainment business shall be permitted within a building, premise, structure or other facility that contains a sexually oriented business as defined herein.

#### **3. Measure of Distance**

The distance between any adult entertainment business and a church, school, residence, etc. or another adult entertainment business shall be measured in a straight line, from property boundary to property boundary, without regard to intervening structures.

#### 4. Additional Reasonable Regulations

The Planning Board is empowered hereunder to review and approve permit applications for adult entertainment businesses and impose reasonable restrictions for buffering, outdoor lighting, parking, adequate ingress and egress from the site off of and onto public roads, pedestrian movement, hours of operation, and to provide for appropriate landscaping and building aesthetics as required in the Town of Milford Development Regulations.

### 7.08.1 DEFINITIONS

Except where specifically defined or otherwise referenced within this Ordinance, words and terms used are intended to imply their customary definition and meaning. The following words and terms are specifically defined as follows:

**Adult bookstore or adult video store** - A commercial establishment that devotes more than fifteen (15) percent of the total display, shelf, rack, wall, table, stand or floor area, utilized for the display and sale of the following items listed in a) and b) below. The establishment, as one of the principal business purposes, offers for sale or rental for any form of consideration, any one or more of the following:

- A. Books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, video productions, slides, tapes, records, CD-ROMs or other forms of visual or audio representations which depict or describe “specified sexual activities” or “specified anatomical areas” or meet the definition of “harmful to minors” and/or “sexual conduct” as set forth in NH RSA 571-B:1; or,
- B. Instruments, devices or paraphernalia which are designed for use in connections with “sexual conduct” as defined in NH RSA 571-B:1, other than birth control devices. A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing “specified sexual conduct or activities” and still be categorized as “Adult Video/Book Store”. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an “Adult Video/Book Store” so long as one of its principal business purposes is offering for sale or rental for consideration to specified material which depict or describe specified sexual conduct or activities or specified anatomical areas.
  - 1. Specified sexual conduct or activities means that the male genitals in a state of sexual arousal and/or the vulva or more intimate parts of the female genitals.
  - 2. Specified anatomical areas means and includes any of the following:
    - a. The fondling or other erotic touching of the human genitals, pubic region, buttocks, anus, or female breasts;

- b. Sex acts, normal or perverted, actual or simulated, including intercourse, or copulation, or sodomy;
- c. Masturbation, actual or simulated; or
- d. Excretory function as part of or in connection with any of the activities set forth in a) through c) above.

An adult bookstore or adult video store does not include an establishment that sells books or periodicals as an incidental or accessory part of its principal stock and trade and does not devote more than fifteen (15) percent of the total display area of the establishment to the sale of books and periodicals.

**Adult cabaret:** A nightclub, bar, restaurant or similar establishment which during a substantial portion of the total presentation time features live performances which meet the definition of “harmful to minors” and/or “sexual conduct” as set forth in NH RSA 571-B:1, and/or feature films, motion pictures, video cassettes, slides or other photographic reproductions, a substantial portion of the total presentation time of which is devoted to showing of material which meets the definition of “harmful to minors” and/or “sexual conduct” as set forth in NH RSA 571-B:1.

**Adult drive-in theater:** An open lot or part thereof, with appurtenant facilities, devoted primarily to the presentation of motion pictures, films, theatrical productions and other forms of visual productions, for any form of consideration to persons in motor vehicles or on outdoor seats, in which a substantial portion of the total presentation time being presented for observation by patrons is devoted to the showing of material which meets the definition of “harmful to minors” and/or “sexual conduct as set forth in NH RSA 571-B:1.

**Adult entertainment business:** means an Adult Bookstore or Adult Video Store, Adult Cabaret, Adult Drive-In Theater, Adult Motel, Adult Motion Picture Arcade, Adult Motion Picture Theater, Adult Theater, Nude Model Studio or Sexual Encounter Center.

**Adult motel:** A motel or similar establishment offering public accommodations of any form of consideration which provides patrons with closed circuit television transmissions, films, motion pictures, video cassettes, slides or photographic reproductions, a substantial portion of the total presentation time of which are distinguished or characterized by an emphasis upon the depiction or description of materials which meet the definition of “harmful to minors” and/or “sexual conduct” as set forth in NH RSA 571-B:1.

**Adult motion picture arcade:** Any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, in which a substantial portion of the total presentation of the images so displayed is devoted to the showing of material which meets the definition of “harmful to minors” and/or “sexual conduct” , as set forth in NH RSA 571-B:1.

**Adult motion picture theater:** An establishment with a capacity of five (5) or more persons, where for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material which meets the definition of “harmful to minors” and/or “sexual conduct” as set forth in NH RSA 571-B:1.

**Adult theater:** A theater, concert hall, auditorium or similar establishment either indoor or outdoor in nature, which for any form of consideration, regularly features live performances, a substantial portion of the total presentation time of which are distinguished or characterized by an emphasis on activities which meet the definition of “harmful to minors” and/or “sexual conduct” as set forth in NH RSA 571-B:1.

**Nude model studio:** A place where a person who appears in the state of nudity or displays male genitals in a state of arousal and/or the vulva or more intimate parts of the female genitals and is observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration or such display is characterized by an emphasis on activities which meets the definition of “harmful to minors” and/or “sexual conduct” as set forth in NH RSA 571-B:1.

**Nudity or a state of nudity:** The appearance of a human bare buttock, anus, male genitals, female genitals, or full female breast.

**Semi-nude:** A state of dress in which clothing covers no more than genitals, pubic region and areola of the female breast, as well as portions of the body supporting straps or devices.

**Sexual encounter center:** A business or commercial enterprise that as one of its primary business purposes offers for any form of consideration:

- a. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
- b. Activities between male and female persons and/or persons of the same sex when one or more persons are in the state of nudity; or
- c. Where the activities in a. or b. is characterized by an emphasis on activities which meets the definition of “harmful to minors” and/or “sexual conduct”, as set forth in NH RSA 571-B:1

## 7.09.0 TELECOMMUNICATION FACILITIES (2013)

### A. Purpose and Intent

The regulation of telecommunications facilities is important to minimize visual and environmental impacts and assure all new facilities are consistent with the goals and identity of the Town of Milford. It is the express purpose of this Section to preserve the scenic, historical and cultural values of the Town, balance economic growth and enhance the ability of providers of telecommunications services to offer such services to the community effectively and efficiently. Carriers shall be allowed to locate telecommunications facilities within the Town provided they are consistent with the appropriate land use regulations that will ensure compatibility with the natural and built features and character of the Town. Compatibility with these features are measured based on the change in community scale and character in relation to the height, mass, materials, contrasts, or proportion within the surroundings of a proposed telecommunications facility.

The intent of this ordinance is to implement the following goals and objectives throughout the Town of Milford, while conforming to federal, state and local laws and regulations:

- Facilitate the provision of wireless telecommunication services to the residents and businesses of Milford;
- Provide for the appropriate location and development of telecommunications facilities;
- Minimize adverse visual and environmental effects of towers and antennas through careful design and siting standards;
- Encourage co-location whenever possible; and
- Minimize economic impacts on adjacent property values.

### B. Applicability

The terms of this Section and the Development Regulations shall apply to telecommunications facilities (hereinafter "facility(ies)") on property owned by the Town of Milford, on privately owned property, and on property that is owned by any governmental entity that acts in its proprietary capacity to lease such property to a carrier.

## 7.09.1 DEFINITIONS

For the purpose of this Article, the following terms shall have the meaning given herein:

**Antenna:** The surface from which wireless radio signals are sent and/or received by a telecommunications 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 at above-ground level (AGL) of all trees over twenty (20) feet in height for a defined area.

**Camouflaged:** A telecommunications facility that is disguised, hidden, part of an existing or proposed structure, or placed within an existing or proposed structure.

**Carrier:** A Company that provides telecommunications services. Also sometimes 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 the use of several mounts on an existing building or structure by more than one carrier or the same carrier with multiple licenses.



**Environmental assessment (EA):** An EA is a document required by the Federal Communications Commission (FCC) and the National Environmental Policy Act (NEPA) when a telecommunications facility is placed in certain designated areas.

**Equipment shelter:** An enclosed structure, cabinet, shed, vault, or box near the base of the mount within which are housed equipment for telecommunications facilities such as batteries and electrical equipment. Equipment shelters are sometimes referred to as base transceiver stations.

**Facility:** See Telecommunications Facility

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

**Guyed tower:** A monopole or lattice tower that is secured to the ground or other surface by diagonal cables for lateral support.

**Height:** The height above ground level (AGL) from the natural grade of a site to the highest point of a structure.

**Lattice tower:** A type of mount with multiple legs and structural cross bracing between the legs, that is self-supporting and freestanding.

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

**Monopole:** A thicker type of mount than a mast that is self-supporting with a single shaft of wood, steel or concrete, or other material that is designed for the placement of antennas and arrays along the shaft.

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

1. Roof-mounted (mounted on the roof of a building)
2. Side-mounted (mounted on the side of a building)
3. Ground-mounted (mounted on the ground)
4. Structure-mounted (mounted on a structure other than a building)

**Radio frequency (rf) engineer:** An engineer specializing in electrical or microwave engineering, especially the study of radio frequencies.

**Radio frequency radiation (rfd):** The emissions from telecommunications facilities.

**Shot Clock:** Federal Communications Commission (FCC) ruling for a “reasonable period of time” to process wireless applications.

- 90 days for co-location request
- 150 days for new siting applications

**Security barrier:** A wall, fence, or berm that restricts an area from unauthorized entry or trespass.

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

**Telecommunications facility:** A facility for the provision of personal wireless services as defined by the Telecommunications Act of 1996, as amended. Telecommunications facilities include a mount, antenna, equipment shelter, and other related equipment. Telecommunications facilities do not include private or non-commercial wireless communication facilities such as amateur ham radio and citizen band radio.

**Telecommunications services:** The three types of services regulated by this Section are: Commercial mobile radio services, unlicensed wireless services and common carrier wireless exchange access services as described in the Telecommunications Act of 1996, as amended.

### **7.09.2 DISTRICT & FEDERAL REGULATIONS**

- A. Federal Requirements - All facilities shall meet or exceed current standards and regulations of the Federal Aviation Administration (FAA), Federal Communications Commission (FCC) (as per Telecommunications Act of 1996), and any other agency of the federal government with the authority to regulate such facilities.
- B. Location - Telecommunications facilities shall be permitted in all zoning districts in accordance with this ordinance. Applicants seeking approval for these facilities shall first evaluate existing structures for their siting. Only after finding that there are no suitable existing structures pursuant to Section 7.09.2:C herein, shall a provider propose a new ground-mounted facility.
- C. Existing Structures: Policy - When available, telecommunications facilities shall be located on existing structures, including but not limited to buildings, water towers, existing telecommunications facilities, utility poles or towers, and related facilities, provided that such installation preserves the character and integrity of those structures.
- D. Existing Structures: Burden of Proof - The applicant shall have the burden of proving that there are no existing structures which are suitable to locate its telecommunications facility and/or transmit or receive radio signals. To meet that burden, the applicant shall take all the following actions to the extent possible:
  - 1. The applicant shall submit to the Planning Board a list of all contacts made with owners of potential sites regarding the availability of potential space for a telecommunications facility. If the Planning Board informs the applicant that additional existing structures may be satisfactory, the applicant shall contact the property owner(s) of those structures.
  - 2. The applicant shall provide copies of all letters of inquiry made to owners of existing structures, letters of rejection if received, and proof of certified mailing. If letters of rejection are not provided, at a minimum, unanswered "Return Receipt Requested" forms from the U.S. Post Office shall be provided for each owner of existing structures that was contacted.
  - 3. If the applicant claims that a structure is not capable of physically supporting a telecommunications facility, this claim shall be certified by a licensed professional engineer. The certification shall, at a minimum, explain the structural issues and demonstrate that the structure cannot be modified to support the telecommunications facility without unreasonable costs. The estimated cost shall be provided to the Planning Board.
- E. Ground-mounted Facilities: Policy - New ground-mounted facilities are permitted but only when the use of existing structures and buildings are found to not be feasible. If the applicant demonstrates that it is not feasible to locate on an existing structure, ground-mounted telecommunications

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.

### **7.09.3 USE REGULATIONS**

A telecommunications facility may require site plan review as noted below, and a building permit in all cases, and may be permitted as follows:

- A. Existing Tower Structures - Subject to the issuance of a building permit that includes site plan approval by the Planning Board, which review shall include, but not be limited to issues relating to access, bonding, and security for removal, structural integrity and appropriate camouflage of such siting. Carriers may locate a telecommunications facility on any guyed tower, lattice tower, mast, or monopole in existence prior to the adoption of this Section, or on any facility previously approved under the provisions of this Section so long as the co-location complies with the approved site plan. All the Performance Standards from this Section shall be met. This provision shall apply only so long as the height of the mount is not increased, a security barrier already exists, and the area of the security barrier is not increased. Otherwise, site plan review is required.
- B. Reconstruction of Existing Tower Structures - An existing guyed tower, lattice tower, monopole, or mast in existence prior to the adoption of this Section may be reconstructed with a maximum twenty (20) foot increase in height so as to maximize co-location so long as the standards of this Section are met and so long as this twenty (20) foot increase in height does not cause a facility previously existing at less than two-hundred (200) feet to exceed two-hundred (200) feet in height. The mount shall be replaced with a similar mount that does not significantly increase the visual impact on the community. Site plan review is required.
- C. Existing Structures - Subject to the provisions of this Section and site plan review under NH RSA 674:43:III and except as otherwise permitted under Section 7.09.3:A, a carrier may locate a telecommunications facility on an existing structure, building, utility tower or pole, or water tower. For the purpose of this section, new structures that are conforming to all other district zoning requirements shall be considered as existing structures.
- D. Ground-mounted Facility - A telecommunications facility involving construction of a ground-mount shall require site plan review and be subject to the provisions of this Section.

### **7.09.4 DIMENSIONAL REQUIREMENTS**

- A. All telecommunications facilities erected, constructed, located, replaced, altered, or extended within the Town shall comply with the following dimensional requirements:
  - 1. Height Maximum - In no case shall a telecommunications facility exceed two-hundred (200) feet in height, unless the mount for the facility was greater than two-hundred (200) feet in height prior to the adoption of this Article.
  - 2. Height, Existing Structures and Utility Poles - Carriers that locate new telecommunications facilities on water towers, electric transmission and distribution towers, utility poles and similar existing utility structures, guyed towers, lattice towers, masts, and monopoles may be permitted to increase the height of those structures no more than twenty (20) feet, or forty (40) feet at the discretion of the Planning Board, if the additional height will not materially impair the visual impacts of the site. This increase in height shall only be permitted once for each structure.
  - 3. Height, Ground-Mounted Facilities – New ground-mounted telecommunications facilities shall not project higher than twenty (20) feet above the average tree canopy height within a one-

hundred fifty (150) foot radius of the mount, security barrier, or designated clear area for access to equipment, whichever is greatest.

4. Setbacks - In addition to compliance with the minimum zoning district setback requirements, ground-mounted telecommunications facilities shall be set back, at a minimum, the distance equal to the fall zone, as defined in Section 7.09.1 and 7.09.4:A.5. Fences necessary for the facility shall comply with the setback provisions of the zoning district in which the facility is located if the fence is six (6) feet or more in height.
  5. Fall Zone for Ground-Mounts - In order to ensure public safety, the minimum distance from the base of any ground-mount of a telecommunications facility to any property line, public road, habitable dwelling, business or institutional use, or public recreational area shall be, at a minimum, the distance equal to the fall zone, as defined in this Section. The fall zone may cross property lines, so long as the applicant secures a fall zone easement from the affected property owner(s). The area of the easement shall be shown on all applicable plans submitted to the Town, and the terms of the easement shall be provided as part of the Site Plan review. Easements shall be recorded at the Hillsborough County Registry of Deeds.
  6. Fall Zone for Non-Ground Mounts - In the event that an existing structure is proposed as a mount for a telecommunications 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, telecommunications facilities and their equipment shelters shall not increase any non-conformities.
- B. Planning Board Flexibility: Heights - In reviewing a site plan application for a telecommunications facility, the height limit imposed may be increased by the Planning Board by approval of a conditional use permit as defined in section 7.11.0. The Planning Board may permit an increase in the height of a ground-mounted facility up to forty (40) feet above the average tree canopy height, if no material increase in visual or environmental impacts will result from the increased height. The visual and environmental criteria of this Section and the Development Regulations shall be the guidelines in making this determination.

#### **7.09.5 PERFORMANCE AND DESIGN STANDARDS**

##### **A. Visibility:**

1. Visual impacts are measured on the basis of:
  - a. Change in community scale, as exhibited in relative height, mass or proportion of the telecommunications facility within their proposed surroundings
  - b. New visible elements proposed on a contrasting background
  - c. Different colors and textures proposed against a contrasting background
  - d. Use of materials that are foreign to the existing built environment
2. Enhancements are measured on the basis of:
  - a. Conservation of opportunities to maintain community scale, e.g. buffering areas and low-lying buildings should not be compromised to as to start a trend away from the existing community scale
  - b. Amount and type of landscaping and/or natural vegetation
  - c. Preservation of view corridors, vistas, and view sheds

- d. Continuation of existing colors, textures and materials
3. Visibility focuses on:
  - a. Eliminating or mitigating visual impact
  - b. Protecting, continuing, and enhancing the existing environment
4. Camouflage for Facilities on Existing Buildings or Structures - Roof Mounts when a telecommunications facility extends above the roof height of a building on which it is mounted, every effort shall be made to conceal or camouflage the facility within or behind existing or new architectural features to limit its visibility from public ways. Facilities mounted on a roof shall be stepped back from the front facade in order to limit their impact on the building's silhouette.
5. Camouflage for Facilities on Existing Buildings or Structures - Side Mounts - Telecommunications facilities, which are side-mounted, shall blend with the existing building's architecture and, if individual antenna panels are over five (5) square feet, the panels shall be painted or shielded with material consistent with the design features and materials of the building.
6. Camouflage for Ground-Mounted Facilities - All ground-mounted telecommunications facilities shall be surrounded by a buffer of dense tree growth, primarily of coniferous or evergreen trees, that extends continuously for a minimum distance of one hundred-fifty (150) feet from the mount, security barrier, or designated clear area for access to equipment, whichever is greatest, and screens views of the facility in all directions. These trees shall be existing on the subject property, planted on site, or be within a landscape easement on an adjoining site. The Planning Board shall have the authority to decrease, relocate, or alter the required buffer based on site conditions. The one-hundred and 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 are dead or dying and present a hazard to persons or property.
7. Color - To the extent that any telecommunications facilities extend above the height of the vegetation immediately surrounding it, they shall be of a color, which blends with the background or surroundings.
8. Equipment Shelters - Equipment shelters for telecommunications 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 so that the shelters are architecturally consistent, with respect to materials and appearance, to the buildings in the area of the telecommunications facilities; 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 shall determine the style of fencing and/or landscape buffer that is compatible with the neighborhood; or
  - 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 a part of the original structure.
9. Lighting, Signage and Security

- a. Lighting:
  - a. Facility Lighting- The mounts of telecommunications facilities shall be lighted only if required by the Federal Aviation Administration (FAA).
  - b. Site Lighting- If required, all on site lighting shall be shielded from abutting properties. Foot-candle measurements at the property line shall be 0.0 initial foot candles.
- b. Signage - 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 Milford Zoning Ordinance.
- c. Security Barrier - The Planning Board shall have final authority on whether a ground mounted telecommunications facility should be surrounded by a security barrier.

#### 10. Historic Buildings

- a. Any telecommunications facility located on or within a historic structure shall not alter the character-defining features, distinctive construction methods, or original historic materials of the building.
- b. Any alteration made to a historic structure to accommodate a telecommunications facility shall be fully reversible.
- c. Telecommunications facilities authorized by this subsection 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.

11. Scenic Landscapes and Vistas - Ground-mounted facilities shall not be located within open areas that are clearly visible from public roads, recreational areas, or abutting properties. All ground-mounted telecommunications facilities shall be surrounded by a buffer of dense tree growth as per Section 7.09.5:A.6.

12. Driveways - If available, existing entrances and driveways to serve a telecommunications 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 telecommunications facility shall not exceed twelve (12) feet in width. A gravel or crushed stone surface is encouraged.

13. Antenna Types - 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 antenna array may be permitted after a finding by the Planning Board that the visual impacts of a larger antenna array are negligible.

14. Ground and Roof Mounts - All ground mounts shall be of a mast type mount. Lattice towers, guyed towers, and roof mounted monopoles are expressly prohibited, unless constructed as part of a reconstruction project permitted under Section 7.09.3:B.

15. Hazardous Waste - No hazardous waste shall be discharged on the site of any telecommunications 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 one hundred and ten (110) percent of the volume of the hazardous materials stored or used on the site.

16. Noise - Telecommunications facilities shall not generate noise in excess of that permitted by Town Ordinance.
17. Radio frequency Radiation (RFR) Standards - All equipment proposed for a telecommunications facility shall be fully compliant with the FCC Guidelines for Evaluating the Environmental Effects of Radio frequency (FCC Guidelines), under *Report and Order*, FCC 96-326, published on August 1, 1996, and all subsequent amendments.

#### **7.09.6 MONITORING AND MAINTENANCE**

- A. Maintenance - The owner of the facility shall maintain the telecommunications 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.
- B. Monitoring - As part of the issuance of the site plan approval or building permit, the property owner shall agree that the Town of Milford may enter the subject property to obtain RFR measurements and noise measurements at the expense of the carrier. The Town shall provide reasonable written notice to the carrier and landowner and provide them the opportunity to accompany the Town representatives when the measurements are conducted.
- C. Security for Removal - Recognizing the hazardous situation presented by abandoned and unmonitored telecommunications facilities, all owners of telecommunications facilities shall obtain and maintain a bond or other approved form of security, in an amount set forth by the Planning Board, that represents the cost for removal and disposal of abandoned telecommunications facilities in the event that a facility is abandoned and the facility owner is unwilling or unable to remove the facility in accordance with Section 7.09.8.

The amount of security shall be based upon the removal cost, plus fifteen percent (15%), be provided by the property owner, and the amounts certified by a professional structural engineer licensed in New Hampshire. The owner of the facility shall provide the Planning Board with a revised removal cost estimate and structural evaluation prepared by a professional structural engineer licensed in New Hampshire every five (5) years from the date of the Planning Board approval of the site plan. If the cost has increased more than fifteen percent (15%), then the property owner shall provide additional security in the amount of the increase.

#### **7.09.7 PROCEDURAL REQUIREMENTS**

- A. Application Process - All wireless telecommunications equipment installations and wireless telecommunications site developments, except as provided elsewhere, are subject to review and Site Plan Approval by the Planning Board. The Planning Board shall act upon the application in accordance with 5.03 and 5.04 Submittal Requirements of the Milford Development Regulations and RSA 676:4 as amended. In addition to the following items:
  1. An inventory of existing towers that are within the jurisdiction of the Town and those within two miles of the border thereof, including specific information about the location, height, design of each tower, as well as economic and technological feasibility for the co-location on the inventoried towers. The Planning Board may share such information with other applicants applying for approvals or conditional use permits under this section or other organizations

seeking to locate antennas within the jurisdiction of the Town, provided, however, that the Planning Board is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

2. If the applicant is proposing to build a new tower, the applicant shall submit written evidence demonstrating that no existing structure can accommodate the applicant's proposed antenna in accordance with Section 7.09.2:D.
- B. Review Process - Planning Board Approval and Town Building Permit Required: Non-residential and non-amateur telecommunications facilities may be located within the Town of Milford, subject to Planning Board approval and issuance of a building permit. Modifications to an existing installation shall also be subject to Planning Board approval. Construction or modification of an approved facility shall not begin or continue without a valid building permit issued.
- C. All applications shall be assessed for a basic completeness review within 30 days of receipt of the application. Incomplete applications will not be reviewed by the Planning Board. If an application passes this basic completeness review, it should be date stamped to establish the date when it was filled. If the Board or staff determines additional information is needed to evaluate the application, any request for additional information must be submitted within thirty (30) days of the filing date. The Board shall approve, approve with conditions, or deny the application within 90 days (co-location applications) or 150 days (siting applications) of the filing date in accordance with FCC standards.

#### **7.09.8 ABANDONMENT OR DISCONTINUATION OF USE**

- A. Notification - At such time that a carrier plans to abandon or discontinue operation of a telecommunications facility, the owner of the facility shall notify the Town by certified U.S. mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than sixty (60) days prior to abandonment or discontinuation of operations. In the event that a carrier fails to give such notice, the telecommunications facility shall be considered abandoned upon such discontinuation of operations.
- B. Removal - Any telecommunications facility that is declared abandoned shall be considered hazardous to the public health and safety. Upon abandonment or discontinuation of use, the owner shall physically remove the abandoned structure and restore the site to its natural appearance within ninety (90) days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:
1. Removal of antennas, mount, equipment shelters and security barriers from the subject property.
  2. Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.
  3. Restoring the location of the telecommunications facility to its natural condition, except that any landscaping and grading shall remain in the after-condition.
- C. Failure to Remove - If the owner of the facility does not remove the facility upon the Order of the Zoning Administrator, then the Board of Selectmen shall, after holding a public hearing with notice to the owner of the facility, the property owner, and abutters, issue a Declaration of Abandonment.



The owner of the facility shall dismantle and remove the facility within ninety (90) days of receipt of the Declaration of Abandonment by the Board of Selectmen. If the abandoned facility is not removed within ninety (90) days, the Town may execute the security bond to pay for this action.

## 7.10.0 SMALL WIND ENERGY SYSTEMS

### 7.10.1 AUTHORITY

This Ordinance is established pursuant to The State of New Hampshire RSA 674:62-66, as amended and the purposes outlined in NH RSA 672:I-IIIa. All references in this Ordinance will refer to State of New Hampshire RSAs.

### 7.10.2 PURPOSE AND INTENT

It is the purpose of this Section to protect the public's health, safety and welfare and promote the safe, effective and efficient use of small wind energy systems to reduce the on-site consumption of utility supplied electricity. This Ordinance intends to permit the location of these systems within the Town of Milford consistent with the master plan, and the Ordinances and regulations of the Town.

### 7.10.3 APPLICABILITY

The terms of this Section shall apply to small wind energy systems (hereinafter "system(s)") on property owned by the Town of Milford, on privately owned property, and on property that is owned by any governmental entity that acts in its proprietary capacity to lease such property.

### 7.10.4 DEFINITIONS

For the purpose of this Article, the following terms shall have the meaning given herein:

**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, output 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 turbine, a 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:** 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.

### 7.10.5 DISTRICT REGULATIONS

Small wind energy systems are permitted by the granting of a conditional use permit and a building permit in all zoning districts.

### 7.10.6 PROCEDURE FOR REVIEW

A. Conditional Use Permit – Small wind energy systems and met towers require Planning Board approval of a conditional use permit (see section 7.11.0).

1. Application – Applications submitted to the Planning Department shall conform to the minor site plan regulations and shall contain 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. Setback requirements as outlined in this Ordinance.
  - e. The right-of-way of any public road that is contiguous with the property.
  - f. Any overhead utility lines.
  - g. Small wind energy system specifications including rotor diameter, tower height, tower type and nameplate generation capacity.
  - h. Sound level analysis prepared by the wind generator manufacturer or qualified engineer.
  - i. List of abutters to the applicant's property.

B. Abutter and Regional Notification – In accordance with the site plan regulations all small wind energy system conditional use permit applications shall be heard at an abutter notified public hearing where the Planning Board will make a determination on potential Regional Impact in accordance with NH RSA 36:54-58.

C. Building Permit – Once a conditional use permit has been approved the applicant shall submit and be granted approval for a building permit prior to a small wind energy system being erected, constructed or installed. A building permit shall be required for any physical modifications to an existing small wind energy system. Met towers that receive a building permit shall be permitted on a temporary basis not to exceed three (3) years from the date the building permit was issued.

1. Application – Applications submitted to the Building Department shall contain the following information:
  - a. Planning Board approved conditional use permit minor site plan
  - b. Tower foundation blueprints or drawings with New Hampshire engineering approval.
  - c. Tower blueprints or drawings with New Hampshire engineering approval.
  - d. Small wind energy systems specifications including manufacturer, model, rotor diameter, tower height, tower type, nameplate generation capacity.
  - e. 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.
  - f. Sound level analysis prepared by the wind generator manufacturer or qualified engineer.
  - g. Electrical components in sufficient detail to allow for a determination that a manner of installation conforms to most current adopted Electrical Code.
  - h. Evidence of compliance or non-applicability with Federal Aviation Administration requirements.
2. All Planning Department information will be available to the Building Department to aid the permitting process.

**7.10.7 STANDARDS**

- A. The Planning Board shall evaluate the application for compliance with the following standards:
1. 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 foundations of an occupied building.
    - 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.

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	1.1	1.5

**Table 7.10- 1**

2. Tower – The maximum tower height shall be restricted to thirty-five (35') feet above the tree canopy within three hundred (300') feet of the small wind energy system. In no situation shall the tower exceed 150 feet.
3. Sound level – The small wind energy system shall not exceed 60 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.
4. 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 thirty (30) hours per year on abutting occupied buildings. The applicant has the burden of proving that the shadow flicker will not have significant impact on neighboring or adjacent uses. Potential shadow flicker will be addressed either through siting or mitigation measures.
5. Signs – All signs, including flags, streamers and decorative items, both temporary and permanent, are prohibited on small wind energy systems, except for manufacturer identification or appropriate warning signs.
6. 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, to be determined by the Planning Board.
  - b. The color of the small wind energy system shall either be 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.
7. 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.
8. Utility Connection – If the proposed small wind energy system is to be connected to the power grid through net metering, it shall adhere to NH RSA 362-A: 9.

9. 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 eight (8') feet above the ground. All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.
  10. 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.
- B. In addition to the above listed items the Building Inspector will also evaluate a Building Permit application for the following items:
1. Code Compliance – The small wind energy system shall comply with all applicable sections of the New Hampshire State Building Code and any other applicable State and Federal regulations.
  2. 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, NH RSA 422-b and NH RSA 424.

#### **7.10.8 MAINTENANCE AND MONITORING**

- A. Maintenance - The owner of the system shall maintain the small wind energy system in good condition.
- B. Monitoring - As part of the issuance of the building permit, the property owner shall agree that the Town of Milford may enter the subject property to obtain noise measurements, if required, at the expense of the owner. The Town shall provide reasonable written notice to the owner and provide them the opportunity to accompany the Town representatives when the measurements are conducted.

#### **7.10.9 ABANDONMENT OR DISCONTINUATION OF USE**

- A. At such time that a small wind energy system is scheduled to be abandoned or discontinued, the applicant will notify the building inspector 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 ninety (90) days of receipt of the notice of abandonment or discontinuation of use. This period may be extended at the request of the owner and at the discretion of the building inspector. "Physically remove" shall include, but not be limited to:
1. Removal of the wind generator and tower and related above-grade structures.
  2. Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.

3. 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 small wind energy system shall be considered abandoned or discontinued if the system is out of service for a continuous twelve (12) month period. After the twelve (12) months of inoperability, the building inspector 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 thirty (30) days from the Notice receipt date. After review of the information provided by the owner, the building inspector 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 building inspector 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 the review by the building inspector, 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 ninety (90) days 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 building inspector may pursue legal action to have the small wind energy system removed at the owner's expense.

#### **7.10.10 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 adoption of this Ordinance are exempt from this Ordinance except or until such time as modifications are proposed to the small wind energy system.

#### **7.10.11 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.

#### **7.10.12 SEVERABILITY**

If any section, phrase, sentence or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

## 7.11.0 SOLAR COLLECTION SYSTEMS

### 7.11.1 Authority

This solar collection system ordinance is enacted in accordance with RSA 674:17(l)(j) and the purposes outlined in RSA 672:1-III-a as amended.

### 7.11.2 Purpose and Intent

The purpose of this ordinance is to accommodate solar energy collection systems and distributed generation resources in appropriate locations, while protecting the public's health, safety and welfare, and the environment. The Town intends to facilitate the State and National goals of developing clean, safe, renewable energy resources in accordance with the enumerated polices of NH RSA 374-G and 362-F that include national security and economic and environmental sustainability.

### 7.11.3 Definitions

**Agriculture Solar - Accessory:** Any ground-mounted or roof-mounted solar collection system designed to primarily reduce on-site consumption of utility power and without a limit to the rated nameplate capacity or solar land coverage provided the existing agricultural use is preserved at the time of installation.

**Agriculture Solar - Primary:** Any ground-mounted solar collection system that is partially used to reduce on-site consumption of utility power and with a rated nameplate capacity up to 1 MW AC in size or has a solar land coverage in excess of 5 acres provided the existing agricultural use is preserved at the time of installation.

**Carport Mount:** Any solar collection system of any size that is installed on the roof structure of a carport over a parking area.

**Commercial Solar:** A use of land that consists of one or more free-standing, ground-mounted solar collection systems with a rated nameplate capacity of up to 1 MW AC and that is less than 5 acres in solar land coverage.

**Community Solar:** A use of land that consists of one or more free-standing, ground-mounted solar collection systems regardless of nameplate capacity that is up to 100 kW AC and that is less than 1 acre of solar land coverage.

**Ground Mount:** A solar collection system and associated mounting hardware that is affixed to or placed upon (such as ballasted systems) the ground including but not limited to fixed, passive or active tracking racking systems.

**Industrial Solar:** A use of land that consists of one or more free-standing, ground-mounted solar collection systems regardless of nameplate capacity that is between 25 acres and 50 acres in solar land coverage.

**Large Commercial Solar:** A use of land that consists of one or more free-standing, ground-mounted solar collection systems with a rated nameplate capacity of between 1 MW and 5 MW that is between 5 and 25 acres in solar land coverage.

**Rated Nameplate Capacity:** Maximum rated alternating current ("AC") output of solar collection



system based on the design output of the solar system.

**Residential Solar:** Any ground-mounted or roof-mounted solar collection system primarily for on-site residential use, and consisting of one or more free-standing, ground or roof-mounted, solar arrays or modules, or solar related equipment, intended to primarily reduce on-site consumption of utility power and with a rated nameplate capacity of 10 kW AC or less and that is less than 500 square feet solar land coverage.

**Roof Mount:** A solar collection system that is structurally mounted to the roof of a building or other permitted structure, including limited accessory equipment associated with a system which may be ground-mounted. For purposes of calculating array sizes or solar land coverage under the solar definitions in this section, roof-mounted portions shall not be included if the system is made up of both roof and ground-mounted systems, the roof-mounted portions shall also be excluded.

**Solar Array:** A grouping of multiple solar modules with purpose of harvesting solar energy.

**Solar Cell:** The smallest basic solar electric device which generates electricity when exposed to light.

**Solar Collection System:** Includes all equipment required to harvest solar energy to generate electricity. The Solar Collection System includes storage devices, power conditioning equipment, transfer equipment, and parts related to the functioning of those items. Solar Collection Systems include only equipment up to (but not including) the stage that connection is made to the utility grid or site service point.

**Solar Glare:** The potential for solar panels to reflect sunlight, with an intensity sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

**Solar Land Coverage:** Defined exclusively for the purposes of calculating the footprint of the land area occupied by the components of a solar array. The Solar Land Coverage is the land area that encompasses all components of the solar collection system including, but not limited to mounting equipment, panels and ancillary components of the system. This definition does not include access roads or fencing and is not to be interpreted as a measurement of impervious surface as it may be defined in this ordinance.

**Solar Module:** A grouping of solar cells with the purpose of harvesting solar energy.

**Solar Power Generation Station:** Any solar collection system that is over 30 MW in nameplate capacity. In no case shall a Solar Power Generation Station exceed 150 acres.

**Utility Solar:** A use of land that consists of one or more free-standing, ground-mounted solar collection systems regardless of nameplate capacity that is over 50 acres in solar land coverage and less than 30 MW in rated nameplate capacity.

### 7.11.4 District Regulations

#### A. Table of Uses:

	<b>Zoning District</b>				
	<b>Residential R</b>	<b>Residential A, B</b>	<b>Commercial / Limited Commercial</b>	<b>ICI</b>	<b>ICI2 / Industrial</b>
<b>Residential Solar</b>	P	P	P	P	P
<b>Community Solar</b>	P	X	P	P	P
<b>Accessory Agricultural Solar</b>	P	X	P	P	P
<b>Primary Agricultural Solar</b>	CUP	X	P	P	P
<b>Commercial Solar</b>	CUP	X	X	CUP	CUP
<b>Large Commercial Solar</b>	CUP	X	X	CUP	CUP
<b>Industrial Solar</b>	X	X	X	CUP	CUP
<b>Utility Solar</b>	X	X	X	X	CUP
<b>Solar Power Generation Station</b>	X	X	X	X	CUP

- P = Use permitted by right with building and electrical permit.
- CUP = Use permitted by Conditional Use Permit.
- X = Use prohibited.

#### B. Specific Solar System Requirements and Exemptions:

1. A ground-mounted Accessory Residential Solar system over 15 feet in height at any point shall be located in rear yard between the primary structure and rear lot line. All other ground-mounted systems located in the front yard shall be reasonably screened from abutting residential properties.
2. Non-residential Carport Mounted solar collection systems over parking areas are permitted in all zones without a Conditional Use Permit. A site plan review shall be required in accordance with

the Town Development Regulations.

3. Roof-mounted solar collection systems of any size are permitted in all zones without a Conditional Use Permit except within the Oval District Overlay.
4. Municipal Systems: All solar collection systems for municipal use are exempt from land use regulations pursuant to NH RSA 674:54.

C. Additional Provisions Regarding Solar Collection Systems:

1. Building Height: Roof-mounted solar collection systems shall be exempt from building height limitations.
2. Solar Land Coverage: Ground-mounted solar collection systems shall not exceed 70% of the total lot area. The ground-mounted solar collection system shall not be considered impervious surface. Impervious surface limitations as related to stormwater management for solar collection systems shall be addressed in accordance with this Ordinance and the Milford Stormwater Management And Erosion Control Regulations.

### **7.11.5 Solar Collection Systems Conditional Use Permits**

A. Permit Required: No solar collection system, except as authorized by Section 7.11.4 shall be erected, constructed, installed or modified without first receiving a Conditional Use Permit (CUP) from the Planning Board pursuant to Section 7.14.0. The CUP shall clearly set forth all conditions of approval and shall list all plans, drawings and other submittals that are part of the approved use.

B. Application and Review Procedure:

1. An Application for a Conditional Use shall be initiated by filing with the Planning Board for an application for a Conditional Use Permit.
2. The applicant shall follow the requirements for specific uses as laid out in this Ordinance. The applicant shall submit an application in accordance with the Minor Site Plan development regulations and shall include the following:

a. System Layout.

- i. A detailed sketch or plan showing the installation area of the site.
- ii. A detailed sketch of any land clearing or grading required for the installation and operation of the system.
- iii. The location of all equipment to be installed on site including utility connection point(s) and equipment. To the maximum extent practical all wiring associated with the utility connection shall be underground.
- iv. All equipment locations, except for utility connections, shall comply with required setbacks.

b. Equipment Specification.

- i. All proposed equipment or specifications must be included with the application.
- ii. Such information can be supplied via manufacturer's specifications or through detailed

description.

3. Applicable Site Plan Review Regulations. The specific requirements for a Conditional Use Permit shall pre-empt any similar requirement in the Development Regulations.

C. Standards of Review:

Following a fully noticed public hearing on the proposed use, the Planning Board may issue a Conditional Use Permit, if it finds, based on the information and testimony submitted with respect to the application, that:

1. The use is specifically authorized by Section 7.11.4 as a conditional use.
2. The development in its proposed location will comply with Section 7.14.0 and with all applicable requirements of the Development Regulations not otherwise covered in this section.
3. The use will not materially endanger the public health or safety;
4. Required screening and visual mitigation shall be maintained during the operative lifetime of the Solar Collection System Conditional Use Permit.
5. In granting a conditional use permit pursuant to this section, the Planning Board may impose any reasonable conditions or restrictions deemed necessary to carry out the intended purpose of this ordinance.

### 7.11.6 Standards

A. The Planning Board shall evaluate the application for compliance with the following standards:

1. Setbacks.

Solar collection systems shall be considered structures and shall comply with dimensional setback requirements from lot lines for the entire system – including the panels. Tracking systems shall have the setback measured from the point and time where the array is closest to the lot line. No portion of a system may cross into the setback.

2. Natural Resource Impacts and Buffers.

- a. Solar collection systems shall be visually screened through the preservation of existing vegetation or through a landscaped buffer in accordance with the following:

- i. Plan: The buffering plan shall indicate the location, height and spacing of existing vegetation to be preserved and areas where new planting will be required.
- ii. All solar collection systems shall have a reasonable visual buffer as required in the Development Regulations from public ways and neighboring commercial/residential uses based on the viewsheds, contours of the land, and abutting land uses.
- iii. Areas that are within the view shed of significant value as identified in the Master Plan shall include additional reasonable mechanisms to mitigate a continuous and uninterrupted view of the system.

- b. Fencing shall be installed, if required, by the electric code or the utility. Additional security or fencing may be required if the location of the system presents a safety concern for abutting

land uses.

- c. Primary Agriculture Solar should minimize impacts to farmland activities and Prime Farmland Soils (as defined and delineated by soil survey and definition of NH NRCS). Dual use arrangements (solar and farming activities are encouraged where practical).
- d. Land Clearing.
  - i. Land clearing shall be limited to what is necessary for the installation and operation of the system and to insure sufficient all-season access to the solar resource given the topography of the land.
  - ii. Following construction, cleared land areas must be restored with native species that are consistent with the use of the site as a solar collection system (such as slow growth or low ground cover).
  - iii. Erosion control measures during construction shall be detailed as required by the Milford Development Regulations and the Town's Stormwater Management and Erosion Control Ordinance.
- e. Additional Requirements for Industrial, Utility, and Solar Power Generation Station (I/U/SPGS) Solar:
  - i. A detailed pre-construction and post-construction plan identifying existing vegetation and areas to be cleared with specific identification of locations of buffer areas adjacent to neighboring uses and public ways.
  - ii. The Planning Board, with input from the Conservation Commission, may require the applicant to submit an 'Environmental Study' in accordance with the Milford Development Regulations, Section 5.011 Environmental Study. Efforts and practices that can provide for a dual use of the site should be explored if feasible and encouraged where appropriate.
  - iii. The applicant shall demonstrate effective stormwater infiltration along with erosion control measures and soil stabilization.

### 3. Buffer Plan.

As deemed appropriate, all applications shall submit a detailed buffering plan demonstrating how the proposed ground-mounted solar installation will be incorporated into the local landscape so that effective screening is provided along public ways and from abutting views. The use of existing or created topography is encouraged to reduce visual impacts.

### 4. Stormwater.

- a. Stormwater and Erosion Control Permits
  - i. Ground-mounted systems that are required to obtain a New Hampshire Department of Environmental Services (NH DES) Alteration of Terrain (AoT) Permit in accordance with NH RSA 485:17 shall secure such permit accordingly.
  - ii. A Municipal Stormwater Permit and Stormwater Management and Erosion Control Plan (SWMP) shall be provided when required by and in conformance with the requirements of the Town of Milford's Stormwater Management and Erosion Control Regulation.

- iii. The final Permits issued by NH DES and Town shall be incorporated by reference into the final Town approval and shall be enforceable by the Town in accordance with this zoning ordinance.
  - b. The stormwater management plan shall include the following.
    - i. The stormwater study shall take into account the nature of the solar panel installation and how the spacing, slope and row separate can enhance infiltration of stormwater. Percolation tests or site specific soil information may be provided to demonstrate recharge can be achieved without engineered solutions.
    - ii. Additional information, if required, shall calculate potential for concentrated flows of runoff due to the panels, slope, soil type and the impacts of other regulated impervious areas (such as equipment pads and roadways).
  - c. Required for all systems:
    - i. All ground-mounted systems shall be constructed in accordance with Best Management Practices for erosion and sedimentation control during the pre-construction, construction and post- construction restoration period.
    - ii. Post construction: For purposes of enhancing natural stormwater management, site conditions and plantings post-construction shall insure that areas of soil compaction have been restored to natural conditions. Plantings shall be native species and are recommended to beneficial habitat to song birds, pollinators and/or foraging species in order to maintain a healthy surface and subsurface habitat that can attenuate stormwater on the site.
- 5. Emergency Response.
  - a. Access to the site for emergency response shall be provided and detailed on the plan.
  - b. A narrative or manual for municipal Fire Department detailing response guidance and disconnection locations necessary for fire response.
  - c. Additional industry guidance documents that provide information about safety procedures for specific equipment on site shall be provided as needed to insure adequate public safety.
  - d. Contact information for the solar collection system owner/operator shall be posted on site at the access way and provided and updated to the municipality.
- 6. Glare.
  - a. A statement detailing potential significant glare onto abutting structures and roadways estimating the interaction of sun to panel angle, time of year and visibility locations.
  - b. Based on the above information, the Planning Board may require reasonable mitigation. Mitigation may include angle of panels, details on the anti-reflective nature of the panel coating or any additional specific screening to minimize resulting impacts.
  - c. Mitigation through anti-reflective coatings shall have an index of refraction equal to or less than 1.30.
- 7. Noise.

- a. Estimates of any equipment noise on the site based on equipment specification materials (such as inverters).
- b. Noise levels at the property line shall be in accordance with the Town noise ordinance or at reasonable levels given the location of the facility with due consideration to the surrounding land uses and zone.

8. Lighting.

- a. On site lighting shall be minimal and limited to access and safety requirements only.
- b. All lighting shall be downcast and shielded from abutting properties.

B. General Requirements.

1. All Solar Collection Systems shall conform to applicable state and federal laws and regulations and local ordinances, including the State Building Code, the State Electrical Code and the State Fire Code.
2. All systems not connected to the grid shall be approved by the electrical inspector or Building Inspector, as required.
3. Transmission Lines Underground: All power transmission lines from a Ground-mounted Solar Energy System to any building or other structure shall be located underground and/or in accordance with the State Building Code or Electrical Code, as appropriate.
4. Grid-tied systems shall file a copy of a final approved interconnection with the municipality prior to operation of the system.
5. All roof-mounted and ground-mounted Solar Collection System require permits.
  - a. Electrical permits are required.
  - b. Plumbing permits may be required.
  - c. Building permits may be required.
  - d. Engineer stamped letter certifying that the roof can accommodate the load may be required.

**7.11.7 Abatement and Decommissioning/Removal**

Solar Collection Systems shall be deemed to be abandoned if operations have discontinued for more than 6 months without written consent of the Town (such as for reasons beyond the control of the owner/operator). An abandoned system shall be removed and the site restored within 6 months of abandonment.

**7.11.8 Violation**

It is unlawful for any person to construct, install or operate a Solar Collection System that is not in compliance with this Ordinance. Solar Collection Systems installed prior to adoption of this Ordinance are exempt from this Ordinance except or until such time as modifications are proposed to the Solar Collection System. If the owner fails to remove the abandoned Solar Collection System within the 6 months, the Town may pursue a legal action to have the system removed at the owner's expense.

### **7.11.9 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.

### **7.11.10 Severability**

If any section, phrase, sentence or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.



## **7.12.0 HOME BASED BUSINESS (2019)**

### **7.12.1 General Provisions**

There are four (4) categories of Home Based Businesses: Home Offices, Home Occupations, Home Businesses, and Home Industries. All categories are subject to the requirements listed below, in addition to the specific criteria contained herein for each individual category of use.

### **7.12.2 Administration of Permits**

- A. Each level of Home Based Business is permitted based on the criteria of the process stipulated in each section.
- B. Any approvals issued hereunder shall automatically terminate when the applicant moves the business, closes the business or no longer resides in the dwelling unit.
- C. Prior to commencement of a Home Based Business, the resident shall make application for a permit to the Community Development Office. The following criteria shall apply:
  - 1. A Certificate of Compliance shall be issued based on the level of approval required for the Home Based Business (administrative approval, Special Exception, Conditional Use Permit);
  - 2. Prior to the issuance of the Certificate of Compliance, the Code Officer will inspect the site to insure that any conditions required for operation of the Home Based Business have been met;
  - 3. The resident business owner shall submit to a Code Compliance Inspection once every three years. In the event that a Home Based Business is found to no longer be in compliance with the original approval, the resident business owner shall either seek additional approvals for the level of Home Based Business in operation relocate the business/operations to a suitable location in the appropriate district for that use.

### **7.12.3 Standard Applicable To All Home Based Businesses**

- A. The Home Based Business must be clearly incidental and secondary to the primary use of the premises as a residence.
- B. The Home Based Business must not change the character of the premises or surrounding neighborhood. There shall be no window displays or other features not normally associated with residential use.
- C. Parking that is necessary for all employed residents, employees, and customers must be accommodated off-street, and new parking areas must be screened from the view of abutters and from public ways (streets or pedestrian ways) utilizing plantings, fencing, and/or topography. When possible, parking areas shall be located at the side or rear of the residence or accessory buildings.
- D. Proof of compliance with all applicable federal, state, and/or local environmental controls is required, as well as any other applicable local zoning regulations.
- E. When the business use will necessitate the construction of new buildings, building additions, or

parking areas, the applicant shall seek a Conditional Use Permit from the Planning Board in conformance with Article 7.11.0 of the Milford Zoning Ordinance.

#### **7.12.4 Home Office**

A business that is operated solely by the resident(s) business owner(s) with no additional employees. All business operations shall be conducted by mail or electronic communication and involve no traffic to or from the property by customers, clients or deliveries, and no signage. Home offices are permitted in all districts and no permit or registration is required.

#### **7.12.5 Home Occupation**

An accessory business type use located and conducted so that the average neighbor, under normal circumstances, would not be aware of its existence. Types of occupations that would qualify for a Home Occupation Permit might include but are not limited to – tradespeople, artists, tutors, tailors, accountants, lawyers, engineers, realtors, healing practitioners, architects, IT professionals, not-for-profit organizations, bakers, and candy makers. Agriculture and Farming related activities, as defined in NH RSA 21:34-a as amended, are not considered a Home Occupation. Home Occupations are permitted in Residential A, B, R, ICI and IND districts.

##### **A. Administrative Review and Approval.**

The following criteria must be met for a Home Occupation Permit to be issued by the Community Development Office. A Home Occupation permit must be renewed every 3 years:

1. Location - The Home Occupation shall be conducted entirely within the dwelling or accessory structure.
2. Signs - A sign of not more than four (4) square feet is allowed and shall not advertise in such a way that would encourage customers or salespersons to come to the property without an appointment.
3. Employees - Only residents as employees, personnel or volunteers may be affiliated with the Home Occupation.
4. Area - There shall be not more than five hundred (500) square feet dedicated to the Home Occupation on any property.
5. Vehicles - Only one (1) branded vehicle to be used by the owner of the Home Occupation shall be kept onsite.
6. Traffic - There shall be not more than five (5) clients or deliveries per day.

#### **7.12.6 Home Business**

A Home Based Business involving the creation, provision, or sale of services and/or goods to and from the property. Businesses that qualify for a HOME BUSINESS include but are not limited to – tradespeople, artists, tutors, tailors, accountants, lawyers, engineers, realtors, healing practitioners, architects, IT professionals, not-for-profit organizations, bakers, and candy makers, single chair beauty/barber shops, small repair shops, groomers, family day care homes as defined herein. Home

Businesses are permitted in Residential A, B and R districts under the following criteria:

- A. **Special Exception Approval:** The following criteria must be met for a Special Exception for a Home Business to be issued by the Zoning Board of Adjustment.
1. Location - The Home Business shall be conducted entirely within the dwelling or accessory structure.
  2. Signs - a sign of not more than six (6) square feet is allowed and shall not advertise in such a way that would encourage customers or salespersons to come to the property without an appointment.
  3. Employees - There shall be no more than two (2) non-resident employees of the Home Business.
  4. Area - The Home Business shall not be more than 25% of the combined floor area of all structures on the property.
  5. Sales - Retail sales of goods incidental to Home Business are allowed.
  6. Traffic - There shall be not more than sixteen (16) clients or deliveries per day.
  7. Vehicles - There shall be no parking of or deliveries by vehicles with more than two (2) axles. Only one (1) commercial vehicle may be parked on the property in conjunction with the Home Business.
  8. Hours of Operation- A Home Business shall not be conducted in a way that is perceptible in external effects (such as but not limited to noise, odors, traffic) from beyond the lot line between the hours of 9:00 p.m. and 7:30 a.m. This time limit shall also apply to any loading or unloading of vehicles on the property or on a street that causes noise to adjoining residents.
  9. Hazardous Substances - The use shall not involve the storage or use of hazardous, flammable or explosive substances, other than types and amounts commonly found in a dwelling. The use shall not involve the use or storage of toxic substances.

#### **7.12.7 Home Industry**

A Home Based Business that has a manufacturing component and/or may involve the storage of equipment and materials outside. Businesses that qualify for a Home Industry include but are not limited to – brewers, landscapers, contractors where storage or manufacturing is included and other building trade professionals. Home Industries are permitted in Residential-R districts once a Conditional Use Permit has been issued by the Planning Board under the following criteria:

- A. **Conditional Use Permit:** In addition to the standards and conditions stated in Section 7.14.0 of the Milford Zoning Ordinance, the following criteria must be met for a Conditional Use Permit to be issued by the Planning Board.
1. No more than six (6) people, including the resident(s), may be employed on the premises.

2. The Home Industry may be conducted in part outdoors, but all such activities, equipment, and storage shall be permanently screened from the view of abutters and from public ways by buffers such as year round vegetation, fences, and/or topography.
3. No more than one quarter (25%) of the lot area, exclusive of areas covered by buildings, shall be used for the Home Industry, including outdoor storage or parking.
4. The Planning Board must determine that access to the premises by all vehicles that are anticipated to commonly serve the use will do so without adversely affecting safety in the vicinity, whether those vehicles are based on the premises or elsewhere.
5. Commercial vehicles may be permitted provided that the vehicles do not adversely affect the character of the neighborhood, as determined by the Planning Board.
6. Hours of Operation- A Home Industry shall be conducted in a way to minimize the external effects (such as but not limited to noise, odors, traffic) on abutting properties. The hours of operation shall be determined through the site plan review process.
7. Hazardous Substances - The use shall not involve the storage or use of hazardous, flammable or explosive substances, other than types and amounts commonly found in a dwelling. The use shall not involve the use or storage of toxic substances.

#### 7.12.8 Home Based Business Table of Uses

HOME BASED BUSINESS Type	Zones	Permit	Employees	Signs	Area	Sales	Traffic	Vehicles	Hours
Home Office	All	No	No	No	N/A	No	No	No	N/A
Home Occupation	Res A, B, R, ICI, IND	Admin Review	Resident	4 sq. ft.	500 sq ft inside only	Incidental only	5 clients/ deliveries per day	1 branded	N/A
Home Business	Res A, B, R	Special Exception	2 non-resident	6 sq ft	25% GFA, inside only	Incidental only	16 clients/ deliveries	1 commercial	7:30am to 9PM
Home Industry	Res R	Conditional Use	6 total employed on premise or per approval	Inside and out	25% of lot minus buildings	no	Per approval	Per approval	Per approval

## **7.13.0 SELF-STORAGE FACILITIES (2019)**

### **7.13.1 PURPOSE**

Self-Storage Facilities have characteristics in common with both commercial uses and industrial uses. This subsection provides regulations to appropriately site Self-Storage Facilities in Milford while maintaining the desired character of the community compatible with higher quality commercial development and existing neighborhoods.

### **7.13.2 District Regulations**

Self-Service Storage Facilities are permitted in the Integrated Commercial-Industrial, Integrated Commercial-Industrial 2 and Industrial Zoning Districts by the granting of a conditional use permit by the Planning Board.

### **7.13.3 CONDITIONAL USE PERMIT**

In addition to the standards and conditions stated in Section 7.14.0 of the Milford Zoning Ordinance, the following criteria must be met for a Conditional Use Permit to be issued by the Planning Board.

- A. Granting of the application would meet some public need or convenience.
- B. The property in question is reasonably suited for the use requested.
- C. There must be appropriate provision for access facilities adequate for the estimated traffic from public streets and sidewalks, so as to assure public safety and to avoid traffic congestion.
- D. The building design and layout is compatible with the surrounding properties.
- E. Landscaping and screening shall provide adequate visual mitigation to abutting properties.

### **7.13.4 STANDARDS**

- A. The Planning Board shall evaluate the application for compliance with the following standards:
  - 1. The use of the premises shall be limited to storage only, and shall not be used to manufacture, fabricate, or process goods; service or repair vehicles or boats, trailers, small engines or electrical equipment, or to conduct similar repair activities
  - 2. No auctions, garage sales or retail sales of any kind, with the exception of the property owner liquidating abandoned contents of a storage unit, shall be allowed on site.
  - 3. No commercial or industrial activity other than that which pertains to the operation and maintenance of the facility shall be allowed on the site.
  - 4. An individual self-service storage unit or private postal boxes within a self-service storage facility shall not be considered premises for the purpose of assigning a legal or business address.
  - 5. Electrical service to storage units shall be for lighting and climate control only. No electrical outlets are permitted inside individual storage units. Lighting fixtures and switches shall be of a secure design that will not allow tapping the fixtures for other purposes;

6. Exterior light fixtures shall comply with Section 6.06 of the Milford Development Regulations.
7. If the facility abuts residentially zoned property, the facility loading bays, docks or doors shall have appropriate permanent visual mitigation to as to not be visible from the residential property or from public rights-of-way;
8. In order to promote visual compatibility with commercial development allowed in commercial and industrial zones, Self-Storage Facility buildings shall incorporate appropriate landscaping/screening and architectural design features, such as: massing; proportion; facade modulation; exterior building materials and detailing; varied roofline; pedestrian scale; etc.
9. All outdoor storage of merchandise or commodities (including motor vehicles) shall be screened from any lot which is in a residence district by a strip at least four (4) feet wide, densely planted with shrubs or trees which are of a type that may be expected to form a year-round dense screen at least six (6) feet high within three (3) years, or by an opaque wall, barrier or uniform fence at least six (6) feet high above finished grade. Such screening shall be maintained in good condition at all times. Such screening or barrier may be interrupted by normal entrances or exits, and shall have no signs hung or attached thereto other than those permitted in the district. As a part of the Site Plan approval, the Planning Board may require additional screening beyond that set forth in Section 6.08 of the Milford Development Regulations if it determines that additional Screening is necessary or appropriate.
10. Self-storage facilities shall utilize building materials and architectural features which fit into the context of the surrounding properties.
11. Except as provided herein, all property stored on the premises shall be entirely within an enclosed building. Open storage of recreation vehicles, boats and storage pods is permitted, subject to the following:
  - a. Storage shall occur only in a designated area which is clearly delineated for open storage.
  - b. Such areas shall not exceed 10 percent of the lot or parcel area.
  - c. Such areas shall be screened from view from property zoned for detached single family residential use and public property, including the public right-of-way.
  - d. Storage shall not occur in required parking spaces, drives, parking lanes nor within required building setback areas.
  - e. No vehicle maintenance, washing or repair shall be permitted.
12. Vehicle and trailer rental may be permitted on the premises as an accessory use by the Self-Storage Facility owner, subject to review and approval as part of Site Plan Approval. Rental vehicles shall not be parked in required parking spaces, drives or parking lanes.

## **7.14.0 CONDITIONAL USE PERMITS**

### **7.14.1 GENERAL**

Conditional Use Permits as herein provided for shall be deemed to be permitted uses in their respective zones, subject to the satisfaction of the requirements and standards set forth herein, in addition to all other requirements and standards of this Ordinance. All such cases are hereby declared to possess characteristics of such unique and special form that each specific use shall be considered as an individual case. 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.

### **7.14.2 PLANNING BOARD TO ADMINISTER**

Wherever a conditional use permit is authorized by this Ordinance, the authority to administer or grant conditional use permits shall be vested in the Planning Board.

### **7.14.3 STANDARDS APPLICABLE TO ALL CONDITIONAL USE PERMITS**

#### **A. Conditions for Conditional Use Permits**

Before the Planning Board considers the approval of an application for a Conditional Use Permit, the applicant shall prove to the satisfaction of the Planning Board that all the following conditions have been met:

1. That the property in question is in conformance with the dimensional requirements of the zone or is determined to be legally non-conforming and that the proposed use is consistent with the Milford Master Plan.
2. That the proposal meets the purposes of the Ordinance under which the application is proposed.
3. That there will be no significant adverse impacts resulting from the proposed use upon the public health, safety and general welfare of the neighborhood and the Town of Milford.
4. That the proposed use will not be more objectionable to nearby properties by reason of noise, fumes, vibration, or inappropriate lighting than any use of the property permitted under the existing Zoning District Ordinances.
5. That the proposed use will not adversely affect the ground water resource of Milford, in particular the Groundwater Protection District areas as defined in Section 6.01.0 of this Ordinance.

#### **B. The applicant shall follow the requirements for specific uses as laid out in this Ordinance and submit an application in accordance with the Minor Site Plan regulations.**

#### **C. Conditions of Approval**

1. The Planning Board may attach such conditions to its approval as are reasonable, necessary and appropriate.
2. All Conditional Use Permit uses are hereby declared to have special characteristics that shall be considered on a case-by-case basis.

D. Limits on a Conditional Use Permit

1. Substantial construction must commence within one (1) year of the Planning Board approval of the Conditional Use Permit.
2. If construction is not commenced within this period, prior to expiration, the applicant may apply at a regular Planning Board meeting for one, six-month extension to allow time to commence construction. The approval of this extension shall be at the Board's discretion.

**7.14.4 BUILDING PERMITS FOR CONDITIONAL USE PERMITS**

A building permit for a Conditional Use Permit shall not be issued by the Board of Selectmen or their duly appointed representative, the Administrative official, until so directed by the Planning Board who shall first be satisfied that all the standards and conditions of this section and the Ordinance have been met.

**7.14.5 WAIVERS**

The Planning Board may grant a waiver from a specific section of the Conditional Use Permit in a special case when:

- A. The strict application would result in peculiar and exceptional practical difficulties or exceptional and undue hardship upon the owner of the affected property; or
- B. An alternative design approach which meets the purpose of the Ordinance equally well or better than compliance with the existing standards and conditions.

In either of the forgoing circumstances, the waiver may be granted so that justice may be done and the public interest secured, provided that such waiver will not have the effect of nullifying the intent and purposes of this section, the Zoning Ordinance, Development Regulations or the Master Plan.

The Planning Board shall approve or disapprove waivers based upon the evidence presented to it in each specific case.



## **ARTICLE VIII: ADMINISTRATION**

### **8.01.0 ENFORCEMENT (2012)**

This Ordinance shall be enforced by the Board of Selectmen, and the Board of Selectmen is hereby given power and authority to enforce the provisions of this Ordinance. The Board of Selectmen is further empowered to confer upon an administrative official appointed by the Board of Selectmen the duty of administering the provisions of this Ordinance in accordance with RSA 676:17 (as amended) or as otherwise authorized by RSA. A copy of RSA 676:17 is included in appendix.

### **8.02.0 BUILDING PERMITS**

**8.02.1** No building or dwelling shall be constructed nor shall any structural alteration or enlargement of any existing building or dwelling or the placement of a mobile home for use as a dwelling be commenced until a permit shall have been obtained from the Board of Selectmen or their duly authorized representative.

**8.02.2** The Board of Selectmen or their authorized representative may require of any applicant for a permit such sketches, drawings, plot plans, or other material as may be deemed necessary by the Board in connection with the issuance of the permit.

**8.02.3** If an applicant for a permit requests a permit to undertake an activity on a lot not conforming in size and frontage as otherwise required by this Ordinance, such applicant shall file as part of his application the date of the recording and register of deeds volume and page number of the lot involved.

**8.02.4** The State of New Hampshire Building Code pursuant to NH RSA 155-A more appropriately titled *The International Codes*, including adopted Appendix Chapters and amendments, shall govern and regulate the construction, alteration, movement, enlargement, replacement, repair, equipment, location, removal and demolition of all detached one and two family dwellings, multiple single-family dwellings (townhouses), multiple family dwellings and all other commercial and industrial buildings in the Town of Milford, said Codes also provides for the issuance of permits and collection of fees. (2009)

**8.02.5** A building permit is not required for the construction of an accessory structure that is two hundred (200) sq. ft. or less and does not have electricity or plumbing. A building permit is required for the construction of an accessory structure greater than two hundred (200) sq. ft. or an accessory structure of any size that has electricity or plumbing. A building permit is also required for the addition of electricity or plumbing to any existing accessory structure. (2017)

### **8.03.0 CERTIFICATE OF OCCUPANCY**

Any subdivision approved subsequent to March 11, 1986 which requires road system layout and construction, shall have provided in accordance with the Town Road Standards the base coat of surface pavement, which shall be subject to approval by the Department of Public Works and the Planning Board, prior to the issuance of any Certificate of Occupancy for any structure whose lot frontage would include any part of such proposed road system. Private ways shall be considered exempt from this requirement.

#### **8.04.0 DRIVEWAY ENTRANCE PERMIT (2008)**

A driveway entrance permit is required from the Milford Department of Public Works for any construction of any new or alteration of any existing driveway, entrance, exit or approach within the limits of the right of way of any town road. This permit shall be required for new impervious surfaces over 2,500 SF applied to any existing unpaved driveway in the Level 1 or Level 2 Groundwater Protection District (See section 6.01.2).

#### **8.05.0 2009 INTERNATIONAL PROPERTY MAINTENANCE CODE (2010)**

An Ordinance establishing the minimum regulations governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to insure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures; known as the property maintenance code.

#### **8.05.1 SECTION 1: ADOPTION OF PROPERTY MAINTENANCE CODE (2010)**

That a certain document, three (3) copies of which are on file in the office of the town clerk of the Town of Milford, being marked and designated as "the International Property Maintenance Code, 2009," as published by the International Code Council, be and is hereby adopted as the Property Maintenance Code of the Town of Milford, in the State of NH for regulating and governing the conditions and maintenance of all property, buildings, and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said Property Maintenance Code on file in the office of the Town of Milford are hereby referred to, adopted, and made a part hereof, as if fully set out in this Ordinance, with the additions, insertions, deletions and changes, if any, prescribed in Section 2 of this Ordinance.

#### **8.05.2 SECTION 2: ADDITIONS, INSERTIONS AND CHANGES (2010)**

That the 2009 International Property Maintenance Code is amended and revised in the following respects:

Section -101.1

*Insert: Town of Milford*

Section 103.5

*Delete section*

Section 302.4

*Delete section*

Section 302.7

*Delete the word "fence"*

Section 304.14

*Insert: May 1 to October 1*

Section 602.3

*Insert: October 1 to May 31*

Section 602.4

*Insert: October 1 to May 31*

### **8.05.3 SECTION 3: INCONSISTENT ORDINANCES REPEALED**

That Ordinance No. 8.05.0 of The Town of Milford entitled 1993 BOCA NATIONAL PROPERTY MAINTENANCE CODE and all other Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

### **8.05.4 SECTION 4: SAVING CLAUSE**

That if any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The Town of Milford hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

### **8.05.5 SECTION 5: SAVING CLAUSE**

That nothing in this Ordinance or in the Property Maintenance Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or Ordinance hereby repealed as cited in Section {2} of this Ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Ordinance.

### **8.05.6 SECTION 6: DATE OF EFFECT**

That the Town Clerk shall certify to the adoption of this Ordinance, and cause the same to be published as required by law; and this Ordinance shall take effect and be in force from and after its approval as required by law.

## Appendix I

**TITLE LXIV  
PLANNING AND ZONING  
CHAPTER 676  
ADMINISTRATIVE AND ENFORCEMENT PROCEDURES  
Penalties and Remedies - Section 676:17**

**676:17 Fines and Penalties; Second Offense. –**

I. Any person who violates any of the provisions of this title, or any local ordinance, code, or regulation adopted under this title, or any provision or specification of any application, plat, or plan approved by, or any requirement or condition of a permit or decision issued by, any local administrator or land use board acting under the authority of this title shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person; and shall be subject to a civil penalty of \$275 for the first offense, and \$550 for subsequent offenses, for each day that such violation is found to continue after the conviction date or after the date on which the violator receives written notice from the municipality that the violator is in violation, whichever is earlier. Each day that a violation continues shall be a separate offense.

II. In any legal action brought by a municipality to enforce, by way of injunctive relief as provided by RSA 676:15 or otherwise, any local ordinance, code or regulation adopted under this title, or to enforce any planning board, zoning board of adjustment or building code board of appeals decision made pursuant to this title, or to seek the payment of any fine levied under paragraph I, the municipality shall recover its costs and reasonable attorney's fees actually expended in pursuing the legal action if it is found to be a prevailing party in the action. For the purposes of this paragraph, recoverable costs shall include all out-of-pocket expenses actually incurred, including but not limited to, inspection fees, expert fees and investigatory expenses.

III. If any violation of a local ordinance, code or regulation, or any violation of a planning board, zoning board of adjustment or building code board of appeals decision, results in the expenditure of public funds by a municipality which are not reimbursed under paragraph II, the court in its discretion may order, as an additional civil penalty, that a violator make restitution to the municipality for such funds so expended.

IV. The superior court may, upon a petition filed by a municipality and after notice and a preliminary hearing as in the case of prejudgment attachments under RSA 511-A, require an alleged violator to post a bond with the court to secure payment of any penalty or remedy or the performance of any injunctive relief which may be ordered or both. At the hearing, the burden shall be on the municipality to show that there is a strong likelihood that it will prevail on the merits, that the penalties or remedies sought are reasonably likely to be awarded by the court in an amount consistent with the bond sought, and that the bond represents the amount of the projected expense of compliance with the injunctive relief sought.

V. The building inspector or other local official with the authority to enforce the provisions of this title or any local ordinance, code, or regulation adopted under this title may commence an action under paragraph I either in the district court pursuant to RSA 502-A:11-a, or in the superior court. The prosecuting official in the official's discretion may, prior to or at the time of arraignment, charge the offense as a violation, and in such cases the penalties to be imposed by the court shall be limited to those provided for a violation under RSA 651:2 and the civil penalty provided in subparagraph I(b) of this section. The provisions of this section shall supersede any inconsistent local penalty provision.

**Source.** 1983, 447:1. 1985, 103:25; 210:4. 1988, 19:6, 7. 1996, 226:5, 6. 1997, 92:4, 5. 2004, 242:1. 2006, 101:1, eff. Jan. 1, 2007. 2009, 173:1, eff. Sept. 11, 2009.

## **ARTICLE IX: BOARD OF ADJUSTMENT (1986)**

### **9.01.0 AUTHORIZATION**

In accordance with the provisions of the New Hampshire Revised Statutes Annotated (NH RSA), 1955, Chapter 31 (updated 1985, Chapter 674.33) as amended and as hereinafter a Board of Adjustment is established.

### **9.02.0 MEMBERS**

The Board of Adjustment shall consist of five members appointed by the Board of Selectmen in the Town of Milford. Appointments to the Board shall be for a term of three (3) years. Members of the Board shall serve without compensation. The Board shall elect one of its members to serve as chairman. The Board shall have five (5) alternate members to be appointed by the Board of Selectmen for a term of three (3) years each. (1997)

### **9.03.0 DUTIES & POWERS**

The Board of Adjustment shall perform all the duties and have all the powers provided by the New Hampshire revised statutes annotated, 1955, as amended and as hereinafter provided.

### **9.04.0 MEETINGS**

Meeting of the Board shall be held at the call of the chairman and at such other times as the Board of Adjustment may determine. All meetings shall be open to the public. The Board shall keep a record of all proceedings showing the vote upon every question. Every rule or regulation, every amendment or repeal thereof and every order, requirement or decision of the Board of Adjustment shall immediately be filed in the Office of the Zoning Administrator and shall become a public record. The concurring vote of three members of the Board of Adjustment shall be necessary to reverse any order, requirement, or determination of the administrative office or to decide any matter upon which it is required to pass or effect any variance from the strict application of the provisions of this Ordinance.

### **9.05.0 RULES**

The Board of Adjustment shall adopt and promulgate rules of procedure for the guidance of all persons having business before the Board.

**ARTICLE X: ADMINISTRATIVE RELIEF**

**10.01.0 VARIANCES (2012)**

**10.01.1**

Any request for a permit of any nature required under this Ordinance which will require a variance from the prescribed standards of this Ordinance shall be made only by the owner of the property in question, the owner's duly appointed agent and shall be transmitted to the Board of Adjustment or its duly appointed official to the Board. All variance requests made to the Zoning Board of Adjustment shall be made in accordance with RSA 676:5 (as amended), a copy of which is included in the Appendix.

**10.01.2**

Every variance granted by the Board of Adjustment shall be in accordance with the powers of the Board as stated in RSA 674:33 (as amended), a copy of which is included in the appendix.

**10.02.0 SPECIAL EXCEPTIONS**

**10.02.1**

The Board of Adjustment may in appropriate cases and subject to appropriate conditions and safeguards as determined by the Board, grant permits for such special exceptions as allowed in the various zoning districts as set forth in Article II. The Board may refer all applications for special exceptions to the Planning Board for its review and recommendations prior to holding public hearing on the application. The Board of Adjustment, in acting on an application for a special exception shall take into consideration the following conditions: (1992)

- A. The proposed use shall be similar to those permitted in the district.
- B. The specific site is an appropriate location for the proposed use.
- C. The use as developed will not adversely affect the adjacent area.
- D. There will be no nuisance or serious hazard to vehicles or pedestrians.
- E. Adequate appropriate facilities will be provided for the proper operation of the proposed use.

**10.02.2**

The Board of Adjustment shall act upon an application for a special exception in the same manner as prescribed in Section 10.01.1 of this article.

**10.02.3 HOME OCCUPATIONS**

- A. In all cases involving home occupations, the Board of Adjustment in addition to the criteria contained herein shall consider the following requirements:

1. The person conducting the home occupation shall reside in the dwelling unit, and there shall be no more than one (1) non-resident person employed in connection with such occupation.
  2. There shall be no evidence outside the dwelling, except permitted signs and required off-street parking, that the dwelling contains a home occupation.
  3. The home occupation shall not exceed 25% of the combined gross floor area of the existing home and any accessory structures, or 1,000 SF, whichever is less. (2016)
  4. Accessory finished goods may be provided for sale in conjunction with the home occupation, sold and stored in allowed home occupation space only. (2008)
  5. The home occupation and the conduct thereof shall not impair the residential character of the premises nor impair the reasonable use, enjoyment and value of other residential property in the neighborhood.
- B. Any special exceptions issued hereunder shall automatically terminate when the applicant no longer resides in the dwelling unit.
- C. Prior to commencement of a Home Occupation, the homeowner shall make application for a permit to the Community Development Office, submit to a Code Compliance Inspection specific to the location or area of the Home Occupation. (2012)

**10.02.4 SELF-SERVICE STORAGE FACILITIES (1997)**

Entire Section DELETED in 2019.

**10.02.5 MANUFACTURING IN THE “C”- COMMERCIAL DISTRICT (2011)**

Entire Section DELETED in 2011.

**10.02.6 ACCESSORY DWELLING UNITS (2017)**

- A. In all cases involving an Accessory Dwelling Unit (ADU):
1. An ADU shall meet the following minimum requirements:
    - a. Only one (1) ADU shall be allowed per property. (2013)
    - b. Either the principal dwelling unit or the ADU must be owner occupied. (2017)
    - c. The size of an ADU shall be no more than 750 SF gross floor area. (2017)
    - d. The ADU shall include no more than two (2) bedrooms. (2017)
    - e. No additional curb cuts shall be allowed.
    - f. An attached ADU shall have and maintain at least one common interior access between the principal dwelling unit and the ADU consisting of a connector that is a minimum of 36” in width or a doorway a minimum of 32” in width. (2017)

- g. The ADU shall be located in an existing or proposed single-family dwelling, its detached accessory structure(s), or as a stand-alone dwelling unit subordinate to the single-family dwelling. (2017)
  - h. Deleted (2013)
  - i. An existing, nonconforming, single-family residential structure or its detached accessory structure shall not be made more nonconforming. (2013)
  - j. An ADU shall meet all applicable local and State Building, Fire and Health Safety Codes. (2012)
  - k. Must have adequate provisions for a water supply and sewerage disposal method for the ADU, in accordance with NH RSA 485-a:38 Approval to Increase Load on a Sewage Disposal System (as amended). (2017)
2. The Board of Adjustment, prior to granting a Special Exception, shall conduct a hearing to determine if the proposed ADU complies with the following criteria:
- a. The ADU must be developed in a manner which does not alter the character or appearance of the principal use as a single-family dwelling. (2017)
  - b. The ADU is intended to be secondary and accessory to a principal single-family dwelling unit.
  - c. The ADU shall not impair the residential character of the premises nor impair the reasonable use, enjoyment and value of other property in the neighborhood.
  - d. Adequate off-street parking must be provided.
  - e. Any necessary additional entrances or exits shall be located to the side or rear of the building whenever possible.
- B. All ADUs must apply for a compliance inspection when a change of ownership occurs, to ensure compliance with Section 10.02.6:A.
- C. Existing Unpermitted Accessory Dwelling Units:
- Unpermitted Accessory Dwelling Units found to be in existence prior to the passage of this Section and are not legally non-conforming, must obtain Special Exception approval to continue to be occupied in accordance with the following criteria: (2010)
- 1. The ADU complies with all requirements in 10.02.6.A.
  - 2. Prior to the Special Exception application being heard by the Zoning Board of Adjustment, a compliance inspection shall be conducted by the Code Enforcement Department.
  - 3. Within forty-five (45) days of the approval of a Special Exception to allow the continuation of an existing unpermitted ADU, the applicant shall complete one of the following:
    - a. If the ADU has been found to meet all applicable codes, or will need alterations that do not require a building permit, obtain a certificate of compliance from Code Enforcement based on the code compliance inspection; or



- b. If the ADU has been found not to meet all applicable codes, and a building permit is required, the ADU shall pass all required inspections and obtain a certificate of occupancy.
- D. Failure to obtain a certificate of compliance or occupancy for an ADU shall be a violation of the Milford Zoning Ordinance and subject to enforcement action.

**10.02.7 OFFICE IN THE RESIDENCE A AND B DISTRICTS (2011)**

- A. In all cases involving offices in the Residence A and Residence B districts, the following shall be minimum performance standards for approval by the Zoning Board of Adjustment:
  - 1. The specific site of the proposed office use will be located in an existing building that is an appropriate location for the proposed use;
  - 2. The use as proposed will not adversely affect adjacent areas;
  - 3. There will be no nuisance, such as but not limited to: noise, odor, hours of operation, traffic, deliveries and lighting;
  - 4. There will be no outside storage; and
  - 5. The use shall require site plan approval by the Planning Board, subsequent to Zoning Board approval.

**10.03.0 APPEALS TO THE BOARD (2008)**

**10.03.1**

The Board of Adjustment shall hear and decide appeals in accordance with NH RSA 674:33 and NH RSA 676:5 through 676:7. The rules of the Board of Adjustment shall specify the time within which such an appeal shall be taken.

**10.03.2**

Appeals of Planning Board decisions exercising subdivision or site plan review shall be made to the Board of Adjustment in accordance with NH RSA 676:5,III. All other appeals of Planning Board decisions may be made in superior court in accordance with NH RSA 677:15.

**10.04.0 APPEAL FROM ORDER OF THE BOARD OF ADJUSTMENT (2008)**

Rehearings by the Board of Adjustment shall be conducted in accordance with NH RSA 677:2 and :3. Appeals from the Board of Adjustment's decision on a motion for rehearing shall be conducted in accordance with NH RSA 677:4 through 14.

**10.05.0 PLANNING BOARD REVIEW NECESSARY (2008)**

Whenever a variance or special exception is required for a use or structure which must also receive subdivision or site plan review by the Planning Board such required variance or special exception must be received from the Board of Adjustment prior to Planning Board final approval of the subdivision or site plan.

**10.06.0 EXPIRATION (2015)**

If within two (2) years after the granting of a variance or special exception by the Board of Adjustment, none of the work required by a building permit covered by a variance or special exception has been executed, then such variance or special exception shall become null and void except in any case where legal proceedings relative to the variance or special exception shall have caused an undue delay in the execution of the required building permit. Only one, six-month extension may be granted for any variance or special exception. The applicant may apply for the extension at a regularly scheduled Zoning Board meeting.

**10.07.0 EQUITABLE WAIVER (2012)**

All equitable waivers of dimensional requirements shall be governed by RSA 674:33-a (as amended), a copy of which is included in the Appendix.

**Appendix I, 676:5 Appeals to Board of Adjustment**

**TITLE LXIV  
PLANNING AND ZONING  
CHAPTER 676  
ADMINISTRATIVE AND ENFORCEMENT PROCEDURES  
Zoning Board of Adjustment  
Section 676:5**

**676:5 Appeals to Board of Adjustment. –**

I. Appeals to the board of adjustment concerning any matter within the board's powers as set forth in RSA 674:33 may be taken by any person aggrieved or by any officer, department, board, or bureau of the municipality affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the officer from whom the appeal is taken and with the board a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

II. For the purposes of this section:

(a) The "administrative officer" means any official or board who, in that municipality, has responsibility for issuing permits or certificates under the ordinance, or for enforcing the ordinance, and may include a building inspector, board of selectmen, or other official or board with such responsibility.

(b) A "decision of the administrative officer" includes any decision involving construction, interpretation or application of the terms of the ordinance. It does not include a discretionary decision to commence formal or informal enforcement proceedings, but does include any construction, interpretation or application of the terms of the ordinance which is implicated in such enforcement proceedings.

III. If, in the exercise of subdivision or site plan review, the planning board makes any decision or determination which is based upon the terms of the zoning ordinance, or upon any construction, interpretation, or application of the zoning ordinance, which would be appealable to the board of adjustment if it had been made by the administrative officer, then such decision may be appealed to the board of adjustment under this section; provided, however, that if the zoning ordinance contains an innovative land use control adopted pursuant to RSA 674:21 which delegates administration, including the granting of conditional or special use permits, to the planning board, then the planning board's decision made pursuant to that delegation cannot be appealed to the board of adjustment, but may be appealed to the superior court as provided by RSA 677:15.

IV. The board of adjustment may impose reasonable fees to cover its administrative expenses and costs of special investigative studies, review of documents, and other matters which may be required by particular appeals or applications.

V. (a) A board of adjustment reviewing a land use application may require the applicant to reimburse the board for expenses reasonably incurred by obtaining third party review and consultation during the review process, provided that the review and consultation does not substantially replicate a review and consultation obtained by the planning board.

(b) A board of adjustment retaining services under subparagraph (a) shall require detailed invoices with reasonable task descriptions for services rendered. Upon request of the applicant, the board of adjustment shall promptly provide a reasonably detailed accounting of expenses, or corresponding escrow deductions, with copies of supporting documentation.

**Source.** 1983, 447:1. 1987, 256:5. 1989, 69:1. 1991, 231:13. 1995, 243:1, eff. Jan. 1, 1996. 2010, 303:1, eff. Sept. 11, 2010.

**TITLE LXIV- PLANNING AND ZONING**

**CHAPTER 674**

**LOCAL LAND USE PLANNING AND REGULATORY POWERS**

**Section 674:33**

**Zoning Board of Adjustment and Building Code Board of Appeals**

**674:33 Powers of Zoning Board of Adjustment. –**

I. The zoning board of adjustment shall have the power to:

(a) Hear and decide appeals if it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of any zoning ordinance adopted pursuant to RSA 674:16; and

(b) Authorize, upon appeal in specific cases, a variance from the terms of the zoning ordinance if:

(1) The variance will not be contrary to the public interest;

(2) The spirit of the ordinance is observed;

(3) Substantial justice is done;

(4) The values of surrounding properties are not diminished; and

(5) Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.

(A) For purposes of this subparagraph, "unnecessary hardship" means that, owing to special conditions of the property that distinguish it from other properties in the area:

(i) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and

(ii) The proposed use is a reasonable one.

(B) If the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

The definition of "unnecessary hardship" set forth in subparagraph (5) shall apply whether the provision of the ordinance from which a variance is sought is a restriction on use, a dimensional or other limitation on a permitted use, or any other requirement of the ordinance.

I-a. Variances authorized under paragraph I shall be valid if exercised within 2 years from the date of final approval, or as further extended by local ordinance or by the zoning board of adjustment for good cause, provided that no such variance shall expire within 6 months after the resolution of a planning application filed in reliance upon the variance.

II. In exercising its powers under paragraph I, the zoning board of adjustment may reverse or affirm, wholly or in part, or may modify the order, requirement, decision, or determination appealed from and may make such order or decision as ought to be made and, to that end, shall have all the powers of the administrative official from whom the appeal is taken.

III. The concurring vote of 3 members of the board shall be necessary to reverse any action of the administrative official or to decide in favor of the applicant on any matter on which it is required to pass.

IV. A local zoning ordinance may provide that the zoning board of adjustment, in appropriate cases and subject to appropriate conditions and safeguards, make special exceptions to the terms of the ordinance. All special exceptions shall be made in harmony with the general purpose and intent of the zoning ordinance and shall be in accordance with the general or specific rules contained in the ordinance. Special exceptions authorized under this paragraph shall be valid if exercised within 2 years from the date of final approval, or as further extended by local ordinance or by the zoning board of adjustment for good cause, provided that no such special exception shall expire within 6 months after the resolution of a planning application filed in reliance upon the special exception.

Continued on next page

**TITLE LXIV- PLANNING AND ZONING**  
**CHAPTER 674**  
**LOCAL LAND USE PLANNING AND REGULATORY POWERS**  
**Section 674:33**  
**Zoning Board of Adjustment and Building Code Board of Appeals**

**674:33 Powers of Zoning Board of Adjustment. –**

**(Continued from prior page)**

V. Notwithstanding subparagraph I(b), any zoning board of adjustment may grant a variance from the terms of a zoning ordinance without finding a hardship arising from the condition of a premises subject to the ordinance, when reasonable accommodations are necessary to allow a person or persons with a recognized physical disability to reside in or regularly use the premises, provided that:

(a) Any variance granted under this paragraph shall be in harmony with the general purpose and intent of the zoning ordinance.

(b) In granting any variance pursuant to this paragraph, the zoning board of adjustment may provide, in a finding included in the variance, that the variance shall survive only so long as the particular person has a continuing need to use the premises.

VI. The zoning board of adjustment shall not require submission of an application for or receipt of a permit or permits from other state or federal governmental bodies prior to accepting a submission for its review or rendering its decision.

VII. Neither a special exception nor a variance shall be required for a collocation or a modification of a personal wireless service facility, as defined in RSA 12-K:2.

**Source.** 1983, 447:1. 1985, 103:20. 1987, 256:1. 1998, 218:1, eff. Aug. 17, 1998. 2009, 307:6, eff. Jan. 1, 2010.

**TITLE LXIV  
PLANNING AND ZONING  
CHAPTER 674  
LOCAL LAND USE PLANNING AND REGULATORY POWERS  
Zoning Board of Adjustment and Building Code Board of Appeals  
Section 674:33-a**

**674:33-a Equitable Waiver of Dimensional Requirement. –**

I. When a lot or other division of land, or structure thereupon, is discovered to be in violation of a physical layout or dimensional requirement imposed by a zoning ordinance enacted pursuant to RSA 674:16, the zoning board of adjustment shall, upon application by and with the burden of proof on the property owner, grant an equitable waiver from the requirement, if and only if the board makes all of the following findings:

(a) That the violation was not noticed or discovered by any owner, former owner, owner's agent or representative, or municipal official, until after a structure in violation had been substantially completed, or until after a lot or other division of land in violation had been subdivided by conveyance to a bona fide purchaser for value;

(b) That the violation was not an outcome of ignorance of the law or ordinance, failure to inquire, obfuscation, misrepresentation, or bad faith on the part of any owner, owner's agent or representative, but was instead caused by either a good faith error in measurement or calculation made by an owner or owner's agent, or by an error in ordinance interpretation or applicability made by a municipal official in the process of issuing a permit over which that official had authority;

(c) That the physical or dimensional violation does not constitute a public or private nuisance, nor diminish the value of other property in the area, nor interfere with or adversely affect any present or permissible future uses of any such property; and

(d) That due to the degree of past construction or investment made in ignorance of the facts constituting the violation, the cost of correction so far outweighs any public benefit to be gained, that it would be inequitable to require the violation to be corrected.

II. In lieu of the findings required by the board under subparagraphs I(a) and (b), the owner may demonstrate to the satisfaction of the board that the violation has existed for 10 years or more, and that no enforcement action, including written notice of violation, has been commenced against the violation during that time by the municipality or any person directly affected.

III. Application and hearing procedures for equitable waivers under this section shall be governed by RSA 676:5 through 7. Rehearings and appeals shall be governed by RSA 677:2 through 14.

IV. Waivers shall be granted under this section only from physical layout, mathematical or dimensional requirements, and not from use restrictions. An equitable waiver granted under this section shall not be construed as a nonconforming use, and shall not exempt future use, construction, reconstruction, or additions on the property from full compliance with the ordinance. This section shall not be construed to alter the principle that owners of land are bound by constructive knowledge of all applicable requirements. This section shall not be construed to impose upon municipal officials any duty to guarantee the correctness of plans reviewed by them or property inspected by them.

**Source.** 1996, 226:4, eff. Jan. 1, 1997.

## **ARTICLE XI: IMPACT FEES (2003)**

### **11.01.0 GENERAL**

#### **11.01.1 AUTHORITY**

This Ordinance is established pursuant to The State of New Hampshire RSA 674:21 (V). All references in this Ordinance will refer to State of New Hampshire RSAs.

#### **11.01.2 INTENT**

This Ordinance is intended to:

Implement and be consistent with the Town of Milford's Master Plan; and

Allocate a fair and equitable share of the cost of public capital facilities (including school construction) to new development (exclusive of existing impact fee regulations that relate to sewer and water facilities enacted pursuant to NH RSA 38 and NH RSA 149-I, currently in place); and

Require that new development contribute its proportionate share of funds necessary to accommodate its impact on public facilities; and

Apply to all forms of development identified in NH RSA 674:21 (V), other than the sewer and water facilities identified above.

#### **11.01.3 FINDINGS**

The Town of Milford is responsible for and committed to the provision of public facilities and services at levels necessary to support residential and non-residential growth and development.

Such facilities and services have been and will be provided by the Town utilizing funds allocated via the Capital Improvements Program as regularly updated pursuant to NH RSA 674:5.

The rate of growth experienced by the Town in recent years and projected growth rates, have and will continue to necessitate an expenditure of public funds in order to provide adequate facility standards.

New development may create a need for the construction, equipping or expanding of public capital facilities.

The imposition of impact fees is one of the available methods of ensuring that public expenditures are not excessive, and that new development bears a proportionate share of the cost of public capital facilities necessary to accommodate such development. This must be done in order to promote and ensure the public health, safety and welfare.

The fees established by the Impact Fee Schedules for the categories identified in Section 11.031 are derived from, based upon, and shall not exceed the costs of:

Providing additional public capital facilities necessitated by the new development for which the fees are levied; or

Compensating the Town of Milford for expenditures made for existing public facilities that were constructed in anticipation of new growth and development.

#### **11.01.4 DEFINITIONS**

The following definitions shall apply to ARTICLE XI - Impact Fees.

**Accessory Structure - Non-Residential:** A structure on the same lot with, and of a nature incidental and subordinate to, the principal structure.

**Applicant:** A person or agent applying for the issuance of a building permit, permit for manufactured home installation, subdivision, site plan or other local land use decision, permit or approval.

**Dwelling Unit:** One room or rooms connected together, constituting a separate, independent housekeeping establishment physically separated from any other dwelling units in the same structure, and containing independent cooking and sleeping facilities.

**New Development:** Any activity that results in:

- The creation of a new dwelling unit or dwelling units;
- The conversion of a non-residential use to a dwelling unit or dwelling units;
- Construction of new non-residential facilities and/or accessory structures;
- The conversion of a residential use to non-residential use.

New Development does not include:

The reconstruction of a residential or non-residential structure that has been destroyed by fire or natural disaster, provided there is no change in the number of dwelling units or size of the structure;

The replacement of a manufactured home with another manufactured home provided there is no change in the number of dwelling units or size of the structure.

**Public Capital Facilities:** Facilities and equipment which are owned and operated by the Town of Milford, the Milford School System, or cooperatively with other municipalities and which have a useful life of no less than five years. Public capital facilities do not include the costs associated with the operation, maintenance or repair of such facilities, or with facility replacements that do not increase the capacity or level of service, but do include reasonable costs for planning, engineering, design, land acquisition, and other reasonable costs associated with such facilities.

**Total Non-Residential Area:** The total area of a non-residential structure shall equal the sum of the gross horizontal area of each floor and mezzanine. Any non-residential structure with an area of one hundred twenty (120) square feet or less is excluded.

**Total Residential Area:** The total residential area of a residential structure shall be equal to the sum of the gross horizontal area of each floor, including attached decks, porches, breezeways, sun rooms, balconies and attached garages. Total residential area excludes basements, cellars and detached outbuildings.



### **11.02.0 OFF-SITE IMPROVEMENT**

An improvement that is required by the Planning Board for either a site plan or subdivision that is necessary, in the judgment of the Planning Board, for the project to operate properly on the day that it opens shall be considered to be an Off-Site Improvement. Off-site improvements for site specific applications shall be assessed on a case by case basis and shall be in addition to other impact fees imposed pursuant to this Ordinance. In a case in which it is determined that such an improvement is necessary for the proper operation of the project, the Planning Board shall so notify the applicant. The applicant shall be required to present to the Board a study that identifies the proportionate share of the cost of the required improvement. The Planning Board may, at the expense of the applicant, refer such study to a consultant of its own choosing to determine the reliability of the findings that shall be considered by the Board to arrive at an amount to be paid by the applicant for the offsite improvement. The applicant shall be assessed his/her proportionate share of the cost of the project. In cases where it is determined that an improvement is necessary for the proper functioning of a site plan or subdivision, but the applicant, for whatever reason is determined to contribute more than his/her proportionate share to the improvement under this section, and, therefore, that the improvement will also accommodate other future development, the Planning Board, at the request and expense of the applicant, may establish a separate, project related impact fee that assesses other future site plans or subdivisions for their proportionate share of the improvement to reimburse the applicant for such disproportionate contribution. Such future impact fees shall provide for the payment to the original applicant, with any interest.

### **11.03.0 IMPOSITION OF IMPACT FEES FOR NEW DEVELOPMENT**

Any person or agent, who after the effective date of this Ordinance, seeks to undertake new development within the Town of Milford, New Hampshire, by applying for a building permit and who is not vested under NH RSA 674:39, is hereby required to pay the appropriate impact fee in the manner set forth in this Ordinance, in accordance with any Impact Fee Schedule adopted by the Board of Selectmen.

No new building permit for an activity requiring payment of one or more impact fee(s) pursuant to this Ordinance shall be issued unless and until the impact fee(s) hereby required have been assessed and agreed upon.

#### **11.03.1 COMPUTATION OF IMPACT FEES**

##### **A. Amount of Impact Fees and Type of Facilities:**

The amounts of the impact fees shall be determined using the values contained in the Impact Fee Schedules for the following types of facilities:

- \* Storm water, drainage and flood control facilities
- \* Public road systems and rights-of-way
- \* Municipal office facilities
- \* Public school facilities

- \* The municipality's proportional share of capital facilities of a cooperative or regional governmental venture
- \* Public safety facilities
- \* Public health facilities
- \* Solid waste collection, transfer, recycling, processing and disposal facilities
- \* Public library facilities
- \* Public recreational facilities not including public open space.

Sewer and water facilities are excluded from this list because the impacts on these facilities, as well as the fees relating to same, are addressed elsewhere in regulations arising out of NH RSA 38 and NH RSA 149-I.

B. Impact Fees Schedules shall be established and reviewed as set forth in Section 11.06.0 below.

In the case of change of use, redevelopment expansion or modification of an existing use that constitutes New Development, the impact fees shall be based upon the net increase of the total residential area or total nonresidential area of the redevelopment, expansion or modification.

C. Assessment and Payment of Fees. All impact fees imposed pursuant to this Ordinance shall be assessed prior to, or as a condition for, the issuance of a building permit or other appropriate permission to proceed with development. Impact fees shall be collected as a condition for the issuance of a certificate of occupancy.

D. Appeals. If an applicant elects to dispute the amount of the impact fee(s), the applicant may prepare and submit to the Planning Board an independent fee calculation study for the new development activity that is proposed. The Planning Board shall review such study and render a decision within sixty (60) days of the receipt of the independent fee calculation.

All cost(s) incurred by the Town for the review of such study shall be paid by the applicant.

The decision of the Planning Board regarding any disputed fee calculations may be appealed to the Superior Court as provided by NH RSA 677.15.

### **11.03.2 ADMINISTRATION AND CUSTODY OF FUNDS COLLECTED**

Any impact fee collected shall be properly identified and promptly deposited in the appropriate Impact Fee accounts and used solely for the purpose for which it was collected. Impact fee accounts shall be special revenue fund accounts and under no circumstances will impact fee revenues accrue to the General Fund. Each fee collected under a specific Impact Fee Schedule shall not be commingled with any other impact fee accounts or any other funds.

The Town Treasurer shall have custody of all accounts and shall pay out the same only upon written orders of the Board of Selectmen.

At the end of each fiscal year, the Town Treasurer shall prepare a report, showing a full account of all impact fee transactions during the year and deliver same to the Board of Selectmen, the Planning Board, and shall make the report available to the Public.

### **11.03.3 REFUND OF FEES PAID**

A refund shall be owed only when the Town has failed, within the period six (6) years from the payment of a fee, to expend or encumber a fee for public capital facilities intended to benefit the development that had paid the fees.

The Board of Selectmen shall notify the owner of record by certified mail, return receipt requested, that a refund is due.

The current owner of property on which impact fees have been paid may apply for a full or partial refund of such fees, together with any accrued interest.

In the event that the owner elects to apply for a refund, such application shall be submitted in writing to the Board of Selectmen within sixty (60) days from the date of receiving notice from the Board of Selectmen. Payment of a refund will be made within sixty (60) days after receiving the written request for a refund from the current owner of record.

### **11.03.4 CREDITS IN EXCHANGE FOR PUBLIC CAPITAL FACILITIES**

The Board of Selectmen may grant a credit to an impact fee in exchange for public capital improvements. Said public capital improvements may be offered by the applicant as total or partial payment of the required impact fee. Such credit shall be determined to represent an identifiable dollar value computed in a manner acceptable to the Planning Board. The Board of Selectmen shall act on a request for credit only after receipt of a recommendation on the request provided by the Planning Board.

Any claim by the applicant for credit must be made prior to the Planning Board vote on subdivision or site plan approval.

Credits shall not be transferable, and apply only to a specific subdivision or site plan approval.

Credits shall not be transferable from one impact fee to any other impact fee.

Any decision by the Board of Selectmen pursuant to the credit provision of this section may be appealed to the Superior Court in accordance with NH RSA 677:15.

Under no circumstances shall this section imply that the Board of Selectmen has an obligation to accept any credit offer that is proposed.

### **11.04.0 ADDITIONAL ASSESSMENTS**

Payment of an impact fee does not restrict the Town or the Planning Board from requiring other payments from the applicant, including without limitation such payments relating to the cost of the

extensions of water and sewer mains or the construction or improvement of roads or streets or other infrastructure and facilities specifically benefiting the development which are required by the development review regulations or as otherwise permitted by law.

**11.05.0        PREMATURE AND SCATTERED DEVELOPMENT**

Nothing in this Ordinance shall be construed so as to limit the existing authority of the Milford Planning Board to provide against development which is scattered or premature, which requires an excessive expenditure of public funds, or otherwise violates the Town of Milford's Development Regulations or Zoning Ordinance.

**11.06.0        ESTABLISHMENT, CALCULATION, REVIEW & TERMINATION OF IMPACT FEES**

**11.06.1        ESTABLISHMENT OF IMPACT FEES**

In order to establish an impact fee, the Capital Improvements Plan Citizens Advisory Committee as established by the Planning Board shall identify and recommend to the Planning Board projects eligible for impact fee funding. If such recommendations are accepted, the Planning Board will then prepare an Impact Fee Schedule in accordance with NH RSA 674:21 and this Ordinance.

The Planning Board shall conduct a public hearing on the proposed Schedule, and shall consider all comments received prior to finalizing the Schedule. The Planning Board, upon such finalization, shall then submit the Schedule to the Board of Selectmen for its consideration. The Board of Selectmen at a regular meeting shall either accept or reject the proposed Schedule. The Impact Fee Schedule shall become effective when a majority of the Board of Selectmen approves the schedule. Should the Board of Selectmen fail to approve the schedule, it shall state its reason(s) for doing so in writing and shall forward these comments to the Planning Board within 60 days of the receipt of the Impact Fee Schedule. The Planning Board may reconsider the adoption of such a Schedule.

**11.06.2        IMPACT FEE SCHEDULE CALCULATION**

The Impact Fee Schedule shall be prepared in accordance with NH RSA 674:21 and based upon the most recent data available. The Impact Fee Schedule shall be calculated using the following factors:

The size of the capital facility;

An estimate of the proportion of users from future Milford commercial, industrial or residential development subject to the impact fee that will use the facility when it has reached its capacity;

Projections of future users based upon new building permit projections;

Estimates of the cost to the Town of Milford for the proposed facility, including financing and excluding non-municipal funding sources;

Credits for property taxes to be paid by the proportion of the project to be financed by impact fees;

A fee assessed for new development based upon the total residential area or total non-residential area;

A determination of the number of building permits that will need to be issued in order to finance the impact fee;

An accounting of the number of permits issued, with a maximum number of permits to be assessed an impact fee prior to the fee's termination;

Exemptions, if any;

Impact fee schedules will be available in the Department of Planning and Community Development and the Building Department.

### **11.06.3 REVIEW OF IMPACT FEES**

The Planning Board shall review all established Impact Fee Schedules on an annual basis.

The Planning Board shall modify the Impact Fee Schedule if it finds that new data is available that may change the schedule. This may include the replacement of factors used in the Impact Fee Schedule with more accurate or recent projections, data and figures. The Planning Board shall submit the Impact Fee Schedule to the Board of Selectmen if modifications are recommended. The Board of Selectmen shall vote to affirm or deny the modifications within sixty (60) days of the receipt of recommendations from the Planning Board. If the Board of Selectmen fails to affirm the modifications, the impact fee schedule in effect shall remain in place.

### **11.06.4 TERMINATION OF IMPACT FEES**

Impact fees shall terminate in accordance with the Impact Fee Schedule, which shall set forth the number of building permits to be issued prior to its expiration.

The Board of Selectmen may terminate a specific impact fee schedule in effect by majority vote. This may be done only after soliciting recommendations from the Planning Board, and after conducting a public hearing. The Planning Board shall be given sixty (60) days notice prior to any such vote to provide written recommendations to the Board of Selectmen.

### **11.07.0 SEVERABILITY**

If any section, phrase, sentence or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

### **11.08.0 EFFECTIVE DATE**

This Ordinance shall become effective on the date of its passage, subject to the limitations imposed by NH RSA 676:12.

**ARTICLE XII: GROWTH MANAGEMENT AND INNOVATIVE LAND USE CONTROL**

Entire article deleted in 2010.

## Changes/amendments to zoning Ordinance by year

Year	Article	Section	Effect
2020	VI	6.03 Floodplain Management District	Remove and replace entire section
2020	VI	6.06 Commerce Community Overlay	Delete section
2020	VI	6.07.6 West Elm Overlay District	Revise wording to reflect new boundary area
2019	II	2.03.1.C.2 General Provisions	Revise wording and correct section reference.
2019	IV	4.01.0 Definitions	Remove and replace <i>Home Occupation</i> with <i>Home Based Business</i>
2019	IV	4.01.0 Definitions	Remove and replace <i>Self-Storage Facilities</i> with <i>Self-Storage Facility</i>
2019	V	5.04.2.A.12 Special Exception	Remove <i>Self-service storage facilities in accordance with Section 10.02.4</i>
2019	V	5.02.1, 5.03.1, 5.04.1, 5.05.1, 5.06.1 5.07.1, 5.08.1, 5.09.1 Acceptable Uses	Add <i>Solar Collection Systems in accordance with Section 7.11.0</i>
2019	V	5.02.1, 5.03.1, 5.04.1, 5.06.1, 5.08.1 Acceptable Uses	Add <i>Home Based Business in accordance with Section 7.12.0</i>
2019	V	5.02.2.A, 5.03.2.A, 5.04.2.A Acceptable Uses	Replace <i>Home occupations in accordance with Section 10.02.3</i> and add <i>Home Based Business in accordance with Section 7.12.0</i>
2019	V	5.04.2.B	Add <i>Home Based Business in accordance with Section 7.12.0</i>
2019	V	5.04.2.B, 5.06.2.B, 5.08.2.B, 5.09.2.B Conditional Use Permits	Add <i>Solar Collection Systems in accordance with Section 7.11.0</i>
2019	VII	7.06.0 Sign Ordinance	Remove and replace entire section
2019	VII	7.11.0 Solar Collection Systems	Add <i>Solar Collection Systems</i>
2019	VII	7.12.0 Home Based Business	Add <i>Home Based Business</i>
2019	VII	7.13.0 Self-Storage Facilities	Add <i>Self-Storage Facilities</i>
2019	VII	7.14.0/7.14.5 Conditional Use Permits	Renumber Section 7.11.0 to 7.14.0 and add Section 7.14.5 Waivers
2019	X	10.02.3 Home Occupations	Delete Section
2018	IV	4.01.0 Definitions	Amend definition for a <i>Utility, public or private</i>
2018	VI	6.04.1/6.04.2/6.04.8	Revise standards and waiver process
2017	IV	4.01.0 Definitions	Amend definition for an <i>Accessory Dwelling Unit</i>
2017	VI	6.02.0 Wetland Conservation District	Amendments throughout section
2017	VIII	8.02.5 Building Permits	Revise accessory structure from 120SF to 200SF
2017	X	10.02.6 Administrative Relief	Amend language relative to <i>Accessory Dwelling Unit</i>
2016	IV	4.01.0 Definitions	Amend <i>Accessory Dwelling Unit</i>
2016	IV	4.01.0 Definitions	Add <i>Floor Area, Gross</i>
2016	VI	6.04.0 Open Space Conservation	Amend entire section
2016	X	10.02.3:A.3 Home Occupations	Revise wording
2016	X	10.02.6:A.1 ADU's	Revise wording
2015	IV	4.01.0 Definitions	Amend <i>Groundwater, Manufactured Housing</i>
2015	IV	4.01.0 Definitions	Remove <i>Animal Feed Lot, Senior Housing Units &amp; Leachable Wastes</i>
2015	V	5.02.2/5.03/5.05.1/5.07.1/5.08.2	Remove <i>Senior Housing Developments</i>
2015	VI	6.02.4 Wetland Conservation	Amend <i>Surface Water</i> definition
2015	VI	6.03.2 Floodplain Management	Replace <i>Manufactured Home</i> with <i>Manufactured Housing</i>
2015	VI	6.04.5:C Open Space Conservation	Amend language relative to <i>Senior Housing Developments</i>
2015	VII	7.06.3 Sign Definitions	Amend <i>Banner, Changing, Flag, Flashing, Portable, Temporary &amp; Wall</i>
2015	VII	7.06.3 Sign Definitions	Add <i>Storefront</i>
2015	VII	7.06.4 Prohibited Signs	Revise wording
2015	VII	7.06.5 Signs-General Admin	Revise wording for permits required
2015	VII	7.06.7:D Awning signs	Revise wording
2015	VII	7.06.7:E Wall Signs	Remove and replace wording in section
2015	VII	7.06.7:I Temporary On-Premise	Remove and replace entire section
2015	VII	7.06.8:D.5 General Sign Provisions	Add wording for <i>Portable Signs</i> in the Oval Sub District
2015	X	10.06.0 Expiration	Revise expiration from <i>1 Year</i> to <i>2 Years</i>

## Changes/amendments to zoning Ordinance by year

Year	Article	Section	Effect
2015	X	10.06 Appendix II	<i>Replace RSA 674:33</i>
2014	III	3.01.0 Zoning Map	Re-zone parcels 43/20 and 43/69
2014	IV	4.01.0 Definitions	Remove <i>Public Utility</i>
2014	V	5.02.2	Remove <i>Public Utility</i>
2014	V	5.03.2	Remove <i>Public Utility</i>
2014	VII	7.01 Gravel/Earth Products	Amend wording
2014	VII	7.07.0 Senior Housing	Remove section
2013	II	2.02 Non-Conforming Uses	Amend title, add language
2013	II	2.03.1 Non-Conforming Uses	Amend to include <i>Structure</i>
2013	II	2.03.1:C Non-Conforming Uses	Amend wording
2013	IV	4.01.0 Definitions	Amend <i>ADU, Accessory Use or Structure, Dwelling-Two family</i>
2013	IV	4.01.0 Definitions	Remove <i>Portable Sign</i>
2013	VI	6.01.1 Groundwater Protection	Amend definition of <i>Junkyard</i>
2013	VII	7.06.3 Sign Definitions	Amend <i>Façade</i> and <i>Wall</i> sign definitions
2013	VII	7.06.5:C Signs-Permit Not Required	Amend wording
2013	VII	7.06.5:D Signs- Procedure	Add, delete and amend wording for <i>Decisions &amp; Amendments</i>
2013	VII	7.06.7 Sign Ordinance	Revise all tables to include <i>ICI-2</i>
2013	VII	7.06.7:A Sign Requirements by type	Amend wording and add <i>ICI-2</i>
2013	VII	7.06.7:E Wall Signs	Amend language to include <i>Façade</i> signs
2013	VII	7.06.7:F Directional Signs	Revise table 7.06-3
2013	VII	7.07.3 Senior Housing	Amend language for <i>Dwelling Unit</i>
2013	VII	7.09.0 Telecommunications	Revise entire section
2013	X	10.02.6 Accessory Dwelling Units	Amend language for ADU's
2012	I	1.02.3 Authorization	Add <i>Shall, Should and May</i> terminology
2012	II	2.01.0 General Provisions	Add wording <i>If in existence</i>
2012	II	2.02.0 Non-Conforming Uses	Amend wording
2012	II	2.06.0 Equitable Waiver	Move entire section to 10.07.0
2012	IV	4.01.0 Definitions	Delete <i>Kennel, Nursery, Nursery Stock</i>
2012	IV	4.01.0 Definitions	Add <i>Apartments</i>
2012	IV	4.01.0 Definitions	Revise <i>Discontinued Use, Lot of Record</i>
2012	V	5.02.2/5.03.2/5.04.2	Add <i>Utility, Public or Private</i>
2012	V	5.05.1/5.07.0/5.08.1	Add <i>Dwelling, Mixed-Use</i>
2012	V	5.08.1	Add <i>Filling Station</i>
2012	VI	6.06.0 Overlay Districts	Revise Nashua & Elm Streets Overlay District wording
2012	VI	6.06.0 Overlay Districts	Add <i>Commerce &amp; Community Overlay District</i>
2012	VI	6.06.0 Overlay Districts	Add <i>West Elm Street Gateway Overlay District</i>
2012	VII	7.06.3 Sign Definitions	Amend <i>Building Marker Sign</i>
2012	VII	7.06.7 Sign Requirements	Amend to permit <i>Directional Signs in Res A</i>
2012	VII	7.06.7 Sign Requirements	Amend <i>Monument Signs to require address numbers</i>
2012	VII	7.06.5 Sign General Admin	Move Section 7.06.5.F.2 to 8.01.0
2012	VIII	8.01.0 Enforcement	Amend wording
2012	X	10.01.0 Variances	Amend wording
2012	X	10.02.3 Home Occupations	Add Section 10.02.3.C <i>Code Compliance</i>
2012	X	10.02.6 Accessory Dwelling Units	Amend entire section
2012	X	10.07.0 Equitable Waiver	Section relocated from 2.06.0
2011	IV	4.01.0 Definitions	Add <i>Harvesting of Natural Resources</i>
2011	IV	4.01.0 Definitions	Add <i>Health Service Facilities</i>



## Changes/amendments to zoning Ordinance by year

<b>Year</b>	<b>Article</b>	<b>Section</b>	<b>Effect</b>
2011	IV	4.01.0 Definitions	Add Hospice House
2011	IV	4.01.0 Definitions	Add Hospital
2011	IV	4.01.0 Definitions	Add Hotel
2011	IV	4.01.0 Definitions	Add Nursing Home Facility
2011	IV	4.01.0 Definitions	Add Utility, Public or Private
2011	IV	4.01.0 Definitions	Amend Assisted Living Facility
2011	IV	4.01.0 Definitions	Amend Congregate Care Facility
2011	IV	4.01.0 Definitions	Amend Independent Senior Housing Units
2011	IV	4.01.0 Definitions	Delete Hotel/Motel
2011	V	5.02.5/5.03.6/5.04.5	Revise Minimum side/rear setbacks to 6ft
2011	V	5.02.2/5.04.2	Amend Churches & Houses of Worship
2011	V	5.02.2/5.03.2/5.04.2	Add Utility, Public or Private
2011	V	5.02.2/5.03.2	Add Office in accordance with Section 10.02.7
2011	V	5.03.2/5.04.2	Add Hospice House
2011	V	5.03.2/5.04.2	Add Nursing Home or Facility
2011	V	5.04.1	Delete Farms
2011	V	5.04.2	Amend Processing of Natural Resources
2011	V	5.05.1	Delete Laundries and Dry Cleaning
2011	V	5.05.1	Amend Filling Stations
2011	V	5.05.1	Amend Hospitals
2011	V	5.05.1/5.08.1/5.09.1	Amend Hotels
2011	V	5.05.1/5.07.1/5.08.1/5.09.1	Amend Churches or Houses of Worship
2011	V	5.05.1/5.08.1/5.09.1	Amend Motor Vehicles Sales Facilities
2011	V	5.05.1/5.07.1	Add Day Care Facilities
2011	V	5.05.1	Add Motor Vehicle Repair Facilities
2011	V	5.05.1/5.08.1/5.09.1	Add Veterinary Clinics
2011	V	5.05.1/5.07.1	Add Hospice House
2011	V	5.05.1/5.07.1/5.08.1/5.09.1	Add Health Services Facilities
2011	V	5.05.1/5.06.1/5.08.1/5.09.1	Add Agriculture and Farming
2011	V	5.05.1/5.08.1/5.09.1	Add Nursing Home or Facility
2011	V	5.05.1/5.06.1/5.07.1/5.08.1	Add Utility, Public or Private
2011	V	5.05.2	Delete Day Care Facilities
2011	V	5.05.2	Amend Manufacturing
2011	V	5.05.2	Add Distribution and Mailing Facilities
2011	V	5.05.2	Add Research and Development
2011	V	5.06.1	Amend Harvesting of Natural Resources
2011	V	5.06.1	Amend Offices
2011	V	5.06.1	Add Harvesting of Natural Resources
2011	V	5.06.1/5.08.1/5.09.1	Add Newspaper or Job Printing
2011	V	5.06.2	Add Hotels
2011	V	5.07.1	Delete Hospitals and/or Medical Facilities
2011	V	5.07.2	Delete Day Care Facilities
2011	V	5.08.1/5.09.1	Amend Day Care Facilities
2011	V	5.08.1/5.09.1	Amend Research and Development
2011	V	5.08.1/5.09.1	Add Bed and Breakfast
2011	V	5.08.1/5.09.1	Add Processing of Natural Resources

## Changes/amendments to zoning Ordinance by year

Year	Article	Section	Effect
2011	V	5.08.1/5.08.1	Add <i>Hospitals</i>
2011	V	5.08.2/5.09.2	Delete <i>Processing of Natural Resources</i>
2011	V	5.09.1	Amend <i>Utility, Public or Private</i>
2011	V	5.09.1	Amend <i>Research and Development</i>
2011	V	5.09.1	Add <i>Banks and Financial Institutions</i>
2011	VI	6.01.1 Overlay Districts	Add definition for <i>Liquid Petroleum Products</i>
2011	VI	6.02.5 Overlay Districts	Amend <i>Special Exception requirements</i>
2011	VI	6.02.6 Overlay Districts	Amend <i>Special Exception buffer requirements</i>
2011	VI	6.04.0 Overlay Districts	Replace entire <i>Open Space &amp; Conservation District</i>
2011	VII	7.06.3 Sign Ordinance	Add <i>Building Fascia, Event Sign, PNS, Special Event</i>
2011	VII	7.06.7 Sign Ordinance	Revisions to <i>Wall Sign requirements</i>
2011	VII	7.06.7 Sign Ordinance	Revisions to <i>Monument Sign requirements</i>
2011	VII	7.06.7 Sign Ordinance	Revisions to <i>Changing Sign requirements</i>
2011	VII	7.06.7 Sign Ordinance	Revisions to <i>Off Premise Sign requirements</i>
2011	VII	7.06.7 Sign Ordinance	Revisions to <i>EMC Sign requirements</i>
2011	VII	7.06.7 Sign Ordinance	Add <i>Event Sign requirements</i>
2011	VII	7.07.8 Supplementary Standards	Amend <i>Assisted Living, Congregate Care, Indep. Senior Housing</i>
2011	X	10.02 Special Exceptions	Delete <i>Manufacturing in the C District</i>
2011	X	10.02 Special Exceptions	Add <i>Offices in the A &amp; B Districts</i>
2010	III	3.01.0 Districts	Revise to read Official Zoning Map, removing year
2010	IV	4.01.0 Definitions	Delete <i>Agriculture</i>
2010	IV	4.01.0 Definitions	Add <i>Agriculture and Farming</i>
2010	IV	4.01.0 Definitions	Add <i>Farm</i>
2010	IV	4.01.0 Definitions	Add <i>Farm Roadside Stand</i>
2010	IV	4.01.0 Definitions	Add <i>Farmer's Market</i>
2010	V	5.02.1 Acceptable uses	Add <i>Farm Roadside Stands</i>
2010	V	5.02.3 Uses not specified	Revise to include <i>Conditional Use Permits</i>
2010	V	5.03.1 Acceptable uses	Add <i>Farm Roadside Stands</i>
2010	V	5.03.3 Uses not specified	Revise to include <i>Conditional Use Permits</i>
2010	V	5.04.1 Acceptable uses	Add <i>Agriculture and Farming, Farms &amp; Roadside Stands</i>
2010	V	5.04.3 Uses not specified	Revise to include <i>Conditional Use Permits</i>
2010	V	5.05.1 Acceptable uses	Revise to include <i>Conditional Use Permits</i>
2010	V	5.06.1 Acceptable uses	Add <i>Farm Roadside Stands</i>
2010	V	5.06.3 Uses not specified	Revise to include <i>Conditional Use Permits</i>
2010	V	5.07.1 Acceptable uses	Add <i>Farm Roadside Stands</i>
2010	V	5.07.3 Uses not specified	Revise to include <i>Conditional Use Permits</i>
2010	V	5.08.1 Acceptable uses	Add <i>Farmer's Market &amp; Farm Roadside Stands</i>
2010	V	5.08.3 Uses not specified	Revise to include <i>Conditional Use Permits</i>
2010	V	5.09.1 Acceptable uses	Add <i>Farmer's Market &amp; Farm Roadside Stands</i>
2010	V	5.09.3 Uses not specified	Revise to include <i>Conditional Use Permits</i>
2010	VI	6.01.1/6.02.1/6.03.1	Revise wording to resolve possible conflicts
2010	VI	6.04.3/6.05.4	Revise wording to resolve possible conflicts
2010	VII	7.06.4 Prohibited signs	Revise to permit A-frame Signs in Oval Sub-Dist
2010	VII	7.06.7.C Sign requirements	Revise timing & dimming for <i>Changing Signs</i>
2010	VII	7.06.7.D Sign types	Add definitions for <i>Projecting &amp; Suspended signs</i>
2010	VII	7.06.7.D Sign types	Revise <i>Height/Clearance restrictions</i>

## Changes/amendments to zoning Ordinance by year

Year	Article	Section	Effect
2010	VII	7.07.0 Senior housing	Amend Age Requirements to 55 (by citizen petition)
2010	VIII	8.05.0/8.05.1/8.05.2	Revise to adopt the <i>2009 IPMC</i>
2010	X	10.02.6 Accessory Dwellings	Add language for <i>Existing ADU's</i>
2010	XII	12.01.0-12.011.0 GMO	Delete entire article
2009			Entire Ordinance reformatted
2009	IV	4.01.0 Definitions	Revise <i>Agriculture, Junkyard, &amp; Lot of Record</i>
2009	IV	4.01.0 Definitions	Delete <i>Principal Route of Access</i>
2009	IV	4.01.0 Definitions	Add <i>Small Wind Energy Systems</i>
2009	V	5.02.4/5.03.5/5.04.4/5.05.4	Revise to <i>Class V or Better Road</i>
2009	V	5.07.4/5.08.4/5.09.4	Revise to <i>Class V or Better Road</i>
2009	V	5.06.2/5.08.2/5.09.2	Add: <i>Reduced Front, Side &amp; Rear Setbacks</i>
2009	V	5.02.2/5.03.2/5.04.2/5.05.2	Add: <i>Conditional Use Permits &amp; Small Wind Energy Sys</i>
2009	V	5.06.2/5.07.2/5.08.2/5.09.2	Add: <i>Conditional Use Permits &amp; Small Wind Energy Sys</i>
2009	VII	7.10.0 Small Wind Energy Sys	Add section for Small Wind Energy Systems
2009	VII	7.11.0 Conditional Use Permits	Add section for Conditional Use Permits
2009	VIII	8.02.4 Building permits	Revise wording to comply with NH RSA 155-A
2009	X	10.06.0 Expiration	Timeframe changes
2009	XII	12.01.0 Sunset	Change date from 2011 to 2010
2008	II	2.040 Public Nuisance	Amend to include <i>Residential</i>
2008	II	2.060 Equitable Waiver	Remove 2.061, 2.062 & replace with Sections I,II,III,IV
2008	IV	4.010 Definitions	<i>Accessory Dwelling Unit</i>
2008	V	5.022/5.032/5.042/5.052/5.072	<i>Accessory Dwelling Units</i>
2008	V	5.062/5.082/5.092	<i>Accessory Dwelling Units for Existing Single-family</i>
2008	VI	6.050	Add <i>Nashua &amp; Elm St Corridor Overlay District</i>
2008	VII	8.040 Driveways	Revise permit requirements for <i>Existing Driveways</i>
2008	X	10.023 Home Occupations	Revise section A.4 to include <i>Accessory Goods</i>
2008	X	10.026	Add <i>Accessory Dwelling Units</i>
2008	X	10.030/10.040/10.050	Replace and revise <i>Appeals</i> requirements
2008	X	10.031/10.032	Add both sections pertaining to <i>Appeals</i>
2008	XII	12.004.B,C/12.006.B/12.008.B	Replace and revise Section requirements for <i>GMO</i>
2008	XII	12.010/12.011	Replace and add Sections of <i>GMO</i>
2007	III	3.010 Districts	Rezone portions of I, R to ICI-2 and I to R
2007	IV	4.010 Definitions	<i>Abutter, Day Care Facility, Lot Use, Motorized Vehicle Sales</i>
2007	V	5.034.A.1	Amend <i>Allowable Density</i>
2007	V	5.022/.031/.051/.071/.082	Amend <i>Acceptable Uses-Senior Housing Developments</i>
2007	V	5.050/5.080	Add <i>Acceptable Uses; Motorized Vehicle Sales Facility</i>
2007	V	5.057	Amend <i>Oval Sub district-Exemptions from Requirements</i>
2007	V	5.090-5.097	Add <i>Integrated-Commercial Industrial 2 (ICI-2) District</i>
2007	VI	6.030	<i>Floodplain Management District</i> ; replaced in entirety
2007	VII	7.060	<i>Sign Ordinance</i> ; replaced in entirety
2007	VIII	8.050 Administration	Amend with <i>2003 International Property Maintenance Code</i>
2007	X	10.030/10.060 Admin Relief	Amend <i>30 day Time Frame and Expiration</i>
2006	IV	4.010 Definitions	<i>Frontage</i> definition deleted/replaced
2006	VII	7.010-7.067	<i>Sign Ordinance</i> ; replaced in its entirety
2006	XII	12.010-12.009	<i>Growth Mgmt Ordinance</i> replaces <i>Interim GMO</i>
2005	III	3.010 Districts	Rezone portion of Residential "A" to Residential "R"

## Changes/amendments to zoning Ordinance by year

Year	Article	Section	Effect
2005	IV	4.010 Definitions	<i>Height</i> definition added
2005	V	5.022.K, 5.032.L, 5.042.N	Special Exception for Height Greater than Allowed
2005	V	5.026/5.038/5.047.A,B,C	Height requirements
2005	V	5.052.E/5.062.A/5.072.E	Special exception for Height Greater than Allowed
2005	V	5.058/5.067/5.077, A, B, C	Height requirements
2005	V	5.082.E	Special Exception for Height Greater than Allowed
2005	V	5.087.A, B, C	Height requirements
2005	VII	8.024	Delete and replace with IRC 2003 edition
2005	XII	12.010-12.011	<i>Interim Growth Management Ordinance</i>
2004	VI	6.040-6.045	Replace <i>Open Space &amp; Conservation Zoning District</i>
2003	III	3.010 Districts	Rezone portion of ICI to C; Res. R to C; Res. A to C
2003	V	5.052.D	Special Exception for Manufacturing Use
2003	V	5.061	Revise <i>Light Manufacturing</i> to <i>Manufacturing</i>
2003	V	5.081	Revise <i>Light Manufacturing</i> to <i>Manufacturing</i>
2003	VI	6.010-6.014	Amend <i>Groundwater Protection District</i>
2003	VI	6.020-6.027	Amend <i>Wetland Conservation District</i>
2003	X	10.025	Special Exception for Manufacturing in the C District
2003	XI	11.010-11	<i>Impact Fees</i> ; replaced in its entirety
2002	I, III	1.030, 3.010	<i>Town Vote</i> replaced <i>Town Meeting</i>
2002	I	1.050 Amendments	<i>Open Space</i> replaced <i>Cluster Development</i>
2002	II	2.060-2.062	<i>Equitable Waiver of Dimensional Requirements</i>
2002	IV	4.010 Definitions	Multiple definition revisions
2002	VII	7.070-7.085	<i>Senior Housing Development</i>
2002	X	10.010-10.070	<i>Impact Fees</i>
2001	II	2.030	Delete "Conforming Uses" in section
2001	IV	4.010 Definitions	Amend <i>Church, House of Worship, Structure</i>
2001	V	5.040-5.046	Revisions to Residential "R" District
2001	V	5.022.H, 5.032.K	Replace <i>Reduced Front, Side &amp; Rear Setbacks</i>
2001	V	5.025.C, 5.036.C	Delete sections
2001	V	5.042.I, 5.052.C	Replace <i>Reduced Front, Side &amp; Rear Setbacks</i>
2001	V	5.045.C, 5.055.C	Delete sections
2001	V	5.072.D	Replace <i>Reduced Front, Side &amp; Rear Setbacks</i>
2001	V	5.075.C	Delete section
2001	VI	6.044.D.2.c	Replace <i>Open Space Design</i>
2001	VII	7.040 Private ways	Delete section

# ORDINANCES, LAWS, AND REGULATIONS FOR THE TOWN OF AMHERST



## MARCH 2020

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## SECTION A

### ZONING ORDINANCE

#### ARTICLE I -- PREAMBLE

##### Section 1.1 Purpose and Authority.

The regulations as set forth in this ordinance are for the purpose of promoting the public health, safety, and general welfare of the Town of Amherst as provided for by Chapter 672, New Hampshire Revised Statutes Annotated, as may be amended. (3-14-67, 3-14-89, 3-13-90, 3-9-99, 3-11-14, 3-14-17, 3-12-19)

The purpose of the Zoning Ordinance of the Town of Amherst is to implement the goals of the orderly development and growth of the Town as set forth in the Master Plan adopted in November 1980 and future revisions of the Master Plan as the needs of the Town dictate. (11-2-82)

#### ARTICLE II -- ESTABLISHMENT OF DISTRICTS

##### Section 2.1 Division of Town into Districts.

For the purpose of this ordinance, the Town of Amherst is divided into the following districts as shown on the official tax map overlays. (3-12-63)

AC	Aquifer Conservation District	(3-13-84)
C	Commercial Zone	(3-12-63)
FP	Flood Plain Conservation District	(3-10-70)
GO	General Office	(3-12-85)
HD	Historic District	(3-11-86)
I	Industrial Zone	(3-2-76)
LC	Limited Commercial Zone	(3-2-76)
NR	Northern Rural Zone	(3-2-76)
NTR	Northern Transitional Zone	(3-8-88)
RR	Residential / Rural Zone	(3-11-93)
W	Wetland Conservation District	(3-6-73)
WP	Watershed Protection District	(3-2-76)

##### Section 2.2 Zoning Map.

The several districts provided for in Section 2.1 above shall be bounded as shown on tax map overlays of the Town of Amherst, New Hampshire, and by the Flood Plain Conservation District overlay and the Wetlands Conservation District overlay, the Aquifer Conservation District, together with the Historic District overlay, and all amendments and explanatory matter thereon, which is hereby declared to be a part of the Zoning Ordinance. As amended (3-11-80, 3-13-84, 3-14-89)



**Section 2.3 Interpretation of Zoning District Boundary Lines.**

The zoning district boundary lines, as shown on tax map overlays are the center lines of streets and other public ways, the middle of the channel of waterways, or the center line of main tracts of railroad lines, unless otherwise indicated. Where the zoning district boundaries are so indicated that they parallel the center lines of streets and other public rights-of-way, such boundaries shall be interpreted as parallel thereto. Where an uncertainty exists as to the location of a boundary, the Board of Adjustment shall determine the exact line. (3-12-63)

**ARTICLE III -- GENERAL ZONING PROVISIONS**

**Section 3.1 Nuisance Provision.**

Any use or other establishment that may be injurious or obnoxious because of the production or emission of smoke, fumes, dust, odor, refuse material, noise, vibration, radiation, or like condition; or that endangers the health, safety, peace, or enjoyment of the community; or tending to its disturbance or annoyance is prohibited. (3-11-63)

**Section 3.2 Non-conforming Uses and Non complying Setbacks.**

- A. A PRE-EXISTING NON-CONFORMING use of land or structures may be continued although such use does not conform to the provisions of this ordinance. Structures containing preexisting non-conforming uses may be enlarged or extended subject to the following:
  - 1. If the conduct of the property owner is such that it will not substantially change the nature and the purpose of the original use and,
  - 2. The proposed change would involve no substantially different impact on the neighborhood. (3-6-73, 3-9-82, 3-14-89, 3-11-93)
- B. A NON-CONFORMING USE may be changed only to a use permitted in the district in which it is located. A permit is required for any change of use. (See Use Groups, Section 3.10) (3-6-73, 3-14-89)
- C. IF A STRUCTURE contains a non-conforming use or does not comply with Zoning setbacks and it is damaged by fire, flood, wind, or act of God, such structure may be reconstructed and used as before, provided such reconstruction is commenced within eighteen (18) months. (3-6-73, 3-14-89, 3-9-10)
- D. A STRUCTURE WHICH DOES NOT comply with zoning setbacks may be repaired or structurally altered provided the repairs or alterations do not increase the degree of non-compliance. (3-6-73, 3-14-89)
- E. STRUCTURES WHICH DO NOT COMPLY with zoning setbacks, when demolished for new construction, may be reconstructed where located before, providing there is no increase in non-compliance. (3-14-89)

- F. EXISTING CONFORMING LOTS shall not be made non-conforming and existing non-conforming lots shall not be made more non-conforming by altering lot lines. (3-14-89)
- G. A NON-CONFORMING USE which has been abandoned, vacated or discontinued for a period of eighteen (18) consecutive months, said non-conforming use shall be discontinued.

**Section 3.3 Water Pollution Control Regulations.**

Water pollution control requirements shall be those required by laws and regulations of the State of New Hampshire as well as local ordinances. (3-6-73, 3-14-89)

NOTE: See Section G for Water Pollution Control Regulations

**Section 3.4 Signs. (3-12-91)**

A. DEFINITIONS.

Awning. Any visual message incorporated into an awning attached to a building.

Banner. Any sign, painted, printed, or otherwise displayed on cloth, plastic film, or similar material. (3-8-94)

Business Sign District. Shall include the Industrial, Commercial, and Limited Commercial Zones in the Town of Amherst and shall include those lots in the General Office Zone with frontage on NH Route 101A. (3-10-92, 3-13-07)

Copy-Change Sign. A sign on which the visual message be periodically changed.

Directional Sign. A sign limited to providing directional or guide information, on the most direct or simple route, on the location of an activity, business, or event.

Event-Specific Sign. A temporary sign used to announce an event such as a festival, parade, dance, meeting, church, or club-sponsored event or tournament, or appearance by a political candidate or other speaker. (3-9-10)

Free-Standing. Any sign not attached or part of any building but separate and affixed in or upon the ground. Included are pole signs, pylon signs, and masonry wall-type signs.

General Sign District. Shall include the General Office (except for those lots included in the Business Sign District), Residential/Rural, Northern Transitional, and Northern Rural zones in the Town of Amherst. (3-10-92)

Illuminated Sign. Any sign illuminated by electricity, gas, or other artificial light either from the interior or exterior of the sign and which includes reflective and phosphorescent light.

Information Sign. A sign, without advertising, designed and intended to convey information about a permitted use to the general public, to convey regulations or restrictions, or to otherwise provide needed guidance.

Lineal Building Frontage. The length of a ground-level straight line or lines parallel to and equaling the length of the building front that fronts on the principal public roadway. In the case of a multi-unit development, the frontage of each separate building is additive for the purpose of determining permissible sign area. (3-13-07)

Off -Premises Sign. A sign unrelated to a business or a profession conducted, or to a commodity or service sold or offered, upon the premises where such sign is located.

Portable Sign. A sign, whether on its own trailer, wheels, motor vehicle, or otherwise, designed to be movable and not attached to the ground, a building, a structure, or another sign. (3-13-07)

Prohibited Signs. No banners, pennants, ribbons, streamers, spinners of similar moving, fluttering or revolving devices shall be permissible for display as signs, except as exempted above as New Hampshire or United States flags.

Projecting Sign. That which is attached to the building, wall, or structure and which extends horizontally more than fifteen (15) inches from the plane of such wall; or a sign which is perpendicular to the face of such wall or structure.

Representational Sign. A three-dimensional sign built so as to physically represent the object advertised.

Sign. Any material, structure, or device, or part thereof, composed of lettered or pictorial matter that is located out-of-doors, or on the exterior of any building, or indoors as a window sign, displaying an advertisement, announcement, notice, or name, and shall include any declaration, demonstration, display, representation, illustration, or insignia used to advertise or promote the interests of any person, or business, or cause when such is placed in view of the general public. Signs shall include: Any sign defined in this section or otherwise regulated under this ordinance; flags, banners, pennants, streamers, balloons, spinners or similar devices; and any other fixed or portable device or vehicle placed on a parcel of land and used as a sign to convey information to the public. (3-10-98)

Sign Directory. A listing of two (2) or more business enterprises, consisting of a matrix and sign components.

Sign Structure. The supports, uprights, bracing, and framework for the sign.

Sign Surface Area. The entire area within a single, continuous perimeter enclosing all elements which form an integral part of the sign. The structure supporting a sign and pole covers or architectural embellishments shall be excluded unless the structure is designed in a way to form an integral background for the display. Only one face of a double-faced, free-standing sign shall be included as surface or area of such a sign. In the case of a sign consisting of two (2) or more sides where the angle formed between any two (2) or more sides or the projections thereof exceeds thirty (30) degrees, each side shall be considered a separate sign area. (3-10-92)

Temporary Sign. A sign having a continuous display duration of no more than thirty (30) days. (3-13-07)

Wall Sign. A sign that is painted on or attached to the outside wall of a building with the face of the sign in the plane parallel to such wall, and not extending more than fifteen (15) inches from the face of such wall.

Window Sign. A sign visible from a sidewalk, street, or other public place, painted or affixed, on glass or other window material, or located inside within two (2) feet of the window, but not including graphics in connection with customary window display of products.

Zoning Official. The Planning Director, Building Inspector, or Code Enforcement Officer, whichever is responsible for the administration of these provisions. (3-13-07)

- B. **PURPOSE OF THE SIGN ORDINANCE.** The purpose of this section of the Town of Amherst Zoning Ordinance is to provide for reasonable uniformity in the size, treatment and presentation of signs used to call attention to the existence of a business , activity, product or service. This section recognizes the need to protect public health and safety and welfare by reducing conflicting, ambiguous and unnecessary information presented through sign messages and structures, while understanding the need for adequate business identification and advertising. The Town does not want signs in any district to detract from the rural character which the Town, through its adopted Master plan, has expressed a strong desire to maintain.
- C. **GENERAL REGULATION.** Except as otherwise provided, no person shall erect, alter, or relocate any sign without first obtaining a permit from the Zoning Office. Subsequent to this initial application, no permit shall be required for a sign to be repainted or repaired provided that the sign is returned to its original design, condition, placement or presentation. (3-13-07)
1. **Application Procedure.** Applications shall be made in writing to the Zoning Office on forms prescribed and provided by the Town and shall contain the applicable information requested on that form and accompanying sign specification sheet. (3-13-07)
  2. **Permit.**
    - a. Upon the filing of a completed application for a sign permit and the payment of the required fee, the Zoning Official shall examine the plans, specifications, and other data submitted, and the premises on which the sign is to be erected. If it shall appear that the sign will be in compliance with all the requirements of this local ordinance, he shall then, within thirty (30) days, issue a permit for the erection of the proposed sign. The issuance of a permit shall not excuse the applicant from conforming to the other laws and ordinances of the Town or sign master planning provisions. (3-13-07)
    - b. If the erection of the sign authorized under any such permit has not been completed within two (2) years from the date of issuance, the permit shall become null and void, but may be renewed upon filing of a subsequent completed application and compliance with current requirements.

3. Exempt Signs (require no permit). The following types of signs may be erected and maintained without permits or fees, providing such signs comply with the general requirements of this local ordinance and other conditions specifically imposed by all other regulations. No two (2) permitted signs may be combined to create a larger sign.
- a. Historical markers, tablets and statues, memorial signs and plaques; names of buildings and dates of erection when cut into any masonry surface or when constructed of bronze, stainless steel or similar material; and emblems installed by governmental agencies, religious, or non-profit organizations; not exceeding six (6) square feet. Such signs may fall under the regulation of the Historic District Commission, and these provisions shall not supersede such requirements.
  - b. Flags and insignia of any government, except when displayed in connection with commercial promotion.
  - c. On-premise directional signs for the convenience of the general public, identifying public parking areas, fire zones, entrances, and exits, and similar signs, not exceeding six (6) square feet per face and three (3) feet in height. Not to include any names or logos. (3-14-00)
  - d. Non-illuminated warning, private drive, posted or no trespassing signs, not exceeding two (2) square feet per face.
  - e. Number and name plates identifying residents, mounted on house, apartment or mailbox, not exceeding two (2) square feet in area.
  - f. Lawn signs identifying residents, with no more than two (2) faces and not exceeding two (2) square feet per face. Such signs are to be non-illuminated except by a light which is an integral part of a lamp post if used as a support, with no advertising message thereon.
  - g. Private owner merchandise sale signs for garage sales and auctions, not exceeding two (2) square feet per face for a period not exceeding fourteen (14) continuous days during any calendar year. (Amended 3-8-94, 3-13-07)
  - h. One (1) off-premises directional sign for the purpose of directing the public to an "OPEN HOUSE." Such sign may not exceed four (4) square feet of sign surface area. Messages must include the words "Open House" and shall be otherwise limited to name/address or identification, arrow or direction, and distance. Off-premises directional signs may be erected no earlier than one (1) day prior to the "OPEN HOUSE" and must be removed by the end of the day the "OPEN HOUSE" ends.
  - i. Up to two (2) temporary signs for a roadside stand selling agricultural produce in season, providing that such signs do not exceed a total of thirty-two (32) square feet and set back beyond the public right-of-way at least fifteen (15) feet from the edge of the roadway. (Amended 3-8-94)
  - j. Temporary (for thirty [30] continuous days only), non-illuminated window signs, and posters not exceeding twenty-five (25) percent, up to a maximum of four (4) square feet, of a single window surface of a single wall opening on which the sign(s) is displayed. (Amended 3-8-94, 3-13-07)
  - k. Holiday decorations, including lighting, are exempt from the provisions of this local and may be displayed in any district without a permit.
  - l. Integral graphics or attached price signs on gasoline pumps at gasoline stations.
  - m. Decals used to reference authorized services (e.g. credit or bank cards) when not exceeding one hundred forty-four (144) square inches in total display area per business.

- n. Political posters, banners, promotional devices, and similar signs, not exceeding four (4) square feet in the General Sign District or sixteen (16) square feet in the Business Sign District, providing:
    - i. Placement shall not exceed thirty (30) days, and all signs must be retrieved within three (3) days following the election for which they were used.
    - ii. The names and addresses of the sponsor and the person responsible for removal are identified on the sign.
    - iii. No signs are attached to any trees, shrubs, bushes, traffic control devices, historical markers or placed on private property without the consent of the property owner.
  - o. One “OPEN” sign may be displayed for each separate business unit. Open signs may be displayed during business hours only. Open signs, if illuminated, must be displayed in or in the building, except as provided for in an approved sign master plan. Open signs shall be no more than thirteen (13) inches in height and thirty-two (32) inches in width. No name, logo, or lettering other than the word “OPEN” may be displayed on such signs. (3-14-00)
  - p. In the Business Sign District, one (1) non-illuminated “OPEN” flag may be displayed for each separate business unit. No name, logo, or lettering other than the word “OPEN” may be displayed on such flags. Open flags may be displayed at the building during business hours and must be displayed at the building entrance. Open flags shall be no more than three (3) feet in height and six (6) feet in length. Flag colors are limited to standard, non-fluorescent red, white, and blue. (3-9-10)
4. Prohibitions. These prohibitions shall apply to all signs erected in the Town of Amherst, whether exempted or regulated under this section:
- a. No off-premises signs shall be allowed other than as permitted under the provision of an approved sign master plan.
  - b. No sign shall be illuminated by or contain flashing, intermittent, rotating moving lights or lettering and graphics except to show time and temperature. (3-13-07)
  - c. No sign shall impair or cause confusion of vehicular pedestrian traffic in its design, color, placement or display characteristics. No sign shall impair visibility for the motorist at a street corner or intersection by placement and location within twenty-five (25) feet of the intersection of the street or highway lines.
  - d. No sign shall consist of banners, pennants, ribbons, streamers, spinners or similar moving, fluttering or revolving devices. (3-10-92, 3-14-95, 3-14-00)
  - e. No advertising message shall be extended over more than one (1) sign placed along a street or highway unless included as an integral part of a sign master plan. No sign shall be placed within the road, street, or intersection right-of-way of the Town or State, except as provided for under off-premise directional signs as part of an approved master plan.
  - f. No sign consisting of the message “Sold,” “Under Contract,” or a similar message denoting a closed or completed transaction, shall be permitted.
  - g. No signs shall be attached to fences, trees, utility poles, rocks, or other parts of a natural landscape, nor in a position that will obstruct or impair traffic or in any manner create a hazard or disturbance to the health, safety, and welfare of the general public.

h. No portable signs shall be allowed in any district. (3-10-92)

#### D. SIGN STANDARDS.

1. Temporary Signs for Activities or Events. Temporary signs for special events must receive a temporary sign permit from the Community Development Office. No more than four special event sign permits shall be issued to any business, non-profit organization or individual in any calendar year, except within its first year of operation where no more than six shall be issued. Special event signs shall not exceed sixteen (16) square feet in the Business Sign District nor eight (8) square feet in the General Sign District. No more than two (2) signs may be permitted for any special event. Such signs may be displayed for a maximum of twenty-one (21) days and must be removed at the end of the event. Temporary signs for special events shall not be attached to trees, rocks, other parts of a natural landscape, utility poles or fences, nor be placed in a position that will obstruct or impair traffic or in any manner create a hazard or disturbance to the health, safety and welfare of the general public. In addition, up to ten (10) off premises directional signs, not to exceed two (2) square feet may be permitted. (3-8-16)
2. (Deleted 3-8-16)
3. Permanent Signs. Within any zoning district, unless otherwise specified, the following permanent signs may be erected; provided, however, that this subsection shall not serve to expand the number or area of signs otherwise allowed, and pursuant to the following:
  - a. Special cases.
    - i. A non-illuminated, single-sided real estate development sign, including industrial and commercial development, residential subdivision or construction sign denoting the architect, engineer and/or contractor, not exceeding thirty-two (32) square feet in Business Sign District nor sixteen (16) square feet in General Sign District, may be erected on property being sold, leased or developed. Such sign shall be erected parallel to the fronting highway, set back a minimum of fifteen (15) feet from the property line or attached to the building face. Such sign shall be removed upon completion of the project and shall be in place for a period not exceeding two (2) years, renewable for an additional two years, upon filing of a subsequent completed application and payment of the appropriate fee. (3-13-07)
    - ii. Signs or bulletin boards customarily incidental to places of worship, libraries, museums, social clubs or societies, may be erected on the premises of such institutions. One (1) such sign or bulletin board not exceeding twenty-four (24) square feet may be erected.
    - iii. For multiple commercial or industrial units, or residential dwellings or apartment developments one (1) sign identifying the name of the development, located at the entrance of the development, not exceeding thirty-two (32) square feet. (3-13-07)
  - b. Business Sign District (I, C, LC, GO on Rt. 101A). Unless otherwise specified, the following permanent sign provisions shall apply:

- i. The area of the freestanding sign permitted on any lot shall be two (2) square feet of sign area per lineal foot of building front, but in no case shall exceed sixty-four (64) square feet, whichever is less, excepting sign master planned developments. A minimum sign area of thirty-two (32) square feet shall be permitted on any lot regardless of building frontage. (3-11-03, 3-13-07)
  - ii. The total number of permitted signs on a single business or industrial lot shall not exceed two (2), of which only one (1) may be free-standing, excepting master planned developments.
  - iii. A lot with approved entrances on two (2) public roads shall be permitted a secondary sign, not on the same public road as the principal sign, provided that such sign does not exceed forty (40) square feet, notwithstanding Para. “i” and “ii” above.
  - iv. In addition to the above, one (1) wall sign shall be permitted each separated business unit, not to exceed twenty-five (25) square feet per unit.
  - v. Temporary, non-illuminated “For Sale” or “For Rent” real estate signs and signs of similar nature concerning the premises upon which the sign is located: in the General Sign District, one (1) sign per lot not exceeding four (4) square feet per side; in the Business Sign District, one (1) sign per lot not exceeding thirty-two (32) square feet per side set back at least fifteen (15) feet from all property and highway R.O.W. lines. All such signs shall be removed within three (3) days after the sale, lease, or rental of the premises. (See Prohibitions, Item g) (Amended 3-8-94, 3-13-07, 3-9-10)
- c. GENERAL SIGN DISTRICT (RR, NR, NTR,GO). Unless otherwise specified, the following permanent sign provisions shall apply to non-residential uses:
- i. The total number of permitted signs on a single lot shall not exceed two (2) of which only one (1) may be free-standing, excepting master planned developments.
  - ii. The total cumulative area of all signs permitted on such lot shall not exceed twenty-four (24) square feet, excepting wall signs for multiple tenants/units. The free-standing sign shall not exceed fourteen (14) square feet. (3-13-07)
  - iii. One wall or projecting sign, not to exceed ten (10) square feet per sign, shall be permitted for each separated business unit in the development.
  - iv. One (1) on-premise sign, either free-standing or attached, in connection with any residential building in any zoning district for permitted professional offices or home occupations, not exceeding six (6) square feet and set back at least fifteen (15) feet from the highway right-of-way. Such sign shall state name, street address, and vocation only. Illumination shall not produce a direct glare beyond the limits of the property line and shall be mounted on the sign and directed downward. (3-11-03)
  - v. Temporary, non-illuminated “For Sale” or “For Rent” real estate signs and signs of similar nature concerning the premises upon which the sign is located: in the General Sign District, one (1) sign per lot not exceeding four (4) square feet per side; in the Business Sign District, one (1) sign per lot not exceeding thirty-two (32) square feet per side set back at least fifteen (15) feet from all property and highway R.O.W. lines. All such signs shall be removed within three (3) days after the sale, lease or rental of the premises. (See Prohibitions, Item “g.”) (Amended 3-8-94, 3-13-07, 3-9-10)



4. New Business Signs. A new business, or a business in a new location, awaiting installation of a permanent sign, may utilize a temporary sign for a period of not more than thirty (30) days until installation of a permanent sign. Such sign must meet all appropriate construction standards of the Town. A separate temporary sign permit for such a new business sign shall be required. (3-13-07)

#### E. WALL SIGNS.

1. Wall signs shall not extend beyond the ends or over the top of the walls to which attached, and shall not extend above the floor level of the second floor of the building, with a maximum height of fifteen (15) feet measured from the adjacent ground level. (3-13-07)
2. Wall signs shall not extend more than fifteen (15) inches from the face of the buildings to which attached.
3. Any part of a sign extending over pedestrian traffic areas shall have a minimum clearance of seven (7) feet, six (6) inches.
4. Wall signs may be mounted on roofs or eaves as long as they are mounted no more than five (5) feet up from the eaves, provided that the sign height shall not exceed fifteen (15) feet when measured from the highest part of the sign to the ground directly below. (3-10-92)

#### F. FREE-STANDING SIGNS.

1. No free-standing sign shall be located less than fifteen (15) feet from the curb, edge of pavement, or inside of sidewalk, provided the sign is not within the governmental right-of-way and is located on the applicant's property. No free-standing sign may be located less than one hundred (100) feet from any other free-standing sign. (3-14-00)
2. If for any reason the property line is changed at some future date, any free-standing sign made non-conforming thereby must be relocated within ninety (90) days to conform with the minimum setback requirements to the extent possible.
3. No free-standing sign shall be more than sixty-four (64) square feet, except as provided for in an approved sign master plan.
4. The top of the free-standing sign shall not be more than twelve (12) feet in height above road level. (3-11-03, 3-13-07)
5. No free-standing sign shall extend over or into the public right-of-way, pedestrian walkway, or driveway; nor shall it overhang the property lines.

#### G. AWNING SIGNS.

1. No sign shall project from an awning.
2. Awning graphics may be painted or affixed flat to the surface of the front or sides, shall

indicate only the name and/or address of the enterprise or premises.

3. Awning graphics shall be a single line of lettering not exceeding six (6) inches in height, but if over three (3) inches in height, shall be debited against the permitted wall sign surface area.
4. No awning sign shall be internally illuminated.
5. There shall be no more than one (1) awning sign at each separate business location. (3-13-07)

#### H. EXISTING SIGNS.

Non-Conforming Signs. In the event a sign lawfully erected prior to the effective date of this ordinance does not conform to the provisions herein, such shall meet the following specifications:

1. A non-conforming sign shall not be enlarged or replaced by another more non-conforming sign. (3-12-91, 3-10-92)
2. No non-conforming sign shall be permitted within a development under a sign master plan.

#### I. REMOVAL OF SIGNS.

1. Any sign existing on or after the effective date of this ordinance, whether in conformance with this ordinance or not, which no longer advertises an existing business conducted or product sold on the premises upon which such sign is located, shall be removed within fifteen (15) days.
2. If the Zoning Official shall find that any sign regulated in the local ordinance is not used, coded in advertising, is abandoned, unsafe or insecure, or is a menace to the public, the administrator shall give written notice to the named owner of the land upon which it is located, who shall remove or repair the sign within fifteen (15) days from the date of the said time period. The Selectmen shall revoke the permit issued for such sign and may invoke court action. Failure to remove or repair such sign would be considered a violation of this provision. (3-13-07)

#### J. CONSTRUCTION STANDARDS.

This section provides guidance and standards for construction of signs requiring permits and shall serve as guidance for the construction of exempt signs. It identifies the specifications needed so that signs are constructed to ensure the community's safety.

#### K. GENERAL.

1. All signs installed after the effective date of this local ordinance shall have attached to the sign a name plate giving the sign permit number and the name and address of the owner, person, or corporation responsible for general requirements and maintenance as outlined in this ordinance.

2. All free-standing signs shall be designed and constructed to withstand a wind pressure of not less than thirty (30) pounds per square foot of surface area.
3. All signs, including wall-mounted and projecting signs, shall be securely anchored and shall not spin or move in any manner. (3-10-92, 3-8-94)
4. All signs, sign finishes, supports, and electrical work shall be kept clean, neatly painted, and free and from all hazards, such as, but not limited to, faulty wiring and loose supports, braces, guys, and anchors.
5. All projecting, free-standing or wall signs shall employ acceptable safety materials and shall not constitute a hazard to pedestrian travel or the general public.
6. All signs shall be painted/fabricated in accordance with generally accepted standards.
7. All signs shall be in accordance with the BOCA Code and shall not conflict with the Manual on Uniform Traffic Control Devices for Streets and Highways (USDOT/FHWA) or the Life Safety Code (NFPA101). All electrical wiring of signs shall conform to the National Electrical Code. (NFPA-70)
8. Underground wiring shall conform to the National Electrical Code. (NFPA-70)

#### L. DESIGN GUIDELINES FOR SIGN MASTER PLANS.

1. Where groups of three (3) or more contiguous commercial or industrial units are to be located together in a development or where a lesser number of businesses total not less than twenty thousand (20,000) square feet of gross leasable area, the development may adopt a Sign Master Plan to govern advertising. The intent of this section is to promote a uniform and aesthetic message presentation that is designed to provide information to the general public through its design and coordination of elements. (3-13-07)
2. The development of a sign master plan shall be governed by the specifications of this section and generally reflect the requirements of the applicable sign district. Application of the sign master planning provisions should not detract from the rural character which the Town, through its adopted Master Plan, has expressed a strong desire to maintain. (3-10-92)
3. General Requirements. Total sign area permitted for the entire development or center shall be calculated at the rate of two (2) square feet of sign per foot of lineal building front with a maximum area of five hundred (500) square feet. The Planning Board may waive the maximum area at its discretion. Each sign master planned development may have one (1) common free-standing sign denoting the name of the facility not exceeding eighty (80) square feet per side and with the bottom panel not less than five (5) feet above road level and a maximum height of fifteen (15) feet. All other signs shall be attached to buildings, a wall, projecting or soffit type, and coordinated in material, shape, lettering, color, and/or decorative elements. Information and directional signage, with the exception of uniform traffic control

devices, shall be consistent with the general sign design of the development and is exempt from the sign area calculation provided that it does not contain advertising. (3-13-07)

- a. Signs shall be designed to be compatible with the surroundings and appropriate to the architectural character of the building on which they are placed. Sign panels and graphics should relate with and not cover architectural features, and should be in proportion to them.
- b. Signs should be appropriate to the types of activities they represent.
- c. Layout should be orderly and graphics should be of simple shape, such as rectangle, circle, or oval.
- d. The number of colors used should be the minimum consistent with the design and must provide a reference or relationship to the enterprise or activity being advertised.
- e. Illumination should be appropriate to the character of the sign and surroundings and shall bear a relationship to the operating hours of the enterprise or activity being advertised. Illumination of signs permitted only from one (1) hour before opening until one (1) hour after closing.
- f. Groups of related signs shall express uniformity, create a harmonious appearance, and provide visual and aesthetic coordination of the information presented to the public. (3-13-07)
- g. Height and physical placement shall be consistent throughout the master planned area.
- h. The sign master plan, including a site plan, shall be approved by the Planning Board, at a public hearing, and detail placement, design, color coordination, visibility, information messages and compatibility with the general design of the development.
- i. Off-premises directional signs for the convenience of the general public and for the purpose of directing persons to a business, activity, service, or community facility operating within the Town of Amherst may be erected as part of the sign master plan, providing such signs do not exceed four (4) square feet per sign nor total more than two (2) such signs per development. Messages shall be limited to name or identification, arrow or direction, and distance. Advertising messages shall be prohibited.
- j. Off-premise directional signs shall be classified as free-standing signs and shall not be placed within one hundred (100) feet of another free-standing sign. Illumination is prohibited. Such signs shall be limited to Major Arterial and Minor Arterial roads as defined in the 1988 Functional Classification System for Amherst Street Network published in the Town-Wide Transportation Master plan. Such signs may be permitted on Collector streets, as defined in the same classification system, within the Business Sign District.
- k. Sign panels may be made of any conventional weather resistant and rigid sign material acceptable to the Town of Amherst Planning Board. They shall be fully reflectorized and shall be similar to "Engineering Grade," reflective sheeting with respect to color (day and night), brightness, reflectivity, and durability as specified in the latest edition of the Manual on Traffic Control Devices for Streets and Highways. The panel shall have white legend on a blue background with a half (1/2) inch white border. The legend shall be white and four (4) inch minimum "Highway Type" letters, except that nationally, regionally, or locally-known commercial symbols or trademarks, in their customary colors, may be used when applicable. Sign colors may be coordinated with the development master plan color scheme provided that such a display does not conflict with standardized traffic control

devices and is specifically approved by the Planning Board. Nationally recognized approved symbols for services may be incorporated as alternates to word messages. All off-premise sign legends are subject to approval by the Town of Amherst Planning Board. (3-13-07)

#### M. ADMINISTRATION.

##### 1. Review and Appeals.

Any person aggrieved by a decision of the Zoning Administrator relative to the provisions of this local ordinance may appeal such decision, in writing, to the Board of Appeals as provided in the Zoning Regulations and shall comply with all procedural requirements prescribed by such board. In granting any variance from the provisions of this ordinance, the Board of Appeals must find that the variance is necessary for the reasonable use of the land or buildings, that granting the variance is in harmony with the general purposes and intent of this ordinance, that such will not be injurious to the neighborhood character or otherwise detrimental to the public welfare, and that denial of the variance would result in unnecessary hardship to the applicant.

##### 2. Violations and Penalties.

- a. Any person, firm or corporation, whether as owner, lessee, agent or employee, who proceeds to erect, re-erect, construct or structurally alter any sign without first applying for and obtaining the necessary permit, or who, in any other way, violates any provision of this local ordinance shall be guilty of an offense and receive punishment as established in the RSA's. Each day's continuous violation shall constitute a separate additional violation.
- b. In case of a violation of this local ordinance, the Town and its officers may, in addition to any other remedies specifically conferred by ordinance, institute any appropriate proceedings to prevent unlawful erection, construction, reconstruction, alteration or use of any sign not in compliance with this ordinance. (3-12-91)
- c. Any sign, permitted or not, placed within any public or private right-of-way or placed so as to impede public access, shall be considered to be a threat to public safety and may be removed at the direction of the public safety officers or Zoning Officials.

#### N. INTERNALLY ILLUMINATED SIGNS.

##### 1. Purpose.

The purpose of this ordinance is to permit the installation and operation of internally illuminated signs within the Town of Amherst, recognizing their value in providing information to the general public and an aid in the advertising of businesses.

## 2. General Provisions.

- a. Internally illuminated signs shall be permitted in the Business Sign District within the Town of Amherst only when incorporated as an integral part of an approved sign master plan.
- b. The total area of internally illuminated signage shall not exceed twenty-five (25%) percent of the permitted sign area for the master planned development.
- c. Internally illuminated signs shall conform to all other applicable provisions of the Town of Amherst sign regulations with respect to design, placement, presentation, and other regulated features.
- d. Only one (1) internally illuminated sign shall be permitted per physically separated business unit and shall replace another otherwise permitted sign.
- e. One (1) free-standing internally illuminated sign shall be permitted per development and shall be equal in all other regulated aspects to the free-standing sign it shall replace excepting for the illuminated area limitation of twenty-five (25%) percent as in provision (2) above.
- f. The area of the internally illuminated sign shall not exceed the area of the sign it shall replace for the business or development.
- g. No internally illuminated sign may be erected within three hundred (300) feet of any residential zone within the Town. (3-12-91)
- h. No internally illuminated sign erected as part of a sign master plan may be illuminated until the full master plan is implemented, unless a phasing plan is approved by the Planning Board.

### **Section 3.5 Accessory Apartments**

- A. PURPOSE AND AUTHORITY. The Purpose of this ordinance provision is to provide for accessory apartments while protecting the character of the residential neighborhoods in which they are located. Accessory Apartments shall not detract from the character of the neighborhood, nor shall they create traffic, environmental or aesthetic impacts substantially different than the impacts created by other permitted uses in the neighborhood. (3-12-19)
- B. DEFINITION. An accessory apartment is a second dwelling unit incorporated within an existing or proposed single family home which is structurally integrated with the existing principal dwelling.
- C. REQUIREMENTS FOR ALL ACCESSORY APARTMENTS.
  1. The accessory apartment shall occupy no more than seventy percent (70%) of the existing, gross heated floor area of the primary residence, up to a maximum of one thousand one hundred (1,100) square feet of gross floor area. Accessory apartments shall have no more than two (2) bedrooms.
  2. One (1) accessory apartment may be permitted on a single lot.
  3. Accessory apartments are prohibited when associated with attached housing (i.e.

townhouse or duplex buildings), condominiums or manufactured housing as defined in NH RSA 674:31.

4. Subsequent conveyance of an accessory apartment separate from that of the principal dwelling unit is prohibited.
5. Any changes to the total number of bedrooms per lot will require a new state-approved septic plan to be placed on file with the Community Development Office prior to the issuance of a building permit.
6. Accessory apartments located in an accessory building, detached from the principal dwelling, may be permitted as a Conditional Use in accordance with the provisions of Section 3.18.

### **Section 3.6 Mobile Homes and Trailers.**

- A. The use as a permanent residence of a house trailer or a mobile home is permitted in all zones of the Town which permit residential uses, and within and subject to the criteria of a Planned Residential Development, and subject to SECTION G, Town of Amherst Septic System Ordinance. (3-10-64, 3-10-87, 3-8-88, 3-11-03, 3-8-16)
- B. Registered recreational vehicles, as defined in RSA 259:84-a, may be stored unoccupied in all zones of the Town. (3-12-64, 3-8-16)
- C. The temporary use of a registered recreational vehicle by a person for whom a residence is being built on the property may be permitted by the Zoning Administrator. The Zoning Administrator shall grant permission for a period not to exceed three months, excepting that he may renew at his discretion such permission at the expiration of the three-month period (3-8-16).
- D. A property owner or lessee may accommodate one trailer of a nonpaying guest on their property for a period not exceeding 30 days in any one year (3-8-16).

### **Section 3.7 Building Regulations.**

- A. No building or structure shall be erected, unless in compliance with the following: (3-14-67)
  1. See New Hampshire Building Code. (3-10-98, 3-9-10)
  2. On all new buildings, construction must be at least seventy-five percent (75%) complete before occupied as a dwelling, as determined by the Administrative Official. (3-11-80, 3-14-89)
  3. No building permit for a new dwelling shall be issued unless it meets State mandated minimum size requirements. (3-11-80, 3-11-86, 3-12-91)

### **Section 3.8 Earth Material Removal.**

#### A. AUTHORITY.

Clay, loam, sand, gravel, minerals, and similar earth materials may be removed for either private use, or for sale from any lot parcel of land in any zoning district, except the Historic District and Wetlands Conservation District, only after a special permit for such operation has been issued by the Zoning Administrator, in accordance with the provisions of this section. (3-4-75, 11-2-82)

#### B. APPLICATION.

No Earth Material Removal Permit shall be issued unless application is made in writing on the forms provided for this purpose by the Town and accompanied by the payment of a fee in such amount as the Board of Selectmen may determine from time to time. The application form shall be accompanied by a plan which describes the proposed Earth Material Removal operation. (3-4-75)

#### C. PROCEDURE.

1. Prior to the approval or denial of an Earth Material Removal Permit application, the Selectmen or their agent, shall hold a public hearing. The applicant and all abutters within five hundred (500) feet of the parcel or parcels proposed to have earth material removed, shall be notified of the time and place of such hearing, not less than five (5) days prior to the date affixed for said hearing. (3-4-75)
2. In order to ensure the applicant's performance in adherence with these regulations, the applicant shall post a bond with the Town of Amherst in such amount as the Board of Selectmen may determine from time to time. Such bond shall not be less than five hundred dollars (\$500) per acre and shall be posted prior to the issuance of said permit. (3-4-75)
3. During the period of the permit, the Zoning Administrator shall conduct on-site inspections of the earth material removal operation plan. Not less than sixty (60) days prior to the expiration of the permit, the Zoning Administrator shall conduct a compliance review. This review shall indicate what action is necessary by the operator to: (3-4-75)
  - a. Close out the operation within the permit period in conformance with the plan, or (3-4-75)
  - b. Be eligible to apply for a renewal of the Earth Material Removal Permit. (3-4-75)
    - i. If the operator requests a renewal of his permit, the new application together with an amended operation plan shall be submitted at least forty-five (45) days prior to the expiration of the current permit. (3-4-75)
    - ii. If, at the expiration of the permit, the operator has failed to carry out the reclamation of the site as required by this ordinance in conformance with the operation plan and permit, the bond posted by the operator shall be forfeited and the proceeds used to carry out the reclamation of the site. If the reclamation is performed in accordance with



the operation plan, the bond shall be returned to the operator upon establishment of the cover crop for two (2) full growing seasons or earlier upon certification of the Hillsborough County Conservation District. (3-4-75)

#### D. STANDARDS.

All work executed under an Earth Material Removal Permit shall conform to the following standards:

1. No excavation shall occur within fifty (50) feet of any property line, road right-of-way or zoning district boundary in which district earth material removal is not permitted and the natural vegetation shall be retained in this buffer area. (3-4-75)
2. All finished grades shall in no case be steeper than 2:1 horizontal/vertical slope. (3-4-75)
3. No land shall be excavated below the seasonal high water table except as part of a plan to develop water conservation or recreational uses. This plan must be submitted at the time of application together with a written review of the plan conducted by the Hillsborough County Conservation District. (3-4-75)
4. The excavation shall proceed in a manner which will not allow it to hold standing surface water in excess of two (2) inches in depth except as approved as part of a surface water absorption system designed to minimize surface water runoff. (3-4-75)
5. Upon completion of all excavation, the entire site shall be re-spread with loam to a depth of four (4) inches or the average depth of loam prior to the commencement of excavation, whichever is less. Loam sufficient to meet this requirement shall be stockpiled on the excavation site. (3-4-75)
6. Unless a special waiver is granted at the time the permit is issued, the land area disturbed by the operation and in an un-restored condition shall not exceed a total of five (5) acres at any one time. (3-4-75)
7. When the removal of material is completed, the finished grades, as specified in the approved plan shall have a permanent cover crop established, except when ledge rock is exposed, to assure adequate drainage and prevent erosion. (3-4-75)
8. All excavating, handling, processing, and storage facilities shall be removed, the land cleared of all stumps, logs, brush, and rocks, the final grades indicated on the plan established and the site reclaimed prior to the expiration of the Earth Material Removal Permit unless application has been made and approval granted for the renewal of the permit. (3-4-75)
9. All earth material removal operations shall be maintained in a safe condition at all times. No overhanging banking, potential earth slides, or any other unsafe condition shall be permitted at any time. (3-4-75)

E. EXCEPTIONS.

The removal of loam, sand, gravel, clay, and other similar materials from a site shall require an Earth Material Removal Permit. The following activities conducted on a lot or site shall not require an Earth Material Removal Permit:

1. The removal of less than two hundred (200) cubic yards of material. (3-4-75, 11-2-82, 3-11-03)

**Section 3.9 Reduced Frontage Lots.**

No building permit shall be issued for any structure on any lot within any subdivision approved subsequent to March 4, 1975, which includes any streets, driveways, or highways associated with reduced frontage lots unless such private driveways shall have been constructed in a fashion consistent with the requirements of the Town of Amherst subdivision regulations as adopted from time to time by the Town of Amherst Planning Board dealing with construction requirements and specifications for private driveways. (3-10-87)

**NOTE:** See Town of Amherst Subdivision Regulations, Section 5-2. (3-4-75, 5-1-82)

**Section 3.10 Use Group Classifications.**

A classification system is necessary in order that appropriate fire, health, building regulations can be recognized and applied to proposed new structures or those to be altered.

- A. SCOPE. The provisions of this section shall control the classification of all buildings and structures as to use groups.
- B. The provisions of this section shall not be deemed to nullify any provisions of the Zoning Ordinance.
- C. GENERAL. All buildings and structures shall be classified with respect to use in one of the use groups listed below and such existing or proposed use shall be specified on the application for permit.
  1. Use Group A. Assembly
  2. Use Group B. Business
  3. Use Group E. Educational
  4. Use Group F. Factory and Industrial
  5. Use Group H. High Hazard
  6. Use Group I. Institutional
  7. Use Group M. Mercantile
  8. Use Group R. Residential
  9. Use Group S. Storage
  10. Use Group U. Utility and miscellaneous
- D. DOUBTFUL USE CLASSIFICATION. When a building or structure is proposed for a use not

specifically provided for, the use classification shall be in the use group which it most nearly resembles; and the building or structure shall meet the health and safety requirements of that group.

- E. MIXED USES AND OCCUPANCY. When a building is proposed to be occupied for two (2) or more uses, the provision of associated codes securing the greater public health and safety shall be applied.
- F. INCIDENTAL USES. Where the use is supplemental to the main use of the building and the area devoted to such use does not occupy more than ten percent (10%) of the floor area, the building shall be classified according to the main use. (3-8-88)

### **Section 3.11 Scenic Setbacks.**

- A. PURPOSE. The purpose of this section is to preserve and enhance the rural, open character of the Town as viewed from the main roads leading through the Town and scenic roads within the Town and to prevent unsightly development along these routes.
- B. REGULATIONS. To accomplish the purpose of this section, a setback requirement for all structures of one hundred (100) feet from the highway right-of-way is established on the following roads, and said setbacks shall apply notwithstanding any other setback requirements which may be applicable as a result of other zone regulations: (3-2-76)
  - 1. Rte 122 from Hollis Town line north to Old Rte 101, Horace Greeley Highway. (3-14-00)
  - 2. Boston Post Rd from Stearns Rd north to Route 122
  - 3. Boston Post Rd from Beaver Brook north to Mt. Vernon Rd.
  - 4. Mt. Vernon Rd from Boston Post Rd north to Mt. Vernon Town line
  - 5. Amherst Street (3-9-99, 3-14-00)
  - 6. Horace Greeley Highway from Milford Town line north to Bedford Town line. (3-9-99)
  - 7. New Boston Rd from Boston Post Rd north to Mt. Vernon Town Line
  - 8. Christian Hill Rd from Davis Lane to Route 13
  - 9. Corduroy Rd from Merrimack Rd north to Boston Post Rd.
  - 10. Merrimack Rd from Boston Post Rd north to Corduroy Rd.
  - 11. Mack Hill Rd from Manchester Rd north to Austin Rd.
  - 12. All scenic Roads (see Section E) 3-2-76
- C. EXCEPTIONS TO SCENIC SETBACK REQUIREMENTS.
  - 1. Any person aggrieved by the operation of this section may apply to the Board of Adjustment for a variance herefrom in like manner as in other situations where the existence of a hardship is alleged. (3-2-76)
  - 2. In the event that a lot of record at time of passage of this section is of such size and dimension that the application of the foregoing setback in combination with all other setbacks as may be required for such lot precludes the use of more than sixty percent (60%) of the area of such lot, then the foregoing one hundred (100) foot setback shall not apply to such lot; however, if a lot

qualifies for this exception and is also subject to Non-Residential Site Plan Review by the Planning Board, the Planning Board shall determine that appropriate provision has been provided so as to reasonably achieve the purpose of this section as set forth in Paragraph 1 above. (3-2-76)

The regulations set forth herein, are intended to apply only to the construction of new structures which take place on and after the effective date of this section. Any dwelling or other structure which was in existence at the time of passage of this section, may be enlarged, modified, or otherwise altered without the necessity of complying with the requirements of this section, provided that such alterations do not reduce the setback from the front lot line to an amount less than the setback which exists on the building to be altered. Provided further, however, that such construction or alterations must comply with any other setback requirements applicable in the respective zones other than the scenic setback. (3-2-76, 3-9-82)

### **Section 3.12 Farming.**

#### A. INTENT.

1. In keeping with the goals of the Master Plan, a Right to Farm Ordinance is hereby written to encourage and protect farms and farming in the Town of Amherst. In order to protect the existing farms in the Town of Amherst and to encourage others who might want to farm, it is recognized that “the right to farm” is a natural right and is allowed to exist as a permitted use in the Town of Amherst and State Health and Sanitary Codes for intensive fowl and livestock farms.
2. The right to farm as used in this ordinance includes use of necessary equipment, farm machines, farm laborers, application of fertilizers, etc., for the purpose of producing agricultural products such as vegetables, grains, hay, fruit, trees, plants, etc. The right to farm shall also include the right to use land for grazing by animals and raising of livestock and fowl, when conducted in accordance with generally accepted agricultural practices and may take place on holidays, Sundays, weekends, night and day. (3-13-84)
3. Agricultural operations and Equestrian operations shall be conducted in accordance with the “Manual of Best Management Practices (BMP) for Agriculture in New Hampshire” published by the New Hampshire Department of Agriculture, Markets, and Food. (3-8-05)
4. Two (2) signs totaling twelve (12) square feet are permitted for farm stands.

### **Section 3.13 Dish Antennae.**

PURPOSE. To provide for the safe and aesthetically pleasing installation of dish antennae in the Town of Amherst.

#### A. STANDARDS.

1. These standards shall apply to antennae of four (4) feet in diameter or greater.

2. Only one (1) antenna shall be allowed for each lot.
3. Antennae shall be placed at least one hundred (100) feet back from front property line and shall meet the setback requirements for the particular zone in which it is located.
4. All antennae shall be securely mounted to the ground and shall not be placed on any vehicle or other movable structure.
5. The antennae shall be visually screened from the roadway and adjoining property by the use of vegetation to the maximum extent possible without impairing efficiency so that said screening is effective year-round.
6. No portion of the antenna may exceed fifteen (15) feet in height from the natural ground level.
7. Must be painted matte black or earth tones to blend with surrounding vegetation. (3-11-86)

**Section 3.14 Renewable Energy Systems. (3-11-08, 3-10-09)**

PURPOSE. The purpose of this ordinance is to promote the safe, effective, and efficient use of small renewable energy systems designed to reduce reliance on fossil fuels. In accordance with NH RSA 674:17(j), small renewable energy systems such as, but not limited to, solar, wind, and biomass facilities may be permitted in any Zone (except the Historic District overlay for Small Wind Energy Systems). Systems proposed within the Historic District are also subject to approval of the Historic District Commission. For purposes of this ordinance small energy systems shall be those capable of generating not more than 60 KW. Systems rated for production of more than 60 KW shall be considered commercial uses. (3-9-10)

A. SMALL WIND ENERGY SYSTEMS.

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 is 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.

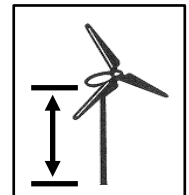
Net metering. The difference between the electricity supplied to a customer over the electric distribution system and the electricity generated by the customer's small wind energy system that is fed back into the electric distribution system over a billing period.

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.

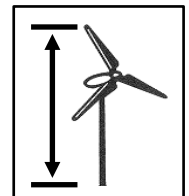
Small wind energy system. A wind energy conversion system consisting of a wind generator, a tower, and associated control or conversion electronics, which has a rated capacity of sixty (60) kilowatts or less and will be used primarily for on-site consumption.

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.

### 3. Procedure for Review.

- a. **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 Building Inspector. 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 three (3) years from the date the building permit was issued.
- b. **Application.** Applications submitted to the Building Inspector shall contain a site plan with the following information:
- c. **Property lines and physical dimensions of the applicant's property.**
- d. **Location, dimensions, and types of existing major structures on the property.**

- e. Location of the proposed small wind energy system, foundations, guy anchors, and associated equipment.
  - f. Tower foundation blueprints or drawings.
  - g. Tower blueprints or drawings.
  - h. Setback requirements as outlined in this ordinance.
  - i. The right-of-way of any public road that is contiguous with the property.
  - j. Any overhead utility lines.
  - k. Small wind energy system specifications, including manufacturer, model, rotor diameter, tower height, tower type, nameplate generation capacity.
  - l. 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.
  - m. Sound level analysis prepared by the wind generator manufacturer or qualified engineer.
  - n. Electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the NH State Building Code.
  - o. Evidence of compliance or non-applicability with Federal Aviation Administration requirements.
  - p. List of abutters to the applicant's property. Three sets of typed gummed labels (1" x 2.5").
4. Abutter and Regional Notification. In accordance with RSA 674:66, the Building Inspector 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 thirty (30) days to submit comments to the Building Inspector prior to the issuance of the building permit. The Building Inspector shall review the application for regional impacts per RSA 36:55. If the proposal is determined to have potential regional impacts, the Building Inspector shall follow the procedures set forth in RSA 36:57, IV.
5. Standards. The Building Inspector shall evaluate the application for compliance with the following standards:
- a. 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	1.1	1.5

- b. Small wind energy systems must meet all setbacks for principal structures for the zoning district in which the system is located.
  - c. Guy wires used to support the tower are exempt from the small wind energy system setback requirements.
6. Tower. The maximum tower height shall be restricted to thirty-five (35) feet above the tree

canopy within three hundred (300) feet of the small wind energy system. In no situation shall the tower height exceed one hundred fifty (150) feet.

7. Sound Level. The small wind energy system shall not exceed fifty-five (55) 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.
8. 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 thirty (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.
9. 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.
10. Code Compliance. The small wind energy system shall comply with all applicable sections of the New Hampshire State Building Code.
11. 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.
12. 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.
13. 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.

14. 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.
15. 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 eight (8) feet above the ground. All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.
16. 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.
17. Abandonment.
  - a. At such time that a small wind energy system is scheduled to be abandoned or discontinued, the applicant will notify the Building Inspector 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 ninety (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 Building Inspector. "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 twelve (12) month period. After the twelve (12) months of inoperability, the Building Inspector 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 thirty (30) days from Notice receipt date. After review of the information provided by the owner, the Building Inspector 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 Building Inspector 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 Building Inspector, 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 three (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 Building Inspector may

pursue legal action to have the small wind energy system removed at the owner's expense.

18. 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.

19. 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.

### **Section 3.15 Home Occupations. (3-14-95, 3-11-08)**

A. PURPOSE AND AUTHORITY. The Purpose of this ordinance is to provide for home-based businesses while protecting the character of the residential neighborhoods in which they operate. The activities associated with home occupations are not to detract from the rural character of the Town nor shall they create traffic, environmental or aesthetic impacts substantially different than the impacts created by other permitted uses in the neighborhood.

B. DEFINITION. An occupation or business activity which is conducted by a resident within his/her own dwelling or in a garage or barn-type outbuilding and which is clearly subordinate to the principal residential use.

C. REQUIREMENTS FOR ALL HOME OCCUPATIONS.

1. The home occupation shall occupy no more than twenty percent (20%) of the existing, gross heated floor area of the primary residence or, if the home occupation is conducted in an outbuilding, shall not occupy an area greater than fifty percent (50%) of the existing, gross heated floor area of the primary residence. Up to a maximum of one thousand (1,000) square feet of covered area may be dedicated to the home occupation.

2. No emissions of dust, fumes, smoke, noise (greater than sixty-five [65] decibels), vibration, light, or water attributable to the home occupation shall be allowed across the property line.

3. No outdoor display advertising or storage of any products or materials associated with the home occupation shall be allowed except as provided below.

4. No more than two (2) trips per day by commercial delivery vehicles (on average) shall be allowed.

D. CLASSES OF HOME OCCUPATION.

1. Class A Home Occupation. A Class A Home Occupation has no impact on the neighborhood.

a. The business is not visible to the surrounding properties or the street.

- b. Activity is carried out entirely within the residence or accessory buildings, there is no sign other than a rural delivery mailbox.
  - c. No vehicle other than the residents' personal vehicles, which are not lettered or painted to advertise the business.
  - d. The business has no employees other than the residents of the dwelling.
  - e. No clients or customers come to the house to transact business, and any deliveries are made by standard delivery truck (no large freight vehicles are involved in the day-to-day operation).
  - f. Operators of Class A Home Occupations may choose to register with the Town, using the Home Occupation Registration form. A copy of the registration form, signed by the Planning Director, will be provided to the operator if requested.
2. Class B Home Occupation. A Class B Home Occupation has minimal impact on the surrounding neighborhood.
- a. No structural change or addition to the existing buildings indicates the business use of the property.
  - b. The business has no employees other than the residents of the dwelling.
  - c. One non-illuminated sign not to exceed six square feet per side may be displayed.
  - d. One vehicle displaying text or decoration promoting the business may be allowed.
  - e. Up to three clients or customers per day (on average) may be received.
  - f. Hours of outside operation may be 8:00 a.m. to 6:00 p.m., Monday thru Saturday.
  - g. Operators of Class B Home Occupations must register with the Town, using the Home Occupation Registration form. A copy of the registration form, signed by the Planning Director, will be kept on the premises in a readily accessible location.
3. Class C Home Occupation. A Class C Home Occupation has minor impact on the surrounding neighborhood.
- a. No structural change or addition to the existing buildings indicates the business use of the property.
  - b. The business has no more than two employees other than the residents of the dwelling.
  - c. One non-illuminated sign not to exceed six (6) square feet per side, may be displayed.
  - d. One vehicle displaying text or decoration promoting the business may be allowed.
  - e. Up to ten clients or customers per day (on average) may be received.
  - f. Hours of outside operation are 8:00 a.m. to 6:00 p.m., Monday thru Friday, 9:00 am to 8:00 pm Saturday.
  - g. Deliveries other than those by standard delivery truck must be received between 10:00 am and 2:00 pm.
  - h. The site must accommodate parcel pick-up and delivery with facilities for drop-off storage.
  - i. Operators of Class C Home Occupations must register with the Town, using the Home Occupation Registration form.
  - j. In addition the operator must provide documentation of the adequacy of the septic system for the proposed use, and a sketch of the property demonstrating adequate areas designated for parking of employees and clients/customers, access and turning of delivery vehicles, and safe pedestrian access for clients/customers to the business where applicable. A copy

of the registration form, signed by the Planning Director, will be kept on the premises in a readily accessible location.

E. SPECIAL PROVISIONS.

1. Any Bed & Breakfast operated under this section of the ordinance shall be limited to a maximum of five (5) bedrooms for guest use.
2. Scale of operation of any Class B or C Home Occupation may be limited by the capacity of the existing septic system.
3. Adequate off-street parking must be provided for any Class B or C Home Occupation.

F. RENEWAL OR EXPIRATION OF REGISTRATION.

1. Class B and C Home Occupation registrations and the uses provided for therein, shall automatically terminate five years after the date of issuance but shall be renewed by the Town provided that the dwelling owner shall certify that the use is in compliance with this ordinance.
2. Class B Home Occupations that grow to exceed the requirements under Section 3.15.D. 2 shall comply with the requirements of Section 3.15.D.3 within six (6) months.
3. Class C Home Occupations shall not exceed the requirements of Section 3.15.D.3 and may be directed by the Planning Director or designated officer to reduce the impact of the operation or move to a non-residential site within sixty (60) days.
4. Home Occupation permits are not transferable.

G. PROHIBITED USES.

Home Occupation uses shall not include the following:

1. Any use that generates, stores or uses regulated hazardous substances, receives or ships hazardous materials regulated under Chapter 49 - Code of Federal Regulations, or that generates or disposes of hazardous waste as regulated under Chapter 40 - Code of Federal Regulations. This prohibition includes dry cleaning facilities, metal extraction and salvage operations, most landscaping businesses, machine shops, photo-developing operations, and laboratories.
2. Sales or repairs of automobiles, snowmobiles, jet skis or other motorized vehicles.
3. Hair or nail salons, barber, or beauty shops.
4. Medical or dental group practice clinics or veterinary clinics.
5. Clothing cleaners or dyers.

6. Banks.
7. Coffee or sandwich shops or other restaurant facilities.
8. Daycare facilities larger than a maximum of six (6) children. (3-9-10)

#### H. PERMITTED USES NOT REGULATED AS HOME OCCUPATIONS.

Certain activities conducted in residential zones are regulated by other parts of the Amherst Zoning Ordinance:

1. Farming and Agricultural Uses, including Farming. (Section 3-12)
2. Personal Wireless Service Facilities. (Section 3-16)
3. Equestrian Facilities and Events. (Section 3-17)
4. Non-commercial sports and recreational uses.
5. By Special Exception in certain zones:
  - a. Kennels
  - b. Sawmills
  - c. Religious Uses
  - d. Funeral Homes
  - e. Nursing Homes

### **Section 3.16 Personal Wireless Service Facilities. (3-12-13)**

#### A. PURPOSE AND INTENT.

It is the express purpose of this Article to permit carriers to locate personal wireless service facilities within particular areas of the Town of Amherst consistent with appropriate land use regulations that will ensure compatibility with the visual and environmental features of the Town. Compatibility with the visual features of Amherst is measured based on the change in community scale and character in relation to the height, mass, materials, contrasts, or proportion within the surroundings of a proposed Personal Wireless Service Facility. This Article enables the review of the locating and siting of Personal Wireless Service Facilities by the Town of Amherst so as to eliminate or mitigate the visual and environmental impacts of Personal Wireless Service Facilities.

The intent of this ordinance is to implement the following goals and objectives throughout the Town of Amherst, while conforming to federal and local laws and regulations:

1. Facilitate the provisions of Personal Wireless Services to the residents and businesses of Amherst;

2. Provide for the appropriate location and development of Personal Wireless Service Facilities;
3. Minimize adverse visual and environmental effects of towers and antennas through careful design and siting standards;
4. Encourage cooperation and co-location whenever possible; and,
5. Minimize economic impacts on adjacent property values.

B. APPLICABILITY.

The terms of this Article and the Site Plan Review Regulations shall apply to Personal Wireless Services Facilities proposed to be located on property owned by the Town of Amherst, on privately-owned property, and on property that is owned by any other governmental entity that acts in its proprietary capacity to lease such property to a carrier.

C. DEFINITIONS. For the purpose of this Article, the following terms shall have the meaning given herein:

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 at above ground level (AGL) of all trees over twenty (20) feet in height for a defined area. The AGL shall be calculated on the trees within a radius of fifty (50) feet from the proposed Tower, (trees to be removed at tower site cannot be used in calculations.) (3/13/01)

Camouflaged. A Personal Wireless Service Facility that is disguised, hidden, part of an existing or proposed structure, or placed within an existing or proposed structure. All paint shall be flat to avoid any reflection. (3/13/01)

Carrier. A Company that provides personal wireless services also sometimes referred to as a provider.

Co-location. The use of a single mount on the ground by more than one (1) carrier (vertical co-location) or the same carrier with multiple licenses, and/or the use of several mounts on an existing building or structure by more than one (1) carrier or the same carrier with multiple licenses.

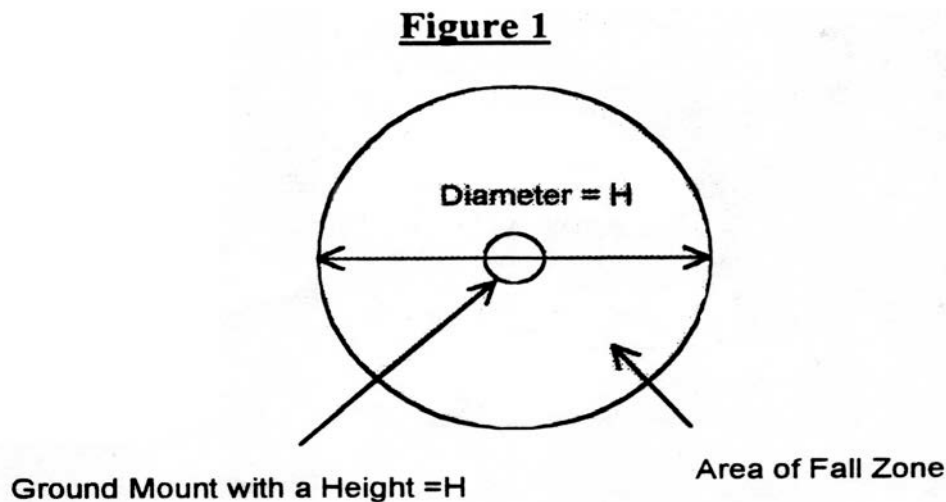
Environmental Assessment (EA). An EA is a document required by the Federal Communications Commission (FCC) and the National Environmental Policy Act (NEPA) when a Personal Wireless Service Facility is placed in certain designated areas.

Equipment Shelter. An enclosed structure, cabinet, shed, vault, or box near the base of the mount within which is housed equipment for Personal Wireless Service Facilities such as batteries and electrical equipment. Equipment shelters are sometimes referred to as base transceiver stations.

Existing Personal Wireless Service Facility. A Personal Wireless Service Facility that has received Planning Board and Building Permit approvals, and a final Certificate of Operation. To be considered an Existing Facility a current security shall be on file with the Town in accordance with Section 3.16.H.3.

Facility. See Personal Wireless Service Facility.

Fall Zone. The area on the ground from the base of a ground mounted Personal Wireless Service Facility that forms a circle with a diameter equal to the height of the facility, including any antennas or other appurtenances, as set forth in Figure 1. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material. Fall zones may overlap.



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

Height. The height above ground level (AGL) from the natural grade of a site to the highest point of a structure.

Lattice Tower. A type of mount with multiple legs and structural cross bracing between the legs that is self-supporting and free-standing.

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 thicker type of mount than a mast that is self-supporting with a single shaft of wood, steel or concrete, or other material that is designed for the placement of antennas and arrays

along the shaft.

Mount. The structure or surface upon which antennas are mounted, including the following four (4) 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.

Personal Wireless Service Facility. Facility for the provision of personal wireless services, as defined by the Telecommunications Act of 1983 and 1996, as amended. Personal Wireless Service Facilities include a mount, antenna, equipment shelter, and other related equipment. Personal Wireless Service Facilities do not include private or non-commercial wireless communication facilities such as amateur ham radio and citizens band radio.

Personal Wireless Services. The three types of services regulated by this ordinance: commercial mobile radio services, unlicensed wireless services, and common carrier wireless exchange access 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 wall, fence, or berm that restricts an area from unauthorized entry or trespass.

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

#### D. DISTRICT AND FEDERAL REGULATIONS.

1. Location – Personal Wireless Service Facilities shall be permitted in all Zoning Districts in accordance with this ordinance. Applicants seeking approval for Personal Wireless Service Facilities shall first evaluate existing structures for the siting of Personal Wireless Service Facilities. Only after finding that there are no suitable existing structures pursuant to Section 3.16.E herein, shall a provider propose a new ground mounted facility.
2. Existing Structures: Policy – When available, Personal Wireless Service Facilities shall be located on existing structures, including but not limited to buildings, water towers, existing Personal Wireless Service Facilities, utility poles or towers, and related facilities, provided that such installation preserves the character and integrity of those structures.



3. Existing Structures: Burden of Proof – The applicant shall have the burden of proving that there are no existing structures which are suitable to locate its Personal Wireless Service Facility and/or transmit or receive radio signals. To meet that burden, the applicant shall take all the following actions to the extent applicable:
  - a. The applicant shall submit to the Planning Board a list of all contacts made with owners of potential sites regarding the availability of potential space for a Personal Wireless Service Facility. If the Planning Board informs the applicant that additional existing structures may be satisfactory, 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 structures and letters of rejection. If letters of rejections are not provided, at a minimum, unanswered “Return Receipt Requested” forms from the U.S. Post Office shall be provided for each owner of existing structures that was contacted.
  - c. If the applicant claims that a structure is not capable of physically supporting a Personal Wireless Service Facility, this claim must be certified by a licensed professional civil 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 cost shall be provided to the Planning Board.
  - d. Ground Mounted Facilities: Policy – New ground-mounted facilities are permitted but only when the use of existing structures and buildings are found to be not feasible. If the applicant demonstrates that it is not feasible to locate on an existing structure, ground mounted 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.
  - e. Federal Requirements: All facilities must meet or exceed current standards and regulations of the Federal Aviation Administration (FAA), Federal Communications Commission (FCC), and any other agency of the federal government with the authority to regulate such facilities.

E. USE REGULATIONS. A Personal Wireless Service Facility shall require a building permit in all cases and is permitted as follows:

1. Existing Tower Structures: Subject to the issuance of a building permit, carriers may locate a Personal Wireless Service Facility on any guyed tower, lattice tower, mast, or monopole in existence prior to the adoption of this Article, or on any Personal Wireless Service Facility previously approved under the provisions of this Article so long as the co-location complies with the approved site plan. All the Performance Standards from this Article shall be met.
2. Reconstruction of Existing Tower Structures: An existing guyed tower, lattice tower, monopole, or mast in existence prior to the adoption of this Article may be reconstructed with a maximum twenty (20) foot increase in height so as to maximize co-location so long as the standards of this Article are met and so long as this twenty (20) foot increase in height does not cause a facility previously existing at less than two hundred (200) feet to exceed two

hundred (200) feet in height. The mount shall be replaced with a similar mount that does not significantly increase the visual impact on the community.

3. Existing Structures: Subject to the provisions of this Section, a carrier may locate a Personal Wireless Service Facility on an existing structure, building, utility tower or pole, or water tower.
4. Ground Mounted Facility: A new Personal Wireless Service Facility involving construction of a ground mount shall require site plan review and be subject to the provisions of this Section.

F. DIMENSIONAL REQUIREMENTS. Personal Wireless Service Facilities erected, constructed, located, replaced, altered, or extended within the Town shall comply with the following dimensional requirements:

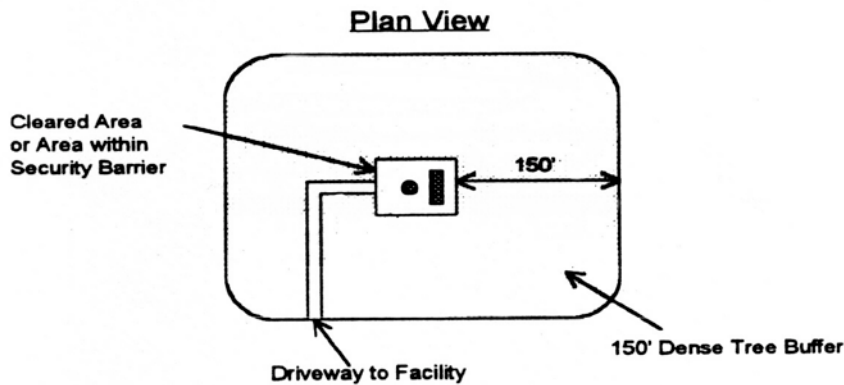
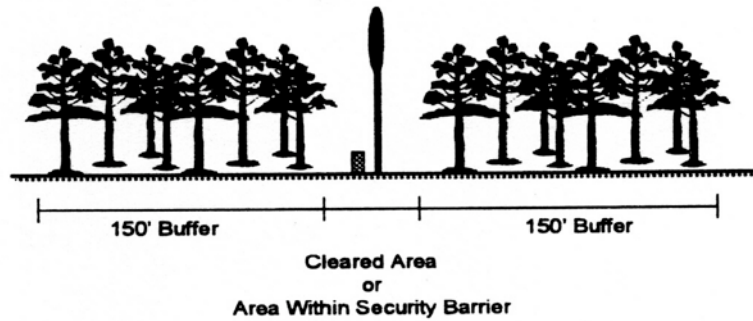
1. Height, Maximum: In no case shall a Personal Wireless Service Facility exceed two hundred (200) feet in height, unless the mount for the facility was greater than two hundred (200) feet in height prior to the adoption of this Section.
2. Height, Existing Structures and Utility Poles: Carriers that locate new Personal Wireless Service Facilities on water towers, electric transmission and distribution towers, utility poles and similar existing utility structures, guyed towers, lattice towers, masts, and monopoles may be permitted to increase the height of those structures no more than twenty (20) feet, or forty (40) feet at the discretion of the Planning Board, if the additional height will not materially impair the visual impacts of the site. This increase in height shall only be permitted once for each structure.
3. Height, Other Existing Structures: The height of a Personal Wireless Service Facility shall not increase the height of a structure by more than fifteen (15) feet, unless the facility is completely camouflaged; for example a facility completely within a flagpole, steeple, or chimney. The increase in the height of the structure shall be in scale and proportion to the structure as originally configured. A carrier may locate a Personal Wireless Service Facility on a building that is legally non-conforming with respect to height, provided that the provisions of this Section are met.
4. Height, Ground-Mounted Facilities: New ground-mounted Personal Wireless Service Facilities shall not project higher than twenty (20) feet above the average tree canopy height within a one hundred and fifty (150) foot radius of the mount, security barrier, or designated clear area for access to equipment, whichever is greatest.
5. Setbacks: In addition to compliance with the minimum zoning district setback requirements, ground-mounted facilities must be set back, at a minimum, the distance equal to the fall zone, as defined in Section 3.16.C Definitions and 3.16.F Dimensional Requirements. 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 and if the fence is six (6) feet or more in height, in accordance with the appropriate Zoning Ordinances and building codes.

6. Fall Zone for Ground Mounts: In order to ensure public safety, the minimum distance from the base of any ground-mount of a Personal Wireless Service Facility to any property line, public road, habitable dwelling, business or institutional use, or public recreational area shall be, at a minimum, the distance equal to the fall zone, as defined in this Article. The fall zone may cross property lines, so long as the applicant secures a fall zone easement from the affected property owner(s). The area of the easement shall be shown on all applicable plans submitted to the Town, and the terms of the easement shall be provided as part of the site plan review. (Multiple fall zones may overlap.) (3-13-01)
7. Fall Zone for Non-Ground Mounts: In the event that an existing structure is proposed as a mount for a 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.
8. Planning Board Flexibility: Heights – In reviewing a site plan application for a Personal Wireless Service Facility, the Planning Board may permit an increase in the height of a ground mounted facility up to forty (40) feet above the average tree canopy height, if no material increase in visual or environmental impacts will result from the increased height. The visual and environmental criteria of this Section and the Site Plan Review Regulations shall be the guidelines in making this determination.

#### G. PERFORMANCE AND DESIGN STANDARDS.

1. Visibility.
  - a. Visual impacts are measured on the basis of:
    - i. Change in community scale, as exhibited in relative height, mass, or proportion of the Personal Wireless Service Facility within their proposed surroundings.
    - ii. New visible elements proposed on a contrasting background.
    - iii. Different colors and textures proposed against a contrasting background.
    - iv. Use of materials that are foreign to the existing built environment.
  - b. Enhancements are measured on the basis of:
    - i. Conservation of opportunities to maintain community scale, e.g. buffering areas and low-lying buildings should not be compromised so as to start a trend away from the existing community scale.
    - ii. Amount and type of landscaping and/or natural vegetation.
    - iii. Preservation of designated historic structures and districts, view corridors, vistas, and view sheds.
    - iv. Continuation of existing colors, textures, and materials.
  - c. Visibility focuses on:
    - i. Eliminating or mitigating visual impact.

- ii. Protecting, continuing, and enhancing the existing environment.
  - d. Camouflage for Facilities on Existing Buildings or Structures – Roof Mounts: When a Personal Wireless Service Facility extends above the roof height of a building on which it is mounted, every effort shall be made to conceal or camouflage the facility within or behind existing or new 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.
  - e. Camouflage for Facilities on Existing Buildings or Structures – Side Mounts: Personal Wireless Service Facilities which are side mounted shall blend with the existing building’s architecture and, if individual antenna panels are over five (5) square feet, the panels shall be painted or shielded with material consistent with the design and materials of the building.
  - f. Camouflage for Ground Mounted Facilities: All ground-mounted Personal Wireless Service Facilities shall be surrounded by a buffer of dense tree growth that extends continuously for a minimum distance of one hundred and fifty (150) feet from the mount, and screens views of the facility in all directions, as set forth in Figure 2. These trees must be existing on the subject property, planted on site, or be within a landscape easement on an adjoining site. The Planning Board shall have the authority to decrease, relocate, or alter the required buffer based on-site conditions. The one hundred and 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.



2. Color: To the extent that any Personal Wireless Service Facilities extend above the height of the vegetation immediately surrounding them, they shall be of a color which blends with the background or surroundings.
3. 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 so that the shelters are architecturally consistent, with respect to materials and appearance, to the buildings in the area of the Personal Wireless Service Facility; 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 shall determine the style of fencing and/or landscape buffer that is compatible with the neighborhood; or
  - d. If mounted on a roof top, 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.

4. Lighting, Signage, and Security.

- a. Lighting: Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the regulatory authority may review the available lighting alternatives and approve the design that would cause the least disturbance to the abutters and travelers on Town roads. Lighting of equipment structures and any other facilities on-site shall be shielded from abutting properties. Foot-candle measurements at the property line shall be 0.0 initial foot candles.
- b. Signage: Signs shall be limited to those needed to identify the property and the owners and warn of any danger. All signs shall comply with the requirements of Article III, Section 3.4 of the Amherst Zoning Ordinance.
- c. Security Barrier: The Planning Board shall have final authority on whether a ground mounted Personal Wireless Service Facility should be surrounded by a security barrier.

5. Historic Buildings and Districts.

- a. Any Personal Wireless Service Facility located on or within an historic structure shall not alter the character-defining features, distinctive construction 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 authorized by this subsection 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. Personal Wireless Service Facilities located in the Amherst Village Historic District are subject to review by the Historic District Commission and shall comply with the regulations of the Historic District.

6. Scenic Landscapes and Vistas – Ground-mounted facilities shall not be located within open areas that are clearly visible from public roads, recreational areas, or abutting properties. All ground-mounted Personal Wireless Service Facilities shall be surrounded by a buffer of dense tree growth as per Section 3.16.G.1.f.

7. Driveways – If available, 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 eighteen (18) feet in width. A gravel or crushed stone surface is encouraged.

8. Antenna Types – 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 antenna array may be permitted after a finding by the Planning Board that the visual impacts of a larger antenna array are negligible.

9. Ground and Roof Mounts – All ground mounts shall be of a mast type mount. Lattice towers, guyed towers, and roof mounted monopoles are expressly prohibited, unless constructed as

part of a reconstruction project permitted under Section 3.16.E.2.

10. Hazardous Waste and Materials – 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 one hundred ten percent (110%) of the volume of the hazardous materials stored or used on the site.
11. Noise – Personal Wireless Service Facilities shall not generate noise in excess of that permitted under the Amherst Noise Ordinance.
12. Radio Frequency Radiation (RFR) Standards – All equipment proposed for Personal Wireless Service Facilities shall be fully compliant with the FCC Guidelines for Evaluating and Environmental Effects of Radio frequency Radiation (FCC Guidelines), under Report and Order, FCC 96-326, published on August 1, 1996, and all subsequent amendments.
13. Back-up Power Generation - All Personal Wireless Service Facilities shall have a back-up power generation source in case of power outages. The Planning Board shall approve the type of power source to be utilized which is most appropriate for each site location.

#### H. MONITORING AND MAINTENANCE.

1. Maintenance – The owner of the facility 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. The Zoning Administrator has the authority to inspect approved Personal Wireless Service Facilities for compliance with the approved site plan as necessary.
2. Monitoring – As part of the issuance of the site plan approval or building permit, the property owner shall agree that the Town of Amherst may enter the subject property to obtain RFR measurements and noise measurements at the expense of the carrier. The Town shall provide reasonable written notice to the carrier and landowner and provide them the opportunity to accompany the Town representatives when the measurements are conducted.
3. Security for Removal – Recognizing the hazardous situation presented by abandoned and unmonitored Personal Wireless Service Facilities, all owners of Personal Wireless Service Facilities shall obtain and maintain a bond or other approved form of security, in an amount set forth by the Planning Board. The Planning Board shall set the form and amount of security that represents the cost for removal and disposal of abandoned Personal Wireless Service Facilities in the event that a facility is abandoned and the facility owner is unwilling or unable to remove the facility in accordance with Section 3.16.J.
  - a. 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 Planning Board with a revised removal cost estimate and structural evaluation prepared by a professional

structural engineer licensed in New Hampshire every five (5) years from the date of the Planning Board's approval of the site plan or at the time of Bond renewal. 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.

- b. The security shall contain the following language:
  - i. Now therefore, if the Principle (owner) well and truly complies with the requirement to remove and dispose of said tower in a timely manner in accordance with the following:
    - a) Section 3.16.J Abandonment or Discontinuation of Use, of the Personal Wireless Service Facilities,
    - b) any applicable town, state, or federal regulations; as well as,
    - c) any other conditions of approval relating to the maintenance of adequate security to insure to cover all costs related to such removal and disposal.
  - ii. The failure to provide a replacement bond no later than one hundred twenty (120) days prior to the expiration date of the within bond shall constitute a breach of the conditions of approval sufficient to permit the Planning Board to revoke the approval of the Personal Wireless Service Facility Non-residential Site Plan. In the event of such revocation, the obligation to remove shall immediately commence and the obligee shall be entitled to proceed to recover the costs of such removal from the security.

## I. PROCEDURAL REQUIREMENTS.

- 1. Application Process - All personal wireless service equipment installations and personal wireless service developments, except as provided elsewhere, are subject to review and site plan approval by the Planning Board. The Planning Board shall act upon the application in accordance with procedural requirements of the Non-Residential Site Plan Regulations and RSA 676:4, as amended.
- 2. Applicant must supply the Planning Board with the following information as part of the application:
  - a. An inventory of existing towers that are within the jurisdiction of the Town and those within two (2) miles of the border thereof, including specific information about the location, height, design of each tower, as well as economic and technological feasibility for the co-location on the inventoried towers. The Planning Board may share such information with other applicants applying for approvals under this section or other organizations seeking to locate antennas within the jurisdiction of the Town, provided, however, that the Planning Board is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
  - b. If the applicant is proposing to build a new tower, the applicant shall submit written evidence demonstrating that no existing structure can accommodate the applicant's proposed antenna. This evidence may consist of:
    - i. Substantial evidence that no existing towers or structures are located within the



- geographic area required to meet the applicant's engineering requirements, including a description of the geographic area required.
  - ii. Substantial evidence that existing towers are not of sufficient height to meet the applicant's engineering requirements and why.
  - iii. Substantial evidence that the existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
  - iv. Substantial evidence that the applicant's proposed antenna would cause electromagnetic interference with antennae on existing towers or structures, or antennae on existing towers or structures would cause interference with the applicant's proposed antenna.
  
- 3. Plan Requirements: Each applicant requesting site plan approval under this ordinance shall submit a scaled plan showing or accompanied by the following information as part of any application package:
  - a. Title block that shows the name of the development or project.
  - b. North arrow, date of plat, scale, name, address, and seal of all persons preparing the plat.
  - c. Signature block for Planning Board endorsement.
  - d. Vicinity sketch and zoning district(s).
  - e. Total area of parcel in acres and square feet.
  - f. Lot frontage.
  - g. Boundary lines and approximate dimensions and bearings.
  - h. Tax map and lot numbers.
  - i. Locations and descriptions of any existing or proposed easements, deed restrictions, or covenants.
  - j. Physical features on the site and within two hundred (200) feet of the site.
  - k. Soil information.
  - l. All natural features, such as streams, ponds, wetland, etc.
  - m. Existing and proposed grades and contours and base flood elevations.
  - n. Shape, size, height, location, and width of existing and proposed structures on-site.
  - o. Existing buildings, structures, and historic resources as defined in the Historic Resource Survey, 2010, as amended, within five hundred (500) feet of the site.
  - p. Access to the site, with location and width of existing and proposed driveways.
  - q. Locations, names, right-of-way, and travel widths of any existing and proposed roads on the property and within two hundred (200) feet of the site.
  - r. Final road profiles and cross sections for any new roads.
  - s. Locations and sizes of all utilities (i.e. electric, telephone, and water lines on the site).
  - t. Existing and proposed methods of handling stormwater runoff, and the direction of flow indicated by arrows.
  - u. Sizes and locations of all stormwater drainage lines, catch basins, drywells, drainage ditches, retentions basins, and culverts.
  - v. Location, types, and sizes of all existing and proposed landscaping and screening.
  - w. Location of any proposed lighting.
  
- 4. Review Process: Planning Board Approval and Building Permit Required - Non-residential and non-amateur Personal Wireless Service Facilities may be located within the Town of Amherst, subject to Planning Board approval and issuance of a building permit. Modifications

to an existing installation which significantly alter the approved site plan shall also be subject to Planning Board approval. Construction or modification of an approved facility may not begin or continue without a valid building permit issued.

5. Once an application to the Planning Board is presented, the Town will refer the application to an independent professional consultant to determine the fee for review. The filing date of the application shall be defined as the date the application is presented and a cash deposit in the amount deemed necessary to defray the costs of the independent professional consultant review is submitted to the Town. All applications shall be assessed for a basic completeness review within thirty (30) days of the application's filing date by an outside professional consultant of the Board's choosing. All review costs are the responsibility of the applicant. Notice shall be sent if additional materials are needed by certified mail within thirty (30) days from the filing date of receipt of the application. Once notice of needed additional materials is sent, the ninety (90) or one hundred fifty (150) day clock is suspended until such materials are delivered. Incomplete applications will not be reviewed by the Planning Board. The Board must approve, approve with conditions, or deny the application in writing, within ninety (90) or (150) days of the filing date in accordance with FCC standards (Sec. 6409).
  - a. Co-location applications are subject to the ninety (90) day clock.
  - b. New siting applications are subject to the one hundred fifty (150) day clock.
6. Certificate of Operation: Operation of a facility may not begin until the applicant has completed all conditions of the Planning Board approval, submitted the Security for Removal (Section 3.16.H.3), and met all building permit requirements. All Personal Wireless Service Facilities are required to submit As-built drawings and color photographs (of sufficient size and scale to document the facility) of the facility to the Town prior to the issuance of a Certificate of Operation.

#### J. ABANDONMENT OR DISCONTINUATION OF USE.

1. Notification – At such time that a carrier plans to abandon or discontinue operation of a Personal Wireless Service Facility, such carrier will notify the Town by certified U.S. mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than one hundred twenty (120) days prior to abandonment or discontinuation of operations. In the event that a carrier fails to give such notice, the Personal Wireless Service Facility shall be considered abandoned upon such discontinuation of operations.
2. Removal – Any Personal Wireless Service Facility tower that is declared abandoned shall be considered hazardous to the public health and safety. Upon abandonment or discontinuation of use, the owner shall remove the abandoned structure and restore the site to its natural appearance within ninety (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.
3. Failure to Remove – If the owner of the facility does not remove the facility upon the Zoning Administrator’s order, then the Board of Selectmen shall, after holding a public hearing with notice to the owner and abutters, issue a declaration of abandonment. The owner of the facility shall dismantle and remove the facility within ninety (90) days of receipt of the declaration of abandonment by the Board of Selectmen. If the abandoned facility is not removed within ninety (90) days, the Town may execute the security to pay for this action.

**Section 3.17 Equestrian Facilities and Events.** (3-10-98)

INTENT OF THE ORDINANCE.

The Town of Amherst recognizes that equestrian activities and facilities are an integral part of the history and rural character of the town and, as such, can contribute to achieving the goals of the Master Plan. Through the preservation of open space and agricultural practices, the commercial elements of such ventures are of value to the entire community by providing recreational, competitive and other opportunities for public benefit.

The intent of this ordinance is to allow the development of private equestrian facilities and events in the residential zones of the Town of Amherst, while seeking to preserve the rural character of the Town. The provisions of this ordinance are further intended to limit the impact of these commercial ventures on public health, safety and welfare by the establishment of minimum standards and by requiring a review of the design, operating procedures and control of impacts. The ordinance seeks to promote the health, safety and welfare of rider and animal, as well as the public.

A. DEFINITIONS.

Equestrian Facility. A private facility with limited and/or occasional availability to the public; primarily for the boarding, training, breeding, sale, riding, and maintenance of horses, ponies, and other equids, with or without instruction for the rider.

Equestrian Events. Any event of more than thirty (30) participants per day involving horses and/or other animals which are on display or engaged in competition and organized and managed in accordance with the provision of a sanctioning state or national organization.

Riding Lessons. Any lesson or activity with limited availability to the public involving the riding, training or care of horses, whether saddled or otherwise, and including the training or instruction of riders or drivers.

B. GENERAL PROVISIONS.

1. Applicability: The provisions of this ordinance apply to all lessons or events involving horses that are open or available to the general public, regardless of whether there is a fee charged. Activities covered under this ordinance are allowed in all zones in the Town of Amherst.

These provisions do not apply to the private ownership of horses or other farm animals not available for public use.

The ordinance shall be construed to cover and define uses permitted to equidae as a whole and not to limit permitted uses and activities to a size animal or a species or sub-species. Allowable uses and activities involve the interaction between horses and humans and can be instructional, competitive, recreational, therapeutic, training, exercise, conditioning, or as otherwise approved by the Planning Board.

2. Prohibited Uses: Activities, operations, or events for the purpose of livestock auctions, commercial horse sales, the sale of transport equipment and vehicles, the manufacture or sale of feed, and animal hospitals are not allowable uses permitted under this ordinance. Outdoor lighting for night-time use of arenas, tracks, and like-training or competition areas is prohibited.
3. Equestrian Event Management. Equestrian events consist of horse shows, trials, or competitions open to the general public. All events shall be conducted under the rules or other provision of an applicable sanctioning state or national organization. Prior to conducting such events, the owner of the property shall apply for and obtain approval under the Non-Residential Site Plan Review Regulations of the Town. At a minimum the application shall include:
  - a. Name of land owner(s).
  - b. Map and Lot numbers of the parcel(s) to be used for equestrian events.
  - c. A plan showing the parcel, abutters, existing development, and planned improvements or alterations, parking areas, and traffic access and circulation.
  - d. A detailed description of the proposed equestrian events including activities, hours of operation, number of participants, bathroom facilities, water supply, etc.
  - e. A detailed description of the measures to be implemented to ensure that the proposed activities are compatible with the neighborhood, including but not limited to traffic management, dust, and noise control, disposal of manure.
  - f. The annual schedule of equestrian events.
  - g. Provisions for access to special populations if events are open to the general public.
  - h. A copy of the sanctioning organization's requirements for event management.
  - i. A traffic and parking plan shall designate areas for parking horse trailers and other oversize vehicles and for individual vehicles for those attending the equestrian events. All event parking shall be restricted to the designated areas and limited to the available spaces. No on-street parking shall be allowed. Traffic circulation shall ensure access for emergency vehicles at all times.
4. Riding Lessons. Riding lessons are all activities involving instruction, training, or participation in horse-back riding provided to the general public using horses not wholly owned by the individual receiving the instruction or training. Riding lessons to more than ten (10) individuals per day may be offered only by facilities approved under this ordinance. Prior to offering riding lessons to the public, the owner of the property shall apply for and obtain approval under the provision of the Non-Residential Site Plan Review Regulations of the

Town. At a minimum the application shall include:

- a. Name of the land owner(s).
- b. Map and Lot numbers of the parcel(s) to be used for riding lessons.
- c. A plan showing the parcel, abutters, existing development, and planned improvements or alterations, parking areas, and traffic access and circulation.
- d. A detailed description of the proposed riding lesson operations including activities, hours of operation, maximum number of hourly and daily participants, bathroom facilities, waiting/classroom areas, water supply, etc.
- e. A detailed description of the measures to be implemented to ensure that the activities are compatible with the neighborhood, including but not limited to traffic management, dust, and noise control, disposal of manure.
- f. The schedule of operation of the riding center.
- g. Provisions for access to special populations if lessons are open to the general public.
- h. A copy of an emergency response plan to manage accidents and injuries.
- i. A traffic management plan must be prepared for any riding center offering lessons to more than 3 (three) riders per hour.

#### C. OTHER PROVISIONS.

1. Barns or other structures used to stable horses under this ordinance shall be limited to one (1) animal per stall and one (1) stall per one (1.0) acres of pasture. Animals covered under this ordinance smaller than standard horses (fifty-eight inches [58 inches]) must be provided adequate pasture area.
2. Barns used to stable 5 (five) or more horses may contain up to eight hundred (800) sq. ft. of living space for a stable manager provided such space meets all applicable BOCA requirements and is issued an occupancy permit by the Town.
3. The restrictions on riding lessons contained in Section B.4 of this ordinance shall not apply to the owners of horses stabled or boarded at a facility not otherwise subject to this ordinance.
4. Nothing in this ordinance shall be construed to prohibit the private sale or maintenance of horses or farm livestock or to prohibit, or otherwise restrict, agricultural operations.
5. Agricultural operations and Equestrian operations shall be conducted in accordance with the "Manual of Best Management Practices (BMP) for Agriculture in New Hampshire" published by the New Hampshire Department of Agriculture, Markets, and Food. (3-8-05)

### **Section 3.18 Conditional Use Permits**

#### A. GENERAL.

Conditional Use Permits as herein provided for shall be deemed to be permitted uses in their respective zones, subject to the satisfaction of the requirements and standards set forth herein, in addition to all other requirements and standards of this ordinance. All such cases are hereby

declared to possess characteristics of such unique and special form that each specific use shall be considered as an individual case. 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.

## B. PLANNING BOARD TO ADMINISTER.

Wherever a conditional use is authorized by this ordinance, the authority to administer or grant Conditional Use Permits shall be vested in the Planning Board.

## C. STANDARDS APPLICABLE TO ALL CONDITIONAL USE PERMITS.

### 1. Conditions for Conditional Use Permits.

Before the Planning Board considers the approval of an application for a Conditional Use Permit, the applicant shall prove to the satisfaction of the Planning Board that all the following conditions have been met:

- a. That the property in question is in conformance with the dimensional requirements of the zone, or meets Planning Board standards for the reduction in dimensional requirements, and that the proposed use is consistent with the Amherst Master Plan. (3-10-15)
- b. That the proposal meets the purposes of the ordinance under which the application is proposed.
- c. That there will be no significant adverse impacts resulting from the proposed use upon the public health, safety, and general welfare of the neighborhood and the Town of Amherst.
- d. That the proposed use will not be more objectionable to nearby properties by reason of noise, fumes, vibration, or inappropriate lighting than any use of the property permitted under the existing zoning district ordinances.
- e. That the proposed use will not adversely affect the ground water resources of Amherst, in particular the Aquifer Conservation District as defined in Section 4.13 of the Amherst Zoning Ordinance.
- f. The applicant shall file a Non-Residential Site Plan Review application in accordance with the "Non-Residential Site Plan Review Regulations" with the Amherst Planning Board.

### 2. Conditions of Approval.

- a. The Planning Board may attach such conditions to its approval as are reasonable, necessary, and appropriate.
- b. All Conditional Use Permit uses are hereby declared to have special characteristics that shall be considered on a case-by-case basis.

### 3. Limits on a Conditional Use Permit.

- a. Substantial construction must commence within one (1) year of the Planning Board approval of the Conditional Use Permit and Site Plan Approval.

- b. If construction is not commenced within this period, the Conditional Use Permit approval may be extended for up to one (1) additional year upon Approval of the Amherst Planning Board. If construction is not commenced within this extended period the Conditional Use Permit is declared null and void.

#### D. PERMITS FOR CONDITIONAL USE PERMITS.

A building permit for a Conditional Use Permit use shall not be issued by the Board of Selectmen or their duly appointed representative, the Administrative Official, until so directed by the Planning Board who shall first be satisfied that all the standards and conditions of this article and the ordinance have been met.

### **Section 3.19 Phasing (3-13-07)**

- A. PURPOSE. To ensure that the rate of growth of the Town does not unreasonably interfere with the Town's capacity for planned, orderly, and tangible expansion of its services to accommodate such growth, the Planning Board, at its discretion, may require phasing of subdivisions, as provided in RSA 674:21. Prior to requiring phasing, the Planning Board shall inquire into the impact which the proposed subdivision will have on Town services and shall exercise its discretion to require phasing so as to lessen or mitigate such impact.
- B. PHASING.
  1. In the event that the Board decides, in its discretion, that phasing is required, then each subdivision of land for a residential use producing four (4) lots or dwelling units and not more than six (6) lots or dwelling units shall be phased over a minimum of two (2) years, with not more than fifty percent (50 %) of the dwelling units receiving building permits in a one (1) year period. Every subdivision of seven (7) lots of dwelling units but not more than nine (9) lots or dwelling units shall be phased over a minimum of three (3) years, with not more than thirty-three percent (33 %) of the dwelling units receiving building permits in a one (1) year period. Every subdivision of ten (10) lots or dwelling units but not more than twenty (20) lots or dwelling units shall be phased over a minimum of four (4) years, with not more than twenty-five (25 %) of the dwelling units receiving building permits in a one (1) year period. Other larger subdivisions shall have phasing as determined by the Board at its discretion.
  2. The requirement shall apply to all forms of residential subdivision of land, as defined in RSA 672:14 (I), and RSA 674:21.
  3. The Planning Board may require any subdivision to adhere to a longer phasing plan if such phasing is deemed necessary to protect the health, safety, welfare and environment of the Town.

## ARTICLE IV -- ZONING REGULATIONS

### **Section 4.1 Application of Regulations.**

Subsequent to passage of this ordinance, buildings, or land shall hereafter be used, constructed, altered, or enlarged only in conformity with regulations specified herein for the zoning district in which it is located. (3-12-63)

### **Section 4.2 Lots of Record.**

Any lot of record (See Art. IX, Sec. 9.1, Definitions, Lot of Record) in the Town of Amherst prior to the effective date of this section may be occupied by any use permitted in its zoning district, regardless of its size, provided it meets all applicable zoning setback, building, and water pollution control regulations for the Town of Amherst. Such lots shall provide for access on a publicly or privately maintained road. (3-12-63, 3-9-92, 3-13-82, 3-13-90, 3-11-03)

### **Section 4.3 Residential/Rural Zone (RR). (3-12-63, 3-11-93, 3-10-15)**

#### A. PERMITTED USES.

1. One-family dwelling and accessory buildings or structures. (3-11-08)
2. Planned Residential Development. (See Art. IV, Sec. 4.17)
3. Farm, Agricultural or Nursery Use.
4. Roadside stand for the sale of farm produce or nursery products. (3-11-93)
5. Home Occupation. (3-11-93)
6. Integrated Innovative Housing (See Article IV, Section 4.16) (3-10-15)
7. Workforce Housing (See Section 4.14)
8. Non-commercial sports and recreation uses, subject to obtaining Planning Board site approval, which shall provide at minimum for applicable:
  - a. Setbacks,
  - b. Buffers,
  - c. Sanitary facilities,
  - d. Parking,
  - e. Mitigation of traffic impact, and
  - f. Adequate provision of emergency services, and subject to determination by the Planning Board of the following:
    - i. Such use shall not be the primary use of the lot;



- ii. Such use shall be non-commercial in nature;
- iii. Deleted (3-6-04);
- iv. Deleted (3-6-04);
- v. Such use shall be compatible with existing neighborhood uses;
- vi. Such use complies with the spirit and letter of Section 3.1, Nuisance Provision; and
- vii. No permanent buildings shall be permitted as part of such use, except for sheds to the extent necessary for storage of equipment for such use.

g. Noise and lighting. Uses involving motor-driven objects producing sixty (60) or more decibels of sound at a range of ten feet as part of the sport or recreation are prohibited. Night lighting primarily for uses permitted under this section may be allowed by the Planning Board when more than five hundred (500) feet from any abutting lot line, but not between 9:00 p.m. and 7:30 a.m. (3-14-95)

9. Elderly Housing (See Article IV, Section 4.20) (3-10-15)

10. Accessory Apartment (3-8-16)

B. USES PERMITTED BY SPECIAL EXCEPTION RESIDENTIAL/RURAL. (3-11-93)

1. Religious purposes. (3-1-05)

2. Nursing Homes. (3-12-63)

3. (Deleted 3-10-2015)

4. (Deleted 3-8-2016)

C. AREA AND FRONTAGE REQUIREMENTS.

1. The minimum lot area shall be two (2) acres. The minimum area shall contain no wetland as defined in Art. IV, Sec. 4.11, no flood plain as defined in Art. IV, Sec. 4.10, and no slopes greater than twenty percent (20 %). (3-5-74, 3-14-89, 3-6-04)

2. Each new lot shall have a minimum frontage of two hundred (200) feet on a publicly maintained road, unless frontage has been approved and recorded as reduced frontage lot/s; in which event, thirty-five (35) feet shall be sufficient. (3-4-75, 3-10-87)

D. YARD REQUIREMENTS.

1. Each dwelling, building, or structure shall be set back at least fifty (50) feet from the front lot line, or at such distance that will be no closer than an existing structure. An addition may not be extended laterally more than a maximum of a fifty percent (50%) increase of the lineal frontage of the existing structure and must conform to any other setback requirements on the lot. (3-12-63, 3-9-82, 3-12-02, 3-11-08)

2. Except in the Historic District, each dwelling, building, or structure shall be set back at least twenty-five (25) feet from the side and rear property lines. In the case of corner property, this distance shall be increased to fifty (50) feet on that side bordering a street, lane, or public way. (3-12-63, 3-8-05, 3-11-08)
3. Any accessory buildings or structures shall be set back at least twenty (20) feet from side and rear lot lines and at least fifty (50) feet from the front lot line and not exceed twenty-two (22) feet in height. The height requirement may be waived for farm structures. (3-12-63, 3-10-87, 3-8-05, 3-11-08) In the Historic District, a new dwelling, building, or structure shall be at least twenty (20) feet from the side and rear property lines or no closer than twenty-five (25) feet from the principal dwelling, building, or structure on any abutting lot, whichever is greater. (3-8-05, 3-11-08)
4. No new principal dwelling, building, or structure shall be constructed to a height greater than forty (40) feet. No structure shall be constructed with more than four (4) floors/levels including basement and attic levels. No new dwelling, building, or structure, or addition to an existing dwelling, building, or structure that increases the total area of the structure, shall have a floor area ratio greater than fifteen percent (15%). The aggregate floor area ratio shall be no greater than fifteen percent (15%). (3-6-04, 3-13-07, 3-11-08, 3-11-14)

E. PROHIBITED USES.

1. Aircraft landing fields. (3-10-98)

**Section 4.4 Northern Transitional Zone (NTZ). (3-8-88)**

A. GENERAL. The purpose of establishing the Northern Transitional Zone is as follows:

1. To recognize, establish, and affirm an area of the Town in which lower density development is of itself, desirable.
2. To recognize the unique scenic and natural character of a portion of Town which forms a natural entry to the Northern Rural Zone.
3. To ensure that future development in this area of Town be of a type that is compatible with the area's scenic and natural character.
4. That the Northern Transitional Zone shall be bounded by Horace Greeley Road on the North, NH Route 101 on the South, and the Amherst Town line on the East. The Westerly boundary is the intersection of Horace Greeley Road and NH Route 101.

B. PERMITTED USES.

1. One-family dwelling and accessory buildings or structures. (3-8-88, 3-11-08, 3-10-15)
2. Farm, agricultural, or nursery use. (3-3-88)

3. Roadside stand for the sale of farm products or nursery products.
4. Home occupation. (3-8-88)
5. Planned Residential Development (PRD) – (See Art. IV, Sec. 4.17) In order to achieve the purpose of this section, Planned Residential Development shall be encouraged as the principal method of future development of this zone. (3-8-88)
6. Integrated Innovative Housing (See Article IV, Section 4.16) (3-10-15)
7. Amateur, non-profit sports and recreation uses subject to obtaining Planning Board site approval which may provide at minimum for setbacks, buffers, sanitary facilities, parking, and traffic impact. Uses involving motorized recreation vehicles are prohibited. Night lighting may be allowed by the Planning Board when more than five hundred (500) feet from any residential use but not after 9:00 p.m. (3-12-91)
8. (Deleted 3-9-10)
9. Other Development. All development in this zone other than Planned Residential Development shall adhere to the following:
10. Accessory Apartment (3-8-16)

#### C. AREA AND FRONTAGE REQUIREMENTS.

1. The minimum lot area for any permitted use shall be three and one-half (3 ½) acres. The minimum area shall contain no wetland as defined in Art. IV, Sec. 4.11, no flood plain as defined in Art. IV, Sec. 4.10), and no slopes greater than twenty percent (20%). (3-6-04)
2. Each lot shall have a minimum frontage of three hundred (300) feet on the principal route of access to the lot.
3. If frontage is provided by a Class A or Class B reduced frontage, thirty-five (35) feet of frontage on a publicly maintained road shall be sufficient for the lot or lots.

#### D. YARD REQUIREMENTS.

1. Each dwelling, building, or structure shall be set back at least fifty (50) feet from the front lot line, or at such distance that will be no closer than an existing structure. An addition may not be extended laterally more than a maximum of a fifty percent (50%) increase of the lineal frontage of the existing structure and must conform to any other setback requirements on the lot. (3-11-08)
2. Each dwelling, building, or structure shall be set back at least forty (40) feet from the side and rear lot lines. In the case of corner property, this distance shall be increased to fifty (50) feet on

that side bordering a street, lane, or public way. (3-8-05, 3-11-08)

3. Any accessory building or structure shall be set back at least thirty (30) feet from the side and rear lot lines and at least fifty (50) feet from the front lot line and shall not exceed twenty-two feet in height. This requirement may be waived for farm structures or buildings. (3-8-88, 3-11-08)
4. No new principal dwelling, building, or structure shall be constructed to a height greater than forty (40) feet. No structure shall be constructed with more than four (4) floors/levels including basement and attic levels. No new dwelling, building, or structure, or addition to an existing dwelling, building, or structure that increases the total area of the dwelling, building, or structure shall have a floor area ratio greater than fifteen percent (15%). The aggregate floor area ratio shall be no greater than fifteen percent (15%). (3-6-04, 3-11-08, 3-11-14)

E. USES PERMITTED BY SPECIAL EXCEPTION NORTHERN TRANSITIONAL ZONE.

1. Religious purposes. (3-14-89)
2. Private schools. (3-14-89)
3. Hospitals, clinics, nursing homes, and other similar uses. (3-14-89)
4. Professional offices. (3-14-89)
5. Funeral homes. (3-14-89)
6. Sawmills. (3-14-89)
7. (Deleted 3-8-2016)
8. Kennels. (3-14-89)

F. PROHIBITED USES.

1. Aircraft landing fields. (3-10-98)

**Section 4.5 Northern Rural Zone (NR). (3-2-76, 3-10-15)**

A. GENERAL. The purpose of establishing the Northern Rural Zone is the following:

1. To recognize, establish, and affirm an area of the Town in which lower density development is of itself, desirable. (3-11-86)
2. To recognize the unique rural, scenic, and natural character of a portion of Town which has remained essentially undeveloped and unchanged during the time that the remainder of the Town has experienced considerable physical development and change. (3-2-76)

3. To identify a portion of Town that contains extensive areas of poor soils, steep slopes, and limited accessibility which limits the type of development which is compatible with these limitations as well as the areas in which development can suitably take place. (3-2-76)
4. To ensure that future development in this area of Town be of a type that is compatible with the area's extensive physical limitations as well as its unique rural, scenic, and natural character. (3-2-76)

B. PERMITTED USES.

1. One (1) family dwelling and accessory buildings or structures. (3-2-76, 3-11-08)
2. Farm, agricultural, or nursery use. (3-2-76)
3. Roadside Stand for the sale of farm produce or nursery products. (3-2-76)
4. Home Occupation. (11-2-82)
5. Planned Residential Development (PRD). In order to achieve the purpose of this section, Planned Residential Development shall be encouraged as the principal method of future development of this zone. (See Art. IV, Sec. 4.17) (11-2-82)
6. Integrated Innovative Housing (See Article IV, Section 4.16) (3-10-15)
7. Workforce Housing (see Section 4.14)
8. Amateur, non-profit sports and recreation uses subject to obtaining Planning Board site approval which may provide at minimum for setbacks, buffers, sanitary facilities, parking, and traffic impact. Uses involving motorized recreation vehicles are prohibited. Night lighting may be allowed by the Planning Board when more than five hundred (500) feet from any residential use but not after 9:00 p.m. (3-12-91)
9. Accessory apartment (3-8-16)

C. USES PERMITTED BY SPECIAL EXCEPTION NORTHERN RURAL ZONE.

1. Religious purposes. (3-2-76)
2. Private schools. (3-2-76)
3. Hospitals, clinics, nursing homes, and other similar uses. (3-2-76)
4. Professional offices. (3-2-76)
5. Funeral homes. (3-2-76)

6. Sawmills. (3-2-76, 3-9-82)

7. (Deleted 3-8-16)

8. Kennels. (11-2-82)

#### D. AREA AND FRONTAGE REQUIREMENTS.

1. The lot area shall be five (5) acres. The minimum area shall contain no wetland as defined in Art. IV, Sec. 4.11, no flood plain as defined in Art. IV, Sec. 4.10, and no slopes greater than twenty percent (20%). (3-14-89, 3-6-04)
2. Each new lot shall have minimum frontage of three hundred (300) feet on a publicly maintained road, unless frontage has been approved and recorded as reduced frontage lot/s, in which event thirty-five (35) feet shall be sufficient. (3-9-82, 3-10-87)

#### E. YARD REQUIREMENTS.

1. Each dwelling, building, or structure shall be set back at least fifty (50) feet from the front lot line, or at such distance that will be no closer than an existing structure. An addition may not be extended laterally more than a maximum of a fifty percent (50%) increase of the lineal frontage of the existing structure and must conform to any other setback requirements on the lot. (3-11-80, 3-9-82, 3-11-08)
2. Each dwelling, building, or structure shall be set back at least forty (40) feet from the side and rear lot lines. In the case of corner property, this distance shall be increased to fifty (50) feet on that side bordering a street, lane, or public way. (3-8-05, 3-11-08)
3. Any accessory building or structure shall be set back at least thirty (30) feet from side and rear lot lines and at least fifty (50) feet from the front lot line and shall not exceed twenty-two (22) feet in height. This height requirement may be waived for farm structures or buildings. (3-11-80, 3-9-82, 3-12-85, 3-10-87, 3-11-08)
4. No new principal dwelling, building, or structure shall be constructed to a height greater than forty (40) feet. No structure shall be constructed with more than four (4) floors/levels including basement and attic levels. No new dwelling, building, or structure, or addition to an existing dwelling, building, or structure that increases the total area of the dwelling, building, or structure, shall have a floor area ratio greater than fifteen percent (15%). The aggregate floor area ratio shall be no greater than fifteen percent (15%). (3-6-04, 3-11-08, 3-11-14)

#### F. PROHIBITED USES.

1. Aircraft landing fields. (3-10-98)

**Section 4.6 General Office Zone (GO). (3-12-85, 3-10-15)**

**A. PERMITTED USES.**

1. Professional offices. (3-12-85)
2. General offices of individuals or groups for the handling of administrative functions such as but not specifically limited to: executive offices, business offices handling sales or services off the premises, including salesmen, agents or representatives of manufacturing, distributing, insurance, and wholesale companies. Specifically excluded is the retail sale of any product from the premises. (3-12-85)
3. Mixed-use development, limited to office and residential uses. (See Article IX Definitions) (3-14-89, 3-13-90)
4. Amateur, non-profit sports and recreation uses subject to obtaining Planning Board site approval which may provide at minimum for setbacks, buffers, sanitary facilities, parking, and traffic impact. Uses involving motorized recreation vehicles are prohibited. Night lighting may be allowed by the Planning Board when more than five hundred (500) feet from any residential use but not after 9:00 p.m. (3-12-91)
5. Outside storage of materials and/or equipment, other than vehicles, shall be prohibited.
6. Integrated Innovative Housing (See Article IV, Section 4.16) (3-10-15)

**B. AREA AND FRONTAGE REQUIREMENTS.**

1. The minimum lot area shall be one (1) acre except for a residential use which shall be two (2) acres. (3-12-85)
2. Each lot shall have a minimum frontage of two hundred (200) feet on the principal route of access to the lot. (3-12-85)

**C. YARD AND BUILDING REQUIREMENTS. (3-12-91)**

1. Each new structure shall be set back either fifty (50) or one hundred (100) feet from the edge of the public road right-of-way.
  - a. The fifty (50) foot option requires that a natural vegetation or landscaped area only shall exist between the structure and the highway, excepting driveways and permitted signs.
  - b. The hundred (100) foot option allows parking areas to the front of the structure, which parking areas shall be set back a minimum of fifty (50) feet from the edge of the highway right-of-way.
  - c. Any permitted enlargement of pre-existing structures shall be beyond the fifty (50) foot setback line.
  - d. On corner lots, parking areas shall be screened from the highway with fences, landscaping,

and natural vegetation.

2. Each new structure or addition to a structure shall be set back thirty (30) feet from side and rear lot lines.
3. Any lot bordering a residential zone or an existing residential use shall have a landscape buffer between any buildings and such residential zone or use.
4. No structure shall be constructed to a height greater than forty (40) feet. (3-11-14)
5. The floor area ratio shall be a maximum of twenty percent (20%).
6. A minimum of thirty percent (30%) of the area of any lot shall remain landscaped open space and not be utilized for construction (including parking).
7. There shall be no more than one (1) access to any lot wherever desirable for traffic safety and consideration shall be given to combining access points where two (2) or more lots are being concurrently developed.
8. All storage and/or equipment parking areas shall be fenced, screened, or otherwise protected from view. (3-12-91)

#### D. ARCHITECTURAL DESIGN.

As a condition of final approval, the applicant must obtain the Planning Board's approval of the exterior architectural design to ensure that it is in harmony with the neighborhood and the surrounding environment. (3-12-85)

#### E. PROHIBITED USES.

1. Aircraft landing fields. (3-10-98)

### **Section 4.7 Commercial Zone (C). (3-10-15)**

GENERAL PURPOSE. To provide commercial areas to serve major commercial and business needs of the general public. (3-14-78)

#### A. PERMITTED USES. Uses which include, but are not limited to the following: (3-13-90)

1. Retail establishments. (3-12-63)
2. Hotel and motels. (3-12-63, 3-14-78)
3. Public utility building, structure or facility. (3-14-78)
4. Home occupation. (11-2-82)



5. Integrated Innovative Housing (See Article IV, Section 4.16) (3-10-15)
6. Mixed-use development. (3-14-89) (See Art. IX Definitions)
7. Amateur, non-profit sports and recreation uses subject to obtaining Planning Board site approval which may provide at minimum for setbacks, buffers, sanitary facilities, parking, and traffic impact. Uses involving motorized recreation vehicles are prohibited. Night lighting may be allowed by the Planning Board when more than five hundred (500) feet from any residential use but not after 9:00 p.m. (3-12-91)
8. All family day care home facilities are subject to compliance with all current licensing procedures and all applicable health/safety ordinances for the State of New Hampshire and the Town of Amherst. Family day care facilities are regulated by RSA 170-E:1, 170-E:2, 204-C:72, 161-G:4, and all other applicable State Laws. (3-12-91, 3-10-92)
9. Accessory apartment (3-8-16)

B. USES PERMITTED BY SPECIAL EXCEPTION COMMERCIAL ZONE.

1. Outside recreation establishments exclusive of outdoor theaters. (3-2-76)
2. Outside storage of equipment and materials, but not including junk yards. (3-2-76)
3. Religious uses. (3-2-76)
4. Private schools. (3-2-76)
5. Hospitals, nursing homes and other similar uses. (3-2-76)
6. (Deleted 3-8-16)
7. Kennels. (11-2-82)

C. AREA AND FRONTAGE REQUIREMENTS.

1. The minimum lot area shall be one (1) acre. (3-14-89, 3-11-97)
2. Each new lot shall have a minimum frontage of two hundred (200) feet on a publicly maintained road, unless frontage has been approved and recorded as reduced frontage lot/s, in which event thirty-five (35) feet shall be sufficient. (3-14-78, 3-9-82)

D. YARD AND BUILDING REQUIREMENTS.

1. Each new structure shall be set back either fifty (50) or one-hundred (100) feet from the public road right-of-way of New Hampshire Route 101A. (3-14-89, 3-10-92)

- a. The fifty (50) foot option requires that a natural vegetation of landscaped area only shall exist between the structure and the highway, excepting driveways and permitted signs. (3-14-89, 3-10-92)
  - b. The one-hundred (100) foot option allows parking areas to the front of the structure, which parking areas shall be set back a minimum of fifty (50) feet from the edge of the highway right-of-way. (3-14-89)
  - c. Any permitted enlargement of pre-existing structures shall be beyond the fifty (50) foot setback line. (3-14-89)
2. Each new structure shall be set back fifty (50) feet from the edge of the public road right-of-way on all roads within the Commercial Zone. (3-10-92)
  3. Each new structure or addition to a structure shall be set back thirty (30) feet from side and rear lot lines. (3-14-89)
  4. Any lot bordering a residential zone or an existing residential use shall have a landscaped buffer between any buildings and such residential zone or use. (3-4-75)
  5. No structure shall be constructed to a height greater than forty (40) feet. (3-11-86, 3-11-14)
  6. The floor area ratio shall be a maximum of twenty-five (25%) percent. (3-12-85, 3-10-87)
  7. A minimum of thirty (30%) percent of the area of any lot shall remain landscaped open space and not be utilized for construction (including parking). (3-4-75)
  8. There shall be no more than one (1) access to any lot wherever desirable for traffic safety, and consideration shall be given to combining access points where two (2) or more lots are being concurrently developed. (3-4-75)
  9. All storage and/or equipment parking areas shall be fenced, screened, landscaped, or otherwise protected from view. (3-14-78)

E. PROHIBITED USES.

1. Aircraft landing fields. (3-10-98)

**Section 4.8 Limited Commercial Zone (LC). (3-2-76, 3-10-15)**

GENERAL PURPOSE. To provide commercial area to serve limited commercial and business needs of the general public.

A. PERMITTED USES.

1. Retail, personal service, and business establishment of a type consistent with the purpose of this zone to serve limited commercial needs of various neighborhoods in Town. The foregoing shall include, but not necessarily be limited to:
  - a. Retail grocery, meat, produce, drugs, stationery, hardware, baked goods (3-2-76)
  - b. Barber and beauty shops (3-2-76)
  - c. Shops for the collection and distribution of clothing materials for dyeing and cleaning establishments (3-2-76)
  - d. Banks (3-2-76)
  - e. Coffee or sandwich shop (except for drive-in or fast service types) (3-2-76)
2. Business and/or professional offices for individual or group practice, including doctors and dentists (including medical or dental clinics), lawyers, counseling services, engineers, architects, planners, insurance and accountants. (3-2-76)
3. Veterinary clinic. (3-2-76)
4. Gasoline service station which may have a garage for repair to automobiles only but not to include body or fender repair, paint spraying, or used car sales lots. (3-2-76, 3-12-91)
5. Interior storage. (3-2-76, 3-8-05)
6. Interior recreational establishments. (3-2-76)
7. Home occupation. (11-2-82)
8. Integrated Innovative Housing (See Article IV, Section 4.16) (3-10-15)
9. Mixed-use development (See Art. IX Definitions). (3-14-89)
10. Amateur, non-profit sports and recreation uses subject to obtaining Planning Board site approval which may provide at minimum for setbacks, buffers, sanitary facilities, parking and traffic impact. Uses involving motorized recreation vehicles are prohibited. Night lighting may be allowed by the Planning Board when more than five hundred (500) feet from any residential use but not after 9:00 p.m. (3-12-91)
11. All family day care home facilities are subject to compliance with all current licensing procedures and all applicable health/safety ordinances for the State of New Hampshire and the Town of Amherst. Family day care facilities are regulated by RSA: 170-E:1, 170-E:2, 204-C:72, 161-G:4 and all other applicable State Laws. (3-12-91). (3-10-92)
12. Accessory apartment (3-8-16)

B. USES PERMITTED BY SPECIAL EXCEPTION LIMITED COMMERCIAL ZONE.

1. (Deleted 3-8-16)
2. Religious purposes. (3-8-8)
3. Kennels. (3-13-01)

C. AREA AND FRONTAGE REQUIREMENTS.

1. The minimum lot area shall be one (1) acre. (3-2-76, 3-14-89, 3-11-97)
2. Each new lot shall have a minimum frontage of two hundred (200) feet on a publicly maintained road, unless frontage has been approved and recorded as reduced frontage lot/s, in which event thirty-five (35) feet shall be sufficient. (3-14-78, 3-9-82, 3-10-87)

D. YARD AND BUILDING REQUIREMENTS.

1. Each new structure shall be set back either fifty (50) or one-hundred (100) feet from the edge of the public road right-of way.
  - a. The fifty (50) foot option requires that a natural vegetation or landscaped area only shall exist between the structure and the highway, excepting driveways and permitted signs.
  - b. The one-hundred (100) foot option allows parking areas to the front of the structure, which parking areas shall be set back a minimum of fifty (50) feet from the edge of the highway right-of-way.
  - c. Any permitted enlargement of pre-existing structures shall be beyond the fifty (50) foot setback line.
  - d. On corner lots, parking areas shall be screened from the highway with fences, landscaping, and natural vegetation. (3-14-89)
2. Each new structure or addition to a structure shall be set back thirty (30) feet from side and rear lot lines. (3-14-89)
3. Any lot bordering a residential zone or an existing residential use shall have a landscape buffer between any buildings and residential zone or use. (3-2-76)
4. No structure shall be constructed to a height greater than forty (40) feet. (3-2-76, 3-12-85, 3-11-86, 3-11-14)
6. The floor area ratio shall be a maximum of twenty percent (20%). (3-2-76, 3-12-85, 3-10-87)
7. A minimum of thirty percent (30%) of the area of any lot shall remain landscaped open space and not be utilized for construction (including parking). (3-4-75, 3-13-07)
8. There shall be no more than one (1) access to any lot wherever desirable for traffic safety and

consideration shall be given to combining access points where two (2) or more lots are being concurrently developed. (3-2-76)

9. All storage and/or equipment parking areas shall be fenced, screened, or otherwise protected from view.

E. PROHIBITED USES.

1. Aircraft landing fields. (3-10-98)

**Section 4.9 Industrial Zone.**

A. PERMITTED USES.

1. Light manufacturing. (3-12-63)
2. Assembly of previously prepared materials. (3-12-63)
3. Metal working. (3-12-63)
4. Equipment sales and service. (3-12-63)
5. Creamery, bakery, and soft drink bottling plants. (3-12-63)
6. Distribution plants, service industries and parcel delivery. (3-12-63)
7. Laboratories. (3-12-63)
8. Corporate and business offices compatible with other permitted uses in the zone and/or professional offices for individual or group practice, including doctors and dentists (including medical and dental clinics), counseling services, engineers, architects, planners, insurance, and accountants. (3-14-78, 3-10-87)
9. Wholesale business and storage. (3-14-78)
10. Storage yards (but not junk yards). (3-14-78)
11. Banks. (3-10-87)
12. Coffee or sandwich shops (except for fast service types). (3-10-87)
13. Veterinary clinic. (3-10-87)
14. Interior recreational establishments. (3-10-87)

15. Home occupation. (11-1-82)
16. Public utility buildings, structures, or facility. (3-14-78, 3-10-87)
17. Amateur, non-profit sports and recreation uses subject to obtaining Planning Board site approval which may provide at minimum for setbacks, buffers, sanitary facilities, parking and traffic impact. Uses involving motorized recreation vehicles are prohibited. Night lighting may be allowed by the Planning Board when more than five hundred (500) feet from any residential use but not after 9:00 p.m. (3-12-91)
18. Retail Establishments. Change of use permit from the Planning Board required for existing buildings. (3-11-97)
19. Integrated Innovative Housing (See Article IV, Section 4.16) (3-10-15)

**B. NO LAND, BUILDING, OR STRUCTURE SHALL BE USED FOR ANY OF THE PURPOSES ENUMERATED BELOW.**

1. Manufacture or storage of explosives in bulk quantities greater than twenty-five (25) pounds. (3-12-63)
2. Fertilizer manufacture. (3-12-63)
3. Glue manufacture. (3-12-63)
4. Petroleum refining. (3-12-63)
5. Smelting of metallic ores. (3-12-63)
6. Preparation of cement, gypsum, lime or plaster of paris. (3-12-63)
7. Manufacture of acids. (3-12-63)
8. Fat rendering in preparation of grease or tallow. (3-12-63)
9. Animal reduction or garbage dumping except sewage disposal or incineration done by the Town of Amherst. (3-12-63)

**C. USES PERMITTED BY SPECIAL EXCEPTION INDUSTRIAL ZONE.**

1. Kennels. (11-2-82)
2. Sexual oriented businesses. (3-14-00)

**D. AREA AND FRONTAGE REQUIREMENTS.**

1. The minimum lot area shall be one (1) acre. (3-14-78, 3-13-84, 3-14-89)

2. Each lot shall have a minimum frontage of two hundred (200) feet on the principal route of access. (3-14-78, 3-13-84)

E. YARD AND BUILDING REQUIREMENTS.

1. Each new structure shall be set back either fifty (50) or one-hundred (100) feet from the edge of the public road right-of-way. (3-14-89)
    - a. The fifty (50) foot option requires that a natural vegetation or landscaped area only shall exist between the structure and the highway, excepting driveways and permitted signs. (3-14-89)
    - b. The one-hundred (100) foot option allows parking areas to the front of the structure, which parking areas shall be set back a minimum of fifty (50) feet from the edge of the highway right-of-way. (3-14-89)
    - c. Any permitted enlargement of pre-existing structures shall be beyond the fifty (50) foot setback line. (3-14-89)
    - d. On corner lots, parking areas shall be screened from the highway with fences, landscaping and natural vegetation. (3-14-89)
  2. Each new structure or addition to a structure shall be set back thirty (30) feet from side and rear lot lines. (3-14-89)
  3. Any lot bordering a residential zone or an existing residential use shall have a landscaped buffer between any building and such residential zone or use. (3-4-75)
  4. No structure shall be constructed to a height greater than forty (40) feet, excepting industrial structures south of the Boston & Maine Railroad which shall not exceed fifty (50) feet for inhabited and eighty (80) feet for uninhabited structures. (3-4-75, 3-11-86, 3-12-91, 3-11-14)
  5. The floor area ratio shall be a maximum of forty percent (40%). (3-4-75, 3-10-87)
  6. A minimum of thirty percent (30%) of the area of any lot shall remain open space and not be utilized for construction including parking. (3-4-75, 3-13-01)
  7. There shall be no outside storage of materials or equipment between the front of any buildings and the street. All storage and/or equipment parking areas shall be fenced, screened, landscaped or otherwise protected from view. (3-4-75)
- F. ACCESS. Access to any lot with frontage on Route 101A shall be by such other streets as are available and not by Route 101A unless no other access is available. (3-14-78)

**Section 4.10 Flood Plain Conservation District. (3-10-70, 3-11-97)**

- A. GENERAL. In the interest of public health, convenience, safety, and welfare, the regulations of this district are intended to guide the use of areas of flood plain subject to flood water and to encourage the retention of open land so as to constitute a harmonious and appropriate physical development of the Town, as developed from the Master Plan. The specific intent of this district is:
1. To prevent the development of buildings and uses in areas that are unsatisfactory and hazardous due to the threat of flooding.
  2. Protection of natural flow and drainage.
- B. PURPOSE. Certain areas of the Town of Amherst, New Hampshire, are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968. Therefore, the Town of Amherst, New Hampshire, has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as detailed in this Floodplain Management Ordinance. (3-13-07)
- C. DEFINITION. This ordinance, adopted pursuant to the authority of RSA 674:16, shall be known as the Town of Amherst, New Hampshire, Flood Plain Conservation District. The regulations in this ordinance shall overlay and supplement the regulations in the Town of Amherst, New Hampshire, 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 Study for the County of Hillsborough, N. H." dated Sept. 25, 2009, or as amended, together with the associated Flood Insurance Rate Maps dated Sept. 25, 2009, or as amended, which are declared to be a part of this ordinance and are hereby incorporated by reference. (3-13-07, 7-16-09)

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 Amherst, NH.

Area of Special Flood Hazard is the land in the floodplain within the Town of Amherst subject to a one (1) percent or greater chance of flooding in any given year. The area is designated as Zones A and AE on the Flood Insurance Rate Map. (3-13-07)

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 operations or storage of equipment or materials. (3-13-07)

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, and
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 Amherst.

Flood Insurance Study means an examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination and determination of mudslide (i.e. mudflow) and/or flood-related erosion hazards. (3-13-07)

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 is:

1. 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;
2. 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;
3. 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; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - a. By an approved state program as determined by the Secretary of the Interior, or:
  - b. 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 attached 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 one hundred eighty (180) consecutive days. This includes manufactured homes located in a manufactured home park or subdivision. (3-13-07)

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale. (3-13-07)

Mean Sea Level means the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

New Construction means, for the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures. (3-13-07)

One Hundred (100) Year Flood. (See Base-Flood)

Recreational Vehicle is defined as:

1. Built on a single chassis;
2. Four hundred (400) square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. 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 water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. (3-13-07)

Special Flood Hazard Areas. (See Area of Special Flood Hazard) (3-13-07)

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 one hundred eighty (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 a 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 fifty percent (50%) 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 (50%) 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.”

Violation means the failure of a structure or other development to be fully compliant with community’s flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR Sec. 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided. (3-13-07)

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 floodplains.

#### C. PERMITTED USES.

Any of the following uses, which may require a permit, that do not result in the erection of any structures or require the addition of fill, and that are otherwise permitted by the Zoning Ordinance.

1. Minor fences, docks, wharfs, boat houses.
2. Agriculture.
3. Forestry.
4. Recreational purposes such as accessory tennis courts, swimming pools, playing fields.
5. Golf courses.
6. Parking lots, driveways, roads.
7. Non-commercial sports and recreation uses, subject to obtaining Planning Board site approval, which shall provide at minimum for applicable:
  - a. Setbacks,
  - b. Buffers,
  - c. Sanitary facilities,
  - d. Parking,
  - e. Mitigation of traffic impact, and
  - f. Adequate provision of emergency services, and subject to determination by the Planning Board of the following:
    - i. Such use shall not be the primary use of the lot;
    - ii. Such use shall be non-commercial in nature;

- iii. Deleted (3-6-04);
  - iv. Deleted (3-6-04);
  - v. Such use shall be compatible with existing neighborhood uses;
  - vi. Such use complies with the spirit and letter of Section 3-1, Nuisance Provision.
  - vii. No permanent buildings shall be permitted as part of such use, except for sheds to the extent necessary for storage of equipment for such use; and
  - g. noise and lighting. Uses involving motor-driven objects producing sixty (60) or more decibels of sound at a range of ten feet as part of the sport or recreation are prohibited. Night lighting primarily for uses permitted under this section may be allowed by the Planning Board when more than five hundred (500) feet from any abutting lot line, but not between 9:00 p.m. and 7:30 a.m.
  - h. The Conservation Commission has determined, and the Planning Board agrees, that such use shall not:
    - i. Contribute to pollution of surface or groundwater;
    - ii. Damage or destroy habitats or reproductive areas for plants, fish, and wildlife of importance;
    - iii. Eliminate, depreciate, or obstruct the commerce, recreation or aesthetic enjoyment of the public;
    - iv. Be detrimental to adequate ground water levels;
    - v. Adversely affect stream channels and their ability to handle runoff of water; or
    - vi. Disturb or reduce the natural ability of wetlands to absorb floodwaters and salt. Uses involving motor-driven objects producing sixty (60) or more decibels of sound at a range of ten (10) feet as part of the sport or recreation are prohibited. Night lighting primarily for uses permitted under this section may be allowed by the Planning Board when more than five hundred (500) feet from any abutting lot line, but not between 9:00 p.m. and 7:30 a.m.
8. Recreational vehicles placed on sites within Zones A or AE shall be either;
- a. Be on-site for fewer than one hundred eighty (180) consecutive days;
  - b. Be fully licensed and ready for highway use; or
  - c. 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(6) of Section 60.3. (3-13-07)

#### D. BUILDING PERMIT.

The Zoning Department shall review all building permit applications for new structures 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: (3-13-07)

- 1. Be designated (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- 2. Be constructed with materials resistant to flood damage;

3. Be constructed by methods and practices that minimize flood damages; and
  4. 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.
- E. 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 Zoning Department 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. (3-13-07)
- F. For all new or substantially improved structures located in Zones A or AE, the applicant shall furnish the following information to the Zoning Department:
1. The as-built elevation (in relation to NGVD) of the lowest floor (including basement) and include whether or not such structures contain a basement.
  2. If the structure has been flood proofed, the as-built elevation (in relation to NGVD) to which the structure was flood proofed.
  3. Any certification of flood proofing.
- G. THE ZONING DEPARTMENT shall maintain for public inspection, and shall furnish such information upon request. (3-13-07)
- H. THE ZONING DEPARTMENT 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 or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334. (3-13-07)
1. In riverine situations, prior to the alteration or relocation of a watercourse the applicant for such authorization shall notify the Wetlands Bureau of the New Hampshire Department of Environmental Services and submit copies of such notification to the Zoning Department, in addition to the copies required by RSA 482-A:3. Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Zoning Department, including notice of all scheduled hearings before the Wetlands Bureau. (3-13-07)
  2. The applicant shall submit to the Zoning Department, certification provided by a registered professional engineer, assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained. (3-13-07)
  3. Along water courses with a designated Regulatory Floodway no encroachments, including fill, new construction, substantial improvements, and other development are allowed within the

floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed encroachment would not result in any increase in flood levels within the community during the base flood discharge. (3-13-07)

4. Until a Regulatory Floodway is designated along watercourses, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zone AE on the FIRM, unless it is demonstrated by the applicant that the cumulative effect of the proposed development, when combined with all existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community. (3-13-07)
  5. The Zoning Department shall obtain, review, and reasonably utilize any floodway data available from Federal, State, or other sources as criteria for requiring that all development located in 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.” (3-13-07)
- I. IN SPECIAL FLOOD HAZARD AREAS, the Zoning Department shall determine the one hundred (100) year flood elevation in the following order of precedence according to the data available.
1. In Zone AE, refer to the elevation data provided in the community’s Flood Insurance Study and accompanying FIRM or FHBM. (3-13-07)
  2. In A Zones the Zoning Department shall obtain, review, and reasonably utilize any one hundred (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). (3-13-07)
- J. The Zoning Department’s one hundred (100) year flood elevation determination will be used as criteria for requiring in Zones A and AE that: (3-13-07)
1. All new construction or substantial improvement of residential structures have the lowest floor (including basement) elevated to or above the one hundred (100) year flood elevation;
  2. That all new construction or substantial improvements of non-residential structures have the lowest floor (including basement) elevated to or above the one hundred (100) year flood level; or together with attendant utility and sanitary facilities, shall:
    - a. Be flood-proofed so that below the one hundred (100) year flood elevation the structure is watertight with walls substantially impermeable to the passage of water; (3-13-07)
    - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
    - c. 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.

- K. 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 base flood level; and be securely anchored to resist flotation, 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 force.
- L. ALL RECREATIONAL VEHICLES placed on sites within Zones A and E shall either: (3-13-07)
1. Be on the site for fewer than one hundred eighty (180) consecutive days;
  2. Be fully licensed and ready for highway use; or
  3. 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) (6) of section 60.3.
- M. 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. A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.
    - b. The bottom of all openings shall be no higher than one (1) foot above grade.
    - c. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.
- N. VARIANCES AND APPEALS.
1. Any order, requirement, decision or determination of the Building Inspector 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:
- a. 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
  - b. 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.

**Section 4.11 Wetland and Watershed Conservation District.** (3-11-14)

- A. TITLE. The title of this District shall be the Wetland and Watershed Conservation District, and this section shall be identified as the Wetland and Watershed Conservation District Ordinance of the Town of Amherst, New Hampshire.
- B. AUTHORITY. This ordinance is adopted under authority granted pursuant to RSA 674:16 entitled Grant of Power and RSA 674:21 entitled Innovative Land Use Controls. In administering this Innovative Land Use Control Ordinance, the Planning Board shall enjoy the authority to grant Conditional Use Permits and Special Use Permits when an applicant is able to demonstrate to the satisfaction of the Planning Board that granting such permits will not compromise achievement of the stated purpose of this ordinance. Any appeal of a decision made by the Planning Board in administering this Innovative Land Use Control Ordinance must be made to Superior Court pursuant to the provisions of RSA 676:5, III and RSA 677:15.
- C. PURPOSE. The purpose of the Wetland and Watershed Conservation District is to protect the health, safety, and general welfare of the public by promoting both the most appropriate use of land and by protecting wetland and surface water ecosystems and water quality in accordance with the goals and objectives of Amherst's adopted Master Plan. Wetlands, surface waters, and associated buffers situated in the Town of Amherst are recognized as a valuable natural resource requiring careful management in order to preserve their benefits to public health, safety, and welfare. Correspondingly, the Town of Amherst hereby acknowledges wetlands, surface water, and associated buffers:
1. Prevent the destruction of or significant changes to wetland and surface waters and adjoining land which provides flood protection;
  2. Protect persons and property against the hazards of flood inundation by ensuring the continuation of the natural flow patterns of streams and other watercourses;

3. Provide for nutrient attenuation and augmentation of stream flow during dry periods;
4. Preserve and protect important wildlife habitat, flora, and fauna areas, including those critical to threatened and endangered species, and to maintain ecological balance;
5. Prevent the expenditure of municipal funds for the purposes of providing and/or maintaining essential services and utilities which might be required as a result of abuse or inharmonious use of land situated within the District;
6. Protect wetlands, surface waters, and groundwater supply and recharge areas within the Town of Amherst from degradation;
7. Mitigate the effects of structures and associated land uses which have the potential to compromise surface and groundwater supplies through the introduction of sewage, nutrients, hazardous substances, and siltation; and
8. Preserve and enhance those aesthetic values associated with the Wetland and Watershed Conservation District.

D. **APPLICABILITY.** Unless exempted by specific provision, all proposed development, removal of vegetation in excess of Comprehensive Shoreland Protection Act (as amended) limits, and alteration of terrain within the Wetland and Watershed Conservation District shall be subject to the provisions of this section.

E. **DEFINITIONS OF WORDS AND TERMS.** Reference shall be made to Article IX of this ordinance for the definition of words and terms used throughout this Wetland and Watershed Conservation District Ordinance.

F. **DISTRICT BOUNDARIES.**

The Wetland and Watershed Conservation District shall be comprised of all wetlands and surface waters, together with associated buffers, having the following dimensions:

1. Wetlands:

- |                               |   |
|-------------------------------|---|
| a. Water protection wetlands: | 100 feet                                |
| b. Significant wetlands:      | 50 feet                                 |
| c. Other wetlands:            | 25 feet                                 |
| d. Vernal pools (*):          | Tier One: 100 feet<br>Tier Two: 50 feet |

\*For those lots created prior to March 11, 2014, the noted buffer widths for vernal pools shall not apply.

2. Surface Waters:

- |                          |          |
|--------------------------|----------|
| a. Lakes and ponds:      | 100 feet |
| b. Ephemeral streams:    | 25 feet  |
| c. Intermittent streams: | 50 feet  |
| d. Perennial streams:    | 100 feet |

3. For the purposes of this ordinance, the reference line of all wetlands and surface waters shall be established by an on-ground delineation performed by a Certified Wetland Scientist (see buffer definition). All wetlands, surface waters, and vernal pools shall be field delineated and defined by a Certified Wetland Scientist.
4. The Wetland and Watershed Conservation District shall not include those wetlands which have developed as a result of the construction of storm water treatment and/or detention facilities, agricultural use, waste treatment, or other water dependent structures or uses, and manmade facilities. In the case of beaver activity, the reference line shall be determined by those areas that meet the jurisdiction of the NH Department of Environmental Services.
5. Wetlands located within New Hampshire Public Water Supply Wellhead Protection Areas, as delineated by the New Hampshire Department of Environmental Services, and wetlands within the Pennichuck Brook Watershed as shown on a plan entitled Watershed and Wetland Water Resource Map, 2013, shall be designated Public Water Protection Wetlands.
6. In order to permanently define boundaries of the Wetland and Watershed Conservation District, a durable disk or placard of a design acceptable to the Amherst Conservation Commission shall be installed and maintained along such boundaries at horizontal intervals of not more than fifty (50) feet.
7. Boundary Disputes. When any boundary of the Wetlands and Water Conservation District is disputed by either the Town of Amherst or by an applicant, the Planning Board, at the applicant's expense, may engage an independent Certified Wetland Scientist to determine the location of the Wetland and Watershed Conservation District. The independent Certified Wetland Scientist shall transmit his/her findings to the project engineer/surveyor who shall add said findings to the project plan. This revised plan, showing both wetland delineation boundaries, shall be presented to the Planning Board who shall make the final determination regarding District boundaries. The Town's Certified Wetland Scientist Agent shall convey said findings to the land owner and applicant.

G. PERMITTED USES. Each of the following uses shall be permitted by right in the Wetland and Watershed Conservation District:

1. Forestry Uses, subject to the provisions of RSA 227-J:6, as amended, and in accordance with applicable Best Management Practices.
2. Agricultural Uses, as defined by RSA 21:34-a, as amended, and in accordance with applicable Best Management Practices. The Planning Board reserves the right to reasonably regulate

agricultural uses as provided for in RSA 674:32-b, as amended.

3. The installation and maintenance of water wells and surface water intake facilities and associated supply lines and appurtenances.
4. Public and private open space, conservation land, trails, wildlife refuges, parks, and passive recreational uses and other low impact uses of land consistent with the stated purpose of this ordinance.
5. Construction and maintenance of fences, footbridges, catwalks, wharves/docks, and other water dependent structures provided said structures are constructed on posts, pilings, or other means of support which do not substantially alter the existing ground surface. New construction activities may require a permit from the NHDES. For maintenance of a legally constructed structure(s) refer to RSA 482-A: 3 IV. (a), (b), (c), as amended. Maintenance of existing public and private roads, driveways, bridges, and culverts; utilities; fire protection and irrigation supply works; and stormwater management facilities.
6. Replacement or repair of any existing septic system confirmed to be in failure provided:
  - a. The system requiring replacement or repair was in place prior to the date of adoption of this ordinance;
  - b. Prior to commencement of such replacement or repair the property owner has obtained any and all required State and local construction approvals and permits; and
  - c. The planned replacement or repair will not expand the intensity of use of the structure(s) it is intended to serve.

#### H. USES PERMITTED BY CONDITIONAL USE PERMIT.

Conditional Uses. Any use not identified as a permitted use under Paragraph G of this Section is recognized as having potential to adversely affect lands situated within the Wetland and Watershed Conservation District and, therefore, prove contrary to the stated purpose of this ordinance. However, the following uses of land in the Wetland and Watershed Conservation District may be permitted upon issuance of a Conditional Use Permit by the Planning Board, provided the Board finds, based upon competent evidence, that such use or uses will not be expected to significantly impair the function and values of resources situated within the District and meets the other criteria set forth herein:

1. Accessory structures associated with a legally existing primary structure, provided the applicant demonstrates that no practicable alternative exists elsewhere on the lot and outside of the Wetland and Watershed Conservation District.
2. Construction of streets, roads, and other access ways, including driveways, footpaths, bridges, and utilities if essential to the productive use of land beyond the Wetland and Watershed Conservation District. These uses shall be located and constructed in such a way as to minimize the potential for detrimental impact to the District and be planned, designed, and constructed in a manner consistent with applicable State and local standards. Such construction

may be permitted within the District only when no viable alternative is available.

3. Water impoundments for the purposes of creating a water body for wildlife, fire protection, stormwater management, or recreational use. Construction of impoundments for on-site detention and/or treatment of stormwater runoff in the Wetland and Watershed Conservation District, provided the Planning Board finds that it is not practical or possible to locate them outside of the District.
4. Non-conforming Uses and Structures: Expansion of a non-conforming use or structure situated within the Wetland and Watershed Conservation District may be permitted provided the Planning Board finds, in addition to the provisions outlined in Section I.2 a-g, that the proposed expansion conforms to the following additional standards:
  - a. The encroachment upon the surface water, wetland, or vernal pool is not increased;
  - b. The expansion is located as far from the surface water, wetland, or vernal pool as possible and located so as to minimize disturbance of existing vegetation within the District; and
  - c. The Planning Board finds that any potential decrease in wetland function and values resulting from the activity or use will be properly mitigated on the site. Mitigation strategies may include, but are not limited to, planting of indigenous vegetation in the District; improving existing or implementing new storm water management and treatment; removal and management on invasive species on the property; and the removal of excess impervious surfaces.
5. Other uses which the applicant is able to demonstrate to the satisfaction of the Planning Board that will not significantly interfere with wetland functions and values, water quality, or wildlife habitat pursuant to the statement of purpose of this ordinance; or in the alternative, uses that will impact wetlands functions and values; but, in the opinion of the Planning Board, are not contrary to the public interest and will result in significant public benefit provided:
  - a. Compensatory mitigation is provided such that those Wetland and Watershed Conservation District functions and values to be impacted will be off-set in whole. Such mitigation may be located on- or off-site. As a guide to the type and extent of compensatory mitigation considered, reference shall be made to the New England District Compensatory Mitigation Guidance, US Army Corps of Engineers, New England District, Regulatory Division, 7-2-2010 as amended.
  - b. The applicant has demonstrated avoidance and minimization to the fullest extent practical.

#### I. CONDITIONAL USE PERMIT REVIEW CRITERIA.

1. The Planning Board shall, in addition to referencing the findings referenced in the preceding section, consider all relevant facts and information prior to making a decision on any application for a Conditional Use Permit; find that the proposed project is consistent with the stated Purpose of this ordinance; and find, that to the extent possible, the project avoids and minimizes impacts to land situated within the District, including but not limited to the following:

- a. The proposed activity minimizes degradation of land situated within the District and offsets potential adverse impacts to functions and values of wetlands, surface waters, and vernal pools including but not limited to their capacity to:
  - i. Support fish and wildlife;
  - ii. Attenuate flooding;
  - iii. Supply and protect surface and ground water resources;
  - iv. Remove sediments;
  - v. Remove pollutants;
  - vi. Support wetland vegetation;
  - vii. Promote public health and safety; and
  - viii. Moderate fluctuations in surface water levels.
  
- b. The proposed activity will have no significant negative environmental impact to abutting or downstream properties and/or hydrologically connected water and/or wetland resources, including:
  - i. Increased potential for erosion, siltation, and turbidity of surface waters;
  - ii. Loss of fish and wildlife habitat;
  - iii. Loss of unique habitat having demonstrable natural, scientific, or educational value;
  - iv. Loss or decrease of beneficial aquatic organisms and wetland plants and their habitat;
  - v. Increased danger of flooding and/or transport of pollutants; and
  - vi. Destruction of the economic, aesthetic, recreational, and other public and private uses and values of the wetland to the community.
  
- c. The proposed activity or use cannot practicably be located otherwise on the site to eliminate or reduce impact to the Wetland and Watershed Conservation District.
- d. The proposed activity incorporates the use of those Best Management Practices recommended by the New Hampshire Department of Environmental Services and/or other State agencies having jurisdiction.
- e. All applicable Federal and/or State permit(s) have been received for the proposed activity in accordance with New Hampshire Code of Administrative Rules – Part Env-Wt 100-800 and Section 404 of the Federal Clean Water Act, as amended.
- f. Where applicable, proof of application to all required State and/or Federal permits.
- g. Prior to making a decision in regard to the possible approval of any Conditional Use Permit application, the Planning Board shall afford the Conservation Commission an opportunity to provide written comment. In the case of applications involving land situated within the watershed of the Pennichuck Brook, the Planning Board shall also afford Pennichuck Water Works (PWW) an opportunity to review and comment on the application. Both the Conservation Commission and PWW, after consideration and review of an application for a Conditional Use Permit, may recommend the Planning Board impose conditions of approval, if deemed necessary, to mitigate the potential for adverse effects caused by the proposed activity or use.

## J. CONDITIONAL USE APPLICATION REQUIREMENTS.

Application for a Conditional Use Permit shall be made on forms supplied by the Planning Board and shall include a narrative and/or site plan containing the following information on one or more pages at a scale suitable to illustrate relevant details of the project, as well as a report demonstrating compliance with the requirements of Section I. At a minimum, each application shall depict or identify:

1. North arrow and date of site plan preparation;
2. Property lines;
3. The location of Wetlands and other significant hydrological features, including provisions for the protection of ecologically sensitive areas and features of the site;
4. Names and addresses of owners and holders of conservation restrictions and easements on abutting properties;
5. Limits of surface waters, wetlands, vernal pools, and Wetland and Watershed Conservation District boundaries;
6. Soil types;
7. Vegetation types;
8. A report detailing how the function and values of the mapped on-site wetlands were determined and evaluated;
9. Topographic contours at no greater than two (2) foot intervals;
10. Surface drainage patterns;
11. Existing and proposed development, removal of vegetation, and alteration of the land surface conditions;
12. Computation of the extent of proposed impact to land situated within the Wetland and Watershed Conservation District. The extent of aerial impacts to the District shall be measured in square feet. The extent of volumetric impacts to the District shall be measured in cubic yards;
13. Stormwater management accommodations, both existing and proposed. The applicant shall demonstrate:
  - a. Post development peak stormwater discharge volumes exiting the site are less than or equal to pre-development discharge volumes for the ten (10) year return frequency design storm;
  - b. The volume of site generated stormwater to be infiltrated on-site by post-development conditions is greater than or equal to the volume infiltrated in the pre-development

- condition based on evaluation of the two (2) year return frequency design storm; and
  - c. Stormwater management facilities shall provide for sedimentation removal accommodations;
14. Erosion and sedimentation control measures proposed during construction;
  15. Identification of potential risks to the District anticipated as a result of proposed site development together with proposals for mitigation;
  16. A letter report issued by the New Hampshire Natural Heritage Inventory identifying any rare or endangered species known to exist within the project vicinity. In the event it is confirmed that rare or endangered species in fact exist on or immediately adjacent to the subject parcel, the applicant shall submit a proposal for mitigation of risk;
  17. Identification of hazardous materials to be stored or used on-site together with a plan for proper management of same;
  18. A statement acknowledging the applicant's intent to prohibit the use of lawn chemicals and deicing compounds, unless otherwise approved by the Planning Board; and
  19. If required by the Planning Board, provisions for monitoring ground and surface water quality;
  20. Provisions for future maintenance of the engineering design, operating, and monitoring controls to be implemented;
  21. A plan showing the estimated edge of wetlands within five hundred feet (500) of the nearest impact area; these wetland areas may be mapped based upon field observations, USGS maps, or other related map information that may be available.

**Section 4.12 Watershed Protection District - Deleted.** (3-11-14)

**Section 4.13 Aquifer Conservation and Wellhead Protection District.** (3-11-14)

- A. AUTHORITY. The Town of Amherst hereby adopts this Aquifer Conservation and Wellhead Protection District Ordinance pursuant to the authority granted under RSA 674:16 and RSA 674:21.
- B. PURPOSE. The Aquifer Conservation and Wellhead Protection District Ordinance (ACWPD) is established for the purpose of protecting quality and quantity of groundwater resources available to be used as current and/or future drinking water supplies. This ordinance is intended to:
  1. Maintain public health and welfare by protecting existing and potential sources of groundwater and associated recharge areas.
  2. Prevent land use practices and development that could reduce the volume of recharge available to aquifers identified as current or potential sources of drinking water.



3. Prevent land use practices and development that could contaminate or adversely impair the quality of groundwater within aquifers identified as current or potential sources of drinking water.
  4. Provide for future growth, in accordance with the Town's Master Plan, by protecting the long-term availability of clean, safe, potable water.
  5. Identify land uses that can safely be sited in aquifer recharge areas and in the proximity of water supply wells.
- C. **APPLICABILITY.** This ordinance shall apply to all uses of land situated within the Aquifer Conservation and Wellhead Protection District, with the exception of those uses which enjoy an exemption under Section G of this ordinance.
- D. **DISTRICT BOUNDARIES.**
1. Aquifer Conservation and Wellhead Protection District boundaries are as identified on a map on file with the Community Development Office entitled "Environmental Features" produced by the Nashua Regional Planning Commission. The ACWPD is an overlay district which is superimposed over all underlying districts. Data resources used to produce the map include:
    - a. Aquifer areas that have been delineated on mapping prepared by the U.S. Geological Survey entitled, *Hydrogeology of Stratified-Drift Aquifers and Water Quality in the Nashua Regional Planning Commission Area, South-Central New Hampshire*, prepared Toppin, K.W., 1987: *U.S. Geological Survey Water-Resources Investigations Report 86-4358*, and as may be amended or superseded by the U.S.G.S.
    - b. Wellhead Protection Areas associated with public water supply wells shown on the ACWPD map and as inventoried by the New Hampshire Department of Environmental Services.
  2. **Incorrectly Designated Zones.** In instances where the actual boundary of the Aquifer Conservation and Wellhead Protection District are disputed, the Planning Board, at the applicant's expense and authorization, may engage a qualified professional geologist or hydrogeologist to determine the precise location of the ACWPD boundaries. A report of the professional's findings shall be submitted to the Planning Board, which shall include but not be limited to the following:
    - a. A revised soils map of the area in question along with a written report of on-site field inspection and test boring data.
    - b. If the information provided to the Planning Board is accepted by the Board, the boundary of the district shall be adjusted based on the evidence provided. The Planning Board may reserve the right to withhold action on any application pending the results of an on-site inspection by the Board or its appointed agent.
- E. **PERMITTED USES.** All uses permitted in the underlying district are permitted in the Aquifer Conservation and Wellhead Protection District unless identified as a prohibited use or a

conditional use under this ordinance. All uses within the ACWPD shall comply with performance standards specified in Section 4.13.J unless specifically exempt under Section 4.13.G of this ordinance.

#### F. PROHIBITED USES.

1. The following uses are prohibited in the Aquifer Conservation and Wellhead Protection District:

- a. Development or operation of a hazardous waste disposal facility, as defined under RSA 147-A, as amended;
- b. Development or operation of a solid waste landfill, as defined under RSA 149-M, as amended;
- c. Outdoor storage of road salt or other deicing compounds;
- d. Development or operation of a junkyard;
- e. Development or operation of a snow dump;
- f. Development or operation of a wastewater or septage lagoon;
- g. Storage of bulk petroleum products, including operation of gasoline stations;
- h. Development or operation of a commercial animal feedlot; and
- i. Development or operation of a dry cleaning facility, using or storing dry cleaning chemicals on-site.

2. EXEMPTIONS. The following uses shall be exempt from the provisions of this ordinance provided they remain in compliance with all applicable local, state, and federal requirements:

- a. Any single or two family dwelling or Integrated Innovative Housing Development by Conditional Use Permit (3-10-15);
- b. Any business or facility where regulated substances are stored in containers having a capacity of not more than five (5) gallons;
- c. Storage of heating fuels for on-site use or fuels for emergency electric power generation, provided that storage tanks are indoors on a concrete floor or have corrosion control, leak detection, and secondary containment accommodations;
- d. Storage of motor fuel in tanks attached to vehicles fitted with permanent fuel lines to enable the fuel to be used by that vehicle;
- e. Storage and use of office supplies;
- f. Temporary storage of construction materials on a site where they are intended to be used;
- g. The sale, transportation, and storage of pesticides, as defined in RSA 430:29 XXVI, as amended;
- h. Household hazardous waste collection projects regulated under NH Code of Administrative Rules Env-Wm 401.03(b)(1) and 501.01(b);
- i. Agricultural uses as defined under RSA 21:34-a, as amended.

#### G. CONDITIONAL USES.

1. Any use not prohibited under Section F, but which will require one (1) or more of the following conditions, shall only be permitted by a Conditional Use Permit issued by the Planning Board in accordance with the following sections. A Conditional Use Permit under

this section shall be required for any of the following:

- a. Storage, handling, and use of regulated substances in quantities exceeding one hundred (100) gallons or eight hundred (800) pounds dry weight at any one (1) time, provided an adequate Spill Prevention Control and Countermeasure (SPCC) Plan, is prepared in accordance with Section 4.13.J of this ordinance, and is approved by the Fire Department;
  - b. Any activities that involve blasting of bedrock;
  - c. Truck and automotive repair facilities; or
  - d. Expansion of existing non-conforming uses or structures shall be allowed when demonstrated that the expansion will result in a more conforming site or use with greater protection for groundwater resources.
2. In granting such approval the Planning Board shall find such use or uses will remain in compliance with the performance standards in Section 4.13.J of this ordinance as well as all applicable local, State, and Federal requirements. The Planning Board may, at its discretion, require a performance guarantee or bond in an amount and form acceptable to the Board, be posted to ensure compliance with terms and conditions of the Conditional Use Permit.

#### H. CONDITIONAL USE PERMIT APPLICATION PROCEDURES.

1. Application for a Conditional Use Permit shall be made on forms supplied by the Planning Board and shall include a narrative and/or site plan containing the following information on one (1) or more pages at a scale suitable to illustrate relevant details of the project, as well as a report demonstrating compliance with applicable requirements of Section 4.13.I of this ordinance. As a minimum, each application shall depict or identify:
  - a. North arrow and date of site plan preparation;
  - b. Property boundaries and total parcel area;
  - c. Location of ACWPD boundaries;
  - d. Names and addresses of applicant, owners, abutters, and holders of conservation restrictions and easements on abutting properties;
  - e. Limits of wetlands, vernal pools and Wetland and Watershed Conservation District boundaries;
  - f. Soil mapping units;
  - g. Topographic contours at intervals not more than two (2) feet;
  - h. Existing and proposed development, including removal of vegetation and alteration of terrain;
  - i. Stormwater management accommodations, both existing and proposed. The applicant shall demonstrate:
    - i. post development peak stormwater discharge volumes exiting the site are less than or equal to predevelopment discharge volumes for the 10-year return frequency design storm;
    - ii. volume of site generated stormwater to be infiltrated on-site under post-development

- conditions is greater than or equal to the volume infiltrated under the predevelopment condition based on evaluation of the 2 year return frequency design storm; and
- iii. stormwater management facilities shall provide for the removal of sediment;
  - j. Identification of potential risks to the district anticipated as a result of proposed site development together with proposals for mitigation;
  - k. Identification of hazardous materials to be stored or used on-site together with a plan for proper management of the same; and,
  - l. If required by the Planning Board, provisions for monitoring of groundwater and/or surface water quality.
2. Proposals for conditional uses, which involve regulated substances, shall also be required to submit a Spill Prevention Control and Countermeasure (SPCC) Plan to the Fire Department for review and approval. An SPCC Plan shall include:
    - a. A description of the physical layout and a facility diagram, including all surrounding surface waters and wellhead protection areas;
    - b. A contact list with telephone numbers (including cell phone) and email addresses of the facility response coordinator, cleanup contractors, and all appropriate Federal, State, and local agencies who must be contacted upon release to the environment;
    - c. A list of all regulated substances to be stored on the premise;
    - d. A description of containment and/or diversionary structures or equipment to prevent regulated substances from infiltrating into the ground.
  3. The Planning Board shall consider all relevant facts and information prior to making a decision on any application for a Conditional Use Permit; find the proposal is consistent with the stated purpose of this ordinance; and find that to the extent possible, the project avoids and minimizes impacts to land situated within the district, including but not limited to the following:
    - a. The proposed activity minimizes degradation of land situated within the district.
    - b. The proposed activity will have no significant negative environmental impact to abutting or downstream properties and/or hydrologically connected water resources.
    - c. The proposed activity incorporates the use of those best management practices recommended by the New Hampshire Department of Environmental Services and/or other State agencies having jurisdiction.
    - d. All applicable Federal and/or State Permit(s) have been received for the proposed activity in accordance with New Hampshire Code of Administrative Rules – Part Env-Wt 100-800 and Section 404 of the Federal Clean Water Act, as amended.
    - e. Prior to making a decision in regard to the possible approval of any Conditional Use Permit application, the Planning Board shall afford the Conservation Commission, as well as Pennichuck Water Works (PWW), an opportunity to review and comment on the application. Both the Conservation Commission and PWW, after consideration and review of an application for a Conditional Use Permit may recommend the Planning Board impose conditions of approval, if deemed necessary, to mitigate the potential for adverse

effects caused by the proposed activity or use.

- I. PERFORMANCE STANDARDS. The following performance standards shall apply to all uses of land in the Aquifer Conservation and Wellhead Protection District unless such use or uses enjoy an exemption under Article 4.13.G of this ordinance.
1. For any use that will render more than fifteen (15) percent of the total parcel area impervious, a stormwater management plan consistent with New Hampshire Stormwater Manual Volumes 1-3, December 2008, as amended; published by NH Department of Environmental Services, shall be prepared and submitted to the Planning Board.
  2. Conditional uses, as defined under Article 4.13 H shall develop stormwater management and pollution prevention plans and include information consistent with *Developing Your Stormwater Pollution Prevention Plan: A Guide for Industrial Operators* (US EPA, Feb 2009, as amended). The plan shall:
    - a. Meet minimum stormwater discharge setbacks between water supply wells and constructed stormwater practices as found within the *Innovative Land Use Planning Techniques: A Handbook for Sustainable Development*, Section 2.1 Permanent (Post-Construction) Stormwater Management, (NHDES 2008, as amended);
    - b. Minimize, through a source control plan that identifies pollution prevention measures, the release of regulated substances into stormwater;
    - c. Stipulate that expansion or redevelopment activities shall require an amended stormwater plan and may not infiltrate stormwater through areas containing contaminated soils without completing a Phase I Environmental Site Assessment in conformance with ASTM E 1527-05; and,
    - d. Maintain a vertical separation between the bottom of a stormwater management facility which infiltrates or filters, of not less than four feet above seasonal high water table elevation as determined by a licensed hydrogeologist, soil scientist, engineer or other qualified professional as determined by the Planning Board.
  3. Animal manures, fertilizers, and compost must be stored in accordance with Manual of Best Management Practices for Agriculture in New Hampshire, NH Department of Agriculture, Markets, and Food, July 2008, as amended;
  4. All regulated substances stored in containers with a capacity of more than five (5) gallons must be stored in product-tight containers on an impervious surface designed and maintained to prevent flow to exposed soils, floor drains, and the out-of-doors;
  5. Facilities where regulated substances are stored must be secured against unauthorized entry by means of a door and/or gate that is locked when authorized personnel are not present and must be inspected weekly by the facility owner;
  6. Outdoor storage areas for regulated substances, associated material, or waste must be protected from exposure to precipitation and must be located at least fifty (50) feet from surface water or storm drains; and outside of protective radii of wells;

7. Secondary containment must be provided for outdoor storage of regulated substances in regulated containers and the containment structure must include a cover to minimize accumulation of water in the containment area and contact between precipitation and storage container(s);
8. Containers in which regulated substances are stored must be clearly and visibly labeled and must be kept closed and sealed when material is not being transferred from one (1) container to another;
9. Prior to any land clearing or alteration of terrain, any inactive wells on the property shall be identified and must be decommissioned in accordance with Part We 604 Abandonment of Wells of the New Hampshire Water Well Board Rules, as amended. Proposed site activity shall not impact the integrity of any well located on the property.
10. Blasting activities shall be planned and conducted in a manner consistent with best management practices published by the NHDES to minimize groundwater contamination.
11. All transfers of petroleum products from delivery trucks and storage containers over five (5) gallons in capacity shall be conducted over an impervious surface having a positive limiting barrier at its perimeter.
12. At the option of the Planning Board, monitoring wells may be established for all industrial and commercial uses utilizing or storing hazardous or toxic materials. The number and location of monitoring wells shall be determined by the Planning Board. The required frequency and protocol for sampling and testing of groundwater shall be specified by the Planning Board.
13. Storage of pesticides, herbicides, fertilizers, manure, and other potentially dangerous leachables shall be set back from water supply wells in accordance with State regulations including Chapter PES 500, managed in accordance with NH Best Management Practices for Agriculture, and controlled in a manner determined by the Planning Board. Appropriate and applicable best management practices shall be implemented as recommended by the New Hampshire Department of Environmental Services.
14. When an industrial or commercial use within the ACWPD changes to one which involves the use, storage, or disposal of hazardous or toxic materials (regulated substances), Non-Residential Site Plan Review shall be required.
15. Not more than seventy percent (70%) of the total area of any lot or parcel shall be rendered impervious.
16. Sodium chloride salt stored and used for deicing activities shall be properly managed and applied in accordance with accepted best management practices as published by NHDES to minimize impacts to groundwater and reduce the amount necessary for public safety. Alternatives such as calcium magnesium acetate (CMA) and/or potassium acetate (KA) are encouraged.

17. Floor drains are prohibited unless drain is directed to a dry well used to temporarily store fluids until such time they are legally removed.
18. An impermeable barrier membrane (minimum of 20 mil) shall be installed beneath slab floors to prevent the infiltration of any spilled liquids within the building from percolating into the ground. The Planning Board has the discretion to impose any other requirements as necessary to achieve the stated purpose.

J. **EXISTING NON-CONFORMING USES.** Existing non-conforming uses may continue to operate without complying with the terms of this ordinance provided that any expansion of said use shall require that a Conditional Use Permit be obtained as provided for herein. Existing non-conforming uses must be in compliance with all applicable State and Federal requirements, including Env-Wq 401, Best Management Practices Rules.

K. **ADMINISTRATION AND ENFORCEMENT**

1. For uses requiring Planning Board approval under this ordinance, a narrative description of maintenance requirements for structures required to comply with performance standards shall be recorded at the Hillsborough County Registry of Deeds.
2. Periodic inspections by the Community Development Office may be required to verify compliance with performance standards. Inspections may be completed by the Community Development staff or their agents, at reasonable times with prior notice to the landowner.
3. All land in the ACWPD known to the Planning Board or designated agent as using or storing regulated substances in containers having a capacity of more than five (5) gallons shall be subject to inspections under this section unless such property enjoys an exemption pursuant to the provisions of Section 4.13.G of this ordinance.
4. The Planning Board may require a fee for compliance inspections. The fee shall be paid by the property owner. A fee schedule shall be established by the Planning Board as provided for under RSA 41-9:a.
5. Any substance spills that require notification under NHDES rules and procedures shall be reported to the Fire Department and the Planning Board.

**Section 4.14 Workforce Housing.** (3-10-15)

- A. **WORKFORCE HOUSING DEVELOPMENTS** are permissible upon demonstration of the conditions set forth below.
- B. **PURPOSE.** Provide suitable opportunities for housing that is affordable (as that term is defined in RSA 674:58) for households of limited means, without sacrificing public health, safety, and welfare.

Encourage creative approaches to providing affordable housing suitable for a variety of households, including (but not limited to) families, singles and seniors.

Comply with the provisions of RSA 674:58, et. seq.

- C. PRELIMINARY CONCEPTUAL CONSULTATION. The Applicant may make application for conceptual consultation to the Planning Board to construct Workforce Housing which shall include preliminary, conceptual plans, site drawings and building information sufficient for a non-binding discussion of the proposed project in accordance with RSA 676:4-II(a).
- D. DESIGN REVIEW. The Applicant may make application for design review to the Planning Board to construct Workforce Housing which shall include preliminary plans, site drawings and building information sufficient for review of the project in accordance with RSA 676:4-II(b).
- E. FINAL REVIEW. The applicant shall make application to the Planning Board to construct Workforce Housing, which shall include sufficient useful information for the Planning Board to review and determine the same as a suitable Workforce Housing application and project that meets the following criteria:
  - 1. General Criteria.
    - a. The complete Workforce Housing project shall be harmonious with its natural surroundings and compatible with neighboring developments and homes in terms of outside design, relative size, and finish.
    - b. The project shall not detract from either the ecological or the visual qualities of the environment.
    - c. The housing proposal shall be affordable in compliance with Section G.
    - d. The proposal meets the purposes of the ordinance under which the application is proposed.
    - e. There will be no significant adverse impacts resulting from the proposed use upon the public health, safety, and general welfare of the neighborhood and the Town of Amherst.
    - f. The proposed residential uses will not adversely affect nearby properties due to noise, fumes, vibration, or light. The project location shall not expose its residents to objectionable noise, fumes, vibration, or inappropriate light. (3-11-14)
    - g. The proposed use will not adversely affect the water resources of Amherst, as defined in the Aquifer Conservation and Wellhead Protection District as defined in Section 4.13 of the Amherst Zoning Ordinance.
    - h. The project shall comply with all applicable site plan and/or subdivision regulations, other than those waived hereunder.
    - i. An Applicant's request for a site density level that exceeds that provided for in the applicable district regulations is predicated on a showing that the same is required to achieve a reasonable expectation of Economic Viability (as defined herein). Accordingly, any project which is requesting such a density level shall, in addition to the demonstration of Economic Viability, also demonstrate to the satisfaction of the Planning Board the manner in which this project is promoting the purposes of this ordinance (as set forth above) and the spirit and intent of the Amherst Zoning Ordinance and the Amherst Master Plan.



2. Specific Criteria
  - a. Where there is an existing dwelling, the Net Tract Area shall be at least sufficient to provide a conforming conventional sized lot for the existing dwelling.
  - b. The Planning Board may designate accessory apartments incorporated within an existing or proposed single-family home as Workforce Housing. Such designation will allow an accessory workforce dwelling unit within an existing freestanding structure if the structure can be legally adapted to such residential use and any such adaptation remains economically viable as defined herein. The total area of any workforce housing accessory apartment shall not be less than six hundred (600) square feet or exceed forty five percent (45%) of the total heated living area contained within the existing residential structure.
  - c. The Planning Board reserves the right to modify density allowances if during its comprehensive site plan review it determines that physical land characteristics or other considerations do not support preliminary density allowances.

3. Preliminary Density

Density allowances and/or total unit count that result from "Design Review" determinations are preliminary. The Planning Board may vary both density allowances and total unit count based upon Section G and Section H if the completed project analysis reveals calculations or conditions are other than those upon which the Planning Board made its determinations under Design Review (See below).

- F. ZONING DISTRICT. Once the Planning Board designates a proposed project as suitable for Workforce Housing and determines that the same is satisfactory and compliant with the above standards, that project may be located on any suitable property irrespective of the zoning district classification.
- G. MODIFIED LOT SIZE, DENSITY, SETBACKS, and OPEN SPACE: The Planning Board may modify minimum lot area, density, setbacks, and open space requirements for each project as the Planning Board determines to be necessary in the best interest of the Town. The Planning Board may grant departures from general and specific standards based on economic criteria presented by the applicant in evidence of need for such departures so as to make the construction of Workforce Housing Economically Viable as defined herein.

When deliberating modifications to zoning requirements for Workforce Housing applications, the Planning Board shall consider the following:

- a. Open space shall be sufficient to accommodate the needs of the proposed occupants of the project. At least 25% of the total parcel area shall be open space.
- b. Setbacks shall be sufficient to buffer and protect adjacent properties. A perimeter setback of 50 feet of landscaped or natural vegetation shall provide a buffer to less dense neighborhood development.
- c. The Planning Board may waive dimensional standards of lot size, density, setbacks and open space, but only when it has been demonstrated that construction of a "workforce housing project" (as that term is defined below), cannot for economic

reasons be feasibly constructed because of those standards. In making such a determination, however, the Planning Board shall ensure that the project complies with the general criteria. Further, the Planning Board, in making such waiver, shall grant only the minimum waiver(s) demonstrated to be necessary to render the project economically feasible.

- i. An applicant seeking to request a waiver under this section shall apply for the same to the Planning Board according to the procedure set forth in the Site Plan Regulations. When making that application, the applicant shall provide sufficient information to the Planning Board to demonstrate the following:
  - ii. The proposed project is incapable of being feasibly constructed within the existing area requirements specified for the applicable zoning district for economic reasons and that the limitations do not permit any other sufficient, realistic or reasonable opportunities to provide workforce housing; and, (NOTE: See Non-Residential Site Review Regulations for Project Suitability Procedure Regulations; “Affordable Housing”.)
  - iii. The granting of waivers will result in the project being Economically Viable and will allow for the construction of “workforce housing” units, which RSA 674:58, as amended defines as target income group(s) or lower income group(s) that the applicant defines; and,
  - iv. The applicant seeking a waiver will identify the general and specific standards for which a waiver is necessary and will provide appropriate documentation supporting the economic reasons by which the strict application of such general or specific standards causes the project to be economically infeasible to construct and,
  - v. The project design is such that it complies with all applicable standards related to environmental protection, water supply, sanitary disposal, traffic safety, and fire, and life safety protection; and,
  - vi. The applicant has provided a suitable mechanism to ensure that the proposed housing stock as constructed will be available to persons of the target income group for a period not less than twenty-five (25) years.
- d. The Planning Board may withdraw any regulatory allowances including lot size, density, setback, and other zoning or regulatory allowances for Workforce Housing before final Site Plan approval upon its determination that revocation of its voluntary measures is reasonable due to the following:
- i. A material reduction in project cost that renders unwarranted the basis for density or other allowances granted to promote Economic Viability;
  - ii. Fraud, misrepresentation of facts, or other deliberate actions that abuse or violate the intent of this ordinance;
- e. Projects that are to be constructed in a phased manner shall include construction of a proportional mix of units and amenities upon which allowances were based.
- f. Expiration of provision shall occur subject to the following:
- i. Any failure to implement development of a Workforce Housing project following site plan approval within a time frame set and approved by the Planning Board;
  - ii. Any failure to complete a Workforce Housing project within a timeframe set and approved by the Planning Board.

H. RULES AND REGULATIONS. The Planning Board may adopt appropriate rules and

regulations to implement the review process contemplated hereunder. Such rules shall provide for the developer and subsequent owners to restrict the sale or lease of the units through appropriate recorded covenants to those who qualify, pursuant to the definition of affordable housing contained in this Ordinance.

Existing housing units previously designated as “Affordable Housing” units that do not have appropriate recorded covenants may elect to present to the Zoning Administrator appropriate covenants, to be approved by Planning Board, in exchange for a written waiver that allows such existing residential units to legally exceed the previously mandated 1,300 SF size limitation.

I. DEFINITIONS. “Workforce Housing,” as used in this ordinance, shall constitute qualifying housing, which is for sale or lease, and is affordable.

1. “Affordable” in this context shall mean:

1. Housing intended for sale with combined mortgage loan debt service, property taxes, and required insurance that shall not exceed thirty percent (30%) of household gross annual income;
  - i. Such annual gross income for homebuyers shall be no more than one hundred percent (100%) of the median income for a four (4) person household for the metropolitan area or county in which the housing is located as published annually by the United States Department of Housing and Urban Development or as otherwise modified by state or federal law. (3-11-14).
2. Housing intended for lease with combined rental and utility costs that do not exceed thirty percent (30%) of household gross annual income;
  - i. Such annual gross income for rental housing shall be no more than sixty percent (60%) of the median income for a three (3) person household for the metropolitan area or county in which the housing is located as published annually by the United States Department of Housing and Urban Development or as otherwise modified by state or federal law. (3-11-14).

2. Except for elderly housing as defined in this ordinance, “Workforce Housing” may include “Affordable” housing as defined above, but shall not include housing developments that exclude minor children from more than twenty percent (20%) of the units, or in which more than fifty percent (50%) of the dwelling units have fewer than two (2) bedrooms. “Workforce Housing” may also include “multi-family housing,” as that term is defined in RSA 674:58, (II), (as amended) which means a building or structure containing five (5) or more dwelling units, each designed for occupancy by an individual household. (3-14-17)

“Economic Viability” is the cost-benefit relationship of an economic endeavor expressed as an Annualized Return on Investment (ROI). An Annualized ROI shall be the sole measure of Economic Viability.

1. Application approvals *without* “Phasing Term” shall employ the Simplified Annual ROI expressed formulaically as follows:

$$\text{Simple Annual ROI} = \left\{ \frac{\text{"Market Value" of "Completed Project"}}{\text{Total Cost of "Completed Project"}} \right\} - 1$$

2. Application approvals *with* a “Phasing Term” shall employ the Compound Annual ROI expressed formulaically as follows:

$$\text{Compounded Annual ROI} = \frac{\text{ROI}}{\text{Phasing Factor}}$$

Where:

$$\text{ROI} = \left\{ \frac{\text{"Market Value" of "Completed Project"}}{\text{Total Cost of "Completed Project"}} \right\}$$

$$\text{Phasing Factor} = \left\{ \left\{ \frac{\text{"Market Value" of "Completed Project"}}{\text{"Completed Project" Total Cost}} \right\}^{\left( \frac{1}{\text{Phasing Term}} \right)^*} \right\} - 1$$

\*  $\left( \frac{1}{\text{Phasing Term}} \right)$  is an exponent

The applicant shall validate to the Planning Board at the time of application that the project ROI is consistent with and proportional to the median Annualized ROI of competing and comparable properties regionally. Market analysis shall include appropriate economic adjustments for land characteristics, location, time, market conditions and other relevant project factors. The applicant shall document and present actual or projected cost of production to include, but not be limited to the true cost of land, labor, material, capital, coordination, entrepreneurial risk, and restrictiveness of covenants necessary under this ordinance.

Economic Viability shall be further subject to the following limitations by project type:

3. One-to-four family Workforce Housing units per structure, or multifamily Workforce Housing consisting of five (5) or more units per building within projects having 24 units or less that are available for rental or sale:
  - i. The analysis shall use the formula in I.2.a, irrespective of the number of structures that are for sale and/or rental, and treat rental units as condominium units available for sale within one year of project completion.
  - ii. The applicant shall derive and support the requisite Annualized ROI and may, as an alternative to a “real estate appraisal report”, demonstrate and support an opinion of “Market Value” through “Market Analysis” together with a “Feasibility Analysis”, “Cash Flow Analysis”, and/or “Investment Analysis”;
  - iii. The applicant shall provide and present quality market-derived project information of sufficient quantity, which is relevant, reliable, timely, and verifiable, in a format that is suitable and useful for Planning Board determinations.

4. Multifamily Workforce Housing consisting of five (5) or more units per building within projects having 25 units or more, having both residential rental units or residential units for sale with or without commercial suites for rent or sale, shall support the requisite Annualized ROI with a “real estate appraisal report” as defined in RSA 310-B: 2, II, as amended.
    - i. The applicant shall derive and support the project’s requisite “Market Value” by at least one or by several of the following valuation models:
      1. Direct Sale Comparison method;
      2. Cost-of-Development method, or;
      3. Direct Capitalization of Net Operating Income method;
    - ii. The applicant may select at least one model based on the quality and quantity of market-derived information that is available, reliable, timely, and verifiable;
    - iii. The applicant shall support model conclusions with a Discounted Cash Flow (DCF) analysis, “Cash Flow Analysis”, or other such analysis determined by the Planning Board as acceptable evidence of model reliability;
    - iv. The applicant shall certify compliance with industry standard practices for the use of such models.
  5. The applicant shall provide a current land value appraisal, executed purchase contract, or purchase option contract to validate land valuation or cost, wherein appraisals shall measure current land value as though vacant and available for its highest and best use, which is economically feasible, socially acceptable, legally permissible, and physically possible at the time of application.
3. “Cash Flow Analysis” means a study of the anticipated movement of funds into or out of an investment. (NH CHAPTER Rab 100.01: (i); as amended)
  4. “Commercial” means a type of real property which is used or intended to be used for any purpose other than one to four family residential use. (NH CHAPTER Rab 100.01: (m) as amended)
  5. “Completed Project” means the project development is sufficiently complete to have all occupancy permits.
  6. “Feasibility Analysis” means a study of the cost-benefit relationship of an endeavor. (NH CHAPTER Rab 100.01: (r); as amended)
  7. “Investment Analysis” means a study that reflects the relationship between acquisition price and anticipated future benefits of a real estate investment. (NH CHAPTER Rab 100.01: (t); as amended)
  8. “Market Analysis” means a study of real estate market conditions for a specific type of property. (NH CHAPTER Rab 100.01: (w); as amended)
  9. “Market Value” as defined by “The Appraisal of Real Estate, 13th Ed.”, The Appraisal Institute; as amended: “The most probable price, as of a specified date, in cash, or in terms equivalent to cash, or in other precisely revealed terms, for which the specified property rights should sell after reasonable exposure in a competitive market under all conditions requisite to a fair sale, with the buyer and seller each acting prudently, knowledgeably, and for self- interest, and assuming that neither is under undue duress.”

J. FINAL DETERMINATION. The Planning Board may determine after testimony, examination, independent review, and deliberation of market evidence and/or independent

findings that the Planning Board deems useful and reliable may make one of the following findings:

1. Allow the unit density proposed by the applicant;
2. Determine that increasing the unit density is necessary to accommodate a successful implementation of Workforce Housing, or;
3. Determine that a lower unit density will not diminish the economic viability of the Workforce Housing application.

**Section 4.15 Historic District (HD). (3-11-86, 3-13-01)**

A. HISTORIC PRESERVATION PURPOSE. The purpose of this ordinance is to promote the educational, cultural, economic, and general welfare of the public for the protection, enhancement, perpetuation, and preservation of the Historic District. It is hereby declared that it is a public purpose that the heritage of Amherst will be safeguarded by:

1. Preserving districts in Amherst which reflect elements of the cultural, social, economic, political, and architectural history;
2. Conserving property values in such districts;
3. Fostering civic beauty;
4. Strengthening the local economy;
5. Promoting the use of an historic district for the education, pleasure, and welfare of the citizens of Amherst.

B. DEFINITIONS. (3-13-01) Unless specifically defined below, words or phrases in this ordinance shall be interpreted to give them the same meaning as they have in common usage and so as to give this ordinance its most reasonable application.

Abutter. Any person whose property is located in the Amherst Village Historic District and adjoins or is directly across the street or stream from the land under consideration by the Commission. For purposes of receiving testimony only and not for purposes of notification, the term abutter shall include any person who is able to demonstrate that his property will be directly affected by the proposal under consideration.

Alteration. Any act or process that changes one or more of the exterior architectural features of a structure, including, but not limited to, the erection, construction, reconstruction, or removal of any structure.

Alternate Member. A member of the Commission who, at the direction of the chairperson, serves in the absence or disqualification of a regular member of the Commission.

Appearance. The architectural character and general composition of the exterior of a structure, including, but not limited to, the kind, color, and texture of the building materials and the type,

design, and character of all windows, doors, light fixtures, signs, and appurtenant elements.

Appurtenance. Property that is situated on, but subordinate to, the structure or place, such as a hot tub, swimming pool, antennae, satellite dish, etc.

Building. Any structure that has a roof and is intended to shelter people, animals or chattel.

Building Permit (or Permit). A certificate issued by the Zoning Administrator permitting the building, alteration, installation, repair, or change of buildings, fences (within the Historic District), land, or uses as regulated by the Zoning Ordinance. (3-11-03)

Certificate of Approval (or Certificate). A certificate issued by the Historic District Commission indicating its approval of an application to alter, repair, construct, add onto, move, demolish, or change the use of a structure or a site within an Historic District.

Change of Use. A change in how a structure or place is utilized or developed, whether for industrial, commercial, residential or agricultural purposes.

Character. The aggregate of visible historic and architectural features and traits that together form the individual nature of an historic district.

Commission. Commission shall mean the Historic District Commission of the Town of Amherst, New Hampshire.

Construction. The act of adding an addition to an existing structure or the erection of a new principal accessory or structure on a lot or property.

Demolition. Any act or process that destroys in part or in whole a landmark or structure.

Designation. Act of identifying historic structures and districts subject to regulation in historic preservation ordinances or other preservation laws.

Design Guidelines (or Guidelines). Standards of appropriate design and activity developed by the Commission which offer property owners guidance in preserving the historic and architectural character of a structure, setting, or place, and which standards shall include the *Secretary of the Interior's Standards for Rehabilitation*. (See *Regulations*.)

Ex Officio Member. Any member of the Commission who holds office by virtue of an official position and who shall exercise all the powers of a regular member of the Commission.

Elevation. The orthographic projection of an object or structure on a vertical picture plane parallel to one of its sides, and usually drawn to scale.

Historic District. An area designated by ordinance of the Town of Amherst and which contains within definable geographic boundaries a significant concentration, linkage, or continuity of sites,

buildings, structures, or objects united by past events or aesthetically by plan or physical development.

Historic Property (or Historic Resource). Any prehistoric or historic site, place, building, structure, or object that is deemed by the Commission to have historic, cultural, social, economic, political, or architectural significance.

Maintenance. Ordinary maintenance and repair of any architectural feature that does not involve removal or a change in design, dimensions, materials or outer appearance of such feature.

Moving. Any relocation or removal of a structure on its site or to another site.

National Register of Historic Places (or National Register). Official inventory of "districts, sites, buildings, structures, and objects significant in American history, architecture, archaeology, engineering and culture."

Orthographic Projection. A method of projection in which a three-dimensional object is represented by projecting lines perpendicular to a picture plane.

Place. An open space of land within the historic district.

Preservation. The act or process of applying measures necessary to sustain the existing form, integrity, and materials of an historic structure, place, or feature.

Reconstruction. The act or process of reproducing by new construction, the form, features, and detailing of a non-surviving site, landscape, building, structure, or object for the purposes of replicating its appearance at a specific period of time and in its historic location.

Regular Member. A member of the Commission who has full voting power.

Regulations. Local design guidelines and standards of review promulgated by the Commission that interpret and implement statutory requirements and are in conformance with the Historic District Zoning Overlay.

Rehabilitation. The process of returning property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historic, architectural, and cultural values.

Repair. Any change that is not construction, addition, demolition, moving, or alteration.

Restoration. The act or process of accurately recovering the form, features, and character of a property and its setting as it appeared at a particular period of time by means of removal of features from other periods in its history and reconstruction of missing features from the restoration period.

Rules of Procedure. A set of rules adopted by the Commission pursuant to RSA 676 concerning



the method of conducting the Commission's business.

Scale. A certain proportionate size, extent, or degree, usually judged in relation to some standard or point of reference.

Street. Relates to and includes street, avenue, boulevard, road, lane, alley, viaduct, highway, freeway and other ways.

Structure-: Anything constructed or erected, the use of which requires permanent or temporary location on or in the ground, including, but not limited to: buildings, fences, stone walls, gazebos, signs, backstops for tennis courts and ballparks, antennae, above ground pools and hot tubs, air conditioning units, propane tanks, playground equipment, etc.

Texture. The visual and tactile quality of a surface, apart from its color or form.

Zoning Ordinance. The laws of the Town of Amherst regulating the building, alteration, installation, repair, or change of buildings, land, or uses within the borders of the entire Town.

#### C. AMHERST VILLAGE HISTORIC DISTRICT.

Pursuant to RSA Chapter 674:46, there is hereby established an historic district known as the Amherst Village Historic District, the boundaries of which are delineated on the Zoning Map on file with the Zoning Administrator.

1. **Historic Significance.** The Amherst Village Historic District is hereby recognized as an area of unique character, and architectural nature which can contribute significantly to the attractiveness and vitality of Amherst. It is further recognized that the character and nature of the area depends on the unity of design of the complex in which each building contributes creating a value greater than the sum of the individual contributions. The character and value of the area as the county seat and center of government of Hillsborough County from 1771 to 1879, the continuity of rich architectural expression, quality and integrity in closely related styles, materials, scale and detail in individual buildings and throughout the area and the opportunities that the area offers to maintain its historical heritage. The opportunities that the area offers are recognized as including retention of the architectural and historic values of the area. This ordinance is intended to provide for regulations of activities that would alter the exterior appearance of existing and proposed structures and for activities that would alter the use and appearance of the exterior spaces adjoining these buildings.
2. **Criteria for designation of local historic districts.** Criteria for the designation of local historic districts shall be the same as the National Register criteria as set forth in 36 CFR 60 ["Code of Federal Regulations," Chapter 36, Part 60 published in the *Federal Register*]. (3-13-01)
3. **Procedures for designation of local historic districts.** An historic district shall be considered to be superimposed over the existing zoning districts and the rules and regulations applicable to an historic district shall be in addition to those applicable to the zoning

districts which have been established for the area and as they may from time to time be amended. Procedures for the designation of local historic districts shall be in conformance with RSA 674:46 and other applicable statutory requirements.

#### D. HISTORIC DISTRICT COMMISSION.

In order to carry out the purpose of this ordinance, a Historic District Commission known as the Amherst Historic District Commission is hereby established pursuant to RSA Chapter 673 which Historic District Commission is the successor to, and a continuation of the Historic District Commission established at the Annual Meeting in March 1970.

##### 1. Membership.

- a. The Commission shall consist of not fewer than five (5) nor more than seven (7) regular members, one (1) of whom shall be an *ex officio* member of the Board of Selectmen and one (1) of whom may be an *ex officio* member of the Planning Board. Not more than five (5) alternate members may be appointed. *Ex officio* members from the Planning Board and the Board of Selectmen shall be appointed by their respective boards. All other regular and alternate members shall be appointed by the Board of Selectmen. (3-13-01)
- b. The qualifications and terms of Commission members, the organization, election, and terms of its officers, and the scheduling of meetings shall be in accordance with the provisions of RSA Chapter 673 and any rules of procedure of the Commission not inconsistent with the State enabling statutes. At a minimum, in determining each member's qualifications, the Board of Selectmen shall take into consideration the appointee's demonstrated interest and ability to understand, appreciate and promote the purposes of the Commission. (3-13-01)

##### 2. Powers and Duties.

- a. The Commission shall have all the powers and duties vested in the Historic District Commissions under RSA Chapter 674 and 675.
- b. The Commission shall adopt rules of procedure (to prescribe the method of conducting its business) and regulations (to provide design guidelines and standards of review) consistent with this ordinance and RSA Chapters 673, 674 and 676.
- c. The Commission shall seek advice from such professional, educational, cultural, and other groups of persons that may be deemed necessary in the determination of a reasonable decision. The Commission shall have the power to engage such technical assistance and consultants as may be deemed necessary to carry out the purposes of this ordinance.
- d. The Commission shall have the power to accept and use gifts, grants, and contributions in the exercise of its function.
- e. The Commission may conduct surveys of the buildings for the purposes of determining those of historic and/or architectural significance and pertinent facts about them, formulate recommendations concerning the preparation of maps, brochures and historic markers for selected historic and/or architectural sites and buildings, cooperate with and advise the governing body, the Planning Board and other municipal agencies involving

historic and/or architectural sites and buildings; advise owners of the buildings of the problems of preservation and restoration.

#### E. CERTIFICATE OF APPROVAL REQUIRED.

1. Except as provided herein, it shall be unlawful for any owner or person (including without limitation any municipal or governmental entity) to alter, construct, repair, move, demolish, or change the use of any structure or place located within the Historic District without applying for and receiving from the Commission a Certificate of Approval for such activity. Activities which require Certificates of Approval are intended to include, but not limited to, such activities as changing the architectural detail of exterior walls, replacement or modification of windows, doors or siding, installation or removal of porches or fire escapes, roofing or chimney modification and installation of antennae or other appurtenances on or near the building exterior or similar activities for which a building or zoning permit are also intended to include, but not be limited to, such activities with regard to the balance of the site as re-grading, paving, repaving, removal of mature trees, installation or removal of fences, retaining walls, signage, on-site lighting, commercial style trash receptacles, telecommunication towers, and similar activities but are not intended to include or prevent ordinary maintenance, repair, or grounds-keeping activities.
2. Certificate of Approval Application Procedure.

For purposes of Administration, the Certificate of Approval application procedure involving a structure or place in an Historic District may be combined with building permits which may be required under the Zoning Ordinance and/or Building Code. Materials required as part of a Certificate of Approval application include materials necessary for such building permits as may be required under the Zoning Ordinance and/or Building Code, plus such renderings, elevations, photographs or other materials as the Historic District Commission may specify to the Zoning Administrator as being necessary for their review and consideration.

#### F. REVIEW BY HISTORIC DISTRICT COMMISSION.

Prior to the issuance of a building permit for any exterior work or changes of use with respect to any property situated in an Historic District, the owner shall submit a Certificate of Approval application to the Historic District Commission for consideration. The Zoning Administrator may issue the building permit only following approval of that application by the Historic District Commission or as provided in RSA Chapter 676:8 and 676:9. In any case in which the Zoning Administrator is unclear as to the applicability of this ordinance to a particular case, he or she may consult with the Commission for an interpretation of the requirements of the Commission.

Although the provisions of this section are not intended to impede the Zoning Administrator in ordering the correction of unsafe conditions of an emergency nature, he or she shall make every effort to coordinate his or her actions with the interests of the Commission by advising

it of any such orders or actions and by involving the Commission in the review of building permits for corrective measures to the extent feasible and practical.

#### G. PERSONAL WIRELESS SERVICE FACILITIES.

Applications to erect personal wireless service facilities in an Historic District shall be reviewed by the Commission pursuant to its own design guidelines and standards of review as well as to Article III, Section 3-16, Paragraph G.8 of the Zoning Ordinance ("Personal Wireless Service Facilities: Historic Buildings and Districts"). (3-13-01)

#### H. INTERPRETATION.

Nothing in this ordinance shall be construed to prevent ordinary maintenance or repair of any structure or place within any Historic District nor to prevent the construction, alteration, repair, moving, or demolition of any structure under a building permit issued by the Zoning Administrator, or any duly delegated authority, prior to the establishment of such district.

#### I. MATTERS TO BE CONSIDERED in passing upon appropriateness of erection, reconstruction, or restoration of structures.

1. The Historic District Commission or Board of Adjustment, on appeal, shall only consider exterior arrangement or features. The Historic District Commission or Board of Adjustment, on appeal, shall consider the following criteria in passing upon an application for a Certificate of Approval. For purposes of this section, *The Secretary of the Interior's Standards for Rehabilitation* are incorporated herein. (3-13-01)
  - a. The special character of the area.
  - b. The historical and/or architectural value of the building/s, structure/s, and its setting, and also as it relates to its setting and to the welfare of the community.
  - c. The compatibility of exterior design, arrangement, texture, and materials proposed to be used in relationship to the existing building or structure and its setting or, if new construction, to the surrounding area.
  - d. The general size and scale of new construction in relation to the existing surroundings including consideration of such factors as the building's overall height, width, street front, number of stories, type of roofs, facade, openings (windows and doors), and architectural details.
  - e. The economic activity of the building and the needs of that activity as it relates to the welfare of the community.
2. Exceptions. The Zoning Administrator is not required to forward the following applications to the Historic District Commission for their review, provided the proposed project complies with the stipulations specified:
  - a. Ordinary maintenance and repair of any exterior architectural feature which does not involve a change in design, material, or outer appearance thereof; including but not limited to maintenance and repair of firewalls, roofs, chimneys, and temporary removal

- of shutters.
- b. Storm doors and storm windows providing that the original architectural features are not removed or destroyed.
- c. Painting or repainting of a building/s or structure/s in any color.

J. ENFORCEMENT.

This ordinance shall be enforced in accordance with the provisions of Article VI of the Zoning Ordinance, and violators shall be subject to the penalty provisions contained therein.

K. REMEDIES.

In the case of any violation of this ordinance or regulations adopted hereunder, the Commission, in addition to other remedies, may institute any appropriate action or proceedings to prevent, restrain, correct, or abate such violation.

L. APPEAL.

Any person aggrieved by a decision of the Historic District Commission shall have the right to appeal concerning such decision to the Zoning Board of Adjustment. Upon appeal, the Zoning Board of Adjustment shall review the decision of the Historic District Commission to determine whether the decision conforms to the provisions under this ordinance and the rules of procedure and regulations adopted hereunder. (3-13-01)

M. VALIDITY.

If any section, subsection, phrase, sentence, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

N. EFFECTIVE DATE.

This ordinance shall take effect upon adoption. (3-11-86)

**Section 4.16 Integrated Innovative Housing Ordinance (IIHO) Deleted (3-10-20)**

**Section 4.17 Planned Residential Development (PRD).** (11-2-82)

ALLOWED BY CONDITIONAL USE PERMIT. (3-6-04, 3-14-17)

- A. PURPOSE. Planned Residential Development allows an alternative pattern of land development to the pattern permitted in the Residential/Rural, Northern Rural, Northern Transitional, and Commercial Zones. It is intended to encourage the preservation of open space and, at the same time, provide for a greater variety of housing types and affordability in the Town of Amherst at somewhat greater densities than permitted elsewhere in the Zoning Ordinance, without causing a

significant increase in the town-wide population density. It is envisioned that in a PRD, dwelling units will be constructed in clusters which are harmonious with neighborhood developments and housing, and with natural surroundings. These clusters shall detract neither from the ecological and visual qualities of the environment, nor from the value of the neighborhood, environment, or the Town. The PRD should contain a variety of housing types to accommodate the Master Plan purposes of encouraging a diversity of people, a variety of age groups of different interests, backgrounds, and economic levels. The overall site design and amenities should enhance the quality of living for the residents of the development and, in general, the neighborhood and the Town. The Board shall determine whether the proposed PRD, namely the site plan or layout, and number, type, and design of the proposed housing is suitable to the neighborhood within which it is to be located and is consistent with the Master Plan and its reasonable growth objectives. (3-14-89)

B. CONDITIONS. An applicant for approval of a proposed PRD shall make application to the Planning Board in the same fashion as specified in the Subdivision Regulations and Section 4.16 - IIHO. In the course of review of the proposal by the Planning Board, the Board shall hear evidence presented by the applicant and determine whether, in its judgment, the proposal meets the objectives and purpose set forth above, in which event the Board may grant approval to the proposal subject to such reasonable conditions and limitations as it shall deem appropriate. (3-14-17)

C. (Deleted 3-10-15)

D. (Deleted 3-10-15).

E. PERMITTED USES.

1. There may permitted in any PRD, single family detached and single family attached, and multi-unit structures of any type without regard to dwelling unit configuration or form of ownership. It is envisioned that the housing types, while having different internal configurations, will have an external appearance that complements and is in general harmony with the natural surroundings of the PRD. Up to ten percent (10%) of the dwelling units may be mobile homes. The maximum height of any dwelling structure shall be thirty-five (35) feet, exclusive of chimneys or cupolas, measured from the lowest adjacent exterior elevation. For the purposes of this ordinance, the following definitions shall apply:
  - a. Single Family Detached Dwelling Unit - any building designed for and occupied by not more than one (1) family and which is not attached to any other dwelling unit by any means.
  - b. Single Family Attached Dwelling Unit - a single family dwelling attached to one other single family dwelling by a common vertical wall.
  - c. Multi-unit Structure - a building which contains from three (3) to six (6) dwelling units.
2. The Board shall determine the mix of housing types, number of dwelling units and structures, and the number of bedrooms for each dwelling unit. These shall be determined at the Final Review and be noted on the Final Plat.

F. OPEN SPACE.

All land in the PRD which is not covered by buildings, septic systems, wells, paved areas, service areas, or which is not set aside as private yards, patios, or gardens for the residents shall be treated as open space. The area of the open space shall be at least forty percent (40%) of the total area of the PRD tract. Such land shall have a shape dimension, character, and location suitable to assure its use for park, recreation, conservation, or agricultural purposes by at least all the residents of the PRD.

Provisions shall be made for the open space to be held in common, equally, by all the owners of the PRD. Such provision shall further hold that all the open space shall be readily accessible to all the residents of the PRD and that such open space shall be retained in perpetuity for one (1) or more of the following uses: conservation, agriculture, recreation, or park. No building or construction whether it be structures or septic systems shall take place in the open space. Harvesting of trees in the open space is permitted if it is done according to good forestry practice and with the expressed permission of the Planning Board. (3-13-84)

G. (Deleted 3-10-15)

H. ARCHITECTURAL DESIGN.

As a condition of final approval, the applicant must obtain the Board's approval of the external architectural design of the PRD to ensure that it complies with the goals of harmonious existence with the neighborhood and the environment as stated in the paragraph on PURPOSE at the beginning of this ordinance. The approval of the architectural design shall be a part of the Final Review approval.

I. LIMITATION OF SUBDIVISION.

No lot shown on a plan for which a permit is granted under this ordinance may be further subdivided and a note to this effect shall be placed on the Final Plan.

J. (Deleted 3-10-15)

**Section 4.18 Sexually Oriented Business.**

A. PURPOSE AND INTENT.

It is the purpose of this article to establish reasonable and uniform regulations to prevent the concentration of sexually oriented businesses within the Town of Amherst and, it is the intent to promote the health, safety, and general welfare of the Citizens of the Town of Amherst and, it is the intent of this article that the regulations be utilized to prevent problems of blight and deterioration which accompany and are brought about by the concentration of sexually oriented businesses; and, the provisions of this Article have neither the purpose nor the effect of imposing limitation or restriction on the content of any communicative materials, including sexually oriented

materials; and, it is not the intent nor effect of this Article to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market; and, neither is it the intent nor effect of this Article to condone or legitimize the distribution of obscene material. The nature of the proposed use shall not be sufficient grounds to support a finding that the use does not meet the criteria set forth in Section 5.2.

## B. DEFINITIONS OF SEXUALLY ORIENTED BUSINESSES.

A sexually oriented business is any place of business at which any of the following activities is conducted:

Adult Bookstore or Adult Video Store. A commercial establishment that devotes more than fifteen percent (15%) of the total display, shelf, rack, wall, table, stand, or floor area, utilized for the display and sale of the following; the establishment, as one of its principal business purposes, offers for sale or rental any form of consideration, any one or more of the following:

1. Books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, video reproductions, slides, tapes, records, CD-ROMs or other forms of visual or audio representations which depict or describe “specified sexual activities” or “specified anatomical areas” or meet the definition of “harmful to minors” and/or “sexual conduct” as set forth in RSA 571-B:1; or, Instruments, devices or paraphernalia which are designed for use in connection with “sexual conduct” as defined in RSA 571-6:1, other than birth control devices. A commercial establishment may have other principal business purposes that do not involve the offerings for sale or rental of material depicting or describing “specified sexual conduct or activities” and still be categorized as “Adult Video/Book Store.” Such other business purposes will not serve to exempt such commercial establishments from being categorized as an “Adult Video/Book Store” so long as one of its principal business purposes is offering for sale or rental for consideration to specified material which depict or describe “specified sexual conduct or activities” or “specified anatomical areas”. An adult bookstore or adult video store is not an establishment that sells books or periodicals as an incidental (less than fifteen percent [15%] of total display area) or accessory part of its principal stock and trade.

Specified sexual conduct or activities. Meaning the male genitals in a state of sexual arousal and/or vulva or more intimate parts of the female genitals.

Specified anatomical areas. Meaning and including any of the following: The fondling or other erotic touching of the human genitals, pubic region, buttocks, anus, or female breasts; sex acts, normal or perverted, actual or simulated, including intercourse, or copulation, or sodomy; masturbation, actual or simulated; or excretory function as part of or in connection with any of the activities set forth herein.

Adult Motion Picture Theatre. An establishment with a capacity of five (5) or more persons, where for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material which meets the definition of “harmful to minors”



and/or “sexual conduct” as set forth in RSA 571-B:1, for observation by patrons. For subsections C, D, E, and F a “substantial portion of the total presentation time” shall mean the presentation of films or shows described above for viewing on more than seven (7) days within any fifty-six (56) consecutive day period.

Adult Motion Picture Arcade. Any place to which the Public is permitted or invited wherein coin or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, in which a substantial portion of the total presentation time of the images so displayed is devoted to the showing of material which meets the definition of “harmful to minors” and/or “sexual conduct”, as set forth in RSA 571-6:1.

Adult Drive-In Theatre. An open lot or part thereof, with appurtenant facilities, devoted primarily to the presentation of motion pictures, films, theatrical productions, and other forms of visual productions, for any form of consideration to persons in motor vehicles or on outdoor seats, in which a substantial portion of the total presentation time being presented for observation by patrons is devoted to the showing of material which meets the definition of “harmful to minors” and/or “sexual conduct” as set forth in RSA 571-B:1.

Adult Cabaret. A nightclub, bar, restaurant, or similar establishment which during a substantial portion of the total presentation time features live performances which meet the definition of “harmful to minors” and/or “sexual conduct” as set forth in RSA 571-B: 1, and /or feature films, motion pictures, video cassettes, slides or other photographic reproductions, a substantial portion of the total presentation time of which is devoted to showing of material which meets the definition of “harmful to minors” and/or” sexual conduct” as set forth in RSA 571-B:1.

Adult Motel. A motel or similar establishment offering public accommodations of any form of consideration which provides patrons with closed circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions, a substantial portion of the total presentation time of which are distinguished or characterized by an emphasis upon the depiction or description of materials which meet the definition of “harmful to minors” and/or “sexual conduct” as set forth in RSA 571-B:1.

Adult Theatre. A theatre, concert hall, auditorium, or similar establishment either indoor or outdoor in nature, which for any form of consideration, regularly features live performances, a substantial portion of the total presentation time of which are distinguished or characterized by an emphasis on activities which meet the definition of “harmful to minors” and/or “sexual conduct” as set forth in RSA 571-B:1.

Nude Model Studio. A place where a person who appears in a state of nudity or displays male genitals in a state of sexual arousal and/or the vulva or more intimate parts of the female genitals and is observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by other persons who pay money or any form of consideration or such display is characterized by an emphasis on activities which meets the definition of “harmful to minors” and/or “sexual conduct”, as set forth in RSA 571-B:1.

Sexual Encounter Center. A business or commercial enterprise that as one of its primary business purposes, offers for any form of consideration:

1. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
2. Activities between male and female persons and/or persons of the same sex when one or more persons is in the state of nudity; or
3. Where the activities are characterized by an emphasis on activities which meets the definition of "harmful to minors" and/or "sexual conduct", as set forth in RSA 571-B:1.

C. ALLOWED LOCATIONS AND LOCATION RESTRICTIONS OF SEXUALLY ORIENTED BUSINESSES.

1. Sexually oriented businesses, as defined above, shall be permitted only in the Industrial Zone, by Special Exception, provided that all other regulations, requirements, and restrictions for the zone in which the sexually oriented business is to be located are met; and no sexually oriented business shall be permitted within one thousand (1,000) feet of another existing sexually oriented business or one which a building permit has been applied for; and,
2. No sexually oriented business shall be permitted within seven hundred fifty (750) feet of any other zoning boundary.
3. No sexually oriented business shall be permitted within seven hundred fifty (750) feet of any church, place of worship, parish house, convent, public, parochial, or private school, kindergarten, State approved day care center, or public sports/recreation parks; and no sexually oriented business shall be permitted within seven hundred fifty (750) feet of the Town boundaries; and,
4. No sexually oriented business shall be permitted within one thousand (1,000) feet of another existing sexually oriented business on the date of the passage of this article and, no sexually oriented business shall be permitted within a building, premise, structure, or other facility that contains a sexually oriented business as defined in Section 4.18.B above.
5. The Zoning Board of Adjustment shall grant the Special Exception provided the applicant demonstrates facts sufficient to support a finding that the conditions for the granting of a Special Exception within the underlying zoning district and Article 5 Special Exceptions have been met.

D. MEASURE OF DISTANCE.

The distance between any two sexually oriented businesses shall be measured in a straight line, without regard to intervening structures, from the closest exterior structural wall or temporary or permanent physical divider between each of the businesses.

E. ADDITIONAL REASONABLE REGULATIONS.

The Planning Board is empowered hereunder to review and approve permit applications for sexually oriented businesses and impose reasonable restrictions for buffering, outdoor parking lighting, adequate ingress and egress from the site off of and onto public roads, pedestrian movement, and to provide for appropriate landscaping and building aesthetics in the “Non-Residential Site Plan Review Regulations of the Town of Amherst, New Hampshire”, and to avoid site development layout which may result in negative environmental impacts.

F. SEVERABILITY.

The invalidity of any section or provision of this Article shall not invalidate any other section or provision thereof.

**Section 4.19 Impact Fee Ordinance.**

A. PURPOSE. This ordinance is enacted pursuant to RSA 674:16, (II), 674:17, and 674:21, and in order to:

1. Promote the public health, safety, and welfare, and prosperity (3-10-09);
2. Provide for adequate and appropriate facilities are available to individuals who may come to be located in the Town of Amherst;
3. Help meet the needs occasioned by development for the construction or improvement of capital facilities owned or operated by the municipality, including and limited to water treatment and distribution facilities; wastewater treatment and disposal facilities; sanitary sewers; storm water, drainage, and flood control facilities; public road systems and rights-of-way; municipal office facilities; public school facilities; the municipality's proportional share of capital facilities of a cooperative or regional school district of which the municipality is a member; public safety facilities; solid waste collection, transfer, recycling, processing, and disposal facilities; public library facilities; and public recreational facilities not including public open space;

B. SCOPE.

The regulatory scope of this ordinance is intended to implement and be consistent with the Town of Amherst’s Master Plan and Capital Improvements Program as well as to allocate a fair and equitable share of the cost of public capital facilities (including school construction) to new development, and require that new development contribute its proportionate share of funds necessary to accommodate its impact on those public facilities. It is intended to apply to all forms of development identified in RSA 674:21 (V).

C. DEFINITIONS.

New Development. Any activity that results in:

- a. The creation of a new dwelling unit or dwelling units;
- b. The conversion of a non-residential use to a dwelling unit or dwelling units;
- c. Construction of new non-residential facilities and/or accessory structures;
- d. The conversion of a residential use to non-residential use.
- e. New Development does not include:
  - i. The reconstruction of a residential or non-residential structure that has been destroyed by fire or natural disaster, provided there is no change in the number of dwelling units or size of the structure;
  - ii. The replacement of a manufactured home with another manufactured home provided there is no change in the number of dwelling units or size of the structure.

Public Capital Facilities. Facilities and equipment which are owned and operated by the Town of Amherst, the Amherst School System, or cooperatively with other municipalities and which have a useful life of no less than five (5) years. Public capital facilities do not include the costs associated with the operation, maintenance, or repair of such facilities, or with facility replacements that do not increase the capacity or level of service, but do include reasonable costs for planning, engineering, design, land acquisition, and other reasonable costs associated with such facilities.

Impact Fee. A fee or assessment imposed upon new development, including subdivision, building construction, or other land-use change, in order to help meet the needs occasioned by the development for the construction or improvement of capital facilities owned or operated by the municipality, including and limited to: water treatment and distribution facilities; wastewater treatment and disposal facilities; sanitary sewers; storm water, drainage and flood control facilities; public road systems and rights-of-way; municipal office facilities; public school facilities; the municipality's proportional share of capital facilities of a cooperative or regional school district of which the municipality is a member; public safety facilities; solid waste collection, transfer, recycling, processing and disposal facilities; public libraries; and public recreation facilities, not including permanently unimproved open space. This definition is intended to be the same as that set forth in RSA 674:21, (V), and, in the event of an amendment of that section, such amendment shall be incorporated into the within definition so that the within definition and the statutory definition are identical.

#### D. AUTHORITY TO ASSESS IMPACT FEES.

The Planning Board is hereby authorized to assess impact fees, as herein defined, and in accordance with the standards herein set forth. Except for regulations establishing Impact Fee Formulae, the Planning Board shall have the authority to adopt regulations to implement the provisions of this ordinance so long as the same are consistent with the regulations contained herein.

#### E. AUTHORITY TO ESTABLISH IMPACT FEE FORMULAE.

Impact fee formulas shall be adopted by the Board of Selectmen, in the manner and subject to the criteria set forth herein.

## F. IMPACT FEE SCHEDULES.

### 1. Impact Fee Formula Methodology.

#### a. General Considerations.

- i. The amount of any impact fee formula shall be a proportional share of municipal capital improvement costs which are reasonably related to the capital needs created by new development, and to the benefits accruing to the new development from the capital improvements financed by the fee.
- ii. Upgrading of existing facilities and infrastructures, the need for which is not created by new development, shall not be paid for by impact fees.
- iii. In the case of development created by a change of use, redevelopment, expansion, or modification of an existing use, the capital facilities fee shall be based upon the net positive increase in the impact created by the new use as compared to that which was or would have been assessed for the previous use.

### 2. Computation of Impact Fees.

#### a. Amount of impact fees and type of facilities: The amount of the impact fees shall be determined using the values contained in the Impact Fee Schedules for the following types of facilities:

- i. Stormwater, drainage, and flood control facilities.
- ii. Public road systems and rights-of-way.
- iii. Municipal office facilities.
- iv. Public school facilities.
- v. The municipality's proportional share of capital facilities of a cooperative or regional school district of which the municipality may be a member or any other cooperative joint governmental venture.
- vi. Public safety facilities.
- vii. Solid waste collection, transfer, recycling, processing, and disposal facilities.
- viii. Public library facilities.
- ix. Public recreational facilities not including public open space.
- x. Sewer and water facilities, if any.

### 3. Impact fee schedules shall be established and reviewed as set forth in this Section and Sections 4.19.G below. In the case of change of use, redevelopment, or expansion or modification of an existing use which constitutes new development, the impact fees shall be based upon the net positive increase in the impact fee for the new use as compared to the previous use. (3-10-09)

## G. IMPACT FEE ESTABLISHMENT PROCEDURE. The Selectmen shall prepare a report describing a methodology or basis for calculating impact fee assessments and an Impact Fee Schedule, in accordance with RSA 674:21, and this ordinance. The Selectmen shall conduct a public hearing on the proposed schedule, and shall consider all comments received prior to

finalizing the Schedule. The Selectmen, upon such finalization, shall then submit the schedule to the Planning Board for their review and recommendation. The Board of Selectmen at a regular meeting shall accept or modify the proposed schedule which may include modifications consistent with the recommendations of the Planning Board. The Impact Fee Schedule shall be in effect when a majority of the Board of Selectmen approves the schedule. (3-10-09, 3-10-20)

1. (Deleted 3-10-20)

H. Review of Impact Fees. The Selectmen may review and revise an Impact Fee Schedule whenever circumstances warrant and shall review an established Impact Fee Schedule, at a minimum, on an annual basis and shall modify the Impact Fee Schedule if it finds that new data is available that will refine the schedule. This may include the replacement of figures used in the Impact Fee Schedule with more accurate or recent projections, data and figures, as well as modifications in the Capital Improvements Program. The Selectmen shall submit the Impact Fee Schedule to the Planning Board for their review and recommendation before the adoption of any revised schedule.

I. Termination of Impact Fees.

1. Impact fees shall terminate when the Board finds that the appropriate conditions for assessment are no longer present. (3-10-09)

2. The Board of Selectmen may also by majority vote terminate an Impact Fee Schedule in effect, whenever there is occasion to do so. This may be done only after soliciting recommendations from the Planning Board, and after conducting a public hearing.

J. Administration of Impact Fees.

1. Accounting for Impact Fees. Each impact fee shall be accounted for separately, shall be segregated from the Town's general fund, may be spent upon order of the Selectmen and shall be used solely for the capital improvements for which it was collected, or to recoup the cost of capital improvements made in anticipation of the needs for which fees are collected to meet. In the event that bonds or other debt instruments have been issued for public capital facilities which were constructed in anticipation of new development, or are issued for advanced provision of capital facilities identified in this ordinance, impact fees may be used to pay debt service on such bonds or similar debt instruments. Each fee collected under a specific Impact Fee Schedule shall not be commingled with any other impact fee accounts or any other funds. (3-10-09)

2. Assessment of Impact Fees. All impact fees shall be assessed at the time of Planning Board approval of a subdivision plat or site plan. When no Planning Board approval is required, or has been made prior to the adoption or amendment of the impact fee ordinance, impact fees shall be assessed prior to, or as a condition for, the issuance of a building permit or other appropriate permission to proceed with new development. Impact fees shall be intended to reflect the effect of development upon municipal facilities at the time of the issuance of the building permit.

3. Collection of Impact Fees. Impact fees shall be collected at the time a Certificate of Occupancy is issued. If no Certificate of Occupancy is required, impact fees shall be collected when the development is ready for its intended use. The Selectmen and the assessed party may establish an alternate, mutually acceptable schedule of payment of impact fees in effect at the time of subdivision plat or site plan approval by the planning board. If an alternate schedule of payment is established, the Selectmen may require developers to post bonds, issue letters of credit, accept liens, or otherwise provide suitable measures of security so as to guarantee future payment of the assessed impact fees.
4. Refund of Unused Impact Fees. If, within six (6) years of the collection of an impact fee pursuant to this ordinance, any portion of such impact fee which has not become encumbered or otherwise legally bound to be spent for the purpose for which it was collected shall be refunded, with any accrued interest, to the owner of record of the property. Whenever the calculation of an impact fee has been predicated upon some portion of capital improvement costs being borne by the municipality, a refund shall be made upon the failure of the legislative body to appropriate the municipality's share of the capital improvement costs within said six (6) year period. (3-10-09)
5. Maintaining Records of Impact Fees and Related Projects - The Town Treasurer shall have custody of all accounts and shall pay out the same only upon written orders of the Board of Selectmen. At the end of each fiscal year, the Town Treasurer shall prepare a report, showing a full account of all impact fee transactions during the year and deliver same to the Board of Selectmen, the Planning Board, and the same shall be available to the public. (3-10-09)

#### K. Waiver and Appeal of Fees.

1. Any person may request from the Planning Board, a full or partial waiver of impact fee payments required by this ordinance where it can be shown that, due to unique and/or mitigating circumstances, the impact of the particular new development is demonstrated to be nonexistent or less than anticipated.
2. On-site and off-site improvements which are required by the Planning Board as a result of subdivision or site plan review, including but not limited to, extension of water and sewer mains or the construction of roads or other infrastructure, which would have to be completed by the developer regardless of the capital facilities fee provisions, shall not be considered eligible for waiver under this ordinance.

#### L. Credits.

1. Land or Improvement Construction in Kind in Lieu of Payment: Land for capital facilities and/or public capital facility improvements may be offered by the fee-payer as total or partial payment of the required fee. The offer must be determined to represent an identifiable dollar value computed in a manner acceptable to the Planning Board.

#### M. Applicability.

1. This ordinance shall not be deemed to affect the existing authority of the Planning Board over subdivisions and site plans, including, but not limited to the authority to declare a development to be premature or scattered in accordance with the regulations of the Board and in accordance with RSA 674:36, II(a).

#### N. Off-site Improvements.

1. Definition of Off-site Improvement. A specific “off-site” capital facility or infrastructure improvement that is required by the Planning Board for either a site plan or subdivision that is necessary, in the judgment of the Planning Board, for the project to operate properly on the day that it opens shall be considered to be an Off-Site Improvement.
2. Imposition of Off-site Improvements Requirements. Off-site improvements for site specific applications shall be assessed on a case by case basis and shall be in addition to other impact fees imposed pursuant to this ordinance. In a case in which it is determined that such an improvement is necessary for the proper operation of the project, the Planning Board shall so notify the applicant.
3. Determination of Proportionate Share of Off-Site Improvement Cost(s). In circumstances where it can be demonstrated that such improvement will benefit the community at large, as well as the future occupants of the proposed new development, the Planning Board may require the applicant to present to the Board a study that identifies the proportionate share of the cost of the required improvement that pertains to the new development. In such a case, the Planning Board may, at the expense of the applicant, refer such study to a consultant of its own choosing to determine the reliability of the findings that shall be considered by the Board to arrive at an amount to be contributed by the applicant for the off-site improvement.
4. Reimbursement for Contributions in Excess of Proportionate Share. The applicant shall be assessed his/her proportionate share of the cost of the project. In cases where it is determined that an improvement is necessary for the proper functioning of a new development but the applicant, for whatever reason, is determined to contribute more than his/her proportionate share to the improvement under this section, and, therefore, that the improvement will also accommodate other future development, the Selectmen, at the request and expense of the applicant, may establish a separate, project related impact fee that assesses other new development for their proportionate share of the improvement to reimburse the applicant for such disproportionate contribution. Such future impact fees shall provide for the payment to the original applicant, with any interest.

#### O. Applicability of Impact Fees.

1. Any person or agent, who after the effective date of this ordinance, seeks to undertake new development within the Town of Amherst, New Hampshire, by applying for site plan approval, subdivision approval or a building permit and which is not covered under an exemption pursuant to RSA 674:39, is hereby required to pay the appropriate impact fees



in the manner set forth in this ordinance, in accordance with any Impact Fee Schedule adopted by the Board of Selectmen. (3-10-20)

2. No new building permit for an activity requiring payment of one or more impact fee(s) pursuant to this ordinance shall be issued unless and until the impact fee(s) hereby required have been assessed and/or otherwise agreed upon, and no Certificate of Occupancy or other permission for the use of said new development project shall be issued until the same have been paid or otherwise discharged.

P. Other Assessments Unaffected.

Payment of an impact fee does not restrict the Town or the Planning Board from requiring other payments from the applicant, including without limitation such payments relating to the cost of the extensions of water and sewer mains or the construction or improvement of roads or streets or other infrastructure and facilities specifically benefitting the development which are required by the subdivision or site plan review regulations or as otherwise permitted by law.

Q. Premature and Scattered Development.

Nothing in this ordinance shall be construed so as to limit the existing authority of the Amherst Planning Board to provide against development which is scattered or premature, which requires an excessive expenditure of public funds, or otherwise violates the Town of Amherst's Site Plan Review Regulations, Subdivision Regulations, or Zoning Ordinance.

R. Severability.

If any section, phrase, sentence or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

S. Effective Date.

This ordinance shall become effective on the date of its passage, subject to the limitations imposed by RSA 676:12.

- T. Any aggrieved party may appeal any decision under this ordinance in accordance with NH RSA 674:21, (V)(f).

**Section 4.20 Elderly Housing**

- A. Single or multi- unit residential developments which comply with the Federal Definition of Elderly Housing are allowed by Conditional Use Permit (Section 3.18) and shall be required to meet any standards set forth in that section, subject to the following:
  1. Each structure may be a single dwelling unit or a cluster of units containing from two (2)

- to twelve (12) dwelling units.
2. (Deleted 3-8-16)
  3. Project density shall be determined using the base density and bonus densities as described in Section 4.16 - Integrated Innovative Housing Ordinance (IIHO) (3-14-17)
  4. Ancillary facilities such as community meeting rooms, site management offices, and rooms for limited healthcare services are allowed.
  5. No structure shall be constructed to a height greater than thirty-five (35) feet, exclusive of chimneys or cupolas, measured from the lowest adjacent exterior elevation.
  6. Setbacks shall comply with the underlying zoning district. (3-10-15)

## **ARTICLE V -- SPECIAL EXCEPTIONS**

### **Section 5.1 General.**

Special exceptions as herein provided for shall be deemed to be permitted uses in their respective zones, subject to the satisfaction of the requirements and standards set forth herein, in addition to all other requirements and standards of this ordinance. All such cases are hereby declared to possess characteristics of such unique and special form that each specific use shall be considered as an individual case. (3-12-63)

### **Section 5.2 Standards Applicable to All Special Exceptions.**

#### **A. CONDITIONS FOR SPECIAL EXCEPTIONS.**

1. Before the Board of Adjustment considers the approval of an application for a special exception, the applicant shall prove to the satisfaction of the Board of Adjustment that all the following conditions have been met:
  1. That the property in question is in conformance with the dimensional requirements of the zone; and that the minimum lot area shall contain no wetland as defined in Art. IV, Sec. 4.11; no flood plain as defined in Art. IV, Sec. 4.10; and no slopes greater than twenty percent (20%); and that the use is compatible with the Amherst Master Plan. (3-13-07)
  2. That there is safe vehicular and pedestrian access to and from the site.
  3. That there will be no significant adverse impacts resulting from the proposed use upon the public health, safety, and general welfare of the neighborhood and of the Town of Amherst.
  4. That the proposed use will not be more objectionable to nearby properties by reason of noise, fumes, vibration, or inappropriate lighting than the existing use of the property.
  5. That the applicant describe in writing and on a scaled drawing, the location and size of the use, the nature and intensity of operations involved, the tract size, parking areas, and other physical land features of the site in question.
  6. That the proposed use will not adversely affect the ground water resources of Amherst, in particular the Aquifer Conservation District as defined in Section 4-13 of the Amherst Zoning Ordinance.
2. Response to each of the above conditions shall be provided in writing on forms available in the

Amherst Zoning/Planning Office.

3. The Board of Adjustment may seek additional recommendations of the Amherst Planning Board. The applicant shall file a Non-Residential Site Plan Review application in accordance with Section C of the Amherst Zoning Ordinance with the Amherst Planning Board. (3-10-92)

**B. CONDITIONS OF APPROVAL.**

The Board of Adjustment may attach such conditions to its approval as are reasonable, necessary and appropriate. All special exceptions uses are hereby declared to have special characteristics that shall be considered on a case-by-case basis. To ensure compliance with the spirit of the Zoning Ordinance, such conditions shall not conflict with the review and approval of the Planning Board. (3-10-92)

**C. LIMITS ON A SPECIAL EXCEPTION.**

Substantial construction, or occupancy if no construction is involved, must commence within one (1) year of the Board of Adjustment approval of the special exception. If construction or occupancy is not commenced within this period, the special exception approval is declared null and void. (3-10-92)

**D. PERMITS FOR SPECIAL EXCEPTIONS.**

A permit for a special exception use shall not be issued by the Board of Selectmen or their duly appointed representative, the Administrative Official, until so directed by the Board of Adjustment who shall first be satisfied that all of the standards and conditions of this article and the ordinance have been met. (3-12-63)

## **ARTICLE VI--ADMINISTRATION**

### **Section 6.1 Enforcement.**

This ordinance shall be enforced by the Board of Selectmen and the Board of Selectmen is hereby given power and authority to enforce the provisions of this ordinance. The Board of Selectmen is further empowered to confer upon an administrative official appointed by the Board of Selectmen, such official to also constitute Inspector of Buildings within the definition of 673:1, ii (as amended), the duty of administering the provisions of this ordinance in accordance with RSA 673:1, ii and 676:17, v (as amended) or as otherwise authorized by RSA. (3-12-63, 3-11-14)

### **Section 6.2 Building Permits, Certificates of Occupancy, Earth Removal Permits.**

**A. BUILDING PERMITS.**

1. No building or structure shall hereafter be erected or structurally altered, including the placement of a mobile home, until a building permit has been issued by the Selectmen or their authorized agents, the Building Inspector or Zoning Administrator stating that the building or

structure, and use of land shall comply with the ordinances and regulations of the Town. (See the *Ordinances, Laws, and Regulations of the Town of Amherst*. Section H: Building Code for additional information.) (3-14-78, 3-9-10, 3-11-14)

2. No permits shall be issued to any lot upon which there is outstanding a recorded violation of the rules, regulations or ordinances of the Town of Amherst, excepting any permit required to correct such violation.
3. Deleted. (3-9-99, 3-8-05, 3-11-14)

#### B. CERTIFICATE OF OCCUPANCY.

1. No building or structure hereafter erected or structurally altered shall be occupied or used until a Certificate of Occupancy has been issued by the Selectmen, or their authorized agents, the Building Inspector or Zoning Administrator. The certificate shall be issued only after the Building Inspector or Zoning Administrator makes a finding that the building or structure has been constructed, arranged, structurally altered, or is to be used in conformance with the provisions of this ordinance and all other health, safety and building laws, and that construction be in accordance with all representations made as part of the application for and granting of the building permit. (3-14-78, 3-11-14)
2. As-Built plans shall be submitted prior to the issuance of a Certificate of Occupancy for all new commercial and industrial construction, and may be required for other types of construction, as determined by the Building Inspector or Zoning Administrator. (3-11-14)
3. Uses and Certificate of Occupancy. No change shall be made in the use of a building or part thereof now or hereafter erected or structurally altered, or in the use of land now or hereafter occupied, nor shall any use of a building or land be undertaken, without a Certificate of Occupancy having first been issued by the Selectmen, or their authorized agents, the Building Inspector or Zoning Administrator. No such certificate shall be issued to make such change or undertake such use unless it is in conformity with the provisions of this ordinance or amendments thereto hereafter duly enacted. (3-14-78)

#### C. EARTH MATERIAL REMOVAL.

No earth material as defined in Section 3.8 hereof shall be removed unless a permit has been applied for and obtained in a fashion consistent with the provisions of Section 3.8 hereof. (3-14-78)

1. The Board of Selectmen, or the Administrative Official, may require of any applicant for a permit such sketches, drawings, plot plans, or other materials as are deemed necessary to make a decision as to compliance with the provisions of this ordinance. They may require plans, details, specifications for new structures to have been prepared, or sealed, by a licensed architect or engineer. (3-12-63, 3-13-84)
2. If an applicant requests a permit to undertake an activity on a lot non-conforming in size and

frontage as otherwise required by this ordinance and is making application under Article IV, Section 4.2 of this ordinance, such applicant shall file as part of his application, the date of the recording and the Registry of Deeds reference number of the recording of the non-conforming lot. (3-12-63)

3. (Deleted 3-8-2016)
4. All permits issued under the provision of this ordinance shall expire and become invalid two years from the date of issuance of the permit. (3-14-78)

#### C. ADMINISTRATION

1. The Administrative Official shall be a salaried employee of the Town and shall be paid a salary as determined by the Selectmen and approved by the Town as part of the annual budget.
2. Effective this date, all non-residential site plans approved by the Planning Board shall expire four (4) years from the date of Planning Board approval. This expiration date shall not apply to plats that are exempt or vested because of the operation of RSA 674:39. (3-14-89, 3-9-10)
3. Upon receipt of the application for a permit with sufficient information to clearly establish the nature and extent of the proposed activity, the Administrative Official shall determine whether the proposed activity or use constitutes a permitted use within the provisions of this ordinance or whether a special exception or a variance is required. (3-14-78)
  - a. If the proposed use requires a special exception or a variance, the Administrative Official shall refer the application for permit to the Board of Adjustment for action. (3-14-78)
  - b. If the proposed use or activity is within the provisions of this ordinance, the Administrative Official shall post a notice in two public places in the Town of Amherst, one of which shall be at the Town Hall; and no permit shall be issued until said notice has been posted for a period of seven (7) days. If during that period the Administrative Official received objection to the issuance of the requested permit, he may issue the permit, refer the application to the Board of Adjustment for action, or deny the permit. (3-14-78).
  - c. Consistent with State Statues, public utility structures proposed for the Town of Amherst shall obtain building permits and meet zoning requirements. (3-13-84)

### **Section 6.3 Board of Adjustment.**

A. ESTABLISHMENT. In accordance with the provisions of the New Hampshire Revised Statutes Annotated 1955, Chapter 673 as amended and as hereinafter provided, a Board of Adjustment is established. (3-12-63)

#### B. ORGANIZATION.

1. The Board of Adjustment shall consist of five (5) members. (3-12-63, 3-8-16)
2. The members of the Board of Adjustment shall be elected at the annual Town Meeting. (3-5-74, 3-12-96)

3. Vacancies in the Board, occurring other than through the expiration of a term, shall be filled in accordance with RSA 673:12.
  4. Members of the Board of Adjustment shall serve without compensation. (3-12-63)
  5. The Board shall have five (5) alternate members to be appointed by the Board of Adjustment in accordance with RSA 673:6 II-a. (3-8-16)
- C. POWERS. The Board of Adjustment shall perform all the duties and have all the powers provided by the New Hampshire Revised Statutes Annotated 1955 as Amended and as hereinafter provided. (3-12-63)
- D. MEETINGS. Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board of Adjustment may determine. All meetings shall be open to the public. (3-12-63) The Board shall keep a record of proceedings showing the vote upon every question. (3-12-63) Every rule or regulation, and every order, requirement, decision, or determination of the Board of Adjustment shall immediately be filed in the office of the Board of Adjustment and shall become a public record. (3-12-63)

The concurring vote of three (3) members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision, or determination of the administrative office, or to decide in favor of the appellant, or to decide any matter upon which it is required to pass, or to effect any variance from the strict application of provisions of this ordinance. (3-12-63)

All applications shall be acted upon within ninety (90) days after the date of filing the application or within ninety (90) days of the date of filing of any additional information requested by the Board but no later than six (6) months after the date of filing; provided, however, when additional information is not furnished within a reasonable time, the Board may, on notice to the applicant, deny the application without prejudice to the right to re-file. When an application is denied on the merits, the application may not be re-filed for a period of one (1) year after the date of denial. (3-6-73)

- E. PROCEDURE ON PERMITS for special exceptions, variances, and appeals of administrative decisions.
1. The Board of Adjustment shall not authorize the issuance of a permit until after a hearing on the application is held.
  2. Upon receipt from the Administrative Official of an application for a special exception, variance, or appeal of an administrative decision, the Board of Adjustment shall hold a public hearing. (3-12-91) Notice thereof shall be given as follows:
    - a. The applicant and all of the abutters shall be notified of the hearing by certified mail, return receipt requested, stating the time and place of the hearing, and such notice shall be mailed not less than five (5) days before the date fixed for the hearing of the appeal.
    - b. A public notice of the hearing shall be published in a newspaper of the general circulation in the area, not less than five (5) days before the date fixed for the hearing of the appeal.
    - c. The public hearing shall be held within thirty (30) days of the receipt of the notice of the

appeal.

- d. Any party may appear in person or by his agent or attorney at the hearing of an appeal.
- e. The cost of advertising and costs of mailing the notices of hearing shall be payable by the person making the appeal prior to the hearing. (3-9-82)

F. Conditions for the Granting of a Variance. (3-10-64)

1. The Board of Adjustment may grant a variance from the terms of the Zoning Ordinance in accordance with RSA 674:33.

G. Time Limits of Special Exceptions and Variances.

If, after a permit has been authorized by the Board of Adjustment as a result of a request for a special exception or variance, such permit has not been obtained within two (2) years from the date of such authorization, then such authorization shall become null and void; and no permit shall be issued thereunder. (3-4-75, 3-9-82, 3-10-15)

Scheduled Termination of Special Exceptions and Variances (3-10-20)

Pursuant to RSA 674:33 I-a. (b), and RSA 674:33 IV. (c), all variances and special exceptions that were authorized by the Amherst Zoning Board of Adjustment pursuant to the Amherst Zoning Ordinance and RSA 674:33 before August 19, 2013, and that have not been exercised, shall terminate according to the following procedure:

1. Upon adoption of this amendment, the Planning Board shall post notice of the termination in Town Hall. The notice shall be posted for one year and shall prominently state the expiration date of the notice.
2. The notice shall state that special exceptions and variances authorized before August 19, 2013, are scheduled to terminate, but shall be valid if exercised within two years of the expiration date of the notice or as further extended by the Zoning Board of Adjustment for good cause.

H. APPEAL FROM ORDER OF THE BOARD OF ADJUSTMENT.

Within thirty (30) days after any order or decision handed down by the Board of Adjustment, any party to the action or proceedings of the Board of Adjustment, or any person directly affected thereby, may move for a re-hearing and thereafter, if necessary, appeal by petition to the Superior Court in accordance with the provisions of the laws of the State of New Hampshire and may pursue such remedies as are therein provided for said party. (3-12-63, 3-8-05)

I. RULES OF PROCEDURE.

The Board of Adjustment shall adopt and promulgate rules of procedure for the guidance of all persons having business before the Board of Adjustment. Said rules shall not be inconsistent with the provisions of the Statutes of the State of New Hampshire nor with the provisions of this ordinance. (3-12-63)

## J. COSTS.

Any person appearing before the Zoning Board of Adjustment may be represented by counsel, but the costs of retaining such counsel shall be borne by the party retaining them, and not by the Town of Amherst. (3-12-63)

### **Section 6.4 Existing Ordinances.**

All existing ordinances or parts thereof inconsistent with the provisions of this ordinance are repealed upon passage of this ordinance. (3-12-63)

### **Section 6.5 Severability Clause.**

If any section, subsection, sentence, clause, phrase, or other part of this ordinance is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. (3-12-63)

### **Section 6.6 Governmental Services.**

No provision of this ordinance shall be interpreted as to prevent the Town of Amherst from providing for or performing any existing or necessary governmental, education, or protective services. (3-12-63)

### **Section 6.7 Penalty.**

In accordance with RSA 676:17, as amended, any person, firm, or corporation violating the provisions of this ordinance is punishable by a civil fine of up to two hundred seventy-five dollars (\$275) per day, for every day after the conviction date that the violation continues, or after the date on which the violator received written notice from the municipality that is in violation, whichever date is earlier. (3-11-86)

## **ARTICLE VII -- AMENDMENTS TO THE ZONING ORDINANCE**

### **Section 7.1 General.**

This ordinance may be amended in conformance with the New Hampshire State Statutes. (3-12-63) This ordinance is intended to be consistent with NHRSA enabling legislation and to the extent that any portion hereof is or shall become inconsistent with said enabling legislation this ordinance shall be invalid to that extent. (3-5-74)

### **Section 7.2 Referral of Amendments to Planning Board.**

Upon the petition of twenty-five (25) voters for an amendment to the Zoning Ordinance, the Planning Board shall proceed and submit the amendment or amendments to the voters of the Town as prescribed in RSA 675:4. The Planning Board may not reject the amendment or amendments proposed by petition but shall submit the proposed amendment or amendments to the voters as offered by the petition. The petitioners shall submit the proposed amendment or amendments to the Zoning Ordinance in correct form



as determined by the Selectmen. The following question shall be submitted to the voters: "Are you in favor of the adoption of the amendment to the Zoning Ordinance as proposed by petition of the voters of this Town?". The approval or disapproval of the Planning Board shall also be noted on the ballot immediately following the question. In the event that there shall be more than a single proposed amendment to be submitted to the voters at any given meeting, the issue as to the several amendments shall be put in the following manner: "Are you in favor of the adoption of Amendment No..... as proposed by petition of the voters for this Town?". (Here insert topical description of substance of amendment.) The approval or disapproval of the Planning Board shall also be noted on the ballot immediately following the question. An amendment proposed by petition shall be submitted to the voters at an annual Town or Village District meeting. (11-2-82)

## **ARTICLE VIII -- MISCELLANEOUS PROVISIONS**

### **Section 8.1 Interpretation.**

In their interpretation and application, the provisions of this ordinance shall be held as the minimum requirements adopted for the promotion of the public health, morals, safety, or the general welfare. Whenever the requirements of this ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

### **Section 8.2 Short Title.**

This ordinance shall be known and may be cited as "The Town of Amherst Zoning Ordinance of 1963."

### **Section 8.3 Effective Date.**

This ordinance shall take effect immediately upon adoption.

## **ARTICLE IX -- DEFINITIONS**

### **Section 9.1 Meaning of Certain Words.**

The following terms, unless specifically indicated to the contrary in the ordinance, shall mean the following:

Abutter. Any person or persons holding legal title to land which adjoins or is directly across the street or stream from land under consideration. (3-12-63, 3-9-82)

Accessory Apartment. A second dwelling unit incorporated within an existing or proposed single family home which is structurally integrated with the existing principal dwelling. (3-8-16, 3-14-17, 3-12-19)

Accessory Building. A detached building or structure on the same lot with the primary building, the use of which is clearly incidental to that of the primary building or use of the land. (3-12-63, 3-11-08)

Administrative Official. The person delegated by the Board of Selectmen to administer the provisions of

this ordinance. (3-12-63)

Amenities. (Within the Integrated Innovative Housing Ordinance) (3-10-15)

Community Space Public: Indoor (clubhouse, meeting room) or outdoor (garden, park, trail-network) space which is available to the public, subject to acceptance by the Planning Board and Board of Selectmen.

Community Space Restricted: Same as above but restricted to use by residents of the development.

Improved Access to Public Places: Footpaths or sidewalks connected to local sidewalk networks/community spaces, access to transportation services, or a fair share contribution determined by rational nexus evaluation to improve access to public places.

Open Space – Improved & Accessible to Public: Park, ball field, court, playground, or similar facility open to public use, subject to acceptance by the Planning Board and Board of Selectmen.

Open Space – Improved Non-Public: Same as above but restricted to use by residents of the development.

Open Space under Restrictive Covenant: Conservation/agricultural Land, “unimproved” open space. May be under easement/deed restriction to third party or Town.

Open to the Public: Where applicable to the Integrated Innovative Housing Ordinance, refers to amenities available for public use at no cost except for fees as may be assessed or collected by the Town.

Public Infrastructure Betterment: Improvements to including off-site access improvements, bicycle lanes, extension of public utility infrastructure or other improvements beyond those required to meet minimum NRSP criteria, or an in lieu contribution determined by rational nexus evaluation to improve public infrastructure.

Redevelopment: Conversion of an existing structure into housing units or mixed use (where permitted).

Walkability Internal (sidewalks, footpaths): Infrastructure designed to enable and encourage residents to walk from place to place within the development.

Apartment. A room or set of rooms arranged for occupancy as a dwelling and containing a kitchen or cooking range. (3-14-89)

Aquifer. A geologic formation composed of rock, sand, or gravel that contains significant amounts of potentially recoverable water. (3-13-84, 3-11-14)

Best Management Practices. A method or technique that has consistently shown results superior to those achieved with other means and that is used as a benchmark. In addition, a "best" practice can evolve to become better as improvements are discovered. BMP’s derived from public agencies or other sources

shall be utilized as guidelines, the Planning Board may approve an alternative method if it is found to achieve a similar result.

The most recent editions of the following publications are considered Best Management Practices:

- A. Best Management Practices for Erosion Control on Timber Harvesting Operations in New Hampshire prepared by the New Hampshire Department of Resources and Economic Development;
- B. Manual of Best Management Practices for Agriculture in New Hampshire as prepared by the Agricultural Best Management Practices Task Force and the USDA Natural Resources Conservation Service for the New Hampshire Department of Agriculture;
- C. Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire prepared by the New Hampshire Department of Environmental Services in conjunction with the Rockingham County Conservation District; and
- D. Manual of Best Management Practices to Control Nonpoint Source Pollution: A Guide for Citizens and Town Officials prepared by the New Hampshire Department of Environmental Services. (3-11-14)

Building. Any structure or dwelling greater than 32 square feet that has a roof and is intended to shelter people, animals, equipment or other chattel. (3-12-63, 3-11-08, 3-10-15)

Buffer. An upland area adjacent to a wetland or surface water of a specific dimension measured outward on a horizontal plane from the reference line or the delineated edge of wetland as applicable. (3-11-14)

Bulk Petroleum Plant or Terminal. Means that portion of a property where petroleum products are received by tank vessel, pipeline, tank car, or tank vehicle and are stored or blended in bulk for the purpose of distributing such liquids by tank vessel, pipeline, tank car, tank vehicle, portable tank, or container. (3-11-14)

Cabin. A building used or rented for the purpose of overnight sleeping accommodations, generally on a transient basis. (3-12-63)

Certified Soil Scientist. A person qualified in soil classification and mapping who is certified by the State of New Hampshire Board of Natural Scientists pursuant to RSA 310-A:84, I & II. (3-11-14)

Certified Wetland Scientist. A person qualified to delineate wetland boundaries and prepare wetland maps who is certified by the State of New Hampshire Board of Natural Scientists pursuant to RSA 310-A:84, II-a & II-b. (3-11-14)

Commercial Animal Feedlot. Are agricultural operations where animals are kept and raised in confined situations; generally congregate animals, feed, manure, dead animals, and production operations on a small land area. Feed is brought to the animals rather than the animals grazing or otherwise seeking feed in pastures. This operation is a lot or facility (other than an aquatic animal production facility) where the following conditions are met:

- A. Animals have been, are, or will be stabled or confined and fed or maintained for a total of forty-

five (45) days or more in any twelve (12) month period, and

- B. Crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility. (3-11-14)

Community Water System. A public water system having at least fifteen (15) service connections used by year-round residents or that regularly serves at least twenty-five (25) year-round residents. (3-11-14)

Development. Any man-made change to improved or unimproved land, including but not limited to buildings, structures, utilities and similar improvements, or alteration of the land surface that results in the removal of vegetation in excess of what is permitted under the Comprehensive Shoreland Protection Act – RSA 483-B, as amended. (3-11-14)

Driveway. A private lane from the public road traversing private property, ordinarily leading to a single residence. (3-10-87)

Dwelling. A structure or building that is designed or used as a place of residence for one family. (3-12-63, 3-11-08)

Dwelling Unit. A structure or building or part of a structure or building used as a place of residence for one family. (3-12-63, 3-11-08)

Family. One (1) or more persons who live as a single housekeeping unit in a dwelling unit. (3-12-63)

Flashing Sign. Any illuminated sign on which the artificial light is not maintained stationary or constant in intensity or color at all times when in use including any revolving illuminated sign. (3-6-73)

Floodway. 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 cumulatively increasing the water surface elevation more than one foot. (9-22-79)

Floor Area Ratio. The ratio of gross floor area to the total lot area. (3-4-75)

Frontage. The continuous distance of any property line of a lot which abuts a legally accessible public street as classified by RSA 229:5, or a private road approved by the Planning Board. (3-6-04)

Garage Type Sales. Limited to a maximum of ten (10) days a year. The sum of the horizontal area of the several floors of a building and its accessory buildings on the same lot, measured from the exterior faces of the walls, and not including cellars, attics, porches, etc. not used as part of the principal use. (3-4-73)

Gasoline Station. Means that portion of a property where petroleum products are received by tank vessel, pipeline, tank car, or tank vehicle and distributed for the purposes of retail sale. (3-11-14)

Groundwater. Subsurface water that occurs beneath the water table in soils and geologic formations. (3-11-14)

Hazardous or Toxic Material or Liquids. Materials or liquids that pose a threat, present or future, to the environment, whether in use, storage or transit, including without exception hazardous waste identified and listed in accordance with section 3001 of the Resource Conservation and Recovery Act of 1976, and as may be amended from time-to-time. (3-13-84)

Home Occupation. A home occupation is an accessory non-retail business or professional use incidental and subordinate to the dwelling use, occupying no more than 20% of the existing gross, heated floor area of the dwelling. (3-2-80, 11-2-82, 3-10-92, 3-11-93, 3-8-94, 3-14-95)

Hotel/Motel. Structure/s which provide transients with temporary sleeping accommodations and do not include individual units which provide housekeeping accommodations in more than ten percent (10%) of the units.

House Trailer. A unit similar to a mobile home which is equipped with some or all of the following: running water, sanitary facilities, bath facilities, and toilet. (3-12-68)

Impervious. Not readily permitting the infiltration of water, including packed gravel surfaces such as parking areas, driveways or traveled ways. (3-11-14)

Impervious Surface. A surface through which regulated substances cannot pass when spilled. Impervious surfaces include concrete unless unsealed cracks or holes are present; earthen, wooden, or gravel surfaces; or other surfaces which could react with or dissolve when in contact with substances stored on them are not considered impervious surfaces. (3-11-14)

Inn. A structure intended or designed to be used or which is used for sleeping purposes or paying guests and where a general kitchen and/or dining room may or may not be provided. (3-12-63)

Junkyard. An establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automotive recycling yard, as defined in RSA 236:112, as amended. The word does not include any motor vehicle dealers registered with the Director of Motor Vehicles under RSA 261:104 and controlled under RSA 236:126. (3-11-14)

Kennel. Any lot or premises on which four (4) or more dogs, other than personal pets, at least four (4) months of age, are kept, boarded, or trained whether in special structures or runways or not. The foregoing definition shall specifically exclude veterinary clinics which are defined as a structure in which small animals or pets are given medical or surgical treatment and are cared for during the time of such treatment only. (11-2-82)

Lot. A tract of land occupied or capable of being occupied by a building or use and by accessory uses, including the open space provided for in this ordinance. (3-12-63)

Lot of Record. A distinct tract of land recorded in a legal deed and plan filed in the records of Hillsborough County, New Hampshire. (3-12-63)

Minimal Impact Crossing. Minimal impact means the least environmentally damaging practicable alternative.

Mixed Use Development. Any proposed or existing commercial development may have incorporated, a mixed use factor, consisting of residential units up to a maximum of twenty-five (25%) percent of the approved gross square footage of the commercial development. The residential units may be either attached or detached from the commercial structure/s and may have a maximum of one bedroom per five hundred (500) square feet of gross residential floor area. Such proposals are subject to Planning Board site review and all applicable health and safety requirements. (3-14-89)

Mobile Home. A dwelling accommodation designed to permit movement as a vehicle with or without wheels or skids in place and which is equipped with running water, sanitary facilities, bath facilities and toilet.

Multi-Family Housing. A structure or parcel of land containing more than one dwelling unit. (3-13-90)

Net Tract Area. The total area of a parcel of land less wetlands, floodplain and steep slopes over twenty (20) percent. (3-10-15)

Non-Conforming Use. A structure or land area that is lawfully occupied by a use that does not conform to the specifications of this ordinance. (3-12-63)

Open Space. As stated in Article IV, the Commercial, Limited Commercial and Industrial Zone shall not be utilized for construction, storage or parking/drives. (3-13-01)

Open Space Development. (Eliminated 11-2-82, 3-14-89)

Open Space Plan. Moved to Article IV, Section 4.16

Outdoor Storage. Storage of materials not protected from the elements by a roof, walls, and a floor with an Impervious Surface. (3-11-14)

Parking Space. An off-street space available for the parking of one motor vehicle and having an area of not less than 9' x 18' not including the driveways and passageways appurtenant thereto and giving access thereto and having direct access to a public way. (3-12-63, 3-12-85)

Planned Residential Development (PRD) (11-2-82) Moved to Art. IV, Sec. 4.17

Positive Limiting Barrier. A depression (e.g., groove) in the surface of an otherwise level impervious area designed to impede the flow of and contain spilled substances within the perimeter of the impervious area. These are typically constructed and maintained to contain small spills or releases (five [5] to fifteen [15] gallons). (3-11-14)

Primary Recharge Area. The area immediately overlying the stratified drift aquifer and adjacent areas of stratified drift which may not have sufficient thickness to be part of the Aquifer. The boundary of the primary recharge area is the contact between stratified drift and adjacent till or bedrock. (3-13-84)

Principal Route of Access. A principal route of access within the meaning of this ordinance shall be deemed to consist of any road, street, highway which is maintained. (3-3-75)

Private Road. A road constructed to the Town of Amherst Subdivision Standards but that may have a reduced width right-of-way and roadway surface. The Planning Board shall require adequate covenants, restrictions, and agreements including a Home Owners Association to ensure that the Town will have no liability or responsibility to maintain said road.

Private Road. A road or road system layout, on private property, from the public road to the development. Such private property and private road shall be permanently encumbered with deed restrictions, satisfactory to Town Counsel, which shall insure that the private road does not become a Town road. (3-10-87)

Professional Office. A professional office shall be one, or a combination of the following type: doctors, dentist, lawyers, engineers, surgeons, veterinary clinic, accountants, architects.

Public Water Protection Wetlands. Wetlands identified in Section 4.11 for their critical role in protecting water supplies.

Recreation. (3-11-14) All recreational uses other than passive.

Recreation, passive. (3-11-14) Those recreational pursuits which can be carried out with little alteration or disruption to the area in which they are performed. Such uses include but are not limited to hiking, picnicking, jogging, bicycling, and horseback riding. Motorized vehicles uses are not included.

Reduced Frontage. A minimum of thirty-five (35) feet of frontage on a publicly maintained road. There are two (2) classes of reduced frontage:

- A. Class A frontage provides access to one building lot.
- B. Class B frontage provides access to two building lots. (3-10-87)
- C. (See Section 5-2, Subdivision Regulations re: Reduced Frontage Lots)

Reference Line (for ponds, lakes and streams). The term *ordinary high water mark* means that line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas. The following physical characteristics should be considered when making an *ordinary high water mark* determination, to the extent that they can be identified and are deemed reasonably reliable: Natural line impressed on the bank, sediment sorting, shelving, leaf litter disturbed or washed away, changes in the character of soil, scour, destruction of terrestrial vegetation, deposition, presence of litter and debris, multiple observed flow events, wracking, bed and banks, vegetation matted down-bent or absent, water staining, or change in plant community. (3-11-14)

Regulated Substance. Any of the following, with the exclusion of ammonia; sodium hypochlorite; sodium hydroxide; acetic acid; sulfuric acid; potassium hydroxide; potassium permanganate; propane or other liquefied fuels which exist as gases at normal atmospheric temperature and pressure; oil as defined

in RSA 146-A:2, III; any substance that contains a regulated contaminant for which an ambient groundwater quality standard has been established pursuant to RSA 485-C:6; and any substance listed in 40 CFR 302, 7-1-05 edition, as amended. (3-11-14)

Sanitary Protective Radius. The area around a public water supply well which must be maintained in its natural state as required by Env-Dw 301 or 302 (for community water systems); Env-Dw 373.12 and Env-Dw 372.14 (for other Community Water Systems), as amended. (3-11-14)

Seasonal. Any non-residential use which is intended to operate only during specific periods of the year. Such use may include temporary structures. Seasonal uses shall be subject to site plan review. Planning Board may also require removal of any temporary buildings or other structures during the off-season. (3-11-93)

Seasonal High Water Table. The depth from the mineral soil surface to the upper-most soil horizon that contains two percent (2%) or more distinct or prominent redoximorphic features that increase in percentage with increasing depth as determined by a licensed hydrogeologist, soil scientist, wetlands scientist, engineer, or other qualified professional approved by the Planning Board. (3-11-14)

Secondary Containment. A structure such as a berm or dike with an impervious surface which is adequate to hold at least one hundred ten percent (110%) of the volume of the largest regulated substance container stored within. (3-11-14)

Secondary Recharge Area. The land adjacent to primary recharge area from which ground water moves down a gradient into the aquifer. (3-11-84)

Shopping Center. A group of businesses centrally arranged and identified by a common ground sign. (3-13-90)

Sign. (3-12-63) See Section 3-4 (3-12-91)

Sign Advertising. (3-12-63) See Section 3-4, Off premise Signs (3-12-91)

Snow Dump. For the purposes of this ordinance, a location where snow, which is cleared from roadways and/or motor vehicle parking areas situated beyond the ACWPD, is placed for disposal. (3-11-14)

Special Exception Use. A use which because of its unique characteristics requires individual consideration in each case before it can become permitted in the Zone enumerated. (3-12-63)

Story. That portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above. (Crawl spaces, unfinished and unoccupied attic spaces, cellars when not to be occupied shall not be considered a story.) (3-11-86)

Stratified-Drift Aquifer. A geologic formation of predominantly well-sorted sediment deposited by or in bodies of glacial meltwater, including gravel, sand, silt, or clay which contains sufficient saturated permeable material to yield significant quantities of water to wells. (3-11-14)



Stream Classification. For the purposes of this ordinance, streams shall be classified as follows:

- A. Ephemeral stream. A watercourse that is located above the water table year round and is not fed by groundwater with runoff from rainfall and snowmelt being the primary source of stream flow such that the stream has flowing water only during, and for a short duration after, precipitation or spring thaw events.
- B. Intermittent stream. A watercourse that is fed by groundwater for limited periods of the year, with runoff from rainfall and snowmelt being supplemental sources of flow, such that it typically does not contain flowing water during drier portions of the year.
- C. Perennial stream. A watercourse that is in the groundwater table for the majority of the year such that groundwater is the primary source of flow with runoff from rainfall and snowmelt as supplemental sources of flow such that it contains flowing water throughout a typical year. (3-11-14)

Structure. Anything constructed, erected, or assembled for occupancy or use, such as, but not limited to, a building, dwelling, stadium, platform, shelter, swimming pools, sports courts, or the like. The term structure shall not include: a/ fences or retaining walls; b/ radio towers or antennae which are for the exclusive use of amateur radio service and they shall be limited to a total height of 150 feet; or c/ structures smaller than 32 square feet. (3-12-63, 3-9-82, 3-12-85, 3-11-08, 3-10-15)

Structure, Height of. The vertical distance from the average finished grade adjoining the walls of the structure to the peak of the roof, exclusive of chimneys or cupolas. Height shall be measured from the average finished grade within five (5) feet of the front of the building, to the peak of the roof, exclusive of chimneys or cupolas. (3-11-14)

Surface Waters. Those portions of waters of the state, as defined by RSA 482-A:4 and Part Env-Wt 101.97, as amended, of the New Hampshire Code of Administrative Rules which have standing or flowing water at or on the surface of the ground. This includes but is not limited to streams, lakes, ponds, and wetlands, including marshes, water-courses and other bodies of water, natural or artificial. (3-11-14)

Temporary Structure. Any structure greater than 32 square feet designed to be movable or disassembled, which does not permanently alter the land or buildings on the lot. Temporary structures shall not have utilities or plumbing. Such structures shall be subject to ordinary requirements of the zone (setbacks, floor area ratio, green space, height, etc.) and may require non-residential site review. (3-11-93, 3-10-15)

Turnaround. The end area of a cul-de-sac used to reverse direction. (3-14-89)

Utility. Any public service subscribed to by an owner and/or tenant of a site which does not require surface transportation. (11-2-85)

Vernal Pool. Defined under Part Env-Wt 101.106, as amended, of the New Hampshire Code of Administrative Rules as a surface water or wetland, including an area intentionally created for purposes of compensatory mitigation, which provides breeding habitat for amphibians and invertebrates that have adapted to the unique environments provided by such pools and which:

- A. Is not the result of on-going anthropogenic activities that are not intended to provide compensatory mitigation, including but not limited to:
1. Gravel pit operations in a pit that has been mined at least every other year; and
  2. Logging and agricultural operations conducted in accordance with all applicable New Hampshire statutes and rules; and
- B. Typically exhibits the following characteristics:
1. Cycles annually from flooded to dry conditions although the hydro-period, area and shape of may vary from year to year;
  2. Forms in a shallow depression or basin;
  3. Has no permanently flowing outlet;
  4. Holds water for at least 2 continuous months following spring ice-out;
  5. Lacks a viable fish population; and
  6. Supports one or more Primary Vernal Pool Indicators, or three or more Secondary Vernal Pool Indicators. (3-11-14)

Vernal Pool -- Primary Vernal Pool Indicators. The presence or physical evidence of breeding by marbled salamander, wood frog, spotted salamander, Jefferson-blue spotted salamander complex, or fairy shrimp. (3-11-14)

Vernal Pool -- Secondary Vernal Pool Indicators. Physical evidence used by wildlife biologists or Certified Wetland Scientists who are familiar with vernal pool habitats as evidence of the presence of a Vernal Pool, if Primary Vernal Pool Indicators are absent and other Vernal Pool characteristics suggest Vernal Pool habitat. Secondary Vernal Pool Indicators include, but are not limited to, caddisfly larvae and cases (Limnephilidae, Phryganeidae, or Polycentropodidae), clam shrimp and their shells (Laevicaudata, Spinicaudata), fingernail clams and their shells (Sphaeriidae), aquatic beetle larvae (Dytiscidae, Gyrinidae, Haliplidae, and Hydrophilidae), dragonfly larvae and exuviae (Aeshnidae, Libellulidae), spire-shaped snails and their shells (Physidae, Lymnaeidae), flat-spire snails and their shells (Planorbidae), damselfly larvae and exuviae (Coenagrionidae, Lestidae), and true fly larvae and pupae (Culicidae, Chaoboridae, and Chironomidae). (3-11-14)

Vernal Pool Tiers. Tier one vernal pools are those which are found to exhibit one (1) or more of the following: Fairy shrimp – presence in any life stage; or blue spotted salamanders – presence of ten (10) or more egg masses; spotted salamanders – presence of twenty (20) or more egg masses; wood frogs – presence of forty (40) or more egg masses. Tier two vernal pools are those which do not contain one (1) or more of the above species at sufficient abundance to warrant classification as a tier one vernal pool. (3-11-14)

Watercourse. Any Surface Water that, pursuant to Part Env-Wt 101.107, as amended, of the New Hampshire Code of Administrative Rules:

- A. Develops and maintains a defined scoured channel, with evidence of sediment transport, that:
  - 1. Is greater than seventy-five (75) feet in length; or
  - 2. Is of any length and connected to another jurisdictional area at either end; and
- B. Is not a drainage swale. (3-11-14)

Water Dependent Structures. A structure such as a dock, wharf, pier, breakwater, manmade beach, boathouse, retaining wall, boat launch ramp, bridge, culvert, or other structure, or any part thereof, built on, or in the surface waters of the State. (3-11-14)

Water Resource Management Plan. A written plan containing maps, base line data, and provisions for the protection of surface water, ground water and important wildlife resources associated with a development project.

Wellhead Protection Area. The surface and subsurface area surrounding a water well or wellfield supplying a community water system, through which contaminants are likely to move toward and reach such water well or wellfield. (3-11-14)

Wetland(s). Defined under RSA 482-A:2, X, as amended, as an area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands include swamps, marshes, bogs, and similar areas. The reference line of all wetlands shall be delineated in accordance with the methodology prescribed in the following reference document: U.S. Army Corps of Engineers, 2011: *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Northcentral and Northeast Regions (Version 2.0)*, ed. J. S. Wakeley, R. W. Lichvar, C. V. Noble, and J. F. Berkowitz. ERDC/EL TR-12-1. Vicksburg, MS: U.S. Army Engineer Research and Development Center (as amended). Wetland scores are determined using Method for Inventorying and Evaluating Freshwater Wetlands in New Hampshire (NH Method), University of New Hampshire Cooperative Extension, July, 2013, or latest revision.

For the purposes of this ordinance wetlands shall be classified as follows:

- A. Water Protection Wetlands. Wetlands having an area greater than or equal to one (1) acre, which also have an Ecological Integrity Score greater than or equal to 6.0; a Wetland-Dependent Wildlife Habitat Score greater than or equal to 4.0; and a Groundwater Score greater than or equal to 5.0.
- B. Significant Wetlands. Wetlands having an area greater than or equal to one (1) acre, which also have an Ecological Integrity Score greater than or equal to 5.0; and a Wetland-Dependent Wildlife Habitat Score greater than or equal 3.0.

C. Other Wetlands. All other wetlands.

When classifying wetlands for the purposes of this ordinance, separate evaluation units shall be considered and drawn at each location where the wetland narrows to less than fifty (50) feet. (Ammann, A.P., and A. Lindley Stone, 1991 Method for the Comparative Evaluation of Nontidal Wetlands in New Hampshire, published by the New Hampshire Department of Environmental Services; NHDES-WRD-1991-3, as amended.) (3-11-14)

# **MONT VERNON, NEW HAMPSHIRE**

## **REGULATIONS**

Including

- I Zoning Ordinance
- II Wetland Zoning Regulations
- III Subdivision Regulations
- IV Non-residential Site Plan Review Regulations
- V Excavation Regulations

**Published 2004**  
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**REFERENCE: Zoning Ordinance Changes**

3/11/69	Zoning established
3/9/71	Building Code voted
3/7/72	Amended Art V-B Art III-C; C2, C3
3/72	Building Code voted
3/4/75	Open Space proposed (defeated)
3/8/77	Wetland voted BOCA code 1975 replaces 1972 (update)
3/13/79	Historic District established Amended Art III-D, lot and yard regulations Amended Art III-C & Da, open space Amended Art III-B.I, Home Business
1980	Complete revision and compilations of Ordinance
3/8/83	Limited Commercial District established
3/13/84	Amended Art VI-D Amended Art III, sec 8 Amended Art V, sec I-a
3/12/85	Amended Art I, Preamble Amended Art VII, VIII, IX, X, XI, numbering
3/10/87	Proposed amending Art III-D9 (back lot) Proposed amending Art III-F (attached housing) BOTH defeated
3/8/88	Proposed back lot zoning (defeated) Proposed attached housing zoning (defeated)
3/14/89	Amended Art IV-B
3/12/91	Amended Wetland (passed) Amended Art III-D (passed) Planned Unit Development (defeated) Expand Limited Commercial District (defeated)
3/9/93	Amended Art III-C2 (Glossary and housekeeping changes) Amended Art VI Amended Art D.7 multi soils (defeated)
3/8/94	Clerical corrections, renumbering, index and table of contents added
9/24/96	Underground utilities requirements added Amended Chapter III-411.1
3/10/98	Telecommunications Facilities requirements added Chapter I paragraphs 306; Chapter IV, Article 10
5/12/98	Electronic file format added Chapter III, paragraph 605.1(c); Chapter IV, paragraph 201.1(j); Chapter IV, paragraph 201.1(k)
3/14/00	Amended Appendix A – Glossary Removed paragraph “BUILDING OR STRUCTURE HEIGHT” Changed definition “HEIGHT” Amended Chapter 1 Zoning Ordinance added Chapter I Article VI Managed Commercial and Conservation Zone
3/13/01	Amended Chapter I, Section I-305(c) Replaced paragraph I-305.3(c)
3/12/02	Amended Chapter I, Section I-304.5 Multiple Soils Districts within Lots Removed paragraphs I-304.5(a), -(b), and – (c) and replaced them
3/11/03	Amended, added I-307 Impact Fees for New Residential Development (passed) Amended, I-305.3(e) open space ordinance (passed) Amended I-401 Non-residential zoning (passed) Amended I-401 Non-residential zoning petition article (defeated)
3/9/04	Amended I-304.5(b) and (c) multiple soils definitions (passed)

3/8/05	Replaced II-302.2 Replaced I-309.3 Replaced 1-306 Replaced 1-406
10/11/05	Added III-421 Phasing to subdivision regulations
12/13/05	Amended III-404.4 by removing sentence regarding hammerheads
12/13/05	Amended III-301 through III-304 Application Procedure, Review for Acceptance, Review for Approval, and Action of the Board.
3/14/06	Amended Table I-304.1 Key to Soils Types (passed) Amended II-401 (passed) Amended II-402 (passed) Amended II-403 (passed) Amended Appendix A – Glossary (passed)
3/28/06	Amended III-704
1/9/07	Amended Chapter III Subdivision Regulations
3/13/06	Amended I-305.3(d) (passed) Amended I-305.3(g) (passed) Added I-310 Housing for Older Persons (passed)
3/11/08	Amended I-204 (passed) Added I-311 (passed) Amended Appendix A – Glossary (passed)
9/23/08	Amended Chapter III Subdivision Regulations – Road Regulations
12/9/08	Added III-901 Special Flood Hazard Areas Added IV-1101 Special Flood Hazard Areas
3/10/09	Added 1-701 Flood Plain Ordinance (passed)
4/13/10	Amended III-420.9
6/22/10	Amended III-420 and III-705 Added 'Private Road' to Glossary



**CHAPTER I**  
**ZONING ORDINANCE**  
**FOR THE TOWN OF MONT VERNON, NEW HAMPSHIRE**  
**March, 1980**

**ARTICLE 1 - PREAMBLE**

**I-101** In pursuance of authority conferred by Title LXIV of the NH Revised Statutes Annotated, Chapters 672-677 inclusive and as such may from time to time be amended, and for the purpose of promoting the health, safety, morals, prosperity, convenience or general welfare, as well as to provide efficiency and economy in the process of development of the incorporated Town of Mont Vernon, New Hampshire, by securing safety from fire, panic, and other dangers, providing adequate areas between buildings and various rights of way, by preserving the rural charm now attached to our Town, and to insure the wise and efficient expenditure of public funds and the adequate provision of public utilities and other public requirements, the following Ordinance is enacted by the voters of the Town of Mont Vernon in Town Meeting convened.

**ARTICLE 2 - DISTRICTS**

**I-201** For the purpose of this Ordinance, the Town of Mont Vernon is divided into the following districts as shown on the master plan map filed with the Town Clerk, which map is made part of this Ordinance.

- I-201.1 Residential (R)
- I-201.2 Rural Residential (RR)
- I-201.3 Limited Commercial District (LC)
- I-201.4 Managed Commercial and Conservation Zone (MCCZ)

**I-202** The Residential District perimeter shall include the following streets and roads and all land and buildings within 500 feet of the central point of such streets and roads and their terminating boundaries:

- I-202.1** Main Street from the south boundaries of Lots 10-26 and 10-53-3 on Route 13, northward to the junction at Beech Hill Road and Blood Road; and New Boston Road to the junction of Blood Road.
- I-202.2** The following streets and roads shall be included in their entirety: Blood Road; Harwood Road; Grand Hill Road; Boutwell Road; Smith Road; Hillcrest Avenue.
- I-202.3** Old Wilton Road from the intersection at Main Street to the intersection at Harwood and Upton Roads.
- I-202.4** All land and buildings included within the perimeter boundaries established by this Article and shown on the master plan map shall be considered in the Town Residential District.

**I-203** The Rural-Residential District shall include all lands and buildings not contained within the boundaries of the Residential (R) and Limited Commercial (LC) Districts. (3-9-82)

**1-204** The Limited Commercial District shall include all lands and buildings bounded as follows: Beginning at the point on Route 13 which is 2800 feet north of the Milford/Mont Vernon town boundary, continuing westerly along a line parallel to the Milford/Mont Vernon town boundary to a point of intersection with Hartshorn Brook, thence southerly along the course of said brook to the point of intersection with the Milford/Mont Vernon town boundary, thence easterly along said boundary crossing Route 13, to the southeast corner of Mont Vernon, thence north following the Mont Vernon/Amherst town boundary to the southeast corner of lot 2-68, thence northeastward following the boundary of lot 2-68 to where it rejoins with the Mont Vernon/Amherst town boundary (thus excluding lot 2-68). The bound continues northward until it reaches lot 2-65, thence follows the boundary of 2-65 westward to the place of beginning on Route 13. (3-11-08)

**I-205** Although specific areas are not set aside for two-family and multi-family dwellings, the establishment of such uses that can be shown to be an asset to the Town is encouraged. Application for the initiation of such uses shall be made to the Board of Adjustment which shall act on such application in accordance with the procedure set forth in **Article 5, Section I-502.1** (Special Exceptions) hereof. (3-9-82)

## **ARTICLE 3 - GENERAL PROVISIONS**

### **I-301 EXISTING USES**

**I-301.1** Nothing in this Ordinance shall be construed to prevent continuance of any existing use of land or buildings or the replacement thereof.

### **I-302 SANITARY PROTECTION**

**I-302.1** No- privy, cesspool, septic tank, or sewage disposal area shall be constructed or maintained less than seventy-five (75) feet from the edge of a public water body or from a well, or from a dwelling other than that to which it is appurtenant.

**I-302.2** No waste waters or sewage shall be permitted to run free into a public water body or be discharged in any way that may be offensive or detrimental to the health of others. All such waste shall be conveyed away underground through use of an accepted sanitary system, or in such a way that it will not be offensive or detrimental to health.

### **I-303 MANUFACTURED HOUSING**

**I-303.1** Manufactured housing shall be in accordance with RSA 674:32.

**I-303.2** In the Rural-Residential District, the Board of Adjustment after public hearing, may permit the establishment and operation of a manufactured home park, after



written application has been made to the Board of Adjustment accompanied by a text and map to describe the proposed location of the manufactured home park; a lot layout; plans for water supply, sewage disposal, garbage and trash disposal and drainage; and street layout and construction. The Board of Adjustment may grant such a permit only where it finds that the following standards in addition to the regulations of this ordinance, are met or exceeded:

- I-303.2(a)** A manufactured home park shall contain not less than five (5) acres.
  - I-303.2(b)** Each manufactured home site shall comply with the dwelling lot requirements of **I-304** of this Article.
  - I-303.2(c)** Sanitary protection requirements listed under **I-302** of this Article will be met.
  - I-303.2(d)** No buildings other than manufactured homes shall be located in a manufactured home park.
  - I-303.2(e)** The specific site is an appropriate location for such use.
  - I-303.2(f)** Such use will not adversely affect the neighborhood in which the manufactured home park is located.
  - I-303.2(g)** There will be no nuisance or serious hazard to vehicles or pedestrians.
  - I-303.2(h)** The use would not be seriously detrimental or offensive to owners of adjoining property or to the Town, nor would it tend to radically reduce property values of adjoining property or other property in the immediate vicinity.
- I-303.3** Permits issued pursuant to Article III, shall contain the provision that work must be commenced within six (6) months and completed within one (1) year of the date of issuance of said permit. If work is not commenced in accordance with this six-(6) month term, said permit shall expire without further action by the Board.

#### **I-304 LOT AND YARD REGULATIONS**

- I-304.1** The symbols shown in **Table I-304.1** shall be used to determine the District Classification of any and all tracts of land which are proposed for subdivision.
- I-304.2** The regulations pertaining to minimum lot sizes, minimum frontages, minimum depths, minimum front yard setbacks, and minimum side yard setbacks and minimum rear yard setbacks shall be as set forth in the Table of Lot and Yard Regulations (Table I-304.2) subject to further provisions of this Ordinance.

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**TABLE I-304.1 KEY TO SOIL TYPES**

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**SYMBOL D – SLOPE CATEGORY**

- B - 0 to 8%**
- C - >8 to 15%**
- D - >15 to 25%**
- E - >25%**

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**TABLE I-304.2 LOT AND YARD REGULATIONS**

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	Minimum setbacks from property line to building line			
	FRONTAGE	FRONT	SIDE	REAR
	FEET	SETBACK	SETBACK	SETBACK
<b>DISTRICT 1 -- 2 ACRE ZONING</b>	200	50	30	50

Map Color Code -- yellow

Soil & Slope Reference:

- Symbol A - 1. Excessively drained  
2. Well drained
- Symbol B - 1. Glaciofluvial deposits (out wash/terraces)  
2. Glacial till material  
Marine or Glaciolacustrine deposits  
3. Very fine and silt deposits  
4. Loamy/sandy over silt/clay deposits  
5. Silt and clay deposits  
6. Excavated, regraded or filled
- Symbol C - 1. None  
2. Bouldery, with more than 15% of the surface covered with boulders (larger than 12 inches in diameter)  
3. Mineral restrictive layer(s) are present in the soil profile less than 40 inches below the soil surface—such as hard pan, platy structure, clayey texture. For examples of soil characteristics that qualify for restrictive layer, see Soil Manual for Site Evaluations in New Hampshire page 2-22, Figure 2-8.
- Symbol D - B - 0 to 8%  
C - >8 to 15%

Symbol E - Identifying the map as meeting the standards of a high intensity soil map.

**District 1 Classification** (2 Acres) permits very well drained soils with slopes not exceeding 15%.

*[Table I-304.2 continued]*

DISTRICT 2 -- 5 ACRE ZONING	Minimum setbacks from property line to building line			
	FRONTAGE	FRONT	SIDE	REAR
	FEET	SETBACK	SETBACK	SETBACK
	300	50	30	50

Map Color Code -- Red

Soil & Slope Reference:

- Symbol A -
  1. Excessively drained
  2. Well drained
  3. Moderately well drained
  4. Somewhat poorly drained
  
- Symbol B -
  1. Glaciofluvial deposits (out wash/terraces)
  2. Glacial till material  
Marine or Glaciolacustrine deposits
  3. Very fine sand and silt deposits
  4. Loamy/sandy over silt/clay deposits
  5. Silt and Clay deposits
  6. Excavated, regraded or filled
  
- Symbol C -
  1. None
  2. Bouldery, with more than 15% of the surface covered with boulders (larger than 12 inches in diameter)
  3. Mineral restrictive layer(s) are present in the soil profile less than 40 Inches below the soil surface--such as hard pan, platy structure, clayey texture. For example of soil characteristics that qualify for restrictive layer, see Soil Manual for Site Evaluations in New Hampshire, page 2-22, Figure 2-8.
  - X. Areas where depth to bedrock is so variable that a single soil type cannot be applied will be mapped as a complex of soil types and will have a Symbol C or X.

Symbol D - B through E

(When symbol A is 4, then Symbol D may not exceed 15%; if Symbol C is an X, then Symbol D may not exceed 15%)

- B - 0 to 8%
- C - >8 to 15%
- D - >15% to 25%

**District 2 Classification** (5 Acres) Permits moderately drained or deep soils with slopes not to exceed 25% or somewhat poorly drained soils with slopes not to exceed 15%.

*[Table I-304.2 continued]*

	Minimum setbacks from property line to building line			
	FRONTAGE FEET	FRONT SETBACK	SIDE SETBACK	REAR SETBACK
<b>DISTRICT 3 -- 5 ACRE ZONING WATERSHED AREA</b>	300	50	30	50

Map Reference - US Geological Survey

**District 3 Classification** (5 Acres) applies to all land within the watershed area, except non-buildable District 4 land, regardless of its capabilities.

**DISTRICT 4 -- NON BUILDABLE**

Map Color Code -- Brown, Green

Soil and Slope Reference:

The presence of any of the following symbols identifies a soil as District 4, regardless of the other symbols.

- Symbol A -
  - 5. Poorly drained
  - 6. Very Poorly drained
  - 7. Not determinable (to be used only with Symbol B)
- Symbol B -
  - 7. Alluvial deposits
  - 8. Organic materials--fresh water
  - 9. Organic materials--tidal marsh
- Symbol C -
  - 4. Bedrock present in the soil profile 0 to 40 inches below the soil surface (bedrock is either a lithic or paralithic contact—see Soil Taxonomy p. 48-49)
  - 5. Subject to flooding
  - 6. Does not meet fill standards (see addendum--Standards for Fill Material) (only to be used with Symbol B-6)
- Symbol D -
  - E. >25% ±

The presence of the following combination of symbols also indicates a District 4 soil.

- Symbol A is 4 and Symbol D is 15% or higher.
- Symbol C is X and Symbol D is 15% or higher.

**District 4 Classification** (non-buildable) prevents the development of a parcel or parcels of land which have poorly drained soils, standing water, shallow bedrock or severe slope.

Minimum setback from property line to building line

<b>DISTRICT 5 - LAND BORDERING N.H. RT. 13</b>	<b>FRONTAGE FEET</b>	<b>FRONT SETBACK</b>	<b>SIDE SETBACK</b>	<b>REAR SETBACK</b>
	500	90	30	50

**District 5 Classification** is an overlay classification that dictates frontage and setback requirements for all land bordering N.H. Route 13 to a depth of 200 feet.

*[Table 1-304.2 continued]*

**EXAMPLES:**

A parcel or parcels of land determined to consist mostly of a 232DH determination would be classified as district 2 or five-acre zoning as a result of severe slope 15%-25%, with well-drained soils.

Another example is a parcel or parcels of land determined to consist mostly of a 521BH determination which would classify the land as District 4 or non-buildable. Symbol A, or the number 5 signified poorly drained soils even though Symbols B through E indicate no other restrictive features.

The most decisive criteria in determining the proper district classification will usually be drainage class and slope class while also considering any other restrictive features present. In determining a district classification, the most restrictive feature will be considered the determining factor.

*[End of Table 1-304.2]*

### **I-304.3 BOUNDARIES**

For the purposes of this ordinance, soils boundaries shall be determined by the scale distance from the nearest visible prominent town road as shown on the aerial photomaps, to the nearest 1/32 inch (31 ft.).

### **I-304.4 LOCATION OF ON-SITE DISPOSAL FIELDS**

To avoid high concentration of effluent discharges in a localized area, no disposal fields shall be located between the sidelines setbacks and the property line. All on-site disposal systems in District 1, 2, & 3 shall be placed in the soil most suitable for septic tank absorption field.

### **I-304.5 MULTIPLE SOILS DISTRICTS WITHIN LOTS**

**I-304.5(a)** When multiple soil district soils exist within a lot proposed for subdivision, the number and type of lots allowed shall be calculated as follows:

**The number of 5-acre lots =  $\frac{\text{Total District 2 soils} + \text{Total District 3 soils}}{5}$**

**The number of 2-acre lots =  $\frac{\text{Total District 1 soils}}{2}$**  (Amended March 12, 2002)

**I-304.5(b)** 5-acre lots must contain not less than 5 acres.  
(Amended March 12, 2002 and again March 9, 2004)

**I-304.5(c)** 2-acre lots must contain not less than 2 acres.  
(Amended March 12, 2002 and again March 9, 2004)

## **I-304.6 PROCEDURE FOR PLANNING BOARD REVIEW**

**I-304.6(a)** Whenever a plat or other evidence is submitted showing a soil district boundary that is designated by soil and slope classification and such boundary differs from the boundary designated on the soils limitation district map, the Planning Board shall adjust such boundary upon submission of the following:

(i) A detailed topographic layout of the subdivision and the proposed lots prepared by a registered land surveyor.

(ii) A revised soils map of the Town of Mont Vernon and/or evidence submitted by a soils scientist qualified in soils classification, including a written report of his on-site field inspection.

(iii) The soil boundary as shown on the soils limitation district map shall be overlaid on the plat and the newly proposed boundary location shall be indicated on the same plat by a broken line.

**I-304.6(b)** The Planning Board shall reserve the right to withhold action on such plat pending the results of an on-site and/or other investigation by the Board of its appointed agent.

**I-304.6(c)** The final boundary location shall be confirmed and/or determined by the Planning Board.

## **I-304.7 LOT OR YARD SIZE REDUCTION**

No conforming lot or open space on the lot (yard setback) shall be reduced in size or separated in ownership if by such action it shall become non-conforming.

## **I-304.8 LOT OF RECORD**

Where a lot in separate ownership at the time of passage of this ordinance does not conform to the area and frontage requirements of this ordinance, such lot shall be considered as meeting the minimum requirements of this ordinance.

## **I-304.9 SEPARABILITY CLAUSE**

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

## **I-305 OPEN SPACE DEVELOPMENT REGULATIONS**

*(Single Family Dwellings)*

**I-305.1 GENERAL:** The Planning Board may approve Open Space Development in accordance with the following regulations, and such other regulations as may apply.

**I-305.2 PURPOSE:** The purpose of Open Space Development to which any such development must adhere, are:

**I-305.2(a)** To promote the conservation of the natural and scenic environment and the development of community uses in harmony with the natural features of the land.

**I-305.2(b)** To establish living areas within the Town that provides a balance of community needs, such as a diversity of housing opportunities, adequate recreation and open space areas, easy accessibility to these and other community facilities, and pedestrian and vehicular safety.

**I-305.2(c)** To provide for efficient use of land, streets and utility systems.

**I-305.2(d)** To stimulate imaginative and economical approaches to land use and community development.

**I-305.2(e)** To decrease town expenses traditionally associated with new developments.

### **I-305.3 GENERAL REGULATIONS**

**I-305.3(a)** Open Space Development shall be permitted in all districts in which residential uses are permitted. An owner or owners, or a duly authorized agent thereof, of a tract of land may submit to the Planning Board a subdivision plan for an Open Space Development according to the procedures and provisions of the Subdivision Regulations of the Town of Mont Vernon.

**I-305.3(b)** The maximum number of dwelling units, permitted in any Open Space Development shall be determined by dividing the Net Tract Area by the minimum lot size for the Zoning District in which the development is located. The Net Tract Area of a parcel of land shall be defined as the total area of the parcel, minus all land recorded as designated Wetland and all area with a slope of greater than 25%.

**I-305.3(c)** Minimum frontage requirements which would be required in a conventional grid pattern subdivision may be waived in open space development as long as the requirements set forth in Sections: I-305.2 (Purpose), I-305.2(a), (b), (c), (d) and (e) of the Mont Vernon Zoning Regulations are met; however, in either case Open Space developments will be required to have a setback of a minimum of one hundred (100) feet from the existing roads and abutters. The Planning Board shall determine the number of curb cuts to be made on existing



roads, with a maximum of three (3) for any open space subdivision. The criteria for determination shall be I-305.2 (Purpose), I-305.2 (a), (b), (c), (d) and (e) of the Mont Vernon Zoning Regulations; the health, safety and welfare of the town; and the current (at the time of subdivision) condition of the existing town roads servicing the subdivision. For the purposes of this regulation, each curb cut of co-located and/or common driveways shall be considered a single opening. A landscaped buffer sufficient to provide division of transition between uses shall be provided within the required setbacks to conserve the natural and scenic environment. In no case shall the width of the buffer be less than the setbacks otherwise required in that district. *(Amended March 13, 2001)*

**I-305.3(d)** Open Space Development shall not have to provide the minimum frontage and acreage around each dwelling as required elsewhere in the Zoning Ordinance. All buildings shall be at least 25 feet from all boundaries. Such development shall be designed and constructed as to achieve the purposes of Open Space Development as set forth in Section 2 of the Regulations. *(Amended March 13, 2007)*

**I-305.3(e)** Open Space Development shall have at least forty per cent (40%) of the Net Tract Area set aside as common open space for the use and enjoyment of the residents of the development and/or the general public and shall be permanently restricted for open space. The designated open space may include water bodies, wetlands, and/or steep slopes, but these shall not count toward the acreage calculation of the open space parcel(s). Recreation facilities and equipment as determined through consultation with the Planning Board may be constructed or installed by the developer. The location, variety, accessibility and orientation to other uses of this common open space shall be suitable to the type and character of the proposed development and to the location of development within the Town. *(Amended March 11, 2003)*

**I-305.3(f)** Open Space within the Development shall be either deeded to the Town of Mont Vernon, or shall be protected by recreation and/or conservation easements; or shall be leased or conveyed to be permanently protected in other suitable ways approved by the Planning Board with a Public Meeting held prior to making final approval so as to guarantee the following:

- (i) The continued use of such land for the intended purposes.
- (ii) Continuity of proper maintenance for those portions of the open space land requiring maintenance.
- (iii) When appropriate, the availability of funds required for such maintenance.
- (iv) Recovery for loss sustained as a result of casualty, condemnation or otherwise, and in the case of a homeowner's association or similar form of ownership, that the membership and obligation of the residents of the

Open Space Development be automatic upon conveyance of title or lease to individual dwelling units.

**I-305.3(g)** The Open Space Development Plan shall show the layout of all roads. All roads shall be built to the Town requirements for public acceptance; except that right-of-way and pavement widths for residential streets may be reduced according to the standards adopted by the Planning Board in consultation with the Fire Department and the Board of Selectmen and may, with the approval of the Planning Board, remain in private ownership. Road(s) must be completed or bonded to the satisfaction of the Selectmen prior to issuance of building permits. *(Amended March 13, 2007)*

**I-305.3(h)** All Open Space Developments, located along Route 13 within the Town of Mont Vernon, New Hampshire, will be allowed a single access per development and only if access is not available through other acceptable means.

#### **I-305.4 REVIEW STANDARDS**

**I-305.4(a)** The review of an Open Space Development conducted by the Planning Board with consultation with the Selectmen, Road Agent and Fire Department under these regulations shall ascertain that adequate and appropriate provisions have been made by the owner or his authorized agent for the following:

- (i) Traffic circulation and access, including adequacy of adjacent streets, entrances and exits, traffic flow, sight distance, curb cuts, turning lanes, and existing or recommended traffic signalization.
- (ii) Pedestrian safety and access.
- (iii) Emergency vehicle access.
- (iv) Storm water drainage based upon a ten-year storm frequency, utilizing on-site absorption wherever practical.
- (v) Recreation facilities and resources.
- (vi) Water supply and wastewater disposal shall meet all State and Town requirements.
- (vii) Environmental factors such as protection against pollution, noise, odor, and the protection of natural land features.
- (viii) Preservation of areas of significant historic conservation, and scenic values.
- (ix) Utilization of topography, slope, and sun orientation in overall layout of the Development.

iii

- (x) Compatibility in the design and location of different types of dwelling units.

**I-305.4(b)** In addition, the Planning Board shall review the plan to assure compliance with the provisions of the standards set forth in **I-305.3** and other town regulations and ordinance. The Planning Board shall also ascertain that the plan minimizes the encroachments of the Open Space Development upon neighboring land uses.

### **I-305.5 SEPARABILITY CLAUSES**

**I-305.5(a)** The invalidity of any provision of this Amendment shall not affect the validity of any other provision.

## **I-306 TELECOMMUNICATIONS FACILITIES**

*(Telecommunications Facilities ordinance adopted March 8, 2005)*

### **Section I-306.1.1 Title**

These regulations shall officially be known, cited, and referred to as the Wireless Communications Service Facility Regulations of the Town of Mont Vernon, hereinafter within this ordinance referred to as "these regulations."

### **Section I-306.1.2 Purpose and Goals**

1. This ordinance is designed and intended to balance the interests of the residents of the Town of Mont Vernon, Wireless Communications Service facility providers and Wireless Communications Service customers in the siting of Wireless Communications Service facilities within the Town of Mont Vernon, so as to preserve the health, welfare and safety of the Town and its residents and to ensure the coordinated development of communications infrastructure. This ordinance establishes general guidelines for the siting of Wireless Communications Service facilities to enhance and fulfill the following goals:
2. To preserve the authority of the Town of Mont Vernon Planning Board to provide for reasonable opportunity for the siting of Wireless Communications Service facilities and to allow for the provision of such facilities to take place effectively and efficiently.
3. To ensure that Wireless Communications Service facilities are provided compatibly with the visual and environmental features by preserving the Town of Mont Vernon's unique viewsheds and scenic values, in particular, but not limited to, those associated with the views from Route 13 and the Town-owned Lamson Farm.

4. To reduce adverse impacts such facilities may create, including, but not limited to, impacts on aesthetics, environmentally sensitive areas, historically significant locations, aircraft flight corridors, migratory bird flight corridors, health and safety by injurious accidents to person and property, and prosperity through protection of property values.
5. To provide for co-location and minimal impact siting options through an assessment of technology, innovative technology which reduces proliferation of Wireless Communications Service facilities, current locational options, future available locations, innovative siting techniques, and siting possibilities beyond the political jurisdiction of the Town.
6. To permit the construction of new Wireless Communications Service facilities only where all other reasonable opportunities have been exhausted, and to encourage the owners of Wireless Communications Service facilities to configure them in a way that minimizes the adverse visual impact of Wireless Communications Service Facilities.
7. To require cooperation and co-location, to the greatest extent possible, between competitors in order to reduce cumulative negative impacts on the Town.
8. To ensure that ongoing maintenance and safety inspections for all Wireless Communications Service facilities are carried out.
9. To avoid potential damage to adjacent properties from tower failure through structural standards and setback requirements.
10. To provide for the removal of abandoned facilities that are no longer inspected for safety concerns and Building Code compliance; and to provide a mechanism for the Town to remove those abandoned facilities to protect the citizens from imminent harm and danger.
11. To provide for the removal or upgrade of facilities that are technologically outdated.

### **Section I-306.1.3 Authority**

This ordinance is adopted by the Town of Mont Vernon in accordance with the authority as granted in New Hampshire Revised Statutes Annotated 674:16 & 674:21 and procedurally under the guidance of 675:2, II as well as Section 704 of the Federal Telecommunications Act of 1996.

### **Section I-306.1.4 Jurisdiction**

1. These regulations apply to all Wireless Communications Service Facilities as defined in Section I-306.2.2 (Words and Terms Defined) located within the boundaries of the Town of Mont Vernon, New Hampshire, or outside, as provided by law.

2. No Wireless Communications Service Facility may be constructed without an approved and signed site plan from the Planning Board.

## **Article 2**

### **Section I-306.2.1 Definitions**

For the purposes of these regulations, certain abbreviations, terms, and words shall be used, interpreted, and defined as set forth in this Article.

Unless the context clearly indicates to the contrary, words used in the present tense include the future tense and words used in the plural indicate the singular.

### **Section I-306.2.2            Words and Terms Defined**

*Act* - the Communications Act of 1934, as it has been amended from time to time, including the Telecommunications Act of 1996 and its amendments, and shall include future amendments to the Communications Act of 1934.

*Affiliate* - When used in relation to an operator, another person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or common control with the operator, or an operator's principal partners, shareholders, or owners of some other ownership interest; and when used in relation to the municipality, any agency, board, authority or political subdivision affiliated with the municipality or other person in which the municipality has legal or financial interest.

*Alternative tower structure* - Innovative siting techniques shall mean man-made trees, clock towers, bell steeples, light poles, and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

*Antenna* - Any exterior apparatus designed for telephonic, radio, television, personal communications service, pager network, or any other communications through the sending and/receiving of electromagnetic signals of any frequency and bandwidth.

*Antenna Array* - A collection of antennas attached to a mount to send and receive electromagnetic signals.

*Antenna Height* - The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure. If the support structure is on a sloped

grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

*Antenna Support Structure* - Any pole, telescoping mast, tower tripod, or any other structure which supports a device used in the transmitting and/or receiving of electromagnetic signals.

*Applicant* - A person who applies for a Wireless Communications Service Facility siting. An applicant can be the owner of the property or someone who is authorized to represent the owner, such as a builder, developer, optional purchaser, consultant, or architect.

*Average Tree Canopy Height* - An average height found by inventorying the height, above ground level (AGL), of all trees over twenty (20) feet in height within the area that extends for a distance of one-hundred and fifty (150) feet from the base of the mount, security barrier, or designated clear area for access to equipment, whichever is greatest. Trees that will be removed for construction shall NOT be used in this calculation.

*Broadcast* - To transmit information over the airwaves to two or more receiving devices simultaneously. Information can be transmitted over local television or radio stations, satellite systems or wireless data communications networks.

*Camouflaged* - A Wireless Communications Service Facility that is disguised, hidden, part of an existing or proposed structure, or placed within an existing or proposed structure.

*Carrier* - A company that provides Wireless Communications Services. Also sometimes referred to as a provider.

*Cell Site* - A tract or parcel of land that contains a cellular communication antenna, its support structure, accessory building(s), and parking, and may include other uses associated with an ancillary to cellular communications transmission.

*Cellular Service* - A telecommunications service that permits customers to use wireless mobile telephones to connect, via low-power radio transmission sites called cell sites, either to the public switched network or to other mobile cellular phones.

*Cellular Telecommunications* - A commercial Low Power Mobile Radio Service licensed by the Federal Communications Commission (FCC) to providers in a specific geographical area in which the radio frequency spectrum is divided into discrete channels which are assigned in groups to geographic cells within a service area and which are capable of being reused in different cells within the service area.

*Cellular Telecommunications Facility* - A cellular telecommunications facility consists of the equipment and structures involved in receiving telecommunication or radio signals from mobile radio communications sources and transmitting those signals to a central switching computer which connects the mobile unit with the land-based telephone lines.

*Co-location* - The use of a single mount on the ground by more than one carrier (vertical co-location), or the use of more than one mount on the same site by more than one carrier

(horizontal co-location), or the use of several mounts on an existing building or structure by more than one carrier.

*Common Carrier* - An entity licensed by the FCC or a state agency to supply local and/or long distance telecommunications services to the general public at established and stated prices.

*Communication Tower* - a guyed, monopole, or self-supporting tower, constructed as a free standing structure or in association with a building, other permanent structure or equipment, containing one or more antennas intended for transmitting and/or receiving television, AM/FM radio, digital, microwave, cellular, telephone, or similar forms of electronic communication.

*Communications Transmission System or Communications System* - A wired communication transmission system, open video system, or wireless communications transmission system regulated by these regulations.

*C.O.W.'s* - "Cells on Wheels", see Temporary Wireless Communication Facility.

*Digital Technology* - technology that converts voice and data messages into digits that represent sound intensities at specific points of time and data content.

*Directional Antenna* - An antenna or array of antennas designed to concentrate a radio or an electromagnetic signal in a particular area.

*Dish Antenna* - A dish-like antenna used to link communications sites together by wireless transmission of voice or data. Also called microwave antenna or microwave dish antenna.

*Environmental Assessment (EA)* - An EA is a document required by the Federal Communications Commission (FCC) and the National Environmental Policy Act (NEPA) when a Wireless Communications Service Facility is placed in certain designated areas.

*Equipment Shelter* - An enclosed structure, cabinet, shed, vault, or box near the base of the mount within which are housed equipment for electrical equipment. Equipment shelters are sometimes referred to as base transceiver stations.

*ESMR* - Enhanced Specialized Mobile Radio.

*FAA* - The Federal Aviation Administration.

*FCC* - the Federal Communications Commission.

*Fall Zone* - The area on the ground from the base of a ground mounted Wireless Communications Service Facility that forms a circle with a diameter equal to twice the height of the facility, including any antennas or other appurtenances. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.

*Frequency* - The number of cycles per second - hertz (Hz)

*Grade* - The lowest point of elevation of the finished surface of the ground, paving, or sidewalk within the area between the structure and the property line or, when the property

line is more than 5 feet from the structure, between the structure and a line 5 feet from the structure.

*Guyed Tower* - A communication tower that is supported, in whole or in part, by guy wires and ground anchors.

*Height* - The height above ground level (AGL) from the natural grade of a site to the highest point of a tower or other structure, even if said highest point is an antenna.

*Lattice Tower* - A type of mount with multiple legs and structural cross-bracing between the legs that is self-supporting and freestanding.

*License* - The rights and obligations extended by the municipality to an operator to own, construct, maintain, and operate its system within the boundaries of the municipality for the sole purpose of providing services to persons or areas outside the municipality.

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

*MHZ* - Megahertz, or 1,000,000 Hz.

*Micro-cell* - A low power mobile radio service telecommunications facility used to provide increased capacity in high call-demand areas or to improve coverage in areas of weak coverage.

*Microwave* - Electromagnetic radiation with frequencies higher than 1,000 MHZ; highly directional signal used to transmit radio frequencies from point to point at a relatively low power level.

*Microwave Antenna* - A dish-like antenna manufactured in many sizes and shapes used to link communication sites together by wireless transmission of voice or data.

*Monopole* - A thicker type of mount than a mast that is self-supporting with a single shaft of wood, steel or concrete, or other material, that is designed for the placement of antennas and arrays along the shaft, constructed without guy wires and ground anchors.

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

- (1) Roof-mounted - Mounted on the roof of a building.
- (2) Side-mounted - Mounted on the side of a building.
- (3) Ground-mounted - Mounted on the ground.
- (4) Structure-mounted - Mounted on a structure other than a building.

*Omni-directional Antenna* - An antenna that is equally effective in all directions and whose size varies with the frequency and gain for which it was designed.

*Owner* - The owner of the title to real property or the contract purchaser of real property of record, as shown on the latest assessment records in the Office of the Selectmen. Owner also includes a deed holder or contract purchaser whose name does not appear in the latest



assessment records, but who presents to the town a copy of a deed or contract of sale showing date, book, and page of recording.

*Personal Communications Services or PCS* - Digital wireless telephone technology such as portable phones, pagers, faxes, and computers. Such mobile technology promises to allow each consumer the same telephone number wherever he or she goes. Also known as Personal Communications Network (PCN).

*Planning Board or Board* - Shall mean the Town of Mont Vernon Planning Board.

*Preexisting Towers and Antennas* - Any tower or antenna for which a non-residential site plan has been approved and signed and recorded at the Hillsborough County Registry of Deeds prior to the effective date of these regulations and is exempt from the requirements of these regulations so long as the tower or antennas are not modified or changed.

*Public Property* - Any real property, easement, air-space, or other interest in real estate, including a street, owned by or controlled by this town or any other governmental unit.

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

*Radio Frequency Radiation (RFR)* - The emissions from Wireless Communications Service facilities.

*Roof and/or Building Mount Facility* - A low power mobile radio service telecommunications facility in which antennas are mounted to an existing structure on the roof (including rooftop appurtenances) or building face.

*Scenic View* - A scenic view is a view that may be framed, wide angle, or panoramic and may include natural and/or manmade structures and activities. A scenic view may be from a stationary viewpoint or be seen as one travels along a roadway, waterway, or path. A view may be to a far away object, such as a mountain, or of a nearby object.

*Secondary Use* - A use of land or of a building or portion thereof which is unrelated to the principal use of the land or building.

*Security Barrier* - A decay-resistant wall, fence, or berm that restricts an area from unauthorized entry or trespass.

*Self-supported Tower* - A communication tower that is constructed without guy wires and ground anchors.

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

*Spectrum* - Relating to any transmissions or reception of electromagnetic waves.

*Stealth Facility* - Any communications facility which is designed to blend into the surrounding environment. Examples of stealth facilities may include architecturally screened roof-

mounted antennas, building-mounted antennas painted to match the existing structure, antennas integrated into architectural elements, and antenna structures designed to look like light poles. (See also Alternative Tower Structure)

*System* - The communications transmission system operated by a service provider in the Town.

*Telecommunications* - The transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

*Temporary Wireless Communication Facility* - Any tower, pole, antenna, etc., designed for use while a permanent wireless facility is under construction, or for a special event or conference where a majority of people attending are wireless users.

*Tower* - Shall mean any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, universal antenna towers, alternative tower structures, and the like.

*Whip Antenna* - An antenna that transmits signals in 360 degrees. Whip antennas are typically cylindrical in shape and are less than 6 inches in diameter and measure up to 18 inches in height. Also called omni-directional, stick or pipe antennas.

*Wireless Communication Facility* - An all-encompassing definition; any towers, poles antennas or other structures intended for use in connection with transmission and/or receipt of electromagnetic signals.

*Wireless Communications Service Facility* - Facility for the provision of Wireless Communications Services, as defined by the Telecommunications Act of 1996, as amended. Wireless Communications Service facilities include a mount, antenna, equipment shelter, and other related equipment.

*View Corridor* - A view corridor is a three-dimensional area extending out from a view point. The width of the view corridor depends on the focus of the view. The focus of the view may be a single object, such as a mountain, which would result in a narrow corridor, or a group of objects, such as a downtown skyline, which would result in a wide corridor. Panoramic views have very wide corridors and may include a 360-degree perspective. Although the view corridor extends from the view point to the focus of the view, the mapped portion of the corridor extends from the view point and is based on the area where base zone heights must be limited in order to protect the view.

## Article 3

### Section I-306.3

### General Provisions

**Section I-306.3.1 Applicability**

1. Wireless Communications Service Facilities

The terms of this Article and the Site Plan Review Regulations shall apply to Wireless Communications Service facilities proposed to be located on property owned by the Town, on privately owned property, and on property owned by any other governmental entity that acts in its proprietary capacity to lease such property to a carrier.

2. Amateur Radio; Receive-Only Antennas

This ordinance shall not govern any tower, or the installation of any antenna that is under 70 feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas. This application adopts the provisions and limitations as referenced in RSA 674:16, IV.

3. Essential Services and Public Utilities

Wireless Communications Service facilities shall not be considered infrastructure, essential services, or public utilities, as defined or used elsewhere in the Town's ordinances or regulations. Siting for Wireless Communications Service facilities are a use of land and are subject to the Town's Zoning Ordinance and all other applicable ordinances and regulations.

**Section I-306.3.2 Location**

**Section I-306.3.2.A Districts Permitted** (moved from I-306.4.02 in 1998 ordinance)

New Wireless Communications Service Facility construction and co-location of Wireless Communications Service provider facilities shall be permitted in the following districts subject to all applicable local, state and federal regulations and Site Plan Review and approval by the Planning Board.

<u>Table I-306.3.2 A</u>	<u>New Tower Construction</u>	<u>Co-location on Existing Tower</u>	<u>Co-location on Existing Structure</u>
<u>Limited Commercial Residential Rural Residential Historic District Overlay</u>	<u>(Permitted)</u>	<u>(Permitted)</u>	<u>(Permitted)</u>
	<u>(Permitted)</u>	<u>(Permitted)</u>	<u>(Permitted)</u>
	<u>(Permitted)</u>	<u>(Permitted)</u>	<u>(Permitted)</u>
	<u>(see "Non Residential Site Plan Review")</u>	<u>(see "Non Residential Site Plan Review")</u>	<u>(see "Non Residential Site Plan Review")</u>

**Section I-306.3.2.B Siting Standards**

1. Antennas and towers may be considered either principal or secondary uses. A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.
2. For purposes of determining whether the installation of a tower or antenna complies with district development standards, the dimensions of the entire lot shall control, even though the antennas and towers may be located on leased parcels within such lots.
3. Towers that are constructed, and antennas that are installed, in accordance with the provisions of this ordinance on a non-conforming lot or in conjunction with a non-conforming use, shall not be deemed to constitute the expansion of a non-conforming use or structure.

### **Section I-306.3.2.C Siting**

The siting of new or co-located Wireless Communications Service facilities shall be permitted in all Zoning Districts. Applicants seeking approval for Wireless Communications Service facilities shall first evaluate existing structures for the siting of Wireless Communications Service facilities. Only after finding that there are no suitable existing structures pursuant to Section I-306.3.2,C.2 herein, shall a provider propose a new ground-mounted facility.

#### *Existing Structures - Policy*

Wireless Communications Service facilities shall be located on existing structures, including, but not limited to, buildings, water towers, existing telecommunications facilities, utility poles or towers, and related facilities, provided that such installation preserves the character and integrity of those structures by being camouflaged to the greatest extent possible.

#### *Existing Structures - Burden of Proof*

The applicant shall have the burden of proving that there are no existing suitable structures on which to locate its Wireless Communications Service Facility and/or transmit or receive radio signals. To meet that burden, the applicant shall take all the following actions to the extent applicable:

- a.) The applicant shall submit to the Planning Board a list of all contacts made with owners of potential sites regarding the availability of potential space for a Wireless Communications Service Facility. If the Planning Board informs the applicant that additional existing structures may be satisfactory, 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 structures and letters of rejection. If letters of rejection are not provided, at a minimum, unanswered "Return Receipt Requested" forms from the U.S. Post office shall be provided for each owner of existing structures that was contacted.

If the applicant claims that a structure is not capable of physically supporting a Wireless Communications Service Facility, this claim must be certified by an independent, licensed engineer, whose fees shall be paid by the applicant. The certification shall, at a minimum, explain the structural issues and demonstrate that the structure cannot be modified to support the Wireless Communications Service Facility without unreasonable costs. The estimated cost shall be provided to the Planning Board and the Board of Selectmen.

#### *Ground Mounted Facilities - Policy*

If the applicant demonstrates that it is not feasible to locate on an existing structure, ground

mounted Wireless Communications 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;
- use of lower antenna mounts that do not protrude as far above the surrounding tree canopies;
- disguised Wireless Communications Service facilities such as flagpoles, artificial tree poles, light poles, and traffic lights, that blend in with their surroundings;
- custom designed Wireless Communications Service facilities that minimize the visual impact of a Wireless Communications Service Facility on its surroundings;
- other available technology.

### **Section I-306.3.3 Bonding Security and Insurance**

Recognizing the hazardous situation presented by abandoned and towers unmonitored Wireless Communications Service facilities, the Board of Selectmen shall set the form and amount of security that represents the cost for removal and disposal of abandoned Wireless Communications Service facilities in the event that a facility is abandoned and the facility owner is unwilling or unable to remove the facility in accordance with Section I-306.3.4,C. The amount of the security shall be based upon the removal cost, plus fifteen percent (15%), provided by the applicant and certified by an independent engineer licensed in New Hampshire. The owner of the facility shall provide the Planning Board and the Board of Selectmen with a revised removal cost estimate and structural evaluation prepared by an independent engineer licensed in New Hampshire every five (5) years from the date of the 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. Furthermore, the Planning Board shall require the submission of proof of adequate insurance covering accident or damage. Should the facility owner discontinue or abandon the facility in accordance with Section I-306.3.4 and the facility is physically removed in accordance with Section I-306.3.4, the security being held by the Town shall be released within thirty (30) days of confirmation of satisfactory removal by the Planning Board or its designated agent.

### **Section I-306.3.4 Abandonment or Discontinuation of Use**

Beginning 12 months after Planning Board approval, and continuing on an annual basis thereafter, the owner of a Wireless Communications Service Facility shall provide the Planning Board with written, signed certification that the Wireless Communications Service Facility is being used to provide telecommunications services as defined. Failure to comply with this requirement shall constitute an admission that the Wireless Communications Service Facility is not in use and has been abandoned.

#### **Section I-306.3.4.A. *Abandonment***

Any Wireless Communications Service Facility that is not operated for a continuous period of twelve (12) months shall be considered abandoned and hazardous to the public health and safety, unless the owner of said Wireless Communications Service Facility provides proof of quarterly inspections. The owner shall physically remove the abandoned Wireless

Communications Service Facility within ninety (90) days of receipt of a declaration of abandonment from the Town notifying the owner of such abandonment. A declaration of abandonment shall only be issued following a public hearing, noticed according to RSA 676:4, with notice to abutters and the last known owner/operator of the Wireless Communications Service Facility. If the abandoned Wireless Communications Service Facility is not removed within 90 days, the Town may execute the security and have the Wireless Communications Service Facility removed. If there are two or more users of a single Wireless Communications Service Facility, this provision shall not become effective until all users cease using the Wireless Communications Service Facility.

#### **Section I-306.3.4.B.            *Discontinuance***

At such time that a carrier plans to abandon or discontinue operation of a Wireless Communications Service Facility, such carrier shall notify the Town by certified U.S. mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than thirty (30) days prior to abandonment or discontinuance of operations. In the event that a carrier fails to give such notice, the Wireless Communications Service Facility shall be considered abandoned upon such discontinuance of operation. Unused portions of towers above a manufactured connection shall be removed within 90 days of the time of antenna relocation. The replacement of portions of a tower previously removed requires the issuance of a new Wireless Communications Facility permit.

#### **Section I-306.3.4C. *Removal***

Upon abandonment or discontinuance of use, the owner of the Wireless Communications Service Facility shall physically remove the Wireless Communications Service Facility within ninety (90) days from the date of abandonment or discontinuance of use. "Physically remove" shall include, but not be limited to:

- i) Removal of antennas, mounts, equipment shelters and security barriers from the subject property.
- ii) Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.
- iii) Restoring the location of the Wireless Communications Service Facility to its natural condition, except that any landscaping and grading shall remain in the after-condition.

#### **Section I-306.3.4D.            *Failure to Remove***

If the owner of the Wireless Communications Service Facility does not remove the Wireless Communications Service Facility upon notice from the Town, then the Board of Selectmen shall, after holding a public hearing with notice to the owner and abutters, issue a declaration of abandonment. The owner of the facility shall dismantle and remove the facility within ninety (90) days of receipt of the declaration of abandonment by the Board of Selectmen. If the abandoned Wireless Communications Service Facility is not removed within ninety (90) days, the Town may execute the security to pay for this action.

#### **Section I-306.3.4E. *Failure to Maintain***

If the owner of the Wireless Communications Service Facility fails to maintain the Wireless Communications Service Facility in accordance with the directions of the Planning Board pursuant to Section I-306.3.5.A, then the Board of Selectmen shall, after holding a public hearing with notice to the owner and abutters, issue a declaration of abandonment. The owner of the facility shall dismantle and remove the Wireless Communications Service Facility within ninety (90) days of receipt of the declaration of abandonment from the Board of Selectmen. If the abandoned facility is not removed within ninety (90) days, the Town may execute the security to pay for this action.

### **Section I-306.3.5 Monitoring and Maintenance**

#### **Section I-306.3.5.A. Maintenance**

The owner of the Wireless Communications Service Facility shall maintain the Wireless Communications 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, landscaping and camouflage materials. The Planning Board may direct the owner to perform maintenance that it determines is required.

#### **Section I-306.3.5.B. Monitoring**

As part of the issuance of the site plan approval or building permit, the property owner and the owner of the Wireless Communications Service Facility shall agree in writing that the Town of Mont Vernon and/or its appointed representative(s) may enter the subject property to obtain RFR measurements and noise measurements and to perform maintenance inspections at the expense of the carrier. In the case of taking RFR and/or noise measurements, the Town, or its appointed representative(s), may enter without any advance notice to either the property owner or the Wireless Communications Service Facility owner. In all other cases, the Town shall provide reasonable written notice to the carrier and landowner and provide them with the opportunity to accompany the Town representative(s) when the inspections are conducted.

### **Section Section I-306.3.6 Timing of Operation**

**Section Section I-306.3.6.A.** Operation of a Wireless Communications Service Facility shall commence no later than nine (9) months from the date the proposal was approved. If the Wireless Communications Service Facility is not operating and providing the citizens of the Town with Wireless Communications Services, as defined, within this time period, the Planning Board, at its discretion, may revoke its approval.

**Section Section I-306.3.6.B.** If Planning Board approval is revoked and construction has begun, the Wireless Communications Service Facility shall be considered to be abandoned.

### **Section I-306.3.7 Historic District Restrictions**

Wireless Communications Service Facilities within the Historic Districts shall be camouflaged.

**Section I-306.3.8            Enactment**

In order that Wireless Communication Service Facilities may be constructed in accordance to these purposes and policies, these regulations are hereby adopted and made effective as of initial posting of hearing. All applications for Wireless Communication Service Facility sitings pending on the effective date of these regulations shall be reviewed under these regulations.

**Section I-306.3.9**

Section I-306.3.9.A. Interpretation. In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the protection of public health, safety, and general welfare. These regulations shall be construed broadly to promote the purposes for which they are adopted.

Section I-306.3.9.B. Conflict. These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulations, statute, or other provision of law except as provided in these regulations. Where any provision of these regulations imposes restrictions different from any other ordinance, rule or regulation, statute or other provision of law, the provision which is more restrictive or imposes higher standards shall control.

Section I-306.3.9.C. Separability. If any part or provision of these regulations or the application of these regulations to any service provider or circumstances is adjudged invalid by any court of competent jurisdiction, the judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which the judgment shall be rendered and it shall not affect or impair the validity of the remainder of these regulations or the application of them to other service providers or circumstances. The Planning Board hereby declares that it would have enacted the remainder of these regulations even without any such part, provision, or application which is judged to be invalid.

**Section I-306.3.8    Amendments**

For the purpose of protecting the public health safety, and general welfare, the Planning Board may from time to time propose amendments to these regulations which shall be approved or disapproved by the Planning Board at a public meeting following public notice. Realizing that communication technologies are evolving and changing quickly, future innovations may reduce the impacts of individual facilities and render portions of these regulations obsolete. Therefore, periodic review and revision of these regulations will be necessary.

**Section I-306.3.9    Enforcement**



The enforcement of these regulations shall be the responsibility of the Board of Selectmen or their designee.

### **I-307 IMPACT FEES FOR NEW RESIDENTIAL DEVELOPMENT**

**I-307.1 Authority.** This ordinance is established pursuant to New Hampshire RSA 674:21 (V).

**I-307.2 Intent and Purpose.** This ordinance is intended to:

- a. Implement and be consistent with the Town of Mont Vernon's Master Plan.
- b. Allocate a fair and equitable share of the cost of public facilities (including school construction) to new development; and
- c. Require new development to contribute its proportionate share of funds necessary to accommodate its impact on public facilities, which is reasonably related to the capital needs created by residential development and to the benefits accruing to the development.

**I-307.3 Findings.**

- a. The Town of Mont Vernon is responsible for and committed to the provision of public facilities and services at levels necessary to support residential and non-residential growth and development.
- b. Such facilities and services have been and will be provided by the Town utilizing funds allocated via the Capital Improvements Program which is regularly updated pursuant to New Hampshire RSA 674:5.
- c. The rate of growth experienced by the Town in recent years, as well as projected growth rates, would necessitate an excessive expenditure of public funds in order to maintain adequate facility standards.
- d. Residential development enabled through this zoning ordinance will create a need for the construction, equipping or expanding of public capital facilities.
- e. The imposition of impact fees is one of the preferred methods of ensuring that public expenditures are not excessive, and that residential development bears a proportionate share of the cost of public capital facilities necessary to accommodate such development. This must be done in order to promote the public health, safety and welfare.

- f. The fees established by the Impact Fee Schedules for the categories identified in Section I-308.a are derived from, based upon, and do not exceed the costs of:
1. Providing additional public capital facilities necessitated by the new residential development for which the fees are levied; or
  2. Compensating the Town of Mont Vernon for expenditures made for existing public facilities that were constructed in anticipation of new residential growth and development.

**I-307.4**        **Definitions.** The following definitions shall apply to the Impact Fees for Residential Development section, and shall not be affected by the provisions of any other ordinance of the Town of Mont Vernon.

**I-307.4.1**     **Applicant.** A person applying for the issuance of a building permit, permit for manufactured home installation, subdivision, site plan or other local land use decision, permit or approval.

**I-307.4.2**     **Dwelling Unit.** A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

**I-307.4.3**     **Gross Living Area.** The effective area of a residential unit as indicated in the assessment files. It includes finished space that is heated, but excludes heated garages and outbuildings which do not include living quarters.

**I-307.4.4**     **New Development.** Any building activity which results in:

- a. The creation of a new dwelling unit or dwelling units;
- b. The conversion of a non-residential use to a dwelling unit or dwelling units.

New Development does not include:

- a. the reconstruction of a structure that has been destroyed by fire or natural disaster, provided that there is no change in the size and density of the structure;
- b. the replacement of a manufactured home;
- c. the construction of any accessory structure which would not increase the demand for facilities by the principal structure.

**I-307.4.5**     **Public Capital Facilities.** Assets, facilities, and equipment which are owned and operated by the Town of Mont Vernon, the Mont Vernon School System, or cooperatively with other municipalities and which have a useful life of no less than five years. Public capital facilities do not include the costs associated with the operation, maintenance, repair of such facilities, or with facility replacements which do not increase the capacity or level of service, but does include reasonable costs for

planning, engineering, design, land acquisition, and other reasonable costs associated with such facilities.

**I-307.4.6** **Off Site Improvements/Exaction.** An improvement that is required of the Planning Board for either a site plan or subdivision that is necessary for the project to operate properly on the day that it opens shall be considered to be an Off-Site Improvement or Exaction. Off-site improvements for site-specific applications shall be assessed on a case-by-case basis. The applicant shall be assessed their proportionate share for the need for the project. In cases where it is determined that an improvement is necessary for the proper functioning of a site plan or subdivision, but that the improvement will accommodate future development, the Town, at the request of the applicant, may establish an impact fee that assesses future site plans or subdivisions for their proportionate share of the improvement. Such impact fees shall be provided to the original applicant with any interest, upon application by the original applicant to the Planning Board, during such period as the original applicant continues to own the property benefited by the improvement, based upon the proportion of the property still owned by the original applicant.

**I-307.5** **Imposition of Impact Fees for Residential Development.**

- a. Any person, who after (October 22, 2002), seeks to undertake new residential development within the Town of Mont Vernon, New Hampshire, by applying for a building permit or permit for manufactured home installation and who is not vested under RSA 674:39, is hereby required to pay an impact fee in the manner set forth in section I-309.2 of this Ordinance, in accordance with any Impact Fee Schedule adopted by the Board of Selectmen.
- b. No new building permit or new permit for manufactured home installation or activity requiring payment of an impact fee pursuant to Section I-309.2 of this Ordinance shall be issued unless and until the impact fees hereby required have been determined.

**I-307.6** **Computation of Impact Fees for Residential Development.**

- a. The amounts of the impact fees shall be determined using the values contained in the Impact Fee Schedules for the following types of facilities:
  - 1) School Facilities
  - 2) Municipal Facilities
  - 3) Public Libraries

Impact Fees Schedules shall be established and reviewed as set forth in Section I-314.1 Establishment of Fees.

- b. In the case of change of use, redevelopment, or expansion or modification of an existing use which constitutes new development, the impact fees shall

be based upon the net positive increase in the impact fee for the new use as compared to the previous use.

**I-307.7 Payment of Fees.**

Impact fees shall, in accordance with RSA 674:21, (V)(d), be assessed at the time a building permit is issued but the applicant shall pay the impact fees required of the Ordinance to the Town of Mont Vernon at the Town Hall when a certificate of occupancy is issued, unless as provided in the foregoing statute, the planning board has advanced the time of such payment or the planning board and the applicant have come to some other arrangement as provided in said statute RSA 674:21, (V)(d).

**I-307.8 Appeals.**

- a. If an applicant elects to dispute the amount of the impact fee, the applicant may prepare and submit to the Selectmen an independent fee calculation study for the new development activity which is proposed. The Planning Board shall review such study and render a decision. All cost incurred by the Town for the review of such study shall be paid by the applicant.
- b. The decision of the Planning Board may be appealed to the Superior Court as provided by RSA 677:15.

**I-307.9 Administration and Custody of Funds Collected.**

- a. All funds collected shall be properly identified by and promptly transferred for deposit in the appropriate Impact Fee accounts, and used solely for the purposes for which it was collected. Impact fee accounts shall be special revenue fund accounts and under no circumstances will impact fee revenues accrue to the General Fund. Each fee collected under a specific Impact Fee Schedule shall not be commingled with other impact fee accounts or any other funds.
- b. The Town Treasurer shall have custody of all accounts, and shall pay out the same only upon written orders of the Board of Selectmen.
- c. At the end of each fiscal year, the Town Treasurer shall make a report, giving a particular account of all impact fee transactions during the year.

**I-307.10 Refund of Fees Paid.**

- a. The current owner of property on which impact fees have been paid may apply for a full or partial refund of such fees, together with any accrued interest.

The refund shall be owed when the Town has failed, within the period of six (6) years from either the payment of such fee or the last installment payment, to expend or encumber such fees on public capital facilities intended to benefit the development which paid the fees. In event that a

refund is due, the Board of Selectmen shall notify the owner of record by certified mail return receipt requested.

- b. In the event that the owner elects to apply for a refund, such application shall be submitted in writing to the Board of Selectmen within one (1) year from the date of receiving notice from the Board of Selectmen.

**I-307.11 Credits in Exchange for Public Capital Facilities.**

- a. Public capital facility improvements may be offered by the applicant as total or partial payment of a required impact fee. The offer must be determined to represent an identifiable dollar value computed in a manner acceptable to the Planning Board. The Planning Board may authorize the applicant an impact fee credit in the amount of the value of the contribution.
- b. Any claim for credit must be made prior to the Planning Board vote on subdivision/site plan approval. The applicant shall indicate that such credit will be requested at the survey phase subdivision application stage of the development review process, and which impact fees will be affected by the credit.
- c. Credits shall not be transferable, and run only with a specific subdivision or site plan approval.
- d. Credits shall not be transferable from one type of impact fee to any other impact fee.
- e. Determination by the Planning Board pursuant to the credit provision of this section may be appealed to the Superior Court in accordance with RSA 677:15.
- f. Under no circumstances shall this section imply that the Planning Board has an obligation to accept any credit offer that is proposed.

**I-307.12 Additional Assessments.**

Payment of an impact fee does not restrict the Town or the Planning Board from requiring other payments from the applicant, including such payments relating to the cost of the extensions of water and sewer mains or the construction or improvement of roads or streets or other infrastructure and facilities specifically benefiting the development which are required by the subdivision or site plan review regulations or as otherwise permitted by law.

**I-307.13 Premature and Scattered Development.**

Nothing in this Ordinance shall be construed so as to limit the existing authority of the Mont Vernon Planning Board to provide against development which is scattered or premature, requires an excessive expenditure of public funds, or otherwise violates the Town of Mont Vernon's Site Plan Review Regulations, Subdivision Regulations, or Zoning Ordinance.

**I-307.14 Establishment and Review of Fees.**

**I-307.14.1 Establishment.** In order to establish an impact fee, the Board of Selectmen may prepare an Impact Fee Schedule, in accordance with RSA 674:21, and Section I-314.2 of this Ordinance. The Board of Selectmen shall conduct a public hearing on the proposed schedule, and shall consider all comments received prior to finalizing the Schedule. The Impact Fee Schedule shall be in effect when a majority of the Board of Selectmen approves the schedule. Should the Board of Selectmen fail to approve the schedule, it shall state its reason for doing so in writing.

**I-307.14.2 Impact Fee Schedule.** The Impact Fee Schedule shall be prepared in accordance with RSA 674:21, and shall be calculated using the following factors, based upon the most recent data available or a conservative estimate:

- a. A determination of the size of the capital facility.
- b. An estimate of the proportion of users from future Mont Vernon households subject to the impact fee that will use the facility when it has reached its capacity.
- c. Projections of future users based upon residential building permit projections.
- d. Estimates of the cost of the facility to the Town of Mont Vernon, including financing and excluding non-municipal funding sources;
- e. Credits subtracted from a base fee accounting for property taxes paid by the proportion of the project to be financed by impact fees.
- f. A fee assessed per housing unit based upon the gross livable area of the dwelling unit.
- g. A determination of the number of building permits that will need to be issued in order to finance the impact fee.
- h. An accounting of the number of permits issued, with a maximum number of permits to be assessed an impact fee prior to the fee's termination.
- i. Exemptions, if any.

In developing the impact fee schedule, the Board of Selectmen shall use the most recent data available in order to calculate the fee.

**I-307.14.3 Review of Impact Fees.**

The Board of Selectmen shall review an established Impact Fee Schedule on an annual basis. The Selectmen shall modify the Impact Fee Schedule if it finds that new data is available that will refine the schedule. This may include the replacement of figures used in the Impact Fee Schedule with more accurate or recent projections, data and figures. The Board of Selectmen shall hold a public hearing on the proposed modifications and vote whether to affirm the modifications within sixty (60) days. If the Board of Selectmen fail to affirm the modifications, the impact fee schedule in effect shall remain in place.

**I-307.14.4 Termination of Impact Fees.**

a. Impact fees shall terminate in accordance with the Impact Fee Schedule, which shall set forth the number of building permits to be issued prior to its obsolescence.

- b. The Board of Selectmen may also by majority vote terminate an impact fee schedule in effect. This may be done only after soliciting recommendations from the Planning Board, and after conducting a public hearing. The Planning Board shall be given sixty (60) days to produce written recommendations to the Board of Selectmen.

**I-307.15 Severability.**

If any section, phrase, sentence or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

**I-307.16 Effective Date.**

This Ordinance shall become effective on October 22, 2002.

**I-308 Accessory Dwelling Unit**

**I-308.1 Purpose**

Pursuant to NH RSA 674:17 ***the Town of Mont Vernon*** adopts the following ordinance since: Enabling extended families to live together benefits families and the community, ***Accessory Dwelling Unit*** housing provides ***options for families and extends*** a principal residence to accommodate relatives ***or in home care which*** is a rural New England tradition. The Town of Mont Vernon shall allow ***Accessory Dwellings Units*** to be permitted by the Building Inspector in any district ***where residential dwelling uses are permitted***, subject to the following regulations.

**I-308.2 Definition**

***“Accessory Dwelling Unit”*** is an independent living area that is part of a larger single family dwelling unit. It is not ***intended as*** a general rental unit. An ***Accessory Dwelling Unit shall*** have a kitchen, a bathroom, and ***up to two*** bedrooms in addition to the living area. Access to the ***Accessory Dwelling Unit shall be*** through ***an interior door off*** a living area, ~~or~~ open foyer ***or hallway that is*** contained within the larger dwelling unit.

**I-308.3 Requirements and Limitations**

- a. An ***Accessory Dwelling Unit*** is intended to be secondary and accessory to a principal single-family dwelling unit. The ***Accessory Dwelling Unit*** must be developed in a manner which does not alter the character or appearance of the principal dwelling unit as a single-family residence. Only one shall be allowed per principal dwelling unit and/or lot. The ***Accessory Dwelling Unit*** shall not have a separate house number from the principal dwelling. The ***Accessory Dwelling Unit*** shall not have a separate power meter or separate electrical service entrance.

- b. Up to one external entrance shall be allowed provided that it is not the primary entrance to the **Accessory Dwelling Unit**
- c. An **Accessory Dwelling Unit** shall not be considered to be an additional dwelling unit for the purposes of determining minimum lot size.
- d. An **Accessory Dwelling Unit** shall have an area of no greater than 800 square feet.
- e. An **Accessory Dwelling Unit** shall be designed to allow for re-incorporation into the principal dwelling unit.
- f. The existing or proposed septic system must be certified by a licensed septic designer or engineer as adequate to handle and treat the increased waste volumes generated by the **Accessory Dwelling Unit** in accordance with the building code of the Town of Mont Vernon. If the existing septic system is not capable of adequately handling and treating the waste of the principal dwelling unit and the **Accessory Dwelling Unit** in accordance with the building code of the Town of Mont Vernon, a new or upgraded septic system conforming to the most recent state and local septic standards and regulations shall be required.
- g. Occupancy of one of the dwelling units, primary or accessory, must remain as property owner occupied.**
- h. Detached Accessory Dwelling Units are not permitted.**

#### **I-308.4     Existing In-Law Apartments**

Owners of in-law apartments constructed prior to March 2005 that do not have a building permit and/or certificate of occupancy may be grandfathered by applying to the Building Inspector on or before September 1, 2005 for a determination of compliance with the life safety codes. Applications received after September 1, 2005 shall be subject to all requirements of this section. The Building Inspector shall issue one of the following:

- a. A determination of compliance and a certificate of occupancy.
- b. A conditional determination of compliance and a description of the corrective changes needed to bring the in-law apartment into compliance. The required changes shall be completed within 120 days of the date of the determination of conditional compliance. Upon successful completion of the required changes, the Building Inspector shall issue a certificate of occupancy.
- c. A determination of non-compliance, listing requirements and conditions for which compliance cannot be achieved through corrective changes.

#### **I-308.5     Existing legally permitted In-Law Apartments**



***Owners of legally permitted in-law apartments constructed after March 2005 but prior to the amendments to Article I-308 (2017) and that obtain a building permit and certificate of occupancy are grandfathered.***

**I-308.6      Failure to Comply**

If an owner fails to comply with the requirements of this section, the use of the in-law apartment or other ***Accessory Dwelling Unit*** shall be terminated within 6 months of the date of notice from the Building Inspector. The owner shall be subject to penalty under RSA 676:17 for each day the ***Accessory Dwelling Unit*** fails to comply with the requirements of this section.

Amended: March 2017

**I-309      PHASING**

**I-309.1      Purpose**

It is a demonstrated fact that rapid and uncontrolled proliferation of the subdivision process places a burden on the municipality to provide and pay for municipal services that are required when a subdivision is approved. The Planning Board is authorized in circumstances where the record demonstrates that such services will be impacted by a particular proposal, in lieu of denial, to require that the subdivision be phased so that the impact will be phased over a certain period of time. The Planning Board is directed to promulgate such regulations as are necessary to effectuate the purpose of this section as part of their subdivision regulations.

**I-310      Housing for Older Persons**

**I-310.1 DEFINITION.** Housing for Older Persons is that intended for, and solely occupied by, persons 62 years of age or older.

**I-310.2 PURPOSE.** It is in the public interest and the general welfare of the Town of Mont Vernon to encourage the development of Housing for Older Persons, as that term is defined in RSA 354-A:15.II. The purpose of this section is to establish the special conditions that such a case must satisfy. Where these regulations differ from other sections of the town zoning law, the provisions of this section shall take precedence. However, any housing must meet all other provisions of the Zoning Ordinance, Building Code and Subdivision Regulations.

- (a) Housing for Older Persons shall be permitted in any zone.
- (b) Housing for Older Persons shall be exempted from I-205 of this Zoning Ordinance, which requires a Special Exception for two-family and multi-family dwellings.
- (c) Density shall be as follows: 4 bedrooms shall be permitted for every 2 acres of District 1 soils. 4 bedrooms shall be permitted for every five acres of District 2 and 3 soils.  
Example 1: A lot containing 20 acres of District 1 soils may support 40 one-bedroom units, or 20 two-bedroom units, or a combination, provided that the total number of bedrooms on the lot does not exceed 40.  
Example 2: A lot containing 20 acres of District 3 soils may support a total of 16 bedrooms.
- (d) Each dwelling unit shall include one, but not more than two, bedrooms. The maximum square footage of living space in each dwelling unit shall be 1500 square feet.
- (e) Each dwelling unit shall include at least one covered parking spot and one additional spot for resident parking. There shall be a minimum of one visitor parking spot per unit.
- (f) At least 40% of the net tract area shall be open space, which shall include 100 feet of undisturbed continuous buffer zone around the perimeter of the parent lot. This buffer may include landscaped entrances.
- (g) Where there are multiple structures, there shall be 50 feet between structures that are not appurtenant.
- (h) The planning board may disallow Housing for Older Persons if, in the Board's opinion, there is inadequate accessibility to main roads and/or town services.
- (i) Supporting on-site facilities such as community rooms and shared dining rooms shall be permitted at the discretion of the Planning Board.
- (j) Building height shall be limited to 35 feet. No bedroom window shall be more than 26 feet from the ground.
- (k) Roads shall be public and built to town standards.
- (l) Lots of less than 10 total acres shall not be considered for Housing for Older Persons developments, but there is no minimum lot size for the subdivided lots.
- (m) Housing for Older Persons developments shall be exempt from the III-421 Phasing ordinance.
- (n) Proposed plan information must include exterior lighting plan and any proposed signs to be located on the site. Exterior lights shall be downward-facing.
- (o) Housing for Older Persons developments shall be assessed any impact fees in place at the time of building permit application, but shall be exempt from school impact fees. Assessment of impact fees for multiple housing units shall be based on total square

footage. Certificates of occupancy shall be issued for each unit when the monies due for that unit, based on its square footage, are paid. *(Added March 13, 2007)*

### **I-311 Restaurants**

**I-311.1** The historic character of Mont Vernon is unique and is important to its people and their collective identity as a community. Mont Vernon, more than most communities, that have experienced the same level of growth, has managed to preserve its rural character and its small town feel. In many ways Mont Vernon has achieved this in a manner that is unique to the region.

**I-311.2** Any restaurant approved under this ordinance must not significantly detract from Mont Vernon's historic rural character. Fast food and Formula restaurants are specifically prohibited in the Town of Mont Vernon.

**I-311.3** Restaurants are specifically allowed on any lot within the Limited Commercial District. Restaurants in the Residential and Rural/Residential Districts may be approved by special exception by the Zoning Board of Adjustment after public hearing. Such approval shall be subject to any conditions laid down by the Zoning Board of Adjustment and shall also be subject to a Non-Residential Site Plan review by the Planning Board.

**I-311.4** All signs and/or exterior advertising for a restaurant shall comply with the requirements and standards set forth in the Non-Residential Site Plan Review Regulations of the Town of Mont Vernon.

**I-311.5** Noise – Restaurant noise shall not exceed 55db from 7AM – 9PM and 45db from 9PM – 7AM at the lot boundary.

**I-311.6** Buffer – If required by the Zoning Board of Adjustments restaurants shall provide a buffer of undisturbed continuous perimeter, except for entrance and exit driveways.

**I-311.7** Height – Building height shall be limited to the height of all Mont Vernon buildings, that is 35 feet. No window ledge shall be more than 26 feet from the ground.

