

**ZONING ORDINANCE
TOWN OF TUFTONBORO, NEW HAMPSHIRE**

March 2019

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SECTION 1: DEFINITIONS

1.1 DEFINITIONS

Except where specifically defined herein, the words used in this Ordinance shall carry their customary meaning. The following words are specifically defined.

1.1.1 Access: In the case of a subdivision which creates a shore lot, where there is no road frontage, and access to the premises is over a private way, there shall be a minimum width of 25 feet provided for such access. Further, the private way shall be considered as a driveway when it serves three lots (or units) or less. A private way or driveway shall be located and constructed so as to ensure safe and adequate passage for vehicular traffic, whether seasonal or year-round, for both private and emergency vehicles. Upon balancing the proportional demands on a private way by a subdivision of more than three lots (or units) the Planning Board may require the access road to be brought up to town road standards.

1.1.2 Access Lot: A shorefront lot intended for access to the water for one or more residential units or other recreational use. An access lot shall have no less than 150 feet minimum frontage for up to the first 2 units and 25 feet for each additional unit. An access lot shall have a minimum depth of 100 feet.

1.1.3 Accessory Building: A Building whose purpose is subordinate to that of the main Building. It may be separate from or attached to the main Building. For the purpose of this Ordinance a breezeway, a garage or a carport that is attached directly, or by means of another Structure, to the main Building shall be regarded as an integral part of the main Building.

1.1.4 Accessory Use: Any subordinate use of premises which customarily is accepted as a use associated with, and subordinate to, the principal use of a Lot. An Accessory Use may be neither injurious nor detrimental to the neighborhood.

1.1.5 Alteration: Any Alteration of a Building or a fabricated Structure means a change, rearrangement, or addition involving the original structural parts, or significant changes, or additions to the plumbing, gas piping, electrical wiring, ventilation, or heating installations. Such Alterations are not to be confused with replacements or Repairs.

1.1.6 Bed and Breakfast Inn/Tourist Home: A Building other than a Hotel or Motel where lodging is provided for compensation without individual cooking facilities not exceeding eight (8) lodging rooms.

1.1.7 Boathouse means a docking facility which has a permanent roof with or without sides covering the boat slip or slips..

1.1.8 Building: A fabric or edifice, framed or constructed, designed to stand more or less permanently, and covering a space of land for use as a dwelling, storehouse, factory, shelter for beasts or some other useful purpose.

1.1.9 Building Coverage: The aggregate or the maximum horizontal cross section area of all Buildings on the Lot including Accessory Buildings but excluding cornices, eaves, or gutters projecting not more than thirty inches (30"). Structures less than eighteen (18) inches above ground level shall not be included in calculating Building Coverage.

1.1.10 Building Height: The vertical distance measured from a point on the ground at the mean finish grade adjoining the foundation to the highest point of the roof, excluding chimneys, ventilators, silos, and other accessory features required above the roof.

1.1.11 Certificate of Occupancy: A statement signed by the Codes Enforcement Officer setting forth either that a Building or Structure complies with this Ordinance or that a Building, Structure or parcel of land may lawfully be occupied for specified uses or both.

1.1.12 Commercial Docking: Five (5) or more boat docking spaces or slips intended for use by other than the owner of the land to which they are attached.

1.1.13 Condominium: Real property, and any interests therein, lawfully submitted to RSA 356-B by the recordation of Condominium instruments pursuant to the provisions of RSA 356-B.

1.1.14 Contiguous: Sharing an edge or boundary of an adjacent Lot or Lots.

1.1.15 Conversion: Any change in an existing use of a Lot, Building, or Structure. This includes, but is not limited to, a change from seasonal to year round use or occupancy; any change in type of use.

1.1.16 Demolition: Destruction of a Structure or portion thereof or commencement of work with the purpose of completing the same except in conjunction with construction of a permitted addition or Alteration. Demolition shall include the cutting away of any wall, partition, portion thereof or the removal or cutting of any Structured beam or bearing support affecting the exterior of the Structure.

1.1.17 District: A division , for Zoning purposes only, of the total area of the Town including all the land, water, streets, and Buildings within the designated boundaries.

1.1.18 Duplex: A building containing two (2) Dwelling Units.

1.1.19 Dwelling Unit: One (1) or more rooms, including cooking facilities in a dwelling structure with accompanying sanitary facilities, designed as a unit for occupancy by not more than one (1) Family for living and sleeping purposes.

1.1.20 Expansion: Any increase in the intensity of the use of a Lot, Building, or Structure. This includes, but is not limited to: the addition of bedrooms to a Dwelling; the addition of Dwelling Units to a Lot; or the addition of seats to a restaurant. This may result in a larger footprint or an increase in height.

1.1.21 Family: Individual(s) occupying a Dwelling Unit and living together as a single housekeeping unit and doing their cooking together, provided that unless all members are related by blood, marriage, or adoption, no such Family shall contain more than five persons.

1.1.22 Frontage: The horizontal distance measured along a Lot Line dividing a Lot from a Street or a body of water. In the case of shore Lots, Frontage shall mean the dimension on the body of water only and shall be measured in fifty foot (50) chords. Frontage shall mean a contiguous total dimension on one or the other or both of the intersecting streets. Front Lot Lines shall mean the lines on both intersecting streets.

1.1.23 Gross Floor Area: The sum of the area of the several floors of the Buildings as measured by the exterior faces of the walls, but excluding the areas of fire escape, unroofed porches or terraces, and areas such as basements and attics exclusively devoted to uses and Accessory to the operation of the Building.

1.1.24 Guest House, Boarding, Rooming: A Building in which bedrooms are rented to semi-permanent guests whose meals, when consumed on the premises, are prepared only by the proprietor or his employees.

1.1.25 Home Occupation: Any individual business or profession conducted within a Dwelling Unit or Accessory Structure which (a) is incidental to the Dwelling Unit, (b) does not change the character of the Dwelling Unit or the surrounding neighborhood, (c) is conducted by the resident owner/lessee, (d) employs no more than three additional employees besides the owner/lessee, (e) there is no exterior storage of materials or equipment nor permanent display of products visible from the Street, and (f) uses not more than the equivalent of fifty percent (50%) of the Gross Floor Area of the Dwelling Unit.

1.1.26 Impervious Surface: A covering of the earth with anything which restricts the otherwise natural flow of surface waters into the ground, including without limitation, asphalt, concrete, brick, tile and the like.

