

**TOWN OF WINCHESTER
NEW HAMPSHIRE**

**ZONING
ORDINANCE**

Adopted: January 14, 1971

Amended:

**March 5, 1974
March 10, 1981
May 12, 1984
May 13, 1986
May 12, 1987
May 10, 1988
March 14, 1989
March 12, 1991**

**March 10, 1992
March 8, 1994
March 12, 1996
March 11, 1997
March 10, 1998
March 9, 1999
March 13, 2001
March 11, 2003**

**March 9, 2004
March 8, 2005
March 14, 2006
March 14, 2007
March 11, 2008
March 10, 2009
March 9, 2010
March 8, 2011
March 13, 2012
March 12, 2013
March 11, 2014
March 10, 2015
March 8, 2016
March 21, 2017**

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ARTICLE I

PREAMBLE

Pursuant to authority of New Hampshire Revised Statutes Annotated, 1955, and/or Chapters 672-677, New Hampshire Revised Statutes Annotated, 1984, and for the purpose of promoting the health, safety and welfare of the inhabitants, the following Ordinance is hereby adopted by the Town of Winchester, New Hampshire, in the Town convened.

ARTICLE II

DISTRICTS

For the purpose of this Ordinance, the Town of Winchester is divided into the following districts as shown on the official Zoning Map, filed with the Town Clerk and dated January 14, 1971, and as amended March 5, 1974; March 10, 1981; May 8, 1984; May 13, 1986; May 12, 1987; May 10, 1988; March 14, 1989; March 13, 1990; March 12, 1991; March 10, 1992; March 12, 1996; March 11, 1997; March 10, 1998; March 9, 1999; March 13, 2001; March 12, 2002; March 11, 2003; March 9, 2004;; March 14, 2006; March 11, 2008; March 8, 2011, March 13, 2012,

- A. Agricultural
- B. Residential
- C. Rural Residential
- D. Central Business
- E. Commercial
- F. Highway Commercial
- G. Forest Lake
- H. Shoreland Protection
- I. Flood Plain
- J. *(Wetlands District deleted 3/13/12)*
- K. Historic District
- L. Aquifer Protection District

ARTICLE III

GENERAL PROVISIONS

A building may be erected, altered or used, and a lot may be occupied in accordance with the following provisions:

- A. Building Permit: Any person, firm, corporation, municipality, public agency, or institution desiring to operate, maintain, offer for rent, lease or tenancy any site, lot, field, tract of ground for location of any building or manufactured housing, or other similar conveyance, place or abode for shelter, or any other form of development, (as defined in this Ordinance), shall obtain a written operating building permit and an energy permit as required by RSA 155-D from the Building Inspector. If the Town does not have a Building Inspector then the Board of Selectmen. A building permit is required for but not limited to: additions, alterations, new construction, foundations, sheds, decks, pools, barns, garages, signs, porches, and fences over 6 feet high. A permit is required for the upgrade of plumbing, electrical, and mechanical systems. Erosion control and sedimentation plans may be required with a building permit application and approved by the building inspector or authorized agent.

A fee to be set annually by the Building Inspector and or the Board of Selectmen, payable to the Town of Winchester is required with the issuance of each permit. When permits are not used within one (1) year from the date of issuance, application for a new permit must be made, and, if granted, will not entail the payment of a new fee.

All building permits are issued for a period of one year. All new construction shall be completed within 18 months of issuance of the permit unless the Selectboard has granted an extension.

Where applicable, it would be necessary to have received and to show proof of having received an "Approval of Construction" granted by the New Hampshire Department of Environmental Services, for the construction of any septic tank system or, where applicable, approval from the Board of Selectmen for municipal sewer connection before a building permit or permit to park a trailer or manufactured housing shall be issued.

- B. No more than one (1) building or structure shall be used for dwelling purposes on any single lot. (This paragraph shall not apply to Manufactured Housing Parks, Apartment Houses, Condominiums, or other multiple housing dwellings where their construction has been approved.)
- C. No owner or occupant of land shall permit fire, disaster, or condemned ruins to be left, but within one (1) year of the fire, disaster, or condemnation shall remove, rebuild or replace the structure where permitted by this ordinance. This time period may be extended by the Board of Selectmen in the event that insurance adjustment etc., create a hardship for the owner.
- D. Home Occupations. Home Occupations, as defined in Article XXI, shall be permitted in all districts, subject to the following conditions:

1. The use shall be conducted only on the premises of a single-family dwelling, and may be carried out in the dwelling or within a building or structure accessory to it.
 2. The use shall be carried out by a member or members of the family residing in the dwelling, and up to two outside employees.
 3. Other than one sign no larger than 6 square feet in area, there shall be no exterior display nor any change in the residential character of the property.
 4. Outside storage of materials or equipment is permitted only if it can be adequately screened from neighboring views.
 5. The use shall not generate traffic that is greater in volume than would normally be expected in the neighborhood, and in no case may traffic constitute a nuisance or hazard.
 6. For the purpose of this Ordinance, neither motor vehicle repair nor veterinary establishments are deemed to be home occupations.
- E. Building Inspector: The person who is appointed to issue permits, maintain permits and inspect all construction. If the Town does not have an appointed Building Inspector, then the Board of Selectmen shall be the Building Inspector.
- F. Building Code: The State Building Code(s) enumerated in RSA 155-A, as amended, Fire Prevention code, the Life Safety Code, (ICC)Property Maintenance Code, Private Sewage Disposal, Mechanical Code, Residential Codes, Plumbing Codes, and Electrical Codes as amended, adopted by reference as permitted by RSA 674:51, shall apply.
- G. Certificate of Occupancy: No structure, building or manufactured housing shall be occupied for any purpose without first securing a Certificate of Occupancy, following an inspection by the Building Inspector to confirm that all conditions of this ordinance have been met.
- H. Utility Connections: It shall be unlawful for any utility company to connect any service such as electricity, heater, gas, or sewerage disposal to any new structure, building or manufactured housing, or any replacement of the aforementioned structure, building or manufactured housing without first determining that the owner has procured a legal Certificate of Occupancy as defined in this Ordinance. Where circumstances require a utility connection as a necessary requisite to the construction of said structure, then the Building Inspector is empowered to issue a temporary permit for such temporary connection. Such a temporary permit shall be valid for thirty (30) days only, after which it may be renewed at the discretion of the Building Inspector.
- I. Junkyards; Unlicensed Vehicles; Equipment and Machinery
1. No junkyard is permitted within the Town of Winchester

2. "Junkyard" shall mean any place used for storing and keeping, or storing and selling, trading, or otherwise transferring more than one unregistered and uninspected motor vehicle, motor vehicle parts, scrapped or secondhand machinery or equipment, metals, debris, waste, trash, used wood and building materials or other waste or discarded or secondhand materials.
3. Motor vehicles, equipment or machinery may be displayed for the purpose of sale. This includes but is not limited to, trailers, boats, snowmobiles, farm and construction equipment. No more than one vehicle or piece of equipment or machinery may be displayed for sale at any given time.
4. Any junkyard which was licensed to operate in the Town of Winchester prior to the adoption of this Ordinance may continue to operate, so long as such license is properly renewed, annually by the Board of Selectmen, and the junkyard is operated in compliance with RSA 236:90-129. The Board of Selectmen may attach such reasonable conditions to any license so as to ensure that the public health, safety and welfare are protected.

J. Multiple Housing and Density Requirements: Lot size for duplex, multi-family units and conversion apartments shall be as follows:

1. Duplex units, where permitted increase lot size by 50% over the lot size required for a single-family unit.
2. Multi-Family units:
 - (a) In areas served by sewer and water:
 - ◆ Minimum lot size - 40,000 square feet
 - ◆ Minimum lot area per dwelling unit - 10,000 square feet.
 - (b) In areas not served by sewer and water:
 - ◆ Minimum lot size - 80,000 square feet
 - ◆ Minimum lot area per dwelling unit - 20,000 square feet
 - ◆ Number of units - the number of units permitted on a lot is calculated by dividing the size of the lot by 20,000 square feet per dwelling unit.
3. Conversion apartments:
 - ◆ Minimum lot area per dwelling unit - 10,000 square feet.
 - ◆ Maximum number of conversion units per residential structure shall not exceed six (6) units.
4. Accessory Dwelling Units

(a) Permitted by right in all districts for the purpose to expand housing opportunities and flexibility in household living while maintain aesthetics and residential use compatible with the neighborhood.

(b) Defined as a residential living unit that is appurtenant to a single family dwelling that is clearly incidental and subordinate to the primary dwelling which may be contained within, attached or within an accessory building, only if the accessory

building is clearly accessory such as a garage or barn in which the deed is inseparable from the primary dwelling.

(c) One of the units shall be owner occupied.

(d) Only one accessory dwelling unit is allowed per lot.

(e) The unit shall meet all minimum housing requirements listed in “K” below.

(f) The unit shall be a maximum of 750sqft. Attached ADU’s shall have an interior lockable door between the units.

(g) No more than two bedrooms are permitted.

(h) The unit shall conform to applicable building and life safety codes.

(i) Where municipal is not provided, the septic system shall meet the NHDES septic requirements.

(j) The building shall meet all setback requirements of the district.

(k) Mobile homes, RV’s and manufactured housing shall not be used as an accessory dwelling unit.

(l) It is clearly the intent of this use that the accessory unit shall never be permitted to be subdivided in the future.

K. Minimum Housing Requirements;

1. Each dwelling unit shall have separate and complete kitchen, living and sleeping areas, and bathroom facilities.
2. All single family homes shall be at least 800 square feet in size.
3. Each unit shall have a safe and proper means of ingress and egress.
4. 20% of the calculated living space will be allocated for outside recreation area. Excluding the parking area.
5. Each dwelling unit shall have two (2) off-street parking spaces.
6. All apartments shall be at least 400 square feet in size

L. All side and rear setback areas shall remain undisturbed as natural or appropriate landscaped vegetation.

M. Yard Sales

Yard, tag, garage sales may be held a maximum of 15 days per calendar year.

N. Backlot Development

Within the Rural Residential and Agricultural Districts, one back lot may be created on a parcel of land that has sufficient acreage for at least two lots in the district providing the following conditions are met:

1. The backlot shall have at least a 50-foot owned access to the property. There shall be a buffer area within the 50-foot access of 15 feet on either side, providing privacy and screening from abutters.
2. The area of the access shall not be included in the minimum lot calculation.
3. The access shall extend a minimum of 200 feet back from the road.
4. The plans identifying such lots shall clearly indicate the private character and the ownership status, of the right-of-way and shall be so recorded on the plans and on the deeds to all lots.
5. All respective lot owners shall be required to sign a maintenance agreement, if applicable, for common driveways.

The creation of backlots is not intended to circumvent the zoning ordinance or the subdivision regulations; therefore, the Planning Board in its discretion may deny requests when the necessary frontage for standard subdivision is available, or when the land could be reasonably developed in another way.

O. Senior Housing: Senior Housing (as defined in Article XXI) is permitted in all districts, by Special Exception of the Board of Adjustment, subject to Article XVI, B. 2(i) and B.2(ii) and may contain one or more units per building subject to the lot size and density requirements of multi-family housing as specified in Article III, J.

P. Uncommon multiple usages of a property will require a Special Exception.

Q. Temporary Housing: Temporary Housing shall be allowed in all districts with the following provisions: a) Temporary Housing may be permitted for up to one year; b) Temporary Housing may be a manufactured home or an RV; c) Approved water and septic must be present on site; d) Temporary Housing shall be permitted for housing after a fire or another disaster; e) Temporary Housing shall be permitted when building primary residence; and f) Temporary Housing will not be permitted when another abode is on the same lot.

R. All dumpsters shall be placed or screened from public view.

1. Purpose: To regulate the placement of dumpsters or roll offs in all districts so as not to create nuisance or unsightly conditions to the general public.
2. Dumpster: A commercially designed large metal, or other material, container for refuse that has a closeable lid and/or slide doors.

3. Placement:

A. All dumpsters shall be placed in accordance with the setback requirements of the district. All placements shall be approved by the Town of Winchester Code Enforcement Officer. If determined by the officer the setback requirements cannot be met, the officer shall have the authority to determine suitable placement.

B. Where approved by the Town of Winchester Code Enforcement Officer, any dumpster visible to the public shall be screened by evergreens, fencing, concrete, brick or other material approved by the Code Enforcement Officer.