**I-311.8** Parking – Restaurants shall provide adequate off-street parking.

**I-311.9** Restaurants approved by Special Exception may be subject to setbacks, lighting restrictions, and other conditions as required by the Zoning Board of Adjustments or Planning Board. *(Added 3-11-08)*

## **ARTICLE 4 - DISTRICT REGULATIONS**

**I-401** Except as herein provided, no building or land shall hereafter be used, constructed, or altered unless in conformity with the regulations herein specified for the zoning district

in which it is located. Any non-residential use in any of these districts shall comply with Mont Vernon's non-residential site plan review process. *(Amended March 11, 2003)*

#### **I-402 RESIDENTIAL DISTRICT**

**I-402.1** The Residential District shall be a district designated for single family residences and related uses only. Except that a building solely used as a U.S. Post Office will be a permitted use. *(Second sentence added 10-24-89)*

#### **I-403 RURAL-RESIDENTIAL DISTRICT**

**I-403.1** All uses permitted in the Residential District shall be permitted in the Rural-Residential District.

**I-403.2** General purpose farming and forestry activities shall be permitted and farm and home produce may be exposed for sale and sold in the Rural-Residential District. The display of historical, farming or forestry collections of tools, equipment, machinery and other related items in conjunction with farming or forestry activities shall be a permitted use in the Rural-Residential District. *(Second Sentence added in 1989)*

#### **I-404 HISTORIC DISTRICT**

##### **I-404.1 LEGISLATIVE INTENT**

**I-404.1(a)** The purpose of this ordinance is to promote the educational, cultural, economic and general welfare of the public for the protection, enhancement, perpetuation, and the preservation of the historic district. It is hereby declared that it is a public purpose that the heritage of Mont Vernon will be safeguarded by:

- (i) Preserving districts in Mont Vernon which reflect elements of a cultural, social, economic, political and architectural history.
- (ii) Conserving property value in such districts.
- (iii) Fostering civic beauty.
- (iv) Strengthening the local economy.
- (v) Promoting the use of an historic district for the education, pleasure and welfare of the citizens of Mont Vernon. (NH 674:45 and 674:50)

##### **I-404.2 QUALIFICATIONS**

**I-404.2(a)** The historic district established hereunder and from time to time, amended as prescribed by NH state law shall have one or more of the following qualifications, without limitations as to cultural or chronological period.

(i) Structures or sites which are identified with the cultural, political, economic, military or social history of Mont Vernon.

**I-404.3** The entire Historic District Regulations and the official map of the Historic District are available at the Town Office.

## **I-405 LIMITED COMMERCIAL DISTRICT**

### **I-405.1 PURPOSE AND INTENT**

#### **I-405.1(a) Goal**

To encourage small scale, clean non-residential development which needs neither a public water nor sanitary sewer service, and which will increase employment opportunities and broaden the Town's tax base and provide needed services for the Town's residents.

#### **I-405.1(b) Objective and Characteristics**

- (i)** This district provides a location for the establishment of limited commercial facilities to improve and expand employment opportunities and broaden the tax base in the Town of Mont Vernon. The district offers good access to the Town's major highway (NH Route 13) and is easily accessible to other area towns. Limited commercial uses in the district will not conflict with uses in other adjacent areas. Soil types in the district are optimum for building. Additionally, the basic character of this area has already been established by the existing sawmill located southeast of the district.
- (ii)** A major variety of types of retail, service, office and manufacturing facilities are permitted in the district provided they are in keeping with the goals set forth in the Master Plan for the harmonious development of the Town, provided the performance standards are met, and further provided that a site plan for any proposed use shall be approved by the Planning Board conforming to the non-residential site plan review regulations of the Town of Mont Vernon.
- (iii)** Residential uses shall not be permitted within this district. The district shall provide the area for shopping facilities, offices, banking facilities and other limited commercial operations. Uses located in the district shall provide access, parking, adequate lighting and protection, quality design and construction, and similar related items for the convenience and safety of the general public and users of the area.
- (iv)** All such uses are declared to possess characteristics of such unique and distinct forms that each specific proposed use must be considered as an individual case. Notwithstanding any other provisions of I-405, permitted uses shall not be required to conform to the minimum frontage, setback and lot sizes required elsewhere in the Zoning Ordinance for the Town of Mont Vernon, but shall be so designed as to achieve the general purpose, requirements and standards of I-405. Any limited commercial use approved for location within the district pursuant to this ordinance shall comply with any and all conditions set forth by the Planning Board as necessary to protect the public health, safety, welfare and convenience of Mont Vernon's citizens.

## **I-405.2 PERMITTED USES**

The following uses are permitted in the Limited Commercial District:

- I-405.2(a)** Retail, personal service, and business establishment of a type consistent with the purpose of this district to serve limited commercial needs of various nearby neighborhoods. The foregoing uses shall include, but shall not necessarily be limited to:
- (i) Establishments for the retail sales of grocery, meat, produce, baked goods, drugs, stationery or hardware products;
  - (ii) Barber and beauty shops;
  - (iii) Shops for the collection and distribution of clothing for dyeing and cleaning;
  - (iv) Banks;
  - (v) Restaurants, coffee and sandwich shops (excluding drive-ins, or fast food service types).
- I-405.2(b)** Business and/or professional offices for individual or group practice, including doctors and dentists, (including medical and/or dental clinics), lawyers, counseling services, engineers, architects, planners, insurance offices and accountants.
- I-405.2(c)** Veterinary clinics which may include facilities for overnight boarding or caring of animals provided that any such facility shall be designed, constructed and operated in such a manner so as not to be a nuisance to adjacent uses by way of noise or odor.
- I-405.2(d)** Automotive service station for the retail sales of automotive fuel products and which may include a garage area for repairs to automobiles only. Such uses shall be permitted only when the following conditions are complied with:
- (i) All fuel pumps and pump islands and all tanks for the storage of motor vehicle fuel shall be set back at least fifty (50) feet from all property lines.
  - (ii) All repair and service work, including car washing, but excluding emergency service and the sale of fuels, shall be conducted entirely within an enclosed building. Such repair services shall not include body or fender repair or paint spraying.
  - (iii) The outside storage or sale of wrecked vehicles shall not be permitted except where such vehicles are impounded on the premises at the direction of a duly authorized law enforcement agency. All such wrecked vehicles shall be removed from the premises without undue delay and may be stored only in an outside area which is screened with fencing and/or evergreen landscaping of such type and height as will shield the vehicles from view from the public highway or adjacent properties.

(iv) Any automotive service station shall be located at a minimum distance of two hundred (200) feet from any residential use, and further shall be located a minimum of one thousand five hundred (1500) feet from the nearest property line of any other automotive service station.

**I-405.2(e)** Wholesale and storage warehouses provided that all equipment, materials and products shall be stored within fully enclosed buildings.

**I-405.2(f)** Establishments offering indoor recreational activities and facilities (excluding video game arcades).

**I-405.2(g)** Laboratory, office and research facilities.

**I-405.2(h)** Component assembly or other handling of pre-manufactured products provided all such activities including the storage of materials and products is conducted within fully enclosed buildings.

**I-405.2(i)** General service or repair shops such as for jewelry, clocks, radios, televisions, small appliances, and bicycles.

### **I-405.3 GENERAL REQUIREMENTS**

Any use permitted in the Limited Commercial District by this ordinance may be proposed for location in the district by an applicant provided said proposed use shall comply with the following minimum requirements:

#### **I-405.3(a) Lot and Yard Requirements:**

- (i) The minimum lot size which may be proposed for development under this ordinance shall be two (2) acres.
- (ii) Any lot proposed for development having principal access to the main highway (NH Route 13) shall have a minimum frontage of five hundred (500) feet along said highway.
- (iii) Any lot proposed for development having principal access to an access or frontage road connecting to the main highway, which road meets or exceeds the requirements for roadway construction contained in the Subdivision Regulations for the Town of Mont Vernon, shall have a minimum frontage of two hundred (200) feet along said access or frontage road.
- (iv) Principal and accessory buildings and structures located on any lot shall conform to the minimum yard requirement, shown on Table-405.3(a)(iv). Distances shall be measured along a line perpendicular to the lot line from that part of the building or structure nearest the lot line.



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**TABLE I-405.3(a)(iv) LIMITED COMMERCIAL DISTRICT**

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**Minimum Yard Regulations**

- A. Sixty (60) feet from the nearest edge of the right-of-way along NH Route 13:
- B. Thirty (30) feet from the nearest edge of the right-of-way along any access road or frontage road meeting the requirements specified in Table I-405.3(a)(iii) above.
- C. One hundred (100) feet from the nearest lot line of any property currently used for or zoned for residential use.
- D. Fifteen (15) feet from the nearest side lot line or rear lot line of the subject property.

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*[End of Table I-405.3(a)(iv)]*

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**I-405.3(b) Building and Site Covering**

- (i) The portion of the total area of the lot which may be covered by all buildings and structures located thereon, shall not exceed fifty per cent (50%).
- (ii) No building shall be constructed to a height greater than two and one-half (2-1/2) stories or thirty-five (35) feet, whichever is lesser, excepting that chimneys, ventilators, sky-lights and necessary mechanical apparatus usually located above roof level, may project not more than ten (10) feet above the roof upon which they are situated provided such apparatus is located so as to minimize visibility of same from the lot lines.
- (iii) The portion of the total area of the lot which may be covered by buildings and structures, parking areas, and driveways and access ways located thereon shall not exceed seventy per cent (70%).
- (iv) All portions of the lot which are not proposed as locations for buildings, structures, parking areas or access ways, or similar improvements shall be suitably landscaped and permanently maintained in such a manner as to minimize storm water runoff and to harmoniously blend such non-residential uses with their surrounding area and with the residential character of the Town as a whole.

**I-405.3(c) Exterior Storage and Display**

- (i) All exterior storage areas and/or equipment parking areas shall be fenced, screened, landscaped, or otherwise protected from view.

**I-405.3(d) Access and Parking**

- (i) There shall be no more than one access to any lot within the district, excepting that wherever desirable for traffic safety and beneficial to vehicular circulation, consideration shall be given to combining access points where two or more lots are being concurrently developed.
- (ii) Pursuant to (i) above, there shall be only one access road to the main highway (NH Route 13) per one thousand (1000) feet.
- (iii) Adequate parking and loading facilities shall be provided for a proposed use within the district. Said parking and loading facilities shall comply with the minimum setbacks shown in Table I-405.3(d)(iii) as well as conforming to the requirements and standards of Non-Residential Site Plan Review regulations of the Town of Mont Vernon.

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**TABLE I-405.3(d)(iii) LIMITED COMMERCIAL DISTRICT**  
**Minimum Setbacks for Parking & Loading Facilities**

- A. Forty (40) feet from the nearest edge of the right-of-way along NH Route 13.
- B. Twenty (20) feet from the nearest edge of the right-of-way along any access or frontage road other than the main highway.
- C. Fifty (50) feet from the nearest lot line of any property currently used for or zoned for residential use.
- D. Fifteen (15) feet from any lot line not otherwise specified in (A) through (C) above.

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- I-405.3(e)** All signs and/or exterior advertising shall comply with the requirements and standards set forth in the Non-Residential Site Plan Review Regulations of the Town of Mont Vernon.

**I-405.3(f) Other Requirements**

- (i) Any permitted limited commercial use of land within the district shall not generate nor create objectionable, noxious or offensive conditions on or around the lot on which it is situated-by way of odor, fumes, dust, smoke, noise, light, traffic congestion. In order to minimize the potentially objectionable external aspects of business and commercial uses, and to eliminate potentially hazardous and unsafe conditions, the Planning Board shall adopt

such standards and regulations as it may deem necessary to make proper evaluation of any proposed use according to the above criteria.

- (ii) Any person or firm proposing to locate a use or construct a building or structure within the Limited Commercial District shall first submit a site plan of the proposed use and improvements to the Planning Board for consideration pursuant to the Non-Residential Site Plan Review Regulations of the Town of Mont Vernon. No building permit shall be issued to any applicant unless and until such time as a site plan for the proposed building and use has been approved by the Planning Board pursuant to the provisions of this ordinance and the Non-Residential Site Plan Review Regulations of the Town. The Planning Board, after holding a public hearing upon an application for site plan review, shall approve, approve with modifications, or disapprove said site plan. The Planning Board may attach such reasonable conditions to said approval which may be necessary to ensure continued compliance with this ordinance and other applicable regulations. A record of the Planning Board's decision on said application, along with any conditions, modifications or reasons for disapproval, shall be entered in the minutes at which such action was taken.

## **I-406            NON-RESIDENTIAL ZONING**

**I-406.1** Site plan review authority provides the basis for controlling non-residential development in the interest of the public health, safety and welfare. The capacity to authorize and enable the planning board to exercise site plan regulatory authority is authorized by the State of New Hampshire (NH) Revised Statutes Annotated (RSA) 674:43(I) and this ordinance was promulgated to constitute such authority as well as to identify the scope of the site plan review authority available to the board, the latter being authorized by RSA 674:43 (IV).

**I-406.2 Purpose.** The purpose of this ordinance is to provide, pursuant to NH RSA 674:43 (IV), the Planning Board the standards and thresholds for determining the eligibility of a non-residential site use for a non-residential site plan review.

A non-residential use may be for the development, redevelopment, change or expansion of uses on tracts of land for all uses other than single family residences. This ordinance applies whether or not such development includes a subdivision or re-subdivision of land. The regulations set forth herein are intended to protect the public health and safety, promote the general welfare of the community and conserve the environment by assuring that non-residential use is employed in a manner which assures that adequate provisions are made:

- for traffic safety and access
- pedestrian and bicycle safety and access
- emergency access

- water supply
- sewage disposal
- site aesthetics
- management of stormwater, erosion, and sedimentation
- protection of groundwater; protection of wildlife habitat, fisheries and unique natural areas
- protection of historic and archaeological resources
- reduction of adverse impacts on adjacent properties
- harmonious placement into the fabric of the community

**I-406.3 Authority.** This ordinance is adopted pursuant to the authority given municipalities in NH RSA 674:43 as well as in NH RSA 674:21.

#### **I-406.4      Applicability**

**I-406.4.1 Uses Requiring Site Plan Review.** All non-residential uses of land and multifamily structures (except the exempt uses listed in Section I-406.4.2 below) shall require a site plan review by the Mont Vernon Planning Board according to the Mont Vernon Non-Residential Site Plan Review regulations (which regulations shall be adopted by the planning board in accordance with NH RSA 674:44), whether or not such development includes a subdivision or re-subdivision of land, and whether or not structures are proposed. Where structures are proposed, no building permit shall be issued until the site plan is approved by the planning board. Specific developments that require site plan review shall include, but are not limited to, the following:

- a. The construction or placement of any new non-residential structure, including accessory structures, of a total floor area of one thousand (1,000) square feet or more.
- b. The expansion of an existing non-residential structure, including accessory structures that increase the total floor area.
- c. The conversion of an existing building, in whole or in part, from a residential use to a non-residential use or a mixed use.
- d. The establishment of a new non-residential use even if no structures are proposed, including uses such as gravel pits, cemeteries, golf courses and other nonstructural non-residential uses.
- e. The conversion of an existing non-residential use, in whole or in part, to another non-residential use if the new use changes the basic nature of the use such that it increases the intensity of on- or offsite impacts.
- f. The construction of a multifamily structure or the conversion of an existing residential structure to a multifamily structure. Planning board approval does not remove the requirement for a special exception from the Zoning Board of Adjustment for multifamily structures.
- g. The construction or expansion of paved areas or other impervious surfaces, including walkways, access drives and parking lots, involving more than 10% of the lot area. If such construction is planned as part of a subdivision then the subdivision review process will constitute site plan review provided that the board is made aware that planned impervious surfaces will cover more than 10% of the lot area.

**I-406.4.2 Exempted Uses.** The following activities shall not require site plan approval. Certain of these activities will, however, require the owner to obtain a building permit, plumbing permit or other state or local approvals:

- a. Agricultural activities, including agricultural structures. Large commercial "farm-stands" in which 35% or more of the items for sale are not produced within the municipality shall, however, require site plan review if they otherwise meet the criteria for site plan review.
- b. Timber harvesting and forest management activities.
- c. Activities involving non-residential buildings or activities that are specifically excluded from review by the provisions of this Section.
- d. Home businesses as defined in this ordinance, unless in the process of granting a special exception the ZBA determines that site plan approval by the planning board is required.

### **I-406.4.3 HOME BUSINESS**

**I-406.4.3.1 DEFINITION.** A home business is a business operated by an individual within that individual's existing principal or existing accessory structure.

**I-406.4.3.2 PURPOSE.** The intent of this Ordinance is to establish guidelines for the operation of home businesses.

- (a) The home business shall be carried on by members of the family. Any combination of numbers of employees who are not part of the family, may be employed if their combined work hours do not exceed forty (40) hours per week.
- (b) There shall be no exterior display, no exterior storage of materials, and no other exterior indications of the home occupation, other than permitted signs, or variation from the residential character of the principal or accessory building.
- (c) Business hours for each individual business may be limited.
- (d) The home business shall be compatible with character of the neighborhood.
- (e) Objectionable circumstances such as noise, vibration, smoke, dust, electrical disturbances, odors, heat, or glare shall not be produced.
- (f) No traffic shall be generated by such activity in substantially greater volume than would normally be expected in the neighborhood.
- (g) Parking shall be provided off-street and shall not be located in the front yard or within the required setback from side and rear lot lines. Existing driveways may be used for parking of clients, but where additional parking is desired, a maximum of three (3) additional spaces is permitted in side or rear yards.
- (h) The permit to engage in a home business shall be issued to the petitioner only. The permit shall not be transferable upon the sale of said structure or the transfer of deed of said structure.

### **I-406.4.3.3 PERMITTED HOME BUSINESSES**

- (a) No building shall be expanded or remodeled to accommodate a home business without site plan review by the Planning Board and Certificate of Occupancy.
- (b) Home Business may only be permitted where a Special Exception is granted by the Zoning Board of Adjustment. The ZBA shall conduct a public hearing on any such request for a special exception and, in addition to any other criteria for the granting of such exception that may be provided for in this Ordinance they shall insure that the proposed home business complies with the specific terms identified in this section. The ZBA is empowered to impose

such conditions and limitations on the operation of the home business as may be necessary to insure that the purpose and intent of this regulation is met, including but not limited to conditions calculated to see to it that the home business remains a use which is 'accessory' to the underlying residential use of the premises. If the ZBA determines that site plan approval by the planning board is required, the planning board, in the exercise of site plan review may also impose conditions, but shall not do so in a manner that conflicts with those imposed by the ZBA.

#### **I-406.4.3.4 SIGNS**

(a) Each home business may erect one (1) exterior sign up to six (6) square feet in size. If the sign is mounted or hung from a pole, projects from the house, or is otherwise constructed so that it may be viewed from two (2) sides, it may use up to six (6) square feet of display on each side.

(b) If the home business is carried out in an accessory structure (i.e. garage, barn) which is set back more than one hundred (100) feet from the road (nearest adjacent right-of-way) one (1) additional sign of four (4) square feet may be attached to the accessory structure.

(c) No internally lit signs shall be permitted. The written message shall be limited to the name and function of service of the home occupation.

**I-406.4.4 Uncertain Applicability**. In cases where there is uncertainty as to whether a development proposal is subject to site plan review, the Planning Board shall hold a pre-application discussion and make a determination, by majority vote to be recorded in the public record, as to whether site plan review is required, and what level of review is necessary.

### **I-407 NON-CONFORMING USE**

**I-407.1** A non-conforming structure or use may be continued as it exists at the time of the passage of this Ordinance, subject to the following provisions:

#### **I-407.1(a) Changes**

- (i) No non-conforming use shall be changed to another non-conforming use.
- (ii) Once changed to a conforming use, no building or land shall revert to a non-conforming use.

#### **I-407.1(b) Discontinuance**

- (i) Whenever a non-conforming use has been discontinued for a period of one (1) year such use shall not thereafter be reestablished, and any future use shall conform with provisions of this Ordinance.

## **ARTICLE 5 - ADMINISTRATION AND ENFORCEMENT**

### **I-501 ENFORCEMENT**

**I-501.1** It shall be the duty of the Board of Selectmen and the Board is hereby given powers and authority to enforce the provisions of this Ordinance.

**I-501.2** Upon any well-founded information that this Ordinance is being violated, the Selectmen shall, on their own initiative, take immediate steps to enforce the provisions of this Ordinance by seeking an injunction or other legal action. Any other person or persons aggrieved may take this action on their own initiative after failure of the Selectmen to act for thirty (30) days after having been notified.

**I-501.3** Any persons violating any of the provisions of this Ordinance shall be subject to a fine of not more than fifty (\$50.00) dollars for each day such violation exists.

### **I-502 BOARD OF ADJUSTMENT**

Within thirty (30) days after the adoption of this ordinance and thereafter as terms expire or vacancies occur, the Board of Selectmen shall appoint a Board of Adjustment of five (5) members, conforming in duties and terms to the provisions of RSA 673:3.

## **I-502.1 SPECIAL EXCEPTIONS**

The Board of Adjustment may, after public hearing with notice to abutters by mail, in appropriate cases and subject to appropriate conditions and safeguards, grant a permit for a special exception. The Board, acting on an application for a special exception, shall take into consideration the following conditions:

**I-502.1(a)** The specific site as an appropriate location for such use.

**I-502.1(b)** The use as developed will not adversely affect the neighborhood.

**I-502.1(c)** There will be no nuisance or serious hazard to vehicles or pedestrians.

**I-502.1(d)** Adequate and appropriate facilities will be provided for the proper operation of the proposed use.

**I-502.1(e)** The use would not be seriously detrimental or offensive to owners of adjoining property or to the Town, nor would it tend to radically reduce property values of adjoining or other property in the immediate vicinity.

## **I-502.2 VARIANCE**

The Board of Adjustment may, after public hearing with notice to abutters by mail, authorize a variance from the terms of the Ordinance only where the Board finds that all the following conditions apply:

**I-502.2(a)** There are special circumstances or conditions applying to the land or building for which the variance is sought (such as, but not limited to, the exceptional narrowness, shallowness, or the shape of property in question, or exceptional topographical conditions), which are peculiar to such land or building; and the application of the requirements of the Ordinance will deprive any owner of such property of a reasonable use of it and will impose upon such owner a hardship not shared by the owners of other property in the same district.

**I-502.2(b)** The specific variance as granted is the minimum variance that will grant reasonable relief to the owner and is necessary for a reasonable use of the land or building.

**I-502.2(c)** The granting of the variance will be in harmony with the general purposes and intent of this Ordinance, and with the convenience, welfare, and character of the district within which it is proposed, and will not be injurious or otherwise detrimental to the public welfare.

**I-502.3** All special exceptions issued pursuant to Article 5, and all variances issued pursuant to Article 5, shall contain either of the following provisions:



**I-502.3(a)** That if construction is necessary, said construction must be commenced within six (6) months of the date of issuance of the exception or variance, and completed within one (1) year of said issuance, or the exception or variance shall expire of its own accord without further action by the Board.

**I-502.3(b)** That if a change in the land use is permitted by said variance or special exception, said change must be implemented within six (6) months of the date of issuance, or the exception or variance shall expire of its own accord without further action by the Board. *(As amended March 7, 1972)*

**I-502.4** A five-dollar (\$5.00) filing fee payable to the Town of Mont Vernon shall accompany each application for a variance or a special exception.  
*(As amended March 7, 1971.)*

### **I-503 DEFINITIONS**

**I-503.1** The Glossary included with these regulations as **Appendix A**, incorporated here by reference.

### **I-504 SECTION NUMBERING OF ORDINANCE**

**I-504.1** The planning board shall have the authority to assign such section numbers to the Zoning Ordinance as it may deem appropriate provided that no substantive change to the ordinance shall occur as a result of any such renumbering.

### **I-505 AMENDMENTS**

**I-505.1** This Ordinance and the boundaries of the districts shown on the Zoning Map may be amended at any Town Meeting in accordance with the provisions of New Hampshire Revised Statutes Annotated, Sections 675:3 and 675:4, as amended in the laws of 1983.

### **I-506 SEPARABILITY CLAUSE**

**I-506.1** The invalidity of any provisions of the Ordinance shall not affect the validity of any other provision.

### **I-507 REPEALER**

**I-507.1** All ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed.

### **I-508 WHEN EFFECTIVE**

**I-508.1** The effective date of this Ordinance or any amendments thereof shall be the date of adoption by vote of Town Meeting of such Ordinance or amendment.

**ARTICLE VI -  
MANAGED COMMERCIAL AND CONSERVATION ZONE**

**I-601.1 PURPOSE AND INTENT**

The purpose of the Managed Commercial and Conservation Zone (MCCZ) is to enable compatible development within the portion of the New Boston Air Station (NBAS) located within the municipal boundaries of the Town of Mont Vernon. It is hereby declared that the MCCZ will have the public purposes of enabling development that will contribute to the non-residential tax base of the community while preserving the biodiversity of the overall site.

I-601.1(a) The NBAS site is a diverse natural environment consisting of an unfragmented wildlife habitat that hosts a number of rare, threatened and endangered species;

I-601.1(b) It is in the best interest of the Town and the natural environment to provide for development that will minimize disturbance of the overall site to the greatest practicable extent;

I-601.1(c) These goals are best achieved through zoning that will enable a reasonable use of the property within a smaller contiguous portion of the site, while retaining the overall portion of the site within the Town of Mont Vernon as a singular lot.

**I-601.2 PERMITTED USES**

There are no permitted uses within the NBAS.

**I-601.3 SPECIAL EXCEPTION USES**

The following uses are permitted by special exception in the NBAS:

**I-601.3(a)** Office parks oriented in a campus like design, intended for corporate offices.

**I-601.3(b)** Business and/or professional offices for individual or group practice, including doctors and dentists (including medical and/or dental clinics), lawyers, counseling services, engineers, architects, planners, insurance officers, and accountants.

**I-601.3(c)** Veterinary clinics which may include facilities for overnight boarding or caring of animals provided that such facility shall be designed, constructed and operated in such a manner so as not to be a nuisance to adjacent uses by way of noise or odor.

**I-601.3(d)** Laboratories, office and research facilities.

**I-601.3(e)** Retreat facilities for corporations or other business institutions that provide temporary lodging for visitors who intend to take advantage of the recreational opportunities available on the site.

## **I-601.4**

### **GENERAL REQUIREMENTS**

#### **I-601.4(a) LOT AND YARD REQUIREMENTS**

- (i) All development within the MCCZ shall occur only within the development envelope, defined as an area designated on the Official Zoning Map of the Town of Mont Vernon within the MCCZ where the construction of buildings, structures, parking areas of accessways, or similar improvements is permitted.
- (ii) New buildings, associated structures, and parking areas may be constructed only within the development envelope.
- (iii) The portions of the MCCZ located within the Town of Mont Vernon shall not be further subdivided into additional lots.
- (iv) Structures or units within the development envelope may be leased or sold to other parties provided that legally binding agreements are established that ensure the ongoing maintenance of all infrastructure, natural resources, and to ensure the ongoing compliance of any conditions of approval imposed upon the development. The leasing or sale of any structures or units within the development envelope shall require the approval of the Planning Board to ensure ongoing maintenance obligations.
- (v) The portion of the development envelope that may be covered by buildings, structures, parking areas, and driveways and accessways located thereon shall not exceed seventy percent (70%).
- (vi) All portions of the development envelope which are not proposed as locations for buildings, structures, parking areas or accessways, or similar improvements, shall be suitably landscaped and permanently maintained in such a manner as to minimize storm water runoff.
- (vii) There shall be no minimum road frontage, setback or height requirements for structures located within the development envelope. The Planning Board may limit the size and configuration of building, associated structures and parking areas if it finds that the proposal shall not enable safe access to the site, shall be in contradiction with the management plan for the parcel, or will in any way jeopardize the integrity of natural resources found within the site. In making this finding, the Planning Board may hire consultants at the applicant's expense to review materials submitted in the application.

#### **I-601.4(b) ROADS**

- (i) Access to the development envelope shall be through the existing roadway identified on the zoning map. The roadway constructed to the minimum standards necessary to provide safe access and emergency services to the site for the use(s) proposed.

- (ii) The applicant shall provide a management plan for the maintenance of the roadway during the after construction phases.
- (iii) Any other access to the site shall be for emergency purposes only. The proposed emergency access shall not be accessible to the general public and shall include mechanisms designed to prevent through traffic from the development envelope.

**I-601.4(c) OTHER REQUIREMENTS**

- (i) Any development within the MCCZ shall be subject to site plan review by the Planning Board in accordance with the requirement of this zoning ordinance.
- (ii) The applicant shall provide a management plan that will address the ongoing maintenance of portions of the site that are located within the MCCZ. The Planning Board, based upon a recommendation of the Conservation Commission, in approving the management plan, shall make an affirmative finding that the management plan shall provide for the ongoing maintenance and environmental integrity of the zone. The management plan shall be sufficient in detail as to define activities that can occur outside of the development envelope, and how such activities shall be carried out in a manner consistent with the conservation of the portions of the zone found outside of the development envelope.
- (iii) Any development to occur within the MCCZ shall be conducted in such a manner so as not to adversely affect the biodiversity of the portions of the site located outside of the development envelope. A study shall be conducted by a natural scientist, biologist, or other professional deemed acceptable by the Planning Board that details the affects to wildlife, rare, threatened and endangered species shall be submitted, with proposed mitigation.
- (iv) All development on the site, including the development of the roadway, shall provide the Planning Board with a stormwater management plan that minimizes erosion and sedimentation and maximizes on-site infiltration of stormwater runoff. All stormwater management and erosion control measures shall be designed in accordance with the *Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire*., Rockingham County Conservation District, 1992, as amended.
- (v) Any development that occurs within the NBAS shall be treated as a project of regional impact in accordance with RSA 36:54-58.

*[Adopted March 14, 2000]*

## **ARTICLE 7**

### **Floodplain Management**

#### **I-701 - PURPOSE**

Certain areas of the Town of Mont Vernon, New Hampshire are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968. Therefore, the Town of Mont Vernon, New Hampshire has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as detailed in this Floodplain Management Ordinance.

This Ordinance establishes a permit system and review procedure for development activities in the designated flood hazard areas of the Town of Mont Vernon, New Hampshire.

#### **I-702 - ESTABLISHMENT**

This ordinance, adopted pursuant to the authority of RSA 674:16, shall be known as the Town of Mont Vernon Floodplain Management Ordinance. The regulations in this ordinance shall overlay and supplement the regulations in the Town of Mont Vernon 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 Study for the County of Hillsborough, N.H." dated September 25, 2009, or as amended, together with the associated Flood Insurance Rate Maps dated September 25, 2009 or as amended, which are declared to be a part of this ordinance and are hereby incorporated by reference. (*Amended 8/24/10*)

#### **I-703 - PERMITS**

All proposed development in any special flood hazard area shall require a permit. This ordinance shall be administered by the building inspector.

#### **I-704 - CONSTRUCTION REQUIREMENTS**

The Building Inspector 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:

- a. 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,

- b. be constructed with materials resistant to flood damage,
- c. be constructed by methods and practices that minimize flood damages,
- d. 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.

#### **I-705 - WATER AND SEWER SYSTEMS**

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 Building Inspector 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.

#### **I-706 - CERTIFICATION**

For all new or substantially improved structures located in special flood hazard areas, the applicant shall furnish the following information to the Building Inspector:

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

The Building Inspector shall maintain the aforementioned information for public inspection, and shall furnish such information upon request.

#### **I-707 - OTHER PERMITS**

The Building Inspector 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 or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U. S. C. 1334.

#### **I-708 – WATERCOURSES (or WETLANDS)**

1. In riverine situations, prior to the alteration or relocation of a watercourse the applicant for such authorization shall notify the Wetlands Bureau of the New Hampshire Department of Environmental Services and submit copies of such notification to the Building Inspector, in addition to the copies required by the RSA 482-A: 3. Further, the applicant shall be required to

submit copies of said notification to those adjacent communities as determined by the Building Inspector, including notice of all scheduled hearings before the Wetlands Bureau and the Mont Vernon Planning Board.

2. The applicant shall submit to the Building Inspector 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 Building Inspector shall obtain, review, and reasonably utilize any floodway data available from Federal, State, or other sources as criteria for requiring that all development located in 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."

### **I-709 - SPECIAL FLOOD HAZARD AREAS**

1. In Zone A the Building Inspector 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 plan approvals).
2. The Building Inspector'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 flood proofed 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.
    - (iv) All recreational vehicles placed on sites within Zone A 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 Article I-703 of this ordinance and the elevation and anchoring requirements for "manufactured homes" in Article I-709 (2) (c) of this ordinance.

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

- e. 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:
  - (i) the enclosed area is unfinished or flood resistant, usable solely for the parking of vehicles, building access or storage;
  - (ii) the area is not a basement; and
  - (iii) 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.

**I-710 - VARIANCES AND APPEALS**

1. Any order, requirement, decision or determination of the Building Inspector 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 that:
    - a. the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense;
    - b. if the requested variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result; and
    - c. the variance is the minimum necessary, considering the flood hazard, to afford relief.
- The Zoning Board of Adjustment shall notify the applicant in writing that:
    - (vi) 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

b. 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:

1 maintain a record of all variance actions, including their justification for their issuance; and

b. report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.

#### **I-711 - SEVERABILITY**

The invalidity of any section or provision of this Ordinance shall not invalidate any other section or provision thereof.

#### **I-712 - ENFORCEMENT**

It shall be the duty of the Board of Selectmen (or their designee) to enforce and administer the provisions of this Ordinance in accordance with RSA 676.

#### **I-713 - DEFINITIONS**

The following definitions shall apply only to this Floodplain Management Ordinance, and shall not be affected by the provisions of any other ordinance of the Town of Mont Vernon.

- (viii) "Area of Special Flood Hazard" is the land in the floodplain within the Town of Mont Vernon subject to a one-percent or greater possibility of flooding in any given year. The area is designated as Zone A on the FHBM or as Zone A on the FIRM.
- (ix) "Base Flood" means the flood having a one-percent possibility of being equaled or exceeded in any given year.
- (x) "Basement" means any area of a building having its floor subgrade on all sides.
- (xi) "Building" - see "structure".
- (xii) "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, excavating or drilling operation or storage of equipment or materials.
- (xiii) "FEMA " means the Federal Emergency Management Agency.

- (xiv) "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, or
  2. the unusual and rapid accumulation or runoff of surface waters from any source.
- (xv) "Flood Hazard Boundary Map" (FHBM) means an official map of a community, issued by the Administrator, where the boundaries of the flood, mudslide (i.e., mudflow) related erosion areas having special flood hazards have been designated as Zone A.
- (xvi) "Flood Insurance Rate Map" (FIRM) means an official map of a community, on which the Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.
- (xvii) "Flood Insurance Study" (FIS) means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e. mudflow) and/or flood-related erosion hazards.
- (xviii) "Floodplain" or "Flood-prone area" means any land area susceptible to being inundated by water from any source (see definition of "Flooding").
- (xix) "Flood proofing" means any combination of structural and non-structural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures and their contents.
- (xx) "Floodway" - see "Regulatory Floodway".
- (xxi) "Functionally dependent use" means a use that 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.
- (xxii) "Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- (xxiii) "Historic Structure" means any structure that is:
  1. 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;
  2. 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;
  3. 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; or

4. 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, or
2. directly by the Secretary of the Interior in states without approved programs.

(xxiv) "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.

(xxv) "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 consecutive days. This includes manufactured homes located in a manufactured home park or subdivision.

(xxvi) "Manufactured Home Park or Subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

(xxvii) "Mean sea level" means the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum to which base flood elevations shown on a community's Flood Insurance Rate Maps are referenced.

(xxviii) "New construction" means, for the purposes of determining insurance rates, structures for which the start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

(xxix) "100-year flood" - see "base flood"

(xxx) "Recreational Vehicle" is defined as:

1. built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projection;
3. designed to be self-propelled or permanently towable by a light duty truck; and
4. designed primarily not for use as a permanent dwelling but as temporary living quarters for

recreational, camping, travel or seasonal use.

(xxxix) "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 cumulatively increasing the water surface elevation more than a designated height.

(xxxvii) "Special flood hazard area" - see "Area of Special Flood Hazard"

(xxxviii) "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.

(xxxix) "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 a 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.

(xxxv) "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.

(xxxvi) "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 that 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".

(xxxviii) "Violation" means the failure of a structure or other development to be

fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required under I-706 or I-709(2)(b) of this ordinance is presumed to be in violation until such time as that documentation is provided.

(xxxviii) "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, where specified, of floods of various magnitudes and frequencies in the floodplains. *(Added 3/10/09)*

**CHAPTER II**  
**WETLAND ZONING REGULATIONS**  
**FOR THE TOWN OF MONT VERNON**

**ARTICLE I - GENERAL**

**II-101** The Wetland Conservation District is hereby determined to be those areas identified and delineated as poorly drained or very poorly drained soils and as bodies of water as defined by the current high Intensity Soil Maps for New Hampshire: Standards and Origins and the current U.S. Fish and Wildlife Wetland Plant List which are on file at the Town offices and with the Planning Board. The Wetland Conservation District as herein defined is shown on a map or maps designated as the Town of Mont Vernon Wetland Conservation District Map and is a part of the "zoning Map" of the Town of Mont Vernon, New Hampshire.

**II-102** The Wetland Conservation District shall be considered as overlaying any other Districts established by this Ordinance. Any use permitted in the portions of the Districts so overlaid shall only be permitted subject to all provisions of this Section.

**II-103** In the event an area is incorrectly designated as being poorly drained or very poorly drained soils on the Town of Mont Vernon Wetland Conservation District Map and evidence to that effect is satisfactorily presented to the Town Planning Board, the restrictions contained in this Section shall not apply. Such evidence may be obtained by adequate on-site soil investigation and analysis conducted by a soils scientist qualified in field analysis.

**II-104** The Wetland Conservation District shall additionally include any wetland areas which are identified and delineated as poorly and very poorly drained soils whether or not the same are shown on the aforementioned Town of Mont Vernon Wetland Conservation Map. The Planning Board may, at the developer's sole expense, require the presentation of evidence from a soils scientist chosen by the Planning Board in the event the Planning Board feels the Town of Mont Vernon Wetland Conservation Map is inaccurate.

In all cases where the Wetland Conservation District is superimposed over another zoning district in the Town of Mont Vernon, that district whose regulations are the more restrictive shall apply.

**ARTICLE 2 - PURPOSE**

**II-201** In the interest of public health, convenience, safety and welfare, the regulations of this District are intended to guide the use of areas of land with extended period of high water tables:

**II-201.1** To control building and land uses on naturally occurring wetlands which would contribute to pollution of surface and ground water by sewage.

**II-201.2** To prevent the destruction of natural wetlands which provide flood protection, recharge of ground water supply, and augmentation of stream flow during dry periods.

**II-201.3** To prevent unnecessary or excessive expenses to the Town to provide and maintain essential services and utilities which arise because of inharmonious use of wetlands.

**II-201.4** To encourage those uses that can be appropriately and safely located in wetland areas.

### **ARTICLE 3 - USE REGULATIONS**

#### **II-301 PERMITTED USES**

Any of the following uses that do not result in the erection of any structure or alter the surface configuration by the addition of fill and that are otherwise permitted by the zoning ordinance:

**II-301.1** Forestry - tree farming;

**II-301.2** Agriculture, including grazing, farming, truck gardening and harvesting of crops; but not including stock piling of manure;

**II-301.3** Water impoundments and well supplies, public and private;

**II-301.4** Drainage ways - streams, creeks, or other paths of normal runoff water;

**II-301.5** Wildlife refuge;

**II-301.6** Parks and such recreation uses as are consistent with the purpose and intentions of **II-201** of this section;

**II-301.7** Conservation areas and nature trails;

**II-301.8** Open space as permitted by subdivision regulations and other sections of this ordinance.

#### **II-302 SPECIAL PROVISIONS**

**II-302.1** No septic tank or leach field may be constructed or enlarged closer than seventy-five (75) feet to any wetland.

**II-302.2** Each lot must contain a contiguous non-wetland area sufficient in size and configuration to support all existing and proposed structures and utilities such as wells and septic systems, including a primary and secondary leach field location.

## **ARTICLE 4 - APPLICATION FOR USES WITHIN THE WETLAND CONSERVATION DISTRICT**

**II-401 GRANT OF POWER.** The Planning Board, after proper public notice and public hearing, may grant approval in writing for the following uses within the Wetland Conservation District, the application for such uses being either part of an application otherwise before the Planning Board, or having been referred by the Building Inspector, the Road Agent, the Conservation Commission, or the Health Officer.

### **II-402 USES NOT ALLOWED WITHOUT PLANNING BOARD APPROVAL IN WETLAND CONSERVATION DISTRICT**

**II-402.1** Streets, roads, and other access ways and utility rights-of-way easements including power lines and pipe lines, in existing or proposed lots.

**II-402.2** A use not otherwise permitted in the Wetland Conservation District, which may include the erection of a structure, dredging, filling, draining, or otherwise altering the surface configuration of the land (in compliance with the NH State Dredge and fill Law, RSA 149:84).

### **II-403 CRITERIA FOR CONSIDERATION**

The applicant shall provide the following requirements for Planning Board consideration of approval:

**II-403.1** Evidence that the proposed use will not conflict with the purpose and intentions of Chapter II, Article 2.

**II-403.2** Evidence that the proposed use is otherwise permitted by the Zoning Ordinance.

**II-403.3** Wetlands impact study.

**II-403.4** Compensatory mitigation plan. In keeping with the objective of a “no overall net loss” policy, the applicant shall provide, at a minimum, one to one functional replacement of wetlands, meaning that for each project involving the filling or dredging of wetlands, other wetlands functions must be created or restored so that there is no net loss of values and functions. To the extent available and practicable, compensatory mitigation sites must be in the same watershed as the impacted wetlands.

**II-403.4.(a)** If, in the opinion of the Board, strict compliance with II-403.4 would cause more environmental impact than non-compliance, the Board may, waive the provisions of II-403.4.(a) to the extent it deems necessary to comply with the purpose of this ordinance.

**II-403.5** NH Dept. of Environmental Services approval.







**CHAPTER III**  
**SUBDIVISION REGULATIONS**  
**FOR THE TOWN OF MONT VERNON, NEW HAMPSHIRE**

**March, 1980**

**ARTICLE 1 - AUTHORITY**

**III-101** Pursuant to the authority vested in the Mont Vernon Planning Board by the voters of the Town of Mont Vernon by vote of the Town Meeting, March 9, 1965, and in accordance with the provisions of Chapter 674:35-42 (formerly Chapter 36, Sections 19-29, New Hampshire RSA, 1955), the Mont Vernon Planning Board adopts the following regulations governing the subdivision of land in the Town of Mont Vernon, New Hampshire.

**ARTICLE 2 - DEFINITIONS**

**III-201** The Glossary included with these regulations as **Appendix A**, is incorporated here by reference.

**ARTICLE 3 – PROCEDURE**

**III-301 APPLICATION PROCEDURE**

**III-301.1 Preapplication Preliminary Conceptual Consultation (optional).** As allowed by RSA 676:4-II(a), prior to application, a prospective applicant may opt to schedule a Preliminary Conceptual Consultation (preapplication discussion) with the Board. The purpose of the Preliminary Conceptual Consultation is intended to provide an open forum for discussion of the proposal in conceptual form only and in general terms such as desirability of types of development and proposals under the master plan. Such consultation shall not bind either the applicant or the board and statements made by planning board members shall not be the basis for disqualifying said members or invalidating any action taken. Such discussion may occur without formal public notice, but must occur only at a posted meeting of the Board.

**III-301.2 Preapplication Design Review (required).** As allowed by RSA 676:4-II(b), during Preapplication Review, the Board or its designee shall engage in nonbinding discussions with the applicant beyond conceptual and general discussions which involve more specific design and engineering details; provided, however, that the design review phase may proceed only after identification of and notice to abutters, holders of conservation, preservation, or agricultural preservation restrictions, and the general public as required by RSA 676:4-I(d). The cost of such notice shall be borne by the applicant. Statements made by planning board members shall not be the basis for disqualifying said members or invalidating any action taken.

**III-301.3** Preapplication review shall be separate and apart from formal consideration under RSA 676:4-I, and the time limits for acting under RSA 676:4-I(c) shall not apply until formal application is submitted under RSA 676:4-I(b).

**III-301.4 Application.** The applicant shall be required to present the formal application for a proposed subdivision in two phases: Review for Acceptance and Review for Approval. Prior to scheduling a public hearing, the applicant shall submit a complete Application Form, Administrative Requirements Checklist, Land Access Authorization Form, and Review for Acceptance Checklist to the Planning Board Administrative Assistant. Materials for consideration by the Board shall be submitted twenty (20) days prior to the scheduled hearing at which they will be discussed. Prior to commencement of Review for Approval, the applicant shall submit a Review for Approval Checklist. In cases where revised plans are submitted to the board, a list of revisions will accompany every revised plan.

**Review for Acceptance** is intended to address the suitability of the land being subdivided for septic systems and water supply and overall conceptual approach with respect to the Zoning Ordinances and the Master Plan. During Review for Acceptance, the Board shall determine whether the application is complete. Upon completion of the Review for Acceptance the Board shall vote on whether to accept the application. Acceptance of a proposed subdivision carries no assurance that approval will follow in the Review for Approval phase.

**Review for Approval** is intended to assure that all technical requirements, State approvals, and legal data are submitted as required. Upon completion of the Review for Approval the Board shall vote on whether to approve the application.

### **III-302 REVIEW FOR ACCEPTANCE**

**III-302.1** The Board shall, in the exercise of the authority granted pursuant to NH RSA 674:36, review all proposed subdivisions with a view toward determining the impact that the proposed subdivision will have on various Town services, and to that end, said Board shall also review all such subdivisions with a view toward determining whether such proposed subdivision, if permitted, would create one of the following conditions:

- (a) constitute a scattered or premature subdivision of land as would involve danger or injury to health, safety, or prosperity by reason of the lack of water supply, drainage, transportation, schools, fire department, or other public services;
- (b) necessitate an excessive expenditure of public funds for the supply of such services.

**III-302.2** If after such review, the Board determines that the proposed subdivision would cause either of the aforementioned conditions, then the Board shall so inform the applicant and indicate that the applicant may modify the proposal to avoid the aforementioned conditions and in so doing, the said Board may, considering all the circumstances, specify the extent to which the particular proposed subdivision

may be developed in any given year, as well as establish the minimum duration of time for the total development of such particular subdivision in order to assure harmonious development of the Town. The Board shall state in its records any modifications which it will require in the Review for Acceptance phase, or any reasons for disapproval. A copy of this record shall be sent to the applicant.

**III-302.3** During the Review for Acceptance, the Board shall determine whether the plan has potential regional impact according to NH RSA 36:55, and if so, proceed according to NH RSA 36:57.

**III-302.4** During the Review for Acceptance, the Board shall determine whether and when to schedule a site walk.

**III-302.5** The applicant shall submit a Review for Acceptance Checklist for the Board's review.

### **III-303 REVIEW FOR APPROVAL**

**III-303.1** The Board shall review the plat(s) submitted in the Review for Approval from the point of view of a total project. The applicant shall submit a Review for Approval checklist for the Board's review. Approval by the Board of the submission shall constitute an agreement between the Town and the applicant that subdivision and development of the land in question shall be done as detailed on the final plat(s). Deviation from the approved final plat requires the consent of the Board and submission of 6 paper copies of the plat "as built".

### **III-304 ACTION OF THE BOARD**

**III-304.1** After due notice as required by NH RSA 676:4 I(d), the Board shall hold a public hearing within thirty (30) days of the receipt of the application by the Administrative Assistant of the Board to determine if a submitted application is complete according to the board's regulation and shall vote upon its acceptance. Upon determination by the board that a submitted application is incomplete according to the board's regulations, the board shall notify the applicant of the determination in accordance with RSA 676:3, which shall describe the information, procedure, or other requirement necessary or the application to be complete. The applicant and abutters shall be notified of said hearing in a fashion consistent with NH RSA 676:4 I(d). This hearing shall commence Review for Acceptance of the subdivision plan, not formal approval.

**III-304.2** Upon determination by the board that a submitted application is complete according to the board's regulations, the board shall begin Review for Approval. The Board must act to approve, modify and approve, conditionally approve as provided in RSA 676:4-I(i) and III-304.3 below or disapprove the plat within 65 days of the receipt of the complete submission unless the time for action has been extended an additional ninety (90) days by the Selectmen or unless the applicant has waived the requirement for action within the time periods specified herein and consents to such extension as agreeable to both parties. If the Board fails to act

and has obtained no extension from the Selectmen or waiver from the applicant, then said applicant may obtain from the Selectmen, an order directing the Board to act within 30 days. Failure of the Board to act upon such order of the Selectmen, shall constitute grounds for the Superior Court, upon petition of the applicant, to issue an order approving the application, if the court determines that the proposal complies with existing subdivision regulations and zoning and other ordinances.

**III-304.3** The approved final plat shall be recorded with the Registrar of Deeds by the Planning Board or its agent, Hillsborough County prior to any sale or transfer of land within the subdivision. The recording of such approved plats shall, without further action, modify the official map of the Town of Mont Vernon. Such recording shall not constitute acceptance by the Town of any street, easement, or open space shown thereon. The Board may grant conditional approval of an application, but the plat will not be signed or recorded until all of the conditions have been met. If the applicant has not complied with the conditions of approval within one (1) year, the approval is considered null and void and the applicant must submit a new subdivision application.

**III-304.4** No street or open space will be accepted by the Town until such time as all improvements have been carried out as shown on the final plat, in accord with the requirements of these regulations, subject to any conditions established by the Planning Board at the time of final plat approval and compliance with all state and local regulations applicable thereto. Acceptance shall then take place only upon the acceptance by the Selectmen of the Town of a Warranty Deed to the premises so dedicated.

### **III-305 FOUR-YEAR EXEMPTION**

**III-305.1** Every plat approved by the Planning Board and properly recorded in the Registry of Deeds shall be exempt from all subsequent changes in subdivision regulations and zoning ordinance adopted by any city or town, except those regulations and ordinances which expressly protect public health standards such as water quality and sewage treatment requirements, for a period of 4 years after the date of recording; provided, however, that once substantial completion of the improvements as shown on the plat have occurred in compliance with the approved plat, or the terms of said approval, the rights of the owner or his successor in interest shall vest and no subsequent changes in subdivision regulations or zoning ordinances shall operate to affect such improvements; and further, provided, that:

**III-305.1(a)** Active and substantial development or building has begun on the site by the owner or his successor in interest, in accordance with the approved plat within 12 months after the date of approval, or in accordance with terms of said approval, and, if a bond or other security to cover the costs of roads, drains or sewer is required in connection with such approval, such bond or

other security is posted with the Town at the time of commencement of such development;

**III-305.1(b)** Development remains in full compliance with the public health regulations and ordinances specified in this section; and

**III-305.1(c)** At the time of approval and recording, the plat conforms to the subdivision regulations and zoning ordinances then in effect at the site of such plat. (RSA 674:39)

### **III-306 CERTIFICATE OF FAILURE TO TAKE ACTION**

**III-306.1** The Town Clerk is hereby specified as the Municipal Officer who will issue on behalf of the Board a certificate of failure on the part of the Board to take action on approval or disapproval of the Plat submitted to it, as provided by RSA 676:4 (Supp.).

## **ARTICLE 4 - GENERAL REQUIREMENTS FOR THE SUBDIVISION OF LAND**

The subdivider shall observe the following general requirements and principles of land subdivision.

**III-401** The plan shall conform with Zoning Regulations, the Comprehensive Town Plan, the Official Map, and Historic District Regulations, if and when such are adopted, and any other pertinent state or local laws or regulations.

**III-402** In examining and passing upon a proposed subdivision, the Board may make recommendations to the subdivider relating to earth movement and retention of natural cover in order to preserve the natural beauty of Mont Vernon and its environment.

**III-403** Land of such character that it cannot be safely used for building purposes because of exceptional danger to health, peril from fire, flood or other menace, shall not be platted for residential occupancy, nor for such other uses as may increase danger to health, life or property, or aggravate the flood hazard until appropriate measures have been taken by the subdivider to eliminate such hazards. No natural drainage way shall be obstructed unless adequate means is taken to provide for the runoff.

### **III-404 STREETS** *(Repealed 9/23/08)*

~~**III-404.1** Streets shall be logically related to the topography so as to produce usable lots, reasonable grades and safe intersections in appropriate relation to the proposed use of the land to be served by such streets; where practicable, lots shall be graded toward the ditch line of the streets, where not practicable, adequate provisions shall be made to control the drainage of each lot by an adequate storm water system, subject to the approval of the Selectmen. *(Repealed 9/23/08)*~~

- ~~III-404.2~~ The arrangement of streets in the subdivision shall provide for the continuation of the principal streets in adjoining subdivisions, or for their proper projection when adjoining property is not subdivided and shall be of a width at least as great as that of such existing connecting streets, but in no case less than that required under ~~III-404.3~~ below. *(Repealed 9/23/08)*
- ~~III-404.3~~ No street or highway right-of-way shall be less than fifty (50) feet in width and may be required to be more or less if a greater or lesser street width is warranted in the opinion of the Board. Existing streets may be widened as if they were new streets, with one half of the additional widening to be required on each side. *(Repealed 9/23/08)*
- ~~III-404.4~~ Except where near future connections may be possible, dead-end streets shall not, in general, exceed six hundred (600) feet in length and shall be provided with a turn-around roadway at the closed end with a minimum radius of seventy five (75) feet from the center to the inside edge of the right-of-way. *(Repealed 9/23/08)*
- ~~III-404.5~~ No horizontal curves shall have a center line radius of less than one hundred and fifty (150) feet, except turn-arounds on a dead-end street. For changes in grade exceeding one percent (1%) a vertical curve shall be provided insuring a minimum sight distance of one hundred and fifty (150) feet. *(Repealed 9/23/08)*
- ~~III-404.6~~ Grades of all streets shall conform in general to the terrain and shall, so far as practicable, not exceed ten percent (10%). *(Repealed 9/23/08)*
- ~~III-404.7~~ Intersecting property lines at street intersections shall be joined by a curve of at least twenty five (25) foot radius. *(Repealed 9/23/08)*
- ~~III-404.8~~ Streets should be laid out to intersect as nearly as possible at right angles. No street shall intersect another with an angle of less than sixty (60) degrees. Streets entering opposite sides of another street shall be laid out either directly opposite one another, or with a minimum offset of one hundred twenty five (125) feet between their centerlines. *(Repealed 9/23/08)*
- III-405** Reserve strips of land which, in the opinion of the Board, show intent on the part of the Subdivider to control access to land dedicated or to be dedicated to public use shall not be permitted.
- III-406** The preliminary plan shall show the boundaries of proposed permanent easements for utilities over or on the property wherever topography permits, and the total width of such easements shall not be less than twenty (20) feet centered on the rear lot line with ten (10) feet provided from each lot. Such easements shall have satisfactory access to existing or proposed public ways. Water courses proposed for public control shall have a permanent easement of not less than twenty (20) feet.
- III-407** Areas set aside for parks and playgrounds to be dedicated or to be reserved for the common use of all property owners shall be a covenant in the deed, whether or not as required by the Board, shall be of reasonable size and character for neighborhood



playgrounds or other recreational use and shall be not less in minimum size that one (1) acre for each ten (10) dwelling lots indicated. Indication will be made of the size, location, and landscaping and planting of such areas.

~~III-408~~ Streets which join or are in alignment with streets abutting on neighboring properties shall bear the same name. Names of new streets shall not duplicate nor bear phonetic resemblance to the names of existing streets within the Town of Mont Vernon and shall be subject to the final approval of the Board of Selectmen. *(Repealed 9/23/08)*

~~III-409~~ Lots shall be laid out and graded to eliminate flood or stagnant water pools. No water shall be permitted to run across the street on the surface, but shall be directed into catch basins, if available, or otherwise into ditches, and shall be piped underground in a pipe of not less than eighteen (18) inches in diameter, or such size as may be deemed necessary by the Selectmen and in compliance with State highway specifications. *(Repealed 9/23/08)*

**III-410** It shall be the responsibility of the Subdivider to provide the Board with adequate information to prove that the area of each lot is adequate to permit the installation and operation of individual sewerage disposal system (septic tank and leach field or dry well, but not a cesspool), except where public sewer systems are available, and to prove that the area of each lot is adequate to permit the installation and operation of individual on-lot water systems, except where public or common water systems are available. Compliance will be made in all cases with the New Hampshire Department of Health Regulations titled "The Septic Tank System of Sewerage Disposal", copies of which are on file with the Secretary of the Board.

**III-410.1** Developers of Major and Minor Subdivisions, regardless of lot size, shall provide the Planning Board with copies of any and all information submitted to the NH WS&PCC for subdivision approval.

**III-410.2** High intensity soil surveys for plat layout (including septic system siting and wetland identification) are required. This regulation applies to subdivisions on which an on-site septic tank and leachfield system are to be used for sewerage disposal, and/or where wetland identification is required.

**III-410.3** In addition to any other town and state sewage disposal requirements for local subdivision and site plan reviews, or wetland zoning compliance, the following regulations shall apply:

**III-410.3(a)** Definitions:

(i) The Glossary included with these regulations as **Appendix A**, is incorporated here by reference.

**III-410.3(b)** Ground control shall be marked, by the applicant, both on the site and on the plat map(s). The ground control shall consist of numbered flags, stakes, wall, trees or other easily identifiable points on the property. These points will be well distributed throughout the site at a density of not less than

four (4) points per acre. The numbered points must be identified, by number, on the plat plan. The purpose of this requirement is to provide easy identification for all parties required or interested in examining the site.

**III-410.3(c)** The location of all existing and proposed buildings, accessory buildings driveways, sewer lines, water lines, and public and private roads and driveways on the site, and the general location of such features within 100 feet of its boundaries, shall be indicated on the plat plan.

**III-410.3(d)** High intensity soils (HIS) maps are to be provided for all site plans and for subdivisions, except those defined as "minor subdivisions" per RSA 676:4, III. Additionally, applicants may request the Planning Board to waive this requirement upon recommendation of the Hillsborough County Conservation District (HCCD) (Applicants request waiver of Planning Board, Planning Board requests recommendation of HCCD, Planning Board acts upon HCCD recommendation.)

(i) The HIS maps shall be prepared by a qualified soils scientist.

(ii) A paper copy of the HIS survey shall be provided to the Planning Board. In addition to the soils information provided by the survey, the map shall have on it

- (a) the signature of the qualified soils scientist;
- (b) any qualifying notes made by a soils scientist.

(iii) If a soils classification provided on the HIS map is in dispute, the Planning Board may request an evaluation of the soils designations by the Hillsborough County Conservation District.

**III-410.3(e)** A 4,000 square foot leachfield area or an area two (2) times the required leachfield area (which ever is greater) shall be designated, reserved, and mapped on each lot.

(i) The designated leachfield area must be left open and is not to be used for the siting of any incompatible purpose, including but not limited to a driveway, or structures of any type. Parking areas may be located over the designated leachfield area when chambered systems are to be used.

(ii) The designated leachfield area shall be set back as required in **III-410.3(e)(iv)** from:

- (1) poorly and very poorly drained soils;
- (2) naturally deposited soils which have a seasonal high water table less than six (6) inches from the surface;
- (3) naturally deposited soils which have an impermeable layer closer than two (2) feet to the surface;
- (4) naturally deposited soils which have bedrock less than three (3) feet below the surface;

(5) drainageways, natural or manmade, perennial or intermittent; (6) open drainage structures intended to convey water, intermittently or perennially, including but not limited to roadside ditches, culvert openings, diversions and swales.

(iii) The designated leachfield area is required to be set back from all of the areas specified in **III-410.3(e)(ii)** as follows:

(1) seventy-five (75) feet if the designated leachfield area is entirely located in well drained soils, without a restrictive layer, or well-drained soil with a restrictive layer and slopes of less than eight percent (8%).

(2) one hundred (100) feet if the designated leachfield area is entirely or partially located in somewhat poorly drained soils, moderately well-drained soil, excessively drained soils, or soils with a restrictive layer and slope of eight (>8%) per cent or greater.

(iv) In addition, the designated leachfield area shall be setback one hundred (100) feet from open water bodies and perennial streams.

(v) In areas where the HIS survey indicates bedrock at less than three feet from the surface, sufficient test pits shall be made to ensure that the setback requirements established in **III-410.3(e)(ii)** and **-(iii)** can be met.

(vi) The designated leachfield area may not be placed on areas with finished slopes of over twenty-five percent (25%).

(vii) All septic systems within the Town of Mont Vernon must be designed by a registered professional engineer or a septic designer licensed by the NH WS&PCC.

~~**III-411** Street Construction, including pavement and drainage facilities, curbs and sidewalks, when required, shall be installed and constructed in accordance with the standard specifications of the Town of Mont Vernon and in all cases must be constructed under the supervision of the Selectmen and in compliance with State highway specifications. (Repealed 9/23/08)~~

~~**III-411.1**~~

~~Utility lines within all major subdivisions (Three or more lots) shall be by underground service and the cost of such installation shall be bonded in the same manner as roads. (Adopted 9-24-96) (Repealed 9/23/08)~~

**III-412** Before such approval of a subdivision by the Board, the necessary improvements such as streets, storm drainage, and the extension of public water and sewer lines, etc., shall be guaranteed by the Subdivider by:

**III-412.1** Posting a bond of an amount sufficient to cover the cost of necessary construction.

**III-412.1(a)** If a bond is provided it shall be approved as to form and sureties by the legal counsel of the Town.

**III-412.2** Completing construction of all the agreed upon improvements prior to final approval of the plat by the Planning Board. No lot shall be sold prior to this final approval.

**III-412.3** Constructing all the agreed-upon improvements up to final grade by the Subdivider, and posting of a personal bank book of sufficient amount to cover the cost of completing the improvements.

**III-413** Building on any **Class VI road** shall conform to NH RSA 674:41.  
*(Added March, 1984)*

**III-414** Where strict conformity to the subdivision regulations would cause undue hardship or injustice to the owner of the land, a subdivision plan substantially in conformity with regulations may be approved by the Board, provided the spirit of the regulations, public convenience and welfare may not adversely be affected.

**III-420 STREETS (Public and Private)** Approval of the general development street plan is required before construction of any phase of the plan. The street plan will be designed by a professional engineer in plan, profile, and cross section views every fifty feet (50'). Except as described below, the street plan shall conform to the most current AASHTO's (American Association of State Highway and Transportation Officials) Guidelines for "A Policy on Geometric Design of Highways and Streets", AASHTO's "Guidelines for Geometric Design of Very Low-Volume Local Roads (ADT<400)", and NHDOT's "Standard Plans for Road and Bridge Construction". Any other variation shall be justified by engineering judgment and approved by the Board. *(Adopted 9/23/08)*

**III-420.1** General Considerations: All subdivisions shall have adequate provision for a safe and suitable access to a Class V or better road, or shall make the provisions for the construction and dedication of a Class V or better road, to obtain safe and suitable access to the subdivision. All streets in a subdivision shall conform to the Master Plan, and any and all other Town regulations, and shall compose a safe and convenient system in relation to other existing and planned streets, to the topographic conditions, and to the proposed uses of landed to be served by the street. Existing stonewalls shall be retained where possible or relocated and restored as required by the Board. *(Adopted 9/23/08)*

**III-420.2** Layout: Streets in the subdivision shall provide for the continuation of the principal streets in adjoining subdivisions, or for their proper projection when adjoining property is not subdivided and shall be of a width at least as great as that of such existing connecting streets, but in no case less than that required under **III-420.4** below. Streets should be laid out to intersect as nearly as possible at right angles. No street shall intersect another with an angle of less than

seventy-five degrees (75°). Streets entering opposite sides of another street shall be laid out either directly opposite one another, or with a minimum offset of one hundred twenty-five feet (125') between their centerlines. Where extension of existing roadways is proposed, the existing turnaround shall be removed in its entirety. *(Adopted 9/23/08)*

**III-420.3** Dead-End Streets: Except where near future connections may be possible, streets designed to be dead-end streets shall not exceed one thousand feet (1,000') in length and shall be provided with a turn-around roadway at the closed end with a minimum radius of one hundred feet (100') to the centerline of the road. This shall not preclude the use of hammerheads or other means of providing an adequate turn-around roadway. *(Adopted 9/23/08)*

**III-420.4** Right-of-Way: The minimum width of street right-of-way shall be fifty feet (50') in width and may be required to be more if a greater street width is warranted in the opinion of the Board. Existing street right-of-way may be widened as if they were new streets, with one-half of the additional widening to be required on each side. Intersecting right-of-way lines at street intersections shall be joined by a curve of at least twenty-five foot (25') radius. *(Adopted 9/23/08)*

**III-420.5** Right-of-Way Bounds: Granite bounds shall be installed at each point of curvature (PC), point of tangent (PT) and changes in property at all intersections of street, at all points of change in direction and at any other points the Board deem necessary to designate. External boundaries, right-of-way lines, block corners etc., of a subdivision shall set in the field by bounds. These bounds shall be placed not more than one thousand four hundred feet (1,400') apart in any straight line and at all corners, at each end of all curves, at the point a curve changes its radius, and at all angle points in any line. The bounds shall be of granite, not less than thirty-six inches (36") in length, not less than four inches (4") square, and marked on top with a cross, brass plug, iron rod, or other durable material securely imbedded. Bounds shall be set flush with finished grade. No permanent bounds shall be set until all construction which would disturb or destroy the monuments is completed. There shall be two (2) bounds set at opposite ends of the subdivisions whose tops are at an even foot in reference to the U.S.G.S. Datum Plan where practical, or to an assumed Datum where the preceding is not feasible. All monuments must reference the State Plane coordinate system. *(Adopted 9/23/08)*

**III-420.6** Horizontal Alignment: No horizontal curves shall have a centerline radius of less than one two hundred feet (200'), except turn-arounds on a dead-end street. A minimum tangent of fifty feet (50') is required between reverse curves. AASHTO design guidelines are to be used for determining tangent lengths for superelevated curves. *(Adopted 9/23/08)*

**III-420.7** Vertical Alignment: Grades of all streets shall conform in general to the terrain and shall, so far as practicable, not be less than one percent (1.00%) or to exceed ten percent (10.00%). For changes in grade exceeding one percent (1.00%) a vertical curve shall be provided insuring a minimum sight distance of one hundred

and fifty feet (150'). The maximum grade within one hundred feet (100') on an intersection is not to exceed two percent (2.00%). (*Adopted 9/23/08*)

**III-420.8** Streets Names: All streets shall be named to comply with the provisions of the "Enhanced 911 System" (RSA 106-H:2 and RSA 106-H:10). Streets which join or are in alignment with streets abutting on neighboring properties shall bear the same name. Names of new streets shall not duplicate nor bear phonetic resemblance to the names of existing streets within the Town of Mont Vernon and shall be subject to the final approval of the Board of Selectmen. (*Adopted 9/23/08*)

**III-420.9** Street Signs, Markers, and Markings: The location, type of sign/marker, and street markings shall be in accordance with the Manual on Uniform Traffic Control Devices (MUTCD). All private roads, including driveways serving more than one house lot, shall be signed as 'Private Way – Not Maintained by Town', or alternate verbage as designated by the Planning Board or Board of Selectmen. Required signage shall be in place and clearly visible before any building permits are issued for lots served by the road or driveway. (*Amended 4/13/10*)

**III-420.10** Street Light: Street lights shall be provided if required by the Board. (*Adopted 9/23/08*)

**III-420.11** Guardrail: Guardrail shall be used in locations where the New Hampshire Department of Transportation's typical warrant for guardrail is met and/or as required by the Board. Guardrail shall be metal beam on wood posts, meeting State Specification 606 and, as applicable, State Plans GR-1 through GR-8. All guardrail installation must end safely using a Modified Eccentric Loader Terminal "MELT"-type unit. Flared Energy Absorbing Terminal "FLEAT" or Eccentric Loader Terminal "ELT"-type units may be permitted by the Road Department. (*Adopted 9/23/08*)

**III-420.12** Application for Technical Review: At a regularly scheduled meeting the Planning Board will review the application for completeness and determine its acceptability for further processing. The Board will determine the need for review and special investigative studies, and advise the applicant of the time and the need for financial support from the applicant. The Applicant shall pay those fees and charges, plus the costs of any required publications, costs of posting notices, and the cost of mailing notices of hearings. Failure to pay these costs, as specified, will be valid grounds for termination of consideration of the application. (*Adopted 9/23/08*)

### **III-421 PHASING**

All subdivisions accepted by the Mont Vernon Planning Board after (August 9, 2005) shall be limited as to the availability of building permits, in accordance with the schedule in III-421.1. A first phase will constitute one (1) year from the date of final approval and each subsequent year will constitute a subsequent phase. Applicants may request a waiver of the phasing schedule in writing. The Subdivision Phasing Schedule shall appear on the first page of the Mylar plan, to be recorded at the Registry of Deeds. The building inspector will retain a copy of the Subdivision Phasing Schedule, and grant building permits accordingly.

**III-421.1 SCHEDULE**

'If, in the judgment of the Board, the proposal is likely to have a significant impact on some aspect of the town's ability to provide municipal services, so as to require an excessive expenditure of funds to provide the same, now or in the future, the Board may require the applicant to provide fiscal, environmental or other studies of such impact as may be necessary to enlighten the board as to the consequences of the development. Such studies may be conducted by experts of the board's choosing and the costs for such studies shall be charged against the applicant as an additional fee. If, following the receipt, consideration and review of the required studies, the board concludes that the proposal is going to have an impact on the town's ability to provide municipal services to such a degree as to require excessive expenditure of public funds to provide the same, then the board may either deny such applicant, if they deem the impact too great for the town to endure at this time, or they may impose such reasonable conditions on the approval as are necessary to mitigate or lessen the annual impact of the development on the proposal. To that end, and by the way of example and not by the way of limitation, the planning board may impose a 'phasing' requirement on the application in accordance with the schedule set forth herein, or such other schedule as the facts of the particular application may warrant.'

# Lots in Subdivision	Cumulative Permits				
	Year 1	Year 2	Year 3	Year 4	Year 5
2-3 .....	N/A				
4 .....	3	4			
5 .....	3	5			
6 .....	3	6			
7 .....	4	7			
8 .....	4	8			
9 .....	4	8	9		
10 .....	4	8	10		
11 .....	4	8	11		
12 .....	4	8	12		
13 .....	4	8	12	13	
14 .....	4	8	12	14	
15 .....	5	9	13	15	
16 .....	5	9	13	16	
17 .....	5	9	13	17	
18 .....	5	10	14	18	
19 .....	5	10	15	19	
20 .....	5	10	15	20	
21 .....	5	10	15	20	21
22 .....	5	10	15	20	22
23 .....	5	10	15	20	23
24 .....	5	10	15	20	24
25 .....	5	10	15	20	25

26+ =20% of total, i.e.20%.....40% ..... 60%.....80% ..... 100%

**III-421.2 ACCRUAL**

If a developer chooses to postpone development for any number of years, permits will accrue, provided that in any year no more than two years of accrued phased development occurs. In cases where development has been postponed more than two years, the building inspector shall grant building permits for no more than two accrued phases in one year. For example, a 25-lot subdivision with no permits requested in the first three years shall be limited to 10 per year in years 4 and 5, and 5 in year six. In accordance with NH RSA 674:39, if the first phase of development is not complete after four years from the date of approval, the building inspector will ensure the lots conform to current town regulations.

**III-421.3 CIRCUMVENTION**

In order to insure the intent of this ordinance, no individual, partnership, corporation, or other entity or its related or affiliated entities or in the case of individuals their relatives or persons associated in business, shall circumvent the purposes of phasing by dividing a parcel of land into separate subdivisions or separate forms or names of ownership.

**ARTICLE 5 - PROVISIONS FOR ADEQUATE CONTROL OF SOIL EROSION AND SEDIMENTATION IN THE DEVELOPMENT OF LAND**

**III-501 DEFINITIONS**

**III-501.I** The Glossary included with these regulations as Appendix A is incorporated here by reference.

**III-502 ACTIVITIES REQUIRING A CERTIFIED EROSION AND SEDIMENT CONTROL PLAN**

**III-502.I** A soil erosion and sediment control plan shall be provided for all site plans and for subdivisions, except those defined as "minor subdivisions" per RSA 676:4, III. Additionally, applicants may request the Planning Board to waive this requirement upon recommendation of the HCCD. (Applicants request waiver of Planning Board, Planning Board requests recommendation of HCCD, Planning Board acts upon HCCD recommendation.)

**III-503 EXEMPTIONS**

**III-503.I** A single family dwelling that is not a part of a subdivision of land shall be exempt from these soil erosion and sediment control regulations.

**III-504 EROSION AND SEDIMENT CONTROL PLAN**

**III-504.I** To be eligible for certification, a soil erosion and sediment control plan shall contain proper provisions to adequately control accelerated erosion and sedimentation and reduce the likelihood of excessive storm water runoff from the proposed site, based on the best available technology. Such principles, methods and practices necessary for certification are found in the Erosion and Sediment



Control Design Handbook for Developing Areas of New Hampshire (1981) as amended. Alternative principles, methods and practices may be used with prior approval of the Planning Board.

**III-504.2** Said plan shall contain, but not be limited to:

**III-504.2(a)** A narrative describing:

- (i) the development;
- (ii) the schedule for grading and construction activities including:
  - (1) start and completion date;
  - (2) sequence of grading and construction activities;
  - (3) sequence for installation and/or application of soil erosion and sediment control measures;
  - (4) sequence for final stabilization of the project site.
- (iii) the design criteria for proposed soil erosion and sediment control measures and storm water management facilities.
- (iv) the construction details for proposed soil erosion and sediment control measures and storm water management facilities.
- (v) the installation and/or application procedures for proposed soil erosion and sediment control measures and storm water management facilities.
- (vi) the operations and maintenance program for proposed soil erosion and sediment control measures and storm water management facilities.

**III-504.2(b)** A site plan map at a sufficient scale to clearly show:

- (i) the location of the proposed development and adjacent properties;
- (ii) the existing and proposed final topography including soil types, wetlands, watercourses and water bodies;
- (iii) the existing structures on the project site, if any;
- (iv) the proposed area alterations including cleared, excavated, filled or graded areas and proposed utilities, roads and, if applicable, new property lines, and the general location of proposed structures and driveways.
- (v) the location of and design details for all proposed soil erosion and sediment control measures and storm water management facilities;
- (vi) the sequence of grading and construction activities;
- (vii) the sequence for installation and/or application of soil erosion and sediment control measures;
- (viii) the sequence for final stabilization of the development site.

**III-504.2(c)** Any other information deemed necessary and appropriate by the applicant or requested by the Planning Board or its designated agent.

### **III-505 MINIMUM ACCEPTABLE STANDARDS**

**III-505.1** Plans for soil erosion and sediment control shall be developed in accordance with these regulations using the planning considerations specified on pages 3-1 to 3-3 of the Erosion and Sediment Control Design Handbook for Developing Areas of New Hampshire (1981), as amended. Soil erosion and sediment control plans shall result in a development that: minimizes erosion and sedimentation during construction; is stabilized and protected from erosion when completed; and does not cause off-site erosion and/or sedimentation.

**III-505.2** The minimum standards for individual measures are those in the Erosion and Sediment Control Design Handbook for Developing Areas of New Hampshire (1981), as amended. The Planning Board may grant exceptions when requested by the applicant if technically sound reasons are presented.

**III-505.3** The Soil Conservation Service method as outlined from Appendix 1 of the Erosion and Sediment Control Design Handbook for Developing Areas of New Hampshire (1981), as amended, shall be used in determining peak flow rates and volumes of runoff unless an alternative method is approved by the Planning Board.

### **III-506 ISSUANCE OF DENIAL OF CERTIFICATION**

**III-506.1** The Planning Board shall either certify that the soil erosion and sediment control plan, as filed, complies with the requirements and objectives of this regulation or deny certification when the development proposal does not comply with these regulations.

**III-506.2** Prior to certification, any plan submitted to the municipality may be reviewed by Hillsborough County Conservation District which may make recommendations concerning such plan, provided such review shall be completed within thirty days of the receipt of such plan.

**III-506.3** The Planning Board may forward a copy of the development proposal to the Conservation Commission, other review agency or consultant for review and comment.

### **III-507 CONDITIONS RELATING TO SOIL EROSION AND SEDIMENT CONTROL**

**III-507.1** The estimated costs of measures required to control soil erosion and sedimentation, as specified in the certified plan, may be covered in a performance bond or other assurance acceptable to the Planning Board.

**III-507.2** Site development shall not begin unless the soil erosion and sediment control plan is certified and those control measures and facilities in the plan scheduled for installation prior to site development are installed and functional.

**III-507.3** Planned soil erosion and sediment control measures and facilities shall be installed as scheduled according to the certified plan.

**III-507.4** All control measures and facilities shall be maintained in effective condition to ensure the compliance of the certified plan.

### **III-508 INSPECTION**

**III-508.1** Inspections shall be made by the Planning Board or its designated agent during development to ensure compliance with the certified plan and that control measures and facilities are properly performed or installed and maintained. The Planning Board may require the permittee to verify through progress reports that soil erosion and sediment control measures and facilities have been performed or installed according to the certified plan and are being operated and maintained.

## **ARTICLE 6 - PLAT REQUIREMENTS**

### **III-601 COMPLIANCE WITH REGULATIONS**

**III-601.1** No subdivision of land shall be made, and no land in any subdivision shall be sold or offered for sale or lease, and no street or utility construction shall be started until a final plat, prepared in accordance with the requirements of the regulations, has been approved by the Board, and other required permits have been issued.

**III-601.2** The applicant shall familiarize himself with all State and Town regulations relative to the health, buildings, roads and other pertinent data, so that he is aware of the obligations and standards expected.

### **III-602 CHARACTER OF LAND FOR SUBDIVISION**

**III-602.1** All land to be subdivided shall be, in the judgment of the Board, of such character that it can be used for building purposes without danger to public health or safety, or to the environment. Land subject to periodic flooding, poor drainage, or other hazardous conditions, shall not ordinarily be subdivided. Land with inadequate capacity for sanitary sewage disposal shall not be subdivided. Plats for the subdivision of land shall conform to all regulations of the Board, the Zoning Ordinance and the Water Pollution Control Regulations and other applicable bylaws, ordinances and regulations at both State and Local levels.

### **III-603 LOT LAYOUT**

**III-603.1** The layout of lots shall conform to the requirements of the Zoning Ordinance when in force and shall be appropriate for the intended construction.

### **III-604 PRESERVATION OF EXISTING FEATURES**

**III-604.1** Due regard shall be given to the preservation and protection of existing features, trees, scenic points, brooks, streams, rock outcroppings, water bodies, other natural resources, historic landmarks, stone walls and other significant features.

### **III-605 SUBMISSION DOCUMENT REQUIREMENTS**

**III-605.1** In all cases, any application submitted shall include the names and addresses of the applicant, all abutters as indicated in the Town records not more than twenty (20) days before the filing, and all holders of conservation, preservation, or agricultural preservation restrictions as defined in RSA 47:45, and shall include the name and business address of every engineer, architect, land surveyor, or soil scientist whose professional seal appears on any plat submitted to the board.

#### **III-605.1(a) Survey Phase**

- (i) Survey Phase plats may be drawn in pencil. Data may be tentative, but shall be sufficiently clear to show all site conditions. Maps should be at a scale appropriate to the amount of detail required, but not more than one hundred (100) feet to the inch. Five (5) paper print copies shall be submitted with the application.
- (ii) Survey Phase plat(s) and documents shall include at least the following information:
  - (1) Site survey map showing boundary of subdivision area, topography, streams, existing features and foliage lines, existing roads, structures, adjacent development, and soil type by U.S.S.C.S.;
  - (2) Site location map (at scale of municipal base map or official map) showing proposed subdivision in relation to major streets, community facilities, and utilities of the Town;
  - (3) Soils data showing results and locations of percolation tests and test pits undertaken in accordance with the procedures set forth in the following paragraph, unless public sewers are to be used.

The Board may require further detailing of information and additional meetings before advising the applicant to proceed with Preliminary Phase design. All material submitted in the Survey Phase will be included with subsequent Preliminary and Final Phases.

- (iii) Where private individual sewage disposal systems are proposed, the applicant shall perform soils tests with the results to be submitted as part of the Survey Phase and also to be included with subsequent submissions of the Preliminary and Final Phases. The applicant shall arrange to perform such tests under the supervision of the New Hampshire Water Supply and Pollution Control Commission and at locations recommended by its agent, providing percolation tests for each proposed lot. Such tests shall meet all requirements established by both State and local authorities. Additional soils tests, after Final Phase approval when lot boundaries are clearly established, may be required.

### **III-605.1(b) Preliminary Phase**

- (i) The Preliminary plat may be drawn in pencil, and shall be submitted in five (5) paper print copies. Dimensions may be approximate, the data may be tentative, but shall be sufficiently clear to illustrate all conditions and clarify the design requirements for the subdivision plat. Maps shall be at a scale of not more than 100 feet to the inch. The Preliminary plat(s) shall contain at least the following information:
- 2 Name of municipality and subdivision, name and address of the subdivision, name and address of the applicant and designer;
  - 3 Names and addresses of abutting property owners, buildings within 100 feet of the parcel to be subdivided, and intersecting streets and driveways within 200 feet of the subdivision, frontage on existing streets;
  - 4 Location of all existing and proposed buildings;
  - 5 Existing and proposed street right-of-way lines, widths of streets, proposed names of new streets, existing and proposed lots lines;
  - 6 Location of existing and proposed easements, deed restrictions, building setback lines, parks, recreation facilities, conservation trails, and other open space, water courses, large trees, foliage lines and significant natural and man-made features, water mains, sanitary sewers, storm water drainage lines, drainage structures and drainage ways;
  - 7 Existing and proposed plans for telephone, electricity, and gas utilities;
  - 8 Boundaries of Zoning Districts lying within the subdivision, municipal boundary if any, land use designation per zoning, and soil type certification by Hillsborough County Soil Conservation District;
  - 9 A general site location map at the scale of the Official Map or municipal base map, locating exactly the subdivision boundary and proposed streets in relation to at least two existing intersecting streets or other features shown on the Official Map;
  - 10 A statement of conditions of land as to suitability for residential developments;
  - 11 A statement of the work required on existing streets to meet the minimum standards;
  - 12 A statement and contours in sufficient detail to indicate clearly the method of storm water drainage on and off the subdivision;
  - 13 Methods of sanitary sewage disposal and water supply;
  - 14 Soils data shall be required and certified by Hillsborough County Soil Conservation District;
  - 15 Watershed areas and drainage computations;
  - 16 Preliminary street profiles, including cross sections;
  - 17 Approval, as prescribed by law, from any other municipal, State, or Federal agency which may have jurisdiction;
  - 18 Location of fire ponds, if any;
  - 19 Access for fire fighting apparatus.

### **III-605.1(c) Final Phase**

(i) The Final plat shall be in permanent black ink, on a permanent reproducible linen or polyester film (mylar). It shall be filed together with five (5) blue (black) line prints on paper. Sheet sizes shall be in accordance with requirements of the Registrar of Deeds, Hillsborough County. Space shall be reserved on the plat for endorsement by all appropriate agencies. The subdivision plat shall be consistent with the approved Preliminary Phase.

(ii) The plat shall contain the following statement:

"The Subdivision Regulations of the Town of Mont Vernon are a part of this plat, and approval of this plat is contingent on completion of all the requirements of said Subdivision Regulations, excepting only any variances or modifications made in writing by the Board and attached hereto," in addition to at least the following information:

- 1 All data required for Preliminary Phase submission;
- 2 Name and seal of the engineer or land surveyor registered with the State of New Hampshire;
- 3 Final disposition of land into lots, streets, open spaces, drainage courses and any easements running with the land;
- 4 The subdivision plat shall be based on a boundary survey with a maximum error of closure of 1 in 10,000 certified by an engineer or surveyor registered with the State of New Hampshire, distances shall be to the nearest 100th of a foot and bearings to the nearest 10 seconds;
- 5 Stations, radii, curve data and paving widths for proposed streets;
- 6 Lot dimensions, areas in square feet and acres, consecutive numbering of lots;
- 7 Accurate locations of all easements, either on or off the site;
- 8 A written acknowledgment of the applicant's responsibility for maintenance, and the assumption by him of liability for injuries and damages that may occur on any land to be dedicated for public use, until such land has been legally accepted by the Town;
- 9 Names of proposed streets as approved by the Selectmen;
- 10 Accurate locations of all monuments to be set at street intersections, points of curvature and tangency of curved streets and at angles of lots;
- 11 Existing and proposed contours at five (5) foot intervals;
- 12 Existing and proposed plans for telephone, electricity, and gas utilities;
- 13 Proposed methods of sanitary sewerage and computations therefor;
- 14 Proposed storm drainage accompanied by a drainage analysis map and computations for the entire watershed area;
- 15 Methods of supplying water;
- 16 Final street profiles.

(iii) If the subdivision abuts a State highway, or if a proposed street intersects a State highway, a written statement from the New Hampshire Department of Transportation and approving any proposed driveway or street access with such State highway. If a subdivision is to be served by public water supply or by public sewers, a statement from the municipal department or company involved, attesting to the availability of such service.

(iv) The Final plat shall contain a volume and page reference sufficient to indicate the subdivider's derivation of title in the event only one parent tract is involved, and if the subdivision constitutes an assemblage of several tracts, the plat shall contain a title reference of each and indicate where each of the lots is situated with reference to the assembled tracts. All lots shall be numbered so as to coincide with the Town of Mont Vernon Tax Map numbers by parent tract numbers.

(v) No approved lot shall be conveyed nor shall a building permit be issued until all angles of the boundaries of such lots are marked by boundary markers of granite. Offset markers may be used where natural or historical obstructions require.

(vi) The markers must be certified as set as specified on the Final plat by registered land surveyor.

(vii) The Final plat shall be submitted to the Planning Board in a **.dxf** and **.DWG** format. *(Adopted 5-12-1998)*

(viii) All subdivisions that have four or more lots shall be recorded and tied into **NAD 83** State Plane Coordinates, using two valid points on the property lines. *(Adopted 5-12-1998)*

### **III-605.2 Legal Data Required**

**III-605.2(a)** When applicable to a specific subdivision, the following are required, in form and substance as approved by the Town Counsel prior to approval of a subdivision plat:

- (v) Agreement to convey to the Town land to be used for streets and other public purposes, with transfer of title to such interests to be effective on such date as the Town accepts such land;
- (vi) Covenants which shall include a definitive statement of the method of ownership of the common land be equitably apportioned to individual owners for his/her lot/unit and common land;
- (vii) Covenants permanently restricting the common land or open space from any future subdivision;
- (viii) Easements and rights-of-way over property to remain in private ownership;
- (ix) Rights to drain onto or across other property, whether public or private, including a street.

**III-605.2(b)** Deeds covering any land to be used for public purposes, easements, rights-of-way over property to remain in private ownership, right to drain onto or across private property shall be submitted to, and approved by the Board of Selectmen with the approval of Town Counsel, the Road Commission, and/or any other appropriate agency.

**III-605.2(c)** All documents required hereunder shall be submitted in final, executable, recordable form satisfactory to Town Counsel as part of the Final Phase.

## ARTICLE 7 -IMPROVEMENT CONSTRUCTION REQUIREMENTS

**III-701** The following improvements shall be installed and constructed by the Applicant to the satisfaction of the Selectmen and under their supervision, before submission of the final plat, or the Subdivider shall file a bond to make other suitable arrangements as contained in III-605, prior to approval of the final plat.

**III-702** Temporary stakes along the centerlines of streets shall be driven in the ground to facilitate inspection.

~~**III-703** Monuments of concrete or stone at least four (4) inches on the top and at least thirty-six (36) inches long shall be set at all block corners and at all lot corners. Top of monument must be at least six (6) inches above ground level, but not more than twelve (12) inches above ground level. Monuments of the same description shall be placed on all street right-of-way corners, and at least every five hundred (500) feet along the right-of-way on both sides of the right of way. Two (2) opposite ends of the subdivisions whose tops are at an even foot in reference to the U.S.G.S. Datum Plan where practical, or to an assumed Datum where the preceding is not feasible. (Repealed 9/23/08)~~

~~**III-704** The street shall be constructed in accordance with the following specifications. Right of way and pavement widths requirements may be reduced or enlarged by the Planning Board. (Repealed 9/23/08)~~

~~**III-704.1 (a)** Streets over 600 feet shall be paved to a width of at least 22 feet wide with a four (4) foot shoulder on each side of the paved section before tapering off at a 4:1 slope to width line. (Repealed 9/23/08)~~

~~**III-704.1 (b)** Streets 600 feet and under shall be paved to a width of at least 20 feet wide with a four (4) foot shoulder on each side of the paved section before tapering off at a 4:1 slope to width line. (Repealed 9/23/08)~~

~~**III-704.1 (c)** All connector roads regardless of their length shall be paved to a width of at least 24 feet wide with a four (4) foot shoulder on each side of the paved section before tapering off at a 4:1 slope to width line. (Repealed 9/23/08)~~

~~**III-704.2** The street shall be constructed in accordance with the "Typical Cross Section", on file at the Selectmen's Office, and the following specifications: (Repealed 9/23/08)~~

~~**III-704.2(a)** Removal of all loam, mulch, stumps and other improper street foundation material within the limits of the right of way. In embankment areas suitable foundation material shall be placed on one (1) foot layers and compacted to form a stable subgrade. (Repealed 9/23/08)~~

~~**III-704.2(b)** Ledge and boulders shall be removed to at least eight (8) inches below subgrade and replaced with sand or bankrun gravel. (Repealed 9/23/08)~~



~~III-704.2(c) Proper drainage shall be installed subject to the approval of the Selectmen and the Road Agent. Natural watercourses shall be cleaned and increased in size where necessary to take care of storm run-off. Drainage ditches at least eighteen (18) inches in depth at its midpoint below center line grade shall be constructed at the street right of way on both sides of the roadway and so designed as to provide for the proper flow of storm run-off. Culvert pipes consisting of either reinforced concrete or metal, having a minimum size of eighteen (18) inches in diameter, shall be placed with a minimum of eighteen (18) inches of cover to final grade. Culverts in embankments over fifteen (15) feet high shall be of reinforced concrete pipe of the proper class. (Repealed 9/23/08)~~

~~III-704.2(d) Base course gravel shall consist of a minimum of twelve (12) inches of compacted bankrun gravel, free from loam or organic matter. Twenty five per cent (25%) to seventy per cent (70%) shall pass a No. 4 sieve and not more than twelve per cent (12%) of the material passing the No. 4 sieve shall pass the No.200 sieve. No stones or rock fragments will be permitted which cannot be incorporated in a six-(6) inch layer. The base course shall be compacted and graded to proper shape before crushed gravel is placed. (Repealed 9/23/08)~~

~~III-704.2(e) Finish course gravel shall consist of four (4) inches of crushed gravel complying with **Table III-704.2(e)**. (Repealed 9/23/08)~~

**TABLE III-704.2(e)-CRUSHED GRAVEL GRADING REQUIREMENTS**

<b>SIEVE SIZE</b>	<b>% BY WEIGHT PASSING</b>
3"	100
2"	95-100
1"	55-85
No. 4	27-52
No. 200	0-12% passing No. 4

~~III-704.2(f) Pavements shall consist of three (3) inches of hot bituminous pavement, applied in two (2) courses, a two (2) inch base course and a one (1) inch wearing course. The pavement shall be applied by an approved paving contractor in accordance with the State of New Hampshire Standard Specifications for Road and Bridge Construction most recent edition. (Repealed 9/23/08)~~

~~III-704.3 The street shall be graded to the final grade in accordance with the profile and cross section submitted. (Repealed 9/23/08)~~

~~III-704.4 Before final inspection, the developer shall remove all trash from the right-of-way and the center of the turn around and shall repair any damage done to the street, shoulders, etc. Inspections, samples and core test may be taken by the Town of Mont Vernon before final acceptance. (Repealed 9/23/08)~~

**III-705 STREET CONSTRUCTION (Public and Private)** Applicants shall ensure that the roadway, drainage facilities, and all other elements of the roadway are constructed under

the supervision and the approval of the Board of Selectmen, or designated representatives and in compliance with the NHDOT *Standard Specifications for Road and Bridge Construction*. Before final inspection, the developer shall remove all trash from the right-of-way and shall repair any damage done to the street, shoulders, etc. Inspections, samples and core test may be taken by the Town before final acceptance. (Adopted 9/23/08)

**III-705.1 Street Width:** Street shall be paved to a minimum width of at least 20' and will have 4' gravel shoulders on both sides. (Adopted 9/23/08)

**III-705.2 Clearing and Grubbing:** The entire area of each roadway shall be cleared and grubbed of all stumps, brush, roots, boulders, like materials and all trees not intended for preservation, and shall not be used for fill or buried on site. Clearing and grubbing shall conform to Section 201 of the State Specifications. (Adopted 9/23/08)

**III-705.3 Subgrade Preparation:** All loam, humas, soft clay, and other yielding material shall be removed from within the limits of the roadway area to a depth of no less than twenty-four inches (24") below the subgrade grade and/or to a depth that may be required by the Town Engineer. Ledge occurring anywhere in the full cross-section of the roadway must be cleared to a minimum depth of twenty-four inches (24") below the finished surface. Ledge occurring in pipe trenches must be cleared so as to have a gravel cushion at least twelve inches (12") below and on both sides of the pipe. (Adopted 9/23/08)

**III-705.4 Base Course:** The road base course shall be of materials, and at least the widths and thickness, indicated in Figure 1. Crushed gravel shall conform to Pay Item 302.3 in State Specification Section 304. Gravel shall conform to Pay Item 304.2 in State Specification Section 304, except that the maximum size stone shall be three inches (3"). All other provisions of State Specification Section 204 are part of these standards. (Adopted 9/23/08)

**III-705.5 Storm Drainage:** The proposed development shall provide for proper surface drainage so that removal of surface waters will not adversely affect any neighboring properties or the public storm water system and will help reduce flooding, erosion, and sedimentation. The drainage system shall be designed so that the post-development runoff rate does not exceed the pre-development runoff rate. No surface water runoff shall be permitted to run across the roadway but shall be controlled and directed in a system of catch basins, pipes, swales, drainage ways, culverts, or channels to a natural watercourse or existing drainage structures. Where a subdivision is traversed by a watercourse, drainage way, channel, or stream, there shall be provided an easement conforming to the lines of such watercourse. When a proposed drainage system will result in water encroaching on land outside a subdivision, appropriate drainage rights must be secured and indicated on the plan. Where the Board of Selectman determines that the existing downstream, offsite drainage system is substandard, the Planning Board may require the Applicant to improve the drainage system. Construction shall be in accordance with State Specification 603, 604, and 605, and State Plans Standard DR-1, DR-2, DR-3, DR-4, and DR-5. (Adopted 9/23/08)

**III-705.5(a) Drainage Swale:** Drainage swales shall be a minimum of eighteen inches (18”) in depth at its midpoint below center line grade shall be constructed in the street right-of-way on both sides of the roadway and so designed as to provide for the proper flow of storm run-off. *(Adopted 9/23/08)*

**III-705.5(b) Bridge:** Bridges as defined by the State Law (RSA 234:2), are structures of ten feet (10’) or greater in clear span, and shall be designed to MS-18 (HS-20) loading (AASHTO Specifications). The minimum roadway width shall be twenty-four feet (24’). Bridges shall be designed by a professional engineer, and constructed in accordance with that design. *(Adopted 9/23/08)*

**III-705.5(c) Roadway Culverts:** Roadway culverts will be a minimum of eighteen inches (18”) in diameter and so designed as to provide for the proper flow of storm run-off. Material may be new smooth bore corrugated polyethylene pipe (preferred) or new reinforced concrete pipe meeting NHDOT specifications. The minimum depth of cover for a culver shall be thirty-six inches (36”) of cover from top of pipe to finished grade. Bedding shall be three-quarter inch (3/4”) crushed stone. Bedding shall be a minimum six inches (6”) depth in earth and twelve inches (12”) in bedrock. Culverts shall be installed with a compatible flared end section firmly attached to the pipe barrel, constructed in accordance with NHDOT specifications. *(Adopted 9/23/08)*

**III-705.5(d) Driveway Culverts:** The location, length, size, bedding, and backfill of all driveway culverts shall be approved by the Road Department prior to construction. Driveway culverts shall be located a minimum of eight feet (8’) off the edge of the roadway pavement. In general, driveway culverts placed in the right-of-ways drainage swale shall be a minimum of eighteen inches (18”) in diameter and so designed as to provide for the proper flow of storm run-off. Material may be new smooth bore corrugated polyethylene pipe (preferred) or new reinforced concrete pipe meeting NHDOT specifications. Culverts shall be installed with a compatible flared end section firmly attached to the pipe barrel, constructed in accordance with NHDOT specifications. *(Adopted 9/23/08)*

**III-705.6 Utilities:** Utility lines within all major subdivisions (three or more lots) shall be underground service and the cost of such installations shall be bonded in the same manner as roads. Utility poles, lines, and appurtenances shall be kept close to the right-of-way line and in no case closer than the road drainage swales. *(Adopted 9/23/08)*

**III-705.7 Asphalt Surface:** Where designated in Figure 1, “Asphalt Surface Treated” surfaces shall be a two-layer Bituminous Surface Treatment in accordance with State Specification Section 410. “Hot Mix” surfaces shall be Hot Bituminous Pavement in accordance with State Specifications Section 403. Widths and thicknesses shall be at least as indicated in Figure 1. *(Adopted 9/23/08)*

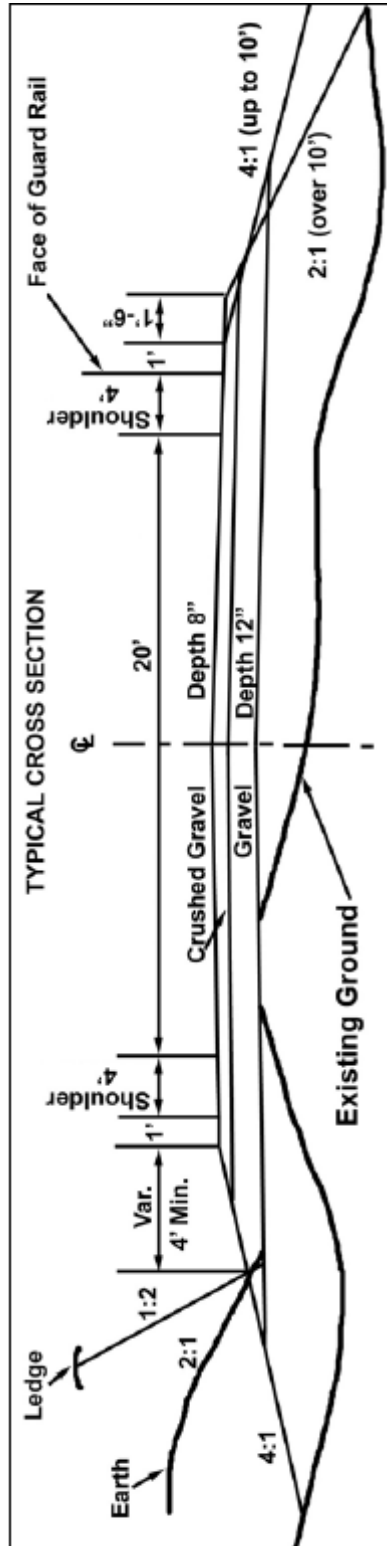
**III-705.7 Gravel Shoulders:** Gravel shoulders, and their base course, shall be at least the depths, widths, and thickness indicated in Figure 1. Gravel shall conform to State Specification Section 304.33. All other provisions of State Specification Section 304 are part of these standards. (*Adopted 9/23/08*)

Table 1

<b>Street Geometric Design Standards</b>	
Right-of-Way Width	50 feet
Minimum Grade	1 %
Maximum Grade	10 %
Maximum Grade within 100 feet of an Intersection	2 %
Minimum Angle of Intersection	75°
Minimum Centerline Radii	200 feet
Minimum Angle of Intersection	75°
Rate of Super Elevation (AASHTO Chart)	0.04 feet
Rate of Super Elevation through an Intersection	0.04 feet
Pavement Width	20 feet
Cross Slope of Pavement (Minimum)	2 %
Shoulder Width	4 feet
Cross Slope of Shoulder (Minimum)	5 %
Centerline of Roadway to Drainage Swale	18 feet
Wearing Surface Type (see note 2)	Hot Mix Asphalt
Wearing Surface Thickness	1-1/2"
Wearing Surface Specification	Type C
Pavement Base Thickness	3"
Pavement Base Specification	Type F
Crushed Gravel Thickness	8"
Crushed Gravel Specification (see note 4)	NHDOT 304.3
Gravel Thickness	12"
Gravel Specification (see note 4)	NHDOT 304.3

- Notes:
1. For average daily traffic over 1,000 vehicles/day, paved shoulders should be considered.
  2. Gravel surfaces should be paved where steep grades occur.
  3. "Type" is defined in Section 401 of NHDOT *Standard Specifications for Road and Bridge Construction*.
  4. "NHDOT 304.3" is defined in Section 304 of NHDOT *Standard Specifications for Road and Bridge Construction*.
  5. Gravel base course thickness should be increased in areas of poor soil.

Figure 1  
 Typical Street Cross Section



## **ARTICLE 8 -ADMINISTRATION AND ENFORCEMENT**

**III-801** Where the approval of the Planning Board is a necessary pre-requisite for recording of any plat, not covered under these regulations, the Planning Board Chairman and Secretary jointly are hereby empowered to certify that the plat complies with the requirements of these regulations.

### **III-802 VARIANCES**

**III-802.1** Where strict conformity to the Subdivision Regulations would cause undue hardship or injustice to the owner of the land, a subdivision substantially in conformity with the Subdivision Regulations may be approved by the Board, provided that the spirit of the Subdivision Regulations and public convenience and welfare will not be adversely affected.

### **III-803 AMENDMENTS**

**III-803.1** These regulations may be amended or rescinded by the Board, but only following a public hearing on the proposed change. The Chairman or Secretary of the Board shall transmit a record of any changes so authorized to the Registry of Deeds of Hillsborough County.

### **III-804 PENALTY**

**III-804.1** Whoever, being the owner, or agent of the owner of any land located within a subdivision, transfer or sells any land by reference to, or exhibition of, or by other use of, a plat of a subdivision, before such plat has been approved by the Planning Board and recorded or filed in the office of the appropriate Register of Deeds shall forfeit and pay a penalty of one hundred dollars (\$100.00) for each lot or parcel which is transferred or sold; and the description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring Town, through its solicitor or other official designated by its Selectmen, may enjoin such transfer or sale or agreement and may recover the said penalty by civil action.

### **III-805 SEPARABILITY**

**III-805.1** If any section, provision, portion, clause or phrase of these regulations shall be held to be invalid or unconstitutional by any court or competent authority, such holding shall not affect, impair or invalidate any other section, clause, provision, portion, or phrase of this Ordinance.

## **ARTICLE 9 – SPECIAL FLOOD HAZARD AREAS**

**III-901** For subdivisions and site plans that involve land designated as "Special Flood Hazard Areas" (SFHA) by the National Flood Insurance Program (NFIP):

**III-901.1.** The Planning Board shall review the proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

**III-901.2.** The Planning Board shall require that all proposals for development greater than 50 lots or 5 acres, whichever is the lesser, include Base Flood Elevation (BFE) data within such proposals (i.e. floodplain boundary and 100-year flood elevation).

**III-901.3** The Planning Board shall require the applicant to submit sufficient evidence (construction drawings, grading and land treatment plans) so as to allow a determination that:  
all such proposals are consistent with the need to minimize flood damage;  
all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and,  
adequate drainage is provided so as to reduce exposure to flood hazards.





**CHAPTER IV**  
**NON-RESIDENTIAL SITE PLAN REVIEW REGULATIONS**  
**TOWN OF MONT VERNON, NEW HAMPSHIRE**

**ARTICLE 1-AUTHORITY**

**IV-101** Pursuant to the authority vested in the Mont Vernon Planning Board by the voters of the Town of Mont Vernon in accordance with the provisions of 674:43, 44, I, II; and 675:8 New Hampshire Revised Statutes Annotated, as amended in the laws of 1983, the Mont Vernon Planning Board adopts the following rules governing the review of non-residential site plans in the Town of Mont Vernon, New Hampshire. These rules shall be entitled "Non-Residential Site Plan Review Regulations, Town of Mont Vernon, New Hampshire".

**ARTICLE 2-SUBMISSION ITEMS; SITE DEVELOPMENT PLAN AND SUPPORTING DATA**

**IV-201** Prior to the submission of the site development plan the applicant will submit a preliminary sketch showing any preliminary information he desires to the Planning Board for discussion purposes only. On formal submission of the site development plan, the applicant shall submit three (3) sets of site plan maps and supporting data to the Planning Board which shall include the following information:

**IV-201.1 Existing Data and Information**

**IV-201.1(a)** Location of site, names and addresses of owners of record and abutting land owners.

**IV-201.1(b)** Name and address of persons or firms preparing the map, the scale of the map (1"= 40' suggested), north arrow and date. Such map shall be prepared by a registered land surveyor or registered professional engineer. Name and address of persons or firms preparing other data and information, if different from the preparer of the map.

**IV-201.1(c)** The boundary lines of the area included in the site, including angles or bearings of the lines, dimensions and the lot area.

**IV-201.1(d)** The existing grades, drainage systems, structures and topographic contours at intervals not exceeding 2-feet with spot elevations where grade is less than 5%, otherwise not exceeding 5-foot contour intervals.

**IV-201.1(e)** The shape, size, height, and location of existing structures located on the site and within 200-feet of the site.

**IV-201.1(f)** Natural features such as streams, marshes, lakes or ponds. Manmade features such as, but not limited to, existing roads and structures. Such map shall indicate which of such features are to be retained and which are to be removed or altered.

**IV-201.1(g)** Use of abutting properties shall be identified with approximate location of the structures thereon including access roads.

**IV-201.1(h)** The size and location of all existing public and private utilities and all existing landscaping. This shall include the location and size of existing public utilities that are located off-site with which connection is planned or located within 100-feet of the site.

**IV-201.1(i)** A vicinity sketch (suggested scale 1"=500') showing the location of the site in relation to the surrounding public street system. The zoning districts and boundaries for the site and within 1,000-feet of the site shall be shown.

**IV-201.1(j)** The Final plat shall be submitted to the Planning Board in a **.dxf** and **.DWG** format. *[Adopted 5-12-98]*

**IV-201.1(k)** All non-residential site plans shall be recorded and tied into NAD 83 State Plane Coordinates, using two valid points on the property lines. *[Adopted 5-12-98]*

#### **IV-201.2 Proposed Plan and Information**

**IV-201.2(a)** The proposed grades, drainage systems, structures and topographic contours at intervals not exceeding 2-feet with spot elevations where grade is less than 5%, otherwise not exceeding a 5-foot contour interval. One hundred year flood elevation line(s), where applicable, shall be included.

**IV-201.2(b)** The shape, size, height, and location of the proposed structures including expansion of existing buildings.

**IV-201.2(c)** Proposed streets, driveways, parking spaces, sidewalks, with indication of direction of travel for one way streets and drives and inside radii of all curves. The width of streets, driveways and sidewalks and the total number of parking spaces shall be shown. In addition, loading spaces and facilities associated with the structures on the site shall be shown.

**IV-201.2(d)** The size and location of all proposed public and private utilities.

**IV-201.2(e)** the location, types and size of all proposed landscaping and screening.

**IV-201.2(f)** Exterior lighting plan and proposed signs to be located on the site.

**IV-201.2(g)** A storm drainage plan including plans for retention and slow release of storm water where necessary and plans for snow removal and storage.

**IV-201.2(h)** A circulation plan of the interior of the lot showing provisions for both auto and pedestrian circulation. An access plan showing means of access to the

site and proposed changes to existing public streets including any traffic control devices necessary in conjunction with the site development plan.

**IV-201.2(i)** Construction drawings including but not limited to pavements, walks, steps, curbing and drainage structures.

#### **IV-201.3 Additional Information**

**IV-201.3(a)** The Planning Board may require such additional other information as it deems necessary in order to apply the regulations contained herein.

### **ARTICLE 3-DESIGN AND CONSTRUCTION REQUIREMENTS**

**IV-301** All design and construction standards shall refer to the items shown and presented on the Proposed Plan and Information.

**IV-301.1** Traffic access to the site from the town streets shall ensure the safety of vehicles and pedestrians.

**IV-301.2** Improvement to existing streets shall include signal devices if necessary because of increased traffic generated by the development.

**IV-301.3** Circulation (vehicle and pedestrian) and parking including loading facilities shall be designed to ensure the safety of vehicles and pedestrians on the site.

**IV-301.4** Landscaping and screening shall be provided with regard to adjacent properties, the public highway and within the site including interior landscaping of large parking areas (over 3 double rows). Seventy-five (75%) percent of all stumpage in "buffer zones", excepting access roads, shall remain intact.

**IV-301.5** Storm drainage of the site shall be designed for a 25-year flood and if the existing drainage system to which the site drainage system will be connected, is inadequate, provisions shall be made for retention and gradual release of storm water in order to meet the 25-year flood demand.

**IV-301.6** Provision shall be made for snow storage during winter months.

**IV-301.7** Provision shall be made for the site to be serviced by necessary utilities which may include water for fire and domestic use, sanitary sewer, electrical and gas.

**IV-301.8** Provision shall be made for adequate and consistent in appearance outdoor lighting.

**IV-301.9** Provision shall be made for protection of natural features.

**IV-301.10** All developments shall meet the standards and requirements included in the town zoning ordinance and subdivision regulations including, but not limited to,

parking, off-street loading, landscaping, signs, location of driveways, erosion, screened service area and exterior lighting.

## **IV-302 SIGNS**

The purpose of this section is to provide for a reasonable uniformity in the site and treatment of signs used to call attention to the existence of a business. The Town does not want such signs to detract from the overall rural character which the Town, through its Master Plan, wants to maintain. This determination will be made by the Planning Board.

**IV-302.1** In the LC Zone a permit is required for signs. On any one lot there may be no more than one (1) common sign identifying a business, a shopping center, or similar group of businesses. Also permitted on the same lot is one (1) sign on the building for each business. The total square footage of sign for each business shall not exceed thirty (30) square feet. No single sign shall exceed thirty (30) square feet.

**IV-302.2** No sign in the LC Zone shall have a height exceeding fifteen (15) feet from ground level to the top of the sign.

**IV-302.3** Only "directory" signs shall be permitted on Route 13 and these must be located at the entrance of the access road. No other signs will be permitted on Route 13. The width of the directory sign shall not be greater than eight (8) feet. Lettering must be uniform in appearance on all directory signs - a single line of block letters, six (6) inches high.

**IV-302.4** Signs shall be constructed and/or maintained in such a way that they do not endanger traffic by obstructing the view of the highway, street, or intersections.

**IV-302.5** Each sign shall be constructed of durable material and shall be maintained in a high state of repair at all times.

**IV-302.6** Only signs advertising an establishment in the Town of Mont Vernon and the general nature of the business or services rendered, shall be permitted.

**IV-302.7** Only permanent signs to advertise a place of business are permitted. The use of movable signs is prohibited. No "Bulletin Board" signs shall be permitted.

**IV-302.8** No neon or tubular signs, flashing, internally lighted, or revolving signs shall be permitted in any district. Signs may be lighted externally. Such lighting shall be shielded so as not to present a hazard to automotive traffic. Individual business signs shall be lighted only during the hours when the establishment is open for business. Directory signs may be lighted 24-hours a day.

**IV-302.9** No sign shall project over any street or sidewalk line.

**IV-302.10** Signs offering property for sale or rent are permitted. No sign advertising property "sold" shall be permitted.

**IV-302.11** Signs shall only be placed on the lot on which the use or establishment being advertised by the sign is being conducted. No sign shall be placed on the highway right-of-way.

**IV-302.12** All signs to be installed in the Town of Mont Vernon shall be reviewed by the Board and approved before a sign permit may be issued. Review shall be done to ensure that the signs preserve and enhance the character of the Town and still serve the needs of the merchants to identify their businesses.

**IV-302.13** The applicant shall adhere to the Town's sign regulations as part of the contractual agreement with his/her tenants. The responsibility for policing the tenants then becomes the responsibility of the applicant.

**IV-302.14** The applicant shall agree in writing that no special attention-getting devices such as pennant strings of flags other than the U.S. or State flags, will appear on any land or building.

**IV-303** Construction requirements shall be in accordance with Standard Specifications for Road and Bridge Construction as published by the State of New Hampshire Department of Transportation provided that alternative provisions may be considered by the Planning Board if submitted by the developer.

**IV-304** Provision shall be made to assure that the proposal is consistent with the need to minimize flood damage, that all public utilities and facilities, such as sewer, gas, electrical, and water systems are constructed and that adequate drainage is provided so as to reduce exposure to flood hazards. Design provisions shall also be made to minimize or eliminate infiltration of floodwaters in to new or replacement water supply systems and/or sanitary sewage systems and discharges from these systems into flood waters. On site waste disposal systems shall be located so as to avoid impairment of them or contamination from them during flooding.

#### **ARTICLE 4-OCCUPANCY AND BONDING**

**IV-401** The Planning Board may require a performance bond before any work commences on a development for that portion of the development that, if not properly completed, will have an adverse effect on adjoining property or has a potential for erosion. The steps for issuing and releasing a performance bond shall be the same as required in the subdivision regulations including but not limited to, determining the amount, sufficiency, term and form of the bond. No development may be occupied or used unless a certificate of occupancy has been issued by the Building Inspector. The Building Inspector shall not issue such certificate of occupancy until these regulations have been complied with and the improvements made or a performance bond provided to the town for unfinished improvements.

#### **ARTICLE 5-DEFINITIONS**

**IV-501** The Glossary included with these regulations as **Appendix A**, is incorporated here by reference.

## **ARTICLE 6-PROCEDURE FOR PLANNING BOARD REVIEW**

### **IV-601 Preliminary Consultation and Review**

**IV-601.1** All prospective applicants for Non-Residential Site Review shall request a preliminary consultation and review with the Board for the purpose of discussing the basic concept of the proposal and to assist in the resolving of problems which may arise with the applicant's meeting the requirements for final consideration. Any such consultation and review shall be understood to be preliminary in nature and shall not bind either the applicant or the Board. It is to the advantage of the applicant and the Town to jointly consider the proposed use so as to achieve the objectives of the Town's Master Plan as well as to satisfy the requirements of these Regulations and the Zoning Ordinance of the Town of Mont Vernon.

**IV-601.2** Such consultation and review shall occur only at a duly noticed public meeting of the Board.

**IV-601.3** A written request for such consultation and review shall be submitted by the applicant no less than fifteen (15) days prior to the date of the meeting at which the proposal is to be discussed.

**IV-601.4** The applicant shall provide along with such written request, the following, so as to allow the Board to become familiar with the applicant's proposal:

**IV-601.4(a)** a written description of the proposed permitted use;

**IV-601.4(b)** a conceptual plan or sketch map of the proposed use. Said plan or map need not conform to any of the requirements for final plan, however, it should include sufficient detail so as to be useful for discussion purposes;

**IV-601.4(c)** such other information as the applicant deems necessary to convey the intent and purpose of said (proposed) permitted use.

**IV-601.5** The Board in conducting such preliminary consultation and review shall act in an advisory capacity and discussion shall be limited to the appropriateness of the use as proposed. The Board may request such additional information as may be necessary to allow further consideration of the proposal in the form of a completed final application.

**IV-601.6** The Board shall record in the minutes of the meeting of the preliminary consultation any modifications which it will require in the applicant's proposal, a listing of such additional information that it shall require for further consideration of the proposal, or any reason for disapproving the plan as proposed. A copy of this record will be available.

## **IV-602 Final Application**

**IV-602.1** A final written application for approval of a use requiring Non-residential Site Review shall be filed with the Planning Board by the owner of the property upon which the use is proposed, or his authorized agent.

**IV-602.2** Such application shall be filed not less than fifteen (15) days prior to the date of duly noticed public meeting of the Board at which the application is to be formally submitted.

**IV-602.3** The application shall be accompanied by all required submission materials as herein defined in these Regulations.

**IV-602.4** The application shall include those items specified in **IV-603.1** of these Regulations as being necessary to allow the Board to fulfill the notification requirements of these Regulations.

## **IV-603 Notification Requirements**

**IV-603.1** The applicant shall provide the following:

**IV-603.1(a)** a list of the names and addresses of all abutters as indicated in the Town records not more than five (5) days prior to the date of filing and all holders of conservation, preservation, or agricultural preservation restrictions as defined in RSA 47:45, including the name and business address of every engineer, architect, land surveyor, or soil scientist whose professional seal appears on any plat submitted to the board;

**IV-603.1(b)** fee in proper form, as payment in advance for the costs of notifying abutters, all holders of conservation, preservation, or agricultural preservation restrictions as defined in RSA 47:45, and every engineer, architect, land surveyor, or soil scientist whose professional seal appears on any plat submitted to the board, and the public pursuant to these Regulations.

**IV-603.2** The Board shall, upon receipt of a request for final approval, notify the applicant and all abutters, holders of conservation, preservation, or agricultural preservation restrictions as defined in RSA 47:45, every engineer, architect, land surveyor, or soil scientist whose professional seal appears on any plat submitted to the board by certified or registered mail, return receipt requested, as to the time, date, place and purpose of the meeting at which said request or application shall be submitted and discussed by the Board. Such notification shall be mailed no less than ten (10) days prior to the date of the public meeting, and shall identify the applicant as well as describe the location and general nature of the proposal.



## **IV-604 Public Hearing**

**IV-604.1** Within thirty (30) days of the date of the meeting at which a completed final application for approval of a use requiring Non-Residential Site Review is formally submitted to and accepted by the Board, the Board shall hold a public hearing on said application.

**IV-604.2** Notice of such public hearing shall be given in accordance with the provisions of Section IV-603.2 of these Regulations.

**IV-604.3** Notice of such public hearing shall also be published in a newspaper having generally circulation within the Town no less than five (5) days prior to the date of the hearing. Notice shall also be posted in at least two (2) public places within the Town.

**IV-604.4** If notice of the public hearing has been included in any prior notice, additional notice by mail shall not be required; however, notice shall be published as specified in **IV-604.3** and shall be posted in at least two (2) public places.

## **IV-605 Review Procedures**

**IV-605.1** Within ninety (90) days of the date of the public meeting at which the Board accepts the application, the Board shall make a decision approving or disapproving the application. The review period may be extended by mutual consent.

**IV-605.2** The Board may approve the application and grant the use provided that all of the requirements set forth in these Regulations and the Zoning Ordinance shall be satisfied. Any other information requested and deemed necessary by the Board shall also be reviewed.

**IV-605.3** In those cases where it is proposed to convert a building or structure originally built or designed for other purposes, the Board in conjunction with the Building Inspector shall determine whether such building is adaptable to the proposed use from the point of view of the public health and safety as well as conformance with the requirements of these Regulations and the Zoning Ordinance of the Town of Mont Vernon.

**IV-605.4(a)** The Board shall attach such conditions to the approval of an application as are, in its opinion, necessary to assure initial and continued compliance with all applicable standards and requirements of these Regulations and to ensure that the purpose and intent of these Regulations and the Zoning Ordinance are fulfilled.

## **IV-605.5 Notice of Decision**

**IV-605.5(a)** Notice of the Planning Board's decision shall be recorded in the minutes of the meeting at which such was taken, and shall be forwarded to the applicant and shall include:

- (i) a statement of the decision approving or disapproving the application, giving reasons for disapproval;
- (ii) a statement of any conditions or limitations which shall be attached to the approval of the application.

## **ARTICLE 7-CONCURRENT AND JOINT HEARINGS**

**IV-701** The Planning Board may hold a hearing on site plan review in conjunction with a subdivision hearing if both are required for a project. A hearing for site plan review by the Planning Board may be held at the same time and place that a hearing for a special exception is held for the project by the Board of Adjustment.

## **ARTICLE 8 WAIVER PROCEDURE**

**IV-801** When a proposed site plan is submitted for approval with regard to an expansion of an existing use, to a new use on a lot containing less than 40,000 square feet in area, the applicant may submit a proposed site plan and request the Planning Board to waive specific requirements for the plan and supporting data. The Planning Board may agree to such requests provided that the Board has determined that such waiver of any requirement will not affect the purpose and intent of these Regulations. This shall not apply to design and construction standards.

## **ARTICLE 9 ADMINISTRATION AND ENFORCEMENT**

**IV-901** The Building Inspector shall make periodic inspections of all permitted uses to determine if said uses are in conformance with these Regulations and the approved plan, including such standards and conditions as may apply. In the event of any non-conformance, the Building Inspector shall certify, in writing, to the Board of Selectmen and the permit holder, the specific non-conforming condition(s) that exist. Such notice shall be mailed to the permit holder by certified or registered mail, return receipt requested. If, within thirty (30) days of the receipt of such notice by the permit holder, said non-conforming condition(s) are not corrected to the terms of the approved plan, the Selectmen shall notify the landowner by mail, return receipt requested, that the approved application is revoked and the permitted use shall cease and desist until such time as the owner of record shall obtain valid approval for said use, pursuant to these Regulations.

**IV-902** The penalty of violations within the Limited Commercial District shall be One Hundred Dollars (\$100) per day, beginning upon receipt of notification of said violation and ending when the violation has been inspected and noted as corrected by the Building Inspector.

**ARTICLE 10 TELECOMMUNICATIONS FACILITY SITE REQUIREMENTS**  
*(Telecommunications Facility Site ordinance adopted March 10, 1998)*

**IV-1001 GENERAL**

**IV-1001.1** In reviewing and approving the site plan, the Planning Board may impose conditions to the extent the Board concludes such conditions are necessary to minimize any adverse impact of the proposed tower or antenna on adjoining properties, and preserve the intent of this ordinance. The following factors are to be considered when reviewing the application:

**IV-1001.1(a)** Height of proposed tower or other structure

**IV-1001.1(b)** Proximity of tower to residential development or zones and schools

**IV-1001.1(c)** Nature of uses on adjacent and nearby properties

**IV-1001.1(d)** Impact on identified historic resources

**IV-1001.1(e)** Surrounding topography

**IV-1001.1(f)** Surrounding tree cover and foliage

**IV-1001.1(g)** Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness

**IV-1001.1(h)** Proposed ingress and egress to the site

**IV-1001.1(i)** Availability of suitable existing towers and other structures as discussed in Section **I-306** of the Zoning Ordinance

**IV-1001.1(j)** Visual impacts on viewsheds, ridgelines, open fields and other impacts by means of tower location, tree and foliage clearing and placement of incidental structures

**IV-1001.1(k)** Availability of alternative tower structures and alternative siting locations

**IV-1001.1(l)** New towers shall reserve space for municipal emergency communications equipment as necessary.

**IV-1002 Submission Requirements for Telecommunication Facilities**

**IV-1002.1** Each applicant requesting Site Plan review and approval for a telecommunication facility shall submit a plan in accordance with the requirements of the Zoning Ordinance and the Non-Residential Site Plan Review Regulations, **Chapter IV, Article 6 and I-306**. In addition, the applicant shall submit the following prior to any approval by the Board:

**IV-1002.1(a)** Additional plat information: a scaled elevation view, topography, radio frequency coverage, tower height requirements, setbacks, access drives, parking, fencing, landscaping, and adjacent uses (up to 200 feet away)

- IV-1002.1(b)** Written proof that the proposed use/facility complies with Federal Communications Commission regulations on radio frequency (RF) exposure guidelines
- IV-1002.1(c)** Written proof that an evaluation has taken place, as well as the results of such evaluation, satisfying the requirements of the National Environmental Policy Act (NEPA) further referenced in applicable Federal Communications Commission (FCC) rules
- IV-1002.1(d)** An inventory of existing towers that are within the jurisdiction of the Town and those within two (2) miles of the border of the Town, including specific information about the location, height, design of each tower, as well as economic and technological feasibility for co-location on the inventoried towers. The Planning Board may share such information with other applicants applying for approvals or conditional use permits under this ordinance or other organizations seeking to locate antennas within the jurisdiction of the Town.
- IV-1002.1(e)** Written evidence demonstrating that no existing structure can accommodate the applicant's proposed antenna if the applicant is proposing to build a new tower. This evidence can consist of an analysis of the location, height, strength, potential interference, and co-location costs which would make co-location impractical.
- IV-1002.1(f)** A written agreement with the Town specifying that the applicant agrees to provide for maximum shared use of the facility with other telecommunication providers and with governmental agencies at industry standard lease rates. The applicant shall also provide notice to all commercial carriers in the region that a new facility is to be erected and that an opportunity for co-location exists
- IV-1002.1(g)** A viewshed analysis to include, at minimum, a test balloon moored at the site for the purpose of indicating the visibility of the proposed structure from all abutting streets and other key locations
- IV-1002.1(h)** Engineering information detailing the size and coverage required for the facility location. The Planning Board may have this information reviewed by a consultant for verification of any claims made by the applicant regarding technological limitations and feasibility for alternative locations. Cost for this review shall be paid by the applicant in accordance with RSA 676.4(g).
- IV-1002.1(i)** Any other information deemed necessary by the Planning Board to assess compliance with **Chapter IV Article 2 and I-306** of the Zoning Ordinance.

## IV-1003 Construction Performance Requirements

**IV-1003.1** The guidelines in this section shall govern the location of all towers, and the installation of all antennas. The Planning Board may waive these requirements in accordance with **IV-1005** only if it determines that the goals of this ordinance are served thereby. These requirements shall supersede any and all other applicable standards found elsewhere in Town ordinances or regulations that are less strict.

**Table IV-1003.2 Height Requirements**

Table IV – 1003.2(a)			
	New Tower Construction	Co-location on Existing Tower	Co-location on Existing Structure
Limited Commercial	150 feet	150 feet	Current structure height + ?? feet, not to exceed 150 feet
Residential	150 feet	150 feet	Current structure height + ?? feet, not to exceed 150 feet
Rural Residential	150 feet	150 feet	Current structure height + ?? feet, not to exceed 150 feet
Historic District Overlay	See Section IV-1004 & I-306.5(b) & I-404.3	See Section IV-1004 & I-306.5(b), & I-404.3	See Section IV-1004 & I-306.5(b), & I-404.3

**IV-1003.2(b)** These requirements and limitations shall preempt all other height limitations as determined by the Zoning Ordinance and shall apply only to telecommunications facilities.

### IV-1003.3 Setbacks and Separation

**IV-1003.3(a)** Free-standing towers must be set back a distance equal to 125% of the height of the tower from any off-site residential structure and property line.

**IV-1003.3(b)** Towers and accessory facilities must satisfy the minimum zoning district setback requirements.

**IV-1003.3(c)** Towers over ninety (90) feet in height shall not be located within one mile of any existing tower that is over ninety (90) feet in height.

**IV-1003.3(d)** Tower shall be set back at least 200% of the tower height from the nearest road.

### IV-1003.4 Aesthetics and Lighting

**IV-1003.4(a)** Towers shall maintain a neutral, non-reflective color so as to reduce visual obtrusiveness.

**IV-1003.4(b)** The design of the buildings and related structures at a tower site and antennas and supporting equipment on structures other than a tower shall use materials, colors, textures, screening, and landscaping that will blend the tower facilities with the natural setting and built environment.

**IV-1003.4(c)** Towers shall not be artificially lighted, unless required by the Federal Aviation Administration or other applicable authority. If lighting is required, the Planning Board may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.

**IV-1003.4(d)** Towers shall not contain any permanent or temporary signs, writing, symbols, or any graphic representation of any kind.

#### **IV-1003.5 Security Fencing**

**IV-1003.5(a)** Towers shall be enclosed by decay-resistant security fencing not less than six (6) feet in height and shall also be equipped with an appropriate anti-climbing device or other similar device to prevent tower access.

#### **IV-1003.6 Landscaping**

**IV-1003.5(a)** Towers shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from adjacent residential property. The standard buffer shall consist of a landscaped strip of at least ten (10) feet wide outside the perimeter of the compound.

**IV-1003.5(b)** Natural vegetation is preferred, and existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible.

**IV-1003.5(c)** In locations where the visual impact of the tower would be minimal or where natural growth provides a sufficient buffer, the landscaping requirement may be reduced or waived entirely.

#### **IV-1003.7 Building Codes and Safety Standards**

**IV-1003.6(a)** To ensure the structural integrity of towers and antennas, the owner of a tower shall ensure that it is maintained in compliance with standards contained in the Mont Vernon Building Code and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. Failure to bring a tower into compliance within thirty (30) days of notice being provided to the owner by the Town shall constitute abandonment and grounds for the removal of the tower or antenna in accordance with **Chapter IV Article 9 and I-306.7**.

#### **IV-1003.8 Federal Requirements**

**IV-1003.8(a)** All towers must meet or exceed current standards and regulations of the Federal Aviation Administration, the Federal Communications Commission, and any other agency of the federal government with the authority to regulate towers and antennas. Failure to bring towers and antennas into compliance with revised standards and regulations within six (6) months of their effective date shall constitute grounds for the removal of the tower or antenna in accordance with **Chapter IV Article 9 and I-306.7.**

#### **IV-1004 Historic District Restrictions**

Telecommunications facilities within the Historic District shall be located within existing structures and shall have no visual impact.

#### **IV-1005 Waivers**

**IV-1005.1** The Planning Board may waive the requirements of this section where it finds that extraordinary hardships, practical difficulties, or unnecessary and unreasonable expense would result from strict compliance with the foregoing terms, or the purposes of these regulations may be served to a greater extent by an alternative proposal. The purpose of granting waivers under the provisions of this regulation shall be to ensure that an applicant is not unduly burdened, as opposed to merely inconvenienced, by the terms of the ordinance. The Board shall not approve any waiver(s) unless a majority of those present and voting shall find that all of the following apply:

**IV-1005.1(a)** The granting of the waiver will not be detrimental to the public safety, health, or welfare or be injurious to other property and will promote the public interest

**IV-1005.1(b)** The waiver will not, in any manner, vary the provisions of the Town's Zoning Ordinance or Master Plan

**IV-1005.1(c)** The waiver will substantially secure the objectives, standards, and requirements of this ordinance

**IV-1005.1(d)** A particular and identifiable hardship exists or as specific circumstance warrants the granting of a waiver. Factors to be considered in determining the existence of a hardship shall include, but not be limited to:

(i) Topography and other site features

(ii) Availability of alternative site locations

(iii) Geographic location of the property

**IV-1005.1(e)** Size/magnitude of the project being evaluated and availability of co-location

**IV-1101** For non-residential site plans that involve land designated as "Special Flood Hazard Areas" (SFHA) by the National Flood

Insurance Program (NFIP) developers must follow the Subdivision Regulations in III-801.





**CHAPTER V**  
**RSA 155-E**  
**EXCAVATION REGULATIONS**  
**FOR THE TOWN OF MONT VERNON**  
**NEW HAMPSHIRE**  
**ADOPTION VERIFICATION**

**ARTICLE 1 AUTHORITY**

**V-101** These regulations have been adopted by the Mont Vernon Planning Board (regulator) on March 25, 1980 after a duly noticed public hearing held on March 25, 1980.

Planning Board (regulator) certification:

Linda Foster, Chairman  
Jeff Shapira, Secretary  
Bruce Tower, Vice Chairman  
Mary Collins  
Keith Pomeroy  
Beverly Kittle  
Paul Schneiderhan

Filed with Board of Selectmen/City Council:

Filed with Municipal Clerk:

Filed with County Registry of Deeds:

**V-102** These regulations supplement the provisions of RSA 155-E and provide further clarification of the statutory requirements and their application in the municipality of Mont Vernon, New Hampshire. They are adopted as provided in RSA 155-E:11 and 674:36 RSA. Applicants should familiarize themselves with both RSA 155-E and these regulations to be fully informed as to permit requirements.

**ARTICLE 2 DEFINITIONS**

**Abutter.** Any person who owns land within 200 feet of the boundaries of the land under consideration. A way, as defined in RSA 259:1, XXXV, shall not be considered to be a barrier, but shall be included in the distance requirement for purposes of determining whether a person is an abutter. (RSA 672:3, 4, 9-14).

**Applicant.** Owner of the excavation site or the owner's designee.

**Application.** A complete submission of information and plans as required by the statute RSA 155-E, local regulations, and in the excavation permit application.

**Aquifer.** Those areas designated by blue shading or hatching which appear on statewide mapping prepared by the United States Geological Survey entitled: ? "Available of Ground Water . . .".

**Excavation Fee** (RSA 155-E:8). A fee of \$50.00 submitted by the applicant to the regulator, following the public hearing and prior to the issuance of an excavation permit, to defray the cost of processing the application.

**Excavation Permit** (RSA 155-E:8). A permit issued by the regulator allowing the excavation of material at a specific site, in a manner consistent with RSA 155-E and local regulations for the period designated on the permit itself.

**Excavation Permit Application.** A form and associated documents which contain excavation project information. The application must be submitted in duplicate to the regulator and the conservation commission.

**Owner.** An individual or corporation who claims ownership of the land, containing the excavation site, by virtue of a properly executed deed filed at the County Registry of Deeds.

**Permit Fee** (RSA 155-E:11). A fee submitted by the applicant to the regulator, as one of the prerequisites to issuance of an excavation permit, for the purpose of defraying costs associated with permit compliance inspections. The fee is established by the regulator based on the area (acreage) and duration of the excavation permit.

**Pit Agreement.** An agreement between the excavation site owner and the contractor describing the procedure for material excavation (see Section 106.02 of "Standard Specifications for Roads and Bridges" published by the New Hampshire Department of Public Works and Highways).

**Stationary Manufacturing and Processing Plants.** Structural improvements that are permanently placed and that are integral to the grading, crushing, and stockpiling of excavated material.

### **ARTICLE 3 EXCAVATION PERMIT APPLICATION**

**V-301** The applicant shall submit to the regulator and the Conservation Commission the information and documents specified in RSA 155-E:3 and in the Excavation Permit Application.

**V-302** The Application submission shall include:

**V-302.1** The **APPLICATION FORM** containing the owner's name, location of project, abutters' names and addresses, access routes, etc.,

**V-302.2** An **EXCAVATION PLAN** showing the excavation site and the scheme for removal of excavated material,

**V-302.3** A **RESTORATION PLAN** describing the process of site grading and revegetation following completion of the excavation project, and,

**V-302.4** Related permit approvals or **OTHER DOCUMENTS** pertinent to the excavation proposal.

#### **ARTICLE 4 SUBMISSION DOCUMENTS**

**V-401 Excavation Plan.** The Owner/Applicant shall submit a plan describing the specific location and extent of the proposed excavation project. The excavation plan shall include existing topographic and site boundary information compiled and prepared by a Registered Land Surveyor. Other information which must be contained in the plan is:

**V-401.1** proposed topography at the completion of excavation (prior to restoration);

**V-401.2** distances between disturbed areas and closest property lines;

**V-401.3** zoning district(s);

**V-401.4** existing visual barriers to be retained;

**V-401.5** aquifer limits/location as identified by the U.S. Geological Survey;

**V-401.6** lakes, streams, significant natural and man-made features;

**V-401.7** a description of project duration and phasing;

**V-401.8** the names of abutting land owners;

**V-401.9** a photograph(s) of the existing site;

**V-401.10** notations as to excavation site acreage and volumes of material to be removed;

**V-401.11** the location and design of site access roads leading to and from public highways;

**V-401.12** the elevation of the highest annual average groundwater table within or next to the proposed excavation;

**V-401.13** topsoil storage sites during the excavation phase;

**V-401.14** the plan shall be drawn at a scale and contour interval which allows a thorough understanding of project scope. Sectional drawings may be required by the regulator.

#### **V-402 Restoration Plan.**

**V-402.1** Excavation site restoration plans shall be prepared and submitted by all new and existing excavation site owners except as noted in RSA 155-E:2. As required by Chapter

481:3, New Hampshire laws of 1979, the owners of existing excavation operations must perform restoration in compliance with RSA 155-E:5. The regulator shall notify all existing excavation operations owners of their site restoration responsibility. Owners of existing excavation operations shall submit a restoration plan and appropriate bonding to the regulator within six (6) months of their notification. The Excavation Permit Application Form shall be used for this submission.

**V-402.2** The restoration plan shall meet, at a minimum, the requirements set forth in RSA 155-E:5. The character of the restored landscape shall blend with the surrounding natural features. The restored site shall be rendered in a condition that will not preclude its future use in a manner consistent with the zoning ordinance and map.

**V-402.3** The restoration plan shall contain the following information:

**V-402.3(a)** restored topography and drainage at the completion of the restoration phase;

**V-402.3(b)** the phasing of site restoration showing designated areas and completion dates;

**V-402.3(c)** soil conditioning specifications;

**V-402.3(d)** seeding and mulching specifications;

**V-402.3(e)** the plant materials to be used in restoration, their quantities and sizes and;

**V-402.3(f)** sections showing existing, excavated and restored topography configuration.

**V-403** The Planning Board shall ascertain that adequate provisions for public health, safety, and welfare shall be followed.

## **ARTICLE 5 PROJECT SITE REQUIREMENTS**

**V-501** The following site development standards should be incorporated into the site excavation plan and/or conditions for permit approval.

**V-501.I Excavation Site Access Roads.** Access roads leading to and from the excavation site shall intersect existing streets and roads at locations that have been duly approved by state or local officials and in a manner that will not endanger the safety of highway users and local residents. The provisions of RSA 249:17 and 18 ("Highway Access") shall be adhered to by applicant and shall be shown on the excavation plan.

**V-501.2 Traffic Circulation and Truck Routes** (RSA 155-E:3 III) Permit approval shall be conditioned on compliance by the Applicant with street and highway regulations promulgated by Federal, State and local units.

**V-501.3 Excavation Within Aquifer Areas (RSA 155-E:4 VI)**

**V-501.3(a)** No excavation project shall substantially damage any aquifer identified on mapping prepared by U.S. Geological Survey. The regulator shall determine whether or not substantial damage to the aquifer will be incurred by considering the following criteria:

(i) the excavation shall not detrimentally affect the quality of the groundwater contained in the aquifer by directly contributing to pollution or by increasing the long term susceptibility of the aquifer to potential pollutants;

(ii) the excavation shall not cause a significant reduction in the long-term volume of water contained in the aquifer or in the storage capacity of the aquifer.

**V-501.3(b)** The regulator may require that the Applicant provide data or reports prepared by a Professional Engineer or groundwater consultant which assess the potential aquifer damage caused by the proposed excavation project.

**V-501.4 Topsoil Cover:** Prior to the withdrawal of material at a new excavation site, topsoil material shall be stripped and stored for site restoration use when the excavation project is completed. This should be undertaken in a phased manner to minimize erosion potential. Topsoil shall be revegetated during the period of storage.

**V-501.5 Timber Removal:** The applicable New Hampshire statutes and regulations pertaining to forest practice and timber harvesting shall apply to the removal of vegetative cover at excavation site.

**V-501.6 Visual Barriers:** A vegetative or topographical buffer shall be maintained between surrounding streets, highways, commercial and residential land uses and the excavation site. The regulator shall direct the applicant as to specific requirements for the proposed excavation site. To the extent possible, existing barriers should be retained as the excavation project is conducted.

**ARTICLE 6 APPLICATION PROCEDURE**

**V-601 Preparation and Submission.** The applicant shall adhere to RSA 155-E:3 and these regulations during the process of application preparation and submittal. The completed application shall be submitted in duplicate form (one copy to each) to the regulator as well as to the Mont Vernon Conservation Commission. All costs of the Public Hearing shall be borne by the petitioner.

**V-602 Excavation Fee.** An excavation fee of \$50.00 shall be paid to the regulator by the applicant prior to issuance of an excavation permit.

**V-603 Bonding.** The regulator shall establish the amount of the performance bond prior to issuance of the excavation permit. The bond amount shall be adequate to restore the excavation site in accordance with RSA 155-E:5. The bond will be returned to the applicant when restoration work has been completed and a final satisfactory site inspection has been conducted by the regulator.

**V-604 Action on Permit.** Within 20 days of the hearing required in RSA 155-E:7, the regulator shall make a decision to grant or deny the requested permit. Excavation permit approval by the regulator shall be in the form of a memorandum citing all permit issuance conditions, accompanied by a weatherable permit sign depicting the location of the excavation site, the signature(s) of the regulator and the permit expiration date. The permit sign shall be posted in a secured manner at a prominent location near the excavation site. If the application is denied, the owner shall be notified, in writing, by the regulator stating the reasons for the denial.

**V-605 Pit Agreement.** A pit agreement between the owner, the contractor and the governmental unit shall be executed whenever the excavated material is to be used in the construction or modification of Class I, II, III, IV, V highways. A copy of the agreement shall be submitted for acceptance to the regulator. Excavation shall not proceed until the regulator has accepted the pit agreement and has been placed in an assured position that the excavation site will be restored in conformance with RSA 155-E:5. The pit agreement for Class IV and V highway construction projects shall be essentially the same as the pit agreement set forth in Section 106 of "Standard Specifications for Highways and Bridges" prepared by the New Hampshire Department of Transportation.

**V-606 Permit Validity:** The excavation permit shall be valid for a period of 1 year.

## **ARTICLE 7-RENEWAL AND AMENDMENT OF EXCAVATION PERMIT**

**V-701 Permit Renewal:** The applicant may renew the excavation permit and continue excavation operations by making application to the regulator in the manner set forth in Section II of these regulations. The excavation permit application need only describe those information items which have changed in content from the previous application submission. Fees and bonding will be established by the regulator for the renewal period. No application fee shall be charged for renewal of said permit providing the original plan is not altered.

**V-702 Permit Amendment:** If adherence to the permit conditions (including the excavation/restoration plans) cannot be maintained, the owner shall apply to the regulator for a permit amendment. An application shall be completed and submitted to the regulator in a manner similar to that provided in **Section IV** of these regulations.

## **ARTICLE 8-ADMINISTRATION AND ENFORCEMENT**

**V-801 Permit Fee Schedule:** A fee not to exceed \$25.00 for each site visit shall be levied by the regulator. Only these site visits made by the regulator (or its designee) to affirm compliance with the excavation permit conditions and restoration plan shall be counted for this purpose. Said fee shall be set at a Public Hearing and shall be for a period of one (1) year.

**V-802 Enforcement** (also refer to RSA 155-E:10) The penalty for violations shall be the maximum as set by state statutes per day for each violation.





## APPENDIX A

### GLOSSARY

**ABUTTER** "Abutter" means any person whose property adjoins or is directly across the street or stream from the land under consideration by the local land use board. For purposes of receiving testimony only, and not for purposes of notification, the term "abutter" shall include any person who is able to demonstrate that his land will be directly affected by the proposal under consideration. For purpose of receipt of notification by a municipality of the local land use board hearing, in the case of an abutting property being under a condominium or other collective form of ownership, the abutter means the officers of the collective or association, as defined in RSA 356-b:3, XXXIII.

**AGRICULTURAL, FARM AND FARMING** See Farm

**ALTERNATIVE TOWER STRUCTURE** Innovative siting techniques such as artificial trees, clock towers, bell towers, steeples, light poles, and similar alternative design mounting structures that camouflage or conceal the presence of antennas or towers.

**ANTENNA** Any exterior apparatus designed for telephonic, radio, television, personal communications service (PCS), pager network, or any other communications through the sending and/or receiving of electromagnetic waves of any bandwidth.

**APPLICANT/DEVELOPER** The owner of land to be subdivided or developed or his agent or representative as he may authorize by a NOTARIZED STATEMENT SIGNED by the owner of record.

**APPLICATION** Forms as specified by the Mont Vernon Planning Board to be used for application for subdivision and/or site review.

**BOARD** The Planning Board of the Town of Mont Vernon.

**BOUNDARIES** Outside perimeter of lot lines as shown on subdivision and/or existing lots of record.

**BUFFER ZONE** A strip of land along a property line or zone district boundary line which shall be free of any building or use other than natural woody growth, landscaping or screening.

**BUILDING 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 of use, coverage and area, and to provide such yards and other open spaces as are herein required.

**BUILDING AREA** The percentage of lot area or square footage, as applicable, covered by a building exclusive of cornices, eaves, gutters, chimneys, porches without roofs and bay windows. In determining building area, principal and accessory buildings shall be included.

(BUILDING OR STRUCTURE HEIGHT removed by vote of Town Meeting 3-14-2000)

**BUILDING** A structure having a roof, fixed to the land and constructed for the shelter of persons, animals or property.

**BUILDINGS, ACCESSORY** A detached or attached building, the use of which is customarily incidental and subordinate to that of the principal building, such as a utility shed, porch, barn or garage, and which is located on the same lot as that occupied by the principal building. The term "accessory building", when used in connection with a farm, shall include all buildings customarily used for farm purposes.

**CELLAR** A portion of a building, partly or entirely below the finished grade of the ground adjoining the building. A cellar is not deemed a story unless its ceiling is six or more feet above the finished grade at the front of the building.

**CERTIFICATE OF OCCUPANCY** The certificate issued by the Building Inspector which permits the use of a building in accordance with the approved plans and specifications and which certifies compliance with the provisions of law for the use and occupancy of the building in its several parts together with any special stipulations and conditions of the building permit.

**CERTIFICATION** A signed, written approval by the Planning Board for the specific purpose it was requested.

**CLASS VI ROAD** All existing public ways, and shall include all highways discontinued as open highway and made subject to gates and bars, and all highways which have not been maintained and repaired by the town in suitable condition for travel thereon for five (5) successive years or more. (RSA 229:5, VII)

**CO-LOCATION** The use of an existing tower or an existing telecommunications facility, for multiple purposes or users.

**COMMON AREA** Area set aside to be dedicated or to be reserved for common use of all property owners. This may include parks, playgrounds and undeveloped land.

**CONCEPTUAL PLAN** Rough sketches and/or general overview of a proposed subdivision of a parcel of land. A conceptual plan may contain a base map, unscaled sketches and/or United States Geological Survey map of a proposed subdivision.

**CONFORMING USE** A use that is allowed by law or ordinance as subsequently amended which is in accordance with all Zoning Regulations of the Town of Mont Vernon. This shall include uses allowed by law or ordinance that were in existence and legal prior to any change in law or ordinance that would make such uses non-conforming.

**CONSERVATION AREA** An area of land or body of water that has been set aside for the planting of grass or trees, the protection of natural existing flora and fauna with the intent of protecting such from loss or destruction by unnatural forces.

**CONSTRUCTION DRAWINGS** Engineered drawings that have been signed, approved and stamped by a properly certified engineer for the purposes said plans are being used. Construction drawings will be construed as those drawings to be utilized in the final layout of a subdivision or site plan review.

**COUNTY CONSERVATION DISTRICT** Hillsborough County Conservation District ("HCCD")

**DEVELOPMENT** The addition of buildings, structures, or other improvements to land that will permanently alter the character and nature of the land.

**DISCUSSION PHASE** (Survey Phase) First stage, informal non-binding presentation and exchange of information concerning any possible subdivision of land. Abutters not notified.

**DISTURBED AREA** An area where the ground cover is moved, destroyed, altered or removed leaving the land subject to accelerated erosion.

**EARTH MOVEMENT** The movement of sand, gravel, rock, soil or construction aggregate produced by quarrying, crushing, or any other mining activity or such other naturally-occurring unconsolidated materials that normally mask the bedrock.

**ENGINEER** See Registered Professional Engineer

**EROSION** The detachment and movement of sand, gravel, rock, soil or construction aggregate produced by quarrying, crushing or any other mining activity or such other naturally-occurring unconsolidated materials that normally mask the bedrock by water, wind, ice or gravity.

**EXCAVATION REGULATIONS** Regulations as set forth in the Zoning Ordinances of the Town of Mont Vernon in accordance with RSA 155-E.

**EXCAVATION** The removal of sand, gravel, rock, soil or construction aggregate produced by quarrying, crushing and/or other mining activity or such other naturally-occurring unconsolidated materials that normally mask the bedrock and the land area which is used, or has been used, for such commercial taking of earth, including all slopes.

**FARM & HOME PRODUCE** Vegetable, fruits, dairy products and other products that are grown on the land occupied and located in the Town of Mont Vernon.

**FARM** Any land or buildings or structures on or in which agriculture and farming operations are carried on and shall include the residence or residences of owners, occupants, or employees located on such lands. (Also see farming)

**FARMING** All operations of a farm such as the cultivation, conserving and tillage of soil, dairying, greenhouse operations, the productions, cultivation, growing and harvesting, of any agricultural, floriculture, sod or horticultural commodities, the raising of livestock, bees, fur-bearing animals, fresh water fish or poultry, or any practices on the farm as and incident to or in conjunction with such farming operations including, but not necessarily restricted to the following: preparation for market, delivery to storage or to market, or to carriers for transportation to market, of any products or materials from the farm; the transportation to the

farm of supplies and materials, the transportation of farm workers; forestry or lumbering operations; the marketing or selling at wholesale or retail or in other manner any products from the farm and of other supplies that do not exceed in average yearly dollar volume the value of products from such farm.

**FAST FOOD RESTAURANT** A restaurant with drive-up window service, or that otherwise receives payment and/or dispenses products to patrons while in their vehicles (such as a drive-in restaurant).

**FINAL PLAT** A plat plan prepared and certified by a registered surveyor and so stamped that meets all the requirements of the Subdivision and Zoning Regulations of the Town and is in conformance with all standards set by the State of New Hampshire Registry of Deeds. This plan shall be signed by the Board and recorded at the Hillsborough County Registry of Deeds upon final approval of the Board.

**FINAL PHASE** (3rd phase) The point in the subdivision process where all requirements of the Subdivision and Zoning Regulations of the Town have been met and the subdivider is requesting final approval of a Subdivision. Formal application must be approved before this phase.

**FORESTRY** The science of growing trees for the purpose of selling such in the future.

**FORMULA RESTAURANT** Formula Restaurant shall mean a restaurant that stands alone or with other use(s), and which prepares food and beverage on site for sale to the public, and which is required by contractual or other arrangement to offer any of the following: standardized menu, interior and/or exterior color scheme(s), architectural design, signage or similar standardized features, or which adopts a name or food presentation format which causes it to be substantially identical to another restaurant regardless of ownership or location.

**FRONTAGE** The length of the lot bordering on and measured parallel to the centerline of a town or State maintained highway, or a subdivision road approved by the Planning Board.

**GENERAL PURPOSE FARMING** See Farming

**GRADING** The alteration of the lands surface by the movement and/or leveling or alteration of such surface which includes excavating, grubbing, filling or stockpiling of earth materials or any combination thereof.

**GROUND CONTROL** The marking of the land that delineates the character of the land so that the land features and characteristics can be readily identified during various inspection.

**GUY WIRES** A cable used to secure and steady a tower

**HEIGHT** The vertical distance measured from average elevation of the proposed finished ground level to the highest point on the building, tower or other structure, including antennas.  
(Amended 3-14-2000)

**HIGH INTENSITY SOILS MAP** A soils map of a parcel of land being considered for development on a perimeter survey, with a scale of one inch (1") not to exceed one hundred feet (100') where soils are identified and mapped in accordance with the High Intensity Soil Maps for the New Hampshire Standards.

**HIGH INTENSITY SOIL SURVEY** A survey of the soil conditions of a specific parcel of land done in accordance with standards adopted by the Hillsborough County Conservation District or the Rockingham County Conservation District.

**INSPECTION** The periodic review of a subdivision/site that is in process to ensure that it is in conformance with certified plans.

**LIMITED COMMERCIAL** See Zoning

**LOCAL LEGISLATIVE BODY** The Town Meeting form of Government.

**LOT OF RECORD** A lot which is part of a subdivision of record in the office of the County Register of Deeds, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

**LOT** A parcel of land at least sufficient in size to meet the minimum requirements for use, coverage and area and to provide required yards and other open spaces. An undersize lot is permissible if it passes state standards for soil conditions and substantially meets the requirements here and if in existence on the date of adoption of this ordinance.

**MAJOR SUBDIVISION** A subdivision which creates four (4) or more lots for building development purposes.

**MANUFACTURED HOUSING** Any structure, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width and forty (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 pre-site built housing as defined in RSA 674:31-a.

**MASTER PLAN** The Master Plan of the Town of Mont Vernon.

**MANUFACTURED HOUSING PARKS** Any parcel of land under single or common ownership or control which contains, or is designed, laid out or adapted to accommodate two (2) or more manufactured houses. Nothing herein shall be construed to apply to premises used solely for storage or display of manufactured housing.

**MINOR SUBDIVISION** A subdivision which creates not more than three (3) lots for building development purposes or for proposals which do not involve creation of lots for building development purposes.

**MONOPOLE** Any tower consisting of a single pole, constructed without guy wires or ground anchors.

**MULTI FAMILY** Any structure containing more than one (1) dwelling unit.

**NATURAL DRAINAGE** Seasonal or intermittent run off so diverted by existing natural physical features of the land.

**NATURAL COVER** All natural flora and fauna as it exists prior to any intervention of man.

**NON-RESIDENTIAL SITE/PLAN** See Site Plan

**NON-CONFORMING USE** The use of land, building or premise which is not a use permitted by the provisions of this ordinance for the district in which such land, building or premise is situated.

**OPEN SPACE** Land unencumbered by any parking space, service area, buildings or other substantial structures and designed as open space on a site plan.

**OPEN SPACE (CLUSTER) DEVELOPMENT** A development of single family dwellings that is designed to promote the conservation of the natural and scenic environment of the Town by leaving areas of land open and clustering housing so as to efficiently use the land and minimize the impact on the overall environment and natural setting of the area.

**OUTBUILDING** See Buildings, Accessory

**PERFORMANCE BOND** A bond issued by a Certified Bonding Company so as to ensure a specific phase of a subdivision is completed.

**PLAN** Rendering of a proposed development/improvement drawn to scale.

**PLANNING BOARD** Board as appointed by the BOARD OF SELECTMEN of the Town of Mont Vernon, New Hampshire, pursuant to RSA 673:2.

**PLAT** A map, plan, drawing or chart on which a subdivision of land is shown.

**PREEXISTING TOWERS AND ANTENNAS** Any tower or antenna lawfully constructed or permitted prior to the adoption of this ordinance (*March 10, 1998*). Also, any tower or antenna lawfully constructed in accordance with this ordinance that predates an application currently before the Town.

**PRELIMINARY PHASE** (Design review-2nd phase) Abutters notified, non-binding discussion. Application submitted.

**PRESITE BUILT HOUSING** Any structure designed primarily for residential occupancy which is wholly or in substantial part made, fabricated, formed or assembled in off-site manufacturing facilities in conformance with the United States Department of Housing and Urban Development minimum property standards and local building codes, for installation, or assembly and

installation, on the building site. Presite built housing shall not include manufactured housing, as defined in RSA 674:3I.

**PRIVATE ROAD** A road with the same plan and construction specifications as a public street but not maintained by the town and the ownership is retained by the people who live on the street. *(Added June 22, 2010)*

**QUALIFIED SOIL SCIENTIST** A person licensed by the State of New Hampshire to perform soil evaluations and mapping.

**REGISTERED LAND SURVEYOR** A person licensed by the State of New Hampshire to perform land surveys.

**REGISTERED PROFESSIONAL ENGINEER** A person licensed by the State of New Hampshire as a professional engineer.

**RELATED USE** A land use located on the same lot which is incidental and subordinate to the main building or use of the land.

**RESTAURANT** An establishment where meals and/or beverages are served to customers.

**ROADWAY** The travel portion of any street, whether paved or unpaved, not including unpaved shoulders but including paved breakdown lanes.

**SECONDARY USE** A use of land or of a building or portion thereof which is unrelated to the principal use of the land or building.

**SEDIMENT** Solid material, either mineral or organic, that is in suspension, is transported, or has been moved from its site of origin by erosion.

**SELECTMEN** The Board of Selectmen of the Town of Mont Vernon.

**SET BACK** The distance between the nearest portion of a building and a lot or right-of-way line whichever is closer.

**SINGLE FAMILY RESIDENCE** A residence which stands apart from other buildings, except accessory buildings, and which is used for a residence by a single housekeeping unit, with permanent provision for living, sleeping, eating, cooking and sanitation.

**SITE PLAN** A plan showing the location of all buildings, parking areas, abutters, traffic access and circulation drives, open spaces, landscaping and any other pertinent information that the Board deems necessary in exercising its review of nonresidential, open space (clustered) residential development and multi-unit dwelling site plans in accordance with Chapter 674 of NH Revised Statutes Annotated.

**SOIL EROSION AND SEDIMENT CONTROL** The prevention and control of the erosion of soil and the development of sediment.



**SOIL SCIENTIST** See Qualified Soil Scientist

**SOIL** Any unconsolidated mineral or organic material of any origin.

**STREET** Street, avenue, boulevard, road, highway, freeway and other public ways.

**STRUCTURE** That which is built or constructed for occupancy or use. Structures shall not include stone walls and fences less than six feet in height.

**SUBDIVISION** The division of a lot, tract, or parcel of land into two (2) or more lots, plats, sites, or other division of land for the purpose for immediate or future sale, rent, lease, condominium conveyance or building development. It includes resubdivision and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided.

**SURVEY PHASE** See Discussion Phase

**TELECOMMUNICATIONS FACILITIES** Any structure, antenna, tower, or other device that provides commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), and personal communications services (PCS), and common carrier wireless exchange access services.

**TOWER** A structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers or monopole towers. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, alternative tower structures, and the like.

**VARIANCE** (674:33) Legal authorization to deviate from a term of the ordinance.

**WAIVER** Release

**ZONING BOARD OF ADJUSTMENT** Board as appointed by the Board of Selectmen pursuant to RSA 673:3.

**ZONING ADMINISTRATOR** Board of Selectmen of the Town of Mont Vernon.

**ZONING ORDINANCE** The Zoning Ordinances of the Town of Mont Vernon.

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**TOWN OF LYNDEBOROUGH  
NEW HAMPSHIRE**



**ZONING ORDINANCE**

**Recodified: March 10, 1998,  
Amended: March 9, 1999; March 18, 2000; March 13, 2001; July 17, 2001;  
March 12, 2002; March 9, 2004; March 8, 2005; March 14, 2006; March 13, 2007;  
March 11, 2008; March 9, 2010; March 13, 2012; March 18, 2017; March 13, 2018;  
March 16, 2019**

1  
2  
3  
4 **TOWN OF LYNDEBOROUGH**  
5 **ZONING ORDINANCE**  
6  
7

8 **100.00 PURPOSE AND AUTHORITY**  
9

10 This Ordinance is adopted pursuant to the authority granted by NH RSA 674:16  
11 through 674:21, inclusive.  
12

13 The purpose of this Ordinance is to promote the health, safety, and general welfare of  
14 the residents by preserving the value of buildings; by encouraging the appropriate use  
15 of land throughout the Town of Lyndeborough and by:  
16

- 17 a. securing safety from fire, panic and other danger;
- 18 b. providing adequate light and air;
- 19 c. providing adequate area between buildings and rights-of-way;
- 20 d. preserving the rural character of the community;
- 21 e. promoting good design and arrangement of buildings and land uses;
- 22 f. facilitating the adequate provision of transportation, solid waste facilities,  
23 septic facilities, water, schools, parks, child day care and housing  
24 opportunities for all of its citizens;
- 25 g. wise and efficient expenditures of public funds; and
- 26 j. assuring proper use of natural resources and other public requirements.  
27

28 **101.00 Adoption and Amendments**  
29

30 This Zoning Ordinance was originally adopted at a special Town Meeting on April  
31 14, 1959 and recodified by the voters of the Town of Lyndeborough, New  
32 Hampshire, by Official Town Meeting Ballot vote on March 10, 1998.  
33

34 This ordinance may be amended by an official ballot vote of any legally constituted  
35 Town Meeting provided public notice has been given, public hearings conducted and  
36 adoption is made in accordance with NH RSA 675:2-5, as amended.  
37

38 The Planning Board has the authority to assign such section numbers to the Zoning  
39 Ordinance and Building Code as it may deem appropriate provided that no  
40 substantive change to the Ordinance shall occur as a result of the renumbering.  
41  
42

TOWN OF LYNDEBOROUGH  
ZONING ORDINANCE

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- 43 **200.00**     ***DEFINITIONS***  
44  
45             For the purpose of this ordinance, certain words, terms or phrases shall have the  
46 meaning as stated in this section unless the context clearly indicates otherwise; and  
47  
48             a. words in the present tense include the future;  
49             b. the singular includes the plural and the plural includes the singular; and  
50             c. terms and words not defined in this ordinance shall have the meanings  
51 understood in common usage and as defined in standard American  
52 dictionaries.  
53
- 54 **200.01**     ***Abandonment.*** Where any non-conforming use of a building or structure is  
55 discontinued for more than one year, or where a non-conforming use of land is  
56 discontinued for a period of more than one year, or if the non-conforming use of the  
57 land or building or structure is replaced with a conforming use or building or  
58 structure, then the non-conforming use shall be deemed to be abandoned.  
59
- 60 **200.02**     ***Accessory Dwelling Unit.*** means a residential living unit that is within or attached to  
61 a single-family dwelling, and that provides independent living facilities for one or  
62 more persons, including provisions for sleeping, eating, cooking, and sanitation on  
63 the same parcel of land as the principal dwelling unit it accompanies. (3/13/18)  
64 (recodify 3/16/19)  
65
- 66 **200.03**     ***Accessory Building.*** A detached building located on the same lot as the principal  
67 building or use which is customarily used for purposes incidental and subordinate to  
68 those of the principal building.  
69
- 70 **200.04**     ***Accessory Use.*** Any use which is customary, incidental and subordinate to the  
71 principal use of the structure or lot.  
72
- 73 **200.05**     ***Automobile Graveyard.*** Any lot or portion of a lot which is maintained, used, or  
74 operated for storing, keeping, buying, or selling wrecked, scrapped, ruined,  
75 dismantled or abandoned motor vehicles or motor vehicle parts. (3/9/99), (3/16/19)  
76
- 77 **200.06**     ***Automobile Service Station.*** Any building, land area or other premises, or portion  
78 thereof used for the retail dispensing or sales of vehicular fuels; servicing and repair  
79 of automobiles; and including as an accessory use the sale and installation of  
80 lubricants, tires, batteries and similar vehicle accessories.  
81
- 82 **200.07**     ***Building.*** Any combination of materials, whether portable or fixed, having a roof or  
83 cover which forms a shelter for persons, animals or property.  
84
- 85 **200.08**     ***Dwelling Unit.*** A single unit providing complete independent living facilities for one  
86 or more persons with permanent provisions for living, sleeping, eating, cooking and  
87 sanitation with a minimum of 600 square feet on a permanent foundation with a state  
88 approved septic system and water supply.  
89
- 90 **200.09**     ***Single-Family Dwelling.*** A single building having one dwelling unit.  
91
- 92 **200.10**     ***Two-Family Dwelling.*** A single building containing two attached dwelling units.  
93
- 94 **200.11**     ***Frontage.*** The continuous length of a lot bordering on the public right-of-way.  
95
- 96 **200.12**     ***Home Businesses.*** A business that is incidental and subordinate to the use of the  
97 building or lot for residential purposes in compliance with the criteria established for  
98 home businesses in Section 1200.00. (3/13/18)  
99

TOWN OF LYNDEBOROUGH  
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- 100 **200.13** **Junk.** Pursuant to NH RSA 236:91, old scrap copper, brass, rope, rags, batteries,  
101 paper, trash, rubber debris, waste, or junked, dismantled, or wrecked automobiles, or  
102 parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.  
103 (3/9/99)  
104
- 105 **200.14** **Junk Yard.** Any lot or portion of a lot which is maintained, operated, or used for  
106 storing, keeping, buying or selling junk, for the maintenance or operation of an  
107 automobile recycling yard, and includes garbage dumps and sanitary fills. (3/9/99)  
108
- 109 **200.15** **Lot or Parcel.** A single area of land defined by metes and bounds or boundary lines  
110 as shown in a recorded deed or on a recorded plan.  
111
- 112 **200.16** **Lot of Record.** Land designated as a separate and distinct parcel in a legally recorded  
113 deed filed in the Hillsborough County Registry of Deeds.  
114
- 115 **200.17** **Manufactured Housing.** Any structure, transportable in one or more sections,  
116 which, in the traveling mode, is 8 body feet or more in width, and 40 body feet or  
117 more in length, or when erected on site, is 320 square feet or more, and which is built  
118 on a permanent chassis and designed to be used as a dwelling with a permanent  
119 foundation when connected to required utilities, which include plumbing, heating and  
120 electrical heating systems contained therein. Manufactured housing does not include  
121 pre-site built housing. (3/9/99)  
122
- 123 **200.18** **Nonconforming Building or Structure.** A building or structure which lawfully  
124 existed prior to the adoption, revision or amendment of this ordinance but which fails  
125 to conform to the current provisions of the ordinance. (3/9/99)  
126
- 127 **200.19** **Nonconforming Lot.** A lot which lawfully existed prior to the adoption, revision or  
128 amendment of this ordinance but which fails to conform to the current provisions of  
129 the ordinance. (3/9/99)  
130
- 131 **200.20** **Nonconforming Use.** A use which lawfully existed prior to the adoption, revision or  
132 amendment of this ordinance but which fails to conform to the current provisions of  
133 the ordinance.  
134
- 135 **200.21** **Retail Store.** An establishment involved in selling goods or merchandise to the  
136 general public for personal or household consumption and rendering services  
137 incidental to the sale of such goods.  
138
- 139 **200.22** **Pre-site Built Housing.** Any structure with a permanent foundation designed  
140 primarily for residential occupancy which is wholly or in substantial part made,  
141 fabricated, formed or assembled in off-site manufacturing facilities in conformance  
142 with the United States Department of Housing and Urban Development minimum  
143 standards and local building codes, for installation, or assembly and installation, on  
144 the building site. Pre-site built housing does not include manufactured housing.  
145 (3/9/99)  
146
- 147 **200.23** **Recreational Vehicle.** A vehicular-type portable structure without permanent  
148 foundation that can be towed, hauled, or driven for recreational use, including but not  
149 limited to travel trailers, truck campers, camping trailers and self-propelled motor  
150 homes. (3/9/99)  
151
- 152 **200.24** **Public Right-of-Way.** All town, state and federal highways and the land on either  
153 side as covered by statutes.  
154
- 155 **200.25** **Seasonal Dwelling.** A dwelling unit that lacks one or more of the basic amenities or  
156 utilities required for all-year or all-weather occupancy, such as hunting and fishing

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ZONING ORDINANCE

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157 camps but not including wheeled recreational vehicles. The dwelling unit may be  
158 less than 600 square feet. The dwelling unit shall not be considered a permanent  
159 residence.  
160

161 **200.26** **Setback.** The minimum distance between two points as prescribed by this ordinance.  
162

163 **200.27** **Sign.** A device or structure, freestanding or attached to a building or structure,  
164 visible to the public from the exterior of a building which contains any combination  
165 of lights, letters, words, objects, graphics, figures, designs, symbols, pictures, logos  
166 or colors which are intended to advertise, identify, direct or convey a message to the  
167 public or to attract attention to an object, person, institution, organization business or  
168 service.  
169

170 **200.28** **Structure.** A combination of materials assembled at a fixed location to give support  
171 or shelter, including buildings, accessory buildings and accessory uses. (3/9/99)  
172

173 **200.29** **Wetland.** Areas delineated as poorly or very poorly drained soils by the U.S.  
174 Department of Agriculture, Soil Conservation Service, in the Soil Survey of  
175 Hillsborough County New Hampshire, Western Part, dated October 1985, and the  
176 Corps of Engineers Wetlands Delineation Manual, Technical Report Y-87-1,  
177 Environmental Laboratory, Department of the Army, 1987 in conjunction with the  
178 Field Indicators for Identifying Hydric Soils in New England, New England  
179 Interstate Water Pollution Control Commission, May 1995.  
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**300.00 DISTRICTS**

The following districts are established for the purpose of promoting the health, safety and general welfare of the population; to implement the goals of the Lyndeborough Master Plan; to minimize the impact on the natural environment; to provide a variety of housing opportunities; to protect the value of residential property; to broaden the Town's tax base; to encourage the development of balanced and harmonious land uses of varying intensities; and to protect the character of the Town:

- a. Village District – V,
- b. Light Industrial District – LI,
- c. Rural Lands One – RL1,
- d. Rural Lands Two – RL2, and
- e. Rural Lands Three – RL3.

The boundaries and general locations of each district are depicted on the Lyndeborough Zoning Map on file in the Town Office.

230 **400.00 GENERAL PROVISIONS**

231

232 **401.00 Temporary Placement of Manufactured Home**

233

234 The Planning Board may grant a permit to temporarily locate a manufactured home  
235 on the same lot as a permanent dwelling or building for a period of up to twelve (12)  
236 months while a dwelling is being initially constructed or substantially reconstructed;  
237 or any building is being reconstructed after damage by fire or other natural cause. In  
238 cases of hardship, the Building Inspector may grant one six (6) month extension. At  
239 the end of the twelve (12) month period or the extension, the manufactured home  
240 must be removed from the lot. The intent of this section is to prohibit the creation of  
241 an additional dwelling unit. The temporary manufactured home shall be serviced by  
242 existing or new approved septic and water systems. Any violations of this section  
243 shall be subject to the enforcement proceedings and penalties contained in Section  
244 1500.00 Enforcement and Administration of this ordinance. (3/9/99)

245 **402.00 Alteration and Removal of Materials**

246

247 The commercial removal of loam, sand, gravel or other natural inorganic material  
248 from any lot in any district is permitted upon site plan review and approval, and  
249 receipt of an excavation permit from the Planning Board in accordance with the  
250 Lyndeborough Site Plan Review Regulations Regarding Excavations.

251

252 **403.00 Sanitary Protection**

253

254 All sanitary systems shall be constructed and maintained in accordance with the  
255 standards set and enforced by the New Hampshire Department of Environmental  
256 Services Water Supply and Pollution Control Division and other Town of  
257 Lyndeborough regulations.

258

259 **404.00 Exclusive Optional Method of Developing Large Tracts of Land (3/18/00) (3/16/19)**

260

261 As an exclusive optional method of development, not a required process of  
262 subdivision, any lot of record may be subdivided in accordance with the following  
263 criteria: (3/18/00) (3/16/19)

264

- 265 a. The average size of the subdivision lots shall not be less than 25 acres with a  
266 minimum size of 10 acres.;
- 267 b. The lots shall be accessed by a private road constructed to meet the minimum  
268 standards established in the *Town of Lyndeborough Street and Road*  
269 *Standards*.
- 270 c. No further subdivisions would be permitted using roads existing as of  
271 January 1, 1997 to meet zoning frontage requirements. Further subdivision  
272 will require adequate frontage on a Class V or better highway constructed  
273 after January 1, 1997, as required by the zoning ordinance in force at the time  
274 of any further resubdivision. (3/18/00) (3/16/19)

275

276 **404.10 Conservation Lands (Adopted March 8, 2005)**

277

278 Conservation Lands is an optional method of subdivision pursuant to RSA 674:21  
279 (“Innovative Land Use Controls”) and RSA 674:21-a. Conservation Lands is an  
280 overlay district which allows a one-time-only subdivision of any parcel which is 60  
281 acres or larger in any zoning district. Its primary purpose is to allow an expedited  
282 subdivision process, where lots created are at least 30 acres in size and the lots will  
283 remain in forestry and agricultural use in perpetuity with single-family residential use



284 the only allowed accessory use to forestry and agriculture. The following standards  
285 are the only requirements for subdivision approval:

- 286
- 287 a. The minimum lot size of any lot created shall be at least 30 acres.
- 288 b. Each lot shall have direct access to a public highway or a deeded easement to  
289 a public highway recorded in all future deeds. Wherever possible, lots shall  
290 have a common entrance onto a public highway. All highway entrances shall  
291 be shown on the plat and there shall be no more than one entrance for every  
292 1000 feet of public highway.
- 293 c. Pursuant to RSA 674:21-a, deed and plat restrictions shall indicate that there  
294 will be no further re-subdivision in perpetuity.
- 295 d. The Planning Board shall approve or disapprove any subdivision created  
296 under this option not later than the Board's next meeting following  
297 acceptance by the Board of a plat to the above standards and with statutory  
298 notice to abutters. The plat shall meet the standards of Subdivision Section  
299 510.00 (Plat Standards).
- 300 e. Because there are no frontage requirements connected with this section,  
301 Section 404.10 shall be exempt from section 408.0 requirements as is section  
302 404.00 ("Large Lot Subdivisions").
- 303

304 **405.00 Driveways**

305

306 All driveways entrances shall be constructed in conformance with the *Town of*  
307 *Lyndeborough Street and Road Standards* or the NH Department of Transportation  
308 regulations for any State maintained roads. Driveway entrances shall be consistent  
309 with the adjacent public road.

310

311 **406.00 Use of Manufactured Housing, Pre-Site Built Housing and Recreational Vehicles**

312

313 A dwelling unit may be constructed on-site, or may be manufactured housing or pre-  
314 site built housing. Under no circumstances shall a recreational vehicle be considered  
315 a dwelling unit. (3/9/99)

316

317 **407.00 Junkyards and Automobile Graveyards**

318

319 Junkyards and Automobile Graveyards are prohibited in all zoning districts in the  
320 Town of Lyndeborough. (3/9/99)

321

322 **408.00 Soil-Based Zoning Requirements (Overlay District) (3/18/00) (3/16/19)**

323

324 All lots in the Rural Lands One (RL1) or Light Industrial zoning districts with less  
325 than 5 acres shall require a minimum of 2 contiguous acres of "slight" and/or  
326 "moderate" limitations rated soils for septic tank absorption fields, as determined by  
327 the USDA Natural Resource Conservation Service criteria and published in Table 11  
328 of the "Soil Survey of Hillsborough County, New Hampshire", issued October 1985.  
329 A Site specific soil survey conducted by a NH Certified Professional Soil Scientist  
330 may be required by the Planning Board to ensure that the requirements of this section  
331 are met. Contiguous shall mean any area undivided by wetland, ponding (seasonal or  
332 perennial) or seasonal or perennial drainage ways. Lots of record shall not be affected  
333 by this soil-based zoning for residential usage.

334

335 All lots in the Rural Lands One (*RL1*) or Light Industrial zoning districts with less  
336 than 500 foot frontage shall require a minimum of 2 contiguous acres of "slight" and  
337 or "moderate" limitations rated soils for septic tank absorption fields, as determined

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338 by the USDA Natural Resource Conservation Service criteria and published in Table  
339 11 of the “Soil Survey of Hillsborough county, New Hampshire”, issued October  
340 1985. A Site specific soil survey conducted by a NH Certified Professional Soil  
341 Scientist may be required by the Planning Board to ensure that the requirements of  
342 this section are met. Contiguous shall mean any area undivided by wetland, ponding  
343 (seasonal or perennial) or seasonal or perennial drainage ways. Lots of record shall  
344 not be affected by this soil-based zoning for residential usage. (3/18/00) (3/16/19)  
345

346 [Note of Clarification: This section 408.00 does not apply to the Village District,  
347 section 500.00; Rural Lands 2, section 800.00; Rural Lands 3, section 900.00; or the  
348 Large Tracts of Land, section 404.00.]  
349

350 **409.00 Optional Acceptance by the Town of New Roads Created During Subdivisions)**  
351 **(3/18/00)**  
352

353 A road created to town standards for the purpose of road frontage requirements  
354 during subdivision may or may not be accepted by the Town of Lyndeborough as a  
355 public road. Subdivision approval may not be revoked for the sole reason of the road  
356 created for road frontage not being accepted as a Class V road. If the town does not  
357 accept the new road as a public road, the road will remain a private road and the  
358 landowner(s) accept full responsibility for the road. (3/18/00)  
359

360 **410.00 Fences**  
361

362 Fences up to six (6) feet high do not require a building permit. Fences six (6) feet or  
363 higher require a building permit. No fence shall exceed ten (10) feet in height. All  
364 fences may be constructed within the setback up to one (1) foot of the property line.  
365 (3/12/02)  
366

367 **500.00 VILLAGE DISTRICT (V)**

368

369 The purpose of the Village District is to provide opportunities for mixed uses  
370 commonly associated with a town center.

371

372 **500.01 District Boundaries.**

373

374 The Village District includes the portion of Lyndeborough delineated as follows:

375

376 Beginning at the stone monument located on the easterly side of NH Route 31 at the  
377 point where it intersects the Lyndeborough-Wilton Town boundary, east along the  
378 Town boundary to the western edge of the railroad right-of-way, north along the  
379 railroad right-of-way to its point of intersection with Cross Road, east along Cider  
380 Mill Road to its point of intersection with Cemetery Road, northwest along Cemetery  
381 Road to its point of intersection with Putnam Hill Road, northwesterly along a  
382 straight line to a point on Center Road one thousand (1,000) feet north of its  
383 intersection with NH Route 31, south along the same line to its point of intersection  
384 with Stoney Brook, south along Stoney Brook to the point where it intersects the  
385 Lyndeborough-Wilton Town boundary, then east to the point of beginning.

386

387 **501.00 Permitted Uses. (AMENDED AND APPROVED 3/13/18)**

388

389 The following uses and their associated accessory uses are permitted in the Village  
390 District subject to all other applicable provisions of this Ordinance and, excepting  
391 single-family and agricultural uses, Site Plan Review and approval, as applicable, by  
392 the Lyndeborough Planning Board.

393

- 394 a. Single family dwellings;  
395 b. Retail stores;  
396 c. Professional offices;  
397 d. Personal Services;  
398 e. Banks;  
399 f. Municipal, government or postal offices and facilities;  
400 g. Agricultural operations;  
401 h. Home Businesses and Home Occupation in compliance with the  
402 requirements of Section 1200.00 of these regulations;  
403 i. Houses of worship;  
404 j. Utility structures less than 200 square feet in area; and  
405 k. Restaurants.

406

407 **502.00 Lot Requirements.**

408

409 **502.01 Area.** Minimum lot size 2 contiguous acres of dry land undivided by wetland, pond  
410 or drainage way.

411

412 **502.02 Frontage.** Minimum 150 feet of continuous frontage.

413

414 **502.03 Setbacks.** All structures must be set back a minimum of 35 feet from the front, side  
415 and rear lot lines. No buildings requiring a building permit or associated uses,  
416 including but not limited to swimming pools, antennas and satellite dishes, are  
417 permitted in the setback.

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421 **503.00** Special Exceptions.

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The following uses may be permitted as special exceptions by the Zoning Board of Adjustment. **A** Site Plan Review and approval **will then be required** by the Planning Board. (3-13-18)

- a. Two family dwellings provided the following conditions can be met:
  - 1) minimum lot size 4 acres;
  - 2) minimum frontage 300 feet;
  - 3) a common road or street access serves both units;
  - 4) two off-street parking spaces shall be provided for each dwelling unit;
  - 5) Certification from the applicant and the Lyndeborough Health/Code Enforcement Officer that any existing septic system or new system is designed to support the increased load created by two families.
  
- b. Private schools including daycare centers.
  
- c. Automobile Service Stations
  
- d. Accessory Dwelling Units *(Deleted 3/13/18) (Recodify 3/16/19)*
  - 1) **An Accessory Dwelling Unit** shall be allowed as a matter of right by the Building Inspector pursuant to RSA 674:21 in all zoning districts that permit single family dwellings. One accessory dwelling unit shall be allowed without additional requirements for lot size, frontage, space limitations, or other controls beyond what would be required for a single family dwelling without an accessory dwelling unit. Not more than one accessory dwelling unit for any single family shall be allowed.(3/13/18) (Recodify 3/16/19)
  
  - 2) An interior door shall be provided between the principal dwelling unit and the accessory dwelling unit, but shall not be required to remain unlocked. (3/13/18) (Recodify 3/16/19)
  
  - 3) Regulations applicable to single family dwellings shall also apply to the combination of a principal dwelling unit and an accessory dwelling unit including, but not limited to lot coverage standards and standards for maximum occupancy per bedroom consistent with policy adopted by the United States Department of Housing and Urban Development. Adequate parking to accommodate an accessory dwelling unit shall be provided. (3/13/18) (Recodify 3/16/19)
  
  - 4) The applicant for a building permit to construct an accessory dwelling unit shall make adequate provisions for water supply and sewage disposal for the accessory dwelling unit in accordance with RSA 485A:38, but separate systems shall not be required for the principal and accessory dwelling units. (3/13/18) (Recodify 3/16/19)
  
  - 5) The owner must demonstrate that one of the units is his or her principal place of residence. (3/13/18) (Recodify 3/16/19)
  
  - 6) A familial relationship between the occupants of an accessory dwelling unit and the occupants of a principal dwelling unit shall not be required. (3/13/18) (Recodify 3/16/19)

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- 474                                   7) An accessory dwelling unit may be deemed a unit of workforce housing  
475 for purposes of satisfying the town's obligation under RSA 674:59 if the unit  
476 meets the criteria in RSA 674:58, IV for rental units. (3/13/18) (Recodify  
477 3/16/19)  
478  
479                                   e. Personal service businesses including but not limited to service or repair of  
480 jewelry, appliances or other personal or household items, photography  
481 studios, beauty/barber shops and tailors.  
482  
483                                   f. Bed and Breakfasts providing the following conditions can be met:  
484                                   1) the B&B is operated by the resident owner;  
485                                   2) two (2) non-family employees are permitted on the premises;  
486                                   3) no additions or changes shall be made to the residence that would make  
487 it impractical to revert the building to purely residential;  
488                                   4) two (2) off-street parking spaces shall be provided for the residents of the  
489 B&B and one (1) off-street space shall be provided for each rental unit;  
490                                   5) certification from the applicant and the Lyndeborough Health/Code  
491 Enforcement Officer that any existing septic system or new system is  
492 designed to support the increased load; and  
493                                   6) the business shall be operated in accordance with all Town regulations,  
494 state laws and licensing requirements.  
495  
496

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497 **600.00**     ***LIGHT INDUSTRIAL DISTRICT (LI)***  
498

499           The purpose of the Light Industrial District is to provide employment opportunities  
500           and broaden the tax base by establishing a location for light industrial development in  
501           an area that does not conflict with surrounding land uses and that provides good  
502           access to transportation facilities.  
503

504 **600.01**     ***District Boundaries.***  
505

506           That portion of Lyndeborough which is bounded as follows: Beginning at the point  
507           where Purgatory Brook joins the Lyndeborough Town boundary with Mont Vernon;  
508           thence easterly along said boundary to its point of intersection with the  
509           Lyndeborough Town Boundary with Milford; thence southerly along said boundary  
510           to its point of intersection with Purgatory Road; thence southerly along Purgatory  
511           Road to its point of intersection with the Lyndeborough Town boundary with  
512           Milford, thence westerly along said boundary to Purgatory Brook; thence northerly  
513           along Purgatory Brook to the place or point of beginning. The district shall also  
514           encompass that area now or formerly known as “The Sawmill” including the land  
515           designated as 228-015-000 of the official tax map of the Town of Lyndeborough and  
516           bounded by NH Route 31 on the west and Winn Road on the east.  
517

518 **601.00**     ***Permitted Uses. (3/16/19)***  
519

520           The following uses and their associated accessory uses are permitted in the Light  
521           Industrial District subject to all other applicable provisions of this Ordinance and Site  
522           Plan Review and approval by the Lyndeborough Planning Board.  
523

- 524           a. Light manufacturing;
- 525           b. Research and/or testing facilities;
- 526           c. Offices;
- 527           d. Newspaper and printing facilities;
- 528           e. Warehouses;
- 529           f. Retail stores;
- 530           g. Banks;
- 531           h. Personal service businesses including but not limited to service or repair of  
532           jewelry, appliances or other personal or household items, photography  
533           studios, beauty/barber shops and tailors.
- 534           i. Utility structures less than 200 square feet in area.  
535

536 **602.00**     ***Lot Requirements.***  
537

538 **602.01**     ***Area.*** Minimum lot size 2 contiguous acres of dry land undivided by wetland, pond  
539           or drainage way.  
540

541 **602.02**     ***Frontage.*** Minimum 250 feet of continuous frontage.  
542

543 **602.03**     ***Setbacks.*** All structures must be set back a minimum of 50 feet from the front, side  
544           and rear lot lines. Parking areas shall be set back as follows:

- 545           a. No buildings or parking areas are permitted in the front setback or in any  
546           setback which abuts a residential property.
- 547           b. Parking areas are permitted up to within ten (10) feet of the side or rear lot  
548           line of a light industrial zoned parcel where it abuts another light industrial  
549           zoned parcel.

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550 c. Parking areas shared between two adjacent light industrial zoned parcels may  
551 be developed up to the common side or rear lot line if all other conditions of  
552 the district are met.

553

554 **603.00 Special Exceptions.**

555

556 The following uses may be permitted as special exceptions by the Zoning Board of  
557 Adjustment. A Site Plan Review and approval **will then be required** by the Planning  
558 Board. (3-12-02)

559

- 560 a. Vehicular sales and repair facilities;  
561 b. Automobile service stations;  
562 c. Contractor yards;  
563 d. Public assembly halls and places of worship.

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- 566 **700.00** ***RURAL LANDS ONE DISTRICT (RL1)***  
567  
568 The purpose of the Rural Lands 1 District is to provide for residential development at  
569 higher densities than other areas while conserving the rural character of the Town,  
570 maintaining natural resources and protecting the health and safety of residents.  
571
- 572 **700.01** ***District Boundaries.***  
573  
574 The Rural Lands One district encompasses all land within the Town not included in  
575 any other district designated in this Ordinance.  
576
- 577 **701.00** **Permitted Uses. (Amended & Approved 3/18/17)**  
578  
579 The following uses and their associated accessory uses are permitted in the Rural  
580 Lands One District subject to all other applicable provisions of this Ordinance and  
581 Subdivision or Site Plan Review and approval by the Lyndeborough Planning Board  
582 as applicable.  
583
- 584 a. Single family dwellings;
  - 585 b. Seasonal dwellings such as hunting and fishing camps, but not including  
586 wheeled recreational vehicles, and not to be considered as a permanent  
587 residence;
  - 588 c. Agricultural operations;
  - 589 d. Forestry operations and management;
  - 590 e. Home Businesses and Home Occupation in compliance with the  
591 requirements of Section 1200.00 of these regulations;
  - 592 f. Manufactured housing greater than 400 square feet in size on a masonry  
593 foundation with skirting; and
  - 594 g. Outdoor recreation uses and facilities, including but not limited to golf  
595 courses, cross-country ski areas, riding stables, but excluding campgrounds.  
596 To include a provision that no use allowed under this section shall:  
597 1) Adversely affect abutting property values; or  
598 2) Result in increased noise beyond property lines over and above that  
599 normally associated with residential uses allowed in the district; or  
600 3) Be a health hazard; or  
601 4) Be a nuisance to abutting properties; or  
602 5) Uses allowed under this section will be subject to site plan review and  
603 approved by the Planning Board. (3-13-01)  
604
- 605 **702.00** **Lot Requirements.**  
606
- 607 **702.01** **Area.** Minimum lot size 2 contiguous acres of dry land undivided by wetland, pond  
608 or drainage way.  
609
- 610 **702.02** **Frontage.** Minimum 250 feet of continuous frontage.  
611
- 612 **702.03** **Setbacks.** For lots 5 acres or larger, all structures must be set back a minimum of 50  
613 feet from the front, side and rear lot lines. For lots smaller than 5 acres, all structures  
614 must be set back a minimum of 50 feet from the front lot line, and a minimum of 35  
615 feet from the side and rear lot lines. No buildings or associated uses, including but  
616 not limited to swimming pools, antennas and satellite dishes, are permitted in the  
617 setback. (3-12-02)  
618



619 **703.00 Special Exceptions.**

620  
621 The following uses may be permitted as special exceptions by the Zoning Board of  
622 Adjustment. A Site Plan Review and approval **will then be required** by the  
623 Planning Board. (3-13-18)

624  
625 a. Two-family dwellings provided the following conditions can be met:

- 626  
627 1) minimum lot size 4 acres;  
628 2) minimum frontage 500 feet;  
629 3) a common road or street access serves both units;  
630 4) two off-street parking spaces shall be provided for each dwelling unit;  
631 5) Certification from the applicant and the Lyndeborough Health/Code  
632 Enforcement Officer that any existing septic system or new system is  
633 designed to support the increased load created by two families.

634  
635 b. Accessory Dwelling Units *(Deleted 3/13/18) (recodify 3/16/19)*

636 1) **An Accessory Dwelling Unit** shall be allowed as a matter of right by the  
637 Building Inspector pursuant to RSA 674:21 in all zoning districts that permit  
638 single family dwellings. One accessory dwelling unit shall be allowed  
639 without additional requirements for lot size, frontage, space limitations, or  
640 other controls beyond what would be required for a single family dwelling  
641 without an accessory dwelling unit. Not more than one accessory dwelling  
642 unit for any single family shall be allowed.(3/13/18) (Recodify 3/16/19)

643  
644 2) An interior door shall be provided between the principal dwelling unit  
645 and the accessory dwelling unit, but shall not be required to remain unlocked.  
646 (3/13/18) (Recodify 3/16/19)

647  
648 3) Regulations applicable to single family dwellings shall also apply to the  
649 combination of a principal dwelling unit and an accessory dwelling unit  
650 including, but not limited to lot coverage standards and standards for  
651 maximum occupancy per bedroom consistent with policy adopted by the  
652 United States Department of Housing and Urban Development. Adequate  
653 parking to accommodate an accessory dwelling unit shall be provided.  
654 (3/13/18) (Recodify 3/16/19)

655  
656 4) The applicant for a building permit to construct an accessory dwelling  
657 unit shall make adequate provisions for water supply and sewage disposal for  
658 the accessory dwelling unit in accordance with RSA 485A:38, but separate  
659 systems shall not be required for the principal and accessory dwelling units.  
660 (3/13/18) (Recodify 3/16/19)

661  
662 6) The owner must demonstrate that one of the units is his or her principal  
663 place of residence. (3/13/18) (Recodify 3/16/19)

664 7)  
665 6) A familial relationship between the occupants of an accessory dwelling  
666 unit and the occupants of a principal dwelling unit shall not be required.  
667 (3/13/18) (Recodify 3/16/19)

668  
669 7) An accessory dwelling unit may be deemed a unit of workforce housing  
670 for purposes of satisfying the town's obligation under RSA 674:59 if the unit  
671 meets the criteria in RSA 674:58, IV for rental units. (3/13/18) (Recodify  
672 3/16/19)

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- c. Bed and Breakfasts providing the following conditions can be met:
- 1) the B&B is operated by the resident owner;
  - 2) two (2) nonfamily employees are permitted on the premises;
  - 3) no additions or changes shall be made to the residence that would make it impractical to revert the building to purely residential;
  - 4) two (2) off-street parking spaces shall be provided for the residents of the B&B and one (1) off-street space shall be provided for each rental unit;
  - 5) certification from the applicant and the Lyndeborough Health/Code Enforcement Officer that any existing septic system or new system is designed to support the increased load; and
  - 6) the business shall be operated in accordance with all Town regulations, state laws and licensing requirements.

688 **800.00** ***RURAL LANDS TWO DISTRICT (RL2)***

689

690 The purpose of the Rural Lands Two district is to provide an area for low density,  
691 rural residential development given the distances from the Town center, steep slopes,  
692 poor road conditions, difficulty of travel during certain seasons and septic system  
693 restrictions.

694

695 **800.01** ***District Boundaries.***

696

697 The Rural Lands Two district encompasses all lands at or above 1,000 feet but less  
698 than 1,500 feet in elevation as defined by the most recent USGS Topographic Map of  
699 the area.

700

701 **801.00** ***Permitted Uses. (AMENDED AND APPROVED 3-18-17)***

702

703 The following uses and their associated accessory uses are permitted in the Rural  
704 Lands Two District subject to all other applicable provisions of this Ordinance and  
705 Subdivision and Site Plan Review and approval by the Planning Board as applicable.

706

- 707 a. Single family dwellings;
- 708 b. Seasonal dwellings such as hunting and fishing camps, but not including  
709 wheeled recreational vehicles, and not to be considered as a permanent  
710 residence;
- 711 c. Agricultural operations;
- 712 d. Forestry operations and management;
- 713 e. Outdoor recreation uses and facilities, including but not limited to golf  
714 courses, cross-country ski areas, riding stables, but excluding campgrounds.  
715 To include a provision that no use allowed under this section shall:
- 716 1) Adversely affect abutting property values; or
- 717 2) Result in increased noise beyond property lines over and above that  
718 normally associated with residential uses allowed in the district; or
- 719 3) Be a health hazard; or
- 720 4) Be a nuisance to abutting properties; or
- 721 5) Uses allowed under this section will be subject to site plan review and  
722 approved by the Planning Board. (3-13-01)
- 723 f. Home Businesses and Home Occupation in compliance with the  
724 requirements of Section 1200.00 of these regulations.

725

726 **802.00** ***Lot Requirements.***

727

728 **802.01** ***Area.*** Minimum lot size 5 acres, 2 contiguous acres of dry land undivided by  
729 wetland , pond or drainage way.

730

731 **802.02** ***Frontage.*** Minimum 500 feet of continuous frontage.

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733 **802.03** ***Setbacks.*** All structures must be set back a minimum of 50 feet from the front, side  
734 and rear lot lines. No buildings or associated uses, including but not limited to  
735 swimming pools, antennas and satellite dishes, are permitted in the setback.

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741 **803.00 Special Exceptions.**

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The following uses may be permitted as special exceptions by the Zoning Board of Adjustment. **A** Site Plan Review and approval **will then be required** by the Planning Board. (3-13-18)

- a. Two-family dwellings provided the following conditions can be met:
  - 1) minimum lot size 10 acres;
  - 2) minimum 1,000 feet of continuous frontage;
  - 3) a common road or street access serves both units;
  - 4) two off-street parking spaces shall be provided for each dwelling unit; and
  - 5) certification from the applicant and the Lyndeborough Health/Code Enforcement Officer that any existing septic system or new system is designed to support the increased load created by two families.

b. Accessory Dwelling Units *(Deleted 3/13/18) (Recodify 3/16/19)*

- 1) **An Accessory Dwelling Unit** shall be allowed as a matter of right by the Building Inspector pursuant to RSA 674:21 in all zoning districts that permit single family dwellings. One accessory dwelling unit shall be allowed without additional requirements for lot size, frontage, space limitations, or other controls beyond what would be required for a single family dwelling without an accessory dwelling unit. Not more than one accessory dwelling unit for any single family shall be allowed.(3/13/18) (Recodify 3/16/19)
- 2) An interior door shall be provided between the principal dwelling unit and the accessory dwelling unit, but shall not be required to remain unlocked. (3/13/18) (Recodify 3/16/19)
- 3) Regulations applicable to single family dwellings shall also apply to the combination of a principal dwelling unit and an accessory dwelling unit including, but not limited to lot coverage standards and standards for maximum occupancy per bedroom consistent with policy adopted by the United States Department of Housing and Urban Development. Adequate parking to accommodate an accessory dwelling unit shall be provided. (3/13/18) (Recodify 3/16/19)
- 4) The applicant for a building permit to construct an accessory dwelling unit shall make adequate provisions for water supply and sewage disposal for the accessory dwelling unit in accordance with RSA 485A:38, but separate systems shall not be required for the principal and accessory dwelling units. (3/13/18) (Recodify 3/16/19)
- 5) The owner must demonstrate that one of the units is his or her principal place of residence. (3/13/18) (Recodify 3/16/19)
- 6) A familial relationship between the occupants of an accessory dwelling unit and the occupants of a principal dwelling unit shall not be required. (3/13/18) (Recodify 3/16/19)
- 7) An accessory dwelling unit may be deemed a unit of workforce housing for purposes of satisfying the town's obligation under RSA 674:59 if the unit

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794 meets the criteria in RSA 674:58, IV for rental units. (3/13/18) (Recodify  
795 3/16/19)  
796  
797 c. Bed and Breakfasts providing the following conditions can be met:  
798  
799 1) the B&B is operated by the resident owner;  
800 2) two (2) nonfamily employees are permitted on the premises;  
801 3) no additions or changes shall be made to the residence that would make  
802 it impractical to revert the building to purely residential;  
803 4) two (2) off-street parking spaces shall be provided for the residents of the  
804 B&B and one (1) off-street space shall be provided for each rental unit;  
805 5) certification from the applicant and the Lyndeborough Health/Code  
806 Enforcement Officer that any existing septic system or new system is  
807 designed to support the increased load; and  
808 6) the business shall be operated in accordance with all Town regulations,  
809 state laws and licensing requirements.  
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813 **900.00** ***RURAL LANDS THREE DISTRICT (RL3)***

814

815 The purpose of the Rural Lands Three District is to protect the most sensitive and  
816 remote land from development. Poor road access, steep slopes, shallow depths to  
817 bedrock and generally severe limitations for septic systems characterize the  
818 undevelopable nature of land within this District.

819

820 **900.01** ***District Boundaries.***

821

822 The Rural Lands Three District encompasses all lands situated at or above 1,500 feet  
823 in elevation as defined by the most recent USGS Topographic Map of the area.

824

825 **901.00** **Permitted Uses. (AMENDED AND APPROVED 3/18/17)**

826

827 The following uses and their associated accessory uses are permitted in the Rural  
828 Lands Three District subject to all other applicable provisions of this Ordinance and  
829 Subdivision or Site Plan Review and approval by the Lyndeborough Planning Board  
830 as applicable:

831

- 832 a. Agricultural and farming operations;
- 833 b. Single family dwellings;
- 834 c. Seasonal dwellings such as hunting and fishing camps, but not including  
835 wheeled recreational vehicles, and not to be considered as a permanent  
836 residence;
- 837 d. Forestry operations and management;
- 838 e. Home Businesses and Home Occupation in compliance with the  
839 requirements of Section 1200.00 of these regulations.
- 840 f. Outdoor recreation uses and facilities, including but not limited to golf  
841 courses, cross-country ski areas, riding stables, but excluding campgrounds.  
842 To include a provision that no use allowed under this section shall:
- 843 1) Adversely affect abutting property values; or
- 844 2) Result in increased noise beyond property lines over and above that  
845 normally associated with residential uses allowed in the district; or
- 846 3) Be a health hazard; or
- 847 4) Be a nuisance to abutting properties; or
- 848 5) Uses allowed under this section will be subject to site plan review and  
849 approved by the Planning Board. (3/13/01)

850

851 **902.00** **Lot Requirements.**

852

853 **902.01** ***Area.*** Minimum lot size 10 acres with a minimum of 2 acres contiguous dry land  
854 undivided by wetland, pond or drainage way.

855

856 **902.02** ***Frontage.*** Minimum 500 feet of continuous frontage.

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858 **902.03** ***Setbacks.*** All structures must be set back a minimum of 50 feet from the front, side  
859 and rear lot lines.

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862 **1000.00 WETLANDS DISTRICT**

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The purpose of the Wetlands District is to guide the use of areas of land with extended periods of high water tables to:

- a. prevent development of structures and land uses on naturally occurring wetlands which would contribute to the pollution of surface and ground water by sewage;
- b. prevent the destruction of natural wetlands which provide flood protection, recharge groundwater supplies and augment stream flows during dry periods;
- c. prevent unnecessary or excessive expenses to the Town to provide and maintain essential services and utilities which arise because of inharmonious use of wetlands.

**1000.01 District Boundaries.**

The Wetland District encompasses all areas identified and delineated as poorly and very poorly drained soils by the U.S. Department of Agriculture, Soil Conservation Service, in the Soil Survey of Hillsborough County New Hampshire, Western Part, dated October 1985, and any areas delineated as wetlands on a site specific basis using the Corps of Engineers Wetlands Delineation Manual, Technical Report Y-87-1, Environmental Laboratory, Department of the Army, 1987 in conjunction with the Field Indicators for Identifying Hydric Soils in New England, New England Interstate Water Pollution Control Commission, May 1995. The Wetland District is show on the Town of Lyndeborough Wetlands District Map on file with the Town Clerk and the Planning Board. In the event that an area is incorrectly designated as being poorly or very poorly drained soil on the Wetland District Map and evidence to that effect is satisfactorily presented to the Building Inspector, the restrictions in this section shall not apply. All on site wetland delineation shall be conducted by a certified soil scientist.

The Wetland District is an overlay district. In all cases where the Wetland District is superimposed over another district in the Town of Lyndeborough, the more restrictive regulations shall apply.

**1001.00 Permitted Uses. (3/16/19)**

Any of the following uses that require a permit by NH DES are also permitted by this Ordinance.

- a. Forestry operations and management in accordance with best management practices;
- b. Agriculture in accordance with agricultural best management practices;
- c. Water impoundments and wells;
- d. Drainage ways - streams, ditches or other paths of normal water runoff;
- e. Wildlife refuges;
- f. Parks and recreation uses consistent with the purpose and intent of this Ordinance;
- g. Conservation areas and nature trails; and
- h. Open space as permitted by the Subdivision Regulations and other sections of this Ordinance.

915 **1002.00 Special Exceptions.**

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The following uses may be permitted as special exceptions by the Zoning Board of Adjustment. Prior to the granting of a special exception, the Zoning Board shall refer the application to the Planning Board, the Health Officer and the Conservation Commission for review and comment prior to the public hearing. Lack of response from any of these parties within 30 days implies consent to the application. Construction of any uses permitted by special exception shall minimize the detrimental impact of the use on the wetland.

- a. Streets, roads and other access ways;
- b. Utility right-of-way easements including power lines and pipelines if essential to the productive use of land not in the Wetland District;
- c. A use not otherwise permitted in the Wetland District, including the erection of a structure, dredging, draining or otherwise altering the configuration of the land, if it can be shown that the proposed use is not in conflict with the purpose and intent of this section and if the proposed use is otherwise permitted by the by the Zoning Ordinance. Proper evidence of this shall be submitted in writing to the Zoning Board and is subject to review by the Hillsborough County Conservation District to determine the effect of the proposed use on the wetlands in question.



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937 **1100.00** ***PLANNED RESIDENTIAL DEVELOPMENT (PRD)\****  
938 **ALLOWED BY CONDITIONAL USE PERMIT**  
939 **Adopted March 14, 2006 (3/16/19)**

941 **1101.00** **Purpose:**

942  
943 To provide an alternative pattern of land development for single-family homes in the  
944 Village District (V) and along a corridor 1,000 feet either side of State Route 31 in  
945 Rural Lands One District (RL1). (3/16/19)

946  
947 It is intended to encourage the preservation of open space and, at the same time,  
948 provide for a greater variety of housing types and affordability, with similar densities  
949 and more inclusive building permits than permitted elsewhere in the Zoning  
950 Ordinance, without causing an increase to Town maintained roads. (3/16/19)

951  
952 It is planned that in a PRD, the setbacks for dwelling units in a PRD in the Village  
953 District shall be the same as required in Section 502.03 of the Lyndeborough Zoning  
954 Ordinance. The setbacks for dwelling units in a PRD in Rural Lands One District  
955 (RL1) shall be the same as required in Section 702.03 of the Lyndeborough Zoning  
956 Ordinance except that no dwelling unit shall be less than 300 feet from Route 31 nor  
957 more than 1,000 feet from Route 31. (3/16/19)

958  
959 The dwelling units shall be constructed in clusters that are in harmony with  
960 neighborhood developments and housing and with the natural surroundings. These  
961 clusters shall not detract from the ecological and visual qualities of the environment,  
962 or from the value of the neighborhood or Town. Every PRD unit shall be occupied by  
963 an owner occupant who is at least 55 years of age or older and should add to the  
964 variety of housing types in Lyndeborough to accommodate the Master Plan purposes.  
965 The overall site design and amenities should enhance the quality of living for the  
966 residents of the development and, in general, the neighborhood and Town. The  
967 Planning Board shall determine whether the proposed PRD, namely the site plan or  
968 layout, number, type and design of the proposed housing is suitable to the  
969 neighborhood within which it is located and is consistent with the Master Plan and  
970 reasonable growth objectives. (3/16/19)

971  
972 **1102.00** **Conditions:**

973  
974 An applicant for approval of a proposed PRD\* shall make application to the Planning  
975 Board in the same fashion as specified in the Subdivision regulations. In the course of  
976 review of the proposal, the Board shall hear evidence presented by the applicant and  
977 all those requiring notice and determine whether, in its judgment, the proposal meets  
978 the objectives and purpose set forth above, in which event the Planning Board may  
979 grant approval to the proposal, subject to reasonable conditions and limitations as it  
980 shall deem appropriate. (3/16/19)

981  
982 **1102.01** **Minimum Net Tract Area.** Planned Residential Developments may be permitted on  
983 single or adjacent tracts of land, under one owner, or to be brought under one owner,  
984 which have a net tract area\* of no less than twenty (20) buildable acres. Irrespective  
985 of the net tract area size, the PRD shall not contain more than twenty (20) dwelling  
986 units. Net tract area shall mean the total area of the tract, or tracts, less the area of  
987 wetlands, identified flood plains and areas of slope equal to or greater than 20%. To  
988 maintain comparable densities, as calculated using existing Lyndeborough zoning  
989 regulations, (as determined by soil based zoning section 408.00 of the zoning  
990 ordinance) PRD septic systems are to be of the “shared- type”, located in the Open

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991 Space on soils that are rated “slight to moderate” as spelled out in the Hillsborough  
992 County West published soils survey. (3/16/19)  
993

994 **1102.02** **Minimum Lot Size.** Individual lots created within the PRD shall be a minimum of  
995 one (1) acre in size. While each PRD shall be subject to the Subdivision Regulations,  
996 where there are differences between the PRD requirements and the Subdivision  
997 Regulations, the requirements of the PRD shall prevail. All other regulations and  
998 restrictions not specifically mentioned in this Ordinance shall be those governed by  
999 the Zoning regulations in which the PRD is located.  
1000

1001 **1102.03** **Permitted Uses.** There may be permitted in the PRD, single family detached  
1002 dwelling units\* of any type without regard to unit configuration. It is envisioned that  
1003 the housing types, while having different internal configurations, will have an  
1004 external appearance that complements and is in general harmony with the natural  
1005 surroundings of the PRD. The maximum height of any dwelling structure shall be 25  
1006 feet, exclusive of chimneys or cupolas, measured from the lowest adjacent exterior  
1007 elevation. The maximum area of living space\* is not to exceed 2000 square feet. At a  
1008 minimum there shall be a fifty (50) foot set back\* from the property line around the  
1009 perimeter of the property. The lot frontage\*, as measured at the edge of the road  
1010 right-of-way, to be a minimum of 100 feet. Lot frontage on Cul-de-sac\* turnarounds,  
1011 as measured at the edge of the right-of-way, to be a minimum of 75 feet. Off-road  
1012 parking space will be furnished to accommodate one (1) vehicle and have an area not  
1013 less than 9 ft. X 18 ft. not including driveways or passage ways and have direct  
1014 access to a private way. For the purpose of this Ordinance, the following definition  
1015 will apply:  
1016

1017 **“Single Family Detached Dwelling Unit—any building designed for and**  
1018 **occupied by not more than one family and which is not attached to any other**  
1019 **dwelling unit by any means.”**  
1020

1021 The Planning Board shall determine the mix of housing types and these shall be  
1022 determined at the Final Review and be noted on the Plat.  
1023

1024 **1103.00 Open Space:**  
1025

1026 All land in the PRD which is not covered by dwellings, paved areas, service areas, or  
1027 which is not set aside as private yards, patios or gardens for the residents shall be  
1028 treated as open space\*. The total of the open space shall be at least 50% of the total  
1029 net area of the PRD tract. Such land shall have shape, character and location suitable  
1030 to assure its use for park, recreation, conservation, or agricultural purposes  
1031 (excluding farm livestock) by at least all the residents of the PRD.  
1032

1033 Provisions shall be made for the open space to be held in common and equally, by all  
1034 the Home Owners Association\* members of the PRD. Such provisions shall further  
1035 hold that all the open space shall be readily accessible to all residents the PRD and  
1036 that such open space shall be retained in perpetuity for one or more of the following  
1037 uses: conservation, agriculture, recreation or park. No building or construction of  
1038 structures shall take place in the open space. Should the PRD plan call for shared  
1039 wells\* and or shared septic systems\*, they may be constructed to State specifications  
1040 in the open space, with permission of the Planning Board. Harvesting of trees in the  
1041 open space is permitted if it is done in accordance with good forestry practice and  
1042 with the permission of the Planning Board.  
1043

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1044 **1103.01** **Density.** In a Planned Residential development bedroom density\* shall be  
1045 determined by the following method:

1046  
1047           “Multiply the number of allowed dwelling units by two (2)”  
1048 The result of this calculation shall be the number of bedrooms permitted in the entire  
1049 development. The number of bedrooms permitted in any PRD shall be determined by  
1050 the Planning Board to assure compliance with the PURPOSE of the PRD and shall  
1051 not exceed the limit determined above. The number of bedrooms in each dwelling  
1052 unit shall be noted on the final Plat and cannot be increased without permission from  
1053 the Planning Board.

1054  
1055 For the purpose of this ordinance, a bedroom may mean any room other than a  
1056 kitchen, bathroom, or small utility room and must be located in the normal living  
1057 space of the unit and not located in the basement, attic or garage. In review of the  
1058 floor plan or plans, the planning Board, may deem the floor space shown on said plan  
1059 or plans to constitute the number of bedrooms that can be built in that space. The  
1060 Planning Board may designate a room not to be a bedroom if it deems that its use as a  
1061 bedroom is unlikely in view of the layout of the unit, or in the overall character of the  
1062 PRD.

1063  
1064 **1103.02** **Architectural Design.** As a condition of final approval, the applicant must obtain the  
1065 Planning Board’s approval of the external architectural design of the PRD to ensure  
1066 that it complies with the goals of harmonious existence with the neighborhood and  
1067 the environment, as stated in the PURPOSE. A buffer zone must be provided around  
1068 the perimeter of the PRD, to a depth of 200 feet, by preserving the existing natural  
1069 foliage and planting local species of trees and plants that will act as a screen from the  
1070 surrounding neighborhoods.

1071  
1072 **1103.03** **Limitation of the Subdivision.** No lot shown on the PRD plan for which a permit is  
1073 granted under this Ordinance may be further subdivided, in perpetuity, and a note to  
1074 that effect shall be placed on the Final Plan. No structure\* within the subdivision can  
1075 be within 500 feet of any public road.

1076  
1077 **1103.04** **Roads.** Road(s) that service the PRD will be considered a private road(s) and the  
1078 Planning Board shall require adequate covenants, restrictions and agreements,  
1079 including a Home Owners Association guarantee that states the Town will have no  
1080 liability or responsibility to maintain said road. All private roads must be constructed  
1081 to meet or exceed Town standards. Furthermore, road(s) that connect with Town or  
1082 State public roads must adhere to the intersection regulations of both or either of  
1083 those bodies.

1084  
1085 **1104.00** **Provided Services to Dwellings:**  
1086  
1087 Power: All power must be run under ground  
1088 Phone: All communication lines must be run under ground.  
1089 Water: Clean drinking water is to be supplied either from a municipal source, private  
1090 source, community wells, or individual wells.  
1091 Waste: Waste material will be managed *either* by municipal sewer or shared septic  
1092 systems. All septic systems must meet Town and State regulations.

1093  
1094 **1105.00** **Home (Unit) Owner’s Association:**  
1095  
1096 The applicant for the PRD must establish a Home or Unit Owners Association\* as  
1097 part of the application that adheres to the provisions of New Hampshire RSA 356-B

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1098 and creates with respect to the land a condominium with the condominium form of  
1099 ownership. All Home Owners Association agreements must be reviewed by the  
1100 Town of Lyndeborough's attorney and approved by the Planning Board prior to final  
1101 approval of the application. Any amendments to the original agreement must be  
1102 reviewed and approved by the Planning Board prior to implementation by the Home  
1103 Owner's Association.

1104

1105 **1106.00 Bond:**

1106

1107 As a condition of final approval, the applicant must post a bond or other surety with  
1108 the town treasurer in the amount \$20,000.00 per dwelling unit on each building  
1109 permit in order to guarantee compliance with the permit. The bond will be released  
1110 upon the completion of all dwelling units assigned to the permit.

1111

1112 **1107.00 Growth Ordinance:**

1113

1114 In the case of a PRD, the Growth Management Ordinance is modified to allow the  
1115 applicant to construct a minimum of five (5) and a maximum of ten (10) dwelling  
1116 units, under a single permit, in a given calendar year. The applicant will not be  
1117 considered for another permit until the number of dwelling units, already under  
1118 permit have been completed. Furthermore, the Planning Board will not approve more  
1119 than one (1) PRD in any given calendar year.

1120

1121 **1108.00 Definitions:**

1122

1123 **1108.01 Accessory Building.** A detached building on the same lot with the primary building,  
1124 the use of which is clearly incidental to that of the primary building or use of the  
1125 land.

1126

1127 **1108.02 Building.** Any structure that has a roof and is intended to shelter people, animals or  
1128 chattel.

1129

1130 **1108.03 Buffer.** An upland area immediately adjacent to a wetland or a body of water,  
1131 usually specified by a setback distance from the edge, that serves to filter surface  
1132 water flowing into the wet land or body of water.

1133

1134 **1108.04 Cul-de-Sac.** A road designed for the purpose of a vehicle turnaround.

1135

1136 **1108.05 Density.** The total number of bedrooms allowed per net track area .

1137

1138 **1108.06 Driveway.** A private from the private road traversing private property, ordinarily  
1139 leading to a single residence.

1140

1141 **1108.07 Dwelling.** A structure that is designed or used as a place of residence for one family.

1142

1143 **1108.08 Dwelling Unit.** A structure or part of a structure used as a place of residence for one  
1144 family.

1145

1146 **1108.09 Family.** One or more persons who live as a single housekeeping unit in a dwelling  
1147 unit.

1148

1149 **1108.10 Frontage.** The continuous distance of any property line of a lot that abuts a private  
1150 road approved by the Planning Board.

1151

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- 1152 **1108.11** **Home Owners Association.** Dwelling unit owners, acting as a group in accordance  
1153 with the Condominium Act, the Declaration and stated Bylaws.  
1154
- 1155 **1108.12** **Living Space.** Those defined areas within the dwelling that conform to realty  
1156 standards for normal living. They do not include basements, attics, garages, or out  
1157 buildings.  
1158
- 1159 **1108.13** **Lot.** A tract of land occupied or capable of being occupied by a building or use and  
1160 by accessory uses, including the open space provided for in this Ordinance.  
1161
- 1162 **1108.14** **Net Track Area.** Is the total usable area of a particular track of land.  
1163
- 1164 **1108.15** **Open Space.** Is that area that is held in common by the members of the Home  
1165 Owner's Association.  
1166 **1108.16** **Private Road.** A road constructed to or exceeding the Town standards for Class V  
1167 roads.  
1168
- 1169 **1108.16** **PRD.** Is a Planned Residential Development of single-family dwelling units.  
1170
- 1171 **1108.17** **Setback.** The minimum distance between two points as prescribed by this ordinance.  
1172
- 1173 **1108.18** **Single Family detached Dwelling Unit.** Any building designed for and occupied by  
1174 not more than one family and which is not attached to any other dwelling unit by any  
1175 means.  
1176
- 1177 **1108.19** **Shared Septic.** Septic systems that are shared by two or more dwelling units.  
1178
- 1179 **1108.20** **Shared Wells.** Wells that are shared by two or more dwelling units.  
1180
- 1181 **1108.21** **Structure.** A combination of materials assembled at a fixed location to give or  
1182 shelter, including but not limited to, buildings, accessory buildings and accessory  
1183 support uses.  
1184  
1185

1186 **1200.00 HOME OCCUPATION AND HOME BUSINESS**  
1187 *(AMENDED AND ADOPTED ON 3/18/17. DELETE 1200.00 SUBSECTION O)*  
1188 *(AMENDED AND ADOPTED 3/13/18)*

1189 **A. General Requirements**

- 1190 1. Home Occupations and Home Businesses shall be conducted in accordance  
1191 with all town, state and federal laws, regulations and licensing requirements.  
1192 2. The business activity shall take place within a residence or an accessory  
1193 building and must be incidental and secondary to the residential use of the  
1194 dwelling unit.  
1195 3. The business activity shall not change the character of the surrounding  
1196 neighborhood, nor will it provide window displays or other characteristics  
1197 associated with retail or commercial use.  
1198 4. Signs may not exceed four square feet in surface area, may not be internally  
1199 lit, and may not be placed within the town or state highway right of way.  
1200 5. No noise, vibration, dust, smoke, electrical disturbances, odors, heat or glare,  
1201 shall be produced by a Home Occupation or a Home Business, nor shall there  
1202 be any discharge of hazardous material into the air, ground or surface water.  
1203 6. Motor vehicles and equipment used for the Home Occupation or Home  
1204 Business shall be parked or placed as inconspicuously as possible.  
1205 7. Sufficient off-street parking shall be provided for any non-resident  
1206 employees, customers and suppliers who may normally be expected to need  
1207 parking spaces at one time. Where additional parking is required, the spaces  
1208 shall not be located in the front yard or within the side or rear setbacks.  
1209 Parking spaces shall be a minimum of 9 by 18 feet. On-street parking is  
1210 prohibited.  
1211 8. Traffic generated by the home business shall not create safety hazards or be  
1212 substantially greater in volume than would normally be expected in the  
1213 neighborhood.  
1214 9. Whenever a Home Occupation or Home Business exceeds any requirement  
1215 of this Ordinance, it must relocate into an appropriate zoning district and will  
1216 be subject to Site Plan Review by the Planning Board.  
1217 10. A Home Occupation or Home Business legally operating under the  
1218 provisions of Section 1200 as amended in 2017 of the Zoning Ordinance on  
1219 the date of the enactment of this Ordinance may continue unless and until the  
1220 following:  
1221 a. The occupation or business expands in size, scope or purpose.  
1222 b. The ownership of the property is transferred.  
1223  
1224 o. *1200.00 Subsection o- Deleted. (3/18/17)*  
1225

1226 **B. Home Occupation** *(Adopted 3/13/18)*

- 1227 1. A Home Occupation shall be permitted in all districts of the town as a matter  
1228 of right. No Site Plan Review or Special Exception by the Zoning Board of  
1229 Adjustment is required for a Home Occupation.  
1230 2. The business activity shall occupy less than one-fourth of the floor area of  
1231 the residence or an equivalent area in an accessory building.  
1232 3. The business shall be carried on by the resident owner, the resident owner's  
1233 family, a resident tenant, or a member of a resident tenant's family.  
1234 4. The business may have no more than one non-resident employee.  
1235 5. Exterior storage of materials and equipment is prohibited.  
1236

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- 1237 **C. Home Business** *(Adopted 3/13/18)*  
1238 1. A Home Business shall be permitted in all districts of the town and is subject  
1239 to Site Plan Review by the Planning Board. A formal application is required.  
1240 2. The business activity shall occupy less than one-third of the floor area of the  
1241 residence or an equivalent area in an accessory building  
1242 3. The business shall be carried on by the resident owner, the resident owner's  
1243 family, a resident tenant or a member of the resident tenant's family.  
1244 4. The business may have no more than two non-resident employees.  
1245 5. Exterior storage of materials and equipment must be screened from view  
1246 from any public road or abutting property.  
1247

- 1248 **D. Exclusion:**  
1249 Food articles produced within a residence or on the surrounding property such as  
1250 vegetables, fruit, maple syrup, etc. may be sold seasonally from roadside stands and  
1251 are excluded from the requirements of this Ordinance.  
1252

1253 ***1200.01 Rural Lands One, Two and Three Districts. (AMENDED AND APPROVED TO***  
1254 ***DELETE SECTIONS 1200-01 a-e, 3/17/17)***  
1255

- 1256 1201.00 *Exclusions.*  
1257  
1258 Food articles produced within a residence or on the surrounding property such as  
1259 vegetables, fruit, maple syrup, etc. may be sold seasonally from roadside stands and  
1260 are excluded from the requirements of this Ordinance.  
1261

1262 ***1250.00 TELECOMMUNICATION FACILITIES (ADOPTED 3/10/98)***  
1263

1264 In recognition of the requirements of the federal Telecommunications Act of 1996,  
1265 this ordinance is designed and intended to balance the interests of the residents of  
1266 Lyndeborough, telecommunications providers, and telecommunications customers in  
1267 the siting of telecommunications facilities within the town of Lyndeborough so as to  
1268 ensure coordinated development of communications infrastructure while preserving  
1269 the health, safety and welfare of the Town and its residents. This ordinance  
1270 establishes general guidelines for the siting of telecommunications towers and  
1271 antennas to enhance and fulfill the following goals:  
1272

- 1273 a. Preserve the authority of Lyndeborough to regulate and to provide for  
1274 reasonable opportunity for the siting of telecommunications facilities, by  
1275 enhancing the ability of providers of telecommunications services to provide  
1276 such services to the community quickly, effectively, and efficiently;  
1277  
1278 b. Reduce adverse impacts such facilities may create, including, but not limited  
1279 to, impacts on aesthetics, environmentally sensitive areas, historically  
1280 significant locations, flight corridors, health and safety by injurious accidents  
1281 to person and property, and prosperity through protection of property values;  
1282  
1283 c. Provide for co-location and minimal impact siting options through  
1284 assessment of technology, current location options, future available locations,  
1285 innovative siting techniques, and siting possibilities beyond the political  
1286 jurisdiction of the Town;  
1287  
1288 d. Permit the construction of new towers only where all other reasonable  
1289 opportunities have been exhausted, and to encourage the users of towers and

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- 1290 antennas to configure them in a way that minimizes the adverse visual impact  
1291 of the towers and antennas;  
1292  
1293 e. Require cooperation and co-location, to the highest extent possible, between  
1294 competitors in order to reduce cumulative negative impacts upon the Town;  
1295  
1296 f. Provide constant maintenance and safety inspections for any and all  
1297 facilities;  
1298  
1299 g. Provide for the removal of abandoned facilities that are no longer inspected  
1300 for safety concerns and Building code compliance. Provide a mechanism for  
1301 the Town to remove these abandoned towers to protect the citizens from  
1302 imminent harm and danger; and  
1303  
1304 h. Provide for the removal or upgrade of facilities that are technologically  
1305 outdated.  
1306

1307 **1251.00 Definitions.**  
1308

1309 **1251.01 Alternative Tower Structure.** Innovative siting techniques such as artificial trees,  
1310 clock towers, bell towers, steeples, light poles, and similar alternative design  
1311 mounting structures that camouflage or conceal the presence of antennas or towers.  
1312

1313 **1251.02 Antenna.** Any exterior apparatus designed for telephonic, radio, television, personal  
1314 communications service (PCS), pager network, or any other communications through  
1315 the sending and/or receiving of electromagnetic waves of any bandwidth.  
1316

1317 **1251.03 Co-location.** The use of an existing tower or an existing telecommunications facility,  
1318 for multiple purposes or users.  
1319

1320 **1251.04 Guy Wires.** A cable used to secure and steady a tower.  
1321

1322 **1251.05 Height.** The distance measured from ground level to the highest point on the tower  
1323 or other structure, including antennas.  
1324

1325 **1251.06 Monopole.** Any tower consisting of a single pole, constructed without guy wires  
1326 with ground anchors.  
1327

1328 **1251.07 Pre-existing Towers and Antennas.** Any tower or antenna lawfully constructed or  
1329 permitted prior to the adoption of this ordinance. Also, any tower or antenna  
1330 lawfully constructed in accordance with this ordinance that predates an application  
1331 currently before the Town.  
1332

1333 **1251.08 Secondary Use.** A use of land or of a building or portion thereof which is unrelated  
1334 to the principal use of the land or building.  
1335

1336 **1251.09 Telecommunications Facilities.** Any structure, antenna, tower, or other device that  
1337 provides commercial mobile wireless services, unlicensed wireless services, cellular  
1338 phone services, specialized mobile radio communications (SMR), and personal  
1339 communications services (PCS), and common carrier wireless exchange access  
1340 services.  
1341

1342 **1251.10 Tower.** A structure that is designed and constructed primarily for the purpose of  
1343 supporting one or more antennas, including self-supporting lattice towers, guy towers



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1344 or monopole towers. The term includes radio and television transmission towers,  
1345 microwave towers, common carrier towers, cellular telephone towers, alternative  
1346 tower structures, and the like.

1347  
1348 **1252.00 Applicability.**

1349  
1350 **1252.01 Public Property.**

1351  
1352 Antennas or towers located on property owned, leased, or otherwise controlled by the  
1353 Town may be exempt from the requirements of this section, except that uses are only  
1354 permitted in the zones and areas as delineated in Section 1253.02. This partial  
1355 exemption shall be available if a license or lease authorizing the antenna or tower has  
1356 been approved by the governing body and the governing body elects, subject to state  
1357 law and local ordinance, to seek the partial exemption from this ordinance.

1358  
1359 **1252.02 Essential Services and Public Utilities.**

1360  
1361 Telecommunications facilities shall not be considered infrastructure, essential  
1362 services, or public utilities, as defined or used elsewhere in the Town's ordinances  
1363 and regulations. Siting for telecommunications facilities is a use of land, and is  
1364 subject to the Town's zoning ordinance and all other applicable ordinances and  
1365 regulations.

1366  
1367 **1253.00 Siting Standards.**

1368  
1369 **1253.01 General Provisions.**

1370  
1371 The uses listed in this section are deemed to be permitted uses in the designated  
1372 district in accordance with all other applicable ordinances and regulations of the  
1373 Town including Site Plan Review and approval by the Lyndeborough Planning  
1374 Board. In addition, all telecommunication facility applications will be technically  
1375 verified by an independent Town Consultant at the applicant's expense.

1376  
1377 a. Antennas and towers may be considered either principal or secondary uses.  
1378 A different existing use or an existing structure on the same lot shall not  
1379 preclude the installation of an antenna or tower on such lot.

1380  
1381 b. For purposes of determining whether the installation of a tower or antenna  
1382 complies with district development standards, the dimensions of the entire lot  
1383 shall control, even though the antennas and towers may be located on leased  
1384 parcels within such lots.

1385  
1386 c. Towers that are constructed, and antennas that are installed, in accordance  
1387 with the provisions of this ordinance, shall not be deemed to constitute the  
1388 expansion of a nonconforming use or structure.

1389  
1390 **1253.02 Districts Permitted.**

1391  
1392 New tower construction and co-location of telecommunication facilities shall be  
1393 permitted in the Light Industrial, Rural Lands One, Rural Lands Two and Rural  
1394 Lands Three Districts subject to all applicable local, state and federal regulations and  
1395 Site Plan Review and approval by the Planning Board.

1396  
1397

1398 **1253.03** **Height Requirements.**

1399  
1400 Maximum tower heights for each district are defined in the Height Table in the Site  
1401 Plan Review Regulations, however, towers shall only be constructed to the minimum  
1402 height required to provide adequate service. In addition, towers requiring lighting  
1403 shall not be permitted in any district. These requirements and limitations shall  
1404 preempt all other height limitations as determined by the Zoning Ordinance and shall  
1405 apply only to telecommunications facilities.  
1406

1407 **1254.00** **Bonding, Security and Insurance.**

1408  
1409 Recognizing the extremely hazardous situation presented by abandoned and  
1410 unmonitored towers, the Planning Board shall set the form and amount of security  
1411 that represents the cost for removal and disposal of abandoned towers in the event  
1412 that the tower is abandoned and the tower owner is incapable and/or unwilling to  
1413 remove the tower in accordance with Section 1255.00. Bonding and surety shall be  
1414 consistent with the provisions in the Subdivision Regulations. Furthermore, the  
1415 Planning Board shall require submission of proof of adequate insurance covering  
1416 accident or damage.  
1417

1418 **1255.00** **Removal of Abandoned Antennas and Towers.**

1419  
1420 Any antenna or tower that is not operated for a continuous period of twelve (12)  
1421 months shall be considered abandoned and hazardous to the public health and safety,  
1422 unless the owner of the tower provides annual certification of structural integrity.  
1423 The owner shall remove the abandoned structure within ninety (90) days of receipt of  
1424 a declaration of abandonment from the Town.. A declaration of abandonment shall  
1425 only be issued following a public hearing, noticed according to RSA 676:4, with  
1426 notice to abutters and the last known owner/operator of the tower. If the abandoned  
1427 tower is not removed within ninety (90) days, the Town may execute the security and  
1428 have the tower removed. If there are two or more users of a single tower, this  
1429 provision shall not become effective until all users cease using the tower.  
1430

1431 **1260.00** **OFF-HIGHWAY RECREATIONAL VEHICLE (OHRV) FACILITIES**  
1432 **ORDINANCE (Adopted March 9, 2004)**

1433  
1434 These features are in keeping with the general welfare that the enabling statutes have  
1435 empowered the Town to protect through the passage of Ordinances, including, but  
1436 not limited to the following:  
1437

- 1438 1) Ensuring that land use regulations result in developments that reflect  
1439 Lyndeborough's existing rural character;  
1440  
1441 2) Protecting the health, safety, welfare and property of Town residents and  
1442 OHRV participants;  
1443  
1444 3) Ensuring that the rate, type, and location of OHRV Facilities development  
1445 does not place an unreasonable burden on the Town's financial ability to  
1446 expand its public services;  
1447  
1448 4) Identifying preferred future land use patterns that shall, among other things,  
1449 consider the capacity of the roadway system to accommodate additional  
1450 traffic resulting from large-scale OHRV Facilities development and the  
1451 physical and fiscal ability of the Town to provide public services, including

- 1452 emergency medical care and fire protection;  
1453  
1454 5) Protection against potential adverse environmental impacts such as soil  
1455 erosion, water/air quality, noise pollution and wildlife disturbances;  
1456  
1457 6) Consider and guard against any adverse impact on property values caused by  
1458 non-commercial OHRV Facilities development;  
1459

1460 **1261.00 Specific Objectives:**

1461  
1462 *The Town of Lyndeborough may regulate the operation of OHRV Facilities in the*  
1463 *Town of Lyndeborough for the following purposes:*

- 1464  
1465 1) To mitigate the impact of large-scale State-Sanctioned, non-commercial OHRV  
1466 facilities developed in accordance with RSA 215-A and which are exempt from  
1467 regulation by the Town of Lyndeborough's Site Plan Review Ordinances.  
1468  
1469 2) To mitigate the impact from increased traffic on local roads, excessive noise,  
1470 dust, pollution, reduction in neighboring property values or other effects that  
1471 might detract from the rural characteristics outlined in the Sections "E" through  
1472 "H" of the Lyndeborough Master Plan (Approved May 16, 2002), which address  
1473 the need to preserve the environment in ways that are conducive to the  
1474 preservation of plants, wildlife, views and other characteristics that define the  
1475 rural character of Lyndeborough,  
1476  
1477 3) To determine appropriate hours of operation that mitigate noise, reduction of  
1478 abutting property values and other disturbances that adversely affect the  
1479 enjoyment of those properties,  
1480  
1481 4) To ensure that parking for OHRV Facilities is adequate and in keeping with the  
1482 rural characteristics of the Town of Lyndeborough,  
1483  
1484 5) To ensure that picnic areas associated with OHRV Facilities are adequate and  
1485 appropriately sited,  
1486  
1487 6) To Ensure that sanitation facilities associated with OHRV Facilities are adequate  
1488 and appropriately sited, and  
1489  
1490 7) To ensure that designated access routes to OHRV Facilities are adequate and  
1491 assure the safety of local residents and OHRV Facility participants.  
1492  
1493

1494 **Lyndeborough Off-Highway Recreational Vehicle (OHRV) Facility Ordinance and**  
1495 **Regulations**

1496  
1497 **1262.00 Authority:**

1498  
1499 This Ordinance is promulgated by the Town of Lyndeborough Town Meeting as an  
1500 amendment to the existing Zoning Ordinance, pursuant to the authority provided to  
1501 said Town by ***RSA 674:16 (Purposes of Zoning Ordinances) and 676:17 (Fines and***  
1502 ***Penalties).***  
1503  
1504  
1505

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- 1506 **1263.00 Scope of Regulations:**  
1507 *IT IS INTENDED THAT THIS ORDINANCE WILL APPLY TO ALL LARGE-SCALE, STATE-*  
1508 *SANCTIONED, NON-COMMERCIAL (SEE DEFINITIONS) OHRV FACILITIES*  
1509 *DEVELOPED IN ANY REGION OR DISTRICT WITHIN THE TOWN OF*  
1510 *LYNDEBOROUGH.*  
1511
- 1512 **1264.00 Definitions:**  
1513
- 1514 **1264.01 Abutter.** Any person whose property adjoins or is directly across the street or stream  
1515 from the land under consideration by the Board; and affected municipalities and the  
1516 regional planning commission(s) in the event of developments having regional  
1517 impact. If an abutting property is under condominium or other collective form of  
1518 ownership, the officers of the collective or association as defined in RSA 356-B:3,  
1519 XXIII, shall receive the formal notification. For purposes of receiving testimony  
1520 only, and not for the purpose of notification, the term “abutter” shall include any  
1521 person who is able to demonstrate that his/her land will be directly affected by the  
1522 proposal under consideration.  
1523
- 1524 **1264.02 Designee.** Person or organization designated by another to represent the landowner  
1525 in an official capacity in an action, activity or before a regulatory board, Town or  
1526 State authority.  
1527
- 1528 **1264.03 Landowner.** Owner of land with tax payment responsibility for same.  
1529
- 1530 **1264.04 Large-scale OHRV Recreational Facility.** A closed or limited access, non-  
1531 commercial destination trail system open to the public for the express purpose of  
1532 casual riding, racing, or other activities associated with OHRV use.  
1533
- 1534 **1264.05 Noise.** Any sound that would travel beyond property lines and is over and above that  
1535 normally associated with residential uses allowed in the district.  
1536
- 1537 **1264.06 Operator.** Person or organization with primary responsibility for the operation,  
1538 maintenance and oversight of an OHRV Facility.  
1539
- 1540 **1264.07 Picnic Areas.** Areas located within an OHRV facility that is equipped with picnic  
1541 tables, sanitation facilities or other amenities intended for use by participants to stop,  
1542 rest, eat, or use sanitation facilities.  
1543
- 1544 **1264.08 Pollution.** Excessive noise, fumes, dust, smoke, fuel or oil spills resulting from  
1545 OHRV activities.  
1546
- 1547 **1264.09 Sanitation Facilities.** Permanent rest rooms, portable toilets, portable wash rooms,  
1548 out houses.  
1549
- 1550 **1264.10 State-Sanctioned OHRV Facility.** A non-commercial OHRV trail system on public  
1551 or private land which has been accepted into the State’s inventory of OHRV trails, is  
1552 published in written materials and/or on the Internet as a trail open for public OHRV  
1553 use, and for which no usage fee is charged.  
1554
- 1555 **1264.11 OHRV.** All off-highway recreational vehicles as defined by RSA 215-1. **Such**  
1556 **vehicles shall not include:**  
1557 1) Devices typically operated by the handicapped which were not originally  
1558 manufactured as trail bikes or ATVs;  
1559 2) Lawnmowers, maintenance vehicles, construction and/or logging equipment;

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1560 3) Any emergency vehicles operated by or under the direction of the  
1561 Lyndeborough Police, Fire and/or Emergency Management departments,  
1562 along with similar vehicles of local, State or federal government agencies  
1563 conducting similar activities.  
1564

1565 **1265.00 Regulated Uses:**  
1566

1567 In order to mitigate the negative impacts from noise, dust, fumes, pollution caused by  
1568 fuel and oil emissions that result from the operation of a OHRV Facility, and to  
1569 ensure the enjoyment of open land by landowners and OHRV participants,  
1570 owners/operators of OHRV Facilities must adhere to the following minimum  
1571 standards of operation:  
1572

1573 **1265.01** Trails regulated by this ordinance will be used in accordance with the State of New  
1574 Hampshire's best management land use practices and will avoid all wetland areas.  
1575

1576 **1265.02** A maximum of seventy-five (75) OHRVs may be allowed to operate on any OHRV  
1577 non-commercial, State Sanctioned facility, located in the Town of Lyndeborough, at  
1578 one time.  
1579

1580 **1265.03** Hours of Operation for OHRV Facilities are from 9:00 am to one hour before sunset.  
1581 This shall apply all 12 months of the year, including periods of complete or partial  
1582 snow cover.  
1583

1584 **1265.04** Speed limits shall be observed to assure the safety of participants and others. OHRV  
1585 operators must post and enforce speed limits so that no person shall operate a OHRV  
1586 at a speed greater than is reasonable and prudent under the existing conditions and  
1587 without regard for actual and potential hazards. In all cases speed shall be controlled  
1588 so that the operator will be able to avoid colliding with any person, animal, vehicle,  
1589 or object.  
1590

1591 1) Speed limits for OHRV Facilities within the boundaries of Lyndeborough  
1592 shall be as follows:  
1593

- 1594 a. 10 miles per hour within 150 feet of any house or property boundary;
- 1595 b. 10 miles per hour within any established rights-of-way or adjacent to  
1596 town roads, highways, or other public ways;
- 1597 c. 10 miles per hours on any class IV, V, and VI highways or bridges  
1598 designated as open for OHRV operation by the Town;
- 1599 d. 10 miles per hour at trail junctions or parking lots;
- 1600 e. 25 miles per hour on all other areas within the OHRV Facility.  
1601

1602 **1265.05** Parking areas must be accessible from approved access roads, must have at least two  
1603 (2) means of entry and egress and must also be easily accessible by Fire and  
1604 Emergency Management personnel and their equipment. Ample area must be  
1605 allowed for turning and maneuvering of OHRV tow vehicles, fire and emergency  
1606 management vehicles at all times, including when the facility is at maximum site  
1607 capacity. High intensity outdoor lighting whenever needed to assure the safety and  
1608 welfare of OHRV participants is permitted only in parking areas. Parking area  
1609 lighting and lights from vehicular traffic associated with this non-residential use shall  
1610 be shielded or buffered to prevent off-site glare, sky-glow and light trespass.  
1611

1612 **1265.06** Designated Refueling Areas, where all refueling must take place, must be available  
1613 and identified for all OHRV Facility participants. Refueling areas must consist of a  
non-permeable fueling pad made of concrete or another non-permeable material.

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1614 Refueling areas must be available in adequate numbers to accommodate the facility  
1615 at maximum site capacity and must be sited convenient to major trails, parking and  
1616 picnic areas, and other likely fueling locations.  
1617

1618 **1265.07** Picnic Areas must be located in areas that are accessible for fire and emergency  
1619 management purposes as determined by the Lyndeborough Fire and Emergency  
1620 Management Departments. The areas must not interfere with views or ridgelines and  
1621 must be sited at least 1000 feet from abutting property boundaries.  
1622

1623 **1265.08** Sanitation Facilities must be available at all picnic areas. Landscaping and plantings  
1624 shall be used to screen sanitary facilities in open or prominent areas so as not to  
1625 interfere with views, ridgelines or other vantage points and must be sited at least  
1626 1000 feet from abutting property boundaries. Landscaping and plantings shall be  
1627 compatible with native vegetation. Trees should be planted in random clusters, not in  
1628 rows, to complement the appearance of natural tree stands. The height of trees at  
1629 planting should be sufficient to completely obscure any sanitation facility on the site.  
1630

1631 **1265.09** All roadways proposed for access to and from an OHRV recreational facility must be  
1632 adequate to accommodate any increase in traffic resulting from the OHRV  
1633 development and allow for safe passage for both local and related OHRV traffic.  
1634 Costs for any road improvements required to bring an access road into compliance  
1635 would be borne by the OHRV Facility Operator.  
1636

1637 **1265.10** In accordance with state law RSA 215-A:6 (IX), OHRVs are prohibited from  
1638 traveling on all roads, including, but not limited to, Class V and Class VI roads,  
1639 unless otherwise approved by the Town of Lyndeborough.  
1640

1641 **1266.00** *Conflicting Provisions:*  
1642  
1643 Where these regulations are in conflict with other local, state or federal ordinances or  
1644 regulations, the provision that imposes the greater restriction or higher standard shall  
1645 apply.  
1646

1647 **1267.00** *ENFORCEMENT, FINES AND PENALTIES:*  
1648  
1649 *THE PROVISIONS OF THIS ORDINANCE SHALL BE ENFORCEABLE IN ACCORDANCE*  
1650 *WITH SECTIONS 1503.00 AND 1504.00 OF THE LYNDEBOROUGH ZONING*  
1651 *REGULATIONS.*  
1652

1653 **1300.00** *NON-CONFORMING USES*  
1654

1655 **1301.00** *Non-conforming Uses and Buildings:*  
1656  
1657 Any non-conforming uses of land or buildings may continue in their present use,  
1658 except that any non-conforming use of land or building may not be:  
1659

- 1660 1) changed to another non-conforming use;
- 1661 2) re-established after abandonment for one year;
- 1662 3) extended or enlarged;
- 1663 4) rebuilt after damage exceeding fifty (50) percent of its former market value.

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1667 **1302.00 Lots of Record:**

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Where a lot of record at the time of the effective date of this Ordinance has less area and/or frontage than herein required in the District in which it is located:

- 1) The lot may be used for a single family dwelling if permitted in that district subject to New Hampshire Water Supply and Pollution Control Division approval and subject to all district regulations applicable to lots within the District wherein the lot is located with the exception of lot size and/or frontage.
- 2) The lot may be used for any non-residential use permitted in the District in which it is located subject to New Hampshire Water Supply and Pollution Control Division approval and subject to all district regulations applicable to lots within the District wherein the lot is located with the exception of lot size and/or frontage.

1682

1683 **1303.00 Special Exceptions for Non-conforming Buildings. (3/10/98)**

1684  
1685  
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1688

Additions to existing residences or accessory buildings that lie wholly or in part within the lot setbacks designated for the zoning district may be permitted by Special Exception when no alternative is deemed reasonable by the Zoning Board of Adjustment, in accordance with any or all of the following:

1689  
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1697

- 1) the proposed addition will not be constructed in the setback area; or
- 2) the proposed addition will not be closer to the lot line than the most intrusive portion of the existing building; or
- 3) the proposed addition is necessary for the health or safety of the occupants of the building as determined by the Building Inspector at the time of permit application.

1698 **1400.00 BOARD OF ADJUSTMENT (3/13/07)**

1699

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The Zoning Board of Adjustment shall consist of five (5) elected members, whose duties shall conform to the provisions of Chapters 672-677 NH RSA. Members shall be elected for three (3) year terms as terms expire or vacancies occur. Appointments to fill vacancies shall be only for the unexpired portion of the term.

The ZBA may act upon appeals from administrative decisions, special exceptions to the Zoning Ordinance and variances from the Zoning Ordinance.



TOWN OF LYNDEBOROUGH  
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1708 **1500.00 ENFORCEMENT AND ADMINISTRATION**

1709

1710 **1501.00 Board of Selectmen:**

1711

1712 It shall be the duty of the Board of Selectmen to enforce the provisions of this  
1713 Zoning Ordinance.

1714

1715 **1502.00 Building Inspector:**

1716

1717 It shall be the duty of the Building Inspector to administer the provisions of this  
1718 Zoning Ordinance.

1719

1720 The Building Inspector shall issue any and all building permits requested when such  
1721 permits are in accordance with the provisions of this Ordinance.

1722

1723 **1503.00 Violations of the Ordinance:**

1724

1725 Upon any well founded information that this Ordinance is being violated, the Board  
1726 of Selectmen shall take immediate steps to enforce the provisions of this Ordinance  
1727 as provided in RSA 676:17 by taking the appropriate legal action and/or seeking an  
1728 injunction in the Hillsborough County Superior Court.

1729

1730 **1504.00 Fines and Penalties:**

1731

1732 Any person, firm or corporation violating any of the provisions of this Ordinance, or  
1733 Subdivision regulations adopted hereunder, or any provision or specification of any  
1734 application, plat or plan approved by, or any requirement or condition of a permit or  
1735 decision issued by the Board of Selectmen, Code Enforcement Officer or Land Use  
1736 Board acting under its authority:

1737

1738 1) shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any  
1739 other person;

1740

1741 2) shall be subject to a civil penalty not to exceed \$100.00 for each day that such  
1742 violation is found to continue after the conviction date or after the date on  
1743 which the violator received written notice from the Town of Lyndeborough  
that he is in violation of any such Ordinance, whichever is earlier;

1744

1745 3) the Board of Selectmen or its designated agent, the Code Enforcement Officer,  
1746 shall be further authorized to take whatever action against violators as may be  
otherwise provided for in NH RSA 676:17, as may be amended.

1747

1748

1749 **1600.00 APPEALS**

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Any person aggrieved from the decision of the Code Enforcement Officer may appeal to the Zoning Board of Adjustment (ZBA) provided that such appeal must be made in writing within thirty (30) days from the date of the order or decision complained of and submitted to the clerk of the Zoning Board of Adjustment. That such appeals may also be taken by any officer, department or bureau of the Town of Lyndeborough affected by any decision of the Code Enforcement Officer. The Code Enforcement Officer shall transmit forthwith to the Zoning Board of Adjustment all of the papers constituting the record upon which the action appealed from was taken. The Zoning Board of Adjustment shall have the power to hear only those matters as set forth in RSA 674:33, as amended.

1762 **1700.00 CONFLICT AND SEVERABILITY**

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If any section of this Ordinance is found to be in conflict with any other section of the Ordinance or with any local, state, or federal regulation, the more stringent standard shall apply. The invalidity, unconstitutionality or illegality of any Section or provision of this Ordinance or of any zoning district boundary shown on the zoning map shall not have any affect upon the validity, constitutionality or legality of any other Section, provision or zoning district boundary. (March 1994)

*#230-18 (6-23-2000)*

TOWN OF LYNDEBOROUGH  
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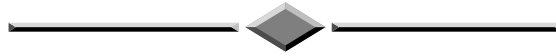
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ZONING ORDINANCE

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*ADDENDA:*

*Home Business Application*

*Home Business Exemption*



# WILTON, NEW HAMPSHIRE

## LAND USE LAWS



### 2021 ZONING ORDINANCE

*MARCH 1981  
REVISED MARCH 1990*

*Amended March; 1991, 1992, 1993, 1994, 1996, 1997, 1998, 1999,  
2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2009, 2010, 2011, 2014,  
2015, 2016, 2017, 2018, 2019, 2020, 2021*

*May, 2009 (Floodplain Conservation District –FEMA FIS & FIRM Update) Effective 9/25/09*







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**1.0 PREAMBLE**

In pursuance of authority conferred by Chapter 674:16, N.H. Revised Statutes Annotated, 1955, as amended, (N.H. RSA), the following Ordinance is hereby enacted by the voters of the Town of Wilton, New Hampshire, in Official Town Meeting this 13th day of March 1990.

The purpose of this ordinance is to promote and protect the health, safety, prosperity, convenience or general welfare of the inhabitants, as well as efficiency and economy in the process of development of the incorporated Town of Wilton, by the promotion of good civic design and arrangements including protection of farmlands and open space; by wise and efficient expenditures of public funds; by the adequate provision of public utilities and other public requirements; and by other means. The Articles of this Ordinance take precedence over the articles of the "Wilton Code of Building and Sanitation" and supersede all "Zoning Ordinances" previously adopted by the Town of Wilton, New Hampshire.

For the purpose of this Ordinance, wherever the effective date of the ordinance is referred to herein, this reference is defined as the date the particular section or subsection was first adopted by the Town of Wilton.

## 2.0

### ***DISTRICTS***

*(Adopted March 2003)*

For the purposes of this ordinance, the Town of Wilton is divided into the following primary Zoning Districts: RESIDENTIAL DISTRICT, GENERAL RESIDENCE AND AGRICULTURAL DISTRICT, COMMERCIAL DISTRICT, INDUSTRIAL DISTRICT and OFFICE PARK DISTRICT. All land in the Town of Wilton is located within one of the above-mentioned primary districts.

The ordinance also defines the following overlay Zoning Districts: RESEARCH AND OFFICE PARK DISTRICT, GRAVEL EXCAVATION DISTRICT, FLOODPLAIN CONSERVATION DISTRICT, WETLANDS CONSERVATION DISTRICT, AQUIFER PROTECTION DISTRICT, AGE-RESTRICTED HOUSING DISTRICT, WATERSHED DISTRICT and PERSONAL WIRELESS SERVICE FACILITIES DISTRICT. Land in the Town of Wilton may be located outside of any overlay district or within one or more overlay districts in addition to its underlying primary district. Each Zoning District is described by a section of this ordinance, which specifies the permitted uses and the restrictions on uses in that district. Land in an overlay district may have additional permitted uses or additional restrictions beyond those provided in its underlying primary district. *(Amended March 2020)*

The location of each district is specified in the section of the ordinance that describes the district; except that GENERAL RESIDENCE AND AGRICULTURAL DISTRICT encompasses all land not listed as belonging to any other primary zoning district. The Zoning Districts and their boundaries are also depicted by colors or lines on a Zoning Map that is filed with the Wilton Town Clerk.

In the event the zoning district or overlay zoning district locations cannot be determined from the zoning ordinance text, then the adopted zoning or zoning overlay map may be used to resolve ambiguities in the district locations along with Town Meeting and Planning Board minutes. *(Amended March 2007)*

### 3.0 **DEFINITIONS**

For the purpose of this Ordinance, certain terms are defined as provided in this section.

- 3.1.1 Accessory Building. A building subordinate to the permitted main building on a lot, which is used for purposes incidental to and customarily or habitually associated with the use of the main building. (*Amended March 2009*)
- 3.1.1-a Accessory Use. A use of a lot or building which is occasioned by and subordinate to the permitted primary use of that lot or building, and is customarily or habitually associated with it. (*Adopted March 2005; Amended March 2009*)
- 3.1.2 Aircraft. Airborne conveyance, mechanical or otherwise, intended to transport one or more persons. (*Amended March 2021*)
- 3.1.3 Aquifer. Land areas determined to overlay water saturated stratified drift deposits of sands and/or gravels capable of yielding private and public potable water supplies.
- 3.1.4 Buffer. An area within a lot or site, generally adjacent to and parallel with the property line, either consisting of natural existing vegetation or created by the use of trees, shrubs, fences and/or berms designed to limit continuously the view of and/or sound from the site to adjacent sites or properties. (*Amended March 1991*)
- 3.1.5 Building. A structure having a roof or cover and forming a shelter for persons, animals or property.
- 3.1.6 Dwelling. A building containing one or more dwelling units used for non-transient occupancy. The term "dwelling" includes but is not restricted to private homes, apartment buildings, condominiums and town houses. (See also "Hotel" and "Rooming House".)
- a. Single Family Dwelling. A building containing one dwelling unit.
- b. Duplex or Two-Family Dwelling. A building containing two (2) dwelling units attached, designed or arranged as separate housekeeping units within the dwelling.
- c. Multi-Family Dwelling. A building containing three (3) or more dwelling units attached, designed or arranged as separate housekeeping units within the dwelling.
- 3.1.7 Dwelling Unit. One or more living or sleeping rooms arranged for the use of one or more individuals living as a single-family housekeeping unit, with cooking, living, sanitary and sleeping facilities. (See also "Lodging Unit".)
- 3.1.8 Family. A group of individuals, whether or not related, living together in a dwelling unit in a structured relationship constituting an organized housekeeping unit. (*Amended March 2018*)
- 3.1.9 Floodplain. A land area adjacent to a river, stream, lake or other watercourse subject to flooding during periods of high water and runoff including but not limited to those areas generally identified on the Town of Wilton, NH, Flood Boundary and Floodway Maps and the Flood Insurance Rate Maps prepared by the U.S. Department of Housing and Urban Development, Federal Insurance Administration.



- 3.1.10 Frontage. The continuous length of a lot bordering on the public right-of-way providing the principal route of access to a lot, subdivision or other type of development.
- 3.1.11 Hazardous or Toxic Materials or Liquids. Materials or liquids that pose a threat to the environment, whether in use, storage or transit, including without exception hazardous waste identified and listed in accordance with Section 3001 of the Federal Resource Conservation and Recovery Act of 1976, and any amendments thereto.
- 3.1.12 Home Occupation. A business operated in a building that is incidental and subordinate to the use of the building or lot for residential purposes in compliance with the criteria established for home occupations in section 5.3.1 or 6.6.1 of this Ordinance. *(Adopted March 1998)*
- 3.1.13 Hospital. A building providing twenty-four (24) hour in-patient services for the diagnosis, treatment and care of human ailments.
- 3.1.14 Hotel. A building or buildings containing one or more dwelling units or lodging units intended or used primarily for transient occupancy, together with any common cooking, dining, living or sanitary facilities for the shared use of the occupants. The term "hotel" includes, but is not restricted to, inns, motels, motor inns, tourist homes and tourist courts. (See also "Dwelling" and "Rooming House".)
- 3.1.14-a Junk. Old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, or junked, dismantled, or wrecked automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material. *(Adopted March 2009)*
- 3.1.14-b Junkyard. or Automotive recycling (salvage) yard' - An establishment or place of business which is maintained, operated, or used for storing, keeping, buying or selling junk, or for the maintenance or operation of an automotive recycling (salvage) yard, and includes garbage dumps and sanitary fills. The word does not include any motor vehicle dealers registered with the director of motor vehicles under RSA 261:104 and controlled under RSA 236:126. *(Adopted March 2009)*
- 3.1.15 Lodging Unit. One or more living or sleeping rooms arranged for occupancy by a single family, but sharing common cooking, dining, living or sanitary facilities with other lodging units. (See also "Dwelling Unit".)
- 3.1.16 Lot or Parcel. A single area of land defined by metes and bounds or boundary lines as shown in a recorded deed or on a recorded plan. *(Amended March 1992)*
- 3.1.17 Lot, Building. A lot having the minimum area and frontage to meet the requirements of this ordinance.
- 3.1.18 Lot Line. A line dividing one lot from another.
- a. Front lot line. The lot line dividing the lot from a street right-of-way and providing the principal route of access to the lot or subdivision.
  - b. Rear lot line. The lot line opposite to the front lot line.
  - c. Side lot line. Any lot line not a front or rear lot line.

- 3.1.19 Lot of Record. Land designated as a separate and distinct parcel in a legally recorded deed filed in the record of Hillsborough County, New Hampshire. *(Amended March 1992)*
- 3.1.20 Manufactured Housing. 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, NH RSA 674:31. Manufactured housing does not include pre-site built housing.
- 3.1.21 Manufactured Housing Park. A land area occupied or designed for occupancy by two or more manufactured homes in use for living purposes.
- 3.1.21-a Mean High Water Level. The line on the shore, running parallel to the water body, that defines the high level of the water body, established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the immediate bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter or debris, or other appropriate means that consider the characteristics of the surrounding areas. Where the mean high water level is not easily discernable, the mean high water level may be determined by the NH Department of Environmental Services. *(Adopted March 2020)*
- 3.1.22 Non-conforming Building or Structure, or Use. A building or structure, or a use of any building, structure, or land, which, in whole or in part, does not conform to the regulations of the district in which the building, structure, or use is located, but which did conform to the regulations, if any, in effect at the time the building, structure, or use came into existence, or was permitted by variance, and which has remained in existence since that time with no interruption of more than one (1) year. *(Amended March 2007)*
- 3.1.23 *(Deleted). (March 2007)*
- 3.1.23-a Off Premise Sign. A sign that directs attention to an activity which is not related to the premises where such sign is located or to which it is affixed.
- 3.1.24 Perennial Stream. Any stream with a minimum drainage area of one (1) square mile, 640 acres.
- 3.1.25 Pre-site Built Housing. Any structure designed primarily for residential occupancy which is wholly or in substantial part made, fabricated, formed or assembled in off-site manufacturing facilities in conformance with the United States Department of Housing and Urban Development minimum property standards and local building codes, for installation, or assembly and installation, on the building site, NH RSA 674:31-a. Pre-site built housing does not include manufactured housing.
- 3.1.26 Public Right-of-Way. Either a town, state and federal highways and the land on either side as covered by statutes, OR: a private road which is depicted on a subdivision plan approved by the Wilton Planning Board, is designed and constructed to town road standards, is offered to the Town of Wilton for acceptance as a town road (whether or not it is accepted), is guaranteed to remain open in perpetuity to public use for access to the property in the subdivision, and whose permanent maintenance is governed by covenants approved as part of the subdivision approval. *(Amended March 2009)*

- 3.1.27 Rooming House. A building containing one or more lodging units used primarily for rental to non-transient occupants, together with any common cooking, dining, living or sanitary facilities for the shared use of the occupants. The term "rooming house" includes, but is not restricted to, boarding houses, lodging houses and dormitories. See also "Hotel" and "Dwelling".
- 3.1.28 School. A learning center having an academic curriculum approved for attendance purposes by the State Department of Education.
- 3.1.29 Setback. The minimum distance between two (2) points prescribed by the Ordinance.
- 3.1.30 Sign. Any lettering, word, numeral, pictorial representation, emblem, trademark, device, banner, pennant or other figure of similar character located outdoors and being a structure or any part thereof, or attached to, painted on, or in any other manner represented on a building or other structure, and used to announce, direct, attract, advertise or promote.
- 3.1.31 Structure. Any construction, erection, assemblage or other combination of materials upon the land which is made in such a manner as to imply that it will remain in position indefinitely or which in fact remains on the land for a period of time in excess of thirty (30) days. Structures do not include driveways, fences, stonewalls, mailboxes, culverts, and drainage measures approved by the Planning Board as part of a subdivision or site plan. *(Amended March 2003)*
- 3.1.32 Town Zoning Maps. Maps of the Town of Wilton that shows the boundaries of the zoning districts or zoning overlay districts. Maps shall be adopted by the Planning Board after conducting a properly noticed public hearing, with official copies residing in the Town Clerk's office. Approved maps shall depict districts, overlay districts and their boundaries as approved in the zoning ordinance text by voters at Town Meeting. *(Amended March 2007)*
- 3.1.32-a Trip. A single vehicle movement to or from a specified location, or between two specified points. A "round trip" counts as two trips. *(Adopted March 2005)*
- 3.1.33 Yard, Front. That portion of the lot nearer to the front lot line than the principal building.
- 3.1.34 Wetlands. An area that is defined from time to time by RSA 482-A:2, X and which shall, unless RSA 482-A:2, X indicates otherwise, include land that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands shall be delineated as set forth time to time in the rules adopted under RSA 482-A. *(Adopted March 2002, Amended March 2020)*
- 3.1.34-a Water body. Any pond, lake, river, stream or similar area up to its Mean High Water Level. *(Adopted March 2020)*

#### **4.0 GENERAL PROVISIONS**

This Chapter establishes controls to prevent land and structures, and the use thereof, from creating any potentially dangerous, injurious, noxious or otherwise objectionable condition that could adversely affect the health or safety of the Wilton community, the quality of the environment, or the use, enjoyment or value of surrounding property. It also addresses certain general requirements with respect to the use of land located in Wilton, as well as for the grant of a special exception under, or a variance from the requirements of, this Ordinance. Except as expressly set forth below, all (1) structures, existing or proposed, in the Town of Wilton, (2) uses thereof or of any land in the Town of Wilton, and (3) operation of any equipment, including, in each case, structures and uses permitted by right, special exception or variance, must comply with this Chapter, as well as with all other applicable requirements of this Ordinance, Section E of the Wilton Land Use Laws (the Building Code Ordinance), and State and Federal law. If there is a conflict between any such requirements, the most restrictive shall prevail. To the extent an existing structure or use is extended, enlarged, changed, moved, reconstructed or altered, it shall comply with this Chapter and all such other applicable requirements. *(March 2021)*

#### **4.1 Alteration and Removal of Materials.**

Excavation of certain earth materials regulated under RSA 155-E is permitted only in the Gravel Excavation District under the restrictions of Chapter 9B of this Ordinance, except where exempted under RSA 155-E:2 and RSA 155-E:2-a. Otherwise, no excavation, mining, prospecting or drilling for oil, natural gas or similar substances shall be made on, and no materials shall be removed from, any site except as incidental to, and only as required by, the construction of permitted improvements thereon, and, upon completion, exposed areas shall be backfilled, and disturbed ground shall be graded, leveled, paved or landscaped in accordance with RSA:155-E. *(Amended March 2021)*

#### **4.2 Sanitary Waste Disposal.**

All sanitary waste shall be properly disposed of in such a manner as to prevent all health hazards. New construction in areas serviced by the Town sewer system shall be required to connect to the system. All other construction shall be served by septic systems constructed, maintained and replaced in accordance with the standards set and enforced by the New Hampshire State Department of Health and Welfare and by the New Hampshire Water Supply and Pollution Control Division (WSPCD), as well as the following requirements and those otherwise set out in this Ordinance or required by the Planning Board:

- a. no system shall be located in poorly or very poorly drained soils;
- b. systems shall be set back from wetlands, water bodies, open water bodies and perennial streams as follows:
  1. systems located entirely or partially in highly permeable soils (a permeability of six (6) inches per hour throughout as indicated in the *USDA Soil Survey of Hillsborough County, New Hampshire, Western Part*) - 125 feet;
  2. systems located entirely or partially in somewhat poorly drained soils, moderately well drained soils or soils with a restrictive layer and a slope of 8 percent or greater - 100 feet; and
  3. systems located in all other soils - 75 feet.
- c. Before covering, all systems shall be inspected by the State of New Hampshire at the sole cost of the owner. *(Amended March 2021)*

**4.3 Unregistered Motor Vehicles.**

No more than two unregistered motor vehicles that are no longer in condition for legal use on public highways are permitted on a lot, except in connection with the operation of an approved business there. *(Amended March 2021)*

**4.4 Temporary Placement of Manufactured Homes and Non-residential Facilities.**

4.4.1 Temporary Placement of Manufactured Homes. The Building Inspector may grant a permit to locate a [manufactured home](#) for use as a temporary dwelling unit for a period of up to twelve months on the [lot](#) where a permanent [dwelling](#) is being constructed or substantially remodeled or reconstructed, subject to required setbacks. For good cause shown, the Building Inspector may grant one or more extensions to the permit. At the end of the twelve-month period or the last extension thereto, the [manufactured home](#) must be removed from the [lot](#). The temporary [dwelling unit](#) shall be serviced by existing or new approved septic/sewer and water systems. *(Amended March 2021)*

4.4.2 Temporary Placement of Non-residential Facilities. The Building Inspector may grant a permit to erect or locate temporary office or other non-residential facilities, including, without limitation, on construction sites, for a period of up to six months on the lot where a permanent [structure](#) is being reconstructed after damage by fire or other natural cause. Such temporary facilities may not be used for manufacturing activities. Within 60 days following the issuance of a permit hereunder, an application for site plan review must be submitted to the Planning Board, showing the permanent location of all such facilities. For good cause shown, the Building Inspector may grant one or more extensions to the permit. At the end of the six-month period or the last extension thereto, the temporary facility must be removed from the [lot](#). Temporary facilities shall be serviced by existing or new approved septic/sewer and water systems. *(Amended March 2021)*

4.4.3 Compliance; Right to Remove. The placement and use of all temporary facilities permitted under Section 4.4.1 or 4.4.2 shall comply with the setback and other requirements of this Ordinance, as well as other applicable law. In the event any such temporary facility is not timely removed upon expiration of the applicable permit, the Town may, upon notice to the owner, remove it at the owner's expense. *(Amended March 2021)*

**4.5 Private Aircraft Landings and Takeoffs.**

Private aircraft shall not be permitted to land or take-off, nor shall any related equipment be operated, on any land located in the Town of Wilton, other than in connection with emergency situations. *(Amended March 2021)*

**4.6 Snow Storage or Removal.**

All plans for proposed development in zoning districts other than the Residential and Residential/Agricultural districts shall address snow storage and/or removal, in accordance with applicable stormwater and other requirements, which shall not conflict with landscaping, visibility, or drainage requirements for the site. *(Amended March 2021)*

**4.7 Maintenance of Landscaping.**

Landscaping required to be installed pursuant to an approved site plan or otherwise by this Ordinance shall be maintained as originally specified and approved. Failure to replace dead or diseased vegetation, shall be deemed a violation of this Ordinance and the Town may, upon notice to the owner, replace it at the owner's expense. *(Amended March 2021)*

**4.8 Wetlands Conservation District Setback.**

All structures must be set back 50 feet from delineated [wetlands](#) and [water bodies](#). (Amended March 2021)

**4.9 Wetlands Conservation District Buffer.**

No fertilizer shall be applied to the vegetation or soils located within 25 feet of delineated wetlands or water bodies. Between 25 and 50 feet from the delineated wetland or water body, slow or controlled release fertilizer, as defined by the NH Department of Environmental Services, may be used. No chemicals, including pesticides or herbicides of any kind, shall be applied to ground, turf or established vegetation within 50 feet of the delineated wetland or water body, except if applied by a licensed horticultural professional. (Amended March 2021)

**4.10 Performance Standards.**

The use or operation of any land, structure or equipment located in the Town of Wilton shall not produce conditions, including, without limitation, the following, that could (1) adversely affect the health or safety of the Wilton community, that of its neighbors, the quality or harmony of the environment, or the use, enjoyment or value of surrounding property, or (2) violate this Ordinance, the Building Code Ordinance or any other applicable local, State or Federal requirements. For purposes of these performance standards, the term "property line" means the boundary of the property on which a structure or equipment is located or on which a use takes place. *(Amended March 2021)*

4.10.1 Vibration and Ground Motion. Except in connection with permitted excavation activities or the demolition, construction or reconstruction of a structure, no activity shall generate any vibration or other aperiodic ground motion inherently and recurrently transmitted through the ground that is perceptible without the aid of instruments at any point beyond the property line. (Amended March 2021)

4.10.2 Noise. No activity, or failure to act, shall generate or result in the generation of noise that could interfere with the reasonable enjoyment of life and property or the conduct of business or that would exceed the limits established below or pursuant to any permit issued by the Town.

No activity, or failure to act, shall cause the continuous sound level generated on a lot to exceed the following limits at the property lines of contiguous lots (receptor lots) in the following Land Use Zones, as measured in decibels by an acceptable instrument at the applicable property line:

Land Use Zone of Receptor Lot	Daytime (7:00 am-7:00 pm, excluding Sundays/ Holidays)	Nighttime (7:01 pm – 6:59 am, and Sundays/Holidays)
Residential	55	45
Residential/Agricultural	55	45
Commercial	65	55
Industrial	75	75

For purposes of this section, the term “acceptable instrument” means one conforming to the specifications of the American National Standard (ANSI S1.4--1983) for Type 1 precision or Type 2 general purpose sound-level meters.

Notwithstanding an ambient sound level at the receptor lot line as high as the limits set out above, no activity, or failure to act, shall cause the continuous noise level at any given time to exceed such limits, or the level of the ambient sound level, if it is higher. For purposes of this section, the term “ambient sound level” means the noise level at a location from time to time produced by transportation vehicles, natural phenomena and distant activity not related to a local sound source.

No activity, or failure to act, shall cause an impulsive sound level that exceeds the following limits, as measured in decibels by an acceptable instrument at the property line in applicable locations:

Land Use Zone	Daytime (7:00 am-7:00 pm, excluding Sundays/Holidays)	Nighttime (7:01 pm – 6:59 am, and Sundays/Holidays)
Residential	60	45
Residential/Agricultural	60	45
Commercial	75	55
Industrial	85	75

For purposes of this section, the term “impulsive sound” means a repeated sound of short duration characterized by an abrupt onset and rapid decay and occurring at the rate of less than one per second.

The requirements of this section shall not apply to the operation or conduct of (1) temporary on-site generators providing emergency power during electrical outages; (2) customary equipment used during daytime construction of permitted structures, such as air compressors or generators; (3) power tools for intermittent residential use and maintenance, such as mowers, chainsaws, snow removal equipment, etc.; (4) permitted events conducted during the prescribed time period; (5) emergency vehicles or equipment or alarm systems; (6) customary agricultural activities during normal working hours; (7) school or church bells or chimes; and (8) blasting activity conducted in accordance with permit requirements. *(Amended March 2021)*

4.10.3 Odors. A non-agricultural activity shall not generate any odor that could reasonably be considered objectionable or offensive to persons of average sensibilities in concentrations perceptible at any point beyond the property line. *(Amended March 2021)*

4.10.4 Smoke and Airborne Particulates. Subject to Section 4.10.5 below, no activity shall result in the emission or discharge, from any source whatever, of any smoke or particulate matter, such as dust, dirt or ash, that may become airborne, with a density greater than that described as No. 1 on the Ringelmann chart, measured at the point of emission into the atmosphere or other point of discharge. Particulate matter shall not be visible to the human eye at any point beyond the property line. No person shall cause or permit any materials to be handled, transported, or stored in a manner that would allow any particulate matter to become airborne.

These requirements shall not apply to (1) the operation of residential heating equipment and systems in accordance with applicable requirements and manufacturers' specifications, (2) permitted outdoor fires, (3) customary agricultural activities, or (4) use of residential fireplaces. *(Amended March 2021)*

- 4.10.5 Discharge of Hazardous or Toxic Materials, Gases or Liquids. No (1) hazardous or toxic materials, liquids or gases, (2) hazardous radioactive materials or emission, or (3) other non-toxic substance that nevertheless could harm the public health, its safety or the environment in combination with other activities or substances, may be discharged or emitted into the air, soil or groundwater, the Town sewer system, any septic system or any stormwater system.

These requirements shall not apply to (1) agricultural activities conducted in accordance with local, State and Federal requirements, and best management practices promulgated from time to time by State agricultural agencies; (2) smoke emitted in compliance with, or from sources excepted from, Section 4.10.4 above, or (3) customary residential chemical applications by licensed providers or in compliance with manufacturers' specifications and other best practices. *(Amended March 2021)*

- 4.10.6 Lighting and Glare. Lighting or structural elements installed on a private site shall comply with the requirements of this Ordinance, and in particular, Chapter 16A, and shall not, in any event, cast or reflect glare or light beyond the property line.

These requirements shall not apply to emergency safety lighting. *(Amended March 2021)*

- 4.10.7 Signage. Signage installed on a private site shall comply with the requirements of this Ordinance, and in particular, Chapter 16, and shall not, in any event, detract from the visual environment of the Town of Wilton, endanger, confuse or mislead individuals, or obstruct vision necessary for traffic safety. *(Amended March 2021)*

- 4.10.8 Electromagnetic Radiation. Activity producing electromagnetic radiation that causes abnormal degradation, by reason of proximity, primary field, blanketing, spurious radiation, conducted energy in power or telephone systems or harmonic content, of other electromagnetic receptors of quality and proper design located beyond the property line is prohibited. "Abnormal degradation" and "of quality and proper design" shall be determined in accordance with standards established from time to time by the American Institute of Electrical Engineers or such other group that provides standards more specifically for the type of interference at issue. *(Amended March 2021)*

- 4.10.9 Materials Creating a Fire or Explosion Hazard. Storage or use of flammable liquids or gases, or other explosive materials, shall be permitted only in compliance with this Ordinance and other applicable local, State and Federal requirements, including, without limitation, those imposed from time to time by the Fire Chief of the Town of Wilton. *(Amended March 2021)*

- 4.10.10 Stormwater Management. All new construction, development, reconstruction and other activity that disturbs the soil shall be designed to minimize stormwater runoff from the site in excess of the natural preexisting conditions, including location and volume, and shall comply with the requirements of this Ordinance and in particular, Section H, Stormwater Management and Erosion Control Regulations. Where activity is within the Watershed Protection District, the Aquifer Protection District, or any other aquifer or wellhead protection area, all surface stormwater shall be kept on-site and handled in such a manner as



to allow the water to infiltrate into the ground before leaving the site. (*Amended March 2021*)

4.10.11 Structure Design. Proposed structures shall relate harmoniously to the terrain and to existing structures in the vicinity, in keeping with the characteristics of the neighborhood. To the extent practicable, structures shall be designed based on existing topography, vegetation and drainage characteristics and the site shall retain significant and/or unique features, such as historic resources, existing ponds or streams, and mature trees. (*Amended March 2021*)

4.10.12 Exception for Pre-existing Structures, Installations or Use. The requirements of this Section 4.10 shall not apply to structures, installations or uses in place prior to adoption of this Ordinance, except in situations where the public health or safety is threatened or as otherwise required by applicable local, State or Federal law. To the extent an existing structure or use is extended, enlarged, changed, moved, reconstructed or altered, it shall comply with this Chapter and all such other applicable requirements. (*Amended March 2021*)

#### **4.11 Applications and Approval.**

All applications for subdivision, site plan review, special exceptions or building permits shall demonstrate compliance with the requirements of this Chapter. The Planning Board, Zoning Board of Adjustment or Building Inspector, as appropriate, shall grant approvals only upon a determination that the resulting use, development or installation will comply with this Chapter, or will not increase any existing non-compliance. (*Amended March 2021*)

If the Planning Board, Zoning Board of Adjustment, or Building Inspector, as applicable, determines that reasonable grounds exist to believe that the use, development or installation may result in noncompliance, it may require the applicant, at the applicant's sole expense, to submit evidence sufficient to enable an objective determination to be made, including, without limitation: documentation of the performance of similar facilities or processes on other sites with sufficiently similar conditions;

- a. specifications for the equipment, mechanism or techniques proposed;
- b. certification of compliance by a State-licensed engineer or other professional reasonably acceptable to the Planning Board, Zoning Board of Adjustment or Building Inspector, as the case may be; and/or
- c. other studies evaluating the impact of the project, including, without limitation, on traffic, background noise, environmental conditions and/or property value.

In addition, the Town may, upon notice to the applicant, and at the applicant's expense, obtain itself such information, or commission such studies, as necessary in its discretion to allow it to make an objective determination. (*Amended March 2021*)

#### **4.12 Special Exceptions.**

Any Special Exceptions permitted by this Ordinance may be granted by the Zoning Board of Adjustment only upon a finding that the proposed use, structure or activity:

- a. is not permitted by the Ordinance in the absence of a Special Exception;

- b. is consistent with and will not substantially affect the character of the neighborhood in which it is proposed;
- c. will comply with Sections 4.10 - 4.10.11 inclusive of this Chapter and will not jeopardize the health or safety of anyone on or off the site;
- d. will not cause diminution of surrounding area property values;
- e. will not have an unacceptable effect on traffic in the neighborhood or in the Town;
- f. will have available adequate off-street parking, if required;
- g. will not be detrimental to the attractiveness of the Town;
- h. is consistent with the spirit of this Ordinance; and
- i. meets all other criteria enumerated in the Section that permits the particular Special Exception. *(Amended March 2021)*

**4.13**      **Variances.**

The Zoning Board of Adjustment may grant a variance from the requirements of this Ordinance, as permitted by, and in accordance with, State law, including, without limitation, RSA 674:33, from time to time in effect, upon appropriate findings and in a written decision complying with State requirements. *(Amended March 2021)*

**4.14**      **Notification of Abutters.**

Applications to the Zoning Board of Adjustment and Planning Board shall require notification of the property owner(s), applicant(s), all persons required under RSA 676:4 I.(d), and RSA 676:7 I (a), and all property owners separated by a railroad right-of-way. *(Amended March 2021)*

**4.15**      **Enforcement.**

In addition to action the Town may pursue as described above or by applicable law, the Building Inspector shall enforce the requirements of this Chapter as set forth in Chapter 19 of this Ordinance. *(Amended March 2021)*

## 5.0 **RESIDENTIAL DISTRICT**

The purpose of this district is to provide opportunities for mixed types of residential development at a high density where appropriate services exist or are available. The extent of this district is determined by the designated residential boundaries on the zoning map.

### 5.0.1 District Location. The Residential District encompasses the following areas within the Town of Wilton (*Amended March 1995; Amended March 2010*):

- a. The area in west Wilton south of NH Route 101 as delineated on the Town of Wilton Tax Map C encompassing lots 106 through 114 inclusive; 117, 118, 119 and part of 120 drawing a straight line from the northwest corner of 118 to the northeast corner of 119; 122 through 124 inclusive; and 137 through 141. (*Amended March 2010*)
- b. The area in Wilton Center as delineated on the Town of Wilton Tax Map C encompassing lots 62, 63, 64, part of 65 drawing a straight line from the southwestern corner of 66 to the northeast corner of lot 63, 66, and 67; 72, 73, parts of D-140-1 and C-74 east of a straight line drawn from the southeastern corner of 72 to the northwestern corner of 76, 75, 77 and 78; and 81, 82 and 84. (*Amended March 2010*)
- c. Tax Map F all land east of NH Route 101 between the north and south intersections of Intervale Road from the western edge of the 150 foot Commercial district to the eastern edge of the Souhegan River, lot 140 from NH Route 101 to the Souhegan River; Map D lot 99; Map L lots 29, and 48; and Map M lots 6 through 98 inclusive.
- d. Tax Map D lots 105, 106-1 through 113 inclusive, 66, 68, 69, 74, 75, 76 and 77; Map M lot 1; Map L lots 1 through 28 inclusive, 30 through 39 inclusive, 42 through 45 inclusive, and 67; and Map J 106 through 109 inclusive, 111, 112, 112-1, 114 through 132 inclusive, 136, 137, 138 east of a straight line drawn from the south western corner of lot 136 to the corner of the southern corner of the jog in the northern line of 138, portion of lot 133, 134, 135 and 139 east of a straight line drawn from the south western corner of lot 136 to the south western corner of lot 133. (*Amended March 2010*)
- e. Tax Map J part of lot 12 east of a line drawn from the western corner of lot 76 on Dale Street to the jog in lot 12; lots 13 through 42 inclusive, 62 through 78 inclusive, 80, and 92 through 98 inclusive; Map K lots 15 through 37 inclusive, 48 through 62 inclusive, 67 through 84 inclusive, 86 through 102 inclusive, 105 through 153 inclusive, 155 through 157 inclusive and 164. (*Amended March 2010*)

### 5.1 **Permitted Uses.**

A building may be erected, altered or used and a lot may be used or occupied for:

- a. Single family and duplex family dwellings and accessory uses.
- b. Multi-family dwellings containing three dwelling units with site plan approval by the Planning Board.
- c. A maximum of three (3) dwelling units per lot is allowed for any new construction on Town water and sewer and a maximum of two (2) dwelling units per lot in the remainder of this district.

- d. Only one dwelling per lot is allowed except as provided by the Cluster Development Ordinance. The number of dwelling units per building shall be determined by the density provisions of this section.

**5.2            *Lot Requirements.***

5.2.1        Area. Minimum lot size one-half (0.5) acre per dwelling unit when served by both public water and sewer and one (1) acre per dwelling unit for lots not served by both public water and sewer. Wetlands, water bodies and land contained in the 100 year floodplain must be excluded from the calculation of the minimum lot area. (*Amended March 1992, March 2020*)

5.2.2        Frontage. One hundred (100) feet on a public right-of-way, Class V or better.

5.2.3.        Setbacks. Thirty-five (35) feet front. Fifteen feet (15) for all other lot lines. For each corner lot, the side setback abutting the street shall be thirty-five (35) feet. No buildings or associated uses, including but not limited to swimming pools, antennas and satellite dishes, are permitted in the setback. (*Amended March 1991, March 1994*)

5.2.4.        (*Reserved*) (*Amended March 1991*)

5.2.5        Structure height. Not to exceed forty-five (45) feet or two stories.

**5.3            *Special Exceptions.***

The following uses will only be allowed as special exceptions by the Zoning Board of Adjustment and site plan review and approval by the Planning Board. (See also Section 4.4)

5.3.1        Home Occupations. Any home occupation shall be permitted as a special exception provided it complies with the requirements of this section. When considering an application for a home occupation, the Zoning Board of Adjustment shall consider the location of the proposed use, the area of the lot, the type and density of surrounding development, existing buffers and screens between the proposed use and surrounding development, and the compatibility of the proposed use with the surrounding neighborhood. (*Amended March 1992*)

- a. The home occupation shall be incidental and secondary to the use of the dwelling unit as a residence. (*Amended March 1992*)
- b. Home occupations shall be carried on by the resident owner, resident members of the owner's family, a resident tenant, or resident members of the tenant's family.
- c. Two (2) non-family employees are permitted on the premises.
- d. No additions or changes shall be made to the residence that will make it impractical to revert the building to purely residential use. (*Amended March 1992*)
- e. Exterior storage of materials or equipment is prohibited. (*Amended March 1992*)
- f. In addition to the parking area required for the primary residential use, sufficient off-street parking shall be provided for any non-resident employees, customers and suppliers who may normally be expected to need parking at one time. Driveways may be used for client

parking. Where additional space is desired, a maximum of two (2) parking spaces is permitted; however, those spaces shall not be located in the front yard. Parking spaces shall be a minimum of nine feet by eighteen feet (9' X 18') per space.

- g. Traffic generated by the home occupation shall not create safety hazards or be substantially greater in volume than would normally be expected in the neighborhood. (*Amended March 1992*)
- h. Home Occupations shall be conducted in accordance with all Town regulations, state laws and licensing requirements. (*Amended March 1992*)
- i. When a business outgrows the standards established for a home occupation, it must relocate into a commercial or industrial district.

5.3.1.1 Special Exception Not Required  
(*Adopted March 1998*)

A home occupation may be conducted without a special exception from the Zoning Board of Adjustment and without site plan review by the Planning Board provided that, in addition to the requirements of the preceding section (5.3.1), it also satisfies the following standards:

- a. The home occupation shall occupy no more than 20% of the existing, gross heated floor area of the primary residence or the structure in which the home occupation is operated.
- b. There shall be no customer or client visits to the premises and commercial traffic for the delivery or pick-up of materials associated with the home occupation shall be limited to five visits per week. (excluding regular US Postal Service residential service).
- c. The home occupation shall not employ any non-resident full time or part time employees on the premises.
- d. No signs are allowed to advertise a home occupation.
- e. There shall be no outside operation(s) related to the home occupation.

5.3.2 Bed and Breakfasts. Up to four lodging units may be created and rented in an existing dwelling, and meals may be provided to the persons renting the lodging units. The requirements for a bed and breakfast are the same as those for a home occupation, except that requirement 5.3.1 a., shall not apply.

5.3.3 Houses of Worship. Houses of worship including, but not limited to, churches, synagogues, parish houses, mosques, convents and other accessory uses subject to the following conditions (*Amended March 2018*):

- a. Minimum frontage of 200 feet on a Class V or better road;
- b. No off-street parking shall be located within the setbacks nor within the front yard;

5.3.4 Hospitals, emergency medical centers and clinics. Hospitals, emergency medical centers and clinics subject to the following conditions:

- a. Minimum frontage of 200 feet on a Class I, II or IV road;
- b. Primary ingress or egress shall be adequate for the use proposed without having a detrimental impact on the neighborhood.

5.3.5 Civic and municipal buildings.

5.3.6 Schools and day care centers.

- a. All public or non-public schools, kindergarten and grades 1 through 12, that come under the rules adopted by the state board of education and administered by the State Department of Education must receive a special exception from the Zoning Board of Adjustment under section 5.3. Home education as defined by RSA 193-A is not required to receive a special exception under section 5.3.1. *(Amended March 2000, March 2014)*
- b. Any in-home day care and pre-school defined as the regular care or education in a dwelling unit of children not residents of that dwelling unit, that requires state licensing under RSA 170-E, also requires a special exception as a home occupation under section 5.3.1. If state licensing is not required, then the in-home day care, pre-school, or kindergarten is not required to obtain a special exception. *(Amended March 12, 1996, March 2014)*
- c. Adult and youth educational and cultural activities are permitted as an accessory use of the existing facilities of schools which are permitted under paragraph (a) above. They must be strictly subordinate and customarily incidental to the permitted school use of the facilities. *(Adopted March 2004)*
- d. Accessory Adult Educational Facilities. New facilities, including new buildings, for teacher and instructor training, licensing, accreditation, and development, are permitted by special exception in conjunction with schools which are permitted under paragraph (a) above. Such uses and facilities must be strictly subordinate to and in support of the primary childhood education function of the school, and must be located on the same property or on a property contiguous to the school. New construction is limited to thirty (30) percent of the primary facility's heated gross square footage, but shall not exceed a maximum of ten-thousand (10,000) square feet of total floor area and a maximum of two (2) stories. Uses permitted under this paragraph will also require nonresidential site plan approval from the Planning Board. *(Adopted March 2004)*
- e. Daycare Facilities. Daycare and preschool programs are permitted by special exception in conjunction with schools which are permitted under paragraph (a) above. Such programs may be located in existing school buildings or in new buildings constructed for that purpose on the same lot. New construction is limited to thirty (30) percent of the primary facility's heated gross square footage, but shall not exceed a maximum of ten-thousand (10,000) square feet of total floor area and a maximum of two (2) stories. Uses permitted under this paragraph will also require nonresidential site plan approval from the Planning Board. *(Adopted March 2014)*

- 5.3.7 Multi-family. Multi-family uses of dwellings in existence as of March 14, 1989 upon the following terms and conditions:
- a. A maximum of two (2) dwelling units per lot less than one-half (0.5) acre in size where Town water and sewer are available and utilized;
  - b. A maximum of three (3) dwelling units per lot one-half (0.5) acre or greater in size where Town water and sewer are available and utilized;
  - c. Two (2) 9' x 18' parking spaces per dwelling unit provided on site; parking spaces for any new dwelling unit(s) shall not be located in the setback; (*Amended March 1991*)
  - d. And open space in an amount equal to two (2) times the total area occupied by driveways, parking areas and all buildings on site; (*Amended March 1991*)
  - e. Multi-family conversion will be allowed in the compact Village area defined as the Residential District north of NH Route 101 and east of Holt Road, and those in the Residential District with frontage on Intervale Road served by water and sewer.

5.4 ***Manufactured Housing.***

Manufactured housing is prohibited in the Residential District, except as provided for in Section 4.7. Any property owner or lessee may accommodate the recreational trailer of a non-paying guest for a period not exceeding thirty (30) days in any year. (*Amended March 1993*)

5.5 ***Accessory Dwelling Units.***

(*Adopted March 2017*)

This section implements the requirements of RSA 674:72, "Accessory Dwelling Units."

- 5.5.1 Existing Dwellings. A second dwelling unit may be added to any legally existing single family dwelling located in a zoning district where residential uses are permitted, subject to the requirements set forth below. The second dwelling unit may be created in existing space in the dwelling or in a newly constructed addition to the dwelling.
- 5.5.2 New Construction. A two-family dwelling may be constructed on any lot where a single family dwelling may legally be constructed, subject to the requirements set forth below.
- 5.5.3 Requirements. The following requirements apply only to development which would not be permitted other than by this section.
- a. The two dwelling units must have independent means of ingress and egress, or have ingress and egress through a common space such as a shared hallway to an exterior door.
  - b. The two dwelling units must share a common interior wall, and there must be an interior door between the two dwelling units.
  - c. At least one of the two dwelling units must be the principal residence of at least one owner of the dwelling. The two dwelling units must remain in common ownership. Transfer of

either dwelling unit to condominium ownership is not permitted. Violation of the requirements of this paragraph will result in the revocation of the Certificate of Occupancy for the two-family use of the dwelling.

- d. At least one of the two dwelling units must have no more than two bedrooms, and a living area of no more than 800 square feet.
- e. Requirements for water supply and sewage disposal are the same as for any two-family dwelling. Addition of a second dwelling unit to an existing single family dwelling under section 5.5.1 shall be subject to RSA 485-A:38, "Approval to Increase Load on a Sewage Disposal System."
- f. Off-street parking shall be provided for one car for each one-bedroom dwelling unit in the dwelling, and for two cars for each dwelling unit having two or more bedrooms, and shall satisfy any setback requirements pertaining to parking in that Zoning District.
- g. A newly constructed addition under section 5.5.1 shall satisfy the setback requirements of the zoning district.

#### 5.5.4. Special Exceptions

5.5.4.1 Living area. When creating a second dwelling unit under section 5.5.1, the maximum living area specified by paragraph 5.5.3(d) may be increased by no more than an additional 100 square feet in order to avoid unreasonable distortions to the floor plan of the dwelling.

5.5.4.2 Parking. When creating a second dwelling unit under section 5.5.1, the parking space requirements of paragraph 5.5.3(f) may be relaxed or waived if the dimensions of the lot and the placement of existing structures on the lot are such that there is no reasonable way to provide the required parking spaces.



## **6.0 GENERAL RESIDENCE AND AGRICULTURAL DISTRICT**

### **6.0.1 District Location.**

The General Residence and Agricultural District encompasses all areas in the Town of Wilton which are not encompassed in the Residential, Commercial, Industrial, or Office Park Districts, as enumerated in Chapters 5, 7, 8, and 9 of this Ordinance. *(March 2010)*

### **6.1 Permitted Uses.**

A building may be erected, altered or used, and a lot may be used or occupied for any of the following purposes, and in accordance with the following provisions:

- a. Any use permitted in the Residential District under the same provisions as apply to the use in that district, except that the lot areas shall be governed by section 6.2.
- b. All general farming and forestry activities.

### **6.2 Lot Requirements.**

6.2.1 Area. The minimum lot size is two (2) contiguous acres (87,120 square feet) of land per dwelling unit excluding wetlands, water bodies, and land contained within the one hundred (100) year floodplain. *(Amended March 2004, March 2020)*

6.2.2 Lot Configuration. The minimum width of a lot between any point on any side lot line and any point on any other side lot line measured through any point of the principal building shall be 175 feet. The rear lot line is that line which is furthest from and most nearly parallel to the front lot line. All other lot lines are side lot lines. Triangular and irregularly shaped lots may have no rear lot line.

6.2.3 Frontage. Two hundred (200) feet on a public right-of-way, Class V or better.

6.2.4 Setbacks. Thirty-five (35) feet from all lot lines. No building, or use that requires a building permit, is permitted in the setback. *(Amended March 2001)*

6.2.5 Location of on-site disposal fields. To avoid high concentration of effluent discharges in a localized area, no disposal field shall be located within the setbacks.

### **6.3 Alternative Lot Requirements.**

A lot which does not meet the frontage requirements of section 6.2 may be developed for single family or duplex family residential use if it meets the alternative lot requirements contained in this section. Within this section, such a lot will be referred to as a "reduced frontage lot", and a lot meeting the requirements of section 6.2 will be referred to as a "normal frontage lot".

Any subdivision of a parcel resulting in one or more reduced frontage lots is only permitted upon site plan review and approval by the Planning Board, and upon Planning Board determination that the proposed reduced frontage lot better serves the neighborhood than would a development under the otherwise applicable provisions of this ordinance.

6.3.1 Associated Lot Requirement.

A reduced frontage lot must have contiguous frontage with a normal frontage lot that is within the same subdivision. Adjoining normal frontage lots that are not part of the proposed subdivision cannot be used to satisfy the reduced frontage requirement. A maximum of two (2) reduced frontage lots may be developed with each normal frontage lot. The three (3) lots may not be served by more than two (2) driveways. The principal route of access must be along the lot frontage as defined in this ordinance. (*Amended March 1997*)

6.3.2 Area. Five (5) acres per dwelling unit including a minimum of two (2) acres excluding wetlands, water bodies, and land within the 100 year floodplain. (*Amended March 1992, March 2020*)

6.3.3 Frontage. Fifty (50) feet on a Class V or better public right-of-way. The Planning Board shall not approve a subdivision containing a reduced frontage lot if a hazardous concentration of egress points is likely to result.

6.3.4 Setbacks. Fifty (50) feet from all lot lines. No buildings or uses that require a building permit are permitted in the setback. (*Amended March 1991*)

6.3.5 Private Ways. Private ways used in association with subdivisions containing reduced frontage lots must comply with the following:

- a. A maximum of four (4) dwelling units, two (2) on reduced frontage lots and two (2) on normal frontage lots, may be accessed from one (1) private way.
- b. No private way shall enter onto a public road unless two hundred feet (200') of safe, each way, all-season sight distance is established.
- c. No private way shall enter onto NH Route 101.
- d. The private way must be capable of providing adequate year round access for emergency vehicles.
- e. The Planning Board shall be provided with a document establishing the conditions of use of the common private way that are satisfactory to Town counsel and include the following: mutual easements between the lots sharing the private way; provisions for maintenance of the private way; and suitable language to insure that the private way will not become a Town road unless brought up to Town road specifications.

**6.4 *Cluster Developments.***

Cluster development of dwelling units may be permitted under the following conditions.

6.4.1 Area. Minimum development site is fifteen (15) acres.

6.4.2 Frontage. A minimum of five hundred (500) feet of frontage on a Class V or better public right-of-way.

6.4.3 Density. Dwelling unit density shall be determined by the Planning Board in accordance with the provisions of the Cluster Development Regulations. The total number of dwelling units will

be determined by the total acreage being submitted for development excluding wetlands, water bodies, and land contained within the one hundred (100) year floodplain. (*Amended March 2020*)

6.4.4 Open Space. Fifty percent (50%) of the total acreage shall be set aside as open space. Within a one (1) mile radius of the Town Hall where Town water and sewer are available and proposed for use within the cluster development, the open space requirement shall be reduced to forty percent (40%).

**6.5** ***Manufactured Housing.***

An individual manufactured house may be located anywhere in this district provided it meets all of the minimum requirements of the district. In addition, open space under manufactured homes shall be enclosed with suitable "skirting". (*Amended March 1991*)

**6.6** ***Special Exceptions.***

The following uses will only be allowed as special exceptions by the Zoning Board of Adjustment (ZBA) and site plan review and approval by the Planning Board.

6.6.1 Home Occupations. The ZBA may, in appropriate cases subject to appropriate conditions, permit home occupations in compliance with the requirements of this section, Section 5.3.1 Home Occupations and Section 4.6 Performance Standards. The provisions of Section 5.3.1 shall govern home occupations in this district except as otherwise provided for below (*Adopted March 1993*). Home occupations which meet the requirements of Section 5.3.1.1 Special Exception Not Required, shall be permitted without a special exception from the Zoning Board of Adjustment and without site plan review by the Planning Board. (*Adopted March 1998*)

- a. The home occupation shall not be evident from the road or other public right-of-way.
  - b. Materials or equipment stored outside must be adequately screened from adjacent public rights-of-way and properties.
  - c. Only retail sales which are customary and incidental to the home occupation are permitted.
  - d. Separate structures may be constructed or placed to accommodate the home occupation if screened from surrounding development and suitable for reversion to a use ancillary and incidental to a residential or agricultural use.
- b. The home occupation use shall be clearly subordinate and secondary to the primary use of the property as a residence.

## 7.0 **COMMERCIAL DISTRICT**

A building or structure may be erected, altered or used, and a lot may be used or occupied for any of the following purposes in accordance with the following provisions. Any change in use or type of activity in an existing structure or any new construction in this district, other than a single-family dwelling or a two-family dwelling permitted by Section 5.5 of this ordinance, must have prior approval from the Planning Board under the Site Plan Review regulations. *(Amended March 2003, March 2017)*

7.0.1 Commercial District Location. The Commercial District encompasses the following areas within the Town of Wilton. *(Amended March 1992, March 2010, March 2014)*:

- a. The area on the south side of NH Route 101 between the north and south intersections of 101 and Intervale Road to a depth of 150 feet from the edge of the State right-of-way.
- b. The area on the south side of NH Route 101 in West Wilton as delineated on the Town of Wilton Tax Map C encompassing lots 102, 102-1, 103, 104 and 105. *(Amended March 2002)*
- c. The area north and south of Frye Mill Road as delineated on the Town of Wilton Tax Map A encompassing lots 23, 24, 28 and 63. *(Amended March 2010)*
- d. *(Deleted 2014)*
- e. *(Deleted 2014)*
- f. The area south of Main Street near the Milford Line as delineated on the Town of Wilton Tax Map K as lot 163.
- g. The area at the intersection of NH Routes 101 and 31 South as delineated on Town of Wilton Tax Map F lots 162, a portion of 163 north of a line drawn from the southeast corner of 164 to the southwest corner of 162 and 164. *(Amended March 2001, March 2010)*

7.0.2 *(Deleted 2019)*

### 7.1 **Permitted Uses.**

The following uses shall be permitted in the Commercial District:

- a. Any use permitted in the General Residence and Agricultural District under the same provisions as apply to the use in that district, including density, except that the lot dimensional requirements shall be as specified in this section; *(Amended March 2007)*
- b. Duplex and multi-family dwellings, inns, tourist courts, cabins and bed and breakfasts, including such retail businesses within these permitted buildings as are conducted for the convenience of the residents or guests;

- c. Retail Services: Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods, including retail stores, restaurants, taverns and banks. Also, establishments primarily engaged in providing services involving the care of a person or his or her apparel (such as barbershops and beauty salons, spas, tailors and dry cleaners); (*Amended March 2019*)
- d. Parking garages, parking lots, filling stations, and automotive service stations; (*Amended March 2019*)
- e. Business and professional offices;
- f. Community buildings, social halls, clubs, lodges, fraternal organizations, theaters, recreation facilities, and amusement centers; (*Amended March 2019*)
- g. Greenhouses and florist shops: An establishment where retail and wholesale garden products and produce are sold to the consumer. The establishment imports most of the items sold, but may include a nursery and/or greenhouse, and may include plants, nursery products and stock, potting soil, hardware, other garden and farm variety tools and outdoor furniture; (*Amended March 2019*)
- h. Funeral homes;
- i. Wholesale establishments in connection with permitted retail establishments, warehousing or merchandise for retail sale within the District.
- j. Houses of worship including, but not limited to, churches, synagogues, parish houses, mosques, convents, and other accessory uses; (*March 2010, March 2018*)
- k. Hospitals, emergency medical centers and clinics; (*March 2010*)
- l. Schools, kindergartens, preschools, and daycare centers, including in-home childcare. (*March 2010*)
- m. Medical offices, which provide health services to people on an outpatient basis including doctors, dentists, physical therapists, massage therapist and chiropractors; (*March 2019*)
- n. Veterinary clinics which may include facilities for overnight boarding or caring of animals provided that any such facility shall be designed, constructed and operated in such a manner so as not to be a nuisance to adjacent uses by way of noise or odor; (*March 2019*)
- o. Libraries, museums; (*March 2019*)
- p. Adult day care facilities: Any person, corporation, partnership, voluntary association, or other organization, either established for profit or otherwise, which provides for the daily care and supervision of an adult person away from the person's home and which requires licensing by the State of NH; (*March 2019*)
- q. Nanobreweries as defined in NH RSA 178:12-a, Brewpubs as defined in NH RSA 178:13, Wine retail outlets and tasting rooms pursuant to NH RSA 178:8, and Liquor manufacturers pursuant to NH RSA 178:6; (*March 2019*)

- r. Light Industry: Assembly, packaging, and/or finishing of products carried on completely within a structure, and involving no outside storage of equipment or materials. Light Industry shall not include any industry, the operation of which could (1) pose a danger of fire or explosion, (2) create significant objectionable vibration, noise, smoke, fumes, odor or dust, (3) produce chemicals, radioactive or other potentially dangerous waste, or (4) adversely affect other private or public properties; *(Amended March 2020)*
- s. Mixed Uses: The development of a tract of land or building or structure with two or more different permitted uses such as but not limited to residential, office, retail, public, or entertainment in a compact urban form. Individual uses within a mixed-use property must conform to any requirement within their particular class of use. *(March 2019)*

**7.2 Lot Requirements.**

**7.2.1 Frontage.** Frontage shall be as follows:

- a. Two hundred (200) feet on a public right-of-way, Class V or better;
- b. Deleted 2019.

**7.2.2 Setbacks.** Setbacks shall be as follows:

- a. Front setback - thirty-five (35) feet;
- b. Side setback - twenty-five (25) feet;
- c. Rear setback - twenty (20) feet;
- d. *(Deleted 2019)*
- e. No buildings or parking areas are permitted in the front setback or in any setback which abuts a residentially or residential/ agriculturally zoned parcel; *(Amended March 1991)*
- f. Parking areas are permitted up to within ten (10) feet of the side or rear lot line of a commercially zoned parcel where it abuts another commercially or industrially zoned parcel; and *(Amended March 1991)*
- g. Parking areas shared between two adjacent commercially or industrially zoned parcels may be developed up to the common side or rear lot-line if all other conditions of the district are met. *(Amended March 1991)*

**7.2.3 Percentage of Lot Coverage.** A maximum of seventy-five percent (75%) of the gross area of any lot shall be occupied by buildings, parking and roadways. Commercial buildings, structures and parking areas in existence as of March 13, 1990 that exceed the permitted lot coverage within the district may be maintained at or rebuilt to the existing level. Any increase in impervious area will not be permitted. *(Amended March 1992)*

7.2.4 Access. Access to lots within the commercial district shall be as follows:

- a. Any lot with frontage on NH Route 101 shall be accessed by any other street or side road that is available and only by NH Route 101 if no other alternative exists. If no other access is available, entrance and exit for the lot(s) is limited to one (1) curb cut on NH Route 101 for each lot-of-record existing as of March 11, 1986. If access to a lot is available to a street or side road other than NH Route 101, access to the lot shall be taken from the street or side road.
- b. As each lot within this district is developed, provisions shall be made during the site plan review process for the lay-out and construction of streets or side roads as the Planning Board shall determine necessary to permit travel between adjacent lots without accessing NH Route 101. To encourage shared lot access, where at all possible and practical, the location of all accessory street or roadway curb cuts shall be situated to allow adjacent lots to also take advantage of or share the same point of access along the street or roadway.
- c. Access to any Town road or State highway shall require Town or State permit approval.

**7A.0 DOWNTOWN COMMERCIAL DISTRICT**

The purpose of this district is to concentrate development, allow and encourage a vibrant mix of land uses, encourage infill development, preserve the historic character of the downtown, and provide a pedestrian-friendly environment. (*Adopted March 2019*)

**7A.1 Downtown Commercial District Location.**

The Downtown Commercial District encompasses the following areas within the Town of Wilton:

- a. The area in the western section of downtown Wilton located north and south of Forest Road as delineated on the Town of Wilton Tax Map J encompassing lots 79, 90, 90-1A, 90-1B, 91, 99, 100 and 101.
- b. The area in Downtown Wilton north and south of Main Street as delineated on the Town of Wilton Tax Map J encompassing lots 43, 44, 45, 46, 47, 48, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 60-1, 61, 62, 63, 64; and Tax Map K encompassing lots 63, 64, 64-1, 65, 85, 103, 104, 170, 171, 172, 173, portions of lot 66 south of a line drawn between the southeast corner of 67 and the northwest corner of 76, and portions of 166 west of a line drawn between due south from the southeast corner of 103 to the river.

7A.1.1 Main Street Overlay District Location. The Main Street Overlay District encompasses the following areas within the Town of Wilton, which are subject to all provisions in the Downtown Commercial District, except where noted otherwise:

- a. The area in Downtown Wilton north and south of Main Street from the intersection of Forest Road to the intersection of Park and Howard Streets as delineated on the Town of Wilton Tax Map J encompassing lots 43, 44, 45, 46, 47, 48, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 60-1, 61, 62, 63, 64; and Tax Map K encompassing lot 173.

**7A.2 General Provisions.**

A building or structure may be erected, altered or used, and a lot may be used or occupied for any of the following purposes in accordance with the following provisions.

**7A.3 Permitted Uses.**

The following uses shall be permitted in the Downtown Commercial District:

**7A.3.1 Residential Uses.**

- a. Any use permitted in the Residential District (except where prohibited under Sec. 7A.6.b), under the same provisions as apply to the use in that district, except that the lot dimensional requirements shall be as specified in this section.

**7A.3.2 Commercial Uses.**

- a. Bed and breakfasts, including such retail businesses within these permitted buildings as are conducted for the convenience of the residents or guests;
- b. Retail Services: Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods, including retail stores, restaurants, taverns and banks. Also, establishments primarily engaged in providing services involving the care of a person or his or her apparel (such as barbershops and beauty salons, spas, tailors and dry cleaners);
- c. Parking garages and parking lots;
- d. Business and professional offices;
- e. Community buildings, social halls, clubs, lodges, fraternal organizations, theaters, recreation facilities, and amusement centers;
- f. Greenhouses and florist shops: An establishment where retail and wholesale garden products and produce are sold to the consumer. The establishment imports most of the items sold, but may include a nursery and/or greenhouse, and may include plants, nursery products and stock, potting soil, hardware, other garden and farm variety tools and outdoor furniture;
- g. Houses of worship including, but not limited to, churches, synagogues, parish houses, mosques, convents, and other accessory uses;
- h. Preschools, and daycare centers, including in-home childcare;
- i. Medical offices, which provide health services to people on an outpatient basis including doctors, dentists, physical therapists, massage therapist and chiropractors



- j. Veterinary clinics which may include facilities for overnight boarding or caring of animals provided that any such facility shall be designed, constructed and operated in such a manner so as not to be a nuisance to adjacent uses by way of noise or odor;
- k. Libraries, museums;
- l. Adult day care facilities: Any person, corporation, partnership, voluntary association, or other organization, either established for profit or otherwise, which provides for the daily care and supervision of an adult person away from the person's home and which requires licensing by the State of NH; and
- m. Nanobreweries as defined in NH RSA 178:12-a, Brewpubs as defined in NH RSA 178:13, Wine retail outlets and tasting rooms pursuant to NH RSA 178:8, and Liquor manufacturers pursuant to NH RSA 178:6;

7A.3.3 Industrial Uses.

- a. Light Industry: Assembly, packaging, and/or finishing of products carried on completely within a structure, and involving no outside storage of equipment or materials. Light Industry shall not include any industry, the operations of which could (1) pose a danger of fire or explosion, (2) create significant objectionable vibration, noise, smoke, fumes, odor or dust, (3) produce chemicals, radioactive or other potentially dangerous waste, or (4) adversely affect other private or public properties. (*Amended March 2020*)

7A.3.4 Mixed Uses.

- a. Mixed Uses: The development of a tract of land or building or structure with two or more different permitted uses such as but not limited to residential, office, retail, public, or entertainment.

**7A.4 *Site Plan Review Required.***

Any change or expansion in use in an existing structure or any new construction in this district must have prior approval from the Planning Board under the Site Plan Review regulations, with the following exceptions:

7A.4.1 Residential Uses. Site Plan Review is not required for single family dwellings or for two-family dwellings permitted by Section 5.5 of this ordinance.

7A.4.2 Change to a Permitted Commercial Use. Site Plan Review is not required for a change from any use to a commercial use listed in section 7A.3.2, provided that there is an existing approved site plan for the property and the change does not result in any exterior changes on the property.

**7A.5 *Lot Requirements.***

7A.5.1 Frontage. Frontage shall be as follows:

- a. Twenty-five (25) feet.

7A.5.2 Setbacks. Setbacks shall be as follows:

- a. Front setback – twenty-five (25) feet;
- b. Side setback – fifteen (15) feet;
- c. Rear setback – fifteen (15) feet;
- d. Setbacks on lots located within the Main Street Overlay District - at a depth to conform with existing neighboring buildings;
- e. No buildings or parking areas are permitted in the front setback or in any setback which abuts a residentially or residential/ agriculturally zoned parcel;
- f. Parking areas are permitted up to within ten (10) feet of the side or rear lot line of a commercially zoned parcel where it abuts another commercially or industrially zoned parcel; and
- g. Parking areas shared between two adjacent commercially or industrially zoned parcels may be developed up to the common side or rear lot-line if all other conditions of the district are met.

7A.5.3 Percentage of Lot Coverage. There is no maximum building coverage (subject to any setback requirements), except that the site must be designed to dispose of all runoff and drainage without impacting other properties.

7A.5.4 Access. Access to lots within the downtown commercial district shall be as follows:

- a. Access to any Town road or State highway shall require Town or State permit approval.

7A.5.5 Parking. Parking requirements shall be as follows:

- a. All non-residential uses listed in sections 7A.3.2, 7A.3.3, and 7A.3.4 are exempt from the provision of off-street parking facilities standards established in the Site Plan Review Regulations; and
- b. Any residential use listed in section 7A.3.1 is required to have on-site or fee ownership parking with at least one parking space per bedroom.

**7A.6 *Prohibited Uses.***

- a. Filling Stations and Automotive Service Stations;
- b. Residential uses on the ground floor fronting Main Street for lots located within the Main Street Overlay District;
- c. Schools and kindergartens;
- d. Funeral homes;
- e. Wholesaling and warehousing on the ground floor fronting Main Street for lots located in the Main Street Overlay District; and
- f. Inns, tourist courts, and cabins.

## **8.0 INDUSTRIAL DISTRICT**

This district provides a location for the establishment of industrial facilities and operations to improve employment opportunities and broaden the tax base in the Town of Wilton.

All industrial establishments will meet the following provisions.

- a. All future industrial establishments in this district must receive prior approval to build based on the proposed layout as evidenced by satisfactory working plans submitted to the Planning Board under the Site Plan Review procedure adopted by the Planning Board.
- b. Any expansion of an existing industrial establishment must have prior approval based on the proposed layout as evidenced by satisfactory working plans submitted to the Planning Board under the Site Plan Review procedures adopted by the Planning Board.
- c. Any alterations of the nature of the industry carried on in an existing industrial establishment must have prior approval from the Planning Board under the Site Plan Review procedure adopted by the Planning Board.

### **8.0.1 District Location. The Industrial District encompasses the following areas within the Town of Wilton: (*Amended March 2010*)**

- a. The area in northern Wilton bordering the Town of Lyndeborough along Forest Road and the B&M Railroad right-of-way. As delineated on the Town of Wilton Tax Map, this includes Lots B-3 through B-6 (inclusive), B-8, B-10, B-11, B-97 through B-112 (inclusive). Also, lots B-117 through B-121 (inclusive) to a depth of 350 feet from the centerline of Forest Road. (*Amended March 1995, March 2003*)
- b. The area adjacent to NH Route 101 west of the Souhegan River Bridge and the area adjacent to NH Route 31 and Mansur Road. As delineated on the Town of Wilton Tax Map, this includes lots D-100, D-101, D-102, E-17, E-23 through E-28 inclusive, a portion of E-29 southeast of a line continuing from the southern-most point of lot 30 to a point on the southern line of lot 29 200 feet west of Greenville Road/Rt. 31. F-11. F-12-1 through F-12 inclusive, F-13 through F-21 inclusive, F-23, F-24, F-25, a portion of F-141, west of the Souhegan River, F-142 through F-146, inclusive F-158, F-159 and F-161, a portion of F-163 south of a line from the southeast corner of 164 to the southwest corner of 162, and F-165 through F-173 (inclusive). (*Amended March 2001, March 2010*)
- c. Lots D-92 and D-94. (*Amended March 2010*)
- d. Lots J-104-1, J-104-2 and J-105. (*Amended March 2010*)
- e. The area south of Main Street and north of the Souhegan River. As delineated on the Town of Wilton Tax Map this includes Lots J-49, K-158 through K-162 (inclusive), portions of K-165 and K-166 east of a line drawn due south from the southeast corner of lot 103 to the river, K-167 through K-169 (inclusive) and K-174.. (*Amended March 2001, March 2010*)
- f. The area south of the Souhegan River and north of NH Route 101. As delineated on the Town of Wilton Tax Map this includes Lots J-110, J-113 and L-64 through L-66 (inclusive) and lot L-68. (*Amended March 2001, March 2010*)

### **8.1 *Permitted Uses.***

A building or structure may be erected, altered or used, and a lot may be used or occupied for any of the following purposes, provided the use meets the performance standards of this ordinance:

- a. Light Manufacturing, as that term is defined in Section 9A.2.2 of this ordinance;
- b. research and/or testing laboratory;
- c. offices; and
- d. non-residential commercial uses subject to all the requirements of this Industrial District ordinance . *(Adopted March 2001, Amended March 2020)*

## **8.2            *Lot Requirements.***

All new construction or development within the industrial district shall meet the following requirements.

8.2.1        Area. Two (2) acres of land excluding wetlands, water bodies, and land contained within the one hundred (100) year floodplain. *(Amended March 1992, March 2004, March 2020)*

8.2.2        Frontage. Two hundred (200) feet on a Class V or better road.

8.2.3        Lot Coverage. A maximum of sixty percent (60%) of the gross area of any lot shall be occupied by buildings, parking and roadways. Total lot impervious coverage (buildings, parking area and roads) shall be forty (40) percent within the Aquifer Protection District. Industrial buildings, structures and parking areas in existence as of March 13, 1990 that exceed the permitted lot coverage within the district may be maintained at or rebuilt to the existing level. Any increase in impervious area will not be permitted. *(Amended March 1992)*

8.2.4        Setbacks. The setbacks within this district shall not be:  
*(Amended March 1991)*

- a. Less than one-hundred (100) feet from the edge of the public right-of-way for NH Route 101;
- b. Less than seventy-five (75) feet from the edge of the public right-of-way for all other public roads;
- c. Less than thirty-five (35) feet from side and rear lot lines.
- d. No buildings or parking areas are permitted within the front setback or in any setback which abuts a residentially or residential/agriculturally zoned parcel. *(Amended March 1991)*
- e. Parking areas are permitted up to within ten (10) feet of the side or rear lot line of an industrially zoned parcel where it abuts another commercially or industrially zoned parcel. *(Amended March 1991)*

- f. Parking areas shared between two adjacent industrially or commercially zoned parcels may be developed up to the common side or rear lot-line if all other conditions of the district are met. *(Amended March 1991)*

8.2.5 Buffer Zones. Buffer zones shall be provided between industrial establishments and surrounding uses as follows:

- a. Any lot bordering an area zoned for residential use or an area containing residential uses shall have a landscaped buffer between any building or parking area and the residential zone or use. *(Amended March 1991)*
- b. All setbacks from public roads shall be sufficiently landscaped with trees and shrubs, an earth berm and/or fencing as to maintain a visual buffer between the highway and any building or parking area. *(Amended March 1991)*

8.2.6 Structure Height. Maximum structure height is forty-five (45) feet or two (2) stories.

8.2.7 Parking. Off-street parking facilities shall be provided following the standards established in the Site Plan Review Regulations.

8.2.8 Access. Any lot with frontage on NH Route 101 shall be accessed by any other street or side road available and not by NH Route 101 unless no other alternative exists. If no other access is available, entrance and exit for such lot(s) shall be limited to one (1) curb cut on NH Route 101 for each lot-of-record existing as of March 8, 1988. If access to a lot is available by a street or side road other than NH Route 101, access to the lot shall be taken from the street or side road. As each lot is developed within this district, provision shall be made during the Site Plan Review process for the lay-out and construction of streets or side roads as the Planning Board shall determine necessary to permit travel between adjacent lots without accessing NH Route 101. To encourage shared lot access, where at all possible and practical, the location of all accessory street or roadway curb cuts shall be situated to allow adjacent lots to also take advantage of or share the same point of access along the street or roadway. Access to any Town road or State highway shall require Town or State permit approval.

### **8.3 *Conditions for Use of Area Water Supply.***

8.3.1 Public Water Supply. Industrial establishments intending to be served by the public water supply system shall be reviewed by the Planning Board to ensure that the proposed use would not require more than ten percent (10%) of the available capacity as determined by the system's current safe yield and average daily water usage at the time of the proposed development. In any circumstance, where the Town of Wilton may require professional assistance or additional information to make a determination of compliance, the developer shall be required to pay the costs associated with obtaining this assistance.

8.3.2 On-site Water Supply. In areas not served by the public water system, industries shall obtain their own water supply. In cases where industries will be utilizing a private well to supply adequate water for manufacturing and employee use, the following performance standards shall be applied in an effort to avoid depletion of water supplies for neighboring uses:

- a. In areas determined by the United States Geological Survey (U.S.G.S) as having a high potential to yield water, proposed uses may utilize a maximum of four thousand (4,000) gallons per day, (GPD) of groundwater from a drilled well.

- b. In areas determined by the U.S.G.S. as having a medium potential to yield water, proposed uses may utilize a maximum of two thousand (2,000) GPD of groundwater from a drilled well.
- c. In areas determined by the U.S.G.S. as having a low potential to yield water, proposed uses may utilize a maximum of one thousand (1,000) GPD of groundwater from a drilled well.
- d. In areas determined by the U.S.G.S. as generally yielding enough water for domestic supplies, proposed industrial uses shall be limited to a maximum of seven hundred-fifty (750) GPD of groundwater from a drilled well.

The developer may conduct additional hydrogeological studies of the site to determine the actual location and extent of the groundwater, the capacity for groundwater supplies and the impacts on surrounding groundwater users at his own cost. The Planning Board may modify the above limits based on the results of the hydrogeological testing and the determination that sustained use of the water supply will not unreasonably reduce the water supply to adjacent users.

**8.4            *Traffic Generation.***

Industrial uses shall be permitted to generate traffic in keeping with the character of the roadway from which the use has access and egress, according to the following schedule:

<u><i>Street Access</i></u>	<u><i>Allowed Trip Generation per Acre</i></u>
Class IV and Class V Roads	0 - 10 Average Daily trips
Class I and Class II Roads	0 - 150 Average Daily Trips

**8.5            *Prohibited Uses.***

Neither residential uses nor Heavy Manufacturing, as that term is defined in Section 9A.2.1 of this ordinance, is permitted in the Industrial District. (*Amended March 2020*)

**8.6            *Special Exceptions.***

(See also section 4.4)

- 8.6.1        *Lots of Record.* In the event that a lot-of-record existing as of March 8, 1988 cannot satisfy the minimum lot or buffer requirements set forth in section 8.2 because of its configuration, the Zoning Board may permit a reduction in these requirements (except for section 8.2.3, Lot Coverage) by special exception. The permitted reduction in the requirement the lot-of-record cannot meet in these circumstances is designed to permit a proposed use in accordance with the objectives and purpose of this district.

**9.0 OFFICE PARK DISTRICT**  
*(Amended March 1999)*

The purpose of this District is to attract corporate office, research activities in a college-campus like environment which will be achieved through zoning and land use regulations, limited types of uses, large open spaces, increased setback requirements and compatible architectural and landscape standards. All primary and accessory buildings must be sited to blend with the environment with a minimum amount of change to the existing vegetation and topography.

**9.1 District Location.**  
*(Amended March 1999)*

The Office Park District encompasses the following area within the Town of Wilton: *(Amended March 2010)*

- a. As delineated by the Town of Wilton Tax Map (C), this includes lots C-127, C-127-1.

**9.2 Permitted Uses.**

A building may be erected, altered or used and a lot may be used or occupied for any of the following purposes and in accordance with the following provisions:

- a. Corporate offices;
- b. Research facilities; and
- c. Farming uses.

**9.3 Lot Requirements.**  
*(Amended March 1999)*

9.3.1 Area. The minimum lot size is five (5) acres with a minimum of two (2) acres, excluding wetland and water bodies. *(Amended March 1992, March 2020)*

9.3.2 Frontage. Two hundred (200) feet on a Class V or better road. *(Amended March 1999)*

9.3.3 Setbacks. The setback shall be two-hundred (200) feet from all lot lines. Individual front lot setback of at least one-hundred (100) feet with side and rear setbacks of fifty (50) feet.

9.3.4 Structure Height. Two (2) stories with a maximum height above mean lot terrain of thirty-five (35) feet.

9.3.5 Building Size. Maximum of forty-thousand (40,000) square feet gross floor area on the ground floor, cumulative of all building and parking areas on the lot. *(Amended March 1999)*

9.3.6 Access. Ingress and egress shall only be from one (1) access road leading to a State Highway.

9.3.7 Off-Street Parking Requirements. One parking space for each one and two-tenths (1.2) employees based upon the highest expected employee occupancy.

9.3.8 Conservation Zone. All land within one hundred (100) feet of Blood Brook shall be retained in its natural state except for foot trails.

**9.4 Architectural Design.**

*(Recodified/Amended March 1999)*

As a condition of granting final site plan approval for a development upon a lot in this District, the lot owner shall obtain Planning Board approval of the exterior architectural design of such structures. In connection therewith, the Planning Board shall require the lot owner to provide it with graphic renderings, photographs or three-dimensional models to depict the proposed development. In undertaking its review and approval, the Planning Board shall consider the location, alignment, and spacing of new buildings in relation to existing and future development of adjoining lots. In addition, the Planning Board shall consider the positioning and configuration of the proposed buildings on a lot or lots, the use of required setbacks, open space and buffer mechanisms and the lot owner's campus type layout and buildings requirements.

**9.5 Open Space Design.**

*(Recodified/Amended March 1999)*

To encourage open space development in a manner that allows greater open spaces the following provisions may be applied. The intent of this section is to allow greater flexibility in this district while encouraging the retention of the area's rural character.

1. Side and rear setbacks (excluding lot lines tangent to Section 9.3.8 Conservation Zone and Section 6.0 General Residence and Agricultural District) may be reduced to 50 feet to promote clustered non-residential development(s).
2. Shared parking facilities will not be counted toward the percentage of lot coverage.
3. Parking areas shared between two adjacent lots within this district may be developed up to the common side or rear lot-line (excluding lot lines tangent to the 9.3.8 Conservation Zone and Section 6.0 General Residence and Agricultural District) if all other conditions of the district are met.



**9A.0 RESEARCH AND OFFICE PARK DISTRICT**

*(Adopted March 2002)*

**9A.1 Purpose.**

The Research and Office Park District is an overlay district that allows research and development and related uses in rural parts of the Town where they would not otherwise be permitted. The purpose of the district is to:

- a. Encourage activities in a campus-like setting which will be both an aesthetic and an economic asset to the Town;
- b. Attract research, office, and light manufacturing activities which do not need to be centrally located in an industrial district, and whose developers prefer a rural setting;
- c. Preclude possible adverse effects on the local neighborhood and rural environment through a combination of very large lot sizes, low densities, rigorous performance standards, restricted traffic and tractor-trailer volumes, and aesthetic standards; and
- d. Preserve the natural and rural environments through the reservation of the majority of the area of developed lots as agricultural or conservation land.

Regulations and standards have been established to protect the residential and/or agricultural character of the district and are reasonable in exchange for the privilege of a Research and Office Park that would otherwise not be permitted in this district.

9A.1.1 Overlay District Principles. The Research and Office Park District is an overlay district that shall be used along with underlying zoning districts, as established in this ordinance. This district establishes special development standards and guidelines beyond those of the underlying zoning designation for the development of Research and Office Parks. The standards established in this Section shall only apply to Research and Office Parks with an approved Research and Office Park Plan, as described herein. If a development is not a Research and Office Park and a Research and Office Park Plan has not been approved, the standards of the underlying zoning district shall apply. Lots that are included in the Research and Office Park District but are not part of a Research and Office Park may be developed or used in any manner consistent with their underlying zoning district.

**9A.2 Definitions.**

9A.2.1 Heavy Manufacturing. Any manufacture, processing, conversion or compounding (any of which, “manufacturing”) of extracted or raw materials, including chemicals (or products composed primarily from unprocessed raw materials or chemicals) to create products, or manufacturing that might reasonably be expected to have any adverse impact on surrounding land uses or property values or beyond Town borders. Heavy Manufacturing includes, without limitation, (a) manufacturing products using (1) chemical processes or (2) petroleum, petrochemicals, or products derived therefrom, or that otherwise involve processing, refining or storing petroleum or petrochemicals (other than reasonable amounts to be used solely as fuel); and (b) the production or storage of explosives or ammunition (except retail sales of ammunition incident to another permitted use). *(Amended March 2020)*

- 9A.2.2 Light Manufacturing. The manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment and packaging of such products, and incidental storage, sales and distribution of such products, but excluding raw materials industrial processing and Heavy Manufacturing. These activities do not necessitate the storage of large volumes of hazardous, flammable, toxic matter or explosive materials needed for the manufacturing process. These activities do not include manufacturing processes using predominantly hazardous, flammable, toxic or explosive materials. *(Amended March 2020)*
- 9A.2.3 Lot Coverage. A measure of intensity of land use that represents the portion of a site that is impervious. This portion includes, but is not limited to, all areas covered by buildings, parking structures, driveways, roads, sidewalks and any area of concrete asphalt, but does not include buffered setback areas, lawns, recreational areas, or agricultural uses.
- 9A.2.4 Office. Administrative, executive, professional, research or similar organizations having only limited contact with the public, provided that no merchandise or merchandising services are sold on the premises, except such as are incidental or accessory to the principal permissible use.
- 9A.2.5 Principal Use. The primary use of any lot.
- 9A.2.6 Research Laboratory. Administrative, engineering, scientific research, design or experimentation organizations where product testing is an integral part of the operation and goods or products may be manufactured as necessary for testing, evaluation and test marketing.
- 9A.2.7 Research and Office Park. An area of minimum contiguous size, as specified by this ordinance, to be planned, developed, operated, and maintained according to a common Research and Office Park Plan as a single entity and containing one or more structures to accommodate principal uses or a combination of such uses, and appurtenant common areas and secondary uses.
- 9A.2.8 Research and Office Park Plan. A master land use plan that is intended to guide growth and development of a Research and Office Park over a number of years or in phases.
- 9A.2.9 Research and Development (R & D). A business that engages in research, or research and development, of innovative ideas in technology-intensive fields. Examples include, but is not limited to, laboratories, scientific, medical, chemical, applied physics, mechanical, electronic, biological, genetic or other similar experimental research, product development or testing facilities. Development and construction of prototypes may be associated with this use.
- 9A.2.10 Secondary Use. A structure or use that: (1) is subordinate in the area, extent, and purpose to the principal use; (2) contributes to the comfort, convenience or necessity of the principal use; and (3) is located on the same lot or Research and Office Park as the principal use.

**9A.3 District Location.**

The Research and Office Park District encompasses the following areas within the Town of Wilton: *(Amended March 2010)*

- a. The area in southwestern Wilton located west of NH Route 31. As delineated on the Town of Wilton Tax Map, this includes lots E-21, E-22, E-24 through E-26 (inclusive), E-29 through E-32 (inclusive), E-35, E-36, G-4, G-23, G-24, G-26, G-28, G-29, G-36 and G-37.
- b. The area in western Wilton bordering the Town of Temple south of NH Route 101. As delineated on the Town of Wilton Tax Map, this includes lots C-127, C-127-1, C-128-1 and C-128-3.

**9A.4 Permitted Uses.**

9A.4.1 Principal Uses. A building or structure may be erected, altered or used, and a lot may be used or occupied for any of the following principal uses, provided the use meets the requirements of this ordinance.

- a. Research and development uses.
- b. Research laboratories.
- c. Light manufacturing uses.
- d. Office uses.

9A.4.2 Secondary Uses. A building or structure may be erected, altered or used, and a lot may be used or occupied for any of the following secondary uses, provided the use meets the requirements of this ordinance and conforms to the definition of a secondary use.

- a. Support services, solely for employees of principal uses and guests of Research and Office Park occupants, which meet the following minimum requirements.
  1. Support services shall be limited to child or senior day care centers, printing services, copy services, mailing and shipping services, office supplies, banks, meeting/conference rooms, eating establishments with no drive-through facilities and secretarial/office services.
  2. Support services shall not be visible from, have direct access to, or have signage visible from public streets. The limitation on signage visibility shall not pertain to inclusion of the names of support services firms on a directory sign listing occupants of a development in this district.
  3. Space occupied by support service firms may be provided in either of the following fashions:
    - (a) Space may be part of a multi-purpose building or as a part of a building principally occupied by a principal use allowed in this zone.

- (b) Space may be in a building exclusively occupied by one or more support service firms. There shall be no more than one (1) two-acre lot devoted to this type of building for each seventy-five (75) acres within this zone.
- 4. No support services shall be allowed in a development in this zone until the total building floor space devoted to principal use exceeds fifty thousand (50,000) square feet.
- 5. At no time shall the total amount of gross floor area devoted to support services exceed ten percent (10%) of the gross floor area of all buildings in the development.
- 6. No building occupied in whole or in part by support services shall be less than six thousand (6,000) square feet in size.
- b. Residential uses, solely for employees of principal uses and their families, that meet the following minimum requirements:
  - 1. One (1) dwelling unit shall be permitted for every ten thousand (10,000) square feet of gross floor area of the principal use(s)
  - 2. No dwelling unit shall be less than four hundred (400) square feet per occupant.
  - 3. At no time shall the total amount of gross floor area devoted to residential uses exceed ten percent (10%) of the gross floor area of the principal use(s).
- c. Residential uses already in existence within lots of a development may continue, which shall be counted against the minimum requirements of 9A.4.2.b.
- d. Open space, agricultural, conservation and recreation uses, only as otherwise permitted in and subject to the conditions and restrictions applicable in the underlying zoning district.

9A.4.3 Prohibited Uses. All uses not explicitly permitted in this Section shall be prohibited in the Research and Office Park District. Such uses shall include:

- a. Terminals, including truck or bus terminals, and other distribution facilities.
- b. Bulk storage of hazardous, flammable, toxic or explosive materials for the manufacturing process.
- c. Heavy manufacturing.
- d. Warehousing.

**9A.5 *Research and Office Park Lot Requirements.***

All Research and Office Parks within the Research and Office Park District shall meet the following requirements.

- 9A.5.1 Area. A Research and Office Park shall be at least twenty-five (25) acres. No building within a Research and Office Park shall be constructed on any lot less than one (1) acre.
- 9A.5.2 Frontage. The Research and Office Park shall have four hundred (400) feet of combined contiguous frontage on the Class V or better road from which the development receives its primary access.
- 9A.5.3 Setbacks.
- a. The setback for all buildings, structures and parking areas associated with the Research and Office Park and roadways other than the Research and Office Park's primary access road shall not be less than two hundred (200) feet from all lots that are not part of the Research and Office Park and from all public rights-of-way. This setback may be reduced to fifty (50) feet from lots in the Commercial and Industrial Districts, from lots belonging to other Research and Office Parks, or from lots whose owners consent in writing to such reduced setbacks.
  - b. The setback for all buildings, structures and parking areas associated with the Research and Office Park shall not be less than twenty (20) feet from all boundaries of the lot on which it is located.
- 9A.5.4 Lot Coverage. Total lot coverage of a Research and Office Park shall not exceed twenty percent (20%). Total lot coverage may be increased to twenty-five percent (25%) if the total area of the Research and Office Park is from fifty (50) to one hundred (100) acres, and to thirty-five (35) percent if the total area of the Research and Office Park size is one hundred (100) acres or greater.
- 9A.5.5 Undeveloped Land. At least fifty percent (50%) of the total development area shall be maintained in agriculture, as conservation land, or in a natural vegetated condition.
- 9A.5.6 Access. There shall be one (1) primary access road leading to the development. The primary access road shall be located on NH Route 101 or NH Route 31. The primary access road may be located on a Class V or better road if: (1) the property owner(s) of the Research and Office Park is the sole owner of the entire length of frontage along that road from NH Route 101 or NH Route 31 to the access road; and (2) new traffic attributed to that Research and Office Park primarily utilizes this primary access road. One (1) additional access road located on a Class V or better road may be created for emergency purposes. Existing structures in the Research and Office Park with existing access roads may retain these roads in addition to the one (1) primary access road.
- 9A.5.7 Structure Height. Maximum structure height is forty-five (45) feet or three (3) stories subject to Planning Board review in accordance with the Research and Office Park Regulations and the impact of the structure height on abutters to the Research and Office Park and the natural and rural environments.

9A.5.8 Traffic. Traffic shall not significantly increase on any road other than the primary access road as a result of a Research and Office Park. Each Research and Office Park shall be permitted to generate traffic in keeping with the character of the roadway from which the use has access and egress, according to the following schedule. For the purposes of this ordinance, each entering into or exiting from the Research and Office Park onto a public road shall be counted as a trip.

**Street Access**

**Maximum Allowed Trip Generation Per Square Feet of Gross Floor Area**

NH Route 101 and NH Route 31	24/1,000 SF
All Other Class V or Better Roads	12/1,000 SF

9A.5.9 Tractor-Trailer Volume. No more than two (2) tractor-trailer trips per up to 20,000 square feet of gross floor area shall be permitted per day within a Research and Office Park. An additional two (2) tractor trailer trips shall be permitted per day for each additional 20,000 square feet of gross floor area within the Research and Office Park. For the purposes of this ordinance, each entering into or exiting from the Research and Office Park onto a public road shall be counted as a trip. No tractor-trailer shall be parked in a Research and Office Park longer than three (3) days.

9A.5.10 Parking. Off-street parking shall be provided following the standards established in the Research and Office Park Regulations.

9A.5.11 Signs. Signs shall be provided according to the standards established in Section 16.0 of this ordinance and the Research and Office Park Regulations.

9A.5.12 Building Size. The footprint of any building in a Research and Office Park shall not be greater than 20,000 square feet.

**9A.6 *Conditions for Use of Area Water Supply.***

9A.6.1 Public Water Supply. Research and Office Parks intending to be served by the public water supply system shall be reviewed by the Planning Board to ensure that the proposed developments would not require more than ten percent (10%) of the available capacity as determined by the system's current safe yield and average daily water usage at the time of the proposed development. In any circumstance, where the Town of Wilton may require professional assistance or additional information to make a determination of compliance, the developer shall be required to pay the costs associated with obtaining this assistance.

9A.6.2 On-site Water Supply. In areas not served by the public water system, Research and Office Parks shall obtain their own water supply. In cases where Research and Office Parks will be utilizing private wells to supply adequate water for the uses within the development, the following performance standards shall be applied in an effort to avoid depletion of water supplies for neighboring uses:

- a. In areas determined by the United States Geological Survey (U.S.G.S) as having a high potential to yield water, proposed uses may utilize a maximum of four thousand (4,000) gallons per day (GPD) of groundwater from a drilled well.

- b. In areas determined by the U.S.G.S. as having a medium potential to yield water, proposed uses may utilize a maximum of two thousand (2,000) GPD of groundwater from a drilled well.
- c. In areas determined by the U.S.G.S. as having a low potential to yield water, proposed uses may utilize a maximum of one thousand (1,000) GPD of groundwater from a drilled well.
- e. In areas determined by the U.S.G.S. as generally yielding enough water for domestic supplies, proposed industrial uses shall be limited to a maximum of seven hundred-fifty (750) GPD of groundwater from a drilled well.

The developer may conduct additional hydrogeological studies of the site to determine the actual location and extent of the groundwater, the capacity for groundwater supplies and the impacts on surrounding groundwater users at his own cost. The Planning Board may modify the above limits based on the results of the hydrogeological testing and the determination that sustained use of the water supply will not unreasonably reduce the water supply to adjacent users.

**9A.7 *Performance Standards.***

- 9A.7.1 The performance standards in Section 4.6 of this ordinance shall apply to any Research and Office Park as a whole rather than to individual lots within the development.
- 9A.7.2 It shall be unlawful to create, permit, allow, or maintain a noise disturbance in the Research and Office Park District. Any and all excessively annoying, loud or unusual noises or vibrations such as offend the peace and quiet of persons of ordinary sensibilities and which interfere with the comfortable enjoyment of life or property and affect at the same time an entire neighborhood or any considerable number of persons shall be considered a noise disturbance.
- 9A.7.3 No outdoor storage of any material (usable or waste) shall be permitted in the Research and Office Park District, except in outdoor storage containers. Storage containers shall be screened from public view by appropriate means, such as fencing, natural buffers or as otherwise approved by the Planning Board.
- 9A.7.4 No lighting shall be permitted that would cause glare from a Research and Office Park onto any street, road, highway, deeded right-of-way or into any abutting property. All luminaries and lamps shall be of fully shielded design and shall not emit any direct light above a horizontal plane passing through the lowest part of the light emitting portion of the luminary or lamp.

**9A.8 *Procedures.***

This Section is an innovative land use control as authorized by RSA 674:16, II. In accordance with RSA 674:21, II, the Wilton Planning Board is designated as the administrator of uses under this section. Before approving any developments under this Section, the Planning Board shall develop Research and Office Park Regulations that shall incorporate the standards of this Section, and any additional requirements that the Planning Board finds necessary or desirable to achieve the purposes of this Section.

**9A.8.1 Approval Procedures.**

- a. Elements of Approval Process. The approval process for a Research and Office Park shall include the following two elements:
  1. Approval of a Research and Office Park Plan including all lots, buildings, and uses to be incorporated in the overall development. The Research and Office Park Plan shall serve as the master land use plan for the Research and Office Park. A Research and Office Park Plan shall be approved in accordance with the provisions of the Research and Office Park Regulations. Any changes or amendments to an approved Research and Office Park Plan shall require approval of the Planning Board.
  2. Approval of a site plan for the development of any nonresidential uses, multi-family dwellings containing three (3) or more dwelling units, changes or expansions of use and any additions or alterations that change the outward appearance of a nonresidential building within the Research and Office Park. A site plan shall be approved in accordance with the provisions of the Site Plan Review Regulations. If a Research and Office Park is to be developed in phases, site plans shall be required for each phase, and separate hearings shall be held to review each site plan.

An applicant may submit and the Planning Board may approve both of these elements concurrently.

- b. Architectural Design and Compatibility with the Neighborhood. Planning Board approval of a Research and Office Park Plan shall include the review of the exterior architectural design of all structures in the Research and Office Park in accordance with the Research and Office Park Regulations. Such review shall be considered as an element of the Research and Office Park Plan. Such review shall ensure that the Research and Office Park does not negatively affect the natural and rural environments and conforms to the purposes outlined in the Section 9A.1 of this ordinance. The Research and Office Park Plan shall include graphic renderings, photographs or three-dimensional models to depict the proposed development. In undertaking its review and approval, the Planning Board shall consider the location, alignment, and spacing of new buildings in relation to existing and proposed future buildings in the development. In addition, the Planning Board shall consider the positioning and configuration of the proposed buildings on a lot or lots, the use of required setbacks, open space and buffer mechanisms and the overall campus type layout of the development.
- c. Subsequent subdivision or consolidation of lots within a Research and Office Park shall be permissible according to the same rules applicable to subdivisions elsewhere in the Town, but no lot or portion thereof shall be removed from or added to the Research and Office Park without Planning Board approval of an amendment to the original Research and Office Park Plan.
- d. Buffers. Buffers shall ensure that the Research and Office Park has no significant visual impact on abutting uses and protects the natural and rural environments. The natural vegetative state shall be the preferred type of buffer for any Research and Office Park.



**9A.8.2**     *Suspension or Revocation of Research and Office Park Plan Approval*

The Planning Board shall have the authority to suspend or revoke any approval granted under this section for violation of any condition of the approval, including violations of Section 9A.7 of this ordinance, which shall be implicitly incorporated in the terms of all approvals under this Section. Any such suspension or revocation must be in accordance with the procedures of RSA 676:4-a.

**9B.0 GRAVEL EXCAVATION DISTRICT**  
*(Adopted March 2006)*

**9B.1 Purpose**

The purpose of this district is to provide reasonable and substantial opportunities for the extraction of earth materials while maintaining a safe, healthy, and harmonious atmosphere for all in the Town of Wilton. To this end, a large area of the town which is known to contain large deposits of easily extractable gravel, and where many of the lots have been used for gravel excavation in the past, is designated to allow the removal of earth materials.

The designated area permits excavation without significant impact to the public welfare because it is in a rural, sparsely populated part of the town, with convenient access to a state highway. The topography of the area, substantial buffer requirements, and the limitation on maximum open excavation areas minimize the detrimental effect of excavations on the visual character of the scenic Souhegan River / Greenville Road valley.

**9B.2 District Location**

The Gravel Excavation District encompasses the following areas within the Town of Wilton:  
*(Amended March 2010)*

- a. As delineated on the Town of Wilton Tax Map, the district includes Lots 21, 22, 24, 25, 26, 29, 30, 31, 32, and 36 on Tax Map E, and Lots 23 and 24 on Tax Map G. These lots fall in an area in southwestern Wilton located west of NH Route 31 (Greenville Road), east of Russell Hill Road and Kimball Hill Road, south of NH Route 101, and north of King Brook Road.

**9B.3 Permitted Uses**

The Gravel Excavation District is an overlay district. Uses permitted in this district are in addition to uses permitted in the underlying zoning districts.

Lots in the Gravel Excavation District may be used for the commercial taking of sod, loam, clay, sand, gravel, or such other naturally occurring unconsolidated materials that normally mask the bedrock, provided that the use meets the requirements of this ordinance and of the Excavation Site Plan Review Regulations established by the Wilton Planning Board. Washing, screening, and crushing of extracted materials utilizing small portable equipment is permitted, accessory to the extraction of those materials from the site.

**9B.4 Prohibited Uses**

Quarrying, excluding activities regulated under NH Revised Statutes Annotated (RSA), Chapter 12-E, Mining and Excavation, or crushing of bedrock, excavation of materials with explosives, or any other mining activity is prohibited. Stationary manufacturing plants are prohibited.

**9B.5 Nonconforming Uses**

Nothing in this chapter shall be deemed to prohibit any excavation which is exempted from local permit requirements by N.H. RSA 155-E.

Existing excavations operating under a permit previously granted by the Wilton Planning Board may continue to operate under the terms of that permit.

**9B.6 Requirements and Performance Standards**

The standards of this section are in addition to any standards established in the *Excavation Site Plan Review Regulations* established by the Wilton Planning Board. Section 12.4(i) of this Ordinance establishes additional standards for excavations in the Wellhead Protection Area. Where there is a conflict between the provisions of this section, Section 12.4(i), and the *Excavation Site Plan Review Regulations*, the stricter standard shall rule. (*Amended March 2007*)

9B.6.1 Setbacks and Buffers. All areas used for the excavation of earth materials shall be set back and separated by an undisturbed natural wooded buffer at least three-hundred (300) feet from all public roads except Webb Road and from all lot lines, except that:

- a. The setback may be reduced to twenty-five (25) feet from other lots in the Gravel Excavation District with the written permission of the lot owner.
- b. There is no setback requirement from lot lines between multiple lots containing land encompassed in a single excavation.
- c. Access roads may be constructed through the buffer area.

9B.6.2 Transportation. The transportation of earth materials removed from this district must be by a private access road to NH Route 31 (Greenville Road) or King Brook Road from NH Route 31 (Greenville Road) to Photon Way, subject to the Planning Board finding that such use does not compromise public safety, and not to any other public road. Where materials are proposed to be removed from a lot without frontage on NH Route 31 (Greenville Road) or King Brook Road, it is the responsibility of the excavator to obtain any necessary easements to construct an access road to NH Route 31 (Greenville Road).

9B.6.3 Maximum Open Area

- a. No actual excavation may exceed five (5) acres at one time.
- b. The Planning Board may incorporate specific conditions in the *Excavation Site Plan Review Regulations* establishing conditions under which it may permit the extension of the maximum open excavation area to ten (10) acres.

9B.6.4 Reclamation

- a. No slope in soil material shall be left steeper than 3 to 1 (three (3) horizontal feet for each one (1) foot of vertical drop). The Planning Board may approve a reclamation plan incorporating 2 to 1 slopes (two (2) horizontal feet for each one (1) foot of vertical drop) provided all of the following conditions are met:
  1. The steeper grade of 2 to 1 must be stable and must be able to support adequate forest growth;
  2. Reforestation of the 2 to 1 slope area with native tree species consistent with forestry best management practices (BMP) utilizing seedlings or young trees;
  3. Acceptable soil erosion and drainage control measures must be incorporated to stabilize the reclaimed area, according to best management practices (BMP), including but not limited to elevation platforms or benches at appropriate elevation intervals.

- b. All topsoil removed during the excavation shall be stockpiled on site, and shall be spread over the site during the reclamation of the excavated area or any portion thereof. Additional topsoil shall be brought from off-site, as required, to provide a minimum depth of four (4) inches. The excavator may apply to the Planning Board for permission to remove a portion of the stockpiled topsoil from the site, subject to a determination that the remaining material will be sufficient to cover the reclaimed area to a minimum depth of six (6) inches.

## **10.0 FLOODPLAIN CONSERVATION DISTRICT**

The regulations in the Town of Wilton Zoning Ordinance 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 shall apply to all lands designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its "Flood Insurance Study for the County of Hillsborough, N.H." dated September 25, 2009 or as amended, together with the associated Flood Insurance Rate Maps (FIRM) dated September 25, 2009 or as amended, which are declared to be a part of this ordinance and are hereby incorporated by reference. (*Amended May, 2009 by Selectmen's Resolution*)

### **10.1 Definitions.**

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 Wilton.

10.1.1 (*Deleted*)

10.1.2 Area of Special Flood Hazard. The land in the flood plain within the Town of Wilton subject to a 1 percent or greater chance of flooding in any given year. The area is designated as *Zones A or AE* on the Flood Insurance Rate Map. (*Amended March 2007*)

10.1.3 Base Flood. The flood level having a one-percent possibility of being equaled or exceeded in any given year.

10.1.4 Basement. Any area of a building having its floor subgrade on all sides.

10.1.5 Building. See "structure".

10.1.6 Breakaway Wall. A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation.

10.1.7 Development. 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 operations or storage of equipment or materials. (*Amended March 2007*)

10.1.8 FEMA. Federal Emergency Management Agency.

10.1.9 Flood or Flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from:

- a. The overflow of inland or tidal waters; and/or
- b. The unusual and rapid accumulation or runoff of surface waters from any source.

- 10.1.10 *(Deleted March 2007)*
- 10.1.11 Flood Elevation Study. An examination, evaluation and determination of flood hazards and if appropriate, corresponding water surface elevations, or an examination and determination of mud slide or flood related erosion hazards
- 10.1.12 Flood Insurance Rate Map (FIRM). 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 Wilton. The FIRM will be used to make determinations of flood hazard zones and base flood elevations.
- 10.1.13 Flood Insurance Study. See "Flood elevation study".
- 10.1.14 Floodplain or Flood-prone area. Any land area susceptible to being inundated by water from any source (see "Flooding").
- 10.1.15 Flood proofing. 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.
- 10.1.16 Floodway. See "Regulatory Floodway".
- 10.1.17 Functionally dependent use. 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.
- 10.1.18 Highest adjacent grade. The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- 10.1.19 Historic Structure. Any structure that is:
- 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; or
  - 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, or
    2. Directly by the Secretary of the Interior in states without approved programs.

- 10.1.20 Lowest Floor. The lowest floor of the lowest enclosed are (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.
- 10.1.21 Manufactured Home. 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 consecutive days. This includes manufactured homes located in a manufactured home park or subdivision. *(Amended March 2007)*
- 10.1.21.1 Manufactured Home Park or Subdivision. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale. *(Adopted March 2007)*
- 10.1.22 Mean sea level. The National Geodetic Vertical Date (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's FIRM are referenced.
- 10.1.22.1 New construction. For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, *new construction* means structures for which the *start of construction* commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures. *(Adopted March 2007)*
- 10.1.23 100-Year flood. See "base flood".
- 10.1.24 Recreational Vehicle. A vehicle which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projection; (iii) designed to be self propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use. *(Amended March 1994)*
- 10.1.25 Regulatory Floodway. 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 cumulatively increasing the water surface elevation more than a designated height. *(Amended March 2007)*
- 10.1.26 Special flood hazard area. See "Area of Special Flood Hazard."
- 10.1.27 Structure. 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.
- 10.1.28 Start of Construction. 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 a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; the placement of a manufactured home on a foundation; or any substantial improvement. Permanent construction

does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; excavation for a basement, footings, piers, or foundations; the erection of temporary forms; or the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or part of the main structure.

- 10.1.29 Substantial damage. 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 predamage market value of the structure.
- 10.1.30 Substantial Improvement. 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. 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 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".
- 10.1.30.1 Violation. The failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44CFR § 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided. (*Adopted March 2007*)
- 10.1.31 Water surface elevation. 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.

## **10.2 Permit Required.**

All proposed development in any special flood hazard area shall require a permit. The building inspector shall review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding.

The Building Inspector will not issue 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 or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334. It shall be the responsibility of the applicant to certify these assurances to the Building Inspector.

In addition, the applicant shall supply the Building Inspector with the following information for all new or substantially improved structures:

- a. The as-built elevation (in relation to NGVD) of the lowest floor (including the basement) and include whether or not the structure contains a basement;



- b. If the structure has been floodproofed, the as-built elevation (in relation to NGVD) to which the structure was floodproofed; and
- c. Any certification of floodproofing.

The Building Inspector shall maintain this information for public inspection and furnish it upon request.

**10.3**      ***Location of the 100-Year Flood Elevation.***

In special flood hazard areas the Building Inspector shall determine the 100-year flood elevation in the following order of precedence according to the data available:

- a. In Zone AE, refer to the elevation data provided in the communities Flood Insurance Study and accompanying FIRM; (*Amended March 2007*)
- b. In unnumbered A zones the Building Inspector shall obtain, review, and reasonably utilize any 100-year flood elevation data available from any federal, state, or other source including data submitted to the Town for development proposals (i.e. subdivisions, site approvals).

**10.4**      ***Construction Standards.***

- a. All new construction or substantial improvements within a flood prone area shall be:
  - 1. Designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
  - 2. Constructed with materials resistant to flood damage;
  - 3. Constructed by methods and practices that minimize flood damages; and
  - 4. Constructed with electrical, heating, ventilation, plumbing, 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.
- b. Any new construction or substantial improvement within the A and AE Zones shall meet the following criteria that: (*Amended March 2007*)
  - 1. All new construction or substantial improvement of residential structures have the lowest floor (including the basement) elevated to or above the 100-year flood elevation;
  - 2. All new construction or substantial improvement of non-residential structures have the lowest floor (including the basement) elevated to or above the 100-year flood level; or together with attendant utility and sanitary facilities, shall:
    - a) Be floodproofed so that below the 100-year flood elevation the structure is watertight will walls substantially impermeable to the passage of water;

- b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
  - c) 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 base flood level and securely anchored to resist flotation, 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. Recreational vehicles placed on sites within Zone AE shall either: (i) be on the site for fewer than 120 consecutive days; (ii) be fully licensed and ready for highway use; or (iii) meet all standards of Section 60.0 (b) (1) of the National Flood Insurance Program Regulations and the elevation and anchoring requirements for manufactured homes in Paragraph (c) (6) of Section 60.3. *(Amended March 2007)*
- e. 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 of storage;
  - 2. The area is not a basement;
  - 3. The area shall be designed to automatically equalize hydrostatic flood forces or exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
    - a) 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;
    - b) The bottom of all openings shall be no higher than one foot above grade; and
    - c) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters; and
- f. Where new or replacement water and sewer systems (including on-site systems) are proposed in floodprone areas the applicant shall provide the Building Inspector 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 that on-site waste disposal systems will be located to avoid impairment to them or contamination from them during periods of flooding.

## **10.5**      *Alteration of Water Courses.*

Any development involving the alteration of a watercourse shall meet the following requirements.

- a. Prior to the alteration or relocation of a watercourse the applicant for such authorization shall notify the Wetlands Bureau of the New Hampshire Department of Environmental Services and submit copies of such notification to the Building Inspector, in addition to the copies required by RSA 482-A:3. Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Building Inspector. *(Amended March 2007)*
- b. The applicant shall submit to the Building Inspector, certification provided by a registered professional engineer, assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.
- c. Along watercourses with a designated Regulatory Floodway no encroachments, including fill, new construction, substantial improvements, and other development are allowed within the floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed encroachment would not result in any increase in flood levels within the community during the base flood discharge. *(Amended March 2007)*
- d. Until a Regulatory Floodway is designated along watercourses, no new construction, substantial improvements or other development (including fill) shall be permitted within Zone AE on the FIRM, unless it is demonstrated by the applicant that the cumulative effect of the proposed development, when combined with all existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community. *(Amended March 2007)*
- e. The Building Inspector shall obtain, review, and reasonably utilize any floodway data available from Federal, State, or other sources as criteria for requiring that all development located in 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." *(Adopted March 2007)*

## **10.6**      *Variances and Appeals.*

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

If the applicant, upon appeal, requests a variance as authorized by RSA 674:33, I (b), in addition to the usual variance standards under state law the applicant shall show that:

- a. The variance will not result in increased flood heights, additional threats to public safety or extraordinary public expense;
- b. If the requested variance is for activity within a designated regulatory floodway, it will not result in any increase in flood levels during the base discharge; and
- c. Considering flood hazard, the variance is necessary to afford relief.

The Zoning Board of Adjustment shall notify the applicant in writing that:

- a. 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
- b. Construction below the bases flood level increases risks to life and property.

The notification shall be maintained with a record of all variance actions.

The Town shall maintain a record of all variance actions, including the justification for their issuance, and report the issuance of any variance to the FEMA's Federal Insurance Administrator in its annual or biennial report.

**11.0 WETLANDS CONSERVATION DISTRICT**

**11.1 Purpose.**

In the interest of public health, convenience, safety and welfare, the regulations of this District are intended to guide the use of areas of land with extended periods of high water tables.

- a. To prevent the development of structures and land uses on naturally occurring wetlands which would contribute to pollution of surface and groundwater by sewage.
- b. To prevent the destruction of natural wetlands which provide flood protection.
- c. To prevent unnecessary or excessive expenses to the Town to provide and maintain essential services and utilities which arise because of inharmonious use of wetlands.
- d. To encourage those uses that can be appropriately and safely located in wetland areas.

**11.2 District Boundaries.**

The Wetlands Conservation District comprises all wetlands and water bodies, as defined by this ordinance, located wholly or partially within the Town of Wilton.

In all cases where the Wetland Conservation District is superimposed over another zoning district in the Town of Wilton, the more restrictive regulations shall apply.

*(Amended March 2002, March 2003, March 2020)*

**11.3 Permitted Uses.**

Any use that does not result in the erection of any structure or alter the surface configuration by the addition of fill or by dredging and that is otherwise permitted by the zoning ordinance.

- a. Forestry - tree farming;
- b. Agriculture;
- c. Wildlife refuge;
- d. Parks and such recreational uses as are consistent with the purpose and intentions of this section;
- e. Conservation areas and nature trails;
- f. Open spaces as permitted by subdivision regulations and other sections of this ordinance;
- g. Natural drainage-ways, i.e. streams, creeks or other paths of normal run-off water; and
- h. Water impoundments and wells for water supply.

#### **11.4 Special Exceptions.**

Special exceptions may be granted by the Zoning Board of Adjustment (ZBA) for the following uses within the Wetland Conservation District (see also Section 4.4):

- a. Streets, roads and other access ways and utility right-of-way easements including power lines and pipe lines if essential to the productive use of land not so zoned and if so located and constructed as to minimize any detrimental impact of such uses upon the wetlands or water bodies. *(Amended March 2020)*
- b. The undertaking of a use not otherwise permitted in the Wetland Conservation District, which may include the erection of a structure, dredging, filling, draining or otherwise altering the surface configuration of the land, if it can be shown that the proposed use will not conflict with the purpose and intent of this section and if the proposed use is otherwise permitted by the zoning ordinance. Proper evidence to this effect shall be submitted in writing to the Zoning Board of Appeals and shall be accompanied by the findings of a review by a soil scientist certified by the New Hampshire Board of Natural Scientists selected by the Planning Board and/or the Zoning Board of Adjustment. *(Amended March 1999)*
- c. *(Repealed March 2002)*
- d. *(Repealed March 2002)*
- e. Any exception granted by the ZBA must be preceded by a public hearing thirty (30) days before approval may be given. Abutters to affected property must be notified then (10) days in advance of the public hearing.

#### **11.5 Incorrectly Designated Zones.**

*(Adopted March 2002)*

When the actual boundary of the Wetlands Conservation District is in dispute by any owner or abutter actually affected by the boundary, the Planning Board, at the owner/abutters expense and request, may engage a certified soil scientist or a certified wetlands scientist to determine more accurately the precise boundary of the Wetlands Conservation District, who shall submit to the Planning Board his findings.

The Planning Board, based upon the findings presented by the applicant, may adjust the boundary or area designation of the Wetlands Conservation District to reduce or expand the designated area to more correctly define the location and extent of the wetlands on a site-specific, case-by-case basis.

The Planning Board shall reserve the right to withhold action on the plat pending the results of an on-site and/or other investigation by the Board or its appointed agent and shall act to approve or disapprove the final plat within 65 days of submission or such further time as deemed necessary and as provided for by New Hampshire State statute as amended. *(Amended March 2018)*

#### **11.6 ~~(Deleted March 2020)~~**

## **12.0      ***AQUIFER PROTECTION DISTRICT*****

### **12.1      ***Purpose.*****

Pursuant to NH RSA 674:16 and 674:21, the Aquifer Protection District is hereby established for the purposes of protecting, preserving and maintaining the existing and future municipal water supply sources of the Town of Wilton by regulating the uses of land over known aquifers and their recharge areas, so as to protect such supplies from contamination caused by adverse or incompatible land use practices or developments. The Aquifer Protection Ordinance is intended to limit the uses of land so designated to those which will not adversely affect water quality by contamination, or water quantity by preventing recharge of the aquifer.

### **12.2      ***District Location.*****

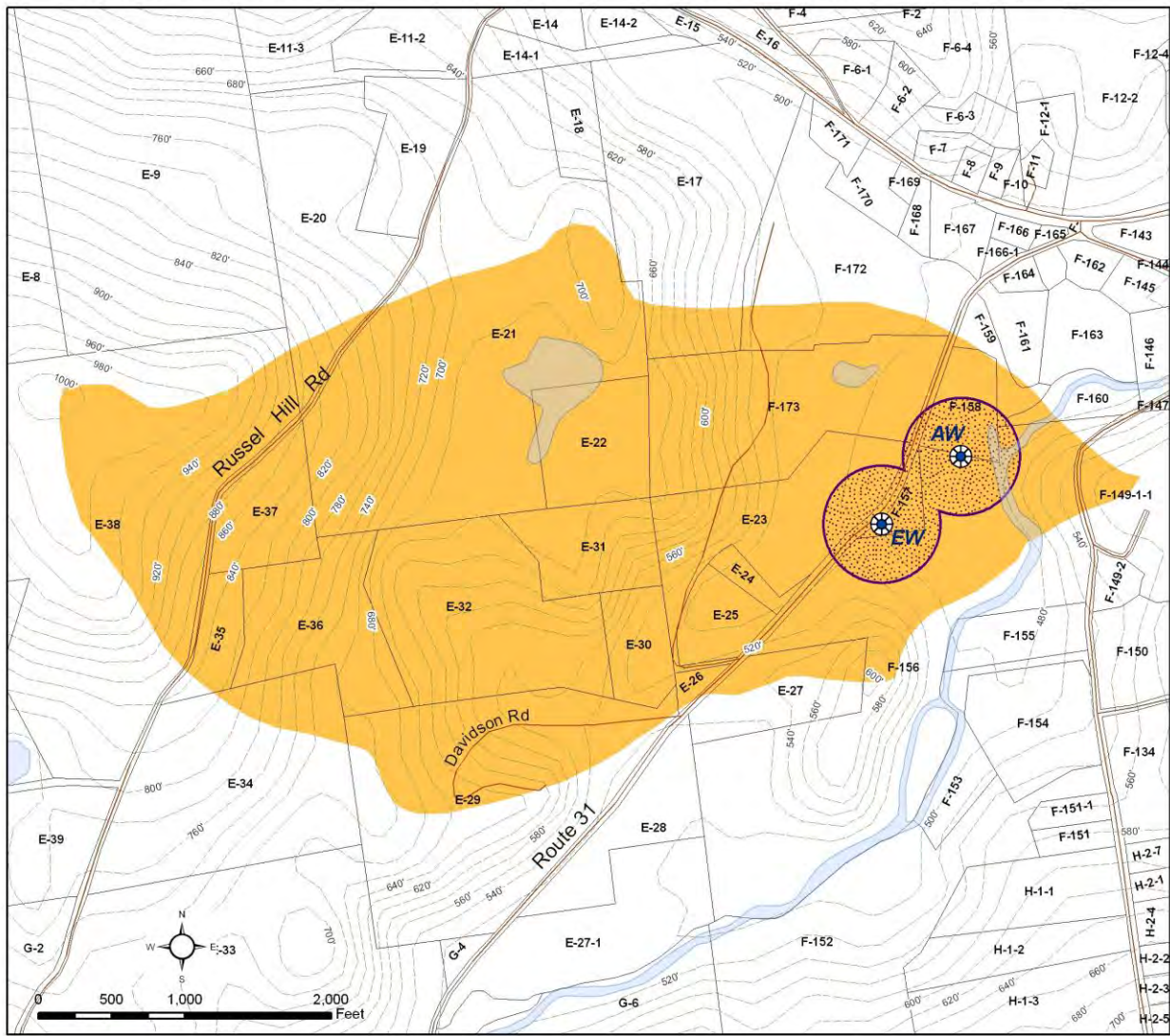
The boundaries of the Aquifer Protection District shall be the outermost edge of the surficial extent of all aquifer deposits presently designated as stratified drift as supported by information included in the USGS Aquifer Delineation study entitled Hydrogeology of Stratified Drift Aquifers and Water Quality in the Nashua Regional Planning Commission Area, South-Central, New Hampshire by K. W. Toppin, (1987), extended to include the boundaries of the Wellhead Protection District described in the following section. The Aquifer Protection District is a zoning overlay district which imposes additional requirements and restrictions to those of the underlying, base district zoning. In all cases, the more restrictive requirement(s) and permitted uses shall apply.







Wellhead Protection Area. The boundaries of the Wellhead Protection Area (WHPA) are as delineated in “WHPA Delineation – Abbott and Everett Production Wells Wilton, NH” by Emery and Garrett Groundwater, Inc (EGGI), 2008. See Figure 12.1 below. The map in Figure 12.1 was produced by Nashua Regional Planning Commission (NRPC) utilizing electronic “shape files” provided by EGGI, and depicts the revised WHPA. The EGGI study has increased the WHPA that was delineated in “The Wilton, N.H. Wellhead Protection Pilot Project” by Douglas L. Heath, October 1993; from 304 acres to 396 acres.

The limits of the combined WHPA in Figure 12.1 below are not surveyed, and therefore are approximate. For planning purposes, the Planning Board may use the EGGI revised WHPA boundary depicted below or as presented in the EGGI report cited above.  
*(Amended March 2007, March 2009)*

Figure 12-1


Abbott & Everett Wellhead Protection Area Delineation, Wilton, NH



 WHPA Boundary*	 Wilton Water Works Wells	 Contours
 400 Foot Sanitary Protection Zone	 Lot Line	 Water

Data Sources:

- Lot lines used from Nashua Regional Planning Commission Digital Wilton parcel data
- Contours, wells & water data used from Nashua Regional Planning Commission GIS database.
- Distribution source: NH GRANIT
- Wellhead Protection Area Delineation provided by Emery & Garrett Groundwater, Inc



Maps prepared by the Nashua Regional Planning Commission are for planning purposes only. NRPC uses data gathered from multiple sources at various scales of accuracy. No warranties, expressed or implied, are provided for the data herein, its use, or its interpretation.

Prepared by: NRPC GIS, December 2008  
 Project Location: J:\GIS\Projects\2008\Wilton\_WHPA\_zone\_update\Wilton\_gravel\_dist\_wells\_for\_regs\_noimage1206.mxd



### 12.3 *Permitted Uses.*

The following uses shall be permitted in this district:

- a. Industrial or commercial uses, in the appropriate District, which discharge no non-human wastes on site and human wastes only in an approved septic systems;
- b. Industrial uses that discharge only non-contact cooling water;
- c. Residential development under the following conditions:
  1. If serviced by Town water and sewer, at densities permitted in the underlying district;
  2. If serviced by on-site water and/or sewer, at fifty (50) percent of the density of the underlying District (i.e. double the acreage requirement of the underlying District); however, this does not increase the minimum dry area requirement of the underlying District;
  3. If developed under the Alternative Lot Requirements set forth in Section 6.3, the area of the reduced frontage lot does not have to be increased;
  4. Areas located in the Watershed District at the density of the underlying district;
- d. Activities designed for conservation of soil, water, plants, and wildlife;
- e. Outdoor recreation, nature study, boating, fishing, and hunting where otherwise legally permitted;
- f. Normal operation and maintenance of existing water bodies, wells, and dams, splash boards, weirs, and other water control, supply, and conservation devices;
- g. Foot, bicycle, and/or horse paths and bridges;
- h. Maintenance and repair of any existing structure; and
- i. Farming, gardening, nursery, forestry, harvesting and grazing provided that fertilizers, herbicides, pesticides, manure, and other leachables are used appropriately and not stored outdoors in accordance with the following:
  1. The cultivation and harvesting of crops shall be performed in accordance with the recognized soil conservation practices of the Hillsborough County Conservation District and agricultural practices as may be regulated by the New Hampshire Department of Agriculture, the Division of Public Health Services of the Department of Health and Human Services, and the New Hampshire Water Supply and Pollution Control Division or as recommended by the Hillsborough County Extension Service;
  2. Forestry or tree farming shall be performed in accordance with recognized management practices in order to protect the aquifer from contamination or damage as may be regulated by the Division of Forests and Lands of the New Hampshire Department of

Resources and Economic Development or recommended by the Hillsborough County Soil Conservation District and Extension Service.

- j. Subsurface storage of propane/liquefied natural gas. (*Adopted March 2004*)

**12.4 Prohibited Uses.**

The following uses shall not be permitted in the Aquifer Protection District:

- a. Disposal of solid waste other than brush or stumps;
- b. Subsurface storage of regulated substances, including gasoline, diesel fuel, oil and other refined petroleum products, and the subsurface transmission of regulated substances, including gasoline, diesel fuel, oil and other refined petroleum products through pipelines; (*Amended March 2004*)
- c. Disposal of liquid or leachable non-human wastes;
- d. Industrial or commercial uses which discharge contact type process waters on site; (*Amended March 2004*);
- e. Outside, unenclosed storage of road salt;
- f. Dumping of snow containing de-icing chemicals brought from outside the Aquifer Protection District;
- g. Commercial animal feed-lots where animals are kept at excessive densities;
- h. Mining of land except incidental to a permitted use;
- i. Excavation(s) of sand or gravel, except those conducted in accordance with an approved Excavation Permit issued pursuant to the Excavation Regulations of the Town. Within the Wellhead Protection Area (WHPA), excavations of sand and gravel are subject to the following additional restrictions: (*Amended March 2007*)
  - 1. Minimum depth to groundwater is ten (10) Feet.
  - 2. Crushing and or washing of materials is prohibited unless approval is granted by the Wilton Planning Board upon consultation with the Wilton Water Department and demonstration by the applicant that the proposed crushing or washing of materials will not adversely impact the water resource that is the subject of the Wellhead Protection Area.
  - 3. Storage of liquid petroleum products or other hazardous materials is prohibited.
  - 4. Storage of equipment or vehicles is prohibited, except in a manner designed to eliminate the danger of contamination due to leakage.
  - 5. Maintenance of vehicles is prohibited.
  - 6. All vehicles and equipment shall utilize biodegradable, non-hazardous hydraulic fluid and such other biodegradable and non-hazardous fluids as may be commercially

available. Exceptions for short-term activity are solely at the discretion of the Planning Board on a case-by-case basis based on the potential risk to the aquifer and water supply.

- j. All on site handling, disposal, storage, processing or recycling of hazardous or toxic materials;
- k. Automotive service and repair shops, and junk and salvage yards unless they are operated in accordance with New Hampshire State statutes, rules and regulations governing such uses; and
- l. Bulk storage of toxic material for resale or distribution.
- m. New large groundwater withdrawals within four-thousand (4,000) feet of the Wellhead Protection Area defined in this section, except as preempted by state statute. If permitted by state statute, the Town of Wilton, NH hereby requires any and all optional requirements, including, but not limited to "Pre-Testing Conference and Revised Withdrawal Testing Design. (*Adopted March 2007*)
- n. Any new or expansion of a use or activity, within the WHPA defined above, listed in the NH Groundwater Protection Act list of Potential Contamination Sources (PCSs), as defined in RSA 485-C. (*Adopted March 2007*)
- o. The siting or operation of a wastewater or septage lagoon within the WHPA or Aquifer district. (*Adopted March 2007*)

### **12.5 Performance Standards.**

All subdivision proposals and other proposed new developments within the Aquifer Protection District shall be reviewed by the Planning Board and shall conform to the provisions of this ordinance, the Subdivision Regulations of the Town of Wilton and the following:

- a. All such proposals are consistent with the need to protect the groundwater of the Town of Wilton and adjacent communities.
- b. All sanitary sewer systems are designed to minimize or eliminate leakage or discharges from the system into the groundwater.
- c. On site waste disposal systems are located so as to avoid or minimize groundwater contamination.
- d. All surface storm water generated by development is kept on-site and handled in such a manner as to allow the water to infiltrate into the ground before leaving the site.
- e. Streets, roads, and parking areas are constructed so that the need for direct application of road salt is minimized for winter safety, and so that run-off from such uses is channeled to avoid or minimize groundwater contamination.

- f. Written approval of the State of New Hampshire Department of Environmental Services, Water Supply and Pollution Control Division for subdivision and septic systems has been obtained.
- g. Under the NH Groundwater Protection Act, existing uses or activities, within the WHPA, listed in RSA 485-C as Potential Contamination Sources (PCSs) shall follow Best Management Practices (BMPs) for Groundwater Protection as adopted under the NH Code of Administrative Rules Part ENV-Ws 421, Best Management Practices. (*Adopted March, 2007*)

**12.6** *Incorrectly Designated Zones.*

When the actual boundary of the Aquifer Protection District is in dispute by any owner or abutter actually affected by the boundary, the Planning Board, at the owner/abutters expense and request, may engage a professional geologist or hydrologist to determine more accurately the precise boundary of the Aquifer Protection District, who shall submit to the Planning Board his findings, including:

- a. A detailed topographic layout of the subdivision and/or area to be developed, prepared by a registered land surveyor;
- b. A revised soils map of the subdivision and/or area prepared by a certified soil scientist qualified in hydrologic studies including a written report of his on-site field inspection and test boring data;
- c. The aquifer boundary as shown on the U.S. Geological Survey Map shall be overlaid on the plat and the newly proposed boundary location shall be indicated on the same plat by a broken line; and
- d. Any additional mapping, hydrogeologic reports or information which becomes available, as a result of recent or on-going scientific investigation of the location and extent of aquifers, performed by the U.S. Geological Survey, New Hampshire State agencies or boards, the Town of Wilton or the agents of any of the above.

The Planning Board, based upon the findings presented by the applicant, may adjust the boundary or area designation of the Aquifer Protection District to reduce or expand the designated area to more correctly define the location and extent of the aquifer on a site-specific, case-by-case basis.

The Planning Board shall reserve the right to withhold action on the plat pending the results of an on-site and/or other investigation by the Board or its appointed agent and shall act to approve or disapprove the final plat within 65 days of submission or such further time as deemed necessary and as provided for by New Hampshire State statute as amended. (*Amended March 2018*)

**12.7** *Non-Conforming Uses.*

Non-conforming uses may continue in this district in the form in which they exist at the time of the adoption of this ordinance unless they pose a direct hazard to the aquifer or are actually introducing some foreign substances (oils, salts, chemicals, etc.) into the aquifer. In the latter

case, the Selectmen shall issue an immediate cease and desist order to stop the offending activity or process from continuing activity in this district.

**13.0 AGE-RESTRICTED HOUSING DISTRICT**

**13.1 Purpose.**

The Age-Restricted Housing District is hereby established for the purpose of providing housing specifically designed to meet the needs of older persons while ensuring compliance with local planning standards and land use policies.

**13.2 District Location.**

Age-Restricted housing developments are permitted as a special exception by the Zoning Board of Adjustment and Site Plan review and approval by the Planning Board in the residential, general residential and agricultural, and commercial districts. (See also Section 4.4.)

In considering and granting a special exception, the Zoning Board shall determine that:

- a. The proposed age-restricted housing development will not adversely impact the existing and future land uses in the underlying district;
- b. The proposed location is appropriate for age-restricted housing and is consistent with the stated intent and standards of the Age-Restricted Housing District;
- c. The parcel area is sufficient, appropriate and adequate for the proposed use and the reasonable anticipated operation;
- d. The proposed age-restricted housing project will provide for the health, safety and welfare of the older occupants.

**13.3 General Standards.**

All housing for older persons shall conform to the following standards:

- a. Dwelling unit density shall not be greater than twenty-four (24) units/gross tract acre for one (1) bedroom units or twelve (12) dwelling units/gross tract acre for two (2) bedroom units when served by Town water and sewer. For lots not served by Town water and sewer, the dwelling unit density shall not be greater than the density provisions of the underlying district.
- b. Dwelling units shall have a maximum of two (2) bedrooms and shall be designed for and restricted to occupancy by older persons.
- c. Housing developments for older persons shall not be required to conform to the requirement that there be one dwelling per lot. Building types permitted are cluster, townhouse and apartment structures. Apartment is defined as a structure with separate living units located adjacent to, below or above other living units.
- d. Occupancy of all units within the development shall be limited to families where the head of household or spouse is at least sixty-two (62) years of age. (*Amended March 2020*)
- e. The minimum lot area shall be 1 acre and the lot shall have at least one hundred (100) feet of frontage on a public right-of-way, Class V or better if served by water and sewer,

otherwise the minimum lot area shall be at least two (2) acres and the lot shall have two hundred (200) of frontage on a public right-of-way Class V or better. Lot coverage shall not exceed seventy-five (75) percent of the total lot area.

- f. All buildings, driveway and parking areas shall be set back in conformance with the set back requirements of the underlying zoning district where the development is to be located. A vehicular drop-off area to the building may be located within the front yard set back.
- g. Maximum building height is forty-five (45) feet.
- h. Parking shall be provided in conformance with the parking standards established in the Site Plan Review Regulations. During Site Plan Review, the Planning Board may require additional parking for visitors and additional parking based upon distance of the development from the center of Town, income of the residents and access to alternate forms of transportation, shopping areas and other services.
- i. All buildings shall be provided with the following safety features:
  - 1. Ramps to the first floor of each building;
  - 2. Non skid floors;
  - 3. Doors of sufficient width to accommodate wheelchairs;
  - 4. Electric cooking stoves;
  - 5. Electric outlets at levels at least twenty-four (24) inches above the floor;
  - 6. Showers in place of tubs for more than fifty (50) percent of the dwelling units and handicapped showers for twenty-five (25) percent of the dwelling units;
  - 7. Grab bars around tubs (where provided) and toilets;
  - 8. Lever handle-type spigots and door knobs; and
  - 9. Emergency signals which ring in adjoining apartments or at a central location.
- j. Adequate ancillary facilities, usually associated with the group living needs for comfort, health, safety and welfare of older persons and not usually constructed for multi-family dwellings shall be provided to meet the need of the proposed population of the development. The floor area of such ancillary facilities shall not be less than five (5) percent of the total floor area of the building. These facilities may include dispensaries, medical facilities, common dining facilities, group recreation facilities, laundry facilities and other similar or related facilities.
- k. The development shall be landscaped so as to be integrated with the Town. The perimeter of the development shall be landscaped with a sufficient buffer strip to minimize its intrusion on neighboring land uses.
- l. The cumulative number of age-restricted dwelling units constructed in conformance with this Article shall not exceed 6% of the total number of dwelling units in the community.

**13.4**      ***Review of Site Plans.***

The Planning Board shall review and approve or disapprove the site plans for all proposed age-restricted housing. The review of any site proposed for age-restricted housing shall take into account its proximity to those support services (shopping, medical, transportation, etc.) necessary to meet the needs of older persons in addition to the standards contained in section 13.3. Where support services are absent or remote, provisions for such services shall be provided by the developer.

**13.5**      ***Change of Use.***

If any structure erected pursuant to a special exception and site plan review in accordance with this section ceases to be used exclusively for elderly housing, then the full zoning ordinance requirements for the new use must be met. Failure to comply with the zoning ordinance may result in a revocation of the certificate of occupancy for the structure.



**14.0 WATERSHED DISTRICT**

**14.1 Purpose.**

The purpose of the Watershed District is to preserve the quality of the water and to protect the health and welfare of the residents of the Town of Wilton by minimizing sources of pollution through regulation and restriction of population density and activity, and by keeping organic and inorganic wastes to a minimum.

**14.2 District Boundary.**

Watershed District shall mean the land and water areas which by seepage or flow introduce water into the old and new reservoirs of the Town. Generally, this includes, but is not restricted to, the watersheds of Mill Brook and Stockwell Brook above the reservoirs. The area shall be defined by the U.S. Soil Conservation Service of the Department of Agriculture and will be shown on the amended zoning map filed with the Town Clerk.

**14.3 Lot Requirements.**

14.3.1 Area. Minimum lot size six (6) acres per dwelling unit excluding wetlands, water bodies, land within the 100 year floodplain and land within the deeded flowage rights to the State of New Hampshire Flood Control System. *(Amended March 1992, March 2020)*

14.3.1.1 Alternative lot requirements. Alternative lots (See Section 6.3) shall have a minimum area of ten (10) acres per dwelling unit and meet the established six (6) acre requirement of this section. *(Amended March 1992)*

14.3.2 Frontage. A minimum of three hundred (300) feet on a Class V or better road. *(Amended March 1992)*

14.3.3 Setbacks. No residence, building, structure, feed lot, outflow from building drainage, septic system or its containment area shall be located less than two hundred (200) feet from open water and perennial streams nor less than one hundred-fifty (150) feet from intermittent streams, the 100 year floodplain, the deeded flowage rights to the State of New Hampshire Flood Control System, or any wetland or water body. *(Amended March 1992, March 2003, Amended March 2020)*

14.3.4 Erosion and Sediment Control. Any disturbance of slopes of fifteen (15) percent or more shall require an erosion and sediment control plan approved by the Planning Board.

14.3.5 Permitted changes within the setback area.  
*(Adopted March 2007)*

1. The setback area defined in section 14.3.3 shall be left in its natural state and where existing, a natural woodland buffer shall be maintained.
2. Where existing, a natural woodland buffer must be maintained. Tree cutting shall be limited to not more than fifty (50) percent of the basal area of trees, and not more than fifty (50) percent of the total number of saplings, in a twenty (20) year period. A healthy, well-distributed stand of trees, saplings, shrubs, and ground cover shall be maintained. Stumps and their root systems must remain intact in the ground. Dead, diseased, fallen or

dangerous trees, saplings, limbs, shrubs, and ground cover may be removed following applicable Best Management Practices (BMPS).

One (1) driveway access may be permitted within the setback area, provided the driveway construction plan and erosion control plan are approved by the Planning Board in accordance with applicable zoning and regulations. As approved, necessary alteration of terrain, removal of rocks, stumps and roots are permitted exclusively for driveway construction and associated stormwater management and erosion control. Any activity or construction within the setback is subject to inspection as a condition of approval; solely to insure compliance with any approval or permit.

#### **14.4 Prohibited Uses.**

The following uses are prohibited within the Watershed District. (*Amended March 1991*)

- a. The use of any hazardous or toxic materials or liquids within the above stated set back areas.
- b. No pasturing of livestock or fowl will be permitted within one hundred (100) feet of open flowing water. It will be the responsibility of the land owner to protect the water by installing adequate and proper fencing.
- c. No land shall be filled, excavated or graded and no land shall be used in such a way that would cause substantial or avoidable erosion or alter existing patterns of natural water flow in the Watershed District, except for those uses incidental to permitted residential and agricultural construction.
- d. All uses other than residential or agricultural.

#### **14.5 Cluster Development.**

Cluster developments shall be permitted within the Watershed District in accordance with the Cluster Development Regulation and provided such proposed Cluster Development shall conform to all setback requirements specified in this section.

#### **14.6 Previous Regulations.**

This District will incorporate the regulation to protect the purity of the water of Mill Brook Wilton, under the provision of Chapter 57, Laws of 1899, entitled "An act for the better protection of public water supplies" as adopted at special Town Meeting on December 4, 1904.

#### **14.7 Special Exceptions.**

(*Adopted March 2001*)

The following uses will only be allowed as special exceptions by the Zoning Board of Adjustment (ZBA) and by site plan review and approval by the Planning Board. (See also Section 4.4).

- 14.7.1 Commercial and Industrial Uses. The ZBA may, in appropriate cases subject to appropriate conditions, permit commercial or industrial uses in the District as a special exception, provided it is permitted in the underlying zoning district and complies with the requirements of Section 14.1 Purpose, Section 14.3 Lot Requirements and Section 4.6 Performance Standards.

**15.0 PERSONAL WIRELESS SERVICE FACILITIES**  
*(Adopted March 2001)*

15.0.1 Purpose and Intent.

It is the express purpose of this Article to permit carriers to locate personal wireless service facilities within particular areas of the Town of Wilton consistent with appropriate land use regulations that will ensure compatibility with the visual and environmental features of the Town. Compatibility with the visual features of Wilton is measured based on the change in community scale and character in relation to the height, mass, materials, contrasts, or proportion within the surroundings of a proposed personal wireless service facility. This Article enables the review of the locating and siting of personal wireless service facilities by the Town of Wilton so as to eliminate or mitigate the visual and environmental impacts of personal wireless service facilities. This Article is structured to encourage carriers to locate on existing buildings and structures whenever possible. New ground-mounted personal wireless facilities are permitted, but only when the use of existing structures and buildings is found to be infeasible. Co-location is encouraged for all personal wireless service facility applications and the review of a personal wireless facility shall be on the basis of the site being built using all positions on the mount.

15.0.2 Applicability.

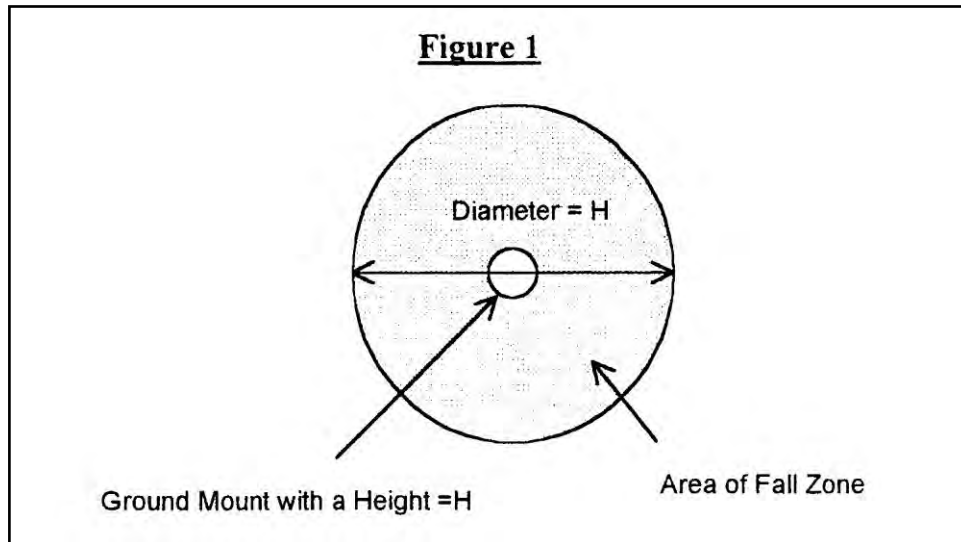
The terms of this Article and the Site Plan Review Regulations shall apply to personal wireless service facilities proposed to be located on property owned by the Town of Wilton, on privately owned property, and on property that is owned by any other governmental entity that acts in its proprietary capacity to lease such property to a carrier.

15.0.3 Definitions.

For the purpose of this Article, the following terms shall have the meaning given herein:

- 15.0.3.1 Antenna. The surface from which wireless radio signals are sent and/or received by a personal wireless service facility.
- 15.0.3.2 Antenna Array. A collection of antennas attached to a mount to send and receive radio signals.
- 15.0.3.3 Average Tree Canopy Height. An average height found by inventorying the height at above-ground level (AGL) of all trees over twenty (20) feet in height for a defined area, such as the area delineated in Section 15.4.1.6.
- 15.0.3.4 Camouflaged. A personal wireless service facility that is disguised, hidden, part of an existing or proposed structure, or placed within an existing or proposed structure.
- 15.0.3.5 Carrier. A company that provides personal wireless services; also sometimes referred to as a provider.
- 15.0.3.6 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 the use of several mounts on an existing building or structure by more than one carrier or the same carrier with multiple licenses.

- 15.0.3.7 Environmental Assessment (EA). An EA is a 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.
- 15.0.3.8 Equipment Shelter. An enclosed structure, cabinet, shed, vault, or box near the base of the mount within which are housed equipment for personal wireless service facilities, such as batteries and electrical equipment. Equipment shelters are sometimes referred to as base transceiver stations.
- 15.0.3.9 Facility. See Personal Wireless Service Facility.
- 15.0.3.10 Fall Zone. The area on the ground from the base of a ground-mounted personal wireless service facility that forms a circle with a diameter equal to the height of the facility, including any antennas or other appurtenances, as set forth in Figure 1. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.



- 15.0.3.11 Guyed Tower. A monopole or lattice tower that is secured to the ground or other surface by diagonal cables for lateral support.
- 15.0.3.12 Height. The height above ground level (AGL) from the natural grade of a site to the highest point of a structure.
- 15.0.3.13 Lattice Tower. A type of mount with multiple legs and structural cross bracing between the legs that is self-supporting and free-standing.
- 15.0.3.14 Mast. A thin pole that resembles a street light standard or a telephone pole. A dual-polarized antenna is typically deployed on a mast.
- 15.0.3.15 Monopole. A thicker type of mount than a mast that is self-supporting with a single shaft of wood, steel or concrete, or other material, that is designed for the placement of antennas and arrays along the shaft.

- 15.0.3.16 Mount. The structure or surface upon which antennas are mounted, including the following four types of mounts:
1. Roof-mounted: mounted on the roof of a building.
  2. Side-mounted: mounted on the side of a building.
  3. Ground-mounted: mounted on the ground.
  4. Structure-mounted: mounted on a structure other than a building.
- 15.0.3.17 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.
- 15.0.3.18 Personal Wireless Services. The three types of services regulated by this Ordinance:
1. Commercial mobile radio services;
  2. Unlicensed wireless services;
  3. Common carrier wireless exchange access services as described in the Telecommunications Act of 1996, as amended.
- 15.0.3.19 Radio Frequency (RF) Engineer. An engineer specializing in electrical or microwave engineering, especially the study of radio frequencies.
- 15.0.3.20 Radio Frequency Radiation (RFR). The emissions from personal wireless service facilities.
- 15.0.3.21 Security Barrier. A wall, fence, or berm that restricts an area from unauthorized entry or trespass.
- 15.0.3.22 Separation. The distance between one carrier's array of antennas and another carrier's array.

**15.1 *District Regulations.***

- 15.1.1 Location. Personal wireless service facilities shall be permitted in all Zoning Districts. Applicants seeking approval for personal wireless service facilities shall first evaluate existing structures for the siting of personal wireless service facilities. Only after finding that there are no suitable existing structures pursuant to Section 15.1.3 herein, shall a provider propose a new ground-mounted facility.
- 15.1.2 Existing Structures: Policy. Personal wireless service facilities shall be located on existing structures, including but not limited to buildings, water towers, existing telecommunications facilities, utility poles or towers, and related facilities, provided that such installation preserves the character and integrity of those structures.
- 15.1.3 Existing Structures: Burden of Proof. The applicant shall have the burden of proving that there are no existing structures which are suitable to locate its personal wireless service

facility and/or transmit or receive radio signals. To meet that burden, the applicant shall take all the following actions to the extent applicable:

- a. The applicant shall submit to the Planning Board a list of all contacts made with owners of potential sites regarding the availability of potential space for a personal wireless service facility. If the Planning Board informs the applicant that additional existing structures may be satisfactory, 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 structures and letters of rejection. If letters of rejection are not provided, at a minimum, unanswered "Return Receipt Requested" forms from the U.S. Postal Service shall be provided for each owner of existing structures that was contacted.
- c. If the applicant claims that a structure is not capable of physically supporting a personal wireless service facility, this claim must be certified by a licensed professional civil 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 cost shall be provided to the Planning Board.

15.1.4 Ground-Mounted Facilities: Policy. If the applicant demonstrates that it is not feasible to locate on an existing structure, ground-mounted 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.

## 15.2 *Use Regulations.*

A personal wireless service facility shall require a building permit in all cases and may be permitted as follows:

15.2.1 Existing Tower Structures. Subject to the issuance of a building permit that includes review by the Planning Board, which review shall be limited to issues relating to access, bonding, and security for removal, structural integrity and appropriate camouflage of such siting, carriers may locate a personal wireless service facility on any guyed tower, lattice tower, mast, or monopole in existence prior to the adoption of this Article, or on any personal wireless service facility previously approved under the provisions of this Article so long as the co-location complies with the approved site plan. All the Performance Standards from this Article shall be met. This provision shall apply only so long as the height of the mount is not increased, a security barrier already exists, and the area of the security barrier is not increased. Otherwise, site plan review is required.

15.2.2 Reconstruction of Existing Tower Structures. An existing guyed tower, lattice tower, monopole, or mast in existence prior to the adoption of this Article may be reconstructed with a maximum twenty (20) foot increase in height so as to maximize co-location so long as the standards of this Article are met and so long as this twenty (20) foot increase in height does not cause a facility previously existing at less than two hundred (200) feet to exceed two hundred (200) feet in height. The mount shall be replaced with a similar mount that does not significantly increase the visual impact on the community. Site plan review is required.

15.2.3 Existing Structures. Subject to the provisions of this Article, and minor site plan review under RSA 674:43:III, and except as otherwise permitted under Section 15.2.1, a carrier may locate a personal wireless service facility on an existing structure, building, utility tower or pole, or water tower. For the purpose of this section, new structures that are conforming to all other district zoning requirements shall be considered as existing structures.

15.2.4 Ground-Mounted Facility. A personal wireless service facility involving construction of a ground mount shall require site plan review and be subject to the provisions of this Article.

### 15.3 ***Dimensional Requirements.***

Personal wireless service facilities shall comply with the following requirements:

15.3.1 Height, Maximum. In no case shall a personal wireless service facility exceed two hundred (200) feet in height, unless the mount for the facility was greater than two hundred (200) feet in height prior to the adoption of this Article.

15.3.2 Height, Existing Structures and Utility Poles. Carriers that locate new personal wireless service facilities on water towers, electric transmission and distribution towers, utility poles and similar existing utility structures, guyed towers, lattice towers, masts, and monopoles may be permitted to increase the height of those structures no more than twenty (20) feet if the additional height will not materially impair the visual impacts of the site. This increase in height shall only be permitted once for each structure.

15.3.3 Height, Other Existing Structures. The height of a personal wireless service facility shall not increase the height of a structure by more than fifteen (15) feet, unless the facility is completely camouflaged; for example, a facility completely within a flagpole, steeple, or chimney. The increase in the height of the structure shall be in scale and proportion to the structure as originally configured. A carrier may locate a personal wireless service facility on a building that is legally nonconforming with respect to height, provided that the provisions of this Article are met.

15.3.4 Height, Ground-Mounted Facilities. Ground-mounted personal wireless service facilities shall not project higher than twenty (20) feet above the average tree canopy height within a one hundred and fifty (150) foot radius of the mount, security barrier, or designated clear area for access to equipment, whichever is greatest.

15.3.5 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. Fences shall comply with the setback provisions of the zoning district in which the facility is located if the fence is six (6) feet or more in height, in accordance with the appropriate Zoning Ordinances.

15.3.6 Fall Zone for Ground Mounts. In order to ensure public safety, the minimum distance from the base of any ground mount of a personal wireless service facility to any property line, public road, habitable dwelling, business or institutional use, or public recreational area shall be, at a minimum, the distance equal to the fall zone, as defined in this article. The fall zone may cross property lines, so long as the applicant secures a fall zone easement from the affected property owner(s). The area of the easement shall be shown on all applicable plans

submitted to the Town, and the terms of the easement shall be provided as part of the site plan review.

- 15.3.7 Fall Zone for Non-Ground Mounts — In the event that an existing structure is proposed as a mount for a 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 nonconforming structures, personal wireless service facilities and their equipment shelters shall not increase any nonconformities.

**15.4 *Performance and Design Standards.***

15.4.1 Visibility.

15.4.1.1 Visual impacts are measured on the basis of:

- a. Change in community scale, as exhibited in relative height, mass or proportion of the personal wireless service facility within their proposed surroundings.
- b. New visible elements proposed on a contrasting background.
- c. Different colors and textures proposed against a contrasting background.
- d. Use of materials that are foreign to the existing built environment.

15.4.1.2 Enhancements are measured on the basis of:

- a. Conservation of opportunities to maintain community scale; e.g., buffering areas and low-lying buildings should not be compromised so as to start a trend away from the existing community scale.
- b. Amount and type of landscaping and/or natural vegetation.
- c. Preservation of view corridors, vistas, and view sheds.
- d. Continuation of existing colors, textures, and materials.

15.4.1.3 Visibility focuses on:

- a. Eliminating or mitigating visual impact.
- b. Protecting, continuing, and enhancing the existing environment.

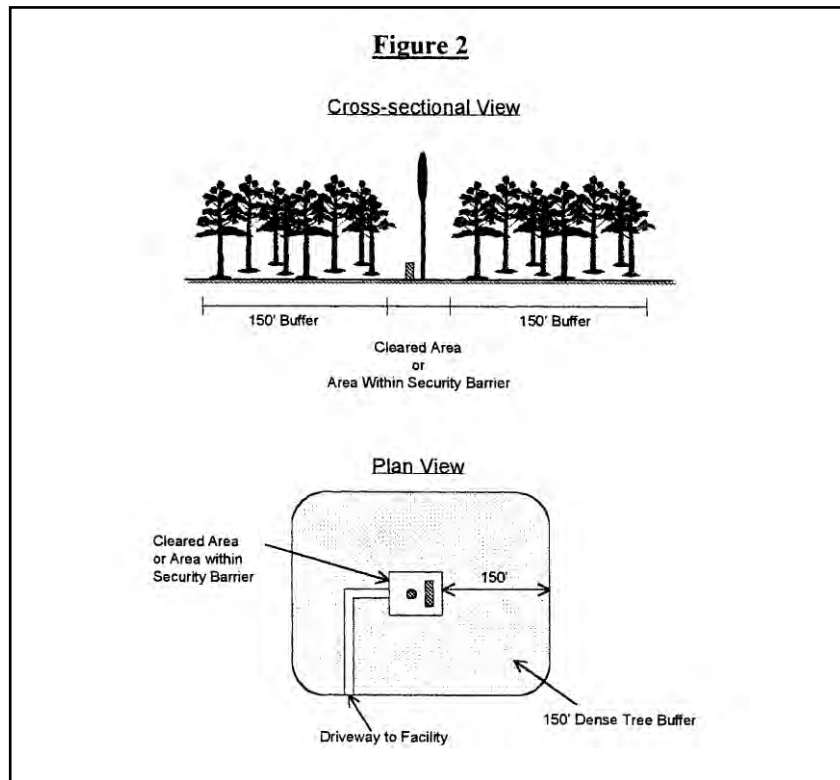
15.4.1.4 Camouflage for Facilities on Existing Buildings or Structures: Roof Mounts. When a personal wireless service facility extends above the roof height of a building on which it is mounted, every effort shall be made to conceal or camouflage the facility within or behind existing or new architectural 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.

15.4.1.5 Camouflage for Facilities on Existing Buildings or Structures: Side Mounts. Personal wireless service facilities which are side mounted shall blend with the existing building's



architecture and, if individual antenna panels are over five (5) square feet, the panels shall be painted or shielded with material consistent with the design features and materials of the building.

- 15.4.1.6 Camouflage for Ground-Mounted Facilities. All ground-mounted personal wireless service facilities shall be surrounded by a buffer of dense tree growth that extends continuously for a minimum distance of one hundred and fifty (150) feet from the mount, security barrier, or designated clear area for access to equipment, whichever is greatest, and screens views of the facility in all directions, as set forth in Figure 2. These trees must be existing on the subject property, planted on site, or be within a landscape easement on an adjoining site. The Planning Board shall have the authority to decrease, relocate, or alter the required buffer based on site conditions. The one hundred and 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.



- 15.4.2 Color. To the extent that any personal wireless service facilities extend above the height of the vegetation immediately surrounding it, they shall be of a color which blends with the background or surroundings.
- 15.4.3 Equipment Shelters. Equipment shelters for personal wireless service facilities shall be designed consistently with one of the following design standards:
- 15.4.3.1 Equipment shelters shall be located in underground vaults; or
- 15.4.3.2 Equipment shelters shall be designed so that the shelters are architecturally consistent, with respect to materials and appearance, to the buildings in the area of the personal wireless service facility; or

- 15.4.3.3 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 shall determine the style of fencing and/or landscape buffer that is compatible with the neighborhood; or
- 15.4.3.4 If mounted on a roof top, the equipment shelter shall be concealed or camouflaged so that the shelter either is not visible at grade or appears to be a part of the original structure.
- 15.4.4 Lighting, Signage, and Security.
- 15.4.4.1 Lighting. The mounts of personal wireless service facilities shall be lighted only if required by the Federal Aviation Administration (FAA). Lighting of equipment, structures and any other facilities on site shall be shielded from abutting properties. Any lighting shall not be visible off-site of the property. Foot-candle measurements at any height at the property line shall be 0.0 initial foot candles.
- 15.4.4.2 Signage. 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 Section 16.0 SIGNS of the Wilton Zoning Ordinance.
- 15.4.4.3 Security Barrier. The Planning Board shall have final authority on whether a ground-mounted personal wireless service facility should be surrounded by a security barrier.
- 15.4.5 Historic Buildings and Districts.
- 15.4.5.1 Any personal wireless service facility located on or within an historic structure shall not alter the character-defining features, distinctive construction methods, or original historic materials of the building.
- 15.4.5.2 Any alteration made to an historic structure to accommodate a personal wireless service facility shall be fully reversible.
- 15.4.5.3 Personal wireless service facilities authorized by this subsection 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.
- 15.4.5.4 Personal wireless service facilities located in the Wilton Historic District shall comply with the provisions of the Historic District Commission.
- 15.4.6 Scenic Landscapes and Vistas. Ground-mounted facilities shall not be located within open areas that are clearly visible from public roads, recreational areas, or abutting properties. All ground-mounted personal wireless service facilities shall be surrounded by a buffer of dense tree growth as per Section 15.4.1.6 of the Wilton Zoning Ordinance.
- 15.4.7 Driveways. If available, 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. A gravel or crushed stone surface is encouraged.

- 15.4.8 Antenna Types. 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 antenna array may be permitted after a finding by the Planning Board that the visual impacts of a larger antenna array are negligible.
- 15.4.9 Ground and Roof Mounts. All ground mounts shall be of a mast type mount. Lattice towers, guyed towers, and roof-mounted monopoles are expressly prohibited, unless constructed as part of a reconstruction project permitted under Section 15.2.2 of the Wilton Zoning Ordinance.
- 15.4.10 Hazardous Waste. No hazardous waste shall be discharge 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 one hundred and ten percent (110%) of the volume of the hazardous materials stored or used on the site.
- 15.4.11 Noise. Personal wireless service facilities shall not generate noise in excess of that permitted under Section 4.6.2 Noise of the Wilton Zoning Ordinance.
- 15.4.12 Radio Frequency Radiation (RFR) Standards. All equipment proposed for a personal wireless service facility shall be fully compliant with the FCC Guidelines for Evaluating the Environmental Effects of Radio Frequency Radiation (FCC Guidelines, under *Report and Order*, FCC 96-326, published on August 1, 1996), and all subsequent amendments.

## **15.5 Monitoring and Maintenance.**

- 15.5.1 Maintenance. The owner of the facility 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.
- 15.5.2 Monitoring. As part of the issuance of the site plan approval or building permit, the property owner shall agree that the Town of Wilton may enter the subject property to obtain RFR measurements and noise measurements at the expense of the carrier. The Town shall provide reasonable written notice to the carrier and landowner and provide them the opportunity to accompany the Town representatives when the measurements are conducted.
- 15.5.3 Security for Removal. Recognizing the hazardous situation presented by abandoned and unmonitored telecommunications facilities, the Planning Board shall set the form and amount of security that represents the cost for removal and disposal of abandoned telecommunications facilities in the event that a facility is abandoned and the facility owner is unwilling or unable to remove the facility in accordance with Section 15.6.2. 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 Planning Board with a revised removal cost estimate and structural evaluation prepared by a professional structural engineer licensed in New Hampshire every five (5) years from the date of the 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.

**15.6 *Abandonment or Discontinuation of Use.***

15.6.1 Notification. At such time that a carrier plans to abandon or discontinue operation of a personal wireless service facility, such carrier will notify the Town by certified U.S. mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than thirty (30) days prior to abandonment or discontinuation of operations. In the event that a carrier fails to give such notice, the personal wireless service facility shall be considered abandoned upon such discontinuation of operations.

15.6.2 Removal. Upon abandonment or discontinuation of use, the owner of the facility shall physically remove the personal wireless service facility within ninety (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.

15.6.3 Failure to Remove. If the owner of the facility does not remove the facility upon the Zoning Administrator's order, then the Board of Selectmen shall, after holding a public hearing with notice to the owner and abutters, issue a declaration of abandonment. The owner of the facility shall dismantle and remove the facility within ninety (90) days of receipt of the declaration of abandonment by the Board of Selectmen. If the abandoned facility is not removed within ninety (90) days, the Town may execute the security to pay for this action.

**15A.0 SMALL WIND ENERGY SYSTEMS**

*(Adopted March 2010)*

**15A.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.

**15A.2 Definitions.**

- 15A.2.1 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.
- 15A.2.2 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.
- 15A.2.3 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.
- 15A.2.4 Power grid. The transmission system, managed by ISO New England, created to balance the supply and demand of electricity for consumers in New England.
- 15A.2.5 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.
- 15A.2.6 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.
- 15A.2.7 System height. Means the vertical distance from ground level to the tip of the wind generator blade when it is at its highest point.
- 15A.2.8 Tower. The monopole, guyed monopole or lattice structure that supports a wind generator.
- 15A.2.9 Tower height. The height above grade of the fixed portion of the tower, excluding the wind generator.

15A.2.10 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.

**15A.3 Location**

The installation and operation of small wind energy system facilities are permitted in the General Residence and Agricultural District. They are also permitted as special exceptions by the Zoning Board of Adjustment in the General Residence District, Commercial District and Industrial District. When reviewing an application for a special exception under this section, the Zoning Board shall consider the factors listed in section 15A.5.3, “Review Considerations.” (See also Section 4.4)

**15A.4 Standards.**

15A.4.1 Setbacks. The setback for small energy system towers shall be equal to one and one-half (1½) times the proposed system height. Small wind energy systems must meet all setbacks for principal structures for the zoning district in which the system is located.

15A.4.2 System Height. The maximum system 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 system height exceed 150 feet.

15A.4.3 Sound Level. The combined sound level of all small wind energy systems on a site shall not exceed 55 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.

15A.4.4 Shadow Flicker. Small wind energy systems shall be sited in a manner that does not result in shadow flicker impacts offsite. The applicant has the burden of proving that the shadow flicker will not be visible to neighboring or adjacent uses. Potential shadow flicker will be addressed either through siting or mitigation measures.

15A.4.5 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.

15A.4.6 Code Compliance. The small wind energy system shall comply with all applicable sections of the New Hampshire State Building Code.

15A.4.7 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.

15A.4.8 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.

- 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 earth tones, 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.
- 15A.4.9 Capacity. The total combined output capacity of all small wind energy systems on a single lot must not exceed 100 kw.
- 15A.4.10 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.
- 15A.4.11 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.
- 15A.4.12 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.
- 15A.4.13 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.

**15A.5 *Site Plan Review.***

- 15A.5.1 Review Required. All small wind energy systems, their towers and associated equipment shall be subject to site plan review and approval by the Planning Board. Site plan review by the Planning Board shall be required for any physical modification to an existing small energy wind system. MET towers that receive site plan approval shall be permitted on a temporary basis not to exceed three (3) years from the date the building permit to construct the MET Tower was issued.
- 15A.5.2 Application. An application with designs for towers, additional support features and all associated facilities and accessories shall be submitted to the Planning Board. Applications 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.

15A.5.3 Review Considerations. When considering applications for the construction and operation of small wind energy systems, the Planning Board and the Board of Adjustment will consider factors including, but not limited to:

- a. Proximity to residential buildings.
- b. Physical and visual impact of the system on surrounding properties.
- c. Effect on the value of surrounding properties.
- d. Effect on the character and natural features of the site and surrounding properties.
- e. Frequency of maintenance visits to the site.
- f. Potential nuisances such as interference with neighborhood television, telephone or radio reception.



g. Comments from abutters.

15A.5.4 Public Notice. Public notification will be in accordance with the Site Plan Review Process.

15A.5.5 Security for Removal. The applicant shall post a bond to cover the cost of removal of the small wind energy system and site restoration in the event of abandonment.

**15A.6 *Abandonment or Discontinuation of Use.***

15A.6.1 Notification. At such time that a small wind energy system is scheduled to be abandoned or discontinued, the applicant will notify the planning board and building inspector by certified U.S. mail of the proposed date of abandonment or discontinuation of operations.

15A.6.2 Removal. 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 building inspector. "Physically remove" shall include, but not be limited to:

- a. Removal of the wind generator and tower and related above-grade structures.
- b. 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.

15A.6.3 Abandonment. 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 building inspector 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 building inspector, with consultation from the Planning Board, 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 building inspector shall withdraw the Notice of Abandonment and notify the owner of the withdrawal.

15A.6.4 Failure to Remove. If the owner fails to respond to the Notice of Abandonment or if, after review by the building inspector, 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 building inspector or Board of Selectmen may pursue legal action to have the small wind energy system removed at the owner's expense.

**15A.7 *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.

**15A.8 *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.

**15B.0 SOLAR COLLECTION SYSTEMS**

*(Adopted March 2020)*

**15B.1 Authority and Purpose**

This solar collection system ordinance is enacted in accordance with RSA 674:17(I)(j) and for the purposes outlined in RSA 672:1-III-a, as amended. This ordinance is intended to accommodate solar energy collection systems and distributed generation resources in appropriate locations, while protecting the public's health, safety and welfare, and to facilitate the State and National goals of developing clean, safe, renewable energy resources in accordance with the enumerated polices of NH RSA 374-G and 362-F.

**15B.2 Definitions**

- 15B.2.1 Agricultural System. Any SCS intended primarily to reduce on-site consumption of utility power for agricultural uses with (a) a Rated Capacity of one megawatt (MW) alternating current (AC) or less and (b) five acres or less Solar Land Coverage, provided any existing agricultural use is preserved at the time of installation.
- 15B.2.2 Ground Mounted. The portion of an SCS that is affixed to or placed upon the ground including, without limitation, fixed, passive or active tracking or racking systems, as well as mobile solar collection equipment with more than 64 square feet of collecting surface which remains anywhere on a site for more than 30 consecutive days.
- 15B.2.3 Industrial System. Any SCS intended to (1) reduce on-site consumption of utility power, (2) generate power for sale to customers, or (3) produce energy strictly for distribution to the power grid, with (a) a Rated Capacity of 30 MW AC or less and (b) 100 acres or less Solar Land Coverage.
- 15B.2.4 Large Commercial System. Any SCS intended primarily to reduce on-site consumption of utility power with (a) a Rated Capacity of five MW AC or less and (b) 20 acres or less Solar Land Coverage.
- 15B.2.5 Rated Capacity. Maximum rated AC output of an SCS based on its design output.
- 15B.2.6 Residential System. Any SCS intended primarily to reduce on-site residential consumption of utility power with (a) a Rated Capacity of 12 kilowatt (kW) AC or less and (b) 1000 square feet or less Solar Land Coverage.
- 15B.2.7 Roof Mounted. The portion of an SCS that is mounted on the roof of a permitted structure, including the roof of a garage or over a carport or parking area that is an Accessory Building. The Roof Mounted portion of an SCS shall not be included in the calculation of the SCS's Solar Land Coverage.
- 15B.2.8 Shared System. Any SCS intended primarily to reduce residential and/or commercial consumption of utility power by multiple consumers (e.g., households or businesses) who either (a) own, directly or indirectly, the SCS, or (b) are tenants of the property to be served by the SCS, with (1) a Rated Capacity of 100 kW AC or less and (2) one acre or less Solar Land Coverage. A Shared System could be appropriate for cluster developments, commercial or residential condominiums or cooperatives, or apartment buildings, among others.

- 15B.2.9 Small Commercial System. Any SCS intended primarily to reduce on-site commercial consumption of utility power with (a) a Rated Capacity of 12 kW AC or less and (b) 500 square feet or less Solar Land Coverage.
- 15B.2.10 Solar Collection System or SCS. All equipment required to harvest solar energy to generate electricity, including, without limitation, collection and storage devices, mounting hardware and ballast, power conditioning equipment, transfer equipment and parts related to the functioning of that equipment. Solar Collection Systems do not include the equipment used to connect an SCS to the utility grid or site service point or equipment used after that point.
- 15B.2.11 Solar Land Coverage. The land area of a lot on which all components of the SCS, other than Roof Mounted equipment or equipment installed inside a permitted building, are installed, including, without limitation, mounting equipment, panels and ancillary components, but not including access roads or fencing. Solar Land Coverage shall not equate to impervious surface as that term is used in this ordinance.

**15B.3 Table of Permitted Uses.**

Notwithstanding anything to the contrary contained elsewhere in the Town zoning ordinance, Solar Collections Systems complying with this ordinance shall be permitted in the following districts:

System	Zoning District					
	Residential	Residential/ Agricultural	Commercial	Downtown Commercial	Industrial	Office Park/ Research and Office Park
<b>Residential</b>	P	P	P	X	X	X
<b>Shared</b>	P	P	P	X	P	P
<b>Agricultural</b>	X	P	P	X	X	X
<b>Small Commercial</b>	X	X	P	P	P	P
<b>Large Commercial</b>	X	X	P	X	P	P
<b>Industrial</b>	X	X	X	X	P	X

P = Use permitted by right with building and electrical permits.  
 X = Use prohibited.

**15B.4 General Requirements and Exemptions.**

- 15B.4.1 The installation and operation of Solar Collection Systems shall comply at all times with applicable building, utility, electrical, fire and other safety codes; State and Federal laws and regulations; local noise and other ordinances, and the performance standards of this

ordinance. A copy of the approved interconnection application for all Solar Collection Systems that are tied into the utility grid shall be filed with the Town.

15B.4.2 Except as expressly set forth below, all proposed Solar Collection Systems shall require prior Site Plan review and approval by the Planning Board.

15B.4.3 Ground Mounted Solar Collection Systems:

- a. No Ground Mounted portion of an SCS shall exceed 30 feet in height, provided that it shall be no more than 20 feet in height at the permitted building perimeter on the lot.
- b. The Ground Mounted portions of Residential Systems shall be located in a side or rear yard between the primary structure and the relevant lot line and shall be reasonably screened from abutting residential properties.
- c. The Ground Mounted portions of Solar Collection Systems shall comply with the impervious surface limitations and related stormwater management requirements in this ordinance and, to the extent they do not conflict with such requirements, any stormwater management requirements imposed in the underlying zoning district(s) and/or overlays.
- d. The Solar Land Coverage of Ground Mounted Solar Collection Systems shall be included in the calculation of maximum lot coverage permitted in the underlying zoning district(s) and/or overlays.

15B.4.4 Roof Mounted Solar Collection Systems:

- a. The Roof Mounted portions of Solar Collection Systems may not exceed the height restrictions applicable to buildings in the underlying zoning district.
- b. Wholly Roof Mounted Residential Systems are exempt from Site Plan review requirements.

15B.4.5 Solar Collection Systems used primarily to benefit the Town of Wilton are municipal systems exempt from land use regulations pursuant to NH RSA 674:54. Solar Collection Systems operated by third parties on land leased from the Town are not exempt municipal systems.

15B.4.6 Solar Collection Systems, other than utility connection equipment, shall be deemed structures that must comply with the setback requirements of the underlying zoning district(s) and/or overlays. The setback for a tracking system in an SCS shall be measured from where the array is closest to the lot line and no portion of an SCS may cross into the setback area.

15B.4.7 The site of an SCS shall be altered only to the extent necessary for its installation and operation and for sufficient all-season access thereto. To the fullest extent practicable, following installation, the site shall be restored to its original state, and, where appropriate, with native species that are consistent with the use of the site (such as slow growth or low ground cover). Placement and installation of Solar Collection Systems shall minimize impact on agricultural activities.

**15B.5 *Site Plan Review.***

The application for a Site Plan review shall comply with the following, as well as any other Site Plan Review Regulations not otherwise covered in this Section 15B.5. To the extent that any of the requirements of this Section 15B.5 conflict with any of the requirements of the Site Plan Review Regulations, the requirements of this Section 15B.5 shall prevail. The Site Plan shall include:

- 15B.5.1 Site Conditions and System Layout. A scale drawing indicating, without limitation, (a) the topography and vegetation in the installation area, both pre- and post-installation, and (b) the location of all equipment to be installed on site, including utility connection point(s) and equipment. To the maximum extent practical, all wiring associated with the utility connection shall be underground.
- 15B.5.2 Equipment Specifications. Manufacturers' specifications for all proposed equipment and its output, as well as for noise generation, anti-reflective materials and other characteristics of the system from time to time identified by the Planning Board.
- 15B.5.3 Emergency Response. (a) Drawings indicating where access to the site for emergency response is located; (b) a narrative or manual detailing response guidance and disconnection locations; and (c) additional industry guidance addressing safety procedures for specific equipment on site.
- 15B.5.4 Natural Resource Buffers. A buffering plan demonstrating how the Ground Mounted portion of an SCS will be effectively screened from public ways and neighboring views, including, without limitation, (a) the location, height and spacing of existing vegetation to be preserved; (b) areas of new planting and the type thereof; and (c) how existing or manufactured topography will be used to reduce visual impact.
- 15B.5.5 Fencing. The location and composition of any fencing required by applicable code or the utility, provided that the Ground Mounted portion of an SCS with a Rated Capacity greater than 100kW AC shall be fenced. The Planning Board may, in addition, require additional security or fencing if the location of the SCS presents a safety concern for abutting land uses.
- 15B.5.6 Erosion Control. The means and location of erosion control measures during installation.
- 15B.5.7 Lighting and Glare. The location, type, strength and direction of all lighting for Ground Mounted equipment or otherwise added to an SCS site, in each case solely to identify access or address safety requirements. For Agricultural, Large Commercial and Industrial Systems, an assessment of potential glare onto abutting structures and roadways, based on different sun to panel angles, seasons, and visibility locations. The Planning Board may require reasonable mitigation of potentially significant glare, including, without limitation, adjustment of the angle of panels, anti-reflective panel coatings, or additional specific screening.
- 15B.5.8 Natural Resource Inventory. If the SCS will disturb ten or more acres of previously undisturbed land, a natural resource inventory detailing site conditions and habitats, as well as undertakings to mitigate any adverse impact on the affected habitats.

**15B.6 *Stormwater Requirements for Ground Mounted Solar Collection Systems.***

15B.6.1 Requirements for All Ground Mounted Solar Collection Systems. The Ground Mounted portions of Solar Collection Systems shall be installed in accordance with best management practices for erosion, sedimentation and runoff control during all site preparation, installation and post-installation restoration phases, in order to maintain healthy surface and subsurface conditions that can attenuate stormwater.

15B.6.2 SCS Requiring NH DES Alteration of Terrain (AoT) Permit (RSA 485-A:17):

- a. An applicant shall file the final AoT permit with the Town. The terms and conditions of the permit shall be incorporated by reference into any Planning Board approval of the SCS and shall be enforceable by the Town in accordance with this ordinance.
- b. The holder of an AoT permit shall not be required to comply with the requirements of Section 15B.6.3 of this ordinance, although the Planning Board may, but shall not be required to, perform further review of stormwater and erosion controls in place at the site of the SCS where an AoT permit has been issued. Issuance of the permit shall not affect the applicant's obligations to address all issues required by a Site Plan review.

15B.6.3 SCS Not Requiring an AoT Permit:

- a. If the Ground Mounted portion of an SCS (a) requires land clearing and grubbing of mature forested cover (1) to accommodate more than 30% of the proposed Solar Land Coverage and (2) over more than one acre, or (b) has Solar Land Coverage greater than one acre and is located on a slope greater than five percent, the applicant shall submit a plan to manage stormwater runoff that is directly related to the SCS.
- b. The stormwater management plan referred to in Section 15B.6.3(a) shall take into account the nature of the installation and how the spacing, slope and row separation of collection equipment will affect or enhance stormwater infiltration. Percolation tests or site-specific soil information may be provided to demonstrate that recharge can be achieved without engineered solutions. The Planning Board may require additional information about the potential for concentrated runoff due to the type of collection equipment, slope, soil type and the impact of other true impervious areas (such as equipment pads and roadways).

**15B.7 *Abandonment and Decommissioning.***

15B.7.1 The owner or operator of an SCS other than a Residential System shall give not less than [one] month's prior written notice to the Town of its intent to cease operation of the SCS for any reason. An SCS shall be deemed to be abandoned or decommissioned upon the earlier to occur of (a) the date on which its operation will cease as indicated in the notice to the Town or (b) six months after operation thereof has been discontinued for any reason, unless the Town has given its prior written consent to the discontinuance.

15B.7.2 The Ground Mounted portions of an abandoned or decommissioned SCS that are above grade shall be removed in accordance with applicable State, Federal and local rules, regulations and ordinances, including, without limitation, requirements for the disposal of hazardous materials, and the site shall be restored to its natural state, within six months following the date on which it is abandoned or decommissioned. The Building Inspector shall inspect the site and determine whether removal has complied with this ordinance.

15B.7.3 The application for a Large Commercial or Industrial System shall include a plan addressing the decommissioning of the SCS and the removal of the equipment as required by Section 15B.7.2. As a condition to the approval of a Large Commercial or Industrial System, the owner or operator shall post a bond or other surety in an amount and on terms and conditions determined by the Planning Board and issued by an institution acceptable to it, covering the full cost of removing the SCS if it is not properly and timely removed as required by Section 15B.7.2. The Planning Board may review the amount of the bond or surety from time to time and require it to be adjusted so that it is adequate for its purpose.



## **16.0 SIGNS**

The purpose of this ordinance is to preserve the visual character of Wilton while providing signs that direct and indicate the location of a business; identify businesses or individuals within a building; denote a service; or enhance traffic and pedestrian safety. Signs shall be permitted in each district as follows. *(Amended March 2016)*

### **16.1 General Provisions.**

*(Amended March 2001, March 2014, March 2016)*

- a. All signs shall be constructed of durable material and maintained in good condition at all times. Signs should complement the building on which they are located and add to the community image as a whole. Materials, color, lettering and shape should be compatible with surrounding building materials, colors and textures. Use of sandblasted, carved or painted signs of traditional materials, such as wood, granite or metal, is encouraged.
- b. Signs placed or erected by the Town or State for the purpose of showing street names, traffic directions or regulations, or other municipal or governmental purposes are exempt from the following regulations.
- c.1 Temporary signs are allowed to be placed for thirty days in a calendar year without approval or a sign permit. Signs advertising short-term events can be erected three weeks prior to the event and shall be removed within one week following the date of the event. Temporary signs shall comply with the requirements defined elsewhere in this section. Temporary signs shall not be lighted. Only one temporary sign will be permitted on a lot. Portable reader-board signs can only be used as temporary signs. *(Amended March 2014, March 2016)*
- c.2 Additional temporary signage without approval or sign permit may be located on the owner's property when that property is being offered for sale, rent or lease and for a period of 15 days following the date of the closing or rental/lease of the premises.
  - a. one (1) wall or ground sign per premises, two (2) on corner lots;
  - b. the size of signs must conform to those permitted in the underlying zoning district;
  - c. temporary signs can be placed on privately owned land only with the permission of the land owner. *(Adopted March 2016)*
- d. Before erecting a sign, the applicant must first submit an application for a sign permit to the Building Inspector. The Building Inspector will review and approve/disapprove the application and issue the sign permit on approval. The sign permit fee must be paid upon issuance of the sign permit. The Building Inspector may approve any signs which conform to the Zoning Ordinance and any applicable site plans. The application for the permit shall include: a detailed drawing and description of the sign, materials to be used, mounting hardware, type and intensity of lighting, dimensions of display area, and the location of the sign on the building or property. *(Amended March 2014, March 2016)*
- e. In addition to the penalty provisions of section 22.0, non-conforming signs and/or signs erected without a permit may be removed by the Town of Wilton at the expense of the sign's owner.
- f. *(Repealed March 2016)*

- g. Any sign proposed to replace a sign that existed as of March 13, 2001, shall comply with the provisions of this section and obtain a sign permit from the Building Inspector. *(Amended March 2014, March 2016)*
- h. Any of the following signs are prohibited in all zoning districts except as specifically permitted in this ordinance.
  - 1. Off-premises signs.
  - 2. Billboards.
  - 3. Animated, flashing or intermittently illuminated signs.
  - 4. Internally illuminated signs.
  - 5. Signs located on town property or within the public right-of-way. *(Amended March 2016)*

**16.2 Residential District and General Residence and Agricultural District.**

16.2.1 Permitted Signs.

16.2.1.1 Number. One (1) sign per parcel. *(Amended March 2016)*

16.2.1.2 Size. Maximum of four (4) square feet in area per face, two (2) faces may be used.

16.2.1.3 Location and Height. The top of any freestanding sign shall not be over six (6) feet above the existing ground level. A building sign must not extend above the roof eaves or the rake of the gable end. *(Amended March 2016)*

16.2.1.4 Lighting. No signs shall be illuminated in such a manner as to cause glare, obstruct or interfere with the vision of drivers on the road.

16.2.1.5 *(Repealed March 2001)*

16.2.2 *(Repealed March 2001)*

**16.3 Commercial and Industrial District.**

This section governs signs in the Commercial District and Industrial District. *(Amended March 2019)*

16.3.1 Permitted Signs.

16.3.1.1 Number. One (1) sign or structure per parcel relating only to the permitted use or uses conducted in the building or on the immediate premises thereof. *(Amended March 2016)*

- 16.3.1.2 Size. Maximum of one hundred (100) square feet in area per face and a maximum of two faces may be used.
- 16.3.1.3 Location and Height. The top of any sign shall not exceed sixteen (16) feet above existing ground level. No building sign shall extend above the roof eaves or the rake on the gable end. No sign (except building mounted) shall be placed within fifteen (15) feet of lot lines. All signs or structures must be placed in such a manner that does not obstruct free and clear vision of automobiles or pedestrian traffic. *(Amended March 2003, March 2016)*
- 16.3.1.4 Lighting. Signs may be illuminated but the lighting shall be confined to the area of the sign and arranged to avoid glare or reflection onto any portion of an adjacent highway, into the path of on-coming vehicles or onto any residential premises, and shall not significantly contribute to light pollution.
- 16.3.1.5 *(Repealed March 2001)*
- 16.3.1.6 Multi-tenant Buildings. A multi-tenant building may have one free-standing sign of up to one hundred (100) square feet. In addition, each individual tenant may have one (1) sign attached to the building with a maximum area of four (4) square feet for the purpose of identifying the type and location of the business or service.
- 16.3.1.7 Company Symbols and Trademarks. Company symbols and trademarks shall be considered as signs and must meet all of the above requirements.
- 16.3.1.8 Industrial Parks. As a part of the subdivision of land for an industrial park, the Planning Board may require one (1) directory sign identifying the names and locations of the individual businesses within the park to be located near the entrance of the park. The Directory sign should show the locations of the individual businesses within the park. The sign shall have a maximum area of thirty-two square feet. *(Amended March 2016)*
- 16.3.2 *(Repealed March 2001)*
- 16.4 Office Park District.**
- 16.4.1.1 Park Development Sign. One (1) park development sign, for informational purposes only, carrying the park name at the park entrance. The sign shall have a maximum area of one hundred (100) square feet with a maximum height of sixteen (16) feet above the entrance road.
- a. One (1) sign shall be located near the entrance of the park and have a maximum area of thirty-two (32) square feet. *(Amended March 2016)*
  - b. Two (2) additional signs with a Maximum size of two (2) square feet, may be located at driveway intersections. *(Amended March 2016)*
- 16.4.1.2 Directory Sign. One (1) directory sign identifying the names and locations of the individual businesses within the park shall be located near the entrance of the park. The Directory sign should show the locations of the individual businesses within the park. The sign shall have a maximum area of thirty-two (32) square feet.
- 16.4.1.3 Small directional signs. Maximum size of two (2) square feet, may be located at driveway intersections.

16.4.1.4 Lighting. Signs may be illuminated but the lighting shall be confined to the area of the sign and arranged to avoid glare or reflection onto any portion of an adjacent highway, into the path of on-coming vehicles or onto any residential premises, and shall not significantly contribute to light pollution.

16.4.2 Prohibited Signs.

- a. Neon signs.
- b. Mobile or temporary signs.

16.4.3 Company Symbols and Trademarks.

Company symbols and trademarks shall be considered as signs and must meet all of the above restrictions.

### **16.5 *Downtown Commercial District.***

The following regulations apply to signs located in the Downtown Wilton area as defined in Section 7A.1. (*Amended March 2019*)

16.5.1 Permitted Signs.

16.5.1.1 Number. One (1) more than the number of businesses located on a parcel or four (4), whichever is less, relating only to the permitted use or uses conducted in the building or on the immediate premises thereof. Only one (1) free standing sign is permitted per parcel.

16.5.1.2 Free Standing Signs. Any sign supported by structures or supports that are anchored into the ground and that are independent from any building or other structure.

16.5.1.2.1 Size. Maximum of forty (40) square feet in area per face and a maximum of two faces may be used.

16.5.1.2.2 Location and Height. The top of any sign shall not exceed fourteen (14) feet above existing ground level. No sign (except building mounted) shall be placed within ten (10) feet of the roadway right of way or lot lines. All signs or structures must be placed in such a manner that does not obstruct free and clear vision of automobiles or pedestrian traffic. (*Amended March 2016*)

16.5.1.2.3 Lighting. Signs may be illuminated but the lighting shall be confined to the area of the sign and arranged to avoid glare or reflection onto any portion of an adjacent highway, into the path of on-coming vehicles, or onto any residential premises, and shall not significantly contribute to light pollution.

16.5.1.3 Wall Signs. Any sign attached parallel to or painted on an exterior wall of a building, and which projects not more than six inches from such wall.

16.5.1.3.1 Size. The allowable size of the sign is calculated based on 1.5 square feet per lineal foot of building width with a maximum size of eighty square feet.

- 16.5.1.3.2 Location and Height. The top of any sign shall not exceed sixteen (16) feet above existing ground level. The bottom of any wall sign shall not be less than (3½) feet above existing ground level. *(Amended March 2009)*
- 16.5.1.4 Canopy Signs. Any sign that is a part of or attached to an awning, canopy, marquee or other protective cover over a door, entrance, window, or outdoor service area.
- 16.5.1.4.1 Size. The allowable size of the sign is calculated based on 1.5 square feet per lineal foot of building width with a maximum size of eighty square feet.
- 16.5.1.4.2 Location and Height. The top of any canopy shall not exceed fourteen (14) feet above existing ground level. The bottom of any projecting sign shall not be less than (8) feet above existing ground level.
- 16.5.1.4.3 Lighting. No internally lit canopy signs shall be permitted.
- 16.5.1.5 Projecting Signs. Any sign attached to a building in such a manner that its leading edge extends more than six inches from the surface of such building.
- 16.5.1.5.1 Size. Maximum of eighteen (18) square feet in area per face and a maximum of two faces may be used.
- 16.5.1.5.2 Location and Height. The top of any projecting sign shall not exceed sixteen (16) feet above existing ground level. The bottom of any projecting sign shall not be less than (8) feet above existing ground level. *(Amended March 2009)*
- 16.5.1.5.3 Projection. The maximum projection of any sign shall be no more than (6) feet from face of building.
- 16.5.1.5.4 Lighting. Signs may be illuminated but the lighting shall be confined to the area of the sign and arranged to avoid glare or reflection onto any portion of an adjacent highway, into the path of on-coming vehicles, or onto any residential premises and shall not significantly contribute to light pollution.
- 16.5.1.6 Multi-tenant Buildings. Each individual tenant may have one (1) additional sign attached to the building with a maximum area of four (4) square feet for the purpose of identifying the type and location of the business or service.
- 16.5.1.7 Directory Signs. One (1) free standing off-premises directory sign is permitted per parcel if the following criteria can be met:
- a. More than four (4) businesses are located on the parcel.
  - b. The parcel has no frontage on Main Street, NH Route 31, Island Street, or Forest Road.
- 16.5.2 Prohibited Signs.
- a. Roof signs.
  - b. Neon signs.

**16A.0**      ***EXTERNAL LIGHTING***  
*(Adopted March 2003)*

**16A.1**      ***Purpose and Intent.***

The purpose of this ordinance is to preserve the rural atmosphere and dark skies of the Town of Wilton. Natural dark skies are the nighttime aspect of rural character. Increasing light pollution and glare from inappropriate lighting degrades such rural character. This ordinance is intended to enhance public safety and welfare by providing for adequate and appropriate outdoor lighting, providing for lighting that will complement the character of the Town of Wilton, reduce glare, minimize light trespass, reduce the cost and waste of unnecessary energy consumption and prevent the degradation of the night sky.

**16A.2**      ***Applicability.***

- a. In addition to the General Standards found in Section 16A.3 below, detailed lighting requirements shall be set forth in the Town of Wilton Site Plan Review Regulations and shall apply to all outdoor lighting in nonresidential developments in the Town of Wilton requiring site plan approval from the Planning Board, as well as all new and replacement outdoor lighting in nonresidential properties. Home Occupations requiring Planning Board site plan review are required to comply with this Section.
- b. Though they are not subject to permitting through this ordinance, residential developers and homeowners are encouraged to use full cutoff energy efficient lighting fixtures and prevent light trespass onto neighboring properties.
- c. The Illuminating Engineering Society of North America (IESNA) standards shall apply to those non-residential uses not specifically addressed in this ordinance or by the Site Plan Review Regulations.

**16A.3**      ***General Standards.***

Non-residential lighting and lights from vehicular traffic associated with a non-residential use shall be shielded or buffered to prevent off-site glare, sky-glow and light trespass. Full cut-off or partial cut-off fixtures, when approved, are to be used, except that low-level lighting (Globe style, non-cut-off types) for walkways and landscape lighting may be approved when an acceptable design meeting the Purpose and Intent (Section 16A.1) of this ordinance is submitted.

Wherever outside lighting is proposed in a site plan review, it shall be accompanied by a formal lighting plan, prepared to scale. The lighting plan shall require Planning Board approval. Home Occupations are exempt from a formal plan but are subject to Site Plan Review Regulations. When any site plan proposes installed street, common or public area outdoor lighting, the final plan shall contain a statement certifying that the applicable provisions of this ordinance and associated regulations shall be adhered to. Lights not required for safety or security shall be turned off within a reasonable time of when a business or activity closes or ceases, as set forth in Site Plan Review Regulations.

This paragraph shall not apply to temporary decorative lighting, which may include colored lamps, such as holiday lighting. Commercial lighting shall meet minimum IESNA illumination levels while not exceeding IESNA uniformity ratios and average illumination recommendations.

**17.0 NON-CONFORMING USES AND BUILDINGS**

**17.1 Non-conforming Buildings, Structures, and Uses.**

*(Amended March 2007, March 2015)*

- a. Any non-conforming building, structure, or use of land or buildings may continue in existence.
- b. A non-conforming use of a building, structure, or land may not be changed to a different non-conforming use of the same building, structure, or land.
- c. A non-conforming use may not be re-established after discontinuance for more than one (1) year.
- d. A non-conforming building or structure may be rebuilt on the same footprint and with the same dimensions (including height), unless it has, for more than one (1) year, been unusable for its current purpose by reason of deterioration, destruction, demolition, neglect, accident, condemnation, or any other reason. *(Amended March 2016)*
- e. A non-conforming building or structure may not be extended or enlarged.

**17.2 Sub-standard Lots of Record.**

Where a lot of record at the time of the effective date of this Ordinance has less area and/or frontage than herein required in the District in which it is located:

- a. The lot may be used for a single family dwelling if permitted in that district subject to New Hampshire Water Supply and Pollution Control Division approval and subject to all district regulations applicable to lots within the district wherein the lot is located with the exception of lot size and/or frontage.
- b. The lot may be used for any non-residential use permitted in the district in which it is located in compliance with maximum density requirements, setbacks, and New Hampshire DES Water Supply and Pollution Control Division regulations.

**17.3 Special Exceptions.**

*(Amended March 2000)*

When the dimensions of a lot or the placement of existing structures on a lot are such that there is no reasonable placement of a proposed new structure on that lot which conforms with the lot setback requirements, the Zoning Board of Adjustment may grant a special exception to permit reduced setbacks, provided that:

- a. The lot dimensions or existing structures which result in the difficulty must have been in existence prior to the adoption of the setback requirements that are to be reduced.
- b. The setback to be reduced must be a lot line setback. Setbacks from wetland or water bodies may not be reduced by a special exception under this section, nor may tower setbacks as specified in the Wireless Communications Overlay District, Section 15.3.5. *(Adopted March 2009, Amended March 2020)*

- c. The proposed structure and its proposed placement must be in keeping with the existing development of the neighborhood.
- d. The special exception must specifically identify the permitted location of the proposed structure, as shown on a site plan, which is to become part of the record of the decision.
- e. The Zoning Board may restrict the dimensions of the proposed structure so as to balance the reasonable use of the property with the spirit of the zoning ordinance.

**17.4 *Status of Variances and Special Exceptions.***

*(Amended March 1992)*

A building or use permitted by a variance or special exception granted by the Zoning Board of Adjustment shall have the same status as a non-conforming building or use, and shall be subject to the restrictions of this section.

Furthermore, if construction has not begun or the use has not commenced within two (2) years of the granting of the variance or special exception, or March 10, 1992, whichever is later, then the variance or special exception shall expire. All rights conferred by a variance or special exception shall be void upon expiration. Upon application, extensions of time in which to exercise the rights accorded by the variance or special exception may be granted by the Zoning Board of Adjustment for good cause shown beyond the reasonable control or contemplation of the applicant and not prejudicial to the intent and spirit of the Zoning Ordinance. If the variance or special exception is not exercised within the time period provided, then the application shall be deemed withdrawn without prejudice upon the expiration of the time period.



**18.0 PHASING OF DEVELOPMENTS**

**18.1 Indicators of Growth Impact.**

The Town of Wilton hereby determines that the presence of any of the following conditions constitutes an indicator of Growth Impact. An Indicator of Growth Impact occurs when:

- a. The number of dwelling units for which building permits have been issued (whether for single family or multi-family structures) for either:
  1. The preceding six (6) month period (as measured on June 30 and December 31) equals or exceeds 1.6 percent of the total number of dwelling units existing in the previous calendar year; or
  2. The preceding twelve (12) month period (as measured on June 30 and December 31) equals or exceeds 3.2 percent of the total number of dwelling units existing at the end of the two (2) previous six (6) month periods.

The planning board will collect dwelling unit data twice a year. Data as of December 31 will be collected by March 1 of the succeeding year. Data as of June 30 will be collected by September 1 of the same year. Data collected will consist of the total number of dwelling units in the town's existing housing stock and the number of building permits issued over the previous 6-month period. *(Amended March 2009)*

- b. The Wilton and Wilton-Lyndeborough school districts shall notify the Planning Board within 1 month if the number of enrolled students in either the Wilton Elementary School or the Wilton-Lyndeborough Cooperative High School (or other public school erected hereafter) exceeds eighty percent (80%) of stated capacity as defined by the School Board. *(Amended March 2009)*
- c. The Planning Board shall determine if the number of dwelling units contained on a proposed subdivision plan or site plan submitted to the Planning Board equals or exceeds 1.3 percent of the then existing dwelling units as measured for the previous calendar year. *(Amended March 2009)*

**18.2 Monitoring Growth Indicators.**

It shall be the responsibility of the Planning Board to monitor the Indicators of Growth Impact and to make public reports of the presence of one or more of the Indicators.

**18.3 Phasing of Subdivision and Cluster Developments.**

If the Planning Board finds through its monitoring that either Indicator 18.1 a, b or c has occurred, then the Planning Board may require the phasing of pending and future subdivision and cluster development proposals as provided in New Hampshire RSA 674:21. The purpose of phasing developments is to minimize a strain on municipal resources caused by the sudden introduction of a substantial number of new dwelling units and to allow the Town to plan and absorb the growth over a longer period of time so as to avoid severe impact on Town services and resources.

- a. The Planning Board may require phasing of a subdivision or cluster development for a period of up to five (5) years for a project containing up to seventy-five (75) proposed dwelling units or individual lots. For a project exceeding seventy-five (75) dwelling units or individual lots, the Planning Board may negotiate a longer period of time over which phasing of the proposed development is to occur, based on the size of the project and the potential impact of the project on the Town.
- b. Once a phasing plan is approved by the Planning Board with dates of allowed construction for each phase, the approved plan shall be recorded with the Hillsborough County Registry of Deeds.
- c. The phasing of developments as provided for herein shall remain in effect until the issuance of the next public report as provided in section 18.1, at that time the Planning Board shall determine if the phasing of developments is required in accordance with the provisions of this section.

**18.4** *(Repealed March 2000)*

**19.0 ENFORCEMENT AND ADMINISTRATION**

In accordance with RSA Sections 676:15, 676:17 and 676:17-a, the Building Inspector for the Town of Wilton shall enforce the provisions of this Ordinance and any regulations promulgated pursuant hereto, as well as any provision or specification of an application, plat or plan approved by, or any requirement of a permit or decision issued by, the Building Inspector, any other official delegated authority to do so in accordance with RSA 674:51, or any Wilton land use body. In addition, the Building Inspector shall enforce the provisions of Section E of the Wilton Land Use Laws, the Building Code Ordinance. *(Amended March 2021)*

**20.0 BOARD OF ADJUSTMENT**

The Board of Selectmen shall appoint five (5) members to a Board of Adjustment, who shall act in compliance with the applicable provisions of RSA Chapters 672-677. Thereafter, as terms expire or vacancies occur, the appointing authority shall be responsible for filling vacancies and maintaining full membership on the Board of Adjustment. The Board of Adjustment shall also act as the Building Code Board of Appeals, in accordance with Article IX of Section E of the Wilton Land Use Laws, the Building Code Ordinance. *(Amended March 2021)*

**21.0 AMENDMENTS**

Amendments to this Ordinance may be adopted by a majority vote of any legally constituted Town Meeting when public notices have been given and hearings held in accordance with RSA Chapter 675. *(Amended March 2021)*

**22.0 *[Deleted March 2021]***

**23.0 SAVING CLAUSE**

If any section of this Ordinance is found to be in conflict with any other section of the Ordinance or with any local, state, or federal regulation, the more stringent standard shall apply. The invalidity, unconstitutionality or illegality of any section or provision of the Ordinance or any Zoning District shown on the zoning map shall not have any effect upon the validity, constitutionality or legality of any other section, provision or Zoning District boundary. *(Amended March 1996)*

**24.0 WHEN EFFECTIVE**

This Ordinance and amendments, as adopted in accordance with applicable law, shall take effect upon adoption. *(Amended March 2021)*

**25.0**      ***IMPACT FEES***  
*(Adopted March 2001)*

**25.1**      ***Purpose.***  
*(Amended March 2011)*

This ordinance is enacted pursuant to RSA 674:21, and in order to:

- a. Promote the public health, safety, welfare and prosperity;
- b. Assist in the implementation of the Master Plan and Capital Improvements Program;
- c. Enable the Town of Wilton to assess an equitable share of the cost of public capital facilities to new development in proportion to its demand on those facilities;
- d. Provide authority for the Planning Board to adopt proportionate impact fee assessments, and related regulations for administration thereof.

**25.2**      ***Definitions.***

25.2.1      Impact Fee. A fee or assessment imposed upon development, including subdivision, building construction or other land-use change, in order to help meet the needs occasioned by the development for the construction or improvement of capital facilities owned or operated by the Town of Wilton, including and limited to water treatment and distribution facilities; wastewater treatment and disposal facilities; sanitary sewers; storm water, drainage and flood control facilities; public road systems and rights-of-way; municipal office facilities; public school facilities; the municipality's proportional share of capital facilities of a cooperative or regional school district of which the municipality is a member; public safety facilities; solid waste collection, transfer, recycling, processing and disposal facilities; public libraries; and public recreation facilities, not including open space.

25.2.2      New Development. For the purpose of impact fee assessment, new development may include the following land use changes: *(March 2011)*

- a. The construction of any new dwelling unit; or
- b. Changes to an existing structure that would result in a net increase in residential living area or the number of dwelling units *(Amended March 2018)*; or
- c. Construction of a new commercial/industrial building or any net increase in the gross floor area of an existing commercial/industrial building; or
- d. The conversion of an existing use to another use that is determined by the Planning Board, to result in a measurable net increase in the demand on the public capital facilities that are the subject of impact fee assessment; however,
- e. New development shall not include the replacement of an existing manufactured housing unit or the reconstruction of a structure that has been destroyed by fire or natural disaster where there is no change in size, density, or type of use that would increase the demand

on capital facilities for which impact fees are assessed.

25.2.3 Off-Site Improvements. Improvements that are necessitated by a development but which are located outside the boundaries of the property that is subject to a subdivision or site plan approval by the Planning Board, and limited to necessary highway, drainage, and sewer and water upgrades pertinent to that development. *(March 2011)*

25.2.4 School District. The Wilton School District, the Wilton-Lyndeborough School District, or another regional or cooperative school district of which the Town of Wilton becomes a member municipality. *(March 2011)*

**25.3 *Authority to Assess Impact Fees.***

The Planning Board is hereby authorized to assess impact fees, as herein defined, and in accordance with the standards herein set forth. The Planning Board shall have the authority to adopt regulations to implement the provisions of this ordinance. The Impact Fee Schedule is separate from this ordinance and is reviewed and amended as set forth in the Review and Establishment of Fees section below. The Impact Fee Schedule shall be located in Appendix VIII. *(Amended March 2004)*

**25.4 *Assessment Methodology.***

The amount of any impact fee shall be a proportional share of municipal capital improvement costs which is reasonably related to the capital needs created by new development, and to the benefits accruing to new development from the capital improvements financed by the fee. Upgrading of existing facilities and infrastructures, the need for which is not created by new development, shall not be paid for by impact fees. *(Amended March 2011)*

**25.5 *Administration of Impact Fees.***

**25.5.0.1 Imposition of Impact Fees.**

1. Any person who, after the initial date of adoption of an Impact Fee Schedule, seeks to undertake new development within the Town of Wilton, New Hampshire, by applying for a building permit or permit for manufactured home installation and who is not vested under RSA 674:39, is hereby required to pay impact fees in the manner set forth in this Section.
2. No new building permit or new permit for manufactured home installation or any activity requiring payment of an impact fee pursuant to this Section of this Ordinance shall be issued unless and until the public capital facilities impact fees hereby required have been determined.
3. Impact Fees assessed to new development on lots created as part of a new subdivision of land shall be subject to the Impact Fees set forth in the Impact Fee Schedule in effect at the time and date of subdivision approval and recording at the Hillsborough County Registry of Deeds (HCRD). The fee schedule in effect at the time of the subdivision approval shall remain applicable to development on those lots for a period of time as determined by RSA 674:39, or five years in the event no time is specified in the statute. Subsequent construction on those lots will be subject to the fee schedule in effect at the time a building permit application is received. *(Amended March 2011, March 2018)*

- 25.5.1 Retention and Allocation. Each impact fee shall be accounted for separately, shall be segregated from the Town's general fund, may be spent upon order of the Board of Selectmen, and shall be used solely for the capital improvements for which it was collected, or to recoup the cost of capital improvements made in anticipation of the needs for which fees are collected to meet.
- 25.5.2 Timing of Assessment. Impact fees shall be assessed at the time of Planning Board approval of a subdivision or site plan. When no Planning Board approval is required, or has been made prior to the adoption or amendment of the impact fee ordinance or fee schedule, impact fees shall be assessed prior to, or as a condition for, the issuance of a building permit or other appropriate permission to proceed with development. *(Amended March 2011)*
- 25.5.3 Bonding. Between the date of assessment and collection, the Planning Board may require developers to post security, in the form of cash bond, letter of credit or performance bond so as to guarantee future payment of assessed impact fees.
- 25.5.4 Timing of Collection. Impact fees shall be collected as a condition for the issuance of a Certificate of Occupancy. *(Amended March 2011)*
- 25.5.5 Alternative Impact Fees. The Planning Board and the assessed party may establish an alternate, mutually acceptable schedule of payment of impact fees.

**25.6 *Return of Impact Fees.***

- 25.6.1 If the full impact fee assessed under this Ordinance is not encumbered or otherwise legally bound to be spent for the purpose for which it was collected within six (6) years, the fee shall be refunded to the owner of record of the assessed property, with any accrued interest. *(Amended March 2011)*
- 25.6.2 Whenever the calculation of the impact fee has been predicated upon some portion of capital improvement costs being borne by the Town or School District, a refund shall be made upon the failure of the Town or School District to appropriate its share of the capital improvement costs within six (6) years from the date of payment thereof. *(Amended March 2011)*

**25.7 *Other Authority Retained.***

- 25.7.1 This ordinance shall not be deemed to affect the existing authority of the Planning Board over subdivisions and site plans, including, but not limited: *(Amended March 2011)*
- a. The authority to declare a development to be premature or scattered in accordance with the regulations of the Board and in accordance with RSA 674:36, II(a); and
  - b. The authority to impose exactions for off-site improvements necessitated by a development during the subdivision or site plan review process, in accordance with RSA 674:21, V (j).

**25.8 *Review and Establishment of Fees.***

Pursuant to the authority to administer Innovative Land Use Controls under RSA 674:21, II, the Impact Fee Schedule shall be set in accordance with RSA 674:21, V, (a), and shall be reviewed every three years, starting in 2020, and amended by the Planning Board as required. The Planning Board shall schedule a public hearing, after providing proper public notice, for the review of the fee schedules. The Impact Fee Schedule approved shall become

effective upon certification by the Town Clerk. (*Adopted March 2004, March 2020*)

**25.9 *Waiver of Impact Fees***

(*Adopted March 2011, March 2020*)

The Planning Board may grant full or partial waivers of impact fees to an assessed property, subject to its finding that the proposed development meets one or more of the applicable conditions set forth below:

- a. Age-Restricted Housing. In the event that school impact fees are imposed, a full or partial waiver of the school impact fee may be granted for residential units that are lawfully restricted to exclusive occupancy by persons age 62 or older within a development that is maintained in compliance with the provisions of RSA 354-A: 15, Housing For Older Persons. The Planning Board may waive school impact fee assessments on such age-restricted units where it finds that those units will be bound by lawful deeded restrictions for a period of at least 20 years on occupancy by persons age 62 or older. (*Amended March 2020*)
- b. Other Contributions to Capital Facility Improvement. The Planning Board may agree to waive all or part of an impact fee assessment and accept in lieu of a cash payment, a proposed contribution of real property or facility improvements of equivalent value and utility to the public. Prior to acting on a request for a waiver of impact fees under this provision that involves a contribution of real property or the construction of capital facilities, the Planning Board shall submit a copy of the waiver request to the Board of Selectmen for its review and consent prior to its acceptance of the proposed contribution. The value of contributions or improvements shall be credited only toward facilities of like kind, and may not be credited to other categories of impact fee assessment. Full or partial waivers of impact fees may not be based on the value of exactions for off-site improvements.
- c. Alternative Calculation. An applicant may apply to the Planning Board for a waiver of a portion or the full amount of the impact fee where such waiver application is accompanied by an independent fee calculation that documents the proportionate capital facility cost attributable to the development. The Planning Board shall review such study and may approve a waiver if it finds that the alternative calculation more accurately accounts for the relevant capital facility costs attributable to the development. All costs incurred by the Town for the review of such a study shall be paid by the applicant.

**25.10 Appeal of Impact Fee Assessment**

(*Adopted March 2011*)

- a. A party aggrieved by a decision made by the Building Inspector or other Town official relating to an administrative decision in the assessment or collection of impact fees authorized by this Article may appeal such decision to the Zoning Board of Adjustment as provided by RSA 676:5, as amended.
- b. A party aggrieved by a decision of the Planning Board under this Article may appeal such decision to the Hillsborough County Superior Court as provided by RSA 677:15, as amended.

CERTIFICATION AND FILING WITH THE TOWN CLERK AND NHOSI

Pursuant to RSA 675:6, 8, and 9

Planning Board Certification – (Signature)

1. \_\_\_\_\_ Date: \_\_\_\_\_

2. \_\_\_\_\_ Date: \_\_\_\_\_

3. \_\_\_\_\_ Date: \_\_\_\_\_

4. \_\_\_\_\_ Date: \_\_\_\_\_

5. \_\_\_\_\_ Date: \_\_\_\_\_

6. \_\_\_\_\_ Date: \_\_\_\_\_

7. \_\_\_\_\_ Date: \_\_\_\_\_

Town Clerk Certification – (Signature)

\_\_\_\_\_ Date: \_\_\_\_\_

NH Office of Strategic Initiatives

Copy Forwarded

Date: \_\_\_\_\_

By: \_\_\_\_\_



## **Chapter 334**

### **ZONING**

#### **GENERAL REFERENCES**

**Regional Planning Commission — See Ch. 116.**

**Zoning Board of Adjustment — See Ch. 143.**

**Building construction — See Ch. 178.**

**Building, planning and zoning civil penalties — See Ch. 181.**

**Site plan review — See Ch. 275.**

**Subdivision of land — See Ch. 289.**



ARTICLE I  
**General Provisions**

**§ 334-1. Title.**

This chapter shall be cited as the "Code of the Town of Hudson, NH." It is hereinafter referred to as "this chapter."

**§ 334-2. Purpose.**

The purpose of this chapter is to promote the health, safety and general welfare of the inhabitants as well as efficiency and economy in the process of development, by encouraging the most appropriate use of land throughout the Town and to:

- A. Lessen congestion in streets.
- B. Secure safety from fires, panic and other dangers.
- C. Provide adequate light and air.
- D. Prevent the overcrowding of land.
- E. Avoid undue concentration of population.
- F. Conserve property values.
- G. Facilitate the adequate provision of transportation, solid waste facilities, water, sewerage, schools, parks, child day-care and housing opportunities for all family types and income levels.
- H. Assure the proper use of natural resources and other public requirements.
- I. Preserve and enhance the quality of life.
- J. Prevent the establishment of nuisances. **[Added 3-12-1996]**

**§ 334-3. Statutory authority.**

This chapter is adopted pursuant to authority granted by Title LXIV of the New Hampshire Revised Statutes Annotated and by New Hampshire RSA 674:16 through 674:21, inclusive.

**§ 334-4. Adoption and replacement of prior ordinance.**

This chapter was originally adopted March 10, 1942, by ballot at the Annual Town Meeting. This chapter replaces the Zoning Ordinance of record as of this date, in its entirety.



ARTICLE II  
Terminology

[Amended 3-12-1996; 3-10-1998; 3-9-1999; 3-13-2001 by Amdt. No. 7; 3-12-2002 by Amdt. No. 3; 3-13-2007 by Amdt. No. 1; 3-16-2017 by Art. No. 2]

**§ 334-5. Word usage and interpretation.**

For the purposes of this chapter, certain words, terms or phrases shall bear the meanings defined in § 334-6, unless the context clearly indicates otherwise. Such words, terms and phrases shall appear in CAPITAL LETTERS when used as herein defined.

- A. Words in the present tense include the future.
- B. The singular includes the plural, and the plural includes the singular.
- C. Hierarchy:
  - (1) Terms and words not defined in this article but defined in applicable New Hampshire state statutes or regulations shall have the meanings given therein.
  - (2) Terms and words not defined in this article but defined in the Building Code shall have the meanings given therein.
  - (3) Terms and words not defined in this article, the RSAs or in the Building Code shall have the meanings understood in common usage and as defined in standard American dictionaries.
- D. In interpreting any portion of this chapter, it shall be held as the minimum requirement adopted for promotion of the public health, safety and general welfare of the Town. Whenever any provision of this chapter is at variance with any other provision of the chapter, or with the requirements of any other lawfully adopted rule or regulation, the most restrictive, or that imposing the highest standard, shall govern.
- E. In case of any difference in meaning or implication between the text of these regulations and any caption, illustration, summary table or illustrative table, the text shall govern.
- F. The words "shall," "will," "shall not," "will not" or "may not" are always mandatory and not discretionary, the word "may" is permissive.
- G. The terms "building" or "structure" include any part thereof.
- H. The term "person" includes an individual, a corporation a partnership, an incorporated association, or any other similar entity.
- I. The terms "includes" and "including" shall not limit a term, definition or set of examples to the specified examples, but are intended to extend their meaning to all other instances or circumstances of the like kind of character.
- J. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions or events connected by the conjunctions "and," "or," or "either... or," the conjunction shall be interpreted as follows:

- (1) "And" or "plus" indicates that all the connected items, conditions, provisions or events shall apply.
- (2) "Or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.
- (3) "Either ... or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.

### § 334-6. Definitions.

The following words have the following meanings for the purposes of this chapter and do not affect or supersede definitions contained in any other TOWN ordinance or regulation.

A

**ABANDONMENT** — The visible or otherwise apparent intention of an owner to discontinue a use of a structure or LOT.

**ABUTTER** — Any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration by the local land use board as defined in RSA 672:3. For purposes of receipt of notification by a municipality of a local land use board hearing, in the case of an abutting property being under a condominium or other collective form of ownership, the term "ABUTTER" means the officers of the collective or association, as defined in New Hampshire RSA 356-B:3, XXIII.

**ACCESS** — The right vested in the owner of land to enter and return from that land without obstruction to and from a public way.

**ACCESSORY DWELLING UNIT (ADU)** — A residential living unit that is within or attached to a single-family dwelling, 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 defined in RSA 674:71.<sup>1</sup>

**ADULT BOOKSTORE or ADULT VIDEO STORE** — A SEXUALLY ORIENTED BUSINESS that devotes display, shelf, rack, table, stand or floor area, utilized for the display and sale of the following:

- A. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, videocassettes, slides, tapes, records, CD-ROM's or other forms of visual or audio representations which meet the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1; or
- B. Instruments, devices or paraphernalia which are designed for use in connection with "sexual conduct" as defined in NH RSA 571-B:1, other than birth control devices.

**ADULT CABARET** — A type of SEXUALLY ORIENTED BUSINESS that is a nightclub, bar, restaurant, or similar establishment which meets the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1, and/or

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1. Editor's Note: The former definitions of "accessory building or shed" and "accessory structures," which immediately followed this definition, were repealed 3-9-2021.

feature films, motion pictures, videocassettes, DVDs, Blu-Ray discs, electronic media and storage devices, slides or other photographic or electronic reproductions, a SUBSTANTIAL PORTION of the total presentation time of which is devoted to showing of material which meets the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1.

**ADULT DRIVE-IN THEATER** — A type of SEXUALLY ORIENTED BUSINESS that is an open lot or part thereof, with appurtenant facilities, devoted primarily to the presentation of motion pictures, films, theatrical productions and other forms of visual productions, for any form of consideration to persons in motor vehicles or on outdoor seats, in which materials are shown which meet the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1.

**ADULT USE ESTABLISHMENT** — A type of SEXUALLY ORIENTED BUSINESS that is an establishment offering goods, services or accommodations distinguished or characterized by an emphasis upon the depiction of materials which meet the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1.

**ADULT MOTION-PICTURE ARCADE** — A type of SEXUALLY ORIENTED BUSINESS that is any place to which the public is permitted or invited wherein coin-, token- or slug-operated or electronically, electrically or mechanically controlled still or motion-picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, in which the images so displayed are devoted to the showing of material which meets the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1.

**ADULT MOTION-PICTURE THEATER** — A type of SEXUALLY ORIENTED BUSINESS that has a capacity of five or more persons, where for any form of consideration, films, motion pictures, videocassettes, slides or similar photographic reproductions are shown, and in which a SUBSTANTIAL PORTION OF THE TOTAL PRESENTATION TIME is devoted to the showing of material which meets the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1, for observation by patrons.

**ADULT THEATER** — A type of SEXUALLY ORIENTED BUSINESS that is a theater, concert hall, auditorium or similar establishment, either indoor or outdoor in nature, which for any form of consideration regularly features live performances, which are distinguished or characterized by an emphasis on activities which meet the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1.

**ALTERNATIVE FACILITIES/TECHNOLOGIES (TELECOMMUNICATIONS)** — Innovative siting techniques for use with commercial wireless telecommunication facilities such as artificial trees, clock towers, bell towers, steeples, light poles and similar alternative design mounting structures which camouflage or conceal the presence of antennas, towers or facilities; as well as utility pole and cable-based technologies.

**ALTERNATIVE ENERGY SYSTEMS** — ALTERNATIVE ENERGY SYSTEMS include wind, solar, geothermal, fuel cell, hydroelectric and other similar energy production systems. See:

- A. METEOROLOGICAL TOWER (MET TOWER).
- B. SYSTEM MODIFICATION.

- C. NET METERING.
- D. POWER GRID.
- E. SHADOW FLICKER.
- F. SMALL WIND ENERGY SYSTEM.
- G. SMALL WIND ENERGY SYSTEM HEIGHT.
- H. SMALL WIND ENERGY SYSTEM TOWER.
- I. WIND GENERATOR.

ANTENNA — The radiating system used to perform or achieve (transmit and/or receive) a desired communication or telecommunication service.

APPLICANT — The person, persons, corporation or other legal entity, or their assigns, applying for a VARIANCE, SPECIAL EXCEPTION or APPEAL OF ADMINISTRATIVE DECISION.

AWNING — A cover or appurtenance that is permanent, retractable, temporary or portable in nature and is attached to and wholly supported by a building or other structure.

AWNING SIGN — A sign painted on or attached flat or flush against the surface of the awning, but not extending above, below or beyond the awning or attached to the underside.

## B

BANNER SIGN — A temporary sign of lightweight material (paper, plastic or fabric) hung either with or without frames. Flags and insignias containing only markings of any government, corporation or business are not considered "banners" and are defined separately as "flags."

BEST MANAGEMENT PRACTICE — The standard described in the current of Erosion and Sediment Control Design Handbook for Developing Areas of New Hampshire prepared by United States Department of Agriculture Soil Conservation Services. **[Amended 3-10-2020 ATM, Art. No. 2]**

BMP — See "BEST MANAGEMENT PRACTICE."

BOARD, ZBA or ZONING BOARD OF ADJUSTMENT — Unless otherwise specified, "BOARD" or "ZONING BOARD OF ADJUSTMENT" means the Town of Hudson, NH, ZONING BOARD OF ADJUSTMENT as appointed by the Town Selectmen.