1.1.27 Lot: A single parcel of land in the same ownership throughout as shown or defined on a recorded instrument conveying ownership, or as may be defined by metes and bounds on a properly recorded Plan. A Lot shall generally have its principal Frontage on a Street or on a Great Pond or lake in accordance with the provisions of law as may be adequate as a condition to the issuance of a Building permit for a Building on such land.

1.1.28 Lot Area: The horizontal area of the surface of a Lot. The Lot Area shall not include any part of the Street upon which the Lot fronts or abuts.

1.1.29 Lot Depth: The average horizontal distance between the front Lot Line and the rear Lot Line.

1.1.30 Lot Lines: The property lines bounding a Lot, and dividing the Lot from other Lots, streets, land or water.

1.1.31 Lot of Record: A separately conveyable Lot which is described in a deed which has been lawfully recorded in the Registry of Deeds for Carroll County, prior to the enactment of planning and zoning regulations in Tuftonboro (3/5/71), or which, if not so deeded, is a Lot which is part of an approved Subdivision, the plan of which has been lawfully recorded in said Registry of Deeds.

1.1.32 Lot Width: The average horizontal distance between a Lot's side lines.

1.1.33 Manufactured Housing/Mobile Home: The statutory definition (see RSA 674:31) is hereby incorporated herein by reference.

1.1.34 Manufactured Housing/Mobile Home Subdivision: Any Subdivision which contains Manufactured Housing/Mobile Homes on individually owned Lots.

1.1.35 Manufactured Housing/Mobile Home Park: A parcel of land containing 20 acres or more and upon which one or more manufactured/Mobile Homes may be placed on leased or rented sites for living purposes in accordance with Section IX of this Ordinance.

1.1.36 Motel, Hotel: A Building designed for or used commercially as temporary living quarters for persons who are lodged with or without meals, containing nine or more sleeping rooms usually occupied by transients and without individual cooking facilities. Motels and Hotels shall be on Lots containing a minimum of 5,000 square feet of land per rental unit.

1.1.37 Non-conforming Use: Any use which lawfully existed prior to the effective date(s) planning or zoning regulations with which it is now in conflict.

1.1.38 Open Space: Land or water area free of all Structures, parking, drives, or Impervious Surfaces other than walks and terraces. Open Space may be landscaped with lawn, trees, shrubs, or other plantings.

1.1.39 Pervious Surface: Consists of porous material. Does not cause an increased runoff. Will allow water to pass through at a rate equal to or greater than the natural infiltration rate of the underlying soil.

1.1.40 Recreational Camping Parks or Trailer Parks: A parcel of land under single ownership consisting of a minimum of twenty (20) acres used primarily for transient recreational vehicles (tents, travel trailers, tent campers, motor homes and pick-up campers).

1.1.41 Recreational Vehicle: A vehicular or vehicular-mounted facility mounted on wheels or mounted on a vehicle with wheels such as motor homes, slide-in campers, travel trailers, truck campers and camping trailers, with or without motive power, designed for transient, recreational human habitation and occupancy, and as is also defined by N. H. statute, as the same may be amended from time to time and is hereby incorporated herein by reference (see R.S.A. 216-1:1(VIII)).

1.1.42 Repair: Replacement or mending of parts already existing but in a state of deterioration with equivalent materials and for the purpose of maintaining their quality.

1.1.43 Residence: The place in which a person lives or resides; dwelling place; a structure serving as a dwelling or home.

1.1.44 Setback: An area on a Lot which contains a Building or Structure, which area is open and unoccupied and which area lies between the Building or Structure and a Lot Line.

1.1.45 Setback, Front: A Setback extending across the full width of a Lot between the front Lot Line and the foremost point of the foremost part of the Building or Structure.

1.1.46 Setback, Rear: A Setback extending across the full width of a Lot between the rear Lot Line and the rearmost point of the rearmost part of the Building or Structure nearest the rear Lot Line.

1.1.47 Setback, Side: A Setback between a side Lot Line and the nearest point of the nearest part of a Building or Structure to that Lot Line, extending from the required front Setback to the required rear Setback.

1.1.48 Sign: Any name, identification, description, display, illustration or device which is affixed to or represented directly or indirectly upon a Building, Structure or land in view of the general public, and which directs attention to a product, place, activity, person, institution or business. A Sign shall also include writing, representation or other figure of similar character within a Building only when illuminated and/or located in a window.

1.1.49 Sign, Attached: A Sign which is attached to a Building wall and which extends eighteen inches (18") or less from the face of a Building wall.

1.1.50 Sign, Flashing: Any Sign or signal light with continuously variable or intermittent illumination, whether achieved electrically or mechanically.

1.1.51 Sign, Free Standing: A Sign which is not attached or affixed to a Structure or Building and which is supported by a pole(s) or other supporting members.

1.1.52 Sign, Surface Area Of: The entire area within a single continuous perimeter enclosing the extreme limits of the actual Sign surface. It does not include any Structural elements outside the limits of such perimeter which do not form an integral part of the display. For projecting or double-faced Signs, only one (1) display space shall be measured in computing total surface area where the Sign faces are parallel or where the interior angle formed by the faces is ninety degrees (90°) or less.

1.1.53 Special Home Occupation: Any individual business or profession conducted within a Dwelling Unit or Accessory Structure on the same Lot as the residence which (a) does not change the character of the Dwelling Unit or the surrounding neighborhood, (b) is conducted by the resident owner/lessee, (c) employs no more than five additional employees besides the owner/lessee, (d) there is not exterior storage of materials visible from the Street, and (e) uses no more than 3000 sq. ft. of Gross Floor Area per Lot.

1.1.54 Story: That part of a Building or Structure comprised between a floor and the floor or roof next above it.

1.1.55 Street: A public or private way designed primarily for vehicular traffic, whether designated as a Street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place, or however else designated.

1.1.56 Structure: Anything constructed or erected, the use of which demands its permanent location on the land, or anything attached to something permanently located on the land.

1.1.57 Structural Alterations: Any change in the supporting members of a Building or Structure, such as walls, columns, beams or girders.

1.1.58 Subdivision: The division of a Lot, tract, or parcel of land into 2 or more Lots, plats, sites or other divisions of land for the purpose, whether immediate or future, of sale, rent, lease, Condominium conveyance, or Building development. It includes re-Subdivision, and, where appropriate to the context, relates to the process of subdividing or to the land or territory subdivided. The division of a parcel of land held in common and subsequently divided into parts among several owners shall be deemed a Subdivision under this title, per RSA 672:14.

1.1.59 Valet Spaces: Boat storage spaces intended for temporary dry storage of boats during the boating season. This does not include spaces occupied only for repair, long-term or off-season storage.