4. Use of dumpsters or roll offs: no hazardous waste will be stored in dumpsters or roll offs.

5. Temporary dumpsters or roll offs: Dumpsters and roll offs are allowed for temporary use for disposal of construction and demolition debris for a period of up to 90 days. Placement standards are waived for temporary dumpsters, but an approval shall be issued by the Code Enforcement Officer for placement of the temporary dumpster or roll off.

6. Compliance: All property owners with existing dumpsters shall have six months to comply with the above terms.

S. A Major subdivisions of 4 or more lots, on 10 or more acres in the Residential or Agricultural districts will be required to abide by the Planned Residential Development Regulations.

SITE PLAN REVIEW:

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 re-subdivision of the site, shall be subject to review and approval by the Planning Board, pursuant to its Site Plan Regulations.

SUBDIVISION:

The division of the 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, condominium conveyance, or building development shall be subject to review and approval by the Planning Board pursuant to its subdivision regulations. A subdivision includes re-subdivision. A division of a parcel of land held in common and subsequently divided into parts among several owners shall be deemed a subdivision. The grant of an easement in gross to a public utility for the purpose of replacing 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 unstaffed structure which is less than 500 square feet, shall not be construed as a subdivision, and shall not be deemed to create any new division of land for any other purpose.

The rent, lease, development, or grant of an easement to a person for the purpose of placing and maintaining a wireless communications facility shall not be construed as a subdivision, and shall not be deemed to create any new divisions of land for any other purpose. For the purpose of this paragraph, "wireless communication facilities" means any towers, poles, antennas, or other unstaffed structure of less than 500 square feet

intended for use in connection with licensed transmission or receipts of radio or television signals, or any other licensed spectrum- based transmissions or receptions.

- T. One RV may be permitted on a lot with an existing dwelling so long as it is not used for occupancy or as a dwelling in excess of three weeks a year between April 1st and Nov. 1st with approval of the Building Inspector/Health Officer to confirm water, sewer and electrical are in accordance with applicable codes. One RV may be permitted on a lot without a dwelling between April 1st and Nov. 1st with approval of the building Inspector/Health Officer to confirm water, sewer and electrical are in accordance with applicable codes.
- The intent of this is not to limit or prohibit intermittent or casual use of RV's, but is intended to prevent long term or permanent occupancy of RV's which is violation of this ordinance. All RV's shall be registered and inspected in accordance with state laws to confirm they are road worthy.

ARTICLE IV

AGRICULTURAL DISTRICT

- A. Purpose: The Agricultural District encompasses the outlying parts of town that are not served by municipal water and sewer and areas along the primary highways in Town. It is intended to be a district of larger-lot residential dwellings, complimented by rural/ agricultural uses. Certain non-residential uses are permitted that are deemed compatible with the rural character of the district.
- B. Uses Permitted: In the Agricultural District, no buildings shall be erected, altered, used or placed and; no land shall be used for any purpose except in accordance with Article XXII – Table of Permitted Uses.
- C. Minimum Lot and Yard Standards:
- | | |
|-------------------|-------------------|
| Lot size= 2 acres | Setbacks: |
| Frontage= 200 ft. | Front= 30 ft. |
| Depth= 100 ft. | Side/Rear= 20 ft. |

ARTICLE V

RESIDENTIAL DISTRICT

- A. Purpose: The Residential District is intended to preserve a predominantly single family residential character that promotes neighborhood integrity and quality of life.
- B. Uses Permitted: In the Residential District, no buildings shall be erected, altered, used or placed and; no land shall be used for any purpose except in accordance with Article XXII – Table of Permitted Uses.
- C. Minimum Lot and Yard Standards:
- | | |
|--|-----------|
| Lot Size= 1 acre without water and sewer | Setbacks: |
|--|-----------|

15,000 sqft with town water/sewer front= 30ft.
Frontage=100ft. Side/Rear=10ft.
Depth= 100ft.

ARTICLE VI

RURAL RESIDENTIAL DISTRICT

- A. Purpose: The Rural Residential District encompasses the outlying parts of town that are not served by municipal water & sewer and areas along the primary highways in Town. It is intended to be a district of larger-lot residential dwellings, complimented by rural/ agricultural uses. Certain non-residential uses are permitted that are deemed compatible with the rural character of the district.
- B. Uses Permitted: In the Rural Residential District, no buildings shall be erected, altered, used or placed and; no land shall be used for any purpose except in accordance with Article XXII – Table of Permitted Uses.
- C. Minimum Lot & Yard Standards:
- | | |
|------------------|------------------|
| Lot size= 1 acre | Setbacks: |
| Frontage=200ft. | front= 30ft. |
| Depth= 100ft. | side/rear= 20ft. |

ARTICLE VII

CENTRAL BUSINESS DISTRICT

- A. Purpose: The Central Business District is hereby established to encourage and facilitate a balance of residential, public, and commercial uses at a scale appropriate to a small downtown. The intent of this provision is to create a healthy downtown, providing pedestrian as well as vehicular access to business.
- B. Uses Permitted: In the Central Business District, no buildings shall be erected, altered, used or placed, and no land shall be used for any purpose, except in accordance with Article XXII – Table of Permitted Uses.
- C. Minimum Lot and Yard Standards:
- | | |
|-------------------------------|---------------------|
| Lot Size = 10,000 square feet | Setbacks: |
| Frontage = 75 feet | Front = 10 feet |
| Depth =100 feet | Side/Rear = 10 feet |
- D. Standards: In order to encourage the type of commercial development deemed appropriate for the Town of Winchester, to discourage highway-oriented businesses, and to maintain the visual character and architectural scale of existing development in the downtown, the following provisions shall apply:

1. No building for commercial use shall have a footprint greater than 5,000 square feet.
2. Institutional uses proposed for the Central Business District shall be built to a scale that is consistent with the existing development in the downtown area.
3. The Planning Board may grant approval for a residence to be established in the same building as a business (e.g., upstairs or in the back of the building).

ARTICLE VIII

COMMERCIAL DISTRICT

- A. Purpose: The Commercial District is intended to provide opportunities for commercial development that is not suitable for the downtown area, in particular, uses that depend more on motor vehicle than on pedestrian traffic.

- B. Uses Permitted: In the Commercial District, no buildings shall be erected, altered, used or placed and; no land shall be used for any purpose except in accordance with Article XXII – Table of Permitted Uses.

- C. Minimum Lot and Yard standards:

Lot size= 35,000sqft without town water & sewer	Setbacks:
20,000sqft with town water & sewer	Front=20ft
Frontage= 150ft	Side/Rear= 10ft
Depth= 100ft	

- D. Standards: In order to encourage development that is visually attractive and enhances safe and efficient traffic patterns, the following provisions shall apply:
 1. The front setback is considered a “build to” line, so that parking can be accommodated on the side or the rear of the building.
 2. The Planning Board may grant approval for a residence to be established in the same building as a business (e.g., upstairs or in the back of the building).

ARTICLE VIII-A

COMMERCIAL/INDUSTRIAL SPECIAL USE DESIGNATION

- A. Authority and Purpose: Pursuant to RSA 674:21, this article is adopted to provide appropriate locations in Town that can accommodate large-scale commercial and/or industrial uses that are important for a balanced economy without negatively impacting existing or future residential neighborhoods.

The intent of this district is to encourage uses that can benefit from locations adjacent to major highways, as well as those that do not depend upon highway access for the

success of their business. At the same time, there is recognition of the importance of preserving the attractiveness of the highways leading into Town, but also the functional efficiency of these highways.

B. Procedure: The Planning Board shall receive any application for the uses listed below, following the procedures spelled out in the Winchester Subdivision and Site Plan Review Regulations. At that time the Board will determine if the proposed use(s) comply with Paragraph C below and the standards of Paragraphs D and E below. In the event the Board determines compliance with this section, a Special Use Permit will be granted. Any such proposal shall also be subject to Site Plan Review by the Planning Board.

C. Uses Permitted: Uses allowed by a Special Use Permit include: manufacturing plants; wholesale and storage facilities; shopping/retail centers; office/business parks.

D. Minimum Lot and Yard Standards:

Lot Size = 5 acres
Frontage = 500 feet on a Class II highway, or
A 100-foot wide access into the property from the Class II highway
for a distance of at least 200 feet
Setbacks:
Front = 100 feet from the edge of the public right-of-way, or
20 feet from an interior road
Side/Rear = 50 feet from abutting properties
20 from interior boundaries

E. Performance Standards:

1. A 30-foot vegetative buffer shall be established and maintained around the side and rear boundaries of the parcel, as deemed appropriate by the Planning Board during Site Plan Review. The front yard shall be landscaped. Vegetative criteria will be determined during Site Plan Review based on the activity of the parcel.
2. Only one access is allowed into the property from the public right-of-way.

ARTICLE IX

HIGHWAY COMMERCIAL DISTRICT

A. Purpose: The Highway Commercial District is intended to provide opportunities for commercial development that is not suitable for the downtown area, in particular, uses that depend more on motor vehicle than on pedestrian traffic.

B. Uses Permitted: In the Highway Commercial District, no buildings shall be erected, altered, used or placed and; no land shall be used for any purpose except in accordance with Article XXII – Table of Permitted Uses.

C. Minimum Lot and Yard Standards:

Lot Size = 5 acres	Setbacks:
Frontage = 500 feet	Front = 50 feet
Depth = 200 feet	Side/Rear = 25 feet

D. Standards: In order to encourage development that is visually attractive and enhances safe and efficient traffic patterns, the following provisions shall apply:

1. The front setback is considered a “build to” line, so that parking can be accommodated on the side or the rear of the building.
2. During Site Plan Review, the Planning Board will encourage the use of shared driveways, so as to minimize the impacts of numerous curb cuts along the highway.

ARTICLE X

FOREST LAKE OVERLAY DISTRICT

Forest Lake Overlay District is superimposed over the underlying Residential District and shall apply to the area around Forest Lake as designated on the Winchester Zoning Map, on file with the Town Clerk and the Planning Board.

A. Purpose: To provide protection to the lake through standards that are consistent with the New Hampshire Shorelands Protection Act (RSA 483-B), and also to acknowledge that a lakeside area that is already developed needs to make certain accommodations for the enjoyment and wellbeing of the residents of the area.

B. District Boundaries: The Forest Lake Overlay District shall apply to the are around Forest Lake that extends 1,000 feet inward from the lake, as shown on the Winchester Zoning Map, except for the land subject to the provisions of RSA 483-B (see Article X-A).

C. Uses Permitted: In the Forest Lake District, no buildings shall be erected, altered, used or placed and; no land shall be used for any purpose except in accordance with Article XXII – Table of Permitted Uses.

D. Minimum Lot and Yard Standards:

Lot size= 1 acre	Setbacks:
Frontage= 200ft	front=30ft
Depth= 100ft	side/rear= 10ft

F. Building Height: The maximum building height in the Forest Lake Overlay District shall be two (2) stories or 35 feet, measured at the vertical distance from the average finished grade surrounding the building to a point midway between the highest and lowest points of the highest roof.

ARTICLE X-A

SHORELAND PROTECTION DISTRICT

- A. Purpose: To establish standards for the subdivision, use and development of shorelands adjacent to public waters for the purpose of minimizing degradation of shorelands.
- B. District Boundaries: The Shoreland Protection District extends 250 feet inward from the normal high water mark of the following water bodies:
- ◆ Ashuelot River
 - ◆ Forest Lake
 - ◆ Spot Meadow Pond
 - ◆ Mirey Brook (from the Ashuelot River to Roaring Brook)
- C. Uses Permitted: All development within the boundaries of this district shall be subject to the provisions of RSA 483-B as follows:
1. Any activity that would alter the characteristic of 50,000 square feet of land area in such a way as to impede natural run-off requires an Alteration of Terrain permit from the NH Department of Environmental Services.
 2. Septic systems setbacks shall be dependent upon soil type: either 125, 100 or 75 feet from the public boundary line (defined as the mean high water level as determined by the Division of Water Resources).
 3. Septic system approval from the NH Department of Environmental Services shall be required for all newly created lots, even those of over 5 acres of area.

ARTICLE XI

FLOODPLAIN MANAGEMENT ORDINANCE

Pursuant to the authority of RSA 674:16, the Town of Winchester has adopted a Floodplain Management Ordinance, which can found under separate cover by this same name. The regulations in this ordinance 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 Cheshire, N.H." dated May 23, 2006 or as amended, which are declared to be part of this ordinance and are hereby together with the associated Flood Insurance Rate Maps dated May 23, 2006 and are hereby incorporated by reference.