BOG — A wetland distinguished by stunted evergreen trees and shrubs, the presence of peat deposits and/or highly acidic soil and/or water conditions as defined in the New Hampshire Code of Administrative Rules issued by the New Hampshire Wetlands Board. **[Amended 3-10-2020 ATM, Art. No. 2]**

BUFFER — The protected upland areas adjacent to wetlands and surface waters in the Wetlands Conservation Overlay District. **[Amended 3-10-2020 ATM, Art. No. 2]**

BUILDING — Any structure used or intended for supporting or sheltering any use of



occupancy.**[Added 3-9-2021]**

**BUILDING CERTIFICATE** — A certificate obtained from the Planning Board entitling the holder to obtain one building permit for one dwelling unit. Dwelling units, as defined in this article, include single-family homes and duplexes on individual lots, as well as individual condominium units and apartments in multifamily structures shown on approved site plans. A building certificate is valid for a period of two years from the date of issuance, by which time it must be redeemed for a building permit, or expire.<sup>2</sup>

**BUILDING, ACCESSORY** — A building in which a use that is customarily incidental and subordinate to that of the principal use is being conducted, including temporary or portable structures.**[Added 3-9-2021]**

**BUILDING, ATTACHED** — A building having any portion of one or more walls or roof in common with adjoining buildings.

**BUILDING, DETACHED** — A building not sharing any walls or portions of any walls or roof with adjoining buildings.

**BUILDING LINE** — The perimeter of that portion of a building nearest a property line, but excluding open steps, terraces, cornices and other ornamental features projecting from the building of structure.**[Added 3-9-2021]**

**BUILDING, PRINCIPAL** — A building in which a principal use is being conducted.**[Amended 3-9-2021]**

**BUILDING SETBACK** — The minimum required distance between the property line and the building line.**[Amended 3-9-2021]**

**BUILDING SIGN** — Any sign affixed, mounted, attached to or painted onto the exterior of a building, including awnings, canopies, roof-mounted and projecting signs.

## C

**CANOPY** — A temporary or permanent covered structure, the primary purpose of which is to shield the area beneath it from the elements, and which is supported by posts, poles, columns or other elements directly on or into the ground.

**CAR CANOPY** — A freestanding, lightweight structure used to house vehicles and constructed of tube framing and is partially covered by a canvas, polyethylene or other woven or nonwoven fabric or sheeting cover. This type of structure typically has no side walls and can be easily disassembled and moved. See also "CANOPY."

**CARE FACILITIES** — See NH RSAs.

- A. DAY-CARE NURSERY.
- B. CHILD DAY CARE.
- C. CHILD DAY-CARE AGENCY.
- D. FAMILY DAY-CARE HOME.
- E. FAMILY GROUP DAY-CARE HOME.

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2. Editor's Note: The former definition of "building, structure (accessory), which immediately followed this definition, was repealed 3-9-2021. See now the definition of "building, accessory."

F. GROUP CHILD DAY-CARE CENTER.

G. NIGHT-CARE AGENCY.

H. PRESCHOOL PROGRAM.

I. RESIDENCE.

**CERTIFIED SOILS SCIENTIST** — A professional soils scientist currently certified by the state of New Hampshire pursuant to New Hampshire state statutes and licensed to practice in the state.**[Added 3-10-2020 ATM, Art. No. 2]**

**CERTIFIED WETLANDS SCIENTIST** — A person qualified to delineate wetland boundaries and prepare wetland maps who is currently certified by the State of New Hampshire Board of Natural Scientists, as defined by RSA 310-A:76, II-a.**[Added 3-10-2020 ATM, Art. No. 2]**

**CHILD DAY CARE** — The care and supervision of a child away from the child's home and apart from the child's parents.

**CHILD DAY-CARE AGENCY** — Any person, corporation, partnership, voluntary association or other organization, either established for profit or otherwise, which regularly receives for child day care one or more children, unrelated to the operator or staff of the agency. The total number of hours in which a child may remain in child day care shall not exceed 13 hours per day, except in emergencies. The types of child day-care agencies are defined as follows:

A. **PRESCHOOL PROGRAM** — A child day-care agency providing care and a structured program for children three years of age and older who are not attending a full-day school program. The total amount of hours a child may be enrolled in a preschool program shall not exceed five hours per day.

**CERTIFIED SOILS SCIENTIST** — A professional soils scientist certified by the State of New Hampshire pursuant to New Hampshire state statutes and licensed to practice in the state.

**CERTIFIED WETLANDS SCIENTIST** — A professional wetland scientist certified by the State of New Hampshire pursuant to New Hampshire state statutes and licensed to practice in the state.

**CO-LOCATION, CO-LOCATED (telecommunications — ANTENNA)** — The placement of more than one ANTENNA or INTEGRATED ANTENNA ARRAY on a supporting structure, and appurtenant equipment and devices on the supporting structure and/or ground, necessary to perform or achieve a desired telecommunication service or radio service which is discrete from any other telecommunication or radio service(s) located on the same supporting structure.

**COMMERCIAL VEHICLE, LIGHT** — A vehicle used in commerce, which does not exceed 13,000 pounds gross weight.

**COMMERCIAL VEHICLE, HEAVY** — A vehicle used in commerce, which exceeds 13,000 pounds gross weight.

**COMMERCIAL WIRELESS TELECOMMUNICATION FACILITY** — Any structure, ANTENNA, MAST, tower or other device used to provide a discrete commercial telecommunication service by a single provider or multiple CO-LOCATED providers to

a broad base of usually unrelated users; generally including, but not limited to, cellular telephone, personal communications services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR) and paging.

**CONFORMING LOT** — A parcel of land capable of being occupied by one principal structure or use and its accessory structures or uses and as shown and identified as such on a plat as defined in the TOWN Code.

**CORNER LOT** — See lot, corner. **[2-2-2019 ATM, Art. 03, adopted 3-12-2019]**

## D

**DAY-CARE NURSERY** — A child day-care agency in which child day care is provided for any part of a day, for five or more children under the age of three years.

**DIRECTIONAL SIGN** — Signs identifying entrances, exits, parking areas or loading docks or providing other messages necessary to direct vehicles and pedestrians through or within a site.

**DIRECTORY SIGN** — Signs which identify or locate the occupants of buildings.

**DISTRICT** — An area of land within the TOWN designated as one of the five land use classifications in § 334-9 of this ordinance.

**DUPLEX** — A residential principal building with two DWELLING UNITS, separated either vertically or horizontally, by a fire wall, and with each unit having its own separate entrance. **[Amended 3-10-2020 ATM, Art. No. 3]**

**DWELLING UNIT** — One or more rooms arranged for living, sleeping and cooking purposes with sanitary facilities for the use of one or more individuals living as a single housekeeping unit.

**DWELLING UNIT, MULTIFAMILY** — Three or more DWELLING UNITS attached by any portion of one or more floors, walls or roofs.

## E

**ELECTRONIC CHANGING SIGN** — Electronic message center (EMC), electronic message sign (EMS) and changeable copy board (CCB) signs that display illuminated messages that can change frequently, can flash, display and/or convey messages in text, graphics, pictures, symbols, multiple colors, rhythms, animation and/or patterns. This sign's message may be changed by the electronic switching of lamps, illuminated tubes, bulbs and/or through the apparent movement of light. These signs are capable of storing and/or displaying single or multiple messages in various formats at varying intervals. Definitions related to ELECTRONIC CHANGING SIGNS are:

- A. **BRIGHTNESS** — Also known as "intensity"; the LED Industry measures display intensity in candelas per square meter, which is also referred to as "NITS."
- B. **DIMMING** — The ability to increase or decrease the overall display intensity brightness.
- C. **DIODE** — Also called "light-emitting diode" (LED) or "surface-mounted diode" (SMD).
- D. **LED (LIGHT-EMITTING DIODE/SMD)** — A solid-state component that uses a

semiconductor (a silicon chip or some type of semiconductor) that emits visible light when electric current passes through it.

- E. LUMINANCE — The amount of light that passes through or is emitted from a particular area. The SI unit for luminance is candela per square meter.
- F. NIT or NITS — A luminance-measuring unit equal to one candela (one candle) per square meter measured perpendicular to the rays from the source.
- G. SI UNIT — An abbreviation for the International System of Units.
- H. TEXT — Any form in which writing exists.

ENGINEER or SURVEYOR — The designated, legally recognized engineer or surveyor of the APPLICANT, licensed by the State of New Hampshire, as may be pertinent to the actual services to be performed in accordance with the provisions of RSA 310-A:1 et seq. and as amended.

ENVIRONMENTAL PROTECTION AGENCY or EPA — The federal agency responsible for implementing the Clean Water Act, including the National Pollutant Discharge Elimination System (NPDES) program.

EXTERIOR DISPLAY — The placement of goods for sale or for advertisement, outside of the building or structure, including but not limited to vehicles, garden supplies, gas, tires, motor oil, food and beverages, whether or not contained in vending machines, boats, farm equipment, motor homes and clothes.

EXTERIOR ILLUMINATED SIGN — A sign illuminated by an external electrical source similar, but not limited to, an upright spotlight or top-hung art light. The external electrical source may be turned on/off manually.

## F

FAIR-SHARE REGION AVERAGE GROWTH RATE (FSRAGR) — Average annual percentage increase in residential building permits issued in the six adjacent municipalities of Litchfield, Londonderry, Nashua, Pelham, Windham and Tyngsborough, MA, for the preceding five-year period.

FAMILY DAY-CARE HOME — An occupied residence in which child day care is provided for less than 24 hours per day, except in emergencies, for up to six children from one or more unrelated families. The six children shall include any foster children residing in the home and all children who are related to the caregiver except children who are 10 years of age or older. In addition to the six children, up to three children attending a full-day school program may also be cared for up to five hours per day on school days and all day during school holidays.

FAMILY GROUP DAY-CARE HOME — An occupied residence in which child day care is provided for less than 24 hours per day, except in emergencies, for seven to 12 children from one or more unrelated families. The 12 children shall include all children related to the caregiver and any foster children residing in the home, except children who are 10 years of age or older. In addition to the 12 children, up to five children attending a full-day school program may also be cared for up to five hours per day on school days and all day during school holidays.

FEEPAYER — The person, whether individual or corporate, who pays an impact fee in

conjunction with the issuance of a building permit or occupancy permit.

**FLASHING SIGN** — Any directly or indirectly illuminated sign that exhibits changing natural or artificial light or color effects by any means whatsoever; does not include electronic changing signs (message center).

**FREESTANDING SIGN** — Any sign not affixed or attached to a building which is established on a freestanding frame, mast or pole.

**FRONTAGE** — The distance measured along the FRONT LOT LINE between points of intersection with the SIDE LOT LINES. FRONTAGE along cul-de-sac roadways (HIGHWAYS) shall be measured at the appropriate yard building SETBACK depth from the FRONT LOT LINE between the points of intersection with the SIDE LOT LINES. "FRONTAGE" shall be contiguous and measured along the joining boundary of the FRONT LOT LINE and a Class V or better public RIGHT-OF-WAY. Lot lines bordering limited access roads cannot be considered "FRONTAGE." FRONTAGE shall be capable of providing ACCESS.

## G

**GENERAL RETAIL** — Retail stores and service establishments other than those listed in the Table of Permitted Principal Uses.<sup>3</sup>

**GROUP CHILD DAY-CARE CENTER** — A child day-care agency in which child day care is provided for preschool children and up to five school-age children, whether or not the service is known as day nursery, nursery school, kindergarten, cooperative, child development center, day-care center, center for the developmentally disabled, progressive school, Montessori school, or by any other name.

**GUY WIRE** — A cable-type appurtenant device which is used to secure and steady a tower or mast; and includes all hardware which attaches the cable to the tower or mast and to the ground.

## H

**HEIGHT (GENERAL USE)** — The distance measured from the ground adjacent to the structure, or some other alternatively specified point, up to the highest point of a BUILDING, ANTENNA, STRUCTURE or a supporting structure.

**HEIGHT, SMALL WIND ENERGY SYSTEM** — The vertical distance from ground level to the tip of the wind generator blade when it is at its highest point.

**HEIGHT, SMALL WIND ENERGY SYSTEM TOWER** — The height above grade of the fixed portion of the tower, excluding the wind generator.

**HIGHWAY** — Any travelway, dedicated to or accepted by the Town, whether improved or unimproved, within the TOWN OF HUDSON that is available as public use for travel, regardless of whether or not its popular or legal name contains the term "street," "highway," "road," "roadway," "route," "avenue," "boulevard" or other such nomenclature, which shall include any Class VI roads within HUDSON. In this code, the terms street, road, route, roadway or avenue may be used interchangeably with HIGHWAY.

**HOME OCCUPATION** — The accessory use of a residence for business purposes

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3. Editor's Note: The Table of Permitted Uses is included as an attachment to this chapter.

which is clearly incidental to the principal residential use, provided that the use does not significantly change the residential character or function of the property.

**HOUSING FOR OLDER PERSONS** — Housing that qualifies as "Housing for Older Persons" as defined in § 334-70 and developed according to the provisions of § 334-71 of the Town of Hudson Zoning Ordinance.

**HUDSON** — The TOWN of HUDSON, New Hampshire.

## I

**INFLATABLE OR BALLOON SIGN** — A sign that inflates with air or helium to display advertisements or promotional activities typically known as, but not limited to, tubes, tubes in motion, inflatables, rotatable inflatables or rooftop balloons.

**INTEGRATED ANTENNA ARRAY** — An ANTENNA, MAST or MONOPOLE containing multiple coordinated radiating elements.

**INTERIOR ILLUMINATED SIGN** — A sign that has an internal light source (such as LED, neon or bulb) that may be turned on/off either manually or by remote control and used to display text that is manually affixed to and/or manually changeable in an external message area.

## J

**JUNK** — Any material, such as, but not limited to, discarded metal, glass, paper, building debris, demolition debris, salvage materials, rubber, textiles, rubbish or trash or junked, dismantled or wrecked motor vehicles or motor vehicle parts.

**JUNKYARD** — A commercial establishment or place of business which is used for storing, keeping, buying or selling junk but not including approved solid waste disposal facilities or registered motor vehicle dealers.

**JUNKYARD, MOTOR VEHICLE** — Any place of storage or deposit, whether in connection with another business or not, which has two or more unregistered motor vehicles which are no longer fit for legal use on public highways or any combination of motor vehicle parts or materials, the sum of which in build is equal to or greater than two or more motor vehicles.

## L

**LAND USE REGULATIONS** — The Town of Hudson, NH, Land Use Regulations, consisting of Chapters 193, 200, 275, 276 and 290 of the Hudson Town Code.

**LED SIGN** — A sign that uses light-emitting diodes to form numbers, as in digital clocks, transmit information to the sign from remote controls, form text images and/or illuminate from tiny bulbs that fit into an electrical circuit.

**LOT** — A single contiguous parcel of land. (See also CONFORMING and NONCONFORMING)

**LOT, CORNER** — A corner lot is defined as a lot located at the intersection of two HIGHWAYS that has frontage on each HIGHWAY. **[2-2-2019 ATM, Art. 03, adopted 3-12-2019]**

**LOT LINE, FRONT** — The property line dividing a lot from any street (HIGHWAY) or public RIGHT-OF-WAY without regard to the arrangement or orientation of buildings

or structures on the lot.

**LOT LINE, REAR** — The property line opposite the front lot line, except in the case of corner lots where the owner has the option of choosing which of the property lines not contiguous with streets (HIGHWAYS) or public RIGHTS-OF-WAY is to be considered the "rear lot line."

**LOT, NONCONFORMING** — A lot lawfully existing at the effective date of this chapter, or any subsequent amendment thereto, which is not in conformity with all provisions of this chapter. Notwithstanding the minimum lot area requirements set forth in § 334-27, in any DISTRICT in which structures are permitted, a structure may be erected on a lot which was a LEGAL LOT OF RECORD, even though such lot fails to meet the present requirements for frontage or area, or both, that are applicable for that use in the DISTRICT allowed; provided, however, that such lot is not contiguous with another lot or lots in the same ownership, provided that the property is either on Town sewer or the property owner obtains a state and/or municipal septic permit, and further provided that the zone's minimum front, side and back yard SETBACKS are satisfied.

**LOT OF RECORD** — Land designated as a separate and distinct parcel prior to the date of posting (November 3, 2000) of this article either in a legally recorded deed filed with the Hillsborough County Registry of Deeds or lots or units described as part of a subdivision or site plan recorded at the Hillsborough County Registry of Deeds prior to the date of posting. For the purpose of this article, a lot of record shall also be defined to include separately defined condominium units, as well as individual units in duplexes and multifamily structures, shown on site plans and/or subdivision plans accepted for review by the Hudson Planning Board prior to the date of posting.

**LOT, THROUGH** — An interior lot, the FRONT and REAR LOT LINES of which abut streets (HIGHWAYS), or a corner lot two opposite lines of which abut streets (HIGHWAYS); any lot that has street (HIGHWAY) frontage along two or more nonadjacent LOT LINES.

## M

**MANUFACTURED HOUSING** — A home built entirely in a factory under the federal building code administered by the Department of Housing and Urban Development (HUD), and constructed to meet the current Manufactured Home Construction and Safety Standards (HUD Code). A manufactured home is permanently attached to a steel frame, can be moved from one TOWN-approved location to another TOWN-approved location, and is considered personal property. MANUFACTURED HOUSING does not include MODULAR HOUSING, nor campers or recreational mobile homes.<sup>4</sup>

**MARSH** — A wetland where the vegetation is distinguished by the absence of trees and shrubs and dominated by soft-stemmed herbaceous plants and other emergent vegetation, such as grasses, reeds and sedges. The water table is at or above the surface throughout the year but can fluctuate seasonally. **[Amended 3-10-2020 ATM, Art. No. 2]**

**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

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4. Editor's Note: The definition of "major commercial project," which immediately preceded this definition, was repealed 3-13-2018 ATM by Amdt. No. 5.

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 article, "met towers" shall refer only to those whose purpose is to analyze the environmental factors needed to assess the potential to install, construct or erect a small wind energy system.

**MODULAR HOUSING** — A home built entirely in a factory under the current NH State building code, which is also a part of the current IRC (International Residential Code). A modular home is assembled on site, cannot be moved, is considered real property, and is allowed in all residential districts in the TOWN.

**MONOPOLE** — A freestanding tower consisting of a single pole, constructed without guy wires or lattice characteristics, which relies solely on self-support (direct attachment to the ground) to remain upright.

**MONUMENTATION** — The installation of permanent markers that define corners, boundaries, and rights-of-way when surveying land.

## N

**NEW DEVELOPMENT** — The subdivision, building construction or other land use change which results in: a net increase in the capital facilities service demands as identified in the Planning Board's impact fee schedules; and/or the conversion of a legally existing use to another use or activity which created an increase in capital facilities service demands.

**NET METERING** — The difference between the electricity supplied to a customer over the electric distribution system and the electricity generated by the customer's wind or solar energy system that is fed back into the electric distribution system over a billing period.

**NHDOT** — The New Hampshire Department of Transportation.

**NHDES** — The New Hampshire Department of Environmental Services.

**NIGHT-CARE AGENCY** — A center or family home in which child day care is provided during the evening and night hours. A child day-care agency may be licensed for day care, night care, or both.

**NONCONFORMING LOT** — A parcel of land not capable of being occupied by one principal structure or use and its accessory structures or uses and as shown and identified as such on a plat as defined in the Town Code.

**NUDE MODEL STUDIO** — A place where a person who appears in a state of nudity or displays male genitals in a state of sexual arousal and/or the vulva or more intimate parts of the female genitals, and is observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration or such display is characterized by an emphasis on activities which meet the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1.

## O

**OCEAN CONTAINER** — A shipping container of the type typically used for freight movement. Constructed of steel and typically sealed from the weather and lockable. Also



known as "cargo container," "CONEX container" and "land/sea container."

**OPEN SPACE DEVELOPMENT (OSD)** — A form of land subdivision where lot size and other dimensional requirements and minimum road widths may be reduced in exchange for the permanent preservation or provision of proportional areas of open space, farmland, recreational land and other lands.

**OUTSIDE STORAGE** — The placement of goods outside of a building or structure.

## P

**PARKING SPACE** — An off-street space, whether inside or outside a structure, for exclusive use as a parking stall for one motor vehicle.

**PERSONAL SERVICE ESTABLISHMENT** — A facility predominantly providing uses including, but not limited to, hair salons, barber shops, manicures, health spas, tailors, dry cleaners, tattooing, body piercing, fortune telling and other psychic services, cobblers and massage therapy.

**PLAT** — The map, drawing or chart on which the final PLAN of SUBDIVISION is presented to the PLANNING BOARD, and which, if approved, shall be filed or recorded with the Hillsborough County Register of Deeds.

**POORLY DRAINED SOILS** — Soils where the water is removed so slowly that the soil is saturated periodically during the growing season or remains wet for long periods of time as defined in the United States Soil Conservation Service Soils Survey of Hillsborough County, Eastern Half (latest edition).[**Amended 3-10-2020 ATM, Art. No. 2**]

**PORTABLE CARPORT** — See "CAR CANOPY."

**PORTABLE GARAGE** — A freestanding, lightweight structure used to house vehicles and constructed of tube framing and fully enclosed by a canvas, polyethylene cover or other woven or nonwoven fabric or sheeting. This structure type typically has no permanent footing or floor and can be easily disassembled and moved.

**PORTABLE SIGN** — A sign that is movable, typically set up on a daily basis outside the business establishment, such as, but not limited to, sandwich boards, swinger sidewalk signs, portable billboards, Portasigns, Portasigns in motion or roadside readerboards.

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

**PREEXISTING TOWERS, MASTS AND ANTENNAS** — Any TOWER, MAST, MONOPOLE or ANTENNA lawfully constructed or permitted prior to the adoption of this article. Also, any TOWER, MAST, MONOPOLE or ANTENNA lawfully constructed in accordance with this article which predates an application currently before the Town.

**PUBLIC NUISANCE** — Any use that may endanger the health, safety, peace or enjoyment of the community or a neighborhood due to the emission of smoke, fumes, particulates, noise, vibration, radiation, visual blight or any other like condition.

## R

**RADIO SERVICE FACILITY** — Any structure, ANTENNA, MAST, MONOPOLE or other radio installation device used to achieve desired communication(s) by a user

with a narrow base of related or unrelated users; generally including, but not limited to, amateur radio service, general mobile radio service, citizens band radio service, low-power radio service, aeronautical and marine communications and any other similar radio communications or service which is not specifically named within this definition.

RECEIVE-ONLY FACILITY — Any ANTENNA, MAST, MONOPOLE or other device designed and constructed with the intent to receive broadcast signals typically for household use; including, but not limited to, personal satellite and off-the-air television signals and AM, FM, shortwave and other similar radio signals.

RECREATIONAL VEHICLE — A vehicle, motorized or not, which is designed and used primarily for the purpose of recreation, including but not limited to the following: vehicles defined in RSA Chapter 215, boats, motorhomes and recreational trailers.

RESERVE STRIP — Includes areas for which future public use is intended for street (HIGHWAY) connections, for street (HIGHWAY) improvements and for street or pedestrian ways giving ACCESS to land dedicated for public use.

RIGHT-OF-WAY — The area of land owned, used by or available to the Town for street (HIGHWAY) purposes, including any ancillary purposes thereto.

RSA — The NH Revised Statutes, Annotated.

## S

SECONDARY USE — A use of land or of a building or of a portion thereof which is unrelated to the principal use of the land or building.

SEDIMENT — Solid material, either mineral or organic, that is in suspension, is transported, or has been moved from its site of origin by erosion.

SEXUAL ENCOUNTER CENTER — A business or commercial enterprise that as one of its primary business purposes offers for any form of consideration:

- A. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
- B. Activities between male and female persons and/or persons of the same sex when one or more persons is in the state of nudity; and
- C. When the activities in Subsection A or B above are characterized by an emphasis on activities which meet the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1.

SEXUALLY ORIENTED BUSINESSES — Businesses generally falling into categories regulated or defined in NH RSA 571 et seq. See:

- A. ADULT BOOKSTORE/ADULT VIDEO STORE.
- B. ADULT CABARET.
- C. ADULT DRIVE-IN THEATER.
- D. ADULT USE ESTABLISHMENT.
- E. ADULT MOTION-PICTURE ARCADE.

- F. ADULT MOTION-PICTURE THEATER.
- G. "THE TOTAL PRESENTATION TIME."
- H. "SUBSTANTIAL PORTION OF THE TOTAL PRESENTATION TIME."
- I. SEXUAL ENCOUNTER CENTER.
- J. SEXUALLY ORIENTED BUSINESS.
- K. NUDE MODEL STUDIO.

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.

SHED — See "ACCESSORY BUILDING."

SIGN — An object, display device or structure visible to the public from the exterior of a building which contains any combination of lights, letters, words, objects, graphics, figures, designs, symbols, pictures, logos or colors which are intended to advertise, identify, direct, convey a message to the public or attract attention to an object, person, institution, organization, business or service. See:

- A. AWNING SIGN.
- B. BANNER SIGN.
- C. BUILDING SIGN.
- D. DIRECTIONAL SIGN.
- E. DIRECTORY SIGN.
- F. ELECTRONIC CHANGING SIGN.
- G. EXTERIOR ILLUMINATED SIGN.
- H. FLASHING SIGN.
- I. FREESTANDING SIGN.
- J. INTERIOR ILLUMINATED SIGN
- K. INFLATABLE OR BALLOON SIGN.
- L. LED SIGN.
- M. PORTABLE SIGN.

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 on-site consumption.

SOIL — "Overburden," as described in Basic Soils Engineering, by B.K. Hough, Second Edition, 1969, a copy of which is on file in the office of the Town Engineer.

**STAFF** — The person holding the title of TOWN PLANNER for the Town of Hudson, NH, and, under his or her supervision, any Town administrative, clerical and legal personnel who are engaged by or are employees of the Town.

**STORMWATER MANAGEMENT AND EROSION CONTROL PLAN (SWMP)** — A plan which outlines project features, proposed temporary and permanent erosion control features, maintenance schedules and practices, and the design basis used to establish temporary and permanent stormwater design features.

**STORMWATER POLLUTION PREVENTION PLAN (SWPPP)** — A plan required by the EPA that clearly describes appropriate pollution control measures that include a description of all pollution control measures (i.e., BMPs) that will be implemented as part of the construction activity to control pollutants in stormwater discharges and describes the interim and permanent stabilization practices for the site.

**STORMWATER RUNOFF** — The water from precipitation that is not absorbed, evaporated, or otherwise stored within the contributing drainage area.

**STRUCTURE** — A combination of materials assembled at a fixed location to give support or shelter, such as, but not limited to, a building, bridge, trestle, tower, framework, retaining wall, tank, tunnel, tent, stadium, reviewing stand, platform, bin, fence, sign, flagpole or portable or temporary canopy or garage.

**SUBDIVIDER** — The registered OWNER or authorized agent of the registered OWNER of a SUBDIVISION.

**SUBDIVISION** — The division of a tract or parcel of land into two or more LOTs for the purpose, whether immediate or future, of sale, rent, lease or building development, or requiring the extension of municipal utilities, or the creation of one or more new streets, or the extension of existing streets; provided, however, that DEVELOPMENT for agricultural purposes is expressly excluded. When appropriate to the context of this chapter, the term "SUBDIVISION" shall relate either to the process of subdividing or to the land or area subdivided.

**SUBSTANTIAL PORTION OF THE TOTAL PRESENTATION TIME** — For the purposes of this chapter, "substantial portion of the total presentation time" shall mean the presentation of films or shows described above for viewing on more than seven days within any fifty-six-consecutive-day period.

**SURFACE WATER** — Those portions of waters of the state, as defined by RSA 485-A:2.XIV, which have standing or flowing water at or on the surface of the ground. This includes, but is not limited to, perennial and seasonal streams, lakes, ponds, and tidal waters. **[Amended 3-10-2020 ATM, Art. No. 2]**

**SUSTAINABLE RATE OF DEVELOPMENT** — A target number of building permits to be issued in Hudson in the current year equaling the fair-share region average growth rate for the preceding five years times the total number of dwelling units existing in Hudson in the preceding year. Round any fraction calculated herein to the next whole number.

**SWAMP** — A wetland that is dominated by trees and/or shrubs. **[Amended 3-10-2020 ATM, Art. No. 2]**

**SWPPP** — Stormwater pollution prevention plan (see § 290-5).

**SYSTEM MODIFICATION** — When applied to ALTERNATIVE ENERGY

SYSTEMS, any change to the small wind, solar or other ALTERNATIVE ENERGY SYSTEM that materially alters the size, type or location of the system. Like-kind (same size and general conformation) replacements shall not be construed to be a modification.

## T

TOTAL DWELLING UNITS (DU) — The total number of dwelling units in Hudson on December 31. This number includes single-family homes, as well as dwelling units in duplexes, apartments, condominium developments and other multifamily structures. Note: For 1999, the DU number is 7,965 based on an estimated accounting of the number of dwelling units.

TOWN ENGINEER — The professional engineer who holds the position of Town Engineer for the Town of Hudson, or his or her designated representative, either in a permanent or temporary capacity.

TOWN OF HUDSON, HUDSON or TOWN — The Town of Hudson, NH.

TOWN PLANNER — The person occupying the position of the Town of Hudson, NH, Town Planner.

TOWER — A structure which is designed and constructed to support one or more antennas used by commercial wireless telecommunication facilities and includes all appurtenant devices attached to it. A tower can be freestanding (solely self-supported by attachment to the ground) or supported (attached directly to the ground and with guy wires) of either lattice or monopole construction.

## U

USE, ACCESSORY — Any use which is customary, incidental and subordinate to the principal use of a structure or lot.

USE, CHANGE OF — A "change of use" occurs when the use of any land or building is changed from one land use classification to another or from one category to another category within a land use classification. See Article III, § 334-9B, Use classification, and Article V, § 334-21, Table of Permitted Principal Uses.

USE, PRINCIPAL — The main or primary purpose for which a structure or lot is used.

## V

VARIANCE — A variance is a request to deviate from current zoning requirements. If granted, it permits the owner to use the land in a manner not otherwise permitted by the zoning ordinance. It is not a change in the zoning law. Instead, it is a specific waiver of requirements of the zoning ordinance.

VERY POORLY DRAINED SOILS — Soils where the water is removed so slowly that free water remains at or on the surface during most of the growing season as defined in the United States Soil Conservation Service Soils Survey of Hillsborough County, Eastern Half (latest edition).[**Amended 3-10-2020 ATM, Art. No. 2**]

## W

WETLAND — Pursuant to RSA 482-A:2.X, an area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation typically adapted for life in

saturated soil conditions. <sup>5</sup> [**Amended 3-10-2020 ATM, Art. No. 2**]

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

Y

See Bylaws Chapter 143 TOWN Code.

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5. Editor's Note: The former definitions of "wetland buffer" and "Wetland Conservation District," which immediately followed this definition, were repealed 3-10-2020 ATM, Art. No. 2.

ARTICLE III  
**General Regulations**

**§ 334-7. Conformity required.**

No building or land shall hereafter be used or occupied and no building or structure or part thereof shall be erected, moved or altered unless in conformity with the regulations specified in this chapter for the district in which it is located.

**§ 334-8. Certificate of occupancy.**

A certificate of occupancy will not be issued until all chapter requirements and site plan/development regulations have been met.

**§ 334-9. Land use classifications.**

- A. For the purposes of this chapter, all uses or activities are considered to fall into one of five land use classifications. The Table of Permitted Principal Uses in Article V, § 334-21, further divides each land use class into various related categories.
- B. Use classifications shall be as follows:
- (1) Residential.
  - (2) Community facilities.
  - (3) Agricultural.
  - (4) Retail and service.
  - (5) Industrial.

**§ 334-10. Mixed or dual use on a lot. [Amended 3-13-2018 ATM by Amdt. No. 1]**

- A. Multiple Principal Uses on a lot in the Industrial or Business Zones are permitted provided that the lot meets the area and frontage requirements for the principal use for the district in which it is located and each use is in conformity with all other requirements set forth in this chapter and the Hudson Land Use Regulations pertaining to that use. **[2-2-2019 ATM, Art. 06, adopted 3-12-2019]**
- (1) The Business or Industrial lot has sufficient frontage to satisfy the minimum frontage requirement for the principal use requiring the most frontage.
  - (2) The Business or Industrial lot is of sufficient size to satisfy the minimum lot size requirement for the principal use requiring the most lot area.
- B. For the purposes of this chapter, multiple commercial or industrial uses/activities developed as part of a single site are considered a single principal use.
- C. For the purposes of this article, the addition of accessory uses to a principal use does not result in a dual or mixed use of property.
- D. Multiple or mixed uses on a single lot, which includes a residential use, shall only be allowed by Special Exception in accordance with the general requirements listed

in Article VI, § 334-23. In addition to the general requirements for special exception listed in Article VI, § 334-23, the mixed or dual uses shall be compatible. **[2-2-2019 ATM, Art. 06, adopted 3-12-2019]**

**§ 334-11. Classification of Town roads.**

Town roads shall be classified as follows:

A. Arterials.

- (1) NH 3A (Elm Street, Lowell Road, Webster Street and River Road).
- (2) NH 102 (Derry Street).
- (3) NH 111 (Central Street).
- (4) Dracut Road.

B. Collectors.

- (1) Barretts Hill Road.
- (2) Belknap Road.
- (3) Burns Hill Road.
- (4) Bush Hill Road.
- (5) Greeley Street.
- (6) Highland Street.
- (7) Kimball Hill Road.
- (8) Lawrence Road.
- (9) Musquash Road.
- (10) Old Derry Road.
- (11) Pelham Road.
- (12) Pine Road.
- (13) Robinson Road.
- (14) Wason Road.
- (15) West Road.
- (16) Windham Road.

**§ 334-12. Fences and similar enclosures. [Amended 3-14-1995 by Amdt. No. 3; 3-9-2010 by Amdt. No. 6]**

All fences, walls and similar enclosures, except trees, shrubs and natural vegetation, are subject to the following restrictions:



- A. No permit shall be required for any fence not exceeding eight feet in height in any residential district.
- B. A permit shall be required for any fence, including sports/ tennis enclosures, exceeding eight feet in height in any residential district.
- C. Any fence exceeding eight feet in height must be installed adjacent to or behind the front corner of the home.
- D. Any fence exceeding eight feet in height must have metal or metal reinforced support posts.
- E. Any fence, sports/tennis enclosure, other than for agricultural uses, exceeding 10 feet in height is subject to Planning Board review.
- F. A fence is not subject to setback requirements.
- G. A fence shall be erected so that the side facing adjacent property owners and/or public rights-of-way presents a reasonable appearance.
- H. No fence, hedge, planting or enclosure wall shall obstruct or interfere with roadway and/or driveway sight distances as determined by the office of the Town Engineer.
- I. Outdoor in-ground swimming pools shall be enclosed by a permanent fence which, by itself or together with other permanent appurtenant structures, surrounds the entire perimeter of the intended pool apron area. Except for intended access gates, no openings in the fence shall exist which would allow a sphere greater than four inches in diameter to pass through.
  - (1) For one-family and two-family residences, fences shall not be less than four feet in height, and access gates shall have latching and locking mechanisms installed on interior surfaces or yoke-type latches with padlock holes.
  - (2) For all other residential and nonresidential uses, fences shall be not less than six feet in height, and access gates shall have mechanisms which automatically latch and lock during off-season and closed hours and when lifeguards are off duty.

**§ 334-13. Junkyards prohibited; outdoor storage.**

- A. The operation of a junkyard is not permitted in any district.
- B. The outdoor storage of any of the following are not permitted in any district:
  - (1) More than one unregistered vehicle.
  - (2) Any quantity of waste, refuse, junk or ashes.
  - (3) Bulk storage of oil or gasoline, other than in standard or approved containers or containment facilities.

**§ 334-14. Building height. [Amended 3-8-2016 by Amdt. No. 4; 3-16-2017 by Art. No. 3; 2-2-2019 ATM, Art. 04, adopted 3-12-2019]**

No occupiable structure may exceed 38 feet in height in any district, except as provided in Subsection A below. Height is measured from the average elevation of the finished grade within five feet of the structure to the highest point of the roof, excluding accessory, unoccupied protuberances such as antennas, flagpoles and the like. Nonoccupiable structures such as church spires, steeples, smokestacks, flagpoles, lightpoles and other similar structures may not exceed 100 feet in height in any district, except as provided for in Article VI, Special Exceptions. In all cases, a nonoccupiable structure shall not be capable of falling or collapsing beyond the bounds of the property on which it is situated. The maximum heights and special exception conditions for communications towers, masts and antennas are separately addressed within Article XVIII, Commercial Wireless Telecommunication, Radio Service and Receive-Only Facilities.

- A. In the following described zoning districts/parcels, the maximum allowed occupiable building height shall be 50 feet, and said maximum height shall be restricted to those areas of buildings used exclusively for manufacturing, warehouse, distribution and office space ancillary to said principal uses: Sagamore Industrial Park (IP), located in an Industrial (I) Zoning District, bordered by Sagamore Bridge Road to the south, the Merrimack River to the west, the existing General (G) District to the north and the existing Business (B) District, abutting Lowell Road. (Rte. 3A) to the east, and including all parcels located within this I Zoning District. The General (G) Zoning District abutting to the north of the above-described Sagamore IP, and known locally as the "Friar Property," having frontage off Friars Drive. The portion of the General-One (G-1) Zoning District located to the south of Sagamore Bridge Road and exclusive to the following parcels: Green Meadow Golf Club, 43 Steele Road (Map 239/Lot 001), 11 Steele Road (Map 234/Lot 005), 2 Friel Golf Road (Map 234/Lot 001), 267 Lowell Road (Map 234/Lot 035) and 273 Lowell Road (Map 234/Lot 034). The Industrial (I) Zoning District located along the south border of Central Street (NH Rte. 111), starting at the westernmost border of this I District (i.e., just west of Hudson Park Drive), running along said south border of Central Street to the west border of Sullivan Road and including all parcels located within this I Zone. The Industrial (I) Zoning District located along the north side of Derry Street (NH Rte. 102), at the intersection of West Street, and including all parcels located within this I Zone. The Industrial (I) Zoning District located at 65 River Road (Map 251-001). **[Amended 3-10-2020 ATM, Art. No. 4]**

**§ 334-15. Parking.**

- A. All land uses shall provide for and maintain off-street parking spaces. **[Amended 3-10-1998]**
- (1) Required off-street parking facilities shall be provided on the same lot as the principal use they are designed to serve. All parking spaces shall be paved.
  - (2) Multifamily and all nonresidential uses shall provide and maintain off-street parking in accordance with the site plan or subdivision regulations.

- (3) Parking spaces (except for driveways) in residential zones shall not be located within front, side or rear setback areas.
- B. Parking prohibited. Parking or storing of vehicles in excess of the amounts specified in this section is prohibited.
  - (1) Outdoor parking or storage of more than one unregistered motor vehicle per residential unit.
  - (2) Outside parking or storage of vehicles or trailers used in commerce at residential sites with gross vehicle weight greater than 13,000 pounds. **[Amended 3-14-1995 by Amdt. No. 5; 3-10-1998; 3-13-2007 by Amdt. No. 2]**
  - (3) Outdoor parking or storing of more than one recreational vehicle per residence. Parking or storage shall not take place within setback areas, other than on a driveway. **[Amended 3-10-1998]**
  - (4) Sale of automobiles, trucks or recreational vehicles on a consignment basis is expressly prohibited at any residential or nonresidential site without site plan approval by the Planning Board as a sales location.<sup>6</sup> **[Added 3-14-1995 by Amdt. No. 6]**

**§ 334-16. Building permits. [Amended 3-14-1995 by Amdt. Nos. 7 and 8; 3-10-1998; 3-4-2000; 3-9-2004; 3-13-2012 by Amdt. Nos. 1 and 2]**

Any person, firm or corporation shall obtain a building permit before commencing work on the erection, alteration or movement of any building or structure, except as exempted under Subsection A. For one- and two-family dwellings, the Town of Hudson has adopted by reference and follows the 2009 International Residential Code for One- and Two-Family Dwellings. The Town of Hudson also adopts by reference the Americans with Disabilities Act (ADA) as outlined in 28 CFR Part 36. For structures other than one- and two-family dwellings, the Town of Hudson shall enforce the current provisions of the State Building Code as promulgated pursuant to RSA 155-A:1, as may be amended from time to time. Whenever a provision of this ordinance differs from the authority of the 2009 International Residential Code for one- and two-family dwellings, the provision which imposes the greater restriction or higher standard shall be controlling.

- A. Exemptions. Building permits shall not be required for the following: accessory structures, such as mailboxes, doghouses, birdbaths, ornamental landscaping features, swing sets, children's playhouses, clotheslines, fences eight feet or less in height and other similar types of structures which by custom and reason, in the opinion of the Building Inspector, do not require building permits.
- B. Unoccupied public utility structures. Unoccupied structures up to 200 square feet erected by public utilities which are necessary for the furnishing of adequate service for the public health, safety or general welfare are permitted in all zones and are not subject to the building setback, lot size or frontage requirements of this chapter.

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6. Editor's Note: Former §334-15.1, Retail gasoline sales, added 3-12-2002 by Amdt. No. 1, requiring that lots with stores selling gasoline at retail be located at least 800 feet from another lot with a store selling gasoline at retail, was repealed 3-13-2018 ATM by Amdt. No. 2.

Prior to the issuance of a building permit, such structures and their sites shall be approved by the Planning Board in order to ensure they present a reasonable appearance and do not create a hazard to the public or interfere with the surrounding area.

C. Conditions of issuance.

- (1) No permit, however, shall be issued unless the structure will present a reasonable appearance and will be in keeping with the neighborhood and unless the building is to be finished on the exterior in a permanent manner and is to be suitably painted on the outside whenever the same is of wood or a material customarily painted. This is intended to eliminate the erection of structures obviously out of place for the neighborhood as judged by the property values and neighborhood character.
- (2) No permit shall be issued for the construction of a dwelling unless plans therefor provide for the following:
  - (a) Single residential buildings shall have a minimum of 850 square feet of living area.
  - (b) Duplex residential buildings shall have a minimum of 1,500 square feet of living area.
  - (c) Three-unit and four-unit residential buildings shall have a minimum of 2,250 square feet and 3,000 square feet, respectively.
  - (d) Multifamily residential buildings shall have a minimum per-unit size of 750 square feet.
  - (e) No more than one single-family home or duplex shall be constructed on one lot without Planning Board site plan approval.
- (3) A certificate of occupancy shall be issued by the Building Inspector only after the Zoning Administrator shall have fully inspected the completed premises and found such premises, in all zoned districts, including subdivisions, to be in full compliance with the zoning and subdivision regulations pertaining to the premises to be occupied. No premises shall be occupied without a certificate of occupancy issued by the Building Inspector.
- (4) No permit shall be issued for nonresidential or multifamily units in excess of duplex-residential prior to Planning Board site plan approval. The Planning Board shall have jurisdiction, prior to the issuance of a building permit, over the site location, parking facilities and recreational facilities of all multifamily dwellings and nonresidential structures in all zones. If it is in the public interest, a public hearing shall be held, the cost of which will be borne by the individual or firm requesting the building permit.

D. Validity. If no substantial construction takes place within one year of issuance, the building permit becomes null and void.

**§ 334-16.1. Site plan approval. [Added 3-4-2000]**

No person, persons, partnership, proprietorship, company, trust or corporation shall commence a new use, change a use or commence any site development activity (other than one- or two-family residential activity) without first securing site plan approval from the Hudson Planning Board pursuant to this chapter. These regulations shall apply to the development or change or expansion of use of tracts for nonresidential uses or for "multifamily dwelling units," which are defined as any structures containing more than two dwelling units, whether or not such development includes a subdivision or resubdivision of the site. For the purpose of this chapter, change of use occurs when the use of any land or building is changed from one land use classification to another or from one category to another category within a land use classification as specified in this chapter. E.g., grocery store changes to a food service establishment. No building permits shall be issued until site plan approval has been obtained from the Town of Hudson Planning Board and is recorded with the Hillsborough County registry of Deeds.



ARTICLE IV  
**Establishment of Districts**

**§ 334-17. Districts enumerated; Zoning Map. [Amended 3-13-2001 by Amdt. No. 3]**

For the purposes of this chapter, the Town of Hudson is divided into the following districts as shown and defined on the Official Zoning Map. The Official Zoning Map is made a part of this chapter, by reference, for the purpose of designating the boundaries of districts. The Zoning Map is available in the offices of the Town Planner and Zoning Administrator.

<b>Full Name</b>	<b>Short Name</b>
Residential – One	R-1 (formerly A-1SF)
Residential – Two	R-2 (formerly A-1 and A-2)
Town Residence	TR
Business	B (formerly B-1 and B-2)
Industrial District	I
General	G (formerly D, Rural)
General-One	G-1

**§ 334-18. Districts described.**

- A. Residential - One (R-1). The R-1 Residential District is established to provide for the development of single-family detached homes and customary accessory uses and structures at low densities. The district is intended to be strictly residential in character with a minimum of disturbances due to traffic or overcrowding.
- B. Residential - Two (R-2). The R-2 Residential District is established to provide for the development of single-family and/or two-family (duplex) residences and customary accessory uses and structures and complementary nonresidential uses. The district is intended to provide a diversity of housing types, community facilities, recreational uses and other uses which benefit and are enhanced by the predominantly residential character of the district.
- C. Town Residence (TR). The TR District encompasses established residential neighborhoods which have been developed on smaller lots than the lot size established in other residential districts. The setbacks and use densities reflect traditional New England town or village lot development patterns. The district is intended to permit the continued use, maintenance and vitality of these unique residential areas, protecting their residential character, while simultaneously limiting the expansion of these neighborhoods into adjacent, undeveloped lands.
- D. Business (B). The B District is established to provide for the development of general wholesale and retail commercial uses, services, offices uses, multifamily dwellings and customary accessory uses and structures. **[2-2-2019 ATM, Art. 02, adopted 3-12-2019]**
- E. Industrial (I). The I District is established to provide for industrial development,

warehousing, limited business and commercial uses and customary accessory uses and structures. The district is intended to be strictly nonresidential in character.

- F. General (G). The G District includes all areas not specifically designated as being within an R-1, R-2, TR, B or I District. The district is designed to permit a wide diversity of land uses. Most uses permitted in the other five districts are permitted in the G District. The G District is intended to allow natural constraints, such as infrastructure development and market forces to determine the most appropriate use of land. It is also intended that the G District will eventually be absorbed by the expansion of other existing districts or replaced by newly created districts. The Planning Board will be responsible for maintaining sound planning concepts in this district and shall ensure that conflicting land uses do not abut each other without appropriate buffers. **[Amended 3-8-2016 by Amdt. No. 3]**
- G. General-One (G-1). The G-1 District includes all areas not specifically zoned as being within an R-1, R-2, TR, B, or I District located outside the right-of-way of the Circumferential Highway as depicted on the Town Zoning Map. The District is designed to permit a wide diversity of land uses at a density appropriate to the rural nature of the area, the natural constraints of the land and the lack of infrastructure. Uses permitted in this District are the same as those permitted in the G District. **[Added 3-13-2001 by Amdt. No. 3; amended 3-8-2016 by Amdt. No. 3]**

#### **§ 334-19. Interpretation of Zoning Map and Zoning District Boundaries.**

Where appropriate and unless otherwise indicated, zoning district boundaries shown on the Zoning Map are the center lines of streets, power line rights-of-way, the middle of the channel of waterways or other bodies of water or the Town boundary line. Where a boundary is so indicated that it parallels the center line 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 Zoning Administrator shall determine the location of such boundary, consistent with the intent of this chapter and the Zoning Map. Boundaries defined by the overlay Wetland District are excluded from this section.



ARTICLE V  
**Permitted Uses**

**§ 334-20. Allowed uses provided in tables. [Amended 3-12-2002 by Amdt. No. 2]**

Any uses not specifically listed in the Table of Permitted Principal or Accessory Uses are hereby expressly prohibited.<sup>7</sup>

**§ 334-21. Table of Permitted Principal Uses.**

The Table of Permitted Principal Uses shall be as follows:<sup>8</sup>

- A. In all zoning districts all motor vehicle(s) displayed for sale shall be set back a minimum of 15 feet from the edge of roadway pavement. **[Added 3-9-2004]**

**§ 334-22. Table of Permitted Accessory Uses.**

The Table of Permitted Accessory Uses<sup>9</sup> lists the accessory uses which may accompany those principle uses set forth in the Table of Permitted Principal Uses in § 334-21. The addition of such accessory uses does not result in the mixed or dual use of a parcel and does not require additional lot area, frontage or setbacks. The accessory uses listed in the Table of Permitted Accessory Uses are not intended to be the only accessory uses allowed. Accessory uses, not provided for in the Table of Permitted Accessory Uses, that are appropriate to a district can be permitted as a special exception from the Zoning Board of Adjustment in accordance with the general requirements of Article VI.

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7. Editor's Note: The Tables of Permitted and Accessory Uses are included at the end of this chapter.

8. Editor's Note: The Table of Permitted Principal Uses is included at the end of this chapter.

9. Editor's Note: The Table of Permitted Accessory Uses is included at the end of this chapter.



ARTICLE VI  
**Special Exceptions**

**§ 334-23. General requirements.**

Unless otherwise specified, the Zoning Board of Adjustment shall permit a use by special exception, subject to the following conditions:

- A. The use requested is listed as permitted by special exception in the Table of Permitted Principal or Accessory Uses<sup>10</sup> for the district in which the use is requested or is so similar to other uses permitted by special exception in the relevant district that prohibition of the proposed use could not have been intended.
- B. The proposed use meets all the applicable requirements established in this chapter.
- C. The proposed use is consistent with the purpose and intent of the district in which it is proposed to be located.
- D. The proposed use is compatible with the character of the surrounding neighborhood.
- E. Nonresidential principal uses proposed to be located in residential districts must take primary access from arterial or collector roads.

**§ 334-24. Home occupations. [Amended 3-13-2007 by Amdt. No. 3; 3-10-2009 by Amdt. No. 3]**

Home occupations are defined by the Zoning Ordinance as "any activity carried out for gain by a resident in their dwelling unit, and such activity is a secondary use to the residence." The intent of providing a home occupation special exception is to allow for growth and development of a small in-home business while maintaining the character of residential areas. The applicant acknowledges that if the business grows and no longer meets the listed requirements, the business shall be moved to an appropriately zoned location such as Business, General or Industrial. Home occupations which include sales or service operations for wholesale goods produced or services provided on-site shall be permitted only as a special exception. The Zoning Board of Adjustment must find any such home occupation application to be in full compliance with the following requirements prior to approval of such special exception:

- A. The home occupation shall be secondary to the principal use of the home as the business owner's residence.
- B. The home occupation shall be conducted only by the residents of the dwelling who reside on the premises. If the applicant is the owner, the owner must sign an affidavit, stating he/she is the owner, and the residents of the dwelling are the only individuals conducting the activities associated with the home occupation. Said affidavit shall also state that the owner is responsible for any violations of this chapter. If the applicant is a renter, the owner of the dwelling must sign an affidavit, stating he/she is the owner, and shall acknowledge that the home occupation for the premises shall only be conducted by the current renter(s), who shall be identified

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10. Editor's Note: See § 334-21, Table of Permitted Principal Uses, or § 334-22, Table of Permitted Accessory Uses.

on the application. The owner shall also acknowledge that he/she, as the owner of the dwelling, is responsible for any violations of this chapter conducted at said dwelling. Approval of the home occupation special exception expires with the change of ownership of the property or the rental agreement in effect at the time the home occupation special exception was granted. The home occupation special exception is conditional on the residents of the dwelling and not on the property.

- C. There shall be no employees or "for hire" staff conducting the home occupation activities, unless the employee(s) also resides on the premises.
- D. The home occupation business shall be carried out within the residence and/or within a structure accessory to the residence, such as a garage.
- E. The requested special exception shall be for an occupation which is consistent for what is routinely and/or typically done in a home environment such as a day care, direct office billing, or other activities that are generally service-oriented or produce goods for wholesale purposes.
- F. On-site retail sales are an expressly prohibited home occupation special exception use.
- G. No more than 50% of the finished living space of the dwelling unit shall be used in connection with the home occupation.
- H. Other than the sign(s) permitted under Article XII, there shall be no exterior display nor other exterior indication of the home occupation, nor shall there be any variation from the primarily residential character of the principal or accessory building.
- I. Exterior storage may be permitted only by special exception, granted by the Zoning Board of Adjustment, and must be screened from neighboring views by a solid fence or by evergreens of adequate height and bulk at the time of planting to effectively screen the area. In situations where a combination of existing foliage and/or long distances to neighboring views provide screening, the fencing requirements may be waived at the discretion of the Board.
- J. Objectionable circumstances, such as, but not limited to, noise, vibrations, dust, smoke, electrical disturbances, odors, heat or glare, shall not be produced.
- K. No traffic shall be generated by the home occupation activity that will be substantially greater in volume than would normally be expected in the neighborhood.
- L. Parking.
  - (1) Parking for the home occupation shall be provided off-street and shall not be located in the front yard or within the required setbacks from the side and rear lot lines. Only the existing driveway may be used for the parking of customers. Customer parking shall be limited to a maximum of two vehicles at any one time.
  - (2) Parking of vehicles used in commerce:

- (a) One registered vehicle used in commerce may be parked at the principal or accessory structure, and further provided that personal vehicles used in commerce are excluded from this provision.
  - (b) In the B, I and G Zones (pertaining only to the home occupation activity), one registered vehicle used in commerce may be parked at the principal or accessory structure, provided that there are no heavy commercial vehicles which exceed a weight of 13,000 pounds (gross vehicle weight) and the screening requirements of § 334-24I are met, and further provided that personal vehicles used for purposes of commerce are excluded from this restriction.
- M. Approval of the home occupation special exception expires with the change of ownership of the property or the rental agreement in effect at the time the home occupation special exception was granted. The home occupation special exception is conditional on the residents of the dwelling and not on the property.
- N. The Community Development Director/Zoning Administrator reserves the right to revoke the home occupation special exception if all conditions of the special exception are not maintained.

**§ 334-25. Height of structure.**

Special exceptions may be granted to the building height limits defined in Article III, § 334-14, when required to reduce emissions or improve air quality in accordance with applicable state and/or federal environmental standards, regulations or guidelines.

**§ 334-26. (Reserved)<sup>11</sup>**

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11. Editor's Note: Former § 334-26, Reduction of requirements for mixed and dual uses; compatibility of uses, was repealed 2-2-2019 ATM, Art. 06, adopted 3-12-2019.



ARTICLE VII  
**Dimensional Requirements**

**§ 334-27. Table of Minimum Dimensional Requirements. [Amended 3-14-1995 by Amdt. No. 2; 3-13-2001 by Amdt. No. 3; 3-11-2008 by Amdt. No. 1; 3-10-2009 by Amdt. No. 1]**

The Table of Minimum Dimensional Requirements is included at the end of this chapter.

**§ 334-27.1. General requirements. [Added 3-14-1995 by Amdt. No. 2]**

- A. A lot with one or the other (water or sewage) will be treated as having neither.
- B. The minimum buildable lot area shall not contain wetlands, as defined by the Hudson Zoning Ordinance, shall be contiguous dry land and shall contain no slopes in excess of 25%. **[Added 3-9-1999; amended 3-4-2000]**
- C. Accessory storage structures (sheds) shall be placed to the rear of the main building. **[Amended 3-10-1998]**
- D. Frontage shall be measured in a continuous line along the sideline of a Class V or better street between the points of intersection of the side lot lines with the street. If a lot has frontage on more than one street, the frontage on one street only may be used to satisfy the minimum lot frontage. **[Amended 3-13-2001 by Amdt. No. 1]**

**§ 334-27.2. Lot requirements for subdivision of land. [Added 3-12-2002 by Amdt. No. 5]**

All lots shall meet the minimum lot area, minimum lot frontage, and building setback requirements provided in § 334-27, Table of Minimum Dimensional Requirements. The minimum lot area shall be contiguous land and shall not be separated by a wetland, a waterway, or a right-of-way. The minimum lot area shall not contain wetland, as defined by the Hudson Zoning Ordinance, and shall contain no slopes in excess of 25%.





ARTICLE VIII  
**Nonconforming Uses, Structures and Lots**

**§ 334-28. General requirements.**

Any lawful use of land or buildings rendered nonconforming by the initial adoption of this chapter (in 1942) or by any subsequent amendments to the chapter may be continued, and any use of land or buildings permitted under a variance granted by the Zoning Board of Adjustment may be continued in conformity with any conditions or requirements imposed by the Zoning

Board of Adjustment although such use does not otherwise conform to the requirements of this chapter.

**§ 334-29. Extension or enlargement of nonconforming uses.**

A nonconforming use shall not be extended or enlarged, except by variance.

**§ 334-30. Changes to or discontinuance of nonconforming uses.**

A nonconforming use may not be changed to another nonconforming use. If an existing nonconforming use is discontinued, lapses or is abandoned for a continuous period of 12 months, any subsequent use of such land or building(s) shall conform to the terms of this chapter.

**§ 334-31. Alteration and expansion of nonconforming structures.**

- A. A nonconforming structure may not be altered or expanded, except by variance. A nonconforming structure may be altered, reconstructed, externally or structurally modified, provided that such alterations, reconstruction, extension or structural modification does not make any portion or portions of the existing structure more nonconforming. A nonconforming structure cannot be reconstructed after demolition, except when the structure was demolished by an act of God, fire or flood. A nonconforming building or a building occupied by a nonconforming use may be strengthened and made safe. **[Amended 3-9-2004]**
- B. General - One (G-1) District. Any structure located in the G-1 District that was lawfully occupied upon the posting of the adoption of the regulations for the G-1 District (October 27, 2000) shall be deemed a conforming structure for the purpose of this chapter. **[Added 3-13-2001 by Amdt. No. 4]**

**§ 334-32. Nonconforming lots. [Amended 3-4-2000; 3-13-2018 ATM by Amdt. No. 3]**

A nonconforming lot is a lot lawfully existing at the effective date of this chapter, or any subsequent amendment thereto, which is not in conformity with all provisions of this chapter. Notwithstanding the minimum lot area requirements set forth in Article VII, § 334-27, Table of Minimum Dimensional Requirements, in any district in which structures are permitted, a structure may be erected on a lot which is a lot of record, even though such lot fails to meet the present requirements for frontage or area, or both, that are applicable for that use in the district allowed; provided that the property is either on

Town sewer or the property owner obtains a state and/or municipal septic permit, and further provided that the zone's minimum front, side and back yard setbacks are satisfied. Where a question exists to the applicability of this section the Zoning Administrator shall make any administrative determination with reference to RSA 674:39-a and 674:39-aa.

## ARTICLE IX

**Wetland Conservation District**

[Amended 3-14-1995 by Amdt. No. 1; 3-12-1996; 3-10-1998; 3-9-1999; 3-4-2000;  
3-12-2002 by Amdt. No. 6; 3-10-2020 ATM, Art. No. 2]

**§ 334-33. Authority and purpose.**

- A. The title of this district shall be the Wetlands Conservation Overlay District. This article is adopted under authority granted pursuant to RSA 674:16, Grant of Power, and 674:21, Innovative Land Use Controls. All proposed development, removal of vegetation, and alteration of the land surface within the Wetlands Conservation District is subject to this article.
- B. The purpose of the Wetland Conservation District is to protect the health, safety and general welfare of the public by promoting both the most appropriate use of land and by protecting wetland and surface water ecosystems and water quality in accordance with the goals and objectives of Hudson's Master Plan.
- C. All proposed development, removal of vegetation, and alteration of the land surface within the Wetlands Conservation Overlay District is subject to this article.
- D. The wetlands and buffers in the Town of Hudson are a valuable natural resource requiring careful management to maintain their usefulness to public health, safety and welfare. The Town of Hudson finds that wetlands and buffers:
- (1) Prevent the destruction of, or significant changes to, those wetland areas, related water bodies and adjoining land which provide flood protection.
  - (2) Protect persons and property against the hazards of flood inundation by ensuring the continuation of the natural flow patterns of streams and other watercourses.
  - (3) Provide for nutrient attenuation and augmentation of stream flow during dry periods.
  - (4) Preserve and protect important wildlife habitat and maintain ecological balance.
  - (5) Prevent the expenditure of municipal funds for the purposes of providing and/or maintaining essential services and utilities which might be required as a result of abuse or inharmonious use of wetlands.
  - (6) Protect the wetlands, watercourses, surface and groundwater supplies and waterbodies of the Town from degradation.
  - (7) Preserve and enhance those aesthetic values associated with the Wetlands Conservation Overlay District.

**§ 334-34. Definitions.**

Reference shall be made to §334-6, Definitions, of this chapter for the definition of words and terms used throughout this Wetland Conservation Overlay District Article.

**§ 334-35. Boundaries.**

- A. The Wetlands Conservation Overlay District includes all of the following:
- (1) Surface waters.
  - (2) Wetlands of any size.
  - (3) A fifty-foot-wide buffer around wetlands and surface waters.
- B. For the purposes of this article, the reference line of all wetlands and surface waters shall be established by an on-ground delineation performed by a Certified Wetland Scientist. All wetlands, surface waters, and vernal pools shall be field delineated and defined by a Certified Wetland Scientist.
- C. The Wetland Conservation Overlay District shall not include those wetlands which have developed as a result of the construction of stormwater treatment and/or detention facilities, agricultural use, waste treatment, or other water-dependent structures or uses, and manmade facilities. In the case of beaver activity, the reference line shall be determined by those areas that meet the jurisdiction of the New Hampshire Department of Environmental Services.
- D. When a boundary of the Wetlands Conservation Overlay District is disputed by either the Town of Hudson or an applicant, the Conservation Commission, at the applicant's expense, may engage an independent certified wetlands scientist to determine the location of the Wetland Conservation District limit. The delineation shall be consistent with DES Wetlands Bureau Rules, as amended. The independent Certified Wetland Scientist shall transmit their findings to the applicant who shall add said findings to the project plan. This revised plan, showing both wetland delineation boundaries, shall be presented to the Planning Board who shall make the final determination regarding District boundaries.
- E. The entire length of the upland limit of the wetland buffer shall be marked with highly visible construction tape prior to, and maintained for the full duration of, any construction-related activities. The applicant may also be required to place a permanent monument (e.g., iron pin, granite bound) at all points of the lot lines which intersect with the upland limit of the Wetlands Conservation Overlay District prior to such activities. These monuments shall be shown on the site plan submitted with the application. The applicant may also be required to affix tags to trees or other durable objects (e.g., four-inch-by-four-inch wood posts) at fifty-foot intervals along the upland boundary of the Wetlands Conservation Overlay District, and maintain said tags as needed to provide evidence of the upland side buffer boundary. Tags shall be obtained from the municipality at the applicant's cost.

**§ 334-36. Uses within Wetland Conservation District.**

- A. Permitted uses: The following uses shall be permitted in the Wetland Conservation District, subject to review by the Conservation Commission and the Planning Board. This review is intended to assure that best management practices are used to prevent degradation of the Wetland Conservation District by slope erosion, sedimentation and chemical and thermal pollution. These uses will not: require the erection or construction of any structure; alter the natural surface configuration by

re-contouring or grading of the land, involve filling, dredging, or draining of the wetland; change the flow of water; result in the pollution of the wetlands, surface water, or groundwater; or involve substantial clearing of vegetation, except for the purposes of agriculture or forest management as described below.

- (1) Forest management in the wetland buffer, consistent with best management practices published by the New Hampshire Department of Resources and Economic Development and UNH Cooperative Extension, or their successors.
  - (2) Agriculture, including grazing, cultivation and harvesting of crops, consistent with Best Management Wetland Practices published by the New Hampshire Department of Agriculture, Markets and Food or its successor.
  - (3) Passive recreation such as hiking, fishing, hunting on foot, non-motorized boating. Trails shall have minimal impact on drainage, flora and fauna.
  - (4) Wildlife or fisheries management.
  - (5) Water supply wells, public and private.
  - (6) Rehabilitation, repair or replacement of stormwater management facilities or other structures that lawfully existed prior to March 11, 2020.
- B. Prohibited uses: Any use that is not expressly permitted in §334-36A or by conditional use in §334-36C is prohibited. Prohibited uses that may not be established or expanded within the Wetlands Conservation Overlay District include, but are not limited to, the following:
- (1) Structures, except as provided in §334-36C.
  - (2) Salt storage.
  - (3) Automobile junkyards.
  - (4) Solid or hazardous waste facilities.
  - (5) Use of fertilizer on lawns, except lime or wood ash.
  - (6) Bulk storage or handling of chemicals, petroleum products or hazardous materials.
  - (7) Sand and gravel excavations.
  - (8) Processing of excavated materials.
  - (9) Impervious surfaces, except as provided in §334-36C.
  - (10) Activities which result in soil compaction such as parking vehicles or heavy equipment, except as provided in §334-36C.
  - (11) Underground tanks.
- C. Conditional Uses: Any use not identified as a permitted use listed in §334-36A is presumed to impair the wetland functions and values unless proven otherwise by an applicant as provided below. The following uses may be granted a Conditional Use

Permit by the Planning Board in accordance with §334-37:

- (1) Accessory structures associated with a legally existing primary structure, provided the applicant demonstrates that no practicable alternative exists elsewhere on the lot and outside of the Wetland Conservation Overlay District.
  - (2) Construction of streets, roads, and other access ways, including driveways, footpaths, bridges, and utilities if essential to the productive use of land beyond the Wetland Conservation Overlay District. These uses shall be located and constructed in such a way as to minimize the potential for detrimental impact to the District and be planned, designed, and constructed in a manner consistent with applicable state and local standards. Such construction may be permitted within the District only when no viable alternative is available.
  - (3) Water impoundments for the purposes of creating a water body for wildlife, fire protection, stormwater management, or recreational use. Construction of impoundments for on-site detention and/or treatment of stormwater runoff in the Wetland Conservation Overlay District, provided the Planning Board finds that it is not practical or possible to locate them outside of the District.
  - (4) Other uses which the applicant is able to demonstrate to the satisfaction of the Planning Board that will not significantly interfere with wetland functions and values, water quality, or wildlife habitat pursuant to the statement of purpose of this article; or in the alternative, uses that will impact wetlands functions and values; but, in the opinion of the Planning Board, are not contrary to the public interest and will result in significant public benefit provided:
    - (a) Compensatory mitigation is provided such that those Wetland Conservation Overlay District functions and values to be impacted will be off-set in whole. Such mitigation may be located on- or off-site. As a guide to the type and extent of compensatory mitigation considered, reference shall be made to the New England District Compensatory Mitigation Guidance, US Army Corps of Engineers, New England District, Regulatory Division, 7-22010 as amended.
    - (b) The applicant has demonstrated avoidance and minimization to the fullest extent practical.
- D. Nonconforming Uses: In addition to Article VIII of the Zoning Ordinance, existing, nonconforming uses are subject to the following in the Wetland Conservation Overlay District:
- (1) Expansion of a nonconforming use or structure may be allowed by the Zoning Board of Adjustment in the wetland buffer provided that the encroachment upon the wetland is not increased, and review by the Conservation Commission finds that any potential increased impact upon the wetland functions will be mitigated.
  - (2) Where an existing, nonconforming use or structure within the Wetland Conservation Overlay District is destroyed or in need of extensive repair, it may be replaced or rebuilt, provided that the provisions of Article VIII of this

chapter are met.

- (3) The replaced or rebuilt use shall not have a greater impact on the Wetland Conservation District than the impact of the original use.

**§ 334-37. Conditional Use Permit criteria.**

A. The Planning Board shall, in addition to referencing the findings referenced in the preceding section, consider all relevant facts and information prior to making a decision on any application for a Conditional Use Permit; find that the proposed project is consistent with the stated Purpose of this article; and find, that to the extent possible, the project avoids and minimizes impacts to land situated within the District, including but not limited to the following:

- (1) The proposed activity minimizes degradation of land situated within the District and offsets potential adverse impacts to functions and values of wetlands, surface waters, and vernal pools including but not limited to their capacity to:
  - (a) Support fish and wildlife;
  - (b) Attenuate flooding;
  - (c) Supply and protect surface and groundwater resources;
  - (d) Remove sediments;
  - (e) Remove pollutants;
  - (f) Support wetland vegetation;
  - (g) Promote public health and safety; and
  - (h) Moderate fluctuations in surface water levels.
- (2) The proposed activity will have no significant negative environmental impact to abutting or downstream properties and/or hydrologically connected water and/or wetland resources, including:
  - (a) Increased potential for erosion, siltation, and turbidity of surface waters;
  - (b) Loss of fish and wildlife habitat;
  - (c) Loss of unique habitat having demonstrable natural, scientific, or educational value;
  - (d) Loss or decrease of beneficial aquatic organisms and wetland plants and their habitat;
  - (e) Increased danger of flooding and/or transport of pollutants; and
  - (f) Destruction of the economic, aesthetic, recreational, and other public and private uses and values of the wetland to the community.
- (3) The proposed activity or use cannot practicably be located otherwise on the

site to eliminate or reduce impact to the Wetland Conservation Overlay District.

- (4) The proposed activity incorporates the use of those Best Management Practices recommended by the New Hampshire Department of Environmental Services and/or other state agencies having jurisdiction.
  - (5) All applicable federal and/or state permit(s) have been received for the proposed activity in accordance with New Hampshire Code of Administrative Rules, Part Env-Wt 100-800 and Section 404 of the Federal Clean Water Act, as amended.
  - (6) Where applicable, proof of application to all required state and/or federal permits.
  - (7) Prior to making a decision on any Conditional Use Permit pursuant to the Wetland Conservation Overlay District, the Planning Board shall receive a written comment from the Conservation Commission. The Conservation Commission may recommend the Planning Board impose conditions of approval is deemed necessary to mitigate the potential for adverse effects of the proposed activity or use.
- B. Application requirements for this Conditional Use Permit are set forth in Chapter 276, Administrative Requirements and Definitions.

**§ 334-38. through § 334-41. (Reserved)**



ARTICLE X  
**Manufactured Housing**

**§ 334-42. Requirements for manufactured home subdivisions.**

Manufactured home subdivisions must meet the following requirements:

- A. Manufactured home subdivisions are only permitted in the General District; see the Table of Permitted Principal Uses in § 334-21 of Article V.
- B. The minimum size of the tract of land to be subdivided must be 10 acres.
- C. Only single-family manufactured homes are permitted, and only one manufactured home may be placed on each residential lot within a subdivision.
- D. Each manufactured home shall be affixed to a permanent foundation.
- E. The subdivision shall be screened along its perimeter by a permanent buffer area, not less than 50 feet wide, composed of trees, shrubs or other suitable buffer approved by the Planning Board. The buffer area may be placed on individual lots within the subdivision.
- F. Each manufactured home lot within the subdivision shall meet the dimensional requirement for single-family use in the Table of Minimum Dimensional Requirements in § 334-27 of Article VII.

**§ 334-43. Manufactured home parks.**

- A. Manufactured home parks shall be permitted in the General District; see the Table of Permitted Principal Uses in § 334-21 of Article V.
- B. There are two types of parks: manufactured home park - rental, and manufactured home park - condominium.
  - (1) A rental park is for the rental of land or space within the park for the siting of manufactured homes and may also be for the rental of utilities and other services.
  - (2) A condominium park is a park established as a condominium in accordance with the Condominium Act, RSA 356-B, or established with cooperative ownership otherwise permitted by state law.
- C. Each park must contain a minimum of 10 acres.
- D. Each park must have a principal access to either an arterial or a major collector street. All-season safe sight distance in both directions must be attained at the street entrance.
- E. In all parks, homes must either be skirted with suitable code-conforming materials approved by the Planning Board and anchored or placed on a permanent foundation. Only single-family manufactured homes are permitted on both types of parks.
- F. The maximum density of homes allowed in a manufactured home park is determined by total lot area divided by the minimum building lot area as defined in

Article VII, § 334-27.1B, e.g., if the parcel is 100 acres and 65 acres are dry area and less than 25% slopes, 65 units are permitted. **[Amended 3-9-1999]**

- G. In all parks, each home must be placed on a parcel of land within a park, known as a "space," with a minimum area of 15,000 square feet and with a minimum contiguous frontage of 100 feet along a private road within the park. Only one home may be placed on each space. Each space shall be permanently delineated on the approved site plan. The Planning Board may make reasonable requirements for the location of the placement of homes on a space, including reasonable setback requirements.
- H. The difference between the total of the area of the manufactured home park and the total area of all home lots shall be set aside as common open space to be used for recreation and/or common land purposes.
- I. All on-site facilities (such as roadways, driveways, sewers and drainage systems) shall not be dedicated to the Town unless the Planning Board expressly determines that such a dedication is in the best interests of the Town. On-site facilities shall be constructed to meet Town standards.
- J. All subsurface sewage disposal and water supply requirements for individual or community systems shall be compiled with, or Town water and sewer shall be provided. Community wells and septic disposal systems shall not be located on the required minimum space for the mobile home. Septic disposal areas do not count towards the minimum required open space.
- K. Manufactured housing park developments shall be adequately screened/buffered from abutting residential uses. A permanent buffer area, not less than 50 feet wide, shall be required and approved by the Planning Board for adequacy. The Planning Board shall also make reasonable requirements to ensure that the screen/buffer area will be permanently maintained and preserved.
- L. Two off-street parking spaces must be provided for each space.
- M. All manufactured homes must comply with BOCA and current FHA manufactured home standards.

**§ 334-44. Permit required for manufactured homes.**

No manufactured home may be moved into the Town of Hudson or be placed on a lot unless it has been issued a permit from the Building Inspector.

**§ 334-45. Permit for temporary use of manufactured homes.**

- A. A property owner who is building or rebuilding a home may obtain a permit from the Zoning Administrator to place a manufactured home on the lot where the home is being built or rebuilt for the property owner and his household to occupy as a temporary residence during construction.
- B. The permit shall be issued for a period not greater than one year, to expire 30 days after issuance of a certificate of occupancy for the home. The Zoning Administrator may, for good and sufficient cause, grant the property owner a six-month extension

of the permit. The manufactured home must be removed from the property within 60 days of occupancy of the principal structure (house).

- C. Before receiving the permit, the property owner shall obtain a building permit for the home and shall provide the Zoning Administrator with reasonable assurances that construction will be completed within one year.
- D. A person, partnership or corporation engaged in construction or development may obtain a permit from the Zoning Administrator to place one or more manufactured homes or trailers for nonresidential uses on the construction site for use as office space, storage or sanitary or rest facilities for employees. Such permit shall be issued for an initial period not to exceed one year and may be extended for six-month periods until completion of construction or development.

**§ 334-46. Storage of manufactured homes.**

- A. Manufactured homes may not be stored on land within the Town, except as approved by the Planning Board in accordance with site plan requirements. This provision shall not apply to review homes placed on land in accordance with this article.
- B. No manufactured home may be moved into the Town of Hudson or be placed on a lot unless it has been issued a permit from the Building Inspector.



ARTICLE XI  
**Open Space Development**

**§ 334-47. Purpose.**

The purpose of open space developments is to preserve the rural and scenic character of Hudson by encouraging more efficient patterns of land development which conserve open and green spaces, farmland, wildlife habitats, water resources, scenic areas and other natural resources. It is also designed to provide for increased recreational opportunities and to promote greater neighborhood cohesion, without altering overall land use densities or land use patterns.

**§ 334-48. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

OPEN SPACE DEVELOPMENT (OSD) — A form of land subdivision where lot size and other dimensional requirements and minimum road widths may be reduced in exchange for the permanent preservation or provision of proportional areas of open space, farmland, recreational land and other lands. An "OSD" shall adhere to the permitted uses and density requirements otherwise applicable to the district in which the "OSD" is located.

**§ 334-49. Applicability.**

OSDs may be located in any zoning district and may include any use or combination of uses permitted in the district in which the OSD is located.

**§ 334-50. Density. [Amended 3-12-2002 by Amdt. No. 7**

Minimum density requirements for all uses in an OSD correspond with the minimum lot size requirements established in Article VII, Dimensional Requirements. Total open space provided as a part of an OSD application must be of sufficient land area, when added together with the total land area devoted to individual lots, to provide an overall density no greater than that which would be provided in a non-OSD development. To aid in evaluating the number of allowable lots, all OSD applications submitted to the Planning Board for review shall include both a preliminary, conventional subdivision plan and an OSD plan. The preliminary conventional plan shall, at a minimum, include the zoning district, proposed streets, driveways, lot lines, wetland delineation, wetland setbacks, and a table with calculations for each lot.

**§ 334-51. Lot sizes.**

The area of individual lots within an OSD may be reduced by up to 50% of the minimum lot size requirements established in Article VII, as provided herein.

- A. An area of land, equal to or greater than the difference between the size of each open space lot and the minimum lot size, shall be dedicated to permanent open space, conservation land or recreation land.
- B. No reduced area residential lots shall be arranged to front or abut preexisting streets, roads or highways.

- C. All subsurface sewage disposal and water supply requirements for individual or community systems shall be compiled with, or Town water and sewer shall be provided.

**§ 334-52. Dimensional requirements. [Amended 3-13-2001 by Amdt. No. 2]**

Frontage and setback requirements for individual lots within an OSD may be reduced up to 50% of the minimum frontage and setback requirements established in Article VII, as provided herein, if approved by the Planning Board.

- A. No reduced frontage lots shall be allowed to front on preexisting streets, roads or highways.
- B. Setback reductions shall not be permitted along property lines that abut non-OSD residentially developed properties.

**§ 334-53. Open space requirements.**

The minimum open space requirement of § 334-50 may be provided through common land or individually owned land placed in permanent conservation or recreational easements or by other land use restrictions. The OSD shall comply with the following conditions:

- A. Only undeveloped land, landscaped green space or recreational areas may be included in the calculation of minimum open space requirement. Setback areas along the perimeter of the subdivision may not be included in the open space calculations.
- B. Roadways, driveways, rights-of-way, utility easements, parking areas and other developed areas, except for recreational paths, trails or facilities, may not be included as part of minimum open space requirements.
- C. Wetland(s), road rights-of-way, and slopes in excess of 25%, shall not be considered in the calculation of total lot area. The one-hundred-year floodplain areas shall not exceed 25% of the total land area of the OSD. **[Amended 3-9-1999; 3-12-2002 by Amdt. No. 8]**
- D. Whenever possible, lots or dwelling units should be arranged to abut or have direct access to common open space or recreational land.
- E. Lots and open space should be arranged to preserve and protect prominent natural features, historic or archaeological resources, scenic vistas, surface water bodies and streams and other important natural and man-made landscape features.
- F. The deed for each building lot shall contain an undivided proportional share of all common open space, except as provided for in § 334-54.

**§ 334-54. Compensatory open space.**

- A. Off-site compensatory open space may be permitted at the discretion of the Planning Board where the land meets the following conditions:
  - (1) The land is either comprised of prime farmland soils or it has been used for

active agricultural purposes within the five years prior to the date of application;

- (2) It encompasses important wildlife habitats as recognized or approved by the Conservation Commission;
  - (3) It consists of land with strong potential for providing needed recreational areas for future residents of the proposed development as well as for the Town as a whole;
  - (4) It would serve to provide access to important surface or to protect groundwater resources; or
  - (5) It encompasses other areas of exceptional scenic or historic value.
- B. Where compensatory open space is provided in lieu of on-site open space, the Planning Board may require the developed portion of the OSD to be adequately screened from adjacent properties.
- C. Screening provided under Subsection B shall not be included within minimum open space or lot size calculations.

**§ 334-55. Road standards. [Amended 3-13-2001 by Amdt. No. 2]**

Minimum road and right-of-way widths may be reduced at the discretion of the Planning Board, where such reductions would result in development patterns more harmonious to the natural or man-made features of the site without sacrificing public convenience or safety. All roads within the open space plat shall be public roads.

**§ 334-56. Procedures. [Amended 3-12-2002 by Amdt. No. 9]**

Except as otherwise provided for in this chapter, all single- or two-family OSD subdivisions must comply with the submission, review and approval requirements of Hudson's Land Subdivision Regulations.<sup>12</sup> Nonresidential or multifamily residential OSD shall comply with the submission, review and approval requirements of Hudson's Site Plan Regulations.<sup>13</sup> The Planning Board may adopt additional OSD subdivision or site plan review regulations to govern the review of common lands, private covenants, homeowners' association agreements and other pertinent issues.

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12. Editor's Note: See Ch. 289, Subdivision of Land, Part 1.

13. Editor's Note: See Ch. 275, Site Plan Review.





## ARTICLE XII

**Signs****§ 334-57. Purpose. [Amended 3-10-2009 by Amdt. No. 2]**

The purpose of this article is to encourage the effective use of signage to direct movement, advertise and inform the public while protecting public safety, preserving neighborhood character, aesthetics and minimizing visual clutter.

**§ 334-58. Permit required; exemptions.**

- A. No sign shall be erected or affixed to any building exterior or placed freestanding on any premises, public or private roadways or rights-of-way or altered or moved without a permit issued by the Building Inspector and approved by Zoning Administrator, except as otherwise exempted in this chapter. **[Amended 3-10-2009 by Amdt. No. 2]**
- B. The following signs may be erected without a permit and are not included in the maximum sign area allowed unless otherwise indicated, but must comply with all other requirements of this chapter as stated herein:
- (1) Historic plaques or markers no greater than two square feet in area.
  - (2) Contractor job signs no greater than 12 square feet.
  - (3) Directional or directory signs, no greater than three square feet, which are located outside of setback areas and which are not visible from public rights-of-way or abutting properties; other directional or directory signs are governed by § 334-68 below.
  - (4) National or state flags (not to exceed 40 square feet in area). **[Amended 3-10-2009 by Amdt. No. 2]**
  - (5) Building name signs or signs indicating the date of construction of a building which are no greater than 12 square feet in area and are permanently affixed to a building facade.
  - (6) Temporary signs advertising special events for charitable, religious or other nonprofit organizations in accordance with § 334-61B. These signs must be registered with the Zoning Administrator.
  - (7) Political campaign signs must comply with NH RSA 664:17 as may be amended from time to time. **[Amended 3-13-2007 by Amdt. No. 4]**
  - (8) On-site, temporary signs advertising employment opportunities. These signs are limited to 12 square feet in size. These signs can be in place for no more than 30 days.
  - (9) Signs affixed to or placed within 12 inches of the interior side of a window so as to be visible from the exterior, which advertise products or services available within the building, prices, payment methods or sales, provided that the combined area of the sign(s) does not exceed 25% of the total area of the window. **[Amended 3-4-2000]**

- (10) Utility signs which identify the location of utility lines, cables or pipes.
- (11) Lettering, logos or graphics affixed to products or packaging displayed for on-site sales.
- (12) Lettering, logos or graphics identifying or describing products or their manufacturers, vendors or distributors, which are affixed to the exterior of devices such as vending machines, gasoline pumps and other similar devices.
- (13) Lettering, logos or graphics identifying vehicles or equipment or their manufacturers, vendors or distributors, which are permanently affixed to the exterior of the vehicles or equipment.
- (14) Temporary signs, which advertise garage or yard sales or lost pets. These signs can be in place for no more than three days.
- (15) Signs identifying street addresses or the occupants of residences.
- (16) On-site temporary signs advertising the opening of a new business in accordance with § 334-61.
- (17) Signs installed by governmental bodies.
- (18) Customary signs which give warnings, no larger than two square feet in area, such as "Beware of Dog" or "No Trespassing" signs.
- (19) Residential real estate signs. One unlit sign, no greater than 12 square feet in area, is permitted per residence or residentially zoned parcel of less than 10 acres in area, except in the case of corner or through lots, where one sign is permitted for each side of the lot which fronts on a public right-of-way.
- (20) Nonresidential and large lot real estate signs. One unlit sign, no greater than 32 square feet in area, is permitted per nonresidential site or for any parcel of greater than 10 acres in area, except in the case of corner or through lots, where one sign is permitted for each side of the lot which fronts on a public right-of-way.
- (21) Temporary construction signs. Construction signs for public safety and/or information, including: electronic changing signs (ECS), electronic message centers (EMC) and/or LED signs being used to inform the public at or near construction and traffic-related sites. **[Amended 3-10-2009 by Amdt. No. 2]**
- (22) A sign less than 12 square feet for a hawker and peddler when a hawker and peddler permit is issued by the Town of Hudson. **[Added 3-14-1995 by Amdt. No. 9]**
- (23) Signs used exclusively for the posting or display of an official notice by a public agency or official, or by a person giving legal notice. These signs are limited to three square feet in size. **[Added 3-8-2011 by Art. No. 2]**

### **§ 334-59. Definitions.**

For the purposes of this article, the following definitions apply; other definitions are included in Article II:

**AWNING SIGN** — A sign painted on or attached flat or flush against the surface of the awning, but not extending above, below or beyond the awning or attached to the underside.

**BANNER SIGN** — A temporary sign of lightweight material (paper, plastic or fabric) hung either with or without frames. Flags and insignias containing only markings of any government, corporation or business are not considered "banners" and are defined separately as "flags."

**BUILDING SIGN** — Any sign affixed, mounted, attached to or painted on to the exterior of a building, including awnings, canopies, roof-mounted and projecting signs.**[Amended 3-10-2009 by Amdt. No. 2]**

**DIRECTIONAL SIGN** — Signs identifying entrances, exits, parking areas or loading docks or providing other messages necessary to direct vehicles and pedestrians through or within a site.

**DIRECTORY SIGN** — Signs which identify or locate the occupants of buildings.

**ELECTRONIC CHANGING SIGN** — Electronic message center (EMC), electronic message sign (EMS) and changeable copy board (CCB), signs that display illuminated messages that can change frequently, can flash, display and/or convey messages in text, graphics, pictures, symbols, multiple colors, rhythms, animation and/or patterns. This sign's message may be changed by the electronic switching of lamps, illuminated tubes, bulbs and/or through the apparent movement of light. These signs are capable of storing and/or displaying single or multiple messages in various formats at varying intervals.**[Amended 3-10-2009 by Amdt. No. 2]**

**EXTERIOR ILLUMINATED SIGN** — A sign illuminated by an external electrical source similar, but not limited to, an uplight spotlight or top-hung art light. The external electrical source may be turned on/off manually.**[Added 3-10-2009 by Amdt. No. 2]**

**FLASHING SIGN** — Any directly or indirectly illuminated sign that exhibits changing natural or artificial light or color effects by any means whatsoever; does not include electronic changing signs (message center).

**FREESTANDING SIGN** — Any sign not affixed or attached to a building which is established on a freestanding frame, mast or pole.

**INTERIOR ILLUMINATED SIGN** — A sign that has an internal light source (such as LED, neon or bulb) that may be turned on/off either manually or by remote control and used to display text that is manually affixed to and/or manually changeable in an external message area.**[Added 3-10-2009 by Amdt. No. 2]**

**INFLATABLE OR BALLOON SIGN** — A sign that inflates with air or helium to display advertisements or promotional activities typically known as, but not limited to, tubes, tubes in motion, inflatables, rotatable inflatables or rooftop balloons.**[Added 3-10-2009 by Amdt. No. 2]**

**LED SIGN** — A sign that uses light-emitting diodes to form numbers, as in digital clocks, transmit information to the sign from remote controls, form text images and/or illuminate from tiny bulbs that fit into an electrical circuit.**[Added 3-10-2009 by Amdt. No. 2]**

**PORTABLE SIGN** — A sign that is movable, typically set up on a daily basis outside the business establishment, such as, but not limited to, sandwich boards, swinger sidewalk

signs, portable billboards, Portasigns, Portasigns in motion or roadside readerboards. **[Added 3-10-2009 by Amdt. No. 2]**

### **§ 334-60. General requirements.**

The following requirements apply to all signs:

- A. No sign may be erected within a public right-of-way.
- B. Except as noted in § 334-65, no off-premises advertising signs are permitted in any district.
- C. All signs shall be set back from any public right-of-way a distance not less than 50% of the front setback requirement for other structures within the district in which the sign is located.
- D. No sign may be erected in side or rear setback areas.
- E. All signs shall be set back a distance not less than 25 feet from the point of intersecting rights-of-way.
- F. No sign shall be erected in a residential district, except as allowed in § 334-67, Home occupation signs, § 334-62, Subdivision identification signs, and § 334-58, Residential real estate signs. **[Amended 4-8-1997 by Amdt. No. 2; 3-10-2009 by Amdt. No. 2]**
- G. No flashing signs are permitted in any district.
- H. Electronic changing signs are permitted in the Business (B) and Industrial (I) Zoning Districts subject to the requirements of § 336-64C below. Electronic changing signs shall be prohibited in the Town Residence (TR), Residential (R-1, R-2) and General (G and G-1) Zoning Districts. **[Amended 3-4-2000; 3-10-2009 by Amdt. No. 2; 3-9-2010 by Amdt. No. 2]**
- I. Nonconforming signs and signs associated with nonconforming uses are governed by Article VIII, Nonconforming Uses, Structures and Lots. **[Amended 3-10-2009 by Amdt. No. 2]**
- J. In zoning districts that allow freestanding signs, the maximum height of such signs shall be 30 feet. In addition to the language specific to advertising, all freestanding signs shall have the street number clearly identified. Numbers are to be four inches in height and black or white, whichever will contrast with the proposed sign colors. **[Added 3-4-2000; amended 3-8-2011 by Amdt. No. 2]**
- K. No inflatable, balloon or portable signs are allowed in any DISTRICT unless specifically authorized in a permit issued by the TOWN Board of Selectmen for a fair, festival, limited-duration performance or other event of a temporary nature. **[Added 3-10-2009 by Amdt. No. 2; amended 3-16-2017 by Art. No. 4]**
- L. No sign in any zoning district shall include nudity, images of or reference to specific sexual conduct or activities, images of or references to specific anatomical areas, images of or references to instruments, devices or paraphernalia which are designed for use in connection with specific sexual conduct or activities in any

district. **[Added 3-10-2009 by Amdt. No. 2]**

- M. No sign in any zoning district shall emit audible sound, odor, smoke, steam, mist, laser, hologram or other visible matter, including any sign that employs any stereopticon or motion picture projection. **[Added 3-10-2009 by Amdt. No. 2]**

**§ 334-61. Temporary signs.**

Temporary signs for the purposes indicated below are subject to the following requirements:

- A. Grand opening signs: one unlit sign no greater than 32 square feet in the business, industrial and general districts and 12 square feet in all other districts, advertising the opening, reopening or new location of a business, is permitted per business location for a period not to exceed 30 consecutive days.
- B. Special event signs: one unlit on-site sign, no greater than 32 square feet in the business, industrial and general districts and 12 square feet in all other districts, advertising special events or functions for charitable, religious or other nonprofit organizations or for transitory sporting, cultural or recreational events, provided that the sign is erected no sooner than 30 days prior to the event and is removed within seven days after the event. Special event signs also include banner signs.
- C. Commercial/industrial signs: commercial and industrial sites may display one unlit sign per site for a time period of not more than 10 days in a thirty-day period; the sign shall not exceed 12 square feet. **[Added 3-14-1995 by Amdt. No. 10]**

**§ 334-62. Subdivision identification signs.**

Signs identifying residential subdivisions are subject to the following requirements:

- A. One double-faced or two single-faced unlit signs are permitted at the primary entrance to a subdivision. Dimensions and appearance are to be determined by the Planning Board. **[Amended 3-14-1995 by Amdt. No. 11]**
- B. Only the name of the subdivision, address, any associated symbols or graphics may appear on the sign.

**§ 334-63. Business and industrial building signs.**

Except as otherwise permitted in this article, each individual business may have either one wall, roof-mounted or projecting sign attached to the building within which the business is located subject to the following requirements. The building sign may be implemented in the form of an awning sign.

- A. Maximum size, single-tenant buildings. The maximum sign area, measured in square feet, is 20% of the total area of the building facade upon which the sign is attached or an area equivalent to two times the building frontage, whichever is less.
- B. Maximum size, multitenant buildings. The maximum sign area, measured in square feet, for multitenant buildings is equivalent to two times the building frontage of the individual business.

- C. All signs attached to multitenant buildings shall be of uniform type and height.
- D. No sign may be erected so that its height exceeds the peak of the roof of the building to which it is attached.
- E. Each individual business may have one additional wall or projecting sign to identify side or rear entrances which provide access directly to the business, provided that the size of the additional sign does not exceed 50% of the size of the business principal sign. **[Amended 3-10-2009 by Amdt. No. 2]**

#### **§ 334-64. Freestanding business and industrial signs.**

Except as otherwise permitted in this article, each individual site may have no more than one freestanding pole or ground sign, not attached to any building, subject to the following requirements:

- A. Maximum size: one square foot for each linear foot of road frontage up to a maximum of 100 square feet.
- B. Corner lots or parcels which otherwise abut two public rights-of-way may have one additional freestanding pole or ground sign identifying a side or rear entrance to the site, provided that the size of the additional sign does not exceed 50% of the size of the site's principal sign.
- C. Electronic changing signs are allowed only as a component of a freestanding sign and shall conform to the following minimum requirements along with all other requirements for freestanding signs within the sign ordinance: **[Added 3-9-2010 by Amdt. No. 2]**

- (1) Definitions relevant to electronic changing signs:

**BRIGHTNESS** — Also known as "intensity"; the LED Industry measures display intensity in candelas per square meter, which is also referred to as "NITS."

**DIMMING** — The ability to increase or decrease the overall display intensity brightness.

**DIODE** — Also called "light-emitting diode" (LED) or "surface-mounted diode" (SMD).

**LED (LIGHT-EMITTING DIODE/SMD)** — A solid-state component that uses a semiconductor (a silicon chip or some type of semiconductor) that emits visible light when electric current passes through it.

**LUMINANCE** — The amount of light that passes through or is emitted from a particular area. The SI unit for luminance is candela per square meter.

**NIT or NITS** — A luminance-measuring unit equal to one candela (one candle) per square meter measured perpendicular to the rays from the source.

**SI UNIT** — An abbreviation for the International System of Units.

**TEXT** — Any form in which writing exists.

- (2) No more than one electronic changing sign shall be allowed per lot.

- (3) Electronic changing signs shall not exceed 50% of the area of a freestanding sign or 50 square feet, whichever is smaller. Electronic changing signs shall be restricted to a maximum of four lines of text or message display, and text shall be restricted to a maximum of 10 inches in height.
- (4) Electronic changing signs shall be required to have a minimum of 150 feet between other electronic changing signs located on the same side of a street or roadway.
- (5) Electronic changing signs shall be allowed only on lots with a minimum street frontage in accordance with the Table of Minimum Dimensional Requirements.<sup>14</sup>
- (6) Electronic changing signs shall be located a minimum of 200 feet from any residential dwelling unit.
- (7) The portion of a freestanding sign that contains an electronic changing sign component shall only be operated during the hours the business associated with the electronic changing sign is open.
- (8) All illumination elements on the face of electronic changing signs shall remain at a fixed level of illumination for a period of not less than 15 minutes.
- (9) All text and message displays of an electronic changing sign shall fade onto and off of the electronic message display area, statically and uniformly, at a rate of change of no more than two seconds.
- (10) Electronic changing signs shall be equipped with automatic dimming controls, so the brightness level will be highest during the day and lowest at night. Manufacturer specifications shall be submitted at the time of sign permit specifying maximum sign brightness. The maximum brightness shall not exceed 8,000 NITS with a maximum nighttime reading not to exceed 20% of the sign's maximum brightness.
- (11) Under the provisions of this subsection, the applicant for a sign permit for an electronic changing sign shall provide with the application an affidavit, sworn or attested by the landowner, applicant and sign installer, attesting to the fact that:
  - (a) The sign to be installed meets all of the criteria set forth in the subsection; and
  - (b) That the sign shall operate in a manner consistent with the criteria set forth in this subsection; and
  - (c) The landowner and applicant agree to be held liable, separately or collectively, if these provisions are not met, for any fines or cost incurred by the Town of Hudson to enforce these provisions arising from such violations. This provision shall not be construed to supersede any other responsibility or remedy for such violations set forth in this chapter.

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14. Editor's Note: The Table of Minimum Dimensional Requirements is included at the end of this chapter.

**§ 334-65. Industrial park signs/business park. [Amended 3-8-1994 by Amdt. No. 4]**

An industrial park sign will be permitted along a public right-of-way, in addition to other signage, for the purpose of project identification at the entrances to large-scale developments. The industrial park sign is permitted in addition to other signage.

- A. Maximum sign area shall be 225 square feet for one sign. If one sign cannot be used to identify the project, because of sign location, two signs may be used. In this case each sign may not exceed 100 square feet for each of the two signs.
- B. Minimum setback shall be 25 feet. The sign setback may be reduced by special exception where it can be demonstrated that conditions of the site (e.g., slope, topography, site layout, proximity to limited access arterial roadways, unusual soils or vegetation, etc.) necessitate an exception to the requirements. Issues relative to sight distance and safety shall not be adversely impacted. Proposed signage shall be incorporated into any previously approved landscape or site plan.

**§ 334-66. Institutional signs.**

Except as otherwise permitted in this article, signs associated with noncommercial institutions such as churches, schools, membership clubs and other similar institutions are subject to the following requirements:

- A. Institutions in residential districts may have one freestanding sign, a maximum of 12 square feet in area.
- B. Signs associated with institutions located in all other districts shall comply with the requirements of §§ 334-63 and 334-64 for business and industrial signs.

**§ 334-67. Home occupation signs.**

Except as otherwise permitted in this chapter, each home occupation may have no more than one exterior sign subject to the following requirements:

- A. Maximum size. The maximum sign area is three square feet.
- B. Maximum height. Freestanding pole or ground signs may not exceed eight feet in height.
- C. If the home occupation is carried out in an accessory structure which is set back more than 100 feet from the nearest public right-of-way, an additional sign of two square feet or less may be attached to the accessory structure.
- D. Signs which are not attached to a building must be set back from the right-of-way a minimum of 15 feet.

**§ 334-68. Directional and directory signs.**

Directional or directory signs, other than those excluded under § 334-58B(3), are permitted with a permit but are not considered to be freestanding or building signs for the purposes of this article, provided that they are no greater than three square feet in area and do not contain any additional advertising or messages other than incidental corporate



or institutional symbols or logos.

**§ 334-69. Area and dimensional calculations.**

- A. Area. The area of a sign is considered to be the entire face of a sign or largest single side of a freestanding or projecting sign, including the perimeter or framing which forms the outside shape of the sign. In the absence of a clear perimeter or border, the area of the sign is calculated by enclosing the entire area within which letters, symbols or graphics are contained within an easily recognized geometric shape. Round, three-dimensional or irregularly shaped signs are calculated based on a flat cross section of the broadest portion of the sign. All appendages or riders are calculated within the area of the sign to which they are appended.
- B. Height. The height of a sign is the vertical distance measured from the adjacent undisturbed grade of the sign to the highest point of the sign.



## ARTICLE XIII

**Housing for Older Persons**

**[Amended 3-14-1995 by Amdt. No. 12; 3-13-2001 by Amdt. No. 6; 3-9-2004 ATM, Art. 5; 9-12-2006 by Amdt. No. 1]**

**§ 334-70. Applicability; purpose.**

- A. Housing planned specifically for older persons, in the form of multiple attached units or detached units, as defined as "Housing for Older Persons," in NHRSA 354-A:15 (I), (II), and (III), as the same may be, from time to time, amended, may be developed only in the R-2, TR and G Districts, in accordance with the provisions of this article.
- B. Purpose: to provide affordable alternative housing for the older persons population.

**§ 334-71. Lot size.**

- A. For housing which conforms to the definition of "housing for older persons," in NHRSA 354-A:15(II), as same may be from time to time amended, the minimum buildable land area shall be 7,500 square feet per bedroom and shall have Town water and Town sewer. For housing which conforms to the definition of "housing for older person," in NHRSA 354-A:15(III), as same may be from time to time amended, the minimum buildable land area shall be 10,000 square feet per bedroom and shall have Town water and Town sewer. Further, the maximum building ground coverage of each older persons housing development shall not exceed 20% of the tract and 3,000 square feet, per unit. In addition, all such housing shall conform to the following additional standards:
  - (1) Each dwelling unit shall have no more than two bedrooms, and shall be specifically designed for occupancy by older persons.
  - (2) The occupancy of units within the development shall be limited to family units in which the head of household or spouse is at least 55 years old.
  - (3) The minimum tract area shall be 10 acres and the tract shall have at least 200 feet of frontage on a public road.
  - (4) The development shall, where possible, make provision for on- or off-site pedestrian access to the various community facilities.
  - (5) Emergency vehicle access shall be provided to all structures.
- B. For the purposes of this section, single-room or efficiency units are considered to be one bedroom.
- C. Units are to be no less than 600 square feet.
- D. Parking spaces shall be calculated as 1.4 spaces per unit.

**§ 334-72. Buffers and screening.**

The Planning Board may require sufficient landscaped or naturally vegetated buffers for adjacent uses. Buffers shall be maintained to provide continued screening.

**§ 334-73. Planning Board approval of site plan required.**

Planning Board approval of the site plan is required. The Planning Board may adopt specific regulations for reviewing older persons housing development site plans.

ARTICLE XIII  
ACCESSORY DWELLING UNITS

[Added 3-14-1995 by Amdt. No. 16; amended 3-14-2006 by Amdt. No. 3; 3-16-2017  
by Art. No. 5]

**§ 334-73.1. (Reserved)**

**§ 334-73.2. Purpose.**

The purpose of this article is to increase the supply of affordable housing in the Town without the need for more infrastructure or further land development, while maintaining aesthetics and residence use compatible with homes in the neighborhood.

**§ 334-73.3. Provisions.**

An ADU shall be permitted in zoning DISTRICTS that permit single-family dwellings, and only in accordance with the following provisions:

- A. An ADU is allowed only in single-family dwellings. An ADU is not allowed in two- or multifamily dwellings or in any nonresidential uses.
- B. An ADU is not allowed as a freestanding detached STRUCTURE or as part of any STRUCTURE which is detached from the principal dwelling. MANUFACTURED HOUSING, RECREATIONAL VEHICLES or trailers may not be erected or added to the principal dwelling as an ADU.
- C. Either the principal DWELLING UNIT or the ADU must be occupied by the owner of record of the principal dwelling. Upon request of the Zoning Administrator or other official with the authority to enforce this ordinance, the owner of record shall demonstrate that one of the units is his or her principal place of residence.
- D. The front face of the principal dwelling STRUCTURE is to appear as a single-family dwelling after any alterations to the STRUCTURE are made to accommodate an ADU. Any additional separate entrances must be located on the side or rear of the STRUCTURE.
- E. At least one common interior access between the principal DWELLING UNIT and an ADU must exist. Two external means of egress (common or separate) from both a principal DWELLING UNIT and an ADU must exist.
- F. Separate utility service connections and/or meters for the principal DWELLING UNIT and an ADU shall not exist. (This does not preclude using a type of heating system for an ADU different from the type for the principal DWELLING UNIT.) Separate service connections for common areas shall be as required by building and electrical codes.
- G. A minimum of four off-street paved parking spaces shall be provided to serve the combined needs of the principal DWELLING UNIT and an ADU. There shall not be a separate driveway for the ADU.
- H. The size of an ADU shall not be less than 350 square feet nor greater than 750 square feet. The size of the principal dwelling shall not be reduced to less than 850

square feet in order to accommodate the creation of an ADU. Measurement of size shall be consistent with Town Assessor's practices. **[2-2-2019 ATM, Art. 05, adopted 3-12-2019]**

- I. An ADU shall not have more than two bedrooms.
- J. A building permit for an ADU must be approved and issued prior to the construction of an ADU or conversion of existing space into an ADU.
- K. The house number for the ADU shall be the same as that of the primary DWELLING UNIT, and there shall not be a separate mailbox for the ADU.
- L. Multiple ADUs are not permitted on any LOT in any DISTRICT.
- M. The maximum number of unrelated persons occupying an ADU shall not exceed two.
- N. An ADU shall have an interconnected fire alarm system with the principal DWELLING UNIT.
- O. An ADU shall make provision for adequate water supply and sewage disposal in compliance with RSA 485-A: 38 and regulations adopted by the New Hampshire Department of Environmental Services, but separate systems shall not be required for the principal STRUCTURE and ADU. Verification of compliance with RSA 485-A:38 shall be filed with the Town prior to issuance of a building permit. **[2-2-2019 ATM, Art. 05, adopted 3-12-2019]**

**§ 334-73.4. (Reserved)**

**§ 334-73.5. Procedural requirements.**

An ADU application submitted under the auspices of this article shall include: an accurate copy of the plan, which shall denote, describe and/or identify the intended ADU area. The application shall be submitted to the TOWN Zoning Administrator for determination as to its compliance with this article.

**§ 334-73.6. Minimum lot dimension requirements.**

An ADU shall not be considered an additional DWELLING UNIT for the purposes of determining minimum dimensional requirements of a principal dwelling LOT. An ADU shall be allowed to exist in a principal dwelling on a legal nonconforming lot so long as all provisions of this article can be satisfied. An ADU shall comply with all setback requirements.

**§ 334-73.7. Enforcement authority.**

The Zoning Administrator shall be the final authority on compliance and enforcement issues of this article.

ARTICLE XIV  
**Impact Fees**  
**[Amended 3-12-1996]**

**§ 334-74. (Reserved)<sup>15</sup>**

**§ 334-74.1. Applicability of article.**

- A. This article, as well as regulations and studies adopted by the Planning Board consistent with and in furtherance of this article, shall govern the assessment of fees imposed upon development, including subdivision, building construction or other land use change, in order to meet the needs occasioned by that development for the construction or improvement of capital facilities owned or operated by the municipality, including and limited to water treatment and distribution facilities; waste water treatment and disposal facilities; sanitary sewer; stormwater, drainage and flood control facilities; public road systems and rights-of-way; municipal office facilities; public school facilities; the municipality's proportional share of capital facilities of a cooperative or regional school district of which the municipality is a member; public safety facilities; solid waste collection, transfer, recycling, processing and disposal facilities; public library facilities; and public recreational facilities not including public open space. This article is authorized by New Hampshire RSA 674:21, as an innovative land use control.
- B. The Town of Hudson's Master Plan and Capital Improvements Program have incorporated Town-wide transportation, library, school and recreation expansion plans which identify corresponding capital improvement needs. New development shall be assessed a proportional share of the municipal capital improvement costs which are reasonably related to the capital needs created by the development referenced above and to the benefits accruing to the development from the capital improvements financed by the fee. New development shall be assessed a proportional share of new improvement costs, insofar as new growth places an increased burden on the municipality's capital facilities, including library, school, recreation and transportation facilities. In the future, the Hudson Planning Board may adopt studies and regulations which provide for the assessment of an impact fee upon development with respect to any of the other enumerated capital facilities owned or operated by the municipality for which an impact fee is not presently assessed, but upon which a fee may be lawfully assessed.

**§ 334-74.2. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

**FEEPAYER** — The person, whether individual or corporate, who pays an impact fee in conjunction with the issuance of a building permit or occupancy permit.

**NEW DEVELOPMENT** — The subdivision, building construction or other land use change which results in:

- A. A net increase in the capital facilities service demands as identified in the Planning

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15. Editor's Note: Former § 334-74, Statutory authority, was superseded by §§ 334-74.1 through 334-74.12, adopted 3-12-1996.

Board's impact fee schedules; or

- B. The conversion of a legally existing use to another use or activity which created an increase in capital facilities service demands.

**§ 334-74.3. Imposition of roadway improvement impact fee.**

- A. Any person who seeks to commence new development in the Town of Hudson shall pay an impact fee in the manner and amount set forth in § 334-74.4.
- B. A person may request a full or partial waiver of impact fee payments from the Planning Board if the Board agrees to accept as equivalent value, proposed contributions of land, easements or other improvements. The value of on-site or off-site improvements which are required by the Planning Board as a result of subdivision or site plan review, and which would have to be completed by the developer regardless of the impact fee regulations, shall not be considered eligible for waiver under this article.
- C. Impact fees shall be computed on a fair-share basis, public share and private share.

**§ 334-74.4. Computation of impact fee.**

- A. The amount of the impact fee shall be determined by an Impact Fee Schedule prepared in accordance with the methodology adopted by the Planning Board.
- B. In the case of new development created by the conversion or modification of an existing use, the impact fee shall be based upon the net increase in capital facilities service demands arising from the new use as compared to that which was or would have been assessed upon the previous use.

**§ 334-74.5. Assessment and payment of impact fee. [Amended 3-8-2005 by Amdt. No. 1]**

Impact fees shall be assessed by the Planning Board at the time of subdivision or site plan approval, and shall be stated in the Board's Notice of Decision. When no Planning Board approval is required, impact fees shall be assessed prior to, or as a condition for the issuance of, a building permit or other appropriate permission to proceed with development. Impact fees shall be collected at the time a certificate of occupancy is issued. If no certificate of occupancy is required, impact fees shall be collected when the development is ready for its intended use. The Planning Board and the developer or feepayer may agree on an alternate, mutually acceptable schedule of impact fees payments. If an alternate schedule of payment is established, the Town may require the posting of a bond or issuance of a letter of credit to guarantee future payment of the assessed impact fees.

**§ 334-74.6. Appeals.**

- A. If a feepayer elects to dispute the amount of the impact fee, the feepayer may prepare and submit to the Planning Board an independent fee calculation study for the new development activity which is proposed. The Planning Board shall review such study and render a decision. All costs incurred by the Town for the review of such study shall be paid by the feepayer.



- B. The decision of the Planning Board may be appealed to the Superior Court as provided by RSA 677.15.

**§ 334-74.7. Administration of funds collected.**

- A. All funds collected shall be properly identified and promptly transferred for deposit in individual impact fee accounts for each of the projects for which fees are assessed and shall be used solely for the purpose specified. Impact fee accounts shall be special revenue funds accounts and under no circumstances shall such revenues accrue to the general fund.
- B. The Town Finance Department shall have custody of all fee accounts and shall pay out the same only upon written approval of the Board of Selectmen.
- C. The Town Finance Department shall record all fees paid, by date of payment and the name of the person making payment, and shall maintain an updated record of the current ownership, Tax Map and lot reference number of properties for which fees have been paid under this article for a period of at least six years.

**§ 334-74.8. Refund of fees paid.**

For plans which received application acceptance after July 1, 1993, and in conjunction therewith had an impact fee imposed as a condition of Planning Board approval, the person who paid the impact fee shall be entitled to a refund of that fee, plus accrued interest where:

- A. The impact fee has not been encumbered or legally bound to be spent for the purpose for which it was collected within a period of six years from the date of the complete payment of the fee; or
- B. The calculation of an impact fee has been predicated upon some portion of capital improvement costs being borne by the municipality, and the legislative body has failed to appropriate the municipality's share of the capital improvement costs within six years from the complete payment of the impact fee.

**§ 334-74.9. Credits.**

- A. Land and/or public capital facility improvements may be offered by the feepayer as total or partial payment of the required impact fee. The offer must be determined to represent an identifiable dollar value computed in a manner acceptable to the Planning Board. The Planning Board may authorize the feepayer an impact fee credit in the amount of the value of the contribution.
- B. Any claim for credit must be made prior to the Planning Board vote on subdivision/site plan approval or disapproval.
- C. Credits shall not be transferable, and run only with a specific subdivision or site plan approval.
- D. Credits shall not be transferable from one type of the public capital facilities impact fee to any other impact fee type.
- E. Determinations made by the Planning Board pursuant to the credit provisions of

this section may be appealed to the Superior Court in accordance with RSA 677:15.

**§ 334-74.10. Additional assessments.**

Payment of an impact fee does not restrict the Town or the Planning Board from requiring other payments from the feepayer, including such payments relating to the cost of the extensions of water and sewer mains or the construction of roads or streets or other infrastructure and facilities specifically benefiting the development which are required by the subdivision or site plan review regulations or as otherwise permitted by law.

**§ 334-74.11. Premature and scattered development.**

Nothing in this article shall be construed to limit the existing authority of the Hudson Planning Board to deny new proposed development which is scattered or premature, to require an unbudgeted expenditure of public funds or to otherwise violate the Town of Hudson Zoning Ordinance or the Hudson Planning Board Site Plan Review Regulations or Subdivision Regulations.<sup>16</sup>

**§ 334-74.12. Review of schedule.**

The Impact Fee Assessment Schedule shall be reviewed annually by the Planning Board, using the methodology established. Such review may result in recommended adjustments in one or more of the fees based on the most recent available data regarding current construction cost information.

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16. Editor's Note: See Ch. 275, Site Plan Review, and Ch. 289, Subdivision of Land, respectively.

ARTICLE XV  
**Enforcement and Miscellaneous Provisions**

**§ 334-75. Severability.**

The invalidity, unconstitutionality or illegality of any article, section or provision of this chapter or of any zoning district or boundary shown on the Zoning Map shall not have any affect upon the validity, constitutionality or legality of any other article, section, provision, zoning district or zoning district boundary.

**§ 334-76. Authorization to administer and enforce chapter.**

It is the authority of the Board of Selectmen to administer and enforce this chapter.

**§ 334-77. Zoning Administrator.**

The Board of Selectmen may appoint a Zoning Administrator to administer and enforce this chapter under its general supervisory authority.

**§ 334-78. Building Inspector.**

The Board of Selectmen may appoint a Building Inspector, who shall be the administrative officer charged with the duty of administering and enforcing all codes adopted by the Town that relate to building/structure construction and reconstruction, subject to the general supervisory authority of the Board of Selectmen. Nothing in this provision shall affect any provision contained in the New Hampshire Revised Statutes Annotated that pertains to Building Inspectors.

**§ 334-79. Violations and penalties. [Amended 3-14-2006 by Amdt. No. 2]**

The Town is empowered to pursue violations to this chapter by means of any of the equitable or legal remedies available in state statute, including but not limited to the injunctive relief provision set forth in RSA 676:15; the fines and penalties provision set forth in RSA 676:15; the fines, penalties and award of attorney's fees as set forth in RSA 676:17; the provisions for cease and desist orders as set forth in RSA 676:17-a; the provisions for local land use citations and pleas by mail as set forth in RSA 676:17-b; and such other enforcement or penalty provisions which may be enacted by the New Hampshire Legislature.

**§ 334-80. Board of Adjustment.**

The Zoning Board of Adjustment (ZBA) is established under this chapter in accordance with RSA 673:3.

**§ 334-81. Appeals.**

Any person aggrieved by a decision of the Zoning Administrator or other officer of the Town charged with administering this chapter may appeal to the ZBA. Such an appeal must be made within 30 days from the date of the order or decision complained of, in writing addressed to the Clerk of the ZBA.

**§ 334-82. Time limit. [Added 3-14-1995 by Amdt. No. 13]**

- A. A grant of a variance or special exception by the Hudson Zoning Board of Adjustment shall be valid if exercised within a period of two years following the vote of approval by the Zoning Board of Adjustment. **[Amended 3-13-2018 ATM by Amdt. No. 4]**
- B. If subsequent Planning Board action is needed before work or activity may be commenced pursuant to the variance or special exception, the applicant or his/her successor in interest must gain application acceptance by the Hudson Planning Board within six months of the ZBA vote of approval regarding the granting of the special exception or variance in order to stay the two-year limitation period set forth in Subsection A above. The term "application acceptance" is defined pursuant to Planning Board regulation and the New Hampshire Revised Statutes Annotated. **[Amended 3-13-2018 ATM by Amdt. No. 4]**
- C. For variances or special exceptions which require subsequent Planning Board review and which have gained application acceptance within six months of the original variance or special exception vote of approval, the variance or special exception shall be valid for a period of two years from the Planning Board vote to give conditional or final approval to the applicant's plan, unless active and substantial development or building has begun on the site in accordance with the terms of the approved plan. If conditional approval precedes final approval, the two-year time period shall run from the vote of conditional approval. **[Amended 3-13-2018 ATM by Amdt. No. 4]**
- D. For variances or special exceptions which do not require subsequent Planning Board review, all variances and special exceptions shall expire within two years of the vote of approval as specified in Subsection A above, unless active and substantial development or building has begun on the site in accordance with the special exception, variance or building permit or the variance or exception granted from the terms of this chapter has been otherwise exercised by the applicant or successor in interest. **[Amended 3-13-2018 ATM by Amdt. No. 4]**
- E. If an applicant who has been granted a variance or special exception fails to gain Planning Board application acceptance within six months of the vote of approval for the special exception or variance, the applicant shall not gain any exemption for the running of the two-year time period which governs the grant of a variance or special exception. **[Amended 3-13-2018 ATM by Amdt. No. 4]**
- F. Any request for an extension or renewal of a variance or special exception shall follow the same procedure required for the original appeal: the applicant must fill out a new application, pay a new set of fees in accordance with the fee policy in effect at the time and then bring the matter before the ZBA for a full hearing and review in accordance with the New Hampshire Revised Statutes Annotated, this chapter and the bylaws of the Hudson Zoning Board of Adjustment. Extensions and renewals shall be subject to the statutes, this chapter, regulations and ZBA bylaws in effect at the time of the renewal/extension application. Extensions and renewals are disfavored. A renewal/extension application shall be made no sooner than 90 days prior to the date of expiration and no later than 30 days prior to the variance or special exception expiration.

- G. The Zoning Board of Adjustment may impose reasonable fees upon applicants for the expense of consulting services, investigative studies, review of documents and any other matters that may be required for a particular application. Any such fee shall be subject to the provisions of RSA 673:16. [**Amended 3-8-2005 by Amdt. No. 2**]



ARTICLE XVI  
**Flood Hazard Areas**  
**[Added 3-14-1995 by Amdt. No. 14]**

**§ 334-83. Incorporation of provisions by reference.**

Flood hazard area regulation as described in Chapter 218 of the Code of the Town of Hudson is incorporated by reference as part of this chapter.





ARTICLE XVII  
**Sexually Oriented Businesses**  
[Added 3-9-1999; readopted 3-13-2001 by Amdt. No. 7]

**§ 334-84. Purpose and intent.**

It is the purpose of this article to establish reasonable and uniform regulations to prevent the concentration of sexually oriented businesses within the Town of Hudson; and, it is the intent to promote the health, safety and general welfare of the citizens of the Town of Hudson; and, it is the intent of this article that the regulations be utilized to prevent problems of blight and deterioration which accompany and are brought about by the concentration of sexually oriented businesses; and, the provisions of this amendment have neither the purpose nor the effect of imposing limitation or restriction on the content of any communicative materials, including sexually oriented materials; and, it is not the intent nor effect of this article to restrict or deny access by adults to sexually oriented materials protected by the First Amendment of the United States Constitution, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market; and, neither is it the intent nor effect of this article to condone or legitimize the distribution of obscene material.

**§ 334-85. Permitted locations.**

The establishment of sexually oriented businesses shall only be permitted in the Industrial Zone, provided all regulations, requirements and restrictions pertaining to that zone are met, and the establishment of sexually oriented businesses shall not be permitted within 500 feet of a church or place of worship, parish house or convent; a public, parochial or private school; a state-approved day-care center; another sexually oriented business; a sexually oriented business for which a building permit has been applied for; a residence; any business in which minors constitute more than 50% of the patrons; a public park, recreation or sports facility; Town boundaries; or buildings owned by the Town of Hudson and operated for government use. The word "establishment," as used in this section, shall mean and include either the opening or commencement of any sexually oriented business as a new business or the conversion of an existing business, whether or not a sexually oriented business, to any use included within the definition of a sexually oriented business.

**§ 334-86. Setback distance.**

The setback distance between any sexually oriented business and any protected use shall be 500 feet, measured from the property line of the protected use to any existing (or proposed) parking lot or structure of the sexually oriented business.

**§ 334-87. Site plan approval.**

Site plan approval by the Hudson Planning Board shall be a prerequisite for the establishment of a sexually oriented business. The Planning Board may impose reasonable restrictions relative to buffers, outdoor lighting, signs, parking, egress and ingress, pedestrian movement, landscaping, building aesthetics and measures to ensure that displays of merchandise conform with NH RSA 571-B.

**§ 334-88. Public nuisance per se.**

Violation of the use provisions of this article is declared to be a public nuisance per se, which shall be abated by the Town by way of civil abatement procedures.

**§ 334-89. Limiting clause.**

Nothing in this article is intended to authorize, legalize or permit the establishment, operation or maintenance of any business, building or use which violates any Town of Hudson ordinance or statute of the State of New Hampshire regarding public nuisances, sexual conduct, lewdness or obscene or harmful matter or the exhibition or public display thereof.

**§ 334-90. Severability.**

If any section, subsection, sentence, clause, phrase or any portion of this article is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this article. The legislative body of the Town of Hudson hereby declares that it would have adopted this article and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

ARTICLE XVIII  
**Commercial Wireless Telecommunication, Radio Service and Receive-Only  
Facilities**  
**[Added 3-9-1999]**

**§ 334-91. Scope.**

The scope of this article is to promulgate regulations which address the different operating environments of commercial wireless telecommunication facilities, receive-only facilities and radio service facilities identified pursuant to the applicable federal law and Code of Federal Regulations, adopted pursuant thereto.

**§ 334-92. Purpose: commercial wireless telecommunication facilities.**

In recognition of the federal Telecommunications Act of 1996, this article is designed and intended to balance the interests of the residents of Hudson, telecommunication providers and telecommunication customers in the siting of wireless telecommunication facilities within the Town of Hudson; so as to ensure coordinated development of telecommunication infrastructure while preserving the legitimate need to protect the health, safety and welfare of the Town, its residents and visitors. This article establishes general guidelines for the siting of commercial wireless telecommunication facilities, towers and antennas to enhance and fulfill the following goals:

- A. Preserve the authority of Hudson to regulate and to provide for reasonable opportunity for the siting of commercial wireless telecommunication facilities by enhancing the ability of providers of telecommunication services to provide such services to the community quickly, effectively and efficiently;
- B. Reduce adverse impacts such facilities may create, including, but not limited to, impacts on aesthetics, environmentally sensitive areas, historically significant locations, flight corridors, health and safety by injurious accidents to person and property, and prosperity through protection of property values;
- C. Provide for co-location and minimal impact siting options through assessment of technology, current location options, future available locations and innovative siting techniques;
- D. Permit the construction of new towers only where all other reasonable opportunities have been exhausted; and to encourage the users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas;
- E. Require cooperation and co-location, to the highest extent possible, between competitors in order to reduce cumulative negative visual and property value impacts upon the Town;
- F. Provide maintenance and safety inspections for any and all facilities;
- G. Provide for the removal of abandoned facilities that are no longer inspected for safety concerns and Building Code compliance; provide a mechanism for the Town to remove these abandoned facilities to protect the citizens from imminent harm and danger;

- H. Provide for the removal or upgrade of facilities which are technologically outdated; and
- I. Provide for the protection of the environment and open space; and preserve community character, scenic vistas and historic heritage.

**§ 334-93. Definitions.**<sup>17</sup>

As used in this article, the following terms shall have the meanings indicated:

**ALTERNATIVE FACILITIES/TECHNOLOGIES** — Innovative siting techniques for use with commercial wireless telecommunication facilities such as artificial trees, clock towers, bell towers, steeples, light poles and similar alternative design mounting structures which camouflage or conceal the presence of antennas, towers or facilities; as well as utility pole and cable-based technologies. **[Added 3-9-1999]**

**ANTENNA** — The radiating system used to perform or achieve (transmit and/or receive) the desired communication or telecommunication service. An "integrated antenna array" means multiple coordinated radiating elements. **[Added 3-9-1999]**

**CO-LOCATION** — The placement of more than one antenna or integrated antenna array on a supporting structure, and appurtenant equipment and devices on the supporting structure and/or ground, necessary to perform or achieve a desired telecommunication service or radio service which is discrete from any other telecommunication or radio service(s) located on the same supporting structure. **[Added 3-9-1999]**

**COMMERCIAL WIRELESS TELECOMMUNICATION FACILITY** — Any structure, antenna, tower or other device used to provide a discrete commercial telecommunication service by a single provider to a broad base of usually unrelated users; generally including, but not limited to, cellular telephone, personal communications services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR) and paging. **[Added 3-9-1999]**

**GUY WIRE** — A cable-type appurtenant device which is used to secure and steady a tower or mast; and includes all hardware which attaches the cable to the tower or mast and to the ground. **[Added 3-9-1999]**

**HEIGHT** — The distance measured from the ground, or some other alternatively specified point, up to the highest point of an antenna or a supporting structure. **[Added 3-9-1999]**

**MAST** — A structure which is designed and constructed to support one or more antennas used by radio service and/or receive-only facilities and includes all appurtenant devices attached to it. A mast can be of "lattice" construction having a diameter of no more than one foot which is freestanding (solely self-supported by direct attachment to the ground), supported (attached to the ground directly and with guy wires), anchored (attached to the ground directly and to some other substantial structure such as a building) and anchored/supported (attached directly to the ground and some other substantial structure and with guy wires to the ground and/or some other substantial structure); or it can be of "pipe" construction having a diameter of no more than four inches which is supported solely by direct attachment to a substantial structure such as a building. **[Added 3-9-1999]**

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17. Editor's Note: See also § 334-6, Definitions, for general definitions pertaining to this chapter.

**MONOPOLE** — A freestanding tower consisting of a single pole, constructed without guy wires or lattice characteristics, which relies solely on self-support (direct attachment to the ground) to remain upright.**[Added 3-9-1999]**

**PREEXISTING TOWERS, MASTS AND ANTENNAS** — Any tower, mast or antenna lawfully constructed or permitted prior to the adoption of this article. Also, any tower, mast or antenna lawfully constructed in accordance with this article which predates an application currently before the Town.**[Added 3-9-1999]**

**RADIO SERVICE FACILITY** — Any structure, antenna, mast or other radio installation device used to achieve desired communication(s) by a user with a narrow base of related or unrelated users; generally including, but not limited to, amateur radio service, general mobile radio service, citizens band radio service, low-power radio service, aeronautical and marine communications and any other similar radio communications or service which is not specifically named within this definition.**[Added 3-9-1999]**

**RECEIVE-ONLY FACILITY** — Any antenna, mast or other device designed and constructed with the intent to receive broadcast signals typically for household use; including, but not limited to, personal satellite and off-the-air television signals and AM, FM, shortwave and other similar radio signals.**[Added 3-9-1999]**

**SECONDARY USE** — A use of land or of a building or of a portion thereof which is unrelated to the principal use of the land or building.**[Added 3-9-1999]**

**TOWER** — A structure which is designed and constructed to support one or more antennas used by commercial wireless telecommunication facilities and includes all appurtenant devices attached to it. A tower can be freestanding (solely self-supported by attachment to the ground) or supported (attached directly to the ground and with guy wires) of either lattice or monopole construction.**[Added 3-9-1999]**

#### **§ 334-94. Applicability.**

- A. Public property. Antennas, towers or facilities situated on property owned, leased or otherwise controlled by the Town may be exempt from the requirements of this article; except that uses are only permitted in the districts and areas delineated within § 334-96. This partial exemption shall be available if a license or lease authorizing the antenna, tower or facility has been approved by the governing body and the governing body elects, subject to state law and local ordinance, to seek the partial exemption from this article.
- B. Essential services and public utilities. Commercial wireless telecommunication facilities shall not be considered essential services, infrastructure or public utilities as defined or used elsewhere in the Town's ordinances and regulations. Siting for commercial wireless telecommunication facilities is a use of land and is subject to the Town's Zoning Ordinance and all other applicable ordinances and regulations.

#### **§ 334-95. Siting standards.**

General provisions: The uses listed within this section are deemed to be permitted uses in the designated district in accordance with all other applicable ordinances and regulations of the Town, including site plan review and approval by the Hudson Planning Board.

- A. Commercial wireless telecommunication facilities may be considered either principal or secondary uses. A different existing use or an existing structure on the same lot shall not preclude the installation of a commercial wireless telecommunication facility on such a lot.
- B. For purposes of determining whether the installation of a commercial wireless telecommunication facility complies with district development standards, the dimensions of the entire lot shall control, even though the facility may be located on leased parcels within such lots.
- C. A commercial wireless telecommunication facility which is constructed in accordance with the provisions of this article on a nonconforming lot, or in conjunction with a nonconforming use, shall not be deemed to constitute the expansion of a nonconforming use or structure.
- D. Towers shall not exceed 180 feet in height above the ground. In all cases, a tower's maximum height shall be the minimum height above the ground necessary to perform or achieve the desired communication(s) or telecommunication service(s). Co-location is considered to be within the definition of a desired communication or telecommunication service.
- E. An RF Engineering/Facilities Master Plan shall be submitted for review to include present and future network infrastructure in both Hudson and abutting communities. The lay person shall be able to easily understand the Master Plan and supporting documentation. It shall explain sufficiently why the tower must be in this location. With the exceptions of alternative facilities/technologies, which do not have visible outdoor equipment, and telecommunication facilities placed on existing utility poles, site plan approval is required for all commercial wireless telecommunication facilities, including any such facilities situated on residential sites. **[Amended 3-4-2000]**
- F. The FCC regulates radio frequency (RF) emissions, and local jurisdictions are preempted from prohibiting the construction of commercial wireless telecommunication facilities on the basis of exposure to RF emissions. Owners/operators of commercial wireless telecommunications facilities shall construct such facilities in accordance with FCC regulations pertaining to RF emissions.

**§ 334-96. (Reserved).<sup>18</sup>**

**§ 334-96.1. Districts where conditionally permitted. [Added 3-13-2007 by Amdt. No. 6]**

The goals of this section of this article are to minimize visual blight to nearby property abutters and users of the Town's principal corridors, minimize adverse value impacts to abutters, protect the environment and open space and preserve historic heritage, community character and scenic beauty, while reasonably accommodating desired communication(s) or commercial wireless telecommunication service(s) and encouraging co-location of facilities. The maximum tower height of a commercial

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18. Editor's Note: Former § 334-96, Districts permitted, was repealed 3-13-2007 by Amdt. No. 6. See now §§ 334-96.1 and 334-96.2.

wireless telecommunication facility shall be 180 feet above the ground. In all cases, a tower's maximum height shall be the minimum height above the ground necessary to perform or achieve the desired commercial wireless telecommunication service(s).

**Table of Conditionally Permitted Facilities**

Facility Type	Zoning District					
	I	B	G/G-1	R1	R2	TR
Alternative facilities/ technologies	C	C	C	C	C	C
Monopole -=100, +5xCOR, +5xRES	C	C	C	C	C	C
Monopole -100, +5xCOR, -5xRES	C	C	C	-	-	-
Monopole -100, -5xCOR, +5xRES	C	C	C	-	-	-
Monopole -100, -5xCOR -5xRES	C	C	C	-	-	-
Monopole +100, +5xCOR, +5xRES	C	C	C	-	-	-
Monopole +100, +5xCOR, -5xRES	C	-	C	-	-	-
Monopole +100, -5xCOR, +5xRES	C	C	C	-	-	-
Monopole +100, -5xCOR, -5xRES	C	-	-	-	-	-
*Lattice -100, +5xCOR, +5xRES	C	-	C	-	-	-
*Lattice -=100, +5xCOR, -5xRES	C	-	C	-	-	-
*Lattice -100, -5xCOR, +5xRES	C	-	-	-	-	-
*Lattice -=100, -5xCOR, -5xRES	-	-	-	-	-	-
*Lattice +100, +5xCOR, +5xRES	C	-	C	-	-	-
*Lattice +100, +5xCOR, -5xRES	C	-	C	-	-	-
*Lattice +100, -5xCOR, +5xRES	C	-	-	-	-	-
*Lattice +100, -5xCOR, -5xRES	-	-	-	-	-	-

Notes:

X = proposed tower height

COR = distance from corridor (3A, 102, 111)

**Table of Conditionally Permitted Facilities**

Facility Type	Zoning District					
	I	B	G/G-1	R1	R2	TR
RES = distance from residential use						
*Lattice permitted only if it maximizes co-location vs. monopole						
C = Conditional Use permit required						
- = not conditionally permitted (variance required)						

**§ 334-96.2. Conditional use permit required. [Added 3-13-2007 by Amdt. No. 6]**

Pursuant to NH RSA 674:21(II), the Hudson Planning Board is hereby authorized to issue a conditional use permit for commercial wireless telecommunication facilities according to the Table of Conditionally Permitted Facilities as set forth in § 334-96.1. Application for a conditional use permit shall be made concurrently with application for subdivision and/or site plan approval. In addition to the application submission requirements for subdivision and/or site plan approval, the Planning Board may require the applicant for a conditional use permit to submit an RF Engineering/Facilities Master Plan as provided in § 334-95E. In acting upon any such conditional use permit application the Planning Board shall determine whether the applicant has satisfied the general guidelines set forth in § 334-92 and the siting standards set forth in § 334-95, and the Board may impose such conditions of approval on the conditional use permit as are consistent with this Article XVIII and other provisions of the Hudson Zoning Ordinance. The Planning Board shall hold at least one public hearing on any such conditional use application and, following the public hearing, the Planning Board shall act to approve the application, deny it, or approve it with conditions. Any person aggrieved by a Planning Board decision concerning a conditional use permit may appeal that decision to the Superior Court in the manner provided by RSA 677:15, Court Review. As provided in NH RSA 676:5, III, a Planning Board decision concerning a conditional use permit cannot be appealed to the Hudson Zoning Board of Adjustment.

**§ 334-97. Bonding security and insurance. [Amended 3-4-2000]**

Recognizing the extremely hazardous situation presented by abandoned and unmonitored towers, the Planning Board shall set the form and amount of security that represents the cost for removal and disposal of abandoned towers in the event that the tower is abandoned and the tower owner is incapable and/or unwilling to remove the tower in accordance with § 334-98. Bonding and surety shall be consistent with the provisions in the Subdivision Regulations. Furthermore, the Planning Board shall require submission of proof of adequate insurance covering accident or damage. Bonding shall not be required for alternative facilities/technologies which are an integrated part of an existing structure. Bonding shall be nonlapsing of not less than five-year intervals.

**§ 334-98. Removal of abandoned antennas and towers.**

Any commercial wireless telecommunication facility which is not operated for a continuous period of 12 months shall be considered abandoned and hazardous to the public health and safety, unless the owner of said commercial wireless telecommunication facility provides proof of quarterly inspection. The owner shall



remove the abandoned structure within 90 days of receipt of a declaration of abandonment from the Town. A declaration of abandonment shall only be issued following a public hearing, noticed according to RSA 676:4, with notice to abutters and the last known owner/operator of the tower. If the abandoned commercial wireless telecommunication facility is not removed within 90 days, the Town may execute the bonding security and have the commercial wireless telecommunication facility removed.

**§ 334-99. Purpose: radio service facilities.**

The purpose of this section is to balance a legitimate need to protect the health, safety and welfare of the Town, its residents and its visitors with requirements to reasonably accommodate the operation of radio service facilities under the standards as may be promulgated by any applicable state and/or federal laws and regulations. Particular attention is given to RSA 674:16, IV, which refers to 101 FCC 2d. 952 (1985) entitled "Amateur Radio Preemption" by the FCC.

**§ 334-100. Applicable federal regulation references.**

Applicable federal regulations for the various radio services characterized herein as radio service facilities are all contained within Title 47 Code of Federal Regulations as follows:

- A. Amateur radio service: 47 CFR 97.
- B. General mobile radio service: 47 CFR 95.
- C. Citizens band radio service: 47 CFR 95.
- D. Radio control radio service: 47 CFR 95.
- E. Low-power radio service: 47 CFR 95.
- F. Aeronautical radio service: 47 CFR 87.
- G. Marine radio service: 47 CFR 80.

**§ 334-101. Antenna and mast height.**

- A. Antennas mounted on "pipe-type" masts directly attached to a building, and which are 20 feet or less in height above the roofline peak of the building, and which are assembled and erected using sound practices so they will fall or collapse completely within a property's bounds, are exempt from regulation by this article.
- B. Subject to the added requirements of § 334-102 Fall zone calculation, the maximum height of any antenna and/or mast for a radio service facility shall be the lesser of:
  - (1) Eighty feet above the ground; or
  - (2) The maximum height specified in the CFR applicable to a particular radio service if same is less than 80 feet above the ground.
- C. If the CFR applicable to a particular radio service allows a maximum height greater than 80 feet above the ground, then the maximum height of any antenna and/or mast

for that particular radio service may, by granting of a special exception, exceed 80 feet above the ground, subject to the following conditions:

- (1) The added requirements of § 334-102, Fall zone calculation, are satisfied; and
  - (2) The maximum height specified in the applicable CFR is not exceeded; and
  - (3) For amateur radio service operations, the maximum height shall be the minimum height required to accomplish the desired communication(s) using the minimum required transmitting power; or
  - (4) For all other types of radio service operations, the maximum height shall be the minimum height required to accomplish the desired communication(s) using the transmitting power levels authorized by the FCC for the particular radio service;
  - (5) That adequate technical data, presented in sufficiently layman terms, shall be provided with any special exception application to demonstrate the basis of need for the application.
- D. Construction or extension of an antenna and/or mast at a height approved by a special exception shall be delayed to no sooner than 60 days before the date that the desired communication(s) being the basis for the special exception need will actually commence.

**§ 334-102. Fall zone calculation.**

- A. No antenna and/or mast shall be capable of falling or collapsing beyond the bounds of the property on which it is situated. A fall zone calculation, utilizing graph paper and a drawing compass to plot it, shall be performed for any antenna and/or mast at the time a building permit or special exception application is made to demonstrate compliance with this requirement. (A sample fall zone calculation appears as an exhibit at the end of this chapter). All antennas and/or masts shall be assembled and erected to a manufacturer's standards using sound practices.
- B. The low point of height at which the fall zone calculation shall be based is as follows:
- (1) For freestanding masts: the ground attachment point of the mast.
  - (2) For supported masts: the point of the lowest support attachment above the ground.
  - (3) For anchored masts: the highest point of anchoring on a substantial structure.
  - (4) For anchored/supported masts: the point of the lowest support attachment above the highest point of anchoring on a substantial structure.

**§ 334-103. Number of masts for antennas.**

- A. Antennas mounted on "pipe-type" masts directly attached to a building, and which are 20 feet or less in height above the roofline peak of the building, and which are assembled and erected using sound practices so they will fall or collapse completely

within a property's bounds, are exempt from regulation by this article.

- B. For "lattice-type" masts, the total area of the site on which it/they will be placed shall determine the number allowed according to the following schedule:
- (1) For sites 2.0 acres in area or less: one mast.
  - (2) For sites greater than 2.0 acres in area: two masts.
  - (3) For sites greater than 3.0 acres in area: three masts.
- C. For mast quantities that differ from the requirements of § 334-103B, a special exception shall be required. The special exception application shall demonstrate a correlation between the number of masts requested, the transmitting power level(s) proposed and the desired communication(s) to be achieved. Adequate technical data, presented in sufficiently layman terms, shall be provided with any special exception application to demonstrate the basis of need for the request

**§ 334-104. Co-location.**

- A. Commercial wireless telecommunication facilities are not permitted to co-locate on radio service or receive-only facilities.
- B. Radio service or receive-only facilities may co-locate on commercial wireless telecommunication facilities.

**§ 334-105. Yard and green space setback requirements.**

No antenna, mast or supporting appurtenant devices are permitted to exist within any yard setback area and, for nonresidential properties, within any green space areas.

**§ 334-106. Hazardous RF emission certifications and environmental evaluations.**

At the time of building permit or special exception application, an amateur radio service station licensee shall provide a written certification that either:

- A. During operations, transmitter power levels will not exceed the maximum allowed for wavelength bands as noted in the table at 47 CFR 97.13(c)(1), therefore precluding the need for any routine RF environmental evaluation to be performed; or
- B. During operations, transmitter power levels may exceed the maximum allowed for wavelength bands as noted in the table at 47 CFR 97.13(c)(1), therefore a routine RF environmental evaluation will be performed; and
- C. That the licensee will promptly take action to prevent human exposure to any excessive RF emissions levels which the routine RF environmental evaluation indicates could exist, in compliance with the requirements of 47 CFR 97.13.

**§ 334-107. Receive-only facilities.**

- A. Antennas mounted on "pipe-type" masts directly attached to a building, and which are 20 feet or less in height above the roofline peak of the building, and which are

assembled and erected using sound practices so they will fall or collapse completely within a property's bounds, are exempt from regulation by this article.

- B. The maximum height of any antenna and/or mast shall not exceed 60 feet above the ground, subject only to the additional requirements of § 334-94, Fall zone calculation, of this article.
- C. The maximum height of any antenna and/or mast for a receive-only facility may, by granting of a special exception, exceed 60 feet above the ground, subject to the following conditions:
  - (1) The additional requirements of § 334-102, Fall zone calculation, are satisfied; and
  - (2) That adequate information (such as a video or audio recording of preapplication reception conditions and photographs of the subject and abutting property areas) is provided with any special exception application which demonstrates the need basis for the request; and
  - (3) That the maximum height approved by a special exception shall be the minimum height necessary to obtain a reasonable improvement in overall signal(s) reception.

ARTICLE XIX  
**Growth Management**  
[Added 3-13-2001 by Amdt. No. 5]

**§ 334-108. Purpose.**

Based on the Master Plan and Capital Improvements Program, which assess and balance community development needs with those of the wider region, the following growth management article is deemed necessary to control the rate of residential development in Hudson for the following reasons:

- A. Promote the development of an economically sound and environmentally stable community, which considers and balances local and regional development needs.
- B. Ensure that Hudson accommodates its fair share of regional growth while protecting it from the adverse fiscal, traffic, and environmental impacts that can result from uncontrolled growth.
- C. Guide efforts by the Town to monitor, evaluate, and establish a rate of residential growth that is consistent with its capacity for planned and orderly expansion of public services to accommodate growth.
- D. Provide a mechanism for situations when municipal services are strained due to rapid residential growth to reduce the rate of such growth in order to provide the Town the time and opportunity to correct any service deficiencies.
- E. Protect the health, safety, and general welfare of the residents of the Town of Hudson.
- F. Address the community development goals and objectives of the Town of Hudson Master Plan and Capital Improvements Program.

**§ 334-109. Authority.**

This article is adopted as a growth management ordinance under the authority of RSA 674:22.

**§ 334-110. Findings.**

- A. Hudson's developable land area, as estimated by the Nashua Regional Planning Commission (NRPC), is sufficient to support extensive new growth and development. According to a 1997 study by NRPC, there are approximately 3,650 buildable, residentially zoned acres out of a total of 17,371 acres in Hudson.
- B. Hudson's population increased 39.3% from 1980 to 1990, and 18.5% from 1990 to 1999, for an overall increase of 65%, or 3.4% annually over the nearly twenty-year period. By contrast, the total population of the communities making up the Nashua Regional Planning Commission (NRPC region) increased by 24% from 1980 to 1990, and 13% from 1990 to 1999, for an overall increase of 44%, or 2.3% annually over the nearly twenty-year period. As evidenced by these statistics, Hudson has grown at a faster rate than the region.

- C. The number of housing units in Hudson increased by 58% between 1980 and 1990, and by 17.5% between 1990 and 1999, for an overall increase of 85.5%, or 4.5% annually over the nearly twenty-year period. By contrast, the number of housing units in the NRPC region increased by 38.5% between 1980 and 1990, and by 10.2% between 1990 and 1999, for an overall increase of 52.7%, or 2.9% annually over the nearly twenty-year period.
- D. The average annual rate of new housing unit construction in Hudson is greater than the average for a Hudson first-tier fair-share region that consists of the six adjacent communities of Litchfield, Londonderry, Nashua, Pelham, Windham, and Tyngsborough, MA. In Hudson, the average annual increase in housing units for the period 1995 to 1999 was 1.7%, compared to a first-tier fair-share region average annual growth rate of 1.1%.
- E. Population projections for Hudson issued by the New Hampshire Office of State Planning (NHOSP) in 2000 project a 3,111 person, or 13.4% increase in population from 2000 to 2010.
- F. High levels of demand for housing in Hudson are expected to continue according to the 1999 Regional Housing Needs Assessment by NRPC. With the region divided into four parts, the eastern Towns of Hudson, Litchfield, and Pelham had the largest increase in the number of home sales for the period 1991 to 1998, at 116%.
- G. As of 1999, there were approximately 7,965 dwelling units in Hudson, according to estimates by the NHOSP. According to a build-out study performed by NRPC for the 1996 Hudson Master Plan, there is the potential to add approximately 4,700 units in Hudson's residential zoning districts, an increase of 58% over the 1999 figure.
- H. Hudson's total population at build-out, according to the Master Plan, could approach 33,300 persons, an increase of 10,200, or 44%, over the estimated 1999 population of 23,100.
- I. The Town of Hudson, in its Master Plan, supports controlled growth as one method of ensuring that the Town grows in a sustainable manner. Land-Use Goal B.3 states that Hudson should "[c]onsider the adoption of growth controls or development phasing to limit population increases and housing development to manageable levels." Population Goal A states that Hudson should "[p]rovide an acceptable rate of growth in relation to the regional rate of growth and in keeping with the ability of the Town to provide essential facilities and services."
- J. Community facilities.
- (1) Many community facilities in Hudson are being adversely impacted by rapid population and housing growth in the community. The Community Facilities section of the 1996 Hudson Master Plan states that: "The significant and rapid growth that occurred in Town over the past years has caused the current Town facilities to become inadequate. The growth of the Town facilities has not kept pace with the rest of the Town." Some of the municipal facilities adversely impacted by rapid growth include:
- (a) Fire Department: In its FY 2002 submittal to the Hudson Capital

Improvements Plan Committee, the Fire Department noted that "the present fire stations are not conducive to providing timely responses for emergency services. The growth of the Town has passed the available level of service that the Fire Department can provide to the community from its present location." As a result of this deficiency, the Town will be assessing possible locations for additional fire stations.

- (b) Hills Memorial Library: The 1996 Hudson Master Plan notes that "[w]ith just 3,645 square feet in the original building, the inadequacies of the facility and crowding have been major concerns for many years." The Library has documented the need for a new 25,000 square-foot facility to meet present and future demands for library services.
  - (c) Schools: The Town's rapid growth has placed severe strain on the school system. In an attempt to address the impacts of growth, the Town is building a new elementary school and renovating the middle school. Despite these improvements, the School Department reports that overcrowding will remain an issue as long as rapid growth continues.
  - (d) Town Sewer: Hudson has an agreement with the City of Nashua in which the Nashua Wastewater Treatment Plant (WWTP) receives sewage flow from Hudson. Due to capacity limitations and the provisions of the inter-municipal agreement, the Nashua WWTP can only treat two million gallons per day (mgpd) of Hudson wastewater. The Town of Hudson is currently generating approximately 1.6 mgpd, which is approaching the limits of the Nashua WWTP. Constraints on the ability of the sewer system to expand results in a very limited allocation for commercial development, which is needed to sustain the tax rate.
  - (e) Hudson Recreation Department: In its FY 2002 capital improvements submittal, the Town's Recreation Department noted that "[t]his rapid growth has caused an outcry for more (recreational / sports) fields." Additional sports fields are needed to meet present and future demand brought on by recent and anticipated growth. Many sports programs are at capacity at the present time. A new indoor recreation center is also needed, as the demand for many programs is now nearly double the capacity of the existing facility.
- (2) The above examples are intended to illustrate how rapid and unchecked growth impacts many of the Town's services and facilities.

### § 334-111. Definitions.

The following definitions shall apply only to the growth management section and shall not be affected by the provisions of any other Town ordinance.

**BUILDING CERTIFICATE** — A certificate obtained from the Planning Board entitling the holder to obtain one building permit for one dwelling unit. Dwelling units as defined in this article include single-family homes and duplexes on individual lots, as well as individual condominium units and apartments in multifamily structures shown on approved site plans. A building certificate is valid for a period of two years from the date of issuance, by which time it must be redeemed for a building permit, or expire.

**FAIR-SHARE REGION AVERAGE GROWTH RATE (FSRAGR)** — Average annual percentage increase in residential building permits issued in the six adjacent municipalities of Litchfield, Londonderry, Nashua, Pelham, Windham and Tyngsborough, MA, for the preceding five-year period.

**HOUSING FOR OLDER PERSONS** — Housing that qualifies as "Housing for Older Persons" as defined in § 334-70 and developed according to the provisions of § 334-71 of the Town of Hudson Zoning Ordinance.

**LOT OF RECORD** — Land designated as a separate and distinct parcel prior to the date of posting (November 3, 2000) of this article either in a legally recorded deed filed with the Hillsborough County Registry of Deeds or lots or units described as part of a subdivision or site plan recorded at the Hillsborough County Registry of Deeds prior to the date of posting. For the purpose of this article, a lot of record shall also be defined to include separately defined condominium units, as well as individual units in duplexes and multifamily structures, shown on site plans and/or subdivision plans accepted for review by the Hudson Planning Board prior to the date of posting.

**SUSTAINABLE RATE OF DEVELOPMENT** — A target number of building permits to be issued in Hudson in the current year equaling the fair-share region average growth rate for the preceding five years times the total number of dwelling units existing in Hudson in the preceding year. Round any fraction calculated herein to the next whole number.

**TOTAL DWELLING UNITS (DU)** — The total number of dwelling units in Hudson on December 31. This number includes single-family homes, as well as dwelling units in duplexes, apartments, condominium developments and other multifamily structures. Note: For 1999, the DU number is 7,965 based on an estimated accounting of the number of dwelling units.

**§ 334-112. Applicability and effect.**

- A. This article applies to all lots of record as defined in §§ 334-6 and 334-111, as well as to all future residential development. The application of this article to lots of record is for tracking purposes only. To receive a building permit, an applicant is required to possess a building certificate (also referred to herein as a "certificate") from the Planning Board or its designee for each approved dwelling unit. In order to be eligible for the issuance of a building certificate, an applicant must supply a properly completed application form to the Planning Department Clerk.
- B. This article does not apply to nonresidential buildings or to the expansion, alteration, renovation, or replacement of existing dwelling units. Beginning on the effective date of this article, no building permit for a new dwelling unit shall be issued without possession of a building certificate issued in accordance with the provisions of this article.

**§ 334-113. Periodic review.**

It shall be the responsibility of the Planning Board to monitor growth in the Town and region and notify the Town of the findings.

- A. The Planning Board or its agent(s) shall assemble by the third Tuesday in February such information necessary for assessing whether unsustainable rates of



development continue to exist, and, if so, to determine the sustainable rate of development. Information should include statistics on building permits issued and building certificates issued and redeemed. Reliable information that may be used includes: statistics provided by the local Building Inspector and "Permit Authorized Construction in Permit-Issuing Places by State and County" as reported by the Building Permits Branch of the U.S. Census.

- B. The Building Inspector shall provide to the Planning Board information describing the status of requests and issuance of residential building permits on a semi-annual basis to aid in monitoring the issuance of certificates and permits. The information provided shall include the number of permits issued in each of the last four semi-annual periods. For reporting purposes, periods conform to the calendar year January 1 - June 30, and July 1 - December 31. Information for each period shall be submitted within 31 days of the end of December and June.

**§ 334-114. Calculation of annual certificate pool and annual discretionary certificate allocation.**

Data shall be collected for the previous five years on the number of new dwelling units for the six adjacent regional towns. For the purposes of this section, the yearly statistics to be utilized are based upon a calendar year of January 1 to December 31. To calculate the certificate allocation for the current year, Steps A, B and C must be completed as described below:

- A. Calculate the fair-share region average growth rate. (See definitions.)
- (1) Do not include statistics for Hudson in the calculation; otherwise, local growth may influence regional growth statistics.
- B. Calculate the sustainable rate of development. (See definitions.)
- C. Calculate the current year certificates available for disbursement in semi-annual allocations.
- (1) Calculate the net available current year certificates (discretionary allocation) by subtracting from B the number of building permits issued to new dwelling units in the prior year.
- (a) If the calculated net available current year certificates is less than or equal to 10, then the number of discretionary certificates for the current year shall be 10.
- (b) If the calculated net available current year certificates are greater than 10, then the number of discretionary certificates for the current year shall be the calculated number.

**§ 334-115. Procedures for distributing certificates.**

Certificates shall be distributed according to the following allocation rules:

- A. No residential building permit may be issued except with the possession of a certificate.

- B. From January 1 through December 31, the Planning Department Clerk, on a form prepared by the Planning Board, shall receive applications for certificates for the current year. These applications shall be time and date stamped when received. The basis for determining the priority standing among all applications for the annual allotment of discretionary certificates shall be the order of submission of the applications as indicated by the Planning Department office stamp. Except for lots of record, no application for certificates may be made prior to recording an approved subdivision or site plan with the HCRD. Note: All applications for certificates for a subdivision or site plan shall be placed onto a single form provided by the Planning Board and must list all lots or units.
- C. Guaranteed allocation. So that all developments are assured an allocation of certificates appropriate to the size of their subdivision or site plan and investment, all subdivisions and site plans for multifamily and condominium developments approved by the Planning Board and recorded at the Hillsborough County Registry of Deeds shall receive certificates according to the following schedule: subdivisions and site plans of one to five lots or units shall be entitled to certificates equal to the number of lots or units in the subdivision or site plan; subdivisions and site plans with six to 10 lots or units shall receive at least five certificates per year; subdivisions and site plans with 11 to 20 lots or units shall receive at least six certificates per year; subdivisions and site plans with 21 to 30 lots or units shall receive at least seven certificates per year; subdivisions and site plans with 31 to 40 lots or units shall receive at least eight certificates per year; subdivisions and site plans with 41 to 54 lots or units shall receive at least nine certificates per year; subdivisions and site plans with 55 to 80 lots or units shall receive at least 10 certificates per year; and subdivisions and site plans greater than 80 lots shall receive certificates equal to 12.5% of their total number of lots or units per year.
- (1) Building lots that are planned for construction must obtain one building certificate for each dwelling unit.
  - (2) Each subdivision or site plan may receive their minimum guaranteed certificate allocation pursuant to § 334-115C at any time during the year after subdivision or site plan recording at the HCRD, and is not required to wait until annual certificate allocations. In the year(s) following subdivision or site plan recording, the full allotment of certificates specified in § 334-115C shall be available, based on the total number of lots or units in the approved and recorded subdivision or site plan.
  - (3) The number of guaranteed certificates available during the year of recording shall be calculated on a pro-rata basis based on the number of months remaining in the year from the date of subdivision or site plan recording. For subdivisions or site plans recorded in January, the full yearly allotment of guaranteed certificates specified in § 334-115C shall be available, for February 11/12 of the yearly allotment shall be available, for March 10/12 of the yearly allotment shall be available, and so on until December, in which 1/12 of the allotment shall be available. The number obtained by multiplying the allotment specified in § 334-115C by the proportion of the year remaining in terms of months shall be rounded up or down to the nearest whole number to determine the number of certificates available.

- (a) For example, a thirty-five-lot subdivision is eligible for eight certificates according to § 334-115C. If the subdivision plan is recorded in July, the subdivision is eligible for 6/12 (or 1/2 or 0.5) of the certificates that first year. One-half of eight equals four certificates available to that subdivision in the year of recording.
  - (b) If the same thirty-five-lot subdivision is recorded in September, it is eligible for 4/12 (or 0.33) of the yearly allotment of guaranteed certificates. Eight multiplied by 0.33 equals 2.6, which is then rounded up to three, which equals the amount of guaranteed certificates available.
- D. Discretionary allocation. The remaining certificates shall be allocated annually by the following system:
- (1) At the second Planning Board meeting in March, the Planning Board shall conduct its annual discretionary certificate allocation.
  - (2) If a surplus of certificates is left over from distribution in the prior year, the remaining certificates may, at the discretion of the Planning Board, be added to the number of permits available in the current year.
  - (3) When the number of certificate applications exceeds the number of certificates available, the annual allocation is distributed among applications using a priority based upon the order in which the Planning Department Clerk received the applications.
  - (4) The procedure for allocating discretionary certificates on an annual basis is as follows: Discretionary certificates shall be issued to applicants one at a time based upon the order in which applications have been received by the Planning Department Clerk. When there are certificates remaining after each applicant has received their first certificate, the process shall be repeated until all available certificates are exhausted. Each application shall be specific to a subdivision or development irrespective of the individual filing the application. Only one application may be filed for a subdivision or development in each calendar year. **[Amended 3-14-2006 by Amdt. No. 1]**
  - (5) At the next annual allocation, the allocation commences with the next applicant scheduled to receive a certificate that did not receive any certificates in the prior allocation.
  - (6) The owners of lots allocated certificates may formally apply to the Building Inspector for the issuance of a building permit.
  - (7) A certificate may be used for any dwelling unit within the subdivision or site plan for which it was awarded. Certificates may not be transferred to other subdivisions or site plans.
  - (8) A building certificate is valid and must be redeemed for a building permit within two years of the date of issuance.
- E. Disclaimer. Certificate issuance in no way ensures or guarantees building permit issuance.

**§ 334-116. Exemptions.**

- A. The following new dwelling unit types shall apply for and will be granted building certificates, but are exempt from the certificate allocation requirements outlined in §§ 334-114 and 334-115 of this article. The requirement that a use exempt from allocation requires the issuance of a certificate is a mechanism that will enable the Planning Board to track and monitor all new residential development in Hudson. Provisions for guaranteed minimum certificate allocations are found in § 334-115. Nonresidential buildings, including commercial, industrial, and municipal buildings, are exempt from the provisions of this growth management article and do not require the issuance of a building certificate.
- B. Lots of record as defined by § 334-111 are also exempt from the provisions of this growth management article.

**§ 334-117. Sunset.**

If the number of building certificates requested for three consecutive years is less than 75% of the prior year's sustainable rate of development, then the Planning Board may consider the suspension of this growth management article. At such time, if the Planning Board decides to keep the ordinance in place, it shall provide findings as to why continued implementation of the ordinance is necessary to address public service and facility deficiencies and other impacts of rapid growth.

**§ 334-118. Implementing regulations.**

To the extent deemed appropriate, the Planning Board may adopt administrative regulations to guide Planning Department staff and agents of the Board in administration of this article, pursuant to RSA 674:36; 674:44, 674:4I(a) and (b), and 674:4, II to III.

**§ 334-119. Severability.**

Should any part of this article be held invalid or unconstitutional by a court, such a holding shall not affect, impair, or invalidate any other part of this article, and, to such end, all articles, sections and provisions are declared to be severable.

ARTICLE XX  
**Small Wind Energy Systems**  
**[Added 3-9-2010 by Amdt. No. 3]**

**§ 334-120. Purpose.**

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

**§ 334-121. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

**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 article, "met towers" shall refer only to those whose purpose is 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.

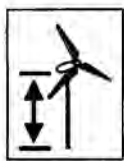
**SMALL WIND ENERGY SYSTEM** — A wind energy conversion system consisting of a wind generator, a tower, and associated control or conversion electronics, which has a rated capacity of 100 kilowatts or less and will be used primarily for on-site consumption.

**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 the kinetic energy of the wind into rotational energy used to generate electricity.

**§ 334-122. Procedure for review.**

- A. 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 Building Inspector. 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 three years from the date the building permit was issued. If an applicant plans to renew the met tower building permit, he/she must apply for same at least four months prior to the aforementioned three-year permit expiration.
- B. Application. Applications submitted to the Building Inspector shall include a certified plot plan, signed and stamped by a New Hampshire licensed land surveyor, and said plan shall contain the following information:
- (1) Property lines and physical dimensions of the applicant's property.
  - (2) Location, dimensions, and types of existing major structures on the property.
  - (3) Location of the proposed small wind energy system, foundations, guy anchors and associated equipment.
  - (4) Tower foundation blueprints or drawings.
  - (5) Tower blueprints or drawings.
  - (6) Setback requirements as outlined in this article.

- (7) The right-of-way of any public road that is contiguous with the property.
  - (8) Any overhead utility lines.
  - (9) Small wind energy system specifications, including manufacturer, model, rotor diameter, tower height, tower type, nameplate generation capacity.
  - (10) 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.
  - (11) Sound level analysis prepared by the wind generator manufacturer or qualified engineer.
  - (12) Electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the NH State Building Code.
  - (13) Evidence of compliance or nonapplicability with Federal Aviation Administration requirements.
  - (14) List of abutters to the applicant's property.
- C. Abutter and regional notification. In accordance with RSA 674:66, the Building Inspector 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 Building Inspector prior to the issuance of the building permit. The Building Inspector shall review the application for regional impacts per RSA 36:55. If the proposal is determined to have potential regional impacts, the Building Inspector shall follow the procedures set forth in RSA 36:57, IV. Note: Advertising and abutter mailing fees shall be paid by the applicant at the time of application submission.

**§ 334-123. Standards.**

The Building Inspector shall evaluate the application for compliance with the following standards:

- A. Setbacks. The setback shall be calculated by multiplying the minimum setback requirement number by the system height as 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**

<b>Occupied Buildings on Participating Landowner Property</b>	<b>Occupied Buildings on Abutting Property</b>	<b>Property Lines of Abutting Property and Utility Lines</b>	<b>Public Roads</b>
0	1.5	1.1	1.5

- (1) Small wind energy systems must meet all setbacks for principal structures for the zoning district in which the system is located.

- (2) Guy wires used to support the tower are exempt from the small wind energy system setback requirements.
- B. Tower. The maximum tower height shall not exceed 150 feet.
  - C. Sound level. The small wind energy system shall not exceed 60 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.
  - D. 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.
  - E. 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.
  - F. Code compliance. The small wind energy system shall comply with all applicable sections of the New Hampshire State Building Code.
  - G. Aviation. The small wind energy system shall be built to comply with all applicable Federal Aviation Administration regulations, including but not limited to 14 CFR 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.
  - H. 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 subsection is to reduce the visual impacts, without restricting the owner's access to the optimal wind resources on the property.
    - (1) 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.
    - (2) The color of the small wind energy system shall either be the stock color from the manufacturer or painted with a nonreflective, unobtrusive color that blends in with the surrounding environment. Approved colors include but are not limited to white, off-white or gray.
    - (3) 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.
  - I. 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.

- J. 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.
- K. 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 eight feet above the ground. All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.
- L. 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.

**§ 334-124. Abandonment.**

- A. At such time that a small wind energy system is scheduled to be abandoned or discontinued, the applicant will notify the Building Inspector 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 Building Inspector. "Physically remove" shall include, but not be limited to:
  - (1) Removal of the wind generator and tower and related above-grade structures.
  - (2) 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 twelve-month period. After the 12 months of inoperability, the Building Inspector 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 Building Inspector 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 Building Inspector 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 Building Inspector, 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 three 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 Building Inspector may pursue legal action to have the small wind energy

system removed at the owner's expense.

**§ 334-125. Violations; preexisting systems.**

It is unlawful for any person to construct, install, or operate a small wind energy system that is not in compliance with this article. Small wind energy systems installed prior to the adoption of this article are exempt from this article except when modifications are proposed to the small wind energy system.

**§ 334-126. Violations and penalties.**

Any person who fails to comply with any provision of this article or a building permit issued pursuant to this article shall be subject to enforcement and penalties as allowed by RSA 676:17.

Town	Residential District	Min lot size
Hollis	Ag/Bus - Res Use	2 acres
Mason	VR	2.02 acres
Milford	R	2 acres
Amherst	RR	2 acres
Mont Vernon	R & RR	2 acres
Lyndeborough	VD and RL1	2 dry acres
Wilton	RA	2 contiguous dry acres
Hudson		2 acres

Year	NewHomes	Increase %	ADU's Approved
2010	12	n/a	n/a
2011	7	58%	0 n/a
2012	15	214%	2 n/a
2013	26	173%	2 100%
2014	21	81%	4 200%
2015	22	105%	3 75%
2016	17	77%	1 33%
2017	18	106%	4 400%
2018	19	106%	1 25%
2019	27	142%	3 300%
2020	32	119%	3 100%

\* Average Annual increace 2011-2020 118% 154%

Sheet1

Date	lot	Permit number	LOCATION	CO ISSUED	notes
<b>2016</b>					
5/17/16	A-6-2	2016-079	20 Hutchinson Hill Road		
11/16/16	C-4-11	2016-216	11 Countryside Drive	4/4/17	
1/27/19	D-1-27	2016-025	23 Hutchinson Hill Road	5/9/16	
5/9/19	E-15	2016-076	1 Mason Road	6/27/16	Tevya, New bunk house
12/5/16	J-24-3	2016-227	11 Wildwood Drive	12/1/17	
6/30/16	J-24-31	2016-125	5 Chandler Way	6/29/17	
5/31/16	J-33-30	2016-099	26 Wallance Brook	9/26/16	
4/11/16	J-33-31	2016-051	24 Wallance Brook	7/14/16	
8/16/16	J-41-7	2016-157	4 Baldwon Drive	12/14/16	
1/19/16	K-28-14	2016-114	4 Quiqley Way	5/10/16	
7/25/16	K-28-2	2016-135	3 Quiqley Way	11/17/16	
<b>2017</b>					
6/21/17	C-4-7	2017-089	14 Countryside Drive	10/26/17	
5/26/17	C-4-9	2017-050	15 Countrysdie Drive	8/24/17	
4/4/17	C-4-10	2017-044	13 Countryside Drive	3/201/2018	
11/1/17	C-4-12	2017-179	7 Countryside Drive	4/10/18	
10/2/17	C-7-5	2017-153	8 Kemp Drive	5/7/18	
11/14/17	E-9-21	2017-133	18 Conneck Road	6/28/18	
3/13/17	G-40-7	2017-120	82 Russell Hill Road	7/24/17	
7/17/17	G-40-8	2017-102	84 Russell Hill Road	10/25/17	
1/30/17	G-40-10	2017-100	90 Russell Hill Road	5/17/17	
8/16/17	G-40-11	2017-029	92 Russell Hill Road	12/7/17	
2/6/17	J-41-6	2017-028	2 Baldwin Drive	6/6/17	
7/5/17	J-41-12	2017-098	1 Baldwin Drive	12/14/17	
6/13/17	K-28-5	2017-081	10 Quigley Way	9/26/17	
9/5/17	K-28-15	2017-133	9 Quigley Way	1/31/18	
1/4/17	L-12-5	2017-001	17 Lake Road	5/26/17	Demo and Rebuild
<b>2018</b>					
5/22/18	B-45	2018-071	31 Hood Road	8/5/19	
2/1/18	C-4-4	2018-019	4 Countryside Drive	6/25/18	
5/23/18	C-4-5	2018-068	6 Countryside Drive	8/26/18	
9/7/18	C-4-13	2018-	5 Countryside Drive	6/12/19	
5/8/18	C-4-14	2018-060	3 Countrysdie Drive	10/29/18	
9/8/18	C-14-1	2018-117	3 Kemp Drive	12/27/18	
5/29/18	F-18-8	2018-074	7 Storybrook Lane	5/27/20	
5/3/18	F-85-1	2018-077	12 Springvale Avenue	3/28/19	
3/21/18	G-40-1	2018-035	70 Russell Hill Road	7/25/18	
3/21/18	G-40-2	2018-034	72 Russell Hill Road	6/26/18	
1/22/18	G-40-3	2018-013	74 Russell Hill Road	5/23/18	
7/18/18	G-40-4	2018-091	76 Russell Hill Road	11/7/18	
12/10/18	G-40-5	2018-145	78 Russell Hill Road	4/16/19	
12/10/18	G-40-6	2018-145	80 Russel Hill Road	3/12/19	
7/16/18	G-40-8	2018-086	84 Russell Hill Road		
7/18/18	G-40-9	2018-090	88 Russell Hill Road	10/16/18	

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5/9/18	G-40-12	2018-068	94 Russell Hill Road	9/4/18	
3/5/18	G-45-10	2018-030	16 Winterberry Road	2/20/19	
10/23/18	H-75-3	2018-131	17 Sawtelle Road	6/26/19	
11/2/18	H-75-7	2018-136	33 Sawtelle Road	6/6/19	
10/17/18	H-75-16	2018-129	18 Sawtelle Road	6/12/19	
11/26/18	J-24-30	2018-138	3 Chandler Way	7/11/19	
7/28/18	K-11	2018-095	8 Nissitissit Road	12/18/18	
<b>2019</b>					
3/27/19	H-140-1	2019-033	28 Proctor Hill Road		
1/22/19	D-41-1	2019-007	21 Mason Road		
2/27/19	E-3-3	2019-023	6 Pigeon Hill Road	11/5/19	
1/28/19	F-18-7	2019-027	5 Story Brook Lane	9/18/19	
5/6/19	H-75-9	2019-052	32 Sawtelle Road	10/23/19	
4/30/19	H-12	2019-046	2 Canal Street	8/5/20	
					House demoed 7/15/2019
7/15/19	M-12	2019-086	8 Eighth Street		
6/13/19	B-65-2	2019-087	300 Route 13		
4/9/19	C-7-4	2019-082	2 Tremblay Way	10/23/19	
4/8/19	H-75-12	2019-035	3 Clover Hill Way	3/18/20	
					3/7/2019 Demoed house/camp
3/7/19	K-10	2019-018	6 Nissitissit Road		
7/29/19	H-75-10	2019-091	30 Sawtelle Road	12/18/19	
7/31/19	D-51-1	2019-092	37 Captain Seaver Road	3/11/20	
3/26/19	H-75-8	2019-104	34 Sawtelle Road	4/23/20	
9/4/18	K-10	2019-107	6 Nissitissit Road	12/31/19	
10/30/19	H-75-14	2019-132	4 Clover Hill Way	6/25/20	
10/30/19	H-75-2	2019-133	15 Sawtelle Road	7/28/20	
10/24/19	C-7-3	2019-134	4 Tremblay Way	6/15/20	6/15/20
10/20/19	G-39	2019-127	79 Russell Hill Road	2/25/20	
10/29/19	C-15-1	2019-129	10 Poor Farm Road	7/28/20	
10/9/19	G-39-3	2019-123	85 Russell Hill Road	6/23/20	6/23/20
9/18/19	H-75-13	2019-117	5 Clover Hill Way	3/10/20	
9/30/19	D-41-2	2019-119	17 North Mason Road	4/7/20	
11/13/19	H-117	2019-142	12 Pepperell Road	10/27/20	
<b>2020</b>					
1/6/20	J-16-10	2020-005	9 Eastman Drive	5/27/20	

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1/14/20	F-113-2	2020-009	17 Old Milford Road	7/28/20	
1/26/20	G-39-2	2020-011	83 Russell Hill Road	6/3/20	
1/28/20	J-16-11	2020-014	5 Eastman Drive	9/22/20	
2/27/20	J-7-4	2020-025	10 West Hill Road		
3/11/20	J-7-2	2020-030	6 West Hill Road	6/25/20	
3/11/20	J-7-6	2020-031	14 West Hill Road	7/28/20	
3/19/20	H-75-6	2020-031	29 Sawtelle Road	7/28/20	
3/20/20	J-7-1	2020-035	4 West Hill Road	7/15/20	
3/20/20	J-7-3	2020-033	8 West Hill Road		
4/7/20	G-39-1	2020-039	81 Russell Hill Road	7/22/20	
4/8/20	J-7-5	2020-040	12 West Hill Road	11/16/20	
6/4/20	J-16-7	2020-072	4 Eastmen Drive	6/4/20	
6/25/20	C-9-5	2020-095	57 North Mason Road	11/16/20	
6/25/20	H-75-7	2020-099	21 Sawtelle Road	6/25/20	
6/25/20	J-16-8	2020-082	6 Eastman Drive	11/2/20	
7/1/20	C-9-6	2020-137	55 North Mason Road		
7/30/20	C-7-2	2020-119	5 Tremblay Way	7/30/20	
8/1/20	C-9-4	2020-136	61 North Mason Road	2/17/21	
8/10/20	J-16-9	2020-123	8 Eastmen Drive	3/25/21	
10/6/20	C-9-3	2020-152	63 North Mason Road		
10/15/20	H-139	2020-156	24A Proctor Hill Road	4/14/21	
10/20/20	H-66	2020-154	10 Corey Hill Road		
11/23/20	J-24-17	2020-155	46 Wildwood Drive		
12/2/20	C-7	2020-160	11 Kemp Drive	1/6/21	
12/2/20	C-9-7	2020-165	53 North Mason Road		
8//20/2020	J-16-6	2020-129	9 Marjorie Way	1/20/21	
3/14/20	H-75-11	2020-032	28 Sawtell Road	10/21/20	
10/19/20	C-15-2	2020-164	12 Poor Farm Road	4/28/21	
9/29/20	H-75-4	2020-149	19 Sawtelle Road		
6/25/20	H-75-5	2020-099	21 Sawtelle Road	1/27/21	
8/20/20	H-75-15	2020-130	2 Clover Hill Way		
2021					
3/18/21	E-50-2	2021-043	5 Yankee Way		
4/8/21	D-5	2021-044	248 Rotue 13		
3/4/21	E-16	2021-022	14 Quimby ROAD		
3/14/21	C-4-25	2021-025	19 Country Side Drive		
4/19/20	C-21-1	2021-051	34 Countryside Drive	8/25/21	
3/14/21	C-4-25	2021-025	19 Countryside Drive	7/26/21	
4/19/21	C-4-22	2021-050	25 Countryside Drive	9/13/21	
7/28/21	C-4-16	2021-317	20 Countryside Drive		
6/10/21	C-4-19	2021-108	28 Countryside Drive		
3/4/21	E-16	2021-022	14 Quimby Road	9/1/21	
10/26/21	H-66	2021-154	10 Corey Hill Road		
6/28/21	J-41	2021-301	1 Laurelcrest Drive		
9/1/21	C-9-8	2021-331	49 North Mason Road		




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Date Approval	Case #	Lot #	Projects or/and # of Lots Created	Applicant	Date + Recording plan number
9/17/1998	1998-3:G-32	G-32	3 lots subdivision	Gauder/MacLean	29654 Jan.1999
11/3/1998	1998-4:D-55-22	D-55-22	4 lots subdivision	Gardner	29521 Nov.1998
12/3/1998	1998-5:D-26	D-26	15 O.S. subdivision	Bremer Woods	29712 Feb.1999
8/15/1998	1998-6:E-22-2,22-3	E-22-2, E-22-3	Lot line Adjustment	Moran	29552 Nov.1998
1/29/1999	1998-9:E-5,E-43	E-5 and E-43	Line Adjustment	Evans/McCoy	29711 Feb.1999
7/30/1999	1998-8:J-30-2-4	J-30-2-4	2 lots + Line Adjust.	Wallace	29973 Jul.1999
Conceptual	1999-3:D-55-22	D-55-22	7 back lots	Gardner	<b>Dropped</b>
7/29/1999	1999-4:F-64, F-63	F-64 and F-63	10 Lots subdivision	Benkley/Fessenden	29967 Jul.1999
9/2/1999	1999-7:G-28...	G-28,G-51,G-60.....	Lot line Adjustment	Talbot-Taylor	30049 Sep.1999
11/4/1999	1999-11:K-87	K-87	2 lots subdivision	Dougherty/Schneider	30192 Nov.1999
12/16/1999	1999-8:K-57-05...	K-57-5, 6, 7.	Lot line Adjustment	Petersen/Lynch	30261 De.1999
12/16/1999	1999-9:K-57-6	K-57-6	3 lots subdivision	Petersen	30258 Dec.1999
12/16/1999	1999-6:F-2,4 & F-155	F-2, 4 & F-155	6 lots created	Fresh Pond Realty	30698 Sep.2000
12/16/1999	1999-13:D-88,88-17	D-88 & D-88-17	Lot line Adjustment	Johnson/Hogan	30279 Jan.2000

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1/3/2000	1999-12:K-45	K-45	3 lots created + Adj.	Waldo Safford Est.	30271 Jan.2000
3/28/2000	1999-2:C-58-3	C-58-3	3 lots created	Harvey	30408 Mar.2000
	<i>same same</i>	<i>same</i>	<i>Corrective plan</i>	<i>same</i>	30512 Jun.2000
4/6/2000	2000-3:H-130	H-130	2 lot subdivision	Adamyk/Fessenden	30700 Sep.2000
5/4/2000	2000-5:H-105...	H-105, 106, K23-2, 3	Eliminate 1 lot + Adj	Fessenden	30547 Jun.2000
	<i>same same</i>	<i>same</i>	<i>Corrected Plan</i>	<i>same</i>	30863 Nov.2000
6/1/2000	2000-1:G-50	G-50	15 lots subdivision	Talbot-Tal(High View)	30862 Nov.2000
6/13/2001	2000-2:D-55-22	D-55-22	13 lots subdivision	Gardner	31154 Jun.2001
6/15/2000	2000-7:F-64-2 & 3	F-64-2 & 3	5 lots created	Benkley	30546 Jun.2000
6/22/2000	1999-10:E-1, 2 ..	E-1, E-2 & E-3-1	22 lots subdivison	Moran/Aero Property	30560 Jun.2000
6/22/2000	2000-4:K-57-11	K-57-11	2 lots created	Petersen	30559 Jun.2000
7/20/2000	2000-8:G-45, G-32...	G-45, G-32, 32-2	Lot line Adjustment	Gauder/MacLean	30699 Sep.2000
9/7/2000	NRSP:2000-G:F-14	F-14	Radio Tower	Crews	n/a
9/14/2000	2000-6:H-130-1	H-130-1	14 lots subdivision	Adamyk	30701 Sep.2000
9/21/2000	2000-10:F-8, 152	F-8 & F-152	Lot line Adjustment	Jensen	30814 Nov.2000
9/21/2000	2000-11:K-101-11,12	F-101-11, F-101-12	Lot line Adjustment	Nissitissit Dev. LLC	30815 Nov.2000
10/5/2000	NRSP:20-D:J-19-19	J-39-19	Hair Salon	Davis	n/a
10/19/2000	2000-9:D-57-38	D-57-38 & D-57-41	2 lots created	Hodgson	30813 Nov.2000
11/2/2000	NRSP:2000-I:D-72	D-72	Car repair	Fine Lines Auto.	n/a
11/2/2000	NRSP:2000-B:J-34	J-34	Home business	Bird	n/a
12/17/2000	NRSP:2000-J:B-82	B-82	Antique Reproduct.	Nealon	n/a
1/18/2001	2000-14:J-9-2	J-9-2	2 lots created	Farwell	31000 Mar.2001
1/18/2001	2000-13:C-58-2	C-58-2	2 lots created	Arel	30999 Mar.2001
3/1/2001	NRSP-2001-A:G-68	G-68	Home Base Retail	Grzyb	n/a
3/16/2001	2000-12:K-28	K-28	9 lots created	Beaver Woods LLC	31015 Mar.2001
4/19/2001	NRSP:2001-B:G-53	G-53	Antennas	Nextel Communicat.	n/a
6/26/2001	2001-1: E-47	E-47& E-47-1	2 lots created	Douglas L. Russell	31176 June 2001
6/13/2001	2000-2:D-55-22	D-55-22	13 lots created	Gardner	31154 June 2001

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7/16/2001	2001-2: G-42 & G-58	G-42 & G-58	Lot line Adjustment	Nancy Heline	31201 Jul 2001
7/19/2001	NRSP:2001-C: C-8	C-8 (N.Mason Rd)	Commun. Tower	ATC Realty	<b>31365</b>
8/2/2001	2001-3: C-58-1	C-58-1, 8 & 7	3 lots created	Hakala	31323 Sept. 2001
10/18/2001	NRSP:2001-D:D-73	D-73	Revised site plan	Bourassa	n/a
10/18/2001	2001-4:G-16,G-17	G-16, G-17	Lot line Adjustment	Tucker	31401 Nov. 2001
10/18/2001	NRSP:2001-F:F-98	F-98	Easement Site Impr.	Verizon	n/a
11/1/2001	2001-5: C-46-3	C-46-3 (phase I)	3 lots created	Glendale	31448 Nov. 2001
11/30/2001	2001-6: B-41	B-41	3 lots created	Comeau	31758 May 2002
12/27/2001	2001-7:H-41,H138	H-41, H-138	12 lots created	Adamyk	31799 June 2002
12/27/2001	2001-8:K-57-11,16	K-57-11, K-57-16	Lot line Adjustment	Moynihan & Coutu	31515 Dec.2001
12/27/2001	2001-9:C-36-1,C-42	C-36-1, C-42	Lot line Adjustment	Tapply	31535 Jan 2002
2/21/2002	2002-1: C-16	C-16	4 lots created	Whitcomb	31701 Apr.2002
2/7/2002	2002-2: F-64-3,12	F-64-3, F-64-12	Lot line Adjustment	Benkley	31755 May 2002
2/21/2002	NRSP:2002-A:C-36-1	C-36-1	Vehicle Storage	Tapply / Georges	n/a
4/4/2002	2002-3: C-46-3	C-46-3 (phase II)	8 lots created	Glendale	31756 May 2002
2/21/2002	2002-4: C-30	C-30	5 lots created	Bross	31688 April 2002
2/21/2002	2002-5: C-5-3-	C-5-3	2 lots created	Caron	31633 Mar. 2002
4/4/2002	NRSP:2002-B:K-44	K-44	Flower shop - HB	Doolan/Dewey	n/a
2/7/2002	NRSP:2001-E:G-45	G-45	Summer Camp - HB	MacLean	n/a
6/6/2002	2002-6:K-45-1	K-45-1	2 lots created	Holtz	32207 Jan.2003
4/4/2002	NRSP:2002-C:H-90	H-90	Carriage Sheds	Bingham	n/a
6/6/2002	NRSP:2002-D:G-52-2	G-52-2	Addition	Grant Plastics	n/a
6/6/2002	2002-7:C-44,C-30-2	C-44, C-30-1	Lot line Adjustment	Scales	32206 Jan.2003
CANCELLED	NRSP:2002-E:E-22-3	E-22-3	Site Plan Review	MGM Landscaping	<b>CANCELLED</b>
6/6/2002	NRSP:2002-F:C-4	C-4	Tree cutting Scenic	Verizon	n/a
7/18/2002	NRSP:2002-G:C-8	C-8	Antennas on Tower	AT&T Wireless	n/a
7/18/2002	NRSP:2002-H:F-67	F-67	Massage - HB	Mary Harding-Smith	n/a
7/18/2002	2002-8:L-8,9&10	L-8, L-9, L-10	Lot line Adjustment	Robert Sandra Grant	32389 Apr.2003
11/7/2002	NRSP:2002-I:D-37-27	D-57-27	Massage - HB	Wendy Labrecque-S	n/a
11/7/2002	NRSP:2002-J:F-33	F-33	Flea Market, etc...	Ron Robbins	n/a
10/17/2002	2002-9:B-11	B-11, B-11-1	Lot line Adjustment	Sousa Realty(Milford)	32245 Jan.2003
11/7/2002	2002-10:C-30,46	C-30, C-46	3 lots created	Bross	32205 Jan.2003
11/7/2002	2002-11:D-52-32	D-52-32	2 lots created	Randlett	32204 Jan.2003
12/5/2002	NRSP:2002-K:G-51	G-51	Record. Studio - HB	Ben Chandler	n/a
1/9/2003	NRSP:2002-L:J-20	J-20	Com. Business	John Ganos	n/a
11/21/2002	2002-12:H-37,H-41	H-37, H-41	Lot line Adjustment	Adamyk/Ashton	32208 Jan.2003
2/20/2003	2003-1:E-32	E-32, E-32-1	2 lots created	Feuer	32292 Feb. 2003
2/20/2003	2003-2:F-73,F-73-1	F-73, F-73-1	Lot line Adjustment	Haight	32291 Feb.2003
4/3/2003	2003-3:K-60	K-60	3 lots created	Tolstrup	32390 Apr.2003
3/20/2003	ER - 2003:A-6	A-6	Excavation Phase 7	Burbee	n/a
3/1/2003	No case number	F-2, Stoney Ledge - Frank & Pat Sandwich Shop - conceptual - Approved.			
4/17/2003	2003-4:F-23	F-23	2 lots created	Emmerling	32466 May 2003
5/1/2003	2003-5:B-26,B-26-1	B-26, B-26-1	1 lot created	Smith/Edgecomb	32467 May 2003
Denied 4/17	NRSP:2003-A:F-58	F-58	Landscape - HB	Ledoux	<b>DENIED</b>
5/15/2003	NRSP:2003-B:E-3-12	E-3-12	Comp. Design - HB	Harley	n/a
8/7/2003	2003-6:F-104,F-106	F-104, F-106	36 lots created	Razzaboni	33019 Mar.2004
7/10/2003	2003-7:D-52-45	D-52-45	2 lots created	Spargo	32666 Sep.2003
7/10/2003	2003-8:B-63	B-63	1 lot created	Swenson	32665 Sep.2003
Cancelled	NRSP:2003-C:D-73	D-73	<u>Rosie's Pizza, New Case: NRSP#2004-E:D-73</u>		

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7/24/2003	NRSP:2003-D:H-103	H-103	Gas Station	Vale	n/a
7/24/2003	2003-9:H-44-1	H-44-1	2 lots created	Cadorette	32649 Aug.2003
9/4/2003	2003-10:C-27	C-27	3 lots created	G. Farwell	32702 Sep.2003
9/4/2003	2003-11:J-33-48	J-33-48	1 lot created	Axel	32701 Sep.2003
9/4/2003	2003-12:G-44	G-44	1 lot created	Dunton	33001 Feb.2004
8/21/2003	No case number	F-2, Stoney Ledge -	<b>Lucia's Tavola, Italian Restaurant - conceptual</b>	- Approved	
8/21/2003	NRSP:2003-E:F-155	F-155, F-4-4, F-4-5-	Ambulance Facility	Town of Brookline	n/a
9/4/2003	2003-13:G-29	G-29	2 lots created	D. Farwell	32736 Oct.2003
9/18/2003	2003-14:F-55,4-4,4-5	F-155,156,4-4,4-5	Lot line Adjustment	Fresh Pd/ <b>Town of B</b>	32703 Sep.2003
10/16/2003	NRSP:2003-F:E-22-3	E-22-3	New site plan	Goguen Realty Trust	n/a
10/2/2003	2003-15:K-85	K-85	2 lots created	Savage	32821 Nov.2003
2/19/2004	NRSP:2003-G:B-4	B-4	<b>US Cellular</b>	<b>Cell Tower (Ball Hill)</b>	n/a
10/2/2003	2003-16:J-8	J-8	1 lot created	Ross Jensen	32822 Nov.2003
11/6/2003	2003-17:G-51,J-24	G-51, J-24	2 lots created	P.B.& M. Chandler	32823 Nov.2003
11/20/2003	2003-18:F-15,F-16	F-15, F-16	15 lots created	Glendale	32904 Jan.2004
11/6/2003	2003-19:F-25,-1,-2	F-25,F-25-1,-2	Revised Driveway	Razzaboni/Emmerl.	32820 Nov.2003
1/8/2004	2003-20:E-50	E-48,E-48-1,E-50	4 lots created	Young	32937 Jan.2004
2/5/2004	2004-1:E-30,E-31	E-30,E-31	Lot line Adjustment	Libby	33002 Feb.2004
2/5/2004	NRSP:2004-A:E-11-5	E-115	Home Business	Favorite	n/a
4/1/2004	NRSP:2004-B:F-155	F-155	Commercial Lane	Town of Brookline	n/a
2/5/2004	No Case Number	H-90 (See 2002-C)	Site Plan Update	Bingham	n/a
4/15/2004	2004-2:F-11	F-11	9 lots created	Holder	33302 Jul.2004
2/19/2004	NRSP:2004-C:K-51	K-51	Riding Lesson - <b>HB</b>	Russell	n/a
3/18/2004	2004-3:D-52-36	D-52-36	1 lot created	Holder	33304 Jul.2004
3/18/2004	2004-4:D-52-8	D-52-8	1 lot created	Georges	33186 May 2004
4/15/2004	2004-5:H-104	H-104	1 lot created	Bent	33116 Apr.2004
3/18/2004	2004-6:K-66-19...	K-66-19, K-75-10	Lot line Adjustment	Ingraham/Anderson	33212 Jun.2004
6/3/2004	NRSP:2004-D:C-32	C-32	Indoor Sport Center	Gundersen	n/a
4/15/2004	2004-7:C-31,C-32	C-31, C-32	Lot line Adjustment	Cohen Foundation	33826 Mar.2005
4/15/2004	2004-8:J-39-47,J-40	J-39-47, J-40	4 lots created	Glendale	33211 Jun.2004
4/15/2004	2004-9:F-20	F-20	2 lots created	Kinney	33301 Jul.2004
5/20/2004	2004-10:G-32,G-32..	G-32,G-32-2,G-45	Lot line Adjustment	Withee	33256 Jun.2004
6/17/2004	NRSP:2004-E:D-73	D-73	Revised Site Plan	Rosie's Pizza ( <b>Also see 2003-C:D-73</b> )	
5/20/2004	2004-11:B-43,B-43-4	B-43, B-43-4	1 lot created	Demello/FMB Prop.	33240 Jun.2004
6/3/2004	NRSP:2004-F:H-104-	H-104-1	New Site Plan	Bent	n/a
6/3/2004	NRSP:2004-G:H-104	H-104	Improved Site Plan	Weatherwise/Ranieri	n/a
6/17/2004	2004-12:D-94	D-94	1 lot created	Bremer	33518 Oct.2004
7/15/2004	2004-13:C-2	C-2	1 lot created	Marie G. Anne	33303 Jul.2004
7/15/2004	2004-14:F-85	F-85	1 lot created	McGinnis	36280 Jan.2009
9/2/2004	2004-15:H-75	H-75	16 lots created	Clover Hill Const.	33824 Mar.2005
9/16/2004	2004-16:C-7,C-14	C-7, C-14	12 lots created	Tremblay	33717 Feb. 2005
8/5/2004	NRSP:2004-H:B--31	B-31	Orient.Rugs - <b>HB</b>	Taheri	n/a
8/19/2004	2004-17:H-16	H-16	2 lots created	MacDermod	33416 Sep.2004
9/16/2004	2004-18:F-14	F-14	2 lots created	Crews	33488 Oct.2004
10/7/2004	2004-19:C-19	C-19	1 lot created	Barchard/Jose	33519 Oct.2004
10/7/2004	No Case Number	D-73 Anrik Irrigation.	Proposed fishing Bus.	Rick Nantel <u>Concep.</u>	n/a
10/7/2004	2004-20:F-22,F-22-1	F-22, F-22-1	Lot line Adjustment	Ouellette/Shattuck	33613 Dec.2004
10/21/2004	NRSP:2004-G:H-104	Case Re-opened	Updated Site Plan	Weatherwise/Ranieri	n/a
12/4/2004	2004-21:J-41,J-41-1	F-41, F-41-1	11 lots created	J&B Bagley Trust	34117 Aug.2005
11/4/2004	2004-22:F-18	F-18	1 lot created	Gavin	33719 Feb. 2005

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12/2/2004	2004-23:D-28	D-28	1 lot created	Harned	33651 Dec.2004
<b>Cancelled</b>	<b>2004-24:J-36,J-36-1</b>	<b>J-36, J-36-1</b>	<b>Lot line Adjustment</b>	<b>Cambray</b>	<b>Cancelled</b>
12/16/2004	NRSP:2004-I:F-2	F-2, Stoney Ledge,	<b>Brookline Motorsports,</b>	Grimm	n/a
3/3/2005	2004-25:D-8	D-8	3 lots created	KKL, Adamyk	33827 Mar.2005
1/20/2004	2004-26:H-104,107	H-104, H-107	Lot line Adjustment	Bent	33720 Feb.2005
2/3/2005	2005-1:D-52-5	D-52-5	1 lot created	O'Grady	33825 Mar.2005
2/17/2005	2005-2:K-94-6,7	K-94-6, K-94-7	Lot line Adjustment	Metcalf/Cockerham	33784 Mar.2005
3/3/2005	NRSP 2005-A:D-57-1	D-57-14	Tea Shop - <b>HB</b>	Beaudette	n/a
1/20/2005	1999-6:F-2,4 & F-155 (drainage easement revision)			Fresh Pond Realty	33718 Feb. 2005
3/3/2005	No Case # (see 2003-6:F-104,106)		Lot line Adjustment	Razzaboni/Smith	33785 Mar.2005
3/24/2005	2005-3:C-6,C-15	C-6, C-15	lot line + 1 new lot	Vaughn/Chrystal	34032 Jun.2005
5/21/2005	2005-4:G-32,G-45	G-32, G-45	2 lots + 9 lots	Withee/MacLean	34118 Aug.2005
3/24/2005	NRSP 2005-B:K-44	K-44	Home Business	Girouard/Vinaskas	n/a
4/21/2005	NRSP 2005-C:J-45	J-45	Auto Dealer	Sturtevant	n/a
4/21/2005	NRSP 2005-D:G-53	G-53	Karate School	Andres/Stone	n/a
4/24/2005	No Case Number	F-2, Stoney Ledge - Outdoor seating		Lucia's Tavola, <b>Appro</b>	n/a
4/21/2005	No Case Number	H-25 Corey's station	Retail Shop	Natasha Gravin	n/a
5/5/2005	NRSP 2005-E:E-15	E-15	Camp Tevya	Cohen Foundation	n/a
5/5/2005	NRSP 2005-F:D-34	D-34	Farm Stand - <b>HB</b>	Cargill	n/a
6/2/2005	No Case # (see NRSP 2003-D:H-103)		Ice cream + paving	Al Vale (Sunoco)	n/a
7/21/2005	2005-5:C-16+	C-16, 1, 2etc...	4 new lots	Whitcomb	34202 Sep.2005
6/16/2005	2005-6:H-136	H-136	2 new lots	Baker	34297 Oct.2005
10/6/2005	NRSP 2005-G:J-40-2	J-40-2	Day Care - <b>HB</b>	Simpson	n/a
10/20/2005	No Case Number	F-2, Stoney Ledge - Bakery Addition		Lucia's Tavola, <b>Appro</b>	n/a
12/1/2005	2005-7:H-136,136-2	H-136, H-136-2	Lot line Adjustment	Baker	34397 Dec.2005
12/15/2005	2005-8:D-52-52	D-52-50	1 new lot	Sherwood	35091 Nov.2006
1/5/2006	2005-9:H-41-4,5	H-41-1, H-41-5	Lot line Adjustment	Adamyk/Terhune	34531 Feb.2006
2/2/2006	2006-1:G-53, 53-1	G-53, G-53-1	Lot line Adjustment	Big Bear Lodge	34737 May 2006
9/20/2007	2006-2:H-75,1,2,3	H-75	<b>Elderly Housing</b>	<b>KKM - Adamyk</b>	<b>Not Recorded</b>
2/2/2006	2006-3:D-1,D-41	D-1, D-41	Lot line Adjustment	Saunders (Glendale)	34530 Feb.2006
2/16/2006	same	same	Revised Plan	same	34553 Feb.2006
3/23/2006	NRSP 2006-A:E-15	E-15	Camp Tevya	Cohen Foundation	n/a
3/2/2006	2006-4:G-32,G-32-2	G-32, G-32-2	Lot line Adjustment	Withee / Kifer	34602 Mar.2006
3/2/2006	2006-5:D-43	D-43	1 new lot	Havey	34590 Mar.2006
4/6/2006	2006-6:J-40,J-40-1	J-40, J-40-1	2 new lots	Glendale	34859 Jul.2006
5/4/2006	2006-7:C-9,D-1	C-9,D-1, Town	Hutch.Hill Rd reloc.	Glendale/Burbee	34736 May 2006
8/17/2006	2006-8:B-79,D-1,42	B-79,D-1,D-42	34 new lots	Glendale	35043 Oct.2006
5/4/2006	2006-9:D-52-9	D-52-9	1 new lot	Romanelli	34801 Jun.2006
5/4/2006	2006-10:E-48,48-1	E-48, E-48-1	Lot line Adjustment	Young	34825 Jun.2006
5/4/2006	2006-11:G-61-13,14	G-61-13,G-61-14	Lot line Adjustment	Buchanan	34758 May 2006
5/18/2006	NRSP 2006-B:C-36-1	C-36-1	Motor.Inspec.Station	Georges/Samra	n/a
6/1/2006	2006-12:C-15,C-15-1	C-15, C-15-1	2 new lots (out of 2)	Chrystal	34858 Jul.2006
9/7/2006	2006-13:K-60	K-60	1 new lot	MacDonald/Foster	35016 Sep.2006
8/17/2006	2006-14:E-9-22	E-9-22	1 new lot	Parodi	35021 Sep.2006
12/21/2006	2006-14:E-9-22 #2	E-9-22	Revised Com Drive	Parodi	35195 Dec.2006
9/5/2006	2006-15:C-4	C-4	14 new lots	Treacy/Razzaboni	35186 Dec.2006
9/7/2006	2006-16:B-4,B-68	B-4, B-68	Lot line Adjustment	Starr/Lesser/BCC	35015 Sep.2006
8/3/2006	No Case Number	F2, Stoney Ledge - Art Supply Store-	Chad Halliday		n/a
9/7/2006	2006-17:D-54-1,67-2	D-54-1, D-67-2	lot Line + 2 lot sub	Knudsen	35042 Oct.2006

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Date	Case Number	Address	Description	Owner	Value/Status
11/2/2006	NRSP 2006-C:H-104	H-104	Used Cars Sales	Raneri	*Compliance May 2007
11/16/2006	NRSP 2006-D:D-38	D-38	Coffe Shop - <b>HB</b>	Count	n/a
3/22/2007	2007-1:F-92	F-92	1 new lot	Noury / Greenwood	35399 Apr.2007
5/17/2007	2007-2:G-40	G-40	13 new lots	Farwell	35790 Nov. 2007
6/7/2007	2007-3:B-24	B-24	2 new lots	Colannino	35770 Nov.2007
6/7/2007	NRSP 2007-A:F-142	F-142	Antiques - <b>HB</b>	Beauchamp	n/a
6/7/2007	NRSP 2007-B:G-45-7	G-45,G-45-7,1213,14	Day Care - <b>HB</b>	MacLean	n/a
7/5/2007	2007-4:D-86-4,86-5	D-86-4, D-86-5	1 new lot	Brew	35678
7/5/2007	2007-5:K-51	K-51	1 new lot	Restored Homes	35740
7/5/2007	2007-6:J-24,J-25	J-24, J-25	Lot Line Adjustment	Chandler/Greene	35715
6/21/2007	NRSP 2007-C:H-34	H-35	Blue Moose Grill	Testagrossa	n/a
9/6/2007	NRSP 2007-D:C-42	C-42	Site Development	Skillings -Ventures	<b>Requested</b>
8/2/2007	2007-7:D-52-10,56	D-52-10, D-52-56	Lot Line Adjustment	Marsh/Napior	35679
	Dropped 2007-8:H-130 road	H-130	Cider Mill Rd.Rev.	Adamyk	Dropped
9/1/2007	NRSP 1999-D:G-51-1	G-53-1	Big Bear.Poker	Andres	n/a
11/1/2007	2007-9:J-24	J-24, J-25	31-lot subdivision	Chandler	35939 Mar.2008
2/21/2008	NRSP 2008-A:E-15	E-15	New Pavillion	Camp Tevya	n/a
2/21/2008	NRSP 2008-B:F-18	F-18	Bakery - <b>HB</b>	Gavin	n/a
3/3/2008	NRSP 2008-C:H-136	H-136	Massage - <b>HB</b>	Briget Papadimatos	n/a
4/17/2008	2008-1:F-91,F-92-1	F-91, F-92-1	Lot Line Adjustment	Greenwood/McConn.	36082 Jul.2008
5/1/2008	NRSP 2008-D:D-73	D-73	Hair Salon	Carrie Bradley	n/a
5/1/2008	2008-2:D-28,28-1	D-28, D-28-1	Lot Line Adjustment	Harned	36018 May2008
5/15/2008	2008-3:A-6,C-9	A-6, C-9	Lot Line Adjustment	Burbee/Lorden	35997 May2008
9/18/2008	2008-4:E-29,30,31	E-29, E-30, E-31	Lot Line Adjustment	Libby, Eaton, McLe	36162 Sept.2008
9/18/2008	2008-5:F-8-1,F-25	F-8-1, F-25	Lot Line Adjustment	Razzaboni/Jensen	36161 Sept.2008
8/21/2008	NRSP 2008-D:H-5	H-5	Pottery - <b>HB</b>	Wendy Walter	n/a
	DENIED NRSP 2008-E:K-26	K-26	Vet. Hospital - <b>HB</b>	Margaret Monachelli	n/a
9/25/2008	NRSP 2008-F:K-26	K-26	Vet. Hospital - <b>HB</b>	Margaret Monachelli	n/a
10/16/2008	2008-6:K-85	K-85	2-lot subdivision	Watrous	36193 Oct.2008
11/6/2008	2008-7:H-104-1	H-104-1	2-lot subdivision	Gina-Danny Bent	36308 Feb.2009
11/6/2008	NRSP 2008-H:104-2	H-104-2	Car Wash	Gina-Danny Bent	n/a
11/6/2008	NRSP 2008-H:E-15	E-15	Swimming Pool	Camp Tevya	n/a
Withdrawn	NRSP 2008-IJ-53	J-53	Commercial Develop.	The Prime Group	WITHDRAWN
12/18/2008	2008-9:F-85	F-85	2-lot subdivision	McGinnis	36280 Jan.2009
12/18/2008	2008-10:G-55	G-55	2-lot subdivision	Farwell	36328 Feb.2009
12/18/2008	2008-11:G-61-29	G-61-29	2-lot subdivision	Orgeldinger	36307 Feb.2009
1/15/2009	NRSP 2008-J:G-53-T	G-53-T (1998-2001)	Antenna	AT&T	n/a
6/18/2009	2009-1:D-52-10,56	D-52-10, D-52-56	Lot Line Adjustment	Marsh/Napior	36462 Jun.2009
6/18/2009	NRSP 2009-A:F-33	F-33	Wood Stove+Pellets	Arthur Kelley	n/a
6/18/2009	NRSP 2009-B:D-73	D-73	Copper Kettle Bakery	Megan Smith	n/a
8/6/2009	NRSP 2009-C:J-19	J-19	Superior Steel Fab.	Don Hoard	n/a
10/1/2009	2009-2E-3-1,E-3-3	E-3-1, E-3-3	Lot Line Adjustment	Tom Moran	36573 Oct.2009
10/1/2009	NRSP 2009-D:J-41-9	J-41-9	Massage - <b>HB</b>	Maryse Laflamme	n/a
10/15/2009	NRSP 2009-E:H-104	H-104	Flea Market	Joe Raneri	n/a
10/15/2009	NRSP 2009-F:H-103	H-103	MRI+Pellet Trailers	Al Vale	n/a
11/5/2009	NRSP 2009-G:H-104-1	H-104-1	State Insp. Station	Dany Bent	n/a
11/5/2009	No Case Number	F-2, Stoney Ledge	- Italian Restaurant. Mark	DiCicco - <u>Conceptual</u> - Approved	

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2/4/2010	2010-1:D-52-43	D-52-43	2-lot subdivision	Hegarty	36711 Mar.2010
4/15/2010	NRSP 2010-A J-40-2	J-40-2	Revised <b>HB</b> childcare	Simpson	n/a
n/a	No case Number	C-42 (NRSP 2007-D)	Earth Product	Skillings - Corey	to file application
n/a	No case Number	J-41-1, 3 & 4	Workforce Housing	Patenaude	<b>Conceptual</b>
Withdrawn	NRSP 2010-BH-103	H-103	Used Car Dealer	Al Vale	<b>WITHDRAWN</b>
6/3/2010	NRSP 2010-C C-42	C-42	Earth Product	Skillings - Corey	n/a
9/19/2010	2010-2:J-41-1,J-41-3	J-41-1, J-41-3	4-lot subdivision	Al Patenaude	36984 Dec.2010
12/2/2010	2010-3:J-41-10,11,12	J-41-10,11,12	Workforce Housing	Al Patenaude	37070 May 2011
11/4/2010	NRSP 10-D D-18-15	D-18-15	Dog breeding <b>HB</b>	Darcey Klein	n/a
4/7/2011	NRSP 2011-A C-10-3	C-10-3	Firearms Restor. <b>HB</b>	David Lindof	n/a
No hearing	See NRSP 2002-D	G-52-2	SportStop	Paul Dell	no hearing
8/4/2011	NRSP 2011-B H-52	H-52	Gold Recycl. <b>HB</b>	Inna Raneri	n/a
9/1/2011	No case Number	F-2 (Stoney Ledge)	Kitchen Cabinetry	Mark & David Guay	n/a
10/20/2011	Sub. Revocation	H-130 and H-138-2	Only these 2 lots	Adamyk Homes	n/a
11/3/2011	NRSP 2008-K-26	K-26	Revised Vet. Hospit.	Margaret Monachelli	n/a
12/1/2012	2011-2:B-81-D-4	B-81 and D-4	Lot Line Adjustment	Ganos/Town BCC	37325 Mar.2012
2/2/2012	NRSP 2012-A K-77	K-77	Maillet Water Works	Doug Maillet	n/a
2/2/2012	No case Number	D-73 (NRSP 2009-B)	Bakery/Coffee Shop	Simone Cullen	n/a
4/19/2012	NRSP 2012-B G-55-1	G-55-1	Cozy Tea Cart	Danielle Beaudette	n/a
Conceptual	No case Number	D-24	8-lot subdivision	Ernest Felzani	Conceptual
5/17/2012	NRSP 2012-C B-29-6	B-29-6	Forestry Products <b>HB</b>	Norbert Duval	n/a
6/21/2012	2012-1:C-46-7,8	C-46-7, C-46-8	Lot Line Adjustment	Elms/Mackie	37454 Aug.2012
8/2/2012	2012-2:H-139,H-140	H-139, H-140	2-lot subdivision	Pelletier	37531 Oct.2012
8/2/2012	Cancel Revocation	H-130 and H-138-2	Only these 2 lots	Adamyk Homes	n/a
9/20/2012	2012-3:B-46,B-47	B-46 and B-47	Lot Line Adjustment	Victor Bass	37532 Oct.2012
9/20/2012	No case Number	G-53-T (1998-2001)	New Antennas	SAI - AT&T	n/a
11/15/2012	2012-4:H-130,15,132	H-130, 130-15,132	2-lot subdivision	Dean Glow	37585 Dec.2012
11/15/2012	No case Number	C-8-T (2002-G)	New Antennas	SAI - AT&T	n/a
<b>Postponed</b>	2013-1:C-58-2	C-58-2	2-lot subdivision	Matt Arel	<b>POSTPONED</b>
6/5/2013	2013-2:J-24-17	J-24,J-14-16,17,18	Lot Line Adjustment	Chandler/Chandler	37707 Jun.2013
5/14/2013	2013-3:E-4,E-5	E-4 and E-5	Lot Line Adjustment	Gagnon/Pogue	37689 May 2013
6/20/2013	2012-4:H-130	H-130	Hammerhead revision	Dean Glow	37729 June 2013
8/22/2103	NRSP 2013-A:H-35	H-35	Mad Hatter Bar&Grill	Len Simone	n/a
<b>DENIED</b>	NRSP 2013-B:H-104	H-104	Barrell Mill	Gerald Farwell	<b>DENIED</b>
9/19/2013	NRSP 2013-C:G-61-1	G-61-1	Nail Salon. <b>HB</b>	Teresa Bourbeau	n/a
9/19/2013	2013-4:J-16,J-24..	J-16,J-24-24,25.26.27	Lot Line Adjustment	Chandler/Chandler	37864 Oct.2013
12/19/2013	NRSP 2013-D:C-36-1	C-36-1	Fire arms & supplies	Georges/Vale	n/a
1/16/2014	2013-5:D-24	D-24	8-lot subdivision	Felzani	38050 May.2014
1/16/2014	2007-9:J-24	J-24 Phase III	Revision Phase III	Chandler	38007 Mar.2014
1/16/2014	2004-15:H-75	Road Length Waiver	Original Clover Sub.	Razzaboni	n/a
1/16/2014	2014-1:A-6-1,C-9-1	A-6 and C-9	4-lot subdivision	Glendale	38008 Mar.2014
7/17/2014	2014-2:J-41,J-41-etc	J-41 J-41-10,11,12	REVOCATION PLAN	Patenaude/Bagley	8692-0488
<i>(See Workforce Housing, Case # 2010-3 &amp; Pierce Pond, Case # 2004-21)</i>					
5/15/2014	2014-A:E-15`	E-15	Gazebo & Storage	Camp Tevya	n/a
7/17/2014	2014-B:H-104	H-104	Barrell Mill (#2)	Gerald Farwell	n/a
Withdrawn	2014-C:F-142	F-142	Firearms Store <b>HB</b>	David Beauchamp	<b>withdrawn</b>
8/21/2014	2014-D:J-13-4	J-13-4	Décor & You <b>HB</b>	Kelly Murphy	n/a

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9/18/2014	2014-E:C-18	C-18	Nashua prec.Tool	HB Steven Eberhard	n/a
9/18/2014	2014-3:G-51,G-51..	G-51,G-51-2-3-4	4-lot subdivision	Ben Chandler	38255
9/18/2014	2014-4:E-90	E-90	2-lot subdivision	David Farwell	39424 Sept.2017
9/18/2014	2014-5:G-29,G-29-1	G-29, G-29-1	Lot Line Adjustment	Gorski / Beck	38254
10/16/2014	2014-F:E-20	E-20	EZBillNow	HB J&F Milkowski	n/a
11/20/2014	2014-6:K-28-1-2-5	K-28-1, 2, 5	4-lot subdivision	Tom Moran	38298 Dec.2014
Conceptual	2014-G:E-22-2	E-22-2	Dunkin' Donuts	JPM Realty. J. Motta	<b>Conceptual</b>
1/15/2015	2015-1:G-53,G-53-1	G-53, G-53-1	2-lot subdivision	Paul Andres/BigBear	38383 Mar.2015
2/19/2015	2015-2:H-49,H-76	H-49, H-76	Lot Line Adjustment	Amidon/BCC	38377 Mar.2015
2/19/2015	2015-3:F-127	F-127	2-Unit Condominium	PNP Realty, LLC	38376 Mar.2015
8/20/2015	2015-A:E-15	E-15	Gordon house/Septic	Camp Tevya	n/a
<b>Withdrawn</b>	2015-4:F-18	F-18	Revised - Utilities	Gavin	<b>Withdrawn</b>
9/17/2015	2015-5:H-75	H-75	Revised - Drainage	Clover Hill	See Court file
9/17/2015	2015-6:D-52-7	D-52-7	2-lot subdivision	Deb Walz	38660 Oct.2015
<b>Withdrawn</b>	2015-signCUP-A	F-132	Sign Application	Corey Gregoire	<b>Withdrawn</b>
1/21/2016	2016-A:K-26	K-26	2nd addition to	HB Margaret Monachelli	n/a
2/18/2016	2016-B:E-22-2	E-22-2	Dunkin' Donuts	JPM Realty. J. Motta	n/a
2/18/2016	2016-C:F-18-4	F-18-4	Living Earth Farm	HB Ronald Christie	n/a
3/17/2016	2016-D:J-50	J-50	Averill Vineyard	HB Robert Waite	n/a
4/21/2016	2016-E:E-15	E-15	Boys Cabin+septic	Camp Tevya	n/a
4/21/2016	2016-F:C-9-1	C-9-1	Skin Care	HB Kathy Ferro	n/a
4/21/2016	2016-signCUP-A	E-22-2	Sign Application	JPM Realty. J. Motta	n/a
7/26/2016	2016-1:G-51,J-24-31	G-51, J-24-31	Buffer Relocation	Chandler	38962 Jul.2016
7/26/2016	2016-2:F-36	F-36	2-lot subdivision	Visnaskas	38963 Jul. 2016
8/18/2016	2016-G:A-6	A-6	Burbee Firewood	Nick Burbee	n/a
9/15/2016	2016-H:K-23-3	K-23-3	Storage Units	Joseph gula	n/a
10/20/2016	2016-3:J-16	J-16	12-lot subdivision	Chandler	39759 May 2018
10/20/2016	2016-4:H-66,H-145	H-66, H-145	Lot Line Adjustment	Hang / BCC	39086 Nov.2016
12/15/2016	2016-I:B-62	B-62	Carpentry	HB Dan Davison	n/a
2/16/2017	2017-1:H-75	H-75	15- lot subdivision	Clover Hill Realty	39460 Oct.2017
2/16/2017	2017-A:C-36,C-36-2	C-36, C-36-2	Parking extension	Spiros Gerekos	n/a
3/23/2017	2017-B:F-2	F-2	Childcare Center	Autumn Gue	n/a
3/23/2017	2017-C:K-1	K-1	Brick House -	HB Justin Whitaker	n/a
4/20/2017	2017-2:J-41 III	J-41, 41-10,11,12	9-lot subdivision	Al Patenaude	39541 Dec.2017
<b>withdrawn</b>	2017-D:F-2	F-2	Dance Studio	Lace Leach	<b>Withdrawn</b>
4/20/2017	2017-E:E-15	E-15	Athletic field	Camp Tevya	n/a
4/20/2017	No case# See 2007-2:G-40 - Waiver request	monuments		Clarence Farwell	n/a
6/15/2017	2017-3:K-34,K-34-1	K-31 and K-34-1	Lot Line Adjustment	Johnson/Town	39339 July 2017
7/20/2017	2017-4:C-4,C-4-678	C-4, C-4-6,7,8	Lot Line Adjustment	Tracy/Razzaboni	39425 Sept.2017
7/20/2017	2017-F:G-32	G-32	Auto diagnnostic	HB Kyle Rasmussen	n/a
7/20/2017	2017-G:C-36-2	C-35-2	Restaurant Addition	Spiros Gerekos	n/a
7/20/2017	2017-H:K-77	K-77	Rte.13 Auto Sales	David Janik	n/a
8/17/2017	2017-5:H-90	H-90	2-lot subdivision	Bingham	39461 Oct.2017
10/19/2017	2017-I:F-2	F-2	Piano Studio	Carlie Howard	n/a
11/16/2017	2016:6:H-102, H-107	H-102, H-107	Lot Line Adjustment	Nissitissit/Barrel mill	39542 Dec.2017
2/16/2017	2017-1:H-75	H-75	Clover Hill Realty - page 3 of 11 - only		39550 Dec.2017
12/21/2017	2017-J:K-23-1	K-23-1	Brookline BeautyLLC	Sarah Hendrick	n/a
12/21/2017	2017-K: K-77	K-77	CoMotion Fitness	Barb Longfellow	n/a

**List of All P.B. cases  
Since 1998**

Red = subdivisions, Blue = site plans  
HB = home businesses, Black = lot lines  
Maroon = towers, Green = others

1/18/2018	2018-A:G-40-8	G-40-8	Huntsman Arms	HB	Glen Warner	n/a
3/22/2018	2918-B:H-90-1	H-90-1	Powell StoneGravel		Steve Powell	n/a
3/22/2018	2018-C:B-20-1	B-20-1	Sundae Drive		Joan Delage	n/a
6/21/2018	2018-D:F-77	F-77	Feral Farms	HB	Zachary Calo	n/a
11/20/2018	2018-1:C-4.8,20,21,24	35 lots	CountrysideExtension		Razzaboni/Fessen.	40425 Dec.2019
9/20/2018	2018-2:F-2	F-2	2-lot subdivision		Tom Moran	36940 Oct.2018
10/18/2018	2018-3:D-41	D-41	3-lot subdivision		Melissa Fait	39989 Nov.2018
10/18/2018	2018-4:F-119	F-119	2-lot subdivision		Scott Pendleton	39990 Nov.2018
12/20/2018	2018-E:F-27	F-27	Massage Th.	HB	Dawn Elliott	n/a
12/20/2108	2018-F:F-2	F-2	Fitness Studio		Priscilla Wilson	n/a
12/20/2018	2018-G:G-53-2	G-53-2	Daycare Center		Michelle Dickerson	n/a
2/21/2019	2019-1:C-8,C-13	C-8, C-13	lot line / subdivision		Pinkham / Town	40095 Mar.2019
3/21/2019	2019-2:E-50-1,2	E-50-1, E-50-2	Lot line		Kellner	40154 Apr.2019
Withdrawn	2019-3:J-8	J-8	2-lot subdivision		Dunton	<b>Withdrawn</b>
6/20/2019	2019-A:H-102,103	H-102, H-103	Trail Parking area		BCC/County Store	n/a
6/20/2019	2019-B:A-6	A-6	Firewood site update		Nick Burbee	n/a
6/20/2019	2019-4:D-51	D-51	2-lot subdivision		Tim Austin	40275 Aug.2019
8/15/2019	2019-5:G-39	G-39	4-lot subdivision		Fessenden/Glendale	40321 Oct.2019
7/18/2019	2019-C:F-128	F-128	convenient store		Ender Ozgur	n/a
10/17/2019	2019-E:E-15	E-15	Yurt Village		Camp Tevya	n/a
11/21/2019	2019-D:H-104-2	H-104-2	Storage Develop.		Patriot Holdings	n/a
8/15/2019	2019-6:F-113 F-114	113-1,2 & 114-1,2	Lot line		Sid Marg. Hall	40298 Sept.2019
12/19/2019	2019-F:K-23-2	K-23-3	Self-Storage Expans.		Joseph Gulla	n/a
12/19/2019	2019-G:G-40-11	G-40-11	Home Business		Natalia Markelova	n/a
No Case with the reference <b>2019-7</b> (for either subdivision or lot line)						
11/21/2019	2019-8:J-7	J-7	6-lot subdivision		Glendale Hoes	40409 Dec.2019
12/19/2019	2019-9:F-11-4	F-11-4	3-lot subdivision		Claire Wendelgest	40524 Mar.2020
12/19/2019	2019-10:A-6	A-6	4-lot subdivision		Jane Provins	40586 Jun. 2020
2/20/2020	2020-1:D-41,41-2	D-41, D-41-2	Lot Line		Melissa Keith Fait	40530 Apr.2020
2/20/2020	2020-2:F-111,113-2	F-111, F-113-2	Lot Line		Town/Homes paradis	40531 Apr.2020
4/16/2020	2020-3:C-9	C-9	7-lot subdivision		Frank Burbee	40562 May 2020
4/16/2020	2020-4:F-73,73-1	F-73, F-73-1	Lot Line		Haight/Marchant	40643 Jul.2020
5/21/2020	2020-A:J-19	J-19	Addition to buiding		Superior Steel	n/a
9/17/2020	2020-B:J-53	J-53	Commercial Develop.		Gogen Construct.	n/a
No Case# - New plan recorded for	<b>case 2013-5:D-24</b>		New Alt of Terrain		Felzani	40563 May 2020
6/18/2020	2020-C:F-2-1	F-2-1	New classroom		Autumn Gue-Scribble	n/a
6/28/2020	2020-D:H-35	H-35	Outdoor Seating		The Alamo -Mariano	n/a
8/20/2020	2020-5:G-51,G-51-2	G-51, G-51-2	Lot Line		Chandler/Chanagan	<b>Pending</b>
8/20/2020	2020-6:J-1,J-3-3	J-1, J-3-3-	Lot Line		Thibeault	<b>Pending</b>
8/20/2020	2020-E:D-3-5	D-3-5	Modern Concept	HB	Matt Goodwin	n/a
11/19/2020	2020-7:D-52-31,32	D-52-31, D-52-32	Lot Line		Frost/Leduc	<b>Pending</b>
11/19/2020	2020-8:B-1	B-1 Brook.Milford Sub	1 lot in Brookline		TEG Holdings	40813 Jan.2021
10/15/2020	2020-F:J-20	J-20	Stateline Store Add.		JBC Realty	n/a
n/a	2020-G:C-12	C-12	DPW Facility		Town	n/a
11/19/2020	2020-H:D-73	D-73	Additional seating		Juanita's Restaurant	n/a
12/17/2021	2020-9:C-7-1,2	C-7-1,C-7-2	Lot Line		Tremblay	40819 Jan.2021
2/18/2021	2020-10:C-15,C-15-3	C-15,C-15-3	6-lot Subdivivion		Chrystal	41099 Aug.2021



**List of All P.B. cases  
Since 1998**

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 Maroon = towers, Green = others

3/18/2021	2021-A:F-2-1	F-2-1	Nail Salon	Jenn Lynch	n/a
3/18/2021	2021-B:C-45-9	C-45-9	Winterberry Farm <b>HB</b>	Laureen Maclean	n/a
<b>Denied</b>	2021-1:G-40	G-40	<del>2-lot subdivision-</del>	Clarence Farwell	<b>Denied</b>
5/20/2021	2021-C:F-2-1	F-2-1	Voice of Clay	Wendy McKenzie	n/a
5/20/2021	2021-D:F-2-1	F-2-1	Gracie's Table	Christiana Lehman	n/a
7/15/2021	2021-2:E-3-1	E-3-1	2-lot subdivision	Aero Properties	41098 Aug.2021
7/15/2021	2021-3:F-18-8,9	F-18-8 F-18-9	Lot Line	Pavel/Maguire	41097 Aug.2021
7/15/2021	2021-4:E-16	E-16	2-lot subdivision	Fait Prop. Manag.	41105 Aug.2021
Withdrawn	2021-5:G-40	G-40	<del>2-lot subdivision-</del>	Clarence Farwell	<b>Withdrawn</b>
8/19/2021	2021-E:D-3-5	D-3-5	Viper Security <b>HB</b>	Matt Goodwin	n/a
9/16/2021	2021-F:E-44	E-44	Kennell <b>HB</b>	Maria Trombas	n/a
	2021-6:E-90,90-1	E-90, E-90-1	Lot Line	David Farwell	



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**PLANNING BOARD MEETING  
Minutes  
January 20<sup>th</sup>, 2011**

**Present:** Mike Papadimatos, Co-Chair, Voting  
Alan Rosenberg, Co-Chair, Voting  
Ron Pelletier, Member, Voting  
Kevin Gorgoglione, Selectmen Representative, Voting  
Paul Anderson, Alternate, Voting for Richard Randlett  
Valérie Maurer, Town Planner

**Absent:** Richard Randlett, Member and Dana MacAllister, Alternate

**7:10pm – Mike** opened the meeting and asked Paul to vote for Richard.

**Minutes**

**Alan moved to approve the December 16, 2010 minutes as written. Ron seconded. Vote yes 3-0.**

**CIP**

Missing information in the Ambulance section (as discussed on December 16) was added. The CIP was finalized.

**Motion**

**Alan moved to adopt the 2011-2016 Capital Improvement Plan and submit it to the Board of Selectmen and Finance Committee for their consideration during the Budget Public Hearings. Seconded by Ron. Voted Yes 5-0.**

**Master Plan**

There were a couple of modifications in the meeting schedule. The MP Committee and the NRPC will meet on Tuesday January 25<sup>th</sup> (instead of tonight) and February 24<sup>th</sup> (instead of Feb. 17<sup>th</sup>). Jill Longval, NRPC emailed the drafts for the first 4 chapters she is working on. Valerie asked the Board Members to get back to Jill with their input/comments/suggestions as soon as possible so Jill can make the necessary updates.

**Paul moved to adjourn at 7:35 pm. Kevin Seconded. Voted Yes 5-0.**

**Mike Papadimatos, Co-Chair** \_\_\_\_\_

**Alan Rosenberg, Co-Chair** \_\_\_\_\_

**Ron Pelletier, Member** \_\_\_\_\_

**Kevin Gorgoglione, Selectmen Representative** \_\_\_\_\_

**Paul Anderson, Alternate, Voting for Richard Randlett** \_\_\_\_\_

**Next Regular Planning Board meeting: February 3<sup>rd</sup>. 2011.**

**Minutes submitted by Valérie D. Maurer.**



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**PLANNING BOARD MEETING**

**Minutes**

**February 17, 2011**

**Present: Alan Rosenberg, Co-Chair, Voting  
Richard Randlett, Member, Voting  
Ron Pelletier, Member, Voting  
Kevin Gorgoglione, Selectmen's Representative, Voting  
Dana MacAllister, Alternate, Voting for Mike Papadimatos  
Valérie Maurer, Town Planner**

**Absent: Mike Papadimatos, Co-Chair and Paul Anderson, Alternate**

**7:00pm Meeting start**

**Minutes**

**Kevin moved to approve the minutes of the January 20, 2011 Planning Board meeting as amended. Ron seconded. Vote yes 3-0.**

**Alan** asked Dana if he would vote for Mike. **Dana** agreed.

**Master Plan Warrant Article**

**Alan** said the funding for the second payment for the Master Plan Update was in the Budget and was removed and now will be a warrant article; it will allow the town people to make the decision. **Kevin** said the Finance Committee wanted to reduce the town budget so they pulled the second payment for the Master Plan Update out of the budget and it will now be a warrant article for the town people to decide and vote on. **Valérie** said almost every department had something removed from their budget and a warrant article was created. About 4 warrant articles were created. **Richard** said it gives the town people a line to veto from the budget. **Ron** asked if the warrant article does not pass what happens. **Alan** said they will have what can be finished up with the first payment at that point and that will be it. There are a few chapters that can be done due to the information gathered for other chapters. NRPC has also received grants for the Town for the Energy Chapter. The most important chapters will be done the Vision and Land Use chapters. They were completed with the first year's payment.

**Mixed Use Zoning**

**Ron** said he asked Valérie to add mixed use zoning to the agenda tonight. The Planning Board really needs to spend some time looking into mixed use zoning. It would really be beneficial to the Town. We may get more businesses into town. **Ron** said it takes so long to do something that he just wanted to remind people that they had discussed it before and doesn't want it to be forgotten. **Ron** said while we don't have that many cases we could be getting some ground work done. **Valérie** suggested they wait until the master plan is updated as much as possible. **Alan** agreed they could discuss this after more of the master Plan is completed maybe some of the ground work will be done already. **Kevin** said while they have time they should look into it before next year. **Valérie** said she will schedule the first meeting in May to discuss. **Ron** said they could get other small business owners involved with the discussion also.

**Dana moved to adjourn at 8:00 pm. Richard Seconded. Vote yes 5-0.**

**Alan Rosenberg, Co-Chair** \_\_\_\_\_

**Richard Randlett, Member,** \_\_\_\_\_

**Ron Pelletier, Member,** \_\_\_\_\_

**Kevin Gorgoglione, Selectmen's Representative,** \_\_\_\_\_

**Dana MacAllister, Alternate,** \_\_\_\_\_

**The next Regular Planning Board meeting will be 3/3/2011.  
Minutes submitted by Kristen Austin.**



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**PLANNING BOARD MEETING**

**Minutes**

**March 03, 2011**

**Present:** Alan Rosenberg, Co-Chair, Voting  
Richard Randlett, Member, Voting  
Ron Pelletier, Member, Voting  
Kevin Gorgoglione, Selectmen's Representative, Voting  
Paul Anderson, Alternate, Voting for Mike Papadimos  
Dana MacAllister, Alternate,  
Valérie Maurer, Town Planner

**Absent:** Mike Papadimos, Co-Chair

**7:10pm Meeting start**

**Minutes**

**Richard moved to approve the Planning Board minutes of February 17, 2011 as written. Kevin seconded. Vote yes 4-0.**

**Conceptual Kelcy Stentrom Hair Salon at Big Bear 106 Route 13**

In attendance for this conceptual: Marcia Farwell, Farwell Realty and Kelcy Stendtrom, Applicant.

**Marcia** said Paul Andres (Owner of Big Bear, 106 Route 13) asked her to find a tenant for the empty space at Big Bear. She said Kelcy was interested in opening up a full service salon. She has already asked the state and they said the chemicals will not hurt the existing septic system. **Kelcy** said this will be a full service salon they will have three stations.

**Marcia** said she know this is just a conceptual discussion but would like to have Kelcy be able to leave here tonight with your blessing so that she can start the process. **Kelcy** said she will have 3 stations. Services offered will be hair cut and color, nails, and waxing.

**Kevin** said if she receives her state permits and CO then good luck to her. **Alan** said this drawing of the site and the sign sketch should be enough to put in the files. When she receives the State permits she can give a copy to the Town for the files. She will need an inspection from the Fire Department and a Certificate of Occupancy from the Building Inspector to start. He sees no reason for a formal hearing.

**Alan** said he would like her to come in again before she opens just to check in with the Planning Board and make sure we have all the paperwork.

**Case #2011-1: F-18, Gavin Rev. Trust 4-lot Subdivision, Off Rocky Pond Road**

In attendance for this hearing Randy Haight (Meridian land Services) and Francis Gavin (Applicant). **Randy** said this is a 4 lot subdivision off Rocky Pond Road. These lots will be 5 acres each. They do not need State Subdivision approval. **Randy** said there is an old French culvert that is still working but will need to be replaced.

**Valérie** said the Fire Department will be meeting with Francis Gavin in regards to the fire pond on Monday. We will have to wait for any comments from them. The Conservation Commission will be hearing this case on Tuesday then we should receive comments. We have not received any additional comment from Dennis LaBombard (LaBombard Engineering LLC, Town Engineer) because he just received the updated plan this afternoon. **Valérie** said that she has received letters from 6 abutters stating they are away for school vacation and would not be able to attend. They would like the Board to postpone the public hearing to the next meeting so they can attend. They are asking for this discussion to be continued. They have issues with the wetlands and water runoff on Rocky Pond Road, going onto their property; vernal pools and salamanders were mentioned as concerns of one of the abutters. **Valérie** said that she received the common driveway easement and it should also go to Town Counsel for review. The Board agreed. **Alan** explained that an application is a two step process: the Planning Board will accept the application if all the paperwork is in order and after will discuss the process of approval. Discussion with abutters and the general public takes place once the application has been accepted **Alan** asked if all the paperwork was in order for acceptance tonight. **Valérie** said yes it is. **Richard made a motion to accept application # 2011-01: F-18, Gavin Rev. Trust 4 lot subdivision. Kevin Seconded. Vote yes 5-0.**

**Valérie** said she would recommend holding off on the discussion until the abutters can attend the hearing so the Board does not have to review things twice. **Alan** said the Board should find out if there are any vernal pools. **Valérie** said that she has forwarded a letter from one abutter to Dennis so he can take a look at the vernal pool and water runoff. **Alan** asked **Valérie** for forward the abutter's comments to Randy so he can review them before the next meeting. **Valérie** said she will pass them along.

**Ron moved to continue Case #2011-1: F-18, Gavin Rev. Trust 4-lot Subdivision to March 17, 2011. Paul Seconded. Voted yes 5-0.**

**Case #2004-25: D-8 KKM Investment, Keith Adamyk, Rumore Way (Discussion continued from November 18, 2010)**

In attendance for this hearing Keith Adamyk (Applicant) and Dennis LaBombard (LaBombard Engineering LLC (Town Engineer)).

**Valérie** said because Keith wasn't in attendance for this meeting in November of last year, he asked to be placed on the agenda tonight. **Keith** said he was never informed of the meeting in November. He has finished Rumore Way and is out of that common driveway development. He said it is now up to the homeowners if there is any maintenance needed on Rumore Way. He said he was asked to renew the bond for the common driveway but he is done with the project and had received his last Certificate of Occupancy last March from the Building Inspector and sold that last house. He had a list of things from the Building Inspector that had to be finished before he could receive the last CO and he finished everything on that final list. **Keith** said the granite sign was broken when he called to order a new one. The vendor said it would be fine if it was a clean break to epoxy it back together and add brackets on the side. He said he also added rebar to the back of the sign to reinforce it. That sign will not break unless someone hits it with their car. It meets the requirements of Emergency Management it shows where they need to go if there is an issue. The last thing he did was have the entire road graded on his way out. He said he was not sure why the Board of Selectmen had Dennis LaBombard go out to inspect the common

driveway after he was done with the project. He doesn't feel he needs to renew a bond for a project he has completed and is done with this project. His Common Driveway declaration states that it is now the responsibility of the new owners. **Dennis** said the things that are listed in his letter should have been done before the last CO was issued. **Paul** asked what triggered the Selectmen to have this inspected. **Valérie** said the bond had expired and Dennis hadn't signed off on this common driveway yet. **Dennis** said that the items listed in his November 2010 report are the same that needed finishing in 2007. In all of the letters Dennis states there are erosion issues, the sign needs to be fixed, the North West bound is missing, problems with culverts being crushed and silt fence needs removal. **Alan** said there are rubble head walls that were not approved. The plan calls for precast concrete headwalls. That needs to be changed to what the plan calls for or if the rubble headwalls are fixed and working the Planning Board will need an as built plan. **Kevin** said the Town is just looking for these things to be done like you said you would. You have had this information since back in 2007. Why do you feel you shouldn't have to finish what is on Dennis's list? **Keith** asked if the rubble headwalls were acceptable. **Alan** said they were not approved, the plan calls for precast concrete. **Dennis** said the Department Of Transportation has standards and rubble headwalls don't meet them. **Keith** said he doesn't feel he should have to replace the granite sign. **Alan** said he didn't realize there were two pieces of rebar for reinforcement holding it together. The Sign meets the regulations it doesn't state in the regulations that they can do anything about ascetics. It may not look its best but it meets the regulations. **Paul** asked if Keith felt as though he graded the road ok before he left this subdivision. **Keith** said yes. **Alan** said you and Dennis can work together to come up with a satisfactory conclusion in regards to the headwalls; either they are changed or the plan need to be corrected. **Keith** said he will get a letter from the surveyor about the bound if it is not there it will need to be put in. he will look into the erosion controls and remove the silt fence. **Kevin** said they should ask that this be done by a certain date and if it is not then a bond will need to be put in place. Let's give him to May 19<sup>th</sup>, 2011 that will be the second meeting in May. **Ron moved to have Dennis LaBombard and Keith Adamyk come up with a satisfactory decision in regards to the headwalls and for Keith to fix the erosion control issues, remove the silt fence that is still there, and find or install the missing bound and continue this discussion on May 19, 2011. Richard Seconded. Voted yes 5-0.**

#### Annual Review of Planning Board By-Laws

**Valérie** said that the Board needs to accept the By-Laws for the year even if there are no changes needed to the document. **Ron made a motion to accept the Planning Board By-Laws dated March 18, 2010 as written. Paul Seconded. Voted yes 5-0.**

#### Appointment / Re-appointment of Members & Alternates

**Valérie** said they have to discuss the members / alternate whose terms are up March of 2011. Terms expiring this year are Richard Randlett, Member and Dana MacAllister, Alternate. **Alan** said Kevin is not running for the Board of Selectmen again this year; we will be appointed another representative. **Kevin** said he would like to stay on the Planning Board as an Alternate.

**Ron made a motion to recommend to the Board of Selectmen that Kevin Gorgoglione be appointed to the Planning Board as an Alternate, term expiring March 2014. Richard seconded. Voted yes 4-0. Kevin abstained.**

**Richard** said that after thinking lengthly about it, he has decided he would like to remain a member of the Planning Board for another term.

**Ron made a motion to recommend to the Board of Selectmen that Richard Randlett be re-appointed to the Planning Board as a Full Member, term expiring March 2014. Paul seconded. Voted yes 4-0. Richard abstained.**



**Dana** said he would like to continue to be on the Board as an Alternate.

**Ron made a motion to recommend to the Board of Selectmen that Dana MacAllister be re-appointed to the Planning Board as an Alternate, term expiring March 2014. Paul seconded. Voted yes 5-0.**

**Richard moved to adjourn at 9:15 pm. Paul Seconded. Vote yes 5-0.**

**Alan Rosenberg, Co-Chair,** \_\_\_\_\_

**Richard Randlett, Member,** \_\_\_\_\_

**Ron Pelletier, Member,** \_\_\_\_\_

**Kevin Gorgoglione, Selectmen's Representative,** \_\_\_\_\_

**Paul Anderson, Member, Voting for Mike Papadimatos,** \_\_\_\_\_

**The next Regular Planning Board meeting will be 3/17/2011.  
Minutes submitted by Kristen Austin.**



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**PLANNING BOARD MEETING**

**Minutes**

**March 17, 2011**

**Present: Alan Rosenberg, Co-Chair, Voting  
Richard Randlett, Member, Voting  
Ron Pelletier, Member, Voting  
Dana MacAllister, Alternate, Voting for Mike Papadimatos  
Valérie Maurer, Town Planner**

**Absent: Mike Papadimatos, Co-Chair, Darrell Philpot, Selectmen's Representative, and Paul Anderson, Alternate.**

**6:30pm to 8:00pm** Master Plan Update. Discussion with NRPC and Master Plan Committee for final draft review of the following chapters: Vision, Land Use, Energy and Natural Resources.

**8:00 pm** – Alan open the Planning Board business meeting.

**Minutes**

**Ron moved to approve the Planning Board minutes of March 3, 2011 as written. Richard Seconded. Vote yes 3-0.**

**Alan** asked Dana to vote for Mike Papadimatos **Dana** agreed.

**Case #2011-1: F-18, Gavin Rev. Trust 4-lot Subdivision, Off Rocky Pond Road**

In attendance for this hearing Randy Haight (Meridian land Services), Dennis LaBombard (LaBombard Engineering LLC (Town Engineer)), Francis and Robin Gavin (Applicants), James and Denise Townsend (abutters at 46 Rocky Pond Road lot F-18-2), Steven and Carolyn McLaughlin (abutters at 52 Rocky Pond Road Lot F-18-3), David Shed (not an abutter but speaking on behalf of Steven and Carolyn McLaughlin), Christopher Pestana ( abutter at 49 Rocky Pond Road lot F-60-2), and Denise Morrissette (11 Scabbard Mill Brook Road).

**Valérie** said Randy has corrected all the concerns she had forwarded to him after the last plan submitted. She just received the updated plans shortly before this meeting and has not had a chance to review it.

**Randy** said he has also made corrections to the plan from the list of concerns that Dennis had sent him also. **Dennis** said if the updates were completed as requested he doesn't think he would have an issue with this plan but said that he will review the updated plan and provide a report. **Alan** said the letter from the Road Agent (Jerry Farwell) states off site improvement will be \$1,500 for lots F-18-8, F-18-9, and F-18-10. This will be for improvements to Rocky Pond Road.

**Valérie** said note 18 was added to the plan which states “The driveway to the dwelling on lot F-18-8 is proposed to be less than 700ft long in order to comply with the maximum fire protection drafting distance of 2500’, if the driveway exceeds 700’ then a sprinkler system will be required for the proposed dwelling.” That was the only concern the Fire Department had and this note covers that. **Valérie** said Town Counsel has the common driveway easement and had not commented on that yet. **Valérie** said she will follow up on that. **Valérie** said there is also an email from Jim Belanger from Hollis, who is an abutter but is unable to attend this meeting. Mr. Belanger states that his property is land locked and during the previous subdivision he had gone to the Planning Board meeting and asked that notes were added to that plan that states the Gavin’s were to offer him access to his landlocked property in the event of a future subdivision. **Randy** said Mr. Belanger has not contacted the Gavin’s about a right of way through the common driveway. **Randy** said he found a deed that gives Mr. Belanger access to his lot off Rocky Pond Road in Hollis (deed reference book 7855 page 0803 and plan 35026). He also has a walking access through a lot in Hollis. **Randy** said he could always purchase a lot from the Gavin’s to access his property. The Board agreed there is access to Mr. Belanger’s property and he has not contacted the Gavin’s about a right of way.

**Valérie** said at the last meeting there was a concern with the vernal pools. There was a permit submitted to the state about wetlands that reads “During the wetland delineation of this property the area surrounding the stream crossing was evaluated for the presence of vernal pools. No depressions or wetlands were found that could function as a vernal pool and support obligate vernal pool species on this property.”

**Valérie** said there is no date or signature on this letter. **Randy** said we can have it stamped, signed, and dated if you wish. **Denise Townsend** asked if this letter was looked into and written recently or if it is an older letter. **Randy** said it was just done a week and a half ago. Tim Ferwerda from Meridian Land Services went out to review this property for the dredge and fill permit for the state and has written this letter in response to not finding any vernal pools in the possible construction areas.

**Valérie** said she was also concerned with the snow removal. The area depicted on the plan doesn’t look like enough room to store snow. **Randy** said there was plenty of room for snow storage. **Dennis** said he thinks the plans are in pretty good shape but would like more information on the bridge. He also asked to add check dams for erosion control and they have been added.

**Steve McLaughlin** asked why the driveway was changed from the left side of the creek as depicted in the last plan instead of squeezing it between the property line and the wetlands. **Randy** said that during the subdivision done in 1996 we had been asked by the Board to add a future road for informational purpose only. That is what was recorded but it was not the intention of the applicants to put the road there. It was at the request of the Planning Board at the time for information only. **Steve** said it seems like it would be a better plan to put the road in where the future ROW was depicted on the 1996 plan.

**David Shed** (relative of the McLaughlin’s) said the proposed driveway is in a very wooded area until you get to this section (along the McLaughlin’s property). The plan shows that the common driveway will be graded right to the property lines. They should be able to build without taking out the wooded area. He also asked if the bridge will be big enough for the rain and snow melt that will occur. The area is slanted down to the McLaughlin property and the drainage for this is swales when this freezes; there will be a stream and a lot of erosion. The guard rail for the bridge is also a concern; will it be a metal guard rail or a wooden rail? There is also a propane tank owned by the McLaughlin’s that is very close to the property line and will be close to the proposed driveway. They could add a timber guard so that no one slides off the road and hits it. **Randy** said he understands but he doesn’t think it will work. This plan has been reviewed by the Town Engineer. As far as drainage is concerned, we have done everything that has been asked. This will work. There will be a culvert properly installed for when the swales are frozen. **Jim Townsend** asked if a common driveway needs a stop sign and a name. **Randy** said per the Town common driveway regulations it needs to be named and it needs a stop sign. This will not be a paved road. **David Shed** asked if this isn’t paved, with the steep slope of this common driveway, won’t there be erosion issues? **Randy** said the Town Engineer has reviewed this plan and he

doesn't think there will be a problem with erosion. **Steve McLaughlin** asked if he could request that this be paved to keep the dust down. **Randy** said this will have more shade than the other road there is more shade and less dust. **Denise Townsend** asked who will maintain this driveway. **Randy** said that is covered in the common driveway documents. The lot owners will have to maintain the driveway. **David Shed** said there will be pooling at the intersection with Rocky Pond Road in the wintertime. **Randy** said if it is built to specifications and maintained by the owners, the water will not pool at the intersection. **Denise** asked why the creek was diverted years ago. **Randy** said the culvert wasn't installed properly but that will be corrected. **Alan** asked if the water flow will return to its original pattern. **Randy** said yes. **Alan** said there still seems to be a concern with the vernal pool status. **Randy** said a vernal pool is not connected to moving water because predators are there. It also has to maintain 1 1/2 feet of water in the growing season for the eggs to grow. **David Shed** asked if they can get a second opinion on the vernal pool situation. **Randy** agreed they could have someone else go out to do a survey if the Board wishes. Valérie recommended that the Board schedules a site walk. **Robin Gavin** asked Randy if he knew where the McLaughlin's property line is and if not can they find it during the site walk. **Randy** said yes. **Chris Pestana** said he lives across the street and is trying to picture what this will look like. **Randy** said the closest house to the road will be 600 feet, you might see lights in the winter time from your house.

**Denise Morrissette** asked when the plan is verified for engineering purposes, does that include where the snow will go. It doesn't look like there is enough room. **Randy** said yes there is plenty of room; in some areas, there is more than 10 feet on the side of the driveway. **Denise Townsend** asked if there was a minimum set back for the propane tank to the property line. **Randy** said he thinks there is only a 15 foot setback from the house only. **Dana** said he did not think that there are regulations for propane tanks being too close to the property lines.

The Board decided to schedule a site walk of the property to see if there are any vernal pools, look at the McLaughlin's property line, on Saturday, March 26, 2011 at 9:00am. This will be noticed and open to the public, the abutters are welcome to attend. The Board will also request that the Conservation Commission attends as well. **Randy** suggested parking the cars in the Gavin's driveway. **Francis** said that was fine.

**Dana moved to continue Case #2011-1: F-18, Gavin Rev. Trust 4-lot Subdivision to April 7, 2011. Ron Seconded. Vote yes 4-0.**

**CIP – Creation of the 2012-2017 Committee to be approved at the April 7<sup>th</sup> PB Meeting**

**Alan** said the Board was extremely impressed with the work that was done last year and would like to ask Paul Anderson if he would like to volunteer again this year for the next meeting.

**Richard moved to adjourn at 9:55 pm. Dana Seconded. Vote yes 4-0.**

**Alan Rosenberg, Co-Chair** \_\_\_\_\_

**Richard Randlett, Member,** \_\_\_\_\_

**Ron Pelletier, Member,** \_\_\_\_\_

**Dana MacAllister, Alternate,** \_\_\_\_\_

**The next Regular Planning Board meeting will be 4/7/2011.  
Minutes submitted by Kristen Austin.**



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**PLANNING BOARD MEETING**

**Minutes**

**April 7, 2011**

**Present:** Alan Rosenberg, Co-Chair, Voting  
Mike Papadimos, Co-Chair, voting  
Richard Randlett, Member, Voting  
Ron Pelletier, Member, Voting  
Darrell Philpot, Selectmen's Representative, Voting (arrived at 7:55)  
Dana MacAllister, Alternate  
Kevin Gorgoglione, Alternate.  
Valérie Maurer, Town Planner

**Absent:** Paul Anderson, Alternate

**Minutes**

Richard moved to approve the Planning Board minutes of March 17, 2011 as written. Ron Seconded. Vote yes 3-0.

**Nomination of Co-Chairs for the Planning Board**

Richard moved to nominate Alan Rosenberg as the Co-Chair of the Planning Board. Mike Seconded. Vote yes 3-0.

Ron Moved to nominate Mike Papadimos as the Co-Chair of the Planning Board. Richard Seconded. Vote yes 3-0

**7:15 pm - Public Hearing- Tree cutting on a Scenic Road, North Mason Road.**

Clarence Farwell in attendance speaking for the Road Agent.

Alan read the public hearing notice:

*Pursuant to R.S.A. 231:158, the Brookline Planning Board will hold a public hearing at 7:15 PM on Thursday, April 7<sup>th</sup>, 2011 in the Town Hall Meeting Room to consider a request for trimming trees along 1,500 feet on North Mason Road (a scenic road). The purpose is to upgrade a portion of North Mason Road and to provide better visual sight distance for traffic safety.*

**Clarence** said this is the 4<sup>th</sup> or 5<sup>th</sup> road upgrade. In 1976, from the Transfer Station to the Mason town line, North Mason Road was designated a Scenic Road. Per the RSA's the road needs to be 20 feet wide so some trees will need to be cut. They have been marked for a week or so. **Valérie** said the budget for this was approved at Town Meeting. **Richard** asked how far this will be paved. **Clarence** said it will be paved to Ben Farnsworth Road. **Bill Lee** (116 North Mason Road) said there are trees already marked but is there something that regulates how far back you can cut trees. **Clarence** said they will just cut enough to widen the road and for drainage purposes. **Ron made a motion to allow the Road Agent to do the tree cutting on North Mason Road. Richard Seconded. Vote Yes 4-0.**

**7:25 pm - NRSP ##2011-A:C-10-3 Home Business, David Lindof, North Mason Road, Firearms Restoration**

**David Lindof** (Applicant) said he would like to repair and restore fire arms as a home business part time for extra income. This will be a low key business with no signs at the house and no traffic. This will be word of mouth and through advertising. He said he will not store any ammunition at his home. He has met with Scott Knowles from the Fire Department and has a letter from the Fire Department. He still needs to apply for a Federal Firearms permit with the State but he was waiting for the outcome of this meeting. Members did not have other question on the application.

**Richard moved to accept the application. Seconded by Mike. Voted Yes 4-0.**

**Alan** said when he does receive the permit the Board will need a copy for the files. **Valérie** said if they approve the application, the Board will need to schedule a compliance hearing in about one year after this hearing. **David** said that was fine. **Alan** read the conditions of approval written in the Staff Report:

- All fees for case review, meeting time and inspections shall be paid before the applicant starts operating the Home Business.
- Any modification and/or change to the home business as approved at the shall be submitted to the Board for review
- Report of final inspection from the Fire Department before the applicant starts operating the Home Business.
- Copies of necessary State and/or Federal permits shall be provided to the Board.
- A compliance hearing shall be held a year after day of approval.

**Ron moved to approve case # NRSP#2011-A: C-10-3 Home Business, David Lindof, and North Mason Road with the previously read conditions of approval. Richard Seconded. Vote Yes 4-0.**

**7:35 pm - Case #2011-1: F-18, Gavin Rev. Trust 4-lot Subdivision, Off Rocky Pond Road**

In attendance for this hearing Randy Haight (Meridian land Services), Dennis LaBombard (LaBombard Engineering LLC (Town Engineer)), Francis and Robin Gavin (Applicants), Ann Gavin (abutter at 25 Birch Hill Road), Maria Gavin (Sister to Francis and Ann Gavin), Denise Townsend (abutter at 46 Rocky Pond Road lot F-18-2), Steven and Carolyn McLaughlin (abutters at 52 Rocky Pond Road Lot F-18-3), David Shed (not an abutter but speaking on behalf of Carolyn and Steven McLaughlin, his sister and brother in-law).

**Randy** said they had a site walk on March 26<sup>th</sup>. He has addressed all of Dennis's engineering concerns and added the excavation area and the propane tank location on the plan. They are not proposing to do any work in that excavated area where the water has gathered. **Randy** said there is also another letter from in regard to the excavated area. **Alan** read the letter:

**PLANNING BOARD MEETING**

**April 7, 2011**

**Page 3 of 5**

During the wetland delineation of the above referenced property an excavated area northwest of the wetland crossing location was noticed. This area is a recently excavated site in an upland portion of the property. Although there is water in the base of the excavation there were no other wetland characteristics observed and this area was not delineated as a wetland. At this time this area is not believed to be a vernal pool as no vernal pool identifiers have been observed. This area does not have a historical record of a vernal pool as it is a recent excavation that created this area. It is also unknown if there will be water present in the excavation for a duration of sufficient time to support successful breeding of obligate vernal pool species.

**Alan** said this letter is written by Timothy Ferwerda a NH Certified Wetland Scientist #039.

**Valérie** said she is still waiting for Town Counsel to review the driveway easement. We also need to discuss the relocation of the propane tank on the abutter's property. At the site walk you could see the propane tank was put in beyond the property line. After the tank is relocated there should be something on file to show where the tank is located. **Randy** said the tank is clearly over the property line. The Gavin's are more than happy to relocate at no expense to the current owners when they start construction. **Valérie** said that at the site walk they were also questioning the site distance looking toward Hollis from the end of the proposed driveway. **Randy** said he added a note on the first plan revision showing there is enough site distance.

**Valérie** said all other questions were answered at the last meeting and we are just waiting for Town Counsel to review the common driveway documents.

**Denise Townsend** asked how long it would take to move the propane tank. **Randy** said it may take a day. **Denise** asked if there was a State law that requires a propane tank to be so far away from a property line. **Dana** said there isn't a State law; towns usually regulate that. **Randy** said most towns its 15 feet from the property line. It also has to be 70 feet from where the delivery truck will park to fill it, per the fuel company. **Denise** said, for the record, the Gavins will move the propane tank at no cost to the homeowners and it will be completed with a minimal effect to the homeowners.

**David Shed** asked if they could get a second opinion on the vernal pool. In a couple of weeks when the weather is warmer he would like to make sure there is either or not a vernal pool. The Board agreed to contact UNH Coop Extension and see if someone could go out and look into it. **Alan** asked how far away from the proposed driveway is the area they are questioning whether it is a vernal pool or not.

**Randy** said it's about 30ft from the area that will be graded and 40 ft from the driveway. **Ann Gavin** said they already have a letter from a professional stating that there is no vernal pool; he has done his due diligence why would we have another company come out to do the same thing. **Randy** said this area was an excavation area recently done. There is no mud and it's in the upland soils. We were going to fill it back in if it wasn't declared a vernal pool. **Alan** said filing it back in may be cause for concern; we will call UNH Coop Extension and see if they can make it to the site.

**David Shed** also asked about having the Gavins put something up to block the dust and lights coming off the new common driveway. **Darrell** asked the homeowner and the Gavins if they can come up with a compromise. They agreed they would discuss it. **Alan** said maybe by the next meeting they will have a decision. **Darrell** said he thinks they will negotiate in good faith and come up with something by the next meeting.

**Valérie** read the conditions of approval:

- All fees associated with the case review (Engineer, Town Planner, Legal shall be paid prior to the issuance of a permit by the Building Inspector.
- A new wetland crossing permit shall be obtained by the NH DES and number added to the final plan.
- New lots F-18-8, F-18-9 and F-18-10 are subject to an impact fee per the Brookline Zoning Section 2100, in three separate amounts. The impact fees of \$222.14 (for ambulance facility), \$1,304.24

**PLANNING BOARD MEETING**

April 7, 2011

Page 4 of 5

- (for Brookline school system) and \$1,843.17 (for Hollis/Brookline Coop Middle School) are payable to the Town of Brookline at the time the Certificate of Occupancy is issued for each lots.
- The applicant needs to meet with the Board of Selectmen to sign the Off-Site Improvement agreement.
  - Off-Site Improvement agreement between the Board of Selectmen and the applicant shall be recorded before or at the time the final plan is recorded. Off-Site Improvement fee is to be paid at the time the building permit is issued.
  - A letter from the Licensed Surveyor shall be received stating that all bounds are in place before a Certificate of Occupancy is issued.
  - The applicant shall submit 8 paper copies of the final plan and a permanent, reproducible Mylar.
  - The C.O. for the last dwelling being built will be issued only after the Town Engineer provides the Building Inspector and the Planning Board with a final, satisfactory report.
  - All conditions of approval shall be printed on the final plan prior to its recording.
  - Propane tank for lot F-18-3 to be moved at the Gavin's expense.

**Alan** requested that, before the propane tank is moved, to please let the homeowners know what kind of a time frame and where it will go. **David Shed** asked if this will be a part of the final record. **Alan** said they would like it added to the plan before it is recorded.

**Alan** said in regards to the vernal pool area in question they will need a letter in the file stating that they will stay away from that area and will put up a silt fence to protect it.

**Darrell moved to approve plan number 2011-1: F-18, Gavin Rev. Trust 4-lot Subdivision with the conditions just read. Richard Seconded. Vote yes 5-0.**

**9:20 pm - CIP – Creation of the 2012-2017 Committee to be approved at the April 21<sup>st</sup> PB Meeting**

**Alan** said he has not talked to Paul Anderson about being the Chairman again this year. **Richard** said he did a great job last year. **Alan** said he will speak to him before the next meeting and find out if he wishes to Chair again. **Alan** said the Committee will need a member from the Planning Board, Board of Selectmen, Finance Committee, Facilities Committee, and one member at large. **Alan** said he would volunteer to be the Member at large this year if no one else is interested. **Valérie** said she will contact all the Boards and see if anyone wants to volunteer.

**Workshop**

**Valérie** said they will need to start working on the corrections or alterations for the Subdivision and Non Residential Site Plan Regulations. She only has a few proposed amendments. The Planning Board should ask for an electronic copy of plans and also 8 copies of the plan after every revision is too many, at least for the majority of the cases. The Board should discuss how many copies on top of and electronic copy they should request. **Valérie** suggests 4 copies of each revised plan. **Dana** said in Milford they receive PDF copies of plans.

**Valérie** said it should be requested that the CO is not issued until Dennis LaBombard (Town Engineer, LaBombard Engineering) write a letter signing off on a given site. **Kevin** said they should also look into some language regarding broken signs. They should be in good condition before they are released to the new owners.

**Master Plan Meeting on April 21, 2011**

**Alan** said the next Planning Board meeting is also a Master Plan meeting and he wanted to know if everyone was okay with meeting at 6:30 pm again. The Board agreed. **Valérie** said she will call Jill Longval at NRPC and let her know the start time.



**Richard moved to adjourn at 9:40 pm. Darrell Seconded. Vote yes 5-0.**

**Alan Rosenberg, Co-Chair** \_\_\_\_\_

**Mike Papadimatos, Co-Chair** \_\_\_\_\_

**Richard Randlett, Member** \_\_\_\_\_

**Ron Pelletier, Member** \_\_\_\_\_

**Darrell Philpot, Selectmen's Representative** \_\_\_\_\_

**The next Regular Planning Board meeting will be 4/21/2011, starting at 6:30 pm  
Minutes submitted by Kristen Austin.**



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**PLANNING BOARD MEETING**

**Minutes  
April 21<sup>st</sup>, 2011**

**Present:** Alan Rosenberg, Co-Chair, Voting  
Mike Papadimatos, Co-Chair, voting  
Ron Pelletier, Member, Voting  
Paul Anderson, Alternate (Voting for Richard)  
Valérie Maurer, Town Planner

**Absent:** Darrell Philpot, Selectmen's Representative  
Richard Randlett, Member  
Dana MacAllister, Alternate  
Kevin Gorgoglione, Alternate

**8:25 pm** – Mike opened the meeting and asked **Paul** to vote for Richard.

(Note: prior to the regular meeting, the Board met with the NRPC at 6:30 pm to review the Master Plan updated chapters)

**Minutes**

**Alan moved to approve the Planning Board minutes of April 7<sup>th</sup>, 2011 as written. Ron Seconded. Vote yes 3-0.**

**Gavin's Subdivision, Case 2011:1:F-18.**

The case was approved at the April 7<sup>th</sup>, 2011 meeting but the Board discussed again the issue of possible existence of vernal pools on the property. After the Board contacted UNH Cooperative Extension asking for assistance, an email was received suggesting that a private consultant could be hired to look at vernal pools.

The Board discussed this option. It was mentioned that there might or might not be some evidence right now, just looking at the water (temperature has to be around 40 degrees at night). For now, the Board did not decide to contact a private consultant. Once the work for the subdivision starts, Dennis LaBombard who does the inspections could take a look at it.

The Board will follow up on the issue.

**2012 – 2017 Capital Improvement Plan (C.I.P.)**

The following volunteers agreed to serve on the Capital Improvement Committee this year:

<b>Paul Anderson</b>	Planning Board
<b>Mary Bendix</b>	Finance Committee
<b>Darrell Philpot</b>	Board of Selectmen
<b>Alan Rosenberg</b>	Member at Large
<b>Ann Somers</b>	Facilities Committee

**Alan and Paul** discussed the schedule (sending documents, meetings with Departments, etc.) and decided to keep it as it is now.

**Paul** will contact the Committee's member to schedule a first meeting (nomination of the Chair and Secretary, schedule upcoming meetings, etc.)

**Paul moved to adjourn at 9:05 pm. Ron Seconded. Vote yes 4-0.**

**Alan Rosenberg, Co-Chair** \_\_\_\_\_

**Mike Papadimatos, Co-Chair** \_\_\_\_\_

**Ron Pelletier, Member** \_\_\_\_\_

**Paul Anderson, Alternate voting for Richard** \_\_\_\_\_

**The next Regular Planning Board meeting will be held on May 5<sup>th</sup>, 2011, starting at 7:00 pm**  
**Minutes submitted by Valérie Maurer**



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**PLANNING BOARD MEETING**

**Minutes**

**May 5, 2011**

**Present: Alan Rosenberg, Co-Chair, Voting  
Richard Randlett, Member, Voting  
Darrell Philpot, Selectmen's Representative, Voting  
Valérie Maurer, Town Planner**

**Absent: Mike Papadimatos, Co-Chair, Ron Pelletier, Member, Dana MacAllister, Alternate,  
Kevin Gorgoglione, Alternate, and Paul Anderson, Alternate.**

**Minutes**

Not enough people in attendance to approve the minutes from April 21, 2011.

**Master Plan Chapters**

**Alan** said the first three chapters are completed. **Richard moved to approved the Land Use, Natural Resource, and Vision chapters for the Master Plan Update and allow them to be public. Darrell Seconded. Vote yes 3-0.**

**Alan** asked Valérie to inform NRPC to remove the draft watermark that they have been accepted and announced to the viewing audience that these chapters can be reviewed online at [www.brookline.nh.us](http://www.brookline.nh.us) and click on master plan update.

**Mixed Use Zoning**

**Alan** said a lot of people are interested in mixed use zoning. They would like to bring in more commercial business to offset the taxes, shop locally. We have been talking about this for a couple of years now. **Valérie** said she would like to put a document together and then invite the residents and businesses on Route 130 to attend and ask for their input. We should also ask Avitar Associates of New England what the impact on assessed values would be if that area became a mixed use zoning area. This might be a question asked by the homeowners in attendance at that meeting. **Alan** said they should ask Dana if there is any in Milford and he could probably give us a lot of input on the subject. South Street in Milford looks like there is a project going on that looks like they are converting older homes into office spaces. **Valérie** said she will ask Hollis also about mixed use zoning in the Ash Street area. They have been doing that for a long time. Also the meetings for the visioning forum we completed in 2008 has a lot of feedback from residents as well. **Darrell** asked if this is something they should spend time on or not. **Alan** said they should have something down on prepared before a contractor shows up at the

Planning Board meeting ready to do a project and they have to tell him he needs to come back after town meeting. The Board agreed to hold a meeting on June 16, 2011 at 8:00pm in the Town Hall meeting room and they will invite the people this will effect the most on Route 130 from town line to shortly past Austin Road. **Alan** read the letter Valérie said she was going to send out to invite residents to the meeting. **Ann Somers** suggested that it asks for input and not for volunteering.

**Richard moved to adjourn at 8:15 pm. Darrell Seconded. Vote yes 3-0.**

**Alan Rosenberg, Co-Chair** \_\_\_\_\_

**Richard Randlett, Member,** \_\_\_\_\_

**Darrell Philpot, Selectmen's Representative, Member,** \_\_\_\_\_

**The next Regular Planning Board meeting will be 5/19/2011.**  
**Minutes submitted by Kristen Austin.**



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**PLANNING BOARD MEETING**

**Minutes  
May 19<sup>th</sup>, 2011**

**Present:** Alan Rosenberg, Co-Chair, Voting  
Mike Papadimatos, Co-Chair, voting  
Richard Randlett, Member, Voting  
Ron Pelletier, Member, Voting  
Valérie Maurer, Town Planner

**Absent:** Darrell Philpot, Selectmen's Representative  
Dana MacAllister, Alternate  
Kevin Gorgoglione, Alternate  
Paul Anderson, Alternate

**8:00 pm – Alan** opened the meeting

(Note: prior to the regular meeting, the Board met with the NRPC at 6:30 pm to review the Master Plan updated chapters)

**Minutes**

**Ron moved to approve the Planning Board minutes of April 21<sup>st</sup>, 2011 as written. Mike Seconded. Vote yes 3-0.**

The Board did not have enough members present to approve the minutes of the May 5, 2011 meeting.

**Gavin's Subdivision, Case 2011:1:F-18.**

**Valérie** said that Randy Haight, Meridian, contacted her and asked if he could go ahead with the final plan since all the NH State permits were approved. The only item that is pending is the discussion about the possible existence of a vernal pool on the property. **Valérie** contacted Dennis LaBombard who said that he would definitely be looking at the potential vernal pool a part of any onsite inspections that he does. He would not make any "special trips" to look only at this area unless requested to do so by the Board. Since the construction will not impact this area he does not think there should be a problem. Dennis does not see any reason not to allow the Board to proceed with the final approval. The Board did not have any additional issue and felt comfortable with Dennis' input. The Board allowed Valerie to get back to Randy and tell him to go ahead and finalize the plans.

**2012 – 2017 Capital Improvement Plan (C.I.P.)**

**Paul** could not attend the meeting. The item will be added to the June 2, 2011 agenda. **Alan** said that he would contact Paul and see what the status is. **Alan** asked Valérie to email him contact information for the Committee's members.

**Other items**

***Mixed Use Zoning – Common wells / septic systems***

**Valérie** said that letters were sent to property owners on Route 130 inviting them to a brain storming session on June 16, 2011. The meeting was to be held at the Town Hall but considering the possibility that many interested residents would attend, it was suggested to move the meeting at the Fire Station. **Valérie** will check is the F.D. meeting room is available and book it. There is a screen at the Fire Station what we will be able to use if we need to.

**Ron** offered to take some pictures of buildings in the area that have living and business areas (mixed use) and show them to people who will attend the meeting.

**Alan** asked Valérie if she would have something prepared for the June 16 meeting. **Valérie** said that she would gather information that will be provided to participants.

**Ron** discussed signs and talked about his experience with the sign application process he had to go through in order to replace the existing/old sign with a more attractive one. He was denied an internally lit sign because this is not allowed in the Residential district, even if he has been running his business for many years. He was authorized by the Zoning Board to illuminate the new sign with 2 attached spot lights. The sign ordinance, as previously discussed by the Board, will need to be looked at.

**Valérie** said that she contacted Hollis and Townsend to get information on common well and septic are used in development such as the Market Place in Hollis. There are two large septic fields and a private well serving the entire complex. In addition to the stores, day care center, there is a 24-unit elderly housing facility on the property. Hollis also has the "school well" which serves the Hollis schools, the Ever Ready fire house, the "Block" (an apartment building on Main Street), the Wheeler House, Town Hall, the Lawrence Barn and one private residence. In Townsend, all septic systems are individual but about 5,000 residents receive town water via 5 wells that send the water to 2 storage facilities. The other 1,500 residents have private wells. **Valérie** asked members if they wanted her to continue to do more research that could benefit Brookline in the future (could be used for large commercial development on Rte 13, mixed use buildings, etc...) **Alan** said that this would be valuable information to have. The Board agreed.

**Richard** announced that he would not be able to attend the June 2, 2011 meeting.

**Richard moved to adjourn at 8:25 pm. Ron Seconded. Vote yes 3-0.**

**Alan Rosenberg, Co-Chair** \_\_\_\_\_

**Mike Papadimatos, Co-Chair** \_\_\_\_\_

**Ron Pelletier, Member** \_\_\_\_\_

**Richard Randlett** \_\_\_\_\_

**The next Regular Planning Board meeting will be held on June 2<sup>nd</sup>, 2011, starting at 7:00 pm  
Minutes submitted by Valérie Maurer**



**TOWN OF  
BROOKLINE, NEW HAMPSHIRE**

**PLANNING BOARD**

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**PLANNING BOARD MEETING**

**Minutes  
June 16<sup>th</sup>, 2011**

**Present:** Alan Rosenberg, Co-Chair, Voting  
Mike Papadimatos, Co-Chair, voting  
Ron Pelletier, Member, Voting  
Darrell Philpot, Selectmen Representative, Voting  
Valérie Maurer, Town Planner

**Absent:** Richard Randlett, Member  
Dana MacAllister, Alternate  
Kevin Gorgoglione, Alternate  
Paul Anderson, Alternate

**8:00 pm – Alan** opened the meeting

(Note: prior to the regular meeting, the Board met with the NRPC at 6:30 pm to review the Master Plan updated chapters)

**Minutes**

**Ron moved to approve the Planning Board minutes of June 02, 2011 as written. Mike Seconded. Vote yes 3-0.**

Not have enough members present to approve the minutes of the May 5 & June 02, 2011 meetings.

**Mixed Use Zoning, Route 130 Corridor – Brainstorming Session**

In addition to the Planning Board members, attendees were: Robin Katz, Gina Bent, Louise Price, Kathy Pelletier and Joe Raneri.

**Alan** welcomed the residents who attended the meeting and provided feedback on previous discussions and forums related to Mixed Use that generated tonight's brainstorming session. **Alan** explained that the Planning Board was looking for input and comments from the public. All present were given a hard copy of a PowerPoint presentation. Pictures of example of Mixed Use in other towns were also displayed. **Valérie** thanked all who attended tonight's meeting and went over the presentation she put together, copy of which is attached to these minutes. Valérie thanked Ron Pelletier for all the pictures he took to show at tonight's meeting. Attendees were then invited to ask questions, offer comments and all were highly in favor of allowing small businesses in the center of town.

Some of the ideas were:

- Make the center of town a destination for people



- Walking and biking between destination
- Have family oriented businesses
- Businesses such as a coffee shop, antique shop, would be desirable
- Keep the historical character of the Town
- Quick stop for people to shop and get personal and medical care
- Place for people to gather

Mixed Use for other areas in town was also mentioned but the Board explained that, for now, the concentration was on the Rte 130 corridor. Other areas such as Route 13 will probably be considered but would require different rules and would allow for other / additional type of businesses.

Next steps were then discussed, the first one being to create a Town Center / Mixed Use Committee. If the goal is to have a warrant article submitted for March 2012 Town Meeting, there will a lot of work to do in a short period of time such as reviewing the Zoning Ordinance and make sure that existing sections would be revised as well in order to comply with a new Mixed Use section (e.g. Sign Ordinance, Parking, etc.). Non-Residential Site Plan regulations probably will need to be looked at. Development guidelines, specific to the mixed use zoning, would need to be put in place. Other duties will be to look at what other communities have in place for Mixed Use ordinances, and in collaboration with the NRPC, develop a Mixed Use Zoning Overlay District Ordinance for Brookline. Then the Planning Board will have to hold Public Hearings in November and present the proposed new Zoning section.

Once a Committee is formed, members can discuss how to “split” the work and have sub-committees working on specific tasks.

Procedure on how to advertize the creation of the Committee was discussed. The Board of Selectmen will be asked to look into it and put an announcement on the website and the Yahoo group asking volunteers to submit their name by June 27. **Darrell** said that he would get in touch with the Board of Selectmen and will discuss this at their next meeting. Postings for the creation of the Committee will also be put on Channel 13, Town Hall, and Post Office. The Planning Board will continue the discussion on July 7<sup>th</sup>, once a Committee has been formed.

Residents **Robin Katz, Gina Bent, Kathy Pelletier** and **Joe Raneri** said that they were very interested in joining the Committee.

**Ron Pelletier** and **Mike Papadimatos** volunteered to represent the Planning Board on the Committee.

**Alan** concluded the meeting by thanking everyone for coming and their willingness to volunteer their time on this project.

**Meeting adjourned at 9:05 pm**

**The next Regular Planning Board meeting will be held on July 7<sup>th</sup>, 2011, starting at 7:00 pm**  
**Minutes submitted by Valérie Maurer**

**Alan Rosenberg, Co-Chair** \_\_\_\_\_

**Mike Papadimatos, Co-Chair** \_\_\_\_\_

**Ron Pelletier, Member** \_\_\_\_\_

**Darrell Philpot, Selectmen’s Representative** \_\_\_\_\_



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**PLANNING BOARD MEETING**

**Minutes  
July 7, 2011**

**Present: Alan Rosenberg, Co-Chair, Voting  
Richard Randlett, Member, Voting  
Ron Pelletier, Member  
Darrell Philpot, Selectmen's Representative, Voting  
Valérie Maurer, Town Planner**

**Absent: Mike Papadimatos, Co-Chair, Dana MacAllister, Alternate, Paul Anderson, Alternate,  
and Kevin Gorgoglione, Alternate.**

**Minutes**

**Darrell move to approve the minutes of the May 5<sup>th</sup> 2011 Planning Board meeting as presented.  
Richard Seconded. Vote yes 3-0.**

**Darrell moved to approve the June 16<sup>th</sup> 2011 Planning Board minutes as written. Ron Seconded.  
Vote yes 3-0.**

**Code of Ethics**

**Alan** said the Board of Selectmen has asked that we review this and adopt this code of ethics.  
**Alan** read the document. (Attached to the minutes)

**Darrell made a motion for the Planning Board to adopt the Code of Ethics that was recommended  
at the 2005 Town Meeting. Ron Seconded. Vote yes 4-0.**

**Mixed Use / Town Center - 2011-2012 Committee Organizational Meeting**

In attendance for this meeting: Rich Bobich -19 Pepperell Road, Judy Cook – 10 Main Street, Randy Haight – 21 Milford Street, Sarah Marchant – 19 Milford Street, Brian Rater – 31 Mason Road. Mark Fenske – 9 Main Street & 15 Milford Street.

**Alan** said there has been discussion and interest in a mixed use overlay district for Route 130 by the residents. This could apply anywhere in town. We are here to start figuring out what the town would like to do. **Valérie** said tonight is just for the committee to introduce themselves and come up with a meeting

PLANNING BOARD MEETING

July 7, 2011

Page 2 of 5

schedule. The committee will need a chairperson and a secretary. The Board of Selectmen provided a charter for this committee and it states what is to be accomplished. You will need to look at reviewing the Zoning Ordinance and coming up with guidelines for a mixed use overlay district. For example being able to preserve the look of the center of Town and if needed the Town would be allowed to ask for a property to be maintained as far as esthetics and making sure the sign is in proper condition. You will also need to come up with an outreach program to make sure the information and meeting dates gets out to the public. This is not to create a commercial district but an overlay. Small scale offices or shops along the town center: Doctors office, lawyer's office, small shops, Boutiques, etc. To allow the Town center other use options. There is a lot of work that needs to be done. **Ron** said in all the discussions the Planning Board has had we were discussing the whole Route 130 corridor. **Valérie** said yes that is correct but they were originally concerned with people being able to walk to these areas but with the sidewalk project extending to the Post Office that will be able to happen.

**Judy** said they discussed this about 15 years ago and they had come up with the Home Business Zoning Ordinance. She is not sure what this will accomplish. **Valérie** said the home business regulations are restrictive. They only allow a certain percentage of the home for a business and with mixed use they could use the first floor as a business and live on the second floor as an example of use. **Darrell** said instead of shoe horning it into the regulations it is a better idea come up with mixed use options. **Judy** said the town center lots are greatly under sized and they barely fit the existing well and septic. They will not get town water and sewers in the town center; we can't even finish the Safety Complex Project. No one wants to come up with that kind of money. We have allowed plenty of business in the Center HVAC, dog grooming, and there are apartments at 17 Main Street. There is little to no parking for customers. **Valérie** said this is not to create more traffic; it is to allow the homeowners more options. **Sarah** said she thinks this was born from a lot of interest. This will be a tool to allow homeowners more uses for their home and to supplement the tax base. **Judy** said they can't even fill the commercial spots on Route 13. There is a lot on Route 13 (lot G-52-1) that was cleared and there was a plan for a grocery store and that never happened the land still sits vacant. **Judy** said at the end of the visioning meeting the consensus was people wanted to keep it small rural community. **Robin** said Hollis has added a lot in the town center and it was done nicely. With limitations this could be a good idea. **Brian** said this committee will be coming up with the best recommendations to present to the townspeople and allow them a vote in a future Town Meeting. **Alan** said yes the end result the Town can choose to accept or not. People have expressed an interest expanding the tax base. A few people have come before the Board and with the restrictions in the Ordinance the applicants have said "Brookline doesn't seem very business friendly". The charge of this new Committee will be to figure out what will work best for the Town and come up with a section for the Zoning Ordinance if the Town votes it in. We need to give people more options. **Mark** said the Town center is in the 100 year flood zone which is more like 20 year, 10 year or even annual year flood zone. Amherst and Hollis started with a stringent historic district, which we do not have. This will have a huge impact on wells and septic and all the radius encroach on each others property due to the lot sizes. You would need easements to further encroach to expand or replace something. You will have to meet ADA and State mandates when renovating the buildings. This would be a huge project to make these houses viable for access. **Mark** suggested making Post office Drive connect to Old Milford Road and make a commercial district there that would keep the traffic down. **Mark** said the Board is barking up the wrong tree trying to make a commercial district in the center of town. **Darrell** said it is the purpose of this committee to present the Townspeople the best option or ideas. **Valérie** said the initiative of this was based on the master plan survey and the meeting 68% of the responses were in favor of offering mixed use zoning in Town.

**Valérie** said tonight is just to set up a meeting schedule and they will need to pick a Chairperson and a Secretary. The new committee members introduced themselves. They agreed to set up a meeting on

Wednesday July 13, 2011 at 7:00pm. **Ron** offered the use of his building (Brookline Event Center (Brookline Auction Gallery), 34 Proctor Hill Road). **Rich** suggested they get to know each other during the first meeting then pick a Chairperson and a Secretary. The Board and the Committee agreed. **Alan** asked they keep the Planning Board informed and the Planning Board would like to check in with the Committee regularly. **Alan** thanked everyone for volunteering.

**Master Plan Update Contract with Nashua Regional Planning Commission**

**Alan** said the new contract is in the mail from NRPC. To allow them continue the Master Plan Update. It states exactly what the warrant article did in the last Town Meeting. This contract is not to exceed \$31,000. The contract will be given to the Board of Selectmen to sign. **Darrell** asked if it could be sent to all Board members via email. **Valérie** said yes.

**Richard moved to adjourn at 8:55 pm. Darrell Seconded. Vote yes 4-0.**

**Alan Rosenberg, Co-Chair** \_\_\_\_\_

**Richard Randlett, Member** \_\_\_\_\_

**Ron Pelletier, Member,** \_\_\_\_\_

**Darrell Philpot, Selectmen's Representative,** \_\_\_\_\_

**The next Regular Planning Board meeting will be 7/21/2011.  
Minutes submitted by Kristen Austin.**

## **CODE OF ETHICS**

Non Binding Resolution passed March 2005 Town Meeting

### **1. Purpose**

The proper operation of democratic government requires that public servants be independent, impartial, and responsible to the people; that government decisions and policy be made through the proper channels of governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government members to perform their duties without conflicts between their private interests and those of the citizens they serve.

The purpose of this code is to establish guidelines for the ethical standards of conduct for public servants. As such, the Town of Brookline

- Expects our public servants to act in the best interest of the town.
- Expects public servants to disclose, whenever possible, any personal, financial or other interests in matters affecting the town that come before them for action.
- Expects public servants to remove themselves from decision making if they have a conflict of interest.
- Expects public servants to be independent, impartial, and responsible to their fellow townspeople in their actions.
- Expects that the public servant's decisions and policies be made through the proper channels of government. ))

### **2. Definitions**

Conflict of Interest – A situation or circumstance where a public servant's personal, pecuniary or financial interests have the potential to interfere with the proper exercise of a public duty.

Pecuniary Interest – Any advantage in the form of money, property, commercial interest or anything else, the primary significance of which is economic gain; it does not include economic advantage applicable to the public at large, such as tax reduction or increased prosperity of the town.

Personal Interest – Interest in a matter, aside from official interest as a function of a public servant's position, which is more direct than that of the public at large and would influence the action of the public official.

Public Servant – All officers and employees of the Town, whether elected, appointed, paid, volunteer, or anyone acting in a position other than as a member of the general public. A person is considered a public servant upon their election, appointment, or designation as such, although they may not yet officially occupy that position.

Recuse – To remove or excuse oneself from participating in a specific action or discussion due to a conflict of interest. Recusal means to remove oneself completely from all further participation as a public servant in the matter in question. Public servants who have been recused shall immediately leave the room or shall seat themselves with the other members of the public at large who are present. When recused, public servants shall not participate in further discussions unless they clearly state for the record that they are doing so only as a general member of the public. A recused public official is effectively a member of the general public and shall not deliberate nor vote on the matter in question.

### **3. Code of Ethics**

Public servants shall avoid conflicts of interest.

Public servants shall recuse themselves and shall not take part in the decision-making process of any matter before the town in which they have a personal or pecuniary interest. Members of the Planning Board and Zoning Board of Adjustment are further bound by the provisions of RSA 673:14.

Public servants shall not directly or indirectly solicit gifts or accept or receive any gift (whether in money, services, loans, travel, entertainment, hospitality, premises or in some other form), under circumstances in which it could be reasonably inferred that the gift was intended to influence them in the performance of their duties or was intended as a reward for any recommendation or decision on their part.

Public servants must not disclose or improperly use confidential information obtained in the course of their duties.

No public servant shall use town letterhead or stationary for any purpose other than official town business. Members of boards, committees, and commissions may only use town letterhead for purposes approved by their respective board, committee or commission.

No member of a board, committee, or commission shall speak on behalf of their respective board, committee or commission unless authorized to do so by their respective board, committee, or commission. This is not to suggest that individual members cannot speak publicly, but rather to emphasize that they should clearly state they are speaking only on their individual behalf and not represent himself or herself as speaking for the board, committee, or commission.



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PLANNING BOARD MEETING

Minutes

July 21, 2011

**Present:** Alan Rosenberg, Co-Chair, Voting  
Richard Randlett, Member, Voting  
Darrell Philpot, Selectmen's Representative, Voting  
Valérie Maurer, Town Planner

**Absent:** Mike Papadimatos, Co-Chair, Ron Pelletier, Member, Dana MacAllister, Alternate, Paul Anderson, Alternate, and Kevin Gorgoglione, Alternate.

Minutes

**Richard** move to approve the minutes of the July 7<sup>h</sup> 2011 Planning Board meeting as written.  
**Darrell** Seconded. Vote yes 3-0.

Not enough members present to approve the June 02, 2011 minutes.

Mail

**Alan** said there is an email from Judy Cook that states she would like to become an Alternate on the Planning Board with a term expiring in March of 2013. **Alan** read the email "I would like to be appointed to the Brookline Planning Board as an alternate to fill the 2013 vacancy. Having been on the Planning Board in Brookline from 1991 to 2002 I feel that I have plenty of experience with the RSA's . I have attended 90% of the Law Lecture series put on by the Municipal Association now the LGC over a period of 11 years have a very good knowledge of how planning works in New Hampshire. I feel that I could be an asset to the Brookline Planning Board. Judy Cook"  
**Alan** said he has worked with Judy on the Planning Board before and so has Richard. **Judy** said she was a part of the Planning Board when there was extreme growth in Brookline

**Richard** made a motion to recommend to the Board of Selectmen to appoint Judy Cook as an Alternate for the Planning Board with a term to expire in March of 2013. **Darrell** Seconded. Vote yes 3-0.

Master Plan, Approval for Transportation, Economical Development, and Cultural/Historic Resources.

**Judy** said she found an error in a sentence that should be corrected but would let Valérie know where tomorrow. She will have to find it again but a few words were transposed in a sentence.

**Richard** asked if the Growth Ordinance information was updated in the new Master Plan Chapters. **Valérie** said yes it was taken out. **Judy** asked if that Ordinance will be brought back. **Richard** said yes when it is Justified. **Judy** said she didn't want it to be overlooked in the future. **Alan** said all surrounding Towns have also dropped the Growth Ordinance. **Judy** said it will be needed again she just wants everyone to keep it in the back of there minds. **Darrell** said we have at least 3 or 4 years before this is needed.

**Darrell** asked where the Master Plan update is posted online. **Valérie** said it is on [www.brookline.nh.us](http://www.brookline.nh.us) and [www.nashuarpc.org](http://www.nashuarpc.org).

**Darrell** asked about the chart in the Economic Development Chapter section 3.3. He asked if this was a trade study it only seems to mention 3 businesses Donovan Engineering, Bingham Lumber, and Superior Steel. They should have all the commercial businesses listed on that chart and a count of home businesses. If we have the information we should provide it. They are missing the gas stations, Bingham Lumber, convinces stores if we have it then it should be listed. If we have the information we should provide it. **Alan** agreed he can see listing all the Commercial Businesses on the chart. **Judy** said you would have to get a home business count by checking applications. **Alan** said ask if they can add the inventory of existing business to the chart and them we will get them a count of home business.

**Darrell** asked what committees were spawned from this in the past. **Alan** said after the 1997 Master Plan was completed there were a few short lived committees but the Cable and Web Committee came from that project. There was also an Economic Development group that has been on and off over the years.

**Richard** asked where the C.I.P. (Capitol Improvement Plan) came from. **Alan** said that came from the RSA's; in order to collect impact fees you must have a C.I.P. in place.

**Darrell made a motion to accept the Transportation chapter as presented. Richard Seconded. Vote yes 3-0.**

**Darrell made a motion to accept the Economic Development as submitted pending a change to the chart on section 3.3 page 4 to add all known commercial businesses to the chart and a number of home businesses in town. Richard Seconded. Vote yes 2-1. Alan voted no.**

**Richard made a motion to approve the Cultural / Historic Resources Chapter as submitted. Darrell Seconded. Vote yes 3-0.**

**Darrell moved to adjourn at 7:45 pm. Richard Seconded. Vote yes 3-0.**

**Alan Rosenberg, Co-Chair** \_\_\_\_\_

**Richard Randlett, Member** \_\_\_\_\_

**Darrell Philpot, Selectmen's Representative,** \_\_\_\_\_

**The next Regular Planning Board meeting will be 8/4/2011.  
Minutes submitted by Kristen Austin.**





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**PLANNING BOARD MEETING**

**Minutes**

**August 4, 2011**

**Present: Alan Rosenberg, Co-Chair, Voting  
Mike Papadimatos, Co-Chair, Voting  
Richard Randlett, Member, Voting (Arrived at 7:00 pm)  
Ron Pelletier, Member, Voting  
Clarence Farwell, Selectman's Representative (Left at 7:00 pm)**

**Absent: Darrell Philpot, Selectmen's Representative, Dana MacAllister, Alternate, Paul Anderson, Alternate, Kevin Gorgoglione, Alternate, and Valérie Maurer, Town Planner.**

**Non-Public 6:30pm**

**Mike moved to go into non-public session under RSA 91-A: 3. Ron Seconded. Mike Voted yes. Alan voted yes and Ron voted yes.**

**Ron moved to come out of non-public session under RSA 91-A: 3. Mike Seconded. Ron voted yes, Alan voted yes, and Mike voted yes.**

**Ron moved to seal the minutes. Mike Seconded. Voted yes 3-0.**

**7:00 pm Master Plan discussion.**

The Board discussed the Demographic, Community Design, and the Community Facilities Chapters of the Master Plan with Jill Longval and Julie Chizmas from Nashua Regional Planning Commission, the Master Plan Committee and Peter and Judy Cook.

**Minutes**

There were not enough people to sign the minutes from June 2<sup>nd</sup>, 2011 or July 21<sup>st</sup>, 2011.

**NRSP- # 2011-B: H-52-Inna Raneri, Home Business: Northeast Gold Recycling / Gift Shop.**

In attendance for this hearing: applicant Inna Raneri and Joe Raneri (applicants), Peter Cook and Judy Cook (abutters at 10 Main Street).

**Inna Raneri** said she would like to continue her business. They were originally located at 65 Route 13 with Weatherwise. **Inna** said Joe had moved his business Weatherwise Heating and Air Conditioning

back to the house where it was originally. She would like to take up a small space in the office for her business. **Inna** said she buys and sells gold. She brings the gold to be melted down and resold. The address she will use for is 1 Steam Mill Hill Road this was approved by Wes Whittier head of the Emergency Management Department. The only issue Valérie had was parking and they have 100sf of parking and it is 40 ft deep. The tenants that live in the apartment only take up 25ft of the parking lot. They have never had an issue with parking in the past and they have always run Weatherwise from this location. **Inna** said she will be using the same space as Weatherwise office for her business. The gold business will only take up a few draws of space in the office. She said they have over 3,000sf of living space and the home businesses only take up 300sf which is less than the 25% of the total living space. She doesn't think traffic will be an issue. She works by appointment for gold buying and selling but the gift shop would be open from 8:00 am to 7:00pm Monday thru Sunday. Northeast will be working seven days a week and by appointment only. **Richard** asked how many cars could be there at a given time. **Inna** said it varies it could be 1 to 2 cars a week up to 5 to 10 cars a week. **Inna** said the number of employees would be the same. She will have one sign for both businesses and she will get a permit from the Building Inspector.

**Alan** said in the future if something changes that is not on the application you will need to come back to the Planning Board. **Inna** agreed.

**Richard moved to accept the application # NRSP- # 2011-B: H-52-Inna Raneri, Home Business: Northeast Gold Recycling / Gift Shop. Ron Seconded. Vote yes 4-0.**

**Mike** said he had concerns about there being two home businesses at the same location but it is still under the allotted square footage that the Ordinance allows. **Judy Cook** said you have a committee working to come up with mixed use zoning ideas to allow businesses in the center of town. She has also spoken to some of the neighbors and hasn't heard any complaints. **Alan** said it is the responsibility of the Planning Board to "cross the T's and dot the I's". **Alan** asked if the parking was being shared with the tenants. **Inna** said yes there are four apartments and they are all rented this only takes up 25ft of the front parking area. **Inna** said they have three or four spots, if not a few more, for customers alone. **Alan** said that was his only concern and it seems like that has been taken care of and there is plenty of parking. **Alan** said the fire department didn't have any comments yet but the Emergency Management Director was fine with the address being listed as 1 Steam Mill Hill Road. **Alan** read the conditions of approval:

- 1. All fees for case review, meeting time and inspections shall be paid before the applicant starts operating the Home Business.**
- 2. A satisfactory report of final inspection from the Fire Department shall be provided to the Planning Board before the applicant starts the Home Business.**
- 3. A sign permit shall be approved by the Building Inspector.**
- 4. Any notification and/or change to the home business as approved at the August 4<sup>th</sup>, 2011 Planning Board meeting shall be submitted to the Board for review.**
- 5. A compliance hearing shall be held a year after day of approval.**

**Inna** asked when the compliance hearing will be scheduled for. **Alan** said it is just so the Board can see how things are going in a year from now. It should be held the first meeting in August of 2012. **Inna** asked if she will be informed when this meeting is scheduled. **Alan** said yes they will send her a notice.

**Richard moved to approve the application # 2011-B:H-52. Mike Seconded. Vote yes 4-0.**

### CIP

**Alan** said there is no update for the Capital Improvement Plan.

**Richard moved to adjourn at 8:45 pm. Richard Seconded. Vote yes 4-0.**

**Alan Rosenberg, Co-Chair** \_\_\_\_\_

**Mike Papadimatos, Co-Chair** \_\_\_\_\_

**Richard Randlett, Member,** \_\_\_\_\_

**Ron Pelletier, Member,** \_\_\_\_\_

**The next Regular Planning Board meeting will be 8/18/2011.  
Minutes submitted by Kristen Austin.**



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**PLANNING BOARD MEETING**

**Minutes**

**September 1, 2011**

**Present: Alan Rosenberg, Co-Chair, Voting  
Mike Papadimitos, Co-Chair, Voting  
Richard Randlett, Member, Voting  
Darrell Philpot, Selectmen's Representative, Voting  
Dana MacAllister, Alternate (Voting for Ron Pelletier)  
Valérie Maurer, Town Planner**

**Absent: Ron Pelletier, Member, Paul Anderson, Alternate, Judy Cook, Alternate, and Kevin Gorgoglione, Alternate.**

**6:30 pm Master Plan Update**

**Alan** said NRPC will not be attending tonight. They feel that they are far enough along in the Master Plan update that they will be able to just ask questions by email. The Three members from the Master Plan Committee Linda Chomiak, Tom Larochele, and Brendan Denehy that were in attendance agreed email was easier. **Alan** asked if the first Planning Board meeting of the month would still work for everyone to get together and discuss any questions that NRPC may have emailed over. They all agreed.

**7:00 pm Minutes**

**July 21, 2011 Public Minutes**

The Members that were in attendance for the July 21<sup>st</sup> meeting and were in attendance were Darrell, Alan, and Richard.

**Darrell moved to accept the Planning Board minutes from July 21, 11 as submitted. Richard Seconded. Vote yes 3-0**

**August 4, 2011 Non-Public Minutes**

Members in attendance at the August 4<sup>th</sup> non-public meeting that were in attendance to vote on the minutes are Alan, Mike and Clarence Farwell. Clarence is in attendance tonight for a discussion about 65 Route 13 but will vote on the Non-public minutes.

**Mike moved to approve the minutes of the Planning Board Non-Public Session on August 4, 2011 as written. Clarence Seconded. Vote yes 3-0.**

### **August 4, 2011 Public Minutes**

Members in attendance at the August 4<sup>th</sup> Public meeting that were in attendance to vote on the minutes were Alan, Mike and Richard.

**Richard moved to approve the Planning Board Minutes from August 4, 2011 public session as amended. Mike Seconded. Vote yes 3-0.**

**Alan** said the August 18, 2011 Planning Board meeting was canceled.

**Alan** asked Dana to vote for Ron tonight. **Dana** agreed.

### **Mail**

#### **Road Bond, Dupaw Gould Road – Jerry Farwell**

**Alan** Read Letter from Dennis LaBombard (Town Engineer) dated August 14, 2011:

“He has inspected the completion of the upgrade to Dupaw Gould Road in accordance with the subdivision case as noted (2003-10:C-27) The grass is now established and he has received a positive email from Scott Knowles with regard to this project.

He believes that this upgrade has been completed in accordance with the approved drawings. The only outstanding item should be his invoice for this inspection, which he will try to forward shortly. Once that is paid then any remaining funds should be able to be returned to the developer.”

**Alan** read the letter that will go to the Selectmen from the Planning Board on Friday September 2, 2011 if the Board motions to release the bond for case #2003-10:C-27:

“During the September 01, 2011 meeting, the Planning Board reviewed the August 19, 2011 letter from the Town Engineer, Dennis LaBombard regarding the upgrade and turnaround construction on Dupaw Gould Road.

All the work has been done and the Planning Board recommends the Cash Bonds for the amount of \$1,644.00 and \$5,581.25, totaling \$7,225.25 be released.”

**Darrell made a motion to recommend to the Board of Selectmen that the cash bonds be released to Jerry Farwell in the amount of \$7,225.25. Richard Seconded. Vote yes 5-0.**

#### **Case Review – Mark Guay, Mark Allen Cabinetry – Stoney Ledge Unit H & David and Michele Guay Local Pro Direct – Stoney Ledge Unit G**

In Attendance for this review were Mark Guay and David Guay.

**Mark Guay** said they have rented units G&H at Stoney Ledge located at 185 Route 13. They will be building a wall to separate the space and unit H will be a kitchen and bath show room using all local contractors. He has spoken with a few but will also be speaking with the builders in town to see if they can work with them as well. They really want to promote that everything is made locally. **David Guay** said he is an established screen printer here in town and would like to use the space as kind of a meeting place for the teams to come in a get measured for uniforms. They will have a few retail items related to the sports. **David** said for his day job he is a sign maker and his business is located in Dunstable MA. He

will be making signs for the new units that will be placed on the roof, one per business. He would also be putting something on the windows. The Board said that the lettering on the windows would not count as far as the square foot for total signage allowed as per the Ordinance. **Alan** said you will need to go to the Building Inspector for the sign permits one per unit.

**Valérie** said she asked them to stop by to let the Planning Board know what they were going to do. There are no issues with this plan.

**Alan** asked **Valérie** if there was a floor plan on file. She said yes and will update it by writing in the names of the new businesses. **Darrell** asked when they will open. **Mark** said they would like to be open by mid September.

**Darrell moved to find that no site plan be required for unit G & H. Dana Seconded. Vote yes 5-0.**

**Alan** read the recommendations for approval:

- A final and satisfactory report from the Fire Department shall be submitted to the Planning Board,
- Any work done to modify the existing unit shall be done after the applicants ask for a building permit,
- The Building Inspector shall issue a Certificate of Occupancy prior to the beginning of any commercial activity,
- The applicants shall obtain sign permits, one permit for each unit.
- Any modification, extension, addition, etc. to the businesses as approved on September 01, 2011 shall be presented and reviewed by the Board before they happen.

**Darrell moved to approve the two new businesses pending the items that will need to be completed on the list of recommendations previously read by Alan. Richard Seconded. Vote yes 5-0.**

### **Site Plan Discussion - Jerry Farwell, Use of Parcel H-104, 65 Route 13**

**Clarence Farwell** was in attendance to speak for Jerry Farwell who is unable to attend the meeting.

**Clarence** said he was here asking to be allowed to put up a 40x60 (2400 sf) Quonset hut to store winter sand. He went to the Building Inspector for a permit and was told he needed to come here. This hut is currently located at Bingham Lumber. **Alan** asked if this is all that will be on the lot. **Clarence** said no there is some equipment there now. **Alan** said at previous meetings there was some concern about oil dripping out of vehicles because this lot is in the Aquifer. Just so you're aware this may come up in the future. **Clarence** said this was recently purchased by Jerry this has happened so fast they are not exactly sure what they will be doing with the lot. For now he knows he would like to move the hut to this location for winter sand storage. When Jerry decides what he is going to do after that he will come to the Board. **Alan** said they will just need a finding from the Board. **Valérie** said there was some concern with the gate that is located at the entrance off South Main Street. **Clarence** said Jerry will speak with Scott Knowles (Fire Department) tomorrow.

**Darrell moved to find that Jerry Farwell be allowed to erect the 20x40 ft Quonset hut on lot H-104, 65 Route 13. Richard Seconded. Vote yes 5-0.**

### **Business Meeting – CIP Update**

**Alan** said the CIP had their first meeting last Tuesday and they have three members. Paul Anderson is the Chairman, Alan Rosenberg is the Secretary, and Ann Somers has joined them as a member. They will be getting letters out to the Board and asking that their submission be handed in by September 23, 2011. The CIP will be hold public hearings on September 27, 2011 and October 4, 2011. They want

it to be wrapped up by the end of October. **Alan** said any purchase over \$5,000 should be added to the CIP plan for all departments.

**Non-Public Session under RSA 91-A:3, II (c) matters which, if discussed in public, would likely affect adversely the reputation of any person.**

**Valérie** said they were waiting for a response from Attorney Drescher seeing as a letter was not received this non-public will be canceled.

**Richard moved to adjourn at 7:45 pm. Darrell Seconded. Vote yes 5-0.**

**Alan Rosenberg, Co-Chair** \_\_\_\_\_

**Mike Papadimatos, Co-Chair** \_\_\_\_\_

**Richard Randlett, Member** \_\_\_\_\_

**Darrell Philpot, Selectmen's Representative** \_\_\_\_\_

**Dana MacAllister, Alternate voting for Ron Pelletier** \_\_\_\_\_

**The next Regular Planning Board meeting will be 9/15/2011.  
Minutes submitted by Kristen Austin.**



**TOWN OF  
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**PLANNING BOARD**

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**PLANNING BOARD MEETING**

**Minutes**

**September 15, 2011**

**Present: Alan Rosenberg, Co-Chair, Voting  
Mike Papadimitos, Co-Chair  
Richard Randlett, Member, Voting  
Ron Pelletier, Member, Voting  
Dana MacAllister, Alternate**

**Absent: Darrell Philpot, Selectmen's Representative, Paul Anderson, Alternate, Judy Cook, Alternate, and Kevin Gorgoglione, Alternate.  
Valérie Maurer, Town Planner**

**Minutes**

**Richard moved to approve the Planning Board Minutes of September 1, 2011 as modified. Alan Seconded. Vote yes 4-0.**

**CIP update**

**Alan** said they have received responses from the Conservation Commission and the Cemetery Trustees. Neither have plans for 2012. There will be two public hearings they will be held at the Fire Station on September 27 and October 4 both at 7:00pm.

The CIP Committee would like to have this wrapped up by the end of October so this can be used as a tool for the budget season.

**Budget Review for 2012**

The Board reviewed the budget. The Board is scheduled to review their budget with the Board of Selectmen on 10/24/2011.

The Board decided to keep in line with last year's budget.

Line Items:

Consulting Service (NRPC)	Proposed \$500
Town Planner	Proposed \$46,460
Legal Expenses	Proposed \$2,500



Outside Consulting Services Proposed \$4,500  
Training and Education Proposed \$500  
Recording Fees Proposed \$200  
Office Supplies Left at \$ 1  
Notices Proposed \$200  
CIP & Master Plan Update Left at \$1

**Alan** said there is a letter in the mail stating the Planning Board will be going over the legal budget this year. It doesn't state how much. They also would like to know what they paid out of the Outside Consulting Service line item last year. They will ask Valérie at the next meeting but Alan said he thought it was for the Town Engineer (Dennis LaBombard).

### **Master Plan Discussion**

**Ron** asked if people would be able to purchase a copy of the Master Plan when it is completed. **Alan** said there will be an electronic copy available online that they can have printed if they would like. He is not sure how much that would cost.

**Richard** stated we are paying \$65,000 to have the master plan updated we have to remember that this should not just sit on the shelf and every Planning Board member should have a copy to take home and make notes after they review it. **Alan** said we should find out how much it will be to get extra copies made. **Ron** agreed all Planning Board members should have a copy of their own.

### **First Discussion Re: Zoning Ordinance and Regulation Amendments**

**Alan** said Valérie had some suggested amendments to the Ordinance and Regulations that need to be looked into.

Zoning Ordinance Section 500, 600, and 700. Where they talk about lot size it has been suggested they state "contiguous" excluding wetlands.

Subdivision regulations Section 4.9 for bonding this should be reworded it doesn't line up with bank procedures there is some wording confusion.

Alan said the sign Ordinance will need to be reviewed. Valérie has some wording from other towns to review (Milford, Hollis, and Wilton).

Subdivision regulations section: 7.5.07 should add language stating the last Certificate of Occupancy will not be issued until after a final satisfactory inspection report is issued by the Town Engineer.

Also Zoning Ordinance Section 1505.03 and 2203.02.b.3 wording should match and read more like the Housing for Older Persons Section.

**Alan** read Section 1505.03:

"1505.03 Setbacks. 15 foot setback from the front, rear, and side per lot, measured from the property lines. The subdivision perimeter will contain a 50-foot setback where no structure shall be built."

**Alan** read Section 2203.02.b.3:

"2203.02.b.3 Site Perimeter Buffer: Each development must be situated within a permanently protected undeveloped site perimeter buffer, identified on the site plan, not less than 50 feet wide or a value as deemed necessary by the Planning Board on back and all boundaries of the original parcel except for access to connecting roads, which, unless it is already wooded and satisfactory to the Planning Board, must be planted and landscaped so as to provide a visual barrier between the development and adjacent properties. The Planning Board may require

additional buffer width where unique circumstances of an abutting use or property warrant. The site perimeter buffer shall count towards the required minimum protected open space.”

Housing for Older Persons states:

Alan read Section 2203.02.b.4:

“Setbacks and unit separation: All structures shall be set back at least 25 feet from the 50-foot site perimeter buffer. In addition, developments located on public roads must meet the standard building setbacks as specified for the applicable district in the Brookline Zoning Ordinance. All housing units / buildings must be separated by at least thirty-five (35) feet.”

The Board also agreed they will need to work on the Workforce housing common driveways, if the 3<sup>rd</sup> party company lease or goes out of business who will be responsible to hire a new company, and should there be some sort of homeowner association that will need to be created to cover how the common drive way will be maintained and paid for.

**Alan** said George Foley as a resident of town not speaking for the Zoning Board has suggested putting “and” in place of the “or” in the section for Accessory dwelling units Section 2002.11:

“The gross living area of an accessory dwelling unit shall not be less than 350 square feet *or* not greater than 1,000 square feet.”

**Alan** said the only problem is the applicant will have to meet both requirements and not 350 square feet or no greater than 1,000.

**Alan** said Valérie would also like to require an electronic copy of the plans submitted for Planning Board review.

**Non-Public Session under RSA 91-A: 3, II (c) matters which, if discussed in public, would likely affect adversely the reputation of any person.**

**Alan moved to go into non-public session under RSA 91-A: 3 II (c) matters which, if discussed in public, would likely affect adversely the reputation of any person and immediately adjourn the meeting. Ron Seconded. Roll call vote Alan, Richard, Ron, and Mike all voted yes.**

**Alan moved to come out of non-public session under RSA 91-A: 3 II (c) matters which, if discussed in public, would likely affect adversely the reputation of any person. Ron Seconded. Roll call vote Alan, Richard, Ron, and Mike all voted yes.**

**Alan made a motion to seal the non-public minutes of September 15, 2011. Ron Seconded. Vote yes 4-0.**

**Richard moved to adjourn at 9:05 pm. Ron Seconded. Vote yes 4-0.**

**Mike Papadimatos, Co-Chair** \_\_\_\_\_

**Alan Rosenberg, Co-Chair** \_\_\_\_\_

**Richard Randlett, Member** \_\_\_\_\_

**Ron Pelletier, Member,** \_\_\_\_\_

**The next Regular Planning Board meeting will be 10/6/2011.  
Minutes submitted by Kristen Austin.**



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PLANNING BOARD MEETING  
Minutes  
November 3, 2011

**Present:** Alan Rosenberg, Co-Chair (voting)  
Mike Papadimitos, Co-Chair (voting)  
Richard Randlett, Member (voting)  
Ron Pelletier, Member (voting)  
Karl Dowling, Selectmen's Representative (voting) (left at 8:30pm)  
Paul Anderson, Alternate  
Judy Cook, Alternate  
Valérie Maurer, Town Planner

**Absent:** Dana MacAllister, Alternate, and Kevin Gorgoglione, Alternate.

**6:30 PM- Meeting start**

**Minutes**

Paul moved to approve the minutes of the June 2, 2011 Planning Board meeting as written. Mike Seconded. Vote yes 3-0.

Ron moved to approve the Planning Board minutes of October 20, 2011 as amended. Richard seconded. Vote yes 4-0.

**Planning Board Membership – PB recommendation to the Board of Selectmen for a new full time member.**

Alan said we have two emails one from Judy Cook (PB Alternate) and one from Dana MacAllister (PB Alternate).

Alan read Judy's letter email to the Board:

*"I am advising you of my interest in becoming the full member on the Brookline Planning Board filling the vacancy open on November 6, 2011 which runs through town meeting 2013.*

*As you know I have had 10+ years on the Brookline Planning Board from 1992 through the early 2002. I am familiar with the town regulations and many of the cases."*

**Alan** read Dana's letter that was emailed to the Planning Board:

*"I am writing to you to apply for the upcoming vacancy on the Planning Board. I have been an alternate member of the Board since April 2008 and have served on the following committees:*

*Non residential site plan committee  
Economic Development Group  
Workforce Housing Steering Committee  
Master Plan Committee*

*I also have been employed as Residential Building Inspector/Code Enforcement Officer for the Town of Milford since 2008 where I have assisted with zoning ordinance development, preparing cases for ZBA hearings, and zoning violation resolution. If you have any questions about my qualifications please feel free to call or email me. Thank you for your consideration."*

**Judy** said she was on the Planning Board previously for the creation of open space zoning and a few others and she is very familiar with the zoning ordinances. She said that she would like to help the Planning Board move along in a positive direction. She was also on the Board of Selectmen for nine years.

**Mike** said that since Dana has been an Alternate since 2008 he should be nominated.

**Paul** and **Alan** both said it was nice to have two very qualified people to pick from.

**Judy** said she has lived in town a very long time and has watched it grow from 1,600 to about 5,000 people.

**Mike made a motion to recommend to the Board of Selectmen that Dana MacAllister be appointed as a full member of the Planning Board. Richard seconded. Voted yes 4-1. Karl voted no.**

**Conceptual Discussion: Margaret Monachelli, Veterinary Practice, 49 South Main Street – Lot K-26. Proposed changes to approved home business.**

**Alan** said this is about the Veterinarian Home Business at 49 South Main Street. Margaret would like to make changes to the plan that was approved 3 years ago. **Margaret** said she originally wanted to renovate the barn for her Veterinarian Business. Due to financing she will need to scale down the practice. She would like to remove the existing 9x29 porch and build a 40x16 addition. Two rooms in the house will also be used for the home business this will total about 1,200 square feet. **Valérie** said that this is less than the Zoning Board approved at the last meeting. **Margaret** said the front door of the house will be used as the business entrance. Parking will be the same as previously approved. She would only use the barn as storage for pet food, freezer space, and various other supplies. **Valérie** said Margaret will have to go to the Zoning Board for a Special Exception because the addition will be built in the front setback. The house already sits in the front setback. She has also been approved for up to 9 employees by the Zoning Board. **Judy** suggested letting the Fire Department know if anything stored in the barn requires MSDS sheets. **Valérie** said the fire department will have to do a final inspection before this can open for business. **Valérie** asked the Board if they wanted a full application filled out or if they will feel comfortable just making a finding. The Zoning Board's decision is still valid and she will just need a special exception to allow the addition to be built. This new plan is less non-conforming than the original plan. **Alan** said as long as the file is updated with the new information and the Zoning Board's decision on the special exception, he doesn't think Margaret needs to go through another full application review process. We should also have a compliance hearing 6 months after the Certificate of Occupancy is issued. **Margaret** said she would like to be open by June of 2012.

Ron made a motion that the Planning Board finds that a full application is not necessary because Mrs. Monachelli has already talked to the Building Inspector and presented him with a plan showing the proposed upgrades to the house. She will need a Special Exception from the Zoning Board to build the addition (replacing the existing porch).

Mrs. Monachelli will need to contact the Fire Department for an inspection and recommendation for fire protection, emergency exists, etc, for the house.

Taking into account that Mrs. Monachelli was approved to operate a home business largely exceeding the zoning requirements and considering that what she is proposing today is reducing the approved variances for square footage and number of employees, the Board accepts Mrs. Monachelli's modifications without requesting her to prepare a full application for site plan review. The Planning Board file will also need a copy of the Special Exception from the Zoning Board and she will need to schedule a compliance hearing 6 months after the C.O. is issued.

The barn may be used as storage. If in the future the homeowner would like to expand the business to include the barn and the proposed addition to the home she would then need to come back to the Planning Board with a new plan. Richard seconded. Vote yes 5-0.

Margaret asked about signage. Valérie said she would need to go to the Building Inspector to get a sign permit but because she has a corner lot she can put a sign on South Main Street and on Route 13. Just do not put the sign in the State right of way or they will cut it down.

### CIP Update

Paul said they will hold the last meeting on Thursday November 10, 2011 at the Town Hall in the meeting room. They will update the final draft and present it to the Planning Board on November 17, 2011.

### Zoning Ordinance proposed amendments

The Board discussed zoning changes.

#### **Proposed Zoning Amendments for March 2012**

#### **After November 03, 2011 Planning Board Meeting**

503.03 Land Area. Each building lot shall be at least one (1) *contiguous* acre excluding wetlands *with the buildable area accessed from a highway, street, or right-of-way of class five or better*.

603.03 Land Area. Each building lot shall have at least 80,000 *contiguous* square feet, excluding wetlands *with the buildable area accessed from a highway, street, or right-of-way of class five or better*.

603.04 Number of Dwelling Units. Only one dwelling unit shall be permitted per individual building lot, except as provided in Section 2000.00, Accessory Dwelling Units. A duplex shall require ~~two times the minimum land area~~ *at least 160,000 contiguous square feet, excluding wetlands with the buildable area accessed from a highway, street, or right-of-way of class five or better*.

603.06 Back Lots.

a. Requires a minimum lot area of *at least* five (5) ~~contiguous~~ acres *with a buildable area of at least 80,000 contiguous square feet of dry land accessed from a highway, street, or right-of-way of class five or better.*

d. A duplex requires *a minimum lot area of* ten (10) ~~contiguous~~ acres ~~minimum lot size~~ *with a buildable area of at least 160,000 square feet of contiguous dry land with the buildable area accessed from a highway, street, or right-of-way of class five or better.*

626.00, 3. The minimum lot size for a single family market value *unit* or a single *family* workforce housing unit shall be one (1) *contiguous* acre excluding wetlands. The minimum lot size for a duplex shall be one and one half (1.5) *contiguous* acres excluding wetlands. The minimum lot size for a five unit multi-family building shall be three (3) *contiguous* acres excluding wetlands.

1505.03 (Open Space Developments) Setbacks. 15 foot setback from the front, rear, and side per lot, measured from the property lines. ~~The subdivision perimeter will contain a 50 foot setback where no structure shall be built.~~

**Site Perimeter Buffer:** (NEW Sub-Section, to match section 2203.02, b. 3 – See below)  
Each development must be situated within a permanently protected undeveloped site perimeter buffer, identified on the site plan, not less than 50 feet wide or a value as deemed necessary by the Planning Board on back and all boundaries of the original parcel except for access to connecting roads, which, unless it is already wooded and satisfactory to the Planning Board, must be planted and landscaped so as to provide a visual barrier between the development and adjacent properties. The Planning Board may require additional buffer width where unique circumstances of an abutting use or property warrant. The site perimeter buffer shall NOT count towards the required minimum protected open space. *(The Board requested adding NOT to the last sentence)*

(Subsequent sections will need to be renumbered)

**1505.04 Lot Size.** *Each building lot shall have a minimum of one (1) contiguous acre excluding wetlands. Only one dwelling unit shall be permitted per individual building lot, except as provided in Section 2000.00, Accessory Dwelling Units. A two-family ~~structure~~ dwelling unit shall require ~~two-times the minimum land area~~ a minimum of two (2) acres contiguous, excluding wetlands. The buildable area shall have access from a highway, street, or right-of-way of class five or better. .*

2002.11 The gross living area of an accessory dwelling unit shall not be less than 350 square feet *and* ~~or~~ not greater than 1,000 square feet. (To clarify that both conditions are required)

**2203.02. b. 3 (Housing for Older Persons Developments) Site Perimeter Buffer:**

*Each development must be situated within a permanently protected undeveloped site perimeter buffer, identified on the site plan, not less than 50 feet wide or a value as deemed necessary by the Planning Board on back and all boundaries of the original parcel except*

*for access to connecting roads, which, unless it is already wooded and satisfactory to the Planning Board, must be planted and landscaped so as to provide a visual barrier between the development and adjacent properties. The Planning Board may require additional buffer width where unique circumstances of an abutting use or property warrant. The site perimeter buffer shall NOT count towards the required minimum protected open space. (The Board requested adding NOT to the last sentence)*

**Richard made a motion to adjourn at 9:00. Mike Seconded. Vote yes 4-0.**

**Alan Rosenberg, Co-Chair** \_\_\_\_\_

**Mike Papadimatos, Co-Chair** \_\_\_\_\_

**Richard Randlett, Member** \_\_\_\_\_

**Ron Pelletier, Member** \_\_\_\_\_

**Karl Dowling, Selectmen's Representative** \_\_\_\_\_

**The next Regular Planning Board meeting will be 11/17/2011.  
Minutes submitted by Kristen Austin.**





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PLANNING BOARD MEETING  
Minutes  
November 17, 2011

**Present:** Alan Rosenberg, Co-Chair (voting)  
Dana MacAllister, Co-Chair (voting)  
Richard Randlett, Member (voting)  
Ron Pelletier, Member (voting)  
Darrell Philpot, Selectmen's Representative (voting)  
Paul Anderson, Alternate  
Judy Cook, Alternate  
Valérie Maurer, Town Planner

**Absent:** Kevin Gorgoglione, Alternate.

**7:00 PM- Meeting start**

**Nominate a New Planning Board Co-Chair**

**Alan** said now that Mike has stepped down and Dana has been nominated as a full member of the Planning Board we need to nominate a Co-Chair.

**Richard** moved to nominate Dana MacAllister as the new Co-Chair for the Planning Board. **Ron** seconded. Vote yes 5-0.

**Minutes**

**Richard** moved to approve the planning Board minutes of November 3, 2011 as written. **Ron** seconded. Vote yes 3-0.

**Road Bonds**

**Alan** said there are letters in the mail from the Town Engineer, Dennis LaBombard regarding Hutchinson Hill Road Construction Bond that needs to be renewed. Ames Road Phase One Maintenance Bond needs to be renewed. Phase Two Construction Bond for Ames Road needs to be reduced.

**Dana** made a motion to recommend to the Selectmen that the Construction Bond for Hutchinson Hill Road be renewed in the amount of \$51,000. **Darrell** seconded. Vote yes 5-0.

Made a motion to recommend to the Board of Selectmen that the Maintenance Bond for Phase One of Hutchinson Hill Road be renewed in the amount of \$45,900. Darrell seconded. Vote yes 5-0.

Dana made a motion the recommend to the Board of Selectmen that the Construction Bond for Phase two of Ames Road be renewed and reduced from \$31,000 to \$22,450. Darrell seconded. Vote yes 5-0.

**Zoning Ordinance proposed amendments**

The Board discussed zoning changes.

**Proposed Zoning Amendments for March 2012  
After November 17, 2011 Planning Board Final Workshop**

200.00 Definitions: **Add** definition of:

- ***Buildable Area***: *An area capable to accommodate a house site (or commercial structure if so planned) and all required utilities such as water supply and wastewater disposal. The buildable area is the area of a lot excluding wetlands, land with slopes over twenty-five (25) percent, water bodies, regulatory floodways and land restricted from development by easements, covenant or other legal restriction The buildable area is intended to insure that the lot is capable of meeting all Town of Brookline zoning requirements.*
- ***Duplex***: *A structure used for residential purposes and consisting of two (2) living units with a common wall.*

503.03 Land Area. Each building lot shall be at least one (1) ***contiguous*** acre excluding wetlands

603.03 Land Area. Each building lot shall have at least 80,000 ***contiguous*** square feet, excluding wetlands.

603.04 Number of Dwelling Units. Only one dwelling unit shall be permitted per individual building lot, except as provided in Section 2000.00, Accessory Dwelling Units. A ~~two-family house~~ ***duplex*** shall require ~~two times the minimum land area~~ ***at least 160,000 contiguous square feet, excluding wetlands.***

603.06 Back Lots.

a. Requires a minimum lot area of ***at least*** five (5) acres ***with a buildable area of at least 80,000 contiguous square feet*** excluding wetlands.

d. ~~Duplexes~~ ***A duplex*** requires ***a minimum lot area of*** ten (10) acres ~~minimum lot size~~ ***with a buildable area of at least 160,000 contiguous square feet*** excluding wetlands.

626.00, 3. The minimum lot size for a single family market value ***unit*** or a single ***family*** workforce housing unit shall be one (1) ***contiguous*** acre excluding wetlands. The minimum lot size for a duplex shall be one and one half (1.5) ***contiguous*** acres excluding wetlands. The minimum lot size for a five unit multi-family building shall be three (3) ***contiguous*** acres excluding wetlands.

- 1505.03 (Open Space Developments) Setbacks. 15 foot setback from the front, rear, and side per lot, measured from the property lines. ~~The subdivision perimeter will contain a 50-foot setback where no structure shall be built.~~

**Site Perimeter Buffer:** (NEW Sub-Section, to match section 2203.02, b. 3 – See below)

Each development must be situated within a permanently protected undeveloped site perimeter buffer, identified on the site plan, not less than 50 feet wide or a value as deemed necessary by the Planning Board on back and all boundaries of the original parcel except for access to connecting roads, which, unless it is already wooded and satisfactory to the Planning Board, must be planted and landscaped so as to provide a visual barrier between the development and adjacent properties. The Planning Board may require additional buffer width where unique circumstances of an abutting use or property warrant. The site perimeter buffer shall NOT count towards the required minimum protected open space. (The Board requested adding NOT to the last sentence)

(Subsequent sections will need to be renumbered)

- 1505.04 **Lot Size.** *Each building lot shall have a minimum of one (1) contiguous acre excluding wetlands. Only one dwelling unit shall be permitted per individual building lot, except as provided in Section 2000.00, Accessory Dwelling Units. A two-family ~~structure~~ dwelling unit shall require ~~two times the minimum land area~~ a minimum of two (2) contiguous acres, excluding wetlands.*

- 2002.11 The gross living area of an accessory dwelling unit shall not be less than 350 square feet **and** ~~or~~ not greater than 1,000 square feet. (To clarify that both conditions are required)

**2203.02. b. 3 (Housing for Older Persons Developments) Site Perimeter Buffer:**

*Each development must be situated within a permanently protected undeveloped site perimeter buffer, identified on the site plan, not less than 50 feet wide or a value as deemed necessary by the Planning Board on back and all boundaries of the original parcel except for access to connecting roads, which, unless it is already wooded and satisfactory to the Planning Board, must be planted and landscaped so as to provide a visual barrier between the development and adjacent properties. The Planning Board may require additional buffer width where unique circumstances of an abutting use or property warrant. The site perimeter buffer shall NOT count towards the required minimum protected open space. (The Board requested adding NOT to the last sentence)*

**CIP Update**

**Paul** handed out a copy of the final draft of the 2012-1017 CIP. He also handed out another page with some last minute addition that will be added to the packet. **Paul** asked if everyone could review this copy and he will make the last few changes and at the next Planning Board meeting move to adopt the document. **Judy** suggests there be information on building permit data added for the 1990's. **Paul** said he will work on getting that information. **Judy** said there should also be information listed as to how many

dwellings there are in Town. **Richard** said that information should be in the Master Plan. **Alan** said yes it should be in the Demographics Chapter but it hasn't been finish yet; we will have it for next year. **Richard** said the Committee always does a nice job putting this together. **Alan** asked the Board to review over the next few weeks and they will have the final CIP on December 1, 2011 at the Planning Board Meeting for adoption.

**Status update on Suspension / Revocation of Lot H-130 and H-138-2**

**Darrell** said that a couple of weeks ago they had made a motion to revoke the two subdivisions. Per Town Counsel we need to make a motion to permanently suspend these subdivisions. **Alan** asked if this wording was kosher with the RSA. **Darrell** said Town Counsel said yes.

Alan read the notice from Town Counsel

“This Notice is given pursuant to *RSA 676:4-a, II and RSA 676:4, I(d)* to advise you that the Town of Brookline Planning Board, at its regular meeting on *October 20, 2011*, adopted a resolution, pursuant to its authority under *RSA 676:4-a, I*, which is applicable, only, to two undeveloped residential house lots, namely *Lot H-130* in the *Cider Mill Pond Estates* subdivision and *Lot H-138-2* in the *Maplewood Estates*. The Board determined that the owner of those lots, which was the original applicant/developer of each of the two subdivisions, was in default of its obligations under the conditions of approval and suspended the previously granted approval(s) only as such approval related to the two above referenced lots and directed the Board of Selectmen, Building Inspector and other town officials responsible for the issuance of building permits to be advised that no building permits shall issue with respect to either of the two lots identified above unless, by a date thirty (30) days from the date of said resolution, the owner of said lots, *Adamyk Homes, Inc.*, shall either:

- a. Complete all improvements in the subdivision to required town specifications and accepted by the Town; or
- b. The applicant Adamyk Homes, Inc., or its successor has posted adequate security with the town to insure the completion of the improvements.

If compliance with the foregoing conditions is not forthcoming in said thirty (30) day period, this suspension shall become a revocation. The reasons for this revocation was the failure of the owner/applicant/developer to either complete said improvements or to provide and maintain adequate security to provide for the construction of said improvements in the event of the developer's default.

You are advised that, pursuant to *RSA 676:4-a, II*, any party receiving this notice has the right to request that the Planning Board convene a hearing with notice to all parties with respect to the above action, if any party receiving this notice requests the same. Such hearing request must be made within thirty (30) days of receipt of the within notice.”

**Alan** said that we need to change the revocation wording to permanently suspend.

**Darrell made a motion that the Planning Board suspends the subdivisions for lots H-130 and H-138-2 indefinitely. Dana seconded. Vote yes 5-0.**

**Darrell made a motion to adjourn at 9:10. Richard Seconded. Vote yes 5-0.**

**Alan Rosenberg, Co-Chair** \_\_\_\_\_

**Dana MacAllister, Co-Chair** \_\_\_\_\_

**Richard Randlett, Member** \_\_\_\_\_

**Ron Pelletier, Member** \_\_\_\_\_

**Darrell Philpot, Selectmen's Representative** \_\_\_\_\_

**The next Regular Planning Board meeting will be 12/01/2011.  
Minutes submitted by Kristen Austin.**



TOWN OF  
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PLANNING BOARD MEETING  
Minutes  
December 1, 2011

**Present:** Alan Rosenberg, Co-Chair (voting)  
Dana MacAllister, Co-Chair (voting)  
Paul Anderson, Alternate (voting for Ron Pelletier)  
Valérie Maurer, Town Planner

**Absent:** Richard Randlett, Member, Ron Pelletier, Member, Darrell Philpot, Selectmen's Representative, Judy Cook, Alternate, and Kevin Gorgoglione, Alternate.

**7:00 PM- Meeting start**

**Minutes**

Not enough people to approve the minutes for the November 17, 2011 meeting.

**Case # 2011-2:B-81,D-4- Lot Line Adjustment: Ganos/ Town of Brookline**

**Valérie** said this is a lot line adjustment between lot B-81 and D-4. B-81 is owned by John Ganos and D-4 by The Town of Brookline. The purpose of this lot adjustment is for the Town (BCC) to purchase 19 +/- acres from B-81 and add to lot D-4.

**Valérie** said this is a lot line adjustment only not a subdivision. She had Randy include the Aquifer Protection Overlay District and a few minor corrections to the plan. **Ben Nowak** (abutter, lot D-3-5, 244 Route 13) attended the meeting to review the plan. **Valérie** said if the conservation Commission is planning on having a parking area on Route 13 they will need to get a driveway permit from the State. **Jay Chrystal** (Member of the Conservation Commission) agreed they would need permission for a curb cut. **Valérie** said the abutters have been notified and the fees paid.

**Dana moved to accept Plan # 2011-2: B-81, D-4- Lot Line Adjustment. Paul seconded. Vote yes 3-0.** **Alan** opened the meeting to the public.

**Paul** asked if the town was going to purchase this land. **Jay** said yes they have a public hearing scheduled for December 13, 2011 at 7:30pm in the Town Hall meeting room. This abuts the Palmer property so it will provide access to that area for log removal for example. At the moment they do not have access to that part of the railroad bed. **Ben** asked if they would still allow snowmobiling in that area. **Jay** said that wouldn't change.

There were no other comments from the Board or the public.

**Paul moved to approve plan # 2011-2: B-81, D-4- Lot Line Adjustment with the one condition that the Conservation Commission is responsible for the recording fee for this plan. Dana seconded. Vote yes 3-0.**

**Easement Language for Conservation Commission and Boundary Signs**

**Jay** said he would like to get on the agenda to discuss future plan approvals and possibly making the hanging of conservation boundary signs part of the condition of approval and have it done at the same time they set the granite boundaries. The Conservation Commission will purchase the signs and the company setting the boundary markers could also put up the Conservation Boundary sign markers for town owned land around the subdivision.

**Jay** said he would also like to discuss conservation easements. The wording needs to be more consistent. This too could be a condition of approval that the easement is put in place before the subdivision could be officially approved. **Alan** said they should discuss this further. **Valérie** said she will pull together a few Conservation easements that are in place now. **Alan** suggested they schedule a workshop for the Conservation Commission and the Planning Board to discuss the wording. **Jay** agreed and thanked the Board.

**CIP Adoption**

**Alan** said he would like to hold of until the next meeting when hopefully there will be more members in attendance. **Dana and Paul** agreed to wait until the next meeting.

**Paul made a motion to adjourn at 7:50 pm. Dana Seconded. Vote yes 3-0.**

**Alan Rosenberg, Co-Chair** \_\_\_\_\_

**Dana MacAllister, Co-Chair** \_\_\_\_\_

**Richard Randlett, Member** \_\_\_\_\_

**The next Regular Planning Board meeting will be 12/15/2011.  
Minutes submitted by Kristen Austin.**



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**PLANNING BOARD MEETING  
Minutes  
December 15, 2011**

**Present:** Alan Rosenberg, Co-Chair (voting)  
Dana MacAllister, Co-Chair (voting)  
Richard Randlett, Member (voting)  
Ron Pelletier, Member (voting)  
Darrell Philpot, Selectmen's Representative (voting)  
Paul Anderson, Alternate  
Judy Cook, Alternate  
Valérie Maurer, Town Planner

**Absent:** Kevin Gorgoglione, Alternate.

**7:00 PM- Meeting start**

**Minutes**

**Dana made a motion to approve the Planning Board minutes of November 17, 2011. Darrell Seconded. Vote yes 5-0.**

**Dana made a motion to approve the Planning Board minutes of December 1, 2011. Paul Seconded, Vote yes 3-0.**

**CIP Adoption**

**Paul** said the final draft of the CIP is ready for adoption if no one has any comments. He will email the finished copy to Valérie tomorrow.

**Dana made a motion to adopt the Capital Improvement Plan for the 2012-2017. Richard seconded. Vote yes 5-0.**



**Final Zoning Amendments Review Prior to Publication on December 23, 2011 in the Hollis Brookline Journal for Public Hearing on January 05, 2012.**

~~Removed Text~~  
New Text

200.00 Definitions: **Add** definition of:

- ***Buildable Area: An area capable to accommodate a house site (or commercial structure if so planned) and all required utilities such as water supply and wastewater disposal. The buildable area is the area of a lot excluding wetlands, land with slopes over twenty-five (25) percent, water bodies, regulatory floodways, setback requirements and land restricted from development by easements, covenants or other legal restrictions. The buildable area is intended to ensure that the lot is capable of meeting all Town of Brookline zoning requirements.***

503.03 Land Area. Each building lot shall be at least one (1) ***contiguous*** acre excluding wetlands

603.03 Land Area. Each building lot shall have at least 80,000 ***contiguous*** square feet, excluding wetlands.

603.04 Number of Dwelling Units. Only one dwelling unit shall be permitted per individual building lot, except as provided in Section 2000.00, Accessory Dwelling Units. A ~~two-family house~~ ***two-family dwelling units*** shall require ~~two times the minimum land area~~ ***at least 160,000 contiguous square feet of land excluding wetlands.***

603.06 Back Lots.

a. Requires a minimum lot area of ***at least five (5) acres with a buildable area of at least 80,000 contiguous square feet of land*** excluding wetlands.

d. ~~Duplexes~~ ***A two-family dwelling unit requires a minimum lot area of ten (10) acres minimum lot size with a buildable area of at least 160,000 contiguous square feet of land*** excluding wetlands.

626.00, 3. The minimum lot size for a single family market value ***unit*** or a single ***family*** workforce housing unit shall be one (1) ***contiguous*** acre excluding wetlands. The minimum lot size for a ~~duplex~~ ***two-family dwelling unit*** shall be one and one half (1.5) ***contiguous*** acres excluding wetlands. The minimum lot size for a ***three (3), four (4) or five (5) unit multi-family building*** shall be three (3) ***contiguous*** acres excluding wetlands.

1505.03 (Open Space Developments) Setbacks. 15 foot setback from the front, rear, and side per lot, measured from the property lines. ~~The subdivision perimeter will contain a 50-foot setback where no structure shall be built.~~

**Site Perimeter Buffer:** (NEW Sub-Section, to match section 2203.02, b. 3 – See below)

Each development must be situated within a permanently protected undeveloped site perimeter buffer, identified on the site plan, not less than 50 feet wide or a value as deemed necessary by the Planning Board on back and all boundaries of the original parcel except for access to connecting roads, which, unless it is already wooded and satisfactory to the Planning Board, must be planted and landscaped so as to provide a visual barrier between the development and adjacent properties. The Planning Board may require additional buffer width where unique circumstances of an abutting use or property warrant. The site perimeter buffer shall NOT count towards the required minimum protected open space. *(The Board requested adding NOT to the last sentence)*

(Subsequent sections will need to be renumbered)

**1505.04** ***Lot Size.** Each building lot shall have a minimum of one (1) contiguous acre excluding wetlands. Only one dwelling unit shall be permitted per individual building lot, except as provided in Section 2000.00, Accessory Dwelling Units. A two-family ~~structure~~ dwelling unit shall require ~~two times the minimum land area~~ a minimum of two (2) contiguous acres, excluding wetlands.*

2002.11 The gross living area of an accessory dwelling unit shall not be less than 350 square feet *and* ~~or~~ not greater than 1,000 square feet. (To clarify that both conditions are required)

**2203.02. b. 3 (Housing for Older Persons Developments) Site Perimeter Buffer:**

*Each development must be situated within a permanently protected undeveloped site perimeter buffer, identified on the site plan, not less than 50 feet wide or a value as deemed necessary by the Planning Board on back and all boundaries of the original parcel except for access to connecting roads, which, unless it is already wooded and satisfactory to the Planning Board, must be planted and landscaped so as to provide a visual barrier between the development and adjacent properties. The Planning Board may require additional buffer width where unique circumstances of an abutting use or property warrant. The site perimeter buffer shall NOT count towards the required minimum protected open space. (The Board requested adding NOT to the last sentence)*

### **Survey for Transparency Committee**

**Alan** said he received an email from Lynn Abt with the Transparency Committee about a survey that they have created and would like it filled out by all departments. **Valérie** said everyone has received it in the office and the Board of Selectmen will be discussing this on Monday night. The office staff should have more information on Tuesday.

### **Resignation**

**Paul** said this will be his last meeting. He will be moving out of New Hampshire for the New Year. He will send a resignation letter to the Board. The Board thanked Paul for all his hard work.

**Richard made a motion to adjourn at 8:25 pm. Darrell Seconded. Vote yes 5-0.**

**Alan Rosenberg, Co-Chair** \_\_\_\_\_

**Dana MacAllister, Co-Chair** \_\_\_\_\_

**Richard Randlett, Member** \_\_\_\_\_

**Ron Pelletier, Member** \_\_\_\_\_

**Darrell Philpot, Selectmen's Representative** \_\_\_\_\_

**The next Regular Planning Board meeting will be 1/5/2012.  
Minutes submitted by Kristen Austin.**



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PLANNING BOARD MEETING  
Minutes  
January 07, 2010

**Present:** Alan Rosenberg, Co-Chair, Voting  
Michele Hakala, Co-Chair, Voting  
Richard Randlett, Member, Voting  
Kevin Gorgoglione, Selectmen's Representative Alternate  
Ron Pelletier, Member, Voting  
Dana MacAllister, Alternate  
Valérie Maurer, Town Planner

**Absent:** Paul Anderson, Alternate, Mike Papadimatos, Alternate,

Minutes

Richard moved to approve the minutes of December 17, 2009 as corrected. Seconded by Michele. Vote yes 5-0.

General Business

Kevin asked if they could find out what we paid for the 1997 Master Plan update. Valérie said she will find out for Monday night when the Board meets with the Selectmen.

Kevin asked if the Planning Board will have another Warrant Article for this year other than the master plan. Valérie said no.

Kevin asked what was happening with the Housing for Older People Plan. Alan said the case went to court and the plaintiffs won. The plan that was approved by the Planning Board was disapproved by the court. The Builder can come back with another plan. Ron said there was a letter from residents of Sawtelle Road asking if the builder can go forward with the original plan (Clover Hill Subdivision) that was approved by the Planning Board prior to the HOP. Valérie said she has asked for something in writing from Attorney Drescher but he has stated that the builder can go forward and get a building permit for the 2004 plan that was submitted.

Non-Public Session (Master Plan Update)

Michele moved to go into non public session under RSA 91-A: 3II (c) for the purpose of discussing contractual issues and fees concerning the Update of the Mater Plan. Michele read RSA Section 91-A:3II(c) "Matters which, if discussed in public, would likely affect adversely the

reputation of any person, other than a member of the public body itself, unless such person requests an open meeting.”

Seconded by Kevin. Vote yes 5-0.

Michele moved to come out of Non-public Session. Seconded by Kevin. By roll call vote Michele voted yes, Kevin voted yes, Richard voted yes, Ron voted yes, and Alan voted yes.

Michele moved to seal the non-public Planning Board minutes of 1/7/2010. Seconded by Richard. Vote yes 5-0.

Kevin moved to adjourn at 8:35 pm. Seconded by Michele. Vote yes 5 -0.

Michele Hakala, Co-Chair, Voting \_\_\_\_\_

Alan Rosenberg, Co-Chair, Voting \_\_\_\_\_

Richard Randlett, Member, Voting \_\_\_\_\_

Kevin Gorgoglione, BOS’s Representative Alternate, Voting \_\_\_\_\_

Ron Pelletier, Member, Voting \_\_\_\_\_

The next Regular Planning Board meeting will be 1/21/2010.

Minutes submitted by Kristen Austin



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**PLANNING BOARD MEETING**

**Minutes**

**January 21, 2010**

**Present: Alan Rosenberg, Co-Chair, Voting  
Richard Randlett, Member, Voting  
Kevin Gorgoglione, Selectmen's Representative Alternate  
Paul Anderson, Alternate  
Mike Papadimatos, Alternate (Voting for Ron Pelletier)  
Dana MacAllister, Alternate (Voting for Michele Hakala)  
Valérie Maurer, Town Planner**

**Absent: Michele Hakala, Co-Chair and Ron Pelletier, Member.**

**Minutes**

**Richard moved to approve the Public Planning Board minutes of January 7, 2010 as Amended.  
Seconded by Kevin. Vote yes 3-0.**

**Kevin moved to approve the Non-Public Planning Board minutes of January 7, 2010 as written.  
Seconded by Richard. Vote yes 3-0.**

**Membership**

**Alan** read Michele's letter of resignation from the Planning Board. Michele's term expires in March of 2010. **Alan** said this means she will not be volunteering for another three year term. The first meeting in April there will be an open full member position on the Planning Board if anyone is interested. **Valérie** said she will put membership on the agenda for March 18, 2010 to discuss.

**Master Plan Update**

**Alan** said they have decided on TF Moran to do the Master Plan update. The Board of Selectmen had no issues with the choice we made or why we picked them. We also asked TFM if they would revisit the proposal that was submitted in the amount of \$75,000. They came back with new pricing of \$61,150. **Paul** asked what was cut to bring the price down. **Alan** said they cut back on meetings. **Valérie** said we still need to have these meetings but the Planning Board will have to hold them. **Dana** asked if we ever received a proposal from NRPC. **Alan** said they did not submit one. **Valérie** said NRPC will still be involved in this process by provided data to the consultant. **Valérie** said that, since TF Moran will not be involved in all the meetings previously scheduled, the Planning Board will need

**PLANNING BOARD MEETING**

January 21, 2010

Page 2 of 3

to put money in the budget for mailing, brochures, meetings, copies, etc. She thought \$3,000 might be enough for the two years. The Board probably will spend more the first year than the second and suggested budgeting at least \$2,000 for 2010. The Board agreed that the Town should also have a bulk mailing permit. **Valérie** said it would cost .27 cents to mail out flyers rather than .44 cents that it would cost without the permit. **Valérie** said she will look into it tomorrow when she goes to the post office. **Valérie** said the first flyer explaining what the Master Plan is and why it needs to be updated should go out before Town Meeting. The Board also agreed on holding an informative meeting before the town meeting. We should schedule an informational meeting on March 4<sup>th</sup> 2010 for the residents and the Planning Board to discuss the update. **Alan** said we will need to have Jerry Coogan from TFM come in to discuss his proposal with the Planning Board. **Valérie** said she will call him and see if he can attend the February 4<sup>th</sup>, 2010 Planning Board meeting.

**Valérie** read the warrant article that has been put together and reviewed by Town Counsel and that will be voted on at Town Meeting:

*“To see if the Town will vote to authorize the Board of Selectmen to enter into a two (2) year contract for the planning board to update the Brookline Master Plan at a cost of \$62,000 and to raise and appropriate the sum of \$31,000 for the first year’s payment for that purpose, or take any action relative thereto. Said contract contains a fiscal funding clause which permits the termination of the lease on an annual basis should the funds necessary to make the required payments not be appropriated by town meeting. This will be a non-lapsing appropriation per RSA 32:7, VI and will not lapse until December 31, 2011.”*

**Dana** asked what would happen if this doesn’t get funded. **Alan** said the RSA’s suggests that the Master Plan be updated every five to ten years; it has been 13 years since the last update was done. If this does not get funded the Planning Board would have to try to complete the update ourselves. **Paul** asked why the Planning Board hasn’t already tried to do the update. **Valérie** said that for the past five years we haven’t had the volunteers to work on updating the chapters and the town does not have the ability to create the maps or the software to update some of the information in the Master Plan. **Alan** said that once the Master Plan update is done, we would have an editable version that will be used for future revisions. **Richard** said a legal challenge because we have not updated the Master Plan could cost more than the actual update itself.

**Valérie** said the last update in 1996-1997 cost the Town \$29,445. This was a budget item and not a warrant article.

**Alan** said now that we have decided to go with TFM we are going to we need a contract and to meet with him.

**Richard move to approach TFM about a contract in review of the proposal and the updated cost package. Seconded by Kevin. Vote yes 5-0.**

**Valérie** said she will contact Jerry Coogan from TFM in the morning and try to reserve Brusck Hall for the informational meeting on 3/4/2010. She will also start working on a flyer that will go to every resident of Brookline so they are aware of what the Master Plan is and why it needs to be updated.

**NRPC Work Force Housing Seminar**

**Dana** said he will be attending the seminar that NRPC is holding in Milford on 1/28/2010 for Work Force Housing. If anyone else is interested in going that would be great. **Dana** said he will bring back as much information as he can.

**Richard moved to adjourn at 7:55 pm. Seconded by Kevin. Vote yes 5 -0.**

**Alan Rosenberg, Co-Chair, Voting** \_\_\_\_\_

**Richard Randlett, Member, Voting** \_\_\_\_\_

**Kevin Gorgoglione, BOS's Representative, Voting** \_\_\_\_\_

**Dana MacAllister, Alternate (Voting for Michele Hakala)** \_\_\_\_\_

**Mike Papadimatos, Alternate (Voting for Ron Pelletier)** \_\_\_\_\_

**The next Regular Planning Board meeting will be 2/4/2010.  
Minutes submitted by Kristen Austin**





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**PLANNING BOARD MEETING**

**Minutes**

**February 4<sup>th</sup>, 2010**

**Present:** Michele Hakala, Co-Chair, Voting  
Richard Randlett, Member, Voting  
Ronald Pelletier, Member, Voting  
Kevin Gorgoglione, Selectmen's Representative  
Paul Anderson, Alternate, Voting for Alan Rosenberg  
Dana MacAllister, Alternate  
Valérie Maurer, Town Planner

**Absent:** Alan Rosenberg, Co-Chair and Mike Papadimitos, Alternate

**Also Present:** Randy Haight, Meridian Land Services, Christopher Hegarty, 2-lot subdivision applicant

**Michele** opened the meeting and asked Paul to vote for Alan.

**Minutes**

**Richard moved to approve the minutes of January 21, 2010 as written. Seconded by Kevin. Voted Yes 3-0.**

**Kevin moved to release the Non-Public Planning Board minutes of January 7, 2010. Seconded by Ron. Vote Yes 3-0.**

**Case Review**

**Case # 2010:1-D-52-43 – Christopher & Joyce Hegarty, 2-lot subdivision, Capt. Seaver Road** Board's Members were provided with the Staff Report Valérie put together after reviewing the application.

**Randy Haight** said that all the corrections requested by Valérie have been made on the revised plan provided tonight. The only item missing is the State Subdivision Approval number, which, once received, will be added to the final plat. **Michele** asked if the application was ready for acceptance. **Valérie** answered yes. All fees have been paid; abutters notified and notices of public hearing posted.

**Motion**

**Kevin moved to accepted the application, case # 2010-1:D-52-43. Seconded by Richard. Voted Yes 5/0.**

**Michele** read the Public Hearing opening Statement.

**Valérie** said that it was a simple 2-lot subdivision. Although she is somehow concerned about the beaver pond in the back of the property that could potentially get larger (in 1987, there was only a small stream running), she did not find any issue with the application. **Randy Haight** said that the beavers could disappear if there was no more food in the future. **Valérie** said that she asked the Conservation Commission for comment on this particular issue; the BCC in a letter dated January 13, stated: “(...) *the water level was increased by 6 feet in 20 years, creating a pond, but it is impossible to know if the beavers will continue to increase the water level in the future*”. **Michele** asked if there was any comment from the Board. There was none.

**Valérie** said that the Road Agent recommends \$1,500 for Off-Site Improvement. **Michele** asked Valérie if there was any other issue to discuss regarding the application. **Valérie** answered no. Christopher Hegarty provided a \$25.00 check payable to Hillsborough County Treasurer requested in order to record the final plan. Mr. Hegarty and Michele signed the Off-Site Improvement Agreement. Mr. Hegarty took the agreement in order to have his wife Joyce sign the document. He will bring it back to the Town Hall.

**Michele** asked for a motion to approve the case.

**Motion:**

**Richard moved to approve the application, case # 2010-1:D-52-43 with the following conditions:**

- All fees for application review and meeting attendance shall be paid prior to the recording of the final plan.
- The applicant shall submit 8 paper copies of the final plan and one permanent, reproducible Mylar.
- NH DES subdivision approval number shall be added to the final plan.
- The proposed lot is subject to an impact fee per the Brookline Zoning Section 2100, in three separate amounts. The impact fees of \$222.14 (for ambulance facility), \$1,304.24 (for Brookline school system) and \$1,843.17 (for Hollis/Brookline Coop Middle School) are payable to the Town of Brookline at the time the Certificate of Occupancy is issued for the lot.
- Off-Site improvement agreement shall be recorded. The amount is payable to the Town of Brookline at the time a building permit is issued.
- A letter from Meridian Land Services stating that all bounds have been set shall be provided prior to the issuance of a building permit.

**Motion seconded by Kevin. Voted Yes 5-0.**

**Master Plan Update**

As discussed during the previous meeting, an “Informational Meeting” for the future update of the Master Plan will be held on Thursday March 4, 2010. Proposed location has changed and it will be in the meeting room or in the upper room if a lot of people attend. **Kevin** said that the Brush Hall, previously suggested meeting location, is not bigger than the Town Hall meeting room. **Michele** suggested asking Alan to install the video equipment to broadcast the meeting.

**Valérie** drafted a flyer that will be mailed to all Brookline Residents. **Valérie** asked the Board to review it in order to finalize it at the February 18 meeting. **Ron** suggested asking people to “answer by (date)” via email or by calling Valérie in order to have an idea on how many people will attend.

**Michele** said that Alan, Valérie and she are meeting tomorrow at 2:00 pm with Jerry Coogan, TFM, to review the proposed contact and discuss the timeline.

**Capital Improvement Plan**

All members were provided with a copy of the final draft of the CIP that Alan put together. Alan was not present but asked all members to review the CIP for adoption at the February 18, 2010 Planning Board meeting.

**NRPC Work Force Housing Seminar**

**Dana** said that he attended the seminar that the NRPC held in Milford on January 18 regarding Workforce Housing. **Dana** will email the Board with information he gathered that night.

**Richard moved to adjourn at 8:05 pm. Seconded by Kevin. Vote yes 5 -0.**

**Michele Hakala, Co-Chair, Voting** \_\_\_\_\_

**Richard Randlett, Member, Voting** \_\_\_\_\_

**Ronald Pelletier, Member, Voting** \_\_\_\_\_

**Kevin Gorgoglione, BOS's Representative, Voting** \_\_\_\_\_

**Paul Anderson, Alternate (Voting for Alan Rosenberg)** \_\_\_\_\_

The next Planning Board meeting will be held on February 18, 2010.

Respectfully submitted,

**Valérie Maurer**



TOWN OF  
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PLANNING BOARD

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PLANNING BOARD MEETING

Minutes

February 18, 2010

**Present:** Alan Rosenberg, Co-Chair, Voting  
Michele Hakala, Co-Chair (arrived at 7:20 pm) voting  
Richard Randlett, Member, Voting  
Paul Anderson, Alternate (Voting for Michele Hakala until her arrival at 7:20 pm)  
Mike Papadimatos, Alternate (Voting for Ron Pelletier)  
Valérie Maurer, Town Planner

**Absent:** Kevin Gorgoglione, Selectmen's Representative Alternate,  
Ron Pelletier, Member, and Dana MacAllister, Alternate.

Minutes

Not enough members to vote on minutes.

Capital Improvement Plan (2010-2015), Review for P.B. Adoption

**Richard** said he has reviewed the CIP and it is expensive but they did a great job putting it together. **Alan** thanked Richard and said most of the credit should go to Janice Tremblay, Tad Putney, Ben Cargill, and Ann Somers. **Alan** said he was unable to participate for a while and they had really stepped in and done most of the work. **Richard** said compliments to the Town Departments for the work they put into this. The report is excellent. **Alan** said absolutely, every year the process gets easier and easier. **Paul** asked if this is a Planning Board document. **Alan** said yes. **Richard** moved to adopt the Capital Improvement Plan (2010-2015) as presented with thanks and praise to the Committee and to all Departments. Seconded by Paul. Vote yes 4-0.

Master Plan Update flyer and informational meeting (March 3<sup>rd</sup>, 2010)

**Alan** said the informational meeting will be held on Wednesday, March 3<sup>rd</sup> here in the Town Hall meeting room and will be televised. If too many people are in attendance we will move the meeting upstairs and record it to rebroadcast later. The Board reviewed the Master Plan Update flyer and made a few grammatical corrections. **Valérie** said Ron Pelletier had received a \$493 quote from the Copy Shop to copy, staple, and fold these flyers. They will need to be in the mail by Monday 2/22/2010. **Michele** told Valérie she did a great job making the flyer. The Board agreed. **Valérie** said she will make the corrections in the morning and get it to Ron as soon as possible.

**Lisa Simpson, 12 Laurelcrest Drive Day Care**

**Valérie** said that Lisa is planning on having more children attending the childcare business she is currently running. Lisa asked if she would need to fill out a new application or if she could just amend her original one to add 5 more children to the daycare. She will be building an addition to her home in the near future which will be used for the business. **Alan** said as long as we can amend and notify abutters. The Board agreed that a new application should be submitted and the abutters notified.

**P.B. Terms Expiring**

**Alan** said that at the meeting on the 18<sup>th</sup> of March the Board will need to make recommendations to the Board of Selectmen to fill the Co-Chair seat of Michele Hakala who is retiring this year from he position on the Board. If anyone is interested please let the Planning Board know at the Meeting. **Alan** said the board will need to recommend to the Selectmen to fill the expiring positions. Of which, we have 4 terms up Michele, Paul, Ron, and Mike. The Board of Selectmen will review the recommendations and discuss them. The following week they will announce their decision. The members will have to be sworn in by the Town Clerk before the April 1<sup>st</sup> meeting. During the first meeting in April the Planning Board will appoint the co-chairs.

**Growth Ordinance**

**Richard** said we should review the growth ordinance document. **Valérie** said the Board will have to next year. It is only valid until 2012. **Alan** said they will add it to the list.

**Richard moved to adjourn at 8:15 pm. Seconded by Michele. Vote yes 4 -0.**

**Alan Rosenberg, Co-Chair, Voting** \_\_\_\_\_

**Michele Hakala, Co-Chair, Voting** \_\_\_\_\_

**Richard Randlett, Member, Voting** \_\_\_\_\_

**Mike Papadimatos, Alternate (Voting for Ron Pelletier)** \_\_\_\_\_

**The next Regular Planning Board meeting will be 3/18/2010.  
Minutes submitted by Kristen Austin**



**TOWN OF  
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**PLANNING BOARD MEETING**

**Minutes**

**March 18, 2010**

**Present: Alan Rosenberg, Co-Chair, Voting  
Michele Hakala, Co-Chair, Voting  
Richard Randlett, Member, Voting  
Ron Pelletier, Member, Voting  
Dana MacAllister, Alternate  
Paul Anderson, Alternate  
Mike Papadimatos, Alternate  
Valérie Maurer, Town Planner**

**Absent: Kevin Gorgoglione, Selectmen's Representative Alternate.**

**Mail**

**Alan** said the Annual Spring Planning and Zoning conference is scheduled for May 8<sup>th</sup> 2010 in Nashua NH, if anyone is interested in attending.

**Minutes**

**Michele** moved to approve the Public Planning Board minutes of February 4, 2010 as written.

**Seconded by Ron. Vote yes 4-0.**

**Michele** moved to approve the Planning Board minutes of February 18, 2010 as amended.

**Seconded by Richard. Vote yes 5-0.**

**Annual Review Planning Board By-Laws**

The Board discussed the Planning Board By-Laws made a few corrections.

**Michele** moved to approve the Planning Board By-Laws as amended. **Seconded by Richard. Vote yes 4-0.**

The final approved Planning Board By-Laws document is attached to the minutes. Amendments are shown.

**Appointment / Re-appointment of Planning Board Members and Alternates, recommendation to the Board of Selectmen**

**Alan** said the Planning Board will need to make recommends to the Selectmen. The Board of Selectmen will review the recommendations and discuss them. The following week they will announce their decision. The members will have to be sworn in by the Town Clerk before the April 1<sup>st</sup> meeting.

**Alan** said they have two full member positions and two alternate positions up this year.

PLANNING BOARD MEETING

March 18, 2010

Page 2 of 8

**Michele moved to recommend Ron Pelletier to be reappointed to the full member position with a term expiring in March of 2013. Seconded by Richard. Vote yes 3-0.**

All three Alternates were interested in the full member position. **Michele** said in all fairness they should go with seniority. **Michele** asked Mike if he was interested in becoming a full member. **Mike** said yes.

**Michele moved to recommend that Mike Papadimitos fill a full member position on the Planning Board with a term expiring in March 2013. Seconded by Ron. Vote yes 4-0.**

**Richard moved to recommend that Paul Anderson to be reappointed to the alternate position with a term expiring in March 2013. Seconded by Michele. Vote yes 4-0.**

**Alan** announced there are 3 alternate positions that are open on the Planning Board if anyone is interested. **Paul** said the Planning Board should advertise that these positions are available.

**Master Plan update**

**Alan** said the warrant article passed by 9 votes at town meeting. We now need to decide how we want to proceed. **Michele** said we need to figure out what we would like the scope of this project to be. Do we want to go ahead and try to accomplish the full blown update or do we want to do the two chapters that have to be completed. We have a schedule from TF Moran but we are not tied to this schedule. We have not signed the contract so if we think we can save the Town a little money then now is the time to do it. **Paul** said he didn't think they should do anything differently. Michele said that if we can find a cheaper approach, I think that it is the Planning Board's due diligence to look for a less expensive route. **Alan** said he spoke to Kerrie Diers from NRPC and there was a misunderstanding between both parties that is why NRPC didn't send in a proposal. After a lengthy discussion the Board decided to ask for proposals from TF Moran and NRPC for the new scope of work. The new scope will include the two main chapters that they must have completed first, Visioning and Land Use. They could also add anything they think they could complete in a certain time frame. We would also like them to include working with the UNH Coop Extension. The Coop can do the Community Profile. **Alan** said that he will be in Monday to call Jerry Coogan from TF Moran and let him know there will be a letter going out for another proposal and they will also send one out to Kerri at NRPC. The Board agreed. **Alan** will ask that both companies get the new proposal back to the Planning Board by April 9<sup>th</sup> 2010. We can discuss at the April 15<sup>th</sup>, 2010 Planning Board meeting. **Alan** asked Board's members to stop by the office and review the proposal before the Planning Board meeting on April 15.

**2010 Zoning Ordinance and Land Use**

**Valérie** asked the Board to sign the certification document so she can send the updated Zoning Ordinance to the State. This also needs to be signed by the Town Clerk. She will have that by tomorrow and mail the update to the State.

**Richard moved to adjourn at 9:25 pm. Seconded by Michele. Vote yes 4 -0.**

**Alan Rosenberg, Co-Chair, Voting** \_\_\_\_\_

**Michele Hakala, Co-Chair, Voting** \_\_\_\_\_

**Richard Randlett, Member, Voting** \_\_\_\_\_

Ron Pelletier, Member, Voting \_\_\_\_\_

**The next Regular Planning Board meeting will be 4/1/2010.**

**Minutes submitted by Kristen Austin**

**BROOKLINE PLANNING BOARD BY-LAWS**

(March 18, 2010)

**SECTION I PURPOSE AND AUTHORIZATION**

The Brookline Planning Board (hereinafter, the Board), duly established by the Brookline Special Meeting on January 8, 1951 in accordance with RSA 673:1, hereby establishes the following rules of procedure for the conduct of its business, pursuant to RSA 676:1.

**SECTION II MEMBERSHIP AND TERMS OF OFFICE**

**Appointment of Members**

The Board shall consist of five (5) members, appointed by the Board of Selectmen, and shall include one Selectman to act as an ex-officio member with power to vote. The Board of Selectmen shall determine alternate ex-officio members. The term of the ex-officio member must coincide with his/her term as a Selectman.. Membership of the Board shall conform to the limitations on multiple memberships set forth in RSA 673:7.

**Alternates**

The Board shall encourage the Board of Selectmen to appoint, in addition to regular members, not more than five (5) alternate members who may serve, upon designation by the Chairman, in place of a regular member, in the event of absence or disqualification. The terms and multiple membership requirements for alternates shall be the same as for regular members. Alternates not voting during a meeting are still encouraged to participate in discussions.

**Training**

Within six (6) months of assuming office for the first time, any non-ex-officio member of the Planning Board is encouraged to attend training in accordance with RSA 673:3(a). Subsequent training is available at the discretion of the Board

**SECTION III OFFICERS AND THEIR DUTIES**

**Election of Officers**

The Board shall elect, by a majority vote at its annual meeting, the following officers from among its membership. The term of each officer shall be limited to one (1) year; however, any officer shall be eligible for re-election. Hereafter the term of Chairman shall refer to Chairman, Vic-Chairman or Co-Chairman.

Chairman

The Chairman shall preside at all meetings and hearings of the Board and shall have the duties normally conferred on such officers. The Chairman shall appoint such committees as directed by the Board, including one member of the Board who shall act as Chairman of such Committees. As directed by the Board, the Chairman may affix his/her signature in the name of the Board. An ex-officio member of the board cannot serve as Chairman.

Vice Chairman

The Vice Chairman shall act for the Chairman in his absence and have authority to perform the duties prescribed for that office during the Chairman's absence.



## PLANNING BOARD MEETING

March 18, 2010

Page 4 of 8

### Co-Chairmen

Each year, upon agreement by all voting Members, the Board shall elect to have a Chairman and a Vice Chairman or two Co-Chairmen. In the case of the election of Co-Chairmen, each Co-Chair will have the authority to fill in the chairman position. At a start of a meeting, one Co-Chair will declare him/herself as running the meeting

### Non-Elected Officers

A Secretary may be hired by the Board of Selectmen. The Secretary will be responsible for the maintenance of the minutes and records of the Planning Board

A Town Planner/Administrative Assistant (Staff) may be hired by the Board of Selectmen. Staff shall assist the Planning Board prior to and during meetings and assist applicants and Brookline residents with any planning issue. A complete description of the duties of Staff is available at the Selectmen's Office.

## SECTION IV MEETINGS

### **Regular Meetings**

Regular meetings of the Board shall be held twice a month, on the first and third Thursday and shall be open to the public. The time and place of the meetings shall be selected by a majority vote of the Board taking place at the annual meeting. Regular meetings shall not be held on Sundays or legal Holidays. The following general rules of procedure shall govern the conduct of such meetings:

#### Quorum Required

A majority of the membership of the Board shall constitute the quorum necessary in order to transact business at any meeting. In the event of the absence of a regular member, the Chairman shall designate, upon opening the meeting, an alternate to act in the absent member's place. Only the alternate designated by the Selectmen for the ex-officio member shall serve in place of that member. Should a situation arise when there is no Chairman present but a quorum exists the longest serving member shall chair the meeting.

#### Notice of Meetings

Notice of time, date and place of any public meeting of the Board shall be posted in two (2) public places or printed in any paper of general circulation at least twenty-four (24) hours, excluding Sundays and legal holidays, prior to the meeting.

#### Records Required

Draft minutes of the events of the meetings shall be taken and shall include the names of members in attendance, persons appearing before the board, a brief description of the topics discussed, and a record of any actions taken (see Record of Decisions, below). Such minutes shall be available for public viewing within 5 business days after the meeting (RSA 91-A:2(II)). Minutes of Executive Session shall conform to the requirements of RSA 91-A:3.

#### Order of Business

The general order of business may be as outlined below:

- Call to Order
- Roll Call
- Reading and Acceptance of minutes of Previous Meeting
- Communications
- Committee Reports
- Unfinished Business
- Public Hearings
- Other Business
- Adjournment

#### Voting

A motion, duly seconded, shall be passed by a majority of members present, once a quorum has been established, voting in the affirmative.

Record of Decision

Pursuant to RSA 676:3, whenever the Board issues a **decision**, record of the decision shall be placed on file in the Board's Office or with the Town Clerk and be made available for public inspection no more than 5 business days after the decision is made.

**Special Meetings**

Special Meetings may be called by any Chairman and a notice to members shall be at least forty-eight (48) hours in advance of the meeting. Notice to the public shall be in the same manner as for a regular meeting. No business shall be acted upon at a special meeting unless a quorum of the membership is present. The notice of the meeting shall specify the purpose of the meeting and no other business may be considered except by unanimous consent of the Board members present once a quorum has been established.

**Annual Meeting**

An annual organizational meeting shall be held at the first regular meeting following the close of Town Meeting, but in no event later than thirty (30) days following the close of town Meeting. The purpose of the annual meeting will be to elect officers and to review the by-laws, which shall be made part of the minutes of the meeting. All members must be present before the election of officers can take place.

**SECTION V PUBLIC HEARINGS**

**A. Public Hearings Required**

Public Hearings shall be held, as required by the New Hampshire Revised Statutes Annotated for:

1. Master Plan or amendments proposed under RSA 674:1
2. Subdivision regulations proposed under RSA 674:35-37
3. Site Plan review regulations proposed under RSA 674:43-44
4. Zoning ordinances proposed under RSA 674:16
5. Board review of subdivision or site plan proposals under RSA 674:35-37 and 674:43-44

**B. Notice of Hearing**

Notice of any hearing shall be given at least ten (10) calendar days prior to the date of hearing by publication in any paper of general circulation or by posting in at least two (2) public places. The ten (10) calendar days shall not include the day of posting or the day of the meeting. For hearings involving an application for subdivision or site plan review, notice to the applicant and abutters shall be given by certified mail at least ten (10) days prior to the meeting. A notice for the first Public Hearing shall also be published in a newspaper of general circulation in the area at least ten (10) days prior to the meeting. The full text of any notice need not be included in the notice provided an adequate summary is included in the notice and a location is specified where the proposal may be viewed by the public.

**C. Conduct of the Hearing**

The presiding Chairman shall run the public hearing, and shall:

1. Convene the meeting and read the legal advertisement announcing the date, time and purpose of the meeting into the records;
2. Briefly state the manner in which the hearing shall be conducted;
3. Call upon the applicant, or sponsor of any proposal, to present the proposal;
4. Read any written testimony received concerning the proposal into the record;
5. Call upon those appearing in favor of, or in opposition to, the proposal to direct questions or comments to the Chair;
6. Call the hearing to a close, as appropriate, outlining the board's anticipated procedure concerning the proposal.

**PLANNING BOARD MEETING**

**March 18, 2010**

**Page 6 of 8**

**D. Record of Meeting**

A public record of the proceedings shall be taken in writing and incorporated into the Board's minutes. The hearing may also be recorded by a sound recording device and such recordings shall be kept on file as part of the public record.

***SECTION VI JOINT MEETINGS AND HEARINGS***

**Request for joint Meetings**

The Board, any applicant or any other land use board, may request a joint meeting or hearing of the boards on any topic common to their respective jurisdictions. Each Board shall have the discretion as to whether or not to hold a joint meeting with another board.

**Planning Board Shall Chair**

The Planning Board Chairman shall chair ANY JOINT MEETING OR HEARING in which the Board is involved (RSA 676:2). The Chairman shall follow the general rules of conduct outlined in these By-Laws.

**Notices and Decisions**

Each Board participating in the joint meeting or hearing shall be responsible for providing notice, filing minutes and decisions, and for rendering and issuing decisions, as appropriate, for the subject matter within its jurisdictions, as prescribed for that Board by statute, local ordinance, or other rules of procedure.

**SECTION VII STAFF AND FINANCES**

Within the limits of funding made available for its use by the Town Meeting, the Board may employ such staff personnel and/or consultants as it sees fit to aid the Board in its work. Appointments shall be made by a majority vote of the members present at any regular or special meeting at which a quorum has been established.

**SECTION VIII PUBLIC RELATIONS & COMMUNICATIONS**

The Chairman or a duly appointed Board member or staff personnel shall be authorized by the Board to act as the principal public relations contact for the Board. Duties shall be as prescribed by the Board.

Communications with Town Counsel shall be through the Chairman and/or his/her designee and shall be confidential to the Board unless otherwise noted.

**SECTION IX COMMITTEES**

The Chairman may appoint special committees for the purposes and terms approved by the Board. This may include assignments to subdivision and site plan review projects.

**PLANNING BOARD MEETING**

**March 18, 2010**

**Page 7 of 8**

**SECTION X APPLICATIONS AND FORMS**

**A. Applications**

Applications for subdivision or non residential site plan review shall be made on forms provided by the Board.

**B. Submission of Applications**

No application shall be placed upon any agenda for acceptance at a regular meeting of the Board unless the completed application is received by Staff no less than thirty (30) days prior to the meeting date at which it is to be accepted and/or discussed. No application will be received by Staff except in proper form, as prescribed in the subdivision or site plan review regulations and per RSA 676:4,I(b)

**SECTION XI AMENDMENTS**

**A. Amendments**

These By-Laws may be amended by a two third (2/3) vote of the entire voting membership of the Board only after the proposed change has been read and discussed at a previous regular meeting, and excepting that the by-Laws may be changed at any regular meeting by the unanimous vote of the entire voting membership of the Board.

**B. Filing with Town Clerk**

These By-Laws and any amendments thereto shall be placed on file with the Town Clerk for public inspection. A complete set of By-Laws, as amended, shall also be attached to the minutes of the Board's annual organizational meeting and kept on file.

**C. Effective Date**

These By-Laws, and any subsequent amendments, shall become effective immediately upon passage by the Board as recorded in the minutes of the meeting at which such action occurs.

**PLANNING BOARD MEETING**

**March 18, 2010**

**Page 8 of 8**

C:\Documents and Settings\valerie\Desktop\Planning Board\Planning Board By-Laws.doc



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**PLANNING BOARD MEETING**

**Minutes**

**April 01, 2010**

**Present: Alan Rosenberg, Member, Voting  
Mike Papadimatos, Member, Voting  
Ron Pelletier, Member, Voting  
Dana MacAllister, Alternate (Voting for Richard)  
Paul Anderson, Alternate  
Valérie Maurer, Town Planner**

**Absent: Richard Randlett, Member, Kevin Gorgoglione, Selectmen's Representative Alternate.**

**Minutes**

Not enough people from the previous meeting to approve the minutes.

**Appointment of Chair Persons for the Planning Board.**

**Alan** said the Board first needs to decide if they would like to stick with two Co-Chairs or go back to Chair and Vice-Chair. Alan said he thought having two Co-Chairs was working really well. The Board agreed to continue with Co-Chairs.

**Ron moved to nominate Alan for the Co-Chair position of the Planning Board. Seconded by Mike. Vote yes 3-0.**

**Alan** asked Dana to vote for Richard for this meeting. **Dana** agreed

**Alan moved to nominate Mike as for Co-Chair of the Planning Board. Seconded by Ron. Vote yes 4-0.**

**Conceptual, Roger Skillings & Charlie Corey, Site Plan amendment (Lot C-42)**

In attendance for this meeting Roger Skillings, & Charlie Corey.

**Charlie** handed a copy of the site map to the Board and explained he will be renting a few acres of the Skillings' property for the sale and storage of loam, sand, and a compost pile. He will also be using a few of the sheds: one for vehicle maintenance and one for the storage of pellets. The hours will be Monday thru Friday 6:00 am to 6:00 pm., Saturday 7:00am to 5:00pm., and a few Sundays out of the year.

**Charlie** said he is coming to the Planning Board because we don't want to enter into an agreement to rent and then a few years later be told that it can't be done in that location. **Charlie** said he wasn't sure

what the procedure was exactly but he wanted to come in to discuss it. **Valérie** asked if the operation that exists now will be moved to the other side of the property where the buildings are. **Charlie** said yes. **Roger** said he just would like to know if this could be done before he proceeds. **Valérie** said he would need a new plan and a letter from Roger, being the property's owner, stating that he gives permission for this. **Valérie** said another concern would be the vehicle maintenance on site and where all fluids would go. **Roger** said that is already being done by his company and was included on the site plan. **Alan** said they could use the existing plan and draw where all the piles will be located. **Valérie** said this should be a public hearing notifying the abutters. **Dana** asked if there was going to be any onsite excavation or if the material was going to be brought in. **Charlie** said it's all brought in to be sold. **Valérie** said you will need to fill out a sign permit as well. **Dana** asked if the Conservation Commission will look at this new plan. **Valérie** said yes. The Board will wait for a new plan submission and then will schedule a public hearing.

### **Conceptual, Al Patenaude, Workforce Housing (Lots J-41-1, J-41-3, and J-41-4)**

Attending this meeting Randy Haight (Meridian Land Services) and Al Patenaude.

**Randy** presented a second conceptual site plan development and said they have changed the plan since the last time they were in taking under consideration the zoning amendments in March. The plan now has 11 workforce housing (ranch style) single family units and 11 market rate lots. We are still accessing the lots from Laurelcrest Drive and not off Route 13. There are 3 common driveways, each serving 4 houses. **Randy** said they do need clarification on the 50 foot vegetative buffer around the entire site.

**Randy** said that there are 7 lots total that will need to be consolidated into one subdivision and the entire site consists of 30 plus acres and you only need a 10 acres parcel for workforce housing. **Valérie** said the Board will need clarification to see if the 7 lots located on both sides of Laurelcrest Drive can be combined into one subdivision or will it need to be two subdivisions, one subdivision on each side of the road. **Valérie** said if they can not be combined into one subdivision they will need to go to the Zoning Board since the parcel south of Laurelcrest Drive contains less than 10 acres. **Randy** said the 2 common driveways off Baldwin Drive will be side by side but will have a grade separation for snow and drainage. **Valérie** asked who will take care of the common driveways. **Randy** said owners of homes that are accessed from the common driveways will. **Valérie** said one of the new rules is that all utilities need to be put underground. **Al** said that will be the power company's job but if required that's what will be done. **Randy** said there will need to be at least one pole to bring existing power across the street and then bury the lines. **Valérie** said she will check with Town Counsel regarding the consolidation of all existing lots and will get back to the Board and Randy with the results. **Al** asked if this plan with the ranch style homes fits better with what the Town is looking for more than the last plan. **Dana** said he thought it was a great plan. **Alan** said he likes the concept very much. The Board agreed.

### **Master Plan Update**

**Alan** said they have an update from TF Moran. TF Moran has worked with UNH Cooperative Extension before. The Board is waiting for Kerrie Diers with NRPC to submit a proposal. **Valérie** said Kerrie has met with UNH CE. Valerie also contacted the UNH CE and they are interested in working with the town. An application still needs to be submitted. **Valérie** said the UNH CE facilitates master Plan Visioning Forums. **Ron** asked if there was a deadline to get on the list for the Coop to work in Brookline. **Valérie** said the deadline has already passed but that is why Kerrie spoke with them as well and we should be all set.

Both submissions from TF Moran and the NRPC will be reviewed and discussed at the April 15, 2010 meeting.

**Mike moved to adjourn at 8:35 pm. Seconded by Ron. Vote yes 4 -0.**

**Alan Rosenberg, Co-Chair, Voting** \_\_\_\_\_

**Mike Papadimos, Co-Chair, Voting** \_\_\_\_\_

**Ron Pelletier, Member, Voting** \_\_\_\_\_

**Dana MacAllister, Alternate (Voting for Richard Randlett)** \_\_\_\_\_

**The next Regular Planning Board meeting will be 4/15/2010.  
Minutes submitted by Kristen Austin.**





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**PLANNING BOARD MEETING**

**Minutes**

**May 06, 2010**

**Present: Alan Rosenberg, Co-Chair, Voting  
Mike Papadimitos, Co-Chair, Voting  
Kevin Gorgoglione, Selectmen's Representative, Member, Voting  
Richard Randlett, Member, (Left at 7:45pm)  
Ron Pelletier, Member, Voting  
Dana MacAllister, Alternate (voting for Richard Randlett at 7:45 pm)  
Paul Anderson, Alternate**

**Absent: Valérie Maurer, Town Planner**

**6:30 pm Non-public session 1**

**Kevin moved to go into non-public session under RSA 91-A: 3,II(c). Seconded by Alan. Alan, Kevin, Mike, Richard and Ron all voted yes.**

**Ron moved to come out of Non-public session at 7:45pm. Seconded by Kevin. Kevin, Alan, Mike, Richard and, Ron all voted yes.**

**Ron moved to seal the minutes of the non-public session. Seconded by Kevin. Vote yes 5-0.**

**Regular Planning Board Meeting**

**Richard left at 7:45pm. Alan asked Dana to vote for Richard. Dana agreed.**

**2011-2016 Capital Improvement Plan and Committee**

**Alan** said the Capital Improvements Committee (CIC) falls under the jurisdiction of the Planning Board. The Capital Improvement Plan (CIP) is the basis for charging impact fees based on population growth, school expansions, etc. This group (CIC) gathers information from all the Departments and Schools. **Alan** said he has done it for the last few years and would like to know if anyone else would like the challenge. **Alan** said with the update of the Master Plan he would not have the time to work on the CIP. **Alan** said this group is chaired by the Planning Board representative and consists of one Finance Committee Member, one Selectmen's Representative, one Facility Committee Member and one At Large Member. **Mike** asked how often they meet. **Alan** said when they need to in order to review the input from all departments. But they do have three public hearings where the Departments come in and discuss their submission.

**Alan** said the packets should be going out to the Department Heads anytime now. The spreadsheets and forms are all set up and all you have to do is fill them in. **Alan** said he will be around to help but he will not have time to run it. **Paul** volunteered to run the CIC. **Alan** thanked him. **Paul** asked if he could contact the people that were involved in this last year. **Alan** said yes. **Kevin** suggested he asks Christopher Adams from the Finance Committee for the CIP project; he may want to be involved with that.

**Al Patenaude**

**Al** said he was under the impression he could get the answers to the questions the Planning Board had about this plan at this meeting **Alan** said the Board would need more time to gather information. **Al** said he was just waiting for the answers about Laurelcrest Drive running through the subdivision before he continued on to submit a formal plan to the Board. **Alan** said he will have Valérie gather the information and get back to him Friday when she is back in the office. **Alan** said there is a letter here from the fire Department and their concerns with the conceptual you had at the last meeting were they would like to see more detailed plans for the common driveways and how they are going to accommodate the turning around of Fire Apparatus. Lot #2 workforce housing lot: the Fire Department will need to know how to access that lot. Additionally, they would like to know if it would make sense to connect the two common driveways off of Baldwin Drive and Averill Road and make Baldwin Drive go all the way through to Averill Road. **Al** thanked the Board for the information.

**Mail Letter from Attorney Drescher re: Clover Hill Reality Trust**

**Alan** said there is a letter from Attorney Drescher that gives the status of the Clover Hill Estates lot H-75. This open space subdivision was approved prior to the Housing for Elderly Persons was proposed. The attorney has rendered his opinion and Valérie said we will have to decide to make this letter public or not. **Ron** said the letter will clarify some confusion. **Ron made a motion to make letter written from Town Counsel William Drescher dated April 16<sup>th</sup> 2010 to be made public. Seconded by Mike. Vote yes 5-0**

**8:30pm Non- public session 2**

**Move to go into non-public session at 8:30pm under RSA 91-A:3 II(c) for the purpose of discussing a contract. Ron Seconded. Roll call vote Alan, Kevin, Mike, Dana, and Ron all voted yes.**

**Kevin moved to come out of non-public session at 8:55pm. Ron Seconded. Vote by roll call Alan, Kevin, Mike, Ron, and, Dana all voted yes.**

**Kevin moved to seal the minutes of the non-public session. Mike Seconded. Vote yes 5-0.**

**Kevin moved to adjourn at 9:00 pm. Mike Seconded. Vote yes 5 -0.**

**Alan Rosenberg, Co-Chair** \_\_\_\_\_

**Mike Papadimos, Co-Chair** \_\_\_\_\_

**Richard Randlett, Member, (until 7:45pm)** \_\_\_\_\_

**Kevin Gorgoglione, Selectmen's Representative** \_\_\_\_\_

**Ron Pelletier, Member** \_\_\_\_\_

**Dana MacAllister (for Richard Randlett after 7:45 pm)** \_\_\_\_\_

**The next Regular Planning Board meeting will be 5/20/2010.  
Minutes submitted by Kristen Austin**



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**PLANNING BOARD MEETING**

**Minutes**

**May 20, 2010**

**Present: Alan Rosenberg, Co-Chair, Voting  
Mike Papadimos, Co-Chair, Voting  
Kevin Gorgoglione, Selectmen's Representative, Member, Voting  
Richard Randlett, Member, Voting  
Ron Pelletier, Member, Voting  
Dana MacAllister, Alternate  
Paul Anderson, Alternate  
Valérie Maurer, Town Planner**

**7:00pm Meeting started**

**Minutes**

**Kevin made a motion to accept the public minutes for the May 6<sup>th</sup> 2010 Planning Board meeting as written. Richard Seconded. Vote yes 5-0.**

**Kevin made a motion to accept the 1<sup>st</sup> Session of Non-Public minutes for the Planning Board meeting on May 6<sup>th</sup> 2010 as amended. Richard Seconded. Vote yes 5-0.**

**Kevin made a motion to accept the 2<sup>nd</sup> Session of Non-Public minutes for the Planning Board meeting on May 6<sup>th</sup> 2010 as amended. Richard Seconded. Vote yes 5-0.**

**Road Bonds - Sawtelle Road & Bennett Road**

Dennis LaBombard (LaBombard Engineering) in attendance for this discussion.

**Richard made a motion to send a letter of recommendation to the Board of Selectmen a construction bond being established for Sawtelle Road for \$46,425 and a construction bond for Bennett Road in the amount of \$23,940. Mike Seconded. Vote yes 5-0.**

**Road Bonds - Cider Mill Road and Smith Road**

**Richard made a motion to write a letter to recommend to the Board of Selectmen that a revised construction bond for Cider Mill Road be established for \$28,050 and also a revised construction bond for Smith Road in the amount of \$22,500. Ron Seconded. Vote yes 5-0.**

**Michele Gagne, Training and Planning Coordinator, UNH Cooperative Extension RE: Master Plan Visioning Assistance.**

**Michele** said she was contacted by Nashua Regional Planning Commission and from TF Moran about this project. She said she wasn't sure what company the Planning Board went with. **Alan** said they have gone with NRPC for the update of the Master Plan. **Michele** said first the Board wants to get a steering committee together. In the fall you could have your first visioning session. **Alan** said he thought the early fall would be good. **Michele** asked if the Board did a survey the first time they updated the Master Plan. **Valérie** said she didn't find anything that suggested they did. **Michele** told the Board that a large study committee should be formed and split it into two groups: one to work on the survey and one to work on the fall forum. **Kevin** suggested a copy of NRPC's schedule for the town Master Plan update project be given to Michele. **Michele** said the Board needs to get a representative from all departments. We could hold an information session before school gets out. **Michele** said she would like at least two people from the Planning Board. **Alan, Dana and Ron** all volunteered. **Kevin** said he will be the Board of Selectmen's Representative. **Michele** said we should also have an email list so even if they are not attending meetings people will be updated on the progress and if they wish to give suggestions they can still do that. **Michele** said we could ask people that were on the first committee. **Valérie** said she will send out an email to all Boards and Departments in town and ask who would be interested. **Michele** suggested that the Board schedules a meeting date tonight so they have time to put it in the paper and get the word out. **Valérie** said she will see if the Fire Department meeting room is available. **Michele** said there is no limit as to how many people can attend. An RSVP will be nice but not required just to see what kind of turn out we may have. The Board decided on Tuesday, June 15<sup>th</sup> at 7:00pm at the Fire Station. For the first steering committee meeting **Michele** said that she will be looking for volunteers and would like a commitment by the end of the meeting.

**Kevin** asked what to tell people when they ask what they may be getting involved in. **Michele** said there will be two groups one working on the survey and one working on the fall forum; they will meet separately and then meet as a whole on occasion to discuss what each group has been doing. **Michele** said UNH will set up a WIKI which is a working website that people in the groups, using a password, can update anytime but allows the public to view the progress. **Kevin** asked how many at large people each group should have. **Michele** said one or two is good. **Alan** said the Board will reach out to the people who worked on the 1997 update of the Master Plan. **Michele** said the meeting on June 15 will be about an hour long. **Valérie** said she would prepare a flyer, send notices to the newspapers and send out a mass email using the list she put together during the iTRaC project. **Alan** said he will write an article to send to the papers and post it on the Yahoo group. The Board thanked Michele for meeting with them.

**Richard moved to adjourn at 9:00 pm. Mike Seconded. Vote yes 5 -0.**

**Alan Rosenberg, Co-Chair,** \_\_\_\_\_

**Mike Papadimatos, Co-Chair,** \_\_\_\_\_

**Richard Randlett, Member,** \_\_\_\_\_

**Kevin Gorgoglione, Selectmen's Representative,** \_\_\_\_\_

**Ron Pelletier, Member,** \_\_\_\_\_

**The next Regular Planning Board meeting will be 6/03/2010.  
Minutes submitted by Kristen Austin**



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**PLANNING BOARD MEETING**

**Minutes**

**June 3, 2010**

**Present: Mike Papadimatos, Co-Chair, Voting  
Richard Randlett, Member, Voting  
Ron Pelletier, Member, Voting  
Valérie Maurer, Town Planner**

**Absent: Alan Rosenberg, Co-Chair, Kevin Gorgoglione, Selectmen's Representative,  
Dana MacAllister, Alternate, and Paul Anderson, Alternate.**

**7:00pm Mike Opened the Meeting**

**Minutes**

**Ron made a motion to accept the public minutes for the May 20<sup>th</sup> 2010 Planning Board meeting as written. Richard Seconded. Vote yes 3-0.**

**Case Review – NRSP # 2010-C: C-42, Charles Corey, Storage and sell of earth products.**

In attendance for this hearing: Charlie and Sheryl Corey, John Liska (197 Route 13),

**Mike** said this applicant is asking for permission to (continue to) store and sell items such as loam, sand, concrete compost, wood pellets. Also requested: screening operation and parking/repairing equipment and trucks in the garage. **Valérie** said Charlie had dropped off a plan to lease 3 acres of Lot C-42 (24 Quimby Road, Skillings Property) to continue running the operation of storing and selling gravel, sand, etc. He is moving the operation to the side of the lot that the garage is located on. After a review of the plan Valérie had given Charlie a list of things that were missing from the plan. Charlie came back with an updated plan and a letter from Roger Skillings stating that he has permission to run his operation on this property. Charlie will also need a permit for the sign. **Charlie** said he has come in to get a sign permit and was told he needs the Planning Board approval first.

**Valérie** said the only suggestion she has is for the Board to recommend that the leased land be staked off or flagged for future reference.

**Valérie** said there was a plan that Roger Skillings submitted and was approved by the Planning Board but never recorded. The plan in front of us tonight, if approved, will supersede the original plan.

**Valérie** said abutters have been notified, fees paid, and the notices posted for public review.

**Richard** asked if the lease land line will have cement walls behind the piles. **Charlie** said no but they will be staking off the lease land line.

**Ron moved to accept NRSP #2010-C: C-42. Richard Seconded. Vote yes 3-0.**

**Mike** asked Charlie if they crush stone at this site. **Charlie** said yes they do but only about once a year. Even if business was better they would only crush stone twice a year once in the spring and once in the fall. **Richard** said that must be the loudest process you perform. **Charlie** said they are not there that long. **Richard** asked if they have crushed asphalt as well. **Charlie** said yes they do they crush it there. They are crushing all the used asphalt. **Mike** asked what other equipment is there that would make a lot of noise. **Charlie** said they have a screener which is much quieter than the crusher and they try to do most of the screening at the job site. The trucks have back up alarms. They will be pulling into the site and only backing up a short distance to each pile. **Ron** asked how long he has run his business at this location. **Charlie** said about 3 years. **John Liska** said the only thing he asks is that the crusher stops at about 5:00 – 5:30 pm. It is very loud. Also when you grind up the asphalt it produces oil if you could keep it in a confined area. There is a lot of water in that area. **Charlie** said it doesn't produce a lot of oil there's a little but not enough to leak all over the place. The State has a pile and it is not leaking oil everywhere. **John** said he just wanted to make sure there is no oil mixing with the water. **Valérie** said the pile is located away from the 100 feet wetland buffer. **Mike** said it looks like it is about 400 feet from the prime wetlands. **Valérie** asked if they could put in a concrete pad to store the recycled asphalt. **Charlie** said he could but he didn't think it was necessary; people put this in their driveway and Brox in Milford stores a pile on the ground and the State stores the piles without a concrete pad. This sell very quickly we don't store it for very long. **Mike** agreed he has never seen it stored on a pad. **Valérie** said they have stated the hours of operation will be Monday thru Friday 6:30am to 8:00 pm, Saturday 7:00am thru 8:00pm, and Sunday 8:00am thru 4:00pm. **Charlie** said he starts around 7 in the morning and works until about 5-5:30 pm on regular days but if we have three days of rain and need to get a job done they may need to stay later. He also said he hasn't worked a Sunday all year but if something comes up or I need to load someone's truck with pellets he would like to be able to do it on a Sunday if asked.

**Richard moved to approve application NRSP #2010-C: C-42 with the following conditions:**

- All fees for application review and meeting time shall be paid
- Any change in hours of operation, use of the property, additional and/or new business shall be presented to the Planning Board for review
- The applicant needs a sign permit to advertise any business conducted on the property. The Building Inspector does not have any permit in file. See section 1600.00, Sign Ordinance.

**Ron Seconded. Vote yes 3-0.**

**Richard moved to adjourn at 7:45 pm. Ron Seconded. Vote yes 3-0.**

**Mike Papadimatos, Co-Chair,** \_\_\_\_\_

**Richard Randlett, Member,** \_\_\_\_\_

**Ron Pelletier, Member,** \_\_\_\_\_

**The next Regular Planning Board meeting will be 6/17/2010.**

**Minutes submitted by Kristen Austin**



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**PLANNING BOARD MEETING**

**Minutes**

**June 17, 2010**

**Present: Alan Rosenberg, Co-Chair, Voting  
Mike Papadimatos, Co-Chair, Voting  
Kevin Gorgoglione, Selectmen's Representative, Voting  
Richard Randlett, Member, Voting  
Dana MacAllister, Alternate  
Valérie Maurer, Town Planner**

**Absent: Ron Pelletier, Member and Paul Anderson, Alternate.**

**7:00pm Meeting start**

**Minutes**

**Not enough people to approve the minutes.**

**Master Plan Update**

**Mike** asked how the meeting went on June 15<sup>th</sup> for the Master Plan Update. **Alan** said he thought it went very well. There were about 25 people there. There will be a follow up meeting at the Brookline Event Center aka Brookline Auction Gallery on June 29<sup>th</sup> 2010 at 7:00 pm. **Valérie** handed out a copy of the notice she would like to put in the newspapers about the upcoming meeting. The Board reviewed.

**Valérie** said they will still need volunteers for the two committees, one to develop a public survey and the second to work on the Visioning Forum (location, invitations, daycare, food, marketing, etc.) that will be held in October. Public participation is very important to this project. She will be placing an ad in the papers and in public places in town so people will be aware of the meeting and what will be covered. **Valérie** announced if anyone had any question to please call or email her at the Town Hall.

**Laureen MacLean, 2-lot consolidation, G-45-8 and G-45-9, Winterberry Road**

**Alan** said this is a lot consolidation

**Valérie** said Laurie would like to consolidate two lots into one. The lot numbers are G-45-8 and G-45-9 located on Winterberry Road. The requirements are that they need to be contiguous and owned by the same owner. You do not need a public hearing or a new plan to do this. Laurie has changed the names so they are the same and the lots are contiguous. This will need to be signed, notarized and then recorded



before it can be changed in the assessing system. This is all set to sign. **Alan** signed as the Planning Board CO-Chair, **Valérie** notarized, and **Kristen** witnessed.

### **Workshop: Proposed Amendments to Zoning and Regulations (first Discussion)**

#### **Planning Board Workshop – June 17, 2010 / Proposed Amendments to Zoning and Regulations**

### **ZONING**

#### **Industrial-Commercial District – Section 500.00**

Building Height, section 603-05: Add a new sub-section “accessory building”: such as sheds 90 sq/ft require a building permit.

**Valérie** said the Building Inspector has asked that this be put into the zoning. The State regulation only requires a permit for 200sf and up. The Building inspector would like to go out and make sure the shed being built is not in the setback. **Dana** said towns usually ask for a permit for anything 120 sq/ft and up. **Valérie** said she will discuss with the Building Inspector.

#### **Residential-Agricultural District – Section 600.00**

**Building Height, section 603.05** - Rename section as “Building Requirements” keeping current wording and adding: “any new dwelling unit shall contain at least 576 sq/ft of first floor living area and manufactured housing to have 320 sq/ft”

Also, add a new sub-section “accessory building”: such as sheds 90 sq/ft require a building permit. These requirements were in the building code that was repealed at the March 2010 town meeting. (Letter from Building Inspector, dated June 2, 2010)

**Valérie** said the Building Inspector has asked that this also be added into the Zoning Ordinance now that we have gotten rid of the Building Code. She also thought they could make this a town ordinance with the approval of the Selectmen. She will discuss this with the Building Inspector.

#### **Workforce Housing, section 620.00**

Please, see suggestions received from Dana in an email dated April 2, 2010:

*After last night’s meeting I had a couple of thoughts for the 2011 Zoning Ordinance:*

- 1.) *We should probably think about adding to the language regarding the 50 foot vegetated buffer on workforce housing developments. There doesn’t seem to be a need to have 50 foot buffer between workforce housing lots and roads, commercial/industrial properties, or other workforce housing developments. Maybe we should add ....50 foot undisturbed vegetated buffer....where bordering existing market rate lots.....*
- 2.) *Change the wording on minimum workforce development parcel size to...contiguous 10 acre site, which may be made up of smaller parcels....or a wording similar to that.*
- 3.) *We may also want to address common driveways, private ways, etc. and how they affect access to workforce housing developments, as the ordinance states that that town will not be responsible for the roads in those developments.*

Please, see comments received from the Fire Department in a letter dated April 15, 2010:

*The Fire Department received this proposed subdivision plan on Wednesday April 14, 2010 and was asked to comment on it. At the present time the Fire Department would like to see a detailed plan for the common drives and how they are going to accommodate the turning around of our Fire Apparatus. Lot 2 work force housing how does one get to that lot? After reviewing the plan wouldn't it make more sense to connect the common drives off of Baldwin and Averill and make Baldwin Drive go all the way to Averill road? A plan that is to scale and has the dimensions on it is also required by the Fire Department as well. If there are any questions please do not hesitate to contact me.*

626.00, 2. – Change to read as follow: “The minimum parcel size for a workforce housing development shall be at least ten (10) *contiguous acres of dry land*”

626.00, 5. – Add the following language: *When bordering existing market rate properties, there shall be a 50-foot undisturbed vegetated buffer.*

628.00, 3. – Add new sub-section addressing the need of connecting such development to existing roads, minimizing common driveways for safety purposes (plowing, access and turnaround for emergency vehicles, etc)

**Valérie** said she will ask Dennis LaBombard (Town Engineer) if he can attend the next meeting and ask for his opinion regarding the common driveways, connecting roads, etc. so the Board can discuss this at the next workshop.

### **Growth Management Ordinance – Section 1400.00**

As briefly discussed during a previous P.B. meeting, the Board will need to discuss this ordinance. Data collection during the month of November 2010 will be necessary.

**Valérie** said Richard had mentioned possibly eliminate the growth management Ordinance since the economy has dipped. She would like to check with other surrounding Towns to see what they have done if anything. **Alan** said he didn't see any harm in leaving it in the Zoning Ordinance.

### **Sign Ordinance – Section 1600.00**

Recommendation to review the ordinance and address at least the following items:

Commercial District: Sections 1605.01(a) and 1607.03(a) – Requirements

General: discuss “small” signs put along the roads and on utility poles advertising businesses, services (with the exception of real estate and trade signs)

**Alan** asked Valérie to find any minutes or decisions made by the Sign Ordinance Committee. **Dana** said he will get a copy of Milord's sign ordinance and bring it to the next meeting. You can also find it online.

### **SUBDIVISION REGULATIONS**

Procedure – Section 3

3.1.17, Conditional approval – add the following wording: “Whenever a plat is recorded to memorialize an approval issued by the Board, the final written decision, including all conditions of approval, shall be recorded with or on the plat” RSA 676:3,III

- 4.8.05, Roads – Add the following language: “*Except for roads designated as private roads, all roads shall be property deeded by the applicant to the Town of Brookline by a Warranty Deed*”
- Open Space Development – Section 4.12
- 4.12.02, replace the reference to section 3.1.25 by 3.1.32
- 4.12.03, add the following: “The 50-foot perimeter setback, *or a value as deemed necessary by the Planning Board*, is a buffer between (...)”

**NON-RESIDENTIAL SITE PLAN REGULATIONS**

Procedure – Section 3

3.2.09, Conditional approval - add the following wording: “Whenever a plat is recorded to memorialize an approval issued by the Board, the final written decision, including all conditions of approval, shall be recorded with or on the plat” RSA 676:3,III

**Valérie** said there is a new RSA that states every condition of approval needs to be recorded either on the plan or on a separate document that will be associated to the plan. That will need to be changed in our regulations.

**Road Bonds**

**Valérie** said that there have been issues with some Road Bonds and roads in new development that take for ever to be completed. She would like to know if they could add something to the regulations that would set some kind of cut-off date to have the road completed. **Valérie** said she will ask Dennis LaBombard (Town Engineer) for an opinion. **Richard** said he would like to hear from the Road Agent as well. **Valérie** will ask Dennis LaBombard and Jerry Farwell is they both can attend the next meeting.

**Kevin moved to adjourn at 9:00 pm. Richard Seconded. Vote yes 4-0.**

**Alan Rosenberg, Co-Chair** \_\_\_\_\_

**Mike Papadimatos, Co-Chair,** \_\_\_\_\_

**Richard Randlett, Member,** \_\_\_\_\_

**Kevin Gorgoglione, Selectmen’s Representative,** \_\_\_\_\_

**The next Regular Planning Board meeting will be 7/1/2010.  
Minutes submitted by Kristen Austin.**



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**PLANNING BOARD MEETING**

**Minutes**

**July 01, 2010**

**Present: Alan Rosenberg, Co-Chair, Voting  
Mike Papadimatos, Co-Chair, Voting  
Richard Randlett, Member, Voting  
Ron Pelletier, Member, Voting  
Dana MacAllister, Alternate  
Paul Anderson, Alternate  
Valérie Maurer, Town Planner**

**Absent: Kevin Gorgoglione, Selectmen's Representative.**

**7:00pm Meeting started**

**Minutes**

**Richard made a motion to approve the minutes of the June 3, 2010 Planning Board meeting as written. Ron Seconded. Vote yes 3-0.**

**Richard made a motion to approve the public minutes of the June 17, 2010 Planning Board meeting as written. Mike Seconded. Vote yes 3-0.**

**Master Plan Update**

**Alan** said that the Steering Committee held the second Master Plan update meeting last Tuesday at the Brookline Event Center. **Alan** said he and Laurie Stevens are Co-Chairs for the Forum Steering Committee. He has invited Laurie here to introduce herself to the Planning Board. **Laurie** said she lives on Russell Hill and is a Civil Engineer; she has wanted to start participating in the community so she joined in the Master Plan Update and the Forum Steering Committee. **Alan** said they formed two Subcommittees: one to create a survey and one to put together a forum that will be held late October. **Valérie** said the Survey Steering Committee has been split into three groups they will each work on five chapters and come up with about three questions for each chapter for the survey. The next Survey Committee meetings will be held on July 6<sup>th</sup> and July 13<sup>th</sup>. **Alan** said the Forum Committee is meeting again on July 13<sup>th</sup> at the ambulance bay. **Valérie** said that she would like to remind that the Planning Board does not have a budget for food or drinks for the forum in October. For the visioning meeting we asked for donations and that worked really well. **Alan** said the first thing we need to do is figure out

where the forum will be held and if there will be any restrictions as far as food goes. Last year CSDA was a nut free facility so we had to watch what was brought into the building. **Alan** said he wanted to catch up with Michele Gagne from the UNH- Coop but was unable to get in touch with her, he will try again next week.

### **Workshop: Proposed Amendments to Zoning and Regulations (Second Discussion)**

#### **Roads – Regulations**

In attendance for this discussion was Dennis LaBombard (LaBombard Engineering LLC, Town Engineer)

**Alan** said when a subdivision is built and the road is constructed there is a bond for construction and maintenance that need to be put in place. This bond is renewed every year. Before the Town accepts a road it has to have the final top coat and it needs to survive two winters and once the Road Agent, Town Engineer, and Planning Board are satisfied then it goes to town meeting for acceptance by the voters. The challenge we are faced with is there is no language that states when or how long you have to finish the road. **Dennis** said due to construction cost you have to increase the bond amount every year. Some bonds are cash bonds and sit in an account and collect interest. Some bonds are in a form of a letter of credit and the bond holder can choose not to renew a bond. **Dennis** said the life of a paving job is 15 years and he thought 5 years was a reasonable amount of time. You may want to add wording to the regulation that the Planning Board can waive the five year limit if needed. **Paul** asked if there is a logical time as to when to put the top coat over the base coat. **Dennis** said the regulation state they have to wait at least a year after the base coat is down to put on the top coat. **Alan** read Subdivision Regulation Appendix A. A.5.G “The wearing surface shall consist of 3 inches of plant mixed bituminous concrete. It shall be applied in two (2) courses, 2" base course and 1" top course. The top course shall not be applied until at least one calendar year has passed from the date of the completion of the base course. (8/21/97). **Alan** said they could add “not more than 5 calendar years to have road completed” to this section. The Board agreed.

**Paul** asked who keeps track of all the roads. **Dennis** said he doesn't keep a spreadsheet but he has all that information in his files. **Paul** asked if they have any roads that are 5 years old and only have a base coat. **Dennis** said yes there are quite a few and the oldest is about 10 years old with only a base coat. **Alan** said that what we would change in the ordinance today would not apply to those roads; they would be grandfathered. The Board agreed there should be a limit as to when a road needs to be completed by. The Board though they should get Jerry Farwell's (Road Agent) opinion on the matter. **Dennis** said he will ask other towns and get the Road Agent's opinion and get back to the Board with his findings. **Paul** asked what happens when the five years is up and the road isn't finished. **Dennis** said the bond can be recalled and the Town would finish the road.

#### **Common Driveways**

**Alan** asked Dennis if he had any thought or comments about common driveways. For example, what is your opinion on how many common driveways in one subdivision or at the end of a road. **Dennis** said he is a fan of through roads. He said he doesn't like to see common driveways clustered together. You have to have somewhere to drop snow in the winter. He would recommend at least 30 to 40 feet spacing between common driveways.

#### **Growth Management Ordinance**

**Valérie** said she asked other towns what they were doing about the Growth Management Ordinance and all surrounding towns she has been in contact with do not have one anymore. There is no growth right

now you have to justify it in order to have the growth management ordinance in place. The sunset clause states the growth management ordinance will expire at sunset on the day of town meeting in March of 2011. If we let this expire and think that at some point we may need to reinstate it, we could do it at another Town Meeting. Right now, we only need to add a page to the ordinance that states the growth ordinance has expired on 3/9/2011. **Richard** said he would like to see the Town keep the ordinance in place. **Valérie** said the revised RSA is clear and requires that we conduct a study to justify the ordinance and we can not right now. **Richard** said he didn't think the keeping the growth ordinance was hurting anything.

**Alan** said if all the surrounding Towns had let the growth management ordinance expire we can't justify keeping it.

**Valérie** said the goal of having such ordinance is to keep the growth in town at about 3%. Right now we aren't even close to that.

**Sign Ordinance**

**Valérie** said she would like to get more information to present to the Board before they discuss possible changes to the sign ordinance. She will add to the next agenda. **Dana** said he brought in a copy of Milford's sign ordinance. **Valérie** said she will make copies for the next discussion.

**Valérie** said they should also wait for comments from Dennis LaBombard (Town Engineer). The Board agreed.

**Ron** said it should state somewhere in the workforce housing ordinance that minimum lot size needs to be 1 acre of dry land. The Board agreed to hold discussion and put this on another agenda.

**Richard moved to adjourn at 8:25 pm. Ron Seconded. Vote yes 4-0.**

**Alan Rosenberg, Co-Chair** \_\_\_\_\_

**Mike Papadimatos, Co-Chair,** \_\_\_\_\_

**Richard Randlett, Member,** \_\_\_\_\_

**Ron Pelletier, Member** \_\_\_\_\_

**The next Regular Planning Board meeting will be 7/15/2010.  
Minutes submitted by Kristen Austin.**



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**TOWN OF  
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**PLANNING BOARD MEETING**

**Minutes**

**July 15, 2010**

**Present: Alan Rosenberg, Co-Chair, Voting  
Richard Randlett, Member, Voting  
Ron Pelletier, Member, Voting  
Valérie Maurer, Town Planner**

**Absent: Mike Papadimatos, Co-Chair, Kevin Gorgoglione, Selectmen's Representative, Dana MacAllister, Alternate, and Paul Anderson, Alternate.**

**7:00pm Meeting start**

**Minutes**

**Ron moved to approve the minutes of the July 1, 2010 Planning Board meeting. Richard Seconded. Voted yes 3-0.**

**Workshop: Proposed Amendments to Zoning and Regulations (Continued from July 1<sup>st</sup>, 2010)**

**Valérie** handed everyone a copy of parts of the Milford N.H. Sign Ordinance. The problem with our sign ordinance is that there is not enough square footage allowed for signs for buildings that have more than one business in them or multiple buildings on a same site (compared to the square footage allowed for a single business) and we no longer have temporary signs in the ordinances.

**Alan** said the Milford Sign Ordinance is a good guide as to how we would like ours to look like.

**Valérie** asked the Board if they would like her to go ahead and start working on amendments to the Brookline Sign Ordinance and a table or would you like more time to review the Milford Sign Ordinance for suggestions. **Alan** said Milford appears to have listed most sign types. We also call out trade and real estate signs and Milford doesn't. **Alan** said what about subdivision signs if they are damaged who is responsible for fixing them or removing them. **Valerie** said she thought that when the last lot is sold the subdivision sign comes down. **Richard** said the neighborhood seems to take care of some of the signs; the Bear Hill sign is in good shape. **Alan** said by subdivision signs he was talking about the sign with the map of the subdivision, the person selling lots and who is financing the project. He was not sure who should take care of the signs that announce a neighborhood if the neighborhood

itself doesn't. There is nothing in our ordinances. **Ron** said maybe the town should be authorized to take a sign down when the time comes if no one maintains it.

**Valérie** will email the link to the Milford Sign Ordinance to all members for them to review. Then, we can start updating Brookline's.

**Roads (continued from July 1, 2010)**

**Valérie** said she spoke with Dennis LaBombard (LaBombard Engineering) and he said that the Road Agent also agreed that 5 years to finish a road is a good time frame. She will update the Regulations and email them out to the Board for review. **Ron** asked if there could be wording about how this would be enforced. We will have to threaten with more than not issuing building permits.

**Valérie** would like to schedule the public hearing for the Subdivision and Non-residential Regulations updates on September 16, 2010. The Board agreed.

**Richard moved to adjourn at 8:05 pm. Ron Seconded. Vote yes 3-0.**

**Alan Rosenberg, Co-Chair** \_\_\_\_\_

**Mike Papadimatos, Co-Chair,** \_\_\_\_\_

**Richard Randlett, Member,** \_\_\_\_\_

**The next Regular Planning Board meeting will be 8/5/2010.  
Minutes submitted by Kristen Austin.**





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**PLANNING BOARD MEETING**

**Minutes**

**August 5, 2010**

**Present: Alan Rosenberg, Co-Chair, Voting  
Mike Papadimatos, Co-Chair  
Richard Randlett, Member, Voting  
Ron Pelletier, Member, Voting  
Dana MacAllister, Alternate**

**Absent: Kevin Gorgoglione, Selectmen's Representative, Member, and Paul Anderson, Alternate,  
and Valérie Maurer, Town Planner**

**7:00pm Meeting starts**

**Minutes**

**Richard made a motion to approve the minutes of the July 15, 2010 Planning Board meeting as Modified. Ron seconded. Vote yes 3-0.**

**Mater Plan Update (Alan)**

**Alan** said the survey sub committee has put together question for the survey. The forum committee was going to hold the meeting at CSDA but he was told that RMMS maybe a better choice. The forum committee will discuss further on Tuesday 8/10/2010 there next meeting. The next steering committee meeting will be held on Tuesday August 17, 2010. There is no budget for food so they have asked the loins club about a spaghetti dinner and they were going to discuss with the fire department about doing a barbeque. The only problem with CSDA is that we have to be out of the building by 10:30 pm. The other challenge is that CSDA is also enforcing the nut free policy. **Ron** asked what time they wanted to start the forum meeting. Alan said at about 6 if they are going to serve a meal to about 6:30 and have the groups start working at about 6:45.

**Workshop: Final Review of Proposed Amendments to Zoning and Regulations**

**Alan** reviewed the changes discussed at previous meetings:

**SUBDIVISION REGULATIONS**

3.1.17, Procedure, Conditional approval – Add the following wording: “*Whenever a plat is recorded to memorialize an approval issued by the Board, the final written decision, including all conditions of approval, shall be recorded with or on the plat*” RSA 676:3,III

4.8.05, Roads – Add the following language: “*Except for roads designated as private roads, all roads shall be property deeded by the applicant to the Town of Brookline by a Warranty Deed.*”

Open Space Development – Section 4.12

4.12.02, replace the reference to section 3.1.25 by 3.1.32

4.12.03, add the following: “*The 50-foot perimeter setback, or a value as deemed necessary by the Planning Board, is a buffer between (...)*”

Appendix A, A.5 (g), Road Construction, Replace last sentence: (...). *There shall be a minimum of one (1) year and a maximum of five (5) years between placing the base pavement and the completion of the finish paving course. The top course shall not be applied until at least one calendar year has passed from the date of the completion of the base course.*

### **NON-RESIDENTIAL SITE PLAN REGULATIONS**

3.2.09, Procedure, Conditional approval - add the following wording: “*Whenever a plat is recorded to memorialize an approval issued by the Board, the final written decision, including all conditions of approval, shall be recorded with or on the plat*” RSA 676:3,III

**Ron moved to accept the final changes and schedule a public hearing on September 16<sup>th</sup>, 2010.  
Mike Seconded. Vote yes 4-0.**

#### **Case Review – Compliance hearing, Joe Raneri, Flea Market, 65 Route 13.**

Joe Raneri was not in attendance for this meeting. **Alan** said this can be rescheduled for the next meeting.

#### **2011-2016 Capital Improvement Plan (Paul)**

Paul was not in attendance for this meeting. Will be on the agenda for next meeting

**Richard moved to adjourn at 8:05 pm. Ron Seconded. Vote yes 3-0.**

**Alan Rosenberg, Co-Chair** \_\_\_\_\_

**Mike Papadimatos, Co-Chair,** \_\_\_\_\_

**Richard Randlett, Member,** \_\_\_\_\_

**Ron Pelletier, Member,** \_\_\_\_\_

**Dana MacAllister, Alternate,** \_\_\_\_\_

**The next Regular Planning Board meeting will be 8/19/2010.  
Minutes submitted by Kristen Austin.**



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PLANNING BOARD MEETING

Minutes

August 19, 2010

**Present:** Mike Papadimatos, Co-Chair, Voting  
Kevin Gorgoglione, Selectmen's Representative, Voting  
Ron Pelletier, Member, Voting  
Paul Anderson, Alternate, (Voting for Alan Rosenberg)  
Dana MacAllister, Alternate  
Valérie Maurer, Town Planner

**Absent:** Alan Rosenberg, Co-Chair, Richard Randlett, Member

**7:00pm Meeting start**

**Mike** asked Paul to vote for Alan Rosenberg. **Paul** Agreed.

Minutes

Not enough people to approve the minutes from the previous meeting. Hold for next meeting.

Road Bond, Construction Bond for Winterberry Road.

**Mike** said Dennis LaBombard (Town Engineer) has written a letter recommending that the Construction Bond for Winterberry Road be increased to \$32,800 from \$30,600. **Kevin made a motion to recommend to the Board of Selectmen that the Construction Road Bond for Winterberry Road be increased to \$32,800 from \$30,600 as recommended by Dennis LaBombard (Town Engineer). Ron Seconded. Vote yes 4-0.**

Compliance Hearing, Joe Raneri, Flea Market, 65 Route 13

**Ron** asked Joe how business was going. **Joe** said it was starting to pick up the last few Saturdays. He said it was tough because the vendors won't come if the people aren't there and the people won't come if the vendors aren't there. **Valérie** said this compliance hearing was for an update on the indoor flea market. **Joe** said he has hired a structural engineer and a life safety company to come up with a plan but has not yet pulled any building permits to start work. **Valérie** said there are no comments from the Police Department with traffic concerns. **Paul** asked if the building will be ready by the end of the year. **Joe** said he would like to have it open by the end of this year. No one in the area has an indoor flea market. The Board thanked Joe for coming in.

**2011-2016 Capital Improvement Plan (Paul)**

**Paul** said he has spoken to Tad Putney and Chris Adams. They have both agreed to be on the committee. **Valérie** said they will need to meet and select a chairman and a secretary. Then they can send out the letters. **Valérie** said she has the letters ready and just needs the meeting dates to include in those letters to inform the departments. **Paul** said he will need to get in touch with Alan for more information on possible members of the CIP. **Valérie** said this was a five person committee last year and seven members the years before. Last year there was someone from the school board and 2 residents at large. The meetings are public and an agenda needs to be posted.

**Work Force Housing**

The Board reviewed the plan for Workforce Housing in preparation for the next Planning Board meeting on 9/2/2010.

**Kevin moved to adjourn at 7:45 pm. Ron Seconded. Vote yes 4-0.**

**Mike Papadimatos, Co-Chair,** \_\_\_\_\_

**Kevin Gorgoglione, Selectmen's Representative, Member,** \_\_\_\_\_

**Paul Anderson, Alternate, Voting for Alan Rosenberg,** \_\_\_\_\_

**Ron Pelletier, Member,** \_\_\_\_\_

**The next Regular Planning Board meeting will be 9/2/2010.  
Minutes submitted by Kristen Austin.**



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**PLANNING BOARD MEETING**

**Minutes**

**September 2, 2010**

**Present: Alan Rosenberg, Co-Chair, Voting  
Mike Papadimatos, Co-Chair, Voting  
Richard Randlett, Member, Voting  
Ron Pelletier, Member, Voting, Ron left at 8:45  
Dana MacAllister, Alternate, Voting for Ron  
Valérie Maurer, Town Planner**

**Absent: Kevin Gorgoglione, Selectmen's Representative and Paul Anderson, Alternate.**

**7:00pm Meeting start**

**Minutes**

**Richard moved to approve the minutes of the August 5, 2010 Planning Board meeting as amended. Ron seconded. Vote yes 4-0.**

**Case 2010-2: J-41-1, J-41-3-Patenaude - 4-lot Subdivision**

In Attendance for this hearing Randy Haight (Meridian Land Services), Al Patenaude (Patenaude Construction) and Daryl Pelletier (Abutter at 2 Route 13, lot J-42).

**Ron** recused himself from this case. **Alan** asked Dana to vote for Ron. **Dana** agreed.

**Randy said** he added the two stump dumps and labeled the fire protection area as requested by Valérie. **Valérie** said the applicant is proposing a lot line revision between Lot J-41-1 and J-41-3 and the creation of 3 new lots from the existing lot J-41-1. The only issues are the street number is marked on the plan but needs to be confirmed by the Emergency Management Director. The current residents at 2 Laurelcrest Drive will have to change their mailing address to #6. The well head and a shed for abutting lot J-42 but are located on proposed lot J-41-14. **Valérie** said this was also mentioned in the report of the Emergency Management Director Wes Whittier. **Randy** said the well already exists and there is really nothing we can do about it. It would be up to the owner of J-42 to ask for an easement on to J-41-14 to access the well. This is an issue between both owners. **Valérie** said they will also need a driveway permit from the NHDOT for the proposed access to lot J-14-14 which will be off Route 13. There were

no comments from the Building Inspector, the Road Agent and the Conservation Commission has not seen the plan, they do not meet until 9/14/2010.

**Randy** said this was originally “Pierce Pond Estates” Subdivision a single family conventional subdivision with 11 lots. The zoning was commercial / Industrial and the zoning was changed and these lots became residential / Agricultural.

**Mike made a motion to accept plan # 2010-2: J-41-1, J -41-3. Richard seconded. Vote yes 4-0.**

**Daryl Pelletier** asked if they were able to put the driveway for lot J-41-14 into the setback. **Randy** said it is a building set back not a non disturbance buffer so they are able to put the driveway in. **Daryl** said there are also wetlands surrounding Lot J-42. **Randy** said the water runs from behind Lot J-42 toward Laurelcrest Drive and Route 13. **Valérie** asked if there will be a culvert installed under the driveway for lot J-41-14. **Randy** said yes. **Alan** asked Valérie if there were any conditions of approval. **Valérie** said the fees have been paid and the abutters notified. The Conservation Commission has not yet had a chance to review this plan. **Alan** said they are meeting on September 14<sup>th</sup>; we could have comments by September 16<sup>th</sup> Planning Board Meeting. The Board agreed. Due to the amount of wetlands the Board should wait for comments from the Conservation Commission. **Ron** said the Town Engineer may be able to attend on September 16<sup>th</sup> as well. **Valérie** said the Town Engineer did review this plan and he had no comments. **Mike moved to continue case number 2010-2: J-41-1, J-41-3-Patenaude-4 Lot Subdivision to the September 16<sup>th</sup> 2010 Planning Board meeting. Dana Seconded. Vote yes 4-0.**

**Case 2010-3: J-41, J-41-10, 11, 12-Patenaude- Workforce Housing Subdivision.**

In Attendance for this hearing Randy Haight (Meridian Land Services), Al Patenaude (Patenaude Construction) Roger Goscombe (Realtor for Patenaude Construction), Vivian Ciaramitaro (Abutter at 5 Averill Road), Jim Caulfield (Abutter at 5 Muscatanipus Road), and Clarence Farwell (Town resident).

**Randy** said they have 4 existing lots J-41, J-41-10, J-41-11, and J-41-12 which exists of 21.466 acres. We are proposing turning the 4 lots into 14 lots. This will consist of 7 market value homes and 7 Workforce Housing single family houses. This site has a nice plateau and is very dense with a young stock of trees. There are three common driveways that will access 4 homes off each; this is all the zoning will allow us. We will ask the Brookline Historical Society for name suggestions for those common Driveways at a later date. **Randy** said they have done all drainage calculations and Dennis LaBombard (Town Engineer, LaBombard Engineer, Inc.) has reviewed the plan. We have made all changes that he has requested. Also, Valérie had made a couple of suggestions that we have corrected as well. **Randy** said if there was a provision in the Zoning for 6 houses off a common driveway they would have done that. **Valérie** said the Fire Department and Emergency Management said they would like to see a road go through, connecting Baldwin Drive and Averill Road instead of the proposed 3 common driveways.

**Randy** said per the Zoning Ordinance we could not put the road through. That would make the cost of the subdivision prohibitive for workforce housing; there is a cost cap. **Valérie** said there is only 100ft between the common driveways end to end. She didn't think the purpose of the zoning was to have two parallel common driveways. **Randy** said there is 30 feet of space between those two common driveways. There is plenty of room for snow in the winter. Safety wise we could extend the common driveways at the end so people can plow right through and extend the easement. **Valérie** said the major concern is safety for emergency vehicles and for the residents. **Al** said when they first discussed workforced housing the Planning Board said the Zoning didn't allow for the plan we originally brought in. You asked for a plan that meets zoning and this plan does. **Valérie** said the plan can meet zoning and still have a safety concern. **Al** asked what is unsafe about this plan. **Valérie** said this could be confusing

for the emergency vehicles the possibility of going down the wrong driveway. **Al** said a town road will take away at least three lots from this subdivision. **Randy** said the issue is a town road will take up to much land and will drive up the cost. **Dana** asked if this could be a private way. **Randy** said that is not allowed. **Valérie** asked about snow storage on Baldwin Drive. Right now, the snow is stored at the proposed location of the 2 common driveways. **Al** said the snow will go where it goes now this is a town road. **Randy** said they will also be installing rain gardens on these lots for drainage. They are a foot deep and filled with bark mulch instead of soil so the water drains through. This area is all sand; you can't put water into it fast enough. The retention basin that has been there since the original subdivision has never had water in it. Rain gardens will take care of themselves. **Randy** said he thinks the application is complete and is ready for acceptance. **Alan** asked if they had everything to accept the plan. **Valérie** said that the fees have been paid and the abutters notified but we have no legal documents yet (proposed easements, deeds, covenants, etc...). **Al** said they have the easements' wording. **Alan** asked if they could submit the documents. **Al** said that he would email/fax the documents tomorrow to Valérie. **Valérie** also discussed the lot size and how they were calculated including the wetlands; in all regulations and ordinances, Brookline excludes wetlands from the calculations. **Randy** said it doesn't say "dry land only" in Workforce Housing. It calls it out in **Valérie** said whether is it for Housing for Elderly Persons, Open Space or conventional subdivisions, lots' requirement is based on dry land only.

**Valérie** read page 2 of 5 of the Staff report: "*– Zoning Ordinance Section 631, Conflict states: "If any provision of this Section is in conflict with the provisions of any other provisions of this ordinance, the more restrictive provision shall apply, except for any provision relating to reductions in standards for lot size, setbacks, or density, in which case the provisions of this Section shall apply." "Staff believes that "standards for lot size" do not imply "characteristics of land" which is defined by physical attributes such as terrain, soil type, slopes (Webster's Dictionary)."*

**Randy** said they are waiting on State approval for the subdivision. We only need 80 feet of frontage and at least an acre of land and we have that.

**Richard** asked if any of the driveways would be accessed off Averill Road. **Randy** said when the original subdivision was approved they had voluntarily put a non disturbance buffer to leave that slope as. Due to that non-disturbance buffer there can be no access from Averill Road for lots J-41-10 and J-41-22.

**Richard moved to accept plan number 2010-3: J-41, J-41-10, 11, 12-Patunaude – Workforce Housing Subdivision. Dana Seconded. Vote yes 4-0.**

**Alan** read a letter sent by an abutter:

*"Since we are unable to be present at the meeting for the mention case, here are our concerns and requests.*

- 1. We are concerned about the negative impact of cutting down the trees would have on the environment, water retention (going down Route 13 and adjacent properties) and the noise coming from Route 13.*
- 2. There does not seem to be any plan to replant any trees, like it happened to our property. Only one tree was replanted in our backyard and all crooked and damaged despite promises to get more trees in the surrounding area and between property lines. We request that there is written proposal on how they would replace/replant those trees.*
- 3. We are also concerned that the arrival of Workforce Housing will affect our property value.*
- 4. Impact of common driveways with the snow removal instead of having a street. We would favor having street/road instead of common driveways.*

*Best Regards,*

*Andre Basque and Maryse Laflamme*

*9 Baldwin Drive Brookline NH 03033"*

**Clarence Farwell** asked who was going to oversee the rules and regulations for workforce housing.

**Randy** said it will be a third party the Town would appoint but it is not spelled out in your zoning.

**Alan** read Zoning Ordinance Section 629:2 “Assurance of continued affordability, *Workforce ownership housing units must retain the development criteria and affordability standards herein for a minimum period of thirty (30) years with a renewable clause through a suitable deed restriction, easement and/or mortgage deed instrument deemed acceptable to the Brookline Planning Board and as monitored through reports provided to the Brookline Planning Board by the designated third-party agent prior to the time of unit sale or resale.*”

**Alan** said there should be language in the deeds an a third party will manage that. The Town is not responsible for monitoring and the Planning Board will be notified when lots change hands. **Clarence** asked if it was up to the developer to come up with the wording. **Alan** said yes. **Clarence** said he was just worried about the 30 to 50 years from now. **Randy** said that’s why it is recorded and there will be special wording to go with the sale of the property. It will be more than just wording on a deed.

**Vivian Ciaramitaro** asked if there has been a study done to ensure there will be no negative affect to the environment. **Randy** said they have added storm water management guidelines to the plan and the Town engineer has reviewed and commented and we have made the changes suggested by him. **Alan** said most of these trees will be taken out. **Al** said he will come up with a cutting plan for the Board to review. For the most part what we cut will be replaced with septic and wells. **Jim Caulfield** said Averill Road has a steep slope with trees are those trees going to stay? **Randy** said yes they will stay there was a non-disturbance buffer added when the first subdivision was approved. **Jim** said this area is all beach sand. **Ron** said there seems to be a discrepancy with how the ordinance is read as far as wetlands being included in the total lot amount. Should we go to Town Counsel? **Alan** said because there is an interpretation issue we should ask Town Counsel. **Jim** asked if there is a size limitation on Workforce Housing buildings. **Randy** said yes there is. The home can’t be any bigger than 1,500 square feet and no more than 2 bedrooms. **Vivian** asked what the basic cost would be and how it would affect the market value of homes in the surrounding area. **Alan** said the workforced housing is based on a percentage of the median gross income in a certain radius. **Randy** said that information is determined by the census. **Roger Goscombe** said the workforce housing home will be in the \$220,000 to \$230,000 range. **Randy** said it’s a moving target. **Vivian** said assuming that each family has 2 children how would that affect the school system. **Randy** said there is no way to determine the impact on the schools. These would be starter homes for young couples and no children. When they need more room they would move on to purchase a bigger home. **Alan** said he read an article on the “gray” of New Hampshire, because the younger generation cannot afford to purchase homes in New Hampshire, they move to other states and the average age of people in towns has been increasing. **Al** said New Hampshire is second to Florida as far as age. **Alan** said he thinks they should schedule a site walk. The Board agreed. **Valérie** said she will invite the Conservation Commission as well. The Board agreed to a site walk on September 13, 2010 at 7:00am. **Valérie** said this will be posted. **Alan** said for next meeting we will need Conservation Commission comments, wording for legal documents, and an answer from Attorney Drescher (Town Counsel) re: lot requirements. **Dana** asked if they can revisit the plan connecting the two roads. **Richard** said that he also would like to see the road going through and asked if they could come up with specs for a private road instead of a town road. It would take up less square footage. **Randy** said they could connect the two common driveways and put a gate with a Knox box in between.

**Randy** said he thinks the point of workforce housing is to do something different and that why he believes the lot sizes are ok.



**Dana moved to continue case number 2010-3: J-41, J-41-10, 11, 12-Patenaude-Workforce Housing Subdivision to the September 16<sup>th</sup> 2010 Planning Board meeting. Richard Seconded. Vote yes 4-0.**

**Richard moved to adjourn at 9:10 pm. Mike Seconded. Vote yes 4-0.**

**Alan Rosenberg, Co-Chair** \_\_\_\_\_

**Mike Papadimos, Co-Chair** \_\_\_\_\_

**Richard Randlett, Member** \_\_\_\_\_

**Ron Pelletier, Member, Voting** \_\_\_\_\_

**Dana MacAllister, Alternate  
Voting for Ron (first case)** \_\_\_\_\_

**The next Regular Planning Board meeting will be 9/16/2010.  
Minutes submitted by Kristen Austin.**



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**TOWN OF  
BROOKLINE, NEW HAMPSHIRE**

**PLANNING BOARD**

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**PLANNING BOARD MEETING**

**Minutes**

**September 16, 2010**

**Present:** Alan Rosenberg, Co-Chair, Voting  
Mike Papadimatos, Co-Chair, Voting  
Richard Randlett, Member, Voting  
Ron Pelletier, Member, Voting  
Kevin Gorgoglione, Selectmen's Representative, Voting  
Dana MacAllister, Alternate, (Voting for Ron for case 2010-2:J-41-1,J-41-3)  
Valérie Maurer, Town Planner

**Absent:** Paul Anderson, Alternate.

**7:00pm Meeting started**

**Minutes**

**Ron moved to approve the minutes of the August 19, 2010 Planning Board meeting as written. Mike seconded. Voted yes 3-0.**

**Richard moved to approve the minutes of the September 02, 2010 Planning Board meeting as written. Mike seconded. Ron abstained for the first case hearing that night. Voted yes 4-0.**

**Log Cabin at Corner of Bond Street and Route 13**

**Valérie** said Dennis LeBaron would like to open 2 businesses at the Log cabin location. One will be an electronics service and repair business and one a retail sales of various homemade gifts and clothing business. This building has been used for retail for a long time so she recommended that Dennis be allowed to start and then come back to the Planning Board in 6 months for an update. **Valérie** said that she did not believe that a formal site plan review was necessary and her only request was that the street line be painted on the corner of Bond Street so the people traveling from route 13 onto Bond Street don't drive onto the parking lot in front of the building. **Dennis** said he has asked and that line was going to be painted within the next couple of days. **Valérie** said these was another person who has expressed interest in setting up a hot dog cart in that parking lot but said if this building is occupied he has permission from the owner of the restaurant at 99 Route 13 to use the parking lot while the restaurant is closed.

**Dennis** said the electronic business was established 4 years ago called LeBaron Brothers Audio, LLC. He is the owner and only employee. He would like to be open Wednesday to Saturday 10:00am to 8:00 pm. The second business would be a retail business called Grandmothers House, LLC. His wife would

like to sell various homemade gifts & clothing. This will also be open Wednesday to Saturday 10:00 am to 8:00 pm. On Mondays that are holidays they would like to be open. From 10:00 am to 5:00pm. **Alan** suggested that they change the hours to Sunday – Saturday 10:00am to 8:00pm. This way if they do want to open for more hours during the week they will not have to come back to the Planning Board. **Dennis** said the only change to the outside will be a sign and he will work with the Building Inspector. If there are any changes to the interior of the building he will work with the Building Inspector as well. **Kevin** asked if the Fire Department should inspect the building. **Scott Knowles** (Fire Department) said he hasn't been in awhile and would be happy to set up an inspection. Previous tenants have always kept a fire extinguisher in the log cabin.

**Mike made a motion to add this letter to the file allowing a new electronic business and a retail store at this located on lot #H-25 in the log cabin and schedule a 6 month follow up with the Planning Board. Richard Seconded. Vote yes 5-0.**

**Case 2010-2: J-41-1, J-41-3-Patenaude - 4-lot Subdivision**

In Attendance for this hearing Randy Haight (Meridian Land Services), Al Patenaude (Patenaude Construction, Daryl Pelletier (Abutter at 2 Route 13, lot J-42), and Dennis LaBombard (LaBombard Engineering, INC. / Town Engineer)

**Ron** recused himself from this case. **Alan** asked Dana to vote for Ron for this case. **Dana** agreed. **Randy** said this is a continuation of the September 2, 2010 meeting and they have changed the driveway access from Route 13 to Laurelcrest Drive on Lot J-41-14. **Valérie** said she attended the Conservation Commission meeting on September 14 and they were concerned with the proposed driveways on future lot J-41-1 and water runoff. **Randy** said there was mention of a culvert being placed under this proposed driveway at the last meeting. He will add a note to the plan. **Alan** opened the meeting to the public. **Daryl** said there is still a water issue behind lot J-42. If you look at the plan it doesn't show water but there is water in that area and he doesn't want it to run into his driveway. **Randy** said they will do what ever they need to do to reroute the water so it doesn't affect any driveways and make a note on the plan. **Wes** said his concern was the well for lot J-42 is on proposed lot J-41-14; there will need to be an easement so they can get to it. The shed for lot J-42 is on lot J-41-14 as well. **Ron** said that shed has been moved and is no longer on lot J-41-14. **Al** said he will discuss an easement with the owner of J-42 for the well. **Jerry** said the water behind lot J-42 runs for months. **Randy** said it is not a wetland; there are no wetland soils or species (vegetation). A culvert will take care of the water drainage. **Dennis** said the rain garden for lot J-41-13 in not shown on this plan. **Randy** said he will put an easement on the plan and add the rain garden. There are no water problems on these lots. **Valérie** said there will be grading on this plan. **Randy** said yes he will add that to the plan also. **Alan** said what ever happens across the street with the workforce housing subdivision, there will be rain gardens on this one and they will be recorded with the plan. **Jerry** asked who will enforce this if someone buys the lot and takes the rain garden out to plant grass. **Randy** said he can add a note to the plan and add an easement. There is no water problem here. There is a retention basin that never has water in it. **Alan Sheppard** asked what will be cut and forested on lot J-41-1 and J-41-13. **Al** said just enough to open for house, septic and well. We will not do clear cutting.

**Mike moved to approve case number 2010-2: J-41-1, J-41-3-Patenaude-4 Lot Subdivision with the following conditions:**

- 1. All fees associated with the case review shall be paid prior to issuance of a permit by the building Inspector.**

2. **The applicant shall submit 8 paper copies of the final plan and a permanent, reproducible Mylar.**
  3. **The proposed lot is subject to an impact fee per the Brookline Zoning Section 2100, in three separate amounts. The impact fees of \$222.14 (for ambulance facility), \$1304.24 (for Brookline School System), and \$1843.17 (for Hollis/ Brookline Coop Middle School) are payable to the Town of Brookline at the time of Certificate of Occupancy is issued for each new lot (3 total).**
  4. **Driveway easement to be reviewed by Town Council.**
  5. **Culvert, rain garden, easements notes added to the plan.**
- Richard Seconded. Vote yes 5-0.**

**Case 2010-3: J-41, J-41-10, 11, 12-Patenaude- Workforce Housing Subdivision.**

In Attendance for this hearing Randy Haight (Meridian Land Services), Al Patenaude (Patenaude Construction/Owner), Roger Goscombe (Realtor for Patenaude Construction), Scott Knowles (Brookline Fire Department), Wes Whittier (Brookline Ambulance/Emergency Management Director), Jerry Farwell (Road Agent), Dennis LaBombard (LaBombard Engineering, INC. / Town Engineer), André Basque (abutter 9 Baldwin Drive Lot #J-41-9), Allen Sheppard (abutter at 2 Laurelcrest Drive lot #J-41-2)

**Randy** said that a site walk was held on Monday September 13<sup>th</sup>. **Randy** said they have revised the common driveways; the three common driveways are now a through way. We will need to go to the Zoning Board for a variance because the current ordinance only allows 4 houses off a common driveway. **Alan** said road standards are in the regulations and is not an ordinance. The discussion last meeting was a through road would knock out to many lots. If this was an ordinance you would need a variance but when it is part of the regulations, the Planning Board can waive it. **Randy** said a private road isn't allowed there and there is no other option than to go to the ZBA. **Al** asked if they would like to see a private road built to town standards. **Alan** said he would like to turn this discussion over to the Fire Department, Emergency Management /Ambulance Director, Road Agent, and Town Engineer. **Wes** said he would like to see the road go through and have it become a Town Road. Private Roads and Common Driveways are not necessarily maintained adequately after a snow storm for access by emergency vehicles. If it is a through road there will be two points of access. If the road is blocked emergency crews could work from both ends to get through in case of another ice storm or a tornado. **Alan** said a big concern would be the maintenance if this is not a town road. **Scott** asked what the width of the road would be. **Randy** said it has to be 20 feet of plowed space. **Scott** said similar to what Wes said, the Fire Department finds it easier to have a through road. Maintenance would be a concern if it was a private road. **Jerry** asked Al if this will be paved. **Al** said yes, that was the goal. **Al** said that the bond and inspections for a road would raise the cost of this project. **André Basque** said he is not interested in helping people all winter when they are not maintaining the road. **Valérie** said at the moment there is no time limit for a developer to finish a road but this will be voted on later during this meeting when the Board held a public hearing for subdivision and non-residential site plan regulations. If amendments are voted on tonight, they would apply to any application submitted. This doesn't apply to common driveways. **Scotty** said who's to say someone builds in the middle and then the road doesn't go through. It is a gamble with this economy. **Jerry** suggested phasing this project and after 2 or 3 lots you would have to finish the road. **Al** said finishing the road is what cost the most. **Andre Basque** asked what the workforce housing buildings will look like. **Al** said they are 1,500 square foot small capes with garage about 600sf. Max. Value of the lots is set by the metropolitan Nashua area get by the Census. **Randy** asked the Planning Board if they would support the common driveway going through. If so we would apply for a variance with the Zoning Board asking for relief from section 1806. I would think the ZBA would like to hear from the Departments if they are all in support of this. **AL** asked if someone

from the Planning Board could attend the ZBA meeting. If any questions arise someone that has been involved with the process can answer there questions. **Valérie** said she would attend the ZBA meeting for the Planning Board. **Al** said they are trying to get support from all the department heads. **Randy** said there are legal documents being reviewed by Town Counsel that states who will maintain what on the through common driveway. The Planning Board, Fire Department, Emergency/ Ambulance Director, and Town Engineer all agreed that the through road is the best idea. The Road Agent said he would rather not add another road and cost the tax payers more money. **Valérie** said if this is common driveway there will need to be a granite post at the beginning of the driveway per the zoning ordinance. **Alan** said there will be street signs at both ends of the through common drive. Maybe you could add the granite post omission to the ZBA variance application. **Scott** said they can enforce the rules of a road but what happens if someone blocks the road. **Randy** said it will all be in the legal documentation that they are not allowed to.

**Mike moved to type up a letter of support to the Brookline Zoning Board of Adjustment in support of granting a waiver from section 1806 of the Brookline Zoning Ordinance to allow more than 4 homes having access from a common driveway and not require a granite market for this common driveway. Richard Seconded. Vote yes 5-0.**

**Alan** said they are still waiting for Town Counsel to rule on weather the wetlands can be included in the building lot. **Valérie** said she met with the Conservation Commission and their concerns were:

1. Wetlands not being excluded from lot calculations.
2. They would like to see some kind of a plan that would show the tree cutting plans.
3. They are concerned about to much tree cutting and erosion that may occur.

**Randy** said they will provide a plan that shows what will be cut and drainage. **Dennis** said he will need a plan of the through common driveway. **Alan** said they will also need the common driveway documents and easement wording before the next meeting. **Jerry** asked about utilities. **Al** said they will be underground. **Valérie** asked all departments supporting a common driveway connecting Baldwin Drive and Averill Road to write a letter of support to the Zoning Board for the October 13 meeting.

**Ron moved to continue case number 2010-3: J-41, J-41-10, 11, 12-Patenaude-Workforce Housing Subdivision to the October 21, 2010 Planning Board meeting. Kevin Seconded. Vote yes 5-0.**

### Public Hearing

#### Proposed Amendment to Subdivision and Non-Residential Site Plan Regulations

**Alan** said most of these corrections are housekeeping changes. **Alan** read the proposed changes:

### **Amendments to Subdivision and Non-Residential Site Plan Regulations**

#### SUBDIVISION REGULATIONS

3.1.17, Procedure, Conditional approval – Add the following wording: “*Whenever a plat is recorded to memorialize an approval issued by the Board, the final written decision, including all conditions of approval, shall be recorded with or on the plat*” RSA 676:3,III

4.8.05, Roads – Add the following language: “*Except for roads designated as private roads, all roads shall be property deeded by the applicant to the Town of Brookline by a Warranty Deed.*”

Open Space Development – Section 4.12

4.12.02, replace the reference to section 3.1.25 by 3.1.32

4.12.03, add the following: “The 50-foot perimeter setback, *or a value as deemed necessary by the Planning Board*, is a buffer between (...)”

Appendix A, A.5(g), Road Construction, Replace last sentence: (...). *There shall be a minimum of one (1) year and a maximum of five (5) years between placing the base pavement and the completion of the finish paving course. The top course shall not be applied until at least one calendar year has passed from the date of the completion of the base course.*

**Richard moved to approve the changes as noticed for the September 16, 2010 public hearing for the Subdivision Regulations. Ron Seconded. Vote yes 5-0.**

**Alan** read the proposed changes for the Non-Residential Site Plan regulations:

### **NON-RESIDENTIAL SITE PLAN REGULATIONS**

3.2.09, Procedure, Conditional approval - add the following wording: “*Whenever a plat is recorded to memorialize an approval issued by the Board, the final written decision, including all conditions of approval, shall be recorded with or on the plat*” RSA 676:3,III

**Richard moved to approve the amendments as published and noticed for the September 16, 2010 public hearing for the Non-Residential Site Plan Regulations. Kevin Seconded. Vote yes 5-0.**

### **Road**

**Alan** said there is a mechanism in place that could allow for a private road.

**Alan** read Subdivision Regulations Section:

**Section 4.8 Roads** - Any subdivision which requires road system layout and construction shall have such improvements installed in accordance with the following:

**Section 4.8.4** - Upon satisfactory completion of the road system as judged by the Road Inspector, Road Agent, and Planning Board, said road system will be presented by the Board of Selectmen, for acceptance by the Town, in the approved manner. (8/21/97)

**Alan** said what if they put in a road on the Workforce Housing plan where the three common driveways are going to go through and that road is never turned over to be accepted by the Town. Then it will be a private road.

**Alan** said because this is a regulation it can be waived by the Planning Board.

**Alan** said we would need to come up with wording for a private road. Different specifications. **Valérie** said it is in the Zoning Ordinance that there needs to be a \$1,000 driveway bond.

### **Master Plan Update - Survey Committee**

**Valérie** said she email everyone a copy of the survey for comments. The Board made a few suggestions.

**Richard** said it took him about 12 minutes to take this survey. **Alan** said it took him about 10 so about 10-12 minutes to complete a survey isn't bad. **Valérie** said the Master Plan Steering Committee meets

again on the 9/21/2010 at the Brookline Event Center. The Committee is waiting for the Planning Board blessing on the contents of the survey.

**Richard moved, with the thanks of the Planning Board, to allow this survey created by the master plan survey committee to be made available to the public. Ron Seconded. Vote yes 5-0.**

**Master Plan Update – Forum Committee**

**Alan** said the Forum Committee has set a date for the public Forum. October 22, 2010 about 6:00 - 6:30 pm at RMMS. We have permission from the school. The custodians will be there to help set up and pick up. The Woman’s Club has volunteered to help provide soup, sandwiches, and desserts. RMMS does not have a peanut policy.

**Capital Improvements Committee Update**

**Alan** said Paul is not in attendance tonight so he will give the Board an update as best as he can. He has volunteered to help with the CIP this year. They will need to schedule a meeting pretty soon. Paul has found 5 people for the committee. **Alan** thought it would be a lot easier this year if they could keep everything electronic because there is too much paper and it is easier. They should also get there responses back faster.

**Richard moved to adjourn at 9:40 pm. Kevin Seconded. Vote yes 5-0.**

**Alan Rosenberg, Co-Chair** \_\_\_\_\_

**Mike Papadimatos, Co-Chair,** \_\_\_\_\_

**Kevin Gorgoglione, Selectmen’s Representative,** \_\_\_\_\_

**Richard Randlett, Member,** \_\_\_\_\_

**Ron Pelletier, Member,** \_\_\_\_\_

**Dana MacAllister, Alternate, Voting for Ron for case 2010-2: J-41-1, J-41-3-Patenaude - 4-lot Subdivision** \_\_\_\_\_

**The next Regular Planning Board meeting will be 10/7/2010.**

**Minutes submitted by Kristen Austin.**



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**PLANNING BOARD MEETING  
Minutes  
October 7, 2010**

**Present: Alan Rosenberg, Co-Chair, Voting  
Mike Papadimitos, Co-Chair, Voting  
Richard Randlett, Member, Voting  
Ron Pelletier, Member, Voting  
Dana MacAllister, Alternate  
Paul Anderson, Alternate  
Valérie Maurer, Town Planner**

**Absent: Kevin Gorgoglione, Selectmen’s Representative, Member.**

**7:00pm Meeting start**

**Minutes**

**Richard moved to approve the minutes of the September 16, 2010 Planning Board meeting as amended. Alan seconded. Vote yes 4-0.**

**Case Review NRSP # 2010-D: D-18-15, Darcey Klein, Office Trailer for Dog Breeding Home Business**

In attendance for this hearing Darcey & Michael Klein (applicants), Mark Gath & Lynn Giblin (abutters, 17 Mountain Road), Melissa Vela (abutter, 15 Mountain Road), and Paul Moverman (abutter, 16 Mountain Road).

**Valérie** said Darcey Klein has submitted an application to move a 10x48 ft office trailer into her yard to breed dogs, specifically Chihuahuas. Currently there is a trailer at this location and no building permit was pulled. This is also an office trailer. The Board will need to discuss:

1. If the proposed home business will “preserve the character of the residential neighborhood and provide residents freedom from nuisance and potential negative impacts resulting from commercial activity in the residential area”.
2. The Board needs to discuss if the “The home business must be secondary to the use of the property as a residence”.

There were no comments from the Health Officer. He was unavailable for comments but he performs yearly inspections of all facilities in town as requested by the State.



**Valérie** said Section 1702.02 of the Brookline Zoning Ordinance states “The home business can occupy up to 25% of the combined gross floor area of the existing home and/or any accessory structures, or 1,500 sf.” The gross floor area of the existing home is 2,546 sq/ft (assessing property card). The applicant calculated that the proposed area to be used the home business is 704 sq/ft (224 sq/ft, part of the house and 480 sq/ft proposed 10x48 trailer)

The Building Inspector pointed out Section 701 of the Brookline Zoning Ordinance that states “No trailer or manufactured house shall be occupied or maintained as a living unit except in an approved Manufacturing Housing District.

The Building Inspector went out to inspect this property and there is currently a trailer on the property there. There are no permits on file for this trailer. **Darcey** said she didn’t realize they had needed approval. The Building Inspector sent a letter to the owner.

**Valérie** said all fees have been paid and abutters notified. The application for a home business is all set.

**Mike** asked what size the trailer is that is located on the property now. **Darcey** said its 8x16 and can be moved with a truck. **Paul** asked if the trailer that is there can be used as part of the 25% calculation for the home business. **Valérie** said because the trailer is there illegally that can not be included in the 25% for the home business per Section 1702.02. If the proposed trailer was in place that could be used to calculation the home business sf.

**Valérie** said Darcey would like to breed Chihuahuas and they will not be going outside. **Darcey** said the ticks around this area carry deadly diseases and she will not allow them out. **Alan** asked if the plan is to move out the small illegal trailer and replace with the larger 10x48 trailer. **Darcey** said yes.

**Alan moved to accept application NRSP #2010-D:D-18-15, Darcey Klein, office trailer for Dog Breeding Home Business. Ron Seconded. Vote yes 4-0.**

**Richard** pointed out Section 1705.04.” Home businesses shall not involve the on-site use or storage of heavy equipment such as back-hoes, graders, dump trucks, tractor trailers, semi-trucks and other large vehicles or stationary equipment of an industrial nature. When a controversy arises as to whether a certain piece of equipment or vehicle falls into the class of prohibited heavy equipment, the Planning Board shall make a finding as to whether or not such equipment or vehicle is prohibited as part of the home business operation prior to taking final action on the application.”

**Richard** said he would say it is a building of industrial nature and we should state that on record. **Dana** looked at the picture of the office trailer and said he though it was borderline. **Darcey** said this area will be landscaped and our house is set back from the road so you won’t be able to see it from the road. She would like it to blend in with the property not stick out.

**Lynn Giblin** asked if this property is sold will this home business go with the property if it is sold. **Valérie** said this will go with the homeowner. It will be recorded that way. **Lynn** said they can see the smaller trailer that is there now and is worried the new larger trailer will be very visible. Especially in the Fall/Winter when all the leave are gone. **Melissa Vela** said she is across the street and can see the trailer that is there now. **Michael Klein** said they have done some landscaping and dug out the side of the hill to fit the trailer in and would be willing to do more to satisfy the abutters. **Alan** asked if the dogs are an issue right now. **Lynn** said they could hear them barking but that is it. **Alan** asked if there is a lot of traffic to the home. **Darcey** said they only have one car at a time come in and it is not very often. She likes to meet them so she can see where the dogs are going. **Melissa** asked if this is a good area to breed these dogs if you can’t allow them to go outside. **Darcey** said they are lap dogs they are indoor pets. **Darcey** said she has called the state about licensing and they have continuously told her that she is all set until she has more than 40 dogs or 10 litters in a year. The area where the dogs stay is cleaned multiple times a day. The

abutters reviewed a site plan and photos of the trailer. **Melissa** asked if this will be attached to the house. **Darcey** said yes with a mud room that faces the road. The trailer is lower than the house. **Paul Moverman** asked what the trailer was used for previously. **Darcey** said it was an office trailer her girlfriend owns. She used to run a payroll business out of that trailer. **Lynn** said she would feel better if there was a note on the card that the next owner wouldn't be able run a dog breeding business that could be expanded. **Valérie** said there would also be a compliance hearing in a year for the home business and if there are any issues you can come back in to discuss them. **Alan** said before then if you have any issues you can let us know. **Mike** said the Board should make a finding on Section 1705.04. **Melissa** asked if there will be a lot of people going to the house. **Darcey** said no. **Richard** asked if they have checked their deed for any covenant restrictions because that area has a lot of covenant restrictions. **Darcey** said they haven't checked yet. **Richard** said he does not like the idea of a commercial building in a residential neighborhood. **Alan** asked abutters how the existing trailer is working out. **Lynn** said she noticed it but it is also half the size of the proposed trailer. **Melissa** said that she is trying to sell her property across the street and can see the existing trailer from her living room. **Mark** said just as long as it's not a deterrent to selling the property. **Alan** asked if they were to build a 10x48 foot shed to raise the dogs in what would be the difference. **Ron** said that the difference is that it would not be a commercial building. **Alan** read through Section 1702.02 of the Zoning Ordinance again. **Valérie** said it states "and/or" but you can only calculate what percentage can be used for the home business by what is on the property right now. **Richard** said combined means home and trailer. The trailer currently on the property is not legal and should not count toward the calculation of the square footage allowed for the home business. **Alan** read section 1705.04 again and said he thinks that refers to heavy equipment for example rock pulverizing equipment. **Mike** said they should make a finding on whether or not the trailer is considered commercial equipment.

**Alan made a motion that the Planning Board makes a finding that the 10x48 foot office trailer would not fall into the class of heavy equipment as stated in Section 1705.04 of the Brookline Zoning Ordinance.**

No one seconded the motion. The motion dies.

**Alan made a motion that the Planning Board makes a finding that the 10x48 foot office trailer does fall into the class of heavy equipment as stated in Section 1705.04 of the Brookline Zoning Ordinance. Richard Seconded. Vote yes 4-0.**

**Mike** said with that finding the 10x48 trailer can not be used for this home business.

**Darcey** said they can use the trailer that is there already.

**Alan** said the proposed hours are 9-5 and that complies with the ordinance. The neighbors don't seem to have a problem with parking. Right now there doesn't seem to be a nuisance issue. It comes down to gross floor area. **Mike** asked if they use the trailer that is already there would they need to fill out a new application. **Paul** asked if this application can be modified in the middle of the hearing. **Valérie** said the Board could continue the hearing to a certain date because the type of activity for the home business does not change but she recommended sending another letter to all abutters to inform them of the modification in the application (proposed use of the existing trailer). **Alan** said the applicants will have to go to the Building Inspector and make sure the smaller trailer is there legally, get all the necessary permits. **Valérie** asked if they could provide pictures of the smaller trailer prior to the next meeting.

**Alan** moved to continue application **NRSP # 2010-D: D-18-15 to the regularly scheduled Planning Board meeting on November 4, 2010. Ron Seconded. Vote yes 4-0.**

### **2011 Proposed Budget**

**Valérie** said she already has submitted a proposed budget to the Board of Selectmen; submission was due October 4th. She also provided a draft warrant article in order to finalize the Master Plan update. The

Planning Board is scheduled to meet with the Board of Selectmen and Finance Committee on October 25, 2010 to discuss.

**Master Plan Update**

**Valérie** said the survey is completed and will be on the website Friday. This will take about 10 to 12 minutes to complete and there will be hard copies available to fill out also.

**Alan** said the Forum Committee has scheduled October 22, 2010 to hold the public forum at RMMS on Milford Street from about 6:00pm. The Women’s Club will provide soup and sandwiches. We also have people soliciting the local businesses for donations. **Alan** said he has asked Ron Pelletier to post a notice on the Brookline Media Center (Brookline Auction Gallery) sign and he will email Kevin Gorgoglione to see if Absolute Mechanical can post something on their sign also.

**Capital Improvement Plan**

**Paul** said they have had the first CIP meeting a couple of weeks ago. **Valérie** has sent out notices to all the Departments. They will meet with the departments at the fire station on October 26, 2010 and November 9, 2010 at 7:00pm with the Department heads. **Paul** also said Linda Saari will be representing the Selectmen.

**Richard moved to adjourn at 9:15 pm. Alan Seconded. Vote yes 4-0.**

**Alan Rosenberg, Co-Chair** \_\_\_\_\_

**Mike Papadimatos, Co-Chair,** \_\_\_\_\_

**Richard Randlett, Member,** \_\_\_\_\_

**Ron Pelletier, Member,** \_\_\_\_\_

**The next Regular Planning Board meeting will be 10/21/2010.  
Minutes submitted by Kristen Austin.**



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PLANNING BOARD MEETING  
Minutes  
October 21, 2010

**Present:** Alan Rosenberg, Co-Chair, Voting  
Mike Papadimitos, Co-Chair, Voting  
Richard Randlett, Member, Voting  
Ron Pelletier, Member, Voting  
Dana MacAllister, Alternate  
Valérie Maurer, Town Planner

**Absent:** Kevin Gorgoglione, Selectmen's Representative and Paul Anderson, Alternate.

7:00pm Meeting start

Minutes

Mike moved to approve the minutes of the October 7, 2010 Planning Board meeting as written. Ron seconded. Vote yes 4-0.

2010-3: J-41, J-41-10,11,12 – Patenaude – Workforce Housing Subdivision - Continued

Valérie said Randy Haight (Meridian Land Services) will not be here tonight to present this case. We also didn't receive the new plans until about 2:15pm today. Alan asked if any of the legal documents the Planning Board had requested had been dropped off. Valérie said not yet. Valérie said she did not know if Al Patenaude was going to be here to present the plan. Dennis LaBombard (LaBombard Engineering, Town Engineer) was in attendance Alan asked if he had any comments. Dennis said he had just received the plans the night before at 5:00pm by email. He had made a few comments and some things have been changed on this plan. Dennis said some requests that he made have not been changed, for example, the rain garden on Laurelcrest Drive that is still missing details. Dennis said he will need to review the newest plan and will forward any comments to the Board and to Randy Haight. Alan said they do not have the legal documents and Dennis still has to review this plan and drainage calculations we should continue the case to a certain date. Mike moved to continue case 2010-3: J-41, J-41-10, 11, 12 – Patenaude – Workforce Housing Subdivision until the November 18, 2010 Planning Board Meeting. Ron Seconded. Vote yes 4-0.

**Richard** asked Valérie if she knew how much land you would need for a septic, leach field, well radius, and a house. **Valérie** said she would ask the Building Inspector if there is an amount they can go by. **Dana** said you could have a very small house and septic. It depends on soil and size of home. **Valérie** said she will ask and email the answer to everyone.

### Master Plan Update

#### **Survey Committee**

**Valérie** said the survey is on the Brookline website and ask the public to please take a few minutes and fill that out. There are hard copies of the survey and drop off boxes located at the library, the Town Hall, and the Post Office. **Richard** asked how many have come back filled out. **Valérie** said there are about 40 filled out on the website.

#### **Forum Committee**

**Alan** said the Master Plan meeting will be held this Friday, October, 22 2010 at RMMS at 6:00pm. Food and child care will be provided. All Brookline Residents are welcome to attend.

### Capital Improvement Plan

**Alan** said the first public meeting for the CIP will be held at the Fire Station on Tuesday, October 26, 2010 at 7:00pm. This is a public meeting.

### Upcoming Events

**Valérie** said on November 18, 2010 she has scheduled the Planning Boards first workshop. She will compile a list of possible changes/amendments to the Zoning Ordinance for the Board to review. She has also created a list of definitions, combining all definitions from the Brookline Zoning Ordinance, Subdivision Regulations, and the Non-residential Subdivision Regulations. If all the definitions are located in one place it may make it easier to have one list for all three documents. **Alan** said they will just have to figure out where this list will reside. If you put it with the Brookline Zoning Ordinance and you want to make changes, corrections, or additions, they have to be approved at Town Meeting and if you make it a separate document it can be changed at a public hearing. **Valérie** said the definitions don't change that often and would rather they be attached to the Zoning Ordinance. **Alan** said something for everyone to think about for the workshop.

### 2010-3: J-41, J-41-10,11,12 – Patenaude – Workforce Housing Subdivision - Continued

Al Patenaude arrived at 7:30 pm, during the previous discussion.

**Alan** explained they had made a motion to continue the case to a November 18, 2010. They had just received the plans after 2:00pm this afternoon and Dennis will still need to review them. **Al** asked if there was anything that should be modified so they can have the correct information prior to the next meeting. **Alan** asked if they had any legal documents to submit. **Al** handed the Declaration of Workforce Housing Restrictions for Pierce Ponds Estates II. He said his printer wasn't working and couldn't print out the easements but will email them to Valérie. **Alan** asked if he had picked a management company yet. **Al** said he is looking into MCO Housing Services. **Alan** asked if they could have a detailed plan that shows where the septic, house, slope, and where the drainage will be. **Valérie** said just so the Board will have a better idea of what it all looks like on the same plan instead of flipping pages. **Alan** said if they could get an 11x17 sheet with a lot on each sheet with all the details for them to review. This would only be needed for lot J-41-16, J-41-17, and J-41-18. **Al** said he can't add in the house box until the Board decides what the house design will be for each lot. **Alan** said they could skip the house box but because this is the first Workforce Housing plan they would like as much information as they can get. **Alan** said this could just be

a draft copy and doesn't have to be part of the plan. **Valérie** said she still has a question as to where the snow will go. **Al** showed on the plan the two areas that the snow will be pushed. **Valérie** said lot J-41-15 has access off Laurelcrest and off of the Common Driveway. Which one will it take access from. **Al** said per the Town fire regulations because the lot abuts both the road and the common driveway he needed to show access from both, but the driveway will be off the common driveway, not from Laurelcrest Drive. **Richard** asked what lots will be market and what lots will be WFH. **Al** said they haven't figured that out yet he would like to try to keep the current neighbors happy and put market houses around them. **Alan** said the designation between workforce housing and market has to be made before approval. **Al** said it doesn't state that in the regulations. The Board agreed that what will be recorded will have to be what will be built, lots showing market value houses will have a market value building, same for workforce housing. **Al** also brought in an example of the post that will number (using reflective numbers) all the driveways if the post office decides they will not drive down the road.

**Richard moved to adjourn at 8:50 pm. Mike Seconded. Vote yes 4-0.**

**Alan Rosenberg, Co-Chair** \_\_\_\_\_

**Mike Papadimatos, Co-Chair,** \_\_\_\_\_

**Richard Randlett, Member,** \_\_\_\_\_

**Ron Pelletier, Member,** \_\_\_\_\_

**The next Regular Planning Board meeting will be 11/4/2010.  
Minutes submitted by Kristen Austin.**



TOWN OF  
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PLANNING BOARD MEETING  
Minutes  
November 4, 2010

**Present:** Mike Papadimatos, Co-Chair, Voting  
Richard Randlett, Member, Voting  
Ron Pelletier, Member, Voting  
Jack Flanagan, Selectmen's Representative Alternate, Voting  
Dana MacAllister, Alternate (voting for Alan Rosenberg)  
Valérie Maurer, Town Planner

**Absent:** Alan Rosenberg, Co-Chair, Kevin Gorgoglione, Selectmen's Representative and Paul Anderson, Alternate.

**7:00pm Meeting start**

**Mike** asked Dana to vote for Alan tonight. **Dana** agreed.

Minutes

**Richard** moved to approve the minutes of the October 21, 2010 Planning Board meeting as corrected. **Ron** seconded. Vote yes 3-0.

NRSP #2010-DD-18-15, Darcey Klein, Office Trailer for Dog Breeding Home Business, Case Continued from October, 7, 2010

In attendance for this hearing Darcey & Michael Klein (applicants), Lynn Giblin (abutter, 17 Mountain Road).

**Mike** asked everyone if they have seen the photos of the current trailer that Darcey had emailed to the Board. The Board said yes. **Valérie** said the square foot calculation for the home business is no longer an issue, the hours of operation are not a problem, and no one has complained about the trailer that has been on the property for almost one year. This application was accepted at the last hearing. **Valérie** said she has nothing to add just some conditions of approval. **Mike** asked if the health officer will visit the property every year. **Valérie** said she think he will. **Dana** asked if the building permit had been issued for the trailer that is currently on the property. **Valérie** said the Building Inspector will not issue one until the Planning Board approves the home business. **Lynn** said the only thing that concerns her is the possibility of this property being sold and the new owner being able to use that trailer as added square footage to make the home business bigger. **Valérie** said that won't happen because the home business goes with the

person not the property and she has made this a condition of approval. The trailer would need to be removed as well.

**Richard moved to approve NRSP #2010-DD-18-15, Darcey Klein, Office Trailer for Dog Breeding Home Business with the following conditions:**

- The applicant shall fill out all necessary permits with the Building Inspector and pay all fees (which might include late fees)
- Satisfactory inspection report from the Building Inspector shall be provided to the Planning Board before the applicant starts operating the Home Business.
- A compliance hearing will be held a year after day of approval
- All fees for case review, meeting time and inspections shall be paid before the applicant starts operating the Home Business.
- The 10 x 20 trailer shall not, at any time, be used as a living unit.
- The home business special permit shall become void if the property is sold.
- Any modification and/or change to the home business as approved at the (date) Planning Board meeting shall be submitted to the Board for review.

**Ron Seconded. Vote yes 5-0.**

**Workshop – Zoning**

The Board discussed proposed amendments to the Zoning Ordinance for this upcoming Town Meeting. They made a few corrections to the wording on the worksheet Valérie provided. The amendments suggested tonight and agreed upon by the Board will be made and discussed further at the next scheduled workshop on November 18, 2010. (See attached proposed amendments with tonight’s corrections)

**Jack moved to adjourn at 9:00 pm. Richard Seconded. Vote yes 5-0.**

**Mike Papadimatos, Co-Chair, \_\_\_\_\_**

**Richard Randlett, Member, \_\_\_\_\_**

**Ron Pelletier, Member, \_\_\_\_\_**

**Jack Flanagan, Selectman’s Representative, \_\_\_\_\_**

**Dana MacAllister Alternate, Voting for Alan, \_\_\_\_\_**

**The next Regular Planning Board meeting will be 11/18/2010.  
Minutes submitted by Kristen Austin.**





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**PLANNING BOARD MEETING**

**Minutes**

**November 18, 2010**

**Present:** Alan Rosenberg, Co-Chair, Voting  
Mike Papadimatos, Co-Chair, Voting  
Richard Randlett, Member, Voting  
Ron Pelletier, Member, Voting  
Dana MacAllister, Alternate  
Paul Anderson, Alternate  
Valérie Maurer, Town Planner

**Absent:** Kevin Gorgoglione, Selectmen's Representative.

**7:00pm Meeting started**

**Minutes**

**Richard moved to approve the minutes of the November 4, 2010 Planning Board meeting as written. Ron seconded. Vote yes 4-0.**

**Road Bond - Glendale Homes - Ames Road**

In attendance: Dennis LaBombard, LaBombard Engineering (Town Engineer) and Jerry Farwell, Brookline Road Agent.