1.1.60 Variance: A variation from the terms of this Ordinance not otherwise permitted within the District concerned, which may be granted by the Board of Adjustment.

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SECTION II: AUTHORITY AND PURPOSES

2.1 AUTHORITY

This Ordinance is enacted in accordance with the authority conferred by the N.H. Revised Statutes Annotated and subsequent amendments thereto and is hereby adopted by the voters of the Town of Tuftonboro, New Hampshire in Annual meeting convened. This Ordinance shall be known as the "Zoning Ordinance of the Town of Tuftonboro, New Hampshire."

2.2 PURPOSES

The purposes of this Ordinance are to promote the health, safety, convenience and general welfare of the inhabitants of the Town of Tuftonboro, to protect and conserve the rural and recreational value of property, to encourage the most appropriate use of land throughout the Town, and to promote the efficiency and economy in the process of development by securing safety from fire, panic and other dangers, by providing adequate areas between Buildings and various rights-of-way, by preserving the character of the Town, and by promoting good civic design and arrangements, wise and efficient expenditure of public funds, and the adequate provision of public utilities and other public requirements, and by other means.

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SECTION III: ESTABLISHMENT OF DISTRICTS AND USES

3.1 ESTABLISHMENT OF DISTRICTS

For the purpose of this Ordinance, the Town of Tuftonboro is hereby divided into the following Districts:

District Name and Abbreviation

Low Density Residential	LDR
Medium Density Residential	MDR
Lakefront Residential	LKR
Neighborhood Business	NHB
Open Space/Forestry	OSF
Islands' Conservation	ISC
Wetlands Conservation (overlay)	WTC
Manufactured Housing (overlay)	MFH

3.2 LOCATION

Said Districts are located and bounded as shown on a map entitled "Zoning Map, Town of Tuftonboro, New Hampshire", copies of which are on file and may be obtained in the Town Offices. The Zoning Map, with all explanatory material thereon, is hereby made a part of this Ordinance and may be reissued by the Planning Board to incorporate such amendments as may be made by the Annual Town Meeting. The Official Zoning Map shall be reviewed and updated annually.

3.3 INTERPRETATION OF DISTRICT BOUNDS

The location of District boundary lines shown upon the Zoning Map shall be determined as follows:

3.3.1 Where a boundary is shown as following a Street or utility, the boundary shall be the center line thereof unless otherwise indicated.

3.3.2 Where a boundary is shown outside of a Street or utility and is approximately parallel thereto, it shall be deemed parallel to the nearest line thereof and the figure placed on the Zoning Map between the boundary and such line shall be the distance in feet between them, as measured at a right angle from such line unless otherwise indicated.

3.3.3 Where a boundary is shown as following a watercourse, the boundary shall coincide with the center line thereof as said center line existed at the date of the Zoning Map.

3.3.4 Where a boundary apparently follows a property line, it shall be interpreted as such. Such property line shall be interpreted as one existing at the time of enactment of this Ordinance.

3.3.5 Where a District boundary line divides a Lot, either zoning District shall be interpreted as extending twenty feet (20') into the adjacent District.

3.3.6 In case of uncertainty of District boundaries, the Planning Board shall determine the exact location of the boundary based on the criteria given herein and the Zoning Map.

3.4 DISTRICT PURPOSES

The following purposes are hereby established for each of the Districts:

3.4.1 Low Density Residential: The intent of this District is to provide for predominantly low density residential and agricultural development on individual Lots or in cluster developments, which can be accommodated on the land without major disruptions of the natural terrain, vegetation, watercourses or surface drainage and which would not have Town water or sewers.

3.4.2 Medium Density Residential: The intent of this District is to provide predominantly medium density residential and agricultural development on individual Lots or in cluster developments, which can, because of the natural terrain, vegetation, watercourses or surface drainage, be permitted to occur at more intense levels of development and which may be provided with Town water and sewers.

3.4.3 Neighborhood Business: The intent of this District is to permit limited commercial uses primarily to serve tourists and neighborhood areas which have a mixture of residential, including cluster development, and non-residential uses but where the trend has been Conversion to commercial use, to the rear boundary line of the lot or to a maximum depth of 300 hundred feet (300'). These areas are typified by small Lots and are frequently abutted by residential neighborhoods.

3.4.4 Manufactured Housing (overlay): The intent of this District is to allow Manufactured Housing on an individually owned Lot subject to the same requirements, zoning or otherwise, that conventional single Family housing in the same area must meet.

3.4.5 Open Space/Forestry: The intent of this District is to provide areas which because of their environmental characteristics or ownership, should remain predominantly open and used for recreation, residential, conservation and/or agricultural purposes.

3.4.6 Islands' Conservation: The intent of this District is to provide protection for water quality and wildlife habitat, and provide for appropriate uses of land for island located on Lake Winnepesaukee.

3.4.7 Wetlands Conservation (overlay): The intent of this overlay District is to provide protection for and appropriate use of wetland areas.

3.4.8 Lakefront Residential: The intent of this District is to provide appropriate uses of the Lots that directly abut on the lakefront of Lake Winnepesaukee, Mirror Lake, Dan Hole Pond, and Lower Beech Pond, to the rear boundary line of the lot or to a maximum depth of six hundred feet (600'), measured from the legal full elevation of the water body, whichever is less.

3.5 USE REGULATIONS

3.5.1 The Table of Uses, Section 3.6, specifies the uses that are permitted by right, are permitted by special exception, or are prohibited. Permitted uses are designated in the Table with a P; uses which require the granting of a special exception are designated with an S; and prohibited uses are designated with an X. Any use not specifically listed in the Table is prohibited unless it is consistent with the permitted uses and the district purpose.

3.5.2 All uses illustrated in Section 3.6 shall be subject to the limitations delineated in other Sections of this Ordinance. In cases of conflict the more restrictive interpretation shall apply.

3.5.3 All Buildings or Structures hereafter erected, reconstructed, altered, enlarged, or moved, or all future uses of premises in the Town of Tuftonboro shall be in conformity with the provisions of this Ordinance. Any Building, Structure, or land shall not be used for any manner other than is permitted in the District in which it is located.

3.5.4 A permit for the construction, Alteration, enlargement, moving, or Demolition or use of a Building or Structure shall not be issued by the Codes Enforcement Officer unless it complies with this Ordinance and/or has been granted a Variance or special exception by the Board of Adjustment.

3.6 TABLE OF USES

All uses are permitted by district. Please refer to the Tuftonboro Site Plan Review Regulations regarding the application of any permitted use to a tax lot.