ARTICLE XIII

MANUFACTURED HOUSING AND MANUFACTURED HOUSING PARKS

Upon adoption of this ordinance:

- A. No manufactured housing shall be located in the Town of Winchester except in an existing manufactured housing park, or in a Planned Residential Development in the Agricultural District in conformity with all applicable regulations in effect for that district.
- B. It shall be unlawful for any person to move manufactured housing into, out of, or within the Town of Winchester without first obtaining a permit from the Building Inspector. The hauler of such manufactured housing shall have the permit in his possession at the time of the move. The granting of such permit shall entail a fee which shall be set by the Board of Selectmen not to exceed \$100.
- C. All manufactured housing in the Town of Winchester must comply with the U.S. Department of Housing and Urban Development's Mobile Home Construction and Safety Standards of 1978, and any subsequent revisions thereto.

ARTICLE XIV

NON-CONFORMING USES

Any lawful use of land or buildings existing at the time of the passage of this Ordinance may be continued indefinitely, subject to the conditions listed below:

A. Non-Conforming Uses

- 1. A non-conforming use may not be changed to another non-conforming use. If a non-conforming use is superseded by a conforming use, the non-conforming use may not thereafter be resumed.
- 2. A non-conforming use may not be substantially expanded or enlarged; natural, but limited, expansion may be allowed, provided it does not have a substantially different impact on the neighborhood.
- 3. When any existing non-conforming use of land or buildings has been discontinued for one year, the land and buildings shall thereafter be used only in conformity with this Ordinance.

B. Non-Conforming Structures

- 1. When any non-conforming structure has been destroyed or damaged by fire or other casualty, it may be rebuilt or replaced to be used for the same purpose as the one prior to the casualty, provided that the cubic contents of the original structure are not exceeded, and that it occur within 12 months of the casualty.
- 2. A non-conforming structure may be altered or expanded by Special Exception, provided that the alteration or expansion does not encroach any more into the non-conforming direction than the existing structure. Expansion in a conforming direction is permitted.

3. There is nothing in these provisions to preclude routine maintenance and repairs, or the relocating of a non-conforming structure to a more conforming location on its lot.

C. Non-Conforming Lots of Record

In any district, a vacant lot which was a lawful lot of record at the time of the passage of this Ordinance may be developed for the uses permitted in that district, even though the lot does not conform to the area or frontage requirements of this Ordinance. The applicable requirements for yard setbacks and septic system approvals shall still apply.

ARTICLE XV

ENFORCEMENT

It shall be the duty of the Board of Selectmen, or its designee (the Building Inspector) to enforce the provisions of this ordinance.

Upon any well founded information that this Ordinance is being violated, the Board of Selectmen or its designee shall take immediate steps to enforce the provisions of this Ordinance by seeking injunctive relief, fines, penalties and attorneys fees.

Any person who violates any provision of this Ordinance, 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, or any permit issued by the town, shall be subject to a civil penalty of \$275 for the first offence, and \$550 for any subsequent offenses for each day that such violation is found to continue after notice has been provided to the violator.

In appropriate cases an appeal of such violation may be made to the Zoning Board of Adjustment as provided under RSA 674:33 or 676:5. Such appeal must be filed within 30 days of the date of notice of violation.

ARTICLE XVI

ZONING BOARD OF ADJUSTMENT

A. Creation:

A Zoning Board of Adjustment shall be created, under the provisions of RSA 673, for the purpose of reviewing applications for variances or exceptions to the Zoning Ordinance and deciding whether there is a legitimate reason for granting relief or exception to a specific provision, or provisions, or the Ordinance when requested. The Zoning Board of Adjustment is also granted the powers to hear the requests of Appeals from an Administrative Decision and an Equitable Waiver of Dimensional Requirements.

B. Powers of the Zoning Board of Adjustment:

1. Hear and decide appeals from administrative decisions.

The Board shall hear and decide appeals where or if it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement thereof or any Ordinance adopted pursuant thereto.

2. (i). Grant Special Exceptions:

The Board may, in appropriate cases and subject to appropriate conditions and safeguards as determined by the Board, grant a permit for a Special Exception. The Board, in acting on an application for a Special Exception, shall take into consideration the following conditions:

- (a) The proposed use shall be permitted in the District.
- (b) The specific site is in an appropriate location for such a 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 and appropriate facilities will be provided for the proper operation of the proposed use.
- (f) The proposed use shall comply with all frontage, setbacks, minimum land area, sanitary protection, signs and parking requirements for itself or its most similar use, except where specifically named by the Board, the reasons for such waiver to be set forth in writing by the Board.
- (g) All Special Exceptions granted by the Board shall be valid for a period of two (2) years only and may thereafter be renewed only after a rehearing and approval by the Board, unless the permittee has actually engaged in the use for which the application was made within two (2) years from the date of approval. The Special Exception will expire after a two (2) year period of non-use unless the permittee obtains approval by the Zoning Board of Adjustment to renew the Special Exception for another two (2) years or has achieved substantial improvements of said property.

2. (ii). Guidelines - Granting Specific Special Exceptions: Senior Housing

The Board of Adjustment may grant special exceptions for the following activities, provided the conditions of Paragraph 2(i) above are met, in addition to the following conditions:

- (a) The review of any proposal for senior housing shall recognize the desirability of locating such developments as close as possible to pertinent support services, including shopping, places of worship, libraries, etc.

- (b) When the development is proposed either within existing buildings or new construction, certain lot, yard, and setback requirements may be waived provided there is no resulting threat to public welfare or safety.
- (c) A vehicle drop-off area may be permitted within the required front yard setback to facilitate physical needs of the elderly.
- (d) The maximum allowable dwelling units per building will be determined based on septic capability and the impact on existing land uses in the area.

3. Grant Variances:

The ZBA is authorized, upon appeal in specific cases, to grant a variance from the Zoning Ordinance consistent with the state statute RSA 674:33.

ARTICLE XVI-I

IMPACT FEES

A. PURPOSE:

- 1. This ordinance is enacted pursuant to RSA 674:16 and 674:21, and in order to:
Promote public health, safety, convenience, welfare, and prosperity;
- 2. Ensure that adequate and appropriate facilities are available to individuals who may come to be located in the Town of Winchester, New Hampshire;
- 3. Prevent scattered or premature development 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;
- 4. Provide for the harmonious development of the municipality and its environs;
- 5. Ensure the proper arrangement and coordination of streets; and,
- 6. Ensure streets of sufficient width to accommodate existing and prospective traffic.

B. AUTHORITY

- 1. The Planning Board may, as a condition of approval of any subdivision or 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.
- 2. 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.

C. ASSESSMENT METHODOLOGY:

1. 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.
2. 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.

D. ADMINISTRATION:

1. 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 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 which the fee was collected to meet.
2. 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.
3. Security: In the interim between assessment and collection, the Planning Board 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 assessed impact fees.
4. 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.
5. 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:

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

When such approval is revoked under RSA 676:4-a; OR

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

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.

E. APPEALS:

All appeals of the decision of the Planning Board in administering this ordinance are made to Superior Court, as provided in RSA 677:15.

F. DEFINITIONS:

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. This includes and is 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.

G. EFFECTIVE DATE:

This ordinance was adopted by the Legislative Body of the Town of Winchester, New Hampshire, acting at its duly warned annual meeting on March 9, 2004.

ARTICLE XVII

AMENDMENTS

A. This Ordinance may be amended by a majority vote of any legal Town Meeting. Such amendment shall have at least one (1) public hearing. After the first public hearing the Planning Board shall consider all proposed amendments and shall vote to accept or reject them. If such amendments are substantively altered by the Planning Board after the public hearing, then subsequent public hearings shall be held at least

fourteen (14) days after the prior public hearing and with such notice as provided in RSA675:7. The notice of subsequent public hearings must contain the amendments accepted by the Planning Board. At least fifteen (15) days notice of the time and place of each such public hearing shall be published in a paper of general circulation in the town and notice thereof shall also be posted in at least three (3) public places.

- B. Upon petition of twenty-five (25) voters for an amendment to the Zoning Ordinance, the Planning Board shall proceed with the hearings and submit the amendment to the voters of the Town.
- C. The amendment or amendments shall be placed on the official ballot of the Town Meeting, following the procedure as outlined in the statute.

ARTICLE XVIX

SAVINGS CLAUSE

The invalidity of any provision of this Ordinance shall not affect the validity of any other provision. In any case where a provision of this Ordinance is found to be in conflict with a provision of any Ordinance or code of the Town of Winchester existing on the effective day of the Ordinance, the provision which established the higher standards for the promotion and protection of the health and safety of the people shall prevail.

ARTICLE XX

EFFECTIVE DATE

This Ordinance shall take effect upon its passage.

ARTICLE XXI

DEFINITIONS

- A. Accessory Building or Use means a use of, or detached building which is subordinate to the main use or building and located on the same lot with the main building or use, the use which is customary incidental to that of the main building or to the use of the land. If an accessory building; these may include any structure designed to be more or less permanent for the use as a storehouse or shelter for animals, vehicles or personal property. These uses shall be commonly, habitually and by a long practice established as reasonably associated with the primary use.

- B. Apartment – see “Dwelling, Multi-Family.”
- C. Assisted Living Residences means state-regulated rental properties that provide the same services as independent living communities but also provide, in a majority of the units, supportive care from trained employees to residents who are unable to live independently and require assistance with activities of daily living including management of medications, bathing, dressing, toileting and eating. These properties may have some nursing beds, but the majority of units are licensed for assisted living. Many of these properties include wings or floors dedicated to residents with Alzheimer’s or other forms of dementia. A property that specializes in the care of residents with Alzheimer’s or other forms of dementia that isn’t a licensed nursing facility should be considered assisted-living property.
- D. Building Inspector means the appointed person who issues permits, maintains permits and inspects all construction. If the Town does not have an appointed building inspector then the board of Selectmen shall fill that position.
- E. CCRCs (Continuing Care Retirement Communities) means age restricted properties that include a combination of independent living, assisted living and skilled nursing services (or independent living and skilled nursing) available to all residents all on one campus. Resident payment plans vary and include entrance fee, condo and rental programs. The majority of the units are not licensed skilled nursing units.
- F. Certificate of Occupancy means a certificate issued by the Building Inspector attesting to the fact that new construction or development complies with this Ordinance and any building codes which may be adopted by this Town.
- G. Conversion Apartment means the remodeling of a single family dwelling unit into two or more separate dwelling units, or the conversion of an existing two-family dwelling unit into three or more separate dwelling units.
- H. 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 and installation of waste disposal systems.
- I. Dwelling Unit means any room or suite of rooms forming a habitable unit for one (1) family with its own cooking and food storage equipment, and

its own bathing and toilet facilities, and its own sleeping, living, and eating areas fully within such room or suite of rooms.

- K. Dwelling, Two Family means a structure on a single lot containing two dwelling units, either side by side or upstairs and downstairs, each unit being totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, and having a separate entrance for each unit; or two one-family dwellings attached by a common vertical wall or a garage.
- L. Dwelling, Multi-Family means a building containing three (3) or more dwelling units designed to be occupied as independent units, with each unit having its own exterior door or entrance.
- M. Front Yard means a space extending for the full width of a lot between the extreme front line of a building and the nearest side of the right-of-way.
- N. Frontage: The contiguous distance along the lot line dividing a lot from either (a) public highway, excepting limited access highways as defined in RSA 230:44 and Class VI highways; or (b) a road shown on an approved and recorded subdivision plan.
- O. Home Occupation means an accessory use to a portion of a dwelling unit involving the manufacture of, provision or sale of goods and/or services. The use shall be clearly incidental and secondary to the primary use of the dwelling for residential purposes, and does not change the character thereof or adversely affect the uses permitted in the zoning district in which it is a part.
- P. Lot of Record means land designated as a separate and distinct parcel in a legally recorded plan filed in the records of Cheshire County, New Hampshire.
- Q. Manufactured Housing means any structure, transportable in one or more sections which, in the travelling mode, is eight (8) body feet or more in width and forty (40) body feet or more in length, or when erected on a 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.

R. Manufactured Housing Park means a plot of ground of not less than 15 acres on which two or more manufactured housing units occupied for dwelling or sleeping purposes are located.