**Dennis** said this road is been done in two phases. Phase 1- The developer would like it to be accepted by the town so it can be maintained by the Town this winter. Phase 2 needs a bond amount. **Dennis** said there are a few things missing from phase 1: granite bounds, a stop sign, rip rap in some places, outlet structure 4, and leaching basins 2 through 6 with their associated grading and infiltration trenches. Some of these items may be dismissed at the Board's discretion. **Jerry** said the stop sign is in place. **Dennis** said there are 3 missing bounds around Withee Drive. One may be an iron pin but should be granite bound unless there is a boulder under it. **Alan** said the Board tries to be very conscientious about having the bounds in place. **Randy** said three bounds are for Withee Road and that hasn't been built yet so they don't have to be put in place. He is not sure about the pin but will find out if there is a boulder under it. Withee Road will have a separate bond so the rest of the bounds will be placed when it is built. **Dennis** said he recommends waiving the rip rap. **Jerry** said they had 16 inches of rain in March and there wasn't any erosion.

**Alan** said that the outlet structure 4 wasn't installed. **Dennis** said it may have been part of the alteration of terrain permit issued by the State. Unless paperwork is provided stating that it is not needed it should be built before the road is put in. **Alan** asked what would happen if the structure isn't installed. **Dennis** said it will allow the water to go faster and installing the structure would slow down the run off. **Jerry** said it has been 3 years and there has been no erosion. The Board agreed it should be installed following what is printed on the approved plan. **Jerry** asked **Dennis** if the leaching basins are based on the road or the houses. **Dennis** said a little of both.

**Alan** said there are several leaching basins that have not been installed. **Valérie** said that the Building Inspector will have to keep track of that and make sure it gets done before issuing a Certificate of occupancy. **Alan** asked if installation of the leaching basins will be triggered when the building permit is pulled. **Dennis** said the Certificate of Occupancy would more likely to be the trigger to make sure it has been done. You could not release the final bond until they are all installed per plan. **Alan** asked if they can be installed now before the building permits are pulled. **Jerry** said what if the lots are never built on. **Jerry** suggested the Board go out to see what they look like when they are installed. **Valérie** said that Board could hold a small bond amount. **Dennis** said the bond will not be released until all the work is done. **Ron**: if he doesn't own two of those lots can we tie up the developer for something he doesn't own? **Richard** said if they are on the plan they should be done. **Valérie** agreed they should stick to the plan. **Alan** said they are sticking to outlet structure 4. To avoid confusion years down the road the leaching basins should be done as well. **Dennis** said he could reduce the bond for phase 1.

**Richard moved to recommend to the Selectmen that the Construction bond for Ames Road phase 1 be reduced from \$72,000 to \$46,480. Mike Seconded. Vote yes 4-0.**

**Dennis** said the erosion control blankets on both phases have not been installed but with the growth of vegetation it is no longer needed. We ask that it be waived.

## Phase 2

**Dennis** said the cistern is in place. Most bounds are set. There is a temporary turnaround for now. There are 9 lots on this phase. When the road is complete it will swing around and meet Hutchinson Hill Road. **Dennis** said he asked Scott Knowles (Fire Department) and he had no comments about the cistern. **Valérie** said she would like a list of the building lots to go to the Building Inspector. **Dennis** said the lots are D-1-14, D-1-15, D-1-16, D-1-17, D-1-13, D-1-12, D-1-11, D-1-10, and D-1-9. **Valérie** said she will email the Building Inspector the list of lots. **Dennis** said there are two head walls that are rubble instead of precast headwalls. **Valérie** said until the temporary turnaround is recorded building permits cannot be issued. **Ron moved to agreed to a 2<sup>nd</sup> phase road bond in the amount of \$44,000. Building Permits for lot D-1-14, D-1-15, D-1-16, D-1-17, D-1-13, D-1-12, D-1-11, D-1-10, and D-1-9 not be issued until temporary turnaround around is recorded. Richard Seconded. Vote yes 4-0.**

## Driveway Bond – Adamyk Homes – Rumore Way

**Dennis** said the granite marker was broken on delivery. They have tried to fix the marker, put two metal brackets on each side. It looks sturdy but it's for the Board to decide if it should be replaced. **Jerry** asked what the specifications are for the granite markers. **Valérie** said granite markers for common driveways should be 5 foot from finished grade, 7 inches in depth, 2 feet wide, and the engraving has to be 30 feet from the finished grade. **Dennis** said it wouldn't be a problem to go out and measure to make sure that granite marker is the correct measurements. **Valérie** said it is fixed but wondered how long will it last. **Alan** said he thinks the granite marker should be replaced. **Richard** said if they leave it the way it is in five years if it does break whose responsibility is it to have that replaced.

**Valérie** said that would be up to the homeowners on that common driveway to replace it. **Ron** said he agreed with Alan it should be replaced; the homeowners should get a good product to start off with. The Board agreed the broken Granite marker should be replaced.

**Dennis** said there is one granite bound on the north side of route 13 that he hasn't found yet. Have been looking for a few years and don't know if it was just buried or not installed. **Randy** said they will figure that out.

**Dennis** said there are also two headwalls that are rubble instead of precast concrete walls. One culvert pipe is crushed at the end and will need to be fixed. Some silt fencing that needs to be removed. There is a puddle at the intersection of Route 13 that will need to be graded.

**Alan** said the granite post should be replaced and the intersection of Route 13 will need to be graded.

**Alan** said if the rubble is working we will not require precast concrete headwalls.

**Richard made a motion to recommend to the Selectmen that they establish a driveway bond for Rumore Way in the amount of \$3,500. Ron seconded. Vote yes 4-0.**

**Case 2010-3: J-41, J-41-10, 11, 12-Patenaude- Workforce Housing Subdivision, Continued**

In Attendance for this hearing: Randy Haight (Meridian Land Services), Al Patenaude (Patenaude Construction) Roger Goscombe (Realtor for Patenaude Construction)

**Randy** said the plan in front of them has all the information that was requested at the last meeting. The house is shown as 38x28, the garage is shown as 24x24, septic, well, and drainage. This is just a footprint so you can see how this will all fit on a lot. **Al** said they just picked a typical size house. **Randy** said the Zoning Board has granted a variance for the extended common driveway. It has been thirty days and it has not been challenged. **Alan** said the well, septic, and house could still be moved a bit on this plan. **Randy** said that is correct this is just to show the Board that this can all fit on these lots with room to move. **Alan** thanked Randy and Al for the detailed plans it is a big help to see all the information on one page. **Dennis** said everything he has asked in the last letter has been done. **Randy** said he also added the rain garden across the street that was missing from this plan. The first driveway will be named if it comes off Laurelcrest Drive. 911 didn't want us to make it zero Laurelcrest and we didn't want to have to renumber the entire street. **Dennis** said he has no issues with this plan. The driveway will have to be built before any building permits can be issued per regulations for common driveways. **Valérie** said she doesn't have anything to add tonight except that Town Counsel still has the documents and has not responded back to the Planning Board. **Randy** said the third party designated is MCO who will provide land management Al's attorney Ray Lyons was going to email Valerie this information. **Valérie** said she hadn't received anything yet. **Al** said he will make sure he emails it to her tonight. **Richard** said they had discussed marking the plan before it is recorded with the lots labeled market rate or workforce housing. **Al** said that labeling the lots upfront restricts what I can do with them. It doesn't state in the bylaws that the lots should be labeled. **Randy** said he made a note on the plan that states 7 will be market rate homes and 7 will be workforce housing. **Paul** asked if there is a certain amount of workforce housing to market value homes required. **Randy** said 50% the Planning Board can designate 10% either way. **Al** said he will split the road into 2 phases. **Dennis** said if you split into phases you will need to put a temporary turnaround on the plan. **Valérie** said they will need a new plan with the turn around and a temporary easement will need to be reviewed by Town Counsel and recorded. **Alan** asked when the building permit is pulled, will it depict whether the house will be a market rate or workforce? **Roger** said in most towns that will be included on the certificate of occupancy (CO). **Randy** said he can add a note to the plan that states this will need to be labeled on the CO. The bank will probably insist that it is added to the CO before closing. **Al** said if they label the building permit he is stuck as to what it can be

sold as. **Valérie** said someone will need to track it. **Randy** said the third party company MCO will send reports when a workforce housing unit is sold. **Valérie** said they will need a new plan with the temporary turn around and Dennis will need to review the new drainage calculations. We are also waiting on Attorney Drescher review of the “declaration of workforce housing restrictions”. **Alan** said for the next meeting the Planning Board will need temporary turn around on plan with notes, phasing wording, and a note stating phase 1 and rain garden will be built.

**Richard moved to continue case number 2010-3: J-41, J-41-10, 11, 12-Patenaude-Workforce Housing Subdivision to Thursday, December 2<sup>nd</sup> 2010 Planning Board meeting. Mike Seconded. Vote yes 4-0.**

**Proposed Amendments to Zoning Ordinance, final workshop**

The Board reviewed the amendments to the Zoning Ordinance and agreed upon the attached. The Public Hearing is scheduled for December 16, 2010.

**Richard moved to adjourn at 10:15 pm. Mike Seconded. Vote yes 4-0.**

**Alan Rosenberg, Co-Chair** \_\_\_\_\_

**Mike Papadimatos, Co-Chair** \_\_\_\_\_

**Richard Randlett, Member** \_\_\_\_\_

**Ron Pelletier, Member** \_\_\_\_\_

**The next Regular Planning Board meeting will be 12/2/2010.  
Minutes submitted by Kristen Austin.**



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**PLANNING BOARD MEETING**

**Minutes**

**December 2, 2010**

**Present: Alan Rosenberg, Co-Chair, Voting  
Richard Randlett, Member, Voting  
Ron Pelletier, Member, Voting  
Dana MacAllister, Alternate, Voting for Mike  
Valérie Maurer, Town Planner**

**Absent: Mike Papadimitos, Co-Chair, Paul Anderson, Alternate, and Kevin Gorgoglione,  
Selectmen's Representative.**

**7:00pm Meeting start**

**Minutes**

**Ron moved to approve the minutes of the November 18, 2010 Planning Board meeting as amended. Richard seconded. Vote yes 3-0.**

**Case 2010-3: J-41, J-41-10, 11, 12-Patenaude- Workforce Housing Subdivision, Continued**

In Attendance for this hearing Randy Haight (Meridian Land Services), Al Patenaude (Patenaude Construction) and Roger Goscombe (Realtor for Patenaude Construction)

**Randy** said he changed the plan cover sheet as requested by Valérie and added the proposed conditions of approval. All engineering requests have been met and Town Engineer has no issues.

**Valérie** said she requested and has received a signed contract between the third party financial company MCO Housing Services and Al Patenaude. **Randy** said he is waiting for name approval from Wes Whittier (Emergency Management Director) for the common driveways. **Valérie** said she thought Wes said that he was ok with Laurence Way for the single common driveway on the 4-lot conventional subdivision off Laurelcrest Drive and Riley Drive for the Workforce Housing development. **Randy** said he will check with Wes in the morning to make sure and label the plans before they are recorded.

**Valérie** said that she is recommending that MCO sends statements every six months.

**Alan** said at the last meeting they talked about phases but the temporary turn around isn't on this plan.

**Randy** said we did discuss it but it will be market driven; if we finish the common driveway right away then we will not need phases. If Al Patenaude only builds half the road, we will add the temporary turn around. There is a condition of approval note on the cover sheet. **Valérie** said the Board could discuss

this at the compliance hearing in a year or could schedule it 6 months after the first house is build. **Valérie** said she would like the building facade or style samples for the file. **Al** said they submitted sample plans during the conceptual discussion. He will resend plans for the house style to Valérie. **Alan** reviewed the letter from Town Counsel regarding the Declaration of Workforce Housing Restrictions. He said there was nothing in the documents that refers to enforcement for workforce housing units. **Al** said that will be the task of MCO Housing Services and it will be stated in the deeds. **Alan** said they would like that reference in the financial documents. **Dana** said years from now how would people looking to purchase this home know if it is a workforce housing unit. **Randy** said these documents will be recorded and deeds will refer to the restrictions. Realtors and financial institutions will be aware of this.

**Alan** asked what would happen if the town made changes to the workforce housing ordinance. **Valérie** said it would be grandfathered by what is in the ordinance at the time of approval.

**Valérie** said she hasn't received input from the Road Agent yet for offsite improvements. Randy could add a note and change or remove pending the Road Agent's recommendations.

**Randy** said that he added a Note #17 referencing to the Variance that was granted by the Zoning Board, allowing for a through common driveway serving 11 lots.

**Alan** read the conditions of approval from the plan cover sheet:

1. The applicant shall submit eight (8) hard copies of the final plan(s) and a permanent, reproducible Mylar(s).
2. No building permits shall be issued until the temporary turnaround and associated deed are reviewed, approved and recorded. Only needed if Riley Drive is built in segments and isn't completed.
3. A compliance hearing will be held if a temporary turnaround is built on Riley Drive, prior to its construction.
4. Off-Site Improvement agreement shall be recorded and the "per lot" amount shall be paid prior to the issuance of any building permit.
5. All invoices sent to the applicant by the Town for Town Counsel, Town Planner and Town Engineer reviews and meetings attendance shall be paid prior to the issuance of any building permit.
6. All legal documents (i.e. deeds, restrictive covenants) shall be recorded and copy provided to the Planning Department prior to the issuance of any building permit.
7. A letter from a Land Surveyor shall be provided to the Building Inspector and the Planning Board stating that all bounds have been set prior to the issuance of any Certificate of Occupancy.
8. The proposed lots are subject to an impact fee per the Brookline Zoning Section 2100, in three separate amounts. The impact fees of \$222.14 (for ambulance facility), \$1,304.24 (for Brookline school system) and \$1,843.17 (for Hollis/Brookline Coop Middle School) are payable to the Town of Brookline at the time the Certificate of Occupancy is issued for each lot.
9. No building permits shall be issued until the Notice of Intent (NOI) and Stormwater Pollution Prevention Plan (SWPPP) have been filed and a copy submitted to the Town (site will disturb more than one acre).
10. NH DES subdivision approval number shall be added to the final plans
11. Original professional stamps and signatures shall be on the final set of approved plans.
12. Income verification and ongoing affordability compliance reports shall be provided to the Town of Brookline with copy to the Building Inspector by April 1<sup>st</sup> and October 1<sup>st</sup> of each year.

13. A letter from a professional engineer to the town stating that the “rain garden” had been built in compliance with the detail on sheet D-1 will be required before a certificate of occupancy is issued for each of lots J-41-15 through J-41-20.

Suggestion was made to change the numbering of the conditions of approval to C-1, C-2, etc. in order to differentiate them from the regular notes on the plan cover sheet.

**Ron moved to approve application number 2010-3: J-41, J-41-10, 11, 12-Patenaude-Workforce Housing Subdivision with the conditions of approval read previously and noted on the plan. Richard Seconded. Vote yes 4-0.**

**Planning Board Business Meeting**

**Valérie** said there is a public hearing for the Zoning Ordinance amendments on December 16, 2010.

There will be a Master Plan Steering Committee meeting on Tuesday 12/14/2010 at 7:00 pm in the Workroom at the Town Hall. This will start the work on updating the first chapters. Upcoming meeting will be held on Thursday, some of them will be shared with the Planning Board.

**CIP**

**Alan** said they should have a CIP draft for the next planning Board meeting on December 16, 2010 for the Planning Board to review and adoption by the Planning Board should be on the first meeting in January.

**Richard moved to adjourn at 8:10 pm. Dana Seconded. Vote yes 4-0.**

**Alan Rosenberg, Co-Chair** \_\_\_\_\_

**Richard Randlett, Member,** \_\_\_\_\_

**Ron Pelletier, Member,** \_\_\_\_\_

**Dana MacAllister, Alternate, voting for Mike Papadimatos** \_\_\_\_\_

**The next Regular Planning Board meeting will be 12/16/2010.  
Minutes submitted by Kristen Austin.**



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**PLANNING BOARD MEETING**

**Minutes**

**December 16, 2010**

**Present: Mike Papadimatos, Co-Chair, Voting  
Alan Rosenberg, Co-Chair, Voting  
Richard Randlett, Member, Voting  
Ron Pelletier, Member, Voting  
Paul Anderson, Alternate  
Valérie Maurer, Town Planner**

**Absent: Kevin Gorgoglione, Selectmen's Representative and Dana MacAllister, Alternate.**

**7:00pm Meeting start**

**Minutes**

**Alan moved to approve the minutes of the December 2, 2010 Planning Board meeting as amended.  
Ron seconded. Vote yes 3-0.**

**Road Bond - Glendale Homes – Hutchinson Hill Road**

**Dennis LaBombard** (LaBombard Engineering – Town Engineer) said there are two sections of road. First Section - Gerry Tanguay (Glendale Homes) would like the town to accept phase one which is the first half of the road. Phase one will need a maintenance bond in the amount of \$45,900. Phase two will need a construction bond in the amount of \$31,000. **Valérie** asked if there is a turn around for phase two. **Dennis** said yes there is a temp turn around that will in the future be a driveway and you should have received paperwork for the temporary turnaround from Meridian Land Services. **Valérie** said she hasn't received any paperwork for the temporary turnaround. **Dennis** said for phase two you may want to add a condition that the town will need the paperwork for the temporary turn.

**Dennis** said phase one is ready to be accepted at Town Meeting and then will be deeded to the town.

**Alan moved to recommend to the Board of Selectmen that a maintenance bond in the amount of \$45,900 be put in place for phase one of Hutchinson Hill Road until the summer for 2012 and then to be brought to Town Meeting for acceptance. Also a construction bond in the amount of \$31,000 should be put in place for phase two of Hutchinson Hill Road with a condition that the Town receives paperwork for the temporary turn around. Richard Seconded. Vote yes 4-0.**



**Public Hearing-Amendments to the Zoning and Land Use Ordinance**

**Mike** read the public hearing opening statement at 7:30pm.

**Valérie** said the Board discussed and agreed on these corrections/amendments at the last meeting; tonight is the public hearing and will need a motion to send to Town Meeting for a vote. **Mike** read through the all the amended sections. (See attached)

**Alan made a motion to submit the proposed amendments to the Zoning Ordinance to be voted on by ballot at Town Meeting in 2011 also forward a copy to the Town Clerk and Selectmen's secretary to be printed in the 2010 Town report. Ron Seconded. Vote yes 4-0.**

**CIP**

**Paul** handed out copies of the CIP booklet for the board to review. **Richard** said that in the Ambulance section the service date and replacement date columns are a little confusing. **Paul** said he will work on that. **Alan** said the Planning Board would usually take this home to review and then at the next meeting could adopt it.

**Opening Statement**

**Alan** suggested the phrase "Please attempt to limit your comments" be removed from the Planning Board opening statement. The Board agreed.

**Richard moved to adjourn at 8:05 pm. Dana Seconded. Vote yes 4-0.**

**Mike Papadimos, Co-Chair** \_\_\_\_\_

**Alan Rosenberg, Co-Chair** \_\_\_\_\_

**Richard Randlett, Member,** \_\_\_\_\_

**Ron Pelletier, Member,** \_\_\_\_\_

**The next Regular Planning Board meeting will be 1/6/2011.  
Minutes submitted by Kristen Austin.**

## Proposed Amendments to Zoning Ordinance

To be put on the March 2011 Ballot and  
Printed in the 2010 Town Report

*Addition / new text*  
~~Elimination~~

### Preamble – Section 100.00

~~In pursuance of authority conferred by Chapter 31, Sections 60-89, NH Revised Statutes Annotated, 1955, and for the purpose of promoting the health, safety, morals, property, convenience of general welfare, as well as efficiency and economy in the process of development, of the inhabitants of the incorporated Town of Brookline, New Hampshire, by securing safety from fire, panic, and other dangers, providing adequate area between buildings and various rights of way, by preserving the rural charm now attached to our town, the promotion of good civic design and arrangement, wise and efficient expenditure of public funds, and the adequate provision of public utilities and other public requirements, and by other means, now therefore the following Ordinance is hereby enacted by the voters of the Town of Brookline, New Hampshire in official annual meeting convened.~~

*In pursuance of authority conferred by New Hampshire Revised Statutes Annotated Chapter 674:16 through Chapter 674:34 inclusive as amended and for the purpose of promoting the health, safety, morals, and general welfare of the inhabitants of the incorporated Town of Brookline, New Hampshire, by securing safety from fire, panic, and other dangers, providing adequate areas between buildings and various rights-of-way, by preserving the rural charm of the town, preventing the overcrowding of land, avoiding undue concentration of population, facilitating the adequate provisions for transportation, water, sewage, schools, parks, and other public requirements, and by other means in accordance with a comprehensive plan, the following ordinance is hereby adopted by the voters of the Town of Brookline, New Hampshire, in official Town meeting convened.*

Note: RSA's 31:60-89, Zoning Regulations, were repealed in 1983 and replaced by Chapter 674, Local Land use Planning and Regulations Powers.

### General Provisions – Section 300.00

Add a new section to read as follow:

#### *307.00 – Building Permits*

*The State of New Hampshire Building Code pursuant to RSA 155-A including adopted Appendix Chapters and amendments, shall govern and regulate the construction, alteration, movement, enlargement, replacement, repair, equipment, location, removal and demolition of all dwelling units and all commercial and industrial buildings in the Town of Brookline, said Codes also provides for the issuance of permits and collection of fees.*

***Accessory Buildings of 100 square feet or less shall not require a building permit but shall be required to meet all setback requirements.***

Note: The requirement for a building permit was in the building code that was repealed at the March 2010 town meeting. See letter from Building Inspector, dated June 2, 2010.

### **Industrial-Commercial District – Section 500.00**

**503.03, Land Area:** Each building lot shall be at least one (1) acre *excluding wetlands*.

**503.05, Building Height** - Rename section as “***Building Requirements***” keeping current wording and adding the following:

1. Height: Except for structures not intended for human occupation (such as chimney, water towers, and church spires), maximum building height is 35 feet, ***calculated from the average finished ground level adjoining the building at all exterior walls.***
2. Accessory Buildings: ***Accessory Buildings of 100 square feet or less shall not require a building permit but shall be required to meet all setback requirements and Section 300.00, General Provisions.***

Notes: There is no requirement for minimum square footage in the State Code.

The requirement for a building permit was in the building code that was repealed at the March 2010 town meeting.

### **Residential-Agricultural District – Section 600.00**

**603.05, Building Height** - Rename section as “***Building Requirements***” keeping current wording and adding the following:

1. Height: Except for structures not intended for human occupation (such as chimney, water towers, and church spires), maximum building height is 35 feet, calculated from the average finished ground level adjoining the building at all exterior walls.
2. Square Footage: ***Any new dwelling unit shall contain at least 576 square feet of first floor living area and manufactured housing to have 320 square feet.***
3. Accessory Buildings: ***Accessory Buildings of 100 square feet or less shall not require a building permit but shall be required to meet all setback requirements and Section 300.00, General Provisions.***

Note: These requirements were in the building code that was repealed at the March 2010 town meeting.

### **Workforce Housing, section 620.00**

**626.00, General Requirements** – Change the following sections to read:

2. The minimum parcel size for a workforce housing development shall be at least ten (10) ***contiguous*** acres ***excluding wetlands***.
3. The minimum lot size for a single family market value ***and a single workforce housing unit*** shall be one (1) acre ***excluding wetlands***. The minimum lot size for a duplex shall be one and one half (1.5)

acres *excluding wetlands*. The minimum lot size for a five unit multi-family building shall be three (3) acres *excluding wetlands*.

5. The development shall have a vegetated buffer of fifty (50) feet or a value as deemed necessary by the Planning Board on all boundaries of the original parcel except for access to connecting roads.

10. (...) for compliance with Section **629.00** (instead of 628.00) of this ordinance.

### **628.00 – Roads, Ways, Access to Development**

*Add a new sub-section 628.00, 3.*

*Unless deemed unnecessary by the Planning Board, access to a development shall be via a through roadway connecting existing roads and neighborhoods in order to provide a safe and rapid access to the development / dwelling units for all emergency vehicles.*

Note: New sub-section addressing the need of connecting such development to existing roads, minimizing common driveways for safety purposes (plowing, access and turnaround for emergency vehicles, etc)

### **Manufactured Housing – Section 700.00**

#### **701.01, Requirements**

a. Each proposed manufactured Housing District must be a minimum of twenty (20) contiguous acres in size *excluding wetlands*.

b. Each proposed Manufactured Housing District must contain a vegetated buffer of *fifty (50)* feet wide, *or a value as deemed necessary by the Planning Board, on all boundaries of the original parcel except for access to connecting roads* ~~to provide a visual barrier between the manufactured Housing District and all other adjacent properties.~~

*Add sub-section d.:*

*d. Any dwelling unit shall contain at least 320 square feet.*

### **Growth Management Ordinance – Section 1400.00**

Section 1400.00, Growth management / Residential Phasing Ordinance

*Deleted (March 2011)*

Reference: HB 1260 and NHRSA 674:22 and 23 – Effective July 8, 2008.



(603) 673-8855

TOWN OF  
BROOKLINE, NEW HAMPSHIRE

P.O. Box 360  
Brookline, NH 03033

PLANNING BOARD MEETING

January 4, 1994

PRESENT: Peter Webb, Chairman, Voting  
Richard Napolitano, Vice-chairman, Voting  
Joe Kagenski, Voting  
Chris Hegarty, Voting  
Judy Cook, Selectmen's Representative, Voting  
Margaret Olson, Alternate  
Brian Kirschner, Alternate  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

- 7:30 PM Planning Board Business Meeting  
Chairman Peter Webb opened the meeting. Minutes of the December 21, 1993 meeting were reviewed. Peter made a motion seconded by Rich to approve the minutes as written. Affirmative vote of 5-0 was taken to approve the minutes.
- 7:35 PM Public hearing, Adoption of Chapter IX, Recent Growth Trends to the 1990 Master Plan. Peter turned the meeting over to Jeremy who explained to those present that this chapter was being added to the 1990 edition of the Master Plan. Peter opened the meeting to discussion of the chapter. Resident Phil Chandler questioned the source of projected school enrollment figures. He said he felt this report does not support the action being taken in proposing a growth ordinance which limits the number of building permits. Jeremy said he used figures given to him by the SAU office. Tom Moran said the number of lots left in Birch Hill I should be 40 (Page 11). He questioned the building permit (Page 23) and fiscal impact (Page 24) data used. He asked what has happened to the tax rate with the new growth, and what is the projected rise in the tax rate? Tom advocated the PB look for ways to broaden the tax base by providing more commercial/industrial sites; and focusing on rising school costs (student to teacher ratio). PB members voted to amend the following: Page 11- Birch Hill, I, 40 remaining lots-Total remaining lots-159. Page 27-Recommendations, 1, Change to read:"Actions need to be taken in order to accommodate the growth while minimizing the impact on tax rate. One of these actions should include an updated CIP which programs the costs of capital projects as evenly as possible" 1501

Recommendations, 2, 2nd sentence, Change to Read: ".....the Planning Board can help moderate the growth in school enrollments."

8:05 PM  
MOTION

Rich made a motion to adopt Chapter IX, Recent Growth Trends as amended. Chris seconded the motion. Planning Board voted 5-0 yes to adopt Chapter IX, Recent Growth Trends, as an addition to the 1990 Brookline Master Plan.

8:10 PM

**Public Hearing-Proposed Changes to Brookline Zoning and Land Use Ordinance.** Mike Lynch of the Brookline Finance Committee was present with some handout information sheets. He explained that he was looking at trends in the Town budget, tax rates, number of building permits, and guessing at anticipated revenue. He had talked to the other 2 members of the finance committee, and they all felt that the Town has been helped by the additional revenue from new homes. They feel that a reduction in the number of new homes in the short term will adversely impact the tax rate. He said the Town currently has 3 bond articles-Town Hall/Library renovation, Co/Op High School renovation, and the Brookline Elementary School addition. There is a proposal for a new addition to the elementary school this year, and the possibility of a bond for the Co/Op School District. Phil Chandler spoke to the doubling of the cost per student figure at the elementary school in the last 7 or 8 years. The ratio of students per teacher is down from 18 to 13. Ben Chandler said the cost to educate our students is not in line with rising costs in other areas.

*\* Amended 1/18/94  
Add: "However, he supported the P.Bd's growth ordinance and felt it would be beneficial to the Town in the long run."*

8:30 PM

PB members reviewed Jeremy's January 4, 1994 memo on the status of the proposed zoning changes (see attached).

MOTION

1.) **Floodplain Ordinance**-Peter made a motion to revise the wording as per the 1/4/94 memo. Rich seconded the motion. Vote 5-0 yes to approve the change.

MOTION

2.) **Back Lots**- Peter made a motion to approve Jeremy's 1/4/94 revision for clarification of meaning. Chris seconded the motion. Yes vote 5-0 to approve revision.

MOTION

4.) **Definition of Forestry**-Peter made a motion to accept the proposed definition as written in the 12/17/93 draft. Rich seconded the motion. Vote was 5-0 yes.

MOTION

5.) **Definition of Home Business**- Peter made a motion to accept the proposed definition as written in the 12/17/93 draft. Joe seconded the motion. Yes vote 5-0 cast.

MOTION

6.) **Adoption of revised BOCA and CABO Building Codes**-Peter made a motion to accept Item #6 to streamline the procedure by which the Town adopts the updates of the BOCA and CABO building codes after public hearing. Rich seconded the motion. Vote cast 4-Yes, 1-No (Rich).

8:40 PM

3.) **Growth Management Ordinance**-Jeremy explained the changes from the last meeting on Pages 2 and 4.

8:45 PM

Rich made a motion to have the PB accept a proposed change to the Growth Management Ordinance to modify the number of lots developed per year to a 20% growth rate for all subdivisions approved prior to 1/1/94.

**Discussion of Rich's Proposal**- Peter Bennett said that while he supported the growth control ordinance, he felt there was a significant issue in the 4-year exemption statute (RSA 674:39) which should be considered.

Brookline School Board member Marcia Farwell stated that the cost of education, using the State's figures, show that the elementary school is 20% lower than the State average; while the junior and senior high schools are 26% and 19% higher respectively. She believes Brookline is being asked to build a new senior high building because of a crowding problem in Hollis Elementary. She urged those present tonight to attend all school budget and school district meetings and make their views known.

Betty Hall asked for figures supporting the fact that additional houses would reduce the tax rate rather than raise it.

Peter Webb said the ordinance as drafted favors the existing lots while being very limiting to new subdivisions. By restricting some percentage of the existing lots from obtaining building permits, as Rich is proposing, it would seem fairer to both existing and future subdivisions.

Margaret said she favored Rich's proposal. She felt it was fairer to both new and existing subdivisions.

Bob Bramley expressed his opinion that the growth ordinance as now proposed is fair to existing developers as well as future developers because they will know the rules coming into the subdivision process.

Peter Bennett felt the proposed growth ordinance as drafted protects both approved as well as new subdivisions. If it is too limiting, it has a provision which provides for an annual review by the Planning Board to allow an adjustment of the number of building permits to be issued yearly. The PB has the right to modify or do away with the ordinance if figures do not support the need to have it.

Michael Lynch expressed his opinion that local developers have the town's interest in mind as well as making their living from the development and sale of lots.

Marcia asked if the elementary school adds a 6 room addition for 150 more students, does this mean this ordinance will not have a valid basis for continuation?

Betty said it was her belief that people will vote for growth control independent of the tax rate. She felt this was established with the first Master Plan. People in the community are interested in more than pocket book issues.

Sid Hall asked that voters be given a chance to vote on a strong ordinance rather than a watered down one.

Phil Chandler asked that financial data not be used to scare people into a growth control ordinance. The wish to limit Brookline's growth is a separate issue. He does not support the PBd's contention that the growth has as yet impacted the schools to the degree that this ordinance is necessary.

Tom Moran said the figures on Page 9 and Page 25 of the new Master Plan chapter show that the years with a high number of building permits for new homes show a reduction in the tax rate.

9:40 PM Peter polled the PB members to see if they supported Rich's proposal (see attached) to change the application section of the growth management ordinance as currently drafted. Margaret-in favor; Judy-opposed; Brian- in favor, but adjust Rich's percentage number; Joe-in favor, but with a higher % than 20. He also stated he does not believe the approved subdivisions are exempted from a having a limit on the number of building permits issued to them under RSA 674:39; Chris-opposed. Out of the six subdivisions having more than 4 lots, there is a total of 90 lots which would be affected. Using the percentage figure of 50 which can be built on the first year, you're talking about regulating the remaining 45 lots. He feels the PB can adjust the number of building permits in their annual review to better control growth. Tom Moran mentioned that under this proposal, he would be allowed to obtain 37 building permits in Mountain Road and Birch Hill Estates, II in the first year. Peter called for a vote on Rich's concept. Vote taken, 5-Yes (Peter, Rich, Brian, Joe, and Margaret). 2-No (Judy and Chris). Tom Moran said he had told the PB they will build this project out over the next 3 years. Jeremy said two months ago the PB was working with the developers on a phasing plan to give the PB estimate figures of what they reasonably expected to build over the next few years. Rich said the PB needed concrete proposals from the developers, and there was no time now to develop this. Judy said she felt the PB needed to give developers a large percentage for the first year (50% on a declining balance) because they had already entered into contracts with banks and road contractors. Brian said a clause to limit a "run-away" situation is needed. He feels if the percentage number is high enough, it will not overly restrict the developers, but yet give some control. He favors 50% of the total number each year. Members discussed how to implement Rich's proposal into the draft. Page 3-Requirements, #4 to read:"The number of building permits to be issued annually on lots approved after 11/24/93 shall be computed as follows (use existing wording in 12/17/93 draft). Add a #5 to read:" The number of building permits to be issued annually on existing lots prior to 11/24/93 shall be computed as follows: Lots shall be limited to a maximum number of building permits determined by multiplying the number of remaining in their respective subdivisions by .50. and rounding up. Existing subdivisions with 4 or less lots left are exempt from this requirement." Add to the "Sunset Clause" the wording:" The remaining number of lots shall be determined as of January 1 of said year by the Planning Board."



Jeremy gave his opinion that this proposal would create an incentive to draw building permits, and as a result, more permits would be drawn for 1994 than the 3 developers would have drawn under their plans for the next 3 years; or the 35 building permits the PB had determined would represent a 3% growth rate for the Town.

Bob Bourassa said he was willing to phase his development over the next 3 years by building 1/3 of his remaining lots in Talbot-Taylor Estates each year. Tom said he personally would be willing to commit to a 3-year phased building plan. Alan Lorden was not present tonight, but had submitted a 3 year growth plan to the PB at the first public hearing.

**11:00 PM** Rich said he was willing to withdraw his amendment to the growth management ordinance if the PB could get commitments in writing from Millrock Realty (Tom Moran and Bob Bramley), Talbot-Taylor Estates Partnership (Bob Bourassa); and Alan Lorden (Lorden Realty, Inc.) on a phased plan of building. Joe said for the minutes of the meeting, it is understood that Millrock Realty will have a phasing plan tentatively building on 22, 22, and 23 lots over the next 3 years. Tom said he would have to discuss these numbers with Eric Rodgers and Bob Bramley; and some minor adjustments to these numbers may be made. Lorden Realty will develop 4, 6, and 6 lots as Alan Lorden had agreed to. Talbot-Taylor Estates Partnership is willing to develop 1/3 of the remaining lots each year over the next 3 years. Written agreements to the Planning Board will follow.

**11:10 PM** Joe made a motion to adjourn the meeting. Rich seconded the **MOTION** adjournment motion. Affirmative 5-0 vote was cast.

Next Planning Board meeting will be held on Tuesday, January 18, 1994.

Next public hearing on proposed zoning changes will be held on Tuesday, January 25, 1994.

Submitted by: Sandra L. Fessenden  
Sandra L. Fessenden, Secretary  
Brookline Planning Board

Made Part of the Tax. #, 1994 P. Bd. meeting  
SJC

PB Members,

This is the proposed modification to the Growth Ordinance that gently limits that rate of development of existing projects.

"All subdivisions approved prior to Jan 1, 1994 will be limited to a maximum number of building permits determined by multiplying the number of remaining lots by .20 and rounding up. Existing subdivisions with 4 or less lots left are exempt from this requirement."

This proposal will guarantee developers a fixed number of lots per year and will allow the town to have some idea of how many houses will be built.

The basic point here is that we MUST impact the existing subdivisions, if we hope to have any affect on the growth rate in the town in the next 5-7 years. Also, a limit of 20% per year is a very high percentage and is NOT a hardship on developers at ALL.

Developers WILL oppose this limit, but in the end if we stick to our positions I think they will see the wisdom in the limit and they will cooperate in the end.

Thanks,  
Richard Napolitano



(603) 673-8855

*Selectmen*

**TOWN OF  
BROOKLINE, NEW HAMPSHIRE**

P.O. Box 360  
Brookline, NH 03033

**PLANNING BOARD MEETING**

January 18, 1994

**PRESENT:** Peter Webb, Chairman, Voting  
Richard Napolitano, Vice-chairman, Voting  
Joe Kagenski, Voting  
Chris Hegarty, Voting  
Judy Cook, Selectmen's Representative, Voting  
Margaret Olson, Alternate  
Dennis LaBombard, Alternate  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

**7:30 PM** Planning Board Business Meeting  
Chairman Peter Webb opened the meeting. Minutes of the January 4, 1994 meeting were reviewed. It was decided to amend Page 2, (8:10 PM Public Hearing), Lines #10 and 11, to read: "impact the tax rate. However, he supported the Planning Board's growth ordinance and felt it would be beneficial to the Town in the long run." Peter made a motion seconded by Rich to approve the minutes as amended. Affirmative vote of 5-0 was taken.

**MOTION**

**7:35 PM** P. & C. Realty, Inc., Subdivision Case #1993-5:F-60.  
(Peter Webb excused himself from consideration of this case because of a conflict of interest. Rich chaired the meeting for this case hearing). Frank Gavin and Randy Haight of Meridian Land Services were present to discuss the Rocky Pond Road subdivision of lot F-60 into 5 lots. Randy said he had reviewed the Rocky Pond Road traffic study prepared by the Nashua Regional Planning Commission. He said there is a potential for 200 new houses on Rocky Pond Road, and the cost of upgrading the road is estimated to be \$165,000. This averages out to \$829.00 per lot for road improvements. He said P & C is willing to contribute, as their share for this 5 lot subdivision, \$1,000.00 per lot to the Town of Brookline- \$850.00 to be designated for road improvements and \$150.00 per lot to be designated for fire safety. Judy asked Fire Chief Ray Kegy if there was any suitable place on Rocky Pond Road for a fire pond. Ray answered no, and said the fire engineers had visited the site and found that there is no source of water at that end of the road. Ray said he felt the cost of a cistern as an alternative measure was unreasonably high. He also said he didn't know what the maintenance cost and upkeep of a cistern might be. He said tanker relays now service this area with mutual aid provided by Brookline and Hollis.

Judy inquired if there was any possibility of locating a fire pond on P & C's Lot F-18 on the other side of Rocky Pond Road. Mr. Gavin answered there was an area which might be suitable, but he does not have access across Perkins Road (a private road) back onto Rocky Pond Road.

Rich asked about the safe sight distance for the driveway of lot F-60. Randy said he would measure it to make sure it met the regulation of 200 feet. Rich said the discussion of actual road improvements should be with the selectmen and road agent. He reiterated the PBd.'s concerns remained the same as they were at the last hearing. The road surface of Rocky Pond Road is poor. There is no fire protection for homes in this location. The PB would need a plan sanctioned by the selectmen, road agent, and fire engineers before further considering this subdivision plan.

Judy said the PB is looking long term; and even though this is only a 5 lot subdivision, the potential across the road is for a 200 lot subdivision. She said she can't separate the two issues. She pointed out that Old Milford Road will again be impacted by more traffic if Rocky Pond Road is not improved.

Chris said there are really only two issues- fire safety and Rocky Pond Road's unsafe road conditions. If the developer can find a resolution to these issues, the PB can review this case with this in mind.

Case continued till February 15, 1994.

8:07 PM

**Holly Hills Construction, Subdivision Case #1993-7:J-37, J-38, J-39, J-60, & J-33-34-Conceptual consultation.**

Randy Haight of Meridian Land Services represented the applicant. (Being a direct abutter, Joe Kagenski abstained from consideration on this case hearing due to conflict of interest; and Dennis voted in his place). Randy showed the changes made to the conceptual plan, noting he had moved some of the lot lines back from the pond's wetland area. He pointed out the area on the plan where some excavating of gravel would take place to make level the lots and the road. Rich noted that the purpose of this subdivision should not be to excavate gravel. He asked if a corridor could be left between lots 39-36 and 39-37 for wildlife to access Fresh Pond. Randy said it might be possible, but the road would still have to be crossed to get to Fresh Pond from the land in the Townsend State Forest.

Conservation Co-chairman Libby Wehrle-Anderson said that she knew of a wild-life biologist at UNH who might be able to give some guidance in this matter. PB members suggested she send a copy of this plan to him for his input.

Judy said she would like to see the open space area of Fresh Pond deeded to the Town and under the control of the Conservation Commission. PB members then discussed the possibility of having an area set aside for recreation.

Peter asked how many supported more than a passive open space; and how many homes in the area would benefit from

having an active recreational area (such as a ballfield or playground) in this part of town?

**Margaret** said she was for a recreation area but was opposed to changing the natural contours of the land in order to make a flat area for a recreational use.

**Jeremy** had spoken with Jim Edwards today. Jim wanted the PB's opinion on the number of lots fronting on Averill Road. He has designed the plan with lots 39-43 and 39-44 accessing Averill Road. PB members agreed they would prefer having these two lots as shown rather than any more. The remainder of new lots will access onto the new subdivision road, which links Wallace Brook Road with Route 13. It was agreed to notify the Townsend State Forest of this subdivision plan.

9:00 PM

**Planning Board General Business**

- 1) **Road Bond-Thomas Enright, Wallace Brook, II-** PB members discussed the letter of credit coming due February 8, 1994, and the still outstanding items on this subdivision plan. It was decided to recommend to the selectmen that the bond be called to complete the road construction of Hillside Drive Extension.
- 2) **Jeremy** said the final draft of the proposed zoning changes has been made. Any changes made at the January 25th public hearing can only be minor clarification ones. He has inserted Chapter IX, Recent Growth Trends, into copies of the 1990 Master Plan. PB members then certified this chapter for inclusion in the Brookline Master Plan.
- 3) **Judy** brought to the attention of the PB a problem with the sign ordinance as it pertains to business at the Barnside building. The selectmen had sent Cathy Whitcomb a letter regarding her temporary sign for "Cathy's Country Gifts". Cathy met with the selectmen, and pointed out that the existing sign for the building does not serve the businesses located there because there is no way to get from 1 level to the other from the interior of the building; and the parking lots do not enjoin. Judy read the minutes of the January 10, 1994 Selectmen's meeting (see attached) and said the selectmen had reached a decision because there was no recourse in the sign ordinance for such issues. While PB members noted that the applicant might have been required to go to the ZBA for relief from the ordinance; they, upon a motion by Rich, voted that the PB should in 1994 address this issue and write into the sign ordinance a special exception mechanism to require the applicant be sent to the Planning Board for a decision in such cases.
- 4) **Resident Dan McNally** was present at this meeting and inquired some information about the proposed zoning changes and how it would affect the small landowner's ability to obtain building permits with a 2 or 3 lot subdivision. PB members explained the proposed building permit limitation which would apply to all new subdivisions.

9:14 PM  
MOTION

PLANNING BOARD MEETING  
January 18, 1994 Page 4

9:25 PM Peter made a motion to adjourn the meeting. Joe seconded  
MOTION the motion. Meeting was adjourned by a 5-0 affirmative  
vote.

Next Planning Board meeting will be a public hearing on  
proposed zoning changes. It will be held on Tuesday,  
January 25, 1994.

Submitted by:



Sandra L. Fessenden, Secretary  
Brookline Planning Board



Made part of the 1/18/94 P.Bd. minutes etc

TOWN OF  
BROOKLINE, NEW HAMPSHIRE

P.O. Box 360  
Brookline, NH 03033

(603) 673-8855

MINUTES  
BOARD OF SELECTMEN  
JANUARY 10, 1994

Selectmen Russ Heinselman, Judy Cook and Ben Chandler were present.

NHMA

Jon Steiner of the New Hampshire Municipal Association was present to explain how the Property/Liability Insurance Trust works and explain some of the other services they provide.

ZONING - G-53-1 - CATHI WHITCOMB

Cathi Whitcomb was present at the selectmen's request to discuss the sign for her business at Musket Mountain. She would like to have her temporary sign become permanent. The existing permanent sign addresses only the business on the main level of the building but there's no way to get to her business on the lower level. There are two separate state approved driveways and parking areas, one for each level of the building.

Russ moved, seconded by Ben that it is appropriate for the Musket Mountain building to have one free standing sign for each approved parking area; the sign to be near the entrance to the parking area; only the business used by that parking area to be displayed on the sign. The sign must be in accordance with the sign ordinance. Should the building revert to a single use, only one sign will be allowed. Voted yes 3-0.

TOWN REPORT BIDS

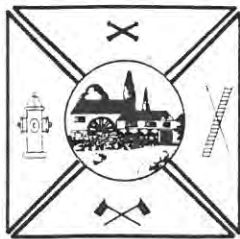
After reviewing the three bids received for printing the 1993 town report, Russ moved, seconded by Judy to award the contract to Wallace Press, to include typesetting. Voted yes 3-0.

GEN. BUSINESS

Approved warrants for payment.  
The meeting adjourned at 8:45 p.m.  
Submitted by Rena Duncklee.

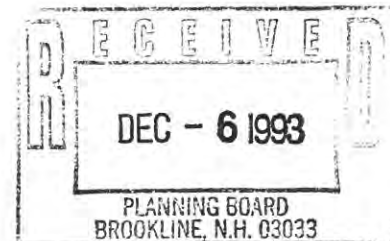
  
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Made part of the 1-18-94 P. Bd. minutes 1/18/94  
**BROOKLINE VOLUNTEER FIRE DEPARTMENT** (20)

Brookline, New Hampshire 03033



12-7-93

Town Of Brookline, NH  
Planning Board

Re: Fire pond P&C Reality on Rocky Pond Rd

Dear Sandy,

It is the feeling that the proposed development by P&C Reality on Rocky Pond Rd and also two lots by Mr Valliere should have the consideration of a fire pond in these areas. As you well know by looking at the town fire protection maps, this area is one of the least protected areas in Brookline as far as water supplies are concerned. It would be a tremendous asset to the fire dept and town to have some type of protection here.

Ray Keczy Fire Chief  
for the Board of Fire Engineers





(603) 673-8855

*Selectman*

**TOWN OF  
BROOKLINE, NEW HAMPSHIRE**

P.O. Box 360  
Brookline, NH 03033

PLANNING BOARD MEETING

January 25, 1994

**PRESENT:** Peter Webb, Chairman, Voting  
Richard Napolitano, Vice-chairman, Voting  
Joe Kagenski, Voting  
Chris Hegarty, Voting  
Judy Cook, Selectmen's Representative, Voting  
(left meeting at 8:15 PM)  
Margaret Olson, Alternate (joined meeting at 7:50 PM)  
Dennis LaBombard, Alternate  
Bob Chisholm, Alternate  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

- 7:30 PM** Planning Board Business Meeting  
**MOTION** Chairman Peter Webb opened the meeting. Minutes of the January 18, 1994 meeting were reviewed. Rich made a motion to accept the minutes as written. Chris seconded the motion. Minutes were accepted by a yes vote of 5-0.
- 7:35 PM** Peter announced that the Public Hearing was scheduled for 8:00PM. Rich said Terry and Margie Sherlock were present to suggest some grammatical clarification changes to the proposed Growth Management Ordinance; and to get some ideas for their next article they are writing for the PB.
- 8:45 PM** After much discussion with PB members, the Sherlocks, and other members of the audience, Chris made a motion, seconded by Rich to amend the wording in proposed ARTICLE XVI, the Growth Management Ordinance as follows:  
**MOTION** #1) Page 2, Purpose, Reword Paragraph 1 to read: "Based on the Master Plan, which assesses and balances community development needs and considers regional development needs, the following ordinance is deemed necessary to flatten the rate of growth in the Town for the following reasons:" (followed by the same four reasons).
- #2). Page 3, Requirements, Section 1. Reword the first sentence to read: " The number of building permits that may be issued.....". and in Section 1. b) Reword the third sentence to read: "Any permits that expire shall be given to the people.....".

Section 4. Reword to read: "4a. The maximum number of building permits that may be issued per year will reflect a 3% annual growth rate in dwellings."

Section 4b. "Although lots existing prior to November 24, 1993 are exempt from limitations on building permits, the building permits issued on those lots will be included in the building permit calculation."

Section 4c. "A minimum of 10 building permits may be issued annually." and add

Section 5. "For calculation purposes, the Planning Board has determined that the number of dwellings as of January 1, 1994 is 1,232."

8:50 PM

Public hearing-Proposed changes to Brookline Zoning and Land Use Ordinance. Peter formally opened the public hearing noting that the wording changes that had been discussed were being made to clarify wording in Item #3, the proposed Growth Management Article.

PB members voted 5-0 yes to reword Item #3-Growth Management Ordinance, Requirements as written above.

8:55 PM

Peter made a motion to change Item #3-Growth Management Ordinance, Purpose the beginning paragraph as written above. Rich seconded the motion. Vote was in the affirmative 5-0.

9:00 PM

Planning Board voted on the six items of proposed change to the Zoning and Land Use Ordinance.

**Item #1-Floodplain Ordinance Amendment.** Peter made a motion that the Planning Board approve this amendment change. Rich seconded the motion. Yes vote 5-0.

**Item #2-Back Lot clarification-** Peter made a motion that the Planning Board approve this amendment change. Rich seconded the motion. Yes vote 5-0.

**Item #3-Growth Management Ordinance adoption-** Rich made a motion that the Planning Board approve the adoption of this ordinance, Article XVI. Peter seconded the motion. Yes vote 5-0.

**Item #4-Add definition of Forestry to Article VIII (Definitions)** Peter made a motion that the Planning Board approve this definition addition. Rich seconded the motion. Vote was 5-0 yes.

Item #5- Amend the definition of Home Business in Article VIII (Definitions). Rich made a motion that the Planning Board approve the amendment to this definition. Peter seconded the motion. Vote taken was 5-0 yes.

Item #6- Building Code Amendments to allow a procedure to adopt the most recent updates of the BOCA and CABO building codes. Peter made a motion that the Planning Board approve to adopt the new procedure for updating the building codes. Chris seconded the motion. Vote was 4-yes, 1-no (Rich).

9:10 PM

**Planning Board General Business.**

1) It was decided that the Planning Board would not meet next Tuesday, February 1, 1994. The next meeting will be on the regular public hearing night, the third Tuesday, February 15, 1994.


2) It was decided that at the next hearing, the PB would review the issue of written agreements reached between Lorden Realty, Talbot-Taylor Estates Partnership, and Millrock Realty regarding their subdivision phasing programs.

9:15 PM  
MOTION

Rich made a motion to adjourn the meeting. Chris seconded the motion. Meeting was adjourned by a 5-0 affirmative vote.

**Next Planning Board meeting will be held on Tuesday, February 15, 1994**

Submitted by:

  
Sandra L. Fessenden, Secretary  
Brookline Planning Board



(603) 673-8855

*Selectmen*

TOWN OF  
**BROOKLINE, NEW HAMPSHIRE**

P.O. Box 360  
Brookline, NH 03033

PLANNING BOARD MEETING

February 15, 1994

PRESENT: Peter Webb, Chairman, Voting  
Richard Napolitano, Vice-chairman, Voting  
Joe Kagenski, Voting  
Chris Hegarty, Voting  
Judy Cook, Selectmen's Representative, Voting  
Margaret Olson, Alternate (joined meeting at 7:45 PM)  
Dennis LaBombard, Alternate, Voting on P&C Realty case  
Bob Chisholm, Alternate  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

7:30 PM Planning Board Business Meeting  
Chairman Peter Webb opened the meeting. Minutes of the  
MOTION January 25, 1994 meeting were reviewed. Peter made a motion  
seconded by Rich to approve the minutes as written. Vote to  
approve the minutes, affirmative 5-0.

7:35 PM P. & C. Realty, Inc., Subdivision Case #1993-5:F-60.  
(Peter Webb excused himself from consideration of this case  
due to a conflict of interest. Rich chaired the meeting for  
this case; Dennis voted for Peter). Frank and Ann Gavin and  
Randy Haight of Meridian Land Services were present to  
discuss the Rocky Pond Road subdivision of lot F-60 into 5  
lots. Randy said they had met last night with the Brookline  
Selectmen to discuss off-site improvements. He presented PB  
members with a plan showing a proposed fire pond on P. & C.'s  
Lot 22-53 in Hollis. He showed this proposal last night to  
the Selectmen. He later met with the Fire Engineers and the  
plan met with their approval. Randy said the Hollis Fire  
Chief had suggested their using a manhole and an 18" pipe  
instead of a dry hydrant arrangement. The pond is fed by 2  
seasonal run-offs and will have a capacity of approximately  
100,000 gallons of water. They have applied to the State  
for an amended dredge and fill for the fire pond and two  
driveways. Randy said they were asking for conditional  
approval pending State dredge and fill permits.  
Rich said the Planning Board has two issues—fire safety and  
road improvements. He said they have no specific agreement  
with the selectmen for road improvements; and the fire pond  
has not been approved 1516 the Hollis PB at this time.

A. Pivero S  
F-56  
Pivero

Judy said Mr. Gavin, the Selectmen, and Road Agent Clarence Farwell at last night's meeting had discussed improvements to Rocky Pond Road that Clarence would like to have done (see attached minutes). The widening of the road in front of Mr. Valliere's property (lot F-56) will require Mr. Valliere giving the town an easement to do the work. Judy felt that the selectmen were following the plan that Nashua Regional Planning Commission had outlined in their corridor study for Rocky Pond Road. A turn-around at the town line for large vehicles and some gravel work were discussed. Joe questioned whether what is being proposed is adequate enough to allow the PB to grant subdivision approval. Rich said the PB can determine whether a subdivision can be considered scattered and premature based on issues involving health, safety and general welfare to the public. He expressed his concern that a definite plan of road improvements has not been formulated with the selectmen at this time. He was disinclined to grant conditional approval based on the fact that both fire and road issues were not totally specific at this time. He sought the opinion of the other PB members on granting a conditional approval. Dennis said the fire pond as proposed with a turn around at the town line for large vehicles such as snow plows looked satisfactory to him; but he was hesitant to grant approval with the final off-site agreement for the road improvements undetermined as yet. He felt the best way to proceed was a 90 day extension of the PB review period due to lack of specifics on the road improvements. Chris said exact details haven't been worked out with both Brookline and Hollis as regards both the fire pond and the road. He was not in favor of granting conditional approval; but said the applicant was half-way to solving the problem with the proposed fire pond location and design. Joe said he had a problem considering conditional approval with these types of major issues still unresolved. Margaret agreed with Joe that conditional approval should not be given tonight.

8:00 PM

Road Agent Clarence Farwell joined the meeting, and Judy asked him for his opinion. Clarence said he would like to have the vertical curve at the town line corrected to provide safe site distance at this location. He would also like to widen the road and re-align the horizontal curve in front of the driveway to lot F-56. The town, however, would need an easement from the property owner, George Valliere. Rich said he would like the PB members to re-visit the site to look at the area proposed for the turn around and fire pond as well as re-evaluate the road conditions. Site walk scheduled for **Saturday, February 19th at 11:00 AM.** Applicants agreed to give a written request to the PB for a 90 day extension of the subdivision review period.  
Case Continued till March 22, 1994.

8:20PM Ed Delage, "Ed's Service", Non-conforming sign at the Texaco Station, 75 Route 13 South, Lot H-103. Mr. Delage said he had met with the selectmen regarding his sign and they had referred him to the PB. He first had added a 56 1/2 square foot sign to the 10 foot pole on which D.C. Tire has their sign. When told this was not allowable, he began using a portable lighted sign. The selectmen notified him this was also non-conforming to the sign ordinance. Mr. Delage said Texaco would not allow him to place a sign on the building; and he was asking the PB what other options he now had. **Jeremy** said the sign ordinance allowed two-sided signs; and he suggested using the opposite side of the D C Tire sign to advertise for Ed's Service. Mr. Delage said he was not comfortable asking D C Tire for permission to do this. **Peter** said the ordinance doesn't have a relief mechanism written into it that addresses a solution to this problem. By law, the planning board cannot grant waivers to ordinances, and he suggested that Mr. Delage talk again to the selectmen who are the enforcing agents for the Town.

8:35 PM **Thomas J. Mahoney, "Tire Transfer"-206 Route 13 North, N.R.S.P. Case #1994-A:C-36.** Mr. Mahoney was present with his site plan for lot C-36 (a vacant lot). He recycles tires which he picks up from retail stores in southern New Hampshire. He then stores these used tires in a registered tractor trailer parked on the lot. When full, J.P. Routhier & Sons from Ayer, Mass. exchange an empty trailer for the full one; and bring the tires to a recycling center. The rims are sold for metal. There is approximately a 5 day turn around per trailer load. He conducts his business during the week in daylight hours. **Jeremy** said he had reviewed the site plan with Mr. Mahoney. The only remaining issue is a N.H. driveway permit. He spoke to Libby and the Conservation Commission has no concerns. Only registered vehicles are parked on site.

**MOTION** Rich made a motion to accept the plan as presented. Chris seconded the motion. Vote to accept the plan was 5-0 yes. Abutters concerns: There were no abutters present. Mr. Mahoney said he has been in contact with the State about the curb cut permit. He believes there is an existing permit, and the State is checking on this for him.

**MOTION** Chris made a motion to approve the site plan subject to the State driveway permit being forthcoming. Rich seconded the motion. Yes vote to approve plan 5-0 yes.

8:53 PM **Planning Board General Business**

**1) Review of written agreements-Phased Growth**

- a) **Lorden Realty-** Alan Lorden was present with a written agreement for a 3 year phasing plan for the remaining lots in the "Elevations" subdivision. He has agreed to build 6 houses in 1994; 6 in 1995; and the remaining 6 in 1996.

**MOTION** Rich made a motion to accept Lorden Realty's phasing agreement. Peter seconded the motion. Vote 5-0 yes.

- b) **Talbot-Taylor Estates**- PB members reviewed Robert Bourassa's agreement. PB members want the last paragraph reworded to reflect the wording in the final draft of the growth management ordinance.
  - c) **Millrock Realty, Birch Hill and Mountain Road Estates, II**- Secretary to contact Tom Moran regarding his agreement.
2. **Assign PB members to Superior Steel Fabricators case.**  
Judy volunteered to visit site to ascertain that all outside debris has been removed per the PB's conditional site plan review approval.

9:15 PM Rich made a motion to adjourn the meeting. Joe seconded the motion to adjourn. Vote case was 5-0 yes to adjourn.

Next Planning Board meeting will be Tuesday, March 1, 1994.

Submitted by:



Sandra L. Fessenden, Secretary  
Brookline Planning Board



Made part of the 2/15/94 P. Bob minutes

TOWN OF

(SUF)

## BROOKLINE, NEW HAMPSHIRE

P.O. Box 360  
Brookline, NH 03033

(603) 673-8855

MINUTES  
BOARD OF SELECTMEN  
FEBRUARY 7, 1994

Selectmen Russ Heinselman, Judy Cook and Ben Chandler were present.

### SIGN - LOT H-103

Ed Delage was present at the selectmen's request regarding his "Ed's Service" sign at the Texaco station on Route 13. He said originally he had a lit sign but unplugged it when told it did not conform to the sign ordinance. He said Texaco doesn't allow signs on the building. He asked what to do in order to have a permanent sign for his business. The selectmen suggested he check the size if he attached his sign to D.C. Tire's; if over the limit of 42 sf he should meet with the planning board as the ordinance doesn't address options if a sign can't conform.

### K 28

Rich Napolitano discussed the feasibility of starting up a software business in a presently zoned residential district starting with about three people but with a potential of 50+ in 5-7 years. It was noted there was already a mobile home on the lot and even if there weren't, there was still the zoning issue.

### P & C REALTY - ROCKY POND RD.

Property owner Paul Gavin, Randy Haight of Meredian Land Services, Fire Engineers Ray Kacy, Ron Denehy, Charlie Corey and Road Agent Clarence Farwell were present.

Mr. Gavin was present to discuss off-site improvements and fire protection for a 5 lot proposed subdivision on Rocky Pond Road at the Brookline/Hollis town line; there are 4 lots proposed in Hollis.

Russ asked where the nearest house was located. It was noted the nearest house is 1/2 mile away and Ray said it's 2 miles from the nearest fire pond which is on Birch Hill Road. He said the fire department would use a tanker relay. As there appears to be no place for a fire pond in that area, Mr. Gavin asked whether a fire pond about 250' back from the road in Hollis at the town line would be acceptable. The fire engineers said that would be acceptable; it doesn't have to be along the road. Clarence said the grade may be 10% in some areas. He said there would need to be a turnaround and that would be accomplished if put at the town line. Allan Fessenden said the fire department now has the capability to pump 4,000 gals. Clarence said some of the new fire holes, such as Birch Hill Road have grass in it. Randy asked how close to the town line was acceptable for the turnaround if the fire pond doesn't work out at the town line in Hollis; Clarence said he would prefer it at the town line.



MINUTES  
BOARD OF SELECTMEN  
FEBRUARY 7, 1994, Pg. 2

Clarence had several suggestions for off-site improvements: 1. site distance needs to be improved by Valliere's (lot F-56); 2. widen the roadway along the subdivision to 20' with 3' shoulders on either side; 3. place 2"-4" of crushed gravel along Rocky Pond Road. Judy expressed concern that the improvements made don't have to be torn up when further development occurs. Clarence said if there is more development in five (5) years we shouldn't do the gravel.

CONSERVATION COMMISSION

Libby Werhle-Anderson reported the Conservation Commission is continuing to work on options to purchase the land across from the grove.

AMBULANCE ATTENDANT

Ambulance Director Wes Whittier was present to discuss the job description for the new ambulance attendant we hire when Lisa leaves at the end of the month. It was agreed we would advertise for at least an EMT and that the person's time would be distributed generally to 10 hrs a week for the town clerk's office, 10 hrs. for the fire department, 4 hrs. for ambulance and 16 hrs. in other clerical work. The job description will be clarified that the second ambulance attendant is under the direction of the ambulance director. Wes suggested moving the desk from the work area to the selectmen/planning board area. Allan Fessenden continued to say it would be best for the town to hire an EMT/fire fighter and doesn't believe the fire department would be against it. Wes said the state would require that the person be a career fire fighter. Judy said this set up works in Hollis because the ambulance is part of the fire department which is not the case in Brookline. The selectmen agreed to amend the distribution of time as discussed above. Wes said he feels we need a performance review. Russ agreed but didn't feel it has to be compared to other departments as this is a one person department. It was agreed the salary range would be \$8.50 - \$9.25 and will be advertised in the Milford Cabinet, Telegraph, Union Leader and Brookliner. It was agreed the office personnel would meet to discuss the time distribution of this new person.

BOND - WALLACE BROOK ESTATES II

Road Agent Clarence Farwell, Planning Board Chairman Peter Webb and developer Tom Enright were present to discuss the selectmen calling the bond for the Wallace Brook Estates II subdivision as the work has not been completed and repeated calls to Tom have not been returned. Tom said he was willing to continue the bond. It was noted there is a hole in the road and signs are missing. Rena pointed out that residents continue to call wanting to put mail boxes in front of their houses but the post office won't allow it until the road has been accepted by the town.



(603) 673-8855

*Selectman*

**TOWN OF  
BROOKLINE, NEW HAMPSHIRE**

P.O. Box 360  
Brookline, NH 03033

**PLANNING BOARD MEETING**

March 22, 1994

**PRESENT:** Peter Webb, Chairman (joined meeting at 8:15 PM)  
Richard Napolitano, Vice-chairman, Chaired meeting, Voting  
Joe Kagenski, Voting  
Judy Cook, Selectmen's Representative, Voting  
Margaret Olson, Alternate, Voting for Chris  
Dennis LaBombard, Alternate, Voting for Peter  
Bob Chisholm, Alternate, Voting on Holly Hills case  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

**7:30 PM** Planning Board Business Meeting  
Vice-chairman Rich Napolitano opened the meeting. Minutes of the February 15, 1994 were tabled till a later time.

**7:32 PM** P. & C. Realty, Inc., Subdivision Case #1993-5:F-60.  
(Dennis voted for Peter on this case). Randy Haight of Meridian Land Services represented the applicants. He said the scenic road hearing being held in Hollis tonight was to discuss the tree cutting and road improvements proposed in Hollis. Randy showed PB members a copy of the Hollis plan to remove trees, re-align a road curve (requiring a 15 foot cutback); realign the ditch line; and install drainage. The Hollis Conservation Comm. and Beaver Brook Association have asked to have a driveway built to access their land. This will require some additional disturbance of wetland areas. Jeremy asked about the construction schedule for the fire pond to provide a water source for fire protection for existing area homes as well as new house construction. Randy anticipates the pond will be built as soon as the State dredge and fill permits are received. Rich said the only other issue mentioned in Jeremy's memo of 12/4/93 regarded scattered and premature subdivision. Rich felt the fire protection issue has been addressed with Hollis's approval of the fire pond. He asked about the adequacy of road conditions on Rocky Pond Road. He read from Peter Loughlin's Land Use Planning and Zoning book, Section 29.08 referencing RSA 674:36.II.a. Rich said by State statute the PB has the right to determine if a subdivision

is scattered and premature. He asked other PB members for their opinion on this.

Judy quoted from section 29.09 of the Loughlin book as regards proportionality of off site improvements. She noted the applicant had signed an agreement with the selectmen for off-site improvements to Rocky Pond Road which addressed fire and road safety issues. In Brookline they have agreed to lower the vertical curve for better site distance and widen the road for drainage improvements. She said there are houses in near proximity to this development which currently are provided with mail delivery, school bus pickup, and emergency services. This subdivision will give them a water source for better fire protection and limited improvements to the road. She said Rocky Pond Road is currently maintained summer and winter by both the Town of Brookline and the Town of Hollis.

Margaret said her concern with this subdivision has been whether to allow more houses to be built in locations which had difficulties in the past with emergency vehicles being unable to get to this area of Rocky Pond Road.

Jeremy spoke to Ambulance Director Wes Whittier about this concern. Wes said the next ambulance will have 4-wheel drive and will be able to get to difficult areas easier.

Dennis said he felt the applicant has attempted to improve road conditions and site distance with the off-site improvements agreed to with the board of selectmen (see attached); and noted this was a only a 5 lot subdivision. Dennis made a motion to approve the subdivision subject to the following conditions:

7:55 PM  
MOTION

- 1.) Agreement reached with the Brookline Board of Selectmen for off-site improvements.
- 2.) State of N.H. Dredge and Fill Permits received.
- 3.) Hollis improvement plan shown to PB members tonight is approved, and work is completed or bonded for.
- 4.) All fees are paid and a mylar is presented for recording.

Margaret seconded the motion for conditional approval. Vote taken was in the affirmative. 4-yes, 1-no (Rich).

8:00 PM

Holly Hills Construction-Case #1993-7:J-37,-38,-39,-60, and J-33-34. (Joe Kagenski, a direct abutter, excused himself from deliberation of this case. Bob Chisholm voted for Joe.) Randy Haight of Meridian Land Services represented the applicant in the Design Review Phase of a proposed 44 lot subdivision of lots J-37,J-38,J-39,J-60, and J-33-34 off Averill Road. He said the area is comprised of 188 acres, and is designed as an open space development. He noted that Conservation Commission members, along with Ellen Snyder, a wildlife specialist from UNH Extension, had walked the site with Jim Edwards of Meridian Land Svcs. At Ms. Snyder's suggestion a 185 foot wide corridor to the Townsend State land in designed in the low area at Lot J-39-46. There are two open spaces dedicated, one 79 acres in size, and the other 19 acres. There are 2 lots fronting on Averill Road.

Frontage for the remainder of lots will be on the new subdivision road which will intersect Route 13 between lot J-42 (Streeter's) and lot J-44 (Leppanan's).

Abutter Joe Kagenski asked if Randy was aware of buried stumps on lot #J-33-34.

Randy said he is aware of them. If need be they will be removed. The road will not be constructed over them.

Rich asked if all the septic setbacks would be shown.

Randy answered yes, on the final application plans more details will be included.

Abutter Greg Marszewski asked if the 2 large ridges in back of Fresh Pond seen from Averill Road will be removed?

Randy said that ridges contain gravel, and some will be used for road construction in the subdivision. Ellen Snyder had

asked that the ridge closest to the wetlands be preserved.

Randy said the State site specific permits will show the extent of ground disturbance (not including house and septic sites); and sedimentation and erosion control are a part of the site specific approval.

Abutter Nancy Brodeur asked if the topography will be changed significantly with the construction of a 7,000 foot road. Randy said only in the low area where they will need to keep the road grade to 8% or less.

Nancy said she hopes the PB would ask that trucks use the new road instead of Averill Road during the construction period. She said she didn't feel the two lots being created from lot J-33-34 [J-39-22 and J-39-23] fit the intent of the ordinance; and would the PB permit them as they are shown on this plan? She questioned how much this subdivision will impact this entire area of town. She asked that the PB be mindful of the spirit and intent of the gravel pit issue (Blue Chips) previously proposed in this same location.

Rich answered that the PB is sensitive to the gravel issue.

This subdivision is not a gravel removal operation. He

noted that in the past the PB has asked developers to make another access onto Route 13; and he feels this will be

beneficial for any traffic impact on Averill Road. He queried Randy about lots J-39-22 and 23 as to whether they

meet the lot configuration and septic design requirements. Randy said they both met all regulation requirements.

Rich asked if the developer would be phasing the plan?

Randy said no- but felt the project would be economy driven.

Abutters John and Barbara Edfors said they have a deeded right-of-way to their lot (J-40); and asked if they could be assured of access to their property during the subdivision road construction period.

Jay Heavisides, PE from Meridian said they should have no problem road because at this location there is less than a 1% grade. The access area is very flat.

Selectman Russ Heinselman said the Edfor's new access as shown on the subdivision plan is a deeded paper access which is a de facto layout of road. He said that the paper access is granted for a 20 year period, and they can ask either the

town or the owner to layout a road during this time which they could then build to town specifications. Randy said the access would not be paved to their property line. He will check with the Edfor's attorney regarding the wording of an access easement if needed.

Russ also mentioned that Averill Road is a scenic road and asked to what extent the trees could be preserved on the 2 new lots [J-39-44 and J-39-43], 1 of which has old growth pine. He would not like either of them to be clear cut. Rich said a note could be added onto the plan regarding tree cutting on these lots as part of the approval. The PB has done in the past with tree cutting and stone walls.

Judy said that she would prefer that the ownership of the open space that is the pond remain under the control of the town and the Conservation Commission rather than the homeowner's control.

Resident George Foley asked what provisions were being considered to prevent this long stretch of straight roadway from becoming a speedway.

Rich answered that he is sensitive to the width of clear-cutting along the edges of the road. He feels a wide cut encourages traffic to exceed the speed limit on town roads. He suggested a narrower paved area.

Dennis said he would be opposed to a 20 foot paved roadway.

Randy said that the subdivision application would be forthcoming. All direct abutters were told they would be notified by certified mail of the subdivision application public hearing.

**9:00 PM Planning Board Membership**

PB members discussed the re-appointment of the three members whose terms are expiring on March 31, 1994.

**MOTION**

Margaret made a motion to recommend to the selectmen that Dennis LaBombard be re-appointed as a PB alternate. Joe made a motion to recommend to the selectmen that Peter Webb be re-appointed as a PB member. (Joe will check with Brian as to whether he wishes to be re-appointed as an alternate.) Rich seconded the motion. Vote in the affirmative

**Planning Board General Business**

1) Margaret asked that one of the PB projects for 1994 be a review of the sign ordinance.

**2) Review of written agreements-Phased Growth**

PB members reviewed the letters of agreement on phased growth from Millrock Realty, Lorden Realty and Talbot-Taylor Estates Partnership. A letter of acknowledgment will be drafted by the PB to each of the 3 developers.

3) Maintenance Bond Release

- 1) **Rock Ramond Road**- PB members assigned to the case were Peter and Judy and they had visited the site. Peter had some concerns with the ditch line area. After discussion with other members, it was suggested that the road inspector Bill Duncklee be asked to visit the site and give the PB a report of what he found.
- 2) **Scabbard Mill Brook Road**- PB member Joe Kagenski assigned to this case and road agent Clarence Farwell had visited the site and said there were no outstanding maintenance items needing correction. A letter will be sent to the selectmen recommending that the bond be released.

9:25 PM MOTION Margaret made a motion to adjourn the meeting. Dennis seconded the motion. Vote 5-0 yes.

Next Planning Board meeting will be Tuesday, April 19, 1994.

Submitted by:



Sandra L. Fessenden, Secretary  
Brookline Planning Board



(603) 673-8855

*Robertson*

**TOWN OF  
BROOKLINE, NEW HAMPSHIRE**

P.O. Box 360  
Brookline, NH 03033

**PLANNING BOARD MEETING**

April 5, 1994

**PRESENT:** Peter Webb, Chairman, Voting  
Joe Kagenski, Voting  
Chris Hegarty, Voting  
Judy Cook, Selectmen's Representative, Voting  
Margaret Olson, Alternate, Voting for Rich  
Dennis LaBombard, Alternate  
Bob Sykes, Alternate  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

- 7:30 PM** **Planning Board Business Meeting**  
Chairman Peter Webb opened the meeting. Minutes of the February 15, 1994 meeting were reviewed. Margaret made a motion seconded by Chris to approve the minutes as written. Affirmative vote of 5-0 was taken to approve the minutes. Minutes of the March 22, 1994 meeting were reviewed. Joe made a motion to approve the minutes as written. Chris seconded the motion. Vote was 5-yes to approve the minutes.
- MOTION**
- 7:45 PM** **Planning Board Election of Officers**  
Dennis nominated Peter Webb to serve as Planning Board chairman for the coming year. Joe seconded the nomination. Vote was 4-yes, 1-no (Judy). Joe nominated Rich Napolitano to serve as Planning Board vice-chairman for the coming year. Chris seconded the nomination. 5-yes vote was cast.
- 8:00 PM** **Discussion of Capital Improvement Plan process-** Jeremy outlined the C.I.P. handbook the Office of State Planning had just sent out and PB members had received a copy of. PB members discussed how best to implement this year's CIP. Judy said this year it should include the two school districts [Brookline and Hollis-Brookline Co/Op] and the Highway Dept. She mentioned that the Brookline School District had a 10-year planning committee who may have some of the needed information for the CIP. Judy also said that the CIP should be completed prior to the town's budgetary process in the fall. She made a motion to set September 1, 1994 as the completion deadline for the CIP. Every effort to get the highway and both school districts included will be made. Margaret seconded the motion. Yes vote 5-0.
- MOTION**

**Maintenance Bond Release-Rock Ramond Road-** PB members reviewed the March 25, 1994 letter from Road Inspector Bill Duncklee recommending a re-inspection the beginning of May when the snow was all gone from the edges of the road to ascertain no damage had occurred over the winter.

**Review of Upcoming Cases**

1) **Holly Hills Construction-** Jeremy said he met with Jay Heavisides of Meridian Land Services and made some suggestions to him. The date of the public hearing for the subdivision application is April 19, 1994.

**Planning Board 1994 Projects**

Joe said he would like to see a compliance review procedure established for all site plans and subdivisions, to be added into the subdivision and non-residential site plan review regulations. He said the PB should look into establishing deadlines for re-checks to make sure the plan approved by the PB is being followed and completed. Another item Joe felt might be helpful would be a letter which could be sent to the owner of a commercial rental property asking them to notify the town when there was a change of tenants.

Margaret would like to review the sign ordinance for some improvement and clarification changes.

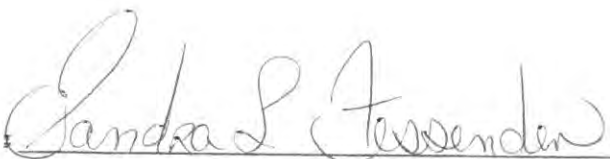
Judy would like to look at establishing business licenses, and set up a fee structure for business permits. A prime objective would be the capability to provide information to the emergency services on the type of business, materials stored on site; and how the business may impact town services and the neighborhood. Jeremy was going to check into other towns to see if they had business licenses or permits and how they were set up.

PB members discussed how a local population census might be taken and how to make it as accurate as possible. Also discussed was improving the current driveway regulations- implementing some changes or creating a driveway ordinance. The fire chief is concerned about long narrow driveways and the ability to get fire-fighting equipment to and from the house or business in case of fire emergencies. Additional specifications for driveways may be needed.

8:47 PM  
MOTION

Margaret made a motion to adjourn the meeting. Peter seconded the adjournment motion. Yes 5-0 vote was cast.

Submitted by:



Sandra L. Fessenden, Secretary  
Brookline Planning Board





(603) 673-8855

TOWN OF  
**BROOKLINE, NEW HAMPSHIRE**

P.O. Box 360  
Brookline, NH 03033

PLANNING BOARD MEETING

April 19, 1994

**PRESENT:** Peter Webb, Chairman, Voting  
Rich Napolitano, Voting  
Joe Kaganski, Voting on PB minutes, not on Holly Hills  
Margaret Olson, Alternate, Voting for Joe on Holly Hills  
Bob Chisholm, Alternate, Voting for Chris  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

**7:30 PM** Planning Board Business Meeting

**MOTION**

Chairman Peter Webb opened the meeting. Minutes of the April 5, 1994 meeting were reviewed. Rich made a motion seconded by Joe to approve the minutes as written. Affirmative vote of 3-0-1-Abstention (Bob not at the 4/5/94 meeting) was taken to approve the minutes. (Margaret joined this meeting a 7:40 PM)

**7:35 PM** Ann Webb, Hollis-Brookline Co/Op High School Site Committee--  
Ann reported that a citizen's review committee had been formed to review and evaluate alternate sites to the one originally proposed for a new high school. A 95 acre site on Pepperell Road owned by Fred Lorden having 30 acres in Brookline and the remainder in Hollis is being considered. There are 60 to 75 acres of dry, buildable acres on this site as opposed to 25 to 30 acres on the Muzzey Road site in Hollis. Road frontage for access to the site is in Hollis. The intersection of Route 130 and Pepperell Road will need to be improved at an estimated cost of \$200,000. She asked PB members for their input, and inquired if a site plan review for a school would be required by the Planning Board? Rich said his concerns would be access to the site, quality of the land and its future expansion potential. He said the PB would be willing to do a site walk of the area if asked. Jeremy said he will check to see if the school district is exempt from site plan review. He said the Co/Op School District may wish to meet, as a courtesy, with the Brookline and Hollis Planning Boards.

**7:45 PM** Holly Hills Construction Co. Case #1993-7:J-37, J-38, J-39, J-60, J-33-34. Owner James Monahan, and Randy Haight and Jim Edwards of Meridian Land Services were present for the public hearing on subdivision of 180 acres off Averill Road into 44 lots. Jim noted that none of the lots encroach

on any wetland areas. Two stump dump areas have been shown on lot J-39 behind J-39-16 and J-39-15 on the back side of the knoll where gravel is to be taken for road construction. The new grade is to remain close to the existing grade. Land dedicated to open space are lots J-39, J-39-45, and J-39-46. By using the open space development concept, the design eliminates longer deeper lots and keeps construction closer to the road. The fire pond is shown on lot J-39 above lot J-39-46 (designated wildlife corridor). Ownership of the open space will either be conveyed to the owners of the lots in common ownership, or to the Town of Brookline. Peter said the PB had discussed having the pond come under the control of the Town of Brookline with some restrictions to be put in place for the type of use of the area.

**Abutters Comments:** Michael Beck asked if by owning the pond the town would increase everyone else's property tax? Rich answered there should be no impact tax-wise on anyone else because buildable lots have a certain value according to information given the PB by the board of assessors. Rick Van Deusen asked if there would be a buffer area along the pond and the area of gravel removal. He also wanted to know if a fence around the fire pond in the vicinity of the wildlife corridor would inhibit wildlife from using the crossing. Jim answered there would be a 100 foot setback limit- or no disturbance area around the pond. He said it would be very difficult to ascertain whether wildlife will continue crossing into the Townsend State Forest along the designated corridor, or would use other areas. Russ Heinselman said the applicants should discuss with the fire engineers what they would recommend for fire protection for this subdivision. He noted there is already a fire pond in the Wallace Brook subdivision. Rich asked if they could calculate the amount of gravel to be removed and make it a part of the plan. Jim said they will, and they will flag a line as a barrier limit. He said they were willing to include a no disturbance easement on the recording plan. Michael Beck asked if this subdivision would be restricted as to how many lots could be developed per year. Could they be required to use Route 13 instead of Averill Road during the road construction period? Randy said this subdivision comes under the new Growth Management Ordinance. Using Route 13 had been suggested by the PB, but they weren't restricted from using Averill Road. Peter asked who owned the land at the Route 13 entrance. Jim said John & Lawrence Bagley own lot J-41 and have agreed to permit a portion to be used for the road. Peter said a written legal agreement would be needed giving rights to create the road as shown on the subdivision plan. He asked about the access to the Edfors' lot (J-40).

**Jim** said the applicant would retain ownership of lot J-39-47, the strip between the road and lot J-40. The Edfors would have access to their land anywhere along this strip. **Rich** said it has been PB policy to require access for lots such as the Edfors' so they don't become landlocked. **Jim** said they will have access to the lot, but there is an issue of grading to their property line to be considered. **Peter** said it appears that J-40 was becoming landlocked by this plan. He wants to be assured that some means of access is provided to lot J-40. He inquired about the Route 13 and new subdivision road intersection. Has state approval been granted? What is the speed limit on Route 13 at this intersection (55 mph)? Would a turning lane be beneficial? **Randy** said the N.H. Dept. of Transportation will make the determination regarding a turning lane. Permits have been applied for the intersection at Route 13 and for a wetlands crossing. The grade of the road at the intersection is low. **Conservation Commission Chairman Ken Turkington** asked if there would be an advantage to placing a box culvert under the road to provide a crossing for smaller animals in the wildlife corridor (lot J-39-46). **Peter** said this question should be posed to wildlife specialist Ellen Synder who has visited the site. He felt some guidance from her is needed to establish whether the PB should require this added cost for the applicant. **Abutter Kathy Axel** asked if the configuration of lots J-39-22 and J-39-23 provide enough buildable area on them. **Jim** answered that lot #22 was 2.2 Acres. The brook crossed over the back side it. The middle was large enough for the house, well, and septic. Lot #23 has 1.7 Acres, and the location of the house was shown toward the rear of the lot, but there was flexibility of location on this lot. **Rich** said the issue of well and septic locations become more stringent with open space development design. His concern was sighting the wells too close to the septic systems. Several abutters asked about the open space toward Hillside Drive (lot J-39-45). What would be done with it? Would the new road be a scenic road? Would there be underground utilities? **Jim** said overhead utilities are planned. **Peter** said the regulations require use of the open space to be of low impact. He said the town would have to vote at town meeting on the scenic road issue. **Jim** said the land's topography would not lend itself to much development because of its steepness. **Peter** said he would prefer not to have the road clear-cut back from the edge in a wide swath. **Jim** said that the cut would have to be at least 50 feet wide. The soils lend themselves to erosion, and they will have to clear back in the areas of drainage. **Randy** said the road profile the plan shows the limit of the cut. They can have it flagged on the ground as well.

Conservation Commission Chairman Ken Turkington asked if gravel is being removed from the esker. Will this be visible from the top of the peak toward the pond?

Jim said the excavation area is on the backside of the pond.

Russ Heinselman asked for an interpretation of the open space development regulations, Section D, #3. The ordinance requires that 35% of the total acreage be set aside for open space. No more than 45% of that can be wetlands, open water or slopes greater than 25 percent. If the dedicated open space is more than the required amount, is the 45% of the minimum amount required, or the actual amount dedicated?

Jeremy said it was his impression that the interpretation was meant to be 45% of the minimum open space required.

Margaret agreed that it was the PB's intention that it would be 45% of the minimum required.

Peter asked PB members whether they felt this project should be reviewed by an independent engineering firm because of its size and complexity. He said it was a large scale project, and it may be judicial to have an independent firm's expertise evaluate it. He also felt that the PB should have input from the road inspector. Rich said it had been the PB's practice to have an outside consultant review a plan for conformity to the subdivision regulations as well as a review of the engineering of the road system. Peter said road agent Clarence Farwell should look at this plan. Russ asked if the PBd would take a position as to the interpretation of section D., #3 on the criteria of open water, wetlands and steep slopes.

MOTION

Margaret made a motion that the PB interpret Article 17, Part D, #3 for this specific project so that not more than 45% of the minimum required open space shall consist of open water, wetlands, and slopes greater than 25% .

Rich seconded Margaret's motion. Yes vote 4-0.

Abutter Joe Kagenski asked the estimate of traffic flow. He mentioned the drainage was poor heading west on Wallace Brook Road, and the road tends to be icy in the winter. Jim said that they were installing a ditchline and culverts in the area of the intersection of the new road and Wallace Brook Road and this should help the problem. He also said they would put together a log sheet of all the new lots, showing the areas of the septic and well locations.

Jeremy said the plan meets the PB's criteria for acceptance. The only question he had was the 50 foot perimeter setback required by the open space subdivision regulation.

MOTION

Margaret made a motion to accept the plan as presented. Rich seconded the motion. Vote cast was 4-yes; 0-no.

Abutter Nancy Brodeur questioned the shape of lots J-39-22 and J-39-23, and the area left between the road and the Edfor's lot J-40 and whether the PB approves of the lots as they have been designed?

PLANNING BOARD MEETING  
April 19, 1994 Page 5

Jim said that all the lots meet the subdivision regulations for lot configuration, as well as dry versus wet soils; and are capable of having a septic system and maintaining a 75 foot well radius. He said soil scientists Terry Ramborger and Tim Ferwerda have mapped the area. Vegetation found is used in determining wetlands as well as the soil types. Jim will provide calculations showing the dry versus wet areas, and slopes 25% or greater. He said that all lots meet the criteria of the open space ordinance.

Peter asked that Libby Wehrle-Anderson be at the next meeting on May 17th, and if possible have Ellen Synder, wildlife specialist from UNH there also.

PB site walk will be conducted on Sunday, May 15, 1994 at 3:00 PM.

Case continued till May 17, 1994.

9:27 PM  
MOTION

Margaret made a motion to adjourn the meeting. Peter seconded the adjournment motion. Yes 5-0 vote was cast.

Submitted by:



Sandra L. Fessenden, Secretary  
Brookline Planning Board



(603) 673-8855

*Selectmen*

**TOWN OF  
BROOKLINE, NEW HAMPSHIRE**

P.O. Box 360  
Brookline, NH 03033

**PLANNING BOARD MEETING**

May 10, 1994

**PRESENT:** Joe Kagenski, Acting Chairman, Voting  
Chris Hegarty, Voting  
Margaret Olson, Alternate, Voting for Rich  
Dennis LaBombard, Alternate, Voting for Peter  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

**7:30 PM Planning Board Business Meeting**

Acting Chairman Joe Kagenski opened the meeting. Minutes of the April 19, 1994 PB were tabled till a later time.

**Denise Dukelow, 95 Mason Road-** Mrs. Dukelow was present to request that a form from the State of N.H. for her day care license be signed by PB Chairman Peter Webb. She has been licensed by the State to operate a children's day care for 3 years, and this was the first time she had been sent this form. She was also unaware of the Town's requirement for a non-residential site plan review. She was present also to discuss this with PB members.

**Jeremy** explained the public hearing process and offered to help her with the application requirements. PB members were willing to sign the State form provided she follow through with application for the site plan review. Mrs. Dukelow was agreeable to filing with the town for a site plan review.

**7:40 PM**

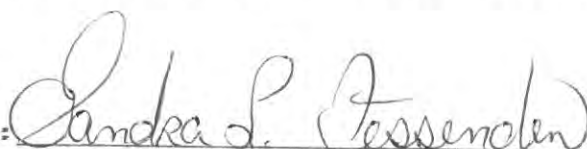
Terry and Margie Sherlock were present to accept an award from the Office of State Planning for their volunteer contribution to the Brookline Planning Board. They have written articles and had them published in "Our Place", the Brookliner, and other regional newspapers relative to proposed changes to the zoning ordinance. Jeremy said Nashua Regional Planning Commission had submitted their names to the OSP; and they subsequently have won an award for their innovative media articles. He mentioned they have volunteered their time and efforts to the PB for the past 5 years. Their articles are credited with helping to explain to Brookline residents what the proposed zoning changes would mean if voted in. Partly due to the Sherlocks' unique and special efforts over the last 5 years, several very controversial changes such as excavation zoning regulations, open space zoning, and most recently the growth management ordinance have been adopted.

Planning Board members expressed their appreciation to Margie and Terry for all their effort and hard work done on the Planning Board's behalf.

7:50 PM **Housing Needs Assessment Update**— Jeremy said the N.R.P.C. is updating their Regional Housing Needs Assessment, and is looking for input from each town's planning board chairman on how far the N.R.P.C. should go in determining local housing needs. Did the towns wish to set the parameters? Should N.R.P.C. provide data and let the PBds implement the quotas? He stressed the importance of the information contained in this report because the chapter on housing in the Brookline Master Plan is based on this document. Joe asked for some feedback on how Brookline matches up to other small communities in addressing housing needs. Do we share some of the same problems? How would Brookline implement zoning changes to offer more diversified housing? Jeremy will check some other small towns for information.

8:15 **Nashua River Watershed Assn.—25 Year Future Planning**— N.H. State Representative Betty Hall and Liz Fletcher of the Nashua River Watershed Assn. were present with some data on the NRWA's progress over the last 25 years. In 1971 the NRWA adopted a plan to clean up the Nashua River, and much has been accomplished in the 25 years in terms of the water quality and recreational use of the Nashua River. The Nashua River watershed connects 31 towns in New Hampshire and Massachusetts; and the NRWA is looking to concentrate on the watershed area itself in the next 25 year plan. Brookline plays an important part since headwater of the Nissitissit River is located in Brookline. It then flows into the Nashua River and then into the Merrimack. Liz is looking for input from all 31 of the watershed communities; and she had a questionnaire she asked PB members to participate in. The N.R.W.A. will compile information from all the towns and will produce a draft copy by September 19, 1994. PB members said Brookline has adopted local regulations such as the aquifer protection ordinance and the wetlands conservation district for water protection; and 2 years ago the Town adopt 9 areas of prime wetlands. Other suggestions were to combine forces with the N.R.W.A. and the Nissitissit River Land Trust to identify areas of prime concern and seek to protect these areas with either conservation easements or land purchases.

9:45 PM **MOTION** Margaret made a motion to adjourn the meeting. Chris seconded the adjournment motion. Yes 4-0 vote was cast.

Submitted by:   
Sandra L. Fessenden, Secretary  
Brookline Planning Board



(603) 673-8855

*Selectmen*

**TOWN OF  
BROOKLINE, NEW HAMPSHIRE**

P.O. Box 360  
Brookline, NH 03033

**PLANNING BOARD MEETING**

May 17, 1994

**PRESENT:** Peter Webb, Chairman, Voting  
Joe Kagenski, Voting (Abstained from voting on Holly Hills)  
Chris Hegarty, Voting  
Margaret Olson, Alternate, Voting for Rich  
Judy Cook, Selectmen's Representative, Voting  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

- 7:30 PM** Planning Board Business Meeting  
**MOTION** Chairman Peter Webb opened the meeting. Minutes of the May 10, 1994 PB were reviewed. Peter made a motion to accept the minutes as written. Chris seconded the motion. Vote was 5-0 yes to accept.
- 7:40 PM** Rock Ramond Estates- Road Maintenance Bond Release  
**MOTION** Tom Moran was present. Based on a letter from road inspector Bill Duncklee on the outstanding issues which have been corrected, Peter made a motion seconded by Margaret to recommend the selectmen release the maintenance bond. Vote was 5-0 yes.
- 7:45 PM** Holly Hills Construction Corp., Subdivision Case #1993-7: J-37, J-38, J-39, J-60, & J-33-34. (Being a direct abutter, Joe Kagenski withdrew from consideration of this plan). Owner James Monahan along with Randy Haight and Jim Edwards of Meridian Land Services were present with plans for a 44 lot open space development. Jim Edwards had made a work sheet showing how much of the open space is non-wetland. He said the calculations showed 39.7 Acres are dry. To meet the open space regulations 35 A. are required. He added a non-disturbance easement to the plan located to the left of the wildlife corridor (Lot J-39-46). Conservation Commission Chairman Ken Turkington asked for a definition of non-disturbance and if there should be a non-disturbance area for the steep slopes to the right of the corridor. Would tree cutting be allowed in that area? After discussing this, PB members asked to have the building setback line moved on Lots #J-39-4,-5,-6,-7,-8,-9,-10, and J-39-11 to prevent any buildings being located along the ridge. They also wanted to have an easement to prevent clear cutting on lots J-39-5,-6, and J-39-7. Randy felt a non-disturbance easement would take care of this area,



with wording as to what specific limitations are enforced within these easement areas.

Abutter Joe Kagenski mentioned that the location where the new road will access onto Wallace Brook Road is icy in the winter. From the corner of Lesniak's driveway (Lot J-33-32) water sheets over Wallace Brook Road. PB will ask road agent Clarence Farwell how the problem can be remedied. Randy said the N.H. Dept. of Transportation doesn't feel the amount of traffic will require a turning lane on Route 13. Jim Monahan said he met with Fire Chief Charlie Corey who agreed to the location of the fire pond as shown. No fencing is required if sides of pond are sloped at a 3-1 or 4-1 grade. They will be using a draft basin system.

Conservation Commission member Libby Wehrle-Anderson asked where public access will be provided to the open space area. **Judy** suggested that off Averill Road next to the Chandlers' land (lot J-56) would be the best place for the public to park and access the pond area.

Discussion focused on whether a box culvert would be an advantage to wildlife using the corridor (J-39-46) to enter or exit the Townsend State Forest. Based on a letter from wildlife specialist Ellen Snyder (see attached), larger animals would avoid using the culvert, and there was no data available to support whether smaller animals would use it. Jim Monahan said he had spoken with someone who had attended a seminar on the subject. It was found that by sloping the edges of the road culverts to create a better area, small animals used them as crossing locations. Larger animals won't enter a closed culvert, and will tend to cross over the road. Jim Edwards said an elliptical culvert can be used with sloped edges. Jim Monahan said they could add a longer pipe in addition to sloping the sides. The north side needs it for the fire pond; and the sides could be sloped 4-1 with no guard rail in the area of the crossing. **Judy** asked about access to the Edfor's lot J-40. She inquired if a name for the new road had been chosen, and how wide the paved area would be.

Jim Monahan answered a 50 foot right-of-way has been shown on the plan to access to lot J-40 from lot J-39-47, which is a non-building lot. He said the plans call for a 24 foot paved area. They haven't decided on a name as yet. He said they won't remove any more trees than absolutely necessary other than in the 50 foot right-of-way where there is a steeply sloped area. Sidewalks were mentioned (much too expensive); and white striping along the edges of the road. Selectman Russ Heinselman said striping presents a large maintenance problem for the town.

PB members discussed narrowing the paved area to 22 feet because this was not a collector road. New subdivisions such as Mountain Road, II and Birch Hill, II were built with a 22 foot paved area in keeping with the rural atmosphere of Brookline. Although Chris felt the 24' width to be preferable to handle the amount of traffic accessing from

Route 13, PB members decided on the 22 foot pavement. **Judy** asked if the portion of road where it intersects the Bagley property (Lot J-41) will be deeded to the Town. **Jim Monahan** answered yes, the roadway will belong to the town. PB ok'd overhead utility service rather than underground in this subdivision. Access to the open space lot J-39-45 was asked about. **Jim Edwards** said it was too steep an area to require providing a public access to it. He said excavation details will be added onto the plan. The non-disturbance area will be delineated on-site by a fence running from lot J-39-12 to the 2 stump dump areas located behind lot J-39-16. Because the pond is the Town's aquifer, **Judy** said she feels the open space land should come under the Town's ownership to give the Conservation Commission better control. In reading the zoning ordinance, it was noted that such a conveyance must be voted on at a town meeting. PB members felt it was important that the legal documents conveying the open space to the Town should include a contingency to add protective conservation easements on this land in case of a negative town meeting vote. The developer will format a deed so that all open space land shall include conservation easements for the protection of this very sensitive area; and subject to a favorable town vote, shall be conveyed over to the Town. **Libby** asked if sedimentation and erosion control information could be added to the plan. **Jim Edwards** said it will be included when state site specific permits have been granted. **Peter** asked about the drainage system. **Jim** said they are using flared pre-cast drainage culverts. **Judy** asked about driveway culverts. Driveway culverts are shown on the plan where they will be placed in conjunction with the road's drainage (ex: lot J-39-25). **Peter** asked if PB members felt this project should go to an independent engineering firm for a review of the road construction and drainage plans. **Margaret** said she felt that an independent review hasn't prevented problems, citing **Lorden's** project on south Route 13 as an example. **Judy** said this road is not that complex; and **Meridian Land Services** haven't submitted any plans that have caused problems for the town. It was mentioned that PB Alternate **Dennis LaBombard** has the engineering expertise to review the plans. **Bill Duncklee** has been assigned as road inspector and will have input into the project before final approval is granted. PB will ask both of these people for their opinions on the road design specifications. **Joe** questioned the time frame for road construction. **Jim Monahan** said he plans to build the entire road beginning at the Route 13 intersection as soon as he has PB approval. His plans are to put the base coat down, and bond for the finish coat. The road is left for 4 or 5 years and then the finish coat of pavement is placed. He finds this prevents a lot of damage being done to the final road surface by all the construction vehicles used in building the houses.

Peter explained our subdivision road bonding mechanism. Chris said maybe we should look into our regulations to incorporate this type of system. He pointed out the problems in the Bear Hill subdivision project with damage done to the road's finish surface by construction equipment during the building of new houses and driveways. PB members agreed to discuss this at the next work session. They felt subdivision regulations could be waived by the PB to allow town road acceptance with a base coat in place and a bond to cover the cost of the top coat if the PB determines this is a better way to ensure less damage to the final pavement. Judy wanted a note added to the plan with a provision that road construction will originate from Route 13 rather than from Averill Rd.; and no gravel will be excavated from town. Jim Monahan stated that no gravel will be removed from the site. Any excavated gravel will be used for on-site road construction.

Jeremy said the only issue he had was with the 50 foot perimeter setback for the project as the open space development regulations require. Would it apply to the area bordering the Townsend State forest? PB members felt the regulations only require a buffer next to a residential development. Jim Edwards said he could add it to the plan along the Mass. line with no problem.

Judy asked what kind of a subdivision sign would be used. Jim Monahan said he intends to place a sign at Route 13, probably made of granite, and similar to the ones in other subdivisions he has developed. These require little or no maintenance to look good over a long period of time. Peter advised Mr. Monahan to meet with the selectmen regarding off-site improvements. **Case Continued till June 21, 1994.**

**9:40 PM Planning Board General Business**

Libby asked if the PB could give some consideration to requiring that the wetlands flagging markers placed during subdivision reviews be left on-site so that during home construction the wetlands would be flagged and the problems arising from maintaining the 25 foot construction buffer might be minimized. PB agreed to discuss this, but felt that a considerable amount of time may pass between the time of subdivision review and the actual home construction. The flags might not be left in place by the property owner once the initial home is built. Many problems with maintaining the buffer arise with supplementary building permits for additions, garages, barns, or changes to the original home.

**10:00 PM MOTION** Margaret made a motion to adjourn the meeting. Chris seconded the adjournment motion. Yes 4-0 vote was cast.

Submitted by:   
Sandra L. Fessenden, Secretary  
Brookline Planning Board

Mad Part of the P.Bd. 5/17/94 minutes

Coop File

REGISTRY, WILDLIFE AND WATER RESOURCES

State Office Hall  
5 College Road  
Durham, N.H. 03824-3599  
(603) 862-1029  
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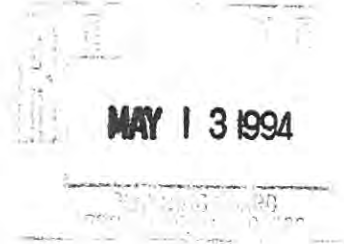
Rockingham County  
679-5616

Strafford County  
749-4445

Willsivon County  
863-9200

Ms. Libby Wehrle-Anderson  
Brookline Conservation Commission  
Brookline, NH 03033

- Coop #  
1993-7



Dear Ms. Wehrle-Anderson:

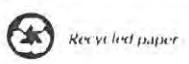
In response to our telephone conversation last week, I'm sending you some comments.

You requested information on the use of a box culvert or something similar to provide a travel lane for wildlife in hopes of minimizing road kills. I have not come across much in the literature that recommends this approach. In Amherst, Massachusetts small tunnels were constructed beneath a road that was in the way of a traditional migration route for salamanders. In northern New Hampshire, a third bridge span was erected on dry land to provide a travel route for deer. I believe this was a very large bridge.

The proposed road in Brookline probably doesn't fit the situations mentioned above. There is no guarantee that wildlife would use a larger culvert. They may still travel over land, crossing the road instead of crawling through a culvert. Alternatives to a box culvert include altering the driving pattern in the area of the "wildlife corridor." Slower speed limits, speed bumps, and signs indicating a wildlife crossing would help. In Minnesota, a major state highway along the Mississippi River has signs indicating a blanding's turtle crossing.

The developer's plan to leave at least 100' of the esker around the wetland will provide some buffer and many species of wildlife will likely use the associated habitat. I was not clear on how much excavation was to occur on the back side of the esker. You mentioned the developer was planning to back-fill with stumps. From a wildlife perspective this should cause no problem. Eventually the stumps will decay. If the integrity of the esker has been impacted by excavation some slumping may occur in the future, after the stumps begin to decay.

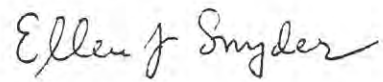
I'm not familiar with the construction of fire ponds. Construction of the pond in wetland areas will likely require permits which is handled by the Wetlands Board and Wetlands Bureau.



Page 2

I will not be able to attend the Planning Commission meeting on May 17th. Please feel free to contact me at 862-3594 if you have any additional questions.

Sincerely,

A handwritten signature in cursive script that reads "Ellen J. Snyder".

Ellen J. Snyder  
Extension Specialist  
Wildlife



(603) 673-8855

**TOWN OF  
BROOKLINE, NEW HAMPSHIRE**

P.O. Box 360  
Brookline, NH 03033

**PLANNING BOARD MEETING**

**June 7, 1994**

**PRESENT:** Peter Webb, Chairman, Voting  
Rich Napolitano, Vice chairman, Voting  
Margaret Olson, Alternate, Voting for Joe  
Dennis LaBombard, Alternate, Voting for Chris  
Judy Cook, Selectmen's Representative, Voting  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

**7:30 PM** Planning Board Business Meeting  
Chairman Peter Webb opened the meeting. Minutes of the May 17, 1994 PB meeting were reviewed. Peter made a motion to accept the minutes as written. Judy seconded the motion. Vote was 3-yes, 0-no, 2-Abstentions (Rich & Dennis were not at that meeting) to accept the minutes as written.

**MOTION**

Minutes of the April 19, 1994 PB meeting were reviewed. Peter made a motion to accept the minutes as written. Margaret seconded the motion. Vote was 3-yes, 0-no, 2-Abstentions (Dennis and Judy were not at that meeting) to accept the minutes as written.

**7:45 PM** Attorney Henry Spaloss and a representative from Cuoco & Cormier Engineering Co. were present to informally discuss a subdivision of Lot B-45 belonging to Sharon Robbins and Marjorie Rocca. Lot B-45-A would not have the required 200 feet of road frontage (proposed 85 feet); and Mr. Spaloss was unsure whether it was necessary to go to the Zoning Board of Adjustment for a variance before coming to the Planning Board. He had made application to the ZBA for a frontage variance for lot B-45-A, but had been told that the application for variance as presented couldn't be considered since there was no Lot B-45-A. The owner of lot B-41, William McKelvie, discovered that the previous owners of lot B-45, Frank and Ruth Dow, had sold off portions of his property (Lots B-46, B-47, and B-48). The case was brought to litigation when the error was discovered. Mr. McKelvie proposes to have lot B-45 subdivided into 2 lots; and Mr. Spaloss is asking the PB how to best go about doing this. Rich said that in addition to not meeting the frontage requirement of the zoning ordinance, lot B-45-A does not meet the subdivision regulation for lot configuration. In

addition, Rich mentioned, there were concerns about the condition of Hood Road that would have to be considered by the PB also. It was noted that lot B-46 uses a private access road across B-45 to reach the house. Mr. Spaloss said there was a deeded right across B-45 for lot B-46. Judy said she was in favor of having the PB make a motion to send this to the ZBA for a variance prior to the PB holding a hearing on subdivision. It was suggested to Mr. Spaloss that he might wish to revise his original application to the ZBA; and he asked if it would be possible for the PB and the ZBA to hold a joint meeting on this case.

Peter noted that even if the ZBA granted a variance for the zoning issues, it was possible the PB would disallow the subdivision for not meeting the subdivision regulation requirements.

At this point, Mr. Spaloss said he would re-think his position and get back to either the PB or the ZBA.

**8:07 PM Public Hearing-** Jeremy told PB members that he had discussed with Building Inspector Wes Whittier the date of June 21, 1994 to adopt the 1993 edition of the BOCA National Building Code into the Brookline Building Code at a public hearing.

**8:10 PM Driveway Permit Regulation Changes-** Jeremy said he had met with Wes Whittier and Road Agent Clarence Farwell regarding changes to the driveway permits for all new houses. Their suggestions will be incorporated into an ordinance proposed at March 1995 Town Meeting to ensure that driveways for all new houses will have a 15 foot paved apron to join the driveway with the road; and they will have drainage systems that are built to conform with the town's road drainage system to minimize problems on the town roads.

**8:20 PM C.I.P. Forms-** Jeremy reported that some, but not all departments have completed and returned their 1994 C.I.P. forms. He said that if all forms have not been returned in another 2 weeks, the PB should let the selectmen know so that they can schedule a meeting with the department heads who have not yet responded to ensure that all are included in this year's C.I.P. report.

**8:30 PM Wetlands Flagging-** CC Chairman Ken Turkington was present to discuss this with PB members. Rich asked how long the flags will be required to be left in place? Ken said that at least until all the initial construction of the house has been completed so that the wetlands construction buffer that is required for the building permit can be maintained. Peter said that we can incorporate this into our subdivision regulations the next time they are updated. Ken also said that the color used for the flagging should be specified. It will be easier for the Conservation Commission to identify the wetland areas if the same color flags are used consistently throughout the town by all engineering firms.

- 8:35 PM **Planning Board By-Laws-** Jeremy had passed out copies of an update of the Brookline PB bylaws. He asked the members to look them over and come back at the next work session with any suggestions or changes they would like to have made.
- 8:40 PM **Planning Board General Business-** Margaret remarked that at the PB meeting with the Nashua River Watershed Assn. member, she saw information on Groton, Mass.'s plans to maintain their town center. She suggested the PB think about the "town center" approach for Brookline. Can it be helped by having the Non-residential site plan regulations require sidewalks to be in the front and parking in the rear of all commercial areas? PB members discussed getting site plan regulations from other towns and making copies of them to research this and other ideas.

Peter said he had been contacted by George Farwell regarding the replacement of the underground gas tanks at the Auto Depot (formerly Potanipo Garage); the moving of the gas pumps; and the addition of a canopy over the pumps. Mr. Farwell wanted to know what the PB had required from the other gas stations who had done the same thing in the last few years. It was decided to ask him to come to the next PB meeting to apprise PB members of what he is planning to do.

**Randy Haight** of Meridian Land Services showed PB members the proposed design of the septic and drainage systems for the new addition to the Brookline Elementary School. He said the expanded kitchen facilities meant some additional septic requirements would have to be added to the plan. Because the state has changed the requirement of the size of the septic tank used, they are going to design a 2 tank system which he feels is a much better system. He wished to show the PB what was being proposed since the school is not required to come to the PB for a site plan review for the addition.

- 9:00 PM **MOTION** Margaret made a motion to adjourn the meeting. Rich seconded the adjournment motion. Yes 5-0 vote was cast.

Next Planning Board Meeting, Tuesday, June 21, 1994.

Submitted by:



Sandra L. Fessenden, Secretary  
Brookline Planning Board





(603) 673-8855

TOWN OF  
**BROOKLINE, NEW HAMPSHIRE**

P.O. Box 360  
Brookline, NH 03033

PLANNING BOARD MEETING

June 21, 1994

**PRESENT:** Peter Webb, Chairman, Voting  
Rich Napolitano, Vice-chairman, Voting  
Joe Kagenski, Voting (Abstained from voting on Holly Hills)  
Judy Cook, Selectmen's Representative, Voting  
Margaret Olson, Alternate, Voting for Chris  
Dennis LaBombard, Alternate, Voting for Joe on Holly Hills  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

**7:30 PM** Public Hearing on amending Brookline Building Code- Chairman Peter Webb opened the meeting. Building Inspector Wes Whittier was present to summarize the major changes in the 1993 edition of the BOCA Code from the 1990 edition. He said that apart from minor language and clarification changes, there were two significant changes in the 1993 BOCA code. They are as follows:

1) Any outside attachment such as a deck or porch which is 30 inches or more above ground; or a stairway with 3 or more risers must have a railing 42 inches high instead of 36 inches. Also, the distance between the railing balusters cannot be more than 4 inches apart.

2) The smoke detector law in a residence requires 1 smoke detector in every common hallway (1st, 2nd, and cellar). In addition, there must be a hard-wired detector with a battery back-up in every sleeping quarter. If you add a sleeping room onto the house, the existing areas must be brought up to the new code.

**Comments:** Clarence Farwell asked how much extra cost was incurred by the home owner in meeting the new smoke detector code. Wes said it added approximately \$500.00 to the cost of a new house. Depending on the original construction of the house, the cost may be more when remodeling an older home. Wes added most communities now follow the BOCA Code requirement for fire detection equipment.

**7:55 PM** Judy made a motion, seconded by Peter to the amend the  
**MOTION** Brookline Building Code by adopting the 1993 edition of the  
BOCA Code. Vote to amend the building code was 5-0 yes.

8:00 PM George Farwell, "The Auto Depot" garage, Lot G-55-A- George and Clarence Farwell were present. George said the garage's underground gasoline tanks have to be replaced by 1995. He hopes to change the tanks this year, and will replace the 4 old ones with 2 new ones. There will be 2 gas pumps, and a service island. A canopy over the pumps will be added. The tanks will meet all new federal and state regulations. PB members discussed whether this would require a non-residential site plan review. Margaret said this does not sound like it is a change or increase in the business. Rich said his only concern was traffic crossing over from the gas station to Gazebo Square. He said when Clarence did the site plan for Gazebo Square there was some question as to whether the gas station would be closing. When discussing traffic patterns, it was suggested that maybe an island between the gas station and Gazebo Square would more clearly define the entrance to both businesses. Clarence said there has been no problem so far with traffic cross-overs. He felt that an island would not be of any benefit to either business. Judy said she didn't think a site plan was required, but suggested that when the project is finished, the town should have a copy of the site showing the location and size of the tanks, the island and pump location, and the canopy size.

MOTION

Peter moved that the PB make a finding that a non-residential site plan review was not required because there was no increase in the number of pumps or gasoline tanks, and no outside change to the station was being made. Margaret seconded the motion. Vote was 4-Yes, 1-No ( Joe. For the record, Joe's objection was not to this specific plan, but to the issue that the Planning Board could require a site plan if they wanted to).

8:15 PM Holly Hills Construction Corp- (Being an abutter, Joe excused himself from this case. Dennis voted in his place) Applicant James Monahan, and Jim Edwards and Randy Haight of Meridian Land Services were present. Jim Edwards pointed out the changes made from the last hearing. The name of the plan has been changed from Holly Hills Construction to James B. Monahan; and the name of the road is Laurelcrest Drive. Location of the road access onto Route 13 (through the Bagley property Lot J-41) was changed slightly at the Bagleys' request. Non-disturbance easements have been added to lots 5,6, & 7. A fire pond easement has been added to the plan, and the fence has been removed. The proposed stump dump on the right has been moved slightly; and a 4 to 1 slope in the corridor area has been added. Conservation Commission Chairman Ken Turkington asked that the poorly drained soils on lot J-39-6 (area where 2 cart roads joined) be added to the plan.

Jim noted sheet 17 shows typical driveway construction. Rich mentioned clear-cutting of trees along the road. Jim Edwards said that tree cutting will only be done in the areas where road cuts are made (steep slopes) so the sides of the road can be properly sloped.

Road Agent Clarence Farwell reviewed the road profile plans. He noted the catch basins in the area of the fire pond, and said he preferred the open swale method of drainage as opposed to catch basins because of maintenance costs. Jim said they will work with Clarence on an alternative system to closed drainage. Jim Edwards said a fabric-lined ditch using graduated sized stone may work as an alternative. Randy Haight said the issues left to be resolved are:

- 1) The language for the dedication and/or easements to the town of the open space which will be reviewed by town counsel and the Brookline Conservation Commission.
- 2) Off-site Improvement Agreement with the selectmen. They have talked about an off-road parking area on Averill Road to access the conservation area on J-39.
- 3) Correct the drainage on Wallace Brook Road near Ray Tennant's property (Lot J33-33). Jim Monahan has spoken to Mr. Tennant who wishes to leave his driveway in the same location as it is now.
- 4) Shim-coating Averill Road from Muscatanipus Road to the paved area by James Krieger's at 39 Averill Road.

Peter requested Dennis LaBombard, who had reviewed the road plans at the Planning Board's request, to give a summary of his findings. Dennis referred to his 6/20/94 written report. Clarence said he preferred a 20 foot paved road because of maintenance costs. PB said they had agreed on a 22 foot width instead of the original design of 24.

Ken Turkington asked if the stump area on the right could be re-located on the back of the esker. Jim Edwards said that water comes down between the two proposed stump areas, and they don't want to divert this. Ken said the CC would like to maintain the integrity of the area, and was afraid the decomposing stumps would cause a slumping of the area.

Peter said the PB does not want them to go into the area of the ravine where the large pines are. Judy said that the ridge line on the right side in back of lot J-39-17 would be eradicated if the stump area were moved.

Rich asked where were they removing the gravel for the road? Jim Edwards said there is sand on the right of the wildlife corridor and gravel on the left. The sand can be relocated to the area of gravel removal to be used as fill in the area of the stump dump. Beginning at lot 15, up to lot 20 is the areas of excavation for gravel for the road.

Abutter Joe Kagenski said the plan doesn't show the potential gravel sites, and he suggested it be added to the plan. He asked what the reclamation statistics will be. He mentioned the two areas on Lot J-33-34 that were excavated for road construction. They have not been reclaimed and have not grown back in the last six years. He said the lot is technically an abandoned gravel pit.

Jim Monahan said he will use 1,500 feet of gravel on the left of the corridor to build the road connecting to Wallace Brook Road. He feels there may be enough gravel located on the right of the corridor to use on the road connecting to Route 13. He said he will not open up any more area than necessary since he will have to pay to reclaim it.

Libby Wehrle-Anderson asked if they didn't need to show the entire area of disturbance on State site specific plan for the permit. Jim Edwards said the request for permit shows all areas of disturbance.

Rich said a note should be added onto the plan describing the excavation plan and the reclamation measures. PB members agreed, asking them to detail both the excavation and reclamation specifics on the plans.

Judy asked why the Bagleys asked to have the road moved. Jim Edwards said it was at the request of their engineers who gave him a print of where they wanted it moved.

Dennis said the intersection with Wallace Brook Road should be sloped for the first 20 feet similar to the intersection at Route 13. The intersection with Route 13 will be where the "Tree Farm" sign is now located. Randy said the existing telephone pole there will be moved.

Ken Turkington said the Conservation Commission is asking to have a box culvert placed rather than a 30" culvert which he feels is not large enough. He would like to have data supporting the fact that the small animals would tend to use the smaller culvert with sloped sides.

Judy read from the letter from U.N.H. wildlife specialist Ellen Snyder saying there is not enough evidence that would suggest a box culvert would be preferable to small animals. Jim Monahan said he will get the name of the person who spoke at the seminar in Concord, N.H. and get a copy of the letter with the supporting data on the sloped-sided culvert.

Libby said the Conservation Commission feels the applicant has done an admirable job preparing the plans in keeping as much of the pond area preserved in its natural state. She said if no research data is available by the next meeting, the Conservation Commission will be agreeable with placing the culvert as designed on the plans presented tonight. Selectman Russ Heinselmann said the selectmen agree with this proposed plan. **Case continued till July 19, 1994**

**9:45 PM  
MOTION**

**Planning Board Business Meeting**

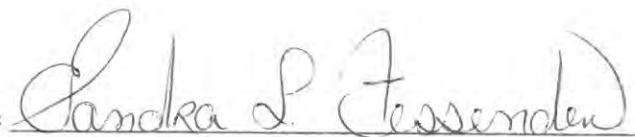
- a) Minutes of the June 7, 1994 PB were reviewed. Peter made a motion to accept the minutes as written. Rich seconded the motion. Vote was 5-0 yes to accept the minutes.
- b) PM members decided on July 5, 1994 as the work session.
- c) Jeremy gave PB members a memo and copies of site plan regulations from other towns. Members will review these for discussion at the July work session.

d) Joe said he had visited Taylor Road in the vicinity of the fire pond and said there was a lot of siltation in the construction areas. He asked if siltation fences were needed to correct this problem. PB will have this checked.

9:50 PM  
MOTION

Rich made a motion to adjourn the meeting. Margaret seconded the adjournment motion. A 5-0 yes vote was cast.

Submitted by:



Sandra L. Fessenden, Secretary  
Brookline Planning Board

Selectmen



(603) 673-8855

TOWN OF  
BROOKLINE, NEW HAMPSHIRE

P.O. Box 360  
Brookline, NH 03033

PLANNING BOARD MEETING

July 5, 1994

PRESENT: Peter Webb, Chairman, Voting  
Rich Napolitano, Vice-chairman, Voting  
Judy Cook, Selectmen's Representative, Voting  
Margaret Olson, Alternate, Voting for Chris  
Dennis LaBombard, Alternate, Voting for Joe  
Bob Chisholm, Alternate  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

7:30 PM Planning Board Business Meeting

Donna Caruso of 1 Myopia Hill Road was present to discuss with PB members the issue of the wildlife corridor and the dredge and fill permits for the James Monahan/Holly Hills development. Donna explained that she is a former member of the Conservation Commission and has been contacted by Ken Turkington to make an evaluation of the proposed wildlife corridor in Jim Monahan's subdivision off Averill Road. She said this area is designated as a prime wetland, and this means the developer must prove to the State Wetlands Board that the development will not adversely impact the wetland. She asked that the PB do everything they could to see that this valuable prime wetland is protected.

Jeremy said the Wetlands Board is the agency who will make the final determination on the dredge and fill permits, hopefully with input from the town conservation commission. He noted that Ken had written a letter to the Wetlands Board and included information that this is a prime wetland.

Donna said that many problems the Conservation Commission noted were enforcement issues, and asked how the town can ensure that proper procedures are being followed.

Judy said the developer will be deeding all open space areas to the town rather than giving easements onto private land.

Donna said she has noticed siltation and erosion problems on all new road construction in town, mentioning the following three that she has personally seen problems with: Mosher Drive, Mountain Road, and Lakin Road.

Rich agreed and said there are siltation problems all over town. Dennis said it is his feeling that during the road construction phase most problems are caused by improper installation of siltation fences.

**Donna** said the driveways on Mountain Road were improperly installed, and frozen streams run down across the driveways. She felt the bumps at the beginning of Mountain Road are being caused by streams running underneath the roadway.

**Peter** asked what can be done to correct this problem. He said the PB can't address issues that the Conservation Commission should be acting upon. There is no basis in the law to allow this to happen. The Conservation Commission has the responsibility to review and comment on all dredge and fill permit requests sent to the state.

**Donna** said the townspeople had voted on designating certain areas as prime wetlands; and she felt they should receive proper attention when being impacted by new developments. PB members thanked her for coming, and said they would discuss a way in which the PB could offer guidance to the Conservation Commission's new members until they better understood the procedures to be followed with the town and state in order to implement local conservation ordinances.

7:55 PM  
MOTION

Members reviewed the minutes of the June 21, 1994 PB meeting. Peter made a motion to accept the minutes as written. Judy seconded the motion. Vote was 5-0 yes.

8:00 PM

#### Road Issues

Road agent Clarence Farwell was present to discuss some road issues with PB members.

**Hillside Drive Extension**- Clarence met on-site with Tom Enright and Dennis LaBombard regarding the remaining outstanding issues. Peter reviewed the June 27, 1994 letter from Selectman Russ Heinselmann (see attached). Dennis added the only way the road can be corrected properly is by shimming it with additional asphalt. Clarence said the bounds are set, the street sign is missing and he will order one. He said the amount in the escrow account would cover these items. The construction bond will be transferred to a 2 year maintenance bond unless PB waives the time frame.

**Jeremy** said easement descriptions will be discussed. Tom Enright should be able to provide them if needed.

**Talbot Road**-Clarence said he had not seen a problem with sedimentation control; but he felt the type of gravel being put on the road has too much silt-not enough granular. This can cause the road to heave.

8:03 PM

**Peter Weeks, Cuoco & Cormier, Inc.**- (Peter Webb recused himself from this case. Bob Chisholm took his place.) Mr. Weeks, Pat Berube, and Pam Austin were present to discuss a 3 lot subdivision of B-60. Area "C" will become Pat Berube's. Area "B", ten acres, will become Judy Lumbrina Ames's and be eligible for current use. Area "A" will become a conforming lot for the existing house on Lot B-60. This plan is being done to give

some of Willard Cummings's land to family members. Lot B-60 is more than 20 acres and there was discussion because the zoning ordinance requires lots over 20 acres to come under the open space zoning ordinance. Rich said this lot can be subdivided, and the PB cannot waive the wording of the ordinance. He suggested that lot B-60-1 and Parcel "C" be incorporated into 1 lot. PB members believe this plan is being done to divide a large lot between family members, but their concern was that it not violate the zoning ordinance. It was suggested to Mr. Weeks that he try re-working the lot lines to see if it was possible to have 80,000 square feet for Lot B-60; make Lot B-59 80,000 + the ten acres required for current use status; and combine the remaining acreage into Lot B-60-1. Jeremy said information on Parcel "A" as regards soils, septic, and well location should be added. The same should be included for lot B-60-1. Applicants will come back to PB when new plans are drawn.

8:25 PM

Ken Turkington, chairman of the Conservation Commission was present to discuss the siltation control measures on Taylor Road. He said in the area of the fire pond (lot G-61-3), road construction goes right up to the edge of the pond. Although there are hay bales present he feels that adequate measures are not being used. (Joe Kagenski had mentioned this same thing at the last PB meeting.) Peter suggested a letter be drafted to road inspector Bill Duncklee asking him to inspect the road as regards the hay bales and siltation fences to make sure they are in compliance with this phase of road construction. They should be restored according to the approved road construction plan.

8:45 PM

Holly Hills subdivision- Ken said there is a vernal pool important to the salamanders in the area of the wetlands which were not originally mapped (Lot J-39-16), but have now been added to the plan. He is still concerned the proposed culvert will not be as effective to wildlife crossing the road as a box culvert would be. As yet he does not have information Mr. Monahan said he would provide him regarding culverts designed for wildlife crossings. Peter said the PB has to have a basis of written information in order to make the decision as to whether a box culvert or an elliptical culvert with sloped sides should be used in this wildlife crossing area. Jeremy suggested that Ken contact the Wetlands Board to see if they could provide him the data he needs.



8:50 PM

**Planning Board By-Laws-** Jeremy said these are internal rules of procedure for the PB which do not require a public hearing to be adopted. He found according to RSA 673:5, that the term of office for the ex-officio PB member (selectman) must coincide with their term of office as selectman. It was suggested that the town counsel also be added to section VII-Staff & Finances. Jeremy will put the by-laws into final format, and the PB can review and vote on them at the next work session on August 2nd.

9:00 PM

**Site Plan Regulations from other towns-** Rich said he has established what he thinks should be some goals in revising Brookline's site plan regulations. He feels the PB should try to promote quality industrial growth in Brookline; prevent strip malls; minimize curb cuts along Route 13; promote the location of industrial sites back off of Route 13 (industrial parks); locate parking areas behind the buildings; define specific landscape standards; and reduce surface area coverage (minimize paved parking areas); and in general "Spiff-Up" the site plan regulations.

**Margaret** said her goals for future industrial and commercial development would allow for trees to be planted in the parking areas both for shade and aesthetic reasons; and to have sidewalks linking developments one to the other to afford pedestrians the opportunity to walk from one business site to another. Parking would be in the rear of the buildings. She mentioned that the Bedford regulations provide for islands of vegetation in the parking lots.

PB members decided a statement of principal should be added to the site plan regulations; checklists should be used; and older businesses that don't already have site plans on file with the town must provide them.

**Judy** said the PB should check all the definitions in the zoning ordinance and the regulations. She noted "forestry" had been added this past year; and feels it is important to add new definitions where necessary to make the zoning ordinance and regulations compatible with one another. This will allow for better enforcement of both regulations and zoning.

9:30 PM

**Planning Board General Business**

George Carkin's daughter Sally had inquired as to whether a sign could be placed in front of their home at 230 Route 13 North (Lot D-38). Mr. Carkin has operated an antique business out of his home for the past several years and would now like to put up a sign. He feels his business qualifies as a home business under the town's definition in the zoning ordinance.

Margaret's opinion is that it is excessive noise along with traffic issues that causes problems with home businesses in residential areas. It was suggested some clarification could be added to the zoning ordinance to give guidelines under which allowable home businesses can operate within the residential zone.

Jeremy said that some of the ideas presented in those site plan regulations from other towns could be applied to Brookline's rural setting which might make a more cohesive consolidation of our existing commercial area.

9:50 PM Rich made a motion to adjourn the meeting. Margaret  
MOTION seconded the adjournment motion. A 5-0 yes vote was cast.

Submitted by:



Sandra L. Fessenden, Secretary  
Brookline Planning Board



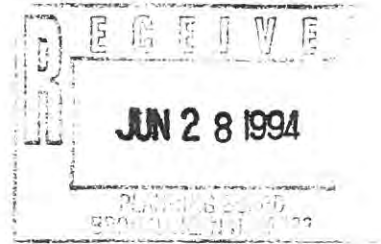
Made part of the 7/5/94 P. Bd. minutes.

Opp File

TOWN OF  
**BROOKLINE, NEW HAMPSHIRE**

P.O. Box 360  
Brookline, NH 03033

(603) 673-8855



June 27, 1994

Brookline Planning Board  
Brookline NH 03033

Re: Hillside Drive, Wallace Brook Estates II

*Case #199*

Dear Members:

Enclosed is a copy of the minutes of the February 7, 1994 meeting with Tom Enright, Clarence Farwell and Peter Webb regarding the bond for the completion of Hillside Drive.

We have reviewed Tom Enright's letter dated June 20th and Dennis LaBombard's letter of June 16th. We recommend that we continue with the agreement stated in the minutes of the February 7th meeting. We will have the town road agent complete the necessary road work. When the road work and other items are complete, we will return the portion of the \$3,000 escrow account that has not been spent to Tom Enright.

Very truly yours,

Board of Selectmen

*Russell Heinselman*  
Russell Heinselman (R)  
Chairman

RH/rjd

cc: Tom Enright  
Clarence Farwell

enc.



(603) 673-8855

TOWN OF  
**BROOKLINE, NEW HAMPSHIRE**

P.O. Box 360  
Brookline, NH 03033

*Albion*

PLANNING BOARD MEETING

July 19, 1994

**PRESENT:** Peter Webb, Chairman, Voting (Abstained from voting on Grant  
Plastics)  
Joe Kagenski, Voting (Abstained from voting on Holly Hills)  
Judy Cook, Selectmen's Representative, Voting  
Dennis LaBombard, Alternate, Voting for Rich  
Bob Chisholm, Alternate, Voting for Chris  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

**7:30 PM** Planning Board Business Meeting  
Minutes of the July 7, 1994 PB were reviewed. On Page 2,  
8:00 PM, Road Issues, Hillside Drive Ext., Line 5, change to  
read: "Dennis added the easiest way the road can be  
corrected is by shimming it with additional asphalt." Peter  
**MOTION** made a motion to accept the minutes as amended. Joe  
seconded the motion. Vote was 5-0 yes to accept the minutes  
as amended above.

**7:35 PM** Potanipo Realty, Inc. N.R.S.P. Case #1994-2:6-52-2.  
(Peter Webb recused himself from the board. Joe Kagenski  
chaired the board for this case.)  
Attorney Peter Bennett representing the applicant was  
present with a Non-residential Site Plan to add a 16,000  
square foot (100' X 160') building to be used as a warehouse  
at the Grant Plastics, Inc. site at 86 Route 13.  
He said the new building will be used entirely for warehouse  
space. There are no plans at this time to increase the  
number of employees or the manufacturing capabilities.  
Randy Haight of Meridian Land Services reviewed the  
submitted plan with PB members. He said the new building  
will be added to the rear of the existing building; and an  
additional paved parking area will also be added. There  
will be 3 doors for the new loading dock. The old loading  
dock will be closed. The new addition will barely be  
visible from Route 13. Randy noted this site contains 13  
1/2 acres. There is a fire pond on site with a pumping  
chamber used for the sprinkler system. The new warehouse  
will also be equipped with sprinklers. The entrance will  
stay the same; and stone lined under-drains will be  
installed around the new building to collect clean water and  
direct it back into the fire pond.

Dennis questioned whether the septic system is adequate for the existing number of employees, since it is smaller in size than one which is required by today's standards.

Randy said the septic system could be enlarged if necessary using the same footprint by using an Elgin system.

Dennis said he would like to have something shown on the plan relative to the size and location of the existing septic system. He asked if there are any wetland soils on the location beside the fire pond area.

Randy answered no, there is only the seasonal run off of the stream. The property line is flagged.

Jeremy said the submitted plan meets the checklist in terms of the information provided.

Conservation Commission Chairman Ken Turkington questioned the location of the stream as shown on the locus plan.

Randy said the actual location is shown on the plan, differing from the locus which is taken from the tax map.

Ken said the CC had no issues with this site plan.

7:45 PM  
MOTION

Judy made a motion to accept the site plan for Grant Plastics as presented. Dennis seconded the motion. Acceptance vote was 4-0 yes.

**Abutters comments:** There were no abutters present.

Jeremy asked for clarification of the parking area in the rear of the new building. Randy explained the parking, and showed the access on the lower level that will be used to enter and exit the building with the forklifts. He said the new building will be basically similar to the existing building, but just a little bit higher in height.

Dennis asked to have an area shown on the plan for future location of a septic system.

7:55 PM  
MOTION

Dennis made a motion that the PB grant approval of the plan as submitted for the additional building, provided that:

- 1) A conceptual design for adding a leachfield which will conform to current regulations be included on the plan; and
- 2) All fees have been paid.

A yes 4-0 vote was taken to approve the plan with the above conditions met.

8:00 PM

**James Monahan/Holly Hills Construction Corp., Subdivision Case #1993-7:J-37,-38,-39,J-60, J-33-34 continued.**

(Joe Kagenski as a direct abutter recused himself from the board. Peter Webb chaired the board.)

Applicant James Monahan and Randy Haight of Meridian Land Services were present. Randy said the following changes had been made to the plan from the last hearing:

- 1) They met with Road Agent Clarence Farwell and removed the catch basins, replacing them with an open drainage system which Clarence prefers as a lower maintenance cost for the Town, and which he feels functions equally as well as a closed system.

- 2) They have removed 1 proposed stump dump area that Ken Turkington had recommended to maintain the integrity of the esker.
- 3) The 15" RCP culvert on Route 13 is now shown on the plan.
- 4) Revised the grading at the lot line of lot J-33-34 at Dennis's suggestion to help correct the water sheeting problem on Wallace Brook Road.
- 5) Added notes 18-22 concerning conservation easements, road construction progress, and the sequence of gravel removal to be used.
- 6) Added the boundary of the 100 year flood, and show the approximate location of the aquifer zone on the topographical sheets.

**Judy** questioned what the final appearance of lots J-39-22 and J-39-23 will be, noting this was formerly lot J-33-34 from which gravel had been removed for the road construction of Hillside Drive Extension. There has been no reclamation of this lot. She wants to make sure that somewhere on the plan it says these lots will be reclaimed when this subdivision is completed. Lot J-33-34 remained unsold and doesn't fit in with the surrounding properties. Randy referred to Pages P6 and P7 saying the reclamation area as shown is 50 to 100 feet wide in places. He assured her these lots will be reclaimed as soon as road construction has been completed in this area.

**Judy** also asked about lot J-39-47 which is labeled as non-buildable, and from which the Edfors' lot J-40 will have its access. **Peter** questioned whether this could be a problem with the subdivision regulations; noting that the PB is prohibited from creating a non-conforming lot. Is this allowable because it is not a building lot?

**Jeremy** said he does not feel this violates the wording of the subdivision regulations, and noted the PB has allowed such lots in other subdivisions as long as they are clearly labeled as non-building lots.

**Peter** asked what prevents a landowner from violating the areas of the non-disturbance easement, even though the subdivision plan clearly marks the boundaries?

**Ken** asked if the town has any influence over the wording of any of the easements? It was noted that town counsel will review all legal documents prior to final acceptance.

**Judy** said the non-disturbance areas need to be clearly defined on the plan. The deeds for those specific lots on which non-disturbance area is located should have this information included in them.

**Randy** said a document recorded at the Registry of Deeds along with the subdivision plan will spell out the location of the non-disturbance easement. In addition, the deed for each individual lot will have all encumbrances for that particular lot included in it.

Randy presented PB members with a proposed draft of the non-disturbance easement; and said Note #18 has been added to the subdivision plan so that in the event that the town does not accept the open space dedications of land, conservation easements will be written to protect these areas. This information should also be included in the individual lot deeds, with reference back to the recorded subdivision plan. Peter asked to whom the easements are conveyed—the Town or the Conservation Commission? It was determined the usual procedure is for the land to be dedicated to the Town under the management of the Conservation Commission. Jeremy noted that the fire pond is located in the open space to be dedicated to the town. In the event the town meeting does not vote to accept the land, a fire pond easement will have to be dedicated to the town. He said the Brookline School Board has not yet reviewed the plan and recommended any school bus stops.

8:45 PM

Applicant James Monahan said he is disturbed by the letter the Conservation Commission sent to the State Wetlands Board which is holding up the dredge and fill permits. PB members reviewed the 7/1/94 letter from the Conservation Commission to the State Wetlands Board. (see attached)

Peter asked Ken if there was any written documentation available for the PB to review tonight that would support the contention that a box culvert was a better solution than an elliptical culvert with sloped sides which is what is being proposed for the wildlife corridor crossing.

Ken said he did not have anything in writing at this time.

Peter then asked if there wasn't a compromise solution to the issue of the box culvert. He asked what the length of the culvert would be? Answer—78 feet in length.

Judy said water animals such as beaver and mink will use a 30' culvert, and feels the 4 to 1 slope is a good solution for other small animals. Larger animals wont use any size culvert. She also questioned the cost of replacing a 78' long box culvert when it becomes a Town maintenance expense.

Conservation Commission member Libby Wehrle-Anderson said Jim Bern of the State Wetlands Board suggested to her that a culvert sunk in the ground 5", with gravel placed in the bottom of it so that the animals can manoeuver more easily, was another solution to the problem. She noted this is a prime wetland used by many animals accessing into the Townsend State forest.

Peter asked the distance in elevation from the water level to the road's surface. Randy said it will be 9 feet.

Jim Monahan at this point said he was willing to increase the size of the culvert to 48"; and place gravel in the bottom if the Conservation Commission was agreeable to this.

Ken said he would agree to this, noting that this was the first development project in a prime wetland area, and the Conservation Commission is trying to find the best solution in this sensitive area.

Jim Monahan asked for a letter to be sent to the Wetlands Board by the Conservation Commission within the next few days to the effect they are satisfied with the road culvert design for the corridor as agreed upon at this meeting. Ken agreed to have something in writing to the Wetlands Board by Friday, July 22nd.

9:10 PM Jeremy brought up the question of whether gravel could be removed from town property for road construction work if the road is not completed by the time the town votes to accept the open space land at the March 1995 town meeting. Peter asked about the time frame for the conveyance of the open space to the town. Jeremy referenced Note #18 on the subdivision plan. After discussion between the applicant and the PB members, it was decided to establish a deadline for the transfer of the open space land to the Town of Brookline. Date to be 90 days following town meeting; or at the time of acceptance of the road, whichever date is later. Jeremy said all that remains to be resolved are the addition of notes and street numbers to the plan, minor road detail clarifications, and the State Dredge and Fill permits. He said the PB could grant conditional subdivision approval tonight if they wanted.

9:20 PM Peter made a motion to grant subdivision approval to the James Monahan/Holly Hills Construction Corp plan subject to the following conditions being met:

- 1) A note added to the recording plan regarding the non-disturbance easement and the lots affected by it. Language of the easement to be recorded at the Hillsborough County Registry of Deeds along with the subdivision plan.
- 2) A note added to the recording plan regarding the 90 day deadline from a Town Meeting vote or road acceptance (whichever is later) for the transfer of the open space land to the Town of Brookline.
- 3) Corrections to the road profile plan as suggested in Dennis La Bombard's report (details to A1 and D1).
- 4) Street numbers corrected.
- 5) A note regarding a snow fence to be placed along the non-disturbance easement line to be used as a reference during road and home construction.
- 6) Written easement to build the road across the Bagley land with underlying title to the road deeded to the Town of Brookline when road is accepted by the town.
- 7) A 48" culvert in the wildlife corridor replacing the 30" culvert.



- 8) Fire pond construction time-frame added to plan, to be concurrent with the road construction.
- 9) Add to the plan detail of the area of "Future parking" off Averill Road between lots J-39-43 and J-56, to be used for access to the open space.
- 10) Note added to the plan as to the method to be followed regarding road bonding.
- 11) All State approvals received.
- 12) All fees paid and recording mylars presented.

Dennis seconded the motion to grant conditional approval.  
Vote was 4-Yes, 0-No.

9:50 PM **Planning Board General Business**

- 1) PB members assigned to the James Monahan project will be Bob Chisholm and Judy Cook. Due to the sensitivity and scope of the project, the PB wished to have the road inspector available to frequently visit the site during all phases of the road construction. Therefore it was voted to have Dennis LaBombard replace Bill Duncklee as road inspector.
- 2) Dennis reported that he had visited two sites as road inspector. **Ben Farnsworth Road** upgrading to a class V road is completed for the Eddy Whitcomb subdivision. Most of the road issues involved the intersection with N. Mason Road. PB members suggested Dennis submit a written report of what he had found. **Mosher Drive** had the finish coat of pavement was put down on 7/18/94. Dennis said that a new well has been installed for Mr. Robert Weeks, and PB will ask for a letter from Mr. Weeks regarding the new well. Dennis will write up a report regarding his inspection.
- 3) Members discussed whether to hold a PB work session on August 2nd. Because of summer vacations and the slow work load, it was decided to forego the August 2nd meeting.

Next Planning Board meeting will be August 16, 1994.

10:00 PM Peter made a motion to adjourn the meeting. Dennis  
MOTION seconded the adjournment motion. A 5-0 yes vote was cast.

Submitted by:



Sandra L. Fessenden, Secretary  
Brookline Planning Board

Made Part of the 7/19/94 P. Bd. minutes

(84)

Cons. Comm  
Case File



Brookline Conservation  
Commission

Brookline, New Hampshire  
03033

July 1, 1994

Mr. Delbert F. Downing, Chairman  
N.H. Wetlands Board  
P.O. Box 2008  
Concord, N.H. 03301-2008

Re: Dredge & Fill Application, Holly Hills Development,  
P.B. Case #1993-7

Dear Mr. Downing,

The purpose of this letter is to follow up on our letter of intervention. This property has approximately 25 acres of open water designated as "Prime Wetlands #18" in 1991. The upland consists of sand & gravel with an esker surrounding one side of the wetland with a very steep slope, except at the location where a stream enters the wetland, and a hiking trail is next to the pond. This is an open space plan with the major wetland area being deeded to the Town of Brookline. Working with the applicant, we have preserved 70 feet on each side of a brook connecting the pond with the Townsend State Forest in Massachusetts. In our Prime Wetland ordinance, wetland #18 is the second most important wetland wildlife habitat and very high in the other important criteria.

The fire pond has been placed in the corridor but not in the wetland. The road crossing at station 47 has concerned us. To facilitate the wildlife's movement to the pond, we considered the use of a box culvert for this purpose. The state is currently building culverts with wildlife corridors within them for this purpose. We attempted and were unable to obtain enough research to make an informed decision. The applicant recommends modifying the slope to a 4-1.

At station 10+50 there is a wet ditch along a major highway. The wetlands appear to be accurately mapped and proper erosion control measures have been planned. We have no concerns at this station and we recommend acceptance of the Bagley dredge and fill. At station 76 there is a culvert crossing a seasonal stream through wetlands. We see no problem at this station.



Brookline Conservation  
Commission

Brookline, New Hampshire  
03033

N.H.W.B-Holly Hills Development  
Page 2

In our letter of intervention we addressed an unmapped wetland. The applicant has mapped this wetland and it is outside of all road construction. We request a 30 day extension. If these concerns are important in your opinion, we will attend a hearing if you request it.

Very truly yours,

A handwritten signature in cursive script that reads "Kenneth Turkington". The letters are fluid and connected, with a prominent loop at the end of the last name.

Kenneth Turkington, Chairman  
Brookline Conservation Commission

cc: Brookline Planning Board



(603) 673-8855

*Selectmen*

**TOWN OF  
BROOKLINE, NEW HAMPSHIRE**

P.O. Box 360  
Brookline, NH 03033

**PLANNING BOARD MEETING**

**August 16, 1994**

**PRESENT:** Peter Webb, Chairman, Voting (Arrived at 8:00 PM)  
Joe Kagenski, Voting Chaired beginning of meeting  
Judy Cook, Selectmen's Representative, Voting  
Dennis LaBombard, Alternate, Voting for Rich  
Bob Chisholm, Alternate, Voting for Chris  
Margaret Olson, Alternate, Voting for Peter  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

**7:30 PM** Planning Board Business Meeting  
Joe called the meeting to order. Minutes of the July 19, 1994 PB were reviewed. On Page 5, 9:20 PM, Line 1, change to read: "Peter made a motion to grant conditional subdivision approval to the....."  
**MOTION** Dennis made a motion to accept the minutes as amended. Joe seconded the motion. Vote was 5-0 yes to accept the minutes as amended above.

**7:45 PM** James Monahan, Subdivision Case #1993-7:J-37,-38,-39,J-60, J-33-34. Mr. Monahan was present to discuss a phasing program in which he would be willing to phase the building permits for his 44 lot subdivision over the next 4 years by building 8, 12, 12, and 12 homes each year. The entire length of the subdivision road will be built first. Joe said under the growth management ordinance there is no guarantee on the number of building permits given out to any one person. Only the aggregate number per year is governed. Dennis said Mr. Monahan would be putting further restriction on the number of building permits he could have with no guarantee that he would get them. As it was explained to him, the number of BP per year under the growth ordinance are given out on a first come first serve basis, with the minimum # per year being 10 permits. Mr. Monahan asked to have someone come out to flag the parking area on Averill Road (Lot J-39). Judy volunteered, and will ask Ken Turkington to go out also. Mr. Monahan told PB members the stump dump area has been flagged. The Conservation Comm. had asked to have the original stump dump area moved to save trees along the trail at the top of the hill; but Mr. Monahan said he would like to move the dump area back toward the north in order to save the steep embankment. This would mean cutting some of the trees, but they will die anyway if the banking erodes.

**PLANNING BOARD MEETING**  
**August 16, 1994 Page 2**

**8:20 PM MOTION** Margaret made a motion to relocate the stump dump area as indicated on the plan presented tonight. New subdivision plans will show this correctly. Judy seconded the motion. Vote was 5-0 yes to allow the moving of the stump dump area.

**8:25 PM** **Planning Board By-laws-** PB members reviewed the proposed by-laws. It was decided under SECTION IX, COMMITTEES to add the following sentence: **"This means including assignments to subdivision and site plan projects."**  
PB members discussed assigning members to existing site plans, and the following assignments were made:

Judy- Superior Steel Fabricators (new building)  
Margaret- Poly-Ject (Larry Thibeault, new building)  
Bob Chisholm- Kinney's Texaco Station (new building)  
Dennis LaBombard- Grant Plastics (new building)

It was also decided that a deadline and/or a completion date for each approved site plan project should be added into the Non-residential Site Plan Regulations.

**Site Plan Regulation Changes-** Jeremy will have a draft ready for PB review at the September 6, 1994 PB work session.

**Proposed Zoning Ordinance Changes-** Jeremy & PB members reviewed the first draft of the proposed driveway ordinance. **Page 2, D. REQUIREMENTS, 1. Design Features-**delete d. and #3. Change #3 to #4 and reword to read: **" On any road, the driveway shall be paved 15 feet....."** Reword the second paragraph to mandate a 3 month time limit for paving the 15 feet after April 1st for those permits drawn after October 1st of the previous year. Copies of the proposed ordinance will be given to Wes Whittier and Clarence Farwell for their review. The next draft will be discussed on Sept. 6th. Jeremy said Wes will provide him some information regarding a street numbering ordinance he would like to have adopted in preparation for the Enhanced 911 emergency system going into effect in 1995.

**8:40 PM** **Planning Board General Business**  
a) PB members discussed the dredge and fill application from Rolf and Randi Bremer. It was non clear that the access for lot D-26-4 should be coming from a proposed future roadway. Secretary will check PB records on the subdivision case.

- b) Peter reviewed the N.R.P.C.'s July bill. He expressed some concern that the PB might go over budget if the amount of time being allocated monthly to Conservation Commission issues continues for the remainder of the year. A letter will be sent to chairman Ken Turkington regarding this.
- c) Peter mentioned he had been at the Hollis PB meeting tonight and learned of Hollis's Town Center Survey Plan. He suggested it might be something Brookline might wish to explore. It deals with the placement of elderly housing on undeveloped property in the center of the township.
- d) The fall law lecture series is being held on the first, second, & third Tuesdays of October. It was voted to move the October Planning Board meetings to **Thursday, October 6th and Thursday, October 20th** in order for PB members to attend the seminars on Tuesday, October 4th and October 11th.
- e) Judy told PB members about Brookline's new cable access channel 16. Scheduled meetings and town functions have been entered onto it. With the arrival of a new character generator in the near future, many more options will be available for easier imputing of information. Requests for all public service announcements will be handled through the Town Hall office.

9:25 PM

Dennis made a motion to adjourn the meeting. Joe seconded the motion. Vote was in favor of adjournment 5-0.

Submitted by:



Sandra L. Fessenden, Secretary  
Brookline Planning Board



(603) 673-8855

TOWN OF  
**BROOKLINE, NEW HAMPSHIRE**

P.O. Box 360  
Brookline, NH 03033

**PLANNING BOARD MEETING**

**September 20, 1994**

**PRESENT:** Rich Napolitano, Vice-chairman, Voting  
Joe Kagenski, Voting  
Judy Cook, Selectmen's Representative, Voting  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

**7:45 PM Planning Board Business Meeting**

Rich called the meeting to order.

**Road Agent Clarence Farwell, Lot J-9-2-** Clarence was present for an informational meeting to discuss an excavation and reclamation plan for the removal of gravel from Tom Moran's lot J-9-2 on Averill Road for use on town road projects. He said Tom has given the Town the right to excavate 40,000 cubic yards of gravel over a 5 year period. Work is being done on Mason Road for which he has removed 1,500 c.y. of gravel. This project is all but finished and he will not be removing more gravel this year. Future projects include Mason Road, Bohanon Bridge Road, and Oak Hill Road. The Town may also decide to make some improvements on Rocky Pond Road.

Jeremy said RSA 155-E allows a municipality to be exempt from its own zoning ordinances. Town Counsel Bill Drescher was consulted. He agreed no permit is required for the Town to excavate gravel for use on construction, re-construction, or maintenance projects. Under RSA 155-E:2, IV, reclamation must comply with the reclamation standards, and a plan should be filed with the regulator (planning board).

Resident Pat Smith was concerned with the impact heavily loaded trucks would have traveling over Cleveland Hill Road.

**Judy** said the gravel is being used to build the road base, and the Town will not be hauling gravel every day.

Some residents expressed concern over operational hours and the amount of traffic in the Averill Road and Cleveland Hill Road area with many small children living in this area.

**Abutter's comments:**

John Ganos of Averill Road was concerned with safety issues as well as where the materials is going to be used. He would like a commitment from the Town that all excavated materials are going to be used for town road building projects. He said at the beginning of the operation, trees had been left hanging after the bases were cut. This has been cleaned up but he wanted to know how much excavation could be done before reclamation work began.

**Marilyn Dunton** questioned the setback distance from property lines. State law requires 10 feet from an approving abutter, and 50 feet from a disapproving abutter.

**John & Susan Laub** (Lot J-9-1) questioned what could be done in the conservation easement area which runs behind their lot onto J-9-2. Where are the boundaries of the easement area? Mrs. Laub was concerned about how the ridge of the esker will be left at their boundary line after the excavation is done.

**Rich** answered the plan shows the current and the finish grade.

**Mr. & Mrs. David Thatcher** (Lot J-9) were concerned about the intensity of the operation and the amount of traffic it would generate. Mrs. Thatcher asked who monitors the excavation for conformance to the plan?

**Rich** answered the Board of Selectmen are the enforcement agents of the Town and would oversee the project. In order to guarantee the excavation is not infringing on the wetland setbacks, Rich asked if the buffer area could be flagged.

**Clarence** answered that he would do this.

**Joe** said in reading the RSA 155-E, it exempts the Town from zoning but not from reclamation requirements.

**Rich** said because of the concerns expressed tonight, some agreement should be reached regarding setting the hours of operation and establishing a time frame for the reclamation of excavated areas. He asked that Clarence and the Selectmen present a plan on which the boundaries of the non-disturbance area would be shown. He explained to those present that although by state statues this excavation is allowable, how it is to be done is within the planning board's jurisdiction. He suggested the PB table this discussion until a public hearing can be held with a more formal presentation. Notice of the hearing will be published in the Milford Cabinet, and direct abutters will be notified by certified mailing.

Others present asked why this excavation was being conducted. Did the town save money by not having to purchase gravel? How much of would be saved? What were the advantages?

**Clarence** answered it would cost \$3.00/c.y. for unprocessed gravel; and \$12.00/c.y. for processed gravel. So 40,000 c.y. of unprocessed gravel would cost \$120,000. He estimated it will cost the town \$1.50/c.y. to excavate the gravel; and .25 to .50/c.y. for reclamation. Processing equipment may be used when necessary (1 to 2 weeks of crushing over the 5 years), and it will be rented. He can process 1,000 c.y. per day, and 1 week's total of 5,000 c.y. is sufficient to last the Town for approximately 2 years. He said gravel was excavated from a ridge twice as high on lot J-10 across the street; and was used when building Parker Road and Averill Road. The lot was reclaimed, and the house where Mr. Ganos lives was then built.



**Conservation Chairman Ken Turkington** said he needs to be notified whenever a timber cut involves a lot such as J-9-2 on which there is a conservation easement to make sure no timber is cut in the easement area.

**Clarence** said the rock maples along the road will be left uncut. He is leveling the ridge beginning from the road in. All he has left to do this year is level the bankings that he has already cut.

Tentative date for a public hearing on excavation of Lot J-9-2 will be Thursday, October 20, 1994. Notice will be published.

**8:30 PM Wyman Rockwood Associates, Wildwood Heights/Elevations Subdivision, Lorden Lane, Case #192.**

Fire Engineer Scott Knowles was present to discuss placement of a stone wall surrounding the fire pond access lane. On the left (south) side of the fire pond, two large rocks prevent two fire trucks from setting up side by side as it was originally designed. He said snow removal would be hindered and would make the access even narrower. After discussion, Alan Lorden agreed to move the two rocks in question back to make the access wider. Scott said this would be acceptable.

**8:35 PM Superior Steel Fabricators, 46 Route 13 South, Lot J-19-**

Owner John de Martin was present for a compliance hearing on his non-residential site plan. He said the oil drums in back have been removed. Scrap steel material is piled and awaiting pickup. Fabrication is being done in back of the building. Unloading is still done outside until the new building is constructed, hopefully before this winter. He said the conservation easement has not been finalized, and before it is, he would like to have the easement area flagged so he can make sure none of the new driveway will be in the easement.

**Abutter Ann Anderson** asked if there was a time frame for completion. She noted the trucks are still backing out onto Route 13 in order to turn around.

Mr. de Martin said he will build the driveway at the same time he does the site excavation for the new building.

**Rich** said there is no completion date specified in the site plan regulations. Another year could go by without any improvements being made, but the issues of approval can't go forward until they have built the new building.


**Joe** said another compliance hearing may be required to ensure the project that was approved has been done. If not, a new site plan review may be required by the PB.

Mr. de Martin indicated he would be seeking to obtain a building permit as soon as possible.

- 8:50 PM **Discuss draft of proposed Driveway Ordinance.**  
PB members and Clarence discussed the 9/20/94 draft of the driveway ordinance. Clarence said the only thing he really wanted changed was the 10 feet of paved area to 15 feet (Section D. Requirements, #3). He explained it was necessary to protect the edge of pavement on the town roads. Since this is the amount specified in the driveway permit for all subdivisions, he felt the ordinance should be the same length. PB members also decided to change the following to read:  
**Section c. PERMIT AND PENALTY, #1. "Anyone desiring to alter, (delete repair) or relocate a driveway....."**
- 9:00 PM Rich made a motion to adjourn the meeting. Joe seconded the motion. Vote was in favor of adjournment 3-0.

**Note-Planning Board Meetings for October will be held on  
Thursday, October 6th and Thursday, October 20th.**

Submitted by:

  
Sandra L. Fessenden, Secretary  
Brookline Planning Board



(603) 673-8855

TOWN OF  
**BROOKLINE, NEW HAMPSHIRE**

P.O. Box 360  
Brookline, NH 03033

*Selectmen*

**PLANNING BOARD MEETING**

October 6, 1994

**PRESENT:** Peter Webb, Chairman, Voting (Arrived at 8:30 PM)  
Dennis LaBombard, Alternate, Voting for Rich  
Margaret Olson, Alternate, Voting for Joe  
Judy Cook, Selectmen's Representative, Voting  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

**7:30 PM Planning Board Business Meeting**

**MOTION** Peter called the meeting to order. Minutes of the September 6, 1994 PB meeting were reviewed. On a motion by Peter, seconded by Dennis, it was voted to accept the minutes as written by a 3-0-1 Abstention vote (Judy absent from the 9/6/94 meeting). Minutes of the 9/20/94 meeting were tabled till a later date because a quorum of members present at that meeting were not at this meeting.

**7:40 PM Review of 1994 update of Capital Improvement Plan.**

Jeremy and PB members reviewed the 10/6/94 draft of the 1994 CIP. He noted the changes he had made to the original draft on his memos of 9/19/94 and 9/22/94. PB members were in agreement with the final draft of the plan, and complemented Jeremy on providing the document in a time frame which allows the finance committee and the selectmen to have it available prior to the finance committee budget hearings on the 1995 town budgets. Peter suggested we wait until the next PB meeting October 20th when more PB members will be present before the PB votes to accept the 1994 CIP.

**8:00 PM Planning Board 1995 Budget**

PB members review the 1994 budget with expenses shown through 9/30/94. After discussion, it was decided to increase the Consulting Services by \$1,000.00 to \$6,000.; to eliminate a CIP for 1995; and to increase notices from \$700 to \$900. Total proposed budget for 1995 **\$22,000.00.**

**8:30 PM Planning Board General Business**

a) Due to conflicting schedules, PB members did not set a definite date at this meeting for a site walk of James Monahan's Laurelcrest Drive. Road Inspector Dennis La Bombard said he had to items to report to the PB regarding road construction on Laurelcrest Drive.


- 1.) Next Monday (10/10/94) Mr. Monahan plans to haul excess sand from the site because there is no on-site use for as much sand as they found during road construction.
- 2.) Mr. Monahan wishes to be relieved from the requirement for placing crushed gravel beneath the base coat of asphalt. He would like permission to screen the on-site excavated gravel and use it instead of crushed gravel. Dennis felt this would provide an acceptable base of gravel, and he will inspect to make sure of the quality being used.

PB members agreed to both of these items.

- 3.) Planning Board reviewed Road Inspector Bill Duncklee's letter of 8/29/94 regarding some field changes in the road grade on Mountain Road being requested. PB members were in agreement with Bill's letter recommending these changes, and will respond to him.

9:20 PM Peter made a motion to adjourn the meeting. Dennis seconded the motion. Vote was in favor of adjournment 4-0.

Submitted by:

  
Sandra L. Fessenden, Secretary  
Brookline Planning Board



(603) 673-8855

TOWN OF  
**BROOKLINE, NEW HAMPSHIRE**

P.O. Box 360  
Brookline, NH 03033

*Selectmen*

**PLANNING BOARD MEETING**

October 20, 1994

**PRESENT:** Peter Webb, Chairman, Voting  
Rich Napolitano, Vice-chairman, Voting  
Joe Kagenski, Voting  
Judy Cook, Selectmen's Representative, Voting  
Dennis La Bombard, Alternate, Voting for Chris  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

**7:30 PM Planning Board Business Meeting**  
Chairman Peter Webb called the meeting to order.

**David & Theresa Santuccio, 58 Old Milford Road, Non-Residential Site Plan Review, Case #1994-C:F-22-3**  
Mr. & Mrs. Santuccio were present with a plan to convert 1 stall of a 2-stall attached garage into a beauty salon. Mr. Santuccio said he will replace the garage door with a window and a door. The septic system was designed for a 4 bedroom house. There are 3 bedrooms. A sign no larger than 2' X 2' will be put at the end of the driveway. The water supply from the well is adequate for both the house and the salon.  
**Peter** read the zoning definition of "Home Business", and asked how many employees there will be. Mrs. Santuccio said she will be the only employee. No more than 2 clients will be present at a time. There is adequate parking for 8 cars at the bottom of the 360'-long driveway.  
**Abutters comments:** No abutters were present.

**MOTION** Peter made a motion to accept the plan as presented. Rich seconded the motion. Motion to accept the plan 5-0 yes. Dennis checked the septic design to make sure the system would handle the proposed use. He found the septic system size adequate for the proposed usage (3 bedroom house needs- 450/gpd; and the hair salon- 150/gpd).

**Judy** said to make sure the sign is totally on their property and won't block sight distance onto Old Milford Road.  
**MOTION** Judy made a motion to approve the site plan presented. Rich seconded the motion. Affirmative 5-0 vote for the site plan.

**7:50 PM** Minutes of the October 6, 1994 PB meeting were reviewed.  
**MOTION** Peter moved to accept the minutes as written. Dennis seconded the motion. Vote to accept was 3-Yes, 0-No, 2-Abstentions (Rich and Joe not at the 10/6/94 meeting).

**MOTION** Minutes of the September 20, 1994 meeting were reviewed. On a motion by Peter, seconded by Judy, it was a vote of 3-Yes, 0-No, 2-Abstentions (Peter and Dennis not at the 9/20/94 meeting) to accept the minutes as written.

**8:00PM**      **Public Hearing-Gravel Excavation by the Town of Brookline from Lot J-9-2, Averill Road.** Peter Webb opened the public hearing and read the published legal notice. He asked Jeremy Ginsberg of the Nashua Regional Planning Commission to give background information on the Town's excavation of gravel from lot J-9-2 for use on town road construction and maintenance projects. **Jeremy** said the Board of Selectmen had sought Town Counsel William Drescher's opinion before allowing Road Agent Clarence Farwell to begin gravel excavation for the town's road maintenance and construction project on Mason Road. The selectmen said it was Mr. Drescher's opinion that under RSA 155-E:2,IV, a municipality could excavate gravel without a permit. A copy of the pit agreement and a reclamation plan must be on file with the regulator (PB) and comply with the town's gravel operation regulations.

**Selectman Bennett Chandler** was present. He said the Town was given mineral rights to excavate gravel from Lot J-9-2, and began excavating gravel to be used on Mason Road.

**Road Agent Clarence Farwell** said he had finished using the gravel for Mason Road, and had made an agreement to exchange bank run gravel for crushed gravel with Tam-Char, Inc. who is building the road in the Birch Hill Estates, II subdivision. The selectmen had agreed to the exchange, and Tam-Char would crush the gravel needed for next year's town road projects.

**8:05 PM**      At this time, Peter said there could be a conflict of interest with Judy, as a selectman, voting on this issue. Judy recused herself from the PB voting on the excavation public hearing. Voting members were: Peter Webb, Chairman; Rich Napolitano, Vice-chairman, Joe Kagenski, and Alternate Dennis La Bombard. **Jeremy** said the Selectmen had placed voluntary restrictions concerning operational times, stressing caution and traffic safety. (see attached letters of Oct. 11 and Oct. 12).

**Abutter's comments:**

**Abutter John Laub** (Lot J-9-1) asked where the gravel now being hauled was going, and was it being used on a town road project? He questioned the town's bartering of the gravel; and said that for 6 days, 5 different trucking companies had been hauling gravel from the site.

**Judy** answered that she had followed some of the trucks to Mountain Road. Mr Laub wanted to know if Mountain Road was a town road. Judy said the section of Mountain Road now under construction is not yet a town road.

**Peter Webb** asked if there is a genuine economic benefit for the town derived from this operation.

**Ben Chandler** answered that it would cost the town between \$20,000. and \$30,000. for the same amount of crushed gravel they have bartered for. To crush 4,000 cubic yards of gravel will require a crushing operation of 3-4 days.

**Abutter Susan Laub** said the level of noise from the gravel excavation over the last 6 days is not acceptable to her; and asked if the gravel crusher will be located on lot J-9-2.

**Ben** answered yes, the gravel will be crushed on site. This will save the cost of hauling the gravel from the site to a crusher and back again.

Pat Smith of 63 Cleveland Hill Road asked if Peter would read the 2 letters sent to Clarence Farwell from the selectmen. Peter read the Oct. 11th and Oct 12th letters to the audience. Pat stated that she had spoken to one of the school bus drivers who was nearly involved in two separate accidents in front of the pit location. Pat questioned why the hours of operation had been changed and included those times when the school buses were operating?

**Judy** answered that the selectmen had set the initial time of operation until the PB could meet and establish hours of operation, taking into consideration the school bus schedule.

**Abutter J. Edwin Carter** asked if there were specific NH State regulations regarding permissible noise levels for excavation operations within a residential area? **Peter** said he was not aware of any state laws regarding decibel levels.

**Rich** said Clarence had said the frequency of rock crushing would only be 2-3 days per year over the next five years. Resident John Ganos of Averill Road said he had met with the selectmen and he had attended the Sept. 20th PB meeting. He reiterated that many people were unaware that this operation was going to be done. He questioned the town's need to conduct the gravel operation, and said the public's view was that the bartering of goods to a private company was not in the spirit of the regulation allowing the town's exemption from its zoning ordinance which prohibits excavation in a residential zone.

**Ben** and **Judy** explained that the exchange was a one-time agreement. No gravel is being sold, and the exchange of gravel for the crushing service was sanctioned by the selectmen in order to save tax dollars.

Mr. Carter asked if the crushing could be done at some other location. He said he and other abutters have real concerns regarding dust, traffic safety, hours of operation, and noise level. He said the PB should take into consideration the rights of the abutters and their concerns when regulating this operation. He restated his belief that there are state standards of noise levels which the PB should look into.

**Peter** then said he questioned whether the selectmen had the authority to enter into an exchange agreement.

Abutter John Laub said that after attending the Sept. 20th PB meeting, people were led to believe the gravel excavation was finished for this year. Then, beginning on October 10th, for the next 6 days between 200 and 250 loads of gravel were removed from the site.

John Ganos said bad feelings were caused by this, and there have been no assurances given to the residents that the town's excavation regulations have been followed.

- 8:35 PM** **Peter Webb** then referenced State Statute 155-E-2, IV. It was his opinion the town has to follow Sections a), b) and c) of this statute. He felt the town would need a variance from the ZBA in order to excavate gravel in a residential zone under Brookline's local zoning ordinance.
- Judy Cook** said town counsel had been consulted, and it was his opinion that the town would only be required to adhere to the excavation reclamation regulations.
- At this time, **Rich** suggested we table this hearing and seek a written opinion from town counsel regarding this issue.
- Joe** wanted the hearing adjourned rather than tabled so that if a new hearing is held, a public notice is published and direct abutters will again be notified by certified mail.
- Peter** said the gravel operation should be closed pending a written legal opinion from town counsel. If the determination is that the town needs a ZBA variance, the PB will have to wait for the ZBA's decision before acting upon operational and reclamation requirements.
- Judy** said the selectmen will ask Clarence to clean up the area that has been disturbed. She suggested having a joint meeting between the selectmen, planning board and town counsel.
- Peter** said he is uncomfortable with Mr. Drescher representing both the Selectmen (as applicants) and the Planning Board (as regulator). **Joe** said he is not opposed to such a meeting.
- 8:47 PM** **Peter** said no further excavation will be done at this site until the legal problem is resolved. He made a motion to postpone this hearing till a later date. **Rich** seconded the motion. No vote was taken. Clarence asked to poll the PB members.
- MOTION** **Joe** then amended the motion to adjourn this hearing to ensure that abutters are notified by certified mail and the hearing will be posted with a legal notice. **Peter** seconded the amended motion. Vote taken was 4-0 yes to adjourn this hearing pending a written opinion from town counsel.
- 8:55 PM** **James Monahan, Laurelcrest Drive, Subdivision Case #1993-7.** Mr. Monahan was present to inform the PB that he has sold the entire subdivision project to Starter Homes, Inc. He has retained the open space which will be dedicated to the Town of Brookline; and he will completely construct the road. It is his intention to have the entire road finished with the base coat, all culverts, ditch lines, fire pond (with access road cut in), and bounds in place this fall. He was delayed in getting state permits; and then ran into a large sand deposit in the area of the access into the open space area. This sand has to be removed from the site, and has delayed construction of the road. He asked PB permission to allow building permits to be drawn on the two ends of Laurelcrest Drive when they are at the subgrade level. He will bond for the completion of the entire road which he intends to have finished this year. He will bond the road and not place the finish coat for another 3 years, when home construction on the lots has been finished.



**Dennis** said this would create 2 dead-end roads, and would create a safety problem for emergency services.

Mr. Monahan said the road base will support all emergency vehicles, and the access road for fire pond will be in. He does not foresee a problem with access for the entire roadway.

**Joe** said the PB's requirement for a through road from Wallace Brook Road to Route 13 had been an issue when previously discussing the development of land adjoining the Wallace Brook subdivision. The PB has a 1,200 foot limit to single-ended roads for safety issues to access those houses furthest in.

**Peter** said if the road were completely bonded it would be a non-issue, with the Town being able to call the bond and finish the road if need be.

**Clarence** suggested the entire road be plowed this winter.

**Judy** asked if they would be getting building permits this year for any of the lots?

Mr. Monahan said they would probably begin building from the Route 13 end at Sta 36+50 to approximately the end of lots J-39-8 and J-39-41. At the Wallace Brook end, down to Sta 60+0 (lots J-39-30 and J-39-16). He asked to come back to the PB next month to report on the road construction, and to have an estimate amount for the road's completion in order to set a bond amount.

9:22 PM

**Mark Howarth, Fine Lines Auto Body, 194 Route 13 North, Lot C-38.** Mark was present to informally discuss a proposal to replace an existing shed and a tent with 2 new buildings. In order to do this, he would need to get a variance from the 30' rear setback (toward Quimby Road). He had pictures of the site, and said the new buildings would be much neater in appearance than the temporary structures he uses to shelter cars while they are being painted. He would have adequate parking, and would not reduce the front setback onto Route 13.

**Jeremy** said he had met on-site with Mark this morning. The triangular shape of the lot makes it difficult to develop. Jeremy noted that Fine Lines has maintained 2-30 foot setbacks, one on the front and one on the back. If a variance could be obtained for the rear setback, the proposed buildings could be added and both of the tent structures could be eliminated. There would be no increase in the number of employees and septic requirements.

**Dennis** reviewed the proposed plan and noted that the existing septic system would have to be moved to put in a new building because of the state requirement that the septic be a minimum of 5 feet from a building without a basement and underdrains.

**Rich** asked if the proposal conformed with the site coverage requirements in the non-residential regulations.

**Jeremy** said it would conform. Everything is out of the right-of way; and Mark has just worked with the State regarding 2 driveway permits.

Joe asked about a visual buffer along Route 13.

Mark said he wanted to plant trees, but the state said no because it would be a site barrier to traffic on Route 13.

Peter said the plan is generally favorable with the PB. He said Mark should first apply to the ZBA for a variance, and if granted return to the PB for the site plan review.

**9:50 PM Planning Board Business Meeting**

**c) Site Walk for Laurelcrest Drive-** PB members scheduled a site walk for **Sunday, October 30, 1994 at 2:00 PM.** Members to meet at the Wallace Brook End, next to Joe Kagenski's house.


**MOTION**

**d)** On a motion made by Dennis and seconded by Peter, PB members voted 5-0 to accept the 1994 update of the Capital Improvements Program. PB members thanked Jeremy for his hard work in preparing this document to be presented to the Board of Selectmen and the Finance Committee in time for the budget hearings in November.

**e) Review Site Plan Regulation Changes-** It was decided to table this item till the next meeting.

**9:55 PM  
MOTION**

Dennis made a motion to adjourn the meeting. Judy seconded this motion for adjournment. Vote was 5-0 to adjourn.

Submitted by:   
Sandra L. Fessenden, Secretary  
Brookline Planning Board



Made part of the 10/20/94 P.Bd. minutes *Corr like*  
TOWN OF *DLF*

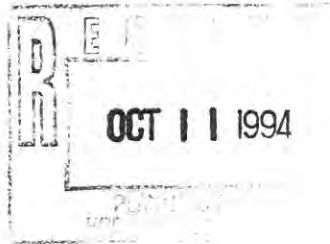
**BROOKLINE, NEW HAMPSHIRE**

P.O. Box 360  
Brookline, NH 03033

(603) 673-8855

**COPY**

October 11, 1994



Mr. Clarence Farwell  
88A Old Milford Road  
Brookline NH 03033

Re: Gravel Operation, J-9-2, Averill Road

Dear Clarence:

Until the planning board acts to set hours of operation and/or operating procedures, the following rules are to be in effect for the gravel operation at lot J-9-2 on Averill Road:

1. General hours of pit operations shall be Monday through Friday from 8:00 a.m. to 5:00 p.m.
2. Gravel trucks are permitted on Averill Road and Cleveland Hill Road Monday through Friday only between the hours of 8:30 a.m. until 2:30 p.m. and 4:00-5:00 p.m.
3. No crushing.

Very truly yours,

Board of Selectmen

*Russell Heinselman (R)*  
Russell Heinselman  
Chairman

RH/rjd

✓cc: Brookline Planning Board



Made part of the 10/20/94 P Bd minutes

TOWN OF  
BROOKLINE, NEW HAMPSHIRE

P.O. Box 360  
Brookline, NH 03033

(603) 673-8855

COPY

October 12, 1994

Mr. Clarence Farwell  
88A Old Milford Road  
Brookline NH 03033

Re: Gravel Operation, J-9-2, Averill Road

Dear Clarence:

Until the planning board acts to set hours of operation and/or operating procedures, the following rules are to be in effect for the gravel operation at lot J-9-2 on Averill Road:

1. General hours of pit operations shall be Monday through Friday from 7:00 a.m. to 3:30 p.m.
2. During the first and last hour of operation extreme caution should be used in traveling on town roads as these are the times buses are picking up and unloading children.
3. No crushing.

This letter supersedes our letter dated October 11, 1994.

Very truly yours,

Board of Selectmen

Russell Heinselman  
Chairman

RH/rjd

✓ cc: Brookline Planning Board

j-9-2a



(603) 673-8855

*Selectmen*

**TOWN OF  
BROOKLINE, NEW HAMPSHIRE**

P.O. Box 360  
Brookline, NH 03033

**PLANNING BOARD MEETING**

November 1, 1994

**PRESENT:** Peter Webb, Chairman, Voting  
Joe Kagenski, Voting (arrived at 8:00 PM)  
Judy Cook, Selectmen's Representative, Voting  
Dennis La Bombard, Alternate, Voting for Chris  
Margaret Olson, Alternate, Voting for Rich  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

**7:30 PM Planning Board Business Meeting**  
Chairman Peter Webb called the meeting to order. Minutes of the October 20, 1994 PB meeting were reviewed. Amend Page 4, Line 1, to read: "**Peter said "Attorney Drescher is mistaken in his interpretation that the Town is exempt from its zoning as regards the gravel operation in a residential zone." He then referenced.....**" Peter made a motion to accept the minutes as amended. Dennis seconded the motion. Vote to accept the minutes as amended 4-0. (Joe not present)

**MOTION**

**7:45 PM Bob Bourassa, Talbot-Taylor Estates Partnership.** Bob was present to discuss with PB members acceptance of the second phase of Taylor Road. He had spoken with Road Inspector Bill Duncklee and Road Agent Clarence Farwell. Given the time of year both felt it would be better not to put down the second coat this fall. Bob asked if the road could be accepted by the town if everything but the second coat of asphalt was done this fall, and a bond was in place for the paving. He said any damage to the road during construction of houses would be repaired before the final coat of pavement was placed. The end result should be a much better road surface.  
**Dennis** said he was uncomfortable with town acceptance of the road until the road was entirely complete. Margaret agreed with Dennis. **Judy** pointed out that school buses would not pick up children on unaccepted roads; and the Post Office would not deliver mail until the town accepted the road.  
**Dennis** asked how the town would be protected against future road construction price increases, particularly in the event that an inadequate amount of bond was being held?  
**Margaret** said the PB has not in the past followed a policy of requiring all houses to be built before the top coat of paving

was done. She said she was not sure we could require all lots to be sold and built on in a specific time period; and she did not favor holding a bond for an indeterminate length of time. **Judy** said she thought the town would have less problems with road damage using this alternative method. She cited problems on Captain Seaver Road which had been damaged, and finally resulted in the top coat having to be patched.

**Margaret** said this is a new bond approach and the PB should look carefully into implementing it. She felt there should be a definite time limit set for the road completion. The bond should be adequate to cover any cost increases; and the PB should periodically review the bond with the ability to make adjustments, when needed, to the amount of bond being held.

**Judy** said it would only apply to the top coat of pavement. All other items associated with the road should be complete.

**MOTION**

**Margaret** made a motion to accept a finding that "PB members after some discussion found that in general the Town is better served by accepting roads prior to the final application of the top coat, with bonding for the top coat provided; rather than requiring developers to complete the road prior to acceptance. This will minimize damage to the road during house construction by allowing developers to receive benefits of having an accepted road as house construction proceeds. Only the top coat will be bonded in this manner. Depending on circumstances, the top coat bond will be for 1 year and extended by the PB on the recommendation of the road inspector and the road agent." **Judy** seconded the motion to accept this finding. Vote was 2-Yes (Judy and Margaret); and 3-No (Joe, Peter, and Dennis) Motion failed.

**8:25 PM**

**Review & Discuss proposed Site Plan Regulation changes**

**Judy** said in **Section 4.6.06, a)** There should be a statement added regarding the method of planting so that adequate space is left to accommodate both the root structure and canopy of those trees planted in the parking lot areas.

**Joe** said there should be wording added to ensure maintenance of the trees and shrubbery planted in the landscaped areas.

**Section 4.6.07**-change to read: "**Peripheral landscaping may be required along .....**" It was decided that existing trees may be used if they are of an adequate size and type.

**Jeremy** will make the suggested changes to the proposed site plan regulation changes. PB members decided to hold the public hearing on Tuesday, December 6, 1994.

**8:45 PM**

**Proposed Zoning Changes for March 1995 Town Meeting**

**Jeremy** said the driveway ordinance draft is ready for public hearing. He said he will be checking with **Bill Drescher** on the street numbering ordinance to see if it can be adopted by the selectmen after a public hearing; or if it has to be added to the zoning ordinance; or if it becomes part of the building

code. He has reviewed with Wes Whittier all the information regarding establishing a street numbering system for Brookline, to be used in conjunction with the enhanced 911 Emergency System which will be operational in 1995.

PB members reviewed the schedule for the required public hearing dates on zoning changes. It was decided to hold the first public hearing on Tuesday, December 6, 1994. This will allow for the possibility of 3 public hearing dates, if needed, before the deadline of February 6, 1995.

**9:00 PM Review Data for Article XVI, Growth Management Ordinance.**

Jeremy passed out copies of a memo regarding the growth ordinance. His data included the number of building permits issued through 10/31/94 (28) for new homes. He and PB members discussed his conclusions and recommendations for 1995. PB members felt that a public hearing date should be scheduled for the annual review of the ordinance. It was decided to hold this on Tuesday, December 6, 1994.

**9:15 PM Laurelcrest Drive site walk**

Dennis, Joe and Peter met on Sunday, October 30th, and reviewed the construction progress of Laurelcrest Drive. Margaret had been to the site at another time, and said the area of the wildlife crossing was wet and was not what she had anticipated it would be. Joe said the stump dump area was less than he thought it would be, unless there are more stumps to be moved there. He said that the Hollis Construction truck traffic was exiting out onto Wallace Brook Road, making a loop in (from Route 13) and out of the site while removing the excess sand. He said it was the PB's requirement that the road construction vehicles entered and exited from Route 13. Dennis said he will speak to the construction crew who may be unaware of this restriction.

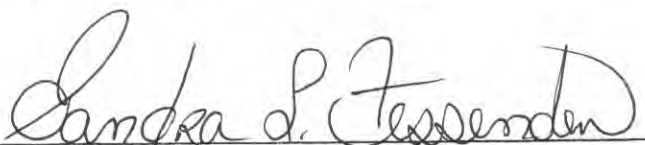
PB discussed some of the items they need to review with Mr. Monahan at the November 15th meeting:

- 1) The road easement across the Bagley property (J-41)
- 2) Conservation Easement
- 3) Open Space dedication
- 4) Fire Engineer's OK for the fire pond and access road.

**9:50 PM** Peter made a motion to adjourn the meeting. Joe seconded the motion. Vote was 5-0 yes to adjourn.

**Next Planning Board Meeting, Tuesday, November 15, 1994.**

Submitted by:



Sandra L. Fessenden, Secretary  
Brookline Planning Board



(603) 673-8855

TOWN OF  
**BROOKLINE, NEW HAMPSHIRE**

P.O. Box 360  
Brookline, NH 03033

*Debetman*

**PLANNING BOARD MEETING**

**September 6, 1994**

**PRESENT:** Peter Webb, Chairman, Voting (Arrived at 8:30 PM)  
Rich Napolitano, Vice-chairman, Chaired meeting  
Dennis LaBombard, Alternate, Voting for Rich  
Bob Chisholm, Alternate, Voting for Chris  
Margaret Olson, Alternate, Voting for Peter  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

**7:30 PM Planning Board Business Meeting**  
Rich called the meeting to order. Minutes of the August 16, 1994 PB meeting were reviewed. On Page 1, 9:45 PM, Line 15, change to read: "**being 10 permits. Mr. Monahan then withdrew his plan for phasing.....**"

**MOTION** Dennis made a motion to accept the minutes as amended. Bob seconded the motion. Vote was 3-Yes, 0-No, 1 Abstention (Rich absent 8/16/94) to accept the minutes as amended.

**7:40 PM David & Theresa Santuccio, 58 Old Milford Road** were present to discuss plans to convert 1 stall in their garage to a hair salon for Mrs. Santuccio to operate a home business. Mr. Santuccio said they had designed the home and the septic system with this future use in mind. The septic system was designed for a 3 bedroom house and a 1 station hair salon (50 + gallons per minute capacity). Dennis said he would like to see the state septic approval. Rich said a formal non-residential site plan review should be done which would include notifying abutters, a copy of the septic design, state licenses, a sketch of the layout and the location and sign size. A public hearing will be scheduled for October 20th. Cost will be \$20.00 review fee, \$10.00 application fee, abutter mailing, and Jeremy's time.

**7:55 PM Daniel & Sandra Pelletier, Lot D-76, Route 13 North-**  
Mr. & Mrs. Pelletier met with PB members to discuss their new business located at Linda Holmes property. They are opening a wood and gas retail stove business. There will be no storage of fuel on site, and it is mainly a small inventory for display. There will be no warehousing. There will be 2 or 3 employees at peak times (Mr. & Mrs. Pelletier and a chimney sweep/repairman. The hours of operation will be 10:00 am till 5:00 pm (8:00 pm Thursdays) weekdays; 9:00 am to 5:00 pm Saturdays; and 12 noon till 5:00 pm Sundays. The only exterior change was done on the front (cultured stone) for cosmetic reasons.



Rich said a problem at this site has been the parking, with traffic spilling out into the state's right-of-way. Mr. & Mrs. Pelletier said they had been given a copy of the site plan which shows the approved parking areas. The new sign conforms to the ordinance, and they have checked with the state to make sure of the location for the setback. Margaret, Rich and Dennis all feel this is a better non-intensifying use of the site, and would not require a new site plan review at this time.

**8:10 PM Adoption of Brookline Planning Board By-laws update.**  
**MOTION** PB members reviewed the 9/6/94 draft of the planning board by-laws. Margaret made a motion to accept the Brookline Planning Board By-Laws dated 9/6/94. Dennis seconded the motion, which carried by a 4-0 yes vote.

**8:15 PM Site Plan Regulation Changes.**  
PB members reviewed the 9/6/94 draft of changes to the site plan regulations. It was suggested that 4.6.05 be changed to read: "**Parking areas shall be located between the rear or side of the principal structure. Parking.....**" Discussion focused on how to better phrase the landscaping and tree covering requirements. It could be worded to include "**with shade trees of two (2) inch diameter or eight (8) feet in height.**" It was also suggested that the existing section 4.7.08 of the site plan regulations be added to this section. **Section 4.9 Sidewalks**-Jeremy will check with the state to see about 4.9.02 (as regards right-of-way). It was decided to change 4.9.03 to read: "**The sidewalk's use and maintenance belong to the landowner.**" Section 4.9.04 change to read: "**....paved or gravel access ways shall be provided.....**"

**8:35 PM Proposed Zoning Ordinance Changes for March 1995 Town Meeting.**  
**a) Driveway Ordinance-** Jeremy handed out new revisions for PB to review. Road Agent Clarence Farwell and Building Inspector Wes Whittier have been given copies for their input. PB to further discuss this at the 9/20/94 meeting.  
**b)** Jeremy said he is checking to see about the street numbering system for the enhanced 911 system. It may be that a numbering requirement will be a part of the building code rather than a separate ordinance item.

**Planning Board General Business**

PB discussed briefly the problem being encountered by "future access roads" being used as driveways until the roads become built. It will be addressed at a later time.

Peter said he was still interested in exploring the concept of a town center survey and availability of elderly housing. A long range project may be to foster a new commercial area as well as a more central use of Main Street.

9:05 PM Dennis made a motion to adjourn the meeting. Joe seconded the motion. Vote was in favor of adjournment 5-0.

Submitted by:



Sandra L. Fessenden, Secretary  
Brookline Planning Board



(603) 673-8855

*DeLoatman*

**TOWN OF  
BROOKLINE, NEW HAMPSHIRE**

P.O. Box 360  
Brookline, NH 03033

**PLANNING BOARD MEETING**

November 15, 1994

**PRESENT:** Peter Webb, Chairman, Voting  
Joe Kagenski, Voting  
Judy Cook, Selectmen's Representative, Voting  
Dennis La Bombard, Alternate, Voting for Chris (arrived at  
9:15 PM)  
Margaret Olson, Alternate, Voting for Rich  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

**7:30 PM Planning Board Business Meeting**

Chairman Peter Webb called the meeting to order. Minutes of the November 1, 1994 PB meeting were reviewed. Peter made a motion to accept the minutes as written. Judy seconded the motion. Vote was 4-0 yes.

**7:40 PM**

Peter told the other PB members present that Jeremy Ginsberg will be leaving the Nashua Regional Planning Commission to accept a new job in Darien Connecticut. Peter made a motion for the Brookline Planning Board members to publicly thank Jeremy for his patience, hard work, dedication and assistance to our board and other town boards over the last six and one half years. We formally thank him and wish him the best of luck in his new endeavor. He will be greatly missed. Margaret seconded the motion.

**MOTION**

Vote taken was 4-0 to draft a formal thank you to Jeremy.

**7:43 PM Road Bonding Discussion**

**a) James Monahan, Laurelcrest Drive-** Mr. Monahan was present to discuss a construction bond amount for Laurelcrest Drive. (Joe as an abutter recused himself) Joe asked what items are still left to do on the road.

Mr. Monahan listed the following outstanding items:

- 1) Final coat of asphalt is not done.
- 2) Seeding of the slopes will be done next spring.
- 3) Excess sand material-Sta. 36+50 to Sta. 62+00 is where fill is being removed. In another week he estimates half of the fill section will be done to grade. He will put the gravel on this section and then remove the other half of the sand. By Christmas, all the excess sand should be removed, and that section will be graveled. The road will be passable and will be plowable this winter. The base coat of asphalt will be put down next spring on this section.
- 4) Work will be started on the fire pond Monday 11/21/94.

- 5) Reclamation of the stump dump remains to be done.
- 6) Culverts are in except for 1 at the stump dump area.
- 7) Bounds are in on the Route 13 end. On 11/21/94 the remainder will be set on the Wallace Brook Rd. end.
- 8) Signs-street and stop signs will be ordered.

**Peter** asked about the conservation and open space easements. **Jeremy** asked if legal paperwork is forthcoming from the Bagleys for the portion of road that crosses their property. Mr. Monahan said he has a signed agreement with the Bagleys' attorney regarding the road. (see attached).

**Peter** asked about the access to John Edfors' land, Lot J-40 which does not have a defined access area across Lot J-39-47. Mr. Monahan said no deeded access now exists to this lot in any of the property deeds his attorneys have researched.

**Judy** read a portion of the 4/19/94 PB meeting minutes pertaining to Edfors' access (see attached). **Joe** said the Edfors have to have the ability to get onto their property.

Mr. Monahan said he has provided an ability for the Edfors to access their lot. They must negotiate with him as to a mutually agreeable access point from lot J-39-47 since he is not required to build an access road to their property line.

#### **New Concept of Road Acceptance**

**Peter** said he is open to the basic concept of having the road accepted by the town when all items are completed except for the top coat of asphalt, which must be bonded for.

Mr. Monahan said he will be bonding for the final coat of asphalt, with the bond to be reduced in the spring for the other outstanding items.

**Jeremy** suggested 2 bonds-1 a fixed bond for the second coat of paving and one for the other road construction items.

**Judy** said the bond for the top coat must be adequate to cover the cost of paving at a future date.

**Joe** said he would like "Private Road" signs placed per the regulations, since this is a private road. (PB members voted no to requiring "Private Road" signs.)

**Jeremy** asked if the making of a parking area next to lot J-56 as an off-site improvement has been done. The answer was yes. Mr. Monahan said Road Inspector Dennis La Bombard was working up estimates for the bond, and he had hoped Dennis would have them available for tonight's meeting.

- 9:20 PM b) **Bob Bourassa, Taylor Drive, Phase II**-Bob asked PB members if they have made a decision on the concept of road acceptance by the town for roads with only 1 coat of asphalt. He said there are 3 families living in the phase II area of Taylor Drive, and he would like to have the road accepted this fall. **Judy** and **Margaret** said they were in favor of the new concept. **Peter** said he is inclined to favor this new idea. **Judy** explained that school bus and mail delivery are unavailable to new homes until the road is accepted.

Road Agent Clarence Farwell was present, and was asked for his input on this new concept. Clarence said he doesn't totally agree with it because with only 1 coat of pavement damage is likely to occur from winter plowing. Clarence asked if all other items have been completed on Taylor Drive. He and Mr. Bourassa discussed some other items still remaining.

**Joe** made reference to the fact that the Town becomes liable for the road once it is accepted and open to public traffic. He noted there is construction debris left on Taylor Drive which can't be burned and should be removed. **Jeremy** said the town needs a written easement for the conservation area which is to be given to the town.

**Judy** said if the PB adopts this new concept of accepting roads the only thing that can be left to finish is the top coat of asphalt. It must be bonded for, and must have a definite date of completion specified in writing and approved by the PB.

**c) Alan Lorden, Steven Desmarais, Lorden Lane & Rockwood Road, Wildwood Heights/ "Elevations" subdivision.** Alan Lorden and Steve Desmarais were present to ask for road acceptance for Lorden Lane, Phase I (entrance off Route 13), and Rockwood Road, Phase II. He said there are 3 bounds to be placed and the top coat of pavement. Clarence in reviewing the plan noted that lot J-17-13 does not have 200' of paved road frontage. In order to get a building permit for this lot, they will have to bring the additional section of road up top the sub grade level and pave or bond for it. They want to get a bond amount set for the top coat so that they can get building permits for Lots J-17-13, -14, -15, -16. PB members agreed they will have to provide the required 200' of frontage for Lot J-17-13 before they can get a building permit. Steve said they don't as yet have a bond estimate from Road Inspector Bill Duncklee.

PB members said they would also need to have deeds for the roads to be accepted (first section of Lorden Land and for Rockwood Road); and they will need a bond estimate from Bill. Peter asked to have Bill at the 12/6/94 meeting to discuss road status.

Jeremy said he would recommend them getting 2 bond estimates- 1 for each phase.

**9:10 PM Bingham Lumber Co., Inc., Non-residential Site Plan Review N.R.S.P. Case #1994-E:H-90.** Don Bingham was present with a proposal to combine and expand an existing shed and building. He is expanding the sawmill and relocating the chip bin to make it larger and keep in under cover of a roof. He will be getting some additional equipment, but primarily it is the same operation with newer, more efficient equipment. The new saw makes less sawdust. They will get 10% to 15% more lumber per log. Don said the floor would be concrete with no drains. The saws are electrically powered with no oil or grease other than a lubricating oil. He will be adding new equipment-a re-saw, a board-edger and a chipper. There will be no change in

the hours of operation. There is no fuel exhaust (electric motors), less sawdust, and less noise even with another 6 saws running, because they will all be inside a building. He anticipates adding 4 or 5 more employees.

**Joe** asked about the existing septic system's capability. Don said they currently have portable toilets down back in the area of the sawmill; and permanent facilities in the office.

**Dennis** asked if it was a state approved system; and how many employees was it designed for?

Don said he has an approved septic design, but is unsure of its maximum capability. Originally he had 20 employees. There are now 42 (5 or 6 are in the office); but not all employees are on-site all the time (truck drivers often absent).

**Peter** asked if we have to determine the septic system issue for this site plan review? **Dennis** and **Joe** felt it was important to establish the existing septic system's capability if more employees were added and the business was increasing. Don asked if portable facilities would suffice until a new system could be built in the spring if necessary. PB members said conditional approval could be given with a compliance hearing for the septic scheduled as a follow-up.

9:30 PM  
MOTION

Peter made a motion to accept the plan as presented. Judy seconded the motion. Vote was 5-0 yes for plan acceptance.

Clarence asked if a conditional approval could be granted so building construction could begin this fall.

**Jeremy** said a building permit could be given with PB approval conditional for the septic issues.

**Joe** said a compliance hearing could be scheduled for either 6 or 9 months from now. This would allow time for an inspection of the existing septic design plans as well as an employee profile review. If the existing system is determined to be inadequate after reviewing the septic design, and the applicant agrees to make any change to the septic system necessary to comply with the current regulations; the PB could grant a conditional approval of the site plan.

9:35 PM

Judy made a motion to grant conditional approval to the Bingham site plan subject to the following:

- 1) On December 20, 1994 the applicant comes in with current septic plans and the number of employees.
- 2) Dennis will review the septic plans. If the system is in compliance with current state regulations, no further action is necessary. If the system is inadequate, a new state approved septic plan must be designed, and the new system must be built prior to the compliance hearing.
- 3) A compliance hearing will be scheduled 9 months from now (August 1995).

4) If the current septic system is inadequate, temporary portable toilet facilities will be installed until the new septic system is installed.

Peter seconded the motion. Vote was 4-Yes; 1-No (Margaret).

**9:50 PM** Alan Lorden and Steve Desmarais asked to readdress the PB. Alan said they need to be able to obtain building permits, and they were willing to post an additional \$40,000.00 bond with the town if this is acceptable to the PB. They will come back to the PB on 12/6/94 with a bond estimate. Steve says there is approximately \$4,000.00 left of work to do.

**MOTION** Margaret made a motion to accept a \$40,000.00 bond (letter of credit) for a 1 year time frame; with a letter from Road Inspector Bill Duncklee within 5 days from today agreeing to the amount. Permits will be allowed for lots in Phase II- J-17-14, J-17-15, and J-17-16. A building permit for lot J-17-13 will not be forthcoming until there is 200' of road frontage at sub grade level for this lot. Judy seconded the motion. Vote was 5-0 yes to accept the bonding agreement.

**10:00 PM** Jim Monahan asked to readdress the PB. He asked Dennis if he had worked out an estimate for his road bond. **Dennis** answered that he had an indeterminate amount of earth removal to factor into the estimate. Mr. Monahan said that there were 20,000 cu./yds. to be removed. Dennis said he had not been provided with the total calculations of earth materials by Meridian Land Services so that he could determine the amount remaining which must still be removed.

**Margaret** said the problem tonight is that figures aren't available to Dennis in order for him to make an accurate bond estimate for the remaining road work. **Peter** said the PB needs a responsible number to require for the bond.

**Jeremy** asked if the PB could defer to Dennis's opinion of an adequate estimate amount as a condition to setting the bond?

**Peter** questioned the time frame and if the information exists. **MOTION** Peter then made a motion to delegate to Dennis, if he agrees, the task of determining what percentage of road construction is now complete. Dennis will then factor a dollar value for completion of the road to be used as a bond estimate. An irrevocable letter of credit will be drafted for completion of Laurelcrest Drive for a 1 year period in the amount which is set by Dennis. (Dennis indicated this is agreeable to him). **Judy** seconded the motion. Affirmative vote was 4-0-1- Abstention (Dennis).

**10:20 PM** **Planning Board General Business**  
**Town Roads to be Accepted- 1) Hillside Drive Extension**  
Road Agent Clarence Farwell was present to report on the work he has done to Hillside Drive Extension this fall. He spent approximately \$1,500. of the \$3,000. escrowed amount to fix the road surface. He would like the town to retain the

remaining \$1,500. until next spring to rebuild the corner if necessary. He placed 30 tons of hot top to the 200' area in question, but feels this area may settle even more. He would like to re-evaluate this in the spring after another winter season to see if more defects in the pavement will develop.

PB noted that there is a maintenance bond on this project until 8/1/95. Road Inspector Dennis La Bombard will inspect the project to see that all the work has been completed prior to having the town accept the road.

10:25 PM 2) **Mosher Drive-** Road Inspector Dennis La Bombard had submitted a report indicating that all outstanding items have been completed on Mosher Drive. Clarence agreed. Deeds and as-built road plans have been filed with the town.

**MOTION** **Judy** made a motion to recommend to the Board of Selectmen that Mosher Drive be accepted as a town road; and that the construction bond be converted to a 2 year maintenance bond to be in effect until November 30, 1996. Margaret seconded the motion. Vote cast was 5-0 yes.

**Growth Ordinance data-** Jeremy passed out copies of a memo regarding his interpretation of the growth ordinance. He noted that the PB public hearing to determine the growth rate for 1995 will be held on December 6, 1994. He will also prepare the drafts of the proposed driveway ordinance and site plan regulation changes which will also be discussed at the 12/6/94 public hearing.

**ZBA hearing, Fine Lines Auto Body-** Joe reported that the ZBA held a hearing on November 9, 1994 which resulted in granting a variance to allow construction of a building within the 30' setback on Quimby Road. He said the plan presented indicated that the existing office building was not within the required sideline setback. He believed the ZBA may have acted incorrectly based on the information presented at that public hearing. The previous site plan approved by the PB did not include the shed and portable tents which the new building is replacing. Joe reasoned the activities that took place in the sheds are an expansion of use on a non-conforming lot; and the applicant does not have permission from either the ZBA or the Planning Board to cover these activities. Mr. Howarth should have come before the ZBA before because the ZBA now incorrectly assumed he had approval to expand his non-conforming use by adding the tent structures.

Joe suggested that the PB may wish to consider appealing the ZBA's decision on granting the variance. He said the lot size was determined to be less than 80,000 sq. feet instead of the 1.43 acres the town records showed. PB members discussed the appeals option and decided that as a board they did not wish to appeal the ZBA decision. After all zoning issues have been resolved with the ZBA, the applicant will still have to meet with the PB for a non-residential site plan review.



PLANNING BOARD MEETING  
November 15, 1994 Page 7

11:15 PM Margaret made a motion to adjourn the meeting. Dennis  
MOTION seconded the motion. Vote was 5-0 yes to adjourn.

Next Planning Board Meeting, Tuesday, December 6, 1994.

Submitted by: Sandra L. Fessenden  
Sandra L. Fessenden, Secretary  
Brookline Planning Board

Made Part of the 11/15/94 P.B.  
minutes (JLF)

APRIL H. BABBITT  
ATTORNEY AT LAW

Crest 1993-7, J-37-33  
- 39 J-60  
J-33-34

111 MAIN STREET, 2ND FLOOR  
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FILED  
JUL 19 1994  
FILE COPY

July 19, 1994

Planning Board  
Town Hall  
Brookline, NH 03033

Dear Planning Board Members:

I represent John and Laurence Bagley, the Trustees of the J & L Realty Trust who are the owners of a parcel of land located in Brookline, New Hampshire on Route 13 consisting of approximately 40 acres. This property is shown on a subdivision plan of land relative to the Laurel Crest Drive Subdivision entitled "Subdivison Plan of Land prepared for James B. Monahan, Brookline, NH" dated 3/22/94.

In accordance with your request, this is to advise you that the Trustees of the J & L Realty Trust and James B. Monahan, the owner of the parcels of land shown on said subdivision plan have executed a written agreement providing for the construction of a subdiddivision road to be known as Laurel Crest Drive to extend across James B. Monahan's land and J & L Realty Trust land from Wallace Brook Road to Townsend Road (Route 13).

Very truly yours,

April H. Babbitt

\ahb

cc. Mr. John Bagley  
Mr. Laurence Bagley

Made Part of the Nov. 15, 1994 PB minutes

(JCF)

on any wetland areas. Two stump dump areas have been shown on lot J-39 behind J-39-16 and J-39-15 on the back side of the knoll where gravel is to be taken for road construction. The new grade is to remain close to the existing grade. Land dedicated to open space are lots J-39, J-39-45, and J-39-46. By using the open space development concept, the design eliminates longer deeper lots and keeps construction closer to the road. The fire pond is shown on lot J-39 above lot J-39-46 (designated wildlife corridor). Ownership of the open space will either be conveyed to the owners of the lots in common ownership, or to the Town of Brookline. Peter said the PB had discussed having the pond come under the control of the Town of Brookline with some restrictions to be put in place for the type of use of the area.

**Abutters Comments:** Michael Beck asked if by owning the pond the town would increase everyone else's property tax?

Rich answered there should be no impact tax-wise on anyone else because buildable lots have a certain value according to information given the PB by the board of assessors.

Rick Van Deusen asked if there would be a buffer area along the pond and the area of gravel removal. He also wanted to know if a fence around the fire pond in the vicinity of the wildlife corridor would inhibit wildlife from using the crossing. Jim answered there would be a 100 foot setback limit- or no disturbance area around the pond. He said it would be very difficult to ascertain whether wildlife will continue crossing into the Townsend State Forest along the designated corridor, or would use other areas.

Russ Heinselman said the applicants should discuss with the fire engineers what they would recommend for fire protection for this subdivision. He noted there is already a fire pond in the Wallace Brook subdivision.

Rich asked if they could calculate the amount of gravel to be removed and make it a part of the plan. Jim said they will, and they will flag a line as a barrier limit. He said they were willing to include a no disturbance easement on the recording plan.

Michael Beck asked if this subdivision would be restricted as to how many lots could be developed per year. Could they be required to use Route 13 instead of Averill Road during the road construction period?

Randy said this subdivision comes under the new Growth Management Ordinance. Using Route 13 had been suggested by the PB, but they weren't restricted from using Averill Road.

Peter asked who owned the land at the Route 13 entrance.

Jim said John & Lawrence Bagley own lot J-41 and have agreed to permit a portion to be used for the road.

Peter said a written legal agreement would be needed giving rights to create the road as shown on the subdivision plan. He asked about the access to the Edfors' lot (J-40).

Jim said the applicant would retain ownership of lot J-39-47, the strip between the road and lot J-40. The Edfors would have access to their land anywhere along this strip. Rich said it has been PB policy to require access for lots such as the Edfors' so they don't become landlocked. Jim said they will have access to the lot, but there is an issue of grading to their property line to be considered. Peter said it appears that J-40 was becoming landlocked by this plan. He wants to be assured that some means of access is provided to lot J-40. He inquired about the Route 13 and new subdivision road intersection. Has state approval been granted? What is the speed limit on Route 13 at this intersection (55 mph)? Would a turning lane be beneficial? Randy said the N.H. Dept. of Transportation will make the determination regarding a turning lane. Permits have been applied for the intersection at Route 13 and for a wetlands crossing. The grade of the road at the intersection is low. Conservation Commission Chairman Ken Turkington asked if there would be an advantage to placing a box culvert under the road to provide a crossing for smaller animals in the wildlife corridor (lot J-39-46). Peter said this question should be posed to wildlife specialist Ellen Synder who has visited the site. He felt some guidance from her is needed to establish whether the PB should require this added cost for the applicant. Abutter Kathy Axel asked if the configuration of lots J-39-22 and J-39-23 provide enough buildable area on them. Jim answered that lot #22 was 2.2 Acres. The brook crossed over the back side it. The middle was large enough for the house, well, and septic. Lot #23 has 1.7 Acres, and the location of the house was shown toward the rear of the lot, but there was flexibility of location on this lot. Rich said the issue of well and septic locations become more stringent with open space development design. His concern was sighting the wells too close to the septic systems. Several abutters asked about the open space toward Hillside Drive (lot J-39-45). What would be done with it? Would the new road be a scenic road? Would there be underground utilities? Jim said overhead utilities are planned. Peter said the regulations require use of the open space to be of low impact. He said the town would have to vote at town meeting on the scenic road issue. Jim said the land's topography would not lend itself to much development because of its steepness. Peter said he would prefer not to have the road clear-cut back from the edge in a wide swath. Jim said that the cut would have to be at least 50 feet wide. The soils lend themselves to erosion, and they will have to clear back in the areas of drainage. Randy said the road profile the plan shows the limit of the cut. They can have it flagged on the ground as well.



(603) 673-8855

TOWN OF  
**BROOKLINE, NEW HAMPSHIRE**

P.O. Box 360  
Brookline, NH 03033

*Selectmen*

**PLANNING BOARD MEETING**

November 22, 1994

**PRESENT:** Peter Webb, Chairman, Voting  
Rich Napolitano, Vice chairman, Voting  
Judy Cook, Selectmen's Representative, Voting  
Dennis La Bombard, Alternate, Voting for Joe  
Sandra Fessenden, PB Secretary

**7:00 PM Non-public Session**

PB members met with Selectmen Russ Heinselman and Ben Chandler and Town Counsel William Drescher in a non-public session.

**8:30 PM Planning Board Business Meeting**

Chairman Peter Webb called the meeting to order.

1) PB members reviewed the drafts of the driveway ordinance and site plan regulation changes; and growth management ordinance data for the public hearing 12/6/94. PB members discussed the 2 memos Jeremy had written regarding the number of building permits for 1995; and how to distribute unused 1994 building permits.

2) PB secretary reported that she had spoken with town counsel regarding a street numbering ordinance. According to Mr. Drescher a street numbering regulation can be passed by an act of the selectmen after a public hearing under RSA 131:133-a. Therefore, an zoning ordinance amendment is not necessary.

3) Road Acceptance, Hillside Drive Extension-PB secretary said she had spoken with Russ Heinselman regarding selectmen's minutes of their meeting with Tom Enright and Clarence when the escrow account was set up for road repairs and completion items to Hillside Drive. Dennis has done an inspection and submitted his report. PB members agreed that Hillside Drive can be recommended for town road acceptance; and that with a maintenance bond in place until 8/1/95, any further defects to the road can be corrected with the bond. It was suggested Clarence talk to the selectmen about retaining the remaining amount in the escrow account until next spring.

**PLANNING BOARD MEETING**  
**November 22, 1994 Page 2**

**9:25 PM** Rich made a motion to adjourn the meeting. Dennis seconded  
**MOTION** the motion. Vote was 4-0 to adjourn.

**Next Planning Board Meeting, Tuesday, December 6, 1994.**

Submitted by: \_\_\_\_\_



**Sandra L. Fessenden, Secretary**  
**Brookline Planning Board**



(603) 673-8855

TOWN OF  
**BROOKLINE, NEW HAMPSHIRE**

*Selectmen*

P.O. Box 360  
Brookline, NH 03033

MINUTES  
BROOKLINE PLANNING BOARD  
TUESDAY, DECEMBER 6, 1994

PRESENT: Chairman Peter Webb, Voting  
Vice Chairman Rich Napolitano, Voting  
Alternate Dennis LaBombard, Voting  
Selectmen's Representative Judy Cook, Voting  
Alternate Margaret Olson, Voting  
Alternate Bob Sykes

Also present from Nashua Regional Planning Commission were Executive Director Don Zizzi, Jeremy Ginsberg and Gregg Gaines.

Don Zizzi introduced Gregg Gaines as Jeremy's replacement for Brookline as of next week. Jeremy has worked with our planning board for over six years; the Board expressed their appreciation with gifts and a round of applause. Judy said she feels Brookline has gotten out of the reacting stage and into the planning stage with Jeremy's help. Don said Gregg has been with NRPC for about one year and has been involved in transportation issues.

**LORDEN LANE - ELEVATIONS SUBDIVISION**

Fire Chief Charlie Corey said the first fire pond at the bottom of Lorden Lane near Route 13 is about 2,600' from the furthest lot in the Elevations subdivision. He doesn't feel it's necessary to build the second fire pond as they have 3,000' of hose and it would save future maintenance costs. The planning board agreed to eliminate the second fire pond.

**MOUNTAIN ROAD**

Charlie said he had tried the catch basin on Mountain Road and it works well; he would like a post 4' from the catch basin so it can be located in the winter.

**APPROVAL OF MINUTES**

**November 15, 1994** - Peter moved, seconded by Dennis to approve the minutes as written. Unanimously voted yes.

**November 22, 1994** - Rich moved, seconded by Peter to approve the minutes as written. Unanimously voted yes.

MINUTES  
BROOKLINE PLANNING BOARD  
TUESDAY, DECEMBER 6, 1994, Pg. 2

**PUBLIC HEARING - PROPOSED ZONING ORDINANCES**

**Driveway Ordinance**

Jeremy explained the proposed ordinance is similar to what's required in the subdivision regulations in that on a paved road, 15' of the driveway would have to be paved to keep the edge of the pavement from eroding. The ordinance would apply to all driveways in town. If the driveway were built during the winter, they would not be required to pave the 15' until spring.

Rich asked what constitutes a "temporary" certificate of occupancy; Building Inspector Wes Whittier said safety issues would have to be complete, but items such as paving don't have to be done.

Peter noted the ordinance refers to a driveway inspector; Margaret said she feels it would be anyone the town designates as the inspector.

Clarence said the idea is to protect the town right-of-way. Conservation Commission Chairman Ken Turkington asked if there was a hole in the road by a driveway, would Clarence fix it or the property owner. Clarence said if it were an elderly person who was unable to fix it, he would probably repair it.

A minor change will be made under the Grandfather Clause that existing driveways are exempt from this ordinance.

Margaret moved, seconded by Judy to accept the proposed driveway ordinance as written. Voted yes 4-1 with Rich against the motion.

**Growth Ordinance**

Margaret asked if the number of 10 building permits has changed; it was noted there was no change.

Judy said she was comfortable with 10. Rich, Peter and Bob agreed. Peter asked the number of building lots. It was noted Laurelcrest has a total of 44 and P & C has 5.

Wes said as of the end of November, 32 new homes have been built this year. Of the 32, 14 have been on Mountain Road which was allowed 27 permits; 6 in Talbot-Taylor which was allowed 8; and 2 in Elevations which was allowed 7.

Peter asked about carryovers; of the three subdivisions named above that are phased in, 20 permits haven't been used. The number allowed in 1995 is 37, plus the carryover of 20, plus 10 would equal 67 for 1995.

Clarence asked if there were any restrictions for existing lots; the answer was no.

Wes reported 2 applications have just been received for the Laurelcrest subdivision. He said it's traditional to issue a 6 month extension if the foundation hasn't been started in the first 6 months. Margaret said she felt the carryover would be 8 if no more applications come in, plus 10 for 1995 would exceed the maximum number. Rich said we weren't trying to achieve a 3% growth rate but limit the number to 3%.



MINUTES  
BROOKLINE PLANNING BOARD  
TUESDAY, DECEMBER 6, 1994, Pg. 3

Judy said we need to decide tonight what the number is for next year. Jeremy noted the ordinance said we can carryover to the next year; the Board needs to decide if we will carryover.

Rich moved, seconded by Peter to approve 10 building permits for 1995 with no carryover for the balance not issued in 1994. Peter & Rich voted yes, Dennis, Judy and Margaret voted no. Motion defeated.

Margaret moved, seconded by Judy to approve 10 building permits for 1995, plus any remaining that haven't been issued in 1994 (carryover) for the new subdivisions. Voted yes 5-0.

Peter moved, seconded by Margaret to continue the growth ordinance for another year. Voted yes 5-0.

#### **Site Plan Regulations**

Proposal is to add off-street parking, landscaping, sidewalks and pedestrian access to the regulations. Clarence asked about section 4.60.05 that the parking shall be located to the rear or side of the structure and would that apply if he were building the bank now. Rich said this is a regulation and may be waived if not appropriate.

Margaret said her goal was to have the building close to the road to be seen and not have an acre of parking visible from the road. Judy said she was aiming toward having a nice looking building with a sign on the building and parking behind.

Clarence said he disagrees for security reasons. He also disagreed with section 4.9.03 that sidewalks shall be provided for access to the lots because you now have the problem of maintaining them.

Judy suggested adding a regulation on maintenance and upkeep of the sidewalks and access ways.

Margaret, Judy and Peter said they felt sidewalks are needed.

Clarence asked if Superior Steel would have to put sidewalks to build a third building; Peter noted they were an industrial use, not retail. Jeremy will work on the retail issue and will bring it forward to the next public hearing.

Dennis said he preferred parking in the rear. Margaret and Judy suggested leaving the proposed regulation as it is and the Board can waive the regulation if needed. Ended this discussion at 9:15 p.m.

MINUTES

BROOKLINE PLANNING BOARD

TUESDAY, DECEMBER 6, 1994, pg. 4

**TALBOT-TAYLOR ESTATES SUBDIVISION**

Bob Bourassa asked for the town to accept Taylor Drive. He said the guard rail is not in, no rear bounds, the road needs the top coat and about 200' of shoulder needs some loam and seed. Road Inspector Bill Duncklee submitted a letter stating \$49,930 should complete the project. Peter asked why the guard rail and rear bounds can't be done now. It was agreed Bob will finish these items and the selectmen will schedule the public hearing to accept the road.

**ELEVATIONS SUBDIVISION**

Alan Lorden and Steve Desmarais asked that the town accept Lorden Lane and Rockwood Road in Phase I and Phase II of the Elevations subdivision. Jeremy reported the items not completed from the last meeting was the top coat on Phase I and top coat and bounds on Phase II. Road Inspector Bill Duncklee submitted a letter stating the remaining work on Phase I is \$6,050 and Phase II is \$7,436. As the bond cannot go below 10% of the construction costs, Margaret moved, seconded by Rich to allow the bond to be lowered to \$25,000. Voted yes 5-0.

The meeting adjourned at 9:45 p.m.  
Submitted by Rena Duncklee.



(603) 673-8855

TOWN OF  
**BROOKLINE, NEW HAMPSHIRE**

P.O. Box 360  
Brookline, NH 03033

**PLANNING BOARD MEETING**

December 20, 1994

**PRESENT:** Peter Webb, Chairman, Voting  
Russ Heinselman, Selectmen's Alternate, Voting  
Dennis La Bombard, Alternate, Voting for Joe  
Bob Chisholm, Alternate, Voting for Chris  
Margaret Olson, Alternate, Voting for Rich  
Greg Gaines, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

**7:30 PM Planning Board Business Meeting**  
Chairman Peter Webb called the meeting to order. PB members reviewed the minutes of the December 6, 1994 meeting. Greg Gaines pointed out on Page 1, Lorden Lane, the minutes should be amended to add to line 6: **".....second fire pond. The Planning Board said the town would need a fire pond easement in lieu of the second fire pond."** PB members voted to amend page 4, Talbot-Taylor Estates Subdivision, to delete the last sentence beginning **"It was agreed Bob..."** and add new sentence to read: **"The Planning Board said to finish all the necessary items. Bob should come back to the Planning Board meeting on December 20th to further discuss road acceptance."**

**MOTION** Peter made a motion to accept the minutes as amended above. Dennis seconded the motion. Vote was 5-0 in the affirmative.

**7:40 PM Don Bingham, Bingham Lumber Co., Inc.** Don presented to PB members the approved design plans for the 2 septic systems he currently has. He said the 1973 approved plan for 18 people was located at the sawmill; and the 1976 approved plan for 18 people services the office building where 8 or 9 people work on a daily basis, for a total of 36 people. He also noted that he currently has portable service for the workers in the planer building area down in back. He has 40 employees, 6 of whom are drivers who are not on site during the day. **Dennis** reviewed the plans. He said by new NH State septic regulations these 2 systems would not handle 36 people. Today's regulations would require larger septic tanks and possibly larger leachfield areas. In terms of an expansion of the business, the question is whether the PB could require him

to add a new system; and whether the PB can grant site plan approval without knowing whether another system can be built at the same site.

Don said he is sure the soils (mostly sand) will support a new additional system which he would build in a different location, probably in the planer barn area.

**Dennis** said although Bingham's systems do not meet current regulations, he feels confident they could build a new system without problems. Don said he is willing to put in another new system in an area that will better serve his employees.

**Bob Chisholm** asked if Dennis could run the figures and calculate what they will need for current and expansion usage.

**Dennis** answered that the state will determine adequate septic design requirements based on the number of employees.

**Margaret** said PB approval could be granted contingent upon a new septic plan, approved by the state, and seen by the PB.

MOTION

Russ made a motion to grant non-residential site plan approval to Bingham Lumber for the proposed additions to the sawmill contingent upon the following:

- 1) **A septic design plan, approved by the State of NH W.S.P.C.C. which meets current town and state regulations designed for a minimum of 40 people.**
- 2) **System to be operational by August 1, 1995.**

Dennis seconded the motion. Vote was 5-0 yes to grant site plan approval conditional upon a new septic system being designed and installed by 8/1/95.

8:05 PM

**Non-residential Site Plan Review-Denise Dukelow, Denise's Daycare.** Mrs. Dukelow was present and said she is licensed by the state as a home-based day care for up to 6 children. Currently she cares for 3 children, two of whom are from the same family.

**Greg Gaines** outlined her proposed use, and said she basically meets the required checklist items. He asked about a sign. Mrs. Dukelow said she doesn't have or plan to have a sign. She presented a hand-drawn plan of the exterior of the house. The children's play area is to the side and rear of the house and utilizes the back entrance of a 3-season porch. The house has a finished playroom in the basement. She has passed state required safety checks done by the local health officer and fire chief. She showed PB members the septic design approved for a 2-bedroom house. There are 5 members in her family; and she takes care of 1 baby, 1 3-year old, and 1 5-year old.

**Dennis** said the septic design is sufficient for the residents' use, but is not sufficient for the additional daycare use. He noted that the PB has previously required proof that a site can support a larger system (Children's Creative Cottage) before granting approval of a site plan.

**Margaret** asked if it were possible to figure out what size would be necessary for use and make approval contingent upon a new system being installed.

Mrs. Dukelow said the children she currently cares for do not use the bathroom that much. One is in diapers. She has never had any problem with her septic system. She has operated the daycare for 9 years, and been licensed by the state 4 years.

**Dennis** said the state requires 10-15 gals/child/day.

**Russ** said he is supportive of looking at the site to see if the lot (2.3 Acres) would support a larger size system; and make the size a stipulation for a replacement system if it is necessary in the future to make a change.

**Dennis** said a 3-bedroom designed system would be more than adequate for residential use and the 6-child day care. This would allow for a maximum 150 gal/bedroom/day usage.

**Russ** said the house was in a recent subdivision (1983); and that subdivision approval testing for septic was probably calculated on a 4-bedroom house.

Mrs. Dukelow said there is adequate parking for 6 cars. There are usually no more than 2 in the driveway. Site distance on Mason Road is adequate to back cars out of the driveway.

MOTION

Margaret made a motion to accept the site plan as presented. Peter seconded the plan. 5-0 yes vote to accept the plan.

8:30 PM  
MOTION

Margaret made a motion to approve the non-residential site plan contingent upon the following requirement:

**When it becomes necessary to replace the existing septic system, the new approved system design shall be for a minimum 3-bedroom house (Currently 150/gal/day/bedroom).**

Russ seconded the motion. Vote was 5-0 to approve the plan.

8:30 PM

**Discussion of roads for acceptance by the selectmen.**

a) **Bob Bourassa**- Mr. Bourassa was not present for this meeting. Road Agent Clarence Farwell said he had recently visited the site and found that several items were still incomplete on Phase II of Taylor Drive. PB members discussed the need for all items to be finished other than the top coat of pavement before they would recommend road acceptance.

b) **Alan Lorden** was present to discuss Lorden Lane and Rockwood Road. He said the bounds have been set, and he will have the road deeds drawn up to present to the town. He said the seeding along the road edges has taken and the grass is now growing.

**Peter** asked if he has a final report from road inspector Bill Duncklee stating that all items are finished. Mr Lorden said he didn't. He will get in touch with Bill.

**Russ** said the selectmen have scheduled a public hearing on Thursday, December 29, 1994 at which time they will accept roads which are recommended by the PB and the road agent.

**Margaret** said the PB could delegate to the selectmen the duty to see that the road deeds and road inspector's report are presented to them prior to the public hearing.

**Peter** asked the amount of bond and what type-construction or maintenance bond- was the town holding for this project? PB members then discussed what type of bond should be required under this new system of recommending town acceptance of roads which have all items completed but the top coat placed at a later time after house construction has been completed.]

**Clarence** asked if any of the PB members had been up to Lorden Lane and Rockwood Road. Answer-No. No one had seen the roads recently. Clarence said he is concerned with settlement of the underlying road base which has resulted in some road bumps appearing at the top of the hill. Some work on the culverts may become necessary also because of the settling problem. Clarence said that he anticipates some changes to the road becoming evident after the winter. Mr. Lorden said he was aware of the problems at the top of the hill, and admitted that he was going to have to dig up and replace some of road in the area Clarence had mentioned.

Peter said he is concerned also with the underlying base soils and the problems with the engineering calculations during the subdivision review; and with the drainage problems during the initial road construction phase.

**Dennis** said he is opposed to the town's accepting any roads without the second coat of payment being in place. He sees it as a way for the developers to get the town to assume winter maintenance (snow plowing) costs.

**Russ** said he also feels the roads should be accepted only when they have been totally completed.

**Clarence** said some towns require 2 years of the developer maintaining the roads which don't have the top coat down.

**Russ** said he would not like to see the PB's policy of having the roads completed before acceptance changed because it could involve problems with the road bonding requirements also and lead to legal problems with the town owning the road and trying to enforce the developer's obligation to fund any road defects under the maintenance bond time frame.

8:50 PM  
MOTION

**Margaret** made a motion that the PB vote to recommend to the Board of Selectmen to accept Lorden Lane, Phase I and Rockwood Road contingent upon a letter from the road inspector saying the bounds are set, and the road deeds being presented to the town. The PB delegates to the Selectmen the authority to see that these requirements are met prior to the 12/29/94 public hearing to accept the roads.

Vote was 2-Yes (Peter and Margaret); 3-No (Dennis, Bob, and Russ) Motion was defeated.

The Planning Board will not recommend town acceptance of Lorden Lane and Rockwood Road at this time.

9:00 PM **David O'Hara** and attorney Bob Coakley representing the owner, O.T. Realty Trust, presented a conceptual open space concept design for Lot E-11. Dave said they had subdivided out 3 lots in 1988 from the 25.9 total lot. The existing lots have approved subdivision septic approval. He outlined the proposed lots in green, and said they would be serviced by a 1,150 foot road. They would not have to cross any wetlands to build the road as designed. They would be looking to have the PB grant a waiver of the minimum 35% open space required for open space development. The PB said this was a zoning issue, and could only be waived by the ZBA. They also wanted to know if they combined lots E-11-1, -2, and E-11-3 with E-11 (to gain the minimum acreage for open space development-20 acres), and re-subdivided the total, could they retain the rights to the building permits for those 3 lots under the growth ordinance because those lots were grand-fathered?  
PB members said they would lose the rights if they created new subdivision lots.  
Dave asked if they did a lot line adjustment to the 3 existing lots, would they lose building permit rights.  
**Dennis** and Bob said they had no problem with them doing a lot line adjustment plan and then a subdivision plan in order to retain the 3 building permits.  
**Peter** asked what open space goals would be served by this subdivision?  
**Russ** advised them that they must also design a conceptual conventional subdivision plan as a comparison-not just divide by the 80,000 sq. ft. minimum lot size.  
**Dennis** said they need a preliminary plan showing conventional subdivision. This sets the maximum number of lots they can get after taking out roads, slopes, and wet areas.  
**Margaret** said there were too many lots designed. She did not like the sharp bend as shown in the proposed road. It was not obvious to her that the land dedicated to open space will conform to both the ordinance and regulation requirements. PB members suggested they return when they have calculations and plans for both conventional and open space subdivision.

9:30 PM **Planning Board General Business**  
Margaret reported she is willing to draft a chart of the building permits granted yearly for the PB to use to calculate the number of building permits to allow under the growth management ordinance for the next year. PB members were supportive of her designing this type of chart to use.

Peter reported he had been told the McGraths on Spaulding Brook Road were operating a children's daycare, and asked if Russ (the Selectmen) could look into this for the PB.

Secretary reported she had spoken to Chris Hegarty regarding his membership on the Planning Board. Chris has been unable to attend many PB meetings because of business and family commitments. Chris would like to retain a position as an alternate.

PB members discussed who to appoint to the full member position. Margaret said although she would be willing to serve as a member, she was in favor of Dennis becoming a full member because of his technical knowledge which is very valuable to the PB.

Dennis said he was also interested in serving as a full member but pointed out that he also does private consulting work and would not like to compromise his position with the PB on any case, although he removes himself from voting on any issue that could be seen as a conflict of interest.

PB members were confident Dennis could serve in the position of Planning Board member, and will recommend to the Selectmen that he be appointed to fill out Chris's term of office.

**MOTION** Margaret made a motion to recommend Dennis La Bombard to the Board of Selectmen as a full Planning Board Member to replace Chris Hegarty. Bob seconded the motion. Vote cast was 4-0 in the affirmative; 1-Abstention (Dennis).

**9:35 PM** Russ made a motion to adjourn the meeting. Bob seconded the motion. Meeting was adjourned by a 5-0 yes vote.

Next Planning Board Meeting, Tuesday, January 3, 1995.

Submitted by:



Sandra L. Fessenden, Secretary  
Brookline Planning Board



Selectmen



TOWN OF  
BROOKLINE, NEW HAMPSHIRE

P.O. Box 360  
Brookline, NH 03033

(603) 673-8855

PLANNING BOARD MEETING

January 5, 1993

PRESENT: Peter Webb, Chairman, Voting  
Richard Napolitano, Vice Chairman, Voting  
Chris Hegarty, Voting  
Joe Kaganski, Voting  
Judy Cook, Selectmen's Representative, Voting  
Dennis La Bombard, Alternate  
Margaret Olson, Alternate  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

7:30 PM Planning Board Business Meeting  
Peter called the meeting to order. Minutes of the December 15, 1992 PB meeting were reviewed. Peter made a motion to accept the minutes as written. Rich seconded the motion. Vote 4-0-1 Abstention (Joe absent from this meeting).

7:35 PM Road Issues  
1) Scabbard Mill Brook Road-Eddy Whitcomb had written a letter requesting the bond be reduced and the road accepted by the town at town meeting. Peter will contact Eddy. \*\*\*  
2) Lakin Road-Martin Ruggiero had requested the maintenance bond for Lakin Road be released based on Bill Duncklee's report dated 12/22/92. Judy made a motion to recommend to the selectmen that the maintenance bond be released. Rich seconded the motion. Vote 5-0 yes.

MOTION

MOTION

3) Maxwell Drive-On a motion by Joe seconded by Judy, it was voted 5-0 to recommend to the selectmen that the maintenance bond be released.  
4) Birch Hill Road, Phase I-Dennis had visited the site and reported a small area on Nightingale Road had developed potholes caused he thought by some buried boulders. He recommended that a small amount of money be withheld from the maintenance bond for repair of the paved area in the spring. He also noted that the silt fence should be fixed again in the spring; and that a stop sign had been knocked down. PB will ask Clarence to check into these items and give the PB an estimate of repair before the maintenance bond is released.

7:55 PM Rich said he had been looking into the feasibility of mailing out a flyer to all town residents regarding the proposed zoning changes for March town meeting. He found

out that it will be costly to do a bulk mailing. Peter said he personally would not like to spend a lot of money, and felt the PB should look for another method of getting information out to the town's people. It was suggested that an informational sheet might be placed in the Post Office, stores, and bank if possible. The majority of PB members said they would not like to expend funds to do a mailing.

7:58 PM 5) **Petersen Road**-Clarence Farwell was present to discuss the release of \$10,004.40 from the letter of credit to pay for the paving of Petersen Road. He asked the PB to consider lowering the bond below \$20,000.00 because the bank will not free up \$10,000. for the paving bill with a bond held for \$20,000.00. Clarence said the remaining items to be done on the project are the top coat of paving (\$6,000.00) and the cleanup. He also asked if the bank could issue the check to Continental Paving Co. Judy made a motion to recommend to the selectmen that the amount of the road construction bond be reduced by \$10,004.40; and the bond amount to be held is \$15,680.81. Rich seconded the motion. Vote 5-0 yes.

MOTION

8:05 PM **\*\*\*Scabbard Mill Brook**-(Eddy Whitcomb was now present) Peter asked what amount should be included in the bond to cover the reclamation of the gravel/loam area. Clarence said he estimated that \$1,200.00 would be sufficient. Judy asked that Eddy have the gravel/loam removed before the one year maintenance bond expired. Eddy said he should have all the loam and gravel removed by July 1, 1993.

MOTION

Peter made a motion to recommend to the board of selectmen that Scabbard Mill Brook Road be accepted by the town; and that the bond be changed from a construction bond to a maintenance bond in the amount of \$28,299.00. Judy seconded the motion. Yes vote 5-0 taken.

8:12 PM **Second Public Hearing on proposed changes to the Brookline Zoning and Land Use Ordinance.** Peter turned the meeting over to Jeremy Ginsberg of the Nashua Regional Planning Commission for explanation of the proposed changes. Jeremy explained that **Item #1** was a clerical change back to a previous 2 sentence wording. **Item #2-Accessory Dwelling Units**- Town resident Henry Anthony asked if "grandfathered" lots were subject to this new change. Judy answered yes, and that everyone must go to the ZBA for a special exception to create an accessory dwelling unit. James Krieger asked if this could apply to non-related persons such as a live-in nanny. Peter answered that this proposal does not limit the use of the A.C.U. to family members, but the item implies a non-commercial arrangement (no rent). There was discussion of the word "temporary" as applied to the special exception. Jeremy said "temporary" should be removed because the ZBA can't make the exception in terms of a specific occupant.

After some discussion, it was decided to change Section C, REQUIREMENTS, Paragraph 1, line 4 to read: "..... meets all of the following (Planning Board review is not required): " Russ Heinselman said the word "appearance " in Section C, #1 could cause an issue. It was decided to change #1 to read: ".....which does not alter the general appearance of the principal dwelling unit."

Rich said that he felt that this zoning change to allow Accessory Dwelling Units needed to have the following points clarified: 1) Add a statement about the rental situation.

2) Enforcement of the special exception- How does it get implemented by the Z.B.A.?

3) Further define "temporary" special exception

4) Add the wording "family unit" as defined in the zoning definition of family.

Rich said these 4 items needed to be addressed or the article establishing A.C.U.'s should be withdrawn.

Item #3-Definition of Family- No comments.

Item #4-Back lots-Change Article V., Section C.-Lot Requirements, #1- Frontage- add"" at least 200 feet of frontage; except for back lots."

Item #5-Open Space Development- Change last sentence of opening paragraph to read: ".....shall submit evidence at a public hearing to the Planning Board, documenting....."

Russ Heinselman felt the article as written is a mandate not an option to the developer. He understood it was intended to be an optional way to develop land. Peter said the PB's desire is to be able to have optional means of development. It was suggested that common wells and common septic systems be added to this article.

Item #6-Jeremy noted the following change should be added to 4-C-add to the sentence ".....the BOCA National Building Code, as recommended and maintained by the Building Officials and Code Administrators International, Inc. (1990) and CABO Building Codes (1992) shall be used as a standard."

Item #7 and Item #8- No changes

Item #9-Libby Wehrle-Anderson of the Conservation Commission was present to answer questions regarding the proposed 25 foot construction buffer around the Wetlands Conservation District. She said currently 50 out of the 250 N.H. towns have such buffers. Clarence Farwell asked about the method of relief from this ordinance. Joe Kagenski suggested clarify the wording of the ordinance so that the PB, in the review of subdivision and site plans, and the ZBA in existing situations, can grant a special exception. The Conservation Commission decided to amend Section 5, Special Provisions, new #3 to read: "No construction which requires a building permit shall occur within 25 feet of the Wetlands Conservation District."

10:10 PM Planning Board General Business

MOTION PB members discussed the proposed zoning changes in light of tonight's public hearing. It was decided on a motion by Chris seconded by Rich to delete **Item #2, Accessory Dwelling Units** from the list of proposed changes. Vote taken was 4-Yes, 1-No (Peter).

Jeremy handed out new copies of the draft for the Capital Improvement Plan update for PB members to read and be ready to discuss at the January 19th PB meeting.

10:30 PM Judy made a motion, seconded by Peter to adjourn the meeting. Yes vote to adjourn 5-0.

Next Planning Board Meeting Tuesday, January 19, 1993

Submitted by: Sandra L. Fessenden  
Sandra L. Fessenden, Secretary  
Brookline Planning Board

Selectmen



TOWN OF  
BROOKLINE, NEW HAMPSHIRE

P.O. Box 360  
Brookline, NH 03033

(603) 673-8855

PLANNING BOARD MEETING

January 26, 1993

**PRESENT:** Peter Webb, Chairman, Voting  
Richard Napolitano, Vice Chairman, Voting  
Chris Hegarty, Voting  
Joe Kagenski, Voting  
Judy Cook, Selectmen's Representative, Voting  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

**7:30 PM** Planning Board Business Meeting  
**MOTION** Peter called the meeting to order. Minutes of the January 19, 1993 PB meeting were reviewed. Rich made a motion to accept the minutes as written. Chris seconded the motion. Vote was 5-0 yes to accept the minutes.

**7:40 PM** Birch Hill Estates, Phase I, P.B. Case #154  
Clarence was present to discuss the two issues that Dennis LaBombard had addressed previously with the PB. Clarence said the siltation fence could easily be repaired in the spring. He believes the frost heaves on Nightingale Road are caused by a subgrade boulder or boulders. He said when the frost goes out in the spring the bumps will go down. To correct this problem would require the road surface to be dug up; and this might cause greater problems by allowing water to get under the pavement and erode it. He estimated it would be at least 10 years before it became a maintenance problem for the town. Chris made a motion to recommend to the selectmen that the maintenance bond be released. Joe seconded the motion. Yes vote 5-0.

**MOTION**

**8:00 PM** Public Hearing, Proposed Changes to the Zoning and Land Use Ordinance. Peter explained that this was the third hearing on proposed zoning changes. The PB could only make non-substantive clerical changes at this meeting; and then would vote to approve or disapprove the proposed items of change.

**MOTION**

Item #1-Amend Article V, Section B., USES PERMITTED-Rich made a motion to have the Planning Board approve Item #1. Joe seconded the motion. Yes vote 5-0.

**MOTION**

Item #2-Article VIII, DEFINITIONS, Subsection 8, delete existing wording and change to read: "Family-Cohabitants of a single household who jointly share in the use of an entire dwelling unit." Joe made a motion to have the PB approve Item #2. Rich seconded the motion. Yes vote 5-0.

MOTION

**Item #3-Article VIII, Definitions-Add definition of Back Lot, and add to Article V.,C. Lot Requirements to allow back lots. Amend Article V., C. 1. to change frontage requirements on back lots. Discussion:** Rich felt there were 2 negatives to this proposal-1) Common drives; and 2) it allows otherwise undevelopable land to be built on. Chris said back lots have the potential of keeping more open space available and there is less density of building lots. Peter made a motion to have the PB approve Item #3. Motion seconded by Judy. Vote-4 Yes; 0 No; 1 Abstention (Rich).

MOTION

**Item #4-Add new Article XVI, OPEN SPACE DEVELOPMENT OPTION and renumber all subsequent articles. Discussion:** Audience had the following questions: 1) Benefits of this type of development to Brookline; 2) Who decides on open space or conventional subdivision; 3) What is allowable in the dedicated "open space" land and who determines "low impact" development to it; 4) Is this an option to developers or a requirement? Peter answered that this type of development does not saturate a town with buildings and it preserves natural features of the open space land. The PB makes the decision on which type of subdivision it will be. Chris answered that a homeowner's association will set up by-laws (similar to covenants) which property owners will know of before they buy into the subdivision. During subdivision review, the developer and PB will work toward the best usage of the open space land. The PB will require that all developments over the minimum tract size of 20 acres to be presented to the PB with an open space design. Joe noted that on Page 4, Section E. Dimensional Requirements, Setbacks should be changed to read: "Setbacks; 15 front, rear (instead of back), and side per lot from the ....." to conform with existing "setback" wording in the ordinance. Rich made a motion to have the PB approve Item #4 with the clerical change. Judy seconded the motion. Yes vote 5-0.

MOTION

**Item #5-Amendments to the BROOKLINE BUILDING CODE-There was no discussion on this item. Rich made a motion, seconded by Joe to recommend that the PB approve Item #5. 5-0 yes vote.**

MOTION

**Item #6-Article VIII, Definitions-delete existing definition of home business and replace it with new wording. Joe noted that on Page 5, Item #6, in "Change to", Line 5 should be changed for grammatical conformity to read: "sold and exposed for sale; (delete or) no generation of excess traffic...."** Rich made a motion to recommend that the PB approve Item #6. Judy seconded the motion. Vote 5-0 yes.

MOTION

**Item #7-Amend Article XVI (Sign Ordinance) to add new subsection C.6. to add a maximum sign size. No discussion. Peter made a motion to recommend that the PB approve Item #7. Judy seconded the motion. Vote was 5-0 yes.**

Item #8-Article XIII-WETLANDS CONSERVATION DISTRICT, Section 4, Special Provisions, add new subsection 2.3 to establish a 25 foot wetlands construction buffer; and amend section 5, Special Exceptions to allow the PB or ZBA to grant special exceptions. Libby Wehrle-Anderson of the Conservation Commission explained the purpose was to protect the wetlands during any construction that required a building permit; and allow for some local enforcement. Discussion: Resident Charlie Corey said he felt this would penalize current property owners who would be directly affected by this change. He would support the change if existing lots could be grand-fathered, with inspections done before a building permit was issued as well as after. He asked how many properties would be affected by this and how many violations per year now occur. Libby did not have numbers. Chris said he feels this protects all the wetlands and all land owners. Peter said the special exception mechanism should work if the ordinance is passed. Joe said there should be a title added to sub-section 2.3-" Construction Buffer" (to match other sections). Joe made a motion to recommend the PB approve Item #8. Rich seconded the motion. Yes vote 5-0.

MOTION

Item #9-Amend Article XII (Board of Adjustment) Jeremy explained that this item clarified reference changes in Article IV, Industrial/Commercial District, Section B. Uses Permitted as a result of last year's zoning changes. Joe made a motion to recommend that the PB approve Item #9. Peter seconded the motion. 5-0 yes vote taken.

MOTION

9:30 PM A motion was made by Peter and seconded by Rich to close the public hearing portion of this meeting. Yes vote 5-0.

9:35 PM **Planning Board General Business**

School Board member Marcia Farwell and PB members discussed the population growth in Brookline and how it was going to impact the school population in the very near future. It was agreed that the PB should take into consideration during subdivision review the impact of large subdivisions on all existing community services.

9:45 PM Peter made a motion to adjourn the meeting. Joe seconded  
MOTION the motion. Yes vote to adjourn 5-0.

Next Planning Board Meeting, Tuesday, February 2, 1993.

Submitted by:

  
Sandra L. Fessenden, Secretary  
Brookline Planning Board

Selectmen



TOWN OF  
BROOKLINE, NEW HAMPSHIRE

P.O. Box 360  
Brookline, NH 03033

(603) 673-8855

PLANNING BOARD MEETING

January 26, 1993

**PRESENT:** Peter Webb, Chairman, Voting  
Richard Napolitano, Vice Chairman, Voting  
Chris Hegarty, Voting  
Joe Kagenski, Voting  
Judy Cook, Selectmen's Representative, Voting  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

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**MOTION**

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**MOTION**

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MOTION

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**Item #4-Add new Article XVI, OPEN SPACE DEVELOPMENT OPTION and renumber all subsequent articles. Discussion:** Audience had the following questions: 1) Benefits of this type of development to Brookline; 2) Who decides on open space or conventional subdivision; 3) What is allowable in the dedicated "open space" land and who determines "low impact" development to it; 4) Is this an option to developers or a requirement? Peter answered that this type of development does not saturate a town with buildings and it preserves natural features of the open space land. The PB makes the decision on which type of subdivision it will be. Chris answered that a homeowner's association will set up by-laws (similar to covenants) which property owners will know of before they buy into the subdivision. During subdivision review, the developer and PB will work toward the best usage of the open space land. The PB will require that all developments over the minimum tract size of 20 acres to be presented to the PB with an open space design. Joe noted that on Page 4, Section E. Dimensional Requirements, Setbacks should be changed to read: "Setbacks; 15 front, rear (instead of back), and side per lot from the ....." to conform with existing "setback" wording in the ordinance. Rich made a motion to have the PB approve Item #4 with the clerical change. Judy seconded the motion. Yes vote 5-0.

MOTION

**Item #5-Amendments to the BROOKLINE BUILDING CODE-There was no discussion on this item. Rich made a motion, seconded by Joe to recommend that the PB approve Item #5. 5-0 yes vote.**

MOTION

**Item #6-Article VIII, Definitions-delete existing definition of home business and replace it with new wording. Joe noted that on Page 5, Item #6, in "Change to", Line 5 should be changed for grammatical conformity to read: "sold and exposed for sale; (delete or) no generation of excess traffic...."** Rich made a motion to recommend that the PB approve Item #6. Judy seconded the motion. Vote 5-0 yes.

MOTION

**Item #7-Amend Article XVI (Sign Ordinance) to add new subsection C.6. to add a maximum sign size. No discussion. Peter made a motion to recommend that the PB approve Item #7. Judy seconded the motion. Vote was 5-0 yes.**

Item #8-Article XIII-WETLANDS CONSERVATION DISTRICT, Section 4, Special Provisions, add new subsection 2.3 to establish a 25 foot wetlands construction buffer; and amend section 5, Special Exceptions to allow the PB or ZBA to grant special exceptions. Libby Wehrle-Anderson of the Conservation Commission explained the purpose was to protect the wetlands during any construction that required a building permit; and allow for some local enforcement. Discussion: Resident Charlie Corey said he felt this would penalize current property owners who would be directly affected by this change. He would support the change if existing lots could be grand-fathered, with inspections done before a building permit was issued as well as after. He asked how many properties would be affected by this and how many violations per year now occur. Libby did not have numbers. Chris said he feels this protects all the wetlands and all land owners. Peter said the special exception mechanism should work if the ordinance is passed. Joe said there should be a title added to sub-section 2.3-" Construction Buffer" (to match other sections). Joe made a motion to recommend the PB approve Item #8. Rich seconded the motion. Yes vote 5-0.

MOTION

Item #9-Amend Article XII (Board of Adjustment) Jeremy explained that this item clarified reference changes in Article IV, Industrial/Commercial District, Section B. Uses Permitted as a result of last year's zoning changes. Joe made a motion to recommend that the PB approve Item #9. Peter seconded the motion. 5-0 yes vote taken.

MOTION

9:30 PM A motion was made by Peter and seconded by Rich to close the public hearing portion of this meeting. Yes vote 5-0.

9:35 PM **Planning Board General Business**

School Board member Marcia Farwell and PB members discussed the population growth in Brookline and how it was going to impact the school population in the very near future. It was agreed that the PB should take into consideration during subdivision review the impact of large subdivisions on all existing community services.

9:45 PM Peter made a motion to adjourn the meeting. Joe seconded  
MOTION the motion. Yes vote to adjourn 5-0.

Next Planning Board Meeting, Tuesday, February 2, 1993.

Submitted by:

  
Sandra L. Fessenden, Secretary  
Brookline Planning Board



**TOWN CLERK - TAX COLLECTOR**  
**BROOKLINE, NEW HAMPSHIRE**

Telephone  
(603) 673-8933

**PLANNING BOARD MEETING**

**February 2, 1993**

**PRESENT:** Peter Webb, Chairman, Voting  
Richard Napolitano, Vice Chairman, Voting  
Dennis LaBombard, Alternate voting for Joe  
Judy Cook, Selectmen's Representative, Voting  
Margaret Olson, Alternate, Voting for Chris  
Robert Sykes, Alternate  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

**7:30 PM Planning Board Business Meeting**

**MOTION**

Peter called the meeting to order. Minutes of the January 26, 1993 PB meeting were reviewed. Judy made a motion to accept the minutes, with Peter seconding the motion. Vote was 5-0 yes to accept the minutes as written.

**7:45 PM Wallace Brook Estates, II, P.B. Case #199**

**MOTION**

Thomas Enright was unable to be present at this meeting. Peter noted the absence of a construction or maintenance bond for this subdivision. He moved that the Planning Board instruct the building inspector to withhold the issuance of any building permits and/or certificates of occupancy on lots within this subdivision until an approved surety bond or letter of credit has been posted with the town of Brookline. Margaret seconded the motion. Vote to so instruct the building inspector was 5-0 yes.

**8:00 PM Subdivision Regulation Changes**

Jeremy referenced his memorandum on proposed subdivision regulation changes dated November 11, 1992. He said that the PB might want to wait until after March 9, 1993 town meeting vote on zoning before scheduling a public hearing on subdivision regulation changes, since if the open space zoning passes it will require some changes be made to the subdivision regulations such as lot definitions; legal data required; and the spelling out of options for this type of development. Jeremy will explore what information will be needed in the pre-conceptual stage of subdivision review. He will work up the proposed changes for discussion at the March 2, 1993 work session.

**8:15 PM Project Status**

a) P. & C. Realty- Jeremy said he had spoken with Jim Crowley of Maynard & Paquette regarding the labeling of lot F-18-1 as "A Non-Building Lot", since at this time it has no

road frontage on a town road, and therefore does not conform to Brookline's subdivision regulations.

Rich asked if we had the information from town counsel or the road agent that the PB members had requested. Secretary reported Clarence is researching the original road book; and town counsel has not yet responded to our phone call. The necessary information will be available for the 2/16/93 meeting. Rich also felt that the applicants should be made aware of the possibility of off-site improvement money being requested by the selectmen to upgrade Rocky Pond Road.

b) Review PB Cases and PB members assigned to each. PB members reviewed the 1/28/93 update list of approved and pending subdivisions and non-residential site plans as to their status for acceptance, member assignment, and bond types and expiration dates. There were no re-assignments at this time, although it was decided there were a few cases that could be deleted from this list.

**8:30 PM Planning Board General Business**

a) **Membership Status**—Alternates Robert Sykes and Margaret Olson, whose terms expire 3/31/93 agreed to be re-appointed. Joe Kaganski's term is up at this time also, but he was absent from this meeting. Rich reported that he has spoken with two people, but they have not given him a definite answer as yet.

**b) Planning Board projects for 1993.**

PB members were in agreement that Brookline is growing at a rapid rate in comparison to other neighboring towns. Jeremy reported that in 1992 we were fourth in line behind Nashua, Hudson and Merrimack in building permits for new homes. Brookline issued 63 permits for new houses in 1992. It was decided to make a growth control study of Brookline the main focus for 1993. With an eye to the growth potential of the school system along with the impact on the existing town services, a growth control ordinance or a building permit restriction will be looked into.

Rich also wanted the PB to look into other towns and their non-residential site plans and regulations. He would like to have an area in Brookline commercially zoned which would attract business growth which isn't dependent on having town water or sewerage provided them.

**9:10 PM  
MOTION**

Peter made a motion to adjourn the meeting. Judy seconded the motion. Yes vote to adjourn 5-0.

**Next Planning Board Meeting, Tuesday, February 16, 1993.**

Submitted by:



Sandra L. Fessenden, Secretary  
Brookline Planning Board



(603) 673-8855

TOWN OF  
**BROOKLINE, NEW HAMPSHIRE**

P.O. Box 360  
Brookline, NH 03033

PLANNING BOARD MEETING

February 23, 1993

**PRESENT:** Richard Napolitano, Vice Chairman, Voting  
Joe Kagenski, Voting  
Judy Cook, Selectmen's Representative, Voting  
Dennis La Bombard, Alternate voting for Peter  
Margaret Olson, Alternate, Voting for Chris  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

**7:35 PM** Planning Board Business Meeting

**MOTION** Rich chaired the meeting in Peter's absence and called the meeting to order. Minutes of the February 2, 1993 PB meeting were reviewed. Judy made a motion to accept the minutes as written. Margaret seconded the motion. Vote was 4-Yes, 0-No, 1-Abstention (Joe not at 2/2/93 meeting).

**7:40 PM** P. & C. Realty, Inc., Subdivision Case #1992-6:F-18, F-60 case continued. Applicant Paul Gavin and Richard Maynard of Maynard & Paquette, Inc. were present. Rich read the memo from PB secretary regarding her conversation with Town Counsel William Drescher on the status of Rocky Pond Road's being a town road (see attached). Jeremy noted the change made from the previous plan which added "Non-building lot" to lot F-18-1 in addition to Note #8. Jeremy recommended approval subject to a mylar being presented, fees being paid, and a letter sent to the Hollis Planning Board, whose approval was conditional on Brookline's approval.

Rich asked why access for the 83 acre Lot F-18-1 (parcel #2) is off Birch Hill Road, which would direct traffic onto Old Milford Road and Route 130 east. Richard Maynard said that the land area connecting lots F-18 and F-18-1 had 20 to 25% slopes and ledge; and there was no way a road could be built that would provide access from lot F-18-1 to Rocky Pond Rd.

**7:55 PM** Dennis made a motion to approve the plan subject to a mylar  
**MOTION** being presented with "Non-building lot" added to lot F-18-1; all fees paid; and a letter sent to the Hollis Planning Board indicating Brookline's approval of the plan. Margaret seconded the motion. Vote was 5-0 yes to approve the plan.

Rich said there were three points for the applicants to consider for further subdivision of this property:

- 1) This is a significantly large size development. Off-site improvements are usually sought from the developer on subdivisions of this magnitude.
- 2) They should be aware of the proposed new zoning changes and the possibility of the passage of the Open Space Development ordinance.
- 3) They may need to demonstrate why this subdivision should not be considered scattered and premature.

Mr. Gavin and Mr. Maynard were given copies of the proposed zoning changes. Joe said other developments on the outer edges of town have been viewed as possibly premature. Judy said from the Selectmen's point of view there was the issue of traffic safety on Old Milford Road at the junction of Steam Mill Hill, as well as safety concerns on Rocky Pond Road to be considered.


8:05 PM "Mountain Road Estates, I"-Maintenance bond release  
Clarence had visited the site and found no outstanding maintenance problems. Dennis said he had not recently been there, but he did not think there were any issues of concern. He will revisit the site in the spring.

8:10 PM Wallace Brook, II, Hillside Drive Extension, Case #199  
Thomas Enright was present to discuss with PB members the status on this subdivision. He said all outstanding road issues have been addressed and all that remains is to make sure that all bounds are in place and that the shoulder re-grading has been completed. There needs to be a final road inspection made and a report written, and he said he will have this done by May 1, 1993. He has posted a bond in the amount of \$16,500 to serve as a construction bond till final approval, and then to become a maintenance bond. PB members agreed with the amount posted for bond which was 10% of the original road construction estimate.

8:30 PM Rich made a motion to adjourn the meeting. Judy seconded  
MOTION the motion. Yes vote to adjourn 5-0.

Next Planning Board Meeting, Tuesday, March 2, 1993.

Submitted by:

  
Sandra L. Fessenden, Secretary  
Brookline Planning Board

Made Part of the 2/23/93 P Bd, minutes JLF

February 16, 1993

MEMORANDUM

To: Planning Board Members  
From: Sandy Fessenden  
Re: Conversation with Town Counsel William Drescher regarding Rocky Pond Road

Dear Members,

I telephoned Bill Drescher with the question:

1) When does a road become a town road without explicit action from the Town to adopt it at town meeting or without any written documentation that the road was ever accepted?

His answer was the following:

- 1) If the town has maintained the road for 5 years or more
- or
- 2) If the road is continuously used by the general public

it is considered to be a town road. Given that the oldest records found indicate that it is a 2 rod road (33 feet wide), it is a presumption that it is a public road. If it came to court, the ruling would be in favor of the presumption.

He also said that under state statutes, the selectmen can layout and realign the road if it is deemed necessary. He said he has no doubt that Rocky Pond Road is a town road, since it was the principal route between Brookline and Hollis before Route 130 was built. On old town roads, if the town doesn't own the title fee, it in essence has an easement for the road.

Selectman's Copy



(603) 673-8855

# TOWN OF BROOKLINE, NEW HAMPSHIRE

P.O. Box 360  
Brookline, NH 03033

## PLANNING BOARD MEETING

March 2, 1993

**PRESENT:** Peter Webb, Chairman, Voting  
Richard Napolitano, Vice Chairman, Voting  
Joe Kagenski, Voting  
Judy Cook, Selectmen's Representative, Voting  
Dennis La Bombard, Alternate, Voting for chris  
Margaret Olson, Alternate  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

**7:30 PM** Planning Board Business Meeting  
**MOTION** Peter called the meeting to order. Minutes of the February 23, 1993 PB meeting were reviewed. Judy made a motion to accept the minutes as written. Dennis seconded the motion. Vote 4-Yes, 0-No, 1-Abstention (Peter not at 2/23 meeting).

**7:35 PM** Robert Bramley, Mountain Road Estates, II and Birch Hill Estates, II-Discussion of Road Construction Phasing. Bob Bramley and Attorney Silas Little were present to discuss with PB members the construction phasing of the road system in Mountain Road and Birch Hill Estates, II. Bob said they were planning to first build either the extension of Mountain Road down to Birch Hill Road; or the other connection loop from Mountain Road to Westview Road, connecting to Birch Hill Road. He said the stumping and grubbing and the drainage for the entire project will be installed in the first phase. He hopes to have the first loop road finished in late spring or early summer 1993. The bank financing the road construction is concerned with the sale of lots. Bob and Attorney Little asked the PB if an arrangement such as the town has with Talbot-Taylor Estates could be worked out, where there would be recorded a list of lots restricted for sale and building permits on file at the Registry of Deeds until such time as the road were completed and accepted by the town or a road bond placed to guarantee the road's completion. They asked that the entire plan of both subdivisions be recorded with whatever covenants that the PB would require.  
PB members suggested that a notation be made on the cover sheet of the recording mylar listing the lots in each phase and notating that these lots can't be sold until such time as the road is completed or bonded. PB also felt that it



would be a good idea to discuss this at a public hearing with all abutters notified by certified mail of the final approval of the plan. Date of public hearing set for April 6, 1993. Secretary to provide Attorney Little with a copy of Talbot-Taylor's recorded agreement and a copy of the conditional approval conditions granted 7/17/90 (see attached). Bob and Attorney Little will come to the March 16, 1993 PB meeting with additional information regarding phasing, off-site improvement, and recreational agreements.

**8:00 PM Discussion of Population Growth Memorandum**

Jeremy informed PB members on some of his research into the area of how towns deal with rapid population growth. He said Milford's Master Plan update placed emphasis on fiscal impact to town services. Peter asked if the Brookline data is sufficient to allow the PB to address some type of growth control. Jeremy answered that with proper documentation figures, the PB can use any of the following tools to limit growth:

- 1) Impact Fees
- 2) Moratoriums
- 3) Building Permit limitations

He pointed out that growth control won't apply to already approved and recorded subdivisions.

Peter instructed Jeremy to gather and analyze the statistics and conditions in Brookline to determine if there is a basis to justify the actions the PB may be contemplating taking in the area of growth control. He said of major impact to the town is the cost of the school system and the need for new school buildings. He asked Jeremy to see if he could calculate the past 10 years of growth in the school system and see if he could obtain information from the school board on the next 10 years. Jeremy said he will look at the data and problem areas and will try to see if the school district has a five year plan available on enrollment growth and any planned building projects. He will have more information available for PB members at the March 16th meeting.

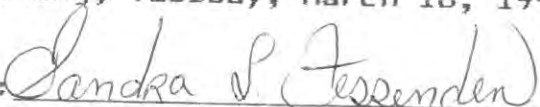
**8:25 PM Planning Board General Business**

Rich reported that he had contacted Kathy O'Sullivan of the Nashua Telegraph regarding a write-up on open space zoning development. He said Kathy Cleveland has done an article to be published in the March 3rd issue of the Milford Cabinet in which she interviewed developers regarding open space zoning. There was an article as well in "Our Place".

**8:40 PM MOTION** Rich made a motion to adjourn the meeting. Joe seconded the motion. Yes vote to adjourn 5-0.

Next Planning Board Meeting, Tuesday, March 16, 1993.

Submitted by:



Sandra L. Fessenden, Secretary  
Brookline Planning Board

Made part of the 3/2/93 P.B. minutes  
JCF

Jeremy asked for time to review the plans which had been presented tonight. Allan asked that he complete his review within 10 days.

8:45 PM  
MOTION

Greg made a motion to grant conditional approval for "Mountain Road Estates, Phase II" with the following conditions to be met:

- 1) All State and Local permits have been received.
- 2) All fees paid.
- 3) Easements and deeds and recreation/open space payment agreement to Town in proper format.
- 4) Road bond in place
- 5) Off-site improvement agreement reached with Selectmen.

Robyn seconded the motion which passed with a 3-0 vote.

8:55 PM  
MOTION

Greg made a motion to grant conditional approval for "Birch Hill Estates, Phase II" with the following conditions to be met:

- 1) Woodman's access agreement, a copy to be on file with the Town within 10 days from today.
- 2) All State and Local permits have been received.
- 3) All fees paid.
- 4) Easements and deeds and recreation/open space payment agreement to Town in proper format.
- 5) Road bond in place
- 6) Off-site improvement agreement reached with Selectmen.

Robyn seconded the motion. Affirmative 3-0 vote cast.

9:00 PM

Planning Board General Business

PB members discussed the possibility of having no meeting in August since there are no cases to be continued. Since several members were to be away on vacation, it was decided not to meet during August. Jeremy said the upcoming Master Plan Committee meetings on July 31st & August 9th would hopefully complete the Master Plan update. As soon as copies are ready, he will make them available to PB members for their review.

NEXT PLANNING BOARD MEETINGS:

- 1) September 11, 1990- work session.
- 2) September 18, 1990- regular public hearing meeting.

Submitted by:

Sandra L. Fessenden  
Sandra L. Fessenden, PB Secretary



(603) 673-8855

TOWN OF  
**BROOKLINE, NEW HAMPSHIRE**

P.O. Box 360  
Brookline, NH 03033

PLANNING BOARD MEETING

March 16, 1993

**PRESENT:** Peter Webb, Chairman, Voting  
Richard Napolitano, Vice Chairman, Voting  
Dennis La Bombard, Alternate voting for Joe  
Margaret Olson, Alternate, Voting for Chris (Joined meeting  
at 8:00 PM)  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

7:45 PM Planning Board Business Meeting

**MOTION** Peter called the meeting to order. Minutes of the March 2, 1993 PB meeting were reviewed. Rich made a motion, seconded by Peter to accept the minutes as written. Yes vote 3-0.

7:47 PM Mountain Road Estates, II and Birch Hill Estates, II- Jeremy said the applicants were present to ask the PB to amend the subdivision approval conditions to allow them to build the eastern connector road (Westview Road) without a road bond. Bob Bramley and Attorney Silas Little presented PB members with copies of a stipulation agreement to be recorded at the Registry of Deeds restricting the sale of lots (calling out the lots by lot number); and issuance of building permits until the road has been built and accepted by the town. This document also the sequence of phased road construction and release of lot restrictions.

Jeremy said that the phasing agreement was outlined as follows:

- Phase 1) Eastern connector road
- Phase 2) Western connector road
- Phase 3) Cul-de-sacs

Rich suggested that town counsel review this document before the April 6, 1993 public hearing; and that a note be added to the subdivision cover sheet to the effect that a stipulation document is on file at the Registry of Deeds.

As regards the conditional approval item of deeded access to lot D-63, Mr. Little said a 25 foot access is to be provided to Tim and Sharon Woodman's lot D-63. Randy Haight has flagged the perimeter of the road easement shown on the plan between lots D-57-26 and D-57-27. They picked up the old wood's road as it originally enters the LVA soils (poorly drained) on lot D-63 so that no new state permit would be needed for the Woodman's to continue to use this road. A

copy of a letter sent to the Woodman's attorney Steve Bolton outlining the access easement and asking for a written release to any other access way into the property in favor of this deeded access was presented. Mr. Little said Attorney Bolton had replied the Woodmans were not in favor of a restriction not allowing them to bring in utilities to the lot. Mr. Little said that town zoning regulations would not allow this to become a building lot because it lacks road frontage on a town road. He also said that the "old woods road" access crossed a large wetlands area; and if the Woodman's were to upgrade the access road for any reason, they would need to obtain a State dredge and fill permit. Peter asked if lack of an access agreement could hold up the recording of the subdivision plans. Rich said it was a conditional approval item; and it is traditional for the PB to provide access to land-locked parcels. A public hearing for final approval is scheduled for Tuesday, April 6, 1993.

8:15 PM

**Bear Hill Estates**- Jeff Kevan of T.F. Moran, Inc., Attorney Gerald Prunier, and applicants Mike Maggio and Robert Pace of Grizzly Development Corp. were present to discuss an area of wetland on Mosher Drive nearest to Old Milford Road. This subdivision was approved in 1987, and Mr. Prunier said that a new State definition of wetlands adopted in 1990 presents a problem in applying to the State for renewal of expired permits. He said Libby Wehrle of the Brookline Conservation Commission had asked them to meet with the PB to have them grant a special exception for the new area of wetlands (see attached letter). Margaret and Dennis asked why a special exception was necessary at this point. Jeff Kevan said the applicants would like to work with the town, and felt they should come to the board in light of this new wetlands area. PB members were unsure that a special exception was needed because of a change in state definitions because the subdivision has already been approved and recorded. Libby was present. She stated that some of this wetland area would have been considered wetlands under the old regulations. She inquired if the PB still wants this road to be built. PB members asked what the length of the road (Bear Hill Road and Mosher Drive) would be without the connection to Old Milford Road. Jeff estimated it to be 3,500 ft. PB members said for emergency safety reasons this was too long a road to have only one entrance. Rich asked if we have seen a copy of a new soil scientist's review. Jeff had a letter date 3/4/93 from soil scientist R. W. Bond of the Merrimack Soils Consultants, Inc. (see attached). He

pointed out that the original dredge and fill of 85,000 sq. ft. had been modified down to 15,000 sq. ft. after the first S.C.S. mapping was done. He said this wetland is a seasonal wet meadow area. He said they would not like to have to wait until the snow cover is gone before beginning the process of reapplying to the state; and would like to have the recent soil scientist's review considered. After some discussion, PB members recommended that the applicants go to the ZBA for a special exception, since under the zoning ordinance, the PB has the authority to grant a special exception during subdivision or site plan review (Article XIII, WETLANDS CONSERVATION DISTRICT, Section 5, Special Exceptions); but in other matters the ZBA has jurisdiction.

- 9:15 PM **Population Growth Memorandum**- Jeremy said he is still compiling information for this, and hopes to have it ready for the next meeting. Rich said he would like to have an analysis of the tax assessments of houses being built now.
- 9:25 PM **Planning Board General Business**  
Jeremy reminded PB members of the March 23rd meeting with the Hollis PB and NRPC members for their information as to what the towns would like to include in this corridor study. NRPC is also conducting a training session on April 29th.
- 9:28 PM **Planning Board Membership**  
Rich reported that he had one candidate for the PB; and Margaret said she has thought of one person she thinks might be a good candidate as an alternate.
- 9:30 PM **MOTION**  
Rich made a motion to adjourn the meeting. Dennis seconded the motion. Yes vote to adjourn 4-0.

Next Planning Board Meeting, Tuesday, March 23, 1993 at the Hollis Town Hall upper meeting room.

Submitted by:



Sandra L. Fessenden, Secretary  
Brookline Planning Board



Made Part of the minutes of the  
3/16/93 P.B. meeting (SUF)

Brookline Conservation  
Commission

Brookline, New Hampshire  
03033

CC. (SUF) File

March 7, 1993

Brookline Planning Board  
Town Hall  
Main Street  
Brookline, N.H. 03033

Re: Bear Hill Estates, Phase IV and a portion of Phase III

Dear Members,

We have been contacted by Jeff Kevan of T.F. Moran, Inc. as their client plans to complete phase IV of the subdivision which was approved in 1987. We did a brief site walk with Jeff Kevan when there was 18 inches of snow cover. There is a possible wetland area in the proposed Mosher Drive which would require 350 feet of fill, from Sta. 1.00 to Sta. 4.50 at the end nearest Old Milford Road. We have advised the firm that they need to obtain a special exception from the Planning Board to fill if the area is wetland. T.F. Moran, Inc. agreed to have the area mapped by a certified soil scientist, set up a hearing with the Planning Board, if needed, and explore other options for road placement.

Our concerns are as follows:

- 1) In view of the development which has taken place since 1987 on Old Milford Road, does the Planning Board still feel this road is necessary? Are there other options which would require less impact on the wetlands?
- 2) Do the lots created have valid septic permits? If not, can they meet present state and town regulations?
- 3) Since this possible wetland area was overlooked, are there others on this parcel?

We would like the opportunity to walk the entire parcel of Phase IV and the Mosher Drive portion of Phase III when the ground is not frozen and there is less than 6 inches of snow cover on the ground.

Sincerely yours,

Libby Wehrle-Anderson (S)

Libby Wehrle-Anderson, Co-chairman  
Brookline Conservation Commission

Made Part of the P Bd. minutes of 3/16/93 (SWA)

# MERRIMACK SOILS CONSULTANTS, INC.

12 WOODBINE LANE MERRIMACK, NH 03054  
(603) 424-1437

March 4, 1993

MAR 16 1993

Mr. Jeffrey Kevan  
Project Manager  
T F Moran Inc.  
288 Route 101  
Bedford, NH 03110

- Case #144

Re: Wetlands mapping on land of Bear Hill Associates, along Mosher Drive, Brookline NH.  
Field work performed March 4, 1993.

Dear Mr. Kevan

At your request I mapped the wetlands along Mosher Drive on March 4, 1993. Four wetlands were marked with numbered strips of red and white striped survey flagging. A sketch is enclosed showing the flagging pattern. I would strongly recommend that you have your surveyor locate the flags on the ground using appropriate surveying methods so that their exact location can be shown on future plans.

The wetlands were classified using the three parameter approach required by the Corp of Engineers and the State of New Hampshire Wetlands Board. This method is described in detail in the 1989 edition of the *Federal Manual* and is the generally accepted method of delineating wetlands in New Hampshire. Under this method a wetland must have hydric (wetland) soils, hydrophytic (wetland) vegetation and wetland hydrology all at the same time to be classified as a jurisdictional wetland. The wetland areas identified along Mosher Drive meet these criteria and as such are subject to both state, and local wetland ordinances.

The soils in the first three wetlands are Leicester very stony loan, a poorly drained soil developed in glacial till. The soils in the wetland marked with the 400 numbers are wetter. They are very poorly drained Scarboro or Whitman soils with a narrow border of poorly drained Leicester soils around the edges of the wetland. Vegetation observed in the wetland areas included red maple, high bush blueberries, cinnamon ferns, sensitive ferns, Yellow birch, gray birch, reed canary grass and sheep laurel. All of these plants are regarded as wetland indicator species.

If you have any questions feel free to call me.

Sincerely

Richard W Bond

Richard W. Bond, CSS

Enc.



(603) 673-8855

TOWN OF  
**BROOKLINE, NEW HAMPSHIRE**

P.O. Box 360  
Brookline, NH 03033

**PLANNING BOARD MEETING**

April 6, 1993

**PRESENT:** Richard Napolitano, Vice Chairman, Chaired Meeting, Voting  
Joe Kagenski, Voting  
Chris Hegarty, Voting  
Judy Cook, Selectmen's Representative, Voting  
Dennis La Bombard, Alternate, Voting for Peter  
Margaret Olson, Alternate, (Joined meeting at 7:40 PM)  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

**7:30 PM** Planning Board Business Meeting  
Rich called the meeting to order. Minutes of the March 16, 1993 PB meeting were reviewed. It was voted to amend Page 1, 7:47 PM, Line 10 to read as follows: "This document also specified the sequence of phased road construction ....."  
**MOTION** Dennis made a motion, seconded by Rich to accept the minutes as amended. Vote to accept was 2-Yes, 0-No, 3-Abstentions (Judy, Joe, and Chris, not at the 3/16/93 meeting).

**7:35 PM** Fresh Pond Realty & Rock Ramond Estates Trust, "Birch Hill Estates, Phase II", Case 1989-7:D-56,-57,-58, D-60, and Millrock Realty, "Mountain Road Estates, II", Case 1989-8: D-20, D-25. General partner Bob Bramley, Randy Haight of Meridian Land Services, and Attorney Silas Little were present to discuss the items needed for final approval. Mr. Little said the access agreement with Timothy and Sharon Woodman was still outstanding. Mr. and Mrs. Woodman wanted the ability to bring utility lines into the lot; and Fresh Pond would agree to allow this if the utility lines were placed underground at the Woodman's expense. Mr. and Mrs. Woodman were present with their attorney Steven Bolton. Mr. Bolton said the Woodman's had deeded access to lot D-63 by way of an easement across the property being subdivided. He wished to assure that the Woodman's gave up none of their legal rights by signing an access agreement with Fresh Pond relinquishing rights to the former access easement (which had no metes and bounds but followed an old logging road in from Old Milford Road). Discussion ensued regarding whether lot D-63 could be used as a building lot under present town & state regulations.



Attorney Bolton said the Woodman's deed reserves an access to lot D-63, and this historic right of access means a legal right of access does exist. He doesn't wish to place the Woodman's in a self-created basis of hardship by signing an agreement which relinquishes their existing rights of access and could limit their ability to develop this land.

Attorney Little countered that development of lot D-63 would be precluded by lack of road frontage; and under current town and state regulations, the Woodman's would have to petition the court for a hardship variance to allow them to obtain a building permit. It also would not be possible to subdivide this property without frontage on a class 5 town road. He said in the deed references it is not clear that the woods road as it now exists is the original access way.

Rich said he wants to assure that the PB does not diminish the property's value if no agreement can be reached between the Woodman's and Fresh Pond Realty. He noted, however, that lot D-63 has no road frontage now, nor will it have any after the subdivision is approved. He asked what is wrong with the easement as proposed.

Judy asked if the easement could be widened to 30 or 50 feet which would allow for either a legal back lot, or for a town road to be built. It was noted that the developer was providing an access easement not a strip to be dedicated to the town for a road or to qualify for road frontage.

Mr. Little said there are wetlands located 25 to 30 feet from the property line of D-63, over which state law would now prohibit building a town road. His clients are giving a 25' access easement from Westview Road over Lots D-57-26, D-57-10 and D-57-9, following the original woods road access the Woodmans have been using. This was done so that a state permit would not be required for their continued use of the woods road which crosses the wetlands. He said his clients do not own an area of dry land abutting D-63 which could be dedicated for a road way. A wider easement would not give the lot road frontage in an area of dry land that a driveway or town road could be built on.

Rich then polled the PB members as to their opinions on this issue of conditional approval involving the access easement.

Judy said the Woodman's position is no different whether the PB approves or does not approve the plan. They would still

need to seek relief (a variance) from the zoning ordinance in order to build because they lack road frontage. She felt the developer has done what the PB asked for in providing an access to lot D-63; and it is up to the two parties to work out the legal paperwork.

Margaret said she does not see how the PB can do anything but approve the subdivision, but she would like to see the easement issue worked out between the two parties.

Joe felt the access agreement was a condition of approval, and would not like to give approval until this issue is resolved.

Chris asked what the proposed easement does not do in terms of access that the original deeded easement allows. He said they could now access their property over a road paved 1,000 to 2,000 feet closer to their property.

Jeremy mentioned that in the future when adjacent property is developed, there may be an area with drier land which the PB may look to provide as a permanent access to D-63. He alluded to the current problem with building Mosher Drive with newly defined wetlands located in the roadway. He said the proposed easement could serve as a temporary access to Lot D-63 until a future subdivision comes before the PB.

**MOTION**

Judy made a motion relative to the item of conditional approval regarding access to Woodman's lot D-63. She moved that the Planning Board resolve that the applicants have complied with the 7/17/90 condition of approval as imposed by the Planning Board by providing the 25 foot access easement as shown on the Birch Hill Estates, II subdivision plan to be recorded at the Registry of Deeds. Vote was Yes 5-0 on the motion.

Mr. Bolton was concerned that the Woodmans were being asked to sign a release of the easement rights they now have in favor of this new easement.

Judy replied that the PB's condition of approval did not specify the location of the access easement, and therefore does not need to be addressed in the PB motion.

Rich told Mr. & Mrs. Woodman he felt this subdivision had not diminished their property or access rights. He said it was not clear to him that they could exercise rights to build on or develop their land without obtaining a variance.

PB members and Mr. Little reviewed town counsel's suggested changes to the Recreation Agreement, and the Stipulation Agreement for road construction and lot sale restriction. Mr. Little agreed to make the changes to both documents.

**8:30 PM** Rich read the letter from Ernest Felzani into the minutes (see attached) regarding access to his lot D-24. PB members noted that a 50 foot access for future development has been provided on the Mountain Road Estates, II subdivision plan for this lot. Rich asked if all items of conditional approval had now been met, and if all State permits were current, and Randy Haight answered they were.

**Abutters Comments:**

David O'Sullivan expressed his concern with traffic on Old Milford Road. Randy said a traffic study had been done at the time of subdivision review, and an agreement for off-site improvements to Old Milford Road had been signed with the Selectmen. PB members told concerned abutters that parallel connector roads within the subdivision will help the traffic flow before it enters onto Old Milford Road. **Case continued for final approval till April 20, 1993.**

**9:00 PM** **Memorandums on Growth and Subdivision Regulation Changes**  
Jeremy handed out updated copies of both memos. PB members will review them and be prepared for discussion at the May 4, 1993 work session.

**9:10 PM** **Planning Board General Business**  
Jeremy reminded PB members of the April 29, 1993 training session N.R.P.C. is conducting at their Nashua office.

**9:25 PM** Margaret made a motion to adjourn the meeting. Rich  
**MOTION** seconded the motion. Vote was 5-0 to adjourn.

**Next Planning Board Meeting, Tuesday, April 20, 1993.**

Submitted by:

  
Sandra L. Fessenden, Secretary  
Brookline Planning Board

Case # 1989-7

Made Part of the PB  
minutes of 4/6/93

(SUF)

Sandy

FILE COPY

Please read at  
the Hearing.

Thank you  
Ernie

---

Tax Map-D-25 | April 1<sup>st</sup> 93

To Planning Board Hearing  
Dear Sir:

In regards to  
Millrock Realty &  
Mountain Road Estates  
11" along Mountain  
Road. I would like  
to be assured of  
Access to my Property  
lot No D-24 (Felzani)  
so that I will not be  
Land Locked.

Would appreciate  
a reply?

109 Ashley St. / Your truly  
East Boston Ernest Felzani  
Mass. 02128 Ernest Felzani

Selectmen



TOWN OF  
BROOKLINE, NEW HAMPSHIRE

P.O. Box 360  
Brookline, NH 03033

(603) 673-8855

PLANNING BOARD MEETING

May 4, 1993

PRESENT: Peter G. Webb, Chairman, Voting  
Richard Napolitano, Vice Chairman, Voting  
Joe Kaganski, Voting  
Chris Hegarty, Voting  
Judy Cook, Selectmen's Representative, Voting  
Dennis La Bombard, Alternate  
Margaret Olson, Alternate  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

7:30 PM Planning Board Business Meeting  
Peter called the meeting to order. Minutes of the April 20, 1993 PB meeting were reviewed. It was voted to amend Page 1, Paragraph 1, Motion, Vote taken was "4-Yes, 0-No, 1-Abstention (Russ was not at the 4/6/93 meeting)"; and in Paragraph 2, Election of Officers, Lines 2 & 5, Change to read as follows: "Vote to elect Peter" and "Vote to elect Rich was unanimous."

MOTION Peter made a motion, seconded by Joe to accept the minutes as amended. Vote to accept was 4-Yes, 0-No, 1-Abstention (Judy not at the 4/20/93 meeting).

7:45 PM Discussion of Subdivision Regulation Changes  
PB members reviewed Jeremy's April 5th memo regarding changes to the subdivision regulations and recommended the following changes: Page 2, Paragraph 3, change to read: "This amount should not exceed 10%....."; and paragraph 5, change to read: "Letters of credit shall be self-calling."; Page 3, Paragraph 1, change to read: "Design Review plans for determining...."; Paragraph 2, change to read: ".....use a general 1 unit/ 2.5 acres guideline." Jeremy will rearrange new section 4.6.04 paragraphs and include 2 methods of calculation as examples. In new section 4.7.04, change the word should in line 2 to "shall" and would to "shall". Next paragraph add to new section 4.10 and change to read: "The 50 foot perimeter setback is a buffer between the open space subdivision and any adjacent parcels. This area shall include....." Section 4.10.03, amend to read: "..... or deed or homeowners association or otherwise." In section 4.10.04, separate wording will be used for conventional and open space development dedicated "open space" areas.

Delete section 4.10.03. Information is included in section 4.7.04. Page 4, last paragraph, change to read: "The Brookline School board shall be contacted for assistance." Jeremy will make the suggested changes and PB members will review them at the June 1, 1993 work session.

**8:40 PM Population Growth Memorandum**

Jeremy's third memorandum on population growth in Brookline focused on the current Brookline School District system and the possible plans for expansion in the near future. He will outline options to address the town's recent growth, and the impact it has had on all town services in his next memo to be discussed at the PB work session on June 1st.

**8:50 PM Planning Board General Business**

- 1) PB members discussed the 4/24/93 site walk at the Nightingale property on Old Milford Road. Because Old Milford Road is a narrow road and there are drainage problems at this location, it was the consensus of opinion of those on the walk that the PB should require a ten foot easement to allow the town to cut brush, fix drainage problems, and maintain slopes. No disturbance of the stone wall is to be made unless there is joint approval by the Board of Selectmen, Planning Board, and the property owner. There are two culverts not shown on the plan, and the well as shown is actually part of the septic. Jeremy will contact Randy Haight with this information.
- 2) Jeremy has spoken with Tom Mahoney about the information necessary for the site plan for his tire storage business. The information from the State regarding the need for an additional curb cut is not yet available.
- 3) Recording mylars, the Stipulation Agreement, and the Recreational Facility Cost Contribution Agreement for Birch Hill Estates, Phase II and Mountain Road Estates, Phase II were signed and are now ready to be recorded.

**9:15 PM MOTION** Margaret made a motion to adjourn the meeting. Joe seconded motion. Vote was 5-0 to adjourn.

Next Planning Board Meeting, Tuesday, May 18, 1993.

Submitted by: Sandra L. Fessenden  
Sandra L. Fessenden, Secretary  
Brookline Planning Board



(603) 673-8855

*Selectmen*

TOWN OF  
**BROOKLINE, NEW HAMPSHIRE**

P.O. Box 360  
Brookline, NH 03033

PLANNING BOARD MEETING

May 18, 1993

**PRESENT:** Peter G. Webb, Chairman, Voting  
Richard Napolitano, Vice Chairman, Voting  
Joe Kaganski, Voting  
Judy Cook, Selectmen's Representative, Voting  
Dennis La Bombard, Alternate, Voting for Chris  
Margaret Olson, Alternate  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

**7:30 PM** Planning Board Business Meeting  
Peter called the meeting to order. Minutes of the May 4, 1993 PB meeting were reviewed.

**MOTION** Peter made a motion, seconded by Dennis to accept the minutes as written. Vote to accept was 5-Yes.

**7:40 PM** Project Status Reports  
PB members reviewed Jeremy's list of current subdivision projects and the PB members assigned to them. Jeremy noted that the road construction bond on Petersen Road was coming due 7/4/93. PB will ask road inspector Clarence Farwell to check the project and the PB will write Mr. Petersen a letter regarding the outstanding items needing to be completed before the bond can be released.

**7:45 PM** Rocky Pond Road Study- Jeremy said surveys of traffic usage had been sent out to all residents in the area of Rocky Pond Road; and 5 traffic counters had been set out on Rocky Pond Road and Old Milford Road. Preliminary results show that 15% of the trips made over Rocky Pond Road are to Nashua. Jeremy said the study should be ready in late June or early July. Peter observed that the poor quality of some town roads such as Rocky Pond Road may deter people from using them now; but once the road is upgraded, he feels the traffic load will undoubtedly be increased.

**8:07 PM** Planning Board General Business  
a) Brookline School District- Marcia and Clarence Farwell were present to talk to the PB about the lot line adjustment for the Brookline Elementary School. (Randy Haight arrived at

this time) Marcia said the school district was purchasing land from the Emmerling's abutting lot F-81 so that the school will have additional land to give them the ability to add onto the septic system when it becomes necessary to expand the school. Randy had brought some preliminary plans to review. PB members agreed to waive all the fees for the lot line adjustment, and the case will be scheduled for the June 15, 1993 PB meeting.

8:15 PM **Nightingale Revocable Trusts, Subdivision Case #1993-1: D-55.** Randy Haight presented the plans. Changes made to the plan were as follows:

- 1) Show culvert on plan,
- 2) Add easement (Note #9),
- 3) Labeled the well.

Jeremy reminded PB members about the letter regarding open space, and that the PB should make findings regarding open space development with this subdivision.

**Findings for Open Space development:**

Margaret said this subdivision would not qualify for the open space zoning requirement since it was subdividing an existing house with 5 acres from the remaining 40.351 Acres which will remain unchanged in current use. There will be no increase in housing density due to this subdivision.

8:20 PM **MOTION** Peter made a motion to find that open space development is not required in this subdivision for the reasons stated above. Margaret seconded the motion. Vote taken was in the affirmative 5-0.

8:30 PM **MOTION** Margaret made a motion to approve the subdivision subject to any pending fees being paid and a recording mylar being presented. Rich seconded the motion. Vote was 4-Yes, 1-No. Dennis voted no, and his reason was he felt the easement as granted was too restrictive to allow the town to provide proper road maintenance when necessary.

8:50 PM **Planning Board General Business continued**  
b) Secretary asked PB members for direction for a Non-residential Site Plan for Willard Cumming's lot #B-60. Dan Bent had met with selectmen regarding a trailer of bagged bark mulch for sale on site. Selectmen had referred him to the PB for a N.R.S.P. It was unclear from a conversation with Mrs. Bent that this would qualify as a home business, and might therefore not be under the jurisdiction of the PB since the lot was in the Residential/Agricultural zone. After some discussion, it was decided on a motion by Rich to recommend to the selectmen that it was the PB's opinion that



this was not a home business, and that it should be referred back to the selectmen.

Joe noted that the Z.B.A. might be involved if it was determined a variance was needed to conduct a business in the R/A zone; or if the selectmen's decision was appealed (RSA676:5).


c) PB members discussed with Randy Haight the G.S.I. mapping proposal that Meridian Land Services had prepared for the town. Dave Ricard of Meridian is willing to give a demonstration of the computer program to any department and board members who are interested. He will be invited to the PB work session on June 1st.

9:15 PM  
MOTION

Margaret made a motion to adjourn the meeting. Joe seconded motion. Vote was 5-0 to adjourn.

Next Planning Board Meeting, Tuesday, June 1, 1993.

Submitted by:



Sandra L. Fessenden, Secretary  
Brookline Planning Board

Selectmen



TOWN OF  
BROOKLINE, NEW HAMPSHIRE

P.O. Box 360  
Brookline, NH 03033

(603) 673-8855

PLANNING BOARD MEETING

June 1, 1993

PRESENT: Peter G. Webb, Chairman, Voting  
Richard Napolitano, Vice Chairman, Voting  
Chris Hegarty, Voting  
Judy Cook, Selectmen's Representative, Voting  
Dennis La Bombard, Alternate, Voting for Joe  
Margaret Olson, Alternate  
Ben Chandler, Selectmen's Alternate  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

7:30 PM Planning Board Business Meeting  
Rich called the meeting to order. Minutes were not reviewed, and it was agreed to proceed with the G.I.S. map computer program demonstration.

7:35 PM Randy Haight and Dave Ricard of Meridian Land Services, Inc. were present to give PB members a demonstration of the G.I.S. mapping computer program and to explain how it could be implemented by several town departments sharing basically the same data base. Questions were asked as to how useful this system would be to the PB, and how difficult it would be to input all the information. Dave said the program would provide much information currently available on computer disks with the exception of topographical information which is not available at this time. It was discussed that some of the information the emergency services used was currently in place in the Hollis communication center. It was finally decided that this program should be demonstrated at a selectmen's meeting with different town department heads present.

8:50 PM Don Bingham, Bingham Lumber Co. Inc.  
Don Bingham was present to informally discuss how much information was necessary to present a site plan to add a 320 sq. ft. diesel fuel containment building. He said the federal government will be using a color coding system for diesel fuel; and he wants to separate the diesel fuel used for the over-the-road vehicles from those vehicles used only in the yard to keep track of the diesel users' fuel tax. They have an existing 20,000 gallon tank and are proposing

to add a new 6,000 fuel tank. They will be building a 320 square foot shed to house the diesel fuel pump. Rich said he would consider this an expansion of use and the PB should have a set of plans on file for whatever is on the site. Other members were in agreement. Mr. Bingham will present site plans so he can be on the 6/15/93 PB agenda.

**9:00 PM Robert Pace, "Grizzly Development Corp."**

Mr. Pace and Steve Patterson were present to discuss the bonding of Mosher Drive. Mr. Pace said he had a letter of commitment from the bank and expected to complete the entire road within an 8 week period. He questioned at what point could he obtain building permits, and would he have to post a bond if the road was to be completed in such a short period of time? Rich explained the bonding process, and suggested that they complete as much of the road as possible without placing a bond. The road must be at the sub grade level before a building permit can be issued by subdivision regulations. Road Inspector Dennis LaBomard would calculate the remaining cost to build the road at this phase, and a bond would have to be placed with the town for that amount. Dennis had reviewed the original bond estimate for Mosher Road and said that the figure of \$228,500 was still a good estimate. Mr. Pace will contact his bank with this information to secure a letter of credit for the road bond.

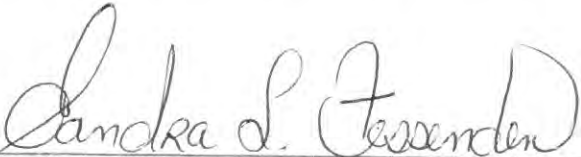
**9:15 PM Discussion of Population Growth Memorandum**

Jeremy had distributed his memo on population growth in Brookline which summarized the findings from his first three memos. PB members discussed two options- 1) Optional or mandatory phasing in of large subdivision developments; and/or 2) A growth control ordinance. Discussion centered around the possibility of restricting the number of building permit per year and how best to implement such a program. Further discussion will take place at the next work session on July 6, 1993.

**10:10 PM** Judy made a motion to adjourn the meeting. Rich seconded the motion. Yes vote to adjourn 5-0.

**Next Planning Board Meeting, Tuesday, June 15, 1993.**

Submitted by:



Sandra L. Fessenden, Secretary  
Brookline Planning Board



(603) 673-8855

Selectmen

TOWN OF  
**BROOKLINE, NEW HAMPSHIRE**

P.O. Box 360  
Brookline, NH 03033

PLANNING BOARD MEETING

June 1, 1993

**PRESENT:** Peter G. Webb, Chairman, Voting  
Richard Napolitano, Vice Chairman, Voting  
Chris Hegarty, Voting  
Judy Cook, Selectmen's Representative, Voting  
Dennis La Bombard, Alternate, Voting for Joe  
Margaret Olson, Alternate  
Ben Chandler, Selectmen's Alternate  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

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to add a new 6,000 fuel tank. They will be building a 320 square foot shed to house the diesel fuel pump. Rich said he would consider this an expansion of use and the PB should have a set of plans on file for whatever is on the site. Other members were in agreement. Mr. Bingham will present site plans so he can be on the 6/15/93 PB agenda.

9:00 PM **Robert Pace, "Grizzly Development Corp."**

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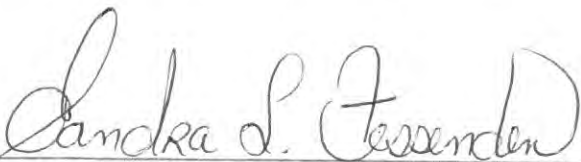
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10:10 PM Judy made a motion to adjourn the meeting. Rich seconded the motion. Yes vote to adjourn 5-0.

Next Planning Board Meeting, Tuesday, June 15, 1993.

Submitted by:



Sandra L. Fessenden, Secretary  
Brookline Planning Board

Selectmen



TOWN OF  
BROOKLINE, NEW HAMPSHIRE

P.O. Box 360  
Brookline, NH 03033

(603) 673-8855

PLANNING BOARD MEETING

June 15, 1993

PRESENT: Peter G. Webb, Chairman, Voting (Joined meeting at 8:30 PM)  
Richard Napolitano, Vice Chairman, Voting (Joined meeting at 7:45 PM)  
Chris Hegarty, Voting, Chaired beginning of meeting  
Judy Cook, Selectmen's Representative, Voting  
Dennis La Bombard, Alternate, Voting for Joe  
Robert Sykes, Alternate, Voting for Peter ( )  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

7:30 PM Planning Board Business Meeting  
Chris acted as temporary chairman for Peter, and opened the meeting at 7:40 PM) Minutes of June 1, 1993 were reviewed, It was voted to amend page 2, line 2 to read:".....the diesel fuel pump and tank." Dennis made a motion to approve the minutes as amended. Judy seconded the motion. Vote was 3-yes, 0-no, 2-abstentions (Bob and Chris not at the 6/1/93 meeting).  
MOTION Minutes of the May 18, 1993 PB meeting were reviewed. Dennis made a motion to approve the minutes as written. Judy seconded the motion. Vote was 2-yes, 0-no, 2-Abstentions (Chris, and Bob not at the 5/18/93 meeting).

7:43 PM Brookline School District, Lot Line Adjustment Subdivision Case #1993-2:F-80  
Marcia Farwell, Chairman of the Brookline School Board, Edwin Emmerling owner of Lot F-81, and Randy Haight of Meridian Land Services were present with the plans for a lot line adjustment to add "Parcel A" containing 4.224 acres to Lot F-80, Brookline Elementary School from Lot F-81 owned by Edwin and Therese Emmerling. Randy explained this was the paperwork for the school's purchase of land, the funds having been approved at March 1993 school district meeting. Judy asked about the well radius of Emmerling's well and should it be shown on the plan? Randy agreed, and said it will be shown on the plan for state subdivision approval.  
7:55 PM Chris made a motion to accept the plan as presented. Dennis seconded the motion. Yes vote taken 5-0.

**Abutter's Comments:** Vincent Carney of 13 Springvale Avenue and Barbara Ansara of 15 Springvale Avenue were present, and expressed some concerns about the possible location of

buildings and septic and how it would affect their property. Mrs. Ansara was concerned about her well. Marcia explained that the state requires a certain amount of square footage of land per student, and the addition of this acreage would fulfill that requirement for future expansion of the school building. The septic system, when it needs to be enlarged, may be located on some of this land. Building additions would likely tie into the existing school building.

Rich explained to her that the Planning Board at this time was concerned only with the lot line adjustment; and that expansion of the school building or enlarging of the septic system would be done after hearings were held to raise monies for this purpose; and new site plans and septic plans would be required by town and state.

8:00 PM Dennis made a motion to approve the plan subject to receipt of state subdivision approval and a mylar for recording. Judy seconded the motion. Vote for approval was 5-0 yes.

8:05 PM Bingham Lumber Co. Inc., Non-residential Site Plan Review, Case #1993-A:H-90. Don Bingham was present with a site plan to add a 320 sq. ft. fuel containment building to house a fuel pump and a 6,000 gallon tank. The containment building will be similar in construction to the existing one on site; and will have a concrete containment pit adequate to handle 11,000 gallons in case of a fuel spill.

Dennis said he was concerned with congestion in this area, and asked Don if he had a master plan for future growth. Don said he had no overall future plans, but he could tie the existing buildings together, and rearrange the piles of green lumber stored outside to enlarge the business. Rich asked if the Brookline Fire Department had ever visited the site. Don answered yes, they had been there on the occasion of a small fire. Rich felt a letter sent to Ray Kecy, Fire Chief to inform him of the new plan might be helpful in terms of the fire department's checking for adequate fire truck access in case of emergency.

8:15 PM Chris made a motion to accept the plan as presented. Judy MOTION seconded the motion. Yes vote was taken 5-0. MOTION Chris made a motion to approve the plan, subject to fees being paid, an updated plan on file, and a letter sent to Fire Chief Ray Kecy. Judy seconded the motion. Vote for approval was 5-0 yes.

8:20 PM Tom Moran, "Mountain Road Estates, II" and "Birch Hill Estates, II"-Tom Moran and Road Inspector Bill Duncklee were present to request a change in the road profiles based on some field changes. Tom asked for a road grade change on Westview Road from Sta 1+50 to Sta 10+10 (650 of road) to an 8.75% grade because they encountered ledge at the top of the

hill going from Mountain Road onto Westview Road. For the first 150 feet, the road grade is 8%. They ran into ledge at Sta 6+50 through Sta 12+0. Some blasting will be required, but if the PB is willing to waive the 8% grade, much less blasting will be necessary. Some adjustments will be made at the intersections of Overlook and Summit Lanes. Rich asked for Bill Duncklee's opinion of the request. Bill said he has no problem with the change, and a great deal of blasting of ledge will be avoided. Rich said as long as the changes are vertical and there are no horizontal changes affecting any lot lines, it should not be a major problem. Tom said the blasting of ledge will reduce the top of the hill by 3 feet. His second request was regarding fill. The change of grade on Westview Road will reduce the amount of fill and he would like to use the fill on lots intersected by Westview Road and Summit Lane, which he felt would help by reducing the grade by four or five feet. Bill Duncklee had no comment on this requested change. Dennis said it looked all right to him. Chris said they are not creating any trenches since the land slopes away naturally anyway. Rich suggested adding a key to the plan so that someone looking at the road profiles will see the changes. Tom said the first 175 feet of Summit Lane will be less than a 3% road grade. Overlook Lane is not changing.

8:40 PM  
MOTION

Chris made a motion to approve these changes pending a revision block being modified on the subdivision plans. Judy seconded the motion. Vote was yes 5-0. (Judy left the meeting at this time).

8:45 PM

**Subdivision Regulation Changes-** (Peter chaired the meeting from this point on.) PB members agreed on July 6, 1993 as the date for a public hearing on changes to the subdivision regulations.

8:50 PM

**Open Space Development-Sample Review**

Jeremy had prepared a sample review of a preliminary plan for open space development. He chose the area on Averill Road where Blue Chip had prepared a plan for excavation. Following the guidelines in the open space zoning and the proposed subdivision regulation changes dealing with open space development, he drew up a plan showing how natural features (68 Acres of pond and wet area) and topography would affect subdivision development on this site. PB members made suggested changes to the regulations regarding section 4.6.04, Design Review plans for determining the number of allowable lots in an open space development.



- 9:45 PM **Planning Board General Business**  
Jeremy said the Rocky Pond Road study is completed. A joint meeting will be held by the Brookline Planning Board and the Hollis Planning Board at the Hollis Town Hall meeting room on July 13, 1993 at 7:30 PM.
- 9:50 PM Chris made a motion to adjourn the meeting. Rich seconded the motion. Yes vote to adjourn 4-0.

Next Planning Board Meeting, Tuesday, July 6, 1993.

Submitted by:



Sandra L. Fessenden, Secretary  
Brookline Planning Board

*Selectmen*



(603) 673-8855

TOWN OF  
BROOKLINE, NEW HAMPSHIRE

P.O. Box 360  
Brookline, NH 03033

PLANNING BOARD MEETING

July 6, 1993

**PRESENT:** Richard Napolitano, Vice Chairman, Voting, Chaired meeting  
Joe Kagenski, Voting  
Chris Hegarty, Voting,  
Judy Cook, Selectmen's Representative, Voting  
Dennis La Bombard, Alternate, Voting for Peter  
Margaret Olson, Alternate  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

**7:40 PM** Planning Board Business Meeting  
Rich, acting as chairman in Peter's absence, opened the meeting. Minutes of June 15, 1993 were reviewed. Judy  
**MOTION** made a motion to approve the minutes as written.  
Chris seconded the motion. Vote was 4-yes, 0-no, 1-abstention (Joe not at the 6/15/93 meeting).

**7:55 PM** Public Hearing- Proposed Subdivision Regulation Changes-  
Rich explained that the proposed changes dealt mainly with clarification of the road bonding procedure (construction bonds and maintenance bonds); and changes that came about as a result of the zoning changes adopted at the March 1993 town meeting. Rich then turned the meeting over to Jeremy Ginsberg to run through the amended items. After discussion, it was decided to make the following changes:  
Page 1. the third line of **BONDING, Section 2.21** to read: "other improvements were constructed and installed....."  
Page 2. New **Section 4.9.06** Define "self-calling" in terms of the letter of credit.  
Page 3. **Section 4.6.04** It was decided to add an introductory paragraph to this section; and have two sub-sections (a & b) with the criteria necessary for each option listed beneath both sections. Soils data, amount of wetlands and non-wetlands, slopes, and floodplain data should be included in both options. Omit the word "alternately" from Option b) in the beginning sentence.  
**Section 4.7.04** Last sentence (A note should also....) should be expanded to give an explanation of type of notation to be added onto the recording plan.

Page 4. Section 4.12.03- Paragraph 1, line 3, Change to read: "allow the Planning Board to determine the maximum number of lots allowable in the proposed open space development." Paragraph 2, line 1, change to read: " This optional phase is the applicant's opportunity to demonstrate why an open space development may or may not be appropriate on this site."

Section 4.12.04 Line 1, change to read: "The 50-foot perimeter setback is a buffer between the structures in this open space development.....and any adjacent parcels." Line 4, change to read: "This buffer may include part of a house lot or the common open space."

Section 4.12.05 Line 1, change to read: ".....development shall be permanently protected through easement, deed, or homeowners association." (Add any necessary other criteria.)

Section 4.8.03 Change to read: "The road shall be posted "Private Way" until accepted by the town."

Section 5.4.02 Line 3 change to read: "All streets will, as far as practical, follow past practice of naming streets after long-time Brookline families, or residents, or geographical features."

Rich suggested that the checklist be revised to add Design of "Open Space". Since there were substantive changes made to the proposed amendments, a second public hearing was scheduled for Tuesday, August 3, 1993 at 8:00 PM.

9:05 PM

**Discussion of Population Growth-Brookline School Board**  
Brookline School Board members Marcia Farwell and Ernest Hudzic were present. Mr. Hudzic told PB members that he was serving on the school facility study committee for the co-op school district. He said Brookline is developing ed-specs and future building plans for the elementary school. Marcia said there are 15 classrooms at the elementary school at present; and the ten year plan after the last addition called for another addition of 4 more classrooms. She feels that they are pretty much on target with their forecast. A 4-room addition will allow for 3 classrooms for each grade level with 1 additional room for the readiness grade. She anticipates this next addition to be built in another 4 years. This would maximize the present site; and would bring the pupil population to 450. Ernie said there had been some discussion about combining the co-op school district from grades 1 through 12 with Hollis, but nothing has yet been definitely decided along those lines. This would mean long-range planning should be focusing on another site location for another elementary school facility.

Rich explained the PB has been focusing on the rapid growth in Brookline in the last few years and the possible need to try to phase in subdivision growth. Demographics indicate that a large proportion of people moving to town are within the child-bearing years; and this means the schools are more than likely to be directly impacted. He said it is hoped that if some kind of growth control mechanism is put into place it can help to avoid drastic growth spikes in all areas of town services. The PB is now putting together the data necessary to support such a growth control ordinance; and any information the school board or superintendent's office is able to give the PB in terms of long-range plans for the school system will be helpful.

9:50 PM Chris made a motion, supported by Judy to adjourn the  
MOTION meeting. Vote was 5-0 to adjourn.

Next meeting Tuesday, July 13, 1993 in Hollis.

Submitted by:



Sandra L. Fessenden, Secretary  
Brookline Planning Board



(603) 673-8855

*Selectmen*

TOWN OF  
**BROOKLINE, NEW HAMPSHIRE**

P.O. Box 360  
Brookline, NH 03033

PLANNING BOARD MEETING

July 13, 1993

**PRESENT:** Richard Napolitano, Vice Chairman, Voting,  
Judy Cook, Selectmen's Representative, Voting  
Margaret Olson, Alternate, Voting for Chris  
Bob Sykes, Alternate, Voting for Joe  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

**7:30 PM Planning Board Business Meeting**

PB members met in joint session with the Hollis Planning Board to listen to a presentation by members of the Nashua Regional Planning Commission staff of their findings in the road traffic study for Rocky Pond Road. Rich acted as chairman in Peter's absence.

Ray Guarino of the N.R.P.C. handed out copies of the "Rocky Pond Sub-area Planning Study- Findings and Preliminary Recommendations" and explained how the data had been collected. Traffic counts were taken on Old Milford Road, Routes 13 and 130 (Pepperell Road) and Rocky Pond Road. Assessment of the present road conditions involving construction and safety issues were also outlined. Estimates of future housing growth on this road were outlined, and a projection of traffic increase over a ten year period from 1993 until 2003 were given. Currently, 15% of the traffic from Old Milford Road heading east towards Nashua travels over Rocky Pond Road; 25% travels Route 13; and 35% travels east on Route 130 (Pepperell Road/Proctor Hill Road). There are currently two large subdivisions off Old Milford Road being developed which will add 85 new house lots; and a potential development on Rocky Pond Road which will add another approximately 50 house lots in Brookline.

Following the presentation, Ray and Greg Lantos answered questions and asked each planning board to give their input on how to proceed with a proposed plan based on the preliminary study's recommendations. PB members discussed joint efforts to upgrade Rocky Pond Road to a paved road with attention given to making certain portions better in terms of safer sight distance and better road base. It was the consensus of both PBs that a joint effort to upgrade the road was in the best interest of both towns. It would not

be of benefit for either town to act independently of the other in terms of upgrade without having an overall plan for the entire road.

Discussion also focused on a new road being built that would act as an access onto Route 130 for traffic going east into Nashua. It was decided that it would be less expensive to use the Rocky Pond Road which already exists rather than to lay out a new road.

Richard Walker of Hollis proposed that Hollis and Brookline proceed in a two-phase plan which would involve first evaluating the current road conditions; and then getting an estimate of cost for each town to bring the road up to a paved road status. Each PB independently voted on motions to proceed as follows:

8:45 PM  
MOTION

On a motion by Margaret Olson and seconded by Judy Cook, it was voted that Brookline proceed on a two-phase approach plan to up-grade Rocky Pond Road from a gravel to a paved road.

**Phase 1:** The current road base would be evaluated. The road would be widened where necessary; The base would be built up where needed; and A drainage system would be added.

**Phase 2:** When it was determined by each town that either the amount of traffic over Rocky Pond Road had sufficiently increased or that issues of safety warranted it, the road would be paved.

It was felt by both planning boards that this two-step plan would provide a means to up-grade the road in phases which would not be too costly for either town in any one year's road construction budget; and still provide a safer road when the housing development and traffic load dictated the need to improve the present road conditions.

The planning boards thanked the members of Nashua Regional Planning Commission, and will meet in a joint session again when the next report is ready.

Meeting was adjourned at 8:50 PM.

Submitted by:



Sandra L. Fessenden, Secretary  
Brookline Planning Board

*Albritten*



TOWN OF  
BROOKLINE, NEW HAMPSHIRE

P.O. Box 360  
Brookline, NH 03033

(603) 673-8855

PLANNING BOARD MEETING

July 20, 1993

PRESENT: Peter Webb, Chairman, Voting (joined meeting at 8:15 PM)  
Chris Hegarty, Voting  
Judy Cook, Selectmen's Representative, Voting  
Margaret Olson, Alternate, Voting for Joe  
Dennis LaBombard, Alternate, Voting for Rich  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

7:45 PM Planning Board Business Meeting  
MOTION The minutes of the July 6, 1993 were reviewed. Judy made a motion to accept the minutes as written. Chris seconded the motion. Vote was in the affirmative 3-Yes, 0-No. PB members tabled the minutes of the July 13th meeting as there was not a quorum of members present to vote on them. Chris chaired the meeting in the absence of Peter and Rich.

7:50 PM Catherine Whitcomb, Non-residential Site Plan Review, Case #1993-B:G-53-1. Cathy and Steve Whitcomb were present with a non-residential site plan proposing use of the former Barnside building as an antique shop on the second floor; and a craft shop on the right-side of the lower level. She has contacted the State of N.H. Dept. of Transportation and has their OK regarding curb cuts. She presented PB members with a diagram of the locations and the work the state recommended be done to clearly delineate the two driveways. Discussion focused on the current shared driveway between lot G-53-1 and the former Tunkel property, Lot G-54. (It was noted that a Non-residential Site Plan has been filed with the PB for a new building on that site). Chris said the plan should show parking spaces and asked about a sign. Jeremy said the site plan was presented showing the entire lot of 17 acres, and the 3-level building. At the present time, the Whitcombs said they plan only some minor interior renovations. A sign conforming to the Brookline sign ordinance will be placed for both businesses. Jeremy said there was ample parking spaces. He suggested they contact Larry Thibeault about a shared driveway easement between Lots G-53-1 & G-54. Jeremy said he will contact the State about the shared driveway, and suggested that a notation be added on both site plans if the driveway is shared. He said that site plan regulations call for 10 parking spaces on the

North and 10 on the South side of the graveled parking lot. There were no abutters present.

8:00 PM Chris made a motion to accept the plan as presented.

MOTION Margaret seconded the motion. Vote was 4-0 yes to accept. Chris asked that the Whitcomb's add a notation to the plan with the state driveway permit number when they receive it. He said the parking areas should also be shown on the plan. Case continued till August 17, 1993 for approval.

8:15 PM Discussion of Growth Control Options

(Peter joined the meeting at this time)

Jeremy referenced a discussion with Town Counsel Bill Drescher in which Mr. Drescher emphasized that compiling statistics to support a growth control ordinance is very important. He also said the ordinance should be a revisable ordinance which would be reviewed once each year by the planning board or their designee to see if there is a need for revision. Jeremy said Bill suggested other options to control growth might be:

- 1) Increase lot size
- 2) Implement back lot zoning
- 3) Phasing of subdivision
- 4) Limit number of building permits

Jeremy said the PB has to decide in which direction to proceed. Chris asked if we now have the necessary statistical information in the Master Plan? Jeremy answered no, but it may be possible to adopt a separate chapter as an appendix to the latest master plan, and he will look into the best way for inclusion. A capital improvement plan with school figures included is also necessary data.

Peter asked what other statistical information independent of the C.I.P. is consistent with the body of the current master plan? Jeremy will research this. Jeremy will also work on subdivision phasing for the next work session.

Margaret said she is willing to gather information from the school boards. Principal Rich Maghakian has information on the population at the elementary school; and the school board has growth projections which can be used. Discussion also centered on what information may be available from the Hollis/Brookline Co-operative school board on projected plans for the middle school and the high school.

Margie and Terry Sherlock were present and offered to write some articles on growth for publication. Terry said they will plan to have an article ready for the next issue of "Our Place" on the problems rapid growth in town has caused.

9:00 PM Chris made a motion to adjourn the meeting. Judy seconded  
MOTION the motion. A 5-0 yes vote to adjourn was taken.

Next Planning Board Meeting Tuesday, August 3, 1993

Submitted by:



Sandra L. Fessenden, Secretary  
Brookline Planning Board



*Electron*



TOWN OF  
BROOKLINE, NEW HAMPSHIRE

P.O. Box 360  
Brookline, NH 03033

(603) 673-8855

PLANNING BOARD MEETING

August 3, 1993

PRESENT: Peter Webb, Chairman, Voting  
Richard Napolitano, Vice-chairman, Voting  
Chris Hegarty, Voting  
Judy Cook, Selectmen's Representative, Voting  
Margaret Olson, Alternate, Voting for Joe  
Dennis LaBombard, Alternate  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

7:35 PM Planning Board Business Meeting  
MOTION Chairman Peter Webb opened the meeting. Minutes of the July 20, 1993 PB meeting were reviewed. Peter made a motion seconded by Chris to accept the minutes as written. Vote taken was 5-0 yes to accept the minutes as written.

MOTION Minutes of the July 13, 1993 were reviewed. Judy made a motion to accept the minutes as written. Rich seconded the motion. Vote was in the affirmative 3-Yes, 2-Abstentions (Peter and Chris not at the July 13th meeting).

7:40 PM Margie and Terry Sherlock were present with a draft of an article to appear in the next edition of "Our Place". PB members were to read it and make and suggestions for change to them by the end of this week.

7:45 PM PB members reviewed a letter sent by the Lincoln Institute of Land Policy in Cambridge, Mass. and drafted a response to the questionnaire enclosed.

Jeremy reminded PB members that the fall law lecture series is being planned. He will have more information on the topics and the dates in the near future.

Rich asked PB members to focus on some ideas for PB projects for 1994. He felt that commercial development and site plan reviews need to be examined.

8:00 PM Public Hearing-proposed Subdivision Regulation Changes  
Peter opened the public hearing portion of the meeting. There were no people present in the audience for this hearing. Jeremy reviewed the changes made from the first hearing. After discussion by PB members, it was voted to make the following changes to the 7/20/93 draft: Page 2, Section 4.9.06, Line 1657 change to read: "...- calling. The

language in the letter of credit shall provide that if all  
.....to be called. Without any further action....."

Page 3, Section 4.6.04, a) & b) add to requirements for both  
approaches: " -high intensity soil survey showing--major  
wetlands areas, steep slopes. Add sentence at end of list to  
read as follows: "A high intensity soil survey will be  
required for all plans to delineate soils."

Page 4, section 4.12.02, Line 1, change to read: "As noted  
in sections 3.1.23 and 4.6.04, it is strongly....."

Rich made a motion to make the above changes. Peter seconded  
the motion. Vote was 5-0 yes. It was noted that these  
were substantive changes and another public hearing on  
proposed subdivision regulation changes would have to be  
held. It was decided to have the hearing held on Tuesday,  
September 7, 1993.

**8:15 PM Planning Board General Business**

There was a discussion between PB members on whether it was  
feasible to have the test pits and septic system inspections  
done by a qualified person representing the Town of  
Brookline. Secretary to check with the Town of Hollis to see  
how they handle the sub-surface and test pit inspections.

**8:30 PM  
MOTION**

Chris made a motion to adjourn the meeting. Judy seconded  
the motion. A 5-0 yes vote to adjourn was taken.

Next Planning Board Meeting Tuesday, August 17, 1993

Submitted by: Sandra L. Fessenden  
Sandra L. Fessenden, Secretary  
Brookline Planning Board



(603) 673-8855

TOWN OF  
**BROOKLINE, NEW HAMPSHIRE**

P.O. Box 360  
Brookline, NH 03033

**PLANNING BOARD MEETING**

**August 17, 1993**

**PRESENT:** Peter Webb, Chairman, Voting  
Richard Napolitano, Vice-chairman, Voting  
Joe Kagenski, Voting  
Judy Cook, Selectmen's Representative, Voting  
Dennis LaBombard, Alternate, Voting for Chris  
Margaret Olson, Alternate (joined meeting at 7:45 PM)  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

**7:30 PM Planning Board Business Meeting**  
Chairman Peter Webb opened the meeting. Minutes of the August 3, 1993 PB meeting were tabled till later.

**7:30 PM Catherine Whitcomb, Non-residential Site Plan Review, Case #1993-B:G-53-1.** Cathy and Steve Whitcomb were present. Jeremy said the outstanding issues from the last meeting were: 1) Location of parking being shown on Plan  
2) State driveway permit in conjunction with lot G-54.

Cathy indicated she had submitted a copy of the plan showing parking areas for the lower level craft shop and main level antique shop. She has received her state driveway permit. Building Inspector Wes Whittier was present. He said he was interested in any renovation or construction that might require the building being brought up to present codes. Steve answered that all they were planning to do at this time was to remove the rug and replace a few windows. There would be no structural changes requiring a building permit. Fire Chief Ray Kecz asked if the antique shop would be used to hold auctions. If used as a place of assembly for 50 or more people, the building will have to be brought up to current life safety codes for the public assembly areas. These codes are more stringent.

Steve replied no auctions would be held. He did not anticipate more than 50 people present at any one time. Rich asked if a sprinkler system would be required and if the building itself is structurally sound. Cathy said sprinklers were necessary when they were talking about the kindergarten being there. Steve answered that the new portion of the building is sound; and if anything is found to be unsafe within the building, it will be fixed. Jeremy noted work was being done on the driveway entrances. Rich inquired if they would be sharing the driveway with the abutting lot, and if there were any landscaping plans.

Steve said not other than loaming and seeding. Cathy responded that they have talked to the abutting property owner (Larry Thibeault), and there is no problem with the shared drive. She will add it to the plan if the PB wants. Peter asked the about width of the shared driveway. Steve said it was about 75 to 80 feet at the entrance. Jeremy suggested that paving 25-30 feet of the drive might be a good idea to prevent soil erosion if the abutting driveway is being paved according to their plan. Peter and Dennis felt requiring Steve to pave his portion might not be warranted because the intensity of traffic to his location would not warrant it at this time. They could perhaps better define the entrance on their side.

7:45 PM Wes mentioned that there was a need to review the A.D.A. (American Disability Act) codes for any usage on the second floor; and he said that any commercial use open to public access must provide a handicap access. Peter said he had concerns about the third level being used because of safety issues. He wanted to restrict this site plan review to use of the lower level and first floor only. He asked about signs, lighting and hours of operation. Cathy said there were 2 outside lights there now, and there would be a sign on the building for each use conforming to the sign ordinance. She plans to have the craft shop open Wednesday through Sunday from 10:00 AM to 8:00 PM. She was not sure about the antique shop, but would anticipate it would be open during daytime hours. She would like PB permission to operate all 7 days of the week.

Abutters Comments: No comments were voiced.

7:50 PM Peter made a motion to grant conditional approval pending MOTION the following being done:

- 1) Define driveway on the north side to a 30 foot width either by paving or landscaping.
- 2) Restrict use of the building to the first and second floors.
- 3) Maximum capacity per business to be limited to 50 people or less.

Rich seconded the motion. Motion to grant conditional approval 5-0 yes.

7:55 PM Larry Thibeault, Non-residential Site Plan Review, Case #1993-C:G-54. Mr. Thibeault and Jim Edwards of Meridian Land Services, Inc. were present with a site plan proposal to build an 8,000 square foot industrial building on lot G-54. Jim said it would be a single story concrete block flat-roofed building. They would use existing access from Route 13, an existing well, and would place a new septic system. The proposed use is for a plastic injection molding business employing approximately 20 employees, with future expanded growth of up to 40 employees. When questioned about the number of parking spaces shown (18) Jim answered that he had followed the site plan regulations. There is room for more to be added if necessary. They are regrading the gravel drive to alleviate the area which exceeds an 8%

grade; and are planning to pave to make it easier for tractor/ trailers to access and exit the site. They propose leaving the north entrance as is; and are requesting they be allowed to retain the use of the last mobile home (north side) for a residential rental unit. They intend to install a drainage system with a detention area to catch the water flow from the roof drains and the down slope drains. There will be an inflow and outflow pipe to connect to a 24 inch culvert under the existing driveway and drain into a culvert crossing under Route 13. The septic system is designed to be placed to the front of the building; and they will retain the wooded area in front for a visual barrier. The building will be placed approximately 85 feet from the property line (120 feet from edge of Rte. 13 pavement). The use of the trailer for rental is not connected to the business. **Jeremy** had run the plan through the regulation checklist and had the following concerns:

- 1) Dual use of industrial building and a residential unit on a two acre site.
- 2) Zoning Article IV, B. USES PERMITTED, #12 specifically states: "Any use which does not offend by emission of smoke, dust, gas, noise, odor, or fumes."
- 3) Soils data required and steepness of property.
- 4) Artist's rendition of the site.

**Jim** said there are no wetlands on the site, and there is a gravelly canton complex mix of soils in the area in front of the building where the test pit was dug.

**Judy** asked if the 40 foot building to the left of the new proposed building would be left there. Answer-yes.

8:12 PM  
MOTION

**Rich** made a motion to accept the plan as presented. **Peter** seconded the motion. Yes vote to accept 5-0.

**Rich** said he would like the PB to visit the site.

**Abutters Comments:** **John Polidoro**, owner of lot H-22 stated he lives in an historical building (old railroad station) directly across the street. Some of his feelings and concerns are as follows:

- 1) Wrong place for an industrial building; and tree removal will spoil the view of the mountain.
- 2) Water runoff may be increased onto his property and the **Nadreau's** property next to his.
- 3) Three shift operation with interior and exterior lights on and machinery operating all night long.
- 4) Increased problem at the intersection of Bond Street and Route 13 with trailer trunks entering and exiting may result in traffic light installation for safety.
- 5) An expanded commercial use directly across from a residential area. Previous use has been residential-trailers with one or two bedrooms.

**Judy** also expressed concern with the amount of traffic and the type of vehicles entering and leaving the site.

**Mr. Thibeault** said to begin with there will only be 2 or 3 tractor trailers per week delivering plastic material to the site. The same amount of common

carrier trailers or U.P.S. trucks will pick up the finished product packed in boxes.

**Peter** said he wants as much vegetative growth left as possible for a visual barrier. He asked about the hours of operation, amount of noise, and any exhaust.

**Rich** said he had aesthetic concerns with an industrial operation in an otherwise commercial area.

**Mr. Thibeault** said he currently operates a 1 1/2 shift business in Amherst, and anticipates beginning a 2 shift schedule in Brookline with future expansion to 3 shifts. No noise will be discernable outside of the building.

**Judy** asked if there was any hazardous material.

**Mr. Thibeault** answered no. The plastic comes in pellets. Waste pellets can be ground up and re-molded. There are no solvents used; and no fumes are exhausted the outside. Heat is expressed outdoors with a normal HVAC system; and the molds are water cooled.

**Wes Whittier's** concerns were with the type of materials stored on site, and the building adhering to all necessary town, state, and federal requirements.

**Clarence Farwell** asked if the same type of sprinkler system would be installed in this building as Grant Plastic has. (This will be checked into.)

**Judy** asked about exterior lighting.

**Mr. Thibeault** said there will be 2 pole lights with one directed toward the building entrance. A wooden sign similar to Grant Plastics sign will be used.

**Judy** said both this plan and Cathy Whitcomb's plan should show the common driveway; and they should investigate whether a driveway easement is necessary.

**Margaret** said she was uncomfortable with the dual use (industrial and residential) on a 2 acre lot.

**Peter** said he would like to see the entrance onto Route 13 on the north side closed off.

**Judy** expressed concern with the increased traffic at the Bond Street intersection.

**Road agent Clarence Farwell** said the increase in the Route 13 traffic is more of a problem than entering and exiting traffic from this site.

**Jim Edwards** said the visual screening could be improved, but safe site distance onto Route 13 is also necessary.

**Joe Kagenski** said it is his feeling that the dual use of the lot does not comply with our zoning ordinance, and that approval of the plan as presented would need a variance approval of the Zoning Board of Adjustment.

**Jim** asked if final site plan approval could be contingent on the trailer being vacated prior to occupancy of the new building. This will be discussed at the next meeting.

Case continued till September 14, 1993.

Site walk scheduled Saturday, August 7, 1993, 9:00 AM.

9:00 PM Talbot-Taylor Estates Partnership, Case #1993-3:6-61  
Bob Bourassa and Randy Haight of Meridian Land Services, Inc were present with a plan to subdivide Log G-61 into 2 lots. **Jeremy** said that there were no issues with this subdivision.

Bob has reached agreement with the Selectmen regarding off-site improvements to Cleveland Hill Road.  
9:03 PM Joe made a motion to accept the plan as presented with Peter  
MOTION seconding the motion. Vote taken: 5-yes, 0-no.

**Abutters Comments:** Mr. & Mrs. Timothy Nye owners of lot G-61-23 were concerned about the house location on these lots.

MOTION Joe made a motion to approve the plan pending the following items being done:  
1) W.S.&P.C. Subdivision Approval #.  
2) All fees being paid  
3) Mylar presented  
4) Note #2 corrected to add " G-61-29"  
Rich seconded the motion. Yes vote 5-0 to approve plan.

9:05 PM **Planning Board General Business**  
Jeremy said he had a meeting with Mr. Courtemarche of D.C. Tire regarding site plan review for Lot K-77, 27 Route 13 South (R.W. Shop location). There is no current site plan for this lot. Mr. Courtemarche plans to convert part of the shop into a service bay. It was the consensus of PB members that he should come in to discuss this with the PB.

Judy asked if the PB would require a site plan for an agricultural business operation on Route 13 in the residential zone if it were deemed to be allowable. PB members felt site plans were required for any allowable business in either the residential or commercial zone.

9:20 PM PB members reviewed the minutes of the August 3, 1993 PB  
MOTION meeting. Peter made a motion to approve the minutes as written. Rich seconded the motion. Vote 5-0 yes.

Joe introduced Brian Kirschner as a prospective planning board member. Also present was Robert Chisholm. Both men are giving consideration to becoming alternate members.

9:35 PM Rich made a motion to adjourn the meeting. Dennis seconded the motion. Vote was 5-0 yes.

~~Next Planning Board Meeting~~ **September 7, 1993**

Submitted by: Sandra L. Fessenden  
Sandra L. Fessenden, Secretary  
Brookline Planning Board



(603) 673-8855

TOWN OF  
**BROOKLINE, NEW HAMPSHIRE**

P.O. Box 360  
Brookline, NH 03033

**PLANNING BOARD MEETING**

September 7, 1993

**PRESENT:** Peter Webb, Chairman, Voting  
Joe Kagenski, Voting  
Chris Hegarty, Voting (joined meeting at 7:40 PM)  
Dennis LaBombard, Alternate, Voting for Rich  
Margaret Olson, Alternate  
Bennett Chandler, Selectmen's Alternate, Voting  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

**7:30 PM** Planning Board Business Meeting

**MOTION**

Chairman Peter Webb opened the meeting. Minutes of the August 17, 1993 meeting were reviewed. Peter made a motion to accept the minutes as written. Dennis seconded the motion. Yes vote 5-0.

**7:40 PM** David Bingham, Bingham Lumber Co.—Dave Bingham was present to discuss with PB members his application to the State of N.H. for a vehicle inspection license. He made application for the permit for the convenience of inspecting the company vehicles and does not intend to operate a public inspection facility. By state regulation, he must post a sign and an inspection fee. He has the right to choose the amount of the fee; and he will post one high enough (ex: \$50.00) so as not to encourage use by the general public. He will inspect diesel vehicles, and is qualified to inspect airbrakes. He will not be doing emission testing. The garage he will use is 400' to 500' feet back from Route 13. Since the sign has to be on the building where the inspection is conducted, it will not be visible from Route 13. He would have preferred to have a fleet inspection permit, but does not have the 15 vehicles required by the State for this type of license.

**MOTION**

After discussion by PB members as to whether this would constitute an expansion of use requiring a site plan review, on a motion by Margaret seconded by Peter, the Planning Board waived the requirement for site plan review for the following reasons:

- 1) The State of N.H. inspection sign will be on the inspection building only with no other signs posted.
- 2) There will be no inspection of vehicles belonging to the general public done; and
- 3) The Planning Board does not deem this an expansion or change of current use.



8:00 PM **Public Hearing-Proposed Subdivision Regulation Changes**  
PB members reviewed the changes from the second public hearing held August 3, 1993. Peter, for clarification, suggested the following wording for the second sentence on Page 2, section 4.9.06.: ".....shall provide that if, as of the day before expiration, the issuer has not been advised in writing by the Town of Brookline that all improvements guaranteed by the letter of credit have been satisfactorily completed, the letter of credit is automatically called." Sentence 3 to read as follows: "The language of the letter of credit shall provide that, in such an event, without any action on the part of the Town of Brookline, the Bank shall immediately forward a check to the Town of Brookline, payable to the Town of Brookline, in the amount of the letter of credit." Page 3, section 4.6.04, for clarification of meaning the following was suggested for the paragraph in section a) : " an open space development with the number of lots which the Planning Board deems acceptable under the above conventional plan." Section b) " The applicant may use a general 1 unit per 80,000 square foot calculation, subtracting out slopes greater than 25% and wetlands. For this calculation, the applicant must present a plan....."

Delete the last sentence in section 4.6.04..  
MOTION Margaret made a motion, seconded by Chris to accept the clarification changes Peter had suggested. Yes vote 5-0.  
MOTION Chris made a motion to accept the proposed subdivision regulation changes in the August 5, 1993 draft with the two clarification changes to sections 4.6.04 and 4.9.06 as noted above. Margaret seconded the motion which carried by a 5-0 affirmative vote.

8:25 PM **Planning Board General Business**  
a) Brian Kirschner and Robert Chisholm, Jr. were present to talk with PB members about becoming alternate members of the Planning Board. Brian and Bob both expressed an interest in serving on the PB because of a desire to get involved in their community and help to guide its growth. Peter made a motion to recommend to the selectmen the appointments of Brian Kirschner & Bob Chisholm as Planning Board Alternates. Margaret seconded the motion. Vote in the affirmative 5-0.

MOTION  
b) Joe reported that the site walk to Larry Thibeault's on Route 13 had taken place August 7th. They didn't have a design plan with them, and it was unclear where the area of the proposed leach field was and how many trees would be cut as there are two clumps of trees there now. There was some concern expressed about where the existing culvert as shown toward the Barnside building drains to. Dennis said there was a headwall 100 to 150 feet down the road. There is no existing swale; and they will need to extend the ditch from

the 24" culvert they are placing (according to the drainage plans) to this headwall. Peter said his concern is with the tractor trailers entering and leaving the site. He would prefer none of the screening trees be removed. Joe also noted that the north entrance is not good. It is steep and not necessary. If additional parking spaces are required, where would they go. Jeremy said he will talk to Jim Edwards regarding issues raised after the site walk. Jeremy also apprised PB members that Mr. Tom Mahoney has made no further contact with the PB regarding his tire operation at the Brookline Pizza property on Route 13 north. Ben said he will report this back to the selectmen. Jeremy said the final copies of the Rocky Pond Road study are available. Secretary to make copies for PB members.

8:47 PM

**Population Growth Memorandum Update**

PB members discussed the August 16, 1993 update memo Jeremy had prepared. Peter said he would like to have the increase over the last 5 to 10 years in the amount of road surface the town is now maintaining incorporated into this document. He said he also feels there are not enough recreational facilities in town. He asked if the growth impact on the transfer station over this same time period could be ascertained. PB members felt the addition of the number of car registrations, ambulance, police and fire calls could be added into the document. Jeremy will gather this data, and PB will discuss this at the next work session October 5th.

9:05 PM

**Talbot-Taylor Estates-** Robert Bourassa was present with a red-lined copy of the road profile changes regarding road width (22 feet) and the fire pond that the PB had approved. Jeremy noted that the road width change affects only the inside of the road and does not affect the drainage or lot lines. Chris made a motion to accept the plans. Margaret seconded the motion. Yes vote 5-0. Peter signed the plans. Bob said he would be getting a letter of credit before the next meeting on September 21st.; and asked what was needed to lift the lot sale restriction recorded at the Registry of Deeds for the loop portion of Taylor Road. PB members said he needs the following:

MOTION

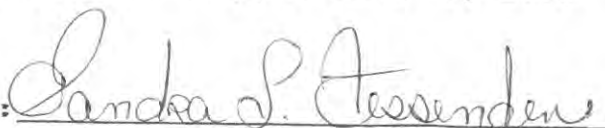
- 1) Bond estimate for road completion.
  - 2) Letter drafted by his attorney lifting the lot sale restriction with the placement of a road bond. To be signed by the PB and recorded at the Registry.
- Bob will have this done for the next meeting.

9:45 PM

Ben made a motion to adjourn the meeting. Dennis seconded the motion. Vote was 5-0 yes.

**Next Planning Board Meeting Tuesday, October 5, 1993**

Submitted by:



Sandra L. Fessenden, Secretary  
Brookline Planning Board



(603) 673-8855

TOWN OF  
**BROOKLINE, NEW HAMPSHIRE**

P.O. Box 360  
Brookline, NH 03033

MINUTES  
PLANNING BOARD MEETING  
SEPTEMBER 21, 1993

**PRESENT:** Peter Webb, Chairman, Voting  
Rich Napolitano, Vice Chairman, Voting  
Chris Hegarty, Voting  
Judy Cook, Selectmen's Rep., Voting  
Joe Kagenski, Voting  
Bob Sykes, Alternate  
Dennis LaBombard, Alternate  
Jeremy Ginsberg, NRPC Representative  
Rena Duncklee, Acting PB Secretary

**7:30 PM Planning Board Business Meeting**  
Chairman Peter Webb opened the meeting. Minutes of the September 7, 1993 meeting were reviewed.

**MOTION** Peter moved to accept the minutes as written.  
Seconded by Dennis and voted yes 3-0 (Judy and Rich abstained as they were not at the meeting).

**Talbot-Taylor Estates Partnership, Case #195** - Jeremy reported that Phase I is almost complete. Bob Bourassa has received an estimate in the amount of \$164,350 from Road Inspector Bill Duncklee for the completion of Phase II in order to get a bond. Bob submitted a letter for release in the Registry of the restrictions for selling lots.

**MOTION** Rich moved to set the bond in the amount of \$164,350 and sign the letter releasing the restriction. Seconded by Judy and voted yes 5-0.

**7:40 PM Anna T. Kinney, Case #1993-4:F-11** - Lot F-11 containing 42.383 acres is being subdivided into a 12.119 acre lot with the existing house (lot F-11-4) and the remaining lot containing 30.264 acres (F-11). Jeremy reported minor changes are needed to the plan: locus map showing reference roads, correction of lot numbers, abutter lot #F-23-1 should be F-13-1. Randy Haight of Meridian Land Services arrived with the revised plan. Rich asked whether the wetlands delineated were from SCS or a field survey; Randy said they were from both.

Dennis asked how this subdivision fit in with open space development. Jeremy said because of the potential future development of the 12 acre parcel they will be asking for a waiver of the open space development ordinance. Randy explained that the people buying the house don't want all 42 acres which is the reason for this subdivision. Rich asked whether this could be a way to circumvent the open space development ordinance.

PLANNING BOARD MEETING  
SEPTEMBER 21, 1993, Pg. 2

**MOTION** Joe moved to accept the plan for consideration; seconded by Peter. Vote 5-0 yes to accept.

Peter read letter submitted by Anna & William Kinney to request approval and to consider this a minor subdivision as they have no plans for future subdivision of lot F-11-4. Abutter Tom Moran said the 12 acre parcel makes good sense; the intent is probably to keep 10 acres in current use. Judy said she sees no reason to delay taking action on this subdivision and asked Randy whether the Kinney's would consider a conservation easement along the brook. Randy said the last time the Kinney's gave land along the road in order to straighten a curve in the road and wouldn't want to encumber the land with a conservation easement. Dennis said he felt this subdivision circumvents the open space development ordinance; Chris said a 12 acre lot preserves open space.

**MOTION** Chris moved to approve the subdivision and waive the open space development requirement as it meets the intent of the ordinance and promotes the conservation of the natural environment. No second.

Peter said he's concerned with chipping away at small subdivisions. Joe said he feels the Board can regulate conditions in a future subdivision of this lot.

**MOTION** Rich moved that the Board finds that the open space development option should apply to lot F-11-4 even though this lot has less than the required 20 acres. Voted yes 5-0.

**MOTION** Rich moved, seconded by Judy to approve the subdivision pending fees being paid, a new mylar with a note on the plan referencing Article 16, Open Space Development apply to lot F-11-4 in the future even though this lot has less than the requirement of the minimum lot size of 20 acres. Voted yes 5-0.

**8:25 PM** **N.R.S.P. #1993-C:6-54 Case continued** - Jim Edwards of Meridian Land Services was present along with applicant Larry Thibeault. Jim said the changes have been made on the plan; the residences on the site will be vacated; the northernmost access will be closed; the septic design has been submitted to the state; added plantings for additional screening and the abutter across the street added.

PLANNING BOARD MEETING  
SEPTEMBER 21, 1993, Pg. 3

Rich said at the site walk there was a concern about the culvert. Jim said the proposed culvert under the driveway will be of considerable size and that the Dept. of Transportation has asked for a profile. Judy said she went to Grant Plastic and their parking area is larger than the building and feels more space needs to be designated for the large vehicles turning around. Jim said there is over 100' by the building. Judy asked where any expansion would take place if needed in the future; Jim said at the northern end.

Judy asked if a sprinkler system is needed for this type of building. Larry said his present facility in Amherst has no sprinkler system. Building Inspector Wes Whittier said he has talked to Fire Chief Ray Kocy and doesn't think a sprinkler system is required but the fire chief would have to make that determination. The fire engineers will be asked to come in to the next meeting.

Judy asked Emergency Management Director Wes Whittier about hazardous materials in this type of business. Wes said there are more hazardous materials in the gas stations nearby. He said New Hampshire is not an OSHA state. Abutter Jack Polidoro said he feels this is very toxic material; Wes said the material is not on the list of 100 most hazardous materials.

Larry said the building will be 8,000 sf; 2,000 sf for office, 2,000 sf for warehouse and the rest for plastics and machine shop.

Peter asked if there is any drainage from the building other than septic; Larry said there is none; pieces of plastic get reused.

Larry submitted drawings of the building showing the exterior of the building (14' high). Judy encouraged more screening by the northern driveway. Peter asked about noise and smell outside of the building. Larry said there is none outside the building; nothing is vented outside of the building. Judy said she went to Grant Plastics and noticed there is no noise until you go inside the building and there was no smell. Jeremy said he went to Larry's present site in Amherst and encouraged the planning board members to drive by. He said there was no noise or smell and he was about 30' from the building. Libby asked about the water used. Larry said the water is reused and doesn't leave the building.

PLANNING BOARD MEETING  
SEPTEMBER 21, 1993, Pg. 4

Judy asked how much vegetation would have to be cut for the building. Larry said about a 30' x 100' area. Jack Polidoro said large trees absorb a lot of water and the cutting of trees will affect the flow of water. Dennis asked if he had any numbers to back up that statement and said he felt there would be no effect on the flow of water. Conservation Commission Member Libby Wehrle-Anderson asked if there were any drainage calculations done; Jim Edwards said yes.

It was noted the existing trailers on the site would be removed and the area loamed and seeded. There would be 22 parking spaces. Sid Hall asked how many pickups there would be. Larry said about two (2) tractor trailers and two (2) UPS trucks per week. Jim said the driveway permit was in the process with the state. Peter encouraged anyone with concerns to visit the existing site in Amherst.

Peter said he was concerned with the visual effect of the building. Libby asked how such a building can fit into the rural new england atmosphere. Sid said he felt this type of building would be out of character with our rural, scenic, quaint atmosphere. Rachel Moran asked if the look of the front of the building could be made to fit in more with the rural character of the town. Peter said we have to determine whether it would be detrimental to the town; Judy said there are many other commercial activities that would be more detrimental. Marcia Farwell noted that the town voted to build a cinder block school building plus two additions to it. John Sojka said he was concerned with trailers being moved onto the property in the future for storage. It was noted they would have to come back to the planning board for any change. Larry suggested textured block on the front of the building; Judy suggested the side along Barnside also be included.

Peter asked them to make revisions commensurate with the comments and return on October 19th.

9:50 PM GENERAL BUSINESS - Judy said the selectmen ask that the planning board define forestry activities in the zoning ordinance and that town counsel has recommended we adopt our own definition instead of going with the state definition.

PLANNING BOARD MEETING  
SEPTEMBER 21, 1993, Pg. 5

Libby pleaded with the Board to do something about a growth ordinance because of traffic and increased taxes with the schools.

Donna Lang expressed concern with the noise from construction vehicles in new subdivisions at the northern end of Old Milford Road. It was noted the planning board is working on that with the East/West Corridor study of Rocky Pond Road.

Sid asked if there was any alternative for hot top on sidewalks. Clarence said that's the most economical; bricks and concrete are more expensive.

Tom Moran asked about reducing the width of the roads in the **Mountain Road Estates II and Birch Hill Estates II** subdivisions from 24' to 20'. Clarence said he was in favor of 20'. The planning board reviewed the subdivision plans for both subdivisions.

**MOTION**

Judy moved, seconded by Chris to amend the width requirement of the roads in the Mountain Road Estates II and Birch Hill Estates II subdivision to 20' and for Tom to submit a red lined plan. Voted yes 5-0.

Chris moved to adjourn the meeting at 10:15 p.m. Seconded by Judy and voted yes 5-0.



(603) 673-8855

TOWN OF  
**BROOKLINE, NEW HAMPSHIRE**

P.O. Box 360  
Brookline, NH 03033

**PLANNING BOARD MEETING**

October 5, 1993

**PRESENT:** Peter Webb, Chairman, Voting  
Richard Napolitano, Vice-chairman, Voting  
Dennis LaBombard, Alternate, Voting for Joe  
Margaret Olson, Alternate, Voting for Chris  
Judy Cook, Selectmen's Representative, Voting  
Bob Chisholm, Alternate  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

**7:30 PM Planning Board Business Meeting**

**MOTION** Chairman Peter Webb opened the meeting. Minutes of the September 21, 1993 meeting were reviewed. Peter made a motion to accept the minutes as written. Rich seconded the motion. Yes vote to accept the minutes was 5-0.

**7:40 PM Grizzly Development Corp.-Road Bond, Mosher Drive**

Robert Pace and Mike Maggio were present to discuss road construction bonding for Mosher Drive. Bob expressed his desire to bond the road in two portions so that he could obtain 3 building permits in the cul-de-sac area (Sta 14+75 to Sta. 25+9) as soon as possible. Plans are to have the entire road finished within the next three weeks, all but the second coat of paving which will be done next spring. They are still waiting approval from the State Attorney General's office. Road Inspector Dennis LaBombard had prepared a report of the work completed to date, and road bond estimates for PB members to review. Peter said he was not in favor of bonding the road in segments. He understands the financial realities for the developer, but he would rather err on the side of caution to avoid problems for the Town if the developer runs into financial difficulties and cannot complete the road. Judy said the Town needs this road to be completed for life safety reasons as another access onto Old Milford Road. She would be willing to allow partial bonding if all remaining lots on Mosher Drive were prohibited from sale by a restrictive document recorded at the Registry of Deeds. Margaret said she was not in favor of breaking our own rules to accommodate this particular case. She felt this was a variation of the same argument the PB has heard from other developers seeking to do the same type of bonding. After further discussion between PB members, Mr. Pace, Mr. Maggio and Road Inspector Dennis LaBombard about the amount



MOTION

needed to bond the entire road, Peter made a motion to temporarily reduce the amount held for engineering and contingency to \$5,000.; and set the total of the construction bond for Mosher Drive at \$122,000. The entire engineering & contingency amount (25% of the total remaining work) will be added back in when the first bond reduction is approved by the selectmen. Rich seconded the motion. Vote was 4-0-1 Abstention (Dennis).

**Mosher Drive-Grade Changes-** Dennis explained to PB members some grade changes to the road profiles the developers were asking the PB to approve. He said the road grade needs to be raised to avoid water and <sup>LEOSE</sup> ~~to match the existing grade at Sta. 7+50.~~ He indicated the areas they proposed the raise in grade were necessary partly because 1986 aerial topography maps used were incorrect. The changes will create more material on-site, but the new grade will not exceed our 8% maximum grade and will tie into the existing intersection. Rich asked if any additional wetlands were being filled in. Dennis answered no.

MOTION

Margaret made a motion to approve the road changes as presented on the red-line plan. Rich seconded the motion. Affirmative 5-0 vote to accept the road grade changes as shown for Mosher Drive.

8:20 PM

Marcia Farwell and Albert Valliere were present to ask if conceptually lot F-56 containing 7.62 acres could be subdivided into 2 lots. The lot on which Mr. Valliere's house is built (F-56) would become a 5 acre back lot. Jeremy had looked at the plan and said that because of the location of wetlands on the property, it would make for 2 odd-shaped lots in order to meet current zoning and subdivision requirements. PM members suggested to Mr. Valliere that he allow for a 30 foot parallel access to his existing driveway to meet the back lot access requirement. It was recommended he have an engineer look at his plan to make a determination as to whether the two lots would conform to all subdivision and zoning requirements.

8:30 PM

**Population Growth Memorandum Update**

Jeremy had prepared a proposed addendum to the Master Plan based on the statistical data he has been gathering on Brookline's growth. (This replaces pages 13 through 18 of the previous growth memo). He suggested PB members read it and be prepared to discuss it at the October 19th meeting. He said the criteria necessary for implementing a building permit restriction could be decided on at that time.

9:15 PM

**Zoning Changes for 1994 Town Meeting**

Jeremy said the following two items need to be discussed for proposed changes to the zoning ordinance:

- 1.) A change in the local floodplain ordinance because of new wording in the National Flood Insurance Program.
- 2.) A change in the Building Code section to allow for the adoption by reference of updates to the National Building Codes.

Amended  
10/19/93  
SUF

9:20 PM Planning Board General Business

1) PB members looked over the 1993 Planning Board budget and the 1993 expenses to date. It was decided to budget for an update of the C.I.P. (\$1,100.); and to increase the budget to allow for notices for a town-wide mailing to be done regarding zoning changes prior to the 1994 town meeting. Total 1994 Planning Board Budget was set at \$21,900.

2) Jeremy showed PB members the new hydric soils and wetlands maps prepared by NRPC. Visually they are a good aid in helping to locate wetland soil areas in Brookline.

3) PB members read the 9/17/93 selectmen's memo regarding the Non-residential site plan for Holmes/Swenson property on Route 13 north, Lot D-76. It was not clear that more than one vehicle had been advertised for sale on the property, and PB members felt a sale of one vehicle was not a problem. The location of storage buildings for display and sale might become a problem if the areas designated for parking on the site plan are not allowed for. A memo will be sent to the selectmen recommending they meet with Linda Holmes or the person renting her property and make sure they understand the limits of the approved site plan.

9:50 PM Rich made a motion to adjourn the meeting. Judy seconded the motion. Meeting was adjourned by a 5-0 yes vote.

Next Planning Board Meeting Tuesday, October 19, 1993

Submitted by:



Sandra L. Fessenden, Secretary  
Brookline Planning Board



(603) 673-8855

TOWN OF  
**BROOKLINE, NEW HAMPSHIRE**

P.O. Box 360  
Brookline, NH 03033

PLANNING BOARD MEETING

October 19, 1993

**PRESENT:** Peter Webb, Chairman, Voting  
Richard Napolitano, Vice-chairman, Voting  
Dennis LaBombard, Alternate, Voting for Joe  
Bob Chisholm, Alternate, Voting for Chris  
Judy Cook, Selectmen's Representative, Voting  
Margaret Olson, Alternate (Joined meeting at 7:40)  
Bob Sykes, Alternate (Joined meeting at 7:40)  
Brian Kirschner, Alternate  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

**7:30 PM** Planning Board Business Meeting  
Chairman Peter Webb opened the meeting. Minutes of the October 5, 1993 meeting were reviewed. On page 2, Mosher Drive-Grade Changes, line 4, Change to read: "be raised to avoid water and ledge." Peter made a motion, seconded by Rich to accept the minutes as amended. Yes vote 5-0.

**MOTION**

**7:35 PM** Tom Moran-Mountain Road & Birch Hill Estates, II  
Tom Moran and Bob Bramley, General Partners were present to ask the Planning Board, in conjunction with the Board of Selectmen, to sign a letter of compliance to be recorded at the Hillsborough County Registry of Deeds releasing for sale those lots which are in the first phase of road construction. Tom said Westview Road has been completed, and within the next two weeks they will be finished setting the bounds, placing guard rails where required, and putting up signs. They will then come back to ask the PB to accept the road and set the amount to be held for a maintenance bond. He requested they be allowed to leave the final loaming and seeding of the side slopes till next spring because of the lateness of the season.  
Judy said the selectmen met with Tom last night, and are in agreement that they will sign the letter of compliance.  
Fire Chief Ray Kacy asked about the fire pond on Overlook Lane that would be used for the homes built on Westview Road. Tom answered that the fire pond on lot #D-20-6 on Overlook Lane was scheduled to be built in the next phase. Ray said the distance from the fire pond at the intersection of Old Milford & Mountain Roads (lot D-18-24) was 1.1 miles to the end of Westview Road. He expressed a concern about houses built that far away from a water supply.  
Tom assured PB members and Ray that the fire pond will be the first thing done in the spring; and will be completed by June 15, 1994.

In the meantime, there are existing ponds at the bottom of Mountain Road and on Birch Hill Road (lot D-93). Brian asked if there would be any houses built before spring. Tom said that no lots have as yet been sold. He will force lot sales toward either end of Westview Road near the existing fire ponds until the third pond is built.

Peter and Ray said they were comfortable with this plan until the Overlook Lane fire pond is operational. Dennis also suggested making the June 15, 1994 date for the fire pond completion a part of the maintenance bond.

7:55 PM **Larry Thibeault, Non-residential Site Plan Review**

Mr. Thibeault and architect Dave Ely were present with an artist's illustrative drawing of the building.

Jeremy said the changes from the last hearing are as follows:

- 1) Note on plan-North access is to be closed, loamed, seeded, and screening plants added.
- 2) Note on plan- Save existing trees and add more trees for visual screening.
- 3) Page 2, top- Swale changes per N.H.D.O.T.
- 4) Entrance way made larger per N.H.D.O.T.
- 5) Sprinkler system not necessary (see letter from Wes Whittier). (attached)
- 6) Building's look and style (artist's drawing).

Mr Ely said the building was cement block construction with split-faced blocks on the front. The building is 14 feet in height with a flat roof and no roof equipment. It will be plain with painted or colored blocks. The sides are not made of split-faced blocks but will match the front in color. Mr. Ely thought that making the building more colonial in style with a wood-frame structure would not be permitted under the fire codes without installing a sprinkler system. Ray Kegy said he would have to see the building plans before he could determine this.

Mr. Ely said the remaining trailer on the north side will be vacated and removed prior to occupancy of the new building.

Rich expressed a desire to have specifics of the plantings for the visual screening added onto the plan. He explained that the PB was sensitive on this issue because of past experiences. Judy suggested to create the maximum screening effect 2 or 3 varieties of trees could be planted.

Brian suggested 1 1/2" to 2" caliper mixed deciduous and conifer (nursery stock trees) would be reasonable starter size trees, and he suggested this be added onto the plan.

Jeremy recommended two changes which be added to the site plan: 1) A note regarding the size and type of trees; and 2) Remove the trailer and the shed from the plan.

8:15 PM  
MOTION

Judy made a motion to approve the plan with the following conditions:

- 1) Notes being added to the plan referencing the type, size and location of the trees being planted;

- 2) Delete the trailer and shed from the site plan drawing; and add note that their removal must precede the occupancy of the new building.
- 3) Permit from the N.H. Department of Transportation being received.
- 4) Water Supply and Pollution approval being granted.
- 5) All fees paid and a plan presented for signing.

**Bob Chisholm** seconded the motion.

**Rich** briefly spoke to the issue of approval of this project for those present at the meeting. He said it was subjective as to whether this was the best use of this property. When it comes to granting approval, however, the PB must look to see if it would present a threat to the health, welfare, and safety of the general public. The answer to all three is no. Is it permitted under current zoning? Does it meet current non-residential site plan regulations? The answer is yes to both. The Planning Board is then obligated to approve projects which meet these criteria; and must balance the rights of the property owner against the abutters' issues and concerns. He urged the PB to approve this plan. Motion to conditionally approve the plan was Yes 5-0.

**8:20 PM** PB went into a brief executive session.

**8:25 PM** **Shirley M. Johnson, Non-residential Site Plan Review**

Neil Johnson and John de Martin of Superior Steel Fabricators were present with a plan to add an 80' X 80' foot building with a 12' X 70' addition to the existing 40' X 80' building. Mr. de Martin said the business consisted of the cutting & welding of steel fabrications, currently employing 5 people. Because of a lack of space, they are doing assembly work outside. He would be looking to add up to 4 more employees, and do all work inside the building. Mr. Johnson said the site consisted of 3.8 Acres, with the brook being the back lot line. There was 680' along Route 13, and they were 730 feet from State Line Variety. The new building would be located 40 feet closer to the road than the present building.

**Abutters-** Carl and Ann Anderson asked if there would be additional trailer trucks entering and leaving the site. They noted there had been 4 delivery trucks entering the site today; and expressed their concern with traffic safety at the intersection of Routes 13 and 130. Mrs. Anderson said that cars park in front of the fence, and she was concerned with increased noise and traffic. She said she was hopeful of landscaping being done along the fence. Mr. and Mrs. James Normand of 8 Lorden Lane said they would like to see the area cleaned up and landscaping done. Mr. Anderson said the strip zoning of Route 13 and the further expansion of this property as an industrial site devalues his property across the street. Mrs. Anderson was concerned that the acetylene torches they used meet E.P.A. standards as because a lot of the work is done outside.

Conservation Commission Co-chairman Libby Wehrle-Anderson had written a letter to the PB (see attached), and had the following concerns:

- 1) Location is adjacent to 2 prime wetlands;
- 2) It is in a flood zone according to the town map;
- 3) It is in the Aquifer and Wetland Districts.
- 4) Septic System capabilities unknown.

Mr. Johnson said that Bibco had the septic system enlarged 7 years ago, and Bibco had 14 employees. He said the 10 or 12 drums of hydraulic & motor oil currently on-site will be removed, along with the vehicles Libby had noted. M.J.S. Metals will be removing the waste steel on the site. He did not feel there was a problem with flooding, and mentioned the flood of 1986 when the water rose no more than half-way up the banking which is 15 feet above normal water level. Rich said that the PB wants to see a plan similar to the Thibeault plan. The expansion of this project and the issues raised tonight would warrant this type of a plan. Brian noted that they were going from a 4,800 square foot to an 11,000 square foot work area.

Dennis said the plan should be drawn either by a land surveyor, professional engineer, or an architect.

Judy said a mixed planting of shrubbery and trees are needed for a visual screening barrier along the fence.

Mr. de Martin anticipated there would be 4 delivery trucks per week. Mr. Johnson said that his business (Bibco) at the same site generated more business than the present one; and he felt traffic safety was an issue more for the State Line Variety than for Mr. de Martin's business. He said he was willing to transplant some existing pines for a visual screen behind the fence. He stated they were currently cleaning up the outside storage area behind the building.

Judy asked if they could provide an area for the trailer trucks to turn around in so that they would not have to back out onto Route 13. Peter questioned the speed limit of the road at this location. It is 50 MPH. Mr de Martin said with the present layout it is not possible to provide a turn-around area for the tractor trailer trucks.

Judy asked how they presently get rid of any waste oil.

Neil said his son-in-law had a waste oil furnace. A company in Wilton will also pick it up. There is no waste oil generated now. The only oil used is a cutting oil for the saw blade, and it is recycled, not changed. They have a fork lift and 4 pick-up trucks. Maintenance work on the vehicles is done at a garage and not on the site.

Jeremy suggested a site walk be done as soon as new plans have been drawn.


Mr. Johnson said he would like to expedite the process to be in the new building before winter.

Abutter Carl Anderson asked that the outside storage area and landscaping plans be shown on the plan. Peter said the PB needs basic factual reliable data in order to make an informed decision. The right-of-way, parking areas, and storage areas need to be shown. PB will check with the police department as regards traffic accidents at the intersection of Routes 13 and 130. Case continued till November 16, 1993.

- 9:05 PM **Planning Board General Business**  
Jeremy briefly discussed the Valliere lot on Rocky Pond Road. He asked if the PB felt OK with 1 weird-shaped lot in order to subdivide lot F-56 into 2 lots, 1 being a back lot. PB members felt Mr. Valliere needs to contact a land surveyor to better make a judgement as to whether this subdivision will meet subdivision regulation requirements.
- 9:10 PM **Growth Management Ordinance memorandum.**  
Jeremy distributed copies of a draft of zoning changes for March 1994 town meeting, and a letter to town counsel William Drescher asking him to review the changes for legality issues. Jeremy noted the Growth Management Ordinance on Page 2, and PB members discussed the merits of a building permit pool and how it would work. Jeremy suggested that PB members read this over, and it will be discussed at the next work session on November 2, 1993.
- 9:15 PM Rich made a motion to adjourn the meeting. Dennis seconded the motion. Vote was 5-0 yes to adjourn.

Next Planning Board Meeting Tuesday, November 2, 1993

Submitted by:



Sandra L. Fessenden, Secretary  
Brookline Planning Board



Made Part of the 10/19/93 P.Bd. minutes

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TOWN OF  
BROOKLINE, NEW HAMPSHIRE

P.O. Box 360  
Brookline, NH 03033

(603) 673-8855

October 19, 1993

Brookline Planning Board  
Town Hall  
Main Street  
Brookline, N.H. 03033

Subject: Larry Thibeault, N.R.S.P. Review, Case #1993-C:G-54

Dear Members;

Mr. Thibeault delivered two attached MSDS's for the raw material used in his molding process. He did not, however, have a detailed interior building plan prepared at this stage in the process. Without this plan, Deputy State Fire Marshal Britton would not give his opinion regarding the necessity of a sprinkler system to meet the Life Safety Code. He referred Chief Keczy back to the jurisdiction of the BOCA Building Code.

In the 1990 BOCA National Building Code, Section 305.0, Table 305.2, a plastic products factory is categorized as Use Group F-1, Moderate Hazard. In Section 1002.0, Fire Suppression Systems, Item 1002.7, a sprinkler system is necessary:

1. Where fire area exceeds 12,000 square feet.
2. Where total combined area of fire areas on all floors exceeds 24,000 square feet.
3. Where fire area is more than 3 stories above grade.

Since Mr. Thibeault's proposed building is one-story at 8,000 square feet, it does not meet the requirements for a sprinkler system. He may still want to consider a sprinkler system to protect his investment, or to meet the requirements of his insurance carrier.

The MSDS's submitted for polypropylene and polyethylene raw materials do not indicate any great concern for potential exposure to the population outside the facility. During a fire, Mr. Thibeault's workers and any emergency responders entering the building would be exposed to toxic by-products of combustion. Many of these same by-products are resultant from any structure fire or from a motor vehicle fire.

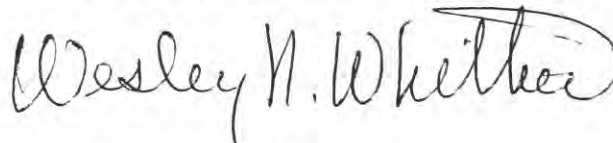


Page 2

Since Mr. Thibeault's facility may qualify under applicable OSHA regulations, he will have to evaluate the work-place hazards for compliance with employee safety. He may also have to comply with other applicable SARA & EPA regulations regarding hazardous materials storage, use, and disposal. He will be asked to submit all MSDS's for materials at his facility to the Brookline Emergency Manager for inclusion in the emergency response plan.

If there are further questions or concerns, please contact me.

Very truly yours,

A handwritten signature in cursive script that reads "Wesley N. Whittier". The signature is written in black ink and is positioned below the typed name.

Wesley N. Whittier  
Building Inspector  
Emergency Management Director

cc: Fire Chief Ray Kacy

WNW:sif



Brookline Conservation  
Commission

Brookline, New Hampshire  
03033

*Made Part of the 10/19/93 P. Bd. minutes*

*(SP)*

October 19, 1993

MEMORANDUM

TO: Brookline Planning Board  
Town Hall  
Brookline, N.H. 03033

FROM: Brookline Conservation Commission

RE: Shirley Johnson, 46 Route 13 South, Superior Steel  
Fabricators, NRSP Review, Case #1993-D:J-19.

Dear Members,

We have completed an on-site review of the proposed building addition on Lot J-19 for Shirley Johnson. The property is very important environmentally. It is located adjacent to Wallace Brook which moves water from Fresh Pond (on Averill Road) to the Nissitissit River. The soil appears to be very sandy- which means it does not have a high capacity to filter ground water.

The Conservation Commission advises that the Planning Board require the applicant to submit a more detailed map which should include the following:

- 1) Flood Zone A- 100 year boundary.
- 2) Aquifer Protection District boundary.
- 3) Wetland Conservation District boundary.

Our concerns about the proposed addition are:

1. The increased size of the facility will mean more employees. Are there adequate sewage facilities?
2. What sort of waste products are generated (oil, etc.); and how are they disposed of?

Despite the fact that this property is adjacent to a residential zone and along a major road, landscaping in front of the present building is non-existent. Could this be improved? Can landscaping be done on the north side of the property?

Page 2

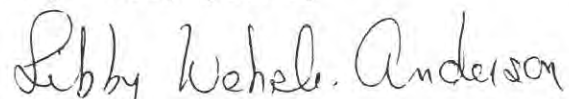
We also have concerns about the present conditions. On the west side of the present operation the area has possible potential environmental hazards. While we understand that businesses need a place to store material, these items are as close as 15 feet to the approximate boundary of the Brookline Wetlands Conservation District (W.C.D.).

There are also 10 50-gallon barrels of some substance. We guessed it to be used motor oil within 50 feet of the W.C.D. and probably in the Aquifer District Boundary.

Additional there are 2 unregistered vehicles. The opposite side of Wallace Brook is protected by a conservation easement. We would ask the applicant to consider similar protection to be added to his portion of the brook. The best way to accomplish this is to attend our next Conservation Commission meeting and discuss the options.

In summary, because this property is on the water course between prime wetland (Fresh Pond), and prime wetland (Nissitissit River/Campbell's Meadow), we would urge the Planning Board to review it with the utmost care.

Very truly yours,



Libby Wehrle-Anderson, Co-chairman  
Brookline Conservation Commission

cc: Shirley Johnson  
Superior Steel Fabricators

Selectmen



TOWN OF  
BROOKLINE, NEW HAMPSHIRE

P.O. Box 360  
Brookline, NH 03033

(603) 673-8855

PLANNING BOARD MEETING

November 2, 1993

- PRESENT: Peter Webb, Chairman, Voting  
 Richard Napolitano, Vice-chairman, Voting  
 Joe Kagenski, Voting  
 Chris Hegarty, Voting  
 Judy Cook, Selectmen's Representative, Voting  
 Margaret Olson, Alternate  
 Jeremy Ginsberg, N.R.P.C. Representative  
 Sandra Fessenden, PB Secretary

7:30 PM Planning Board Business Meeting  
 Chairman Peter Webb opened the meeting. Minutes of the  
 MOTION October 19, 1993 meeting were reviewed. Peter made a motion  
 seconded by Rich to approve the minutes as written. Vote  
 was 4-Yes, 1-No, 1-Abstention (Joe not at the 10/10/93  
 meeting).

7:35 PM Mr. & Mrs. Daniel Pelletier, owners of K-57-10, 5 Petersen  
 Road were present. They were concerned with a modular home  
 being placed on the lot next to theirs (K-57-9). They felt  
 it would devalue their property and questioned how a mobile  
 home could be placed in this location. Mr. Pelletier said  
 there were 1,800 sq. ft. homes currently built there. He  
 asked if mobile homes could be installed on the other 5 or 6  
 lots, or whether something could stop their placement.  
 Building Inspector Wes Whittier and Selectman Russ  
 Heinselmann were also present at this meeting.  
 Peter said he remembers the subdivision being approved in  
 1983, and Mr. Petersen's request to have it designated as a  
 mobile home district. Wes said he issued the building  
 permit based on the information that the area was a mobile  
 home district. He said the building meets the N.H. Energy  
 Code and has a full foundation and septic system. He had  
 done a foundation inspection on 10/25/93 but had not been  
 contacted for any other inspections. He had building plans  
 showing 2X6 framing on the outside walls. The plans meet the  
 CABO codes as specified as well as the N.H. Energy Code.  
 Rich read the minutes of the March 1983 Planning Board  
 meeting which indicated the plan had been submitted for and  
 approved as a mobile home district.  
 Judy said the Pelletier's problem was not with the town. The  
 approved plan can't be redistricted by the town.

Peter noted it was Planning Board approval at the developer's request (not a vote of the town) that established this mobile home district. If a change is to be made, Mr. Petersen would have to make it- possibly with restrictive covenants on the remaining lots.

Russ said he felt this was a civil matter between Mr. & Mrs. Pelletier, Mr. Petersen, and the realtor.

7:50 PM Tom Moran-Mountain Road Estates, II & Birch Hill Estates, II Tom Moran and Bob Bramley, General Partners of Millrock Realty were present to ask the Planning Board to recommend acceptance of Westview Road as a town road and set an amount for the maintenance bond. He presented PB members with a copy of the actual cost of road construction (\$369,000.) as well as the estimates prepared by Meridian Land Services (\$454,818.); and a recommendation of Road Inspector Bill Duncklee to hold \$5,000. for loaming and seeding to be done in spring of 1994.

Jeremy referenced the new subdivision regulations as regards the establishment of a maintenance bond amount based on actual road construction costs.

MOTION Chris made a motion to set the bond at \$40,000. Rich amended the motion to \$45,000. to add the \$5,000. for loaming and seeding which Bill Duncklee recommended. Peter seconded the motion to establish a \$45,000. one year maintenance bond to expire on March 14, 1995. Motion passed by a 5-0 yes vote.

Judy asked about the fire pond on Overlook Lane. Tom said he has no guarantee from the road contractor, but he will attempt to get him back within the next two weeks to finish up some work in other sections. If possible Tom said he will get the fire pond built this fall. He asked if the PB would consider releasing the 2-year maintenance bond on Rock Ramond Road after the March 1994 Town Meeting. This bond has been in place for the last 14 months. PB members agreed to consider this request next spring.

8:15 PM Pat McDermott of the Public Service Co.'s Economic Development Division and Sue Blothenberg of their Community Development and Relations Dept. were present to introduce their company's offer to help communities strategically plan for the future and attract new business. They presented PB members with a copy of an economic review of New Hampshire. Rich asked if there was some data available to determine the electric usage in Brookline. Mr. McDermott said he would be glad to get this information together. Peter introduced Jeremy and said some of their information might be useful to him in preparing the memorandum on growth in Brookline.

8:30 PM Project Status  
1) Mosher Drive-PB members reviewed Dennis LaBombard's project status report on the Mosher Drive (Bear Hill Subdivision) project; and his report on

2) Hillside Drive- (Wallace Brook Estates, II). PB members were concerned with some outstanding issues on Hillside Drive that prevent it from being accepted by the town. A letter will be drafted to Tom Enright asking for correction of these issues before the construction bond expires in February 1994.

Judy said Clarence should check this project and write a letter regarding the winter maintenance of this project.

MOTION

3) Muscatanipus Road- PB members reviewed Road Inspector Bill Duncklee's 10/29/93 report on his final inspection. Rich made a motion to recommend the selectmen release the maintenance bond. Margaret seconded the motion. Vote was in the affirmative 5-0.

9:00 PM

**Planning Board General Business**


PB members reviewed Jeremy's draft of the proposed zoning changes for March 1994 town meeting. Tom Moran and Bob Bramley were present to ask where the PB was in their thinking regarding building permit restrictions. Their concern was that once the ordinance changes were posted for public hearing, those changes if voted in March would be retroactive to the date of first posting. PB members said they would be discussing the proposed changes at the November 16, 1993 PB meeting; and the date of the first public hearing would be Tuesday, December 7, 1993.

9:45 PM

Rich made a motion to adjourn the meeting, seconded by Margaret. Vote to adjourn was 5-0 yes.

**Next Planning Board Meeting Tuesday, November 16, 1993**

Submitted by:



Sandra L. Fessenden, Secretary  
Brookline Planning Board



(603) 673-8855

TOWN OF  
BROOKLINE, NEW HAMPSHIRE

P.O. Box 360  
Brookline, NH 03033

PLANNING BOARD MEETING

November 16, 1993

PRESENT: Peter Webb, Chairman, Voting  
Richard Napolitano, Vice-chairman, Voting  
Joe Kagenski, Voting  
Chris Hegarty, Voting  
Judy Cook, Selectmen's Representative, Voting  
Margaret Olson, Alternate (joined meeting at 8:00 PM)  
Dennis LaBombard, Alternate  
Bob Chisholm, Alternate  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

7:30 PM Planning Board Business Meeting  
Chairman Peter Webb opened the meeting. Minutes of the  
MOTION November 2, 1993 meeting were reviewed. Joe made a motion  
seconded by Peter to approve the minutes as written. Vote  
was 5-0 Yes.

7:32 PM Shirley M. Johnson, N.R.S.P. Case #1993-D:J-19, Case Cont.  
Neil Johnson and John de Martin were present with new plans.  
MOTION Jeremy said all items needed for acceptance were included.  
Peter made a motion to accept the plan as presented. Rich  
seconded the motion. Vote was in the affirmative 5-0.

Jeremy said there were three issues that he would like to address: 1) Existing State driveway permit-He has spoken with Mr. Johnson regarding the State's requirement for a vehicle turn-around so that trucks won't be backing onto Route 13; 2) Note on plan if there is to be a designated outside storage area; 3) There were no wetlands issues. Wetlands soils was located along the brook. The boundary of the wetland soils were shown on the plan and a proposed conservation easement was outlined. Judy suggested there could be two entrances onto Route 13 with a circular driveway going around the buildings. Peter asked about any on-site equipment such as forklifts and welding equipment. Mr. de Martin said there was 1 fork lift and acetylene welding equipment. When questioned about the septic capabilities Neil said that in 1986 when he added a second building, he had enlarged the leach field area. The septic tank was not changed. He employed 15 people and never had any trouble with the septic system.

Rich said he wanted specific details shown on the plan as regards the tree planted for a visual barrier. He said they need to be closer together for better screening. Neil said there were pines and maples that could be relocated, and he is willing to add better details to the plan.

Rich said he also would like a note on the plan stating there is to be no storage of materials in the existing paved area. Applicant and PB should agree on the area allowable for storage and note this on the plan. All materials will be stored in back of the buildings.

Peter asked if any of the fabrication work or spot welding is done outdoors? Neil said currently there is work being done outside; and the reason for adding a new building is so that the majority of work can be done inside. Mr. de Martin said there is a fork lift moving and stacking material outside. Peter said the boundaries of the fabrication area should be identified on the plan. He asked what the new building would look like. Mr de Martin said it was a steel building similar to the existing one-25 feet in height with a slightly pitched roof.

**Abutters:** John Ganos, Carl and Ann Anderson, and Mr. & Mrs. Normand of 8 Lorden Lane were present. Mr. Anderson spoke against the expansion of this business directly across the road from his home. He stated that he had put his home up for sale and could not sell it because of the industrial use across the road. He took issue with the town re-zoning his property from commercial to residential last year since he felt it could be sold more easily as a commercial property. Judy addressed this issue, saying that the majority of property on South Main Street (including the Anderson's) was removed from the Industrial/Commercial zone last year primarily because it was already residentially developed. Carl asked if the PB is concerned with the rights of the abutters? Peter said yes, the PB must balance the rights of the property owner with the concerns of the abutters. He noted that Mr. Johnson's property was zoned for the existing use he was proposing to now expand. Carl said he was an early proponent of zoning, but feels the commercial area should be broken down into commercial, light commercial, and industrial use. The industrial use should be removed from the areas of residential development. Mrs. Anderson asked who monitors the industrial sites for conformity to the site plan? Judy answered the Planning Board, Board of Selectmen; and the Zoning Board of Adjustment if necessary.

Peter asked abutter John Ganos if he noticed much noise associated with Mr. de Martin's business? Mr. Ganos, owner of the Route 13 State Line Convenience Mart next door, said he not only operates a business but has lived there as well for the past 6 years. He stated there has always been a fair amount of noise associated with the business next door that can be heard inside his house with the doors and windows closed. He noted that Superior Steel does not have air conditioning and their doors are open. From time to time there is noise from the loud speakers of the intercom as well as the noise associated with the steel fabrication.



He asked what precedent was there for how much noise a business could generate? He said he has learned to live with the noise. They operate during normal business hours. He said he hasn't noticed much difference in noise intensity from when Bibco operated the business 5 years ago. Mr. Normand said they heard noise from the site usually beginning at 6:30 or 7:00 AM on the weekdays and Saturdays. The noise of the forklift and dropping of steel material was what they most noticed. He said they would be concerned if the expansion of the business warranted more hours-perhaps a second shift. Mr. de Martin said they operate from 7:00 AM to 6:00 PM weekdays, and 7:00 AM till noon on Saturdays. He does not anticipate increasing the hours. Judy suggested adding a note to the plan regarding the hours of operation. Peter asked if the new building would have a concrete floor (answer yes) and floor drains (answer no). There is a 500 gallon fuel tank for the furnace, and a dumpster is located on the site. It was suggested that their locations be shown on the plan. Neil said the scrap metal steel would be picked up by Merrimack metals. If the State would not allow a second entrance onto Route 13, they would make a turn-around area. Trees may have to be removed and might include part of the proposed conservation easement area. Neil asked for PB approval tonight so that construction of the new building could start before winter weather came. PB will check with Ray Keyce to see if he has any concerns regarding fire safety issues.

8:10 PM  
MOTION

Judy felt there was enough information presented for the PB to grant a conditional approval. She made a motion to grant conditional approval pending the following items being done:

- 1) Driveway issue resolved with the State
- 2) Specifics of the plantings noted on the plan
- 3) Location of dumpster and fuel tank shown
- 4) Extension of chain link fence shown
- 5) Hours of operation noted on plan.

Joe said that the PB doesn't have knowledge of what the state will require and how the plan may have to be modified to show the driveway and turnaround locations.

Motion died for a lack of a second.

Case to be continued till December 14, 1993.

8:30 PM

**P & C. Realty, Inc., Subdivision Case #1993-5:F-60.**  
Paul Gavin of P & C Realty, Inc. and Randy Haight of Meridian Land Services were present with a plan for a 5 lot subdivision of Lot F-60 on Rocky Pond Road. Chairman Peter Webb excused himself from this case. Vice-Chairman Rich Napolitano chaired the meeting with Dennis La Bombard voting for Peter. Randy said this 13.268 Acre parcel of land was located on the South side of Rocky Pond Road adjacent to the Hollis Town line. The lower portions along the back of these lots are in wetlands.

Jeremy said the plan meets the checklist requirements for submission to the Planning Board for acceptance. He said he

has spoken to Fire Chief Ray Keczy regarding fire protection for this area. Ray has concerns about Rocky Pond Road because the closest fire pond is located on Birch Hill, more than 2,500 feet away from the nearest water supply. Rich questioned how this subdivision complies with the open space development requirement. He said he would like to have town counsel's opinion, since this lot and the lot across the street (F-18) are under common ownership. Abutter Nancy Quick asked if this lot being subdivided was pulled off of the larger parcel they own.

Rich noted that P.& C. had previously done a boundary line subdivision plan of their land in Brookline and Hollis, approved in February 1993, which established the boundaries of lots F-60 and F-18 in Brookline, and 3 lots in Hollis. This current plan was a new subdivision of lot F-60.

Dennis felt this property is a 13 Acre piece, physically separated from their other land by Rocky Pond Road and not subject to open space development by virtue of its size. Dennis made a motion to accept the plan as presented. Chris seconded the motion. Motion to accept 5-0 yes.

8:45 PM  
MOTION

**Abutters' comments:** Nancy Quick stated she had no objections to having houses built near hers, but pointed out that Rocky Pond Road is minimally maintained and the town needs to address upgrading the road and adding a drainage system. Water puddles up onto Rocky Pond Road, and the road has a poor washboard-like surface. She said there was a large drop-off of 4 to 6 feet opposite her house where drainage is needed. She was also concerned with the fire pond issue. She felt that when more houses are built on Rocky Pond Road, more people will be using it to go to Hollis and Nashua. She commented that it is fairly busy now despite the poor condition of the road and pointed out that once you cross the town line into Hollis the road is better but the sight distance is very poor. She considers it a very dangerous road to travel-particularly for younger inexperienced drivers.

Judy asked if this subdivision should be considered for regional impact. Should we be speaking to the Town of Hollis again on plans to upgrade Rocky Pond Road. Jeremy explained the state requirements if the town deems the subdivision to be of regional impact and the PB votes on that. Margaret was in agreement that Hollis should be notified. Judy read the notice from the Hollis Planning Board of the 5 lot subdivision in Hollis of Tax Map 22, Lot 53. Jeremy noted that Hollis has not accepted the plan as yet. He read the requirements of RSA 36:55, Definition of subdivision "development of regional impact."

MOTION

Judy made a motion to find that the subdivision of lot F-60 into 5 lots on Rocky Pond Road, Brookline, is of regional impact. Chris seconded this motion. Vote was in the affirmative, 5-0 yes.

Mr. Paul Gavin stated to the PB members and others present that at this time he intends to develop only these 5 lots. He has no development plans in the near future for the other side of the road which requires a road system (lot F-18).

His subdivision of Map 22, Lot 53 in Hollis will be for 4 lots. He has the remainder of land in Hollis up for sale. Nancy Quick said both towns need to address the road and road drainage issues on Rocky Pond Road, and pointed out that there was another 2 lot subdivision before the PB tonight on Rocky Pond Road.

Road agent Clarence Farwell said he would like to see two items addressed: 1) A dedicated easement for a turn-around for the town trucks at the Hollis town line on the North side of Rocky Pond Road. 2) Off site improvements for Rocky Pond Road.

Rich said the outstanding issues for this subdivision are:

- 1) Open Space development-does this subdivision need to comply ?
- 2) Implement the requirements for a subdivision of regional impact;
- 3) Traffic issues on Rocky Pond Road
- 4) Off site improvements to Rocky Pond Road
- 5) Fire Pond issue for this area
- 6) Correct locus map on subdivision plan
- 7) Determine if this subdivision could be considered scattered and premature.

PB scheduled a site walk for Saturday, November 20, 1993 at 1:00 PM.

9:05 PM **Albert Valliere, 36 Rocky Pond Road, Subdivision case #1993-6:F-56.** Mr. Valliere and Andy Johnson of Allan Swanson's were present with plans for a 2 lot subdivision of lot F-56. The back lot (lot F-56) will continue to use the deeded access from a private road and will not access from the 30 feet of frontage from the road necessary for a back lot. Jeremy said all the information necessary for acceptance of the plan was included. He mentioned the fire pond for Rocky Pond Road as an issue for this subdivision as well. PB members questioned whether a variance was necessary because the back lot was not using the road frontage for access as required by the Brookline Zoning and Land Use Ordinance (Article VIII, DEFINITIONS, #13-Frontage). Andy said that access from the 30 frontage was not possible because of a wetlands crossing. Peter said the access point is a zoning variance issue which must be addressed by the Z.B.A. He suggested another alternative might be a dredge and fill permit to construct a driveway across the wetlands area. Mr. Valliere felt he would prefer to continue to use his present deeded access driveway to the lot if possible. PB recommended he apply to the Zoning Board of Adjustment for a variance.

9:20 PM **Tom Moran-Discuss proposed Growth Management Ordinance.** Tom, Bob Bramley, and attorney Silas Little were present to discuss the ramifications of the posting of a zoning change that would limit the annual number of building permits that could be issued for new residences. Tom presented PB members with a letter (see attached); and questioned

whether under RSA 674:39--"Four Year Exemption" they would be exempt. He also felt that the criteria allowing a growth control ordinance could not be adopted simultaneously with the adoption of a new chapter to the Brookline Master Plan. He stated the PB had not held public meetings at which they had input from residents on the CIP or the Master Plan; and the current CIP does not address issues that would indicate the necessity for a growth ordinance. He wanted to know if the proposed ordinance would be effective with the posting of the zoning changes on November 24, 1993. PB members discussed the items in his letter, and reached a decision to send both a copy of the proposed zoning changes and Tom's letter to town counsel for his opinion. On a motion by Rich seconded by Judy, it was decided to make the effective date of this growth ordinance January 1, 1994. Vote was 5-0 yes. First public hearing on the Master Plan update and proposed changes to the zoning ordinance will be held December 7, 1993.

9:45 PM  
MOTION

9:55 PM

**Robert Bourassa, Talbot-Taylor Estates, Phase II**  
Mr. Bourassa and PB members reviewed the subdivision plan which was approved with access to lots G-61-5 and G-61-6 coming for the "future access road" and not Taylor Drive. Rich and Joe had been members of the PB when this subdivision was approved, and noted that the requirement for frontage along the road from which the lot took its access had been a requirement of the subdivision regulations and not part of the zoning. As such, the PB could waive the regulation and allow access from a common shared driveway on an area to be dedicated as a future roadway. Bob explained that access to these two lots had been discussed, since there were areas of wetlands along Taylor Drive that would preclude placement of driveways there. PB members felt that it had to be clearly understood by the buyers of these lots that possibly at a future date they would be required to relocate their driveways when the roadway was constructed. The Town would not be held liable for the necessity and expense of relocating private driveways when the roadway was extended. The new owners of lot G-61-6 were present and said they were aware of the situation. Jeremy voiced his opposition to this waiver because of past experience where driveways to lots in other subdivisions had been placed in future road accesses; and when the road was to be extended, the owners of the lots claimed they knew nothing of the situation and objected to the town for allowing their driveways to be built where they would have to be moved. Joe made a motion to give Building Inspector Wes Whittier a directive to issue building permits to lots G-61-5 and G-61-6 with driveways located on the future access road.

10:10 PM  
MOTION

- 10:15 PM **Planning Board General Business**  
Joe read from a recent law lecture series a definition of home business, and suggested we modify the one in our zoning ordinance to be consistent with the state. He made a motion, seconded by Chris to amend Article VIII, DEFINITIONS #14-Home Business to read as follows: "A secondary use of a dwelling....."
- 10:20 PM PB members and Brookline School Board Member Marcia Farwell discussed the figures used for student enrollment and projection figures for the Brookline Elementary School. Marcia said that the school board is going to propose a 6 room addition for the Elementary School at the March 1994 school district meeting.
- 10:25 PM Chris made a motion to adjourn the meeting, seconded by Joe. Vote to adjourn was 5-0 yes.

Next Planning Board Meeting Tuesday, December 7, 1993

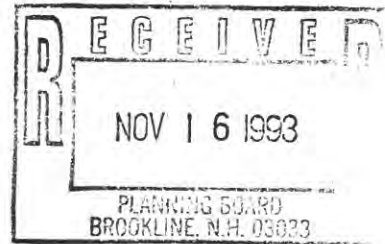
Submitted by: Sandra L. Fessenden  
Sandra L. Fessenden, Secretary  
Brookline Planning Board

Made part of the P. Bd. minutes of 11/16/93 (21)

# MILLROCK REALTY

a New Hampshire partnership

November 16, 1993



Planning Board  
Town of Brookline  
Brookline NH 03033

Ref: Proposed Growth Control Ordinance

Dear Members of the Planning Board,

In the rush to adopt a growth control ordinance, there appear to be serious flaws in the program that you seem to be following. To the extent that information on the proposed ordinance has become public knowledge, it has already caused considerable damage to the efforts of Millrock Realty to market its lots in the Mountain Road Estates and Birch Hill Estates Subdivisions. We have several questions, particularly with respect to the Board's position on the statutes governing this proposed ordinance, and would like the opportunity to further discuss the proposed ordinance while there is still time to make changes before posting:

1. What effect does the Board give RSA 674:39 - "Four Year Exemption"?
  - 1a. Has the Board taken a position on exempting subdivisions that meet the criteria of RSA 674:39 from the proposed ordinance?
  - 1b. What is that position?
2. The Board recites RSA 674:21 - "Innovative Land Use" as its authority for the proposed growth management ordinance. My reading indicates that the content of the ordinance does not meet this criteria. What is the Board's rationale for citing this authority?
3. The proposed ordinance deals exclusively with the timing of permits. That authority derives from RSA 674:22 - "Growth Management; Timing of Development". This statute clearly states that "Any ordinance imposing such a control may be adopted only after preparation and adoption by the Planning Board of a master plan and a capital improvements program.....". Since neither the master plan nor the capital improvements program have been adopted, nor can they be until after public hearings are held, how can the Board justly post the growth control ordinance on November 24, 1993?
4. Please explain the Board's position that a posting of the growth control ordinance on November 24, 1993 (or on any date that does not come after adoption of a master plan and capital improvement program) will be a "legal" posting under the provisions of RSA 676:12?

Robert G. Bramley, General Partner  
Mason Road, Brookline, NH 03033  
(603)889-5209 Fax: (603)889-5597

Thomas F. Moran, General Partner  
PO Box 129, Brookline, NH 03033  
(603)673-5555 Fax: (603)672-6626

5. RSA 674.22 goes on further to state that adoption of an ordinance under this provision "shall be based upon a growth management process intended to assess and balance community development needs and consider regional development needs". It seems to me that the Board is looking only at one community need - schools. To this point, at least, the Board has pointedly ignored other 'community development needs', and has completely failed to address 'regional needs'.
6. Has Town Counsel reviewed the proposed master plan update and growth control ordinance and responded to the Board?
  - 6a. If not, when do you expect a response - before or after posting?
  - 6b. If so, what is Counsel's response?

We hope to have a good discussion on the Master Plan update and growth control ordinance following your response to the above questions.

Sincerely,

  
\_\_\_\_\_  
Thomas F. Moran, General Partner

Selectmen



TOWN OF  
BROOKLINE, NEW HAMPSHIRE

P.O. Box 360  
Brookline, NH 03033

(603) 673-8855

PLANNING BOARD MEETING

December 7, 1993

PRESENT: Peter Webb, Chairman, Voting  
Richard Napolitano, Vice-chairman, Voting  
Joe Kagenski, Voting  
Chris Hegarty, Voting  
Judy Cook, Selectmen's Representative, Voting  
Margaret Olson, Alternate  
Dennis LaBombard, Alternate  
Bob Sykes, Alternate  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

7:30 PM Planning Board Business Meeting  
Chairman Peter Webb opened the meeting. Minutes of the  
MOTION November 16, 1993 meeting were reviewed. Rich made a motion  
seconded by Peter to approve the minutes as written.  
An affirmative vote of 5-0 was cast.

7:35 PM Public Hearing, Discussion relative to adoption of Chapter  
IX, Recent Growth Trends, to the 1990 Brookline Master Plan.  
Peter gave an overview of the Master Plan and its context to  
those in the audience. He then turned the meeting over to  
Jeremy Ginsberg to explain the text of the proposed Chapter  
IX which gives statistical data on Brookline's growth from  
1990 to 1993 when the last master plan update was done; and  
the impact to the Town from that growth.  
Rich explained that the recent increase in building permits  
for new homes triggered the Planning Board to study the  
rapid growth rate and how it will potentially impact all  
Town services.  
Suggestions and Comments: Peter Bennett asked if the method  
of updating the master plan by adding a chapter has been  
used by other communities. Jeremy answered yes, some towns  
have done it this way. He said he used standard compilation  
data in drafting this chapter on recent growth trends.  
Tom Moran said State statutes say a Master Plan must be  
presented for discussion and adopted prior to any proposed  
zoning changes based on the data in the Master Plan. He  
noted that the public hearing on the proposed growth  
ordinance which would restrict the number of building  
permits for new homes is being held tonight. He asked why  
Mason was included in some but not all of the tables. He  
questioned the length of the time span on regional issues  
and how long a time frame was examined-the focus seeming to  
be on a 3 year period. Tom reiterated that he felt the PB  
had not looked at enough data to justify a building permit  
restriction. The base was too narrow.



Bob Parodi asked if the PB had addressed commercial or industrial growth issues. Answer no, not this year. Warren Welch said it is his feeling that there were more children per house in the past than in recent years. He feels the spike in building permits in November 1993 was not indicative of rapid growth, but rather a reaction to the possible building permit restriction. Clarence Farwell questioned whether by state regulations there must be a real or a perceived crisis (such as over population of students) before the Town can adopt a growth ordinance. Answer: To impose a building moratorium there must be proof of a crisis. This is a growth ordinance meant to slow the number of new homes built-not completely restrict growth. Discussion then focused on how the figures used to compile the data were arrived at. Peter said there was a lot of information to be read. a second public hearing on the adoption of Chapter IX will be held on Tuesday, January 4, 1994.

8:50 PM Public Hearing on proposed Changes to the Brookline Zoning and Land Use Ordinance.  
Jeremy outlined the 5 proposed items of zoning change. Those present focused the discussion on number 3-Growth Management Ordinance adoption. Although most of those present seemed to be in agreement that Brookline was experiencing a rapid rate of new home growth, much controversy centered on how to implement an ordinance to better control the rate of growth. Peter Bennett asked for a definition of "developer". Answer: Anyone owning more than one lot. Question: Could you transfer the right to obtain a building permit with the sale of a lot? Answer: No, not as the ordinance was currently drafted. Warren Welch expressed his opinion that the total number of building permits for the year 1994 would be taken the first available day in January. Rolf Bremer questioned how the Planning Board can approve the lots and then not allow the owner to use them. He said "REQUIREMENTS #3" is unclear. PB members agreed. This will be deleted. Alan Lorden stated that in Hollis where he lives and also builds homes, there are building rights which the developer knows of when he develops the land. Bob Bramley said he believes existing approved subdivisions are exempted for a 4 year period of time from zoning changes by State statutes. Tom Moran asked for an answer to the letter he submitted at the November 16th PB meeting requesting a legal opinion from town counsel regarding RSA 674:39-Four year exemption. Peter Webb answered that this is being discussed with town counsel.

Bob Parodi said the tax base will regulate growth. If the tax rate and assessments are high enough, it will discourage new building in Brookline. He feels this growth ordinance is discriminatory against the people who own the land.

Libby Wehrle-Anderson said she speaks for the ordinance. As a taxpayer, she would like to see a more controlled level of growth for Brookline.

Jack Flanagan, member of the Co/Op School Board, said there are plans to propose a \$750,000. addition to the Elementary School; and future plans are being made for a new Hollis/Brookline High School costing approximately 15 million dollars. He felt a growth ordinance would help the taxpayer. He said the Town needs to look at the problem of growth. He is also concerned with the safety hazard of open foundations left uncapped for extended periods of time.

Rich Napolitano said the PB could use a realistic analysis from the developers for the number of lots they plan to develop over the next two years. The PB could then consider creating a transition pool for a two year period.

Tom Moran said he planned to develop 21 lots over a two year period in Birch Hill and Mountain Road Estates, II-16 in 1994 and 15 in 1995. He questioned some of the projected growth figures of the school population, and while acknowledging the unusual growth in Brookline, he did not feel that it would necessarily continue at the same rate.

He stated that to give out building permits on a first come first served basis was unfair to developers who had subdivisions partly developed. It should be applied to any future subdivisions being approved by the PB.

He said people are concerned with the tax rate. He suggested the PB do the following: work on the Master Plan, develop a CIP identifying capital costs; develop a growth plan; check the equalized evaluation of surrounding towns.

Peter Bennett suggested adding a third pool for existing lot owners to draw building permits from.

Eric Rodgers said the developers represented here tonight have expended monies based on the current regulations only to find the rules have changed after the investment was made.

Peter thanked those present for their input. The next public hearing on proposed zoning changes will be held on Tuesday, January 4, 1994.

9:55 PM

#### Planning Board General Business

##### Report on Site Walks-

- 1) Shirley Johnson, Superior Steel Fabricators, 46 Route 13 South- Margaret reported she had visited the site and found barrels of oil and water which had not been removed as promised. She remarked on the proximity of the barrels to the water; and said the site also contained trash such as old car chassis. She

wanted the PB to require specific visual screening- giving specific instructions as to its placement along the fence line inside and out. She said she anticipated the outside storage area for materials would be noisy. She inquired why this company is not being held to the same standards as the new plastic business. It was noted that the back corner of the new addition (N.W. corner) was located almost in the conservation easement, close to the wetlands. It was suggested that curbing be placed on the outside of the building where the driveway was close to the parking area.

2) P & C Realty, Inc., Rocky Pond Road- It was agreed that the condition of Rocky Pond Road was the biggest problem with this subdivision, which might be deemed to be scattered and premature.

Next Planning Board Meeting Tuesday, December 14, 1993

Submitted by:



Sandra L. Fessenden, Secretary  
Brookline Planning Board



(603) 673-8855

TOWN OF  
BROOKLINE, NEW HAMPSHIRE

P.O. Box 360  
Brookline, NH 03033

PLANNING BOARD MEETING

December 14, 1993

PRESENT: Peter Webb, Chairman, Voting  
Richard Napolitano, Vice-chairman, Voting  
Joe Kagenski, Voting  
Chris Hegarty, Voting  
Judy Cook, Selectmen's Representative, Voting  
Margaret Olson, Alternate  
Dennis LaBombard, Alternate  
Bob Chisholm, Alternate  
Brian Kirschner, Alternate  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

- 7:30 PM Planning Board Business Meeting  
Chairman Peter Webb opened the meeting. Minutes of the  
MOTION December 7, 1993 meeting were reviewed. Peter made a motion  
seconded by Rich to approve the minutes as written.  
An affirmative vote of 5-0 was cast.
- 7:35 PM Robert Bourassa, Talbot-Taylor Estates, Case #195- Bob was  
present with a letter dated 12/13/93 from road inspector  
William Duncklee (see attached) stating that Talbot Road and  
Taylor Drive from Sta 0+00 to Sta 30+00 have been completed  
except for the following items:  
1) Street Name Signs  
2) Guardrail  
3) Some stone bounds  
4) Minor landscaping  
Bob was requesting that these two roads be added to the list  
of roads to be accepted at the March 1994 Town Meeting. He  
indicated that items 1,2 and 3 would be complete before Jan.  
1, 1994; and #4, the minor landscaping would be finished in  
the spring. He wished to have the road construction bond  
reduced and changed to a maintenance bond.
- MOTION Peter made a motion to accept Talbot Road and Taylor Drive,  
Sta 0+00 to Sta 30+00 subject to the completion of items  
1,2,and 3 satisfactory to road inspector Bill Duncklee. Rich  
seconded the motion. A vote of 5-0 yes was cast.
- MOTION Judy made a motion to change the bond from a construction  
bond to a 1 year maintenance bond in the amount of \$30,000.  
to expire on March 14, 1995. Rich seconded the motion.  
Vote was 5-0 in the affirmative.

7:45 PM Shirley M. Johnson, Non-residential Site Plan Review, Case #1993-D:J-19. Neil Johnson and John de Martin of Superior Steel Fabricators were present. Jeremy noted the changes made from the last meeting. Notes 14 through 18 were added. The new driveway was shown. The State permit is still pending, but applicants will upgrade the existing driveway. The outside storage area, dumpster and oil tank now show on the plan. Neil said the chain link fence will be placed on both sides of the new driveway. Jeremy noted the letter received from abutters to this property (see attached). Abutter Carl Anderson requested that the new building be insulated for noise reduction. Mr. de Martin said it will be insulated for heat loss. Peter asked how much of the operation will still be done outside. Mr de Martin said that the fork lift will be used to move the materials on the site. Abutter George Dixon spoke to the welding being done outside at night with no protection from the light from the welding torches. Abutters Ann and Carl Anderson asked if the midnight and after deliveries could be confined to the daytime hours of operation; and noted that trucks are arriving at 2:00 and 3:00 AM with steel materials. Dennis said usually truck delivery times are uncontrolled by the business owner. Drivers will arrive at odd hours leaving the truck engines running and wait until the business opens. Peter asked if at all possible that deliveries be confined to the hours of operation. Mr de Martin said he would ask. Margaret said she would prefer to have no fabrication work done outside. Neil felt that the placement of a visual barrier of trees to screen the site would help to reduce the noise. After discussion, PB members made it a condition that no fabrication work would be allowed in front. The existing trailer would be removed from the rear existing metal building, and any outside work would be confined to this area. Hours of operation will include any deliveries and pickups. Added to the plan will be six legal holidays when the business will be closed.

Abutters expressed their concerns about compliance with the site plan approval conditions. Joe suggested that as an approval condition, the PB hold a public hearing in nine months to ensure that compliance with the conditions of approval are being met. Jeremy had spoken with Libby Wehrle of the Conservation Commission regarding the final wording on the conservation easement. She would like it worded similar to the one in the Lorden easement (Lot J-17). Neil will work this out with her.

**MOTION**

Peter made a motion to approve the plan as presented with the following conditions being noted on the site plan:

- 1) Deliveries and pickups will be included in the hours of daytime operation.
- 2) Business will be closed on the following six legal holidays: January 1, Memorial Day, July 4th, Labor Day, Thanksgiving, and Christmas.

\* Amended  
12/21/93

- 3) All outside fabrication work will be confined to the area in back of the existing rear metal building. No outside work will be done in front of the buildings.
  - 4) Removal of any trash, barrels of oil and water, and scrap steel to be completed before final approval.
  - 5) Wording for Conservation Easement to be worked out with the Conservation Commission.
  - 6) State driveway permit received.
  - 7) All Fees paid.
  - \*8) Compliance hearing scheduled for September 20, 1994
- Rich seconded the motion for conditional approval. Vote was 5-0 yes to grant conditional approval.

8:20 PM P & C Realty, Inc. Subdivision Case #1993-5:F-60, case continued. (Peter excused himself from this case. Rich chaired the meeting, with Dennis voting for Peter.) Paul and Ann Gavin, and Jim Edwards of Meridian Land Services were present. Rich said the PB had visited the site on November 20th. His feeling was that the quality of Rocky Pond Road in the area of this subdivision, as well as the concerns of Fire Chief Ray Key regarding lack of an adequate water supply for fire safety in this area may lead the PB board to deem this subdivision premature & scattered. Jim Edwards said he met with Jeremy and road agent Clarence Farwell this morning and had discussed the road. Jim and the applicants agree that something should be done to improve the road. They are willing to make a contribution to upgrading a portion of Rocky Pond Road. Jim said a traffic count on Rocky Pond Road had been taken at the peak traffic hours, and they logged 17 vehicles in one hour. Joe said he felt this may be scattered and premature because the five lots will be adding traffic to this road with its present poor road surface. It was mentioned that this time of year Rocky Pond Road is not as heavily traveled as in the better weather months of the year. Rich noted the poor site distance entering into Hollis from lot F-60 (it should have 200 feet of safe site distance); and referenced Jeremy's memo (see attached) which deals with road safety as well as fire safety concerns. Margaret said her concerns were with getting emergency vehicles to the site in the wintertime. Judy mentioned a winter ambulance call when the ambulance was unable to reach a car accident from either Brookline or Hollis because of the poor road conditions; and a 4-wheel drive vehicle had to bring them to the accident scene. PB will check with Wes Whittier regarding ambulance safety on calls on Rocky Pond Road at this location. Jim said there is a small watershed in this location, and he would not recommend placing a fire pond there. He said it is a seasonal water table; and placing a cistern could be a maintenance problem. Jim said the applicant was willing to look at an alternative measure such as a contribution to improve some other part of the Fire Dept. infrastructure. Jeremy recommending holding back on this issue until the Fire Engineers have made a decision on the options at this site and have reported back to the PB.

Chris said the PB could not compromise on safety issues— either fire or road. Prior to allowing development in this area, these two items need resolving. Rich noted there is a 3,000 foot unpaved section on Rocky Pond Road in Brookline. Joe said the PB would rather find an alternative solution to the fire & road safety issues than to disapprove the subdivision plan as scattered and premature.  
**Case continued till January 18, 1994.**

**8:50 PM Holly Hills Construction—Case #1993-7:J-37,-38,-39,-60, J-33-34** (Being an abutter, Joe excused himself tonight from any consideration on this case.) Jim Edwards of Meridian Land Services, Inc. was present with 3 conceptual plans to subdivide 185 acres of land off Averill Road. Plan "A" using standard subdivision regulations would create 44 lots. 66 Acres would be dedicated to open space. Plan "B" is an open space development concept, and would create 46 lots. Plan "C", also an open space concept, would create 44 lots. He said this subdivision would tie in with Wallace Brook Road. Rich and Joe advised him that the PB, in previous discussions with Tom Enright regarding subdividing this property, would require having an access onto Route 13. Rich said this was an area which would lend itself to an open space development design; with the dedicated space being available for passive recreational facilities. He said the developer should meet with the selectmen to discuss off site improvements. Jim stated for the record that they will be using some of the gravel material in the area of lots 19, 20, and 21 for road construction. After removal, the area will be re-graded, loamed and seeded. Judy referenced the subdivision regulations and how the open space area should be left. Jeremy recommended the applicant come to be PB with a design review January 18, 1994; and the PB should do a site walk of the area. Margaret asked that the access to the open space area be marked.

**9:00 PM Planning Board General Business**  
**1) Project Status Reports—** PB members discussed the roads to be accepted by the Town at March 1994 Town Meeting. Road Inspector Clarence Farwell had written a report on Petersen Road stating all items have been taken care of and recommending that the \$8,700. construction bond be held for a one year maintenance bond to expire on March 14, 1995.

**MOTION** Peter made a motion seconded by Joe to recommend acceptance of Petersen Road and establish a maintenance bond for one year in the amount of \$8,700. Vote cast 5-0 yes.

**9:20 PM 2) Discussion of proposed zoning changes for March 1994 Town Meeting; and Master Plan update changes.**  
Jeremy said that he had revised some of the data for compilation of Chapter IX of the Master Plan based on the recommendations from the public hearing. He said that he

had checked the number of outstanding vacant approved lots, and had come up with a figure of 160. Margaret said the main issue for discussion from the public hearing seemed to be establishing building rights instead of a first come first served basis for building permits. Chris referenced RSA 674:39, Four year exemption, and expressed his view that currently approved lots should not come under the building permit restriction; but that any new subdivisions coming before the PB would be restricted. Joe felt that a date for PB review should be added to the sunset clause based on the comments from the public hearing. Jeremy suggested the wording in Article XVI, GROWTH MANAGEMENT ORDINANCE, APPLICATION be changed to read: "Application- This article only applies to those lots shown on subdivision plans accepted by the Planning Board after November 24, 1993." Jeremy said that existing subdivisions would be exempt, and he had asked for phasing plans from the 3 developers currently building in approved subdivisions. Rich said if the PB could come to a reasonable agreement with the developers on voluntary phasing, this would leave room for other people to obtain building permits. Then the number for the remainder of building permits to be issued annually would be adjusted accordingly. Alan Lorden said he would phase over the next 3 years- 4 houses in 1994; 6 in 1995, and 6 in 1996. Bob Bourassa has 21 lots left in Talbot-Taylor Estates. He would agree to build 7 lots per year for the next 3 years. Bob Bramley said there are 67 lots in Mountain Road and Birch Hill Estates, II. He mentioned all three developers had come to the PB previously for approval of phasing plans for road construction and bonding. After discussion on how to establish an equitable growth formula, it was then decided to change Requirements, #4., line #8 to read: "and to meet the other purposes of this article, only 10 building permits can be issued annually." It was decided to change Sunset Clause, Line #3 to read: "An annual November review by the Planning Board....."

10:50 PM Peter made a motion to adjourn the meeting. Joe seconded the motion. Meeting was adjourned by a 5-0 yes vote.

Next public hearing on proposed zoning changes will be held on Tuesday, January 4, 1994.

Submitted by:



Sandra L. Fessenden, Secretary  
Brookline Planning Board



Made part of the 12/14/93 P Bd. minutes 12/09/93

Mr Peter Webb

Brookline Planning Board

Po Box 360

Brookline, NH 03033



RE: Talbot/Taylor Estates (Case #195)

**FILE COPY**

Dear Peter,

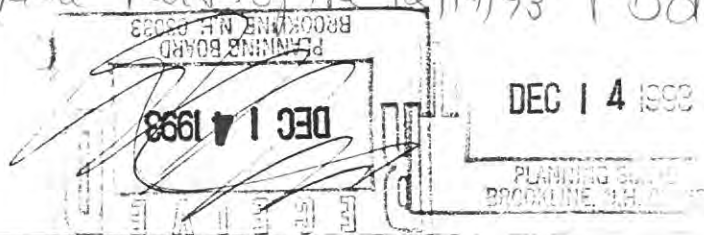
As requested by Bob Bourassa I have I have inspected Taylor Drive station to 30+00 and Talbot Rd. Complete for it's status relative final completion. The following items are not complete at this time:

1. Street name signs
2. Guard rail
3. Some bounds
4. Minor landscape work.

All other work is substantially complete.

Very truly yours  
William W. Ducklee  
road inspector.

Made Part of the 12/14/93 P Bd. minutes OFF File



Dec. 10, 1993

N.R.S.P. - Case # 1993-D:T-19

To The Brookline Planning Board,

Please refer to Article IV, Industrial Commercial district, Section B, Uses Permitted # 12. Any use which does not offend by emission of smoke, dust, noise, odor or fumes

The noise coming from Superior Steel Fabrications is loud and offensive.

We, the neighbors, who live around this business, are concerned over the noise and ask that the Planning Board please consider in their decision of expansion, how in which Superior Steel Fabrications must operate  
Example - Mon thru Fri. 7<sup>AM</sup> to 6<sup>PM</sup> Sat. 8<sup>AM</sup> to 12<sup>AM</sup>,  
Sundays and all legal Holidays closed. Also any middle of the night operations such as what took place Dec. 8, 93 at 1 AM must stop.

Sincerely,  
Concerned neighbors,

Amy Anderson  
Carl Anderson  
Lorraine C Dixon  
George E. Ding  
Ed Dini  
Marion Jewin  
D. Knudsen

Donna Thomas  
Katherine L Thomas  
Ralph Dini  
Ann Marie Davis  
Christina Thomas  
James E. Korman  
Timothy Ruff



Made Part of the 12/14/93 P Bd  
minutes *Set*

See File

N.R.S.P. Case # 1993-D:U-19

When they are welding the glow from the  
arc welders show through my front window.

Jerraine C Duxon  
*[Signature]*

— Made Part of The Dec. 14, 1993 P Bd minutes  
SUF

MEMORANDUM

TO: Brookline Planning Board  
FROM: Jeremy Ginsberg  
SUBJECT: Findings related to P & C Realty  
Subdivision, Case #1993-5:F-60  
DATE: December 14, 1993

RSA 674:36 states that "The subdivision regulations which the planning board adopts may: a) Provide against such scattered and premature subdivision of land as would involve danger or injury to health, safety, or prosperity by reason of the lack of water supply, drainage, transportation, schools, fire protection, or other public services, or necessitate the excessive expenditure of public funds for the supply of such services;..."

There are two main issues that the Planning Board should consider in determining whether the P & C Realty subdivision is scattered and premature. These are the existing condition of Rocky Pond Road (transportation) and the issue of fire protection.

Existing Condition of Rocky Pond Road/Transportation

As described in the Brookline Master Plan, Rocky Pond Road is comprised of two parts. The first part, which runs .3 miles eastward from Old Milford Road is 19 feet wide, paved and in good condition. The eastern part of the road from the point .3 miles east of Old Milford Road to the Hollis line, is gravel in fair condition, with narrow width and no shoulders. Rocky Pond Road is listed in the 1990 Master Plan as one of the roads which most needs improvement based on the 1989 Master Plan survey.

The recently completed Rocky Pond Road Sub-area Planning Study makes the following findings concerning Rocky Pond Road:

- The unpaved section of Rocky Pond Road...contains corrugations and pot holes that limit speeds to approximately 15 miles per hour.
- ...the stopping sight distance on the unpaved section of Rocky Pond Road is limited in certain sections due to steep grades and the horizontal alignment of the road. Spot measurements...in the vicinity of the Brookline/Hollis Town line, revealed that distances were only 75 to 100 feet due to the horizontal and vertical alignment of the road. Minimum sight distance recommended by AASHTO is 200 feet for a road with a posted speed limit of 30 miles per hour.
- Existing town subdivision regulations require that new subdivision roads be paved and have a width of 22 feet. The existing width of Rocky Pond Road varies from 15 to 20 feet.

Without this development, Road Agent Clarence Farwell has no plans in the next few years to do road improvement work on Rocky Pond Road. He stated that if money is available from these developers to upgrade the road, he would begin by widening it starting from the western portion of the road and moving eastward towards the Hollis line.

## Fire Protection

The Town of Brookline Land Subdivision Regulations, section 4.5.01, requires that

"In any subdivision whenever sufficient natural water supply is not available for fire protection, artificial water storage facilities or water holes of at least 50,000 gallon capacity shall be constructed...so that no building lot is more than 2,500 feet from such water supply..."

This subdivision is about 4,000 feet away from the nearest dry hydrant which is located on Old Milford Road. Fire Chief Ray Key has concern about the safety of building outside the area of fire protection, as stated in a letter sent to the Planning Board.

Sections 4.2.01 and 4.2.02 of the Subdivision Regulations both reflect the need for fire protection. Section 4.2.01 addresses the character of the land to be subdivided; "All land to be subdivided shall be, in the judgement of the Board, of such character that it can be used for the building purposes without danger to public health or safety..." Section 4.2.02 states that land of such character that it cannot be safely used for building purposes because of exceptional danger to the health, or peril from fire,...shall not be plotted for residential occupancy...."

If the applicant can resolve these issues so that transportation and fire protection are no longer problems, the plan can be approved. One option would be to make off-site improvements to Rocky Pond Road, or have money set aside to be used by Clarence next year. If suitable fire protection cannot be located within 2,500 feet of this development, a contribution to the Fire Department for additional hose or other equipment upgrade may be possible. Fire Chief Ray Key will consult with the Engineers and have an answer for us at our January meeting.

12/p



(603) 673-8855

TOWN OF  
BROOKLINE, NEW HAMPSHIRE

P.O. Box 360  
Brookline, NH 03033

PLANNING BOARD MEETING

December 21, 1993

PRESENT: Peter Webb, Chairman, Voting  
Richard Napolitano, Vice-chairman, Voting  
Joe Kagenski, Voting  
Chris Hegarty, Voting  
Judy Cook, Selectmen's Representative, Voting  
Margaret Olson, Alternate  
Dennis LaBombard, Alternate  
Bob Sykes, Alternate  
Brian Kirschner, Alternate  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

- 7:30 PM Planning Board Business Meeting  
Chairman Peter Webb opened the meeting. Minutes of the December 14, 1993 meeting were reviewed. On page 3, add to the conditions of approval the following: "8) Public compliance hearing scheduled for September 20, 1994."
- MOTION Rich made a motion seconded by Chris to approve the minutes as amended. Yes vote was 5-0.
- 7:35 PM Planning Board General Business  
1) Discussion of proposed zoning changes for March 1994 Town Meeting; and Master Plan update changes.  
Jeremy said he had changed Page 2, Application, to reflect the exemption of all existing subdivisions); and Page 3, #4, change the number of building permits to 10; and in the Sunset Clause he added "November" as the annual review date. Phil Chandler presented PB members with some graphs which he had compiled using data researched from the annual town reports. His data showed that the increase in the number of houses did not show a correlation to the number of students. He showed the number of students per house was actually going down. In 1972 there was .8 students/per house. In 1992 there was .4 students/per house. He said he felt the building of houses during the last 10 years has brought the tax rate down. Phil felt the problem is with the rising cost per student, and pointed out that the cost per student has doubled in the last 10 years. He concluded that the way to reduce taxes was not to limit the amount of building permits per year. He suggested that all new schools be

amortized over a 20 year period instead of 10 to help even out the tax rate, particularly if the town were going to have to bond for more than one new school. He suggested the Land Use Change Tax be increased to help generate more revenue as land was being subdivided and developed. Rich countered that it is the PB's belief that the student population will exceed the capacity of the elementary, middle school, and high school in the near future; and the town will be funding 3 new schools at the same time. Phil said he had factored 5 million dollars over a 20 year period at a 6% interest rate. He noted that Brookline's growth has averaged 6% over the last 10 years with an average of 55 new house built per year. He had focused on whether adding houses will increase the tax rate, and his conclusion was that any tax rate increase will be marginal. Rich said the taxes paid per year on any house in which there are students does not cover the cost of education; and that other town services are being affected as well by the amount of growth that Brookline is experiencing.

8:20 PM

PB members and those in the audience discussed how individual lots (those not created by subdivision) would be affected by a limit on the number of building permits. Joe questioned whether the original lot in a subdivision would be exempt from the limit. Answer: Include it. Individual lots will be included in the total # of annual permits. Peter asked whether the PB should consider building rights? Rich asked if any one person should be able to acquire all the building permits for the year? Margaret said she doesn't feel that all building permits should go to any one developer or to the first subdivision approved each year, and suggested a daily lottery system would prevent this from happening. Chris said by requiring phasing on new subdivisions, can the PB tell the developer when he can expect to be able to get building permits for his development? Rich said he favors a percentage of the pool being given to each developer rather than first come first served. Chris voiced an opinion that market conditions dictate how fast you can develop and sell your lots. Joe said there were implementation problems with phasing. Roads, utilities, and bonding are the most expensive items of development. The length of the cul-de-sac roads cannot exceed a certain amount, and problems arise when only certain sections of the road system are built or bonded. He said the PB needs to arrive at a clear and fair phasing plan method to be easily implemented. Russ Heinselman said he wasn't convinced that limiting the number of building permits was going to control growth, and asked if what the PB was proposing was going to achieve what they wanted it to?

Discussion then focused on how to calculate the annual number of building permits which could be issued to achieve a 3% annual growth rate. This number would apply to all lots not exempted from the restriction (new subdivision plans accepted by the PB after November 24, 1993). Rich said at the last meeting we gave an exemption for all lots not just the ones covered under the 4 year exemption. Dennis calculated those remaining 160 exempted subdivision lots equals out to 58 new students in the school system. Russ said the logic used for the annual review needs to be clearly spelled out in the ordinance. The method of adjustment to be used at the annual review must be put in writing.

Peter expressed concern that the PB was being too restrictive to incoming subdivisions.

Tom Moran noted that taxes are paid on subdivision building lots; and with this ordinance it could mean you can't build on these lots for which taxes are being paid for an indefinite number of years.

Russ said there was a potential that someone could never build on a lot that he owns and pays taxes on if he was not lucky enough to get one of the 10 permits given out each year. He mentioned that Hollis vests building rights on their lots under their growth control ordinance.

Phil Chandler said he feels people who own a lot are not being given equal treatment under the law. This ordinance favors certain developers over the rest of the towns people. Rich suggested not giving a blanket exemption to all existing lots. He made a motion for the PB to consider a conceptual plan as follows:

9:15 PM  
MOTION

- 1) Not have a permanent exemption of all subdivision lots.
- 2) All subdivision would have 4 years from the date of their approval to be developed. Those approved in 1991 would have one year of exemption. Those approved in 1992 would have two years, etc.

This plan would phase out existing subdivisions over a 4 year period. The annual limit of building permits would then be set at a number that would achieve a 3% growth rate.

Rich's motion for conceptual consideration died for lack of a second.

PB members then attempted to write a formula into the growth ordinance to come up with the number of building permits that could be issued annually on new subdivisions accepted after the 11/24/93 date.

Jeremy suggested that instead of a difficult to understand formula being incorporated into the ordinance for people to vote on, the PB might wish to have a minimum and a maximum # of allowed building permits per year. These numbers could be adjusted at the annual November review based on the previous year's growth.



10:05 PM Chris made a motion to put the mechanics in place to adjust the number of building permits in the pool based on the actual number of permits issued. Minimum of 10 available permits per year.  
Joe wanted to have the formula documented so that future planning boards will be able to justify the numbers used if challenged.

MOTION Peter made a motion for Jeremy to reflect in the next draft of the ordinance for the January 4, 1994 public hearing wording to incorporate Chris's motion. Margaret seconded this motion. Yes vote 5-0.

(Jeremy and PB secretary went into the Planning Board office to draft the changes. See attached Page 3, 12/17/93 draft version.)

PB members read the revised wording on Page 3 and approved the changes made. This will be the draft presented at the January 4, 1994 public hearing.

10:50 PM Joe made a motion to adjourn the meeting. Rich seconded the adjournment motion. Affirmative 5-0 vote was cast.

Next public hearing on proposed zoning changes will be held on Tuesday, January 4, 1994.

Submitted by:



Sandra L. Fessenden, Secretary  
Brookline Planning Board

Made part of the 12/21/93 P. Bd. minutes  
(Self)

Requirements

1. The number of building permits which may be issued to any individual, partnership, or corporation in any calendar year shall be limited to the following:
  - a) The total number of building permits which can be issued in a calendar year is shown in section 4. If the total number is not issued, then those can carry over to the next calendar year.
  - b) The building permits shall be distributed on a first-come-first-served basis. If there is a greater demand than supply, then a waiting list shall be established. Any permits which expire shall be given to the people on the waiting list (also first-come-first-served).
2. A building permit expires and becomes invalid if construction, which is deemed to be installation of footing and foundation, has not started within six (6) months from the date of issuance (as explained in the Brookline Building Code).
3. A lot can be transferred with or without a building permit. Building permits are tied to lots and cannot be transferred between lots.
4. The number of building permits to be issued annually is computed as follows:  
As outlined in the Master Plan, in recent years, Brookline has grown faster than all other nearby communities and the region as a whole. The Master Plan describes the fact that the three schools (Brookline Elementary, Hollis/Brookline Junior and Senior Highs) are all near capacity. In order to prolong the capacity of the schools and to meet the other purposes of this article, only 10 building permits can be issued annually. In addition to the existing lots in town which are exempt and the projected natural increase, this reflects an annual growth rate of 3%. The 10 building permits is a minimum which can be adjusted annually by the Planning Board based on all building permits issued in the previous year.

Sunset Clause

This article expires at Town Meeting 1997, unless the following occurs:  
An annual November review by the Planning Board to determine if the population and growth data, in conjunction with the CIP, justifies the continued application of this ordinance. If, after making findings, the Board feels that this article is no longer appropriate, it is no longer effective. If, after making findings, the Board feels that this article is both appropriate and necessary to meet the purposes outlined above, this article would be effective for another year, when another annual review shall occur.



(603) 673-8855

*Selectmen*

**TOWN OF  
BROOKLINE, NEW HAMPSHIRE**

P.O. Box 360  
Brookline, NH 03033

PLANNING BOARD MEETING

January 7, 1992

**PRESENT:** Peter Webb, Chairman, Voting  
Rich Napolitano, Voting  
Judy Cook, Selectmen's Alternate, Voting  
Joe Kaganski, Voting  
Margaret Olson, Alternate, Voting (left at 10:15 PM)  
Dennis LaBombard, Alternate (Voting after 10:15 PM)  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

7:30 PM Public Hearing, Proposed Changes to Zoning Ordinance  
Peter opened the meeting. Discussion began with Item #2-  
Amend Article VIII-Definition of Family. Jeremy explained  
this change would broaden the zoning definition of family.

Item #1-Add New Article #XVI-Sign Ordinance- would restrict  
the number and size of signs allowable in Brookline. PB  
members and members in the audience discussed each item.  
Marcia Farwell questioned whether subdivision signs will be  
allowable under this ordinance, whose land are they on, and  
who is responsible for their maintenance. She stated many  
commercial property owners are not town residents.  
Eddy Whitcomb said signs are necessary for advertising and  
over-restriction by the town hurts the businessman.  
Tom Moran asked if when a proposed sign meets the ordinance,  
would the PB have to review and approve it at a PB meeting.  
After much discussion by PB members and those present, it  
was decided there was a consensus to change the proposed  
sign ordinance to provide for subdivision signs (ex. Wallace  
Brook Estates, Mountain Road Estates, etc.)

Discussion then focused on the size and location of signs.  
Peter said from this conversation it was the agreed that the  
PB limit the number of rather than the size of signs.

8:20 PM The following were suggested changes to be made to the Sign  
Ordinance for the second public hearing, Jan. 21, 1992.

**MOTION** Joe made a motion to change Section C. Size #2 to read as  
follows: "Commercial and industrial buildings are allowed  
one free standing sign per building. Individual occupants  
are allowed a wall sign." Peter seconded the motion. Vote to  
change 5-0 yes.

\*THREE  
Amended 2/14/92 (SLF)

MOTION Peter made a motion to add to Section C. Size, #5. "Signs of less than ~~two~~ square feet are not regulated by this ordinance." Rich seconded the motion. Yes vote 5-0.

MOTION Joe made a motion to change E. Prohibited Signs, #4. to read as follows: "Signs in the road right-of-way." Peter seconded the motion. Yes vote 5-0.

MOTION Rich made a motion to delete from Section E. Prohibited Signs, #5 the words "or disturbance to" from the sentence. Peter seconded the motion. Yes vote 5-0.

MOTION Margaret made a motion to delete Section F.-Review & Approval. Rich seconded the motion. Yes vote 5-0.

MOTION Joe made a motion to add a Section F.-Subdivision Signs to read: "Permanent and temporary subdivision signs are allowed only with Planning Board approval." Margaret seconded the motion. Yes vote 5-0.

MOTION Judy made a motion to change the added definition #32- Wall Sign to Article VIII to read: "Any sign which is painted on, incorporated into, or affixed to the wall or roof of a building." (Joe had amended Judy's motion to delete the remainder of the sentence after the word "building") Rich seconded the motion. Yes vote 5-0.

9:00 PM

**Item #5-Prime Wetlands**

Libby Wehrle introduced Nancy Rendall of N.E. Environmental Associates who had compiled the research data to qualify areas for designation as "prime wetland". She explained that the town, after an affirmative vote at town meeting, needs to submit to the N.H. Wetlands Board a report and detailed town map of the prime wetland areas.

Dennis asked if the definition of "wetlands" is changed by the federal government would any of the areas we may be considering for prime wetlands be affected.

Nancy answered the areas of very poorly drained soils would remain categorized as wetlands; and there should be no prime wetland areas in Brookline affected by a definition change.

Milner Wallace questioned the accuracy of the outlining of the Fresh Pond/Wallace Brook prime wetlands. He said the map as outlined, goes right through his septic leach area.

Nancy answered the town tax map was used, and accuracy to within 50 feet would be allowable.

Peter inquired about having a relief mechanism if a boundary dispute evolved. Nancy said the N.H. Wetlands Board will investigate any such problem. Libby said subdivisions in Brookline need an on-site survey if wetlands are involved.

Eddy Whitcomb remarked that the town already has a 125' setback in the wetlands ordinance and asked if the prime wetlands designation is really necessary. He wanted to know if there would be any tax relief for a land owner if he is unable to use portions of his property because of the prime wetlands designation. Discussion followed regarding changing the proposed ordinance to give relief from errors in mapping so that costs such as on-site soil studies and public hearing costs will not be generated unnecessarily. Jeremy suggested putting in a similar paragraph to that in the aquifer ordinance. Ordinance to be amended by "Article VIII, Section 2.3-Wetlands Incorrectly Delineated".

10:00 PM **Item #3- Amend Articles II,III,IV,V, & VIII. Commercial District and Industrial District**-Jeremy explained the proposed separation of the Commercial and the Industrial districts and permitted uses in each. He said the PB had attempted to remove all residentially developed lots in the present Industrial/ Commercial district; and had looked for areas where commercial district land could be expanded. Discussion followed regarding the permitted uses; and the difficulty of categorizing certain businesses into either commercial or industrial. It was noted that Lot K-75 was being changed to the residential district, even though the same owner operated Donovan Engineering on the adjoining property K-76, and had purchased K-75 for future expansion. Also changed was K-81, James Bourassa's property which has been used commercially for several years.

(Margaret left the meeting at 10:15 PM. Alternate Dennis LaBombard became a voting member at this time.)

10:50 PM Dennis made a motion to combine the Industrial and Commercial districts into one with "Uses Permitted" being those listed in the proposed Industrial District. Lots K-75 and K-81 will be added back into the I/C zone. Judy seconded the motion. Vote was Yes-4; No-1 (Rich).

Rich expressed his view that he would rather withdraw the entire Industrial and Commercial zoning proposal than to make the substantive changes being made tonight without full membership of the Planning Board being present.

10:55 PM **Residential/Agricultural District.**  
MOTION Joe made a motion to add to Section B. USES PERMITTED, a #6. (the existing #5 in Article V of the current zoning) to read as follows: "Farming and forestry activities are permitted when incidental to primary residential use, but any use injurious, obnoxious, or offensive to the neighborhood is prohibited."; and to reflect in the new definition of "Home Business" the same wording as in current #12 of Article VIII Definitions "Home Produce and Products (such as crafts, food products) may be bought and sold and exposed for sale." Peter seconded the motion. Yes vote 5-0.

11:00 PM **Item #4-Amend Article IX-Earth Removal (by petition)**  
Tom Moran asked the PB to disallow the petition reasoning that 95% of the land area in town will be disallowed by this zoning article to remove gravel. He said the remaining 5% of within the Industrial/Commercial zone will not provide an opportunity for earth removal because of either existing residential or commercial development; or the lack of any excavation material on the remaining undeveloped lots.

A brief debate followed. Because of the lateness of the hour, Peter said this would be an item for discussion at the January 21st public hearing.

11:10 PM **MOTION** Rich made a motion to adjourn the meeting with Peter seconding the motion. Vote 5-0 to adjourn the meeting.

Next Planning Board meeting and Public Hearing on zoning,  
Tuesday, January 21, 1991.

Submitted by: Sandra L. Fessenden  
Sandra L. Fessenden, Secretary  
Brookline Planning Board



(603) 673-8855

*Selectmen*

**TOWN OF  
BROOKLINE, NEW HAMPSHIRE**

P.O. Box 360  
Brookline, NH 03033

PLANNING BOARD MEETING

January 21, 1992

**PRESENT:** Peter Webb, Chairman, Voting  
Rich Napolitano, Voting  
Judy Cook, Selectmen's Alternate, Voting  
Joe Kaganski, Voting  
Dennis LaBombard, Alternate, Voting  
Chris Hegarty, Alternate  
Margaret Olson, Alternate  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

- 7:30 PM** Second Public Hearing, Proposed Changes to Zoning Ordinance  
Peter opened the meeting and gave a brief synopsis of the changes from the first public hearing on January 7, 1992. Discussion began with **Item #1-Sign Ordinance**. The following changes were made for clarification reasons:
- MOTION** On a motion by Rich, seconded by Joe, with a 5-0 yes vote, **C. Size #5** was changed to read: "**Signs of less than three square feet are not regulated by this ordinance.**"
- MOTION** On a motion by Peter, seconded by Rich on a 5-0 affirmative vote, **E. Prohibited Signs #2** was changed to read: "**Wall signs that extend above the roof peak of the building.**"
- MOTION** Rich made a motion with Judy seconding (vote 5-0 yes) to change **Article VIII Definitions, #33** to read: "**Wall sign- any external sign which is painted on, incorporated into, or affixed to the wall or roof of a building.**"
- MOTION** On a motion by Dennis, seconded by Rich with a 5-0 yes vote, **B. Illumination, #2** was changed to read: "**A sign can only be illuminated between midnight and 6 am if it is advertising an on-site business that is open at that time.**"
- 8:00 PM** Peter made a motion to have the Planning Board approve **Item #1-Add New Article XVI Sign Ordinance**. Joe seconded the motion. Vote was 5-0 yes.  
**MOTION** Rich made a procedural comment that this ordinance now has removed regulation on the size of signs.
- 8:05 PM** Peter made a motion to have the Planning Board approve **Item #2-to Amend Article VIII, #33-Delete existing definition of Family and replace with new definition of family**.  
**MOTION**
- 8:05 PM** **Item #3-Amend Articles II, III, IV, V, and VIII**. The change from the previous hearing left the Industrial/Commercial zone combined as one; gave location of district with area of

\* IT WAS THE CONSENSUS OF THE PB THAT SINCE EXISTING RESIDENTIAL PROPERTIES ARE A PERMITTED USE, NO VARIANCE WOULD BE NEEDED.  
Amended 2/4/92 (DCF)

expansion; deleted areas of residentially developed lots (S. Main Street); and gave a list of uses permitted and the lot requirements. The Residential/Agricultural zone added a permitted use for home business; and amended Article VIII, Definitions to include a definition of home business.

Questions followed regarding expansion of grand-fathered residential properties within the I/C zone. \* ~~It was unclear whether a variance would be required to make changes or additions to residential property within this zone since these properties would become non-conforming uses.~~ delete

8:40 PM MOTION

On a motion made by Judy and seconded by Dennis, a 5-0 yes vote changed **Article IV, Industrial/Commercial District, B. Uses Permitted, #11** to read as follows: "Residential dwelling units existing prior to March 14, 1992."

MOTION

Rich made a motion seconded by Peter to change Item #3, Amend Articles II, II, IV, V & VIII to combine **A. Industrial District** and **B. Commercial District**. Yes vote 5-0.

John Ganos, owner of J-20, asked why lot J-19 (Bibco) had been removed from the I/C district. PB members reviewed the map and checked PB minutes. Although a memo prepared by Jeremy on 10/22/92 had grand-fathered a commercial use of this lot, PB members agreed removal of this lot from the I/C zone had not been discussed at any previous meeting. Joe felt a boundary correction of the map was a clarification change.

8:55 PM MOTION

Rich made a motion to change **A. Location, d)** to change the northern boundary to **Lot J-19** instead of Lots J-20 and J-22. Peter seconded the motion which carried by a 5-0 vote.

9:00 PM MOTION

Peter made a motion to have the PB give approval to **Item #3-** to amend Articles II, III, IV, V, and VIII. Judy seconded the motion. Affirmative 5-0 vote.

9:05 PM

**Item #5-Prime Wetlands-** Dennis said the designation of "Prime Wetlands" will not result in more restrictive setbacks than the existing wetlands ordinance. Orville Fessenden asked whether the map or the list of lots in the ordinance would be the controlling factor, since his lots J-51 and G-52 had been listed but were not on the wetlands map as being in the prime wetlands. Libby answered that the map is the control document. Clarence asked the difference between the wetlands conservation district and the prime wetlands. Libby said prime wetlands were the poorly and very poorly drained soils as defined by the S.C.S. soils map. Jeremy said a clause to correct any areas incorrectly delineated had been added to Article XIII, Section 2.3. The date for the Brookline Prime Wetlands Report had been corrected from December 1991 to January 1992.



MOTION Peter made a motion to have the PB approve Item #5, Add Article XIII Section 2.2 and Amend Sections 2.1 and 2.3 to include Prime Wetlands. Judy seconded the motion. Yes 5-0.

9:15 PM Item #4-Amend Article IX-Earth Material (by petition). Nancy Brodeur questioned the wording of the petition for the warrant article. PB had asked Town counsel who said the wording must be exactly as presented to the selectmen and planning board. Nancy voiced her personal opinion that she had not meant to stop the small excavation projects in Brookline; and felt that clause B in Article XII, Board of Adjustment could be used to permit excavation in the Residential/Agricultural zone by special exception if it meets ZBA and PB criteria. Jeremy pointed out that Article IV, Industrial/Commercial District, B.Uses Permitted will be changed with the adoption of the proposed zoning changes, limiting excavation to the I/C district. Nancy said she supported and signed the petition, but wanted to have small excavations allowable in the R/A zone by special exception. Clarence Farwell asked whether a variance or special exception will be needed to excavate in the R/A district since the petition is worded "Are you in favor of amending Article IX-Earth Removal so as to prohibit earth removal projects from the R/A District.....". He felt a variance would be required not special exception. This would preclude any sand being removed in Brookline for Town use for sanding purposes. He questioned if municipalities were exempt from rules governing excavation. State Representative Betty Hall said the mechanism of the state law was to continue to permit the ZBA to allow excavation by special exception in conformance with the local ordinances. Tom Moran presented a map colored to show the areas of sand and gravel deposits in Brookline. His feeling is that the word "prohibit" in the petition requires a variance; and a variance requires 5 conditions relative to the land to be satisfied for ZBA granting. Areas of sand and gravel found in the I/C district in the areas not already developed are very small-Route 13 next to Texaco station, back of J-20 (John Ganos' lot) and south of Averill Road near Leppanen's property (J-44). Tom said current zoning with the aquifer ordinance, wetland ordinance including the prime wetlands district is making the process of excavation more difficult. This petitioned change will preclude gravel excavation from most areas in town (95% of land area in town). Phil Chandler questioned Tom's source of reference and asked the amount of cubic yards available in the I/C district (Tom had not calculated an amount). Phil contended there was enough gravel for the town's use in the I/C zone; and gravel can already be excavated in the residential areas when it is incidental to subdivision development. Betty Hall noted the state law sets the minimum standards; and said she felt the state law will prevail in areas of concern to Phil because the state is more restrictive than

the town. She also believes a special exception would be required rather than a variance to excavate gravel in the residential zone.

10:00 PM  
MOTION

Peter made a motion for the PB to vote not to approve the petition as presented in Item #4. (A yes vote means to disapprove the petition). Dennis seconded the motion. Peter polled the board for their opinions and votes. Margaret said she feels the PB should approve this petition and be looking to expand the commercial zone in undeveloped areas to allow for gravel removal. Chris said he doesn't believe in changing an area of residential zone to a commercial zone for excavation. **Dennis-Yes vote.** This petition would prohibit excavation in the R/A district. If passed it becomes zoning law and would require a variance. He feels it is too restrictive. **Judy-Yes vote.** She does not want gravel operations in residential areas and feels the existing ordinance and regulations take care of the scale of excavation projects. **Joe-Yes vote.** With the latest changes to RSA 155-E the restrictions by state law will hold, along with the town's present regulations. The state spells out gravel operations as commercial activity. **Peter-Yes vote.** Residential areas are not restricted to the residential zone. He feels present zoning and regulations are sufficient. **Rich-Yes vote.** Supports motion and is agreement with Judy's reasons.  
**PB vote 5-0 to disapprove Item #4.**

10:10 PM

**Bingham Lumber Co., Inc., N.R.S.P. Case #1992-A:H-90**  
Don Bingham presented plans to build a 28' X 40.6' addition onto the office building. He said they would be adding 1 new person to the office work staff. Dennis questioned whether the septic system would be adequate for additional office personnel. Don had the septic system design which has an 800 sq. ft. leachfield, and noted there is already a small existing kitchen area. Dennis calculated the number of people would not overload the existing septic system. Jeremy had prepared a memo for PB members. He mentioned the addition was a single story building. The parking lot and septic system were the outstanding issues to be checked. Don said the parking area is 130' in length. Width is 40' at the widest end, and 32' at the narrow end. Rich asked for 1 "as-built" plan which would show everything as it exists along with the new building and parking lot.

10:20PM  
MOTION

Rich made a motion to accept the plan pending the following items being done:  
1) All fees paid  
2) Approval block added to the plan  
3) Plan showing all buildings and enlarged parking lot  
Judy seconded the motion. Yes vote 5-0.

10:20 PM

Rich made a motion to approve the site plan as presented. Peter seconded the motion. Vote 5-0 yes.

10:25 PM Planning Board Business Meeting

- 1) Bob Bourassa, Talbot-Taylor Estates-Review Road Bond  
Bob presented PB members with an agreement to restrict the sale of lots and issuance of building permits on all lots which are on an unbonded portion of road.
- MOTION Rich made a motion to delete from the last sentence of the agreement the words "or until November 30, 1992, which ever first occurs." Judy seconded the motion. Yes vote 5-0. (Peter deleted and initialed this). The date (January 21, 1992) and the amount of road bond posted (\$183,645.00) were added to the agreement at the appropriate locations. Bob will have all other members of the partnership initial the changes and bring the agreement back to the town office to have it be recorded at the Registry of Deeds.
- 2) Tom Moran had three items for PB members to review.
- 1) A copy of Birch Hill I subdivision showing all the bounds which have been set. The silt fence has been placed; and in the spring the finish pavement on Kinney's corner (off-site improvements) will be done. All issues for road acceptance at town meeting have been addressed. Dennis will recheck the subdivision for the PB.
- 2) Birch Hill, II and Mountain Road Estates, II Recreation Agreement-Tom said the agreement is being updated to reflect the effective dates of payment to run with the recording of the mylars. He had prepared a memo to indicate this.
- 3) Oak Hill Estates-Tom said his intentions are to subdivide the ball park out of lot K-66-20 and convey the rest of the land to the town. He also wants to do a lot line adjustment to lot K-66-18. He will be meeting with the Conservation Commission to discuss these items.
- Rich asked what the final disposition of the ball park area will be. Tom said he is looking into different options to be the most beneficial to both himself and the town.

10:47 PM Project Status Reports

- 1) Bear Hill Estates- Joe Kagenski reported that he and Clarence Farwell had met on-site to review the as-built plans of the road. The issues are as follows:
- a) Captain Seaver Road exceeds the 8% grade-it is 8.3% . Some shoulder work remains to be done.
- b) As-built "red-line" plans are being presented instead of mylars. All modifications are being done in the town right-of-way.

c) A maintenance bond needs to be in place. Developer has asked for a shorter bond period because the road has been in place for 2-3 year. ( After discussion, PB members felt a 1 year maintenance bond should be required since the final pavement was placed in early December 1991.) Clarence will be asked to come to the February 4th session with the plans and his report.

11:00 PM Rich made a motion to adjourn the meeting with Peter  
MOTION seconding the motion. Vote 5-0 to adjourn the meeting.

Next Planning Board meeting Tuesday, February 4, 1992.

Submitted by: Sandra L. Fessenden  
Sandra L. Fessenden, Secretary  
Brookline Planning Board



(603) 673-8855

*Electron*

**TOWN OF  
BROOKLINE, NEW HAMPSHIRE**

P.O. Box 360  
Brookline, NH 03033

PLANNING BOARD MEETING

February 4, 1992

**PRESENT:** Peter Webb, Chairman, Voting  
Rich Napolitano, Voting  
Joe Kagenski, Voting  
Chris Hegarty, Alternate, Voting  
Margaret Olson, Alternate (joined meeting at 8:25 PM)  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

- 7:30 PM** Planning Board Business Meeting  
a) Margie & Terry Sherlock-Draft of Article on proposed zoning changes. PB members and the Sherlocks reviewed the draft article they had prepared. Members will make their suggested changes and get them to the Sherlocks for the final copy. It will be published in the Milford Cabinet, the Brookliner and Our Place. PB members expressed their thanks to the Sherlocks for their work on this project.
- 7:40 PM** Bonding Issues  
a) Robert Petersen-Petersen Road  
Bob Petersen presented the PB with a letter of credit from the Center Bank of Bedford, N.H. There was some discussion as to whether the \$30,000. amount was the amount recommended by road inspector Clarence Farwell. There wasn't a current road bond estimate on file. Clarence was called and asked to come down to the meeting. He said that \$30,000 will be an adequate amount of bond at today's prices. He will write a report indicating the road is at the "sub-grade" level of construction which would allow a building permit on the lot Mr. Petersen has sold to his daughter and son-in-law.
- 8:20 PM** MOTION Rich made a motion to accept the letter of credit subject to town counsel's favorable review. Chris seconded the motion. Yes vote 4-0 to accept letter of credit.
- 7:50 PM** Review Minutes of the following PB meetings  
a) December 17, 1992- Page 3-spelling of \*"trafficked" was questioned. Rich made a motion to accept the minutes amended to correct the spelling. Peter seconded the motion. \*NOTE-The word as spelled is correct according to the Merriam-Webster dictionary. Yes vote 4-0 to accept minutes.

**MOTION** b) January 7, 1992-Page 2, change to read:"Signs of less than three square feet are not regulated by this ordinance." Joe made a motion to accept the minutes as amended. Rich seconded the motion. Vote 4-0 yes to approve minutes as amended.

**MOTION** c) January 21, 1992-Page 2, Paragraph 2, Sentence 2, change to read as follows:"It was the consensus of the Planning Board that since existing residential properties are a permitted use, no variance would be needed." Rich made a motion to approve the minutes as amended. Peter seconded the motion. Yes vote 4-0 to approve minutes as amended.

**2) Project Status Reports-**

**MOTION** a) **Bear Hill Estates-** Clarence reviewed the "as-built" plans presented for Phases I and II and the portion of Phase III to the junction of Capt. Seaver Road and Mosher Drive. He pointed out that one portion of Capt. Seaver Road exceeds the maximum 8% road grade (8.3%); but he felt the road as built gave better driveway access to the lots. He said developer Mike Tamposi wants a waiver from the PB on presenting as-built mylars for recording. Clarence said all changes were made within the town's right-of-way and did not involve changes to individual lots. Mr. Tamposi is asking acceptance of Bear Hill Rd., Mc Daniels Dr., Wadsworth Dr., and Captain Seaver Road at town meeting this year. He will keep the insurance bond in effect through December 31, 1992 (date recommended by Clarence) as a maintenance bond. PB members felt that the maintenance bond should be posted for a year after final payment was placed (early Dec. 1991). Rich made a motion to accept the plans as presented. Joe seconded the motion. Yes vote 4-0.

**8:55 PM** b) **Lorden Realty-"Elevations"**- Clarence expressed his desire to have the PB review the road construction plans for this subdivision and eliminate the cape-cod berms and entrance "island". He wants the drainage system to be reviewed. Rich said if the drainage needs to be changed, the PB should conduct the same thorough review as previously was done during the review and approval period. He stated the type of drainage system proposed by Lorden's engineering firm was of some concern to the PB, who hired an engineering firm to conduct an extensive review of the water flow and drainage calculations to make sure the system was workable as designed. Clarence pointed out that road inspector Bill Duncklee had concerns about the lack of drains underneath the road. Bill feels the groundwater will seep into the road bed and cause problems if drainage is not corrected now. Clarence would like an open drain system, at least on the first section of road to the top of the hill. Peter suggested Alan Lorden, Bill Duncklee and Clarence be at the next PB meeting to discuss the situation.

- 9:00 PM 3) Bonding Issues  
b) F.D.I.C. Letters of 1-24-92- PB members reviewed the four letters nullifying 4 surety bonds involving 3 subdivisions and 1 non-residential site plan. Peter said the PB at the November 5, 1991 voted to request the building inspector to withhold building permits from all subdivisions and non-residential site plans which failed to provide the town with a bond or other security for the construction and/or maintenance of the road system. The PB should vote whether they wanted to do the same on these four projects.
- MOTION On a motion by Peter seconded by Rich and an affirmative 4-0 vote, a letter will be sent to the building inspector requesting that building permits be withheld on Eddy Whitcomb's Scabbard Mill Brook Road subdivision.
- MOTION On a motion by Joe, seconded by Rich, with a 4-0 yes vote, a letter will be sent to the building inspector requesting that building permits be withheld on Martin and Lawrence Ruggiero's Lakin Road subdivision.
- MOTION On a motion by Peter seconded by Rich and an affirmative 4-0 vote, a letter will be sent to the building inspector requesting that building permits be withheld on Lorden Realty's "Elevations" subdivision.
- MOTION On a motion by Peter seconded by Rich and an affirmative 4-0 vote, a letter will be sent to the building inspector requesting that building permits be withheld on Fresh Pond Realty's non-residential site plan on "Post Office Square".
- 9:12 PM PB members reviewed the letter they had received from attorney Rolf Goodwin regarding road surety issues and the holding of mortgages by the town for road bonding. After a brief discussion a decision was reached based on Mr. Goodwin's recommendation against the town holding mortgages as surety; coupled with Mr. Petersen's proving that bonds are available in the current banking market.
- MOTION On a motion by Chris it was voted that: "The policy of the Brookline Planning Board will be to not accept land as surety for bonding purposes." Rich seconded the motion. Affirmative vote 4-0 to adopt this policy.
- 9:15 PM Planning Board General Business  
a) Membership status-positions to be filled for members and alternates. Former PB alternate Robert Sykes was present to say he is interested in becoming a Planning Board alternate and is willing to serve on the Nashua Regional Planning Commission as a commissioner or alternate commissioner for Brookline.

**MOTION** Rich moved to recommend Robert Sykes to the selectmen as a Planning Board alternate. Joe seconded the motion. Yes vote 4-0. Bob will also be recommended to serve on the Nashua Regional Planning Commission.

Rich said he is willing to serve as Planning Board member for another 3 year term.

**9:30 PM** There is one three year membership appointment available. Both Chris Hegarty and Margaret Olson stated that they would like to be considered for the position. They left the meeting at this time. After a brief discussion, PB members decided to recommend Chris Hegarty for a 3 year membership on the PB.

**9:45 PM** It was decided that there will be no Planning Board Meeting on Primary Day, Tuesday, February 18, 1992.

**9:50 PM** Peter made a motion to adjourn the meeting. Rich seconded the motion. Meeting was adjourned by a **3**-0 yes vote.

Next Planning Board Meeting Tuesday, March 3, 1992

Submitted by:



Sandra L. Fessenden, Secretary  
Brookline Planning Board





(603) 673-8855

*Selectmen*

**TOWN OF  
BROOKLINE, NEW HAMPSHIRE**

P.O. Box 360  
Brookline, NH 03033

**PLANNING BOARD MEETING**

March 3, 1992

**PRESENT:** Peter Webb, Chairman, Voting  
Rich Napolitano, Voting  
Judy Cook, Selectmen's Alternate, Voting  
Joe Kaganski, Voting  
Bob Sykes, Alternate, Voting  
Dennis LaBombard, Alternate  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

**7:30 PM** 1) Planning Board Business Meeting

**MOTION** a) Review Minutes of February 4, 1992 PB meeting  
Rich made a motion to accept the minutes of February 4, 1992 as written. Peter seconded the motion. Yes vote 5-0.

**2) Bonding Issues**

a) Letter of Credit—PB members reviewed the sample letter of credit as drafted for the PB by attorney Rolf Goodwin. PB asked Jeremy to review it and write a letter of credit draft for the March 17th meeting using Mr. Goodwin's suggestions and matching it up with the subdivision regulations.

b) Thomas Enright, "Wallace Brook II"—Tom Enright was present with a proposal for the PB's consideration. Tom owns 9 lots -2 in Wallace Brook, I and 7 in Wallace Brook, II. He said the sale of 2 lots will generate revenue needed to complete the project. If the PB is in agreement with his proposal, he will put \$20,000 into an escrow account to be used to complete the road. He is asking the PB to first allow him 1 building permit. Under an agreement he has with a house builder, he will receive revenue from the sale of the land when the house is sold (approximately the first of July 1992). He will be able to finish the road at this time, if the PB will then allow him to have 1 more building permit. He feels that at today's prices he can complete the major items (paving, guardrail, loaming & seeding) listed on Joe Cretella's bond estimate dated July 17, 1991 (see attached) for around \$23,000.

Joe said the reclamation of lot J-33-34 was also an item that needed to be completed in this subdivision. The lot had been used to excavate gravel for the road, and the PB

had allowed it to be used as a stump dump. Tom said all that remains to be done on this lot was loaming & seeding, and it would be taken care of. Joe noted that Cretella's estimate is 9 months old, and suggested Tom have Joe do an inspection and write up a new bond estimate. Joe said there have been drainage problems, and asked if they have been corrected after another winter's weather. He said he would like Tom give the PB a written proposal for consideration of this bonding alternative.

Judy said she felt the PB needed a more complete package with a guarantee of when the road will be completed. If the sale of the second lot does not occur, will that affect the final completion of the road? She feels the road needs to be finished as soon as possible.

Peter said a piecemeal approach is unwise for the PB to consider. If one building permit will finance most of the outstanding road items, he is willing to have the PB allow the building permit to be drawn and the major portion of the road work to be done this spring.

Dennis said he was in agreement with Peter's assessment. It would be better to have the major items completed following Tom's proposal, than to have nothing done on the road.

Tom said that he is asking for two building permits, not one, and wanted to make that clear to all PB members. He knows some of the items currently in the bond estimate have been done, and the remaining items can be completed for much less than the \$56,269 on Joe's estimate.

Judy and Joe said they would prefer to see some new estimate figures from the road inspector before making a decision.

Rich said he would like to be out of this arrangement before the second lot is sold and the second BP is issued. He would favor an agreement to be drafted between Tom and the town saying the following: 1) after the second lot is sold, all road work will be done; and 2) a time frame for final completion will be written into the agreement.

Peter asked how the \$20,000. will be held in escrow. PB felt the escrow money should be placed in Tom's name and the Town of Brookline's jointly. Tom said he did not want the release of money held up by the town's requirement of an inspection and written report submitted to the PB before a letter to the bank was written. Tom reiterated that funds will only be spent for road work done in Wallace Brook, II; and he will set up the escrow account accordingly. After discussion, PB and Tom agreed to have Russ Heinselman, chairman of the board of selectmen, authorized to release funds for the Town as the road work is done.

Tom will attempt to get Joe Cretella to make an inspection and write a new bond estimate. PB authorized Dennis LaBombard to be back-up road inspector in the event Joe

Cretella is not available. Tom will come back to the next PB meeting on 3/17/92.

8:40 PM c) Robert Bramley, "Mountain Road, II and Birch Hill, II-revising road bond estimates-Bob Bramley and Tom Moran were present with new bond estimates totalling \$695,000. They would like to have this estimate reviewed against the road construction plans as soon as possible. Road inspector Bill Duncklee is going to be out of town till the end of the month, so the PB will have someone else review the estimate.

8:45 PM Rich made a motion to have the proposed estimate reviewed by Meridian Land Services, Inc. for accuracy of the estimate. Peter seconded the motion. Yes vote 5-0.

Bob and Tom will come back to the PB on March 17, 1992.

8:55 PM 3) Alan Lorden, "Elevations"-Alan was present to discuss the road construction plans for Lorden Lane as regards the divided entrance and closed drainage system. Clarence Farwell was present to ask the PB to consider the removal of the center island and to allow an open drainage system in place of the closed drainage as designed. Discussion followed as to why there was a center island (length of cul-de-sac); and what problems might arise from its removal.

9:14 PM Peter made a motion to eliminate the center island on Lorden Lane and to keep the same 25 foot width of pavement. Judy seconded the motion which passed by a 5-0 vote.

Rich explained for those not familiar with this subdivision that the PB had not required the closed drainage system. Maynard and Paquette had designed the system based on their drainage calculations. These calculations were complex and the town had the plans reviewed by an outside firm. Rich said he is not willing to trade less maintenance problems for an inferior drainage system- closed or open. If a new drainage system is designed, he wants the same thorough review of the new plans as were done on the original ones.

Dennis said that open versus closed drainage is really a cosmetic issue; and that the velocity of water is more of a problem in a pipe than in a swale. The same amount of water flow can be handled correctly by either closed or open drainage.

PB members discussed the fact that the closed drainage has been installed on the first section of Lorden Lane, and it would not be economical to change it. However, Mr. Lorden was told that if he had his engineer design an open drainage system beginning at the top of the hill, the PB will have the system reviewed. If the calculations prove an open

drainage system will handle the water flow off the hill, the PB will consider the change in drainage design.

Mrs. Lorden asked if the PB would consider a phasing of the road construction bond, since their bond has been closed by the F.D.I.C. Peter said he had some concerns with the road configuration with only 1 entrance to the project. He told the Lordens to have a phased bonding proposal written and the PB will review it and make a decision. They will come to the March 17, 1992 PB meeting for further discussion on road engineering and bond issues.

**9:45 PM Planning Board General Business**

PB members discussed the various requests for alternatives to road bonding and the best method of trying to meet each developer's requests fairly. It was suggested that the issue should be discussed further, hopefully with all PB members and alternates present.

**MOTION** Judy made a motion to spend the next work session, Tuesday, April 7, 1992 working on the bonding issue. Rich seconded the motion. Yes vote 5-0.

**10:15 PM** Jeremy had prepared a memo on the possible location of a restaurant at Gazebo Square. He had addressed the septic and water issues, and calculated the parking spaces needed. He also reported that he had been contacted regarding a temporary sales business unrestricted to one site in town. He also asked PB members what subjects they would like to see addressed at this year's law lecture series. The Bonding Issue was the unanimous suggested topic.

**10:35 PM** Rich made a motion to adjourn the meeting. Joe seconded the **MOTION** motion. Meeting was adjourned by a 5-0 affirmative vote.

Next Planning Board meeting Tuesday, March 17, 1992.

Submitted by: Sandra L. Fessenden  
Sandra L. Fessenden, Secretary  
Brookline Planning Board

Made Part of the PB minutes of 5/3/92 *SELF*

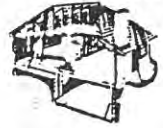


RESIDENTIAL



CONSTRUCTION INSPECTION SERVICE

JOSEPH S. CRETELLA



North Main Street  
P. O. Box 921  
Groton, MA 01450



**FILE COPY**

Brookline Planning Board  
Town Hall  
PO Box 360  
Brookline, NH 03033

July 17, 1991

- Case #199

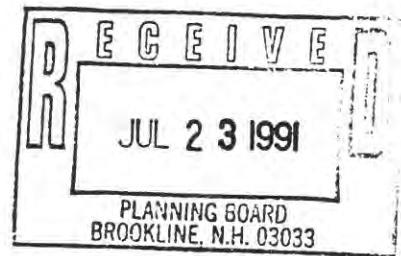
RE: Wallace Brook Estates II, Hillside Drive - Thomas Enright

Enclosed please find the cost estimate missing from my previous report.

Should you require any additional information, please contact me at your convenience.

Respectfully submitted.

*Joseph S. Crestella*  
Joseph S. Crestella



Wallace Brook Estates II  
Hillside Drive

Cost Estimate of Work per Report Dated 6/19/91

1. Install required property bounds	\$ 1215.00	
2. Clean ditches	1960.00	
3. Re-shape ditches	450.00	
4. Install erosion control	320.00	
5. Seed and mulch disturbed areas	1500.00	
6. Installation of wearing course		
a. Sweeping	360.00	
b. Hole repair and crack sealing	750.00	
c. Tack coat	2500.00	
d. Wearing course (1 1/2" thickness )	22500.00	
7. Pavement match (grooving)	290.00	
8. Loam, seed and mulch shoulders	5000.00	
9. Grade approach to fire pond	150.00	
10. Install guard rails	4320.00	
11. Install road and traffic signs	200.00	
12. Prepare easement descriptions and AS-Builts	3500.00	
	SUB-TOTAL	\$45015.00
	Engineering and Contingencies 25%	\$11254.00
	TOTAL	\$56269.00



(603) 673-8855

*Salotsman*

**TOWN OF  
BROOKLINE, NEW HAMPSHIRE**

P.O. Box 360  
Brookline, NH 03033

**PLANNING BOARD MEETING**

March 17, 1992

**PRESENT:** Peter Webb, Chairman, Voting  
Rich Napolitano, Voting  
Judy Cook, Selectmen's Alternate, Voting  
Chris Hegarty, Alternate, Voting  
Margaret Olson, Alternate, Voting  
Dennis LaBombard, Alternate  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

- 7:30 PM** Planning Board Business Meeting  
Peter called the meeting to order. He took Bill and Susan Ingraham's case as the first order of business.
- 1) William & Susan L. Ingraham, 24 Parker Road, Case #1992-1:K-66-19. Bill Ingraham was present with plans for a lot line adjustment between lots K-66-19 and K-66-18. He said the adjustment was necessary because the house did not meet the required 15 foot setback from the property line. The new line is 40 feet from the nearest corner of the house.
- 7:35 PM** Rich made a motion to accept the plans as presented. Peter  
**MOTION** seconded the motion. Affirmative 5-0 vote to accept plan. Abutter Lauren McConnell asked if another lot line adjustment would be necessary to put an addition on the house in the future. Bill said no, there was adequate land.
- 7:38 PM** Rich made a motion seconded by Judy to approve the plan,  
**MOTION** pending all fees being paid and a recording mylar presented. Yes vote to approve the lot line adjustment plan 5-0.
- 7:40 PM** Review minutes of March 3, 1992 PB meeting.  
**MOTION** Peter made a motion to accept the minutes as written. Rich seconded the motion. Vote 5-0 yes to accept the minutes.
- 7:45 PM** Thomas F. & Ruth M. Moran, Case #1992-2:K-66-20. Randy Haight of Meridian Land Services presented the plan for the applicants. He said they were subdividing the ball field (new lot K-66-43) from the remainder of lot K-66-20. The Morans had decided to retain ownership of the ball field as a separate lot labeled non-building. Tom will be deeding the remainder of the acreage of lot K-66-20 to the town.
- Peter questioned the ~~4735~~ frame for deeding K-66-20 to the

\* "that any transfer of conservation land be accompanied by a transfer of the ball field into an arrangement such as a deed....."

\* Amended  
4/7/92  
SUF

town. Randy didn't know and said he would check with Tom. Peter recommended ~~some sort of mechanism be put in place for the ball field~~ such as a deed with life tenancy, or a form of trust, which would become a condition of the subdivision approval because of the divergence from the original purpose of giving the entire lot K-66-20 to the town. He would like something to ensure the town will eventually acquire the entire property.

Rich wanted to know what the public right of access to the ball field would be. He asked if something could be worded in the deed as to how to handle the access issue—such as an access easement. He also questioned how the land would be disposed of in the event of Tom's death before the property had been deeded over to the town.

Randy will check with Tom regarding this issue.

**MOTION**

Peter made a motion to accept the plan as submitted. Rich seconded the motion. Vote 5-0 to accept the plan.

**Abutter's Comments:** Mr. & Mrs. Thomas Messore, owners of lot K-66-23, stated they had been told when they bought their property that lot K-66-20 was conservation land belonging to the town, and that nothing would be done with it. They asked to whom the land now belonged.

Judy answered that it belonged to Tom Moran. She explained that the current town ball field on Milford St. was shared by the adult, the little league, and the Babe Ruth ball teams. Scheduling problems resulted in a situation with alcohol involved a few years back when an adult team was playing on one field and a little league team was using the other field. Town counsel then advised the town to place an ordinance regarding no alcohol was to be allowed on town property because of the liability involved.

Peter said that as part of the Oak Hill subdivision approval Tom had agreed to build a ball park at his expense for the town's use. This land would then be given over to the town. He said Tom objects to the alcohol ordinance now in effect on town property, and wishes to have a ball field where adults can play softball and drink an alcoholic beverage.

Mrs. Messore was concerned with alcohol being consumed on the Oak Hill ball field and alcohol-related accidents.

Abutter Mitchell McConnell was concerned with children using the field and adults also using it and drinking alcohol.

Abutter Dennis Kajawski had concerns with who is using the ball field and who will be drinking and playing softball. Who will be policing the area, and who will be applying the rules for use of the field.



Peter said the PB's objective will be to have a deadline for the definite transfer of the conservation property, Lot K-66-20, to the town. He also said he recalled that it had been Tom's intention to deed over the ball field to the town after it had been completed as part of Lot K-66-20.

Judy said the PB should do whatever is necessary tonight and to have the abutters and Tom present to answer any questions at the next PB meeting on April 21, 1992.

Abutter Fred Burgher asked if there was any written evidence available in the PB minutes or tapes as to the disposition of the land. (Secretary will research this for the 4/21/92 meeting).

Rich said he understood that Tom originally wanted to have the ball field completed and the grass established before turning it over to the town. Rich noted that Tom had researched a new state statute regarding property liability for land used for recreational purposes with no fee involved. He found there would be no liability problems for the town if the property were retained under his ownership.

8:35 PM Rich made a motion to accept the plan as submitted. Judy  
MOTION seconded the motion. Yes vote to accept plan 5-0.

Case continued till April 21, 1992

8:38 PM Talbot-Taylor Estates Partnership, Case #1992-3:G-61-15, G-  
61-26. Bob Bourassa and Randy Haight were present. Randy said 2 existing lots were being divided into 4 lots. Jeremy said the plan is missing street numbers for the new lots, and one of the lots (G-61-15) is involved in the bond agreement restricting its sale until the road is bonded. Rich said this subdivision does not seem to impact the road system. He recommends the PB do a site visit.

8:40 PM Judy made a motion to accept the plan as presented. Rich  
MOTION seconded the motion. Yes vote to accept plan 5-0.

Site walk scheduled for Saturday, March 21st. at 9:00 AM.  
Case continued till April 21, 1992.

8:45 PM Bonding Issues  
1) Tom Enright, "Wallace Brook, II". Tom Enright was present and said that he and Dennis LaBombard and Clarence Farwell had visited the site on Saturday, March 14th. They went over the items on the bond estimate prepared by Joseph Cretella as well as items Clarence had concerns about. Dennis had prepared a new estimate for bonding the outstanding items (see attached). New estimate is for \$30,000.00. Tom said he is willing to put up a cash bond, and asked for the method by which he may reduce the bond to

pay the bills. He was told that with an inspection report of work completed, Selectman Russ Heinselman will authorize the bank to release the appropriate amount of funds. Tom plans to place the guard rails first; then do the 2nd coat of paving; and finally the seeding and finish work. He anticipates that all work will be done by July 1, 1992. He asked the amount of maintenance bond he will be required to post. PB will check original bond estimate. Maintenance bond is set at 10% of the original bond amount.

Rich asked if there were outstanding issues other than Wallace Brook, II. He asked about the lot J-33-34, which had been used as a stump dump and had been excavated for the roads in W.B., II. Tom said Martin Construction owned the lot and had brought in stumps from W.B., II. He said the lot has been reclaimed and all that remains to be done is the seeding. Tom said it will be seeded by July 1, 1992.

**MOTION**

Rich made a motion to accept Dennis LaBombard's estimate of \$30,000.00. Margaret seconded the motion. Yes vote 5-0.

Tom will have a letter of credit drafted. PB will have it reviewed by town counsel. Road completion date will be July 1, 1992. Peter told Tom that once the bond is in place, the building permit moratorium will be lifted.

9:10 PM

2) Fresh Pond Realty, "Mountain Road, II" and "Birch Hill, II"--revised road bond estimates. Bob Bramley and PB members reviewed the estimate prepared by Meridian Land Services, Inc. (see attached). Rich asked if there was a contingency fee factored into the bond estimate. The answer was no. Bob said that the estimate from Tam-Char was without a contingency amount, and it was \$196,333.65 lower in amount. He felt that the difference in the estimates was an adequate cushion for possible price inflation. PB members discussed the fact that this was a phased project over a 5 year period. They were uncertain that the prices estimated today would reflect reality in 5 years time. They wished to require an added amount for contingency purposes, as well as a review of the bond amount at least once per year.

**MOTION**

Margaret made a motion to set the amount of bond for "Mountain Road, II" and "Birch Hill, II" at \$900,000.00 with a review of the bond at a minimum of once a year. Rich seconded the motion. Vote taken was 5-0 in favor.

9:35 PM

3) Lorden Realty, "Elevations"--Road Bond. Alan and Louise Lorden were present to ask the PB to consider a phasing of their construction bond for "Elevations" subdivision. Alan pointed out that Phase I, ending in a hammerhead does not exceed the maximum allowed cul-de-sac length. Without a bond, he is unable to complete the road in Phase I and get any building permits. It is his intention to finish the

first phase of road and build on the six lots. The generated revenue from sales of these houses will allow him to get a road bond for phases II and III. Without phasing the road bond, he will have to leave everything as is since the FDIC nullified his. Alan also had his engineers look at the drainage system. They recommend he retain the closed drain system and the cape cod berms with a swale off on the side to direct water into the closed drainage in the first section of road up to the intersection with the loop road. He will eliminate the island divider at the entrance. The width of paved area leading in from Route 13 is 30 feet wide.