<u>USES</u>	<u>DISTRICTS</u>						
	LDR	MDR	LKR	NHB	OSF	ISC	WTC
A. RESIDENTIAL USES							
1. Single Family Building.	P	P	P	P	P	P	
2. Duplex.	P	P	P	P	P	P	
3. Cluster developments in accordance with Section VIII of this Ordinance.	P	P	P	P	P	P	
4. Manufactured Housing in accordance with Section IX of this Ordinance.	P	P	X	X	X	X	
5. Small Wind Energy System	P	P	P	P	P	P	
B. TEMPORARY RESIDENTIAL USES							
1. Overnight and day camps, cottage colonies, vacation resorts, and similar facilities.	S	S	S	S	S	S	
2. Bed and Breakfast Inns, lodging houses, and tourist homes not exceeding 8 guest rooms.	P	P	S	P	X	X	
3. Hotels, Motels with not more than 20 guest rooms.	S	S	S	S	X	X	
C. OUTDOOR/RECREATIONAL USES							
1. Forestry, wildlife, timber preserves, reservoirs, and nature study areas.	P	P	P	P	P	P	
2. Parks and playgrounds.	P	P	P	P	P	P	

All uses are permitted by district. Please refer to the Tuftonboro Site Plan Review Regulations regarding the application of any permitted use to a tax lot.

<u>USES</u>	<u>DISTRICTS</u>						
	LDR	MDR	LKR	NHB	OSF	ISC	WTC
3. Commercial riding stables and riding trails.	S	X	X	X	P	X	
4. Historic building or site open to public.	P	P	P	P	P	P	
5. Recreational Camping Parks, residential, tenting and recreational vehicles in accordance with Section X.	S	S	S	X	S	S	
D. AGRICULTURAL/FORESTRY USES							
1. Farming including dairying, livestock, animal and poultry raising, and crop production.	P	P	S	S	P	S	
2. Roadside stands for sale of farm products.	P	P	X	P	P	X	
3. Commercial greenhouses/nurseries for raising flowers and other horticultural products including the sale of such products on the premises.	S	S	X	P	S	X	
4. Tree farming, commercial timbering, and commercial harvesting of forest products.	P	S	X	P	P	P	
E. INSTITUTIONAL USES							
1. Educational Facilities, nursery through secondary schools.	P	P	X	P	X	X	
2. Day care facilities.	S	P	P	P	S	X	
3. Senior citizen centers.	P	P	P	P	X	X	

All uses are permitted by district. Please refer to the Tuftonboro Site Plan Review Regulations regarding the application of any permitted use to a tax lot.

<u>USES</u>	<u>DISTRICTS</u>						
	LDR	MDR	LKR	NHB	OSF	ISC	WTC
4. Non-profit lodges and fraternal organizations.	S	S	X	S	X	X	
5. Hospitals, clinics and nursing homes and rehabilitation centers.	S	S	X	S	X	X	
6. Funeral home or parlor.	X	S	X	P	X	X	
7. Place of worship including customary ancillary facilities.	P	P	P	P	X	X	
8. Cemetery.	P	P	X	P	P	P	
9. Public utilities.	S	S	S	S	S	S	
F. COMMERCIAL USES							
1. Retail sales and consumer services (not including motor vehicle or Mobile Home sales) not exceeding 5000 SF of gross area per Lot.	X	X	X	P	X	X	
2. Business, professional and real estate services, unless permitted as Home Occupations.	X	X	X	P	X	X	
3. Home Occupation.	P	P	P	P	P	P	
4. Special Home Occupation.	S	S	S	S	S	S	
5. Banks and lending institutions.	X	X	X	P	X	X	
6. Restaurants.	S	S	S	P	X	X	
7. Automotive gas station, service station.	X	X	X	P	X	X	

All uses are permitted by district. Please refer to the Tuftonboro Site Plan Review Regulations regarding the application of any permitted use to a tax lot.

USES	DISTRICTS						
	LDR	MDR	LKR	NHB	OSF	ISC	WTC
8. Motor vehicle dealership, body shop, paint shop not exceeding 5000 SF of gross area per Lot.	X	X	X	S	X	X	
9. Veterinary hospital/kennel.	S	S	X	S	S	X	
10. Commercial docking for boats; (on Lake Winnepesaukee only)	S	S	S	S	X	S	
11. Marinas and boat repair yards	S	S	S	S	X	S	
12. Telecommunications Facilities							
New Tower Construction	P	P	X	X	X	X	X
Collocation on existing tower	P	P	X	X	X	X	X
Collocation in/on exist. Structure	P	P	X	P	P	X	X
13. Storage Buildings	S	S	S	S	S	X	X
G. INDUSTRIAL USES							
1. Manufacturing, assembly, fabricating operations not exceeding 10,000 SF of gross floor per Lot.	S	X	X	S	X	X	
2. Research and development, corporate, and business offices not exceeding 5,000 SF per Lot.	X	X	X	S	X	X	
3. Earth products removal subject to provisions of Section XI.	S	S	X	S	S	X	
4. Sawmills and wood splitting operations.	S	X	X	X	S	X	
5. Junk yards.	X	X	X	X	X	X	

3.7 GENERAL USE PROVISIONS:

3.7.1 All permitted uses are subject to all of the other provisions of this Ordinance.

3.7.2 All special exceptions are subject to the provisions of Section XVII.

3.7.3 A Lot of Record which does not meet current dimensional requirements may be granted a building permit provided that the proposed structure meets setback requirements and the lot can support the appropriate sewage disposal without waiver from the New Hampshire Dept. of Environmental Services Water Supply & Pollution Control Division.

3.7.4 Any lot that can support a Duplex residence without a zoning variance and without waiver by the New Hampshire Water Supply and Pollution Control Division will be allowed up to two (2) Dwelling Units. The second Dwelling Unit shall be subordinate in scope and scale to the main residential Dwelling Unit. The second Dwelling Unit may stand alone or be incorporated into an auxiliary structure such as a garage or a barn. The Planning Board, under the provisions of this paragraph, shall have the right to require New Hampshire Water Supply & Pollution Control Division approved septic system design without waiver from current standards for the proposed Dwelling Unit and for the existing Dwelling Unit. Further, the Town, under the provisions of this paragraph, shall have the right to require the construction of said approved septic systems for the proposed Dwelling Unit and for the existing Dwelling Unit as a condition of approval.

3.7.5 With respect to the permitted and excluded uses of table 3.6 above, section XII of this Ordinance, the Wetlands Conservation District, shall apply to all those land areas of the Town which lie within the Wetlands Conservation District, as defined therein.