S. Manufactured Housing Space means a plot of ground within a manufactured housing park designated for the accommodation of one manufactured housing unit.

T. Nonconforming means, for the purpose of this Ordinance, 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.

U. Nursing Homes means a licensed daily rate or rental properties that are technically referred to as skilled nursing facilities or nursing facilities where the majority of individuals require 24-hour nursing or medical care. In most cases, these properties are licensed for Medicaid or Medicare reimbursement. These properties may include a minority of assisted-living units, such as for Alzheimer's patients.

V. Permit means a written permit issued by the Building Inspector and permitting the user to operate under this Ordinance.

W. Place of Assembly means the use of a building or structure, or a portion thereof, for the gathering together of persons for purposes such as civic, social or religious functions, recreation, food or drink consumption or awaiting transportation. A room or space used for assembly purposes by less than 50 persons and accessory to another occupancy shall be included as part of that occupancy. Use and occupancy classifications are as defined by the State Building Code, and are incorporated here by reference.

X. Right-of-Way means and includes all Town, State, and Federal highways, rights-of-way dedicated to public use, and the land on either side of the same, as covered by statutes to determine the widths of the right-of-way.

Y. Senior Housing means a building or group of buildings containing dwellings where the occupancy of the dwellings is restricted to persons 55 years of age or older, or couples where either partner is 55 years of age or older. This housing does not include convalescent or nursing facilities, but may include a congregate meal site and other areas for group resident activities.

1. Active Adult Communities:

Single-family homes, townhouses, apartments, cluster homes, mobile homes and condominiums with no specialized services, restricted to adults 55 and older or couples where one partner is 55

years of age or older. Residents generally lead an independent lifestyle; projects aren't equipped to provide increased care as the individual ages. It may include amenities such as clubhouse, golf course and recreational spaces. Outdoor maintenance is normally included in the monthly homeowner's association or condominium fee.

2. Independent Living Communities:

Age-restricted multifamily rental properties with central dining facilities that provide residents, as part of their monthly fee, access to meals and other services such as housekeeping, linen service, transportation and social and recreational activities. Such properties do not provide, in a majority of the units, assistance with activities of daily living such as supervision of medication, bathing, dressing, toileting, etc. There are no licensed skilled nursing beds in the property. The term "congregate care," which is also used to describe these kinds of properties, was dropped by these groups.

Z. Recreational vehicles (RV"s): The following shall be considered a RV:

1. Travel Trailer:

A towable, portable structure built on a chassis designed as a temporary dwelling for travel, recreation and vacation.

2. Pickup Coach:

A structure mounted on a truck chassis for use as a temporary dwelling for travel, recreation and vacation.

3. Motor Home:

A portable, temporary dwelling to be used for travel, recreation, and vacation, constructed as an integral part of a self-propelled vehicle.

4. Camping Trailer:

A canvas folding structure mounted on wheels and designed for travel, recreation and vacation use.

AA. Yard Sales means a sale on residential property of normally used and/or unneeded household articles and goods, usually conducted by residents of the dwelling where the sale is held. By definition, such a sale is

accessory and secondary to the principal residential use of the property and therefore may not become continuous in nature or be expanded to such a point that it becomes a nuisance to neighbors or create traffic hazards.

- BB. Lodging means a place whose primary business is the rental of rooms or suites, without cooking facilities other than a microwave and refrigerator, and/or beverage heating units, to the public for a short term overnight accommodations. Included in this definition are such hospitality establishments as hotels, motels inns, bed and breakfasts, tourists homes and guesthouses. Additional services may include meals, functions and indoor/outdoor recreation.
- CC. Cemeteries means land used or dedicated to the burial of the dead, which includes as accessory structures mausoleums, columbariums, and maintenance facilities, but specifically excludes crematoriums.
- DD. Seasonal Camps means a detached dwelling unit which is not the primary residence of the owner or occupant and/or is occupied only on a part time or seasonal basis, such as a hunting or summer camp. This definition shall include, but may not be limited to: a dwelling which lacks one or more of the basic amenities, services or utilities required for year-round or all weather occupancy, including but not limited to winterizing plumbing system, insulated walls and roof, heating source, or adequate water or wastewater disposal systems. The purpose is not intended as a permanent residence.
- EE. Restaurant is an establishment which prepares and serves food and drink to customers in return for money. Meals are generally served and eaten on premises, but many restaurants also offer takeout and delivery service.
- FF. Agriculture, farm and farming is defined as per RSA 21:34-a, which includes the definition of Agritourism. Agritourism does not include wedding venues, concert areas, amusement parks, event venues, farmers markets and other non farming commercial uses. Uses that are not considered normal and customary would be subject to approvals from the land use boards.
- GG. A duplex is two dwelling units under one roof, or sharing of a common wall, with separate utilities, usually of similar size and occupied by two separate families independent of each other.

ARTICLE XXII

TABLE OF PERMITTED USES
(AMENDED 3/12/13)

In each District, as established by ARTICLE II, entitled "Districts", the use of land, buildings and structures shall be regulated as provided in this Article, and as provided elsewhere in this Ordinance. The District designations, as shown at the top of each table, are as follows:

CBD	indicates Central Business District	FL	indicates Forest Lake Overlay District
RES	indicates Residential District	CM	indicates Commercial District
RR	indicates Rural Residential District	HC	indicates Highway Commercial District
AG	indicates Agricultural District	FLP	<i>(Deleted 3/12/13)</i>

1. Permitted Uses:

Any use identified by the letter "P" shall be permitted, subject to the requirements of this Ordinance.

2. Special Exceptions:

The granting of a permit for any use identified by the letters "SE" may be authorized by the Zoning Board of Adjustment in accordance with the provisions of Article XVI, subject to any conditions or limitations specified therein.

3. Uses Not Permitted:

No building, structure, or land in any District may be used, erected, or designated to be used, in whole or in part, for any use identified by the letters "NP", except for nonconforming uses, which may be continued under the provisions of Article XIV (Nonconforming Uses).

4. Uses Subject to Other Regulations

Special Exceptions and permitted uses shall be subject to, in addition to use regulations, such regulations of height, area, yard setback, lot size and area, lot width, provisions for off-street parking, and to such other provisions as are specified in other sections hereof.

TABLE OF USE REGULATIONS

	CBD	RES	RR	AGR	FL	CM	HC	old section #, prior to 2013
RESIDENTIAL								
Single family & Duplex	P	P	P	P	P	SE	SE	A1,2
Multifamily	P	P	NP	SE	NP	NP	NP	A3
Manufactured Housing	NP	NP	NP	P***	NP	NP	NP	A1,b
Senior Housing, subject to conditions	SE	SE	SE	SE	SE	SE	SE	Pg.17
Planned Residential Development (PRD)	NP	P	NP	P	NP	NP	NP	Pg. 40
Assisted living/Nursing Facility/CRC	SE	SE	SE	P	NP	P	SE	B6
Seasonal camps	NP	NP	NP	SE	NP	NP	NP	NEW
LODGING								
Hotel, motel, BB, Inns, cabins	P	SE	SE	P	SE	P	P	A5
Campground	NP	NP	SE	P	SE	NP	SE	Pg.56
EDUCATIONAL, INSTITUTIONAL, RECREATIONAL								
Licensed daycare in a home	P	P	P	P	P	P	P	NEW
Private schools	P	P	P	P	P	P	P	B1
Place of Worship	P	P	P	P	P	P	P	B4
Government Buildings & Parks	P	P	P	P	P	P	P	C1,2,D3,4,F6
Medical Facility	P	SE	SE	SE	NP	SE	P	B5,6
Public Utility/Telecommunications****	P	P	P	P	P	P	P	D1, pg.62
Indoor amusement/recreation/sport	P	SE	SE	P	NP	P	P	B3,C5,E3
Outdoor amusement/recreation/sport	SE	NP	NP	SE	NP	P	P	C4,G4
Comm. Motorsport facility/racetracks	NP	NP	NP	NP	NP	NP	SE	4a
Private club or lodge	P	NP	NP	P	NP	P	SE	C3

Schools include commercial daycare centers

Indoor Amusements include but not limited to; theaters, arcades, fitness, museum, bowling, sporting events.

Outdoor Amusements include but is not limited to; mini golf, amphitheater, golf courses, various athletic areas, excluding motorsports.

***Manufactured housing is permitted in existing mobile home parks and PRD's.

**** Telecommunication facilities are not permitted the Historic District Overlay

Senior Housing is subject to Article XVI, B. 2(i) &2(ii), and Article III, J

BUSINESS	CBD	RES	RR	AGR	FL	CM	HC	old section
Home Occupations excluding Veterinarian & auto repair, subject to conditions	P	P	P	P	P	P	P	Pg. 5
Restaurants, Function halls	P	SE	SE	SE	SE	P	P	E2,8
Consumer services	P	SE	SE	P	NP	P	P	E1,4,5,6,9,10
Business/Professional Office	P	SE	SE	SE	NP	P	P	F1,2,4
Light Manufacturing/industrial	NP	NP	NP	SE	NP	P	P	J1
Large Manufacturing/industrial	NP	NP	NP	SE	NP	P	P	J1
Drive thru's	SE	NP	NP	NP	NP	P	P	G2
Outdoor sales	SE	NP	NP	SE	NP	SE	P	G2,3
Veterinarian, all indoors	P	SE	SE	P	P	P	P	F5
Veterinarian w/outdoor facilities	NP	NP	SE	P	NP	SE	P	E7,
Auto repair	P	NP	NP	SE	NP	P	P	I3
Gasoline sales	P	NP	NP	NP	NP	P	P	I1

OTHER	CBD	RES	RR	AG	FL	CM	HC	Old section
Adult oriented business, subject to conditions	NP	NP	NP	NP	NP	SE	NP	Pg. 70
Small windmills	P	P	P	P	P	P	P	Pg. 79
Sawmills, forestry products manufacture	NP	NP	NP	SE	NP	SE	SE	J2
Earth excavation, crushing w/300ft setback	NP	NP	SE	SE	NP	SE	SE	L2b
Commercial kennels & stables	NP	NP	SE	P	NP	SE	P	F5
Agricultural, including sales of produce	P	P	P	P	P	P	P	K1
Keeping of Livestock	NP	P**	P*	P*	P**	SE	SE	K2
Cemeteries	NP	NP	P	P	NP	P	SE	B7
Crematoriums	NP	NP	NP	SE	NP	SE	SE	NEW
Open lot storage of junk, scrap, paper, 2nd hand lumber, metal, car parts, other used building material, rags, discarded or dismantled motor vehicles, inoperable unusable machinery or materials and scrap.	NP	NP	NP	NP	NP	NP	NP	H4
To prohibit in all districts the construction, operation or maintenance of facilities designed to process, recycle, incinerate, store, treat, transport or dispose of solid waste, refuse and putrescible materials as defined in RSA 149-M as amended, including sludge from waste treatment works, septic, sewage, or ash resulting from the incineration of the foregoing other than at a facility owned & operated by the Town of Winchester. Storage of household & commercial waste generated on site pending removal to a waste disposal facility & recycling of waste produced on site or collected by a volunteer organization is permitted.	NP	NP	NP	NP	NP	NP	NP	J3
Open lot storage access. to a business	NP	NP	NP	NP	NP	SE	SE	H2
Open lot storage of sand, coal, aggregate and other similar materials.	NP	NP	NP	SE	NP	NP	NP	H3
Bulk storage of flammable or explosive materials, excluding gas stations. w/ a setback of 200ft from an abutting structure.	NP	NP	NP	SE	NP	SE	SE	new
Wholesale business and storage in a roofed structure excluding flammable/explosive products	NP	NP	NP	NP	NP	SE	NP	H1
Comm. Greenhouse/nursery	P	SE	SE	P	P	P	P	G1
Motor freight terminals w/>150' setback from Residential property	NP	NP	NP	SE	NP	SE	SE	I2
Accessory uses to a permitted landuse	P	P	P	P	P	P	P	L1a

Outdoor sales is the retail commercial display of, but not limited to: autos, boats, trailers, equipments, motosport vehicles

* A minimum of one acre is required for two or fewer animals; for three or more, a land to animal ratio must follow the recommendations of the NH Agricultural Best Management Practices and the UNH Housing and Space Guidelines for Livestock.