Peter said he is inclined to accept the idea of a phased road bond in Phase I so that this portion of the subdivision road can be finished and not left incompleated.

10:10 PM  
MOTION

Judy made a motion to allow "Elevations" to bond Phase I by itself with the stipulation that the conveyance of all lots in Phases II and III will be restricted until an adequate road bond is posted with the Town of Brookline. A letter to that effect will be recorded in the Hillsborough County Registry of Deeds. The completion date of the road in Phase I will be a maximum of one (1) year from today's date which is March 17, 1992.

Margaret seconded the motion. Yes vote-4. No vote-1 (Rich).

10:20 PM

Margaret made a motion to adjourn the meeting. Rich seconded the motion. Meeting stood adjourned by a 5-0 vote.

Next Planning Board Meeting Tuesday, April 7, 1992

Submitted by: Sandra L. Fessenden  
Sandra L. Fessenden, Secretary  
Brookline Planning Board

Made part of the 3/17/92 P.Bd minutes (JUF)

Wallace Brook Estates II  
Hillside Drive (STA. 0+00 - 27+77)

March 14, 1992

1. Property bounds - 6 @ \$45	=	\$ 270
2. Clean and reshape ditches	=	1,700
3. Loam, seed and mulch	=	5,500
4. Pavement - 1" wearing course (315 Tons)	=	11,025
- sweeping	=	400
- tack coat	=	800
- pavement match	=	400
5. Guard rails - 225 LF @ \$11.00	=	2,475
- 4 Ends @ \$75.00	=	300
6. Road and stop signs	=	250
7. Easement descriptions and as-built plans	=	3,000*
		<hr/>
Subtotal	=	\$26,120
15% Engineering and Contingency	=	3,880
		<hr/>
Total	=	\$30,000

\* As-built plans may not be required.

Made part of the 3/17/92 P. Bd. minutes

(20)

11-Mar-92

## Meridian Land Services, Inc

### Construction Cost Estimate Summary

#### Mountain Road Estates II - Birch Hill Estates II

<u>Phase No.</u>	<u>Description</u>	<u>Location STATION</u>	<u>Meridian Amount</u>	<u>Tamchar Amount</u>
I	Birch Hill Road	33+45 - 47+07.14	\$74,074.35	
	Westview Road	41+80 - 56+92.60	\$107,969.30	
	Subtotal		\$182,043.65	* \$210,621.95
II	Westview Road	0+00 - 18+50	\$143,159.05	
	Subtotal		\$143,159.05	\$93,511.00
III	Westview Road	18+50 - 29+00.29	\$64,204.65	
	Westview Road	29+00.29 - 41+80	\$65,410.75	
	Subtotal		\$129,615.40	\$89,026.00
IV	Mountain Road	43+80 - 60+39.24	\$83,397.25	
	Subtotal		\$83,397.25	\$62,332.00
V	Mountain Road	28+00 - 37+06.78	\$67,197.35	
	Mountain Road	37+00 - 43+80	\$32,906.85	
	Subtotal		\$100,104.20	\$76,957.00
VI	Hollis Lane	0+12 - 13+25.89	\$117,435.90	
	Overlook Road	0+25 - 10+88.36	\$76,873.20	
	Summit Lane	0+25 - 9+24.36	\$50,307.95	
	Subtotal		\$244,617.05	\$154,155.00
<b>Totals</b>			<b>\$882,936.60</b>	<b>\$532,447.95</b>

\* Note that this amount includes clearing and culverts for the entire site.

*Selectmen*



TOWN OF  
**BROOKLINE, NEW HAMPSHIRE**

P.O. Box 360  
Brookline, NH 03033

(603) 673-8855

**PLANNING BOARD MEETING**

April 7, 1992

**PRESENT:** Peter Webb, Chairman, Voting  
Rich Napolitano, Voting (left meeting at 9:00 PM)  
Judy Cook, Selectmen's Rep., Voting  
Joe Kaganski, Voting (joined meeting 8:15 PM)  
Bob Sykes, Alternate, voting for Chris  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

**7:35 PM Planning Board Business Meeting**  
Peter called the meeting to order. Roger and Lois Sylvia were present to discuss a conceptual idea for a breakfast and luncheon business at the present site of the Children's Creative Cottage at 22 Main Street, lot H-61. Mr. Sylvia said their plans were to serve lite-fare meals and provide cafe-style seating both inside and outside. Peter suggested they contact George Foley, chairman of the Z.B.A. to see if zoning would require a variance to open a restaurant at this location. Portions of this building have been used commercially but it also contains a private residence.

**7:45 PM Review minutes of March 17, 1992 PB meeting.** Page 2, Para. 1, Line 2, change to read: "Peter recommended that any transfer of conservation land be accompanied by a transfer of the ball field into an arrangement such as a deed with life tenancy, or a form of trust, which would become a condition of the subdivision approval because of the divergence from the original purpose of giving the entire lot K-66-20 to the town. He would like something to guarantee the town will eventually acquire the entire property." Peter made a motion to accept the minutes as amended. Rich seconded the motion. Vote yes 4-0.

**MOTION**

**7:53 PM Bonding/Phasing Issues**  
Bob Bramley was present to ask PB members to consider a phasing of the road construction bond for Mountain Road Estates, II and Birch Hill Estates II because they are not able to secure a bond for \$900,000.00 for the entire project. He suggested a road phasing plan similar to the Talbot-Taylor Estates or Elevations subdivisions. It would also be accompanied by a letter recorded at the Registry of Deeds restricting the sale of lots in any phase without a bond on the road. He said that they were having more difficulty securing a bond because the plans have not yet been recorded pending the posting of the bond.

Peter said the scope of this project is somewhat different than Talbot-Taylor due to the size of the project and the larger road system. After some discussion, Judy suggested that if the road construction could be phased so that either connector road (Birch Hl. Rd. extension to Westview Road [Side A]; or Birch Hl. Rd. extension to Mountain Road extension [Side B]) could join up with the existing sections of Birch Hill and Mountain Roads, it would be a better solution to the problem. After looking at the original 5-Phase plan as presented, PB members suggested this would be a more agreeable solution--each side having approximately the same amount of lots (23). The 3 cul-de-sacs could be built in a later phase. The Planning Board would record only the portion of the subdivision that was to be constructed. Bob said he would look into the possibility of doing this. He will come back to the PB for the May 5, 1992 meeting with a proposal.

**a) Review bond status of various subdivisions**

Tom Enright (Wallace Brook, II) and Eddy Whitcomb (Scabbard Mill Brook Road) have submitted letters of credit from the Milford Co/Op bank which have been sent to town counsel for review. Pending his favorable review, the moratorium on building permits in both subdivisions will be lifted and the Building Inspector notified that he may issue permits. PB will review the bond status of other subdivisions and the draft of a new Letter of Credit at the work session May 5th.

**8:20 PM  
MOTION**

On a motion by Chairman Webb, seconded by Bob Sykes, and duly recorded in the PB minutes, it was voted that two of Brookline's newest citizens be acknowledged-- Joseph Gerald Napolitano and Megan Elizabeth Kaganski. Congratulations were extended to PB members Rich Napolitano and Joe Kaganski and their wives on their new arrivals.

**8:25 PM**

**Election of Officers**

Rich put forth Peter Webb's name in nomination for Planning Board Chairman. Judy seconded the nomination. Vote was 4-0-1 Abstention (Peter) to elect Peter as Chairman.

Peter placed Rich Napolitano's name in nomination for Planning Board Vice-Chairman. Judy seconded the nomination. A 4-0-1 Abstention(Rich) vote elected Rich as Vice-Chairman.

**8:30 PM**

**Discuss upcoming Planning Board Cases**

Peter turned over the meeting to Jeremy who reviewed the agenda of upcoming cases for the April 21st meeting.

**Potential zoning projects for 1992**

a) Jeremy gave a brief talk on the feasibility of the PB studying an open-space zoning concept this year. He noted that such a change in the zoning results in less roads being built; provides for more open space areas in subdivisions; and allows for better use of unique parcels of land that might otherwise not be capable of being developed.

Rich reported on a commissioners' meeting at the Nashua Regional Planning Commission where Jeff Taylor from the Office of State Planning had explained the State's directive to require that better use be made of the state's remaining undeveloped land by better open-space zoning regulations.

Jeremy also addressed the issue of back-lot subdivision. A back lot accesses a town road via a shared driveway with the front lot. This means less road frontage is necessary.

Judy felt that the PB should address a plan joining as many short roads with the longer connector roads to make it easier to locate homes for emergency services.

#### Planning Board General Business

a) **Project Status**—PB members reviewed the March 25, 1992 letters from the selectmen requesting the PB conduct site plan reviews for the Don Ross property, 100 Old Milford Rd. -lot D-67; and the Field and Stream Trailer Park, 5 Dupaw-Gould Road, lot E-29. PB members discussed the selectmen's items of concern, and determined the Selectmen need to decide if these properties are in violation of the zoning ordinance. Joe said the PB is not responsible for ascertaining whether there are zoning violations; and a site plan does not cover nor correct a zoning problem. PB will inform the selectmen of their decision.

**Eddy Whitcomb, Scabbard Mill Brook Road** PB members reviewed a letter from Road Inspector Bill Duncklee estimating \$29,500 as the amount to complete the road. The Board of Fire Engineers wrote a letter approving the change of location of the fire pond. PB determined a corrected mylar showing the location of the fire pond and its easements with the signatures of the owners of the lots involved in the change, along with a signature block for the PB should be presented by Mr. Whitcomb for recording at the Registry of Deeds.

b) PB members will be assigned to new cases at the May 5th meeting.

9:45 PM Peter made a motion to adjourn the meeting, seconded by Joe. Meeting was adjourned by a 4-0 vote (Rich had left at 9:00).

Next Planning Board Meeting Tuesday, April 21, 1992

Submitted by:



Sandra L. Fessenden, Secretary  
Brookline Planning Board





(603) 673-8855

*Selectmen*

**TOWN OF  
BROOKLINE, NEW HAMPSHIRE**

P.O. Box 360  
Brookline, NH 03033

PLANNING BOARD MEETING

April 21, 1992

**PRESENT:** Peter Webb, Chairman, Voting  
Richard Napolitano, Voting  
Joseph Kagenski, Voting  
Judy Cook, Selectmen's Alternate, Voting  
Christopher Hegarty, Voting  
Margaret Olson, Alternate, \*Voted for Rich on 2 cases  
Dennis LaBombard, Alternate  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

**7:30 PM** Planning Board Business Meeting  
**MOTION** Peter called the meeting to order. Minutes of the March 17, 1992 were reviewed. Rich made a motion to accept the minutes as written. Peter seconded the motion. Vote was 5-0 to accept the minutes.

**7:35 PM** David Farwell, 15 Lake Road-Case #1992-4:E-88 & E-90. David Farwell and Randy Haight of Meridian Land Svcs were present. Randy explained the plan would revise the common boundary line between the two lots- reducing lot E-88 from 81.0 to 15.929 A.; and increasing lot E-90 from 6.0 to 77.867 A. Jeremy said the plan meets all subdivision criteria for acceptance.  
**Abutters:** The only abutter present was Margaret Olson who voiced no objection.

**7:40 PM** Rich made a motion seconded by Joe to accept the plan as presented. Vote was 5-0 yes.  
**MOTION**

Jeremy questioned the property line between lot E-90 and the Janik's lot E-54. Randy explained that there was a line discrepancy in a previously recorded survey, but the line shown on Janik's deed reference was correct and had no bearing on this lot line adjustment plan as presented.  
**MOTION** Judy made a motion to approve the plan as presented subject to all fees being paid and a mylar presented for recording. Rich seconded the motion, which passed by a 5-0 yes vote.

\* (Rich stepped down from the Board for the following case and Margaret voted in his place)

7:48 PM Thomas F. & Ruth M. Moran, Case #1992-2:K-66-20.  
Tom Moran was present to address issues raised at the PB meeting of 3/17/92 as regards the ball field. He stated his immediate plans were to structure an entity to manage the ball field area (lot K-66-43); and to convey the remainder of the land in lot K-66-20 to the Town of Brookline for conservation and recreation use. Tom declared the land he was donating to the Town had never been made a condition for the approval of the Oak Hill Estates subdivision. He said he had voluntarily built the ball field which is now a public use park and will remain as such.

**Recollection Comments:**

Former Selectmen Peter Webb said it was his recollection that the idea of donating the land to the Town had been strictly Tom's own idea.

Former Selectman's Alt. to the Planning Board Nancy Brodeur said that the PB at the time was looking to protect some sensitive areas of land in town, this being one of them. During discussions regarding the conservation land, her concerns were answered by the label "Non-building Lot" being shown on the subdivision plan. She recalled during informal sessions Tom had said he would like to build a ball field on a portion of the land he was giving to the Town.

Former Conservation Commission Chairman John Osowski said that Tom had volunteered the land as a conservation area; and that he doesn't recall Tom being required to deed over the land at any specific time. He said it was always Tom's intent to give the land for conservation/recreation purposes and it was never a subdivision condition. The Conservation Commission was looking to acquire property to build trails. The two larger sections of K-66-20 were linked together by a narrow walkway.

Peter asked if this was ever included as a formal condition. Tom said nothing has been formalized. He had the lot line adjustment for Bill Ingraham's lot taken care of so that lot K-66-18 could be give to the Town along with the remainder of lot K-66-20. Peter said in researching the PB minutes of the subdivision for Oak Hill Estates, it appears that Tom volunteered to give the land to the Town although those intentions to do so were never formalized. Peter said the concern of the people at the last PB meeting was that the property might not ever be deeded to the Town. They were also concerned that drinking alcoholic beverages would become a part of the use of the ball field.

Tom said that the issue was not one of drinking, but rather one of liability. Part of the reason he does not want to turn over the ball field to the Town at this time is because the one incident that prompted the no drinking ordinance on all town property came in the interim between his planning the ball field project and the finishing of it. He noted that the ball field on Milford Street is primarily used by the children. He does not wish to have the ordinance applicable to the Oak Hill Road ball field which the adults will primarily be using.

Selectman Barbara Burckes said the Town had more than one issue at one location when deciding to impose the no drinking ordinance. Of concern were sanitation problems without bathrooms being available at the ball field and the boat launch area at Lake Potanipo.

Peter said the original approved plan calling for the entire lot to be given to the Town was not voided by segmented transfers. He felt that the conservation land could be deeded, and at the same time the remainder could be put into an irrevocable deed so that it will ultimately be deeded to the Town. He noted that nothing on the plan states the ultimate disposition of lots K-66-20 and K-66-43.

Rich asked if there couldn't be a trust created with people in Town to manage the use and maintenance of the field with the Town named as the beneficiary if the trust is unable to administer the care and operation of the field.

Tom said the Town is the ultimate beneficiary of the ball field. He is now merely looking for a vehicle to set up a group to manage it. He also said he would like the adult teams to have first priority of use on this field.

8:15 PM  
MOTION

Margaret made a motion to approve the subdivision subject to fees being paid and a mylar being presented.

Peter asked if there were any other concerns from anyone present tonight at the hearing.

Bill Duncklee asked if the subdivision would affect the access to the Conservation land from Oak Hill and Parker Roads. Tom said no, he had left 25 feet of access over dry land behind the ball park on which to walk.

Nancy Brodeur asked if the subdivision indicates the 2 lots are still labeled non-building. Answer is yes they are.

Joe Kagenski asked if there could be a time frame specified by Tom for turning the property over to the Town.

Tom said he is willing to stipulate the following: 1) within 30 days from approval (time required to prepare the deed) lot K-66-20 will be deeded over to the Town for conservation land. 2) If an entity to manage the ball field can't be established before 12/31/92, he will convey the ball field to the Town of Brookline at that time. If an entity (trust) is formed he will stipulate that if the conditions of the trust can't be upheld by the entity, the ball field will be given over to the Town to manage.

Judy suggested there be a note added to the mylar stating that lot K-66-20 is to be deeded to the Town. Margaret then amended her motion to add **Note #6** to read: **Lot K-66-20 is to be deeded to the Town of Brookline.** Judy seconded the amended motion. Vote to approve subdivision plan 5-0 yes.

8:35 PM Talbot-Taylor Estates Partnership, Case #1992-3:G-61-15 and G-61-26. Bob Bourassa and Randy Haight were present with the plans to divide two lots into 4. Randy said he had added the street numbers to the lots and revised note #6. Jeremy read Milner Wallace's evaluation of his site walk done today which states the Conservation Commission has no real areas of concern. Jeremy said there was no need to amend the road bond agreement regarding restricted lots since none of these lots would be involved.

8:40 PM Peter made a motion to approve the plan subject to fees MOTION being paid and a mylar presented for recording. Joe seconded the motion. Yes vote 5-0.

8:45 PM Murray Clayman, Case #1992-B:G-53-Non-residential Site Plan Preliminary Conceptual consultation. Mr. Clayman presented a site plan model scaled 1"-100" of Muscatanipus Hill. In phase 1 he plans to construct an indoor-underground 60'X120' building for a 25-yd. shooting range, employing 7 to 10 employees. In phase 2 he plans to have an outdoor facility with 1-25-yard and 1-50 yard range for silhouette, trap and skeet shooting, using earth berms to capture the bullets. He suggested the PB members visit the site so that they will be more familiar with the actual site elevations.

Peter asked how much sound was going to be heard at various locations in Town. Answer: it depends on the type of gun used and also the weather conditions. Mr. Clayman said the hill mass will absorb much of the sound.

Rich said this was a preliminary plan only. His concerns would be the use of abutting property. He noted that the outdoor range will be 700 feet from a proposed day care center on lot G-53-1. Mr. Clayman said he has a slope easement with exclusive use of the slope between his property and Eddy Whitcomb's (G-53-1). The indoor shooting range and stand for outdoor shooting is in the Industrial/Commercial zone. The house and back-stop area for the skeet and pigeon shoot is in the Residential/ Agricultural zone.

Judy asked about safety guidelines, and asked who monitors the facility.

Mr. Clayman said he and 4 other employees are N.R.A. certified instructors and there are N.R.A. inspectors who periodically check on the facility.

Peter said his concerns are the following:

- 1) volume of traffic
- 2) Quality of supervision
- 3) A commercial activity in a portion of the residential zone. may need to be addressed.

Peter suggested Mr. Clayman meet with the Board of Selectmen regarding the zoning issue.

Peter said he would like to see a commercial venture that will not negatively affect the neighboring properties. It was agreed that the PB members and Mr. Clayman will meet at the site at 9:00 AM on Saturday, April 25, 1992 to view area and listen to various types of guns being fired for sound levels in different areas in town.

9:55 PM **Jane Dwyer, "Children's Creative Cottage", Case #1992-C:6-53-1**  
Non-residential Site Plan Preliminary Conceptual consultation. Jane and Tom Dwyer were present with a preliminary sketch of modifications to the "Barnside" building to house her day care/kindergarten. Mr. Dwyer expressed some concerns as to the outdoor shooting range being proposed next door, and stated it might ultimately affect their plans to go forward with moving the day care to this site. Jane said the new location will double the present allowable number of children from 23 to 46. They plan to use the entire second story of the building—blocking off the third story which is used for storage. No one will be using the lower level. There will be a sprinkler system throughout the building; and an alarm system tied into MACC base. Handicap access will be provided to the building and rest rooms. The State Fire Marshall has visited the site and given them a list of health and safety requirements.

Peter asked if the structure is right for the use they are proposing. Applicants felt with modifications to the building it would be suitable for a day care.

Dennis asked to have better site plans presented, with the entire site shown; well and septic information included; and the fenced-in play area, parking, and access lanes shown.

Jeremy said the Dwyers should present full plans and make a formal application for site plan review. PB members agreed they could check the site on Saturday before the shooting demonstration.

10:15 PM **Beaver Wood Associates—Preliminary consultation for subdivision.** (Rich, a partner in Beaver Wood Assoc. stepped down for this case. Margaret sat as member in his place).

Joe Bourassa presented a conceptual plan for a 2 lot subdivision of the former William and Annie Quigley property on South Main Street. His plan showed a 2 acre parcel being subdivided as a house lot from the 31 acres, squaring off the lot lines as much as possible.

Judy asked what usage was planned for the "5-B's" seasonal campground area. Joe answered that they will continue to operate as a campground this year. He said there were 50-60 campsites equipped with electricity presently there.

Dennis questioned the existing use of the house lot; and whether the subdivision would create a problem for septic usage of the campground area by removing the 2 acres. He feels the soils of the entire property should be shown. It was noted there was also a permanent trailer on the site by variance, and this should be taken into consideration.

Rich Napolitano said he would like Beaver Woods to come to the Town with a site plan after the subdivision is done.

**Planning Board General Business**

Randy Haight presented corrected plans and a mylar for the Scabbard Mill Brook Rd. subdivision showing the fire pond location and associated easements for PB's signatures.

Tom Moran presented a letter to the PB requesting a building inspector be named for "Rock Ramond Estates" project; and a request to meet with the PB to discuss a newly prepared road bond estimate and Tom's plan to begin road construction. PB named Bill Duncklee as road inspector, and agreed to discuss road bond estimate at the May 5, 1992 PB meeting.

10:45 PM Peter made a motion to adjourn the meeting, seconded by Joe.  
MOTION Motion to adjourn carried by a 5-0 yes vote.

Next Planning Board Meeting Tuesday, May 19, 1992

Submitted by:



Sandra L. Fessenden, Secretary  
Brookline Planning Board



(603) 673-8855

*Selectman*

**TOWN OF  
BROOKLINE, NEW HAMPSHIRE**

P.O. Box 360  
Brookline, NH 03033

**PLANNING BOARD MEETING**

May 5, 1992

**PRESENT:** Peter Webb, Chairman, Voting  
Richard Napolitano, Voting  
Joseph Kagenski, Voting  
Christopher Hegarty, Voting  
Judy Cook, Selectmen's Representative, Voting  
Dennis LaBombard, Alternate  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

**7:30 PM Planning Board Business Meeting**

**MOTION** Peter called the meeting to order. Minutes of the April 21, 1992 PB meeting were reviewed. Peter made a motion to accept the minutes as written. Judy seconded the motion. Vote 5-0 yes to accept the minutes.

**7:35 PM Discuss Upcoming Cases**

Jeremy apprised PB members of a preliminary subdivision consultation with P. & C. Realty, N.R.P.C., and the Hollis Planning Board regarding a subdivision involving land in Hollis, and lots F-18, F-60, & F-118 in Brookline on the town line in the Rocky Pond Road area. P. & C. Realty has proposed a clustered development to the Hollis PB and the regional developers. Jeremy said since this is a large subdivision involving both towns, it becomes a regional impact issue coming under new state law R.S.A. 36:54-58. Proposed road access will be to Rocky Pond Road. Total acreage involved in Brookline is approximately 194 acres.

**7:47 PM Thomas F. Moran, "Rock Ramond Estates", Bond Estimate**

Tom Moran was present to discuss bonding for Rock Ramond Road. He asked to have the bond reduced to \$123,000, the amount of his contract with Tamchar. He plans to continue road construction work until the end of May without posting a bond. At this time he will place a cash bond for the amount of outstanding road work in order to obtain a building permit. Tom asked to have Bill Duncklee review the estimate from Meridian Land Services and the contract with Tamchar in order to correctly estimate the dollar amount of remaining work at the time of bond posting. Tom said he will ask to have monies released from the cash bond as work is completed. He noted there is gravel on-site which has lowered the cost of construction, although there may not be enough to do the whole project.

**8:10 PM Potential zoning projects for 1992**  
Projects considered for 1992 were "Open Space Zoning" and "Back Lot Zoning". Rich Napolitano had been to a seminar at U.N.H. regarding open space zoning, and had some material which will be copied for other PB members. Back lot zoning which requires less road building and maintenance for the Town while keeping density down, was discussed. It was decided to examine both of these concepts this year. Jeremy brought some reference material for this meeting, and will put together rough drafts for the June 2nd work session.

**8:30 PM Planning Board General Business**  
PB members discussed project status. Dennis and Chris mentioned items in the Bear Hill Assoc. and Serenity Homes subdivisions. Chris said there was damage done to the road surface by heavy construction equipment on Wadsworth Drive and Captain Seaver Road. There was also debris still along the sides of Captain Seaver, and the shoulders needed to be built up in some locations. Dennis said the water situation at the intersection of Senter Drive and Kodiak Road being caused by a natural spring still exists, and his concern was that permanent damage to the road is possible, and icing in the winter is still a problem. Pb will send a letter to the selectmen regarding these issues.

Joe apprised other PB members that Murray Clayman had applied to the Z.B.A. for a variance for the outdoor shooting range to be located in the Residential/Agricultural portion of lot G-53-1 upon the recommendation of the Board of Selectmen after his meeting with them. There was a brief discussion of the firing session held 4/25/92 to ascertain sound levels at different locations in town. It was noted that the sound carried as far as the Oak Hill Road section of town; while on Main Street it was less noticeable. There were no reports called in to the Police Dept. that morning regarding the demonstration.

PB will review assignments of members to new cases at the next work session.

**9:00 PM Bonding/Phasing Issues**

a) PB members reviewed updates of bond status in several subdivisions. Based on road inspector Bill Duncklee's estimate of the value of the work remaining to be completed, Eddy Whitcomb wrote a letter on 4/22/92 requesting a bond reduction to \$29,500.00 on Scabbard Mill Brook Road.

**MOTION** Rich made a motion, seconded by Joe, to recommend to the selectmen that the bond on Scabbard Mill Brook Road be reduced to \$29,500.00. Vote was 5-0 yes.



b) PB members evaluated the draft of the letter of credit. It was decided to change the wording in paragraph 2, line 2 to read: ".....by draft executed by the Chairman of the Town of Brookline Board of Selectmen which shall refer....."

9:10 PM  
MOTION

Peter made a motion to proceed to remove the existing letter of credit from the Subdivision Regulations and replace it with the new one. Rich seconded the motion. Yes 5-0 vote.

c) Joe asked to check with the Building Inspector to see if Certificates of Occupancy are part of the BOCA Building Code. If not, the PB should include a change for 1993 to add it into the Building Code section of the zoning ordinance to properly implement R.S.A. 676:13, Building Permits Restricted.

9:45 PM  
MOTION

Peter made a motion to adjourn the meeting, seconded by Joe. Motion to adjourn carried by a 5-0 yes vote.

Next Planning Board Meeting Tuesday, May 19, 1992

Submitted by:

  
Sandra L. Fessenden, Secretary  
Brookline Planning Board



(603) 673-8855

Selectmen

TOWN OF  
**BROOKLINE, NEW HAMPSHIRE**

P.O. Box 360  
Brookline, NH 03033

PLANNING BOARD MEETING

May 19, 1992

PRESENT: Peter Webb, Chairman, Voting  
Judy Cook, Selectmen's Representative, Voting  
Christopher Hegarty, Voting (joined meeting at 8:00 PM)  
Margaret Olson, Alternate, voting for Rich  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

- 7:35 PM Planning Board Business Meeting  
Peter called the meeting to order. Minutes of the May 5, 1992 were reviewed. Judy made a motion with Peter seconding to accept the minutes as written. Vote was 2-0-1 Abstention (Margaret not at meeting) to accept the minutes.
- MOTION
- 7:40 PM Donovan Engineering, Case #1992-D:K-76. Non-residential Site Plan preliminary consultation. Mr. Bill Hession representing Donovan Engineering was present. He said plans are to add a 26' X 30' addition to the office building with no increase in the manufacturing facility at all. Jeremy had reviewed the plan with Mr. Hession and said he found no problems with the conceptual plan. Depending on the size of the addition, one more parking place might have to be added, but there was ample room available. Site plans are being drawn up and include a new well and septic system. When plans are ready they will make a formal application.
- 7:50 PM P. & C. Realty, Case #1992-6:F-18, F-60, & F-118.  
Mr. Francis Gavin of P. & C. Realty showed PB members a copy of their land survey of approximately 194 acres in Brookline and 56 acres in Hollis. He has met once with the Hollis PB and N.R.P.C. representatives and will meet again with the PB in Hollis on June 2, 1992. Mr. Gavin said his plans are to subdivide the land in Brookline into 50 to 75 lots and build starter homes. He is here tonight asking for some input from the Brookline PB.

Judy asked what kind of road system he was proposing, and where it would tie in with existing town roads. She said she was concerned with another large subdivision which would use Old Milford Road as the main connector road. She told Mr. Gavin of the recent traffic study on Old Milford Rd. and said the count was much higher than expected. Heavy usage was not confined strictly to the commuting hours. She also spoke of speeding problems and the group of citizens who have petitioned the selectmen regarding the situation.

Jeremy pointed out that a new road might possibly tie in with Birch Hill, II (between D-55-6 & D-55-7); or with Perkins Road, a private road, if the owner was agreeable. The PB could request P & C to provide future access to town owned Lot F-17 as well as other land-locked properties.

Mr. Gavin indicated that he did not have the road system entirely worked out at this time, and was looking for suggestions as to how best to proceed.

Peter said the plans as presented tonight are too unformed for the PB to make a good judgement. He told Mr. Gavin that a subdivision of this size will impact existing town roads and services; and recommended that he meet with the board of selectmen to discuss off-site improvements. Peter said that although Hollis has open-spaced zoning which Mr. Gavin is discussing with them, Brookline is just beginning to draft such a zoning change proposal. He suggested that it might be advisable for Mr. Gavin to wait until next year to subdivide if he wanted to be able to utilize the land in this manner. Mr. Gavin indicated that he was looking to subdivide this calendar year. Peter said that we should correspond with the Hollis PB regarding this subdivision; and the suggestion was made that since the Brookline and Hollis PBs meet on the same nights, it might be a good idea to hold a joint meeting with them and Mr. Gavin during the formative stages of this subdivision. Secretary to contact the Hollis PB.

8:10 PM

**Lorden Realty, Inc., "Elevations"-Phase I, Case #192**

**1) Review Revised Drainage Plans-Lorden Lane**

Alan Lorden and Bruce Archambault were present along with road inspector Bill Duncklee and road agent Clarence Farwell to discuss the road drainage. Mr. Lorden's engineer had recommended placement of an aboveground drainage swale along the right side going up from Rte 13 to divert water into the underground catch basins. Cape cod berm was still shown on the plan. Clarence voiced his opinion that closed drainage was a maintenance problem for the town and pointed to the 3 catch basins within 40 feet of one another at the junction of Lorden Lane and Rockwood Rd. He said the cape cod berms were unnecessary and he would prefer they not be installed.

Bill Duncklee had requested new drainage plans from Maynard & Paquette to correct the high groundwater problem. He had received a revised plan from Maynard & Paquette on 12/26/91. (This plan still shows placement of the center island.) Bill said any other changes are not on his set of plans, and he should have corrected ones. He said he must follow the plans as designed unless he is authorized differently by the PB.

Road contractor Bruce Archambault said he recommends putting drainage swales on both sides and also installing rip rap to control the water flow for the first 350' of road. He advocates installing the cape cod berms; and said they protect the edges of the road pavement from being broken as well as keeping water off the road surface. He feels they are useful and not a maintenance problem. He also noted that the diameter of drainage pipe has been changed from 12" to 15" where necessary.

PB member Margaret Olson said she would like to have the plans reflect the actual drainage system installed.

Peter agreed that the originally engineered plans differed because of on-site problems and the changes made to correct those problems. An excessive amount of groundwater has been encountered while building this road, necessitating changes.

Chris said he feels the plans should be re-drawn showing the drainage ditches on both sides and he would like to know what impact the swales will have on the berms. It is not clear what effect the changes made in Phase I will have on the drainage as originally designed for Phases II and III.

Clarence said he was concerned that the letter dated from Maynard and Paquette (see attached) indicated that they want to have the closed drainage system used in Phases II and III. He also feels that the road at the junction of the "t" should have adequate under drainage.

Peter reiterated that the PB was concerned that the road be built correctly so that it does not become a future problem for the town to maintain. The type of drainage system installed must be adequate to meet the conditions present at the site- rather than one formulated from engineering calculations. He said the PB may ask for an independent engineering review to be made if they feel it is warranted. Peter made the following recommendations to Mr. Lorden:

- 1) Have Maynard & Paquette contact Clarence Farwell to discuss the closed drainage and cape cod berms.
- 2) Have M. & P. draw up new plans reflecting all the field changes that have been made to the road profile plans.
- 3) Have everyone come back to the PB on June 2, 1992 for a discussion and PB authorization/and or review request for any and all changes. PB will want to know how changes in the drainage plans for Phase I will affect the drainage in Phases II and III.

9:00 PM 2) Road Bond-Phase I, Lorden Lane  
Bill Duncklee had prepared an estimate of \$108,447. as the amount of bond the town should require to finish the road in Phase I. He noted that there was no itemized breakdown on Mr. Archambault's estimate of \$40,000. Bill was happy to discuss the figures he used to compute his estimate, adding also 10% engineering & contingency fees.

Peter explained that the town must have a figure adequate enough to finish the road to road specifications in the event Mr. Lorden or Mr. Archambault were not doing the work. Mr. Archambault said that \$40,000. was his quote to Mr. Lorden, and agreed that the amount would be different if someone else were contracted to do the same work.

Peter said he feels comfortable with Bill's estimate, until more itemized figures can be substantiated from Mr. Lorden.

Alan Lorden questioned if he posted a bond for \$50,000. could he have a building permit for one lot, and not ask to have an occupancy permit granted. Peter explained that he could not get any building permits, even with a bond posted, until the road inspector had written a report saying the road was at sub grade. He advised Mr. Lorden to continue road construction to bring it up to the sub grade level. Bill Duncklee then gave Mr. Lorden an approximate figure of \$54,000 to \$60,000. (depending on whether the berms for \$6,000 were required) as the amount to post for the road bond to finish Lorden Lane in Phase I.

9:15 PM Tom Moran, "Rock Ramond Estates"-Bond Estimate-  
Tom Moran said Bill Duncklee had checked the road today and approved it for sub grade level. Bill will compute the value of the remainder of work and write up an estimate for the road bond. Tom will come back to the PB on 6/2/92.

Fresh Pond Realty, "Mountain Road Estates, II" & "Birch Hill Estates, II"-Discussion of Phasing plan for recording and road bonding.

Tom Moran and Bob Bramley were present to ask if they could amend the sequence of the phasing plan the PB had approved on 8/6/91 (see attached) to the following:

- 1) Yellow-Phase 1 [formerly Phase 2] (2,000 feet of road; 10 lots) all clearing of trees and stumps will be done for entire road system in this phase.
- 2) Green-Phase 2 [formerly Phase 1 (2,900 feet of road; 12 lots)
- 3) Blue-Phase 3 [formerly Phase 3] [Phases 4 & 5 remain the same]

MOTION Margaret made a motion to amend the sequence of phasing approved on 8/6/91 to reflect the above phases. Judy seconded the motion. Vote 4-0 yes.

Tom asked if they could phase the bond in order to record the plan. Jeremy noted the road bond for Phases 1,2 & 3 was \$550,000. They would be adding 2,000 feet to Mountain Road.

Peter referenced the 8/6/91 PB minutes that specified the entire road system would have to be bonded before recording the plan. He said he was concerned with the length of Mountain Road if the next phase weren't completed. Judy said she agreed with Peter, and suggested they build Mountain Road and reduce the amount of bond in the other 4 phases. She said she favored a plan for completing the long connector roads in each phase rather than only a section of each one. Tom will consider this, but says he needs the plan recorded in order to get the approval from the Attorney General's office.

Carnell Baker did not show up for the meeting.

9:45 PM

**Planning Board General Business**

\*Amended  
6/2/92 PBd.  
meeting (SUF) +  
and McDaniel's  
DR WERE

Clarence reported on the items in the May 11, 1992 PB letter to the selectmen. He said Continental Paving had damaged Wadsworth Dr. and ~~Captain Seaver Rd.~~ He had contacted them and they will repair the roads. He said the road debris and the shoulder work needed on ~~Center and Rediak Roads~~ <sup>CAPTAIN SEEVER, WADSWORTH, and Bear Hill R</sup> was Michael Tamposi's responsibility. Clarence will work up a dollar amount to complete the work and will tell Rena to notify Mr. Tamposi.

Peter said the situation has existed long enough. He would like the selectmen to call the bond and get the project finished as soon as possible.

10:00 PM  
MOTION

Chris made a motion to adjourn the meeting, seconded by Peter. Motion to adjourn carried by a 4-0 yes vote.

Next Planning Board Meeting Tuesday, June 2, 1992

Submitted by: Sandra L. Fessenden  
Sandra L. Fessenden, Secretary  
Brookline Planning Board



(603) 673-8855

*Electrow*

**TOWN OF  
BROOKLINE, NEW HAMPSHIRE**

P.O. Box 360  
Brookline, NH 03033

**PLANNING BOARD MEETING**

June 2, 1992

**PRESENT:** Peter Webb, Chairman, Voting (on review of minutes only)  
Richard Napolitano, Voting  
Joseph Kagenski, Voting  
Judy Cook, Selectmen's Representative, Voting  
Dennis LaBombard, Alternate, Voting for Peter  
Margaret Olson, Alternate, Voting for Chris  
Bob Sykes, Alternate  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

**7:30 PM**

**Planning Board Business Meeting**

Peter called the meeting to order. Minutes of the May 19, 1992 PB meeting were reviewed. Amend Page 5, 9:45 PM, Paragraph 1, beginning with sentence 2 to read as follows: "He said Continental Paving had damaged Wadsworth Drive. He had contacted them and they will repair the road. He said the road debris and the shoulder work needed on Captain Seaver, Wadsworth, and Bear Hill Roads and Mc Daniels Dr. was Michael Tamposi's responsibility. Clarence will....."

**MOTION**

Judy made a motion to accept the minutes as amended above. Peter seconded the motion. Vote 5-0 yes to accept the amended minutes.

Peter announced he had to leave the meeting at this time. Vice-chairman Rich Napolitano chaired the rest of the meeting from this time.

**7:45 PM**

**Lorden Realty, Inc., "Elevations"**—Alan Lorden was present with Richard Maynard, P.E. of Maynard & Pacquette and Bruce Archambault, road contractor for Lorden Lane. Road inspector William Duncklee and town road agent Clarence Farwell were also present. Mr. Maynard presented new plans for the open drainage system on Lorden Lane up to the intersection of Rockwood Road. He has designed open swales on both sides of the road. Driveways will have 12" r.c.p. culverts. The swale will be 2 1/2" below the pavement grade. He has adjusted some of the grades, raising them to lessen the amount of gravel having to be removed. There is no curbing (cape cod berms) now in the entire project. The pavement at the entrance to Route 13 is 29' wide. He said with the PB's permission he will design a hammerhead turnaround at the end of Rockwood Road. PB agreed to this change. He also asked if the second fire pond is needed. PB members referred Mr. Lorden to fire chief Ray Keyce to see if the fire engineers

*Amended 6/16/92  
\* 2 1/2' (Feet)  
SLF*

would be willing to delete it. Dennis then asked if this second pond was a detention area as well as a fire pond. Mr. Maynard will check his figures. He thinks a detention pond will be needed. However, no hydrant will be placed.

Rich asked if an open drainage system will work as well as the closed system originally designed for this project. He related that the PB was told during the review process that a closed system had been designed for this project because of the steep slope and the velocity of water on that slope. He asked Richard Maynard what had changed his mind; and questioned whether the open drainage system is more apt to fail than the closed system.

Mr. Maynard said his preference would be the closed drainage system, but the town seems to want to have open drainage for maintenance reasons. He said this new design will work equally as well as the closed system. He said the only area of concern is the entrance road, and he has designed steep stone-lined swales which he feels will adequately control the velocity of water. He said it will however take more work to stabilize the slopes; and it will take a couple of years for the vegetation to become established.

#### MOTION

Rich made a motion to refer the changed drainage plans and related items to an independent engineering firm for review due to the complexity of the original drainage design and the long review process. Margaret seconded the motion.

Discussion: Rich said he was on the PB during the review and approval process. The drainage calculations had been a problem during the review period. He said he is not a civil engineer, and it is his feeling that it is beyond the scope of the PB members to evaluate drainage calculations. He is asking for an independent review of the changes in the drainage to substantiate what is being presented tonight.

Judy said she felt the new system will be adequate, and stated she had been to the project this past week after heavy rains, and found there was no overflow problem.

Margaret said she felt uncomfortable making a decision tonight on the new drainage since the drainage plan has been radically changed.

Dennis said the total water in the retention pond would not be affected by either a closed or an open drainage system. He said he had concerns with the 2 to 1 side slopes and the stability of the slopes because of a 24 foot drop in the swale. He stated the methods of designing the rip rap were very important; and he felt a change in design of this magnitude might well trigger the PB to ask for an outside engineering review. There were a number of items that he felt should be looked at.



Richard Maynard said they were trying to satisfy the town with this design. He has a preference to pipe drainage, and said if there is a controversy, he would withdraw this plan and go back to the original closed drainage system for which the project has been granted PB approval.

Clarence said he prefers open drainage because of the economy of maintenance for the town. We use sand and not salt on our roads; and maintenance of a closed system is costly. He mentioned several projects built in the last few years having no difficulty with open drainage systems on roads with grades of 8 to 10%. Potanipo Hill Road was mentioned as having problems in the beginning; but road inspector Bill Duncklee said that now that the drainage swales were stabilized the open drainage was working satisfactorily on that steep of a road grade. If the road is built correctly, open drainage will work as well if not better with steep grades and high volumes of water.

Tom Moran, a P.E. present in the audience, said that open drainage provides better hydraulics; water velocities are reduced; and problems are not magnified downstream when the system is correctly designed with appropriate rip rap and stone-lining used in the ditches.

Rich said it is not his intention to drive up the costs for the project, but he wants to be sure that the PB is doing the right thing for the town's long-range benefit. He said if it weren't for the steep slope, he would not have a problem with the open drainage.

Alan Lorden spoke to the fact that the town has roads of the same grade with open drainage which is working. He said that he would be better off going with the approved plans if it means a time delay and the expense of another review.

Joe said that roads with identical grades can have water flows which may not be the same. He favored a review of the new drainage plan.

Bruce Archambault said he had visited sites with Clarence to see roads with steeper grades built with the open drainage. He and Mr. Lorden had then asked Maynard & Paquette to draw up new plans for an open drainage system in Phase I.

**MOTION**

Rich at this point withdrew his original motion, and made a new motion to refer this plan to Meridian Land Services, Inc. for a review of the proposed open drainage system on the balance of Lorden Lane in Phase I, specifically checking the size of stone and rip rap used in the drainage swale from Sta. 3+00 to approximately Sta. 7.62. Margaret seconded the motion. Motion carried by a vote of 4-Yes [Rich, Dennis, Joe, Margaret] 1-No [Judy].

Mr. Lorden was told to continue work on the road up to the area of changed drainage; and return to the June 16th PB meeting.

**8:35 PM Tom Moran, "Rock Ramond Estates"--Road bond review.**  
Tom Moran was present to discuss Bill Duncklee's letter of May 21, 1992 estimating the cost to complete Rock Ramond Road to be \$114,500.

**MOTION** Rich made a motion to set the bond amount for Rock Ramond Road at \$114,500. Dennis seconded the amount. Vote 5-0 yes.

Tom asked if the Chairman of the Board of Selectmen Russ Heinselman could be authorized to release monies from the cash bond on a letter of recommendation from Bill Duncklee without having to come back to the PB. It would be a more expedient method of releasing funds, and had been previously done for another subdivision road project for Tom Enright.

Rich answered that Enright's had been a special case. The PB's procedure was to continue to have involvement in the incremental release of bond funds.

**MOTION** Judy said Mr. Enright's case was a little different in that his road had the first coat of pavement in place and all that remained was the second coat of asphalt and minimal finishing touches. She made a motion to appoint chairman of the PB Peter Webb to sign off on the reduction of bond with a positive recommendation of road inspector Bill Duncklee, effective only on the "dirt" phase of the road and not the "tar" phase. Rich seconded her motion.

Dennis said he felt the PB is going to set a precedent with this procedure which in the future will not be limited to the "dirt" phase.

Margaret said that a change of policy should apply to everyone. She said policies should provide checks and balances to the system; and was not in favor of changing the established policy without discussing its pros and cons.

Motion was defeated by a vote of 3-No [Rich, Joe, and Margaret]; 2-Yes [Judy and Dennis].

Tom restated his position that his plan was to have the road finished by the end of June; and he did not want to have a delay of payment of 2 to 3 weeks to the contractor building the road. He said he was not asking for special favors since the PB had made a similar previous arrangement.

Rich said he feels that the procedure the PB has in place serves a function as a check and balance system during the road construction phase. He recommended the PB review the bonding procedure in a conceptual way at the next business meeting.

Bob Sykes said he feels that the PB may want to address the present bond release procedure. They could rely on their appointed engineer's written opinion and devise a more timely method of releasing funds.

**9:10 PM Potential zoning projects for 1992**

PB members and Jeremy reviewed the letter from Building Inspector Wes Whittier regarding his suggested changes to the Building Code (see attached). Jeremy said he had discussed them with Wes and they were minor clarifications except for the addition of a section to address Certificates of Occupancy. PB members questioned the criteria needed for a "temporary" C.O. Jeremy will check with Wes.

Jeremy discussed his memo on open space zoning. Issues mainly focused on frontage, setbacks between houses, and wells and septic systems-individual and combined. Jeremy will research open space ordinances in other towns comparable to Brookline for the next business meeting.

**10:00 PM** PB members discussed at length the May 18, 1992 letter from the Board of Selectmen regarding some suggested changes to the zoning ordinance. They felt the "in-law" apartment needed to be examined. Rich made a motion, seconded by Judy to instruct Jeremy to research "In-law" apartments for a possible zoning change. Yes vote 5-0.

**MOTION**

Judy said two other items, definitions of "housekeeping unit" and "Home Business" would help the selectmen in the enforcement of the zoning ordinance.

**10:55 PM** Bob Sykes, a Brookline representative to the Nashua Regional Planning Commission, reported on recent meetings dealing with the possible location of a new commercial airport. Suggested locations have been either at Fort Devens or Gardener, Mass. Bob said that at a May 20, 1992 meeting of the N.R.P.C. & South West Regional Planning Comm. it was reported that there would be an 18 month review conducted before a report recommending a site would be forthcoming. He will keep the PB informed on this and other issues at regular PB work sessions.

**11:10 PM** Rich made a motion to adjourn the meeting. Joe seconded the motion. Affirmative 5-0 vote to adjourn.

**Next Planning Board Meeting Tuesday, June 16, 1992**

Submitted by: Sandra L. Fessenden  
Sandra L. Fessenden, Secretary  
Brookline Planning Board



Made part of the 6/2/92 P. Bd minutes (SFC)

TOWN OF  
BROOKLINE, NEW HAMPSHIRE

Building Inspector  
(603) 673-8925

COPY

TO: Planning Board  
FROM: Wesley N. Whittier *WNU*  
DATE: June 2, 1992  
SUBJECT: ZONING BYLAW REVISIONS

I. ARTICLE XX: Brookline Building Code

2. Add "which is deemed to be installation of footing and foundation" to read "Such permits shall expire and become invalid if construction, which is deemed to be installation of footing and foundation, has not started within six (6) months from the date of issuance."
  
4. C. Add "as amended" to read "In determining good building practices, the BOCA and CABO Building Codes, as amended, shall be used as a standard."
  
4. D. Add new section to read " No building or structure erected or altered as specified in a Building Permit issued under the terms of this Ordinance shall be occupied or used, as a whole or in part, until a Certificate of Occupancy has been issued by the Building Inspector. A temporary Certificate of Occupancy may be issued for a building or structure or any part thereof before the entire work covered by the permit shall have been completed provided the Building Inspector deems life or public welfare shall not be endangered by the occupancy."



(603) 673-8855

*Selectmen*

TOWN OF  
**BROOKLINE, NEW HAMPSHIRE**

P.O. Box 360  
Brookline, NH 03033

PLANNING BOARD MEETING

June 16, 1992

**PRESENT:** Peter Webb, Chairman, Voting  
Rich Napolitano, Vice-chairman, Voting  
Joe Kagenski, Voting  
Christopher Hegarty, Voting  
Judy Cook, Selectmen's Representative, Voting  
Dennis LaBombard, Alternate (voting for Peter on the  
6/2/92 minutes)  
Margaret Olson, Alternate,  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

**7:30 PM** Planning Board Business Meeting  
**MOTION** Peter called the meeting to order. Minutes of the June 2, 1992 PB meeting were reviewed. Dennis noted a change to be made on Page 1, 9th line from bottom to read as follows:  
"swale will be 2 1/2' (feet) below the pavement grade."  
Peter made a motion with Judy seconding it to accept the minutes as amended. Vote 5-0 Yes.

**7:42 PM** **Bob Bramley, "Rock Ramond Estates", Bond Reduction-**  
Peter told PB members present that he and Rich had met with the selectmen and Bob Bramley on June 8, 1992 regarding the procedure for reducing the road bond. Peter said he would recommend a review of the PB's procedure in light of this meeting. He said he believes the PB can address the road bond reduction issue on a case by case basis without jeopardizing the procedure the PB now has in place.  
**Margaret** was not adverse to a change, but she felt any change of the present procedure should apply to everyone.  
**Rich** said he felt it was important for the PB to still be involved in the final phase of the road's construction.  
**Judy** agreed the PB should be involved in the final phase; but that in the stages up to the subgrade stage, the amount of bond reduction could be left up to the road inspector's determination after his on-site inspection and report.  
**Joe** agreed that early on in the road's construction process the PB may not need to be involved; but he felt all items should be checked by the PB members assigned to the case.

Bob Bramley questioned why a once a week bond reduction is an unreasonable request. He stated he did not understand the PB's reluctance to change the procedure to expedite the release of funds. He said the developer was paying for the road inspection and report necessary to estimate the dollar

amount before bond money is released. Bob stated he felt that waiting two to three weeks after an inspection for release of funds was unnecessary. Peter said the frequency of bond reduction requests will also mean more frequency of inspections and therefore less chance for items to be missed.

Discussion followed as how best to determine the percentage amount of the total bond in each stage of road construction. Bill Duncklee told PB members that an itemized list could be drawn up prior to the beginning of construction. He could estimate the percentage of cost for each segment as he reviews the estimate for the total amount of bond required. He also said that there was a standardized engineer's inspection checklist which he could have available for the PB to review in approximately 1 week. He now maintains a spreadsheet on each of his projects to keep track of the project's progress. He is willing to provide the PB with a copy of these spreadsheets for their review; and feels that a workable system can be developed as we go along. PB members were agreeable to allowing a change in the road bond reduction procedure for the beginning construction phases up to the "subgrade" level based on a recommendation from the road inspector to the selectmen.

Clarence Farwell mentioned to PB members that the town has a road bond estimate prepared before each project is started. This estimate is reviewed by the town's road inspector and then approved by the PB. The town holds 10% of that amount as a maintenance bond at the end of construction. The bond cannot be dropped below that 10% level. He added that not all projects have high expense prior to the subgrade level. Each road is different depending on the terrain being built upon. He suggested we contact other towns to see how they handle reducing bonds.

8:30 PM  
MOTION

Peter offered the following as a motion:

- 1) Have Bill Duncklee develop and maintain a spreadsheet program and an inspection checklist for keeping track of work for each road project.
- 2) The road inspector will work as the PB's designee for reduction of bond for road construction up to the subgrade level.
- 3) The Planning Board will authorize the Selectmen's representative to the PB to act as their designee for the reduction of road bonds upon recommendation and approval of the project's road engineer. This authorization extends up to the "subgrade" level of road construction only.

Vote was 3-Yes (Peter, Rich, and Judy); and 2-No (Chris and Joe). Motion passed.

Bill then presented PB members with a letter recommending a reduction of bond to \$67,851.00 on Rock Ramond Road.

**MOTION** Rich made a motion to accept Bill Duncklee's bond reduction amount. Judy seconded the motion. Vote was 5-0 yes to reduce the bond to \$67,851.00

**8:45 PM** Lorden Realty, Inc., "Elevations"-Phase I, Case #192

**1) Review Revised Drainage Plans-Lorden Lane**

Alan Lorden and Richard Maynard were present to discuss with PB members the review of the open drainage system in Phase I of Lorden Lane prepared by Gerard Gagne of Meridian Land Services, Inc. Rich said he had spoken with Gerry who was satisfied that the open drainage as designed would be adequate to control the amount of water flow. Bill Duncklee mentioned Gerry's recommendation of a silt screen to be placed under the rocks within the drainage swales, and asked that the engineer provide him a sketch of its location and the placement method to be used.

**MOTION** Judy made a motion to approve a revised plan for the open swale drainage; including the establishment of a hammerhead turn around at the end of Rockwood Road instead of a cul-de-sac. Plan will also eliminate the island at the junction of Lorden Lane and Route 13, retaining the balance of road width shown in the road specifications. PB will require a sketch for erosion control fabric and installation details for rip-rap. All previous conditions of subdivision not inconsistent with the above shall remain.

Margaret seconded the motion. Affirmative 5-0 yes.

**2) Lorden Realty, Inc.-Lot Line Revision, Case #1992-7:J-17-16, J-17-17, J-17-19, J-17-23.**

Mr. Lorden and Richard Maynard presented PB members with a plan for lot line adjustments to common lines between lots J-17-16 and J-17-17 (done at the request of new owner); and lots J-17-19 and J-17-23 (done to rotate the frontage of these two lots to Rockwood Road). New test pit (TP #100) for lot J-17-19's septic system has been sent to the state. Jeremy said the plan meets the subdivision regulations. It was noted that new street numbers will be required.

**MOTION** Peter made a motion to accept the plan as presented, seconded by Rich. Vote to accept plan 5-0 yes.

**MOTION** Peter made a motion to approve the plan with the following conditions to be met:

- 1) State septic approval for lot J-17-19
- 2) Fees Paid
- 3) Mylars presented for recording
- 4) New street numbers

Chris seconded the motion. Vote was 5-0 yes to grant approval with above conditions to be met.

9:05 PM **Discussion of 1992 Proposed Zoning changes**  
Jeremy presented PB members with a packet of information he has put together on the 1992 proposed zoning changes. He suggested members read it over and be ready for discussion at the work session July 7, 1992. Tonight's conversation centered on Open Space zoning. It was agreed that more research is needed regarding the density formula to be used. Also to be determined: 1) How to tax the common-owned open space ( will current use taxation rates be allowable ? ); 2) How taxation of smaller sized building lots will be handled; 3) How ownership of the open space land will be set up.

Margaret agreed to research the definitions of "Family" and "Housekeeping Unit" for the work session on July 7th.

10:20 PM Peter made a motion to adjourn the meeting. Rich seconded the motion which passed by a 5-0 yes vote.

Next Planning Board Meeting Tuesday, July 7, 1992

Submitted by:



Sandra L. Fessenden, Secretary  
Brookline Planning Board





(603) 673-8855

*Selectmen*

TOWN OF  
**BROOKLINE. NEW HAMPSHIRE**

P.O. Box 360  
Brookline, NH 03033

PLANNING BOARD MEETING

July 7, 1992

PRESENT: Peter Webb, Chairman, Voting  
Richard Napolitano, Voting  
Joseph Kagenski, Voting  
Barbara Burckes, Selectmen's Alternate, Voting  
Chris Hegarty, Voting  
Margaret Olson, Alternate  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

- 7:30 PM Planning Board Business Meeting  
Peter called the meeting to order. Minutes of the June 16, 1992 PB meeting were reviewed.
- MOTION Rich made a motion to accept the minutes as written. Joe seconded the motion. Vote was 4-0-1 Abstention (Barbara not at the 6/16/92 meeting) to accept the minutes.
- 7:40 PM "Rock Ramond Estates"--bond reduction request. Road inspector Bill Duncklee was present with a report dated 7/7/92 which would reduce the road bond by \$10,200. He had also prepared a report on 6/22/92 for bond reduction of \$20,241.00 which the PB would be reviewing at tonight's meeting. Discussion established that the beginning road bond figure was estimated at \$174,190, from which a 10 % maintenance bond will be held.
- MOTION Peter made a motion to reduce the bond by \$20,241.00 as recommended in Bill's 6/22/92 report. Chris seconded the motion. Vote 5-0 yes.
- MOTION Barbara made a motion to reduce the road bond by \$10,200. as recommended in Bill's report of 7/7/92. Chris seconded the motion. Affirmative 5-0 vote.  
A letter will be written to the selectmen recommending they reduce the bond by a total of \$30,441.00.
- 7:50 PM Plans for the drainage changes on "Elevations" subdivision were reviewed and signed. Bill Duncklee received a revised signed copy as road inspector.
- 7:55 PM William & Kathleen Murphy and Thomas F. Moran/Rock Ramond Estates Trust, "Rock Ramond Estates", Lot line adjustment, Case #1992-5:E-22-8 and E-22-9.  
Mr. & Mrs. Murphy were present with a plan to adjust the common boundary line between their lot E-22-8, and Thomas F.

MOTION Moran's lot E-22-9 to make lot E-22-8's size 160,000 square feet which will allow a two-family home to be built. PB members reviewed the septic test pit data to make sure that there wouldn't be a problem on either lot. Peter made a motion to accept the plan as presented with Rich seconding the motion. Yes vote 5-0 to accept the plan.

MOTION Barbara noted that the plan showed the boundaries were not as yet set; and the location change in the back boundary pin was to be set. She asked that the PB check to see that the bounds are all correctly set within one month from today.

MOTION Chris made a motion to accept the plan as presented subject to all fees being paid and a recording mylar being presented. Barbara seconded the motion. Yes vote 5-0.

8:05 PM **Review of proposed zoning changes.**  
PB members discussed Jeremy's memo of 6/16/92 relative to the "open space" zoning and what the purpose such zoning would serve and what problems might be encountered. The following was a list of potential difficulties to be addressed:

- 1) Septic-Individual and community systems.
- 2) Water- State requirements for water and well placement for community systems.
- 3) Affordable housing-does this zoning address the issue?
- 4) How to properly assess and tax property with open space zoning.

A discussion followed as how best to incorporate this type of zoning into the present zoning ordinance. Jeremy will check similar open space ordinances in other towns. He will also check with attorney Peter Bennett, who is both familiar with setting up home owner associations as well as dealing with the associated property tax issues, to see if he can come to the PB work session in August.

10:05 PM Rich made a motion to adjourn the meeting. Joe seconded the motion. Affirmative 5-0 vote to adjourn.

**Next Planning Board Meeting Tuesday, July 21, 1992**

Submitted by: Sandra L. Fessenden  
Sandra L. Fessenden, Secretary  
Brookline Planning Board



TOWN OF  
BROOKLINE, NEW HAMPSHIRE

P.O. Box 360  
Brookline, NH 03033

(603) 673-8855

PLANNING BOARD MEETING

July 21, 1992

PRESENT: Peter Webb, Chairman, Voting (joined meeting at 8:05 PM)  
Richard Napolitano, Vice Chairman, Voting  
Joseph Kagenski, Voting (joined meeting at 8:00 PM)  
Judy Cook, Selectmen's Representative, Voting  
Chris Hegarty, Voting  
Margaret Olson, Alternate, Voted for Joe till 8:00 PM and  
voted for Rich on Beaver Woods Associates)  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

7:30 PM Planning Board Business Meeting  
Rich called the meeting to order. Minutes of the July 7, 1992 PB meeting were reviewed. Page 2, paragraph 3, was amended to read: "Chris made a motion to approve the plan as presented.....".

MOTION Chris made a motion to accept the minutes as amended. Margaret seconded the motion. Vote was 3-0-1 Abstention (Judy not at the 7/7/92 meeting) to accept the minutes.

7:35 PM Alan Lorden, "Elevations"—Alan Lorden was present with a letter from road inspector Bill Duncklee (see attached) estimating the value of the remaining work to be \$65,279.00 for Phase I of Lorden Lane. Bill also stated that the road was at sub grade up to station 6+00.

MOTION Margaret made a motion, seconded by Judy to accept Bill's estimate of \$65,279.00 as the amount needed for the road bond; and to accept the road to station 6+00 as being at sub grade. Vote was 4-0 yes. Mr. Lorden will post a bond in the amount of \$65,279.00 with the Town of Brookline.

7:40 PM Bob Bramley, "Rock Ramond Estates" —Bob was present with a letter from Bill Duncklee stating the work completed; and recommending that the bond be reduced to \$17,419, the 10% amount required to be held for the maintenance bond.

MOTION Judy made a motion seconded by Margaret to recommend to the selectmen that the bond be reduced to \$17,419.00. Vote was 4-0 in the affirmative.

Bob asked if the PB would be willing to reduce the maintenance bond to 10% of the actual construction cost. PB members would like to confer with Bill before changing the maintenance bond amount. PB will ask Bill to come to the work session on August 4th to discuss this proposal.

7:40 PM Roy F. Greenwald, Donovan Engineering & Construction Co., Inc. N.R.S.P. Case #1992-D:K-76. Roy Greenwald was present with Jim Edwards of Meridian Land Services with plans for the construction of a 1,103 sq. ft. addition to the office building. Jim said they have state approval for a new septic system. Access off from Route 13 and the parking lot area will remain the same. Jeremy said it meets all checklist criteria. Rich asked if heavy trucks going over the new septic system to the loading dock area would damage it. Jim said the system is designed to have heavy trucks travel over it. It will handle 975 gallons per day, sufficient for use by 30 people. There will be 14 people in the office and 2 to 3 in the shop. Rich asked if there would be a gravel drive over the septic system for the parking area. Answer was yes. There were no abutters present.

MOTION Margaret made a motion to accept the plan as presented. Judy seconded the motion. Yes vote 4-0.

Chris made a motion to approve the plan as presented subject to all fees being paid. Judy seconded the motion. Vote was 4-0 yes to approve the plan.

7:55 PM Murray L. Clayman, "Great Bear Range", N.R.S.P. Case #1992-B:G-53 Owner Murray Clayman and Sue Robinson were present with Jim Edwards of Meridian Land Services with plans for an indoor firing range and future outdoor firing and trap and skeet ranges. Rich explained the site plan review procedure for those in attendance, and said the certified notice of hearing is sent to direct abutters for the first PB meeting only—they must read the agenda or paper for continuations. Citizen Bill Chapman asked how the proposal could be removed from the PB's review consideration. Chairman Peter Webb, who had joined the meeting at this point, said Mr. Clayman could request removal of the plan from PB site plan review consideration; but if the plan meets all the PB's submission requirements, the PB must hear it for review. Jeremy explained his part in helping to assure that plans are in the proper format with all required information for the PB's public hearing review meeting. It is then up to the PB members to consider the substance of the proposal after they vote to accept the plan for review. Jeremy said this plan meets the checklist requirements, and ran through the checklist for those in attendance. He said state septic approval is still pending. He did suggest that a notation be added to the present plan indicating the location of the aquifer at the beginning of the access road along Route 13. Joe suggested that lot number G-53 be added onto the plans. Jim Edwards then presented the 2-phase plan. Phase 1 calls for an indoor firing range housed in a 60 foot by 150 foot commercial building to be built into the hill. The rear of the building will be 2 feet above the grade of the hill. The septic system servicing it will be located behind the

present Barnside building. (This will also be the proposed location of the trap skeet range.) A visual barrier of trees will be planted in this vicinity along the property line of G-53-1. Jim explained the drainage system designed to divert the ground water runoff to an existing box culvert under Route 13. The lower portion of the driveway off Route 13 will be 24 feet wide and built to town specifications (a note will be added to the plan to this effect), and serve as the access to the commercial building. It will narrow down to 20 feet in width in the parking area located to the left of the building; and narrow down further as it becomes the driveway to Mr. Clayman's house. Utilities will be placed underground (a note will be added to the plans to this effect). A sign will be placed at the entrance on Route 13 will which comply with Brookline's sign ordinance. Phase 2 will include a trap skeet range and 2 outdoor firing ranges.

8:30 PM Peter asked if the plan has sufficient data to warrant PB acceptance. Jeremy said he felt it has.  
MOTION Peter made a motion to accept the plan as presented. Rich seconded the motion. Vote to accept 5-0 yes.

Rich asked how many rounds could be fired at a time during peak usage. Mr. Clayman answered there was a maximum of 5 shooters at 1 time on the trap range, and it took between 15 and 30 minutes to fire a complete round. He estimated 125 rounds per 15-30 minute period of time.

On the outdoor firing range there was no way to gauge how many rounds would be fired. It depended on the shooter and the type of gun being used. He could not determine the total number of stations until the range is built. He estimates the range will be 50 meters wide; and there is usually 4 to 5 feet between each shooter. Rich asked about noise from operating equipment or loud speakers. Murray said that individual speakers would be located behind the shooters. This would produce less noise than 1 loud speaker system. Only a conversational tone would be necessary to tell the trap skeet attendant to release the skeet. Even someone wearing hearing protectors would have the ability to hear normal conversation tones Sue Robinson explained. She said sound is muffled but not deadened. Murray said there is no operational equipment that would produce loud noise. Rich asked about the design of the backstop at the outdoor firing range. Murray said that there would be a backstop made of sand 12-15 feet thick placed in front of a ledge wall. Rich asked what happened to the lead shot. Murray said the bullet imbeds itself in the sand bank, and people sift the sand periodically to remove the lead and recycle it. He said this provides a cost effective removal system. Rich asked what happened to the shot on the trap skeet range. Murray answered that shot gun shells with small pellets of lead are used. They dissipate in about 50 yards, will impact into the hillside, and won't be collected. Rich

questioned an impact on water supplies. Murray said there shouldn't be any. None of this area is in the aquifer. Judy inquired if the acid rain that N.H. experiences wouldn't cause this lead to leach out into the ground. She would like the skeet range to have a plan for retrieving the lead. Sue and Murray said they will check into this. Rich asked what they planned as hours of operation. Murray said he proposes to operate Monday through Friday from noon to 9:00 PM; Saturday 9:00 AM to 6:00 PM; and Sunday 10 or 11:00 AM to 3:00 PM. The outdoor ranges would not be lighted so they are operational only during daylight hours and warm weather times of the year. Murray felt they would be busiest during the week-ends. The indoor range will be open during the week, employing 4 people; and 18 people will be able to shoot at any one time. He said in the future he plans to open a retail store for the sale of guns, ammunition and related shooting items. Peter asked Murray if he would like to have the PB take this plan under consideration as a phased plan with the indoor range being considered first. Murray said he anticipates this could be a 10 year project. He said he realizes the sound of the outdoor range could present a problem for abutting properties. He said he would like to have local approval to construct the outdoor range and operate it on a trial basis before making a sizeable investment in the whole project. Sue said they would like to install one outdoor range with the berms on the side and the backstop and operate it for a 30 day trial period. Murray suggested conducting another sound test during warm weather with advance notice given to the townspeople to show that there will not be an incremental increase in the sound level determined by the number of people shooting at any one time. Rather, the type of gun being used produces different levels of sound. Judy stated that she felt the PB should have a sound engineer at the next test firing to independently evaluate the sound levels. Peter said he felt uncomfortable with the location of the outdoor firing range. Sue said the driveway to the house has cut across the left firing range, and there was some uncertainty that they would be able to use it at all. They did not know how much ledge and possible blasting would be needed to construct the outdoor ranges. She said if extensive blasting were necessary, it would become too costly to build two ranges. Rich said he thought the PB's perception could be helped by a visual rendering of the outdoor range with the bunkers and backstops. He also wanted to know if plans for the indoor shooting range were available because it would be helpful for the PB to have the architectural plans for their review. Murray said they were not as yet complete. Sue said the design for the reinforced concrete building had to meet strict standards. State and local authorities would be monitoring the range to assure structural integrity; and she

said OSHA may inspect the facility also. Peter said that copies of the building plans will be required for final PB consideration.

**Abutters comments:** Riverside Restaurant owners John and Judy Griffing were present with their attorney John Emery who asked if the plan as presented was for an indoor range; 1 trap and skeet range; and 1 or 2 outdoor firing ranges. Answer yes. He wanted to know if the maximum number of shooters on the outdoor range(s) would be 18 or 36. Murray answered there will only be 1 outdoor range now planned because of the driveway location. The range on the left will be eliminated. Mr. Emery asked about the groundwater treatment swale, and if the discharge area will be in the aquifer. Answer was yes. He asked about exterior lighting. Murray said there were lights to illuminate the building and parking area. The outdoor range was unlighted and would not be used at night. Mr. Emery stated the Griffings, while not opposed to the entire project, had concerns with the noise from the outdoor ranges affecting their business.

**Residents comments:** Jim Wilson, Old Milford Rd. asked if fully automatic weapons will be used on the range. Answer: No, fully automatic weapons require federal licensing. Semi-automatic weapons are allowable. John Tomaso, co-owner of Connie T's. Floral Tree expressed concern with the sound level possibly produced by 18 shooters using semi-automatic weapons if they were all firing at the same time. Sue answered that the level of noise will not increase in volume with added shooters. Five guns firing at the same time do not produce five times more sound volume than 1, she said. Dave Gagnon from Potanipo Hill Road asked how enforceable are the conditions of operation. Peter answered that operational conditions will be stated in the final PB approval and must be kept within the prescribed guidelines. Roger Ogden, Potanipo Hill Road asked if the area of the skeet shoot would be fenced in. He estimated there were 50 children ages 10 and under from the Potanipo Hill Road area that might wander into the area. Murray said the land would be posted every 50 feet, but not fenced. He pointed out that the skeet range is a wide open area. Guy Pultz of Potanipo Hill Road was concerned with the trajectory and the given estimated distance that the shot pellets might travel on the proposed skeet shooting range location. Jack Flanagan has an office in Gazebo Square, and spoke of his concern with gun noise during normal business hours. He said he felt noise is a community concern for both residents and people visiting our town. Bill Chapman said he owns land in Maine across a lake from a National Guard firing range. He said noise from that range is annoying to those hearing it; and he feels that this is a bad location for a firing range in the center of Brookline. Most ranges are located on the outskirts of a town. Wayne Coleman of Milford Street said he is a member of the

Army National Guard and they have been asked to leave the range in New Boston because the noise bothered nearby residential areas.

Jim McBride, Meetinghouse Hill Road asked if there was an equivalent-sized facility located in the middle of a town the same size as Brookline. He is concerned with the amount of sound being generated in the center of town.

Bill Quigley, a member of the N.H. State Police spoke in favor of a controlled area to go and practice shoot rather than an outdoor location that target shooters use and leave with broken glass and cans that are not only unsightly but dangerous to domestic animals and children.

Greg Marszewski of Wallace Brook Road suggested that the sound concerns people are expressing may not be as severe as many are assuming. He said the indoor facility if properly constructed can absorb shot fired repeatedly in the same location without damaging the integrity of the building.

Jerry Farwell pointed out that this facility cannot be built in a residential location, and thus is limited to a location within our small commercial zone.

Peter White, Route 13 North expressed his opinion that new businesses coming into town should not disturb the existing abutting businesses. He suggested that the Zoning Board of Adjustment could grant a variance to allow the facility to be placed in a remote area of the residential zone.

A resident of 4 Beaver Pond Drive asked if guns could be purchased at the facility. Murray answered yes, if the buyer had proper identification and proper licensing.

9:50 PM Peter announced that the PB had another case to be heard this evening, and continued the discussion on this case till Tuesday, August 18, 1992.

9:55 PM **Beaver Woods Associates, Case #1992-8:K-28.** (Rich, a partner in Beaver Woods stepped down from the board at this time. Margaret voted for Rich on this case). Rich and Joe Bourassa presented plans for a two lot subdivision of K-28. Their proposal will create lot K-28-4 containing an existing house on a 2.116 acre lot. The remaining 27.5 acres will remain as a campground area with an existing mobile home trailer at the rear of lot K-28-4. The access road to the campground from Route 130 will be moved to better serve the campground; and the driveway to the house will remain as is. A state driveway permit is pending. The septic system for lot K-28-4 is shown on the plan. He said most of K-28 is in the floodplain, but will not affect lot K-28-4 which is not. Rich said the existing sign may be relocated or replaced. Judy asked if some of the campsites are in the wetlands, and questioned the pumping station. Joe explained that none of the camp sights have drinking water or septic holding tank facilities. The campground has a pump which pumps brook water up to the 4 rest rooms.



- MOTION** Joe made a motion seconded by Chris to accept the plan as presented. Yes vote of 5-0 to accept the plan.
- Abutter Bill Quigley expressed no concern with the plan, and said he was interested in how the new interior camp road would affect the back of his lot, K-28-3.
- Rich said this was a plan for the subdivision of the house lot. They have had an entire land survey done. He presented a letter from Meridian Land Services indicating sufficient septic loading capacity for the existing campground. He said they have provided a mapped location of the existing campsites.
- Peter stressed that new access for the campground must not be diminished from the present access. Emergency vehicles must have access to the campground area. He said he had concerns regarding the volume of use and the extent and number of sites in the existing campground.
- Rich stated that he is willing to come before the PB at a later time for a site plan review for the campground. They are now just looking for PB approval so that the house can be subdivided from the campground and sold.
- 10:20 PM** Chris made a motion to approve the plan pending state driveway permit approval, all fees being paid, and a mylar presented for recording. Joe seconded the motion. Vote was 5-0 yes for approval.
- 10:40 PM** Peter made a motion to adjourn the meeting. Judy seconded the adjournment motion. Vote was 5-0 yes to adjourn.

Next Planning Board Meeting Tuesday, August 4, 1992

Submitted by:



Sandra L. Fessenden, Secretary  
Brookline Planning Board

Made part of the 7/21/92 P.B. minutes

(SCF)

Case File



1 Parker Road  
Brookline NH 03033

11 July 1992

Mr. Peter Webb, Chairman  
Brookline Planning Board  
Brookline NH 03033

Re: Elevations, Phase I -

Case # 192

Dear Peter:

Taking into account the changes in the plans dated 7/7/92 and the work completed since my last estimate of 18 May 92, my estimate of the remaining value of work on this project is \$65,279. This is a reduction of \$43,168 from the estimate of 18 May 92.

I also recommend acceptance of the sub grade up to sta 6+00. This provides at least 250 ft of approved sub grade in front of lot 17-17 and all of lot 17-2.

Very truly yours,

William W. Duncklee  
Road Inspector

WWD/rjd

cc: Alan Lorden  
Board of Selectmen



(603) 673-8855

*Selectmen*

TOWN OF  
**BROOKLINE, NEW HAMPSHIRE**

P.O. Box 360  
Brookline, NH 03033

PLANNING BOARD MEETING

August 4, 1992

PRESENT: Peter Webb, Chairman, Voting  
Richard Napolitano, Vice Chairman, Voting  
Joseph Kagenski, Voting  
Judy Cook, Selectmen's Representative, Voting  
Margaret Olson, Alternate, Voting for Chris  
Dennis LaBombard, Alternate  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

7:30 PM Planning Board Business Meeting  
Peter called the meeting to order. Minutes of the July 21, 1992 PB meeting were reviewed.

MOTION Judy made a motion to accept the minutes as written. Peter seconded the motion. Vote was 4-0-1 Abstention (Joe) to accept the minutes.

7:35 PM Jane & Thomas Dwyer, "Children's Creative Cottage"- Mr. and Mrs. Dwyer were present to discuss whether they needed to have a site plan review done prior to obtaining a building permit to renovate the second floor of the portion of the building at 22 Main Street that was previously used as the school district's offices. They are have a sprinkler system installed for both floors, and repairing and modifying the two existing stairways to the second floor in preparation for using the second floor to add 15 more children to the 23 they are presently licensed for; and have 2 more part-time employees, bringing the total to 4 part-time employees. Jane said that the kindergarten children will be in the upstairs room, and the pre-school will be downstairs. There will also be room for her office as well as storage space on the second floor. PB members discussed whether this is an expansion of use requiring a site plan review. The consensus of opinion of PB members present was that the addition of 15 more children would require a site plan review. The renovations requiring a building permit would not in and of themselves require a site plan review.

8:05 PM Peter made a motion to instruct Wes to issue a building MOTION permit for the renovations to add a sprinkler system, and modify and repair the two stairways. Rich seconded the motion. Vote was 4-yes, 1-no (Joe). Peter told Mr. & Mrs. Dwyer that a letter would be sent to the building inspector to instruct him to issue the building

permit. He cautioned them that it's issuance in no way guaranteed Planning Board approval of the site plan. Mr. and Mrs. Dwyer said they understood. They needed the building permit as soon as possible in order to complete the renovations by the beginning of the school year. They were amenable to having a site plan review for the additional children and staff. They are scheduled for the August 18, 1992 PB public hearing.

**8:15 PM** **Open Space Zoning**—Attorney Peter Bennett was present to discuss homeowner's associations as a requirement to the proposed open space zoning concept. He brought with him some samples of open space zoning ordinances from other towns and how the common land requirements are written in. The association would become the entity to be taxed; and it may or may not be incorporated. He explained that each unit within the development is assessed a percentage of the common land area. Mr. Bennett said if taxation is not a consideration, the homeowner's association is the way to go. Some communities, however, have the common land deeded over to the town. This however decreases the amount of revenue collected from taxable properties. He said a means of preventing problems with the common land area is to have covenants and restrictions made a part of the subdivision approval requirements. Discussion then centered around the question of whether the common land area, if in excess of 10 acres, could be put into current use tax status, thereby reducing the assessed value of each building lot which then would be 1 acre in size. It was decided to ask the local board of assessors to come to the September 1, 1992 work session to discuss their views on how open space lots would be assessed. Jeremy said he will try to have someone from the Nashua Regional Planning Commission also come to talk to the board in September about open space zoning concepts.

**8:40 PM** **"Rock Ramond Estates", Road Bond**—Road inspector Bill Duncklee was present at the board's request to discuss whether the maintenance bond amount could be reduced to reflect the actual construction cost of building Rock Ramond Road. Bill said the road is essentially complete and he doesn't foresee any maintenance problems. There were a few items from the original estimate that were not included in the road's construction. Bill said he would calculate the cost of these items and submit a report to the PB.

**8:45 PM**  
**MOTION** Peter made a motion to adhere to the 10% maintenance bond procedure. Our Road Inspector shall adjust the original construction value of Rock Ramond Road to comport with adjustments to the road's construction. Rich seconded the motion. Yes vote 5-0.

**8:55 PM** Rich had visited the "Elevations" subdivision and asked Bill whether there had been some changes made to the drainage system at the top of the hill. Bill said that some under drainage had been needed at the top of Lorden Lane, and the developer was having it installed.

- 9:00 PM Potential Zoning Changes--  
1) Libby Wehrle-Anderson, Brookline Conservation Commission-  
Libby was present to explain a change the Conservation  
Commission would like to have made to the Wetlands Ordinance  
to add a construction buffer to minimize any disturbance to  
wetlands during the construction of either buildings or  
driveways. She would also like to require a setback buffer  
for the placement of the foundation. She had a list from  
the Association of Conservation Commissions which gave the  
setback buffers other N.H. towns have adopted which range  
from a 25 foot to a 200 foot setback. She said the  
Conservation Commission will be preparing the necessary  
information for the PB to present at the required public  
hearings on zoning changes.
- 9:20 PM 2) Discussion of Jeremy's 6/16/92 memo- Margaret said she  
has been researching a definition for "Family" and  
"Housekeeping Unit" and had discovered differing opinions  
from conservative to quite liberal. PB members discussed  
how best to define housekeeping unit in terms of disallowing  
rooming houses in Brookline. Jeremy was asked to further  
research "In-law" apartments; and PB members will read the  
Hollis, N.H. In-law Apartment Ordinance for discussion at  
the next work session.
- 10:30 PM Peter made a motion to adjourn the meeting. Judy seconded  
the adjournment motion. Vote was 5-0 yes to adjourn.

Next Planning Board Meeting Tuesday, August 18, 1992

Submitted by: Sandra L. Fessenden  
Sandra L. Fessenden, Secretary  
Brookline Planning Board



(603) 673-8855

TOWN OF  
BROOKLINE, NEW HAMPSHIRE

P.O. Box 360  
Brookline, NH 03033

PLANNING BOARD MEETING

September 1, 1992

PRESENT: Peter Webb, Chairman, Voting  
Richard Napolitano, Vice Chairman, Voting  
Chris Hegarty, Voting  
Judy Cook, Selectmen's Representative, Voting  
Dennis LaBombard, Alternate, Voting for Joe  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

7:30 PM

Planning Board Business Meeting

Peter called the meeting to order. Minutes of the August 18, 1992 PB meeting were reviewed. It was voted to amend the following: Page 2, delete last sentence of paragraph beginning "Rich agreed to waive".

Page 7, 9:45 PM, replace section to read: Peter reviewed the NRA guidelines on the construction of a firing range. The guidelines recommended, among other things, the following: a noise profile by an acoustical engineer, a sound study, a sound mitigation program. He would recommend a publicized "shooting demonstrations day," and that the noise be quantified by the above sound work. The guidelines indicate that noise complaints occur if residences are within one half mile of a range; that one mile is appropriate for a skeet range. Peter noted that the NRA recommends a "safety fan" of adequate distance (see attached). He referenced NRA ballistic tables indicating common ammunition ranges of one to three miles (see attached). His major concerns were:

- 1) Noise
- 2) Loose fire exceeding the limits of the range,
- 3) Impact on existing commercial uses."

Page 8, Line 3, change to read as follows: "the PB must have a consultant who has the expertise....."

Paragraph 4, (Rich said) Line 2, change to read: "indoor range could be built on this site. He said studies may also be required by the PB for the indoor range. He was unsure that this is the case for the outdoor range."

MOTION

Peter made a motion to accept the minutes as amended. Rich seconded the motion. Vote was 5-0 accept the minutes.

7:35 PM

Board of Assessors

Assessors Phil Winter and Allan Fessenden were present to discuss the assessment of common land associated with open

space zoning. Phil said this land could be put into current use if it meets the current use criteria. He said the homesite evaluation would not be significantly less than other building lots in town. Allan asked what value this type of zoning would be to Brookline; and expressed a concern that the town's tax base not be diminished. Chris said this type of zoning lends itself to better utilization of land. Less roads have to be built, and otherwise undevelopable land could be developed. Rich asked how much of the total assessment was placed on land and how much on building; and the percentage difference between a 1 acre site versus a 2 acre site. Phil said to check the assessment of properties in the center of town which generally have a 1/4 acre piece of land to get an idea of the land assessment values. Allan asked if there was any state case law addressing the tax base; and he recommended that the Nashua Regional Planning Commission check with the state to see what guidelines they may have.

7:50 PM

**Road Issues**

**a) Tom Moran, "Rock Ramond Estates"**

Tom had prepared a letter for the PB to read regarding the issue of maintenance bonds. He asked PB members to consider what surety amount is safe for the town to hold but not excessive for the developer. He questioned the 10% of the estimated cost of construction amount as a valid ratio to use in these economic times where the bond is often a cash bond. He also wanted to verify whether the maintenance bond came under the jurisdiction of the PB or the board of selectmen, since he found no reference in state law regarding maintenance bonds.

Chris questioned whether the maintenance bond reflects the actual needs of the town in terms of an amount necessary to correct any road defects. If the road is built properly, he felt the 10% maintenance bond amount may be too excessive. Rich said we need to place a value on the road construction costs plus some percentage thereof to use as a maintenance bond. If ten percent is too much, a different metric needs to be considered.

Jeremy said other towns have varying requirements. He will assemble information, and the PB will discuss this at the next work session October 6th.

**MOTION**

Peter made a motion to reduce the maintenance bond on Rock Ramond Road to \$16,985.00 per the 8/5/92 adjustment letter from road inspector Bill Duncklee. Rich seconded the motion. Affirmative 5-0 vote.

A letter will be sent to the selectmen recommending the bond reduction.

**8:10 PM  
MOTION**

b) Peter made a motion to appoint Bill Duncklee as road inspector for Mountain Road Estates, II and Birch Hill Estates, II. Rich seconded the motion. 5-0 vote yes.

- 8:15 PM** c) **Robert Petersen, Petersen Road**— Robert Petersen and road inspector Clarence Farwell were present to discuss the road construction timetable for Petersen Road. Clarence said he had met with Bob Petersen and recommended that the base coat be placed this year. He said the road cleanup, establishment of the shoulders, and the loam and seeding should also be completed this fall. Next year, the final pavement could be placed. Clarence said he would also recommend leaving the \$30,000 construction bond in place for 1 more year (expiration date is 2/4/93) till February of 1994. Mr. Petersen said it was his understanding that the bond could be reduced as work was completed and inspected. Clarence suggested that Bob get estimates of the remaining work to be done. With only the base coat of pavement placed this fall vehicles associated with home construction won't damage the final pavement. Judy mentioned that if the base coat is put down this year before winter, the board of selectmen wont have an issue with respect to emergency vehicles being able to get up and down the road. Chris said if all issues but the top coat of paving are taken care of this year, he would be willing to recommend adjusting the bond to reflect the completed work. Mr. Petersen said he will post a cash bond if this bond expires in February. Peter said the PB will extend the bond if necessary, and adjust the amount if necessary. However, the bond will be called to finish the work if Mr. Petersen fails to do all but the final paving before the February 4, 1993 date.
- 8:25 PM** Beverly Petersen Lynch was present to request a signature on a State of N.H. family day care form. She is in the process of applying for her state license, and she is also preparing an application for PB non-residential site plan review. Jeremy will contact her to help with the application form.
- 8:30 PM** d) **Bear Hill Road Subdivision**—Chris reported that the roads were paved last December. Since then 4 or 5 houses have been built and construction vehicles have damaged the road. He, Dennis and Clarence visited the site, and all felt that the people responsible for the road damage should be held responsible for payment. Dennis said the enforcement of correction items should be expediently handled with those responsible, since they are often not available once the house is finished and sold. Clarence said with vandalism of any town property, the party responsible for it should pay restitution. PB members briefly discussed the best method of enforcing payment, and will check the state statutes regarding destruction of town property.
- 8:40 PM** e) **Road grade changes to Taylor Road**—Bill Duncklee presented a letter from Meridian Land Services for some road grade changes from Sta. 5 to Sta. 12. Bill said this was a minor grade change to get over some ledge, and did not affect the drainage system.



MOTION Peter moved to approve the road modification to Taylor Road as presented. Rich seconded the motion. Vote 5-0 yes.

8:50 PM Jane & Thomas Dwyer, "Children's Creative Cottage"- Mr. and Mrs. Dwyer were present. Mr. Dwyer presented a letter dated 8/23/92 from septic designer David Hirko (see attached) regarding the septic system. Jane said there will be a total of 4 toilets in the school- 2 on each floor. She said the total number of 35 children would be present only for 2 hours each day. It was noted that the State requires a standard ratio of 15/gpd/student as a guideline for septic requirements. Mr. Hirko's letter indicated a 1,500 gallon tank with a leach field. Clarence said he had previously installed a 1,000 gallon tank and dry well at this location. Dennis said that his concern still was whether the lot will sustain the load that is being placed on it with the expansion of the school. He stated that the Hinckley soil was a good draining soil, but he had concerns with the method of calculating how much leachate that lot will hold. He said that type of soil would handle 2,000/gpd/per acre; but noted the lot was .40 acres, and the house and its septic system was not reflected in the numbers presented in this letter. He said there was not enough information in this letter to make an informed determination. The system, he felt, was borderline in its ability to handle the increased usage. The abutting properties both have artisan wells, as the Dwyer's have shown on the presented plan. Rich noted the items asked for by the PB were the septic tank evaluation and site loading calculations; the type of soils; and the type and location of abutters' wells.

MOTION Rich made a motion to add into the minutes that: **It is the opinion of the Planning Board that the septic site loading is marginal, and that further expansion of use at this site might represent a health safety factor.**

Judy seconded the motion. Motion supported 5-0 yes.

MOTION Rich made a motion to approve the plan subject to fees being paid. Peter seconded the motion. Vote 5-0 yes.

9:20 PM Potential zoning projects for 1992.

PB members reviewed Jeremy's 8/18/92 memo. Discussion focused on Accessory Dwelling Units, definition of "Housekeeping Unit", and briefly on Open Space Zoning. Jeremy reminded PB members that the N.R.P.C. will be hosting a presentation on this subject on Tuesday, September 22nd at the Elementary School on Milford Street. Many questions may be answered at that time.

Rich reported that Terry and Margie Sherlock have agreed to again put together some informational articles on proposed zoning changes to be put in the local papers.

Judy asked whether it might be possible to look into a noise ordinance for inclusion in the zoning. After discussion, it was decided that it might be within the selectmen's jurisdiction to establish such an ordinance.

10:25 PM Peter made a motion to adjourn the meeting. Rich seconded the motion. Motion to adjourn was passed by a 5-0 vote.

Next Planning Board Meeting Tuesday, September 22, 1992

TO BE HELD AT THE BROOKLINE ELEMENTARY SCHOOL

Submitted by:



Sandra L. Fessenden, Secretary  
Brookline Planning Board

Made part of the 9/1/92 P.Bd. minutes (LIF)

August 23, 1992

Children's Creative Cottage  
c/o Jane Dwyer  
22 Main Street  
Brookline, NH 03033

SEP - 1 1992

Dear Mrs. Dwyer:

This letter is to certify that on August 21, 1992, I performed a field site assessment of the sewage disposal system at 22 Main Street, Brookline, NH.

The existing system was installed circa 1964. A leach field is present as well. Mr. Clarence Farwell installed the system and I was told by you that he will be submitting a letter on what was done.

As a result of this inspection I found the following:

1. Septic tank is approximately 1500 gallons. I estimate it to be in very good condition. No cracks or leaks were found.
2. Well is approximately 80' from the septic tank.

Conclusion: The present septic tank will sustain the proposed loading of 6 daytime teachers, and 35 daytime students as follows:

6 teachers @ 20 gpd each	120 gpd
35 students @ 15 gpd each	<u>525 gpd</u>
	645 gpd
<u>Total @ 200%</u>	1290 gpd
<u>Existing tank</u>	1500 gal

The existing tank is greater than today's tank requirements. 1250 septic gallons are required today and this existing tank is 1500 septic gallons. This tank is adequate and in satisfactory operating condition.

Very Truly Yours,

David Hirko

David Hirko  
Licensed Septic Designer



(603) 673-8855

TOWN OF  
**BROOKLINE, NEW HAMPSHIRE**

P.O. Box 360  
Brookline, NH 03033

PLANNING BOARD MEETING

September 15, 1992

**PRESENT:** Peter Webb, Chairman, Voting  
Richard Napolitano, Vice Chairman, Voting  
Joseph Kagenski, Voting  
Judy Cook, Selectmen's Representative, Voting  
Margaret Olson, Alternate, Voting for Chris (joined meeting  
at 7:50 PM)  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

**7:30 PM** Planning Board Business Meeting  
Peter called the meeting to order. Minutes of the September 1, 1992 PB meeting were reviewed. It was voted to amend the minutes as follows: Page 3, Line 26, change to read: "Peter said the PB may extend the bond, and adjust the amount if deemed appropriate." Page 4, Line 33, change to read: "might represent a threat to health and safety."  
**MOTION** Rich made a motion to accept the minutes as amended. Judy seconded the motion. Vote was 3 Yes-0-1 Abstention (Joe was not at the 9/1/92 meeting) to accept the minutes.

**7:40 PM** P & C Realty, Francis Gavin, Case #1992-6:F-1B & F-60  
(Peter stepped down as chairman for this case. Rich chaired the meeting.) Francis and Paul Gavin were present for a preliminary conceptual consultation. Francis Gavin said they were preparing to subdivide the entire parcel of land along the Brookline/Hollis town line; and plan to further subdivide the portion in Brookline independently of the portion in Hollis. They will submit subdivision applications and the deed descriptions will be prepared accordingly for each town.

**8:00 PM** Scenic Road Hearing  
1) North Mason Road-Charlie Corey was not present at this hearing. Road agent Clarence Farwell indicated that the increase in the road grade on North Mason Road will cause the base of several trees to be covered and will eventually kill them. The utility pole is being moved from the center of the triangle. New England Telephone Co. would like to have some other trees removed for the new utility line for Ben Farnsworth Road. 1788 the trees are located on Lorden land,

and the town has been given permission to cut them. PB members wished to visit the site before acting on a motion to cut the trees.

2) **Averill Road**—Clarence said there are 2-12" to 15" (inch) maples, and 1-30" (inch) pine tree needing to be cut where they are correcting the curve and changing the grade of Averill Road at the corner heading toward Cleveland Hill Road. These trees are located right on the edge of the pavement, and eventually will have to be taken down.

Earl Bergh was present and expressed his opposition to the removal of any of these trees.

8:04 PM  
MOTION 1) **North Mason Road**—Peter made a motion to continue the hearing till October 6, 1992. Rich seconded the motion for continuation. Yes vote 5-0.  
MOTION 2) **Averill Road**—Rich made a motion to vote to authorize the cutting of trees on Averill Road. Judy seconded the motion. Yes vote 5-0.

8:07 PM **Kinney Danforth Real Estate Associates, "Granite State Convenience", 75 Route 13 South, N.R.S.P. Case #1992-F:H-103.** Bill Kinney was present with a plan for a 45' X 48' steel building to be used as a repair shop. There will be no toilets or sinks in the building. There will be water only for washing vehicles. No drains in the cement floor.

Peter said he was concerned with the disposal of hazardous waste materials given the proximity to the Nissitissit River. He noted the fact that the property is located in the aquifer and this was an expansion of use. He asked if the site were going to be landscaped.

Bill said he is planning to landscape along the sides. Jeremy said topographic, soils, and drainage information as well as the surveyor's stamp which was not on the plan can be waived as this is an existing site.

Judy also was concerned with the water and its drainage with the Nisitissit River in back. She pointed out this would not be allowable as a new commercial venture at this site.

8:20 PM  
MOTION Rich made a motion to accept the plan as presented. Judy seconded the motion. Vote was 4-Yes, 1-No (Joe).

Bill said that water will contain dirt washed from the cars. Waste oil is burned and other hazardous materials are removed from the site. When he was asked if there was still a junk yard on site, Bill said yes.

PB members were concerned with the waste water from this building and the disposal of any hazardous wastes. They want the plan to include the following:

- 1) Distance to the Nissitissit River;
- 2) Soil types;
- 3) Note this lot is in the aquifer and show the aquifer boundary in relation to the property;
- 4) Show location of paving and landscaping;
- 5) Show elevations with respect to the river.

Rich mentioned that the U-Haul trailers are in the State right-of way and not where the site plan shows they should be located. Bill said they are there temporarily.

Case continued till October 20, 1992.

8:25 PM Bingham Lumber Co., Inc. 89 Route 13, N.R.S.P. Case #1992-G:H-90. Don Bingham was present with a site plan to build a new garage, add a roof to an existing overhang; and to build an addition to the planer building. He said his primary concern was getting a permit for the garage as soon as possible. Secondly, he wanted to enclose the overhang on the planer building with a new roof and sides. He plans to put the addition on the planer building in 3 stages, the first of which he will do this fall or next spring. He plans to put a bathroom into one of the 3 additions and will have a new septic system designed when necessary. Jeremy said he had visited the site, and all the work is done within the commercial zone. There are no added employees at this time; no changes in the well and septic; and nothing is visible from Route 13. Peter asked if the garage was being built to house new or different vehicles than were presently there. He asked if there would be a drainage system for any oils or solvents. Don said at present there would be no new equipment added. He has 4 fork lifts and 3 front end loaders which will be garaged and repaired inside. The garage will have a concrete floor with no drainage. On site there are now 2-275 gallon containment drums for the hydraulic fluid and waste oil, some of which he uses for lubrication of the saw mill equipment. He has no plans to relocate these. He said the addition to the planer building is to house a rip saw he already has to make the operation more efficient. He employs 6-8 people and foresees possibly 4 more in the future. Judy said her only concern is how the containment of hazardous materials will be handled. Rich said the vehicles are the same ones already on site. They are improving the method of housing these vehicles.

Abutters comments and/or concerns: Abutters John Griffing and Murray Clayman voiced no concerns.

8:45 PM Peter made a motion to add the following finding, noting  
MOTION that the garage is a non-conforming use on top of the  
aquifer: The Planning Board specifically finds that the uses  
proposed in this application, to the extent that any of them  
being proposed be deemed non-conforming, the nature of the  
proposed use and the fact that the use is effectively an  
existing use, the proposed use is a continuation and not  
more detrimental to the protected areas. Specifically,  
1) the vehicles are already on site;  
2) the vehicles to be serviced belong to Bingham Lumber  
Co.

Margaret seconded this motion. Yes vote 5-0.

MOTION Margaret made a motion to approve the plan subject to all  
fees being paid. Joe seconded the motion. Plan approved by  
a 5-0 affirmative vote.

9:15 PM Murray L. Clayman, "Great Bear Range", N.R.S.P. Case #1992-  
B:6-53. Murray told PB members he plans to withdraw his  
application for the outdoor ranges and will proceed with  
plans for a 60' X 150' indoor range building, the interior  
of which will be divided into 3-20' sections.  
Peter asked if there would be any interior noise from the  
range discernible outside the building.  
Murray said the building will have 8'(foot) high X 1'(foot)  
thick concrete walls. The majority of the building will be  
underground, with only 2 feet of the roof with the A/C  
equipment on it visible above ground. He will have a buffer  
of hemlock and pine trees surrounding the building. The  
planned hours of operation will be noon to 9:00 or 10:00 PM  
6 days a week; and on Sundays beginning later in the  
morning. There will be space for 18 (eighteen) people, (6  
[six] per section) to shoot at one time. Approximate time  
spent per person is one hour. There will be no food other  
than drinks and coffee in vending machines. There will be a  
retail store for the sale of guns and ammunition; and Murray  
estimates there will be 10,000 rounds of ammo stored at one  
time. All guns and ammunition will be locked in a vault  
area when the range is not in operation. There will be a  
20' X 18' classroom for qualified instructors to teach  
firearms safety in the use of rifles, pistols and handguns  
for personal protection and sporting purposes. He said he  
will make this classroom available to town organizations.  
There are 28 parking places shown on the site plan. There  
are no exterior windows and doors in the range area. The  
walls and roof are made of concrete. There is a double door  
system between the lobby and the range with a buffer/  
observation area. There will be a sign near the entrance of  
the driveway, as well as one at the entrance off Route 13.  
David Sheldon asked if the ventilation system would expel  
the odor of gunsmoke outside. Murray explained the air  
filtration system, and stated this would not be a problem.

PB asked for the following to be shown on the new plan:  
1) Specifics of visual landscape barrier (tree size).  
2) Note the D.E.S. Septic approval #  
3) Include an isometric profile view of the building.

Murray was asked to have stakes set for the location of building prior to the 9/26/92 site walk.

Site walks were scheduled for **Saturday, September 26, 1992**

- a) "Great Bear Range" at 9:00 AM.
- b) Ben Farnsworth/North Mason Roads immediately following Great Bear.

Case continued till **October 20, 1992**

**Planning Board General Business**

- a) 1993 Planning Board Budget

PB members discussed the budget figures for 1993. It was decided to have the following amounts in the budget:


- 1) \$16,800.00-Consulting Services  
( 14,400-Nashua Regional Planning Commission  
2,400.00-Road Inspections)
- 2) \$500.00-Training & Education
- 3) \$200.00-Recording Fees
- 4) \$100.00-Office Equipment
- 5) \$200.00-Notices

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**\$17,800.00 Total**

10:50 PM Rich made a motion to adjourn the meeting. Joe seconded  
MOTION the motion. Vote to adjourn 5-0 yes.

Submitted by:



Sandra L. Fessenden, Secretary  
Brookline Planning Board





(603) 673-8855

TOWN OF  
**BROOKLINE, NEW HAMPSHIRE**

P.O. Box 360  
Brookline, NH 03033

PLANNING BOARD MEETING

September 22, 1992

PRESENT: Peter Webb, Chairman  
Richard Napolitano, Vice Chairman  
Joseph Kagenski  
Judy Cook, Selectmen's Representative  
Margaret Olson, Alternate  
Sandra Fessenden, PB Secretary

7:30 PM Planning Board Business Meeting

1) Open Space Development zoning concept

Don Zizzi, Mark Archambault, and Jeremy Ginsberg of the Nashua Regional Planning Commission met with PB members and Milner and Ruth Wallace of the Conservation Commission to discuss the open space zoning concept. A video tape was shown, followed by a question and answer session. Mark is the N.R.P.C. circuit rider for Hollis, and said Hollis is in the process of modifying their P.U.D. zoning. He said some of the bonuses to OSD zoning are:

- 1) Design Flexibility;
- 2) Preservation of valuable natural resources;
- 3) High real estate appreciation rates;
- 4) Maintenance of the town's rural character;
- 5) Less road systems and road maintenance costs;
- 6) Prevention of growth sprawl.

Mark said this type of zoning requires extra effort by the PB and the developer. He suggests that during the design review stage, the PB require the developer to provide both an Open Space Development (OSD) design as well as the standard subdivision design.

Don Zizzi said this type of zoning is not for every subdivision. It offers itself to better designed housing developments on unique pieces of property. He said the N.R.P.C. would make this video tape available for broadcast on the public access cable TV channel to help publicize the open space concept zoning idea to Brookline residents if the PB wanted to do this.

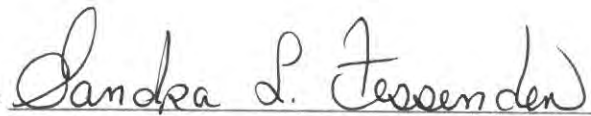
Margie and Terry Sherlock, who are writing some articles for publication on proposed zoning changes were at this meeting.

2) Joint meeting with Hollis PB and Selectmen

PB members discussed a possible date for a joint meeting with the Brookline Selectmen and the Hollis PB members and Selectmen to discuss issues common to both communities. Since both PBs meet on the same nights each month, it was tentatively scheduled for Tuesday, October 27th.

Next Planning Board Meeting Tuesday, October 6, 1992

Submitted by:



Sandra L. Fessenden, Secretary  
Brookline Planning Board

Selectmen



TOWN OF  
BROOKLINE, NEW HAMPSHIRE

P.O. Box 360  
Brookline, NH 03033

(603) 673-8855

PLANNING BOARD MEETING

October 6, 1992

**PRESENT:** Peter Webb, Chairman, Voting  
Richard Napolitano, Vice Chairman, Voting  
Joseph Kagenski, Voting  
Christopher Hegarty, Voting  
Judy Cook, Selectmen's Representative (joined meeting at 8:05 PM)  
Margaret Olson, Alternate, Voting for Judy  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

**7:30 PM** Planning Board Business Meeting  
**MOTION** Peter called the meeting to order. Minutes of the September 15, 1992 PB meeting were reviewed. Peter made a motion, with Rich seconding, to accept the minutes as written. Vote was Yes-4, No-0, 1-Abstention (Chris absent from this meeting)

**7:40 PM** Road Issues  
1) Talbot-Taylor Estates, Taylor Road  
Road agent Clarence Farwell was present to discuss the approved plan which calls for 22 foot paved roads in this subdivision. He said the current subdivision regulations call for 20 feet for a local street; and 24' for a principal street. The 22 foot wide base coat in phase 1 of Taylor Road has been placed; but he suggested that developer Bob Bourassa could ask that the second phase of Taylor Road be 20 feet wide. He said that the PB should be checking the road profiles during the subdivision review stage for conformity to the road construction regulations.

2) Petersen Road Bond Reduction and road paving width.  
Clarence Farwell, road engineer for this subdivision was present to request that the 24 foot paving on the Petersen Road subdivision be changed to 20 feet. He said this was a plan approved in 1983, but it was a cul-de-sac road with no ability to further add on a road system to adjoining land. Rich asked if this change would require a public hearing to change the road width, since the scope of the change affects the entire road's width. After some discussion, it was decided that the PB could change the road width, and require as-built plans to reflect this change.  
**MOTION** Peter moved that the Petersen Road pavement width be changed to 20 feet from the previously approved 24 foot width. Margaret seconded the motion. Yes vote 5-0.

Clarence also asked that the \$30,000.00 road construction bond be reduced by approximately \$10,000.00; and that the expiration date of the letter of credit be extended till July 4, 1993 from February 4, 1993. PB secretary was asked to check with the Centerpoint Bank to see if they were agreeable to replacing the existing letter of credit with a \$20,000. bond and with a change in the expiration date. Clarence will write a road inspector's report with a bond reduction recommendation.

**8:00 PM**     **b) Alan Lorden, Road Bond Reduction for Lorden Lane**  
Road inspector Bill Duncklee was present. He had made a road inspection and was recommending the bond be reduced. His letter to the PB was being processed, and he said the amount to be reduced was approximately \$20,000., bringing the bond to about \$46,000.

**MOTION**     Margaret made a motion to reduce the bond to the amount in Bill's forthcoming letter of 10/6/92, provided that the amount left in the bond is not less than the 10% amount required for the maintenance bond. Peter seconded the motion.     Yes vote 5-0.

**8:05 PM**     **Scenic Road Hearing Continuation**  
              **1) North Mason Road-The purpose being a utility line installation.**  
Eddy Whitcomb was present for the hearing. He is developing 4 lots on the Ben Farnsworth Road which requires a new utility line installation. PB members had visited the site on September 26, 1992. Clarence was asked how much the road grade on North Mason Road was been raised, and he replied 4 feet. Peter said that the base of the trees would be covered and would die in a short period of time. He made a

**MOTION**     motion to authorize the cutting of the trees as shown on the plan dated August 25, 1992. Margaret seconded the motion. Yes 4, no-0, 1-Abstention (Rich).

**8:07 PM**     **Charles Kowalski, Muscatanipus Road.** Mr. Kowalski said he would like to have Muscatanipus Road accepted by the town this year. He referred to a road inspector's report by Joe Cretella dated 4/10/91 which listed 14 items, and an estimate of cost for these items. Mr. Kowalski said the cable company had destroyed approximately 700 feet of hydro-seeded bank, which they re-filled with sand. They then cut a trench across the pavement. Repairs have not been taken care of satisfactorily by the cable company, and he would like some guidance from the PB as to how to remedy the issues necessary in order to have the road accepted in light of this problem. Chuck said Joe Cretella was difficult to schedule inspections with. Peter said he would be willing to replace Joe with Bill Duncklee, and ask bill to visit the site and make a recommendation to the PB on the status of this subdivision.

**MOTION** Peter made a motion seconded by Margaret to replace Joe Cretella as road inspector for Muscatanipus Road with Bill Duncklee replacing him. Vote was 5-0 yes. Mr. Kowalski, Bill Duncklee, PB member Rich Napolitano and road agent Clarence Farwell will visit the site and come back to the October 20, 1992 PB meeting.

**8:20 PM** **Thomas Enright, "Wallace Brook Road"**- Tom said the only two items left to complete from the March 14, 1992 road inspection report of Hillside Road extension were:

- 1) Set bounds, and re-set any disturbed bounds;
- 2) Shape and grade some of the shoulders.

He is looking to have the road bond reduced from \$30,000. to \$15,000; and change to a maintenance bond. Peter said he would like to have a report from Dennis LaBombard to quantify the present road situation and the dollar amount of work remaining.

Judy, referencing Rich Napolitano's letter of 9/21/92 (see attached) asked about the seeding of lot J-33-34, the gravel pit area on Wallace Brook, I. Tom said vegetation is growing in the area and asked what needs to be done. He has no objections to Dennis checking the area and making a recommendation to the PB when he does the road inspection. Tom asked about a maintenance bond and the time frame it's held for. Peter said the maintenance bond is 10% of the construction bond for a 1 or 2 year period depending on the date of subdivision approval. Tom is to come back to the October 20, 1992 PB meeting.

**8:35 PM** **Discussion of Tom Moran's letter on maintenance bonds.** Tom Moran was present to discuss his August 26, 1992 letter on bonding and the requirement for maintenance bonds. A lengthy discussion followed as to how to best make an adjustment to the present system of holding 10% of the construction cost estimate for a 1 or 2 year period. Tom said he felt that the actual cost of road construction rather than an estimated cost should factor into the amount of money held for a maintenance bond. He recommended that the PB study the actual annual maintenance cost to the Town for its roads. He also asked that the jurisdiction of setting the bond, Planning Board or Board of Selectmen, be clarified. Tom also had suggested that the cash bond money held by the town be earning as much interest as possible.

**MOTION** Margaret made a motion that all cash bonds be invested so that:

- 1) The principal is 100% protected; and the
- 2) Principal is immediately liquid; and the
- 3) Investment conforms to the guidelines set by the State of N.H. and local regulations.

Peter seconded the motion. 5-0 yes vote.

Jeremy had prepared a memo of how the maintenance bonds are set up in various other towns. He was asked to come back to the November 10, 1992 work session with some suggestions for possible changes to the current subdivision regulations; and compile some information to be considered for factoring an amount for the town to require for road maintenance bonds relative to real costs of construction and maintenance.

- 9:45 PM **Potential zoning projects for 1992.**  
PB members discussed possible public hearing dates for proposed zoning changes. Tentative dates are December 1, 1992, January 5, 1993, and January 26, 1993. At the November 10, 1992 work session, PB members will work on finalizing the potential zoning changes.
- 9:50 PM **Planning Board General Business**  
PB members discussed meeting in Hollis on Tuesday, October 27, 1992 to discuss issues of concern to both communities. The Board of Selectmen will be invited to attend. Time will be finalized with the Hollis PB.
- 10:00 PM **MOTION** Rich made a motion to adjourn the meeting. Joe seconded the motion. Vote to adjourn 5-0 yes.

Next Planning Board Meeting Tuesday, October 20, 1992

Submitted by: Sandra L. Fessenden  
Sandra L. Fessenden, Secretary  
Brookline Planning Board

Made part of the 10/6/92 PB minutes

Core File



TOWN OF

**BROOKLINE, NEW HAMPSHIRE**

P.O. Box 360  
Brookline, NH 03033

(603) 673-8855

September 21, 1992

TO: Brookline Planning Board  
FROM: Richard Napolitano  
SUBJECT: Wallace Brook Estates, II, Case #199

Dear Members,

On September 12, 1992 I visited the Wallace Brook Estates, II project. The following items must be corrected before the road is considered complete:

- 1) Bounds on lots J-33-49, J-33-50, and J-33-51 on Hillside Drive are in the drainage swale and appear to have been disturbed. These bound must be reset.
- 2) The grading of the shoulders appears incomplete, especially along lots J-33-48 and J-33-43.
- 3) The gravel pit area in Wallace Brook, I which was used for material on this project does not appear to have been seeded.

Richard Napolitano  
Brookline Planning Board

cc: Thomas H. Enright



(603) 673-8855

*Selectman*

TOWN OF  
**BROOKLINE, NEW HAMPSHIRE**

P.O. Box 360  
Brookline, NH 03033

MINUTES  
PLANNING BOARD MEETING  
OCTOBER 20, 1992

PRESENT: Peter Webb, Chairman  
Richard Napolitano, Vice Chairman  
Judy Cook, Selectmen's Representative  
Margaret Olson, Alternate  
Rena Duncklee, Acting PB Secretary  
Jeremy Ginsberg, Nashua Regional Planning Commission

7:30 p.m. **Planning Board Business Meeting**  
Peter called the meeting to order. Minutes of the September 22nd and October 6, 1992 meetings were reviewed.

**MOTION** Peter moved, seconded by Judy to approve both sets of minutes. Vote was Yes-4-0.

Rena said the deed received for the **Bear Hill Associates** subdivision is titled Road Easement Deed. Jeff Knights of Mike Tamposi's said they could probably get a Quitclaim Deed but didn't think they could get a Warranty Deed. Peter said the regulations say a Warranty Deed and that's what is needed.

1) **Murray L. Clayman, "Great Bear Range" N.R.S.P. Case #1992-B:G-53, (con't).** Jeremy reported he spoke to Jim Edwards of Meridian Land Services who said it was up in the air on what will happen with the site plan since Mr. Clayman's death. Jeremy said they will be sending a letter of intent. Abutter John Griffing asked if he would be notified if the case comes up again.

**MOTION** Peter moved, seconded by Judy that this case be tabled for ninety (90) days. The Board will notify abutters if the case is brought forward within the ninety (90) days. Vote was Yes-4-0.

2) **PAX Builders, Muscatanipus Road.** Chuck Kowalski asked the town to accept Muscatanipus Road contingent on loaming and hydroseeding in the spring due to the damage done by the cable company. Road Inspector Bill Duncklee submitted a letter dated October 20th for items to be completed and recommended not requiring guard rails. The planning board agreed to eliminate the guard rails. Chuck said the base course has been down about two (2) years. Peter said if Chuck feels the maintenance bond is excessive he can come back to the planning board to discuss reducing the amount.



MINUTES  
BROOKLINE PLANNING BOARD  
OCTOBER 20, 1992, Pg. 2

3) Beverly Lynch "Purple Pony Day Care" N.R.S.P. Case #1992-H:K-57-7. Beverly Lynch and Robert Petersen were present to request a licensed day care center for up to nine (9) children. Septic plans have been submitted, there are no plans to put up signs, no wetlands on the property, they have temporary approval from the state and the road has been upgraded. Peter asked the proximity of the nearest residence; Bob Petersen said at least 400'. Rich asked about the fence on note 3 of the plan and if four (4) parking spaces are enough; Bev said the state does not require a fence due to the location and the children get dropped off and picked up at different times so parking spaces are not a problem.

MOTION Peter moved, seconded by Rich to accept the application. Vote was Yes-4-0. Libby stated the conservation commission has no issues on this site plan.

MOTION Peter moved, seconded by Rich to approve the site plan subject to the planning board receiving a copy of the state licence. Vote was Yes-4-0.

4) Kinney-Danforth Real Estate Associates, "Granite State Convenience", N.R.S.P. Case #1992-F:H-103, con't. Bill Kinney explained the proposed 45' x 48' building is for car and truck repair, will probably hold four (4) cars, there will be drains in the cement floor\* going into holding tanks which will be pumped out and recycled regularly, visually damaged vehicles will be kept behind the fence. He submitted an addendum regarding disposal of hazardous waste. Jeremy also submitted an agreement on the waste. Minor changes were made to both addendums with Bill Kinney's approval. Rich asked about additional landscaping in front of the building. Bill said shrubs and bark mulch will be placed at the front right hand section of the fence and a raised bed of grass will be put by the Texaco signs not presently paved.

Libby questioned the expanded use of the property and asked whether this was a non conforming use. Margaret said if oil and antifreeze is considered hazardous waste and not allowed in the ordinance it's probably illegal. Peter checked the zoning ordinance.

MOTION Peter moved, seconded by Rich that the Boards finds the proposed use is neither storage, processing, or disposal of hazardous waste. Also, the proposed use is a continuation of a non conforming use which is not more detrimental. Vote was Yes-4-0.

MOTION Judy moved, seconded by Rich to approve the site plan subject to both addendums being retyped, fees paid and the penciled lines being inked on the plan. Vote was Yes-4-0.

*\* in EACH BAY  
AREA .....  
Amended  
11/10/92 (SR)*

MINUTES  
BROOKLINE PLANNING BOARD  
OCTOBER 20, 1992, Pg. 3

5) **Bob Petersen, Petersen Road.** Bob Petersen said he's ready for the base course on Petersen Road. It will cost about \$11,000 and would like the bond reduced in order to pay the bill. Peter said the bond is reduced after the work is done, we accept either a letter of credit or a passbook, if the road inspector says the bond can be reduced by \$11,000 the Board will consider the request.

6) **Brookline School Board.** Ernie Hudziec, Nancy Heline and Marcia Farwell were present. Ernie said they are receiving numerous complaints about bus stops, either they are in deserted areas or on busy Route 13. They have no specific recommendations but questioned bus stop signs or places on Route 13 where the bus could pull off the road. Rich asked why the school board couldn't review proposed subdivisions and make a recommendation to the planning board. He also suggested the Board change the regulations that bus stops be considered.

7) **Ben Farnsworth Road.** The Fire Engineers will be asked to come in to the next planning board meeting regarding the fire pond on the approved plan.

The meeting adjourned at 9:45 p.m.

Next Planning Board Meeting is Tuesday, November 10, 1992

*Rona J. Dumble*



TOWN OF  
BROOKLINE, NEW HAMPSHIRE

P.O. Box 360  
Brookline, NH 03033

(603) 673-8855

PLANNING BOARD MEETING

November 10, 1992

PRESENT: Peter Webb, Chairman, Voting  
Richard Napolitano, Vice Chairman, Voting  
Joseph Kagenski, Voting  
Judy Cook, Selectmen's Representative  
Dennis La Bombard, Alternate, Voting for Chris  
Margaret Olson, Alternate  
Robert Sykes, Alternate  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

7:30 PM Zoning-Proposed Changes for 1992  
Sid Hall, Jr. of the Conservation Commission was present to discuss the wording for a zoning change to add a 25 foot construction buffer to the Wetlands Conservation District. Rich had spoken to Libby Wehrle as to whether placement of driveways would need to observe the construction buffer. Rich suggested to Sid that the Cons. Comm. might want to add language that would put a mechanism into Section 5, Special Exceptions, of the Wetlands Ordinance to cover driveways.

8:05 PM Planning Board Business Meeting  
Peter called the meeting to order. Minutes of the October 20, 1992 PB meeting were reviewed. It was voted to amend page 2, #4, Kinney-Danforth, line 4 to read: " there will be drains in the cement floor in each bay work area going into holding tanks .....". Peter made a motion, with Rich seconding, to accept the minutes as amended. Vote was Yes-4, No-0, 1-Abstention (Dennis absent from this meeting)

8:10 PM Road Issues  
1) Talbot-Taylor Estates, Taylor Road, Phase II  
Bob Bourassa was present to ask the PB to allow a change of pavement width in phase II of Taylor Road from the 22 feet to 20 feet as shown on the approved subdivision plans.\* Rich made a motion to reduce the width of payment from 22 feet to 20 feet for the second phase of Taylor Road at Mr. Bourassa's request, with the provision that red-lined or as-built plans will be provided to the Planning Board by Mr. Bourassa. Joe seconded the motion, which passed by a 5-0 yes vote.

MOTION  
\*IT WAS NOTED  
THAT THIS IS A  
SECONDARY ROAD AND  
NOT A COLLECTOR ROAD.  
Amended 11/17/92  
(Signature)

2) **Petersen Road, Bond Reduction**—Road Inspector Clarence Farwell had written a report dated 11/10/92 recommending reduction of the road construction bond, and outlining the outstanding work still to be completed.

MOTION Peter made a motion to recommend to the selectmen that the road bond be reduced to \$20,000.00. Rich seconded the motion. Vote was in the affirmative 5-0.

3) **As-Built plans, Rideout Lane and Bear Hill Estates**  
As-built plans which road agent Clarence Farwell found to be accurate of the field changes made during construction were reviewed by PB members.

8:30 PM **Zoning-Proposed Changes for 1992**  
PB members and those present in the audience were shown 2 video tapes on open space zoning development. At the conclusion of the videos, Tom Moran said that one of the problems with this type of development is that the approval process is too subjective and time consuming as opposed to conventional subdivision approval. Allan Fessenden, while favoring the overall concept, said it would require the expertise of a land planner to creatively design such subdivision projects.

9:05 PM **Margie & Terry Sherlock—Outline of Articles**  
PB members discussed with the Sherlocks their outline of articles for publication on zoning changes. It was decided that there would be an introductory article listing all the proposed items; then a separate article explaining the Open Space Development; to then be followed by an article outlining all other changes.

9:15 PM **Subdivision Regulations Changes—Bonding Issues**  
PB members discussed Jeremy's 11/04/92 memo regarding changes to the subdivision regulations regarding bonding. Suggestions to this memo were as follows:  
On page 1,, Section 4.8.02: "Completion Bond is completed and the road is accepted by the Planning Board." Page 2, Section 4.9.05, reword to reflect a 1 year bond "following the date of road acceptance by the Planning Board." Change the wording in 4.9.05 to read: "This amount shall not exceed 10 % of the total accepted road bond estimate, or be less than 10% of the actual cost needed to .....". It was also discussed whether to include a recommendation by the road inspector on the length of time and the amount to be required for a maintenance bond. Jeremy will make the changes and bring them to the 11/17/92 PB meeting.

PLANNING BOARD MEETING  
November 10, 1992 Page 3

9:45 PM C.I.P. 1992 Update- Jeremy had drafts of the updated C.I.P. for PB members to review and discuss at the PB meeting of 11/17/92.

10:30 PM Rich made a motion to adjourn the meeting. Joe seconded  
MOTION the motion. Vote to adjourn 5-0 yes.

Next Planning Board Meeting Tuesday, November 17, 1992

Submitted by: Sandra L. Fessenden  
Sandra L. Fessenden, Secretary  
Brookline Planning Board



(603) 673-8855

*Selectmen*

TOWN OF  
**BROOKLINE, NEW HAMPSHIRE**

P.O. Box 360  
Brookline, NH 03033

**PLANNING BOARD MEETING**

**November 17, 1992**

**PRESENT:** Peter Webb, Chairman, Voting  
Richard Napolitano, Vice Chairman, Voting  
Judy Cook, Selectmen's Representative, Voting  
Margaret Olson, Alternate, Voting  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

**7:30 PM** Planning Board Business Meeting  
PB members reviewed the minutes of the 11/10/92 PB meeting. It was voted to amend Page 1, Road Issues, Talbot-Taylor Est., Line 4 to read: "...plans. It was noted that this is a secondary road and not a collector road. Rich made a...."  
**MOTION** Peter made a motion to approve the minutes as amended. Rich seconded the motion. Vote was 4-0 yes.

**7:40 PM** Ray Kecz, Fire Chief- Ray was present to discuss his 9/17/92 letter to the Planning Board (see attached) regarding the fire pond on N. Mason Road. The fire engineers would like to have the existing fire pond dredged only to the extent that it will make the water deeper and allow for use of a floating strainer, rather than requiring the installation of a dry hydrant. They would like a set-up area for two fire trucks on the Ben Farnsworth side of North Mason Road. Peter said the PB should do whatever is necessary to make the fire pond co-extensive with the existing body of water. Therefore, following the recommendation of the Brookline  
**MOTION** Fire Engineers, Peter made a motion that the Planning Board will require the developer to submit updated plans of the fire pond in compliance with the fire engineer's directive. Rich seconded the motion, which passed by a 4-0 yes vote.

**7:50 PM** Charles Kowalski, PAX Builders, Muscatanipus Road  
Mr. Kowalski is asking for acceptance of the road at March 1993 town meeting. Road inspector Bill Duncklee's 10/20/92 report estimated the value of outstanding work to be \$2,152.00. The PB agreed to change the construction bond to a one year maintenance bond in the amount of \$5,000.00 and recommend acceptance of Muscatanipus Road.  
**MOTION** Margaret made a motion to reduce the amount of bond held to \$5,000.00; and change it to a one year maintenance bond expiring 11/17/93. Judy seconded the motion. Yes vote 4-0.

7:55 PM Fine Lines Auto Body, 194 Route 13 North- Donald Manter of Manter Corp. showed PB members a preliminary conceptual drawing for a 50' X 80' addition to the existing building. There would be bathroom facilities in the new building and the addition of a new septic system. Jeremy explained this would be an expansion of use on a non-conforming lot. After discussion, Peter told Mr. Manter that he would like to have an interpretation of zoning Article VII-Non-conforming Uses and Buildings, Section 3. PB members were in agreement that Mr. Manter should contact the Z.B.A. regarding whether a variance was necessary prior to making a formal application to the Planning Board for a site plan review. Rich said he would be concerned with the following items when they came back for site plan review:

- 1) Signage;
- 2) Cars for sale on the premise;
- 3) Visibility of damaged vehicles

Jeremy said they might also want to consider the following items:

- 1) A visual barrier along Route 13;
- 2) Traffic flow;
- 3) Listing all specific uses on site.

He asked Mr. Manter if he had building plans for the new addition, and if the architecture of the new building would match the existing building. Mr. Manter did not have new plans with him, but said the buildings would match. Libby Wehrle of the Conservation Commission said they would be concerned regarding the septic systems; and asked if the property was over the aquifer. Jeremy answered that he had checked the aquifer map and it wasn't.

8:30 PM Zoning Issues-Informational discussion of proposed zoning changes. PB members and Conservation Commission Co-chairman Libby Wehrle discussed Jeremy's 11/11/92 memo outlining zoning changes. Jeremy had made some minor wording changes to Items #1 and #2. Suggested changes were as follows: Item #5- reposition first paragraph <sup>to</sup> ~~to~~ section "G-PROCEDURES". Item #9- clarify sections involving the addition of a construction buffer to the Wetlands Conservation District. Jeremy will make these suggested changes.

*\* Amended  
12/1/92  
SRP*

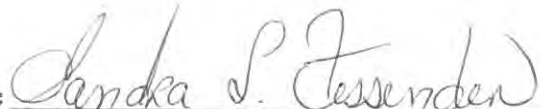
Terry and Margie Sherlock had left a draft of the first article on proposed zoning changes for PB members to review. They will make any new changes and have the article ready to publish in next week's Milford Cabinet and Brookliner.

PLANNING BOARD MEETING  
November 17, 1992 Page 3

- 10:15 PM **C.I.P. Update**- Members decided to wait till the December 15th meeting to discuss the C.I.P. due to the lateness of the hour at this meeting.
- 10:18 PM **Planning Board General Business**-Secretary informed PB members that road inspection fees had exceeded the amount budgeted for 1992. Although the Town is re-imbursed this amount by the developers, Peter said the PB will need to better judge next year's level of road construction in order to be able to estimate more accurately a budgeting figure for this item.
- 10:20 PM **MOTION** Rich made a motion to adjourn the meeting. Judy seconded the motion. Vote to adjourn 4-0 yes.

Next Planning Board Meeting Tuesday, December 1, 1992

Submitted by:



Sandra L. Fessenden, Secretary  
Brookline Planning Board



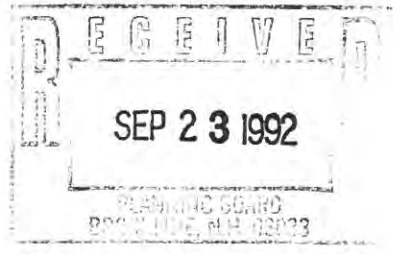
Wade Part of P.B. minutes of 11/17/92 (SUF)

Core File



# BROOKLINE VOLUNTEER FIRE DEPARTMENT

Brookline, New Hampshire 03033



BROOKLINE FIRE DEPT  
BOARD OF FIRE ENGINEERS  
PO BOX 343  
BROOKLINE, NH 03033-0343

SEPT 17, 1992

PLANNING BOARD - TOWN OF BROOKLINE, NH  
TOWN HALL  
BROOKLINE, NH 03033

- Case # 1991-4:c-5

RE: Fire pond at Ben Farnsworth development

Dear Sandy,

The Board of fire Engineers has learned that their proposed fire hole at the above development has been recommended by the board to be changed to a completely separate water hole next to the existing one. The Board of Engineers would recommend against this as we feel it would be an unnecessary expense to the developer and also to the town at a later date. In the past we have done away with water holes of this type because of the silting and algae problems which make it costly for the town to keep cleaned out each year. If this is true, the board of engineers would like to suggest just making a pull out at the existing water supply so that the trucks pumping water could get off the road and leave it open for mutual aid if needed.

RESPECTFULLY SUBMITTED  
BROOKLINE BOARD OF FIRE ENGINEERS

*Ray Key*  
RAY KEY CHIEF

*Ronald Denehy*  
RONALD DENEHY ASST CHIEF

*Paul M. Dougherty*  
PAUL DOUGHERTY ASST CHIEF



(603) 673-8855

*Selectmen*

TOWN OF  
**BROOKLINE, NEW HAMPSHIRE**

P.O. Box 360  
Brookline, NH 03033

PLANNING BOARD MEETING

December 1, 1992

**PRESENT:** Peter Webb, Chairman, Voting  
Richard Napolitano, Vice Chairman, Voting  
Judy Cook, Selectmen's Representative, Voting  
Dennis La Bombard, Alternate, Voting for Chris  
Margaret Olson, Alternate, Voting for Joe  
Robert Sykes, Alternate  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

**7:30 PM Planning Board Business Meeting**  
Peter called the meeting to order. Minutes of the November 17, 1992 PB meeting were reviewed. It was voted to amend page 2, 8:30 PM Zoning Issues, line 6, to read: "**reposition first paragraph from section G-PROCEDURES.**".....  
Peter made a motion to accept the minutes as amended. Rich seconded the motion. Vote 5-0 yes to accept the minutes.

**7:40 PM Public hearing on Proposed Zoning Changes for 1992**  
Peter gave a brief introduction to those present at the hearing of the nine items proposed for zoning change.  
**Item #1-** Margaret explained this as a housekeeping change to correct a previous error.  
**Item #2-** Peter explained this change would permit family members to live within a single family residence in a separate accessory dwelling unit (ADU) with a special exception granted by the Z.B.A. Clarence Farwell asked if this could be done on a lot size of 80,000 square feet. Answer was yes. Rich said he was concerned there was no basis for discontinuing the special exception as item 2 was currently written. He felt the PB has not addressed the specifics, and that the article is too open-ended. It could generate other problems. Two of his concerns were:  
1) No guidance as a basis for special exception.  
2) No definition for when the special exception is in effect.

Discussion followed regarding allowing cooking facilities in the ACU in relation to the proposed definition change in Item #3, Family. Russ Heinselman and Clarence Farwell expressed their opinion that Item #2 is being drafted only to allow a second cooking unit.

Article XVII, Section C.-Requirements- After discussion it was decided to change sentence 2 of the first paragraph to read: "In granting a temporary special exception the Zoning Board of Adjustment....." Peter also asked Jeremy to add wording addressing "cooking facility" to this section. #5- change second sentence to read: "Internal access to the principal dwelling unit shall be maintained."

Item #3- Russ asked to have a clearer definition of cooking facility. He said the Selectmen, as the enforcing agents, need to know the intent of the ordinance as written.

8:20 PM Rich said items 2 and 3 do not address the use of a residence as a boarding or rooming house. He made a motion for a redefinition of family, Item #3. Motion died for a lack of a second. Rich made a motion to strike Item #2, to allow Accessory Dwelling Units. Motion died for a lack of a second.

MOTION

MOTION

MOTION

Margaret made a motion to change Item #3 to read: "Family- Cohabitants of a single household who jointly share in the use of an entire dwelling unit." Judy seconded the motion which passed by a 5-0 yes vote.

Item #4- Jeremy gave a brief explanation of the proposed Back Lot zoning article which would create lots with less than 200 feet of road frontage, and have a minimum lot size of 5 acres. Clarence asked if a back lot could be created in a new subdivision. PB members answered yes. Questions arose as to how driveways serving back lots could be placed. Jeremy checked the current subdivision regulations, and found that individual driveways can't be any closer than 50 feet.

8:35 PM Rich made a motion to delete Item #4-Back Lots from the proposed zoning changes. Motion died for lack of second.

MOTION

PB members decided to change the wording of Item #4- BACK LOTS to read: "Minimum lot area 5 acres. Minimum land area is 5 acres per dwelling unit."

Item #5-Open Space Development Rich explained the salient points of this type of zoning as follows: 1) The density of housing remains the same (1 dwelling unit per every 80,000 square feet); and 2) All land not used for house lots, roads, and driveways will become permanently dedicated as open space. He felt a buffer between any structures in an O.S.D. and existing buildings might be desirable. PB members and audience members did not agree.

MOTION

Margaret made a motion to add language within the Open Space Development article which would allow common wells and septic systems. Rich seconded this motion. Yes vote 5-0.

9:15 PM **Item #6**-Building Inspector Wes Whittier was present to explain the three proposed amendments to the Building Code. He said #2 is reworded to clearly define the beginning of construction as the installation of footing and foundation. The CABO code indicates a building permit expires 6 months from it's issuance if construction hasn't started. The next-4.C.-Jeremy said he had spoken to town counsel Bill Drescher regarding this item. Mr. Drescher indicated it may not be possible to use "as amended" as it applies to updated versions of BOCA and CABO Building Codes. Jeremy will check this for the next meeting. The third item, 4.D.- Wes said this adds Certificates of Occupancy- both temporary and permanent to the Building Code.

**Item #7**-Margaret explained that this change clarifies what can be done within the dwelling unit rather than a listing of permitted businesses. Russ said this change will make it enforcement easier for the Selectmen.

**Item #8**-After discussion, Russ suggested that the PB check the definition of "sign" as it pertains to the maximum size.

**Item #9**-Libby Wehrle-Anderson and Judy Fasulo of the Conservation Commission were present. Libby explained the proposed change was to add a 25 foot buffer to the Wetlands Conservation District. Clarence asked for a clarification of "ground disturbance". What could and could not be done within the buffer (ex. digging a waterline from a well in the wetlands district to the house in the buffer. Loaming and seeding a lawn within the buffer). Russ Heinselman also was concerned with the wording in paragraph #3 being unclear and possibly imposing restrictions in the wetlands buffer that were inconsistent with those in the wetlands district. Wes was concerned with the Commission wanting him to be the person verifying the location of the buffer as he does not have the qualifications necessary to determine wetlands soils. Libby said the Selectmen do not support this article because of the enforcement issue. Tom Moran asked what had precipitated this change in the ordinance. Libby said that other communities have wetlands buffers over which local jurisdiction prevails instead of the State of N.H. Wetlands Board. She said that the buffer's purpose is to stop minor violations to the wetlands during construction. She said the Conservation Commission is working on revising item 9.

10:00 PM **Lorden Realty, "Elevations" subdivision-Bond Reduction.**  
Louise Lorden and Road Inspector Bill Duncklee were present  
MOTION to discuss lowering the bond on Lorden Lane. Margaret made a motion seconded by Rich to lower the road construction bond to \$17,800.00 as per Bill Duncklee's 12/1/92 inspection report. Rich seconded the motion which passed by a 5-0 vote.

Rich seconded the motion. Vote was 5-0 yes to recommend to the Selectmen that the bond be reduced to \$17,800.00.

**MOTION** **Rock Ramond Estates-Tom Moran-** Based on Bill Duncklee's final inspection letter dated 11/25/92, Peter made motion to recommend acceptance of Rock Ramond Road. Margaret seconded the motion. Vote 5-0 yes.

**10:15 PM** Margaret made a motion to adjourn the meeting. Rich seconded  
**MOTION** the motion. Vote to adjourn 5-0 yes.

Next Planning Board Meeting Tuesday, December 15, 1992

Submitted by:   
Sandra L. Fessenden, Secretary  
Brookline Planning Board



(603) 673-8855

TOWN OF  
**BROOKLINE, NEW HAMPSHIRE**

P.O. Box 360  
Brookline, NH 03033

PLANNING BOARD MEETING

December 15, 1992

**PRESENT:** Peter Webb, Chairman, Voting  
Richard Napolitano, Vice Chairman, Voting  
Judy Cook, Selectmen's Representative, Voting  
Margaret Olson, Alternate, Voting for Joe (left at 8:30 PM)  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

- 7:30 PM** Planning Board Business Meeting  
Peter called the meeting to order. Minutes of the December 1, 1992 PB meeting were reviewed. Peter made a motion to accept the minutes as written. Rich seconded the motion. Vote 4-0 yes to accept the minutes.
- MOTION**
- 8:00 PM** Open Space Development Article—PB members discussed with Terry and Margie Sherlock their draft article on Open Space Development. Members will review the article tonight and PB secretary will get any suggested changes to Terry tomorrow so that the deadline for "Our Place" and the "Brookliner" and the Milford Cabinet can be met.
- 8:20 PM** Rich expressed his opinion that because this Open Space Development is creating a different situation than currently exists in our zoning, it might be helpful to have a buffer area between an already developed area and an O.S.D. It was decided to add a "perimeter setback" from any houses along the perimeter of the building land area.
- 8:40 PM** Review Capital Improvements Plan 1992 Update  
A brief discussion was held regarding the changes made to the C.I.P. draft in Jeremy's 12/14/92 memo. Peter decided to reschedule this item till to the PB meeting January 19, 1993 when more PB members would have a chance to add their input to the document before the PB formally approves it.
- 9:10 PM** Roads for town acceptance at March Town Meeting.  
PB members discussed two roads which have meet all criteria for town acceptance. They are the following:  
1) Muscatanipus Road  
2) Rock Ramond Road  
PB will notify the selectmen that they are recommending these two roads for acceptance.

PLANNING BOARD MEETING  
December 15, 1992 Page 2

Review Subdivision Regulation Changes-PB members postponed discussion of these changes till a later date.

- 9:20 PM Planning Board General Business  
1) Road Bond Reduction-"Talbot Taylor Estates"- PB members acted on a letter dated 12/4/92 from road inspector William Duncklee to reduce the road construction bond on Talbot and Taylor Roads, Phase I. Peter made a motion to recommend to the Selectmen that they reduce the road bond to \$34,290.00 Rich seconded the motion. Yes vote 3-0.
- MOTION
- 9:30 PM Judy made a motion, seconded by Peter to adjourn the meeting. Yes vote to adjourn 3-0.

Next Planning Board Meeting Tuesday, January 5, 1993

Submitted by: Sandra L. Fessenden  
Sandra L. Fessenden, Secretary  
Brookline Planning Board

Made Part of the 5/19/92 P.B. minutes (SUF)



(603) 673-8855

TOWN OF  
BROOKLINE, NEW HAMPSHIRE

P.O. Box 360  
Brookline, NH 03033

PLANNING BOARD MEETING

August 6, 1991

PRESENT: Peter Webb, Chairman, Voting  
Rich Napolitano, Voting  
John Osowski, Vice-chairman, Alternate, voting  
Judy Cook, Selectmen's Alternate, Voting  
Christopher Hegarty, Alternate, Voting for Joe  
Margaret Olson, Alternate  
Philip Trasatti, Alternate  
Jeremy Ginsberg, N.R.P.C. Representative  
Sandra Fessenden, PB Secretary

- 7:30 PM Planning Board Business Meeting
  - 1) Review Minutes of the July 16, 1991 meeting  
PB members reviewed the minutes.
- MOTION Chris made a motion to accept the minutes as written. Peter seconded the motion. Vote in the affirmative to accept 5-0.
- 7:40 PM Planning Board General Business
  - 1) Town Road Construction Specifications  
Bill Duncklee was absent from this meeting. PB will reschedule he and Clarence for the August 20th meeting.
- 7:55 PM 2) Fresh Pond Realty/ Millrock Realty  
Tom Moran was present with a plan for phasing "Mountain Road Estates, II" and "Birch Hill Estates, II". Tom proposed a 5-phase plan. He intends to complete the connector roads first, beginning with Section 1-Birch Hill Road-north to Hollis Lane. Connector roads will terminate in temporary hammerhead turns till Section 3 (connecting 1 & 2), and Sections 4 & 5 are built. Cul-de-sacs will be completed after the connector roads are built and are not scheduled in any particular phase. Peter asked if there was a time frame for completion of the two projects. Tom said he plans to begin Phase 1 in 1992, but declined to place a time limit on completion citing economic conditions as a determining factor. Planning Board was agreeable to the phasing plan with the following stipulations:



1) PB approves the 5-Phase construction concept configuration as presented on plan submitted on August 6, 1991 with temporary hammerhead turns.

2) Phasing is to be in the sequence as presented at this meeting.

Phase 1- 12 Building lots, 2,900 +/- ft. of road

Phase 2- 10 Building lots, 2,000 +/- ft. of road

Phase 3- 15 Building lots, 2,200 +/- ft. of road

Phase 4- 10 Building lots, 1,700 +/- ft. of road

Phase 5- 6 Building lots, 1,700 +/- ft. of road

3) All roads within each phase will be completed before the next phase is opened and road construction is begun.

4) Bonding for the entire road system will be in place before the plans are recorded.

**MOTION**

Chris made a motion to approve the phasing plan as presented tonight with the above four conditions. John seconded the motion. Phasing plan approved by a 5-0 yes vote.

**8:15 PM**

**Erwin Corey, 103 Route 13 South, Lot H-25**

Mr. Corey was present with his attorney Carl Lanza. Mr. Lanza requested the PB to give its reasoning for requesting a site plan review of the log cabin building housing "Connie T's Flower Shop". Peter said the Town has a site plan review mechanism allowing site review when a change of use occurs. He said it was the PB's viewpoint that the change of use occurred when the flower shop opened up. Mr. Lanza voiced his opinion that there has been no change of use and therefore a site plan review was not necessary. He stated the log cabin building has been used continuously for various mercantile commercial businesses for the past 40 years. Mr. Corey presented old photographs and postcards of "Corey's Trading Post" showing various retail sales merchandise being sold. PB members had visited the site this evening. Rich asked Mr. Corey if he would repaint the white line delineating the parking lot area at the corner of Bond St. and Route 13 which had been covered over when the parking lot was re-paved. Mr. Corey said he felt the corner was not a problem; and that if it were delineated correctly, trucks would have a difficult time rounding it. The Town also would not be able to plow back the corner as widely as it now does in the winter. After discussion, Clarence said he would take care of re-painting the white line. Mr. Lanza said Mr. Corey was willing to submit a plan of the log cabin building for filing at Town Hall only to show what business is currently there-but not for PB approval.

Made part of the 5/19/92 P.B. minutes

PLF



Maynard & Paquette, Inc.

Consulting Engineers & Land Surveyors  
23 East Pearl Street, Nashua, NH 03060  
(603) 883-8384

May 12, 1992

MAY 13 1992

Brookline Planning Board  
Town Hall  
P.O. Box 360  
Brookline, NH 03033

Lorden - Elevations Subdivision  
Route 13 and Lorden Land (J-2135)

Case #192

Dear Board Members:

It has come to our attention through Alan Lorden that there has been some discussion and concern regarding the approved road and drainage design for the entrance road (Lorden Land) to the Elevations Subdivision. The entrance road has a grade of 8% and is designed for a closed (piped) drainage system with catch basins and cape cod berms (asphalt curbs) along the roadway pavement. This design was chosen, based on experience in other communities, as the best method to control storm water runoff on steep road grades.

Eliminating the asphalt curbs and substituting an open ditch drainage system is not recommended. Open ditches some 8 to 10 feet wide and 2 to 3 feet deep are unsightly. More importantly, it is very difficult to control drainage and erosion with 8% slopes and open drainage ditches.

Should the Board have any questions or concerns regarding the approved drainage design, we would be most happy to meet with the Board to discuss the matter.

Very Truly Yours,  
MAYNARD & PAQUETTE, INC.

Richard A. Maynard, PE

cc: Alan Lorden  
ram2135b

Brookline School District  
Narrative for school board meeting  
9-16-2021

EEI and Banwell Architects have been working with the Brookline School District to do a preliminary facility assessment at RMMS and SDA. The enrollment in the district has maintained steady while services have increased

Existing conditions

RMMS

1. There is in overall lack of space in the building for education needs
2. There are needed ADA and code upgrades
3. Building lacks sprinkler system
4. Building has 3 inefficient oil boiler plants
5. Ventilation systems are at end of life.
6. No elevator for ADA access for lower level
7. Main office is separated from main entrance creating security risk
8. School lacks a modern kitchen and a dedicated cafeteria

CSDA

1. School relies on modular classrooms as space inside the building is strained
2. HVAC controls and fire alarm system nearing end of useful life
3. HVAC system does not allow for dehumidification or recommended ASHRAE filtration
4. Building has inefficient fluorescent lighting
5. Cafeteria is undersized for student usage
6. Building lacks sprinkler system

Potential solutions will be discussed at board meeting

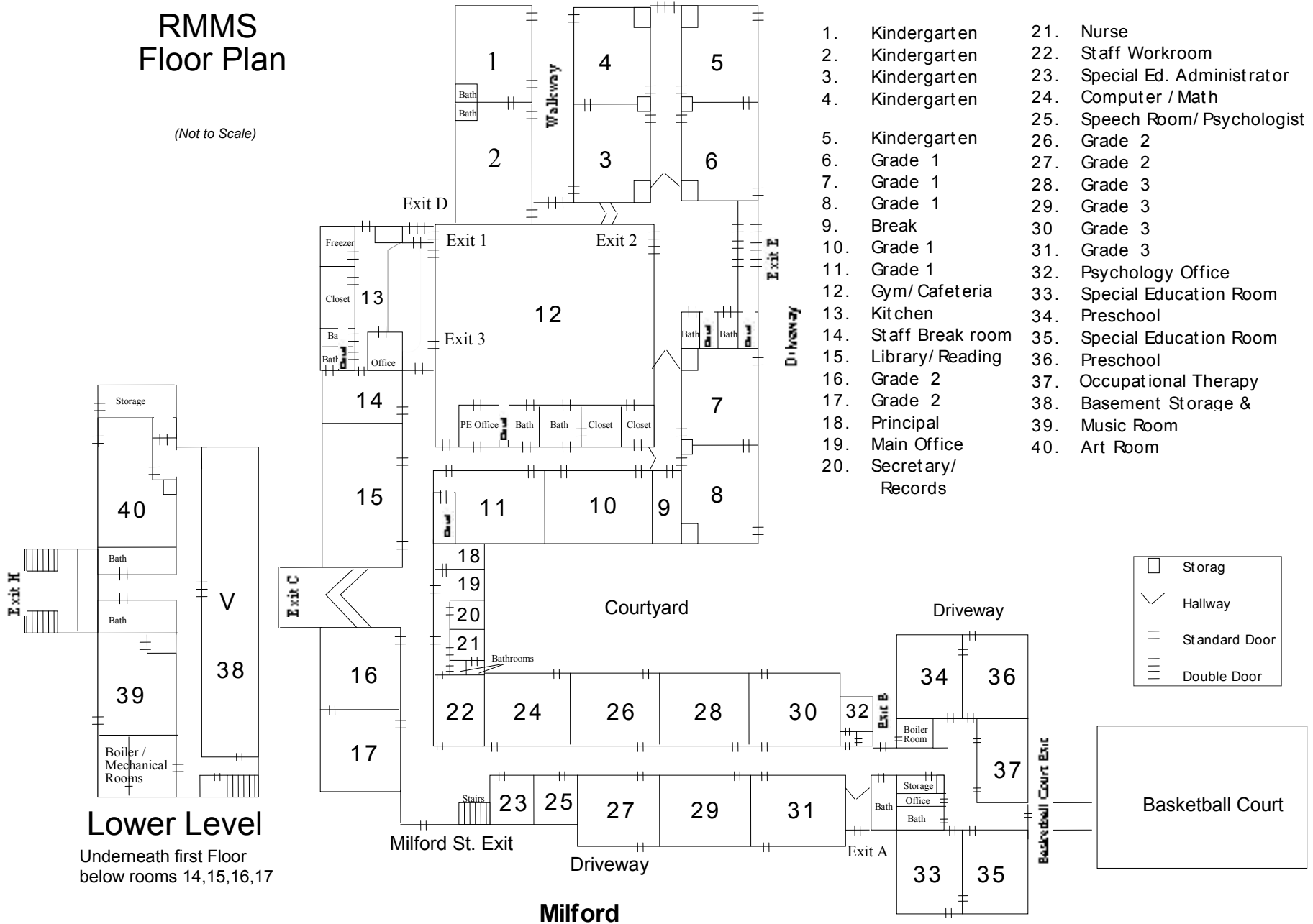
1. Performance contract: low budget impact solution for (Controls, boilers, solar, and lighting)
2. Additions to both schools to provide more educational space
3. ADA, safety, and fire protection upgrades
4. Ventilation and dehumidification options
5. Renovations to RMS to improve main office access

# RMMS Floor Plan

(Not to Scale)

## Map Code

- |                        |                               |
|------------------------|-------------------------------|
| 1. Kindergarten        | 21. Nurse                     |
| 2. Kindergarten        | 22. Staff Workroom            |
| 3. Kindergarten        | 23. Special Ed. Administrator |
| 4. Kindergarten        | 24. Computer / Math           |
| 5. Kindergarten        | 25. Speech Room/ Psychologist |
| 6. Grade 1             | 26. Grade 2                   |
| 7. Grade 1             | 27. Grade 2                   |
| 8. Grade 1             | 28. Grade 3                   |
| 9. Break               | 29. Grade 3                   |
| 10. Grade 1            | 30. Grade 3                   |
| 11. Grade 1            | 31. Grade 3                   |
| 12. Gym/ Cafeteria     | 32. Psychology Office         |
| 13. Kitchen            | 33. Special Education Room    |
| 14. Staff Break room   | 34. Preschool                 |
| 15. Library/ Reading   | 35. Special Education Room    |
| 16. Grade 2            | 36. Preschool                 |
| 17. Grade 2            | 37. Occupational Therapy      |
| 18. Principal          | 38. Basement Storage &        |
| 19. Main Office        | 39. Music Room                |
| 20. Secretary/ Records | 40. Art Room                  |

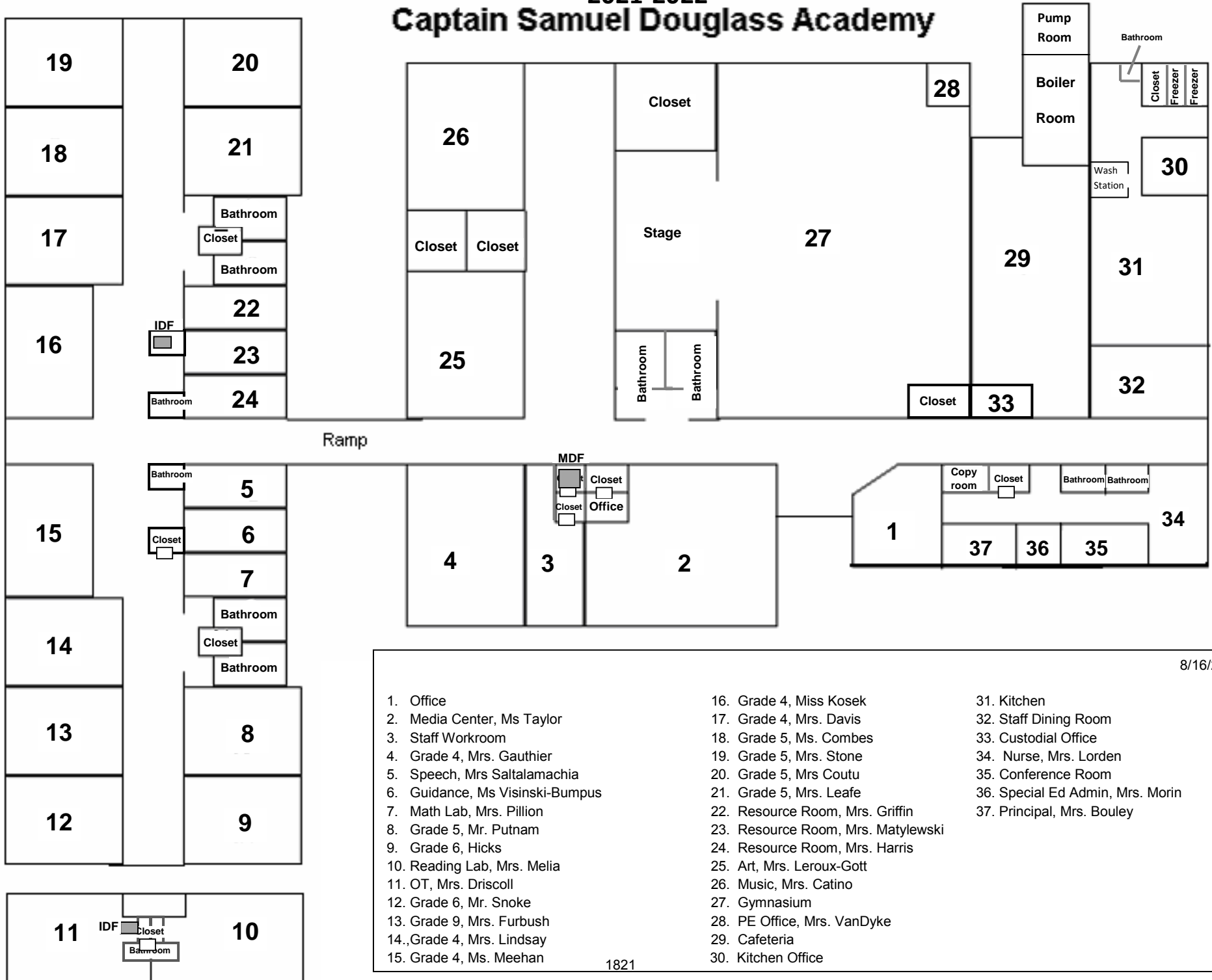


## Lower Level

Underneath first Floor  
below rooms 14,15,16,17

## Milford

# 2021-2022 Captain Samuel Douglass Academy



- |   |  |   |
|---|--|---|
| 8/16/2021   |  |   |
| <ul style="list-style-type: none"> <li>1. Office</li> <li>2. Media Center, Ms Taylor</li> <li>3. Staff Workroom</li> <li>4. Grade 4, Mrs. Gauthier</li> <li>5. Speech, Mrs Saltalamachia</li> <li>6. Guidance, Ms Visinski-Bumpus</li> <li>7. Math Lab, Mrs. Pillion</li> <li>8. Grade 5, Mr. Putnam</li> <li>9. Grade 6, Hicks</li> <li>10. Reading Lab, Mrs. Melia</li> <li>11. OT, Mrs. Driscoll</li> <li>12. Grade 6, Mr. Snoko</li> <li>13. Grade 9, Mrs. Furbush</li> <li>14. Grade 4, Mrs. Lindsay</li> <li>15. Grade 4, Ms. Meehan</li> </ul> | <ul style="list-style-type: none"> <li>16. Grade 4, Miss Kosek</li> <li>17. Grade 4, Mrs. Davis</li> <li>18. Grade 5, Ms. Combes</li> <li>19. Grade 5, Mrs. Stone</li> <li>20. Grade 5, Mrs Coutu</li> <li>21. Grade 5, Mrs. Leafa</li> <li>22. Resource Room, Mrs. Griffin</li> <li>23. Resource Room, Mrs. Matylewski</li> <li>24. Resource Room, Mrs. Harris</li> <li>25. Art, Mrs. Leroux-Gott</li> <li>26. Music, Mrs. Catino</li> <li>27. Gymnasium</li> <li>28. PE Office, Mrs. VanDyke</li> <li>29. Cafeteria</li> <li>30. Kitchen Office</li> </ul> | <ul style="list-style-type: none"> <li>31. Kitchen</li> <li>32. Staff Dining Room</li> <li>33. Custodial Office</li> <li>34. Nurse, Mrs. Lorden</li> <li>35. Conference Room</li> <li>36. Special Ed Admin, Mrs. Morin</li> <li>37. Principal, Mrs. Bouley</li> </ul> |

**Department Legend**

- CLASSROOM
- CORE
- EDUCATIONAL SUPPORT
- FACILITIES
- SPECIALIZED CLASSROOM
- SPED

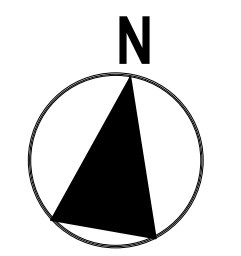


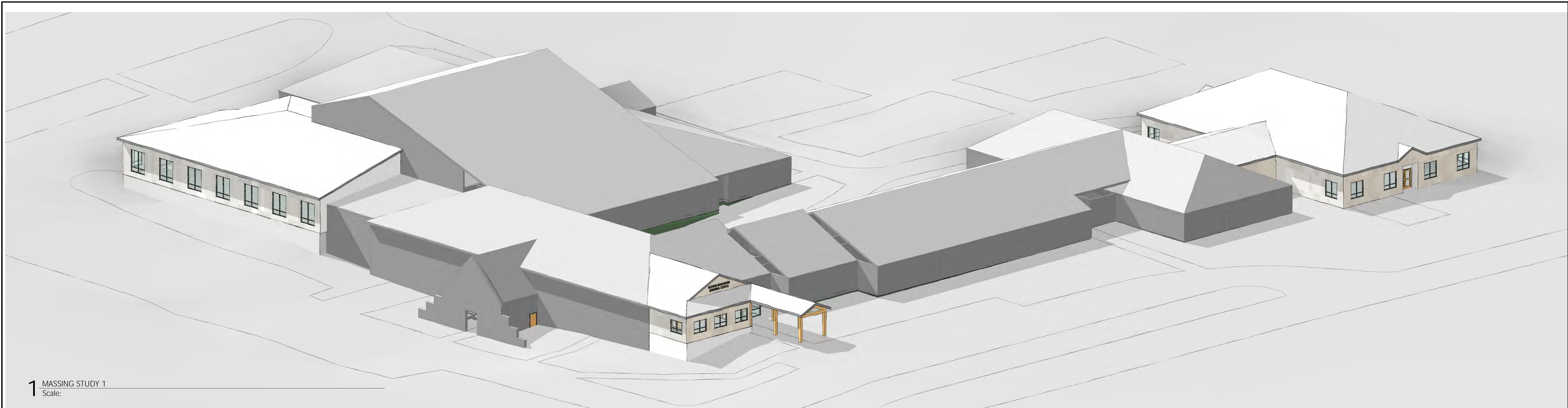
1 LEVEL 1 - FLOOR PLAN OPTION 4  
Scale: 1" = 20'-0"

2 LOWER LEVEL - FLOOR PLAN OPTION 1  
Scale: 1" = 20'-0"

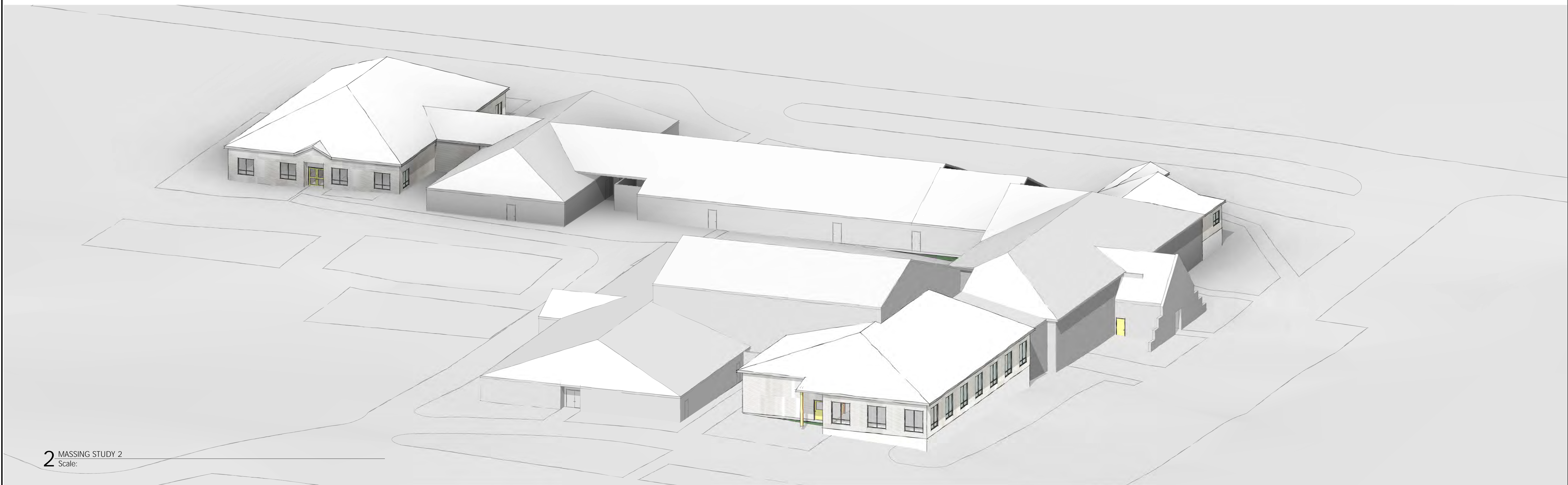
# RICHARD MAGHAKIAN MEMORIAL SCHOOL

22 MILFORD STREET  
BROOKLINE, NH 03033  
6/16/2021





1 MASSING STUDY 1  
Scale:



2 MASSING STUDY 2  
Scale:

# RICHARD MAGHAKIAN MEMORIAL SCHOOL

22 MILFORD STREET  
BROOKLINE, NH 03033  
6/16/2021

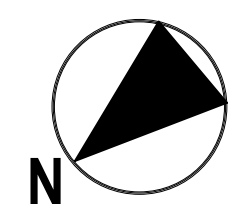




CLASSROOM  
ADDITION  
6,750 SF



1 ADDITIONS DIAGRAM  
Scale: 1" = 30'-0"



# CAPTAIN SAMUEL DOUGLASS ACADEMY

24 TOWNSEND HILL RD  
BROOKLINE, NH 03033  
9/14/21





Hi Andy,

Below are the enrollment numbers we found records of for the past 8 years at RMMS and at CSDA.

	RMMS	CSDA	Total
July 2014	278	294	572
May 2015	283	298	581
July 2016	305	243	548
June 2017	324	243	567
June 2018	332	218	550
June 2019	332	241	573
June 2020	336	244	580
March 2021	328	248	576

**Building Capacity according to Policy IIB and ED 306.12**

**Brookline Enrollment Projections for School Year 21-22**

	PreK-3	PreK4	K	1	2	3	4	5	6
Enrollment Total	4	8	81	81	82	84	87	83	84
Ed 306.12 Class Size			25	25	25	30	30	30	30
Divisor according to Policy IIB			17	17	20	20	23	23	23
Sections according to Policy IIB	12	12	4.76 sections	4.76 sections	4.1 sections	4.2 sections	3.78 sections	3.65 sections	3.65 sections
Teacher/Class Size according to Policy IIB			5 = 16.2	5 = 16.2	4 = 20.5	4 = 21	5=17.4	4 = 21	4 = 21
NESDEC	8	8	97	75	77	75	95	83	83

Brookline School District Total Enrollment - 594 students  
 RMMS - 340  
 CSDA - 254

**Classrooms used for special education purposes:**

RMMS			
RM#	Space Name	Total # of students	Max # of students per period
25	Speech	17	4
32	Psychologist	4	1
33	Special Education Classroom	64	16
34	Preschool 4 yr old Classroom	8	8
35	STEP Classroom	6	5
36	Preschool 3 yr old Classroom	4	4

37	Occupational Therapy/Physical Therapy	17	4
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CSDA			
RM#	Space Name	Total # of students	Max # of students per period
22	Sped	13	5
23	Sped	5	4
24	Sped	19	10
5	Speech/School Psychologist	23	4
11	OT/PT	10	4
10	Reading Intervention	5	1

### **RMMS Room Utilization History:**

Below is a listing of how spaces have been used at both RMMS and CSDA to accommodate increased enrollment. Attached to this email are the current maps for both RMMS and CSDA.

RMMS uses all spaces, some of which serve multiple purposes.

Room #3: Grade K classroom. A fourth section was added in 2016-2017. This space was used as a reading lab prior to this.

RM#5: Grade K classroom. We added a 5th section of grade K during the 2021-2022 school year. This space was used as a 1st grade class prior to this.

Room #9: Special Education space. Prior to the 2020-2021 school year, this space was used as a guidance office and a psychologist office during the 2015-2016 school year.

RM #10: Grade 1 classroom. We added a 5th section during the 2021-2022 school year. This space became the Reading Room during the 2017-2018 and was the Music room prior to this.

RM #11: Grade 1 classroom. We added a 5th section during the 2021-2022 school year. This became the STEM /Math room during the 2016-2017 school year and was the art room prior to that.

RM #15 - Now the reading room and library learning commons. This was previously the library learning commons.

Room #16: Grade 2 classroom. This space was a grade 3 classroom from 2019-2021 and was a grade 2 classroom from 2017-2019. This space was the reading lab in 2016 - 2017 and was used as a speech room prior to that.

Room #17: Grade 2 classroom. Was used as a grade 3 classroom from 2017-2020 and was a special education classroom prior to this time.

Room #21: Guidance office. Prior to the 2020-2021 school year, this area was used as a nurse's office.

Room #22: Nurse's office. Prior to the 2020-2021 school year, this space was the teacher work room.

RM#24: Computer Lab and STEM/Math. This was previously the computer lab.

Room #25: Speech Office. From 2015 - 2017, this office was used as a Curriculum Administrator and Psychologist office.

RM#32: Psychologist office. Previously this space functioned as a technology office from 2018-2020 and was a guidance office prior to this.

RM#33: Special Education Classroom. During the 2016 - 2017 this space was used as the art room. Prior to that time this space was used as a science classroom.

RM #34: Currently used as a preschool 4 year old class. This potentially could be used as a classroom space, so long as it meets the standards for Educational Space - ED 321.10

RM #35: STEP special education room since 2017-2018. This space previously functioned as the speech room during the 2016-2017 school year and was the math lab prior to that. This space potentially could be used as a classroom space, so long as it meets the standards for Educational Space - ED 321.10

RM #36: Currently used as a preschool 3 year old class. This potentially could be used as a classroom space, so long as it meets the standards for Educational Space - ED 321.10

RM #39: Music room since the 2017-2018 school year. This space was used for BASP and was a classroom at one time.

RM #40: Art room since the 2017-2018 school year. This space was used for BASP and was a classroom at one time.

**Additional Interior and Exterior Building Information:**

Richard Maghakian Memorial School is located on 12 acres of land. The original building, Brookline Elementary School, was built in 1961 supporting the town's community with a four-room schoolhouse. Subsequent construction followed in 1967, which added 6 rooms to the existing building. In 1987, the office, library, kitchen and gymnasium were added. Four years later, the first

grade wing was added, and the latest addition for kindergarten was added in 1996. The 54,000 sq. ft building, composed of wood, cinder block and steel, was built according to code at the time of the construction. A new roof was applied above the kindergarten, first grade, 1/2 gymnasium, art and music classrooms; along with a pulastic floor was laid in the gymnasium in 2015. In 2016, the VCT hallway floors spanning from the Milford Street Door to the end of the first grade wing were replaced. At the start of the 2019-2020 school year students arrived at a brand new playground. In 2020, the grade  $\frac{2}{3}$  wing hallway floors were replaced. In 2021, 6 classroom floors were replaced.

### **CSDA Room Utilization History:**

Prior to grade four moving up here in approximately 2006-2007 (15 years ago), we had a science room (RM #15), a special education room (RM #16), two large office spaces for OT (RM #5, #6) and reading (RM #23, #24), two small office spaces (RM #22 and RM #7), and two empty classrooms (RM #14 and RM #17)

### **Once fourth grade moved up here in 2007-2008:**

RM #14 became a classroom

RM #15 became a science room

RM #16 became a classroom

RM #17 became a classroom

The two larger spaces occupied by OT (RM #5, #6) and reading (RM #23, #24) had a wall placed in them to make 4 spaces:

RM #5 became speech/OT/School Psychologist

RM #6 became guidance,

RM # 7 became the math specialist room for accelerated math and intervention

RM # 22 reading intervention

RM #23, 24 all became special education services

A bubble year required five (5) fifth grade classrooms for the two years of 2008- 2010. This resulted in the arrival of the portable moving two sixth grade

teachers out to the portable (RM# 10 and RM# 11) for a few years with an average of 27 students in a classroom for sixth graders.

Once the bubble moved on, we went down to 4 classrooms per grade and moved reading intervention (RM #22) to RM#10 and OT/PT (RM #5 and #6) to RM#11 in the portables. Their two small spaces became additional special education services (RM#22, RM# 23, and RM# 24) and the math specialist room (RM #7)for teaching accelerated math

### **2021-2022:**

Currently, we use all of the spaces. We eliminated the computer lab in RM #4 to become a grade 4 classroom this year.

### **RMMS Additional Information:**

If we were to use the state maximum using our current population this is what we would have:

K - 81 students (5 sections down to 4) state maximum 25

RM#1 - 21

RM#2 - 20

RM#3 - 20

RM#4 - 20

Grade 1 - 81 students (5 sections to 4) state maximum 25

RM#5 - 21 - currently a grade K space

RM#6 - 20

RM#7 - 20

RM#8 - 20

Grade 2 - 82 students (4 sections) state maximum 25

RM# 16 - 21

RM#17 - 21

RM#25 - 20

RM#27 -20

Grade 3 - 84 students (3 sections) state maximum 30

RM#28 - 28

RM#29 - 28

RM#30 - 28

By moving to maximum class size according to Ed 306.12, we would then have the following spaces available:

RM#10 -current grade 1 class (25 available spots)

RM#11 - current grade 1 class (25 available spots)

RM#15 - current library and reading (split into two classroom, for a total of 50 spots)

RM#24 - computer lab/math (25 available spots)

RM#31 - current grade 3 class (30 available spots)

RM#39 - current music class, go to a cart (25 available spots)

RM #40 - current art class, go to a cart (25 available spots)

By using all of these classroom spaces listed above according to the state class size maximum, our capacity would be 620 occupants.

RM#33,34,35,36 are under the minimum 900 square feet required for elementary school classrooms. These spaces would continue to be used for PreK and Sped.

Our gym maximum capacity is 590 occupants without tables and chairs and 277 occupants with tables and chairs



September 16, 2021

Maximum Enrollment numbers - CSDA

If we were to use the state maximum using our current population this is what we would have:

4 - 87 students (5 sections down to 3) state maximum 30

RM#14 - 29

RM#15 - 29

RM#16 - 29

Grade 5 - 83 students (4 sections to 3) state maximum 30

RM#18 - 28

RM#19 - 28

RM#20 - 27

Grade 6 - 84 students (4 sections to 3) state maximum 30

RM#8 - 28

RM#9 - 28

RM#12 - 28

Portable classrooms:

RM#10 current MTSS reading and math intervention services across grade levels and the Special Education Reading teacher

RM#11 current OT/PT - space required for therapy services

By moving to maximum class size according to Ed 306.12, we would then have the following spaces available:

RM#2 - current library, goes to a cart (30 available spots)

RM#4 - current grade 4 class (30 available spots)

RM#17 - current grade 4 class (30 available spots)

RM#21 - current grade 5 class (30 available spots)

RM#13 - current grade 6 class (30 available spots)

RM#25 - current music class goes to a cart (30 available spots)

RM#26 - current art class goes to a cart (30 available spots)

By using all of these classroom spaces listed above according to the state class size maximum, our capacity would be 620 occupants.

RM#22, 23, 24, 5, 6, 7 are under the minimum 900 square feet required for elementary school classrooms. These spaces would continue to be used for Special Education, Speech, Guidance, School Psychology, and Math Enrichment.

Our gym maximum capacity is 492 (542 including 50 employees) occupants.



## School Administrative Unit #41

Hollis, Brookline & Hollis-Brookline Cooperative School Districts  
Office of the Superintendent of Schools

4 Lund Lane

Hollis, New Hampshire 03049  
603.324.5999 fax 603.465.3933

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March 17, 2021

Dear Members of the Planning Board,

I am writing to you on behalf of the Brookline School Board with regards to the potential workforce housing development proposed for route 13 in Brookline. The School Board held a special meeting on Tuesday, March 16, 2021 to deliberate on the impact this proposed housing would have on the School District. The Board unanimously supported the following two motions:

1. MOTION BY MEMBER SARRIS TO SUPPORT THE MORATORIUM ON THE 80-UNIT WORKFORCE HOUSING DEVELOPMENT (5-0).
2. MOTION BY MEMBER MARSANO TO SUPPORT A STUDY COMMITTEE TO REVIEW THE IMPACT OF THE 80-UNIT WORKFORCE HOUSING ON THE BROOKLINE SCHOOL SYSTEM (5-0).

The School Board utilizes the New England School Development Council (NESDEC) to complete the District's enrollment projections on an annual basis. The K-6 projected enrollment in Brookline is projected to go from 557 to 618. Depending on where those students fall (assuming the grade level projections are accurate), this could require potentially 3 additional classroom sections. Looking into next school year, some of our projected class sizes are greater than the specifications outlined in School Board Policy IIB and other projected class sizes are just below the specifications.

After discussing available spaces within our existing elementary buildings, we would have to re-evaluate how our specials (music, art, and computers) are taught. We would have to consider options such as taking back the computer labs, the STEM lab, the music classrooms, and/or the art classrooms to become traditional classrooms and move specials to a cart.

Trying to accommodate more than the NESDEC projections would require vastly different considerations. The School Board has been provided two presentations regarding facilities upgrades for RMMS during this school year. As a result of these two presentations the formation of a facilities study committee has been in process and will be officially formed at the School Board's next regular meeting on March 24, 2021. This committee is scheduled to provide regular feedback to the School Board during the upcoming school year as we prepare to make recommendations for potential warrant articles in March of 2022.

*Andrew Corey*  
Superintendent of Schools  
[andrew.corey@sau41.org](mailto:andrew.corey@sau41.org)

*Gina Bergskaug*  
Assistant Superintendent  
[gina.bergskaug@sau41.org](mailto:gina.bergskaug@sau41.org)  
1834

*Kelly Seeley*  
Business Administrator  
[kelly.seeley@sau41.org](mailto:kelly.seeley@sau41.org)

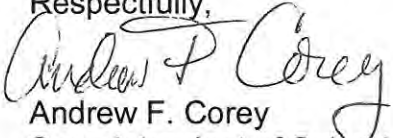
*Robert Thompson*  
Assistant Superintendent of Student Services  
[Robert.thompson@sau41.org](mailto:Robert.thompson@sau41.org)

Our neighbors in Amherst recently completed a thorough study to analyze similar needs (<https://ifac.sau39.org/>). The end result includes two building projects: the construction of a new PreK-5 school with a price tag of \$66 million, and a complete overhaul of the middle school with a price tag of \$31 million.

This projected NESDEC enrollment increase will also impact transportation and at a minimum result in an additional bus being added to the fleet to meet the increase in ridership both in Brookline and for the Cooperative District.. The cost of adding an additional bus route calculates to somewhere between \$45,000 - \$55,000 (based on time and mileage) increase to our transportation budget. Any additional enrollment increase will most likely result in the need to further increase our bus fleet.

As Superintendent my goal is to provide information for your discussion and allow all factors to be considered regarding the potential impact further housing units could have on the School District(s). I appreciate your taking the time to review this letter submitted on behalf of the Brookline School Board and would be most happy to make myself available to answer any questions that the Planning Board may have.

Respectfully,

  
Andrew F. Corey  
Superintendent of Schools

*Andrew Corey*  
Superintendent of Schools  
[andrew.corey@sau41.org](mailto:andrew.corey@sau41.org)

*Gina Bergskaug*  
Assistant Superintendent  
[gina.bergskaug@sau41.org](mailto:gina.bergskaug@sau41.org)

*Kelly Seeley*  
Business Administrator  
[kelly.seeley@sau41.org](mailto:kelly.seeley@sau41.org)

*Robert Thompson*  
Assistant Superintendent of Student Services  
[Robert.thompson@sau41.org](mailto:Robert.thompson@sau41.org)



## School Administrative Unit #41

Hollis, Brookline & Hollis-Brookline Cooperative School Districts  
Office of the Superintendent of Schools  
4 Lund Lane  
Hollis, New Hampshire 03049  
603.324.5999 fax 603.465.3933

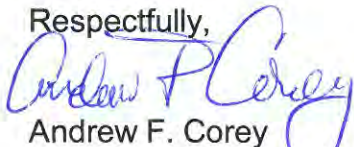
March 22, 2021

Dear Members of the Planning Board,

On Thursday, March 18, Town Administrator Tad Putney reached out to me seeking clarification on two items. The first item was regarding when I anticipate the enrollment increase happening? I believe the NESDEC projections indicate that the increase in student enrollment will occur over the next 18 months. As with all of our enrollment predictions much of what is projected is based on the economy and regional employers continuing to maintain or expand their work force. The second question was related to our historical enrollments being greater than the recent projections and why we cannot accommodate the projected increase? The two significant items that have reduced available classroom space are the Board's passing of policy IIB which dictates class sizes by grade. Prior to this policy we had class sections that in some cases approached the State maximum of thirty students per class. The second area that has reduced available classroom space has been the District's decision to create in-district special education programming which has reduced our need to place students out of district. These in-district programs allow us to provide an outstanding education to specific students while also avoiding substantial tuition and transportation costs associated with an out of district placement.

I hope you find this information helpful as you deliberate on the potential workforce housing development proposed for route 13 in Brookline.

Respectfully,

  
Andrew F. Corey  
Superintendent of Schools

*Andrew Corey*  
Superintendent of Schools  
[andrew.corey@sau41.org](mailto:andrew.corey@sau41.org)

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Assistant Superintendent  
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*Kelly Seeley*  
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*Robert Thompson*  
Assistant Superintendent of Student Services  
[Robert.thompson@sau41.org](mailto:Robert.thompson@sau41.org)



## School Administrative Unit #41

Hollis, Brookline & Hollis-Brookline Cooperative School Districts

Office of the Superintendent of Schools

4 Lund Lane

Hollis, New Hampshire 03049

phone 603.324.5999 fax 603.465.3933

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October 21, 2021

Dear Members of the Planning Board,

On Tuesday, October 19, 2021, I met with Town Administrator Tad Putney regarding the school's enrollment and our facilities plans. I have provided Tad with updated enrollment projections from NESDEC. As with all of our enrollment predictions, much of what is projected is based on the economy and regional employers continuing to maintain or expand their work force.

As I shared with you last March, the Brookline Schools have reduced classroom space based on the District's decision to create in-district special education programming, which has reduced our needs to place students out of district.

This year we opened the school year at RMMS by shifting the STEM room to be a classroom, the reading room also became a classroom, and the library was divided in half to meet the needs of our reading students while continuing library services. The computer room at RMMS has been transitioned into a multi-purpose room to assist us with servicing students in math as well as students where English is not their primary language. At CSDA we converted their computer room to a classroom in order to intentionally reduce the teacher student ratio at grade fourth to provide further supports based on student assessment data.

During our most recent Board meetings we have been reviewing renovation plans which would add additional classrooms to both RMMS (4 classrooms) and CSDA (3 classrooms). The information regarding these proposals will be reviewed once again at the Brookline School Board's October 27, 2021 meeting.

I hope you find this information helpful as you continue your discussions around the Town's future growth.

Respectfully,

Andrew F. Corey

Superintendent of Schools

## Policy IIB - CLASS SIZE

### *Category R*

The purpose of this policy is to establish a process for the school board and administration to initiate discussions relative to class size.

Class size will be defined as the maximum number of students under the supervision of a teacher, at any one time, for the purpose of instruction and learning.

In determining the sections at each grade level, the Board and the administration will consider the needs of learners at each grade level, current best practices, the demands of the programs, standards at each grade level, and budgetary impact. If classroom enrollment exceeds the recommended guidelines as outlined in this policy, the Superintendent shall consult with the appropriate Principal and review the situation before deciding whether to take such steps as hiring additional personnel or using other resources.

The following guidelines should be utilized when initiating a discussion to determine if any further action should be taken relative to class size. This discussion will happen no later than the December School Board Meeting.

Grades K-1: 17 students

Grades 2-3: 20 students

Grades 4-6: 23 students

### **Legal References:**

*N.H. Code of Administrative Rules, Section Ed [306.17](#), Class Size*

*(NH DOE Adopted: 3-26-14):*

*K - 2 25 students or fewer per educator; strive to class size of 20 or fewer*

*3 - 5 30 students or fewer per educator; strive to achieve class size of 25 or fewer*

*6 - 12 30 students per educator*

First Reading: August 23, 2016

Second Reading: September 27, 2016

Third Reading: October 25, 2016 (amended)

Adopted: October 25, 2016 (as amended)





New England School Development Council

28 Lord Road, Marlborough, MA 01752 • Tel: 508-481-9444 • www.nesdec.org

## METHODOLOGY / RELIABILITY FOR ENROLLMENT PROJECTIONS

**Sources of Birth Data:** over the 40+ years NESDEC has been preparing 300+ sets of enrollment projections, we have found that official State DPH birth totals are the most complete. Thus, the birth numbers used in many projections, through 2018, are from the state's Department of Public Health. Any "provisional" numbers would be a preliminary total from the state DPH, a number that may increase (with the final "official" total) yet will not decrease. The "estimated" years, beginning with 2018 or 2019 would be a rolling five-year average, which NESDEC has found to be the most accurate span for purposes of estimation. Local City/Town Clerks have accurate and up-to-date information on local births, however, do not have access to the number of residents born at remote locations/out-of-state - information which will eventually become known to the state DPH. In communities near universities, military installations, or state borders (and near the Canadian border), the difference between the local clerk's tally and the state DPH, may be substantial. In southwestern CT, for example, a number of communities find that 10-15% (or more) of their births occur out-of-state.

**Methodology:** The cohort survival technique is the most frequently used method of preparing school enrollment forecasts. NESDEC uses this technique yet **modifies it in order to move away from forecasts that are wholly computer or formula driven**. Such modification permits the incorporation of important and current town/city-specific information into the generation of the enrollment forecasts. Basically, percentages are calculated from the historical enrollment data to determine a reliable percentage of increase or decrease in enrollment between any two grades. For example, if 200 students enrolled in Grade 1 in 2019-20 and the class increased to 210 students in Grade 2 in 2020-21, the percentage of survival would have been 105%, or a ratio of 1.05. Such ratios are calculated between each pair of grades or years in school, over a period of several recent years. The 13 ratios used (B-K plus 12 ratios between individual grades) are key factors in the reliability of the projections, given the validity of the data at the starting point. The strength of the ratios lies in the fact that each ratio encompasses **collectively** the variables that account for an increase/decrease in the size of a grade enrollment as it moves on to the next grade. If the B-K ratio, in recent years, is higher than 1.4, it can be helpful, in addition, to prepare a long-range "B-K Experience" table which includes the annual number of "net move-ins" at this level; the need for this table applies to only about 5-8% of districts. Each ratio, from Grades K to 12, represents the **cumulative effect** of the following factors:

- Migration, into or out of, of the schools (including movement to/from charter schools, private/parochial schools etc.)
- Changes in school program
- Dropouts, transfers, etc.
- Retention in the same grade
- Births and deaths (see above for sources of birth data)
- Housing growth as indicated by HUD reported building permits issued



Based upon a reasonable set of assumptions regarding each of these factors, ratios most indicative of present/future trends are determined for each pair of grades or years. To project for the future, the ratios thus selected by NESDEC are applied to the present enrollment statistics for a predetermined number of years. It is important to note that NESDEC annually updates projections for affiliated school districts at no cost. This provides an opportunity for the District to plan adequately for any changes that might occur. Enrollment projections are time sensitive. Factors affecting the projections are changing constantly – new births (or not), **new families moving in/out, schools competing for the district’s students (or not),** and on... Thus an outdated enrollment projection, like an outdated weather forecast, will need to be refreshed with new data. While it is difficult to project enrollments during this pandemic economy, NESDEC has added a “Second Semester refresher” enrollment projection at no cost.

**Reliability of Projections:** While the reliability of projections, in general, rests upon the soundness of the assumptions upon which they are based, there are degrees of reliability across the grades and over the ten-year period shown. The projections based on students who are already enrolled in the local Public Schools has the highest reliability. The projections based on children who have been born but are not yet in school are somewhat less reliable. The projections for students who are not yet born are the least reliable projections. It is worth stating, as well, that small schools/towns are the most difficult to project, as the in-/out-migration of only a few families makes a great difference. The research literature on enrollment projections indicates that a 1-2% variance per year is as close as projections are likely to occur-with the exceptions coming in the case of factors-that-were-not-known (examples, a parochial school closed, a charter school opened or expanded, the high school was placed on probation for its accreditation, the district had unusual difficulty in getting its annual budget approved – or other well-publicized difficulty which affected the number of families moving in, etc.)

**Long-Range Facilities Planning and Demographic Information:** Modified cohort survival (cohort component) forecasts are most often used in making decisions regarding annual budgets, 3–5-year plans, etc. However, if the district is engaged in long-range planning (for facilities or similar purposes), additional demographic features can be included in the preparation of the enrollment forecast in order to increase the long-range reliability of the result – including interviews with the Town/City Planner regarding anticipated residential construction, interviews with regional planners and with local realtors regarding recent home sales, and data regarding real estate sales and median sales prices - as well as U.S. Census/American Community Survey update information and other demographic factors, etc. Anticipated “student yield” of proposed multi-unit projects also can be calculated and included as a factor in the projection. Districts/schools with more than 1,000 students have more reliable projections than districts/schools with fewer than 1,000 students.

Karen Leacu LeDuc, Ph.D.  
New England School Development Council  
Revised June 10, 2021

### Historical Public Enrollments

1. After the "YEAR" column can be found the "BIRTHS" column. The number of births to residents for each of eleven years is displayed. Note any trends, e.g., have births been decreasing? increasing? leveling off? Kindergarten and Grade 1 enrollments normally are quite responsive to these fluctuations.
2. Look **down** the K and 1 columns, noting the direction of the trend. This affords a comparison of these classes over a ten-year period. Add the K and Grade 1 enrollments of the first school year recorded, and compare them with the sum of the current K and Grade 1 enrollments.
3. Take the first K class and follow it diagonally to trace its movement to Grade 1, 2, etc. up to its current 10th grade status. This comparison (which can be accomplished for other classes also) gives some measure of the effects of migration in your school district. If a sixth grade class today is larger than it was as a K class six years ago, then net in-migration probably has occurred; if it is smaller, then net out-migration probably has occurred.
4. Compare each K class with the previous year's graduating class. Note which is larger and by what amount one surpasses the other. Larger graduating classes generally reflect declining enrollments; larger K classes generally indicate increasing enrollments.
5. In the "Grade Combinations" section, note the trends of elementary, middle school and high school enrollments. A significant and consistent trend in these summaries usually results in the corresponding trend for projected enrollments. If enrollments are leveling off in the elementary grades after a period of decline, then the secondary enrollments might be expected to continue to decline for several years until the leveling off experience has had time to take hold at the secondary grades

### Enrollment Projections

1. Note the trends exhibited in the total K-12 (or 1-12) projection for the next five years as well as the projections for various grade combinations. The trends on this page should generally exhibit a continuation of the trends mentioned above for historical enrollments, although the **rate** of change may be quite different.
2. Look at the births in the most recent years and note whether the trend is up, down, or level.
3. Make similar comparisons as appropriate on this page as were suggested for the "Historical Public Enrollments" page

### PROJECTION METHODOLOGY

Cohort component (survival) technique is a frequently used method of preparing enrollment forecasts. NESDEC uses this method, but modifies it in order to move away from forecasts which are wholly computer or formula driven. Such modification permits the incorporation of important, current town-specific information into the generation of the enrollment forecasts (such as the volume of real estate sales, building permits, in/out-migration, etc.). Basically, percentages are calculated from the historical enrollment data to determine a reliable percentage of increase or decrease in enrollment between any two

grades. For example, if 100 students enrolled in Grade 1 in 2014-15, increased to 104 students in Grade 2 in 2015-16, the percentage of survival would have been 104% or a ratio of 1.04. Such ratios are calculated between each pair of grades or years in school over several recent years.

After study and analysis of the historical ratios, and based upon a reasonable set of assumptions regarding births, migration rates, retention rates, etc., ratios most indicative of future growth patterns are determined for each pair of grades. The ratios thus selected are applied to the present enrollment statistics for a pre-determined number of years. The ratios used are the key factors in the reliability of the projections, given the validity of the data at the starting point. The strength of the ratios lies in the fact that each ratio encompasses **collectively** the variables that account for increases or decreases in the size of a grade enrollment as it moves on to the next grade. Each ratio represents the cumulative effect of the following factors:

1. Real estate turnover and new residential construction;
2. Migration, in or out, of the schools;
3. Drop-outs, transfers, etc.;
4. Births to residents;
5. Retention in the same grade

### **RELIABILITY OF ENROLLMENT PROJECTIONS**

Projections can serve as useful guides to school administrators for educational planning. In this regard, the projections are generally most reliable when they are closest in time to the current year. Projections six to ten years out may serve as a guide to future enrollments, and are useful for facility planning purposes. However, they should be viewed as subject to change given the likelihood of changes in the underlying assumptions/trends.

Projections that are based upon **the children who already are in the district** (the current K-12 population only) will be the most reliable; the second level of reliability will be for those children already **born into the community but not yet old enough to be in school**. A less reliable category is the group for which an estimate must be made **to predict the number of births**, thereby adding an additional variable. See these three multi-colored groupings on the “Projected Enrollment” slide/page.

**How often do the actual enrollments closely match the NESDEC projections?** The research literature reports the closest that enrollment forecasters are likely to come to actual enrollments is about 1% variance per year-from-the-known-data. That is, a 1% variance from projection-to-actual “one-year-out” into the future (2% variance “two-years-out” ... 10% variance “ten-years-out”). NESDEC reaches this “highest possible” standard in about 90% of cases. When our NESDEC variance is greater, the reasons often are one of the following: a. imbedded/intervening “hidden” variables (examples: a parochial school closed or other students returned from non-public schools, a charter school opened, the Kindergarten program changed entrance age or to extended/full-day, the high school toughened its course credit/graduation requirements, the District set new attendance boundaries for elementary schools, or the District had well-publicized budget/referendum academic accreditation difficulties); b. the District size was below 500 students, thus subject to fluctuations in total numbers; or c. the District has not done enrollment projections on an annual basis.

Annual updates allow for early identification of recent changes in historical trends. When the actual enrollment in a grade is significantly different (high or low) from the projected number, it is important (yet difficult) to determine whether this is a one-year aberration or whether a new trend may have begun. **In light of this possibility, NESDEC urges all school districts to have updated enrollment forecasts developed by NESDEC each October.** This service is available at no cost to affiliated school districts.

School Year	EOY Enrollment	2020		2019		2018		2017		2016		2015	
		NESDEC	CI	NESDEC	CI	NESDEC	CI	NESDEC	CI	NESDEC	CI	NESDEC	CI
2011-2012	608												
2012-2013	589												
2013-2014	574												
2014-2015	565												
2015-2016	557											532	96%
2016-2017	545									528	97%	497	91%
2017-2018	530							514	97%	519	98%	477	90%
2018-2019	542					534	99%	534	99%	532	98%	476	88%
2019-2020	562			559	99%	564	100%	565	99%	551	98%	476	85%
2020-2021	551	557	99%	591	93%	600	98%	596	91%	568	97%	479	87%

\*COVID factor\*

2014		2013		2012		2011	
NESDEC	CI	NESDEC	CI	NESDEC	CI	NESDEC	CI
						594	98%
				574	97%	598	98%
		568	99%	533	93%	573	100%
543	96%	551	98%	509	90%	557	99%
513	92%	510	92%	472	85%	536	96%
471	86%	467	86%	439	81%	516	95%
443	84%	437	82%	416	78%	510	96%
436	80%	437	81%	418	77%	520	96%
428	76%	434	77%	425	76%	511	91%
425	77%	426	77%	442	80%	530	96%

# Brookline, NH SAU#41 Historical Enrollment

School District: Brookline, NH SAU#41

11/9/2011

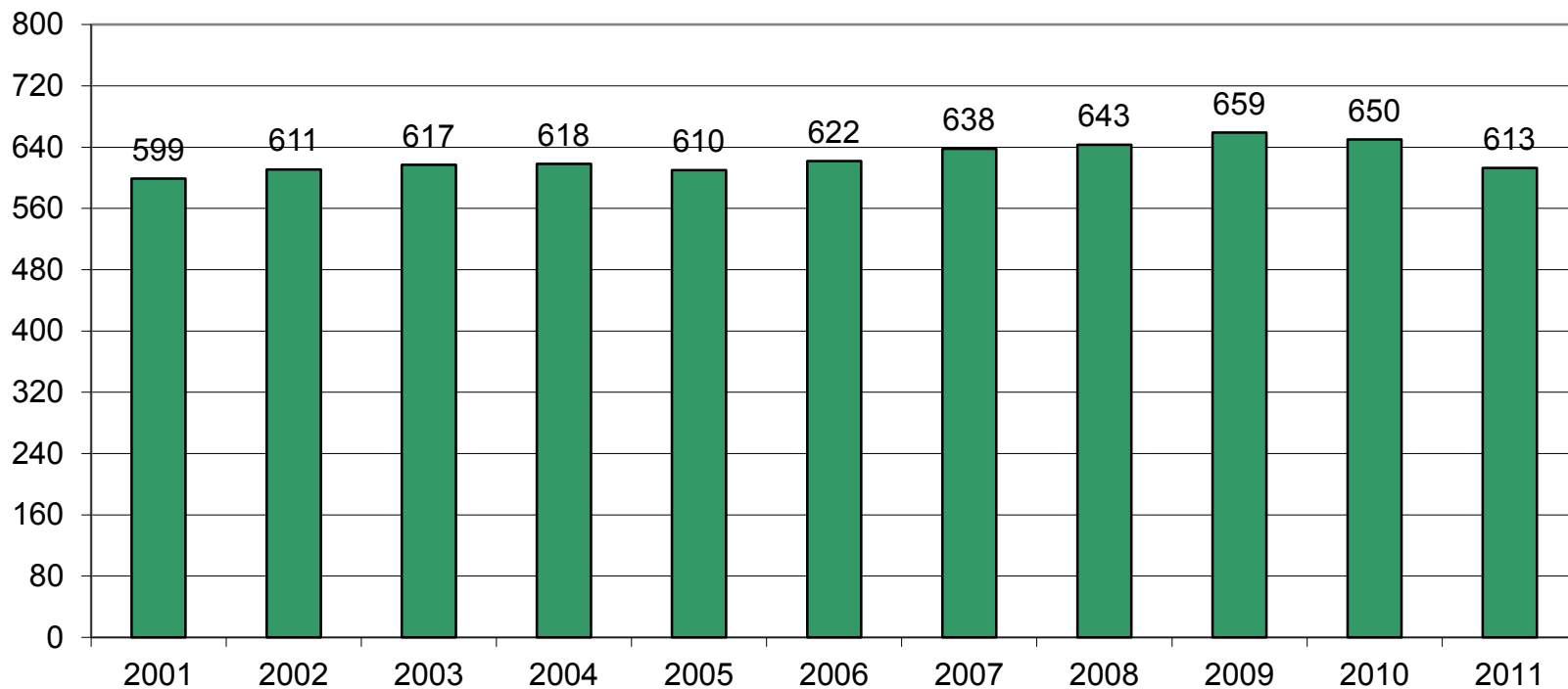
Historical Enrollment By Grade																			
Birth Year	Births	School Year	PK	K	1	2	3	4	5	6	7	8	9	10	11	12	UNGR	K-6	PK-6
1996	71	2001-02	14	68	78	83	85	101	85	85	0	0	0	0	0	0	0	585	599
1997	71	2002-03	16	68	89	77	86	85	102	88	0	0	0	0	0	0	0	595	611
1998	61	2003-04	14	73	80	85	79	88	91	107	0	0	0	0	0	0	0	603	617
1999	67	2004-05	13	77	89	86	88	84	86	95	0	0	0	0	0	0	0	605	618
2000	61	2005-06	10	53	91	92	87	97	89	91	0	0	0	0	0	0	0	600	610
2001	52	2006-07	0	77	70	103	95	89	99	89	0	0	0	0	0	0	0	622	622
2002	61	2007-08	16	74	81	68	109	98	94	98	0	0	0	0	0	0	0	622	638
2003	57	2008-09	14	86	86	84	74	106	100	93	0	0	0	0	0	0	0	629	643
2004	69	2009-10	12	72	118	88	89	76	105	99	0	0	0	0	0	0	0	647	659
2005	45	2010-11	18	78	94	98	89	89	79	105	0	0	0	0	0	0	0	632	650
2006	61	2011-12	19	52	83	96	101	90	90	82	0	0	0	0	0	0	0	594	613

Historical Enrollment in Grade Combinations									
Year	PK-5	K-5	K-6	K-8	5-8	6-8	7-8	7-12	9-12
2001-02	514	500	585	0	0	0	0	0	0
2002-03	523	507	595	0	0	0	0	0	0
2003-04	510	496	603	0	0	0	0	0	0
2004-05	523	510	605	0	0	0	0	0	0
2005-06	519	509	600	0	0	0	0	0	0
2006-07	533	533	622	0	0	0	0	0	0
2007-08	540	524	622	0	0	0	0	0	0
2008-09	550	536	629	0	0	0	0	0	0
2009-10	560	548	647	0	0	0	0	0	0
2010-11	545	527	632	0	0	0	0	0	0
2011-12	531	512	594	0	0	0	0	0	0

Historical Percentage Changes			
Year	K-6	Diff.	%
2001-02	585	0	0.0%
2002-03	595	10	1.7%
2003-04	603	8	1.3%
2004-05	605	2	0.3%
2005-06	600	-5	-0.8%
2006-07	622	22	3.7%
2007-08	622	0	0.0%
2008-09	629	7	1.1%
2009-10	647	18	2.9%
2010-11	632	-15	-2.3%
2011-12	594	-38	-6.0%
<b>K-6 Change</b>		<b>9</b>	<b>1.5%</b>

# Brookline, NH SAU#41 Historical Enrollment

PK-6, 2001-2011



# Brookline, NH SAU#41 Projected Enrollment

School District: Brookline, NH SAU#41

11/9/2011

Enrollment Projections By Grade*																				
Birth Year	Births		School Year	PK	K	1	2	3	4	5	6	7	8	9	10	11	12	UNGR	K-6	PK-6
2006	61		2011-12	19	52	83	96	101	90	90	82	0	0	0	0	0	0	0	594	613
2007	55		2012-13	19	70	65	80	99	102	91	91	0	0	0	0	0	0	0	598	617
2008	36		2013-14	19	46	87	62	83	100	103	92	0	0	0	0	0	0	0	573	592
2009	50		2014-15	19	64	57	83	64	84	101	104	0	0	0	0	0	0	0	557	576
2010	49	(est.)	2015-16	19	63	80	55	86	65	85	102	0	0	0	0	0	0	0	536	555
2011	50	(est.)	2016-17	19	64	79	77	57	87	66	86	0	0	0	0	0	0	0	516	535
2012	48	(est.)	2017-18	19	61	80	76	80	58	88	67	0	0	0	0	0	0	0	510	529
2013	47	(est.)	2018-19	19	59	76	77	79	81	59	89	0	0	0	0	0	0	0	520	539
2014	49	(est.)	2019-20	19	62	74	73	80	80	82	60	0	0	0	0	0	0	0	511	530
2015	49	(est.)	2020-21	19	62	77	71	75	81	81	83	0	0	0	0	0	0	0	530	549
2016	49	(est.)	2021-22	19	62	77	74	73	76	82	82	0	0	0	0	0	0	0	526	545

\*Projections should be updated on an annual basis.

Based on an estimate of births

Based on children already born

Based on students already enrolled

Projected Enrollment in Grade Combinations*									
Year	PK-5	K-5	K-6	K-8	5-8	6-8	7-8	7-12	9-12
2011-12	531	512	594	0	0	0	0	0	0
2012-13	526	507	598	0	0	0	0	0	0
2013-14	500	481	573	0	0	0	0	0	0
2014-15	472	453	557	0	0	0	0	0	0
2015-16	453	434	536	0	0	0	0	0	0
2016-17	449	430	516	0	0	0	0	0	0
2017-18	462	443	510	0	0	0	0	0	0
2018-19	450	431	520	0	0	0	0	0	0
2019-20	470	451	511	0	0	0	0	0	0
2020-21	466	447	530	0	0	0	0	0	0
2021-22	463	444	526	0	0	0	0	0	0

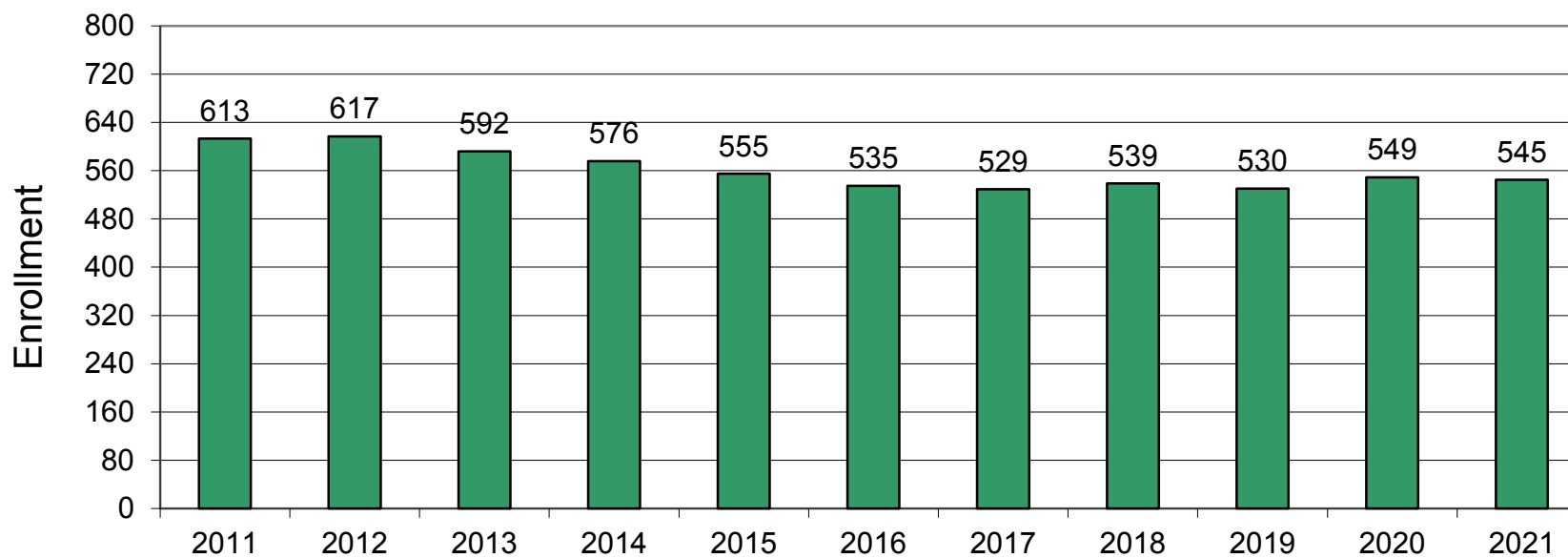
Projected Percentage Changes			
Years	K-6	Diff.	%
2011-12	594	0	0.0%
2012-13	598	4	0.7%
2013-14	573	-25	-4.2%
2014-15	557	-16	-2.8%
2015-16	536	-21	-3.8%
2016-17	516	-20	-3.7%
2017-18	510	-6	-1.2%
2018-19	520	10	2.0%
2019-20	511	-9	-1.7%
2020-21	530	19	3.7%
2021-22	526	-4	-0.8%
<b>K-6 Change</b>		<b>-68</b>	<b>-11.4%</b>

See "Reliability of Enrollment Projections" section of accompanying letter.  
Projections are more reliable for Years 1-5 in the future than for Years 6 and beyond.



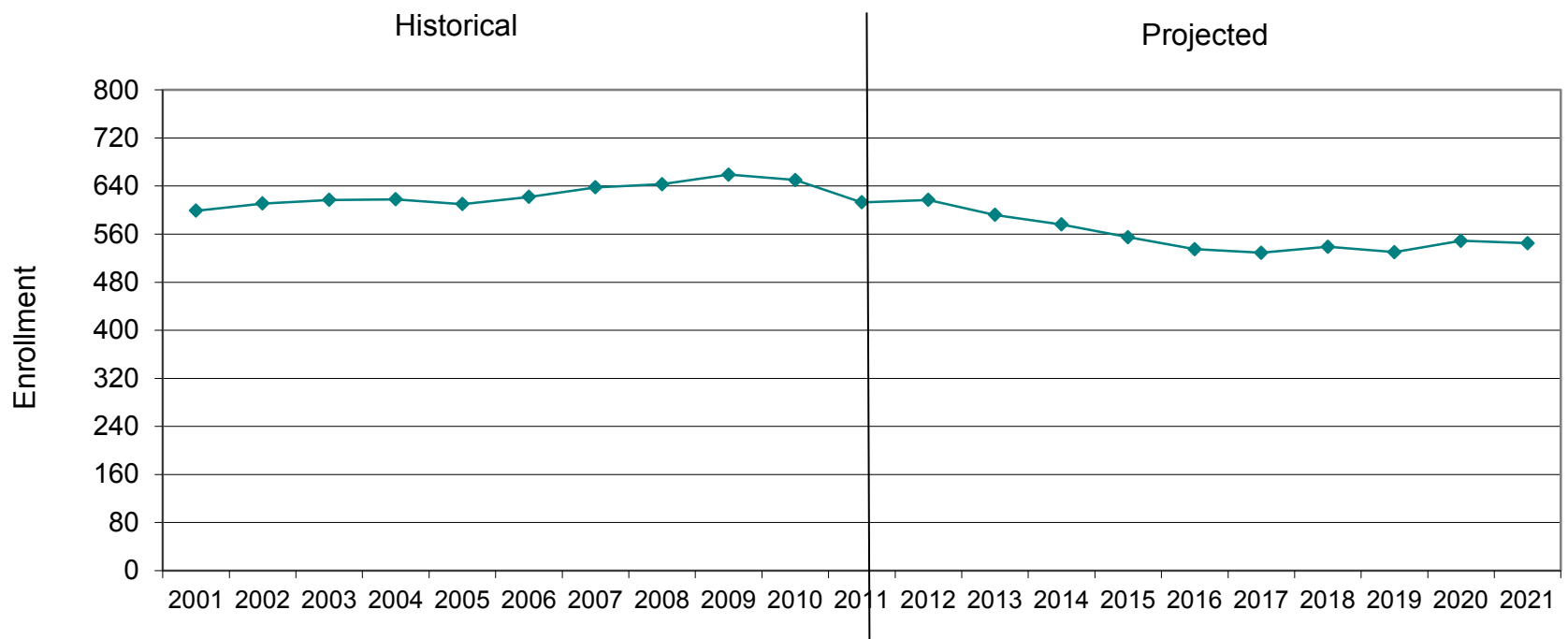
# Brookline, NH Projected Enrollment

PK-6 TO 2021 Based On Data Through School Year 2011-12

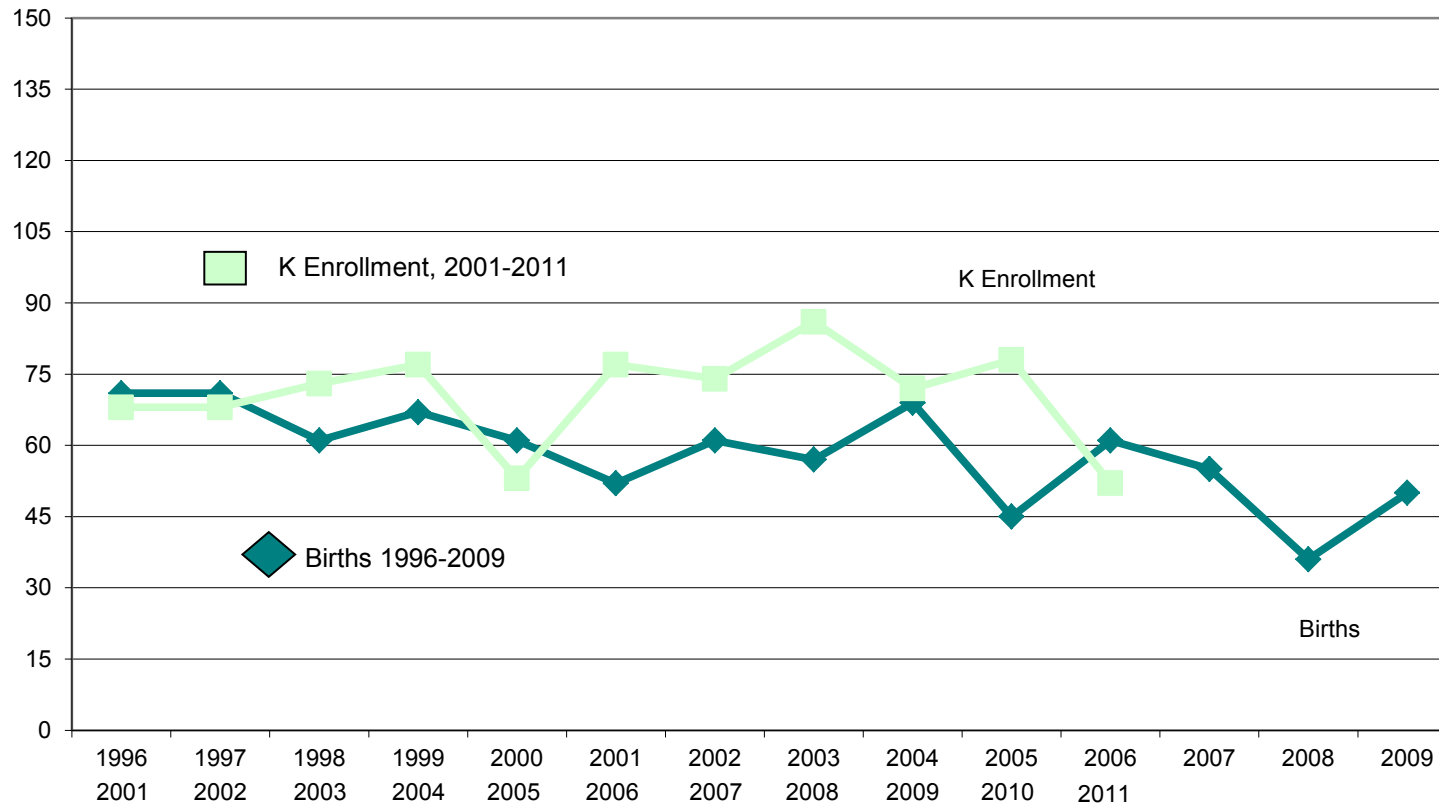


# Brookline, NH SAU#41 Historical & Projected Enrollment

**PK-6, 2001-2021**



# Brookline, NH Birth-to-Kindergarten Relationship



# Brookline, NH SAU#41 Additional Data

Building Permits Issued		
Year	Single-Family	Multi-Units
2000	35	0
2007	31	0
2008	14	0
2009	11	0
2010	12	0
2011	7 to date	0

Source: HUD and Building Department

Enrollment History		
Year	Voc-Tech 9-12 Total	Non-Public K-12 Total
2000-01	n/a	n/a
2007-08	n/a	n/a
2008-09	n/a	n/a
2009-10	n/a	n/a
2010-11	n/a	n/a
2011-12	n/a	n/a

Residents in Non-Public Independent and Parochial Schools (Regular Education)														
Enrollments as of Oct. 1	K	1	2	3	4	5	6	7	8	9	10	11	12	K-12 TOTAL
	0	0	0	0	0	0	0	0	0	0	0	0	0	n/a

K-12 Home-Schooled Students	
2011	10

K-12 Residents Enrolled in Charter or Magnet Schools	
2011	n/a

K-12 SpEd Outplaced Students	
2011	3

K-12 Choiced-In, Tuitioned-In, & Other Non-Residents	
2011	n/a

The above data were used to assist in the preparation of the enrollment projections. If additional demographic work is needed, please contact our office.



# Brookline, NH Historical Enrollment

School District:

Brookline, NH (SAU#41)

11/15/2012

## Historical Enrollment By Grade

Birth Year	Births	School Year	PK	K	1	2	3	4	5	6	7	8	9	10	11	12	UNGR	K-6	PK-6
1997	71	2002-03	16	68	89	77	86	85	102	88	0	0	0	0	0	0	0	595	611
1998	61	2003-04	14	73	80	85	79	88	91	107	0	0	0	0	0	0	0	603	617
1999	67	2004-05	13	77	89	86	88	84	86	95	0	0	0	0	0	0	0	605	618
2000	61	2005-06	10	53	91	92	87	97	89	91	0	0	0	0	0	0	0	600	610
2001	52	2006-07	0	77	70	103	95	89	99	89	0	0	0	0	0	0	0	622	622
2002	61	2007-08	16	74	81	68	109	98	94	98	0	0	0	0	0	0	0	622	638
2003	57	2008-09	14	86	86	84	74	106	100	93	0	0	0	0	0	0	0	629	643
2004	69	2009-10	12	72	118	88	89	76	105	99	0	0	0	0	0	0	0	647	659
2005	45	2010-11	18	78	94	98	89	89	79	105	0	0	0	0	0	0	0	632	650
2006	61	2011-12	19	52	83	96	101	90	90	82	0	0	0	0	0	0	0	594	613
2007	55	2012-13	29	48	60	84	96	102	90	94	0	0	0	0	0	0	0	574	603

## Historical Enrollment in Grade Combinations

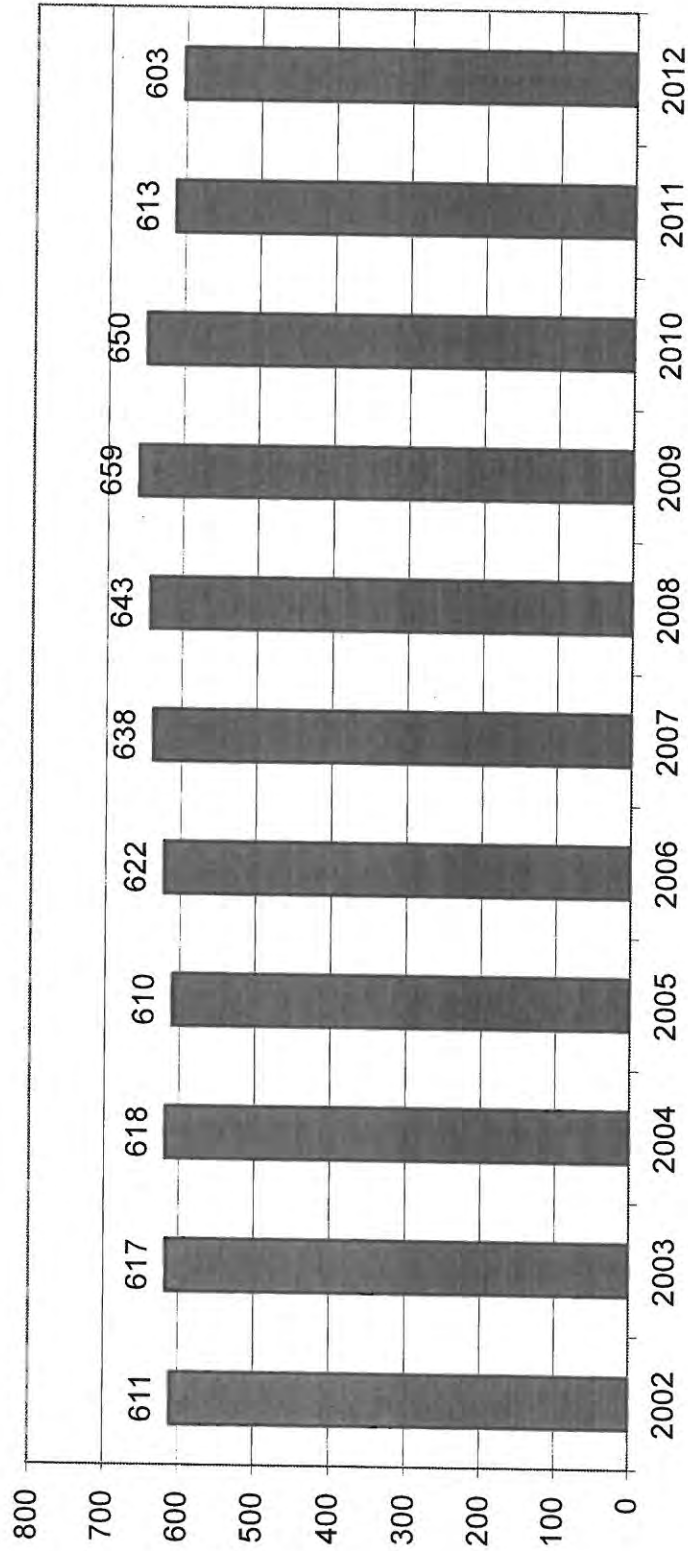
Year	K-4	K-5	K-6	K-8	5-8	6-8	7-8	7-12	9-12
2002-03	405	507	595	0	0	0	0	0	0
2003-04	405	496	603	0	0	0	0	0	0
2004-05	424	510	605	0	0	0	0	0	0
2005-06	420	509	600	0	0	0	0	0	0
2006-07	434	533	622	0	0	0	0	0	0
2007-08	430	524	622	0	0	0	0	0	0
2008-09	436	536	629	0	0	0	0	0	0
2009-10	443	548	647	0	0	0	0	0	0
2010-11	448	527	632	0	0	0	0	0	0
2011-12	422	512	594	0	0	0	0	0	0
2012-13	390	460	574	0	0	0	0	0	0

## Historical Percentage Changes

Year	K-6	Diff.	%
2002-03	595	0	0.0%
2003-04	603	8	1.3%
2004-05	605	2	0.3%
2005-06	600	-5	-0.8%
2006-07	622	22	3.7%
2007-08	622	0	0.0%
2008-09	629	7	1.1%
2009-10	647	18	2.9%
2010-11	632	-15	-2.3%
2011-12	594	-38	-6.0%
2012-13	574	-20	-3.4%
Change		-21	-3.5%

# Brookline, NH Historical Enrollment

PK-6, 2002-2012



# Brookline, NH Projected Enrollment

School District:

Brookline, NH (SAU#41)

11/15/2012

Enrollment Projections By Grade*																			
Year	Births	School Year	PK	K	1	2	3	4	5	6	7	8	9	10	11	12	UNGR	K-6	PK-6
2007	55	2012-13	29	48	60	84	96	102	90	94	0	0	0	0	0	0	0	574	603
2008	36	2013-14	29	41	56	58	85	97	104	92	0	0	0	0	0	0	0	533	562
2009	50	2014-15	30	56	48	54	59	86	99	107	0	0	0	0	0	0	0	509	539
2010	49	(est.) 2015-16	30	56	66	47	55	59	87	102	0	0	0	0	0	0	0	472	502
2011	50	(est.) 2016-17	31	57	66	64	48	55	60	89	0	0	0	0	0	0	0	439	470
2012	48	(est.) 2017-18	31	54	67	64	65	48	56	62	0	0	0	0	0	0	0	416	447
2013	47	(est.) 2018-19	32	53	63	65	65	65	49	58	0	0	0	0	0	0	0	418	450
2014	49	(est.) 2019-20	32	55	62	61	66	65	66	50	0	0	0	0	0	0	0	425	457
2015	49	(est.) 2020-21	33	55	65	60	62	66	66	68	0	0	0	0	0	0	0	442	475
2016	49	(est.) 2021-22	33	55	65	63	61	62	67	68	0	0	0	0	0	0	0	441	474
2017	48	(est.) 2022-23	34	54	65	63	64	61	63	69	0	0	0	0	0	0	0	439	473

\*Projections should be updated on an annual basis.

Based on an estimate of births

Based on children already born

Based on students already enrolled

Projected Enrollment in Grade Combinations*									
Year	K-4	K-5	K-6	K-8	5-8	6-8	7-8	7-12	9-12
2012-13	390	480	574	0	0	0	0	0	0
2013-14	337	441	533	0	0	0	0	0	0
2014-15	303	402	509	0	0	0	0	0	0
2015-16	283	370	472	0	0	0	0	0	0
2016-17	290	350	439	0	0	0	0	0	0
2017-18	298	354	416	0	0	0	0	0	0
2018-19	311	360	418	0	0	0	0	0	0
2019-20	309	375	425	0	0	0	0	0	0
2020-21	308	374	442	0	0	0	0	0	0
2021-22	306	373	441	0	0	0	0	0	0
2022-23	307	370	439	0	0	0	0	0	0

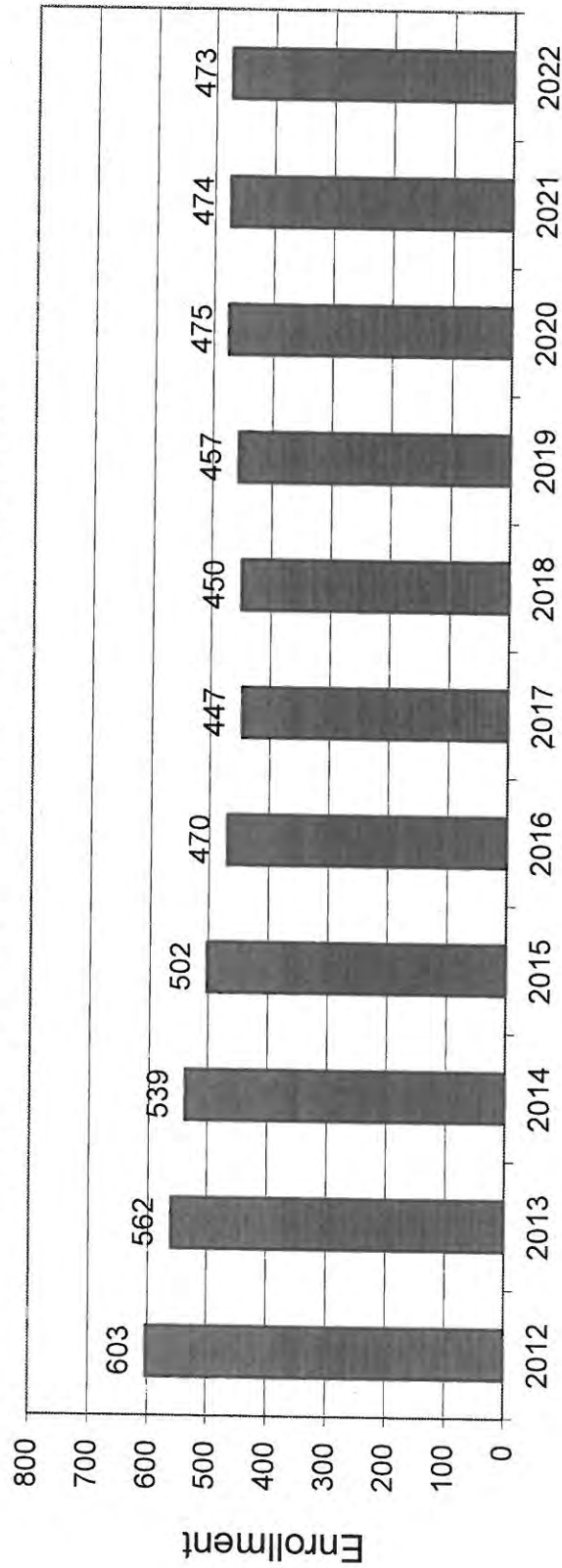
See "Reliability of Enrollment Projections" section of accompanying letter.

Projections are more reliable for Years 1-5 in the future than for Years 6 and beyond.

Projected Percentage Changes			
Years	K-6	Diff.	%
2012-13	574	0	0.0%
2013-14	533	-41	-7.1%
2014-15	509	-24	-4.5%
2015-16	472	-37	-7.3%
2016-17	439	-33	-7.0%
2017-18	416	-23	-5.2%
2018-19	418	2	0.5%
2019-20	425	7	1.7%
2020-21	442	17	4.0%
2021-22	441	-1	-0.2%
2022-23	439	-2	-0.5%
Change	-135	-23.5%	

# Brookline, NH Projected Enrollment

PK-6 TO 2022 Based On Data Through School Year 2012-13

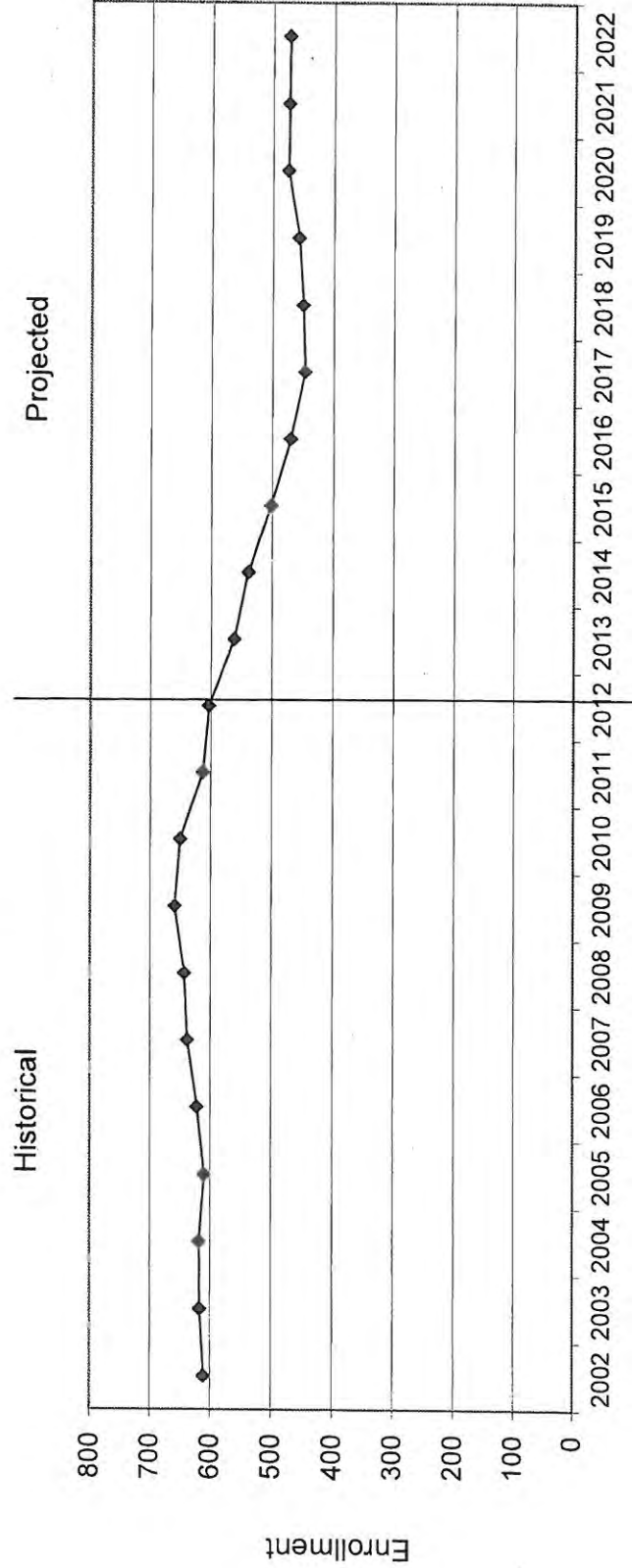




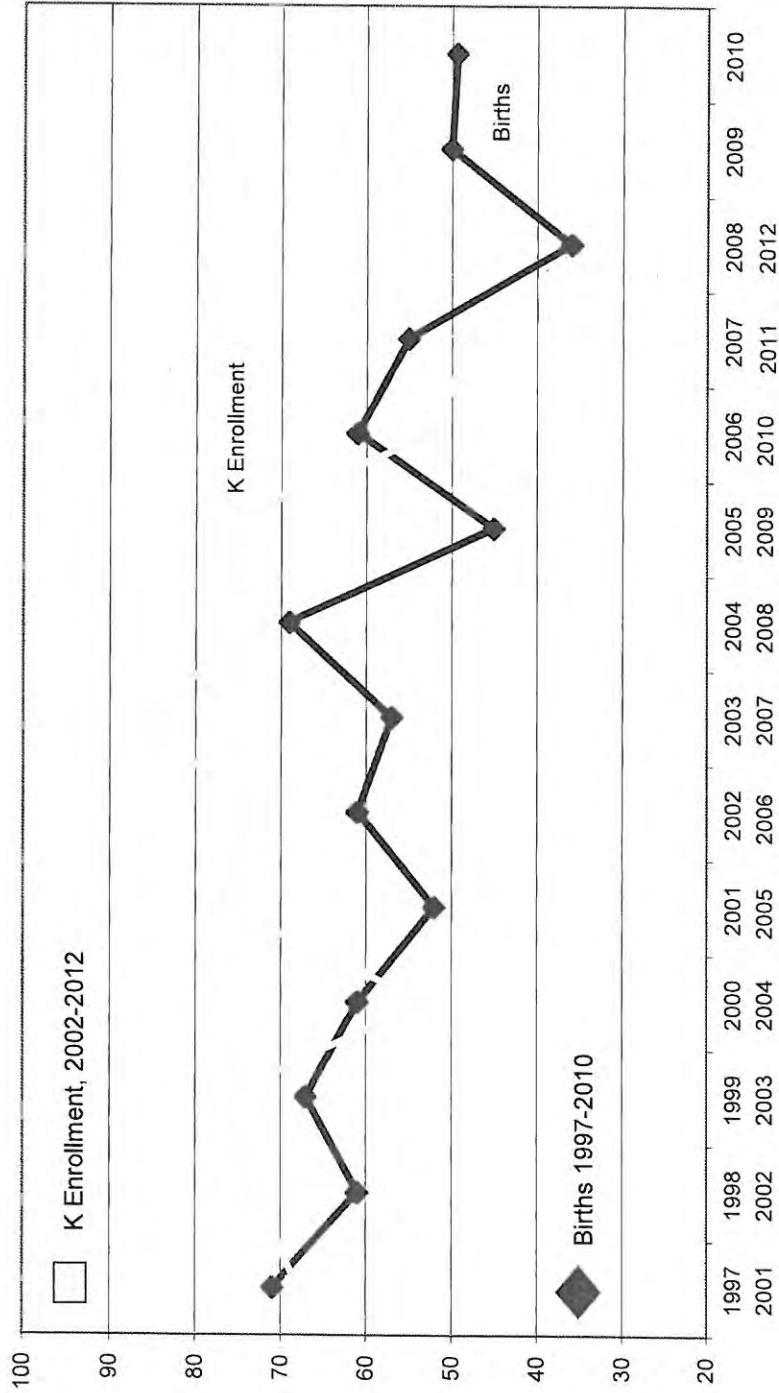


# Brookline, NH Historical & Projected Enrollment

PK-6, 2002-2022



# Brookline, NH Birth-to-Kindergarten Relationship



# Brookline, NH Additional Data

Building Permits Issued		
Year	Single-Family	Multi-Units
2000	35	0
2008	14	0
2009	11	0
2010	12	0
2011	7	0
2012	12 to 9/30	0

Source: HUD and Building Department

Year	Enrollment History	
	Voc-Tech 9-12 Total	Non-Public K-12 Total
2001-02	n/a	n/a
2008-09	n/a	n/a
2009-10	n/a	n/a
2010-11	n/a	n/a
2011-12	n/a	n/a
2012-13	n/a	n/a

Residents in Non-Public Independent and Parochial Schools (Regular Education)														
Enrollments as of Oct. 1	K	1	2	3	4	5	6	7	8	9	10	11	12	K-12 TOTAL
	0	0	0	0	0	0	0	0	0	0	0	0	0	0

K-6 Home-Schooled Students	11
2012	n/a

K-6 Residents "Choiiced-out" or in Charter or Magnet Schools	n/a
2012	n/a

K-6 SpEd Outplaced Students	2
2012	2

K-6 Choiiced-In, Tuitioned-In, & Other Non- Residents	n/a
2012	n/a

The above data were used to assist in the preparation of the enrollment projections. If additional demographic work is needed, please contact our office.

# Brookline, NH Historical Enrollment

School District: Brookline, NH SAU #41

11/14/2013

## Historical Enrollment By Grade

Birth Year	Births	School Year	PK	K	1	2	3	4	5	6	7	8	9	10	11	12	UNGR	K-6	PK-6
1998	61	2003-04	14	73	80	85	79	88	91	107	0	0	0	0	0	0	0	603	617
1999	67	2004-05	13	77	89	86	88	84	86	95	0	0	0	0	0	0	0	605	618
2000	61	2005-06	10	53	91	92	87	97	89	91	0	0	0	0	0	0	0	600	610
2001	52	2006-07	0	77	70	103	95	89	99	89	0	0	0	0	0	0	0	622	622
2002	61	2007-08	16	74	81	68	109	98	94	98	0	0	0	0	0	0	0	622	638
2003	57	2008-09	14	86	86	84	74	106	100	93	0	0	0	0	0	0	0	629	643
2004	69	2009-10	12	72	118	88	89	76	105	99	0	0	0	0	0	0	0	647	659
2005	45	2010-11	18	78	94	98	89	89	79	105	0	0	0	0	0	0	0	632	650
2006	61	2011-12	19	52	83	96	101	90	90	82	0	0	0	0	0	0	0	594	613
2007	55	2012-13	29	48	60	84	96	102	90	94	0	0	0	0	0	0	0	574	603
2008	36	2013-14	33	56	62	60	89	98	106	97	0	0	0	0	0	0	0	568	601

## Historical Enrollment in Grade Combinations

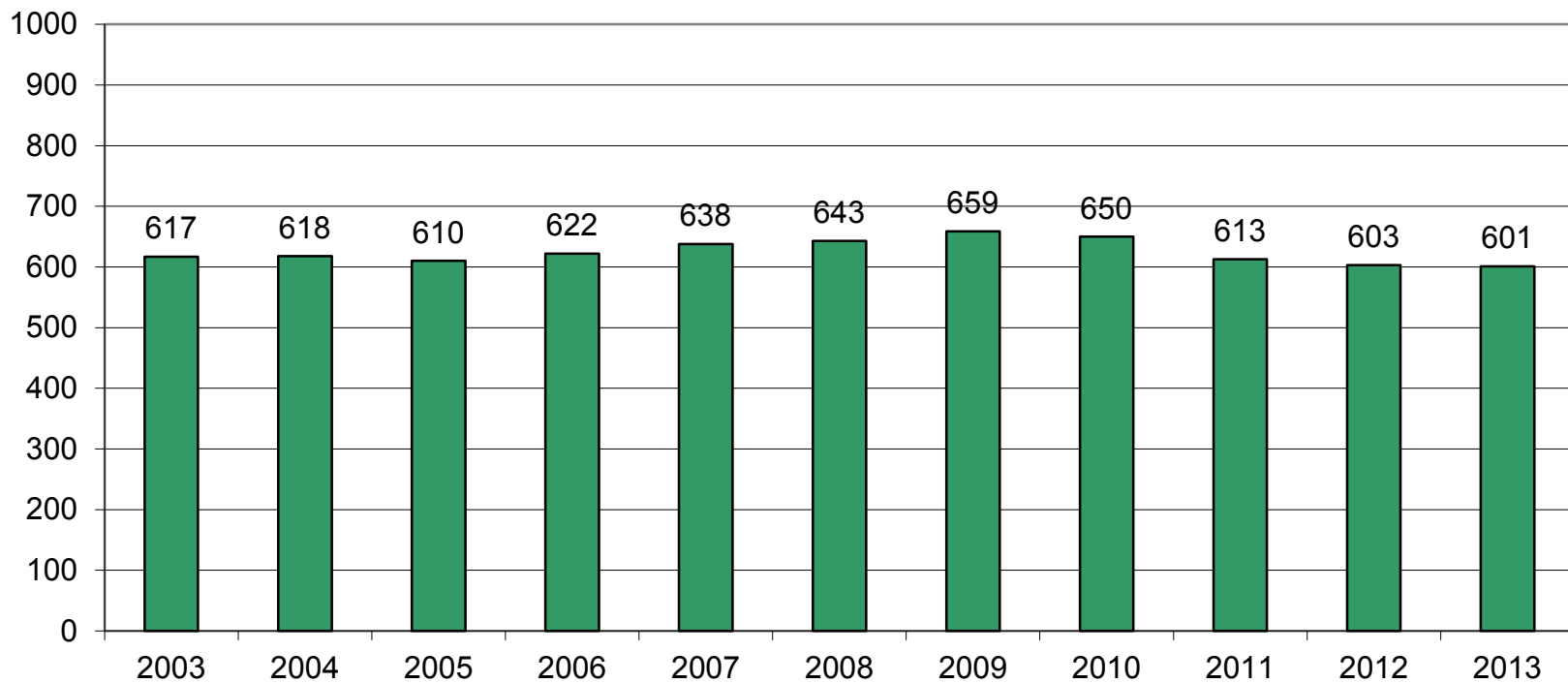
Year	K-4	K-5	K-6	K-8	5-8	6-8	7-8	7-12	9-12
2003-04	405	496	603	0	0	0	0	0	0
2004-05	424	510	605	0	0	0	0	0	0
2005-06	420	509	600	0	0	0	0	0	0
2006-07	434	533	622	0	0	0	0	0	0
2007-08	430	524	622	0	0	0	0	0	0
2008-09	436	536	629	0	0	0	0	0	0
2009-10	443	548	647	0	0	0	0	0	0
2010-11	448	527	632	0	0	0	0	0	0
2011-12	422	512	594	0	0	0	0	0	0
2012-13	390	480	574	0	0	0	0	0	0
2013-14	365	471	568	0	0	0	0	0	0

## Historical Percentage Changes

Year	K-6	Diff.	%
2003-04	603	0	0.0%
2004-05	605	2	0.3%
2005-06	600	-5	-0.8%
2006-07	622	22	3.7%
2007-08	622	0	0.0%
2008-09	629	7	1.1%
2009-10	647	18	2.9%
2010-11	632	-15	-2.3%
2011-12	594	-38	-6.0%
2012-13	574	-20	-3.4%
2013-14	568	-6	-1.0%
<b>Change</b>		<b>-35</b>	<b>-5.8%</b>

# Brookline, NH Historical Enrollment

**PK-6, 2003-2013**



# Brookline, NH Projected Enrollment

School District: Brookline, NH SAU #41

11/14/2013

Enrollment Projections By Grade*																				
Birth Year	Births		School Year	PK	K	1	2	3	4	5	6	7	8	9	10	11	12	UNGR	K-6	PK-6
2008	36		2013-14	33	56	62	60	89	98	106	97	0	0	0	0	0	0	0	568	601
2009	50		2014-15	33	58	66	63	62	90	100	112	0	0	0	0	0	0	0	551	584
2010	43		2015-16	33	50	68	67	65	63	92	105	0	0	0	0	0	0	0	510	543
2011	38	prov.	2016-17	34	44	58	69	69	66	64	97	0	0	0	0	0	0	0	467	501
2012	44	(est.)	2017-18	34	52	51	59	71	70	67	67	0	0	0	0	0	0	0	437	471
2013	42	(est.)	2018-19	34	49	61	52	61	72	71	71	0	0	0	0	0	0	0	437	471
2014	44	(est.)	2019-20	35	51	57	62	54	62	73	75	0	0	0	0	0	0	0	434	469
2015	42	(est.)	2020-21	35	49	60	58	64	55	63	77	0	0	0	0	0	0	0	426	461
2016	42	(est.)	2021-22	35	49	57	61	60	65	56	66	0	0	0	0	0	0	0	414	449
2017	43	(est.)	2022-23	36	50	57	58	63	61	66	59	0	0	0	0	0	0	0	414	450
2018	43	(est.)	2023-24	36	49	58	58	60	64	62	70	0	0	0	0	0	0	0	421	457

\*Projections should be updated on an annual basis.

Based on an estimate of births

Based on children already born

Based on students already enrolled

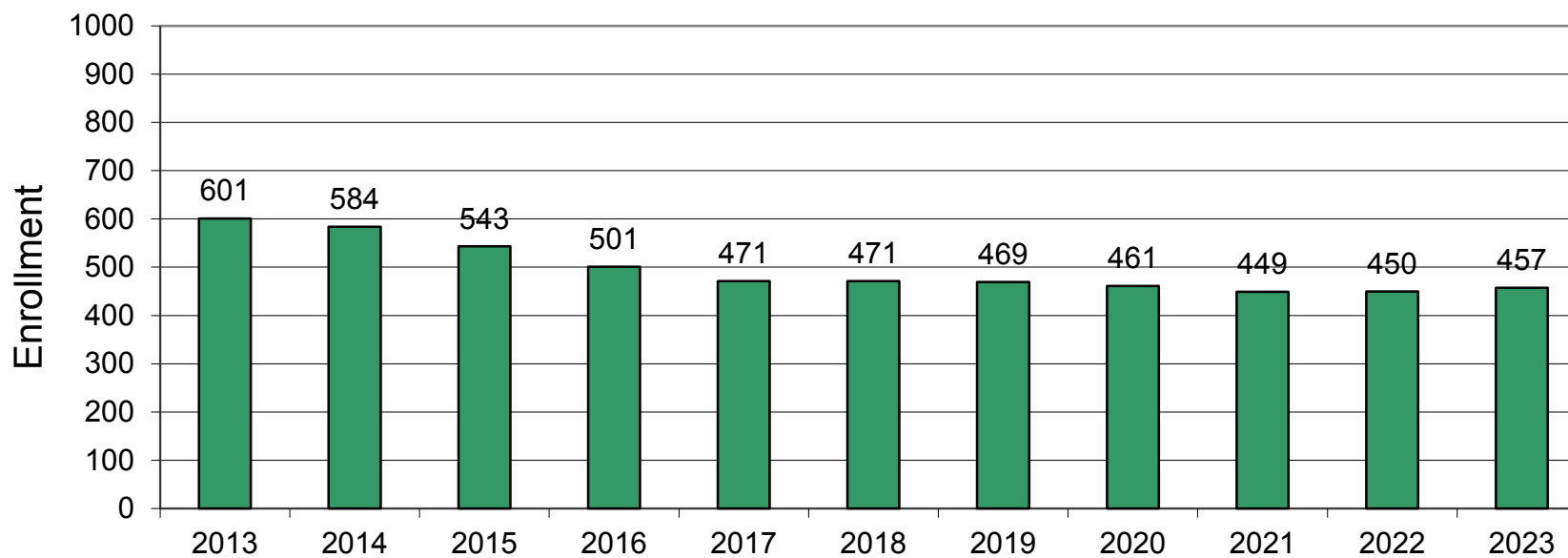
Projected Enrollment in Grade Combinations*									
Year	K-4	K-5	K-6	K-8	5-8	6-8	7-8	7-12	9-12
2013-14	365	471	568	568	203	97	0	0	0
2014-15	339	439	551	551	212	112	0	0	0
2015-16	313	405	510	510	197	105	0	0	0
2016-17	306	370	467	467	161	97	0	0	0
2017-18	303	370	437	437	134	67	0	0	0
2018-19	295	366	437	437	142	71	0	0	0
2019-20	286	359	434	434	148	75	0	0	0
2020-21	286	349	426	426	140	77	0	0	0
2021-22	292	348	414	414	122	66	0	0	0
2022-23	289	355	414	414	125	59	0	0	0
2023-24	289	351	421	421	132	70	0	0	0

Projected Percentage Changes			
Years	K-6	Diff.	%
2013-14	568	0	0.0%
2014-15	551	-17	-3.0%
2015-16	510	-41	-7.4%
2016-17	467	-43	-8.4%
2017-18	437	-30	-6.4%
2018-19	437	0	0.0%
2019-20	434	-3	-0.7%
2020-21	426	-8	-1.8%
2021-22	414	-12	-2.8%
2022-23	414	0	0.0%
2023-24	421	7	1.7%
<b>Change</b>		<b>-147</b>	<b>-25.9%</b>

See "Reliability of Enrollment Projections" section of accompanying letter.  
Projections are more reliable for Years #1-5 in the future than for Years #6 and beyond.

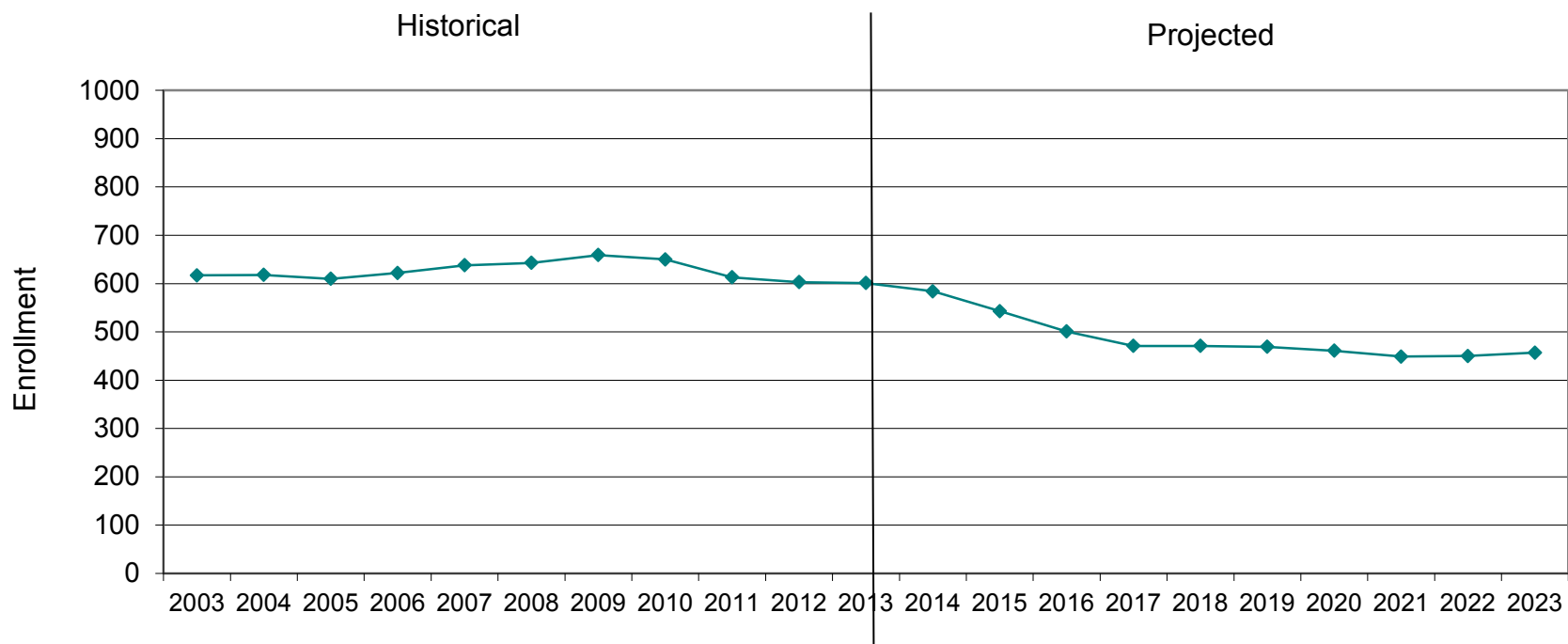
# Brookline, NH Projected Enrollment

PK-6 TO 2023 Based On Data Through School Year 2013-14



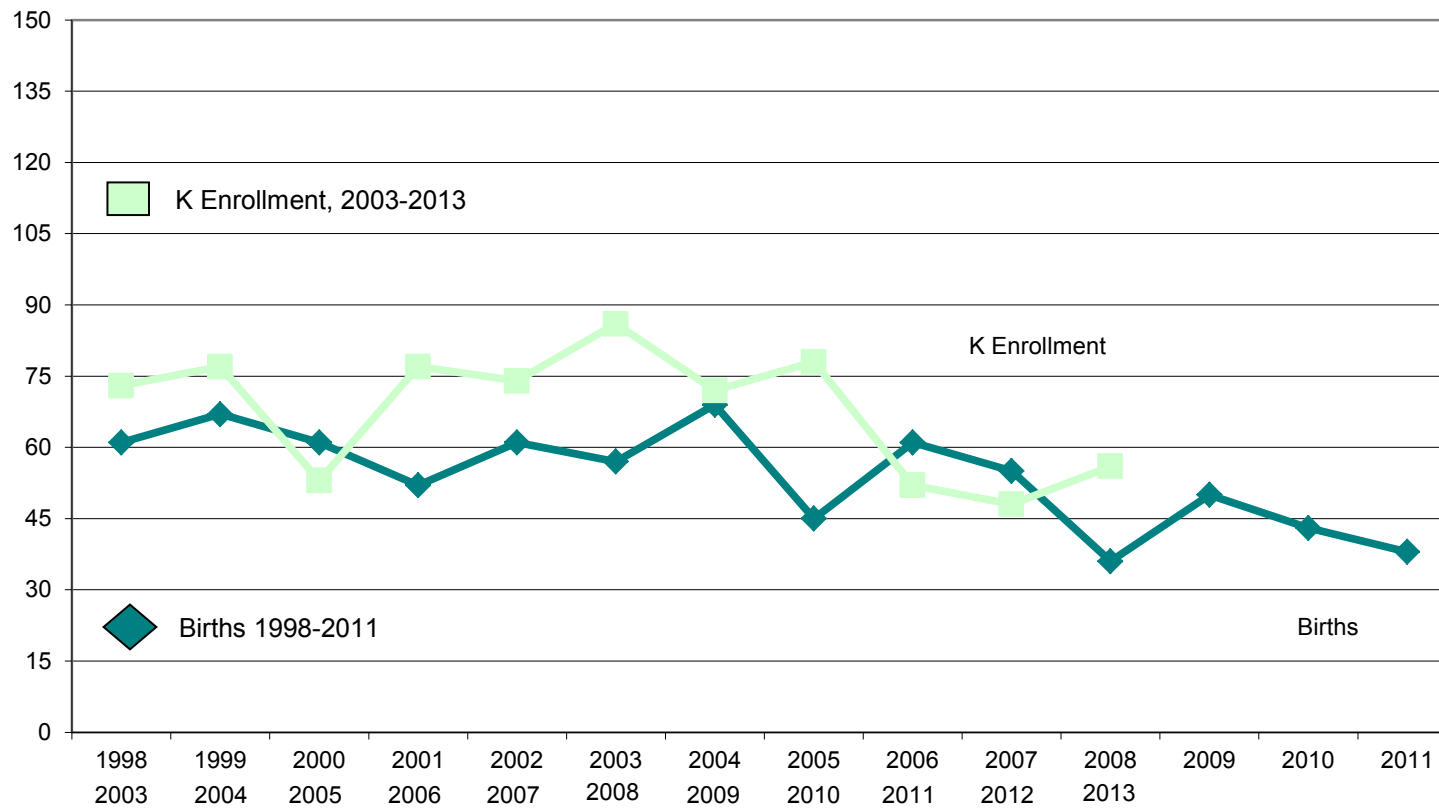
# Brookline, NH Historical & Projected Enrollment

**PK-6, 2003-2023**





# Brookline, NH Birth-to-Kindergarten Relationship



# Brookline, NH Additional Data

Building Permits Issued		
Year	Single-Family	Multi-Units
2005	48	0
2009	11	0
2010	12	0
2011	7	0
2012	15	0
2013	14 to Aug 31	0

Source: HUD and Building Department

Enrollment History		
Year	Voc-Tech 9-12 Total	Non-Public K-6 Total
2005-06	n/a	n/a
2009-10	n/a	n/a
2010-11	n/a	n/a
2011-12	n/a	n/a
2012-13	n/a	n/a
2013-14	n/a	n/a

Residents in Non-Public Independent and Parochial Schools (Regular Education)														
Enrollments as of Oct. 1	K	1	2	3	4	5	6	7	8	9	10	11	12	K-6 TOTAL
	0	0	0	0	0	0	0	0	0	0	0	0	0	n/a

K-6 Home-Schooled Students	
2013	4

K-6 Residents "Choiced-out" or in Charter or Magnet Schools	
2013	n/a

K-6 SpEd Outplaced Students	
2013	4

K-6 Choiced-In, Tuitioned-In, & Other Non- Residents	
2013	n/a

The above data were used to assist in the preparation of the enrollment projections. If additional demographic work is needed, please contact our office.



# Brookline, NH - SAU #41 Historical Enrollment

School District:

Brookline, NH - SAU #41

12/1/2014

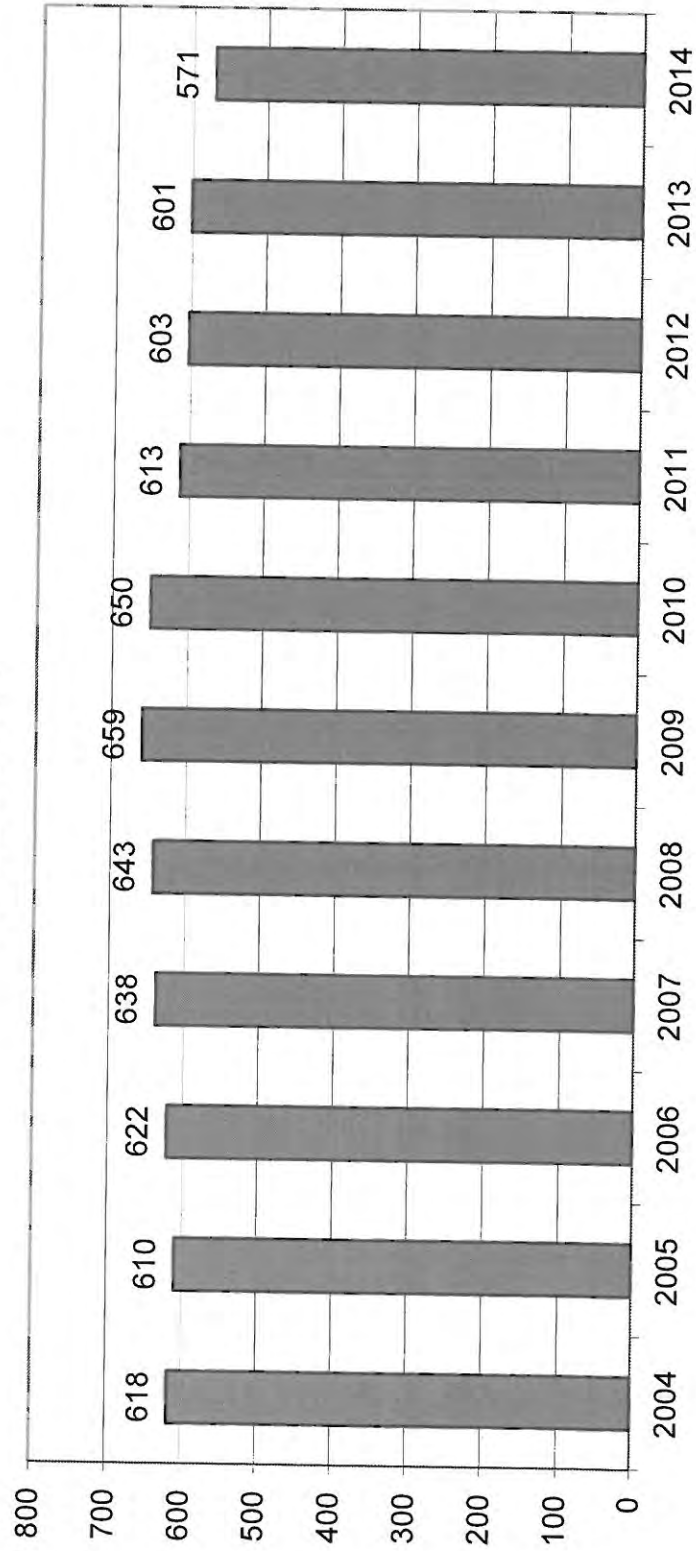
Historical Enrollment By Grade																			
Birth Year	Births	School Year	PK	K	1	2	3	4	5	6	7	8	9	10	11	12	UNGR	K-6	PK-6
1999	67	2004-05	13	77	89	86	88	84	86	95	0	0	0	0	0	0	0	605	618
2000	61	2005-06	10	53	91	92	87	97	89	91	0	0	0	0	0	0	0	600	610
2001	52	2006-07	0	77	70	103	95	89	99	89	0	0	0	0	0	0	0	622	622
2002	61	2007-08	16	74	81	68	109	98	94	98	0	0	0	0	0	0	0	622	638
2003	57	2008-09	14	86	86	84	74	106	100	93	0	0	0	0	0	0	0	629	643
2004	69	2009-10	12	72	118	88	89	89	76	105	99	0	0	0	0	0	0	647	659
2005	45	2010-11	18	78	94	98	89	89	79	105	0	0	0	0	0	0	0	632	650
2006	61	2011-12	19	52	83	96	101	90	90	82	0	0	0	0	0	0	0	594	613
2007	55	2012-13	29	48	60	84	96	102	90	94	0	0	0	0	0	0	0	574	603
2008	36	2013-14	33	56	62	60	89	98	106	97	0	0	0	0	0	0	0	568	601
2009	50	2014-15	28	57	60	67	63	91	103	102	0	0	0	0	0	0	0	543	571

Historical Enrollment in Grade Combinations									
Year	K-4	K-5	K-6	K-8	5-8	6-8	7-8	7-12	9-12
2004-05	424	510	605	0	0	0	0	0	0
2005-06	420	509	600	0	0	0	0	0	0
2006-07	434	533	622	0	0	0	0	0	0
2007-08	430	524	622	0	0	0	0	0	0
2008-09	436	536	629	0	0	0	0	0	0
2009-10	443	548	647	0	0	0	0	0	0
2010-11	448	527	632	0	0	0	0	0	0
2011-12	422	512	594	0	0	0	0	0	0
2012-13	390	480	574	0	0	0	0	0	0
2013-14	365	471	568	0	0	0	0	0	0
2014-15	338	441	543	0	0	0	0	0	0

Historical Percentage Changes			
Year	K-6	Diff.	%
2004-05	605	0	0.0%
2005-06	600	-5	-0.8%
2006-07	622	22	3.7%
2007-08	622	0	0.0%
2008-09	629	7	1.1%
2009-10	647	18	2.9%
2010-11	632	-15	-2.3%
2011-12	594	-38	-6.0%
2012-13	574	-20	-3.4%
2013-14	568	-6	-1.0%
2014-15	543	-25	-4.4%
Change		<b>-62</b>	<b>-10.2%</b>

# Brookline, NH - SAU #41 Enrollment

**PK-6, 2004-2014**





# Brookline, NH - SAU #41 Projected Enrollment

School District:

Brookline, NH - SAU #41

12/1/2014

## Enrollment Projections By Grade\*

Birth Year	Births	School Year	PK	K	1	2	3	4	5	6	7	8	9	10	11	12	UNGR	K-6	PK-6	
2009	50	2014-15	28	57	60	67	63	91	103	102	0	0	0	0	0	0	0	0	543	571
2010	43	2015-16	29	51	67	62	69	64	94	106	0	0	0	0	0	0	0	0	513	542
2011	38	2016-17	30	45	60	69	64	70	66	97	0	0	0	0	0	0	0	0	471	501
2012	43	2017-18	31	51	53	62	72	65	72	68	0	0	0	0	0	0	0	0	443	474
2013	36	2018-19	32	43	60	55	64	73	67	74	0	0	0	0	0	0	0	0	436	468
2014	42	(est.) 2019-20	33	50	50	62	57	65	75	69	0	0	0	0	0	0	0	0	428	461
2015	40	(est.) 2020-21	34	48	59	52	64	58	67	77	0	0	0	0	0	0	0	0	425	459
2016	40	(est.) 2021-22	35	47	56	61	54	65	60	69	0	0	0	0	0	0	0	0	412	447
2017	40	(est.) 2022-23	36	48	55	58	63	55	67	62	0	0	0	0	0	0	0	0	408	444
2018	40	(est.) 2023-24	37	47	56	57	60	64	57	69	0	0	0	0	0	0	0	0	410	447
2019	40	(est.) 2024-25	38	48	55	58	59	61	66	59	0	0	0	0	0	0	0	0	406	444

\*Projections should be updated on an annual basis.

Based on an estimate of births

Based on children already born

Based on students already enrolled

## Projected Enrollment in Grade Combinations\*

Year	K-4	K-5	K-6	K-8	5-8	6-8	7-8	7-12	9-12
2014-15	338	441	543	0	0	0	0	0	0
2015-16	313	407	513	0	0	0	0	0	0
2016-17	308	374	471	0	0	0	0	0	0
2017-18	303	375	443	0	0	0	0	0	0
2018-19	295	362	436	0	0	0	0	0	0
2019-20	284	359	428	0	0	0	0	0	0
2020-21	281	348	425	0	0	0	0	0	0
2021-22	283	343	412	0	0	0	0	0	0
2022-23	279	346	408	0	0	0	0	0	0
2023-24	284	341	410	0	0	0	0	0	0
2024-25	281	347	406	0	0	0	0	0	0

See "Reliability of Enrollment Projections" section of accompanying letter.

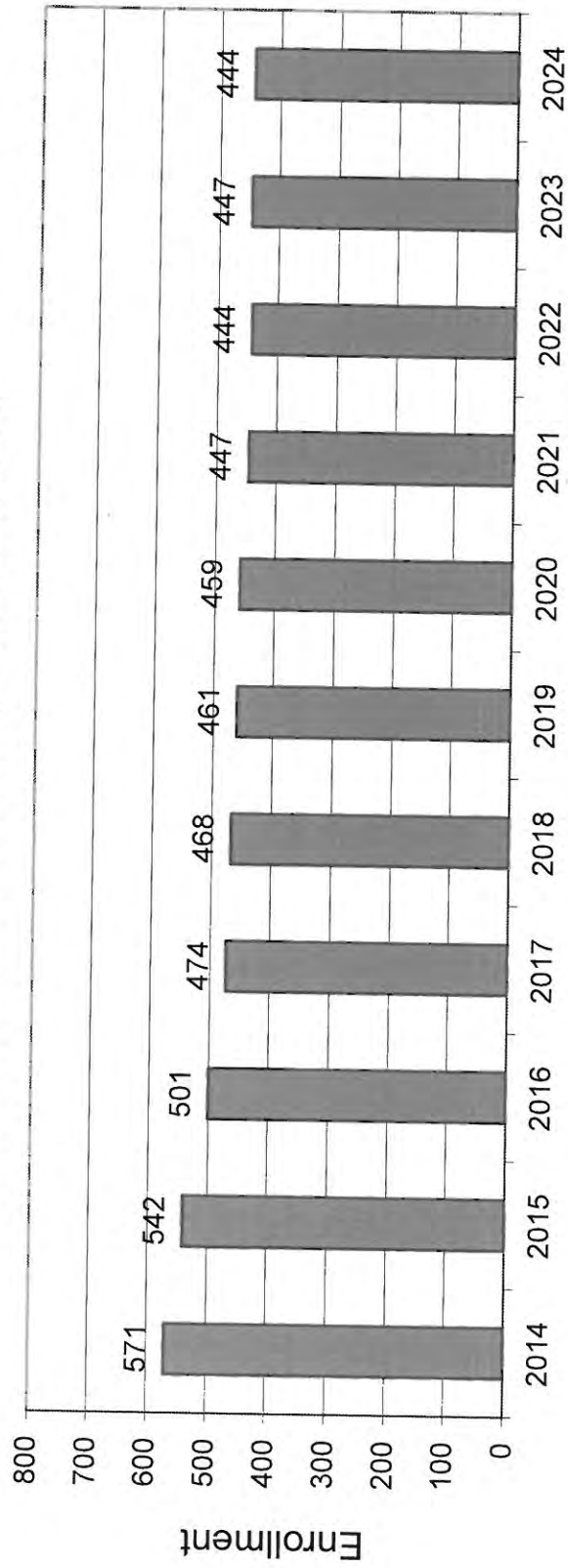
Projections are more reliable for Years #1-5 in the future than for Years #6 and beyond.

Projected Percentage Changes		
Year	K-6	Diff. %
2014-15	543	0
2015-16	513	-5.5%
2016-17	471	-8.2%
2017-18	443	-5.9%
2018-19	436	-1.6%
2019-20	428	-1.8%
2020-21	425	-0.7%
2021-22	412	-3.1%
2022-23	408	-1.0%
2023-24	410	0.5%
2024-25	406	-1.0%
Change	-137	-25.2%



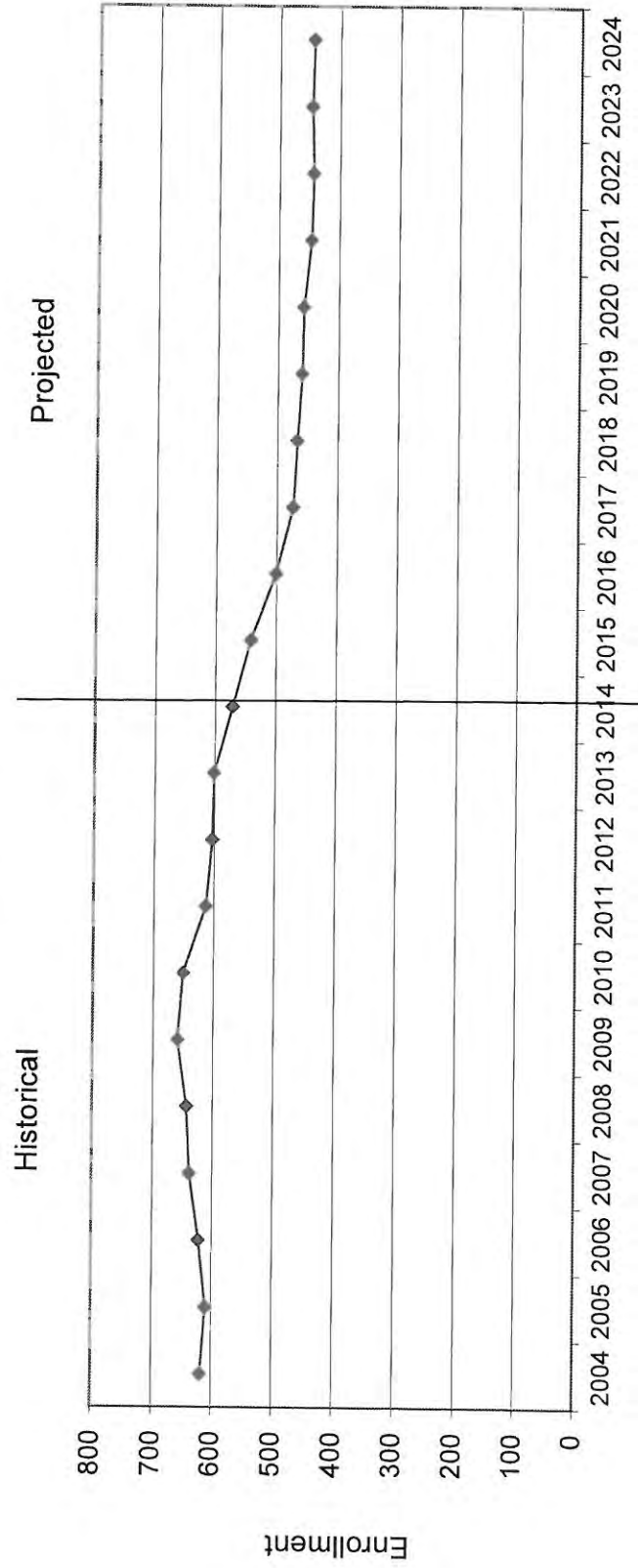
# Brookline, NH - SAU #41 Projected Enrollment

PK-6 TO 2024 Based On Data Through School Year 2014-15

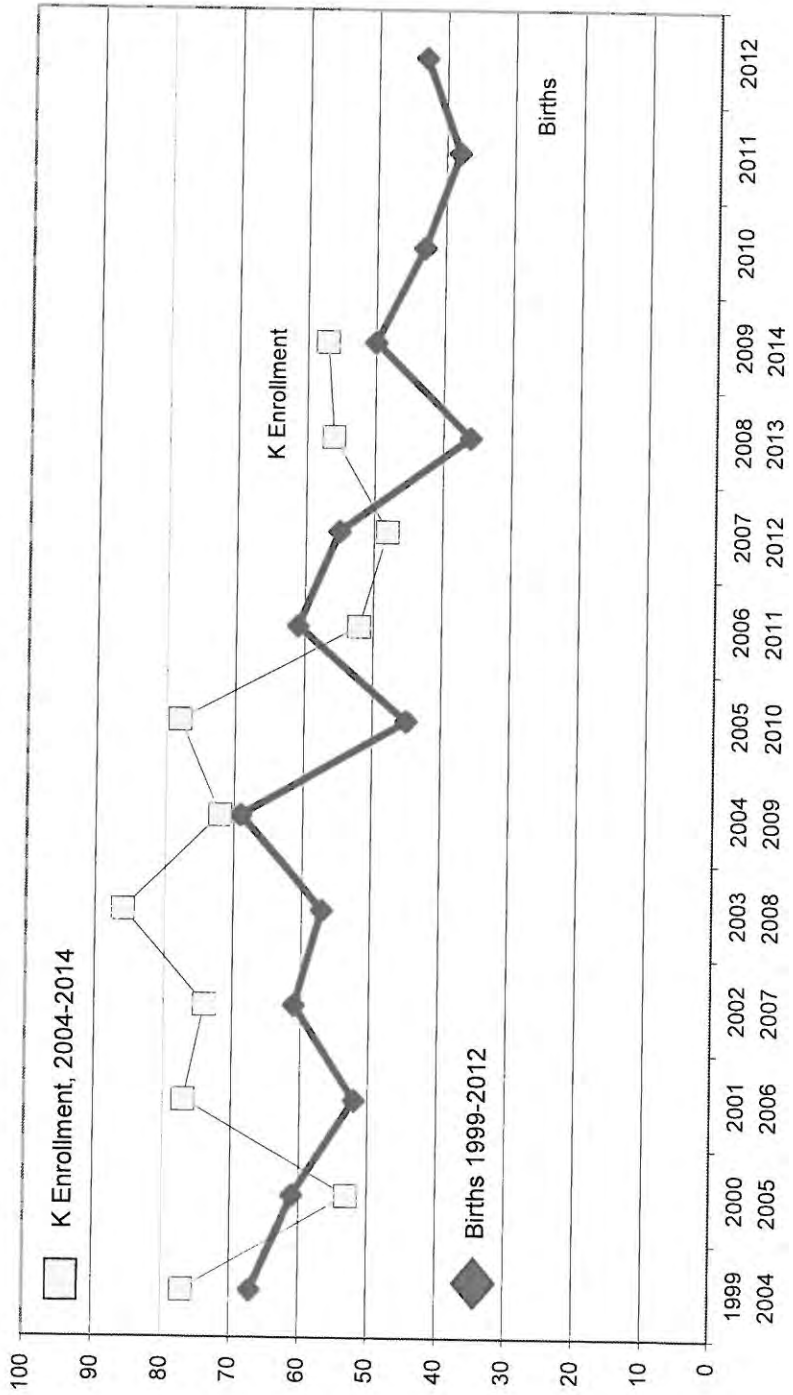


# Brookline, NH - SAU #41 Historical & Projected Enrollment

PK-6, 2004-2024



# Brookline, NH - SAU #41 Birth-to-Kindergarten Relationship





# Brookline, NH - SAU #41 Additional Data

Building Permits Issued		
Year	Single-Family	Multi-Units
2005	48	0
2010	12	0
2011	7	0
2012	15	0
2013	24	0
2014	19 to Oct 31	0

Source: HUD and Building Department

Year	Enrollment History	
	Voc-Tech 9-12 Total	Non-Public K-12 Total
2005-06	n/a	n/a
2010-11	n/a	n/a
2011-12	n/a	n/a
2012-13	n/a	n/a
2013-14	n/a	n/a
2014-15	n/a	n/a

Residents in Non-Public Independent and Parochial Schools (General Education)														
Enrollments as of Oct. 1	K	1	2	3	4	5	6	7	8	9	10	11	12	K-12 TOTAL
n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a

K-12 Home-Schooled Students	n/a
2014	n/a

K-12 Residents "Choiced-out" or in Charter or Magnet Schools	n/a
2014	n/a

K-12 Special Education Outplaced Students	3
2014	3

K-12 Choiced-In, Tuitioned-In, & Other Non-Residents	n/a
2014	n/a

The above data were used to assist in the preparation of the enrollment projections. If additional demographic work is needed, please contact our office.

# Brookline, NH - SAU #41 Historical Enrollment

School District: Brookline, NH - SAU #41

10/26/2015

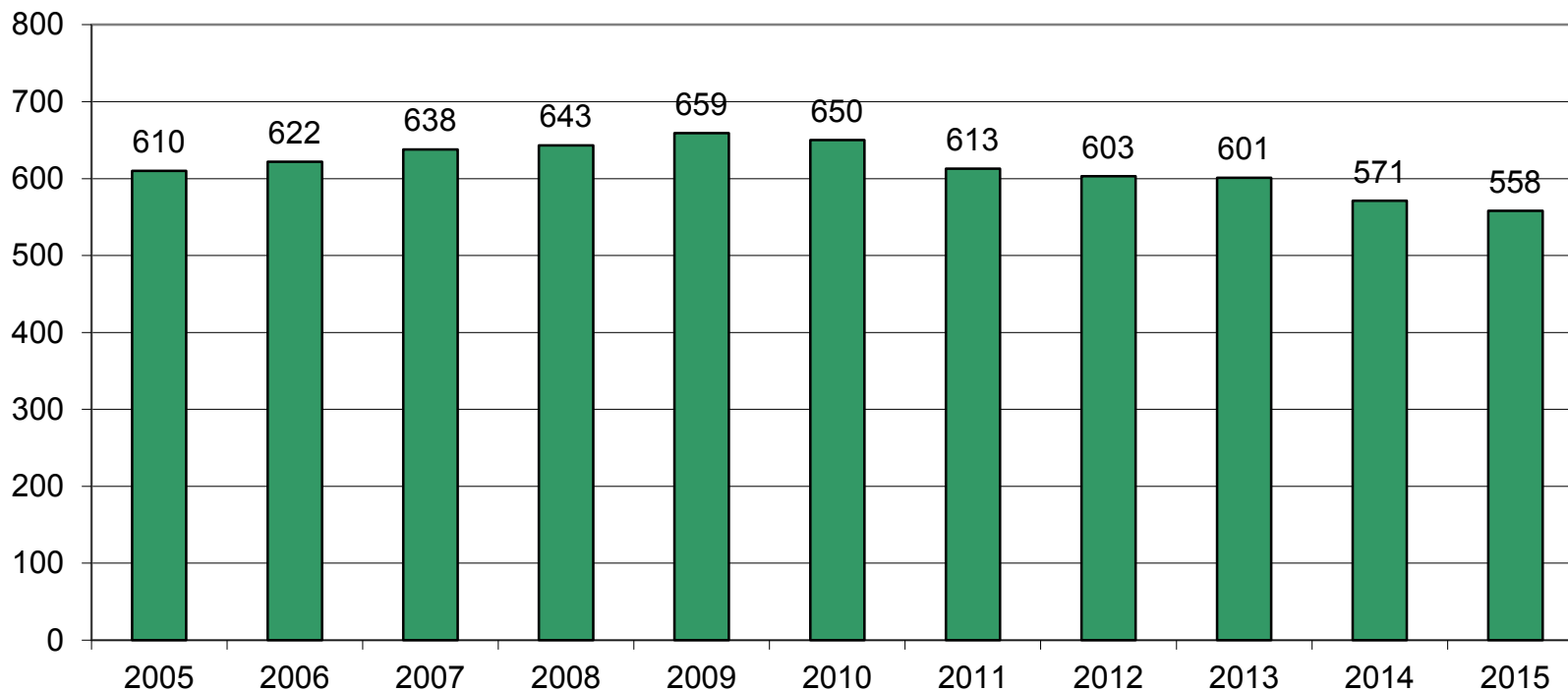
Historical Enrollment By Grade																			
Birth Year	Births	School Year	PK	K	1	2	3	4	5	6	7	8	9	10	11	12	UNGR	PK-6	K-6
2000	61	2005-06	10	53	91	92	87	97	89	91	0	0	0	0	0	0	0	600	610
2001	52	2006-07	0	77	70	103	95	89	99	89	0	0	0	0	0	0	0	622	622
2002	61	2007-08	16	74	81	68	109	98	94	98	0	0	0	0	0	0	0	622	638
2003	57	2008-09	14	86	86	84	74	106	100	93	0	0	0	0	0	0	0	629	643
2004	69	2009-10	12	72	118	88	89	76	105	99	0	0	0	0	0	0	0	647	659
2005	45	2010-11	18	78	94	98	89	89	79	105	0	0	0	0	0	0	0	632	650
2006	61	2011-12	19	52	83	96	101	90	90	82	0	0	0	0	0	0	0	594	613
2007	55	2012-13	29	48	60	84	96	102	90	94	0	0	0	0	0	0	0	574	603
2008	36	2013-14	33	56	62	60	89	98	106	97	0	0	0	0	0	0	0	568	601
2009	50	2014-15	28	57	60	67	63	91	103	102	0	0	0	0	0	0	0	543	571
2010	43	2015-16	26	60	67	65	69	66	96	109	0	0	0	0	0	0	0	532	558

Historical Enrollment in Grade Combinations									
Year	K-4	K-5	K-6	K-8	5-8	6-8	7-8	7-12	9-12
2005-06	420	509	600	600	180	91	0	0	0
2006-07	434	533	622	622	188	89	0	0	0
2007-08	430	524	622	622	192	98	0	0	0
2008-09	436	536	629	629	193	93	0	0	0
2009-10	443	548	647	647	204	99	0	0	0
2010-11	448	527	632	632	184	105	0	0	0
2011-12	422	512	594	594	172	82	0	0	0
2012-13	390	480	574	574	184	94	0	0	0
2013-14	365	471	568	568	203	97	0	0	0
2014-15	338	441	543	543	205	102	0	0	0
2015-16	327	423	532	532	205	109	0	0	0

Historical Percentage Changes			
Year	PK-6	Diff.	%
2005-06	600	0	0.0%
2006-07	622	22	3.7%
2007-08	622	0	0.0%
2008-09	629	7	1.1%
2009-10	647	18	2.9%
2010-11	632	-15	-2.3%
2011-12	594	-38	-6.0%
2012-13	574	-20	-3.4%
2013-14	568	-6	-1.0%
2014-15	543	-25	-4.4%
2015-16	532	-11	-2.0%
<b>Change</b>		<b>-68</b>	<b>-11.3%</b>

# Brookline, NH - SAU #41 Historical Enrollment

**PK-6, 2005-2015**



# Brookline, NH - SAU #41 Projected Enrollment

School District: Brookline, NH - SAU #41

10/26/2015

Enrollment Projections By Grade*																				
Birth Year	Births		School Year	PK	K	1	2	3	4	5	6	7	8	9	10	11	12	UNGR	PK-6	K-6
2010	43		2015-16	26	60	67	65	69	66	96	109	0	0	0	0	0	0	0	532	558
2011	38		2016-17	26	49	71	70	68	71	69	99	0	0	0	0	0	0	0	497	523
2012	43		2017-18	27	56	58	75	73	70	74	71	0	0	0	0	0	0	0	477	504
2013	36		2018-19	27	47	66	61	78	75	73	76	0	0	0	0	0	0	0	476	503
2014	42	(est.)	2019-20	28	55	55	69	63	80	79	75	0	0	0	0	0	0	0	476	504
2015	40	(est.)	2020-21	28	53	65	58	72	65	84	82	0	0	0	0	0	0	0	479	507
2016	40	(est.)	2021-22	29	52	63	68	60	74	68	87	0	0	0	0	0	0	0	472	501
2017	40	(est.)	2022-23	29	52	61	66	71	62	78	70	0	0	0	0	0	0	0	460	489
2018	40	(est.)	2023-24	30	52	61	64	69	73	65	81	0	0	0	0	0	0	0	465	495
2019	40	(est.)	2024-25	30	53	61	64	67	71	77	67	0	0	0	0	0	0	0	460	490
2020	40	(est.)	2025-26	31	52	63	64	67	69	74	80	0	0	0	0	0	0	0	469	500

\*Projections should be updated on an annual basis.

Based on an estimate of births

Based on children already born

Based on students already enrolled

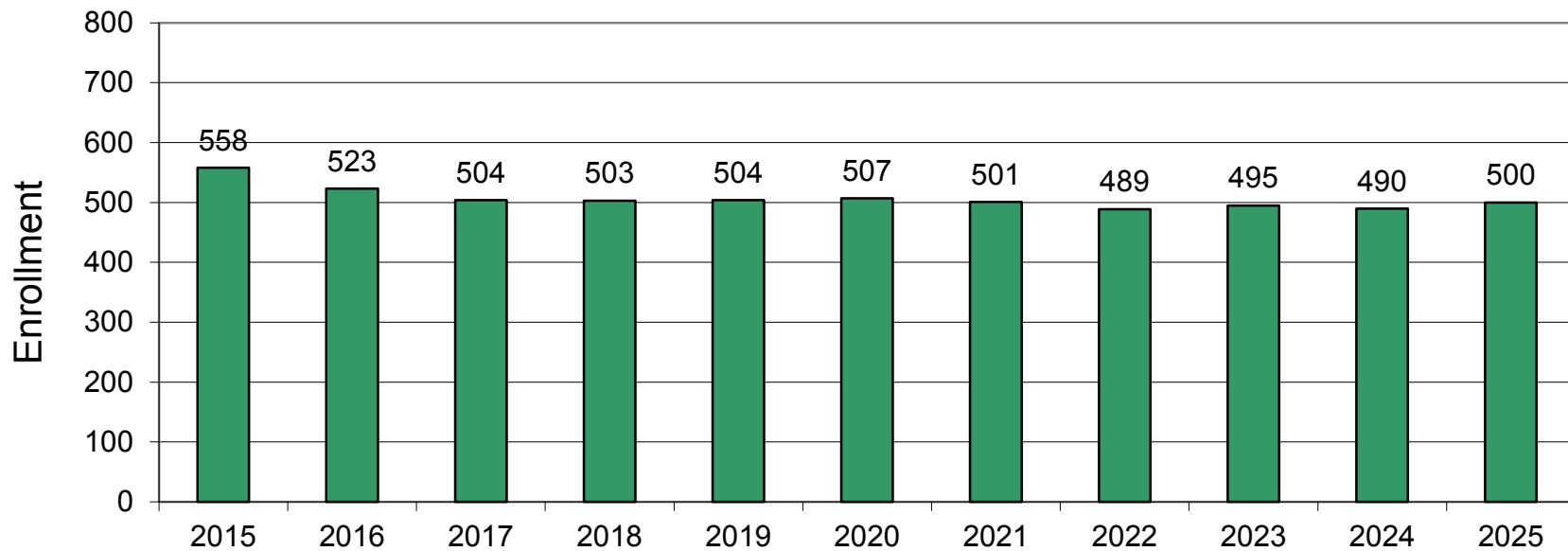
Projected Enrollment in Grade Combinations*									
Year	K-4	K-5	K-6	K-8	5-8	6-8	7-8	7-12	9-12
2015-16	327	423	532	532	205	109	0	0	0
2016-17	329	398	497	497	168	99	0	0	0
2017-18	332	406	477	477	145	71	0	0	0
2018-19	327	400	476	476	149	76	0	0	0
2019-20	322	401	476	476	154	75	0	0	0
2020-21	313	397	479	479	166	82	0	0	0
2021-22	317	385	472	472	155	87	0	0	0
2022-23	312	390	460	460	148	70	0	0	0
2023-24	319	384	465	465	146	81	0	0	0
2024-25	316	393	460	460	144	67	0	0	0
2025-26	315	389	469	469	154	80	0	0	0

Projected Percentage Changes			
Year	PK-6	Diff.	%
2015-16	532	0	0.0%
2016-17	497	-35	-6.6%
2017-18	477	-20	-4.0%
2018-19	476	-1	-0.2%
2019-20	476	0	0.0%
2020-21	479	3	0.6%
2021-22	472	-7	-1.5%
2022-23	460	-12	-2.5%
2023-24	465	5	1.1%
2024-25	460	-5	-1.1%
2025-26	469	9	2.0%
Change		-63	-11.8%

See "Reliability of Enrollment Projections" section of accompanying letter. Projections are more reliable for Years #1-5 in the future than for Years #6 and beyond.

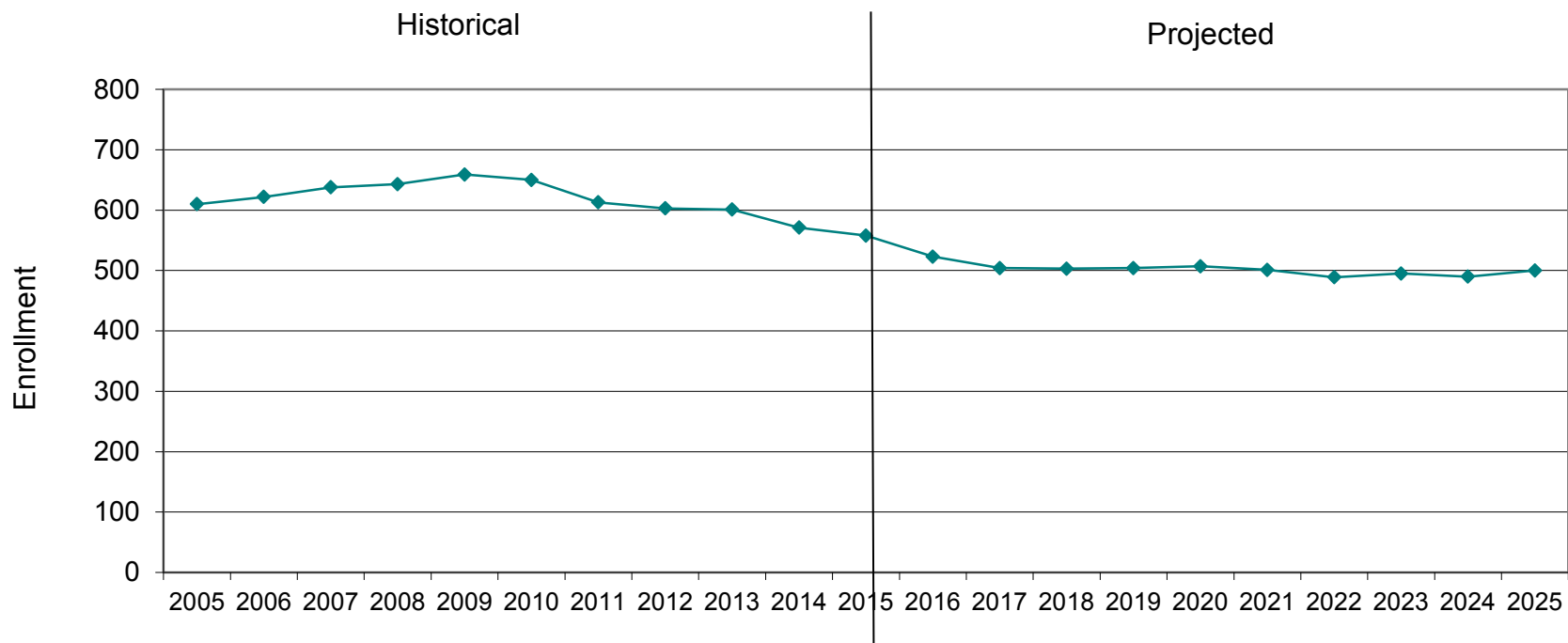
# Brookline, NH - SAU #41 Projected Enrollment

PK-6 TO 2025 Based On Data Through School Year 2015-16

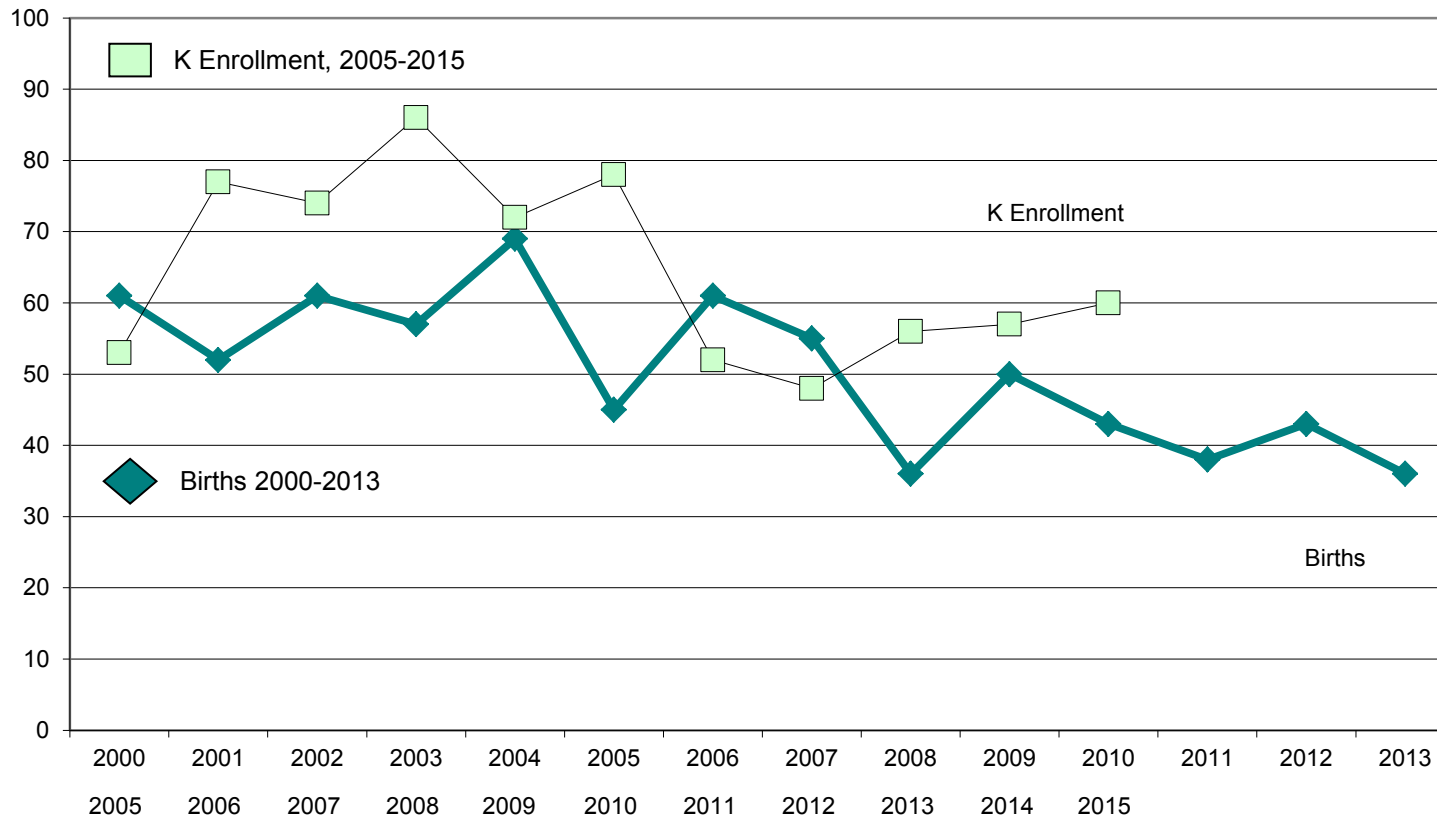


# Brookline, NH - SAU #41 Historical & Projected Enrollment

**PK-6, 2005-2025**



# Brookline, NH - SAU #41 Birth-to-Kindergarten Relationship



# Brookline, NH - SAU #41 Additional Data

Building Permits Issued		
Year	Single-Family	Multi-Units
2005	48	0
2011	7	0
2012	15	0
2013	24	0
2014	23	0
2015	n/a	0 to Oct.

Source: HUD and Building Department

Enrollment History		
Year	Voc-Tech 9-12 Total	Non-Public K-12 Total
2005-06	n/a	n/a
2011-12	n/a	n/a
2012-13	n/a	n/a
2013-14	n/a	n/a
2014-15	n/a	n/a
2015-16	n/a	n/a

Residents in Non-Public Independent and Parochial Schools (General Education)														
Enrollments as of Oct. 1	K	1	2	3	4	5	6	7	8	9	10	11	12	K-12 TOTAL
	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a

K-12 Home-Schooled Students	
2015	n/a

K-12 Residents "Choiced-out" or in Charter or Magnet Schools	
2015	n/a

K-12 Special Education Outplaced Students	
2015	n/a

K-12 Choiced-In, Tuitioned-In, & Other Non-Residents	
2015	n/a

The above data were used to assist in the preparation of the enrollment projections. If additional demographic work is needed, please contact our office.



## 2016-17 Enrollment Projections

TO: Andrew F. Corey, Superintendent of Schools, SAU #41  
FROM: Donald G. Kennedy, Ed.D., Demographic Specialist  
DATE: October 4, 2016  
RE: Enrollment Projections

We are pleased to send you the enclosed documents displaying the past, present, and projected enrollments for Hollis, Brookline and the SAU #41 School District. We have used the figures given to us by the District and we assume that the method of collecting the enrollment data has been consistent from year to year. It is worth noting that this time of transition is the most difficult of the past 25 years to reliably forecast future enrollments, due to the irregular/uneven pace of communities recovering from the effects of the economic cycle upon real estate markets and school enrollments. SAU #41's real estate/housing data remains steady, whereas the numbers of births in both towns continue to be fewer than the pace of the past 10-15 years.

**In a nutshell: for a decade, Brookline has been declining about 9 students per year in Grades K-6; Hollis in these same grades has been shrinking about 16 children each year; and Grades 7-12 combined have been decreasing about 10 pupils per year. Those trends appear to have flattened, ushering in a trend of more enrollment stability...with K-6 Brookline rising about 6 children per year; K-6 Hollis enrollments relatively flat; and the Grade 7-12 combined enrollment is forecast to shrink about 7 pupils per year.** NESDEC's enrollment projection totals from fall of 2015 data came within 13 students of the actual Hollis Grade K-6 enrollment total for fall, 2016 (623 projected v. 636 actual). In Brookline the Grade K-6 enrollment was 497 projected v. 528 actual. In Grades 7-12, NESDEC projected 615 from Brookline v. 612 actual. The Grade 7-12 cooperative enrollments were 1,233 forecast v. 1,257 actually enrolled.

The two factors now at work which will have the greatest effect upon future enrollments are: a. a decreased number of births to SAU #41 residents and, b. new in-migration (which had slowed, due to the 2008 real estate slowdown). The students currently in Grades 1-10 were born during a period when SAU #41 was averaging 52 Hollis births per year, and 53 Brookline births. More recently (and expected over the next 6-7 years) births are averaging about 10 fewer in Brookline and 12 fewer in Hollis each year. Hard-hit Connecticut experienced an 8.6% decline in births from 2007 to 2009, the largest decline among the six New England states – followed by an 8.1% decline in Rhode Island births, the two states with the highest rates of unemployment in the New England region – Massachusetts births declined by only 3.9% over these three years. Incidentally,

**New Hampshire experienced only about a 3% decline in births** from 2007 to 2009 (in large part caused by the economic Recession), the smallest decline among the six New England states. In the real estate decline which followed, however, fewer new families moved into the state, a factor which led to a rise in the median age, and hence contributing to the present smaller number of local births. Economists are forecasting a slow-yet-steady recovery from the current rates of unemployment which, in turn, may lead to additional in-migration and births. The unemployment rate as of August, 2016 in CT was 5.6%; RI 5.6%; US non-farm unemployment 4.9%; New England average 4.2%; ME 4.0%; MA 3.9%; VT 3.3%; and **NH only 3.0%** - other nearby states: PA 5.7%; NJ 5.3%; and NY 4.8%. The rate of unemployment influences the likelihood of improving real estate sales, residential construction and thus affects the number of new families moving into the community – the US unemployment rate was above 10% during the Great Recession of 2008.

The ever-changing relationship between SAU #41 births and Kindergarten enrollments is displayed on the B-K graphs. Hollis, over the past seven years, has registered about 130 Kindergarteners for every 100 births (five years previous), a relationship which has been relatively steady. This fall, the first year of full-day Kindergarten, there were 160 Kindergarteners for every 100 births. In Brookline, over the past seven years, there have been 137 K's for every 100 Brookline births five-years-prior. This fall, however, there were 78 Kindergarteners from 38 births, a ratio of 205 K's per 100 births. NESDEC Kindergarten projections for 2015-16 in Hollis anticipated 48 children v. 59 actually enrolled...as there were more “net move-in's” than expected. In Brookline, 49 Kindergarteners were projected v. 78 enrolled, due to the robust number of “net move-in's”. Ratios have been adjusted for 2017-18 and beyond. Next year's Grade 1 is expected to be about 13% larger than the previous year's Kindergarten class in Brookline and 45% larger in Hollis.

**“Hidden Trends” within the district:** Like many nearby communities, Hollis and Brookline continue to experience fluctuations in enrollment and in/out-migration in Grades 1-8. There are additional trends and counter-trends to consider. More so than other grade levels, **Grades 1-8 in most districts tend to be quite stable in their numbers.** Grades 9-12 are excluded from the calculation as there tends to be additional fluctuation for reasons having little to do with students moving in/out of the community (in the case Brookline the trend is to add an additional 2% to the class, in the Grade 8-to-9 transition whereas Hollis tends to decline by 1% at this point). Re the Grade 1-8 stability, if last year the Grade 1-7 total was 600 children, then (if no one moved in or out) this fall's Grades 2-8 would equal about 600 – the same cohort of children. Because Grades 1-8 tend to be the most stable in total K-12 enrollment, these Grades 1-8 are excellent places to discover “hidden trends” that otherwise might go unnoticed and provide a useful yardstick by which to measure a district's tendency toward in-/out-migration. **In the case of both Brookline and Hollis, we know that the school district is currently experiencing a “net in-migration” of new families with school age children. For example, in Hollis the 674 children in Grades 1-7 in 2015-16 increased by 25 children to 699 students in Grades 2-8 in 2016-17. Similarly in Brookline, the 579 children in Grades 1-7 during 2015-16 increased by 23 students to 602 children in Grades 2-8 in 2016-17. For the past five years both towns have increased in this statistic, the stability of Grades 1-8...a counter-trend to the fewer births.** The presence of a mixed in/out-migration trend is evidence of the complexity of enrollments in these unsettled economic times. Analysis of these hidden trends provides an additional benchmark by which to assess enrollment trends.

**Over the next three years, K-6 Brookline enrollments are forecast to increase by a total of 23 students (due primarily to fewer births); Grades 7-12 to decrease by 27 pupils...all within the next three years – as the classes move up the grades. Hollis, on the other hand, is**

forecast to decline by 29 children in Grades K-6, and to shrink by only 5 students in Grades 7-12. After that point these projections show increasing enrollment in Hollis at both levels...and Brookline the same. That said, it is possible that real estate turnover will have increased further, bringing in even more additional new families - see the “Projections” page. Although the Year #1-3 forecast likely will occur, the longer term future is better viewed as a possible direction which may be affected by improved real estate conditions. That longer-term future also will be affected by the number of babies-yet-to-be-born...it is quite likely that the birth numbers will increase as new families move in.

**Will these patterns of increasing enrollments really last for as long as ten years? That is difficult to answer.** All projections are more reliable for Years #1-5 in the future; and less reliable in Years #6-10 – as some many factors can change. As soon as the economy and real estate situation become more stable in the region, additional in-migration may occur in SAU #41. Many communities in the region sold during 2008-2014 only about 60-80% as many homes as in 2003-2007. Building permits had slowed as well; see the “Additional Data” table below. **As additional families move in, any forecasted declines may moderate.** See the description on Page 4 below regarding “reliability of projections”. The birth numbers used in the projections, through 2014, are from the NH Department of Public Health. The “estimated” years, beginning with 2015 are a rolling five-year average, which NESDEC has found to be the most accurate method of estimation. Local City/Town Clerks have up-to-date information on local births however do not have access to the number of SAU #41 residents born out-of-state (information which will eventually become known to the NH DPH).

The two most difficult grades to forecast in all districts are Kindergarten and Grade 9. The latter is difficult to anticipate, as there are so many options for Grade 9 (in vocational or agricultural schools, private or parochial non-public schools, etc.). Kindergarten can be difficult to project based upon births alone, as many districts have large numbers of “net move-ins/move-outs” who are ages 1-4. **Some districts take extra steps to track 3 and 4-year olds with a local census, or report to NESDEC the known number of 4-year olds in local preschools/nursery schools which typically enroll Kindergarteners in the district. Knowing this information helps NESDEC to project Kindergarteners more reliably...as does data from the Kindergarten Screening in districts which also track 3 and 4-year old siblings (or neighbors) at that time. The more data, in addition to births, which is sent to NESDEC regarding the incoming Kindergarten class, the greater is the chance that “enrollment surprises” will be minimized.**

**Will many new families be moving into our school district?** Everyday across America, 10,000 “Baby Boomers” celebrate their 65<sup>th</sup> birthday - a phenomenon which will continue for a decade. New England has a disproportionately large share of these senior citizens, many of whom had planned to “downsize” their living arrangements, yet postponed putting homes on the market due to the Great Recession. School enrollments are influenced strongly by the number of real estate sales, as these contribute new families moving into many districts. In over 80% of districts, the number of real estate sales is 4-5 times larger than the number of building permits for new residential construction – **thus the number of real estate sales often is a more important factor than building permits.**

**In New England, how rapidly will additional homes be placed on the market?** A mid-2014 study using data from the Federal Housing Finance Agency, Bureau of Economic Analysis and the U.S. Census Bureau directly links home prices to the “real Gross Domestic Product”

(GDP) in each of the nine regions in the country. However New England ranks only 7<sup>th</sup> among the 9 regions in the recovery of its regional economy (as measured in “the bubble” prior to the Recession, in “real GDP”). Comparing the regional economies from 2 Quarter of 2007 to 4 Quarter 2013: W. South Central = +18.6% (that is, many jobs are available); W. North Central +11.8%; Pacific +7.4%; E. South Central + 5.6%; Middle Atlantic + 5.1%; Mountain + 4.1%; **New England +3.4%**; South Atlantic + 2.1%; and E. North Central + 2.0%. Home sales prices are +14.6% in the W. South Central region (including Texas, Arkansas, Louisiana, and Oklahoma) with the strongest “real G.D.P.” v. -4.4% in New England. Thus, although real estate sales and rentals are very strong in some New England towns and cities, there are many senior citizens still refraining from placing their homes on the market – as house prices still may be rising. New England births, however, are likely to remain at low levels, due to the advanced age of the New England population.

# Analyzing Your Enrollment

## Historical Public Enrollments

1. After the "YEAR" column can be found the "BIRTHS" column. The number of births to residents for each of eleven years is displayed. Note any trends, e.g., have births been decreasing? increasing? leveling off? Kindergarten and Grade 1 enrollments normally are quite responsive to these fluctuations.
2. Look **down** the K and 1 columns, noting the direction of the trend. This affords a comparison of these classes over a ten-year period. Add the K and Grade 1 enrollments of the first school year recorded, and compare them with the sum of the current K and Grade 1 enrollments.
3. Take the first K class and follow it diagonally to trace its movement to Grade 1, 2, etc. up to its current 10th grade status. This comparison (which can be accomplished for other classes also) gives some measure of the effects of migration in your school district. If a sixth grade class today is larger than it was as a K class six years ago, then net in-migration probably has occurred; if it is smaller, then net out-migration probably has occurred.
4. Compare each K class with the previous year's graduating class. Note which is larger and by what amount one surpasses the other. Larger graduating classes generally reflect declining enrollments; larger K classes generally indicate increasing enrollments.
5. In the "Grade Combinations" section, note the trends of elementary, middle school and high school enrollments. A significant and consistent trend in these summaries usually results in the corresponding trend for projected enrollments. If enrollments are leveling off in the elementary grades after a period of decline, then the secondary enrollments might be expected to continue to decline for several years until the leveling off experience has had time to take hold at the secondary grades.

## Enrollment Projections

1. Note the trends exhibited in the total K-12 (or 1-12) projection for the next five years as well as the projections for various grade

combinations. The trends on this page should generally exhibit a continuation of the trends mentioned above for historical enrollments, although the **rate** of change may be quite different.

2. Look at the births in the most recent years and note whether the trend is up, down, or level.
3. Make similar comparisons as appropriate on this page as were suggested for the "Historical Public Enrollments" page.

### **PROJECTION METHODOLOGY**

Cohort component (survival) technique is a frequently used method of preparing enrollment forecasts. NESDEC uses this method, but modifies it in order to move away from forecasts which are wholly computer or formula driven. Such modification permits the incorporation of important, current town-specific information into the generation of the enrollment forecasts (such as the volume of real estate sales, building permits, in/out-migration, etc.). Basically, percentages are calculated from the historical enrollment data to determine a reliable percentage of increase or decrease in enrollment between any two grades. For example, if 100 students enrolled in Grade 1 in 2014-15, increased to 104 students in Grade 2 in 2015-16, the percentage of survival would have been 104% or a ratio of 1.04. Such ratios are calculated between each pair of grades or years in school over several recent years.

After study and analysis of the historical ratios, and based upon a reasonable set of assumptions regarding births, migration rates, retention rates, etc., ratios most indicative of future growth patterns are determined for each pair of grades. The ratios thus selected are applied to the present enrollment statistics for a pre-determined number of years. The ratios used are the key factors in the reliability of the projections, given the validity of the data at the starting point. The strength of the ratios lies in the fact that each ratio encompasses **collectively** the variables that account for increases or decreases in the size of a grade enrollment as it moves on to the next grade. Each ratio represents the cumulative effect of the following factors:

1. Real estate turnover and new residential construction;
2. Migration, in or out, of the schools;
3. Drop-outs, transfers, etc.;
4. Births to residents;
5. Retention in the same grade.

## RELIABILITY OF ENROLLMENT PROJECTIONS

Projections can serve as useful guides to school administrators for educational planning. In this regard, the projections are generally most reliable when they are closest in time to the current year. Projections six to ten years out may serve as a guide to future enrollments, and are useful for facility planning purposes. However, they should be viewed as subject to change given the likelihood of changes in the underlying assumptions/trends.

Projections that are based upon **the children who already are in the district** (the current K-12 population only) will be the most reliable; the second level of reliability will be for those children already **born into the community but not yet old enough to be in school**. A less reliable category is the group for which an estimate must be made **to predict the number of births**, thereby adding an additional variable. See these three multi-colored groupings on the “Projected Enrollment” slide/page.

**How often do the actual enrollments closely match the NESDEC projections?** The research literature reports the closest that enrollment forecasters are likely to come to actual enrollments is about 1% variance per year-from-the-known-data. That is, a 1% variance from projection-to-actual “one-year-out” into the future (2% variance “two-years-out” ... 10% variance “ten-years-out”). NESDEC reaches this “highest possible” standard in about 90% of cases. When our NESDEC variance is greater, the reasons often are one of the following: a. imbedded/intervening “hidden” variables (examples: a parochial school closed or other students returned from non-public schools, a charter school opened, the Kindergarten program changed entrance age or to extended/full-day, the high school toughened its course credit/graduation requirements, the District set new attendance boundaries for elementary schools, or the District had well-publicized budget/referendum academic accreditation difficulties); b. the District size was below 500 students, thus subject to fluctuations in total numbers; or c. the District has not done enrollment projections on an annual basis.

Annual updates allow for early identification of recent changes in historical trends. When the actual enrollment in a grade is significantly different (high or low) from the projected number, it is important (yet difficult) to determine whether this is a one-year aberration or whether a new trend may have begun. **In light of this possibility, NESDEC urges all school districts to have updated enrollment forecasts developed by NESDEC each October.** This service is available at no cost to affiliated school districts.

## Using This Information Electronically

If you would like to extract the information contained in this report for your own documents or presentations, you can use Adobe Acrobat reader to convert the desired information to a “snapshot,” which can be inserted into PowerPoint slides, Word documents, etc. Because the snapshot tool creates a graphic, the image is not editable.

### Steps for Using The Snapshot Tool in Adobe Acrobat Reader:

1. Click on Edit Menu (earlier versions of Adobe Reader might require you to click on the Tools menu and then choose “Select and Zoom;”);
2. Choose “Take a Snapshot” (or “Snapshot Tool” in earlier versions);
3. Click and drag around the text, chart, and/or graphics that you would like to capture: your selection will be copied to the clipboard automatically;
4. Click in the document where you would like the information to appear;\*
5. Give Paste command.

If you have an earlier version of Adobe Acrobat and these instructions don’t work for you, contact your tech support person, or NESDEC and we will try to assist you. Telephone (508)481-9444 or [ep@nesdec.org](mailto:ep@nesdec.org). Ask for Carol or Christina.

\*You may paste your snapshot onto a PowerPoint slide, onto an Excel sheet, or even into a graphics program to save as a separate graphic file (in .jpg or other format), so that it is available for inserting into future documents.



# Brookline, NH Historical Enrollment

School District: Brookline, NH - SAU #41

10/4/2016

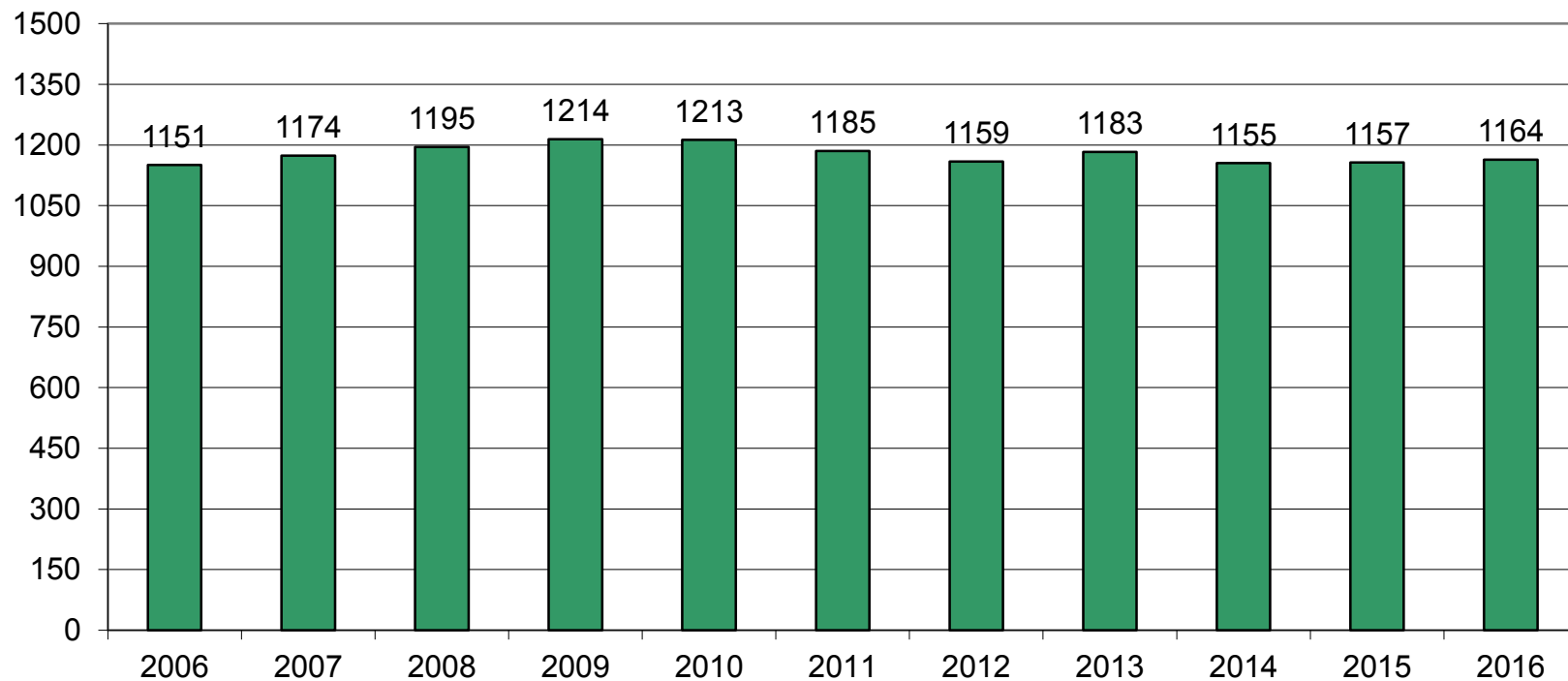
Historical Enrollment By Grade																			
Birth Year	Births	School Year	PK	K	1	2	3	4	5	6	7	8	9	10	11	12	UNGR	K-12	PK-12
2001	52	2006-07	0	77	70	103	95	89	99	89	95	94	100	80	87	73	0	1151	1151
2002	61	2007-08	16	74	81	68	109	98	94	98	81	92	99	101	80	83	0	1158	1174
2003	57	2008-09	14	86	86	84	74	106	100	93	99	79	99	96	99	80	0	1181	1195
2004	69	2009-10	12	72	118	88	89	76	105	99	89	102	76	100	97	91	0	1202	1214
2005	45	2010-11	18	78	94	98	89	89	79	105	98	96	102	77	93	97	0	1195	1213
2006	61	2011-12	19	52	83	96	101	90	90	82	103	99	91	105	74	100	0	1166	1185
2007	55	2012-13	29	48	60	84	96	102	90	94	81	102	103	100	95	75	0	1130	1159
2008	36	2013-14	33	56	62	60	89	98	106	97	97	85	105	112	81	102	0	1150	1183
2009	50	2014-15	28	57	60	67	63	91	103	102	102	98	83	105	107	89	0	1127	1155
2010	43	2015-16	26	60	67	65	69	66	96	109	107	97	100	85	109	101	0	1131	1157
2011	38	2016-17	24	78	66	69	73	73	67	102	108	110	104	97	82	111	0	1140	1164

Historical Enrollment in Grade Combinations									
Year	K-4	PK-6	K-6	K-8	5-8	6-8	7-8	7-12	9-12
2006-07	434	622	622	811	377	278	189	529	340
2007-08	430	638	622	795	365	271	173	536	363
2008-09	436	643	629	807	371	271	178	552	374
2009-10	443	659	647	838	395	290	191	555	364
2010-11	448	650	632	826	378	299	194	563	369
2011-12	422	613	594	796	374	284	202	572	370
2012-13	390	603	574	757	367	277	183	556	373
2013-14	365	601	568	750	385	279	182	582	400
2014-15	338	571	543	743	405	302	200	584	384
2015-16	327	558	532	736	409	313	204	599	395
2016-17	359	552	528	746	387	320	218	612	394

Historical Percentage Changes			
Year	K-12	Diff.	%
2006-07	1151	0	0.0%
2007-08	1158	7	0.6%
2008-09	1181	23	2.0%
2009-10	1202	21	1.8%
2010-11	1195	-7	-0.6%
2011-12	1166	-29	-2.4%
2012-13	1130	-36	-3.1%
2013-14	1150	20	1.8%
2014-15	1127	-23	-2.0%
2015-16	1131	4	0.4%
2016-17	1140	9	0.8%
Change		-11	-1.0%

# Brookline, NH Historical Enrollment

**PK-12, 2006-2016**



# Brookline, NH Projected Enrollment

School District: Brookline, NH - SAU #41

10/4/2016

Enrollment Projections By Grade*																				
Birth Year	Births		School Year	PK	K	1	2	3	4	5	6	7	8	9	10	11	12	UNGR	K-12	PK-12
2011	38		2016-17	24	78	66	69	73	73	67	102	108	110	104	97	82	111	0	1140	1164
2012	43		2017-18	25	66	88	70	74	76	76	69	105	108	113	105	94	84	0	1128	1153
2013	36		2018-19	26	55	75	93	75	77	79	78	71	105	110	114	102	97	0	1131	1157
2014	47		2019-20	27	72	62	79	99	78	80	81	80	71	107	111	111	105	0	1136	1163
2015	47	(prov.)	2020-21	28	72	81	65	84	103	81	82	83	80	73	108	108	114	0	1134	1162
2016	42	(est.)	2021-22	29	65	81	85	69	88	107	83	84	83	82	74	105	111	0	1117	1146
2017	43	(est.)	2022-23	30	66	73	85	91	72	92	110	86	84	85	83	72	108	0	1107	1137
2018	43	(est.)	2023-24	31	66	75	77	91	95	75	95	113	86	86	86	81	74	0	1100	1131
2019	44	(est.)	2024-25	32	68	75	79	82	95	99	77	98	113	88	87	83	83	0	1127	1159
2020	44	(est.)	2025-26	33	67	77	79	84	86	99	102	79	98	116	89	84	85	0	1145	1178
2021	43	(est.)	2026-27	34	66	76	81	84	88	89	102	105	79	100	117	86	87	0	1160	1194

\*Projections should be updated on an annual basis in order to reflect changes in births, real estate sales, in-/out-migration of families, and housing construction.

Based on an estimate of births

Based on children already born

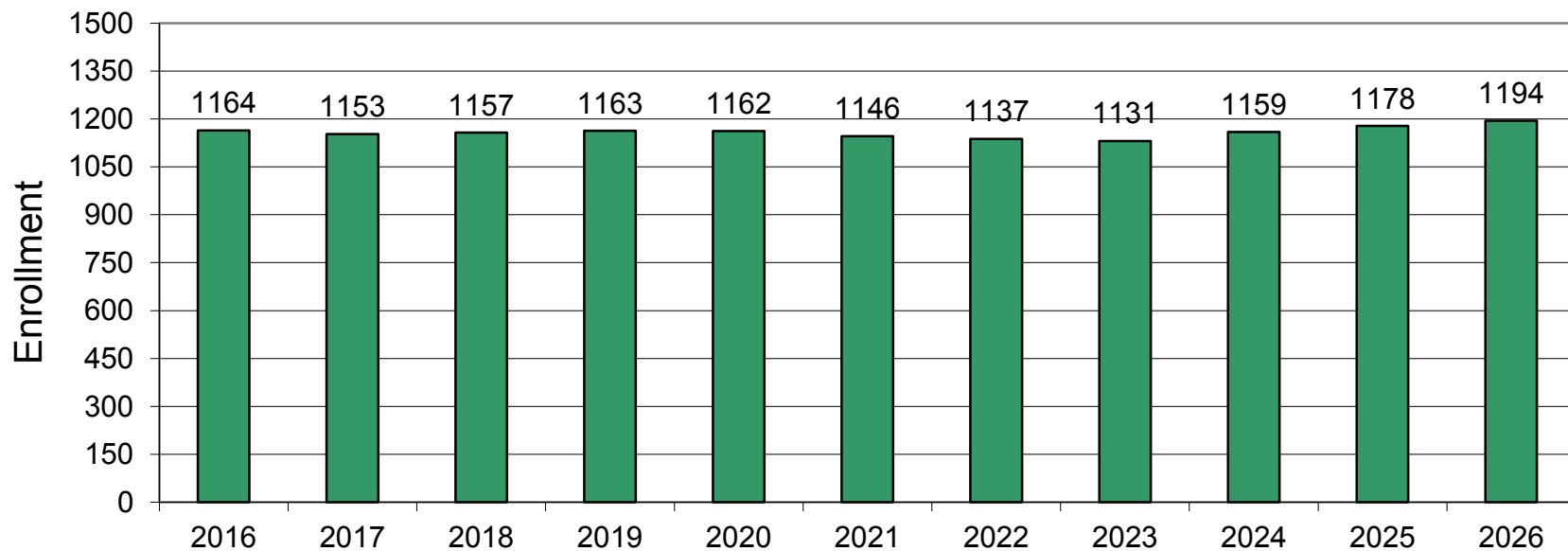
Based on students already enrolled

Projected Enrollment in Grade Combinations*									
Year	K-4	PK-6	K-6	K-8	5-8	6-8	7-8	7-12	9-12
2016-17	359	552	528	746	387	320	218	612	394
2017-18	374	544	519	732	358	282	213	609	396
2018-19	375	558	532	708	333	254	176	599	423
2019-20	390	578	551	702	312	232	151	585	434
2020-21	405	596	568	731	326	245	163	566	403
2021-22	388	607	578	745	357	250	167	539	372
2022-23	387	619	589	759	372	280	170	518	348
2023-24	404	605	574	773	369	294	199	526	327
2024-25	399	607	575	786	387	288	211	552	341
2025-26	393	627	594	771	378	279	177	551	374
2026-27	395	620	586	770	375	286	184	574	390

Projected Percentage Changes			
Year	K-12	Diff.	%
2016-17	1140	0	0.0%
2017-18	1128	-12	-1.1%
2018-19	1131	3	0.3%
2019-20	1136	5	0.4%
2020-21	1134	-2	-0.2%
2021-22	1117	-17	-1.5%
2022-23	1107	-10	-0.9%
2023-24	1100	-7	-0.6%
2024-25	1127	27	2.5%
2025-26	1145	18	1.6%
2026-27	1160	15	1.3%
Change		20	1.8%

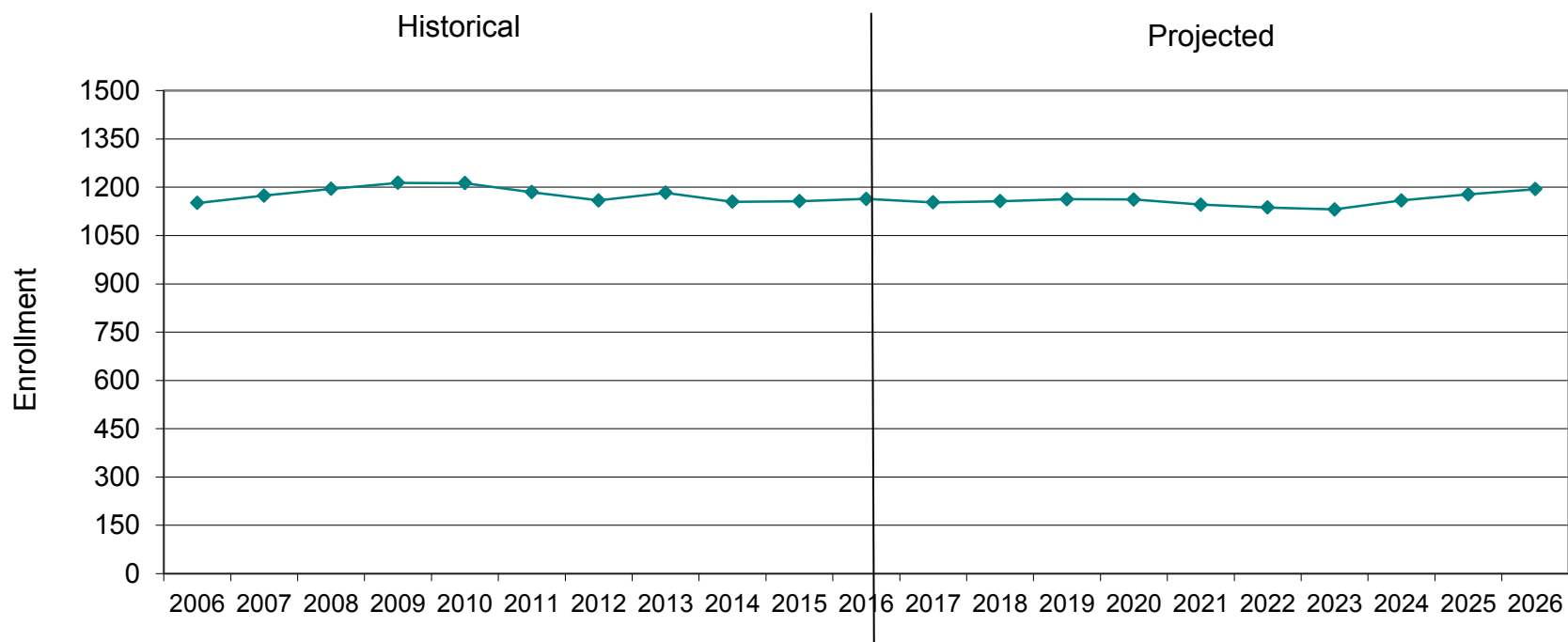
# Brookline, NH Projected Enrollment

PK-12 TO 2026 Based On Data Through School Year 2016-17

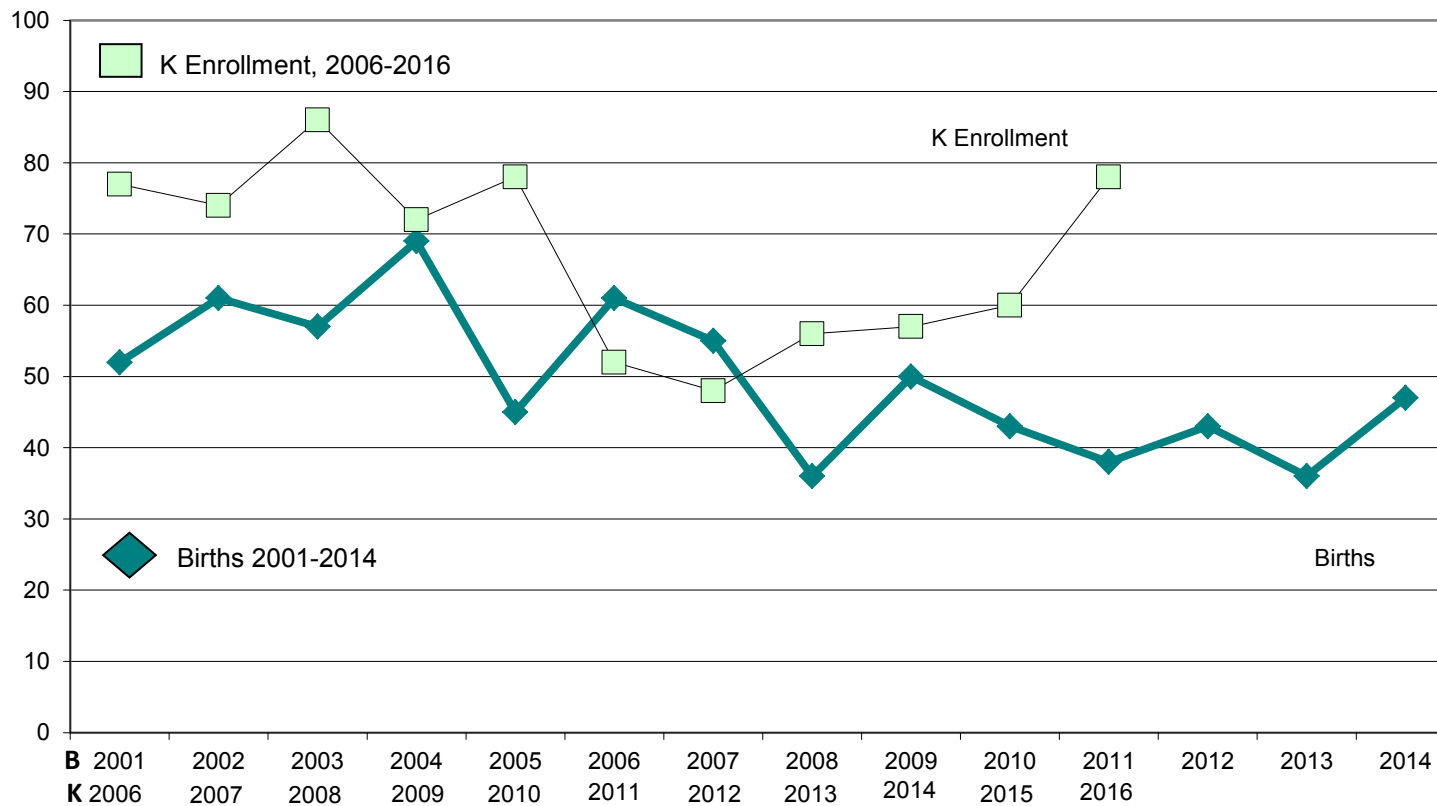


# Brookline, NH Historical & Projected Enrollment

**PK-12, 2006-2026**



# Brookline, NH Birth-to-Kindergarten Relationship



# Brookline, NH Additional Data

Building Permits Issued		
Year	Single-Family	Multi-Units
2005	48	0
2012	15	0
2013	24	0
2014	23	0
2015	21	0
2016	n/a	n/a

Source: HUD and Building Department

Enrollment History		
Year	Voc-Tech 9-12 Total	Non-Public K-12 Total
2005-06	n/a	n/a
2012-13	n/a	n/a
2013-14	n/a	n/a
2014-15	n/a	n/a
2015-16	n/a	n/a
2016-17	n/a	n/a

Residents in Non-Public Independent and Parochial Schools (General Education)														
Enrollments as of Oct. 1	K	1	2	3	4	5	6	7	8	9	10	11	12	K-12 TOTAL
	0	0	0	0	0	0	0	0	0	0	0	0	0	n/a

K-12 Home-Schooled Students	
2016	n/a

K-12 Residents "Choiced-out" or in Charter or Magnet Schools	
2016	n/a

K-12 Special Education Outplaced Students	
2016	n/a

K-12 Choiced-In, Tuitioned-In, & Other Non-Residents	
2016	n/a

The above data were used to assist in the preparation of the enrollment projections. If additional demographic work is needed, please contact our office.

# Hollis, NH Historical Enrollment

School District: Hollis, NH - SAU #41

10/4/2016

Historical Enrollment By Grade																			
Birth Year	Births	School Year	PK	K	1	2	3	4	5	6	7	8	9	10	11	12	UNGR	K-12	PK-12
2001	61	2006-07	17	64	91	121	106	143	141	128	125	147	141	136	148	128	0	1619	1636
2002	55	2007-08	22	64	95	90	123	109	148	142	123	123	145	138	142	143	0	1585	1607
2003	64	2008-09	21	58	83	94	92	131	113	144	138	131	123	142	139	139	0	1527	1548
2004	62	2009-10	16	58	86	84	100	90	130	113	143	143	124	130	141	140	0	1482	1498
2005	54	2010-11	26	53	83	90	90	106	88	131	106	139	135	125	131	138	0	1415	1441
2006	51	2011-12	24	60	79	82	93	97	103	96	129	106	144	134	124	132	0	1379	1403
2007	41	2012-13	24	62	77	86	85	91	98	108	97	129	94	142	121	122	0	1312	1336
2008	46	2013-14	18	69	92	82	95	91	96	104	107	93	118	91	130	129	0	1297	1315
2009	49	2014-15	19	54	82	106	92	100	93	99	94	110	93	127	89	137	0	1276	1295
2010	39	2015-16	18	49	81	92	105	95	106	95	100	101	109	90	124	94	0	1241	1259
2011	37	2016-17	18	59	79	86	95	117	94	106	101	100	99	112	99	131	0	1278	1296

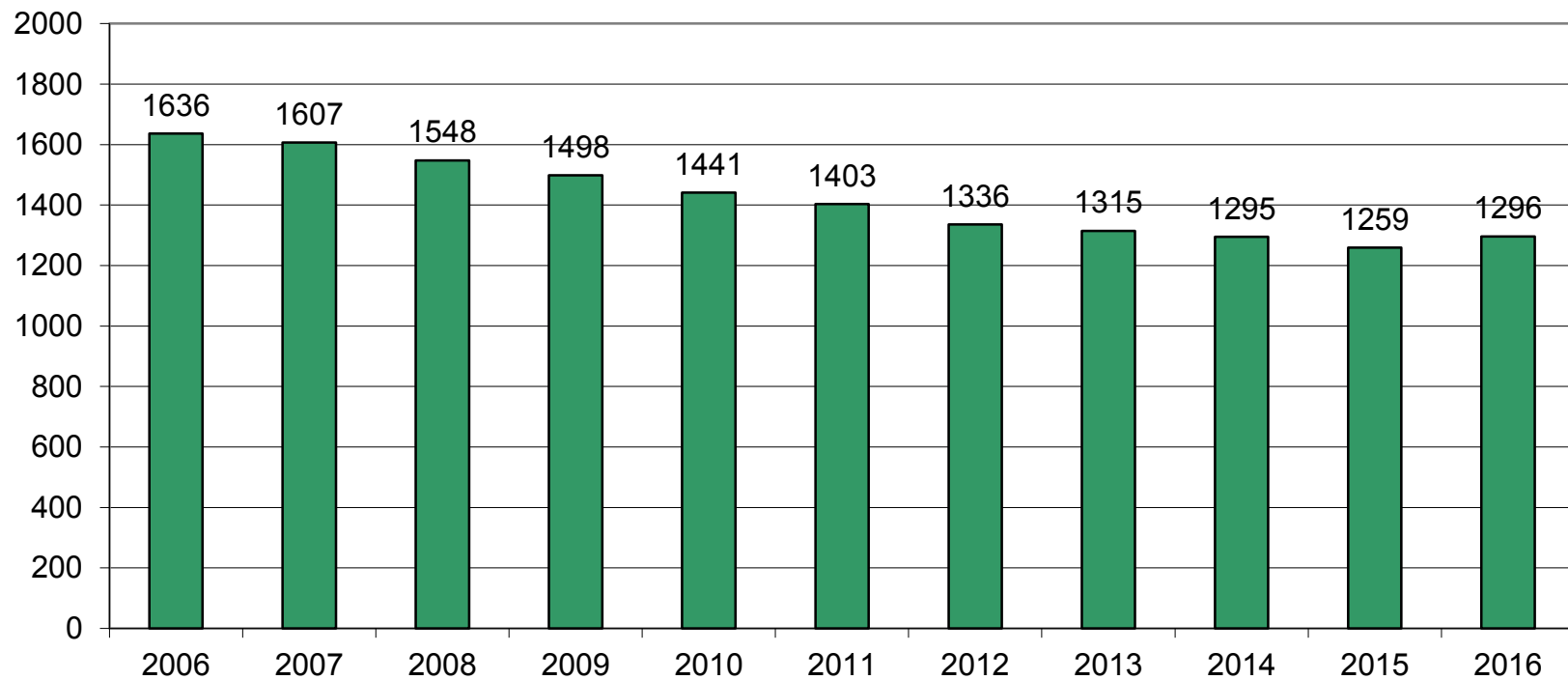
Historical Enrollment in Grade Combinations									
Year	K-4	PK-6	K-6	K-8	5-8	6-8	7-8	7-12	9-12
2006-07	525	811	794	1066	541	400	272	825	553
2007-08	481	793	771	1017	536	388	246	814	568
2008-09	458	736	715	984	526	413	269	812	543
2009-10	418	677	661	947	529	399	286	821	535
2010-11	422	667	641	886	464	376	245	774	529
2011-12	411	634	610	845	434	331	235	769	534
2012-13	401	631	607	833	432	334	226	705	479
2013-14	429	647	629	829	400	304	200	668	468
2014-15	434	645	626	830	396	303	204	650	446
2015-16	422	641	623	824	402	296	201	618	417
2016-17	436	654	636	837	401	307	201	642	441

Historical Percentage Changes			
Year	K-12	Diff.	%
2006-07	1619	0	0.0%
2007-08	1585	-34	-2.1%
2008-09	1527	-58	-3.7%
2009-10	1482	-45	-2.9%
2010-11	1415	-67	-4.5%
2011-12	1379	-36	-2.5%
2012-13	1312	-67	-4.9%
2013-14	1297	-15	-1.1%
2014-15	1276	-21	-1.6%
2015-16	1241	-35	-2.7%
2016-17	1278	37	3.0%
<b>Change</b>		<b>-341</b>	<b>-21.1%</b>



# Hollis, NH Historical Enrollment

**PK-12, 2006-2016**



# Hollis, NH Projected Enrollment

School District: **Hollis, NH - SAU #41**

10/4/2016

Enrollment Projections By Grade*																				
Birth Year	Births		School Year	PK	K	1	2	3	4	5	6	7	8	9	10	11	12	UNGR	K-12	PK-12
2011	37		2016-17	18	59	79	86	95	117	94	106	101	100	99	112	99	131	0	1278	1296
2012	37		2017-18	19	50	86	87	91	101	120	96	105	104	99	101	111	104	0	1255	1274
2013	40		2018-19	20	54	73	95	92	97	103	122	95	108	103	101	100	117	0	1260	1280
2014	34		2019-20	21	46	78	81	100	98	99	105	121	98	107	105	100	106	0	1244	1265
2015	48	(prov.)	2020-21	22	65	67	86	85	107	100	101	104	125	97	110	104	106	0	1257	1279
2016	39	(est.)	2021-22	23	53	94	74	91	91	110	102	100	107	124	99	109	110	0	1264	1287
2017	40	(est.)	2022-23	24	54	77	104	78	97	93	112	101	103	106	127	98	115	0	1265	1289
2018	40	(est.)	2023-24	25	54	78	85	110	83	99	95	111	104	102	109	126	103	0	1259	1284
2019	40	(est.)	2024-25	26	54	78	86	90	117	85	101	94	114	103	104	108	133	0	1267	1293
2020	41	(est.)	2025-26	27	56	78	86	91	96	120	86	100	97	113	105	103	114	0	1245	1272
2021	40	(est.)	2026-27	28	54	81	86	91	97	98	122	85	103	96	116	104	109	0	1242	1270

\*Projections should be updated on an annual basis in order to reflect changes in births, real estate sales, in-/out-migration of families, and housing construction.

Based on an estimate of births

Based on children already born

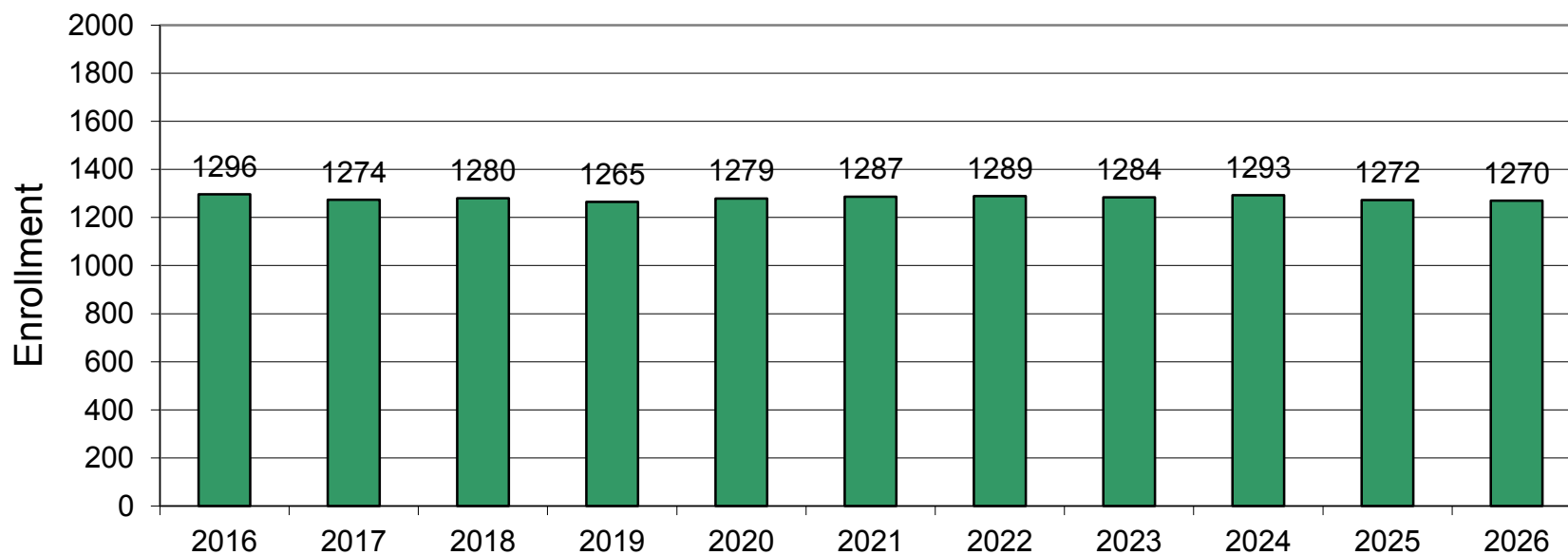
Based on students already enrolled

Projected Enrollment in Grade Combinations*									
Year	K-4	PK-6	K-6	K-8	5-8	6-8	7-8	7-12	9-12
2016-17	436	654	636	837	401	307	201	642	441
2017-18	415	650	631	840	425	305	209	624	415
2018-19	411	656	636	839	428	325	203	624	421
2019-20	403	628	607	826	423	324	219	637	418
2020-21	410	633	611	840	430	330	229	646	417
2021-22	403	638	615	822	419	309	207	649	442
2022-23	410	639	615	819	409	316	204	650	446
2023-24	410	629	604	819	409	310	215	655	440
2024-25	425	637	611	819	394	309	208	656	448
2025-26	407	640	613	810	403	283	197	632	435
2026-27	409	657	629	817	408	310	188	613	425

Projected Percentage Changes			
Year	K-12	Diff.	%
2016-17	1278	0	0.0%
2017-18	1255	-23	-1.8%
2018-19	1260	5	0.4%
2019-20	1244	-16	-1.3%
2020-21	1257	13	1.0%
2021-22	1264	7	0.6%
2022-23	1265	1	0.1%
2023-24	1259	-6	-0.5%
2024-25	1267	8	0.6%
2025-26	1245	-22	-1.7%
2026-27	1242	-3	-0.2%
Change		-36	-2.8%

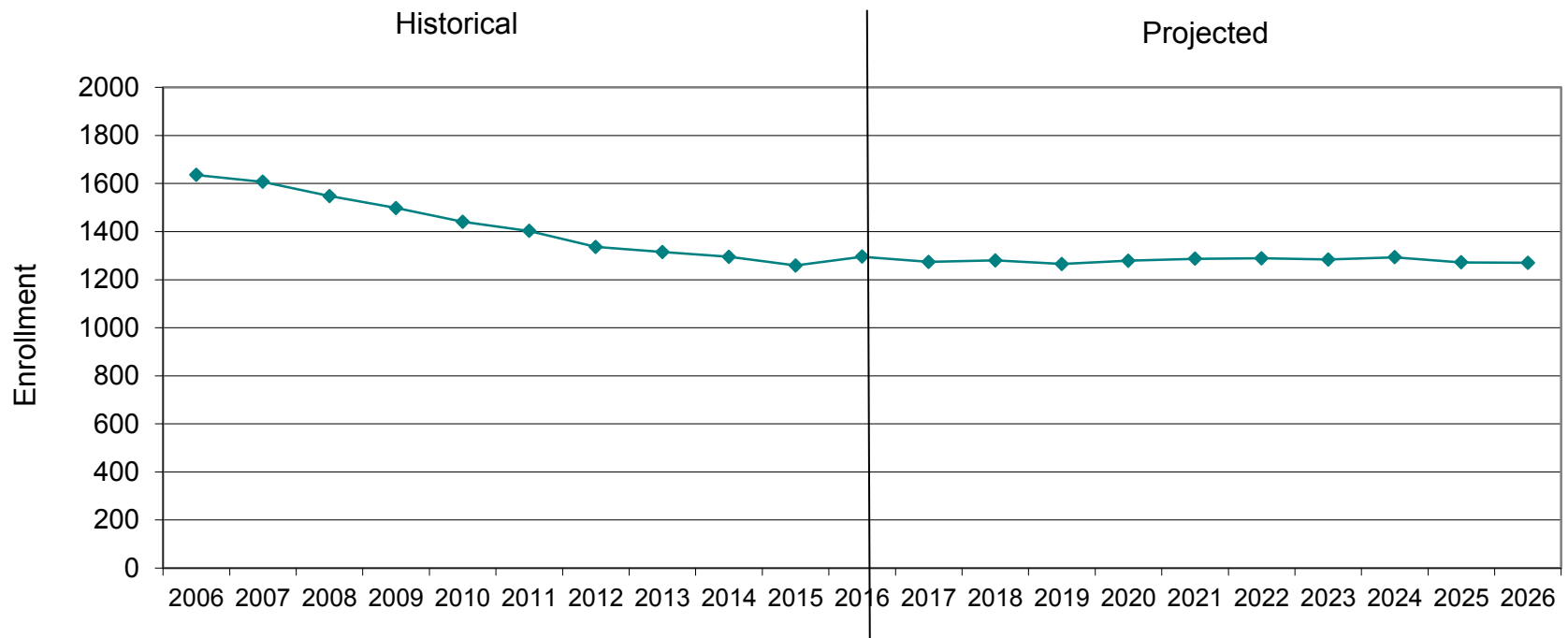
# Hollis, NH Projected Enrollment

PK-12 TO 2026 Based On Data Through School Year 2016-17

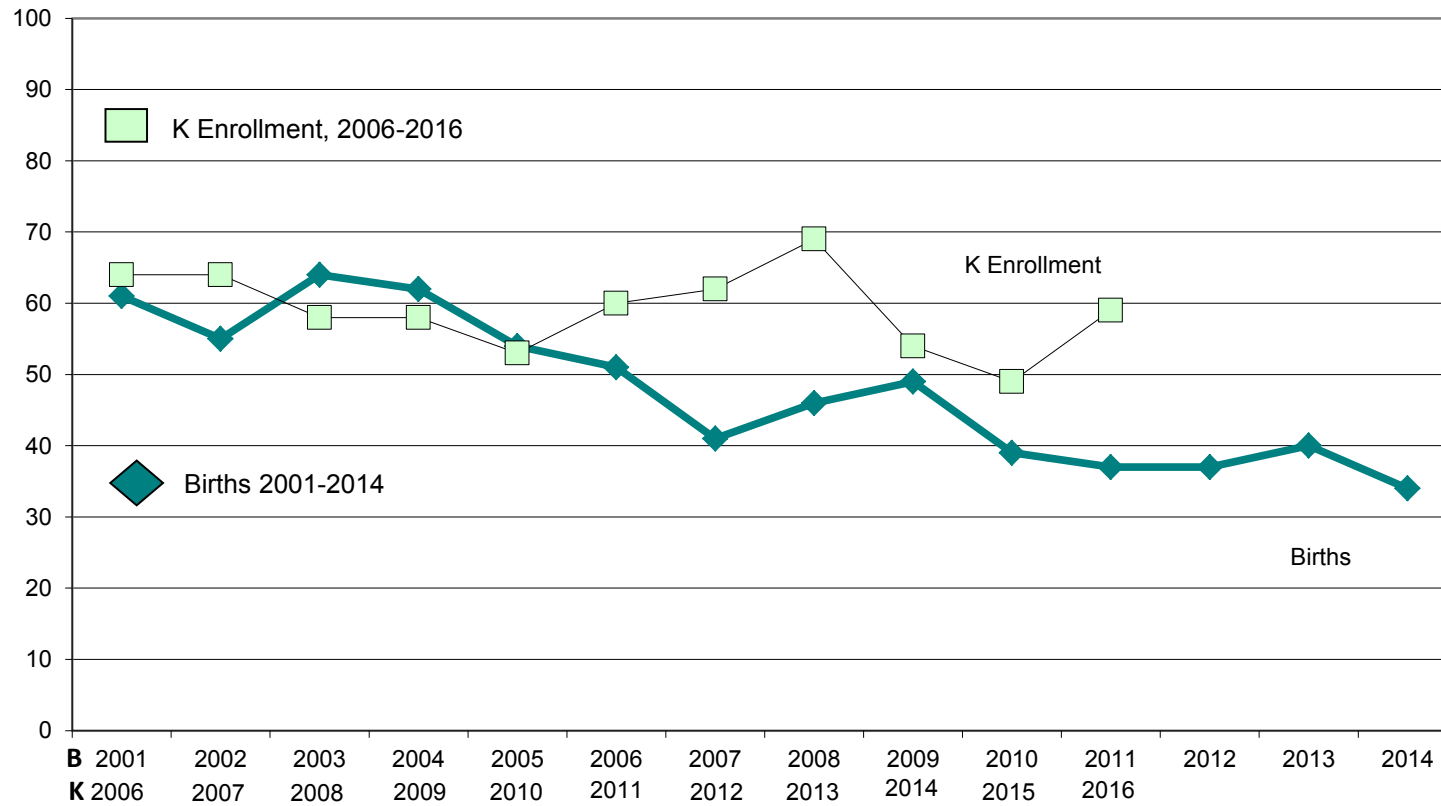


# Hollis, NH Historical & Projected Enrollment

**PK-12, 2006-2026**



# Hollis, NH Birth-to-Kindergarten Relationship



# Hollis, NH Additional Data

Building Permits Issued		
Year	Single-Family	Multi-Units
2005	23	2
2012	11	0
2013	17	0
2014	15	0
2015	15	0
2016	n/a	n/a

Source: HUD and Building Department

Enrollment History		
Year	Voc-Tech 9-12 Total	Non-Public K-12 Total
2005-06	n/a	n/a
2012-13	n/a	n/a
2013-14	n/a	n/a
2014-15	n/a	n/a
2015-16	n/a	n/a
2016-17	n/a	n/a

Residents in Non-Public Independent and Parochial Schools (General Education)														
Enrollments as of Oct. 1	K	1	2	3	4	5	6	7	8	9	10	11	12	K-12 TOTAL
	0	0	0	0	0	0	0	0	0	0	0	0	0	n/a

K-12 Home-Schooled Students	
2016	n/a

K-12 Residents "Choiced-out" or in Charter or Magnet Schools	
2016	n/a

K-12 Special Education Outplaced Students	
2016	n/a

K-12 Choiced-In, Tuitioned-In, & Other Non-Residents	
2016	n/a

The above data were used to assist in the preparation of the enrollment projections. If additional demographic work is needed, please contact our office.

# Hollis/Brookline, NH - SAU #41 Historical Enrollment

School District: Hollis/Brookline, NH - SAU #41

10/4/2016

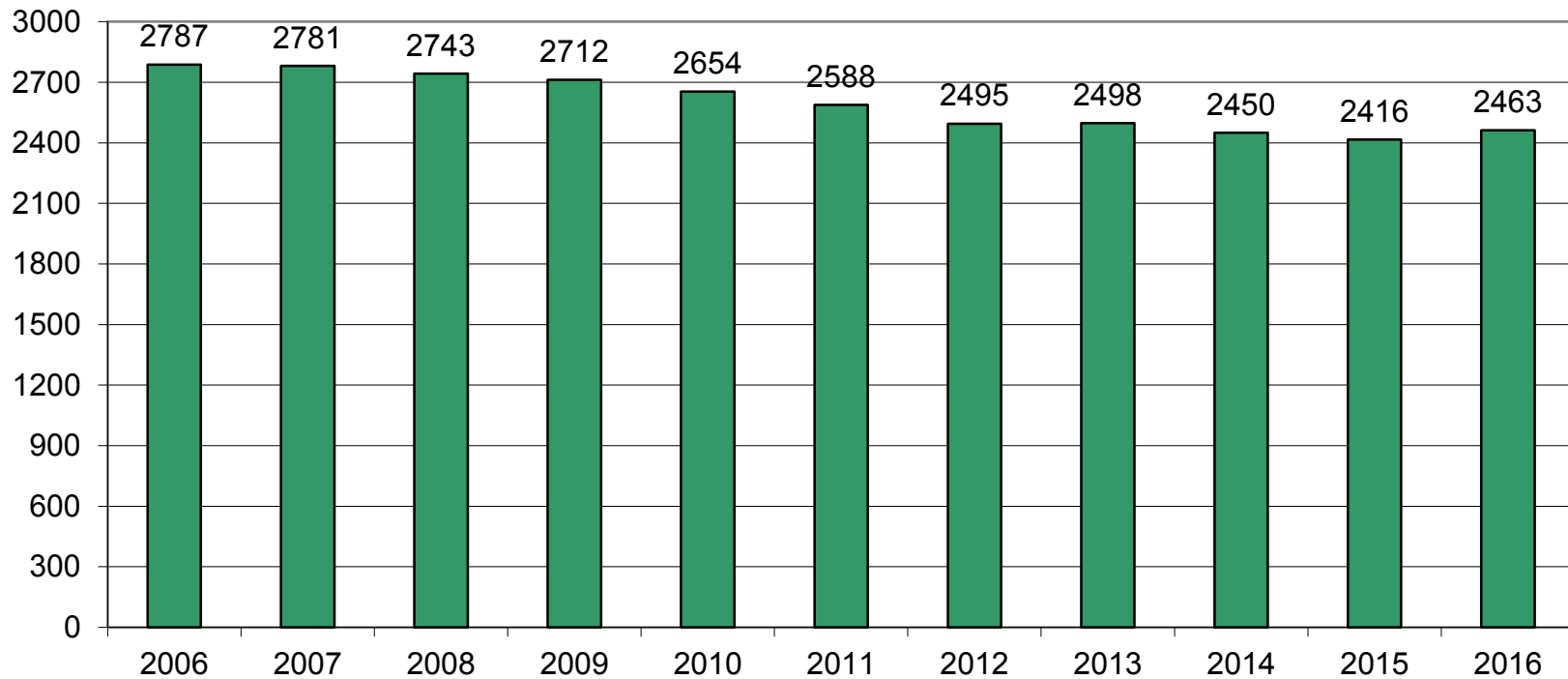
Historical Enrollment By Grade																			
Birth Year	Births	School Year	PK	K	1	2	3	4	5	6	7	8	9	10	11	12	UNGR	K-12	PK-12
2001	113	2006-07	17	141	161	224	201	232	240	217	220	241	241	216	235	201	0	2770	2787
2002	116	2007-08	38	138	176	158	232	207	242	240	204	215	244	239	222	226	0	2743	2781
2003	121	2008-09	35	144	169	178	166	237	213	237	237	210	222	238	238	219	0	2708	2743
2004	131	2009-10	28	130	204	172	189	166	235	212	232	245	200	230	238	231	0	2684	2712
2005	99	2010-11	44	131	177	188	179	195	167	236	204	235	237	202	224	235	0	2610	2654
2006	112	2011-12	43	112	162	178	194	187	193	178	232	205	235	239	198	232	0	2545	2588
2007	96	2012-13	53	110	137	170	181	193	188	202	178	231	197	242	216	197	0	2442	2495
2008	82	2013-14	51	125	154	142	184	189	202	201	204	178	223	203	211	231	0	2447	2498
2009	99	2014-15	47	111	142	173	155	191	196	201	196	208	176	232	196	226	0	2403	2450
2010	82	2015-16	44	109	148	157	174	161	202	204	207	198	209	175	233	195	0	2372	2416
2011	75	2016-17	42	137	145	155	168	190	161	208	209	210	204	210	181	243	0	2421	2463

Historical Enrollment in Grade Combinations									
Year	K-4	PK-6	K-6	K-8	5-8	6-8	7-8	7-12	9-12
2006-07	959	1433	1416	1877	918	678	461	1354	893
2007-08	911	1431	1393	1812	901	659	419	1350	931
2008-09	894	1379	1344	1791	897	684	447	1364	917
2009-10	861	1336	1308	1785	924	689	477	1376	899
2010-11	870	1317	1273	1712	842	675	439	1337	898
2011-12	833	1247	1204	1641	808	615	437	1341	904
2012-13	791	1234	1181	1590	799	611	409	1261	852
2013-14	794	1248	1197	1579	785	583	382	1250	868
2014-15	772	1216	1169	1573	801	605	404	1234	830
2015-16	749	1199	1155	1560	811	609	405	1217	812
2016-17	795	1206	1164	1583	788	627	419	1257	838

Historical Percentage Changes			
Year	K-12	Diff.	%
2006-07	2770	0	0.0%
2007-08	2743	-27	-1.0%
2008-09	2708	-35	-1.3%
2009-10	2684	-24	-0.9%
2010-11	2610	-74	-2.8%
2011-12	2545	-65	-2.5%
2012-13	2442	-103	-4.0%
2013-14	2447	5	0.2%
2014-15	2403	-44	-1.8%
2015-16	2372	-31	-1.3%
2016-17	2421	49	2.1%
<b>Change</b>		<b>-349</b>	<b>-12.6%</b>

# Hollis/Brookline, NH - SAU #41 Historical Enrollment

**PK-12, 2006-2016**





# Hollis/Brookline, NH - SAU #41 Projected Enrollment

School District: Hollis/Brookline, NH - SAU #41

10/4/2016

Enrollment Projections By Grade*																				
Birth Year	Births		School Year	PK	K	1	2	3	4	5	6	7	8	9	10	11	12	UNGR	K-12	PK-12
2011	75		2016-17	42	137	145	155	168	190	161	208	209	210	204	210	181	243	0	2421	2463
2012	80		2017-18	44	116	174	157	165	177	196	165	210	212	212	206	205	188	0	2383	2427
2013	76		2018-19	46	109	148	188	167	174	182	200	166	213	213	215	202	214	0	2391	2437
2014	81	0	2019-20	48	118	140	160	199	176	179	186	201	169	214	216	211	211	0	2380	2428
2015	95	(prov.)	2020-21	50	137	148	151	169	210	181	183	187	205	170	218	212	220	0	2391	2441
2016	81	(est.)	2021-22	52	118	175	159	160	179	217	185	184	190	206	173	214	221	0	2381	2433
2017	83	(est.)	2022-23	54	120	150	189	169	169	185	222	187	187	191	210	170	223	0	2372	2426
2018	83	(est.)	2023-24	56	120	153	162	201	178	174	190	224	190	188	195	207	177	0	2359	2415
2019	85	(est.)	2024-25	58	122	153	165	172	212	184	178	192	227	191	191	191	216	0	2394	2452
2020	85	(est.)	2025-26	60	123	155	165	175	182	219	188	179	195	229	194	187	199	0	2390	2450
2021	83	(est.)	2026-27	62	120	157	167	175	185	187	224	190	182	196	233	190	196	0	2402	2464

\*Projections should be updated on an annual basis in order to reflect changes in births, real estate sales, in-/out-migration of families, and housing construction.

Based on an estimate of births

Based on children already born

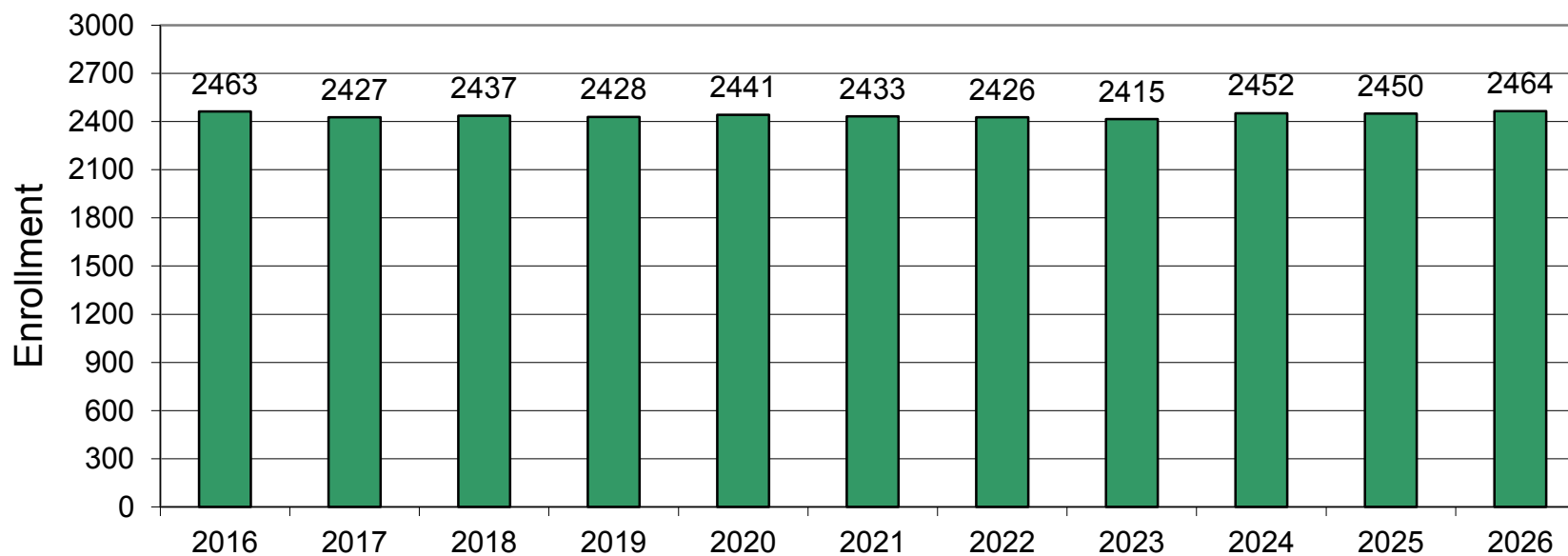
Based on students already enrolled

Projected Enrollment in Grade Combinations*									
Year	K-4	PK-6	K-6	K-8	5-8	6-8	7-8	7-12	9-12
2016-17	795	1206	1164	1583	788	627	419	1257	838
2017-18	789	1194	1150	1572	783	587	422	1233	811
2018-19	786	1214	1168	1547	761	579	379	1223	844
2019-20	793	1206	1158	1528	735	556	370	1222	852
2020-21	815	1229	1179	1571	756	575	392	1212	820
2021-22	791	1245	1193	1567	776	559	374	1188	814
2022-23	797	1258	1204	1578	781	596	374	1168	794
2023-24	814	1234	1178	1592	778	604	414	1181	767
2024-25	824	1244	1186	1605	781	597	419	1208	789
2025-26	800	1267	1207	1581	781	562	374	1183	809
2026-27	804	1277	1215	1587	783	596	372	1187	815

Projected Percentage Changes			
Year	K-12	Diff.	%
2016-17	2421	0	0.0%
2017-18	2383	-38	-1.6%
2018-19	2391	8	0.3%
2019-20	2380	-11	-0.5%
2020-21	2391	11	0.5%
2021-22	2381	-10	-0.4%
2022-23	2372	-9	-0.4%
2023-24	2359	-13	-0.5%
2024-25	2394	35	1.5%
2025-26	2390	-4	-0.2%
2026-27	2402	12	0.5%
Change		-19	-0.8%

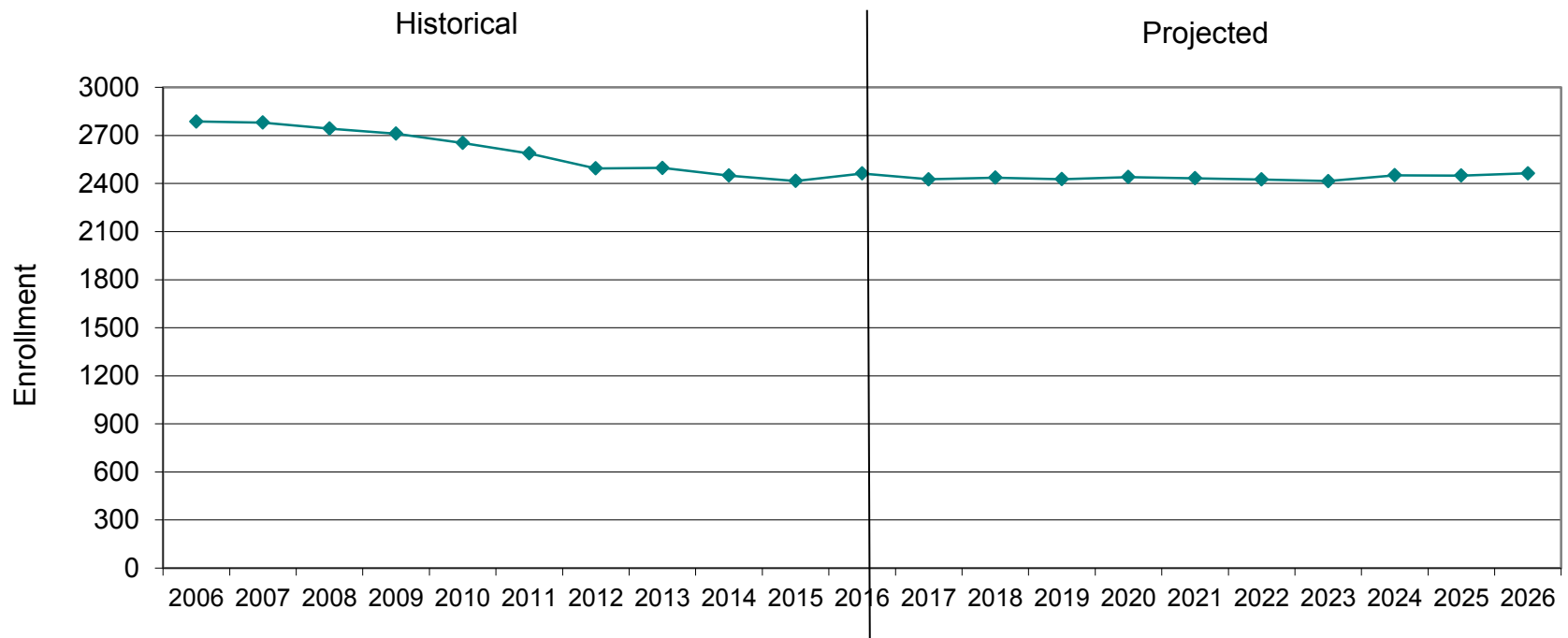
# Hollis/Brookline, NH - SAU #41 Projected Enrollment

PK-12 TO 2026 Based On Data Through School Year 2016-17

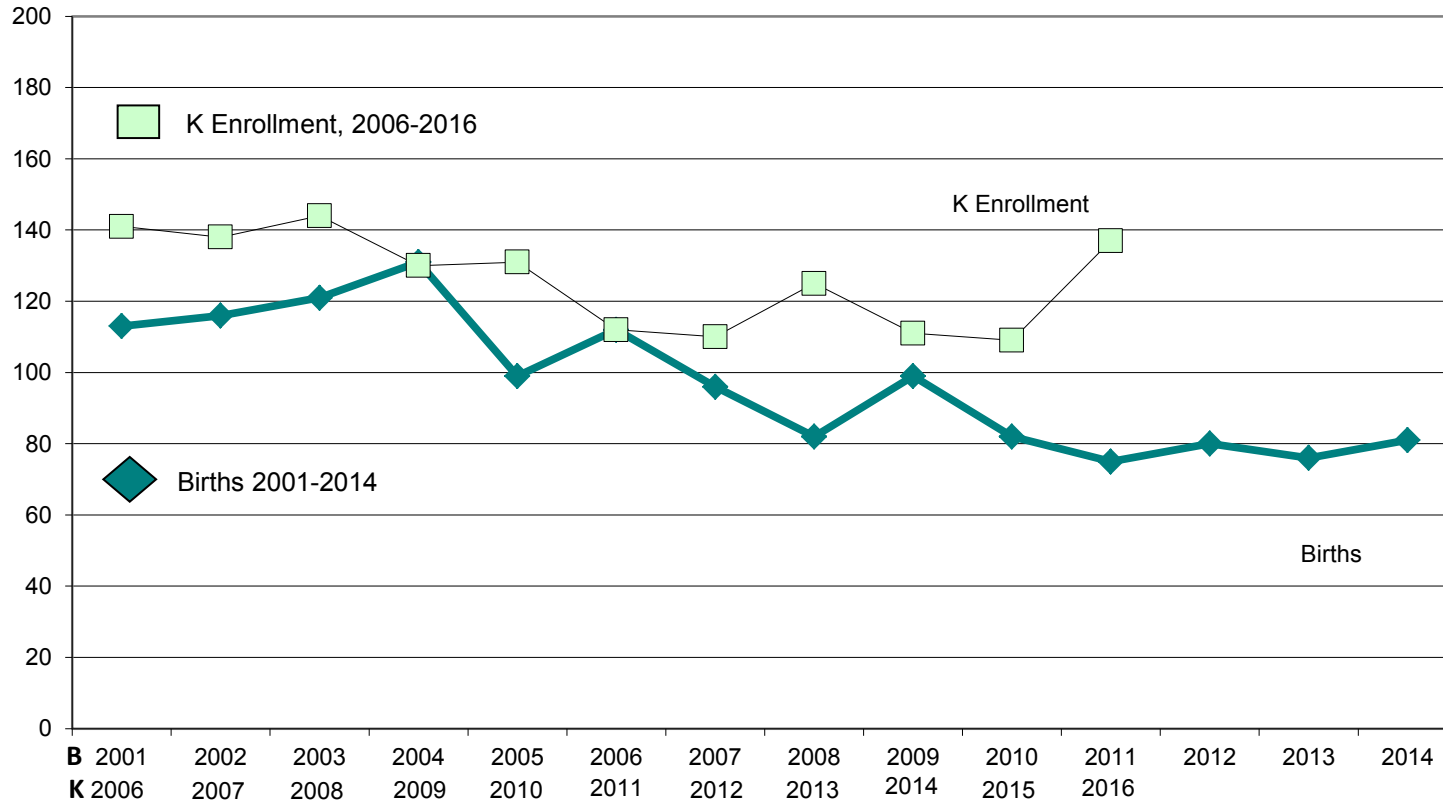


# Hollis/Brookline, NH - SAU #41 Historical & Projected Enrollment

**PK-12, 2006-2026**



# Hollis/Brookline, NH - SAU #41 Birth-to-Kindergarten Relationship





# Brookline, NH Historical Enrollment

School District:

Brookline, NH - SAU #41

10/4/2017

**Historical Enrollment By Grade**

Birth Year	Births	School Year	PK	K	1	2	3	4	5	6	7	8	9	10	11	12	UNGR	K-12	PK-12
2002	61	2007-08	16	74	81	68	109	98	94	98	81	92	99	101	80	83	0	1158	1174
2003	57	2008-09	14	86	86	84	74	106	100	93	99	79	99	96	99	80	0	1181	1195
2004	69	2009-10	12	72	118	88	89	76	105	99	89	102	76	100	97	91	0	1202	1214
2005	45	2010-11	18	78	94	98	89	89	79	105	98	96	102	77	93	97	0	1195	1213
2006	61	2011-12	19	52	83	96	101	90	90	82	103	99	91	105	74	100	0	1166	1185
2007	55	2012-13	29	48	60	84	96	102	90	94	81	102	103	100	95	75	0	1130	1159
2008	36	2013-14	33	56	62	60	89	98	106	97	97	85	105	112	81	102	0	1150	1183
2009	50	2014-15	28	57	60	67	63	91	103	102	102	98	83	105	107	89	0	1127	1155
2010	43	2015-16	26	60	67	65	69	66	96	109	107	97	100	85	109	101	0	1131	1157
2011	38	2016-17	24	78	86	69	73	73	67	102	108	110	104	97	82	111	0	1140	1164
2012	43	2017-18	19	73	77	67	78	78	73	68	102	108	113	106	99	79	0	1121	1140

**Historical Enrollment in Grade Combinations**

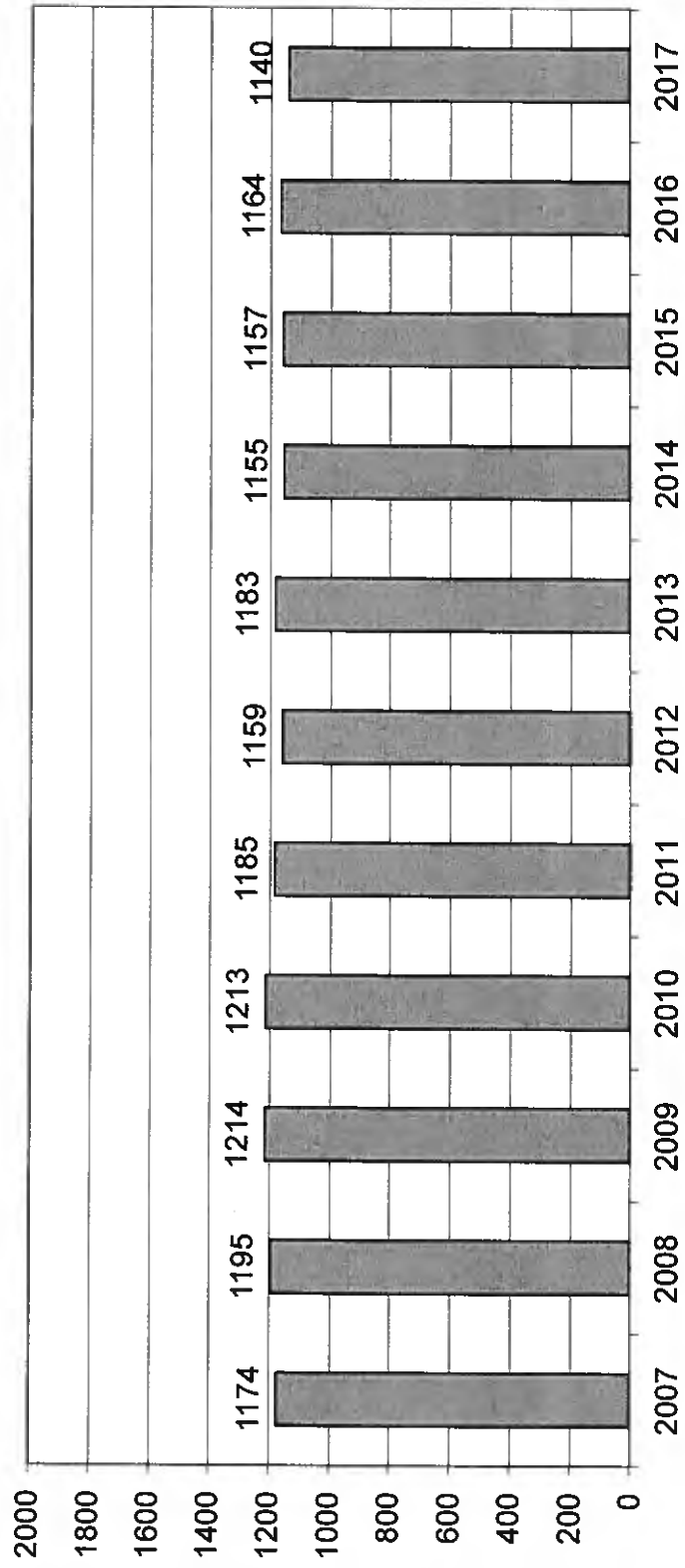
Year	K-3	4-6	K-6	K-8	5-8	6-8	7-8	7-12	9-12
2007-08	332	290	622	795	365	271	173	536	363
2008-09	330	289	629	807	371	271	178	552	374
2009-10	357	280	647	838	395	290	191	555	364
2010-11	359	273	632	826	378	296	194	563	369
2011-12	332	262	594	796	374	284	202	572	370
2012-13	288	286	574	757	367	277	183	556	373
2013-14	267	301	568	750	385	279	182	582	400
2014-15	247	296	543	743	405	302	200	584	384
2015-16	261	271	532	736	409	313	204	599	395
2016-17	286	242	528	746	387	320	218	612	394
2017-18	295	219	514	724	351	278	210	607	397

**Historical Percentage Changes**

Year	K-12	Diff.	%
2007-08	1158	0	0.0%
2008-09	1181	23	2.0%
2009-10	1202	21	1.8%
2010-11	1195	-7	-0.6%
2011-12	1166	-29	-2.4%
2012-13	1130	-36	-3.1%
2013-14	1150	20	1.8%
2014-15	1127	-23	-2.0%
2015-16	1131	4	0.4%
2016-17	1140	9	0.8%
2017-18	1121	-19	-1.7%
Change		-37	-3.2%

# Brookline, NH Historical Enrollment

PK-12, 2007-2017





# Brookline, NH Projected Enrollment

School District:

Brookline, NH - SAU #41

10/4/2017

Enrollment Projections By Grade*																			
Birth Year	Births	School Year	PK	K	1	2	3	4	5	6	7	8	9	10	11	12	UNGR	K-12	PK-12
2012	43	2017-18	19	73	77	67	78	78	73	68	102	108	113	106	99	79	0	1121	1140
2013	36	2018-19	20	62	79	80	74	83	80	76	69	104	111	114	106	98	0	1133	1153
2014	47	2019-20	21	81	67	82	88	78	85	84	77	69	104	111	114	104	0	1144	1165
2015	50	2020-21	22	86	88	70	90	93	80	89	85	76	71	104	111	112	0	1155	1177
2016	57	2021-22	23	98	94	92	77	95	95	84	90	84	78	71	104	109	0	1171	1194
2017	47	2022-23	24	80	107	98	101	81	97	99	86	89	87	78	71	102	0	1175	1199
2018	47	2023-24	25	81	87	112	108	107	83	101	100	84	92	87	78	70	0	1190	1215
2019	50	2024-25	26	86	88	91	123	114	110	87	102	99	87	92	87	77	0	1242	1268
2020	50	2025-26	27	86	92	92	100	130	117	115	88	101	102	87	92	86	0	1288	1315
2021	50	2026-27	28	86	94	96	101	106	133	122	117	87	104	102	87	91	0	1326	1354
2022	49	2027-28	29	84	94	96	106	107	108	139	124	116	90	104	102	86	0	1358	1387

\*Projections should be updated annually to reflect changes in in/out-migration of families, real estate sales, residential construction, and births.

Based on an estimate of births

Based on children already born

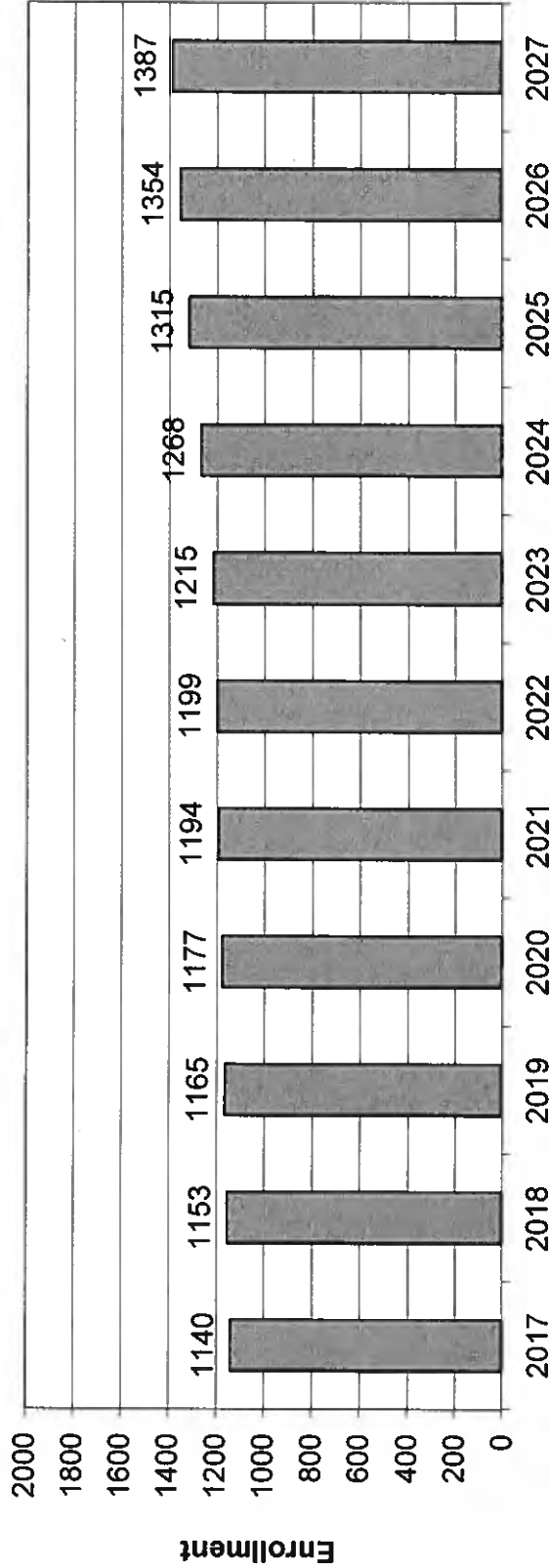
Based on students already enrolled

Projected Enrollment in Grade Combinations*										
Year	K-3	4-6	K-6	5-8	6-8	7-8	7-12	9-12		
2017-18	295	219	514	724	351	278	210	607		
2018-19	295	239	534	704	326	246	170	599		
2019-20	318	247	565	711	315	230	146	579		
2020-21	334	262	586	757	330	250	161	559		
2021-22	361	274	635	809	353	258	174	536		
2022-23	386	277	663	837	370	273	174	512		
2023-24	388	291	679	863	368	285	184	511		
2024-25	387	311	698	899	398	288	201	544		
2025-26	370	362	732	921	421	304	189	556		
2026-27	377	361	738	942	459	326	204	588		
2027-28	382	354	736	976	487	379	240	622		

Projected Percentage Changes			
Year	K-12	Diff.	%
2017-18	1121	0	0.0%
2018-19	1133	12	1.1%
2019-20	1144	11	1.0%
2020-21	1155	11	1.0%
2021-22	1171	16	1.4%
2022-23	1175	4	0.3%
2023-24	1190	15	1.3%
2024-25	1242	52	4.4%
2025-26	1288	46	3.7%
2026-27	1326	38	3.0%
2027-28	1358	32	2.4%
Change		237	21.1%

# Brookline, NH Projected Enrollment

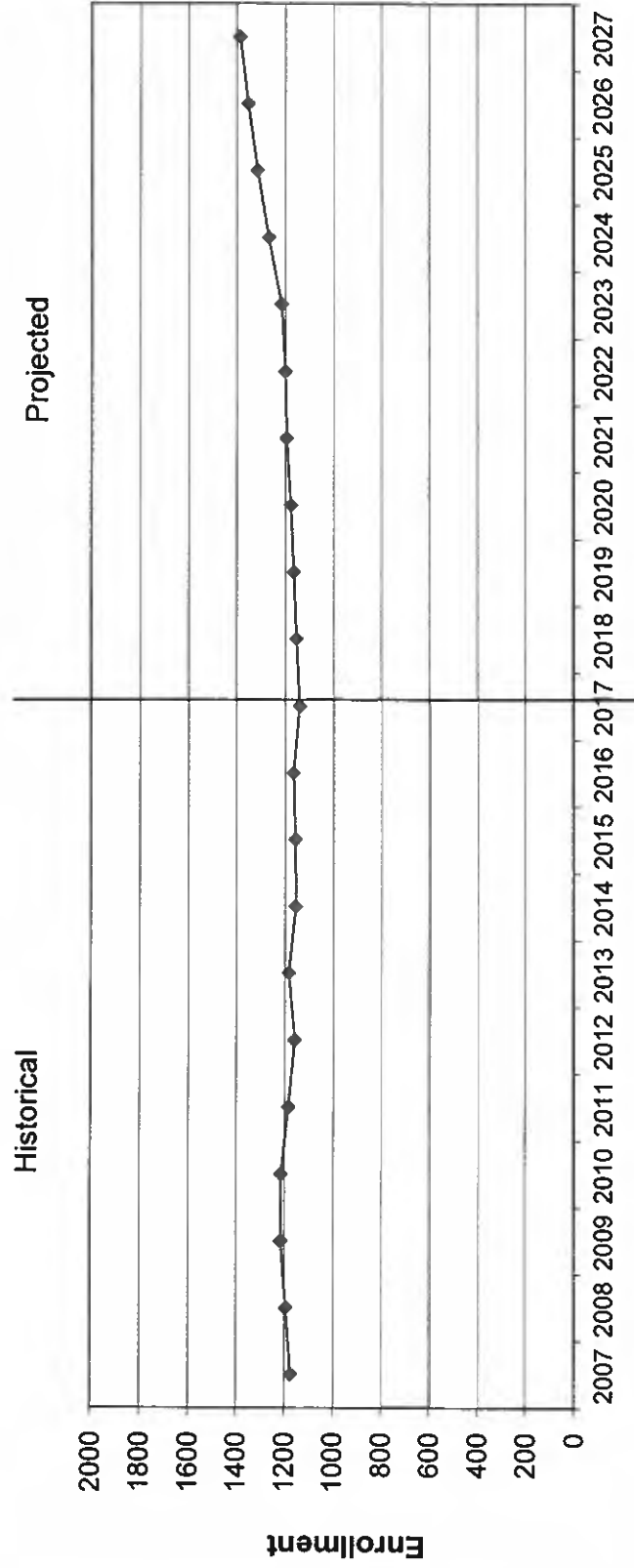
PK-12 To 2027 Based On Data Through School Year 2017-18



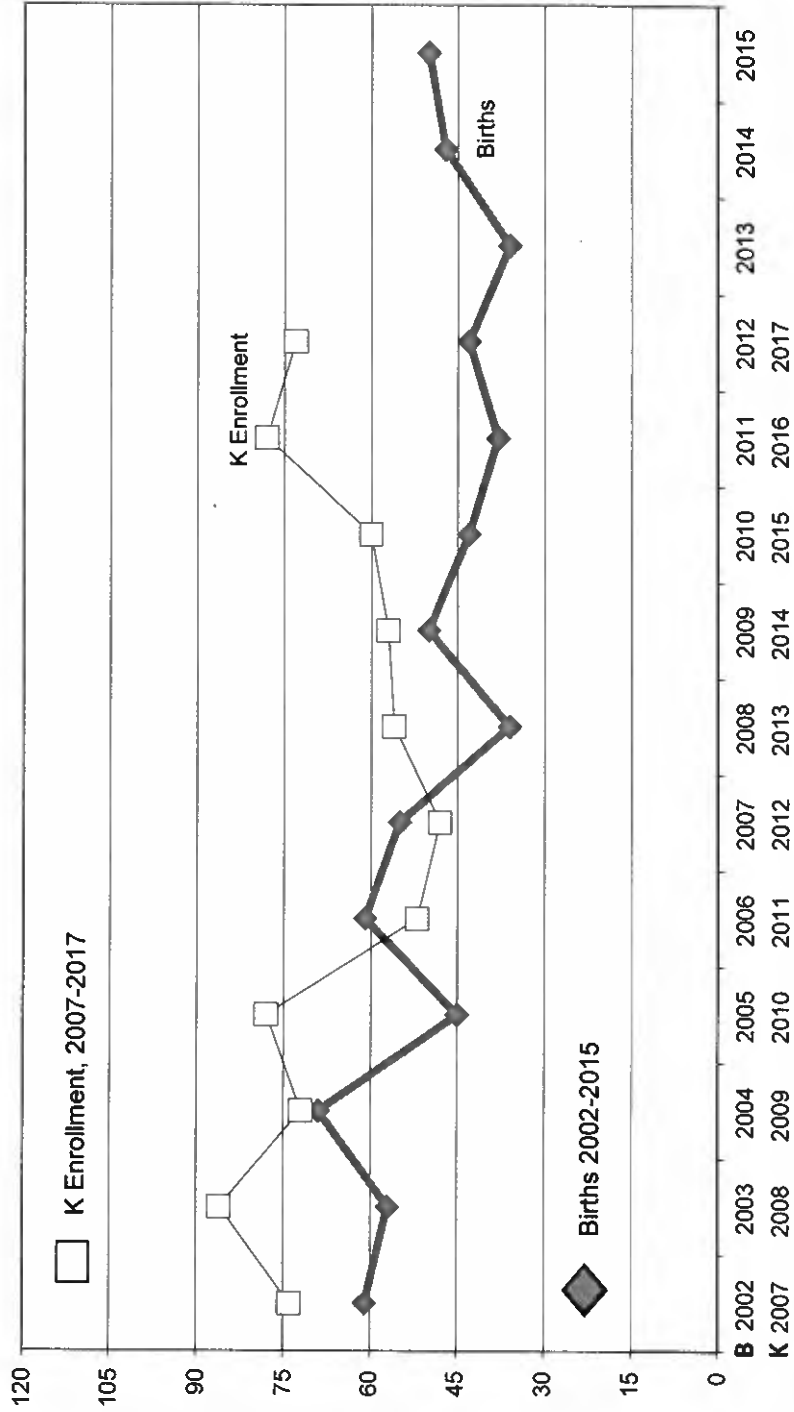


# Brookline, NH Historical & Projected Enrollment

PK-12, 2007-2027



# Brookline, NH Birth-to-Kindergarten Relationship





# Brookline, NH Additional Data

Building Permits Issued		
Year	Single-Family	Multi-Units
2005	48	0
2013	24	0
2014	23	0
2015	21	0
2016	23	0
2017	n/a	0

Source: HUD and Building Department

Year	Enrollment History	
	Voc-Tech 9-12 Total	Non-Public K-12 Total
2005-06	n/a	n/a
2013-14	n/a	n/a
2014-15	n/a	n/a
2015-16	n/a	n/a
2016-17	n/a	n/a
2017-18	n/a	n/a

Residents in Non-Public Independent and Parochial Schools (General Education)														
Enrollments as of Oct. 1	K	1	2	3	4	5	6	7	8	9	10	11	12	K-12 TOTAL
n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a

K-12 Home-Schooled Students	
2017	n/a

K-12 Residents "Choiced-out" or in Charter or Magnet Schools	
2017	n/a

K-12 Special Education Outplaced Students	
2017	n/a

K-12 Choiced-In, Tuitioned-In, & Other Non-Residents	
2017	n/a

The above data were used to assist in the preparation of the enrollment projections. If additional demographic work is needed, please contact our office.

# Hollis, NH Historical Enrollment

School District: Hollis, NH - SAU #41

10/18/2018

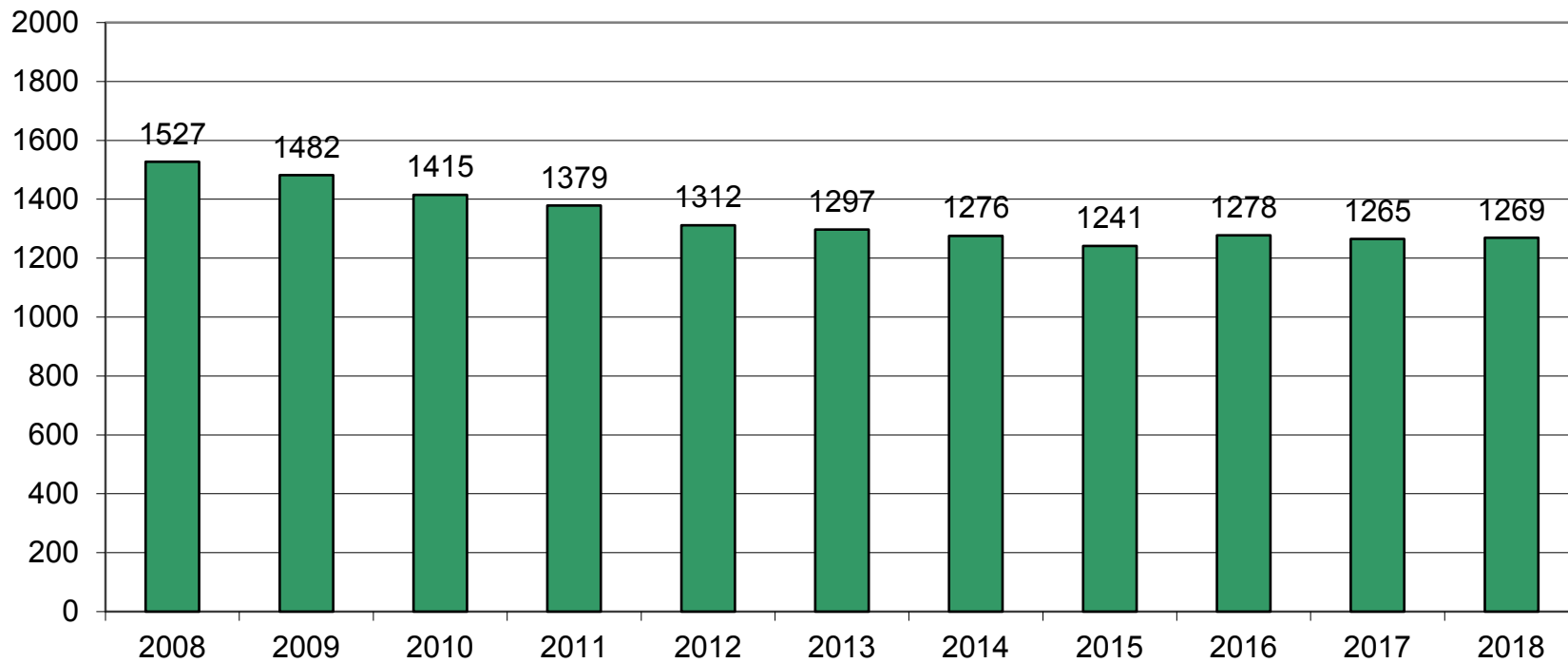
Historical Enrollment By Grade																			
Birth Year	Births	School Year	PK	K	1	2	3	4	5	6	7	8	9	10	11	12	UNGR	K-12	PK-12
2003	64	2008-09	21	58	83	94	92	131	113	144	138	131	123	142	139	139	0	1527	1548
2004	62	2009-10	16	58	86	84	100	90	130	113	143	143	124	130	141	140	0	1482	1498
2005	54	2010-11	26	53	83	90	90	106	88	131	106	139	135	125	131	138	0	1415	1441
2006	51	2011-12	24	60	79	82	93	97	103	96	129	106	144	134	124	132	0	1379	1403
2007	41	2012-13	24	62	77	86	85	91	98	108	97	129	94	142	121	122	0	1312	1336
2008	46	2013-14	18	69	92	82	95	91	96	104	107	93	118	91	130	129	0	1297	1315
2009	49	2014-15	19	54	82	106	92	100	93	99	94	110	93	127	89	137	0	1276	1295
2010	39	2015-16	18	49	81	92	105	95	106	95	100	101	109	90	124	94	0	1241	1259
2011	37	2016-17	18	59	79	86	95	117	94	106	101	100	99	112	99	131	0	1278	1296
2012	37	2017-18	11	65	80	89	90	101	123	98	111	99	101	101	112	95	0	1265	1276
2013	40	2018-19	18	80	71	80	94	96	107	125	75	106	110	114	108	103	0	1269	1287

Historical Enrollment in Grade Combinations									
Year	K-3	4-6	K-6	K-8	5-8	6-8	7-8	7-12	9-12
2008-09	327	388	715	984	526	413	269	812	543
2009-10	328	333	661	947	529	399	286	821	535
2010-11	316	325	641	886	464	376	245	774	529
2011-12	314	296	610	845	434	331	235	769	534
2012-13	310	297	607	833	432	334	226	705	479
2013-14	338	291	629	829	400	304	200	668	468
2014-15	334	292	626	830	396	303	204	650	446
2015-16	327	296	623	824	402	296	201	618	417
2016-17	319	317	636	837	401	307	201	642	441
2017-18	324	322	646	856	431	308	210	619	409
2018-19	325	328	653	834	413	306	181	616	435

Historical Percentage Changes			
Year	K-12	Diff.	%
2008-09	1527	0	0.0%
2009-10	1482	-45	-2.9%
2010-11	1415	-67	-4.5%
2011-12	1379	-36	-2.5%
2012-13	1312	-67	-4.9%
2013-14	1297	-15	-1.1%
2014-15	1276	-21	-1.6%
2015-16	1241	-35	-2.7%
2016-17	1278	37	3.0%
2017-18	1265	-13	-1.0%
2018-19	1269	4	0.3%
<b>Change</b>		<b>-258</b>	<b>-16.9%</b>

# Hollis, NH Historical Enrollment

**K-12, 2008-2018**



# Hollis, NH Projected Enrollment

School District: Hollis, NH - SAU #41

10/18/2018

Enrollment Projections By Grade*																				
Birth Year	Births		School Year	PK	K	1	2	3	4	5	6	7	8	9	10	11	12	UNGR	K-12	PK-12
2013	40		2018-19	18	80	71	80	94	96	107	125	75	106	110	114	108	103	0	1269	1287
2014	34		2019-20	18	61	108	75	84	101	99	109	120	74	109	116	117	106	0	1279	1297
2015	50		2020-21	19	89	83	115	78	90	104	101	105	118	76	115	119	115	0	1308	1327
2016	47		2021-22	19	84	120	88	120	83	93	106	97	103	121	80	118	117	0	1330	1349
2017	53		2022-23	20	95	114	128	92	128	86	95	102	95	106	128	82	116	0	1367	1387
2018	45	(est.)	2023-24	20	80	129	121	134	98	132	88	91	100	98	112	132	81	0	1396	1416
2019	46	(est.)	2024-25	21	82	108	137	126	143	101	135	85	89	103	104	115	130	0	1458	1479
2020	48	(est.)	2025-26	21	86	111	115	143	135	148	103	130	84	91	109	107	113	0	1475	1496
2021	48	(est.)	2026-27	22	85	116	118	120	153	140	151	99	128	86	96	112	105	0	1509	1531
2022	48	(est.)	2027-28	22	85	115	123	123	128	158	143	145	97	132	91	99	110	0	1549	1571
2023	47	(est.)	2028-29	23	84	115	122	129	132	132	161	138	142	100	140	94	98	0	1587	1610

Note: Ungraded students (UNGR) often are HS students whose anticipated years of graduation are unknown, or students with special needs - UNGR not included in Grade Combinations for 7-12, 9-12, etc.

Based on an estimate of births
  Based on children already born
  Based on students already enrolled

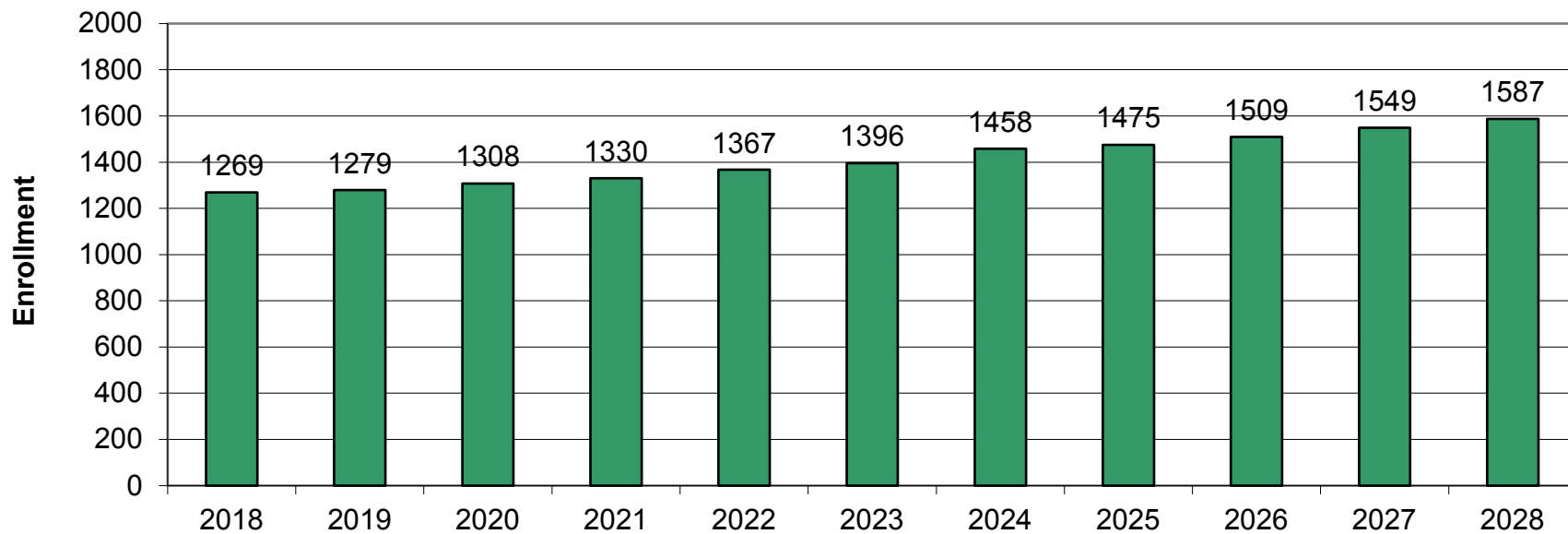
Projected Enrollment in Grade Combinations*									
Year	K-3	4-6	K-6	K-8	5-8	6-8	7-8	7-12	9-12
2018-19	325	328	653	834	413	306	181	616	435
2019-20	328	309	637	831	402	303	194	642	448
2020-21	365	295	660	883	428	324	223	648	425
2021-22	412	282	694	894	399	306	200	636	436
2022-23	429	309	738	935	378	292	197	629	432
2023-24	464	318	782	973	411	279	191	614	423
2024-25	453	379	832	1006	410	309	174	626	452
2025-26	455	386	841	1055	465	317	214	634	420
2026-27	439	444	883	1110	518	378	227	626	399
2027-28	446	429	875	1117	543	385	242	674	432
2028-29	450	425	875	1155	573	441	280	712	432

Projected Percentage Changes			
Year	K-12	Diff.	%
2018-19	1269	0	0.0%
2019-20	1279	10	0.8%
2020-21	1308	29	2.3%
2021-22	1330	22	1.7%
2022-23	1367	37	2.8%
2023-24	1396	29	2.1%
2024-25	1458	62	4.4%
2025-26	1475	17	1.2%
2026-27	1509	34	2.3%
2027-28	1549	40	2.7%
2028-29	1587	38	2.5%
<b>Change</b>		<b>318</b>	<b>25.1%</b>

\*Projections should be updated annually to reflect changes in in/out-migration of families, real estate sales, residential construction, births, and similar factors.

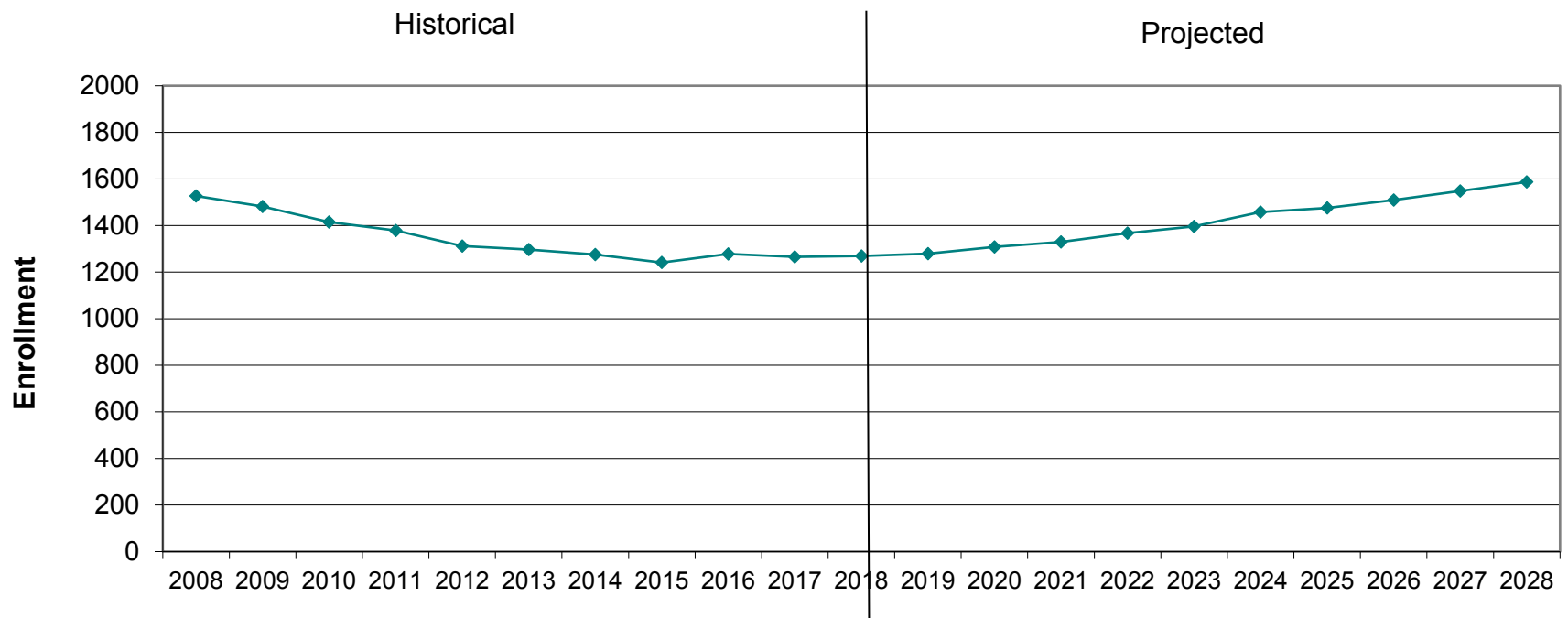
# Hollis, NH Projected Enrollment

K-12 To 2029 Based On Data Through School Year 2018-19



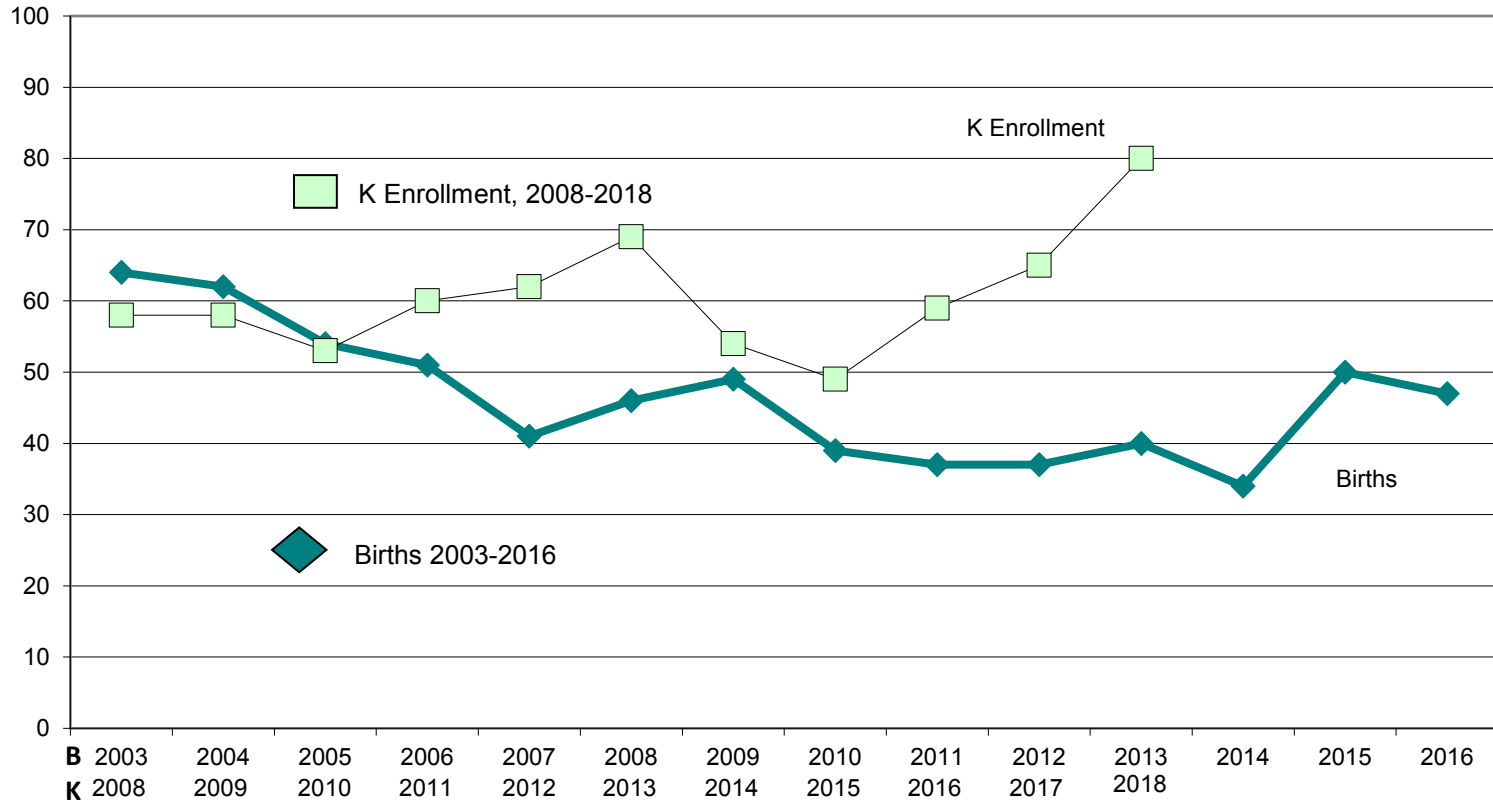
# Hollis, NH Historical & Projected Enrollment

## K-12, 2008-2028





# Hollis, NH Birth-to-Kindergarten Relationship



# Hollis, NH Additional Data

Building Permits Issued		
Year	Single-Family	Multi-Units
2005	23	2
2014	15	0
2015	15	0
2016	12	0
2017	17	0
2018	n/a	0

Source: HUD and Building Department

Enrollment History		
Year	Career-Tech 9-12 Total	Non-Public K-12 Total
2005-06	n/a	n/a
2014-15	n/a	n/a
2015-16	n/a	n/a
2016-17	n/a	n/a
2017-18	n/a	n/a
2018-19	n/a	n/a

Residents in Non-Public Independent and Parochial Schools (General Education)														
Enrollments as of Oct. 1	K	1	2	3	4	5	6	7	8	9	10	11	12	K-12 TOTAL
	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a

K-12 Home-Schooled Students	
2018	n/a

K-12 Residents "Choiced-out" or in Charter or Magnet Schools	
2018	n/a

K-12 Special Education Outplaced Students	
2018	n/a

K-12 Choiced-In, Tuitioned-In, & Other Non-Residents	
2018	n/a

The above data were used to assist in the preparation of the enrollment projections. If additional demographic work is needed, please contact our office.

# Brookline, NH Historical Enrollment

School District: Brookline, NH - SAU #41

10/18/2018

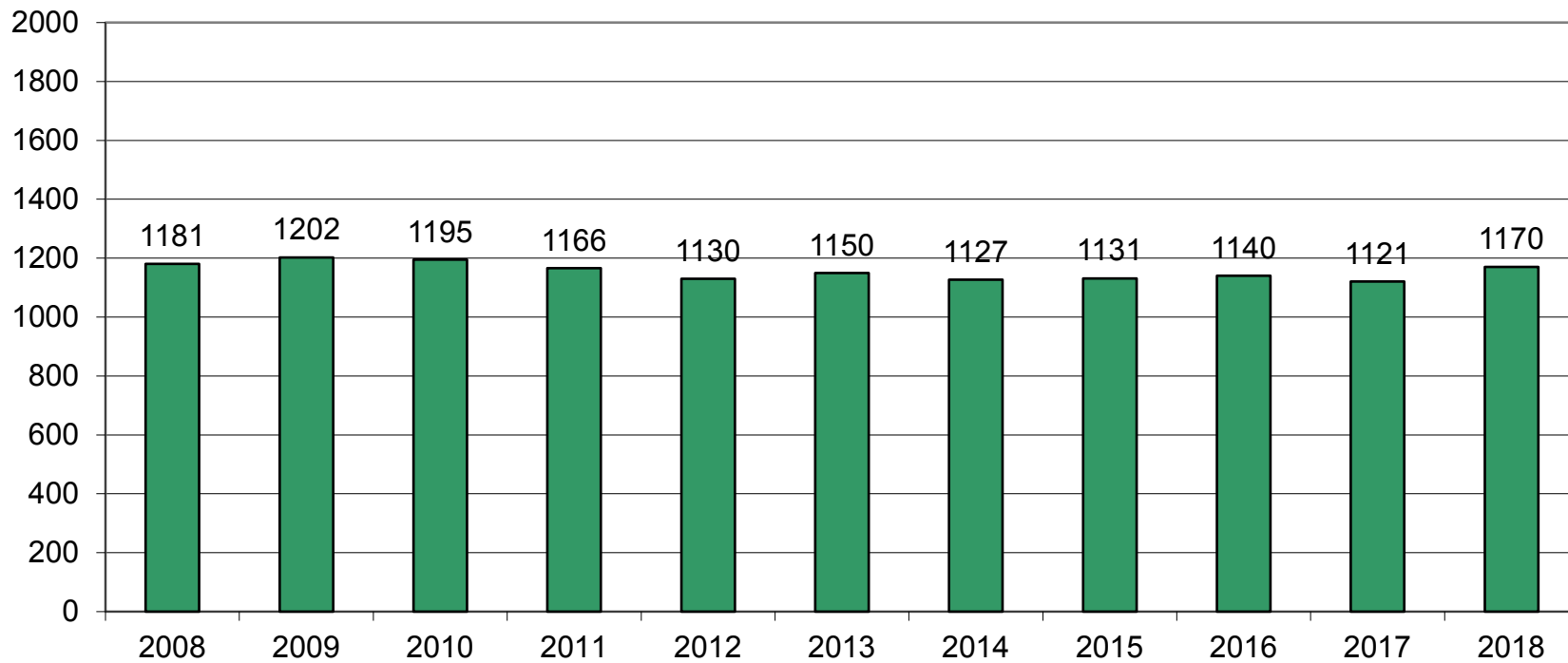
Historical Enrollment By Grade																			
Birth Year	Births	School Year	PK	K	1	2	3	4	5	6	7	8	9	10	11	12	UNGR	K-12	PK-12
2003	57	2008-09	14	86	86	84	74	106	100	93	99	79	99	96	99	80	0	1181	1195
2004	69	2009-10	12	72	118	88	89	76	105	99	89	102	76	100	97	91	0	1202	1214
2005	45	2010-11	18	78	94	98	89	89	79	105	98	96	102	77	93	97	0	1195	1213
2006	61	2011-12	19	52	83	96	101	90	90	82	103	99	91	105	74	100	0	1166	1185
2007	55	2012-13	29	48	60	84	96	102	90	94	81	102	103	100	95	75	0	1130	1159
2008	36	2013-14	33	56	62	60	89	98	106	97	97	85	105	112	81	102	0	1150	1183
2009	50	2014-15	28	57	60	67	63	91	103	102	102	98	83	105	107	89	0	1127	1155
2010	43	2015-16	26	60	67	65	69	66	96	109	107	97	100	85	109	101	0	1131	1157
2011	38	2016-17	24	78	66	69	73	73	67	102	108	110	104	97	82	111	0	1140	1164
2012	43	2017-18	19	73	77	67	78	78	73	68	102	108	113	106	99	79	0	1121	1140
2013	36	2018-19	39	66	76	78	70	86	79	79	97	114	101	103	103	118	0	1170	1209

Historical Enrollment in Grade Combinations									
Year	PK-3	4-6	K-6	K-8	5-8	6-8	7-8	7-12	9-12
2008-09	344	299	629	807	371	271	178	552	374
2009-10	379	280	647	838	395	290	191	555	364
2010-11	377	273	632	826	378	299	194	563	369
2011-12	351	262	594	796	374	284	202	572	370
2012-13	317	286	574	757	367	277	183	556	373
2013-14	300	301	568	750	385	279	182	582	400
2014-15	275	296	543	743	405	302	200	584	384
2015-16	287	271	532	736	409	313	204	599	395
2016-17	310	242	528	746	387	320	218	612	394
2017-18	314	219	514	724	351	278	210	607	397
2018-19	329	244	534	745	369	290	211	636	425

Historical Percentage Changes			
Year	K-12	Diff.	%
2008-09	1181	0	0.0%
2009-10	1202	21	1.8%
2010-11	1195	-7	-0.6%
2011-12	1166	-29	-2.4%
2012-13	1130	-36	-3.1%
2013-14	1150	20	1.8%
2014-15	1127	-23	-2.0%
2015-16	1131	4	0.4%
2016-17	1140	9	0.8%
2017-18	1121	-19	-1.7%
2018-19	1170	49	4.4%
Change		-11	-0.9%

# Brookline, NH Historical Enrollment

**K-12, 2008-2018**



# Brookline, NH Projected Enrollment

School District: Brookline, NH - SAU #41

10/18/2018

Enrollment Projections By Grade*																				
Birth Year	Births		School Year	PK	K	1	2	3	4	5	6	7	8	9	10	11	12	UNGR	K-12	PK-12
2013	36		2018-19	39	66	76	78	70	86	79	79	97	114	101	103	103	118	0	1170	1209
2014	47		2019-20	40	87	69	77	86	75	87	83	89	102	115	98	102	109	0	1179	1219
2015	50		2020-21	41	93	91	70	85	93	76	92	93	93	103	111	97	108	0	1205	1246
2016	57		2021-22	42	106	97	93	77	91	94	80	104	98	94	100	110	103	0	1247	1289
2017	36		2022-23	43	67	111	99	102	83	92	99	90	109	99	91	99	116	0	1257	1300
2018	45	(est.)	2023-24	44	84	70	113	109	110	84	97	111	94	110	96	90	105	0	1273	1317
2019	47	(est.)	2024-25	45	88	88	71	124	117	111	88	109	116	95	106	95	95	0	1303	1348
2020	47	(est.)	2025-26	46	88	92	90	78	133	118	117	99	114	117	92	105	100	0	1343	1389
2021	46	(est.)	2026-27	47	86	92	94	99	84	134	124	132	104	115	113	91	111	0	1379	1426
2022	44	(est.)	2027-28	48	83	90	94	103	107	85	141	140	138	105	111	112	96	0	1405	1453
2023	46	(est.)	2028-29	49	86	87	92	103	111	108	90	159	147	140	102	110	118	0	1453	1502

Note: Ungraded students (UNGR) often are HS students whose anticipated years of graduation are unknown, or students with special needs - UNGR not included in Grade Combinations for 7-12, 9-12, etc.

Based on an estimate of births     
  Based on children already born     
  Based on students already enrolled

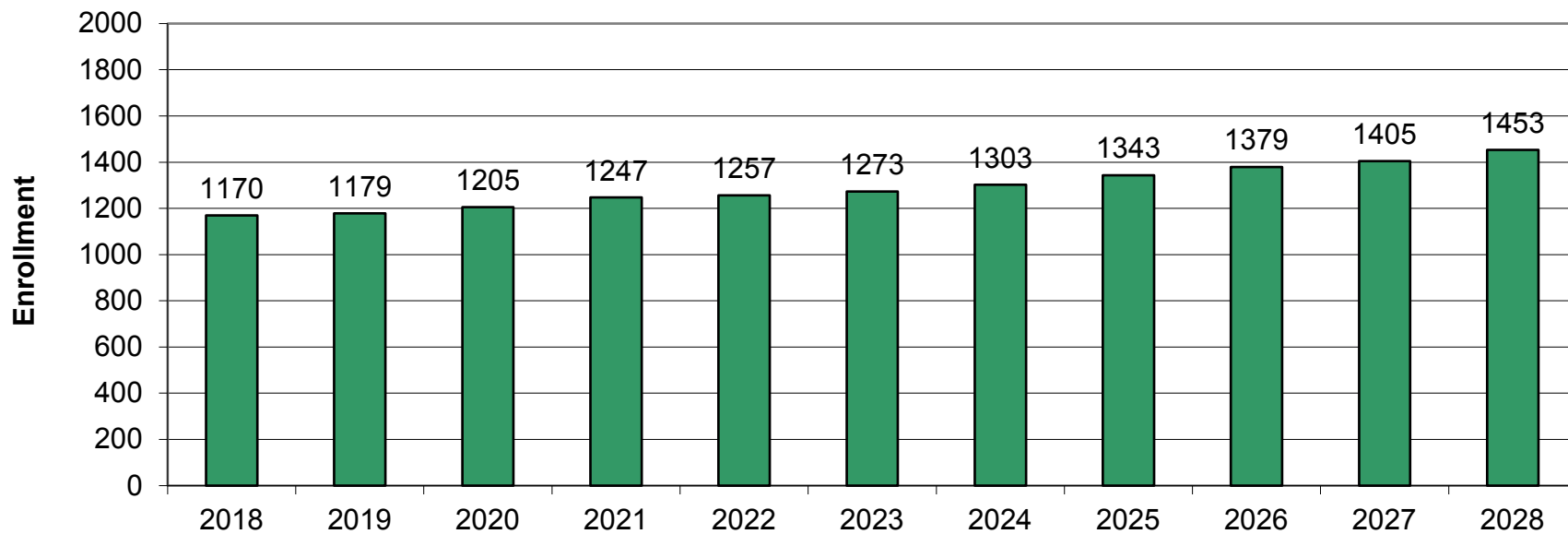
Projected Enrollment in Grade Combinations*									
Year	PK-3	4-6	K-6	K-8	5-8	6-8	7-8	7-12	9-12
2018-19	329	244	534	745	369	290	211	636	425
2019-20	359	245	564	755	361	274	191	615	424
2020-21	380	261	600	786	354	278	186	605	419
2021-22	415	265	638	840	376	282	202	609	407
2022-23	422	274	653	852	390	298	199	604	405
2023-24	420	291	667	872	386	302	205	606	401
2024-25	416	316	687	912	424	313	225	616	391
2025-26	394	368	716	929	448	330	213	627	414
2026-27	418	342	713	949	494	360	236	666	430
2027-28	418	333	703	981	504	419	278	702	424
2028-29	417	309	677	983	504	396	306	776	470

Projected Percentage Changes			
Year	K-12	Diff.	%
2018-19	1170	0	0.0%
2019-20	1179	9	0.8%
2020-21	1205	26	2.2%
2021-22	1247	42	3.5%
2022-23	1257	10	0.8%
2023-24	1273	16	1.3%
2024-25	1303	30	2.4%
2025-26	1343	40	3.1%
2026-27	1379	36	2.7%
2027-28	1405	26	1.9%
2028-29	1453	48	3.4%
Change		283	24.2%

\*Projections should be updated annually to reflect changes in in/out-migration of families, real estate sales, residential construction, births, and similar factors.

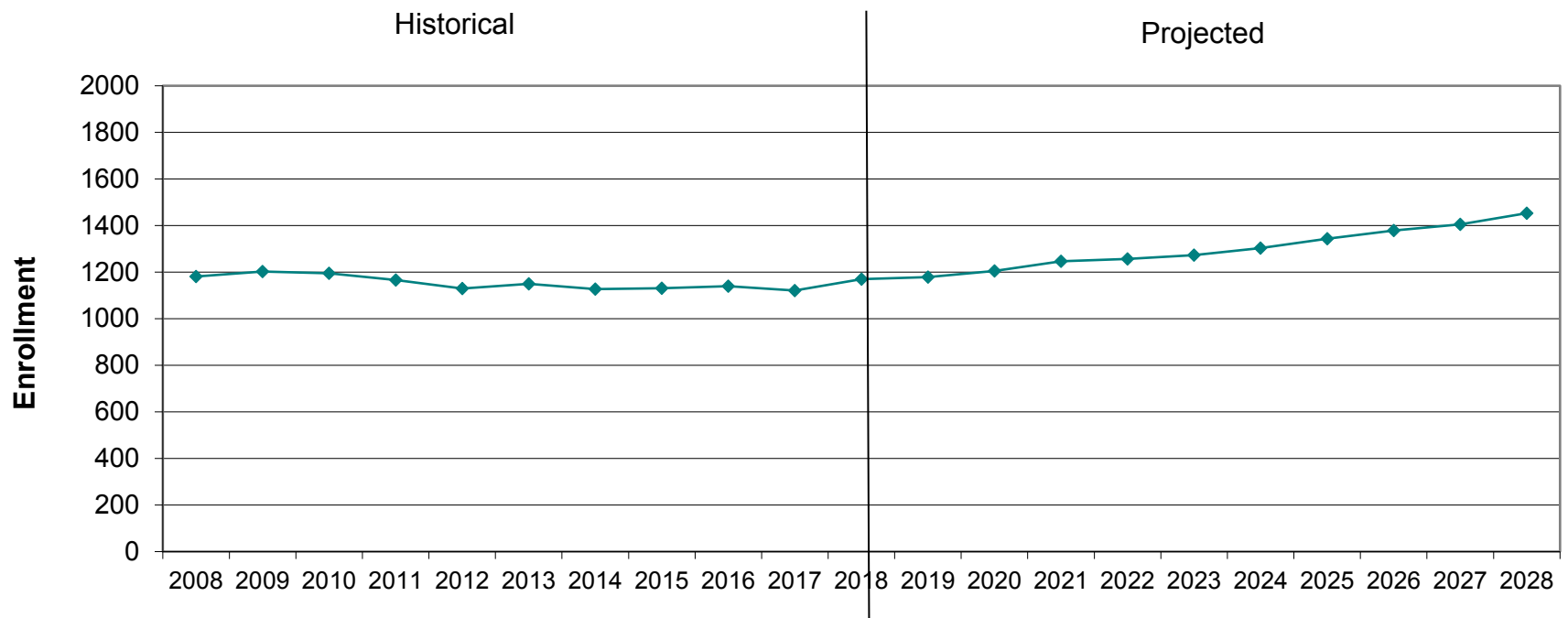
# Brookline, NH Projected Enrollment

K-12 To 2029 Based On Data Through School Year 2018-19

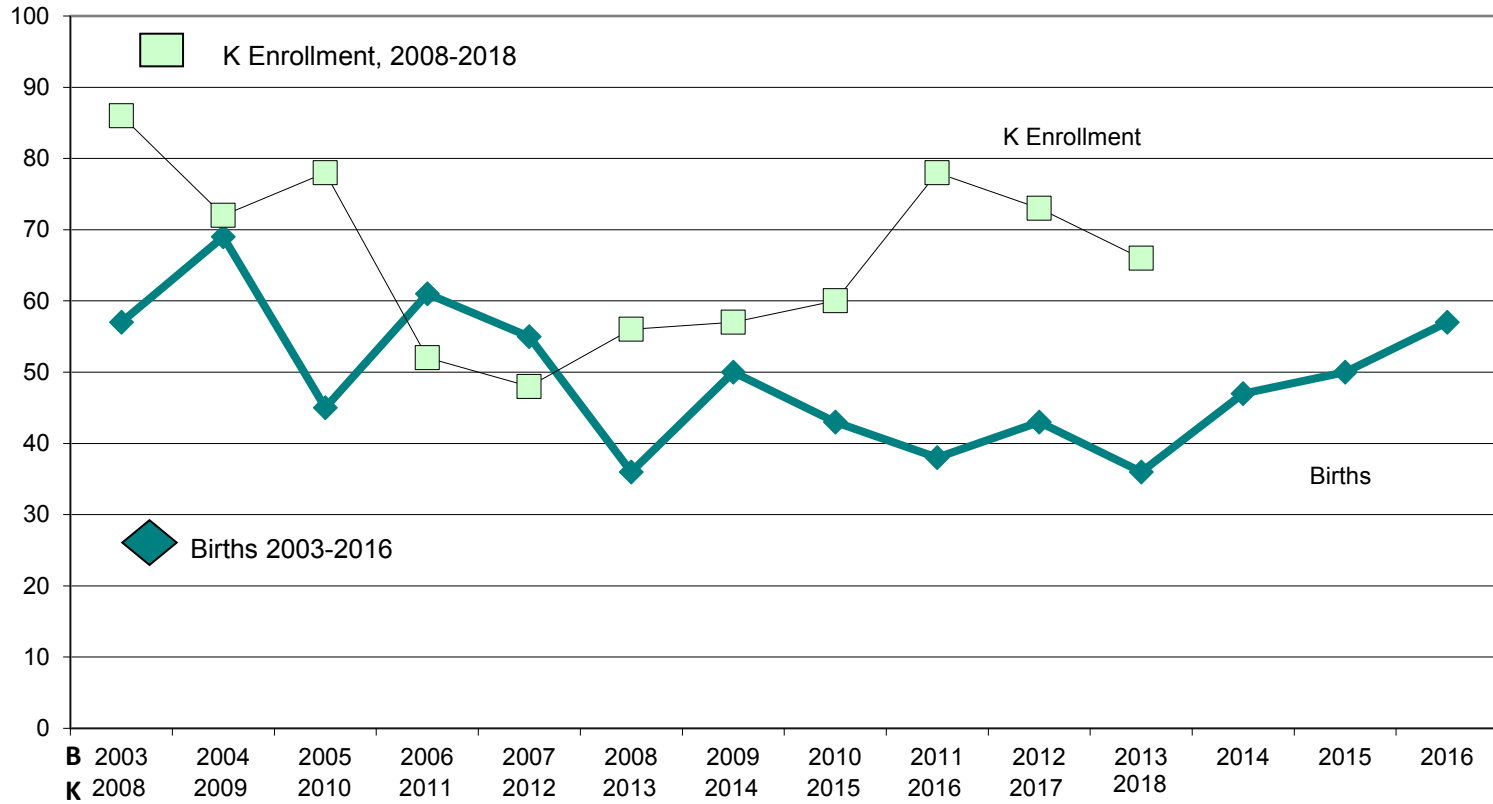


# Brookline, NH Historical & Projected Enrollment

## K-12, 2008-2028



# Brookline, NH Birth-to-Kindergarten Relationship





# Brookline, NH Additional Data

Building Permits Issued		
Year	Single-Family	Multi-Units
2005	48	0
2014	23	0
2015	21	0
2016	23	0
2017	22	0
2018	n/a	0

Source: HUD and Building Department

Enrollment History		
Year	Career-Tech 9-12 Total	Non-Public K-12 Total
2005-06	n/a	n/a
2014-15	n/a	n/a
2015-16	n/a	n/a
2016-17	n/a	n/a
2017-18	n/a	n/a
2018-19	n/a	n/a

Residents in Non-Public Independent and Parochial Schools (General Education)														
Enrollments as of Oct. 1	K	1	2	3	4	5	6	7	8	9	10	11	12	K-12 TOTAL
	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a

K-12 Home-Schooled Students	
2018	n/a

K-12 Residents "Choiced-out" or in Charter or Magnet Schools	
2018	n/a

K-12 Special Education Outplaced Students	
2018	n/a

K-12 Choiced-In, Tuitioned-In, & Other Non-Residents	
2018	n/a

The above data were used to assist in the preparation of the enrollment projections. If additional demographic work is needed, please contact our office.

# SAU #41, NH Historical Enrollment

School District: SAU #41 Hollis-Brookline, NH

10/18/2018

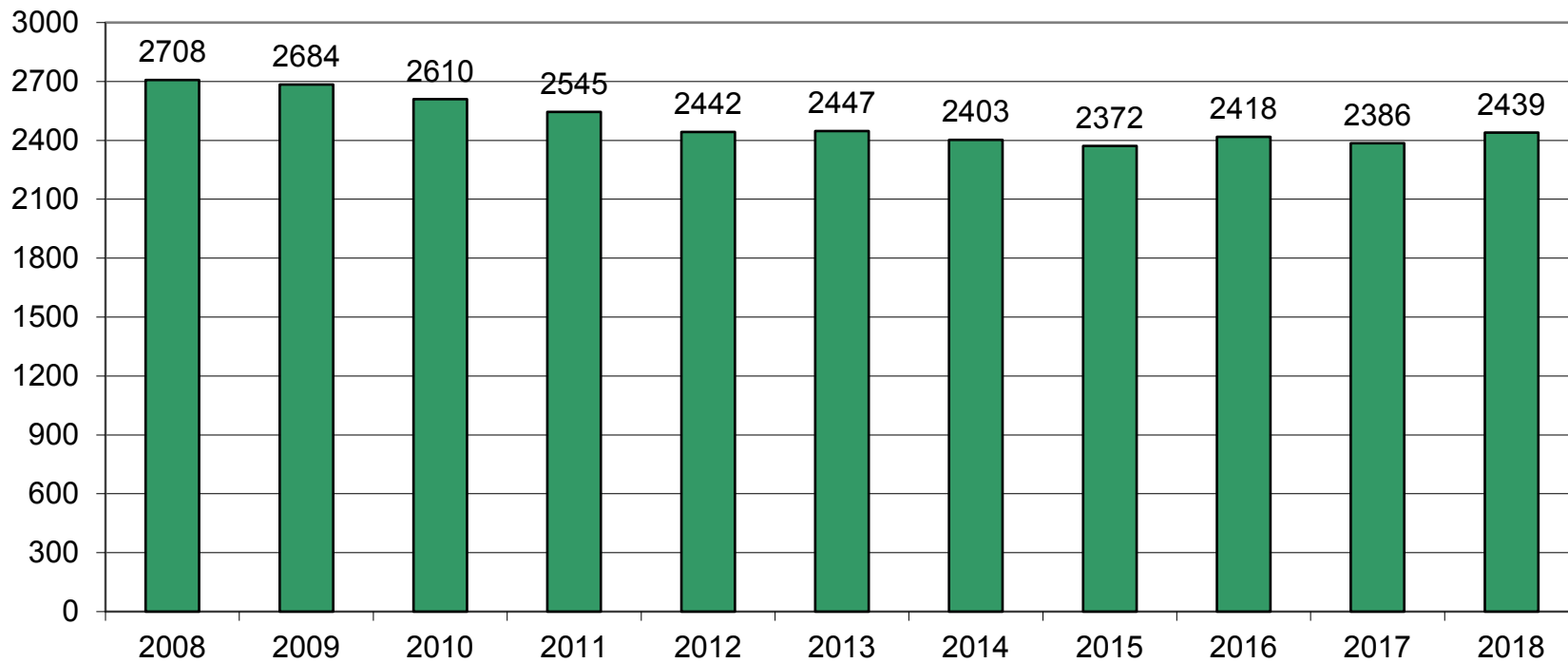
Historical Enrollment By Grade																			
Birth Year	Births	School Year	PK	K	1	2	3	4	5	6	7	8	9	10	11	12	UNGR	K-12	PK-12
2003	121	2008-09	35	144	169	178	166	237	213	237	237	210	222	238	238	219	0	2708	2743
2004	131	2009-10	28	130	204	172	189	166	235	212	232	245	200	230	238	231	0	2684	2712
2005	99	2010-11	44	131	177	188	179	195	167	236	204	235	237	202	224	235	0	2610	2654
2006	112	2011-12	43	112	162	178	194	187	193	178	232	205	235	239	198	232	0	2545	2588
2007	96	2012-13	53	110	137	170	181	193	188	202	178	231	197	242	216	197	0	2442	2495
2008	82	2013-14	51	125	154	142	184	189	202	201	204	178	223	203	211	231	0	2447	2498
2009	99	2014-15	47	111	142	173	155	191	196	201	196	208	176	232	196	226	0	2403	2450
2010	82	2015-16	44	109	148	157	174	161	202	204	207	198	209	175	233	195	0	2372	2416
2011	75	2016-17	42	137	145	155	168	190	161	208	209	210	203	209	181	242	0	2418	2460
2012	80	2017-18	30	138	157	156	168	179	196	166	213	207	214	207	211	174	0	2386	2416
2013	76	2018-19	57	146	147	158	164	182	186	204	172	220	211	217	211	221	0	2439	2496

Historical Enrollment in Grade Combinations									
Year	K-3	4-6	K-6	K-8	5-8	6-8	7-8	7-12	9-12
2008-09	657	687	1344	1791	897	684	447	1364	917
2009-10	695	613	1308	1785	924	689	477	1376	899
2010-11	675	598	1273	1712	842	675	439	1337	898
2011-12	646	558	1204	1641	808	615	437	1341	904
2012-13	598	583	1181	1590	799	611	409	1261	852
2013-14	605	592	1197	1579	785	583	382	1250	868
2014-15	581	588	1169	1573	801	605	404	1234	830
2015-16	588	567	1155	1560	811	609	405	1217	812
2016-17	605	559	1164	1583	788	627	419	1254	835
2017-18	619	541	1160	1580	782	586	420	1226	806
2018-19	615	572	1187	1579	782	596	392	1252	860

Historical Percentage Changes			
Year	K-12	Diff.	%
2008-09	2708	0	0.0%
2009-10	2684	-24	-0.9%
2010-11	2610	-74	-2.8%
2011-12	2545	-65	-2.5%
2012-13	2442	-103	-4.0%
2013-14	2447	5	0.2%
2014-15	2403	-44	-1.8%
2015-16	2372	-31	-1.3%
2016-17	2418	46	1.9%
2017-18	2386	-32	-1.3%
2018-19	2439	53	2.2%
Change		-269	-9.9%

# SAU #41, NH Historical Enrollment

**K-12, 2008-2018**



# SAU #41, NH Projected Enrollment

School District: SAU #41 Hollis-Brookline, NH

10/18/2018

Enrollment Projections By Grade*																				
Birth Year	Births		School Year	PK	K	1	2	3	4	5	6	7	8	9	10	11	12	UNGR	K-12	PK-12
2013	76		2018-19	57	146	147	158	164	182	186	204	172	220	211	217	211	221	0	2439	2496
2014	81		2019-20	58	148	177	152	170	176	186	192	209	176	224	214	219	215	0	2458	2516
2015	100		2020-21	60	182	174	185	163	183	180	193	198	211	179	226	216	223	0	2513	2573
2016	104	(prov.)	2021-22	61	190	217	181	197	174	187	186	201	201	215	180	228	220	0	2577	2638
2017	88	(est.)	2022-23	63	162	225	227	194	211	178	194	192	204	205	219	181	232	0	2624	2687
2018	90	(est.)	2023-24	64	164	199	234	243	208	216	185	202	194	208	208	222	186	0	2669	2733
2019	93	(est.)	2024-25	66	170	196	208	250	260	212	223	194	205	198	210	210	225	0	2761	2827
2020	95	(est.)	2025-26	67	174	203	205	221	268	266	220	229	198	208	201	212	213	0	2818	2885
2021	94	(est.)	2026-27	69	171	208	212	219	237	274	275	231	232	201	209	203	216	0	2888	2957
2022	92	(est.)	2027-28	70	168	205	217	226	235	243	284	285	235	237	202	211	206	0	2954	3024
2023	93	(est.)	2028-29	72	170	202	214	232	243	240	251	297	289	240	242	204	216	0	3040	3112

Note: Ungraded students (UNGR) often are HS students whose anticipated years of graduation are unknown, or students with special needs - UNGR not included in Grade Combinations for 7-12, 9-12, etc.

Based on an estimate of births     
  Based on children already born     
  Based on students already enrolled

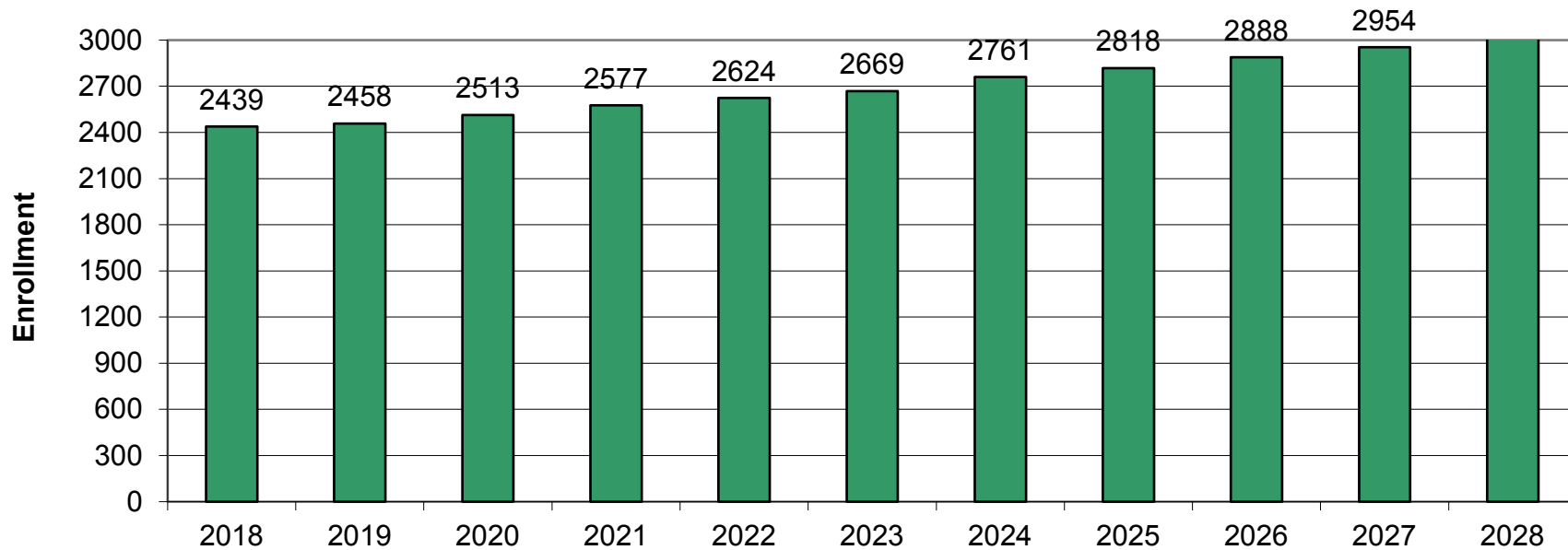
Projected Enrollment in Grade Combinations*									
Year	K-3	4-6	K-6	K-8	5-8	6-8	7-8	7-12	9-12
2018-19	615	572	1187	1579	782	596	392	1252	860
2019-20	647	554	1201	1586	763	577	385	1257	872
2020-21	704	556	1260	1669	782	602	409	1253	844
2021-22	785	547	1332	1734	775	588	402	1245	843
2022-23	808	583	1391	1787	768	590	396	1233	837
2023-24	840	609	1449	1845	797	581	396	1220	824
2024-25	824	695	1519	1918	834	622	399	1242	843
2025-26	803	754	1557	1984	913	647	427	1261	834
2026-27	810	786	1596	2059	1012	738	463	1292	829
2027-28	816	762	1578	2098	1047	804	520	1376	856
2028-29	818	734	1552	2138	1077	837	586	1488	902

Projected Percentage Changes			
Year	K-12	Diff.	%
2018-19	2439	0	0.0%
2019-20	2458	19	0.8%
2020-21	2513	55	2.2%
2021-22	2577	64	2.5%
2022-23	2624	47	1.8%
2023-24	2669	45	1.7%
2024-25	2761	92	3.4%
2025-26	2818	57	2.1%
2026-27	2888	70	2.5%
2027-28	2954	66	2.3%
2028-29	3040	86	2.9%
<b>Change</b>		<b>601</b>	<b>24.6%</b>

\*Projections should be updated annually to reflect changes in in/out-migration of families, real estate sales, residential construction, births, and similar factors.

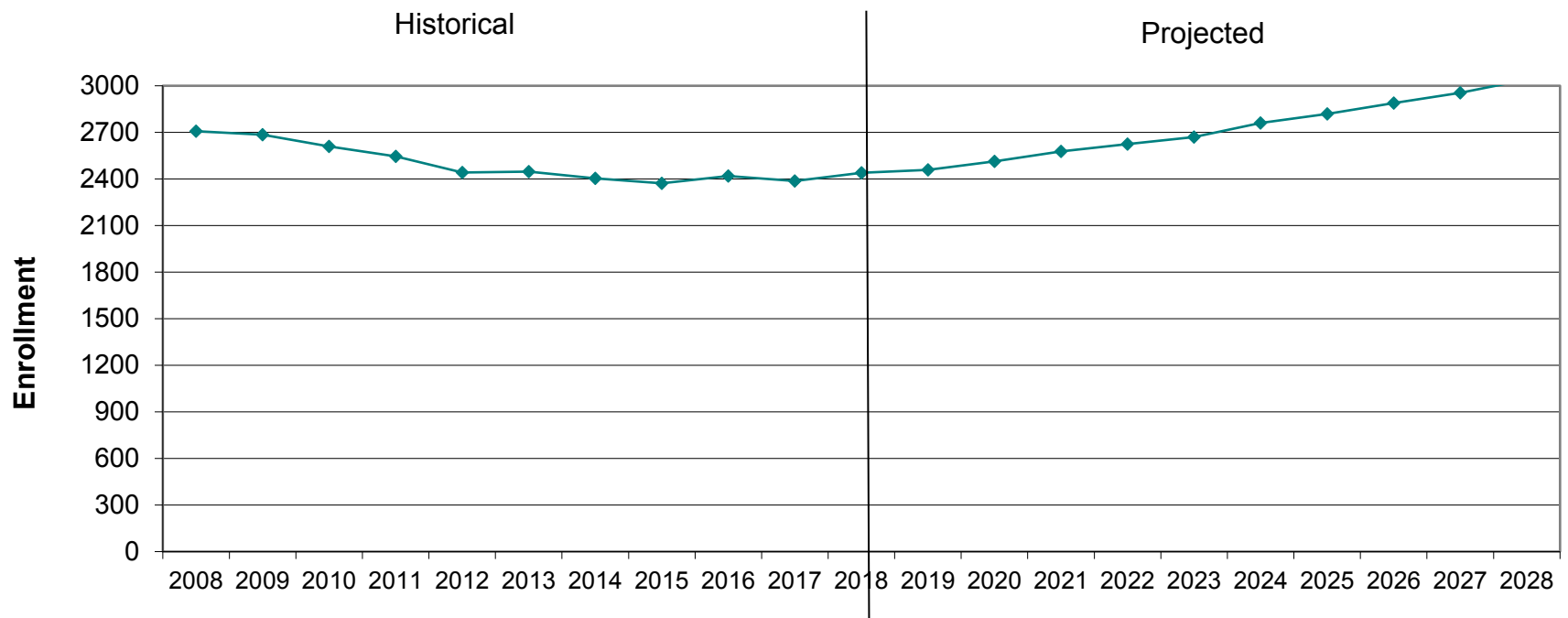
# SAU #41, NH Projected Enrollment

K-12 To 2029 Based On Data Through School Year 2018-19

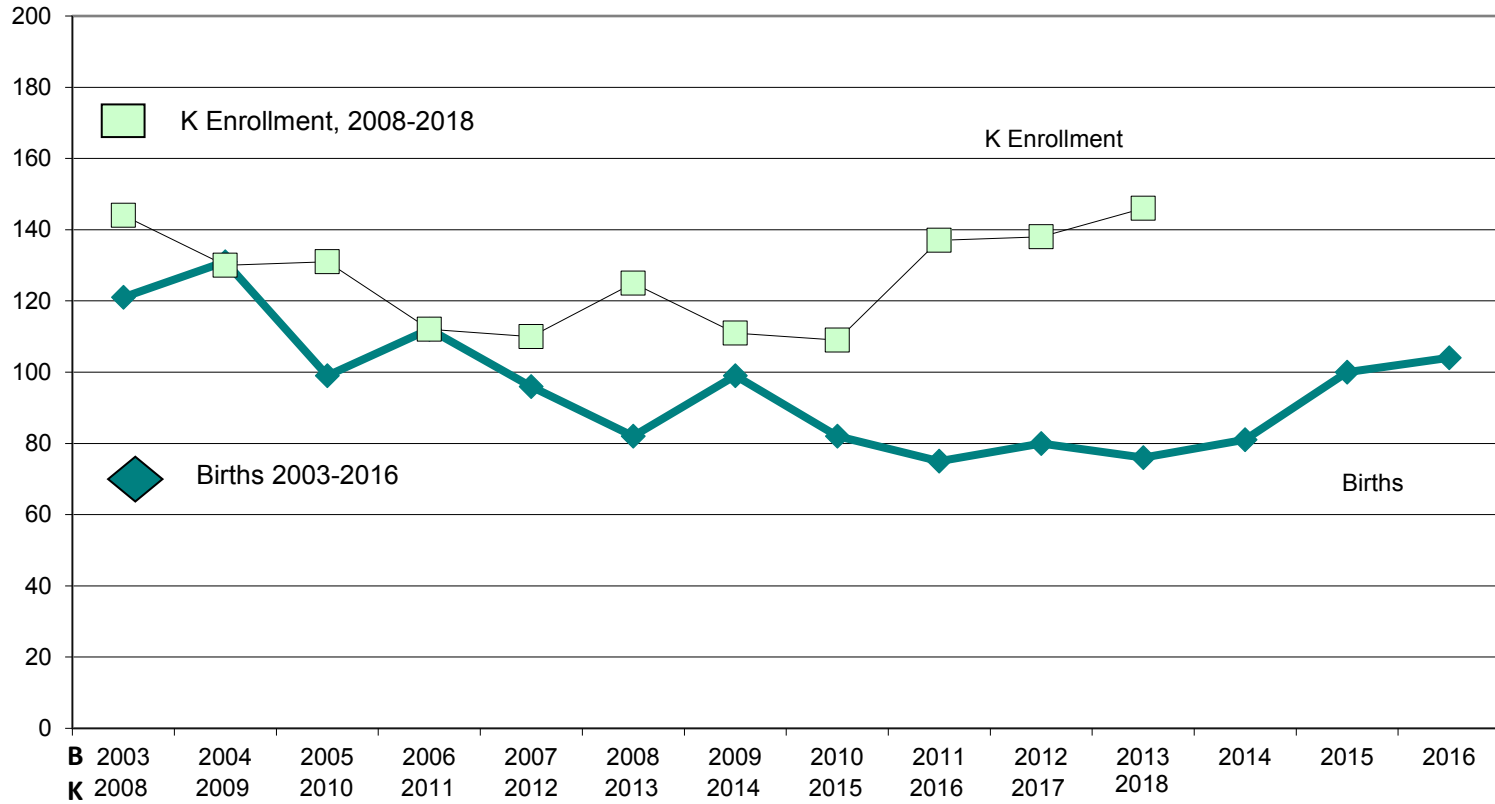


# SAU #41, NH Historical & Projected Enrollment

## K-12, 2008-2028



# SAU #41, NH Birth-to-Kindergarten Relationship



# SAU #41, NH Additional Data

Building Permits Issued		
Year	Single-Family	Multi-Units
2005	71	2
2014	38	0
2015	36	0
2016	35	0
2017	39	0
2018	n/a	0

Source: HUD and Building Department

Enrollment History		
Year	Career-Tech 9-12 Total	Non-Public K-12 Total
2005-06	n/a	n/a
2014-15	n/a	0
2015-16	n/a	0
2016-17	n/a	0
2017-18	n/a	0
2018-19	n/a	n/a

Residents in Non-Public Independent and Parochial Schools (General Education)														
Enrollments as of Oct. 1	K	1	2	3	4	5	6	7	8	9	10	11	12	K-12 TOTAL
	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a

K-12 Home-Schooled Students	
2018	n/a

K-12 Residents "Choiced-out" or in Charter or Magnet Schools	
2018	n/a

K-12 Special Education Outplaced Students	
2018	n/a

K-12 Choiced-In, Tuitioned-In, & Other Non-Residents	
2018	n/a

The above data were used to assist in the preparation of the enrollment projections. If additional demographic work is needed, please contact our office.



# Brookline, NH Historical Enrollment

School District: Brookline, NH PK-6 and 7-12 Coop - SAU #41

10/2/2019

Note: Recent elementary grade spike may be due to new residential construction and new "move-ins"

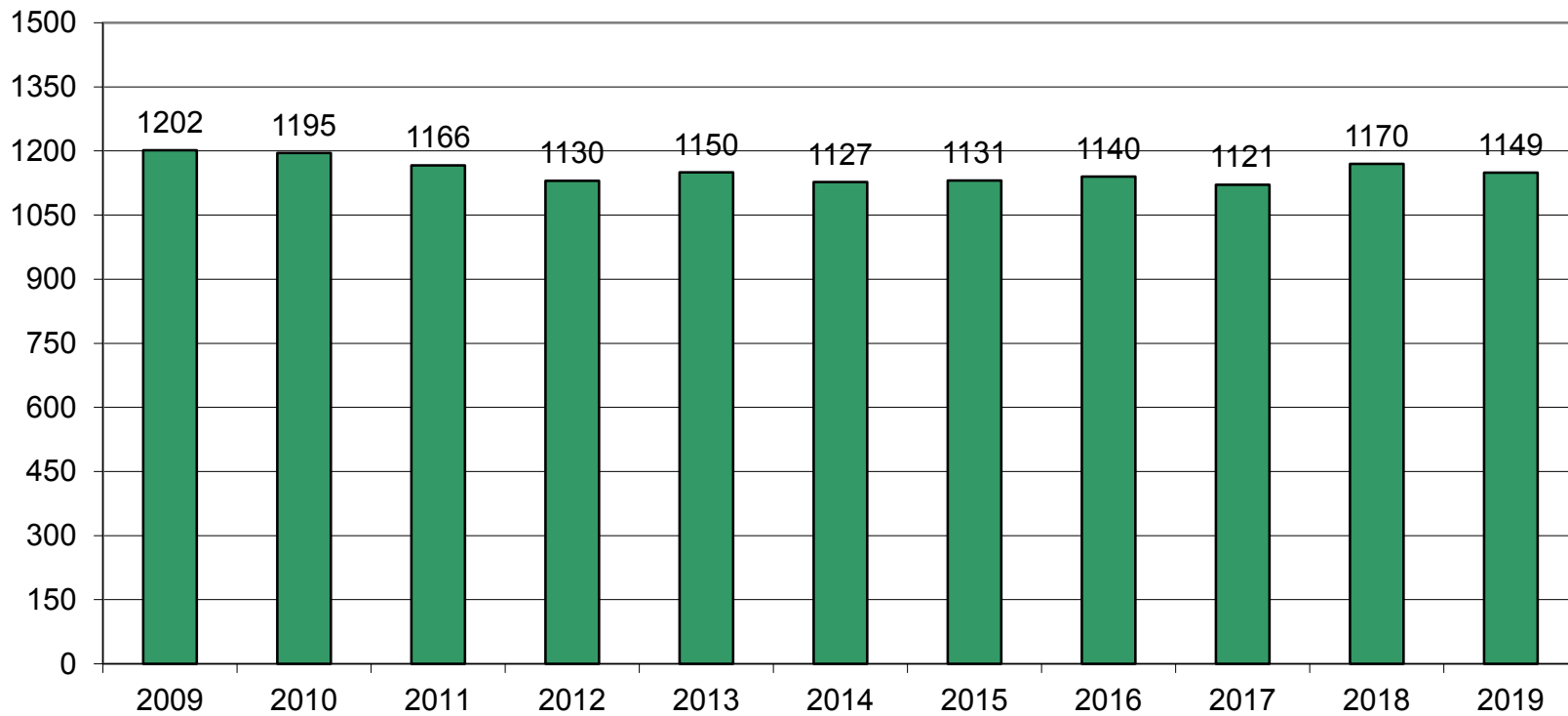
Historical Enrollment By Grade																			
Birth Year	Births	School Year	PK	K	1	2	3	4	5	6	7	8	9	10	11	12	UNGR	K-12	PK-12
2004	69	2009-10	12	72	118	88	89	76	105	99	89	102	76	100	97	91	0	1202	1214
2005	45	2010-11	18	78	94	98	89	89	79	105	98	96	102	77	93	97	0	1195	1213
2006	61	2011-12	19	52	83	96	101	90	90	82	103	99	91	105	74	100	0	1166	1185
2007	55	2012-13	29	48	60	84	96	102	90	94	81	102	103	100	95	75	0	1130	1159
2008	36	2013-14	33	56	62	60	89	98	106	97	97	85	105	112	81	102	0	1150	1183
2009	50	2014-15	28	57	60	67	63	91	103	102	102	98	83	105	107	89	0	1127	1155
2010	43	2015-16	26	60	67	65	69	66	96	109	107	97	100	85	109	101	0	1131	1157
2011	38	2016-17	24	78	66	69	73	73	67	102	108	110	104	97	82	111	0	1140	1164
2012	43	2017-18	19	73	77	67	78	78	73	68	102	108	113	106	99	79	0	1121	1140
2013	36	2018-19	39	66	76	78	70	86	79	79	97	114	101	103	103	118	0	1170	1209
2014	47	2019-20	19	73	71	87	82	76	90	80	88	75	102	107	113	105	0	1149	1168

Historical Enrollment in Grade Combinations									
Year	K-3	4-6	K-6	K-8	5-8	6-8	7-8	7-12	9-12
2009-10	367	280	647	838	395	290	191	555	364
2010-11	359	273	632	826	378	299	194	563	369
2011-12	332	262	594	796	374	284	202	572	370
2012-13	288	286	574	757	367	277	183	556	373
2013-14	267	301	568	750	385	279	182	582	400
2014-15	247	296	543	743	405	302	200	584	384
2015-16	261	271	532	736	409	313	204	599	395
2016-17	286	242	528	746	387	320	218	612	394
2017-18	295	219	514	724	351	278	210	607	397
2018-19	290	244	534	745	369	290	211	636	425
2019-20	313	246	559	722	333	243	163	590	427

Historical Percentage Changes			
Year	K-12	Diff.	%
2009-10	1202	0	0.0%
2010-11	1195	-7	-0.6%
2011-12	1166	-29	-2.4%
2012-13	1130	-36	-3.1%
2013-14	1150	20	1.8%
2014-15	1127	-23	-2.0%
2015-16	1131	4	0.4%
2016-17	1140	9	0.8%
2017-18	1121	-19	-1.7%
2018-19	1170	49	4.4%
2019-20	1149	-21	-1.8%
<b>Change</b>		<b>-53</b>	<b>-4.4%</b>

# Brookline, NH Historical Enrollment

**K-12, 2009-2019**



# Brookline, NH Projected Enrollment

School District: Brookline, NH PK-6 and 7-12 Coop - SAU #41

10/2/2019

Enrollment Projections By Grade*																				
Birth Year	Births		School Year	PK	K	1	2	3	4	5	6	7	8	9	10	11	12	UNGR	K-12	PK-12
2014	47		2019-20	19	73	71	87	82	76	90	80	88	75	102	107	113	105	0	1149	1168
2015	50		2020-21	20	85	77	75	94	89	78	93	91	85	72	102	109	120	0	1170	1190
2016	57		2021-22	21	97	89	81	81	102	91	81	106	88	82	72	104	115	0	1189	1210
2017	36		2022-23	22	61	102	94	87	88	104	94	92	103	84	82	74	110	0	1175	1197
2018	41		2023-24	23	70	64	108	101	94	90	108	107	89	99	84	84	78	0	1176	1199
2019	46	(est.)	2024-25	24	79	74	68	116	110	96	93	123	104	85	99	86	89	0	1222	1246
2020	46	(est.)	2025-26	25	78	83	78	73	126	112	100	106	119	100	85	101	91	0	1252	1277
2021	45	(est.)	2026-27	26	77	82	88	84	79	128	116	114	103	114	100	87	107	0	1279	1305
2022	43	(est.)	2027-28	27	73	81	87	95	91	81	133	132	111	99	114	102	92	0	1291	1318
2023	44	(est.)	2028-29	28	75	77	86	94	103	93	84	152	128	107	99	117	108	0	1323	1351
2024	45	(est.)	2029-30	29	76	79	81	92	102	105	96	96	147	123	107	101	124	0	1329	1358

Note: Ungraded students (UNGR) often are high school students whose anticipated years of graduation are unknown, or students with special needs - UNGR not included in Grade Combinations for 7-12, 9-12, etc.