**ZONING ORDINANCE
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SECTION IV: DIMENSIONAL REQUIREMENTS

4.1 GENERAL REQUIREMENTS

The following general requirements shall be met:

4.1.1 No Building or Structure shall be erected, enlarged beyond the original footprint or overhang or moved nor shall any use be authorized or extended nor shall any existing Lot be changed as to size except in accordance with the Table of Dimensional Requirements, Section 4.

4.1.2 A Lot having Frontage or an area less than required by Section 4.2 may be considered to be in compliance therewith provided that:

A. the Lot had received final Subdivision approval prior to the enactment of this Ordinance or was shown on a recorded plan or deed filed before the Planning Board that was granted jurisdiction to control the Subdivision of land, and provided that,

B. Contiguous Lots in common ownership may be combined to create a Lot or Lots most nearly consistent with Section 4.2, and provided that,

C. Contiguous Lots in common ownership shall not have been separated or transferred in ownership so as not to comply with the provisions of this Ordinance.

4.2 TABLE OF DIMENSIONAL REQUIREMENTS

The Table of Dimensional Requirements shall apply for all Lots, uses of land, and developments within the various Districts, unless modified by other sections of this ordinance.

	Minimum Lot Dimension ¹	Minimum Setback Dimensions ^{1,2}						Max. Height of Building Structure ⁵	Max. % Impervious Coverage Per Lot	Min. % Open Space Per Lot
	Area ³ ACRES	Continuous Frontage ⁴	Depth	Front	Side	Rear				
Low Density Residential	2	150	200	30	25	25	35	20	60	
Medium Density Residential	1	100	150	30	25	25	35	25	50	
Neighborhood Business	1	100	150	50	20	40	35	40	20	
Open Space/ Forestry	4	250	200	50	40	50	35	10	75	
Islands' Conservation	1	150	200	50 ⁶	20	25	35	20	60	
Lakefront	1	150	200	50 ⁶	20	25	35	20	60	

¹ All measurements are in feet unless otherwise noted.

² For Telecommunications facilities dimensional requirements, see Section XIII herein and also Site Plan Review Regulations.

³ Slopes over 25 percent and wetlands cannot be counted to satisfy the minimum lot size.

⁴ Dimensions are for road frontage, except in the case of waterfront lots. Waterfront is measured in 50 foot increments.

⁵ For Telecommunication Facilities height requirements, see Section XIII herein and also Site Plan Review Regulations.

For Small Wind Energy Systems, see Section XV and also Site Plan Review Regulations.

⁶ Shorefront setbacks shall not apply to boathouses.

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SECTION V: SUPPLEMENTARY REGULATIONS

5.1 NONCONFORMING USES

5.1.1 Discontinuance: Any Non-conforming Use may be continued unless discontinued for a continuous period of twelve (12) months, at which time it may not be reestablished and any future use shall be in conformity with this Ordinance. For the purposes of this Section, "discontinued" shall mean ceased, without any regard for the intent to cease or the intent to re-establish a Non-conforming Use.

5.1.2 Rebuilding: The restoration of a non-conforming Structure damaged by fire or other causes shall be substantially completed in one year and there shall be no increase in volume, height, or floor space of such Structure.

5.2 CERTAIN PROHIBITIONS

The following prohibitions shall be observed in the Town of Tuftonboro.

5.2.1 Fire Ruins: No owner or occupant of land in any District shall permit fire or other ruins to be left on a site, but within one year shall remove such ruins and fill any excavation with solid fill to ground level, or shall Repair, replace, or rebuild the Structure. All potential hazards such as foundation holes are required to be mitigated within 90 days after the fire event and until the structure is reconstructed.

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

5.2.3 Sanitary Protection: No privy, cesspool, septic tank, lagoon or other sewage disposal area or apparatus shall be constructed or replaced unless designed in accordance with the most recent manual on the "Subdivision and Individual Sewage Disposal System Design Rules" published by the New Hampshire Department of Environmental Services, Water Supply and Pollution Control Division (WSPCD) and plans of such system are approved by the Town of Tuftonboro's Code Enforcement Officer and if necessary by the WSPCD. No leaching field or sewage drain facility shall be located closer than 75 feet from a well or lake, pond, wetland or stream. Unless the owner can prove the site acceptable, no septic or other sanitary systems requiring leach fields shall be built on slopes exceeding fifteen (15) percent average grade.

5.2.4 Dumping or Disposal of Garbage and Other Refuse: No land in any District shall be used for a dumping place for garbage or refuse from either private or commercial or industrial sources except the public dump/landfill as provided by the Town, or by the approval in writing of the Public Health Officer and the approval of a Variance application to the Board of Adjustment upon such conditions as they may require.

5.2.5 Timber Cutting: No person shall cut timber within two hundred (200) feet of any lake, pond, stream, or public road, unless the cut land is stumped, graded and seeded, or as may otherwise may be permitted in New Hampshire Statutes.

5.2.6. Junk Vehicles: No Junk, unregistered, or inoperable automobiles or other vehicles originally designed for public or private transportation purposes or the parts to said vehicles shall remain within any residential or Open Space/forestry Districts unless such vehicle and/or its parts are enclosed within a Building.

5.3 PRE-EXISTING JUNK YARDS

Any Junk yard or place for storage of unregistered vehicles or other scrap material existing at the time of passage of this Ordinance shall be maintained in accordance with standards set and enforced by the New Hampshire Revised Statutes and this Ordinance.

5.3.1 Screening: Any Junk permitted to be maintained on any Lot shall be effectively screened from view from any highway and from abutting premises by a solid wall or fence at least six (6) feet in height.

5.3.2 Period for Compliance: A period of six (6) months from the date of adoption of this Section shall be provided for Junk existing on said date either to be removed or to be brought into compliance with the provisions hereof.

5.4 CONVERSIONS and EXPANSION

5.4.1 In the LDR, MDR and NHB Districts, a residential Building existing at the time of passage of this Ordinance shall be permitted to be remodeled to a maximum of five (5) Dwelling Units, provided, however, that there is no increase in the size of the Building.

5.4.2 Any Conversion of an existing Building or Structure shall require a permit from the Codes Enforcement officer. Before a Building permit may be issued, one of the following conditions must be met:

- A.** The applicant must demonstrate that site conditions and land area are suitable and adequate for the installation of a septic system approved by Water Supply and Pollution Control Division (WSPCD) for the proposed use in accordance with Env-Wq 1004.18.

5.4.3 No building permit for Expansion of an existing Structure or construction of an accessory building on a lot one acre in size or less shall be granted without proof that the lot can accommodate a sewage disposal system built to current standards of NH Dept. of Environmental Services Water Supply & Pollution Control Division (WSPCD) for the proposed use in accordance with Env-Wq 1004.18.