** A minimum of two acres is required with the same recommendations as above.

Consumer services are retail stores, beauty parlors, printing shops, laundry, grocery, convenience and other similar stores.

Open lot storage accessory to a business includes new building material, contractor equipment and tools.

The town has an Aquifer Protection District that overlays parts of each district listed. Please refer to the separate ordinance to verify certain restrictions and conditions on some uses.

The town has a Floodplain District which affects various areas of the town. Please refer to the separate ordinance to verify any restrictions of uses.

AQUIFER PROTECTION DISTRICT
(ADOPTED MARCH 9, 2004)

SECTION 1. PURPOSE AND AUTHORITY

Pursuant to the authority granted under RSA 674:21, the Town of Winchester hereby adopts the following regulation. The purpose of this ordinance is in the interest of public health, safety and general welfare, to protect, preserve and maintain existing and potential groundwater supply and groundwater recharge areas within the known aquifer from adverse development, land use practices or depletion. This is to be accomplished by regulating the uses of land over certain known aquifers and their recharge areas so as to protect them from contamination caused by adverse or incompatible land use practices or developments. The Aquifer Protection District 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.

SECTION 2. DISTRICT BOUNDARIES

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 United States Geological survey and shown on the Winchester Aquifer Map titled “Saturated thickness and transmissivity of stratified drift aquifers in the lower Connecticut River Basin, Southwestern New Hampshire”. 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. The Aquifer Protection Overlay does not apply to central business district.

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 properly be located. At the request of the owner(s), the Planning Board may engage a professional geologist, hydrologist, or soil scientist to determine more accurately the location and extent of an aquifer area, 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.

SECTION 3. 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. Outside, unenclosed storage of road salt.
- c. Automotive service and repair shops and car washes, unless they are operated in accordance with New Hampshire State Statutes, rules and regulations governing such uses.

- d. Junk and salvage yards.
- e. Subsurface storage of petroleum and other hazardous materials.
- f. Dumping of snow containing de-icing chemicals brought from outside the Aquifer Protection District.
- g. All on site handling, disposal of liquid or leachable non-human wastes, storage, processing or recycling of hazardous, toxic materials or wastes, unless they are operated in accordance with New Hampshire State Statutes, rules and regulations governing such uses.
- h. Land uses that will render between 15% and 25% of the parcel covered with pavement, roofing or other material impervious to surface water will require a special exception.
- i. Industrial uses which discharge contact, type process waters or other wastes on site.
- j. On site disposal, bulk storage, processing or recycling of toxic or hazardous materials or wastes.
- k. Dry cleaning establishment.
- l. Bulk fuel storage yards.

SECTION 4: PERMITTED USES

The following uses will 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 system.
- b. Industrial uses that discharge only non-contact cooling water.
- c. Activities designed for conservation of soil, water, plants and wildlife.
- d. Recreation- Aquifer areas may be used for recreation purposes such as biking, hunting, cross country skiing, tennis courts, recreation fields, parks and motorized and non-motorized activities which pose no threat of contamination or pollution of the ground water.
- e. Development- low-density, single-family residential development is permitted, subject to special conditions listed under “conditional uses” after detailed on-site investigation determines that sewage disposal systems and access roads can be constructed and maintained without contamination of the ground water or diminishing the recharge capability of the aquifer.
- f. Maintenance and repair of any existing structure.

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- g. Farming, gardening, nursery, forestry, harvesting and grazing provided that fertilizers, herbicides, pesticides, manure, and other leachables are used appropriately and not stored outdoors and are 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 Cheshire 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 Department of Environmental Services or as recommended by the Cheshire 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 Cheshire County Soil Conservation District.

SECTION 5: CONDITIONAL USES

- a. **SPECIAL CONDITIONS-** The minimum lot size in the aquifer Protection District is three (3) acres, or four (4) acres for a two family dwelling. If serviced by town water and sewer, lot size is as permitted in the underlying district.
- b. **APPROVAL REQUIRED-** All subdivision proposals and other development proposals located within the Aquifer Protection District shall be reviewed by the Planning Board and shall conform to the provisions of this ordinance. No conditional uses shall be conducted within an Aquifer Protection District unless a Permit has been issued by the Planning Board. The Planning Board is hereby authorized to attach any reasonable conditions to such permit regarding construction and operation.

Conditional uses shall include but are not limited to:

1. Industrial, commercial, institutional and governmental uses not otherwise prohibited in Section 3 of this Ordinance.
2. Multi-family residential development. Minimum lot size is two acres per unit. If serviced by town water and sewer, lot size is as permitted in the underlying district.
3. Sand and gravel excavation carried out in compliance with the Town of Winchester's Regulations Governing Earth Excavations including any subsequent amendments, provided that such excavation is not carried out within 6 (six) vertical feet of the seasonal high water table and that periodic inspections are made by the Planning Board or its agent to determine compliance.
4. Replacement of underground petroleum product storage tanks.

5. Animal feedlots and manure storage facilities provided the applicant consults and complies with the Cheshire County Conservation District guidelines before such uses are established, and follows their recommendations.
6. Land uses that render between 15% and 25% of the parcel covered with pavement, roofing or other impervious materials will require a special exception.

SECTION 6: STANDARDS

All subdivision proposals, proposed new developments and conditional uses 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 Winchester and the following:

- a. All such proposals are consistent with the need to protect the groundwater of the Town of Winchester and adjacent communities.
- b. 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.
- c. 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.
- d. Written approval of the State of New Hampshire Department of Environmental Services, Water Supply and Pollution Control for subdivision and septic systems has been obtained.
- e. The use will not detrimentally affect groundwater quality, nor cause a significant long-term reduction in the volume of water contained in the aquifer or in the storage capacity of the aquifer.
- f. Best Management Practices (BMPs) for Groundwater Protection should be adhered to according to adopted NH Code of Administrative Rules Env-Ws 421, which apply to all contamination sources.

SECTION 7: NON-CONFORMING USES

Non-conforming uses may continue in this district in the form in which they existed prior to the date on which this section was posted and published in this Town, 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 in this district.

SECTION 8: SPECIAL EXCEPTION FOR LOTS OF RECORD

Upon application to the Board of Adjustment, a special exception shall be granted to permit the erection of a structure within the Aquifer Protection District on a non-conforming lot provided that all of the following conditions are found to exist:

- a. The lot upon which an exception is sought was an official lot of record, as recorded with the Cheshire County Registry of Deeds, prior to the date on which this section was posted and published in the Town.
- b. The use for which the exception is sought cannot feasibly be carried out on a portion or portions of the lot which are outside of the aquifer Protection District.
- c. No reasonable and economically viable use of the lot can be made without the exception.
- d. The design and construction of the proposed use will be consistent with the purpose and intent of this section.

SECTION 9: APPEALS

Any person who is aggrieved of an administrative decision made under the provisions of this ordinance may appeal to the Board of Adjustment, under the provisions of RSA 674:33. The Board of Adjustment shall also have the power to authorize such variance from the terms of the ordinance as will not be contrary to the public interest. The Board of Adjustment shall request from the Planning Board and the Conservation Commission an advisory decision before rendering any decision on a request for a variance under this section.

SECTION 10: DEFINITION OF TERMS

- a. Animal feedlot: A commercial agricultural establishment consisting of confined feeding areas and related structures for the raising of livestock.
*Dictionary definition: feedlot- a large plot of land where livestock, esp. beef cattle, are fed and fattened prior to slaughter.
- b. Aquifer: A geologic formation, group of formations or part of a formation or deposits of layered sand and gravel capable of yielding quantities of groundwater usable for municipal or private water supplies.
- c. Aquifer Protection District: The direct recharge areas of designated aquifer. The aquifer Protection District is shown on the Aquifer Overlay Map derived from the Map titled "Saturated thickness and transmissivity of stratified draft aquifers in the lower Connecticut River Basin Area, Southwestern New Hampshire"
- d. Direct Recharge Area: The area immediately overlying the stratified-drift aquifer. The boundary of the direct recharge area is the contact between the stratified drift and adjacent till or rockbed.

- e. Groundwater: Water in the subsurface zone at or below the water table in which all pore spaces are filled with water.
- f. Groundwater recharge area: That area from which water is added to the saturated zone by: 1) natural processes such as infiltration or precipitation, or by 2) artificial processes such as induced infiltration.
- g. Bulk Fuel Storage Yard: Any location where there are ten thousand (10, 000) gallons or more of fuel intended for storage, transfer or distribution.
- h. Hazardous or Toxic materials and waste: Solid, semisolid, liquid or contained gaseous wastes or any combination of these wastes which, because of either quantity, concentration or physical, chemical or infectious characteristics, may cause or contribute to an increase in irreversible or incapacitating reversible illness or pose a present or potential threat to human health or the environment when improperly treated, stored, disposed of or otherwise mismanaged, or that which has been identified as a “toxic or hazardous waste” under federal or state law or administrative rule. Such wastes include, but are not limited to, those which are toxic, corrosive, ignitable, reactive irritants, strong sensitizers, or which generate pressure through decomposition, heat or other means.
- i. Leachable Wastes: Waste material, including solid wastes, sludge and agricultural wastes that are capable of releasing contaminants to the surrounding environment.
- j. Non-contact Cooling Water: Water which flows through a heat exchanger providing a physical barrier between the water and the process being cooled.
- k. Potential High Yield Aquifers: Areas inferred to be underlain by relatively thin saturated sections of medium to very coarse sand or sand and gravel that have medium potential to yield water.
- l. Process Water: Wastewater from an industrial process.
- m. Saturated Zone: The zone beneath the land surface in which all open spaces are filled with water.
- n. Sludge: Residual materials produced by water and sewage treatment processes and domestic septic tanks.
- o. Solid Waste: Any discarded or abandoned material including refuse, putrescible material, septage, or sludge, as defined by New Hampshire Solid Waste Rules He-P 1901.03* Solid waste includes solid, liquid, semi-solid, or contained gaseous waste material resulting from residential, industrial, commercial, mining, and agricultural operations and from community activities.
- p. Stratified Drift: Unconsolidated, sorted sediment composed of layers of silt, sand and gravel deposited by meltwater from glaciers.

PLANNED RESIDENTIAL DEVELOPMENT

A. AUTHORITY:

Pursuant to the provisions of RSA 674:21 and in furtherance of the policies, goals and objectives set out in the Town Master Plan, the following section is hereby adopted by the voters of the Town of Winchester in the Town Meeting convened on March 14, 1989 (Warrant Article 2).

B. PURPOSE:

The purpose of this section is to encourage reasonable flexibility in the development of land for residential purposes, to promote the development of land for residential purposes, to promote the most efficient use of land and to preserve significant natural and man-made features and open space in the design and development of residential projects. The specific objectives of these provisions and the general standards with which all proposed Planned Residential Development shall comply are:

1. Promote the conservation of the natural environment and the development of land in harmony with the natural features of the specific site proposed for development.
2. Preserve the natural beauty of existing rural roads, farmlands, woodlands and cultural features which gives the Town much identity.
3. Promote economy and efficiency in the design, construction and maintenance of any new roads and utilities for the developer, the Town, and the residents of the proposed development.
4. Provide usable open space and recreation areas for the enjoyment of the residents of the development and the Town as a whole.
5. Avoid development of lands which by virtue of excessive slopes, wetness, flood hazard or similar conditions are unsuitable for residential use.
6. Promote a wide range of housing opportunities for individuals and families of various ages and economic circumstances.
7. Provide an efficient and expedient regulatory procedure while assuring high quality design, engineering and site planning.

8. Protect the health, safety and welfare of present and future residents of the Town.

C. STANDARDS AND CRITERIA:

1. Planned Residential Developments be approved in Agricultural and Residential Zoning Districts only.
2. The minimum parcel size for any Planned Residential Development shall be not less than ten (10) acres.
3. Any parcel proposed for a Planned Residential Development shall meet the minimum frontage requirement according to zone on an approved street.
4. The maximum allowable density in any Planned Residential Development shall be calculated as follows:

TOTAL area (square feet or acres) of parcel MINUS area of all undeveloped lands which shall include all surface waters on the parcel, all lands with slopes of 25% or greater and all lands designated as wetlands or floodplain in Paragraph D. 2. (a) of this article EQUALS total developable area.

TOTAL developable area MINUS area of all street and/or road rights-of-way within the development.

DIVIDED by the minimum lot size for the district in which the project is located as specified in the Zoning Ordinance EQUALS the maximum number of dwelling units permitted (rounded to the nearest whole number).