Based on an estimate of births

Based on children already born

Based on students already enrolled

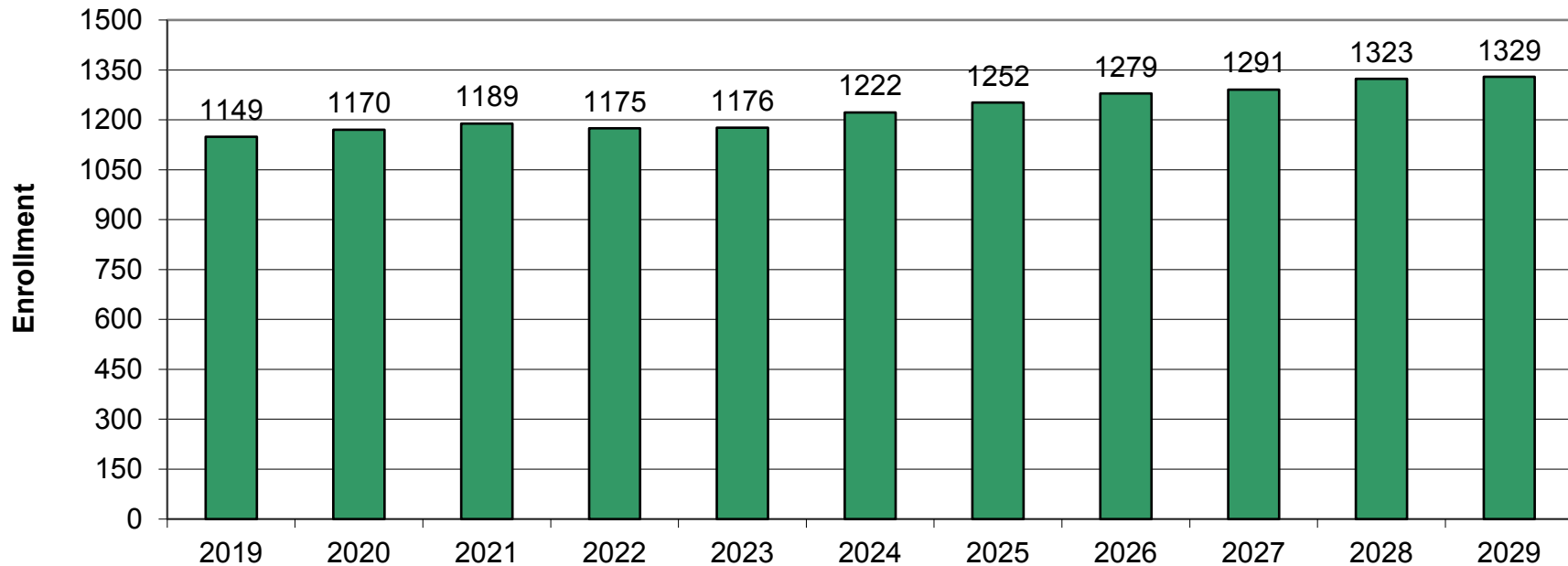
Projected Enrollment in Grade Combinations*									
Year	K-3	4-6	K-6	K-8	5-8	6-8	7-8	7-12	9-12
2019-20	313	246	559	722	333	243	163	590	427
2020-21	331	260	591	767	347	269	176	579	403
2021-22	348	274	622	816	366	275	194	567	373
2022-23	344	286	630	825	393	289	195	545	350
2023-24	343	292	635	831	394	304	196	541	345
2024-25	337	299	636	863	416	320	227	586	359
2025-26	312	338	650	875	437	325	225	602	377
2026-27	331	323	654	871	461	333	217	625	408
2027-28	336	305	641	884	457	376	243	650	407
2028-29	332	280	612	892	457	364	280	711	431
2029-30	328	303	631	874	444	339	243	698	455

Projected Percentage Changes			
Year	K-12	Diff.	%
2019-20	1149	0	0.0%
2020-21	1170	21	1.8%
2021-22	1189	19	1.6%
2022-23	1175	-14	-1.2%
2023-24	1176	1	0.1%
2024-25	1222	46	3.9%
2025-26	1252	30	2.5%
2026-27	1279	27	2.2%
2027-28	1291	12	0.9%
2028-29	1323	32	2.5%
2029-30	1329	6	0.5%
Change		180	15.7%

\*Projections should be updated annually to reflect changes in in/out-migration of families, real estate sales, residential construction, births, and similar factors.

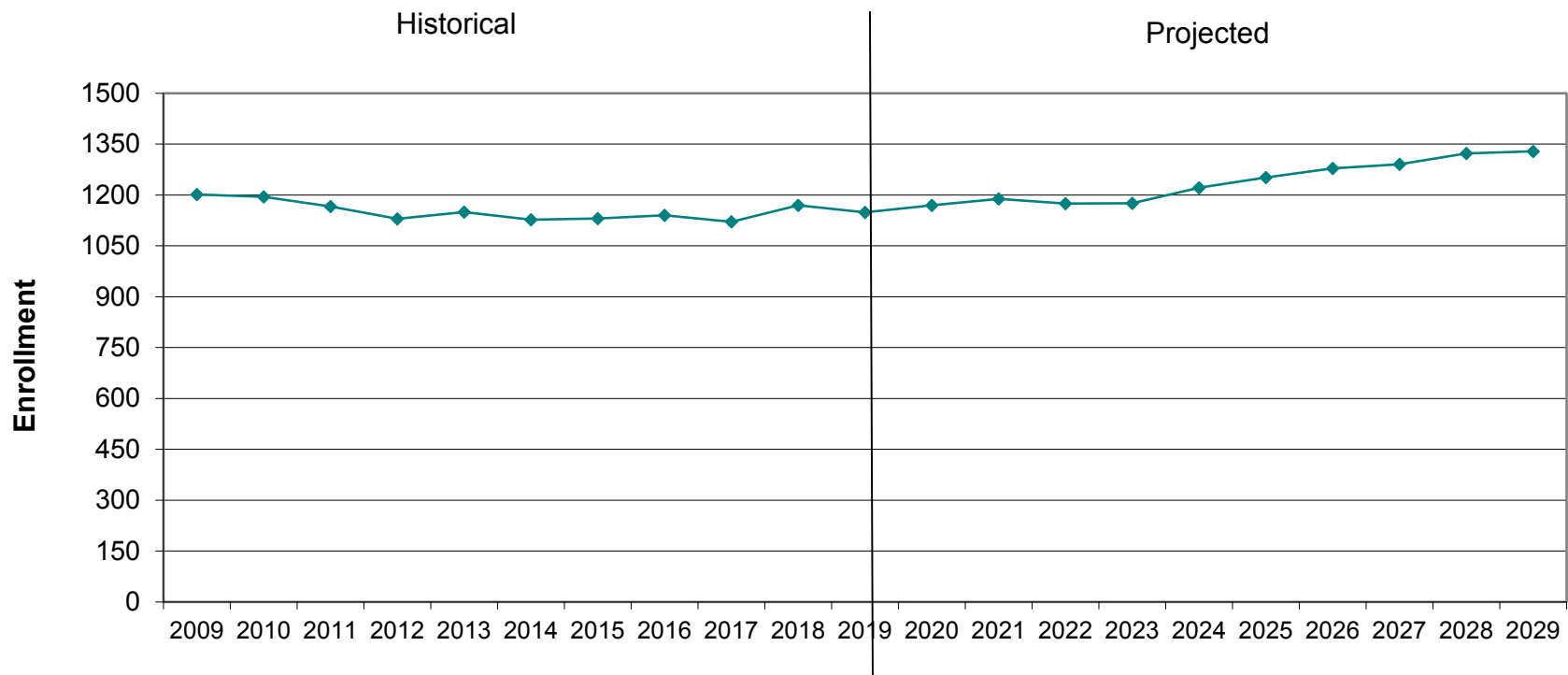
# Brookline, NH Projected Enrollment

K-12 To 2029 Based On Data Through School Year 2019-20

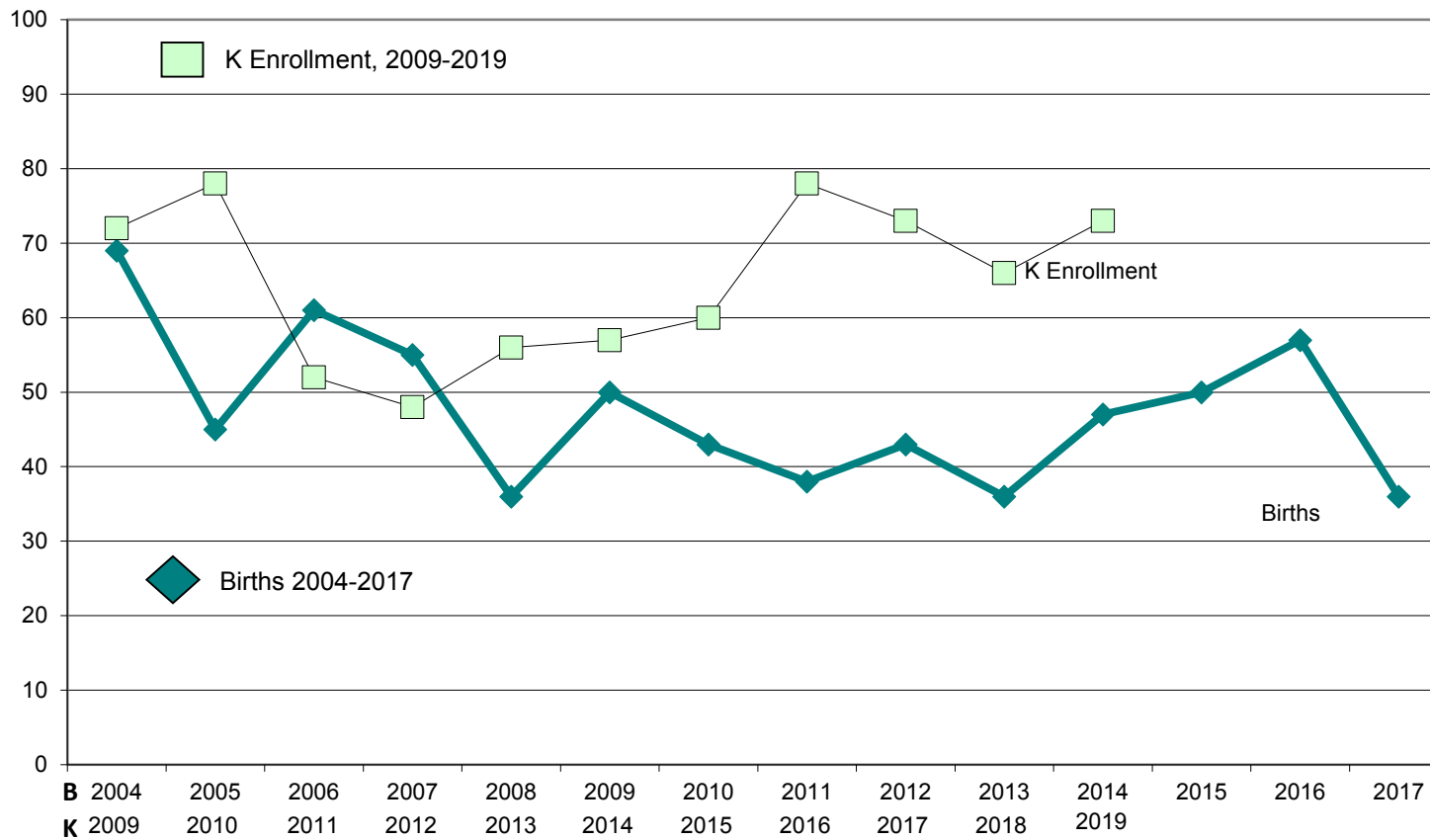


# Brookline, NH Historical & Projected Enrollment

## K-12, 2009-2029



# Brookline, NH Birth-to-Kindergarten Relationship



# Brookline, NH Additional Data

Building Permits Issued		
Year	Single-Family	Multi-Units
2005	48	0
2015	21	0
2016	23	0
2017	22	0
2018	23	0
2019	0 to date	0 to date

Source: HUD and Building Department

Enrollment History		
Year	Career-Tech 9-12 Total	Non-Public K-12 Total
2005-06	n/a	n/a
2015-16	n/a	n/a
2016-17	n/a	n/a
2017-18	n/a	n/a
2018-19	n/a	n/a
2019-20	n/a	n/a

Residents in Non-Public Independent and Parochial Schools (General Education)														
Enrollments as of Oct. 1	K	1	2	3	4	5	6	7	8	9	10	11	12	K-12 TOTAL
	0	0	0	0	0	0	0	0	0	0	0	0	0	n/a

K-12 Home-Schooled Students	
2019	Brookline (K-6) 5 + (7-12) 5

K-12 Residents in Charter or Magnet Schools, or "Choiced-out"	
2019	0

K-12 Special Education Outplaced Students	
2019	0

K-12 Tuitioned-In, Choiced-In, & Other Non-Residents	
2019	0

The above data were used to assist in the preparation of the enrollment projections. If additional demographic work is needed, please contact our office.

# Brookline, NH Historical Enrollment

School District:

Brookline, NH - SAU #41

10/26/2020

Historical Enrollment By Grade																			
Birth Year	Births	School Year	PK	K	1	2	3	4	5	6	7	8	9	10	11	12	UNGR	K-12	PK-12
2005	45	2010-11	18	78	94	98	89	89	79	105	98	96	102	77	93	97	0	1195	1213
2006	61	2011-12	19	52	83	96	101	90	90	82	103	99	91	105	74	100	0	1166	1185
2007	55	2012-13	29	48	60	84	96	102	90	94	81	102	103	100	95	75	0	1130	1159
2008	36	2013-14	33	56	62	60	89	98	106	97	97	85	105	112	81	102	0	1150	1183
2009	50	2014-15	28	57	60	67	63	91	103	102	102	98	83	105	107	89	0	1127	1155
2010	43	2015-16	26	60	67	65	69	66	96	109	107	97	100	85	109	101	0	1131	1157
2011	38	2016-17	24	78	66	69	73	73	67	102	108	110	104	97	82	111	0	1140	1164
2012	43	2017-18	19	73	77	67	78	78	73	68	102	108	113	106	99	79	0	1121	1140
2013	36	2018-19	39	66	76	78	70	86	79	79	97	114	101	103	103	118	0	1170	1209
2014	47	2019-20	19	73	71	87	82	76	90	80	88	75	102	107	113	105	0	1149	1168
2015	50	2020-21	15	72	73	72	90	80	80	90	79	87	74	104	107	109	0	1117	1132

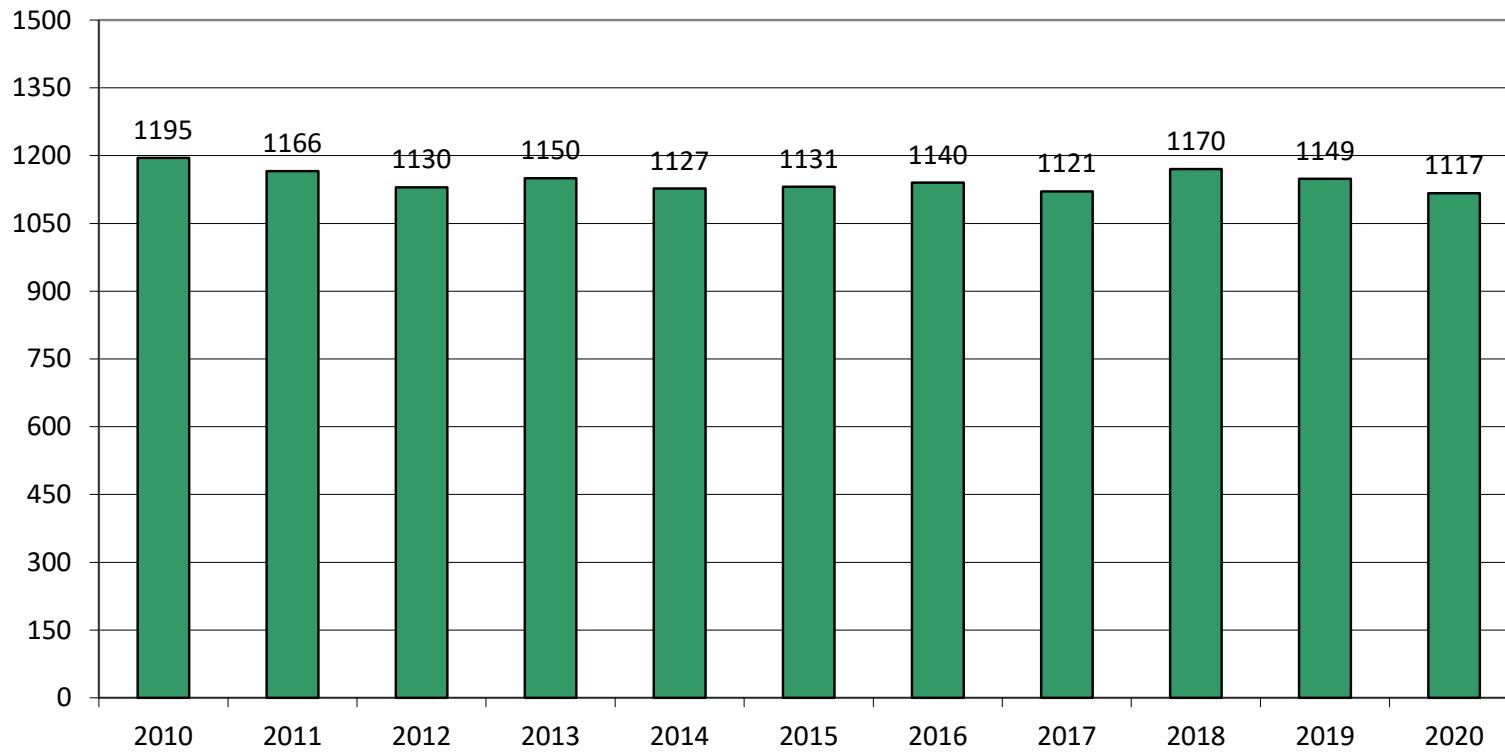
Historical Enrollment in Grade Combinations									
Year	K-3	4-6	K-6	PK-6	5-8	6-8	7-8	7-12	9-12
2010-11	359	273	632	650	378	299	194	563	369
2011-12	332	262	594	613	374	284	202	572	370
2012-13	288	286	574	603	367	277	183	556	373
2013-14	267	301	568	601	385	279	182	582	400
2014-15	247	296	543	571	405	302	200	584	384
2015-16	261	271	532	558	409	313	204	599	395
2016-17	286	242	528	552	387	320	218	612	394
2017-18	295	219	514	533	351	278	210	607	397
2018-19	290	244	534	573	369	290	211	636	425
2019-20	313	246	559	578	333	243	163	590	427
2020-21	307	250	557	572	336	256	166	560	394

Historical Percentage Changes			
Year	K-12	Diff.	%
2010-11	1195	0	0.0%
2011-12	1166	-29	-2.4%
2012-13	1130	-36	-3.1%
2013-14	1150	20	1.8%
2014-15	1127	-23	-2.0%
2015-16	1131	4	0.4%
2016-17	1140	9	0.8%
2017-18	1121	-19	-1.7%
2018-19	1170	49	4.4%
2019-20	1149	-21	-1.8%
2020-21	1117	-32	-2.8%
<b>Change</b>		<b>-78</b>	<b>-6.5%</b>



## Brookline, NH Historical Enrollment

**K-12, 2010-2020**



# Brookline, NH Projected Enrollment

School District: Brookline, NH - SAU #41

10/26/2020

Enrollment Projections By Grade*																				
Birth Year	Births		School Year	PK	K	1	2	3	4	5	6	7	8	9	10	11	12	UNGR	K-12	PK-12
2015	50		2020-21	15	72	73	72	90	80	80	90	79	87	74	104	107	109	0	1117	1132
2016	57		2021-22	16	97	75	77	75	95	83	83	106	76	83	74	106	112	0	1142	1158
2017	36		2022-23	17	61	100	79	80	79	99	86	98	102	72	83	76	111	0	1126	1143
2018	41	0	2023-24	18	70	63	106	82	84	82	102	101	94	97	72	85	80	0	1118	1136
2019	54	0	2024-25	19	92	72	67	111	86	87	85	120	97	89	97	74	89	0	1166	1185
2020	48	(est.)	2025-26	20	81	95	76	70	117	89	90	100	115	92	89	99	78	0	1191	1211
2021	47	(est.)	2026-27	21	80	84	100	79	74	121	92	106	96	109	92	91	104	0	1228	1249
2022	45	(est.)	2027-28	22	77	83	89	104	83	77	125	108	102	91	109	94	96	0	1238	1260
2023	47	(est.)	2028-29	23	80	80	88	93	110	86	79	147	104	97	91	111	99	0	1265	1288
2024	48	(est.)	2029-30	24	82	83	85	92	98	114	89	93	141	99	97	93	117	0	1283	1307
2025	47	(est.)	2030-31	25	80	85	88	89	97	102	118	105	89	134	99	99	98	0	1283	1308

Note: Ungraded students (UNGR) often are high school students whose anticipated years of graduation are unknown, or students with special needs - UNGR not included in Grade Combinations for 7-12, 9-12, etc.

Based on an estimate of births

Based on children already born

Based on students already enrolled

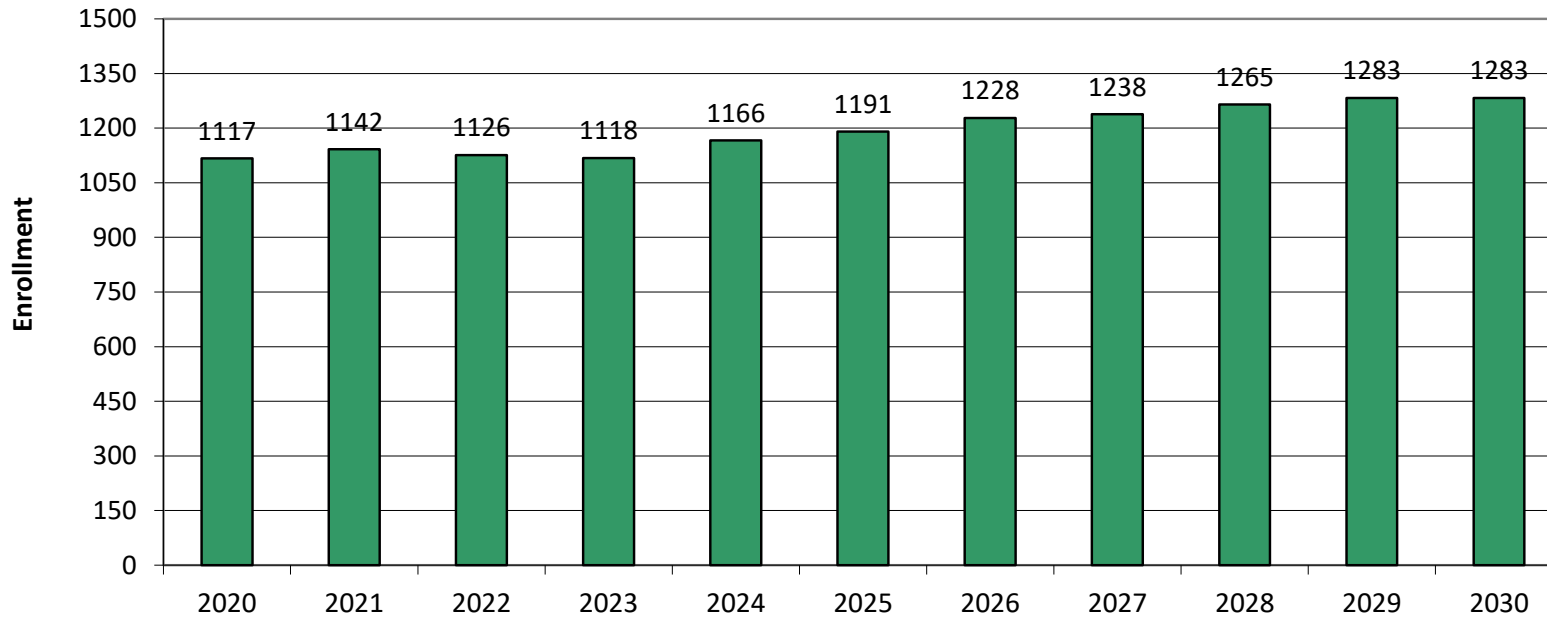
Projected Enrollment in Grade Combinations*									
Year	K-3	4-6	K-6	PK-6	5-8	6-8	7-8	7-12	9-12
2020-21	307	250	557	572	336	256	166	560	394
2021-22	324	261	585	601	348	265	182	557	375
2022-23	320	264	584	601	385	286	200	542	342
2023-24	321	268	589	607	379	297	195	529	334
2024-25	342	258	600	619	389	302	217	566	349
2025-26	322	296	618	638	394	305	215	573	358
2026-27	343	287	630	651	415	294	202	598	396
2027-28	353	285	638	660	412	335	210	600	390
2028-29	341	275	616	639	416	330	251	649	398
2029-30	342	301	643	667	437	323	234	640	406
2030-31	342	317	659	684	414	312	194	624	430

Projected Percentage Changes			
Year	K-12	Diff.	%
2020-21	1117	0	0.0%
2021-22	1142	25	2.2%
2022-23	1126	-16	-1.4%
2023-24	1118	-8	-0.7%
2024-25	1166	48	4.3%
2025-26	1191	25	2.1%
2026-27	1228	37	3.1%
2027-28	1238	10	0.8%
2028-29	1265	27	2.2%
2029-30	1283	18	1.4%
2030-31	1283	0	0.0%
<b>Change</b>		<b>166</b>	<b>14.9%</b>

\*Projections should be updated annually to reflect changes in in/out-migration of families, real estate sales, residential construction, births, and similar factors.

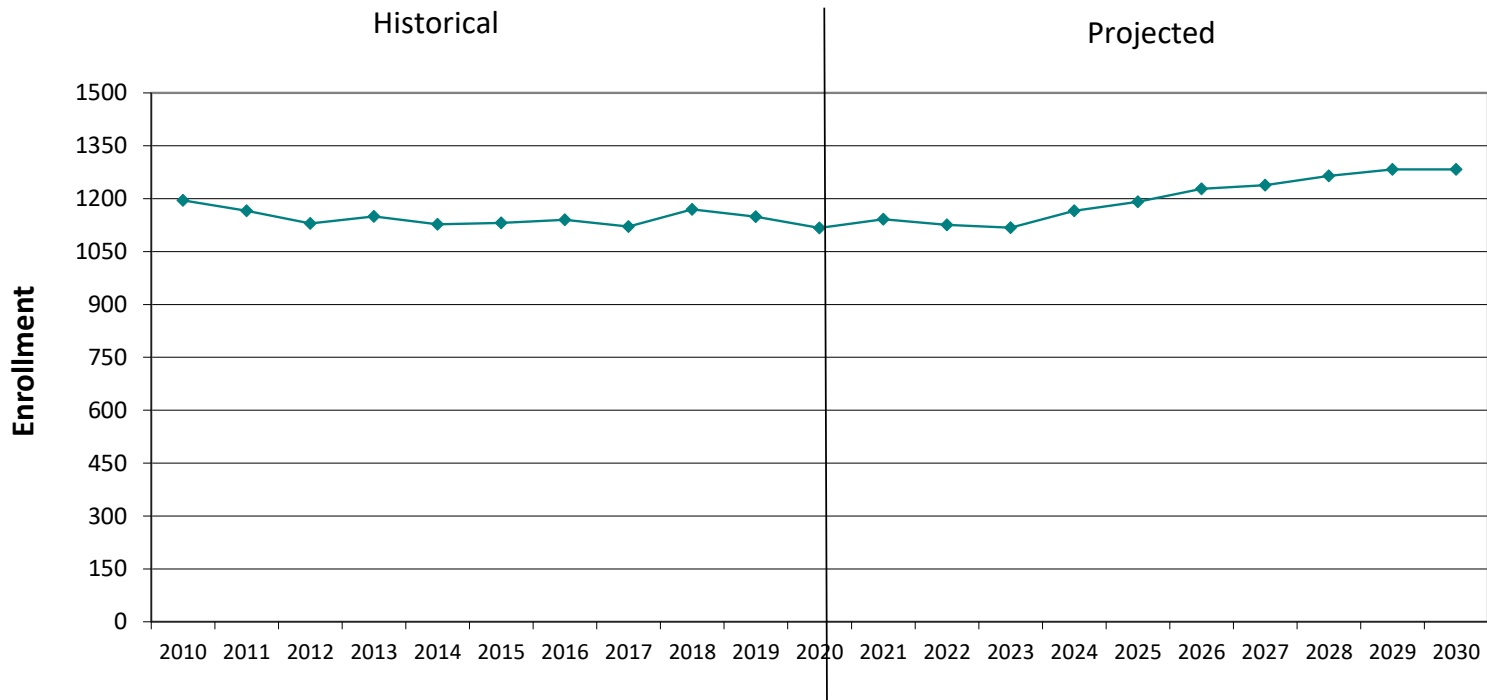
# Brookline, NH Projected Enrollment

K-12 To 2030 Based On Data Through School Year 2020-21

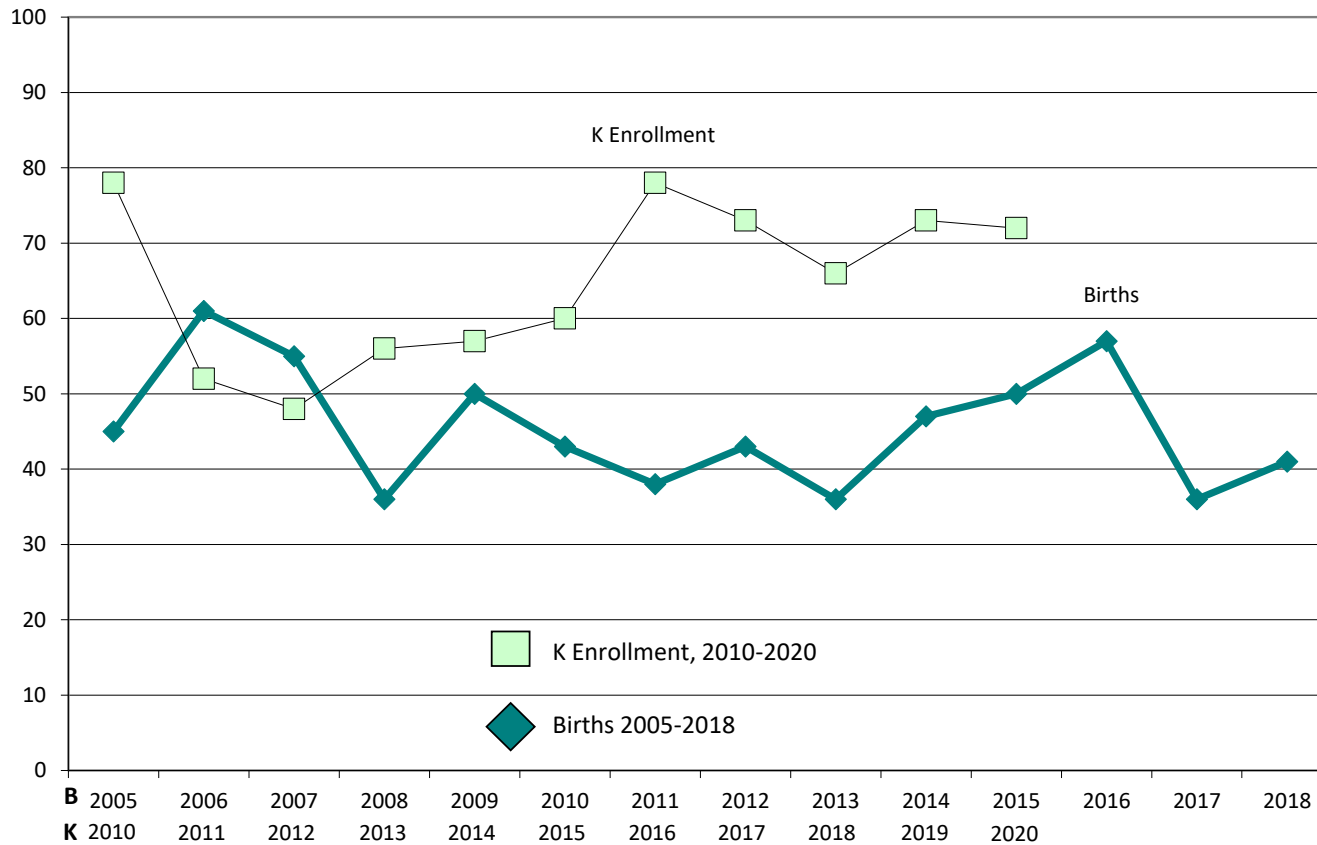


# Brookline, NH Historical & Projected Enrollment

K-12, 2010-2030



## Brookline, NH Birth-to-Kindergarten Relationship



# Brookline, NH Additional Data

Building Permits Issued		
Year	Single-Family	Multi-Units
2005	48	0
2016	23	0
2017	22	0
2018	23	0
2019	22	0
2020	0 to date	0 to date

Source: HUD and Building Department

Enrollment History		
Year	Career-Tech 9-12 Total	Non-Public K-12 Total
2005-06	n/a	n/a
2016-17	n/a	n/a
2017-18	n/a	n/a
2018-19	n/a	n/a
2019-20	n/a	n/a
2020-21	n/a	n/a

Residents in Non-Public Independent and Parochial Schools (General Education)														
Enrollments as of Oct. 1	K	1	2	3	4	5	6	7	8	9	10	11	12	K-12 TOTAL
	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a

K-12 Home-Schooled Students	
2020	87

K-12 Residents in Charter or Magnet Schools, or "Choiced-out"	
2020	0

K-12 Special Education Outplaced Students	
2020	3

K-12 Tuitioned-In, Choiced-In, & Other Non-Residents	
2020	0

The above data were used to assist in the preparation of the enrollment projections. If additional demographic work is needed, please contact our office.



## New England's PK-12 Enrollments The "Big Picture"

From 2016 to 2028, the US Department of Education anticipates changes in PK-12 enrollment of +5.4% in the South; +2.1% in the West, -2.1% in the Midwest; and -3.7% in the Northeast.

State	Fall 2016 PK - 12	Fall 2028 Projected	PK-12 Decline	% Change, 2016-2028
CT	535,118	471,100	-64,018	-12.0%
ME	180,512	171,600	-8,912	-5.0%
MA	964,514	939,400	-25,114	-2.6%
NH	180,888	161,000	-19,888	-11.0%
RI	142,150	135,700	-6,450	-4.5%
VT	88,428	80,400	-8,028	-9.0%

**Source:** USDE, National Center for Education Statistics, *Projections of Education Statistics to 2028*, Table 3, Pages 35-36; Published May 28, 2020.

Although most New England Districts are seeing a decline in the number of births, NESDEC's experience indicates that the impact on enrollment varies from District to District. Almost half of New England Districts are growing in PK-12 enrollment, and a similar number are declining (often in rural areas) with the other Districts remaining stable.

# TITLE LXIV PLANNING AND ZONING

## CHAPTER 674 LOCAL LAND USE PLANNING AND REGULATORY POWERS

### Zoning

#### Section 674:21

##### **674:21 Innovative Land Use Controls. –**

I. Innovative land use controls may include, but are not limited to:

- (a) Timing incentives.
- (b) Phased development.
- (c) Intensity and use incentive.
- (d) Transfer of density and development rights.
- (e) Planned unit development.
- (f) Cluster development.
- (g) Impact zoning.
- (h) Performance standards.
- (i) Flexible and discretionary zoning.
- (j) Environmental characteristics zoning.
- (k) Inclusionary zoning.
- (l) Impact fees.
- (m) Village plan alternative subdivision.
- (n) Integrated land development permit option.

II. An innovative land use control adopted under RSA 674:16 may be required when supported by the master plan and shall contain within it the standards which shall guide the person or board which administers the ordinance. An innovative land use control ordinance may provide for administration, including the granting of conditional or special use permits, by the planning board, board of selectmen, zoning board of adjustment, or such other person or board as the ordinance may designate. If the administration of the innovative provisions of the ordinance is not vested in the planning board, any proposal submitted under this section shall be reviewed by the planning board prior to final consideration by the administrator. In such a case, the planning board shall set forth its comments on the proposal in writing and the administrator shall, to the extent that the planning board's comments are not directly incorporated into its decision, set forth its findings and decisions on the planning board's comments.

III. Innovative land use controls must be adopted in accordance with RSA 675:1, II.

IV. As used in this section:

- (a) "Inclusionary zoning" means land use control regulations which provide a voluntary incentive or benefit to a property owner in order to induce the property owner to produce housing units which are affordable to persons or families of low and moderate income. Inclusionary zoning includes, but is not limited to, density bonuses, growth control exemptions, and a streamlined application process.



(b) "Phased development" means a development, usually for large-scale projects, in which construction of public or private improvements proceeds in stages on a schedule over a period of years established in the subdivision or site plan approved by the planning board. In a phased development, the issuance of building permits in each phase is solely dependent on the completion of the prior phase and satisfaction of other conditions on the schedule approved by the planning board. Phased development does not include a general limit on the issuance of building permits or the granting of subdivision or site plan approval in the municipality, which may be accomplished only by a growth management ordinance under RSA 674:22 or a temporary moratorium or limitation under RSA 674:23.

V. As used in this section "impact fee" means a fee or assessment imposed upon development, including subdivision, building construction, or other land use change, in order to help meet the needs occasioned by that development for the construction or improvement of capital facilities owned or operated by the municipality, including and limited to water treatment and distribution facilities; wastewater treatment and disposal facilities; sanitary sewers; storm water, drainage and flood control facilities; municipal road systems and rights-of-way; municipal office facilities; public school facilities; the municipality's proportional share of capital facilities of a cooperative or regional school district of which the municipality is a member; public safety facilities; solid waste collection, transfer, recycling, processing, and disposal facilities; public library facilities; and public recreational facilities not including public open space. No later than July 1, 1993, all impact fee ordinances shall be subject to the following:

(a) The amount of any such fee shall be a proportional share of municipal capital improvement costs which is reasonably related to the capital needs created by the development, and to the benefits accruing to the development from the capital improvements financed by the fee. Upgrading of existing facilities and infrastructures, the need for which is not created by new development, shall not be paid for by impact fees.

(b) In order for a municipality to adopt an impact fee ordinance, it must have enacted a capital improvements program pursuant to RSA 674:5-7.

(c) Any impact fee shall be accounted for separately, shall be segregated from the municipality's general fund, may be spent upon order of the municipal governing body, shall be exempt from all provisions of RSA 32 relative to limitation and expenditure of town moneys, and shall be used solely for the capital improvements for which it was collected, or to recoup the cost of capital improvements made in anticipation of the needs which the fee was collected to meet.

(d) All impact fees imposed pursuant to this section shall be assessed at the time of planning board approval of a subdivision plat or site plan. When no planning board approval is required, or has been made prior to the adoption or amendment of the impact fee ordinance, impact fees shall be assessed prior to, or as a condition for, the issuance of a building permit or other appropriate permission to proceed with development. Impact fees shall be intended to reflect the effect of development upon municipal facilities at the time of the issuance of the building permit. Impact fees shall be collected at the time a certificate of occupancy is issued. If no certificate of occupancy is required, impact fees shall be collected when the development is ready for its intended use. Nothing in this subparagraph shall prevent the municipality and the assessed party from establishing an alternate, mutually acceptable schedule of payment of impact fees in effect at the time of subdivision plat or site plan approval by the planning board. If an alternate schedule of payment is established, municipalities may require developers to post bonds, issue letters of credit, accept liens, or otherwise provide suitable measures of security so as to guarantee future payment of the assessed impact fees.

(e) The ordinance shall establish reasonable times after which any portion of an impact fee which has not become encumbered or otherwise legally bound to be spent for the purpose for which it was collected shall be refunded, with any accrued interest. Whenever the calculation of an impact fee has been predicated upon some portion of capital improvement costs being borne by the municipality, a refund shall be made upon the failure of the legislative body to appropriate the municipality's share of the capital improvement costs within

a reasonable time. The maximum time which shall be considered reasonable hereunder shall be 6 years.

(f) Unless otherwise specified in the ordinance, any decision under an impact fee ordinance may be appealed in the same manner provided by statute for appeals from the officer or board making that decision, as set forth in RSA 676:5, RSA 677:2-14, or RSA 677:15, respectively.

(g) The ordinance may also provide for a waiver process, including the criteria for the granting of such a waiver.

(h) The adoption of a growth management limitation or moratorium by a municipality shall not affect any development with respect to which an impact fee has been paid or assessed as part of the approval for that development.

(i) Neither the adoption of an impact fee ordinance, nor the failure to adopt such an ordinance, shall be deemed to affect existing authority of a planning board over subdivision or site plan review, except to the extent expressly stated in such an ordinance.

(j) The failure to adopt an impact fee ordinance shall not preclude a municipality from requiring developers to pay an exaction for the cost of off-site improvement needs determined by the planning board to be necessary for the occupancy of any portion of a development. For the purposes of this subparagraph, "off-site improvements" means those improvements that are necessitated by a development but which are located outside the boundaries of the property that is subject to a subdivision plat or site plan approval by the planning board. Such off-site improvements shall be limited to any necessary highway, drainage, and sewer and water upgrades pertinent to that development. The amount of any such exaction shall be a proportional share of municipal improvement costs not previously assessed against other developments, which is necessitated by the development, and which is reasonably related to the benefits accruing to the development from the improvements financed by the exaction. As an alternative to paying an exaction, the developer may elect to construct the necessary improvements, subject to bonding and timing conditions as may be reasonably required by the planning board. Any exaction imposed pursuant to this section shall be assessed at the time of planning board approval of the development necessitating an off-site improvement. Whenever the calculation of an exaction for an off-site improvement has been predicated upon some portion of the cost of that improvement being borne by the municipality, a refund of any collected exaction shall be made to the payor or payor's successor in interest upon the failure of the local legislative body to appropriate the municipality's share of that cost within 6 years from the date of collection. For the purposes of this subparagraph, failure of local legislative body to appropriate such funding or to construct any necessary off-site improvement shall not operate to prohibit an otherwise approved development.

(k) Revenue from impact fees imposed upon development and collected by a municipality under RSA 674:21, V for construction of or improvement to municipal road systems may be expended upon state highways within the municipality only for improvement costs that are related to the capital needs created by the development. Such improvements may include items such as, but not limited to, traffic signals and signage, turning lanes, additional travel lanes, and guard rails. No such improvements shall be constructed or installed without approval of the state department of transportation. In no event shall impact fees be used for any improvements to roads, bridges, or interchanges that are part of the interstate highway system. Nothing in RSA 674:21, V shall be construed as allowing or authorizing additional impact fees merely by virtue of having approved the expenditure of collected fee revenue for construction of or improvement of state highways, nor shall it be construed as allowing the adoption of new impact fees devoted to assessing impacts to state highways.

(l) No later than 60 days following the end of the fiscal year, any municipality having adopted an impact fee ordinance shall prepare a report listing all expenditures of impact fee revenue for the prior fiscal year, identifying the capital improvement project for which the fees were assessed and stating the dates upon which the fees were assessed and collected. The annual report shall enable the public to track the payment, expenditure, and status of the individually collected fees to determine whether said fees were expended,

retained, or refunded.

VI. (a) In this section, "village plan alternative" means an optional land use control and subdivision regulation to provide a means of promoting a more efficient and cost effective method of land development. The village plan alternative's purpose is to encourage the preservation of open space wherever possible. The village plan alternative subdivision is meant to encourage beneficial consolidation of land development to permit the efficient layout of less costly to maintain roads, utilities, and other public and private infrastructures; to improve the ability of political subdivisions to provide more rapid and efficient delivery of public safety and school transportation services as community growth occurs; and finally, to provide owners of private property with a method for realizing the inherent development value of their real property in a manner conducive to the creation of substantial benefit to the environment and to the political subdivision's property tax base.

(b) An owner of record wishing to utilize the village plan alternative in the subdivision and development of a parcel of land, by locating the entire density permitted by the existing land use regulations of the political subdivision within which the property is located, on 20 percent or less of the entire parcel available for development, shall grant to the municipality within which the property is located, as a condition of approval, a recorded easement reserving the remaining land area of the entire, original lot, solely for agriculture, forestry, and conservation, or for public recreation. The recorded easement shall limit any new construction on the remainder lot to structures associated with farming operations, forest management operations, and conservation uses, and shall specify that the restrictions contained in the easement are enforceable by the municipality. Public recreational uses shall be subject to the written approval of those abutters whose property lies within the village plan alternative subdivision portion of the project at the time when such a public use is proposed.

(c) The submission and approval procedure for a village plan alternative subdivision shall be the same as that for a conventional subdivision. Existing zoning and subdivision regulations relating to emergency access, fire prevention, and public health and safety concerns including any setback requirement for wells, septic systems, or wetland requirement imposed by the department of environmental services shall apply to the developed portion of a village plan alternative subdivision, but lot size regulations and dimensional requirements having to do with frontage and setbacks measured from all new property lot lines, and lot size regulations, as well as density regulations, shall not apply.

(1) The total density of development within a village plan alternate subdivision shall not exceed the total potential development density permitted a conventional subdivision of the entire original lot unless provisions contained within the political subdivision's land use regulations provide a basis for increasing the permitted density of development within a village plan alternative subdivision.

(2) In no case shall a political subdivision impose lesser density requirements upon a village plan alternative subdivision than the density requirements imposed on a conventional subdivision.

(d) If the total area of a proposed village plan alternative subdivision including all roadways and improvements does not exceed 20 percent of the total land area of the undeveloped lot, and if the proposed subdivision incorporates the total sum of all proposed development as permitted by local regulation on the undeveloped lot, all existing and future dimensional requirements imposed by local regulation, including lot size, shall not apply to the proposed village plan alternative subdivision.

(e) The approving authority may increase, at existing property lines, the setback to new construction within a village plan alternative subdivision by up to 2 times the distance required by current zoning or subdivision regulations, subject to the provisions of subparagraph (c).

(f) Within a village plan alternative subdivision, the exterior wall construction of buildings shall meet or exceed the requirements for fire-rated construction described by the fire prevention and building codes being enforced by the state of New Hampshire at the date and time the property owner of record files a formal application for subdivision approval with the political subdivision having jurisdiction of the project. Exterior

walls and openings of new buildings shall also conform to fire protective provisions of all other building codes in force in the political subdivision. Wherever building code or fire prevention code requirements for exterior wall construction appear to be in conflict, the more stringent building or fire prevention code requirements shall apply.

VII. In this section, "integrated land development permit option" means an optional land use control to allow a project to proceed, in whole or in part, as permitted by the department of environmental services under RSA 489.

**Source.** 1983, 447:1. 1988, 149:1, 2. 1991, 283:1, 2. 1992, 42:1. 1994, 278:1. 2002, 236:1, 2. 2004, 71:1, 2; 199:2, 3. 2005, 61:1, 2. 2008, 63:1. 2012, 106:1, 2. 2013, 270:5, 6. 2015, 31:1, eff. July 6, 2015. 2016, 6:3, 4, eff. June 1, 2017.

# TITLE LXIV PLANNING AND ZONING

## CHAPTER 674 LOCAL LAND USE PLANNING AND REGULATORY POWERS

### Zoning

#### Section 674:22

##### **674:22 Growth Management; Timing of Development. –**

I. The local legislative body may further exercise the powers granted under this subdivision to regulate and control the timing of development. Any ordinance imposing such a control may be adopted only after preparation and adoption by the planning board of a master plan and a capital improvement program and shall be based upon a growth management process intended to assess and balance community development needs and consider regional development needs.

II. The local legislative body may adopt a growth management ordinance under this section only if there is a demonstrated need to regulate the timing of development, based upon the municipality's lack of capacity to accommodate anticipated growth in the absence of such an ordinance. The need to regulate the timing of development shall be demonstrated by a study performed by or for the planning board or the governing body, or submitted with a petition of voters presented under RSA 675:4. The study shall be based on competent evidence and shall consider the municipality's projected growth rate and the municipality's need for additional services to accommodate such growth.

III. An ordinance adopted under this section shall include a termination date and shall restrict projected normal growth no more than is necessary to allow for orderly and good-faith development of municipal services. The planning board in a municipality that adopts such an ordinance shall promptly undertake development of a plan for the orderly and rational development of municipal services needed to accommodate anticipated normal growth; provided, however, that in a town that has established a capital improvement program committee under RSA 674:5, the plan shall be developed by that committee. The ordinance and the plan shall be evaluated by the planning board at least annually, to confirm that reasonable progress is being made to carry out the plan. The planning board shall report its findings to the legislative body in the municipality's annual report.

**Source.** 1983, 447:1. 2008, 360:1, eff. July 11, 2008.

# TITLE LXIV

## PLANNING AND ZONING

### CHAPTER 674

### LOCAL LAND USE PLANNING AND REGULATORY POWERS

### Regulation of Subdivision of Land

#### Section 674:39

##### **674:39 Five-Year Exemption. –**

I. Every subdivision plat approved by the planning board and properly recorded in the registry of deeds and every site plan approved by the planning board and properly recorded in the registry of deeds, if recording of site plans is required by the planning board or by local regulation, shall be exempt from all subsequent changes in subdivision regulations, site plan review regulations, impact fee ordinances, and zoning ordinances adopted by any city, town, or county in which there are located unincorporated towns or unorganized places, except those regulations and ordinances which expressly protect public health standards, such as water quality and sewage treatment requirements, for a period of 5 years after the date of approval; provided that:

(a) Active and substantial development or building has begun on the site by the owner or the owner's successor in interest in accordance with the approved subdivision plat within 24 months after the date of approval, or in accordance with the terms of the approval, and, if a bond or other security to cover the costs of roads, drains, or sewers is required in connection with such approval, such bond or other security is posted with the city, town, or county in which there are located unincorporated towns or unorganized places, at the time of commencement of such development;

(b) Development remains in full compliance with the public health regulations and ordinances specified in this section; and

(c) At the time of approval and recording, the subdivision plat or site plan conforms to the subdivision regulations, site plan review regulations, and zoning ordinances then in effect at the location of such subdivision plat or site plan.

II. Once substantial completion of the improvements as shown on the subdivision plat or site plan has occurred in compliance with the approved subdivision plat or site plan or the terms of said approval or unless otherwise stipulated by the planning board, the rights of the owner or the owner's successor in interest shall vest and no subsequent changes in subdivision regulations, site plan regulations, or zoning ordinances, except impact fees adopted pursuant to RSA 674:21 and 675:2-4, shall operate to affect such improvements.

III. The planning board may, as part of its subdivision and site plan regulations or as a condition of subdivision plat or site plan approval, specify the threshold levels of work that shall constitute the following terms, with due regard to the scope and details of a particular project:

(a) "Substantial completion of the improvements as shown on the subdivision plat or site plan," for purposes of fulfilling paragraph II; and

(b) "Active and substantial development or building," for the purposes of fulfilling paragraph I.

IV. Failure of a planning board to specify by regulation or as a condition of subdivision plat or site plan

approval what shall constitute "active and substantial development or building" shall entitle the subdivision plat or site plan approved by the planning board to the 5-year exemption described in paragraph I. The planning board may, for good cause, extend the 24-month period set forth in subparagraph I(a).

**Source.** 1983, 447:1. 1989, 266:17, 18. 1991, 331:1, 2. 1995, 43:5; 291:7, 8. 2004, 199:1. 2009, 93:1. 2011, 215:1, eff. June 27, 2011.

# TITLE LXIV PLANNING AND ZONING

## CHAPTER 675 ENACTMENT AND ADOPTION PROCEDURES

### Zoning Ordinance, Historic District Ordinance and Building Code Enactment Procedures

#### Section 675:6

##### **675:6 Method of Adoption. –**

Every local master plan, subdivision regulation, site plan review regulation and historic district regulation referred to in this title shall be adopted or amended by the planning board or historic district commission, as appropriate, in the following manner:

I. The board or commission, as appropriate, shall hold a public hearing prior to adoption or amendment.

Notice for the time and place of the hearing shall be as provided in RSA 675:7.

II. The board or commission, as appropriate, may adopt or amend the master plan or regulation upon completion of the public hearing by an affirmative vote of a majority of its members.

III. No master plan, regulation, amendment or exception adopted under this section shall be legal or have any force and effect until copies of it are certified by a majority of the board or commission and filed with the city clerk, town clerk, or clerk for the county commissioners.

IV. The historic district commission may adopt or amend regulations only after the commission has held a public hearing within the district. Notice for the time and place shall be as provided in RSA 675:7. The adopted regulations shall be certified by a majority of the historic district commission members and filed with the city clerk, town clerk, or clerk for the county commissioners.

**Source.** 1983, 447:1. 1985, 103:24. 1989, 266:26, eff. July 1, 1989.



# TITLE LXIV PLANNING AND ZONING

## CHAPTER 675 ENACTMENT AND ADOPTION PROCEDURES

### Zoning Ordinance, Historic District Ordinance and Building Code Enactment Procedures

#### Section 675:7

##### **675:7 Notice Requirements for Public Hearing. –**

I. (a) Notice shall be given for the time and place of each public hearing held under RSA 675:2-4 and RSA 675:6 at least 10 calendar days before the hearing. The notice required under this section shall not include the day notice is posted or the day of the public hearing. Notice of each public hearing shall be published in a paper of general circulation in the municipality and shall be posted in at least 2 public places. Any person owning property in the municipality may request notice of all public hearings on proposed amendments to the zoning ordinance, and the municipality shall provide notice, at no cost to the person, electronically or by first class mail.

(b) In lieu of publication in a paper of general circulation pursuant to subparagraph (a), notice may be posted on the municipality's Internet website, if such exists. If notice is posted on the municipality's website in lieu of publication in a paper of general circulation, the notice shall:

- (1) Appear prominently on the website's home page, or a link directly to the notice shall appear prominently on the home page;
- (2) Be posted at the time stated in subparagraph (a) and shall remain on the website until the conclusion of the hearing; and
- (3) Be posted in 2 other public places.

I-a. If a proposed amendment to a zoning ordinance would change a boundary of a zoning district and the change would affect 100 or fewer properties, notice of a public hearing on the amendment shall be sent by first class mail to the owners of each affected property. If a proposed amendment to a zoning ordinance would change the minimum lot sizes or the permitted uses in a zoning district that includes 100 or fewer properties, notice of a public hearing on the amendment shall be sent by first class mail to the owner of each property in the district. Notice by mail shall be sent to the address used for mailing local property tax bills, provided that a good faith effort and substantial compliance shall satisfy the notice by mail requirements of this paragraph.

I-b. In the case of a petitioned zoning amendment as authorized in RSA 675:4, the petitioners shall be responsible for the cost of notice by mail under paragraph I-a. If the full cost of notice is not paid at the time of submission, the municipality shall inform the voter whose name appears first on the petition of the cost of notice within 5 business days, and the balance shall be paid within another 5 business days. If full payment is not made and received within 5 business days, the selectmen or village district commissioners may, in their discretion, decide to accept or decline the petition for submission. Failure by the municipality to inform the responsible person of the cost of notice shall be deemed a waiver of the payment requirement.

II. The full text of the proposed master plan, zoning ordinance, building code, subdivision regulation, site

plan review regulation and historic district regulation, ordinance, or amendment need not be included in the notice if an adequate statement describing the proposal and designating the place where the proposal is on file for public inspection is stated in the notice. The notice of a hearing on a proposed amendment to a zoning ordinance to be sent electronically or by first class mail shall include a statement describing, to the greatest extent practicable and in easily understood language, the proposed changes to the zoning ordinance, the areas affected, and any other information calculated to improve public understanding of the proposal.

**Source.** 1983, 447:1. 1985, 103:24. 2014, 161:8, eff. July 10, 2014. 2017, 231:1, eff. Sept. 16, 2017. 2020, 8:1, eff. Sept. 8, 2020.

# Workforce Housing Dataset

1. All relevant materials from all datasets are included here by reference.
2. Workforce Housing Outline Final Report July 2, 2021 - Mark Fougere
3. RSA 672-1
4. RSA 674-21
5. RSA 674-58
6. RSA 674-59
7. RSA 674-60
8. RSA 674-61

# FOUGERE PLANNING & DEVELOPMENT, Inc.

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## **Brookline Workforce Housing Analysis**

**July 2, 2021**

### **A. Workforce Housing – Key Statute Provisions**

674:58 Definitions:

II. "Multi-family housing" for the purpose of workforce housing developments, means a building or structure containing **5 or more dwelling units**, each designed for occupancy by an individual household.

II. "Reasonable and realistic opportunities for the development of workforce housing" means **opportunities to develop** economically viable **workforce housing** within the framework of a municipality's ordinances and regulations adopted pursuant to this chapter and consistent with RSA 672:1, III-e. ....

IV. "Workforce housing" means housing which is **intended for sale** and which is affordable to a household with an income of no more than 100 percent of the median income for a 4-person household for the metropolitan area or county in which the housing is located as published annually by the United States Department of Housing and Urban Development. "Workforce housing" **also means rental housing** which is affordable to a household with an income of no more than 60 percent of the median income for a 3-person household for the metropolitan area or county in which the housing is located as published annually by the United States Department of Housing and Urban Development. ....

674:59

I. In every municipality that exercises the power to adopt land use ordinances and regulations, such ordinances and regulations **shall provide reasonable and realistic opportunities for the development of workforce housing, including rental multi-family housing.** .....

II. **A municipality's existing housing stock shall be taken into consideration** in determining its compliance with this section. If a municipality's existing housing stock is sufficient to accommodate its fair share of the current and reasonably foreseeable

regional need for such housing, the municipality shall be deemed to be in compliance with this subdivision and RSA 672:1, III-e.

**B. Housing Needs Assessment**

Every April the NH Housing Finance Authority publishes a Workforce Housing Purchase and Rent Limits guideline. This outline notes Median Area Income for owner occupied housing and rental low income limits at 60% of Area Median Income. Based this outline, an owner occupied housing unit cannot sell for more than **\$428,000** and the maximum rent limit is **\$1,480 a month** for rental properties, including utilities.

In 2019 the NRPC published a report outlining housing needs for the region relative to the Workforce Housing Statute. The Report concluded that by the year 2025, the Town of Brookline would have a Workforce Housing Need of **852 units** (Table One). The report does not segment how many units should be owner occupied or rental.

Table One

Owner Occupied Workforce Affordability Limit	\$428,000
NRPC 2019 Housing Needs Assessment - Estimated total Workforce Housing Need by 2025	852 Units

**C. Existing Housing Stock – Values & Sales**

Working with the Assessing Department, a list of all housing units and their assessed values was gathered, this included owner occupied and rental units. In addition, sales of all homes in 2020 were reviewed.

1. Owner Occupied Housing Units

As summarized in Table Two, out of a total of 1,848 single family/mobile homes in the community, 1,211 (65.5%) are assessed at or below the Workforce Housing affordable price point of \$428,000. In looking at sales in 2020, out of 110 sales, 87 (79%) were at or below the Workforce Housing limit.

Given these high percentages, it is my professional opinion that Brookline has met its obligation for owner occupied Workforce Housing units.

Table Two

<b>Assessment</b>	
Assessment Single Family Homes Incl. ADU	1,848
Units at or below \$428,000 <sup>1</sup>	<b>1,211</b>
% of housing at or below Workforce Price Limit	65.53%
<b>2020 Qualified Sales - Owner Occupied</b>	
Total sales in 2020	110
Sales at or below \$428,000	87
% of sales at or below \$428,000	79%

## 2. Renter Occupied Housing Units

A review of Assessing records outlined approximately 134 “rental” housing units including Accessory Dwelling Units (ADU) as outlined in Table Three. Not all ADU units may be on the market as rental, as they are often occupied by relatives; however we have included them in this analysis. Two properties in town meet the Statutory definition of Multi-family, two six unit properties located on Main street. Workforce housing rent limits equate to \$1,480/month including utilities.

Table Three

<b>Rentals</b>	<b># Rentals</b>
Max Affordable Rent: \$1,480	
10 Duplex properties, 20 units	12
3 Duplex Condo - 6 units	6
4 three family unit - 12 units	12
2 six family unit	12
Accessory Dwelling Units - rental units?	81
Extra housing unit on a lot	11
	<b>Rental Units 134</b>
Median Rent	?

Because of the limited inventory of rental housing, determining rent levels in the community is challenging. Working with Assessing Staff a small sample of local rental data was gathered, but was limited to single family and duplex rental units. Nine single family rental homes were found, with rents ranging from \$1,100 - \$2,950 a month<sup>2</sup>. Only one of these units met the Workforce Housing rent limits. Data from eight duplex rental units was found, with costs ranging from \$1,300 - \$1,700; two of these units met

<sup>1</sup> As the Town’s assessment ratio is 88.9%, all properties were adjusted to 100% valuation.

<sup>2</sup> Many of to single and duplex rental units did not include utilities in the rent charges.

Workforce Housing cost limits. Limited data was found relative to the apartment rental units in the community.

#### **D. Summary**

Based on this analysis, 1,211 owner occupied dwelling units exist in the community that can be considered Workforce. This figure is above the NRPC Housing Needs analysis that determined Brookline is obligated to have 852 Workforce housing units by the year 2025. Based on this, it would “appear” the Town has met its Workforce obligation and could remove or pause the existing Workforce Housing Zoning Ordinance, entering a “safe harbor”<sup>3</sup> having met its regional obligation. As the housing market is not static, this analysis should be conducted annually to assess housing conditions in the community to determine if the addition of workforce housing units required. A concern does exist that the workforce housing units are made up entirely of owner occupied units and the community has few rental housing options at this time.

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<sup>3</sup> Safe Harbor reference refers to those communities that have a Workforce Housing inventory large enough to meet the regional need for both owner and rental occupied housing units as required by Statute.

# TITLE LXIV PLANNING AND ZONING

## CHAPTER 672 GENERAL PROVISIONS

### Purpose

#### Section 672:1

##### **672:1 Declaration of Purpose. –**

The general court hereby finds and declares that:

I. Planning, zoning and related regulations have been and should continue to be the responsibility of municipal government;

II. Zoning, subdivision regulations and related regulations are a legislative tool that enables municipal government to meet more effectively the demands of evolving and growing communities;

III. Proper regulations enhance the public health, safety and general welfare and encourage the appropriate and wise use of land;

III-a. Proper regulations encourage energy efficient patterns of development, the use of solar energy, including adequate access to direct sunlight for solar energy uses, and the use of other renewable forms of energy, and energy conservation. Therefore, the installation of solar, wind, or other renewable energy systems or the building of structures that facilitate the collection of renewable energy shall not be unreasonably limited by use of municipal zoning powers or by the unreasonable interpretation of such powers except where necessary to protect the public health, safety, and welfare;

III-b. Agriculture makes vital and significant contributions to the food supply, the economy, the environment and the aesthetic features of the state of New Hampshire, and the tradition of using the land resource for agricultural production is an essential factor in providing for the favorable quality of life in the state. Natural features, terrain and the pattern of geography of the state frequently place agricultural land in close proximity to other forms of development and commonly in small parcels. Agricultural activities are a beneficial and worthwhile feature of the New Hampshire landscape. Agritourism, as defined in RSA 21:34-a, is undertaken by farmers to contribute to both the economic viability and the long-term sustainability of the primary agricultural activities of New Hampshire farms. Agricultural activities and agritourism shall not be unreasonably limited by use of municipal planning and zoning powers or by the unreasonable interpretation of such powers;

III-c. Forestry, when practiced in accordance with accepted silvicultural principles, constitutes a beneficial and desirable use of New Hampshire's forest resource. Forestry contributes greatly to the economy of the state through a vital forest products industry; and to the health of the state's forest and wildlife resources through sustained forest productivity, and through improvement of wildlife habitats. New Hampshire's forests are an essential component of the landscape and add immeasurably to the quality of life for the state's citizens. Because New Hampshire is a heavily forested state, forestry activities, including the harvest and transport of forest products, are often carried out in close proximity to populated areas. Further, the harvesting of timber often represents the only income that can be derived from property without resorting to



development of the property for more intensive uses, and, pursuant to RSA 79-A:1, the state of New Hampshire has declared that it is in the public interest to encourage preservation of open space by conserving forest and other natural resources. Therefore, forestry activities, including the harvest and transport of forest products, shall not be unreasonably limited by use of municipal planning and zoning powers or by the unreasonable interpretation of such powers;

III-d. For purposes of paragraphs III-a, III-b, III-c, and III-e, "unreasonable interpretation" includes the failure of local land use authorities to recognize that agriculture and agritourism operations or activities as defined in RSA 21:34-a, forestry, renewable energy systems, and commercial and recreational fisheries, when practiced in accordance with applicable laws and regulations, are traditional, fundamental and accessory uses of land throughout New Hampshire, and that a prohibition upon these uses cannot necessarily be inferred from the failure of an ordinance or regulation to address them;

III-e. All citizens of the state benefit from a balanced supply of housing which is affordable to persons and families of low and moderate income. Establishment of housing which is decent, safe, sanitary and affordable to low and moderate income persons and families is in the best interests of each community and the state of New Hampshire, and serves a vital public need. Opportunity for development of such housing shall not be prohibited or unreasonably discouraged by use of municipal planning and zoning powers or by unreasonable interpretation of such powers;

III-f. New Hampshire commercial and recreational fisheries make vital and significant contributions to the food supply, the economy, the environment, and the aesthetic features of the state of New Hampshire, and the tradition of using marine resources for fisheries production is an essential factor in providing for economic stability and a favorable quality of life in the state. Many traditional commercial and recreational fisheries in New Hampshire's rivers and estuarine systems are located in close proximity to coastal development. Such fisheries are a beneficial and worthwhile feature of the New Hampshire landscape and tradition and should not be discouraged or eliminated by use of municipal planning and zoning powers or the unreasonable interpretation of such powers.

IV. The citizens of a municipality should be actively involved in directing the growth of their community;

V. The state should provide a workable framework for the fair and reasonable treatment of individuals;

V-a. The care of up to 6 full-time preschool children and 3 part-time school age children in the home of a child care provider makes a vital and significant contribution to the state's economy and the well-being of New Hampshire families. The care provided through home-based day care closely parallels the activities of any home with young children. Family based care, traditionally relied upon by New Hampshire families, should not be discouraged or eliminated by use of municipal planning and zoning powers or the unreasonable interpretation of such powers; and

VI. It is the policy of this state that competition and enterprise may be so displaced or limited by municipalities in the exercise of the powers and authority provided in this title as may be necessary to carry out the purposes of this title.

**Source.** 1983, 447:1. 1985, 68:1; 335:3; 369:1. 1989, 42:1; 170:1. 1990, 174:1; 180:1, 2. 1991, 198:1. 2002, 73:1. 2008, 299:3, eff. Jan. 1, 2010; 357:2, 3, eff. July 11, 2009. 2016, 267:2, 3, eff. June 16, 2016. 2019, 338:4, eff. Sept. 5, 2019.

# TITLE LXIV

## PLANNING AND ZONING

### CHAPTER 674

### LOCAL LAND USE PLANNING AND REGULATORY POWERS

#### Zoning

#### Section 674:21

##### **674:21 Innovative Land Use Controls. –**

I. Innovative land use controls may include, but are not limited to:

- (a) Timing incentives.
- (b) Phased development.
- (c) Intensity and use incentive.
- (d) Transfer of density and development rights.
- (e) Planned unit development.
- (f) Cluster development.
- (g) Impact zoning.
- (h) Performance standards.
- (i) Flexible and discretionary zoning.
- (j) Environmental characteristics zoning.
- (k) Inclusionary zoning.
- (l) Impact fees.
- (m) Village plan alternative subdivision.
- (n) Integrated land development permit option.

II. An innovative land use control adopted under RSA 674:16 may be required when supported by the master plan and shall contain within it the standards which shall guide the person or board which administers the ordinance. An innovative land use control ordinance may provide for administration, including the granting of conditional or special use permits, by the planning board, board of selectmen, zoning board of adjustment, or such other person or board as the ordinance may designate. If the administration of the innovative provisions of the ordinance is not vested in the planning board, any proposal submitted under this section shall be reviewed by the planning board prior to final consideration by the administrator. In such a case, the planning board shall set forth its comments on the proposal in writing and the administrator shall, to the extent that the planning board's comments are not directly incorporated into its decision, set forth its findings and decisions on the planning board's comments.

III. Innovative land use controls must be adopted in accordance with RSA 675:1, II.

IV. As used in this section:

- (a) "Inclusionary zoning" means land use control regulations which provide a voluntary incentive or benefit to a property owner in order to induce the property owner to produce housing units which are affordable to persons or families of low and moderate income. Inclusionary zoning includes, but is not limited to, density bonuses, growth control exemptions, and a streamlined application process.

(b) "Phased development" means a development, usually for large-scale projects, in which construction of public or private improvements proceeds in stages on a schedule over a period of years established in the subdivision or site plan approved by the planning board. In a phased development, the issuance of building permits in each phase is solely dependent on the completion of the prior phase and satisfaction of other conditions on the schedule approved by the planning board. Phased development does not include a general limit on the issuance of building permits or the granting of subdivision or site plan approval in the municipality, which may be accomplished only by a growth management ordinance under RSA 674:22 or a temporary moratorium or limitation under RSA 674:23.

V. As used in this section "impact fee" means a fee or assessment imposed upon development, including subdivision, building construction, or other land use change, in order to help meet the needs occasioned by that development for the construction or improvement of capital facilities owned or operated by the municipality, including and limited to water treatment and distribution facilities; wastewater treatment and disposal facilities; sanitary sewers; storm water, drainage and flood control facilities; municipal road systems and rights-of-way; municipal office facilities; public school facilities; the municipality's proportional share of capital facilities of a cooperative or regional school district of which the municipality is a member; public safety facilities; solid waste collection, transfer, recycling, processing, and disposal facilities; public library facilities; and public recreational facilities not including public open space. No later than July 1, 1993, all impact fee ordinances shall be subject to the following:

(a) The amount of any such fee shall be a proportional share of municipal capital improvement costs which is reasonably related to the capital needs created by the development, and to the benefits accruing to the development from the capital improvements financed by the fee. Upgrading of existing facilities and infrastructures, the need for which is not created by new development, shall not be paid for by impact fees.

(b) In order for a municipality to adopt an impact fee ordinance, it must have enacted a capital improvements program pursuant to RSA 674:5-7.

(c) Any impact fee shall be accounted for separately, shall be segregated from the municipality's general fund, may be spent upon order of the municipal governing body, shall be exempt from all provisions of RSA 32 relative to limitation and expenditure of town moneys, and shall be used solely for the capital improvements for which it was collected, or to recoup the cost of capital improvements made in anticipation of the needs which the fee was collected to meet.

(d) All impact fees imposed pursuant to this section shall be assessed at the time of planning board approval of a subdivision plat or site plan. When no planning board approval is required, or has been made prior to the adoption or amendment of the impact fee ordinance, impact fees shall be assessed prior to, or as a condition for, the issuance of a building permit or other appropriate permission to proceed with development. Impact fees shall be intended to reflect the effect of development upon municipal facilities at the time of the issuance of the building permit. Impact fees shall be collected at the time a certificate of occupancy is issued. If no certificate of occupancy is required, impact fees shall be collected when the development is ready for its intended use. Nothing in this subparagraph shall prevent the municipality and the assessed party from establishing an alternate, mutually acceptable schedule of payment of impact fees in effect at the time of subdivision plat or site plan approval by the planning board. If an alternate schedule of payment is established, municipalities may require developers to post bonds, issue letters of credit, accept liens, or otherwise provide suitable measures of security so as to guarantee future payment of the assessed impact fees.

(e) The ordinance shall establish reasonable times after which any portion of an impact fee which has not become encumbered or otherwise legally bound to be spent for the purpose for which it was collected shall be refunded, with any accrued interest. Whenever the calculation of an impact fee has been predicated upon some portion of capital improvement costs being borne by the municipality, a refund shall be made upon the failure of the legislative body to appropriate the municipality's share of the capital improvement costs within

a reasonable time. The maximum time which shall be considered reasonable hereunder shall be 6 years.

(f) Unless otherwise specified in the ordinance, any decision under an impact fee ordinance may be appealed in the same manner provided by statute for appeals from the officer or board making that decision, as set forth in RSA 676:5, RSA 677:2-14, or RSA 677:15, respectively.

(g) The ordinance may also provide for a waiver process, including the criteria for the granting of such a waiver.

(h) The adoption of a growth management limitation or moratorium by a municipality shall not affect any development with respect to which an impact fee has been paid or assessed as part of the approval for that development.

(i) Neither the adoption of an impact fee ordinance, nor the failure to adopt such an ordinance, shall be deemed to affect existing authority of a planning board over subdivision or site plan review, except to the extent expressly stated in such an ordinance.

(j) The failure to adopt an impact fee ordinance shall not preclude a municipality from requiring developers to pay an exaction for the cost of off-site improvement needs determined by the planning board to be necessary for the occupancy of any portion of a development. For the purposes of this subparagraph, "off-site improvements" means those improvements that are necessitated by a development but which are located outside the boundaries of the property that is subject to a subdivision plat or site plan approval by the planning board. Such off-site improvements shall be limited to any necessary highway, drainage, and sewer and water upgrades pertinent to that development. The amount of any such exaction shall be a proportional share of municipal improvement costs not previously assessed against other developments, which is necessitated by the development, and which is reasonably related to the benefits accruing to the development from the improvements financed by the exaction. As an alternative to paying an exaction, the developer may elect to construct the necessary improvements, subject to bonding and timing conditions as may be reasonably required by the planning board. Any exaction imposed pursuant to this section shall be assessed at the time of planning board approval of the development necessitating an off-site improvement. Whenever the calculation of an exaction for an off-site improvement has been predicated upon some portion of the cost of that improvement being borne by the municipality, a refund of any collected exaction shall be made to the payor or payor's successor in interest upon the failure of the local legislative body to appropriate the municipality's share of that cost within 6 years from the date of collection. For the purposes of this subparagraph, failure of local legislative body to appropriate such funding or to construct any necessary off-site improvement shall not operate to prohibit an otherwise approved development.

(k) Revenue from impact fees imposed upon development and collected by a municipality under RSA 674:21, V for construction of or improvement to municipal road systems may be expended upon state highways within the municipality only for improvement costs that are related to the capital needs created by the development. Such improvements may include items such as, but not limited to, traffic signals and signage, turning lanes, additional travel lanes, and guard rails. No such improvements shall be constructed or installed without approval of the state department of transportation. In no event shall impact fees be used for any improvements to roads, bridges, or interchanges that are part of the interstate highway system. Nothing in RSA 674:21, V shall be construed as allowing or authorizing additional impact fees merely by virtue of having approved the expenditure of collected fee revenue for construction of or improvement of state highways, nor shall it be construed as allowing the adoption of new impact fees devoted to assessing impacts to state highways.

(l) No later than 60 days following the end of the fiscal year, any municipality having adopted an impact fee ordinance shall prepare a report listing all expenditures of impact fee revenue for the prior fiscal year, identifying the capital improvement project for which the fees were assessed and stating the dates upon which the fees were assessed and collected. The annual report shall enable the public to track the payment, expenditure, and status of the individually collected fees to determine whether said fees were expended,

retained, or refunded.

VI. (a) In this section, "village plan alternative" means an optional land use control and subdivision regulation to provide a means of promoting a more efficient and cost effective method of land development. The village plan alternative's purpose is to encourage the preservation of open space wherever possible. The village plan alternative subdivision is meant to encourage beneficial consolidation of land development to permit the efficient layout of less costly to maintain roads, utilities, and other public and private infrastructures; to improve the ability of political subdivisions to provide more rapid and efficient delivery of public safety and school transportation services as community growth occurs; and finally, to provide owners of private property with a method for realizing the inherent development value of their real property in a manner conducive to the creation of substantial benefit to the environment and to the political subdivision's property tax base.

(b) An owner of record wishing to utilize the village plan alternative in the subdivision and development of a parcel of land, by locating the entire density permitted by the existing land use regulations of the political subdivision within which the property is located, on 20 percent or less of the entire parcel available for development, shall grant to the municipality within which the property is located, as a condition of approval, a recorded easement reserving the remaining land area of the entire, original lot, solely for agriculture, forestry, and conservation, or for public recreation. The recorded easement shall limit any new construction on the remainder lot to structures associated with farming operations, forest management operations, and conservation uses, and shall specify that the restrictions contained in the easement are enforceable by the municipality. Public recreational uses shall be subject to the written approval of those abutters whose property lies within the village plan alternative subdivision portion of the project at the time when such a public use is proposed.

(c) The submission and approval procedure for a village plan alternative subdivision shall be the same as that for a conventional subdivision. Existing zoning and subdivision regulations relating to emergency access, fire prevention, and public health and safety concerns including any setback requirement for wells, septic systems, or wetland requirement imposed by the department of environmental services shall apply to the developed portion of a village plan alternative subdivision, but lot size regulations and dimensional requirements having to do with frontage and setbacks measured from all new property lot lines, and lot size regulations, as well as density regulations, shall not apply.

(1) The total density of development within a village plan alternate subdivision shall not exceed the total potential development density permitted a conventional subdivision of the entire original lot unless provisions contained within the political subdivision's land use regulations provide a basis for increasing the permitted density of development within a village plan alternative subdivision.

(2) In no case shall a political subdivision impose lesser density requirements upon a village plan alternative subdivision than the density requirements imposed on a conventional subdivision.

(d) If the total area of a proposed village plan alternative subdivision including all roadways and improvements does not exceed 20 percent of the total land area of the undeveloped lot, and if the proposed subdivision incorporates the total sum of all proposed development as permitted by local regulation on the undeveloped lot, all existing and future dimensional requirements imposed by local regulation, including lot size, shall not apply to the proposed village plan alternative subdivision.

(e) The approving authority may increase, at existing property lines, the setback to new construction within a village plan alternative subdivision by up to 2 times the distance required by current zoning or subdivision regulations, subject to the provisions of subparagraph (c).

(f) Within a village plan alternative subdivision, the exterior wall construction of buildings shall meet or exceed the requirements for fire-rated construction described by the fire prevention and building codes being enforced by the state of New Hampshire at the date and time the property owner of record files a formal application for subdivision approval with the political subdivision having jurisdiction of the project. Exterior

walls and openings of new buildings shall also conform to fire protective provisions of all other building codes in force in the political subdivision. Wherever building code or fire prevention code requirements for exterior wall construction appear to be in conflict, the more stringent building or fire prevention code requirements shall apply.

VII. In this section, "integrated land development permit option" means an optional land use control to allow a project to proceed, in whole or in part, as permitted by the department of environmental services under RSA 489.

**Source.** 1983, 447:1. 1988, 149:1, 2. 1991, 283:1, 2. 1992, 42:1. 1994, 278:1. 2002, 236:1, 2. 2004, 71:1, 2; 199:2, 3. 2005, 61:1, 2. 2008, 63:1. 2012, 106:1, 2. 2013, 270:5, 6. 2015, 31:1, eff. July 6, 2015. 2016, 6:3, 4, eff. June 1, 2017.

# TITLE LXIV PLANNING AND ZONING

## CHAPTER 674 LOCAL LAND USE PLANNING AND REGULATORY POWERS

### Workforce Housing

#### Section 674:58

##### **674:58 Definitions. –**

In this subdivision:

- I. "Affordable" means housing with combined rental and utility costs or combined mortgage loan debt services, property taxes, and required insurance that do not exceed 30 percent of a household's gross annual income.
- II. "Multi-family housing" for the purpose of workforce housing developments, means a building or structure containing 5 or more dwelling units, each designed for occupancy by an individual household.
- III. "Reasonable and realistic opportunities for the development of workforce housing" means opportunities to develop economically viable workforce housing within the framework of a municipality's ordinances and regulations adopted pursuant to this chapter and consistent with RSA 672:1, III-e. The collective impact of all such ordinances and regulations on a proposal for the development of workforce housing shall be considered in determining whether opportunities for the development of workforce housing are reasonable and realistic. If the ordinances and regulations of a municipality make feasible the development of sufficient workforce housing to satisfy the municipality's obligation under RSA 674:59, and such development is not unduly inhibited by natural features, the municipality shall not be in violation of its obligation under RSA 674:59 by virtue of economic conditions beyond the control of the municipality that affect the economic viability of workforce housing development.
- IV. "Workforce housing" means housing which is intended for sale and which is affordable to a household with an income of no more than 100 percent of the median income for a 4-person household for the metropolitan area or county in which the housing is located as published annually by the United States Department of Housing and Urban Development. "Workforce housing" also means rental housing which is affordable to a household with an income of no more than 60 percent of the median income for a 3-person household for the metropolitan area or county in which the housing is located as published annually by the United States Department of Housing and Urban Development. Housing developments that exclude minor children from more than 20 percent of the units, or in which more than 50 percent of the dwelling units have fewer than two bedrooms, shall not constitute workforce housing for the purposes of this subdivision.

**Source.** 2008, 299:2, eff. Jan. 1, 2010.

# TITLE LXIV PLANNING AND ZONING

## CHAPTER 674 LOCAL LAND USE PLANNING AND REGULATORY POWERS

### Workforce Housing

#### Section 674:59

##### **674:59 Workforce Housing Opportunities. –**

I. In every municipality that exercises the power to adopt land use ordinances and regulations, such ordinances and regulations shall provide reasonable and realistic opportunities for the development of workforce housing, including rental multi-family housing. In order to provide such opportunities, lot size and overall density requirements for workforce housing shall be reasonable. A municipality that adopts land use ordinances and regulations shall allow workforce housing to be located in a majority, but not necessarily all, of the land area that is zoned to permit residential uses within the municipality. Such a municipality shall have the discretion to determine what land areas are appropriate to meet this obligation. This obligation may be satisfied by the adoption of inclusionary zoning as defined in RSA 674:21, IV(a). This paragraph shall not be construed to require a municipality to allow for the development of multifamily housing in a majority of its land zoned to permit residential uses.

II. A municipality shall not fulfill the requirements of this section by adopting voluntary inclusionary zoning provisions that rely on inducements that render workforce housing developments economically unviable.

III. A municipality's existing housing stock shall be taken into consideration in determining its compliance with this section. If a municipality's existing housing stock is sufficient to accommodate its fair share of the current and reasonably foreseeable regional need for such housing, the municipality shall be deemed to be in compliance with this subdivision and RSA 672:1, III-e.

IV. Paragraph I shall not be construed to require municipalities to allow workforce housing that does not meet reasonable standards or conditions of approval related to environmental protection, water supply, sanitary disposal, traffic safety, and fire and life safety protection.

**Source.** 2008, 299:2, eff. Jan. 1, 2010.



# TITLE LXIV PLANNING AND ZONING

## CHAPTER 674 LOCAL LAND USE PLANNING AND REGULATORY POWERS

### Workforce Housing

#### Section 674:60

##### **674:60 Procedure. –**

I. Any person who applies to a land use board for approval of a development that is intended to qualify as workforce housing under this subdivision shall file a written statement of such intent as part of the application. The failure to file such a statement shall constitute a waiver of the applicant's rights under RSA 674:61, but shall not preclude an appeal under other applicable laws. In any appeal where the applicant has failed to file the statement required by this paragraph, the applicant shall not be entitled to a judgment on appeal that allows construction of the proposed development, or otherwise permits the proposed workforce housing development to proceed despite its nonconformance with the municipality's ordinances or regulations.

II. If a land use board approves an application to develop workforce housing subject to conditions or restrictions, it shall notify the applicant in writing of such conditions and restrictions and give the applicant an opportunity to establish the cost of complying with the conditions and restrictions and the effect of compliance on the economic viability of the proposed development. The board's notice to the applicant of the conditions and restrictions shall constitute a conditional approval solely for the purpose of complying with the requirements of RSA 676:4, I(c)(1). It shall not constitute a final decision for any other purpose, including the commencement of any applicable appeal period.

III. Upon receiving notice of conditions and restrictions under paragraph II, the applicant may submit evidence to establish the cost of complying with the conditions and restrictions and the effect on economic viability within the period directed by the board, which shall not be less than 30 days.

(a) Upon receipt of such evidence from the applicant, the board shall allow the applicant to review the evidence at the board's next meeting for which 10 days' notice can be given, and shall give written notice of the meeting to the applicant at least 10 days in advance. At such meeting, the board may also receive and consider evidence from other sources.

(b) The board may affirm, alter, or rescind any or all of the conditions or restrictions of approval after such meeting.

(c) Subject to subparagraph (d), the board shall not issue its final decision on the application before such meeting, unless the applicant fails to submit the required evidence within the period designated by the board, in which case it may issue its final decision any time after the expiration of the period.

(d) If an applicant notifies the board in writing at any time that the applicant accepts the conditions and restrictions of approval, the board may issue its final decision without further action under this paragraph.

IV. A municipality may require that an applicant record restrictive covenants acceptable to the land use board that the workforce housing may not be rented to or sold to any household whose income is greater than that

specified in RSA 674:58, IV. The covenant shall be for the term specified in the regulations of the land use board. The municipality may adopt regulations to insure compliance with the covenants, which regulations may include requirements for the monitoring of the project by the municipality or by a suitable third party agency qualified to carry out such requirements, including but not limited to requiring the production of annual income verification for renters and non-owner occupiers. The land use board may consider the existence of recorded covenants or income qualification and occupancy criteria as satisfying the purpose of this paragraph if such covenants or criteria are administered by a state or federal entity.

**Source.** 2008, 299:2. 2010, 150:1, eff. June 14, 2010.

# TITLE LXIV PLANNING AND ZONING

## CHAPTER 674 LOCAL LAND USE PLANNING AND REGULATORY POWERS

### Workforce Housing

#### Section 674:61

##### **674:61 Appeals. –**

I. Any person who has filed the written notice required by RSA 674:60, and whose application to develop workforce housing is denied or is approved with conditions or restrictions which have a substantial adverse effect on the viability of the proposed workforce housing development may appeal the municipal action to the superior court under RSA 677:4 or RSA 677:15 seeking permission to develop the proposed workforce housing. The petition to the court shall set forth how the denial is due to the municipality's failure to comply with the workforce housing requirements of RSA 674:59 or how the conditions or restrictions of approval otherwise violate such requirements.

II. A hearing on the merits of the appeal shall be held within 6 months of the date on which the action was filed unless counsel for the parties agree to a later date, or the court so orders for good cause. If the court determines that it will be unable to meet this requirement, at the request of either party it shall promptly appoint a referee to hear the appeal within 6 months. Referees shall be impartial, and shall be chosen on the basis of qualifications and experience in planning and zoning law.

III. In the event the decision of the court or referee grants the petitioner a judgment that allows construction of the proposed development or otherwise orders that the proposed development may proceed despite its nonconformance with local regulations, conditions, or restrictions, the court or referee shall direct the parties to negotiate in good faith over assurances that the project will be maintained for the long term as workforce housing. The court or referee shall retain jurisdiction and upon motion of either party affirming that negotiations are deadlocked, the court or referee shall hold a further hearing on the appropriate term and form of use restrictions to be applied to the project.

**Source.** 2008, 299:2, eff. Jan. 1, 2010.

# Well and Water Dataset

1. All relevant materials from all datasets are included here by reference.
2. Brookline, NH Well Water Committee (WWC) Report-10.14.20
3. NH DES Guidance to Refine the Potable Water Definition in New Hampshire Municipal Building Code (2015)
4. NH DES Site Selection for Private Drinking Water Wells (2021) dwgb-21-1
5. NH DES Suggested Water Quality Testing for Private Wells (2020) - dwgb-2-1
6. Towns in NH that Require Well Water Testing- NH OSI
7. Amherst, NH Subdivision Regulations Adopted 02-21-18
8. Chester, NH 100 Building Code Post 08-28-19
9. Goffstown, NH Certificate of Occupancy Water Quality
10. Pelham Health Code Well Ordinance - 2013
11. Windham Water Supply Regulations - 2014
12. Alton, NH Well - Septic Permit 2020
13. Atkinson Board of Health Zoning Ordinance
14. Bow Subdivision Regulations
15. Farmington Building Code
16. Hampstead Well Water Handbook - Guild for Homeowners
17. Hooksett well water testing report for the entire town
18. Londonderry Water Quality Results
19. Londonderry Well Permit
20. Newmarket - Building Code and Master Plan Chapter on Well Water
21. Newmarket Inspection Requirements
22. Rollinsford - Subdivision Regulations
23. Salem - Building and Health Code regarding potable water
24. Sandown - Building Code Water Testing
25. RSA 155-A
26. RSA 482-B
27. RSA 485-A
28. RSA 674-51

October 14, 2020

Brookline, NH Planning Board  
PO Box 360, 1 Main Street  
Brookline, NH 03033-0360

Brookline NH Water and Well Committee  
Lindsay Machado  
Buddy Dougherty  
Rob Danckert  
Chris Duncan (Planning Board Representative)

**RE: Brookline NH Water & Well Committee Report**

***Introduction:***

From 2017 through 2019 twelve residential homes were constructed along the southern portion of Russell Hill Road in Brookline, New Hampshire. A private water supply well, drilled into bedrock, was also installed for each of these homes. In 2019, several of the newly-constructed homes experienced a number of issues with their water supply, including a decrease in yield in their wells. No available stored water was observed in the well following lowering of submersible pumps at two homes within this development. In some instances, pumps could not be lowered further because of pump or drop pipe limitations, or because the static water level had dropped below the base of the well.

During this time, development of a lot at the north end of West Hill Road had also been proposed to the Planning Board and additional homes on the west side of Russell Hill Road were in various stages of construction. These additional Russell Hill Road homes were adjacent to those homes experiencing water well issues on Russell Hill Road. Concerns were raised that newly-drilled wells associated with these development may negatively influence, via fracture connectivity, existing private water supply wells.

The Brookline Water and Well Committee (WWC) was formed in early 2020 because of reports of private water wells in this region of Brookline experiencing these issues. During the February 20, 2020 planning board meeting, the above members were appointed to the WWC to further investigate the occurrence of well issues and to consider new rules and ordinances related to water supply in Brookline.

It should be noted that abnormally dry conditions in New Hampshire were recorded in June 2020 which affected private water wells outside of Russell Hill and West Hill Road developments referenced above. As of October 13, 2020, dry conditions have progressed into an extreme drought (Stage D3) encompassing 22 percent of the state, while the majority of the state remains in a state of severe drought (Stage D2; US Drought Monitor, 2020). These drought conditions have further elevated the

importance of the WWC's mission and have partially influenced the selection and language of the proposed ordinances contained in this report.

Based upon WWC members' research, discussions with state agencies, planning commissions, hydrogeologists, and local vendors, the WWC has proposed two ordinances. The WWC believes these ordinances will provide a degree of assurance that newly-constructed, private water supplies, will maintain a sustainable yield. Each of the proposed ordinances below is preceded by background and followed by supporting information. This report concludes with a number of items that should be considered under future water-related committees in Brookline.

### ***Proposed Ordinance No. 1***

In response to concerns of the new development on the north end of West Hill Road potentially exacerbating existing water supply issues on Russell Hill Road, concerned stakeholders requested a hydrogeologic study of the area to further determine the potential effects of the new developments. The November 19, 2019 Nobis Engineering, Inc. (Nobis) report details the results of this study (Nobis, 2019).

The Nobis report was reviewed with multiple consultants and vendors to determine the usefulness of similar studies in evaluating an adequate water supply for future, proposed developments. In general, those interviewed were proponents of a high-level hydrogeologic study for this purpose. No one interviewed stated such a study would guarantee a long-term source without potential for running dry.

The below proposed ordinance was discussed with the Nashua Regional Planning Commission (NRPC). The NRPC suggested that the ordinance be incorporated into the Brookline subdivision regulations. This would require consideration of the ordinance during site plan or subdivision review by the Brookline Planning Board.

As a result of these discussions, the below ordinance has been proposed to the Brookline Planning Board.

*A baseline hydrogeological study is to be required for a proposed development of more than one residence. This study is to conclude the likelihood of a long-term yield of a private water supply for future residences. The following items are to be included as part of the study:*

- *a review of surficial and bedrock geologic maps at minimum scale of 1:24,000 as available;*
- *review of well yields within a 500-foot radius of the proposed development boundary if no more than two lots are proposed. If greater than two lots are proposed, the well survey radius shall extend to 1,000 feet;*
- *a fracture trace study (ie, a photo-lineament study) at a representative scale; and,*
- *a professional opinion by a licensed professional geologist registered in the state of New Hampshire on the likelihood of an adequate water supply for each proposed residence.*

Some towns have requested hydrogeological studies for proposed developments. These have typically been paid for by the developer. These towns are Bedford, Bow, and Kingston, New Hampshire (PlanLink, 2019). Research by WWC did not locate any New Hampshire town where a baseline hydrogeological study was part of a town ordinance or rule.

On September 10, 2020, David Macclean, PG of Geolinsight, Inc. was interviewed as part of the WWC research into the proposed ordinances. Mr. Macclean suggested that the term, “hydrogeologic study” be defined so that a specific minimum standard is established for studies performed under the ordinance. On September 14, 2020, another environmental consultant was also interviewed who suggested the term, hydrogeological study, be defined for similar reasons. A definition has not yet been provided, however, the items to be included in the study are included in the proposed ordinance.

### ***Proposed Ordinance 2***

Research conducted by the WWC noted that a number of private supply wells drilled in town from 2010 to 2019 had exceptionally low measured yields during their installation. It was also noted that the State of New Hampshire does not regulate minimum yields of private water supply wells (NHDES, 2019; Attachment 1). Minimum yield guidance only exists as recommendation documents from the New Hampshire Water Well Board (5 gallons per minutes for two hours or total capacity of 600 GPM in a two hour period) and the New Hampshire Water Well Association (4 GPM for four hours).

In the absence of state regulations, several towns have enacted ordinances to require that during well construction, minimum yields be assured based upon the above guidance. The towns of Pelham, Windham, and Hempstead, New Hampshire are examples of towns that have established yield standards for newly-drilled wells.

The NRPC recommended that any yield testing standards adopted by the town be enacted as a zoning ordinance. A yield test would be required prior to the issuance of a certificate of occupancy and could be monitored and/or approved by the town building inspector. Including yield testing as a zoning ordinance would apply to all lots regardless of whether subdivision is proposed.

During research, the WWC also noted instances of dried wells where the well depth could have permitted lowering of the pump into the lower static water level. However, pump lowering would not be effective due to the existing pump or piping limitations. Piping and pump sizing are also addressed in the proposed ordinance.

As a result of the above research, the WWC proposes the following ordinance which is based upon those established by the Town of Pelham Board of Health (Attachment 2):

*The probability for a long-term sustainable yield from a single private well should be further qualified by establishing yield standards to meet or exceed those established by the NH Water Well Association.*

*All wells shall be pump tested regardless of depth to determine sustained yield. The sustained yield shall be not less than four (4) gallons per minute over a four (4) hour period. In all cases the pump test shall be completed using a submersible pump. Groundwater level measurements shall be recorded immediately before the start of the pump test for static groundwater level, and at least once every thirty (30) minutes during the pump test. In addition, the static groundwater level shall be measured within twenty-four (24) hours after the pump test and shall demonstrate water level recovery after the pump test to at least ninety percent (90%) of the pretest level. All results from pump testing must be certified by the tester (ie, New Hampshire-Licensed Well Driller under RSA 482-*

*B) and so evidenced on the State of New Hampshire Well Completion Report to be provided to the building department.*

*No Certificate of Occupancy will be issued until all the provisions of these regulations have been met, or contingencies have been made, or duly waived by the Board of Health.*

*Well pump sizing, drop tube construction, and storage tank capacity must be appropriate for the well drilled, anticipated occupancy and use of the residence, and take into consideration periods of moderate to severe drought. As such, the depth of the pump should be equidistant between the static water level and the bottom of the well.*

Members of the WWC had discussions with Roger Skillings of Skillings and Sons, and representatives of NH Water Well Association, and Capital Well Clean Water Center, Inc. As noted above, it was confirmed by these representatives that several towns had established ordinances where, prior to receiving an occupancy permit, the well must undergo a yield test to ensure the water yield is adequate.

The proposed well pump sizing, pump depth setting and piping language is included in the ordinance to encourage builders to consider periods of drought and future development when setting internal well components and piping. In one instance, a well was drilled to a depth of approximately 1,500 feet below grade and the pump was installed and set at 200 feet. The static water level subsequently dropped from 118 feet to 440 feet BGS. The homeowner then had to repeatedly hire a contractor to lower the pump as the static water level continuously dropped naturally (Machado, 2020). This could have been prevented if the pump was originally set at a depth that took into consideration periods of drought or, at a minimum, the maximum allowed pump depth based upon piping and pump capacity.

### ***Additional Items***

The following items were discussed throughout the WWC's tenure but were not researched. These items should be considered under future WWC committees.

- Consider applying for federal or state grants that would support town-wide hydrogeological studies and/or cost and feasibility study of a public water supply for the town;
- Continue to engage with the Nashua Regional Planning Commission to develop GIS maps that reflect town areas of high or low risk relative to water supply;
- Initiate a survey via the town website to track private water well issues. Data will be tracked by the Brookline Conservation Committee to monitor areas of concern;
- Complete a town-wide hydrogeological study;
- Define the hydrogeological study;
- Irrigation ordinances (ie; consider restricting systems in areas where historical well problems have been identified in the past. Alternatively, consider requiring that new or existing homes wishing to install an irrigation system should demonstrate that their current well is adequate or provide documentation that shows another well for irrigation use has been dug, or current well has been upgraded to handle the additional burden;
- Installation or monitoring of existing bedrock wells to assess regional drought conditions;
- Consider creating a groundwater aquifer protection district;



- Consider language for a shared well serving two or more residential homes;
- Consider language is present that ensures well radius (75 feet) is within property boundary;
- Add language to town master plan to include protection of water resources.

### ***Closing Comments***

It is recommended that a WWC continue to be commissioned in order to research the above additional items and provide a point of contact to discuss other well water-related information to the Planning Board.

### ***References:***

Nobis Engineering, Inc. Letter Report: Hydrogeologic Overview and Well Interference Assessment, November 2019.

PlanLink, 2019; Responses to questions posed by the Brookline Planning Board in September and November 2019.

Machado, 2020; Personal discussions with Brookline, NH resident experiencing water well issues.

US Drought Monitor, 2020; <https://droughtmonitor.unl.edu/CurrentMap/StateDroughtMonitor.aspx?NH>

### ***Attachments:***

1. 2019 NHDES Document WD-DWGB-1-8; Recommended Minimum Water Supply Capacity for Private Wells
2. 2013 (Ammended) Town of Pelham-Board of Health: Residential/Commercial Water Supply Regulations – Well Ordinance for New Construction.

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# ENVIRONMENTAL Fact Sheet

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29 Hazen Drive, Concord, New Hampshire 03301 • (603) 271-3503 • [www.des.nh.gov](http://www.des.nh.gov)

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WD-DWGB-1-8

2019

## Recommended Minimum Water Supply Capacity for Private Wells

One of the most important factors to consider when planning to purchase or build a home is the adequacy of the water supply. The amount of water available to the home can be as important as the quality of the water. How much water is adequate for a private domestic supply is a commonly asked question of NHDES and the Water Well Board. Please note that the State of New Hampshire does not regulate how much water a private well shall yield. Some towns have adopted ordinances requiring private wells produce a specific amount of water prior to issuing occupancy or building permits; check with your local authority to find out more.

Available water supply is a function of both the recovery rate and the storage volume of the well. These two factors contribute to the actual capacity of the supply particularly if the well recovery rate is low. A standard 6-inch diameter drilled well can store 1½ gallons of water per foot of well depth. The actual volume of water in storage will depend on the water level in the well and the pump setting depth.

The Water Well Board suggests that a minimum water supply capacity for domestic internal household use should be at least 600 gallons of water within a two-hour period once each day. This is equivalent to a flow rate of 5 gallons per minute (gpm) for two hours. Alternatively, the New Hampshire Water Well Association recommends a flow rate of 4 gpm for a period of four hours as an optimum water supply capacity for a private domestic supply. This volume is equivalent to 960 gallons of water within a four-hour period. Some homeowners may find these amounts to be less than desirable depending on the size of the family and/or if outdoor use is a requirement.

The following tables were developed to assist readers to interpret the recommendations above. In both tables, the overall yield is the sum of the aquifer yield to the well and the available well storage. The tables presume a pump setting of 20 feet above the bottom of the well and a static water level of 20 feet below the ground surface. However, a pump can be set anywhere in the well and the static water level changes over time.

Contact a licensed water well contractor or licensed pump installer for information about pumping tests and available options for increasing the capacity of inadequate supplies. Also see fact sheet WD-DWGB-1-13 "Determining the Reliable Capacity of a Private Water Supply Well and Pumping System" for more information.

### Recommended Minimum Capacity

The values in Table 1 provide a yield of 600 gallons of water to the home during a period of two hours of pumping.

**Table 1. Supply 600 gallons in Two Hours**

Sustained Well Yield (gpm)	Required Well Depth (ft)
0.5	400
1	360
1.5	320
2	280
2.5	240
3	200
3.5	160
4	120
4.5	80
5	---

### Recommended Optimum Capacity

The values in Table 2 provide a yield of 960 gallons of water to the home during a period of four hours of pumping.

**Table 2. Supply 960 gallons in Four Hours**

Sustained Well Yield (gpm)	Required Well Depth (ft)
0.5	600
1	520
1.5	440
2	360
2.5	280
3	200
3.5	120
4	---

### For More Information

Please contact the Drinking Water and Groundwater Bureau at (603) 271-2513 or [dwgbinfo@des.nh.gov](mailto:dwgbinfo@des.nh.gov) or visit our website at [www.des.nh.gov](http://www.des.nh.gov).

Note: This fact sheet is accurate as of September 2019. Statutory or regulatory changes or the availability of additional information after this date may render this information inaccurate or incomplete.

**BOARD OF HEALTH  
RESIDENTIAL/COMMERCIAL WATER SUPPLY REGULATIONS – WELL  
ORDINANCE FOR NEW CONSTRUCTION**

**Adopted May 16, 2000  
Amended February 20, 2001  
Amended June 5, 2001  
Amended August 6, 2013**

The Board of Health of the Town of Pelham, N.H., acting under RSA 147, has, in the interest of and for the preservation of the public health, and to provide for adequate and safe wells, duly made and adopted, on May 16, 2000 and revised August 6, 2013 the following regulations:

**SECTION 1: Definitions**

1. **WELL:** Includes any pit, pipe, excavation, casing, drill hole or other source of water to be used for any purpose of supplying potable water within the Town of Pelham, NH.
2. **WATER SYSTEM:** Includes pipes, valves, fittings, tanks, pumps, motors, switches, controls and appurtenances installed or used for the purpose of storage, distribution, filtration, treatment or purification of water for any use whether or not inside a building.
3. **DWELLING UNIT:** One (1) or more rooms arranged for living and sleeping purposes with cooking and sanitary facilities for the use of one (1) or more individuals living as a single housekeeping unit.
4. **NEW CONSTRUCTION:** A new residential dwelling or commercial structure which has not been granted a Certificate of Occupancy. This excludes the expansion or replacement of existing residential or commercial structures erected prior to August 6, 2013.

**SECTION 2: Wells**

1. No well shall be installed for new construction until a building permit has been issued by the Health Officer or Deputy Health Officer. The fee for this permit shall be \$25.00.
2. The well contractor licensed under RSA 482-B shall observe reasonable sanitary measures and precautions in the performance of his/her work in order to prevent pollution or contamination of the well.

3. For new construction, there shall be a separate well for each individual parcel except in the case of water systems operating under a New Hampshire State Public Utilities Commission franchise, private water systems owned by a homeowner's association or wells serving commercial structures.

4. All wells for new construction shall be set back a minimum of seventy-five (75) feet from all septic tanks and leaching fields. Additionally, all wells for new construction shall be set back fifty (50) feet from the nearest edge of all existing traveled ways or rights-of-way and a minimum of seventy-five (75) feet from all lot lines (to avoid property encroachment) unless a Standard Release Form for Protective Well Radii has been executed and recorded by the owner of the well. The distance from a well to a septic tank may be reduced to fifty (50) feet if the sewer line meets a SDR rating of 26 or better, and the septic tank is sealed and grouted to prevent infiltration and exfiltration.

5. Burial of tree stumps, brush, and or construction materials shall not be located within the protective well radius.

### SECTION 3: Capacities

1. Every well must supply adequate water for the purpose for which it is intended.

2. All wells shall be pump tested regardless of depth to determine sustained yield. The sustained yield shall be not less than four (4) gallons per minute over a four (4) hour period. In all cases the pump test shall be completed using a submersible pump. Groundwater level measurements shall be recorded immediately before the start of the pump test for static groundwater level, and at least once every thirty (30) minutes during the pump test. In addition, the static groundwater level shall be measured within twenty-four (24) hours after the pump test and shall demonstrate water level recovery after the pump test to at least ninety percent (90%) of the pretest level. All results from pump testing must be certified by the tester and so evidenced on the well data sheet provided to the building department.

3. Every well that has been deepened or hydro-fractured to increase its sustained yield after being drilled and / or initially tested shall be pump tested in accordance with section 2 above after the deepening or hydro-fracture effort to meet pump test requirements of this section.

### SECTION 4: Water system

All wells to be used as a water source shall be designed, constructed, and satisfy all requirements set forth in pertinent State of New Hampshire, Department of Environmental Services Drinking Water and Groundwater Bureau and the New Hampshire Water Well Board, regulations as they exist, may be established, or may be amended in the future.

### SECTION 5: Certificate of Occupancy

1. No Certificate of Occupancy will be issued until all the provisions of these regulations have been met or duly waived by the Board of Health in accordance with Section 6 of this ordinance.
2. A completed well data report including drilling logs must be submitted by the well driller or his agent not later than the time of requesting a Certificate of Occupancy.
3. Collection and analysis of a water sample shall be conducted by a NH Certified Well Testing Lab. No Certificate of Occupancy will be issued until a water test has been received by the Planning Department. This test shall include, but not be limited to, the following:

Test

**Primary Testing (Health)**

Bacteria  
Nitrate & Nitrite  
Arsenic  
Gross Alpha  
Uranium  
Radon\*  
VOC Screen (Volatile Organic Compounds)\*\*

**Secondary Testing (Aesthetic and Other)**

Iron  
Fluoride  
Copper  
Manganese  
Chlorides  
Turbidity  
Sodium  
PH  
Lead  
Hardness

\* Radon shall meet the NH DES recommended level of 2000 picoliters / liter.

\*\* Please note that it takes approximately two weeks to get test results so plan accordingly. If the VOC Screen is positive, further testing shall be done to determine the type of contaminant and concentration.

4. All contaminates identified under Primary Testing in Section 3, shall be mitigated to the prevailing NH DES Maximum Contaminant Level (MCL), or with respect to Radon, NH DES' recommended level by the installation of a point of entry water treatment system prior to the issuance of a Certificate of Occupancy. A water quality test demonstrating effective mitigation to the above referenced standard shall be provided to the Planning Department prior to Issuance of a Certificate of Occupancy. Backwash from water treatment systems shall not be discharged into the dwelling's sewage disposal system unless the design is sized to accommodate the additional flow.

5. The required testing and these regulations cannot be construed as a guarantee by the Town of Pelham or its agents that the water system will function satisfactorily or that all possible water quality problems have been identified and mitigated.

#### SECTION 6: Waivers by the Pelham Board of Health

1. The Board of Health, on the advice of the Health Officer or duly appointed Deputy and in the event of hardship, may waive any requirement of this ordinance except: Section 2, paragraph 1 (permit fee), paragraph 2 (contractor taking reasonable precautions), and Section 5 (certificate of occupancy).

2. In considering waivers the Board of Health shall consider, as a minimum:

- A. Whether the waiver adequately protects public health
- B. Whether the waiver adequately protects consumer safety
- C. Other extenuating circumstances

3. The Board of Health can impose conditions upon waivers, including but not limited to:

- A. Alternate means of mitigation, such as point-of-use devices in instances where point-of-entry treatment would be unreasonably expensive to install or maintain;
- B. Consumer notices
- C. Conditions to be recorded in a deed and noted on the permit.

#### SECTION 7: Enforcement

Any person violating the provisions of this regulation shall be guilty of a violation.

#### SECTION 8: Conflict with Other Ordinances

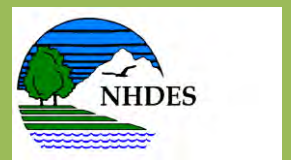
Where the requirements of State and Local Regulations differ, the more stringent shall apply.

#### SECTION 9: Severability

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

# February 2015

## Guidance to Refine the Potable Water Definition in New Hampshire Municipal Building Codes



*Developed through a collaborative effort of the New Hampshire Building Officials Association, NH Health Officers Association, NH Planners Association, and NH Department of Environmental Services.*



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New Hampshire  
Department of Environmental Services

**Guidance to Refine the  
Potable Water Definition in  
New Hampshire Municipal Building Codes**

**Prepared by**  
Drinking Water and Groundwater Bureau

**February 2015**

**Thomas S. Burack**, Commissioner  
**Vicki V. Quiram**, Assistant Commissioner  
**Eugene Forbes, P.E.**, Director, Water Division

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## Purpose and Introduction

This document provides guidance to municipalities that wish to incorporate a refined definition of “potable water” into their building codes. It is a response to inquiries from municipal officials who want to better protect the health of residents who use private wells. This document was developed by the New Hampshire Building Officials Association, New Hampshire Health Officers Association, New Hampshire Planners Association and New Hampshire Department of Environmental Services.

New Hampshire State Building Code requires that every structure equipped with plumbing fixtures and used for human occupancy be provided with a *potable water supply*. The Building Code defines potable water as “*water free from impurities in amounts sufficient to cause disease and harmful physiological effects.*” Interpreting and administering this definition has been difficult for local officials as it does not clearly state which impurities should be considered, nor the amounts in drinking water that cause human health impacts.

To assist local officials responsible for administering this portion of the building code, this document suggests a minimum list of contaminants and corresponding contaminant limits that can be used to refine the potable water definition. When incorporated into a local building code along with a requirement for water testing, *the refined definition of potable water will in some cases require treatment in order to achieve compliance* necessary for local approvals, such as issuance of an occupancy permit.

Beyond the minimum list of contaminants suggested in this document, a number of other contaminants that could cause disease and harmful health effects are often present in well water in New Hampshire. Therefore, *local conditions may warrant water testing and treatment for additional contaminants not on the minimum list*. Language presented in this document provides for municipalities to add contaminants to the minimum list.

## Section 1: The Need for Testing of Private Wells

Nearly half of New Hampshire’s residents rely on private wells as their primary source of drinking water at home.<sup>1</sup> When building or buying a home served by a private well, homeowners often assume that the water supply is free of contaminants and safe to drink. However, the occurrence of contaminants at harmful levels in well water in New Hampshire is quite common, and many of those contaminants are colorless and have no detectable taste or odor. Unlike public water systems that must regularly test drinking water for up to 90 contaminants and meet stringent water quality standards under the Federal and State Safe Drinking Water Acts, ***private wells in New Hampshire have no state or federal requirements to test for or remove contaminants, even when present at unhealthy levels.***

Under state and federal regulations for public water systems, over 90 drinking water contaminants are regulated in order to protect public health or address “aesthetic” (e.g., odor or taste) problems. There are no similar state or federal regulations for private wells.

Human exposure to some contaminants, such as certain strains of *E.coli* bacteria or high levels of nitrate, can result in immediate illness, such as gastroenteritis. Other contaminants, such as arsenic and radon, when consumed in drinking water over a long period of time, increase the risks for developing certain forms of cancer, cardiovascular diseases and neurological disorders.

For example, studies have found a correlation between private well use in New England and deaths due to bladder cancer,<sup>2</sup> and have estimated that hundreds of cases of cancer over the lifetimes of the current population in New Hampshire may be preventable by testing for and treatment of arsenic in private well water.<sup>3</sup> Children whose primary source of drinking water is a private well may be at particular risk. In 2009 the American Academy of Pediatrics (AAP) released a policy statement outlining health risks to children posed by contaminants found in groundwater.<sup>4</sup> The AAP policy recommends that pediatricians ask parents whether they have recently tested their well water and that states adopt laws to require testing of well water during real estate transfers. Ensuring that all residents have access to safe drinking water is an important public health goal.

Approximately 20 percent of private wells in New Hampshire have unhealthy levels of arsenic in drinking water. Arsenic exposure above the drinking water standard is a known risk factor for bladder cancer, as well as a variety of other serious chronic diseases.

<sup>1</sup> NHDES’s most recent estimate is 46% of N.H. residents in 2010.

<sup>2</sup> J.D. Ayotte, D. Baris, K.P. Cantor, J. Colt, G.P. Robinson, J.H. Lubin, M. R. Karagas, R.N. Hoover, J. F. Fraumeni, and D.T. Silverman (2006). *Bladder cancer mortality and private well use in New England: an ecological study. J Epidemiol Community Health*, 60:168–172

<sup>3</sup> M. Borsuk, L. Rardin, M. Paul, and T. Hampton (2014). *Arsenic in Private Wells in NH*. Thayer School of Engineering at Dartmouth

<sup>4</sup> American Academy of Pediatrics, Committee on Environmental Health and Committee on Infectious Diseases (2009). “Drinking Water From Private Wells and Risks to Children,” *Pediatrics* 123 (2009): 1599-1605. <http://pediatrics.aappublications.org/cgi/content/full/123/6/1599>

Certain contaminants found in New Hampshire’s groundwater occur naturally due to geologic or soil conditions, while others are associated with human activities. For example, New Hampshire was once known as the “Arsenic State,” with more than 300 operating arsenic mines during the 19<sup>th</sup> century.<sup>5</sup> Arsenic is common in the bedrock aquifers that supply many of the state’s wells. In New Hampshire nearly all new private wells are drilled into bedrock formations and studies indicate that one in five bedrock wells fails the state and federal health-based standard for arsenic; the number is much higher in some areas and lower in others.<sup>6</sup>

While arsenic and other contaminants occur naturally in groundwater, human sources of contamination such as leaking underground fuel tanks, chemical spills, closed landfills, road salt and other land uses may also present health risks for private well users. Volatile organic compounds (VOCs) used in fuels and a variety of commercial products including industrial cleaners and solvents sometimes find their way into groundwater. In a 2005 study by the U.S. Geological Survey, the gasoline additive methyl tertiary butyl ether (MtBE) was detected in 21 percent of private wells sampled and in 40 percent of public water systems sampled across the state, even in wells located in remote areas.<sup>7</sup> MtBE, which is no longer being added to gasoline in New Hampshire but continues to be found in our well water, has been determined by U.S. EPA to cause cancer when consumed in drinking water at levels above the health-based standard over a prolonged period of time.

## Section 2: Municipal and State Authority Involving Potable Water in Private Wells

Municipalities currently have the authority to determine what constitutes potable water as it relates to the Building Code. The State Building Code under RSA 155-A establishes minimum building standards that apply within all municipalities in New Hampshire. The State Building Code adopts by reference the International Plumbing Code (IPC), which requires a potable water supply “for every structure with plumbing fixtures and utilized for human occupancy...” per Section 602.1.

“Only potable water shall be supplied to plumbing fixtures that provide water for drinking, bathing or culinary purposes...”

*Section 602.02 Potable Water Required. International Plumbing Code (2009)*

The IPC’s definition of potable water requires drinking water to be “free from impurities present in amounts sufficient to cause disease...and conforming to the bacteriological and

<sup>5</sup> Carter, S. Laura, (undated), Arsenic in odd places: Researchers look into toxic metal mysteries. Dartmouth Medical School, Dartmouth Medicine: The Magazine of the Geisel School of Medicine at Dartmouth, [http://dartmed.dartmouth.edu/winter00/html/vs\\_arsenic.shtml](http://dartmed.dartmouth.edu/winter00/html/vs_arsenic.shtml)

<sup>6</sup> J. D. Ayotte, M. Cahillane, L. Hayes, and K.W. Robinson (2012), Estimated Probability of Arsenic in Groundwater from Bedrock Aquifers in New Hampshire, 2011, USGS SIR 2012-5156.

<sup>7</sup> J. D. Ayotte, B. R. Mrazik, D. M. Argue, and F. J. McGarry, Occurrence of Methyl tert-Butyl Ether (MTBE) in Public and Private Wells, Rockingham County, New Hampshire, USGS (2004)

*chemical quality requirements of the Public Health Service Drinking Water Standards or the regulations of the public health authority having jurisdiction.”* However, the IPC definition does not refer to specific contaminants, current drinking water quality standards, or the specific authority that should be responsible for ensuring that those standards are met. In New Hampshire, as in most states, drinking water quality standards apply only to public water systems, which must provide drinking water containing less than the *Maximum Contaminant Levels (MCLs)* for regulated contaminants.<sup>8</sup> The N.H. Department of Environmental Services (NHDES) has the authority to enforce these standards to ensure public water systems provide safe water. Similar water quality standards could be applied under the IPC to private well water under local codes.

Under RSA 674:51 (Building Codes), municipalities are authorized to adopt local code requirements, provided they are at least as stringent as the State Building Code. This could be used to ensure that wells serving structures subject to the local plumbing code supply water that meets certain standards. This guide is meant to assist municipalities choosing this option. *Another option used by some municipalities is to require well testing under local health ordinances. NHDES can refer communities interested in this approach to these municipalities.*

The N.H. Water Well Board has adopted rules that establish minimum standards for well construction, siting and installation by licensed well drillers. A number of other state programs aim to prevent contamination of wells by establishing setbacks or regulating discharges to groundwater, including those that address septic systems, underground storage tanks, landfills, pesticide use, and stormwater discharges to groundwater. As stated earlier, none of these programs require well water quality testing or treatment.

**Table 1 Recommended Testing for Private Wells**

NHDES recommends having the following tests done every 3 to 5 years, except for bacteria and nitrate, which are recommended annually.

**Standard Analysis**

Arsenic	Lead
Bacteria	Manganese
Chloride	Nitrate/Nitrite
Copper	pH
Fluoride	Sodium
Hardness	Uranium*
Iron	

**Radiological Analysis**

Analytical Gross Alpha
Radon
Uranium*

**Volatile Organic Compounds (VOCs)**

\*Please note: Uranium is part of both the standard and radiological analysis groups for the State of NH Lab.

<sup>8</sup> Maximum Contaminant Levels (MCLs) are numeric water quality standards for contaminants regulated under the federal and NH Safe Drinking Water Act(s). See NHDES rules Env-Dw 702 through Env-706.



## Water Quality Testing for Private Wells

NHDES *recommends* that all private wells users test their well water for the parameters listed in Table 1.<sup>9</sup> Testing for these parameters provide a reasonable, cost-effective overview of a well’s water quality, taking into account the cost of testing, likelihood of occurrence, health risks, and aesthetics (taste, odor, staining). In addition to including common health-related contaminants, the Standard Analysis group includes parameters such as pH and hardness that might not affect health or aesthetics by themselves, but do affect the selection of appropriate treatment technologies and add very little to the cost of testing. The results of the recommended tests, together with guidance provided by NHDES fact sheets and followed by consultation with water treatment professionals, enable homeowners or builders to make informed decisions regarding treatment or other means of limiting exposure to contaminants in well water.

In terms of an absolute *minimum* list of health-related contaminants that should be tested to determine potability, *the list in Table 2 is limited to contaminants with enforceable health-based standards that apply to public water systems*, while balancing cost and the likelihood of occurrence at unsafe levels in New Hampshire well water. All of the contaminants in Table 2 are known to negatively affect human health. There are many more contaminants regulated at public water systems, with more being added routinely.

Beyond the minimum list in Table 2, *testing for other contaminants could be required by the local building code based on local groundwater conditions or general public health concerns*. For instance, most new private wells in New Hampshire are drilled into bedrock and will likely exceed the NHDES Recommended Action Level for radon (2,000 picocuries per liter), at which point a test for radon in air is recommended. Consequently, a Radiological Analysis may be warranted for bedrock wells in most places across the state. (Note: Radon gas is carcinogenic and well water is one of the pathways for radon to be present at unhealthy levels in indoor air. However, radon has not been included in Table 2 because there is no enforceable standard for radon that currently applies to public water systems.) Local officials might also want to include iron and manganese, since it is common for these contaminants to impair both the drinkability of water (due to taste)

**Table 2**  
**Minimum List of Contaminants Included in the Refined Definition of Potable Water and Applicable Drinking Water Quality Standards<sup>10</sup>**

Contaminants	Standards <sup>10</sup>
Arsenic	<= 0.01 mg/L
Bacteria	Absent
Copper	<= 1.3 mg/L
Fluoride	<= 4.0 mg/L
Lead	<= 0.015 mg/L
Nitrate (NO <sub>3</sub> -N)	<= 10 mg/L
Nitrite (NO <sub>2</sub> -N)	<= 1 mg/L
Uranium	<= 0.030 mg/L

<sup>9</sup> See the NHDES private well testing flier in Attachment 2.

<sup>10</sup> The minimum list of contaminants in Table 2 is a small subset of the contaminants for which public water systems are required to meet standards. Local programs should make information available about the health risks associated with potential groundwater contaminants. Fact sheets on each of these contaminants are available from NHDES at (603) 271-2513 and can be accessed at [www.des.nh.gov](http://www.des.nh.gov) (A to Z List, Fact Sheets).

and the usability of water for laundering, and their tendency to cause staining of plumbing fixtures. There are also concerns about the potential impact of high levels of manganese on cognitive development in children. However, there is no enforceable standard for iron or manganese that currently applies to public water systems. Sodium might also be considered for inclusion due to its health implications for people on sodium-restricted diets. Volatile Organic Compound (VOC) testing, although relatively expensive, may also be indicated for inclusion in more developed areas, given the prevalence of MtBE throughout the state due to releases of gasoline containing MtBE.

When weighing the need for testing for contaminants not included in the minimum list in Table 2, consider the following factors:

- Contaminants found in nearby wells.
- Presence of nearby known contamination sites (e.g., leaks from underground storage tanks).
- Location of past or present nearby land uses involving fuel storage, hazardous chemicals, solvents, de-greasers, pesticides, and fertilizers.
- Nearby groundwater or stormwater discharges from commercial land uses, including those with septic systems.

Information about local groundwater conditions may be available from NHDES. Contact (603) 271-0688 for guidance on finding information related to local groundwater conditions.



## Section 3: Adopting and Administering a Potable Water Standard


### Defining Potable Water in a Local Building Code

Municipalities often adopt local building codes using the State Building Code as a template with or without local modifications. Changes to a local building code require a noticed public hearing and approval by a vote by the “local legislative body” (e.g., town meeting, town or city council) per RSA 674:51,I. As noted above, municipalities that wish to adopt local water testing requirements and water quality standards for private wells may accomplish this by incorporating modified versions of two sections of the IPC into the local building code: Sub-section 602.3.3 *and* Section 202.

### Establishing Testing Requirements for Private Wells

Section 602.3 (Individual Water Supply) of the IPC applies to private wells. Within that section, sub-section 602.3.3 (Water Quality) may be modified to require the submission of a report from an accredited laboratory containing water quality test results. The test results submitted by or on behalf of an applicant for a Certificate of Occupancy (CO) would then be used to determine whether the water supply meets the definition of potable water. The original IPC language follows in blue with added language *italicized* in red.

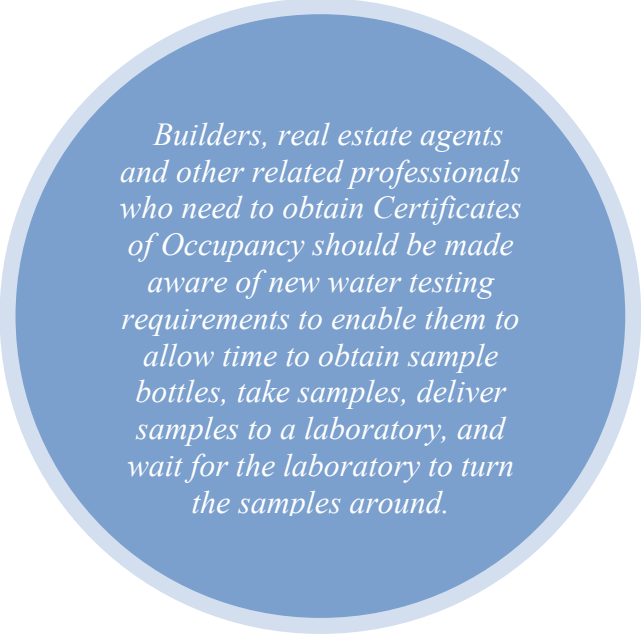
*Sub-Section 602.3.3: “Water from an individual water supply shall be approved as potable by the building code enforcement authority prior to issuance of a certificate of occupancy. A report from a laboratory accredited under the N.H. Environmental Laboratory Accreditation Program or another state program under the National Environmental Laboratory Accreditation Program shall be submitted to the building code enforcement authority. When water treatment is necessary, treated water shall be tested for the contaminants listed within the “potable water” definition or as required by the municipal code enforcement authority.”*



*Adopting this modified version of Sub-section 602.3.3 of the International Plumbing Code (IPC) establishes a clear requirement to submit water quality test results to the municipal code enforcement authority.*

## Defining Potable Water Based On Well Water Testing Results

Adopting a refined definition of potable water that lists specific contaminants and the associated water quality standards will allow code enforcement or health authorities to consistently determine whether private well water meets the local definition of potable water. As noted earlier, the term “potable water” is defined in Section 202 (General Definitions) of the IPC but the definition does not refer to specific contaminants or current drinking water quality standards. The recommended refined potable water definition below establishes that some of the most common water quality standards (see Table 2) that are applied to public water systems would also be applied to private wells in a municipality. As noted above, some municipalities may wish to add other contaminants based on local groundwater water quality concerns. There are two options here: Contaminants may be added to Table 2 to require testing and compliance *town-wide*, or local officials may rely on the phrase “free from impurities present in amounts sufficient to cause disease or harmful physiological effects” to include additional parameters *on a case-by-case basis* based on information about local groundwater conditions and threats such as those listed above in the “Water Quality Testing for Private Wells” section.



*Builders, real estate agents and other related professionals who need to obtain Certificates of Occupancy should be made aware of new water testing requirements to enable them to allow time to obtain sample bottles, take samples, deliver samples to a laboratory, and wait for the laboratory to turn the samples around.*

The original IPC language follows in blue with added language *italicized* in red. As previously noted, parameters listed in Table 2 include only contaminants with health-based drinking water standards that apply to public water systems in New Hampshire.

*Section 202 Potable Water: Water free from impurities present in amounts sufficient to cause disease or harmful physiological effects and conforming to the standards established by the New Hampshire Department of Environmental Services or U.S. EPA for the contaminants listed in [Table 2].*

## Implementing Requirements for Water Quality Testing and Treatment

The refined potable water definition, if adopted in a local building code, will require applicants for a (CO) to have the water tested by an accredited laboratory and submit the test results to the local building official. While a local code might *require* testing only for contaminants in its “potable water” definition, local officials might wish to adopt a *recommended* set of tests along the lines of Table 1. Attachment 3 to this document is NHDES’s list of accredited labs that currently provide testing for the contaminants listed Tables 1 and 2. (The list of laboratories is updated periodically and posted on NHDES’s

private well testing webpage.<sup>11</sup>) Laboratories typically group tests into packages that may or may not include all of the required or recommended contaminants; well owners should check before choosing a testing package.

Collection and delivery of water samples to a laboratory is usually the responsibility of the applicant who wishes to obtain a (CO). Laboratories typically provide both sample bottles and instructions on how to properly collect and handle water samples. Water quality test results are sent directly to the customer, who would attach the laboratory's report to the application for a (CO). Either the health officer or the building code enforcement officer would review the laboratory report to determine compliance with the water quality standards. The laboratory report will typically indicate whether the results meet state drinking water standards. If water treatment is required to remove contaminants, a second water test would be required to determine whether the treated water meets the water quality standards to be considered potable. The N.H. Department of Health and Human Services Public Health Laboratory publishes a guide entitled "Your Water Analysis" that explains what the laboratory results mean for each contaminant listed in Table 1, including their associated health or aesthetic issues and possible sources of water contamination. The publication is online at [www.des.nh.gov](http://www.des.nh.gov).<sup>12</sup>

Test results submitted with an application for a (CO) are public information and must be made available upon request. This information may be important during subsequent real estate transfers. Although the date of the most recent water quality test must be disclosed by the seller prior to execution of a purchase and sales agreement under RSA 477:4-c (Disclosure Required; Water Supply; Sewage Disposal), the statute does not require the seller to provide water test results. However, if the test results were public information by virtue of being required for a (CO), this would make the result available to prospective buyers.

The time to collect a water sample, deliver it to a laboratory, complete water testing and receive results mailed out by the laboratory to the property owner/applicant can often range from two to four weeks. If treatment is required, expect to add an additional two to four weeks to install treatment and complete a second round of water testing. Upon adoption of a building code requiring private well water testing as a condition for a (CO), it is important to provide advance notice to the public, real estate professionals, etc. regarding the additional time that may be required to obtain the (CO).

If water treatment is necessary it should remove contaminants to levels that meet water quality standards. NHDES Factsheet *WD-DGWB-2-5, Considerations When Purchasing Water Treatment Equipment* and other, contaminant-specific fact sheets may be helpful to assist property owners considering water treatment.<sup>13</sup>

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<sup>11</sup> Search for "NHDES private well testing."

<sup>12</sup> See [http://des.nh.gov/organization/commissioner/lsu/documents/water\\_analysis.pdf](http://des.nh.gov/organization/commissioner/lsu/documents/water_analysis.pdf).

<sup>13</sup> See <http://des.nh.gov/organization/commissioner/pip/factsheets/dwgb/documents/dwgb-2-5.pdf>.

## Making it Work in Your Community

For communities that wish to refine the definition of “potable water” in their building codes, developing a consensus among local stakeholders about the need to have a clear local potable water standard is an important first step. Forming a local committee, conducting public education and outreach activities, and making private well test kits available will raise community awareness about the need to have a clear standard that can be applied through a building code. Be prepared to answer questions, such as those found below in Table 2.

**Table 2**  
**Frequently Asked Questions**

<b>How many households use private wells in my municipality?</b>	The U.S. Geological Survey (USGS) has developed estimates of the population using private wells in each N.H. community in 2005. Visit <a href="http://vt.water.usgs.gov/projects/nhvtwateruse/data/NHTownSum2005.xlsx">http://vt.water.usgs.gov/projects/nhvtwateruse/data/NHTownSum2005.xlsx</a>
<b>What are the chances of being exposed to arsenic or other contaminants in N.H. through using a private well?</b>	The USGS estimates that one in five bedrock wells in NH has arsenic above 10 ug/L, the health-based limit for public water systems, but some parts of the state are much more likely than others to have high levels. The USGS has published maps that show the estimated probabilities of finding arsenic at 1, 5 and 10 ug/L in private wells. Visit <a href="http://pubs.usgs.gov/sir/2012/5156/">http://pubs.usgs.gov/sir/2012/5156/</a> . NHDES also publishes estimates of how frequently private well water will on average exceed Standard Analysis test parameters.
<b>What is the cost to do the tests listed in Table 2?</b>	Prices vary by lab but the total cost of the Standard Analysis in Table 1 (which includes all of the Table 2 contaminants) usually ranges from \$85 to \$125.
<b>Where is a nearby accredited lab that can do the water tests?</b>	NHDES publishes a list of accredited labs. See <a href="http://des.nh.gov/organization/divisions/water/dwgb/nhelap/documents/labs-private-wells.pdf">http://des.nh.gov/organization/divisions/water/dwgb/nhelap/documents/labs-private-wells.pdf</a> or search for “NHDES private wells testing.”
<b>What is the proper treatment to remove contaminants from private well water?</b>	Consult NHDES fact sheets or staff, qualified treatment professionals, and online tools to determine the proper treatment technology to remove specific contaminants. <sup>14</sup> Water testing is necessary to determine the proper treatment; for example, water softeners do not effectively remove arsenic. Visit <a href="http://des.nh.gov/organization/commissioner/pip/factsheets/dwgb/index.htm">http://des.nh.gov/organization/commissioner/pip/factsheets/dwgb/index.htm</a> (see section entitled Drinking Water Quality: Contaminants)
<b>Should the “potable water” requirement be applied to building projects that do <u>not</u> involve new wells?</b>	Applicability of the “potable water” requirement to projects that do not involve new wells is subject to the discretion of the local building official. However, well water quality can change over time. Furthermore, increased water use and increased groundwater pumping can also cause changes in water quality.

<sup>14</sup> NHDES provides assistance to help determine the proper water treatment technology based upon well water test results. For more information about water treatment, contact (603) 271-3108.

## When Adopting a Refined Potable Water Definition -- Remember to:

- *Update any local guide(s) to municipal approval processes, as well as forms (permits, checklists) to reflect newly adopted testing and treatment requirements.*
- *Identify the local official responsible for reviewing water test results and water treatment systems.*
- *Make available at municipal offices information such as NHDES's list of accredited laboratories and NHDES's flier listing recommended tests.*
- *NHDES publishes a number of fact sheets regarding the contaminants listed in Table 1 as well as other contaminants that public water systems must test for. Current versions of these fact sheets or a list with "how to obtain" information should be made available in municipal offices.*
- *Ensure test results submitted for local permit approvals are kept on file and made available upon request.*
- *Refer applicants to NELAP accredited labs for testing and to NHDES for questions regarding water treatment.*

For more information about adopting a clear potable water standard into local building regulations, contact NHDES at (603) 271-0688.



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Attachment 1  
Online Resources Related To Private Wells, Public Health,  
Water Quality Testing and Treatment

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**HEALTH INFORMATION**

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**Drinking Water From Private Wells and Risks to Children (American Academy of Pediatrics)** <http://pediatrics.aappublications.org/content/123/6/e1123.full.pdf+html>

**Dartmouth College - Toxic Metals Superfund Research Program (arsenic page)** <http://www.dartmouth.edu/~toxmetal/arsenic/index.html>

**WATER QUALITY TESTING AND TREATMENT**

**WD-DWGB-2-1 Suggested Water Quality Testing for Private Wells (NHDES)** <http://des.nh.gov/organization/commissioner/pip/factsheets/dwgb/documents/dwgb-2-1.pdf>

**WD-DWGB 3-2 Arsenic in New Hampshire Well Water (NHDES)** <http://des.nh.gov/organization/commissioner/pip/factsheets/dwgb/documents/dwgb-3-2.pdf>

**Water Quality Testing for Private Wells in New Hampshire (NHDES)** [http://des.nh.gov/organization/divisions/water/dwgb/well\\_testing/documents/well\\_testing.pdf](http://des.nh.gov/organization/divisions/water/dwgb/well_testing/documents/well_testing.pdf)

**NH DHHS Public Health Laboratories Analysis Guide for Homeowners (DHHS)** [http://des.nh.gov/organization/commissioner/lsu/documents/water\\_testing.pdf](http://des.nh.gov/organization/commissioner/lsu/documents/water_testing.pdf)

**DHHS Public Laboratories Online Order Form for Test Containers for Homeowners (DHHS)** <http://www2.des.state.nh.us/DESOnestop/HOBottles.aspx>

**WD-DGWB-2-5 Considerations When Purchasing Water Treatment Equipment (NHDES)** <http://des.nh.gov/organization/commissioner/pip/factsheets/dwgb/documents/dwgb-2-5.pdf>

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Attachment 2

NHDES Private Well Testing Flier

# Protect Your Family's Health

## Test Your Water Today for All Common Pollutants



### Why should I test my well water?

Unhealthy levels of various contaminants are common in private wells in New Hampshire. Some of these contaminants have been linked to cancer and other diseases. Most of these contaminants have no taste, smell or color. You won't know what's in your well water unless you have it tested by a laboratory. State and local laws generally do not require testing of private well water. If you have a private well, the New Hampshire Department of Environmental Services (NHDES) strongly recommends that you have your well water tested – for all of the most common pollutants – to help protect your family's health. If a test shows that your well water has contaminants in it, NHDES can help you consider water treatment choices that work best for the level of contaminants in your water.

### How do pollutants get into well water?

Well water comes from rain and snow that soaks into the ground. As water seeps through the soil and rock, it can pick up pollutants and other materials that are present on or in the ground.

Some contaminants that are commonly found in well water at unsafe levels come from the rocks and soil that the water flows through. The most common in New Hampshire are bacteria, radon, arsenic, manganese, uranium and radium. For example, the U.S. Geological Survey estimates that one in five private wells in New Hampshire has more arsenic than is allowed in public water systems.

Other contaminants get into well water from human activities. Gasoline storage and spills, industrial/commercial activities, improper waste disposal and road salting can introduce toxic substances to the ground. Even typical residential activities, such as using fertilizers or pesticides too close to a well, spilling fuel and improperly disposing of household chemicals can contaminate well water.

### What should I test my well water for?

The following tests identify common contaminants found in well water in New Hampshire. Many private wells have been tested according to the requirements of mortgage companies or at the recommendation of well drillers, water treatment vendors, etc., but often those tests do not include all of the common contaminants that can harm your health, especially if they were done years ago. The list recommended in this flier provides a cost-effective, reasonable overview of a well's water quality. Contact an accredited laboratory for availability and pricing. *It is not necessary to do all of these tests at one time.*

#### 💧 Standard Analysis

This covers the most common contaminants (see the list on the next page). Some of these contaminants pose health-related concerns, while others only affect aesthetics (taste and odor).

#### 💧 Radiological Analysis

The rocks in New Hampshire contain naturally occurring radioactive elements that dissolve easily in well water. The recommended radiological analysis will test for uranium, analytical gross alpha and radon.

Testing for radon in air may have been required by your mortgage company; however, radon and other radioactive elements are also common in well water in New Hampshire. NHDES estimates that approximately 55 percent of private wells in New Hampshire exceed NHDES' recommended action level for radon.

#### 💧 Volatile Organic Compounds (VOCs)

The most common VOCs come from compounds found in gasoline, such as MtBE and benzene, and from industrial solvents. MtBE can be found in well water even in remote areas.

#### 💧 Additional Tests

Circumstances specific to your well or property may require additional testing not described here. For instance, NHDES does not recommend routine testing for pesticides, herbicides or other synthetic organic compounds (SOCs), mainly because of the high cost. However, such testing might be a good idea if your water has elevated nitrite or nitrate concentrations and an agricultural source is suspected, or significant amounts of pesticide have been applied near your well.

These less-routine tests may not be performed at all laboratories.

## What will testing tell me?

The laboratory report you receive will show the level at which any of the tested substances were found in your water sample. The mere presence of a contaminant in your well water does not necessarily mean that there is a problem. However, when levels exceed state or federal health standards or recommended action levels, there may be a problem and you should take steps to fix it. Several methods are available from water treatment vendors to remove contaminants from water. NHDES has fact sheets on its website covering all common water quality problems and their solutions.

## When should I test my well water?

NHDES recommends that prospective homebuyers test the water in a home with a private well before purchase.

Water quality in wells is generally stable, and if a change is going to occur, it occurs slowly. Thus the time between water quality tests, once you've purchased the home, can generally be several years if a well is properly constructed and located in a safe area. Bacteria and nitrate are exceptions; you should test for them every year.

The following conditions would call for more frequent testing:

- Heavily developed areas with land uses that handle hazardous chemicals.
- Recent well construction activities or repairs. NHDES recommends testing for bacteria after any well repair or pump or plumbing modification, but only after substantial flushing of the pipes.
- Elevated contaminant concentrations found in earlier testing.
- Noticeable variations in quality such as a change in taste, smell, or appearance after a heavy rain or an unexplained change in a previously trouble-free well, such as a strange taste or cloudy appearance.

When taking any sample, NHDES recommends that it be taken after a heavy rainstorm. These events tend to highlight conditions of improper well construction or poor soil filtration.

## Learn More

For information about private well testing, or about accredited laboratories in New Hampshire, visit the NHDES website: [www.des.nh.gov](http://www.des.nh.gov)

Go to the A to Z List and select "Private Well Testing"

NHDES recommends having the following tests done every 3 to 5 years, except for bacteria and nitrate, which are recommended annually.

### Standard Analysis

Arsenic	Lead
Bacteria	Manganese
Chloride	Nitrate/Nitrite
Copper	pH
Fluoride	Sodium
Hardness	Uranium*
Iron	

### Radiological Analysis

Analytical Gross Alpha
Radon
Uranium*

### Volatile Organic Compounds (VOCs)

\*Please note: Uranium is part of both the standard and radiological analysis for the State of NH Lab.



Attachment 3

List of Accredited Laboratories That Perform NHDES-Recommended Water Quality  
Tests Referred to as the “Standard Analysis”

**Table 1**  
**Accredited Labs Providing Well Water Quality Testing Services**  
**in New Hampshire and Neighboring States<sup>1, 2</sup>**

LABORATORY NAME	TELEPHONE	ADDRESS	TOWN	STATE	WEBSITE
ABSOLUTE RESOURCE ASSOCIATES LLC	(603) 436-2001	124 HERITAGE AVE	PORTSMOUTH	NH	WWW.ABSOLUTERESOURCEASSOCIATES.COM
AQUARIAN ANALYTICAL INC	(603) 783-9097	153 WEST RD	CANTERBURY	NH	WWW.AQUARIANLABS.COM
CHEMSERVE INC	(603) 673-5440	317 ELM ST	MILFORD	NH	WWW.CHEMSERVELAB.COM
EAI ANALYTICAL LABS	(603) 357-2577	149 EMERALD STREET	KEENE	NH	WWW.EAI-LABS.COM
EASTERN ANALYTICAL INC	(603) 228-0525	25 CHENELL DR	CONCORD	NH	WWW.EAILABS.COM
ENDYNE INC	(603) 678-4891	56 ETNA ROAD	LEBANON	NH	WWW.ENDYNELABS.COM
EPPING WELL & PUMP COMPANY	(603) 679-5299	337 CALEF HWY	EPPING	NH	WWW.EPPINGWELL.COM
GRANITE STATE ANALYTICAL SERVICES LLC	(603) 432-3044	22 MANCHESTER RD, UNIT 2	DERRY	NH	WWW.GRANITESTATEANALYTICAL.COM
NELSON ANALYTICAL LLC	(603) 622-0200	490 E INDUSTRIAL PARK DRIVE	MANCHESTER	NH	WWW.NELSONANALYTICAL.COM
NEW ENGLAND RADON LTD	(603) 893-4260	11 A INDUSTRIAL WAY UNIT 3	SALEM	NH	WWW.NEWENGLANDRADON.COM
NH DHHS PUBLIC HEALTH LABORATORIES	(603) 271-3445	29 HAZEN DR	CONCORD	NH	des.nh.gov/organization/commissioner/lisu/index.htm
SEACOAST ANALYTICAL SERVICES	(603) 868-1457	72 PINKHAM RD	LEE	NH	
KATAHDIN ANALYTICAL SERVICES INC (#2001)	(207) 874-2400	600 TECHNOLOGY WAY	SCARBOROUGH	ME	WWW.KATAHDINLAB.COM
NELSON ANALYTICAL LLC	(207) 467-3478	120 YORK STREET	KENNEBUNK	ME	WWW.NELSONANALYTICAL.COM
ACCUTEST LABORATORIES OF NEW ENGLAND INC	(508) 481-6200	495 TECHNOLOGY CTR WEST	MARLBOROUGH	MA	WWW.ACCUTEST.COM
CON-TEST ANALYTICAL LABORATORY	(413) 525-2332	39 SPRUCE ST	E LONGMEADOW	MA	WWW.CONTESTLABS.COM
ALS ENVIRONMENTAL (#2941)	(585) 288-5380	1565 JEFFERSON ROAD	ROCHESTER	NY	WWW.ALSGLOBAL.COM
PACE ANALYTICAL SERVICES INC	(631) 694-3040	575 BROAD HOLLOW ROAD	MELVILLE	NY	WWW.PACELABS.COM

**Water Quality Testing for Private (Domestic) Wells:** DES recommends residents test their well water for all contaminants commonly found in New Hampshire's groundwater, listed in Table 2 below. Private well owners are encouraged to test their water wells every three to five years for the complete set of contaminants listed below. Contact an accredited laboratory to confirm the lab's capacity to complete all recommended tests and for pricing. It is not necessary to do all of these tests at one time.

<sup>1</sup> Updated 6.23.14. Subject to change. For up-to-date information, see <http://www2.des.nh.gov/CertifiedLabs/Certified-Method.aspx>.

<sup>2</sup> Some labs may not accept samples provided by the general public. Please call labs directly for details.

For more information about DES recommended private well water quality testing, see DES's Fact Sheet WD-DWGB-2-1 Suggested Water Quality Testing for Private Wells (2011) online at <http://des.nh.gov/organization/commissioner/pip/factsheets/dwgb/documents/dwgb-2-1.pdf>.

<b>Table 2 NH DES Recommendations for Private Well Testing</b>	
<b>Standard Analysis</b>	<b>Testing Frequency</b>
Arsenic Bacteria Chloride Copper Fluoride Hardness Iron Lead Manganese Nitrate/Nitrite pH Sodium Uranium	Every 3 to 5 years (except for bacteria and nitrate, which are recommended yearly)
<b>Radiological Analysis</b>	
Radon Uranium Analytical Gross Alpha	Every 3 to 5 years
<b>Volatile Organic Compounds (VOCs)<sup>3</sup></b>	
<b>VOCs</b>	Every 3 to 5 years

For more information or technical assistance related to private well testing visit NH DES's website, [www.des.nh.gov](http://www.des.nh.gov), go to the A to Z List and find Private Well Testing and visit the Private Well Testing Program webpage.

<sup>3</sup> The most common VOCs come from gasoline compounds, such as MtBE and benzene, and industrial solvents.

# ENVIRONMENTAL Fact Sheet



29 Hazen Drive, Concord, New Hampshire 03301 • (603) 271-3503 • www.des.nh.gov

DWGB-21-1

2021

## Site Selection for Private Drinking Water Wells

Drinking water wells are required to be installed in certain locations following specific construction methods in order to reduce the likelihood of contamination from sources of pollution at or near the ground surface. **This document only pertains to private wells installed for domestic use purposes.** Wells regulated as a public water supply or wells installed for irrigation, geothermal or monitoring groundwater investigations have separate requirements.

NHDES regulates site selection of private wells under [RSA 482-B](#) and associated rules [We 600](#) and [RSA 485-A](#) and associated rules [Env-Wq 1000](#). These laws and rules define protective well radii [circular area(s) around the well] where certain entities or land uses are prohibited. For septic system design flows up to 750 gallons per day (residential homes up to 5 bedrooms) this radius is at least 75 feet. The Env-Wq 1000 rules define protective well radii distances where design flows exceed 750 gallons per day. The following table details well location setback requirements for a residential home up to five bedrooms or septic design flows up to 750 gallons per day.

RESIDENTIAL DRINKING WATER WELL LOCATION SETBACKS	
Entity	Setback (ft.)
Effluent Disposal Area (leach field/bed)	75 <sup>1</sup>
Septic Tank	75 <sup>2</sup>
Property Boundary	75
Livestock Pen	75 (100 for dug wells)
Automobile Salvage Yard	75
Underground Storage Tanks (containing gas or diesel fuel)	250
Storage of Regulated Substance (except gas or diesel fuel)	75
Solid Waste Disposal Site	75
Bulk Storage of Material (ex. fertilizer, manure, salt)	75
Stump Dump	75 <sup>3</sup>
State Highway Right-of-Way	50 <sup>4</sup>
Sewer Component	50 <sup>5</sup>
Surface Water / Swamp	50 <sup>6</sup>
Public Road Surface	75 <sup>7</sup>
Other Sources of Contamination	75

### Notes:

<sup>1</sup> NHDES site visit and approval required for wells within 25 feet of an effluent disposal area.

<sup>2</sup> Setback can be 50 feet if SDR 26 pipe is used and the tank is plastic or coated with a sealant to prevent infiltration and exfiltration.

<sup>3</sup> The burial of on-site tree stumps is not considered solid waste if greater than 75 feet from a well. As such, wells must be 75 feet from stump burial sites.

<sup>4</sup> A well that is constructed within 50 feet from a state highway right-of-way or in a location that does not allow or provide for adequate surface drainage is not eligible for DOTs well replacement program.

<sup>5</sup> Under certain conditions the distance to septic system components to water supply lines may be less than 50 feet. Contact NHDES for site-specific information.

<sup>6</sup> 50-foot setback required from all surface waters including inundated wetlands, bogs, and swamps.

<sup>7</sup> Setback reduction requirements must be followed if a road surface is within 75 feet of the well.

Some municipalities in New Hampshire have adopted local regulations pertaining to on-lot setback distances for private wells. Water Well Contractors and property owners should contact the local building code official to inquire as to whether additional well siting criteria apply.



If there is a location on a property where all setbacks can be met, all efforts to install the well at that location must be taken. In these cases, the homeowner may need to remove debris, trees and/or have the driller construct a temporary landing or path for access. *If you can comply with the setbacks, you must comply.* A well (bedrock, dug, gravel, point) that meets all setback requirements may be constructed as stipulated in We 600 without any special methods of construction or setback reduction requirements.

**SETBACK REDUCTION REQUIREMENTS**

If site conditions prevent compliance with one or more setback requirements, well installation may be prohibited or the water well contractor must follow *setback reduction requirements* (We 602.13 through We 602.16). *When setbacks cannot be met, the water well contractor must alert the property owner of the potential for contamination at the proposed location* and inform the homeowner that they may need to consult with a septic designer to receive approval for a well location before it is drilled. Refer to fact sheet [DWGB 21-8, “Drinking Water Well Locations Relative to Septic Systems”](#) for important information on drilling new well and replacement wells on lots with septic systems.

**Non-bedrock well installations that do not meet setbacks** – For dug wells, point wells and gravel wells, the *setback reduction requirements* include the submittal of a Setback Reduction Form with the Well Completion Report. No special methods of construction apply to dug wells or point wells. Gravel wells installed by methods that allow for grouting, must be grouted.

**Bedrock well installations that do not meet setbacks** – For bedrock wells proposed to be installed on a property where setbacks cannot be met, and *all* efforts to meet the setbacks are not practicable, the well is to be installed one of the following ways:

**OBTAIN SETBACK REDUCTION FORM:**

1. **Obtain a written acknowledgement** from the property owner using the [Setback Reduction Form](#) and submit with the [Well Completion Report](#).
2. Install no less than 40 feet of casing, with no less than 10 feet into competent rock.
3. Seal the annular space outside of the well casing with *grout* material.

OR

**USE SPECIAL METHODS OF CONSTRUCTION:**

1. Inform the homeowner that setbacks are not met and the risks involved.
2. **Install a minimum casing length** per the tables defined in the We 600 rules (shown below, derived from the Pythagorean Theorem). The minimum casing length is from ground surface.
3. Seal the annular space outside of the well casing with *grout* material.

Note: The Setback Reduction Form is not the Well Release Form required in the septic system approval process.

**Grouting of Well Casings** is required when setbacks are not met. This means the void space between the outside of the casing and the natural earth needs to be filled with an impervious material (neat cement, cement-sand grout, cement bentonite grout or high solids bentonite grout). We 600 specifies the methods for grouting bedrock wells and gravel wells. Grouting requirements do not apply to dug wells, point wells or wells constructed with drive and wash methods.

**For Additional Information**

Please contact the Drinking Water and Groundwater Bureau at (603) 271-1974 or [waterwellprogram@des.nh.gov](mailto:waterwellprogram@des.nh.gov) or visit our website at [www.des.nh.gov](http://www.des.nh.gov).

Minimum Casing Length (from ground surface) Where a 75-foot Setback is Required	
Horizontal Setback (ft.)	Minimum Casing Length (ft.)
75 or greater	20
70-74	27
65-69	37
60-64	45
55-59	51
50-54	56
45-49	60
40-44	63
35-39	66
30-34	69
25*-29	71
*NHDES must inspect any proposed well location within 25 feet of a septic system.	

*Note: This fact sheet is accurate as of September 2019. Statutory or regulatory changes or the availability of additional information after this date may render this information inaccurate or incomplete.*

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# ENVIRONMENTAL Fact Sheet

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DWGB-2-1

2020

## Suggested Water Quality Testing for Private Wells

If you have a private well, then water quality testing should be important to you and your family. Some contaminants in drinking water have been linked to cancer and toxicity, posing a risk to human health. Many contaminants often have no taste, odor or color. Their presence can only be determined by laboratory testing.

While there is no state requirement to have your well water tested (although mortgage lenders and some municipalities require testing at sale or before occupancy), the New Hampshire Department of Environmental Services recommends that all homeowners with private wells do so.

### Contamination of Wells

Well water originates as rain and snow that then filters into the ground. As it soaks through the soil, the water can dissolve materials that are present on or in the ground, becoming contaminated.

Some contaminants are naturally occurring in soil and rock. These include bacteria, arsenic, radon, uranium and other minerals.

Other contaminants find their way onto the land from human activities. Industrial and commercial activities, improper waste disposal, road salting and fuel spills can introduce hazardous substances to the ground. However, even typical residential activities, such as the use of fertilizers and pesticides, fueling of lawn equipment and disposal of household chemicals, can contaminate the ground when done improperly. That is why taking measures to protect your well from contamination is so important.

### Recommended Tests

The following tests identify common contaminants found in our state's well water. Although more tests could be added, this list provides a cost-effective, reasonable overview of a well's water quality. Contact an accredited laboratory for availability and pricing. It is not necessary to do all of the tests at one time. For a list of accredited laboratories, visit [des.nh.gov](http://des.nh.gov) and search for Private Well Testing.

### Standard Analysis

This basic analysis covers the most common contaminants (see list below). Some of these contaminants pose health-related concerns, while others only affect aesthetics (taste and odor) or provide information needed in order to determine the appropriate treatment for the water.

### **Radiological Analysis**

New Hampshire's geology contains naturally occurring radioactive elements that dissolve easily in well water. A basic radiological analysis will test for uranium, analytical gross alpha and radon gas.

Radon is a common well water problem in New Hampshire and testing for it may be required by your lender or your municipality. Presently, there are no federal or state standards for radon in drinking water, only suggested action levels. NHDES estimates that approximately one-third of private wells in New Hampshire exceed NHDES' suggested action level, so radiological testing is encouraged.

### **Per- and Polyfluoroalkyl Substances (PFAS)**

PFAS have been found in a significant percentage of private wells in New Hampshire. NHDES revised its private well testing recommendations in 2019 to include PFAS. For more information and a list of laboratories that provide PFAS testing services that are accredited by NHDES, see the [Laboratory Testing Guidelines](#) document on the NH PFAS Investigation website.

### **Volatile Organic Compounds (VOCs)**

The most common VOCs come from gasoline compounds (such as MtBE and benzene) and industrial solvents. MtBE can be found in well water even in remote areas.

### **Additional Tests**

Circumstances relative to your well may indicate additional testing not described here. For instance, NHDES does not recommend routine testing for pesticides, herbicides, or synthetic organic compounds, mainly because of the high cost. However, such testing might be warranted if your water has elevated nitrite/nitrate concentrations or if significant amounts of pesticide have been applied near the well. These less routine tests may not be available at all laboratories.

### **When to Test**

NHDES recommends that regular testing be performed at the intervals shown in the chart below. Prospective homebuyers should test the water in a home with a private well before purchase. Water quality in wells is generally stable, and if a change is going to occur, it occurs slowly. Thus the interval between water quality tests, once you have purchased the home, can generally be in terms of years (see chart) if a well is properly constructed and located in a safe area.

However, the following conditions would indicate more frequent testing:

- Heavily developed areas with land uses that handle hazardous chemicals.
- Recent well construction activities or repairs. NHDES recommends taking a bacterial test after any well repair or pump or plumbing modification, but only after substantial flushing of the water system.
- Contaminant concentrations above state or federal standards found in earlier testing.
- Noticeable variations in quality such as a water quality change after a heavy rain or an unexplained change in a previously trouble-free well, for example, funny taste, cloudy appearance, etc.

When taking any sample, NHDES recommends that it be taken after a heavy rainstorm. These events tend to highlight conditions of improper well construction or poor soil filtration.

**Contaminants and Testing Frequency**

<b>Testing Frequency</b>	
<b>Standard Analysis</b> Arsenic Bacteria Chloride Copper Fluoride Hardness Iron Lead Manganese Nitrate/Nitrite pH Sodium Uranium	Every 3 to 5 years (except for bacteria and nitrate, which are recommended yearly)
<b>Radiological Analysis</b> Radon Uranium Analytical Gross Alpha	Every 3 to 5 years
<b>PFAS</b>	Every 3 to 5 years
<b>VOCs</b>	Every 3 to 5 years

**What the Tests Tell You**

Results will reveal the level at which any of the tested substances were found in your water sample. The mere presence of these contaminants in well water does not necessarily imply that there is a problem. However, when levels exceed state or federal health standards, you should take steps to correct the situation. Several methods are available from commercial contractors to treat contaminated water. After you receive your test results visit NHDES' [Be Well Informed website](#) for an interpretation of your results along with information about treatment options based on your results.

**For More Information**

Please contact the Drinking Water and Groundwater Bureau at (603) 271-2513 or [dwgbinfo@des.nh.gov](mailto:dwgbinfo@des.nh.gov) or visit our website at [des.nh.gov](http://des.nh.gov).

Note: This fact sheet is accurate as of July 2019. Statutory or regulatory changes or the availability of additional information after this date may render this information inaccurate or incomplete.

<b>MunicipalityName</b>	<b>County</b>	<b>RPC</b>	<b>Well Water Testing Required for New Construction</b>
Alton	Belknap	LRPC	TRUE
Amherst	Hillsborough	NRPC	TRUE
Antrim	Hillsborough	SwRPC	TRUE
Atkinson	Rockingham	RPC	TRUE
Auburn	Rockingham	SNHPC	TRUE
Bow	Merrimack	CNHRPC	TRUE
Chester	Rockingham	SNHPC	TRUE
Derry	Rockingham	SNHPC	TRUE
Farmington	Strafford	SRPC	TRUE
Goffstown	Hillsborough	SNHPC	TRUE
Hampstead	Rockingham	RPC	TRUE
Hooksett	Merrimack	SNHPC	TRUE
Hudson	Hillsborough	NRPC	TRUE
Londonderry	Rockingham	SNHPC	TRUE
New London	Merrimack	UVLSRPC	TRUE
Newmarket	Rockingham	SRPC	TRUE
Orange	Grafton	UVLSRPC	TRUE
Pelham	Hillsborough	NRPC	TRUE
Peterborough	Hillsborough	SwRPC	TRUE
Rollinsford	Strafford	SRPC	TRUE
Rye	Rockingham	RPC	TRUE
Salem	Rockingham	RPC	TRUE
Sandown	Rockingham	RPC	TRUE
Windham	Rockingham	SNHPC	TRUE

# Town of Amherst

## Development Regulations

### Subdivision Regulations

2-1

## **Part 2 – SUBDIVISION REGULATIONS**

### **Article 1 - General requirements**

#### **201 Authority**

Pursuant to the authority vested in the Amherst Planning Board by the voters of the Town of Amherst and in accordance with the provisions of NH-RSA 674:35, the Amherst Planning Board adopts the following regulations governing the subdivision of land in the Town of Amherst, New Hampshire.

##### **201.1 Purpose**

The Subdivision Regulations are intended to facilitate housing and other construction that can be developed in such a manner to promote the most appropriate use of the land, encourage environmentally sound planning to conserve open space, retain and protect important natural and cultural features; and provide for efficient use of land and community services to advance the goals stated in the Master Plan and in accordance with RSA 674.21, Innovative Land Use Controls.

##### **201.2 Objectives**

- A. To maintain rural character, preserving farmland, forests, grasslands, wetlands, and maintaining rural views.
- B. To preserve those areas of the site that have the highest ecological value, including, for example, wildlife habitats, (areas of highest conservation value as identified by the NH Fish and Game's Wildlife Action Plan), and water resources (Drinking water supply areas and watersheds, wetlands, streams, and rivers.)
- C. To locate buildings and structures on those portions of the site that are the most appropriate for development, and avoiding development in areas ill-suited for development, including, for example, , areas with poor soil conditions, a high water table, that are subject to frequent flooding, or that have excessively steep slopes.
- D. To preserve historic, archeological, and cultural features on the site.
- E. To create a contiguous network of open spaces or "greenways" by linking the common open spaces within the subdivision to open spaces on adjoining lands wherever possible.
- F. To reduce the impacts on water resources by minimizing land disturbance and the creation of impervious surfaces and stormwater runoff.
- G. To reduce the amount of roads, sidewalks, and stormwater management structures that must be built and maintained.
- H. To minimize the impact of residential development on the municipality, neighboring properties, and the natural environment.

#### **202 Application Procedure**

##### **202.1 Application**

All applications made to the Planning Board, whether for formal or informal

consideration, shall be submitted to the Office of Community Development at least thirty (30) days prior to the date of a Planning Board meeting at which the applicant wishes to appear.

A. Application for proposed subdivision may be presented as follows:

1. Preliminary Conceptual phase, where a map of the site is presented, showing the site and neighboring properties, which includes:
  - The relative ecological condition of the site, based on the NH Fish and Game Wildlife Action Plan.
  - Wetlands, surface waters, and aquifers at the site.
  - Open space, trails, and recreation areas in the subject and neighboring parcels.
  - Soils designated of prime or local importance as shown in USDA NRCS mapping.
2. Design Review phase at which abutters must be notified,
3. Final Review phase of the application at which abutters must be notified.

**202.2** A completed application within the meaning of RSA 676:4 I (b) shall constitute a completed application form, a complete list of abutters including the owner, applicant and any professionals whose stamp appears on the plan, three (3) sets of addressed gummed mailing labels, the payment of a fee as per approved schedule of fees, as well as all of the items specified in Section 211, Paragraphs 211.1, 211.2, and 211.4 as appropriate and shall include any specific factual material required by the Planning Board, unless waived by the Planning Board during the subdivision process, including such materials as traffic studies, water supply/hydrogeologic studies, environmental impact studies, or similar materials necessary to make informed decisions as to the impact of a proposed subdivision or development.

**202.3** The Planning Board, upon a showing of good cause by the applicant, may waive any provision of these Subdivision Regulations. It is the applicant's responsibility to submit waiver requests in writing, citing the provision requested to be waived, and the reasons for requesting the waiver.

**202.4** For Planning Board agenda purposes only, inclusion of submission documents required by Section 211 shall be considered complete. The Planning Board shall receive and vote to accept an application only at a public meeting after notification of abutters as per RSA 676:4 I (d).

**202.5** Applications and plans for Final Review phase will be reviewed by the Zoning Administrator for conformance with these subdivision requirements and applicants will

be notified by regular mail of any deficiencies which must be corrected in order to be placed on a Planning Board agenda for Planning Board Final Review of the application.

- 202.6** After such notice, the applicant may revise the plan/s. The revised plan, which must provide the information required by subdivision regulations shall be resubmitted at least fifteen (15) days prior to the Planning Board meeting at which the applicants wishes to appear. Approval of State agencies is mandatory for applications to be approved in the Final Review phase.
- 202.7** Adherence to these requirements will place applications on the next available Planning Board agenda for consideration, within constraints imposed by the number of applications received. Assignment to agenda will be in the order of receipt.
- 202.8** The Preliminary Conceptual phase is intended to address the suitability of the land for subdivision and for review of the basic concept of the proposal in general terms such as desirability of types of development for an area, and under the Master Plan. This review shall not bind either the applicant or the Planning Board.
- 202.9** The Design Review phase continues this informational exchange between the Board and the applicant, and these discussions are encouraged for major subdivisions, subdivisions proposing new roads, and subdivisions applied for under the Integrated Innovative Housing Ordinance. This review shall not bind either the applicant or the Planning Board.
- 202.10** Material presented for this discussion should include plats and information as described in Section 211. Discussions are vital to sound planning and to let both the applicant and the Board study the widest range of possible configurations. In addition, the suitability of the proposal can be determined with a minimum burden of expense on the applicant.

### **203 General Regulations**

- 203.1** The Planning Board shall, in the exercise of the authority granted pursuant to NH RSA 674:36, review all proposed subdivisions with a view toward determining the impact that the proposed subdivision will have on various Town services; and to that end, determining whether such proposed subdivision, if permitted, would create one (1) of the following conditions:
- A. Constitute a scattered or premature subdivision of land as would involve danger or injury to health, safety, or prosperity by reason of the lack of water supply, drainage, transportation, schools, fire department, or other public services;
  - B. Necessitate an excessive expenditure of public funds for the supply of such services.
- If, after such review, the Board determines that the proposed subdivision would cause either of the aforementioned conditions, then the Board shall so inform the applicant and indicate that the applicant may modify the proposal to avoid the aforementioned conditions; and in doing so, the said Board may, considering all the circumstances,



specify the extent to which the particular proposed subdivision may be developed in any given year, as well as establish the minimum duration of time for the total development of such particular subdivision. The Board shall state in its records any modifications it will require.

If during review of an application, professional or engineering review is employed by the Planning Board, the costs of such review shall be borne by the applicant for approval. An estimated fee shall be placed in escrow with the Town prior to commencement of the third-party review. If the escrow amount has been expended prior to completion of the Planning Board's review, an additional escrow amount will be requested prior to proceeding with the review. If any escrow amount remains at the conclusion of the review, it will be returned to the applicant.

**203.3** The "Roadway and Utility Standards" and "Stormwater Regulations" of the Town of Amherst are incorporated into these Subdivision Regulations by reference.

**204 Agreement to Approvals**

Acceptance and approval by the Board of the submission shall constitute an agreement between the Town and the applicant that subdivision and development of the land in question shall be done as detailed on the final plat/s. Deviation from the approved final plat requires the consent of the Board.

**205 Action of the Board**

**205.1** After due notice as required by RSA 676:4 I (d), the Planning Board shall hold a public hearing within thirty (30) days of accepting an application for Final Review. The applicant and abutters shall be notified of said hearing in fashion consistent with RSA 676:4 (g).

**205.2** The Board must act to approve, modify, or disapprove a plat within sixty-five (65) days of the acceptance of the complete application unless the time for action has been extended an additional ninety (90) days by the Selectmen or unless the applicant has waived the requirement for action within the time periods specified herein; and consent to such extension is agreeable to both parties. If the Board fails to act and has obtained no extension from the Selectmen or waiver from the applicant, then said applicant may obtain from the Selectmen an order directing the Board to act within thirty (30) days. Failure of the Board to act upon such order of the Selectmen, shall constitute grounds for the Board of Selectmen, upon petition of the applicant, to issue an order approving the application, if the Board determines that the proposal complies with existing subdivision regulations and zoning and other ordinances.

**205.2** The approved final design plat shall be recorded with the Registrar of Deeds, Hillsborough County, prior to any sale or transfer of land within the subdivision. The recording of such approved plats shall, without further action, modify the official map of the Town of Amherst. Such recording shall not constitute acceptance by the Town of any street, easement, or open space shown thereon.

- 205.3** No street or open space will be accepted by the Town until such time as all improvements have been carried out as shown on the final plat, or in accordance with other options as indicated in Section 213.1 of these regulations, subject to any conditions established by the Planning Board at the time of final design plat approval and compliance with all State and local regulations applicable thereto. Acceptance shall then take place only upon the acceptance by the Selectmen of the Town of a Warranty Deed to the premises so dedicated.

## **ARTICLE 2 -- PLAT REQUIREMENTS**

### **206 Compliance with Regulations**

- 206.1** No subdivision of land shall be made or land cleared for conversion purposes, and no land in any subdivision shall be sold or offered for sale or lease, and no street or utility construction shall be started until a final design plat, prepared in accordance with the requirements of the regulations, has been approved by the Board, and other required permits have been issued.
- 206.2** The subdivider shall familiarize himself with all State and Town regulations relative to the health, buildings, roads, and other pertinent data, so that he is aware of the obligations and standards expected.

### **207 Character of Land for Subdivision**

All land to be subdivided shall be, in the judgment of the Board, of such character that it can be used for building purposes without danger to public health or safety, or to the environment. Land subject to periodic flooding, poor drainage, or other hazardous conditions, shall not ordinarily be subdivided. Land with inadequate capacity for sanitary sewage disposal shall not be subdivided. Plats for the subdivision of land shall conform with all regulations of the Board, the Zoning Ordinances, and the Water Pollution Control Regulations and other applicable by-laws, ordinances, and regulations at both State and local levels.

### **208 Lot Layout**

The layout of lots shall conform to the requirements of the Zoning Ordinance when in force and shall be appropriate for the intended construction.

### **209 Preservation of Existing Features**

Due regard shall be given to the preservation and protection of existing features, trees, scenic points, brooks, streams, rock outcroppings, water bodies, high value ecological habitats, other natural resources, historic landmarks, stone walls, and other significant features. Originality in lot layout will be encouraged to achieve the best possible relationship between the development and existing features on the property.

**210 Submission Documents**

**210.1 Design Review Phase**

- A. Tentative plats for discussions should be sufficiently clear to show all site conditions. Plans should not be at a scale greater than one hundred (100) feet to the inch. Six (6) paper prints are filed with the application detailing the general concept of the proposal and indicating the form of subdivision sought.
- B. Plans for a residential development proposed under the Integrated Innovative Housing Ordinance (IIHO) should include calculations of density allowed as of right, as well as any density bonus proposed, and rationale for granting the bonus.
- C. Suitability of the soils present on a tract may be paramount to the type of development on such tract and soils testing should be directed toward establishing soils type and suitability, indicating on plans: boundaries, topography, wetlands, ledge, streams, existing roads, new roads, structures, soils, types, adjacent development.

**210.2 Final Review Phase**

- A. Final plat/s, three (3) full size copies, ten (10) 11"X17" copies of paper prints and PDF/A copies of the full submission showing the following:
  - 1. Boundary of subdivision area, including bearings and distance on every lot line;
  - 2. Topography with sufficient detail to indicate stormwater runoff;
  - 3. Streams, seasonal runoffs, brooks, ponds, wetlands (poorly or very poorly drained soils);
  - 4. The subdivision's relation to existing roads;
  - 5. Existing structure(s);
  - 6. Adjacent structures within one hundred (100) feet of parcel boundaries;
  - 7. Site location map, showing proposed subdivision in relation to major roads;
  - 8. The subdivider or his agent(s) shall arrange to have soils investigations, including test pits and required Site Specific Soils Mapping (SSSM), witnessed by the Town Health Officer or their designee. Wetland areas, if present on the site, shall be delineated by a Certified Wetland Scientist. The results of soils investigations to be placed on plans and include, but not limited to, soils data showing results and location of test pits and perc tests, a statement that tests meet the criteria established by State and Local authorities for the design of a septic system;
  - 9. Location of four thousand (4,000) square feet per single family unit reserved for septic systems. Additional soils tests, after Final Review approval, may be required.

10. North arrow;
  11. Graphical scale;
  12. Date of layout and dates of revision.
  13. Professional stamp(s) of any Licensed Land Surveyor, Soil Scientist, Certified Wetland Scientist, Professional Engineer, and Subsurface Designer responsible for preparation of the Plat.
- B. Drainage calculations for proposed culverts or drainage structures, including driveway culvert size. These should be submitted for review in the form of a drainage report or memorandum with sufficient back up data to demonstrate compliance with the Amherst Stormwater Regulations and facilitate review by a third party;

C. Legal Data Required

When applicable to a specific subdivision, the following are required in form and substance approved by Town Counsel prior to approval of a subdivision plat:

1. Agreement to convey to the Town land to be used for streets and other public purposes, with transfer of title to such interests to be effective on such date as the Town accepts such land.
2. Covenants which shall include a definitive statement of the method of ownership of the common land or open space. The intent herein is to guarantee that ownership and taxation of common land be equitably apportioned to individual owners for his/her lot/unit.
3. Covenants permanently restricting the common land or open space from any future subdivision.
4. Easements and right-of-way over property to remain in private ownership including a street.
5. Rights to drain onto or across other property, whether public or private, deeds covering any land to be used for public purposes, easements, right to drain onto or across private or public property shall be submitted to, and approved by the Board of Selectmen with the approval of Town Counsel, the Department of Public Works, and/or any other appropriate agency.

All documents required hereunder shall be submitted in final, executable, recordable form satisfactory to Town Counsel as part of the Final Review Phase.

**210.3 Final Plat(s)**

- A. All final Plats must show:
1. Name of municipality;

Town of Amherst Development Regulations  
Subdivision Regulations

2-8

2. Name of subdivision;
  3. Name and address of subdivider;
  4. Name and address of abutters;
  5. Existing roads or driveways within two hundred (200) feet of the subdivision;
  6. Existing and proposed lot lines;
  7. Proposed names of new streets or private roads and driveways servicing three (3) or more dwelling units, shall have appropriate road names as approved by the Board of Selectmen or their designee;
  8. Street address and Lot designations compliant with Assessing Office and Fire/EMS Department requirements.
  9. Area reserved for stumps;
  10. Location of existing and proposed easements, IF NONE, SO STATE ON PLANS;
  11. Deed restrictions, IF NONE, SO STATE ON PLANS;
  12. Building setback lines;
  13. Parks;
  14. Recreation facilities;
  15. Conservation trails;
  16. Significant natural or manmade features;
  17. Water mains;
  18. Sanitary sewers;
  19. Storm water sewer or drain lines, and any water quality treatment facilities;
  20. Existing utilities, telephone, electric, gas;
  21. Proposed placement of telephone, electric, gas;
  20. Boundaries of Zoning Districts within the subdivision;
  21. Boundaries of other municipalities;
  22. Land use designation per Zoning Maps;
  23. Location of driveways accessing public road and indication of sight distances.
- B. Additional Final Plat Documents to be Submitted:
1. A statement of suitability of land for development;

2. A statement of work to be completed on existing streets to meet minimum standards;
3. Method of sanitary sewerage disposal;
4. Method of supplying water;
5. Road profiles and cross sections, including driveways for Class B reduced frontage lots;
6. Approval/s from any other Municipal, State or Federal Agency which may have jurisdiction. Applicable permit numbers shall be listed on the plan;
7. Name and seal of engineer or land surveyor licensed by the State of New Hampshire;
8. Statement that final plat is based on a boundary survey with a maximum error of closure of 1 in 10,000 certified by an Engineer or Surveyor registered with the State of New Hampshire, distances shall be to the nearest hundredth (100<sup>th</sup>) of a foot and bearings to the nearest one (1) second;
9. Stations, radii, curve data, and paving widths of streets;
10. Lot dimensions showing area in square feet and acres;
11. A written acknowledgment of the subdivider's responsibility for maintenance, and the assumption by him of liability for injuries and damages that may occur on any land to be dedicated for public use, until such land has been legally accepted by the Town;
12. Accurate locations of all monuments to be set at street intersections, points of curvature and tangency of curved streets, and at angles of lots;
13. Drainage calculations for proposed culverts or drainage structures, including driveway culvert size. These calculations shall be presented in a Drainage Report/Memorandum demonstrating compliance with the requirements of Amherst Stormwater Regulations, and suitable for third party review;
14. Floor plans and architectural drawings of proposed units in an IHO residential project;
15. Indication on plan of what area is dedicated to open space, and method of dedication;
16. A statement of approval from appropriate municipal agency if subdivision is to be served by public water supply or sewer;
17. Volume and page reference sufficient to indicate the subdivider's derivation of

title in the event only one (1) parent tract is involved, and if the subdivision constitutes an assemblage of several tracts, the plat shall contain a title reference of each and indicate where each of the lots is situated with reference to the assembled tracts. All lots shall be numbered so as to coincide with the Town of Amherst tax map numbers by parent tract numbers.

- a. No subdivision shall be finally approved until the Planning Board is provided with a certificate in writing from the Tax Collector that all tax liens (other than those that apply to April 1, of the tax year in which the subdivision is being approved) have been paid and cleared.
  - b. That Section 211 of the subdivision regulations shall require that any plan presented for final approval contain a depiction on the plan by dotted lines of the lot lines of the parent tract(s) as identified in the notes.
  - c. That the identity of any lien holder or mortgages (including volume and page references where said liens are recorded) that exist at the time such approval is given are listed and certified by an attorney.
17. Statement regarding choice of building or bonding of any proposed road layout with improvements (Option 1 or 2, see Section 213.0 - New Roads and Improvements and Building Permits);
18. Approval of Town Counsel of legal data in final, executable, recordable form on:
- a. The agreement to convey to the Town, land to be used for streets and other public purpose;
  - b. Any covenants dealing with methods of ownership of common land or open space. The intent herein is to guarantee that ownership and taxation of common land be equitably apportioned to individual owners for his/her lot/unit and common land. With respect to covenants and other recordable documents, no Building Permit shall be issued until the applicant has provided photo copies of the recorded instrument to the Town identifying the recorded item to be in place;
  - c. Any covenants restricting use or future use of land within a subdivision to those permitted in the Zoning Ordinance as well as restrictions on number of bedrooms;
  - d. Any proposed easements;
  - e. Any proposal to increase drainage onto or across other property, whether public or private;
  - f. A recordable Warranty Deed for any land/road to be accepted by the Town.
19. Estimate from appropriate contractors of cost installation

- of all roads / improvements shown on plan;
20. Space reserved on plat for endorsement by all appropriate agencies;
  21. Erosion & Sedimentation Control Plan prepared by a Licensed Professional Engineer. As a minimum, all Erosion & Sedimentation Control Plans shall be consistent with the requirements of the Amherst Stormwater Regulations as amended from time to time.
  22. List all State and local permits, variances and waivers granted;
  23. Study or review of, unless waived by the Planning Board;
    - a. Fiscal impact,
    - b. Environmental impact,
    - c. Traffic,
    - d. Water supply,
    - e. Drainage Report,
    - f. Hydrogeological,
    - g. Other, as deemed necessary by the Planning Board.
  24. Statement regarding a phasing plan in accordance with Section 3.19 of the Amherst Zoning Ordinance.

**210.4 Submission Documents for Lot Line Change and Recording**

- A. Completed Planning Board application form with appropriate documents.
- B. Three (3) full size paper prints, ten (10) 11"X17" paper prints and original.
- C. Site location map.
- D. Site map showing:
  1. Name of municipality,
  2. Name and address of owner/s,
  3. Boundaries (including bearings) certified with name, address, and seal of licensed surveyor with the following statement entered on the plat and signed by the Surveyor. I hereby certify that this plan is based on an actual field survey and has a maximum error of closure of 1 in 10,000. (For lot line change only);
  4. Location of all monuments found or to be set (For lot line change only);
  5. North Point;
  6. Bar scale;
  7. Date of layout and date of any revision;



8. Names and addresses of abutters as defined in the Zoning Ordinance;
9. Location of existing or proposed easements (if none, so state on plan/s);
10. Deed restrictions (if none, so state on plan/s);
11. Name, seal, and signature of land surveyor (licensed by New Hampshire);
12. Lot dimensions, area of lot/s in square feet, area of lot/s in acres;
13. Volume and page references sufficient to indicate derivation of title/s; 4. New lot lines (shown solid) and former lot lines to be eliminated (shown dotted) with, if necessary, the following note entered on the plat; Lot/Parcel number is not to be considered a separate building lot but will henceforth be considered as part of premises known as lot number \_\_\_\_\_.

For Consolidation and Lot Line Change(s):

15. All existing buildings on lot/s (for Lot Line Change Only);
16. Soils Conservation Service soils type overlaid on plan (for Lot Line Change only);
17. Zoning district boundaries on parcel, if any.

#### **210.5 Lot Consolidation**

All lot consolidations shall be completed using the form designated by the Planning Board and must comply with the current Amherst Zoning and Subdivision Regulations. Signed copies of the form shall be recorded at the Hillsborough County Registry of Deeds and the Amherst Assessors office per RSA 674:39a.

#### **210.6 Voluntary Merger**

- A. Upon application by the owner, the Planning Board shall approve the merger of two or more contiguous preexisting approved or subdivided lots or parcels for the purpose of municipal regulation and taxation, unless the merger would create a violation of current regulations. No public hearing or notice shall be required. The owner shall complete a lot merger form which is available from the Amherst Planning Department. The Form shall be submitted to the Planning Department for endorsement by the Planning Board and recording in the HCRD, and shall be filed with or mailed to the Town Assessor.
- B. No parcel or parcels merged under these provisions shall thereafter be separately transferred without subdivision approval.

### **211 New Roads and Improvements and Building Permits**

- 211.1 Any subdivision which requires road system layout and construction will have such improvements installed in accordance with the Roads and Utility Standards as detailed in Part 3 of these regulations. The subdivider shall elect to comply with Option 1 or

Option 2 as described below and shall so note on subdivision plans submitted to the Planning Board for final approval and such notation shall become binding on his successors, heirs or assigns.

- A. **OPTION 1:** The road system or part of a road system and any other planned or required improvement is entirely completed prior to acceptance. An as-built road plan is furnished to and approved or disapproved by the Town upon installation of the base course of bituminous concrete. The road/improvements are accepted by the Board of Selectmen, deeded to the Town; and a Maintenance Bond (Irrevocable Letter of Credit) sufficient to cover a two-year guarantee period or such greater period as may be required by the Planning Board is furnished to the Planning Board. Any deeds are recorded. Building Permits and Driveway Permits may then be issued.
- B. **OPTION 2:** The road system or part of a road system and any other planned or required improvement is not entirely completed prior to acceptance. Roads and improvements are completed except for installation of final wearing course of pavement as described in the Roadway and Utility Standards. A Completion Bond or other form of surety, in a form and amount acceptable to the Planning Board, shall be furnished to the Board to assure completion of the road/improvement covered by the bond. An as-built plan shall be furnished to and approved by the Office of Community Development upon installation of the base course of bituminous concrete.

- 211.2** Along a road or portion of a road covered by a Completion Bond, building permits may be issued upon acceptance of the surety by the Planning Board.
- 211.3** Within twenty-four (24) months of the issuance of a Certificate of Occupancy for a structure on any new public road or portion of a new public road, or the occupancy of fifty percent (50%) of the homes along such road, the road shall be completed in accordance with the final approved plans, prior to the issuance of any further building permits on such road. If no Certificates of Occupancy have been issued on the road, the Completion Bond shall be extended until such time as conditions for acceptance of the road are met.
- 211.4** The road will be accepted by the Town only following the completion of the road and receipt of an acceptable maintenance bond as detailed in Option 1 above. No road will be accepted by the Town unless at least one (1) Certificate of Occupancy has been issued on the new road.
- 211.5** Until the road construction has been accepted, the subdivider, developer, or his successors shall be responsible for the maintenance of the streets, including winter maintenance of snow plowing, sanding and other protection, which obligation shall be made part of the requirements of the Completion Bond.
- 211.6** Upon satisfactory completion of the road system as judged by the Office of Community

Development and the Department of Public Works of the Town of Amherst, said road system will be accepted by the Board of Selectmen and shall be properly deeded by the applicant to the Town. The subdivider, developer, or his successors shall provide the Town with a Maintenance Bond.

**211.7** During construction, periodic inspections by a licensed Professional Engineer shall be performed at the applicant's expense to ensure the new construction is generally in conformance with the approved plans for the improvements and with Town standards and requirements.

**211.8 Bonding**

1. Option 1: The road system or other improvement is completed in accordance with Section 213.1 - Option 1, a Maintenance Bond (Irrevocable Letter of Credit) shall be filed with the Planning Board by the subdivider, developer, or his successors, in a form and amount sufficient to cover any and all costs which may arise due to deficiencies in the quality of the completed road or other improvements, as determined by the Office of Community Development and the Department of Public Works.

The Maintenance Bond shall be reviewed by Town Counsel. The surety shall be for a period of two (2) years following acceptance of the improvement/s.

2. Option 2: The road system or other improvement is completed to the extent called for in Section 213.1 - Option 2. A Completion Bond (Irrevocable Letter of Credit), in a form and amount acceptable to the Planning Board and sufficient to cover any and all costs necessary to complete the improvements, is filed with the Office of Community Development based on an estimate prepared by the Project Engineer; and shall include, but not be limited to, the cost of such items as streets, lighting, sidewalks, public improvements, extension or installation of water or sewer lines, drainage improvements, setting road bounds, public parks or recreation areas, or other such improvements as required by the Planning Board in the approval of the Final Subdivision Plat. The Completion Bond shall remain in effect until completion and acceptance of the road or other public improvements. Estimated costs for interim winter plowing and other maintenance shall be included in the amount of the bond. In the event that the completion of the road extends beyond two (2) years after base course construction, the Maintenance Bond shall be extended to cover a five (5) year period after acceptance of the road.

3. The bond or other form of surety, shall be reviewed by Town Counsel.

**211.9** After completion of a road system / improvement, a Maintenance Bond (Irrevocable Letter of Credit) as required in Option 1 shall be filed with the Office of Community Development. If more than two (2) years have elapsed from the start of construction until the completion and acceptance of the road, the maintenance period shall be

extended to five (5) years.

**211.10** In the case of a water or sewer system, the Maintenance Bond shall extend for a period of five (5) years.

**211.11** Before any work may commence on a subdivision, the subdivider, developer, or his successors shall file with the Office of Community Development a Certificate of Insurance including liability.

**211.12 Permits**

If, during the course of execution of a subdivision the subdivider, developer, or his successors shall violate the conditions of the subdivision approval, the Zoning Ordinances, or the Subdivision Regulations of the Town of Amherst, the Planning Board may notify the Zoning Administrator of such violation and request that no further building permits or certificates of Occupancy be issued until:

1. The violation(s) has been satisfactorily corrected as judged by the Zoning Administrator;
2. A bond to cover the correction of the violation(s) has been accepted by the Board of Selectmen.

**211.13 Pre-construction Meeting.**

For subdivisions which require any new road construction, a pre-construction meeting shall be required by the Planning Board. The pre-construction meeting shall be held no more than three (3) months or less than thirty (30) days prior to commencement of any activity on the site. The purpose of the pre-construction meeting is to ensure that all parties involved with the development of the project, including, but not limited to, the owner and/or developer, the contractors and builders, the Town's Engineer, the Building Inspector and the Public Works Director or Designee, are familiar with the approved design, the terms and conditions of the approval and that all performance surety is accurate and in place. In addition to the individuals listed previously, representatives from the Planning Board and the Selectmen's representative to the Planning Board may attend the meeting.

**211.14 Third Party Review and Inspection Required**

All proposed public improvements as well as other aspects of subdivision construction shall be inspected and approved by a third-party engineering consultant on behalf of the town, at the expense of the subdivider, owner, developer or their assigns, periodically during construction and prior to acceptance by the Town.

**212 Design for Open Space**

**212.1 Open Space Shown on Town Plan.** Where a proposed park, playground, or other open

space is shown on the maps of the Master Plan is located in whole or in part in a proposed subdivision, the Board shall require substantial compliance with such Master Plan. As a condition of approval of the Final Phase, the Board may require that the area shown thereon as open space be offered for dedication to the Town. The Board shall not require such dedication in excess of fifteen percent (15%) of the total area of the subdivision without reasonable compensation, and if the Town does not take steps within a period of one (1) year from the date of approval of the subdivision to acquire the portion of the open space in excess of said fifteen percent (15%), the subdivider may submit to the Board a plan for subdivision of such portion, provided such additional subdivision does not exceed the total number of family dwelling units permitted by the Zoning Ordinances for the applicable district, and meets requirements of these subdivision regulations.

**212.2 Other Open Space.** If no such open space, park, or playground is shown on the maps of the Master Plan within the boundaries of a proposed subdivision, the Board may, where it deems desirable, require that the Final Plat show one (1) or more sites of character, size, shape, and location suitable to be used as community open space or park, in area not to exceed fifteen percent (15%) of the total area of the subdivision. In the case of cluster subdivision, open space shall be not less in area than as provided in the Zoning Ordinance. Such areas of open space, whether privately or publicly owned, shall have a sufficient legal restriction recorded in the Hillsborough County Registry of Deeds land records to assure permanence of use as open space. Open space land in private ownership shall be deeded in such a way that it will assure operation or maintenance of the land in an orderly manner suitable for the purpose intended. The Planning Board, in its discretion, may require additional provisions for protection of open space and its intended use.

**212.3 Trees and Plantings.** Due regard shall be given to preservation of existing features, trees, scenic points, and other natural and historic resources within the subdivision. The Board may require additional tree planting and other landscaping appropriate to the area being developed. Removal of topsoil or surplus materials from the subdivision area shall not be permitted unless in accord with the Zoning Regulations. Existing trees on lots and open space land shall be preserved wherever feasible, unless otherwise directed by the Board. Species of street trees and other landscaping shall be in accordance with the requirements of the Non-Residential Site Plan Regulations.

**214.4 Development of Open Space.** On land to be used as active recreation open space, undesirable growth and debris may be removed. Wooded buffers and brook areas shall be left in their natural state. Active recreation open space shall be graded properly to dispose of surface water and shall be seeded with lawn grass. An area, not to exceed one (1) acre, for the purpose of burying stumps, boulders, and other natural waste may

be designated on the Final Plat in accordance with state regulation and other local requirements. This area must be filled in on an "as-you-go" basis and finally covered with at least twelve (12) inches of soil and four (4) inches of topsoil and seeded with lawn grass or other suitable ground cover such that the area is protected from erosion and is as close to its natural condition as possible two (2) years after the seeding as judged by the Community Development Director or their designee. There shall be no deposition, dumping, or storage of waste or other natural or man-made material, supplies, or equipment on any subdivision of land designated as open space excepting that specifically designated for the disposal of natural waste as described above. No work, removal, or filling shall be done, nor shall the existing natural characteristics of open space land be altered from the original condition until a site plan, prepared by a surveyor or engineer licensed by the State of New Hampshire, shall have been approved by the Board.

**212.5 Invasive Species.** Applicant shall, to the greatest extent practicable, eradicate invasive plant species on the property as a condition of receiving a Certificate of Occupancy. The Director of Community Development, or their designee shall inspect the property to determine compliance with this regulation prior to issuance of a Certificate of Occupancy.

**213 Subdivisions Containing Reduced Frontage Lots.**

**213.1 General**

It shall be the purpose of this section to provide for a means whereby the Planning Board may approve subdivisions containing lots with reduced frontage as a means of access to back lots, provided minimum conditions are met by the developer concerning the extent of their utilization for said purpose.

**213.2 Conditions and Restrictions.**

- A. Reduced frontage shall be a minimum of thirty-five (35) feet on the public way.
- B. The driveway portion of reduced frontage lots shall be an integral portion of and attached to the back lot.
- C. Class A reduced frontage provides access to one (1) back lot.
- D. Class B reduced frontage provides access to two (2) back lots.
- E. No subdivision plan providing for reduced frontage lots shall be approved unless the total acreage of such plan is a minimum of ten (10) acres for each reduced frontage lot(s) sought. Twenty (20) acres could produce two (2) reduced frontages, etc.
- F. No Class B reduced frontage shall be located so as to enter onto a public road within five hundred (500) feet of any existing or proposed street intersection on the public

road (unless the frontage enters at an existing intersection), or be located within five hundred (500) feet of another existing or proposed reduced frontage lot/s on the same side of the public road.

- G. The use of reduced frontage lots shall be restricted when, in the opinion of the Planning Board, such use is in conflict with the long range plan for the Town or creates unusual traffic problems or conditions.
- H. The driveway area of Class B reduced frontage lots, approved by the Planning Board, shall be depicted on the final plat as a shaded area, being a corresponding portion of the two (2) lots to be serviced by this frontage. At the time of Submission of documents for the final phase, the applicant shall provide the Planning Board with a declaration of covenants and restrictions satisfactory to Town Counsel which shall provide for the mutual recognition of easements between the two (2) lots, a provision for the maintenance of the driveway, and a suitable dedication which shall ensure that such driveway shall never become a Town road.

### **213.3 Construction Requirements.**

- A. Class A reduced frontage lot: Subject to any construction requirements in the Town of Amherst Driveway Regulations.
- B. Class B frontage lots: The driveway shall be constructed in conformance with the following requirements:
  - 1. Removal of all loam, muck, stumps, and other improper road foundation material within the limits of the right-of-way. In embankment areas, suitable foundation material shall be placed in one (1) foot layers and compacted to form a stable sub-grade.
  - 2. Ledge and boulders shall be removed to at least eight (8) inches below sub-grade and replaced with sand or bank run gravel.
  - 3. Proper drainage shall be installed as indicated on the Final Plat, in accordance with the requirements of the Stormwater Management Regulations of the Town of Amherst.
  - 4. The grade of the driveway shall not be more than eight (8) percent nor less than one (1) percent.
  - 5. Approved street signs, culvert posts, and delineators for curbing, catchbasins and guardrails shall be installed in accordance with the requirements of MUTCD and/or AASHTO Standards as directed by the Board of Selectmen and paid for by the developer.

**214 Classification of Streets**

The classifications of Town streets shall be as defined in the Official Map, and the classification of new streets and streets now shown on such plan shall be as determined by the Board. The standards of design applicable to Town roads shall be those contained in the Roadway and Utility Standards for the Town of Amherst, applicable at the time construction is undertaken.

**215 Pedestrian Walks**

Where necessary, in the judgment of the Board, rights-of-way for pedestrian travel and access may be required between subdivisions or its parts, or between a subdivision and public property.

**216 Underground Utilities.**

All utilities within the bounds of a proposed subdivision which now includes new roads shall be placed underground. Where underground utilities are to be furnished from a public source; all necessary mains, branch off-sets to each lot, and fire hydrants shall be installed by the subdivider, as approved by the corporation or municipal department having jurisdiction and to the satisfaction of the governing body and without expense to the Town. Utility assets that are required to be above ground shall be located as far from the edge of pavement as practicable.

**ARTICLE 3 -- ADMINISTRATION AND ENFORCEMENT**

**217 Modifications**

The requirements of the foregoing regulations may be modified when, in the opinion of the Board, specific circumstances surrounding a subdivision or condition of the land in such subdivision indicate that such modification will properly carry out the purpose and intent of the Master Plan and of these regulations.

**218 Acceptance of Streets**

Nothing herein intended to modify the requirements of law with reference to the acceptance of streets by the Town. Nothing herein is intended to modify or control the construction, reconstruction, or extension of roads by the Town or State.

**219 Other Regulations**

Where these regulations are in conflict with other local or State Ordinances, the more stringent shall apply.

**220 Enforcement**

These regulations shall be enforced by the Board of Selectmen or its duly authorized representative.

**221 Penalties**

Any owner, or agent of the owner of any land located within a subdivision who transfers or sells



any land before a plat of the said subdivision has been approved by the Planning Board and recorded or filed in the Office of the Registrar of Deeds shall be assessed penalties as provided in RSA 676:16.

**222 Appeals**

Any person aggrieved by an official action of the Board, may appeal there from to the Superior Court as provided by RSA 676:15.

**Town of Chester**  
**New Hampshire**

**Building Code**

**As of August 28, 2019**

**Town of Chester Building Code**

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TOWN OF CHESTER  
BUILDING CODE

**Article 1 – Building Code**

**Purpose and Authority**

**1.1 - Title** - This Ordinance shall be known and cited as the Building Ordinance of the Town of Chester, New Hampshire and shall be construed to insure public safety and health insofar as they are dependent upon building construction.

**1.2 - Minimum Requirements** - The provisions of this Ordinance shall be held to be the minimum requirements for the preservation of life and health and safety of the inhabitants of the Town of Chester and shall be controlling as to all buildings and structures subject to this Ordinance, except where more stringent requirements are provided under the statutes of the State of New Hampshire.

**1.3 - Other Town Regulations** - No provisions of the Town Zoning Ordinance or any other legal statute pertaining to the location, use or construction of buildings shall be nullified by the provisions of this Ordinance.

**1.4 - Administration** - The provisions of this Ordinance and enforcement of its requirements will be by the Board of Selectmen and/or the Building Official. (5/10/2011)

**Article 2 – Building Code**

**Application for a Building Permit**

**2.1 - Permits** - A permit issued by the Building Official shall be required before beginning operations of placement of foundations, alterations, repair or placement on a lot of a building or structure. Applications for permits shall be submitted in such form as the Building Official prescribes and shall be signed by or authorized by the owner.

**2.2 - Plans** - Applications for permits shall be accompanied by plans with sufficient clarity and detail dimensions to show the nature and character of the work to be performed. The building Official may waive the requirement for filing plans when the work involved is of a minor nature.

**2.3 - Performance** - All work performed under building permits shall conform to the plans and specifications filed with the application.

**2.4 - Limitations of Permit** - Construction must commence within six (6) months after issuance of the building permit. If construction is not commenced within this time period, the applicant must reapply. Construction must be complete within one (1) year after issuance of the building permit. If construction is not completed within this time period, the applicant must reapply. (5/9/2017)

**2.5 - Certificate of Occupancy** - No areas of building or other structures which are hereinafter constructed, reconstructed or altered shall be occupied and no premises shall be used except for agriculture until a Certificate of Occupancy has been issued by the Building Inspector. No Certificate of Occupancy shall be issued for any premises unless the proposed use of the land, buildings and other structures herein shall comply with the provisions of this Ordinance or a variance issued by the Board of Adjustment and all applicable health, safety, fire, building codes, regulations and ordinances.

**2.6 - Board of Adjustment** - An applicant for a building permit whose application has been refused by the Building Official, or parties who have been ordered by the Building Official to incur expense in connection with construction or parties aggrieved by a decision by the Building Official on a matter left by this Ordinance to his/her approval or discretion, may appeal from such action by filing within ten (10) days from date of refusal , order or decision, a written appeal, signed by the owner of property involved with the Zoning Board of Adjustment.

**2.7 - Saving Clause** - Nothing in the Ordinance as adopted shall be construed to affect any suit or proceeding now in progress or any rights acquired or liability incurred or any cause or causes of actions accrued or existing under any Town Ordinance.

**2.8 - Validity** - The invalidity of any section or provision of this Ordinance, hereby adopted, shall not invalidate other sections or provisions thereof.

**2.9 - Fees for Permits** - A fee shall be charged for all permits issued under the terms of this Ordinance as determined by the Town of Chester Board of Selectmen. (7/21/2016)

**2.10 - Enforcement** - Upon any well-founded information that this Ordinance is being violated, the Board of Selectmen shall, on their own initiative, take steps to enforce the provisions of this Ordinance by seeking an injunction in the Superior Court or by any other appropriate legal action. Whoever violates any of the provisions of this Ordinance shall be punished on conviction by a fine in accordance with N.H. RSA 155-A:8 and RSA 676:17, which is currently \$275.00 per day of violation for a first offense and \$550.00 per day of violation for a subsequent offense. The fines may be assessed beginning upon the day after the conviction date or upon the day after the date on which the violator receives written notice from the Town that the violator is in violation, whichever is earlier. (5/10/2011)

## **Article 3 – Building Code**

### **Building Code**

**3.1 - Building Code** - All dwellings and structures shall comply with the requirements in the New Hampshire State Building Code, as established by NH RSA 155-A, and as may be amended from time to time. (5/10/11)

#### **3.1.1 - Special Provisions**

3.1.1.1 - Sprinkler Systems (as previously adopted and amended 1987 and 2003).

Sprinkler systems shall be installed in all conversions and new construction of all multi-family dwellings, all duplexes, all manufactured housing, all clustered dwellings of any type per NFPA 13D Standard for the Installation of Sprinkler Systems in One and Two-Family Dwellings and mobile homes.

3.1.1.2 - Nothing herein shall prohibit the use of native lumber in such equivalent grade and sized as may be approved by the Code Official.

3.1.1.3 – Water Well Quality Testing - (8/28/2019) - Prior to the issuance of a Certificate of Occupancy for any dwelling supplied by a newly drilled private well system, the builder or property owner shall submit to the Building Inspector the water quality test results, from a NH Certified Well Testing Lab, for the NHDES recommended Standard Analysis as stated in Environmental Fact Sheet<sup>1,2</sup> WD-DWGB-2-1 dated 2011, as may be amended. All of the bureau's fact sheets are on-line at:

<http://des.nh.gov/organization/commissioner/pip/factsheets/dwqb/index.htm>

The test results shall show a comparison to the appropriate State or Federal Health Advisory standards, such as, the EPA maximum contaminate level standards. All tested parameters' results shall be disclosed to the purchaser of a property prior to closing. Such evidence of disclosure may be requested by the Building Inspector.

This requirement cannot be construed as a guarantee by the Town of Chester or its agents that the water system will function satisfactorily or that the system will remain at the tested levels.

<sup>1</sup> The NH DES fact sheet, "Suggested Water Quality Testing for Private Wells", further recommends that this analysis be completed every 3-5 years (except for bacteria and nitrate which are recommended yearly).

<sup>2</sup> Arsenic testing is included in the recommended standard analysis, WD-DWGB-2-1.

Additional Information & Recommendations - When taking any sample, DES recommends that it be taken after a heavy rainstorm. These events tend to highlight conditions of improper well construction or poor soil filtration.

## **Article 4 – Building Code**

### **Permit Fee Schedule**

*(Revision as presented and approved on July 11, 2019 at the Public Hearing held by the Board of Selectmen for that purpose)*

*Effective July 11, 2019*

Permit fees are calculated as the estimated construction cost<sup>1</sup> multiplied by \$7.00 per \$1,000 of construction cost. In all cases the square footage is as calculated by the Building Official from plans as submitted by the applicant. (Please see the example worksheet at the end of the Building Code.) Construction costs are calculated as:

## Residential

**Application Fee:** \$25 to be collected at time of application; non-refundable. To be deducted from cost of permit when issued.

**Living Space** – \$120.00 per square foot of living space. Calculated by the square footage of the outside perimeter times the number of stories – includes all living space accessible by stairways. Adjustments are made for inaccessible areas as needed. Finished basements are calculated as square footage of living space. Walk up attics are calculated as living space.

**Outbuildings** (Garages / carports / barns / storage buildings/ sheds / farm stands and other structures for agritourism) - 51.00 per square foot of area. Calculated by the square footage of the outside perimeter of the area. Second story areas are calculated by use – either same rate, or adjusted for storage or living space.

**Storage areas identified within residential structures** - \$22.00 per square foot of storage area –may include basement areas, accessible attic storage and garage / barn loft areas.

**Decks / Porches** - \$48.00 per square foot of area – calculated by the square footage of the outside perimeter of the area. Farmers porches and covered decks are treated the same. Three-season rooms are considered living space.

**Change of use or conversion of space** - \$150 minimum plus \$0.15 per square foot of effected area of new living space. Applies to conversions of basement, storage, attic, and any other areas as converted to habitable space.

**Renovations** – without adding additional footprint or stories - \$56.00 per square foot of area. Does not include change of use or increase in living space – existing space renovation only.

**Residential Swimming Pools** –In-ground \$0.56 per square foot: Above-ground- \$80.00. Additional trade fees may apply, such as mechanical and / or electrical as required.

## Commercial

Permit fees are calculated as the estimated construction cost <sup>1</sup> multiplied by \$7.00 per \$1000 of construction cost. In all cases the square footage is as calculated by the Building Official from plans as submitted by the applicant. Construction costs are calculated as:

**Application Fee:** \$100 to be collected at time of application; non-refundable. To be deducted from cost of permit when issued.

**Commercial Occupancy – New Construction** - \$124.00 per square foot – calculated by the square footage of the outside perimeter times the number of stories. Includes any residential occupancy other than R-3 (one-two family and town houses).

**Commercial Renovations-** without additional footprint or stories: \$200 for first 1000 square feet; \$12 per 100 square foot after, rounded to nearest 100 feet.

**Outbuildings** (Garages / carports / barns / storage buildings / sheds / farm stands and other structures for agritourism) - \$51.00 per square foot of area. Calculated by the square footage of

the outside perimeter of the area. Second story areas are calculated by use – either same rate, or adjusted for storage or living space.

**Commercial Swimming Pools** – In-ground \$0.50 per square foot; Above-ground- \$80.00. Additional trade fees may apply, such as mechanical and/or electrical as required.

### Other Fees

**Building Permit Fee Transfer or Renewal** – 50% of original permit fee. Only a single renewal allowed, after that the project must be re-permitted from the beginning.

Permits become invalid unless work is commenced within 180 days of permitting. Permits expire 12 months from issue date and must be renewed to remain valid. Trade permits cannot be transferred.

**Demolition Permit:**

Residential: \$0.30 per square foot of demolition.

Commercial: \$0.60 per square foot of demolition.

**Re-Inspection Fee** - \$50.00

The Building Official upon inspection, which warrants repeat inspections and/or returns to the same site for the same inspection, may assess this fee.

**Septic System Permit:**

\$75.00 per Septic Design Plan Review

\$50.00 - Re-review of an amended or altered plan

\$50.00 – first test pit

\$35.00 – each additional test pit on same lot

**Driveway Permit:**

New – residential/per driveway: \$100.00

Improvement – residential/per driveway: \$50.00

New – commercial/multi-family: \$200.00

Improvement – commercial/multi-family: \$150.00

\$50.00 – septic system install (includes replacements)

**Electrical Permit:**

Residential \$80.00

Commercial \$125.00

**Plumbing Permit:**

Residential \$80.00

Commercial \$125.00

**Mechanical Permit:**

Residential \$80.00

Commercial \$125.00

**Masonry Permit:**

Residential \$80.00

Commercial \$125.00 per flue



**Generator Permit\***

Residential \$80.00

Commercial \$100.00 per 20kw or portion thereof

\*Propane generators require gas permitting from the Chester Fire Department.

**After the Fact Permit Fee** – Minimum fee imposed is \$100.00 and/or a fine of up to \$50.00 per day (whichever is greater) may be charged for all work started without a permit. The fine period starts when the work is started and runs until a permit is issued. Fines must be paid before the permit can be issued. This applies to all permitting.

**<sup>1</sup> Construction Cost Estimates**

- Residential living space is the average of construction cost of multi-family, one- and two-family as provided by International Code Council (ICC) Building Valuation Data – August 2018
- Commercial is the average of construction cost of mercantile, business, and assembly (A-2) as provided by International Code Council (ICC) Building Valuation Data – August 2018
- Storage cost is as set for basements as provided by International Code Council (ICC) Building Valuation Data – August 2018

**The Chester Fire Department issues the following permits:**

**Gas Appliance (such as furnace, fireplace, kitchen stove, heater, etc.)**

Residential \$65.00 per unit

Commercial \$65.00 per 2000 square feet or portion thereof or \$65.00 per unit whichever is greater

**Chimney – excludes brick fireplace**

Residential \$65.00

Commercial \$65.00 per flue

**Gas Piping & Tanks/Cylinders**

Residential \$65.00

Commercial \$65.00 per 2000 square feet or portion thereof.

**Wood Stove/Pellet Stove** \$50.00 per unit

**Oil Burner**

Residential \$65.00 per unit

Commercial \$65.00 per 2000 square feet or portion thereof or \$65.00 per unit whichever is greater

**Sprinkler Systems**

Residential – single family \$75 per dwelling unit

Commercial \$75.00 per 2000 square feet or portion thereof or \$75.00 per unit whichever is greater

Plan amendments/revisions \$75.00

Re-inspection \$50.00

**Place of Assembly Operational/Occupancy** \$65.00

Required for all areas determined to be “place of assembly”. This fee is in addition to all other permitting.

<b>Blasting/Explosive</b>	\$65.00 up to 7 days
See Chester Fire Chief for scheduling	\$80.00 up to 60 days

**Fireworks Display** (Consult Chester Fire Chief)

All fireworks displays require a Fire Department detail to be present. The minimum fee for such detail is \$400.00 and covers up to the first four (4) hours of detail. Time beyond four (4) hours is billed at the standard Chester Fire Department detail rate per firefighter.

**Re-Inspection Fee** \$100.00

The Fire Department Official upon inspection, which warrants repeat inspections and/or returns to the same site for the same inspection, may assess this fee.

<b>Incident Reports</b>	Fire / EMS – Less than one year	\$20.00
	Fire / EMS – More than one year	\$30.00

<b>Detail Fees</b>	Fire / EMT	\$45.00 / hour / person
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**\*Example Building Permit Calculation:** An example is shown for a 24' X 40' residential one-story building with a full, unfinished basement, 6' x 8' front porch, 12' X 12' deck and 24' x 28' car garage.

Fees consistent with posted fee schedule as dated 8/1/19									
Use Group	R-3			Construction Type			VB		
	Length		Width	Total Sq Ft		Sq Ft Cost	=	Cost of Construction	
First Floor	24	x	40	960	x	\$120.00	=	\$115,200.00	
		x		0	x	\$120.00	=	\$0.00	
		x		0	x	\$120.00	=	\$0.00	
		x		0	x	\$120.00	=	\$0.00	
		x		0	x	\$120.00	=	\$0.00	
Second Floor	24	x	40	960	x	\$120.00	=	\$115,200.00	
		x		0	x	\$120.00	=	\$0.00	
		x		0	x	\$120.00	=	\$0.00	
		x		0	x	\$120.00	=	\$0.00	
Attic		x		0	x	\$22.00	=	\$0.00	
		x		0	x	\$22.00	=	\$0.00	
		x		0	x	\$22.00	=	\$0.00	
		x		0	x	\$22.00	=	\$0.00	
Basement	24	x	40	960	x	\$22.00	=	\$21,120.00	
		x		0	x	\$22.00	=	\$0.00	
		x		0	x	\$22.00	=	\$0.00	
		x		0	x	\$22.00	=	\$0.00	
		x		0	x	\$22.00	=	\$0.00	
Garage	24	x	28	672	x	\$51.00	=	\$34,272.00	
		x		0	x	\$51.00	=	\$0.00	
Porch/Deck - Rear	12	x	12	144	x	\$48.00	=	\$6,912.00	
		x		0	x	\$48.00	=	\$0.00	
Porch/Deck - Front	6	x	8	48	x	\$48.00	=	\$2,304.00	
<b>Calculated Total Cost of Construction</b>			\$295,008.00						
<b>Cost per \$1000</b>	<b>\$7.00</b>		\$0.007						
<b>Building PERMIT FEE</b>			<b>\$2,165.06</b>						
<b>Driveway Permit - New</b>	\$ 100.00	1	\$ 100.00						

*Sample Only.* Additional permits and costs may apply.

**ORDINANCE #**  
**Town of Goffstown**  
**ORDINANCE OF THE Board of Selectmen**  
The Board of Selectmen of the Town of Goffstown ordain as follows:

I. **TITLE:** This ordinance shall be known as the “Certificate of Occupancy Requirements-Water Quality” ordinance of the Town of Goffstown.

II. **AUTHORITY:** RSA 147:1, RSA 41:14-b

III. **DECLARATION OF PURPOSE:** The Town of Goffstown is supportive of development and expanded access to quality housing, but the town has a legitimate interest in protecting the public’s health, safety and welfare. As such the purpose of this ordinance is to meet those goals by including basic water quality standards in the certificate of occupancy permit process for new development when serviced by private wells.

It is with the above purpose in mind that the Board of Selectmen hereby ordain that any person or company seeking a certificate of occupancy, must first obtain evidence that the associated private well meets minimum water quality standards.

IV. **REQUIREMENTS:**

A. A permit must be obtained before any drinking well is installed, and must be accompanied by a scaled diagram of the location. Diagram must show existing or proposed subsurface disposal system on that and adjacent lots. The applicable fee as established by the Board of Selectmen shall accompany the application. The plan shall be submitted with the site address, map and lot number.

B. In all new construction, prior to issuance of a Certificate of Occupancy, and in all well replacements, the applicant shall submit and/or provide a current water quality report from a laboratory accredited under the N.H. Environmental Laboratory Accreditation Program which shows the associated private well meets minimum Department of Environmental Services drinking water quality standards for the following contaminants: Bacteria, Chloride, Sodium, Iron, Manganese, pH, Hardness, Fluoride, Nitrate/Nitrite, Lead, Arsenic, Volatile Organic Compounds (VOC), and Radon.

C. All test results shall be submitted to the Building Official, and meet minimum water quality standards prior to the issuance of a Certificate of Occupancy.

V. **ENFORCING AUTHORITY:** The Goffstown Building Official shall enforce the provisions of this ordinance.

VI. **WAIVERS:** The Board of Selectmen retains the authority to waive any provisions of this ordinance after due deliberation at a duly noticed meeting.

VII. **EXCLUSIONS:** The provisions of this ordinance shall not apply to the Town, its School District or other Town departments acting in their governmental capacity.

**VIII. PENALTIES:** Any person found to be in violation of this ordinance shall be guilty of a violation. Pursuant to RSA 502 A:11-a, the Circuit Court shall have jurisdiction over prosecution of said violation.

- A. Fines may be up to the maximum allowed by law (\$1200.00)
- B. All fines collected shall enure to The Town of Goffstown.

**IX. SEVERABILITY:** Should any provisions of this ordinance be declared invalid or unconstitutional by a court, such declaration shall not be deemed to affect any other section of this ordinance.

**X. PROCEDURE:** This ordinance shall take effect upon passage.

Public Hearing Dates: 7:00 pm on 2/12/18 and 2/26/18  
 Public Hearing Notices: Published in the Union Leader on 1/30/18;  
 Posted at: Town Hall, Library, and town website on 1/30/18  
 Adoption Date: 3/12/18  
 Effective Date: 3/12/18

**XI. SIGNATURES:**

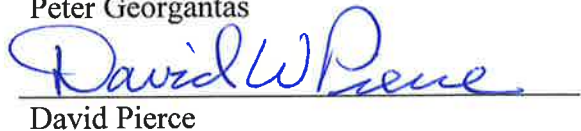
BOARD OF SELECTMEN

  
 Mark T. Lemay, Chairman

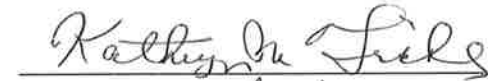
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 Collis Adams, Vice Chairman

\_\_\_\_\_  
 John Allen Brown

  
 Peter Georgantas

  
 David Pierce

TOWN CLERK/NOTARY PUBLIC:

  
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Date: 3/12/18

**KATHRYN M. FISHER, Notary Public**  
 State of New Hampshire  
 My Commission Expires September 21, 2021

**BOARD OF HEALTH  
RESIDENTIAL/COMMERCIAL WATER SUPPLY REGULATIONS – WELL  
ORDINANCE FOR NEW CONSTRUCTION**

**Adopted May 16, 2000  
Amended February 20, 2001  
Amended June 5, 2001  
Amended August 6, 2013**

The Board of Health of the Town of Pelham, N.H., acting under RSA 147, has, in the interest of and for the preservation of the public health, and to provide for adequate and safe wells, duly made and adopted, on May 16, 2000 and revised August 6, 2013 the following regulations:

**SECTION 1: Definitions**

1. **WELL:** Includes any pit, pipe, excavation, casing, drill hole or other source of water to be used for any purpose of supplying potable water within the Town of Pelham, NH.
2. **WATER SYSTEM:** Includes pipes, valves, fittings, tanks, pumps, motors, switches, controls and appurtenances installed or used for the purpose of storage, distribution, filtration, treatment or purification of water for any use whether or not inside a building.
3. **DWELLING UNIT:** One (1) or more rooms arranged for living and sleeping purposes with cooking and sanitary facilities for the use of one (1) or more individuals living as a single housekeeping unit.
4. **NEW CONSTRUCTION:** A new residential dwelling or commercial structure which has not been granted a Certificate of Occupancy. This excludes the expansion or replacement of existing residential or commercial structures erected prior to August 6, 2013.

**SECTION 2: Wells**

1. No well shall be installed for new construction until a building permit has been issued by the Health Officer or Deputy Health Officer. The fee for this permit shall be \$25.00.
2. The well contractor licensed under RSA 482-B shall observe reasonable sanitary measures and precautions in the performance of his/her work in order to prevent pollution or contamination of the well.

3. For new construction, there shall be a separate well for each individual parcel except in the case of water systems operating under a New Hampshire State Public Utilities Commission franchise, private water systems owned by a homeowner's association or wells serving commercial structures.

4. All wells for new construction shall be set back a minimum of seventy-five (75) feet from all septic tanks and leaching fields. Additionally, all wells for new construction shall be set back fifty (50) feet from the nearest edge of all existing traveled ways or rights-of-way and a minimum of seventy-five (75) feet from all lot lines (to avoid property encroachment) unless a Standard Release Form for Protective Well Radii has been executed and recorded by the owner of the well. The distance from a well to a septic tank may be reduced to fifty (50) feet if the sewer line meets a SDR rating of 26 or better, and the septic tank is sealed and grouted to prevent infiltration and exfiltration.

5. Burial of tree stumps, brush, and or construction materials shall not be located within the protective well radius.

#### SECTION 3: Capacities

1. Every well must supply adequate water for the purpose for which it is intended.

2. All wells shall be pump tested regardless of depth to determine sustained yield. The sustained yield shall be not less than four (4) gallons per minute over a four (4) hour period. In all cases the pump test shall be completed using a submersible pump. Groundwater level measurements shall be recorded immediately before the start of the pump test for static groundwater level, and at least once every thirty (30) minutes during the pump test. In addition, the static groundwater level shall be measured within twenty-four (24) hours after the pump test and shall demonstrate water level recovery after the pump test to at least ninety percent (90%) of the pretest level. All results from pump testing must be certified by the tester and so evidenced on the well data sheet provided to the building department.

3. Every well that has been deepened or hydro-fractured to increase its sustained yield after being drilled and / or initially tested shall be pump tested in accordance with section 2 above after the deepening or hydro-fracture effort to meet pump test requirements of this section.

#### SECTION 4: Water system

All wells to be used as a water source shall be designed, constructed, and satisfy all requirements set forth in pertinent State of New Hampshire, Department of Environmental Services Drinking Water and Groundwater Bureau and the New Hampshire Water Well Board, regulations as they exist, may be established, or may be amended in the future.

#### SECTION 5: Certificate of Occupancy

1. No Certificate of Occupancy will be issued until all the provisions of these regulations have been met or duly waived by the Board of Health in accordance with Section 6 of this ordinance.
2. A completed well data report including drilling logs must be submitted by the well driller or his agent not later than the time of requesting a Certificate of Occupancy.
3. Collection and analysis of a water sample shall be conducted by a NH Certified Well Testing Lab. No Certificate of Occupancy will be issued until a water test has been received by the Planning Department. This test shall include, but not be limited to, the following:

Test

**Primary Testing (Health)**

Bacteria  
Nitrate & Nitrite  
Arsenic  
Gross Alpha  
Uranium  
Radon\*  
VOC Screen (Volatile Organic Compounds)\*\*

**Secondary Testing (Aesthetic and Other)**

Iron  
Fluoride  
Copper  
Manganese  
Chlorides  
Turbidity  
Sodium  
PH  
Lead  
Hardness

\* Radon shall meet the NH DES recommended level of 2000 picoliters / liter.

\*\* Please note that it takes approximately two weeks to get test results so plan accordingly. If the VOC Screen is positive, further testing shall be done to determine the type of contaminant and concentration.

4. All contaminates identified under Primary Testing in Section 3, shall be mitigated to the prevailing NH DES Maximum Contaminant Level (MCL), or with respect to Radon, NH DES' recommended level by the installation of a point of entry water treatment system prior to the issuance of a Certificate of Occupancy. A water quality test demonstrating effective mitigation to the above referenced standard shall be provided to the Planning Department prior to Issuance of a Certificate of Occupancy. Backwash from water treatment systems shall not be discharged into the dwelling's sewage disposal system unless the design is sized to accommodate the additional flow.



5. The required testing and these regulations cannot be construed as a guarantee by the Town of Pelham or its agents that the water system will function satisfactorily or that all possible water quality problems have been identified and mitigated.

#### SECTION 6: Waivers by the Pelham Board of Health

1. The Board of Health, on the advice of the Health Officer or duly appointed Deputy and in the event of hardship, may waive any requirement of this ordinance except: Section 2, paragraph 1 (permit fee), paragraph 2 (contractor taking reasonable precautions), and Section 5 (certificate of occupancy).

2. In considering waivers the Board of Health shall consider, as a minimum:

- A. Whether the waiver adequately protects public health
- B. Whether the waiver adequately protects consumer safety
- C. Other extenuating circumstances

3. The Board of Health can impose conditions upon waivers, including but not limited to:

- A. Alternate means of mitigation, such as point-of-use devices in instances where point-of-entry treatment would be unreasonably expensive to install or maintain;
- B. Consumer notices
- C. Conditions to be recorded in a deed and noted on the permit.

#### SECTION 7: Enforcement

Any person violating the provisions of this regulation shall be guilty of a violation.

#### SECTION 8: Conflict with Other Ordinances

Where the requirements of State and Local Regulations differ, the more stringent shall apply.

#### SECTION 9: Severability

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

## WATER SUPPLY REGULATIONS:

### Section 1: Authority and Purpose

- 1.1 The Board of Selectmen of the Town of Windham, N. H. acting under R.S.A Chapter 147:1, and by any other power thereto enabling and acting hereunder and in accordance therewith, has, in the interest of protecting public health and ensuring appropriate development, duly made and adopted the following regulations.
- 1.2 The word "well" as used in these regulations, shall include any pit, pipe, excavation, casing, drill hole or other source of water to be used for any purpose of supplying water in Windham, N.H.
- 1.3 The words "water system" as used in this regulation, shall include pipes, valves, fittings, tanks, pumps, motors, switches, controls and appurtenances installed or used for the purpose of storage, distribution, filtration, treatment or purification of potable water for any use whether or not inside a building.
- 1.4 The words "Potable Water" as used in this regulation shall mean: Water that is safe and fit for human consumption as defined by the International Plumbing Code subject to testing, per the parameters listed in New Hampshire Department of Environmental Services Standard Analysis.

### Section 2: Wells Approval Process

- 2.1 No well shall be constructed until the Town of Windham Building Inspector has issued a permit. For each well constructed after the effective date of these regulations there shall be:
  - a) A well construction permit application;
  - b) A well construction permit;
  - c) A well certificate of completion report;
  - d) A well driller's log report.
  - e) Water Analysis
- 2.2 No permit shall be issued except to persons licensed under RSA 482-B unless a statutory exemption is applicable.
- 2.3 The well contractor shall observe reasonable sanitary measures and precautions in the performance of his/her work in order to prevent contamination of the well. Disinfection procedures should be followed as outlined in the NH DES Environmental Fact Sheet WD-WSEB-1-2, as may be amended.
- 2.4 There shall be a separate well for each dwelling or a connection to an approved well system. The Town of Windham Building Inspector Health Officer may allow more than one dwelling to be served by a single well if said well complies with the well yield requirements State of New Hampshire well requirements and an easement has been granted, which has been recorded at the Registry of Deeds and a copy of the recorded document is on file with the Community Development Department.

- 2.5 All wells shall be situated a minimum of 75 feet from any septic system leach field.
  - 2.5.1 If placement of a well is necessary within 74-50 feet of the owners septic system leach field, a waiver from NH DES must be granted and provided to the Community Development Department as part of the application.
  - 2.5.2 If placement of a well is necessary within 74-50 feet of any abutting properties septic system leach field, a "standard release form" is required to be approved by NH DES, recorded with the registry of deeds (see RSA 485-A:30-b), and provided to the Community Development as part of the application.
  - 2.5.3 If placement of a well is necessary within 74-50 feet of any abutting properties septic system leach field and there is an existing NH DES waiver to the abutter's well, this must be provided to the Community Development Department as part of the application.
  - 2.5.4 Well easement on adjacent land or dedicated open space can be substituted for a well release. The easement must be recorded at the Registry of Deeds and a recorded copy provided to the Community Development Department as part of the application.
- 2.6 The well location shall be shown on a sketch plan, which shall show the distance from at least two permanent landmark and 50' from the edge of pavement from any State or Town Road.
- 2.7 Drilled Wells:
  - 2.7.1 A six-inch (6") casing of seventeen pound per foot pipe shall be required.
  - 2.7.2 This casing shall be set sufficiently into solid bedrock to act as a seal to keep out surface water; a minimum of ten feet (10') shall be considered sufficient.
- 2.8 Point wells and dug wells:
  - 2.8.1 Point wells shall follow the well design guidelines outlined in the NH Environmental Services Fact Sheet WD-DWGB-1-6 as amended.
  - 2.8.2 Dug Wells shall follow the well design guidelines outlined in the NH Environmental Services Fact Sheet WD-DWGB-1-4 as amended.
- 2.9 Every well must supply adequate potable water for the purpose for which it is intended and shall provide satisfactory evidence of continuing capability to do so. The following are guidelines for what will be considered satisfactory and may be varied by the Town of Windham Building Inspector in cases where there is otherwise demonstrated an adequate supply of water for the purpose for which the well is intended.
  - 2.9.1 The well construction details and pump test results must be documented and provided to the Town on a form available from the Community Development Department.

2.9.2 The pump test must be overseen and documented by a licensed water well contractor or licensed pump installer, or a licensed geologist or professional engineer with appropriate qualifications. If a well fails to meet the required pumping rate and performance standards, the Town of Windham Building Inspector may allow the additional water volume needed to be met by adding a water storage tank to the domestic water system.

2.10 The Town requires that all drinking water wells are tested for the contaminants listed within the NHDES "Standard Analysis" as published by NHDES within its Water Testing Guide. The results must demonstrate that contaminant levels in raw water are below state and federal Maximum Contaminant Levels (MCLs) or are removed to below MCLs through the use of a water treatment system.

Each well shall be tested at the wellhead prior to allowing the building framing to begin. The well is required to be tested again prior to the issuance of a certificate of occupancy at the kitchen faucet for any parameters that failed to meet the recommended levels.

Lead and Copper should be tested from home's internal plumbing. Bacteria should be tested at wellhead and from internal plumbing.

2.11 Required, additional Test Parameters;

VOCs (solvents and hydrocarbons) (special bottle required)

Radon (special bottle required)

Analytical Gross alpha (AGA),

### Section 3: Well Yield Requirement

3.1 WELL YIELD TEST REQUIREMENT - The supply well must be able to provide 960 gallons over a four-hour period. This volume can be met by a combination of the aquifer yield to the well and water storage within the well borehole. Considering the available well storage volume, the minimum well recovery rate (aquifer yield) must be calculated using the following equation:

3.2 Minimum Required GPM =  $\frac{960 \text{ gallons} - \text{Available Storage Volume}}{240 \text{ minute}}$

3.3 Available Storage Volume = [(Pump Depth -- 20 feet) – DEPTH TO STATIC Water LEVEL Depth] X 1.5 gallons/foot:

3.4 This equation assumes a well diameter of 6-inches. If the well is another diameter, use one of the following values in the Available Storage Volume equation:

3-inch = 0.4 gallons/foot

4-inch = 0.7 gallons/foot

5-inch = 1.0 gallons/foot

7-inch = 2.0 gallons/foot

8-inch = 2.6 gallons/foot

- 3.5 Upon completion of the drilling and development of the well, the well must be pumped with a submersible pump located at the likely depth the permanent well pump would be set and at least 25 feet above the bottom of the well.
- 3.6 The determination of the usable well yield must be performed by completing a pump test up to four hours in duration.
- 3.7 The pumping level must always be at least 20 feet above the pump intake during the pump test.
- 3.8 The pump test can be terminated in less than four hours if the water level draw down rate is measured as less than 1 -inch per MINUTE FOR at least a 30-minute period and the pumping rate being maintained is no less than four gallons per minute.
- 3.9 Upon completion of the pump test, the water level must fully recover within 24 hours of cessation of pumping to the static water level measured prior to commencement of the pump test. The pumping Test Log shall be signed and submitted to the Town of Windham Building Inspector for review and approval.
- 3.10 The Well must have a minimum aquifer Yield of no less than 2 gallon per minute.
- 3.11 Some common statistics for sample a six-inch diameter well:

$$\frac{\text{GPM Required Storage}}{\div 1.5} = \text{Well Depth} + \text{safety factor} = \text{Required Well Depth}$$

2	480	320	365 + depth to swl
2.5	360	240	285 + depth to swl
3	240	160	205 + depth to swl

Where swl = static water Level

Section 4: Water Systems Installation

- 4.1. There shall be a separate water system for each dwelling, and it shall not be constructed or materially altered hereafter until the Town of Windham Building Inspector has given a permit. The Town of Windham Building Inspector will require a description of the installation with each application for such permit. Emergency work for repairs or service of existing equipment not amounting to substantial renovation or overhaul may be done without a permit.
- 4.2. The electric supply lines from the house to the well pit or pitless adapter shall be enclosed in a 160 lb. pressure pipe, said pipe to be of the same size as the water supply pipe.
- 4.3. All pumps, motors and tanks shall be placed on a suitable foundation and all equipment and parts of the system that may require adjustment-or service shall be made readily accessible.
- 4.4. Pump house, pump or pipe pits and wells shall be designed and constructed so as to prevent flooding and otherwise to prevent the entrance of pollution or contamination.

- 4.5. The Town of Windham Building Inspector shall require the installation of all necessary switches, controls and devices and the satisfactory performance pressure and operating test of the system before final approval and the test must demonstrate that the system will deliver adequate pressure and volume consistent with the well and the well requirements. The Town of Windham Building Inspector must be given at least 24 hours notice of when the installation is ready for inspection.

Section 5: Certificate of Occupancy

- 5.1 No certificate of occupancy can be issued until all the provisions of these regulations have been met. The required inspections and these regulations cannot be construed as a guarantee by the Town of Windham or its agents that the water system will function satisfactorily or have continuous water quality or quantity.

Section 6: Waivers

- 6.1 The Building Inspector may grant exceptions to any part of these regulations, except for Section 2.5 and 2.6 which can only be granted by the Board of Health, with respect to any particular case when, in its opinion the enforcement thereof would do manifest injustice, and the applicant has proven that the same degree of public health and environmental protection required under these regulations can be achieved without strict application of a particular provision(s).

If an applicant or aggrieved party wishes to appeal a decision granted under this Section, that appeal must be made to the Board of Health within 10 business days of the decision being made.

Section 7: Unconstitutionality Clause

- 7.1 Each section of these regulations shall be construed as separate to the end that if any section, item, sentence, clause or phrase shall be held invalid for any reason, the remainder of these rules and regulations shall continue in full force and effect.

Section 8: Effective Date

- 8.1 These regulations shall take effect upon approval by the Board of Selectmen, publication and being recorded by the Town Clerk, Town of Windham, N.H.

Approved: April 21, 2014

\_\_\_\_\_/Ross McLeod  
 \_\_\_\_\_/Al Letizio  
 \_\_\_\_\_/Roger Hohenberger  
 \_\_\_\_\_/Bruce Breton  
 \_\_\_\_\_/Joel Desilets  
 Board of Selectmen

# Town of Alton



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Building Department, PO Box 659, 1 Monument Square, Alton NH 03809  
Phone 603-875-2164 Fax 603-651-0732

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## WELL/SEPTIC SYSTEM INSTALLATION/REPAIR PERMIT

**Well Installation:** \_\_\_\_\_ **Septic System Installation/Repair:** \_\_\_\_\_

Permit #: \_\_\_\_\_

Fee: \$25.00

Tax Map: \_\_\_\_\_

CK: \_\_\_\_\_/Cash

Lot #: \_\_\_\_\_

Rcvd by: \_\_\_\_\_

Property owner: \_\_\_\_\_

Property location: \_\_\_\_\_

Work being done: \_\_\_\_\_

Work to be done by: \_\_\_\_\_

Contractor Phone: \_\_\_\_\_

---

1. Well Radius Release required? \_\_\_\_\_

- Copy of the recorded well radius release is to be provided to the Building Department.
- A "Standard Analysis" Water Quality test (as defined by NH Department of Health and Human Services) is required for each new well. Test results shall be submitted to the Alton Building Department.

2. NHDES Septic Construction Approval Number: \_\_\_\_\_

Applicant/Agent: \_\_\_\_\_ Date \_\_\_\_\_

Building Official: \_\_\_\_\_ Date \_\_\_\_\_

# Atkinson, New Hampshire

## ZONING ORDINANCE

## PLANNING AND LAND USE REGULATIONS

Date of Printing: July 2021



**ZONING ORDINANCE  
PLANNING AND  
LAND USE REGULATIONS**

Date of Printing:

July 2021

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**ARTICLE I: PREAMBLE**

**SECTION 100 PREAMBLE**

**100:1** In pursuance of authority conferred by Chapter 674, Section 16 as amended, New Hampshire Revised Statutes Annotated, 1984, and for the purpose of promoting the health, safety, morals, prosperity, convenience or general welfare, as well as efficiency and economy in the process of development of the incorporated Town of Atkinson, New Hampshire, by securing safety from fire, panic and other dangers, providing adequate areas between buildings and various rights of way, by preserving the rural charm now attached to our town, the promotion of good civic design and arrangements, wise and efficient expenditures of public requirements, and by other means, now therefore the following ordinance is hereby enacted by the voters of the Town of Atkinson, New Hampshire, in official meeting convened.

## **ARTICLE II: ZONING MAP AND INTERPRETATION**

### **SECTION 200 ZONING MAP**

**200:1** For the purpose of this Ordinance, the Town of Atkinson is divided into districts as shown on the Zoning Map filed with the Town Clerk and dated March, 1990, and includes the following: (RR-3) Rural Residential 3 acres; (RR-2) Rural Residential-2 acres; (TR-2) Town Residential; (C) Commercial; (C-I) Commercial-Industrial; (C-P) Commercial-Professional; and (TC) Town Center.

### **SECTION 210 DESIGNATION**

**210:1** The location and boundaries of zoning districts are established as shown on the attached Zoning Map. The Zoning Map is hereby made part of these regulations and incorporated herein.

### **SECTION 220 COPIES OF ZONING MAP**

**220:1** Regardless of the existence of other printed copies of the Zoning Map, the Official Zoning Map, which shall be located in the Office of Town Clerk, shall be the final authority as to the current zoning status of the land and water areas, buildings, and other structures in the town.

### **SECTION 230 INTERPRETATION OF ZONING DISTRICT BOUNDARIES**

**230:1** Where uncertainty exists in respect to the boundary of any zoning districts on the Zoning Map, the Board of Adjustment shall determine the location of such boundary.

### **SECTION 240 LOTS IN TWO ZONING DISTRICTS**

**240:1** Where a District boundary line divides a lot of record at the time such zone-boundary line is adopted, the regulation for the less restricted part for such lot shall extend not more than 30 feet into the more restricted part provided the more restricted lot has frontage on a street in the less restricted district; otherwise no encroachment on a more restricted lot shall be permitted.

Where a district boundary line divides a lot of record at the time such zone boundary line is adopted, the more restricted zone may be extended throughout the lot of record (into the less restricted zone). (1990)

### **SECTION 250 APPLICATION OF REGULATIONS**

**250:1** Except as hereinafter provided, no building or structures shall be erected, moved, altered, or expanded and no land, building or structure shall be occupied for use unless in conformity with these regulations herein specified for the district in which it is located or proposed to be located. Any use not specifically permitted by these regulations shall be deemed prohibited. (1982)



## ARTICLE III: DEFINITIONS

### SECTION 300 DEFINITIONS

**300:1** *For the purpose of this ordinance, certain terms are defined as provided in this section (and appear in alphabetical order).*

**100-YEAR FLOOD** – see “base flood”. (2008)

**A1** **ABUTTER** *means any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration by the local land use board. For purposes of receiving testimony only, and not for purposes of notification, the term "abutter" shall include any person who is able to demonstrate that his/her land will be directly affected by a proposal under consideration. (1984)*

**A2** **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. (1959)*

**A3** **AGRICULTURAL AND FOREST USES** *shall be such uses generally associated with agriculture and forestry endeavors, specifically excluding the establishment of permanent sawmill operations, but including the keeping of livestock. (1982)*

**A4** **AGRICULTURAL USE** *Land containing at least (5) acres which is used for raising livestock or agricultural or forest products; including farm structures and the storage agricultural equipment; riding and boarding stables; and, as an accessory use, sale of agricultural products. Agricultural use shall not include permanent sawmill operations and non-residential uses shall meet the non-residential requirements of this ordinance. (1990)*

**A5** **ALTERNATIVE FACILITIES and TECHNOLOGIES** *Innovative siting techniques for use with WCF, such as clock towers, bell towers, steeples, light poles and similar alternative design mounting structures which conceal the presence of antennas; also utility pole and cable based technologies. (2000)*

**A5** **AREA OF SPECIAL FLOOD HAZARD** *Is the land in the floodplain within the Town of Atkinson subject to a one-percent or greater possibility of flooding in any given year. The area is designated on the FIRM as Zones A and AE. (2008)*

**B1** **BASE FLOOD** *means the flood having a one-percent possibility of being equaled or exceeded in any given year. (2008)*

**B2** **BASEMENT** *means any area of a building having its floor sub grade on all sides. (2008)*

**B3** **BEDROOM** *A room in a dwelling unit that can accommodate individuals for sleeping. With the exception of single-family detached residences, any living space 80 square feet or larger in size which is not designed to be constructed as a living room, dining area, kitchen, bathroom, combination utility room/laundry, or storage room shall be considered a potential bedroom in calculating the number of bedrooms present in a proposed residential building plan.*

**B4** **BUILDING** – See structure. (2008)

- B5 BUILDING PERMIT** A document issued by the Building Inspector signifying that all approvals and prerequisite permits have been obtained. A building permit allows specified construction activity to commence. (1992)
- C1 CARRIER** A company that provides personal wireless services, also referred to as a provider. (2000)
- C2 COLLECTOR ROAD** A collector road is a street that penetrates neighborhoods, collecting traffic from local streets in the neighborhoods and channeling it to and from an arterial road. It must be constructed to town specifications and may not be designed as a permanent "dead end" road.
- C3 COLLOCATION** The placement of more than one antenna on a supporting structure. (2000)
- C4 COMMERCIAL CONSERVATION DEVELOPMENT** An optional commercial development which provides public access to dedicated open space and features energy efficient construction. (2013)
- C5 CONVENTIONAL HOUSING** means any and all forms of housing built in compliance with the 1990 BOCA Codes. (1993)
- D1 DENSITY** The number of dwelling units per acre of land. (Density is established by zoning ordinance provisions contained in Article V and VI.) (1992)
- D2 DEVELOPMENT** means any man-made change to improve or unimproved real estate, including but not limited to buildings or other structure, mining, dredging, filling, grading, paving, excavating or drilling operation or storage of equipment or materials. (2008)
- D3 DWELLING UNIT** A self-contained living unit, either detached from or attached to other living units. (1992)
- E1 ENCLOSED STORAGE** Fully enclosed (all sides) with roof and ancillary to primary use. (1997)
- E2 ESSENTIAL SERVICES** All essential services shall be considered non-residential use and shall be subject to Site Plan Review. This includes the erection, construction or major alteration by any governmental agency, public utility company or private owner of any underground and/or overhead utilities, including poles, commercial equipment and accessory equipment thereto. Essential on-site services shall include sewage disposal and services, water supply systems and such buildings necessary for the furnishing of essential services. (1990)
- F1 FAIR SHARE AMOUNT** A number representing the proportionate quantity of living units to be accommodated by a municipality in order to provide adequate housing for individuals and families having a low-moderate income within a region.
- F2 FAMILY** Two (2) or more individuals living as a group and consisting of an adult male(s) and/or adult female(s) and children, if any.

- F3 FAMILY DAY CARE HOME** A residence occupied by the provider in which child care is regularly provided for any part of the day (but less than 24 hours except in emergencies) for 1 to 6 children from one or more unrelated families. The maximum of six children includes children under six years of age who are living in the home and children related to the applicant who are received for child care. (1990)
- F4 FAMILY GROUP DAY-CARE HOME** A residence occupied by the provider in which care is regularly provided for any part of the day (but less than 24 hours except in emergencies) for 7 to 12 children from one or more unrelated families. The maximum of 12 children includes children under six years of age who are living in the home and children related to the applicant who are received for child care. (1990)
- F5 FEMA** means the Federal Emergency Management Agency. (2008)
- F 6 FLOOD OR FLOODING** means a general and temporary condition of partial or complete inundation of normally dry land areas from: (2008)
- 1) the overflow of inland or tidal waters, or
  - 2) the unusual and rapid accumulation or runoff of surface waters from any source.
- F7 FLOOD INSURANCE RATE MAP (FIRM)** means the 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 Atkinson. (2008)
- F8 FLOOD INSURANCE SDTUDY (FIS)** means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.
- F9 FLOODPLAN OR FLOOD-PRONE AREA** means any land area susceptible to being inundated by water from any source (see definition of FLOODING). (2008)
- F10 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. (2008)
- F11 FLOODWAY** – see Regulatory Floodway. (2008)
- F12 FRONTAGE** The length of the front lot line. For a corner lot, frontage shall mean the combined length of the contiguous lot lines bordering on right-of-ways. (2000)
- F13 FUNCTIONALLY DEPENDENT USE** means a use that 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. (2008)

- G1 GENERAL/CONVENIENCE STORE** *A commercial establishment providing incidental household and personal items for purchase by the public and occupying a total retail and storage floor area of no more than 2,000 square feet.*
- G2 GROSS FLOOR AREA** *Gross floor area is the total floor area designed for occupancy and use including basement and other storage areas provided, however, that stairways, elevator wells, rest rooms and lounge areas, common hallways and building service areas shall not be included in the computation of such floor area. (1990)*
- G3 GROUP CHILD-CARE CENTER** *Either a full-day or half-day child-care facility (whether or not the facility is known as day nursery, nursery school, kindergarten, cooperative, child-development center, day-care center, center for the developmentally disabled, progressive school or by any other name) by which services are regularly provided for any part of a day, but less than 24 hours, to 13 or more children. (1990)*
- G4 GUEST HOUSE** *shall mean any place consisting of a room or group of rooms located in a residence where accommodations for sleeping purposes, with or without the privileges of using the kitchen, are provided for a price. No more than two bedrooms shall be used for such purposes. (1982)*
- H1 HISTORIC STRUCTURE** *means any structure that is:*
- 1) 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;
  - 2) 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;
  - 3) 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; or  
Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either:
    - (i) by an approved state program as determined by the Secretary of the Interior; or directly by the Secretary of the Interior in states without approved programs. (2008)
- H2 HOME OCCUPATION** *is the accessory use of a dwelling for a business nature conducted by the residents thereof which is clearly secondary to the dwelling use for living purposes and which does not change the character thereof or adversely affect adjacent properties or the neighborhood. Home Occupation includes Family Group Day-Care home facilities and professional, business office uses, such as a small office, doctor's, stockbroker's, bookkeeper's, designer's, manager's and other professional consultants' offices.*
- H3 HOME PRODUCE AND PRODUCTS** *means and includes everything of an agricultural nature grown, produced or conditioned on the property of the resident, also such articles as are manufactured or altered by members of the household of the bona fide resident of any property. (1959)*

- H4 HOUSEHOLD** A family or group of individuals occupying one (1) living unit.
- H5 HOUSING ASSISTANCE PROGRAM** Financial incentives offered by state or federal agencies to increase the number of affordable and available dwelling units for individuals, families, and elderly.
- I1 INTERIOR WAREHOUSE STORAGE** Storage that is ancillary to a commercial or professional activity and does not occupy more than 45 percent of the gross floor area of each business. (1991)
- J1 JUNK** Any scrap, waste, reclaimable material or debris such as: unregistered vehicles, inoperable vehicles, tires, vehicle parts, equipment, paper, metal, glass, building materials, household appliances, machinery, brush, wood, lumber, etc., whether or not stored, for sale or in the process of being dismantled, destroyed, processed, salvaged, stored, baled disposed or other use or disposition, the accumulation of which is detrimental or injuries to the neighborhood. (1999)
- L1 LIGHT INDUSTRY/LIGHT MANUFACTURING** The fabrication and/or development of tangible goods by means of processes which are (a) neither obnoxious nor injurious by reason of the production or emission of odor, dust, smoke, refuse matter, fumes, noise vibration, or similar conditions, (b) nor dangerous to the comfort, peace, enjoyment, health, and safety of the community, (c) nor lending to its disturbance or annoyance.
- L2 LIVING UNIT** The structure and indoor space occupied by one or more individuals living together as a single housekeeping unit with cooking, living, sleeping, and sanitary facilities. (See also dwelling unit and single family residence.)
- L3 LOCAL ROAD** A local road is a street that provides direct access to abutting land and channels it to and from a collector road.
- L4 A LOT** is a parcel of land having its principal frontage upon a right of way. (1982)
- L5 LOT CORNER** A lot abutting two or more right-of-ways at their intersection or upon two parts of the same right-of-way that forms an interior angle of less than one hundred thirty-five (135) degrees. For a corner lot in a residential zone, the minimum depth of yard from every lot line bordering a right-of-way shall be the depth of yard required for front yards along that right-of-way. (2000)
- L6 LOT DEPTH** The shortest distance measured from the front lot line to the rear lot line. For lots where the front and rear lot lines are not parallel, the lot Depth shall be measured by drawing several evenly separated lines from the front to the rear lot line, at right angles to the front lot line, and averaging the length of these lines. (2000)
- L7 A LOT OF RECORD** is an individual lot lawfully recorded in the Registry of Deeds of Rockingham County, New Hampshire, and/or Essex County, Massachusetts, which conformed with the Town zoning requirements in effect at the time of its recording. (1982)
- L8 LOT LINE** Any line which separates a lot from any other lot, land or right-of-way. (2000)

- L9 LOT LINE FRONT** *The one lot line that divides a lot from a right-of-way. If the front lot line is not a straight line, then for the purpose of this ordinance, other lot dimensional requirements dependent on the front lot line shall be measured from a straight line located completely within the lot area and parallel to a line joining the two points where the side lot lines intersect the front lot line. (2000)*
- L10 LOT LINE REAR** *The lot line which most nearly qualifies as the line most distant and opposite from the front lot line. If the rear lot line is not a straight line, then for the purpose of this ordinance, other lot dimensional requirements dependent on the rear lot line shall be measured from a straight line located completely within the lot area and parallel to a line joining the two points where the side lot lines intersect the rear lot line. (2000)*
- L11 LOT LINE SIDE** *Any lot line other than the front lot line or the rear lot line. (2000)*
- L12 LOT THROUGH** *shall mean a lot bounded on two non-adjacent sides by right-of-ways, provided, however; that is any lot qualifies as being both a “lot, corner”, and a “lot, through” as herein defined, such lot shall be deemed a “lot, corner” for the purpose of this ordinance. For a through lot in a residential zone, the minimum depth of yard from every lot line bordering a right-of-way shall be the depth of yard required for front yards along that right-of-way. (2000)*
- L13 LOW-MODERATE INCOME** *An income level that is no more than 80% of the median household income of the Standard Metropolitan Statistical Area (SMSA) or county (if the municipality in which the individual or family resides is not located within an SMSA).*
- L14 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. (2008)*
- M1 MANUFACTURED HOME** *means for floodplain management purposes, 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 consecutive days. This includes manufactured homes located in a manufactured park or subdivision. (2008)*
- M2 MANUFACTURED HOME PARK OR SUBDIVISION** *means for floodplain management purposes, a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale. (2008)*
- M3 MANUFACTURED HOUSING** *Pursuant to New Hampshire Revised Statutes Annotated 674:31, manufactured housing shall mean a 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. Such housing, built in conformance with national codes, shall*

be almost indistinguishable from conventional site-built housing. (See Legislative findings, 1986, 91:1)

- M4 MANUFACTURED HOUSING PARK** A parcel of land under single or common ownership or control which contains, or is designed, laid out, or adapted to accommodate 2 or more manufactured houses. Premises used solely for storage or display of manufactured housing are excluded. (See RSA 205-A:II)
- M5 MEAN SEA LEVEL** means the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referred. (2008)
- M6 MEDIAN INCOME** The middle figure of an array of income derived from data provided by the U.S. Bureau of the Census.
- M7 A MOBILE HOME** is a home which is mobile, a unit similar to a trailer; it is equipped with running water and sanitary facilities, bath facilities and toilet. This term shall apply to such vehicles, regardless of the removal of wheels, the placing of mobile home on a foundation, or the construction of accessory buildings. (1959)
- M8 MULTI-FAMILY DWELLING** A building containing three (3) or more living units.
- N1 NEW CONSTRUCTION** means, for the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, **new construction** means structures for which the **start of construction** commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures. (2008)
- N2 NONCONFORMING USE** means a building, structure, or use of land lawfully 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. (1982)
- O1 OFF-SITE SEWAGE SYSTEM** A system of piped sewer and all its adjunct treatment facilities which is located on land other than that allocated for development density and calculations as essential services and for which review and approval by the New Hampshire Water Supply and Pollution Control Commission has been received. (1990)
- O2 OFF-SITE WATER SYSTEM** A system of piped water for human consumption whose source is located on land other than that allocated for development density calculations and for which review and approval by the New Hampshire Water Supply and Pollution Control Commission, Division of Water Supply, has been received.
- O3 ON LOT** On Lot means located on the same site as the building for which services or facilities are provided. For purposes of a rural cluster development it shall mean as being located on the entire parcel for which a planned residential development permit is being sought. (1990)
- O4 deleted 2020**

- P1 PERMANENT RESIDENTS** *A family shall be considered permanent residents when they have used any buildings continuously as a residence for a period of six months or more. (1959)*
- P2 PERSONAL SERVICE ESTABLISHMENT** *A business enterprise whose primary purpose is to accommodate the personal needs of an individual(s), such as banking, shoe repair, hair salon, and dressmaking/tailoring.*
- P3 A PRIMARY/PERMANENT RESIDENCE** *is a place of abode used by an individual who has, through all of his actions, demonstrated a current intent to designate that place of abode as his principal place of physical presence for the indefinite future to the exclusion of all others. The status of primary/permanent residence is not lost or interrupted by a temporary absence if there is an intent to return to it as the principal place of physical presence. (1982)*
- P4 PRIME WETLANDS** *Prime wetlands are wetlands of significant value that are designated because of their uniqueness, fragility and or unspoiled character pursuant to RSA 482-A:15 and as codified in New Hampshire Wetlands Bureau Code of Administrative Rules, Chapter Wt 700. (2003)*
- P5 PRIVATE OUTDOOR RECREATION** *means recreational activity taking place on private property by consent of the owner(s) of said property and for which no admission or membership fees are required to participate. Such activity is considered an ancillary use to primary residential use. (1985)*
- P6 PRIVATE SCHOOL** *A commuter school operated by a non-governmental agency for the purpose of providing an elementary or secondary academic education equivalent to that required in public schools in the state of New Hampshire. Any such school shall be approved by the state Department of Education and shall comply with all of its regulations.*
- P7 PROFESSIONAL OFFICE** *An enterprise conducted by an individual or group practice characterized by a high level of training or proficiency in a particular pursuit, study, or science, such as medicine, dentistry, law, and engineering.*
- P8 PUBLIC OUTDOOR RECREATION** *shall include uses such as golf courses, boating facilities, and any other participating recreation sport activities, but specifically excluding activities designed as commercial spectator sports. (1982)*
- Q1 QUALIFIED SOILS SCIENTIST** *is interpreted to mean a person qualified in soil classification and who is recommended or approved by the Rockingham County Conservation District Supervisors. (1979)*
- R1 RECREATIONAL VEHICLE is defined as: (2008)**
- 1) *built on a single chassis;*
  - 2) *400 square feet or less when measured at the largest horizontal projection;*
  - 3) *designed to be self-propelled or permanently towable by a light duty truck; and*



- 4) *designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.*
- R2** **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 cumulatively increasing the water surface elevation more than a designated height. (2008)*
- R3** **RESIDENTIAL CONSERVATION DEVELOPMENT** *An optional commercial development which provides public access to dedicated open space and features energy efficient construction. (2013)*
- R4** **RETAIL ENTERPRISE** *An establishment engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods. (1999)*
- R5** **RIGHT OF WAY** *means Class I - Class V highways as defined in RSA 230 if such highways are paved, or streets shown on subdivision plats approved by the Atkinson Planning Board. (1976)*
- S1** **A SECONDARY/SEASONAL RESIDENCE** *is any place of abode that is not used by an inhabitant as a primary/permanent residence.*
- S2** **SELF-SERVICE STORAGE FACILITY (MINI-WAREHOUSE)** *A one-story structure containing separate, individual, and private storage spaces ranging in size between 30 and 400 square feet which are individually leased or rented for varying periods of time. Such facilities shall be enclosed by a fence and shall be used for dead storage only, i.e. individuals leasing or renting storage space may only pick-up and drop-off items for storage. Items prohibited from being stored include: flammable liquids, hazardous or toxic chemicals or explosives (including fireworks) and/or items that would create noxious or offensive odors, dust, noise, or vibration. A business office will be allowed for conducting the business. (1997)*
- S3** **SERVICE ROADS AND/OR PRIVATE ROADS** *are those facilities that are designed for any slow and light traffic and shall be "dead end" roads as part of a rural cluster development. (1982)*
- S4** **SINGLE FAMILY RESIDENCE** *A detached living unit occupied by one family unit only. (See also dwelling unit and living unit.)*
- S5** **SPECIAL FLOOD HAZARD AREA** *see "Area of Special Flood Hazard". (2008)*
- S6** **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 pipes, the construction of columns, or any work beyond the stage of excavation; or the placement of a 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, footing, piers, or foundations or the erection of temporary forms; nor does it include the installation of the*

*property of accessory buildings, such as garages or sheds not occupied as dwelling units or part of the main structure. (2008)*

- S7** **STRUCTURE** *Anything constructed or erected on or in the ground, or in the water, or an attachment to something having a fixed location on the ground, such as buildings, permanent or temporary; signs, carports, porches and other building features, including communications towers and antennas but not including sidewalks, fences, driveways, septic systems, boundary markers and field or garden walls or embankment retaining walls. (1999)*
- S8** **STRUCTURE** *means for flood plain 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. (2008)*
- S9** **A SUBSTANDARD LOT** *is a lot which qualifies as a lot of record as of the effective date of the adoption or amendment of this ordinance regarding area, frontage, depth, yards, and/or coverage applicable in the district where the lot is located. (1982)*
- S10** **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. (2008)*
- S11** **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. (2008)*

*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 that 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".*

- T1** **TEAROOM/COFFEE SHOP** *A commercial eating establishment designed to accommodate the community and offering its residents beverages and food served exclusively at tables and/or counters. Such service shall be limited to a seventy-five (75) seat capacity. Operating hours may be set by order of the Police Department upon approval by the Selectmen of the Town.*
- T2** **TOWER** *A structure which is designed and constructed to support one or more antennas used by commercial wireless telecommunications facilities, and includes all appurtenant devices attached to it. (2000)*

- T3** **TOWNHOUSE** A multi-family unit with 2, 3 or 4 dwelling units per building and no dwelling unit to be located above another. (2001)
- T4** **A TRAILER COACH** means any vehicle or similar portable structure, having no foundation other than wheels, jacks or skirting, and having none of the following: running water, sanitary facilities, bath facilities and toilet. This term shall apply to such vehicles regardless of the removal of wheels, the placing of a trailer coach on a foundation, or the construction of the accessory buildings.
- V1** **VIOLATION** means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certificates, or other evidence of compliance required in 44 CFR § 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided. (2008)
- W1** **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. (2008)
- W2** **WETLANDS** Those areas of the Town that contain bodies of water (either man-made or natural), fresh water marshes, perennial and intermittent streams, and soils classified as poorly or very poorly drained. Such areas are to be defined by the High Intensity Soil Map Standards developed by the Society of Soils Scientists of Northern New England in 1986, as amended, and by the on-site soils investigation of a New Hampshire certified soils scientist. [Effective 06/01/89]
- W3** **WILDLIFE REFUGE** shall be an area designated for the preservation of wildlife species.
- W4** **WIRELESS COMMUNICATIONS FACILITY** Any structure, antenna, tower or other device used to provide a discrete commercial telecommunication service by a single provider to a broad base of unrelated users, generally including, but not limited to: cellular telephone, personal communications services, specialized mobile radio, and paging. (2000)
- Y1** **YARD FRONT** shall mean a yard extending across the full width of a lot between the front lot line and the nearest point of any building on the lot and the "Minimum" front yard means the minimum depth of a front yard on a lot between the front line and the nearest point of any building on the lot. (2000)
- Y2** **YARD REAR** shall mean a yard extending across the full width of a lot between the rear lot line and the nearest point of any building on the lot and the "Minimum" rear yard means the minimum depth of a rear yard on a lot between the rear lot line and the nearest point of any building on the lot. (2000)
- Y3** **YARD SIDE** shall mean a yard extending from the front yard to the rear yard of a lot between a side lot line and the nearest point of any building on the lot and the "Minimum" side yard means the minimum width of a side yard on a lot between a side lot line and the nearest point of any building on the lot. (2000)

## ARTICLE IV: GENERAL PROVISIONS

### SECTION 400 GENERAL PROVISIONS

**400:1** No owner or occupant of land in any district shall permit fire or other ruins to be left, but shall remove the same within one year. Said structure is to be boarded up and secured within 30 days to the satisfaction of the Police and Fire Departments, so as not to present any risk to the community. The Town will have the right to complete the securing process and to place liens against the property to cover the town's costs of so doing, pursuant to RSA 155-B. (1992)

**400:2** Any uses that may be obnoxious or injurious by reason of the production or emission of odor, dust, smoke, refuse matter, fumes, noise vibrations, or similar conditions, or that are dangerous to the comfort, peace, enjoyment, health, safety of the community or lending to its disturbance or annoyance are prohibited in any district. No privately-owned land in any district shall be used for the dumping of or storage of hazardous wastes or junk. (1982, 1984)

**400:3 Substandard Lots** (2012)

- a. Any building or use otherwise permitted in the district shall be permitted on a substandard lot, provided that such substandard lot is legally buildable in all other respects as of the effective date of this ordinance and amendments, or at any time thereafter.
- b. The Board of Adjustment may grant a special exception to the requirements of subparagraphs "a" above provided the substandard lot meets all of the following criteria:
  - 1) It is located in a subdivision which was approved by the Planning Board and duly recorded in the Rockingham County Registry of Deeds prior to June 1978.
  - 2) It is part of a subdivision in which at least 80% of the total number of lots therein have been previously improved.
  - 3) It consists of one or more acres of buildable land.
  - 4) It has road frontage of at least one hundred fifty feet (150').
  - 5) It is able to meet the requirements of Z400:4, Z410:7-9, Z530g, and WS300.
  - 6) Its improvement will not endanger the public health and welfare. (1989)

**400:4** On existing lots of record that are less than the required minimum in all residential zones, no building shall be located closer than thirty feet (30') to the right-of-way line, or closer than the average setback of the houses on the immediately adjacent lots, whichever shall be greater. In no case shall a building be located closer than fifteen feet (15') to the side lines or rear lot line. (1986)

**400:5** In all circumstances where soils characteristics and/or soils boundaries must be designated and utilized in order to comply with land use requirements in the Town of Atkinson, an on-site investigation conducted by a New Hampshire certified soils scientist shall be made using the High Intensity Soil Map Standards developed by the Society of Soil Scientists of Northern New England in 1986 as amended. Material developed by the U.S. Soil Conservation Service in 1978 may be utilized for general background and reference purposes. [Effective 06/01/89]

**400:6 DELETED 1994**

**400:7 Land Application of Septage.** The land application of septage containing disease-causing bacteria and infectious viruses and protozoa; the stockpiling in any form, and the land spreading of Class B sewage sludge containing heavy metals, pathogens, parasites and hazardous organic chemicals, is not allowed in the Town of Atkinson, New Hampshire. This ordinance shall not apply to any facility owned and/or operated by the Town of Atkinson for the disposal of sewage/septage/sludge generated within the Town of Atkinson, New Hampshire. (1998)

**400:8 Eminent Domain.** Property acquired through “Eminent Domain” shall be restricted to use to Local, State, or Federal governmental public sector uses, and only if said uses provide direct access and use to and by the public. Private or Public development of such land, solely for financial gain or revenue enhancement, is prohibited. (2006)

## **SECTION 410 WETLANDS ZONING**

**410:1 Purpose.** In the interest of public health, convenience, safety, and welfare, the regulation of wetlands areas is intended to guide the use of area of land with standing water or extended periods of high water table.

- a. To protect persons and properties from the danger of floods by preserving natural floodwater storage areas.
- b. To prevent the Town from incurring the costs of constructing sewer lines and treatment facilities which will be necessitated by the unwise development of unsuitable areas.
- c. To prevent development on soils which will contribute to the pollution of surface and groundwater necessary to supply domestic water needs.
- d. To preserve recharge areas necessary to maintain adequate groundwater supply and augment stream flow during dry periods.
- e. To protect existing water quality.
- f. To protect presently existing natural wetland wildlife habitats.
- g. To discourage chronic stress on wetland environments contributed by modification of water flow patterns and rates.

- h. To encourage uses that can be safely and appropriately located in wetland areas. (1978)

**410:2 (DELETED: TOWN MEETING OF MARCH 1986. SEE SECTION Z300:1, W1.)**

**410:3 WETLAND BOUNDARIES**

- a. Wetland boundaries shall be determined by the on-site investigation of New Hampshire certified soils scientist using the High Intensity Soil Map Standards developed by the Society of Soil Scientists of Northern New England in 1986, as amended, and shall address the boundaries of all wetlands a defined in Section Z300:W1. In addition, the results of a visual inspection of the vegetation and natural features of property extending 100 feet beyond the boundaries of the on-site survey shall be provided in order to assure fulfillment of the purposes of this ordinance.
- b. The results of an on-site soils investigation of the subject property and of any visual inspection of property contiguous to the subject property shall be placed on file with the Planning Board. High Intensity Soil Map Standards shall be available from the U. S. Soil Conservation Service Office and shall be on file with the Planning Board, Town Clerk, and Conservation Commission.

**410:4 Appeals.** In the event that a wetland or wetland boundary is incorrectly designated, any person so aggrieved by such a designation may present evidence of such incorrect designation to the Planning Board. (1979) [Effective 06/01/89]

**410:5 Permitted Uses.** Permitted uses in designated wetland areas are any uses that are compatible with the purposes specified in Section 410:1 and do not involve significant alteration of the wetland. Such uses include:

- a. Forestry and tree farming in accordance with the recommendation of the Rockingham County Forester.
- b. Water sources.
- c. Wildlife habitat and habitat development.
- d. Conservation areas, nature trails, and passive recreational uses.
- e. Open space areas.
- f. Scientific study area-plant identification, wetland ecology, bird and wildlife identification, outdoor laboratory studies, and establishment of self-guiding nature trails.
- g. Agricultural uses except the keeping of livestock and farm buildings. (1982)

**410:6 Easements, Rights of Way.** Streets, roads, and other access ways and utility rights of way or easements through wetlands which involve dredge and/or fill operations may be permitted provided that:

- a. The street, road, access way or utility right of way or easement is located and constructed in a manner which creates minimum detrimental impact on all designated wetlands areas.
- b. The street, road, access way or utility right of way or easement is essential to the productive use of land not zoned under the provisions of this ordinance.
- c. Such location and construction is compatible with the intent and purpose of this ordinance. After permission for such uses has first been received from the New Hampshire Wetlands Board and the Atkinson Conservation Commission, approval for such uses shall be obtained as part of subdivision and/or site plan approval or, if not applicable, by special exception from the Board of Adjustment.

**410:7 Minimum Lot Size.** Areas designated as freshwater marshes, perennial or intermittent streams, or soils which are poorly or very poorly drained may not be used to satisfy minimum lot size requirements except where Soils Based Lot Sizing is specifically allowed for minimum lot sizing (see Section 610:3). (1993)

**410:8 Buffer Zones (1998)**

- a. No waste disposal system nor building from which human or animal waste is generated, shall be constructed within a 100' horizontal distance from a designated wetland boundary or from intermittent streams. (This does not apply to existing or replacement systems.) (1993)
- b. All attached and detached residential or commercial garages shall be minimum of 100 feet from the edge of wetland. (This does not apply to existing construction.) (1998)

**410:9 BUFFER ZONES. DELETED 1993**

**410.10 PRIME WETLANDS (2010)**

The following seven wetlands are designated prime wetlands according to the requirements of RSA 482-A:15 and Chapter Env-Wt 700 of the DES administrative rules.

Wetland Name	Description
Hall Farm Pond	10+/- acre wetland located south of NH Rte. 111 and north of Hall Farm road, primarily on Tax Map 16, Lot 9.
Hog Hill Brook	17.5+/- acre wetland which extends southeast of Island Pond Road, located primarily on Tax Map 20, Lot 7 and extending onto Tax Map 16, Lot 64 and Tax Map 21, Lot 1.
Stewart Farm Pond	21+/- acre wetland located due west of Stewart Farm Road and northeast of Village Drive, primarily on Tax Map 12, Lot 1.
West Sawmill Swamp	121+/- acre wetland extending across the northern Atkinson border with Hampstead and located directly west of upper Maple Avenue, on Tax Map 18.

East Sawmill Swamp	58+/- acre wetland located directly east of upper Maple Avenue, on Tax Map 19.
Hovey Meadow Wetland	13+/- acre wetland located north of Pope Road and east of West Side Drive, primarily on Tax Map 17, Lot 86 and extending onto Tax Map 12, Lots 3 and 4.
Bryant Brook	69+/- acre wetland located on the southern border between Atkinson and Plaistow, primarily on Tax Map 10, Lot 7, and extending onto Tax Map 9, Lot 62-22 and Tax Map 5, Lot 48.
Wright Farm Pond	46 +/- acre wetland bordered by Sawmill Road, Summit Drive, Walker Road, Merrill Drive, Meeting Rock Road and Bittersweet Lane, primarily on Tax Map 13, Lot 96.

Note: The wetlands listed here were evaluated by procedures described in Method for the Comparative Evaluation of Non-Tidal Wetlands in New Hampshire, published by the New Hampshire Department of Environmental Services (1991). Details of the analysis may be found in Town of Atkinson Prime Wetlands Study, Natural Resource Consulting Services. (December 2002)

An undisturbed natural buffer zone of at least 150 feet in width shall be maintained between any designated Prime Wetland, as defined in RSA 482-A:15 and adopted by Town Meeting, and any new development, including but not limited to structures, dwellings, septic systems, and roads. Exempted from this requirement are those uses permitted under §410.5. those lots separated from the Prime Wetlands by an existing public road, and variances allowing the construction of additions and extensions to residential buildings which existed prior to the effective date of this section. Nothing herein is intended to prohibit the rebuilding or redevelopment of any portion of a residential lot which has already been improved, or developed and regularly maintained as of the effective date of this section.

#### **410.11 Water Flow Monitoring (2010)**

- a. All water companies dealing in or with Atkinson shall install and maintain a water-flow meter on all existing and future water lines at the point where they cross the town line between Atkinson and any abutting town. The meter must be installed and operating within 90 days of passage of this amendment. There shall be a fine of \$1000 a day for every day thereafter that the meter has not been installed and operating.
- b. The meter shall record and provide the flow direction of any water traveling through that pipeline across town lines, including the volume of water being transferred, the frequency, date, and rate of transfer. All readings and data obtained from this monitoring shall be provided to the Town of Atkinson within 10 days of each recording.
- c. It shall be a violation of this section to make any material false statement concerning water flow or to tamper with any water-flow monitoring device. The Board of Selectmen, after each notice and hearing, may impose an administrative fine not to exceed \$2000 for each offense upon any person of company which knowingly violates this provision. The Board of Selectmen may also assess additional fines upon any person/company which has received written notification from the Board of Selectmen regarding violations of this



chapter, if the violations have not been mitigated/corrected within 30 days of receipt of the notification.

- d. The Board of Selectmen shall have the authority to direct the Atkinson Code Enforcement Officer or another town official of their choosing to have at-will access to the metering device and to make unscheduled verification and accuracy checks of the meter and data it provides. Measurements of water use shall be made with sufficient frequency to insure the accuracy of total water usage volume.
- e. Exemption: This chapter shall not apply to a temporary, discrete water transfer arising from an emergency event in Atkinson or Hampstead, such as a catastrophic failure of either town's water system. This temporary exemption shall be allowed only after a declaration by the Atkinson Board of Selectmen that such an emergency does exist.

## **SECTION 420 FLOODPLAIN MANAGEMENT ORDINANCE (03/11/2008)**

### **4A20:1 Purpose**

Certain areas of the Town of Atkinson, New Hampshire are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968. Therefore, the Town of Atkinson, New Hampshire has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as detailed in this Floodplain Management Ordinance.

### **420:2 Establishment**

This ordinance, adopted pursuant to the authority of RSA 674:16, shall, be known as the town of Atkinson Floodplain Management Ordinance. The regulations in this ordinance shall overlay and supplement the regulations in the Town of Atkinson 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 Agency (FEMA) in its "Flood Insurance Study for the County of Rockingham, N.H.", dated May 17, 2005, or as amended, together with the associated Flood Insurance Rate Maps dated May 17, 2005, or as amended, which are declared to be a part of this ordinance and are hereby incorporated by reference.

### **420:3 Definitions**

The following definitions shall apply only to this Floodplain Management Ordinance, and shall not be affected by the provisions of any other ordinance of the Town of Atkinson.

- a. “Area of Special Flood Hazard” is the land in the floodplain within the Town of Atkinson subject to a one-percent or greater possibility of flooding in any given year. The area is designated on the FIRM as Zones A and AE.
- b. “Base Flood” means the flood having a one-percent possibility of being equaled to exceeded in any given year.
- c. “Basement” means any area of a building having its floor sub grade on all sides.
- d. “Building” – see “structure”.
- e. “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, excavating or drilling operation or storage of equipment or materials.
- f. “FEMA” means the Federal Emergency Management Agency.
- g. “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, or
  - 2) the unusual and rapid accumulation or runoff of surface waters from any source.
- h. “Flood Insurance Rate Map” (FIRM) means the 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 Atkinson.
- i. “Flood Insurance Study” (FIS) means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.
- j. “Floodplain” or “Flood-prone area” means any land area susceptible to, being inundated by water from any source (see definition of “Flooding”).
- k. “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.
- l. “Floodway” see “Regulatory Floodway”.
- m. “Functionally dependent use” means a use that 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.

- n. “Highest adjacent grade” means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- o. “Historic Structure” means any structure that is:
- 1) 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;
  - 2) 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;
  - 3) 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; or  
Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
    - i) by an approved state program as determined by the Secretary of the Interior; or
    - ii) directly by the Secretary of the Interior in states without approved programs.
- p. “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.
- q. “Manufactured Home” means for floodplain management purposes, 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 consecutive days. This includes manufactured homes located in a manufactured home park or subdivision.
- r. “Manufactured Home Park or Subdivision” means for floodplain management purposes, a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
- s. “Mean sea level” means the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community’s Flood Insurance Rate Map are referenced.

“New construction” means, for the purposes of determining insurance rates, structures for which the “start of construction” commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, *new construction* means structures for which the *start of construction* commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

- t. “100-year flood” – see “base flood”.
- u. “Recreational Vehicle” is defined as:
  - 1) built on a single chassis;
  - 2) 400 square feet or less when measured at the largest horizontal projection;
  - 3) designed to be self-propelled or permanently towable by a light duty truck; and
  - 4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.
- v. “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 cumulatively increasing the water surface elevation more than a designated height.
- w. “Special flood hazard area” – see “Area of Special Flood Hazard”
- x. “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.
- y. “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 a 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.
- z. “Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

aa. "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 that 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".

bb. "Violation" means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certificates, or other evidence of compliance required in 44CFR § 60.3(b)(5), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

cc. "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.

#### **420:4 Permits**

All proposed development, as defined in this ordinance, in any special flood hazard area shall require all applicable permits.

#### **420:5 Construction Requirements**

The Building Inspector 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:

- a. be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movements of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- b. be constructed with materials resistant to flood damage;
- c. be constructed by methods and practices that minimize flood damages; and

- d. 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.

#### **420:6 Water and Sewer Systems**

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 Building Inspector 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.

#### **420:7 Certification**

For all new or substantially improved structures located in Zones A and AE, the applicant shall furnish the following information to the Building Inspector:

- 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 flood proofed, the as-built elevation (in relation to NGVD) to which the structure was flood proofed.
- c. any certification of food proofing.

The Building Inspector shall maintain the aforementioned information for public inspection, and shall furnish such information upon request.

#### **420:8 Other Permits**

The Building Inspector 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 or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

#### **420:9 Watercourses**

- a. In riverine situations, prior to the alteration or relocation of a watercourse the applicant for such authorization shall notify the Wetlands Bureau of the New Hampshire Department of Environmental Services and submit copies of such notification to the Building Inspector, in addition to the copies required by RSA 482-A:3. Further, the applicant shall be required by submit copies of said notification to those adjacent communities as determined by the Building Inspector, including notice of all scheduled hearings before the Wetlands Bureau and/or the Planning Board in consideration of Section 410.
- b. The applicant shall submit to the Building Inspector, certification provided by a registered professional engineer, assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.

- c. Along watercourses with a designated Regulatory Floodway no encroachments, including fill new construction, substantial improvements, and other development are allowed within the floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standards engineering practices that the proposed encroachment would not result in any increase in flood levels within the community during the base flood discharge.
- d. Until a Regulatory Floodway is designated along watercourses, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zone AE on the FIRM, unless it is demonstrated by the applicant that the cumulative effect of the proposed development, when combined with all existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
- e. The Building Inspector or the Planning Board when the development pertains to subdivision or site plan review, shall obtain, review, and reasonably utilize any floodway data available from Federal, State, or other sources as criteria for requiring that all development located in Zone A meet the following floodway requirement:
- f. “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”.

**420:10 Special Flood Hazard Areas**

In special flood hazard area the Building Inspector shall determine the 100-year flood elevation in the following order of precedence according to the data available:

- a. In Zone AE, refer to the elevation data provided in the community’s Flood Insurance Study and accompanying FIRM.
- b. In Zone A, the Building Inspector 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).
- c. The Building Inspector’s 100-year flood elevation determination will be used as criteria for requiring in Zones A and AE that:
  - 1) All new construction or substantial improvement of residential structures have the lowest floor (including basement) elevated to or above the 100-year flood elevation.
  - 2) 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) 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) (6) of Section 60.3.
- iv) 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:
  - A) the enclosed area is unfinished or flood resistant, usable solely for the parking of vehicles, building access or storage;
  - B) the area is not a basement;
  - C) 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 exist of floodwater.

**420:11 Variances and Appeals**

- a. Any order, requirement, decision or determination of the Building Inspector made under this ordinance may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5.
- b. 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 that:
  - 1) the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense.
  - 2) if the requested variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result.



- 3) the variance is the minimum necessary, considering the flood hazard, to afford relief.
- c. The Zoning Board of Adjustment shall notify the applicant in writing that:
- 1) 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
  - 2) 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.
- d. The community shall:
- 1) maintain a record of all variance actions, including the justification for their issuance; and
  - 2) report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator. (3/11/2008)

#### **SECTION 430 REMOVAL OF NATURAL DEPOSITS**

**430:1** No gravel pit, or quarry, and no removal of sod or loam shall be permitted in a residential district except as herein provided:

- a. The Board of Adjustment shall approve the temporary operation of a pit or quarry which is incidental to the improvement of land provided that such operation will not create a traffic condition detrimental to the neighborhood or hazardous to the use of the highway, and provided that such operation will not create noise or dust to the extreme extent that it will be detrimental to the health or comfort of nearby residents. The Board of Adjustment shall determine the effective duration for which such a permit may be issued, and upon application may approve renewal of such permit upon re-determination of the conditions under which such permit may be allowed. After no more than two hundred and fifty (250) days after the last use of the pit or quarry as a source of supply, the area shall be re-graded and left in a slightly condition and protected against erosion.
- b. The Board of Adjustment shall allow the removal of sod or loam provided that all facilities for excavating, handling or storing shall be removed and the area shall be re-graded and re-seeded to assure the premises are left in a slightly condition and protected against erosion. Such removal and regrading shall be accomplished within (1) ninety (90) consecutive days after the depletion of the deposit or completion of the work for which the deposit was opened, or (2) two hundred and fifty (250) consecutive days after the last use of the deposit as a source of supply.
- c. Before the approval by the Board of Adjustment for the operation of a pit or quarry or the removal of sod or loam, there shall be a bond filed with the Town Clerk in

amount sufficient to cover the cost of meeting the condition of items (1) and (2) above.

**430:2** No processing of sand, gravel, stone, loam, or other natural deposits shall be permitted in a residential district. (1959)

**430:3** In applying the above standards and in reviewing application for the removal of natural deposits, the Board of Adjustment shall apply, as appropriate, such sections of the New Hampshire Statutes, in particular Section 155E, dealing with the removal of deposits.

#### **SECTION 440 GENERAL FARMING AND THE KEEPING OF ANIMALS**

**440:1** With the exception of mink raising, and fox raising, general farming activity and the keeping of animals for other purposes shall be permitted provided the following criteria are met: (1999)

- a. Large animals (horses, cattle, or sheep) shall be contained within the owner's property.
- b. Large animals (horses, cattle, pigs, or sheep) shall not be kept on lots of less than one acre. No more than one large animal shall be kept on a one-acre lot; no more than three (3) animals on a two-acre lot; and no more than five (5) animals on a three-acre lot. (1999)
- c. The keeping of animals shall not create health or safety hazards to immediate abutters or the community at large.
- d. In residential areas, stables or shelters for large animals shall be located a minimum distance of fifteen feet (15') from any lot line; and corral fences shall be a minimum of five feet (5') from any lot line. (1999)
- e. In all districts, owners shall be responsible for all damages and expenses incurred in the capturing and holding of escaped animals by Town officials. In addition, a fine shall be levied under guidelines established by the Board of Selectmen whenever a Town official is called out to capture an animal. (1984)

#### **SECTION 450 ACCESSORY USES: HOME OCCUPATIONS**

**450:1** All home occupations except those exempted under Section 450:4 shall be required to apply for a Home Occupation Permit. (1992)

**450:2** A permit for a home occupation shall be allowed in residential zones by special exception from the Board of Adjustment if the occupation complies with the following:

- a. A proposed occupation shall be incidental and secondary to the use of the property as a dwelling and shall not consume more than 20% of the gross residential building space, and not change the residential character of the premises thereof. (1992)

- b. Unless exempted by Section 450:4-a, no home occupation shall take place in a multi-family dwelling.
- c. The occupation may be carried on by the occupant's immediate family residing at that location and by one or more additional employees whose aggregate hours of work at that location do not exceed eighty hours per week (80 hours/week). The foregoing limitations on the aggregate hours of work per week by additional employees shall not apply in the case of medical, dental or veterinary home occupations. (2007)
- d. There shall be no physical evidence of equipment or materials outside the dwelling.
- e. Adequate off-street parking areas must be provided. Parking areas in excess of those necessary for normal residential purposes may be allowed in side and rear yards only provided the residential character of the environment is preserved. (1992)
- f. When necessary, further restrictions shall be placed on the occupation in order to comply fully with Article IV, Section 400:2 of this ordinance.
- g. A permit to operate a home occupation shall be issued to the owner/occupant only and is not transferable to a subsequent owner. A permit to operate a home occupation shall be issued to the owner/occupant only, and is transferable to a subsequent owner who will certify to the Zoning Board of Adjustment in writing that he or she will continue the home occupation on the same terms and conditions as the previous owner/occupant. (2007)
- h. The applicant shall complete and sign a form that sets forth the nature of the home occupation and provides details of the business and its scope of operation.
- i. No home occupation that will result in heavy truck use in excess of 20,000 lbs. gross vehicle weight shall be allowed. (1992)
- j. Vehicles registered to a home business or occupation must comply with the provisions of Section 480:1. (1992)

**450:3 Nature of the Permit**

- a. Permits shall be issued by the Board of Adjustment.
- b. Prior to the issuance of a permit, the Board of Adjustment shall hold a public hearing. Abutters will be notified of the time and date of the hearing by certified mail, such letter to include a description of the home occupation applied for and its location.
- c. Before a permit is granted, mandatory building inspections shall be made by the Town if it is a Family Group Day-Care Home facility, or if the public is to be served or persons outside the family are to be employed at the proposed location or if hazardous materials are to be stored there. In addition, a formal site plan review may be required if deemed necessary.

- d. No more than one business permit can be in effect for any one location.
- e. A permit is valid only for two (2) years and only for the owner/occupant and location for which it is issued. A renewal permit shall be required after two (2) years.
- f. Annual inspections of the home occupation/home business premises may be required subsequent to the issuance of a permit in order to confirm compliance with the conditions of the original special exception granted. If, in the opinion of the Board of Selectmen, the business practices originally set forth and defined in the initial approval have changed, it shall revoke the permit that was issued. Permit holders whose permits are revoked may make application to the Board of Adjustment for a new permit based on the changed circumstances of the business.

**450:4 Fees**

- a. There will be an initial permit fee as set by the Selectmen plus the cost of certified mail to each abutter including the applicant and the cost of all initial
- b. Any inspection required by the Town subsequent to the issuance of a permit shall be paid by the permit holder. Any renewal permit shall require a fee as determined by the Board of Selectmen.

**450:5 Exemptions from permit application requirements**

- a. Home occupations in which neither customers nor vehicles come to the location where the business activity takes place and at which no sign is displayed and no outside person is to be employed and there is no outward appearance of business activity.
- b. Agricultural activity, including farming and forestry, in which products are grown on the premises and sold on or off the premises.
- c. Home occupations for which permits were officially issued by the Planning Board and in effect on or before March 8, 1984, with such permits automatically becoming subject to Section 450:2-f. (1984)

**450:6** The repair and/or sales of automobiles and other vehicles for business purposes is not permitted in residential zones and Town Center. (1990)

**SECTION 460 ACCESSORY DWELLING UNIT**

**460:1** The objectives of this section are to:

- a. Provide housing to extend family members and affording all parties the necessary privacy and living arrangements conducive to harmonious habitation in a single family residence;
- b. Provide dwelling units to meet the needs of smaller households, both young and old;

- c. Provide dwelling units in single-family neighborhoods that are appropriate for different housing needs;
- d. Preserve the intent of single-family housing by placing strict physical limitations on size and access to the accessory dwelling unit;
- e. Protect the single-family residential character of a neighborhood by ensuring that the accessory dwelling unit is permitted only in an owner-occupied residence and under such conditions as to protect the property values and the health, safety and welfare of the neighborhood and the public.

**460:2** An “accessory dwelling unit” (or “ADU”) is a residential living unit that is within or attached to a single-family dwelling 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.

**460:3** An Accessory Dwelling Unit shall be allowed in all zoning districts where single-family dwellings are permitted. Pursuant to RSA 674:21.II Conditional Use Permit may be granted by the Planning Board upon finding that the proposal complies with all of the following criteria a-k.

- a. The accessory dwelling unit shall be subject to the standards and conditions for as set forth in the Town of Atkinson Zoning Ordinance.
- b. No more than one accessory dwelling unit shall be allowed per single-family dwelling. The accessory living unit shall be within or attached to the single-family dwelling and shall not be permitted within detached accessory structures located on the same lot as the single-family dwelling.
- c. The combination of a single-family dwelling and accessory dwelling unit shall not be converted to a condominium or any other form of legal ownership distinct from the ownership of the existing single-family dwelling.
- d. The single-family dwelling unit or the accessory dwelling unit shall be owner-occupied and both dwelling units shall remain in common ownership by the primary resident.
- e. Accessory dwelling units will not be allowed as part of duplex housing or multi-family housing.
- f. The accessory dwelling unit and any related changes to the property shall be designed so that the appearance remains that of a single family residence and is consistent with the single family character of other residence in the neighborhood.
- g. The accessory dwelling unit shall have convenient and direct access to the principal dwelling unit through an interior door between the principal dwelling and accessory dwelling unit. The accessory dwelling unit shall have independent means of ingress and egress.

- h. The accessory dwelling unit shall be no more than 1,000 square feet in size and shall be clearly accessory to the principal dwelling unit. The accessory dwelling unit shall have no more than 2 bedrooms.
- i. Two parking spaces shall be provided for the accessory dwelling unit.
- j. Any and all consideration shall be in accordance with the building standards of the Town of Atkinson in effect at the time of construction.
- k. In accordance with the standards of the Town and regulations adopted by the New Hampshire Department of Environmental Services (NH DES) in compliance with RSA 485-A:38, the water and septic facilities whether separate or shared shall be adequate to service both the existing single-family dwelling and the accessory living unit. Proof or adequacy of these facilities shall include: an existing septic plan approved by the NH DES and a site inspection by a NH licensed septic designer verifying the proper function of the existing system; or a new replacement septic plan approved by the NH DES.

## **SECTION 470 SIGNS**

**470:1 Purpose.** These regulations have been created to permit signage for the following uses: Commercial, Commercial-Industrial, Commercial Professional, Municipal, Residential, reference, directional, temporary and traffic. While recognizing that esthetics and design quality are difficult to legislate, it is the intent and purpose of this section to preserve the rural beauty of the town as well as the safety and well-being of the inhabitants and at the same time, allow reasonable signage by regulating their type, number, location, color, illumination and size.

### **470:2 Definitions**

**S1 Sign.** Any device, fixture, placard or structure that uses any color, form, graphic, illumination, symbol or writing to advertise, announce the purpose of, or identify the purpose of a person or entity or to communicate information of any kind to the public.

**T1 Temporary Sign.** Any sign that is used only for a limited time and is not permanently mounted.

**470:3 Permit required.** No sign identifying or advertising a business shall be erected, hung, altered or repaired without a sign permit. Temporary signs are excluded from this provision. Permit approval is obtained from the Building Inspector. The applicant or his agent must submit a set of plans, to scale, showing the sign, its dimensions, location and method of illumination, as well as the materials and colors to be used in its construction. Upon approval, said permit shall be issued by the Building Inspector after the application fee is paid. Permit fee is determined by the Board of Selectmen. (1994)

**470:4 Government exception.** Provisions of this Ordinance shall not apply to conventional directional and identification signs and markers erected by federal, state or local government agencies.

**470:5 Compliance. DELETED 1993**

#### **470:6 General Provisions**

- a. Only one sign shall be permitted on the immediate premises, except where specifically allowed within this Ordinance.
- b. No signs advertising a business shall be permitted off the premises.
- c. No scrolling, blinking, moving, reflective, inflating, noise producing, odor or vapor producing signs are allowed.
- d. Banners and portable signs are not to be used as permanent signage.
- e. All signs may be illuminated by exterior light sources provided such lighting is shielded to protect adjacent properties and vehicular traffic. Internally lit signs are permitted only in C, CI and CP zones.
- f. No neon, flashing or moving lights are allowed to be visible from the exterior of buildings.
- g. Commercial grade materials such as plexiglass, vinyl, stone and wood are preferred. (1994)
- h. Colors are limited to a total of three per sign/structure, with one being the background. Bright, reflective colors are not allowed. White is not considered a color. (1994)
- i. All signs may have a maximum of two faces with the exception of signs in the C, CI and CP zones.
- j. Letters affixed to buildings are considered signs.
- k. **DELETED 1994**
- l. No sign shall be placed within any public right-of-way.

**470:7 Temporary Signs.** Temporary signs identifying an upcoming event are permitted to be displayed not more than four (4) weeks before the event and shall be removed within ten (10) days following the event. Temporary signs include but are not limited to flags, banners, portable signs, for rent, sale and yard sale signs. National, state and municipal flags are allowed.

**470:8 Signs in Residential Zone.** The following signs are permitted when located on the lot:

- a. Home business signs no larger than five (5) square feet per face with no more than two faces and for as long as the business is permitted per Article VI Section 450 Accessory Uses: Home Occupations.
- b. Name plates. Non-commercial signs showing property numbers, names of occupants of the premises or other identification.
- c. Temporary Signs (e.g., for sale, lease, rental, construction, improvement of property) are permitted for the duration of the activity. Area of each face of the sign

may not exceed five (5) square feet and shall be allowed for the duration of these activities.

- d. Permanent subdivision identification signs. One ground sign per main entrance into a development with a maximum of two per development. Signs shall be set back from vehicle or pedestrian traffic and beyond the highway right-of-way. The area of each face of the sign shall not exceed twenty (20) square feet.
- e. Non-residential signs. One sign identifying a non-residential use in a residential zone is permitted by Special Exception from the Board of Adjustment. The sign shall be limited to the following square area:
  - 1) five (5) square feet per face in a conventional residential development.
  - 2) one (1) square feet per face in a rural cluster residential development of detached single-family dwellings.

**470:9 Signs in the C, CI and CP zones, Commercial Area in Cluster Recreational Developments and Town Center District.** Each business shall be allowed one identification sign. (1994)

- a. In buildings that have more than one permitted business, the following signs are allowed when located on the lot:
  - 1) one sign with a maximum height of twelve (12) feet not to exceed fifteen (15) square feet per face.
  - 2) individual signs which shall not exceed ten (10) square feet with a maximum of two surfaces.
- b. In buildings that have one permitted business, the following signs are allowed when located on the lot:
  - 1) one sign not exceeding fifteen (15) square feet per face with a maximum of two faces and a maximum height of twelve (12) feet.
- c. Non-residential signs. One sign per non-residential use in a residential zone is permitted by Special Exception from the Board of Adjustment. The sign shall be limited to five (5) square feet.

**470:10 Signs in Commercial Industrial and Commercial/Professional Zones.** Every commercial park shall be allowed to have one sign to be located at or near the main entrance.

- a. Maximum height of twenty (20) feet (15 feet if within 200 feet of a residential zone) and maximum width of eight (8) feet. No single surface can be more than one hundred and twelve (112) square feet and the total square footage is not to exceed two hundred twenty-four (224) square feet.
- b. One sign per business not to exceed fifteen (15) square feet per face.



**470:11 Agricultural Signs.** For the purpose of agricultural, multiple signs (e.g., for advertising the farm name, location and items for sale) are allowed on the immediate premises. Signage shall not exceed a total of fifteen (15) square feet.

**470:12 Existing signs.**

- a. **Removing or reconstructing signs.** Grandfathered and/or non-conforming signs. Signs that exist at the time of passage of this ordinance may remain in use in the same location. If for any reason, replacement or reconstruction becomes necessary, a sign permit shall be required. Nothing in this ordinance shall prohibit the ordinary maintenance and repair of non-conforming signs. (1994)
- b. **Relocating signs.** Any sign that is moved to another location on the same or other premises shall be considered a new sign and a permit shall be secured for any work performed in connection therewith when required by this article.

**470:13 Obsolete signs.** Any sign now or hereunder existing which no longer advertises a bona fide business conducted, product sold or activity or campaign being conducted shall be removed by the owner, agent or person having the beneficial use of the building, structure or lot upon which such sign may be found within ten (10) days after written notification from the Code Enforcement Officer. Failure to comply with such notice constitutes a violation of terms of this Ordinance. (1992)

**470:14 Political Advertising.** Political signs and political advertising signs are permitted consistent with the requirements of RSA 664:17 Political Advertising.

**470:15 Severability.** The invalidity of any provision of this Section shall not affect the validity of any other provision.

## **SECTION 480 STORAGE OF VEHICLES**

**480:1** In residential areas, with the exception of farm vehicles, commercial vehicles parked on the premises must be wholly screened from the view of abutting property either by natural screening or by fencing at least equal in height to that of the vehicle itself. Commercial vehicles in excess of 20,000 pounds gross vehicle weight are not permitted to be routinely parked in Residential Districts. (1999)

## **SECTION 490 REDUCTION OF FRONTAGE REQUIREMENTS**

**490:1** The Board of Adjustment may reduce frontage requirements by no more than 33 and 1/3% where street layouts and lot shapes may lend greater usage of the property under consideration, provided, however, that at the building line, a distance of the required frontage is being met. This means in an RR-3, 250' between lot lines; in an RR-2, 200' between lot lines; and in a TR-2 area, 200' between lot lines. (1982)

## **SECTION 4100 SMALL WIND ENERGY SYSTEMS ORDINANCE (2010)**

**4100:1 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.

#### 4100:2 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 access 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 constructed to be a modification.

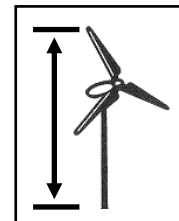
**Net Metering** The difference between the electricity supplied to a customer over the electric distribution system and the electricity generated by the customer's small wind energy system that is fed back into the electric distribution system over a billing period.

**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.

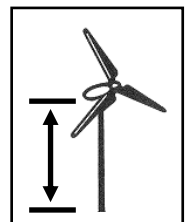
**Small wind energy system** A wind energy conversion system consisting of a wind generator, a tower and associated control or conversion electronics, which has a rated capacity of 100 kilowatts or less and will be used primarily for onsite consumption.

**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.

#### 4100:3 Procedure for Review

- a. 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 building inspector. 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.
- b. Application: Applications submitted to the building inspector shall contain a site plan with the following information:
  - 1) Property lines and physical dimensions of the applicant's property.
  - 2) Location, dimensions and types of existing major structures on the property.
  - 3) Location of the proposed small wind energy system, foundations, guy anchors and associated equipment.
  - 4) Tower foundation blueprints or drawings.
  - 5) Tower blueprints or drawings.
  - 6) Setback requirements as outlined in this ordinance.
  - 7) The right-of-way of any public road that is contiguous with the property.
  - 8) Any overhead utility lines.
  - 9) Small wind energy system specifications, including manufacturer, model, rotor diameter, tower height, tower type, nameplate generation capacity.
  - 10) Small wind energy system that will be connected to the power grid shall include a copy of the application for interconnection with their electric utility provider.
  - 11) Sound level analysis prepared by the wind generator manufacturer or qualified professional engineer.
  - 12) Electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the NH State Building Code.
  - 13) Evidence of compliance or non-applicability with Federal Aviation Administration requirements.
  - 14) List of abutters to the applicant's property.
- c. Abutter and Regional Notification: In accordance with RSA 674:66, the building inspector shall notify all abutters and local governing body by certified mail at the applicant's request 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 building inspector prior to the issuance of the building permit. The building inspector shall review the application for regional impacts per RSA 36:55. If the proposal is determined to have potential regional impacts, the building inspector shall follow the procedures set forth in RSA 36:57, IV.

**4100:4 Standards**

- a. The building inspector shall evaluate the application for compliance with the following standards:
  - 1) Setbacks: The setbacks 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.
    - i) Small wind energy systems must meet all setbacks for principal structures for the zoning district in which the system is located.
    - ii) Guy wires used to support the tower are exempt from the small wind energy system setback requirements. Guy wire must be anchored on subject/applicant's property.

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

- 2) 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.
- 3) Sound Level: The small wind energy system shall not exceed 55 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. Certification of compliance shall be provided by professional engineer or manufacturer.
- 4) 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.
- 5) 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.
- 6) Code Compliance: The small wind energy system shall comply with all applicable sections of the New Hampshire State Building Code.
- 7) 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.

- 8) 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.
  - i) 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.
  - ii) 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.
  - iii) 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.
- 9) 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.
- 10) 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.
- 11) 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.
- 12) 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.

#### **4100:5 Abandonment**

- a. At such time that a small wind energy system is scheduled to be abandoned or discontinued, the applicant will notify the building inspector by certified U.S. mail of the proposed date of abandonment or discontinuance of operations.
- b. Upon abandonment or discontinuance of use, the owner shall physically remove the small wind energy system within 90 days from the date of abandonment or discontinuance of use. This period may be extended at the request of the owner and at the discretion of the building inspector. "Physically remove" shall include, but not be limited to:
  - 1) Removal of the wind generator and tower and related above-grade structures.
  - 2) 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 building inspector 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 the Notice receipt date. After review of the information provided by the owner, the building inspector shall determine if the small wind energy system has been abandoned. If it is determined that the small wind energy system has been abandoned, the building inspector 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 building inspector, 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 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 building inspector may pursue legal action to have the small wind energy system removed at the owner's expense.

**4100:6 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. Hobby systems having output of 1 kilowatt (peak) are exempt from this ordinance.

#### **4100:7 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.

**4100:8 Severability**

The invalidity of any subsection or provision of this Article shall not invalidate any other subsection or provision thereof.

## ARTICLE V: ZONING DISTRICT REGULATIONS

### SECTION 500 ZONING DISTRICT OBJECTIVES AND GUIDELINES

**500:1** The purpose and the designation of each of the districts listed in this Article follow.

**500:2 (RR-3) Rural Residential-3.** This area is limited to agricultural, forestry, and certain other non-intensive uses as provided for in Section 510. Low density residential and related uses are permitted in this district where it is not inconsistent with the comprehensive Master Plan for the town. The purposes of this lot density designation are to prevent premature development of land, to retain certain areas for non-intensive uses, to protect the public health, and to prevent development which would be a burden on town services.

**500:3 (RR-2) Rural Residential-2.** This area is limited to agricultural, forestry, and low density residential uses. Other related uses as provided for in Section 520 are permitted and must be consistent with the comprehensive Master Plan. These areas designated for Rural Residential-2 allow for development, but require adequate lots in order to minimize community services, protect the public health, and prevent premature development beyond the capability of soil conditions with moderate to severe limitations.

**500:3.1 (RR2/SCR) Sports Complex/Residential Subdistrict.** This area in town for Recreational/Sports amenities and other public and common facilities that cannot otherwise be provided under conventional land development procedures, together with limited non-residential uses to support the same and the neighborhood. Such development must contain a minimum of 250 acres and be part of a rural residential cluster development, provided such development also meets the requirements contained in the RR-2 District. Such developments are hereinafter referred to as "Rural Residential and Recreational Cluster Developments" (RRRCD) and may contain alternative design housing. (2006)

**500:4 (TR-2) Town Residential-2.** This is the prime residential area in town and is designated in land areas where soil limitations are less severe and accessibility to community services such as police, fire station, and schools are more readily available. Residential and other compatible and complementary uses as provided for in Section 530 are permitted in this district and detailed densities are dependent upon land suitability. This district is intended to have the majority of the community's permanent residents in the area, densities consistent with soil conditions, and lot sizes which protect the public health, provide ample open space, and maintain the present rural nature of the town.

**500:5 (C) Commercial.** This is a district designated in the town and is designed to continue the New England character of providing services and shopping opportunities to the residents of the community and to visitors. It is a district that is designated to promote the pleasant residential characteristics and shopping environment of a neighborhood.



- 500:6 (C-I) Commercial-Industrial.** This district allows for the establishment of small-scale manufacturing opportunities along with shopping and service opportunity locations. It is an area that must take into consideration accessibility to truck and rail traffic and the availability of utilities or the lack thereof. The accommodations of present home occupations outgrowing present quarters are the purpose of creating and locating this district. Facilities need to be in harmony with abutting districts which may contain residential uses. To accomplish this harmony, all material or products outside of the building must be suitably screened from streets and residential abutters. (1999)
- 500:7 (C-P) Commercial-Professional.** This district provides for commercial-professional development and would serve as a transition zone between the commercially/industrially zoned area and any residentially zoned area. The district is intended to accommodate the outgrowth of present home businesses and to establish an area necessary to support the existing need for low impact services.
- 500:8 (TC) Town Center.** This district is created to provide a community center for the townspeople of Atkinson while observing and retaining the historic qualities which now exist in the area. Provision for professional services and public government and civic services is a major objective in this district designation.
- 500:9 (HD) Historic District. District dissolved - Ballot 6/13/92**

#### **SECTION 505 SCENIC VISTA AND PRONOUNCED LANDSCAPE REGULATION (1998)**

- 505:1** Areas designated in the 1980 Master Plan as scenic vistas and pronounced landscapes (see Scenic & Cultural Map, page 32 of the 1980 Master Plan) are needed to maintain the rural character of the community. The following Sections are aimed at preserving these valuable assets.
- 505:2** Preservation of scenic vistas and pronounced landscapes in residentially zoned districts is encouraged by allowing an increase in the density of allowable units provided; however, that sufficient information has been provided to the Planning Board during subdivision review to document the adequate protection of the vista or pronounced landscape. (See Section 600:6c)

**SECTION 510 – PERMITTED USES**

The following uses are permitted in the Rural Residential-3 acre (RR-3), Rural Residential-2 acre (RR-2), Sports Complex/Residential Subdistrict (SCR), Town Residential-2 acre (TR-2), Commercial (C), Commercial-Industrial (C-I), Town Center (TC) and Commercial-Professional (CP) districts:

PERMITTED USES	ZONES							
	RR3	RR 2	TR2	TC	C-I	C	C-P	RR2/SC R
<b>a</b> Agricultural & forest uses	Y	Y	Y	Y	N	Y	N	Y
<b>b</b> Single family convention housing	Y	Y	Y	Y	N	N	N	Y
<b>c</b> Private outdoor recreation	Y	Y	Y	Y	N	Y[4]	N	Y
<b>d</b> Public outdoor recreation	Y	Y	Y	Y[4]	N	Y[4]	N	Y
<b>e</b> Wildlife refuge	Y	Y	N	Y	N	N	N	Y
<b>f</b> Cemetery	Y	Y	N	Y	N	N	N	Y
<b>g</b> Accessory use or building 2014	Y	Y	Y	Y	Y[4]	Y[4]	Y[4]	Y
<b>h</b> Guest house	Y	Y	Y	Y[4]	N	Y[4]	N	Y
<b>i</b> Rural cluster (conventional housing)	Y[4]	Y[4]	Y[4]	Y[4]	N	N	N	Y[4]
<b>j</b> Rural cluster (manufactured housing)	Y[4]	Y[4]	Y[4]	N	N	N	N	Y[4]
<b>k</b> Rural cluster (manufactured housing park)	Y[4]	Y[4]	N	Y[4]	N	N	N	Y[4]
<b>l</b> Public school	Y	Y	Y	Y[4]	Y[4]	Y[4]	N	Y
<b>m</b> Retail enterprise 2014	N	N	N	Y[4]	Y[4]	Y[3,4]	Y[3,4]	Y
<b>n</b> Professional office	N	N	N	Y[3,4]	Y[4]	Y[3,4]	Y[3,4]	Y
<b>o</b> Personal service establishment	N	N	N	Y[3,4]	Y[4]	Y[3,4]	Y[3,4]	Y
<b>p</b> Religious institution	N	N	N	Y[4]	Y[4]	Y[4]	N	Y
<b>q</b> Community center	N	N	N	Y[4]	Y[4]	Y[4]	N	Y
<b>r</b> Private or Public Club 2014	N	N	N	Y[4]	Y[4]	Y[4]	N	Y
<b>s</b> Mortuary/funeral home	N	N	N	Y[4]	Y[4]	Y[4]	N	N
<b>t</b> Enclosed storage (4/14)	Y	Y	Y	Y[3]	Y[4]	Y[4]	Y[4]	Y
<b>u</b> Parking (commercial: for a fee)	N	N	N	N	Y[4]	Y[4]	N	N
<b>v</b> Manufacturing and storage	N	N	N	N	Y[4]	N	N	N
<b>w</b> Non-profit use (public and civic) 2014	N	N	N	Y[4]	Y[4]	Y[4]	Y[4]	N
<b>x</b> Private school 2014	Y[2]	Y[2]	N	Y[2,4]	Y[4]	Y[4]	Y[4]	Y[2]
<b>y</b> Tearoom/coffee shop	N	N	N	Y[3,4,5]	Y[4]	Y[3,4]	N	Y
<b>z</b> General/convenience store	N	N	N	Y[3,4,5]	Y[4]	Y[3,4]	N	Y
<b>aa</b> Family Day Care Home	Y[6]	Y[6]	Y[6]	Y[6]	Y[6,4]	Y[6,4]	N	N
<b>bb</b> Interior warehousing storage	N	N	N	N	Y[4]	N	Y[3,4]	N
<b>cc</b> Light Manufacturing	N	N	N	N	Y[4]	N	Y[3,4]	N
<b>dd</b> Small scale wholesale enterprises	N	N	N	N	Y[4]	N	Y[3,4]	N
<b>ee</b> Deleted 1993								

<b>ff</b> Research and development facilities that meet Performance Standards in Section 685 of Site Plan Review Regulations	N	N	N	N	Y[4]	N	Y[3,4]	N
<b>gg</b> Self-Service Storage Facility (4/97)	N	N	N	N	Y[4]	Y[3,4]	N	N
<b>hh</b> Refuse and garbage (not town generated) incineration, storage or disposal (1999)	N	N	N	N	N	N	N	N
<b>ii</b> Junk yards; asphalt plants, meat rendering plants; sand, gravel, cement or stone processing plants; piggeries; oil refining (1999)	N	N	N	N	N	N	N	N
<b>jj</b> Wrecking and salvage yards; auto dismantling (1999)	N	N	N	N	N	N	N	N
<b>kk</b> Manufacturing of explosive materials and/or biological toxins (1998)	N	N	N	N	N	N	N	N
<b>ll</b> Repair Garage & Auto Body Repair (1999)	N	N	N	N	Y[4]	N	N	N
<b>mm</b> Rural Cluster (conventional and alternative design housing)	N	N	N	N	N	N	N	Y[4]
<b>nn</b> Any use where commercial trucking activity exceeds occasional truck traffic between the hours of 9:00 PM and 6:00 AM [7]	N	N	N	N	N	N	N	N

Y = YES      NO – NO

1 – Historic District dissolved – Ballot 6/13/92

2 – Access onto a state-maintained highway within the town of Atkinson required.

3 – Business in commercial, commercial-professional and town center must be conducted in interior of building only. (1991)

4 – Site Plan Development Approval from Planning Board required first. (See Article V, Site Development Plan Regulations, Section 510 ff.)

5 – Limited to a total of 2 separate establishments.

6 – Business Registration Form on File and the following satisfactory inspections: Health Inspection; Fire Inspection; Electrical Inspection; and State Inspections, as applicable.

7 – Occasional truck traffic shall not exceed one trip, one-way, every 2 hours on a regular basis.

**SECTION 520 - USES PERMITTED BY SPECIAL EXCEPTION FROM THE BOARD OF ADJUSTMENT**

PERMITTED BY SPECIAL EXCEPTION	ZONES						
	RR3	RR2	TR2	TC/HD	C-I	C	C-P
<b>a</b> Excavations (See Article IV, Z430)	Y	Y	Y	Y	Y	Y	
<b>b</b> Home occupation (See Article. IV, Z450)	Y	Y	Y	Y	Y	Y	
<b>c</b> Residential use on 1.5 acre density provided soil conditions render slight or no limitations to development and include slopes of less than 8%, depth to bedrock greater than 10 ft., depth to high water table greater than 6 ft., and soils classified as soil numbers 211B, 212B, 221B and 222B (High Intensity Soils Map symbols). [Effective 06/01/89.]		Y	Y				
<b>d</b> Residential use meeting all residential requirements of the TR-2 district						Y	
<b>e</b> Family Group Day-Care Home	Y	Y	Y	Y	Y	Y	N
<b>f</b> Group Child Care Center	N	N	N	Y	Y	Y	Y
(1990)							
YES    N = NO							

SECTION 530 - AREA, YARD, COVERAGE, HEIGHT AND GENERAL REQUIREMENTS								
PERMITTED USES	ZONES							
	RR3	RR2	TR2	TC	C-I	C	C-P	RR-2/SCR
	Res/Non	Res/Non	Res/Non	Res/Non	Non-Res	Res/Non	Non-Res	Res/Non
<b>a</b> Lot area minimum (acres)	3**/3**	2##/2##	2/2	2/2	1	2/1	2	2/250[9]
<b>b</b> Lot frontage minimum (ft)	250/250	200/200	200/200	200/200	200	200/150	200	[9]
<b>c</b> Lot depth minimum (ft)	200/250	200/250	200/250	200/200	200	200/200	200	[9]
<b>d</b> Front yard minimum (ft)	70/70	70/70	50/50	50/50[3]	50[3]	50/50[3]	50[8]	[9]
<b>e</b> Rear yard minimum (ft)	75[1]/75	75[1]/50	50[1]/50	50[1]/50	25[7]	50[1]/25[4]	25[7]	[9]
<b>f</b> Side yard minimum (ft)	100T#/50 30 M#[1]	100T#/50 30M#[1]	30[1]/50	30[1]/30	25[7]	30[1]/25[4]	25[7]	[9]
<b>g</b> Building height maximum [2]	2 stories or 35 ft, whichever is less		2 stories or 35 feet, whichever is less		3 stories or 35 feet, whichever is less --35 feet			35/55 feet [9]
<b>h</b> General regulations Site Plan approval Multi-family Non-residential	Yes Yes	Yes Yes	Yes Yes	Yes Yes	Yes Yes	Yes Yes	Yes	Yes Yes
<b>i</b> Coverage maximum (Footprint)			15%/10%	10%	25%[5]	25%[5]	25%	
<b>j</b> Open Space Requirement							30%	
* DELETED 1993.								
** 30,000 Square feet may be included in lot size requirements in soil condition generally not suited for development.								
#T = Total; M = Minimum								

## 3 acres required if High Intensity Soils Map designates more than 50% of a two-acre lot as having less than 2 feet depth to seasonal water table, and/or slopes greater than 25% and /or less than 4 feet to bedrock and/or generally found under drainage designations 5, 6, or 7; parent material designations 5, 6, 7, 8, pr 9; restrictive feature designations 3, 4, 5, 6, or X; or slope designations E. [Effective 06-01-89.]
1 - Rear and side yard requirements for private outdoor recreational installations are 15 feet.
2 - Maximum height of accessory buildings is 15 feet. No limitations for agricultural uses.
3 - 75 feet is required if parking is permitted in the front yard.
4 - 100 feet if abutting a residential district.
5 - Calculations to be based on buildable land only.
6 - Not presently used.
7 - 150 feet from the zone line if abutting a residential district.
8 - If parking is permitted in the front yard, 75 feet is required of which 25 feet shall not be paved.
9 - In RR2, the SCR Subdistrict permits alternative design residential buildings that shall be no more than 55 feet in height. Alternative design buildings in excess of 35 feet in height shall have a setback of 400 feet from the building to the property line and/or town roads.

## ARTICLE VI: RURAL CLUSTER

### RESIDENTIAL DEVELOPMENT

#### SECTION 600 OVERVIEW AND PROVISIONS

##### 600:1 Permitted Uses

- a. Townhouse developments in a cluster concept with 2, 3 or 4 units per building are permitted in any district except the commercial, commercial professional and commercial-industrial district within the Town of Atkinson and may be exempt from the provisions of Lot and Yard Regulations Minimum Required, but subject to the conditions which follow.
- b. Single Family residential cluster subdivisions that permit dwelling unites to be grouped on lots or sites with dimensions, frontages and setbacks as defined in Section 600:8 b., and reduced from conventional requirements or on land under condominium ownership shall be permitted in any district except the commercial, commercial professional and commercial-industrial district within the Town of Atkinson and may be exempt from the provisions of Lot and Yard Regulations Minimum Required, but subject to the conditions which follow. (2001)
- c. Rural Residential Recreational Cluster Development with the SCR Subdistrict, as permitted in Section 620, which dimensions, height restrictions, and setbacks as provided therein, are subject to the conditions which follow, except where such provisions are in conflict with Section 620, in which cast those provisions of Section 620 shall prevail. (2006)

##### 600:2 The purposes of rural cluster development and to which purposes any such development must adhere, to the following:

- a. To preserve the natural beauty of existing rural roads within the Town of Atkinson and to encourage less intensive residential development within areas not presently served by existing public water and sewer services.
- b. To establish living areas within the Town that provide for a balance of community needs, such as a diversity of housing opportunities, adequate recreation and open space areas, easy accessibility to those and other community facilities, and pedestrian and vehicular safety.
- c. To provide for an efficient use of land, streets, and utility systems.
- d. To stimulate new approaches to land and community development.

##### 600:3 Rural cluster development shall be permitted in any district in which conventional residential development is permitted except in those areas where existing public and/or common water and sewer systems cannot provide adequate services to additional housing development. In such a case, rural cluster development shall be prohibited until

such systems are improved, modified, or expanded to properly serve additional housing development.

**600:4** Manufactured housing may be permitted in a rural cluster development designed exclusively for such housing in any residential district, provided such housing meets all other requirements of this ordinance. Manufactured housing parks may be permitted in a rural cluster development in an RR-3 and TR-2 district provided such housing meets all other requirements of this ordinance.

**600:5** The tract of single or consolidated ownership at the time of application shall be:

- a. distant from the existing town road as follows:
  - 1) Alternative Design Residential Buildings as permitted in the SCR Subdistrict under section 620 shall be four 400' distant from the perimeter boundary and/or town roads. (2006)
  - 2) the location of three and four Unit Townhouse structures shall be 300' distance from existing town roads.
  - 3) single family detached and two family structures shall be 200' distance from existing town roads. (1993)
- b. subject to approval by the Planning Board under the Planning Enabling Legislation -- Regulation of Subdivision of Land -- whether or not land is to be subdivided.

**600:6** The maximum number of dwellings permitted in any rural cluster development shall be determined by utilizing the required density of land area per dwelling unit for that district. (1992)

- a. In addition, each rural cluster development shall be entitled to one additional dwelling unit for every 100 feet in depth added to the required landscaped buffer described in Section Z600:11 below. Such entitlement shall be based on a formula of 1 dwelling unit bonus/10 acre area. This does not apply to low-moderate developments.
- b. For the purpose of this section the maximum buildable area to be used in determining the maximum number of dwelling units permitted shall exclude all wetland soils, all lands with slopes greater than 25% and all proposed roads. (1993)
- c. Cluster subdivisions which are specifically designed to preserve scenic vistas and pronounced landscapes (as designated in the Community Facilities Chapter of the Atkinson Master Plan) shall be entitled to compute the number of allowed units utilizing soil based lot sizing as defined by the Society of Soils Scientists of Northern New England (SSSNNE) Special Publication #4, "Soil Based Lot Sizing", Version 1 (September 2003, as revised), using the method implemented by the planning board under the Land Subdivision Control Regulations. Protection of said vistas and landscapes is to be accomplished by not allowing them to be developed nor be obstructed in view through protective or



conservation easements. This provision does not apply to low-moderate developments, where the low-moderate incentive is utilized. (See Section 505:2) (1998) (2013)

- d. Conservation subdivisions which are specifically designed to save energy and preserve public access open space, shall be entitled to compute the maximum number of dwelling units utilizing soil based lot sizing as defined by the Society of Soils Scientists of Northern New England (SSSNNE) Special Publication #4, "Soil Based Lot Sizing", Version 1 (September 2003, as revised), using the method implemented by the planning board under the Land Subdivision Control Regulations or Site Development Plan Regulations, as applicable. (2013)

**600:7 Development Density**

- a. Townhouse developments shall not exceed eight (8) dwelling units per any single acre within the area being developed, except for Alternative Design Residential Buildings in the SCR Subdistrict. (2006)
- b. Single family cluster developments shall not exceed four (4) dwelling units per any single acre within the area being developed. (2001)

**600:8 Dimensional Requirements**

- a. Rural cluster development shall not be required to conform to the minimum frontage, setback, and lot sizes required in the zoning ordinance, but shall be so designed and constructed as to achieve the purposes of rural cluster development set forth in these regulations.
- b. All dwellings within a single family residential cluster development shall conform to no less than the minimum dimensional requirements specified herein:

1)	Lot Frontage	25'
2)	Lot Depth	125'
3)	Front Yard	30'
4)	Rear Yard	50'
5)	Side Yard	15'*

\* if the sprinkler system requirement is waived for a subdivision, 25' side yards shall be required throughout the development. (2001)

- c. Alternative Design Residential Buildings in excess of thirty-five (35') feet in height shall have a perimeter setback of 400' to the property boundary line and/or town roads. (2006)

**600:9** The following uses shall be permitted:

- a. development of one-family structures on parcels of 10 acres or more;
- b. development of one- and/or two-family structures on parcels of 20 acres or more;

- c. development of one-family, two-family, and/or three and four-unit town-house dwellings on parcels of 30 acres or more;
- d. incidental private recreational uses.
- e. development of Rural Residential Recreational Cluster Developments on parcels of 250 acres or more situated in the RR2-SCR District. (2006)

**600:10** The development may be served by common water and septic systems, the design and construction of which must be approved by the state and local authorities.

**600:11 Perimeter Buffers Requirements (2020)**

- a. The perimeter buffer serves to provide separation from and transition between abutting land uses (e.g. residential, non-residential, conservation lands) and existing town roads. Trees and other vegetation shall be retained. Trees, vegetation or invasive species deemed a hazard by the Atkinson Tree Warden may be removed on an individual basis or identified as part of a buffer management plan.
- b. The perimeter buffer shall comprise the following and any combination of the following:
  - i. Natural forest or landscape features or densely planted with trees and understory along the road frontage. A buffer management plan shall be provided as part of the application; or
  - ii. Managed forest or a combination of managed forest and other natural landscape features. A buffer management plan shall be provided as part of the application; or
  - iii. Restored buffer through replanting of trees and understory vegetation. A buffer management plan shall be provided as part of the application; or
  - iv. Natural forest or other vegetation, meadow or other landscape features such as wetlands that do not require active management to maintain.
- c. Rural Cluster Residential Developments shall be subject to the following perimeter buffer requirements:
 

i. Multi-family cluster developments	100 feet width
ii. Fee simple ownership subdivision	50 feet width
iii. Condominium ownership	100 feet width
- d. The perimeter buffer shall extend around the perimeter of the entire parcel being developed and along existing town roads. No grading, land disturbance or construction (e.g. structure or common facility such as playground, gazebo, pavilion, clubhouse), excepting for primary access roads, utility crossings and trails for non-motorized recreation, shall be permitted in the perimeter buffer.

- e. No portion of the perimeter buffer shall be included as part of any lot defined for construction of a dwelling.
  - f. All building envelopes defined for construction of a dwelling shall have a 20 foot setback from the perimeter buffer.
- 600:12** All parking within a rural cluster development shall be provided at a rate of not less than two (2) spaces per single dwelling unit.
- 600:13** Emergency vehicle access shall be provided to all structures within the rural cluster development.
- 600:14** At least fifty percent (50%) of the total land area, exclusive of roads, public or purposes of this Article, permanent open space is defined as lands used for active agriculture or forestry guided by a forest management plan, natural landscapes that are actively maintained, and lands permanently protected from development (e.g. structures, construction activity, stormwater management) and uses permitted under Section 600:15 (2020).
- 600:15** Such common land shall be restricted to open space recreational uses such as tot lot, park, swimming pool, tennis courts, playground, playfield, or conservation. (2020)
- 600:16** Except for residential conservation subdivisions, such common land shall have suitable access to a road only within the development.
- 600:17** Except for residential conservation subdivisions, open space, common areas, common facilities, private roadways, and other features within the rural cluster development shall be protected by covenants running with the land and shall be conveyed by the property owners to a homeowner's association so as to guarantee the following:
- a. The continued use of land for the intended purposes.
  - b. Continuity of proper maintenance for those portions of the development requiring maintenance.
  - c. The availability of funds required for such maintenance. Recovery for loss sustained as a result of casualty, condemnation or otherwise.
  - d. A homeowner's association of tenancy-in-common or similar form of ownership, that the membership and obligation of the residents of the rural cluster development be automatic upon conveyance of title or lease to single dwelling units. Homeowners association, tenancy-in-common, or similar form of ownership shall include lien provisions and shall be subject to review and approval by the Planning Board.
  - e. The usage of all Open Space associated with a Cluster shall remain under the direction and control of the Homeowners of that Cluster so that the homeowner's access and usage of the land is protected. Said access and usage shall also be protected by the developer during the developer's stewardship of the Open Space, until such time as it is transferred to the Homeowners Association. (2002)
- 600:18** The rural cluster development plan shall show the layout of all streets and roads.

- a. All streets and roads shall be built to Town Subdivision requirements for new public roads whether or not they are offered to the Town for public acceptance.
- b. Town road requirements may be modified by the Planning Board for roads where deemed applicable. All roads shall be built as hard surface roads to standards approved by the Planning Board and the Road Agent and may remain in private ownership.

**600:19** A site plan for the entire tract at a scale of 1"=100' and the developed portion at 1"-50' shall be prepared by either a professional land planner, registered architect, registered professional engineer, or registered land surveyor. The site plan shall be submitted in accordance with the subdivision regulations for the Town of Atkinson, and the location of parks and open space shall be shown on the plan.

**600:20** The review of any rural cluster development conducted by the Planning Board under these regulations shall ascertain that adequate provisions have been made by the owner or his authorized agent for the following:

- a. Traffic circulation and access including adequacy of adjacent streets, entrances and exits, traffic flow, sight distances, curb cuts, turning lanes, and existing or recommended traffic signalization.
- b. Pedestrian safety and access.
- c. Off-street parking and loading.
- d. Emergency vehicle access.
- e. Fire protection as it applies to the proximity of buildings to one another and to the existence of firefighting water sources.
- f. Storm water drainage based upon a minimum of a ten (10) year storm frequency, utilizing on-site absorption and/or positive outfall.
- g. Recreational facilities.
- h. Water supply and wastewater disposal approved by a civil or sanitary engineer registered in New Hampshire.
- i. Environmental factors such as protection against pollution, noise, odor, and the protection of natural features.
- j. Landscaping in keeping with the general character of the surrounding areas.
- k. Signing and exterior lighting.
- l. Submission of proposal along with abutting property owners' names and addresses shall be in accordance with the Town of Atkinson Subdivision Regulations in order to provide for timely notification to abutters of public hearing to review said parcel.

- m. In addition, the Planning Board shall review the plan to assure compliance with the provisions of the standards set forth in these regulations and other town regulations and ordinances. The Planning Board shall also ascertain that the plan minimizes the encroachment of the rural cluster development upon neighborhood land uses.

**600:21 A performance bond** and other legal data shall be submitted as required by the Planning Board to ensure the completion of streets, buffers, and amenities in accordance with the accepted plans and subdivision regulations of the Town of Atkinson as adopted or hereafter.

**600:22** The owner, his agent or his successors or assigns will make no alterations or additions or deletions from the approved Rural Cluster Development Plan except as approved in advance by the Planning Board. All requests for changes to the approved plan shall be made in writing to the Board and shall be accompanied by such documents as the Planning Board shall deem necessary to explain the requested change. The Board shall determine if the requested change is minor or major in nature.

- a. Minor changes. A minor change shall be one which respects the approved plan's basic land allocations in terms of use and intensity, the type and variety of facilities and dwelling units being approved, and/or the timing for providing these facilities, but shall not include any increase in the overall density of the development. The Board may hold a public hearing on the proposed change with proper notification to all abutters, including those of the original proposed development as well as any additional ones which may have been created by development activity within the development itself. The Board shall then act to approve or disapprove with written notification to the owner of its action. Any approved changes involving changes in any lot boundaries shall be recorded as a subdivision change in the Registry of Deeds.
- b. Major changes. Any requested change which the Board determines does not qualify as a minor change shall be required to be submitted as a separate rural cluster development plan in accordance with these regulations and procedures.

**600:23** The Planning Board shall adopt such procedures as part of the subdivision regulations as it may deem necessary in order to insure sufficient public review of any cluster proposal and to insure compliance with these and other town ordinances and regulations. (1982)

## **SECTION 610 INCLUSIONARY HOUSING ACCOMMODATION INCENTIVE SYSTEM (3/10/2009)**

### **610:1A Purpose Statement**

The purpose of this Article are as follows:

- a. To encourage and provide for the development of affordable workforce housing;
- b. To ensure the continued availability of a diverse supply of home ownership and rental opportunities for low to moderate income households.

- c. To meet the goals related to affordable and workforce housing provisions set forth in the town's Master Plan; and
- d. To comply with the requirements of SB 342, An Act establishing a mechanism for expediting relief from municipal actions which deny, impede, or delay qualified proposals for workforce housing (RSA 674:58-61).

In the course of implementing this ordinance, the Town of Atkinson has considered the region's affordable housing needs as described in the Rockingham Planning Commission's Housing Needs Assessment and the Rockingham Planning Commission's Regional Fair Share Analysis.

### **610:1B Authority**

This innovative land use control Article is adopted under the authority of RSA 674:21, and is intended as an "Inclusionary Zoning" provision as defined in RSA 674:21(I)(k) and 674:21 (IV)(a) as well as RSA 672:1, III-3, effective July 2009, which states:

"All citizens on the state benefit from a balanced supply of housing which is affordable to persons and families of low and moderate income. Establishment of housing which is decent, safe, sanitary and affordable to low and moderate income persons and families is in the best interests of each community and the state of New Hampshire, and serves a vital public need. Opportunity for development of such housing shall not be prohibited or unreasonably discouraged by use of municipal planning and zoning powers or be unreasonable interpretation of such powers.

### **610:1C Definitions**

- A. Affordable:** Affordable means housing with combined rental and utility costs or combined mortgage loan debt services, property taxes, and required insurance that do not exceed 30 percent of a household's gross annual income.
- B. Multi-family housing:** Multi-family housing for the purpose of workforce housing developments, means a building or structure containing 5 or more dwelling units, each designed for occupancy by an individual household. (Adopted 2009)
- C. Reasonable and realistic opportunities for the development of workforce housing:** opportunities to develop economically viable workforce housing within the framework of a municipality's ordinance and regulations adopted pursuant to this chapter and consistent with RSA 674:I, III-e.
- D. Workforce housing/owner occupied:** housing which is intended for sale and which is affordable to a household with an income of no more than 100 percent of the median income for a 4-person household for the metropolitan area or county in which the housing is located as published annually by the United States Department of Housing and Urban Development.
- E. Workforce housing/renter occupied:** rental housing which is affordable to a household with an income of no more than 60 percent of the median income for a 3-person household for the metropolitan area or county in which the housing is located as published annually by the United States Department of Housing and Urban Development. Housing developments that exclude minor children from more than 20 percent of the units, or in which more than 50 percent of the dwelling units have fewer

than two bedrooms, shall not constitute workforce housing for the purposes of this subdivision.

- F. **Area Median Income (AMI):** the medial income of the greater region, either the HUD Metropolitan or Non-Metropolitan Fair Market Rent Area to which the community belongs, as is established and updated annually by the United States Department of Housing and Urban Development. Income considers both wage income and assets.
- G. **Market Rate Housing:** any units within a development, whether the unit is to be owner or renter occupied, that is intended to be available for sale or occupancy at the prevailing market value for the area similar to comparable real estate transaction.

#### **610:2A Qualification for Higher Density**

A proposed development must meet the following pre-requisites in order to apply for incentive provisions of Section 610:3.

- a. **At least 20 percent of the total dwelling units** within the parcel must be dedicated to low-moderate income dwellings;
- b. The development must be eligible for review as a Rural Cluster Residential Development as provided in Article VI, Section 600; and
- c. The development may include single family, duplex, or multi-family units with up to eight units per building.

#### **610:2B Appeal**

Any person aggrieved by a Planning Board decision that constitutes a denial of a Conditional Use Permit due to noncompliance with one or more of the provisions of this ordinance 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).

#### **610:2C Procedural Requirements/Applicant**

- a. **Notice of Intent to Build Workforce Housing.** Any person who applies to the Planning Board for approval of a development that is intended to qualify as workforce housing under this subdivision shall file a written statement of such intent as part of the application.
- b. **Waiver.** Failure to file such a statement shall constitute a waiver of the applicant's rights under RSA 674:61 (the builder's remedy) but shall not preclude an appeal under other applicable laws.
- c. In any appeal where the applicant has failed to file the statement required by this section, the applicant shall not be entitled to a judgment by a court on appeal that allows construction of the proposed development, or otherwise permits the proposed workforce housing development to proceed despite its nonconformance with the municipality's ordinance or regulations.

## 610:2D Procedural Requirements/Planning Board and Applicant

- a. **Notice of conditions.** If the Planning Board approves an application to develop workforce housing subject to conditions or restrictions, it shall:
- 1) Notify the applicant in writing of such conditions and restrictions; and
  - 2) Give the applicant an opportunity to establish the cost of complying with the conditions and restrictions and the effect of compliance on the economic viability of the proposed development.

The Board's notice to the applicant of the conditions and restrictions shall constitute a conditional approval solely for the purpose of complying with the requirements of RSA 676:4 I (i). It shall not constitute a final decision for any other purpose, including the commencement of any applicable appeal period.

- b. **Submission of evidence to establish cost of complying with conditions.** Upon receiving notice of conditions and restrictions as described above, the applicant may submit evidence to establish the cost of complying with the conditions and restrictions and the effect on economic viability within the period directed by the board, which shall not be less than 30 days.

c. **Review of evidence.**

- 1) Upon receipt of such evidence, the Board shall allow the applicant to review the evidence at the Board's next meeting for which 10 days notice can be given, and shall give written notice of the meeting to the applicant at least 10 days in advance. At such meeting, the board may also review and consider evidence from other sources.
- 2) The Board may affirm, alter, or rescind any or all of the conditions or restrictions of approval after such meeting.

d. **Final Decision.**

- 1) The Board shall not issue its final decision on the application before such meeting, in C.2 above, unless the applicant fails to submit the required evidence within the period designated by the board, in which case it may issue its final decision any time after the expiration of the period.
- 2) If an applicant notifies the board in writing at any time that the applicant accepts the conditions and restrictions of approval, the board may issue its final decision without further action under this paragraph.

- e. **Appeals.** Any person who has failed the written notice and whose application to develop workforce housing is denied or is approved with conditions or restriction which have a substantial adverse effect of the viability of the proposed workforce housing development may appeal the municipal action to the Superior Court under RSA 677:4 or RSA 677:15 seeking permission to develop the proposed workforce housing.



**610:3 Incentive System**

- a. The maximum number of living units permitted shall be determined using soil based lot sizing as defined by the Society of Soils Scientists of Northern New England (SSSNNE) Special Publication #4, "Soil Based Lot Sizing", Version 1. (September 2003, as revised) (2013)
- b. Developments qualifying for consideration under Section 610:2 shall be granted the following modifications in design specifications:
  - 1) The requirement under 600:5-a (2) of 300 feet distance from town road for 3 to 8 townhouse structures shall be reduced to 200 feet.
  - 2) The parcel size of 20 and 30 acres for multi-family structures (section 600:9) shall be reduced to 10 acres.
  - 3) The requirement of 50% common land (Section 600:14) shall be reduced to 40% covenanted common land to be maintained as permanent open space (2001).
  - 4) Each building may contain up to eight units.

**610:4 Structural Standards**

- a. Units designed and designed for the accommodation of workforce housing families shall meet the use provisions of the underlying zoning district.
- b. Manufactured housing and multi-family dwellings are an acceptable structure for workforce housing accommodation provided the units meet local, state, and federal codes and regulations.
- c. Units designated for use by workforce housing families shall be designed to be suitable for family needs. Design considerations shall include the floor area of rooms, the relationship and number of room types, sanitary facilities, cooking facilities, siting of structures and outdoor uses, as well as access and building code provisions.
- d. A determination of the number of bedrooms in workforce housing structures shall be reviewed by the Planning Board prior to approval of the development. In order to assure reasonable family accommodation, the following breakdown of workforce housing units shall be adhered to:

<u>Bedrooms/Unit</u>	<u>% of Total</u>
One bedroom/unit	25% or less
Two or three bedrooms/units	65% or more
Four or more bedrooms/units	10% or less

The breakdown above may be varied only by requirements of a housing assistance program.

**610:5 Applicable Provisions.** All developments qualifying for review as workforce housing must meet the provisions of the latest adopted local regulations and ordinances except as they are amended by Section 610 et. seq. inclusive.

**610:6 General Requirements of Workforce Housing Units**

- a. **Architectural compatibility.** The dwellings qualifying as workforce housing shall be compatible in architectural style and exterior appearance with the market rate dwellings of similar size and type. The workforce housing units must be interspersed with market rate units of the same type.
- b. **Phasing.** The phasing plan for the development shall provide for the development of workforce housing units concurrently with the market-rate units.

**610:7 Affordability**

a. **Certification of Income Levels.**

- 1) To ensure that only eligible households purchase/rent the designated affordable housing units, the purchaser/renter of a workforce housing unit must submit copies of their last three years federal income tax returns and written certification, verifying that their annual income level, combined with household assets, does not exceed the maximum level as established by this ordinance.
- 2) The tax returns and written certification of income and assets must be submitted to the developer of the housing units, or the developer's agent, prior to the transfer of title.
- 3) A copy of the tax return and written certification of income and assets must be submitted to all parties charged with administering and monitoring this ordinance, within 30 days following the transfer of title.

b. **Assurance of continued affordability.**

- 1) Workforce housing units offered for sale shall require a lien, granted to the Town of Atkinson be placed on each workforce housing unit.
- 2) The value of the lien shall be equal to the difference between the fair market value of the unit and its reduced affordable sale price, which is indexed according to the qualifying income standards.
- 3) The municipality's lien is inflated over time at a rate equal to the Consumer Price Index (CPI).
- 4) Future maximum resale values shall be calculated as the fair market value minus the CPI adjusted lien value.
- 5) Subsequent sales are not limited based on income targets, but the combination of maintenance of the municipality's lien and adherence to this Article's definitions of affordable housing for a period of 30 years.

**NOTE:** *The provisions above are established to be consistent with NHHFA's Value Retention Model, which is required if the community wishes to have NHHFA administer their inclusionary housing ordinance. Alternate mechanisms of continued affordability could be utilized.*

- a. Workforce housing rental units shall limit annual rent increases to the percentage increase in the are median income, except to the extent that further increases are made necessary by hardship or other unusual conditions.
- b. **Documentation of restrictions.** Deed restrictions, restrictive covenants, or contractual arrangements related to dwelling units established under this Article must be documented on all plans filed with the town's Planning Board and with the Registry of Deeds.

**610:8 Administration, Compliance and Monitoring**

- a. This Article shall be administered by the Planning Board.
- b. **Certificate of Occupancy.** No certificate of occupancy shall be issued for a workforce housing unit without written confirmation of the income eligibility of the tenant or buyer of the workforce housing unit and confirmation of the rent or price of the workforce housing unit as documented by an executed lease or purchase and sale agreement.
- c. Ongoing responsibility for monitoring the compliance with resale and rental restrictions on workforce housing units shall be the responsibility of the New Hampshire Housing Finance Authority.
- d. **Annual report.** The owner of a project containing workforce housing units for rent shall prepare an annual report certifying that the gross rents of affordable units and the household income of tenants of workforce housing units have been maintained in accordance with this Article. Such reports shall be submitted to the New Hampshire Housing Finance Authority or their designee and shall list the contract rent and occupant household incomes of all workforce housing units for the calendar year.

**610:9 Relationship to other ordinances and regulations.**

No portion of this ordinance shall nullify the provisions of any other town ordinance provisions which relate to environmental protection, water supply, sanitary disposal traffic safety, and fire and life safety protection. Where workforce housing applicants propose a development of single family homes or mixed single family and multi-family homes, all provisions of the subdivision and site plan regulations shall apply unless waived by the Planning Board. Where workforce housing applicants propose a development of multi-family units or mixed commercial and multi-family units, the site plan regulations shall apply unless waived by the Planning Board.

**610:10 Conflict.** If any provision of this ordinance is in conflict with the provisions of other ordinances, the more restrictive provision shall apply, except for any provision relating to lot size, setbacks, or density, in which case the provisions of this ordinance shall apply.

**SECTION 620 GOLF AND SPORTS COMPLEX /RESIDENTIAL SUB-DISTRICT ("SCR SUBDISTRICT") (2006)**

- a. Within the existing RR-2 District in the southwestern corner of the Town there is created a Subdistrict known as a Sports Complex/Residential Sub-district (SRC).

Except as otherwise provided herein, all other restrictions and requirements applicable to the RR-2 District shall apply to all uses and structures within the SCR Subdistrict.

- b. Except as to "RRRCD Developments" (defined below), all land lying within the SCR Subdistrict shall continue to have all of the benefits and to be subject all of the restrictions of and for the RR-2 District.

- c. The SCR Subdistrict is composed of all the land bounded as follows: Beginning on the southwest side of North Broadway at the Haverhill, Massachusetts State Line; thence running

- 1) Northwesterly by the southerly line of North Broadway and Providence Hill Road to a point one hundred and twenty-five (125) feet easterly of the Salem Town Line; thence
- 2) Southwesterly by a line one hundred and twenty-five (125) feet easterly of the Salem Town Line to the easterly line of Shannon Road; thence
- 3) Southerly by the easterly side of Shannon Road to a point one hundred and twenty-five (125) feet northerly of the Salem Town Line; thence
- 4) Easterly southerly and easterly again, by a line one hundred and twenty-five (125) feet northerly, and easterly of the Salem Town Line; and the Haverhill, Massachusetts State Line, to the southwestern side of Jericho Road; thence
- 5) Southeasterly by the southwestern side of Jericho Road to the Haverhill, Massachusetts State Line; thence
- 6) Easterly by the Haverhill, Massachusetts State Line to the point of beginning.

**620:1** Recreational/sports amenities and other public and common facilities that cannot otherwise be provided under conventional land development procedures and together with limited non-residential uses to support the same and the neighborhood shall be permitted in rural residential cluster developments located within the SCR Subdistrict. Such developments are hereinafter referred to as "Rural Residential and Recreational Cluster Developments" (RRRCD) and are subject to the following.

- a. such developments must contain a minimum of 250 acres,
- b. such development are included as part of a rural residential cluster development application, and

c. such developments also meet the requirements contained in this Ordinance.

**620:2** Tracts for non-residential use within a RRRCD, shall be delineated and legally described by metes and bounds and shall be shown on a site plan to be recorded in the Rockingham County Registry of deeds upon approval by the Planning Board.

**620:3** Non-residential uses within the RRRCD shall be limited to the following privately owned or publicly owned uses designed to serve the community at large with the following amenities:

- a. Sports facilities such as golf courses, health clubs and recreational and related facilities, (including a "Country club" banquet facility for not more than 650 people) but specifically excluding activities designed as spectator sports; the area of a RRRCD occupied by an outdoor sports facility, such as a golf course, may be used to fulfill certain minimum open space requirements of this ordinance.
- b. Food service facilities;
- c. Bank (branch);
- d. One neighborhood convenience store (2,000 sq. ft. total area);
- e. Professional buildings;
- f. Small retail shops not exceeding 6,000 sq. ft. in total area.
- g. Such non-residential accessory uses as may be permitted by this Ordinance.

**620:4 Open Space**

- a. All designated open space areas which are submitted by the applicant as part of, or in conjunction with, a RRRCD development shall be included in calculations for meeting the requirements for open space, buffers, and dwelling unit density as specified in Section Z600.
- b. Non-residential tracts within the RRRCD shall be exempted from the requirements of Sections Z600:17 unless such tracts are transferred by legal title to parties described in Section 620:8a (1) and (2) below.

**620:5** Within the SCR Subdistrict, and within a RRRCD whose occupancy is limited by covenants to elderly, as defined hereinbelow, multi-family Alternative Design Residential Buildings, as defined below, shall be permitted subject to the following:

- a. No such Alternative Design Residential Buildings shall exceed fifty-five (55) feet in height as calculated under Sections 501 and 503 of the International Building Code.
- b. Any Alternative Design Residential Buildings that exceed thirty-five (35) feet in height or that exceed four units per building shall be set back a minimum of four hundred (400) feet from the abutting property line and/or town roads.

- c. The term “Alternative Design Residential Buildings” means any residential housing structures which meet a zoning district’s density and use requirements, but which do not necessarily meet requirements for size, height, minimum yard, or number of units per structure contained elsewhere in this Ordinance.

**620:6**

- a. “Elderly” shall mean appropriately covenanted dwelling units which legally restrict, under the provisions of the Federal Fair Housing Act, and this ordinance occupancy to residents all of whom are fifty-five (55) years of age or older. To ensure the occupancy of elderly dwelling units by the elderly, the following covenants will be recorded on each Deed to a dwelling unit:”

- 1) *This covenant shall be enforced by the Homeowner’s Association and may be enforced by the Selectmen of the Town of Atkinson;*

This covenant shall run with the title to the dwelling unit and be binding on all successors-in-interest; and

- 2) *This dwelling unit has been approved by the Atkinson Planning Board, on the basis that it shall be occupied as the residence for and by persons all of whom are fifty-five (55) years of age or older and as such, it shall be so occupied.*

- b. To this end, dwelling units shall only be sold to buyers who execute an affidavit that:

- 1) The dwelling unit is to be occupied as the residence of persons all of whom are fifty-five (55) years or older;
  - 2) Such buyers will not acquire the dwelling unit for purposes of or with the intent to resell or lease such dwelling unit so that the dwelling unit will be occupied by persons under the age of fifty-five (55) years, and;
  - 3) All occupants are or will be at the time of closing, fifty-five (55) years of age or older.

- c. This covenant shall run for the benefit of the Town of Atkinson, a municipal corporation, situated in the State of New Hampshire, and may be enforced by the Selectmen of the Town of Atkinson and further shall be enforced by the Homeowner’s Association.

**620:7 Residential Density**

- a. Residential dwelling unit density shall conform to the requirements of the RR-2 District. However, in order to provide for private, non-subsidized elderly housing alternatives, and where public or community water systems, and municipal, public or community sewage treatment plants and services are available, the residential density within a RRRCD shall be calculated on the basis of four (4) bedrooms per one (1) acre lot.
- b. Any Alternative Design Residential Building that is greater than four (4) dwelling units per building and which contains one (1) bedroom dwelling units shall have

those one (1) bedroom dwelling units counted as if they were two (2) bedroom dwelling units for purposes of calculating the residential density.

- c. Such Alternative Design Residential Buildings shall be allowed to exceed four (4) units per building, but no exceed more than forty (40) units per building.

**620:8** All open space, outdoor recreational areas, including golf courses, and enclosed recreational and sports facilities which are part of a RRRCD shall be held by the owners of the RRRCD and shall be subject to the following conditions:

- a. All open space areas shall be held by the developer unless and/or until ownership and obligatory management of a designated tract, or any defined increment of it, is transferred by legal title and held by one or more of the following entities:
  - 1) In common, by all property owners within the tract, or portion of it to tenancy-in-common requirements set forth in Section Z600:17 of this Ordinance.
  - 2) In common, by all lot or unit owners which comprise the RRRCD in accordance with Section Z600:17 of this Ordinance.
  - 3) By a non-profit organization whose members undertake the cost of maintaining or operating the outdoor recreational area or enclosed facility.
  - 4) By a privately-held or publicly-held organization whose performance is guaranteed by recorded covenants running with the land to ensure operation and maintenance of the outdoor recreational areas and indoor facilities in accordance with the site plan. Such recorded covenants shall be enforceable by the Town of Atkinson.
- b. Land designated as non-residential open space and/or non-residential outdoor recreational area shall meet the following requirements:
  - 1) It shall be covenanted in perpetuity as open space.
  - 2) It shall be held by the owner(s) or successors in interest of the enterprise(s) for which said land use is used.
  - 3) It shall be permanently maintained for purposes of public or private recreation, conservation, park or public easements, water and sewerage systems and/or agriculture.
  - 4) It shall be integrated with the residential segment(s) of the RRRCD although residential units or lots need not front directly on such land.
- c. All agreements, deed restrictions, and methods of management of the land shall be approved by the Planning Board to ensure their compliance with the requirements of this Section.

**620:9** Site requirements shall include, but not be limited to the following:

- a. In order to limit the impact of the non-residential facilities within a RRRCD, no more than seven percent (7%) of the RRRCD shall be allotted to the siting of the non-residential buildings, and no more than twenty-five percent (25%) of said seven percent (7%) shall be occupied by the foundation footprints of the non-residential buildings themselves.
- b. Non-residential buildings shall be architecturally compatible with residential structures within the RRRCD.
- c. Non-residential uses shall have access from an interior road in the developments, shall be separated from residential areas by adequate visual screening and landscaping buffers, and shall be set back as follows:
  - 1) Front: No structure or parking area shall be closer than 30 feet from an internal roadway.
  - 2) Side and rear: No structure or parking area shall be closer than one hundred (100) feet from residential structures.
- d. Each non-residential use may have a maximum of one indirectly lighted sign not to exceed a sixteen (16) square-foot area. No sign shall be so illuminated as to cause a disturbance to neighboring residential units.

**620:10** Approval for each non-residential use shall run with the use initially permitted. Any changes in such use shall require Site Plan Review by the Planning Board for that building or use proposed to be change.

**620:11** Except as otherwise provided herein, and except to the extend such would be in conflict with the provisions of this Section 620, residential and non-residential uses shall be subject to all other applicable sections of this Ordinance as well as to all subdivision regulations, site plan development regulations, and other regulations and ordinances of the Town.

## **SECTION 630 PLANNED RESIDENTIAL AND RECREATIONAL DEVELOPMENT (DELETED 4/97)**

## **SECTION 640 RESIDENTIAL CONSERVATION DEVELOPMENTS**

### **640:1 Purpose and Requirements**

The purpose of this article is to encourage and provide incentives for conservation oriented development. The requirements for a project to be considered as a residential conservation development are:

- a. The development must be eligible for review as a Rural Cluster Residential Development as provided in Article VI, Section 600; and
- b. The development must feature energy efficient construction; and



- c. The development must have dedicated open space which guarantees public access and use of the open space.

#### **640:2 Authority**

The innovative land use control article is adopted under the authority of RSA 674:21. Notwithstanding other provisions of Atkinson's Zoning Ordinance, authority is hereby given to the Planning Board, as allowed under RSA 674:21, II, to issue a special use permit to modify the requirements for conservation developments to accommodate energy certification and site specific circumstances of the parcel being developed.

#### **640:3 Energy Efficient Requirements**

All construction in the development must meet baseline levels for energy efficient construction by using either the National Green Building Standard (NGBS ICC 700) bronze level or higher verification, or the U.S. Green Building Council Leadership in Energy and Environmental Design (LEED) program's baseline or higher certification. The choice of which of these minimum standards to use at the discretion of the developer. The Planning Board may, at its discretion, issue a special use permit to use a different energy efficient building standard providing it has provisions for independent certification.

#### **640:4 Open Space Requirements**

To qualify for consideration, a development must dedicate 50% of the total parcel area as open space and 50% of the open space must be Contiguous Public Access Open Space (CPAOS). The CPAOS must be deeded to the Town of Atkinson (under RSA 36-A:4) or placed under an easement with an appropriate conservation organization.

The Planning Board May issue a Special Use Permit to allow the CPAOS to not be contiguous due to special site conditions or compelling public purpose.

If the easement is not held by the Town of Atkinson the easement holder shall be a qualified organization within the meaning of Section 170 (h) (3) of the United States Internal Revenue Code of 1954 as presently amended and as the same way hereafter be amended or changed from time to time, which organization has among its purposes the conservation or preservation of land and water areas. The easement holder shall have the power to assign the easement to a like organization. The developer shall bear the cost of endowing the easement and easement monitoring. This cost shall be determined by the easement holder and proof that an easement deed to a suitable organization has been filed shall be a condition of final approval of the development.

#### **640:5 Open Space Design Criteria**

Areas containing the following shall be considered high priority for inclusion in the CPAOS:

- a. Prime wetlands, riparian areas, wetlands, streams and buffers for those resources
- b. Critical or high quality wildlife habitat areas
- c. Significant stands of trees or significant individual trees

- d. Cultural and historic resources (e.g., stone walls, historic homes and structures)
- e. Existing trails, old farm roads, cart paths
- f. Areas that connect to undeveloped open space on adjacent properties
- g. Ridgelines, particularly those that continue through the parcel
- h. Viewshed areas and scenic vistas
- i. Public water supply sources and water supply protection buffers

The CPAOS must primarily consist of land which is accessible and usable by the public, or which meets some compelling public purpose. The planning board shall consult with and seek a recommendation from the conservation commission about the design of the CPAOS and, if in the opinion of the planning board the CPAOS meets these criteria the CPAOS criteria will be satisfied when the project is implemented according to the CPAOS design.

#### **640:6 Open Space Uses**

Any use of the CPAOS is subject to approval of the planning board and conservation commission and shall demonstrate that such uses will not negatively impact the natural amenities preserved through the conservation subdivision design.

The following uses generally are permitted in the CPAOS, unless specifically prohibited or restricted as a condition of subdivision approval to protect important natural features or characteristics of the parcel:

- a. Forest management
- b. Agricultural cultivation and pastures
- c. Passive (non-motorized) trails and recreational uses
- d. Snowmobile trails
- e. Hunting and fishing
- f. Utility infrastructure, including community wells
- g. Parking areas for access to the CPAOS

The following uses are generally too intrusive to be permitted in either the open space or the CPAOS:

- a. Cell phone towers
- b. Water towers

### **640:5 Open Space Protection**

The CPAOS shall be retained in a natural, undisturbed state, except for those activities permitted and approved as provided above, or as required for active management according to a conservation agreement and management plan written by a qualified natural resource professional.

The removal of soils, trees and other natural features from the designated open space is prohibited, except as consistent with conservation objectives or permitted uses as provided above.

### **640:8 Incentive System**

The maximum number of living units permitted shall be determined using soil based lot sizing as defined by the Society of Soils Scientists of Norther New England (SSSNNE) Special Publication #4, "Soil Based Lot Sizing", Version 1. (September 2003, as revised)

- a. The development may include single family, duplex, or multi-family units with up to eight units per building.
- b. The parcel size of 20 and 30 acres for multi-family structures (section 600:9) shall be reduced to 10 acres.
- c. The requirement under 600:5-a of 300 feet distance from a town road for three (3) to eight (8) townhouse structures shall be reduced to 200 feet.

### **640:9 Conceptual Design Review**

All applicants considering a residential conservation development are encouraged to participate in a preliminary design review with the Planning Board and conservation commission to discuss the characteristics of the site and proposed development plan in conceptual terms.

### **640:10 Conservation Development Occupancy Permit Requirements**

No Certificate of Occupancy shall be issued by the Town of Atkinson for any unit in a conservation development until a Leadership in Energy and Environmental Design (LEED) Certificate, proof of National Green Building Standards (NGBS) verification or proof of energy efficiency (if a special use permit allows a different standard) has been filed with the Planning Office.

### **640:11 Relationship to Other Ordinances and Regulations**

No portion of this ordinance shall nullify the provisions of any other town ordinance provisions which relate to environmental protection, water supply, sanitary disposal, traffic safety, and fire and life safety protection. Where applicants propose a conservation development of single family homes or mixed single family and multi-family homes, all provisions of the subdivision and site plan regulations shall apply unless waived by the Planning Board. Where applicants propose a conservation development consisting of multi-family units or mixed commercial and multi-family units, the site plan regulations shall apply unless waived by the Planning Board.

**640:12 Conflict**

If any provision of this ordinance is in conflict with the provisions of other ordinances, the more restrictive ordinance shall apply, except for any provision relating to lot size, setbacks or density, in which case the provisions of this ordinance shall apply.

## ARTICLE VII: NONCONFORMING USES

### SECTION 700 NONCONFORMING USES

**700:1** Any nonconforming use, as that term is defined in Article III, may be continued in its present form except as provided herein:

- a. No extension, expansion, enlargement, or alteration of a nonconforming use will be allowed without the granting of a Special Exception by the Board of Adjustment. This Special Exception shall be issued in the form of a special permit which shall expire within one (1) year unless acted upon by the permittee.
- b. A nonconforming use of a building or premises which has been abandoned shall not thereafter be returned to such nonconforming use. When any nonconforming use of a structure is abandoned for a period in excess of one year, the structure shall not thereafter be used except in conformance with the regulations of the district in which it is located.
- c. A nonconforming use may not be changed subsequently to another nonconforming use of the same premises.
- d. Nothing in this ordinance shall prevent the reconstruction, repairing, rebuilding, and continued use of any nonconforming building or structure damaged by fire, collapse, explosion, or Acts of God, subsequent to the date of the ordinance, provided that the restoration activity commences within two (2) years of the damaged incident. Such restoration will not require a variance. (3/10/2009)
- e. A Special Exception shall be granted by the Board of Adjustment provided the following conditions are met for the non-conforming use:
  - 1) There is no diminution of the value of surrounding properties.
  - 2) It would be of benefit to the public interest.
  - 3) It would result in substantial justice being done.
  - 4) It would comply with Sections WS300 of the Atkinson Water Supply and Sewage Disposal Regulations
- f. OTHER NON-CONFORMING USES:

Business uses, which have existed for at least 20 years under continuous common ownership shall be granted a Special Exception from the Zoning Board of Adjustment once the following procedures are met:

The Applicant shall submit a sworn affidavit attesting and confirming that:

- 1) The applicant has owned and operated the business for at least 20 continuous years.

- 2) The uses of the property during that 20-year period were open and discoverable.

Once the special exception is granted, the applicant shall submit a present site plan depicting the present physical aspects of the property. This will be used as a guideline for any future changes, which must be approved by the Zoning Board of Adjustment. Also, the business must then comply with current annual town inspections. (2001)

**700:2 Seasonal Conversion**

A change in the status of a dwelling from a seasonal, recreational, or secondary home to a home which is intended to be used as a primary or year-round dwelling shall be considered a change in the use of the existing building according to the building code of the Town of Atkinson and shall require upgrading to state and local water supply and sewage disposal regulations in effect at the time of such change in status. Before any permits for structural alteration or change in use are issued by the Building Inspector and the Health Officer, a special exception from the Board of Adjustment shall be obtained, the granting of which shall include, but not be limited to, compliance with the following requirements:

- a. A review by the Health Officer.
- b. Compliance with Sections WS300 of Atkinson's Water Supply and Sewage Disposal Regulations.
- c. Written consent by the New Hampshire Water Supply and Pollution Control Commission (NHWSPCC).

**700:3** Automobile and vehicle repair and or sales are not a home business within the intent of this ordinance and such businesses are to take place only in the commercial and commercial-industrial districts of the town. Existing non-conforming businesses of this type shall not be enlarged or expanded. Nothing in this article shall be construed as preventing a homeowner/resident from repairing his own vehicle on his own property or occasional sale of the homeowner's/residents private vehicle.

**700:4** Any owner or resident of a home damaged due to fire, flood, or acts of God may place a manufactured or mobile home or trailer on his/her property during a rebuilding of such residence. A two-year occupancy permit for residency in the temporary home or trailer is required and shall be issued by the Building Inspector after all utility connections are determined to be in compliance with electrical and sanitary codes. (1987 and 3/10/2009)

**700:5** The Board of Selectmen may issue a six-month occupancy permit for residency in a manufactured or mobile home or trailer on property where a new residence is under construction. Such permit shall be subject to renewal for a further six-month period provided there is substantial progress shown in the construction of the residence.

## **(1987) ARTICLE VIII: WIRELESS COMMUNICATIONS FACILITIES**

**(Adopted 2000)**

### **SECTION 800: WIRELESS COMMUNICATIONS FACILITIES**

#### **800:1 Purpose**

The purpose of this Article is to establish regulations for the siting of Wireless Communications Facilities (WCF), within the Town of Atkinson, while balancing the interest of Residents, Telecommunication Providers and their Customers, and ensuring coordinated development that minimizes adverse impacts.

#### **800:2 Applicability**

- a. The terms of this article shall apply to WCF proposed to be located on Town property, on privately owner property, and on property owned by any other governmental entity.
- b. WCF shall not be considered essential services, infrastructure, non-public utilities as defined or used elsewhere in the Town's ordinance and regulations. Siting for WCF is a use of land, and as such is subject to the Town's zoning ordinance and other applicable regulation.
- c. This Article shall not govern any tower or installation of any antenna that is owned and operated by a federally licensed amateur radio operator when the tower or antenna is used for the exclusive purpose of amateur radio operations.

#### **800:3 District Regulations and Siting Standards**

- a. All new WCF installations shall be subject to Planning Board Site Plan Approval. Applications for collocation of antenna on existing facilities shall be expedited unless there is additional impact on the site. All WCF installations will require a Building Permit.
- b. Antennas or towers located on property owned, leased, or otherwise controlled by the Town are exempt from the siting requirements of Article VIII, Section 800:3 c through i, provided the facility will be at least partially available for public purpose. Such Town property must be at least 350 feet above sea level. (2007)
- c. WCF which utilize towers, are a permitted use in the Industrial Zone.
- d. WCF which utilize Alternative Facilities and Technologies may be permitted in all Zones.
- e. Collocation is encouraged.
- f. Height, tower facilities: must be less than 200 feet above the average existing ground level adjoining the structure.

- g. Height, alternative facilities: May be permitted to increase the height of existing structures no more than 20 feet. This increase shall only be permitted once for each structure.
- h. Setbacks, Tower facilities: All towers shall comply with the building setback provisions of the zoning district where located.
- i. Fall Zone, Tower Facilities: The minimum distance from the base of a tower to any property line, roadway, dwelling, business, institution, recreation area, parking area or other public area shall be at a minimum, the distance equal to the height of the facility.
- j. All towers shall be self-supporting types. (2007)
- k. To ensure the structural integrity of towers and antennas, the owner of a tower shall ensure that it is constructed and maintained in compliance with standards contained in local and state building codes. (2007)
- l. When any WCF is proposed which may be visible from any other New Hampshire municipality within a 20-mile radius, there shall be a written notification of such application to all those municipalities. Notification shall be at the applicant's expense as part of the abutter notification procedure of the application. (2007)

**800:4 Lighting, Signage, Security**

- a. Lighting:
  - 1) WCF shall be lighted only if the FAA requires for navigational purposes.
  - 2) Lighting for equipment shelters shall be shielded from abutting properties.
- b. Signage: Signs shall be limited to those required for cautionary and advisory purposes. No logos, banners, flags or combinations of paint colors associated with corporate identification will be allowed.
- c. Security: WCF Towers shall be surrounded by a security barrier.

**800:5 Abandonment**

Each commercial carrier who receives approval for a WCF shall post financial surety (bond, letter of credit, or case escrow account) to guarantee that the facility will be dismantled and removed, within 90 days of notice from the Town, when the facility is no longer being used (after 1 year of non use) for the wireless communications purpose for which is was originally permitted.

**800:6 Severability**

The invalidity of any subsection or provision of this Article shall not invalidate any other subsection or provision thereof.



## ARTICLE IX: ENFORCEMENT

### SECTION 900 ENFORCEMENT

- 900:1** It shall be the duty of the Board of Selectmen, and the Board is hereby given power and authority, to enforce the provisions of this ordinance. (1959)
- 900:2** There shall be a Building Inspector who shall administer the provisions of this ordinance and report violations to the Board of Selectmen.
- 900:3** The Board of Selectmen shall annually appoint a Building Inspector. In the event of death, disability, resignation, or disqualification of the Building Inspector, the Selectmen shall appoint a Building Inspector to serve in his place. The Board of Selectmen may, for cause and majority vote, disqualify the Building Inspector at any time.
- 900:4** The Building Inspector shall issue any and all permits requested when such a permit is in accordance with the provisions of this ordinance. Application for a permit shall be made on forms provided by the Building Inspector. (1959)
- 900:5** After passage of this ordinance, it shall be unlawful to erect any building or alter the bulk of any building or relocate any building or change the use of any land or building without first obtaining a permit from the Building Inspector. (1959)
- 900:6** Deleted (1991)
- 900:7** Exteriors of a building shall be completed within two (2) years from the date of issue of the foundation permit, regardless of yearly renewal. (1999)
- 900:8** In case any building or structure or part thereof is or is proposed to be erected, constructed, altered, or reconstructed, or any land is or is proposed to be used in violation of this ordinance, the Building Inspector or Town Counsel, or the owner of any adjacent or neighboring property who would be specially damaged by such violation, may, in addition to other remedies provided by law, institute injunction, mandamus, abatement, or any other appropriate action or proceeding to prevent or enjoin or abate or remove such unlawful erection, construction, alteration, or reconstruction. (1984)

## ARTICLE X: BOARD OF ADJUSTMENT

### SECTION 1000 BOARD OF ADJUSTMENT

- 1000:1** Within thirty (30) days after the adoption of this ordinance and thereafter as terms expire or vacancies occur, the Board of Selectmen shall make appointments to a Board of Adjustment of five members conforming in duties to the provisions of Chapters 673 and 674 of the New Hampshire Revised Statutes Annotated. Thereafter as terms expire or vacancies occur, the appointing authority shall be responsible for filling vacancies and maintaining full membership of the Board of Adjustment.
- 1000:2** The Board of Adjustment shall conform in membership and term of office to the provisions of Chapter 673, New Hampshire Revised Statutes Annotated as amended, 1984.
- 1000:3** In addition to the general powers granted said Board by Chapter 673, it may, in harmony with and subject to its provisions:
- a. Permit in a Commercial district manufacturing which is incidental to a retail business where articles are sold at retail on the premises and where not more than five (5) operators are employed in such manufacturing.(1997)

## **ARTICLE XI: AMENDMENTS**

### **SECTION 1100 AMENDMENTS**

**1100:1** This ordinance may be amended pursuant to the Revised Statutes Annotated of the State of New Hampshire as amended. (1981)

## **ARTICLE XII: PENALTY**

### **SECTION 1200 PENALTIES AND REMEDIES**

**1200:1** Any violation of the zoning ordinance subdivision regulations, or site development plan review regulations, shall be made punishable pursuant to RSA 676:17, as amended. (3/10/2009)

## **ARTICLE XIII: SAVING CLAUSE**

### **SECTION 1300 SAVING CLAUSE**

**1300:1** The invalidity of any provision of this ordinance shall not affect the validity of any other provision.(1959)

## **ARTICLE XIV: EFFECTIVE DATE**

### **SECTION 1400 EFFECTIVE DATE**

**1400:1** This ordinance shall take effect upon its passage. (1959)

## ARTICLE XV: REPEAL OF PRIOR ORDINANCES

### SECTION 1500 REPEAL OF PRIOR ORDINANCES

- 1500:1** Any and all zoning ordinances heretofore enacted by the Town of Atkinson are hereby repealed.
- 1500:2** Adopted October 20, 1959.
- 1500:3** Amended March 10, 1964; March 9, 1965; October 11, 1966; March 12, 1968; March 7, 1972; March 6, 1973; March 5, 1974; March 4, 1975; March 2, 1976; June 7, 1978; March 13, 1979; March 11, 1980; March 14, 1981; March 9, 1982; March 17, 1984; March 12, 1985; April 23, 1985; March 11, 1986; March 10, 1987; March 8, 1988; November 8, 1988; March 14, 1989; March 13, 1990; March 12, 1991; February 12, 1992; March 10, 1992; April 29, 1992; June 13, 1992; March 9, 1993; March 8, 1994; March 14, 1995; April 8, 1997; March 10, 1998; March 9, 1999; March 14, 2000, March 13, 2001, March 12, 2002, March 11, 2003, March 9, 2004, March 14, 2006, December 20, 2006, March 13, 2007, March 11, 2008, March 10, 2009, March 9, 2010, December 21, 2010, March 8, 2011, March 13, 2012 and March 21, 2017.

## **ARTICLE XVI: PUBLIC SCHOOL IMPACT FEES**

**(Adopted 3/10/98)**

### **SECTION 1600: PUBLIC SCHOOL IMPACT FEES**

#### **1600:1 Authority**

This Ordinance is established pursuant to NHRSA §674:21, I(m) as an innovative land use control.

#### **1600:2 Purpose**

This Ordinance is intended to:

- a. Provide adequate school system capacity to accommodate increasing public school enrollment generated by new residential development in the Town of Atkinson;
- b. Assess an equitable proportion of growth-related capital facility costs of school capacity to new residential development in proportion to the demands created by that development.

#### **1600:3 Findings**

The voters of the Town of Atkinson have made the following findings:

- a. This Ordinance is consistent with the Master Plan adopted by the Atkinson Planning Board in 1990.
- b. This Ordinance is consistent with the Capital Improvements Program prepared and adopted by the Atkinson Planning Board in 1990.
- c. The impact fee methodology and supporting study ("Methodology for the Calculation of School Impact Fees in the Towns of the Timberlane Regional School District", dated September 22, 1997, prepared by Bruce C. Mayberry, Planning Consultant), hereafter referred to as "the methodology and supporting study" are reasonable, proportional, support this Article, and are consistent with NHRSA §674:21, V.;
- d. Recent and projected growth rates necessitate an excessive expenditure of public funds in order to maintain adequate facility standards and to promote and protect the public health, safety and welfare;
- e. Each type of residential development described in the methodology and supporting study will create a need for construction, equipping or expansion of public capital facilities of the District for education;
- f. The imposition of public school impact fees is one of the methods of insuring that public expenditures are not excessive and that new residential development



supports a proportionate share of the cost of public capital facilities necessary to accommodate the development;

- g. The fees adopted are derived from and do not exceed the costs of:
  - 1) Providing additional public capital facilities for education as necessitated by or benefitting the new residential development from which the fees were levied;
  - 2) Compensating the Town of Atkinson for expenditures made for existing public education facilities that were constructed or financed in anticipation of future residential growth.
- h. This Ordinance sets forth and is based upon a reasonable methodology and analysis for determination of the impact of new residential development on the need for and costs of public capital educational facilities in the District and for Atkinson, and provides a rational nexus between the impacts of new residential development and the assessment of fees pursuant to this Ordinance;
- i. The Timberlane School District provides an efficient and effective way for each Town within the District to provide educational services for its citizens and that combining their resources in the District, pursuant to the intermunicipal agreement and the Ordinance, regardless of the location of a particular public educational facility, is a reasonable, efficient and effective way to provide public educational services to citizens of the District and is consistent with New Hampshire law and the Articles of Agreement of the Timberlane Regional School District as entered into (and amended) by the Town of Atkinson;
- j. It is reasonable, equitable and consistent with the supporting methodology that this Public School Impact Fee Ordinance apply to all unbuilt units in previously approved subdivisions;
- k. Impact fees collected for recoupments meet the legal requirements for collection, are supported by the methodology and supporting study, and the amount is reasonable.

#### **1600:4 Definitions**

- a. **Feepayer:** The applicant named on the application for a building permit for any activity which will result in new residential construction of any kind, or the alteration or conversion of any structure which results in a net increase of one or more residential dwelling units.
- b. **New Residential Development:** Any activity which creates a net increase in the number of residential dwelling units within the Town of Atkinson, whether through new construction or conversion of existing structures.
- c. **School Capital Facilities:** Public educational facilities and equipment owned by the Timberlane Regional School District.

#### **1600:5 Imposition of School Capital Facilities Impact Fee**

- a. Any applicant, who, upon the adoption of this Ordinance, seeks a building permit for any activity which will create a net increase in residential dwelling units in the Town of Atkinson, is hereby required to pay a school impact fee in the manner and amount set forth in this Ordinance and the methodology and supporting study as referenced above.
- b. An applicant may request from the Planning Board a partial or full waiver of school impact fee payments in amounts equal to the value of land, facilities construction, or other contributions toward school capital facilities.
- c. No building permit for new residential development requiring payment of a school impact fee shall be issued until the amount of the school impact fee has been determined by the Selectmen or their assigns.
- d. An applicant undertaking the development of dwelling units for occupancy by persons age 55 and over, and only where such occupancy shall be maintained through deed restrictions or through compliance with Federal Programs, may apply for a Waiver from the Planning Board to be exempted from School Impact Fees otherwise required by this article. Waiver Criteria to be met are: (2007)
  1. Development shall not create an impact on education costs for the School District.
  2. Development shall have a Home Owners Association, with Bylaws and Procedures to assure the over 55 status of all residents is maintained.

#### **1600:6 Computation of School Impact Fee**

- a. The amount of the school impact fee shall be determined by the Recommended Impact Fee Assessment Schedule contained in the *Methodology for the Calculation of School Impact Fees in the Towns of the Timberlane Regional School District*, September 22, 1997 (page 27) which is included by reference as part of this Ordinance.
- b. The school impact fee methodology and supporting study including the assessment schedule may be updated annually, subject to the adoption of such changes by the Planning Board. Such updates may provide for adjustments based upon the most recent data available from the U.S. Census, local school enrollment data, estimates of the number of housing units in Atkinson, property tax assessment data, interest and discount rates, and current construction cost information.
- c. In the case of residential units created by a change of use, redevelopment, or expansion or modification of an existing use, the school impact fee shall be based upon the net positive increase in the number of dwelling units resulting from the development.

### **1600:7 Payment of School Impact Fees**

No building permit shall be issued for new residential development until the feepayer has established an acceptable schedule for payment of such fee with the Town of Atkinson. No Certificate of Occupancy shall be issued for new residential development which is subject to a school impact fee assessment until such time as the fee is paid in full.

### **1600:8 Appeals**

- a. Disputes regarding the amount of the school impact fee may be submitted to the Planning Board, provided that an independent school impact fee calculation study for the new residential development is provided to the Board for consideration. The Planning Board shall review the submitted study and render its decision. Any and all costs incurred by the Town in the review of such a study shall be paid by the feepayer.
- b. The decision of the Planning Board may be appealed to the Superior Court as provided by NHRSA §677:15.

### **1600:9 Administration of Funds Collected**

- a. All school impact fees collected shall be properly identified and promptly transferred for deposit into a School Impact Fee Account. This account shall be considered a special revenue fund account, and under no circumstances shall school impact fee revenues or interest accrued thereto be transferred into the General Fund.
- b. The Town Treasurer shall have custody of all school impact fee accounts, and shall pay out the same only upon written orders of the Board of Selectmen. The Board of Selectmen shall annually order the release of school impact fee accounts to the Timberlane Regional School District, upon a demonstration by the District that programmed expenditures are eligible for reimbursement by school impact fees.

The Town Treasurer shall record and maintain the date, the person(s) making payment, and the tax map and lot reference number of the property of all school impact fees which have been paid under this Ordinance for a period of no less than six years from the date of payment. At the end of each fiscal year, the Town Treasurer shall make a report to the Board of Selectmen and the Timberlane Regional School District, providing a detailed account of all school impact fee transactions made during the year.

- c. Funds withdrawn from the School Impact Fee Account shall be used solely for transfer to the Timberlane Regional School District for the purpose of funding the planning, design, construction, expansion, or equipping of public school facilities in the Timberlane Regional School District. Impact fees may be used to reimburse the Timberlane Regional School District for the value of public school capacity already constructed in anticipation of growth, or school capacity to be developed in the future to meet the growth demands. Impact fees may also be used by the Timberlane Regional School District to pay debt service on such

bonds or similar debt instruments, to the extent that such expenditures are related to developing capacity within the Timberlane Regional School District.

**1600:10 Refund of Fees**

- a. Feepayers may apply to the Board of Selectmen for a refund of the school impact fee, plus accrued interest, six (6) years from the date of collection of said fee. A refund will only be due if the Timberlane Regional School District has failed to appropriate said fee(s) on public school facility capacity improvements as defined herein.
- b. The Board of Selectmen shall annually provide all feepayers of record who are due a refund of a school impact fee, a written notice of the amount due, including accrued interest.

**1600:11 Scattered and Premature Development**

No provision of this Ordinance shall limit the authority of the Atkinson Planning Board to protect against development which is scattered and premature as provided in NHRSA §674:36 II; requires an excessive expenditure of public funds; or is otherwise contrary to the Town of Atkinson Zoning Ordinance, Subdivision Regulations, or Site Development Plan Regulations.

**1600:12 Review of Fee Calculations**

The school impact fee assessment schedule contained in the *Methodology for the Calculation of School Impact Fees in the Towns of the Timberlane School District*, September 22, 1997, shall be reviewed by the Board of Selectmen and the Planning Board at least once every five years, and may be periodically amended after a public hearing of the Planning Board, although the schedule may be amended no more frequently than annually.

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## ARTICLE XVII: MS4 ILLICIT DISCHARGE DETECTION AND ELIMINATION

(Adopted 3/12/19)

### 1700.1 PURPOSE AND INTENT

The purpose of the Illicit Discharge Detection and Elimination (IDDE) ordinance is to provide for the health, safety, and general welfare of the citizens of Atkinson through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. The IDDE ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the EPA National Pollutant Discharge Elimination System (NPDES) and MS4 permit process. The objectives of this ordinance are to:

Regulate the contribution of pollutants to the MS4 by storm water discharges by any user.

1. Prohibit illicit connections and discharges to the MS4.
2. Establish legal authority to carry out all inspection, surveillance, monitoring, and enforcement procedures necessary to ensure compliance with this ordinance.

### 1700.2 DEFINITIONS

For the purposes of this ordinance, the following terms shall mean:

- a. **Authorized Enforcement Agency**. Employees or designees of the Board of Selectmen designated to enforce this ordinance.
- b. **Best Management Practices (BMPs)**. Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to storm water, receiving waters, or storm water conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.
- c. **Illegal Discharge**. Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in Section 8 of this ordinance.
- d. **Illicit Connections**. An illicit connection is defined as either of the following:
- e. Any drain or conveyance, whether on the surface or subsurface that allows an illegal discharge to enter the storm drain system including but not limited to any conveyances that allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or,
- f. Any drain or conveyance connected from a commercial or industrial land use to the storm drain system that has not been documented in plans, maps, or equivalent records

and approved by an authorized enforcement agency.

- g. **Industrial Activity**. Activities subject to NPDES Industrial Storm Water Permits as defined in 40 CFR, Section 122.26 (b)(14).
- h. **Municipal Separate Storm Sewer System (MS4)**. The system of conveyances (including sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned and operated by the Town of Atkinson and designed or used for collecting or conveying storm water, and that is not used for collecting or conveying sewage.
- i. **National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit**. means a permit issued by EPA (or by a State under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.
- j. **Non-Storm Water Discharge**. Any discharge to the storm drain system that is not composed entirely of storm water.
- k. **Pollutant**. Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.
- l. **Storm Drainage System**. Publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.
- m. **Storm Water**. Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation and resulting from such precipitation.
- n. **Storm Water Management Plan**. A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Storm Water, Storm Water Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.
- o. **Wastewater**. Any water or other liquid, other than uncontaminated storm water, discharged from a facility.

### 1700.3. APPLICABILITY

This ordinance shall apply to all water, pollutants or other substances entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by the

Board of Selectmen.

#### **1700.4 COMPATIBILITY WITH OTHER REGULATIONS**

The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

#### **1700.5 DISCHARGE PROHIBITIONS**

##### **1700.5.1 Prohibition of Illegal Discharges**

No person shall throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the MS4 any pollutants or waters containing any pollutants, other than storm water.

The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows and if it is determined that the activity is causing an adverse impact:

1. The following discharges are exempt from discharge prohibitions established by this ordinance: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration, uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water.
2. Discharges or flow from firefighting, and other discharges specified in writing by the Board of Selectmen as being necessary to protect public health and safety.
3. Discharges associated with dye testing, however this activity requires a verbal notification to the Board of Selectmen prior to the time of the test.
4. The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the United States Environmental Protection Agency (EPA).

##### **1700.5.2 Prohibition of Illicit Connections**

1. The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.
2. The prohibition in #1 expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
3. A person is considered to be in violation of this ordinance if the person connects a line

conveying sewage to the MS4 system or allows such a connection to continue.

4. Improper connections in violation of this ordinance must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewer system upon approval of the Board of Selectmen.
5. Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the storm sewer system, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the Board of Selectmen requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be determined, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the storm sewer system or other stormwater discharge point be identified. Results of these investigations are to be documented and provided to the Board of Selectmen.

#### **1700.6 SURFACE WATER PROTECTION**

Every person owning property through which surface waters or a watercourse passes, or such person's lessee, shall keep and maintain that part of the surface waters or watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

#### **1700.7 REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORM WATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES**

The Board of Selectmen will adopt requirements identifying Best Management Practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the United States.

#### **1700.8 NOTIFICATION OF SPILLS**

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or waters of the United States, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. Failure to provide notification of a release as provided above is a violation of this ordinance.

#### **1700.9 VIOLATIONS, ENFORCEMENT, AND PENALTIES**

##### **1700.9.1 Violations.**

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this ordinance. Any person who has violated or continues to violate the provisions of this ordinance, may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law.



In the event the violation constitutes an immediate danger to public health or public safety, the Board of Selectmen is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property. The Board of Selectmen is authorized to seek costs of the abatement as outlined in Section 17.

### **1700.9.2 Warning Notice.**

When the Board of Selectmen finds that any person has violated, or continues to violate, any provision of this ordinance, or any order issued hereunder, the Board of Selectmen may serve upon that person a written Warning Notice, specifying the particular violation believed to have occurred and requesting the discharger to immediately investigate the matter and to seek a resolution whereby any offending discharge will cease. Investigation and/or resolution of the matter in response to the Warning Notice in no way relieves the alleged violator of liability for any violations occurring before or after receipt of the Warning Notice.

### **1700.9.3 Suspension of MS4 Access due to the Detection of Illicit Discharge**

Any person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The Board of Selectmen will notify a violator of the proposed termination of its MS4 access. The violator may petition the Board of Selectmen for a reconsideration and hearing.

A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the Board of Selectmen.

The Town of Atkinson IDDE Administrative Program Implementation Procedure is available in the Board of Selectmen's Office at Town Hall, 21 Academy Ave, Atkinson, NH 03811.

**REVISION HISTORY:**

12/10/97

**1500:3.A.** 1990 added (date confirmed)

**1500:3.B.** 1990 added (date conformed)

**1500:3.C. & 1500:6.A. & 1500:12.** Amended date of document from 9/5/97 to 9/22/97.

**1500:3.G.** .....adopted are derived **and** from and.... *deleted "and"*

**1500:5.C.** Removed reference to Building Inspector.

**1500:7\*\*\*** *Add the following bolded language to the end of the existing sentence as follows:*

...as the fee is paid in full **regardless of when the building permit was issued.**

**1500:10.A.** Amended as follows:

**ORIGINAL LANGAUGE:**

FeePAYERS may apply to the Board of Selectmen for a refund of the school impact fee, plus accrued interest, six (6) years from the date of collection of said fee. A refund will only be due if the Timberlane Regional School District has failed to appropriate the municipal share of the capital improvement costs required to provide school facility capacity improvements which are funded, in part, by school impact fees.

**AMENDED LANGUAGE:**

FeePAYERS may apply to the Board of Selectmen for a refund of the school impact fee, plus accrued interest, six (6) years from the date of collection of said fee. A refund will only be due if the Timberlane Regional School District has failed to appropriate said fee(s) on public school facility capacity improvements as defined herein.

12/18/97

**1500:5.C.** Added new section providing waivers for elderly housing.

**12/23/97**

A. Amend Section 1500:5.C. by adding "or through compliance with Federal Programs";

B. 1500:6.A. Delete "as amended"

C. 1500:7 Delete "...regardless of when the building permit was issued."

**\*\*\* PRECAUTIONARY NOTE:**

The language as amended above (**1500:7**) was made at the request of the Atkinson Planning Board. The Rockingham Planning Commission has reservations regarding the legality of the proposed amended language, and strongly encourages review by Town Counsel prior to the Planning Board's final vote on the Ordinance.

**GROWTH  
MANAGEMENT AND TIMING OF DEVELOPMENT ORDINANCE**

**ARTICLES I - II: SECTIONS GM110 - GM216**

**SECTION 128 SUNSET PROVISIONS**

**128:1** This ordinance shall terminate at the conclusion of Town Meeting in March, 1992, unless appropriate action is taken to extend this ordinance.

This Ordinance was allowed to Sunset, March 10, 1992

**HISTORIC DISTRICT ORDINANCE**

**SECTION HD10 AND ARTICLES I - XI, SECTIONS HD100 - HD1100**

**SECTION DELETED March 9, 1993**

## LAND SUBDIVISION CONTROL REGULATIONS

### SECTIONS SD100 - SD1200

#### SECTION 100 AUTHORITY

- 100:1** Pursuant to the authority vested in the Atkinson Planning Board by the voters of the Town of Atkinson, NH, and in accordance with the provisions of Chapter 674:35 of the New Hampshire Revised Statutes Annotated, 1983, the Atkinson Planning Board adopts the following regulations governing the subdivision of land in the Town of Atkinson, New Hampshire.

#### SECTION 200 DEFINITIONS (IN ALPHABETICAL ORDER)

- B1 Board** means the Planning Board of the Town of Atkinson, New Hampshire.
- C1 Community wastewater system** A non-municipal wastewater collection, treatment and disposal system that serves an average of at least twenty-five (25) individuals daily, year-round, or that has at least fifteen (15) service connections.
- C3 Community water system** A public water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.
- E1 Engineer** means the duly designated engineer of the Town of Atkinson, or if there is no such official, the planning consultant or official assigned by the Atkinson Planning Board.
- E2 Erosion** The wearing away of the land surface by the action of wind, water or gravity.
- L1 Lake shore area** Any area within one thousand feet (1000') of the average high water level of a lake or pond; an area to be determined by extending a perpendicular line drawn in a horizontal direction from the average high water level of a lake or pond.
- M1 Measure** A specific procedure designed to control runoff, erosion or sediment.
- M2 Municipal wastewater system** A wastewater collection, treatment and disposal system that services an average of at least twenty-five (25) individuals daily year-round or that has at least fifteen (15) service connections and that is owned and operated by a municipal or regional government.
- M3 Municipal water supply** A water supply system that serves an average of at least twenty-five (25) individuals daily year-round or that has at least fifteen (15) service connections and that is owned and operated by a municipal or regional government.
- P1 Plat** means the final map, drawing or chart on which the subdivider's plan of subdivision is presented to the Atkinson Planning Board for approval and which, if approved, will be submitted to the Register of Deeds of Rockingham County for recording.

- R1 Runoff** The portion of precipitation that makes its way overland toward stream channels or lakes.
- S1 Sediment** Solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water or gravity as a product of erosion.
- S2 Slope** The steepness of the land surface. Slope is expressed in percent by dividing a horizontal distance into the change in elevation that occurs within the distance. For the purpose of this regulation, the slope of a tract of land shall be determined by finding the average slope across each proposed lot, excluding wetlands, measured perpendicular to two foot contours. For lots with variable elevation, the composite average slope for each soil type, excluding wetlands, will be used to compute the minimum lot size.
- S3 Soil scientist** means the duly designated soil scientist of the Town of Atkinson or, if there is no such official, the planning consultant or official approved by the Atkinson Planning Board.
- S4 Soil type** As defined by the National Cooperative Soil Survey. When a tract of land has more than one soil type, all the soil types will be taken into consideration.
- S5 Soil Type determination** The soil type as determined by a qualified soil scientist as designated by the Rockingham County Conservation District using the standards of the National Cooperative Soil Survey.
- S6 Street** means and includes street, avenue, boulevard, road, alley, highway, and other way exclusive of driveways serving not more than two adjacent lots.
- S7 Subdivision** means the division of a lot, tract, or parcel of land into 2 or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale, rent, lease, condominium conveyance or building development. It includes resubdivision and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided. The division of a parcel of land held in common and subsequently divided into parts among the several owners shall be deemed a subdivision under these regulations.
- W1 Wetlands** The wetlands in Atkinson are those areas of the Town that contain fresh water marshes, perennial and intermittent streams, and soils classified as poorly or very poorly drained. Such areas are to be defined by the National Cooperative Soil Survey conducted by the U. S. Department of Agriculture Soil Conservation Service and by the on-site soils investigation of a qualified soils scientist if such investigation is required by the Planning Board.

### **Section 300 GENERAL REQUIREMENTS**

The subdivider shall observe the general requirements and principles of land subdivision which follow.

## **SECTION 310 STREETS**

- 310:1** The arrangement of streets in the subdivision shall provide for the continuation of the principal streets in adjoining subdivisions or for their proper projection when adjoining property is not subdivided, and shall be of a width at least as great as that of such existing connecting streets.
- 310:2** All streets within the subdivision shall be built in accordance with the Town's Road Specifications and Regulations. (1990)

## **SECTION 320 ADEQUACY OF LAND**

- 320.1** Land of such character that it cannot be safely used for building purposes because of exceptional danger to health or peril from fire, flood or other menace shall not be platted for residential occupancy, nor for such other uses as may increase danger to health, life or property or aggravate the flood hazard, until appropriate measures have been taken by the owner or his agent to lessen such hazards.
- 320:2** In areas not currently served by public sewer systems, it shall be the responsibility of the subdivider or his agent to provide adequate information to prove that the area of each lot is adequate to permit the installation and operation of an individual sewage disposal system (septic tank and drain field). Such information shall consist of the report of the health officer regarding seepage and other tests he may require. The subdivider or his agent shall provide the required soil scientist, subsequent analyses, and all necessary equipment and labor for the making of those tests.
- 320:3** Subdivisions may be required to provide for recreational areas, open spaces, and green spaces of adequate proportions, using New Hampshire state standards compiled by the Department of Resources and Economic Development and the Office of Energy and Planning as minimum area guidelines. (2011)
- 320:4** In the case of industrial development, copies of state or federal permits for pretreatment and discharge or subsurface disposal shall be required.

## **SECTION 330 WATER SUPPLY FOR FIRE PROTECTION**

- 330:1** Subdivision shall be reviewed by the Atkinson Fire Chief to determine the availability of a water supply for fire protection under guidelines and standards set forth in the NFPA Pamphlet 1231 "Suburban and Rural Firefighting". The Chief's recommendations, in writing, will be considered by the Planning Board before final approval of the proposed subdivision plan. Any improvements required by the Planning Board shall be bonded.

## **SECTION 340 CONSTRUCTION SITE RUNOFF EROSION AND SEDIMENT CONTROL STANDARDS**

- 340:1** No subdivision plan or site plan involving five (5) or more acres shall be granted approval unless it includes plans for runoff, erosion and sediment control.
- 340:2** The developer shall bear the final responsibility for the design, installation and construction of all required runoff, erosion and sediment control measures.

### **340:3 PURPOSE AND STANDARDS**

- a. The purpose of these standards is to safeguard persons, protect property, prevent damage to the environment and promote the public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any development or other activity that disturbs or breaks the topsoil or results in the movement of earth on land during construction.
- b. An Erosion and Sediment Control Report and plans, adhering to the standards of this regulation, shall be submitted with a Subdivision application, if applicable, and shall be prepared and certified by a licensed NH Professional Engineer.
- c. An Erosion and Sediment Control Plan is not required for the following activities:
  - 1) Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.
  - 2) Existing nursery and agricultural operations conducted as a permitted primary use or accessory use.
- d. The Performance Guarantee required in Section 703 shall be sufficient to cover all costs of improvements, landscaping, maintenance of improvements for such period as specified by the Planning Board, and engineering and inspection costs to cover the cost of failure or repair of improvements installed on the site.

### **340:4 EROSION AND SEDIMENT CONTROL PLAN REQUIREMENTS (2020)**

- a. The Erosion and Sediment Control Plan shall include the following:
  - 1) A natural resources map identifying soils, forest cover, and resources protected under other sections of the Land Development Regulations, Zoning Ordinance or other local regulations.
  - 2) A sequence of construction of the development site, including stripping and clearing; rough grading; construction of utilities, infrastructure, and buildings; and final grading and landscaping. Sequencing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, and establishment of permanent vegetation.
  - 3) All erosion and sediment control measures necessary to meet the objectives of this regulation throughout all phases of construction and after completion of development of the site. Depending upon the complexity of the project, the drafting of intermediate plans may be required at the close of each season.4) Seeding mixtures and rates, types of sod, method of seedbed preparation, expected seeding dates, type and rate of lime and fertilizer application, and kind and quantity of mulching for both temporary and permanent vegetative control measures.
  - 5) Provisions for maintenance of control facilities, including easements and estimates of the cost of maintenance.
- b. Modifications to the Erosion and Sediment Control plan shall be processed and approved or



disapproved by the Planning Board by written authorization to the permittee as follows.

- 1) Major amendments of the approved Erosion and Sediment Control plan.
- 2) Field modifications of a minor nature may be approved by the Town Engineer or other municipal staff upon inspection.

### **340:5 BEST PRACTICES FOR SUBDIVISION APPLICATIONS (2020)**

- a. All Subdivision applications must submit the following information and shall comply with the following standards.
  1. Apply best management practices that accommodate the increased runoff caused by changed soil and surface conditions during construction, including strong perimeter controls and soil stabilization methods. Sediment in stormwater runoff shall be contained by the use of sediment basins or other acceptable methods until the disturbed area is stabilized. Techniques that divert upland runoff away from disturbed slopes shall be used.
  2. Identify, locate, and show elevation, grades and/or contours at intervals of not more than two (2) feet for the existing and proposed drainage ways, drainage easements, drainage structures, and any surface water bodies.
  3. Identify and relatively locate and include drawings and specifications for each erosion and sediment control measure and structure proposed during construction, noting those measures that will become permanent structures retained after construction. Erosion and sediment control measures and structures shall be designed in accordance with the New Hampshire Stormwater Manual Volume 3: Erosion and Sediment Controls During Construction (NH Department of Environmental Services, December 2008, as amended) or new standards and guidance as released or adopted by the NH Department of Environmental Services.
  4. Include drawings, details and specifications for proposed flood hazard prevention measures and structures and for proposed temporary stormwater management facilities.
  5. Ensure that disturbance to or removal of vegetation, grading or other construction will be done in such a way that will minimize soil erosion. Whenever practical, natural vegetation shall be retained, protected and supplemented to function as buffers.
  6. Construction sites must be stabilized within five days of clearing or inactivity in construction. Temporary application of seed and/or mulch may be required by the Planning Board to protect exposed critical areas during development. Techniques shall be employed to prevent the blowing of dust or sediment from the site. In areas where final grading has not occurred, temporary stabilization measures should be in place within 7 days for exposed soil areas within 100 feet of a surface water body or wetland and no more than fourteen (14) days for all other areas. Permanent stabilization should be in place no more than 3 days following the completion of final grading of exposed soil areas. At the close of the construction season, the entire site must be stabilized, using a heavy mulch layer, or another method that does not require germination to control erosion.
  7. Waste Removal and Disposal

- a. All waste generated on the site shall be controlled and discarded properly including but not limited to building materials, concrete and concrete washout effluent, chemicals, litter and sanitary wastes.
- b. Waste shall not be discharged to the municipal MS4 system.

### **340:6 INSPECTION AND ENFORCEMENT (2020)**

- a. The agent designated by the Planning Board shall make inspections as described below and shall either approve that portion of the work completed or shall notify the applicant/property owner and the Planning Board when and how the construction activity(s) fails to comply with the approved erosion and sediment control plan. All plans bearing the stamp of approval of the designated agent shall be maintained at the site during construction. In order to obtain inspections, the applicant/property owner shall notify the designated agent at least one week before the following required site inspections:
  - 1. Proposed erosion and sediment control measures are located and staked on the site before the start of construction.
  - 2. Erosion and sediment control measures are in place and stabilized.
  - 3. Site clearing and preparation has been completed.
  - 4. Rough grading has been completed.
  - 5. Final grading has been completed.
  - 6. Close of the construction season.
  - 7. Final landscaping has been completed.
- b. The permittee or his/her agent shall make regular inspections of all control measures in accordance with the inspection schedule outlined on the approved Erosion and Sediment Control Plan(s). The purpose of such inspections will be to determine the overall effectiveness of the control plan and the need for additional control measures. All inspections shall be documented in written form and submitted to the agent designated by the Planning Board at the time interval specified in the approved plan.
- c. The Town or its designated agent shall enter the property of the applicant as deemed necessary to make regular inspections to ensure the validity of the reports filed under Section B.
- d. Stop-Work Order. In the event that any person holding a site development permit pursuant to this ordinance violates the terms of the permit or implements site development in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the Town may issue a Stop-Work Order.
- e. Violation and Penalties. No person shall construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or cause the same to be done, contrary to or in violation of any

terms of this ordinance. Any person violating any of the provisions of this ordinance may be fined and each day during which any violation of any of the provisions of this ordinance is committed, continued, or permitted, shall constitute a separate offense. Upon finding of such violation, such person, partnership, or corporation shall be levied a fine of not more than \$ 500.00 for each offense. In addition to any other penalty authorized by this section, any person, partnership, or corporation convicted of violating any of the provisions of this ordinance shall be required to bear the expense of such restoration.

### **340:7 POST CONSTRUCTION STORMWATER MANAGEMENT STANDARDS (2021)**

**See Appendix A - (SD 20)**

### **SECTION 350 PAVING /DRAINAGE /SIDEWALKS**

**350:1** Pavement and drainage facilities, curbs and sidewalks, when required, shall be installed and constructed in accordance with the standard specifications of the Town of Atkinson, NH, and, in all cases, must be constructed under the supervision of the engineer.

### **SECTION 360 PROHIBITIONS**

**360:1** Reserve strips of land which, in the opinion of the Planning Board, show an intent on the part of the subdivider to control access to land dedicated or to be dedicated to public use shall not be permitted. (1960)

**360:2 Subdivisions** will not be allowed in cases where such scattered or premature subdivision of land would involve danger or injury to health, safety, or prosperity by reason of the lack of water supply, drainage, transportation, schools, fire department, or other public services, or necessitate an excessive expenditure of public funds for the supply of such services.

**360:3** Subdivisions on land acquired through “Eminent Domain” shall be restricted in use to Local, State, or Federal governmental public sector uses, and only if said uses provide direct access and use to and by the public. Private or Public development of such land solely for financial gain or revenue enhancement, is prohibited. (2005)

### **SECTION 370 COMPLIANCE**

**370:1** (2011)

The proposed subdivision shall conform to the Zoning Ordinance of the Town of Atkinson, NH. Where strict conformity to the subdivision regulations would cause undue hardship or injustice to the owner of the land, a subdivision plan substantially in conformity with the regulations may be approved by the board provided that the spirit of the regulations and public convenience and welfare will not adversely be affected.

- a. Any request for a waiver to the requirements of these regulations shall be submitted in writing to the Planning Board. The basis for any waiver granted by the Planning Board shall be recorded in the minutes of the Board. The Planning Board may only grant a waiver if the Board finds, by majority vote, that:
  - 1) Strict conformity would post an unnecessary hardship to the applicant and waiver would not be contrary to the spirit and intent of the regulations; or
  - 2) Specific circumstances relative to the subdivision or conditions of the land in such subdivision, indicate that the waiver will properly carry out the spirit and intent of the regulations.

## **SECTION 380 BOND/SURETY**

### **380:1**

- a. Before approval of a subdivision by the Planning Board, there shall be filed a bond, cash, or sureties by the subdivider in an amount sufficient to cover the cost of the preparation of the streets and the construction of public or community water supply system improvements if proposed. This bond or sureties shall be approved as to form and surety by the legal Counsel of the Town of Atkinson, NH, and conditioned on the completion of such improvement and/or annual review of the bond's sufficiency. (2002)
- b. The developer must provide and maintain appropriate escrow monies in an amount determined by the Town Engineer for anticipated inspection and testing services to be rendered during execution of the work. (2006)

### **380:2** All bonds shall be made out in the name of:

Town of Atkinson: \_\_\_\_\_, Selectmen

If desired, a reference such as "Millpond Road Bond; John Doe, Owner" may be added. Three signatures are required for withdrawal, that of the Treasurer and two members of the Board of Selectmen, preferably one being the member serving Ex-Officio on the Planning Board. Signature cards should be presented with the bond. A set of withdrawal slips should be available in order to expedite the release of the bond.

### **380:3** After receipt of conditional subdivision application approval from the Planning Board, an applicant may elect to commence work on construction of infrastructure related to said subdivision, in accordance with the conditionally approved plans and any conditions attached to said approval, but prior to final signature by the Board Chairman/Vice Chairman and recording of the subdivision plat at the Registry of Deeds, provided that: (1) all required State project permits necessary for the work have been issued and received by the Planning Board; (2) the full Performance Bond value has been determined and approved by the Town Engineer; (3) the Town of Atkinson has received a cash surety in an amount equal to ten-percent of the full value of the Performance Bond. Said cash surety will be held by the Town until such time as the full Performance Bond is accepted by the Town and/or all required project work is completed in accordance with the project plans. Said cash surety will serve as a guarantee that work completed prior to recording of the final plat will be done in a workman like manner and

not become a threat to the public or adjoining landowners; and (4) the developer has provided appropriate escrow monies to compensate the Town Engineer for inspection and testing services rendered during execution of the work. In utilizing this option, the developer recognizes that no building permits will be issued until such time as all conditions of his approval have been fulfilled and the subdivision plat has been duly recorded at the Registry of Deeds. (1998)

- 380:4** No occupancy permits shall be granted for any structure accessed by any new street within a subdivision until:
- a. All utilities including water, storm drainage, electric and telephone have been installed and have been deemed fully operational by the appropriate authorities over the entire length of the frontage of the lot upon which such structure is located; and
  - b. All roadway construction has progressed to at least the point of installation of the base course of hot bituminous pavement; and
  - c. All on-site safety related improvements required by the Planning Board or applicable State Agencies with competent jurisdiction must be completed to the Building Codes prior to issuance of certificates of occupancy. (2006)

### **SECTION 390 NATIONAL FLOOD INSURANCE PROGRAM (2008)**

For subdivisions and site plans that involve land designated as “Special Flood Hazard Areas” (SFHA) by the National Flood Insurance Program (NFIP):

- 390:1** The Planning Board shall review the proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
- 390:2** The Planning Board shall require that all proposals for development greater than 50 lots or 5 acres, whichever is the lesser, include Base Flood Elevation (BFE) data within such proposals (i.e., floodplain boundary and 100-year flood elevation).
- 390:3** The Planning Board shall require the applicant to submit sufficient evidence (construction drawings, grading and land treatment plans) so as to allow a determination that:
- a. all such proposals are consistent with the need to minimize flood damage;
  - b. all public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage; and
  - c. adequate drainage is provided so as to reduce exposure to flood hazards.

## **SECTION 400 REGULATING SIZE OF LOTS IN A SUBDIVISION**

### **SECTION 410 PURPOSE**

**410:1** The Planning Board of the Town of Atkinson, NH hereby adopts these regulations in accordance with the provisions of RSA 674:36-IIa in order to protect the Town against the danger to health, safety, and prosperity occasioned by the lack of municipal water and sewer and to prevent the excessive expenditure of public funds for the supply of such services.

### **SECTION 420 MINIMUM LOT SIZES**

**420:1** In addition to meeting the requirements of the zoning ordinance for the district wherein the subdivision is located, each lot shall also be in conformance with Table 1 (page 6):

- a. The table contains the required minimum lot sizes for specific soils for single-family residences of not more than four bedrooms.
- b. Protection of water supplies (well water) from contamination by subsurface wastewater disposal systems is factored into Table 1.
- c. In subdivisions where a community water supply system is to be provided, minimum lot sizes may not be decreased by any factor on the minimum requirement as stated in Table 1.
- d. Lot sizes for residential (5 or more bedrooms).
  - 1) Minimum lot sizes shall be proportionally larger than the minimum lot size given in Table 1 by the following formula:

Lot size =  $N/4 \times$  (lot size from Table 1) where N is the number of bedrooms

## **SECTION 500 PROCEDURE FOR SUBDIVISION**

### **SECTION 510 APPLICATION FOR APPROVAL**

**510:1** Whenever any subdivision is proposed to be made and before a contract for the sale of, or offer to sell, such subdivision or any part thereof shall have been negotiated, and before any application for a permit for the erection of a structure thereon shall be made, the owner thereof or his agent shall make application for approval of such subdivision to the Planning Board of the Town of Atkinson, NH. The application shall be considered a completed application at such time as it contains sufficient information to allow the board to proceed with a formal consideration of the proposal. The application shall conform to the specifications contained in these regulations.

**510:2** The Planning Board may require a professional engineering review or other type of technical review deemed necessary for preliminary consultation submissions and formal application submission under the Land Subdivision Control Regulations. The cost of such review shall be borne by the applicant. (2011)

## **SECTION 520 PRELIMINARY CONSULTATION REGULATIONS**

- 520:1** Preliminary consultations and review of a proposal shall be separate and apart from formal consideration by the Board and shall not bind either the applicant or the Board. Time limits for acting upon a proposal shall not apply until preliminary review is concluded, the application is complete, and the subdivision has been accepted for formal consideration by the Board.
- 520:2** A preliminary consultation and review of the basic concept of the subdivision proposal must be held at a regular meeting of the Board. No formal public notice shall be required. A required preliminary layout, which constitutes part of the completed application, as described in Section SD 600, may be filed by the applicant at this time.
- 520:3** A second preliminary consultation and review of the proposal, if required by the Board or sought by the applicant, shall be held only after the Board has notified the applicant and abutters by certified mail at least 10 days prior to the consultation. A notice to the general public shall be given at the same time by posting or by publication, and it shall describe the proposal and identify the applicant and the location. All cost of such notice shall be paid by the applicant in advance of the consultation meeting. A required layout; may require a professional engineering review, the cost of which is to be borne by the subdivider; and may require specific changes in the preliminary plan which shall be communicated to the developer in writing. Should the Board disapprove of the preliminary layout in its entirety, it shall state its reasons for such disapproval in writing.

## **SECTION 530 FORMAL CONSIDERATION**

- 530:1** **Submission.** The subdivider shall submit a completed application to the Board 15 days prior to a regular Planning Board meeting, at which time the completed application shall be accepted.
- 530:2** **Notification.**
- a. Of formal submission. The Planning Board shall notify the applicant and abutters by certified mail at least 10 days prior to the date on which the formal submission of the subdivision application will take place. A notice to the general public shall be given at the same time by posting or by publication, and it shall describe the proposal and identify the applicant and the location. All cost of such notice shall be paid by the applicant in advance of the formal submission.
  - b. Of public hearing. The Planning Board shall notify the applicant and abutters by certified mail at least 10 days prior to the date on which a public hearing on the subdivision application will take place. A notice to the general public shall be given at the same time by posting and by publication, and it shall describe the proposal and identify the applicant and the location. All cost of such notice shall be paid by the applicant in advance of the formal submission.
  - c. Simultaneous notice. If a notice of public hearing is included in the notice of formal submission, additional notice of the public hearing shall not be required.

**530:3 Time limitations.**

- a. Upon determination by the board that a submitted application is complete according to the board's regulations, the board shall begin formal consideration and shall act to approve, conditionally approve, or disapprove within 65 days, subject to extension as provided for in paragraph (c) below. (2002)
- b. The applicant shall meet the requirements for filing final plats and data, as outlined in Section SD700, within 60 days of submission of the completed application.
- c. The Board may apply to the selectmen to extend the formal consideration period for up to 90 additional days before acting to approve or disapprove the application.
- d. A subdivision that has been granted a conditional approval shall have one (1) year from the date of conditional approval to fulfill the conditions or the approval is revoked and the plan must come back for review. (1993; 1997)

**530:4 Expedited Review Applications** which conform to the following circumstances may be formally submitted and approved at one or more board meetings:

- a. Applications which do not create lots for building purposes.
- b. With the exception of rural cluster residential developments, applications which create no more than three (3) lots for building development purposes.

Such applications; however, regardless of the circumstances, shall not be approved without notice of formal submission to abutters and public as required in Section 530:2a above. In addition, a public hearing, with notice as provided in Section 530:2b above, shall be held if requested by the applicant or by abutters any time prior to approval or disapproval or if the Board determines to hold a hearing.

**530:5 Offers of cession.** The subdivider shall tender offers of cession, in a form certified as satisfactory by the corporation counsel, of all land included in streets, highways or parks not specifically reserved by him; but approval of the plat by the Board shall not constitute an acceptance by the Town of the dedication of any street, highway, park or other public space.

**530:6 Approval/disapproval.** In case of disapproval of any application submitted to the planning board, the ground for such disapproval shall be adequately stated upon the record of the Board.

**SECTION 600 PRELIMINARY LAYOUT**

**600:1** The subdivider shall file with the Board four copies of a preliminary layout at a scale of not more than 100 feet to the inch showing or accompanied by the following information:

- a. Location at Town base map scale (1" = 1000') showing zoning classification, precise area of site, major roads and intersections, community facilities, existing and proposed development and north arrow.



- b. Proposed subdivision name; name and address of owner of record, subdivider and consultants and the seals; date, north point and bar scale; and street names and area of subdivision (in acres).
- c. Names of owners of record abutting properties, abutting subdivision names, street easements, building lines, alleys, parks, and public open spaces and similar facts regarding property within two hundred feet (200') of proposed subdivision.
- d. Location of property lines and their dimensions, existing easements and buildings.
- e. Location, name and widths of existing and proposed streets and highways.
- f. Existing and proposed water mains, sewers, culverts, drains, water courses and ponds.
- g. Where the topography is such as to make difficult the inclusion of any items mentioned above, the preliminary layout shall show the boundaries of proposed easements over and under private property. Such easements shall be not less than 20 feet in width and shall have satisfactory access to existing or public ways.
- h. A topographic plan showing two-foot contour intervals. Slope will be indicated for each lot as described in Section 200-S2.
- i. Bench marks will be properly located on a fixed object with a direct site to proposed leach fields and septic tanks.
- j. Location of soil test pits and logs of all soil explorations in accordance with the standards of the National Cooperative Soil Survey. Season high water table, depth to bedrock and depth to firm sub-layers (hardpan) should be specified.
- k. Soil boundaries, soil symbols and slopes from most recent National Cooperative Soil Survey.
- l. An estimate of the rate of runoff before and after development using the Soil Conservation Service Method for a 25 year, 24-hour rainfall. (For subdivisions larger than five acres.)
- m. Approximate location and plan for each proposed soil erosion and sediment control measure approved by the Rockingham County Conservation District. (For subdivisions larger than five acres.)
- n. Preliminary designs of any structures which may be required to control runoff.
- o. An estimate of stormwater drainage capacity and location of all storm sewers, culverts and similar measures. The capacity of the stormwater facilities shall be based on the estimated rate of runoff after construction for a 10-year, 24-hour rainfall, using the Soil Conservation Service method.

- p. Location of all parcels of land proposed to be dedicated to public use and the conditions of such dedication and a copy of such private deed restrictions as are intended to cover part or all of the tract.
- q. Location, size, and height of proposed street and/or subdivision signs.
- r. Location of any land proposed to be reserved as permanent recreational space, open space, and/or green space.
- s. Where the preliminary layout submitted covers only a part of the subdivider's entire holding, an informal sketch to show the prospective future street system of the unsubmitted part shall be furnished, and the street system of the submitted part shall be considered in the light of adjustments and connections with the street system of the part not submitted.

## **SECTION 700 PLATS AND DATA FOR FINAL APPROVAL**

**700:1** Final plat shall be drawn in ink on drawing cloth or mylar at a scale of not less than 50 feet to an inch. Where necessary, the plat may be on several sheets accompanied by an index showing the entire subdivision.

**700:2** For larger subdivisions the final plat may be submitted for approval progressively in contiguous sections satisfactory to the Board. Plat sizes shall conform to the requirements of the Rockingham Registry of Deeds.

**700:3** Final plat shall show the following:

- a. Tract boundary lines, right-of-way lines of streets, easements, and other rights-of-way, and property lines of residential lots and other sites, with dimensions to one one-hundredths (1/100) of a foot, bearings to the nearest minute, and radii, arc, and central angles of all curves.
- b. Name and right-of-way width of each street and other right-of-way.
- c. Locations, dimensions, and purpose of any easements.
- d. Lot number to identify each lot or site which shall be assigned by the Town of Atkinson.
- e. Purpose for which sites, other than residential lots, are dedicated or reserved.
- f. Location and description of monuments. Each change in direction in a line shall be marked by an iron bound or other permanent monument.
- g. Names of record owners of adjoining land.
- h. Reference to recorded subdivision plats of adjoining platted land by record name, date and number.
- i. Certification by surveyor or engineer as to accuracy of survey and plat. (Minimum 1 to 10,000 field closure.)

- j. Location of all land parcels including current book and page reference.
- k. Statement of owner dedicating streets, right-of-way, and any sites for public use.
- l. Title, scale, north arrow, and date.
- m. Existing and proposed centerline profile of existing and proposed streets drawn at a scale of 1" = 50' horizontal and 1" = 10' vertical.
- n. Drawings showing the natural drainage ways on the construction site and surrounding area.
- o. Drawings showing the identification of and relative location of the proposed measures for runoff, erosion and sediment control.
- p. Drawings showing changes in drainage ways and structures pertaining to overall water management.
- q. Topographic plan showing two-foot contour intervals before development and after development for any change in natural water flow.
- r. Drawings and specifications and calculations for each proposed runoff, soil erosion, and sediment control measure. (For subdivisions larger than five acres.)
- s. Approximate timing schedule indicating the anticipated starting and completion dates of the development sequence and time of exposure of each area prior to the completion of effective runoff, erosion and sediment control measures. (For subdivisions larger than five acres.)
- t. Actual locations and invert elevations of all storm water and sanitary sewage systems and water supply and hydrant systems. Locations may be shown on the plan and elevations on the profile if so desired.
- u. House numbers of each lot as assigned by the Town of Atkinson.
- v. Drainage calculations. (1997)
- w. All engineered plans to be stamped by a Certified Engineer. (1997)
- x. Applicants to provide a time-line for the completion of all off-site improvements. (1997)
- y. Any additional information the Planning Board may deem necessary in order to apply the regulations contained herein. (1997)
- z. A signed statement by the owner and applicant shall appear on all pages of a subdivision plat which are intended to be recorded at the Registry of Deeds. This statement shall read we the undersigned owner and applicant acknowledge that the Subdivision Regulations, Road Specifications and Regulations and Zoning Ordinance of the Town of Atkinson are a part of this plat and understand that approval of this plat is contingent upon completion of all requirements of said Regulations and Ordinances, excepting only any requirements waived by the

Planning Board in the approval of this plat or any variances granted by the Zoning Board of Adjustment affecting this plat. (2002)

- aa. In the event the subdivision is to be served by a public or community water supply system, the applicant shall submit complete design plans of all water supply system components, including water distribution lines and appurtenances, as well as supporting design calculations prepared by a Licensed Professional Engineer. The design calculations shall demonstrate that the proposed water system complies with all applicable requirements of the State of New Hampshire for potable water and in addition demonstrate that the system is capable of delivering water for fire fighting purposes, at a flow rate of 500 gallons a minute and 20 PSI static pressure if it is the intent of the system to do so. (2002)

**700:4 Dredge and fill operations**

- a. Whenever a dredge and/or fill operation is inherent in the development of a subdivision, and before the final plat shall be approved or disapproved, the subdivider shall submit to the Planning Board a copy of a dredge and fill permit for such operation officially approved by the New Hampshire Wetlands Board.

**700:5 Alteration of Land (Site Specific ) Permit**

- a. Whenever an earth disturbance significantly alters more than 100,000 square feet of contiguous terrain, the sub divider shall submit to the Planning Board a copy of an Alteration of Land (Site Specific) Permit for such operation officially approved by the Water Supply and Pollution Control Commission.

**SECTION 800 FILING OF PLANS**

**800:1** The Chairman or Secretary of the Planning Board shall transmit record of any changes so authorized to the Register of Deeds of Rockingham County.

**800:2** All plans submitted for recording in the registry of deeds shall be on suitable reproducible tracing material other than paper with a thickness of not less than .002 of one inch, with all marking on the material to be with India or other permanent ink.

**800:3** The size of all plans is limited to any of the following dimensions:

- a. 8 1/2" x 11"
- b. 11" x 17"
- c. 17" x 22"
- d. 22" x 34"

or such specifications and sizes of prints as may be required by the Register of Deeds in order to insure suitable, permanent records.

**800:4** After the certificate or notice has been filed with the Register of Deeds of the county, no plat will be filed or recorded in the offices of said Register of Deeds until it has been approved by the Planning Board, and such approval has been endorsed in writing on the plat in such manner as the Planning Board may designate.

- 800:5** After such plat is approved and filed, subject, however, to review by court as hereinafter provided, the streets and parks shown on such plat shall be and become a part of the official map of the municipality.
- 800:6** The filing or recording of a plat of a subdivision without the approval of the Planning Board as required hereby shall be void.

## **SECTION 900 CHANGES IN APPROVED PLANS**

- 900:1** **Minor changes.** A minor change shall be one which respects the approved plan's basic land allocations in terms of use and intensity, the type and variety of facilities and buildings being approved, and/or the timing for providing these facilities, but shall not include any increase in the overall density of the development. The Board shall give proper notification of the proposed change to the public and to all abutters. If requested by the applicant or by an abutter, the Board shall hold a public hearing on the proposed change. The Board shall act to approve or disapprove the change with written notification to the owner of its action. Any approved changes involving changes in any lot boundaries shall be recorded in the Registry of Deeds.
- 900:2** **Major changes.** Any requested change which the Board determines does not qualify as a minor change shall be required to be submitted as a separate plan in accordance with these regulations and procedures.

## **SECTION 1000 RELATIONSHIP BETWEEN STATE AND LOCAL REGULATIONS**

- 1000:1** Where both state and local regulations are applicable, the more stringent regulation shall take effect. If the state regulation addresses an issue not included in the local regulation or if the local regulation addresses an issue not included in the state regulations, that regulation shall automatically apply.

## **Section 1100 SAVING CLAUSE**

- 1100:1** Where any provision included within these regulations is found to be unenforceable by law, it shall be considered severable from the remainder of the regulation and shall not be construed to invalidate any other provision in these regulations.

## **SECTION 1200 AMENDMENTS**

- 1200:1** These regulations may be amended or rescinded by the Planning Board, but only following public hearing on the proposed change.
- 200:2** Adopted 10/20/59.

**Table 1**  
**MINIMUM LOT SIZE BY SOIL TYPE**  
(High Intensity Soil Map Symbols and Standards)

<u>Soil Type</u>	<u>Lot Size</u>	<u>Soil Type</u>	<u>Lot Size</u>	<u>Soil Type</u>	<u>Lot Size</u>	<u>Soil Type</u>	<u>Lot Size</u>	<u>Soil Type</u>	<u>Lot Size</u>
111BH	40000	21XEH	NA	254+H	NA	32XDH	160000	36XCH	130000
111CH	45000	221BH	4000	25XBH	130000	32XEH	NA	36XDH	170000
111DH	60000	221CH	45000	25XCH	190000	331BH	75000	36XEH	NA
111EH	NA	221DH	60000	25XDH	240000	331CH	100000	375+H	NA
112BH	75000	221EH	NA	25XEH	NA	331DH	125000	411BH	90000
112CH	80000	222BH	75000	261BH	50000	331EH	NA	411CH	135000
112DH	9500	222CH	80000	261CH	55000	333BH	75000	412BH	145000
112EH	NA	222DH	95000	261DH	70000	333CH	100000	412CH	190000
114+H	NA	222EH	NA	261EH	NA	333DH	125000	413BH	90000
11XBH	80000	223BH	50000	263BH	60000	333EH	NA	413CH	135000
11XCH	100000	223CH	75000	263CH	85000	334+H	NA	414+H	NA
11XDH	14000	223DH	100000	263DH	110000	33XBH	115000	41XBH	150000
11XEH	NA	223EH	NA	263EH	NA	33XCH	155000	41XCH	180000
121BH	4000	224+H	NA	264+H	NA	33XDH	205000	421BH	75000
121CH	45000	22XBH	80000	266+H	NA	33XEH	NA	421CH	115000
121DH	60000	22XCH	10000	26XBH	90000	341BH	75000	422BH	130000
121EH	NA	22XDH	140000	26XCH	110000	341CH	100000	422CH	135000
122BH	75000	22XEH	NA	26XDH	150000	341DH	125000	423BH	90000
122CH	80000	231BH	40000	26XEH	NA	341EH	NA	423CH	135000
122DH	95000	231CH	45000	275+H	NA	343BH	75000	424+H	NA
122EH	NA	231DH	60000	311BH	60000	343CH	100000	42XBH	150000
124+H	NA	231EH	NA	311CH	90000	343DH	125000	42XCH	180000
12XBH	80000	233BH	5000	311DH	120000	343EH	NA	431BH	115000
12XCH	100000	233CH	75000	311EH	NA	344+H	NA	431CH	150000
12XDH	140000	233DH	100000	312BH	95000	34XBH	115000	433BH	115000
12CEH	NA	223EH	NA	312CH	125000	34XCH	155000	433CH	150000
161BH	50000	234+H	NA	312DH	155000	34XDH	205000	434+H	NA
161CH	55000	23XBH	80000	312EH	NA	34XEH	NA	43XBH	175000
161DH	70000	23XCH	100000	313BH	60000	351BH	90000	43XCH	235000
161EH	NA	23XDH	140000	313CH	90000	351CH	135000	442BH	115000
164+H	NA	23XEH	NA	313DH	120000	351DH	160000	441CH	150000
166+H	NA	241BH	50000	313EH	NA	351EH	NA	443BH	115000
16XBH	90000	241CH	75000	314+H	NA	353BH	90000	443CH	150000
16XCH	110000	241DH	100000	31XBH	100000	353CH	135000	444+H	NA
16XDH	150000	241EH	NA	31XCH	120000	353DH	160000	44XBH	175000
16XEH	NA	243BH	50000	31XDH	160000	353EH	NA	44XCH	235000
211BH	40000	243CH	75000	31XEH	NA	354+H	NA	451BH	135000
211CH	45000	243DH	100000	321BH	50000	35XBH	130000	451CH	205000
211DH	60000	243EH	NA	321CH	75000	35XCH	190000	453BH	135000
211EH	NA	244+H	NA	312DH	100000	35XDH	240000	453CH	205000
212BH	75000	24XBH	90000	321EH	NA	35XEH	NA	454+H	NA

212CH	80000	24XCH	130000	322BH	85000	361BH	70000	45XBH	195000
212DH	95000	24XDH	180000	322CH	100000	361CH	100000	45XCH	285000
212EH	NA	24XEH	NA	322DH	135000	361DH	130000	461BH	105000
213BH	50000	241BH	90000	322EH	NA	361EH	NA	461CH	150000
213CH	75000	251CH	135000	323BH	60000	363BH	70000	463BH	105000
213DH	100000	251DH	160000	323CH	90000	363CH	100000	463CH	150000
213EH	NA	251EH	NA	323DH	120000	363DH	130000	464+H	NA
214+H	NA	253BH	90000	323EH	NA	363EH	NA	466+H	NA
21XBH	80000	253CH	135000	324+H	NA	364+H	NA	46XBH	165000
21XCH	100000	253DH	160000	32XBH	100000	366+H	NA	46XCH	195000
21XDH	140000	253EH	NA	32XCH	120000	36XBH	110000		

“NA” means not allowed. “+” means any slope or any number. Minimize lot size interpretation is based on Table 1, page 226 of the Draft Water Quality Management Plan, Southern Rockingham Commission 208 Project and further evaluations.

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Soil types listed below have one or more limiting characteristics making the soil type “NA” or requiring on-site investigation no matter what other characteristics of the soil may be present. (Effective date: June 1, 1989)

<b><u>Soil Type</u></b>	<b><u>Minimum Lot Size</u></b>	<b><u>Soil Type</u></b>	<b><u>Minimum Lot Size</u></b>
5+++H	NA, poorly drained soil	+66+H	NA, fill does not meet standards for Fill Material (see Kay to Soil Types)
6+++H	NA, very poorly drained soil	+75+H	NA, floodplain soil
76+++H	On-site evaluation needed		

## APPENDIX A –

### POST CONSTRUCTION STORMWATER MANAGEMENT STANDARDS FOR SUBDIVISION REGULATIONS

#### ELEMENT A: Purpose and Goals

1. Purpose and Goals. The purpose of post construction stormwater management standards is to provide reasonable guidance for the regulation of stormwater runoff to protect local natural resources from degradation and prevent adverse impacts to adjacent and downstream land, property, facilities and infrastructure. These standards regulate discharges from stormwater and runoff from land development projects and other construction activities to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with stormwater runoff.

The goal of these standards is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public in the Town of Atkinson. This regulation seeks to meet that goal through the following objectives:

- a. Minimize increases in stormwater runoff from any development to reduce flooding, siltation and streambank erosion and maintain the integrity of stream channels.
- b. Minimize increases in nonpoint source pollution caused by stormwater runoff from development which would otherwise degrade local water quality.
- c. Minimize the total volume of surface water runoff which flows from any specific site during and following development to not exceed the pre-development hydrologic condition to the maximum extent practicable as allowable by site conditions.
- d. Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management controls and to ensure that these management controls are properly maintained and pose no threat to public safety or cause excessive municipal expenditures.
- e. Protect the quality of groundwater resources, surface water bodies and wetlands.

#### ELEMENT B: Minimum Thresholds for Applicability

1. The Post-Construction Stormwater Management Standards apply to subdivisions that result in creation of a private road or a road intended for adoption as a public road. All stormwater runoff generated from the proposed private or public roadway(s) and any other stormwater runoff contributing to the roadway stormwater management system(s) shall be managed and treated in full compliance with these standards.
2. For subdivisions comprising lots with frontage on existing private or public roadways, roadside drainage and any other stormwater runoff from the new lots discharging to the roadside drainage system must be managed for: stormwater runoff quantity/volume; and water quality treatment if stormwater is discharged to the municipality's drainage system subject to the EPA MS4 permit. A driveway permit for access to a state highway or municipal roadway is required



including required drainage controls. The following requirements in this regulation for a complete stormwater management control plan will be subject to Planning Board approval or their designee. Site specific conditions shall be considered with respect to applicability of the following requirements.

**ELEMENT C: *Stormwater Management for New Development***

1. All proposed stormwater management practices and treatment systems shall meet the following performance standards.
  - a. Stormwater management and erosion and sediment control practices shall be located outside any specified buffer zones unless otherwise approved by the Planning Board. Alternatives to stream and wetland crossings that eliminate or minimize environmental impacts shall be considered whenever possible.
  - b. Low Impact Development (LID) site planning and design strategies must be used to the maximum extent practicable (MEP) to reduce stormwater runoff volumes, protect water quality, and maintain predevelopment site hydrology. Low Impact Development (LID) techniques with the goals of protecting water quality, maintaining predevelopment site hydrology. Low Impact Development (LID) techniques that preserve existing vegetation, reduce the development footprint, minimize or disconnect impervious area, and use enhanced stormwater BMP's (such as raingardens, bioretention systems, tree box filters, and similar stormwater management landscaping techniques) shall be incorporated into landscaped areas excluding perimeter landscaped or other buffers when required for the development. Capture and reuse of stormwater is strongly encouraged. The applicant must document in writing why LID strategies are not appropriate when not used to manage stormwater.
  - c. All stormwater treatment areas shall be planted with native plantings appropriate for the site conditions: trees, grasses, shrubs and/or other native plants in sufficient numbers and density to prevent soil erosion and to achieve the water quality treatment requirements of this section.
  - d. Salt storage areas shall be fully covered with permanent or semi-permanent measures and loading/offloading areas shall be located and designed to not drain directly to receiving waters and maintained with good housekeeping measures in accordance with NH DES published guidance. Runoff from snow and salt storage areas shall enter treatment areas as specified above before being discharged to receiving waters or allowed to infiltrate into the groundwater. See NHDES published guidance fact sheets on road salt and water quality, and snow disposal at <http://des.nh.gov/organization/commissioner/pip/factsheets/wmb/index.htm>.
  - e. Surface runoff shall be directed into appropriate stormwater control measures designed for treatment and/or filtration to the maximum extent practicable and/or captured and reused onsite.

- f. All newly generated stormwater from new development shall be treated on the development site. A development plan shall include provisions to retain natural predevelopment watershed areas on the site by using the natural flow patterns.
- g. Runoff from impervious surfaces shall be treated to achieve at least 80% removal of Total Suspended Solids and at least 50% removal of both total nitrogen and total phosphorus using appropriate treatment measures, as specified in the NH Stormwater Manual. Volumes 1 and 2, December 2008, as amended or other equivalent means. Where practical, the use of natural, vegetated filtration and/or infiltration practices or subsurface gravel wetlands for water quality treatment is preferred given its relatively high nitrogen removal efficiency. All new impervious area draining to surface waters impaired by nitrogen, phosphorus or nutrients shall be treated with stormwater BMP's designed to optimize pollutant removal efficiencies based on design standards and performance data published by the UNH Stormwater Center and/or included in the latest version of the NH Stormwater Manual.
- h. Measures shall be taken to control the post-development peak runoff rate so that it does not exceed pre-development runoff. Drainage analyses shall include calculations comparing pre- and post-development stormwater runoff rates (cubic feet/second) and volumes (cubic feet) for the 1-inch rainstorm and the 2-year, 10-year, 25-year, and 50-year 24-hour storm events. Refer to Section 3.e. below for precipitation data references required for sizing and design of stormwater management practices and infrastructure. Similar measures shall be taken to control the post-development runoff volume to infiltrate the groundwater recharge volume  $GR_v$  according to the following ratios of Hydrologic Soil Group (HSG) type versus infiltration rate multiplier: HSG-A: 0.4; HSG-B: 0.25; HSG-C: 0.1; HSG-D: 0.00. For sites where infiltration is limited or not practicable, the applicant must demonstrate that the project will not create or contribute to water quality impairment.
- i. The design of the stormwater drainage systems shall provide for the disposal of stormwater without flooding or functional impairment to streets, adjacent properties, downstream properties, soils, or vegetation.
- j. The design of the stormwater management systems shall account for upstream and upgradient runoff that flows onto, over, or through the site to be developed or re-developed, and provide for this contribution of runoff.
- k. Whenever practicable, native site vegetation shall be retained, protected, or supplemented. Any stripping of vegetation shall be done in a manner that minimizes soil erosion.

## 2. Submission Requirements for Stormwater Management Report and Plans.

- a. All applications shall include a comprehensive Stormwater Management Plan (SMP). The SMP shall include a narrative description and an Existing Conditions Site Plan showing all pre-development impervious surfaces, buildings and structures; surface water bodies and

wetlands; drainage patterns, sub-catchment and watershed boundaries; building setbacks and buffers, locations of various hydrologic group soil types, mature vegetation, land topographic contours with minimum 2-foot intervals and spot grades where necessary for sites that are flat.

- b. The SMP shall include a narrative description and a Proposed Conditions Site Plan showing all post-development proposed impervious surfaces, buildings and structures; temporary and permanent stormwater management elements and best management practices (BMP), including BMP GIS coordinates and GIS files; important hydrologic features created or preserved the site; drainage patterns, sub-catchment and watershed boundaries; building setbacks and buffers; proposed tree clearing and topographic contours with minimum 2-foot intervals. The plans shall provide calculations and identification of the total area of disturbance proposed on the site (and off site if applicable) and total area of new impervious surface created. A summary of the drainage analysis showing a comparison of the estimated peak flow and volumes for various design storms (see Table 1. Stormwater Infrastructure Design Criteria) at each of the outlet locations shall be included.
- c. The SMP shall describe the general approach and strategies implemented, and the facts relied upon, to meet the goals of Element A and Element C.: The SMP shall include design plans and/or graphical sketch(es) of all proposed above ground LID practices.
- d. The SMP shall include calculations of the change in impervious area, pollution loading and removal volumes for each best management practice, and GIS files containing the coordinates of all stormwater infrastructure elements (e.g. catch basins, swales, detention/bioretention areas, piping).
- e. The SMP shall include a description and a proposed Site Plan showing proposed erosion and sediment control measures, limits of disturbance, temporary and permanent soil stabilization measures in accordance with the NHDES Stormwater Manual Volume 3 (most recent version) as well as a construction site inspection plan including phased installation of best management practices and final inspection upon completion of construction.
- f. The SMP shall include a long-term stormwater management BMP inspection and maintenance plan (see Element E) that describes the responsible parties and contact information for the qualified individuals who will perform future BMP inspections. The inspection frequency, maintenance and reporting protocols shall be included.
- g. The SMP shall describe and identify locations of any proposed deicing chemical and/or snow storage areas. SMP will describe how deicing chemical use will be minimized or used most efficiently.
- h. In urbanized areas that are subject to the EPA MS4 Stormwater Permit and will drain to chloride-impaired waters, any new developments and redevelopment projects shall submit a description of measures that will be used to minimize salt usage, and track and report

amounts applied using the UNH Technology Transfer Center online tool (<http://www.roadsalt.unh.edu/Salt/>) in accordance with Appendix H of the NH MS4 Permit.

3. General Performance Criteria for Stormwater Management Plans.

- a. All applications shall apply site design practices to reduce the generation of stormwater in the post-developed condition, reduce overall impervious surface coverage, seek opportunities to capture and reuse and minimize and discharge of stormwater to the municipal stormwater management system.
- b. Water Quality Protection.
  - i. No stormwater runoff generated from new development or redevelopment shall be discharged directly into a jurisdictional wetland or surface water body without water quality treatment that conforms to the requirements of this regulation.
  - ii. All developments shall provide adequate management of stormwater runoff and prevent discharge of stormwater runoff from creating or contributing to water quality impairment.
- c. Onsite groundwater recharge rates shall be maintained by promoting infiltration through use of structural and non-structural methods. The annual recharge from the post development site shall maintain or exceed the annual recharge from pre-development site conditions. Capture and reuse of stormwater runoff is encouraged in instances where groundwater recharge is limited by site conditions All stormwater management practices shall be designed to convey stormwater to allow for maximum groundwater recharge. This shall include, but not be limited to:
  - i. Maximizing flow paths from collection points to outflow points.
  - ii. Use of multiple best management practices.
  - iii. Retention of and discharge to fully vegetated areas.
  - iv. Maximizing use of infiltration practices.
  - v. Stormwater System Design Performance Standards.
- d. Stormwater system design, performance standards and protection criteria shall be provided as prescribed in Table 1 below. Calculations shall include sizing of all structures and best management practices, including sizing of emergency overflow structures based on assessment of the 100-year 24-hour frequency storm discharge rate.
- e. The sizing and design of stormwater management practices shall utilize new precipitation data from the Northeast Region Climate Center (NRCC) [or the most recent precipitation atlas published by the National Oceanic and Atmospheric Administration \(NOAA\)](#) for the sizing and design of all stormwater management practices. See the NRCC website at <http://precip.eas.cornell.edu/>.
- f. All stormwater management practices involving bioretention and vegetative cover as a key functional component must have a landscaping plan detailing both the type and quantities of plants and vegetation to be in used in the practice and how and who will manage and maintain this vegetation. The use of native plantings appropriate for site conditions is strongly encouraged for these types of stormwater treatment areas. The landscaping plan

must be prepared by a registered landscape architect, soil conservation district office, or another qualified professional.

4. Spill Prevention, Control and Countermeasure (SPCC) Plan.

Any existing or otherwise permitted use or activity having regulated substances in amounts greater than five gallons, shall submit to the local official such as Fire Chief, Emergency Response Official a SPCC plan for review and approval. The Plan will include the following elements:

- a. Disclosure statements describing the types, quantities, and storage locations of all regulated substances that will be part of the proposed use or activity.
- b. Owner and spill response manager's contact information.
- c. Location of all surface waters and drainage patterns.
- d. A narrative describing the spill prevention practices to be employed when normally using regulated substances.
- e. Containment controls, both structural and non-structural.
- f. Spill reporting procedures, including a list of municipal personnel or agencies that will be contacted to assist in containing the spill, and the amount of a spill requiring outside assistance and response.
- g. Name of a contractor available to assist in spill response, contaminant, and cleanup.
- h. The list of available clean-up equipment with instructions available for use on-site and the names of employees with adequate training to implement containment and clean up response.

**ELEMENT D: Stormwater Management for Redevelopment**

1. Redevelopment (as applicable to this stormwater regulation) means:

- a. Any construction, alteration, or improvement that disturbs existing impervious area (including demolition and removal of road/parking lot materials down to the erodible subbase) or expands existing impervious cover by any amount, where the existing land use is commercial, industrial, institutional, governmental, recreational, or multifamily residential.
- b. Any redevelopment activity that results in improvements with no increase in impervious area shall be considered redevelopment activity under this regulation if capital cost of improvements is greater than 30% of the appraised property value.
- c. Any new impervious area over portions of a site that are currently pervious.
- d. The following activities are not considered redevelopment:
  - Interior and exterior building renovation.
  - Resurfacing of an existing paved surface (e.g. parking lot, walkway or roadway).
  - Pavement excavation and patching that is incidental to the primary project purpose, such as replacement of a collapsed storm drain.
  - Landscaping installation and maintenance.

2. Redevelopment applications shall comply with the requirements of Sections C.2 Submission Requirements for Stormwater Management Report and Plans, C.3 General Performance Criteria for Stormwater Management Plans, and C.4 Spill Prevention, Control and Countermeasure (SPCC) Plan.
3. For sites meeting the definition of a redevelopment project and having less than 60% existing impervious surface coverage, the stormwater management requirements will be the same as other new development projects. The applicant must satisfactorily demonstrate that impervious area is minimized, and LID practices have been implemented on-site to the maximum extent practicable.
4. For sites meeting the definition of a redevelopment project and having more than 60% existing impervious surface area, stormwater shall be managed for water quality in accordance with one or more of the following techniques, listed in order of preference:
  - a. Implement measures onsite that result in disconnection or treatment of 100% of the additional proposed impervious surface area and at least 30% of the existing impervious area and pavement areas, preferably using filtration and/or infiltration practices.
  - b. If resulting in greater overall water quality improvement on the site, implement LID practices to the maximum extent practicable to provide treatment of runoff generated from at least 60% of the entire developed site area.
5. Runoff from impervious surfaces shall be treated to achieve at least 80% removal of Total Suspended Solids and at least 50% removal of both total nitrogen and total phosphorus using appropriate treatment measures, as specified in the NH Stormwater Manual. Volumes 1 and 2, December 2008, as amended or other equivalent means. All new impervious area draining to surface waters impaired by nitrogen, phosphorus or nutrients shall be treated with stormwater BMP's designed to optimize pollutant removal efficiencies based on design standards and performance data published by the UNH Stormwater Center and/or included in the latest version of the NH Stormwater Manual.

#### **ELEMENT E: Stormwater Management Plan and Site Inspections**

1. The Town Engineer or Planning Board designee shall submit inspection reports for stormwater management infrastructure construction according to a construction inspection sequence agreement prepared and endorsed by the applicant. This construction agreement may also include bond/surety release amounts corresponding with completed construction per the construction sequence agreement.
2. The applicant shall provide that all stormwater management and treatment practices have an enforceable operations and maintenance plan and agreement to ensure the system functions as designed. This agreement will include all maintenance easements required to access and inspect the stormwater treatment practices, and to perform routine maintenance as necessary to ensure proper functioning of the stormwater system. The operations and maintenance plan shall specify the parties responsible for the proper maintenance of all stormwater treatment practices. The operations and maintenance shall be provided to the Planning Board as part of the application prior to issuance of any local permits for land disturbance and construction activities.

3. The property owner shall bear responsibility for the installation, construction, inspection, and maintenance of all stormwater management and erosion control measures required by the provisions of these regulations and as approved by the Planning Board, including emergency repairs completed by the town.

#### **ELEMENT F. Stormwater Management Plan Recordation**

1. Stormwater management and sediment and erosion control plans shall be incorporated as part of any approved site plan. A Notice of Decision acknowledging the Planning Board approval of these plans shall be recorded at the Registry of Deeds. The Notice of Decision shall be referenced to the property deed (title/book/page number) and apply to all persons that may acquire any property subject to the approved stormwater management and sediment control plans. The Notice of Decision shall reference the requirements for maintenance pursuant to the stormwater management and erosion and sediment control plans as approved by the Planning Board.
2. The applicant shall provide legally binding documents (e.g. that run “with the land”) for filing with the registry of deeds which demonstrate that the obligation for maintenance of stormwater best management practices and infrastructure runs with the land and that the Town has legal access to inspect the property to ensure their proper function or maintain onsite stormwater infrastructure when necessary to address emergency situations or conditions.
3. Easements:  
Where a development is traversed by or requires the construction of a privately owned watercourse, drainage way, culvert, bridge or other stormwater infrastructure that crosses a municipal roadway, an easement to the Town to enable construction, reconstruction, required maintenance or emergency access shall be provided for such purpose. Easements to the Town shall also be provided for the purpose of periodic inspection of drainage facilities and stormwater BMPs should such inspections by the Town become necessary. All easements shall be recorded at the County Registry of Deeds.
4. The applicant/developer shall submit to the town as-built drawings within a specified timeframe following approval, not to exceed two years from completion of construction.
5. As required by the EPA MS4 Permit Section 2.3.6.b, final as-built plans shall be submitted within a timeframe specified by the Planning Board not to exceed two years from the completion of construction.

#### **ELEMENT G. Inspection and Maintenance Responsibility**

1. Municipal staff or their designated agent shall be granted site access to complete routine inspections to ensure compliance with the approved stormwater management and sediment and erosion control plans. Such inspections shall be performed at a time agreed upon with the landowner.
  - a. If permission to inspect is denied by the landowner, municipal staff or their designated

agent shall secure an administrative inspection warrant from the district or superior court under RSA 595-B Administrative Inspection Warrants. Expenses associated with inspections shall be the responsibility of the applicant/property owner.

- b. If violations or non-compliance with a condition(s) of approval are found on the site during routine inspections, the municipal staff or their designated agent shall provide a report to the Planning Board documenting these violations or non-compliance including recommend corrective actions. The Planning Board shall notify the property owner in writing of these violations or non-compliance and corrective actions necessary to bring the property into full compliance. The Planning Board, at their discretion, may recommend to the Board of Selectmen to issue a stop work order if corrective actions are not completed within 10 days
  - c. If corrective actions are not completed within a period of 30 days from the Planning Board or Select Board notification, the Planning Board may exercise their jurisdiction under RSA 676:4-a Revocation of Recorded Approval.
2. The applicant shall bear final responsibility for the installation, construction, inspection, and disposition of all stormwater management and erosion control measures required by the Planning Board. Site development shall not begin before the Stormwater Management Plan receives written approval by the Planning Board.
3. The municipality retains the right, though accepts no responsibility, to repair or maintain stormwater infrastructure if: a property is abandoned or becomes vacant; and in the event a property owner refuses to repair infrastructure that is damaged or is not functioning properly.
4. Property owners subject to approval under this regulation shall be responsible for submitting an annual report to the Planning Board by September 1 each year by a qualified engineer that all stormwater management and erosion control measures are functioning per the approved stormwater management plan or a waiver has been granted by the Planning Board. The annual report shall note if any stormwater infrastructure has needed any repairs other than routine maintenance and the results of those repairs. If the stormwater infrastructure is not functioning per the approved stormwater management plan the landowner shall report on the malfunction in their annual report and include detail regarding when the infrastructure shall be repaired and functioning as approved.

If no report is filed by September 1, municipal staff or their designated agent shall have site access to complete routine inspections to ensure compliance with the approved stormwater management and sediment and erosion control plans. Such inspections shall be performed at a time agreed upon with the landowner.



**Appendix1/Table 1. Stormwater Infrastructure Design Criteria**

<b>Design Criteria</b>	<b>Description</b>										
<b>Water Quality Volume (WQV)</b>	$WQV = (P)(R_v)(A)$ P = 1 inch of rainfall R <sub>v</sub> = unitless runoff coefficient, $R_v = 0.05 + 0.9(I)$ I = percent impervious cover draining to the structure converted to decimal form A = total site area draining to the structure										
<b>Water Quality Flow (WQF)</b>	$WQF = (q_u)(WQV)$ WQV = water quality volume calculated as noted above q <sub>u</sub> = unit peak discharge from TR-55 exhibits 4-II and 4-III  Variables needed for exhibits 4-II and 4-III: I <sub>a</sub> = the initial abstraction = 0.2S S = potential maximum retention in inches = $(1000/CN) - 10$ CN = water quality depth curve number $= 1000 / (10 + 5P + 10Q - 10[Q^2 + 1.25(Q)(P)]^{0.5})$ P = 1 inch of rainfall Q = the water quality depth in inches = $WQV/A$ A = total area draining to the design structure										
<b>Groundwater Recharge Volume (GRV)</b>	$GRV = (A_i)(R_d)$ A <sub>i</sub> = the total area of effective impervious surfaces that will exist on the site after development R <sub>d</sub> = the groundwater recharge depth based on the USDA/NRCS hydrologic soil group, as follows: <table style="margin-left: 40px;"> <thead> <tr> <th>Hydrologic Group</th> <th>R<sub>d</sub> (inches)</th> </tr> </thead> <tbody> <tr> <td>A</td> <td>0.40</td> </tr> <tr> <td>B</td> <td>0.25</td> </tr> <tr> <td>C</td> <td>0.10</td> </tr> <tr> <td>D</td> <td>0.00</td> </tr> </tbody> </table>	Hydrologic Group	R <sub>d</sub> (inches)	A	0.40	B	0.25	C	0.10	D	0.00
Hydrologic Group	R <sub>d</sub> (inches)										
A	0.40										
B	0.25										
C	0.10										
D	0.00										
<b>Channel Protection Volume (CPV)</b>	If the 2-year, 24-hour post-development storm volume <u>does not increase</u> due to development then: control the 2-year, 24-hour post-development peak flow rate to the 2-year, 24-hour predevelopment level. If the 2-year, 24-hour post-development storm volume <u>does increase</u> due to development then: control the 2-year, 24-hour post-development peak flow rate to ½ of the 2-year, 24-hour pre-development level or to the 1-year, 24-hour pre-development level.										
<b>Peak Control</b>	Post-development peak discharge rates shall not exceed pre-development peak discharge rates for the 10-year and 50-year, 24-hour storms										
<b>EIC and UDC</b>	%EIC = area of effective impervious cover/total drainage areas within a project area x 100 %UDC = area of undisturbed cover/total drainage area within a project area x 100										

[After: NH DES Stormwater Manual: Volume2 Post-Construction Best Management Practices Selection & Design (December 2008)]

**NON-RESIDENTIAL AND MULTI-FAMILY  
SITE DEVELOPMENT PLAN REGULATIONS**

**SECTIONS SP100 - SP1500**

**SECTION 100 AUTHORITY**

**100:1** Pursuant to the authority vested in the Atkinson Planning Board by the voters of the Town of Atkinson in accordance with the provisions of Chapter 674:43 of the New Hampshire Revised Statutes Annotated, 1983, the Atkinson Planning Board adopts the following rules governing the review of non-residential and multi-family site development plans in the Town of Atkinson, New Hampshire. These rules shall be entitled "Non-Residential and Multi-Family Site Development Plan Regulations, Town of Atkinson, New Hampshire."

**SECTION 200 ORDINANCE AND REGULATION REQUIREMENTS**

**200:1** All developments shall meet the standards and requirements of the town zoning ordinance and subdivision regulations including, but not limited to, parking, off-street loading, landscaping, signs, location of driveways, erosion, screened service areas, and exterior lighting.

**SECTION 300 DUTIES OF THE PLANNING BOARD**

**SECTION 310 GENERAL**

**310:1** (2011)

- a. The Planning Board shall review the plan, or any amendment to it, in the same manner as is prescribed by state law for the review of subdivision plans.
- b. The Planning Board may require a professional engineering review or other type of technical review deemed necessary for preliminary consultation submission and formal application submissions under the Site Development Plan regulations. The cost of such review shall be borne by the applicant.
- c. The Planning Board reserve the right to request establishment at the time of application by the applicant of an escrow account to cover the estimated costs of the 30-day completeness review (per the Federal Communications Commission and Telecommunications Act, as amended) for any application involving establishment of new or expansion of existing wireless communication facilities. Any funds not expended for the purposes of the 30-day completeness review and subsequent professional and/or technical review of such applicants as part of the Site Plan Review process shall be returned to the applicant following final decision o the application by the Planning Board.

**310:2** In considering and approving the site development plan, the Planning Board shall take into consideration the public health, safety and general welfare and the comfort and

convenience of the public in general and the residents of the immediate neighborhood in particular. It shall make any appropriate conditions which:

- a. Guard against
  - 1) Inadequate drainage or conditions conducive to flooding of the property.
  - 2) Inadequate protection for the quality of groundwater.
  - 3) Undesirable and preventable elements of pollution which might prove harmful to persons, structures, or adjacent properties.
  - 4) Inadequate provision for fire safety, prevention, and control.
- b. Provide for
  - 1) Harmonious and aesthetically pleasing development of the municipality and its environs.
  - 2) Open spaces and green spaces of adequate proportions.
  - 3) Proper arrangement and coordination of streets within the site in relation to other existing or planned streets.
  - 4) Suitably located roadways of sufficient width to accommodate existing and prospective traffic and to afford adequate light, air, and access for firefighting apparatus and equipment to buildings.

## **SECTION 320 PARTICULAR**

**320:1** In addition to the general considerations of Section 310:2 above, the Planning Board shall also pay particular regard to:

- a. Maximum safety of traffic access and egress and sufficient areas to ensure off-street parking.
- b. A site layout which includes the location, power, direction and time of any outdoor lighting of the area and which has no adverse effect on any adjoining residence districts by impairing the established character or potential use of properties in such districts.
- c. Reasonable screening in all seasons of the year of all playgrounds, parking, and service areas from the view of adjacent residential properties and streets.
- d. Conformance of the proposed site development plan with such portions of the Master Plan of the town which are applicable.
- e. Installation of public improvements and amenities, at the expense of the applicant, to assist in the establishment of a sound environment. Such improvements may include, but are not limited to, roadways, curbing, paved sidewalks, and street trees or shrubs.

## SECTION 400 DEFINITIONS (IN ALPHABETICAL ORDER) (1998)

400:1

- C1** **Continuous Sound** Sound the intensity of which remains essentially constant over time. (1998)
- D1** **Driveway** A driveway is a single access to and from a public way with separate entrance and exit lanes, except in the case of dwellings, in which case a driveway need not have separate entrance unless required as a condition of a special permit.
- D2** **Daytime** The time period between the hours of 7 AM and 9 PM of the same day, Monday through Friday and between 9AM and 9PM of the same day on Saturday, Sunday and all local legal holidays. (1998)
- D3** **dBA (Decibel-A weighted)** A measure of sound pressure level which takes into account the typical response of the human ear. (1998)
- E1** **Exterior parking space** An exterior parking space in an area having a width of not less than nine (9) feet and a length of not less than twenty (20) feet, exclusive of traffic and maneuvering space.
- G1** **Gross floor area** Gross floor area is the total floor area designed for occupancy and use including basement and other storage areas provided, however, that stairways, elevator wells, rest rooms and lounge areas, common hallways and building service areas shall not be included in the computation of such floor area.
- I1** **Impulsive Sound** Sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, discharge of firearms, riveting and hammering. (1998)
- L1** **Light industry** The fabrication and/or development of tangible goods by means of processes that are (a) neither obnoxious nor injurious by reason of the production or emission of odor, dust, smoke, refuse matter, fumes, noise vibration, or similar conditions; (b) nor dangerous to the comfort, peace, enjoyment, health, and safety of the community; (c) nor lending to its disturbance or annoyance.
- L2** **Loading or unloading bay** A loading or unloading bay is an area of not less than twelve (12) feet in width and sixty-five (65) feet in length, exclusive of traffic lanes and maneuvering space. Loading bays shall be located at the sides or rear of the building with direct access to the building to be served.
- N1** **Nighttime** Any time which does not meet the definition of Daytime. (1998)
- P1** **Periodic Sound** Sound the intensity of which cycles repeatedly from a low level to a higher level and/or sound possessing a repetitive on and off characteristic. (1998)

## SECTION 500 GENERAL REGULATIONS

- 510** **Non-residential and multi-family use.** Planning Board approval of Site Development Plans or any amendments to such plans shall be required for all non-residential and

multi-family uses in the Town. Change of use may require a new site plan and Planning Board approval. (See also Section 540:2.)

**520 Uses not permitted.** No use shall be permitted which would be injurious, noxious, offensive, hazardous, or otherwise objectionable to the neighborhood or the Town.

This includes, but is not limited to, the emission of fumes, dust, noise, smoke, vibration, radiation, solid or liquid waste discharges, and long-term storage of hazardous substances.

**530 Adequacy of land.** Land of such character that it cannot be safely used for building purposes because of exceptional danger to health or peril from fire, flood or other menace shall not be platted for residential occupancy, nor for such other uses as may increase danger to health, life or property or aggravate the flood hazard, until appropriate measures have been taken by the owner or his agent to lessen such hazards.

## **SECTION 540 CERTIFICATION**

**540:1 Building permits.** No building permit may be issued for any building within the purview of this regulation until an approved site development plan or amendment of any such plan has been presented to the Building Inspector.

**540:2 Certificates of use and occupancy.**

- a. No certificate of use and occupancy may be issued for any building or use of land within the purview of these regulations unless the Town's appointed engineer has certified that the building is constructed and usable, and that the land is developed and used in conformity with an approved site development plan or an amendment of any such plan.
- b. In the case of developments qualifying for higher density under Section 610 of the Zoning Ordinance, occupancy permits shall be issued at a minimum ratio of one low-moderate dwelling unit to every four market-value dwelling units, so that for every four fair market-value units built, one low moderate unit must be built and such that by the time a project is seventy-five percent (75%) complete, all of the low moderate units must be built. (1997)
- c. In developments where multi-family dwelling unit buildings are to be constructed for the purposes of providing low-moderate housing opportunities under Section 610 of the Zoning Ordinance, construction of said low-moderate dwelling units shall commence prior to or at such time that not more than one-third of the total number of dwelling units within the development have been granted a Certificates of Occupancy. After such time, one low-moderate unit must be granted a Certificate of Occupancy prior to or concurrent with each market value dwelling unit being granted a Certificate of Occupancy until such time as all low-moderate dwelling units shall have been granted Certificates of Occupancy at or before such time that 75-percent of the total number of dwelling units have received Certificates of Occupancy.

All low-moderate income housing can be constructed in the first phase, however, at the applicant's discretion. (1998)

## **SECTION 550 COMPLIANCE**

**550:1** The proposed site plan development shall conform to all standards and requirements of the Town of Atkinson.

**550:2** (2011)

- a. When a proposed site plan is submitted for approval with regard to a new use or to an expansion of an existing use, the owner may submit a proposed site plan and request the Planning Board to waive specific requirements for the plan and supporting data. The Planning Board may agree to such a request provided that the Board has determined that such waiver of any requirements will not affect the purpose and intent of these regulations. This shall not apply to design, construction, health, safety, and flood plain standards.
- b. Any request for waiver to the requirements of these regulations shall be submitted in writing to the Planning Board. The basis for any waiver granted by the Planning Board shall be recorded in the minutes of the Board. The Planning Board may only grant a waiver if the board finds, by majority vote, that:
  - 1) Strict conformity would pose an unnecessary hardship to the applicant and waiver would not be contrary to the spirit and intent of the regulations, or
  - 2) Specific circumstances relative to the site plan or conditions of the land in such subdivision, indicate that the waiver will properly carry out the spirit and intent of the regulations.

## **SECTION 560 BOND/SURETY**

**560:1** Before approval of a site development plan, the Planning Board may require a performance bond, cash, or sureties by the applicant in an amount sufficient to cover the cost of work on that portion of the development which, if not properly completed, will have an adverse effect on adjoining property or a potential for erosion. This bond or sureties shall be approved as to form and surety by the legal Counsel of the Town of Atkinson, NH, and conditioned on the completion of such improvement and/or annual review of the bond's sufficiency.

**560:2** All bonds shall be made out in the name of:

Town of Atkinson: \_\_\_\_\_, Selectmen

If desired, a reference such as "Millpond Road Bond; John Doe, Owner" may be added. Only one signature is required for withdrawal, either that of the Treasurer or one of the Board of Selectmen, preferably the member serving Ex-Officio on the Planning Board. Signature cards should be presented with the bond. A set of withdrawal slips should be available in order to expedite the release of the bond.

## **SECTION 600 REQUIREMENTS FOR SITE DEVELOPMENT PLAN APPROVAL**

### **SECTION 610 OPERATIONAL CONSIDERATIONS**

**610:1** Any application for Non-Residential Site Development Plan approval within the Commercial (C); Commercial-Industrial (C-I); Town Center (TC); or Commercial-Professional (C-P) Districts shall be accompanied by a written statement of Intent accurately describing the nature of the applicant's planned non-residential operation(s). As a minimum, said Statement of Intent shall disclose the applicants intentions with regard to each of the following: (1998)

- a. The general use or uses of the planned development;
- b. The magnitude of each planned use or uses (gross square footage of building area to be assigned to each proposed use and/or estimated number of employees, on-site and transient to be assigned to each specific proposed use);
- c. Intended hours of operation associated with each proposed use;
- d. Type and estimated quantity of goods and services stored and/or provided relative to each proposed use;
- e. Description of activities to be undertaken inside and outside of proposed buildings;
- f. Description and estimated number of vehicles and equipment to be housed on-site (inside & out) during both business and non-business hours;
- g. Identification of shipping/receiving schedule (estimated number of trips per day, together with estimated time of arrival/departures and associated vehicle type); and
- h. Identification of any regulated materials or equipment to be used or stored on-site and means by which applicant intends to fulfill applicable local, state and federal requirements associated with use and storage of the same.

**610:2** Given the specific duties of the Planning Board described in Section 310:2 of these Regulations, or provided for elsewhere in these Regulations and/or within any and all other applicable local, state or federal regulations, ordinances, rules or laws, the Planning Board may, in its prudent and reasonable judgment, require an applicant to

modify his/her Statement of Intent, when and if necessary to protect the public health, safety and general welfare as well as the comfort and convenience of the public in general and/or the residents of an immediate area.(1998)

- 610:3** It is understood that a written Statement of Intent, as submitted by an applicant, or as modified by the Planning Board in its prudent and reasonable judgment for the reasons provided for under Section 605:2 of these Regulations, will become an integral part of any resulting approval granted by the Board. Any subsequent amendments serving to affect or alter said Statement of Intent must receive specific Planning Board approval, in the form of a change or expansion of use, as provided for under NH RSA 674:43. (1998)

## **SECTION 620 POLLUTION AND FLOOD HAZARD CONTROL**

- 620:1** Whenever an earth disturbance significantly alters more than 100,000 square feet of contiguous terrain, the sub divider shall submit to the Planning Board a copy of an Alteration of Land (Site Specific) Permit for such operation officially approved by the New Hampshire Department of Environmental Services. (2011)
- 620:2** Provisions shall be made to assure that the proposal is consistent with the need to protect groundwater recharge areas from pollution and to minimize flood damage, that all public utilities and facilities, such as sewer, gas, electrical, and water systems, are constructed and that adequate drainage is provided so as to reduce exposure to flood hazards.
- 620:3** Storm drainage of the site shall be designed for a 25 year flood and if the existing drainage system to which the site drainage system will be connected is inadequate, provisions shall be made for retention and gradual release of storm water in order to meet the 25 year flood demand.
- 620:4** Design provisions shall also be made to minimize or eliminate infiltration of flood waters into new or replacement water supply systems and/or sanitary sewage systems and discharges from these systems into floodwaters.
- 620:5** On-site waste disposal systems shall be located so as to avoid impairment of them or contamination from them.

## **SECTION 630 SEWAGE SYSTEMS**

- 630:1** Waste disposal systems shall be designed by a licensed sanitary engineer in accordance with state specifications, and copies of all required state and federal permits shall be supplied to the town.

## **SECTION 640 CONSTRUCTION SITE RUNOFF EROSION AND SEDIMENT CONTROL STANDARDS (2020)**

### **640:1 PURPOSE AND STANDARDS (2020)**

- a. The purpose of these standards is to safeguard persons, protect property, prevent damage to the environment and promote the public welfare by guiding, regulating, and



controlling the design, construction, use, and maintenance of any development or other activity that disturbs or breaks the topsoil or results in the movement of earth on land during construction.

- b. An Erosion and Sediment Control Report and plans, adhering to the standards of this regulation, shall be submitted with a Site Plan Review application, if applicable, and shall be prepared and certified by a licensed NH Professional Engineer.
- c. An Erosion and Sediment Control Plan is not required for the following activities:
  - 1) Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.
  - 2) Existing nursery and agricultural operations conducted as a permitted primary use or accessory use.
- d. The Performance Guarantee required in Section 703 shall be sufficient to cover all costs of improvements, landscaping, maintenance of improvements for such period as specified by the Planning Board, and engineering and inspection costs to cover the cost of failure or repair of improvements installed on the site.

#### **640:2 EROSION AND SEDIMENT CONTROL PLAN REQUIREMENTS (2020)**

- a. The Erosion and Sediment Control Plan shall include the following:
  - 1) A natural resources map identifying soils, forest cover, and resources protected under other sections of the Land Development Regulations, Zoning Ordinance or other local regulations.
  - 2) A sequence of construction of the development site, including stripping and clearing; rough grading; construction of utilities, infrastructure, and buildings; and final grading and landscaping. Sequencing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, and establishment of permanent vegetation.
  - 3) All erosion and sediment control measures necessary to meet the objectives of this regulation throughout all phases of construction and after completion of development of the site. Depending upon the complexity of the project, the drafting of intermediate plans may be required at the close of each season.
  - 4) Seeding mixtures and rates, types of sod, method of seedbed preparation, expected seeding dates, type and rate of lime and fertilizer application, and kind and quantity of mulching for both temporary and permanent vegetative control measures.
  - 5) Provisions for maintenance of control facilities, including easements and estimates of the cost of maintenance.
- b. Modifications to the Erosion and Sediment Control plan shall be processed and approved or disapproved by the Planning Board by written authorization to the permittee as follows.

- 1) Major amendments of the approved Erosion and Sediment Control plan.
- 2) Field modifications of a minor nature may be approved by the Town Engineer or other municipal staff upon inspection.

### **640:3 BEST PRACTICES FOR SITE PLAN REVIEW APPLICATIONS (2020)**

All Site Plan Review applications must submit the following information and shall comply with the following standards.

1. Apply best management practices that accommodate the increased runoff caused by changed soil and surface conditions during construction, including strong perimeter controls and soil stabilization methods. Sediment in stormwater runoff shall be contained by the use of sediment basins or other acceptable methods until the disturbed area is stabilized. Techniques that divert upland runoff away from disturbed slopes shall be used.
2. Identify, locate, and show elevation, grades and/or contours at intervals of not more than two (2) feet for the existing and proposed drainage ways, drainage easements, drainage structures, and any surface water bodies.
3. Identify and relatively locate and include drawings and specifications for each erosion and sediment control measure and structure proposed during construction, noting those measures that will become permanent structures retained after construction. Erosion and sediment control measures and structures shall be designed in accordance with the New Hampshire Stormwater Manual Volume 3: Erosion and Sediment Controls During Construction (NH Department of Environmental Services, December 2008, as amended) or new standards and guidance as released or adopted by the NH Department of Environmental Services.
4. Include drawings, details and specifications for proposed flood hazard prevention measures and structures and for proposed temporary stormwater management facilities.
5. Ensure that disturbance to or removal of vegetation, grading or other construction will be done in such a way that will minimize soil erosion. Whenever practical, natural vegetation shall be retained, protected and supplemented to function as buffers.
6. Construction sites must be stabilized within five days of clearing or inactivity in construction. Temporary application of seed and/or mulch may be required by the Planning Board to protect exposed critical areas during development. Techniques shall be employed to prevent the blowing of dust or sediment from the site. In areas where final grading has not occurred, temporary stabilization measures should be in place within 7 days for exposed soil areas within 100 feet of a surface water body or wetland and no more than fourteen (14) days for all other areas. Permanent stabilization should be in place no more than 3 days following the completion of final grading of exposed soil areas. At the close of the construction season, the entire site must be stabilized, using a heavy mulch layer, or another method that does not require germination to control erosion.

7. Waste Removal and Disposal.

- a. All waste generated on the site shall be controlled and discarded properly including but not limited to building materials, concrete and concrete washout effluent, chemicals, litter and sanitary wastes.
- b. Waste shall not be discharged to the municipal MS4 system.