5.5 TEMPORARY USES AND DWELLINGS:

5.5.1 A temporary permit may be issued by the Code Enforcement Officer, in consultation with the Board of Selectmen, for a period not exceeding one year for a use not in conformance with the Zoning Ordinance if such use is incidental and reasonably necessary for public recreational purposes or to a construction project on the same Lot. Any such temporary permit shall be conditioned upon a written agreement with the owner of the Lot involved wherein the owner acknowledges: the temporary, nonconforming nature of the use; the agreement to remove the structure or cease the use upon expiration of the temporary permit; and, except as provided herein in sections 5.5.1(a) and (b), an agreement of non-interference with the Town if the Town elects to enforce the removal of the temporary use or structure upon the expiration of the temporary permit.

A. Any such permit may be extended for an additional period not to exceed one year, only by a Special Exception granted by the Board of Adjustment provided that: construction is active and ongoing; and the Applicant or owner of the Lot in question can demonstrate good faith efforts to comply with the initial deadline.

B. Any temporary use permit related solely for public recreational purposes may seek renewal, on a year-to-year basis for seasonal uses that do not operate continuously for more than six months. Examples of such uses, without limitation, are “snack” facilities and juice and drink stands.

5.5.2 All temporary uses under this section shall not exceed five hundred (500) square feet of area.

5.5.3 Temporary permits may be issued by the Code Enforcement Officer, in consultation with the Board of Selectmen, for a period not exceeding one year for: a Manufactured Home or Recreational Vehicle to be occupied as a temporary dwelling during construction on the same Lot for which a non-temporary building permit has been issued; or a Manufactured Home or Recreational Vehicle to be used as a temporary office incidental to permanent construction or development on the Lot on which the Manufactured Home or Recreational Vehicle is located. Any such temporary permit shall be conditioned upon a written agreement with the owner of the Lot involved wherein the owner acknowledges: the temporary, nonconforming nature of the Manufactured Home or Recreational Vehicle; the agreement to remove the Manufactured Home or Recreational Vehicle upon expiration of the temporary permit; and, except as provided herein in section 5.5.3(a), an agreement of non-interference with the Town if the Town

elects to enforce the removal of the Manufactured Home or Recreational Vehicle upon the expiration of the temporary permit.

A. Any such permit may be extended for an additional period not to exceed one year, only by a Special Exception granted by the Board of Adjustment provided that: construction is active and ongoing; and the Applicant or owner of the Lot in question can demonstrate good faith efforts to comply with the initial deadline.

5.5.4 For any temporary use or dwelling permit, the Town may require a bond or other form of security to be posted by the owner or Applicant involved in an amount determined by the Code Enforcement Officer to be adequate to insure the removal and the restoration of the Lot or Lots in question to conformance with the zoning ordinance.

5.5.5 All temporary uses and dwellings shall be furnished with adequate water supply and sewage disposal facilities. Such adequate facilities may be provided by temporary connections with permanent water supply or sewage disposal facilities on site or through self-contained facilities, such as those provided by some Recreational Vehicles, that dispose of sewage offsite in a State approved manner and location.

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SECTION VI: PARKING REQUIREMENTS

6.1 OFF-STREET PARKING:

On and after the effective date of this Ordinance, all new structures and developments as well as additions to or changes in use in existing structures shall be provided with off-Street parking spaces in accordance with the following specifications in Section 6.2.

6.2 REQUIRED SPACES

Type of Use	Number of Required Spaces
(a) Automobile service station	One (1) space for each gas pump island, plus two (2) spaces for each working bay, plus one (1) parking space for each employee at the largest shift.
(b) Beauty parlors and barber shops	Two (2) parking spaces per barber and/or beauty shop operator.
(c) Business and professional offices	One (1) parking space for each 400 sq. ft. of Gross Floor Area plus one (1) for every two employees.
(d) Bowling alleys, skating rinks	One (1) space per 500 sq. ft. of Gross Floor Area.
(e) Places of public assembly where capacity cannot be measured by seats	One (1) for every 100 sq. ft. of area
(f) Residential dwellings	Two (2) spaces per Dwelling Unit.
(g) Public and private schools K through secondary school	One (1) space per 500 sq. ft. of Gross Floor Area other than classrooms plus one for each Teaching station.
(h) Nursery schools and Day Care Centers	One (1) parking space for each five (5) children at maximum capacity.

(i) Marina	One (1) space for every two (2) boat slips. One (1) space for every two (2) Valet Spaces.
(j) Restaurants, theater auditoriums, churches and places of assembly with fixed seats	One (1) parking space for each four (4) seats based on a maximum seating capacity, plus one (1) additional space for each two (2) employees on shift of largest employment.
(k) Motels, Hotels, Tourist Homes and Boarding houses	One (1) parking space for each sleeping room and one (1) space for each two (2) employees on shift of largest employment.
(l) Industrial establishments, including manufacturing, Research and testing laboratories	One (1) space per two (2) employees in the largest shift.
(m) Wholesale establishments, warehouses, and storage buildings	One (1) space per 3,000 sq. ft. of Gross Floor Area.
(n) Retail and personal service stores	Five (5) spaces per 1,000 square feet of gross leasable area.
(o) Telecommunication Facility	One (1) space per carrier

6.3 PARKING SPECIFICATIONS

6.3.1 Size: Each required parking space shall be not less than 8 1/2 feet wide and shall have a minimum area of one hundred sixty (160) square feet, exclusive of drives or aisles.

6.3.2 Travel Lanes: Travel lanes shall not be less than: 22 feet wide for 90 degree angle parking; 18 feet wide for 60 degree angle parking; 12 feet wide for 45 degree angle parking; and 10 feet wide for 30 degree angle parking.

6.3.3 Surface: All parking areas and Access drives and aisles shall be surfaced with bituminous binder, concrete, asphalt, pervious material, compacted, or crushed stone placed in order to prevent erosion and raising of dust. If paved, the Lots shall be striped to delineate parking spaces.

6.3.4 Landscaping: Any Lot containing a parking Lot of more than four (4) parking spaces shall also have an area equal to at least at least ten (10) percent of the parking Lot's area landscaped with trees, shrubs, and similar plant materials.

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SECTION VII: SIGNS

7.1 PURPOSES

The intent of this Section is to allow the erection of Signs, for the purposes of providing information and advertising, in an orderly, effective, and safe manner. Restrictions on type, location and size of Signs protect the public from hazardous and distracting displays and create an attractive environment which is conducive to business, industry, and tourism.