5. Minimum lot size, frontage, setback and other dimensional requirements specified in the Zoning Ordinance and/or Subdivision Regulations may be modified or waived by the Planning Board, within the Planned Residential Development provided that the Planning Board, after review of the required application materials, finds that the proposed use is consistent with the objectives outlined in this article.
6. Permitted uses and housing types in a Planned Residential Development shall be limited to those which are permitted in the Zoning District in which the parcel is located.
7. Not less than 25% of the area of any Planned Residential Development shall be dedicated as permanent open space for the use and enjoyment of the development's residents and/or the general

public. All lands defined as undevelopable in Paragraph C. shall be dedicated as permanent open space in addition to the above 25% requirement, but may not be used to satisfy said requirement. Neither shall areas such as common clubhouses, swimming pools, tennis courts, parking lots or other man-made amenities be included in such required open space. All such open space shall be maintained in its natural state and utilized solely for passive recreational purposes.

8. To provide an adequate transition between the development and abutting lands or public roadways, all Planned Residential Developments shall provide for a landscaped perimeter buffer with a minimum depth of not less than one hundred (100) feet from all property lines of the original parcel. With the exception of roads or streets which provide primary access to the site, this perimeter buffer shall be retained in its natural state or if required by the Planning Board shall be supplemented with additional natural vegetation.
9. In a Planned Residential Development, all required open space and perimeter buffers as well as common recreational facilities, private roadways, utilities, and other common amenities not included with individual units, shall be held, managed and maintained by the developer until such time as it is owned in one or more of the following ways:
 - (a) In common by all owners of the tract (such as a Homeowners Association) for the control and maintenance of such common areas.
 - (b) By the Town of Winchester which may at any time accept dedication of any open space and/or roadway meeting Town specification for perpetual public use and maintenance.
 - (c) By Conservation Trust or other private conservation organization which will ensure that such areas will be held in perpetuity as open space.
10. All agreements, deed restrictions, organizational documents and any other method of ownership and management of common lands shall be approved by the Planning Board after review and comment by Town Counsel as to legal form, content and enforceability.
11. Each dwelling unit within the Planned Residential Development shall have reasonable access to such common facilities and lands.

D. PROCEDURE:

1. Applications for a Planned Residential Development shall be submitted to the Planning Board and shall be processed in accordance with the procedures set out in the Subdivision Regulations. In the event that the Planned Residential Development is proposed to contain multi-family residences or non-residential facilities, the provisions of the Site Plan Review Regulations shall also be applicable.
2. A completed application for a Planned Residential Development shall contain at minimum the following information and shall not be processed by the Planning Board until such time as all required information is submitted:
 - (a) A Plan showing all of the information required on a complete division plan as specified in the Winchester Subdivision Regulations along with the following additional information:
 - (1) Soil characteristics as indicated on the Winchester Soil Maps prepared by the USDA Soil Conservation District.
 - (2) Floodplain boundaries as indicated on the Winchester Flood Hazard Boundary Maps.
 - (3) The proposed location of all buildings, utility facilities, roadways, driveways, parking areas, recreation facilities, drainage facilities and any other manmade improvements.
 - (4) Calculations indicating the number of units permitted on the tract as specified in Section III of ARTICLE III-A and the number of units proposed in the Development.
 - (5) Location and dimensions of all required open space, perimeter buffers, undevelopable lands as herein defined and calculations indicating that the open space requirements of this Ordinance have been met.
 - (b) Typical elevation drawings and floor plans of all proposed buildings.
 - (c) A Landscaping Plan indicating the existing vegetation to be retained and that to be removed as well as the type, size and numbers of all proposed new plantings, vegetation, signs, exterior lighting and other landscaping features.

- (d) Current names and mailing addresses of all abutters to the parcel.
 - (e) A Timetable for completion of the Planned Residential Development.
3. Prior to final approval of any Planned Residential Development, the Planning Board shall ascertain that adequate provisions have been made by the developer to assure the proper functioning of the development including but not limited to the following:
- (a) Traffic safety, circulation and access including adequacy of adjacent public streets, entrances and exits, traffic flow, sight distances, curb cuts, turning lanes, and existing or recommended signalization.
 - (b) Pedestrian safety and access.
 - (c) Off-street parking and loading facilities. At least two (2) parking spaces shall be provided for each dwelling unit.
 - (d) Emergency vehicle access.
 - (e) Fire protection including the proximity of buildings to one another and the availability of adequate fire fighting water supplies.
 - (f) Storm water drainage and erosion/sedimentation control measures based on a twenty-five (25) year frequency storm. On-site absorption and/or temporary detention shall be the preferred means of drainage design. When required, such plans shall be approved by the NH Department of Environmental Services.
 - (g) Adequate landscaping, screening and buffers to assure the development shall be attractive and unobtrusive from surrounding property and public roadways.
 - (h) Snow equipment storage, lawn equipment storage and trash disposal facilities.
 - (i) Recreational facilities.
 - (j) Safe and adequate water supply and waste-water disposal facilities which shall be designed by a registered sanitary engineer and approved by the NH Department of Environmental Services.

- (k) All legal instruments and documents shall be reviewed by the Town Counsel at the developer's expense to insure legal form and enforceability.
- 4. The Planning Board may require special impact studies on any and all elements of the project, and any such studies shall be conducted at the developer's expense. The Planning Board may further engage the services of qualified planners, engineers, attorneys or other professionals as necessary, to review and comment upon the technical aspects of any plans or documents with respect to their compliance with these and other professional assistance and shall be paid by the developer, and no final approval shall be granted until the cost of such studies, consultants or professional assistance has been paid.
- 5. A performance bond, letter of credit, or other security acceptable to the Board and Town Counsel may be required in an amount sufficient to insure the completion of streets, utilities, landscaping, buffers, and other amenities in accordance with the approved plans, timetables, and documents.
- 6. No change or amendment may be made to the layout, location or design of features as shown on the approved plan, nor to the legal instruments or other approved documents, unless the changes or amendments are first approved by the Planning Board. Application for such changes or amendments shall be made in the same manner as for new application.

FLOODPLAIN MANAGEMENT ORDINANCE

This ordinance, adopted pursuant to the authority of RSA 674:16, shall be known as the Town of Winchester Floodplain Development Ordinance. The regulations in this ordinance shall overlay and supplement the regulations in the Town of Winchester 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 Town of Winchester, N.H." together with the associated Flood Insurance Rate Maps, and Flood Boundary & Floodway Maps of the town dated April 15, 1981 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 Winchester.

1. "Area of Shallow Flooding" means a designated A0, AH, or V0 zone on the Flood Insurance Rate Map (FIRM) with a one-percent or greater annual possibility of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet-flow.
2. "Area of Special Flood Hazard" is the land in the floodplain within the Town of Winchester subject to a one-percent or greater possibility of flooding in any given year. The area is designated as zone A on the FHBM and is designated on the FIRM as zones A and A1-30.
3. "Base Flood" means the flood having a one-percent possibility of being equaled or exceeded in any given year.
4. "Basement" means any area of a building having its floor subgrade on all sides.
5. "Building" - see "structure".

6. "Breakaway wall" means 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.
7. "Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operation.
8. "FEMA " means the Federal Emergency Management Agency.
9. "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.
 - b. the unusual and rapid accumulation or runoff of surface waters from any source.
10. "Flood Boundary and Floodway Map" (Floodway Map) is an official map of the Town of Winchester, on which FEMA has delineated the "Regulatory Floodway". This map should not be used to determine the correct flood hazard zone or base flood elevation, the Flood Insurance Rate Map (FIRM) will be used to make determinations of flood hazard zones and base flood elevations.
11. "Flood Elevation 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.
12. "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 Winchester.
13. "Flood Insurance Study" - see "Flood elevation study".
14. "Floodplain" or "Flood-prone area" means any land area susceptible to being inundated by water from any source (see definition of "Flooding").
15. "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.
16. "Floodway" - see "Regulatory Floodway".

17. "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.
18. "Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
19. "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:
 - e. by an approved state program as determined by the Secretary of the Interior, or
 - f. directly by the Secretary of the Interior in states without approved programs.
20. "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.
21. "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.
22. "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.
 23. "100-year flood" - see "base flood"
 24. "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.
 25. "Regulatory floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without increasing the water surface elevation. These areas are designated as floodways on the Flood Boundary and Floodway Map.
 26. "Special flood hazard area" means an area having flood, mudslide, and/or flood-related erosion hazards, and shown on an FHB or FIRM as zone A, A0, A1-30, AE, A99, AH, V0, V1-30, VE, V, M, or E. (See - "Area of Special Flood Hazard")
 27. "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.
 28. "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.

29. "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.
30. "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".

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

Item II.

All proposed development in any special flood hazard areas shall require a permit.

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:

- (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; 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.

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 Zones A or A1-30 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 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.

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. Along watercourses with a designated Regulatory Floodway 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. In zone A the Building Inspector shall obtain, review, and reasonably utilize any floodway data available from Federal, State, or other sources as criteria for requiring that development meet the floodway requirements of this section.
4. Along watercourses that have not had a Regulatory Floodway designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within zones A1-30 and 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.

Item VIII.

1. 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 zones A1-30, refer to the elevation data provided in the community's Flood Insurance Study and accompanying FIRM or FHBM.
 - (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 for development proposals submitted to the community (i.e. subdivisions, site approvals).
 - (c) In zone A0 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 feet.

2. The Building Inspector's 100 year flood elevation determination will be used as criteria for requiring in zones A to A1-30 that:
 - (a) all new construction or substantial improvement of residential structures have the lowest floor (including basement) elevated to at least one (1) foot 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 at least one (1) foot 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 base flood level; 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 zones A1-30 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 requirement 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:
 - (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 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.

- (f) proposed structures to be located on slopes in special flood hazard areas, zones AH and AO shall include adequate drainage paths to guide floodwaters around and away from the proposed structures.

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:
 - (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 (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.
 - (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:
 - (a) 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.

CAMPGROUND REGULATIONS

Adopted March 11, 1997

(Amended 3-12-13)

CAMPGROUNDS – A campground shall be a lot or contiguous lots on which two or more tents, travel trailers, recreation vehicles or tent trailers are used as temporary living quarters for recreation and a fee is charged for such land use. The rental of a campsite shall not be considered a subdivision and sites are not to be sold or subdivided so as to permit separate ownership.

LIMITATIONS – Campgrounds shall not be expanded unless they are in conformance with the provisions of this Section. Campgrounds shall be excluded from the Residential and Rural Residential Zones. Minimum lot size for a campground is 10 acres.

APPROVAL – Campgrounds shall not be established or expanded without the approval of the Planning Board with a Site Plan which clearly defines the proposed and existing development.

RECORDS – The owner or manager of every campground shall keep a record of all campground users and their guests, noting the name and address of each site occupant, the license number of each automobile and of each mobile unit, the state issuing such licenses, the dates of arrival and departure. This register shall be available at all times for inspection by representatives of the police and health department.

WINTER OPERATION – Campgrounds are a seasonal operation and will be closed between November 15 and April 15. No water supply or sewage disposal service shall be provided to any campsite or common facility between November 15 and April 15.

PERMIT REQUIRED – Permits shall be issued for a 5-year period. The permit fee shall be \$10 per site. Approval of any permit shall require satisfactory inspection by the Health Officer, Fire Inspector and Building Inspector. Permitting shall commence upon the town's approval of this section.

SPECIFICATIONS – The following requirements shall be met:

1. **Site Size** – The minimum campsite area shall meet the requirements of RSA 216-I.
2. **Density** – There shall be in the area allocated for campsites no more than 10 sites per acre. The area allocated for campsites shall be equal to the total area of the parcel MINUS the area of undeveloped land, which shall include all surface waters, land with slopes of 25% or greater, land

designated as wetlands on the Winchester Wetlands Map and the area used for administration, auxiliary buildings and roadways.

3. Buffer Zone – A buffer area of 50 feet adjacent to all abutters with at least 30 feet of natural vegetation capable of screening outside view of campsites shall be maintained. Said buffer shall not include any roads. A buffer shall not be required on shoreland areas.
4. Sanitation – Water supply and waste disposal systems shall meet the requirements of RSA 216-I: 3 & 4, as amended.
5. Drainage – Roads and campsites shall be constructed to prevent ponding and soil erosion. Precautions shall be taken to prevent erosion of soil contaminants into wetlands or water bodies.
6. Setback From Water – No campsite shall be located within 100 feet, nor any service or sanitary facility within 200 feet, of the mean high water mark of any body of water.