**640:4 INSPECTION AND ENFORCEMENT (2020)**

- a. The agent designated by the Planning Board shall make inspections as described below and shall either approve that portion of the work completed or shall notify the applicant/property owner and the Planning Board when and how the construction activity(s) fails to comply with the approved erosion and sediment control plan. All plans bearing the stamp of approval of the designated agent shall be maintained at the site during construction. In order to obtain inspections, the applicant/property owner shall notify the designated agent at least one week before the following required site inspections:
  1. Proposed erosion and sediment control measures are located and staked on the site before the start of construction.
  2. Erosion and sediment control measures are in place and stabilized.
  3. Site clearing and preparation has been completed.
  4. Rough grading has been completed.
  5. Final grading has been completed.
  6. Close of the construction season.
  7. Final landscaping has been completed.
- b. The permittee or his/her agent shall make regular inspections of all control measures in accordance with the inspection schedule outlined on the approved Erosion and Sediment Control Plan(s). The purpose of such inspections will be to determine the overall effectiveness of the control plan and the need for additional control measures. All inspections shall be documented in written form and submitted to the agent designated by the Planning Board at the time interval specified in the approved plan.
- c. The Town or its designated agent shall enter the property of the applicant as deemed necessary to make regular inspections to ensure the validity of the reports filed under Section B.
- d. Stop-Work Order. In the event that any person holding a site development permit pursuant to this ordinance violates the terms of the permit or implements site development in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the Town may issue a Stop-Work Order.

- e. **Violation and Penalties.** No person shall construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or cause the same to be done, contrary to or in violation of any terms of this ordinance. Any person violating any of the provisions of this ordinance may be fined and each day during which any violation of any of the provisions of this ordinance is committed, continued, or permitted, shall constitute a separate offense. Upon finding of such violation, such person, partnership, or corporation shall be levied a fine of not more than \$ 500.00 for each offense. In addition to any other penalty authorized by this section, any person, partnership, or corporation convicted of violating any of the provisions of this ordinance shall be required to bear the expense of such restoration.

#### **640:5 POST CONSTRUCTION STORMWATER MANAGEMENT STANDARDS (2021)**

**See Appendix A - (SP 28)**

#### **SECTION 650 CONSTRUCTION**

- 650:1 Road.** Construction requirements shall be in accordance with Standard Specifications for Road and Bridge Construction as published by the State of New Hampshire Department of Public Works and Highways provided that alternative provision may be considered by the Planning Board if submitted by the developer.
- 650:2 Paving/drainage/sidewalks.** Pavement and drainage facilities, curbs and sidewalks, when required, shall be installed and constructed in accordance with the standard specifications of the Town of Atkinson, NH, and, in all cases, must be constructed under the supervision of the Town's appointed engineer.
- 650:3 Underground utilities.** Underground utilities shall be located outside the paved areas wherever possible.

**SECTION 660 SNOW STORAGE.** Provisions shall be made for snow storage during the winter months.

#### **SECTION 670 OFF-STREET PARKING AND LOADING REQUIREMENTS**

- 670:1** In all districts, there shall be provided at such time as any building or structure is erected, externally enlarged, or increased in capacity, off-street parking spaces and loading areas for vehicles in accordance with the requirements of this section.
- 670:2** All parking and off-street loading spaces required by this section shall be provided on the same lot with the principal use.

- 670:3** Off-street parking existing at the effective date of these regulations in connection with the operation of an existing building or use shall not be reduced to an amount less than hereinafter required for a similar new building or use.
- 670:4** The required off-street parking shall be for occupants, employees, visitors, and patrons and shall be limited in use to motor vehicles and bicycles. The storage of merchandise, motor vehicles for sale or the repair of vehicles is prohibited except in the Commercial-Industrial area.
- 670:5** In addition to all other space requirements, every car, truck, tractor, trailer or other vehicle normally stored at any site shall be provided with off-street parking space in an area reserved for no other use.
- 670:6** Where the computation of the off-street parking or loading bay space requirements results in a fractional number, the fraction shall be counted as the next whole unit.
- 670:7** Where one building is used for more than one use, off-street parking space requirements shall be computed for each use.
- 670:8** **Required parking spaces.** A minimum number of spaces in accordance with the following table:

a) Business and professional offices;	One (1) space for each three hundred (300) banks and financial institutions. .hundred (300) square feet of floor area plus one (1) space for every employee.
b) Barber shops and beauty parlors. .	Two (2) per barber or three (3) per beautician based on the design capacity of the structure or one (1) space for every two hundred (200) square feet of floor area, whichever is greater.
c) Bowling alleys . .	Four (4) per alley.
d) Church, chapel and funeral homes,	One (1) space for every three seats plus one places of assembly or amusement.(1) for every three employees.
e) Dwelling units (1 or 2) . .	Two (2) spaces per dwelling unit plus one (1)for every three employees.
f) Dwelling unit (multi) . .	Two (2) spaces per dwelling unit plus (1) additional space for each bedroom over two (2) per dwelling unit, to a maximum of three (3) spaces per dwelling unit.
g) Garages and gasoline stations	One (1) space for each one thousand (1,000)with repair service square feet used for repairing vehicles plus two (2) spaces for each lubrication pit or service bay.
h) Gasoline service stations	One (1) parking space for each employee plus two (2) for each service bay.
i) Hospitals, nursing homes, convalescent	Two (2) spaces for each bed, plus one (1) home and extended care facilities..space for every employee or staff member.

- j) Hotels and motels Three (3) spaces for each two (2) rental units, plus three (3) spaces for each two hundred (200) square feet of floor area available for meetings or functions and one (1) space for every (4) employees.
- k) Kennels and veterinary hospitals.. One (1) parking space for each employee and employee and one (1) space for every five (5) animals or fraction thereof other-wise maintained or treated simultaneously.
- l) Membership clubs.. One (1) space for every ten (10) members except in the case of golf clubs, the requirements for recreation areas shall govern.
- m) Restaurants, cafeterias, taverns, lounges, and similar uses for serving food and beverages:
- (1) sit-down (food or beverages):  
 One (1) space for every two (2) seats plus beverages consumed inside;  
 (2) seats plus one (1) for every employee building) .every employee.
- (2) Carry-out (no food or beverages):  
 Two (2) spaces for each one hundred (100) consumed on premises) square feet of floor area.
- (3) Combination sit-down and Parking requirements shall be in direct riation to carry-out . .the gross floor area designated for for seating.
- n) Recreation areas. Four spaces for each hole of golf course;  
 one(1) space for every picnic table or outdoor fireplace and for every one hundred (100) square feet of water in a public swimming pool or skating rink.
- o) Retail stores, service Establishments:
- (1) Under three thousand (3,000) One (1) space for each two hundred seventy square feet (270) square feet of gross floor area.
- (2) Over three thousand (3,000) One (1) space for each one hundred eighty square feet . .(180) square feet of gross floor area.
- p) Schools, public, private or parochial, nursery or pre-school, elementary, middle or junior high. One space per teacher and employee normally engaged in or about the building or grounds plus one (1) space for each seventy-five (75) square feet for seating area including aisles, in any auditorium.
- q) Schools, private and parochial, senior high, other One space per teacher and employee normally engaged in or about the building or grounds, plus one (1) space per five

public schools, schools, colleges, or other places of instruction.

students or one (1) space for each seventy-five (75) square feet of seating area, including aisles, in any auditorium, gymnasium or cafeteria intended to be used as an auditorium, whichever is greater.

r) Use permitted or specially permitted in the Industrial districts, not specifically provided for herein above.

One (1) space per employee plus one (1) space for each two thousand (2,000) square feet and one (1) space for each additional ten thousand (10,000) square feet of floor area.

Requirements may be adjusted by the Planning Board as needed for unusual circumstances.

**Section 680 REQUIRED OFF-STREET LOADING**

**680:1** In all districts, in addition to off-street parking requirements, and on the same premises with every building, structure or part thereof, erected and occupied for manufacturing, storage, warehouse goods, display, a department store, wholesale store, market, hotel, hospital, or other uses similarly involving the receipt or distribution of vehicles, materials or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading and unloading in order to avoid undue interference with public use of the streets or alleys.

**680:2** Off-street loading and unloading space shall be provided as follows:

- a. One (1) off-street loading and unloading bay shall be provided for buildings up to and including twenty thousand (20,000) square feet of floor area, plus one (1) additional off-street loading and unloading bay for each additional twenty thousand (20,000) square feet of floor area (or fraction thereof) up to and including one hundred thousand (100,000) square feet.
- b. There shall be provided an additional off-street loading and unloading bay for each additional forty thousand (40,000) square feet of floor area in excess of one hundred thousand (100,000) square feet.
- c. Where trailer trucks are involved, such loading and unloading bay shall have a fourteen (14) foot height clearance and shall be designated with appropriate means of truck access to a street or alley as well as adequate maneuvering area.
- d. All areas devoted to permanent off-street loading and unloading as required under this section shall be of a sealed surface construction and maintained in such a manner that no dust will result from continuous use.

**SECTION 690 SCREENING AND BUFFERING**

**690:1** Screening and buffering areas shall be provided as follows:

Screened area: Buffer are	Width	including
		Screened area
a) here land in the Commercial Industrial or Commercial Professional district abuts a Residential district .	15 feet	150 feet

- |  |         |          |
|--|---------|----------|
| b) Where commercial/non-residential use abuts a residential district.                      | 15 feet | 100 feet |
| c) Where commercial use in a Planner Nonresidential District abuts a Residential district. | 15 feet | 150 feet |
| d) Where a use on special permit exists in a Residential District.                         | 15 feet |          |
| e) Outdoor storage.  | 15 feet |          |

**690:2** The screened area shall serve as a visual and noise barrier and be densely planted with shrubs or trees which are at least three (3) feet high at the time of planting and are of a type which may be expected to form a year-round dense screen at least five (5) feet high within three (3) years. Screening shall not obstruct the view of oncoming traffic when entering or exiting the property. The plant material shall be maintained in a healthy condition. Required planting shall take place prior to occupancy or, if not possible because of the season of the year, at the next planting season.

Where, because of intense shade or soil conditions, the planting screen cannot be expected to thrive, a visually solid wooden fence or masonry wall may be substituted provided that the remaining land required for screening is added to the buffer strip. Chain link fences are allowed inside the screening. (1990)

**690:3** Tree buffers shall be left undisturbed where possible. Trees removed from a buffer during construction or for other reasons may be required to be replaced with deciduous or evergreen trees of not less than 2 inches in diameter, bh. (1990)

**690:4** The buffer area, exclusive of screen area, may be treed, if deemed necessary by the Planning Board; otherwise, it shall be landscaped or covered with ground cover.

**690:5** Parking, traffic circulation, loading or unloading operations and signs are not permitted within a buffer. Essential services within a buffer will be subject to Planning Board approval. (1990)

## **SECTION 6100 MINIMUM LOT SIZE REQUIREMENTS**

### **6100:1 Determination of required lot size**

- a. Commercial and industrial establishments. The minimum land area required for a proposed use must meet Atkinson zoning requirements as well as state Water Supply and Pollution Control (WSPCC) requirements for the intended use.
- b. All residential development, excluding low-moderate income housing. Refer to Zoning Ordinance provisions and Section 400 of the for the Town of Atkinson, New Hampshire. (1992)

### **6100:2 Slope determination**

- a. The slope assigned by a qualified soil scientist according to standards of the National Cooperative Soil Survey shall determine the slope to be used in the calculation of minimum lot size requirements.



**6100:3** Relationship between state and local regulations. Where both State and local regulations are applicable, the more stringent regulation shall apply. If the local regulation addresses an issue not included in the state regulation, the local regulation shall automatically apply.

## **SECTION 6110 LIMITATIONS**

**6110:1 DELETED 1990.**

**6110:2 Elevation limitations.** No building or structure shall exceed thirty-five (35) feet in height from the lowest ground level. The provisions of this section shall not apply to church spires, chimneys, radio antenna, flag poles, or water tanks.

**6110:3 Structural coverage permitted.** No building or group of buildings shall cover more than 25% of the buildable land area.

## **SECTION 6120 OPEN SPACE**

Where applicable, site developments shall provide for recreational areas, open spaces, and green spaces of adequate proportions, using New Hampshire state standards compiled by the Department of Resources and Economic Development and the Office of State Planning as minimum area guidelines.

## **SECTION 6130 PROTECTION OF NATURAL FEATURES**

Provision may be required for the protection of natural features.

## **SECTION 6140 NECESSARY UTILITIES**

**6140:1 General.** Provisions shall be made for the site to be serviced by necessary utilities which may include water for fire and domestic use, sanitary sewer, electrical and gas.

**6140:2 Outdoor lighting.** Provision shall be made for outdoor lighting.

**Section 6150 SIGNS** (See Zoning - Sign Regulations - Section 470) (1992)

## **SECTION 6160 TRAFFIC**

**6160:1** Access to the site from town and state roads shall ensure safety of vehicles and pedestrians.

**6160:2** Improvement to existing streets shall include signal devices if necessary because of increased traffic generated by the development.

**SECTION 6170 PERFORMANCE STANDARDS FOR NON-RESIDENTIAL USES**

**6170:1** In addition to meeting the provisions of Section 400:2 of the Atkinson Zoning Ordinance, all non-residential uses shall be designed and operated to meet the performance standards set forth herein: (1998)

- a. A noise level which does not exceed 60 decibels.
- b. A smoke level which, at its source, does not exceed No. 2 on the Ringlemann Chart.
- c. Vibration which creates displacement of no more than 0.002 of one inch.

**6170:2** Maximum Permissible Sound Levels (1998)

a. No sound shall be projected beyond the property line within any zoning district which exceeds the levels set forth in Table I and II or as otherwise provided herein. The maximum permissible sound level allowed in any zoning district shall be the sum of the level specified in Table I plus the correction factor from Table II. Sound projecting from one zoning district into another district shall not exceed the limits of the district into which the sound is projected.

I. TABLE I--Maximum Permissible Sound Levels in dBA

Zoning District	<u>Daytime Level</u>	<u>Nighttime level</u>
All residential	65	55
Commercial	65	60
Commercial-Professional	65	55
Town Center	65	55
Commercial-Industrial	70	65

II. TABLE II--Correction Factors

Character of Sound Correction Factors (dBA)

Impulsive Sound	Minus 5
Periodic Sound	Minus 5

- b. All sound levels set forth herein shall be measured with a sound level meter meeting American National Standards Institute ANSI S1.4-1971, Type 1 or Type
  - 1. The instrument shall be maintained in calibration and good working order. A calibration check shall be made at the time any measurement is taken. The microphone, during measurement, shall be positioned so as not to create any unnatural enhancement or diminution of the measured sound. A windscreen for the microphone shall be used when required. Provision shall be made to discount traffic, aircraft and other background sound when any measurement is taken.

- c. For the measurement of continuous or periodic sound, the slow response setting of the meter shall be employed. For impulsive sound or for rapidly varying sound level, the fast response setting shall be employed.

**6170:3** Exemptions. The following uses and activities shall be exempt from the sound level regulations set for in 685:2: (1998)

- a. The use of snowblowers and other types of private or commercial snow removal operations.
- b. The use of lawnmowers, rototillers and other types of powered equipment when used to maintain the site.
- c. The operation or use of construction vehicles, tools and equipment for the purpose of constructing, altering, repairing, or maintaining facilities or buildings permanently located on the site.
- d. Parades and public gatherings of a temporary duration as permitted by law.
- e. Bells, chimes or carillons when used in conjunction with religious purposes.
- f. The operation or use of agricultural or forestry equipment in conjunction with farming or logging operations.
- g. Sound from safety signals and warning devices such as fire alarms.
- h. Any sound which does not exceed 50 dBA at a distance of twenty-five feet from its source.

**6170:4** No smoke emitted shall, at its source, exceed No. 2 on the Ringlemann Chart. (1998)

**6170:5** No vibration shall create displacement or more than 0.002 inch at or beyond the property line. (1998)

**6170:6** Harmful wastes may not be discharged into the ground, streams, or other bodies of water or local sewer systems. Effluent disposal shall comply with local and state standards. (1998)

#### **SECTION 6180 MINIMUM LANDSCAPING REQUIREMENTS (1998)**

**6180:1** Each application considered for approval under these Regulations must include a landscape design plan.

**6180:2** All landscape plantings required under this Section shall be furnished and installed in accordance with accepted horticultural standards and shall be regularly maintained. All required plantings shall be replaced as necessary in order to maintain compliance with the minimum standards established in this Section.

**6180:3** All areas disturbed by construction shall be covered with a minimum thickness of four-inches of friable loam or mulch or appropriate landscape material and be subsequently

planted with grass seed, sod, or vegetative ground cover or a combination thereof as appropriate.

- 6180:4** A Street Tree Strip, 15-feet in width, running parallel to the boundaries of a parcel fronting on any public or private street, shall be planted with a minimum of one indigenous shade tree such as oak, maple, elm, ash, linden, etc., with a minimum caliper of 2.5 inches and branching height of not less than 7-feet at the time of planting. A minimum of one street tree shall be provided for each 50-feet of roadway frontage and shall be planted no closer than 25-feet on center. The requirements of this Section may be fulfilled by protecting and retaining healthy trees within the Street Tree Strip which fulfill the applicable requirements of this Section.
- 6180:5** In the C, TC & C-P and SCR Districts, a Front Landscape Strip of not less than 15-feet in width shall be planted between the interior edge of the Street Tree Strip and the closest point of a building or impervious surface facing a public or private street. The Front Landscape Strip shall be planted with a minimum of one deciduous, evergreen or ornamental tree for every 30-feet of building or impervious surface facing a public or private street. Trees planted in the Front Landscape Strip shall be a minimum of six feet in height and have a caliper diameter of not less than 2-inches at the time of planting. In no case shall required trees within the Front Landscape Strip be planted closer than 15-feet on center. The requirements of this Section may be fulfilled by protecting and retaining existing healthy trees within the required Front Landscape Strip which fulfill the applicable requirements of this Section.
- 6180:6** A minimum of 15-feet of landscaped area shall be provided between the extreme edges of any proposed pavement or buildings located to the interior of the Front Landscape Strip and the adjoining side or rear property line. Planting requirements within the Side and Rear Landscape Strip shall be identical to those specified in Section 690:5 for the Front Landscape Strip.
- 6180:7** Interior Green Space shall be required within paved or gravel surfaced areas containing 20 or more parking spaces or more than 5,000 square feet of contiguous paved or gravel surfaced area. The total area of required Interior Green Space shall not be less than 5-percent of the total area of contiguous paved and/or gravel surfaced area.

Individual areas of the Interior Green Space set aside in order to fulfill the requirements of the Section shall not be less than 250-square feet in area and shall be planted with a minimum of one specimen tree pre 250 square feet of green space in accordance with the same requirements as those specified in Section 690:5 for the Front Landscape Strip. All interior green space shall be loamed and vegetated in accordance with the requirements of Section 690:3.

## **SECTION 6190 NATIONAL FLOOD INSURANCE PROGRAM (2008)**

For subdivisions and site plans that involve land designated as “Special Flood Hazard Areas” (SFHA) by the National Flood Insurance Program (NFIP):

- 6190:1** The Planning Board shall review the proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

**6190:2** The Planning Board shall require that all proposals for development greater than 50 lots or 5 acres, whichever is the lesser, include Base Flood Elevation (BFE) data within such proposals (i.e., floodplain boundary and 100-year flood elevation).

**6190:3** The Planning Board shall require the applicant to submit sufficient evidence (construction drawings, grading and land treatment plans) so as to allow a determination that:

- a. all such proposals are consistent with the need to minimize flood damage;
- b. all public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage; and,
- c. adequate drainage is provided so as to reduce exposure to flood hazards.

## **SECTION 700 PROCEDURE FOR SITE DEVELOPMENT PLAN APPROVAL**

### **SECTION 710 APPLICATION FOR APPROVAL**

**710:1** Whenever the development of a site is proposed to be made and before an application for a permit for the erection of a structure thereon shall be made, the owner thereof or his agent shall make application for approval of such site plan development to the Planning Board of the Town of Atkinson, NH. The application shall be considered a completed application at such time as it contains sufficient information to allow the board to proceed with a formal consideration of the proposal. The application shall conform to the specifications contained in these regulations.

### **SECTION 720 PRELIMINARY CONSULTATION**

**720:1** Preliminary consultations and review of a proposal shall be separate and apart from formal consideration by the Board and shall not bind either the applicant or the Board.

Time limits for acting upon a proposal shall not apply until preliminary review is concluded, the application is complete, and the site development plan has been accepted for formal consideration by the Board.

**720:2** A preliminary consultation and review of the basic concept of the site development proposal must be held at a regular meeting of the Board. No formal public notice shall be required. A required preliminary layout, which constitutes part of the completed application, as described in Section SR 800, may be filed by the applicant at this time.

**720:3** A second preliminary consultation and review of the proposal, if required by the Board or sought by the applicant, shall be held only after the Board has notified the applicant and abutters by certified mail at least 10 days prior to the consultation. A notice to the general public shall be given at the same time by posting or by publication, and it shall describe the proposal and identify the applicant and the location. All cost of such notice shall be paid by the applicant in advance of the consultation meeting.

**720:4** Subsequent preliminary consultations may be required by the Board or sought by the applicant in order to achieve a satisfactory preliminary layout and sufficient additional

information to constitute a completed application for site development plan approval. The Board may hear and confer with parties whose interest may be affected by the proposed layout; may require a professional engineering review, the cost of which is to be borne by the applicant; and may require specific changes in the preliminary plan which shall be communicated to the developer in writing. Should the Board disapprove of the preliminary layout in its entirety, it shall state its reasons for such disapproval in writing.

## **SECTION 730 FORMAL CONSIDERATION**

**730:1 Submission.** The developer shall submit a completed application to the Board 15 days prior to a regular Planning Board meeting, at which time the completed application shall be accepted.

**730:2 Notification.**

- a. Of formal submission. The Planning Board shall notify the applicant and abutters by certified mail at least 10 days prior to the date on which the formal submission of the subdivision application will take place. A notice to the general public shall be given at the same time by posting or by publication, and it shall describe the proposal and identify the applicant and the location. All cost of such notice shall be paid by the applicant in advance of the formal submission.
- b. Of public hearing. The Planning Board shall notify the applicant and abutters by certified mail at least 10 days prior to the date on which a public hearing on the site development plan application will take place. A notice to the general public shall be given at the same time by posting and by publication, and it shall describe the proposal and identify the applicant and the location. All cost of such notice shall be paid by the applicant in advance of the formal submission.
- c. Simultaneous notice. If a notice of public hearing is included in the notice of formal submission, additional notice of the public hearing shall not be required.

**730:3 Time limitations**

- a. Upon determination by the board that a submitted application is complete according to the board's regulations, the board shall begin formal consideration and shall act to approve, conditionally approve, or disapprove within 65 days, subject to extension as provided for in paragraph (c) below. (2002)
- b. The applicant shall meet the requirements for filing final plats and data, as outlined in Section SR900, within 60 days of submission of the completed application.
- c. The Board may apply to the selectmen to extend the formal consideration period for up to 90 additional days before acting to approve or disapprove the application.
- d. A site plan that has been granted a conditional approval shall have one (1) year from the date of conditional approval to fulfill the conditions or the approval is revoked and the plan must come back for review. (1997)

**730:4 Offers of cession.**

The subdivider shall tender offers of cession, in a form certified as satisfactory by the corporation counsel, of all land included in streets, highways or parks not specifically reserved by him; but approval of the plat by the Board shall not constitute an acceptance by the Town of the dedication of any street, highway, park or other public space.

**730:5 Approval/disapproval.**

In case of disapproval of any application submitted to the planning board, the ground for such disapproval shall be adequately stated upon the record of the Board.

**SECTION 800 PRELIMINARY LAYOUT**

**810:1** Prior to the formal submission of the site development plan, the owner or his authorized agent shall submit three sets of site plan maps and supporting data to the Planning Board which shall include the following information:

- a. All data required for formal submission of a subdivision proposal as identified in Sections 600 and 700 of the Land Subdivision Control Regulations chapter of the Atkinson Planning and Land Use Regulations book.
- b. The proposed grades, drainage systems, structures and topographic contours at intervals not exceeding 2 feet with spot elevations where grade is less than 5 percent.
- c. The shape, size, height, and location of the proposed structures including expansion of existing buildings.
- d. Proposed streets, driveways, parking spaces, sidewalks, with indication of direction of travel for one-way streets and drives and inside radii of all curves.
- e. The width of streets, driveways, and sidewalks and the total number of parking spaces to be provided.
- f. Loading spaces and facilities associated with the structures on the site.
- g. The size and location of all proposed wells, septic systems and other public and private utilities.
- h. The location, type, and size of all proposed landscaping and screening, presented in the form of a detailed planting plan with annotated planting list. (1998)
- i. Exterior lighting plan and proposed signs to be located on the site.
- j. Plans for snow removal and storage.
- k. A circulation plan of the interior of the lot showing provisions for both auto and pedestrian circulation.

- l. An access plan showing means of access to the site and proposed changes to existing public streets including any traffic control devices necessary in conjunction with the site development plan.
- m. Construction drawings including, but not limited to, pavements, walks, steps, curbing and drainage structures.
- n. A copy of any covenants or deed restrictions that are intended to cover all or part of the tract and will become a part of any subsequent instruments of conveyance.
- o. Any additional information the Planning Board may deem necessary in order to apply the regulations contained herein.
- p. A note on the plan stating the maximum daytime and nighttime continuous, periodic, and impulsive sound levels that apply to the site at applicable lot lines or zoning district boundaries. (1998)
- q. A written Statement of Intent prepared and signed by the applicant, which fully addresses the requirements of Section 605 of these Regulations. (1998)

## **SECTION 900 PLAT AND DATA FOR FINAL APPROVAL**

- 910:1** The final plat shall be drawn in ink on drawing cloth or mylar at a scale of not less than 50 feet to an inch. Where necessary, the plat may be on several sheets accompanied by an index showing the entire site development plan.
- 910:2** For larger site development plans, the final plat may be submitted for approval progressively in contiguous sections satisfactory to the Board. Plat sizes shall conform to the requirements of the Rockingham Registry of Deeds.
- 910:3** The final plat shall show or, when applicable, be accompanied by all data required in Section 810:1 above.
- 910:4** All engineered plans to be stamped by a Certified Engineer. (1997)
- 910:5** Applicants to provide a time-line for the completion of all off-site improvements. (1997)

## **SECTION 1000 FILING OF PLANS**

- 1010:1** The Chairman or Secretary of the Planning Board shall transmit a record of any changes so authorized to the Register of Deeds of Rockingham County.
- 1010:2** All plans submitted for recording in the registry of deeds shall be on suitable reproducible tracing material other than paper with a thickness of not less than .002 of one inch, with all marking on the material to be with India or other permanent ink.
- 1010:3** The size of all plans is limited to any of the following dimensions:
  - a. 8 1/2" x 11"
  - b. 11" x 17"
  - c. 17" x 22"
  - d. 22" x 34"



or such specifications and sizes of prints as may be required by the Register of Deeds in order to insure suitable, permanent records.

- 1010:4** After the certificate or notice has been filed with the Register of Deeds of the county, no plat will be filed or recorded in the offices of said Register of Deeds until it has been approved by the Planning Board, and such approval has been endorsed in writing on the plat in such manner as the Planning Board may designate.
- 1010:5** After such plat is approved and filed, subject, however, to review by court as hereinafter provided, the streets and parks shown on such plat shall be and become a part of the official map of the municipality.
- 1010:6** The filing or recording of a plat of a site development plan without the approval of the Planning Board as required hereby shall be void.

## **SECTION 1100 CHANGES IN APPROVED PLANS**

- 1110.1 Minor changes.** A minor change shall be one which respects the approved plan's basic land allocations in terms of use and intensity, the type and variety of facilities and buildings being approved, and/or the timing for providing these facilities, but shall not include any increase in the overall density of the development. The Board shall give proper notification of the proposed change to the public and to all abutters. If requested by the applicant, abutter, or Board, a public hearing shall be held on the proposed change. The Board shall act to approve or disapprove the change with written notification to the owner of its action.
- 1110.2 Major changes.** Any requested change which the Board determines does not qualify as a minor change shall be required to be submitted as a separate plan in accordance with these regulations and procedures.

## **SECTION 1200 CONCURRENT AND JOINT HEARINGS**

- 1200.1** The Planning Board may hold a hearing on site plan development review in conjunction with a subdivision hearing if both are required for a project.
- 1200.2** When an applicant is seeking approval from an additional land use board which also has jurisdiction over the project, the applicant may request a joint meeting or hearing over which the Planning Board shall preside. However, each land use board (Planning Board, Board of Adjustment, Historic District Commission) shall have discretion as to whether to hold such a meeting or hearing as requested.

## **SECTION 1300 AMENDMENTS**

- 1300.1** These regulations may be amended or rescinded by the Planning Board only following public hearing on the proposed change.
- 1300.2** The Chairman or Secretary of the Planning Board shall transmit copies of any such regulations, revisions or amendments thereto, certified by a majority of the Planning Board members, to the municipal clerk and the New Hampshire Office of State Planning.

**1300.3** Any site development which was given approval prior to the first posting for a site development change hearing shall be exempt from any amendment to site development regulation subsequently adopted.

**1300.4** In the event that any site development approval expires or otherwise becomes void, all site development regulations in effect at the time of resubmission shall be adhered to.

#### **SECTION 1400 POWER TO REVIEW SITE PLANS**

**1400.1** Except as otherwise noted herein, the Atkinson Planning Board shall have final approval and discretionary authority.

#### **SECTION 1500 SEPARABILITY**

**1500.1** If any provision herein shall be held to be invalid for any reason by a Court, such holding shall not invalidate in any manner any other provision contained herein.

## MINIMUM LOT SIZE BY SOIL TYPE

(High Intensity Soil Map Symbols and Standards)

<u>Soil Type</u>	<u>Lot Size</u>	<u>Soil Type</u>	<u>Lot Size</u>	<u>Soil Type</u>	<u>Lot Size</u>	<u>Soil Type</u>	<u>Lot Size</u>	<u>Soil Type</u>	<u>Lot Size</u>
111BH	40000	21XEH	NA	254+H	NA	32XDH	160000	36XCH	130000
111CH	45000	221BH	4000	25XBH	130000	32XEH	NA	36XDH	170000
111DH	60000	221CH	45000	25XCH	190000	331BH	75000	36XEH	NA
111EH	NA	221DH	60000	25XDH	240000	331CH	100000	375+H	NA
112BH	75000	221EH	NA	25XEH	NA	331DH	125000	411BH	90000
112CH	80000	222BH	75000	261BH	50000	331EH	NA	411CH	135000
112DH	9500	222CH	80000	261CH	55000	333BH	75000	412BH	145000
112EH	NA	222DH	95000	261DH	70000	333CH	100000	412CH	190000
114+H	NA	222EH	NA	261EH	NA	333DH	125000	413BH	90000
11XBH	80000	223BH	50000	263BH	60000	333EH	NA	413CH	135000
11XCH	100000	223CH	75000	263CH	85000	334+H	NA	414+H	NA
11XDH	14000	223DH	100000	263DH	110000	33XBH	115000	41XBH	150000
11XEH	NA	223EH	NA	263EH	NA	33XCH	155000	41XCH	180000
121BH	4000	224+H	NA	264+H	NA	33XDH	205000	421BH	75000
121CH	45000	22XBH	80000	266+H	NA	33XEH	NA	421CH	115000
121DH	60000	22XCH	10000	26XBH	90000	341BH	75000	422BH	130000
121EH	NA	22XDH	140000	26XCH	110000	341CH	100000	422CH	135000
122BH	75000	22XEH	NA	26XDH	150000	341DH	125000	423BH	90000
122CH	80000	231BH	40000	26XEH	NA	341EH	NA	423CH	135000
122DH	95000	231CH	45000	275+H	NA	343BH	75000	424+H	NA
122EH	NA	231DH	60000	311BH	60000	343CH	100000	42XBH	150000
124+H	NA	231EH	NA	311CH	90000	343DH	125000	42XCH	180000
12XBH	80000	233BH	5000	311DH	120000	343EH	NA	431BH	115000
12XCH	100000	233CH	75000	311EH	NA	344+H	NA	431CH	150000
12XDH	140000	233DH	100000	312BH	95000	34XBH	115000	433BH	115000
12CEH	NA	223EH	NA	312CH	125000	34XCH	155000	433CH	150000
161BH	50000	234+H	NA	312DH	155000	34XDH	205000	434+H	NA
161CH	55000	23XBH	80000	312EH	NA	34XEH	NA	43XBH	175000
161DH	70000	23XCH	100000	313BH	60000	351BH	90000	43XCH	235000
161EH	NA	23XDH	140000	313CH	90000	351CH	135000	442BH	115000
164+H	NA	23XEH	NA	313DH	120000	351DH	160000	441CH	150000
166+H	NA	241BH	50000	313EH	NA	351EH	NA	443BH	115000
16XBH	90000	241CH	75000	314+H	NA	353BH	90000	443CH	150000
16XCH	110000	241DH	100000	31XBH	100000	353CH	135000	444+H	NA
16XDH	150000	241EH	NA	31XCH	120000	353DH	160000	44XBH	175000
16XEH	NA	243BH	50000	31XDH	160000	353EH	NA	44XCH	235000
211BH	40000	243CH	75000	31XEH	NA	354+H	NA	451BH	135000
211CH	45000	243DH	100000	321BH	50000	35XBH	130000	451CH	205000
211DH	60000	243EH	NA	321CH	75000	35XCH	190000	453BH	135000
211EH	NA	244+H	NA	312DH	100000	35XDH	240000	453CH	205000
212BH	75000	24XBH	90000	321EH	NA	35XEH	NA	454+H	NA
212CH	80000	24XCH	130000	322BH	85000	361BH	70000	45XBH	195000

212DH	95000	24XDH	180000	322CH	100000	361CH	100000	45XCH	285000
212EH	NA	24XEH	NA	322DH	135000	361DH	130000	461BH	105000
213BH	50000	241BH	90000	322EH	NA	361EH	NA	461CH	150000
213CH	75000	251CH	135000	323BH	60000	363BH	70000	463BH	105000
213DH	100000	251DH	160000	323CH	90000	363CH	100000	463CH	150000
213EH	NA	251EH	NA	323DH	120000	363DH	130000	464+H	NA
214+H	NA	253BH	90000	323EH	NA	363EH	NA	466+H	NA
21XBH	80000	253CH	135000	324+H	NA	364+H	NA	46XBH	165000
21XCH	100000	253DH	160000	32XBH	100000	366+H	NA	46XCH	195000
21XDH	140000	253EH	NA	32XCH	120000	36XBH	110000		

“NA” means not allowed. “+” means any slope or any number. Minimize lot size interpretation is based on Table 1, page 26 of the Draft Water Quality Management Plan, Southern Rockingham Commission 208 Project and further evaluations.

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Soil types listed below have one or more limiting characteristics making the soil type “NA” or requiring on-site investigation no matter what other characteristics of the soil may be present. (Effective date: June 1, 1989)

<u>Soil Type</u>	<u>Minimum Lot Size</u>	<u>Soil Type</u>	<u>Minimum Lot Size</u>
5+++H	NA - poorly drained soil	+66+H	NA-very poorly drained soil
6+++H	Fill Material (see Kay to Soil Types)	+75+H	NA- floodplain soil
76+++H	On-site evaluation needed		

## APPENDIX A –

### POST CONSTRUCTION STORMWATER MANAGEMENT STANDARDS FOR SITE DEVELOPMENT PLAN REGULATIONS

#### ELEMENT A: Purpose and Goals

1. Purpose and Goals. The purpose of post construction stormwater management standards is to provide reasonable guidance for the regulation of stormwater runoff to protect local natural resources from degradation and prevent adverse impacts to adjacent and downstream land, property, facilities and infrastructure. These standards regulate discharges from stormwater and runoff from land development projects and other construction activities to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with stormwater runoff.

The goal of these standards is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public in the Town of Atkinson. This regulation seeks to meet that goal through the following objectives:

- f. Minimize increases in stormwater runoff from any development to reduce flooding, siltation and streambank erosion and maintain the integrity of stream channels.
- g. Minimize increases in nonpoint source pollution caused by stormwater runoff from development which would otherwise degrade local water quality.
- h. Minimize the total volume of surface water runoff which flows from any specific site during and following development to not exceed the pre-development hydrologic condition to the maximum extent practicable as allowable by site conditions.
- i. Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management controls and to ensure that these management controls are properly maintained and pose no threat to public safety or cause excessive municipal expenditures.
- j. Protect the quality of groundwater resources, surface water bodies and wetlands.

#### ELEMENT B: Minimum Thresholds for Applicability

1. *The post-construction stormwater management standards apply to any development or redevelopment project which are subject to Site Plan Review and disturbs more than 5,000 square feet or disturbs more than 2,500 square feet within 100 feet of a surface water body and contiguous wetlands.*
2. *The Planning Board may grant a waiver from these regulations if the amount of the total site impervious cover created or land disturbance does not exceed 5,000 square feet upon a showing by the applicant as to why these regulations should not apply and that the following criteria are met:*
  - *All new runoff generated is directed to a best management practice or a vegetated buffer*

*area with erosion controls.*

- *All new runoff generated is not discharged to steep slopes or untreated to wetlands or surface waters.*
- *All new runoff generated is treated to remove pollutants including sediment and nutrients according to the requirements of Table 1.*

3. *The following activities are considered exempt from these regulations:*

- i. Agricultural and forestry practices located outside wetlands and surface water setbacks and/or buffers.*
- ii. Resurfacing and routine maintenance of roads and parking lots.*
- iii. Exterior and interior alterations and maintenance to existing buildings and structures.*

### **ELEMENT C: Stormwater Management for New Development**

1. All proposed stormwater management practices and treatment systems shall meet the following performance standards.

- a. Stormwater management and erosion and sediment control practices shall be located outside any specified buffer zones unless otherwise approved by the Planning Board. Alternatives to stream and wetland crossings that eliminate or minimize environmental impacts shall be considered whenever possible.
- b. Low Impact Development (LID) site planning and design strategies must be used to the maximum extent practicable (MEP) to reduce stormwater runoff volumes, protect water quality, and maintain predevelopment site hydrology. Low Impact Development (LID) techniques with the goals of protecting water quality, maintaining predevelopment site hydrology. Low Impact Development (LID) techniques that preserve existing vegetation, reduce the development footprint, minimize or disconnect impervious area, and use enhanced stormwater BMP's (such as raingardens, bioretention systems, tree box filters, and similar stormwater management landscaping techniques) shall be incorporated into landscaped areas excluding perimeter landscaped or other buffers when required for the development. Capture and reuse of stormwater is strongly encouraged. The applicant must document in writing why LID strategies are not appropriate when not used to manage stormwater.
- c. All stormwater treatment areas shall be planted with native plantings appropriate for the site conditions: trees, grasses, shrubs and/or other native plants in sufficient numbers and density to prevent soil erosion and to achieve the water quality treatment requirements of this section.
- d. Salt storage areas shall be fully covered with permanent or semi-permanent measures and loading/offloading areas shall be located and designed to not drain directly to receiving waters and maintained with good housekeeping measures in accordance with

NH DES published guidance. Runoff from snow and salt storage areas shall enter treatment areas as specified above before being discharged to receiving waters or allowed to infiltrate into the groundwater. See NHDES published guidance fact sheets on road salt and water quality, and snow disposal at <http://des.nh.gov/organization/commissioner/pip/factsheets/wmb/index.htm>.

- e. Surface runoff shall be directed into appropriate stormwater control measures designed for treatment and/or filtration to the maximum extent practicable and/or captured and reused onsite.
- f. All newly generated stormwater from new development shall be treated on the development site. A development plan shall include provisions to retain natural predevelopment watershed areas on the site by using the natural flow patterns.
- g. Runoff from impervious surfaces shall be treated to achieve at least 80% removal of Total Suspended Solids and at least 50% removal of both total nitrogen and total phosphorus using appropriate treatment measures, as specified in the NH Stormwater Manual. Volumes 1 and 2, December 2008, as amended or other equivalent means. Where practical, the use of natural, vegetated filtration and/or infiltration practices or subsurface gravel wetlands for water quality treatment is preferred given its relatively high nitrogen removal efficiency. All new impervious area draining to surface waters impaired by nitrogen, phosphorus or nutrients shall be treated with stormwater BMP's designed to optimize pollutant removal efficiencies based on design standards and performance data published by the UNH Stormwater Center and/or included in the latest version of the NH Stormwater Manual.
- h. Measures shall be taken to control the post-development peak runoff rate so that it does not exceed pre-development runoff. Drainage analyses shall include calculations comparing pre- and post-development stormwater runoff rates (cubic feet/second) and volumes (cubic feet) for the 1-inch rainstorm and the 2-year, 10-year, 25-year, and 50-year 24-hour storm events. Refer to Section 3.e. below for precipitation data references required for sizing and design of stormwater management practices and infrastructure. Similar measures shall be taken to control the post-development runoff volume to infiltrate the groundwater recharge volume GR<sub>v</sub> according to the following ratios of Hydrologic Soil Group (HSG) type versus infiltration rate multiplier: HSG-A: 0.4; HSG-B: 0.25; HSG-C: 0.1; HSG-D: 0.00. For sites where infiltration is limited or not practicable, the applicant must demonstrate that the project will not create or contribute to water quality impairment.
- i. The design of the stormwater drainage systems shall provide for the disposal of stormwater without flooding or functional impairment to streets, adjacent properties, downstream properties, soils, or vegetation.
- j. The design of the stormwater management systems shall account for upstream and upgradient runoff that flows onto, over, or through the site to be developed or re-developed, and provide for this contribution of runoff.

- k. Whenever practicable, native site vegetation shall be retained, protected, or supplemented. Any stripping of vegetation shall be done in a manner that minimizes soil erosion.

## 2. Submission Requirements for Stormwater Management Report and Plans.

- a. All applications shall include a comprehensive Stormwater Management Plan (SMP). The SMP shall include a narrative description and an Existing Conditions Site Plan showing all pre-development impervious surfaces, buildings and structures; surface water bodies and wetlands; drainage patterns, sub-catchment and watershed boundaries; building setbacks and buffers, locations of various hydrologic group soil types, mature vegetation, land topographic contours with minimum 2-foot intervals and spot grades where necessary for sites that are flat.
- b. The SMP shall include a narrative description and a Proposed Conditions Site Plan showing all post-development proposed impervious surfaces, buildings and structures; temporary and permanent stormwater management elements and best management practices (BMP), including BMP GIS coordinates and GIS files; important hydrologic features created or preserved the site; drainage patterns, sub-catchment and watershed boundaries; building setbacks and buffers; proposed tree clearing and topographic contours with minimum 2-foot intervals. The plans shall provide calculations and identification of the total area of disturbance proposed on the site (and off site if applicable) and total area of new impervious surface created. A summary of the drainage analysis showing a comparison of the estimated peak flow and volumes for various design storms (see Table 1. Stormwater Infrastructure Design Criteria) at each of the outlet locations shall be included.
- c. The SMP shall describe the general approach and strategies implemented, and the facts relied upon, to meet the goals of Element A and Element C.: The SMP shall include design plans and/or graphical sketch(es) of all proposed above ground LID practices.
- d. The SMP shall include calculations of the change in impervious area, pollution loading and removal volumes for each best management practice, and GIS files containing the coordinates of all stormwater infrastructure elements (e.g. catch basins, swales, detention/bioretention areas, piping).
- e. The SMP shall include a description and a proposed Site Plan showing proposed erosion and sediment control measures, limits of disturbance, temporary and permanent soil stabilization measures in accordance with the NHDES Stormwater Manual Volume 3 (most recent version) as well as a construction site inspection plan including phased installation of best management practices and final inspection upon completion of construction.
- f. The SMP shall include a long-term stormwater management BMP inspection and maintenance plan (see Element E) that describes the responsible parties and contact



information for the qualified individuals who will perform future BMP inspections. The inspection frequency, maintenance and reporting protocols shall be included.

- g. The SMP shall describe and identify locations of any proposed deicing chemical and/or snow storage areas. SMP will describe how deicing chemical use will be minimized or used most efficiently.
- h. In urbanized areas that are subject to the EPA MS4 Stormwater Permit and will drain to chloride-impaired waters, any new developments and redevelopment projects shall submit a description of measures that will be used to minimize salt usage, and track and report amounts applied using the UNH Technology Transfer Center online tool (<http://www.roadsalt.unh.edu/Salt/>) in accordance with Appendix H of the NH MS4 Permit.

### 3. General Performance Criteria for Stormwater Management Plans.

- g. All applications shall apply site design practices to reduce the generation of stormwater in the post-developed condition, reduce overall impervious surface coverage, seek opportunities to capture and reuse and minimize and discharge of stormwater to the municipal stormwater management system.
- h. Water Quality Protection.
  - iii. No stormwater runoff generated from new development or redevelopment shall be discharged directly into a jurisdictional wetland or surface water body without water quality treatment that conforms to the requirements of this regulation.
  - iv. All developments shall provide adequate management of stormwater runoff and prevent discharge of stormwater runoff from creating or contributing to water quality impairment.
- i. Onsite groundwater recharge rates shall be maintained by promoting infiltration through use of structural and non-structural methods. The annual recharge from the post development site shall maintain or exceed the annual recharge from pre-development site conditions. Capture and reuse of stormwater runoff is encouraged in instances where groundwater recharge is limited by site conditions All stormwater management practices shall be designed to convey stormwater to allow for maximum groundwater recharge. This shall include, but not be limited to:
  - vi. Maximizing flow paths from collection points to outflow points.
  - vii. Use of multiple best management practices.
  - viii. Retention of and discharge to fully vegetated areas.
  - ix. Maximizing use of infiltration practices.
  - x. Stormwater System Design Performance Standards.
- j. Stormwater system design, performance standards and protection criteria shall be provided as prescribed in Table 1 below. Calculations shall include sizing of all structures and best management practices, including sizing of emergency overflow structures based on assessment of the 100-year 24-hour frequency storm discharge rate.
- k. The sizing and design of stormwater management practices shall utilize new precipitation data from the Northeast Region Climate Center (NRCC) [or the most recent precipitation](#)

[atlas published by the National Oceanic and Atmospheric Administration \(NOAA\)](http://precip.eas.cornell.edu/) for the sizing and design of all stormwater management practices. See the NRCC website at <http://precip.eas.cornell.edu/>.

- I. All stormwater management practices involving bioretention and vegetative cover as a key functional component must have a landscaping plan detailing both the type and quantities of plants and vegetation to be in used in the practice and how and who will manage and maintain this vegetation. The use of native plantings appropriate for site conditions is strongly encouraged for these types of stormwater treatment areas. The landscaping plan must be prepared by a registered landscape architect, soil conservation district office, or another qualified professional.
4. Spill Prevention, Control and Countermeasure (SPCC) Plan.  
Any existing or otherwise permitted use or activity having regulated substances in amounts greater than five gallons, shall submit to the local official such as Fire Chief, Emergency Response Official a SPCC plan for review and approval. The Plan will include the following elements:
    - i. Disclosure statements describing the types, quantities, and storage locations of all regulated substances that will be part of the proposed use or activity.
    - j. Owner and spill response manager's contact information.
    - k. Location of all surface waters and drainage patterns.
    - l. A narrative describing the spill prevention practices to be employed when normally using regulated substances.
    - m. Containment controls, both structural and non-structural.
    - n. Spill reporting procedures, including a list of municipal personnel or agencies that will be contacted to assist in containing the spill, and the amount of a spill requiring outside assistance and response.
    - o. Name of a contractor available to assist in spill response, contaminant, and cleanup.
    - p. The list of available clean-up equipment with instructions available for use on-site and the names of employees with adequate training to implement containment and clean up response.

#### **ELEMENT D: Stormwater Management for Redevelopment**

1. Redevelopment (as applicable to this stormwater regulation) means:
  - a. Any construction, alteration, or improvement that disturbs existing impervious area (including demolition and removal of road/parking lot materials down to the erodible subbase) or expands existing impervious cover by any amount, where the existing land use is commercial, industrial, institutional, governmental, recreational, or multifamily residential.
  - b. Any redevelopment activity that results in improvements with no increase in impervious area shall be considered redevelopment activity under this regulation if capital cost of improvements is greater than 30% of the appraised property value.

- c. Any new impervious area over portions of a site that are currently pervious.
  - d. The following activities are not considered redevelopment:
    - Interior and exterior building renovation.
    - Resurfacing of an existing paved surface (e.g. parking lot, walkway or roadway).
    - Pavement excavation and patching that is incidental to the primary project purpose, such as replacement of a collapsed storm drain.
    - Landscaping installation and maintenance.
2. Redevelopment applications shall comply with the requirements of Sections C.2 Submission Requirements for Stormwater Management Report and Plans, C.3 General Performance Criteria for Stormwater Management Plans, and C.4 Spill Prevention, Control and Countermeasure (SPCC) Plan.
  3. For sites meeting the definition of a redevelopment project and having less than 60% existing impervious surface coverage, the stormwater management requirements will be the same as other new development projects. The applicant must satisfactorily demonstrate that impervious area is minimized, and LID practices have been implemented on-site to the maximum extent practicable.
  4. For sites meeting the definition of a redevelopment project and having more than 60% existing impervious surface area, stormwater shall be managed for water quality in accordance with one or more of the following techniques, listed in order of preference:
    - a. Implement measures onsite that result in disconnection or treatment of 100% of the additional proposed impervious surface area and at least 30% of the existing impervious area and pavement areas, preferably using filtration and/or infiltration practices.
    - b. If resulting in greater overall water quality improvement on the site, implement LID practices to the maximum extent practicable to provide treatment of runoff generated from at least 60% of the entire developed site area.
  5. Runoff from impervious surfaces shall be treated to achieve at least 80% removal of Total Suspended Solids and at least 50% removal of both total nitrogen and total phosphorus using appropriate treatment measures, as specified in the NH Stormwater Manual. Volumes 1 and 2, December 2008, as amended or other equivalent means. All new impervious area draining to surface waters impaired by nitrogen, phosphorus or nutrients shall be treated with stormwater BMP's designed to optimize pollutant removal efficiencies based on design standards and performance data published by the UNH Stormwater Center and/or included in the latest version of the NH Stormwater Manual.

#### **ELEMENT E: Stormwater Management Plan and Site Inspections**

1. The Town Engineer or Planning Board designee shall submit inspection reports for stormwater management infrastructure construction according to a construction inspection sequence agreement prepared and endorsed by the applicant. This construction agreement may also include bond/surety release amounts corresponding with completed construction

per the construction sequence agreement.

2. The applicant shall provide that all stormwater management and treatment practices have an enforceable operations and maintenance plan and agreement to ensure the system functions as designed. This agreement will include all maintenance easements required to access and inspect the stormwater treatment practices, and to perform routine maintenance as necessary to ensure proper functioning of the stormwater system. The operations and maintenance plan shall specify the parties responsible for the proper maintenance of all stormwater treatment practices. The operations and maintenance shall be provided to the Planning Board as part of the application prior to issuance of any local permits for land disturbance and construction activities.
3. The property owner shall bear responsibility for the installation, construction, inspection, and maintenance of all stormwater management and erosion control measures required by the provisions of these regulations and as approved by the Planning Board, including emergency repairs completed by the town.

#### **ELEMENT F. Stormwater Management Plan Recordation**

1. Stormwater management and sediment and erosion control plans shall be incorporated as part of any approved site plan. A Notice of Decision acknowledging the Planning Board approval of these plans shall be recorded at the Registry of Deeds. The Notice of Decision shall be referenced to the property deed (title/book/page number) and apply to all persons that may acquire any property subject to the approved stormwater management and sediment control plans. The Notice of Decision shall reference the requirements for maintenance pursuant to the stormwater management and erosion and sediment control plans as approved by the Planning Board.
2. The applicant shall provide legally binding documents (e.g. that run “with the land”) for filing with the registry of deeds which demonstrate that the obligation for maintenance of stormwater best management practices and infrastructure runs with the land and that the Town has legal access to inspect the property to ensure their proper function or maintain onsite stormwater infrastructure when necessary to address emergency situations or conditions.
3. Easements:  
Where a development is traversed by or requires the construction of a privately owned watercourse, drainage way, culvert, bridge or other stormwater infrastructure that crosses a municipal roadway, an easement to the Town to enable construction, reconstruction, required maintenance or emergency access shall be provided for such purpose. Easements to the Town shall also be provided for the purpose of periodic inspection of drainage facilities and stormwater BMPs should such inspections by the Town become necessary. All easements shall be recorded at the County Registry of Deeds.
4. The applicant/developer shall submit to the town as-built drawings within a specified timeframe following approval, not to exceed two years from completion of construction.
5. As required by the EPA MS4 Permit Section 2.3.6.b, final as-built plans shall be submitted within a timeframe specified by the Planning Board not to exceed two years from the completion of construction.

## **ELEMENT G. Inspection and Maintenance Responsibility**

1. Municipal staff or their designated agent shall be granted site access to complete routine inspections to ensure compliance with the approved stormwater management and sediment and erosion control plans. Such inspections shall be performed at a time agreed upon with the landowner.
  - a. If permission to inspect is denied by the landowner, municipal staff or their designated agent shall secure an administrative inspection warrant from the district or superior court under RSA 595-B Administrative Inspection Warrants. Expenses associated with inspections shall be the responsibility of the applicant/property owner.
  - b. If violations or non-compliance with a condition(s) of approval are found on the site during routine inspections, the municipal staff or their designated agent shall provide a report to the Planning Board documenting these violations or non-compliance including recommend corrective actions. The Planning Board shall notify the property owner in writing of these violations or non-compliance and corrective actions necessary to bring the property into full compliance. The Planning Board, at their discretion, may recommend to the Board of Selectmen to issue a stop work order if corrective actions are not completed within 10 days
  - c. If corrective actions are not completed within a period of 30 days from the Planning Board or Select Board notification, the Planning Board may exercise their jurisdiction under RSA 676:4-a Revocation of Recorded Approval.
2. The applicant shall bear final responsibility for the installation, construction, inspection, and disposition of all stormwater management and erosion control measures required by the Planning Board. Site development shall not begin before the Stormwater Management Plan receives written approval by the Planning Board.
3. The municipality retains the right, though accepts no responsibility, to repair or maintain stormwater infrastructure if: a property is abandoned or becomes vacant; and in the event a property owner refuses to repair infrastructure that is damaged or is not functioning properly.
4. Property owners subject to approval under this regulation shall be responsible for submitting an annual report to the Planning Board by September 1 each year by a qualified engineer that all stormwater management and erosion control measures are functioning per the approved stormwater management plan or a waiver has been granted by the Planning Board. The annual report shall note if any stormwater infrastructure has needed any repairs other than routine maintenance and the results of those repairs. If the stormwater infrastructure is not functioning per the approved stormwater management plan the landowner shall report on the malfunction in their annual report and include detail regarding when the infrastructure shall be repaired and functioning as approved.
5. If no report is filed by September 1, municipal staff or their designated agent shall have site access to complete routine inspections to ensure compliance with the approved stormwater management and sediment and erosion control plans. Such inspections shall be performed at a time agreed upon with the landowner.

**Appendix1/Table 1. Stormwater Infrastructure Design Criteria**

Design Criteria	Description										
<b>Water Quality Volume (WQV)</b>	$WQV = (P)(R_v)(A)$ P = 1 inch of rainfall R <sub>v</sub> = unitless runoff coefficient, $R_v = 0.05 + 0.9(I)$ I = percent impervious cover draining to the structure converted to decimal form A = total site area draining to the structure										
<b>Water Quality Flow (WQF)</b>	$WQF = (q_u)(WQV)$ WQV = water quality volume calculated as noted above q <sub>u</sub> = unit peak discharge from TR-55 exhibits 4-II and 4-III  Variables needed for exhibits 4-II and 4-III: I <sub>a</sub> = the initial abstraction = 0.2S S = potential maximum retention in inches = $(1000/CN) - 10$ CN = water quality depth curve number $= 1000 / (10 + 5P + 10Q - 10[Q^2 + 1.25(Q)(P)]^{0.5})$ P = 1 inch of rainfall Q = the water quality depth in inches = $WQV/A$ A = total area draining to the design structure										
<b>Groundwater Recharge Volume (GRV)</b>	$GRV = (A_i)(R_d)$ A <sub>i</sub> = the total area of effective impervious surfaces that will exist on the site after development R <sub>d</sub> = the groundwater recharge depth based on the USDA/NRCS hydrologic soil group, as follows: <table border="0" style="margin-left: 40px;"> <thead> <tr> <th style="text-align: left;">Hydrologic Group</th> <th style="text-align: left;">R<sub>d</sub> (inches)</th> </tr> </thead> <tbody> <tr> <td>A</td> <td>0.40</td> </tr> <tr> <td>B</td> <td>0.25</td> </tr> <tr> <td>C</td> <td>0.10</td> </tr> <tr> <td>D</td> <td>0.00</td> </tr> </tbody> </table>	Hydrologic Group	R <sub>d</sub> (inches)	A	0.40	B	0.25	C	0.10	D	0.00
Hydrologic Group	R <sub>d</sub> (inches)										
A	0.40										
B	0.25										
C	0.10										
D	0.00										
<b>Channel Protection Volume (CPV)</b>	If the 2-year, 24-hour post-development storm volume <u>does not increase</u> due to development then: control the 2-year, 24-hour post-development peak flow rate to the 2-year, 24-hour predevelopment level. If the 2-year, 24-hour post-development storm volume <u>does increase</u> due to development then: control the 2-year, 24-hour post-development peak flow rate to ½ of the 2-year, 24-hour pre-development level or to the 1-year, 24-hour pre-development level.										
<b>Peak Control</b>	Post-development peak discharge rates shall not exceed pre-development peak discharge rates for the 10-year and 50-year, 24-hour storms										
<b>EIC and UDC</b>	$\%EIC = \text{area of effective impervious cover} / \text{total drainage areas within a project area} \times 100$ $\%UDC = \text{area of undisturbed cover} / \text{total drainage area within a project area} \times 100$										

[After: NH DES Stormwater Manual: Volume2 Post-Construction Best Management Practices Selection & Design (December 2008)]

## **ROAD SPECIFICATIONS AND REGULATIONS**

### **SECTION 400 GENERAL PURPOSE**

The purpose of the following specifications is to implement a roadway life of 15 to 20 years with normal maintenance. The life of a road surface is directly related to the adequacy of its drainage system and pavement section. Proper drainage is needed to insure driver safety, prevent erosion, reduce winter maintenance, and prolong pavement life. Proper pavement section must be designed to be compatible with its loading conditions and climatic effects. In New Hampshire, a structurally adequate pavement can undergo severe failure because of insufficient frost protection.

**400:1** As far as practical, all proposed streets shall conform to Atkinson's Master Plan and/or Road Study as may have been adopted in whole or in part by the Planning Board.

**400:2** The Planning Board shall require:

- a. the proper arrangement and coordination of streets in relation to other existing or planned streets;
- b. suitably located streets of sufficient width to accommodate existing and prospective traffic.
- c. adequate light, air, and access for fire-fighting apparatus and equipment to buildings.
- d. coordination of streets so as to compose a convenient system (RSA 674:36).

**400:3** Where applicable, road bonds shall be filed in accordance with Section 380 of the Land Subdivision Control regulations.

### **SECTION 410 ROAD DESIGN REQUIREMENTS**

**410:1** The developer shall

- a. install street signs which meet the approval of the Planning Board and the Road Agent.
- b. provide street lighting wherever necessary at the discretion of the Planning Board.
- c. provide winter maintenance of roadways under construction and/or unaccepted by the town.

**410:2** No street or highway right-of-way shall be less than 50 feet in width, and may be required to be more if a greater street width is warranted in the opinion of the Planning Board. The apportioning of the street widths among roadway, sidewalks, and possible grass strips shall be subject to the approval of the Planning Board.

**410:3** Dead end or cul-de-sac streets shall be equipped with a turn-around roadway at the closed end with a minimum radius of seventy (70) feet from the center to the outside

edge of the right-of-way, and a minimum outside radius of sixty (60) feet of pavement.  
(1997)

- 410:4** Cul-de-sac turn-arounds located on streets that could be continued shall show provisions for reversion of the excess easement (right-of-way) to adjacent property owners upon extension of the street. Frontage requirements will be based on the reversion.
- 410:5** When land off an existing turn-around is subdivided, the developer shall remove the turn-around and replace it with a normal road design.
- 410:6** The Town may require any new development to share in the costs of any immediately-necessitated road improvements benefitting said development. Improvement of any access street to the subdivision shall be built in accordance with appropriate street standards if access would otherwise be inadequate, and provided the town owns or provides the right of way.
- 410:7** Streets which join or are in alignment with streets of abutting or neighboring properties shall bear the same name. Names of new streets shall not duplicate nor bear phonetic resemblance to the names of existing streets. All street names must be approved by the Planning Board.
- 410:8** The roadway shall be graveled to a minimum width of 30 feet and paved to a minimum width of 24 feet. The outside 3 foot shoulders on each side of the road shall be swaled, bermed, or guard-railed whenever necessary. (See typical pavement section.)
- 410:9** All intersections will be at 90 degrees whenever possible, but not less than 75 degrees, and no more than two accepted right-of-ways shall intersect at any one point.
- 410:10** Shrubs, trees, or other obstructions at street corners shall be subject to regulations which insure proper visibility.
- 410:11** Intersecting property lines at street intersections shall be joined by a curve of at least 25 feet in radius.
- 410:12** Streets shall not be designed in such a manner as to provide frontage to land and create buildable lot(s) in a neighboring municipality in which services to such areas require predominate access via Atkinson town streets or create undesirable traffic patterns.
- 410:13** As far as practical, no street grade shall be less than one percent (1%) nor greater than eight percent (8%).
- 410:14** Less than a three percent (3%) grade shall be required for fifty (50) feet before intersecting another street.
- 410:15** Horizontal curves shall not have a grade greater than six percent (6%).
- 410:16** Where a street intersection occurs, the road design shall be such that water run-off from either street shall not flow onto the other.



- 410:17** Culvert size will be based on the acreage of watershed to be drained. Minimum culvert size shall be twelve (12) inches in diameter and be long enough to preclude blockage. Adequate drainage easements for maintenance shall be designated.
- 410:18** All culverts shall be placed below subgrade, with a minimum of two (2) feet of gravel cover at the highest point and a minimum pitch of 1/4 inch per foot.
- 410:19** Culverts with a diameter of a 4 feet or larger will be considered bridges, and approval by the Planning Board will depend on the individual situation and materials involved.
- 410:20** All drainage facilities and culverts shown on the final subdivision map and profile shall be properly installed to the satisfaction of the Town Engineer.
- 410:21** All drainage pipe shall be reinforced concrete or polypropylene smooth-lined that meets NH standards or an equivalent substitute approved by the Town Engineer. (1997)
- 410:22** Road damage. Any time building takes place on any lot on any town road, the developer and/or landowner shall be responsible for any damage to the road resulting from the development. No occupancy permit will be granted, and a lien may be placed against the property until such time as the road is repaired to the satisfaction of town officials. (RSA 236:11)
- 410:23** Underground utilities are recommended and shall be located outside the paved area wherever possible.

## **SECTION 420 PREPARATION OF ROADS**

- 420:1** All topsoil, stumps, trees, brush, and other yielding materials shall be removed from the limits of the road bed.
- 420:2** The roadbed depth shall be based on the frost susceptibility\* of the subgrade (see typical pavement section), and the high water table\*, from the bottom of the pavement to the high water table shall be 30 inches. Minimum depth shall be 22 inches on non-frost susceptible subgrade. Depth of gravel shall be 18 inches and shall be placed in layers of 6 inches. The last 6 inches of gravel shall be crushed gravel, with no stones larger than two inches.
- 420:3** The roadbed shoulder width shall be based on roadbed depth and drainage requirements (see typical pavement section.)
- 420:4** The subgrade shall be fine graded and compacted to the required grade and crown.\*\*
- 420:5** At every 6 inch increment, the sand and gravel shall be fine graded and compacted to the required grade and crown.\*\*
- 420:6** Compaction shall be at 95% density.\*\*
- 420:7** Soft spots shall not be permitted.\*\*
- 420:8** Crown of 1/4 to 3/8 inch per foot is required for all surfaces including pavement.\*\*

**420:9** Paved surface shall be a minimum of 3 inches of bituminous concrete after compaction, a minimum of 2 inches of binder and a minimum of 1 inch of wearing course. Minimum requirements are: \*\*\*

- a. local roads - 2 inches binder - 1 inch wearing course.
- b. collector roads - 2.5 inches binder - 1.5 inch wearing course.
- c. arterial roads - 2.5 inches binder - 1.5 inch wearing course.
- d. commercial and industrial areas that are proposing roads for town acceptance will be based on proposed use and weight limits.

## **SECTION 430 INSPECTION PROGRAM**

**430:1** Prior to the commencement of road construction or related work, the developer and/or his agent shall contact the Town Engineer and arrange for a pre-construction conference. The agenda for the pre-construction conference shall be prepared by the Town Engineer and shall include items germane to the project such as an overview of inspection requirements, project schedule, coordination of work with utility companies and others, an overview of the final project plans and any related conditions of approval attached thereto, status of performance bonds and other items related to execution of the work and conformance with the requirements and expectations of the Town. (1998)

**430:2** The following inspections shall be required on all new roads during construction or alteration:

- a. the right-of-way after clearing and stumping
- b. all drainage, culverts and underground utilities.\*\*
- c. subgrade\*\*
- d. sand (if necessary) and gravel.\*\*
- e. pavement\_binder
- f. pavement\_wearing before and after application
- g. all other improvements within the right-of-way required by the Planning Board or Board of Selectmen. (1997)
- h. post winter condition of each road still under bond; said inspection may be performed in April by the Town Engineer along with the Town Road Agent. (1996)

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\* **Certification is to be given by the developer's soil scientist.**

\*\* **Certification by the developer's licensed engineer and/or land surveyor that these items have been done according to approved plans must be available to the town's engineer before inspection with required information for said certification made available for town records as required.**

\*\*\* **See Typical Road Section**

- 430:3** It shall be the responsibility of the developer to have the town's engineer notified of all required inspections at least 48 hours in advance, excluding Saturdays, Sundays, and holidays, and to pay the town engineer for the cost of inspections at his customary rates. Rate schedule will be available at Town Hall.
- 430:4** On all inspections, the developer will make available on site any necessary equipment to verify conformance to the town's regulations.
- 430:5** Unacceptable work, whether the result of poor workmanship, use of defective materials, damage through carelessness, or any other cause, found to exist prior to the final acceptance of the road by the town shall be removed immediately and replaced or corrected in an acceptable manner.
- 430:6** Upon request from the developer, periodic bond reduction may be allowed pursuant to the terms and conditions outlined in the Town's standard Performance Bond Agreement form. (1998)
- 430:7** No street will be accepted until such time as all improvements have been carried out as shown on the final plat or as-built, in accordance with the requirements of these regulations, and subject to any condition established by the Planning Board at the time of final plat approval, and subject to certification by the Town Engineer.

#### **SECTION 440 DRIVEWAYS AND OTHER ACCESSES TO THE PUBLIC WAY/ EXCAVATIONS**

- 440:1** It shall be unlawful to excavate or disturb the shoulders, ditches, embankments or the surface improved for travel of any town highway without written permission from the Selectmen (RSA 236:9). The excavation and restoration within the highway right-of-way shall require that a bond/surety satisfactory to the Selectmen be furnished to the town providing for the satisfactory restoration of the highway (RSA 236:10 and 236:11).
- 440:2** It shall be unlawful to construct, alter in any way that substantially affects the size or grade of any driveway, entrance, exit, or approach within the limits of the right-of-way of any town highway without a written construction permit or driveway permit which will describe the location drainage and traffic control devices and will establish grades that adequately protect and promote highway drainage and permit a safe and controlled approach to the highway in all seasons of the year and will include any other terms and specifications necessary for the safety of the traveling public (RSA 236:13).
- 440:3** Driveways shall be constructed in the following manner:
- The area adjacent to the highway shall be graded so the surface will slope from the edge of the pavement to a line 5 feet distant from and parallel to the pavement, and be a minimum of 3 inches below the edge of the pavement.
- 440:4** Driveway culverts within the right-of-way shall be a minimum of eight (8) inches in diameter, long enough to preclude blockage by erosion, and of a town approved type. The driveway culverts must be installed so as to have a minimum of 18 inches of gravel on top and be at a depth so as not to dam runoff and must be at a minimum pitch of 1/4 inch per foot.

- 440:5** All driveways will be shown on subdivision plans.
- 440:6** In all new subdivisions, all driveways shall be graveled and culverted, if necessary, from the pavement a distance of 8 feet from and parallel to the pavement.
- 440:7** Service roads or private roads serving three or more units will be subject to road specification regulations. If it is to remain private:
- a. the plan will state: "The ways shown on this plan are intended by the subdivider (name) and the Planning Board to remain as private ways. The recording of this plan shall not be construed as an offer of dedication of those ways as public highways under the New Hampshire Law of Dedication and Acceptance."
  - b. the ownership and responsibility of the owners as to maintenance, plowing, repairing and replacement, if necessary, are specifically stated in all ownership documents.
  - c. the owner and/or owners recognize in such documents that they assume all liability for said roads that are normally assumed by the town on roads that have been approved and accepted by the town.
  - d. the owner and/or owners recognize that the roadways shall be open and accessible at all times to emergency, police, and town officials and vehicles, in order to promote and maintain health and safety for all the occupants.

## **SECTION 450 DESIGN SPECIFICATIONS REFERENCE**

- 450:1** All materials, workmanship, and requirements shall meet standard specifications of the following, if not previously covered within these regulations:
- a. "A Policy on Geometric Design of Highways and Streets 1984", Chapter V, Local Roads and Streets, by the American Association of State Highway and Transportation Officials.
  - b. "Recommended Guidelines for Subdivision Streets" by the Institute of Transportation Engineers.
  - c. The New Hampshire Water Supply and Pollution Control Commission 149:8a Permit Procedure.
  - d. "A Policy on Design of Urban Highways and Arterial Streets" by the American Society of State Highway Officials.
  - e. Latest edition "Standard Specifications for Road and Bridge Construction" of the State of New Hampshire Department of Public Works approved for general application and repetitive use.
  - f. "Highway Design Manual" of the State of New Hampshire, Volumes 1 and 2, including all addenda.

- g. All subdivision and/ or site plans must state clearly on the plans that any proposed roadway or driveway meets the State of NH requirements for proper site distance and that the site distance will be met prior to the construction of any roadway or structure. (1997)

**450:2** All roads will go one winter in binder before the wearing coat is applied, with a maximum of three winters of binder exposure. (2006)

## **SECTION 460 RELATIONSHIP BETWEEN STATE AND LOCAL REGULATIONS**

**460:1** Where both state and local regulations are applicable, the more stringent regulations shall take effect. If the state regulation addresses an issue not included in the local regulations, or if the local regulation addresses an issue not included in the state regulations, that regulation shall automatically apply.

## **SECTION 470 SAVINGS CLAUSE**

**470:1** Where any provision included within these regulations is found to be unenforceable by law, it shall be considered severance from the remainder of the regulations and shall not be construed to invalidate any other provision in these regulations.

## **SECTION 480 EFFECTIVE DATE**

**480:1** These regulations shall take effect upon their passage.

## **SECTION 490 AMENDMENT**

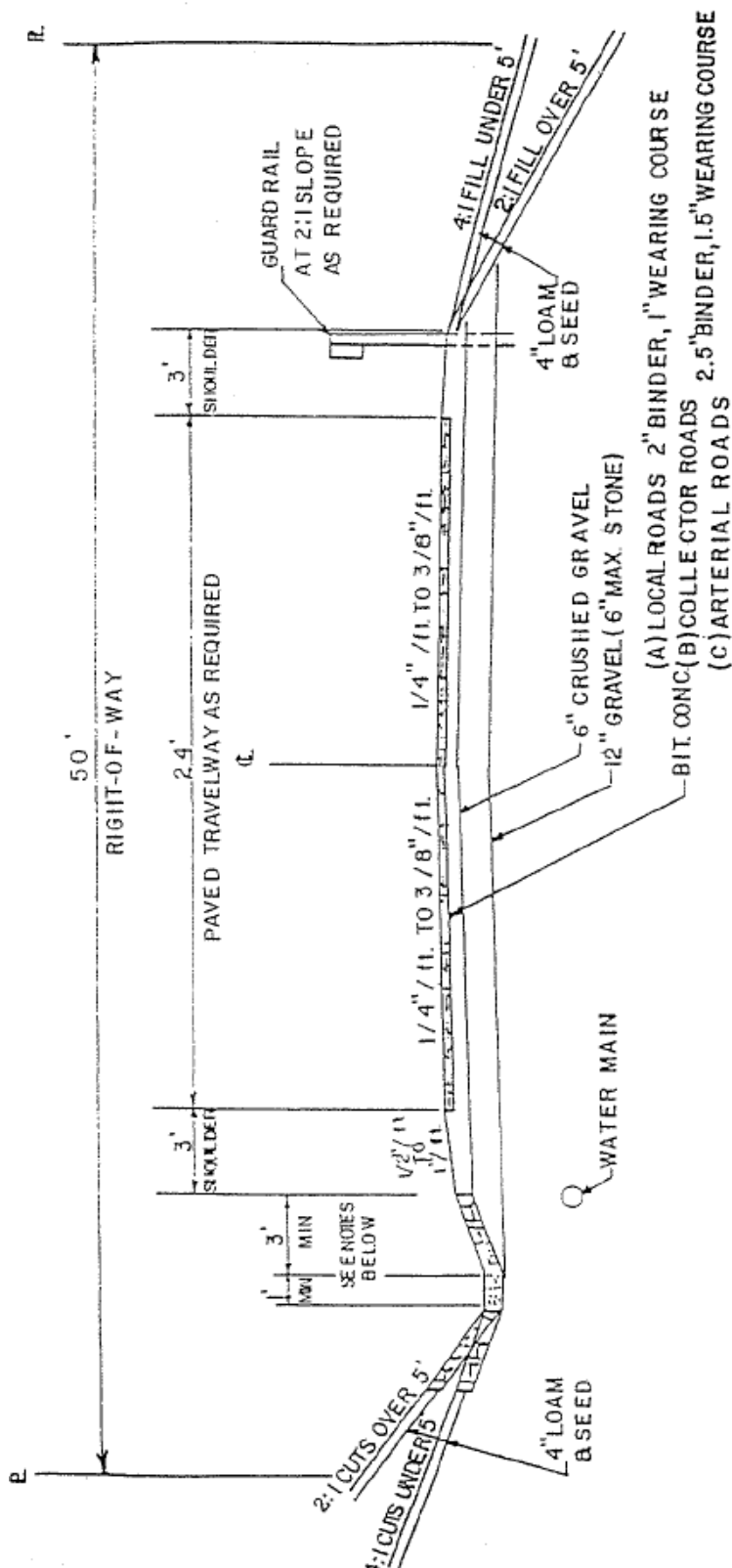
**490:1** These regulations may be amended or rescinded by the Planning Board, but only following a public hearing on the proposed change.

## **SECTION 4100 ENFORCEMENT**

**4100:1** It shall be the duty of the Board of Selectmen, and the Board of Selectmen is hereby given power and authority to enforce the provisions of these regulations. (1990)

TYPICAL ROAD SECTION

(1990)



TOWN OF ATKINSON  
 NEW HAMPSHIRE  
 TYPICAL ROAD SECTION  
 MAY 23, 1990  
 NOT TO SCALE

- NOTES:
1. WIDTH & DEPTH OF SWALE SHALL DEPEND UPON DRAINAGE DESIGN CALCULATIONS
  2. EROSION CONTROL STONE IN SWALE IN ACCORDANCE WITH N.H.D.P.W. & II. DRAINAGE MANUAL, IF REQUIRED
  3. ALL MATERIALS & CONSTRUCTION SHALL BE IN ACCORDANCE WITH STANDARD SPECIFICATIONS FOR ROAD & BRIDGE CONSTRUCTION STATE OF NEW HAMPSHIRE DEPT. OF TRANSPORTATION

# BUILDING CODE ORDINANCE

## SECTIONS BC100 - BC1200

### SECTION 100 BUILDING INSPECTOR

#### SECTION 100 APPOINTMENT

**100:1** The Building Inspector shall be appointed annually by the Board of Selectmen. In the event of death, disability, resignation or disqualification of the Building Inspector, the Selectmen shall appoint an Inspector to serve in his place. The Selectmen may, for cause and by majority vote, disqualify the Building Inspector at any time.

#### SECTION 200 DUTIES OF BUILDING INSPECTOR

**200:1** The Building Inspector shall be the administrative officer of this ordinance. He shall:

- a. Receive applications and fees for the erection and/or alteration of buildings and electrical wiring thereof as provided in this ordinance.
- b. Make available applications in duplicate.
- c. Keep complete records of his action on all applications along with duplicates of said application. he Building Inspector shall maintain a current status tabulation of building permits and site plan approvals associated with low-moderate income bedrooms/housing units.
- d. Promptly inspect sites of proposed buildings or buildings to be altered and study proposed uses of said buildings.
- e. Issue or deny residential permits within thirty (30) days of receipt of application, provided, however, that non-residential applications or residential applications encompassing more than 10 dwelling units shall be approved or denied within 60 days.
  - 1) Before issuing permits for any development approved under Section Z610 of the Zoning Ordinance, the Building Inspector shall receive written evidence of approval that housing assistance program funds are being utilized for low-moderate income dwelling units. Such written evidence shall be kept on file.
  - 2) **DELETED 1993.**
- f. Regularly inspect buildings during the process of erection or alterations. In new construction the following four inspections shall be made after the work has been completed:
  - 1) Footings and foundations

- 2) Rough framing, plumbing, electrical wiring, and chimney erection
- 3) Sewage system and waste disposal
- 4) Final inspection
- g. Report any violations of this ordinance immediately to the Board of Selectmen.
- h. Take such action in the enforcement of this ordinance as may be directed by the Selectmen.
- i. Accept and deposit with the Town Treasurer all fees collected by him under this ordinance.
- j. Act in cooperation with fire authorities in any matter in which their duties as prescribed by law may coincide or conflict.

### **SECTION 300 DUTIES OF THE APPLICANT**

- 310** Any person, persons, partnership, or corporation shall obtain a permit before beginning construction, alteration, or repairs, other than ordinary repairs, using application forms furnished by the Building Inspector.
- 310:1 DELETED 1991**
- 310:2** Said application shall be accompanied by a sketch or plan of the proposed building or alteration and by a sketch or plan showing the location of the building's foundation and its relationship in terms of distance to all lot lines. The Building Inspector may require a survey in order to assure compliance with all ordinance, subdivision, site plan, and building code regulations.
- 310:3** Said application shall be accompanied by a signed statement of the intended use of the building upon completion of construction or alteration.
- 320** The applicant shall display prominently at the site of the construction or alteration a card issued by the Building Inspector evidencing his permit.
- 330** The applicant shall make the premises accessible to the Building Inspector at reasonable times for the performance of his duties.
- 340** Any person, persons, partnership or corporation intending to install a heating device, regardless of value, shall first make application for a permit on application obtained from the Fire Inspector.
- 350** Before a building permit can be issued, any person, persons, partnership, or corporation intending to dredge or fill wetland areas on the site of proposed buildings or buildings to be altered shall first receive an official permit of approval from the New Hampshire Wetlands Board and present a copy of same to the Building Inspector.



## **SECTION 400 FEE SCHEDULE FOR BUILDING INSPECTIONS**

- 410** The Board of Selectmen shall set the rates for the inspection of buildings.
- 420** The Building Inspector and Health Officer shall be paid by the Town for issuing or reissuing all permits.
- 430** The Building Inspector, Fire Inspector, and/or Health Officer may obtain expert assistance for any inspection on a commercial and/or industrial building, and fees for this shall be assumed by the builder/ landowner.
- 440** The Building Inspector may require a professional engineering review or other type of technical review as deemed necessary. The cost of such review shall be borne by the applicant. (2012)

## **SECTION 500 CERTIFICATE OF OCCUPANCY**

- 510** The following shall be unlawful until a certificate of occupancy shall have been applied for and issued by the Building Inspector:
  - 510:1** Occupancy and use of a building hereafter erected, structurally altered or moved, or any change in the use of the existing building.
  - 510:2** No certificate of occupancy shall be issued for any special exception use of a building unless use has been authorized by the Board of Adjustment.
  - 510:3** Every certificate of occupancy for which a special exception use has been authorized, or in connection with which a variance has been granted, by the Board of Adjustment shall contain a detailed statement of such special exception use or variance and of any conditions to which the same is subject.
  - 510:4** Application for a certificate of occupancy for a new building or for an existing building which has been altered shall be made on forms provided by the Building Inspector after the erection or alteration of such building or part thereof has been completed in conformity with the provisions of this ordinance or of any duly secured variance. Such certificate shall be issued within 10 days receipt of said application, but only if all requirements of this and all other applicable ordinances or codes are complied with.
  - 510:5** Every certificate of occupancy shall state that the building or proposed use of a building complies with all provisions of law and of this ordinance, of all other applicable codes or ordinances of the Town, and, if applicable, with all provisions of any variance or requirements set forth for the special exception use authorized by the Board of Adjustment.
  - 510:6** Upon written request by the owner and upon payment of such fee as may be prescribed from time to time, the Building Inspector shall, after inspection, issue a Certificate of Occupancy for any building or use thereof existing at the time of adoption of this ordinance, certifying the conformity of such use (including, if applicable, the number of employees) and of any structures or any lot with the provisions of this ordinance.

- 510:7** No certificate of occupancy shall be issued by the Town of Atkinson for any unit in a Conservation Development until a Leadership in Energy and Environmental Design (LEED) Certificate, proof of National Green Building Standards (NGBS) verification, or proof of energy efficiency (if a special use permit allows a different standard) has been filed with the Planning Office. (2013)

## **SECTION 600 STRUCTURAL REQUIREMENTS**

No building shall be erected, altered, rebuilt, remodeled or substantially repaired unless in compliance with the following requirements:

### **SECTION 610 GENERAL PROVISIONS**

- 610:1** All conventionally constructed buildings shall conform to and comply with the New Hampshire State Building Codes. (3/14/2006; 3/11/2008)
- 610:2** **DELETED** (3/11/2008)
- 610:3** **DELETED** (3/11/2008)

### **SECTION 620 FIRE PROTECTION**

- 620:1** All new construction or alterations shall conform to the National Fire Protection Association (NFPA) Codes adopted by the Town by ballot and all associated updates to these codes as approved by the Planning Board at duly noticed Public Hearings. A list of all adopted codes and their updates are available at the Atkinson Town Hall. (1997)
- 620:2** Any building constructed for commercial or public use, or any building to be reconstructed in excess of 50% and intended for any of the said uses, shall provide for non-combustible walls and partitions between its component parts. Any building of wood or other combustible material shall provide, when reconstructed, remodeled or altered, for fire stops in every combustible wall or partition, at every floor, and between floor joints at every partition.
- 620:3** Any building intended or designed for any public use or congregation of people shall be constructed in accordance with the National Fire Protection Association Publication Number 101, entitled Life Safety Code.
- 620:4** No public garage for the storage of five or more motor vehicles, or no building having automobile service or repair enterprises connected therewith, shall be erected, altered, enlarged, unless the building is constructed, either in its entirety or to the extent of the alteration, enlargement, or addition, of material commonly considered slow burning or non-combustible. The use of approved automatic sprinklers may obviate this requirement.
- 620:5** No roof of any building may be covered or recovered in excess of twenty-five percent (25%) unless non-combustible or fire-resistant materials are used.
- 620:6** Heating installations:

- a. Chimneys and fireplaces constructed as parts of a new or existing building or altered within a new or existing building, shall be constructed in accordance with the Atkinson Fire Department Pamphlet Number 100 and its listed references.
- b. Oil burning furnaces shall be installed in accordance with the Atkinson Fire Department Pamphlet Number 100 and its listed references.
- c. Gas burning furnaces shall be installed in accordance with the National Fire Protection Association Publication Number 54 which the Atkinson Fire Department has adopted as its own.
- d. Wood burning stoves shall be installed in accordance with the Atkinson Fire Department Pamphlet Number 100 and its listed references.

**620:7** No wallpaper or other combustible material shall be laid over any thimble hole in any chimney.

**620:8** No smoke pipes shall be installed or erected which pass into or through partitions or walls or combustible material except when guarded by a double collar or metal with air space of at least five inches, or by at least five inches of brick or other non-combustible material.

**620:9 Fire alarms**

- a. Commercial buildings, industrial buildings, commercial/industrial buildings, and buildings used to accommodate public assembly of more than fifty (50) persons shall have fire alarm installations which:
  - 1) Meet the alarm system standards for hard wiring as required in NFPA 13, 72, 75, 101 and 1221.
  - 2) Are connected to a central alarm monitoring service  
with around-the-clock coverage (24 hours/day).

**620.10 Sprinkler systems**

- a. Residential buildings.
  - 1) **DELETED 1994**
- b. Commercial or industrial buildings.
  - 1) All commercial or industrial facilities shall have a sprinkler installation which is in accordance with NFPA 13 standards and which consists of the following:

A dry sprinkler system. "Dry sprinkler system" shall mean a system employing automatic sprinklers attached to a piping system containing air under atmospheric or higher pressures, with loss of pressure from the opening of a sprinkler or detection of a fire condition allowing fire-suppression agents to be injected into the piping system and out the opened sprinkler.

- (a) Exterior connections to the dry sprinkler system which meet the approval of the Atkinson Fire Department for adequacy and accessibility and are equipped to connect with a public water system in the event it becomes available.
  - 2) Storage buildings may or may not be required to have sprinkler system installations. Determination shall be made by the Atkinson Fire Department.
- c. Places of public assembly
  - 1) Sprinklers shall be installed in all buildings used to accommodate public assembly of more than fifty (50) persons. The Atkinson Fire Department shall determine the type of sprinkler system required by taking into account the largest potential number of persons who can safely assemble within the structure at one time and the relationship of that number to NFPA 13 and 13-D standards as applicable.
- d. Occupancy and life-safety classifications
  - 1) Buildings which are classified as occupancy hazards or life safety concerns, as determined by NFPA Codes 101 and 1231, shall have a fully working fire suppression system on site, with extinguishing agent being either chemical compounds, CO<sub>2</sub>, halon, water, or any combination thereof, as required by the Atkinson Fire Department. (1988)

**620:11 Attached private garage**

- a. Private garages attached to any building or portion of a building used for living purposes in Use Groups R-1, R-2, R-3, R-4, or I-1 shall be completely separated from any adjacent interior spaces, including the attic, by walls and/or partitions constructed of not less than one-hour fire resistance rating.
- b. Door protectives shall be installed in all doorways constructed in fire-rated walls/partitions as specified in subparagraph "a" above and leading to any interior space used for living purposes. Door protectives may be made of 1 3/4" (one and 3/4 inch) solid core wood doors or equivalent. If 1 3/4" solid core wood is used, such door shall be solid from top to bottom with no panels cut into the door on either side.  
  
Any other type of fire door must be labeled with the appropriate one-hour fire rating label affixed.
- c. Door protectives installed in remote areas may require self-closing capability if deemed necessary by the Fire Inspector.
- d. Private garages having sprinkler installations conforming to NFPA standards shall be exempt from the requirements of subparagraphs "a" and "b" above. (1989)

## **SECTION 630 ELECTRICAL WIRING**

**630:1 DELETED (3/11/2008)**

## **SECTION 640 FOUNDATIONS**

**640:1 DELETED 1993.**

**640:2 DELETED 2003.**

## **SECTION 650 FLOOR AREA**

**650:1** Every building to be used as a residence shall have a minimum ground floor area of eight hundred (800) square feet outside measurement, and a floor area, exclusive of cellar, of six hundred (600) square feet for each additional story.

## **SECTION 660 EXTERIOR**

**660:1 DELETED 1991.**

## **SECTION 670 PLUMBING**

**670:1** All dwelling and all commercial or public buildings shall be connected to the public sewer system when available. When a public system is not available, a private sewage disposal system is required. The type, size, and construction of all septic tanks and drainage fields shall be approved by the town Health Officer.

**670:2 DELETED 1993.**

**670:3 DELETED 1993.**

**670:4 DELETED 1993.**

## **SECTION 680 SWIMMING POOLS**

**680:1** A permit shall be obtained from the Building Inspector before installation of an inground pool, above-ground pool, or storable pool of 30 or more inches deep.

a. **DELETED 2003.**

b. **DELETED 2003.**

c. **DELETED 2003.**

## **SECTION 700 EXEMPTIONS**

**700:1** The construction of small accessory buildings not used for living purposes, together with minor alterations, repairs and general upkeep of existing buildings shall be exempt from the provisions of this ordinance.

**SECTION 800 AMENDMENT**

**800:1** This ordinance may be amended by a majority vote of any legal town meeting when such amendment is published in the warrant calling for the meeting, except as allowed by RSA 674:52 VI. (1993)

**SECTION 900 ENFORCEMENT**

**900:1** Any person, persons, firm or corporation violating any of the provisions of this ordinance shall be subject to Penalties and Remedies pursuant to RSA 676:17, as amended. (3/10/2009)

**SECTION 1000 EFFECTIVE DATE**

**1000:1** This ordinance shall take effect upon its passage.

**SECTION 1100 SAVING CLAUSE**

**1100:1** If any section, clause, provisions, portion or phrase of this ordinance shall be held to be invalid or unconstitutional by any court of competent authority, such holding shall not affect, impair or invalidate any other section, clause, provision, portion or phrase of this ordinance.

**SECTION 1200 REPEAL OF PRIOR BUILDING CODE ORDINANCE**

**1200:1** Any and all building regulations heretofore enacted by the Town of Atkinson are hereby repealed. (1959)

**SECTION 1300**

Under the provisions of RSA 674:51 & 674:34, the Zoning Board of Appeals shall act as the Atkinson Building Code of Appeals. (2004)

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# WATER SUPPLY AND SEWAGE DISPOSAL REGULATIONS

## SECTIONS WS100 - WS300

A regulation governing the construction, alteration and maintenance of wells and subsurface wastewater disposal systems pursuant to RSA 147:1

Office of the Selectmen

**SECTION 100 PURPOSE.** The Board of Health of the Town of Atkinson, New Hampshire hereby adopts this regulation in accordance with RSA 147:1 in order to protect the groundwater supplies of the Town from contamination and to provide for the safe disposal of wastewater and other putrescible materials.

**SECTION 200 DEFINITIONS.** As used in this regulation, the following terms (appearing in alphabetical order) shall have the following meaning unless the context clearly indicates otherwise.

- A1 Absorption field.** A system which distributes wastewater by the use of pipes over an area of soil from which the wastewater percolates downward through the soil.
- A2 Aerobic tank.** A tank that provides for the aeration of the wastewater and subsequent settling of solids.
- B1 Bedrock.** The solid rock that underlies soil or is exposed at the surface. It is often referred to locally as ledge.
- C1 Commercial.** As defined by the Town of Atkinson Zoning Ordinance.
- C2 Community water system.** A public water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.
- D1 Domestic wastewater.** Wastewater that originates from residential uses such as toilet, kitchen, and wash water wastes. Commercial and industrial wastewater that has similar characteristics as wastewater from residential uses shall be considered domestic wastewater.
- D2 Dry wells.** (See "Seepage pits".)
- E1 Designer.** Any permitted septic designer from N.H. who, by experience and capability, demonstrates the ability to perform all necessary tests to collect and properly disseminate all technical data and to design acceptable waste disposal systems as required by the provisions of this chapter including all other pertinent state regulations.
- F1 Failure of subsurface wastewater disposal systems.** When a system no longer functions effectively, creating health hazards and/or nuisance conditions, as demonstrated by backed-up toilets, surfacing waste-water, or by substantial pollutant movement away from the system.

- G1 Grey water.** Domestic wastewater that contains wash, laundry, and/or kitchen wastewater, but that does not contain any toilet wastes, i.e., feces or urine.
- H1 Hard pan.** A compact soil layer high in silt and very fine sand and generally low in clay. It is quite dense and has very little pore space. The hardpan retards the downward movement of water and roots. Permeability is moderately slow to slow.
- I1 Inspector.** The individual authorized by the Board of Selectmen to perform all administrative and inspection responsibilities of this chapter.
- I2 Internal elimination system.** Toilets from which no wastewater is discharged to a sewer or subsurface wastewater disposal system. Internal elimination systems include composting or incinerator toilets.
- N1 Non-community water system.** A public water system that is not a community water system.
- P1 Public water system.** A system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly serves and average of at least 25 individuals daily at least 60 days out of the year. A public water system is either a "community water system" or a "non-community water system."
- R1 Raised absorption system.** An absorption system which must be raised (built upon fill) in order to meet minimum distance requirements to groundwater, ledge, or impervious layers.
- R2 Residential.** As defined by the Town of Atkinson Zoning Ordinance.
- S1 Seepage pits.** Covered underground chambers with open, jointed lining, generally surrounded with crushed stone from which wastewater seeps into the surrounding soil.
- S2 Septic tank.** A container through which wastewater passes before reaching the absorption field, the purpose of which is to remove solids, greases, and scum and allow anaerobic processes to occur so that the waste-water does not clog the absorption field.
- S3 Soil type.** As defined by the National Cooperative Soil Survey.
- S4 Soil type determination.** The soil type as determined by a qualified soil scientist as designated by the Rockingham County Conservation District using the standards of the National Cooperative Soil Survey.
- S5 Subsurface wastewater disposal system.** A system which treats and disposes of wastewater by use of a septic tank, distribution box, and absorption field, excluding the use of seepage pits, dry wells and aerobic tanks.

## **SECTION 300 WASTEWATER DISPOSAL SYSTEMS**

### **SECTION 310 GENERAL REGULATIONS**

- 310:1** No building permit for the construction of any building from which sewage or waste will discharge within the Town of Atkinson, NH shall be issued without prior approval of plans



and specifications by the Town of Atkinson and the New Hampshire Department of Environmental Services. (2012)

- 310:2** No waste disposal system shall be constructed, repaired, or altered within the Town of Atkinson without prior approval of plans and specifications by the Town of Atkinson and the New Hampshire Department of Environmental Services. (2012)
- 310:3** No waste disposal system within the Town of Atkinson shall be replaced within the confines of its original site without prior approval of plans and specifications by the Town of Atkinson.
- 310:4** Responsibility for accuracy of technical data and compliance with design criteria.
- a. The designer shall be responsible for the accuracy of all technical data and compliance with all design criteria; in the event of any question or dispute, the DES shall make the final determination of the accuracy of such data. (2012)
- 310:5** Design construction and capacity requirements for sewerage disposal system.
- a. The system shall be designed, constructed and satisfy all requirements set forth in pertinent State of New Hampshire DES Regulations as they exist, may be established or may be amended. These regulations currently include but may not in the future be limited and referred to as Chapter Env Ws 1000 - Subdivision and Individual Sewage Disposal System Design Rules. (2012)
  - b. The system shall be designed, constructed and satisfy all additional requirements set forth in these Town of Atkinson Section 300 requirements that are more stringent than State regulations.
- 310:6** Additional local design, construction and capacity requirements for sewage disposal systems.
- a. Filter Fabric - An effective barrier of a minimum of 5 oz./square yard of non-woven, polyester filter fabric shall be placed over the filter material to prevent infiltration of the backfill.
  - b. Dry Wells - Dry wells shall be prohibited for use in new or replacement systems for the disposal of domestic or commercial sanitary waste. Laundry washing machines shall be construed as discharging sanitary waste.
  - c. Holding Tanks - Holding Tanks shall be prohibited in all cases of new building construction and expanded use.
    - 1) Holding tanks may be permitted as a replacement system in cases of failure of an original system, but only when no other conventional system can be properly constructed.
    - 2) The minimum size of a holding tank shall be 2500 gallons.
    - 3) A suitable audio/visual alarm system shall be installed. The alarm shall warn the residents when the liquid level in the holding tank reaches 80%

of the tank's capacity. The alarm control panel shall be located within the living quarters of the home which it serves. The panel shall be unobstructed and remain within full view at all times.

- 4) All joints and concrete surfaces shall be properly sealed to maintain a 100% leak proof condition.
  - 5) When installed, but prior to backfilling, the holding tank shall be filled with water twenty-four (24) hours prior to inspection by the Town Health Officer or his delegated representative. The alarm system shall be inspected at this time.
  - 6) Following inspection and approval by the Town, the homeowner must register the system with the Town of Atkinson Health Department.
- d. Percolation Test -
- 1) Percolation tests must be witnessed by an agent of the Town of Atkinson.
  - 2) A minimum notice of (24) hours shall be given prior to the start of work and request for inspections.
- e. Pipe Specifications -
- 1) Pipe used for lines between the septic tank and the absorption field, shall comply with the PVC SDR (standard dimension ratio) #35 or equal. Pipes used under driveways or other areas subject to heavy loads shall be installed to withstand the imposed loads of H20 or equal.
  - 2) Pipe used in the absorption field shall be perforated PVC pipe Schedule #35 or equal. All joints shall be tight and all ends connected.
- f. Public Surface Water Supply -
- 1) The distance from a septic tank to a public surface water supply shall be 75'.
  - 2) The distance from an absorption field or bed to a public water supply shall be (reference Zoning Regulation Sections 410:8 & 420:5).
- g. Seasonal Conversions -
- 1) All seasonal conversions to year-round use will be required to have a septic system design approved by the New Hampshire Department of Environmental Services. There will be no exceptions. (2012)

**310:7 Construction requirements for Wells -**

- a. The well shall be designed, constructed and satisfy all requirements set forth in pertinent State of New Hampshire DES Regulations as they exist, may be established or may be amended in the future. (2012)
- b. These NH DES include but are not limited to: (2012)

- 1) New Hampshire Water Well Board Chapter We100-We-800
- 2) Well Siting Criteria Env-Ws378
- 3) Well Siting Criteria Env-Ws372
- 4) Any other applicable state and/or local requirements.

**310:8 Compliance: Permits; Fees; Inspections**

a. Wells -

- 1) No well or sewage disposal system shall be installed, altered, maintained in the Town of Atkinson unless it is in conformity with these regulations as well as the pertinent regulations of the State of New Hampshire, as may exist, be established or amended.
- 2) A permit for the installation of wells and/or alterations to sewage disposal system must be obtained from the local Health Officer prior to the commencement of any work on a system.

b. Septic Systems - (2012)

- 1) A fee made payable to the Town of Atkinson shall accompany every application for a permit for the installation and/or alteration of a sewage disposal system. The applicant must also submit four sets of plans for the requested system permit (three for Department of Environmental Services and one for the Town of Atkinson). Plans must be submitted for Town of Atkinson review prior to submission to DES.
- 2) All local waivers if necessary, must be obtained prior to submitting the plans to DES for approval.
- 3) The Town will require inspections during the course of work at the following intervals:

c. Bed bottom.

d. Under course filter material.

e. Final inspection and filter fabric in place before cover and grade.

f. Loam & Seed

- 1) Minimum notice of twenty-four (24) hours shall be given prior to the state of work and to request inspections of any listed stages.

g. Wells -

- 1) A permit must be obtained before any drinking well is installed, and must be accompanied by a diagram of the location. Diagram must show existing or proposed subsurface disposal system on that and adjacent lots. A fee shall accompany the application.

- 2) In a new construction, prior to issuance of a Certificate of Occupancy, a certified testing lab shall do a well water analysis in accordance with the Federal Safe Drinking Water Act.
- 3) Wells currently in operation that may required replacement shall be tested according to the above.

**310:9 Responsibilities -**

- a. NH Licensed Designer of Subsurface Disposal Systems -
  - ) responsible for the collection of all necessary technical data relative to any proposed system or alteration,
  - 2) for the design and layout of said systems;
  - 3) for the submitting of all prints and applications as required by the State and Local authorities.
    - (a) obtain copies of applicable regulations from NH DES and remain appraised of regulation changes. (2012)
- b. Property Owner -
  - 1) to provide to the installer all approved plans and specifications necessary for the compliance of State and local requirements.
  - 2) no disposal of system leach fields will be allowed by stockpiling above ground or by the subsurface disposal below the high water table.
- c. Installer – NH Licensed Installer of Subsurface Disposal System -
  - 1) to secure an installation permit; and
  - 2) to construct the system or alter any existing system in accordance with all regulations and laws; and
  - 3) to notify the inspector for all inspections before backfilling.
- d. Agent(s) -
  - 1) to maintain files of all approvals issued by DES; (2012)
  - 2) to issue permits in accordance with the regulations;
  - 3) to perform any inspections as may be deemed necessary in accordance with same;
  - 4) to return, within 10 working days, a copy of the application receipt;
  - 5) to perform any other duties relative to individual waste disposal systems as specified by the Board of Health;

- 6) to provide copies of Section WS100-300 to residents upon request; and
- 7) to provide a reference copy of State regulations in the Building Department. Copies of State Regulations will not be available locally for individual use; must be obtained from NH DES. (2012)

**310:10 Licenses –**

- a. All designers and installers must maintain current State of New Hampshire licensure.

**310:11 Fines and Penalties –**

- a. A penalty of one hundred (\$100) dollars per day shall be imposed on the applicant for failure to comply with these regulations. Each day of continuing failure to comply, after written notice of the violation(s) shall constitute a new offense. Repeated violations of regulations may be cause for the agent(s) to refuse to issue further permits for a period of one (1) year.

Approved and adopted by Board of Health/Selectmen 10/25/9

**SUBDIVISION  
REGULATIONS**

**TOWN of BOW, NEW HAMPSHIRE**

May 20, 2021

## ADOPTION AND REVISIONS

Pursuant to the authority vested in the Bow Planning Board by the voters of the Town of Bow and in accordance with the provisions of Chapter 675, Section 6, (formerly Chapter 36, Sections 19-29), New Hampshire Revised Statutes Annotated, 1955, as amended, the Bow Planning Board adopts the following Regulations governing the subdivision and development of land in the Town of Bow, New Hampshire.

March 8, 1960 Town Meeting authorized the Planning Board to regulate Subdivision of Land per Warrant Article 16.

May 18, 1967 Subdivision Regulations originally adopted by the Planning Board.

### Amendments:

August 17, 1972

March 7, 1974

February 5, 1976

August 2, 1979

February 3, 1983

July 28, 1988 (Comprehensive Revision)

March 30, October 5, and November 2, 1989

July 5, 1990

February 7, 1991

February 6, 1992

April 1 and July 8, 1993

January 6, April 7, and August 4, 1994

September 1, 1994

November 7, 1996

February 5, August 6, and September 3, 1998

December 19, 2002 and February 6, 2003

March 4, 2004

May 5, 2005

February 4 and March 25, 2010

January 16, 2014

October 22, 2015

May 20, 2021

SUBDIVISION REGULATIONS; TOWN OF BOW, NH

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## INDEX

Section 1.00 - Authority and Title:

Pursuant to the authority vested in the Bow Planning Board by the voters of the Town of Bow under Revised Statutes Annotated (RSA) 674:35 and in accordance with the provisions of RSA 674:36, as amended, the Bow Planning Board adopts the following Regulations governing the subdivision and development of land in the Town of Bow, New Hampshire, such Regulations to be known as the "Subdivision Regulations of the Town of Bow".

## Section 2.00 - Definitions:

- 2.01 Abutter: Any person whose property is located in New Hampshire and either (a) adjoins or is directly across the street or stream from or (b) is within two hundred (200) feet of the land under consideration by the Board. Professionals whose stamp appears on documents submitted to the Board and holders of conservation easements on abutting properties shall be notified as abutters. For purposes of receiving testimony only, and not for purposes of notification, the terms "abutter" shall include any person who is able to demonstrate that his land will be directly affected by the proposal under consideration. For purposes of receipt of notification by the Board of a hearing, in the case of an abutting property being under a condominium or other collective form of ownership, the term "abutter" means the officers of the collective or association, as defined in RSA 356-B:3, XXIII.
- 2.02 Applicant: Any individual, firm, association, syndicate, co-partnership or corporation, trust or other legal entity commencing proceedings under these Regulations to effect a Subdivision of land or Lot Line Adjustment hereunder for himself or for another.
- 2.03 Application: Any Preliminary or Final Application.
- 2.04 Area of Special Flood Hazard: Any area designated as an Area of Special Flood Hazard on the Town of Bow Flood Insurance Rate Map, as adopted by the Board of Selectmen.
- 2.05 Board: The Planning Board of the Town of Bow, New Hampshire.
- 2.06 Buildable Land: All land except that which is defined or described as Unsuited for Subdivision or Building Purposes in Sections 3.02H or 8.03F of these Regulations.
- 2.07 Checklist: The list of information which must appear on a Plat and materials which must accompany an Application, which list must be completed, initialed and filed by the Applicant at the time of filing an Application.
- 2.08 Comprehensive Plan: The Master Plan for the Town of Bow of 1992, as it may be amended from time to time.
- 2.09 Concept Plat or Plan: A preliminary concept plan of a proposed Subdivision which satisfies the provisions of Section 6.01 of these regulations.
- 2.10 Condominium: The form of ownership of real property, and any interests therein, lawfully submitted to the provisions of RSA 356-B, in which individual owners own or lease separate units but together, or through an owners' association, own the common areas appurtenant to the units.

- 2.11 Drainage Right-of-Way: Land required for the installation of storm water sewers or drainage ditches, or required along a natural stream or watercourse for preserving the channel and providing for the flow of water therein to secure safety from flood damage and to preserve natural amenity.
- 2.12 Engineer: The Board of Selectmen of the Town of Bow or appointed agent.
- 2.13 Final Application: The filing by an Applicant of a Final Application Form and all other documents and information described in Section 4.05A.
- 2.14 Final Application Form: The form provided by the Board to be submitted by an Applicant to request approval of a Final Plat.
- 2.15 Final Plat or Plan: The Final Plat of a Subdivision which is presented to the Planning Board for final approval in accordance with Section 4.05 of these Regulations, which complies with Section 6.04 of these regulations and which, if approved, shall be filed with the Registrar of Deeds of Merrimack County.
- 2.16 High Intensity Soil Survey: A study or survey of the soil types and characteristics of a plot or parcel of land which describes and defines the soil properties and soil types of the parcel in accordance with the Standards for a High Intensity Soil Map which are adopted from time to time by the Society of Soil Scientists of Northern New England or comparable standards of other comparable professional organization.
- 2.17 Lot: The whole area of a single parcel of land, a tract, plot or portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership or for building development. A lot is an area with ascertainable boundaries in single or joint ownership, undivided by a street, established by deed(s) of record or a segment of land ownership defined by lot boundary lines on an approved subdivision plan.
- 2.18 Non-Residential Development: Any development, use or change in use of land other than single or two-family residential development, whether or not such development includes a Subdivision or Resubdivision of the land.
- 2.19 Official Map: The official Town map adopted in accordance with RSA 674:10 (formerly RSA 36:16-18) as amended. Such a map shall be deemed to be conclusive with respect to the location and width of Streets and the location of public parks shown thereon.
- 2.20 Performance Guarantee: Any security, including performance bonds issued by a State of NH-approved bonding company, escrow agreements, Letters of Credit, and other similar collateral or surety agreements, which may be accepted by the Town in lieu of a requirement that a Subdivider complete certain improvements before the Board or other Town body approves a Plat.

- 2.21 Planned Unit Development and Cluster Development: A Subdivision which is planned and developed as a unified whole according to comprehensive and detailed plans, including plans as to the location of Streets, utilities, public and common open spaces, common facilities, lots or building sites, and according to comprehensive design principles for all buildings and improvements intended to be located, constructed and used in the Subdivision. Development may occur in a single phase or a programmed series of phases. All of the Subdivision including common facilities shall be managed for the common benefit of the residents of the development.
- 2.22 Plat or Plan: A map or plan of a Subdivision.
- 2.23 Preliminary Application: The filing by an Applicant of a Preliminary Application Form and all other documents and information described in Section 4.03B of these Regulations.
- 2.24 Preliminary Application Form: The form provided by the Board to be submitted by an Applicant to request consideration of a Preliminary Plat.
- 2.25 Preliminary Plat or Plan: A Plat of a Subdivision complying with the provisions of Sections 6.03 of these Regulations.
- 2.26 Request for Preliminary Conceptual Consultation: A Subdivider's request for non-binding discussions with the Board filed pursuant to Section 4.01 of these Regulations.
- 2.27 Resubdivision: A change in a map of an approved or recorded Subdivision plat if such change affects any street layout on such map or area reserved thereon for public use, or any lot line; or if it affects any map or plan legally recorded prior to the adoption of any regulations controlling Subdivisions.
- 2.28 Site Plan Review: The review by this Board of an Applicant's plans for Non-residential Development pursuant to the Site Plan Review Regulations.
- 2.29 Site Plan Review Regulations: The Site Review Regulations for Bow, New Hampshire.
- 2.30 Street: Any street, avenue, boulevard, road, lane, alley, viaduct, highway, freeway and other public roadway. For the purposes of these Regulations "streets" shall be further divided into the following classifications:
- 2.30.01 Arterial Street (Class A): An inter-community thoroughfare designed primarily for high volume traffic movement throughout the community and beyond.
- 2.30.02 Collector Street (Class B): A street providing a lower level of traffic service than an arterial street and which is designed to provide

access between and among areas of the community.

2.30.03 Local Street (Class C): A residential street having the primary function of providing direct access to adjoining properties; such street not being designed to provide for traffic service between and among areas of the community. Class C streets shall not be built in areas with the potential of serving more than fifty (50) units or of serving any commercial facilities.

2.30.04 Private Street: A Street open to the public that is maintained by a private entity.

2.31 Subdivider: Any Applicant who has or who intends to request the Board to approve a Subdivision or Lot Line Adjustment.

2.32 Subdivision:

2.32.01 "Subdivision" means the division of the lot, tract, or parcel of land into two (2) or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale, rent, lease, condominium conveyance, conversion to condominium form of ownership, or building development. It includes Resubdivision and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided.

2.32.02 The division of a parcel of land held in common and subsequently divided into parts among the several owners shall be deemed a subdivision under this title.

2.32.03 The grant of an easement in gross to a public utility for the purpose of placing and maintaining overhead and underground facilities necessary for its transmission or distribution network such as poles, wires, cable, conduit, manholes, repeaters and supporting apparatus, including any unmanned structure which is less than two hundred (200) square feet, shall not be deemed to create any new division of land for any other purpose.

2.32.04 Lot Line Adjustment: A minor adjustment of the location of the boundary between two or more Lots which results in no new Lots, which involves no construction of new Streets or other public improvements, and which is not a Resubdivision.

2.32.05 Major Subdivision: Any Subdivision not classified as a Minor Subdivision.

2.32.06 Minor Subdivision: Any Subdivision which creates three (3) or fewer lots or condominium units with no potential for future

subdivision, which would result in an aggregate number of greater than three (3) lots, which does not require the construction of any new Street or the extension of municipal facilities, and which is not in conflict with any duly accepted or approved Street, plan or map. For the purposes of determining the applicable requirements of these Regulations, a Lot Line Adjustment shall be deemed to be a Minor Subdivision.

- 2.33 Substantially Complete: The Select Board has the authority of RSA 676:12 V to determine the point at which a road has been constructed to a standard of Substantially Complete such that buildings, which depend on such new road for frontage or access, may be used or occupied.
- 2.34 Turnaround - Permanent: The permanent termination of a Street that will not, or cannot, be extended. This classification shall be made by the Planning Board after initial review and consultation.
- 2.35 Turnaround - Temporary: The area constructed at the termination point of any street which, in the foreseeable future, will be extended, either further onto the developer/owner's holdings or onto abutting properties. This classification shall be made by the Planning Board after initial review and consultation.

## Section 3.00 - General Requirements:

- 3.01 Subdivider's Responsibility: It is the responsibility of each Subdivider or Applicant to read and follow these Regulations. If a Subdivider or Applicant does not fully understand the Regulations, it is his or her responsibility to seek the advice and counsel of Town officials, agents, or other qualified persons.
- 3.02 All Subdivisions: This Section sets forth certain general requirements that apply to all Subdivisions in the Town of Bow.
- A. State Grid Coordinates: All surveys, control and boundary information shall be tied into and refer to the State Grid Coordinate System.
  - B. U.S.G.S. Data: All contours, profiles and other elevations shall refer to current U.S.G.S. Data.
  - C. Buffer Strip: All Subdivisions shall provide for a "Green Strip" or "Buffer Strip" along all existing or new Streets, Zone boundaries, and abutting, established neighborhoods. This "strip" shall be equivalent to the building setback distance in width, or up to 50 feet wide as directed by the Board, and shall extend along the entire frontage of such Streets or Zone boundaries. Construction shall be prohibited in this "strip" and no existing trees of six inch (6") diameter or larger within the strip shall be disturbed. The Planning Board, in cases of fields or similar natural features may require the planting of adequate trees to provide for proper screening. The only exception to this Section shall be for the installation of proper driveways.
  - D. Substandard Streets: Where a Subdivision borders an existing Street that is below the standards set forth herein, the Applicant shall set aside and show areas for widening or realigning such Street to the extent necessitated by the Application. Any land set aside for this purpose shall be deeded to the Town and shall not be counted for lot size, setbacks, or frontage. Said areas shall be marked "Road Right-of-Way" on the Final Plat.
  - E. Lot Boundaries: Prior to the issuance of any permits, on any new lots created by a Subdivision, all lot corners shall be permanently marked as provided in Section 7.04 of these Regulations. Also, all side lot lines shall be adequately flagged so as to allow proper orientation of improvements and the side lines shall be cleared to a depth sufficient to allow verification of the location of all improvements, i.e. house, well, septic system, driveway, etc.
  - F. State and Federal Approvals: Copies of all Applications to the State of New Hampshire for approval of on-site septic systems, alteration of terrain permits, dredge and fill permits, and driveway permits, and copies of



Applications to federal agencies for Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1334 or for any other permit or approval required by the State of New Hampshire or federal agency for the Subdivision must be filed with the Board prior to approval of the Preliminary Plat. Approval of any Final Application shall be conditioned upon filing with the Board copies of permits for all such state and federal approvals.

- G. Conveyances to Town: Before recordation of a Final Plan of a Subdivision requiring new road construction or the extension of municipal services, the owner shall transfer to the Town of Bow by Warranty Deed, all lands not platted for residential use and common area green spaces and recreational areas, or if commercial/industrial, for that use. Open spaces of adequate proportions and suitably located streets may be required to accommodate existing and prospective traffic and to afford adequate light, air, and access of fire-fighting apparatus to buildings and equipment and be coordinated to pose a convenient system. The lands described above shall include but not be limited to, the following categories:  
Public parks, recreation areas, recreation easements, open space, road rights-of-way, future extension requirements for roads, strips of land reserved for access to abutters and/or future streets, all other rights-of-way or dedicated lands.
- H. Unsuitable Land: Land of such character that it cannot be safely used for building purposes because of danger to health or peril from fire, flood or other hazard shall not be platted for residential occupancy, nor for other use which would tend to increase the danger to health, life or property or aggravate the flood hazard. Land subject to periodic flooding, poor drainage or other hazardous conditions, shall not be subdivided. Land with unsuitable soil or inadequate capacity for individual sanitary sewerage disposal systems shall not be subdivided unless connected to a common sewer system. No land described above and no land designated as Area of Special Flood Hazard or shown to be bog, marsh, swamp area, area of high water table, or designated as wetlands as set forth in the Town of Bow Zoning Ordinance Article 10.01, or any similar situation, or area necessary for the protection of aquifers which may serve as future sources of drinking water for the Town, or with slopes in excess of thirty-three percent (33%), or ledge which is exposed or lying within four (4) feet of the soil surface, or which is subject to an easement or a right-of-way in favor of the Town, County, State, Federal Government, or any third party shall be counted toward the required minimum lot size, but shall be allowed to be added to lots if the public welfare and safety is protected. Any land covered by any soils listed by the "Merrimack and Belknap Counties Soils Survey", USDA Natural Resources Conservation Service as poorly drained or very poorly drained, shall likewise not be counted towards the minimum lot sizes. In the event that a Subdivision contains any land, soils or natural features described in this Subsection, the

Applicant shall, at the discretion of the Board, submit as part of his Application the report and associated plan of the subdivision of a certified soil scientist as defined in RSA 310-A:76 who has performed a High Intensity Soil Survey of the Subdivision.

- I. Ledge: All areas of exposed ledge shall be identified and plotted on any Plat submitted to the Board.
  
- J. Protection of Natural Features: Due regard shall be shown for all natural features, such as trees, water courses, scenic points, rare plant or animal species, historic spots and similar community assets, which if preserved, will add attractiveness and value to the Subdivision or preserve the natural resources of the Town. Where appropriate, the Board may require the Applicant to dedicate lands or grant conservation easements to the Town to protect such resources in a manner consistent with Section 3.03C of these Regulations.
  
- K. Driveway Access: The provisions of RSA 236:13 and 14 "Driveways and other Accesses to the Public Way" are adopted by reference into these Regulations and the provisions and conditions thereof are extended to include Town Classified Roads of Classes 4 and 5. It shall be the responsibility of the property owner to maintain all portions of driveways and associated drainage facilities located within public right-of-way areas.
  
- L. Scattered or Premature Subdivisions: The Board may disapprove any plat (a) where it finds that it would result in the scattered or premature subdivision of land such as would endanger or injure health, safety or prosperity by reason of lack of water supply, drainage, transportation or other public services or facilities, or necessitate an excessive expenditure of public funds for the supply of such services or facilities, and in this connection, may take into consideration off-site factors affecting the provision of public services, including the adequacy of existing roads and streets; or (b) where the Board finds that the proposed Subdivision would be contrary to the harmonious, coordinated development and growth of the Town as provided in the Comprehensive Plan.
  
- M. Disturbing Environment: No person who is required to submit an Application for approval of a Subdivision pursuant to these Regulations shall commence the construction of roads within the land proposed to be subdivided or clear the land of natural vegetation or place any artificial fill thereon or do any other act or acts which will alter the natural state of the land or environment, unless and until the Final Plat relating thereto has been submitted and approved in accordance with the requirements of these Regulations. Furthermore, no such construction shall commence prior to the conclusion of a pre-construction conference and issuance of written authorization in accordance with Section 9.00 of these regulations. Nothing in this paragraph shall be construed to prevent such preliminary ground surveys, marking by stakes, engineering studies, inspections, and

testing (including test borings and test pits) as may be necessary to evaluate the suitability of the land for subdivision and to assemble the information required to be shown on a Preliminary Plat, provided, however, that such preliminary surveys, staking, studies, inspection and testing shall be accomplished with the minimum disturbance or alteration of the natural state of the land environment.

N. Town Utilities:

1. Town Sewer: If any portion of a Subdivision fronts on an existing street served or reasonably expected to be served by Town sewer; or fronts on a new street leading directly from a street served or reasonably expected to be served by Town sewer; or fronts an existing street and lies within the lesser of one hundred (100) feet per lot or one thousand (1000) feet of a street served or reasonably expected to be served by Town sewer; the Plat shall show appropriate extensions to the existing sewer lines and appropriate sewer connections from all improvements to the new or existing sewer lines. The use of on-site sewage disposal systems shall not be permitted in such a Subdivision after such sewer service becomes available.
2. Municipal Water System: If any portion of a Subdivision includes frontage on an existing street in which is located a Municipal Water main in said frontage and Municipal Water service is available, the Plat shall show appropriate extensions to each lot in the Subdivision from the existing water main and provide for appropriate water connections from all improvements on the lots to the water main. If a water main is constructed to a point where the main abuts any of the lots within the Subdivision, the lots within the Subdivision may be charged a proportionate share of the costs to extend the main to serve the lots within the Subdivision. The Subdivision plat shall bear a note to memorialize the potential requirement for lots to bear a proportionate share. The use of wells for domestic water supply, except for irrigation, shall not be permitted in such a Subdivision after such Municipal water service becomes available.

- O. Utilities: All utility facilities, including but not limited to gas, electric power, telephone, and CATV cables, shall be located underground at the expense of the Applicant. Except for major transmission lines not intended to serve individual properties and except for existing utility lines along existing Town streets, all other above-ground utility lines on land to be subdivided must be removed and installed underground. Utilities shall be located within street rights-of-way in accordance with all applicable State and Local Regulations and utility company rules and regulations. Utilities shall not be located beneath the paved surface of any street

except where necessary at intersections and for service connections.

- P. Access: Any road serving more than twelve (12) lots shall have an approved secondary means of egress. The secondary egress may, at the discretion of the Board, be parallel to the primary access, separated by a continuous island with a minimum width of 25 feet, to accommodate safety vehicles.
- Q. Fire Suppression Water Supply: A Subdivision that will result in twelve (12) or more lots that are not served by municipal water supply shall install a 30,000 gallon cistern. The design and location shall be subject to approval by the Planning Board. Other means of providing water supply may be accepted by the Board after consultation with the Fire Chief. Per RSA 674:51, V and 674:36, IV, both as from time to time amended, the Applicant may offer to construct, and the Planning Board may accept, residential sprinkler systems in lieu of a Fire Suppression Water Supply. The offer and acceptance shall be memorialized by a note on the recorded final plat.
- R. Condominiums: In addition to the information otherwise required to be filed pursuant to these Regulations, an Applicant who is seeking approval of a Condominium shall also file at the time of an Application copies of:
1. Condominium Declaration
  2. Condominium Bylaws
  3. Condominium Site Plan
  4. Condominium Floor Plan
  5. Where applicable, evidence of filing of Application for Registration of the condominium with the New Hampshire Attorney General.
- S. Review by Other Town Officials: Before approval of a Preliminary Plat is given, the Planning Board shall solicit written statements from the following Town Officials regarding the proposed application.
1. The Road Agent and Engineer as to the design of the street system, location of easements, and design of the water, sewer, and drainage systems, including appurtenances.
  2. The Police Chief, or representative, as to vehicular and pedestrian traffic safety and access for emergency vehicles.
  3. The Fire Chief, or representative, as to the adequacy of fire protection and access for emergency vehicles.

4. The Recreation Commission, or its Director, and the Conservation Commission as to the suitability and location of any lands proposed to be dedicated for Town open space, park or playground or other recreational purposes.
5. The Town Manager as to the design of extensions to water and/or sewer lines and capacity of existing water and/or sewer systems to service the new demand.

Town Officials may opt to attend the regular Planning Board meeting to express their concerns regarding the Preliminary Plat.

- T. Compliance with Regulations: All Applications shall comply with the Zoning Ordinance and all other ordinances and regulations of the Town of Bow.
- U. Manufactured Housing Subdivisions: RSA 205-D Manufactured Housing Installation Standards and amendments thereto is adopted herein by reference.

3.03 Major Subdivisions: The following general requirements apply only to Major Subdivisions:

- A. Erosion Plan: All Applications shall include a "Soils Erosion and Sediment Control Plan", conforming to the recommendations and specifications of the NHDES NH Stormwater Manual, December 2008 or later update. Said plan shall address slopes, embankments, ditches, drainage ways, and the effect of the Subdivision on water bodies and all disturbed areas. These plans shall be stamped by a New Hampshire Registered Professional Engineer.
- B. Drainage/Grading Plan: All Applications shall include a Drainage and Grading Plan showing the entire area which is directly involved. The Plan shall indicate existing grades for the entire tract and proposed grading for all areas of proposed construction activity. The Plan shall show all existing and proposed drainage facilities, including but not limited to catch basins, all storm water culverts, headwalls, detention/retention basins, drainage swales, rip-rap areas, dams and weirs, groundwater recharge structures, and storm water flow dissipaters. The plan shall show all contributing drainage and sub-catchment areas and existing and proposed storm water flow calculations. All drainage plans for the Subdivision shall be based on hydrological calculations from said Drainage/Grading Plans. The hydrological calculations shall analyze 10, 25, and 50 year storm events. These Plans and accompanying calculations shall be prepared by and bear the stamp and signature of a New Hampshire Registered Professional Engineer. The developer shall provide appropriate detention

and groundwater recharge facilities to assure that existing flow quantities or velocities will not be exceeded and that existing groundwater recharge will be maintained. A waiver of these regulations is required if the storm water drainage system creates any additional storm water flow quantities or velocities over other properties. Such waiver will be considered only where the developer has obtained easements therefore from all owners of said downstream properties.

C Parks and Recreation: Pursuant to RSA 674:36 II (d), (f), and (g), the Board may require the Applicant to dedicate land in a Subdivision to the Town for playgrounds, park trails, open space or recreation uses. The amount of land dedicated for such purposes shall equal up to ten percent (10%) of the gross land area of a Major Subdivision, and all of such dedicated land shall be Buildable Land in a contiguous parcel acceptable to the Board.

1. Subject to the approval of the Board, an Applicant may satisfy the parks and recreation dedication requirement in any one of the following manners:
  - a. Dedication to the Town of an area of Buildable Land equivalent to ten percent (10%), or such other percentage as the Board may require, of the gross area of land to be subdivided as described above. The Plat shall clearly show the area of land to be dedicated and the parcel(s) shall be clearly labeled "Town Recreation Land"; or
  - b. The donation of the cash equivalent of the value of a parcel of Buildable Land of a size equal to ten percent (10%), or such other percentage as the Board may require, of the gross area of the land to be subdivided. The value of the land shall be determined in its undeveloped state and shall be determined based upon a valid appraisal of the land. The appraisal shall be done by a qualified person, shall include at least three (3) comparable sales, and shall be subject to the review and approval of the Board. The Board may hire its own appraiser, at the Subdivider's expense, to confirm the value of the property; or
  - c. A combination of land dedication and cash donation; or
  - d. A combination of land dedication and park development; or
  - e. Other methods which meet the intent of this Section and which are in the public interest in regard to the specific conditions of the area of Town and the land to be subdivided.

2. Cash donations shall be placed in a Town fund dedicated to acquiring or developing park or recreation facilities. No portion of the funds are to be used for maintenance or operations.
- D. Phasing Plan Required: A written phasing plan shall accompany all Applications for Major Subdivisions. The plan shall specify the development time table for each phase of the Subdivision. The plan shall include approximate dates for road and other public improvement construction, for lot sales/development commencement, and for building occupancy. In cases where specific impacts have been identified, the Board may require that the development of a Subdivision proceed at a rate which will allow the Applicant and the Town a reasonable length of time in which to plan and prepare for impacts and to take steps to mitigate adverse impacts.
  - E. Private Streets: Where access is to be provided to multiple parcels or sites via a Private Street, a statement shall be added to the recorded plan and included in each deed requiring each parcel, unit, or site owner to be responsible for a proportionate share of the total cost to upgrade the Private Street(s) to Town road standards in the event the Town, in accordance with RSA 231:28-33, chooses to conditionally lay out the Private Street as a Town road. The statement shall include each parcel, unit, or site owner's acknowledgment that the development has been approved conditioned upon the cost of any betterment being unconditionally borne solely by the owners of the land abutting or being served by the betterments. The total cost of the betterment shall include, but is not limited to, construction, engineering, right of way and drainage easements, and relocation of underground utilities.
  - F. Restoration Plan and Performance Security Required: A restoration plan shall accompany all Applications for Major Subdivisions that require an Alteration of Terrain Permit or propose a new street. The purpose of the plan and security is to ensure that disturbed areas are permanently stabilized if construction ceases for more than one year, if erosion and sedimentation controls during construction are not maintained in accordance with the approved plan, if the developer disturbs an area outside the area or phase approved, or if the Town determines that the site has been abandoned. The plan shall specify the methods and standards proposed to permanently reclaim disturbed areas. The plan shall be accompanied by an independent cost estimate to implement the restoration plan. The cost estimate shall be subject to approval by the Board. An approved performance security sufficient to implement the restoration plan shall be submitted prior to altering the natural state of the land (see 3.02 M).

3.04 Special Requirements: The following general requirements apply to certain large

scale developments or developments which may have a significant impact on the Town, its services or facilities, as specifically provided herein. The cost of these assessments and studies will be borne by the Applicant.

A. Traffic Impact Assessment (TIA):

1. Where a Subdivision will result in the generation of an average of two hundred (200) weekday vehicle trip ends (according to Trip Generation, An Informational Report, Institute of Transportation Engineers), the Applicant must submit a TIA to the Board with its Preliminary Application. The TIA shall include, but not be limited to, information with respect to:
  - a. estimated vehicular trips per day,
  - b. an analysis of approaches,
  - c. an analysis of the circulation and channelization patterns,
  - d. a description and analysis of the location and type of existing and proposed traffic control devices,
  - e. pedestrian traffic and systems,
  - f. an analysis of signal warrants,
  - g. a description of the condition and capacity of the road network,
  - h. other analysis of specific impacts as identified by the Planning Board.
2. A "trip end" is defined as a vehicle movement either entering or leaving the site.
3. Examples of developments which would generate two hundred (200) weekday vehicle trip ends include (from Trip Generation, approximate values):
  - a. 20 detached single family units,
  - b. 40 manufactured housing units or condominium units,
  - c. 20 motel units,
  - d. 17,000 gross square feet general office building,



- e. 1,700 gross square feet shopping center,
  - f. 1,200 gross square feet high turnover sit down restaurant,
  - g. 8,400 gross square feet medical office building or clinic,
  - h. 4,000 gross square feet hardware/paint store,
  - i. Gasoline/service station,
  - j. 1,200 gross square feet bank.
- B. Fiscal Impact Analysis (FIA): Where a Subdivision would contain 30 or more dwelling units, or where the Planning Board finds that a commercial or industrial Subdivision may have an adverse fiscal impact upon the Town, the Applicant must submit an analysis of the projected tax and fee income to the Town and the projected operating, maintenance and capital costs of the Town with the Preliminary Application. The analysis must contain a summary of the services applicable to the Subdivision and of the capital facilities used to deliver the services.
- C. School Impact Analysis (SIA): Where a Subdivision would generate a school age population equal to one classroom according to current U.S. Census data from Merrimack County, the Applicant must submit an analysis of the impact of the Subdivision on the school system with the Preliminary Application.
- D. Environmental Assessment (EA): The Applicant of each development containing ten (10) or more lots or twenty (20) or more acres shall submit a report from the New Hampshire Natural Heritage Inventory (NH Department of Resources and Economic Development) which identifies rare plant and animal species and exemplary natural communities in or near the proposed Subdivision with the Preliminary Application. If any of the species or communities are identified within or adjacent to the Subdivision, an EA addressing the impacts on the species and communities shall be submitted with the Preliminary Application.
- E. Community Services Impact Assessment (CSIA): Where a Subdivision contains one hundred (100) lots, one hundred (100) residential units, one hundred (100) gross acres, eight thousand five hundred (8,500) gross square feet of office or commercial space, or seventeen (17) gross acres of industrial land the applicant shall submit an assessment of the demands that the development will place on existing or proposed community services including, but not limited to, police, fire, emergency, water, sewer, solid waste, roads, recreation, and Town offices with the Preliminary Application.

F. Other Considerations: The requirements contained in this Section 3.03 are based on thresholds at which the expected impacts will be measurable and at which point mitigation measures by the Applicant may be required by the Board. Nothing contained in this Section shall be construed to prevent the Planning Board from requiring other special investigations, at the applicant's expense or from requiring the above identified investigations at lower thresholds where, in the opinion of the Board, circumstances related to the development or the area warrant such special studies. An Applicant may not evade the application of the provisions of this Section 3.04 through phased or scattered development of a parcel. The Board may, in its discretion, consider the effects of both prior and potential development of the land owned by the Applicant or other prior or future owners of the Subdivision and require compliance with the terms of this Section.

3.05 Fees for Offsite Improvements: As a condition of the Final Approval of an Application the Board may require the Subdivider to pay a proportionate share of the costs of offsite improvements which are necessitated in whole or in part by the Subdivision.

3.06 Open Space - Residential Development: All residential Subdivisions resulting in ten (10) or more lots or including thirty (30) or more acres shall comply with the provisions of section 7.02 Open Space - Residential Development of the Zoning Ordinance of the Town of Bow, and amendments thereto.

A. To comply with section 7.02 B 2 of the Zoning Ordinance, the Subdivider shall submit a Yield Plan in conformance with Section 6.05 of the Subdivision Regulations.

## Section 4.00 - Procedure:

### 4.01 Preliminary Conceptual Consultation:

- A. Prior to submission of an Application for Board approval, the Applicant may discuss the proposal with the Board's Agent, and may make an appointment to discuss the proposal at a regularly scheduled Board meeting by notifying the Board's Agent three (3) weeks prior to the meeting. At least one week prior to the regularly scheduled meeting, the applicant shall provide the materials required in 6.01. Prior to submission of a Subdivision Application resulting in ten (10) or more lots or including thirty (30) or more acres, the Applicant shall submit a Concept Plan and make an appointment to discuss the proposal.
- B. At the meeting, the Applicant may address the Board concerning the proposal but must limit the presentation to the intent, location of the proposal, and the materials identified in 6.01 without going beyond a general description of the basic concept.
- C. The Board may briefly outline the steps that an Applicant may take to obtain Board approval. It may discuss the content of the Master Plan of the Town and its relation to the potential Applicant's proposal. The Board may also cite specific Sections of these Regulations or the Zoning Ordinance. The proposal may be discussed in conceptual form only and in general terms, such as the desirability of types of development and proposals under the Master Plan. The Board may make suggestions which might be of assistance in resolving problems with meeting requirements during formal consideration.
- D. A proposal shall neither be accepted as an Application nor be approved or disapproved by the Board under this procedure.
- E. No comments made during this consultation shall bind either the Applicant or the Board.
- F. Statements made by Board members shall not be the basis for disqualifying said members or invalidating any action eventually taken on the Application.
- G. The time limits for Board actions under RSA 676:4, I(c) and Section 4.03I and 4.05D of these Regulations shall not apply to Preliminary Conceptual Consultation.
- H. The Board recommends that the applicant contact abutters to discuss the project. The applicant may notify abutters of the Conceptual Consultation or request that the Board agent notify abutters at the applicant's expense.

4.02 Preliminary Design Review Procedure - deleted 7/5/1990.

4.03 Preliminary Application:

- A. Board Agent: The Board shall designate an agent to receive all Applications.
1. The agent shall publish a schedule for conferences at which initial filings may be submitted. The schedule shall establish deadlines for making appointments for conferences. The schedule and deadlines shall be approved by the Planning Board.
  2. The Applicant shall contact the agent to schedule an appointment to make an Initial Filing.
  3. The Planning Board shall establish a fee for the appointment. The fee shall be due when the appointment is made.
- B. Submission of Initial Filing:
1. At the Initial Filing conference, the Applicant shall present three copies of the complete application package to the agent. During the conference the Applicant shall demonstrate that all required items are included.
    - a. if all required items are included, the Applicant shall submit the materials under C. Initial Filing;
    - b. if required items are missing, the Applicant shall repeat the steps as outlined in 4.03 A 2 & 3 above.
- C. Initial Filing:
1. The Applicant shall file with the designated agent:
    - a. three (3) copies of a completed Preliminary Application Form;
    - b. three (3) copies of a Preliminary Application Checklist;
    - c. seven (7) copies of a Preliminary Plan which complies with Section 6.03 of these Regulations;
    - d. Sufficient legible copies of the Preliminary Plan, reduced in size to no more than 11 x 17 inches, to provide 30 copies to the Board and one (1) copy to each Abutter and to each Town official referred to in Section 3.02S of these

Regulations;

- e. the appropriate filing fee based upon the fee schedule as may be set by the Board from time to time; and
  - f. if the Applicant signs the form rather than the owner, certification that the Applicant is agent for the owner.
2. Completed Preliminary Applications must include all of the items listed in subsection 4.03C1 and must be filed with the designated agent no later than the fourth Thursday prior to a regular meeting of the Board in order to be considered by the Board at such meeting. If any of the items listed in subsection 4.03C1 are missing or incomplete as of the filing deadline, the Application shall not be placed on the agenda for the next Planning Board meeting. A work session at which no vote may be taken is not a regularly scheduled meeting of the Board.

D. Notice to Abutters and the Public of Submission of a Preliminary Application:

The Board shall notify all listed Abutters and the Applicant of its intent to consider a Preliminary Application by certified mail mailed not less than ten (10) days prior to the date for official submission to the Board of a completed Preliminary Application. Such notice shall contain a general description (supplied by the Applicant) of the proposal and shall identify the Applicant and the location of the proposal and a reduced size copy of the Preliminary Plan. The Board shall also post such notice in two (2) public places in the Town and publish the notice in a local newspaper within 14 days of the date of the meeting date.

E. Action on Preliminary Application:

1. The official submission date of the Application shall be the date of the first regular meeting at which the Application is considered. At that meeting, the Board will consider whether the Application includes the information required by Sections 3.00 and 4.00 of these Regulations.
2. A Preliminary Application which is not complete will be rejected by the Board. If the Board votes to reject an Application, it shall provide the Applicant with written notice of its decision which shall describe the reasons for the rejection.

Yield Plan Acceptance. An applicant for Open Space Residential Development may request that the Planning Board

accept a Yield Plan in conformance with Section 6.05 that does not include the information required by Sections 3.00 and 4.00. If accepted by the Board, the Board shall begin consideration of the Yield Plan within thirty (30) days and shall take final action within sixty-five (65) days in accordance with Section 4.03.

3. If a Preliminary Application is accepted by the Board, the Board shall begin formal consideration of the proposal within thirty (30) days thereafter. The Applicant may waive this and all other time periods and consent to such extensions as may be mutually agreeable.

F. Resubmissions: After the application has been accepted by the Planning Board under 4.03 E, the applicant may submit revised materials to comply with Town Regulations, Ordinances, or design review comments. To be considered at a meeting of the Planning Board, such materials shall have been submitted to the agent a minimum of seven (7) calendar days prior to the meeting.

G. Requirement for Public Hearing:

1. Once a Preliminary Application has been accepted as complete by the Board, and except as described in Section 4.04, no Preliminary Application may be denied or approved without a public hearing.
2. Notice of any public hearing on an Application shall be given in accordance with Section 4.03D. If notice of the hearing was included in any prior notice, it need not be repeated. If a hearing is adjourned, no written notice of the continuation date will be given if the date, time and place of the continuation was made known at the prior hearing.
3. Hearings shall be conducted in accordance with the Rules of Procedure adopted by the Board.

H. Board Consultation with Specialists:

Throughout the process of Board consideration of an Application, the Board may consult with engineers, architects, soil scientists, attorneys, planners or others, at the expense of the Applicant.

I. Consent to On-Site Board Inspection:

1. By filing an Application, the Applicant consents to the inspection of the property by Board members and Board agents at reasonable times and in a reasonable manner. The consent includes attendance by Abutters, as defined in 2.01, and other interested

parties at a posted on-site visit.

2. Prior to the Board's approval of a Preliminary Application, at least three (3) members of the Board shall schedule and conduct an on-site inspection of the property. All lot corners on existing streets, the centerlines of all new streets, wetlands, and the perimeter of the Subdivision shall be staked or flagged prior to such inspection.
3. The on-site visit and final action on the Preliminary Application may be postponed until no later than May 1st following the acceptance of the Application if, in the opinion of the Board, winter conditions prohibit making a proper inspection and evaluation of the site.
4. An on-site visit is considered a meeting of the Planning Board. As such, minutes and attendance shall be taken and attendees have the same rights to hear and record the meeting as a meeting of the Board. Where an applicant states in writing that security issues as envisioned in RSA 91-A:3, II,(i) are present at the site and requests prior to scheduling of an on-site visit that on-site attendees not take photographs or use video recorders, the Board may prohibit such use.

J. Final Action on Preliminary Application:

1. Subject to the provisions of Section 4.03G, the Board shall approve or deny a Preliminary Application within sixty-five (65) days of its submission and acceptance by the Board. The Applicant may waive this time period and consent to such extensions as may be mutually agreeable.
2. If the Board denies a Preliminary Application, it shall provide the Applicant with written notice of its decision which shall describe the reasons for the denial.
3. If the Board approves a Preliminary Application, it shall notify the Applicant of the approval and any conditions of such approval, if the Applicant was not present at the meeting at which such approval was granted.
4. Upon approval of its Preliminary Application, an Applicant is authorized to file a Final Application with the agent of the Board. The Board's approval of any Preliminary Application shall lapse sixty (60) days after the date upon which such approval was given unless the Applicant shall have filed a completed Final Application with the agent of the Board.

#### 4.04 Expedited Review:

- A. At the Board's discretion, any Application for: (a) minor Lot Line Adjustments, boundary agreements, or proposals which do not create buildable lot(s), or (b) a Minor Subdivision which creates no more than three (3) lots for building development purposes may be accepted and approved by the Board at one meeting subject to the notice and public hearing requirements described in these Regulations and subject to the Applicant's full compliance with these Regulations.
- B. At the time of the filing of such an Application, the Applicant shall specifically state whether the proposal qualifies for expedited review and shall file both Preliminary and Final Application Forms, Checklists and Plans.
- C. The Board shall provide notice to all parties as provided in Section 4.03D of these Regulations of its intent both to consider the submission and the approval of the Application under these Expedited Review Procedures, and to hold a public hearing on the Application.
- D. The Board shall hold a hearing, with notice as provided in Section 4.03G of these Regulations, prior to approval or disapproval of the Application.
- E. No public hearing shall be necessary prior to the Board's action to disapprove an Application based upon the failure of the Applicant to supply information required by the Regulations, including Abutters' identification, the failure to meet reasonable deadlines established by the Board, or the failure to pay costs of notice or other fees required by the Board. Per RSA 676:4, I (b), as from time to time amended, the Application shall not be disapproved due to failure to provide final approvals of State agencies as required in 6.04 F & G.

#### 4.05 Final Application:

- A. Filing:
  - 1. The Applicant shall file with the designated agent:
    - a. three (3) copies of the Final Application Form;
    - b. three (3) copies of a Final Application Checklist;
    - c. five (5) copies of a Final Plan which complies with Section 6.04 of these Regulations;
    - d. Sufficient legible copies of the Final Plan, reduced in size to no more than 11 x 17 inches, to provide twelve (12) copies



to the Board and one (1) copy to each Abutter and to each Town official referred to in Section 3.02S of these Regulations.

- e. three (3) copies of any construction plans; and
  - f. the appropriate filing fee based upon the fee schedule as may be set by the Board from time to time and any required escrow deposits for review and inspection fees.
2. Completed Final Applications must be filed with the designated agent at least twenty-one (21) days prior to the next regular meeting of the Board after receipt of Approval of a Preliminary Application in order to be considered by the Board at such meeting. A work session at which no vote may be taken is not a regularly scheduled meeting of the Board.

B. Notice to Abutters and Public:

Notice of any public hearing on a Final Application shall be given as provided in Sections 4.03D of these Regulations.

C. Public Hearings:

No Final Application shall be approved or denied without a public hearing as provided in Section 4.03G of these Regulations.

D. Action on Final Application:

- 1. Subject to the provisions of Section 4.03G, the Board shall act to approve, conditionally approve, or disapprove any Final Application which has been timely filed and complies with these Regulations and with the approval of the Preliminary Plat within sixty-five (65) days after the Board voted to accept the Preliminary Application. The Applicant may waive this time period and consent to such extensions as may be mutually agreeable.
- 2. The Board may apply to the Board of Selectmen for an extension, not to exceed an additional ninety (90) days, to act on the Final Application. The Applicant may also waive this time period and consent to such extensions as may be mutually agreeable.
- 3. The Board may grant conditional approval of an Application, which shall become a final approval without further public hearing, upon certification to the Board by its designee or based upon evidence submitted by the Applicant of satisfactory compliance with the conditions imposed. Final approval may occur in this manner only

when the conditions are:

- a. minor plan changes whether or not imposed by the Board as a result of a public hearing, compliance with which is administrative and which does not involve discretionary judgment; or
  - b. conditions which are in themselves administrative and which involve no discretionary judgment on the part of the Board; or
  - c. conditions with regard to the Applicant's possession of permits and approvals granted by other boards or agencies. All other conditions shall require a hearing after notice in accordance with Sections 4.03D and 4.03G.
4. If the Board rejects a Final Application, it shall provide the Applicant with written notice of its decision which shall describe the reasons for the rejection.
  5. Upon approval, the Chairman shall sign and date the Final Plat as approved. Approved plats and any documents affecting covenants, deed restrictions, etc., with the exception of road and other construction plans, shall be recorded with the Merrimack County Registry of Deeds. "As-built" plans for roads and all other public improvements shall be filed with the Planning Board after approval of the Engineer and acceptance by the Planning Board. All conditions of approval as imposed by the Planning Board shall appear on the face of the final plat to be recorded. Two recordable mylars of the final plat with original signatures and seals shall be submitted to the Planning Board agent for execution by the Planning Board and Building Inspector. Recording of the plats and associated documents shall be the applicant's responsibility. A digital copy compatible with the Town Tax Map and three paper copies of the recorded plat and one copy of associated documents certified by the Merrimack County Registrar of Deeds shall be submitted to the Town prior to issuance of building permits or start of any construction activity, including but not limited to site clearing and grading activities, and within ten (10) days following the recording of the plat.
  6. The Board's approval of a Final Application shall lapse if all conditions of Final Approval have not been met within ninety (90) days of the date of the Final Approval. Upon request, and where it can be shown to the satisfaction of the Board that the applicant has diligently pursued other required permits, the approval may be extended for an additional ninety (90) days to a total of 180 days

from the date of Final Approval. Where the applicant demonstrates to the satisfaction of the Board that a hardship exists and that conditions beyond the control of the applicant have caused the delay, an applicant may request and the Planning Board may grant additional reasonable extension of this time period up to a maximum total of one year from the date of Final Approval.

#### 4.06 Expenses and Fees:

All expenses incurred by the Town of Bow in processing an Application for Board action shall be borne by the Applicant. The cost of recording the Final Plat with the Registry of Deeds, cost of any required publication, cost of posting notices, cost of mailing notices of hearing, the reasonable anticipated cost of the consultation by the Board with any expert or specialist, and the reasonable anticipated costs to the Town for the services of the Board's designated agent, its attorney and its engineer, all must be paid by the Applicant at the time of filing an Application with the designated agent of the Board. All additional costs incurred during review of the Application shall be paid prior to Final Approval. Failure to pay these costs as specified will be valid grounds for refusal to accept the Application as complete, or for disapproval of the Application.

#### 4.07 Modification of Approvals

- A. Minor design modifications and minor modifications of approved subdivisions may be approved by the Planning Board upon recommendation of the Road Agent/Town Engineer, Building Inspector, and Town Planner at a public meeting without specific notification of abutters provided that all of the following conditions are met:
1. The modification is the result of circumstances relating to the property that were not anticipated at the time of approval.
  2. The modification is minor, insubstantial, and will not in any way adversely affect abutters, future occupants, owners, or the public.
  3. In all other cases, modifications shall be approved only pursuant to the provisions of Section 4.03F of these regulations.
    - a. When the Board has determined that a requested modification shall require a public hearing in accordance with Section 4.03F, the Applicant shall be responsible for all expenses and fees as set forth in Section 4.06 of these regulations.

Section 5.00 - Non-Residential Development:

Refer to Site Plan Regulations, Town of Bow.

## Section 6.00 - Plat Details:

Plans, reports, documents, and other materials submitted to the Planning Board to fulfill the requirements of the Subdivision Regulations shall be free of any restrictions on reproduction. Proximate to any copyright symbols, reservations of rights, or statements of ownership, shall be an affirmative statement which expressly agrees to reproduction.

6.01 Preliminary Conceptual Consultation: The Applicant shall prepare a Concept Plan of the site and surrounding properties in sufficient detail to allow the Planning Board to discuss the proposal. The Concept Plan should be drawn on a USGS, other topographical map or aerial photograph at a scale of one inch equals five hundred feet (1" = 500') or larger, and should show approximate tract boundary lines and tax map, block, and parcel numbers for the proposed area of development, all contiguous holdings of the Applicant, and the names and addresses of the owners of all contiguous abutting properties. All existing Streets, sewer and water lines, and other rights-of-way or easements should be shown as appropriate. One week prior to the meeting at which the concept plan is to be discussed, the applicant shall submit a summary of the project; a list of waivers, variances, and special exceptions required; the specific questions to be posed to the Board; and, if the applicant is not the owner, written permission from the owner to proceed.

6.02 Preliminary Design Plat Details - deleted July 5, 1990.

6.03 Preliminary Plat:

The Preliminary Plat shall be prepared to a scale of not less than one inch equals one hundred feet (1" = 100') or at greater detail as directed by the Board to indicate clearly the existing and proposed features of the site. Said plat shall be prepared on twenty-two by thirty-four inches (22" X 34") standard sheets measured from cutting edges. If one sheet is not of sufficient size to contain the entire area for the site and environs, the plat shall be divided into sections to be shown on separate sheets of equal size with reference on each sheet to the adjoining sheets. The Preliminary Plat shall show or be accompanied by the following:

- A. Date of survey, name and legal description of Subdivision, locus map superimposed on the Town Tax map (scale of 1"=1,000') showing the relation of the proposed Subdivision to existing streets, and surrounding property within one thousand feet (1000'), name of owner of record and Subdivider, north arrow showing grid north and magnetic north as of the date of the survey, and graphic scale.
- B. At least two (2) ties to New Hampshire State Grid Coordinate System shall be established on each section or submission of a subdivision. The bench marks shall be tied to previously established bench marks on previously submitted plats. Said bench marks to be plainly marked in the field and

stationed on the final plat with its elevation.

- C. Tract boundary lines, right-of-way lines of streets, street names, easements and other rights-of-way, park areas, or land to be reserved or dedicated to public use. All lot lines with accurate dimensions, bearing or reflection angles and radii, arc, and central angles of all curves. All bearings shall be based on the State Grid Coordinate System.
- D. Water courses and Area of Special Flood Hazard locations with base flood elevations that may exist within five hundred feet (500') of the Subdivision boundaries. For Subdivisions that involve land designated as Special Flood Hazard Areas, the applicant shall submit sufficient evidence (construction drawings, grading, and land treatment plans) to allow the Planning Board to determine that the proposal is consistent with the need to minimize flood damage; that all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and that adequate drainage is provided so as to reduce exposure to flood hazards.
- E. Plans shall reflect all land within one thousand feet (1000') of any portion of the Subdivision in which the owner/Subdivider or any person or entity which has an interest in the owner/Subdivider has interest. If the plans include only a portion of the entire holdings, any possible future plans, in the form of a sketch, for these remaining holdings, shall be shown. Said plan to include possible road layout, lots, service, etc.
- F. The purpose of any easement or land reserved, or dedicated to public use shall be designated, and the proposed use of sites other than residential shall be noted.
- G. The tax block parcel number and names and addresses of owners of property abutting the tract to be divided. Proposed lots shall be numbered consecutively as instructed by the Town.
- H. Name and address of engineer or surveyor.
- I. Certification and seal of engineer or surveyor as to accuracy of the plat details.
- J. Where an Applicant proposes a temporary turnaround, sufficient documentation must be submitted to demonstrate that the road terminus is suitably located to facilitate the future extension of the road into adjoining properties.
- K. Where an Applicant proposes to extend a street which currently ends in a T-type turnaround, a plan for restoring the "ears" of the turnaround to a "natural" condition and continuing surface drainage through must be

submitted. The "ears" may be left where the abutting property owners specifically request such treatment and where surface drainage is appropriately accommodated.

- L. Existing and proposed ground elevation contours based on USGS topographic data and tied to a Town of Bow, State of New Hampshire, or United States government benchmark as follows:
- slopes 0% to 2% - two-foot (2') contour interval plus spot-elevations
  - slopes 2% to 5% - two-foot (2') contour intervals
  - slopes greater than 5% - five-foot (5') contour intervals
- M. Existing soils delineation based on the "Merrimack and Belknap Counties Soils Survey" (Soils Maps, Version 4, 2007 or later edition) USDA Natural Resources Conservation Service available at Web Soil Survey and a legend which explains the map symbols, describes the NRCS soils groups with drainage class, and describes the properties of the soils regarding septic leach fields, basement/foundations, building construction, and road construction.

Soil types will typically range as follows:

- Group 1 - well-drained to excessively well-drained with rapid permeability
- Group 2 - well-drained with moderate permeability
- Group 3 - moderately well-drained and well-drained with hardpan
- Group 4 - somewhat poorly drained; bedrock relatively close to the surface
- Group 5 - poorly drained
- Group 6 - floodplain or very poorly drained

Examples of soil types which fall within these categories are:

Group 1

Colton (CoA, CoB, CoC, CtE)  
Gloucester (GcB, GcC, GcD, GrB, GrC, GrD, GrE, GsD, GsE)  
Hermon (HmB, HmC, HmD, HnB, HnC, HnD, HoD, HoE)  
Hickley (HrE, HsA, HsB, HsC)  
Merrimac (MmA, MmB, MmC)  
Windsor (WdA, WdB, WdC, WdE)

Group 2

Agawam (Afa, Afb)

Group 3

Acton (AcB, AdB, AdC)  
Belgrade (PcB)

Duane (DuB)  
Ninigret (NnA)  
Paxton (PaB, PaC, PaD, PnB, PnC, PnD, PnE)  
Sudbury (SuA, SuB)  
Woodbridge (WoB, WoC, WvB, WvC)

Group 4

Canaan (CaC, Cad)  
Shapleigh (SgB, SgC, ShC, ShD, SoD, SoE)

Group 5

Au Gres (Aga, AgB, Aub)  
Ridgebury (Rba, RbB, RdA, RdB)

Group 6

Limerick (Lm)  
Ondawa (Of, Oh)  
Pondunk (Po)  
Rumney (Ru)  
Scarboro (Sc)  
Suncook (Sy)  
Muck and Peat (Mp)

- N. All areas of wetlands and associated buffer areas as defined in the Town of Bow Zoning Ordinance Section 10.01.B.2 with certification of Wetland Scientist. Wetlands and buffers shall be delineated and stamped and sealed by a Certified Wetland Scientist on the Plat. Such delineation shall have been conducted per professional standards no earlier than six (6) years prior to the date of submission of the Preliminary Plat application package to the Planning Board. Very poorly drained soils, bogs, vernal pools, streams, and the high water mark of water bodies shall be labeled.
- O. A layout indicating how the site will be served by electric, telephone, and any other public utility must be provided. If the utility company(s) require an easement to provide service, no final approval shall be granted by the Board until such easements are secured. If no easements are required, a letter of intent to provide service from the utility company(s) must accompany the application.
- P. Locations of all existing and proposed sanitary sewer systems, water mains, and all storm water management facilities, including but not limited to catch basins, culverts, drainage swales, rip-rap areas, detention/retention areas, and dams and weirs. Drainage/grading plans shall be prepared by and bear the stamp and signature of a New Hampshire Registered Professional Engineer.
- Q. When individual sewage disposal systems are proposed, the plans for



such systems must be approved by the appropriate Local or State agency. When a public sewage disposal system is not available, the Subdivider shall have percolation tests made and submit the results with the preliminary plat. Before the preliminary application is approved the location of the septic system as proposed or, if applicable, as approved by the NHDES Subsurface Systems Bureau shall be depicted on each lot.

- R. A statement that the proposed street center lines, lot locations, and required buffers have been adequately flagged on the ground at the site to allow on-site evaluation of the proposed Subdivision by the Board, Engineer, and Town Staff.
- S. Certification that the Applicant is agent for the owner or is the owner of the land, or that the owner has given consent under an option agreement.
- T. Data Listing: The following listed data shall be included on the preliminary plat prior to approval by the Bow Planning Board:
1. Area of Land subdivided \_\_\_\_\_ acres.
  2. Number of building lots \_\_\_\_\_.
  3. Length of streets \_\_\_\_\_ feet.
  4. Area of open space/conservation strips \_\_\_\_\_ acres.
  5. List of abutters with addresses.
- U. Construction Sequencing Plan. A plan outlining the construction process for all required improvements required for the Subdivision. The plan shall include:
1. the location of the construction entrance and site for mobilization.
  2. traffic control and traffic impacts for the construction entrance.
  3. the sequence for commencement of clearing, grubbing, and grading and the initial installation of sedimentation / erosion control facilities.
  4. the program for maintenance of sedimentation / erosion control measures.
  5. truck routes through town to the site.
  6. estimates of earthen materials to be removed from the site or to be brought to the site.
  7. location of stockpiles of earthen materials.
  8. timing of removal of existing traffic control devices.
  9. identification of areas likely to require blasting for construction of required improvements and duration of blasting activities.
  10. description of noise generating activities (see Noise Control Bylaw).
  11. areas for parking and access for construction workers.
  12. provisions for re-fueling and servicing construction equipment, including fuel storage, secondary containment, spill clean up, and proposed management procedures.
  13. detailed cost estimate for restoration of the site (re-

establishment of stable grades, erosion / sedimentation control facilities, drainage facilities, construction of 4-inch-thick layer of loam, and establishment of grass.

- V. Provisions and performance guarantees for the long term maintenance of private streets and quasi-public improvements including utilities, health and sanitation facilities, water supply, cisterns and hydrants, amenities, and other customary shared facilities, including proposed management procedures and contractual arrangements.
- W. Operational Brief for Major Subdivisions. A written description of the development to include: natural features of the site and identification of those to be preserved; market orientation of the project and how the site features will be used in marketing; special design considerations or theme; access routes to the site; neighborhood and abutting sites and uses and proposed relationship to surrounding properties; known historical features of site; and NHDES / USEPA environmental status including known releases of regulated substances, hazardous waste sites, and storage tanks for regulated materials on site and surrounding properties.
- X. Restoration Plan, Independent Cost Estimate, and Proposed Security. To comply with 3.03 F, a restoration plan that specifies the methods and standards proposed to permanently reclaim disturbed areas, an independent cost estimate to implement the restoration plan, and performance security sufficient to implement the restoration plan shall accompany all Applications for Major Subdivisions that require an Alteration of Terrain Permit or propose a new street.
- Y. Other information required by the Planning Board.

#### 6.04 Final Plat:

In addition to all items listed in Section 6.03, the Final Plat shall be accompanied by the following:

- A. Locus Map at a scale of one inch equals one thousand feet (1"=1,000') and suitable for use in updating the Town Tax Map showing all proposed lots and streets and all existing lots and streets within one thousand feet (1,000') of the proposed subdivision.
- B. When any officer or body of the Municipality, State or County is required to approve a plat, approval shall be certified on the plat in an appropriate space provided therefore.
- C. Existing and proposed ground elevation contours based on accurate field survey as follows: (Contours shall be accurate within one half a contour interval.)

- slopes 0% to 2% - two-foot (2') contour interval plus spot-elevations
  - slopes 2% to 5% - two-foot (2') contour intervals
  - slopes greater than 5% - five-foot (5') contour intervals
- D. Cross-sections and profiles of streets, including proposed locations for underground utilities (cross-sections at fifty (50) feet intervals plotted at one inch equals ten feet (1"=10') horizontal and vertical). Cross sections shall be provided at stream crossings, showing proposed drainage and channel treatments. Profiles shall be shown for all proposed driveways where slopes exceed eight percent (8%) unless the drive is shown on the cross sections. Profiles plotted with the same horizontal scale as the plans and a horizontal to vertical scale ratio of five to one (5:1) respectively. All data based on a field survey. These plans shall bear the seal and certification of a Registered New Hampshire Professional Engineer.
- E. Profiles of sewers, storm drains, culverts, catch basins, headwalls, and all other drainage facilities, as well as sanitary sewers, water, gas and underground electric layouts showing feasible connections to existing or proposed utility systems shall be required to accompany the final plat. These plans shall bear the seal and certification of a Registered New Hampshire Professional Engineer.
- F. Certification of approval of the subdivision by the NH Department of Environmental Services, Subsurface Systems Bureau, or appropriate successor agency, accompanied by a duplicate copy of all data submitted to them and any stipulations related to the approval.
- G. Final State of New Hampshire approvals when appropriate from the Department of Transportation (RSA 236:13), the NHDES Wetlands Bureau (RSA 482-A and RSA 483-B), and the NHDES Alteration of Terrain Bureau (RSA 485-A:17) shall be filed before Final Approval is granted.
- H. A lot area table which depicts for each lot the total area, buildable area, and the areas of wetlands, third party easements, and slopes greater than 33%.
- I. Certifications:
- The following listed certifications shall be affixed to the final plan together with the appropriate signatures and seals (when available) prior to the approval by the Planning Board.
1. It is hereby certified that the lands subdivided on this map are owned by title of record and that consent to the approval of said

map is given.

\_\_\_\_\_  
(date)                      (corporate or individual name)

2. I hereby certify that this map and survey has been made under my supervision. The date of the survey was:

\_\_\_\_\_  
(date)                      (Land Surveyor)

3. I have carefully examined this map and find it conforms with the laws and requirements applicable thereto.

\_\_\_\_\_  
(date)                      (Building Inspector)

4. This map is hereby approved by the Bow Planning Board at an official meeting held on \_\_\_\_\_ and shall be filed on or before \_\_\_\_\_ with the Merrimack County Registry of Deeds.

\_\_\_\_\_  
(date)                      (Chair of the Bow Planning Board)

- J. All required variances and special exceptions granted by the Zoning Board of Adjustment and all waivers granted under Section 11.00 shall be noted on the Final Plat.
- K. The recorded Final Plat shall contain an approval note "All New Development on lots in the Subdivision shall be subject to the impact fees in effect at the time of building permit."
- L. Other information required by the Planning Board.
- M. The Final Plat once approved shall be drawn on mylar or equivalent material at a scale of not less than one inch equals one hundred feet (1"=100') or at greater detail as directed by the Board to indicate clearly existing and proposed features of the site. Said plat shall be prepared in compliance with all applicable statutory requirements and shall be prepared on twenty-two by thirty-four inches (22" X 34") standard sheets measured from cutting edges. If one sheet is not of sufficient size to contain the entire area of the site and environs, the plat shall be divided into sections to be shown on separate sheets of equal size with reference on each sheet to the adjoining sheets. All dimensions shall be shown to hundredths of a foot and bearing to at least the nearest thirty (30) seconds. The error of closure shall not be more than one to ten thousand

(1:10,000).

Required information that cannot be recorded per RSA 478:1-a (refer to sections 6.03 E., J., K., L., M., O., P., R., and U., and 6.04 C., D., and E.) shall be shown on separate sheets. The recorded sheets shall contain a note that "This plan represents sheets \_\_\_ of \_\_\_ . The non-recorded sheets are on file with the Town of Bow."

#### 6.05 Yield Plan:

The Yield Plan shall be a realistic, reasonable, regular and ordinary layout reflecting a development pattern that could be expected to be implemented, taking into account the presence of wetlands and buffers, floodplains, steep slopes, existing easements and encumbrances, and suitability of soils for on-site sewage disposal. The plan shall depict lots that conform to dimensional standards of the Zoning Ordinance, roads, and other pertinent features of the site. The plan shall be prepared to a scale of not less than one inch equals two hundred feet (1" = 200') or at greater detail as directed by the Board to indicate clearly the existing and proposed features of the site. The Yield Plan shall show or be accompanied by the following:

- A. Date of survey, name and legal description of Subdivision, locus map superimposed on the Town Tax map (scale of 1"=1,000') showing the relation of the proposed Subdivision to existing streets, and surrounding property within one thousand feet (1000'), name of owner of record and Subdivider, north arrow showing grid north and magnetic north as of the date of the survey, and graphic scale.
- B. Tract boundary lines, right-of-way lines of streets, existing easements and other rights-of-way, and land to be reserved for open space. All lot lines and right-of-way lines of streets shall be shown with accurate dimensions.
  1. Lots shall show gross and net buildable area and depict a 100 feet radius on the front to confirm required lot width.
  2. Within proposed street rights-of-way, areas of slopes in excess of 10% shall be identified.
- C. Water courses and flood zone locations within the Subdivision boundaries.
- D. All land within one thousand feet (1000') of any portion of the Subdivision in which the owner/Subdivider or any person or entity which has an interest in the owner/Subdivider has an interest. If the plans include only a portion of the entire holdings, the Planning Board may require a sketch for these remaining holdings showing possible road layout.
- E. The tax block parcel number and names and addresses of owners of

property abutting the tract to be divided.

- F. Name and address of engineer or surveyor, and certification and seal of engineer or surveyor as to accuracy of the plan details.
- G. Existing and proposed ground elevation contours for areas containing roads and the front 200' of proposed lots. The contours shall be based on USGS topographic data and tied to a Town of Bow, State of New Hampshire, or United States government benchmark with a maximum of five foot (5') contour intervals.
- H. Existing soils delineation based on the "Merrimack and Belknap Counties Soils Survey" (Soils Maps, Version 4, 2007 or later edition) USDA Natural Resources Conservation Service available at Web Soil Survey and a legend which explains the map symbols, describes the Water Division soils groups, and describes the properties of the soils regarding septic leach fields.
- I. All areas of wetlands, surface waters, and associated buffer areas as defined in the Town of Bow Zoning Ordinance Section 10.01 B. 2. with certification of Wetland Scientist for areas containing roads and the front 200 feet of proposed lots. Very poorly drained soils, bogs, vernal pools, streams, and the high water mark of water bodies shall be labeled.
  - 1. All wetland crossings required for roads shall be identified with approximate square footage of impact to wetlands and buffers.
- J. Locations of all existing and proposed sanitary sewer systems and water mains.
- K. A statement that approximate proposed street center lines and lot locations have been adequately flagged on the ground at the site to allow on-site evaluation of the plan.
- L. Certification that the Applicant is the agent for the owner or is the owner of the land, or that the owner has given consent under an option agreement.
- M. Data Listing: The following listed data shall be included on the Yield Plan:
  - 1. Area of Land subdivided \_\_\_\_\_ acres.
  - 2. Number of building lots \_\_\_\_\_.
  - 3. Length of streets \_\_\_\_\_ feet.
  - 4. List of abutters with addresses.
- N. Other information required by the Planning Board.

6.06 Record Drawings (As-Builts):

To document the horizontal and vertical location of constructed roads, drainage and stormwater control facilities, fire suppression water supply, public and private utilities, other structures within road rights of way, and other required public improvements, the Subdivider shall submit record drawings in paper and electronic form in compliance with the Record Drawing (As-Built) Plan Requirements checklist in APPENDIX C.

## Section 7.00 - Required Improvements:

Unless superseded or otherwise specified herein, all materials and construction methods used for Streets and Drainage shall meet NH Department of Transportation *STANDARD SPECIFICATIONS for ROAD AND BRIDGE CONSTRUCTION*.

### 7.01 Public and Private Streets:

- A. Subgrades: All topsoil, stumps, brush, roots, boulders, and like materials shall be stripped or removed from the proposed subgrade area. The subgrade shall be excavated to a depth not less than twelve inches (12") below the bottom of the bank run gravel grade or to such limits as the Engineer may direct and backfilled with compacted sand meeting the requirements of NHDOT Standard Specification 304.1. A geotextile fabric meeting NHDOT specifications for Geotextiles, installed in accordance with the manufacturer's specification over compacted fill, all as approved by the Engineer, may be substituted for the 12 inch compacted sand layer. Where a geotextile fabric is substituted for the 12 inch compacted sand layer, the bank run gravel layer shall be a minimum of eighteen inches (18") deep. Ledge shall also be removed to a depth of two feet (2') below the bank run gravel grade of the roadway. Test pits will be performed at the direction of the Engineer to determine if ledge exists within two feet (2') of the subgrade. The subgrade shall be shaped and compacted evenly as shown on the profile and cross sections (see typical). All soft and spongy places and other soils not suitable for roadways shall be excavated to a minimum depth of two feet (2') below the bank run gravel grade of the roadway or as directed by the Engineer as shall be necessary to stabilize the foundation of the road and refilled solidly with sub-base material as directed by the Engineer. Compaction is to be obtained by use of approved rollers and equipment, to at least ninety-five percent (95%) of the Standard Proctor Density (ASTM-698). Said density to be checked by an approved Testing Service, and the results of all tests are to be provided to the Town for incorporation into the proper records. Compaction tests shall not exceed twelve inches (12") in depth. All costs incurred for the conduction of such tests shall be the responsibility of the Developer/ Contractor.
- B. That before any clearing has started on the right- of-way, the centerline of the new road shall be staked and side-staked at fifty (50) foot intervals. Sidestakes to be set back off the right-of-way at right angles from the centerline so as to be out of the construction area and with stationing and distances to the centerline of the road.
- C. Limits of clearing shall be marked by stakes or flagging. Distance from the centerline to be obtained from the cross-section.
- D. After clearing is done and before excavation is started, elevations shall be



taken on the tops of sidestakes. Cuts and fills shall be marked on sidestakes.

- E. Embankments: Embankments shall be formed of suitable material placed in successive layers of not more than twelve (12) inches in depth for the full width of the roadway cross-section and shall be compacted uniformly and sufficiently to prevent settlement. Stumps, trees, rubbish, and other unsuitable materials of substance shall not be placed in the fill. The fill shall be allowed to thoroughly settle before applying gravel. Compaction is to be obtained by use of approved rollers and equipment, to at least ninety-five percent (95%) of the Standard Proctor Density (ASTM-698). Said density to be checked by an approved Testing Service, and the results of all tests are to be provided to the Town for incorporation into the proper records. Compaction tests shall not exceed twelve inches (12") in depth. All costs incurred for the conduction of such tests shall be the responsibility of the Developer/Contractor.  
All fill material necessary to achieve subgrade elevation shall consist of stone and sand reasonably free from loam, silt, clay, and organic material and shall meet the requirement of the following table:

Sieve Size	Percent Passing by Weight
6 inch (6")	100
No. 4	20 - 100
No. 200	0 - 12

- F. Base Course: The base course shall not be laid until the subgrade has been inspected by the Engineer. The base course shall conform to the typical sections. The 12" - 18" Bank Run Layer shall meet the requirements for NHDOT Standard Specification 304.2 and the 6" Crushed Gravel layer shall meet the requirements for Specification 304.3. Where ledge is blasted on site and crushed to meet the requirements for Specification 304.4 for Crushed Stone, the Engineer may permit it to be substituted for both the bank run and crushed gravel layers. Base course shall be laid in layers not to exceed six (6) inches. Compaction is to be obtained by use of approved rollers and equipment, to at least ninety-five percent (95%) of the Standard Proctor Density (ASTM-698). Said density to be checked by an approved Testing Service, and the results of all tests are to be approved by the Town for incorporation into the proper records. All costs incurred for the conduction of such tests, shall be the responsibility of the Developer/Contractor.
- G. Hot Bituminous Concrete Pavement: Four inch (4") minimum NH Standards for road and bridge construction. Prior to pavement construction, all sideslopes, ditches, treatment swales, and detention areas shall be final graded, loamed, and seeded.

1) Base Course = 2.5 inch (after compaction) Type "B"

2) Wearing Course = 1.5 inch (after compaction) Type "E"

- H. Shoulders: Shoulders shall be constructed in the same manner as described above as noted on the typical cross-sections or as directed by the Engineer.
- I. Roadway Width: Centerlines of roadways shall coincide with centerlines of street rights-of-way and shall have the dimensions shown on the typicals.
- J. Immediate Installation of Street Name Signs: Once construction of a new street has commenced, a street name sign in compliance with Section 8.011, shall be installed to facilitate the response of emergency vehicles.
- K. Driveways: During construction of Streets, paved driveways to individual lots shall be constructed from the edge of pavement of the street to the private property line or to the limit of grading, whichever is greater.

#### 7.02 Drainage:

- A. Underdrains: Underdrains shall be installed where the character and composition of the soil in the roadbed and other areas of the subdivision render such installation necessary in the opinion of the Engineer. The location of the underdrain shall be four (4) feet beyond the traveled way and at a depth of two feet below subgrade, three feet in guard rail sections. A minimum 2 inch sand cushion in earth excavation and a 6 inch sand cushion in rock excavation shall be placed in the bottom of the trench for its full width and length to the grade of the bottom of the underdrain pipe. These underdrains shall consist of perforated metal pipe or perforated fiber pipe of a minimum six (6) inches in diameter and laid in the bottom of a trench at such depth and width as may be necessary. The trench backfill shall consist of a mixture of stones or rock fragments and particles with 95 to 100 percent passing the 3 inch sieve and 25 to 70 per cent passing the No. 4 sieve.
- B. Storm drains, culverts, catch basins: Storm drains, culverts and related installations, including catch basins and drop inlets, shall be installed within or without the Subdivision as necessary to permit unimpeded flow of all natural water courses, to insure adequate drainage of all low points along streets, and to intercept storm water run-off along streets at intervals reasonable related to the extent and grade of area drained. (Where required, catch basins may be on both sides of the roadway on continuous grade at intervals of approximately three hundred (300) feet.) Drainage improvements shall meet the specification of AASHTO (American Association of State Highway Transportation Officials) in regard to material and strength requirements. Catch basins and drop inlets shall be equal to New Hampshire Standard Type E or acceptable to the Engineer.

Storm sewer pipes and culverts shall be reinforced concrete, corrugated aluminum, corrugated steel, or equivalent and shall have a minimum two (2) foot cover over all pipes. Pipes constructed under the traveled way shall have a minimum cover of 4 feet, unless otherwise authorized. Headwalls where required shall be either of concrete or rubble masonry.

- C. Erosion protection ditches: Class C stone shall be provided in ditches where soil or velocity conditions warrant protection from erosion as determined by the Engineer.

#### 7.03 Topsoil Protection:

Topsoil moved during the course of construction shall be redistributed to provide at least four (4) inches of cover to all areas of the Subdivision and shall be stabilized by seeding and mulching or planting. No topsoil shall be removed from the Subdivision site.

#### 7.04 Monuments:

- A. All lot lines, beginning and end of curves, and points of a curve change shall be identified in the field by monuments in conformance with NH Land Surveyors Association Ethics and Standards for acceptable monuments (6.2 and 6.2a for materials), August 1989. Principal corners that monument the furthest extent of each lot shall be of stone or concrete, 4 inch X 4 inch X 35 inch long. Concrete bounds are to be reinforced with two reinforcing bars of a minimum diameter of ½ inch. The final plat shall identify each monument found or set and shall describe the monument.

A change in bearing along a property line or an accumulated change of bearing of five (5) degrees or greater shall indicate separate lot lines and shall be monumented. Where such lines are marked in the field with stone walls, the stone wall may be used for monumentation, except on principal corners.

- B. All monuments shall be set under the direct supervision of a licensed land surveyor. All monuments shall be flush with finished grade. No monument shall be set until all construction which would disturb or destroy the monument is completed. The maximum distance between monuments shall be 500 feet.
- C. All monuments shall be set and their installation certified by a licensed land surveyor prior to recording the final plat unless installation of the monuments is assured by a performance guarantee in conformance with Section 9.02.

#### 7.05 Water and Sewer Facilities

- A. Common systems: Such systems proposed by a Subdivider shall be of sufficient capacity to serve the Subdivision and shall be designed and constructed for incorporation into the future town or precinct systems. All such facilities shall meet the requirements of and be approved by, the NHDES Drinking Water and Groundwater Bureau, local and county health and public works agencies, and/or other public body having jurisdiction, and shall be accepted by the Engineer.
1. Site plans to include:
    - a. Five (5) foot contour intervals.
    - b. Well site with two hundred (200) foot protective radius. No subsurface disposal system permitted in this area.
    - c. All lots numbered.
    - d. Distribution system with water line sizes, pipe material, buried depth of piping, all valving and hydrant locations.
    - e. Indicate type of establishment; manufactured housing park, apartment buildings, etc.
  2. Complete quality analysis for the well water as conducted by the NHDES Laboratory Services Bureau or other certified laboratory within the past six (6) months.
  3. Continuous forty-eight (48) hour yield test log of the well showing water level and rate of pumping at one hour intervals.
  4. Schematic drawing of pumphouse piping.
  5. Detailed elevation of pumphouse facilities.
  6. Detailed elevations of well design.
  7. Storage facilities to be provided.
  8. Characteristic curve for all pumps-well and booster.
  9. The proposed water systems must meet all the requirements of the NHDES Drinking Water and Groundwater Bureau at the date plans are presented to and accepted by the Town of Bow Planning Board.
  10. Show that new and replacement water and sewer systems including on site and common systems be located, designed and

constructed to minimize infiltration and avoid impairment when locations fall within five hundred (500) feet of a Flood Zone.

B. Individual Service: Individual wells and subsurface disposal facilities shall in all respects comply with all applicable local and/or state requirements including those of the NHDES Subsurface Systems Bureau. In areas not currently served by common sewer systems, it shall be the responsibility of the Subdivider to provide adequate information to the installation and operation of an individual sewerage disposal system (septic tank and drain field). The Subdivider shall be required to provide the necessary equipment and labor for the making of these tests, required by local, county, and/or state authorities having jurisdiction.

1. Show that new and replacement water and sewer systems including on site and common systems be located, designed and constructed to minimize infiltration and avoid impairment when locations fall within five hundred (500) feet of a Flood Zone.

7.06 Winter Conditions: All ditches, slopes, drainage ways, and other disturbed areas shall be loamed and seeded within two weeks of final grading. Seeding done after October 1st shall consist of fast germinating grasses and shall be considered temporary. Areas shall be regraded and reseeded as necessary into the following growing season. Final approval of grading and seeding shall not be granted before the following June 15th.

Erosion and sedimentation control measures and facilities shall be in place and maintained through winter until final grading and seeding is completed and approved. In addition the Developer/Contractor shall file an inspection and maintenance plan. The plan shall set forth the names, addresses, and telephone numbers (including night and weekend telephone numbers) of all responsible parties. The plan shall provide for monthly reports of periodic inspections and inspections immediately following substantial rainfalls and snow melt conditions, as well as maintenance and corrective measures required. The reports shall be filed over the signature of the engineer/surveyor who designed the improvement or other similarly qualified individual.

7.07 Time Limit to Complete: At the time of the Board's approval of a Final Plat, the Board may specify a time limit, not to exceed three (3) years, within which all required improvements caused in the course of the work performed in the development of the Subdivision shall be completed. In the event no time limit is specified by the Board, all such improvements and repairs shall be completed within (3) years of the date of such Final Approval. This time limit may be extended by mutual agreement of the Subdivider and the Planning Board.

Section 8.00 - Design Standards:

The Subdivision plat shall conform to the design standards set forth herein to encourage good development patterns within the Town. Whether either or both an official map or comprehensive plan has or have been adopted, the Subdivision shall conform thereto with respect to streets, public open spaces and drainage ways.

8.01 Streets:

- A. General Design: All streets in the Subdivision, with the exception of a permanent turnaround (see 8.01G2), shall be designed to provide safe vehicular travel at a design speed of 30 MPH. Due consideration shall be also given to the attractiveness of the street layout in order to obtain an optimum livability and amenity of the Subdivision. Where safe vehicular travel and optimum livability and amenity can be demonstrated, alternative designs that incorporate accepted *traffic calming* techniques may be approved by the Planning Board. All Public and Private Streets shall comply with State Fire Code standards (NFPA 1141, Chapter 5 Means of Access) for Fire Department Access Roads. Provisions shall be made for the future extension of streets to adjoining unsubdivided property. Subdivisions that adjoin or include existing streets that do not conform to the width shown on the comprehensive plan or official maps or the street width requirements of these Regulations shall dedicate the differential width along either or both sides of said existing streets in accordance with Section 3.02D. If the Subdivision is along one side only, one-half (1/2) of the differential width shall be dedicated. Setbacks shall be measured from the new or future right-of-way line.
- B. Naming: No street shall have a name which duplicates or which is substantially similar to the name of an existing street. The continuation of an existing street, however, shall have the same name. Proposed street names shall be submitted to the Board of Selectmen for review and approval. Submittals shall be on the form and in the manner prescribed by the Selectmen.
- C. Cross-Section: Street right-of-way width shall be as follows:

	<u>Minimum (ft)</u>
Arterial (Class A)	80
Collector (Class B)	70
Local (Class C)	60
Industrial (Class C)	70

Right-of-way widths and other applicable cross- sectional standards are shown in Appendix B.

- D. Alignment: The minimum sight distance at intersecting roadways shall be 400 feet or farther as a result of an AASHTO analysis. Street jogs at intersections with centerline offsets of less than one hundred twenty-five (125) feet shall be avoided. The minimum centerline radii of curved streets shall be as follows:

Arterial (Class A)	500 feet
Collector (Class B)	300 feet
Local (Class C)	275 feet
Industrial (Class C)	300 feet

All reversed curves on Class A and B streets shall be separated by a tangent at least one hundred (100) feet long. When required, the roadway shall be superelevated at a maximum rate of 6%. Streets shall be laid out so as to intersect as nearly as possible at right angles. No street shall intersect any other street at less than seventy-five (75) degrees.

- E. Design of intersections: Intersecting roadway pavements shall have a paved transitional area at all corners to accommodate turning movements according to the following radii:

<u>From: To:</u>	<u>Class A</u>	<u>Class B</u>	<u>Class C</u>
Class A	50	50	30
Class B	50	30	30
Class C	30	30	30

For all intersections in commercial and industrial areas, this paved area shall have a minimum radius of fifty (50) feet.

New streets shall be located such that minimum K values as shown in subsection F below are maintained on existing and new streets through the intersection.

- F. Grade: The centerline grade for any street shall not be less than five-tenths percent (.5%). Maximum allowable centerline grades shall be as follows:

Arterial (Class A)	6%
Collector (Class B)	8%
Local (Class C) Residential	10%

All changes in grade exceeding five-tenths percent (.5%) shall be connected by vertical curves of sufficient length to afford adequate sight distances, in the opinion of the Board. The minimum K value for sag vertical curves shall be 40, and for crest vertical curves, 30, unless otherwise required.

G. Deadend Streets: Deadend streets shall be provided with an approved type turnaround, as determined by the Planning Board to be a "Temporary" or "Permanent" need. Design for the turnarounds shall be as follows:

1. Temporary turnaround: The right-of-way width, per classification of the roadway, shall be maintained to the end of the improvements and further, to the property line, if so ordered by the Board. An "L" type turnaround shall be constructed at the end of the road. Said "L" to have the dimensions shown on the typical.

The "ear" or "extension" that forms the "L" shall be deeded to the Town of Bow in the form of an Easement. Driveways shall not be located off of any portion of the "L".

The Easement shall stipulate that the Town has sole rights to use and maintain the area until such time as the Easement shall expire and the portion of the "L" which is no longer needed, expires. The portion of the "L" no longer needed shall revert to owners of the abutting lots. For the purposes of frontage requirements only, that portion of a lot that would front on an extension of a street when the "L" is discontinued, or the width of the right-of-way for the "L", shall be counted and not the lines around the "L". This type of turnaround shall be used only when the possibility of extension is evident. This type of turnaround shall not be considered as a permanent turnaround.

Where a Subdivider proposes to extend a street which currently ends in an "L" type turnaround or other temporary deadend, it is the Subdivider's responsibility to restore the temporary turnaround to through street standards. This includes, but is not limited to removing the "ears" or other maneuvering facilities where abutters desire and installing a suitable drainage system.

2. Permanent turnaround: All streets that shall permanently terminate, as shown on plans, shall have a turnaround constructed to the following minimum specifications: The right-of-way shall be flared so as to form a circular, or partially circular section or roadway for the ease of maintenance and travel. The radius of the centerline of the pavement around the turnaround shall be a minimum of seventy-five (75) feet. Shapes such as a "tear drop" or a "P" are preferred over the "lolly-pop" shape. Pavement widths shall be the same as for the road servicing the development as will all other improvements within the turnaround area. The Deed to the Town for the roadway shall include ALL lands within the outermost dimensions of the turnaround area. All drainage, signs, and other improvements within the area of the turnaround shall be as per guidelines contained within these Regulations for "Required



Improvements". (SEE TYPICALS IN REAR OF THESE REGULATIONS).

Where a Subdivider proposes to extend a street which currently ends in a permanent turnaround, it is the Subdivider's responsibility to restore the turnaround to through street standards. This may include, at the discretion of the Board, removing the paved surface, restoring to a natural state the previously paved area, providing proper access to abutting lots, necessary title and deed work required by the proposal, and other work required to create a through street to Town of Bow standards.

3. General: (1) Delineator posts or reflectors of a design approved by the Town Engineer, shall be furnished, located and installed as a part of the required improvements for all roadways and turnarounds; (2) the roadways constructed within the turnaround areas, shall conform exactly with the design criteria contained in these Regulations.
  
- H. Street Lights: Street lights of a type or style acceptable to the Board, the Director of Public Works, and the Police Chief, and compliant with RSA 9-D:2, III shall be provided at intersections and other locations as the Board may reasonably require, after consultation with the Director of Public Works and Police Chief. Street lights shall be required where needed for public safety based on traffic volumes and to achieve adequate intersection recognition. At all new intersections, conduits for underground electric power shall be installed to power future street lights.
  
- I. Street Signs: Street signs of a type of style acceptable to the Board, the Road Agent and the Police Chief shall be provided at all intersections.
  
- J. Mail Boxes: No portion of any mail box or mail delivery receptacle shall be installed closer than twelve (12) inches to the edge of pavement or curbing of any street.
  
- K. Driveways: Driveways shall be designed and constructed with grades which do not exceed 10% and to include a turnaround. Driveways in excess of 500 feet in length shall be designed and constructed so as to provide access for a SU (single unit) vehicle.
  
- L. Traffic Control: Traffic control signs, pavement marking, and other devices shall be installed in accordance with the Manual on Uniform Traffic Control Devices unless otherwise stipulated by the Planning Board or Engineer.

#### 8.02 Blocks:

Blocks generally shall not be less than five hundred (500) feet, nor shall the

length exceed one thousand two hundred (1200) feet. In blocks over one thousand (1000) feet long, pedestrian crosswalks may be required in locations deemed necessary by the Planning Board.

#### 8.03 Lots:

- A. Lot dimensions and area shall not be less than the requirements of the Zoning Ordinance, or as required by soil or topography conditions.
- B. Insofar as is practical, side lot lines should be at right angles to straight streets, and radial to curved streets.
- C. Where extra width has been dedicated for widening of existing streets, lots shall begin at such extra width line, and all setbacks shall be measured from such line.
- D. Where there is a question as to the suitability of a lot or lots for its or their intended use due to shape or the presence of such factors as rock formations, steep slopes, unusual surface configurations, tendency to periodic flooding, poor drainage, unsuitable soil or soils, and inadequate capacity for sanitary sewer disposal, the Planning Board may withhold approval of such lot or lots.
- E. Lots shall be graded in such a manner so as to prevent the collection of water at low points thereon.
- F. Any land designated as Area of Special Flood Hazard or shown to be bog, marsh, swamp area, area of high water table or any similar situation, shall not be counted toward the required minimum lot size, but shall be allowed to be added to lots if the Public Welfare and safety is protected. Any soils considered by the USDA Natural Resources Conservation Service as being poorly drained or very poorly drained, in addition to the above conditions, shall not be counted towards the minimum lot sizes.

#### 8.04 Easements:

- A. Easements for utilities across lots or centered on rear or side lot lines shall be provided where necessary and shall be at least twenty (20) feet wide.
- B. Where a Subdivision is traversed by a water course, drainage way, channel or stream, the Board may require that there be provided a storm water easement or drainage right-of-way of adequate width to conform substantially to the lines of such water courses, drainage way, channel or stream, and provide for construction and permanent maintenance of associated storm water control facilities such as rip-rap, flow dissipaters, headwalls and catch basins. Required flowage easements, within the subdivision, shall be extended until a drop of 4 feet in elevation from the

drainage structure's outlet is obtained.

#### 8.05 Utilities:

All underground utilities shall be placed immediately after preparation of the roadway to subgrade, but prior to placement of and beneath select roadway materials in conduit in streets under construction. The conduit shall extend a minimum of three feet (3') beyond paved areas and shall be placed a minimum of 12 inches below subgrade, unless otherwise specified.

Crossings shall be perpendicular to the roadway whenever possible.

Excepting water and sewer facilities, underground utilities running parallel to the traveled way, shall be located a minimum of three feet (3') outside paved areas with a minimum of two feet (2') of cover and in the manner prescribed by the utility company providing service.

When underground utilities are encountered, the contractor shall notify the appropriate agency to assure proper construction procedure in that area. Any damage to a utility is to be reported to and repaired by that utility prior to backfilling.

##### A. Water and Sewer:

The Engineer shall oversee all work related to required water and sewer facilities.

1. All water and sewer facilities shall be designed by a registered professional engineer
2. Sanitary sewer mains shall have a minimum of six feet (6') of cover under street surfaces.
3. Water mains shall have a minimum of five and one half feet (5 ½') of cover under street surfaces.

##### B. Electric Power:

1. At crossings, underground electric conductors must be contained within rigid conduits (4 inch minimum diameter Schedule 80 PVC or rigid steel conduit).
2. Underground electric conductors shall have a minimum of 40 inches of cover.
3. Electrical site work shall be performed by Licensed Electrical Contractors, not general contractors.

C. Warning Tape:

An appropriately labeled warning tape shall be laid approximately 12 inches above all underground utilities within the street right of way.

8.06 Storm Drainage:

A. General Design: Unless superceded or otherwise specified herein, all drainage design shall meet the standards for “Minor State Aid Highways and Betterments” contained in the NH Department of Transportation *Manual on DRAINAGE DESIGN FOR HIGHWAYS*.

B. General Applicability: These design standards shall apply to drainage facilities referred to in sections 3.03 B Drainage/Grading Plan and 7.02 Drainage.

C. Specific Design Standards: Drainage Structures shall be designed to accommodate storms of the following frequency:

Bridges	50 years
Culverts	25 years
Storm Drains for depressed sections	25 years
Storm Drains	10 years
Detention Ponds / Structures	10 years
Curbed Roadway & Roadside Ditches	10 years

Based on the Drainage Calculations required in section 3.03 B, the design engineer shall address potential adverse impacts to downstream improvements, property, and receiving waters.

Section 9.00 -Inspections and Performance Guarantee:

9.01 Performance and Inspection of Work:

- A. All work necessary for the construction of required improvements and the repair of damage to existing public improvements shall conform to the requirements of these Regulations. Such work shall be performed in a good and workmanlike manner, and shall be free from faults and defects. All materials incorporated in such construction shall conform to the requirements of the current State of New Hampshire's Standard Specifications for Road and Bridge Construction. Any work or materials not conforming to the foregoing standards may be considered defective and rejected by the Engineer. All work and materials rejected by the Engineer as defective shall be removed and corrected by the Subdivider. All work shall be completed within the time limits, if any, specified by the Planning Board, but in the absence of such specified limits and in all events no later than three (3) years from the date of the approval of the Final Plat, unless the time limit is extended by mutual agreement of the Planning Board and the Subdivider.
  
- B. The Engineer will be the Town's representative during the construction of required improvements. He shall at all times have access to the site when the work is in preparation and progress. He will make periodic visits to the site to familiarize himself generally with the progress and quality of the work and to determine in general if the work is proceeding in accordance with the requirements of these Regulations. The Subdivider shall provide the Engineer in advance with a schedule of work to be performed outside of the Engineer's normal office hours and give the Engineer timely notice of the completion of each major stage in the construction of any required improvement so that the Engineer may inspect the work so completed prior to the covering thereof, and the Engineer shall make all such inspections with reasonable promptness so as to cause no delay in the work. In particular, the Subdivider shall in the case for streets, give timely notice to the Engineer of the completion of subgrades, drainage base course, and base and final surfacing. The Subdivider shall provide to the Engineer, the name and telephone number of the individual(s) responsible for the construction, so that he/she may be contacted for any emergency, night, or weekend maintenance problems.
  
- C. The Subdivider shall give the Engineer notice when any required improvements is completed and ready for final inspection. The Engineer will promptly make such inspection and, when he finds that the particular improvement has been fully completed in accordance with the requirements of these Regulations, he shall approve the same in writing. Such approval, in the case of a street, shall not constitute the legal acceptance of the street by the Town nor shall it modify in any way the requirements of law for the acceptance of streets by the Town.

- D. The Subdivider shall promptly remedy any defects in any required improvement due to faulty workmanship or materials which appear within a period of one (1) year after approval thereof by the Engineer.
- E. Notwithstanding the on-site observations and inspections and any approvals of required improvements issued by the Engineer, the Subdivider shall be and remain fully responsible for the performance of the construction work in accordance with the requirements of these Regulations and the Engineer shall have no responsibility for the failure of the Subdivider to carry out the work as required herein.
- F. The Subdivider shall upon demand, promptly reimburse the Town for the expense of all inspection work performed by the Engineer pursuant to the provisions of subparagraphs B and C of this Paragraph 1, Section 9.00. In the case of a Major Subdivision, the Subdivider shall file with the Town a cash deposit of such amount as the Engineer may reasonably require as security for such reimbursement, and if the Subdivider fails to make reimbursement as and when required hereunder the Town may appropriate such cash deposit as necessary to affect reimbursement.

#### 9.02 Performance Guarantee

- A. Posting of Performance Guarantee: No subdivision plat shall be recorded prior to the applicant providing an acceptable performance guarantee for all public and/or common private improvements, together with deeds for any public rights-of-way or easements, or any other legal document required.
- B. Amount: The amount of the performance guarantee shall be approved by the Town Engineer as sufficient to secure to the Town the satisfactory construction and installation of the required public and private improvements, including contingency and inflation factors. A licensed professional engineer shall submit a construction cost estimate acceptable to the Town Engineer which includes breakdowns by quantity of material and unit costs, along with contingencies, prior to the presentation of any performance guarantee.
- C. Form: The following types of guarantees are acceptable to ensure the completion of the required improvements:
  - 1. A non-lapsing or self-calling letter of credit drawn on a bank authorized to do business in New Hampshire and filed with the Town.
  - 2. A non-lapsing or self-calling surety bond issued by a surety company authorized to do business in New Hampshire and filed with the Town.
  - 3. Cash or certified check to be deposited with the Town under an escrow agreement.
- D. Legal Provisions: All performance guarantees shall comply with statutory requirements and shall be satisfactory to Town Counsel as to form, sufficiency,

and manner of execution as set forth in these regulations.

E. Duration: Construction of the required improvements shall be completed within two years of final approval. If construction is not completed during this time period, the Planning Board may grant an extension of up to one additional year.

F. Reduction: A reduction of a performance guarantee may be authorized by the Town Engineer upon completion of a significant portion of the subdivision, but in no case shall the amount be reduced below 25 % of the principal amount until all improvements have been completed.

G. Release: The performance guarantee shall not be released until the Town Engineer certifies that all improvements have been satisfactorily completed with the exception of the final coat of pavement, an acceptable as-built plan has been submitted, and a maintenance guarantee has been provided pursuant to Section 9.03.

### 9.03 Maintenance Guarantee

A. Posting of Maintenance Guarantee: The applicant shall be required to file a maintenance guarantee with the Town at the time of release of the performance guarantee. The maintenance guarantee shall be in an amount considered adequate by the Town Engineer to cover the final coat of pavement and against any latent defects and shall not exceed 25 % of the total construction cost of the project.

B. Form: The following types of guarantees are acceptable to ensure maintenance of the required improvements and against latent defects:

1. A non-lapsing or self-calling letter of credit drawn on a bank authorized to do business in New Hampshire and filed with the Town.
2. A non-lapsing or self-calling surety bond issued by a surety company authorized to do business in New Hampshire and filed with the Town.
3. Cash or certified check to be deposited with the Town under an escrow agreement.

C. Duration: The maintenance guarantee shall be kept in place for a minimum of two years after the Town Engineer certified that the improvements were completed. The final wearing course shall not be placed until authorized by the Town Engineer.

D. Snow Removal: The applicant shall be required to maintain all required public improvements in the subdivision until they are officially accepted by the Town. However, commencing at the time of issuance of the first certificate of occupancy for a structure accessed by any street, snow removal operations may be undertaken by the Department of Public Works (DPW) provided that 1) the

owner of the subdivision provides DPW with a signed written statement acknowledging the Town shall not be liable for any damage caused to private property as a result of snow removal operations; and 2) the Town's assumption of snow removal responsibilities in no way constitutes any form of acceptance by the Town of said street(s) as public highways. DPW may elect to require the owner of said subdivision street(s) to reimburse the Town for the costs associated with snow removal until such time as said street(s) are formally accepted by the Town.

E. Release: The maintenance guarantee shall not be released until the Town Engineer certifies that the maintenance period has been satisfactorily completed, the final coat of pavement has been installed, and the street has officially been accepted by the Town.

#### 9.04 Street Opening and Acceptance

A. Building Permits: No building permits shall be issued for lots within the subdivision until the road subgrade and base course of pavement have been completed and inspected by the Town Engineer and the roadway is in passable condition for emergency vehicles.

B. Certificates of Occupancy: No certificates of occupancy shall be issued for lots within the subdivision until the performance guarantee has been released pursuant to Section 9.02(G).

C. Acceptance: Upon petition and final inspection by the Town Engineer, the Board of Selectmen shall hold a hearing in accordance with RSA 674-40-a to consider formal street acceptance.



### Section 10.00 - Compliance with Regulations - Penalties:

No subdivision of land shall be made, and no land in any Subdivision shall be transferred, sold or offered for sale until a Final Plat, prepared in accordance with the requirements of these Regulations, has been approved by the Planning Board. As provided in RSA 676:16 (formerly RSA 36:27), any owner, or agent of the owner, of any land located within a Subdivision, who transfers or sells any land before a plan of the said Subdivision has been approved by the Planning Board and recorded or filed in the office of the Merrimack County Registry of Deeds, shall forfeit and pay a civil penalty of One Thousand Dollars (\$1,000) for each lot or parcel so transferred or sold; and the description of metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring shall not exempt the transaction from such penalties. The Town of Bow may enjoin a transfer or sale which violates the provisions of this Section and may recover the penalty imposed by a civil action. In any such action, the prevailing party may recover reasonable court costs and attorney's fees as the same may be ordered by the court. The Town of Bow may invoke the authority of any applicable statute to obtain compliance with these regulations, including, but not limited to the provisions of RSA 676:15 Injunctive Relief or 676:17 Fines and Penalties; Second Offense.

### Section 11.00 - Waivers:

The proposed Subdivision shall conform to the Zoning Ordinance of the Town of Bow. Where (a) strict conformity to these Subdivision Regulations would cause undue hardship to the owner of the land or where (b) specific circumstances relative to the subdivision, or conditions of the land in such subdivision, indicate that the waiver will properly carry out the spirit and intent of the regulations, a Subdivision plan substantially in conformity with these Regulations may be approved by the Board, provided that the spirit of these Regulations and public convenience and welfare will not be adversely affected.

Requests for waivers shall be submitted in writing and shall include the basis for granting the waiver. The Board may accept an oral request for waiver at the public hearing for a subdivision application. The basis for any waiver granted by the Board shall be recorded in the minutes of the board.

Section 12.00 - Amendments:

These Regulations may be amended or rescinded by the Planning Board but only following public hearing on the proposed changes. The Chair or Secretary of the Planning Board shall transmit a record of any changes so authorized to the Merrimack County Registry of Deeds.

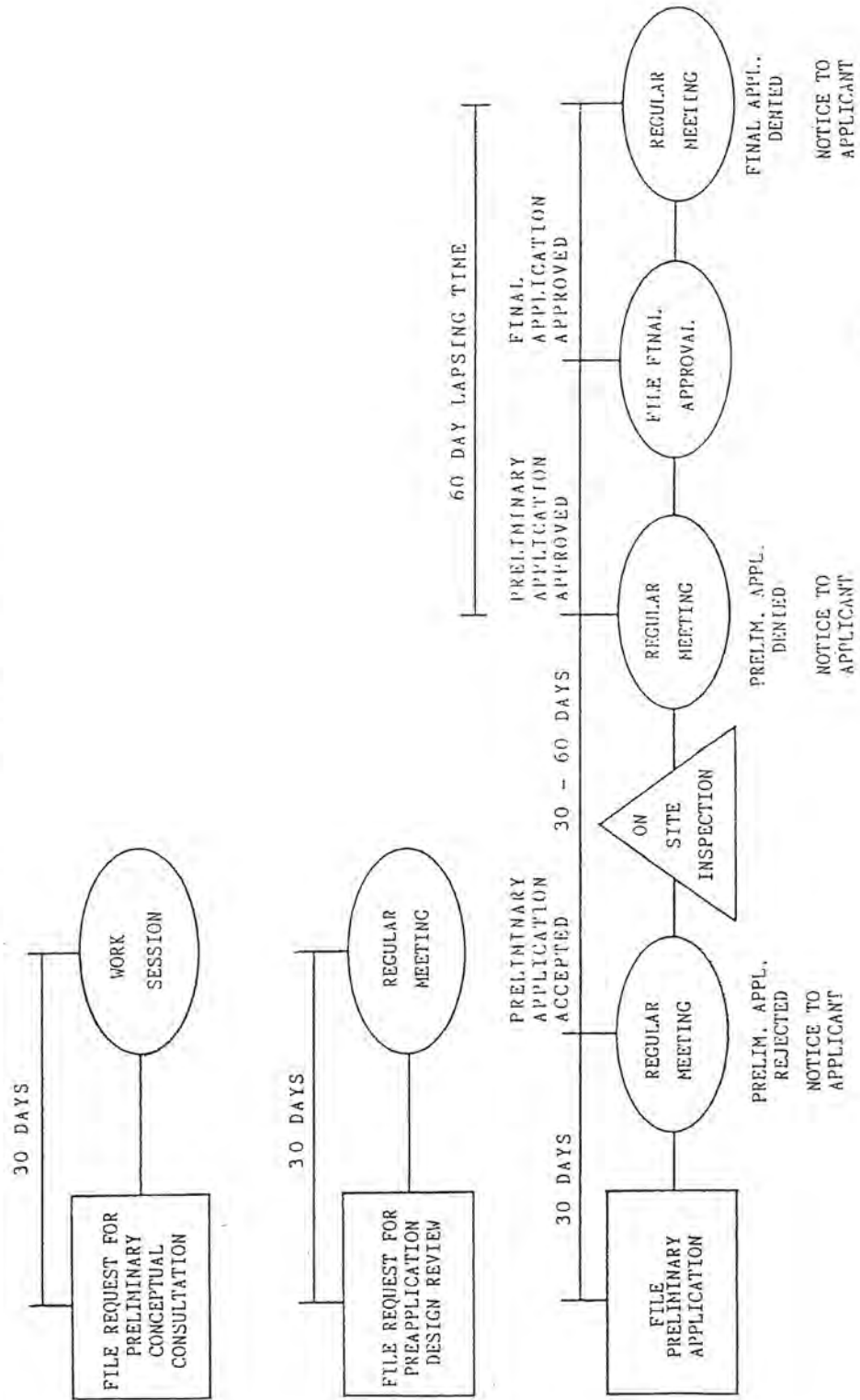
Section 13.00 - Appeals:

Pursuant to RSA 677:15, any persons aggrieved by any decision of the Planning Board concerning a Plat or Subdivision may present to the superior court a petition, duly verified, setting forth that such decision is illegal or unreasonable in whole or in part, specifying the grounds upon which the same is claimed to be illegal or unreasonable. Such petition shall be presented to the court within thirty (30) days after the date upon which the Planning Board voted to approve or disapprove the Subdivision. In accordance with RSA 677:15, I-a, if any of the matters to be appealed are appealable to the Zoning Board of Adjustment under RSA 676:5, III, such matters shall be appealed to the Zoning Board of Adjustment before any appeal is taken to the superior court.

Section 14.00 - Appendices

APPENDIX A

PROCEDURES FLOW CHART



## APPENDIX B

### Typical Sections for Roads

General Notes

Arterial (Class A) Street

Collector (Class B) Street

Local Industrial (Class C) Street

Local (Class C) Street - Through "fill" area

Local (Class C) Street - Through "cut" area

Typical Temporary Turnaround

Typical Permanent Turnaround - "tear drop" design

Typical Permanent Turnaround - "lolly pop" design

Typical Permanent Turnaround - reversed "P" design

## APPENDIX B; TYPICAL SECTIONS FOR ROADS

### GENERAL NOTES

#### A. Surface Treatment

Hot bituminous concrete pavement - 4 inches minimum  
NH Standards for Road and Bridge Construction

- 1) Base Course – 2.5 inches (after compaction) Type "B"
- 2) Wearing Course – 1.5 inches (after compaction) Type "E"
- 3) Paved Shoulders on Arterial, Collector, and Industrial Streets:  
    Base Course – 2.5 inches (after compaction) Type "B"  
    Wearing Course - 1 inch (after compaction) Type "E"

#### B. In Fill Areas

Original ground to be "stripped and grubbed" and properly shaped

All non-acceptable materials ie. stumps, branches, leaves, roots, muck, clay, etc., shall be removed prior to placing fill or structural section (gravel) layers

A minimum of twelve inches (12") below the bottom of the bank run gravel grade shall be compacted sand meeting the requirements of the a NHDOT Standard Specification 304.1. A geotextile fabric may be substituted for the 12 inch sand layer in accordance with section 7.01 A.

Slopes steeper than 3:1 shall be stabilized by a method approved by the Town's Engineer.

#### In "Cut" Areas

Subgrade to be shaped and graded prior to the placing of gravel

A minimum of twelve inches (12") below the bottom of the bank run gravel grade shall be compacted sand meeting the requirements of the a NHDOT Standard Specification 304.1. A geotextile fabric may be substituted for the 12 inch sand layer in accordance with section 7.01 A.

Slopes steeper than 3:1 shall be stabilized by a method approved by the Town's Engineer.

- #### C.
- 1) Superelevate roadways on curves, as directed. Maximum superelevation rate shall be 6%.
  - 2) Ditches or gutters shall be paved where required
  - 3) All drainage pipes to have minimum 2 feet of cover. Pipes constructed



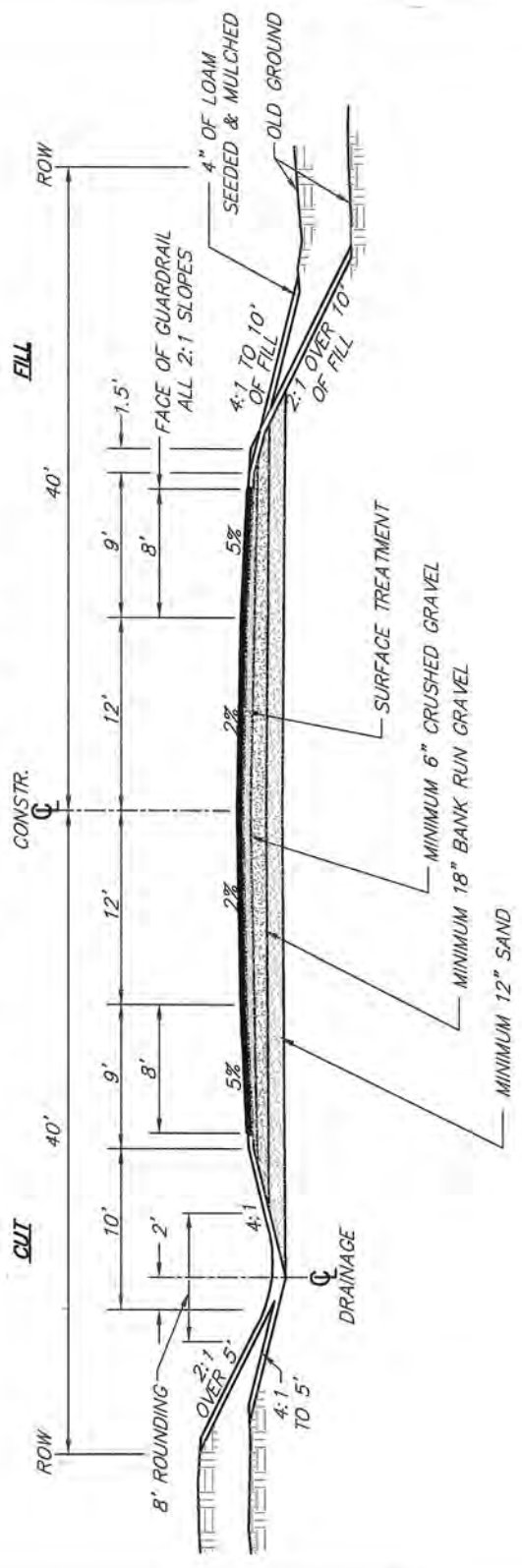
under the traveled way shall have a minimum cover of 4 feet, unless otherwise authorized.

- 4) All drainage to be constructed as shown on plans or as directed by the Engineer

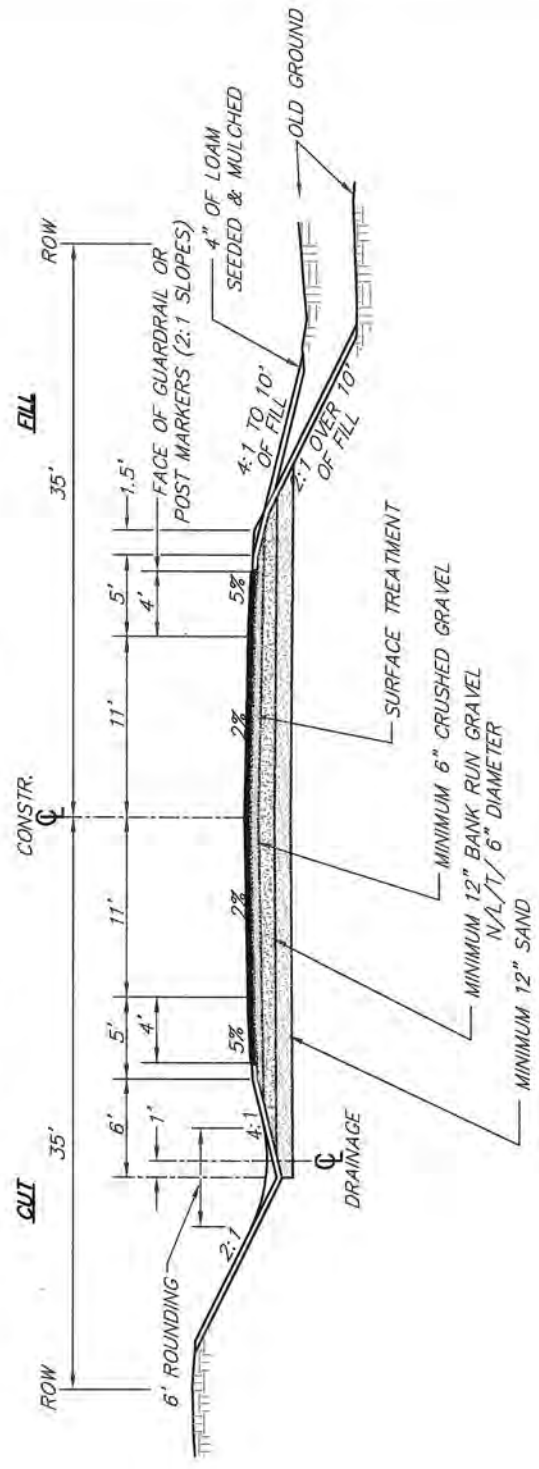
D. Where required by the Town Engineer or Road Agent, the ditches shall be lined in the following manners:

- 1) "Hot top" at a depth of 2 inches after compaction (minimum)
- 2) Stones - NH Standard Class "C" placed so that the pattern is "stone to stone" in a neat and controlled manner

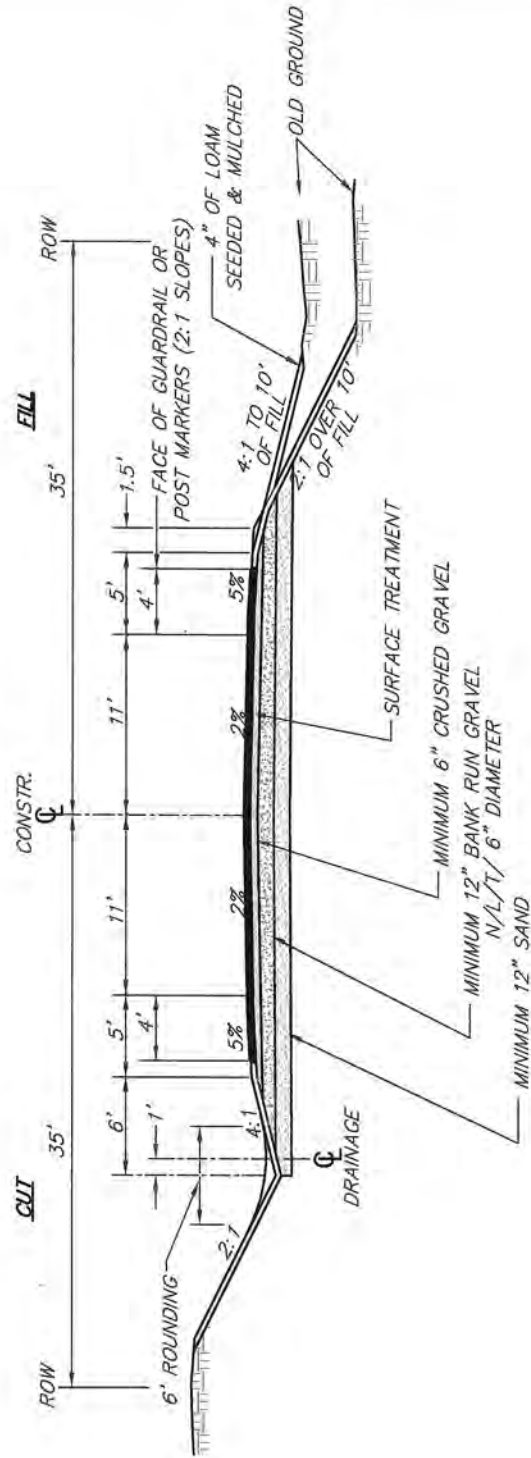
# TYPICAL SECTION OF IMPROVEMENT ARTERIAL (CLASS A) STREET



# TYPICAL SECTION OF IMPROVEMENT COLLECTOR (CLASS B) STREET

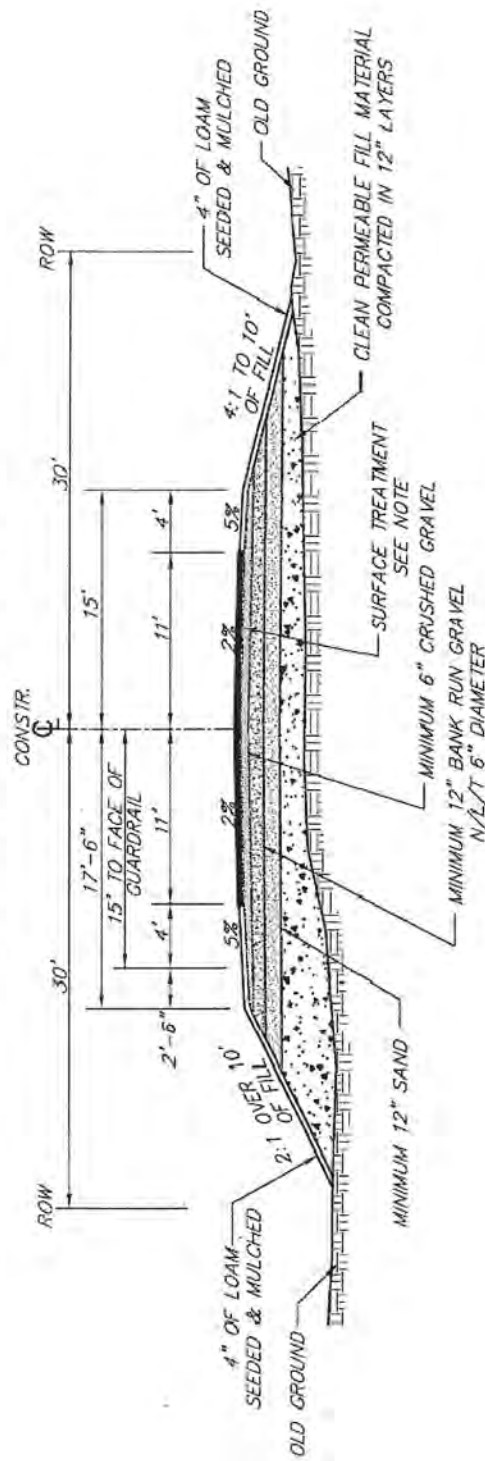


# TYPICAL SECTION OF IMPROVEMENT INDUSTRIAL (CLASS C) STREET\*

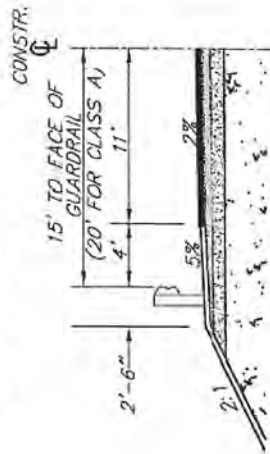


•EXISTING AND NEW STREETS IN THE I-1, I-2 AND BD DISTRICTS

# TYPICAL SECTION OF IMPROVEMENT LOCAL (CLASS C) ROAD THROUGH "FILL" AREA



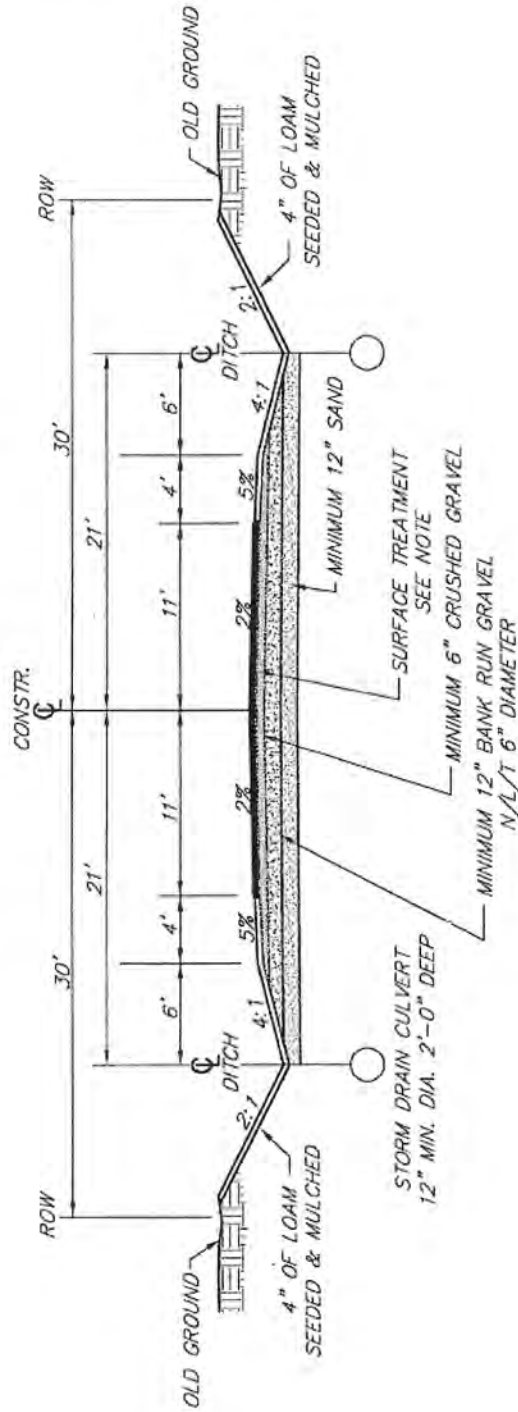
## GUARDRAIL TYPICAL



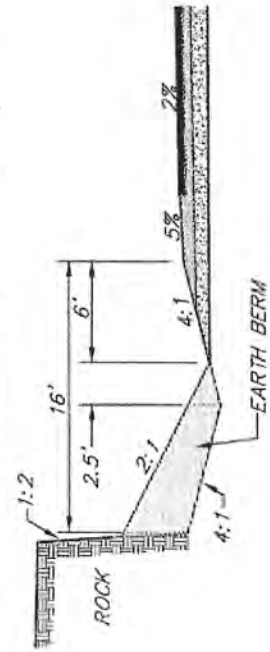
## SECTION NOTES

- A. SURFACE TREATMENT - HOT BITUMINOUS CONC. PAVEMENT 4" MIN. N.H. STANDARDS FOR ROAD & BRIDGE CONST.
  1. BASE COURSE-2.5" (AFTER COMPACTION) TYPE "B"
  2. WEARING COURSE-1.5" (AFTER COMPACTION) TYPE "E"
- B. IN FILL AREAS: ORIGINAL GROUND TO BE "STRIPPED & GRUBBED" AND PROPERLY SHAPED. NON-ACCEPTABLE MATERIALS, i.e. STUMPS, BRANCHES, LEAVES, ROOTS, MUCK, CLAY, ETC. SHALL BE REMOVED PRIOR TO PLACING FILL.
- C. IN CUT AREAS: SUB-GRADE SHALL BE SHAPED & GRADED PRIOR TO THE PLACING OF GRAVEL.

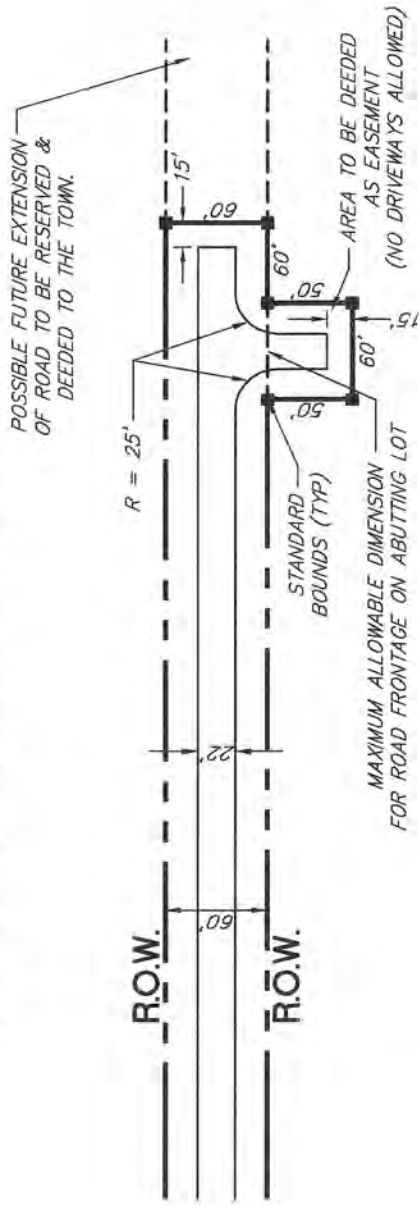
# TYPICAL SECTION OF IMPROVEMENT LOCAL (CLASS C) ROAD THROUGH "CUT" AREA



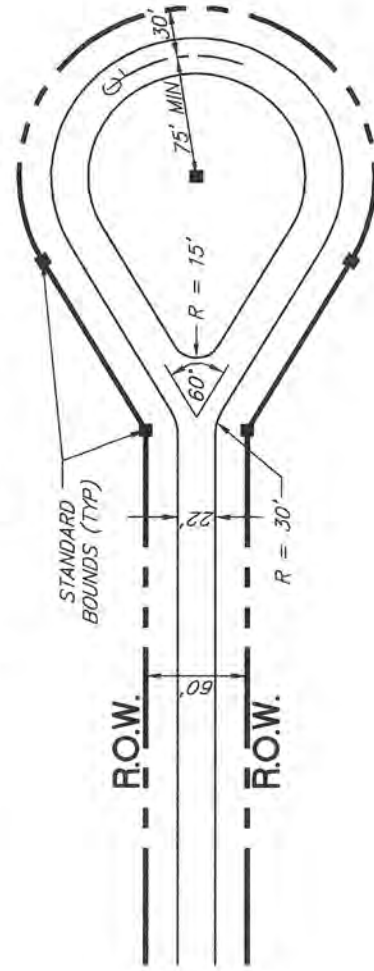
# ROCK CUT TYPICAL



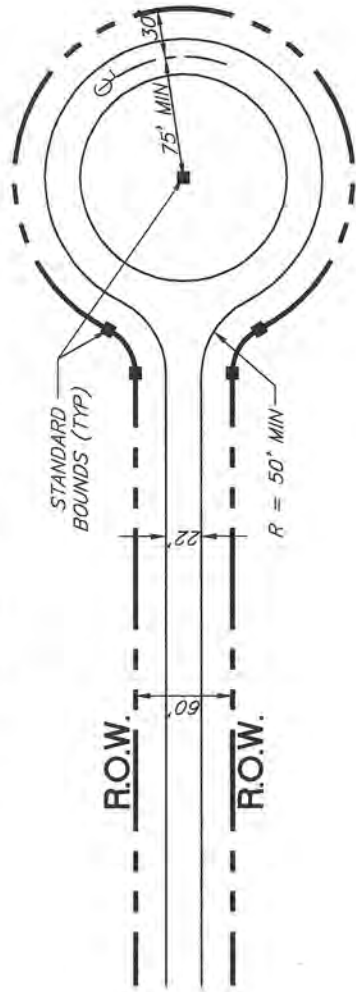
## TYPICAL TEMPORARY TURNAROUND



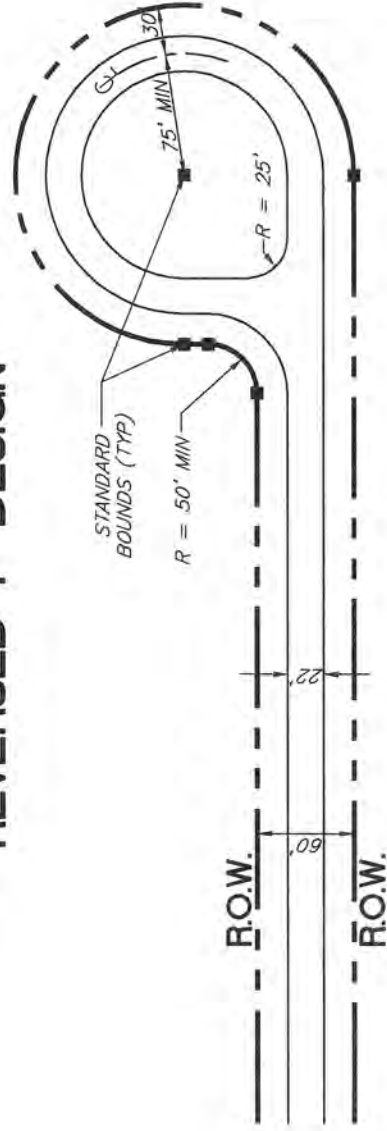
## TYPICAL PERMANENT TURNAROUND "TEAR DROP" DESIGN



**TYPICAL PERMANENT TURNAROUND  
"LOLLY-POP" DESIGN**



**TYPICAL PERMANENT TURNAROUND  
REVERSED "P" DESIGN**





## APPENDIX C; RECORD DRAWING (AS-BUILT) PLAN REQUIREMENTS

Record Drawings (As-Built Plans) shall meet the following requirements:

1. Sheet size shall be 22 inches x 34 inches.
2. Plan scale shall not exceed 1 inch = 50 feet. Profile horizontal scale shall match plan scale with a horizontal to vertical scale ratio of 5:1.
3. Proposed elevations for road centerline at fifty foot stations shall be shown on the profile. As-built elevations shall appear in parentheses next to the proposed elevations. As-built vertical curve information shall appear on the profile.
4. Horizontal alignment of the street centerline with tie in to intersecting streets, edges of pavement, width of shoulders, sidewalks, shoulder breaks, centerline of ditches and bottom and top of slopes (all with spot elevations), shall be shown on the plan.
5. The location of the right of way and all monuments delineating the right of way shall be shown on the plan. The location of all utility, slope, drainage and sight distance easements shall appear on the plan.
6. The location of fire cisterns including exposed fill and vent pipes, bollards and turnout areas shall appear on the plan.
7. All storm and sanitary sewer structures and piping shall appear on the plan and profile. As-built elevations shall appear in parentheses next to the proposed elevations for pipe inverts, structure rims and pipe outlets at headwalls and ditch lines. Indicate size and type of material for all piping and structures.
8. The location of water mains, water services, bends, valves, hydrants, and blow offs.
9. The location of all water and sewer service laterals shall be shown to the limit of the street right of way. Indicate the size and type of material.
10. The location of surface runoff retention/detention ponds, water quality swales, water quality facilities, erosion stone, etc. shall be shown on the plan. Elevation information in the form of spot elevations and/or contours indicating the as-built grading shall appear on the plan.
11. A statement that sight distance requirements at all affected intersections have been determined post construction, meet the Town requirements for sight distance and have been observed in the field by a Town representative or the Town's Consulting Engineer.
12. Location of all visible roadway components including but not limited to utility poles, guardrail, curbing, drive aprons and drive culverts, lighting and landscaping.
13. Location of all private utilities such as gas, electric, telephone and cable conduit, transformer pads, junction boxes and services stubs.
14. Plans shall be submitted in electronic form tied to state plane coordinates. A minimum of two points with state plane coordinates, located within the project, shall be shown on the plan.
15. Plans shall be sealed and signed by a professional surveyor licensed by the State of NH.

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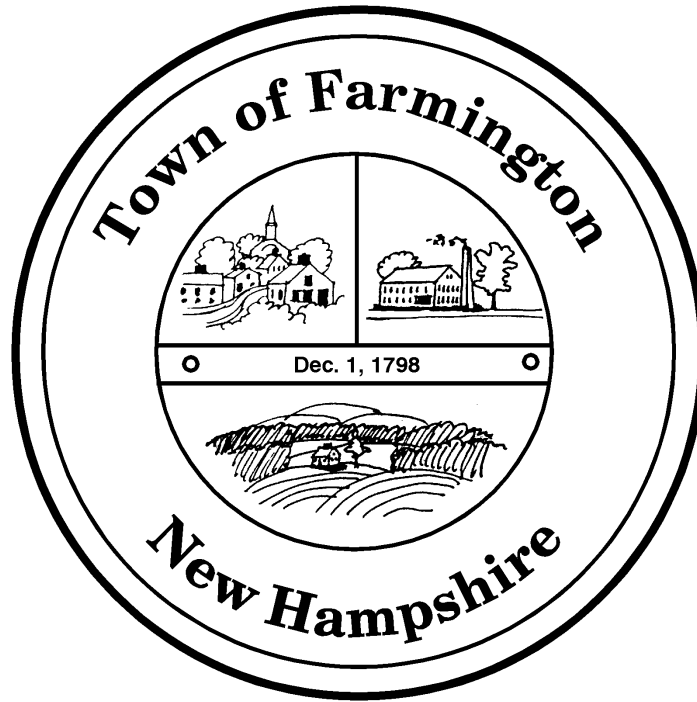
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**A Bicentennial Community  
1798-1998**

**SUBDIVISION REGULATIONS  
REVISED JUNE 7, 2016**

*Subdivision Regulations Originally Adopted March 31, 1976*

# TOWN OF FARMINGTON LAND SUBDIVISION REGULATIONS

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# TOWN OF FARMINGTON SUBDIVISION REGULATIONS

## SECTION 1. AUTHORITY

Pursuant to the authority vested in the Farmington Planning Board by the voters of the Town of Farmington on November 19, 1975 and in accordance with the provisions of RSA 674:35 of the New Hampshire Revised Statutes Annotated, and as amended, the Farmington Planning Board adopts the following regulations governing the subdivision of land in the Town of Farmington, New Hampshire, hereinafter known as Farmington Subdivision Regulations.

## SECTION 2. PURPOSE AND APPLICABILITY

The purpose of these regulations is to provide for:

- the orderly present and future development of the Town by promoting the public health, safety, convenience and welfare of its residents;
- the harmonious development of the Town of Farmington, including its natural and manmade environments;
- open spaces of adequate proportions; and
- the proper arrangement and coordination of streets within subdivisions in relation to other existing or planned streets or with other features of the town so as to impose a convenient system.

These regulations apply to Planning Board review and approval or disapproval of all subdivisions as defined by RSA 672:14 and minor lot line adjustments or boundary agreements. They do not apply to voluntary mergers as defined by RSA 674:39-a.

## SECTION 3. CONFLICTING PROVISIONS AND VALIDITY

Whenever the regulations made under the authority hereof differ from those prescribed by any statute, ordinance, or other regulations, that provision which imposes the greater restriction or the highest standard shall govern.

If any section, clause, provision, portion or phrase of these regulations shall be held to be invalid or unconstitutional by any court of competent authority, such holding shall not affect, impair or invalidate any other section, clause, provision, portion or phrase of these regulations.

## SECTION 4. DEFINITIONS

**Abutter:** Means: (1) any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration by the local land

use board; and (2) affected municipalities and the regional planning commission(s) in the event of developments having regional impact. For purposes of receiving testimony only, and not for purpose of notification, the term "abutter" shall include any person who is able to demonstrate that his land will be directly affected by the proposal under consideration. For purposes of receipt of notification by a municipality of a local land use board hearing, in the case of an abutting property being under a condominium or other collective form of ownership, the term abutter means the officers of the collective or association, as defined in RSA 356-B: 3, XXIII.

**Applicant:** Means the owner of record of the land to be subdivided, or his/her designated agent.

**Application, Complete:** Means a final plat and all accompanying materials and fees as required by these regulations.

**Approval:** Means recognition by the Planning Board, certified by written endorsement on the plat, that the plat meets the requirements of these Regulations and in the judgment of the Board satisfies all criteria of good planning and design.

**Approval, Conditional:** Means recognition by the Planning Board, certified by written endorsement on the plat, that the plat is neither finally approved nor ready for filing with the Registry of Deeds until such time as certain conditions, set forth by the Board, are met. This is not to be confused with a plat that has been approved *subject to certain conditions* that would be met as part of the implementation of the plan.

**As-Built Plans:** Revised set of plans submitted by an Applicant upon completion of the project. The as-built plans shall reflect all changes made in the field during the construction process, and show the exact dimensions, geometry, and location of all elements of the work completed under the approved plan. As as-built plan may also be called a record drawing. A digital copy of the as-built plans must also be submitted.

**Board:** Means the Planning Board of the Town of Farmington.

**Buildable Area:** That portion of a parcel upon which a structure may be erected. The following are not to be included in the buildable area: steep slopes; wetland soils; rock outcrops; floodplains; proposed or existing rights of way and utility easements; and state and local required setbacks.

**Development:** Means any construction or grading activities on real estate other than agricultural and silvicultural (tree care and harvesting) practices.

**Easement:** Means the authorization by a property owner for the use by another, and for a specific purpose, of any designated part of his/her property.

**Frontage:** Means that side of a lot abutting a street or body of water and ordinarily regarded as the front of the lot.

**Lot:** Means a parcel of land capable of being occupied that is of sufficient size to meet the minimum requirements for use, building coverage, and area.

**Lot of Record:** Means a parcel, the plat or description of which has been recorded at the county register of deeds.

**Lot Line or Boundary Adjustment:** Means adjustments to the boundary between adjoining properties, where no new lots are created.

**Plat:** Means the map, drawing or chart on which the plan of subdivision is presented to the Board for approval, and which, if approved, will be submitted to the County Register of Deeds for recording.

**Public Hearing:** Means a meeting, notice of which must be given per RSA 675:7 and 676:4,I (d), at which the public is allowed to offer testimony.

**Public Meeting:** Means the regular business meeting of the Planning Board as required per RSA 673:10. Notice must be posted at least 24 hours in advance and the meeting must be open to the public, although participation by the public is at the discretion of the Board.

**Right-of-Way:** Means a strip of land for which legal right of passage has been granted by the landowner or utility company to provide access to a lot which lacks adequate frontage.

**Setback:** The horizontal distance between a Structure and the Lot boundaries, measured at right angles or radial to the Lot boundary.

**Sewage Disposal System (Individual):** Means any on-site sewage disposal or treatment system that receives either sewage or other wastes, or both. For the purposes of this regulation, this means all components of the system, including the leach field.

**Steep Slope:** For the purpose of calculating buildable area, steep slopes are those in excess of 25%.

**Street:** Means a publicly approved road, Class V or better, maintained for vehicular travel, or a road that appears on a subdivision plat approved by the Planning Board.

**Street Frontage:** The horizontal distance between side lot lines measured along the street line. When a lot is bounded by more than one street, only one shall be designated by the Planning Board as the frontage street. That street must provide sufficient frontage as required by the Zoning Ordinance.

**Subdivision:** Means the division of a lot, tract, or parcel of land into two (2) or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale, rent, lease, condominium conveyance or building development. The division of a parcel of land held in common and subsequently divided into parts among several owners shall be

deemed a subdivision.

**Subdivision, Major:** Means a subdivision of five (5) or more lots, or one which involves the creation of new streets and/or utilities, regardless of the number of lots.

**Subdivision, Minor:** Means a subdivision of land into not more than four (4) lots for building development purposes, with no potential for resubdivision, and requiring no roads, utilities or other municipal improvements.

**Wetlands:** Means an area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands include swamps, marshes, bogs and similar areas.

## SECTION 5. GENERAL REQUIREMENTS FOR SUBDIVISION OF LAND

- A. **Character of Land for Subdivision:** Land of such character that it cannot, in the judgment of the Board, be safely used for building development purposes because of exceptional danger to health or peril from fire, flood, poor drainage, excessive slope, or other hazardous conditions, shall not be platted for residential, commercial, or industrial subdivision, nor for such other uses as may increase danger to life or property, or aggravate the flood hazard.
- B. **Premature Subdivision:** The Board may provide against such scattered or premature subdivision of land as would involve danger or injury to health, safety, or prosperity by reason of the lack of water supply, sewage disposal, drainage, transportation, schools, fire protection, or other public services which necessitate the excessive expenditure of public funds for the supply of such services.
- C. **Preservation of Existing Features:** Wherever feasible, suitable steps shall be taken to preserve and protect significant existing features such as trees, scenic points, stone walls, rock outcroppings, water bodies, and historic landmarks. Where possible, the boundary line(s) should follow stone walls.
- D. **Open Space:** In the case of major subdivisions, the Planning Board may require that suitable areas of open land of reasonable size for the nature of the subdivision submitted be set aside as parks or for other recreational purposes.
- E. **Compliance With Regulations:** No subdivision of land shall be made, and no land in any subdivision shall be sold or offered for sale or lease, and no street or utility construction shall be started until a final plat, prepared in accordance with the requirements of these regulations, has been approved by the Board, and other required permits have been issued.

## **SECTION 6. SUBDIVISION DESIGN STANDARDS**

### **A. General Standards**

In review of any subdivision plans conducted under these regulations, the Planning Board will require that adequate provisions be made by the owner or his agent for:

1. The safe and attractive development of the tract and to guard against such conditions as would involve danger or injury to health, safety, and the diminution in value of surrounding properties;
2. Traffic circulation and access including adequacy of entrances and exits, traffic flow, sight distances, access to state highways, turning lanes, and traffic signalization;
3. Pedestrian and bicycle safety and access;
4. Off-street parking;
5. Stormwater drainage and ground water recharge;
6. Water supply, wastewater and septage disposal, and solid waste disposal;
7. Adequate fire safety, prevention, and control;
8. The harmonious and aesthetically pleasing development of the municipality, including its natural and man-made environments;
9. Suitably located and coordinated travel ways of sufficient width to accommodate existing and prospective traffic and to afford adequate light, air, and access to buildings for fire fighting apparatus and other emergency equipment;
10. Conformance with all existing regulations and ordinances;
11. Demonstration that the proposal is generally consistent with the Town's Master Plan;
12. Adequate green areas, open space, conservation easements, slope and drainage easements as may be necessary/applicable;
13. Facilities to meet the recreational needs of the residents in the subdivision.
14. Sidewalks, when required, shall be installed and constructed in accordance with the specifications of the Town of Farmington.

**B. Lots**

1. The layout of lots shall be in conformance with the following conditions:
  - a. Lot dimensions and area shall not be less than the requirements of the Zoning Ordinance.
  - b. Lots shall front on an existing or proposed Class V road or better.
  - c. No driveway may be laid out such that its curb cut will be closer than one hundred (100) feet to an intersection.
  - d. Sidelines of lots shall generally be perpendicular to straight streets and radial to curved streets.
  - e. Lots shall be laid out and graded to eliminate flood or stagnant water pools. No water shall be permitted to run across a street on the surface, but shall be directed into catch basins, drainage swales and/or pipes underground in a pipe of not less than 12 inches in diameter.
  - f. Lots shall generally be configured as rectangular or square. Odd-shaped lots or other contorted configurations, including those in which narrow strips are joined to other parcels in order to meet minimum Building Area requirements, are prohibited.
    - i. In zoning districts requiring a minimum buildable area of 40,000 sq. ft, each lot shall be configured such that a rectangle with minimum dimensions of approximately 350 feet by 115 feet (not to exceed a 3:1 ratio) of Buildable Area, a square of 200 feet by 200 feet of Buildable Area, or a circle with a minimum diameter of 225 feet of Buildable Area can be contained within it.
    - ii. In zoning districts requiring a minimum buildable area of 30,000 sq. ft, each lot shall be configured such that a rectangle with minimum dimensions of approximately 300 feet by 100 feet (not to exceed a 3:1 ratio) of Buildable Area, a square of 175 feet by 175 feet of Buildable Area, or a circle with a minimum diameter of 195 feet of Buildable Area can be contained within it.
  - g. The lot length-to-width ratio should generally not exceed four-to-one (4:1).
  - h. Double frontage lots shall be avoided wherever possible. If allowed, the driveway access for said lot shall be from the street with the lowest traffic volume.
  - i. Corner lots may require extra width sufficient to permit the appropriate setback on each street. Driveway access to such lots shall be from the street with the lowest traffic volume.
  - j. Wherever feasible, suitable steps shall be taken to preserve and protect significant existing features such as trees, scenic points, stone walls, rock outcroppings, water bodies, and historic landmarks. Where possible, the boundary line(s) should follow stonewalls or natural features such as surface waters.
  - k. Lots shall be configured so that all required setbacks for wells and septic are contained within the lot serviced by the well and septic.

2. Areas set aside for parks and playgrounds to be dedicated or reserved for the common use of all property owners shall be of reasonable size and character for neighborhood playgrounds or other recreational uses.
3. Clustered subdivisions shall comply with all requirements of Section 3.17 of the Town of Farmington Zoning Ordinance.
4. Condominiums.
  - a. Condominiums will require both subdivision and site plan approval. Each is considered a separate application, though the Applicant may request that the applications are reviewed simultaneously by the Planning Board.
  - b. The common areas shall be designed as an integral part of the development and used for recreation, conservation or park purposes and be accessible to the owners and occupants of the condominium. The common areas shall be so defined on the subdivision and site plans and shall be made subject to a deed restriction, which shall thereafter prohibit further subdivision of open space or the use of the open space for purposes other than originally designated.
  - c. The total number of dwelling units shall not exceed the overall density that would be permitted in a conventional subdivision layout or clustered subdivision layout, with all requirements of the Town of Farmington Zoning Ordinance and Subdivision Regulations being satisfied.

**C. Reserve Strips**

Reserve strips of land that show an intent on the part of the Applicant to control access to land dedicated or to be dedicated to public use (such as a road) shall not be permitted.

**D. Fire Protection**

The Fire Chief shall review all subdivision applications to determine whether or not water supply should be addressed for that particular proposal: If the Fire Chief determines that a water supply for fire protection purposes is necessary, the requirements below and in Appendix B shall apply.

1. The Fire Chief shall complete an inspection of the proposed site to evaluate the availability of existing water supply in the area.
2. The Fire Chief shall implement all applicable provisions of the National Fire Prevention Association's Standard on Water Supplies for Suburban and Rural Fire Fighting.
3. The Fire Chief shall determine the type, location and spacing of any water supply (such as fire ponds, cisterns, etc.)



4. Following the inspection and evaluation, the Fire Chief will submit his findings in writing to the Planning Board.
5. All proposed developments, whether including the provision of hydrants or other water supply facilities, shall be accessible to firefighting and other emergency equipment.

**E. Septic Systems and Water Supply**

1. In areas not currently served by public sewer systems, it shall be the responsibility of the Applicant to prove that the area of each lot is adequate to permit the installation and operation of an individual septic system.
2. On new lots of less than five (5) acres, not less than two (2) test pits and at least one (1) percolation test shall be required within the 4,000 square-foot area designated for a leach field. The Applicant shall be required to provide the necessary equipment and labor for the making of these tests.
3. When subdividing parcels with existing dwellings, the Applicant must demonstrate to the satisfaction of the board that the existing septic system is in good working order.
4. All new wells shall have a radius of seventy-five (75) feet, said radius to be located entirely on the lot serviced by the well.

**F. Stormwater Management and Erosion Control**

1. The Applicant shall submit stormwater management and erosion control plan when one or more of the following conditions are proposed:
  - a. A cumulative disturbed area exceeding 20,000 square feet.
  - b. Construction of a street or road.
  - c. A subdivision involving three or more dwelling units.
  - d. The disturbance of critical areas, such as steep slopes, wetlands, floodplains.
2. Standard agricultural and silvicultural practices are exempt from this regulation.
3. All stormwater management and erosion control measures in the plan shall adhere to the “Erosion and Sediment Control Design Handbook for Developing Areas of New Hampshire”, published by the Rockingham County Conservation District, and the “Model Stormwater Management and Erosion Control Regulation”, by the NH Association of Conservation Districts, Water Quality Committee.

4. The Applicant shall bear final responsibility for the installation, construction, and disposition of all stormwater and erosion control measures required by the Board. Site development shall not begin before the plan is approved.

**G. Surveys**

All surveys shall be prepared according to the minimum standards for instrument surveys adopted by the NH Land Surveyors Association for Standard Property Surveys. The maximum error of closure shall be 1:10,000 and certified by a NH-licensed engineer or surveyor.

In the case of applications that involve large acreages from which one building lot is being subdivided, the Board may, upon written request, waive the requirement for a complete boundary survey, when it is apparent that the remaining lot can meet existing frontage requirements and is suitable for building.

**H. Monumentation**

1. Monuments constructed of concrete or stone at least 4 inches square on the top and at least 30 inches long shall be set at all right-of-way control corners. Concrete or granite bounds shall be set at all points of curvature and all points of tangent for surveying purposes.
2. Monuments shall be tied in to a public street intersection, a U.S.G.S. benchmark, or other recognized existing monument.
3. Pipes, iron rod with surveyors cap, or other acceptable monumentation shall be set at all lot corners.
4. If the subdivision involves the construction of a roadway, all monumentation shall be in place before 50% of the surety held for the construction is released. If no road construction is involved, all monumentation must be in place prior to the signing of the plat by the Board Chairman.
5. All monumentation shall be set on the plat and in the field prior to recording the plat at the Strafford County Registry of Deeds.

**SECTION 7. SUBDIVISION REVIEW PROCEDURES**

**A. General Information**

1. Application shall be made using appropriate forms provided by the Planning Board and shall conform to the application procedures and any other applicable regulations adopted by the Town.

2. Changes in lot line locations require subdivision application or a Boundary Line Adjustment application, and approval in the same manner as ordinary subdivision as defined in these regulations.
3. The Board may make a visual on-site inspection of the land at any stage of the proposal. Inspection is to be at such time when the site is free of snow cover, unless the Board is otherwise satisfied that such inspection is not required.
4. Approval of the plan by the Planning Board shall not constitute an acceptance by the Town of the dedication of any proposed street, highway, park or other public open space.
5. The Planning Board may approve the plan with such conditions as may be necessary to insure proper completion of the required improvements.
6. All subdivision applications shall be reviewed by the Technical Review Committee (TRC).

The purpose of the TRC meeting is to allow department heads to review an application in order to identify issues of concern related to the department's function area. Following this review, the TRC will provide comments and recommendations to the Planning Board.

**B. Preliminary Conceptual Consultation**

1. The Applicant may request a meeting with the Board to discuss a proposal in conceptual form and in general terms. Although this phase is strictly optional, the Board strongly suggests that the Applicant avail him/herself of the opportunity to resolve any issues at this early stage that might become a problem later on. Such pre-application consultation shall be informal and directed toward:
  - a. Reviewing the basic concepts of the proposal.
  - b. Reviewing the proposal with regard to the master plan and zoning ordinance.
  - c. Explaining the state and local regulations that may apply to the proposal.
  - d. Determination of the proposal as a major or minor subdivision, and of the submission items that would be required.
2. Preliminary conceptual consultation shall not bind the Applicant nor the Board. Such discussion may occur without formal public notice, but must occur only at a posted meeting of the Board.
3. An Applicant wishing to engage in a Preliminary Conceptual Discussion shall submit a written request to be placed on the next available Planning Board agenda to the Chairman of the Planning Board. The written request must be received at least two (2) weeks prior to the date of the preferred meeting of the Board.

4. The written request shall include the following:
  - a. Name and address of the Applicant;
  - b. Name and address of the property owner, if different;
  - c. Tax map and lot number, and address of the subject parcel;
  - d. Size of the subject parcel; and
  - e. A brief description of the proposal.
5. The Applicant may prepare a simple sketch of the proposed subdivision to facilitate the discussion. The sketch may not include any technical information such as survey or engineering data, soils or wetlands delineations. Approximate location of any special features, such as wetlands, floodplain, stonewalls, cemeteries, may be included on the simple sketch.

**C. Design Review Phase**

- 1) Prior to submission of an application for Board action, an Applicant may request to meet with the Board or its designee for non-binding discussions beyond the conceptual and general stage, involving more specific design and engineering details of the potential application.
- 2) The design review phase may proceed only after proper notification, as set forth in Paragraph J of this Section.
- 3) Statements made by Board members shall not be the basis for disqualifying said members or invalidating any action eventually taken on the application.
- 4) An Applicant wishing to engage in a Design Review shall submit a written request to be placed on the next available Planning Board agenda to the Chairman of the Planning Board. The written request must be received on or before the submission deadline published by the Planning Board for the preferred meeting of the Board.
- 5) In addition to the information required in Paragraph B) 4) of this Section, the Applicant for a Design Review shall also provide the following with the written request:
  - a) Names and mailings addresses of the Applicants;
  - b) Names and mailing addresses of the owner(s) of record, if different than the Applicant;
  - c) Names and mailing addresses of all abutters as defined in Section 4, Paragraph A of these regulations;
  - d) Names and mailing address of holders of conservation, preservation or agricultural preservation restrictions, and every engineer, architect, land surveyor or soil scientist whose professional seal appears on any plat;

- e) Two sets of mailing labels for each person identified in a) through d), above; and
  - f) A rough sketch of the site which shows the following:
    - i) Approximate location of proposed lot lines.
    - ii) Approximate lot measurements, and area of new lots.
    - iii) Street(s) on which lots have frontage, including proposed streets;
    - iv) Special features, including approximate location of wetlands, flood hazard areas, etc., where applicable.
- 6) An Applicant shall pay the public notice fees and the abutter notification fees as indicated in the fee schedule adopted by the Planning Board and in effect when the application is submitted.
- 7) An Applicant shall meet with the Technical Review Committee (TRC) at least two (2) weeks prior to the Planning Board meeting. The Applicant may request to meet with the TRC at any time during the design process to obtain guidance on technical issues related to the proposal.

**D. Submission of Completed Application**

- 1) A completed application shall be submitted to the Planning Department on or before the submission deadline published by the Planning Board. A completed application shall consist of all data required in Section 8, Subdivision Requirements, of these regulations.
- 2) At the next scheduled meeting, the Board will determine whether the application is complete. If the application is incomplete, the Board shall notify the Applicant of the deficiencies in the application in accordance with RSA 676:3 and shall advise the Applicant of a date certain to provide the necessary information. Failure of the Applicant to provide the required information by said date will result in a finding the application is incomplete. Upon that finding, the Applicant will need to resubmit the application under a new notification procedure.
- 3) Acceptance of an application as complete shall only occur at a meeting of the Planning Board after due notification has been given according to Paragraph J of this Section. Acceptance will be by affirmative vote of a majority of the Board members present.
- 4) Once an application has been accepted as complete by the Board, the 65-day review period begins.

**E. Board Action on Completed Application**

- 1) The Board shall begin consideration of the Completed Application upon acceptance. The Board shall act to approve, conditionally approve, or disapprove the Completed Application within 65 days of acceptance.
- 2) An Applicant may waive the requirement for Board action within the time periods specified in these regulations and consent to such extension as may be mutually agreeable.
- 3) The Board may apply to the Selectmen for an extension not to exceed an additional 90 days before acting to approve, conditionally approve or disapprove an application.
- 4) Approval of the application shall be certified by written endorsement on the Plat and signed and dated by the Chairman of the Board. If any application is disapproved, the grounds for such disapproval shall be adequately stated in the records of the Planning Board and in written notice given to the Applicant within five (5) business days of the decision.
- 5) An approved plan shall be recorded by the Planning Board with the Strafford County Register of Deeds upon satisfaction of conditions of approval, subject to the requirements of Paragraph G of this section.

**F. Failure of the Planning Board to Act**

- 1) In the event that the Planning Board does not act on an accepted application within the prescribed time period, the Applicant may petition the Selectmen to issue an order directing the Planning Board to act within 30 days.
- 2) If the Planning Board fails to act within 40 days of receiving this directive from the Selectmen, the Selectmen must approve the application unless they find in writing that the plan does not comply with a local regulation. In the event the Selectmen fail to act, the Applicant may petition superior court to approve the plan.

**G. Conditional Approval**

The Board may grant conditional approval of an application, but the plat will not be signed or recorded until all of the conditions of approval have been met. A further public hearing is not required when such conditions:

- 1) are administrative in nature;
- 2) involve no discretionary judgment on the part of the Board;

- 3) Involve the Applicant's possession of permits and approvals granted by other boards or agencies, such as the Department of Transportation, the Wetlands Board, or Water Supply and Pollution Control Division; however, any subsequent change to the plan required by such approvals would constitute grounds for a new application process.

If the Applicant has not complied with the conditions of approval within one (1) year from the date of approval, the approval is considered null and void and the Applicant must submit a new subdivision application.

**H. Expedited Review**

- 1) The Planning Board may allow for an expedited review of applications for lot line adjustments or minor subdivisions as defined by these regulations.
- 2) The application may be submitted, accepted as complete and voted on at the same meeting, provided the public notice so indicates.

**I. Public Hearing**

Prior to the approval of an application, a public hearing shall be held.

**J. Notification**

- 1) Notice of a Design Review, submission of an application, or a Public Hearing shall be given by the Board to the abutters, the Applicant, holders of conservation, preservation or agricultural preservation restrictions or easements, and every engineer, architect, land surveyor or soil scientist whose professional seal appears on any plat.
- 2) Notice shall be by certified mail, mailed at least ten (10) days prior to the submission. The public will be given notice at the same time, by posting at the Municipal Office Building, Old Town Hall, publication in Foster's Daily Democrat, and on the Town's website at [www.farmington.nh.us](http://www.farmington.nh.us).
- 3) The notice shall give the date, time, and place of the Planning Board meeting at which the application will be formally submitted to the Board, shall include a general description of the proposal which is to be considered, and shall identify the Applicant and the location of the proposal.
- 4) If the notice for the public hearing was included in the notice of submission or any prior notice, additional notice of the public hearing is not required. Additional notice is not required of an adjourned session of a hearing provided that the date, time, and place of the adjourned session were made known at the prior meeting.

**K. Fees**

- 1) The Applicant shall be responsible for all fees incurred by the processing of applications including, but not limited to, application fees, public notice fees and abutter notifications fees. Failure to pay such costs shall constitute valid grounds for the Board to not accept the application as complete.
- 2) It shall be the responsibility of the Applicant to pay all reasonable fees for special investigative studies, environmental assessments, legal review of documents, administrative expenses and other matters which may be required to make an informed decision on a particular application.

**L. Site Inspections**

- 1) Whenever the Board deems it necessary for the consideration of an application to visit the site, the Board shall arrange a time that is reasonable for the Applicant. Such inspection may be required at any stage of the proposal. Inspection is to be at such time when the site is free of snow cover, unless the Board is otherwise satisfied that such inspection is not required.
- 2) Such a site inspection shall be posted as a meeting of the Board pursuant to the Right-to-Know provisions of RSA 91-A. If there is a quorum present at the site inspection, minutes shall be kept.
- 3) All applications are conditioned upon the owner allowing access to the property, to the extent reasonable and necessary to properly review the application. Denial of access automatically terminates any further consideration of the proposal.

**M. Concurrent and Joint Hearings**

The Applicant or the Planning Board may request a joint hearing with one or more land use boards in conjunction with a subdivision hearing if approval from all boards is required for the same project, subject to the requirements of RSA 676:2.

**N. Termination of Final Approval**

From the date the subdivision is approved, the approval will be good for one (1) year without substantial work being done (see Section 7(P)). A six (6) month extension may be granted upon written request.

**O. Termination of Conditional Approval**

Conditional approvals granted by this Board will expire in one (1) year days if conditions have not been met. A written request for an extension of ninety (90) days may be submitted which will be reviewed at a regularly scheduled Planning Board Meeting.



**P. Approved Subdivision Exemption; Active and Substantial Development**

Approved subdivision plans shall be exempt from future changes in regulations and ordinances in accordance with NH RSA 674:39 as follows:

- 1) A subdivision plan that is approved by the Planning Board shall be exempt from all subsequent changes in subdivision plan review regulations, impact fee ordinances and zoning ordinances adopted by the Town of Farmington, except those which expressly protect public health standards, such as water quality and sewage treatment requirements, for a period of five (5) years after the date of certification of the subdivision plan by the Planning Board, provided that:
  - a) Active and substantial development or building has begun on the site by the owner or the owner's successor in interest in accordance with the approved plans within twenty-four (24) months after the date of approval, or in accordance with the terms of the approval;
  - b) If a bond or other security to cover the costs of roads, drains, or sewers is required in connection with such approval, the bond or other security is posted with the Town at the time of commencement of such development;
  - c) The development remains in full compliance with the public health regulations and ordinances of the Town of Farmington; and
  - d) The subdivision plan conforms to the subdivision plan review regulations and zoning ordinances then in effect at the site of the approval of the plan.
  
- 2) For the purposes of these regulations, 'active and substantial development or building' shall be deemed to have occurred when at least twenty five percent (25%) of the total infrastructure improvements to the site, as indicated in the approved subdivision plan, have been made, unless otherwise specified by the Planning Board when approving an application.<sup>1</sup> Infrastructure improvements include:
  - a) Construction of and/or installation of basic infrastructure to support the development (including all of the following: foundation walls and footings of proposed buildings; roadways, access ways, parking lots, etc., to a minimum of gravel base; and utilities placed in underground conduit ready for connection to proposed buildings/structures) in accordance with the approved plans;
  - b) Completion of drainage improvements to service the development (including all of the following: detention/retention basins, treatment swales, pipes, underdrain, catch basins, etc.) in accordance with the approved plans; and

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<sup>1</sup> The Planning Board may determine what constitutes active and substantial development on a project by project basis.

- c) All erosion control measures (as specified on the approved plans) must be in place and maintained on the site.

Movement of earth, excavation, or logging of a site without 25% total completion of items (2)(a) through (2)(c) shall not be considered active and substantial development

Items (2)(a) through (2)(c) shall be reviewed and inspected by the Code Enforcement Officer or designated agent.

- 3) If active and substantial development or building is not accomplished by the end of the twenty-four (24) month period, the subdivision plan will not be subject to the five (5) year exemption per RSA 674:39, as amended. Applicants may request a twelve (12) month extension prior to the expiration of the approval. Such extension shall be granted at the discretion of the Planning Board on a case-by-case basis and is not guaranteed.
- 4) Once substantial completion of the improvements as shown on the plan has occurred in compliance with the approved plans, or by the terms of the approval or unless otherwise stipulated by the Planning Board, the rights of the owner or the owner's successor in interest shall vest and no subsequent changes in subdivision plan review regulations or zoning ordinances shall operate to affect such improvements.
  - a) "Substantial completion of the improvements as shown on the plan" for the development or approved phase shall be deemed to have occurred when a Certificate of Occupancy for all buildings shown on the approved subdivision plan has been issued by the Town, and all other on-site or off-site improvements have been determined by the Town of Farmington or its agent to be in compliance with the approved subdivision plan or satisfactory financial guarantees remain on deposit with the town to insure completion of such improvements.

## **SECTION 8. SUBMISSION REQUIREMENTS**

A completed application shall consist of the following items unless written request for waiver(s) is granted by the Board:

An original and fifteen (15) copies of the completed application form, accompanied by:

- A. Name(s) and address(es) of Applicant(s), and property owner(s) if different that the Applicant(s)

- B.** Names and addresses of all abutters, taken from the town records not more than five (5) days before the day of filing;
- C.** Names and addresses of all persons whose name and seal appears on the plat;
- D.** Names and addresses of all holders of conservation, preservation or agricultural preservation restrictions;
- E.** Three (3) sets of mailing labels (2 3/4" x 1") for each person identified in A through D, above;
- F.** Payment to cover filing and notification fees;
- G.** Five (5) full-size paper copies of the plat, and up to seventeen (17) colorized 11"x17" reductions, prepared according to the standards of the NH Land Surveyors Association and the Strafford County Registry of Deeds, as follows:
  - 1. Plats shall be at any scale between 1"= 20' and 1"=100'.
  - 2. The outside dimensions of the plat shall be 22" X 34". The Board requires that only one sheet size be used for preparing all plans in a set.
  - 3. The material composition shall be suitable for electronic scanning and archiving by the Strafford County Registry of Deeds.
  - 4. All plats shall have a minimum 1/2" margin on all sides.
  - 5. All plats shall include a title block to be located in the lower right hand corner. The title block shall indicate:
    - a. type of survey
    - b. owner of record
    - c. title of plan
    - d. name of the town
    - e. tax map and lot number
    - f. plan date and revision dates;
    - g. letter of authorization from the owner, if the Applicant is not the owner.

The Planning Board may require additional plans when needed. Plan sets shall be collated, stapled and folded to display title box when submitted.

- H.** The plat shall show the following information:
  - 1. Proposed subdivision name or identifying title; name and address of the Applicant and of the owner, if other than the Applicant.

2. North arrow, scale – written and graphic, date of the plan; name, license number and seal of the surveyor or other person whose seal appears on the plan.
3. Signature block for Planning Board endorsement.
4. Locus plan showing general location of the total tract within the town and the zoning district(s).
5. Boundary survey including bearings, horizontal distances and the location of permanent markers. Curved boundary lines shall show radius, delta, and length.
6. Names of all abutting subdivisions, streets, easements, building lines, parks and public places, and similar facts regarding abutting properties.
7. Location of all property lines and their dimensions; lot areas in square feet and acres. Lots numbered according to the Town tax map numbering system. It is the responsibility of the Applicant to meet with the Town's Assessing Clerk to assure correct numbering of the proposed lots.
8. Location and amount of frontage on public rights-of-way.
9. Location of building setback lines.
10. Location of existing and proposed buildings and other structures.
11. Location of all parcels of land proposed to be dedicated to public use.
12. Location and description of any existing or proposed easements.
13. Existing and proposed water mains, culverts, drains, sewers; proposed connections or alternative means of providing water supply and disposal of sewage and surface drainage.
14. Existing and proposed streets with names, classification, travel surface widths, right-of-way widths. (See Appendix A for road standards.)
15. Final road profiles, center line stationing and cross sections.
16. Location and width of existing and proposed driveways.
17. Water courses, ponds, standing water, rock ledges, stone walls; existing and proposed foliage lines; open space to be preserved; and any other man-made or natural features.
18. Existing and proposed topographic contours based upon the USGS topographical data, with spot elevations where necessary.

19. Soil and wetland delineation.
20. Location of percolation tests and test results; and outline of 4,000 square-foot septic area with any applicable setback lines;
21. Location of existing and proposed well, with 75-foot well radius on the lot serviced by the well.
22. Base flood elevations and flood hazard areas, based on available FEMA maps.

**I. Other Information**

- 1) Two (2) copies of the drainage report.
- 2) Plan for Stormwater Management and Erosion Control, if applicable (See Section 6, Paragraph F, and Section 9, Paragraph M).
- 3) State subdivision approval for septic systems; septic design approval where applicable; or certification by septic designer of adequacy of existing system.
- 4) EPA Stormwater Pollution Protection Plan (SWPPP)
- 5) Alteration of Terrain Permit from NH Department of Environmental Services.
- 6) State/Town driveway permit, as applicable.
- 7) Report from the Fire Chief, Police Chief, and/or Town Conservation Commission.
- 8) Approval for municipal water/sewer connections, if applicable.
- 9) Any deed restrictions; and all deeds covering land to be used for public purposes, easements and rights-of-way over property to remain in private ownership, and rights of drainage across private property, submitted in a form satisfactory to the Board's counsel.
- 10) Any other state and/or federal permits.
- 11) Any additional reports or studies deemed necessary by the Board to make an informed decision, including but not limited to: traffic, school, fiscal and environmental impact analyses. The Board reserves the right to request such information after an application has been accepted as complete, as well as before acceptance.

Should the Board determine that some or all of the above-described information is to be waived, the Applicant will be notified in writing within ten (10) days of the meeting at which the determination was made.

## **SECTION 9. SPECIFIC PLAN REQUIREMENT**

### **A. Subdivision Plan**

1. Scope of Review: Every application for subdivision review must incorporate the entire parcel within the review. Not to do so may cause approval of a lot or situation which is not in conformance with the zoning ordinance and/or other applicable ordinances and regulations.
2. Professional Standards: Subdivision plans shall be prepared, stamped, and signed by a registered Professional Engineer and/or Licensed Land Surveyor licensed in New Hampshire. The requirement for a Professional Engineer shall apply to all plans showing roadways, utilities, bridges and culverts, plus drainage and other construction plans. In specific cases, the Board may waive the requirement for a Professional Engineer in accordance with Section 14, Paragraph C – Waivers.

### **B. Specific Plan Information - Existing Site Conditions**

In order for the Board to comprehensively evaluate a subdivision plan proposal, the Applicant is required to show the following information as part of the subdivision plan, unless granted a waiver in accordance with Section 14, Paragraph C – Waivers. Other information may be reasonably required by the Board and shall be submitted. Such additional submittals may be required in cases where the submitted information fails to permit the Board to review the subdivision in light of the requirements of Sections 7 and 8 and the purposes of these regulations.

1. Location of site, names, and addresses of current owners of record and current abutting land owners. A separate list of current names and addresses of abutters must also be provided.
2. Proposed subdivision name. Name and address of person(s) or firm preparing the plan. Said plan must contain the date of preparation, title, north arrow, scale, legend and zoning district(s). Name and address of person(s) or firm preparing other data and information if different from the preparer of the map. Plans shall also contain a signature block for Board approval.
3. Surveyed property lines including angles or bearings, distances, monument locations and size of the entire parcel. Said plan must be attested to and stamped by a Licensed Land Surveyor licensed in the State of New Hampshire, original signature, seal, and license number shall be legible and included on the plan.
4. Existing grades and topographic contours at intervals not exceeding two (2) feet with spot elevations where the grade is less than five percent (5%).

5. The location of existing drainage systems, structures, and drainage easements, if any.
6. The shape, size, height, location and use of all existing structures, including wells and septic systems, on the site and within 200 feet of the site.
7. Natural features such as streams, marshes, lakes, ponds, rock outcrops, wooded areas, significant trees, ledge, and other significant environmental features, including wetland soils as defined under current Farmington Wetlands Ordinance, wetlands shall be identified by a NH certified soil scientist or NH certified wetland scientist.
8. Man-made features such as, but not limited to, existing roads, stone walls, pedestrian ways, and other structures. The plan shall also indicate which structures are to be retained and which are to be removed or altered.
9. The size and location of all existing public and private utilities, including off-site utilities to which connection is planned, and any underground storage tanks, abandoned or in use.
10. A vicinity sketch showing the location of the site in relation to the surrounding public street system, to be shown within a distance of 1,000 feet.
11. Location and description of all existing easements and/or rights of way, parks, reservations, conservation land, and holders of conservation easements.
12. Tax map and parcel number.
13. Each existing building or manmade structure, including stone fences, shall be shown on the plan and reviewed with the Board for historic significance. Such historic features may be destroyed or removed only with Board approval
14. Summary of Farmington Zoning Ordinance requirements, including, but not limited to summary of lot size requirements, lot area, frontage, etc.
15. The subdivision plan shall show any burial site or cemetery as a separate lot from the remainder of the subdivision by means of a fence, stone wall, or granite monuments at all four (4) corners. The fence, stone wall or granite monuments shall be placed not less than twenty-five (25) feet from any grave, monument, or tomb and will be shown on subdivision plans accordingly. Also please refer to *RSA 289:14 Right of Way to Private Burial Ground*.
16. Plans shall show all existing or planned burial site(s) or cemetery(s) as separate lot(s) which may be deeded to the Town of Farmington. Access for maintenance shall also be shown on the subdivision plan.

17. Scale should be not more than 1" = 100' (one inch = 100 feet).
18. The final plan(s) shall include sufficient data acceptable to the Planning Board and the Town's Review Engineer to determine readily the location, bearing and length of every existing and proposed street line and lot line, and to reproduce such lines upon the ground. All dimensions shall be shown to hundredths of a foot and bearings to at least half minutes. The error of closure shall not exceed a ratio of 1 to 15,000. The final plan(s) shall show the boundaries of the property and the bounds of any public or private streets and easements abutting or pertaining to the proposed subdivision in any manner.

**C. Specific Plan Information- Proposed Site Conditions**

In order for the Board to comprehensively evaluate a subdivision plan proposal, the Applicant is required to show the following information as part of the subdivision plan, unless granted a waiver in accordance with Section 14, Paragraph C – Waivers. Other information may be reasonably required by the Board and shall be submitted. Such additional submittals may be required in cases where the submitted information fails to permit the Board to review the subdivision in light of the requirements of Sections 7 and 8 and the purposes of these regulations.

1. Proposed grades and topographic contours at intervals not exceeding five (5) feet with spot elevations where grade is less than five percent (5%).
2. Construction drawings and location, name, width, curbing and paving of proposed streets, drainage ways, and profiles and the elevations of sufficient points on the property to indicate the general topography of the property, driveways and sidewalks with indication of direction of travel for one-way streets. Including the radii of streets, driveways, access ways, and sidewalks within the site and its relationship to the off-site street system.
3. Location and timing patterns of proposed traffic control devices, including painted road indicators, and all signage.
4. Designs of any bridges or culverts that may be required.
5. Where the plat submitted covers a part of the Applicant's entire holding, a sketch of the prospective future street system of the unsubmitted part shall be furnished and the street system of the submitted part will be considered in the light of adjustments and connections with the street systems for the part not submitted.
6. The location, size and layout of on and off-street parking, including loading zones. The plan shall indicate the calculations used to determine the number of parking spaces required and provided.



7. The location and layout of proposed drainage systems and structures, including elevations for catch basins designed in accordance with these regulations.
8. Note indicating that all road and drainage work to conform to Appendix A – "Road and Driveway Regulations, Design and Construction Standards" of these Regulations, the standard specifications for construction in the State of New Hampshire, and any other applicable standards.
9. The size and location of all proposed public and private utilities, including but not limited to: water lines, sewage facilities, gas lines, power lines, telephone lines, fire hydrants and alarm connection, underground storage tanks, and other utilities.
10. The location and type of street lighting, including the cone of illumination on the site.
11. Location and description of proposed easement(s) and/or rights-of-way. Locations of access to existing town roads, as stated in RSA 236-13, Section 5, and copies of permits for the access.
12. The location and size of all proposed open space areas or parcels to be dedicated to public use and the conditions of such dedication and a copy of such private deed restrictions as are intended to cover part or all of the tract.
13. Deeds or other proposed documents of conveyance of any land located within the subdivision proposed by the Applicant for use for recreational or other Town purposes and Town ownership shall be part of the application. These proposed documents of conveyance shall be in a form satisfactory to Town Counsel. The fact that the Applicant makes such offers and Town Counsel approves the form of the documents does not bind the Town or its agents to accepting the offer. The suitability of lands offered for recreational or conservation uses shall be determined by the Conservation Commission of the Town. A letter indicating the Commission's opinion shall accompany the application.
14. The location of all monumentation that is to be installed in accordance with these regulations shall be shown on the plans. If the monumentation is changed in the field after construction supplemental information shall be filed with the Planning Board to be added to the file. Any change in the actual layout of the lots shall require planning board approval in accordance with these regulations.
15. Any other information the Board may require in order to properly evaluate the proposed development including, but not limited to, the following:
  - a. Calculations relating to stormwater runoff.
  - b. Information on the composition and quantity of wastewater generated.

- c. Information on air, water, or land pollutants discharged.
- d. Estimates of traffic generation.
- e. Grading, drainage and erosion and sediment control plan.

**D. Sidewalks and Bikeways**

Sidewalks and bikeways shall be constructed in accordance with the standards found in Appendix A - "Road and Driveway Regulations, Design and Construction Standards" of these Regulations.

Sidewalks and/or bikeways, where appropriate, shall be provided for pedestrian traffic to provide connection between the subdivision and nearby destinations. Sidewalk designs shall include means for handicapped access. The board shall consider the following when determining the appropriateness of sidewalks:

- 1. Proximity to schools.
- 2. Whether recreational facilities and land is available within the subdivision.
- 3. Proximity to commercial destinations, including but not limited to, restaurants, stores, shops, etc.
- 4. Proximity to other pedestrian or bikeways, including "abandoned" ways or sidewalks.

**E. Landscaping Design and Plan**

The Town of Farmington requires attention to landscaping design in order to protect and preserve the appearance, character, and value of the surrounding neighborhoods by providing a better transition; by improving the compatibility between various land uses in the Town; and by buffering neighboring properties and areas from any adverse effects of site development.

These regulations shall mitigate the appearance and detrimental impact of non-residential uses. Any application of these regulations shall protect the value and provide for quiet enjoyment and nuisance-free use of neighboring properties.

- 1. To the extent feasible, naturally landscaped buffer strips of 25 feet must be preserved where a proposed residential development abuts non-residential zones or uses. This buffer shall adequately shield the residential properties from the adverse effects of the non-residential use. No roads shall be located within any part of this buffer zone.

Where appropriate, existing trees and vegetation must be incorporated into the buffer strips or landscaping design. Buffer strips must contain vegetation which

will screen the view from adjacent residential property during all seasons, this screening must exclude visual contact between uses and create a strong impression of the separation of spaces. Fencing alone may be considered an acceptable method of screening only if granted a waiver in accordance with Section 14, Paragraph C – Waivers.

2. Where appropriate or required, subdivisions shall be planned to provide that natural vegetation be retained as a buffer along environmentally sensitive areas such as watercourses, wetlands, and standing waters, in accordance with sound environmental practices, as described by the Department of Environmental Services. Appropriate landscaping along designated Scenic Roadways is strongly encouraged and any tree removal shall only be permitted in accordance with state and local Scenic Roadway provisions.

**F. Protection of Natural and Historic Features**

1. Each significant natural feature within the site including large or unusual trees, watercourses, natural stone outcroppings, and other scenic features shall be shown on the plan. It is recommended that such significant features be preserved in the development of the site.
2. Each existing building or manmade structure, including stone fences, shall be shown on the plan and reviewed with the Planning Board for historic significance. Such features will not be destroyed or removed without Planning Board approval.
3. Where subdivisions impact or access via designated Scenic Roads, mitigation measures shall be taken to preserve the scenic quality of such roads. These measures may balance the needs and requirements for safety and health, but should only minimally consider economic expediency.

**G. Bridges**

Bridges must be built according to the N.H. Department of Transportation manual, *Standard Specifications for Road and Bridge Construction*, current edition including all amendments. All bridge plans must be approved by the State Engineers prior to construction.

**H. Fire Protection**

Fire hydrants, fire ponds, and other improvements reasonably required for fire safety shall be provided as specified by the Farmington fire department and approved by the Planning Board. These items shall be shown on the site plan and installed by the Applicant. Please refer to Appendix B for complete requirements.

The Planning Board may require additional fire protection measures in addition to the requirements of Appendix B and the Farmington Fire Department's recommendation if the Board deems it reasonably necessary to do so.

**I. Water, Wells, On-Site Sewage, and Hydrogeological Studies**

1. Water

- a. On-site water supply: the provision of an on-site water supply shall conform to criteria of the Water Supply and Pollution Control Division of the N.H. Department of Environmental Services. It shall be the responsibility of the Applicant to provide sufficient and complete information to prove that the site is able to permit the installation and operation of both individual on-site water supply and sewage disposal systems.
- b. A hydrogeologic study shall be required for any well with a withdrawal of over 20,000 gallons per day.
- c. Drinking water supplied by a community water system serving less than twenty-five (25) persons shall be tested by the Town with the cost of such testing being borne by the Applicant. Community water systems serving more than twenty-five persons are subject to "Design Standards for Small Public Water Systems", Chapter WS 300, Part 310 of the NH Code of Administrative Rules."

2. Well Radius Placement

- a. Each newly created lot shall show the entire well radius protection area as required by the State Department of Environmental Services rules.
- b. The entire required well radius shall be located within the boundaries of the lot served by the well.
- c. Well radius easements covering neighboring parcels are not permitted in new subdivisions. This insures:
  - i. Protection of health and safety for individual on-site water resources from adverse impacts of land uses on adjacent and neighboring parcels.
  - ii. Allows for maximum flexibility in the placement of septic systems and other land uses on neighboring parcels of land.
  - iii. Promotes the wise and free use of property unencumbered by easements.

### 3. Sewered Area System Siting Requirements

If an Applicant intends to utilize Town of Farmington sewer and water service, or private community water system, they should make an appointment with the Farmington Sewer and/or Water Departments to determine proper requirements and procedures. Plans must be submitted for review by the water and sewer department, if required.

Written approval by Farmington Sewer and/or Water Departments is required prior to Planning Board approval.

### 4. Non-Sewered Area System Siting Requirements

- a. In areas not served by public sewage disposal systems at the time of subdivision, it shall be incumbent upon the Applicant or his agent to adequately demonstrate that all proposed lots will meet all current state and local septic system disposal standards. No subdivision of land will be approved where it creates a building lot that will not meet these standards.
- b. The Applicant or his agent shall be required to submit all site information, including but not limited to percolation tests, test pits, soil, slope, and minimum distance data as may be required by the Planning Board to determine the suitability of each proposed lot for on-site sewage disposal.
- c. In no case shall the Planning Board grant final approval of a proposed subdivision until the following State approvals, if necessary, have been received: New Hampshire Department of Environmental Services (DES) Subdivision Approval; DES Subsurface Disposal; DES Site Specific; DES Wetlands Board - Dredge and Fill Permit; DES Water Supply Approval; and U.S. Army Corps of Engineers 404 Permit.
- d. The location of and pertinent data on sufficient test pits and percolation tests to show that the regulations can be met on each lot created by the subdivision. Information shall include at least the following: the location of test pits; percolation test data; the certification of the test pit inspector witnessing the perc tests; and an outline of the areas reserved for leach fields which corresponds to test locations. The location of reserve leach field areas if available shall also be shown.
- e. Siting and design of septic systems shall meet all NH Dept. of Environmental Services requirements.
- f. All new on-site waste disposal systems are to be located so as to avoid impairment to them or contamination from them during flooding.

- g. All on-site waste disposal systems must be located seventy-five (75) feet from the location of a private well, two hundred (200) feet from a community well and four hundred (400) feet from a public well.
- h. The slope of a lot shall be determined by finding the average slope across the lot, measured perpendicular to the contours.
- i. Each proposed lot of a subdivision shall contain an area of land sufficient in size and site characteristics to be used as an auxiliary septic system absorption field. Said area shall be reserved for this use and must be capable of meeting the pertinent minimum standards as set forth above. The location of the auxiliary absorption field area shall be indicated on the subdivision plan and at final siting of system.

**J. Utilities**

- 1. The Applicant proposing a residential development shall insure the installation all electric, telephone, and other utility distribution lines per specifications of the public utility companies involved, and easements required for transformer units shall be provided by the developer.
- 2. The Planning Board may, in its discretion, require underground utilities.

**K. Easements**

All easements dedicating rights to the Town of Farmington are subject to review and approval by the Board and Town Counsel, and any other Town agent or body which the Board and/or Counsel deem necessary.

- 1. Where the topography is such as to make difficult the inclusion of any utilities or other facilities within the road rights-of-way, the subdivision plan shall show the boundaries of the proposed permanent easements over or under private property. Such easements shall not be less than twenty five (25) feet in width and shall have satisfactory access to existing or proposed rights-of-way.
- 2. Where a proposed residential development is traversed by a watercourse or drainage way, the Board may require a stormwater easement or drainage right-of-way of at least twenty five (25) feet in width.

**L. Open Space Requirements**

In accordance with RSA 674:36,II, a subdivision of land shall show open spaces of adequate proportions. Plats submitted to the planning board for approval which show new streets or narrowing or widening of such streets shall show a park or parks suitably located for playground or other recreational purposes that are reasonably sized for neighborhood use.

1. Natural Features. The subdivision and development shall, whenever possible, preserve in their natural condition important natural features. The Planning Board may request an advisory opinion from the Conservation Commission in the determination of the value of natural features and the boundaries of such natural systems. Such areas include watercourses, wetland areas, steep slopes, large or unique trees, groves, or special habitats. Natural features that provide buffers between lots, or sections, of a subdivision should be preserved to enhance privacy and aesthetic value.
2. Buffer Strips. The Planning Board may require the designation of buffer strips of at least fifty feet width around surface water, wetlands, or other natural features which may be adversely affected by erosion or stormwater runoff. The Board may require a vegetative buffer to provide screening where non-residential developments abut a residential zone.
3. Parks. The Board may require the dedication or reservation of such open space within the subdivision for park, playground or other recreational or open space purposes, for the residents of the subdivision.

The Board shall also require of the developer that he/she supply and plant such trees and shrubbery as are deemed compatible to the environmental design of the neighborhood. It shall also be stipulated by covenant upon the plan that such open spaces shall not contain signs other than street directional or place-name signs. Upon approval of the final plans and plantings, if the park is dedicated for public use, the maintenance of said landscaped areas shall be the responsibility of the community. If the park is solely for subdivision use, the maintenance of said landscaped areas shall be the responsibility of the residents of the subdivision.

4. Tree Planting. The planting of shade trees within all subdivision layouts where residential, commercial, or industrial development is to take place may be required of the developer who shall supply planting plans to the Board.

#### **M. Stormwater Drainage and Erosion Control**

1. An adequate surface stormwater drainage system for the entire subdivision area shall be provided. Storm drainage shall be carried to existing water courses or connect to existing storm drains. No new drainage ways shall be created unless necessary easements are obtained. Such easements shall be duly recorded on the plat and the property deeds involved.

No increase in surface runoff shall be permitted if such increased runoff passes beyond the property lines of the parcel upon which such development occurs, unless it is within an approved public storm drainage system. Storm drains and other subdivision drainage facilities shall be based upon a design flow to accommodate a 50-year/24-hour storm. All water courses shall be designed so as

not to create erosive velocities. Calculations of runoff used to determine stormwater system design shall be submitted for Planning Board review.

Stormwater drainage system design shall incorporate stormwater BMPs as identified in the NH Stormwater Manual, December 2008.

2. Provisions shall be made to accommodate the increased runoff caused by changed soil and surface conditions during and after development. Sediment in the runoff water shall be trapped by the use of sediment basins or other acceptable methods until the disturbed area is stabilized. Diversions, sediment retention basins, and other erosion/sedimentation control structures shall be constructed prior to any on-site grading or disturbance of existing surface material.
3. A stormwater system shall be constructed in accordance with the following requirements:
  - a. The stormwater system shall include an adequate number and sizes of catch basins and/or drop inlets, and shall be fully designed to handle all computed or reasonably anticipated stormwater drainage. The minimum size, slope, and location of the pipe shall be determined by a qualified engineer and installed under his supervision.
  - b. No stormwater pipe, catch basin, drainage inlet, or other pipe floor drain, draining surface water shall be connected to any sanitary sewer system, pipe or other part of said system. All stormwater pipe shall be inspected and approved by the Town Engineer before covered. Inspection shall be completed on a normal workday within a 24-hour period after notification.
  - c. The Applicant shall provide satisfactory information that his stormwater drainage system will not cause flooding or unreasonable deposits of such waters upon or onto adjacent private or public lands or streets, unless deed easements for the same are obtained in the name of, or to be deeded to, the Town of Farmington.
4. Low Impact Development techniques should be incorporated wherever practical.

**N. Traffic Impact and Mitigation Analysis**

All proposed developments shall be reviewed by the Board to ascertain that adequate provisions have been made by the owner or his/her agent for traffic safety. To facilitate this review, the Applicant may be required to provide a traffic impact analysis when deemed necessary by the Board due to the size, location, or any other traffic generating characteristics of the development.

1. In addition to the requirements of Section 3.20 Paragraph E of the Town of Farmington Zoning Ordinance, a traffic impact and mitigation analysis shall be



required in the following circumstances:

- a. The subdivision involves the creation of 10 or more residential lots or residential units;
  - b. The subdivision is intended to facilitate non-residential land uses;
  - c. A traffic impact analysis may be required of any development, at the discretion of the Planning Board, where information submitted does not permit the Board to with adequately identify the impacts of the development to the health, safety, and welfare of existing and proposed public.
2. The traffic impact and mitigation analysis shall be prepared by a NH licensed Professional Engineer. This analysis shall be prepared to meet, at a minimum, the NH-DOT's Policy for the Permitting of Driveways and Other Access to the State Highway System (current edition, including all revisions) and NHDOT Intersection Capacity Analysis Guidance (current edition, including all revisions).
  3. Depending on the magnitude of the proposed development, acceptable report formats may include: a letter report, a formal traffic impact and access study, or a technical memorandum addressing specific issues and concerns. All report types shall include a technical appendix containing all pertinent traffic data and analyses used in the preparation of the study.
  4. Where applicable, reports shall include a qualitative as well as quantitative analysis including, but not limited to, details concerning the following impacts and proposed efforts to mitigate these impacts:
    - a. Inventory of the existing roadway conditions surrounding the site including identification of existing deficiencies;
    - b. Description of the proposed development including a trip generation estimate for daily and peak hour conditions;
    - c. Internal circulation patterns including service, delivery, and emergency response vehicles;
    - d. Pedestrian and bicycle mobility;
    - e. Adequacy of the existing roadway network to accommodate site-generated traffic;
    - f. Sight distances;
    - g. Traffic control needs;
    - h. On and off-site parking adequacy;
    - i. Accident statistics;
    - j. Neighborhood impacts; and
    - k. Air quality and noise impacts.
    - l. Any other identifiable impact that the Board finds necessary to address.

5. The extent of the study area for the traffic analysis will depend on the location and size of the proposed development. Small projects may require minimal analysis limited to site access locations and existing intersections immediately adjacent to the project. Large-scale projects may require a more extensive study area. The study area limits shall be reviewed by the Town Planner and/or town-hired consultant prior to the preparation of the study.
6. Analysis periods shall include weekday morning and evening peak hours for residential, industrial, and office type developments. Commercial developments (depending on the use) may include weekend peak hours in addition to the weekday.
7. Reports shall include the following unless the requirement is beyond the scope of the reasonably predicted impact of the development:
  - a. Existing Conditions Analysis
    - i. ADT and peak hour volumes shall be provided for critical roadways and intersections.
    - ii. Traffic volumes shall be seasonally adjusted to reflect peak traffic month conditions. Historical traffic volume data obtained from the Town, NHDOT, or Nashua Regional Planning Commission shall be used to determine seasonal variations within the study area.
    - iii. Levels of service and vehicle queues shall be calculated for the existing (peak month) conditions at all study area intersections.
    - iv. Existing conditions traffic volume networks shall be prepared for the study area.
  - b. “No Build” Analyses
    - i. Analyses shall be performed for the opening year of the project and opening year plus ten.
    - ii. Traffic growth projections shall include regional background growth in addition to traffic generated by any nearby proposed or approved development projects. Local historical traffic volume data shall be reviewed in assessing a traffic growth rate for use in the study.
    - iii. Opening year and opening year plus ten traffic volume networks shall be prepared for the No Build condition.
  - c. Trip Generation Estimate and Distribution
    - i. Daily and peak hour trip estimates for the proposed project shall be developed using rates published by the Institute of Transportation Engineers (ITE). Deviations from the industry standard rates must be substantially supported with data collected at similar facilities.

- ii. Procedures used to determine the distribution and assignment of site-generated trips shall be documented within the study.
    - iii. Site-generated trips shall be added to the No Build traffic volume networks to establish the Build condition. Traffic volume networks demonstrating the distribution and assignment of site-generated trips shall be included in the study.
  - d. Build Analysis
    - i. Analyses shall be performed for the opening year of the project and opening year plus ten.
    - ii. Opening year and opening year plus ten traffic volume networks shall be prepared for the Build condition.
  - e. Mitigation Plan
    - i. Where traffic operations or safety deficiencies are expected to occur as a result of the proposed development, mitigation measures to alleviate such deficiencies shall be evaluated and recommended by the proponent.
    - ii. Acceptable mitigation measures may include (but are not limited to) roadway and intersection improvements that address capacity or geometric problems, traffic calming, and transportation demand management.
    - iii. Conceptual improvement plans demonstrating the recommended mitigation shall be provided when appropriate.
- 8. Recommended acceptable sources include the latest edition of the following publications:
  - a. Trip Generation, 9<sup>th</sup> Edition including all revisions, 2012, ITE
  - b. Policy for the Permitting of Driveways and Other Access to the State Highway System, March 10, 2000, NHDOT
  - c. Intersection Capacity Analysis Guidance, January 8, 2001, NHDOT Memorandum
  - d. Highway Capacity Manual 2010, Transportation Research Board
  - e. Manual on Uniform Traffic Control Devices 2009 including all revisions, FHWA
  - f. A Policy on Geometric Design of Highways and Streets AASHTO 2011 6<sup>th</sup> edition
  - g. Highway Design Manual, most current edition including all revisions, NHDOT
- 9. The Board may retain the services of a consultant qualified in traffic engineering and transportation planning to review the traffic impact analysis and to insure that adequate provisions are made in the development plan to reduce or eliminate

project-related impacts. The Board may further require, pursuant to RSA 676:4 I(g), that the developer reimburse the Town for reasonable costs of this review. No plan shall be approved until such fees, if applicable, are paid in full.

**O. Inspections**

1. Periodic inspections of the work by an engineer designated by the Board are required during construction or alteration of all roads. Inspections are required:
  - a. After clearing and grubbing and removal of topsoil has been completed, but before grading has been started.
  - b. After the addition of required fill and setting of culverts, but before gravel base has been laid.
  - c. After gravel base has been laid and compacted, but before surfacing has been placed.
  - d. During surfacing.
  - e. At such other times as may be found necessary by the Board.
2. It shall be the responsibility of the Applicant to notify the designated engineer of all required inspections at least 48 hours in advance, Saturdays, Sundays and holidays excluded, and to pay the Town for cost of inspection service at designated engineer's customary rates including travel time and reasonable mileage charges.
3. All community and municipal water systems shall be inspected for compliance. It shall be the responsibility of the designated engineer to determine the frequency of said inspections.
4. All underground pipe installations for all community and municipal systems shall be inspected prior to burial for compliance to municipal installation standards. It shall be the responsibility of the installer to notify the designated engineer to inspect all underground piping prior to burial.

**P. Performance and Maintenance Security**

1. The Planning Board may accept performance security in lieu of the Applicant's completion of street work and other required improvements in conformance with these regulations. The security shall be in a form and an amount, and with surety, and other conditions all satisfactory to the Board to insure for the Town the construction and installation of such improvements within a period of time not to exceed two (2) years. The time limit of two years for completion from the date of final approval shall be expressed in the security. The security shall remain valid

and available until drawn upon by the Town or released in accordance with this Section.

Further to the above, the security shall be one of the following:

- a. Certified check or bank check properly endorsed to the Town of Farmington, or cash.
  - b. Irrevocable letter of credit with self-calling features, submitted on the standard form approved by the Town and drawn on a bank licensed to do business in New Hampshire. The letter of credit shall be reviewed and approved by the Town Counsel as to proper legal form and enforceability. The cost of this review shall be borne by the Applicant.
2. The Applicant shall file with the Board a detailed estimate of all costs of required street improvements, drainage structures, utilities or other improvements, and the cost of preparation of as-built plans. The Board may have the estimate reviewed by a professional consultant, if deemed necessary. The cost of this review shall be borne by the Applicant. The Board, after considering the estimate, any other pertinent information received, and their own knowledge shall determine the amount of the performance security required.
  3. The Board may further extend the time of two years for completion when the reasons for delay were unforeseeable and beyond the reasonable control of the Applicant. Any such extension shall be in writing and signed by a majority of the Board signifying their concurrence and shall only be granted after ensuring the validity and availability of the security for such extension. Any such extension shall be solely at the discretion of the Planning Board.
  4. The performance security shall not be released until the Board has certified after inspection that the required improvements have been completed in accordance with the approved plat. A fee, payable by the Applicant, may be charged to cover the cost of professional consultation selected by the Board to assist in determining completion of all required work to the construction standards of the Town.
  5. All security shall be held by the Selectmen of the Town. The Selectmen shall not draw upon or release any security until they are in receipt of a resolution passed by a majority of the Planning Board stating the purpose and amount to be drawn or released. The Selectmen shall enforce such securities by all appropriate legal and equitable remedies.

**Q. Legal Documents**

Where applicable to a specific subdivision, the following are required in a form approved by Town Counsel:

1. Homeowners' association documents, including open space agreements;
2. Easements and rights-of-way over property to remain in private ownership, including drainage easements.
3. Performance security, as described in Paragraph P this Section.

Review by Town Counsel of documents identified in A and B, above, is at the expense of the Applicant.

**R. Streets and Roads**

All public and private streets, roads, driveways, sidewalks, pedestrian ways and bikeways shall be submitted as specified in Appendix A – "Road and Driveway Regulations, Design and Construction Standards" of these Regulations.

**S. Driveways**

All permits required for driveways and other accesses onto a State highway shall be obtained from the New Hampshire Department of Transportation prior to final approval of the subdivision. Any permits required for driveways onto local streets shall be obtained from the Town. The Planning Board shall attempt to assure that the location of all driveways and accesses do not endanger safety or impede reasonable traffic flow.

No driveway shall access more than two (2) single-family or duplex units, or one (1) three or four-family structure. Dual access "looped" driveways may be required if deemed necessary by the Planning Board.

Driveways will be constructed in accordance with Appendix A - "Road and Driveway Regulations, Design and Construction Standards" of these Regulations.

**T. Protection of Natural and Historic Features**

Each significant natural feature within the subdivision including large or unusual trees, watercourses, natural stone outcroppings, and other scenic features shall be shown on the subdivision plan. Planning Board approval shall be obtained before removal of such features.

Each existing building or man-made structure, including stone fences, shall be shown on the subdivision plan and reviewed with the Planning Board for historic significance. Such features will not be destroyed or removed without Planning Board approval.

**U. Off-Site Improvements**

Pursuant to RSA 674:36, the Board may require special improvements on or off-site which it deems reasonably necessary or desirable for the conditions or circumstances relative to the particular subdivision plan review. Any such special requirements shall be stated in writing in the minutes of the Board with the reasons therefore. The Board may require, either that the Applicant construct the improvements in whole or in part, or reimburse the municipality or any other party who, at the direction of the municipality, undertakes such improvements. The Applicant's responsibility for such improvements is limited to that portion of the cost of the improvements which bears a rational nexus to the needs created by, and special benefits conferred upon, the site, taking into consideration the municipality's ability to pay for such improvements.

**SECTION 10. DEVELOPMENTS HAVING REGIONAL IMPACT**

- A.** All applications shall be reviewed for potential regional impacts. Upon such a finding, the Board shall furnish the regional planning commission(s) and the affected municipalities with copies of the minutes of the meeting at which the determination was made. The copies shall be sent by certified mail within 72 hours of the meeting.
- B.** At least 14 days prior to the scheduled public hearing, the Board shall notify by certified mail the regional planning commission(s) and the affected municipalities of the date, time and place of the hearing, and of their right to appear as abutters to offer testimony concerning the proposal.

**SECTION 11. PREVIOUSLY-APPROVED SUBDIVISIONS**

If any land shown on a subdivision plat has been part of any previous subdivision approved, constructed, or created by conveyance no more than five (5) years prior to the new proposal, any such previous subdivision will be treated as part of the new proposal for purposes of analyzing its effect and applying all review criteria.

**SECTION 12. SPECIAL FLOOD HAZARD AREAS**

- A.** The Planning Board shall review the proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
- B.** The Board shall require that all subdivision proposals include base flood elevation data. Sufficient evidence (construction drawings, grading and land treatment plans) shall be submitted so as to allow determination that:
  - 1. all such proposals are consistent with the need to minimize flood damage;

2. all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and
  3. adequate drainage is provided so as to reduce exposure to flood hazards.
- C. The Board shall require new or replacement water supply systems and/or sanitary sewage to be designed to minimize or eliminate infiltration of flood water into the systems and discharges from the systems into flood waters, and require on site waste disposal systems to be located so as to avoid impairment of them or contamination from them during flooding.

### **SECTION 13. AS-BUILT PLANS**

As-Built plans, stamped by a Certified New Hampshire Professional Engineer, shall be submitted to the Department of Planning and Community Development and Department of Public Works prior to the final release of the letter of credit.

### **SECTION 14. REVOCATION OF PLANNING BOARD APPROVAL**

A subdivision plat, street plat, site plan or other approval which has been filed with the appropriate recording official under RSA 674:37 may not be revoked, in whole or in part, by the planning board, except pursuant to this section, and only under the following circumstances:

1. At the request of, or by agreement with, the Applicant or the Applicant's successor in interest.
2. When the Applicant or successor in interest to the Applicant has performed work, erected a structure or structures, or established a use of land, which fails to conform to the statements, plans or specifications upon which the approval was based, or has materially violated any requirement or condition of such approval.
3. When the Applicant or successor in interest to the Applicant has failed to perform any condition of the approval within a reasonable time specified in the approval, or, if no such time is specified, within the time periods specified in RSA 674:39.
4. When the time periods specified in RSA 674:39 have elapsed without any vesting of rights as set forth therein, and the plat, plan or other approval no longer conforms to applicable ordinances or regulations.
5. When the Applicant or successor in interest to the Applicant has failed to provide for the continuation of adequate security as provided by RSA 674:36, III(b) and 674:44, III(d) until such time as the work secured thereby has been completed.



**SECTION 15. ADMINISTRATION AND ENFORCEMENT**

- A. These regulations shall be administered by the Planning Board. The enforcement of these Regulations is vested with the Board of Selectmen.
- B. The Code Enforcement Officer or other agent so designated by the Planning Board shall be charged with the responsibility of inspecting improvements and development of subdivisions on site for compliance with the Subdivision Regulations.
- C. Waivers: The requirements of these regulations may be waived or modified when, in the opinion of the Board, specific circumstances surrounding subdivision, or the condition of the land in such subdivision, indicate that such modifications will properly carry out the purpose and intent of the master plan and these regulations. The Applicant shall submit the waiver request in writing with reasons to support the request.
- D. Penalties and Fines: Any violation of these regulations shall be subject to a civil fine as provided in RSA 676:16 and 676:17, as amended.

**SECTION 16. APPEALS**

Any person aggrieved by a decision of the Planning Board concerning a plat or subdivision may appeal said decision to the superior court pursuant to RSA 677:15, except when a disapproval by the Board is based upon non-compliance with the zoning ordinance, in which case an appeal can be taken to the Board of Adjustment.

**SECTION 17. VALIDITY**

If any section or part of a section or paragraph of these regulations shall be declared invalid or unconstitutional, it shall not be held to invalidate or impair the validity, force or effect of any other section or part of a section or paragraph of these regulations.

**SECTION 18. AMENDMENTS**

These regulations may be amended by a majority vote of the Planning Board after at least one (1) public hearing following the notification procedure outlined in RSA 675:7.

**SECTION 19.           EFFECTIVE DATE**

These regulations shall take effect upon their adoption and all regulations or parts of regulations, inconsistent therewith, are hereby repealed.

Authorized by vote of Town Meeting - November 19, 1975

Adopted - March 31, 1976  
Amended - February 12, 1980  
Revised - February 24, 1983  
Amended - August 9, 1983  
Amended - February 2, 1988  
Amended - May 24, 1988  
Amended - June 27, 1989

Amended - September 11, 1990  
Amended - January 14, 1992  
Amended – July 15, 2008  
Amended – June 1, 2010  
Amended – April 5, 2011  
Revised – June 18, 2013

# Hampstead Water Well Handbook

## *A Homeowner's Guide*

Prepared by:

Hampstead Water Resource Committee

September 2021



# HAMPSTEAD WATER WELL HANDBOOK

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## Introduction

Are you thinking about having a new water well drilled? Do you have questions about an existing well or are you experiencing adverse changes in water quality or quantity? Perhaps you are building a new home or replacing an existing water supply. Perhaps you have previously lived in a home connected to a public water supply system and you've moved to a home that uses a private well for its water supply. Whatever the case, this handbook contains important information, including an overview of:

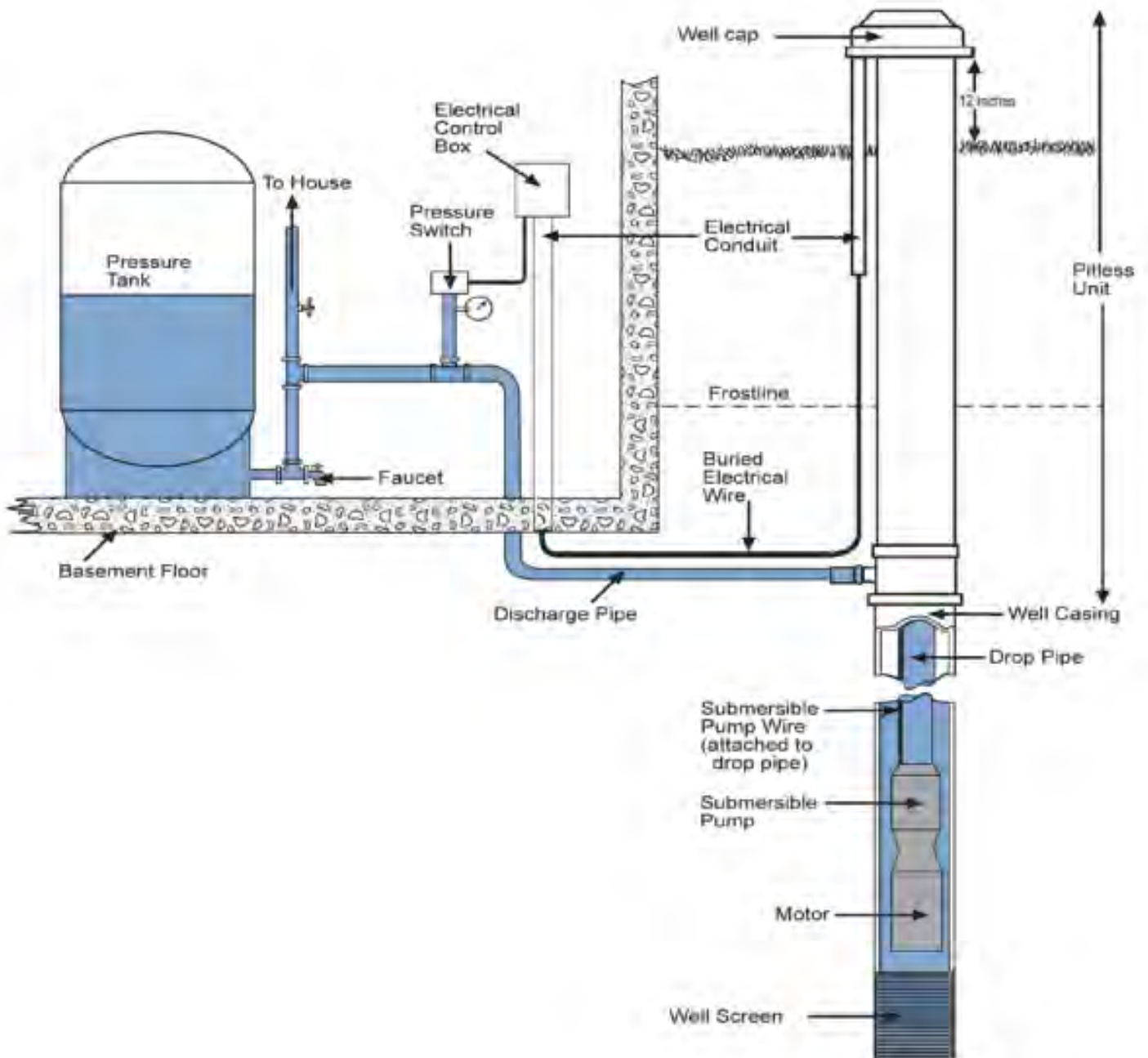
- Hampstead's groundwater resources
- Typical well construction
- Well protection and common problem troubleshooting
- Well operation and maintenance
- Well water safety and testing
- Sealing unused wells

## **What is Most Important?**

- **Learn about your well and the components of your water system.** Wells don't last forever. If your well is old or is experiencing a decline in performance, have it inspected by a licensed well contractor (pages 10-22).
- **Collect a water sample from your well on a regular basis and have it tested** for total coliform bacteria and nitrate. If you are having a new well constructed, a water sample is required to be taken from a new well by the licensed well contractor (pages 16-17).
- **Test your well water for common naturally-occurring chemicals that may be health hazards,** such as arsenic, radon and other radionuclides (pages 16-17).
- **Maintain your well in a sanitary condition.** The well should have a waterproof cap, and the well casing should extend at least 1-foot above the surface of the ground. Keep septic systems, fertilizers, gasoline, fuel oil, and chemicals away from your well (pages 19-20).

## How A Typical Well Pump System Works

Typical residential water wells have a submersible pump that pumps water directly to the house. Alternatively, some wells (e.g., shallow dug wells and driven well points) have surface pumps called “jet pumps” that are located on the surface at or near the top of the well.



As shown above, most well pumps are used in conjunction with a **pressure tank**. The goal of the well water pump system is to maintain a constant supply of pressurized water in the house and piping system. To maintain the water pressure, the well pump is switched on and off with a **pressure switch**. This usually means the pump is turned on when the pressure switch senses the pressure is at a low point (the “**cut-in**” point) and off at a pre-set high-pressure point (the “**cut-off**” point).



Image of how a well connects to a pressure tank, showing the pressure gauge, pressure switch and storage tank



Close-up view of the pressure switch that turns the pump on/off; The blue tank is the pressure tank



**A main water shutoff valve**, in this case the blue lever labeled "WATER" with white tape, is shown to the left of the pressure gauge and pressure tank drain valve in our photograph (white arrow).



**Water tank pressure gauge.** The water pressure gauge on home water systems is one of the most helpful and simple devices used in diagnosing poor water pressure and pump, well, or pump control problems.

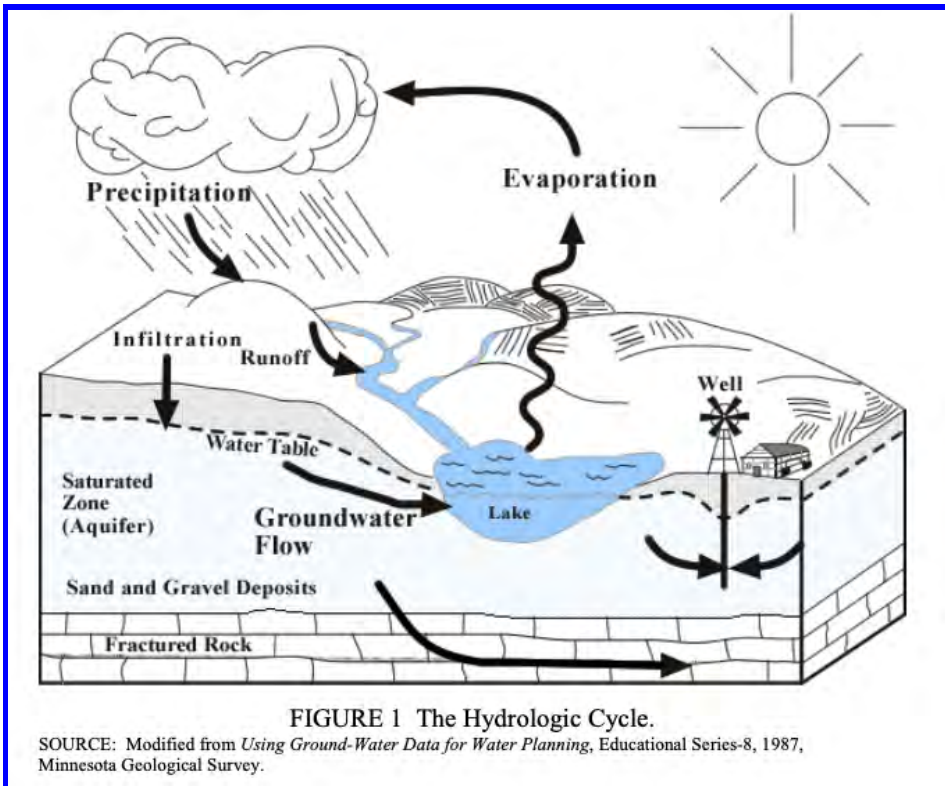


## Where Does Your Water Come From?

As the name implies, groundwater is found beneath the land surface — in cracks and crevices in bedrock, or in pore spaces, which are the small spaces between soil or rock particles in sand and gravel deposits.

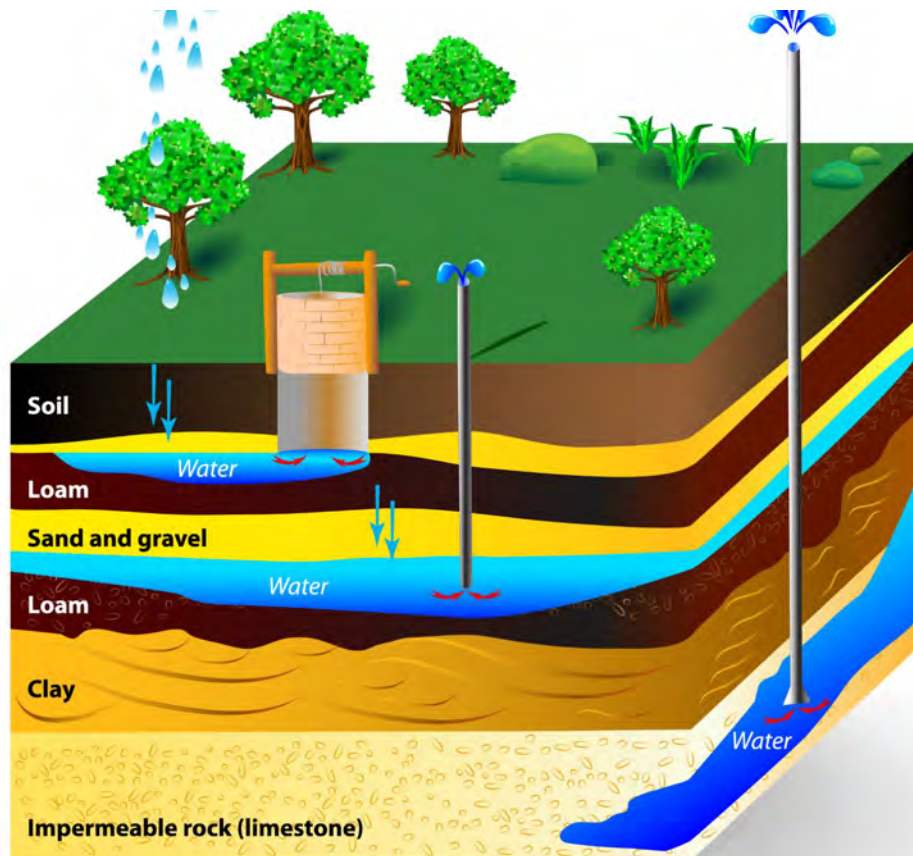
Surface water becomes groundwater when it seeps downward to the **saturated zone**. The saturated zone begins at the point where the pore spaces and cracks in the soil, sediment, or rock become completely filled with water. The top of this zone is called the **water table**.

An **aquifer** is a layer of sediment, such as sand or gravel, or permeable space within bedrock fractures, that stores and transmits water. A **confining layer** is a layer of low permeability sediment or rock that slows or prevents the downward movement of water — a thick layer of clay is an example of a confining layer.



There are several common types of water wells dependant on the source of the water:

- **Dug wells** are holes in the ground dug by shovel or backhoe. They are lined (cased) with stones, brick, tile, or other material to prevent collapse. Dug wells have a large diameter, rely on shallow groundwater and are usually not much deeper than 15 feet below land surface. These wells are generally easy to identify in your yard because they are relatively large stone or concrete objects protruding from the ground and many have well houses built over them for protection or ornamental purposes.
- **Driven wells** are constructed by driving pipe into the ground and are also relatively shallow (approximately 30 to 50 feet deep).
- **Drilled wells** may be completed in unconsolidated deposits (primarily sand and gravel) that overlay bedrock or drilled through the unconsolidated earth deposits into the upper surface of the bedrock and cased with steel pipe. Drilled bedrock wells tap water from fractures in the bedrock and range in depth from less than 100 feet to more than 1,000 feet. Drilled bedrock wells can often be identified as a capped, 6-inch steel pipe sticking out of the ground.

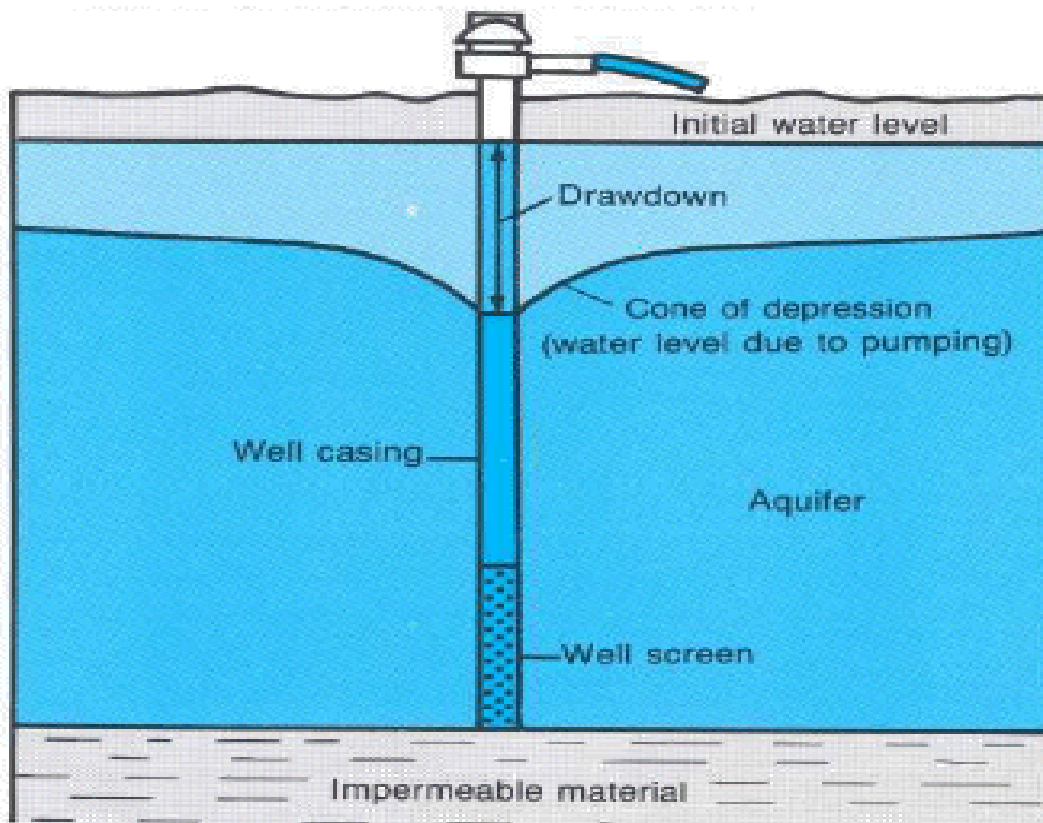


## Water Levels in Wells

Groundwater users would find life easier if the water level in the **aquifer** that supplied their well always stayed the same. Seasonal variations in rainfall and occasional drought periods affect the "height" of the subsurface water level. Withdrawing water from a well causes the water levels around the well to lower. The water level in a well can also be lowered if other vicinity wells are drawing water from the same sources (either sand and gravel or bedrock fracture zones). When water levels drop below the levels of the pump intakes, then wells will begin to pump air - they will "go dry."

Pumping a well lowers the water level around the well to form a cone of depression in the water table. If the **cone of depression** extends to other nearby wells, the water level in those wells will also be lowered. The cone develops in both shallow water-table and deeper confined-aquifer systems. In the deeper confined-aquifer system, the cone of depression is indicated by a decline in the observed water (*piezometric*) pressure and the cone may spread over a much larger and more linear area than in a water-table system. For a given rate of withdrawal, the cone of depression extends deeper in low-yielding aquifers than in high-yielding ones.

Even though water is present at some depth at almost any location, the success of obtaining an adequate domestic supply of water from a well depends on the permeability of the rock. Where permeable materials (sand and gravel) are present near land surface, a shallow well may be adequate. Elsewhere, such as where less permeable clay-rich material directly overlies bedrock (common in this area), a deeper well extending into bedrock may be needed.



## Troubles With Your Water Well

The typical modern residential water well system can generally produce water for many years with minimal servicing. However, as with any home system, your water system does require routine maintenance and service when necessary to continue operating properly. The following is a helpful online webinar:

### How to Keep your Pump and Pressure Tank in Good Condition

- <https://www.youtube.com/watch?v=6lvv0ZZwosE>

A basic well problem troubleshooting checklist is provided at the conclusion of this document, as well as useful links to more information.

The following are some telltale signs to look for that may alert you to well water problems:



### Warning signs associated with water well problems

- **Well is Pumping a Mixture of Air and Water**



If you turn on your kitchen faucet and out blasts a mixture of air and water, this can be an indication that something is wrong within the well. The worst case scenario is that your water table has dropped to a point that is at, or below the well pump and the pump is drawing in air some time during the pump cycle.

Another cause would be that the *well pump drop pipe* (the pipe that connects the pump to the top of the well and the water system) is broken or the subsurface pipeline from the well to the house is compromised.

Water system pipes are made of either iron pipe or plastic PVC or polyethylene pipe. They may become broken/corroded and develop cracks or even in some instances break apart, allowing for air to be sucked in.

In some cases, the water level is fine and there aren't any cracked pipes or fittings. Some groundwater tables do contain various types of gas. These gases may be dissolved within the water, yet later come out of solution and trigger water to spurt or sputter out of the tap. These types of gasses may be carbon dioxide, methane, hydrogen sulfide or other gasses, and can be harmful and cause significant safety and health problems. In the event that this is an ongoing problem, the well can usually be treated to eliminate these gases by means of aeration and degassing systems. Such problems should be looked into and repaired by a skilled well or pump company.

- **Well is Pumping Sand or large amounts of sediment**

If your well suddenly starts to pump sand, this is often a sign that the well is “*silting in*”, or filling with sand and silt. Typically, the well pump is installed so it is at least 10 – 20 feet above the bottom of the well.

When the pump turns on, the water level in the well can drop to a lower level. If the pump is down near the bottom of the well, sand and sediment can be sucked in.

In the case of wells with screens, the screen may have become degraded and is allowing sand or sediment in from the gravel pack around the well screen. In open rock wells, sand-sized material may be produced from bedrock fracture zones. Sand can quickly wear out the pump valves and fill up the bottom of the well with sand. In any case, a sudden presence of sand is not a good sign and the cause should be determined.

Sand can be removed from the water before the pressure tank or storage tank by means of a [sand and sediment trapper](#) or a 60 mesh filter screen with an automatic purge valve.



Above is an example of a sediment filter and a chlorine filter. If you have these you may need to change the filters periodically, check your owners manual.

- **Low Water Pressure**

There can be many causes of low water pressure. Including a failing well pump, stuck check valve, partially closed or bad gate/ball valve, and leaking/failing pressure tank. The pressure tank is usually located in the basement or a utility room, although some types of tanks may be buried underground.

The pressure tank has three purposes:

1. **To store water and provide water under pressure** when the pump is not running.
2. **To build up a reserve supply of water each time the pump runs**, so the pump has to start and stop less often. This serves to prolong the life of the pump.
3. **To provide a reserve supply of water** for use during times of high demand.

As the name implies, a pressure tank contains water under pressure. As water is pumped into the tank, it compresses the air in the tank until the pressure reaches a preset level — typically from 40 to 60 pounds per square inch (psi) — which automatically shuts off the pump.

When a faucet is opened, the air pressure in the tank forces water through the pipes until the pressure drops to another preset level — usually from 20 to 40 psi — which starts the pump again. A pressure switch starts and stops the pump at the preset pressure levels, and allows the system to work automatically.

The size of the tank usually depends on the amount of water produced by the pump in 1 to 2 minutes. The amount of water delivered by the pressure tank between the time the pump shuts down and the time it starts up again is called the "**drawdown**." The drawdown is typically much smaller than the overall size of the tank. Common pressure tank sizes range from 10 gallons to over 200 gallons. Tanks holding 20 to 44 gallons, which have a drawdown of 5 to 16 gallons, are the most frequently used. Larger tanks, or more than one tank, may be needed for low-yield wells or systems with high water demands.

The most common type of pressure tank design has a diaphragm or bladder, which provides a permanent separation between the air and the water in the tank. If the air and water are not separated, the water can eventually absorb all the air in the tank, a condition called "**waterlogging**." The pump will then rapidly turn on and off, which is called "**cycling**." It is a good idea to have a faucet placed near the pressure tank for flushing the tank and collecting water samples for testing.

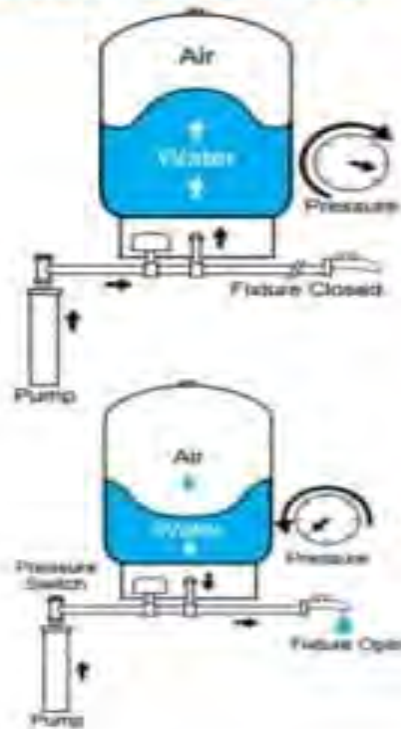
In some cases, iron bacteria clogs up the pipe nipple leading to the pressure switch causing the pressure switch to incorrectly sense the pressure. If your well water tests high in iron bacteria, your pump and/or well screen may become clogged with iron bacteria. Having the well cleaned with a special solution designed to remove iron bacteria, slime and scale can often restore the well to a better condition.

In some well systems, the pressure can be set too low for today's homes and appliances. It is sometimes possible to raise the pressure to provide adequate water pressure in the home, but care should be taken to not over-pressurize your home plumbing system..

The pressure switch can often be adjusted to accommodate this higher pressure, assuming the well pump and well can operate without difficulty at the higher pressure. Air pressure inside the pressure tank must be adjusted if the pressure switch is adjusted. A background video on How to Check and Adjust Pressure Tanks is provided at: <https://www.youtube.com/watch?v=w21qa2bMUh8>

## How a Well Tank Works

1. As the pump fills the tank with water, the air above the diaphragm is compressed. This increases the pressure in the tank and causes the pump to shut off.
2. When water is used, it is drawn from the tank and the pressure inside the tank decreases. The reduced pressure starts the pump and refills the tank.



The larger the well tank, the greater the storage capacity and the less the pump needs to run. This saves energy and extends pump life. Larger tank sizes also provide more consistent water pressure.



- **Electric Bill has increased dramatically**

When a pump wears out, or becomes blocked with sand, silt or iron bacteria, it needs to work much harder than if it was in good shape. This can result in an increasingly higher power cost.

Another common cause of a high power bill is when the check valve in the well goes bad. This enables water from your pressure tank to flow back down into the well, which then reduces pressure and signals to the pressure switch to turn the pump on again and pressurize the pressure tank. This on-and-off cycle may occur every few minutes and essentially allow the well pump to run practically 24 hours a day, causing a high power bill.

- **Pressure Switch and Pump Continuously Cycles On and Off**

This can be caused by one or more leaks in the home causing the well pump to run continuously. This can also be due to corrosion of well casing, liner or screen, causing holes. Holes can allow water of undesirable quality to enter the well. Look for leaking toilet flush valves, reverse osmosis systems, iron filters, and other backwashing filter systems that may be malfunctioning. As discussed above, another common cause is a failed check valve.

Another very common issue is the pressure tank losing its captive air pressure. This is easy to check. Turn off power to the well pump and run water after the pressure tank or in the house until there is no water pressure left. Using a tire pressure gauge check the Schrader valve on top of the pressure tank. It should be 2 PSI less than the cut-in or lower pressure. If your well turns on at 30 PSI, the pressure tank should have 28 PSI in it.

- **Water Quality has Changed**

Well water can also contain contaminants that can adversely affect health. These can either occur naturally, as in the case of arsenic or radon, or as a result of human activities such as chemical spills, improper waste disposal, or failing septic systems. Water quality can also change as a result of significant changes in the water level in your well. Wells that are old, shallow, in disrepair, or are not properly located and constructed are more likely to have unsafe water.

It is always preferable to have naturally safe well water, rather than relying on treatment. Drilling a well deeper may give additional protection from surface contaminants such as nitrate and spilled chemicals. There are a number of drinking water contaminants that can adversely affect the health of you and your family. Some of the most common include bacteria, nitrate, arsenic, radon, manganese, and synthetic chemicals such as fuels, solvents, and pesticides. If you live in an older home, reduce your potential exposure to lead in drinking water (from lead solder) by letting the faucet run for 30-60 seconds before using the water for drinking or cooking, especially after the water has not been used for more than six hours.

If testing does indicate the presence of a health-related contaminant, options may include the addition of treatment equipment, repair of the existing well, installation of a new well and removal of the source of contamination. For example, the presence of coliform bacteria in the water often does not indicate that the groundwater is contaminated, but that there is a problem with well construction, operation, or maintenance, allowing surface water or contaminants to enter the well. If multiple thorough well disinfection applications do not solve the problem, the well probably needs to be repaired, upgraded, or replaced.

A simple water quality test can tell you what you need to know about the chemical makeup of your water. This test is painless; a technician comes out and collects a couple samples of your water and takes it back to a lab for testing. Alternatively, residents can obtain sample containers from private laboratories or from the State Lab in Concord, collect water samples and drop them back off at the lab.

<https://video.nhpbs.org/video/planet-granite-test-it/>

NHDES recommends the following schedule of well testing\*:

- Test the water in a home with a private well before purchase. Thereafter:
- Bacteria & Nitrate, Yearly
- Standard and Radiological analysis, 3-5 years

The following conditions would call for more frequent testing:

- Heavily developed areas with land uses that handle hazardous chemicals.
- Recent well construction activities or repairs. NHDES recommends testing for bacteria after any well repair or pump or plumbing modification, but only after thorough flushing of the pipes.
- Unacceptable or borderline levels of contaminants found in earlier testing.
- Noticeable changes in the water, such as a change in taste, smell or appearance after a heavy rain, or an unexplained change in a previously trouble-free well.

Note that if you have any water treatment or filtration systems, the samples should be collected before treatment. This can generally be accomplished at the faucet installed at your pressure tank.

### **Water quality checklist**

- Change in water quality, often coupled with the sudden appearance of sediment in the water.
- Failure of the annulus or casing seal
- Iron bacteria or sulfate-reducing bacteria (biofouling)
- Change in water quality such as color, odor (e.g. rotten egg) or taste. Check inside of toilet tank for slime buildup and inspect pump.
- Contamination from man-made sources
- Changes in water quality as indicated by color, odor or taste. Compare results from regular water analyses for changes.
- Limited aquifer extent/Reduced aquifer recharge
- Increase in constituents such as hardness, iron, manganese and sulfate. Compare results from original water analyses for changes. Taste and color changes in the water may also occur.

- **Water Quantity has Changed**

Typically, dug wells, shallow bedrock wells, wells located near topographic high points, wells constructed in areas where bedrock is close to the ground surface and wells in hydraulic communication with high yield water production wells are more susceptible to failing. The typical homeowner does not have a means of determining a well's water level, although symptoms of well failure may be obvious.

<https://www.youtube.com/watch?v=6cJgPdM8kul>

### **Water Quantity checklist**

- No water.
- Sudden drops in water pressure or pressure surges.
- Air bubbles coming out of non-aerated faucets.
- Cloudy or heavily silted water.

There are two primary causes of well failure; a shortage of water, or other associated with the well casing, valves, waterlines, pump, pump electrical or pressure tank. A shortage of water can result from an extended drought period, large volume water withdrawals from nearby homes and businesses, or withdrawals from community water supply wells. Well problems can arise for many reasons, some simple (such as a thrown well pump circuit breaker) and others complex ( a silted-in well or burned-out pump) It is important to work with a licensed pump installer and/or well driller to diagnose the problem and determine the appropriate corrective action to take. If you are experiencing any of the above issues in your water system, turn the pump off to prevent your pump from continuously pumping air and burning itself out. A water pump can be turned off from a home's electrical panel. Also, address issues immediately as completing the work in the winter may not be possible or could be more costly.

## Routine Well Maintenance

Modern wells require remarkably little routine maintenance, but there are several steps that you can take to protect your well:

- When constructing new additions to your home, adding new buildings, or altering waste systems or chemical storage facilities, be sure to maintain adequate isolation distances.
- When landscaping your yard, keep the top of the well at least 1-foot above the soil surface. This will help keep insects, dirt, and other contaminants from entering your well. If you must grade within 1-foot of the top of the well, you should arrange with a licensed well contractor to extend the well casing. Do not pile snow, leaves, or other materials around the well. Slope the soil away from the well casing to promote proper drainage. Be careful when working around your well. Avoid damaging the well casing, which could jeopardize the sanitary condition of your well.



- Have any defective well parts repaired by a licensed well contractor or pump installer. Be sure the well cover or well cap on top of the casing is properly attached and in good repair. Any connections to the cap also should be watertight. Provide flood protection if the well is in an area subject to flooding.
- When working with hazardous chemicals like paint, fertilizer, pesticides, and motor oil, keep them away from your well.
- Take steps to prevent back-siphonage, which occurs when a drop in water pressure causes potentially hazardous substances to be sucked back through your plumbing system — and into your well. When connecting a hose to a faucet, do not submerge the hose end in a laundry tub, chemical tank, container, or sprayer — or leave it lying on the basement floor. When filling pesticide tanks or containers with water, avoid placing the hose inside the tank or container. The nozzle of the fill hose should be secured at a distance above the container or tank opening, which maintains an air gap. The distance should be equivalent to at least twice the diameter of the delivery pipe.
- Be aware of changes in your well, the water from your well, and the area around the well. Changes in how often your pump runs, or in the smell or color of the water, can tip you off to potential problems. If necessary, seek the advice of an expert, such as a licensed well contractor or a well specialist from the NH DES. Have your well inspected at the first indication of trouble. Have the water tested regularly for coliform bacteria and nitrate.
- Have any wells that are no longer in use permanently sealed by a licensed well contractor or a licensed well sealing contractor.

## Basic troubleshooting checklist

It is important that a homeowner does NOT open their well “to have a look around”! There is really nothing to see here. Your pump is probably several hundred feet down and you should not be trying to pull it out!! Further, opening a well can lead to the introduction of contamination. If the problem is thought to be the well itself, call a well contractor.

Problem	What to check / what it means	How to correct
No water	Well circuit breaker (usually a two pole breaker since the well pump is usually 240v)	Try turning the circuit breaker on, if it trips again call a licensed well contractor or licensed electrician
No water	Expansion Tank pressure gauge should be showing correct pressure (usually 20 to 40 psi)	Call a licensed well contractor
Sputtering water	Air in the system	Call a licensed well contractor Might be a malfunctioning pump or cracked water line between the pump and the house
Low water pressure	Check any sediment or other water filters for clogging Check screens in the faucet to ensure it isn't clogged It may be a pump issue, or an issue with the screen in the well	Clean the filter  Clean the screen  Call a licensed well contractor
Cloudy or muddy water	Sediment (silt/sand) is being pulled up by the pump	Call a licensed well contractor - the pump may not be filtering sediment out or well conditions have changed
Spike in electric bill	Well pump may be running all the time	Call a licensed well contractor - The pump may be malfunctioning - The water in the well is low - The pressure switch (which is mounted on the storage tank) has failed or is stuck
Funny taste / odor from the water	Conditions have changed; Here in NH it's not uncommon to get a sulfur (rotten egg) smell in the spring and again in the fall	Have your water tested by a state certified lab;

<p>How do we diagnose a pressure tank bladder issue?</p>	<p>Background videos on how to diagnose are provided at:  <a href="https://www.youtube.com/watch?v=jfh3hB9XZu8">https://www.youtube.com/watch?v=jfh3hB9XZu8</a>  <a href="https://www.youtube.com/watch?v=NzZI7WOnMMQ">https://www.youtube.com/watch?v=NzZI7WOnMMQ</a>  <a href="https://www.youtube.com/watch?v=w21qa2bMUh8">https://www.youtube.com/watch?v=w21qa2bMUh8</a>  <a href="https://www.youtube.com/watch?v=6lvv0ZZwosE">https://www.youtube.com/watch?v=6lvv0ZZwosE</a></p>	
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**Useful web references:**

<https://video.nhpbs.org/video/planet-granite-test-it/>



# HOW TO FIND WELL REPORTS FROM THE NHDES ONESTOP WEBSITE

1. Type in the NHDES webpage address:  
<http://des.nh.gov/>



2. Click on the green **OneStop** icon on the left.  
 3. Click on **OneStop Data**.



4. Click the **'Water Well'** box



**QUESTIONS?** Please call 603-271-1974.

5. Search by typing in your town and street name. For the best results keep the search entry as short as possible and omit the house number and extension (ST, RD, etc) from the address. You can also search by property owner, builder, driller, year completed and Well ID.

(ex. For 15 Settlers Green Way, Bedford, search Town 'Bedford' and 'Settler' OR 'Green' in address field.)



6. Click the **Enter** button.  
 7. Look through the search list of wells. Click **'Show'** to view an individual report, or click the **Save Results** icon to export the data for all of the results into excel.



- Please note:
- Well construction reports are filed by licensed water well contractors.
  - Reporting of well construction records was mandated by state law effective January 1, 1984. No records exist in the Well Completion Reports table prior to this date.
  - Road name changes for E911 are not reflected in the database.

# LETTER HEALTH CONSULTATION

## HOOKSETT RESIDENTIAL WELL WATER

HOOKSETT, NEW HAMPSHIRE

Prepared by New Hampshire Department of Environmental Services

March 23<sup>rd</sup>, 2021

Prepared under a Cooperative Agreement with the  
U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

Division of Community Health Investigations

Atlanta, Georgia 30333



# APPLETREE



Agency for Toxic Substances and Disease Registry's Partnership to Promote Local Efforts  
To Reduce Environmental Exposures

## Health Consultation: A Note of Explanation

A health consultation is a verbal or written response from the Agency for Toxic Substances and Disease Registry (ATSDR), or ATSDR's Cooperative Agreement Partners, to a specific request for information about health risks related to a specific site, a chemical release or the presence of hazardous materials. In order to prevent or mitigate exposures, a consultation may lead to specific actions, such as restricting use of or replacing water supplies, intensifying environmental sampling, restricting site access, or removing the contaminated material.

In addition, consultations may recommend additional public health actions, such as conducting health surveillance activities to evaluate health outcome data or trends in adverse health outcomes; measuring environmental chemicals in the human body to assess exposure (biomonitoring); and providing health education for health care providers and community members.

This recommendation of public health actions concludes the health consultation process for this site, unless additional information is obtained by ATSDR or ATSDR's Cooperative Agreement Partner which, in the Agency's opinion, indicates a need to revise or append the conclusions previously issued. The Letter Health Consultation becomes the written report retained for records and is publicly accessible.

Members of the ATSDR Cooperative Agreement in the state of New Hampshire, including members of the New Hampshire Department of Environmental Services – Environmental Health Program (NHDES EHP) and the New Hampshire Department of Health and Human Services – Division of Public Health Services (NHDHHS DPHS), conducted the following health consultation. This Letter Health Consultation report contains analysis and recommendations specific to a site of interest in the state of New Hampshire. Therefore, ATSDR, its officers and subject matter experts contributed exclusively in a supporting role.

You May Contact NHDES  
at [\(603\) 271-3503](tel:6032713503)

You May Contact NHDES EHP  
at [\(603\) 271-6803](tel:6032716803)

or

Visit the [NHDES website](#).

# LETTER HEALTH CONSULTATION

## HOOKSETT RESIDENTIAL WELL WATER ASSESSMENT

HOOKSETT, NEW HAMPSHIRE

STATE OF NEW HAMPSHIRE  
Department of Environmental Services  
Air Resources Division  
Environmental Health Program  
29 Hazen Drive, Concord, NH 03301



# STATE OF NEW HAMPSHIRE

Department of Environmental Services  
Environmental Health Program  
Inter-Department Communication

**To:** Brandon Kernen, P.G., Drinking Water & Groundwater Bureau Administrator  
**Date:** March 23<sup>rd</sup>, 2021

**From:** Robert Thistle Ph.D., Human Health Risk Assessor  
Jonathan Ali, Ph.D., Toxicologist  
Karen Craver, MPH, Principal Investigator  
**Ec:** Kathleen Bush, Ph.D., Environmental Health Tracking Program  
Nicholas Shonka, Environmental Health Tracking Program  
Michele Roberge, M.B.A., Public Health Protection  
Gary Milbury, PEHB Administrator  
Craig Wright, ARD Director

**RE:** Hooksett Residential Well Water Health Risk Assessment

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STATE OF NEW HAMPSHIRE  
Department of Environmental Services  
Air Resources Division

**Memorandum**

Addressed:

March 23<sup>rd</sup>, 2021

To: Brandon Kernen, P.G., Administrator – Drinking Water and Groundwater Bureau, NHDES

From: Dr. Robert Thistle, Environmental Health Program

Re: Hooksett Residential Well Water Health Risk Assessment

Per your request, NHDES EHP has reviewed the analytical results of residential well water samples collected in 2019 and 2020 in the township of Hooksett, NH to (1) formally summarize the findings; (2) characterize potential exposures to these residential well users; and (3) recommend next steps to reduce exposure and protect public health for this community.

Review of the available residential well water sampling data indicates uranium and radon are the primary contaminants of concern in southern Hooksett. Of the wells tested, 64% exceeded acceptable health limits for uranium in drinking water as set by the Environmental Protection Agency. In addition, 90% of wells tested contain radon levels that may contribute to exceedance of recommended action levels in the air within homes. Finally, select residences have levels exceeding health standards for one or more additional contaminants such as arsenic (2%), manganese (23%), nitrates (2%), and per- and polyfluoroalkyl substances (PFAS) (22%).

A more detailed analysis of the results, including a summary of known human health risks associated with exposure and recommendations for exposure reduction, is outlined in the following document.

For questions regarding this consultation please contact:

Dr. Robert Thistle  
Human Health Risk Assessor  
NH Department of Environmental Services, Environmental Health Program  
29 Hazen Drive | Concord, NH 03301  
[\(603\) 271-4608](tel:(603)271-4608) | [Robert.Thistle@des.nh.gov](mailto:Robert.Thistle@des.nh.gov)

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## Background and Statement of Issues

In September of 2019, groundwater testing around the town of Hooksett, NH detected elevated levels of uranium, and the State responded to assess the risk and propose ways to protect the health of the public. This letter is a summary of our findings; it includes guidance to help the requester, as well as municipal officials and the public, understand risk to the community and what the recommended actions are to reduce risk.

The NHDES Drinking Water and Ground Water Bureau (DWGB) responded to this by partnering with the United States Environmental Protection Agency (EPA) to conduct additional sampling of residential wells in Southern Hooksett. NHDES developed a sampling plan in a targeted study area to test the drinking water quality for uranium and other potential groundwater contaminants. The aim of this sampling effort was to inform homeowners, and provide guidance regarding actions to reduce exposure and protect health. This study was made possible at no cost to the homeowners through the support of the EPA Region 1 Laboratory and the New Hampshire Drinking Water and Groundwater Trust Fund.

Water samples were collected from residences in southern Hooksett beginning in September 2019 and concluding in February 2020. Analysis of all contaminants in these samples was completed in October 2020, at which time DWGB requested support from EHP in order to evaluate potential health risks and to formulate recommendations based on findings. Staff support for this risk assessment activity was provided by ATSDR's Partnership to Promote Local Efforts to Reduce Environmental Exposure (APPLETREE) Cooperative Agreement.

The town of Hooksett is located in Merrimack County in south-central New Hampshire, with an estimated population of 14,569 (NH Department of Health and Human Services, 2019). Hooksett is situated on the Merrimack River between the city of Manchester to the south and the city of Concord to the north. According to 2010 US Census data, Hooksett contained 4,926 households, out of which ~34% housed children under the age of 18. Hooksett mirrors the state of New Hampshire in many demographics, including race, age distribution, healthy lifestyle habits and indices of cancer (NH Department of Health and Human Services, 2019).

New Hampshire has an abundance of groundwater, which many residents utilize for drinking, food preparation, recreation, irrigation and hygienic practices. More than 500,000 residents, nearly half (40-46%) of the state's population, source drinking water from residential wells (NH Department of Environmental Services, 2014). These wells are not regulated by the same standards for safe consumption and use as public water sources in the state of New Hampshire, and can be subject to certain naturally-occurring contaminants like arsenic, iron, manganese and uranium, in addition to human-caused contamination. While the majority of ground water is safe for consumption and use, NHDES urges well users to periodically monitor well water for contaminants that can impact their health.

Based on the preliminary detection of uranium in well water, residents with potentially contaminated water were identified in an area of Southern Hooksett. NHDES and EPA undertook a holistic screening approach for uranium and additional potential contaminants in the residential water sources within the surrounding area. This Letter Health Consultation addresses three key issues:

1. Identification of potential risks to human health from contaminated residential drinking water.
2. Recommended Actions for residents who are exposed to these potential risks.
3. Additional concerns for residents of Southern Hooksett and other stakeholders.

## Current Sampling Event and Investigation

NHDES staff and partners sampled 138 residential wells located in an approximately 2.5 square-mile area of southern Hooksett, east of the Merrimack River and west of Tower Hill Pond (Appendix A, Figure 2). The samples were taken from pre- and post-treated sources, where available. Wells were selected based on a targeted area surrounding initial findings of elevated levels of uranium in groundwater. Initial screening revealed concentrations of uranium exceeding the EPA Maximum Contaminant Level (MCL) of 30 micrograms per liter ( $\mu\text{g/L}$ ) in a small number of potable water sources.

Subsequent water analysis included, but was not limited to, the following analytes.

- Volatile organic compounds (VOCs)
- Trace metals/metalloids/Inorganics
- Per- and polyfluoroalkyl substances (PFAS).
- Radiological isotopes

Results are summarized by compound category in Appendix B, Tables 1-5. VOCs were measured using EPA Method 524.2 by ChemServe Environmental Analysts (Table 1). EPA partners provided metals analysis (Table 2). Samples were analyzed by Inductively Coupled Plasma Mass Spectrometry (ICP-MS) as detailed in EPA Methods 200.2 and 200.8 for total recoverable metals. A small number of these samples were analyzed independently of EPA laboratories. As NHDES recently proposed ambient groundwater quality standards (AGQS) for certain PFAS, NHDES also analyzed 166 samples for 25 PFAS using Isotope Dilution, by Eurofins TestAmerica – Buffalo (Table 3). Radon in water was measured using Standard Method 7500 by Nelson Analytical Lab (Table 4).

Of the 124 analytes screened, 45 contaminants were within the range of detection in at least one or more residential wells. These concentrations were compared against ATSDR comparison values (CVs) to identify exposures of concern (Tables 1-5). When ATSDR CVs were not available, other guidance values from EPA or the State of New Hampshire were substituted in place. Due to the diversity of PFAS and their categorization as emerging contaminants, only those with ATSDR CVs or state-derived MCLs were further analyzed. For radiological compounds, EHP consulted with ATSDR subject matter experts (SMEs) for best available methods to characterize the radiological and chemical hazards of these substances.

Of these wells, 82 (64%) exceeded the regulatory MCL for use as a drinking water source due to the level of uranium. For radon, EPA has proposed a requirement for drinking water to contain less than 4,000 picocuries per liter (pCi/L) (this proposed MCL is non-regulatory and part of a multimedia mitigation program). In wells tested, 90% exceeded this value. For uranium and radon comparisons, sample data was also compared to available state data (Figure 1) (Flanagan, 2014); (Bartholomay, 2007). Concentrations and maps can be seen in Figures 2 and 3, Appendix A. Other contaminants of concern are listed in Table 5.

NHDES notified individual residents about their results with reports specific to their residence. Notifications included a complete list of analytes measured as well as instances of exceedance of federal and state guidelines for exposure. Notifications also included resources for more information, recommendations for actions to reduce risk by exposure, and pertinent contact information for NHDES employees. This Letter Health Consult expands on that summary.



## Discussion

The key issues discussed here are:

1. Identification of potential human health risks.
2. Recommended Actions to reduce risks.
3. Additional concerns for residents and stakeholders.

### Potential risks to human health

This health consultation evaluated exposure and risks from the use of residential wells as a source of drinking water. While exposure routes can include ingestion of drinking water, inhalation of gas and vapors, and dermal absorption; findings from testing associated with this health consultation primarily indicate ingestion as the exposure route of concern. The one exception to this is with radon. Resource limitations and lack of data to predict elevated levels of radon in drinking water prior to sampling impacted programmatic decisions to limit environmental testing to water; however, levels of radon in water are closely correlated with radon in air. Based on water results, we would predict the presence of radon in air.

It should be noted that health risks from exposure to radon by inhalation supersede those of ingestion. Therefore, this report assesses the potential impact on human health from consumption of contaminated drinking water with the understanding that inhalation should be considered as a follow up exposure route for future analysis. Other chemicals for which inhalation or dermal absorption can act as routes of exposure were either present at very low levels or not detectable (for instance, VOCs). Therefore, these routes of exposure were excluded from detailed analysis.

To evaluate potential risk, NHDES uses the dose of a given chemical to which a person is exposed from drinking water. The dose is estimated using a measured concentration from the drinking water source, a typical person's body weight, a duration of time, and other exposure factors (see Appendix C). The dose is then compared to ATSDR (CV) doses. When ATSDR lacks a CV for a given chemical, alternative guidance from either EPA (for example, a MCL) or the State's drinking water values is applied. If the dose exceeds the CV, then the analyte is further evaluated in a variety of exposure scenarios in order to inform the public if the risks require action, such as switching water sources to bottled water or installing appropriate filtration. If the dose is far below the CV or the analyte is not detected, the analyte is not retained for additional evaluation.

For the purpose of this report, contaminants of concern are defined as those contaminants that were found in one or more wells at levels likely to adversely impact human health. These levels are defined by exceedance of ATSDR, EPA or NHDES risk-based guidance values for drinking water. A complete list of contaminants tested for is included in Table 1-4; and those identified as contaminants of concern based on findings are included in table 5, and discussed in detail in this report. In addition to this report, individual well owners were provided with their specific results.

### Uranium

Uranium is a radioactive, heavy metal that occurs naturally in nearly all rocks and soils. Some parts of the United States exhibit higher than average uranium levels due to natural geological formations, such as sedimentary rock and granite formations. These metal deposits have the potential to leach into groundwater. Over the long-term, consumption of water containing levels of uranium above the MCL is not advisable. Uranium that is absorbed is deposited throughout the body with the highest levels found in the bones, liver and kidneys (Agency for Toxic Substances and Disease Registry, 2013). Animal

studies indicate that kidney damage is the primary toxic effect of uranium exposure and that this damage increases with uranium solubility and duration of exposure (Agency for Toxic Substances and Disease Registry, 2013).

ATSDR relies on the drinking water guidance value (for instance, MCL) developed by EPA, and does not have its own minimal risk level (MRL) or CV. Uranium was detected in most residential wells (more than 60%, Table 4) above the EPA MCL of 30 µg/L from untreated sample locations. Elevated uranium in drinking water is consistent with compositions predicted for the geological formations in southern Hooksett (Lyons, 1997). For wells with a uranium level at or above 30 µg/L, treatment to remove uranium should be installed or an alternate source of drinking water such as bottled water should be utilized. As levels of contaminants may change over time, retesting is recommended at least every 3-5 years for wells with a uranium level under 30 µg/L (New Hampshire Department of Health and Human Services, 2019).

### Radon

Radon is a noble gas byproduct from the radioactive decay of crustal elements like uranium and radium. Radon is released into soil pockets where it can diffuse into surrounding air, water and soil. Radon gas emits energetic alpha particles during decay. Almost all health risks from radon in water come from breathing indoor air with radon (which accumulates depending on factors like ventilation, seasonal change, and aerosolization of dissolved radon) and exposure to radon gas is the second leading cause of lung cancer in the United States, after smoking. More than 15,000 – 21,000 deaths are attributed annually to radon-related lung cancer (National Research Council, 1999). This risk is increased for people who are also exposed to cigarette smoke (RW, 2001). Based on data from the New Hampshire State Cancer Registry and Center for Disease Control (CDC) estimates about the proportion of lung cancer deaths attributable to radon at the national level, it's estimated that approximately 100 lung cancer deaths each year in New Hampshire are attributable to radon. This estimate does not take into account additional risk factors, including the age of the New Hampshire population, lung cancer screening rates and the distribution of stage at diagnosis, and, perhaps most importantly, smoking rates for the state.

Enforceable federal or state standards for radon present in drinking water or indoor air do not currently exist. However, EPA and other agencies do issue public health advisories for radon in drinking water (US Environmental Protection Agency, 1999) and indoor air (US Environmental Protection Agency, 2016). The majority (69%) of sampling results for radon in water samples collected in the study area show radon in water levels exceeding 10,000 pCi/L. As a general practice, NHDES strongly recommends that private wells with radon concentrations at or above 10,000 pCi/L install treatment for the water in conjunction with mitigation of indoor air radon. For private wells with radon concentrations between 2,000 and 10,000 pCi/L, the treatment of water may be advisable if air concentrations in the home exceed 4 pCi/L (US Environmental Protection Agency, 2016)

### Arsenic

Arsenic is a naturally occurring element in minerals of Earth's crust as well as a byproduct of the smelting process of certain metals like copper and lead. Inorganic arsenic is a well-documented toxic agent, causing hyperkeratinization (abnormally rapid shedding of skin cells) and hyperpigmentation of skin (darkening of patches of the skin). Cardiovascular, pulmonary and neurological functions are also impaired by arsenic exposure through consumption, with acute, high-level exposures causing encephaly. Following chronic exposure, pregnant women are at higher risk for pregnancy complications and children are at higher risk for neurodevelopmental effects (Gilbert-Diamond, 2016; Farazan, 2016); (Farazan, 2016). Arsenic is also a

known carcinogen implicated in increased tumor incidence in many organs, including the bladder, lung and skin (non-melanoma), following chronic exposure (Agency for Toxic Substances and Disease Registry, 2007).

Arsenic was detected above the ATSDR CV of 16 µg/L (from the untreated sample location) at three residences. At 3% of wells, concentrations exceeded the proposed New Hampshire health limit for arsenic of 5 µg/L, which will be lowered from 10 µg/L in July 2021 to protect neurodevelopment and IQ scores for infants and small children. The new value is also being lowered to protect against the carcinogenic effects of long-term exposure (Borsuk, 2015) (NH Department of Environmental Services, 2020).

### Manganese

Manganese is a natural element found in soil and groundwater within New Hampshire, and is also an essential nutrient in our diet. Excessive exposure to manganese is associated with neurological effects, including neuro-degenerative symptoms like Parkinson's, altered emotional states and neurodevelopmental delays in children. This can be especially problematic for formula-fed infants, as their body processes (or metabolizes) manganese differently than older children and adults.

ATSDR does not suggest values for exposure limits to manganese in drinking water, but does recognize the potential for human health risk as determined by EPA. Manganese was detected at select residences above the EPA lifetime health advisory value of 0.300 milligrams per liter (mg/L) from the untreated sample locations. Over the long-term, consumption of water containing levels of manganese above this level is not advisable.

### PFAS

Per- and polyfluoroalkyl substances (PFAS) are a group of man-made organic chemicals used in a variety of industrial and commercial applications. Certain PFAS are highly-bioaccumulative and associated with a variety of adverse health outcomes, including increased cholesterol, changes in liver enzyme levels, altered hormone function, delayed growth in infants and potentially certain cancers (Sunderland, 2019). The ATSDR CVs for these determined little to no intermediate exposure risks (less than 1 year) for four PFAS.

In 2019, NHDES adopted rules that establish health-based MCLs and AGQS for four PFAS that include: 12 parts per trillion (ppt) for perfluorooctanoic acid (PFOA), 15 ppt for perfluorooctane sulfonic acid (PFOS), 18 ppt for perfluorohexane sulfonic acid (PFHxS), and 11 ppt for perfluorononanoic acid (PFNA). These values were based on chronic protection of women who are planning on becoming pregnant or breastfeeding, and are therefore lower than the ATSDR CVs (NH Department of Environmental Services, 2019). Approximately 21% of residential wells exceeded the AGQS for PFOA, while 4%, 3%, and < 1% of residential wells exceeded the AGQS for PFNA, PFOS, and PFHxS, respectively.

### Recommended Actions for Homeowners

Based on the available information, there are three key recommended actions for homeowners and community members in the Southern Hooksett area.

1. **Encourage supplemental testing of wells.** Unfortunately, NHDES was not able to conduct an exhaustive survey of all possible drinking water contaminants for all residential wells, so additional testing is advisable before determining any treatment system options for a home. Some treatment system options are not designed to remove all types of contaminants, whereas others may be more economically feasible and still sufficient. NHDES recommends routine well testing every 3-5 years (except for bacteria and nitrates, which should be checked annually) (NH Department of Environmental Services, 2020). NHDES can be contacted for discussion of test results. At the end of this document are

links to resources with additional information regarding contaminants in drinking water and treatment options.

2. **Conduct home air testing for radon gas.** Given the elevated levels of uranium and radon in drinking water for homes in the area, there is an increased probability that the indoor air of homes in the area will contain elevated levels of radon. Radon in the air of homes may come from radon in the water or radon gas infiltrating the home from the ground, or some combination of the two. DPHS recommends taking remedial action when air testing results are above the EPA Action Level of 4 pCi/L (NH Division of Public Health Services, 2011). More information can be found at the [NHDHHS Radon Program](#) and [NHDHHS Radon in Air Reduction](#) websites, including where in the home to test and during which time of year

At the end of this document are links to resources with additional information regarding contaminants in drinking water as well as testing, treatment and mitigation options.

3. **Install filtration/treatment on untreated wells.** NHDES strongly recommends treatment of residential well water when contaminant levels are elevated and exceedances of health guidelines are observed. This is especially true for those with exceedances of uranium and radon, as the concentrations of these were far above the guidance for chronic exposures. At the end of this document are links to resources with additional information regarding contaminants in drinking water and treatment options.

For residents pursuing additional testing, the date of this letter health consultation may serve as a starting date for planning a 3-5 year follow up test. An accompanying fact sheet has been created for residents to summarize the recommended actions. New Hampshire APPLETREE will make this available and will also contact residents with future opportunities to engage with APPLETREE members regarding environmental health results and any remaining concerns.

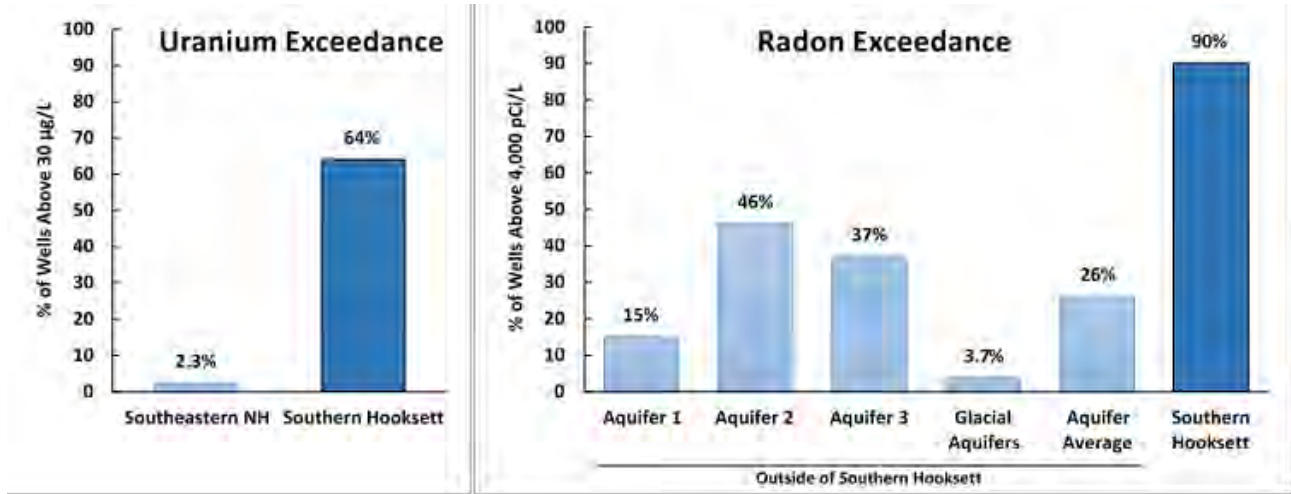
### Recommended Actions for Government Agencies and Research Institutions

It is possible that residential well sampling in this report is incomplete due to limitations in program funding and staffing. Pending the availability of resources, additional testing could be conducted to determine the full extent of geographic exposure. In addition, the community could be considered for health-related or biomonitoring studies to better assess and understand potential impacts of exposure. These studies would require additional resources at the state or federal level and involvement of other stakeholders such as academic institutions or universities.

### Additional Concerns

The elevated presence of both uranium and radon present a radiological health hazard for residents. The basic philosophy of radiation protection at ATSDR is the concept of ALARA (as low as reasonably achievable) outlined by EPA (US Environmental Protection Agency, 1988). As a guidance, all exposure should be kept as low as reasonably achievable and the regulations and guidelines are meant to give an upper limit to exposure.

**Figure 1: Percentage of Residential Wells Exceeding Guidance values for Uranium and Radon**



**Figure 1:** Levels of Uranium and Radon exceed human health guidance values with higher frequency in residential wells of Southern Hooksett compared to other regions in New Hampshire. Samples measured by United States Geological Survey (USGS) in Hillsborough, Rockingham and Strafford counties (this data set does not include Hooksett) showed only 2.3% of 232 wells had Uranium exceeding the EPA MCL of 30 µg/L compared to 64% of wells analyzed from Hooksett (Flanagan, 2014). A 2007 USGS report also measured samples from four aquifer cohorts in New Hampshire, demonstrating that 26% of 108 wells (Aquifer Average) contained radon exceeding the “US EPA human-health benchmark” of 4,000 pCi/L compared to 90% of wells analyzed from Hooksett (Bartholomay, 2007).

### Public Health Implications

Some contaminants detected in Hooksett residential wells pose potential risks to human health. However, these risks can be reduced by homeowners. In addition, it may take a lifetime of exposure (over xx years) in order to increase the risk significantly for some contaminants. It is important to note that increased risk does not mean that a negative health outcome will definitely occur. Instead, an increased risk translates to an increased chance or likelihood of a negative health outcome occurring.

Testing of residential wells in Southern Hooksett suggests that the most common contaminants to drinking water in the area of study are uranium and radon. Many wells also have high levels of arsenic, manganese and PFAS. The majority of these contaminants have the potential to adversely impact human health following chronic exposure, meaning when exposure concentrations are elevated over a number of years. However, for certain contaminants, evidence indicates that even short-term exposure can impact health negatively for special populations like infants and pregnant women. Human health implications, treatment options and additional resources are provided below.

Contaminants present in private wells found in the Hooksett community are associated with increased risk for health conditions following chronic exposure, including:

- Certain cancers, associated with exposure to arsenic and radiological contaminants (radon and uranium).
- Kidney damage, associated with chronic exposure to uranium.

- Neurological effects in infants and young children, associated with chronic exposure to manganese.
- Increased cholesterol, changes in liver enzyme levels, altered hormone function, delayed growth in infants and potentially certain cancers, associated with chronic exposure to certain PFAS.
- Impact to fetal growth and increased infections in first year of life, associated with acute exposure to arsenic during pregnancy.

Understanding risks associated with environmental exposures can help to guide changes to reduce risk and to promote health. Similarly, there are a number of additional modifiable risk factors associated broadly with chronic disease; recommendations to reduce the overall health risk burden include eating a healthy and varied diet, avoiding smoking and other tobacco products, limiting consumption of sugar and sugary beverages, limiting alcohol consumption, incorporating physical activity into daily life, and getting adequate sleep. These actions, combined with appropriate water treatment, will reduce long-term health risk for residents of New Hampshire. It is also recommended that health risks and any specific health concerns be discussed between patients and medical care providers. This helps strengthen and optimize specific patient care.

## Conclusions

Although some contaminants detected in Hooksett residential wells pose potential risks to human health, homeowners can take steps to reduce these risks. Learning about a new health risk can be worrisome for many people, yet there are simple and effective actions residents can take to test and then reduce the contaminants in their drinking water.

At the end of this document are links to resources with additional information regarding contaminants in drinking water and treatment options. NHDES strongly recommends treatment of residential well water when contaminant levels are elevated and exceedances of health guidelines are observed. Unfortunately, NHDES was not able to conduct an exhaustive survey of all possible drinking water contaminants, so additional testing is advisable before determining any treatment system options for a home. Some treatment system options are not designed to remove all types of contaminants, whereas others may be more economically feasible and still sufficient.

*For more information on how to test well water and a guide for home buyers:*

[NHDES Residential Wells webpage.](#)

[NHDHHS Water Testing Guide](#)

The most effective and inexpensive method homeowners can take to remove a large spectrum of contaminants in their drinking water is to install a point-of-use reverse osmosis (RO) treatment system. These systems typically are installed under a kitchen sink or in a basement, and provide water to a dedicated tap at the kitchen sink and potentially a refrigerator water/ice dispenser. Depending on the type of treatment system and who completes the installation, installing a reverse osmosis system will cost approximately \$200-\$1500. Please note that local plumbing codes may require a permit when installing water treatment systems.

*For questions regarding well water test results and treatment options contact NHDES Water Analysis Laboratory:*

[NHDES Residential Wells webpage](#)

Public Health Laboratory  
New Hampshire Department of Health and Human Services  
[\(603\) 271-3445](tel:6032713445)

For questions regarding this document or concerns about environmental impact on human health, contact the NHDES Environmental Health Program:

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Human Health Risk Assessor  
NH Department of Environmental Services, Environmental Health Program  
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[\(603\) 271-4608](tel:6032714608) | [Robert.Thistle@des.nh.gov](mailto:Robert.Thistle@des.nh.gov)

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[https://www.epa.gov/sites/production/files/2016-12/documents/2016\\_a\\_citizens\\_guide\\_to\\_radon.pdf](https://www.epa.gov/sites/production/files/2016-12/documents/2016_a_citizens_guide_to_radon.pdf)

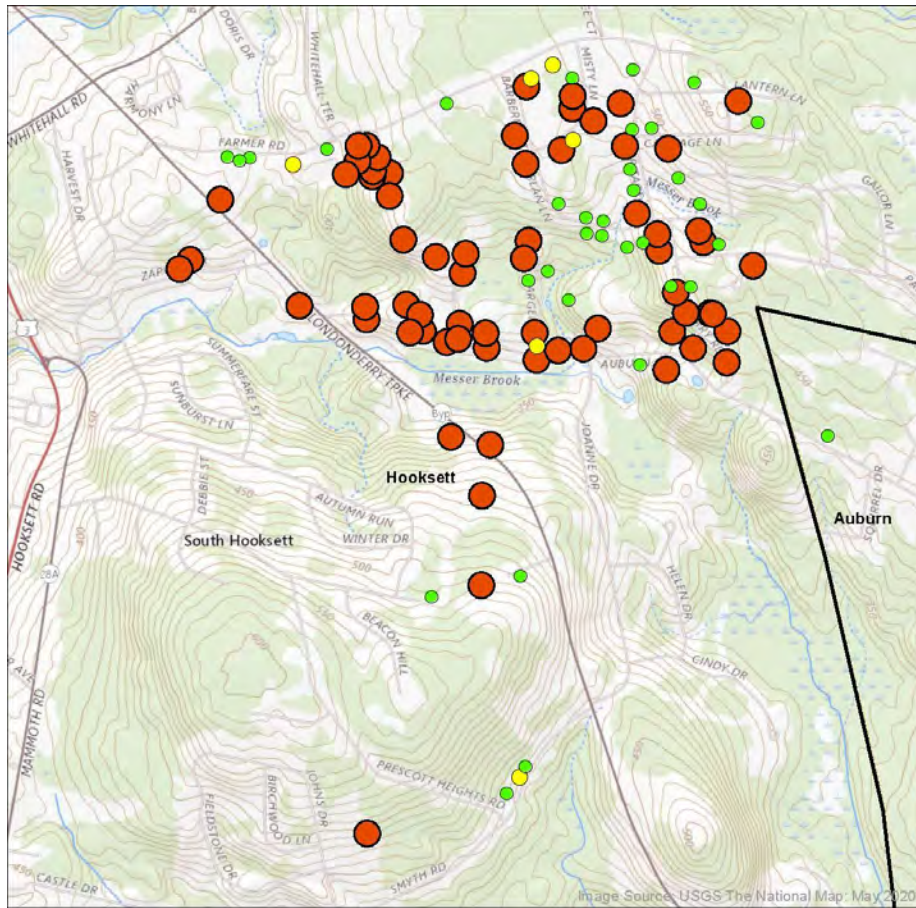
## Appendix A: Figures

**Figure 1: Percentage of Residential Wells Exceeding Guidance values for Uranium and Radon**

**Figure 2: Map of Residential Wells Tested for Uranium in Hooksett with Concentration Range**

**Figure 3: Map of Residential Wells Tested for Radon in Hooksett with Concentration Range**

Figure 2: Map of Residential Wells Tested for Uranium in Hooksett with Concentration Range



### Southern Hooksett Well Water

#### Uranium (µg/L)

- 0 - 20
- 21 - 30
- 30 +

Figure 2: Distribution of residential wells tested for uranium. Each circle represents one well. Larger, red circles indicate exceedance of the health limit for uranium in water.

Author: N. Shonka (NH EPHT)  
Date: Feb. 2021

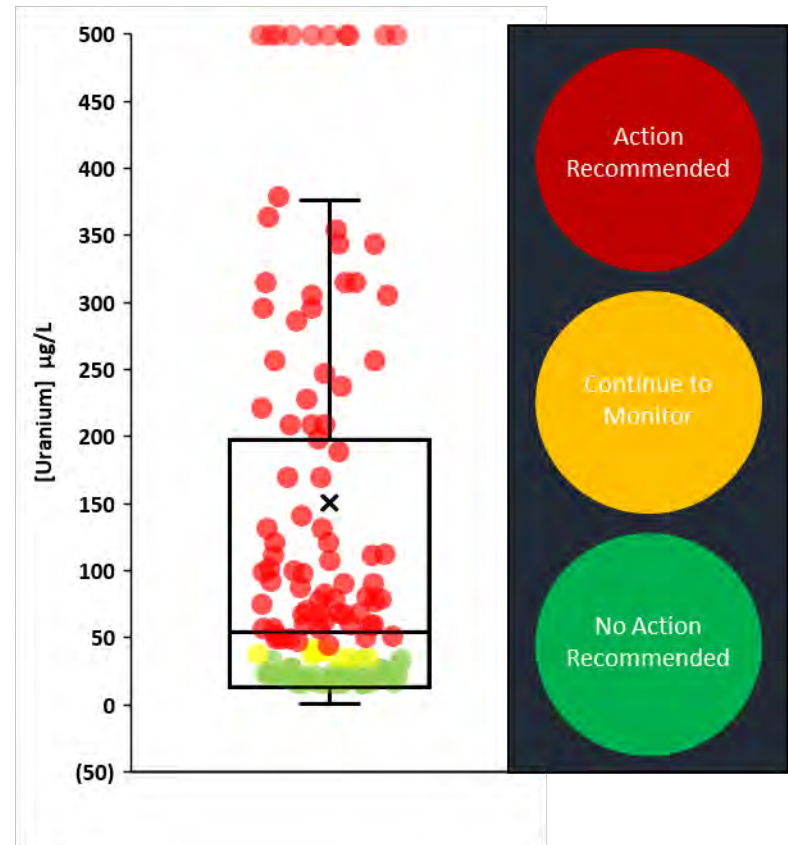
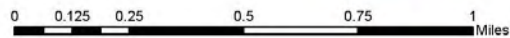
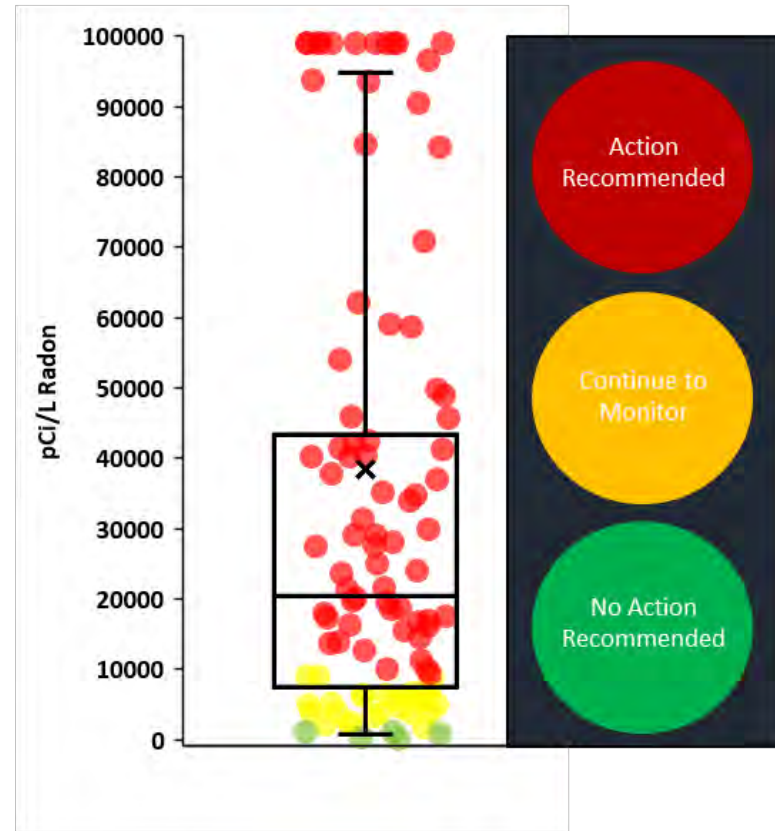
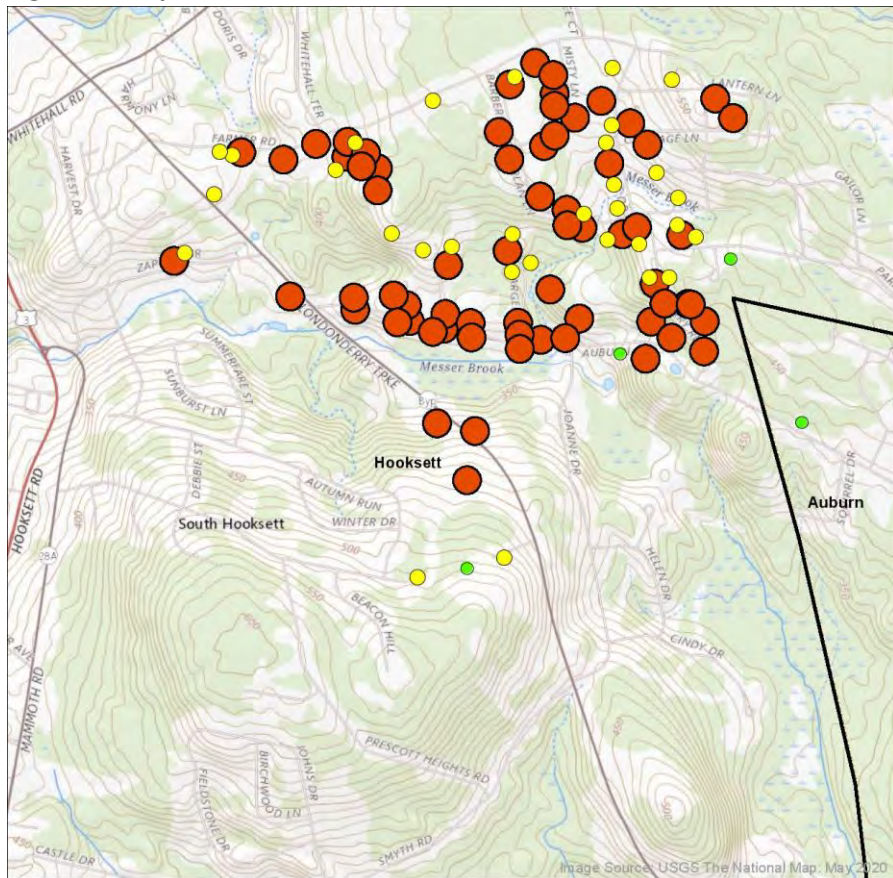


Figure 3: Map of Residential Wells Tested for Radon in Hooksett with Concentration Range



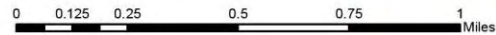
**Southern Hooksett Well Water**

**Radon (pCi/L)**

- 0 - 2,000
- 2,001 - 10,000
- 10,000 +

Figure 3: Distribution of residential wells tested for radon. Each circle represents one well. Larger, red circles indicate exceedance of the health advisory for radon in water.

Author: N. Shonka (NH EPHT)  
Date: Feb. 2021



## Appendix B: Tables

**Table 1: Panel of Volatile/Semi-Volatile Organic Compounds Screened in Hooksett Residential Wells**

**Table 2: Panel of Trace Metals, Metalloids, and Inorganics Screened in Hooksett Residential Wells**

**Table 3: Panel of PFAS Screened in Hooksett Residential Wells**

**Table 4: Radiological Isotopes Screened in Hooksett Residential Wells**

**Table 5: Summary of Contaminants of Concern That Exceed Guidance Values**

**Table 6: Uranium Exposure Risk Summary**

**Table 7: Arsenic Exposure Risk Summary**

**Table 8: Manganese Exposure Risk Summary**

**Table 9: Exposure Risk Summary for Select PFAS Compounds**

**Tables 10-13: Exposure Risk Summaries for Individual PFAS**

**Notes for all Tables:**

**Keys for All Output Tables – For more calculations and further details see Appendix C**

BW	Body Weight; weight in kilograms
CR	Cancer Risk; CR > 10 <sup>-6</sup> indicates increased risk
CREG	Cancer Risk Evaluation Guide; basis for how cancer risk is evaluated
CSF	Cancer Slope Factor; a cancer specific scenario exposure factor for a contaminant
CTE	Central Tendency Exposure; the central point used from a ranged exposure data set
CV	Comparison Value; an ATSDR standard dose or concentration for a contaminant
ED	Exposure Duration; the amount of time exposed to a contaminant
EF	Exposure Factor; a corrective factor applied to evaluation to certain contaminants
EPC	Exposure Point Concentration; the concentration that is measured at a site
HQ	Hazard quotient; a fraction to determine if appreciable risk is present or not; HQ > 1 indicates increased risk
MCL	Maximum Contaminant Level; a US EPA standard concentration for a contaminant
MRL	Minimal Risk Level; an ATSDR dose at which no appreciable, non-cancer risk is expected
NC	Not Calculated
ND	Not Detected
RME	Reasonable Maximum Exposure; The maximum point used from a ranged exposure data set
RMEG	Reference dose Media Evaluation Guide; basis for how non-cancer risk is evaluated

§ Cancer risk (CR) is derived for both CTE (12 years) and RME (33 years) residential occupancy periods. For children, CRs are derived for a combined child receptor: CTE (12 years) and RME (21 years) at a given residence. For the CTE child CR, the combined child is the sum of the cancer risks for each age group for the first 12 years of exposure only. The RME CR for the combined child is derived by summing all the cancer risks for each age group from birth to < 21 years. The adult CR assumes living at the residence for 12 (CTE) or 33 (RME) years. Cancer risks can be calculated for contaminants with cancer slope factors stored in PHAST.

† Hazard Quotients are greater than 1. The health assessor should conduct further toxicological evaluation.

‡ Cancer risk is greater than  $1.0E^{-6}$ . The health assessor should conduct further toxicological evaluation.

Ω Cancer risks are not calculated for pregnant women and lactating women. Their cancer risks are similar to an adult woman exposed for 33 years. If you would like to calculate cancer risks for pregnant women and lactating women, enter site-specific scenarios.

1 Carcinogen; No cancer slope factor (CSF); See CVs and Health Guidelines Module for additional cancer class information.

3 Carcinogenicity not determined; Cancer risk was not calculated.

**Table 1: Panel of Volatile/Semi-Volatile Organic Compounds Screened in Hooksett Residential Wells**

Analyte	CAS No.	Detected	ATSDR CV (µg/L)	Other Guidance Value (µg/L)	% Above Guidance Value
1,1,1,2-Tetrachloroethane	630-20-6	ND	0.93	70	0
1,1,1-Trichloroethane	71-55-6	ND	14,000	200	0
1,1,2,2-Tetrachloroethane	79-34-5	ND	0.12	2	0
1,1,2-Trichloroethane	79-00-5	ND	0.43	5	0
1,1-Dichloroethane	75-34-3	ND	NA	81	0
1,1-Dichloroethene	75-35-4	ND	350	7	0
1,1-Dichloropropene	563-58-6	ND	NA	NA	0
1,2,3-Trichloropropane (TCP)	96-18-4	ND	0.4	NA	0
1,2,3-Trichlorobenzene	87-61-6	ND	NA	7	0
1,2,4-Trichlorobenzene	120-82-1	ND	70	70	0
1,2,4-Trimethylbenzene	95-63-6	ND	70	330	0
1,2-Dibromo-3-chloropropane (DBCP)	96-12-8	ND	14	0.2	0
1,2-Dibromoethane (EDB)	106-93-4	ND	0.012	0.05	0
1,2-Dichlorobenzene	95-50-1	ND	630	600	0
1,2-Dichloroethane	107-06-2	ND	0.27	5	0
1,2-Dichloropropane	78-87-5	ND	490	5	0
1,3,5-Trichlorobenzene	108-70-3	ND	40	40	0
1,3,5-Trimethylbenzene	108-67-8	ND	70	330	0
1,3-Dichlorobenzene	541-73-1	ND	140	600	0
1,3-Dichloropropane	142-28-9	ND	NA	3,700	0
1,4-Dichlorobenzene	106-46-7	ND	490	75	0
2,2-Dichloropropane	594-20-7	ND	NA	NA	0
2-Butanone (MEK)	78-93-3	ND	4,200	4000	0
2-Chlorotoluene	95-49-8	ND	140	100	0
2-Hexanone	591-78-6	ND	35	38	0
4-Chlorotoluene	106-43-4	ND	100	100	0
4-Methyl-2-pentanone (MIBK)	108-10-1	ND	NA	2000	0
Acetone	67-64-1	ND	6,300	6000	0
Benzene	71-43-2	ND	0.44	5	0
Bromobenzene	108-86-1	ND	56	60	0
Bromochloromethane	74-97-5	ND	90	90	0
Bromodichloromethane	75-27-4	ND	0.39	80	0
Bromoform	75-25-2	Y	3.1	80	0
Bromomethane	74-83-9	ND	9.8	10	0
Carbon Disulfide	75-15-0	ND	700	70	0
Carbon Tetrachloride	56-23-5	ND	0.35	5	0
Chlorobenzene	108-90-7	ND	140	100	0
Chloroethane	75-00-3	ND	NA	2100	0

Chloroform	67-66-3	<b>Y</b>	70	80	0
Chloromethane	74-87-3	ND	NA	30	0
cis-1,2-Dichloroethene	156-59-2	ND	14	70	0
cis-1,3-Dichloropropene	10061-01-5	ND	NA	NA	0
Dibromochloromethane	124-48-1	ND	0.29	80	0
Dibromomethane	74-95-3	ND	NA	NA	0
Dichlorodifluoromethane	75-71-8	ND	1,400	1000	0
Diethylether	60-29-7	ND	1,400	1400	0
DIPE-diisopropyl ether	108-20-3	ND	NA	120	0
ETBE-ethyl-t-butyl ether	637-92-3	ND	NA	40	0
Ethylbenzene	100-41-4	ND	700	700	0
Hexachlorobutadiene	87-68-3	ND	0.31	0.5	0
Isopropylbenzene (Cumene)	98-82-8	ND	700	800	0
Methylene Chloride	75-09-2	ND	6.1	5	0
Methyl-t-butyl ether (MTBE)	1634-04-4	<b>Y</b>	2,100	13	0
Naphthalene	91-20-3	ND	140	100	0
n-Butylbenzene	104-51-8	ND	NA	260	0
n-Propylbenzene	103-65-1	ND	NA	260	0
p-Isopropyltoluene	99-87-6	ND	NA	260	0
sec-Butylbenzene	135-98-8	ND	NA	130	0
Styrene	100-42-5	ND	1,400	100	0
t-butanol	75-65-0	ND	NA	40	0
t-Butylbenzene	98-06-6	ND	NA	260	0
tert-Amyl methyl ether (TAME)	994-05-8	ND	NA	140	0
Tetrachloroethene	127-18-4	ND	12	5	0
Tetrahydrofuran (THF)	109-99-9	ND	6,300	600	0
Toluene	108-88-3	<b>Y</b>	560	1000	0
trans-1,2-Dichloroethene	156-60-5	ND	140	100	0
trans-1,3-Dichloropropene	10061-02-6	ND	NA	NA	0
Trichloroethene	79-01-6	ND	0.43	5	0
Trichlorofluoromethane	75-69-4	ND	2,100	2000	0
Vinyl Chloride	75-01-4	ND	0.017	2	0
Xylenes	1330-20-7	ND	1400	NA	0

**Note: No mean concentrations of VOCs exceed ATSDR CVs or Other Guidance Values.**

**Y: Yes, detected, indicated with bold, yellow**

**ND: Not Detected**



**Table 2: Panel of Trace Metals, Metalloids, and Inorganic Molecules Screened in Hooksett Residential Wells**

Analyte	CAS No.	Detected	ATSDR CV (mg/L)	Other Guidance Value (mg/L)	% Above Guidance Value
Aluminum	7429-90-5	Y	7	NA	0
Antimony	7440-36-0	ND	0.0028	0.006	0
<b>Arsenic</b>	7440-38-2	Y	0.016	0.005	<b>3.0%</b>
Barium	7440-39-3	Y	1.4	2	0
Beryllium	7440-41-7	Y	14	4	0
Cadmium	7440-43-9	Y	0.7	5	0
Calcium	7440-70-2	Y	NA	NA	NA
Chloride	16887-00-6	Y	NA	NA	NA
Chromium (hexavalent)	7440-47-3	Y	0.024	0.1	0
Cobalt	7440-48-4	Y	0.07	0.07	0
<b>Copper (flushed)</b>	7440-50-8	Y	0.07	1.3	<b>0.78%</b>
Fluoride	16984-48-8	Y	NA	4	0
Iron	7439-89-6	Y	NA	NA	NA
<b>Lead (flushed)</b>	7439-92-1	Y	0.015	0.015	<b>3.1%</b>
Magnesium	7439-95-4	Y	NA	NA	NA
<b>Manganese</b>	7439-96-5	Y	0.3	0.84	<b>5.4%</b>
<b>Molybdenum</b>	7439-98-7	Y	0.035	NA	<b>0.78%</b>
Nickel	7440-02-0	Y	NA	NA	NA
Nitrogen (Ammonia)	7664-41-7	ND	NA	NA	NA
<b>Nitrate</b>	14797-55-8	Y	11	10	<b>7.3%</b>
Nitrite	14797-65-0	Y	0.7	1	0
Selenium	7782-49-2	ND	0.035	0.05	NA
Silver	14701-21-4	ND	0.035	NA	NA
<b>Sodium</b>	7440-23-5	Y	NA	20	<b>67.%</b>
Thallium	7440-28-0	ND	NA	2	NA
<b>Uranium</b>	7440-61-1	Y	NA	30 (µg/L)	<b>64%</b>
Vanadium	7440-62-2	Y	0.07	NA	0
Zinc	7440-66-6	Y	2.1	NA	0

**Note: Bold contaminants indicate exceedance of an ATSDR CV or Other Guidance Value**

**Y: Yes, detected, indicated with bold, yellow**

**ND: Not Detected**

**Table 3: Panel of PFAS Screened in Hooksett Residential Wells**

Analyte	CAS No.	Detected	ATSDR CV (µg/L)	Other Guidance Value (µg/L)	% Above Guidance Value
6:2 fluorotelomer sulfonic acid - 6:2 FTSA	27619-97-2	Y	NA	NA	0
8:2 fluorotelomer sulfonic acid - 8:2 FTSA	39108-34-4	ND	NA	NA	0
n-ethyl perfluorooctane sulfonamido acetic acid - NETFOSAA	2991-50-6	ND	NA	NA	0
n-methyl perfluorooctane sulfonamido acetic acid - NMEFOSAA	2355-31-9	ND	NA	NA	0
perfluorobutane sulfonic acid - PFBS	375-73-5	Y	NA	NA	0
perfluorobutanoic acid - PFBA	375-22-4	Y	NA	NA	0
perfluorodecane sulfonic acid - PFDS	335-77-3	Y	NA	NA	0
perfluorodecanoic acid - PFDA	335-76-2	Y	NA	NA	0
perfluorododecanoic acid - PFDOA	307-55-1	Y	NA	NA	0
perfluoroheptanoic acid - PFHPA	375-85-9	Y	NA	NA	0
perfluorohexadecanoic acid - PFHXDA	67905-19-5	ND	NA	NA	0
<b>perfluorohexane sulfonic acid - PFHXS</b>	355-46-4	Y	140	18	<b>0.60%</b>
perfluorohexanoic acid - PFHXA	307-24-4	Y	NA	NA	NA
<b>perfluorononanoic acid - PFNA</b>	375-95-1	Y	21	11	<b>4.2%</b>
<b>perfluorooctane sulfonic acid - PFOS</b>	1763-23-1	Y	14	15	<b>3.0%</b>
perfluorooctanesulfonamide - PFOSA	754-91-6	ND	NA	NA	0
<b>perfluorooctanoic acid - PFOA</b>	335-67-1	Y	21	12	<b>22%</b>
perfluoropentanoic acid - PFPEA	2706-90-3	Y	NA	NA	0
perfluorotetradecanoic acid - PFTEA	376-06-7	Y	NA	NA	0
perfluorotridecanoic acid - PFTRA	72629-94-8	Y	NA	NA	0
perfluoroundecanoic acid - PFUNA	2058-94-8	Y	NA	NA	0

**Note: Bold contaminants indicate exceedance of an ATSDR CV or Other Guidance Value (Other Guidance Values are from New Hampshire Ambient Groundwater Quality Standards)**

**Y: Yes, detected, indicated with bold, yellow**

**ND: Not Detected**

**Table 4: Radiological Isotopes Screened in Hooksett Residential Wells**

Analyte	CAS No.	Detected	ATSDR CV (µg/L)	Other Guidance Value (µg/L)	% Above Guidance Value
<b>Uranium</b>	7440-61-1	Y	NA	30	<b>64%</b>
<b>Radon 222</b>	10043-92-2	Y	NA	4,000 (pCi/L)	<b>90%</b>

**Note: Bold contaminants indicate exceedance of an ATSDR CV or Other Guidance Value; Radon measured in pCi/L.**

**Y: Yes, detected, indicated with bold, yellow**

**ND: Not Detected**

**Table 5: Summary of Contaminants of Concern Exceeding Guidance Values**

Analyte	Category	ATSDR CV (mg/L)	Other Guidance Value (mg/L)	% Above CV	[Mean] (mg/L)	[Maximum] (mg/L)	[95% ] (mg/L)
Arsenic	Metal/ Metalloid	0.016	0.005*	<b>3%</b>	0.0025	0.18	0.004
Lead (flushed)	Metal/ Metalloid	0.015	0.015*	<b>3.1%</b>	0.0017	0.024	0.00748
Manganese	Metal/ Metalloid	NA	0.300*	<b>16%</b>	0.27	8.2	0.92
Molybdenum	Metal/ Metalloid	0.035	NA	<b>0.78%</b>	0.0057	0.17	0.0154
Nitrate	Inorganic	10	NA	<b>7.3%</b>	2.2	13.4	10.4
PFHXS	PFAS	140 (µg/L)	18* (µg/L)	<b>0.60%</b>	2.3 (µg/L)	18 (µg/L)	8.475 (µg/L)
PFNA	PFAS	21 (µg/L)	11* (µg/L)	<b>4.2%</b>	1.7 (µg/L)	58 (µg/L)	4.55 (µg/L)
PFOA	PFAS	21 (µg/L)	12* (µg/L)	<b>22%</b>	35 (µg/L)	67 (µg/L)	16 (µg/L)
PFOS	PFAS	15 (µg/L)	14* (µg/L)	<b>3.0%</b>	7.6 (µg/L)	65 (µg/L)	9.975 (µg/L)
Radon (Radon 222)	Radiological/ Metalloid	NA	4,000 (PiC/L)**	<b>90%</b>	38000 (PiC/L)	286000 (PiC/L)	119900 (PiC/L)
Sodium	Metal	NA	20*	<b>67%</b>	37 (µg/L)	140 (µg/L)	96.55 (µg/L)
Uranium	Radiological/ Metalloid	30 (µg/L)	30 (µg/L)**	<b>64%</b>	150 (µg/L)	1900 (µg/L)	631.5 (µg/L)

**Note: CVs and Other Guidance Values measured in mg/L unless otherwise noted. Radon measured in (PiC/L). Bold, yellow indicates exceedance of an ATSDR CV or Other Guidance Value**

**\*Guidance Values from the State of New Hampshire and State of New Hampshire Biomonitoring**

**\*\*From EPA Maximum Contaminant Levels (MCLs) and/or recommendation**

**Table 6: Uranium Exposure Risk Summary**

Exposure Group	Site-Specific Scenario Uranium (EPC: 0.631 mg/L; Intermediate MRL: 0.0002 mg/kg/day; CSF: NA Using Intermediate MRL)						
	Chronic Dose (mg/kg/day)		Chronic Hazard Quotient		Cancer Risk		
	CTE	RME	CTE	RME	CTE	RME	ED (yrs)
Birth to < 1 year	0.041	0.090	<b>35<sup>α</sup></b>	<b>450<sup>α</sup></b>	NC <sup>α</sup>	NC <sup>α</sup>	1
1 to < 2 years	0.017	0.049	<b>85<sup>α</sup></b>	<b>250<sup>α</sup></b>			1
2 to < 6 years	0.014	0.035	<b>68<sup>α</sup></b>	<b>180<sup>α</sup></b>			4
6 to < 11 years	0.010	0.028	<b>51<sup>α</sup></b>	<b>140<sup>α</sup></b>			5
11 to < 16 years	0.0071	0.022	<b>35<sup>α</sup></b>	<b>110<sup>α</sup></b>			5
16 to < 21 years	0.0068	0.022	<b>34<sup>α</sup></b>	<b>110<sup>α</sup></b>			5
Total exposure duration for child cancer risk							21
Adult	0.0097	0.024	<b>48<sup>α</sup></b>	<b>120<sup>α</sup></b>	NC <sup>α</sup>	NC <sup>α</sup>	78
Pregnant Women	0.0075	0.022	<b>38<sup>α</sup></b>	<b>110<sup>α</sup></b>	NC <sup>α</sup>		
Lactating Women	0.014	0.031	<b>72<sup>α</sup></b>	<b>160<sup>α</sup></b>	NC <sup>α</sup>		
Birth to < 21 years + 12 years during adulthood	*Do not use this cancer risk unless you have a scenario where children are likely to continue to live in their childhood home as adults.						

**Note: Risk calculations use the Intermediate Exposure MRL provided by ATSDR for soluble uranium salts.**

**Note: Demographics with increased appreciable risk shown in bold, yellow. Using the Acute Exposure MRL of 0.002 mg/kg/d identifies appreciable risk in identical demographics.**

**Table 7: Arsenic Exposure Risk Summary**

Exposure Group	Site-Specific Scenario Arsenic (EPC: 0.004 mg/L; Chronic MRL: 0.000 mg/kg/day; CSF: 1.5 (mg/kg/day) <sup>-1</sup> )						
	Chronic Dose (mg/kg/day)		Chronic Hazard Quotient		Cancer Risk		
	CTE	RME	CTE	RME	CTE	RME	ED (yrs)
Birth to < 1 year	0.00026	0.00057	0.86	<b>1.9<sup>†</sup></b>	<b>2.8E-5<sup>‡</sup></b>	<b>7.8E-5<sup>‡</sup></b>	1
1 to < 2 years	0.00011	0.00031	0.36	<b>1.0<sup>†</sup></b>			1
2 to < 6 years	8.6E-05	0.00022	0.29	0.75			4
6 to < 11 years	6.4E-05	0.00018	0.21	0.59			5
11 to < 16 years	4.5E-05	0.00014	0.15	0.46			5
16 to < 21 years	4.3E-05	0.00014	0.14	0.46			5
Total exposure duration for child cancer risk							21
Adult	6.1E-05	0.00015	0.20	0.52	<b>9.2E-5<sup>‡</sup></b>	<b>2.3E-4<sup>‡</sup></b>	78
Pregnant Women	4.8E-05	0.00014	0.16	0.47	NC <sup>a</sup>		
Lactating Women	9.1E-05	0.00020	0.30	0.66	NC <sup>a</sup>		
Birth to < 21 years + 12 years during adulthood	<i><sup>†</sup>Do not use this cancer risk unless you have a scenario where children are likely to continue to live in their childhood home as adults.</i>						

**Note: Risk calculations use the Chronic Exposure MRL provided by ATSDR for arsenic.**

**Note: Demographics with increased appreciable risk shown in bold, yellow.**

**Table 8: Manganese Exposure Risk Summary**

Exposure Group	Site-Specific Scenario Manganese (EPC: 0.92 mg/L; Chronic Rfd: 0.14 mg/kg/day; CSF: NA Using Chronic Rfd)						
	Chronic Dose (mg/kg/day)		Chronic Hazard Quotient		Cancer Risk		
	CTE	RME	CTE	RME	CTE	RME	ED (yrs)
Birth to < 1 year	0.059	0.13	0.42	0.94	NC <sup>∅</sup>	NC <sup>∅</sup>	1
1 to < 2 years	0.025	0.072	0.18	0.51			1
2 to < 6 years	0.020	0.052	0.14	0.37			4
6 to < 11 years	0.015	0.041	0.11	0.29			5
11 to < 16 years	0.010	0.032	0.074	0.23			5
16 to < 21 years	0.0098	0.031	0.071	0.22			5
Total exposure duration for child cancer risk							21
Adult	0.014145	0.036	0.10	0.25	NC <sup>∅</sup>	NC <sup>∅</sup>	78
Pregnant Women	0.010989589	0.033	0.078	0.23	NC <sup>∅</sup>		
Lactating Women	0.021046575	0.045	0.15	0.32	NC <sup>∅</sup>		
Birth to < 21 years + 12 years during adulthood	‡Do not use this cancer risk unless you have a scenario where children are likely to continue to live in their childhood home as adults.						

**Note: Risk calculations use the Rfd provided by EPA for manganese.**

**Note: Daily doses do not exceed conservative protective limits.**

**Table 9: Exposure Risk Summary for Select PFAS Compounds**

Analyte	NH Health Limit*	[ATSDR MRL]	Units	Detected		Chronic HQ		Intermediate HQ		Acute HQ		Cancer Risk	
				Max	q95	Max	q95	Max	q95	Max	q95	Max	q95
				PFOS	15	14	ng/L	65	9.975	4.6	0.71	4.6	0.71
PFOA	12	21	ng/L	67	16	3.2	0.76	3.2	0.76	NC	NC	≤ 1.0E-6	≤ 1.0E-6
PFHXS	18	140	ng/L	18	8.475	0.13	0.06	0.13	0.06	NC	NC	NC	NC
PFNA	11	21	ng/L	58	4.55	2.8	0.22	2.8	0.22	NC	NC	NC	NC

**Note: Using either ATSDR Minimum Risk Level derived drinking water concentrations or NH Health Limits\* (set by NH Ambient Groundwater Quality Standards) for risk calculations, daily doses do not exceed conservative protective limits. For individual compounds by demographic see Tables 10-13.**

**HQ = hazard quotient**

**Max = maximum concentration detected**

**q95 = 95% Upper Confidence Interval of the mean**

Tables 10-13: Exposure Risk Summaries for Individual PFAS

PFHxS

Exposure Group	Site-Specific Scenario <i>Perfluorohexane_sulfonic acid (PFHxS)</i> (EPC: 8.475E-06 mg/L; Intermediate MRL: 2E-05 mg/kg/day; CSF: NA <sup>3</sup> Using INT MRL <sup>4</sup> )						
	Chronic Dose (mg/kg/day)		Chronic Hazard Quotient		Cancer Risk		
	CTE	RME	CTE	RME	CTE	RME	ED (yrs)
Birth to < 1 year	5.50E-07	1.20E-06	0.027	0.06	NC <sup>2</sup>	NC <sup>2</sup>	1
1 to < 2 years	2.30E-07	6.60E-07	0.011	0.033			1
2 to < 6 years	1.80E-07	4.80E-07	0.0092	0.024			4
6 to < 11 years	1.40E-07	3.70E-07	0.0068	0.019			5
11 to < 16 years	9.50E-08	2.90E-07	0.0048	0.015			5
16 to < 21 years	9.10E-08	2.90E-07	0.0046	0.014			5
Total exposure duration for child cancer risk	-						21
Adult	1.30E-07	3.30E-07	0.0065	0.016	NC <sup>2</sup>	NC <sup>2</sup>	78
Pregnant Women	1.00E-07	3.00E-07	0.0051	0.015	NC <sup>2</sup>		
Lactating Women	1.90E-07	4.20E-07	0.0097	0.021	NC <sup>2</sup>		

Note: Daily doses do not exceed conservative protective limits.



**PFOA**

Exposure Group	Site-Specific Scenario <i>Perfluorooctanoic acid (PFOA)</i> (EPC: 1.6E-05 mg/L; Intermediate MRL: 3E-06 mg/kg/day; CSF: 0.07 (mg/kg/day) <sup>-1</sup> Using INT MRL #)						
	Chronic Dose (mg/kg/day)		Chronic Hazard Quotient		Cancer Risk		
	CTE	RME	CTE	RME	CTE	RME	ED (yrs)
Birth to < 1 year	1.00E-06	2.30E-06	0.34	0.76	5.3E-9	1.5E-8	1
1 to < 2 years	4.30E-07	1.30E-06	0.14	0.42			1
2 to < 6 years	3.50E-07	9.00E-07	0.12	0.3			4
6 to < 11 years	2.60E-07	7.10E-07	0.086	0.24			5
11 to < 16 years	1.80E-07	5.60E-07	0.06	0.19			5
16 to < 21 years	1.70E-07	5.50E-07	0.057	0.18			5
Total exposure duration for child cancer risk							21
Adult	2.50E-07	6.20E-07	0.082	0.21	1.7E-8	4.3E-8	78
Pregnant Women	1.90E-07	5.70E-07	0.064	0.19	NC <sup>Ω</sup>		
Lactating Women	3.60E-07	7.90E-07	0.12	0.26	NC <sup>Ω</sup>		

**Note: Daily doses do not exceed conservative protective limits.**

**PFOS**

Exposure Group	Site-Specific Scenario <i>Perfluorooctane sulfonic acid (PFOS)</i> (EPC: 9.975E-06 mg/L; Intermediate MRL: 2E-06 mg/kg/day; CSF: NA <sup>1</sup> Using INT MRL <sup>2</sup> )						
	Chronic Dose (mg/kg/day)		Chronic Hazard Quotient		Cancer Risk		
	CTE	RME	CTE	RME	CTE	RME	ED (yrs)
Birth to < 1 year	6.40E-07	1.40E-06	0.32	0.71	NC <sup>2</sup>	NC <sup>2</sup>	1
1 to < 2 years	2.70E-07	7.80E-07	0.13	0.39			1
2 to < 6 years	2.20E-07	5.60E-07	0.11	0.28			4
6 to < 11 years	1.60E-07	4.40E-07	0.08	0.22			5
11 to < 16 years	1.10E-07	3.50E-07	0.056	0.17			5
16 to < 21 years	1.10E-07	3.40E-07	0.054	0.17			5
Total exposure duration for child cancer risk	-						21
Adult	1.50E-07	3.90E-07	0.076	0.19	NC <sup>2</sup>	NC <sup>2</sup>	78
Pregnant Women	1.20E-07	3.50E-07	0.06	0.18	NC <sup>2</sup>		
Lactating Women	2.30E-07	4.90E-07	0.11	0.25	NC <sup>2</sup>		

**Note: Daily doses do not exceed conservative protective limits.**

**PFNA**

Exposure Group	Site-Specific Scenario <i>Perfluorooctanoic acid (PFOA)</i> (EPC: 4.55E-05 mg/L; Intermediate MRL: 3E-06 mg/kg/day; CSF: NA Using INT MRL #)						
	Chronic Dose (mg/kg/day)		Chronic Hazard Quotient		Cancer Risk		
	CTE	RME	CTE	RME	CTE	RME	ED (yrs)
Birth to < 1 year	2.90E-07	6.50E-07	0.098	0.22	NC <sup>a</sup>	NC <sup>a</sup>	1
1 to < 2 years	1.20E-07	3.60E-07	0.041	0.12			1
2 to < 6 years	9.80E-08	2.60E-07	0.033	0.085			4
6 to < 11 years	7.30E-08	2.00E-07	0.024	0.067			5
11 to < 16 years	5.10E-08	1.60E-07	0.017	0.053			5
16 to < 21 years	4.90E-08	1.60E-07	0.016	0.052			5
Total exposure duration for child cancer risk	-						21
Adult	7.00E-08	1.80E-07	0.023	0.059	NC <sup>a</sup>	NC <sup>a</sup>	78
Pregnant Women	5.40E-08	1.60E-07	0.018	0.054	NC <sup>a</sup>		
Lactating Women	1.00E-07	2.20E-07	0.035	0.075	NC <sup>a</sup>		

**Note: Daily doses do not exceed conservative protective limits.**

## Appendix C: Calculations, Exposure Parameters and Exposure Factors

Contaminants of concern were evaluated further using ATSDR's online Public Health Assessment Site Tool (PHAST). Concentrations were entered as 95% of the concentration mean, and intake rate (IR), exposure factor (EF) and body weight (BW) were entered as default fault values described in ATSDR's Exposure Dose Guidance for Water Ingestion and summarized in the tables below. These equations yield an exposure dose (D) in milligrams per kilogram per day (mg/kg)/day for each population demographic listed, which is compared to a corresponding protective dose as described in each scenario. For example, this corresponding protective dose is often an ATSDR MRL, EPA MCL, or State of New Hampshire guidance value for AGQs.

### ATSDR Comparison Values

ATSDR CVs are media-specific concentrations used to screen and identify contaminants that require additional evaluation due to concern for health risks CVs can be based on either carcinogenic or non-carcinogenic effects (Agency for Toxic Substances and Disease Registry, 2018). CVs based on carcinogenic effects account for a lifetime exposure with a calculated excess lifetime cancer risk of one extra case per one million exposed people. When a cancer and non-cancer CV exists for the same chemical, the lower of these values is used in the data comparison to ensure a more protective assessment.

CVs are derived using standard default exposure assumptions and are not site-specific. For contaminants detected below their respective CVs, exposure is not anticipated to result in adverse health effects. Contaminants detected at concentrations that exceed their respective CVs, do not necessarily represent a health threat. For oral exposure, non-cancer health effects are evaluated with either Environmental Media Exposure Guides (EMEGs) or MRLs and cancerous effects with Cancer Risk Evaluation Guides (CREGs). CVs for the concentrations of contaminants of concern are presented in Table 5. *Water contaminant concentrations that exceeded at least one CV were evaluated quantitatively.* Doses used in PHAST default to the most protective EMEG or CREG for all scenarios considered.

### ATSDR MRLs for Uranium and Radon

- **Uranium:** An MRL of (0.002 mg/kg)/day has been derived for acute-duration oral exposure ( $\leq 15$  days) to soluble compounds of uranium.
- An MRL of 0.0002 (mg/kg)/day has been derived for intermediate-duration oral exposure (15– 364 days) to soluble compounds of uranium.
- Derivation of an MRL using the NOAEL of (54 mg/kg)/day identified in the two-year uranyl fluoride rat study (Maynard and Hodge 1949; Maynard et al. 1953) as the point of departure was considered; the NOAEL/LOAEL approach was used because the lack of incidence data for most exposure groups precluded using benchmark dose analysis to identify a point of departure. Using this point of departure would result in a MRL that is higher than the intermediate-duration oral MRL for uranium; thus, a chronic-duration oral MRL has not been derived (Agency for Toxic Substances and Disease Registry, 2013).
- Due to lack of consistent drinking water MRL toxicity data in humans, ATSDR recommends using EPA's MCL of 30  $\mu\text{g/L}$  for exposure comparison.

- **Radon:** No acute-, intermediate-, or chronic-duration oral MRLs have been derived for radon due to a lack of suitable human or animal data regarding health effects following oral exposure to radon and its progeny (Agency for Toxic Substances and Disease Registry, 2012)
- As both uranium and radon are radioactive, naturally-occurring environmental elements with limited CVs, ATSDR subject matter experts were invited to review the sampling data and provide recommendations for public health implications. **All radionuclides are considered potentially carcinogenic**, although the radioactivity of naturally-occurring uranium and radon is low.

### Exposure Parameters

Water Ingestion Exposure Dose Equation					
D = (C * IR * EF) / BW					
D = Exposure Dose (mg/kg)/day, C = Contaminant Concentration (mg/L), IR = Intake Rate (L/day), EF = Exposure Factor (unitless), BW = Body Weight (kg)					
Exposure Group	Body Weight (kg)	Age-Specific Exposure Duration (years)	Intake Rate (L/day)		
			CTE (Central Tendency Exposure)	RME (Reasonable Maximum Exposure)	Custom
Birth to < 1 year	7.8	1	0.504	1.11	
1 to < 2 years	11.4	1	0.308	0.893	
2 to < 6 years	17.4	4	0.376	0.977	
6 to < 11 years	31.8	5	0.511	1.4	
11 to < 16 years	56.8	5	0.637	1.98	
16 to < 21 years	71.6	5	0.770	2.44	
Adult	80	78	1.23	3.09	
Pregnant Women	73	NA	0.872	2.59	
Lactating Women	73	NA	1.67	3.59	

## Exposure Factors

Duration	Days	Weeks	Years	Non-Cancer Exposure Factor	$\text{EF cancer} = \text{EF non-cancer} \times \text{Age-Specific Exposure Duration (years)} / 78 \text{ years}$
Acute				1	
Intermediate	7			$\frac{1}{7}$	
Chronic	7	52.14	78	$\frac{1}{78}$	

### Keys for All Output Tables

§ Cancer risk (CR) is derived for both CTE (12 years) and RME (33 years) residential occupancy periods. For children, CRs are derived for a combined child receptor: CTE (12 years) and RME (21 years) at a given residence. For the CTE child CR, the combined child is the sum of the cancer risks for each age group for the first 12 years of exposure only. The RME CR for the combined child is derived by summing all the cancer risks for each age group from birth to < 21 years. The adult CR assumes living at the residence for 12 (CTE) or 33 (RME) years. Cancer risks can be calculated for contaminants with cancer slope factors stored in PHAST.

† Hazard Quotients are greater than 1. The health assessor should conduct further toxicological evaluation.

‡ Cancer risk is greater than 1.0E-6. The health assessor should conduct further toxicological evaluation.

Ω Cancer risks are not calculated for pregnant women and lactating women. Their cancer risks are similar to an adult woman exposed for 33 years. If you would like to calculate cancer risks for pregnant women and lactating women, enter site-specific scenarios.

1 Carcinogen; No cancer slope factor (CSF); See CVs and Health Guidelines Module for additional cancer class information.

3 Carcinogenicity not determined; Cancer risk was not calculated.

## Appendix D: Additional Resources

1. [“Be Well Informed”](#) – Information and Guidance for Treating Your Well Water
2. [General link to Drinking Water Quality Information](#) (includes relevant information and links to factsheets on arsenic, radionuclides/uranium and other contaminants)
3. [New Hampshire Department of Human Services Radon Program](#)
4. [EPA Radon Program](#)
5. Cost Effective Air Radon Testing:  
[American Lung Association Radon Basics](#)  
[National Radon Program Services](#)
6. [NH PFAS Investigation](#) (includes information about ongoing investigations, water testing and water treatment options)
7. [ATSDR PFAS FAQs](#)
8. [NHDES PFAS Sampling Results Data Viewer](#)

**TOWN OF LONDONDERRY  
LONDONDERRY, NEW HAMPSHIRE**

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**Prepared For:**

**Town of Londonderry  
268B Mammoth Road  
Londonderry, NH 03053  
Mr. Stephen R. Cotton  
Administrative Support Coordinator**

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**Prepared By:**

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**October 25, 2019  
Nobis File No. 95160.00**



October 25, 2019  
File No. 95160.00

Mr. Stephen R. Cotton  
Administrative Support Coordinator  
Town of Londonderry  
268B Mammoth Road  
Londonderry, NH 03053

**Re: Water Quality Survey**  
Town of Londonderry  
Londonderry, New Hampshire

Dear Mr. Cotton:

Nobis Group® (Nobis) is pleased to provide this *Water Quality Survey* (WQS) for the Town of Londonderry. This WQS was prepared in general accordance with a proposal authorized on September 6, 2018.

The enclosed report provides a summary of water quality sampling completed throughout the town of Londonderry during 2019. Thirty-two private water supplies and thirteen surface water samples were collected as part of this WQS. This report is subject to the limitations in Appendix A.

Thank you for the opportunity to be of service to you. Please do not hesitate to contact us if you have any questions.

Sincerely,

NOBIS GROUP®

A handwritten signature in black ink, appearing to read 'M R Henderson'.

Mark R. Henderson, PG  
Senior Project Manger

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## **TABLES**

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## **FIGURES**

Figure 1	Study Area Plan
Figure 2A	PFOA Private Water Supply Results (2019)
Figure 2B	PFOA Surface Water Sampling Results (2019)
Figure 3	Arsenic Private Water Supply Results (2019)

## **APPENDICES**

Appendix A	Limitations
Appendix B	Laboratory Reports

## 1.0 INTRODUCTION

On behalf of the town of Londonderry (client), Nobis Group® (Nobis) prepared this Water Quality Survey (WQS) for work completed within the town of Londonderry, New Hampshire. The town and participating properties are depicted on **Figure 1**.

This report presents information collected from field sampling activities completed in 2019. This report is subject to the Limitations provided in **Appendix A**. Private drinking water supply and surface water sampling was completed in general conformance with our proposal authorized on September 6, 2018. We note, discussion and negotiation with NHDES occurred throughout the fall of 2018 eventually successfully creating a teaming arrangement to modify the sampling program.

### 1.1 Summary of Prior Sampling

An Environmental Baseline Study of Water Well and Surface Water Quality from the town of Londonderry was first completed in 2001 and 2002. The Town of Londonderry established the Environmental Baseline Study Committee (EBSC) in March 2001. The primary objective of the EBSC was to establish a baseline of the environmental quality within the town, with specific regard to well water quality and surface water quality. The EBSC randomly selected over 600 residential locations from the Town's homeowner database, and only included homes that had individual deep or dug wells and the ability to bypass any type of treatment or filtration system. The sampling program ultimately consisted of 154 residential participants at locations distributed throughout the town. Areas where town water or community wells serve the population were not included in the study.

Results from the baseline study found 27% of the wells sampled contained the metal arsenic at a concentration above 10 micrograms per liter (ug/l) within the groundwater analyzed. Additionally, lead was detected within 6 water supply samples at concentrations in excess of the maximum concentration limit (MCL). Copper, zinc, cadmium and nickel were also detected but below their respective MCLs. The gasoline additive, methyl tert butyl ether (MTBE) was detected within twelve (12) water supplies but generally below the Ambient Groundwater Quality Standard (AGQS) of 13 ug/l. Note, per- and polyfluoroalkyl substances (PFAS) were not analyzed during the 2001/2002 baseline sampling.

The 2019 sampling activities associated with this WQS were completed to augment information and data collected during the original Baseline Study. A summary of our field methods, the sampling results, and our recommendations follow.

## **2.0 PROPERTY IDENTIFICATION & REQUEST LETTERS**

Nobis was retained by the Town of Londonderry to complete a follow-up water quality study. The purpose of the follow-up study is to further document water quality conditions within the town and assess potential changes in water quality over time. As such, many of the residential water supply wells that were part of the original study were included in the current sampling program. Additionally, new ‘target’ wells were identified and included in the study. Targeted wells were identified by proximity to environmental areas of interest and/or relative location to wells previously sampled that had detections of contaminants of concern (COCs).

The study area was divided into six (6) distinct sampling districts based upon inferred local watershed areas and topographical features. Specifically, they are comprised of the following districts:

- Watts Brook watershed (District 1),
- Little Cohas Brook watershed (District 2),
- Beaver Brook and Scobie Pond watershed (District 3),
- Nesenkeag Brook watershed (District 4),
- Chase Brook and lower Beaver Brook watershed (District 5), and
- Beaver Brook watershed (District 6).

After dividing the study area into sampling districts, the original sampling locations were evaluated for the potential presence of town water or community supply wells that may serve those locations. Ultimately, 50 locations were selected, 39 of which were participants of the original study with 11 new target locations. Access agreements and water supply well questionnaires were mailed to each homeowner once approved by the town.

Due to a low initial response rate, second attempt letters were mailed to homeowners yet to respond to access agreement letters. While waiting for the return of the second attempt agreements, alternate sample locations were identified. In total, 36 alternate locations were selected, 19 of which had previously been sampled with 17 new target locations. Access agreements and water supply well questionnaires were created and mailed for these alternate locations.

Due to continued low response rates to access agreements, a second group of alternate locations were identified. In total, 25 additional locations were selected for sampling, and were all new target locations.

In total, 32 out of 111 solicited homeowners elected to participate in the study. Of the 32 locations, 22 were sampled as part of the original EBSC study while 10 were new target wells. Further, each sampling district had varied response rates, ranging from 8 samples per district (District 1) to 3 samples per district (District 2). Sampling districts and residential drinking water sample locations are depicted on **Figure 1**.

### **3.0 SUMMARY OF COMPLETED ACTIVITIES**

#### **3.1 Private Water Supply Sample Collection**

Water supply sampling occurred during the period of May through July 2019. In total, 32 private water supplies were sampled by Nobis technicians. Private water supply samples were collected from a sampling port prior to water treatment (e.g. softeners) if present, or an interior kitchen faucet. The water supplies were allowed to run for at least 15 minutes to flush/purge the lines prior to sample collection.

Sampling dates were coordinated with individual property owners after receipt of a properly executed access agreement. Water supplies were sampled for the presence of RCRA-8 metals, nitrate, nitrite, volatile organic compounds (VOCs), and PFAS. Based on the cost sharing agreement with the NHDES, samples were split for delivery to the NHDES and to Nelson Analytical, Inc. (Nelson) of Manchester, New Hampshire. NHDES then sent samples for VOC analyses to ChemServe, Inc. (ChemServe) of Milford, New Hampshire and to Eurofins/Test America (Eurofins) of Sacramento, California for analysis of PFAS. Therefore, each water supply has three laboratory reports associated with the sampling.

#### **3.2 Surface Water Sample Collection**

Surface water samples were collected from various surface water bodies within the town during the original EBSC study. In total, 13 locations were sampled and consisted of locations along Beaver Brook, Little Cohas Brook, Shields Brook, Watts Brook, Nesenkeag Brook, Cohas Brook, Moose Hill Pond outlet, and Scobie Pond outlet. To the extent possible the original sample locations were used in the current study. Coordinates of each surface water sample location were recorded during sample collection and are presented on **Figure 1**.

Surface water was sampled for the presence of RCRA-8 metals, nitrate, nitrite, total phosphate, VOCs, and PFAS. As with the water supply samples, Nelson analyzed the samples for the presence of nitrate, nitrite, phosphate, and metals. ChemServe analyzed the samples for the presence of VOCs and Eurofins analyzed the samples for the presence of PFAS.

### 3.3 Laboratory Analytical Results

Analytical results were forwarded to Nobis (some via NHDES) where the data was tracked within a spreadsheet. Data was also uploaded via the environmental monitoring database (EMD) to the NHDES. The private water supply samples were collected within laboratory supplied containers and placed on ice during transportation under proper chain-of-custody procedures to Nelson Analytical, Inc. of Manchester, New Hampshire and NHDES. Water samples were analyzed by Nelson for the presence of nitrate/nitrite via Method SM 4500; metals via EPA Method 200.8; and phosphate via HACH 8190. ChemServe analyzed samples for the presence of VOCs by NHDES *Petroleum and Hazardous Waste Full List* via Environmental Protection Agency (EPA) Method 524.2. Eurofins analyzed samples for the presence of PFAS via EPA Method 537 (mod). A copy of the laboratory analytical reports from the 2019 sampling are included as **Appendix B**.

Private water supply sampling results were previously provided to the individual property owners via mail.

### 3.4 Evaluation of Water Supply Quality

#### VOCs

Only two water supplies contained detectable VOCs: MTBE was detected at a concentration of 0.58 parts per billion (ppb) in the water supply located at 5 Allison Lane and chloroform was detected at a concentration of 13 ppb in the sample collected from 11 Ross Drive. Neither VOC compound was detected at a concentration in excess of the corresponding AGQS. We note, chloroform was reported within the 11 Ross Drive water supply during the original sampling program at a concentration of 2.1 ppb.

MTBE was reported in 8% of the original sampling program wells (12 of 154) at detected concentrations ranging from 1.7 to 20 ppb. Five (5) of those original twelve locations were sampled during this WQS. None of the five wells originally impacted by MTBE contained a detectable level of MTBE in 2019. Only one well from Allison Lane contained a trace level of MTBE. These results suggest significant improvement related to VOCs.

#### PFAS

Thirteen (13) of the twenty (20) PFAS compounds analyzed were reported as detected within at least one of the water supplies samples. Of these 13 compounds, perfluorooctanoic acid (PFOA) is the most prevalent and concerning PFAS compound. A summary of PFAS results for water supply sampling is provided as **Table 1**. PFOA was detected within 29 of the 32 water supply samples collected and within each of the six sampling districts. NHDES adopted new AGQS for four PFAS compounds; PFOA, perfluorooctane sulfonic acid (PFOS), perfluorohexane sulfonic

acid (PFHxS) and perflouoronanoic acid (PFNA) on September 30, 2019. PFOA was reported above the new AGQS of 12 parts per trillion (ppt) in 13 of the 32 water supplies sampled. PFOA concentrations ranged from 0.9 to 41 ppt. **Figures 2A and 2B** depict distribution of PFOA in wells and surface water within the town. The majority of the highest PFOA concentration impacts are located within districts 1 and 4, generally located in the western portion of town nearest to the Litchfield town boundary.

### Nitrate & Nitrite

Nitrate was reported in eleven of the 32 wells sampled. Detected nitrate concentration ranged from 1.0 to 4.0 ppm, well below the AGQS of 10 ppm. Nitrite generally was not detected during the sampling event. Nitrate and nitrite are generally related to fertilizers, animal waste and sewage and according to the US Geological Survey, “Nitrate is the most common inorganic contaminant derived from man-made sources”. In general, this study revealed low concentration and does not appear to indicate large scale nitrate issues.

### Metals

Detectable levels of four (4) metals were reported within the water supply sampling program. Arsenic, barium, chromium and lead were detected in water supplies sampled. Of these, only arsenic and lead were reported above their corresponding AGQS of 0.01 and 0.015 ppm. Lead was detected within 13 of the 32 wells samples (40%); however, only four were reported above the AGQS with a maximum detected concentration of 0.3 ppm. A summary of metals results for water supply sampling is provided as **Table 2**.

Arsenic was detected within 24 of the 32 wells sampled (75%). Five (5) of the 24 detections exceed the current AGQS of 0.010 ppm. All five of these are in the northern three districts (District 1, District 2, and District 3) and likely correspond to specific bedrock composition of water bearing fractures in this area. There does not appear to be a corresponding distribution related to orchards and pesticide use. **Figure 3** provides a map depicting the distribution of arsenic in wells and surface water within the town.

In the original study 39% of the wells contained arsenic at a detectable concentration (>0.005 ppm). Using the same threshold, 29% of the current dataset would be deemed to contain arsenic. This is significant as the NHDES has proposed a new lower AGQS for arsenic of 5 ppb (0.005 ppm). Therefore, the current 16% of wells exceeding AGQS would increase to roughly one third of the water supplies in the town.



Property	Arsenic Concentration (ppm)	
	Original 2001	2019
21 Lawson Farm Road	0.043	0.034
15 Partridge Lane	0.034	0.036
19 Pine Hollow Drive	0.016	0.002
9 Acropolis Avenue	0.010	0.006
17 Wilshire Drive	0.009	0.007
97 Gilcreast Road	0.006	0.007
28 Hazelnut Lane	0.006	0.011
46 Otterson Road	0.006	0.004
17 Wimbeldon Drive	0.006	0.001

The table above provides a comparison of arsenic concentration at those properties sampled during both the original (2001) and 2019 sampling events and which contained detectable arsenic concentrations. Generally, arsenic concentration within these wells has remained consistent and stable.

### 3.5 Evaluation of Surface Water Quality

The surface water samples were evaluated for the presence of VOCs, RCRA-8 metals, phosphate and nitrate/nitrite. VOCs were not detected within the thirteen surface water samples collected as part of this study. The metal barium was detected in all samples analyzed at concentrations ranging from 0.011 to 0.24 ppm. These concentrations appear to be low and consistent throughout the town. Arsenic was detected in only two surface water samples at low concentrations. Lead was detected in one surface water sample at a concentration of 0.002 ppm. The remaining five metals were not detected within the samples analyzed. In general, adverse impact via metals to surface waters is not suggested. A summary of results for surface water sampling is provided as **Table 3**.

Nitrate/nitrite was evaluated in six of the surface water samples. None of the six locations contained nitrate/nitrite above method detection limits. Total phosphate as phosphorus was consistently reported within all but one of the surface water samples. Phosphate was reported at concentrations ranging from 0.11 to 0.52 ppm. These concentrations appear elevated relative to ideal surface water phosphorus concentrations reported within the published literature and may be attributable to the historic agricultural nature of the town, or native rock type. NHDES suggests (Env-Wq 1703.14(a)) phosphorus should be absent from Class A water bodies unless naturally occurring. Additional testing would be required to further evaluate the potential contributors to elevated phosphate.

Thirteen (13) of the twenty (20) PFAS compounds analyzed were reported as detected within at least one of the surface water samples. Of these 13 compounds, again perfluorooctanoic acid (PFOA) is the most prevalent and concerning PFAS compound. PFOA was detected within all thirteen surface water samples collected and within each of the six sampling districts. PFOA concentration ranged from 9.8 to 42 ppt, with a mean concentration of 20.5 ppt. A summary of PFAS results for surface water sampling is provided as **Table 4**.

## **4.0 CONCLUSIONS & RECOMMENDATIONS**

### **4.1 Conclusions**

Overall, low level PFAS impact is found throughout the town but higher concentrations are evident within the town in proximity to the Litchfield town boundary; therefore, some PFAS impacts may be attributable to the Saint Gobain facility operations in Merrimack, NH. The depositional model would be similar to impacts within the town of Litchfield but generally lesser in magnitude (further from the potential source). The outer boundary from the Saint Gobain Consent Decree is shown on **Figures 2A and 2B**, and generally runs along High Range Road. Per the Consent Decree, Saint Gobain may be responsible for providing bottled water to impacted water supplies to the west of High Range Road.

We note, the 2019 sampling was a small sub-sampling of the total of water supplies within the town. The results point to overall higher impacts from PFOA in the western portions of the town. Recent changes to the AGQS for PFOA suggest there is potential for health concerns associated with PFOA above 12 ppt. This is particularly of concern for pregnant women and breastfeeding mothers.

Arsenic impacts consistent with those observed during the original study were confirmed during this WQS. The arsenic standard was lowered to 10 ppb, and NHDES has proposed an even lower standard of 5 ppb that has yet to be implemented. Arsenic is a naturally occurring metal, but also was historically related to orchard pesticide use. This study did not reveal a significant relationship to orchard locations and the arsenic found in water supplies is presumed to be of a natural origin.

Overall, drinking water quality within the town appears to have improved relative to the original study. VOCs are generally not observed within the water supplies. Nitrates are generally low and metals are found within normal ranges. However, the occurrence of PFOA throughout town water supplies is of concern.

Surface water quality within the town appears stable relative to the original study. VOCs are not observed within surface waters tested. Metals are found within normal ranges. Phosphate levels appear somewhat elevated throughout the town and may be related to agricultural use, grass lawn fertilizers, or natural rock composition.

The occurrence of PFOA consistently throughout town surface waters is also of concern. Generally, the highest detected concentrations are within surface waters in the western portions of the town.

## **4.2 Recommendations**

Nobis Group® provides the following recommendations related to water sampling:

- The town should continue with a periodic (5-year) sampling program to monitor overall water quality and compile a comparable database of water quality;
- Followup PFAS sampling at those residences with elevated PFOA results may be warranted. A discussion of results and potential for long term health effects should be completed with impacted residents. In some, if not all cases, these tasks may be the responsibility of NHDES or Saint Gobain;
- Further research/study of arsenic impacts on town bedrock water resources may be warranted. A better understanding of distribution and magnitude of arsenic occurrence could assist to direct prioritization of future water infrastructure planning by the Town.

# T A B L E S

**TABLE 1**  
**SUMMARY OF DRINKING WATER PFAS ANALYSES**  
 Drinking water Sampling Program  
 Londonderry, New Hampshire  
 Nobix Project No. 95160.00

PER- AND POLYFLUOROALKYL SUBSTANCES (PFAS)		Perfluorobutanoic Acid (PFBA)	Perfluoropentanoic Acid (PFPeA)	Perfluorohexanoic Acid (PFHxA)	Perfluoroheptanoic Acid (PFHpA)	Perfluorooctanoic Acid (PFOA)	Perfluorononanoic Acid (PFNA)	Perfluorodecanoic Acid (PFDA)	Perfluoroundecanoic Acid (PFUnA)	Perfluorododecanoic Acid (PFDoA)	Perfluorotridecanoic Acid (PFTTrDA)	Perfluorotetradecanoic Acid (PFTEDA)	Perfluorobutane Sulfonate (PFBS)	Perfluorohexane sulfonate (PFHxS)	Perfluoroheptane Sulfonic acid (PFHpS)	Perfluorooctane Sulfonate (PFOS)	Perfluorodecane Sulfonate (PFDS)	N-methylperfluorooctanesulfonamideacetic acid (NMeFOSAA)	6:2 Fluorotelomer Sulfonate	8:2 Fluorotelomer sulfonate	Perfluoro-n-hexadecanoic acid (PFHxDA)
NHDES AGQS		ns	ns	ns	ns	12	11	ns	ns	ns	ns	ns	ns	18	ns	15	ns	ns	ns	ns	ns
Location	Date																				
District 1																					
NOB-060 19 Justin Circle	6/5/2019	2.6B	2.4	2.9	3.3	22	<2	<2	<2	<2	<2	<2	6.3	2.0B	<2	2.5I	<2	<2	<10	<2	<2
NOB-59 7 Rolling Ridge Road	6/3/2019	5.7B	7.2	10	7.1	40	1.2J	0.5J	<1.9	<1.9	<1.9	<1.9	3.4	2.2B	0.2JI	12	<1.9	<1.9	<9.6	<1.9	<1.9
NOB-047 39 Rolling Ridge Road	5/15/2019	1.2J	0.7J	1.5J	2.1	13	<2	<2	<2	<2	<2	<2	0.8J	1.0JB	<2	1.2J	<2	<2	<9.9	<2	<2
NOB-058 114 Litchfield Road	6/3/2019	4.6B	5.9	7.8	5.9	41	0.4JI	<1.9	<1.9	<1.9	<1.9	<1.9	3.1	3.8B	0.2J	3.9	<1.9	<1.9	<9.5	<1.9	<1.9
NOB-41 19 Pine Hollow Drive	5/2/2019	4.2B	3.9	5.5	5.3	23	0.4J	<1.9	<1.9	<1.9	<1.9	<1.9	3.3	1.9B	<1.9	3.3I	<1.9	<1.9	<9.4	<1.9	<1.9
NOB-064 68 Alexander Road	6/11/2019	2.3B	2.4	4.7	6.6	37	<1.9	<1.9	<1.9	<1.9	<1.9	<1.9	4.0	1.1JB	<1.9	3.3	<1.9	<1.9	<9.5	<1.9	<1.9
NOB-072 8 Sara Beth Lane	6/17/2019	1.2 JH	<1.9	1.2JH	0.7JH	3.6H	<1.9	<1.9	<1.9	<1.9	<1.9	<1.9	0.9JH	0.9JHB	<1.9	1.2JH	<1.9	<1.9	<9.5	<1.9	<1.9
MTBE-2800 19 Teton Drive	6/20/2019	<1.8	<1.8	<1.8	<1.8	<1.8	<1.8	<1.8	<1.8	<1.8	<1.8	<1.8	<1.8	0.3JB	<1.8	<1.8	<1.8	<1.8	<9.1	<1.8	<1.8
District 2																					
NOB-043 21 Lawson Farm Road	5/2/2019	2.9B	0.7J	0.9JI	0.3J	3.1	<1.9	<1.9	<1.9	<1.9	<1.9	<1.9	0.6J	1.4JB	<1.9	<1.9	<1.9	<1.9	<9.4	<1.9	<1.9
NOB-048 28 Hazelnut Lane	5/15/2019	<1.9	<1.9	<1.9	<1.9	<1.9	<1.9	<1.9	<1.9	<1.9	<1.9	<1.9	<1.9	0.3JB	<1.9	<1.9	<1.9	<1.9	<9.6	<1.9	<1.9
NOB-050 2 Faye Lane	5/15/2019	<1.9	<1.9	<1.9	<1.9	0.9J	<1.9	<1.9	<1.9	<1.9	<1.9	<1.9	<1.9	0.4JB	<1.9	<1.9	<1.9	<1.9	<9.5	<1.9	<1.9

**TABLE 1**  
**SUMMARY OF DRINKING WATER PFAS ANALYSES**  
 Drinking water Sampling Program  
 Londonderry, New Hampshire  
 Nobix Project No. 95160.00

PER- AND POLYFLUOROALKYL SUBSTANCES (PFAS)		Perfluorobutanoic Acid (PFBA)	Perfluoropentanoic Acid (PFPeA)	Perfluorohexanoic Acid (PFHxA)	Perfluoroheptanoic Acid (PFHpA)	Perfluorooctanoic Acid (PFOA)	Perfluorononanoic Acid (PFNA)	Perfluorodecanoic Acid (PFDA)	Perfluoroundecanoic Acid (PFUnA)	Perfluorododecanoic Acid (PFDoA)	Perfluorotridecanoic Acid (PFTTrDA)	Perfluorotetradecanoic Acid (PFTeDA)	Perfluorobutane Sulfonate (PFBS)	Perfluorohexane sulfonate (PFHxS)	Perfluoroheptane Sulfonic acid (PFHpS)	Perfluorooctane Sulfonate (PFOS)	Perfluorodecane Sulfonate (PFDS)	N-methylperfluorooctanesulfonamideacetic acid (NMeFOSAA)	6:2 Fluorotelomer Sulfonate	8:2 Fluorotelomer sulfonate	Perfluoro-n-hexadecanoic acid (PFHxDA)
NHDES AGQS		ns	ns	ns	ns	12	11	ns	ns	ns	ns	ns	ns	18	ns	15	ns	ns	ns	ns	ns
Location	Date																				
District 3																					
NOB-042 15 Partridge Lane	5/2/2019	3.4B	2.1	3	1.8J	7.3	<1.9	<1.9	<1.9	<1.9	<1.9	<1.9	9.4	0.7JB	<1.9	0.8JI	<1.9	<1.9	<9.7	<1.9	<1.9
NOB-063 29 Beacon Street	6/11/2019	2.7B	2.7	3.4	2.0	7.9	<1.9	<1.9	<1.9	<1.9	<1.9	<1.9	7.7	1.6JB	<1.9	2.5	<1.9	<1.9	<9.3	<1.9	<1.9
NOB-062 5 Allison Lane	6/11/2019	1.1JB	<1.9	<1.9	<1.9	1.1J	<1.9	<1.9	<1.9	<1.9	<1.9	<1.9	0.7J	1.4JB	<1.9	0.7J	<1.9	<1.9	<9.6	<1.9	<1.9
NOB-073 5 Wilson Road	6/18/2019	0.8J	0.5J	1.2JI	1.7J	15	<1.8	<1.8	<1.8	<1.8	<1.8	<1.8	0.4J	0.7JIB	<1.8	0.5JI	<1.8	<1.8	<9.0	<1.8	<1.8
NOB-074 25 Coteville Road	6/26/2019	1.3J	2.0	3.3	1.6J	11	<1.8	<1.8	<1.8	<1.8	<1.8	<1.8	13	3.2B	<1.8	2.3I	<1.8	<1.8	<9.2	<1.8	<1.8
District 4																					
MTBE-1115 9 Acropolis Ave	6/11/2019	2.9B	2.5	3.3	1.8JB	9.4	0.3J	<1.9	<1.9	<1.9	<1.9	0.4JB	4.2B	1.4JB	0.2J	3.6	<1.9	<1.9	24B	<1.9	<1.9
NOB-044 15 Tyler Drive	5/9/2019	4.6B	5.7	7.0	3.2B	16	0.5J	<1.9	<1.9	<1.9	<1.9	0.3JB	8.5B	2.8B	<1.9	5.3	<1.9	<1.9	3.8JB	<1.9	<1.9
NOB-046 111 West Road	5/9/2019	3.8B	2.8	5	6.6B	41	0.7J	<1.9	<1.9	<1.9	<1.9	0.3JB	1.7JB	1.3JB	<1.9	3.6I	<1.9	<1.9	3.2JB	<1.9	<1.9
NOB-051 12 Mont Vernon Drive	5/21/2019	2.8	6.1	7.3	4.1	16	0.6J	<1.8	<1.8	<1.8	<1.8	<1.8	6.1	2.8B	0.2JI	4.9I	<1.8	<1.8	<9.0	<1.8	<1.8
NOB-045 25 Severence Drive	5/9/2019	5.1B	3.7	5.1	2.6B	13	0.3J	<1.9	<1.9	<1.9	<1.9	<1.9	11B	4.3B	0.3J	4.3I	<1.9	<1.9	2.3JB	<1.9	<1.9
District 5																					
MTBE-1118 95 Mammoth Road	5/9/2019	7.2B	8.8	9.4	5.1B	20	1.0J	0.6J	<1.9	<1.9	<1.9	<1.9	12B	6.3B	0.2J	8.1	<1.9	<1.9	<9.4	<1.9	<1.9
MTBE-1123 17 Wilshire Drive	5/9/2019	2.7B	3.0	4.3	2.5B	9.2	<1.9	<1.9	<1.9	<1.9	<1.9	0.3JB	7.1B	1.6JB	<1.9	1.2JI	<1.9	<1.9	<9.5	<1.9	<1.9
NOB-049 17 Wimbeldon Drive	5/15/2019	2.3	4.1	4.4	2.0	9.7	<2	<2	<2	<2	<2	<2	4.5	0.8JB	<2	1.2JI	<2	<2	17	<2	<2
NOB-075 4 Morningside Drive	7/18/2019	2.7	2.5	3.3	2	11	1.1J	<1.7	<1.7	<1.7	<1.7	<1.7	11	4.6B	0.3J	10	<1.7	<1.7	<8.5	<1.7	<1.7

**TABLE 1**  
**SUMMARY OF DRINKING WATER PFAS ANALYSES**  
 Drinking water Sampling Program  
 Londonderry, New Hampshire  
 Nobix Project No. 95160.00

PER- AND POLYFLUOROALKYL SUBSTANCES (PFAS)		Perfluorobutanoic Acid (PFBA)	Perfluoropentanoic Acid (PFPeA)	Perfluorohexanoic Acid (PFHxA)	Perfluoroheptanoic Acid (PFHpA)	Perfluorooctanoic Acid (PFOA)	Perfluorononanoic Acid (PFNA)	Perfluorodecanoic Acid (PFDA)	Perfluoroundecanoic Acid (PFUnA)	Perfluorododecanoic Acid (PFDoA)	Perfluorotridecanoic Acid (PFTTrDA)	Perfluorotetradecanoic Acid (PFTEDA)	Perfluorobutane Sulfonate (PFBS)	Perfluorohexane sulfonate (PFHxS)	Perfluoroheptane Sulfonic acid (PFHpS)	Perfluorooctane Sulfonate (PFOS)	Perfluorodecane Sulfonate (PFDS)	N-methylperfluorooctanesulfonamideacetic acid (NMeFOSAA)	6:2 Fluorotelomer Sulfonate	8:2 Fluorotelomer sulfonate	Perfluoro-n-hexadecanoic acid (PFHxDA)
NHDES AGQS		ns	ns	ns	ns	12	11	ns	ns	ns	ns	ns	ns	18	ns	15	ns	ns	ns	ns	ns
Location	Date																				
District 6																					
TNK_DW-4 11 Ross Drive	5/9/2019	3.0B	2.8	4.1	2.1B	8.2	0.4J	<1.9	<1.9	<1.9	<1.9	<1.9	2.6B	1.4JB	<1.9	2.8I	<1.9	<1.9	2.5JB	<1.9	<1.9
MTBE-1120 10 Spruce Street	5/9/2019	2.7B	2.5	4.3	2.3B	7.2	0.4J	<1.9	<1.9	<1.9	<1.9	0.3JB	14B	1.8JB	<1.9	4.1	<1.9	<1.9	22B	<1.9	<1.9
NOB-039 46 Otterson Road	5/2/2019	1.2JB	<2	<2	<2	<2	<2	<2	<2	<2	<2	<2	<2	0.4JB	<2	<2	<2	<2	<9.9	<2	<2
NOB-040 97 Gilcreast Road	5/2/2019	5.6B	7.1	8.7	3.6	15	0.5JI	<1.9	<1.9	<1.9	<1.9	<1.9	6.0	9.7B	0.2JI	5.8	<1.9	<1.9	<9.6	<1.9	<1.9
MTBE-1122 21 Tokanel Drive	5/21/2019	3.1	2.4	2.5	1.4J	7.0	0.4J	0.3JI	<1.9	<1.9	<1.9	<1.9	6.2	4.7B	0.2J	7.5I	<1.9	<1.9	<9.5	<1.9	<1.9
NOB-061 18 Otterson Road	6/5/2019	2.2B	3.3	5.0	2.2	10	<1.9	<1.9	<1.9	<1.9	<1.9	<1.9	6.1	2.5B	<1.9	2.8I	<1.9	<1.9	<9.6	<1.9	<1.9
MTBE-4073 7 Gardner Circle	6/17/2019	3.0	1.6J	1.6JI	0.8J	4.5	<1.8	<1.8	<1.8	<1.8	<1.8	<1.8	2.4	1.3JB	<1.8	1.5JI	<1.8	<1.8	<9.1	<1.8	<1.8

Notes:  
 1. All samples were collected by Nobis Group on the dates indicated.  
 2. All concentrations are reported in ng/L, equivalent to parts per trillion (ppt), except where indicated.  
 3. "<X" indicates that the parameter was not detected at the specified reporting limit X. Concentrations in Bold indicate a detection, Bold and Shaded indicate exceedances of applicable AGQS. "ns" indicates that no standard is established for the compound. "NA" indicates the parameter was not analyzed.  
 4. The analyses were performed by Eurofins/Test America Laboratory of Sacramento, California by EPA Method 537 (mod) for PFAS.  
 5. AGQS refers to the Ambient Groundwater Quality Standards referenced in New Hampshire Code of Administrative Rules Part Env-Or 600 revised September 1, 2018.  
 Qualifiers: B - Compound also found in method blank; J - Less than RL but > or = to the MDL; I - Value is estimated maximum possible concentration

TABLE 2  
SUMMARY OF DRINKING WATER QUALITY ANALYSES  
Water Quality Sampling Program  
Londonderry, New Hampshire  
Nobis Project NoI 95160.00

		Nitrate	Nitrite	Arsenic	Barium	Cadmium	Chromium	Lead	Mercury	Selenium	Silver	Methyl tert Butyl Ether (MTBE)/Total VOCs
NHDES AGQS**		10	1	0.01	2	0.01	0.10	0.015	0.002	0.05	0.1	0.013
	Date											
District 1												
NOB-060 19 Justin Circle	6/5/2019	1.4	<0.01	<0.001	<0.010	<0.001	<0.01	0.010	<0.0004	<0.01	<0.01	BD
NOB-59 7 Rolling Ridge Road	6/3/2019	2.9	<0.01	0.011	0.019	<0.001	<0.01	0.038	<0.0004	<0.01	<0.01	BD
NOB-047 39 Rolling Ridge Road	5/15/2019	<1	<0.01	0.002	0.025	<0.001	0.007	0.002	<0.0004	<0.015	<0.01	BD
NOB-058 114 Litchfield Road	6/3/2019	<1	<0.01	<0.001	0.016	<0.001	<0.01	<0.001	<0.0004	<0.01	<0.01	BD
NOB-41 19 Pine Hollow Drive	5/2/2019	1.4	<0.01	0.002	<0.010	<0.001	<0.01	<0.001	<0.0004	<0.01	<0.01	BD
NOB-064 68 Alexander Road	6/11/2019	1.2	<0.01	<0.001	0.040	<0.001	0.012	0.002	<0.0004	<0.01	<0.01	BD
NOB-072 8 Sara Beth Lane	6/17/2019	<1	<0.01	0.018	0.074	<0.001	<0.01	0.200	<0.0004	<0.01	<0.01	BD
MTBE-2800 19 Teton Drive	6/20/2019	<1	<0.01	<0.001	0.016	<0.001	<0.01	<0.001	<0.0004	<0.01	<0.01	BD
District 2												
NOB-043 21 Lawson Farm Road	5/2/2019	<1	<0.01	0.034	0.011	<0.001	<0.01	0.001	<0.0004	<0.01	<0.01	BD
NOB-048 28 Hazelnut Lane	5/15/2019	<1	<0.01	0.011	<0.010	<0.001	0.004	<0.001	<0.0004	<0.015	<0.01	BD
NOB-050 2 Faye Lane	5/15/2019	<1	<0.01	0.004	<0.010	<0.001	0.002	0.059	<0.0004	<0.015	<0.01	BD



TABLE 2  
SUMMARY OF DRINKING WATER QUALITY ANALYSES  
Water Quality Sampling Program  
Londonderry, New Hampshire  
Nobis Project NoI 95160.00

		Nitrate	Nitrite	Arsenic	Barium	Cadmium	Chromium	Lead	Mercury	Selenium	Silver	Methyl tert Butyl Ether (MTBE)/Total VOCs
NHDES AGQS**		10	1	0.01	2	0.01	0.10	0.015	0.002	0.05	0.1	0.013
	Date											
District 3												
NOB-042 15 Partridge Lane	5/2/2019	<1	<0.01	0.036	0.012	<0.001	<0.01	0.011	<0.0004	<0.01	<0.01	BD
NOB-063 29 Beacon Street	6/11/2019	<1	0.08	<0.001	0.005	<0.001	0.011	<0.001	<0.0004	<0.01	<0.01	BD
NOB-062 5 Allison Lane	6/11/2019	<1	<0.01	0.001	0.007	<0.001	<0.01	<0.001	<0.0004	<0.01	<0.01	0.0006
NOB-073 5 Wilson Road	6/18/2019	<1	<0.01	0.001	0.129	<0.001	0.013	0.008	<0.0004	<0.01	<0.01	BD
NOB-074 25 Coteville Road	6/26/2019	1.2	<0.01	<0.001	<0.010	<0.001	<0.01	0.005	<0.0004	<0.01	<0.01	BD
District 4												
MTBE-1115 9 Acropolis Ave	6/11/2019	<1	<0.01	0.006	<0.010	<0.001	<0.01	<0.001	<0.0004	<0.015	<0.01	BD
NOB-044 15 Tyler Drive	5/9/2019	<1	<0.01	<0.001	<0.010	<0.001	<0.01	0.003	<0.0004	<0.015	<0.01	BD
NOB-046 111 West Road	5/9/2019	<1	<0.01	<0.001	0.014	<0.001	<0.01	<0.001	<0.0004	<0.015	<0.01	BD
NOB-051 12 Mont Vernon Drive	5/21/2019	1.4	<0.01	0.001	0.010	<0.001	<0.01	0.001	<0.0004	<0.01	<0.01	BD
NOB-045 25 Severence Drive	5/9/2019	<1	<0.01	0.001	<0.010	<0.001	<0.01	<0.001	<0.0004	<0.015	<0.01	BD

TABLE 2  
SUMMARY OF DRINKING WATER QUALITY ANALYSES  
Water Quality Sampling Program  
Londonderry, New Hampshire  
Nobis Project NoI 95160.00

		Nitrate	Nitrite	Arsenic	Barium	Cadmium	Chromium	Lead	Mercury	Selenium	Silver	Methyl tert Butyl Ether (MTBE)/Total VOCs
NHDES AGQS**		10	1	0.01	2	0.01	0.10	0.015	0.002	0.05	0.1	0.013
	Date											
District 5												
MTBE-1118 95 Mammoth Road	5/9/2019	<1	<0.01	0.010	0.014	<0.001	<0.01	<0.001	<0.0004	<0.015	<0.01	BD
MTBE-1123 17 Wilshire Drive	5/9/2019	1.0	<0.01	0.007	<0.010	<0.001	<0.01	<0.001	<0.0004	<0.015	<0.01	BD
NOB-049 17 Wimbeldon Drive	5/15/2019	<1	<0.01	0.001	0.027	<0.001	0.003	<0.001	<0.0004	<0.015	<0.01	BD
NOB-075 4 Morningside Drive	7/18/2019	4.0	<0.01	0.001	0.015	<0.001	<0.01	<0.001	<0.0004	<0.01	<0.01	BD

TABLE 2  
SUMMARY OF DRINKING WATER QUALITY ANALYSES  
Water Quality Sampling Program  
Londonderry, New Hampshire  
Nobis Project NoI 95160.00

		Nitrate	Nitrite	Arsenic	Barium	Cadmium	Chromium	Lead	Mercury	Selenium	Silver	Methyl tert Butyl Ether (MTBE)/Total VOCs
NHDES AGQS**		10	1	0.01	2	0.01	0.10	0.015	0.002	0.05	0.1	0.013
	Date											
District 6												
TNK_DW-4 11 Ross Drive	5/9/2019	2.3	<0.01	0.003	0.013	<0.001	<0.01	<0.001	<0.0004	<0.015	<0.01	0.013
MTBE-1120 10 Spruce Street	5/9/2019	<1	<0.01	0.009	<0.010	<0.001	<0.01	<0.001	<0.0004	<0.015	<0.01	BD
NOB-039 46 Otterson Road	5/2/2019	4.0	<0.01	0.004	<0.010	<0.001	<0.01	<b>0.30</b>	<0.0004	<0.01	<0.01	BD
NOB-040 97 Gilcreast Road	5/2/2019	<1	<0.01	0.007	<0.010	<0.001	<0.01	<0.001	<0.0004	<0.01	<0.01	BD
MTBE-1122 21 Tokanel Drive	5/21/2019	<1	<0.01	0.005	<0.010	<0.001	0.010	<0.001	<0.0004	<0.01	<0.01	BD
NOB-061 18 Otterson Road	6/5/2019	1.8	<0.01	0.002	<0.010	<0.001	<0.01	<0.001	<0.0004	<0.01	<0.01	BD
MTBE-4073 7 Gardner Circle	6/17/2019	<1	<0.01	0.003	0.037	<0.001	<0.01	<0.001	<0.0004	<0.01	<0.01	BD

Notes:

1. All samples were collected by Nobis Group on the dates indicated.
2. All concentrations are reported in mg/L, equivalent to parts per trillion (ppt), except where indicated.
3. "<X" indicates that the parameter was not detected at the specified reporting limit X. Concentrations in Bold indicate a detection, Bold and Shaded indicate exceedances of applicable standard. "ns" indicates that no standard is established for the compound. "NA" indicates the parameter was not analyzed.
4. VOCs were performed by ChemServe of Milford, NH. The remaining analyses were performed by Nelson Analytical Laboratory of Manchester, NH.

\*\*AGQS = Ambient Groundwater Quality Standard

TABLE 3  
SUMMARY OF SURFACE WATER QUALITY ANALYSES  
Water Quality Sampling Program  
Londonderry, New Hampshire  
Nobis Project No. 95160.00

		Nitrate	Nitrite	Arsenic	Barium	Cadmium	Chromium	Lead	Mercury	Selenium	Silver	Phosphate Total	Total VOCs
Freshwater Aquatic - Chronic		ns	ns	0.15	ns	0.00021	0.0198	0.00041	0.00077	0.005	ns	*	ns
Freshwater Aquatic - Acute		ns	ns	0.34	ns	0.00039	0.152	0.01	0.0014	ns	0.0002	*	ns
Human Health Water & Fish Ingestion		10	ns	18 ng	1	ns	ns	ns	0.00005	0.17	0.105	ns	ns
NHDES AGQS**		10	1	0.01	2	0.01	0.10	0.015	0.002	0.05	0.1	ns	ns
Location	Date												
SW-1	5/21/2019	<1	<0.01	<0.001	0.012	<0.001	<0.01	<0.001	<0.0004	<0.01	<0.01	0.52	BD
SW-2	5/21/2019	<1	<0.01	0.001	0.018	<0.001	<0.01	<0.001	<0.0004	<0.01	<0.01	0.25	BD
SW-3	5/21/2019	<1	<0.01	<0.001	0.024	<0.001	<0.01	<0.001	<0.0004	<0.01	<0.01	0.23	BD
SW-4	5/21/2019	<1	<0.01	<0.001	0.023	<0.001	<0.01	<0.001	<0.0004	<0.01	<0.01	0.21	BD
SW-5	5/21/2019	<1	<0.01	0.003	0.024	<0.001	<0.01	<0.001	<0.0004	<0.01	<0.01	0.25	BD
SW-6	6/11/2019	NA	NA	<0.001	0.020	<0.001	<0.01	<0.001	<0.0004	<0.01	<0.01	0.11	BD
SW-7	6/11/2019	NA	NA	<0.001	0.018	<0.001	<0.01	<0.001	<0.0004	<0.01	<0.01	<0.05	BD
SW-8	6/11/2019	NA	NA	<0.001	0.016	<0.001	<0.01	<0.001	<0.0004	<0.01	<0.01	0.13	BD
SW-9	5/21/2019	<1	<0.01	<0.001	0.024	<0.001	<0.01	<0.001	<0.0004	<0.01	<0.01	0.23	BD
SW-10	6/11/2019	NA	NA	<0.001	0.011	<0.001	<0.01	<0.001	<0.0004	<0.01	<0.01	0.14	BD
SW-11	6/12/2019	NA	NA	<0.001	0.016	<0.001	<0.01	<0.001	<0.0004	<0.01	<0.01	0.15	BD
SW-12	6/12/2019	NA	NA	<0.001	0.011	<0.001	<0.01	<0.001	<0.0004	<0.01	<0.01	0.13	BD
SW-13	6/11/2019	NA	NA	<0.001	0.021	<0.001	<0.01	<b>0.002</b>	<0.0004	<0.01	<0.01	0.17	BD

Notes:

1. All samples were collected by Nobis Group on the dates indicated.
2. All concentrations are reported in mg/L, equivalent to parts per trillion (ppt), except where indicated.
3. "<X" indicates that the parameter was not detected at the specified reporting limit X. Concentrations in Bold indicate a detection, Bold and Shaded indicate exceedances of applicable standard. "ns" indicates that no standard is established for the compound. "NA" indicates the parameter was not analyzed.
4. VOCs were performed by ChemServe of Milford, NH. The remaining analyses were performed by Nelson Analytical Laboratory of Manchester, NH.
- \*\*AGQS are not directly applicable to surface water and provided simply for comparison purposes
5. Freshwater Aquatic Chronic and Acute Criteria, and Human Health Water & Fish Ingestion Criteria from Table 1703-1: Water Quality Criteria for Toxic Substances

TABLE 4  
SUMMARY OF SURFACE WATER PFAS ANALYSES  
Water Quality Sampling Program  
Londonderry, New Hampshire  
Nobis Project No. 95160.00

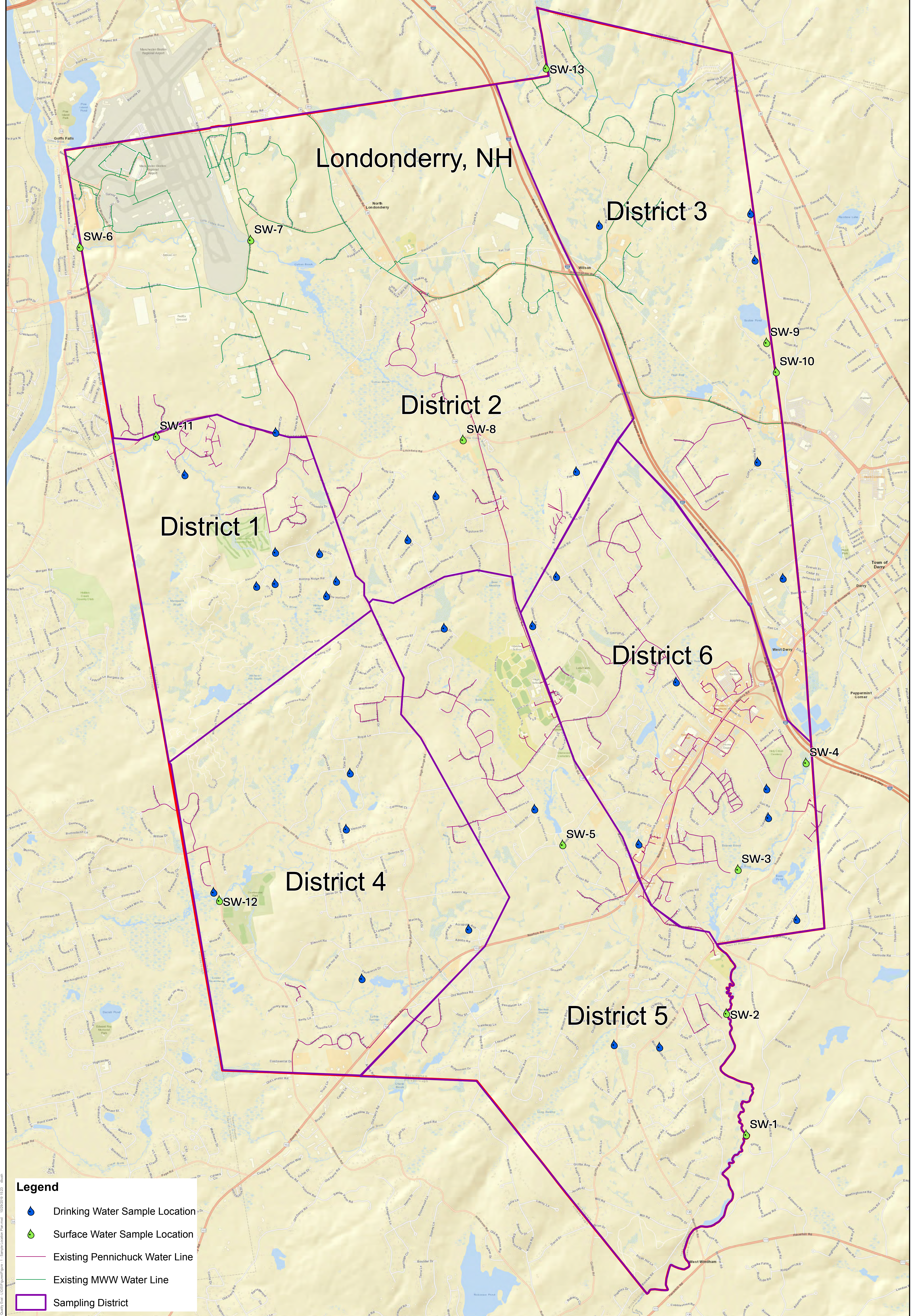
PER- AND POLYFLUOROALKYL SUBSTANCES (PFAS)		Perfluorobutanoic Acid (PFBA)	Perfluoropentanoic Acid (PFPeA)	Perfluorohexanoic Acid (PFHxA)	Perfluoroheptanoic Acid (PFHpA)	Perfluorooctanoic Acid (PFOA)	Perfluorononanoic Acid (PFNA)	Perfluorodecanoic Acid (PFDA)	Perfluoroundecanoic Acid (PFUnA)	Perfluorododecanoic Acid (PFDoA)	Perfluorotridecanoic Acid (PFTTrDA)	Perfluorotetradecanoic Acid (PFTEDA)	Perfluorobutane Sulfonate (PFBS)	Perfluorohexane sulfonate (PFHxS)	Perfluoroheptane Sulfonic Acid (PFHpS)	Perfluorooctane Sulfonate (PFOS)	Perfluorodecane Sulfonate (PFDS)	N-methylperfluorooctanesulfonamideacetic acid (NMeFOSAA)	6:2 Fluorotelomer Sulfonate	8:2 Fluorotelomer sulfonate	Perfluoro-n-hexadecanoic acid (PFHxDA)
NHDES AGQS**		ns	ns	ns	ns	12	11	ns	ns	ns	ns	ns	ns	18	ns	15	ns	ns	ns	ns	ns
Location	Date																				
SW-1	5/21/2019	3.3B	3.7	4.3	3.3	12	0.8J	0.3JI	<1.9	<1.9	<1.9	<1.9	2.8	2.0B	<1.9	4.1I	<1.9	<1.9	<9.5	<1.9	<1.9
SW-2	5/21/2019	5.5B	7.2	8.0	5.4	20	1.1J	<1.9	<1.9	<1.9	<1.9	<1.9	3.4	2.7B	<1.9	5.0I	<1.9	<1.9	<9.5	<1.9	<1.9
SW-3	5/21/2019	3.7B	4.2	4.5	2.8	11	1.0J	0.3J	<1.8	<1.8	<1.8	<1.8	3.2	2.7B	<1.9	5.5	<1.8	<1.8	<9.2	<1.8	<1.8
SW-4	5/21/2019	3.2B	3.9	4.5	2.7	9.8	0.8J	0.4J	<1.9	<1.9	<1.9	<1.9	3.1	2.6B	<1.9	4.6	<1.9	<1.9	<9.5	<1.9	<1.9
SW-5	5/21/2019	4.8B	6.5	7.8	5.7	22	1.5J	<1.9	<1.9	<1.9	<1.9	<1.9	2.6	3.6B	0.2JI	7.4	<1.9	<1.9	<9.3	<1.9	<1.9
SW-6	6/11/2019	8.8B	14	16	9.0	33	3.6	0.9J	<1.9	<1.9	<1.9	<1.9	4.4	7.7B	<1.9	14	<1.9	<1.9	4.1J	1.7J	<1.9
SW-7	6/11/2019	7.2B	9.3	10	6.3	30	2.2	0.7JI	<2	<2	<2	<2	4.8	6.3B	<2	14	<2	<2	<9.9	<2	<2
SW-8	6/11/2019	4.9B	4.9	6.3	5.0	27	1.1J	<2	<2	<2	<2	<2	3.8	2.7B	<2	5.5	<2	<2	<9.8	<2	<2
SW-9	5/21/2019	3.3B	3.6	4.5	2.9	12	1.0J	0.3JI	<1.9	<1.9	<1.9	<1.9	2.8	2.0B	<1.9	3.9	<1.9	<1.9	<9.5	<1.9	<1.9
SW-10	6/11/2019	4.6B	4.3	5.2	3.3	12	1.1JI	0.4J	<1.9	<1.9	<1.9	<1.9	2.8	2.2B	<1.9	4.2	<1.9	<1.9	<9.5	<1.9	<1.9
SW-11	6/12/2019	5.8B	7.3	8.9	7.4	42	1.2J	0.3J	<1.9	<1.9	<1.9	<1.9	3.5	2.6B	<1.9	3.9	<1.9	<1.9	<9.6	<1.9	<1.9
SW-12	6/12/2019	5.3B	5.0	6.3	4.4	24	1.0J	<2	<2	<2	<2	<2	3.2	2.0B	<2	4.0	<2	<2	<9.9	<2	<2
SW-13	6/11/2019	3.2B	3.5	3.7	2.8	11	0.9J	0.4J	<2	<2	<2	<2	2.3	1.8JB	<2	3.8	<2	<2	<9.8	<2	<2

Notes:

1. All samples were collected by Nobis Group on the dates indicated.
2. All concentrations are reported in ng/L, equivalent to parts per trillion (ppt), except where indicated.
3. "<X" indicates that the parameter was not detected at the specified reporting limit X. Concentrations in Bold indicate a detection, Bold and Shaded indicate exceedances of applicable AGQS. "ns" indicates that no standard is established for the compound. "NA" indicates the parameter was not analyzed.
4. The analyses were performed by Eurofins/Test America Laboratory of Sacramento, California by EPA Method 537 (mod) for PFAS.
5. Surface water quality standards (SWQS) have not been developed for PFAS at this time.