7.2 GENERAL REGULATIONS

7.2.1 Sign Table: Table 7.3 lists the types, sizes, and locations of permitted Signs according to the use of property and zoning Districts. Any Sign not specifically listed shall not be permitted. The following are exceptions:

- A. Governmental Signs:** Signs erected by the municipal, State, or federal government which are required for the public safety and welfare shall be allowed.
- B. Directional Signs:** In any Zone Signs not exceeding two (2) square feet in area to point direction to residences, businesses, or meeting places are permitted.
- C. Telecommunication Facility.** Signs shall be limited to those needed to identify the property and the owner and warn of any danger.

7.2.2 Sign permits: No Sign shall be erected or placed without a Sign permit issued by the Code Enforcement Officer in accordance with the provisions of this Ordinance or a decision by the Board of Adjustment.

7.2.3 Prohibited Signs: The following Signs are prohibited:

- A.** Moving, fluttering, blinking or flashing lights or signs except as temporary seasonal holiday decorations.
- B.** Signs, which by reason of location, size, color, or design interfere with public traffic or be confused with or obstruct the view or effectiveness of any official traffic signal or traffic marking.

7.2.4 Temporary Mobile Signs: New businesses may use a temporary mobile Sign (or trailer mounted Sign) while awaiting the arrival of a permanent Sign. Such Signs shall be allowed only until the permanent Sign(s) is installed or for thirty (30) days, whichever is shorter.

7.2.5 Maintenance and Obsolescence: All Signs and Sign structures shall be properly maintained and kept in a neat and proper state of maintenance and appearance. Any Sign painted directly to the surface of any wall shall be required to be repainted at least every three (3) years and such repainted Sign shall conform to all terms of this Ordinance. All Signs of any type and located within any District which are found by the Codes Enforcement Officer to be in a state of disrepair or are considered dangerous, shall be Repaired or removed on order of the Code Enforcement Officer and upon failure to comply with this order within the time specified within the order, the Codes Enforcement Officer is hereby authorized to cause removal of this Sign and any expense resultant thereto shall be borne by the owner of the Building to which the Sign is attached.

7.2.6 Sign Lighting: Signs may be illuminated only by continuous white light with illumination confined to the area of the sign. Lighting shall be kept to the minimum required for sign illumination. Whenever practicable, lighting installations shall include timers and dimmers and/or sensors to reduce the overall energy consumption and eliminate unneeded light.

7.3 PERMITTED SIGNS

Type of Use	Maximum Aggregate Area (in Square Feet)
Dwellings; Home Occupations; rest, convalescent, and nursing homes; private nursery schools; kindergartens; and child care centers	6
Public, educational, historical, institutional, and non-profit organization uses	6
Temporary real estate or contractors' signs (Also in Commercial and Industrial Districts)	12
Roadside stands, greenhouses and nurseries	12
Cluster development project identification signs	12
Businesses	24
Shopping centers and similar multiple-use developments	48
Industrial and office park identification signs (Not for individual Buildings or uses)	48
Industrial Buildings	24

Explanatory Notes:

A. The maximum aggregate area is the sum of all attached, projecting, and/or free standing Signs. In no case can all of the Sign areas on a property exceed the maximum aggregate area identified above.

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SECTION VIII: CLUSTER DEVELOPMENTS

8.1 PURPOSE

The purpose of these cluster development provisions is to encourage flexibility in the design and development of land in order to promote the most efficient use of land and to preserve the natural features and Open Space.

8.2 OBJECTIVES

The objectives of this Section are to:

- A.** Preserve permanently natural topography, wooded or open areas and to provide usable Open Space and recreation facilities;
- B.** Encourage flexibility and creativity in the design of developments through the site-specific and sensitive design of particular plans for particular areas rather than the strict pre-regulation of all plans within a zone;
- C.** Encourage a less sprawling form of development which makes more efficient use of land, requires shorter networks of streets and utilities, and fosters more economical development and less consumption of land;
- D.** Provide an efficient procedure which can insure appropriate, high quality design and site planning and a high level of environmental amenity;
- E.** Avoid the development of land which has poor soil conditions, high water tables, is subject to flooding, or has excessively steep slopes.
- F.** Provide opportunity for a diversified housing stock to achieve a diverse balanced community with housing available for households of all incomes.

8.3 PROCEDURES

8.3.1 Review Process: A cluster development shall be treated as a Subdivision for review and public hearing purposes.

- A.** The applicant shall, at a properly noticed Hearing, submit a plan for Design Review by the Planning Board. Using the Subdivision Rules and Regulations as a guide, the Planning Board shall advise the applicant of changes needed for approval. The

applicant may also first request a Conceptual Consultation, without a Public Hearing, if general concepts are to be discussed and Board guidance sought.

B. Once the Design Review plan has been reviewed by the Board, the Planning Board may then hold a public hearing for final approval of the subdivision.

C. In the event of conflict between the provisions of the Cluster Development section of this Ordinance with any other applicable Town regulation, the provisions of the Cluster Development section shall control.

8.3.2 Legal Review: The applicant shall submit for review by the Town Attorney any restrictive covenants, Condominium or cooperative agreements, long-term sale or lease agreements for workforce housing, or other legal agreements proposed for use in the cluster development. The Town Attorney shall approve the legal documents prior to the granting of final approval of a Cluster Development.

8.4 PERMITTED USES

8.4.1 Residential Districts: Cluster developments shall be allowed in all Districts.

8.4.2 Uses: All uses permitted in the District within which the cluster development lies shall be allowed.

8.4.3 Dwelling Unit Configuration: Dwelling Units may be in the form of single Family detached or attached units of up to five Dwelling Units per Building. The Dwelling Units may be in Condominium or cooperative type ownership.

8.4.4 Recreational Uses: Indoor or outdoor recreational facilities accessory to other permitted uses are allowed as part of the cluster development.

8.5 DEVELOPMENT REGULATIONS

The cluster development shall meet the following standards.

8.5.1 Area: The cluster development shall have a minimum area of four (4) acres of contiguous land in all districts except the Open Space/Forestry District where the minimum area for a cluster development shall be eight (8) acres.

8.5.2 Dwelling Unit Density: The cluster development shall have a minimum of $\frac{1}{2}$ acre per Dwelling Unit in the MDR, LKR, NHB, and ISC Districts, 1 acre per Dwelling Unit in the LDR District and $1\frac{1}{2}$ acres per Dwelling Unit in the OSF District, provided that the soil conditions do not require a lower density for health and safety reasons. In order to calculate the allowed density, the total acreage exclusive of waterbodies, wetlands, and slopes over 25% shall be divided by the acres per Dwelling Unit, as specified herein.