Town of Winchester, NH
SOLAR ENERGY SYSTEMS ORDINANCE
Adopted March 21, 2017

- A. **AUTHORITY:** This solar energy ordinance is enacted in accordance with RSA 674:17 (I)(j) and RSA 672:1-III, as amended. Also in accordance with RSA 362-F and RSA 374-G as amended, for incorporating the State and National goals of developing clean and safe renewable energy sources that include national security and environmental sustainability.
- B. **PURPOSE:** The Town of Winchester encourages solar energy systems to assist its residents with economic and environmental benefits while creating self reliance in decreasing our dependence on fossil fuels. Consideration of the town's scenic views, historic properties, and rural character will be used to minimize potential impacts.
- C. **DEFINITIONS:**
1. **Solar Photovoltaic (PV) System:** A solar collection system consisting of one or more building systems, solar photovoltaic cells, panels or arrays and solar related equipment that rely upon solar radiation as an energy source for collection, inversion, storage and distribution of solar energy for electricity generation.
 2. **Solar Thermal Systems:** A solar collection system that directly heats water or other liquid using sunlight. The heated liquid is used for such purposes as space heating and cooling, domestic hot water and heating pool water.
 3. **Solar Arrays:** is a group of solar panels wired together.
 4. **Roof Mounted Solar Energy System:** A solar photovoltaic or thermal energy system attached to any part or type of roof on a building or structure that generates electricity.
 5. **Free Standing Solar Energy System:** A pole or ground mounted solar photovoltaic energy system that generates electricity.
 6. **Solar Farm:** Refers to a system of solar arrays designed to capture sunlight and convert it to electricity primarily for offsite consumption and use.
 7. **Small Scale Solar Energy System:** Refers to residential and business size solar energy systems that generate up to 15 kilowatts of power.
 8. **Community Scale Solar Energy System:** Refers to town owned, or community members owned solar energy systems where energy is produced to offset community electricity and generates between 15 kilowatts and 1 megawatt of electricity. The intent is not for an industrial/utility system where the purpose is to sell power for profit but to benefit the town and its residents.
 9. **Utility Scale Solar Energy System:** Refers to large arrays or farms whose purpose is to generate electricity to sell to the open market and generates over 1 megawatt of electricity. These facilities would be subject to the requirements of the New Hampshire PUC.
 10. **Sizes:** 1000 watts=1 kilowatt, 1000 kilowatts=1 megawatt. Example- An average 2000sqft home would need about 15-18 solar panels which equals 4000 watts. Or, a 20,000sqft grocery store would use about 85,000 watts per month or 8.5 kilowatts.

D. GENERAL STANDARDS:

1. Solar Energy Systems are permitted by right, or a Conditional Use Permit, a Site Plan Review or a Special Exception. A Conditional Use Permit is issued by the Planning Board and the application is reviewed for compliance to the authorized adopted regulations. Site Plan approval is also obtained by the Planning Board. A Special Exception is obtained by the Zoning Board of Adjustment.
2. Roof mounted systems shall be permitted in all districts by right. A Building Permit is required for the installation of the system. Buildings in the Historic District shall receive approval from the Historic District Commission (HDC) for placement of the system prior to obtaining a building permit.
3. Small Scale-Free Standing or Ground Mounted systems are permitted by right in the Agricultural and Highway Commercial District if adequate screening is provided as to not adversely impact surrounding property values or scenic views. This shall include the glare or reflection from such systems. A building permit is required for the installation of the system. In the Forest Lake Overlay, Residential, Rural Residential, Historic and Commercial Districts a Conditional Use Permit from the Planning Board is required to permit a system. Facilities in the Historic District would include the required approval from the HDC.
4. Community Scale or systems greater than 15 kilowatts shall require Site Plan approval from the Planning Board for all districts. Community Scale systems are not permitted in the Historic District or Forest Lake Overlay District.
5. Utility Scale Systems shall be permitted only in the Highway Commercial and Agricultural Districts subject to a Special Exception and site plan review to insure the public is protected from any nuisance, impact of scenic view, hazards, or diminution of value of surrounding properties. The ZBA shall determine if the location is appropriate for such use.

E. SITE LAYOUT AND DESIGN

1. Sites planned for or intended to be used for a solar generation that require a Site Plan or Special Exception approval shall submit plans showing the location, size, roads, utility lines, drainage, fencing, lighting, screening, utility corridors, setbacks, density, and landscaping. Also included is a plan is a commitment to deconstruction when the system is no longer in use. The board would reserve the right to require a posting of a bond for the removal of an unused facility. The boards have the authority to ask for more information and seek outside expertise if in the opinion of the board it is necessary.
2. The boards shall determine the facility is compatible with its setting by looking at setbacks, buffers, height, stormwater runoff, scale, and density to mitigate impacts to the environment and scenery. The site plan reviews standards shall also apply when applicable.
3. Free standing facilities shall be screened from view of public roads and abutting properties as to not affect value of surrounding properties.

F. ABUTTING PROPERTIES:

1. During site plan and subdivision review process the board shall consider the impacts of development on abutting properties with solar energy systems relative to potential obstruction of light from neighboring properties. The intent is not to impede someone's right to build, but to reflect upon the energy section of the Master Plan where future placement and alignment of buildings and vegetation support solar energy.

TELECOMMUNICATIONS FACILITIES ORDINANCE

ADOPTED MARCH 13, 2001
(AMENDED 3/12/13)

SECTION I: AUTHORITY

This Ordinance is adopted by the Town of Winchester on March 13, 2001 in accordance with the authority granted by the New Hampshire Revised Statutes Annotated 674:16 and 21.

SECTION 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:

- A. Preserve the authority of the Town of Winchester to regulate and provide for reasonable opportunity for the siting of telecommunications facilities.
- B. Enhance the ability of providers of telecommunications services to provide such services to the community effectively and efficiently.
- C. Reduce the adverse impacts such facilities may create on, including, but not limited to: impacts on aesthetics, environmentally sensitive areas, historically significant locations, health and safety by injurious accidents to person and property, and diminution of property values.

SECTION III: DEFINITIONS

- A. *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 bandwidth.
- B. *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.
- C. *Tower:* Means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas.
- D. *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 spectrum-based transmission/receptions.

SECTION IV: LOCATION OF TELECOMMUNICATIONS FACILITIES

- A. Telecommunications facilities may be permitted in all districts, provided that they are camouflaged, hidden or disguised. Historic Districts are specifically exempted from this provision.
- B. (Telecommunications facilities shall not be permitted to be located within the primary view of any property).

SECTION V: PERMITTED USES

- A. 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.
- B. Any alteration of the original permitted use and device configuration of the facility will require a new approval.
- C. 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 Ordinance adopts the provisions and limitations as referenced in RSA 674:16,IV.
- D. 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.

SECTION VI: CONSTRUCTION PERFORMANCE REQUIREMENTS

- A. 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 XI through the execution of the posted security.

- B. Building Codes/Safety Standards. To ensure the structural integrity of towers and antennas, all facilities will be inspected every year 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 XI, of the tower or antenna, at the owner's expense through execution of the posted security.

SECTION VII: STANDARDS

These requirements shall supersede any and all other applicable standards found elsewhere in Town Ordinances or Regulations that are less strict.

- A. Height. In no case may any new structure be higher than 60 feet where there is no tree canopy, or 40 feet above the average tree canopy in the proposed location.
- B. 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.
- C. Landscaping.
1. 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.
 2. In locations where the visual impact of the compound would be minimal or non-existent, the landscaping requirement may be reduced or waived entirely.
 3. 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.
- D. Camouflaging.
1. 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.
 2. 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.

- E. 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 roads around town and within 20 miles from which the balloon(s) is visible.

SECTION VIII: CONDITIONAL USE PERMITS

- A. 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 Winchester.
- B. 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.

1. Procedure on Application.

- a. The Planning Board shall act upon the application in accordance with the procedural requirements of the Site Plan Review Regulations and RSA 676:4.
- b. 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.

2. Decisions. All decisions shall be rendered in writing. A denial must be based upon substantial evidence contained in the written record.

- C. 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 Cheshire 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 Winchester.
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.

D. 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. If the applicant is proposing to build a new tower, written evidence will be submitted demonstrating that no existing structure can accommodate the applicant's proposed antenna.
5. The applicant will provide the Board with the following information:
 - a. the number of sites for wireless telecommunication facilities each service provider will require;
 - b. sites outside of the Town for the particular coverage area that are being considered;
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 applicant'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.

SECTION IX: BONDING AND SECURITY INSURANCE

- A. 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.
- B. The bond is expected to be in place for the lifespan of the facility. 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.

SECTION X: 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.

SECTION XI: WAIVERS

- A. General. 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.
- B. 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.
- C. 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.

SECTION XIV: 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.

REGULATIONS GOVERNING ADULT-ORIENTED BUSINESSES

ADOPTED MARCH 13, 2001

PURPOSE AND INTENT

It is the purpose of this regulation to establish reasonable and uniform provisions in accordance with RSA 674:16 & 17 to regulate the secondary effects of sexually-oriented businesses within the Town of Winchester in the interests of public health, safety and welfare, including but not limited to: protection of property values; separation of incompatible land use; location of such uses relative to public facilities; and the prevention of blight and crime.

It is the intent of this regulation to prevent problems that are commonly associated with sexually-oriented businesses. Further, the provisions of this regulation have neither the purpose nor the effect of imposing limitations or restrictions on the content of any communicative materials, including sexually oriented materials; and it is not the intent nor effect of this regulation 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. It is neither the intent nor effect of this regulation to condone or legitimize the distribution of obscene material.

DEFINITIONS

ADULT BOOKSTORE/VIDEO STORE (hereinafter known as Adult Business): A business that involves the display, sale and/or rental of the following:

Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, tapes, records, computer disks, CD-ROM's or other forms of visual or audio representations that meet the definition of "harmful to minors" and/or "sexual conduct" as set forth in RSA 571-B:1.

An Adult Business does not include an establishment that devotes no more than 15% of the total floor area to the sale of such materials as defined above.

APPLICABILITY

Within the Town of Winchester, the only adult businesses that are permitted are those that comply with the definition contained in Section II above. Nothing herein shall be construed to permit the display, sale or rental of materials in any district that would otherwise violate state or federal law.

WHERE ALLOWED

- A. Adult businesses shall only be permitted in the Commercial District, by Special Exception of the Board of Adjustment and subject to the following conditions:
1. No such use shall be permitted within 2,000 feet of the property line of a church, cemetery, school, day care center, or any public buildings.
 2. No such use shall be permitted within 250 feet of a residential property line.
 3. No adult business shall be permitted within 1,000 feet of another such use, or within a building in which such a use already exists.
- B. The distance requirements above shall be measured in a straight line, without regard to intervening structures, from the closest exterior structural wall or temporary or permanent physical divider of each business.

V. ADDITIONAL REASONABLE REQUIREMENTS

- A. The Planning Board is empowered hereunder to review and approve permit applications for adult businesses, and impose reasonable restrictions for the following:
- ◆ setbacks, buffering, outdoor lighting, parking;
 - ◆ adequate ingress and egress from the site off of and onto public roads pedestrian movement;
 - ◆ appropriate landscaping and building aesthetics;
 - ◆ site development layout, which may result in negative environmental impacts.
- B. Notwithstanding additional requirements imposed by Site Plan Review, the following provisions shall apply:
1. Setbacks shall be consistent with those of the Commercial District, and buildings shall be suitably screened by either vegetation or some other type, as determined by the Planning Board during Site Plan Review.
 2. No sexually explicit materials or advertising shall be visible from outside the building.

3. No private viewing rooms or booths shall be allowed.
4. No more than 40% of the materials in stock shall deal with sexual conduct as defined in RSA 571-B:1. Of the remaining 60%, children's materials shall not be included.
5. No other use other than those defined herein shall be permitted in the building(s) or on the property.

Steep Slopes Ordinance

A) Authority, Purpose and Intent

By the authority granted in NH RSA 674:16-17 and RSA 674: 20-21, and in the interest of public health, safety and welfare of individual land owners and the Town of Winchester, and to encourage proper use of natural resources, this ordinance shall guide the use of lands with a slope of 15% or greater.