\*\*AGQS are not directly applicable to surface water and provided simply for comparison purposes  
Qualifiers: B - Compound also found in method blank; J - Less than RL but > or = to the MDL; I - Value is estimated maximum possible concentration

# **F I G U R E S**



# Londonderry, NH

**District 1**

**District 2**

**District 3**






**District 4**

**District 5**

**District 6**

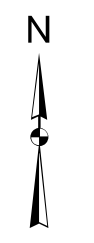
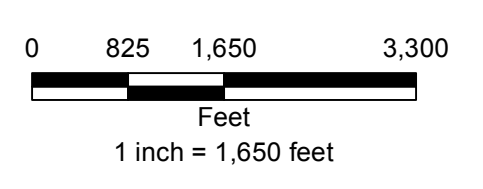
SW-1, SW-2, SW-3, SW-4, SW-5, SW-6, SW-7, SW-8, SW-9, SW-10, SW-11, SW-12, SW-13

**Legend**

-  Drinking Water Sample Location
-  Surface Water Sample Location
-  Existing Pennichuck Water Line
-  Existing MWW Water Line
-  Sampling District

**Notes:**

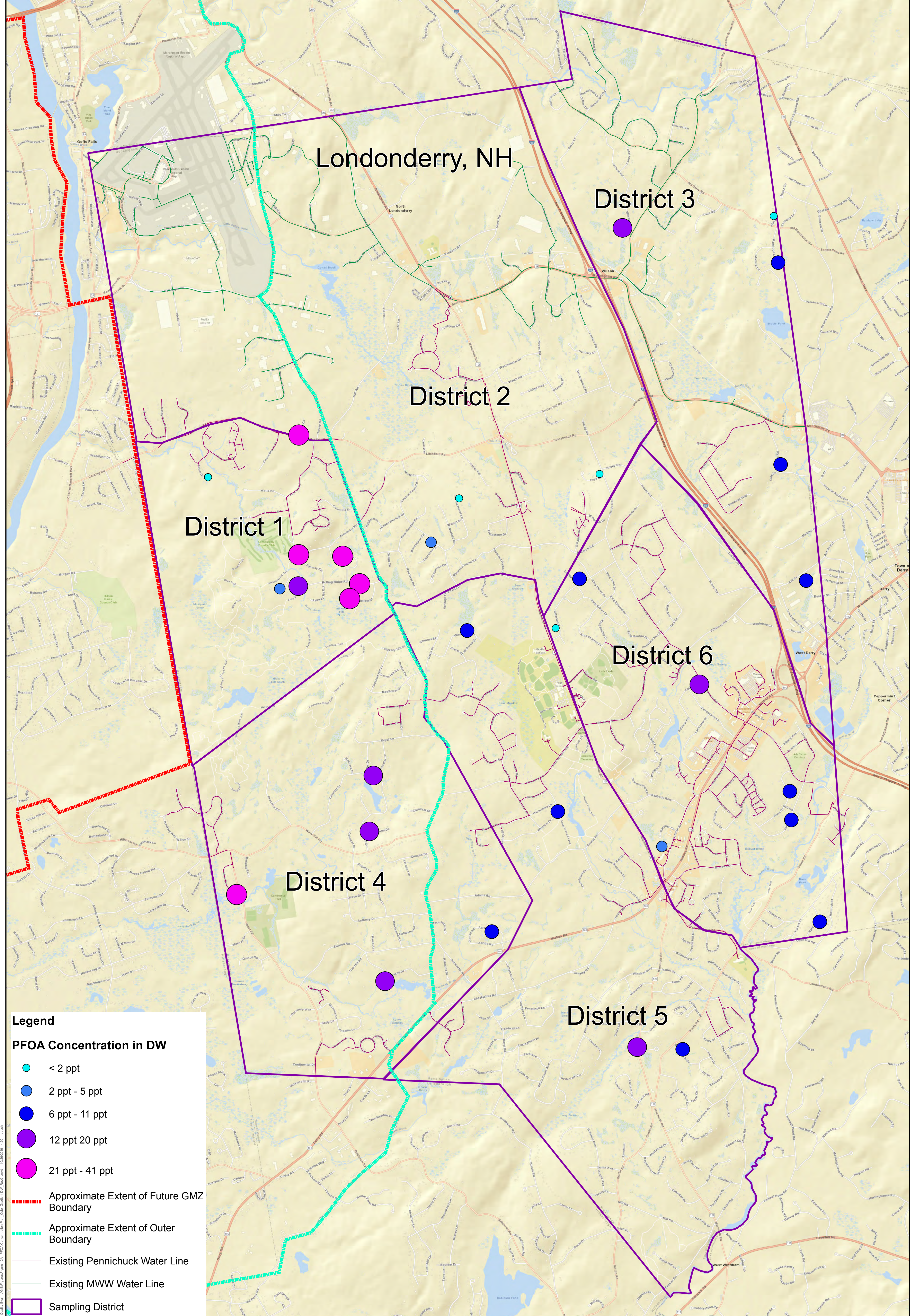
- Locations of site features and sample locations depicted hereon are approximate and given for illustrative purposes only.
- Sample Location Plan developed from observations made by Nobis, basemap provided by ESRI.



**FIGURE 1 - SAMPLE LOCATION PLAN**

DRINKING WATER & SURFACE WATER  
 SAMPLE LOCATION PLAN  
 LONDONDERRY WATER QUALITY  
 EVALUATION  
 LONDONDERRY, NEW HAMPSHIRE

PREPARED BY: DMB      CHECKED BY: MRH  
 PROJECT NO. 95160.00      DATE: OCTOBER 2019



**Legend**

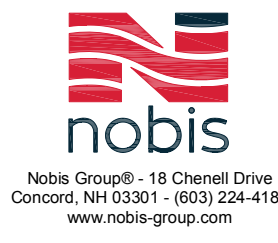
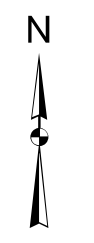
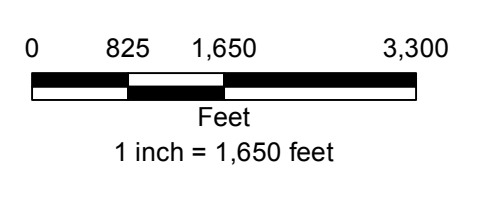
**PFOA Concentration in DW**

- < 2 ppt
- 2 ppt - 5 ppt
- 6 ppt - 11 ppt
- 12 ppt - 20 ppt
- 21 ppt - 41 ppt

- Approximate Extent of Future GMZ Boundary
- Approximate Extent of Outer Boundary
- Existing Pennichuck Water Line
- Existing MWW Water Line
- Sampling District

**Notes:**

- Locations of site features and sample locations depicted hereon are approximate and given for illustrative purposes only. Area Sketch developed from data collected by Nobis, basemap provided by ESRI.
- PFOA concentrations are given in parts per trillion (ppt). The New Hampshire Department of Environmental Services (NHDES) Ambient Groundwater Quality Standard (AGQS) for PFOA is 12 ppt.
- Approximate Extent of Future GMZ Boundary and Approximate Extent of Outer Boundary adapted from: NHDES Exhibit C, Preliminary GMZ and Outer Boundary Plan, State of New Hampshire, Dept. of Environmental Services v. Saint-Gobain Performance Plastics Corporation Consent Decree.

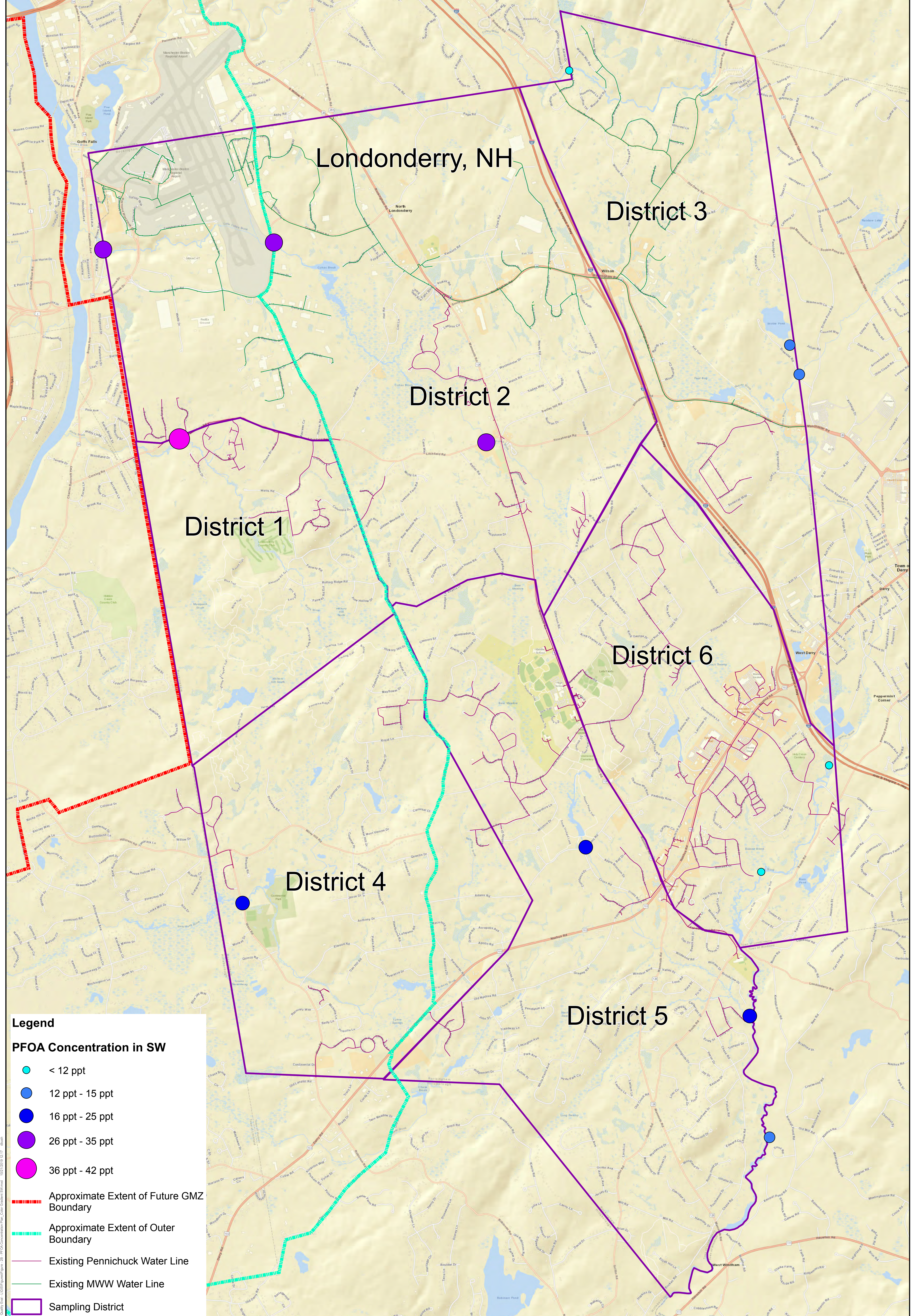


**FIGURE 2A - AREA SKETCH**

PFOA CONCENTRATIONS IN DW  
LONDONDERRY WATER QUALITY  
EVALUATION  
LONDONDERRY, NEW HAMPSHIRE

PREPARED BY: DHB      CHECKED BY: MRH  
PROJECT NO. 95160.00      DATE: OCTOBER 2019





**Legend**

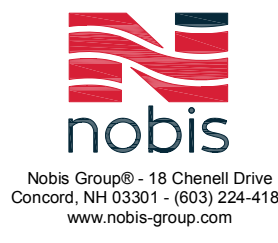
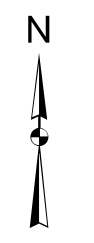
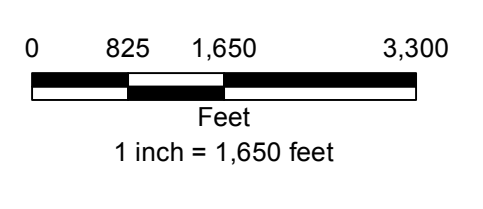
**PFOA Concentration in SW**

- < 12 ppt
- 12 ppt - 15 ppt
- 16 ppt - 25 ppt
- 26 ppt - 35 ppt
- 36 ppt - 42 ppt

- Approximate Extent of Future GMZ Boundary
- Approximate Extent of Outer Boundary
- Existing Pennichuck Water Line
- Existing MWW Water Line
- Sampling District

**Notes:**

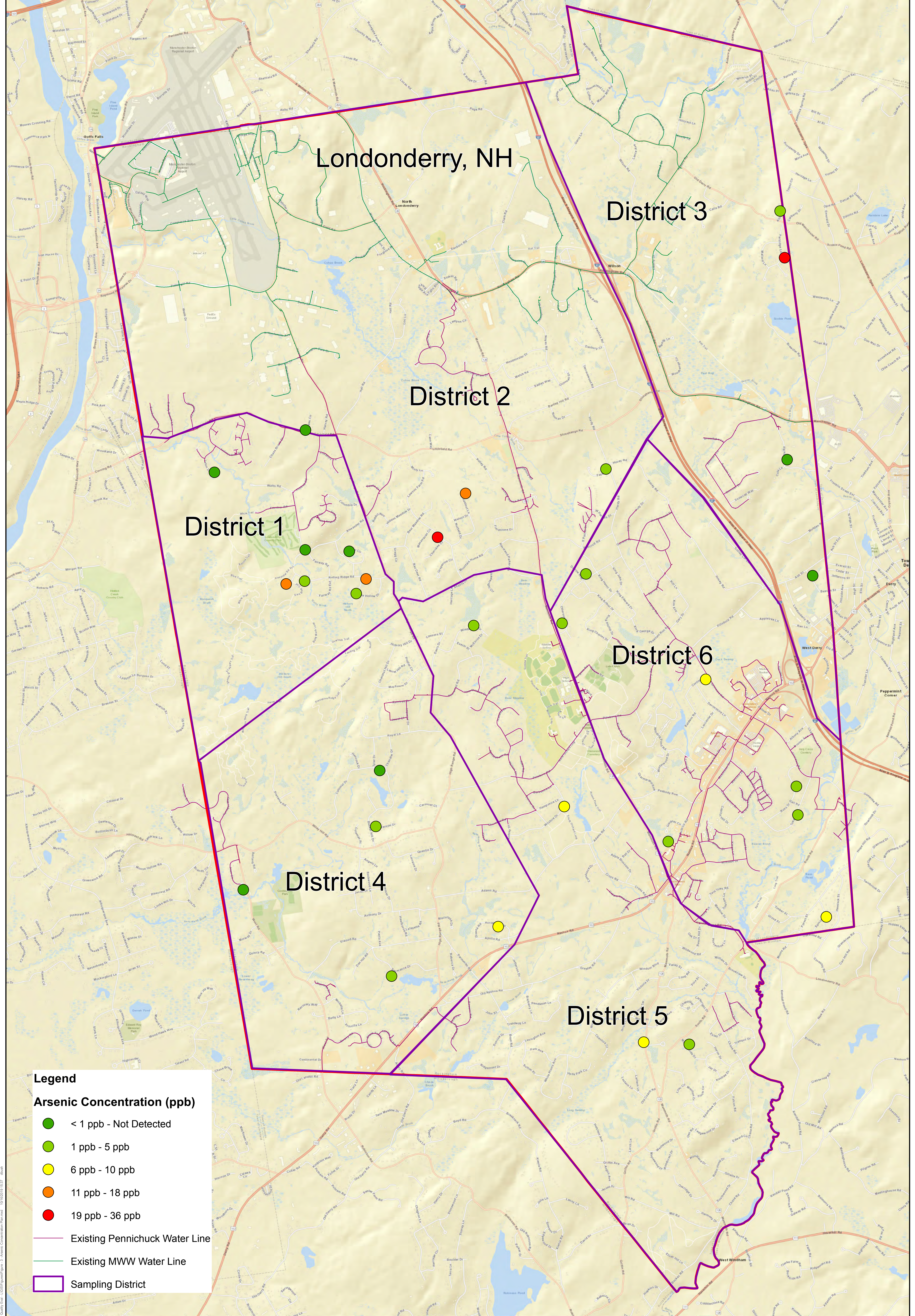
- Locations of site features and sample locations depicted hereon are approximate and given for illustrative purposes only. Area Sketch developed from data collected by Nobis, basemap provided by ESRI.
- PFOA concentrations are given in parts per trillion (ppt). The New Hampshire Department of Environmental Services (NHDES) Ambient Groundwater Quality Standard (AGQS) for PFOA is 12 ppt.
- Approximate Extent of Future GMZ Boundary and Approximate Extent of Outer Boundary adapted from: NHDES Exhibit C, Preliminary GMZ and Outer Boundary Plan, State of New Hampshire, Dept. of Environmental Services v. Saint-Gobain Performance Plastics Corporation Consent Decree.



**FIGURE 2B - AREA SKETCH**

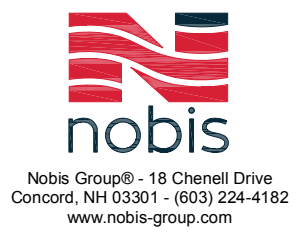
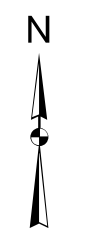
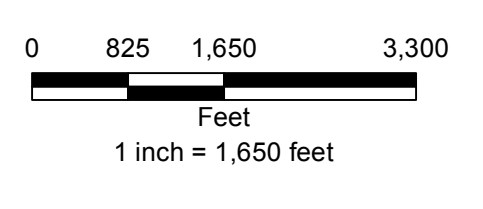
PFOA CONCENTRATIONS IN SW  
LONDONDERRY WATER QUALITY  
EVALUATION  
LONDONDERRY, NEW HAMPSHIRE

PREPARED BY: DHB      CHECKED BY: MRW  
PROJECT NO. 95160.00      DATE: OCTOBER 2019



**Notes:**

- Locations of site features and sample locations depicted hereon are approximate and given for illustrative purposes only.
- Arsenic concentrations within drinking water are given in parts per billion (ppb). The New Hampshire Department of Environmental Services (NHDES) Ambient Groundwater Quality Standard (AGQS) for arsenic is 5 ppb.
- Area Sketch developed from data collected by Nobis, basemap provided by ESRI.



**FIGURE 3 - AREA SKETCH**  
**ARSENIC CONCENTRATIONS**  
**LONDONDERRY WATER QUALITY**  
**EVALUATION**  
**LONDONDERRY, NEW HAMPSHIRE**  
 PREPARED BY: DHB CHECKED BY: MRW  
 PROJECT NO. 95160.00 DATE: OCTOBER 2019

# **A P P E N D I C E S**

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N  
D  
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A**

## LIMITATIONS

- 1) These environmental services were performed in accordance with generally accepted practices of other consultants undertaking similar assessments at the same time and in the same geographical area. The results of this assessment are based on our professional judgment and are not scientific certainties. Specifically, Nobis Group® does not and cannot represent that the site contains no hazardous wastes, oil or other latent conditions beyond those observed during this assessment. No other warranty, express or implied, is made.
- 2) The observations and conclusions presented in this report were made solely on the basis of conditions described in the report and not on scientific tasks or procedures beyond the scope of described services or the budgetary and time constraints imposed by the client.
- 3) Observations were made of the site as indicated in this report. Where access to portions of the site was unavailable or limited, Nobis Group® renders no opinion as to the presence of hazardous wastes or the presence of indirect evidence of hazardous wastes in that portion of the site.
- 4) No property boundary, site feature or topographic surveys of the site were performed by Nobis Group® unless specifically indicated in the text of the report.
- 5) Chemical constituents not searched for during the current study may be present in soil and/or groundwater at the site. In addition, where any analyses have been conducted by an outside laboratory, Nobis Group® has relied upon the data provided and has not conducted an independent evaluation of the reliability of these data.
- 6) This report has been prepared for the exclusive use for Town of Londonderry solely for use in an environmental evaluation of the site. This report shall not, in whole or in part, be conveyed to any other party, other than the identified users without prior written consent of Nobis Group®.

TOWN OF LONDONDERRY, NH  
432-1100 X.115

WELL PERMIT

Date: \_\_\_\_\_

Work Location: \_\_\_\_\_

Owner: \_\_\_\_\_

Type of Well:  
(Please circle one) Cable Rotary Jetted Driven Bored Dug

Use:  
(Please circle one) Domestic Commercial Public Supply Test well

Comments \_\_\_\_\_  
\_\_\_\_\_

Contractor's State License Number: \_\_\_\_\_

Contractor's Name & Company \_\_\_\_\_

Address: \_\_\_\_\_  
No. Street City State Zip

Phone No. \_\_\_\_\_

Alternate Phone No. \_\_\_\_\_

\_\_\_\_\_  
**Signature of Contractor or Authorized**  
Representative Making Application  
**FEE \$25.00**

\_\_\_\_\_  
**Signature of Permit Clerk**  
**Permit No.** \_\_\_\_\_

Check or cash only to be paid at the Town Clerk's office (first floor).  
Checks payable to Town of Londonderry

TOWN OF LONDONDERRY, NH

**DRILLING RESULTS**

(RETURN TO BUILDING DEPT. AT ADDRESS BELOW)

Date: \_\_\_\_\_

Work Location: \_\_\_\_\_ Permit No. \_\_\_\_\_

Owner: \_\_\_\_\_

Well Company: \_\_\_\_\_

**Type of Well:**  
(Please circle one) Cable Rotary Jetted Driven Bored Dug

**Use:**  
(Please circle one) Domestic Commercial Public Supply Test well

Depth of well: \_\_\_\_\_ ft.

Static Water Level \_\_\_\_\_ ft. below land surface.

Pumping Level (Below land surface): \_\_\_\_\_ ft. after \_\_\_\_\_ hrs. pumping  
\_\_\_\_\_ G.P.M.

I hereby certify that this well is located in accordance with the plot or sewage disposal plan.

SIGNATURE OF INSTALLER \_\_\_\_\_

***PLEASE RETURN THESE DRILLING RESULTS TO THE BUILDING DEPARTMENT UPON COMPLETION OF WORK.***

**RETURN TO:** Londonderry Building Dept. 268B Mammoth Road, Londonderry, NH 03053

**OR EMAIL DRILLING RESULTS TO:** [onlinepermits@londonderrynh.org](mailto:onlinepermits@londonderrynh.org)

# Water Resources

## Town of Newmarket Master Plan

*Adopted unanimously by the Newmarket Planning Board following a Public Hearing on November 10, 2020.*







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# Acknowledgements

The Town of Newmarket is greatly indebted to all who participated either directly or indirectly in the process of developing the 2020 Water Resources chapter. From service on municipal boards to professional technical assistance the input and guidance from so many individuals helped to shape the recommendations and vision presented herein. The town extends a thank you in advance to all who will work to implement this plan and its recommendations in the future.

A special acknowledgement should be offered to chapter's primary funder, the New Hampshire Department of Environmental Services (NHDES) Drinking Water Source Protection Program. This program has been essential in providing technical and financial assistance, and to enforce state regulations that serve to protect the state's sources of drinking water.

The contributions of those identified below are particularly noteworthy.

## **Master Plan Steering Committee**

Bill Arcieri, Member At-Large  
Gretchen Kast, Town Council  
Michal Zahorik, Planning Board Alternate  
Patrick Reynolds, Conservation Commission  
Val Shelton, Planning Board

## **Town of Newmarket Planning Board**

Eric Botterman, Chair  
Valerie Shelton, Vice Chair  
Christian Matthews, Town Council ex officio  
Jamie Bruton, Member  
Jane Ford, Member  
Jon Kiper, Town Council ex officio  
Michal Zahorik, Alternate  
Sarah Finch, Member  
Ted Seely, Alternate  
Bill Doucet, Member

## **Town of Newmarket Staff**

Diane Hardy, AICP, Town Planner  
Sean Greig, Environmental Services Director  
Steve Fournier, Town Manager

## **Stafford Regional Planning Commission**

Jen Czysz, AICP, Executive Director  
Alaina Rogers, Data Collection & Analysis Assistant  
Kyle Pimental, Principal Regional Planner  
Jackson Rand, GIS Planner

Front Cover:  
Photograph by Bill Doucet

A special thanks to Bill Doucet and Mike Hickey for all the local photos.

# Introduction

The protection and use of water resources are critical concerns to the Town of Newmarket. With virtually all residents dependent upon wells for domestic use, the quantity and quality of available groundwater must be protected from depletion and contamination. Other Town water resources, such as swamps, ponds, streams, and wetlands are important because they are hydrologically related to groundwater, and provide ecological, scenic, and recreational value to residents.

In general, there is a direct relationship between land use and water quality. It is the responsibility of the Town to take reasonable and prudent precautions to protect all water resources from incompatible uses, thus protecting the health and general welfare of the community. Appropriate steps should be taken by the Town to ensure that enough water supply exists for use by Newmarket residents, as well as native wildlife and plant communities. The Town needs to examine and address water supply issues, watershed management, pollution, and potential aquifers/gravel areas.

## Vision Statement

*Protect all water resources in Newmarket from threats that include but are not limited to contamination, depletion, alteration, and degradation through appropriate policies, regulations, and actions.*

*Guidance for policies, regulations, and actions that affect Newmarket's water resources derives from the following water resources management objectives and conservation measures.*

- a) Protect public health, safety, and welfare*
- b) Maintain high environmental quality*
- c) Ensure that growth minimizes impacts to environmental quality*
- d) Direct development to environmentally suitable areas*
- e) Assure adequate water supply for residents*
- f) Preserve water quality and quantity for future residents*
- g) Educate residents about water resource issues*
- h) Participate in inter-municipal water resources management efforts*
- i) Comply with applicable local, state, and federal regulations*

## Overview

The Town of Newmarket covers a total area of 14.2 square miles (9,080.3 acres), with a land area of 12.6 square miles (8,053.5 acres) and a water area of 1.6 square miles (1,026.8 acres). With a population of 8,977 (according to the [2013-2017 American Community Survey 5-year estimates](#)), Newmarket has experienced roughly a 10.6% increase in total population since 2000 (8,027).

The topography of Newmarket is gently rolling, and elevations range from sea level along tidal areas to greater than 280 feet on Bald Hill in the westernmost area of town. Great Bay and the Lamprey River are the town's most significant waterbodies. The Town has many acres and types of water resources, which are summarized in the table below. These resources provide valuable functions and services that benefit the public health and welfare and the environment.

Table 1: Water Resource Statistics

Resource Type	Total Area	% Municipal Area
Freshwater Surface Waters	656.1 Acres	7.2%
Coastal/Tidal Waters	1,061.9 Acres	11.7%
Streams and Rivers (miles)	31.4 Miles	N/A
Freshwater Wetlands	979.3 Acres	10.8%
Prime Wetlands	908.9 Acres	10.0 %
Floodplain (2005)	512.9 Acres	5.7%
Floodplain (2014)	529.9 Acres	5.8%
Stratified Draft Aquifer	657.5 Acres	7.2%

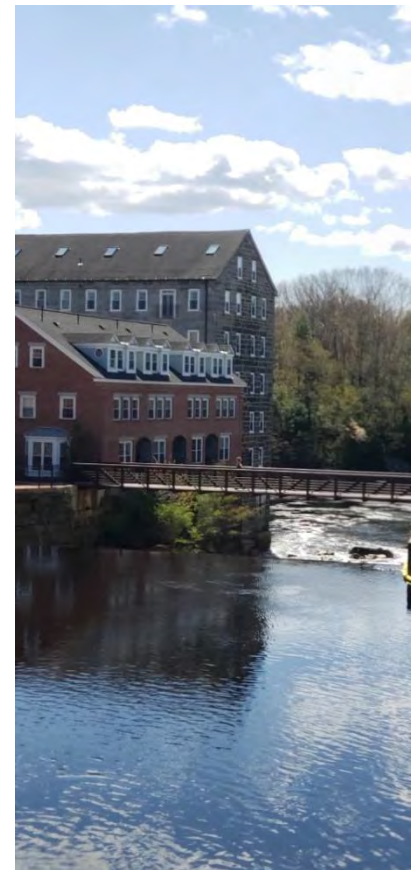
[Sources: NH Hydrography Dataset, National Wetland Inventory, FEMA DFIRMs, NH GRANIT]

Newmarket is positioned in the lowermost reaches of the Coastal Watershed, and within portions of the Lamprey River, Exeter River, and the Great Bay watersheds. It contains both freshwater and tidal rivers and estuarine ecosystems. Tidal influence on the Lamprey River extends to Macallen Dam in downtown near the NH Route 108 crossing. Tidal influence of the Great Bay extends up Lubberland Creek and the Squamscott River, as well as several unnamed tributaries in the southern areas of town.

### Water Resource Chapter Update

The original Water Resources Chapter of the Master Plan was developed and adopted by the Planning Board in 2001; an update was completed in 2009. Since that time, social and environmental conditions have changed, including shifts in local development patterns, increases in population, and impacts from changing climate conditions, all of which have placed additional stress on the Town's water resources. As a result, Newmarket has compiled a series of recommendations from multiple reports on the town's water system into one comprehensive Capital Improvement Plan (CIP). The Town is improving their stormwater management through compliance with the EPA's [Municipal Separate Storm Sewer System \(MS4\)](#) program. Newmarket has been a part of several climate adaptation projects, including updates to their [hazard mitigation plan](#), a [flooding study](#) in the Moonlight Brook watershed, a [climate vulnerability study](#), and an [infrastructure project](#) to replace an undersized culvert on Lubberland Creek. In addition, the Town has collaborated with regional land conservation agencies to protect land containing critical water resources including wetlands, floodplain, streams and rivers, and riparian habitat.

Federal, state, and local non-governmental partners have also conducted significant research, inventories, and evaluation of water resources in the Coastal and Great Bay watersheds. These efforts have produced valuable scientific information about the status, health, and viability of water resources in these watersheds. The results of these efforts have sparked much discussion about future management and sustainability of ecosystems, natural resource functions and benefits, emerging contaminants that are a risk to human health, and drinking water supplies in many communities in the Seacoast.



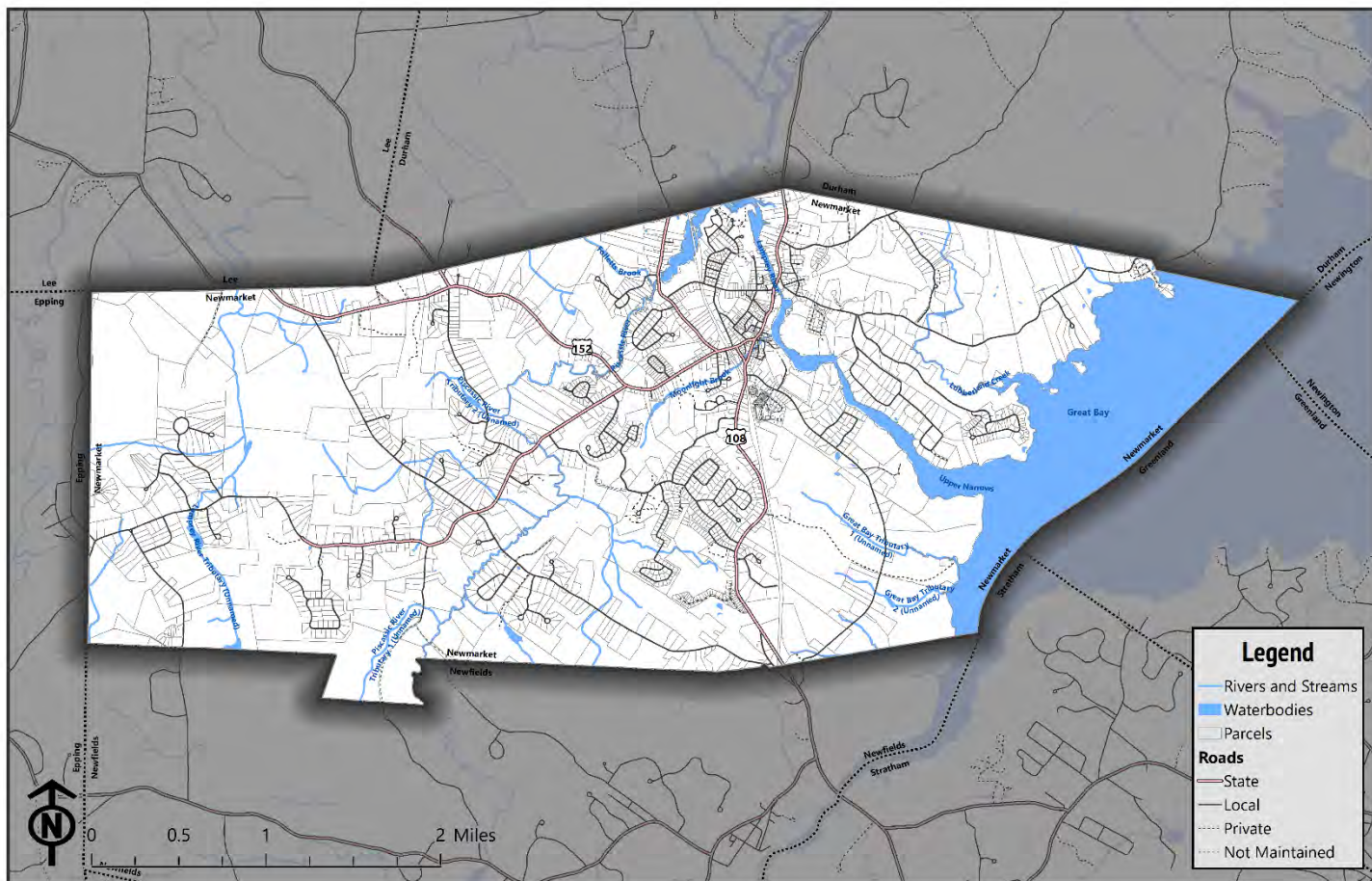
Lamprey River north of the Dam  
[Photo Credit: Mike Hickey]

In 2019, the Town of Newmarket, in partnership with the Strafford Regional Planning Commission, applied for and received funding to update the existing Water Resources Chapter of the Master Plan by incorporating new information to better plan for the management and sustainability of the Town's water resources.

# Surface & Groundwater Resources

## Surface Water Policy Statement

Reduce the loss of shoreland buffers by minimizing the granting of variances and waivers during the application and permitting process, as well as strengthening enforcement efforts.



Map 1. Newmarket's Surface Water Resources [Source: US Geological Survey (USGS), NH Hydrography Dataset (NHHD)]

## Rivers & Perennial Brooks, Creeks, Streams, and Tributaries

According to the New Hampshire hydrography dataset, Newmarket has a total of 24.6 linear miles of streams and rivers, including 23 miles of perennial creeks, streams and rivers and 1.6 miles of intermittent streams and creeks, that provide a myriad of benefits for residents and visitors to the region.

### Lamprey River

The portion of the Lamprey River in Newmarket is located at the confluence of the Piscassic River at the Sliding Rock Conservation Area. The river flows south towards the Macallen Dam—where it is tidally influenced—and the downtown waterfront, where there are major access points for boaters and other recreational enthusiasts using

the Great Bay. The total drainage area of the watershed covers almost 214 square miles and includes fourteen towns, making it one of the largest watersheds in New Hampshire. The Lamprey River supports a variety of recreational uses including boating, fishing, swimming in certain areas, and ice fishing and skating in the winter. It is considered to have significant ecological value, supporting some of the most important anadromous fishery habitat in the state, as well as providing aquatic habitat for numerous wildlife and waterfowl species.

The Lamprey River is recognized on both the state and federal levels as a river with outstanding resources, and for that reason, it is afforded protections not normally provided to other rivers. On the federal level, certain sections of the Lamprey are designated as a Wild and Scenic River by the National Park Service and the US Congress. At the state level, the Lamprey and its main tributaries are in the New Hampshire Rivers Management and Protection Program.



Lamprey River at the Macallen Dam  
[Photo Credit: Bill Doucet]

#### *Piscassic River*

The Piscassic River is a major tributary to the Lamprey River and flows northerly from Newfields through much of the area around Ash Swamp Road, Grant Road and Lang's Lane. The river then flows beneath Route 152, spills over the dam at Packers Falls Road and then joins up with the Lamprey River about one half mile downstream. The lower Piscassic River, below the dam at the former Water Treatment Plant on Packers Falls Road, is often mistakenly considered to be part of the Lamprey River because it is an extension of the impounded waters behind the Macallen Dam that is located downstream. The confluence with the Lamprey River is located just north of the Durham and Newmarket town boundary.

#### *Follett's Brook*

Follett's Brook flows southeasterly from Durham and joins up with the Piscassic River just above the Packers Falls Road dam. Only the lower third of Follett's Brook watershed is within Newmarket. Prior to 1990, Follett's Brook was used as the principal municipal water supply source with treatment provided at the Packers Falls Road Water Treatment Plant. The Piscassic River was used as a backup water supply source. In the last ten years, the Town has principally relied on groundwater from several municipal wells for drinking water.

#### *Moonlight Brook*

The main channel of Moonlight Brook runs for approximately 1.5 miles from its headwaters to its outlet into the Lamprey River. It is routed under three road crossings before passing under a railroad track near downtown Newmarket. Downstream of this point, Moonlight Brook is routed through a series of culverts and pipes before emerging back into its natural channel just upstream of its outlet to the Lamprey River. During large storm events, Moonlight Brook receives significant inflow from the Piscassic River, which connects to Moonlight Brook at its headwaters. During the 100-year storm event, inflows from the Piscassic River reach an estimated 307 cubic feet per second (cfs), almost doubling the peak flow within Moonlight Brook.<sup>1</sup>

<sup>1</sup> Waterstone Engineering & Horsley Witten Group (2016). *Climate Adaptation Plan for the Moonlight Brook Watershed: Building Resilience to Flooding and Climate Change in the Moonlight Brook Watershed*. [online] Available at: <https://www.nhcaw.org/wp-content/uploads/2018/05/13-306-21-Newmarket-Final-Report.pdf> [Accessed 27 Dec. 2019].



### *Lubberland Creek*

Lubberland Creek, which runs under Bay Road, is one of several smaller tributaries that drain directly to Great Bay. Lubberland Creek originates in wetlands along Dame Road in Durham and then drains southerly crossing beneath Bay Road and enters the Great Bay along the north side of Moody Point. The lower portions of the Creek contain extensive salt and freshwater wetlands. Much of the watershed associated with this drainage system remains as either open fields or forested areas with sparsely located homes, including a portion of the Gonet Drive subdivision.



Lubberland Creek  
[Photo Credit: Bill Doucet]

### *Significant Unnamed Tributaries*

There are several other unnamed tributaries of significance, including the following:

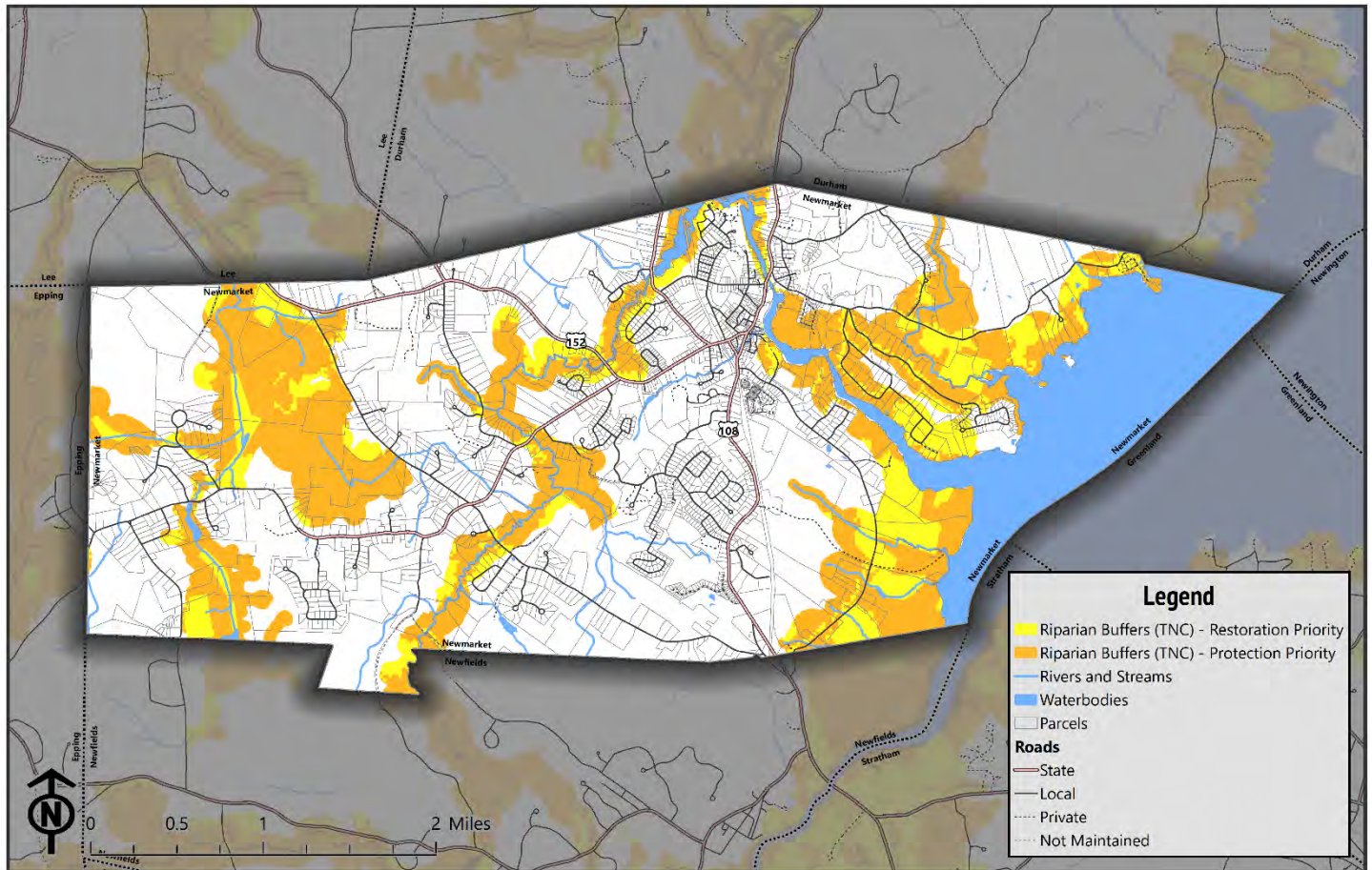
- 1) Piscassic River Tributary (1): Draining from a large wetland west of Hall's Mill Road in Newfields, this stream flows northeasterly before crossing underneath Neal Mill Road and emptying into the Piscassic River.
- 2) Piscassic River Tributary (2): Draining from several wetlands southeast of the Wadleigh Falls Road in the vicinity of the gravel pits, this stream flows easterly before crossing Langs Lane just north of Winslow Drive and emptying into the Piscassic River.
- 3) Lamprey River Tributary: Draining from a series of a large wetlands east of Bald Hill Road, this stream flows northerly before crossing Grant Road, then Doe Farm Lane, and into the Wiggin Farm Conservation Area. It continues north towards the Tuttle Swamp Conservation Area before crossing Wadleigh Falls Road and emptying into the Lamprey River.
- 4) Great Bay Tributaries: There are two relatively significant unnamed perennial streams that originate behind Newmarket Storage on Route 108 and flow easterly crossing beneath New Road and into Great Bay.

### Buffer Functions and Benefits

Buffer Options for the Bay (BOB)<sup>2</sup> defines a buffer as a "naturally vegetated segment of land directly upslope of a water resource, such as a lake, stream, river, pond, estuary, or other wetland type." The value of buffers is diverse; they support wildlife capacity, enhance water views, and help meet water quality standards for municipalities. In New Hampshire, decisions involving buffer lands around waterbodies are often made by communities and individual landowners.

According to GIS data developed by the Nature Conservancy, which was created as part of the 2016 update to the Land Conservation Plan for New Hampshire's Coastal Watersheds, there are several locations identified as priority riparian buffer areas suitable for restoration and/or protection. These locations include: 1) the unnamed Lamprey River tributary (see above for description) and areas surrounding Tuttle Swamp, 2) the mainstem of the Piscassic River, 3) the Lamprey River (both the freshwater portion and tidal portions), 4) Lubberland Creek, and 5) the shoreline of Great Bay.

<sup>2</sup> [Buffer Options for the Bay](#) is an informational resource intended to support policy and land use decisions in NH's Great Bay region that involve buffers.



Map 2. Newmarket's Surface Water Resources [Source: US Geological Survey (USGS), NH Hydrography Dataset (NHHD)]

BOB'S "Exploring the Trends, Science, & Options for Buffer Management in the Great Bay Watershed"<sup>3</sup>—an analysis of local factors influencing buffer-related decision-making in the Great Bay watershed—revealed these top four findings:

- Buffer-related decisions are inherently complex, requiring municipalities to balance many factors including property rights, community character, natural resource protection, abutters' concerns, and economic growth.
- People may not understand the individual and social benefits of buffers.
- Buffer oversight and enforcement can be logistically difficult and lack capacity.
- Developers want consistent regulations, flexibility in the review process, and not a 'one-size-fits-all' rule.

### Did you know?

Research has shown that the effectiveness of green infrastructure (natural areas like buffers that provide ecosystem services) in reducing pollution is not only comparable to that achieved by gray infrastructure (e.g., constructed stormwater interventions), but that green infrastructure typically costs markedly less.

<sup>3</sup> Flanagan, Shea E.; Patrick, David A.; Leonard, Dolores J.; and Stacey, Paul, "Buffer Options for the Bay: Exploring the Trends, the Science, and the Options of Buffer Management in the Great Bay Watershed Key Findings from Available Literature" (2017). PREP Reports & Publications. 380. <https://scholars.unh.edu/prep/380>

BOB's "[Navigating Regulations: What regulatory options do towns have?](#)" and their "[Regulatory options for buffer action](#)" are available to help communities navigate regulations and show different options for buffer action. One other additional resource is the minimum recommended buffer widths for various buffer functions (see Figure 1). These widths are a result of a synthesis of many sources. For more specific information about how these widths were generated, please reference the [Coastal Science Literature Review](#).

As Newmarket continues to grow, increased priority should be placed on increasing buffers for all waterbodies and aquifers with additional steps taken to address septic systems to ensure water quality and shoreland protection.

### Water Quality Impairments

According to the [DRAFT 2018, Section 303\(d\)](#) list of impaired waterbodies<sup>4</sup>, which is produced by the NHDES Surface Water Quality Assessment Program every two years as a federal mandate under the Clean Water Act, Newmarket has several waterbodies with water quality impairments, including the Lamprey River, Great Bay, Piscassic River, and Moonlight Brook.

### Local Water Quality Monitoring

The NH Department of Environmental Services through its Volunteer River Assessment Program (VRAP) maintains a water quality-monitoring program for the Lamprey River and its tributaries. The Lamprey River Watershed Association has undertaken this role and has been doing so since 1999. Long-term monitoring provides a basis for understanding the river's dynamics, or variations on a station-by-station and year-to-year basis. The data also serves as a baseline from which to determine any water pollution problems in the river and/or watershed.

In Newmarket, there are four sampling locations, including the Piscassic River at the Grant Road Bridge, Piscassic River at the Route 152 Bridge, Piscassic River at the Packers Falls Bridge, and the Lamprey River at the Route 108 Bridge. According the 2017 Lamprey River Watershed VRAP Data report, the only measurements not meeting New Hampshire surface water quality standards were dissolved oxygen and pH. Dissolved oxygen is essential for bottom-dwelling organisms and pH affects chemical and biological processes in the water and different organisms flourish within a range of pH levels<sup>5</sup>.

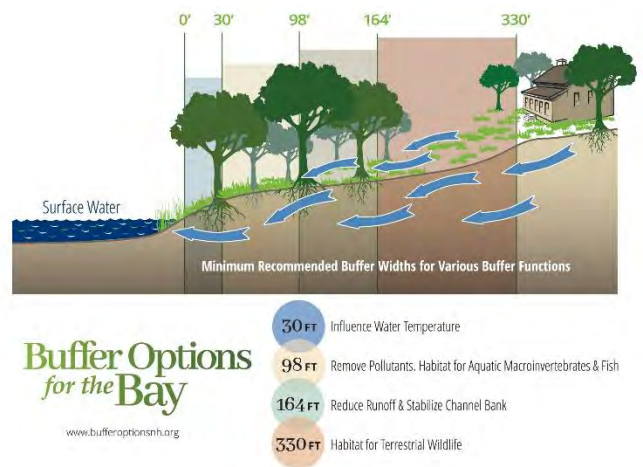
### Lakes, Ponds, and Great Bay

Lakes, ponds, freshwater/tidal rivers, and Great Bay comprise 1,046.2 acres in Newmarket. This includes Great Bay, which is a 6,000+ acre tidal estuary and represents roughly 84% of the total water area in town, that acts as

<sup>4</sup> Identified waterbodies that are impaired or threatened; not expected to meet water quality standards within a reasonable time even after application of best available technology standards for point sources or best management practices for nonpoint sources; or requires a comprehensive water quality study (total maximum daily load) in order to meet water quality standards.

<sup>5</sup> NH Volunteer River Assessment Program. (Revised 2011). Interpreting VRAP Water Quality Monitoring Parameter: Chemical Parameters. [online] [Accessed 27 Aug. 2020]. Available at: [https://www.des.nh.gov/organization/commissioner/pip/publications/wd/documents/vrap\\_parameters.pdf](https://www.des.nh.gov/organization/commissioner/pip/publications/wd/documents/vrap_parameters.pdf)

Figure 1. BOB Buffer Width Recommendations



the Town's easterly border and is home to upland forest, salt marsh, mudflats, tidal creek, rocky intertidal, eelgrass beds, channel bottom/subtidal and upland field habitats.<sup>6</sup>

Table 2: Surface Waterbodies by Type and Acreage

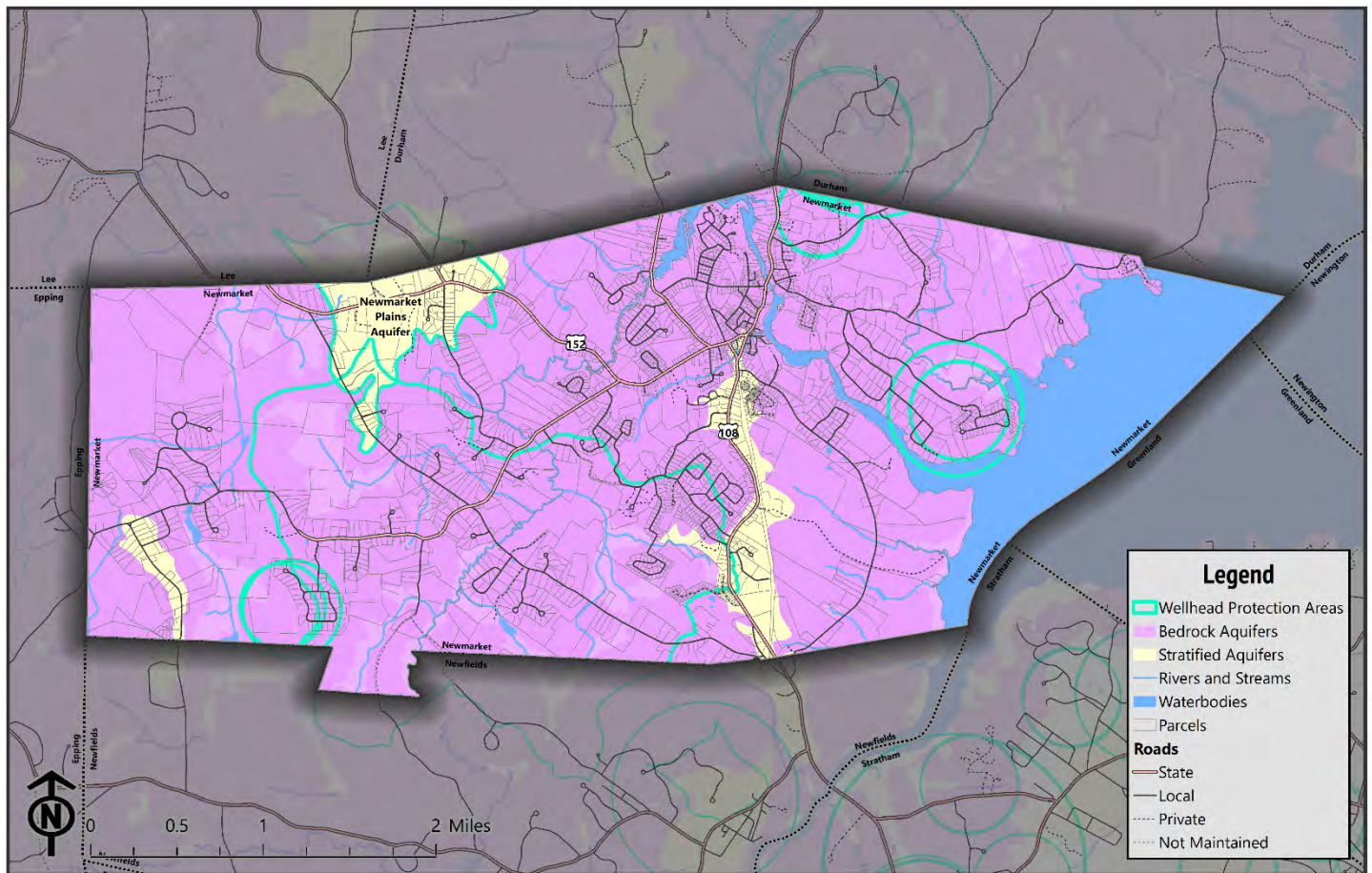
Surface Water	Acreage	% Total Water Area
Lamprey River (Freshwater)	16.8	1.6
Lamprey River (Tidal)	23.1	2.2
Lakes (Impoundments)	33.4	3.2
Ponds	95.2	9.1
Great Bay	877.7	83.9
Total	1,046.2	100

[Source: NH Hydrography Dataset]

Newmarket's many small ponds and other unnamed surface water bodies are typically located within large wetland complexes in low lying areas through which rivers, streams, and small unnamed tributaries flow.

### Groundwater Policy Statement

*Protect the volume and quality of groundwater resources for current and future sources of drinking water, and to sustain downstream surface waters and wetlands through appropriate policy and regulatory measures.*



Map 3. Newmarket's Groundwater Resources [Source: USGS, NHDES]

<sup>6</sup> Great Bay Stewards. (2019). Great Bay Map, NH & ME. [online] Available at: <https://greatbaystewards.org/home-page-great-bay-stewards-supporting-great-bay-estuary-greenland-nh/great-bay-map/> [Accessed 27 Dec. 2019].

## Stratified Drift Aquifers

Stratified drift aquifers consist of well-sorted sand and gravel deposits that are typically laid out in layers by historic glacial outwash streams and rivers. Depending on the depth and the coarseness of the material, these deposits generally provide good sources of groundwater because of their high capacity to store groundwater over large areas.

Table 3: Acres of Stratified Drift and Bedrock Aquifers

Type	Acres	% of Total Municipal Area
Stratified Drift	657.5	7.2
Bedrock Aquifers	8,127	89.5
Total	8,784.5	96.7

[Source: NH GRANIT]

### *Newmarket Plains Aquifer*

The Town's most productive groundwater resource is a stratified drift aquifer generally referred to as the Newmarket Plains Aquifer located in the northwest part of town along Route 152 near Lee Hook Road. The surficial area of the aquifer is approximately 410 acres (0.64 square miles) and is about 60 to 80 feet deep at its deepest point.<sup>7</sup> The Newmarket Plains Aquifer represents the Town's primary source of drinking water from two municipal wells, the Bennett and Sewall Wells. The Bennett Well was installed in 1974 and is 48 feet deep. The Sewall Well was installed in 1985 and is 83 feet deep. Historically, these two wells were thought to produce a safe yield of 200 and 260 gallons per minute (gpm) of high-quality drinking water that requires minimal treatment. The drought conditions in 2016 resulted in revised safe yield estimates of 110 and 155 gpm, respectively. This is a major reduction in the Town's water supply capabilities.

There are only two other identified stratified-drift aquifer deposits in Newmarket. One exists along Bald Hill Road in the western portion of the town, and the other deposit is situated directly beneath Route 108 and extends from about the Rockingham Golf Course area north to about the railroad crossing. Neither of these deposits are considered to have high water supply potential because these deposits are relatively shallow with depths of less than 20 feet and are also narrow extending out only 300 to 400 feet in width. In addition, the existing development along Route 108 presents a risk of contamination.

## Bedrock Aquifers

Bedrock aquifers are composed of fractured bedrock or ledge. Groundwater is stored in voids that are created by these fractures. On average, bedrock aquifers tend to yield smaller volumes of groundwater than wells drilled in stratified drift and finding one sizable enough void or fracture can be a costly procedure. Areas of Newmarket not covered by stratified drift deposits are underlain by bedrock. Typically, most bedrock has variable water yield depending on subsurface conditions (i.e. type of bedrock and the degree of fracturing and connectivity).

In 2016, the Town put the MacIntosh Well on-line. This well has a safe yield of 300 gpm, but due to water quality issues, this well must be blended with water from the other two wells. As a result, Bennett and Sewall Wells must be operating at 100% of their safe yield to pump MacIntosh at 300 gpm. The Town has permitted a fourth well (Tucker Well) but has not developed this well or tied it into the distribution system. This well has a permitted

<sup>7</sup> Richard B. Moore, *Geohydrologic and Groundwater Quality Data for Stratified-drift Aquifers in the Exeter, Lamprey and Oyster River Basins, Southeastern New Hampshire*, USGS, 1990. Available at <https://pubs.usgs.gov/wri/1988/4128/report.pdf>.

capacity of 275 gpm, but like the Macintosh Well, will likely be limited by water quality issues to less than this capacity unless the water is treated.

## Federal/State Protection Measures

### *Shoreland Water Quality Protection Act*

The Shoreland Water Quality Protection Act, originally named the Comprehensive Shoreland Protection Act (CSPA), was enacted into law in the 1991 session of the Legislature. The act establishes minimum standards for the subdivision, use, and development of shorelands adjacent to the state's public water bodies. During the 2011 legislative session, the CSPA was renamed to the Shoreland Water Quality Protection Act and included changes to vegetation requirements within the natural woodland and waterfront buffers, the impervious surface limitations and included a new shoreland permit by notification process.

### *Alteration of Terrain Permit*

The NHDES has jurisdictional review and a permitting process for all land development activities that will disturb an area of more than 100,000 square feet, or 50,000 square feet in locations within 250 feet of a designated public water body, to ensure that adequate erosion control and storm water management measures will be implemented to treat runoff before it leaves the proposed site.

### *Groundwater Protection Act*

The Groundwater Protection Act (RSA 485-C) was passed in 1991. This legislation recognized that a variety of activities involve the use of materials that can, if not properly handled, contaminate groundwater. There have been numerous instances of groundwater contamination in New Hampshire from leaking storage facilities, improper waste disposal, accidental spills, and from normal use of these materials. The Groundwater Protection Act directed the New Hampshire Department of Environmental Services (NHDES) to adopt rules specifying best management practices (BMPs) for the Potential Contamination Sources (PCSs) as defined by RSA 485-C.

### *NHDES 2015 Model Groundwater Protection Ordinance*

This model was created in response to municipal officials requesting more local tools to protect stratified-drift aquifers. The model provides an example of an ordinance that complies with state laws and is consistent with current approaches to groundwater protection.

### *NH Code of Administrative Rules Part Env-Wq 401 Best Management Practices for Groundwater Protection*

These rules apply to all potential contamination sources in the state. The BMPs within the rules are essentially common-sense operating practices that are simple and economical to implement. The purpose of the BMPs is to help prevent a release of regulated substances, as defined under this rule. Regulated substances include oil, as defined under RSA 146-A, III, regulated contaminants established pursuant to RSA 485-C:6, and hazardous substances listed under the Code of Federal Regulation (CFR), within 40 CFR § 302. Cleaning up the release of a regulated substance can be very expensive. Following the BMP rules reduces environmental liability and minimizes potential cleanup costs.

### *NH Code of Administrative Rules Part Env-Dw 302 Large Production Wells and Wells for Large Community Water Systems*

The purpose of these rules is to implement portions of RSA 485, the New Hampshire Safe Drinking Water Act, pertaining to the department's obligation to approve public water systems, by establishing procedures and standards for the development of large production wells for community water systems (CWS) in order to ensure that such wells will be capable of producing an adequate supply of water that meets drinking water quality standards.

## Existing Local Protection Measures

### *Shoreline Protection Overlay District*

The Shoreland Protection Overlay District shall include all land within 250 feet of the reference line. The applicable water bodies are designated on the Newmarket Shoreland Protection Overlay District Map, as amended. In Newmarket, these include all tidal waters of Great Bay, the Lamprey River and Lubberland Creek, the non-tidal portion of the Lamprey River, the impoundment above the Macallen Dam, and the Piscassic River. General requirements outline that all primary structures be setback 125 feet from the reference line, while accessory structures shall be setback at least 20 feet from the reference line.

### *Class A Watershed Protection Overlay District*

Septic systems shall be set back a minimum of 150 feet from the reference line of all Class A surface waters. The definition of "reference line," pursuant to RSA 483-B:4(XVII)(d), shall be the ordinary high-water mark. Class A surface waters in Newmarket include the Piscassic River and Follett's Brook. Septic systems shall be setback a minimum of 150 feet from the reference line of all Class A surface waters.

### *Aquifer Protection Overlay District*

The Aquifer Protection Overlay District shall include all land identified as stratified drift aquifer (of any kind) in the vicinity of Newmarket Plains (along NH Route 152, Lee Hook Road, Langs Lane, and Ash Swamp Road) on Plate 6 of the report entitled "Geohydrology and Water Quality of Stratified Drift Aquifers in the Exeter, Lamprey, and Oyster River Basins, Southeastern New Hampshire" ([USGS, Water Resources Investigations Report 88-4128, 1990 revised](#)); as well as the wellhead protection area designated by the map: Wellhead Protection Area - WHPA Delineation Map, as contained in a letter report dated October 3, 2006 to the Town of Newmarket entitled "Delineation of Newmarket Plans Aquifer Wellhead Protection Area" (Comprehensive Environmental Incorporated (CEI)).

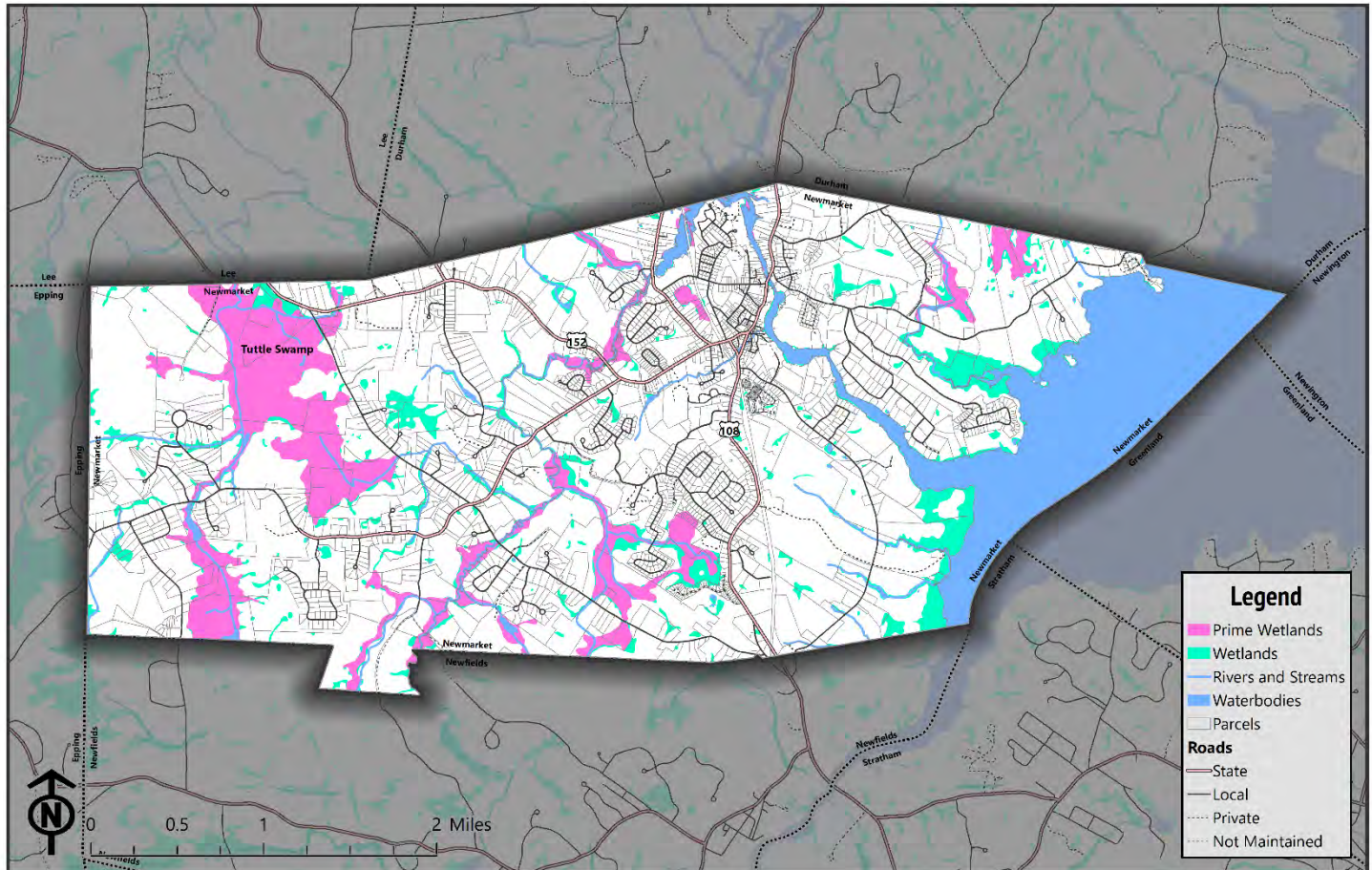
## Recommendations

1. Review the current Aquifer Protection Overlay District with the state's updated model ordinance to recommend any necessary revisions.
2. Review all permitted uses within the base zoning districts to ensure that high intensity uses are consistent and in sync with the goals and objectives outlined in the Master Plan.
3. Evaluate the current regulations and ordinances with regards to septic system setbacks to ensure all waterbodies are adequately protected.
4. Continue to support local watershed groups and organizations.
5. Investigate funding opportunities to help pay for the development of watershed-based plans to recommend methods to address specific impairments identified in the 303(d) list.
6. Use resources, such as the NH [Statewide Asset Data Exchange System](#) (SADES) crossing database, [Resilient Tidal Crossing Assessment](#), and the C-RiSe climate ready culvert analysis, to identify infrastructure projects for inclusion in the Capital Improvements Plan that would assist with long-term planning decisions regarding the placement, design, and size of new culverts or when upgrades and repairs are being made to existing culverts. Site specific projects include the replacement of the Grant Road and Ash Swamp Road crossings over the Piscassic River to help restore surface waters to natural, free flowing systems, and the replacement of the Route 108 crossing over the northernmost unnamed perennial stream behind the Newmarket Storage that flows easterly beneath New Road into Great Bay to improve wetland function.

# Wetlands

## Wetlands Policy Statement

Implement comprehensive protection of wetlands, particularly prime wetlands, and their buffers through regulatory, educational, and voluntary efforts to maintain and protect their critical functions and values.



Map 4. Newmarket's Wetland Resources [Source: National Wetlands Inventory]

## Overview of Wetlands

New Hampshire State Statute RSA 482-A:2 (X) defines wetlands as an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. According to the [New Hampshire Water Resources Primer](#)<sup>8</sup>, wetlands share three characteristics:

- 1) standing water or water at or near the ground surface during some portion of the growing season;
- 2) soils with characteristics that show they are saturated some of the time; and
- 3) plants adapted to growing in saturated soils.

<sup>8</sup> All, or individual chapters, of the Water Resources Primer can be accessed and downloaded at the following website: <https://www.des.nh.gov/organization/divisions/water/dwgb/wrpp/primer.htm>



State jurisdiction of wetlands is found in NHDES Administrative Rules Chapter [Env-Wt 100](#), and states that a jurisdictional area is subject to regulation under RSA 482-A, including but not limited to surface waters, streams, lakes, rivers, ponds, wetlands, banks, flats, shores, sand dunes, upland tidal buffer zones, and duly-established 100-foot buffers.

There is tremendous diversity in the types of wetlands found in the state. Tidal marshes and mud flats, freshwater red maple swamps, bogs, vernal pools, Atlantic white cedar swamps and wet meadows are all wetland types found in New Hampshire.

### Wetlands in Newmarket

Wetlands identified by the U.S. Fish & Wildlife Service, National Wetlands Inventory (NWI) are summarized below by major wetland type and acreage. The total area of NWI wetlands mapped in Newmarket is 2,185.84 acres or nearly 24.07% of the Town's total area.

Table 4: Wetlands in Newmarket

Wetland Type	Acres	% of Total Municipal Area
Estuarine and Marine Deepwater	573.71 Acres	6.32%
Estuarine and Marine Wetland	533.34 Acres	5.87%
Freshwater Emergent Wetland	176.81 Acres	1.95%
Freshwater Forested/Shrub Wetland	783.34 Acres	8.63%
Freshwater Pond	78.87 Acres	0.87%
Lake	20.61 Acres	0.23%
Riverine	19.12 Acres	0.21%
<b>Total</b>	<b>2,185.84 Acres</b>	<b>24.07%</b>

[Source: National Wetlands Inventory]

Most wetlands in Newmarket are in coastal transition zones, where tidal seawater meets freshwater rivers. A large wetland area, known locally as Tuttle Swamp, extends from Lee into Newmarket along the western side of Ash Swamp Road with a smaller area on the eastern side of Ash Swamp Road. This wetland is a major groundwater discharge area that receives drainage from the surrounding upland areas. The northern half of Tuttle Swamp discharges to the Lamprey River in Lee while the southern half and eastern areas of the wetland system discharge to the Piscassic River. This wetland, combined with others in the area, provide flood control during high flow periods.

In addition to Tuttle Swamp, there are extensive wetlands within the Piscassic River and Follett's Brook drainage areas. These wetlands provide for flood control during high flow periods. Other wetland areas of note include the extensive salt marshes along the Great Bay shoreline near New Road and in the north near Lubberland Creek. Aside from water-related issues, these wetlands provide an extensive network of habitat for a variety of flora and fauna.

### Did you know?

Given the important functions and values of wetlands described above, there have been several attempts to place an economic value on wetland resources. In 2002, a study by the Clean Water Network estimated the economic value of New Hampshire's remaining wetlands to be approximately \$1.2 billion.

[Source: New Hampshire Water Resources Primer: Chapter 5 Wetlands]

## Unique and Important Wetland Habitats

Wetlands are important for removing excess nutrients and sediment from the water, slowing and storing floodwaters, promoting groundwater infiltration, and providing habitat for a variety of vegetation and wildlife. In addition, wetlands provide recreational, educational and research opportunities.

### Salt Marsh

Salt marshes (*Spartina patens* and *Spartina alterniflora*) are intertidal wetlands typically located in low energy environments such as estuaries. They exist both as expansive meadow marshes and as narrow fringing marshes along shorelines. Salt marshes are considered one of the most productive ecosystems in the world due to high rates of plant growth. They provide important ecological functions, including shoreline stabilization, wildlife habitat, and nutrient cycling, and serve as important breeding, refuge, and forage habitats for many species of crustaceans and other invertebrates, and fish.



View of Great Bay salt marsh  
[Photo Credit: Bill Doucet]

Salt marshes are important components of the food web base that support all estuarine invertebrates, fish, and birds, and provide important, often essential, habitat for hundreds of other species. The ecological services provided by eelgrass and salt marshes include protection from shoreline erosion, nutrient and sediment trapping, and pollution filtration. Salt marshes are a scarce habitat type, occupying only about 0.1% of the land area of New Hampshire.

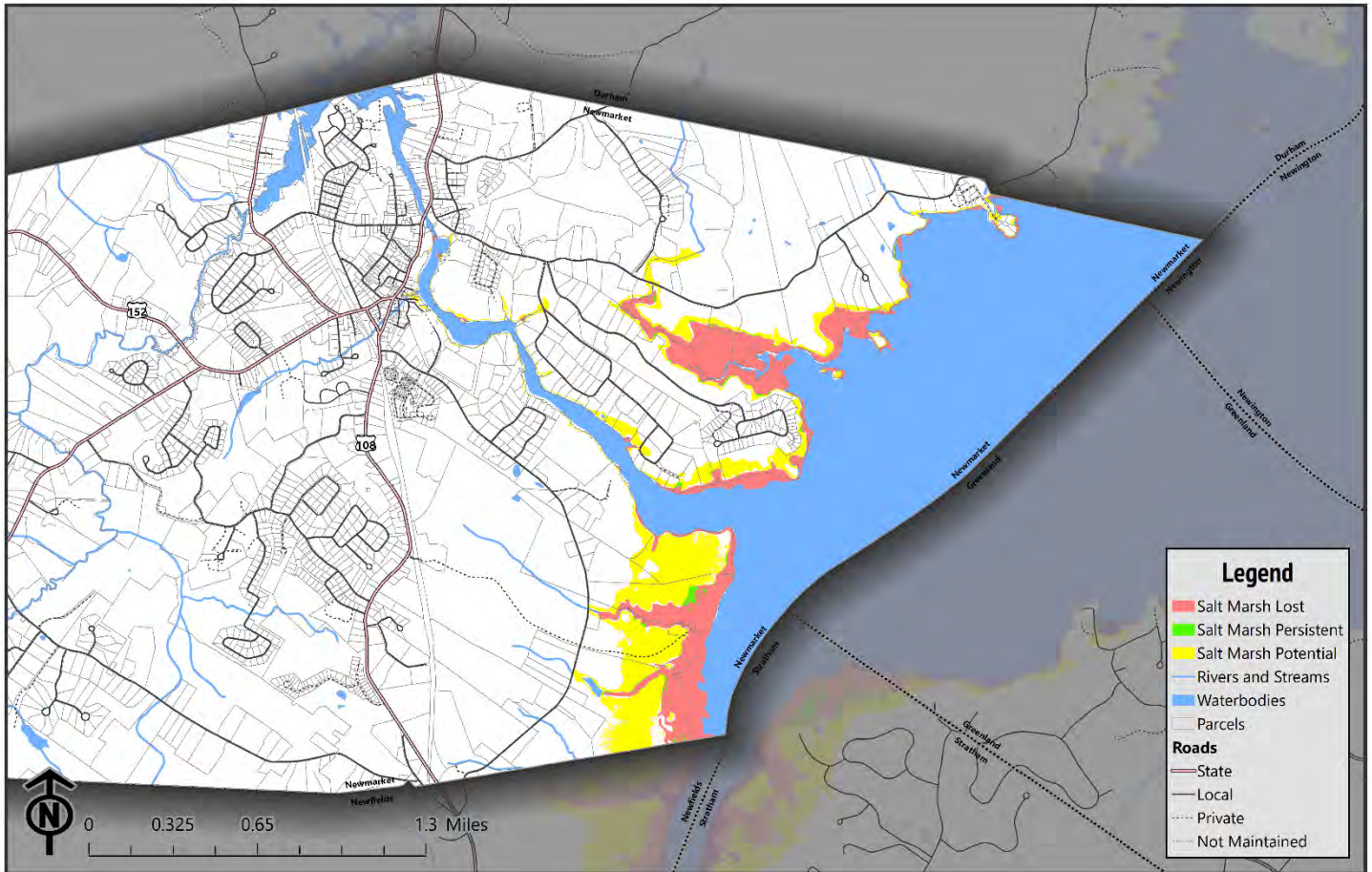
The following information was extracted from the [Wildlife Action Plan: Appendix B](#), rising sea levels will likely have the greatest impacts on current salt marsh habitats; however, many scientists believe these systems can keep pace with sea level rise by migrating landward if there is an adequate supply of sediment or peat build up and no natural, or human-made, barriers present. Future sea level rise scenarios predict that, if not able to migrate, much of today's low marsh will be mostly submerged and transformed into mudflats or sub-tidal bays. Current high marsh will change to low marsh, and high marsh will likely migrate upland several feet (if allowed).

According to the Sea-Level Affecting Marsh Migration (SLAMM) model<sup>9</sup>, Newmarket is a community within the coastal watershed where current conditions allow for potential salt marsh growth as sea levels rise. In fact, upwards of 170.7 acres of potential salt marsh will have the opportunity to migrate into surrounding upland areas as sea levels rise. The Town may, however, lose approximately 169.9 acres of salt marsh habitat due to coastal inundation (see Table 5).

<b>2100 Timeframe with 6.6 feet of SLR</b>	<b>Total Acreage</b>
Salt marsh lost	169.9
Salt marsh persistent	5.7
Salt marsh potential	170.7
[Source: New Hampshire Fish & Game, 2014]	

<sup>9</sup> This model simulates the dominant processes involved in wetland conversion and shoreline modification under different scenarios of sea level rise. SLAMM tracks the rise of water levels and the salt boundary in 25-year time steps and predicts changes to wetland habitat based on known relationships between wetland types and tide ranges. This information is available [here](#).

Tidal areas with the highest potential for salt marsh migration are found along the outskirts of the existing marsh system around Lubberland Creek, the tidal portion of the Lamprey River, and the shoreline of Great Bay east of New Road and north of the Squamscott River confluence. Protecting riparian areas through living shoreline efforts and best management practices is likely to retain the functions of these natural systems.



Map 5. Potential Salt Marsh Migration in Newmarket [Source: NH Fish and Game]

### Did you know?

In 2019, the Town of Newmarket, in partnership with The Nature Conservancy and NH Coastal Program, completed a tidal culvert replacement project on Bay Road over Lubberland Creek that will support fish passage, salt marsh migration, and reduce ongoing flooding issues in the area.

In May 2019, a report titled "[Resilient Tidal Crossing: An Assessment and Prioritization to Address New Hampshire's Tidal Crossing Infrastructure for Coastal Resilience](#)"<sup>10</sup> was published with a focus on enhancing coastal resilience for both human and natural communities. The report identified a culvert on New Road as a high priority for replacement due to the crossing being in poor condition, restrictive, and exhibiting high erosion; however, offers little potential for salt marsh migration.

<sup>10</sup> Weblink here: <https://www.des.nh.gov/organization/divisions/water/wmb/coastal/documents/r-wd-19-20-compiled.pdf>

### *Prime Wetlands*

Prime wetlands are designated by a municipality according to the requirements of RSA 482-A: 15 and Chapter Env-Wt 700 of the NHDES Administrative Rules. The designation of these wetlands must then be adopted by the municipality by vote of the residents after undertaking a process comparable to the adoption of zoning ordinances. Prime wetlands that were designated between September 11, 2009 and August 17, 2012 are subject to an additional 100-foot buffer; however, Newmarket's prime wetlands were designated in 2006, a period in which no additional buffers were required.

### *Vernal Pools*

Vernal pools are temporary bodies of water that flood each year for a limited time during wet months, typically early spring to mid- or late summer months. Their common characteristics are the absence of fish, temporary flooding regime, and the presence of vernal pool species. The hydrology of vernal pools is maintained primarily by runoff from melting snow and precipitation, and in some cases groundwater flow. Vernal pools usually dry up by mid- to late summer, depending upon climate factors such as the amount of rain and temperature. Species typically found in vernal pools in New Hampshire include: Wood Frog, Spring Peeper, Green Frog or Bullfrog, Spotted Salamander, Jefferson Salamander, Blue-spotted Salamander, Marbled Salamander, Eastern Spotted Newt, Four-toed Salamander, Fairy Shrimp, Spotted Turtle, Blanding's Turtle and Wood Turtle.<sup>11</sup> Except for the Marbled Salamander, these species are present in some of Newmarket's wetlands. The [Identifying and Documenting Vernal Pools in New Hampshire](#) is a useful tool that can be used to help train the public to identify and document vernal pool habitat.

### Federal/State Protection Measures

#### *NHDES Fill and Dredge in Wetlands*

The mission of the Wetlands Bureau is to protect, maintain and enhance the environmental quality in New Hampshire through the powers set forth in RSA 482-A to regulate impacts to those areas wherever the tide ebbs and flows or freshwater flows or stands by requiring a permit for dredge or fill or construction of structures in wetlands or other waters of the state. The law also protects sand dunes and upland tidal buffer zones. RSA-482-A and the rules promulgated under that law require that projects be designed to avoid and minimize impacts to wetlands and other jurisdictional areas.

### Existing Local Protection Measures

#### *Wetland Protection Overlay District*

The wetlands protection overlay district shall include all areas of land that meet the criteria of the NHDES Wetlands Bureau rules for determination of wetlands, poorly drained and very poorly drained soils (as amended), prime wetlands, as delineated by the Newmarket Conservation Commission and approved in accordance with RSA 482-A:15 (as amended) and associated buffers. Current regulations include:

- 1) Prime wetlands: There shall be no disturbance of any kind (including but not limited to construction, filling, dredging and the removal of vegetation) within a prime wetland or within a buffer area within 75 feet around the prime wetland. Structures shall be set back a minimum of 100 feet from prime wetlands. On-site septic systems shall be set back a minimum of 125 feet from prime wetlands.
- 2) Very poorly drained soils (hydric A):<sup>12</sup> Such wetlands shall not be included in the minimum lot size or as part of any lot density calculation as required by any provision of this chapter. There shall be no

<sup>11</sup> New Hampshire Audubon Society, *Conservation Fact Sheet: Vernal Pools*, 1998.

<sup>12</sup> A map (Map #6) of very poorly and poorly drained soils can be found in the Appendix of this chapter.

disturbance of any kind (including but not limited to construction, filling, dredging and the removal of vegetation unless in accordance with the provisions of this chapter) within such wetlands or within a buffer area 50 feet around such wetlands.

- 3) Poorly drained soils (hydric B): Such wetlands may be used to fulfill up to 25 percent of the area of the minimum lot size or 25 percent of any lot density requirement as part of any section of this chapter. There shall be no disturbance of any kind (including but not limited to construction, filling, dredging and the removal of vegetation unless in accordance with the provisions of this chapter) within such wetlands or within a buffer area 25 feet around such wetlands.

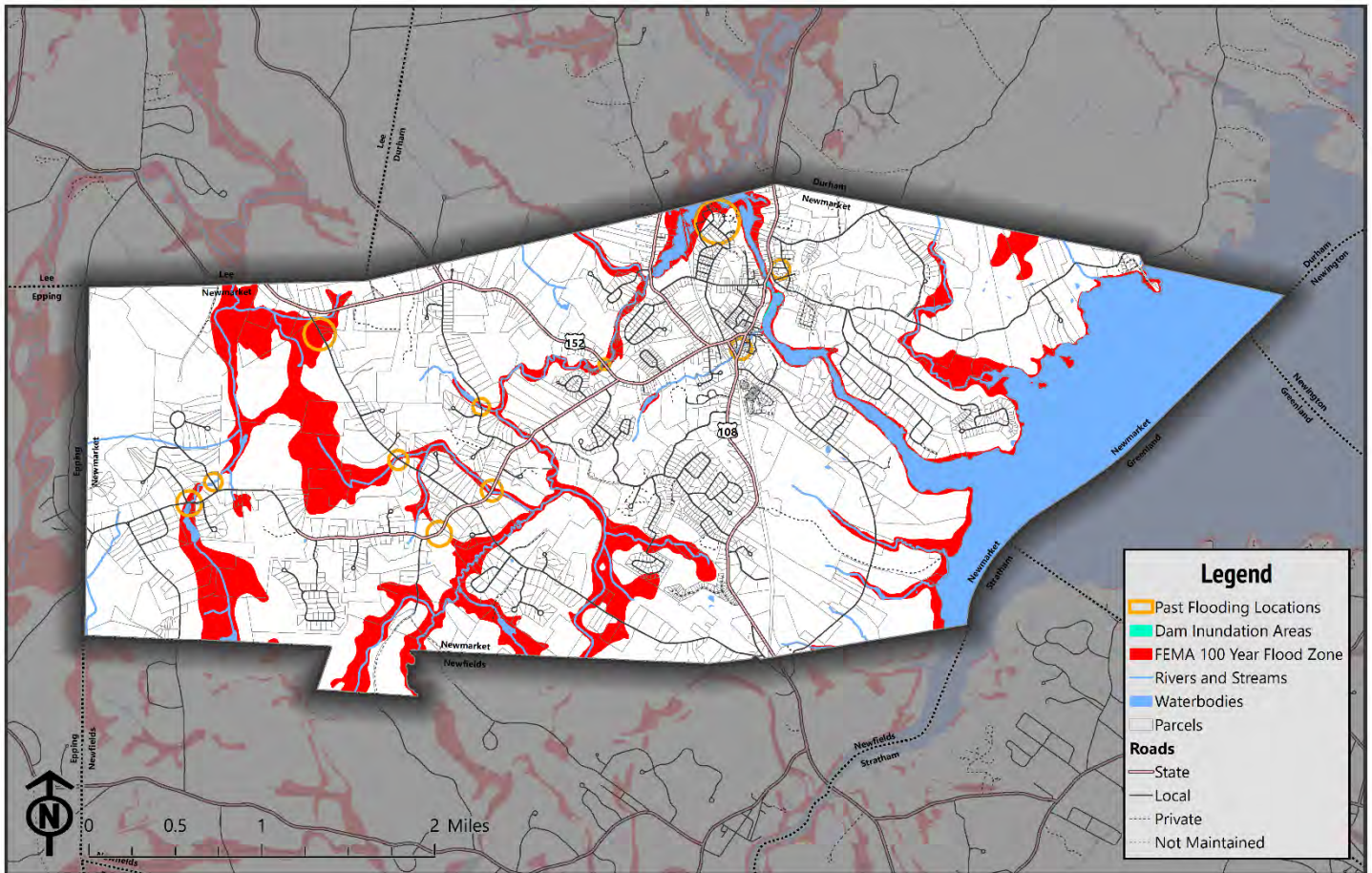
## Recommendations

1. Explore funding opportunities to conduct a town-wide vernal pool inventory to locate, document, and map vernal pools in Newmarket.
2. Update the Town's Prime Wetland Maps and associated GIS layers that were completed in 2006 using new available GIS and Lidar data.
3. Compare the existing Wetland Protection Overlay District with new state rules and make necessary revisions to be consistent with jurisdictional areas and other state-level changes.
4. Collaborate with local, regional, and statewide partners to identify other wetland mitigation projects or restoration opportunities.
5. Consider adopting stricter buffer requirements for setbacks to wetlands that include consideration of climate change in order to protect land that allows coastal habitats and populations to adapt to changing conditions and also provides ecosystem services that protect people, structures, and facilities.

# Floodplains

## Floodplain Management Policy Statement

Implement regulatory, educational, and voluntary measures that incorporate the latest science on climate change to improve resiliency against future events, maintain the natural functions of floodplains, and minimize damage to municipal and private property.



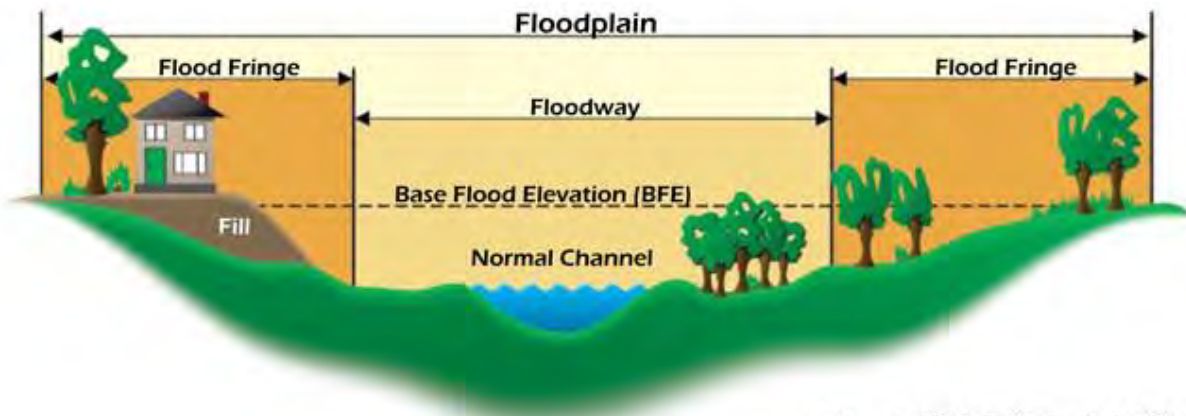
Map 7. Newmarket's Existing Floodplains [Source: FEMA Digital Flood Insurance Rate Map (DFIRM) 2005]

## Overview of Floodplains

Floodplains are generally low-lying areas adjacent to rivers, streams, and other surface water bodies, which are susceptible to flooding. Floodplains perform an important water storage function during storm events and periods of excessive water run-off, by storing water temporarily and gradually releasing it back into the drain system or infiltrating floodwater into the subsurface where it is discharged to streams and recharge groundwater.

Refer to the diagram below for the components of a floodplain: normal channel, floodway, fringe, and flood hazard area or 100-year floodplain. The floodway and flood fringe serve as critical floodwater storage areas, and the floodplain vegetation acts to slow the velocity of floodwaters and reduce erosion of the floodplain and adjacent lands.

Figure 2. Characteristics of a Floodplain



Source: NFIP Guidebook, FEMA

Although the flood mitigation capacity of floodplains is relatively well protected by federal and local regulations, other factors can contribute to increased flooding. These factors include: increases in impervious surface coverage, filling of wetlands in the upper watersheds, stormwater management practices that increase peak flow rates, inadequate infrastructure to accommodate current storm flow volumes, beaver dams and less natural dissipation of flood flows through infiltration and interception by trees and vegetation.

### Special Flood Hazard Areas

According to the Federal Emergency Management Agency (FEMA), flood hazard areas identified on the Flood Insurance Rate Map are identified as a Special Flood Hazard Area (SFHA). SFHA are defined as the area that will be inundated by the flood event having a 1-percent chance of flooding being equaled or exceeded in any given and a 26% chance of flooding over the life of a 30-year mortgage. In communities that participate in the National Flood Insurance Program, mandatory flood insurance purchase requirements apply to all high-risk zones.

### Riverine and Coastal Flooding and Flood Prone Areas in Newmarket

Riverine flooding is the most common natural disaster to impact New Hampshire. Riverine flooding occurs when surface water runoff introduced into streams and rivers exceeds the capacity of the natural or constructed channels to accommodate the flow. As a result, water overflows the river banks and spills out into adjacent low lying areas.<sup>13</sup> Floods are most likely to occur in the spring due to the increase in rainfall and the melting of snow; however, floods can occur at any time of the year because of heavy rains, hurricane, or a Nor'easter.

According to the [2018 Hazard Mitigation Plan Update](#), Newmarket has approximately 24.0% (2,183.4 acres) of its area in 100-yr. floodplain. It should be noted that this estimation is likely overstated since the FEMA floodplain contains open water. If the tidal portions along the Lamprey River and Great Bay were removed, the approximate acreage may be more accurately depicted as 12.6%. Based on extent of the floodplain, the Town has flooding potential along the Lamprey River and the Piscassic River. The Lubberland Creek, Follett Brook and Tuttle Swamp area, as well as along the tributaries to the Great Bay, also have an expansive floodplain area (1,144.1 acres). Newmarket has no existing man-made flood control measures. The Macallen Dam, originally built in 1887, does have floodgates; however, the dam's primary function is for recreation not for flood control.

<sup>13</sup> [FEMA Training Chapter 2 Types of Floods and Floodplains](#)

Coastal flooding is often associated with storm surge, extreme precipitation events, and sea-level rise, and can be devastating to human health and safety, public and private structures and facilities, and the economies of coastal and inland coastal communities. Results of the [2017 C-RiSe](#) assessment report state that the inland coastal portion of Newmarket that is most susceptible to coastal flooding are those areas located south of the Macallen Dam on the west side of the Lamprey River near the downtown, low-lying areas around Lubberland Creek, and low-lying land south of the Lamprey River along Great Bay.



King Tide flooding at pump station on Creighton St.  
Photo Credit: Kyle Pimental

### Past Flooding Events

During extreme flood events, floodwaters from the Lamprey River overflow NH Route 108 upstream in Durham and are diverted into the Oyster River basin. This diversion of floodwaters reduces peak flood discharges of the Lamprey River by approximately 20 percent before it reaches the town.<sup>14</sup> Between 2016-2018, NHDOT completed major roadway construction on Route 108, which included grade changes and drainage improvements, to construct 4-foot bike shoulders and other miscellaneous safety improvements. According to the Town's consultants, these alterations had little impact on improving or worsening flooding problems along this stretch of roadway; however, a separate project in a similar location in Durham was determined, if built, would negatively impact downstream systems and was redesigned. The Oyster River drainage basin remains an important flood protection and mitigation function for the Town, and regional projects within this sub-watershed should be carefully planned to reduce impacts upstream and down.

Numerous floods have been recorded on the Lamprey River since the U.S. Geological Survey (USGS) installed a gauging station near Packers Falls in Durham in July 1934. Historically, the two largest flood events since 1934 occurred in March 1936 (peak discharge of 5,490 cubic feet per second) and April 1987 (peak discharge of 7,500 cubic feet per second). These events had estimated frequencies of 25 and 100 years, respectively. In recent years, these historical flood events were exceeded in spring 2006 and 2007.



Overturned Jeep on Exeter Street during flooding  
Photo Credit: Town of Newmarket

### May 2006 Mother's Day Flood Event

From May 11-15 2006, central and southern New Hampshire experienced severe flooding caused by as much as 14 inches of rainfall. In addition to the precipitation volume being exceptional, the month of May 2006 was the second wettest May in New Hampshire on record (based on NOAA data). The U.S. Geologic Survey Lamprey River gauging station located near Packers Falls Road Bridge measured the highest flow ever recorded of approximately 8,970 cubic feet per second (CFS) on May 16. This flood level was estimated to be a flood event with a recurrence interval between 100 and 500 years. The Piscassic River rose to a level that exceeded its normal drainage basin, entered Moonlight Brook, and was impounded behind the PanAm Railways culvert at the intersection of Gerry Avenue and Exeter Street. The earthen embankment at the railroad arch culvert

<sup>14</sup> Federal Emergency Management Agency, Flood Insurance Study, Town of Newmarket, New Hampshire, Rockingham County, 1991.



subsequently failed and storm flows flooded Route 108, in the “Exeter Street Bowl.” During this flood event, floodwaters in Exeter Street were approximately four feet deep, vehicles were submerged, oil tanks and dumpsters displaced and silt from eroded roadways and foundations was discharged into the Lamprey River. As a result of the flood damage, a presidential disaster declaration was made on May 25, 2006 for seven New Hampshire counties, including Rockingham County.

#### *Patriot's Day 2007 Flood Event*

On April 15 and 16, 2007 nearly seven inches of rain fell in Newmarket. The U.S. Geologic Survey Lamprey River gauging station located near the Packers Falls Road Bridge measured a peak flow of approximately 8,450 cubic feet per second on April 18, 2007, the second highest flow. This flood level was estimated to have a recurrence interval of just below 100 years. Normal flows for this date would be 654 cubic feet per second. While there was flooding in the “Exeter Street Bowl” again, the damage was not as severe as occurred with the 2006 flood. Flooding in the New Road area extending to Exeter Street was significant necessitating temporary road closures.



Major flooding on Exeter Street “the Bowl” during flooding event  
Photo Credit: Town of Newmarket

Both floods resulted in significant damage to public and personal property in Newmarket. Roads were impassable for days and severely damaged, and residential areas were evacuated due to high water levels and inundation of homes by floodwaters.

#### *Other Localized Events of Significance*

Data gathered from the [2018 Hazard Mitigation Plan Update](#) identified three additional flooding events of consequence, including the spring of 1996, February 2010, and October 2016. The February storm impacted parts of Route 152. The October storm impacted parts of Route 108 and Gerry Ave; however, the issues at Gerry Ave were attributed to beaver damage in a local manhole that backed up water from Moonlight Brook and has not happened since. The Committee could not recall the specifics of this storm other than it caused damage in the “bowl” area on Exeter Street. According to the Flood Insurance Study for Rockingham County (2014), this event had a recurrence interval of approximately 100 years and recorded a peak discharge of 3,060 cubic feet per second (cfs) on parts of the Exeter River in Brentwood.

#### *Compliance with the National Flood Insurance Program*

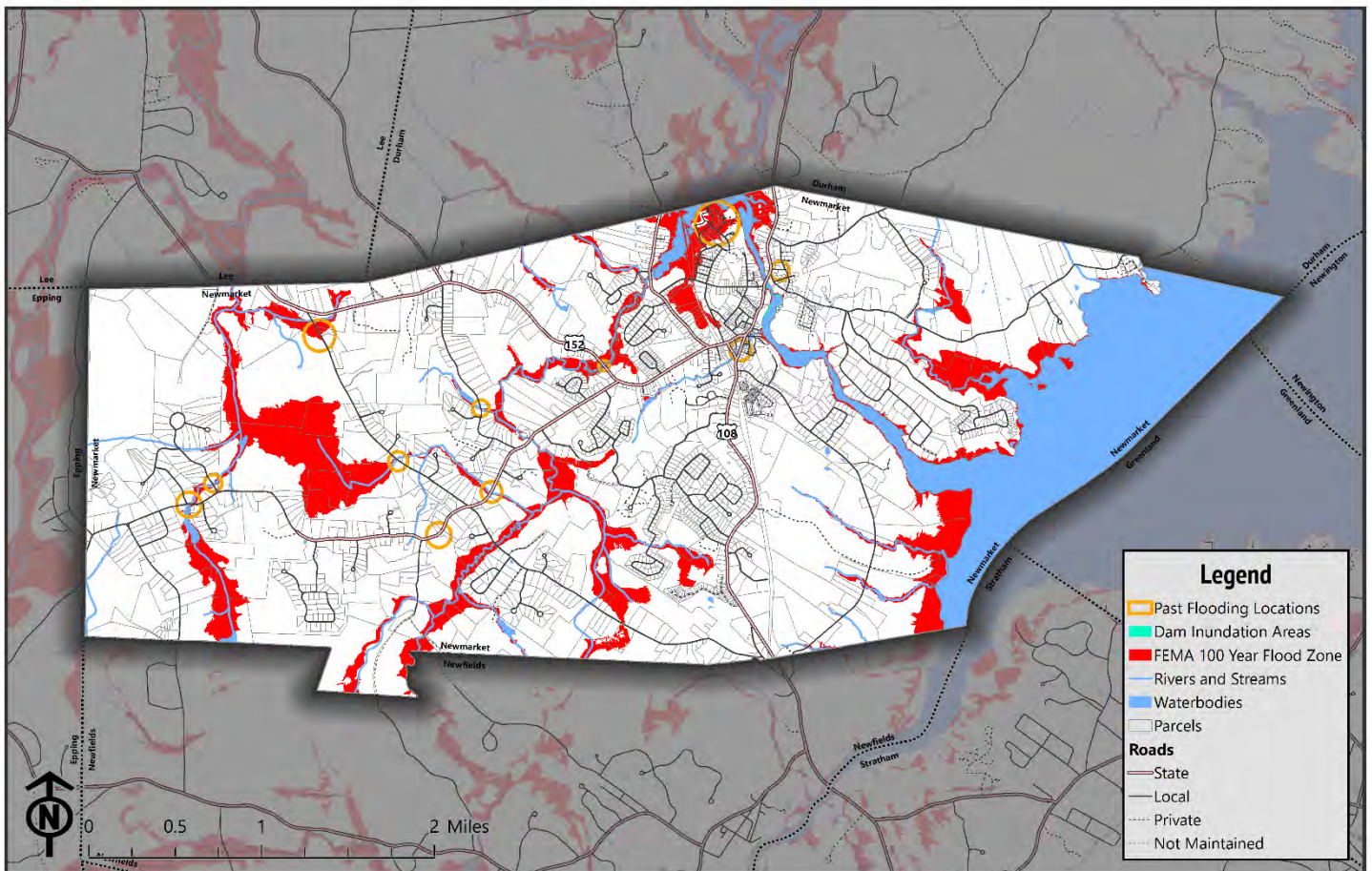
According to FEMA's Community Status Book Report, Newmarket has been a member of the National Flood Insurance Program (NFIP) since May 2, 1991. In order to remain in NFIP compliance, Newmarket has implemented several floodplain management actions, including: providing education materials to homeowners, participating in a FEMA Community Assistance Visit, updating Master Plan Chapters with a focus on climate adaptation and resilience, replacing an undersized culvert over Lubberland Creek, completing a climate study in the Moonlight Brook watershed, and improving drainage at the Middle/High School.

On July 29, 2020, FEMA issued a Letter of Final Determination (LFD) finalizing the preliminary coastal Rockingham County Flood Insurance Rate Maps (FIRMs) and Flood Insurance Study (FIS) report that were originally issued in

2014. The LFD establishes the effective date of the new FIRMs and FIS report and provides communities six months to adopt them prior to the effective date. The FIRM effective date is January 29, 2021.<sup>15</sup>

The new floodplain maps were developed as part of the [Coastal NH Floodplain Mapping Project](#). This effort was conducted to update FEMA flood hazard data for the Atlantic Coast and Great Bay watersheds that dates to the 1970s and 1980s. Drainage patterns have changed due factors such as to land use, surface erosion, and other natural forces. As a result, the likelihood of flooding in some areas has increased significantly. By using sophisticated mapping technology and improved topographic information, the updated maps more accurately represent the risk of flooding; therefore, representing an important tool for Coastal NH communities to use in the effort to reduce risk and create a more resilient community.

According to the new maps, in Newmarket, the total overall amount of floodplain has decreased roughly 8% (184 acres). The 2005 maps show 2,183 acres of floodplain, while the updated 2014 maps (see below) show 1,999 acres. Areas that appear to have experienced the most significant decreases are Tuttle Swamp, along the portions of the unnamed Lamprey River tributary, and a small wetland area north of Bay Road. Areas that experienced an increase in the floodplain include shoreland areas where the two tributaries that cross New Road and flow into Great Bay are located and the residential neighborhoods east of the Piscassic River along Piscassic Street, Cedar Street, and Elm Street south of the Riverside Cemetery.



Map 8. Newmarket's Proposed Floodplains [Source: FEMA DFIRM 2014]

<sup>15</sup> These maps are available at <https://www.fema.gov/flood-maps/tools-resources/risk-map/products>.

## Additional Studies, Plans, and Initiatives

### *New Hampshire Coastal Flood Risk Summary Part 1: Science*

The New Hampshire Coastal Flood Risk Summary – Part 1: Science provides a synthesis of the state of the science relevant to coastal flood risks in New Hampshire. Specifically, this document provides updated projections of sea-level rise, coastal storms, groundwater rise, precipitation, and freshwater flooding for coastal New Hampshire. This information is intended to serve as the scientific foundation for the companion New Hampshire Coastal Flood Risk Summary - Part II: Guidance for Using Scientific Projections and is intended to inform coastal land use planning and decision-making

### *New Hampshire Coastal Flood Risk Summary Part II: Guidance for Using Scientific Projections*

The primary purpose of the 2019 New Hampshire Coastal Flood Risk Summary, Part II: Guidance for Using Scientific Projections (NHCFR Guidance) is to help decision-makers assess and incorporate best available projections for relative sea-level rise (RSLR), coastal storms, RSLR-induced groundwater rise, and extreme precipitation into state and local land use planning and decision-making.

### *Gomez & Sullivan and GZA GeoEnvironmental, Inc.: Macallen Dam Findings*

Gomez and Sullivan Engineers (GSE) were originally contracted by the Town to conduct a dam removal feasibility study. However, as the study progressed the Town broadened the focus of the project to identify other potential alternatives, other than dam removal, to address NHDES requirements to pass the 100-year flood with one foot of freeboard based on past studies and the information gained from the study. Subsequent to that, final design and engineering services related to the rehabilitation of the Macallen Dam were prepared by GZA GeoEnvironmental to provide the Town with conceptual alternatives to choose from in meeting the NHDES letter of deficiency relative to the Macallen Dam. Construction, involving renovations to the dam, is moving forward at the time of this chapter revision, with a completion date of December 2020.

### *Climate Adaptation Plan for the Moonlight Brook Watershed*

In 2016, Newmarket, in partnership with the Horsley Witten Group, participated in a resiliency to flooding and climate change project in the Moonlight Brook watershed. This project was a two part effort to: 1) study flood risk associated with climate change as well as how future development and build out of the community affect these risks, and 2) design robust green infrastructure practices within the Moonlight Brook watershed to help reduce risk of flooding while reducing pollutant load into the Brook and further downstream into the Lamprey River and ultimately Great Bay. Current erosion at Schanda Park, as witnessed by members of the Conservation Commission, indicates increased tidal flooding, as well as impacts from severe rain events at this location.

### *Coastal Risk in the Seacoast: Vulnerability Assessment*

The Climate Risk in the Seacoast (C-RiSe) vulnerability assessment project produced maps and statistical data about the potential impacts to New Hampshire's ten inland coastal municipalities from sea-level rise and storm surge to infrastructure, critical facilities transportation systems, and natural resources. The project also assessed both aquatic organism passage capacity and hydraulic flow capacity of twelve road crossings in each of the ten inland coastal municipalities.



King Tide Flooding at the fishing weir at Schanda Park  
Photo Credit: Kyle Pimental

### *New Hampshire Flood Hazard Handbook: A Guide for Municipal Officials*

The Flood Hazards Handbook was developed and released in 2019 by the New Hampshire Silver Jackets, a unified team of individuals from federal and state agencies. The Silver Jackets work collaboratively on the state's flood risk management priorities and provide technical expertise to help reduce flood risk in New Hampshire communities.

### *A Guide to Assessing Green Infrastructure Costs and Benefits for Flood Reduction*

The purpose of this guide is to provide a process that communities can use to assess the costs and benefits of green infrastructure to reduce flooding. The guide takes a step-by-step, watershed-based approach to documenting the costs of flooding; projecting increased flooding and associated costs under future land use and climate conditions; and calculating benefits and costs of reducing flooding with green infrastructure over the long term.

## Federal/State Protection Measures

### *National Flood Insurance Program*

The National Flood Insurance Program (NFIP), administered by the Federal Emergency Management Agency (FEMA), is designed to manage floodplains, and restrict development in floodplains to reduce flood hazards and structural damage. Under this program, flood hazard areas are mapped and studied in participating communities.

## Existing Local Protection Measures

### *Floodplain Overlay District*

Section 32-158 of the Town's Zoning Ordinance (as revised June 21, 2017) outlines the Town's floodplain development regulations (last updated August 4, 2010). The purposes of the floodplain protection overlay district are to: protect floodplains from development and construction activities which would aggravate flooding; prevent development in locations which would place occupants at risk or which would likely require rescue of occupants by emergency services personnel during floods; protect the floodplains for use as habitat and for the aesthetic qualities; and ensure town compliance with the National Flood Insurance Program. The regulations shall apply to all lands designated as areas of special flood hazard by FEMA in its "Flood Insurance Study for the County of Rockingham, N.H." dated May 17, 2005. The Town has recently received word from FEMA that new modified and flood hazard information and revised map panels will become effective as of January 29, 2021.

## Recommendations

1. Review the updated floodplain model ordinance from NH Office of Strategic Initiatives and update the Town's floodplain ordinance, once FEMA maps are approved and adopted. An outreach campaign targeting existing property owners shall accompany this update.
2. Explore options to develop a creative outreach campaign to educate the public on future coastal flood risk (i.e. high-water mark initiative, participation in the king tide photo contest, etc.) at public spaces such as Schanda Park and Heron Point.
3. Use the New Hampshire Living Shoreline Site Suitability Assessment<sup>16</sup> to identify sites in Newmarket that may be suitable for specific living shoreline approaches to address erosion issues along the tidal shoreline.
4. Incorporate impacts to municipal infrastructure identified in the C-RiSe project into current and future capital infrastructure projects, including water access at Schanda Park, the pump station on Creighton

<sup>16</sup> Download report here: <https://www.des.nh.gov/organization/commissioner/pip/publications/documents/r-wd-19-19.pdf>

Street, and flooding on critical roads such as Treatment Plant Road. This also includes evaluating the extent of sea-level rise and storm surge flooding on individual facilities such as sewer pipes located at the end of Water Street, Creighton Street, and Lamprey Street and the intersection of Bay Road.

5. Revisit the Climate Resiliency in Moonlight Brook report to accomplish the two remaining ICLEI Climate Resilient Communities milestones identified in the plan. Site specific projects include: alleviate flooding in re-occurring areas by redirecting stormwater flows away from downtown in the “bowl “ area on Route 108; installing a new drainage system with a gravel wetlands to provide water quality treatment on New Road and a stormwater outfall on Young Lane; and assess impacts upstream in the watershed at the new drainage system at the Elementary School.
6. Identify and implement green infrastructure and nature-based approaches to improve flood resilience and stormwater management throughout the Town referenced in the New Hampshire Flood Hazard Handbook.
7. Review Appendix C in the Town's 2018 Multi-Hazard Mitigation Plan to identify riverine flooding mitigation approaches, including prevention, property protection, natural resource protection, emergency services, structural projects, and public education.
8. Update the Town's Open Space Plan to strategically identify high value land for future land conservation. Incorporate climate resilience benefits, such as future flood storage salt marsh migration, etc., into scoring criteria to ensure the Town considers climate adaptation benefits when evaluating land for conservation purposes.
9. Integrate climate adaptation measures into all future master plan updates.

# Potential Threats to Water Resources

## Potential Threats to Water Resources Policy Statement

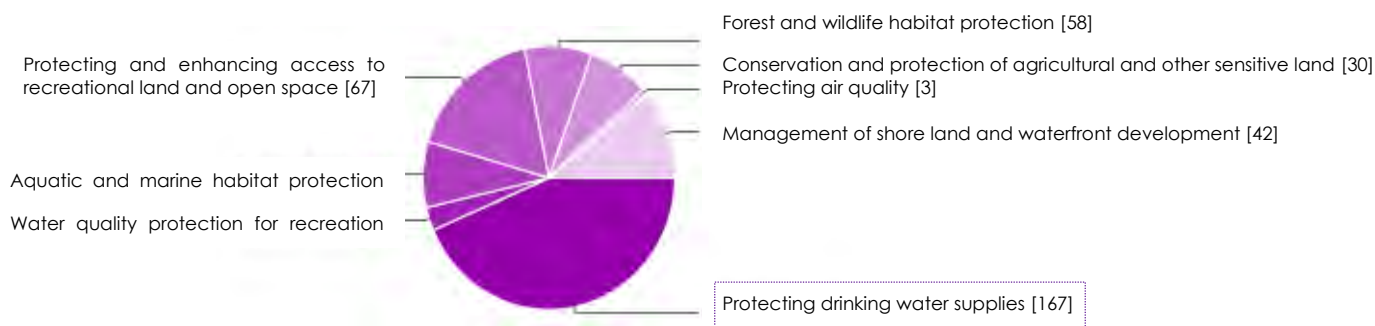
*Protect water quality for drinking water sources and wildlife habitat from current and potential threats to preserve critical functions, benefits, and the ecological integrity of these resources.*

### Overview

In previous iterations of the Water Resources Chapter, Newmarket has approached potential threats to water resources through a point and non-point source threats lens. Based on available data, this worked; however, Newmarket's revised [Vision Chapter of the Master Plan \(2015\)](#) encourages vigorous protection of **ALL** water resources. This chapter update includes a summary of local upgrades and efforts, as well as potential threats based on new information about contaminants, degradation, and climate change impacts.

Figure 3. Results from Visioning Showing the Public's Prioritization of Protecting Drinking Water Supplies

### Which of the following would you place the highest priority on in Newmarket over the next 10 years?



Source: 2015 Master Plan Visioning Public Input

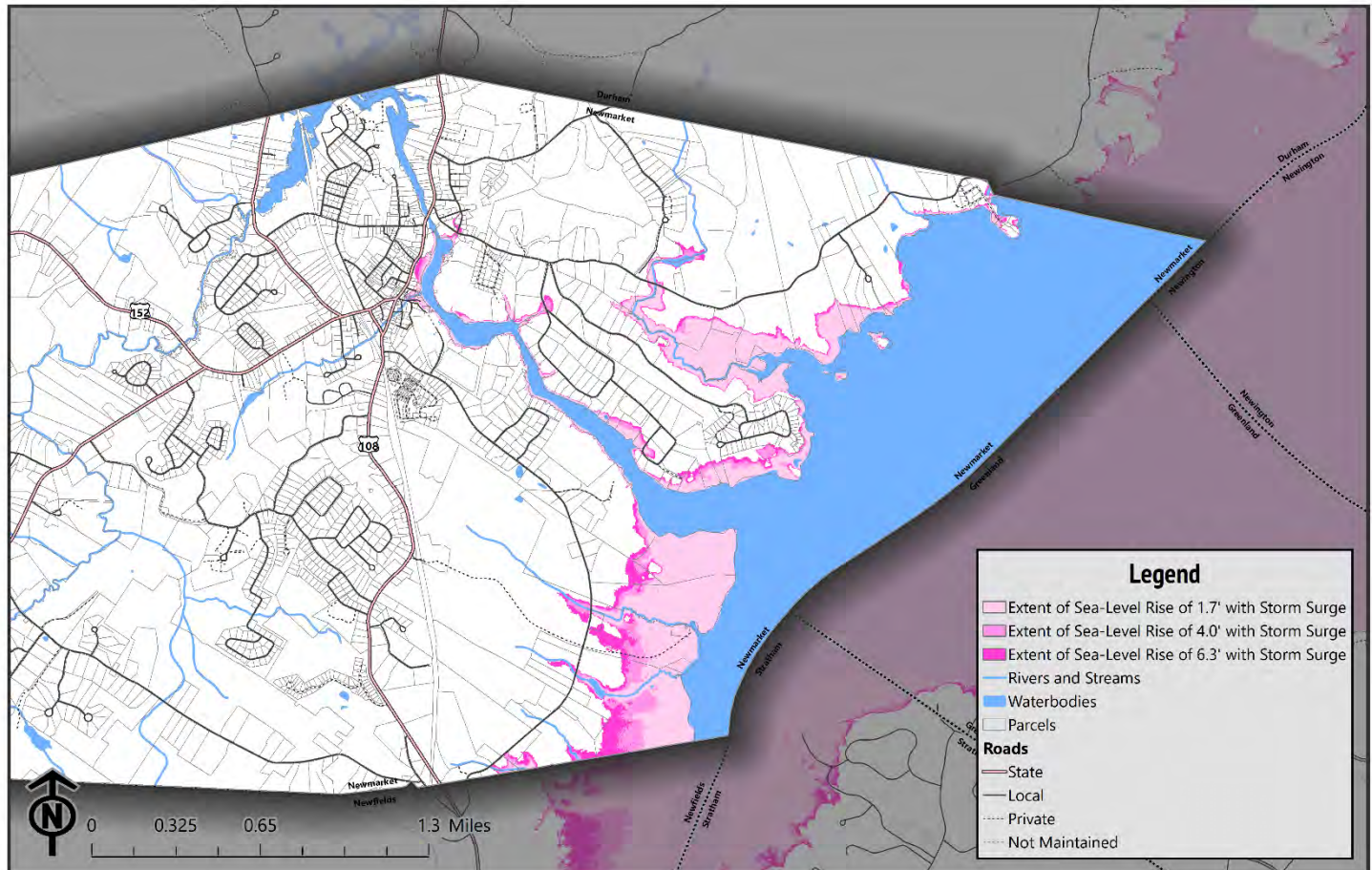
### Local Upgrades and Efforts

Historically, much of Newmarket's attention on threats to water resources has been focused on addressing challenges with the Town's wastewater system and exploring ways to improve it to minimize pollution. The Town's most recent [National Pollution Discharge Elimination System \(NPDES\) Permit](#), which was originally authorized in 2000 and extended in 2011 to 2016, allows the Town to discharge from their Young Lane Wastewater Treatment Plant to the Lamprey River below the Macallen Dam. The most current upgrade to the facility was completed in 2017 and included a 4-Stage Bardenpho process for nitrification and denitrification. This upgrade was given national recognition when the Town was awarded the 2019 PISCES Exceptional Project for Region 1, a first in New Hampshire, and will help the Town meet nitrogen effluent limits and improve the water quality of the Lamprey River and Great Bay Estuary.

Newmarket has also honed in on stormwater runoff, pollution, erosion, and sedimentation. The Town has been proactive in making substantial efforts to reduce the total nitrogen load to the Lamprey River. Strategies include infrastructure maintenance, organic waste and leaf litter collection, enhanced street and pavement cleaning, and stormwater structural BMPs. Lastly, during the development of this chapter, the Town was actively working to develop and implement a water quality program to monitor the effectiveness and in-stream quality response of implementing the 2018 Nitrogen Control Plan as part of the EPA's Administrative Order of Consent.

## Groundwater Threats

While New Hampshire is a relatively water rich state, NHDES [recommends](#) that surface waters are not used as a source for drinking water for private homes because of their risk to contamination. Instead, they suggest groundwater through bedrock wells or wells installed in sand and gravel. The Town withdraws water primarily from the Sewall Well and the Bennett Well (the MacIntosh Well facility was constructed and put into operation in 2016 and the Tucker well is permitted but has yet to be developed).



Map 9. Sea-Level Rise Scenarios in Newmarket [Source: NH GRANIT]

### *Impacts from Sea Level Rise (Groundwater Rise and Saltwater Intrusion)*

In 2017, Strafford Regional Planning Commission (SRPC), in partnership with the University of New Hampshire (UNH) implemented a [groundwater modeling study](#) to “identify existing and potential future locations where public water systems may be vulnerable to sea-level rise impact on groundwater” in Newmarket. The analysis identified one contamination hazard site, one local potential contamination site, one sewer pump station, as well as 30 private drinking water suppliers that have a potential to be impacted by groundwater rise. In addition, the study found that the Moody Point development is projected to experience saltwater intrusion.

### **Did you know?**

In March 2019, Newmarket voters approved up to \$12.2 million in municipal bonds for seven water system upgrade and extension projects, including construction plans to extend a public watermain to the Moody Point development in response to the groundwater rise threat. The project ranked #10 (out of 72) in the 2019 NHDES drinking water SRF project priority list and is scheduled for construction in the summer of 2021.

As a coastal community, Newmarket will have to explore opportunities to combat salinity concentrations with new water treatment technology, replacement of underground pipes that corrode faster under salt water, and possibly the extension of municipal water infrastructure to locations with high salt concentrations. Homeowners may need to site new private drinking wells and relocate septic systems.

#### *Public Water Supply Susceptibility*

Drinking water can be contaminated through natural or man-made causes. Man-made contamination can happen because of failing septic systems, animal waste, plumbing fixture leaching, leaking storage facilities, or improper waste disposal. Public health standards are in place to protect water sources, and New Hampshire currently tracks four man-made contaminants: atrazine, Di (2-ethylhexyl) Phthalate (DEHP), Tetrachloroethylene (PCE), and Trichloroethylene (TCE) to protect community water systems.

In 2007, NHDES assessed the vulnerability of [every source of public water in Newmarket](#). Each source is ranked according to several criteria. According to the report, of greatest concern in Newmarket are confirmed detections of certain contaminants, the presence of numbered state highways or active railroads, the presence or density of septic systems and sewer lines.

#### *Aquifers*

As mentioned in the Surface and Groundwater Section, there are four identified stratified-drift aquifers deposits in Newmarket encompassing a total of 657.5 acres. While these are extremely important from a biological standpoint, they are at risk due to the combination of inland droughts and floods, increased surface water components and diversions, increased groundwater withdrawals, sea level rise, and increased storm surges. The Sewall Well and the Bennett Well produce high quality drinking water that requires minimal treatment. However, recent studies indicated that the rate of withdrawal from this source and several years of drought conditions resulted in the lowering of the groundwater levels in the aquifer. Recovery of the aquifer after the drought years of the early 2000's has continued, reaching nearly expected capacity with careful management of water withdrawals. Since the drought, the Town has initiated a water management program, allowing better control of water use during times of drought or other periods of high demand on the water system.

#### *Land Use Discharges into Groundwater*

In Newmarket, groundwater usually flows from areas of high groundwater altitude toward natural discharge areas in the Lamprey River and Great Bay. While groundwater is naturally cleaned of particulate matter, both natural and human-induced chemicals can still be found in it. Industrial discharges, groundwater intrusion, urban activities, agriculture, groundwater pumping, and disposal of waste can all affect the groundwater quality. Any commercial activity using regulated substances or contaminants that discharges into the ground, or any activity that releases a chemical having a groundwater standard without approval from NHDES is a violation of state law (See NH Code of Administrative Rules Part Env-Ws 421 and Newmarket Code of Ordinances CH. 32 Art. V Sect. 32-153 "Aquifer Protection Overlay District).

#### *Arsenic, Radon, and other Natural Contaminants Levels*

According to survey data from the [Spring 2018 Granite State Poll](#), NH resident's top concerns about their drinking water include bacteria, PFC, lead, arsenic, radon, taste, and odor.

Arsenic occurs naturally in groundwater across New Hampshire. When present above the drinking level standard, it is important to reduce the concentration as it has negative long-term consequences on human health. In October 2019, the State of NH lowered the Maximum Contaminant Level for arsenic in drinking water from 10



parts per billion (ppb) to 5 ppb.<sup>17</sup> Currently, the Town water system levels are at 6 ppb. To become compliant by July 1, 2021, Newmarket is designing a new facility to treat water from the Macintosh and Tucker Wells to lower arsenic levels to 2 ppb.

Radioactive elements (radon, radium 226, radium 228, uranium, and gross alpha emitting particles) are naturally present in New Hampshire rock, soil, and water. When dissolved in water, radionuclides are colorless, tasteless, odorless, and cannot be detected by our senses, but are a health concern regarding such as cancer, kidney damage, and tumors with long-term exposure.<sup>18</sup> All drinking water radionuclides can be treated at the kitchen sink or point-of-use as they are not volatile and cannot be absorbed through the skin. Newmarket's water system is in compliance with the Safe Drinking Water Act requirements.

Most radon exposure is through the air because it is a gas. A smaller amount of exposure happens through water because water use (shower and water use) exposes the radon. Radon concentrations in both air and water are measured in picocuries per liter (pCi/L) and [NHDES recommends](#) a general rule of thumb that for every 10,000 pCi/L of radon in a home's water supply, the radon concentration in indoor air is increased by 1 pCi/L.

Higher sodium and chloride levels imply contamination of groundwater sources by human activities, including the use and storage of road salt, discharges from water softeners, human or animal waste disposal, leachate from landfills, and other activities.<sup>19</sup> Chloride, in the form of salt, is imported to local watersheds from several major sources: roadway deicing, snow removal, food waste, water softeners, atmospheric deposition, and roadway salt pile runoff. Chloride is most transported within a watershed through stormwater runoff and groundwater flow to surface waters. Year to year variations in chloride contributions are primarily due to differences in the severity of any given winter. Currently, the Town is not required to have a Chloride TMDL<sup>20</sup>, as it is not on the [3030D List](#) for Newmarket, but the Town might need to address it as part of NH-MS4 in the future.

According to the Groundwater Modeling study, high levels of sodium and chloride can result in increased treatment costs for water providers and may render groundwater wells unusable. This may require the development of new well locations or alternative sources of freshwater. Sodium and chloride levels in the seacoast area typically reach up to 75 mg/L sodium and 150 mg/L chloride. While the EPA does not identify a maximum contamination level, advisory drinking water standards for these two contaminants are 250 mg/L (a concentration level at which drinking water can taste salty). Higher levels of sodium and chloride can also indicate that surface water is reaching wells and is potentially bringing in other contaminants with it. While public water sources are regulated, private wells are not and could be more prone to contamination. Newmarket's water system is in compliance with the Safe Drinking Water Act requirements.

#### PFAS

PFAS stands for "Per- and Polyfluoroalkyl Substances." These are synthetic chemicals that have historically been used in a variety of household and commercial products from non-stick cookware and microwave popcorn bags, to shampoo and dental floss. Outside of the home, they have been used in firefighting foams and other industrial processes. While studies do not clearly show whether PFAS causes cancer and further study is needed, several studies suggest that PFAS may have various harmful impacts on human health.

<sup>17</sup> <https://www.newmarketnh.gov/water-wastewater/pages/arsenic-levels-october-2019>

<sup>18</sup> [NHDES Radionuclides in Drinking Water Fact Sheet](#)

<sup>19</sup> [NHDES Sodium and Chloride in Drinking Water Fact Sheet](#)

<sup>20</sup> Total Maximum Daily Load refers to pollutant reduction a water body needs to meet [NH's water quality standards](#).

In July 2016, New Hampshire Department of Environmental Services emailed and/or mailed a letter requesting that all community and non-transient, non-community water systems voluntarily sample for PFOA, PFOS, and four other per fluorinated chemicals (PFCs) totaling nine samples. Results from this effort led to NHDES deciding that Newmarket did not need to continue monitoring on a regular basis.

In July 2018, the Water Department made the decision to resample for PFOA and PFOS because technology made it possible to detect a greater number of per fluorinated chemicals. Again, Newmarket came back well under accepted levels according to New Hampshire Department of Environmental Services. The Town of Newmarket Water Department plans to continue to sample for PFOA/PFOS as science and technology improves making it possible to detect different variations of per fluorinated chemicals to try and stay ahead of this emerging contaminant. In July 2020, a NH law set new standards were set and require local water systems, landfills, and wastewater plants to routinely test and treat for four PFAS chemicals. These include PFOA, PFOS, PFHxS, and PFNA. These will take effect in October 2020.<sup>21</sup>

### *Offline Wells*

Bennett and Sewall Well pump stations are essential to the overall supply capacity for Newmarket's drinking water system, and yet have undergone only minor upgrades since their installation. If one of these wells were to go offline line, Macintosh's well supply would need to be reduced because this water currently needs to be blended with the Sewall and Bennett wells. Improvements, according to recommendations by Underwood Engineers<sup>22</sup>, include replacing the chemical feed, electric, heating, ventilation, and some structural improvements.

### *Surface Water Threats*

Newmarket currently does not use any surface waters as a source for public drinking water and there are no plans to charge aquifers with surface water from the Lamprey River; however, there are several important surface water resources that play a vital ecological role in the community. As mentioned in surface and groundwater section, the Lamprey River, Great Bay, Piscassic River, Moonlight Brook are all identified waterbodies that are impaired or threatened. This means they are not expected to meet water quality standards within a reasonable time even after the application of best available technology standards or best management practices; or they require a comprehensive water quality study (total maximum daily load) in order to meet water quality standards.



Lamprey River Winding Through the Downtown Mills  
Photo Credit: Bill Doucet

### *Stormwater Runoff*

Studies conducted in the northeast have documented that by converting as little as ten (10) percent of a watershed to impervious surfaces, stream water quality, stream channel structure, and species habitat begins to deteriorate. As of 2015, Newmarket's land based (excluding open water) impervious coverage<sup>23</sup> was estimated to be 8% and will likely rise as Newmarket continues to grow.

<sup>21</sup> More information is available [here](#).

<sup>22</sup> [Macintosh and Tucker Wells Treatment Evaluation](#)

<sup>23</sup> An updated GIS impervious coverage dataset for 2020 will likely be available sometime in 2021.

According to data collected during the development of the 2015 Vision Chapter, residents expressed their concern with this population growth and the impacts it could have on water quality. Development associated with rapid population growth changes the natural water balance on a site by increasing impervious area and reducing the amount of ground area capable of infiltration, converting naturally vegetated areas to impervious or manicured areas, and compacting natural soils.

On July 1, 2018, Newmarket officially became subject to the United States Environmental Protection Agency (EPA) National Pollutant Discharge Elimination System (NPDES) program. This is a national program aimed at improving New Hampshire's water quality, with improved stormwater management as well as an array of training and implementation tools to assist communities with implementation, commonly referred to as the MS4 program.

### *Increased Flooding Impacts*

In New Hampshire, there are many types of flooding: riverine, flash flooding, coastal flooding, and shallow flooding. Riverine flooding is produced by a river or stream and has potential to last for longer periods of time. Flash flooding can occur when large amount of rain falls in a short amount of time, and usually rise and recedes quickly. This allows little or no warning time to evacuate and can be destructive and hazardous. Coastal flooding occurs in low-lying areas in NH's coast due to major storms in combination of full moon tides causing storm surge and wave effects. Shallow flooding occurs in flat areas where water is prevented from draining easily due to inadequate channels. One type of shallow flooding, urban drainage, occurs when man-made drainage structures, meant to handle 10 year-storm water levels, are overloaded by larger storms and result in backed-up sewers and overloads ditches.



Roadway Damage from Flooding  
Photo Credit: Town of Newmarket

Although the flood mitigation capacity of floodplains is relatively well protected by federal and local regulations, other factors can contribute to increased flooding. These factors include: increases in impervious surface coverage, filling of wetlands, stormwater management practices that increase peak flow rates, inadequate infrastructure to accommodate current storm flow volumes, beaver dams and less natural dissipation of flood flows through infiltration and interception by trees and vegetation.

Other identified flood risks include the inability of culvert stream crossings to withstand storm flows (see [C-RiSe](#) report for hydraulic ratings and assessments), loss of tidal wetlands and salt marsh habitat from sea level rise.<sup>24</sup> Current threats to salt marshes include reduced tidal flow due to undersized culverts under roadways and train beds, loss of the upland buffer due to coastal development, saltwater intrusion, and colonization by invasive species such as *Pinus strobus* (northern white pine) and *Lythrum salicaria* (purple loosestrife).

### *Erosion and Sedimentation*

The erosion and sedimentation development processes typically involve the removal of vegetation, the alteration of topography, and the covering of some previously vegetated surfaces with impervious cover such as roads, driveways, and buildings. These changes to the landscape may result in the erosion of soil and the sedimentation of water bodies as soil travels to streams, rivers, and lakes in water runoff during storms at an increased velocity due to the lack of vegetative cover. The removal of vegetative cover and its roots system

<sup>24</sup> [NH Wildlife Action Plan Appendix B Habitats](#)

compromise the ability of vegetation to stabilize soil, reduce the velocity of runoff, shield the soil surface from rain, and maintain the soil's ability to absorb water.

*Increased Extreme Temperatures and Drought*

Over the past two decades, Newmarket has experienced several significant periods of drought (2001-2002; 2015-2016; and most recently 2020). According to the NH Drought Management Program, the drought that impacted the state in the early 2000's was the third worst on record. Locally, during the dry summer months, the capacity of Newmarket Plains Aquifer, which was the Town's primary source of drinking water, was significantly reduced to critical levels; however, with careful management the aquifer recovered within a few years. To accomplish this, the Town started implementing a Water Management Program in 2002 (see Figure 4.) that requires all users to adhere to restrictions during these critical dry periods.

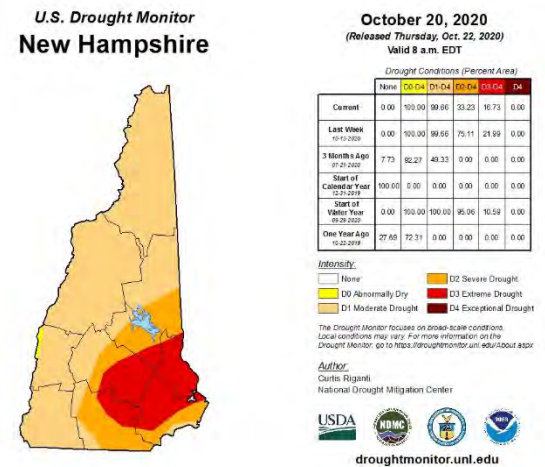
<b>NEWMARKET WATER DEPARTMENT WATER MANAGEMENT PROGRAM</b>			
<b>STAGE 1</b>	<b>STAGE 2</b>	<b>STAGE 3</b>	<b>STAGE 4</b>
<b>Voluntary Water Conservation</b> The public is requested to refrain voluntarily from watering lawns and encouraged to conserve water in all practical ways.	<b>Mandatory Odd/Even Outside Watering</b> The public is required to restrict lawn watering to every other day based on address and calendar day.  EXAMPLE Even address      Even calendar day Odd address      Odd calendar day	<b>Mandatory Two-Day Restrictions on Lawn Watering by Address.</b> Each address is to restrict watering to two (2) days per week between the hours of 5-8 am and 6-9 pm on the following schedule: <u>Allowed Days</u> <u>Street Address</u> Monday, Wednesday      Odd Number Tuesday, Thursday      Even Number No washing driveways, sidewalks, autos, or boats.	<b>Mandatory Outside Water Ban.</b> The public is required to restrict the following.  <b><u>NO OUTSIDE WATER USE</u></b>
<b>Water Conservation Ordinance #2002-05</b> is available at town office.	<b>NOTICE</b> <b>Hand held hoses may be used for flower and vegetable gardens plus shrubbery without hour and day restrictions. (STAGE 2 and 3 ONLY)</b>		For additional information on water saving ideas check these web sites:  <a href="http://www.awwa.org">www.awwa.org</a> <a href="http://www.cpa.gov">www.cpa.gov</a> <a href="http://www.des.state.nh.us">www.des.state.nh.us</a> <a href="http://www.waterwise.org">www.waterwise.org</a>
<b>How will you know what Stage is in affect?</b> Stage in effect will be posted at locations entering town, on the Town Hall marquee, and in local newspapers.	<b>WATER SAVING TIPS</b>  <ol style="list-style-type: none"> <li>1. Check your toilet for leaks.</li> <li>2. Install water-saving shower heads or flow restrictors.</li> <li>3. Check faucets and pipes for leaks.</li> <li>4. Use your automatic dishwasher only for full loads.</li> <li>5. Use your automatic washing machine only for full loads.</li> <li>6. Keep a bottle of drinking water in the refrigerator.</li> <li>7. Water your lawn only when it needs it.</li> <li>8. Water during cool parts of the day.</li> <li>9. Don't wash down driveways or gutters.</li> <li>10. Plant drought-resistant trees and plants.</li> <li>11. Put a layer of mulch around trees and plants.</li> <li>12. Cover swimming pools to reduce evaporation.</li> </ol>		
<b>Why Do We Need Levels?</b>  To ensure adequate pressure and fire protection, storage tank must be 3/4 full. If this amount cannot be replenished during non-watering times, more restrictive hours must be established by going to the next Stage.			

Figure 4. Newmarket's Water Management Program

For many years, the Town has operated at a Stage 2 level. More recently in September 2020, that warning was upgraded to a Stage 3 level. The upgraded warning was a result of severe drought conditions along with the decision to remove the MacIntosh well off-line temporary to install treatment for arsenic. Capacity at both the Bennett and Sewall wells appear to be in good condition. This is largely because when the MacIntosh well came online in 2016, it allowed the Town to operate the Bennett and Sewall wells at lower pumping rates for 4 years.

As the 2020 drought continues, 100% of New Hampshire's population is experiencing abnormally dry conditions. According to the [United States Drought Monitor](#), it is estimated that 16.7% of the State is facing extreme drought conditions, categorized by major crop or pasture losses and widespread water restrictions and shortage. Figure 5 depicts the most up-to-date drought conditions in New Hampshire (at the time this plan was developed) and indicates that Newmarket is in an area experiencing the most severe conditions in the State.

Figure 5. US Drought Monitor: New Hampshire (10/20/20)



The NHDES Drought Management Program has stated that the drought was due to a combination of a below average snowpack in the spring, little precipitation to recharge the groundwater, and the inability of watersheds to store large volumes of water due to their geology.

More extreme heat in New Hampshire, because of climate change, not only causes a rise in electricity demand and urban heat effects, but also increases the demand for water. Additionally, as air temperatures rise, so do ocean, lake, and river temperatures. This can lower water quality and affect fish populations (such as causing them to migrate and lose suitable habitat) and the deaths of other aquatic organisms. The [2014 National Climate Assessment](#) states that increasing air and water temperatures, paired with increases precipitation and runoff, and intensifying droughts can decrease water quality in several ways. These potential threats include increases in sediment, nitrogen, and other pollutant loads and other climate change triggers such as declining water levels, greater flood risk, and altered precipitation patterns.<sup>25</sup>

Often paired with increases in extreme heat are increase in drought across the U.S. Droughts are natural events that are part of the cyclical fluctuations of the climate; they can last anywhere from several months to years but there is not reliable method to accurately predict a drought.<sup>26</sup> Even in New England, where water is comparably abundant to the rest of the U.S., recent droughts—paired with NH's limited long-term water storage—have serious consequences on human demand for freshwater resources.<sup>27</sup> Compounding on these issues are increased demand for drinking water, saltwater intrusion, and rapidly development in watersheds, more extreme temperatures because of climate change.

## Regulatory and Conservation Challenges

### Regulatory

Current water regulations, which are based around preservation and restoration, assume that natural systems “fluctuate within an unchanging envelope of variability (stationarity)”.<sup>28</sup> Climate change is projected to impact water supplies in wide-ranging and pervasive ways and may reveal weaknesses in current water regulations.

<sup>25</sup> More information can be found on the Conservation in a Changing Climate [website](#).

<sup>26</sup> [NHDES Water Resources Primer](#)

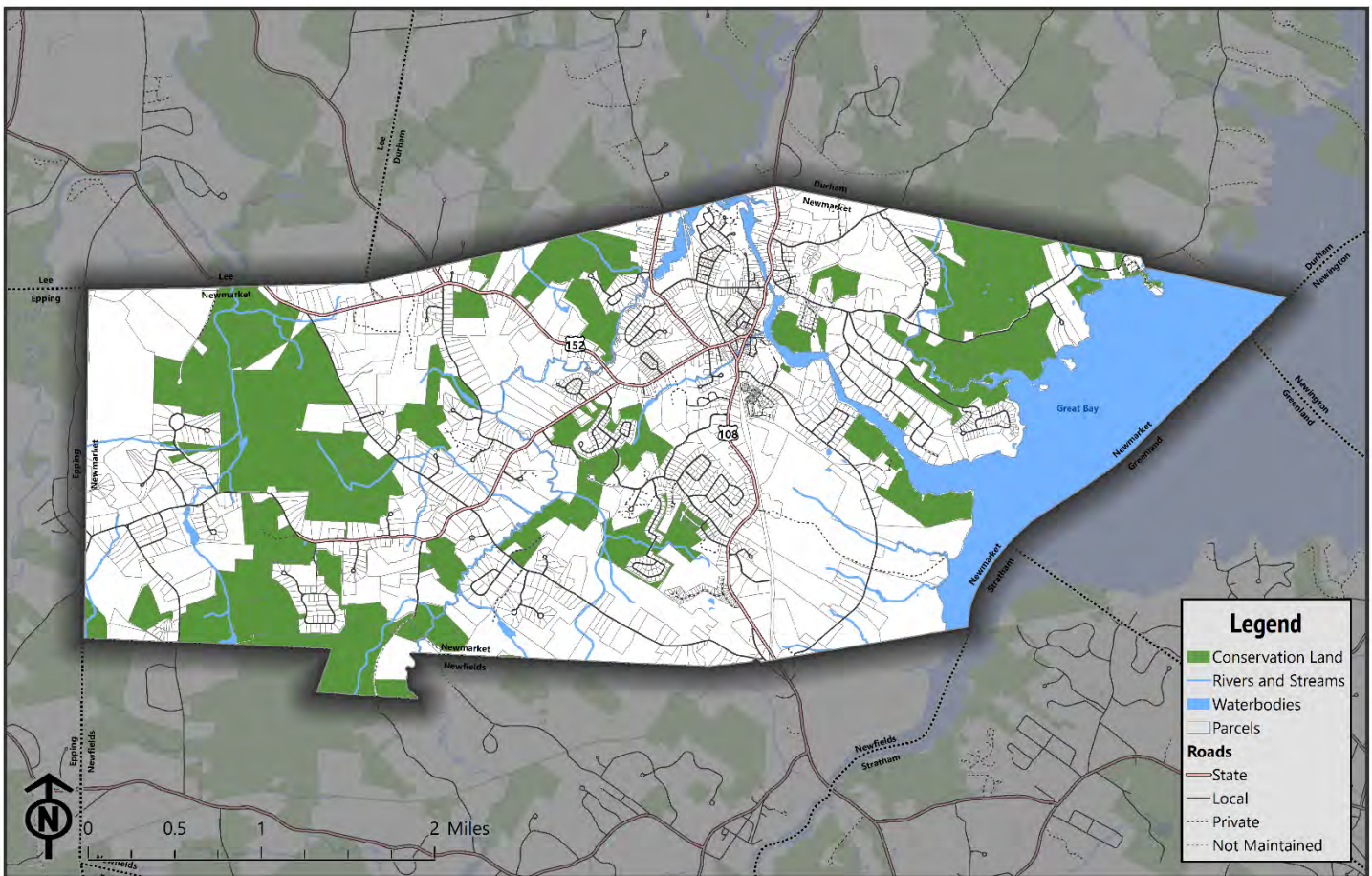
<sup>27</sup> Analysis of Drought Conditions in New Hampshire. J.M. Davis and M. Stampone. University of New Hampshire. December 2014. Available [here](#).

<sup>28</sup> [Ibid](#)

Therefore, assumptions about stationarity are unhelpful when writing and using water regulations. Agencies may need to seek flexibility in regulations and laws to achieve the best use of limited water resources and capacity.

### Conservation Challenges

New Hampshire watersheds rank among the most highly threatened watersheds in the nation because of the high potential for conversion of private forests to residential development. In fact, three of the four most threatened watersheds in the US (which could experience the largest change in water quality because of increased residential development in private forests) occur at least partially in New Hampshire.<sup>29</sup> The long-term impacts of this rapid population growth and the associated changes in land use on New Hampshire's surface waters are uncertain. Of concern are the impacts of pollution such as septic systems, urban runoff, stormwater, application of road salt and fertilizers, deforestation, and wetland conversion.



Map 10. Conservation Lands in Newmarket [Source: NH GRANIT]

Newmarket's [Vision for the Future](#) emphasizes the importance of numerous environmental protection measures, including conservation of land and preservation of open spaces for the town's ongoing drinking water goals to be met. The 2015 Master Plan Visioning Public Input Session revealed that the public values the Town's emphasis on conservation and want to see it continue to be a priority.

<sup>29</sup> Stein et al. Private Forests, Public Benefits: Increased Housing Density and Other Pressures on Private Forest Contributions. USDA. 2009. Available [here](#).

The Newmarket Open Space Plan reports identifies areas with key natural resources and a high priority for protection through land conservation efforts, including the Town's drinking water sources (Newmarket Plains Aquifer and surrounding wellhead protection areas); floodplains of the Lamprey and Piscassic Rivers; prime wetlands; the Great Bay Estuary; highest quality wildlife habitat (NH Fish and Game, Wildlife Action Plan); ecologically significant areas (NH Coastal Program, The Nature Conservancy, and partners); and large unfragmented blocks of forests and farmland.

### Federal/State Protection Measures

*Refer to Surface and Groundwater Resources section.*

### Existing Local Protection Measures

*Refer to Surface and Groundwater Resources section.*

### Recommendations

1. Ensure that the sanitary protective radius around the four (4) existing wells (Tucker, MacIntosh, Bennett, and Sewall) are all protected and controlled by the Town through ownership or easements.
2. Continue to explore grant opportunities to secure funding for existing and future drinking water protection efforts.
3. Finalize DRAFT stormwater regulations and adopt at the Planning Board.
4. Ensure that land use regulations protect environmentally sensitive resources including drinking water aquifers, tidal wetlands, and salt marsh that are subject to potential saltwater intrusion or other negative impacts associated with groundwater rise.
5. Collaborate with NHDES to update 2007 assessment of public water supply sources for susceptibility criteria including well proximity to septic, highways, and agriculture. Use this assessment to identify threats and target protection management (such as education for landowners, an inspection program, or emergency response planning) techniques.
6. Encourage better management of activities that add salt into or onto the ground (i.e. using newer technologies, equipment upgrades, good housekeeping measures, and inspection of storage sites on commercial areas such as Bennett Way).
7. Consider requiring advanced treatment for septic systems to reduce pollution often associated with traditional systems.
8. Increase awareness of radon levels and protection practices for Newmarket residents by posting NHDES information on the Building Department's webpage.
9. Work with state, federal regulators, and the Seacoast PFAS Commission to minimize PFAS contamination in the Town. This may including exploring water and land uses that could mitigate PFAS use and release; obtaining the latest inventory of (Tier II) data collection for facilities that have the potential to discharge PFAS using guidance from NHDES (SWP Grant 301).
10. Increase coordination with other watershed towns, higher-level collaboration with water-related organizations and stakeholders, and encourage a greater involvement of Newmarket's Conservation Commission in leading public education programs on water resources management and efforts to ensure compliance with stormwater requirements.
11. Prioritize buffer and floodplain protection based on Buffer Options for the Bay's regulatory options and suggestions.
12. Review appropriate zoning for activities that use chemicals or processes that could affect drinking water to proactively protect these resources.

13. Research effective education and outreach efforts to strengthen Newmarket's community values around water resources. Create community dialog around water resource stewardship for future generations.
14. Ensure that Planning and Zoning Board members are aware and have access to relevant land use trainings (e.g. OSI conferences, NHMA lectures, regional planning workshops) so that participants fully understand local ordinances, regulations, and state laws when making important decisions.
15. Continue to appropriate adequate funding to enable the Town to implement recommendations set forth in Newmarket's "Twenty-Year Water and Wastewater System Build-Out Study."
16. Continue efforts in implementing the Water Management Plan and educating the public of what they can do to complement these local actions.



# Implementation Key

## **Action Type:**

There are three action types, including:

- Regulatory
- Operations, Policies, and Procedures
- Outreach, Engagement, and Partnerships

## **Action Item:**

Various recommendations for the Town to consider implementing to protect water resources over the lifespan of the chapter.

## **Chapter Topic:**

There are five water resource topics:

- SW: Surface Water
- GW: Groundwater
- WET: Wetlands
- FLD: Floodplains
- THR: Potential Threats

## **Protection Type:**

- RP: Resource Protection
- DWP: Drinking Water Protection
- WQP: Water Quality Protection

## **Priority:**

There are four priority rankings, including:

- Ongoing: Actions which are continuous or already being carried out
- High: Actions which should be undertaken in 1–2 years
- Moderate: Actions which should be undertaken in 3–5 years
- Low: Actions which will take more than 5 years to initiate and complete

## **Responsible Party:**

The identified party or municipal department that is the acting or responsible body to implement that action item.

# Implementation Matrix

Action Items		Chapter Topics	Protection Type	Priority	Timeframe	Responsible Party
Regulatory						
1.	Review the current Aquifer Protection Overlay District with the state's updated model ordinance to recommend any necessary revisions.	GW	DWP	High	1–2 years	Planning Board & Conservation Commission
2.	Review all permitted uses within the base zoning districts to ensure that high intensity uses are consistent and in sync with the goals and objectives outlined in the Master Plan.	SW/GW	RP/DWP	High	1–2 years	Planning Board & Conservation Commission
3.	Evaluate the current regulations and ordinances with regards to septic system setbacks to ensure all waterbodies are adequately protected.	SW	RP	High	1–2 years	Planning Board & Conservation Commission
4.	Compare the existing Wetland Protection Overlay District with new state rules and make necessary revisions to be consistent with jurisdictional areas and other state-level changes.	WET	RP	High	1–2 years	Planning Board & Conservation Commission
5.	Review the updated floodplain model ordinance from NH Office of Strategic Initiatives and update the Town's floodplain ordinance once FEMA maps are approved and adopted. An outreach campaign targeting existing property owners shall accompany this update.	FLD	RP	High	1–2 years	Planning Board, Conservation Commission, Building Official
6.	Ensure that the sanitary protective radius around the four (4) existing wells (Tucker, MacIntosh, Bennett, and Sewall) are all protected and controlled by the Town through ownership or easements.	THR	WQP	High	1–2 years	Town Council, Conservation Commission, Water Department
7.	Finalize DRAFT stormwater regulations and adopt at the Planning Board.	THR	WQP	High	1–2 years	Planning Board
8.	Review appropriate zoning for activities that use chemicals or processes that could affect drinking water to proactively protect these resources.	THR	WQP	Moderate	3-5 years	Fire Department & Town Council
9.	Consider adopting stricter buffer requirements for setbacks to wetlands that include consideration of climate change in order to protect land that allows coastal habitats and populations to adapt to changing conditions and also provides ecosystem services that protect people, structures, and facilities.	WET	RP	Low	5+ years	Planning Board & Conservation Commission
10.	Ensure that land use regulations protect environmentally sensitive resources including drinking water aquifers, tidal wetlands, and salt marsh that are subject to potential saltwater intrusion or other negative impacts associated with groundwater rise.	THR	WQP	Low	5+ years	Regional Planning Commissions (Strafford/Rockingham)
11.	Consider requiring advanced treatment for septic systems to reduce pollution often associated with traditional systems.	THR	WQP	Low	5+ years	Building Official
12.	Prioritize buffer and floodplain protection based on Buffer Options for the Bay's regulatory options and suggestions.	THR	WQP	Low	5+ years	Planning Board & Conservation Commission

Action Items		Chapter Topics	Protection Type	Priority	Timeframe	Responsible Party
Operations, Policies, and Procedures						
13.	Incorporate impacts to municipal infrastructure identified in the C-RiSe project into current and future capital infrastructure projects, including water access at Schanda Park, the pump station on Creighton Street, and flooding on critical roads such as Treatment Plant Road. This also includes evaluating the extent of sea-level rise and storm surge flooding on individual facilities such as sewer pipes located at the end of Water Street, Creighton Street, and Lamprey Street and the intersection of Bay Road.	FLD	RP	Ongoing	-	Town Department of Environmental Services
14.	Encourage better management of activities that add salt into or onto the ground (i.e. using newer technologies, equipment upgrades, good housekeeping measures, and inspection of storage sites on commercial areas such as Bennett Way).	THR	WQP	Ongoing	-	MS4 Coordinator, Town Planner, Town Engineer, and Public Works
15.	Continue to appropriate adequate funding to enable the Town to implement recommendations set forth in Newmarket's "Twenty-Year Water and Wastewater System Build-Out Study."	THR	WQP	Ongoing	-	Town Engineer & Town Department of Environmental Services
16.	Continue efforts in implementing the Water Management Plan and educating the public of what they can do to complement these local actions.	THR	WQP	Ongoing	-	
17.	Revisit the Climate Resiliency in Moonlight Brook report to accomplish remaining ICLEI Climate Resilient Communities milestones identified in the plan. Site specific projects include:	FLD/THR	RP/WQP	Ongoing/ High	1-2 years	MS4 Coordinator, Public Works, Town Department of Environmental Services
	Alleviate flooding in re-occurring areas by redirecting stormwater flows away from downtown in the "bowl " area on Route 108; installing a new drainage system with a gravel wetlands to provide water quality treatment on New Road and a stormwater outfall on Young Lane; and assess impacts upstream in the watershed at the new drainage system at the Elementary School.		RP/WQP			
			RP/WQP			
18.	Update the Town's Prime Wetland Maps and associated GIS layers that were completed in 2006 using new available GIS and Lidar data.	WET	RP	High	1-2 years	Conservation Commission & Planning Department
19.	Update the Town's Open Space Plan to strategically identify high value land for future land conservation. Incorporate climate resilience benefits, such as future flood storage salt marsh migration, etc., into scoring criteria to ensure the Town considers climate adaptation benefits when evaluating land for conservation purposes.	FLD	RP	High	1-2 years	Conservation Commission

Action Items		Chapter Topics	Protection Type	Priority	Timeframe	Responsible Party
20.	Identify and implement green infrastructure and nature-based approaches to improve flood resilience and stormwater management throughout the Town referenced in the New Hampshire Flood Hazard Handbook.	FLD	RP	High	1–2 years	Planning Department, MS4 Coordinator, Planning Board
21.	Use resources, such as the NH Statewide Asset Data Exchange System (SADES) crossing database, Resilient Tidal Crossing Assessment, and the C-RiSe climate ready culvert analysis, to identify infrastructure projects for inclusion in the Capital Improvements Plan that would assist with long-term planning decisions regarding the placement, design, and size of new culverts or when upgrades and repairs are being made to existing culverts. Site specific projects include:	SW/WET/ FLD	RP	High	1–2 years	Conservation Commission & Public Works
	*Replacement of the Grant Road and Ash Swamp Road crossings over the Piscassic River to help restore surface waters to natural, free flowing systems.		RP			
	*Replacement of the Route 108 crossing over the northernmost unnamed perennial stream behind the Newmarket Storage that flows easterly beneath New Road into Great Bay to improve wetland function.		RP			
*Projects should include hydraulic analyses and survey data on channel dimensions to determine appropriate bridge sizing as part of a larger Town-wide infrastructure capacity assessment.						
22.	Integrate climate adaptation measures into all future master plan updates.	FLD	RP	Moderate	3-5 years	Planning Board & SRPC
<b>Data, Studies, and Research Needs</b>						
23.	Explore funding opportunities to conduct a town-wide vernal pool inventory to locate, document, and map vernal pools in Newmarket.	WET	RP	Ongoing	-	Conservation Commission
24.	Review Appendix C in the Town's 2018 Multi-Hazard Mitigation Plan to identify riverine flooding mitigation approaches, including prevention, property protection, natural resource protection, emergency services, structural projects, and public education.	FLD	RP	Ongoing	-	Emergency Management Director, Public Works, Town Engineer
25.	Continue to explore grant opportunities to secure funding for existing and future drinking water protection efforts.	THR	WQP	Ongoing	-	Town Department of Environmental Services
26.	Collaborate with NHDES to update 2007 assessment of public water supply sources for susceptibility criteria including well proximity to septic, highways, and agriculture. Use this assessment to identify threats and target protection management (such as education for landowners, an inspection program, or emergency response planning) techniques.	THR	WQP	Ongoing	-	Town Department of Environmental Services
27.	Use the New Hampshire Living Shoreline Site Suitability Assessment to identify sites in Newmarket that may be suitable for specific living shoreline approaches to address erosion issues along the tidal shoreline.	FLD	RP	Low	1–2 years	Conservation Commission, Riverfront Committee, Lamprey River Advisory Committee, SRPC

Action Items		Chapter Topics	Protection Type	Priority	Timeframe	Responsible Party
28.	Work with state, federal regulators, and the Seacoast PFAS Commission to minimize PFAS contamination in the Town. This may including exploring water and land uses that could mitigate PFAS use and release; obtaining the latest inventory of (Tier II) data collection for facilities that have the potential to discharge PFAS using guidance from NHDES (SWP Grant 301).	THR	WQP	Low	1-2 years	Water Department & Town Department of Environmental Services
29.	Investigate funding opportunities to help pay for the development of watershed-based plans to recommend methods to address specific impairments identified in the 303(d) list.	SW	RP	Moderate	3-5 years	MS4 Coordinator, Town Engineer, Town Department of Environmental Services, and Conservation Commission
Outreach, Engagement, and Partnerships						
30.	Continue to support local watershed groups and organizations.	SW/GW	RP/DWP	Ongoing	-	All Town Boards, Commissions, and Departments
31.	Collaborate with local, regional, and statewide partners to identify other wetland mitigation projects or restoration opportunities.	WET	RP	Ongoing	-	Conservation Commission
32.	Explore options to develop a creative outreach campaign to educate the public on future coastal flood risk (i.e. high-water mark initiative, participation in the king tide photo contest, etc.) at public spaces such as Schanda Park and Heron Point.	FLD	RP	Ongoing	-	Conservation Commission & Historical Society
33.	Increase coordination with other watershed towns, higher-level collaboration with water-related organizations and stakeholders, and encourage a greater involvement of Newmarket's Conservation Commission in leading public education programs on water resources management and efforts to ensure compliance with stormwater requirements.	THR	WQP	Ongoing	-	Conservation Commission
34.	Research effective education and outreach efforts to strengthen Newmarket's community values around water resources. Create community dialog around water resource stewardship for future generations.	THR	WQP	Ongoing	-	MS4 Coordinator
35.	Ensure that Planning and Zoning Board members are aware and have access to relevant land use trainings (e.g. OSI conferences, NHMA lectures, regional planning workshops) so that participants fully understand local ordinances, regulations, and state laws when making important decisions.	THR	WQP	Ongoing	-	Planning & Zoning Boards
36.	Increase awareness of radon levels and protection practices for Newmarket residents by posting NHDES information on the Building Department's webpage.	THR	WQP	Low	1-2 years	Building Department



Where Do I...

Services

Government

Departments

Building Information

Building Permit Application

Complaint Form

Electric Permit - Please include copy of Master Electricians or Corporate License

Health & Safety Information

Important Phone Numbers & Websites

License Requirements for Electric, Plumbing, Mechanical Permitting

Mechanical Permit - Please include copy of Gas License or

[Home](#) » [Building Safety / Health Officer](#)



# What inspections might I need for my project?

## A SUMMARY OF INSPECTIONS GROUPED 1 THROUGH 5

The plan review will determine which inspections are required for your project:

### 1<sup>ST</sup> Inspection

1. Appropriate erosion control
2. Foundation location pursuant to setbacks
3. Temporary power for approval
4. Compaction of excavated area
5. Foundation substrate & footing forms per R403
6. port-o-let on site

### 2<sup>nd</sup> Inspection

Corporate License

NEW ONLINE  
PERMITTING

NH Building & Fire  
Code Information

Permit Application -  
Burglary, Fire, and/or  
Panic Alarm

Permit Application -  
Driveway (State  
Road properties  
apply to State of NH)

Permit Application -  
Home Based  
Business

Permit Application -  
Sidewalk Cafe

Permit Application -  
Sign

Permit Application -  
Vendor

Plumbing Permit -  
Please include copy  
of Master Plumbers  
or Corporate License

Summary of  
Inspections

1. Anchor bolts (straps not permitted)
2. All snap tie ends removed interior/exterior
3. Perimeter drain extended 35' from foundation
4. Temporary power for approval
5. Sleeve for soil pipe (2) pipe sizes larger
6. Sleeve for water line (2) pipe sizes larger
7. Stone for perimeter drain
8. Filter fabric in place
9. Water stop at snap ties ends
10. Moisture proof/water proof foundation
11. Foundation test for re-bar if code required
12. Erosion control maintained
13. Ground to re-bar (Ufer Ground)

### 3<sup>rd</sup> Inspection

1. Rough frame
2. rough electrical
3. Rough plumbing
4. No corner boards, siding or building wrap applied
5. Roofing per manufacturers installation
6. U 0.35 or less windows installed with flexible flashing (spec stickers left on)
7. Doors installed with flexible flashing
8. Fire safing/stopping
9. Chimneys and vents
10. Erosion control maintained

## Contact Info

**Phone:**

(603) 659-8501 ext.  
1310 Susan Jordan  
(603) 659-8501 ext  
1311 Peter Rowell

### 4<sup>th</sup> Inspection

1. Insulation installed per IECC
2. Permanent power approval
3. Erosion control maintained

### 5<sup>th</sup>/ Final Inspection

1. Electrical panel, with panel front removed, by electrician
2. Circuit directory typed and secured inside of panel door
3. Final electrical
4. Energy Code Compliance Certificate secured inside of Service Entrance panel door
5. Finish grade sloped 6: in 10' from foundation and finish grade 6" from wood siding, sheathing, and wall framing
6. Wellhead inspection well report, standard analysis, DES, fact sheet WD-WSEB-2-1
7. Garage/ Unit fire separation
8. Decks
9. Siding installed per manufacturers guidelines
10. Homeowners manuals on maintaining their septic system, as well as those provided with appliances and products
11. Interior stairs, rails and safety glass
12. Stairs exterior with concrete stair rest at base
13. Property number
14. Escape window to grade checked
15. Impact fee paid by certified bank check



16. Fire Department sign off on boiler
17. Fire Department sign off on smoke detectors
18. Public Works director sign off on driveway
19. Water Department sign off for Town water
20. Sewer Department sign off for Town sewer
21. Exterior lighting shaded to property line
22. Erosion control maintained – leach field loamed and seeded
23. Septic permit to operate



186 Main Street  
Newmarket, NH 03857  
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# **TOWN OF ROLLINSFORD, NH**

## **SUBDIVISION REGULATIONS**

*Adopted 8/22/2007*

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**TOWN OF ROLLINSFORD**

**LAND SUBDIVISION REGULATIONS**

**SECTION 1 - AUTHORITY AND TITLE**

Pursuant to the authority vested in the Rollinsford Planning Board by the voters of the Town of Rollinsford at the Annual Town Meeting of \_\_\_\_\_, and to the authority granted to the Planning Board under Chapter 674:35-36 of the Revised Statutes Annotated of New Hampshire of 1983, as amended, the Planning Board hereby adopts the following regulations governing the subdivision of land in the Town of Rollinsford.

These regulations shall be known, and may be cited as, the "Town of Rollinsford Subdivision Regulations," hereinafter referred to as "Subdivision Regulations." The current set of Regulations revise and replace the Rollinsford Subdivision Ordinance of 1970, as amended, and take effect upon adoption by the Board and filing with the Selectmen and Town Clerk in accordance with RSA 675:6.

**SECTION 2 - CONFLICTING PROVISIONS AND VALIDITY**

Whenever the regulations made under the authority hereof differ from those prescribed by any statute, ordinance, or other regulations, that provision which imposes the greater restriction or the highest standard shall govern.

If any section, clause, provision, portion or phrase of these regulations shall be held to be invalid or unconstitutional by any court of competent authority, such holding shall not affect, impair or invalidate any other section, clause, provision, portion or phrase of these regulations.

**SECTION 3 - JURISDICTION**

The provisions of these regulations shall apply to all land within the boundaries of the Town of Rollinsford.

3.1 Subdivisions. The provisions of these regulations shall apply to all land within the boundaries of the Town of Rollinsford.

Any person proposing to subdivide in the Town of Rollinsford must apply to the Planning Board for approval of such subdivision.

A subdivision application must be made and approved before any offer to sell, rent or lease a proposed subdivision or part thereof before any construction, land clearing or building development is begun, before any permit for the erection of any building may be granted, and before a subdivision plat may be filed with the Strafford County Registry of Deeds.

3.2 Permits. No building permit may be issued for the construction or alteration of any building or structure within the purview of these Regulations until a copy of an approved subdivision plat has been presented by the applicant to the Building Inspector/Code Enforcement Officer.

**SECTION 4 - PURPOSE**

Consistent with the enabling legislation cited above, the purpose of these Regulations are to ensure that the subdivision of land is consistent with the enumerated purposes of RSA 674:36, as amended, which are incorporated by reference herein, and that all subdivision and development shall be consistent with the following purposes:

- (a) Subdivision of land and development shall not be “scattered or premature” as would involve danger or injury to health, safety, or prosperity by reason of the lack of water supply, drainage, transportation, schools, fire protection, or other public services, or necessitate the excessive expenditure of public funds for the supply of such services.
- (b) Proposed streets shall be properly arranged and coordinated in relation to other existing or planned streets.
- (c) Subdivision and development shall be harmonious with the Town and its environs. Developments must contribute to a rational and safe transportation system, provision of appropriate recreational opportunities, and must not be inconsistent with the recommendations of the Rollinsford Master Plan.
- (d) Subdivision of land and development shall be provided with adequate services and utilities.
- (e) Suitably located streets shall be required of sufficient width to accommodate existing and prospective traffic and to afford adequate light, air, and access for fire-fighting apparatus and equipment to buildings, and be coordinated so as to compose a convenient system.
- (f) Subdivision of land and development shall promote and not harm the public's health, safety, and welfare.
- (g) Provision of open spaces and green spaces of adequate proportion.
- (h) Subdivisions that show new streets or narrowing or widening of such streets shall show a park or parks suitably located for playground or other recreational uses purposes.

**SECTION 5 - DEFINITIONS**

**ABUTTER:** abutter shall mean any person whose property is located in New Hampshire adjoins, or is directly across a street or stream from, the land under consideration by the Board. For purposes of receiving testimony only and not for purposes of notification, the term "abutter" shall include any person who is able to demonstrate that his/her land will be directly affected by the proposal under consideration, for purposes of these regulations anyone who owns land within 100' of the site is presumed to be directly affected. For purposes of receipt of notification by the Town of a Board hearing, in the case of an abutting property being under condominium or other collective ownership, the term abutter shall mean the officers of the collective or association, as defined in RSA 356-B:3, XXIII, and any amendments thereto.

**ACCEPTANCE:** an affirmative vote by a majority of the planning board at a public meeting that an application contains all of the items required by the subdivision regulations.

**APPLICANT:** applicant shall mean the owner of record of the land which is proposed to be subdivided, including any subsequent owner of record who proposes such development, or the duly authorized, in writing, agent of any such owner.

**APPROVAL WITH CONDITIONS PRECEDENT:** action by a majority of the board that signifies that not all of the applicable regulations have been met but that require only minor revisions or non-discretionary issues such as receiving state permits, bonds to be posted with the town, or payment of fees. This action is not a final action of the board and plats shall not be signed. Such approvals may have reasonable time limits for compliance. However, in certain circumstances, such action may result in a "final action" for purposes of appealing the decision to the courts.

**APPROVAL WITH CONDITIONS SUBSEQUENT:** action by the board which includes conditions that appear on the plat or within the minutes or decision which place restrictions on the use of the property or safeguards that must be observed during development of the parcel or once the project is in use. Such issues might include the location of a road, preservation of vegetation and stone walls, etc. Such action is a final action and can result in the signing of plats as long as other issues are met.

**APPROVAL:** action by a majority of the planning board signifying that the proposal meets all applicable regulations and that there are no unresolved concerns requiring further board consideration.

**BOARD:** shall mean the Planning Board of the Town of Rollinsford, New Hampshire as established under the provisions of RSA 673:2, as amended.

**CERTIFIED SOIL SCIENTIST:** a person qualified in soil classification and mapping whom is certified by the State of New Hampshire.

**COMMERCIAL USES:** As defined by the Town of Rollinsford Zoning Ordinance.

**COMMUNITY WASTEWATER SYSTEM:** A non-municipal wastewater disposal system that serves more than one lot. When this type of system is proposed, the design and specifications for the same shall be submitted and shall have been certified by a professional engineer qualified and registered under applicable New Hampshire statutes.

**COMMUNITY WATER SUPPLY:** A non-municipal water supply system that serves more than one lot. When this type of system is proposed, the design and specifications for the same shall be submitted and shall have been certified by a professional engineer qualified and registered under applicable New Hampshire statutes.

**COMPLETED APPLICATION:** this term refers to the application form with all information completed as requested on the form (with the exception of requested waivers from applicable regulations), all attachments, drawings, approvals, additional studies, and other paperwork as requested in the form, elsewhere in these regulations, or required by the planning board, and all fees and administrative expenses as indicated in these regulations. The information provided shall

provide sufficient information to allow the Board to proceed with consideration and to make an informed decision. Once accepted an application shall become a public document and carries no restriction as to reproduction or availability.

**DEVELOPMENT:** this term shall mean the construction of improvements on a tract or tracts of land, including the enlargement of a structure or physical changes to the site in an effort to accommodate an intended use.

**DRIVEWAY:** Means a privately owned and maintained access way to not more than one lot.

**EASEMENT:** an easement shall mean the private landowners right or privilege that a person may have in another's land usually for the purpose of installing and/or maintaining utilities, drainage ways, or for access. Such areas shall not be considered presumptive locations for public roadways unless specifically approved as such by the Planning Board.

**ENGINEER OR SURVEYOR:** these terms shall denote the duly designated, legally recognized, New Hampshire licensed engineer or surveyor employed by the applicant as may be pertinent to the actual services to be performed in accordance with the provisions set forth in RSA 310-A, as amended.

**HARDPAN:** this term refers to a compact soil layer high in silt and very fine sand, generally low in clay; its permeability is less than 0.6 inches per hour.

**IMPROVEMENT:** this term shall refer to site grading, landscaping, street or road construction, and utilities (including water, sewer, electric, gas, storm drainage, and their appurtenances) to be installed or agreed to be installed by the applicant on land to be used for public or private streets and easements or other purposes as are necessary for general development of the site. Agricultural and silvicultural activities are not necessarily improvements under this definition and may require a case-by-case analysis.

**INDIVIDUAL WASTE DISPOSAL SYSTEM:** this term refers to any sewage disposal and/or treatment system other than a municipal system or community system.

**INDIVIDUAL WATER SUPPLY SYSTEM:** this term refers to any water supply system other than a municipal system or a public water system, which provides potable water.

**LOT LINE ADJUSTMENT:** a lot line adjustment or boundary line agreement where no buildable lots are created. Such action requires notice and opportunity to be heard but does not require a public hearing for board action.

**LOT:** this term refers to a piece or parcel occupied or intended to be occupied by a principal building or a group of such buildings and accessory buildings, or utilized for a principal use and uses accessory or incidental to the operation thereof, together with such open spaces as required by these regulations and/or the Rollinsford Zoning Ordinance, and having frontage on a public street.

**MUNICIPAL WATER SUPPLY:** A water supply system that serves an average of at least twenty-five (25) individuals daily year-round or that has at least fifteen (15) service connections and that is owned and operated by a municipal or regional government.

**PLANNING BOARD AGENT:** Means the planning consultant, official, or other person(s) assigned by the Board to perform plan review and other such duties.

**PLAT or PLAN:** refers to the complete set drawings, reports, and accompanying information that comprises a submittal in accordance with these regulations. Statements made by the applicant or applicant's agent at public hearings shall also be considered an integral part of the plat or plan upon which a decision was made.

**PUBLIC MEETING:** is any meeting of the planning board that has been properly noticed in accordance with these regulations and/or RSA 91-A, as applicable.

**REGIONAL IMPACT:** refers to a proposal before the planning board that could reasonably be expected to impact on neighboring municipality, because of factors such as, but not limited to, size, proximity to border, transportation, emissions, water resource impact, and shared facilities.

**RIGHT-OF-WAY:** refers to any area or interest in land that is intended for public traverse, whether accepted by the town or not.

**SEASONAL HIGH WATER TABLE (SHWT):** this term refers to the upper limit of the ground water in a soil that becomes seasonally saturated with water.

**SENSITIVE AREAS:** this term refers to land and resources that possess environmental, cultural, or historic factors that warrant special consideration during planning board review. Such area may include, but are not limited to, historic homes, stream banks, wetlands, wildlife habitat (plant and animal), trails, etc.

**SLOPE:** The average steepness of the land surface under consideration. For the purpose of determining lot size categories, slope shall be determined by slope factors used U.S. Soil Conservation Service Soil Survey (National Cooperative Soil Survey) soils classification (where A = 0-3%; B = 3-8%; C = 8-15%; D = 15-25%; and E = >25%).

**SOIL TYPE:** As defined by the U.S. Soil Conservation Service, United States Department of Agriculture. For the purpose of this Regulation, soil type shall be determined by a certified soil scientist.

**STREAM:** A course of water that flows for sufficient time of the year to develop and maintain defined channels but may not flow during dry portions of the year. Includes but is not limited to all perennial and intermittent streams located on USGS maps.

**STREET:** As set forth in RSA 672:13, street means, relates to and includes street, avenue, boulevard, road, land, alley viaduct, highway, freeway and other ways. The term "streets" shall also apply to areas on any plans designated as streets, roads, lanes, etc.

**SUBDIVIDER:** Means an individual, firm, association, syndicate, partnership, corporation, trust, or any other legal entity or agent therefore that undertakes the subdivision of land in the Town of Rollinsford.

**SUBDIVISION, MINOR:** Means a subdivision of land into three or fewer lots, with no potential for resubdivision, and requiring no new roads, utilities or other municipal improvements.

**SUBDIVISION:** subdivision means the division of a lot, tract, or parcel (which may include one or more tracts, lots, or parcels) of land into two or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, for sale, rent, lease, or building development: in short, any division of land which creates the potential for additional dwelling units or bedrooms. The term includes re-subdivision, and when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided. The division of a parcel of land held in common and subsequently divided into parts among several owners shall be deemed a subdivision for the purpose of these regulations, in accordance with RSA 672:14, as amended.

**SUBMISSION:** this term refers to the process of applying to the Board for site plan review, formal submission is the formal presentation of a site plan to the Board at a public hearing, submission is a prerequisite for acceptance of a complete application.

**TOWN ENGINEER:** Means the duly designated registered professional engineer of the Town of Rollinsford.

**UPLAND SOILS:** Refers to soils that are not poorly or very poorly drained in accordance with these regulations.



WETLANDS: A wetland is defined as an area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands include, but are not limited to, swamps, marshes, bogs and similar areas.

**SECTION 6 - GENERAL STANDARDS**

**In review of any subdivision plans conducted under these regulations, the Planning Board will require that adequate provisions be made by the owner or his agent for:**

- 6.1 The safe and attractive development of the tract and to guard against such conditions as would involve danger or injury to health, safety, and the diminution in value of surrounding properties;
- 6.2 Traffic circulation and access including adequacy of entrances and exits, traffic flow, sight distances, access to state highways, turning lanes, and traffic signalization;
- 6.3 Pedestrian and bicycle safety and access;
- 6.4 Off-street parking;
- 6.5 Storm water drainage and ground water recharge;
- 6.6 Water supply, waste water and septage disposal, and solid waste disposal;
- 6.7 Adequate fire safety, prevention, and control;
- 6.8 The harmonious and aesthetically pleasing development of the municipality and its environs;
- 6.9 Suitably located and coordinated travelways of sufficient width to accommodate existing and prospective traffic and to afford adequate light, air, and access to buildings for fire fighting apparatus and other emergency equipment;
- 6.10 Conformance with all existing regulations and ordinances;
- 6.11 Demonstration that the proposal is generally consistent with the Town's Master Plan;
- 6.12 The minimization of encroachment on neighboring land uses;
- 6.13 Adequate green areas, open space, conservation easements, slope and drainage easements as may be necessary/applicable;
- 6.14 Facilities to meet the recreational needs of the residents in the subdivision.
- 6.15 Sidewalks, when required, shall be installed and constructed in accordance with the specifications of the Town of Rollinsford.

**SECTION 7 - GENERAL INFORMATION**

- 7.1 The subdivider shall make application using appropriate forms provided by the Planning Board and shall conform to the application procedures and any other applicable regulations adopted by the Town.
- 7.2 For more complete information it is strongly recommended that the applicant read the Town of Rollinsford Zoning Ordinance, Building Code, and Site Plan Review Regulations (as applicable).
- 7.3 Changes in lot line locations require subdivision application and approval in the same manner as ordinary subdivisions as defined in these regulations except that a public hearing may not be required as specified in Section 8.4 of these regulations. However, abutters must be notified of the meeting. (RSA 676:4, I(e)1.)
- 7.4 The applicant shall be required to pay all reasonable costs or fees for special investigative studies and the review of documents, which are particular to the application, in addition to administrative and notification fees as required by the Board.
- 7.5 In accordance with RSA 676:16, as amended, the transfer or sale of any lot in an unapproved subdivision will be enjoined by the Town and subject to a civil penalty of \$1,000 for each lot or parcel so transferred or sold.
- 7.6 The Board may make a visual on-site inspection of the land at any stage of the proposal. Inspection is to be at such time when the site is free of snow cover, unless the Board is otherwise satisfied that such inspection is not required.
- 7.7 If a plan is withdrawn prior to hearing notification for the plan, no further action is required by the Board, and it will be considered terminated. One copy of any such plan(s) shall be retained for Board files.
- 7.8 Approval of the plan by the Board shall not constitute an acceptance by the Town of the dedication of any proposed street, highway, park or other public open space.
- 7.9 The Board may approve the plan with such conditions as may be necessary to insure proper completion of required improvements, as detailed in Sections 9 and 10 of these regulations.
- 7.10 The Planning Board adopts the provisions of RSA 674:40-41 "Improvements in Unapproved Streets" and "Erection of Buildings on Streets; Appeals."
- 7.11 Only the Town of Rollinsford Planning Board has the authority to waive any Subdivision Regulations.

**SECTION 8 - PROCEDURES**8.1 **FORMAL APPLICATION**

## 8.1.1 Submission

Applications for subdivision approval shall be filed with the Planning Board and shall fulfill all the requirements of §9 and 10 of these regulations. An application shall be on forms available from the Planning Board office. All subdivision plans may be reviewed by the Chairman and/or his/her designee who shall determine their compliance with these regulations and any other applicable regulations including, but not limited to, the Town's Zoning Ordinance, Subdivision Regulations. Subsequent to this review the Chairman or designee may recommend either acceptance or request further information from the applicant.

A completed application shall be submitted to, and accepted by the Board only at a public hearing for which notice has given to the applicant, abutters, and the general public in accordance with RSA 676:4, I(d) and § 6.1.7 of these Regulations. Only completed applications will be placed on the Board's agenda for formal review. Submission and formal review can occur at the same public hearing.

Submission requirements:

**Preapplication Review Phase** (RSA 676:4,II)

8.1.1 **Preliminary Conceptual Consultation Phase.** This is an optional phase directed at review of the basic concept of the proposal and suggestions which might be of assistance in resolving problems with meeting requirements during final consideration. Such consultation shall not bind either the applicant or the board and statements made by planning board members shall not be the basis for disqualifying said members or invalidating any action taken. The board and the applicant may discuss proposals in conceptual form only and in general terms such as desirability of types of development and proposals under the master plan. Such discussion may occur without the necessity of giving formal public notice as required under RSA 676:4,I(d), however such discussions may occur only at formal meetings of the board.

8.1.2 **Design Review Phase.** This is an optional phase intended for nonbinding discussions with the applicant, beyond conceptual and general discussions, which involve more specific design and engineering details; provided, however, that the design review phase may proceed only after identification of and notice to abutters and the general public as required by RSA 676:4,I(d). Statements made by planning board members shall not be the basis for disqualifying said members or invalidating any action taken.

8.1.3 Persons wishing to engage in either the conceptual consultation, or design review pre-application phases shall request an appointment with the planning board.

8.1.4 It is recommended that the applicant submit the following information for the preliminary consultation with the Board:

1. Correct names and mailings addresses and zip codes of owner(s) of record (and applicant, if different), and location of the proposal.
2. A rough sketch of the site should be provided which shows the following:
  - a) Approximate location of proposed lot lines.

- b) Approximate lot measurements, and area of new lots.
- c) Street(s) on which lots have frontage.

8.2 Application for Subdivision Review

8.2.1 A completed application sufficient to invoke jurisdiction of the Board shall be filed with the Board's designee or the Town Office at least 19 days prior to the public meeting of the Board at which it is to be submitted.

All completed applications scheduled for Planning Board hearings shall be accompanied by the following:

1. A copy of the deed(s) to be filed with the Planning Board.
2. On a separate form provided by the Planning Board, the correct names and mailing addresses and zip codes of the applicant and owner(s) of record (if different), and all abutters (including those across the street or stream) as indicated in Town records -- to be obtained not more than 5 days before the day of filing. Three copies of mailing labels for all abutters shall also be provided.
3. All applicable fees.

8.2.2 Applications for subdivision plan review shall be filed with the Planning Board and shall fulfill all the requirements of these Regulations.

8.2.3 Applications shall be disapproved by the Board without public hearing on the grounds of failure of the applicant to supply information or to pay fees as required by these regulations.

8.2.4 Fees for Subdivision Review. All fees will be due before any application will be placed upon an agenda. Certain fees may be subject to change based upon cost increases incurred by the Board. Fee amounts are assessed in accordance with the Schedule of Fees attached hereto as Addendum B and incorporated by reference herein. The Schedule of Fees shall be adopted in accordance with the procedures required by state law for subdivision regulation adoption. The Schedule of Fees is available at Town Hall and from the Planning Board. These fees are assessed by authority of RSA 676:4,I(g), as amended.

8.2.5 The applicant shall submit to the Planning Board a complete application for subdivision approval, including all supporting exhibits as specified under Sections 9 and 10. Applications determined complete in accordance with Sections 9 & 10 of these regulations may, at the discretion of the Planning Board, be subject to review by the designated Town Engineer, Planner and/or other applicable Town departments including but not limited to Fire, Police and Water and Sewer.

8.2.6 Additional Town Review

The Board may send applications and copies of such plans to the Conservation Commission, building inspector, health officer, road agent, Fire department, Police department and any other department or board for review and comments. Copies shall be available at the Selectmen's office and Town Clerk's office for public review.

8.3 Board Action

- 8.3.1 Upon delivery of an application, in accordance to Section 8.2, the Board shall have thirty (30) days to determine if the submitted application is complete, according to the Board's regulations, and shall vote upon its acceptance. Formal consideration may begin on the same night as the completed application is accepted by the Board provided that notice of public hearing has been given.

Within sixty-five (65) days after a completed subdivision application has been accepted for jurisdiction, the board shall approve, approve with conditions, or disapprove said application. In cases where a subdivision review application has been disapproved, the grounds for such disapproval shall be clearly stated in the minutes of the board's meeting and notice provided to the applicant.

The receipt date in the above section shall be the last date upon which information necessary to determine completeness was received by the board. It shall not be the date upon which the information was first filed or any date in between. The board shall not find an application complete without all required information.

Any application not found to be complete shall be determined to be incomplete and a denial shall be provided in accordance with RSA 676:3, however, the board, at its discretion, may continue the hearing for determination of completeness to receive further information.

- 8.3.2 Extensions

The Planning Board may apply to the Board of Selectmen for an extension not to exceed an additional ninety (90) days before acting to approve, approve with conditions, or disapprove an accepted non-residential site plan review application. An applicant may waive the requirement for Board action within the time periods specified in §8.1.3 and consent in writing to such extensions as may be mutually agreeable to both the Board and the applicant; in such an event, no application to the Board of Selectmen is required.

- 8.3.4 Failure To Act

Upon failure of the Board to approve, conditionally approve, or disapprove the application, the Board of Selectmen shall, upon request of the applicant, immediately issue an order directing the Planning Board to act on the application within thirty (30) days per RSA 676:4, I(c)(1). If the Board does not act on the application within the thirty (30) day time period, then within forty (40) days of the issuance of the order, the Selectmen shall certify on the applicant's non-residential site plan review application that the plat is approved, unless within those forty (40) days the Selectmen have identified in writing a specific provision of the Subdivision Regulations, Zoning Ordinance, Non-residential Site Plan Review Regulations, or other applicable regulation or by-law with which the application does not comply. Such certification by the Selectmen of the foregoing shall constitute final approval under RSA 674:37 and 676:18, and court review under RSA 677:15.

- 8.3.5 Conditional Approval

- A. The Board may grant conditional approval of a subdivision review application, but the plan will not be signed or recorded until all of the conditions have been met. Conditions of this nature must be fulfilled before the planning board may give final approval to an application. Approval will become final without further public hearing, upon certification to the Board or by its designee based upon evidence submitted by the applicant of satisfactory compliance with the conditions imposed. Conditional Approval without a public hearing will only be granted when the conditions are:

1. Minor changes whether or not imposed by the Board as a result of a public hearing, compliance with which is administrative in nature and which does not involve discretionary judgment; or
  2. Conditions which are in themselves administrative and which involve no discretionary judgment on the part of the Board, such as, payment of additional fees, minor textual corrections to submitted documents, submission of additional copies of submitted documents, or other similar items; or
  3. Involve the applicant's possession of permits and approvals granted by other Boards or governmental agencies, provided that the permits and approvals themselves have not required a change to the submitted plat or any other conditions imposed by the Board.
- C. Unless otherwise specified within the approval, the applicant shall have six months to comply with the conditions of the approval and have the plan signed by the Board. If the conditions are not met within six months, the conditional approval shall lapse, unless a mutually agreeable extension has been granted by the Board. Extensions shall be granted only if there have been no amendments to the Zoning Ordinance, Subdivision Regulations, Non-residential Site Plan Review Regulations, or any other ordinances and regulations which would render the subdivision plan non-conforming, and if all other required permits are still valid.

8.3.6 Final Approval

Upon determination that the requirements of these and any other town regulations or ordinances have been met, the board may approve the application. Where any of these regulations have not been met or are not applicable, the board may grant a waiver in accordance with the procedures in Section 13.3, Waivers.

The Board shall have the authority to grant approval subject to conditions that are subsequent. Such conditions may be necessary to secure the intent and purpose of these regulations or help to mitigate the impacts presented by the development itself. These are conditions that may appear on the plat and deal with restrictions on the use of property or safeguards that must be observed during development of the parcel or once the project is completed. Such issues might include the location of a road, preservation of vegetation and stone walls, or hours of operation and construction.

8.3.7 Public Hearing and Notice

When acting on a completed subdivision review application, the Board shall hold a public hearing to discuss the application. Per RSA 676:4, I(e), a public hearing shall not be required when the Board disapproves an application based upon an applicant's failure to supply information required by these regulations, including abutter's identification, failure to meet reasonable deadlines established by the Board, or failure to pay costs of notice or other fees required by the Board.

It shall be the responsibility of the applicant to supply the names and addresses of all the abutters upon filing the subdivision application with the Board. Per RSA 676:4, I(d), as amended, notification shall also be given to the applicant and all professionals, including every engineer, architect, land surveyor, or soil scientist, whose seals are affixed to the plan, as well as any holder of a conservation easement on the subject parcel. The board will conduct no review of submitted names for determination of complete abutter notification. Furthermore, the board takes no responsibility or liability for improperly noticed hearings resulting from applicant-generated abutter lists.

Abutters and the applicant shall be notified by the Board, in the form of a certified mailing, of the date upon which the application will be formally submitted for acceptance by the Board. Notice shall be mailed at least ten (10) days prior to submission of the application. Notice to the general public will be given at the same time by advertisement in a newspaper of general circulation in the Town of Rollinsford, and shall be posted in at least two (2) public places. All costs of notice, whether mailed, posted or published, shall be paid in advance by the applicant (RSA 676:4, I(d)). Fees are more fully laid out in the Schedule of Fees.

8.3.8 Developments of Regional Impact

In accordance with RSA 36:54-58, the Board shall review all subdivision plans to determine if they have regional impact and shall follow the notification procedures required in RSA 36:57.

8.3.9 Recording Procedures

The Board shall require residential subdivision and lot line adjustment plans to be recorded with the Strafford County Registry of Deeds, once said plan is approved or approved with conditions. Per RSA 676:4, I(g), the cost of said filing is considered an administrative expense, and shall be borne by the applicant. The filing fee must be paid prior to recording.

8.3.10 Active and Substantial Development

In accordance with RSA 674:39, the Board, at its discretion, may require all plans to include a note that shall specify the threshold level of work which shall constitute "active and substantial development or building" for purposes of fulfilling the requirements of RSA 674:39, I. This threshold for "active and substantial development or building" must be reached within 12 months of approval before the plan will be eligible for the four-year exemption, as provided in 674:39, from subsequent changes in the Town of Rollinsford Zoning Ordinance, Subdivision Regulations, or Non-residential Site Plan Review regulations. The Board may extend this period for up to 12 months only for good cause.

**SECTION 9 - GENERAL REQUIREMENTS FOR THE SUBDIVISION OF LAND**

The subdivider shall observe the following general requirements and principles of land subdivision:

- 9.1 The minimum dimensional requirements of lots shall be determined by the provisions of the Town of Rollinsford Soil Type Lot Size Regulations (Section 11 of these regulations) and by applicable provisions of the Rollinsford Zoning Ordinance.
- 9.2 Reserve strips of land which, in the opinion of the Planning Board, show an intent on the part of the subdivider to control access to land dedicated or to be dedicated to public use shall not be permitted.
- 9.3 Intersecting property lines at proposed street intersections shall be joined by a curve of at least 20-foot radius.
- 9.4 There shall be adequate width and area on every proposed lot after the erection of a residence to permit the parking of at least three (3) cars for each dwelling unit within the lot and within the lot clearances required by the Zoning Ordinance and Building Code, within a garage or other enclosure, or in lieu thereof, upon a gravel or surfaced parking area.
- 9.5 Land of such character that it cannot be safely used for building purposes because of exceptional danger to health



or peril from fire, flood, impermeable soil or other menace shall not be platted for residential occupancy, nor for such other uses as may increase danger to health, life or property or aggravate the flood or sewage hazard, until appropriate measures have been taken by the owner or his agent to eliminate such hazards.

- 9.6 The Board may, where it deems necessary, due to the character, size, and location or other factor specific to the proposed subdivision, require that one or more sites within the subdivision be dedicated for use as recreation (neighborhood park or playground) or open-space land. Such sites shall be of suitable character and size for the intended use. Such areas, whether privately or publicly owned shall have a sufficient restrictive covenant, which shall run with the land, recorded in the deed to assure permanent use as a recreation or open space land. Privately owned recreation or open space land shall be deeded in such a way that will assure the maintenance of the land and facilities in an orderly manner suitable for the intended use.
- 9.7 All public or private streets, roadways, utilities, sewerage and drainage facilities, curbs and sidewalks, when required, shall be installed and constructed in accordance with the specifications spelled out in the Town of Rollinsford Subdivision Regulations.
- 9.8 A layout indicating how the site will be served by electric, telephone and any other public utility must be provided. If the utility company(s) requires an easement to provide service, no final approval shall be granted by the Rollinsford Planning Board until such easements are secured. If no easements are required, a letter of intent to provide service from the utility company(s) must accompany the application.
- 9.9 Until such time as permanent monumentation is established in a subdivision location, all lot corners of boundary lines shall be maintained with temporary pin placements consisting of wood or metal stakes flagged with survey ribbons. This is to be accomplished after all roadside stakes are in place.
- 9.10 The subdivider shall install two (2) granite monuments at least thirty-six (36") inches in length and four (4") inches square with suitable center point at every corner which abuts a road, street, or right-of-way. In addition, the subdivider shall install iron pin monuments not less than one (1) inch in diameter and thirty-six (36) inches long at all other points on the boundary lines of lots where there is a change in direction.
- These monuments are to be in place prior to completion of the project.
- 9.11 The Board may require special improvements which it deems reasonably necessary or desirable for the conditions or circumstances relative to the particular subdivision. Any such special requirements shall be stated in writing in the minutes of the Board with the reasons therefore.
- 9.12 The Board may provide against such scattered or premature subdivision of land as would involve danger or injury to health, safety, or prosperity by reason of the lack of water supply, drainage, transportation, schools, fire protection, or other public services or necessitate the excessive expenditure of public funds for the supply of such services.
- 9.13 Lots for development shall not change the topography of the land to be developed by the removal of trees, shrubs, soil and rocks, except that which is necessary for the building of structures and roads.
- 9.14 The Town of Rollinsford does not allow the creation of pork chop lots in any zone.
- 9.15 The Town of Rollinsford does not allow the act of subdivision along Class VI roads. All subdivisions must occur along Class V roads or better.

**SECTION 10 - SPECIFIC PLAN REQUIREMENTS**10.1 **SUBDIVISION PLAN**

## 10.1.1 Scope of Review

Every application for subdivision review must incorporate the entire parcel within the review. Not to do so may cause approval of a lot or situation which is not in conformance with the zoning ordinance and/or other applicable ordinances and regulations.

## 10.1.2 Professional Standards

Subdivision plans shall be prepared, stamped, and signed by a registered Professional Engineer and/or Licensed Land Surveyor licensed in New Hampshire. The requirement for a Professional Engineer shall apply to all plans showing roadways, utilities, bridges and culverts, plus drainage and other construction plans.

## 10.1.3 Sheet Size

All plans shall be drawn in ink and be presented on sheet sizes that conform to the requirements of the Strafford County Registry of Deeds. The Board requests only one sheet plan size be used for preparing all plans in a set.

## 10.1.4 Copies

A completed application shall contain six (6) full size copies of the plans. However, only two (2) copies of the drainage report shall be required. Eight (8) 11"X17" plans shall also be submitted for distribution to board members prior to the meeting for which the application is scheduled. The Planning Board may require additional plans when needed. A digital copy of the plan shall also be submitted in current electronic media for the Planning Board files.

10.2 **Specific Plan Information - Existing Site Conditions**

In order for the Board to comprehensively evaluate a subdivision plan proposal, the applicant is required to show the following information as part of the subdivision plan, unless granted a waiver in accordance with Section 13.3, Waivers. Other information may be reasonably required by the Board and shall be submitted. Such additional submittals may be required in cases where the submitted information fails to permit the Board to review the subdivision in light of the requirements of Sections 7 and 8 and the purposes of these regulations.

- A. Location of site, names, and addresses of current owners of record and current abutting land owners. A separate list of current names and addresses of abutters must also be provided.
- B. Proposed subdivision name. Name and address of person(s) or firm preparing the plan. Said plan must contain the date of preparation, title, north arrow, scale, legend and zoning district(s). Name and address of person(s) or firm preparing other data and information if different from the preparer of the map. Plans shall also contain a signature block for Board approval.
- C. Surveyed property lines including angles or bearings, distances, monument locations and size of the entire parcel. Said plan must be attested to and stamped by a Licensed Land Surveyor licensed in the State of New Hampshire, signature, seal, and license number shall be legible and included on the plan.

- D. Existing grades and topographic contours at intervals not exceeding two (2) feet with spot elevations where the grade is less than five percent (5%).
- E. The location of existing drainage systems, structures, and drainage easements, if any.
- F. The shape, size, height, location and use of all existing structures, including wells and septic systems, on the site and within 200 feet of the site.
- G. Natural features such as streams, marshes, lakes, ponds, rock outcrops, wooded areas, significant trees, ledge, and other significant environmental features, including wetland soils as defined under current Rollinsford Wetlands Ordinance, wetlands shall be identified by a NH certified soil scientist or NH certified wetland scientist.
- H. Man-made features such as, but not limited to, existing roads, stone walls, pedestrian ways, and other structures. The plan shall also indicate which structures are to be retained and which are to be removed or altered.
- I. The size and location of all existing public and private utilities, including off-site utilities to which connection is planned, and any underground storage tanks, abandoned or in use.
- J. A vicinity sketch showing the location of the site in relation to the surrounding public street system, to be shown within a distance of 1,000 feet.
- K. A High Intensity Soil Survey (HISS) of the entire site, or the portion as determined by the Board. Such soil survey shall be prepared and stamped by a certified soil scientist in accordance with the standards established by the Strafford County Conservation District. Any cover letters or explanatory data provided by the certified soil scientist shall also be submitted.
- L. Location and description of all existing easements and/or rights of way, parks, reservations, conservation land, and holders of conservation easements.
- M. Tax map and parcel number.
- N. Each existing building or manmade structure, including stone walls, shall be shown on the plan and reviewed with the Board for historic significance. Such historic features may be destroyed or removed only with Board approval.
- O. Summary of Rollinsford Zoning Ordinance requirements, including, but not limited to summary of lot size requirements, lot area, frontage, etc.
- P. The subdivision plan shall show any burial site or cemetery as a separate lot from the remainder of the subdivision by means of a fence or stone wall. This fence shall be placed not less than twenty-five (25) feet from any grave, monument, or tomb and will be shown on subdivision plans accordingly. Access for maintenance shall also be shown on the subdivision plan.
- Q. Scale should be not more than 1" = 100' (one inch = 100 feet).
- R. The final plan(s) shall include sufficient data acceptable to the Planning Board and the Town Engineer to determine readily the location, bearing and length of every existing and proposed street line and lot line, and to reproduce such lines upon the ground. All dimensions shall be shown to hundredths of a foot and bearings to at least half minutes. The error of closure shall not exceed a ratio of 1 to 10,000. The final plan(s) shall show the boundaries of the property and the bounds of any public or private streets and easements abutting or pertaining to the proposed subdivision in any manner.

10.3 Specific Plan Information- Proposed Site Conditions

In order for the Board to comprehensively evaluate a subdivision plan proposal, the applicant is required to show the following information as part of the subdivision plan, unless granted a waiver in accordance with Section 13.3, Waivers. Other information may be reasonably required by the Board and shall be submitted. Such additional submittals may be required in cases where the submitted information fails to permit the Board to review the subdivision in light of the requirements of Sections 7 and 8 and the purposes of these regulations.

- A. Proposed grades and topographic contours at intervals not exceeding two (2) feet with spot elevations where grade is less than five percent (5%).
- B. Construction drawings and location, name, width, curbing and paving of proposed streets, drainage ways, and profiles and the elevations of sufficient points on the property to indicate the general topography of the property, driveways and sidewalks with indication of direction of travel for one-way streets. Including the radii of streets, driveways, access ways, and sidewalks within the site and its relationship to the off-site street system.
- C. Location and timing patterns of proposed traffic control devices, including painted road indicators, and all signage.
- D. Designs of any bridges or culverts that may be required.
- E. Where the plat submitted covers a part of the subdivider's entire holding, a sketch of the prospective future street system of the unsubmitted part shall be furnished and the street system of the submitted part will be considered in the light of adjustments and connections with the street systems for the part not submitted.
- F. The location, size and layout of on and off-street parking, including loading zones. The plan shall indicate the calculations used to determine the number of parking spaces required and provided.
- G. The location and layout of proposed drainage systems and structures, including elevations for catch basins designed in accordance with these regulations.
- H. Note indicating that "all road and drainage work to conform to the standard specifications for construction in the State of New Hampshire".
- I. The size and location of all proposed public and private utilities, including but not limited to: water lines, sewage facilities, gas lines, power lines, telephone lines, fire hydrants and alarm connection, underground storage tanks, and other utilities.
- J. The location and type of street lighting, including the cone of illumination on the site.
- K. Location and description of proposed easement(s) and/or rights-of-way. Locations of access to existing town roads, as stated in RSA 236-13, Section 5, and copies of permits for the access.
- L. The location and size of all proposed open space areas or parcels to be dedicated to public use and the conditions of such dedication and a copy of such private deed restrictions as are intended to cover part or all of the tract.

- M. Deeds or other proposed documents of conveyance of any land located within the subdivision proposed for use for recreational or other Town purposes and Town ownership shall be part of the application. These proposed documents of conveyance shall be in a form satisfactory to Town Counsel. The fact that the Subdivider makes such offers and Town Counsel approves the form of the documents does not bind the Town or its agents to accepting the offer. The suitability of lands offered for recreational or conservation uses shall be determined by the Conservation Commission of the Town. A letter indicating the Commission's opinion shall accompany the application.
- N. The location of all monumentation that is to be installed in accordance with these regulations shall be shown on the plans. If the monumentation is changed in the field after construction supplemental information shall be filed with the Planning Board to be added to the file. Any change in the actual layout of the lots shall require planning board approval in accordance with these regulations.
- O. Any other information the Board may require in order to properly evaluate the proposed development including, but not limited to, the following:
  - a. Calculations relating to stormwater runoff.
  - b. Information on the composition and quantity of wastewater generated.
  - c. Information on air, water, or land pollutants discharged.
  - d. Estimates of traffic generation.
  - e. Grading, drainage and erosion and sediment control plan.
  - f. Any other plan required under § 8.2.

10.4 Sidewalks and Bikeways

Sidewalks and/or bikeways, where appropriate, shall be provided for pedestrian traffic to provide connection between the subdivision and nearby destinations. Sidewalks shall be at least six (6) inches above grade and shall be protected by curbing. Sidewalk designs shall include means for handicapped access. The board shall consider the following when determining the appropriateness of sidewalks:

- A. Proximity to schools.
- B. Whether recreational facilities and land is available within the subdivision.
- C. Proximity to commercial destinations, including but not limited to, restaurants, stores, shops, etc.
- D. Proximity to other pedestrian or bikeways, including “abandoned” ways or sidewalks.

10.5 Landscaping Design and Plan

The Town of Rollinsford requires attention to landscaping design in order to protect and preserve the appearance, character, and value of the surrounding neighborhoods by providing a better transition; by improving the compatibility between various land uses in the Town; and by buffering neighboring properties and areas from any adverse effects of site development.

These regulations shall mitigate the appearance and detrimental impact of non-residential uses. Any application of these regulations shall protect the value and provide for quiet enjoyment and nuisance-free use of neighboring properties.

- A. To the extent feasible, naturally landscaped buffer strips of 25 feet must be preserved where a proposed residential development abuts non-residential zones or uses. This buffer shall adequately shield the residential properties from the adverse effects of the non-residential use. No roads shall be located within any part of this buffer zone.
- B. Where appropriate, existing trees and vegetation must be incorporated into the buffer strips or landscaping design. Buffer strips must contain vegetation which will screen the view from adjacent residential property during all seasons, this screening must exclude visual contact between uses and create a strong impression of the separation of spaces. Fencing alone may be considered an acceptable method of screening only if granted a waiver in accordance with Section 13.3, Waivers.
- C. Where appropriate or required, subdivisions shall be planned to provide that natural vegetation be retained as a buffer along environmentally sensitive areas such as watercourses, wetlands, and standing waters, in accordance with sound environmental practices, as described by the Department of Environmental Services. Pre-existing or non-conforming lots which are the subject of subdivision shall not be subject to the landscaping recommendations or requirements described above.

#### 10.6 Bridges

Bridges must be built according to the N.H. Department of Transportation manual, *Standard Specifications for Road and Bridge Construction* dated 1990 and as amended. All bridge plans must be approved by the State Engineers prior to construction.

#### 10.7 Fire Protection

Fire hydrants, fire ponds, and other improvements reasonably required for fire safety shall be provided as specified by the Rollinsford Fire Department and approved by the Planning Board. These items shall be shown on the site plan and installed by the applicant.

The Planning Board in its discretion may require the applicant to consult with the Rollinsford Fire Department to determine what, if any, appropriate fire protection measures are reasonably necessary. The applicant shall provide the Planning Board with the results of such consultation in the form of a letter or representations of facilities on the plan. The Planning Board may require additional fire protection measures in addition to the Rollinsford Fire Department's recommendation if reasonably necessary.

#### 10.9 Water, Wells, On-site Sewage, and Hydrogeological Studies

##### A. Water:

1. On-site water supply: the provision of an on-site water supply shall conform to criteria of the Water Supply and Pollution Control Division of the N.H. Department of Environmental Services. It shall be the responsibility of the applicant to provide sufficient and complete information to prove that the site is able to permit the installation and operation of both individual on-site water supply and sewage disposal systems.
2. A hydrogeologic study shall be required for any well with a withdrawal of over 20,000 gallons per day.

3. Drinking water supplied by a community water system serving less than twenty-five (25) persons shall be tested by the Town with the cost of such testing being borne by the applicant. Community water systems serving more than twenty-five persons are subject to "Design Standards for Small Public Water Systems", Chapter WS 300, Part 310 of the NH Code of Administrative Rules."

B. Well Radius Placement:

1. Each newly created lot shall show the entire well radius protection area as required by the State Department of Environmental Services rules.
2. The entire required well radius shall be located within the boundaries of each newly created lot.
3. Well radius easements covering neighboring parcels are not permitted in new subdivisions. This insures:
  - (a) Protection of health and safety for individual on-site water resources from adverse impacts of land uses on adjacent and neighboring parcels.
  - (b) Allows for maximum flexibility in the placement of septic systems and other land uses on neighboring parcels of land.
  - (c) Promotes the wise and free use of property unencumbered by easements.

10.10 Sewered Area System Requirements

If an applicant intends to utilize Town of Rollinsford sewer and water service, or private community water system, they should make an appointment with the Rollinsford Sewer and Water Department to determine proper requirements and procedures. Plans must be submitted for review by the water and sewer department, if required.

Written approval is required prior to Planning Board approval.

10.11 Non-Sewered Area System Siting Requirements

- A. In areas not served by public sewage disposal systems at the time of subdivision, it shall be incumbent upon the subdivider or his agent to adequately demonstrate that all proposed lots will meet all current state and local septic system disposal standards. No subdivision of land will be approved where it creates a building lot that will not meet these standards.
- B. The subdivider or his agent shall be required to submit all site information, including but not limited to percolation tests, test pits, soil, slope, and minimum distance data as may be required by the Planning Board to determine the suitability of each proposed lot for on-site sewage disposal.
- C. In no case shall the Planning Board grant final approval of a proposed subdivision until the following State approvals, if necessary, have been received: New Hampshire Department of Environmental Services (DES) - Water Supply and Pollution Control Division Subdivision Approval; DES Subsurface Disposal; DES Site Specific; DES Wetlands Board - Dredge and Fill Permit; DES Water Supply Approval; and U.S. Army Corps of Engineers 404 Permit.
- D. The location of and pertinent data on sufficient test pits and percolation tests to show that the

regulations can be met on each lot created by the subdivision. Information shall include at least the following: the location of test pits; percolation test data; the certification of the test pit inspector witnessing the perc tests; and an outline of the areas reserved for leach fields which corresponds to test locations. The location of reserve leach field areas if available shall also be shown. (Local septic system requirements must be met prior to obtaining approval from the NH Water Supply and Pollution Control Division.)

- E. The bottom of the proposed leachfield, trench system, or dry well shall be a minimum of four (4) feet above any seasonal high water table and six (6) feet above any impermeable substratum (six feet with municipal or New Hampshire Water Supply and Pollution Control Division approved community water supply). Impermeable substratum is defined as any soil with a percolation rate of less than one (1) inch per 60 minutes. Clay and hardpan layers will be assumed impermeable unless shown to be permeable by a properly conducted percolation test. Bedrock, shale and rotten ledge are considered impermeable. (RSA 149-E)
- F. Where there is less than five (5) feet of natural soil over ledge, or other impermeable substratum, the disposal system must be designed by a licensed civil or sanitary engineer registered in the State of New Hampshire and having a valid NH. septic designers license. This does not, however, guarantee that the lot will be approved. (RSA 149-E)
- G. The bottom of the leaching field shall be 6 feet above bedrock or any impermeable substratum unless there is municipal or state approved community water supply, in which case the distance to bedrock or impermeable substratum may be reduced to 4 feet.
- H. The receiving layer for a leaching system shall meet the following criteria before a site is considered suitable for modification, as needed, for system design and approval:
  - a. there shall be no type A hydric soils, determined in accordance with Env-Ws 1014.02, under or within 75 feet laterally of the proposed system;
  - b. there shall be no type B hydric soils, determined in accordance with Env-Ws 1014.02, under or within 50 feet laterally of the proposed system.
- I. Any soil with a seasonal high water table less than eighteen (18) inches of the soil shall not be used for the disposal of septic tank effluent.
- J. All new on-site waste disposal systems are to be located so as to avoid impairment to them or contamination from them during flooding.
- K. All on-site waste disposal systems must be located seventy-five (75) feet from the location of a private well, two hundred (200) feet from a community well and four hundred (400) feet from a public well.
- L. The bottom of the leaching field shall be 4 feet above the seasonal high water table.
- M. When the design shows that at least 50% of the bed or trench area meets the requirements established by Env-Ws 1014.03 and Env-Ws 1014.04, a reduction in the distances required by Env-Ws 1014.03 and Env-Ws 1014.04 shall be allowed.

Pertaining to sloping sites, the distance between the bottom of the leach field and the seasonal high water mark shall be no less than two (2) feet.
- N. The slope of a lot shall be determined by finding the average slope across the lot, measured



perpendicular to the contours.

- O. Each proposed lot of a subdivision shall contain an area of land sufficient in size and site characteristics to be used as an auxiliary septic system absorption field. Said area shall be reserved for this use and must be capable of meeting the pertinent minimum standards as set forth above. The location of the auxiliary absorption field area shall be indicated on the subdivision plan and at final siting of system.
- P. Planning Board approval is subject to all septic requirements of the Rollinsford Health Regulations.

10.12 Utilities

- A. The applicant proposing a residential development shall insure the installation all electric, telephone, and other utility distribution lines per specifications of the public utility companies involved, and easements required for transformer units shall be provided by the developer.
- B. All proposed utilities shall be located underground.

10.13 Easements

A. All easements dedicating rights to the Town of Rollinsford are subject to review and approval by the Board and Town Counsel, and any other Town agent or body which the Board and/or Counsel deem necessary.

- 1. Where the topography is such as to make difficult the inclusion of any utilities or other facilities within the road rights-of-way, the subdivision plan shall show the boundaries of the proposed permanent easements over or under private property. Such easements shall not be less than twenty-five (25) feet in width and shall have satisfactory access to existing or proposed rights-of-way.
- 2. Where a proposed residential development is traversed by a watercourse or drainage way, the Board may require a stormwater easement or drainage right-of-way of at least twenty-five (25) feet in width.

10.14 Open Space Requirements

In accordance with RSA 674:36,II, a subdivision of land shall show open spaces of adequate proportions. Plats submitted to the planning board for approval which show new streets or narrowing or widening of such streets shall show a park or parks suitably located for playground or other recreational purposes that are reasonably sized for neighborhood use.

- A. Natural Features. The subdivision and development shall, whenever possible, preserve in their natural condition important natural features. The Planning Board may request an advisory opinion from the Conservation Commission in the determination of the value of natural features and the boundaries of such natural systems. Such areas include watercourses, wetland areas, steep slopes, large or unique trees, groves, or special habitats. Natural features that provide buffers between lots, or sections, of a subdivision should be preserved to enhance privacy and aesthetic value.
- B. Buffer Strips. The Planning Board may require the designation of buffer strips of at least fifty feet in width around natural features which may be adversely affected by erosion or stormwater runoff. The Board may require a vegetative buffer to provide screening where non-residential developments abut a

residential zone.

- C. Parks. The Board may require the dedication or reservation of such open space within the subdivision for park, playground or other recreational or open space purposes, for the residents of the subdivision.
- D. Tree Planting. The planting of shade trees within all subdivision layouts where residential, commercial, or industrial development is to take place may be required of the developer who shall supply planting plans to the Board. The planting plans of shade trees within proposed or accepted rights-of-way must be submitted to the Conservation Commission and receive its approval before planting.

#### 10.15 Storm Water Drainage and Erosion Control

- A. An adequate surface storm water drainage system for the entire subdivision area shall be provided. Storm drainage shall be carried to existing water courses or connect to existing storm drains. No new drainage-ways shall be created unless necessary easements are obtained. Such easements shall be duly recorded on the plat and the property deeds involved. No increase in surface runoff shall be permitted if such increased runoff passes beyond the property lines of the parcel upon which such development occurs, unless it is within an approved public storm drainage system. Storm drains and other subdivision drainage facilities shall be based upon a design flow to accommodate a 25-year/24-hour storm. All water courses shall be designed so as not to create erosive velocities. Calculations of runoff used to determine storm water system design shall be submitted for Planning Board review.
- B. Provisions shall be made to accommodate the increased runoff caused by changed soil and surface conditions during and after development. Sediment in the runoff water shall be trapped by the use of sediment basins or other acceptable methods until the disturbed area is stabilized. Diversions, sediment retention basins, and other erosion/sedimentation control structures shall be constructed prior to any on-site grading or disturbance of existing surface material.
- C. A storm water system shall be constructed in accordance with the following requirements:
  - 1) The storm water system shall include an adequate number and sizes of catch basins and/or drop inlets, and shall be fully designed to handle all computed or reasonably anticipated storm water drainage. The minimum size, slope, and location of the pipe shall be determined by a qualified engineer and installed under his supervision.
  - 2) No storm water pipe, catch basin, drainage inlet, or other pipe floor drain, draining surface water shall be connected to any sanitary sewer system, pipe or other part of said system. All storm water pipe shall be inspected and approved by the Town Engineer before covered. Inspection shall be completed on a normal workday within a 24-hour period after notification.
  - 3) The subdivider shall provide satisfactory information that his storm water drainage system will not cause flooding or unreasonable deposits of such waters upon or onto adjacent private or public lands or streets, unless deed easements for the same are obtained in the name of, or to be deeded to, the Town of Rollinsford.

#### 10.16 Traffic Impact and Mitigation Analysis

All proposed developments shall be reviewed by the Board to ascertain that adequate provisions have been made by the owner or his/her agent for traffic safety. To facilitate this review, the applicant may be required to provide a traffic impact analysis when deemed necessary by the Board due to the size, location, or any other traffic

generating characteristics of the development.

- A. A traffic impact and mitigation analysis shall be required in the following circumstances:
1. The subdivision involves the creation of 10 or more residential lots or residential units;
  2. The subdivision is intended to facilitate non-residential land uses;
  3. A traffic impact analysis may be required of any development, at the discretion of the Planning Board, where information submitted does not permit the Board to with adequately identify the impacts of the development to the health, safety, and welfare of existing and proposed public.
- B. The traffic impact and mitigation analysis shall be prepared by a NH licensed Professional Engineer. This analysis shall be prepared to meet, at a minimum, the NHDOT's Policy for the Permitting of Driveways and Other Access to the State Highway System (March 10, 2000) and NHDOT Intersection Capacity Analysis Guidance (Jan. 8, 2001).
- C. Depending on the magnitude of the proposed development, acceptable report formats may include: a letter report, a formal traffic impact and access study, or a technical memorandum addressing specific issues and concerns. All report types shall include a technical appendix containing all pertinent traffic data and analyses used in the preparation of the study.
- D. Where applicable, reports shall include a qualitative as well as quantitative analysis including, but not limited to, details concerning the following impacts and proposed efforts to mitigate these impacts:
1. Inventory of the existing roadway conditions surrounding the site including identification of existing deficiencies;
  2. Description of the proposed development including a trip generation estimate for daily and peak hour conditions;
  3. Internal circulation patterns including service, delivery, and emergency response vehicles;
  4. Pedestrian and bicycle mobility;
  5. Adequacy of the existing roadway network to accommodate site-generated traffic;
  6. Sight distances;
  7. Traffic control needs;
  8. On and off-site parking adequacy;
  9. Accident statistics;
  10. Neighborhood impacts; and
  11. Air quality and noise impacts.
  12. Any other identifiable impact that the Board finds necessary to address.
- E. The extent of the study area for the traffic analysis will depend on the location and size of the proposed development. Small projects may require minimal analysis limited to site access locations and existing intersections immediately adjacent to the project. Large-scale projects may require a more extensive study area. The study area limits shall be reviewed by the Town Planner and/or town-hired consultant prior to the preparation of the study.
- F. Analysis periods shall include weekday morning and evening peak hours for residential, industrial, and office type developments. Commercial developments (depending on the use) may include weekend

peak hours in addition to the weekday.

G. Reports shall include the following unless the requirement is beyond the scope of the reasonably predicted impact of the development:

1 . Existing Conditions Analysis

- i . ADT and peak hour volumes shall be provided for critical roadways and intersections.
- i i . Traffic volumes shall be seasonally adjusted to reflect peak traffic month conditions. Historical traffic volume data obtained from the Town, NHDOT, or Nashua Regional Planning Commission shall be used to determine seasonal variations within the study area.
- i i i . Levels of service and vehicle queues shall be calculated for the existing (peak month) conditions at all study area intersections.
- i v . Existing conditions traffic volume networks shall be prepared for the study area.

2 . “No Build” Analyses

- i . Analyses shall be performed for the opening year of the project and opening year plus ten.
- i i . Traffic growth projections shall include regional background growth in addition to traffic generated by any nearby proposed or approved development projects. Local historical traffic volume data shall be reviewed in assessing a traffic growth rate for use in the study.
- i i i . Opening year and opening year plus ten traffic volume networks shall be prepared for the No Build condition.

3 . Trip Generation Estimate and Distribution

- i . Daily and peak hour trip estimates for the proposed project shall be developed using rates published by the Institute of Transportation Engineers (ITE). Deviations from the industry standard rates must be substantially supported with data collected at similar facilities.
- i i . Procedures used to determine the distribution and assignment of site-generated trips shall be documented within the study.
- i i i . Site-generated trips shall be added to the No Build traffic volume networks to establish the Build condition. Traffic volume networks demonstrating the distribution and assignment of site-generated trips shall be included in the study.

4 . Build Analysis

- i . Analyses shall be performed for the opening year of the project and opening year plus ten.
- i i . Opening year and opening year plus ten traffic volume networks shall be prepared for the Build condition.

5 . Mitigation Plan

- i . Where traffic operations or safety deficiencies are expected to occur as a result of the proposed development, mitigation measures to alleviate such deficiencies shall be evaluated and recommended by the proponent.
- i i . Acceptable mitigation measures may include (but are not limited to) roadway and intersection improvements that address capacity or geometric problems, traffic calming, and transportation demand management.
- i i i . Conceptual improvement plans demonstrating the recommended mitigation shall be provided when appropriate.

H. Recommended acceptable sources include the latest edition of the following publications:

1. Trip Generation, 6<sup>th</sup> Edition, 1997, ITE
2. Trip Generation Handbook – An ITE Proposed Recommended Practice, October 1998, ITE
3. Policy for the Permitting of Driveways and Other Access to the State Highway System, March 10, 2000, NHDOT
4. Intersection Capacity Analysis Guidance, January 8, 2001, NHDOT Memorandum
5. Highway Capacity Manual 2000, Transportation Research Board
6. Manual on Uniform Traffic Control Devices Millennium Edition 2000, FHWA
7. A Policy on Geometric Design of Highways and Streets 2001, Fourth Edition, AASHTO
- 8 . Highway Design Manual, March 1999, NHDOT

I. The Board may retain the services of a consultant qualified in traffic engineering and transportation planning to review the traffic impact analysis and to insure that adequate provisions are made in the development plan to reduce or eliminate project-related impacts. The Board may further require, pursuant to RSA 676:4 I(g), that the developer reimburse the Town for reasonable costs of this review. No plan shall be approved until such fees, if applicable, are paid in full.

#### 10.18 Performance and Maintenance Security

A. The Planning Board may accept performance security in lieu of the subdivider's completion of street work and other required improvements in conformance with these regulations. The security shall be in a form and amount, and with surety, and other conditions all satisfactory to the Board to insure for the Town the construction and installation of such improvements within a period of time not to exceed two (2) years. The time limit of two years for completion from the date of final approval shall be expressed in the security. The security shall remain valid and available until drawn upon by the Town or released in accordance with 10.9.5 below.

Further to the above, the security shall be one of the following:

1. Certified check or bank check properly endorsed to the Town of Rollinsford.
2. Irrevocable letter of credit submitted on the standard form approved by the Town. (If other than the Town's approved form, the performance agreement shall be reviewed and approved by the Town Counsel as to proper legal form and enforceability. The cost of this review shall be borne by the subdivider.

B. The subdivider shall file with the Board a detailed estimate of all costs of required street improvements, drainage structures, utilities or other improvements. The Board may have the estimate reviewed by a professional consultant, if deemed necessary. The cost of this review shall be borne by the subdivider. The Board, after considering the estimate, any other pertinent information received, and their own knowledge shall determine the amount of the performance security required.

- C. The Board may further extend the time of two years for completion when the reasons for delay were unforeseeable and beyond the reasonable control of the subdivider. Any such extension shall be in writing and signed by a majority of the Board signifying their concurrence and shall only be granted after ensuring the validity and availability of the security for such extension. Any such extension shall be solely at the discretion of the Planning Board.
- D. The performance security shall not be released until the Board has certified after inspection that the required improvements have been completed in accordance with the approved plat. A fee, payable by the subdivider, may be charged to cover the cost of professional consultation selected by the Board to assist in determining completion of all required work to the construction standards of the Town.
- E. All security shall be held by the Selectmen of the Town. The Selectmen shall not draw upon or release any security until they are in receipt of a resolution passed by a majority of the Planning Board stating the purpose and amount to be drawn or released. The Selectmen shall enforce such securities by all appropriate legal and equitable remedies.

10.19 Legal Documents

Where applicable to a specific subdivision, the following are required in a form approved by Town Counsel:

- A. Agreement to convey to the Town land to be used for streets or other public purposes, with transfer of title.
- B. Easements and rights-of-way over property to remain in private ownership, including drainage easements.
- C. Performance security, as described in Section 10.12.

10.20 Streets and Roads

All public and private streets, roads, driveways, sidewalks, pedestrian ways and bikeways shall be submitted as specified in Addendum A - "Road Design and Construction Specifications" of these Regulations.

10.21 Driveways

All permits required for driveways and other accesses onto a State highway shall be obtained from the New Hampshire Department of Transportation prior to final approval of the subdivision. Any permits required for driveways onto local streets shall be obtained from the Town. The Planning Board shall attempt to assure that the location of all driveways and accesses do not endanger safety or impede reasonable traffic flow.

No driveway shall access more than two (2) single-family or duplex units, or one (1) three or four-family structure. Dual access "looped" driveways may be required if deemed necessary by the Planning Board.

10.22 Off-Site Improvements

Pursuant to RSA 674:36, the Board may require special improvements on or off-site which it deems reasonably necessary or desirable for the conditions or circumstances relative to the particular subdivision plan review. Any such special requirements shall be stated in writing in the minutes of the Board with the reasons therefore. The Board may require, either that the applicant construct the improvements in whole or in part, or reimburse the

municipality or any other party who, at the direction of the municipality, undertakes such improvements. The applicant's responsibility for such improvements is limited to that portion of the cost of the improvements which bears a rational nexus to the needs created by, and special benefits conferred upon, the site, taking into consideration the municipality's ability to pay for such improvements.

**SECTION 11 - SOIL BASED LOT SIZE DETERMINATION**

The Planning Board of the Town of Rollinsford, New Hampshire hereby adopts the following as part of their subdivision regulations in accordance with RSA 674:35-36 for the following purposes:

To assure that the land indicated on plats submitted to the Planning Board shall be of such character that it can be used for the building purposes without danger to health;

To prescribe minimum areas of lots so as to assure conformance with local zoning ordinances and to assure such additional areas as may be needed for each lot for on-site sanitary facilities; and

To protect ground water quality for purposes of public health and safety.

The lot sizes for subdivisions in the Town of Rollinsford shall be based on the following specified criteria.

11.1 Minimum Lot Sizes

11.1.1 In the absence of municipal wastewater system, minimum lot sizes within all subdivisions shall, in addition to meeting the requirements of the zoning ordinance for the zone wherein the subdivision is proposed, also meet the lot size requirements as may be needed for each lot to insure ground water quality protection. These additional requirements are specified in Table 1A and 1B, "Minimum Lot Size by Soil Type." Each lot shall have a soil carrying capacity of one or greater.

This requirement is subject to the following modifications:

11.1.1.1 Where more than one soil type is found on a lot, a soil carrying capacity of those soils occurring on the lot shall be used to determine the minimum lot size.

11.1.1.2 Wetlands may be used as part of the computed lot size according to the following:

- a. Areas designated as type B hydric soils may be utilized to fulfill the minimum lot size required by the Town of Rollinsford ordinances and subdivision regulations provided that a contiguous non-wetland area sufficient in size and configuration to adequately accommodate all housing and required utilities such as sewage disposal and water supply to include setbacks, is provided.
- b. Areas designated as type A hydric soils (very poorly drained soils, fresh or saltwater marsh or surface water areas) may not be utilized to fulfill minimum lot size.
- c. No subsurface wastewater disposal system shall be constructed within 75 feet of any type A hydric soil or 50 feet of any type B hydric soil.

11.1.1.3 Slopes greater than 25% may be used as a part of the computed lot size according to the following:

- a. Areas designated with slopes greater than 25% may be utilized to fulfill the minimum lot size required by town ordinances and subdivision regulations provided that a contiguous area with less than 15% slopes sufficient in size and configuration to adequately accommodate all housing and required utilities such as sewage disposal and water supply to include setbacks, is provided.

11.1.1.4 Minimum lot sizes for residential developments with greater than four (4) bedrooms per building and for cluster developments shall be determined as follows:

- a. For multi-family residential use the minimum lot size shall be proportionately smaller per dwelling unit than the lot size indicated in the appropriate table as determined by the following formulas:
  1. Number of 1 and/or 2 bedroom units = Area of each soil type on the lot divided by (lot size from Table 1A/B x .65).
  2. Number of three bedroom units = Area of each soil type on the lot divided by (lot size from Table 1A/B x .85).
- b. In the case of cluster subdivisions, the overall density of lots or dwelling units for development within the parcel shall be determined by using the appropriate table and computing a soil carrying capacity of all allowed soils found in the parcel proposed for subdivision. Wetland soils (type B hydric) will be given credit up to the density computed for the non-wetland portion of the property. The overall computed density may then be increased by 2%.
- c. For duplex use, where the total number of bedrooms in the building shall not exceed 5, the lot size shall be increased by 40% of the minimum lot size as determined by the appropriate table.

11.1.1.4 For single family homes with greater than 4 bedrooms the required lot size will be increased 15% for each additional bedroom exceeding four.

11.1.1.5 In developments where a municipal water supply system is to be provided and whose water source is outside the drainage basin of the proposed development, minimum lot sizes may be reduced by 15% of the minimum requirements as stated in the appropriate table.

11.1.1.6 For commercial and industrial uses with residential quality waste, lot sizes will be determined by the formula:

$$\text{Lot Size} = \frac{Q \text{ (gpd)}}{2000 \text{ gpd}} \times \text{Lot Size from Table 1A/B}$$

**where:** Q = gallons of wastewater to be discharged per day. The amount of flow will be determined by use of Env-Ws 1008.02 Average Daily Flow Volume.

- a. Final site plan approval for commercial/industrial development which generate wastes of such nature or character as to require state or federal



permits for pre-treatment and discharge or subsurface disposal shall not be granted until all such permits are secured provided, however that conditional approval may be granted per RSA 676:4, I(i). The conditions upon which such permits are issued shall comply with state and local regulations and be made part of the record before the Planning Board.

11.2 Sources of Soils Information

- 11.2.1 Soils information shall be provided by the following method: High Intensity Soil Maps.
- 11.2.2 HISS maps prepared by field examination shall be performed by a Certified Soil Scientist and so stamped.
- 11.2.3 All costs of preparing soil data shall be borne by the subdivider.

11.3 Relationship Between State and Local Regulations

Where both state and local regulations are applicable, the more stringent regulation shall take effect. If the state regulation addresses an issue not included in the local regulation or if the local regulation addresses an issue not included in the state regulation, that regulation shall automatically apply.

TABLE 1

## MINIMUM LOT SIZE BY SOIL TYPE USING HISS MAPS

**NOTE:** The following may not be a complete list of soil types in your town. Contact the Strafford County Conservation District for assistance. (Lot sizes in square feet.)

Soil Type	B	C	Slope	D	E
111-H	35500	42000		51500	68000
112-H	35500	42000		51500	68000
11X-H	68000	76000		86000	100000
121-H	35500	42000		51500	68000
122-H	35500	42000		51500	68000
12X-H	68000	76000		86000	100000
161-H	35500	42000		51500	68000
16X-H	68000	76000		86000	100000
211-H	35500	42000		51500	68000
212-H	35500	42000		51500	68000
213-H	68000	76000		86000	100000
21X-H	68000	76000		86000	100000
221-H	44500	56000		68000	86000
222-H	44500	56000		68000	86000
223-H	68000	76000		86000	100000
22X-H	68000	76000		86000	100000
231-H	44500	56000		68000	86000
233-H	68000	76000		86000	100000
23X-H	68000	76000		86000	100000
241-H	68000	76000		86000	100000
243-H	68000	76000		86000	100000
24X-H	68000	76000		86000	100000
251-H	68000	76000		86000	100000
253-H	68000	76000		86000	100000
25X-H	68000	76000		86000	100000
261-H	44500	56000		68000	86000
263-H	68000	76000		86000	100000
26X-H	68000	76000		86000	100000
275-H	44500	56000			
311-H	44500	56000		68000	86000
312-H	44500	56000		68000	86000
313-H	68000	76000		86000	100000
31X-H	68000	76000		86000	100000
321-H	44500	56000		68000	86000
322-H	44500	56000		68000	86000
323-H	68000	76000		86000	100000
325-H	68000	76000			
32X-H	68000	76000		86000	100000
331-H	44500	56000		68000	86000
333-H	68000	76000		86000	100000
33X-H	68000	76000		86000	100000
341-H	68000	76000		86000	100000

343-H	68000	76000	86000	100000
34X-H	68000	76000	86000	100000

Soil Type	B	C	Slope	D	E
351-H	68000	76000		86000	100000
353-H	68000	76000		86000	100000
35X-H	68000	76000		86000	100000
361-H	44500	56000		68000	86000
363-H	68000	76000		86000	100000
36X-H	68000	76000		86000	100000
375-H	44500	56000			
411-H	44500	56000		68000	
412-H	44500	56000			
413-H	68000	76000			
41X-H	68000	76000			
421-H	68000	76000		86000	
422-H	68000	76000		86000	
423-H	68000	76000		86000	
42X-H	68000	76000		86000	
431-H	68000	76000			
433-H	68000	76000			
43X-H	68000	76000			
441-H	68000	76000			
443-H	68000	76000			
44X-H	68000	76000			
451-H	68000	76000			
453-H	68000	76000			
45X-H	68000	76000			
461-H	68000	76000			
463-H	68000	76000			
46X-H	68000	76000			
475-H	68000				
511-H	44500	56000		68000	
512-H	44500	56000			
513-H	68000	76000			
51X-H	68000	76000			
521-H	68000	76000		86000	
522-H	68000	76000		86000	
523-H	68000	76000		86000	
52X-H	68000	76000		86000	
531-H	68000	76000			
533-H	68000	76000			
53X-H	68000	76000			
541-H	68000	76000			
543-H	68000	76000			
54X-H	68000	76000			
551-H	68000	76000			
553-H	68000	76000			
55X-H	68000	76000			

561-H	68000	76000
563-H	68000	76000
56X-H	68000	76000
575-H	68000	

The soil types listed below have one or more limiting characteristics that make the soil type "NA" or require on-site investigation, no matter what other characteristics of the soil may be present.

<u>Soil Type</u>	<u>Minimum Lot Size</u>
6***H	NA, very poorly drained soil, Type A hydric
*66*H	NA, fill does not meet the Standards for Fill Material (see Key to Soil Types)
76**H	On-site evaluation needed

The Soil Type symbols are explained in "High Intensity Soil Maps for New Hampshire, Standards and Origins. SSSNNE Special Publication No. 1".

"NA" means not allowed.

"\*" means any slope or any number.

#### 11.4 Lot Shape and Size Regulations

These regulations are adopted to assure conformance with the requirements and intents and purposes of the Zoning Ordinance. These regulations affect lot shape and size within a proposed subdivision to the extent they create conditions specific to the subdivision that assure safe, convenient, and prosperous developments for the current owner and all subsequent residents, the provision of adequate access for safety vehicles, additional areas for each lot necessary to accommodate on-site septic facilities, provide for clarity of ownership, and to prevent the occurrence of zoning violations caused by poorly designed lot shapes.

These regulations carry out the intent of the zoning ordinance and provide clarity and flexibility in the administration of the requirements of the zoning ordinance where questions are left unresolved. They are not meant to supplant the zoning ordinance and may be waived in accordance with Section 13.3 Waivers.

##### 11.4.1 Intent and Purposes for Lot Shape and Size Regulations

The intent of these regulations is to enhance and insure consistency with the Rollinsford Zoning Ordinance.

The following purposes are:

- A. Lots shall be shaped in a manner that promotes clarity of ownership, access across fee-title land rather than easement interests which may promote destructive property disputes, and to promote the convenient and harmonious development of the land.
- B. The layout of lots which violate these purposes is not permitted.
- C. The close proximity of narrow portions of lots that will create a situation that reduces privacy

and increases congestion and overcrowding of the land are not permitted.

- D. The close proximity of house sites tend to create conflicts among the use of the land, including maintenance disputes, use disputes, and property ownership disputes between landowners and is not permitted.
- E. Oddly shaped lots cannot reasonably be interpreted to be an orderly layout of the land or insure that proper description of ownership or ease of identification will carry forward in time are not permitted.

## **SECTION 12 - SPECIAL FLOOD PROTECTION PROVISIONS**

- 12.1 If any part of the area of the proposed subdivision, or development subject to site review, lies within the boundaries of the Special Flood Hazard Area, as shown on the map on file in the Planning Board (Selectmen's) office, the following special criteria shall apply:
- 12.1.1 Drainage -- drainage structures and ways shall be constructed in a manner to accommodate a so-called 100-year frequency flood;
  - 12.1.2 Wastewater Disposal and Water Supply -- all systems for the supply of water or the discharge of household wastewater shall be constructed in a way which will prevent the infiltration of floodwater and contamination of water supplies or backing up of wastewater resulting from a 100-year frequency flood;
  - 12.1.3 Building Sites -- the subdivision or site shall be so laid out that sites for buildings to be used for human occupancy will either:
    - 12.1.3.1 not be located in the flood hazard area, or
    - 12.1.3.2 if a building is to be located within the flood hazard area, it shall be constructed in such a fashion that neither the structure or its essential utilities will be harmed by a 100 year frequency flood.
  - 12.1.4 Restrictions necessary to achieve the goals of this Section shall be placed on the plan or shall accompany the plan and be referenced by it.

## **SECTION 13 - ADMINISTRATION AND ENFORCEMENT**

### 13.1 General

13.1.1 These Regulations shall be administered by the Planning Board with the assistance of the Building Inspector, Town Engineer and such other persons as the Board shall designate. It shall be the duty of the Board of Selectmen to enforce the Subdivision Regulations. The Selectmen in enforcing these Regulations shall act upon complaint or information from the Planning Board, Building Inspector, Town Engineer, or otherwise, and shall, whenever practicable, take such action as the Planning Board or such other officer requests.

13.1.2 The Code Enforcement Officer or other agent so designated by the Planning Board shall be charged with the responsibility of inspecting improvements and development of subdivisions on site for compliance with the Subdivision Regulations.

13.2 Appeals

13.2.1 Any person aggrieved by any decision of the Planning Board concerning a plat or subdivision may appeal said decision to the Superior Court, as provided by R.S.A 677:15.

13.3 Waiver Procedure

13.3.1 When a proposed subdivision plat is submitted for approval, the applicant may request in writing to waive specific requirements of these Regulations as they pertain to the subdivision plan. The applicant shall present reasons in writing why the waiver is needed.

13.3.2 The Planning Board may grant a waiver in a special case, so that justice may be done and the public interest secured, provided that such waiver will not have the effect of nullifying the intent and purposes of these Regulations; and further provided that the Planning Board shall not approve waivers unless it shall make findings based upon the evidence presented to it in each specific case.

13.4 Amendments

The Planning Board may from time to time amend these regulations. Amendments to the Subdivision Regulations shall include the following steps:

13.4.1 The Board shall hold at least one (1) public hearing on the proposed regulations and/or amendments.

13.4.2 Notice for time, place and date of any hearing to amend shall be given at least ten (10) calendar days before hearing, not including day of posting or day of hearing. Notice of hearing shall be published in a paper of general circulation in Town and posted in two (2) public places. Notice shall include an adequate statement describing the proposal and the place where a full text of proposal is on file for public inspection. Posting shall include a copy of the full text.

13.4.3 The Planning Board may adopt the amendments upon completion of the public hearing by an affirmative vote of a majority of its members.

13.4.4 Regulations and/or amendments adopted shall be legal and have full force and effect when copies are certified by a majority of the Planning Board members and filed with the Town Clerk and the Board of Selectmen. A copy of the regulations and/or amendments shall be forwarded to the Office of State Planning.

13.5 Penalties for Transferring Lots in Unapproved Subdivisions.

13.5.1 Any owner, or agent of the owner, of any land located within Rollinsford, who transfers or sells any land before a plat of said subdivision has been approved by the Planning Board and filed with the appropriate recording official under RSA 674:35 II, shall forfeit and pay a civil penalty of \$1000 for each parcel or lot so transferred or sold; and the description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties. The Town of Rollinsford may enjoin a transfer or sale which violates the provisions of this Section and may recover the penalty imposed by civil action. (RSA 676:16)

13.6 Fines and Penalties

13.6.1 Any person who violates any of the provisions of this title, or any local ordinance, code, or

regulation adopted under this title, or any provision or specification of any application, plat, or plan approved by, or any requirement or condition of a permit or decision issued by, any local requirement or condition of a permit or decision issued by, any local administrator or land use board acting under the authority of this title:

- a) Shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person.
- b) Shall be subject to a civil penalty not to exceed \$275 for the first offense and \$550 for subsequent offenses for each day that such violation is found to continue after the conviction date or after the date on which the violator receives written notice from the municipality that the violator is in violation, whichever is earlier. (RSA 676:17)

13.7 Separability

If any part or provision of these Regulations or application thereof to any person or circumstances is judged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in all controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of these Regulations or the application thereof to other persons or circumstances.

13.8 Effective Date

These revised regulations are effective as of August 22, 2007 on which day they have been filed with the Rollinsford Town Clerk and Board of Selectmen.



# Town of Salem, New Hampshire

Community Development Department

Health Division

Municipal Offices, 33 Geremonty Drive, Salem, New Hampshire 03079

tel: (603) 890-2050 fax: (603) 898-1223

Brian A Lockard  
Health Officer

## WELL TEST REQUIREMENTS

EFFECTIVE FEBRUARY 7, 2000

Pursuant to the Board of Selectmen adoption of revisions to Salem Chapter 253- Salem Disposal Systems and Wells, the following well test results and requirements shall be met prior to the issuance of a Certificate of Occupancy on any building serviced by a well in the town of Salem:

Salem Chapter 253-Salem Disposal Systems and Wells: §253-10 D

### 10 D. Wells

1. A permit must be obtained before any drinking well is installed, and must be accompanied by a scaled diagram of the location. Diagram must show existing or proposed subsurface disposal system on that and adjacent lots. The applicable fee as established by the Board of Selectmen shall accompany the application. The plan shall be submitted with the site address, map and lot number.
  
2. In all new construction, prior to issuance of a Certificate of Occupancy and in all well replacements, a State of NH certified testing lab shall do a well water analysis of the following parameters:
  - a. Bacteria
  - b. Chloride
  - c. Sodium
  - d. Iron
  - e. Manganese
  - f. pH
  - g. Hardness
  - h. Fluoride
  - i. Nitrate/Nitrite
  - j. Lead
  - k. Arsenic
  - l. \*Volatile Organic Compound Screen (VOC)

\* If the VOC Screen is positive, further testing shall be done to determine the type of contaminant and concentration.

3. All test results shall be submitted to the Health Division and shall meet EPA Maximum Contaminant Level (MCL) Standards prior to the issuance of a Certificate of Occupancy.



For your information:

VOC Testing

The NH Department of Environmental Services, Laboratory Services Unit at 29 Hazen Drive in Concord, provides a water analysis test called:

**EPA METHOD # 524.2**

This test is \$120 and requires a special sampling bottle obtainable from the lab. They can be contacted at 271-3445.

The test provides the lowest detection levels for 60 some odd organic compounds and meets the intent of the requirements. The test quantitates the amount of any volatile organic compound tested, therefore eliminating the need for further, and more expensive quantitative testing.

Please call the lab directly for more information.  
Well testing may also be done at any NH Certified Well Testing Lab.

\*\*\*\*\*

**WELL INSTALLERS AND BUILDERS PLEASE NOTE:**

**IT TAKES APPROXIMATELY TWO (2) WEEKS TO GET VOC TEST RESULTS. PLEASE PLAN ACCORDINGLY AS VOC WELL TEST RESULTS ARE REQUIRED PRIOR TO ISSUING THE CERTIFICATE OF OCCUPANCY.**

# TITLE XII

## PUBLIC SAFETY AND WELFARE

### CHAPTER 155-A

### NEW HAMPSHIRE BUILDING CODE

#### Section 155-A:1

##### **155-A:1 Definitions. –**

In this chapter:

I. "Building" means building as defined and interpreted by the International Code Council's International Building Code 2015, as amended by the state building code review board and ratified by the legislature in accordance with RSA 155-A:10.

II. "County" means the local legislative body of a county in which there are unincorporated towns or unorganized places.

III. "Local enforcement agency" means for a municipality that has adopted enforcement provisions or additional regulations under RSA 674:51 or RSA 47:22, the building inspector, code official, or other local government official qualified and authorized to make inspections and to enforce the laws, ordinances, and rules enacted by the state and by local government that establish standards and requirements applicable to the construction, alteration, or repair of buildings. For the purpose of enforcement of the state fire code for buildings and structures not owned by the state, the local enforcement agency means the municipal fire chief or his or her representative, pursuant to RSA 154:2, II.

IV. "New Hampshire building code" or "state building code" means the adoption by reference of the International Building Code 2015, the International Existing Building Code 2015, the International Plumbing Code 2015, the International Mechanical Code 2015, the International Energy Conservation Code 2015, the International Swimming Pool and Spa Code 2015, and the International Residential Code 2015, as published by the International Code Council, and the National Electrical Code 2017, as amended by the state building code review board and ratified by the legislature in accordance with RSA 155-A:10. The provisions of any other national code or model code referred to within a code listed in this definition shall not be included in the state building code unless specifically included in the codes listed in this definition.

IV-a. "New Hampshire fire code" or "state fire code" means the state fire code as defined in RSA 153:1 and as amended by rules adopted pursuant to RSA 153:5.

V. "Person" means any individual or organized group of any kind, including partnerships, corporations, limited liability partnerships, limited liability companies, and other forms of association, as well as federal, state or local instrumentalities, political subdivisions, or officers.

VI. "Structure" means structure as defined and interpreted by the International Code Council's International Building Code 2015, as amended by the state building code review board and ratified by the legislature in accordance with RSA 155-A:10.

**Source.** 2002, 8:3. 2003, 245:1. 2006, 112:1. 2007, 187:1-3. 2009, 41:2. 2012, 242:7-10, eff. June 18, 2012. 2014, 314:4, eff. Jan. 1, 2015. 2017, 201:3, eff. Jan. 1, 2018. 2019, 250:1-3, eff. Sept. 15, 2019.

#### Section 155-A:2

See Emergency Order #23 (NH LEGIS E.O. 2020-23-Emerg. (2020, 2023:1.)), issued pursuant to Executive Order 2020-04 (NH LEGIS E.O. 2020-04 (2020, 1004:1.)) as extended by Executive Orders 2020-05 (NH LEGIS E.O. 2020-05 (2020, 1005:1.)); 2020-08 (NH LEGIS E.O. 2020-08 (2020, 1008:1.)); 2020-09 (NH LEGIS E.O. 2020-09 (2020, 1009:1.)); 2020-010 (NH LEGIS E.O. 2020-010 (2020, 1010:1.)); 2020-014 (NH LEGIS E.O. 2020-014 (2020, 1014:1.)); 2020-015 (NH LEGIS E.O. 2020-015 (2020, 1015:1.)); 2020-016 (NH LEGIS E.O. 2020-016 (2020, 1016:1.)); 2020-017 (NH LEGIS E.O. 2020-017 (2020, 1017:1.)); 2020-018 (NH LEGIS E.O. 2020-018 (2020, 1018:1.)); 2020-020 (NH LEGIS E.O. 2020-020 (2020, 1020:1.)); 2020-021 (NH LEGIS E.O. 2020-021 (2020, 1021:1.)); 2020-022 (NH LEGIS E.O. 2020-022 (2020, 1022:1.)); 2020-023 (NH LEGIS E.O. 2020-023 (2020, 1023:1.)); 2020-024 (NH LEGIS E.O. 2020-024 (2020, 1024:1.)); 2020-025 (NH LEGIS E.O. 2020-025 (2020, 1025:1.)); 2021-01 (NH LEGIS E.O. 2021-01 (2021, 1001:1.)), and related to the COVID-19 State of Emergency, for potential impact on the terms of this section.

### **155-A:2 State Building Code. –**

- I. All buildings, building components, and structures constructed in New Hampshire shall comply with the state building code and state fire code. The construction, design, structure, maintenance, and use of all buildings or structures to be erected and the alteration, renovation, rehabilitation, repair, removal, or demolition of all buildings and structures previously erected shall be governed by the provisions of the state building code.
- II. To the extent that there is any conflict between the state building code and the state fire code, the code creating the greater degree of life safety shall take precedence, subject to the review provisions contained in RSA 155-A:10. If the municipal building and fire code officials cannot agree which code creates the greater degree of life safety, the property owner may notify the 2 officials in writing that if agreement is not reached within 2 business days of delivery of said notification, that the decision shall be made by the property owner to comply with either the applicable building code or fire code. Such decision by the property owner after proper notification shall not be grounds for the denial of a certificate of occupancy.
- III. To the extent that it does not conflict with any other provision of law, and except as otherwise provided in this paragraph, the issuance of permits and the collection of fees pursuant to the state building code is expressly reserved for counties, towns, cities, and village districts where such activities have been authorized in accordance with RSA 674:51 and RSA 47:22. Pursuant to the state fire marshal's authority to enforce the state building code under RSA 155-A:7, I, the fire marshal may establish for municipalities that do not have a building inspector or other enforcement mechanism authorized in RSA 155-A:4, with approval of the commissioner of safety and by rules adopted under RSA 541-A, fees to defray the cost of issuing building permits in accordance with the state building code. Such fees shall be deposited in the fire standards and training and emergency medical services fund established in RSA 21-P:12-d.
- IV. Except for buildings owned by the state, the community college system of New Hampshire, or the university system, the issuance of permits and certificates of occupancy pursuant to the state building code is expressly reserved for counties, towns, cities, and village districts. The state fire marshal shall issue permits, conduct inspections, and issue certificates of occupancy for buildings owned by the state, the community college system of New Hampshire, and the university system. Nothing in this section shall prohibit the state fire marshal from contracting with or authorizing a local enforcement agency or other qualified third party for these services, provided the fees for such services are paid for by the applicant. Any municipality that has adopted an enforcement mechanism under RSA 674:51 alternatively may request the services of the state fire marshal under the state building permit system, including issuance of permits, conducting inspections, and issuance of certificates of occupancy, for buildings or projects owned by the counties, town, cities, or village districts, if a project requires specialized knowledge of the fire marshal or due to staffing limitations of the municipality. Nothing in this section shall require the state fire marshal to accept a project under the state

building permit system when requested by a municipality.

V. Counties, towns, cities, and village districts may adopt by ordinance pursuant to RSA 674:51 or RSA 47:22 any additional regulations provided that such regulations are not less stringent than the requirements of the state building code and the state fire code.

V-a. Any event tent erected on public or private property shall comply with the applicable provisions of the state building code and state fire code. Notwithstanding paragraph V, counties, towns, cities, and village districts shall not adopt any rule, regulation, or ordinance regarding event tents erected on public or private property in addition to those established in the state building code and state fire code. A building permit shall not be required for a tent of any size erected as an accessory structure on property that is an owner-occupied, one or 2-family dwelling.

VI. For any municipality which has not adopted an enforcement mechanism under RSA 674:51, the contractor of the building, building component, or structure shall notify the state fire marshal concerning the type of construction before construction begins excluding one- and 2-family dwellings. Any municipality that has adopted an enforcement mechanism under RSA 674:51 may contract with a local enforcement agency or a qualified third party for these services as an alternative to establishing the position of building inspector under RSA 674:51, III(c), and such agency or third party shall have the same authority as a building inspector as provided in that section.

VII. The contractor of a building, building component, or structure shall be responsible for meeting the minimum requirements of the state building code and state fire code. No municipality shall be held liable for any failure on the part of a contractor to comply with the provisions of the state building code.

VIII. Nothing in this chapter shall be construed as amending, repealing, or superseding any local law, ordinance, code, or regulation, except local code requirements that are less stringent than the state building code or state fire code, and all buildings, building components, and structures shall comply with all applicable state or local building and fire code requirements, land use restrictions including but not limited to subdivision regulations, use and location restrictions, density and dimensional limitations, or historic district laws or ordinances.

IX. Nothing in this chapter shall be construed to permit or encourage the state to initiate or assume an independent role in the administration and enforcement of the New Hampshire building code for a building or structure that is not owned by the state unless otherwise authorized by law.

X. No state agency, authority, board, or commission shall vary, modify, or waive the requirements of the state building code or state fire code, unless approved by the state building code review board pursuant to RSA 155-A relative to the state building code or the state fire marshal pursuant to RSA 153:8-a, I(c) for the state fire code. Nothing in this chapter shall affect the statutory authority of the commissioner of labor, the state board for the licensing and regulation of plumbers, or the state electricians' board to administer their respective programs, provided that any changes to codes proposed under the rulemaking authority of these agencies shall not be enforced until approved by the state building code review board.

XI. Notwithstanding the inclusion of the National Electrical Code 2017 in the state building code under RSA 155-A:1, IV, the amended provisions of section 210.12 of the National Electrical Code, which modify the National Electrical Code 2014 version to add arc-fault circuit interrupter requirements for dormitory unit devices and bathrooms, guest rooms and guest suites, and branch circuit extensions or modifications for dormitory units shall not be enforced under the state building code or this chapter.

**Source.** 2002, 8:3. 2003, 245:2. 2009, 175:1. 2010, 326:2. 2012, 242:11, eff. June 18, 2012. 2017, 201:6, eff. Sept. 3, 2017. 2018, 39:1, eff. Jan. 1, 2019. 2020, 37:85, eff. July 29, 2020.

### Section 155-A:3

**155-A:3 Local Amendments; Application. –**

For a municipality which has adopted an enforcement mechanism or additional regulations to the state building code pursuant to RSA 674:51:

I. The municipality may adopt local amendments to the state building code which do not prohibit minimum implementation and enforcement of the state building code.

II. The procedure for amendment shall be in accordance with applicable statutes and local regulations.

III. At a minimum, the municipality shall ensure that implementation and enforcement includes:

(a) Review and acceptance of appropriate plans.

(b) Issuance of building permits.

(c) Inspection of the work authorized by the building permits.

(d) Issuance of appropriate use and occupancy certificates.

IV. (a) The provisions of this chapter and any local amendments under this section shall not be construed to restrict or encumber the local governing body's authority relative to the appointment, removal, or duties of municipal employees and the organization of municipal departments.

(b) Any provision of the state building code that conflicts with existing or amended local ordinances, regulations, policies, practices, or procedures regarding the appointment, removal, or duties of municipal employees and the organization of municipal departments, shall not apply provided that the ordinances, regulations, policies, practices, or procedures do not prevent effective enforcement of the state building code or state fire code.

**Source.** 2002, 8:3. 2012, 242:12, eff. June 18, 2012.

**Section 155-A:3-a****155-A:3-a Code Requirements; Biomass Burning Boilers. –**

I. Notwithstanding any provisions of the state building code or state fire code, the board shall adopt a code and amendments thereto which shall regulate the installation and operation of biomass burning boilers. The code adopted shall include the 1999 EN 303-5 standard established by the European Committee for Standardization, and shall include requirements for the safe installation, operation, and repair of such boilers, and for data plates and warning labels written in English, limits on temperature and pressure with associated relief valves, and the filing of construction and emissions specifications written in English.

II. The inspection procedures and enforcement requirements for the commissioner of labor in RSA 157-A shall apply to boilers installed according to the code and amendments adopted by the board under this section.

III. The code and amendments thereto adopted under paragraph I shall be ratified by appropriate legislation within 2 years of their adoption. If such code and amendments are not ratified, then the code and amendments shall expire at the end of the 2-year period.

**Source.** 2010, 326:1, eff. Sept. 18, 2010.

**Section 155-A:3-b****155-A:3-b Code Requirements; Log Structures. –**

I. Notwithstanding any provisions of the state building code or state fire code, the state building code review board shall adopt amendments to the state building code regulating the design and construction of log structures. The adopted amendments shall include ICC 400 Standard on the Design and Construction of Log Structures.

II. The amendments adopted under paragraph I shall be ratified by appropriate legislation within 2 years of their adoption. If such amendments are not ratified, then the amendments shall expire at the end of the 2-year period.

**Source.** 2012, 189:1, eff. June 11, 2012.

### **Section 155-A:3-c**

#### **155-A:3-c Installation of Arc-Fault Circuit Interrupters (AFCI); Exception. –**

I. Notwithstanding any provision of the state building code or state fire code requiring the installation of arc-fault circuit interrupters, after repeated tripping of an AFCI device and determination the branch circuit is not causing the AFCI to trip, an AFCI device may be replaced with one without AFCI protection in accordance with this section.

II. All receptacle outlets supplied by the branch circuit without AFCI protection shall prior to occupancy either be:

(a) Marked "No AFCI Protection;" or

(b) Identified in a notice given by the property owner to all occupants.

III. If an electrician installs a device without AFCI protection, within 5 working days the electrician shall file an AFCI unwanted tripping report with the National Electrical Manufacturers Association on the association's webpage for arc fault breaker safety, and shall submit a copy of the report to the property owner and the electricians' board.

IV. The device without AFCI protection shall be permitted to remain in place for the period of time it takes for the manufacturer to resolve the matter.

V. Nothing in this section shall prevent a homeowner from making electrical installations in or about a single family residence owned and occupied by him or her or to be occupied by him or her as his or her bona fide personal abode.

**Source.** 2017, 157:1, eff. June 28, 2017.

### **Section 155-A:4**

#### **155-A:4 Permit Required. –**

I. Before starting new construction or renovation of buildings and structures as described in RSA 155-A:2, I, the person responsible for such construction shall obtain a permit.

II. In municipalities that have adopted an enforcement mechanism pursuant to RSA 674:51 and RSA 47:22, the permit under this section shall conform to the locally adopted process. No permit shall be issued that would not result in compliance with the state building code and state fire code.

III. For buildings and structures owned by the state, the community college system of New Hampshire, or the university system, the person responsible for such activities shall obtain a permit from the state fire marshal. Before issuing the permit, the state fire marshal shall give due consideration to any written recommendations of the municipal fire chief, building official, or designee in the community where the state building is located.

**Source.** 2002, 8:3. 2012, 242:13, eff. June 18, 2012.

### **Section 155-A:5**

#### **155-A:5 Accessibility Standards for Public Buildings; Purpose and Intent. –** The requirements of this

section and RSA 155-A:5-a and RSA 155-A:5-b are intended to establish a system of certification and enforcement for the accessibility standards in the state building code for public buildings. For purposes of this section, public building means any building that is regulated by the accessibility standards contained in the state building code. This section is not intended to enlarge upon or expand any substantive standard of the state building code. This section is intended to apply solely to the new construction, addition, or alteration of a public building that is commenced on or after July 1, 2010 and only to the extent that the new construction, addition, or alteration is regulated by the accessibility standards in the state building code.

**Source.** 2002, 8:3. 2009, 285:1, eff. Jan. 1, 2010.

## **Section 155-A:5-a**

### **155-A:5-a Accessibility Standards for Public Buildings. –**

- I. The new construction, addition, or alteration of a public building as described in RSA 155-A:5 and as governed under RSA 155-A:2, I shall be subject to the requirements of this section and RSA 155-A:5-b.
- II. Except as provided in paragraph III, the contractor shall obtain and submit to the owner of the public building a written certification from a person qualified under RSA 155-A:5-b that:
  - (a) The design drawings or construction drawings for the proposed new construction, addition, or alteration meets the accessibility standards of the state building code; and
  - (b) Upon the completion and after inspection, the new construction, addition, or alteration meets the accessibility standards of the state building code.
- III. The requirements of paragraph II shall not apply to a public building for which the review of design drawings or construction drawings and inspection of completed work is performed by a municipal building inspector who:
  - (a) Satisfies the qualifications under RSA 155-A:5-b;
  - (b) Examines the design drawings or construction drawings prior to the commencement of work and inspects the building upon completion of work for compliance with the accessibility standards in the state building code; and
  - (c) Provides the governing body of the municipality with a written certification that the design and construction of the building upon completion of work comply with the accessibility standards of the state building code.
- IV. Nothing in this section shall be construed as requiring municipalities to inspect and certify public buildings for compliance with accessibility standards. Public buildings located in a municipality that has chosen to authorize its municipal building inspector to inspect and certify shall remain subject to all other provisions of this section.
- V. In addition to other enforcement authority granted in this chapter, the protection and advocacy system for New Hampshire, as designated by the governor pursuant to 42 U.S.C. section 15043, shall have standing to enforce the accessibility standards required by this section. If the protection and advocacy system determines that probable cause exists that a public building violates the accessibility certification or inspection requirements of this section, it shall issue a letter to the owner of the building specifically identifying the deficiencies and requesting that the building be brought into compliance. The owner shall have 30 days to respond to the letter and 270 days to bring the building into compliance. If the owner does not respond, does not agree that there are some or all of the deficiencies asserted, or does not agree to bring the building into compliance within the specified time periods, or any other dispute remains as to compliance, either the owner or the protection and advocacy system may file an action in the superior court to determine compliance with this section. The protection and advocacy system may bring the action in its name or in the name of any individual with a physical impairment who is adversely affected by the alleged failure to adhere to the

accessibility standards of the state building code, or both. If it is determined by the superior court that the building is not in compliance with the accessibility standards in the state building code, the court shall order that the responsible party bring the building into compliance. The court may award reasonable attorney's fees and costs to the prevailing party. For purposes of this section, a party prevails only if it receives either an enforceable judgment on the merits or a consent decree.

VI. Any individual with a physical impairment who is adversely affected by the failure to adhere to the requirements of this section shall have a private right of action against the owner pursuant to the procedure established in paragraph V, including the right to court costs and reasonable attorney's fees as the prevailing party.

VII. Any owner of a public building or contractor who is found by a preponderance of the evidence in a proceeding under this section to have knowingly violated the accessibility standards of the state building code shall be subject to a civil penalty. The penalties shall be the same as those established by RSA 155-A:8. All civil penalties shall be deposited into the general fund. The party bringing the action shall be entitled to reasonable attorney's fees and costs if it is determined by the court to be the prevailing party.

**Source.** 2009, 285:2. 2012, 197:1, eff. Aug. 12, 2012.

### **Section 155-A:5-b**

#### **155-A:5-b Accessibility Certifiers and Inspectors; Penalty. –**

I. New Hampshire licensed architects, professional engineers, certified building officials, and master code officials may certify building plans and/or inspect public buildings for compliance with the accessibility standards in RSA 155-A:5 and RSA 155-A:5-a without further examination. Any other person engaged in the business of certifying building plans and/or inspecting public buildings for compliance with accessibility standards required by RSA 155-A:5 and RSA 155-A:5-a shall successfully pass an International Code Council examination that covers the accessibility standards contained in the state building code prior to certifying that a building complies with RSA 155-A:5 and RSA 155-A:5-a. All accessibility certifiers and inspectors shall complete 2 hours of continuing education related to accessibility codes every 3 years and be able to produce proof of continuing education upon request.

II. Whoever falsely claims to be certified under this section through advertising, signage, or other written or oral representation shall be guilty of a violation if a natural person, or guilty of a class B misdemeanor if any other person.

**Source.** 2009, 285:2, eff. Jan. 1, 2010.

### **Section 155-A:6**

#### **155-A:6 Repealed by 2012, 242:22, eff. June 18, 2012. –**

### **Section 155-A:7**

#### **155-A:7 Enforcement Authority. –**

I. The local enforcement agency appointed pursuant to RSA 674:51 or RSA 47:22 shall have the authority to enforce the provisions of the state building code and the local fire chief shall have the authority to enforce the provisions of the state fire code, provided that where there is no local enforcement agency or contract with a qualified third party pursuant to RSA 155-A:2, VI, the state fire marshal or the state fire marshal's designee



may enforce the provisions of the state building code and the state fire code, subject to the review provisions in RSA 155-A:10, upon written request of the municipality.

II. Upon the request of a local enforcement agency, state agencies, boards, and commissions may provide advisory services and technical assistance concerning any building or any construction project in the local enforcement agent's jurisdiction.

III. The local enforcement agency appointed to enforce the state building code shall have the authority to inspect all buildings, structures, construction sites, and other places in the jurisdiction. If consent for such inspection is denied or not reasonably obtainable, the local enforcement agency may obtain an administrative inspection warrant under RSA 595-B.

IV. All local enforcement agencies and selectmen and the state fire marshal in those communities without a local enforcement agency shall provide information on the local and state appeals process when issuing a building permit or notice of violation.

V. Any notice of violation issued by an enforcement authority as described in paragraph I shall include the relevant section of the state or local building or fire code.

**Source.** 2002, 8:3. 2012, 225:1, eff. Aug. 14, 2012; 242:14, eff. June 18, 2012. 2019, 48:2, eff. Aug. 4, 2019.

### **Section 155-A:8**

**155-A:8 Penalty.** – Fines, penalties, and remedies for violations of this chapter shall be the same as for violations of title LXIV, as stated in RSA 676:15 and 676:17.

**Source.** 2002, 8:3, eff. Sept. 14, 2002.

### **Section 155-A:9**

**155-A:9 Fees.** – The municipality may establish fees to defray the costs of administration, implementation, and enforcement of the state building code and any local amendments. Such fees shall be for the general use of the municipality having responsibility over the local enforcement agency.

**Source.** 2002, 8:3, eff. Sept. 14, 2002.

### **Section 155-A:10**

#### **155-A:10 State Building Code Review Board. –**

I. There is established a state building code review board consisting of the commissioner of safety or the commissioner's designee, and the following members, appointed by the commissioner of safety:

- (a) One architect licensed in this state for a minimum of 5 years, nominated by the board of architects established in RSA 310-A:29.
- (b) One structural engineer licensed in this state for a minimum of 5 years, nominated by the board of professional engineers established in RSA 310-A:3.
- (c) One mechanical engineer licensed in this state for a minimum of 5 years, nominated by the board of professional engineers established in RSA 310-A:3.
- (d) One electrical engineer licensed in this state for a minimum of 5 years, nominated by the board of professional engineers established in RSA 310-A:3.
- (e) One representative of the state's municipalities, nominated by the New Hampshire Municipal Association.
- (f) One municipal building official, nominated by the New Hampshire Building Officials Association.

- (g) One municipal fire chief, nominated by the New Hampshire Association of Fire Chiefs.
- (h) One active fire prevention officer, nominated by the New Hampshire Association of Fire Chiefs.
- (i) One building contractor, primarily engaged in the business of constructing nonresidential buildings, nominated by the Associated General Contractors of New Hampshire.
- (j) One building contractor primarily engaged in the business of constructing residential buildings, nominated by the New Hampshire Home Builders Association.
- (k) One representative from the New Hampshire public utilities commission, nominated by the chairman of the commission.
- (l) One master plumber licensed in this state for a minimum of 5 years, nominated by the mechanical licensing board established in RSA 153:27-a.
- (m) One mechanical contractor, primarily engaged in the business of mechanical construction, nominated by the Plumbers, Fuel Gas Fitters, and HVAC Association of New Hampshire.
- (n) One master electrician licensed in this state for a minimum of 5 years, nominated by the electricians' board established in RSA 319-C.
- (o) One representative of the Committee on Architectural Barrier-Free Design nominated by the governor's commission on disability.
- (p) One electrical contractor, nominated by Electrical Contractors Business Association.

II. The term of each member shall be 3 years. The chair of the board shall be appointed by the commissioner of safety after meeting with the board. Board members shall be appointed for no more than 3 consecutive 3-year terms. The board shall elect from among the members a vice-chair, who shall assume the responsibilities of the chair in the event of the chair's absence. Each appointing authority may appoint one alternate member, qualified as defined in subparagraphs I(a) through (p), who shall serve at the pleasure of the appointing authority.

III. The board shall be administratively attached to the department of safety under RSA 21-G:10.

IV. The board shall meet to review and assess the application of the state building code and shall recommend legislation, as the board deems necessary, to amend the requirements of the state building code in order to provide consistency with the application of other laws, rules, or regulations, to avoid undue economic impacts on the public by considering the cost of such amendments, and to promote public safety and best practices.

- (a) The board may recommend adoption of a newer version of a code that has been published for at least 2 years, and shall provide a summary of all significant changes, cost estimates of these changes, and documentation of the need for the change in the recommended legislation.
- (b) Amendments to the codes shall be reviewed and approved by the board, then submitted annually to the legislature for ratification by the adoption of appropriate legislation before they become effective.
- (c) The board may hear appeals of final decisions of any local building code board of appeals established under RSA 674, provided that the appeal shall be based on a claim that the intent of the code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of the code do not fully apply, or there is an alternative construction. The board shall not have authority to waive or grant variances to requirements of the code.
- (d) Amendments adopted by municipalities shall be published by the board.

V. The board shall maintain a publicly accessible list of applicable building codes and amendments to such codes. Amendments proposed by municipalities shall be listed, with specific applicability if not statewide.

VI. The state building code review board shall not adopt or enforce any rule requiring the installation of fire sprinkler systems in any new or existing detached one- or 2-family dwelling unit in a structure used only for residential purposes. This paragraph shall not prohibit a duly adopted requirement mandating that fire sprinkler systems be offered to the owners of dwellings for a reasonable fee.

VII. Members of the board shall receive mileage at the rate established in the United States Internal Revenue

Code and Regulations when attending meetings of the board for the round trip distance from their residences to the location of the board meeting.

**Source.** 2002, 8:3; 270:4. 2003, 245:3, 4, 6. 2007, 11:1, 2. 2010, 282:3. 2012, 242:15. 2013, 64:1, eff. June 6, 2013; 275:10, eff. July 1, 2013. 2015, 276:197, eff. July 1, 2015. 2018, 181:2, eff. Aug. 7, 2018. 2019, 219:1, 2, eff. Aug. 11, 2019.

### **Section 155-A:10-a**

**155-A:10-a Energy Code Compliance Form.** – The state building code review board shall prescribe by rule and make available to the public, in electronic formats, a simplified residential energy code compliance form based upon the energy provisions in the International Residential Code and the International Energy Conservation Code identified in RSA 155-A:1. The correctly completed form shall be accepted by all code enforcement authorities within the state of New Hampshire as one method of verification that the applicable project meets the code requirements. Completed compliance forms shall be submitted to the building official in those municipalities that have adopted an enforcement mechanism under RSA 674:51. For municipalities without an adopted code enforcement mechanism, completed compliance forms shall be submitted to the New Hampshire public utilities commission, on behalf of the building code review board, for verification that the applicable project meets the code requirements. The public utilities commission shall then forward the reviewed compliance forms to the municipality for retention in property records.

**Source.** 2018, 181:1, eff. Aug. 7, 2018.

### **Section 155-A:11**

#### **155-A:11 Appeals of Decisions of the State Fire Marshal.** –

I. Any person aggrieved by a decision of the state fire marshal relative to the application and enforcement of the state building code pursuant to RSA 153:8-a, I(a), or the state fire code, may appeal the decision to the board.

II. The board shall hold a hearing within 40 days of receipt of a complaint, unless an extension of time has been granted by the board at the written request of one of the parties and shall render a decision within 30 days of the conclusion of a hearing.

**Source.** 2002, 8:3. 2012, 242:16, eff. June 18, 2012.

### **Section 155-A:11-a**

#### **155-A:11-a Appeal of Decisions of the Electricians' Board and the Board of Home Inspectors.** –

I. The board shall hear appeals of final decisions of the board established under RSA 319-C:4 and the board established under RSA 310-A:186.

II. The board shall hold a hearing within 40 days of the receipt of an appeal, unless an extension of time has been granted by the board at the written request of one of the parties and shall render a decision within 30 days of the conclusion of the hearing.

**Source.** 2004, 257:55. 2008, 339:3. 2013, 275:11, eff. July 1, 2013.

## Section 155-A:11-b

### **155-A:11-b Appeal of Decisions of Local Building Code Board of Appeals. –**

- I. The board shall hear appeals of final decisions of any local building code board of appeals established under RSA 674.
- II. An application for appeal shall be based on a claim that the intent of the code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of the code do not fully apply, or an alternative construction is proposed. The board shall not have authority to waive or grant variances to requirements of the code.
- III. The board shall hold a hearing within 40 days of the receipt of an appeal, unless an extension of time has been granted by the board at the written request of one of the parties, and shall render a decision within 30 days of the conclusion of the hearing.

**Source.** 2019, 219:4, eff. Aug. 11, 2019.

## Section 155-A:12

### **155-A:12 Appeal From Board's Decision. –**

- I. A party to the proceeding shall have the right to file a petition in the superior court of the county in which the building or structure is located to review the final order of the board within 30 days of the date of the final order.
- II. At the earliest practical time, the court shall review the record as developed before the board, together with any written legal argument presented to the court. Based on that review, the court may affirm or reverse the decision of the board or order that oral argument be held. As justice may require, the court may remand the case to the board for further findings and rulings. The petition for appeal shall set forth all the grounds upon which the final order is sought to be overturned. Issues not raised by the appellant before the board shall not be raised before the superior court. The burden of proof shall be on the appellant to show that the decision of the board was clearly unreasonable or unlawful.
- III. No new or additional evidence shall be introduced in the superior court, but the case shall be determined upon the record and evidence transferred, except that in any case, if justice requires the review of evidence which by reason of accident, mistake, or misfortune could not have been offered before the board, the superior court shall remand the case to the board to receive and consider such additional evidence.

**Source.** 2002, 8:3, eff. Sept. 14, 2002.

## Section 155-A:13

### **155-A:13 Building Requirements for State Funded Buildings. –**

- I. Any new construction, reconstruction, alteration, or maintenance in any state owned building, plant, fixture, or facility, meeting the definition of "project" in RSA 21-I:78, considered a major project under RSA 21-I:80, and constructed using any state funding, shall meet a high performance, energy efficient, sustainable design standard determined by the commissioners of the department of environmental services and the department of administrative services, in consultation with the division of historic resources and the community college system, that shows the building or structure can recoup the incremental costs of implementing the requirements of this section as measured by reduced energy costs over a 10-year period of time.
- II. The following construction or renovation projects shall be exempt from the requirements of paragraphs I:

- (a) A building or structure that is less than 25,000 square feet.
- (b) A building or structure that does not consume energy for heating, ventilating, or air conditioning.
- (c) A renovation or modification that is estimated to cost less than \$1,000,000.
- (d) Temporary structures.
- (e) Public school facilities that are subject to RSA 198:15-c.
- (f) The university system of New Hampshire.
- (g) Projects employing new, innovative, or experimental energy efficient technology that may not recoup their incremental costs within 10 years, as may be determined by the commissioner of the department of administrative services to be in the best interest of the state.

**Source.** 2010, 347:1, eff. July 1, 2011.

# TITLE L

# WATER MANAGEMENT AND PROTECTION

## CHAPTER 482-B

## NEW HAMPSHIRE WATER WELL BOARD

### Section 482-B:1

**482-B:1 Purpose.** – The purpose of this chapter is to protect and improve the general health and welfare of the people of the state of New Hampshire; to protect the groundwater resources of the state; to regulate the construction of water wells and the installation of well pumps; to license water well contractors and well pump installers; to provide well records; to create a water well board; and to provide for penalties for violations of this chapter.

**Source.** 1989, 339:1. 1998, 89:1, eff. July 18, 1998.

### Section 482-B:2

#### **482-B:2 Definitions.** –

For the purposes of this chapter:

I. "Board" means the New Hampshire water well board established under RSA 482-B.

I-a. "Commissioner" means the commissioner of environmental services.

I-b. "Department" means the department of environmental services.

II. "Person" includes an individual, partnership, corporation, association, or organization, or any combination thereof.

III. "Pump installations" means and includes the industry, procedure, and all operations engaged in by any person, full time or part time, for compensation or otherwise, to connect a pump or pipe to a water system or its appurtenances, or to install a pump or pipe in a well.

IV. "Pump installer" means a person who engages in pump installations.

IV-a. "Technical drilling" means and includes the industry, procedure and all operations engaged in by any person, full time or part time, for compensation or otherwise, to conduct subsurface soil exploration, foundation borings including cased or auger borings, rock core drilling, and monitoring well installation.

IV-b. "Technical driller" means a person licensed to engage in technical drilling.

V. "Water well construction" means and includes the industry, procedure, and all operations engaged in by any person, full time or part time, for compensation or otherwise, to obtain water from a well by drilling, digging, developing including hydrofracturing, or other method, for any purpose or use.

VI. "Water well contractor" means a person who engages in water well construction.

VII. "Well" means a hole or shaft sunk into the earth which is deeper than it is wide to observe, sample, or withdraw groundwater, or to transfer heat to or from the subsurface.

**Source.** 1989, 339:1. 1998, 89:2-5. 2009, 27:1, eff. July 7, 2009.

### Section 482-B:3

**482-B:3 Water Well Board. –**

I. There is created a board to be known as the New Hampshire water well board. The water well board shall be administered by the commissioner of environmental services. The board shall consist of 7 members who are residents of the state, appointed by the governor with the advice and consent of the council as follows: one member shall be the commissioner, department of environmental services, or designee; one shall be the state geologist; 2 shall be active water well contractors with at least 10 years of experience; one shall be an active pump installer with at least 10 years of experience; one shall be an active technical driller licensed in the state of New Hampshire with at least 10 years of experience; and one shall be a member of the public who has demonstrated concern for and knowledge of water resources management in New Hampshire. Each member shall hold office for a term of 3 years and until a successor is appointed and qualified. No member shall serve more than 2 consecutive terms. Appointments to fill vacancies shall be for the unexpired term. The governor and council may remove any member of the board for good cause.

II. The board shall meet at least 4 times a year. The board shall elect a chairman and a secretary annually from its membership. The secretary shall keep a complete record of all meetings and proceedings of the board and shall perform the usual duties pertaining to the office. The board may employ such assistants as may be required.

III. To safeguard the public health, the board shall promote and encourage cooperation among water well contractors, pump installers, technical drillers, and governmental agencies in the development and protection of records of underground water formations and resources. The board shall prepare and make available to the public information relative to groundwater resources in the state.

**Source.** 1989, 339:1. 1996, 228:64. 1997, 339:1, eff. June 23, 1997.

**Section 482-B:4****482-B:4 Rulemaking. –**

The water well board shall adopt rules under RSA 541-A relative to:

I. The application procedure for a water well contractor or pump installer license.

II. The qualifications of applicants in addition to those requirements set by RSA 482-B:5, III.

III. The types of licenses to be issued.

IV. Applicant examination methods including:

(a) Time and place of examination, and

(b) Passing grade.

V. License renewal, including the requirements for continuing education.

VI. The establishment of all fees required under this chapter at rates which will make the board self-supporting, including fees for the processing of license applications, for examination of applicants, for licensure and for renewal of licenses, for transcribing and transferring records, and other services.

VII. Applicant examination for professional and technical proficiency when the applicant has been:

(a) Licensed in another state but has not taken a written examination, or

(b) Holding nonactive status for a period of 3 years or more.

VIII. Procedures for hearings held under RSA 482-B:9, II.

IX. The information to be included in records required under RSA 482-B:10.

X. Standards for the construction, maintenance, and abandonment of wells.

XI. Procedures for requesting an exemption pursuant to RSA 482-B:13.

**Source.** 1989, 339:1. 1998, 89:6-8, eff. July 18, 1998.

## Section 482-B:5

See Emergency Order #29 (NH LEGIS E.O. 2020-29-Emerg. (2020, 2029:1.)), issued pursuant to Executive Order 2020-04 (NH LEGIS E.O. 2020-04 (2020, 1004:1.)) as extended by Executive Orders 2020-05 (NH LEGIS E.O. 2020-05 (2020, 1005:1.)); 2020-08 (NH LEGIS E.O. 2020-08 (2020, 1008:1.)); 2020-09 (NH LEGIS E.O. 2020-09 (2020, 1009:1.)); 2020-10 (NH LEGIS E.O. 2020-10 (2020, 1010:1.)); 2020-014 (NH LEGIS E.O. 2020-014 (2020, 1014:1.)); 2020-015 (NH LEGIS E.O. 2020-015 (2020, 1015:1.)); 2020-016 (NH LEGIS E.O. 2020-016 (2020, 1016:1.)); 2020-017 (NH LEGIS E.O. 2020-017 (2020, 1017:1.)); 2020-018 (NH LEGIS E.O. 2020-018 (2020, 1018:1.)); 2020-020 (NH LEGIS E.O. 2020-020 (2020, 1020:1.)); 2020-021 (NH LEGIS E.O. 2020-021 (2020, 1021:1.)); 2020-022 (NH LEGIS E.O. 2020-022 (2020, 1022:1.)); 2020-023 (NH LEGIS E.O. 2020-023 (2020, 1023:1.)); 2020-024 (NH LEGIS E.O. 2020-024 (2020, 1024:1.)); 2020-025 (NH LEGIS E.O. 2020-025 (2020, 1025:1.)); 2021-01 (NH LEGIS E.O. 2021-01 (2021, 1001:1.)), related to the COVID-19 State of Emergency, for potential impact on the terms of this section.

### **482-B:5 Licensing for Water Well Contractors and Pump Installers. –**

- I. A person, before engaging in the business of constructing a well or installing a pump, shall obtain the proper license annually as a water well contractor or pump installer. A license shall not be transferable and shall expire on June 30 of each year. After July 31 of each year, a license may be renewed only upon application for renewal and payment of a late fee of \$20 in addition to the regular license fee.
- II. The water well contractor's license and the pump installer's license shall contain the following information, in addition to such other information as the board may require:
  - (a) The name of the licensed water well contractor or licensed pump installer.
  - (b) If the licensee is a partnership, the names and addresses of all partners.
  - (c) If the licensee is a corporation, the name and principal address of the corporation and the names and addresses of all officers, directors, and stockholders of the corporation; except that this requirement shall not apply to a publicly held corporation.
  - (d) If the licensee is an individual, the name and address of the individual.
- III. Water well contractors and pump installers shall be required to have been actively engaged in their trade for a period of 3 years prior to the date of their application and to pass an examination prepared and administered by the board. The required 3 years experience shall be directly related to the type of license to be issued. One year of experience for drilling contractors shall be in drilling water wells in crystalline rocks of the Appalachian Region.
- IV. The board may issue an appropriate license without examination to a person to whom a water well contractor's license or a pump installer's license has been previously issued by another state if the other state maintained a standard of requirements equivalent to those of this state and who presents satisfactory proof to the board that he is a bona fide water well contractor or pump installer. An applicant under this paragraph shall be exempt from examination only if he holds a license from another state and, if under the laws or rules of the other state issuing the license, a like exemption is granted to water well contractors or pump installers duly licensed under the laws of this state.
- V. Pump installers shall complete a minimum of 2 hours annually of continuing education.

**Source.** 1989, 339:1. 1998, 89:9-11, eff. July 18, 1998.

## Section 482-B:6

**482-B:6 Display of License. –** A water well contractor shall place in a conspicuous location on both sides



of each well drilling rig or other machine used to construct a well and a pump installer shall place in a conspicuous location on both sides of each pump service truck the license number in letters not less than 2 inches high. A seal furnished by the board designating the year the license was issued or renewed and the words 'Licensed New Hampshire Water Well Contractor' or 'Licensed New Hampshire Pump Installer' shall be affixed directly adjacent to the license number.

**Source.** 1989, 339:1. 1998, 89:12, eff. July 18, 1998.

### **Section 482-B:7**

**482-B:7 Plumbers Exempted.** – This chapter shall not restrict a plumber from engaging in the trade for which the plumber has been licensed if such plumber holds a pump installer's license. No examination shall be required for a person who is a plumber licensed under RSA 153:27-a and holds a valid pump installer's license on the effective date of this section.

**Source.** 1989, 339:1. 1998, 89:12, eff. July 18, 1998. 2013, 275:13, eff. July 1, 2013.

### **Section 482-B:8**

#### **482-B:8 Refusal; Revocation; Suspension; Disciplinary Action. –**

I. A license may be refused, or a license duly issued may be suspended or revoked, or the renewal of such license refused by the board on the board's own investigation and motion or upon motion or written complaint of an interested party if the board has good and sufficient reason to believe or finds that the applicant for or the holder of such a license has:

- (a) Made a material misstatement in the application for a license or any application for renewal of such license.
- (b) Obtained the license through willful fraud or misrepresentation.
- (c) Demonstrated incompetency to act as a water well contractor or pump installer as determined by the water well board.
- (d) Been guilty of willful failure to comply with the provisions of this chapter or rules adopted under RSA 482-B:4.
- (e) Refused to file reports as required under RSA 482-B:10.
- (f) Been found guilty, by the board or by a court of competent jurisdiction of any fraud, deceit, gross negligence, incompetence, or misconduct in the industry, operations, or business of water well construction or pump installations.

II. The department may undertake one or more of the following disciplinary actions upon the department's own investigation and motion or upon written complaint and motion of an interested party if the department has good and sufficient reason to believe or finds that the applicant for or the holder of such a license has violated the provisions of RSA 482-B and the rules of the board:

- (a) Written reprimand.
- (b) Administrative order.
- (c) Administrative fine.
- (d) Requiring the licensee to participate in a program of continuing education in the area or areas in which the licensee has been found deficient.

**Source.** 1989, 339:1. 1998, 89:13, eff. July 18, 1998.

## Section 482-B:9

### 482-B:9 Hearing. –

I. Before taking any action under RSA 482-B:8, the board or department shall give notice of its intention to do so by certified mail to the person against whom the proposed action is to be taken. Upon receipt of such notice, the person affected may within 30 days request a hearing. If a hearing is requested, the board or department shall not act until such hearing is completed.

II. Hearings held by the board shall be held in the county in which the person affected has his or her place of business or in the office of the board, whichever the board may decide. At least 10 days prior to the date of hearing, the board shall send written notice of the time and place of such hearing to the applicant for, or holder of, such license by certified mail to the last known address of such person. The testimony presented and the proceedings of such hearing shall be recorded and preserved as the records of the board. The board shall as soon after the hearing as possible, and not later than 90 days after the date of such hearing, make its findings and determination on the license and shall send a copy of its decision to each interested party by certified mail return receipt requested or by personal service. Revocation or suspension of a license shall be effective upon receipt of such board decision.

III. Appeal from a decision of the board may be made in accordance with RSA 541.

IV. Hearings held by the department shall be held in accordance with the rules of practice and procedure of the department.

**Source.** 1989, 339:1. 1998, 89:14, eff. July 18, 1998.

## Section 482-B:10

### 482-B:10 Record of Wells; Monitoring Wells. –

I. Within 90 days after completion of a well, the water well contractor shall provide the board with a record of the well containing the following information:

(a) Name of the owner of the property on which the well is situated.

(b) Name of the building contractor, if applicable.

(c) Location of the well by:

(1) Coordinates provided by global positioning technology in units of degrees and decimal minutes of latitude and longitude, with at least 3 decimal places of precision and referenced to the World Geodetic System 1984 (WGS 84) datum or its successor;

(2) Street address of the property as listed in the enhanced 911 street address guide to the extent it is publicly available on the date of submission of the report;

(3) Tax map and lot number of the property; and

(4) A drawing indicating the position of each well, if more than one well is located within the lot, relative to significant permanent man-made or natural features at a given site.

(d) Date well was completed.

(e) Proposed use of well.

(f) Reason for constructing well.

(g) Type of well.

(h) Total depth of well.

(i) Casing details.

(j) Method or methods of sealing casing into bedrock, if applicable.

(k) Screen details, if applicable.

(l) Results, method, and duration of yield test or tests conducted.

- (m) Static water level, if encountered.
- (n) Depth to bedrock.
- (o) Description and depth intervals of unconsolidated surficial deposits encountered during the well drilling process.
- (p) Yield test at various depths, if performed.
- (q) Hydro fracturing or other well development details, if applicable.
- (r) Name of water well contractor or technical driller.
- (s) Additional well seals installed, if applicable.
- (t) A statement specifying whether a water quality sample was collected by the driller.
- (u) If the well location does not comply with setback requirements for wells under New Hampshire law or rules of the water well board, a statement identifying the law or rule with which the wells do not comply.
- (v) Date of the report.
- (w) Any other information required by rules adopted by the water well board.

II. At a minimum, the technical drillers shall comply with the requirements of paragraph I for the deepest monitoring well installed at each property or place of business and for each monitoring well installed into the bedrock at each property or place of business.

III. If the technical driller does not comply with the requirements of paragraph I for all the monitoring wells the driller installs at a single property or place of business, then the technical driller shall prepare and submit a map showing the location of each monitoring well installed by the technical driller relative to significant permanent man-made or natural features at a given site and relative to wells located with GPS coordinates in accordance with paragraph I.

**Source.** 1989, 339:1. 1998, 89:15. 2007, 89:1, eff. Dec. 8, 2007.

## **Section 482-B:11**

**482-B:11 Wells Constructed for Oil, Gas, Brine, or Mining.** – Drilling, excavating and pumping associated with the oil, gas or brine well industries and the construction, quarrying, and mining industries and the disposal of any materials shall be subject to this chapter only insofar as they relate to the pollution and depletion of underground water resources.

**Source.** 1989, 339:1, eff. Jan. 1, 1990.

## **Section 482-B:12**

**482-B:12 Wells Constructed for Farming or Private Use.** – Nothing in this chapter shall prevent a person from constructing a well on the person's own or leased property if the well is intended for use only for noncommercial farming purposes or if the waters to be produced are not intended for use by the public or by persons in any residence other than the person's own permanent residence. Such person shall submit records as required under RSA 482-B:10 and shall comply with any applicable rules.

**Source.** 1989, 339:1. 1998, 89:16, eff. July 18, 1998.

## **Section 482-B:13**

**482-B:13 Exemptions.** – Where the board finds that compliance with all the requirements of this chapter or rules adopted under RSA 482-B:4 would result in undue hardship, an exemption from any one or more of

such requirements may be granted by the board to the extent necessary to ameliorate such undue hardship and to the extent such exemption can be granted without impairing the intent and purpose of this chapter.

**Source.** 1989, 339:1, eff. Jan. 1, 1990.

### **Section 482-B:14**

**482-B:14 Fees.** – Fees received under this chapter shall be paid over to the state treasurer and deposited in the general fund.

**Source.** 1989, 339:1, eff. Jan. 1, 1990.

### **Section 482-B:15**

**482-B:15 Maintenance and Repair of Wells and Pumps.** – All wells shall be maintained in a proper condition to conserve and protect groundwater resources and shall not be a source or cause of contamination or pollution of the water supply of any aquifer. All materials and construction practices used in the construction of a new well or new pump installation or in the maintenance, repair, or replacement of any well or pump installation shall conform with rules adopted by the board. All maintenance and repair work shall be done only by a licensed water well contractor, licensed pump installer, licensed plumber or licensed electrician.

**Source.** 1989, 339:1, eff. Jan. 1, 1990.

### **Section 482-B:16**

#### **482-B:16 Enforcement and Penalties.** –

I. The department may issue an administrative order to any person who violates any provision of this chapter, any rule adopted under this chapter, or any license or approval issued under this chapter, or who makes or certifies a material false statement relative to any document required by this chapter. The department may order the person to cease and desist from the violation and may require such corrective measures as are necessary to correct the violation. Upon receipt of an order, the person affected may, within 30 days, appeal the order to the board. Following an appeal hearing, the board may uphold or overturn the order. Rehearings and appeals from a decision of the board shall be in accordance with RSA 541.

II. The commissioner, after notice and hearing pursuant to RSA 541-A, may impose an administrative fine not to exceed \$2,000 for each offense upon any person who violates any provision of this chapter, any rule adopted under this chapter, or any license or approval issued under this chapter, or who makes or certifies a material false statement relative to any document required by this chapter. The person may appeal the decision to the board within 30 days of the date of the decision. Following an appeal hearing, the board may uphold or overturn the decision or impose a lesser or greater fine. Rehearings and appeals from a decision of the board under this paragraph shall be in accordance with RSA 541. Any administrative fine imposed under this section shall not preclude the imposition of further penalties under this chapter. The commissioner shall adopt rules subject to the approval of the water well board, under RSA 541-A, relative to:

- (a) A schedule of administrative fines which may be imposed under this paragraph; and
- (b) Procedures for notice and hearing prior to the imposition of an administrative fine.

III. Any person who engages in water well construction or pump installation or offers to engage in water well construction or pump installation or advertises or holds oneself out or acts temporarily or otherwise as a

water well contractor or pump installer without first having obtained the required license under RSA 482-B:5 and any person who violates any other provision of this chapter or any rule adopted under this chapter, or who makes or certifies a material false statement relative to any document required by this chapter may be subject to a civil penalty of not more than \$2,000 for each violation. Such a violation may also be enjoined by the superior court upon application of the attorney general.

IV. Any person shall be guilty of a misdemeanor who knowingly:

- (a) Engages in water well construction or pump installation or offers to engage in water well construction or pump installation or advertises or holds oneself out or acts temporarily or otherwise as a water well contractor or pump installer without first having obtained the required license under RSA 482-B:5; or
- (b) Violates any other provision of this chapter, any rule adopted under this chapter, or any license or approval issued under this chapter; or
- (c) Makes or certifies a material false statement relative to any document required by this chapter.

V. Notwithstanding RSA 651:2, a natural person may, in addition to any sentence of imprisonment, probation, or conditional discharge, be fined not more than \$5,000 if found guilty of any violation under RSA 482-B:16, IV.

VI. All moneys collected under this section shall be forwarded to the state treasurer and deposited into the general fund as unrestricted revenue.

VII. Each day of a continuing violation under this chapter shall constitute a separate offense.

**Source.** 1989, 339:1. 1998, 89:17, eff. July 18, 1998.

### **Section 482-B:17**

**482-B:17 Exceptions.** – The provisions of this chapter shall not apply to a person who regularly employs a maintenance person whose duties include replacement and maintenance of pump installations on the property of that person when such employee is actually so engaged or to an owner or an owner's agent who does pump installation repairs or replacement on property owned by him or her; provided, however, that said repairs, replacements, and maintenance shall conform to rules relative to such repairs, replacements, and maintenance adopted by the board.

**Source.** 1989, 339:1. 1998, 89:18, eff. July 18, 1998.

### **Section 482-B:18**

**482-B:18 Complaints.** – Written complaints filed with the board against a licensed water well contractor or a licensed pump installer shall be public records. The board may maintain a registry of written complaints. If such a registry is established, the board shall establish, by rules adopted pursuant to RSA 541-A, a procedure for providing information contained in the registry to the public. Written complaints shall be removed from the registry upon the request of the licensee, provided that the board has not received a written complaint for 3 consecutive years prior to the date of the request.

**Source.** 1998, 89:19, eff. July 18, 1998.

# TITLE L

## WATER MANAGEMENT AND PROTECTION

### CHAPTER 485-A

#### WATER POLLUTION AND WASTE DISPOSAL

##### Section 485-A:1

**485-A:1 Declaration of Purpose.** – The purpose of this chapter is to protect water supplies, to prevent pollution in the surface and groundwaters of the state and to prevent nuisances and potential health hazards. In exercising any and all powers conferred upon the department of environmental services under this chapter, the department shall be governed solely by criteria relevant to the declaration of purpose set forth in this section.

**Source.** 1989, 339:1. 1996, 228:106, 108, eff. July 1, 1996.

##### Section 485-A:2

###### **485-A:2 Definitions.** –

I. "Developed waterfront" property means any parcel of land upon which stands a structure suitable for either seasonal or year-round human occupancy, where such parcel of land is contiguous to or within 200 feet of the reference line, as defined in RSA 483-B:4, XVII, of:

- (a) A fresh water body, as defined in RSA 483-B:4, XVI(a);
- (b) Coastal waters, as defined in RSA 483-B:4, XVI(b); or
- (c) A river, as defined in RSA 483-B:4, XVI(c).

I-a. "Certificate" means a certificate of competency issued by the department stating that the operator has met the particular requirements established by the department for certification at each level of operation.

I-b. "Certification committee" means those persons designated by the commissioner, and those persons elected by the New Hampshire Water Pollution Control Association to serve as the review committee for certification of wastewater treatment plant operators.

I-c. "Commissioner" means the commissioner of the department of environmental services.

II. "Development plan" means the final map, drawing, plat or chart on which the subdivider presents his plan of subdivision to the department of environmental services for approval of planned or proposed sewage or waste disposal systems.

III. "Department" means the department of environmental services.

III-a. "Encroachment waiver" means any waiver of the rules adopted in accordance with this chapter which, if granted, would affect the ability of an owner of abutting property to fully utilize his property.

IV. "Failure" means the condition produced when a subsurface sewage or waste disposal system does not properly contain or treat sewage or causes the discharge of sewage on the ground surface or directly into surface waters, or the effluent disposal area is located in the seasonal high groundwater table.

V. "Groundwaters" shall mean all areas below the top of the water table, including aquifers, wells and other sources of groundwater.

VI. "Industrial waste" means any liquid, gaseous or solid waste substance resulting from any process of

industry, manufacturing trade or business or from development of any natural resources.

VII. "Lot" means a part of a subdivision or a parcel of land which can be used as a building site or intended to be used for building purposes, whether immediate or future.

VII-a. "Operator" means:

(a) The individual who has full responsibility for the daily operation of a wastewater treatment plant or a pollution control facility;

(b) The individual normally responsible for the operations shift; or

(c) Individuals who perform important operating functions.

VIII. "Other wastes" means garbage, municipal refuse, decayed wood, sawdust, shavings, bark, lime, ashes, offal, oil, tar, chemicals and other substances other than sewage or industrial wastes, and any other substance harmful to human, animal, fish or aquatic life.

IX. "Person" means any municipality, governmental subdivision, public or private corporation, individual, partnership, or other entity.

IX-a. "Septage" means material removed from septic tanks, cesspools, holding tanks, or other sewage treatment storage units, excluding sewage sludge from public treatment works and industrial waste and any other sludge.

X. "Sewage" means the water-carried waste products from buildings, public or private, together with such groundwater infiltration and surface water as may be present.

XI. "Sewage disposal system" means any private sewage disposal or treatment system, other than a municipally owned and operated system.

XI-a. "Sludge" means the solid or semisolid material produced by water and wastewater treatment processes, excluding domestic septage; provided, however, sludge which is disposed of at solid waste facilities permitted by the department shall be considered solid waste and regulated under RSA 149-M.

XII. "Subdivider" means the legal owner or his authorized agent of a tract or parcel of land being subdivided.

XIII. "Subdivision" means the division of a tract or parcel of land into 2 or more lots, tracts, or parcels for the purpose, whether immediate or future, of sale, rent, lease, building development, or any other reason; provided, however, that sale or other conveyance which involves merely an exchange of land among 2 or more owners and which does not increase the number of owners, and on which no sewage disposal system is to be constructed shall not be deemed a subdivision for the purposes of this chapter. Without limiting the generality of the foregoing, subdivision shall include re-subdivision, and, in the case of a lot, tract or parcel previously rented or leased, the sale, condominium conveyance, or other conveyance thereof; provided however that a re-subdivision of lots in previously approved subdivisions, where lot lines are relocated to conform to necessary changes in the plans because of errors in a survey or new street, access or siting requirements, or errors in building locations, and where the lot sizes are not substantially altered shall not be deemed a subdivision for the purposes of this chapter; and provided further that a re-subdivision in which previously approved lots are grouped together to form larger lots shall not be deemed a subdivision for the purposes of this chapter. The division of a parcel of land held in common and subsequently divided into parts among the several owners shall be deemed a subdivision under this chapter.

XIV. "Surface waters of the state" means perennial and seasonal streams, lakes, ponds, and tidal waters within the jurisdiction of the state, including all streams, lakes, or ponds bordering on the state, marshes, water courses, and other bodies of water, natural or artificial.

XV. "Tract or parcel of land" means an area of land, whether surveyed or not surveyed.

XVI. "Waste" means industrial waste and other wastes.

XVI-a. "Wastewater treatment plant" means the treatment facility or group of treatment devices which treats domestic or combined domestic and industrial wastewater through alteration, alone or in combination, of the physical, chemical, or bacteriological quality of the wastewater and which dewater and handles sludge removed from the wastewater.

XVII. "Bypass" means the intentional diversion of waste streams from any portion of the wastewater facilities.

XVIII. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with permit effluent limitations because of factors beyond the reasonable control of the permittee.

XIX. "Wastewater facilities" means the structures, equipment, and processes required to collect, convey, and treat domestic and industrial wastes, and dispose of the effluent and sludge.

XX. "Bedroom" means a room furnished with a bed and intended primarily for sleeping, unless otherwise specified by local regulations.

XXI. "Innovative/alternative waste treatment" means treatment which differs from standardized and conventional practice, offers an advantage over such practice in a proposed application and satisfies the pollution abatement and treatment requirements for sewerage and sewage or waste treatment systems in such application.

XXII. "Biosolids" means any sludge derived from a sewage wastewater treatment facility that meets the standards for beneficial reuse specified by the department.

XXIII. "Short paper fiber" means any sludge derived from a pulp or papermill wastewater treatment facility that meets the standards for beneficial reuse specified by the department.

XXIV. "7Q10" means the lowest average flow that occurs for 7 consecutive days on an annual basis with a recurrence interval of once in 10 years on average, expressed in terms of volume per time period.

**Source.** 1989, 339:1. 1990, 197:1-3; 248:1; 252:9, 10. 1993, 57:1; 172:1. 1996, 219:1; 228:74-76, 105, 106, 108. 1998, 102:2, 3. 2000, 76:3; 121:1. 2008, 349:2, 3, eff. Jan. 1, 2009. 2017, 211:1, eff. Sept. 8, 2017.

### **Section 485-A:3**

#### **485-A:3 Policies. –**

It is hereby declared, as a matter of legislative intent, that the department shall, in the administration and enforcement of this chapter, strive to provide that all sources of pollution within the state shall be abated within such times and to such degrees as shall be required to satisfy the provisions of state law or applicable federal law, whichever is more stringent. To the extent not inconsistent with the foregoing nor the aims of any joint state-federal permit program that may from time to time be agreed upon and in force pursuant to this chapter and applicable federal law, the department shall adhere to the following policies:

I. Insofar as practicable, the initial objective of the control program will be to obtain the installation of primary treatment (with adequate disinfection where sewage discharges are involved) for all discharges of sewage and industrial wastes.

II. The second objective will be to require the installation of secondary treatment whenever such additional treatment is necessary to protect the uses assigned to the particular stream classification.

III. The third objective, after all stream classification requirements throughout the state have been satisfied, will be to continue the program of pollution abatement by installing other forms of treatment desirable to maintain all surface waters of the state in as clean a condition as possible, consistent with available assistance funds and technological developments.

IV. Until such time as appropriate methodology and reasonable levels of financial assistance are made available, municipalities with combined sewer systems shall not be required to provide treatment facilities with capacity greater than that necessary to handle anticipated peak dry weather flows.

V. A further objective will be to advance the development and application of innovative/alternative waste treatment systems with guidelines, procedures, pilot projects, demonstration projects, community projects or in any other manner the department may elect.



**Source.** 1989, 339:1. 1993, 172:2. 1996, 228:106, eff. July 1, 1996.

## **Section 485-A:4**

### **485-A:4 Duties of Department. –**

It shall be the duty of the department and the department is authorized:

- I. To exercise general supervision over the administration and enforcement of this chapter.
- II. To study and investigate all problems connected with the pollution of the surface waters or groundwaters of the state.
- III. To conduct scientific experiments, investigations and research to discover economical and practical methods for the elimination, disposal or treatment of industrial wastes to control pollution of the surface waters or groundwaters of the state.
- IV. To cooperate with any other public or private agency in the conduct of such experiments, investigations and research. In order to utilize fully the facilities of the state, it shall be the duty of all other state agencies to cooperate and render such assistance as may be necessary to implement the provisions of this chapter.
- V. To do all necessary work relative to the establishment of a proper and reasonable classification pursuant to RSA 485-A:9.
- VI. To require the filing with the department of plans and specifications of the installation of systems and devices for handling, treating, or disposing of sewage, industrial and other wastes, at least 30 days prior to the beginning of construction.
- VII. To investigate and approve after making such modification as the department deems necessary to conform to the purpose of this chapter and RSA 486, any portions of the applications of those municipalities, industries, or other persons of the state as may request state or federal aid that may at any time be made available in the interest of pollution control. The commissioner of environmental services shall receive or make agreements on behalf of the state for any federal or other moneys as may be allotted for such purposes. Those who have already incurred expense in order to comply with a classification adopted by the legislature or made under RSA 485-A:11 shall be equally eligible to receive any federal or other moneys with those who have not incurred but who are required to incur expense by reason of such classification.
- VIII. To confer with responsible authorities of other states relative to methods, means and measures to be employed to control pollution of interstate streams and other waters, and to submit to the legislature recommendations relative to the adoption of interstate compacts pertaining to pollution or its control on all said waters. After said compacts and agreements have been concluded by the necessary legislative and congressional action, the department shall carry out said agreements or compacts by appropriate orders provided for in either the compacts or the provisions of this chapter.
- IX. To set standards of design and construction for sewerage and sewage or waste treatment systems and standards or design guidelines as the department determines to be appropriate for innovative/alternative waste treatment systems. Innovative/alternative waste treatment systems shall include solar and such other systems as shall be identified or accepted by the department. To reject, if necessary, or modify and approve as deemed necessary for the purposes of the state water pollution control program all engineering or other documents associated with the design and construction of pollution control projects and perform such other related engineering or inspectional work as will provide for proper design, construction and operation of the facilities involved, and take such other action as the department deems necessary, to maximize the effectiveness of sewerage and other pollution control facilities, both proposed and in construction. The department is authorized to purchase professional liability insurance annually in order to provide coverage in connection with resident construction engineering services which may be made available to municipalities by the department for projects undertaken with benefit of a federal grant under the provisions of this chapter; provided, however, that no construction engineering services shall be provided to any municipality with a

population of greater than 5,000 according to the office of strategic initiatives estimate for that even decade year preceding project application to the department or when the estimated project costs exceed \$2,000,000. The purpose of this paragraph is to ensure the planning, construction and operation of publicly owned pollution control facilities which in the judgment of the department will produce maximum benefits with the least expenditure of federal, state and local funds.

IX-a. Any person submitting plans and specifications to the department, as provided for in this section, for the construction of sewerage systems shall pay to the department a fee of \$30 for each 300 gallon per day unit of flow for the first 10,000 gallons per day of total flow for which such systems are designed and \$15 for each 300 gallon per day unit of flow in excess of such amount. A fee of \$200 per plan sheet shall be paid for review of pump stations, force mains, interceptors, and wastewater treatment facilities which are submitted independently of a sewer collection system. This fee shall not apply to municipalities.

IX-b. Any person submitting a request to the department, not accompanied by plans and specifications, for a permit to discharge additional sewage or industrial wastes to a municipal sewer system shall pay to the department a fee of \$50. The request, accompanied by the fee, shall be submitted through, and approved by, the affected municipality. This fee shall not apply to municipalities, counties, state agencies, or school districts. These fees shall be deposited with the state treasurer as unrestricted revenue.

IX-c. Any person submitting plans and specifications to the department for the construction or installation of facilities for the pretreatment of industrial wastes shall pay to the department a permit fee of \$1,000. The discharge permit request, accompanied by the plans and specifications and the fee, shall be submitted through and approved by the affected municipality. This fee shall not apply to municipalities, state agencies, or school districts. These fees shall be deposited with the state treasurer as unrestricted revenue.

X. To provide such services and technical assistance in the area of sanitary engineering as may be required by the commissioner of the department of health and human services to implement the statutory obligations imposed upon the commissioner of the department of health and human services and the rules adopted by said commissioner.

XI. To scientifically measure and monitor residual pesticides in the waters and in the aquatic resources in the waters of the state.

XII. To review, establish maximum state participation fees and modify in any other way which in the judgment of the department will promote economy and the purposes of this chapter, and following such review or modification, approve and cosign jointly with the municipality or other governmental subdivision concerned any proposed contracts or other proposed agreements or changes in contracts or agreements for engineering services related to sewerage and other pollution control facilities. Further, the department shall prescribe the contract documents to be employed and may provide for the assessment of liquidated damages for failure to complete the work within the time stipulated therefor. Except for the financial assistance available to municipalities under the provisions of RSA 486, nothing in this chapter shall be construed to place any additional financial obligation on the state, the department or its personnel.

XIII. To establish rules governing the prequalification of consulting engineers employed in the planning and construction of public water supply and pollution control projects. Any licensed engineering firm seeking initial prequalification shall pay to the department a fee of \$200. Prequalification shall be renewed annually and shall be accompanied by a \$50 renewal fee. These fees shall be deposited with the state treasurer as unrestricted revenue. The department is further empowered to prescribe the contract award procedures to be followed in the awarding of construction contracts involving state financial assistance.

XIV. To formulate a policy relating to long-term trends affecting the purity of the surface waters or groundwaters of the state. Insofar as practicable and necessary, a continuing program of sampling and subsequent chemical or biological analysis, or both, shall be conducted to establish patterns and reveal long-term trends to serve as a basis for formulating such policy. In conducting said program of sampling and analysis, the department is authorized to accept any assistance as may be proffered by persons that the

department deems to be qualified. The department shall provide proper warning to the public by posting a sign indicating where water quality standards are not being attained as they relate to specified designated uses.

XV. To establish and prescribe physical, chemical and biological pretreatment standards to which waste must conform before discharge into the collection system or the sewage treatment facility of a municipality or other governmental entity being served by or under order to construct a public sewage treatment facility. In establishing and prescribing pretreatment standards, the department shall give consideration to the following:

- (a) The treatment capabilities and operating efficiency of the facilities to which they apply.
- (b) The discharge criteria applicable to the facility in order for it to conform to established water quality standards for the receiving water, as expressed in the discharge permit or compliance order issued to the municipality.
- (c) Toxic effluent standards.
- (d) Such standards as will prevent the discharge of any pollutant through the facility that interferes with, passes through without being rendered innocuous or is otherwise incompatible with the effective operation of the facility.

XVI. To enter into, with the consent of the governor and council, cooperative agreements with the United States Environmental Protection Agency or any other federal agency having jurisdiction in the premises relative to any joint state-federal water pollution enforcement abatement and control programs authorized by law, and involving the issuance of discharge permits.

XVI-a. To regulate the removal, transportation, and disposal of septage through administration of a permit system. As a condition of any permit issued under this chapter, the department may require payment of a reasonable fee, established by rules adopted under RSA 485-A:6, X-a. Funds collected under this paragraph shall be deposited with the treasurer as unrestricted revenue.

XVI-b. To regulate the removal, transportation, and disposal of sludge through administration of a permit system. As a condition of any permit issued under this chapter, the department may require payment of a reasonable fee, established by rules adopted under RSA 485-A:6, X-a. Funds collected under this paragraph shall be deposited with the treasurer as unrestricted revenue.

XVI-c. (a) To design and implement a program for state or independent third party sampling and testing of sludge or biosolid materials that are intended for land application. The department shall design the sampling methodology, in consultation with university of New Hampshire statisticians and sludge and biosolid experts, to provide a statistical evaluation of the contaminant levels contained in sludge or biosolids. The department shall concentrate its testing on those contaminants that pose greater risks to public health and the environment due to their toxicity, potential availability, concentration levels, or concentration uncertainty. The department shall maintain a database of testing results and prepare, in consultation with university of New Hampshire statisticians and sludge and biosolid experts, and make available to the public and the general court, a biennial report by November 1 of each year which analyses the compiled test results, including data from prior years, as appropriate. The analysis shall detail contaminant concentrations on both a statewide and generator level and shall indicate the statistical degree of certainty in the results of the analysis. The department shall attempt to present the report in terms that are understandable to the layperson including practical examples such as the probability that any given load of untested sludge exceeds a contaminant standard.

(b) The department shall establish a fee of \$500, to be paid by sludge quality certificate holders by January 1 of each year. The fee shall be deposited in a special, nonlapsing sampling and analysis of sludge or biosolids samples fund, for exclusive use by the department to implement the program established in subparagraph (a).

XVI-d. To conduct on-site inspections of sludge or biosolid application sites to monitor adherence to all state and federal requirements for such activity.

XVII. To give notice by first-class mail to the city or town clerk of the municipality in which is located the

point of discharge or point of potential discharge, and all adjacent municipalities located on the same receiving water as the water at the point of discharge, when an application is made for a new permit or when a permit is renewed by the department.

XVIII. To establish rules for dental offices relative to the use of environmentally appropriate disposal equipment or methods for amalgam waste to trap and dispose of mercury.

**Source.** 1989, 339:1. 1990, 3:86, 87; 248:2; 252:11. 1991, 240:1; 371:1. 1993, 172:3. 1995, 310:182, 183. 1996, 228:106. 1998, 102:4; 230:2. 2000, 326:1, 2. 2002, 96:3; 240:2. 2003, 319:9. 2004, 257:44, eff. July 1, 2004. 2015, 259:9, 10, eff. July 1, 2015. 2017, 156:64, eff. July 1, 2017.

## **Section 485-A:5**

### **485-A:5 Pretreatment Standards. –**

I. After the effective date of any pretreatment standards established and prescribed by the department pursuant to RSA 485-A:4, XV, no person shall discharge into the collection system or the sewage treatment facility of any municipality or other governmental entity being served by or under orders to construct a public sewage treatment facility, nor discharge to the surface waters of the state if such person will be served by the public sewage treatment facility upon construction of such facility, any waste that does not comply with such pretreatment standards.

II. In setting a date for conformance to pretreatment standards, the department may establish compliance schedules providing a reasonable time for compliance and may give due consideration to expected in-service dates of public sewage and waste treatment facilities not in existence at the time of establishment of pretreatment standards applicable to such facilities. Any such compliance schedule shall be consistent with the purposes and requirements of federal law.

III. No municipality or other governmental entity owning or controlling any public sewage and waste treatment facility shall permit the discharge of any waste to such facility which does not comply with pretreatment standards established by the department.

IV. Pretreatment standards or effluent limits adopted by a municipality as part of its sewer use ordinance or industrial pretreatment program and approved by the department shall be enforceable by the department as pretreatment standards established under RSA 485-A:4, XV and rules adopted under RSA 485-A:6.

V. The department of environmental services may require the installation and operation of monitoring programs by persons subject to pretreatment standards to ensure adherence to such standards.

**Source.** 1989, 339:1. 1996, 228:106, 108, eff. July 1, 1996.

## **Section 485-A:5-a**

**485-A:5-a Operator Certification Required. –** The department shall certify operators of wastewater treatment plants. Wastewater treatment plants shall be operated only by certified operators.

**Source.** 1989, 81:1. 1990, 197:4. 1996, 228:106, eff. July 1, 1996.

## **Section 485-A:5-b**

### **485-A:5-b Municipal Responsibility. –**

I. Each municipality shall either provide, or assure access to, a department of environmental services approved septage facility or a department approved alternative option for its residents.

II. For the purposes of paragraph I, "provide, or assure access to" shall mean a written agreement with a recipient facility, or department approved alternative option, indicating that the recipient facility agrees to accept septage generated in that municipality. The municipality shall consider providing sufficient annual capacity equal to the number of households with septic multiplied by the average septic tank capacity of 1, 000 gallons divided by the average septage pumpout frequency of 5 years.

**Source.** 1990, 252:12. 1996, 228:108. 2005, 98:2, eff. Jan. 1, 2006.

### **Section 485-A:5-c**

#### **485-A:5-c Notice of Septage or Sludge Spreading. –**

I. No person shall spread septage or sludge as defined in RSA 485-A:2 before providing all property owners abutting the spreading site with written notice of the intended date and location of the spreading. Such notice shall be provided by publishing a notice at least 14 days before the intended date of the first spreading of septage or sludge each year in a newspaper of general circulation in the town or city.

II. The notice shall include the names, addresses, and telephone numbers of the following:

- (a) The applicant, if applicable.
- (b) The generator of the sludge, if applicable.
- (c) The person responsible for managing the activities on-site, if different from the applicant under subparagraph (a).
- (d) The landowner, if not given under subparagraph (a) or (c).

III. A copy of such notice shall be posted continually on the entrances to the site beginning 3 days prior to the application and ending 3 days after the application.

**Source.** 1998, 60:1, eff. July 11, 1998.

### **Section 485-A:5-d**

**485-A:5-d Land Application of Sludge. –** Sludge or biosolids which are to be land applied in New Hampshire shall not exceed the maximum concentrations for specific chemical contaminants contained in the rules of the department, or the rules or regulations of the state in which the sludge was generated, whichever are more stringent.

**Source.** 1998, 230:3, eff. June 24, 1998.

### **Section 485-A:6**

#### **485-A:6 Rulemaking. –**

The commissioner shall adopt rules, under RSA 541-A, after public hearing, relative to:

- I. The classification system required by RSA 485-A:9.
- II. Requirements under RSA 485-A:4, VI.
- III. Requirements under RSA 485-A:4, IX and establishing the methodology and review process for approval of innovative/alternative wastewater treatment systems.
- IV. The fees and contract documents required under RSA 485-A:4, XII.
- V. The prequalification and contract award procedures required under RSA 485-A:4, XIII.
- VI. The standards required under RSA 485-A:4, XV.
- VI-a. Procedures and criteria for requesting, reviewing, and granting certifications under RSA 485-A:12, III

and IV.

VII. The required information and prescribed conditions needed to implement the program described in RSA 485-A:13, I(a).

VIII. The requirements for a permit under RSA 485-A:17.

IX. [Repealed.]

X. The safety standards for swimming pools and bathing places required by RSA 485-A:26.

X-a. The requirements for permits under RSA 485-A:4, XVI-a and XVI-b.

XI. The minimum qualifications for and certification of operators of pollution control facilities.

XI-a. The contents of the written notification required in RSA 485-A:13, I(c).

XI-b. Certification of operators of wastewater treatment plants and revocation and suspension of such certificates as provided in RSA 485-A:7-d.

XI-c. The location, extent, and duration of the standards specified in RSA 485-A:8, III for the temporary partial use areas provided for in RSA 485-A:8, II.

XII. [Repealed.]

XIII. The disposal of dental office waste under RSA 485-A:4, XVIII.

XIV. Dissolved oxygen water quality standards under RSA 485-A:8, II and II-a.

XV. Water quality standards consistent with RSA 485-A:8 and as required by the Clean Water Act.

**Source.** 1989, 339:1. 1990, 197:5; 248:4; 252:13. 1991, 371:2. 1993, 172:4. 1996, 228:110. 1998, 102:5. 2002, 96:4. 2008, 337:3, eff. Sept. 5, 2008. 2017, 211:3, eff. Sept. 8, 2017. 2019, 346:136, I, eff. Jan. 1, 2020. 2020, 10:2, eff. July 14, 2020.

## Section 485-A:7

**485-A:7 State Guarantee.** – In view of the general public benefits resulting from the elimination of pollution from the public waters of the state, the governor and council are authorized in the name of the state of New Hampshire to guarantee unconditionally, but at no time in excess of the total aggregate sum for the entire state of \$50,000,000, the payment of all or any portion, as they may find to be in the public interest, of the principal of and interest on any bonds or notes issued by any municipality, town, city, county or district for construction of sewerage systems, sewage treatment and disposal plants, or other facilities necessary, required or desirable for pollution control, and the full faith and credit of the state are pledged for any such guarantee. The outstanding amount of principal and interest on such bonds and notes, the payment of which has been guaranteed by the state under the provisions of this section, shall at no time exceed the amount of \$50,000,000. The state's guarantee shall be endorsed on such bonds or notes by the state treasurer; and all notes or bonds issued with state guarantee shall be sold at public sealed bidding to the highest bidder. Any and all such bids may be rejected and a sale may be negotiated with the highest bidder. In the event of default in payment of any such notes or bonds, the state may recover any losses suffered by it by action against the municipality, town, city, county or district as provided in RSA 530. Provided, further, that in accordance with RSA 35-A:29, the foregoing requirement for public sealed bidding shall not be applicable to any bonds or notes or both so guaranteed which are sold to the New Hampshire municipal bond bank, and any bonds or notes or both so guaranteed may be sold to the New Hampshire municipal bond bank at private sale in accordance with the provisions of RSA 35-A.

**Source.** 1989, 339:1. 1991, 179:2. 1999, 234:1. 2008, 49:1, eff. July 1, 2008.

## Wastewater Operator Certification

## Section 485-A:7-a

### **485-A:7-a Application; Special Fund. –**

- I. Any operator of a wastewater treatment plant seeking certification or to increase his level of certification shall file an application with the certification committee at least 6 weeks prior to the next examination date on a form provided by the department.
- II. All applications shall be accompanied by a \$50 fee to cover department expenses for conducting the certification program. All fees shall be deposited with the state treasurer and deposited in a special nonlapsing wastewater plant operator certification fund to be used by the department for the administration of this subdivision and for the operation of the department-owned Wastewater Plant Operator Training Center.
- III. Any applicant failing the examination shall be allowed one retest at the same certification level at no additional cost to the applicant.

**Source.** 1990, 197:6. 1996, 228:106, eff. July 1, 1996.

## Section 485-A:7-b

**485-A:7-b Examinations. –** The department shall prepare written examinations to determine the knowledge, ability, and judgment of operators. Such examinations shall be administered in accordance with rules adopted by the department pursuant to RSA 485-A:6.

**Source.** 1990, 197:6. 1996, 228:106, eff. July 1, 1996.

## Section 485-A:7-c

### **485-A:7-c Issuance of Certificates. –**

- I. Upon satisfactory completion by an applicant of the established requirements, the department shall issue to the applicant a suitable certificate designating the applicant's competency. The certificate shall indicate the level of operation for which the operator is qualified. The certificate shall remain in effect for 2 years from the date of issuance.
- II. Certificates shall be renewed biennially and shall be accompanied by a \$50 renewal fee, which shall be deposited pursuant to RSA 485-A:7-a, II. If the renewal fee is not submitted within 90 days of the certificate's expiration date, the certified individual's name shall be removed from the current status and the certificate shall be deemed expired. The department shall charge a late fee of 50 percent of the renewal fee in addition to the renewal fee if the renewal is late.
- III. Certificates may be issued, upon payment of the \$50 fee, without examination, for a comparable classification to any person actively seeking employment in New Hampshire who holds a certificate issued by the appropriate certification agency of any federal, state, interstate, territorial, or other jurisdiction if, in the judgment of the committee, the certification requirements of the jurisdiction granting such certification do not conflict with the department's rules and are not less stringent than rules adopted under this subdivision. The fee shall be deposited pursuant to RSA 485-A:7-a, II.

**Source.** 1990, 197:6. 1996, 228:106. 1997, 261:7, eff. July 1, 1997.

## Section 485-A:7-d

**485-A:7-d Revocation.** – The department may suspend or revoke the certificate of an operator under rules adopted pursuant to RSA 485-A:6.

**Source.** 1990, 197:6. 1996, 228:106, eff. July 1, 1996.

## Classification of Waters

### Section 485-A:8

#### **485-A:8 Standards for Classification of Surface Waters of the State. –**

It shall be the overall goal that all surface waters attain and maintain specified standards of water quality to achieve the purposes of the legislative classification. For purposes of classification there shall be 2 classes or grades of surface waters as follows:

I. Class A waters shall be of the highest quality and shall contain not more than either a geometric mean based on at least 3 samples obtained over a 60-day period of 47 *Escherichia coli* per 100 milliliters, or greater than 153 *Escherichia coli* per 100 milliliters in any one sample; and for designated beach areas shall contain not more than a geometric mean based on at least 3 samples obtained over a 60-day period of 47 *Escherichia coli* per 100 milliliters, or 88 *Escherichia coli* per 100 milliliters in any one sample; unless naturally occurring. There shall be no discharge of any sewage or wastes into waters of this classification. The waters of this classification shall be considered as being potentially acceptable for water supply uses after adequate treatment.

II. Class B waters shall be of the second highest quality and shall have no objectionable physical characteristics and shall contain not more than either a geometric mean based on at least 3 samples obtained over a 60-day period of 126 *Escherichia coli* per 100 milliliters, or greater than 406 *Escherichia coli* per 100 milliliters in any one sample; and for designated beach areas shall contain not more than a geometric mean based on at least 3 samples obtained over a 60-day period of 47 *Escherichia coli* per 100 milliliters, or 88 *Escherichia coli* per 100 milliliters in any one sample; unless naturally occurring. There shall be no disposal of sewage or waste into said waters except those which have received adequate treatment to prevent the lowering of the biological, physical, chemical or bacteriological characteristics below those given above, nor shall such disposal of sewage or waste be inimical to aquatic life or to the maintenance of aquatic life in said receiving waters. The pH range for said waters shall be 6.5 to 8.0 except when due to natural causes. The commissioner shall adopt rules, under RSA 541-A, relative to dissolved oxygen water quality standards in a manner consistent with Environmental Protection Agency guidance on dissolved oxygen water criteria published pursuant to section 304(a) of the Clean Water Act, and other relevant scientific information. Any stream temperature increase associated with the discharge of treated sewage, waste or cooling water, water diversions, or releases shall not be such as to appreciably interfere with the uses assigned to this class. The waters of this classification shall be considered as being acceptable for fishing, swimming and other recreational purposes and, after adequate treatment, for use as water supplies. Where it is demonstrated to the satisfaction of the department that the class B criteria cannot reasonably be met in certain surface waters at all times as a result of combined sewer overflow events, temporary partial use areas shall be established by rules adopted under RSA 485-A:6, XI-c, which meet, as a minimum, the standards specified in paragraph III. The commissioner shall not calculate nutrient discharge limits for aquatic life and human health criteria based on 7Q10 flow or such other flow criteria more restrictive than 7Q10.

II-a. The commissioner shall adopt rules, under RSA 541-A, relative to dissolved oxygen water quality standards for tidal and saline waters in a manner consistent with Environmental Protection Agency guidance on dissolved oxygen water criteria published pursuant to section 304(a) of the Clean Water Act, and other



relevant scientific information.

III. The waters in temporary partial use areas established under paragraph II shall be free from slick, odors, turbidity, sludge deposits, and surface-floating solids of unreasonable kind or quantity, shall contain not less than 5 parts per million of dissolved oxygen; shall have a hydrogen ion concentration within the range of pH 6.0 to 9.0 except when due to natural causes; and shall be free from chemicals and other materials and conditions inimical to aquatic life or the maintenance of aquatic life. These criteria shall apply during combined sewer overflow discharges and up to 3 days following cessation of said discharge. At all other times the standards and uses specified in paragraph II shall apply.

IV. Notwithstanding anything contained in this chapter, the department in submitting classifications relating to interstate waters to the New England Interstate Water Pollution Control Commission for review and approval, as provided for under the terms of Article V of the compact whereby the interstate commission was created by RSA 484, shall submit such classifications in accordance with the standards of water quality as currently adopted by said interstate water pollution control commission provided, however, that the standards for any classification thus submitted for review and approval shall not be less than, nor exceed the standards of the classification duly adopted by the General Court as provided for in RSA 485-A:9 or 10.

V. Tidal waters utilized for swimming purposes shall contain not more than either a geometric mean based on at least 3 samples obtained over a 60-day period of 35 enterococci per 100 milliliters, or 104 enterococci per 100 milliliters in any one sample, unless naturally occurring. Those tidal waters used for growing or taking of shellfish for human consumption shall, in addition to the foregoing requirements, be in accordance with the criteria recommended under the National Shellfish Program Manual of Operation, United States Department of Food and Drug Administration.

VI. Notwithstanding anything contained in this chapter, the commissioner shall have the authority to adopt such stream classification criteria as may be issued from time to time by the federal Environmental Protection Agency or its successor agency insofar as said criteria may relate to the water uses specified in RSA 485-A:8, I and II, provided, however, that the criteria thus issued shall not result in standards that are less than nor exceed the standards of the classification duly enacted by the general court as provided for in RSA 485-A:9 or 485-A:10.

VII. All tests and sampling for the purposes of examination of waters shall be performed and carried out in a reasonable manner and whenever practicable, in accordance with the commonly accepted scientific method as selected by the department. The waters in each classification shall satisfy all the provisions of all lower classifications. The minimum treatment for the lowest classification shall be as follows:

- (a) For sewage, secondary treatment and disinfection as necessary to comply with water quality standards.
- (b) For industrial wastes and combined sewer overflows, such treatment as the department shall determine.

Appeal from any such determination shall be in the manner provided for in RSA 21-O:14.

VIII. In prescribing minimum treatment provisions for thermal wastes discharged to interstate waters, the department shall adhere to the water quality requirements and recommendations of the New Hampshire fish and game department, the New England Interstate Water Pollution Control Commission, or the United States Environmental Protection Agency, whichever requirements and recommendations provide the most effective level of thermal pollution control.

IX. Subject to the provisions of RSA 485-A:13, I(a), the fish and game department may use rotenone or similar compounds in the conduct of its program to reclaim the public waters of the state for game fishing.

**Source.** 1989, 339:1. 1991, 371:3-5. 1996, 228:77, 106, 110. 1998, 63:1, eff. July 11, 1998. 2017, 211:2, eff. Sept. 8, 2017.

## Section 485-A:9

**485-A:9 Classification Procedure. –**

The department shall follow the procedures provided in this section and recommend to the legislature a classification for all streams, lakes, ponds, and tidal waters or section of such water.

I. A notice setting forth the contemplated classification of any stream, lake, pond, tidal water or section of such water, shall be published for 3 successive weeks in a newspaper circulated within the county or counties in which the surface water in question is situated. The last notice shall be published at least 7 days before the hearing date. The notice shall stipulate the time and place where a public hearing on the contemplated classification shall be held.

II. A public hearing shall be conducted by the department, at which hearing all interested parties shall be heard relative to their views on classification of the area or areas in question.

III. Following the hearings the department shall review the pertinent evidence and data presented.

IV. After such hearing and review of evidence the department shall determine which classification is for the best interest of the public giving consideration to the health, industrial, economic, geographical and social factors involved.

**Source.** 1989, 339:1. 1996, 228:106, eff. July 1, 1996.

**Section 485-A:10**

**485-A:10 Reclassification Procedure. –** After adoption of a classification for any surface water or section of such water by the legislature, the department may, by its own motion, or upon the petition of not less than 100 persons, legal inhabitants of the county or counties in which the surface water in question is situated, reinvestigate the conditions of pollution in said surface water or section of such water by following the procedure above outlined, and may at any time make recommendation to the legislature for reclassification.

**Source.** 1989, 339:1. 1996, 228:106, eff. July 1, 1996.

**Section 485-A:11**

**485-A:11 Public Waters Classified. –** All lakes and ponds defined as public waters of the state by RSA 271:20 shall be classified by the passage of this section as not less than Class B, as set forth in RSA 485-A:8 relating to standards for classification of surface waters of the state.

**Source.** 1989, 339:1. 1999, 232:2, eff. Jan. 1, 2000.

**Enforcement****Section 485-A:12****485-A:12 Enforcement of Classification. –**

I. After adoption of a given classification for a stream, lake, pond, tidal water, or section of such water, the department shall enforce such classification by appropriate action in the courts of the state, and it shall be unlawful for any person or persons to dispose of any sewage, industrial, or other wastes, either alone or in conjunction with any other person or persons, in such a manner as will lower the quality of the waters of the stream, lake, pond, tidal water, or section of such water below the minimum requirements of the adopted classification. If the department shall set a time limit for abatement of pollution under paragraph II, and it

becomes apparent at any time during the compliance period that full compliance with the adopted classification will not be attained by the end of such period due to the failure of any person to take action reasonably calculated to secure abatement of the pollution within the time specified, the department shall notify such person or persons in writing. If such person or persons shall fail or neglect to take appropriate steps to comply with the classification requirements within a period of 30 days after such notice, the department shall seek appropriate action in the courts of the state.

II. If, after adoption of a classification of any stream, lake, pond, or tidal water, or section of such water, including those classified by RSA 485-A:11, it is found that there is a source or sources of pollution which lower the quality of the waters in question below the minimum requirements of the classification so established, the person or persons responsible for the discharging of such pollution shall be required to abate such pollution within a time to be fixed by the department. If such pollution is of municipal or industrial origin, the time limit set by the department for such abatement shall be not less than 2 years nor more than 5 years. For good cause shown, the department may from time to time extend any time limit established under this paragraph. Any determination by the department under this paragraph shall be subject to appeal as provided for in RSA 485-A:19.

III. No activity, including construction and operation of facilities, that requires certification under section 401 of the Clean Water Act and that may result in a discharge, as that term is applied under section 401 of the Clean Water Act, to surface waters of the state may commence unless the department certifies that any such discharge complies with the state surface water quality standards applicable to the classification for the receiving surface water body. The department shall provide its response to a request for certification to the federal agency or authority responsible for issuing the license, permit, or registration that requires the certification under section 401 of the Clean Water Act. Certification shall include any conditions on, modifications to, or monitoring of the proposed activity necessary to provide assurance that the proposed discharge complies with applicable surface water quality standards. The department may enforce compliance with any such conditions, modifications, or monitoring requirements as provided in RSA 485-A:22.

IV. No activity that involves surface water withdrawal or diversion of surface water that requires registration under RSA 488:3, that does not otherwise require the certification required under paragraph III, and which was not in active operation as of the effective date of this paragraph, may commence unless the department certifies that the surface water withdrawal or diversion of surface water complies with state surface water quality standards applicable to the classification for the surface water body. The certification shall include any conditions on, modifications to, or monitoring of the proposed activity necessary to provide reasonable assurance that the proposed activity complies with applicable surface water quality standards. The department may enforce compliance with any such conditions, modifications, or monitoring requirements as provided in RSA 485-A:22.

**Source.** 1989, 339:1. 1996, 228:106. 2008, 337:2. 2009, 26:1, eff. July 7, 2009.

## Section 485-A:13

### **485-A:13 Water Discharge Permits. –**

I. (a) It shall be unlawful for any person or persons to discharge or dispose of any sewage or waste to the surface water or groundwater of the state without first obtaining a written permit from the department of environmental services. Applications for permits shall be made upon forms prescribed by the department of environmental services and shall contain such relevant information as the department of environmental services may require. The department of environmental services shall include in such permits effluent limitations, which may be based upon economic and technological factors, upon the classification enacted by the legislature, upon the projected best use of the surface water downstream or upon the requirements of the

Federal Water Pollution Control Act as amended from time to time, and all regulations, guidelines and standards promulgated thereunder, whichever provides the most effective means to abate pollution. The department of environmental services may also prescribe such other reasonable conditions as may be necessary or desirable in order to fulfill the purpose of this chapter or applicable federal law. Such permits may contain, in the case of sources not in compliance with such effluent limitations at the time the permit is issued, compliance schedules, including interim requirements necessary or desirable in order to fulfill the purposes or requirements of this chapter, and any such compliance schedules may be imposed without regard to the time limits for abatement of pollution referred to in RSA 485-A:12, II and shall be consistent with the purposes and requirements of applicable federal law. The department of environmental services may prescribe a monitoring program to be performed by the applicant with periodic reports to the department of environmental services, including, where appropriate in terms of the nature of the effluent, continuous monitoring. Permits shall be issued for a fixed term, not to exceed 5 years. The department of environmental services may revise, modify or suspend in whole or in part or terminate any permit, following hearing, upon a finding that just cause exists for such action. Further, whenever in its judgment the purposes of this chapter will be best served, the department of environmental services may require as a condition to the granting of such permits that either the ownership and operation of the collection and treatment facilities involved be vested in the municipality or any subdivision thereof in which the system is located, if said municipality by legal action agrees thereto, or such other reasonable conditions as will ensure continuous and continuing operation and maintenance of the facilities. No permit shall be granted to utilize the entire assets of the surface water, or in any other case in which the department of environmental services determines that the grant of a permit would be inconsistent with the purposes of this chapter. Any determination by the department of environmental services under this paragraph shall be subject to appeal as provided for in RSA 485-A:19.

(b) Notwithstanding any other provision of law, no permit to discharge sewage or waste shall be issued authorizing any of the following discharges:

- (1) The discharge of any radiological, chemical or biological warfare agent or high level radioactive waste.
- (2) Any discharge into navigable waters which the secretary of the army of the United States acting through the chief of engineers determines would substantially impair anchorage and navigation.
- (3) Any discharge to which the regional administrator of the United States Environmental Protection Agency, or his successor in jurisdiction, has objected in writing pursuant to any right to object each provided such official in section 402(d) of the Federal Water Pollution Control Act, as amended from time to time; provided, that this subparagraph and subparagraph (2) above shall not preclude the department of environmental services or any other person from availing itself of the judicial review of any such objection, or any determination by the secretary of the army, available under applicable federal law.
- (4) Any discharge from a point source which is in conflict with a plan or amendment to such plan approved pursuant to section 208(b) of the Federal Water Pollution Control Act, as amended from time to time.

(c) Any person responsible for a bypass or upset at a wastewater facility shall give immediate notice of the bypass or upset to all public or privately owned water systems drawing water from the same receiving water and located within 20 miles downstream of the point of discharge. The permittee shall maintain a list of persons, and their telephone numbers, who are to be notified immediately by telephone. In addition, written notification, which shall be postmarked within 3 days of the bypass or upset, shall be sent to such persons.

II. On application of the department of environmental services, the superior court or any justice of such court, in term time, or in vacation may enjoin any act in violation of any lawful order of the department of environmental services.

III. In the interim between the effective date of classification legislation hereafter enacted affecting any surface water of the state or section of such water, and the time limit for abatement of pollution set thereafter either by the department of environmental services under RSA 485-A:12, II or by the legislature, it shall be

unlawful for person or persons to dispose of any sewage or waste into said surface water of the state in excess of the maximum quantity or of a different character, than that being disposed of during the period of one year prior to the effective date of such legislative classification without first obtaining written permission from the department of environmental services.

**Source.** 1989, 339:1. 1990, 248:3. 1996, 228:108, eff. July 1, 1996.

### **Section 485-A:13-a**

**485-A:13-a Groundwater Permit Fee.** – Any person, except for state, and local governments, including counties, and political subdivisions, issued a groundwater permit under RSA 485-A:13, I(a) shall pay to the department a fee of \$1,000 for the 5-year permit. Said fee shall be for processing such permits, including any necessary inspections and monitoring performed by the department in enforcing the terms and conditions of such permits. The fees shall be deposited with the state treasurer as unrestricted revenue.

**Source.** 1990, 3:89. 1996, 228:106, eff. July 1, 1996.

### **Section 485-A:14**

#### **485-A:14 Prohibited Acts.** –

- I. The lawful owner of any petroleum-powered vehicle or petroleum container that becomes partially or completely submerged in the surface waters of the state shall remove the vehicle or container from the water within 48 hours or as soon thereafter as safety and weather conditions permit. Petroleum-powered vehicles include, but are not limited to, cars, trucks, motorcycles, snowmobiles, motorized boats, off highway recreational vehicles, all terrain vehicles, construction equipment, trains, and airplanes. Petroleum containers include, but are not limited to, drums, barrels, tanks, pails, cans, jugs, or equipment which contains oil.
- II. The lawful owner of the submerged vehicle or container shall notify the department of environmental services in accordance with RSA 146-A, and the department shall investigate any possible contamination and ensure the safe removal of the vehicle or container from the body of water involved. Any partially or completely submerged vehicle or petroleum container shall be presumed to be discharging oil into the surface waters of the state and shall be subject to the reporting, removal, and strict liability requirements of RSA 146-A.
- III. The lawful owner of a vehicle shall notify the department of safety, division of state police, if any person is injured or killed in an incident involving a submerged vehicle.
- IV. If the owner refuses or fails to remove a submerged vehicle or container as required by paragraph I, or if no owner can be identified, the department of environmental services may contract for the removal of the vehicle or container in question. The owner of the submerged vehicle or container shall be strictly liable for the costs of removing the vehicle or container and the costs of the investigation, containment, cleanup, removal, and corrective measures associated with the discharge. The cost shall be recoverable by the state in an action of debt brought by the attorney general in the name of the state. If the owner of the vehicle or container has been identified, the contractor who removes the vehicle or container shall impound the recovered vehicle or container, at the expense of the owner. No contractor shall release the vehicle or container to the owner until informed by the department that all costs incurred by the state have been paid by the owner of the vehicle or container or that the impounded vehicle or container otherwise may be released. Upon receiving approval from the department to release the impounded vehicle or container, the contractor shall dispose of the impounded vehicle or container in accordance with RSA 262:36-a. If no owner can be identified after reasonable efforts, the contractor who removes the vehicle or container shall deliver the

vehicle or container to an appropriate salvage yard. Neither the state nor the contractor shall be liable for such delivery of the vehicle or container to anyone subsequently claiming ownership of the vehicle or container.

V. (a) Any person who fails to remove a submerged or partially submerged vehicle or container, as required by paragraph I, shall be guilty of a violation. Agents of the department of safety, division of state police, or any police officer of the municipality in which the vehicle or container is submerged may issue citations for a violation of this section and issue fines of \$500 for each day the vehicle remains in the water. No citation or fine so issued shall preclude the department of environmental services from taking action pursuant to subparagraph (b).

(b) The department of environmental services may take action against any person who fails to remove a submerged or partially submerged vehicle or container, as required by paragraph I, in accordance with RSA 485-A:22. No action initiated by the department of environmental services under RSA 485-A:22 shall preclude the issuance of citations and fines pursuant to subparagraph (a).

VI. Unless otherwise provided in this chapter, any person who knowingly fails to remove a submerged or partially submerged vehicle or container, as required by paragraph I, shall be guilty of a class B felony if the surface water is the source, or a tributary to a source, from which the domestic water supply of a city, town, or village is taken, in whole or in part.

**Source.** 1989, 339:1. 1996, 228:108. 2006, 254:4. 2009, 190:1. 2011, 224:271, 272, eff. July 1, 2011. 2014, 141:1, eff. Aug. 15, 2014.

## Section 485-A:15

### 485-A:15 Penalties. –

I. It shall be unlawful for any person to put or place, or cause to be put or placed into a surface water of the state or on the ice over such waters, or on the banks of such waters, any solid waste as defined in RSA 149-M or hazardous waste as defined in RSA 147-A, including but not limited to bottles, glass, crockery, cans, scrap metal, junk, paper, garbage, tires, old automobiles or parts thereof, trees or parts thereof, or similar litter.

II. For any violation of this section any authorized member or agent of the department of environmental services shall order the immediate removal of material involved in the violation, by the person responsible for the material in question.

III. If the person or persons responsible for a violation of paragraph I refuse or fail to obey the order of any authorized member or agent of the department of environmental services, the department of environmental services or authorized member or agency may contract for the removal of the material in question and the cost of the removal shall be recoverable by the state in an action of debt brought by the attorney general in the name of the state.

IV. Any person who recklessly violates paragraph I shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person.

V. Any person who purposely or knowingly violates paragraph I shall be guilty of a class B felony.

**Source.** 1989, 339:1. 1996, 228:108. 2009, 190:2, 3, eff. Jan. 1, 2010.

## Section 485-A:16

**485-A:16 Emergency.** – If the department finds that an emergency has arisen from failure of or casualty to facilities for the control of pollution, the department may, if it finds that the best interests of the public will not unduly suffer, authorize any person for a reasonable time to discharge sewage or other wastes into surface waters or groundwaters, although such discharge would have the effect of lowering the quality of such waters

below the adopted classification.

**Source.** 1989, 339:1. 1996, 228:106, eff. July 1, 1996.

## Section 485-A:17

### 485-A:17 Terrain Alteration. –

I. Any person proposing to dredge, excavate, place fill, mine, transport forest products or undertake construction in or on the border of the surface waters of the state, and any person proposing to significantly alter the characteristics of the terrain, in such a manner as to impede the natural runoff or create an unnatural runoff, shall be directly responsible to submit to the department detailed plans concerning such proposal and any additional relevant information requested by the department, at least 30 days prior to undertaking any such activity. The operations shall not be undertaken unless and until the applicant receives a permit from the department. The department shall have full authority to establish the terms and conditions under which any permit issued may be exercised, giving due consideration to the circumstances involved and the purposes of this chapter, and to adopt such rules as are reasonably related to the efficient administration of this section, and the purposes of this chapter. Nothing contained in this paragraph shall be construed to modify or limit the duties and authority conferred upon the department under RSA 482 and RSA 482-A.

II. (a) The department shall charge a fee for each review of plans, including project inspections, required under this section. The plan review fee shall be based on the total area to be disturbed. Except for property subject to RSA 483-B:9, the fee for review of plans encompassing an area of at least 100,000 square feet but less than 200,000 square feet shall be \$3,125. For the property subject to RSA 483-B:9, the fee for review of plans encompassing an area of at least 50,000 square feet but less than 200,000 square feet shall be \$3,125. An additional fee of \$1,250 shall be assessed for each additional area of up to 100,000 square feet to be disturbed. No application shall be accepted by the department until the fee required by this paragraph is paid. All fees required under this paragraph shall be paid when plans are submitted for review and shall be deposited in the water resources fund established in RSA 482-A:3, III.

(b) The department shall charge a non-refundable fee of \$500 plus a \$.10 per square foot fee for each request to amend a permit that requires plans to be reviewed.

II-a. [Repealed.]

II-b. In processing an application for permits under RSA 485-A:17:

(a) Within 50 days of receipt of the application, the department shall request any additional information required to complete its evaluation of the application, together with any written technical comments the department deems necessary. Any request for additional information shall specify that the applicant submit such information as soon as practicable and shall notify the applicant that if all of the requested information is not received within 120 days of the request, the department shall deny the application.

(b) If the department requests additional information pursuant to subparagraph (a), the department shall, within 30 days of the department's receipt of the information:

(1) Approve the application in whole or in part and issue a permit; or

(2) Deny the application and issue written findings in support of the denial; or

(3) Extend the time for rendering a decision on the application for good cause and with the written agreement of the applicant.

(c) If no request for additional information is made pursuant to subparagraph (b), the department shall, within 50 days of receipt of the application:

(1) Approve the application, in whole or in part and issue a permit; or

(2) Deny the application, and issue written findings in support of the denial; or

(3) Extend the time for rendering a decision on the application for good cause and with the written agreement

of the applicant.

(d)(1) The time limits prescribed by this paragraph shall supersede any time limits provided in any other provision of law. If the department fails to act within the applicable time frame established in subparagraphs (b) and (c), the applicant may ask the department to issue the permit by submitting a written request. If the applicant has previously agreed to accept communications from the department by electronic means, a request submitted electronically by the applicant shall constitute a written request.

(2) Within 14 days of the date of receipt of a written request from the applicant to issue the permit, the department shall:

(A) Approve the application, in whole or in part, and issue a permit; or

(B) Deny the application and issue written findings in support of the denial.

(3) If the department does not issue either a permit or a written denial within the 14-day period, the applicant shall be deemed to have a permit by default and may proceed with the project as presented in the application. The authorization provided by this subparagraph shall not relieve the applicant of complying with all requirements applicable to the project, including but not limited to requirements established in or under this section and RSA 485-A relating to water quality.

(4) Upon receipt of a written request from an applicant, the department shall issue written confirmation that the applicant has a permit by default pursuant to subparagraph (d)(3), which authorizes the applicant to proceed with the project as presented in the application and requires the work to comply with all requirements applicable to the project, including but not limited to requirements established in or under this section and RSA 485-A relating to water quality.

(e) The time limits under this paragraph shall not apply to an application from an applicant that has been found in violation of this chapter pursuant to RSA 485-A:22-a within the 5 years preceding the application or an application that does not otherwise substantially comply with the department's rules relative to the permit application process.

(f) The department may extend the time for rendering a decision under subparagraphs (b)(3) and (c)(3), without the applicant's agreement, on an application from an applicant who, within the 5 years preceding the application, has been determined, after the exhaustion of available appellate remedies, to have failed to comply with this section or any rule adopted or permit or approval issued under this section, or to have misrepresented any material fact made in connection with any activity regulated or prohibited by this section, pursuant to an action initiated under RSA 485-A:22. The length of such an extension shall be no longer than reasonably necessary to complete the review of the application, and shall not exceed 30 days unless the applicant agrees to a longer extension. The department shall notify the applicant of the length of the extension.

(g) The department may suspend review of an application for a proposed project on a property with respect to which the department has commenced an enforcement action against the applicant for any violation of this section, RSA 482-A, RSA 483-B, or RSA 485-A:29-44, or of any rule adopted or permit or approval issued pursuant to this section, RSA 482-A, RSA 483-B, or RSA 485-A:29-44. Any such suspension shall expire upon conclusion of the enforcement action and completion of any remedial actions the department may require to address the violation; provided, however, that the department may resume its review of the application sooner if doing so will facilitate resolution of the violation. The department shall resume its review of the application at the point the review was suspended, except that the department may extend any of the time limits under this paragraph and its rules up to a total of 30 days for all such extensions. For purposes of this subparagraph, "enforcement action" means an action initiated under RSA 482-A:13, RSA 482-A:14, RSA 482-A:14-b, RSA 483-B:18, RSA 485-A:22, RSA 485-A:42, or RSA 485-A:43.

II-c. The department shall submit a biennial report to the house and senate finance committees, the house resources, recreation, and development committee, and the senate energy and natural resources committee relative to administration of the terrain alteration review program.



II-d. All permits issued, except for projects covered by paragraph II-e, pursuant to this section shall be valid for a period of 5 years. Requests for extensions of such permits may be made to the department. The department shall grant an extension of up to 5 additional years, provided the applicant demonstrates all of the following:

- (a) The permit for which extension is sought has not expired prior to the date on which a written extension request from the permittee is received by the department.
- (b) The permit for which extension is sought has not been revoked or suspended without reinstatement.
- (c) Extension would not violate a condition of statute or rule.
- (d) Surface water quality will continue to be protected as under the original permit.
- (e) The project is proceeding towards completion in accordance with plans and other documentation referenced by the permit.
- (f) If applicable, any inspection reports have been completed and submitted as required by the permit.
- (g) The permit has not previously been extended, unless the subdivision plat or site plan associated with the permit has been deemed substantially complete by the governing municipal planning board in accordance with RSA 674:39, II, in which case subsequent extensions of the permit are allowed.

II-e. A permit issued under this section that is associated with the ongoing excavation or mining of materials from the earth shall not expire for the life of the project identified in the permit application, provided that the permit holder submits a written update of the project's status every 5 years from the date of the permit issuance using a form obtained from the department as specified in department rules.

III. Normal agricultural operations shall be exempt from the provisions of this section. The department may exempt other state agencies from the permit and fee provisions of this section provided that each such agency has incorporated appropriate protective practices in its projects which are substantially equivalent to the requirements established by the department under this chapter.

IV. Timber harvesting operations shall be exempt from the fee provisions of this section. Timber harvesting operations shall be considered in compliance with this section and shall be issued a permit by rule provided such operations are in accordance with procedures prescribed in the Best Management Practices for Erosion Control on Timber Harvesting Operations in New Hampshire, published by the department of natural and cultural resources, and provided that the department of revenue administration's intent to cut form is signed.

V. Trail construction operations for the purposes of modifying existing biking and walking trails shall be exempt from the provisions of this section. Such operations shall be considered in compliance with this section and shall be issued a general permit by rule provided such operations are implemented by a non-profit organization, municipality, or government entity, are limited to a disturbed area no more than 12 feet in width, and are in accordance with procedures prescribed in the Best Management Practices for Erosion Control During Trail Maintenance and Construction, published by the department of natural and cultural resources, bureau of trails in 2004.

**Source.** 1989, 339:1. 1992, 157:3. 1996, 228:106, 109. 2003, 224:5. 2005, 32:1. 2007, 263:30. 2009, 208:3. 2010, 295:8-10. 2012, 148:1, eff. Aug. 6, 2012. 2017, 156:14, I, eff. July 1, 2017. 2018, 279:8, eff. Jan. 1, 2019. 2019, 346:130, 288, 290, IV, eff. July 1, 2019.

## Section 485-A:18

### 485-A:18 Investigation and Inspection; Records. –

I. Any authorized member or agent of the department may enter any land or establishment for the purpose of collecting information that may be necessary to the purposes of this chapter and no owner of such establishment shall refuse to admit any such member or employee.

II. The department, its employees and authorized agents shall at reasonable times have access to any records

and monitoring equipment and shall have the authority to sample effluents of any person subject to RSA 485-A:13, I(a) and RSA 485-A:5. Upon written request of the department, such person shall provide to the department such information pertaining to any activities of such person to which this chapter applies as the department may reasonably require. Any information obtained pursuant to this section or under this chapter shall be available to the public at the offices of the department, subject to paragraph III.

III. Any other provisions of law notwithstanding, upon a showing satisfactory to the department by any person that any record, report, or information or any particular part thereof, to which the department has access, if made public would divulge methods or processes entitled to protection as trade secrets of such person, the department shall consider such record, report, information or particular part thereof confidential, and it shall thereafter not be disclosed to the public. All financial information shall be considered confidential for purposes of this chapter. Nothing in this section shall preclude the department from transmitting any such confidential information to any agency of the United States having jurisdiction over water pollution, provided that such agency is authorized by law to maintain the confidentiality of such information and agrees to maintain the confidentiality of any such information. In no case, however, shall effluent data, standards or limitations, names or addresses of permit applicants or permittees, nor permit applications or permits be considered confidential information.

**Source.** 1989, 339:1. 1996, 228:106, eff. July 1, 1996.

### **Section 485-A:19**

**485-A:19 Review of Orders.** – The procedure for rehearings and appeal shall be that prescribed by RSA 21-O:14.

**Source.** 1989, 339:1, eff. Jan. 1, 1990.

### **Section 485-A:20**

**485-A:20 Summons; Oath.** – The department shall have power to subpoena witnesses and administer oaths in any proceeding or examination instituted before or conducted by it, and to compel the production of any account books, contracts, records, documents, memoranda and papers of any kind necessary to the purposes of this chapter.

**Source.** 1989, 339:1. 1996, 228:106, eff. July 1, 1996.

### **Section 485-A:21**

**485-A:21 Witnesses; Perjury.** – Witnesses summoned before the department shall be paid the same fee as witnesses summoned to appear before the superior court, and such summons issued by any justice of the peace shall have the same effects as though issued for appearance in court. No person so testifying shall be exempt from prosecution or punishment for any perjury committed by him in his testimony.

**Source.** 1989, 339:1. 1996, 228:106, eff. July 1, 1996.

### **Section 485-A:22**

**485-A:22 Penalties and Other Relief; Failure to Provide Facility. –**

I. Any person who willfully or negligently violates any provision of this subdivision or RSA 485-A:4-6; or any rule of the department adopted pursuant to this subdivision or RSA 485-A:4-6 or any condition or limitation in a permit issued under this subdivision or RSA 485-A:4-6; or who knowingly makes any material false statement, representation, or certification in any application, record, report, plan, or other document required to be filed or maintained pursuant to this subdivision or RSA 485-A:4-6 or pursuant to a rule adopted by the department under this subdivision or RSA 485-A:4-6 or who knowingly makes any such statement, representation, or certification in connection with any permit issued under this subdivision or RSA 485-A:4-6; or who knowingly renders inaccurate, falsifies, or tampers with any monitoring device or method required under this subdivision or RSA 485-A:4-6 or rule of the department adopted under this subdivision or RSA 485-A:4-6 or required in connection with any permit issued under this subdivision or RSA 485-A:4-6; or who knowingly fails, neglects, or refuses to obey any lawful order of the department, shall, notwithstanding the provisions of RSA title LXII, be punished by a fine of not more than \$25,000 for each day of such violation or imprisoned for not more than 6 months or both.

II. Any person who shall violate any provisions of this subdivision or RSA 485-A:4-6, or any lawful regulation of the department issued pursuant to this subdivision or RSA 485-A:4-6, or any condition or limitation in a permit issued under this subdivision or RSA 485-A:4-6, or who shall fail, neglect, or refuse to obey any order lawfully issued pursuant to this subdivision or RSA 485-A:4-6, shall be subject to a civil penalty not to exceed \$10,000 per day of such violation.

III. The department shall issue a written cease and desist order against any discharge or act in violation of this subdivision or RSA 485-A:4-6 or lawful regulation of the department made under them or any condition of any permit lawfully issued by the department, and any such discharge or act may be enjoined by the superior court upon application of the attorney general, whether the court is in term time or vacation. Municipalities shall comply with such orders pursuant to RSA 38:25.

III-a. Municipalities may apply to a justice of the superior court for injunctive relief against existing or impending violations of RSA 485-A:17, or any rule or order issued under that section. The municipality shall give notice of any such action to the attorney general and the commissioner of environmental services, who may take such steps as they deem necessary to ensure uniform statewide enforcement, including but not limited to joining the action, assuming sole prosecution of the action, or, as of right dismissing the action without prejudice. Such notice shall be given at least 30 days prior to the commencement of any such action, unless more immediate action is necessary to prevent irreparable environmental damage or other serious public harm, in which case such notice shall be given as soon as practicable, but in no event later than the date of commencement of the action. This paragraph shall not be construed to affect, in any manner, existing authority of municipalities to act based upon the provisions of other statutes or local ordinances.

IV. The written cease and desist order issued pursuant to the provisions of paragraph III shall be recorded by the department in the registry of deeds for the county in which the property is situated and, upon recordation, said order shall run with the land; provided, however, that an appropriate description of the land involved including the accurate name of the owner of the land shall be incorporated in the cease and desist order. No fee shall be charged for recording such an administrative order; however, the fee for discharge of any such order shall be the same as for the discharge of a real estate property.

V. The commissioner of environmental services, after notice and hearing pursuant to RSA 541-A, may impose an administrative fine not to exceed \$2,000 for each offense upon any person who violates any provision of this subdivision or, RSA 485-A:4-6, any rule adopted under this subdivision or RSA 485-A:4-6, or any permit issued under the authority of this subdivision or RSA 485-A:4-6. Rehearings and appeals from a decision of the commissioner under this paragraph shall be in accordance with RSA 541. Any administrative fine imposed under this section shall not preclude the imposition of further penalties under this chapter. The proceeds of administrative fines levied pursuant to this paragraph shall be deposited by the

department in the general fund. The commissioner shall adopt rules, under RSA 541-A, relative to:

(a) A schedule of administrative fines which may be imposed under this paragraph for violations of this chapter, rules adopted under this chapter, and permits issued under this chapter, as provided above.

(b) Procedures for notice and hearing prior to the imposition of an administrative fine.

V-a. Upon receipt of information by the department that a municipality has not complied with RSA 485-A:5-b relative to septage disposal, the department shall issue an order directing said municipality to provide or assure access to an approved septage disposal facility not later than 180 calendar days following issuance of the order. Any municipality to whom such an order is directed may appeal in accordance with RSA 21-O:14.

V-b. If any municipality fails to comply with an order under paragraph V-a, it shall be subject to an administrative fine pursuant to paragraph V. Each day of continuous violation shall constitute a separate offense. The department shall take the following steps:

(a) The department shall conduct an investigation of opportunities for joint action with other municipalities, the availability of private facilities, and possible facility sites within the municipality.

(b) The department shall report findings to the precinct and municipality, and seek local agreement to an acceptable solution to the septage problem.

(c) If no agreement is reached within 60 calendar days after the findings are delivered, the department shall schedule and hold a public hearing in the municipality. The hearing shall be held to solicit alternative septage disposal solutions for the municipality. Notice of the hearing shall be posted in 2 or more public places in the municipality for at least 14 calendar days before it is held, and shall be published in a newspaper of local circulation, at least twice, not less than 10 days prior to the hearing date.

(d) If no agreement is reached within 45 calendar days after the hearing, the department shall either order the municipality to participate in an existing or planned approved facility, or shall recommend that land within the municipality be taken by eminent domain for the establishment of an approved facility.

(e) Before land is taken by eminent domain, the department shall hold a public hearing in the municipality. Such hearing shall be noticed pursuant to the provisions of subparagraph (c).

(f) If the department determines that land shall be taken, the department shall institute eminent domain proceedings.

(g) The department shall be responsible for the facility's design and construction.

V-c. If land is taken for construction of a facility:

(a) The property shall be held in the name of the state and shall not be taxed.

(b) Upon completion, the facility shall be operated by the municipality in accordance with the facility plan.

(c) At the time of the taking, the department shall certify to the commissioner of revenue administration the costs of establishing the facility. The certification shall be revised when the facility is complete to reflect actual costs, including land, buildings, equipment, administration, planning, consultants, and any other necessary costs.

(d) The commissioner of revenue administration shall assess the costs on the municipality over a 20-year period. Each annual assessment shall include the interest on any debt incurred by the state for this purpose. The assessment shall be made as provided in RSA 21-J:15 and RSA 81.

(e) When all costs and interest are paid, the property shall be deeded to the municipality, or in the case of an unincorporated town or unorganized place, to the county.

VI. The provisions of RSA 651:1 shall not apply to offenses under this chapter.

**Source.** 1989, 339:1. 1990, 252:14, 17. 1991, 340:4. 1995, 217:7. 1996, 228:78, 106. 1997, 206:8. 1999, 232:3, 4, eff. Jan. 1, 2000. 2013, 247:6, eff. Mar. 24, 2014.

## Section 485-A:22-a

**485-A:22-a Cease and Desist Orders; Penalty. –**

The director of the division of forests and lands, department of natural and cultural resources, or his or her authorized agents, may:

I. Issue a written cease and desist order against any timber operation in violation of this chapter. Any such violation may be enjoined by the superior court, upon application of the attorney general. A person failing to comply with the cease and desist order shall be guilty of a violation.

II. Prosecute any violation of this chapter as a violation. This provision shall not limit the state's enforcement authority under this chapter.

**Source.** 1989, 214:19. 1990, 29:4. 2005, 32:2, eff. July 9, 2005. 2017, 156:14, I, eff. July 1, 2017.

## **Safety Regulations for Pools and Bathing Places**

### **Section 485-A:23**

**485-A:23 Repealed by 2019, 346:136, II, eff. Jan. 1, 2020. –**

### **Section 485-A:24**

**485-A:24 Repealed by 2019, 346:136, III, eff. Jan. 1, 2020. –**

### **Section 485-A:24-a**

**485-A:24-a Repealed by 2019, 346:136, IV, eff. Jan. 1, 2020. –**

### **Section 485-A:25**

**485-A:25 Repealed by 2019, 346:136, V, eff. Jan. 1, 2020. –**

### **Section 485-A:25-a**

**485-A:25-a Repealed by 2019, 346:136, VI, eff. Jan. 1, 2020. –**

### **Section 485-A:25-b**

**485-A:25-b Repealed by 2019, 346:136, VII, eff. Jan. 1, 2020. –**

### **Section 485-A:25-c**

**485-A:25-c Repealed by 2019, 346:136, VIII, eff. Jan. 1, 2020. –**

### **Section 485-A:25-d**

**485-A:25-d Repealed by 2019, 346:136, IX, eff. Jan. 1, 2020. –**

### **Section 485-A:25-e**

**485-A:25-e Repealed by 2019, 346:136, X, eff. Jan. 1, 2020. –**

### **Section 485-A:25-f**

**485-A:25-f Repealed by 2019, 346:136, XI, eff. Jan. 1, 2020. –**

### **Section 485-A:25-g**

**485-A:25-g Repealed by 2019, 346:136, XII, eff. Jan. 1, 2020. –**

### **Section 485-A:26**

**485-A:26 Swimming Pools and Bathing Places Public Bathing Facilities. –**

I. In this section:

(a) "Pool" means a man-made structure and associated pump, filter, drain, and electrical equipment that is used for recreational or therapeutic bathing, swimming, diving, or other contact with the water such as by wading, splashing, tubing, or sliding. "Pool" shall include, but is not limited to, swimming pools, therapy pools, spas, special recreation pools, slides, and tubing courses, at hotels, motels, health facilities, water parks, condominium complexes, apartment complexes, youth recreation camps, public parks, and recreational campgrounds or camping parks as defined in RSA 216-I:1, VII. "Pool" shall not include any pool, spa, or other pool that serves 3 or fewer living units and is used only by the residents of the living units and their guests, and does not include baptismal fonts or similar structures owned by a religious organization and used for religious rituals.

(b) "Public bathing facility" means a pool that is operated by or for any governmental subdivision, public or private corporation, partnership, association, or educational institution and that is open to the public, members, or students, whether for a fee or free.

II. (a) No person shall construct or install, operate or maintain an artificial swimming pool or bathing place open to and used by the public, or as a part of a business venture, or a public bathing facility unless the construction, design, and physical specifications of such pool or bathing place have received prior approval from the department. The department shall charge a non-refundable design review fee of \$100 for a pool 400 square feet in area and an additional \$25 for every additional 100 square feet. The fee shall be paid to the department upon submission of such plans for review. Fees collected under this paragraph shall be deposited in the public bathing facility program fund.

(b) Effective January 1, 2020, no person shall operate or maintain a public bathing facility unless the facility is registered with the department under this section. The owner of a public bathing facility shall register the facility using a form provided by the department. If all of the requirements for the form are adopted in narrative rules, the form shall not be subject to RSA 541-A.

(c) The owner of a public bathing facility that existed as of January 1, 2019 shall register within 60 days of the effective date of this provision. All other public bathing facilities shall register prior to initiating operations. The owner or operator of the facility shall report any changes in the information provided under subparagraph (b) within 10 days of the change.

(d) The registration required under this section shall be valid for the life of the facility. The owner shall notify the department in writing that the facility has closed within 30 days of the closure. The notice of closure shall include the date of such closure.

III. The commissioner shall adopt rules under RSA 541-A relative to safety standards to protect persons using said facilities. Nothing in this section shall be deemed to affect the powers of local health officers or the department of health and human services, with respect to nuisances.

IV. The department may take samples of the water of any such public bathing facility for analysis to determine compliance with water quality requirements. The costs of such sampling and analysis shall be paid by the owner or operator of such facility. The costs recovered for such sampling shall be deposited in the public bathing facility program fund. The costs recovered for analysis shall be consistent with the fee structure established in RSA 131:3-a and deposited as provided in RSA 131:3-a. Any municipality which establishes a program of sampling and analysis which is equivalent to the department's program shall not be subject to additional sampling and analysis by the department.

V. There is hereby established a public bathing facility program fund. This separate, nonlapsing fund shall be continually appropriated to the department and used to administer the public bathing facility program under this chapter. Fees collected by the department shall be deposited with the state treasurer to the credit of such fund and may be invested as provided by law. Interest received on such investment shall also be credited to the fund.

**Source.** 1989, 339:1. 1990, 3:88. 1995, 310:181. 1996, 228:79. 1997, 267:1, eff. July 1, 1997. 2019, 346:124, eff. July 1, 2019.

## Section 485-A:26-a

### **485-A:26-a Public Bathing Facility Compliance Self-Certification. –**

I. The owner of a public bathing facility that is open for 9 months or more in a calendar year shall on an annual basis submit to the department, a self-certification declaration stating that each pool at the facility is in compliance with all applicable public bathing facility requirements.

II. The owner of a public bathing facility that is open fewer than 9 months in a calendar year shall on an annual basis submit to the department, prior to opening a self-certification declaration stating that each pool at the facility is in compliance with all applicable public bathing facility requirements.

III. The self-certifications required by paragraphs I and II shall be on a form provided by the department. If all of the requirements for the form are adopted in narrative rules, the form shall not be subject to RSA 541-A.

IV. (a) The owner of a public bathing facility shall pay a non-refundable fee of \$250 per pool up to a maximum of \$1,500 per public bathing facility with each self-certification, to cover department expenses for conducting the self-certification program and hiring of program staff.

(b) If the self-certification fee is not paid within 30 days of the due date, a late fee shall accrue at the rate of \$50 per 3-month period or portion thereof that the fee is not paid. The commissioner may waive all or any portion of the late payment fee for good cause.

(c) Political subdivisions of the state shall be exempt from the fee for submitting a self-certification declaration, but not from the requirement to submit the self-certification.

V. (a) Effective January 1, 2021, the owner of a public bathing facility that is open for 9 months or more in a calendar year and that existed as of January 1, 2019 shall file the initial self-certification within 60 days of January 1, 2021.

(b) The owner of a public bathing facility that is open fewer than 9 months in a calendar year and that existed as of January 1, 2019 shall file the initial self-certification prior to initiating operations in 2021.

**Source.** 2019, 346:126, eff. July 1, 2019.

## Section 485-A:27

### **485-A:27 Injunction; Emergency Closures. –**

I. Any person operating or maintaining a public swimming pool or bathing place facility without the same having been approved by the department may be enjoined by the superior court or any justice of the court upon petition brought by the attorney general.

II. Whenever the department determines that conditions at a public bathing facility jeopardize the health and safety of patrons of the facility, the department shall issue an emergency closure notice. The department shall apply the following procedure in determining whether to issue an emergency closure notice:

(a) The department shall perform an on-site inspection to determine whether each pool at the facility is in compliance with the following standards established in rules adopted by the commissioner pursuant to RSA 541-A:

(1) Bacteriological, chemical, and physical water quality standards; and

(2) Patron safety requirements relating to emergency response, emergency rescue equipment, first aid kits, suction outlet covers/grates, and security fencing.

(b) If the department determines that a pool at the facility is not in compliance with the standards and safety requirements specified in subparagraph (a) and that the deficiencies threaten the health or safety of patrons of the facility, the department shall issue an emergency closure notice to the owner of the facility or the owner's on-site representative. The notice shall identify which pool must be closed and specify the reason for the emergency closure.

(c) Upon receipt of an emergency closure notice, the owner shall immediately close the identified pool. The owner shall not reopen the pool until each deficiency cited in the emergency closure notice has been corrected and the department has confirmed the corrections.

(d) If an owner believes an emergency closure notice has been issued in error, the owner shall notify the department in writing, which may be sent by email, fax, United States Postal Service delivery, or private delivery. The written notice shall identify each reason why the owner or operator believes the emergency closure notice is not appropriate. The department shall provide the owner or operator with an opportunity for an adjudicative hearing within 10 days of receiving the written notice.

**Source.** 1989, 339:1. 1996, 228:106. 1997, 267:1, eff. July 1, 1997. 2013, 250:5, eff. Jan. 1, 2014. 2019, 346:127, eff. July 1, 2019; 346:135, eff. Jan. 1, 2020.

## Section 485-A:27-a

### **485-A:27-a Certified Operator Training Required. –**

I. Effective January 1, 2022, a public bathing facility shall be operated only under the supervision of an individual who has successfully completed a certified pool and spa operator certification program offered by the Association of Pool and Spa Professionals, National Swimming Pool Foundation, or other pool and spa operator certification programs approved by the department.

II. (a) By January 1, 2022, each owner of a public bathing facility that is open for 9 months or more in a calendar year shall submit to the department the name and daytime telephone number including area code of each certified pool operator engaged by the owner to supervise the pool at the facility. The submission of this information shall occur as part of the self-certification in RSA 485-A:26-a.

(b) For facilities that begin operation after January 1, 2022, the information in subparagraph (a) shall be submitted prior to beginning operation.

**Source.** 2019, 346:128, eff. July 1, 2019.



## Section 485-A:28

### **485-A:28 Penalty; Administrative Fines. –**

- I. Whoever violates any of the provisions of this subdivision, or rules adopted under this subdivision shall be guilty of a violation if a natural person, or guilty of a misdemeanor if any other person.
- II. The commissioner, after notice and hearing, may impose an administrative fine not to exceed \$2,000 for each offense upon any person who violates any provision of this subdivision, any rule adopted under this subdivision, or any license or approval issued under this subdivision. Rehearings and appeals from a decision of the commissioner under this paragraph shall be in accordance with RSA 541. Any administrative fine imposed under this section shall not preclude the imposition of further penalties under this chapter. The proceeds of administrative fines levied pursuant to this paragraph shall be deposited in the general fund. The commissioner shall adopt rules, under RSA 541-A, relative to:
- (a) A schedule of administrative fines which may be imposed under this paragraph; and
  - (b) Procedures for notice and hearing prior to the imposition of an administrative fine.

**Source.** 1989, 339:1. 1997, 267:2, eff. July 1, 1997.

## Sewage Disposal Systems

### Section 485-A:29

#### **485-A:29 Submission and Approval of Plans and Specifications. –**

- I. Any person proposing either to subdivide land, except as provided in RSA 485-A:33, or to construct a sewage or waste disposal system, shall submit 2 copies of such locally approved plans as are required by the local planning board or other local body having authority for the approval of any such subdivision of land, which is subject to department approval, and 2 copies of plans and specifications for any sewage or waste disposal systems which will be constructed on any subdivision or lot for approval in accordance with the requirements of the department as provided in this paragraph. In the event that such subdivision plans which receive final local approval differ from the plans which are reviewed by the department, the person proposing the subdivision shall resubmit those plans to the department for reapproval. The planning board or other local body having final local approval authority shall submit one copy of such plans which receive final local approval to the department for informational purposes within 30 days of granting such final approval. The department shall adopt rules, pursuant to RSA 541-A, relative to the submission of plans and specifications as necessary to effect the purposes of this subdivision. The rules shall specify when and where the plans and specifications are to be submitted, what details, data and information are to be contained in the plans and specifications, including the location of known burial sites or cemeteries within or adjacent to the property on which the proposed sewage or waste disposal system is to be located, what tests are to be required, what standards, guidelines, procedures, and criteria are to be applied and followed in constructing any sewage or waste disposal system, and other related matters. The rules shall also establish the methodology and review process for approval of innovative/alternative wastewater treatment systems and for approval of a plan for operation, maintenance, and financial responsibility for such operations. For any part or parts of the subdivisions where construction or waste disposal is not contemplated, only the lot lines, property boundaries drawn to scale, and general soil and related data shall be required. The constructed sewage or waste disposal systems shall be in strict accordance with approved plans, and the facilities shall not be covered or placed in operation without final inspection and approval by an authorized agent of the department. All inspections by the department shall be accomplished within 7 business days after receipt of written notification from the

builder that the system is ready for inspection. Plans and specifications need not be submitted for subdivision approval for subdivisions consisting of the division of a tract or parcel of land exclusively in lots of 5 or more acres in area. The presence of hydric soils on lots of 5 or more acres in area shall be insufficient, without additional supporting data, to classify these lots as wetlands, or to make such lots unsuitable for sewage or waste disposal systems designed for poorly drained soils. This exemption in no way relieves any person from responsibility for obtaining approval under this chapter for construction of individual or other sewage or waste disposal systems or both in any exempted lots. In such cases, it shall be the responsibility of the subdivider to provide to the lot purchasers satisfactory assurance as the purchasers may require at the time of sale that lots sold shall be adequate to support individual sewage or waste disposal systems or both in accordance with rules adopted by the department and the requirements of this subdivision.

II. The department shall develop and approve an outline of brief instructions for the periodic maintenance, care and proper usage of waste disposal systems, including a warning of the potential public health hazard and pollution of public and private water supplies and surface water of the state from improperly maintained sewage and waste disposal systems.

III. The department shall not approve any plan which will cause a violation of the setback requirements in RSA 289:3, III.

**Source.** 1989, 339:1. 1991, 379:2. 1993, 172:5. 1994, 198:1. 1995, 93:1. 1996, 228:106; 233:9. 2006, 87:1, 2, eff. July 4, 2006. 2017, 238:1, eff. Sept. 16, 2017.

## Section 485-A:30

### 485-A:30 Fees. –

I. Any person submitting plans and specifications for a subdivision of land shall pay to the department a fee of \$300 per lot. Said fee shall be for reviewing such plans and specifications and making site inspections. Any person submitting plans and specifications or an application for a permit by rule as provided in RSA 485-A:33, IV for sewage or waste disposal systems shall pay to the department a fee of \$290 for each system. Said fee shall be for reviewing such plans and specifications or application for permit by rule, making site inspections, the administration of sludge and septage management programs, and establishing a system for electronic permitting for waste disposal systems, subdivision plans, and permits and approvals under the department's land regulation authority. The fees required by this paragraph shall be paid at the time said plans and specifications or application for permit by rule are submitted and shall be deposited in the subsurface systems fund established in paragraph I-b. For the purposes of this paragraph, the term "lot" shall not include tent sites or travel trailer sites in recreational parks which are operated on a seasonal basis for not more than 9 months per year.

I-a. In addition to fees required under paragraph I, any person submitting plans and specifications or an application for a permit by rule as provided in RSA 485-A:33, IV for sewage or waste disposal systems shall pay to the department a fee of \$10 for each system for use in the septage handling and treatment facilities grant program to municipalities under RSA 486:3, III. The fees required by this paragraph shall be paid at the time said plans and specifications or application for permit by rule are submitted and shall be deposited in the septage management fund established in paragraph I-c.

I-b. There is hereby established the subsurface systems fund into which the fees collected under paragraph I shall be deposited. The fund shall be a separate, nonlapsing fund, continually appropriated to the department for the purpose of paying all costs and salaries associated with the subsurface systems program.

I-c. There is hereby established the septage management fund into which the fees collected under paragraph I-a shall be deposited. The fund shall be a separate, nonlapsing fund, continually appropriated to the department for the purpose of paying costs associated with the septage handling and treatment facilities grant

program or for research, engineering analysis, or septage sampling and analysis by the department to advance septage management in the state of New Hampshire.

II. [Repealed].

III. Any person submitting plans and specifications as a resubmission for reapproval of such shall not be required to pay any additional fee under RSA 485-A:30, I or I-a if changes to such plans and specifications would not constitute a new subdivision under the provisions of RSA 485-A:2, XIII.

**Source.** 1989, 339:1. 1990, 252:15. 1991, 379:3. 1994, 198:2. 1996, 228:106; 233:5, 7, II, 8. 2001, 128:2, 3. 2003, 246:2. 2005, 141:1. 2009, 144:43. 2012, 174:1, eff. June 11, 2012.

## **Section 485-A:30-a**

### **485-A:30-a Notice Requirements; Encroachment Waivers. –**

I. (a) Any person intending to submit an application for approval of a sewage or waste disposal system, which application will include a request for an encroachment waiver, shall notify the local code enforcement officer or other appropriate designated authority and all abutters as defined in RSA 672:3 that the person intends to file the application. Such notification shall include:

- (1) The name and address of the property owner.
- (2) Identification of the property for which an encroachment waiver is being requested, including tax map and lot numbers.
- (3) Names of abutters, together with applicable tax map and lot numbers.
- (4) A description of the specific waivers being requested.
- (5) A reasonable facsimile of the plan.
- (6) Identification of any local code or ordinance for which a waiver, variance or exception is required, and whether such waiver, variance or exception has been obtained.
- (7) Notice that the department is required by law to act on the application within 15 working days of receipt of the application, and that objections to the proposed encroachment waiver may be submitted to the department during the review process or by filing a motion for reconsideration of the decision with the department within 20 days of the department's decision on the application.

(b) Encroachment waiver requests shall appear on the plans. No application which includes any request for an encroachment waiver shall be accepted by the department unless the application includes a copy of the notice, a list of the names and addresses of the abutters to whom the notice was mailed, and a statement signed by the applicant or property owner certifying that the notices were sent by certified mail to the abutters listed.

II. No construction permit shall be issued for a septic system until the department has received a copy of the recorded notice showing that all easements and encroachment waivers associated with the application have been recorded by the property owner in the registry of deeds.

**Source.** 1989, 79:2. 1996, 228:106, eff. July 1, 1996.

## **Section 485-A:30-b**

### **485-A:30-b Protective Well Radii. –**

I. All lots on which wastewater is or will be disposed on-site and all lots on which a private well serving a public water system exists or will be installed, including lots created prior to August 20, 1989, shall be subject to the following conditions:

- (a) Rules adopted under this section concerning such lots shall include provisions allowing abutting lot

owners to overlap their respective well radii for their mutual benefit and provisions allowing well radii to extend over property lines onto state and locally-mandated property line setbacks, recorded easements, or land which is permanently dedicated to a use which precludes development.

(b)(1) For any private well being installed or utilized to serve one or more new commercial buildings or a non-community public water system, the entire protective well radius shall be located on one or more of the following: on-lot, on a recorded easement, on land which is permanently dedicated to a use which precludes development, or on state or locally mandated property line setbacks.

(2) A private well may be installed without being located as required by subparagraph (1) only if it is needed to replace a well serving one or more existing commercial buildings or a public water system, there will be no increase in water use to a level that requires a larger protective well radius under rules adopted by the department, and the lot is not part of a larger parcel that is being subdivided. In such cases, the on-lot protective radius shall be maximized to the extent practicable and the owner of the property shall sign a standard release form prepared by the department, upon which the actual protective radius shall be noted together with a narrative description of the location of the well, to acknowledge the potential loss of the protection of any portion of the radius which extends over the property line. The owner shall record the release form in the registry of deeds and shall file a copy of the recorded release form with the department.

(3) If a private well installed under the provisions of subparagraph (2) is not regulated as a public water supply well under RSA 485, the department shall require such water quality monitoring, recordkeeping, and reporting as is needed to ensure the water is suitable for its intended uses.

(4) For the purposes of this section, the term "commercial building" means a building that houses a commercial use but shall not include a residence which is also used for commercial purposes unless the total water withdrawal exceeds 600 gallons per day. A new commercial building means a new structure intended for commercial use, an existing residential structure being converted to commercial use, or an increase in water use at an existing commercial building to a level that requires a larger protective well radius under rules adopted by the department.

(c) For private wells serving buildings other than commercial buildings, if the protective well radius cannot be wholly maintained on an existing lot of record due to the size or other physical characteristics of the lot, then the on-lot protective radius shall be maximized to the extent practicable. Subject to the foregoing sentence, the protective well radius shall be maintained on one or more of the following: on-lot, on a recorded easement, on land which is permanently dedicated to a use which precludes development, or on state and locally mandated property line setbacks.

(d) Any person submitting plans and specifications for a sewage or waste disposal system for a property which is or will be served by an on-lot well, shall show the location or proposed location of the well, or a designated area within which the well will be located, on such plans and shall show the protective radius as specified in the department's rules.

(e) Whenever the department approves a septic plan with an on-lot well radius which is less than the optimum standard, the department shall notify the applicant of the consequences of such reduced radius and advise the applicant whether special precautions should be taken relative to well installation.

(f) If the well is not installed prior to the sewage or waste disposal system being constructed, then the property owner shall provide the water well contractor with a copy of the approved plan showing the location of the well, and the water well contractor shall ensure, to the best of his ability that the well is installed in accordance with the approved plan.

(g) When, for reasons of the condition of the lot or the placement of buildings thereon, the well cannot be installed as shown on the approved plan, the water well contractor shall advise and consult with the property owner, or the property owner's agent, on the best possible alternative location, considering distance to property boundaries and to the sewage or waste disposal system. Using a standard release form prepared by the department, the water well contractor shall alert the owner to the consequences of the alternate

installation, including the potential loss of the protection of any portion of the radius which extends over the property line. The owner, or the owner's agent, may defer to the designer of the sewage or waste disposal system or may allow the water well contractor to proceed in the identified alternative location. Prior to installing the well in the identified alternative location, the well contractor shall, using the standard release form, obtain a written acknowledgment, from the property owner, or the owner's agent, that the consequences are understood. The designer shall prepare an amended plan showing the actual location of the well. The property owner shall forward the amended plan, together with a copy of the signed release form, to the department and the local code enforcement officer or other appropriate designated local official prior to using the well. If the on-lot protective well radius is less than the optimum prescribed standard, the owner shall record the release form, upon which the actual protective radius shall be noted, together with a narrative description of the location of the well in the registry of deeds, and a copy of the recorded release form shall be filed with the department.

II. For lots approved under RSA 485-A:29, the rules adopted under this section concerning such lots shall include provisions allowing abutting lot owners to overlap their respective well radii for their mutual benefit by allowing well radii to extend over property lines, onto state and locally mandated property line setbacks, recorded easements, or land which is permanently dedicated to a use which precludes development. If after a lot is created pursuant to this section, the well cannot be installed as shown on the subdivision plan, then the provisions of RSA 485-A:30-b, I(d), (e), (f), and (g) shall apply.

III. For the purposes of this paragraph, the term "cluster development" means a form of residential subdivision that permits dwelling units to be grouped on sites or lots with dimensions, frontages, and setbacks reduced from conventional requirements, provided that the remaining land area is permanently designated as open space for cluster development. For cluster developments the following provisions shall apply:

(a) Where the sewage waste disposal systems are located off of the individual home lots or the cluster development is served by municipal sewers, the wells and associated protective radii serving those home lots need not be confined to the individual lot which each well serves so long as all wells and their associated protective radii are confined within the tract of home lots and common land permanently designated as open space, and shall not encumber property situated outside of the cluster development except by recorded easement.

(b) Where the home lots are serviced by on-lot sewage or waste disposal systems, wells and their protective radii may be located wholly or partially on common land permanently designated as open space, and shall not encumber adjacent lots or property situated outside of the cluster development except by recorded easement. The department shall not approve such off-lot wells and radii unless the lot owner or developer demonstrates to the department's satisfaction, by means of recorded easements, land use restrictions or other appropriate mechanisms, that the well owner will be able to maintain and service the well in perpetuity and that the area covered by the protective well radius is permanently dedicated to a use which precludes development.

IV. The commissioner shall adopt rules under RSA 541-A providing for protective well radii for private water wells, and for regulation of land use within the radii boundary.

**Source.** 1991, 215:2. 1996, 228:106, 110, eff. July 1, 1996. 2015, 236:3, eff. Sept. 11, 2015.

## **Section 485-A:31**

### **485-A:31 Action on Applications. –**

I. Subject to paragraphs II and III, the department shall give notice in writing to the person submitting the plans and specifications for subdivision of land of its approval or disapproval of such plans and specifications within 30 days of the date such plans and specifications and the required fees are received by the department and shall give notice in writing to the person submitting plans and specifications for sewage or waste disposal

systems of its approval or disapproval of such plans and specifications within 15 working days of the date such plans and specifications and the required fees are received by the department. Unless such written disapproval shall be mailed to the person submitting plans and specifications within 30 days in the case of plans and specifications for subdivision of land and 15 working days in the case of plans and specifications for sewage or waste disposal systems from the date of receipt with the required fees by the department, the plans and specifications shall be deemed to have been approved. The department shall send a copy of the approval or disapproval of such plans and specifications to the planning board or board of selectmen of the affected municipality.

II. The department may extend the time for rendering a decision under paragraph I, without the applicant's agreement, on an application from an applicant who previously has been determined, after the exhaustion of available appellate remedies, to have failed to comply with RSA 485-A:29-44, or any rule adopted or permit or approval issued pursuant to RSA 485-A:29-44, or to have misrepresented any material fact made in connection with any activity regulated or prohibited by RSA 485-A:29-44, pursuant to an action initiated under RSA 485-A:42 or RSA 485-A:43. The length of such an extension shall be no longer than reasonably necessary to complete the review of the application and shall not exceed 30 days unless the applicant agrees to a longer extension. The department shall notify the applicant of the length of the extension.

III. The department may suspend a review of an application for a proposed project on a property with respect to which the department has commenced an enforcement action against the applicant for any violation of RSA 485-A:29-44; RSA 482-A; RSA 483-B; or RSA 485-A:17, or of any rule adopted or permit or approval issued pursuant to RSA 485-A:29-44; RSA 482-A; RSA 483-B; or RSA 485-A:17. Any such suspension shall expire upon conclusion of the enforcement action and completion of any remedial actions the department may require to address the violation; provided, however, that the department may resume its review of the application sooner if doing so will facilitate resolution of the violation. The department shall resume its review of the application at the point the review was suspended, except that the department may extend any of the time limits under this paragraph and its rules up to a total of 30 days for all such extensions. For purposes of this subparagraph, "enforcement action" means an action initiated under RSA 482-A:13; RSA 482-A:14; RSA 482-A:14-b; RSA 483-B:18; RSA 485-A:22; RSA 485-A:42; or RSA 485-A:43.

**Source.** 1989, 339:1. 1996, 228:106. 2010, 295:11, eff. Sept. 11, 2010.

## **Section 485-A:32**

### **485-A:32 Prior Approval; Permits. –**

I. No person shall construct any building from which sewage or other wastes will discharge or construct a sewage or waste disposal system without prior approval of the plans and specifications of the sewage or waste disposal system by the department. Nothing herein shall be construed to modify or lessen the powers conferred upon local authorities by other statutes; provided, however, that in all instances the requirements contained in this chapter shall be considered as minimum.

II. Any person submitting an application and plans for construction approval shall also certify in writing that he has complied with all local government requirements as relate to water supply and sewage disposal which must be complied with prior to application to the department of environmental services in those municipalities where regulations require prior local approval; and, at the same time, a copy of the certification shall be sent to the board of selectmen of the town or the city council of the city.

II-a. Any person submitting an application and plans for construction approval to replace a subsurface sewage disposal system in failure as defined in RSA 485-A:2, IV shall be exempt from presenting a certification of compliance with local government requirements as required by paragraph II.

III. No person required to submit subdivision plans pursuant to paragraph I shall commence the construction

of roads within the lot, tract, or parcel proposed to be subdivided, by clearing the land thereof of natural vegetation, placing any artificial fill thereon, or otherwise altering the land, nor shall he do any other act or acts which will alter the natural state of the land or environment, unless the subdivision plan relating thereto has been submitted and approved in accordance with the requirements of this chapter. Nothing in this paragraph shall be construed to prevent the taking of test borings, the digging of test pits, or any other preliminary testing and inspection necessary to comply with the requirements of the department of environmental services relative to information necessary for review and approval of the subdivision plans.

**Source.** 1989, 339:1. 1996, 228:106, 108, eff. July 1, 1996. 2017, 238:2, eff. Sept. 16, 2017.

## **Section 485-A:33**

### **485-A:33 Exemptions. –**

I. No plans and specifications shall be required whenever the proposed sewage or waste disposal system will be connected to any public sewer system operated by any municipality or other governmental body within the state.

II. No plans and specifications shall be required whenever land is subdivided and the purpose of such subdivision is to correct or conform boundary lines or when land is exchanged between abutters and no building is contemplated on the exchanged land.

III. No plans and specifications shall be required for subdivision whenever land is proposed to be subdivided solely for the purpose of a bona fide gift of a lot or lots, and the person intending to subdivide the land certifies upon forms provided by the department that the proposed subdivision is a gift; provided that this limited exemption shall not relieve the donee of the lot, or lots, of the responsibility, and it shall be the responsibility of such donee to submit plans and specifications in accordance with this chapter in the event that such donee subsequently intends to (1) convey to others for consideration any such lot, or lots, or (2) intends to construct thereon a structure from which sewage or other waste will be discharged.

IV. (a) The repair or replacement in-kind of a sewage effluent disposal area shall qualify for a permit by rule, provided all of the following criteria are met:

(1) The existing system receives only domestic sewage.

(2) There is no increase in sewage loading proposed for the repaired or replacement system.

(3) The bottom of the bed is located no less than 24 inches above the seasonable high water table.

(4) The system is located 75 feet or more from an abutter's well unless there is a standard well release form recorded with the registry of deeds in accordance with RSA 485-A:30-b or there is an existing department waiver to the distance for the abutter's well.

(5) The system is located 75 feet or more from the owner's well unless there is an existing department waiver to the distance for the owner's well.

(6) The existing system received prior construction and operational approval from the department and the replacement or repaired system will conform to the provisions of such approval, provided the department may by rule require a minimum septic tank size of 1,000 gallons.

(7) The system is not within 75 feet of any surface water, water supply well, or very poorly drained soil unless authorized by the prior departmental approval described in subparagraph (6).

(8) No new waivers to the department's rules are requested.

(9) The system has not been previously repaired or replaced under a permit by rule in accordance with the provisions of this paragraph.

(b) Construction of the system may proceed upon the submission of an application to the department by a permitted designer under RSA 485-A:35 and receipt of the permit by rule from the department.

(c) The repaired or replacement system shall not be covered or placed in operation without final inspection

and approval by an authorized agent of the department. All inspection by the department shall be accomplished within 7 business days after receipt of written notice from the installer that the system is ready for inspection. The installer shall provide the authorized agent of the department, at the time of the inspection, a copy of the previously approved plan bearing the state approval stamp and associated operational approval, and an existing conditions plan bearing the seal of the permitted designer performing work under the permit by rule.

(d) The applicant submitting the permit by rule application shall assume all liability and responsibility for the components of the design that are part of the system being repaired or replaced under the permit by rule.

(e) The installer constructing the system shall assume all liability and responsibility for the construction of the system components repaired or replaced under the permit by rule.

(f) For purposes of this paragraph, "in-kind" shall mean a repair or replacement of the effluent disposal area in strict accordance with what is shown on the previously approved plan.

**Source.** 1989, 339:1. 1996, 228:106. 2012, 174:2, eff. June 11, 2012.

## Section 485-A:34

### **485-A:34 Soil Testing; Inspections. –**

I. The department shall require soil data describing soil types and their physical and related characteristics as exist in the proposed subdivision. Such soil data will consist of soils maps and charts as prepared by the U.S. Department of Agriculture, Natural Resources Conservation Service, or equivalent. The data provided by the soils map will supplement the information obtained by percolation tests and such other independent examination as the department may require to establish the adequacy of the proposed sewage or waste disposal facilities.

II. Lot sizes will be in accordance with the type of soil and its ability to absorb wastes without polluting water supplies or adjoining waters.

III. In all cases involving inspection of sewage or waste disposal systems in cities or towns which employ a full time health officer and/or building inspector, the department may delegate to such officer or inspector the responsibility for inspecting the proposed system as required under paragraph I of this section. In cities and towns which do not maintain full time health officers and/or building inspectors, the department may delegate the responsibility for such inspections to any local official deemed qualified by the department to fulfill the requirements of paragraph I of this section. All inspections delegated by the department under this paragraph to health officers, building inspectors or any other local officials shall be accomplished within 2 business days after receipt of written notification from the builder that such system is ready for inspection.

IV. The department may reject applications for septic tank disposal systems in those areas where there is already a high concentration of septic tanks on adjacent, contiguous or nearby areas or if the application is an obvious expansion, addition or annexation to an area which has already reached the maximum allowable concentration of sewage disposal through septic tanks and leaching systems.

**Source.** 1989, 339:1. 1995, 206:2. 1996, 228:106, eff. July 1, 1996.

## Section 485-A:35

### **485-A:35 Permit Eligibility; Exemption. –**

I. (a) All applications, plans, and specifications submitted in accordance with this chapter for subsurface sewage or waste disposal systems shall be prepared and signed by the individual who is directly responsible for them and who has a permit issued by the department to perform the work. The department shall issue a



permit to any individual who applies to the department, pays a fee of \$80, and demonstrates a sound working knowledge of the procedures and practices required in the site evaluation, design, and operation of subsurface sewage or waste disposal systems. The department shall require an oral or written examination or both to determine who may qualify for a permit. Permits shall be issued from January 1 and shall expire December 31 of every other year, subject to the grace periods specified in subparagraphs (c) and (d). Permits shall be renewable upon proper application, payment of a biennial permit fee of \$80, and documentation of compliance with the continuing education requirement of subparagraph (b). A permit issued to any individual may be suspended, revoked or not renewed only for just cause and after the permit holder has had a full opportunity to be heard by the department. An appeal from a decision to revoke, suspend, or not renew a permit may be taken pursuant to RSA 541. All fees shall be deposited in the subsurface systems fund established in RSA 485-A:30, I-b.

(b) Permitted designers shall complete a minimum of 6 hours biennially of continuing education approved by the department. Any permitted designer who is also a permitted septic system installer under RSA 485-A:36 may fulfill the continuing education requirements for both permits with the same approved 6 hours of continuing education.

(c) A permitted designer who fails to file a complete application for renewal, the biennial permit fee, and documentation that the required continuing education has been completed with the department prior to the expiration of the permit shall pay an additional late renewal fee of \$80 with the renewal application, biennial permit fee, and documentation, provided such fees, application, and documentation are filed with the department within 30 days of the permit expiration date.

(d) If the renewal application, biennial permit fee, late renewal fee, and documentation are not filed within 30 days of the permit expiration date, the permit shall be deemed suspended. The permit holder may request reinstatement of the permit within 60 days of the suspension by submitting a complete application for renewal, the biennial permit fee specified in subparagraph (a), the late renewal fee specified in subparagraph (c), documentation that the required continuing education has been completed, and a reinstatement fee of \$80. If the individual does not request reinstatement within 60 days of the suspension, the permit shall be deemed void. Any individual whose permit has become void who wishes to obtain a designer's permit shall apply as for a new permit pursuant to subparagraph (a).

(e) No individual whose permit has been suspended or voided pursuant to subparagraph (d) shall submit any design to the department for a subsurface sewage or waste disposal system. Submittal of such a design after the designer's permit has been suspended or voided pursuant to subparagraph (d) shall constitute a violation of the provisions of this subdivision that is subject to the penalties specified in RSA 485-A:43.

II. Any person who desires to submit plans and specifications for a sewage or waste disposal system for the person's own domicile shall not be required to obtain a permit under this paragraph provided that the person attests to eligibility for this exemption in the application for construction approval. The commissioner shall adopt rules, prepared under the supervision of a professional engineer licensed to practice engineering in the state of New Hampshire, pursuant to RSA 541-A, relative to requiring a permit holder to be a licensed professional engineer with a civil or sanitary designation in order to submit applications for construction approval in certain complex situations. All fees collected pursuant to this section shall be deposited in the subsurface systems fund established in RSA 485-A:30, I-b.

**Source.** 1989, 339:1. 1994, 312:1. 1996, 228:80, 106. 2008, 349:4. 2009, 144:44. 2010, 342:1, 2, eff. Sept. 18, 2010.

## **Section 485-A:36**

### **485-A:36 System Installer Permit. –**

I. (a) No individual shall engage in the business of installing subsurface sewage or waste disposal systems under this subdivision without first obtaining an installer's permit from the department. The permit holder shall be responsible for installing the subsurface sewage or waste disposal system in strict accordance with the approved plan. The department shall issue an installer's permit to any individual who submits an application provided by the department, pays a fee of \$80 and demonstrates a sound working knowledge of RSA 485-A:29-35 and the ability to read approved waste disposal plans. The department shall require an oral or written examination or both to determine who may qualify for an installer's permit. Permits shall be issued from January 1 and shall expire December 31 of every other year. Permits shall be renewable upon proper application, payment of a biennial permit fee of \$80, and documentation of compliance with the continuing education requirement of subparagraph (b). The installer's permit may be suspended, revoked or not renewed for just cause, including, but not limited to, the installation of waste disposal systems in violation of this subdivision or the refusal by a permit holder to correct defective work. The department shall not suspend, revoke or refuse to renew a permit except for just cause until the permit holder has had an opportunity to be heard by the department. An appeal from such decision to revoke, suspend or not renew a permit may be taken pursuant to RSA 21-O:14. All fees shall be deposited in the subsurface systems fund established in RSA 485-A:30, I-b.

(b) Permitted installers shall complete a minimum of 6 hours biennially of continuing education approved by the department. Any permitted installer who is also a permitted designer under RSA 485-A:35 may fulfill the continuing education requirements for both permits with the same approved 6 hours of continuing education.

(c) A permitted installer who fails to file a complete application for renewal, the biennial permit fee, and documentation that the required continuing education has been completed with the department prior to the expiration of the permit shall pay an additional late renewal fee of \$80 with the renewal application, biennial permit fee, and documentation, provided the fees, renewal application, and documentation are filed with the department within 30 days of the permit expiration date.

(d) If the renewal application, biennial permit fee, late renewal fee, and documentation are not filed within 30 days of the permit expiration date, the permit shall be deemed suspended. The permit holder may request reinstatement of the permit within 60 days of the suspension by submitting a complete application for renewal, the biennial permit fee specified in subparagraph (a), the late renewal fee specified in subparagraph (c), documentation that the required continuing education has been completed, and a reinstatement fee of \$80. If the individual does not request reinstatement within 60 days of the suspension, the permit shall be deemed void. Any individual whose permit has become void who wishes to obtain an installer's permit shall apply as for a new permit pursuant to subparagraph (a).

(e) No individual whose permit has been suspended or voided pursuant to subparagraph (d) shall install any subsurface sewage or waste disposal system. Installation of such a system after the installer's permit has been suspended or voided pursuant to subparagraph (d) shall constitute a violation of the provisions of this subdivision that is subject to the penalties specified in RSA 485-A:43.

II. Any person who desires to install or repair a waste disposal system for his own domicile shall not be required to obtain an installer's permit as provided in paragraph I, provided he complies with rules adopted by the department relative to such systems.

**Source.** 1989, 339:1. 1996, 228:106. 2008, 349:5. 2009, 144:45. 2010, 342:3, 4, eff. Sept. 18, 2010.

## Section 485-A:37

**485-A:37 Maintenance and Operation of Subsurface Septic Systems.** – Any person who has installed or otherwise acquired a subsurface sewage or waste disposal system installed in accordance with the provisions of this subdivision is required to operate and maintain said system in such a manner as to prevent a

nuisance or potential health hazard due to failure of the system. Failure to so operate and maintain shall be considered a violation of this chapter and shall be subject to the penalty as provided in RSA 485-A:43, IV. The department or its duly authorized agents are authorized to enter any and all premises at all reasonable hours for the purpose of inspecting and evaluating the maintenance and operating conditions of subsurface sewage or waste disposal facilities. As circumstances warrant, the department or its duly authorized agents are empowered to issue compliance orders in writing under the provisions of this section. Nothing in this section shall be construed to limit or modify the authority conferred upon the department or local health officers under the provisions of RSA 147 or upon local officials certified by the department under the provisions of RSA 485-A:42.

**Source.** 1989, 339:1. 1996, 228:106, eff. July 1, 1996.

## Section 485-A:38

### **485-A:38 Approval to Increase Load on a Sewage Disposal System. –**

I. Prior to expanding any structure or occupying any existing structure on a full-time basis, which would increase the load on a sewage disposal system, the owner of such structure shall submit an application for approval of the sewage disposal system to the department. Application for approval shall include one of the following:

(a) Evidence that the existing sewage disposal system meets the requirements of the department for the intended usage or the town's minimum standards for use or occupancy prescribed under RSA 48-A:11, whichever is more stringent.

(b) The design for a new system which meets the requirements of the department for the intended use or the town's minimum standards for use or occupancy, whichever is more stringent.

II. The fee for application under this section shall not exceed fees charged for new design applications.

II-a. (a) No construction or operational approval shall be required from the department prior to expanding, relocating, or replacing any structure that does not increase the load on a sewage disposal system, as long as all of the following conditions are met:

(1)(A) The lot is served by a sewage disposal system that received construction and operational approval from the department within 20 years of the date of the issuance of a building permit for the proposed expansion, relocation, or replacement; or

(B) The lot is 5 acres or more in size; or

(C) The lot is served by an off lot effluent disposal area.

(2) If the property is nonresidential, no waivers were granted in the construction or operational approval of any requirements for total wastewater lot loading, depth to groundwater, or horizontal distances to surface water, water supply systems, or very poorly drained soils.

(3) When applicable, the proposed expansion, relocation, or replacement complies with the requirements of the shoreland water quality protection act, RSA 483-B.

(b) An owner of a project that requires department approval to proceed because neither of the conditions of subparagraphs (a)(1)(A) or (B) are met, may either submit for approval a design for a new sewage disposal system or apply for a permit by rule for in-kind replacement under RSA 485-A:33, IV. Under either approach, once approval for the sewage disposal system is received from the department, work may commence on expanding, relocating, or replacing the structure. Construction of the sewage disposal system is not required to satisfy the requirements of this subparagraph.

III. The commissioner shall adopt rules under RSA 541-A requiring a person to comply with the provisions of paragraph I before taking any action which would increase the load on a sewage disposal system.

**Source.** 1989, 339:1. 1996, 228:106, 110. 2010, 342:5. 2011, 224:411. 2012, 147:1, eff. June 7, 2012. 2017, 238:3, eff. Sept. 16, 2017.

## **Section 485-A:39**

### **485-A:39 Waterfront Property Sale; Site Assessment Study. –**

I. Prior to the execution of a purchase and sale agreement for any developed waterfront property using a septic disposal system, the owner of the property shall, at the owner's expense, engage a permitted subsurface sewer or waste disposal system designer to perform a site assessment study to determine if the site meets the current standards for septic disposal systems established by the department. The site assessment study shall include an on-site inspection. If the site assessment is not complete prior to the time that the buyer and seller enter into a purchase and sale contract, the contract shall be subject to the buyer's acceptance of the completed site assessment.

II. The site assessment study form shall become a part of the purchase and sale agreement.

III. The site assessment study form, with stated findings, shall be given to the buyer and the seller and receipt of the form shall be acknowledged in writing by the buyer and the seller.

IV. Failure of the seller or the seller's agent to notify the buyer of the findings or deliver the completed site assessment study form pursuant to paragraph III of this section shall be a violation and, notwithstanding RSA 651:2, shall be punishable by a fine not to exceed \$500.

V. The site assessment study shall consist of 3 sections:

(a) Section A shall include the name, address, and telephone number of the seller and the seller's agent and the location and a brief description of the property, including the tax map reference and lot number.

(b) Section B shall include the lot size, slope, loading (based on the number of bedrooms in the structure), water source, soil type, and estimated seasonal high water table information from U.S. Natural Resources Conservation Service maps. A space shall be included on the form for the permitted designer to write his assessment of the site for the current use of the system, based upon the criteria and information required in this subparagraph.

(c) Section C shall include information about the present septic disposal system, if available. If the installed system was approved by the department, a copy of the approval form, approval number and plan shall be attached to the site assessment study.

VI. The department shall design the site assessment form pursuant to paragraph V of this section. The commissioner shall adopt rules pursuant to RSA 541-A relative to the procedures for the availability and distribution of the form to interested parties.

VII. An assessment indicating that the site fails to meet any of the criteria established under this section shall not prohibit the sale of the property but shall be disclosed to the buyer as full and proper notice of the possible limitations of the site for a septic disposal system.

VIII. If the septic disposal system designer, during the course of a site assessment, discovers evidence that there is sewage discharge on the ground surface or directly into surface waters, the designer shall notify, in writing, the department and the local health officer, and shall include that information in the site assessment report.

**Source.** 1989, 339:1. 1992, 278:2. 1995, 206:2. 1996, 228:81, 106. 2007, 177:1. 2008, 349:1, eff. Jan. 1, 2009.

## **Section 485-A:40**

### **485-A:40 Reconsideration and Appeal Procedure. –**

If any person submitting plans and specifications to the department for its approval is aggrieved or dissatisfied with its decision, he may file a motion for reconsideration and shall have a right of appeal from the decision of the department in the following manner:

- I. Within 20 days after any decision of the department, any person whose rights may be directly affected may apply to the department for reconsideration of any matter determined by the department in its decision, specifying in the motion for reconsideration the grounds therefor, and the department may reconsider and revise its decision if in the opinion of the department good reason therefor is stated in said motion.
- II. Such motion shall set forth fully every ground upon which it is claimed that the decision of the department is unlawful or unreasonable. No appeal from any decision of the department shall be taken unless the appellant shall have made application for reconsideration as provided in this section, and when such application shall have been made, no ground not set forth in such application shall be urged, relied on, or given any consideration by the court, unless the court for good cause shown shall allow the appellant to specify additional grounds.
- III. Upon the filing of a motion for reconsideration, the department shall within 30 days either grant or deny the motion, and, at the same time, shall affirm, modify or reverse its decision.
- IV. Within 30 days after the application for reconsideration is denied, or if the application is granted, then within 30 days after the decision on such reconsideration, the applicant may appeal by petition to the superior court.
- V. Upon the hearing, the burden of proof shall be upon the party seeking to set aside the decision of the department to show that the same is unreasonable or unlawful, and all findings of the department upon all questions of fact properly before it shall be deemed to be prima facie lawful and reasonable; and the order or decision appealed from shall not be set aside or vacated, except for errors of law, unless the court is persuaded by the balance of probabilities, on the evidence before it, that the decision is unjust or unreasonable.
- VI. Any person whose rights may be directly affected by said appeal may appear and become a party, or the court may order such persons to be joined as parties as justice may require.
- VII. Upon the filing of an appeal, the clerk of court shall issue a summons requiring a certified copy of the record appealed from to be filed with the court. The filing of an appeal shall not suspend the decision appealed from, unless the court, on application and for good cause shown, shall grant a restraining order.
- VIII. All evidence transferred by the department shall be, and all additional evidence received may be, considered by the court regardless of any technical rules which might have rendered the same inadmissible if originally offered in the trial of an action at law.
- IX. The final judgment upon every appeal shall be a decree dismissing the appeal, or vacating the decision complained of in whole or in part, as the case may be; but in case such decision is wholly or partly vacated the court may also, in its discretion, remand the matter to the department for such further proceedings, not inconsistent with the decree, as justice may require.
- X. An order of court to send up the record may be complied with by filing either the original papers or duly certified copies, or of such portions of such papers, as the order may specify, together with a certified statement of such other facts as show the grounds of the action appealed from.
- XI. The court may take evidence or appoint a referee to take such evidence as it may direct and report the same with his findings of fact and conclusions of law.
- XII. Costs shall not be allowed against the department unless it shall appear to the court that it acted with gross negligence, or in bad faith, or with malice in making the decision appealed from.
- XIII. All proceedings under this chapter shall be entitled to a speedy hearing. If such hearing cannot be had within 30 days after the filing of the appeal, upon request of the appellant the matter shall be referred to a master.

**Source.** 1989, 339:1. 1996, 228:106, eff. July 1, 1996. 2014, 204:30, eff. July 11, 2014.

### **Section 485-A:41**

#### **485-A:41 Rulemaking; Duties of the Commissioner. –**

The commissioner shall:

- I. Exercise general supervision over the administration and enforcement of this subdivision.
- II. Employ necessary personnel.
- III. Prohibit construction of systems which would pollute the surface waters or groundwaters of the state, until an acceptable and practicable method exists which will prevent the pollution.
- IV. Adopt rules, pursuant to RSA 541-A and after public hearing, relative to the implementation of this subdivision. The commissioner shall adopt rules relative to the circumstances under which the commissioner may grant a waiver of any rule, except that no waivers of rules relating to site loading or set-back distances to ground or surface waters shall be allowed for sewage or waste disposal systems on lots in subdivisions created after September 1, 1989. A waiver must be consistent with the intent of this subdivision and have a just result. In particular, an encroachment waiver shall meet the following criteria:
  - (a) The proposed waiver shall not encroach upon the right of the owner of abutting property to fully utilize his land, unless said property owner has granted consent in the form of a signed waiver or deeded easement; and
  - (b) Denial of the waiver would result in unnecessary hardship to the owner due to special characteristics of the property.
- V. Adopt rules relative to the application for and granting of permits by rule for repair or replacement of certain sewage or waste disposal systems under RSA 485-A:33, IV.

**Source.** 1989, 339:1. 1996, 228:82, 110. 2012, 174:3, eff. June 11, 2012.

### **Section 485-A:42**

#### **485-A:42 Enforcement. –**

- I. (a) The department may issue an order to any person in violation of this chapter, of rules adopted under this chapter, or of any condition of a permit issued under this chapter.
  - (b) The department may require such remedial measures as are necessary to correct the violation.
  - (c) Such order may be appealed in accordance with RSA 21-O:14.
- II. The written order issued under the provisions of paragraph I shall be recorded by the department in the registry of deeds for the county in which the property is situated and, upon recordation, the order shall run with the land; provided, however, that an appropriate description of the land involved including the accurate name of the land's owner shall be incorporated in the order. No fee shall be charged for recording such an administrative order; however, the fee for discharge of any such order shall be the same as for the discharge of a real estate lien.
- III. Upon certification by the department, local officials are hereby authorized and fully empowered to exercise concurrent jurisdiction in the enforcement of this subdivision.

**Source.** 1989, 339:1. 1996, 228:83, 106, eff. July 1, 1996.

### **Section 485-A:43**

**485-A:43 Penalties. –**

- I. Any person who shall violate any of the provisions of this subdivision or who shall knowingly fail, neglect or refuse to obey any order of the department or member or authorized agent of the department issued under the authority of this subdivision, or who shall knowingly make any misstatement of material fact for which said person is personally responsible in connection with an application for an approval pursuant to this subdivision shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person.
- II. Any person who knowingly produces any erroneous or fallacious data with regard to any application or plan submitted pursuant to this subdivision shall bear the full responsibility for same, and shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person.
- III. Notwithstanding any other penalty or fine for which liability is provided under this subdivision, any person may be liable to the state, in an action commenced in the name of the state, for a civil forfeiture of not more than \$10,000 per day per violation for such violation, failure, neglect, refusal or any misstatement for which said person is personally responsible. Such forfeiture may be levied by the superior court in connection with actions for injunctive relief commenced pursuant to RSA 485-A:44. The proceeds of any civil forfeiture levied under this section shall be utilized in the enforcement of this subdivision. In determining a civil forfeiture, the court may take into consideration all relevant circumstances, including the degree of noncompliance, the extent of harm caused by the violation, the nature and persistence of the violation, the time and cost associated with the investigation by the state and the economic impact of the penalty on the liable person. The cost of corrective action shall not be considered in determining the civil forfeiture.
- IV. Any person neglecting or refusing to comply with the provisions of RSA 485-A:37 shall be subject to a civil forfeiture not to exceed \$1,000 for each day of neglect or refusal after notice as provided for in RSA 485-A:37.
- V. The commissioner of environmental services, after notice and hearing pursuant to RSA 541-A, may impose an administrative fine not to exceed \$2,000 for each offense upon any person who violates any provision of this subdivision including any rule adopted under the provisions of this chapter. Rehearings and appeals from a decision of the commissioner under this paragraph shall be in accordance with RSA 541. Any administrative fine imposed under this section shall not preclude the imposition of further penalties under this subdivision. The proceeds of administrative fines levied pursuant to this paragraph shall be deposited by the department in the general fund. The commissioner shall adopt rules, under RSA 541-A, relative to:
- (a) A schedule of administrative fines which may be imposed under this paragraph for violations of this subdivision as provided above.
  - (b) Procedures for notice and hearing prior to the imposition of an administrative fine.

**Source.** 1989, 339:1. 1995, 217:8. 1996, 228:106. 2008, 169:1, eff. Jan. 1, 2009.

**Section 485-A:44****485-A:44 Injunction to Enforce. –**

- I. On application of the department, the superior court or any justice of the court, in term time or in vacation, may enjoin any act in violation of this subdivision.
- II. Municipalities may apply to a justice of the superior court for injunctive relief against existing or impending violations of this subdivision. The municipality shall give notice of any such action to the attorney general and the commissioner of environmental services, who may take such action as they deem necessary to ensure uniform statewide enforcement, including but not limited to joining the action, assuming sole prosecution of the action, or, as of right, dismissing the action without prejudice. Such notice shall be given at least 30 days prior to the commencement of any such action, unless more immediate action is necessary to prevent irreparable environmental damage or other serious public harm, in which case such notice shall be

given as soon as practicable, but in no event later than the date of commencement of the action. This paragraph shall not be construed to affect, in any manner, existing authority of municipalities to act based upon the provisions of other statutes or local ordinances.

**Source.** 1989, 339:1. 1991, 340:5. 1996, 228:106, eff. July 1, 1996.

### **Section 485-A:44-a**

**485-A:44-a Repealed by 2019, 30:3, eff. Nov. 20, 2020. –**

## **Winnepesaukee River Basin Control**

### **Section 485-A:45**

**485-A:45 Authority to Acquire, Construct, and Operate. –**

- I. The department is authorized and directed to acquire, plan, construct, and operate, to serve certain municipalities within the Winnepesaukee river basin (including, but not necessarily limited to Meredith, Laconia, Gilford, Belmont, Sanbornton, Tilton, Northfield, and Franklin) any and all sewage and waste disposal facilities (meaning only those facilities eligible for state aid) in accordance with basin and regional treatment needs consistent with federal and state requirements.
- II. The word "construction" shall include all engineering services in addition to the construction of new sewage or waste treatment plants, pumping stations, and intercepting sewers; the altering, improving or adding to existing treatment plants, pumping stations, and intercepting sewers (except those intercepting sewers and facilities retained by municipalities); or any other associated work, or both, the intent being to include within the department area of responsibility all construction work considered eligible for state financial assistance under the provisions of RSA 486, and including any necessary land acquisition, easements and rights-of-way.
- III. To achieve a high degree of reliability and to provide for efficient layout, construction and maintenance of pollution control facilities, the department is authorized to locate sewer and related facilities in all public roadways, whether owned or controlled by a municipality or the state subject to RSA 236:9.
- IV. The department is also obligated to restore the public roads, when disturbed for the purpose indicated in paragraph III, to a condition acceptable to local and state highway authorities.
- V. Nothing in this section shall be construed to impair or repeal the authority conferred upon municipalities, under RSA 149-I, to construct main drains and common sewers. Nothing in this section shall be construed to impair or repeal the authority conferred upon municipalities under RSA 147 to make and enforce regulations concerning disposal of wastes and abatement of nuisances. The municipalities served under this chapter may, by ordinance or regulation, increase the 100 foot distance contained in RSA 147:8 and RSA 147:11. Such regulations shall apply to the municipal sewerage system and to the regional facilities located within the municipality.
- VI. Nothing contained in this section shall be construed to entitle municipalities to receive state aid in excess of their entitlement as provided for in connection with construction as defined in RSA 486.
- VII. To produce maximum benefits with the least expenditure of federal, state, and local funds, the department, or any municipality served under this subdivision, is authorized, under terms mutually agreed upon, to accept full responsibility for the planning of sewerage projects involving a mixture of eligible and ineligible facilities as defined in RSA 486. The department and the particular municipality involved will bear their pro-rata share of the associated costs for the work performed under such an agreement.



**Source.** 1989, 339:1. 1996, 228:106, eff. July 1, 1996.

### **Section 485-A:46**

**485-A:46 Existing Disposal Systems.** – Any future payments due from a municipality which has undertaken construction (or engaged in engineering study, planning or design), as outlined in RSA 485-A:45, since July 1, 1947, to pay for such construction, study, planning, or design, and the facility involved is acquired by the department, shall automatically become the obligation of the state, including engineering services and contract costs. With respect to payments for engineering services and contract costs in connection with contracts entered into after July 1, 1967, it is the intention of this section to obligate the state only if the contract giving rise to such obligations has been entered into pursuant to the provisions of RSA 485-A:4, XII.

**Source.** 1989, 339:1. 1996, 228:106, eff. July 1, 1996.

### **Section 485-A:47**

**485-A:47 Administration.** – To administer the provisions of this chapter and to perform such other related duties as may be required, the department of environmental services is designated as the agency to receive and utilize any federal or other aids which may at any time be made available in the interest of water pollution control in the basin. The department is empowered to hire consulting engineering firms for purposes of project design and to employ such professional, technical, clerical, accounting, or other staff or consulting personnel as are required to implement the provisions of this subdivision and to arrange for the orderly transfer of ownership and operation of existing pollution abatement facilities to the department on behalf of the state of New Hampshire within the limits of legislative appropriations. Any personnel (other than consultants) employed by the department shall be subject to the personnel laws of the state. This subdivision shall in no way impair or render null and void existing contracts between municipalities, contractors or other parties, or any of them, in connection with pollution control projects or sewerage, sewage or waste service contracts within the basin. Nothing in this subdivision shall be construed as prohibiting future sewerage or waste service contracts otherwise authorized by law between municipalities directly connected to the regional facilities provided for by this subdivision and other persons, including but not limited to municipalities, served or to be served by such facilities but not directly connected to such facilities. All such future contracts, however, shall be submitted at least 60 days in advance of their effective dates to the department, which is empowered to disapprove the terms of any such future contract in whole or in part when in its judgment the efficient administration or the purposes of this subdivision would be adversely affected, and such contract shall not be valid to the extent it is disapproved. In any such contract, unless otherwise specifically provided in the contract, the person or persons served by such regional facility but not directly connected to such facility shall have strict responsibility for the accurate measurement of the amount of sewage or waste disposed of by such person or persons and shall be liable to the municipality directly connected to such regional facilities for the entire amount of sewage or waste, as measured, if any inaccuracy is in favor of such municipality, and for the actual amount of sewage or waste, as estimated, if any inaccuracy is in favor of such person or persons. The commissioner is authorized to adopt, pursuant to RSA 541-A and after public hearing, such rules as are necessary to implement the provisions of this subdivision.

**Source.** 1989, 339:1. 1996, 228:84, eff. July 1, 1996.

## Section 485-A:48

**485-A:48 Application of the Statutes.** – All present powers, duties and functions conferred upon municipalities within the basin in connection with the planning, construction, financing and operation of sewage or waste treatment facilities (excepting common sewers and other collector facilities considered ineligible for state grants under the provisions of RSA 486), or both, as are contained in RSA 485, 485-A, 149-I and applicable statutes, are transferred to the department. Personnel of municipalities engaged in the operation of sewage or waste treatment facilities, or both, as referred to in this subdivision, shall be given an opportunity to become employees of the department (with all benefits previously accrued) upon the effective date of the transfer of the municipal sewage or waste treatment facilities, or both, to the department. In no case shall personnel accepting state employment, as provided under this subdivision, be paid less than the salary paid such individuals as of January 1, 1973, nor shall they suffer a loss or reduction in benefits associated with tenure of service. It shall be the responsibility of the municipality previously employing the individual to supplement such state of New Hampshire benefits if they are less than the employee might have received if his employment had continued uninterrupted with the municipality.

**Source.** 1989, 339:1. 1996, 228:106, eff. July 1, 1996.

## Section 485-A:49

### **485-A:49 Expenditures.** –

I. With the approval of the governor and council, the department may use state, federal or other funds accruing to the department and funds borrowed from the state water pollution control and drinking water revolving loan fund established under RSA 486:14 for the acquisition of existing sewage or waste treatment facilities, design and construction of new sewage or waste treatment facilities, alteration, improvement or additions to existing sewage or waste treatment facilities, pumping stations and intercepting sewers, inclusive of operation and maintenance of same; the terms operation and maintenance of treatment facilities shall include maintenance of all buildings, equipment, supplies, and administrative costs associated with the management of the treatment facilities, and for such other purposes as may be involved in the operation of an effective regional pollution control program. The department may purchase, take and hold for the state such materials, lands, easements and rights-of-way as may be required for the purposes of this subdivision. If the department is unable to purchase lands, easements or rights-of-way at what is deemed reasonable compensation, the department shall request the governor and council to appoint a commission to assess the damages sustained by the owner, and thereupon proceedings shall be conducted in the same manner and in accordance with provisions of RSA 230.

I-a. In addition to the uses set forth in paragraph I, and with the approval of the governor and council, the department may evaluate the most cost effective operation of such systems, including evaluating the cost effectiveness of alternative governance structures for the Winnepesaukee River basin control program under this subdivision. The department may not make any changes to the current governance structure unless specifically authorized by statute. The department may present any recommendations concerning alternative governance structures to the general court for consideration.

II. To provide funds for the municipal share of the costs involved pursuant to this subdivision, the state treasurer is authorized to borrow upon the credit of the state not exceeding the sum of \$3,000,000 and for said purposes may issue bonds and notes in the name and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A.

III. The payments of principal and interest on the bonds issued under paragraph II shall be made when due from the special fund established by RSA 485-A:50, VI.

**Source.** 1989, 339:1. 1996, 228:106. 2005, 117:1, eff. Aug. 14, 2005. 2016, 125:1, eff. July 19, 2016.

## **Section 485-A:50**

### **485-A:50 Municipal Assessments. –**

- I. The department shall annually, at the beginning of each fiscal year, assess each municipality served by the regional sewage disposal facilities provided for by this subdivision, a sum sufficient to recover its proportional share of the total in relation to the total costs estimated to be incurred during said fiscal year in treating, transporting and disposal of sewage of the communities served and those to be served; the proportional share of each community shall be determined by the procedure provided for in paragraph IV.
- II. The department shall annually, at the beginning of each fiscal year, assess each municipality served or to be served by the regional sewage disposal facilities provided for by the provisions of this subdivision the costs estimated to be incurred during said fiscal year in administering this subdivision, plus a charge for amortization charges on such costs of all facilities amounting to 5 percent of the total amortization charges, meaning principal and interest, on such charges. The proportional share of each community's costs shall be determined by the procedure provided for in paragraph IV.
- III. The respective share of the assessments made in paragraphs I and II shall be paid to the department by each municipality quarterly on July fifteenth, October fifteenth, January fifteenth, and April fifteenth of that fiscal year, except for capital cost recovery assessments which shall be paid annually on July fifteenth. After the close of each fiscal year, the department shall ascertain its actual total expenses in accordance with the foregoing provisions, and then shall adjust the assessment for the second quarterly payment of the new fiscal year for each such municipality served for any under-payment or over-payment by each such municipality served for the prior fiscal year.
- IV. The assessments provided to be made by this section shall be made by taking into account the volume and strength of the industrial, domestic, commercial, and all other waste discharges treated or the estimated volume and strength of the industrial, domestic, commercial and all other waste discharges to be treated and techniques of treatment required. Proportional costs as determined by the department, associated with transporting raw and treated sewage through a major interceptor from a municipality at which it is generated or is to be generated to the point of treatment or discharge shall be allocated to the municipality which uses or will use the interceptor on the basis of volume and distance traveled or estimated volume and distance traveled. In determining said assessments for each municipality, the department shall abide by federal regulations which govern the allocation of costs and receipt of payments by industry for industrial discharges. Any operating and maintenance costs over and above what has been determined to be proportional by the department shall be an obligation of the state.
- V. The municipality may recover charges assessed by means of user charges, connection fees, or such other techniques as may be utilized under state and local law, including sewage, sewerage, and waste service contracts, except that municipalities with industrial waste must abide by federal and state regulations which govern recovery of costs from said industries.
- VI. All funds collected by the department by virtue of the assessments authorized under this section shall be paid to the state treasurer who shall keep the same in a special fund.
- VII. Any municipality aggrieved or dissatisfied with any annual assessment levied against it under the provisions of this section may file a motion for reconsideration by the department control in the same manner and as provided in RSA 485-A:40.
- VIII. The charges assessed by the department shall be made against the municipalities which are directly connected to the regional facilities provided for by this subdivision and shall include:
- (a) any sewage or waste generated within the municipality and transported to such regional facilities, and
  - (b) any sewage or waste generated outside the municipality and being transported through such municipality's

sewage system. Such municipality may recover the charges assessed in accordance with paragraph V.

**Source.** 1989, 339:1. 1996, 228:106. 2007, 5:1, eff. July 1, 2007.

## **Section 485-A:51**

### **485-A:51 Replacement Fund Established. –**

- I. There is established a nonlapsing, revolving fund to provide capital for repair and replacement of major components of the water pollution control facilities administered under this subdivision which cannot be absorbed as regular budgetary items. The replacement fund is to be capitalized by contributions from the members served by the facilities based on each member's projected usage of the facilities.
- II. The fund shall equal 5 percent of the equipment and other depreciable assets of the treatment facilities. The value of the equipment and other depreciable assets shall be computed every 5 years, beginning in 1990, and shall be based on current replacement costs.
- III. Each member's share of the total fund shall be contributed over a period of 10 years after the initial establishment of the fund and shall be paid as a yearly surcharge to the member's operating charges. Thereafter, each member's surcharge shall be prorated as membership and design changes require.
- IV. Once a member has fully funded its share of the replacement fund, the member shall make no further contributions until the fund is utilized for repair or replacement of a facility used by that member. Expenses for which the fund is used shall be proportionally charged against each member's contributions to the fund for the facilities utilizing the fund, which will subsequently be reimbursed by the member in successive years in addition to the member's yearly contribution to the fund, until the member's share of the fund is fully restored.
- V. If a repair or replacement cost exceeds the value of the fund established for that particular facility, the repair cost shall be paid out of the portion of the fund established for other facilities, but reimbursement to the fund shall always be assessed back to members based on their projected usage of the facilities needing repair.
- VI. As new facilities, if any, are added to the system, additional assessments shall be made to the members benefiting from these facilities, prorated on the basis of projected use.
- VII. If a new member joins the system, the assessments shall be modified to reflect the new member's benefit from the facilities, and excess prior payments made by other members, if any, shall be credited to their accounts.
- VIII. All contracts paid for using the fund shall be submitted to the governor and council for approval.
- IX. This nonlapsing, revolving special purpose fund is continually appropriated to be used by the department in accordance with this subdivision. All moneys shall be deposited with the state treasurer who shall keep this money in a separate fund, notwithstanding RSA 6:12. The state treasurer shall invest the moneys deposited with him as provided by law. Interest received on investments made by the state treasurer shall also be credited to the fund. All such interest shall be added to each member's share of the fund based on each member's contribution to it.

**Source.** 1989, 339:1. 1996, 228:106, eff. July 1, 1996.

## **Section 485-A:52**

### **485-A:52 Advisory Board Established. –**

- I. There is established a Winnepesaukee River advisory board consisting of one member, from each community, appointed by the board of selectmen of a town or the city council of a city involved. The term of office of each member shall be one year commencing July 1, 1972, and each member shall serve until his or

her successor shall have been appointed. The advisory board shall annually elect a chairman by majority vote of its members, and the board shall meet at least quarterly upon the call of the chairman or at least 3 members of the board in order to consider matters properly coming before it for attention. The advisory board shall meet with the department at suitable intervals to review matters of mutual concern. An annual budget shall be submitted to the advisory board by the department, for review and comment, 60 days prior to the beginning of the new fiscal year. Members of the advisory board shall receive no per diem but shall be entitled to reimbursement for expenses including mileage when in the performance of duties required under this subdivision. Each municipality shall provide funds necessary to reimburse its members to the advisory board.

II. The advisory board shall make a recommendation to the governor and executive council on each request for a contract to plan, design, or construct capital improvements using moneys for expenditures under RSA 485-A:49. The department of environmental services shall include a letter from the advisory board to the governor and executive council documenting the decision and recommendations of the advisory board on such contract for the governor and executive council's consideration before approving or denying such contract.

**Source.** 1989, 339:1. 1996, 228:106, eff. July 1, 1996. 2016, 104:1, eff. July 18, 2016.

### Section 485-A:53

**485-A:53 Insurance.** – The department shall purchase insurance, including extended coverage insurance, to protect the pollution control facilities administered under this subdivision against fire, vandalism, and malicious mischief. The cost of the insurance shall be included in the user fee. If the department determines that any of the foregoing insurance is unavailable or uneconomical, it may request the governor and council to waive the provisions of this section for the term of the coverage. Nothing in this section shall be construed as a waiver of the state's sovereign immunity regardless of the department's ability to procure the types of insurance described in this section.

**Source.** 1989, 339:1. 1996, 228:106, eff. July 1, 1996. 2014, 327:69, eff. Aug. 2, 2014; 146:1, eff. Aug. 15, 2014.

### Section 485-A:54

#### **485-A:54 Enforcement and Penalties.** –

I. The department may issue an order to any person in violation of this subdivision, a rule adopted under this subdivision, or any condition in any contract or permit issued or entered into under this subdivision. This order may require such remedial or corrective measures as may be necessary. Any person to whom such an order is directed may appeal in accordance with RSA 21-O:14.

II. If the department determines that the discharge to any state-owned treatment facility presents an imminent threat to the environment or to the operation of the treatment facility, the department may issue an order requiring such action as may be necessary to meet the emergency, or may take necessary action to block the public sewer to prevent the discharge of the waste into the treatment facility. Any order issued under this authority shall take effect immediately. A person to whom such an order is issued or any person affected by action taken by the department under this paragraph may appeal to the commissioner or designee for a hearing on such order or action, which shall be held within 2 working days after receipt of the request for the hearing. The person may appeal the decision on such hearing pursuant to RSA 21-O:14.

III. Any person who violates any of the provisions of this chapter, or any rule adopted or order issued under this subdivision, shall be subject to a civil penalty not to exceed \$10,000 for each violation, or for each day of

a continuing violation.

IV. Any violation of the provisions of this subdivision, or of any rule adopted or order issued under it, or of any condition in any permit issued or contract entered into under the authority of this subdivision, may be enjoined by the superior court upon application by the attorney general.

V. The commissioner of environmental services, after notice and hearing pursuant to RSA 541-A, may impose an administrative fine not to exceed \$2,000 for each offense upon any person who violates any provision of this subdivision, any rule adopted under this subdivision, or any permit or contract entered into under the authority of this subdivision. Rehearings and appeals from a decision of the commissioner under this paragraph shall be in accordance with RSA 541. Any administrative fine imposed under this section shall not preclude the imposition of further penalties under this subdivision. The proceeds of administrative fines levied pursuant to this paragraph shall be deposited by the department in the replacement fund established pursuant to RSA 485-A:51. The commissioner shall adopt rules, under RSA 541-A, relative to:

(a) A schedule of administrative fines which may be imposed under this paragraph for violations of this chapter as provided above.

(b) Procedures for notice and hearing prior to the imposition of an administrative fine.

**Source.** 1989, 339:1. 1995, 217:9. 1996, 228:85, 106, eff. July 1, 1996.

## Certain Household Cleansing Products Prohibited

### Section 485-A:55

#### **485-A:55 Definitions.** –

In this subdivision:

I. "Household cleansing product" means any product, including but not limited to, soaps and detergents used for domestic cleaning purposes, including, but not limited to, the cleansing of fabric, dishes, food utensils and household premises.

II. "Phosphorus" means elemental phosphorus.

III. "Trace quantity" means an incidental amount of phosphorus which is not part of the household cleansing product formulation, is present either as a consequence of manufacturing, to assure product performance for purposes other than cleansing, or to assure container stability, and does not exceed 0.5 percent of the content of the product by weight, expressed as elemental phosphorus.

**Source.** 1994, 303:1, eff. Jan. 1, 1995.

### Section 485-A:56

**485-A:56 Products Prohibited.** – No household cleansing products except those used for lead exposure hazard control purposes shall be distributed, sold or offered for sale in this state, which contain a phosphorus compound in concentrations in excess of a trace quantity.

**Source.** 1994, 303:1. 1995, 306:7. 2009, 282:1, eff. July 1, 2010.

### Section 485-A:57

**485-A:57 Penalty.** – Any person who violates the provisions of this subdivision shall be subject to a civil

penalty not to exceed \$50.

**Source.** 1994, 303:1, eff. Jan. 1, 1995.

# TITLE LXIV

## PLANNING AND ZONING

### CHAPTER 674

### LOCAL LAND USE PLANNING AND REGULATORY POWERS

#### Building Codes

#### Section 674:51

See Emergency Order #23 (NH LEGIS E.O. 2020-23-Emerg. (2020, 2023:1.)), issued pursuant to Executive Order 2020-04 (NH LEGIS E.O. 2020-04 (2020, 1004:1.)) as extended by Executive Orders 2020-05 (NH LEGIS E.O. 2020-05 (2020, 1005:1.)); 2020-08 (NH LEGIS E.O. 2020-08 (2020, 1008:1.)); 2020-09 (NH LEGIS E.O. 2020-09 (2020, 1009:1.)); 2020-010 (NH LEGIS E.O. 2020-010 (2020, 1010:1.)); 2020-014 (NH LEGIS E.O. 2020-014 (2020, 1014:1.)); 2020-015 (NH LEGIS E.O. 2020-015 (2020, 1015:1.)); 2020-016 (NH LEGIS E.O. 2020-016 (2020, 1016:1.)); 2020-017 (NH LEGIS E.O. 2020-017 (2020, 1017:1.)); 2020-018 (NH LEGIS E.O. 2020-018 (2020, 1018:1.)); 2020-020 (NH LEGIS E.O. 2020-020 (2020, 1020:1.)); 2020-021 (NH LEGIS E.O. 2020-021 (2020, 1021:1.)); 2020-022 (NH LEGIS E.O. 2020-022 (2020, 1022:1.)); 2020-023 (NH LEGIS E.O. 2020-023 (2020, 1023:1.)); 2020-024 (NH LEGIS E.O. 2020-024 (2020, 1024:1.)); 2020-025 (NH LEGIS E.O. 2020-025 (2020, 1025:1.)); 2021-01 (NH LEGIS E.O. 2021-01 (2021, 1001:1.)), and related to the COVID-19 State of Emergency, for potential impact on the terms of this section.

#### **674:51 Power to Amend State Building Code and Establish Enforcement Procedures. –**

The state building code established in RSA 155-A shall be effective in all towns and cities in the state and shall be enforced as provided in RSA 155-A:7. In addition, towns and cities shall have the following authority:

I. The local legislative body may enact as an ordinance or adopt, pursuant to the procedures of RSA 675:2-4, additional provisions of the state building code for the construction, remodeling, and maintenance of all buildings and structures in the municipality, provided that such additional regulations are not less stringent than the requirements of the state building code. The local legislative body may also enact a process for the enforcement of the state building code and any additional regulations thereto, and the provisions of a nationally recognized code that are not included in and are not inconsistent with the state building code. Any local enforcement process adopted prior to the effective date of this paragraph shall remain in effect unless it conflicts with the state building code or is amended or repealed by the municipality.

II. Any such ordinance adopted under paragraph I by a local legislative body shall be submitted to the state building code review board for informational purposes.

III. The local ordinance or amendment adopted according to the provisions of paragraph I shall include, at a minimum, the following provisions:

(a) The date of first enactment of any building code regulations in the municipality and of each subsequent amendment thereto.

(b) Provision for the establishment of a building code board of appeals as provided in RSA 673:1, V; 673:3,



IV; and 673:5.

(c) Provision for the establishment of the position of building inspector as provided in RSA 673:1, V. The building inspector shall have the authority to issue building permits as provided in RSA 676:11-13 and any certificates of occupancy as enacted pursuant to paragraph III, and to perform inspections as may be necessary to assure compliance with the local building code.

(d) A schedule of fees, or a provision authorizing the governing body to establish fees, to be charged for building permits, inspections, and for any certificate of occupancy enacted pursuant to paragraph III.

IV. The regulations adopted pursuant to paragraph I may include a requirement for a certificate of occupancy to be issued prior to the use or occupancy of any building or structure that is erected or remodeled, or undergoes a change or expansion of use, subsequent to the effective date of such requirement.

V. No municipality or local land use board as defined in RSA 672:7 shall adopt any ordinance, regulation, code, or administrative practice requiring the installation of automatic fire suppression sprinklers in any new or existing detached one- or 2-family dwelling unit in a structure used only for residential purposes.

Notwithstanding any provision of law to the contrary, no municipality or local land use board shall enforce any existing ordinance, regulation, code, or administrative practice requiring the installation or use of automatic fire suppression sprinklers in any manufactured housing unit as defined in RSA 674:31 situated in a manufactured housing park as defined in RSA 205-A:1, II. Nothing in this paragraph shall affect the ability of an applicant for a local land use permit to include the installation of fire suppression sprinklers pursuant to RSA 674:36, IV, or affect the validity or enforceability of such inclusion.

**Source.** 1983, 447:1. 1989, 70:1. 1990, 71:3. 2002, 8:10. 2003, 245:7. 2008, 38:1. 2011, 269:1. 2013, 207:2, eff. Sept. 8, 2013.

# Additional Information Dataset

1. Brookline PB Finding Petition Warrant Article
2. Brookline NH 3.28.2021Special Town Meeting - Results

Town of Brookline Planning Board Written Finding and Recommendation for Temporary Moratoria  
(RSA 674:23)

Pursuant to RSA 674:23, the Brookline Planning Board finds that the legislative body of the Town of Brookline should adopt an ordinance establishing a moratorium on the issuance of building permits for new single-family or multi-family housing and the granting of site plan and subdivision approvals for a period of one year.

These findings are forward-looking. Applications that have been approved prior to the date of any ordinance adopted based on these findings are exempt from the proposed ordinance.

Based on information provided by the Brookline School Board and the School Administrative Unit 41 (SAU 41) (Attachments 1 and 2), continued development will significantly impact the ability of the Town of Brookline to provide adequate school services within the Brookline School District.

Per the Office of the Superintendent of SAU41, the K-6 enrollment in Brookline is projected to increase from 557 to 618 over the next 18 months. According to the Superintendent's letters, this could require potentially 3 additional classroom sections; some of the projected class sizes for the next school year exceed the specifications outlined in School Board Policy IIB.

Due to the potential for unplanned stress on the capacity of the Brookline schools, the Planning Board recommends that any ordinance(s) adopted by the legislative body under RSA 674:23 include the following:

- Establish a moratorium on the approval of site plans and subdivisions for a period of one year.
- Establish a moratorium on the issuance of building permits for new single-family or multi-family housing for a period of one year.
- Building permits for Accessory Dwelling Units as defined in section 2000 of the Brookline Zoning Ordinance are exempt from this moratorium.
- Building permits for lots created by subdivisions approved prior to the adoption of any ordinance based on these findings are exempt from this moratorium.
- Applications that have been approved prior to the date of the adopted ordinance are exempt from this moratorium.
- Applications submitted as Housing for Older Persons as specified in Brookline Zoning Ordinance section 2200 are exempt from this moratorium
- The Brookline Planning Board may provide for the exemption from the moratorium of those types or categories of development that have minimal or no impact on the ability of the Town of Brookline to provide adequate school services within the Brookline School District.
- The Brookline Planning Board may provide special permit or conditional use permit to allow development that has minimal or no impact on the ability of the Town of Brookline to provide adequate school services within the Brookline School District.

- The Brookline School District shall establish a facilities study committee to address classroom space issues. Preliminary findings shall be submitted to the Brookline Capital Improvements Committee no later than 30 September 2021 for inclusion in the scheduled publication of the 2022-2027 Capital Improvements Plan. Any warrant articles required to implement the recommendations of this facilities committee shall be included on the Brookline 2022 warrant.
- The Brookline Planning Board shall commission a study of school and town services to be performed in accordance with RSA 674:22 to determine if there is a demonstrated need to regulate the timing of development based upon the Town's lack of capacity to accommodate anticipated growth. A report shall be submitted to the Planning Board no later than 30 September 2021.

**SPECIAL MEETING TOWN WARRANT  
TOWN OF BROOKLINE  
THE STATE OF NEW HAMPSHIRE**

**Meeting starts at 1:00pm on  
Sunday, March 28, 2021**

**At Captain Samuel Douglass Academy  
24 Townsend Hill Road**

To the inhabitants of the Town of Brookline in the County of Hillsborough in said State, qualified to vote in Town Affairs:

You are hereby notified to meet at the Captain Samuel Douglass Academy in said Brookline on Sunday, the twenty eighth (28<sup>th</sup>) day of March at 1:00pm to act upon the following subjects:

AMENDED  
(SEE  
ATTACHED)

1.) *(By petition)* Shall the Town of Brookline impose a 365 day moratorium on any development that is intended to qualify as workforce housing under the Town of Brookline, NH Zoning and Land Use Ordinance? The moratorium shall be effective immediately upon the vote and shall include but not be limited to: approval of any development that is intended to qualify as workforce housing by the Planning Board, land acquisition, surveying, tree removal, or any other physical alteration of any land within the Town of Brookline for a development that is intended to qualify as workforce housing.

AMENDED  
(SEE  
ATTACHED)

2.) *(By petition)* Shall the Town of Brookline vote to establish a Study Committee for the review of the Town's compliance with RSA 674:59 or any other business related thereto? The Study Committee would consist of 5 members (1 member from the Planning Board, 1 member from the Selectboard or their designee, 1 Member from either the Police or Fire Department and 2 Registered Voters who do not hold an elected position within the Town). The Members of the Study Committee shall be appointed by the Selectboard. The Study Committee shall, at a minimum, review the Town's compliance with RSA 674:59 and specifically determine if the Town meets its compliance under the provisions of RSA 674:59 III and to determine any and all necessary changes to the Town of Brookline, NH Zoning and Land Use Ordinance related to any development that is intended to qualify as workforce housing for compliance with RSA 674:59 including the repeal of such ordinance. The Study Committee shall file its recommendations at a date and time as determined by the Chair of the Study Committee with enough time for a Zoning and Land Use Ordinance change to be placed on the 2022 Annual Town Meeting Warrant in accordance with RSA 39:3 and RSA 675:4.

PASSES

3.) *(By petition)* Shall the Town of Brookline vote to direct the Planning Board to enforce Reasonable Standards and Conditions of Approval in accordance with RSA 674:59 IV, including but not limited to Environmental Protection, Water Supply, Sanitary Disposal, Traffic Safety and Fire and Life Safety Protection on any development that is intended to qualify as workforce housing under the Town of Brookline, NH Zoning and Land Use Ordinance.

PASSES  
AS  
AMENDED

4.) Shall the Town of Brookline vote to direct the Planning Board to not approve any development that is intended to qualify as workforce housing under the Town of Brookline, NH Zoning and Land Use Ordinance if the Town meets its fair share of the current and reasonably foreseeable regional need for such housing under the provisions of RSA 674:59 III?

Additionally, to further direct the Planning Board to not approve a development that is intended to qualify as workforce housing under Town of Brookline, NH Zoning and Land Use Ordinance if, when combined with the current housing stock, the development would exceed the Town's fair share of the current and reasonably foreseeable regional need for such housing under the provisions of RSA 674:59 III.

~~PARAGRAPH  
DELETED~~

Additionally, to further direct the Planning Board to require a report acceptable to the Planning Board from an applicant of a development that is intended to qualify as workforce housing under the Town of Brookline, NH Zoning and Land Use Ordinance demonstrating that the Town's existing housing stock is not sufficient to accommodate the Town's fair share of the current and reasonably foreseeable regional need for such housing under the provisions of RSA 674:59 III. Such report shall include all the available options of workforce housing in the Town's existing housing stock as defined under RSA 674:58.

Given under our hands and seal this eighth (8th) day of March 2021.

\_\_\_\_\_  
Brendan Denehy

\_\_\_\_\_  
Eddie Arnold

\_\_\_\_\_  
Ron Olsen

\_\_\_\_\_  
Drew Kellner

\_\_\_\_\_  
Dana Ketchen

Selectboard of Brookline

PASSES AS  
AMENDED

## Motion under Warrant Article 1

Shall the Town of Brookline, in accordance with RSA 674:23 and upon the recommendation and written finding of the Brookline Planning Board adopt the following ordinance establishing a moratorium on development in The Town of Brookline?

### Ordinance Establishing a Moratorium on Development in The Town of Brookline (RSA 674:23)

This ordinance hereby establishes a moratorium on the issuance of building permits for new single-family or multi-family housing and the granting of site plan and subdivision approvals within the Town of Brookline for a period of 365 days which shall be effective immediately upon the vote of the legislative body and is based on the recommendation and written finding of the Brookline Planning Board (Appendix A) which describes the unusual circumstances that justify the ordinance and recommends a course of action to correct or alleviate such circumstances.

#### Statement of the circumstances giving rise to the need for the moratorium.

Based on information provided by the Brookline School Board and the School Administrative Unit 41 (SAU 41) continued development will significantly impact the ability of the Town of Brookline to provide adequate school services within the Brookline School District.

Per the Office of the Superintendent of SAU41, the K-6 enrollment in Brookline is projected to increase from 557 to 618 over the next 18 months. According to the Superintendent's letters, this could require potentially 3 additional classroom sections; some of the projected class sizes for the next school year exceed the specifications outlined in School Board Policy IIB.

#### Planning board's written findings

See Appendix A

#### Term of the ordinance

The Term of this ordinance shall be 365 days and shall be effective immediately upon the vote of the legislative body.

#### Types or categories of development to which the ordinance applies.

This ordinance shall apply to issuance of building permits for new single-family or multi-family housing and the granting of site plan and subdivision approvals for all types and categories of development unless exempted by or in accordance with this ordinance.

#### Description of the area of the municipality

This ordinance shall apply to the entire Town of Brookline.

### Exemptions from the Moratorium

1. Building permits for Accessory Dwelling Units as defined in section 2000 of the Town of Brookline, NH Zoning and Land Use Ordinance are exempt from this moratorium.
2. Building permits for lots created by subdivisions approved prior to the adoption of this ordinance are exempt from this moratorium.
3. Applications that have been approved prior to the adoption of this ordinance are exempt from this moratorium.
4. Applications submitted as Housing for Older Persons as specified in section 2200 of the Town of Brookline, NH Zoning and Land Use Ordinance are exempt from this moratorium.
5. The Brookline Planning Board may provide for the exemption from this moratorium of those types or categories of development that have minimal or no impact on the ability of the Town of Brookline to provide adequate school services within the Brookline School District.
6. The Brookline Planning Board may provide special permit or conditional use permit to allow development that has minimal or no impact on the ability of the Town of Brookline to provide adequate school services within the Brookline School District.

Further, this ordinance establishes the following course of action to correct or alleviate the unusual circumstances that affect the ability of the Town of Brookline to provide adequate school services and requires prompt attention to develop or alter a growth management process under RSA 674:22, a zoning ordinance, a master plan, or capital improvements program:

The Brookline School District shall establish a facilities study committee to address classroom space issues. Preliminary findings shall be submitted to the Brookline Capital Improvements Committee no later than 30 September 2021 for inclusion in the scheduled publication of the 2022-2027 Capital Improvements Plan. Any warrant articles required to implement the recommendations of this facilities committee shall be included on the Brookline 2022 warrant.

The Brookline Planning Board shall commission a study of school and town services to be performed in accordance with RSA 674:22 to determine if there is a demonstrated need to regulate the timing of development based upon the Town's lack of capacity to accommodate anticipated growth. A report shall be submitted to the Planning Board no later than 30 September 2021.



# APPENDIX A

For Special Planning Board Meeting – Wednesday, March 24, 2021

## Town of Brookline Planning Board Written Finding and Recommendation for Temporary Moratoria (RSA 674:23)

Pursuant to RSA 674:23, the Brookline Planning Board finds that the legislative body of the Town of Brookline should adopt an ordinance establishing a moratorium on the issuance of building permits for new single-family or multi-family housing and the granting of site plan and subdivision approvals for a period of one year.

These findings are forward-looking. Applications that have been approved prior to the date of any ordinance adopted based on these findings are exempt from the proposed ordinance.

Based on information provided by the Brookline School Board and the School Administrative Unit 41 (SAU 41) (Attachments 1 and 2), continued development will significantly impact the ability of the Town of Brookline to provide adequate school services within the Brookline School District.

Per the Office of the Superintendent of SAU41, the K-6 enrollment in Brookline is projected to increase from 557 to 618 over the next 18 months. According to the Superintendent's letters, this could require potentially 3 additional classroom sections; some of the projected class sizes for the next school year exceed the specifications outlined in School Board Policy IIB.

Due to the potential for unplanned stress on the capacity of the Brookline schools, the Planning Board recommends that any ordinance(s) adopted by the legislative body under RSA 674:23 include the following:

- Establish a moratorium on the approval of site plans and subdivisions for a period of one year.
- Establish a moratorium on the issuance of building permits for new single-family or multi-family housing for a period of one year.
- Building permits for Accessory Dwelling Units as defined in section 2000 of the Brookline Zoning Ordinance are exempt from this moratorium.
- Building permits for lots created by subdivisions approved prior to the adoption of any ordinance based on these findings are exempt from this moratorium.
- Applications that have been approved prior to the date of the adopted ordinance are exempt from this moratorium.
- Applications submitted as Housing for Older Persons as specified in Brookline Zoning Ordinance section 2200 are exempt from this moratorium
- The Brookline Planning Board may provide for the exemption from the moratorium of those types or categories of development that have minimal or no impact on the ability of the Town of Brookline to provide adequate school services within the Brookline School District.
- The Brookline Planning Board may provide special permit or conditional use permit to allow development that has minimal or no impact on the ability of the Town of Brookline to provide adequate school services within the Brookline School District.

- The Brookline School District shall establish a facilities study committee to address classroom space issues. Preliminary findings shall be submitted to the Brookline Capital Improvements Committee no later than 30 September 2021 for inclusion in the scheduled publication of the 2022-2027 Capital Improvements Plan. Any warrant articles required to implement the recommendations of this facilities committee shall be included on the Brookline 2022 warrant.
- The Brookline Planning Board shall commission a study of school and town services to be performed in accordance with RSA 674:22 to determine if there is a demonstrated need to regulate the timing of development based upon the Town's lack of capacity to accommodate anticipated growth. A report shall be submitted to the Planning Board no later than 30 September 2021.

# ATTACHMENT 1



## School Administrative Unit #41

Hollis, Brookline & Hollis-Brookline Cooperative School Districts  
Office of the Superintendent of Schools  
4 Lund Lane

Hollis, New Hampshire 03049  
603.324.5999 fax 603.465.3933

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March 17, 2021

Dear Members of the Planning Board,

I am writing to you on behalf of the Brookline School Board with regards to the potential workforce housing development proposed for route 13 in Brookline. The School Board held a special meeting on Tuesday, March 16, 2021 to deliberate on the impact this proposed housing would have on the School District. The Board unanimously supported the following two motions:

1. MOTION BY MEMBER SARRIS TO SUPPORT THE MORATORIUM ON THE 80-UNIT WORKFORCE HOUSING DEVELOPMENT (5-0).
2. MOTION BY MEMBER MARSANO TO SUPPORT A STUDY COMMITTEE TO REVIEW THE IMPACT OF THE 80-UNIT WORKFORCE HOUSING ON THE BROOKLINE SCHOOL SYSTEM (5-0).

The School Board utilizes the New England School Development Council (NESDEC) to complete the District's enrollment projections on an annual basis. The K-6 projected enrollment in Brookline is projected to go from 557 to 618. Depending on where those students fall (assuming the grade level projections are accurate), this could require potentially 3 additional classroom sections. Looking into next school year, some of our projected class sizes are greater than the specifications outlined in School Board Policy IIB and other projected class sizes are just below the specifications.

After discussing available spaces within our existing elementary buildings, we would have to re-evaluate how our specials (music, art, and computers) are taught. We would have to consider options such as taking back the computer labs, the STEM lab, the music classrooms, and/or the art classrooms to become traditional classrooms and move specials to a cart.

Trying to accommodate more than the NESDEC projections would require vastly different considerations. The School Board has been provided two presentations regarding facilities upgrades for RMMS during this school year. As a result of these two presentations the formation of a facilities study committee has been in process and will be officially formed at the School Board's next regular meeting on March 24, 2021. This committee is scheduled to provide regular feedback to the School Board during the upcoming school year as we prepare to make recommendations for potential warrant articles in March of 2022.

*Andrew Corey*  
Superintendent of Schools  
[andrew.corey@sau41.org](mailto:andrew.corey@sau41.org)

*Gina Bergskaug*  
Assistant Superintendent  
[gina.bergskaug@sau41.org](mailto:gina.bergskaug@sau41.org)

*Kelly Seeley*  
Business Administrator  
[kelly.seeley@sau41.org](mailto:kelly.seeley@sau41.org)

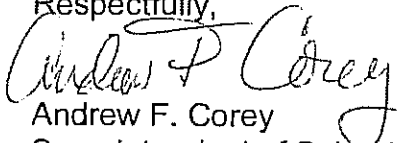
*Robert Thompson*  
Assistant Superintendent of Student Services  
[Robert.thompson@sau41.org](mailto:Robert.thompson@sau41.org)

Our neighbors in Amherst recently completed a thorough study to analyze similar needs (<https://ifac.sau39.org/>). The end result includes two building projects: the construction of a new PreK-5 school with a price tag of \$66 million, and a complete overhaul of the middle school with a price tag of \$31 million.

This projected NESDEC enrollment increase will also impact transportation and at a minimum result in an additional bus being added to the fleet to meet the increase in ridership both in Brookline and for the Cooperative District.. The cost of adding an additional bus route calculates to somewhere between \$45,000 - \$55,000 (based on time and mileage) increase to our transportation budget. Any additional enrollment increase will most likely result in the need to further increase our bus fleet.

As Superintendent my goal is to provide information for your discussion and allow all factors to be considered regarding the potential impact further housing units could have on the School District(s). I appreciate your taking the time to review this letter submitted on behalf of the Brookline School Board and would be most happy to make myself available to answer any questions that the Planning Board may have.

Respectfully,

  
Andrew F. Corey  
Superintendent of Schools

*Andrew Corey*  
Superintendent of Schools  
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*Gina Bergskaug*  
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*Kelly Seeley*  
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*Robert Thompson*  
Assistant Superintendent of Student Services  
[Robert.thompson@sau41.org](mailto:Robert.thompson@sau41.org)

# ATTACHMENT 2



## School Administrative Unit #41

Hollis, Brookline & Hollis-Brookline Cooperative School Districts  
Office of the Superintendent of Schools  
4 Lund Lane  
Hollis, New Hampshire 03049  
603.324.5999 fax 603.465.3933

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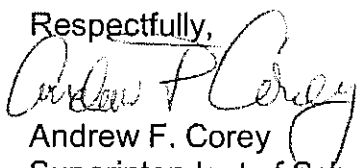
March 22, 2021

Dear Members of the Planning Board,

On Thursday, March 18, Town Administrator Tad Putney reached out to me seeking clarification on two items. The first item was regarding when I anticipate the enrollment increase happening? I believe the NESDEC projections indicate that the increase in student enrollment will occur over the next 18 months. As with all of our enrollment predictions much of what is projected is based on the economy and regional employers continuing to maintain or expand their work force. The second question was related to our historical enrollments being greater than the recent projections and why we cannot accommodate the projected increase? The two significant items that have reduced available classroom space are the Board's passing of policy IIB which dictates class sizes by grade. Prior to this policy we had class sections that in some cases approached the State maximum of thirty students per class. The second area that has reduced available classroom space has been the District's decision to create in-district special education programming which has reduced our need to place students out of district. These in-district programs allow us to provide an outstanding education to specific students while also avoiding substantial tuition and transportation costs associated with an out of district placement.

I hope you find this information helpful as you deliberate on the potential workforce housing development proposed for route 13 in Brookline.

Respectfully,

  
Andrew F. Corey  
Superintendent of Schools

*Andrew Corey*  
Superintendent of Schools  
andrew.corey@sau41.org

*Gina Bergskaug*  
Assistant Superintendent  
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*Kelly Seeley*  
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kelly.seeley@sau41.org

*Robert Thompson*  
Assistant Superintendent of Student Services  
Robert.thompson@sau41.org

## Motion under Article 2

Shall the Town of Brookline vote direct the Brookline Planning Board to commission a study of school and town services to be performed in accordance with RSA 674:22 to determine if there is a demonstrated need to regulate the timing of development based upon the Town's lack of capacity to accommodate anticipated growth. Further, at the discretion of the study, to review the Town of Brookline, NH Zoning and Land Use Ordinance to determine any changes that may be necessary to address development within the Town of Brookline or any other business related thereto. Further, that the Members of the Study Committee shall be appointed by the Planning Board. Further, that a report shall be submitted to the Planning Board no later than 30 September 2021?

Further, to direct the Brookline School District to establish a facilities study committee to address classroom space issues. Preliminary findings shall be submitted to the Brookline Capital Improvements Committee no later than 30 September 2021 for inclusion in the scheduled publication of the 2022-2027 Capital Improvements Plan. Any warrant articles required to implement the recommendations of this facilities committee shall be included on the Brookline 2022 warrant

PASSES AS  
AMENDED

PASSES AS  
AMENDED

## Motion under Article 4

Shall the Town of Brookline vote to direct the Planning Board to not approve any development that is intended to qualify as workforce housing under the Town of Brookline, NH Zoning and Land Use Ordinance if the Town meets its fair share of the current and reasonably foreseeable regional need for such housing under the provisions of RSA 674:59 III?

Additionally, to further direct the Planning Board to not approve a development that is intended to qualify as workforce housing under Town of Brookline, NH Zoning and Land Use Ordinance if, when combined with the current housing stock, the development would exceed the Town's fair share of the current and reasonably foreseeable regional need for such housing under the provisions of RSA 674:59 III.