The intent of this ordinance is to:

- 1) Prevent soil erosion and protect the town and abutting property owners from unnecessary expense caused by such erosion.
- 2) Prevent damage to surface waters from erosion, runoff of storm water or effluent from septic systems.
- 3) Preserve tree cover and other vegetative cover.
- 4) Protect wildlife habitat.
- 5) Preserve scenic views.
- 6) Protect unique or unusual natural areas.
- 7) Maintain ecological balance.
- 8) Control dwelling density in sensitive areas of town.

A) Definition and Determination

A steep slope is any area with a dominant slope of 15% or greater over horizontal distances of one hundred feet. Slope is determined by dividing vertical distance (rise) by horizontal distance (run). Any dispute over the determination of slope will be resolved at the expense of the applicant by a surveyed plan prepared by a New Hampshire licensed surveyor, septic designer or engineer.

B) Lot Size Requirements

The creation of any lot on land with slopes of 15% or greater shall be determined as follows:

- 1) The determination of minimum lot size for creating new lots on land with slopes of 15 to 24 % shall exclude 65% of such land.
- 2) The determination of minimum lot size for creating new lots on land with slopes of 25% or more shall exclude 75% of such land.
- 3) The maximum amount of land required for the creation of new lots under this ordinance shall not exceed five acres.

C) Special Exceptions

The Zoning Board of Adjustment may exempt existing lots and proposed lots from some or all of the above Development Requirements and/or allow lot size averaging based on the following situations:

- 1) Creation of an easement to protect forest land for sustainable forestry, or conservation of special places, or conservation of land for the benefit of the public good, or protection of prime farmland soil, established agricultural areas such as hay fields or fields for other

crops, or preservation of scenic areas, or preservation of views either from or of other areas, or protection of surface waters, or protection of unique places or other similar situation of benefit to the public good.

- 2) The location of any structure to preserve ridge lines or views either from or of other areas, or to preserve views from abutting properties.
- 3) The placement or location of any structure or road to enhance the natural features of the area and/or benefit the public or the neighborhood.

The determination of the appropriateness of such easements and the extent of the elimination of the Development Requirements listed in C) above and /or the extent of lot size averaging shall be at the discretion of the Zoning Board based on its determination that the spirit of the ordinance is met, the offset satisfies the intent of the density provisions, and there is a benefit to the public good. If the applicant is not satisfied with the Board's determination, the Development Requirements will apply in full or the applicant may seek to develop or build under the terms of the Planned Residential Development Ordinance, even if the request is to construct only one building.

D) Special Conditions

If a structure, road or septic system is to be located on a slope of 25% or more, engineering data shall be submitted to show that the proposed construction is of sound engineering design. This engineering data shall show proof of favorable development conditions and a sound erosion control plan both during and following construction. This proof shall be prepared by a surveyor, septic designer, or engineer licensed in New Hampshire. If there is a dispute over the adequacy of these plans, the Planning Board or Code Enforcement Officer may require another opinion at the expense of the applicant. Any construction of buildings, roads or driveways on slopes of 15% or more requires an erosion control and surface water management plan. All plans must be approved by the Code Enforcement Officer prior to implementation. The Code Enforcement Officer or Planning Board may request a plan for the reclamation of vegetative cover or restoration of terrain or other natural conditions either during and/or following construction.

E) Enforcement and Penalties

The Town of Winchester or its agents have the right to inspect the premises or construction site at any time during construction to ensure the construction is being carried out according to the approved plans. If construction does not proceed according to those plans, the owner will be liable for a fine for each day of the violation, as per RSA 676:17. Minor adjustments are allowed to accommodate previously unknown conditions if the overall effect is the same or an improvement. In the event a violation or deviation from the approved plan is found, a cease and desist order will be issued until the violation is corrected.

F) Town Liability

In any case where changes in topography alter the course of water flow, normal or excessive, so as to cause damage to neighboring properties, or those downstream, the owner shall assume all liability for such damage. The town shall be held harmless from any claims for damage resulting from actions of the applicant or applicant's agent regardless of any approvals granted by the town.

SIGN ORDINANCE

(Adopted March 10, 2009)

(Amended 3/12/13)

I. PURPOSE:

To protect the aesthetic appearance of the Town of Winchester. The size, color, placement, lighting, context and display will be considered when a permit is issued by the building inspector and /or the Historical Commission.

II. GENERAL REGULATIONS:

A. Permits-

No sign shall be constructed, altered, replaced or repaired in any way without a permit issued by the Town, with the exception of those noted below. Applications for a sign permit shall be made on a building permit and no permit will be issued unless the sign conforms to this ordinance.

B. Exceptions to permit requirements-

The following signs do not require a permit:

Transportation directional signs

Street signs (placed by jurisdiction)

Single unlit signs that do not exceed two feet square

Fuel pump signs that do not exceed one foot square

Temporary signs (sale, rent, political, etc.) not to exceed three feet square

C. Permit application-

Before any permit is issued for a sign, a complete permit application must be approved by the building inspector and the required fee submitted.

D. Design Safety-

No permit will be issued for any sign that impairs public safety, impairs site vision from any street or sidewalk, impairs free access to doors, windows or fire escapes, might be confused as a traffic signal, cannot withstand wind pressure of 30 pounds per square foot, is taller than twenty feet or that is not in accordance with section 3108 of the International Building Codes.

E. Illuminated Signs-

Signs may be electrically illuminated and shall be installed by a licensed electrician.

No red or green illumination within 100 feet of a traffic signal.

F. Maintenance-

All sign and supporting materials shall be maintained in a safe and well kept condition.

G. *(Deleted 3/12/13)*

H. Non conforming signs-

Any non conforming sign in existence on the effective date of this ordinance may be continued and maintained. A non conforming sign shall not be enlarged, (reworded,) replaced redesigned or altered in any way except in conformity with this ordinance. A non conforming sign destroyed

by fire, vandalism, or other natural causes shall be replaced within 30 days or a permit application for a new sign will be required.

I. Removal of sign(s) by the Town-

The Town shall, at the expense of the owner, cause to be removed any sign that violates the provisions of this ordinance. In carrying out this enforcement, the Town shall follow the enforcement requirements set forth in the Winchester Zoning Ordinance.

J. Installation of signs-

No permit will be issued more than three weeks prior to the occupancy of the building for which the sign is designated.

K. Location-

All signs shall be located on immediate property (land described in deed held by the property owner, including buildings).

III. DEFINITIONS:

Awning sign- An awning canopy or similar device used for sign purposes. It will be counted as a wall sign.

Closed sign- A sign that has fifty percent of the entire area solid or tightly covered.

Ground sign- A sign supported by uprights or braces in or upon the ground. No advertising sign shall be attached to a living tree.

Marquee sign- A sign attached to or hung from a marquee, canopy or other covered structure that projects from, and is supported by, the building, and extends beyond the building wall. It will be counted as a projecting sign.

Open sign- A sign that has fifty percent of the area uncovered or open for transmission of wind.

Overhanging sign- A sign that hangs over a sidewalk or any public way.

Projecting sign- A sign which is attached directly to a building wall and does not extend more than fifteen inches from the face of the wall.

Roof sign- A sign which is erected above the roof of the building.

Sign- Any object, device, display or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event, or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination, or projected images.

Temporary sign- A sign without a structural frame intended for a limited period of display not to exceed 60 days, including a portable sign not securely anchored to the ground or a building.

Wall sign- A sign which is painted on or attached directly to a fence or the surface of a building wall.

IV. PROHIBITED SIGNS:

- A. Roof signs
- B. Overhanging signs
- C. Signs mounted on wheels, trailers, or motor vehicles if those wheeled signs, trailers or motor vehicles are regularly located in the same place to be used for the fixed display of a sign.
- D. Flashing oscillating and revolving signs.
- E. Off premises signs, which are located on property other than where the actual use for the sign is located.
- F. *(Deleted 3/12/13)*

V. SIGNS BY DISTRICT:

The following signs are permitted by districts according to the requirements set forth below: Signs may be of either closed or open type where applicable. Temporary signs are also allowed in all districts.

Rural Residential and Agricultural Districts: Two signs from the following list may be located on the immediate property.

Ground sign- The sign will not exceed six square feet in area and shall be setback a minimum of fifteen feet from the edge of the road and ten feet from all other lines

Projecting sign- The sign will not exceed six square feet in area.

Wall sign- The sign will not exceed sixteen square feet in area.

Forest Lake and the Residential Districts: Two signs from the following list may be located on the immediate property.

Ground sign- The sign will not exceed six square feet in area and shall be set back a minimum of twenty feet from the edge of the road and ten feet from all other lines.

Projecting sign- The sign will not exceed four square feet in area.

Wall sign- The sign will not exceed six square feet in area.

Central Business District: Two signs from the following list may be located on the immediate property.

Ground sign- The sign will not exceed four square feet in area for each use located in the building with a maximum area of twelve square feet. There is not a setback requirement.

Projecting sign- Each use may have a first floor projecting sign not to exceed six square feet in area.

Wall sign- The sign will not exceed one square foot per linear feet of the building that faces the street.

Commercial District: Two signs from the following list may be located on the immediate property.

Ground sign- The sign will not exceed thirty two square feet for each use located in the building with a maximum area of ninety six square feet. The setback from the edge of the road will be a minimum of ten feet and ten feet for all other lines.

Projecting sign- Each use may have a first floor projecting sign not to exceed six square feet in area.

Wall sign- The sign will not exceed one square foot per linear feet of the building that faces the street.

Highway Commercial: Two signs from the following list may be located on the immediate property.

Ground sign- The sign will not exceed thirty two square feet and the setback from the edge of road shall be a minimum of ten feet and a setback of ten feet for all other lines.

Projecting sign- Each use may have a first floor projecting sign not to exceed twelve square feet in area.

Wall sign- The sign will not exceed one hundred twenty eight square feet.

Industrial Parks may have ground signs as directory signs within the park as follows:

One sign shall not exceed sixty four square feet in area at the entrance to the park, or if more than one entrance, one sign at each entrance not to exceed a total of sixty four square feet.

{footnote: The voters on 3/8/16 voted to permit off premises signs, roof signs and overhang signs but since they **did not** vote in the affirmative to delete them in the sections above, RSA 676:14 governs a conflict in the ordinance, where “the greater or higher standard prevails”.}

Small Wind Energy Systems Ordinance

(Adopted March 10, 2009)

A. 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.

B. Definitions:

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

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

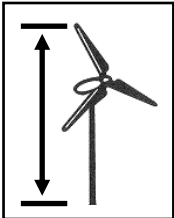
Net metering: The difference between the electricity supplied to a customer over the electric distribution system and the electricity generated by the customer’s small wind energy system that is fed back into the electric distribution system over a billing period.

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

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

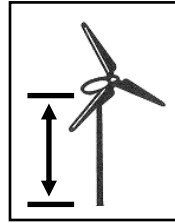
Small wind energy system: A wind energy conversion system consisting of a wind generator, a tower, and associated control or conversion electronics, which has a rated capacity of 100 kilowatts or less and will be used primarily for onsite consumption.

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



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

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



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

C. Procedure for Review:

1. **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.
2. **Application:** Applications submitted to the building inspector shall contain a site plan with the following information:
 - i) Property lines and physical dimensions of the applicant's property.
 - ii) Location, dimensions, and types of existing major structures on the property.
 - iii) Location of the proposed small wind energy system, foundations, guy anchors and associated equipment.
 - iv) Tower foundation blueprints or drawings.
 - v) Tower blueprints or drawings.
 - vi) Setback requirements as outlined in this ordinance.
 - vii) The right-of-way of any public road that is contiguous with the property.
 - viii) Any overhead utility lines.

- ix) Small wind energy system specifications, including manufacturer, model, rotor diameter, tower height, tower type, nameplate generation capacity.
 - x) 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.
 - xi) Sound level analysis prepared by the wind generator manufacturer or qualified engineer.
 - xii) Electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the NH State Building Code.
 - xiii) Evidence of compliance or non-applicability with Federal Aviation Administration requirements.
 - xiv) List of abutters to the applicant’s property.
3. 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.

D. Standards:

- 1. 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

- 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.

- b. 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.

- 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 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.

- 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 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.
- 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 8 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.

E. Abandonment:

1. 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.
2. 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.
3. 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 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.
4. 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 may pursue legal action to have the small wind energy system removed at the owner's expense.

F. 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.

G. 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.