8.5.3 Layout: Structures may be located in any manner on the site to meet the objectives in Section 7.2 and providing that the following standards are met.

A. Buffering and Setbacks

The Planning Board may require a vegetative buffer within the existing zoning district setbacks.

B. Internal Dimensional Requirements

Front Setback - 20' from the internal road network Structures shall be at least 30' apart Maximum height - 35'

C. Shore Frontage Requirements:

For Cluster Development with waterfront access to a Great Pond, there shall be a minimum of one hundred fifty (150) feet of Frontage along the Great Pond for the first two Dwelling Units, and fifty (50) feet of additional Frontage for each additional Dwelling Unit.

8.5.4 Street and Utilities: The installation of streets and utilities shall comply with the Subdivision Rules and Regulations, including posting of bonds, or other surety. The Planning Board may allow an applicant to construct streets and utilities within the project to be retained in private ownership. If the streets and utilities are to be in private ownership, then the applicant shall so indicate such facts on all relevant documents/plans, and the applicant may then be relieved from complying with the minimum standards for such streets and utilities set forth in the Subdivision Rules and Regulations. However, in no such case shall they be reduced to cause a health or safety hazard.

8.5.5 Common Open Space: As a condition of approval, the cluster development shall:

A. Dedicate a minimum of twenty-five (25) percent of the total site area for common Open Space. Common Open Space may include land or water area intended for amenity or recreational use by residents of the cluster development, and may include Accessory structures for recreational use. Common Open Space shall not include areas devoted to principal structures, Street rights-of-way, parking or utilities.

B. Be governed in accordance with the requirements of RSA 356-B inclusive, as amended, if the cluster development is to be of the Condominium type;

C. Provisions shall be made within the Declaration, By-Laws, Homeowner's Association Rules & Regulations or other documents acceptable to the Planning Board, which will ensure the sound management of the common lands dedicated to the provisions of this section. "Sound Management" includes, herein, utilization of

land based on recommendations of the County Soil Conservation office, or the Town Conservation Commission or the County Forester, or a land use plan prepared by land use consultants and approved by the Homeowner's Association. The goal of management of the common land is to provide any of the following:

1. Woodland with open-space recreation facilities such as cross country ski trails, hiking paths.
2. Managed woodland (for Contiguous common areas of more than ten (10) acres).
3. Open meadow or pasture areas.
4. Waterfront activity areas such as swimming and boating.
5. Other uses as may be approved by the Planning Board.

D. The common land dedicated to this section shall be restricted by permanent covenant from further Subdivision or inclusion in land area for unit density computation for any Subdivision other than the original Subdivision of which the common land is a part.

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SECTION IX: MANUFACTURED HOUSING

9.1 AUTHORITY

This Section is enacted in accordance with the provisions of RSA 674:31-32.

9.2 PURPOSES

The purposes of this Section are to allow for the placement of Manufactured Housing within specific areas of the community and to provide for standards therefore.

9.3 LIMITATIONS

After the effective date of this Section, no Manufactured Housing shall be located otherwise than in a Manufactured Housing Park or Manufactured Housing Subdivision or in a Manufactured Housing overlay District except as specifically provided in this Section. A manufactured house lawfully existing on the effective date of this Section on land out of a Manufactured Housing Park or Subdivision, or a replacement thereof if such housing unit is destroyed by fire or casualty and its replacement is located on the land within 180 days after such fire or casualty may be maintained as a Non-conforming Use, provided that when such use shall have been discontinued by the removal of such housing unit or its replacement from the land, the use of such land shall thereafter conform to the provisions of this Ordinance. An unoccupied Travel Trailer registered for use on the highways of this State may be parked on land owned by the owner of the Travel Trailer, provided that the location or condition of such Travel Trailer is not detrimental to the neighborhood or to property in the vicinity.

9.4 MANUFACTURED HOUSING/MOBILE HOME PARKS

Manufactured Housing parks will be allowed providing the following requirements are met:

9.4.1 Approval: No Manufactured Housing Park shall be established or operated without approval from the Planning Board of a plan which clearly defines the area of the proposed Park, as well as all Mobile Home sites, all utilities, and such other requirements as shall be required by the Subdivision Regulations of the Town of Tuftonboro as may be adopted from time to time.

9.4.2 Size: Manufactured Housing parks shall consist of a minimum of twenty (20) acres and at least two (2) Lots and are permitted in the Manufactured Housing Overlay District (MHF).

9.4.3 Lot Size: Each Lot must contain not less than 20,000 square feet and shall have a depth of at least 150 feet and a Frontage of at least 75 feet on a public or private Street.

9.4.4 Placement: No Lot shall contain more than one Manufactured Housing unit. No Manufactured Housing unit within a Park shall be placed closer than 150 feet to an existing residence or State or Town road or within thirty (30) feet of any other boundaries of the Park. These named Setbacks shall not be used for parking areas for any type of vehicle.

9.4.5 Marking: Each Lot shall be clearly marked.

9.4.6 Setbacks: Front Setbacks shall be at least 25 feet. Rear Setbacks shall be at least 20 feet. Side Setbacks shall be at least 20 feet.

9.4.7 Other Uses: No principal Building shall be located in a Manufactured Housing Park except units and laundry, recreation, or other Buildings maintained in connection with the operation of the Manufactured Housing Park or Subdivision.

9.4.8 Screening: A Manufactured Housing Park will be effectively screened by the use of the existing natural features of the landscape or added landscaping at least six (6) feet in height which must be approved by the Planning Board.

9.4.9 Recreation Area: A Manufactured Housing Park shall have a recreational area suitably prepared and maintained for the joint use of all occupants. This area shall not be less than 20,000 sq. ft. or a minimum of 1,000 sq. ft. per unit capacity of the Park, whichever is the greater.

9.5 MANUFACTURED HOUSING/MOBILE HOME SUBDIVISIONS

Manufactured Housing Subdivisions will be allowed providing the following requirements are met:

9.5.1 Where Allowed. Manufactured Housing Subdivisions are permitted in any residential zone provided that all requirements which pertain to single Family houses for that same zone are met. Cluster development provisions may be applied to Manufactured Housing Subdivisions, providing there is compliance with all of Section VIII.

9.5.2 Labeling: If a plat is submitted with a request for approval for a Manufactured Housing Subdivision and such plat is approved, the plat shall bear the legend that it is "approved for Manufactured Housing."

9.5.3 Screening: The Manufactured Housing Subdivision will be effectively screened by the use of the existing natural features of the landscape and/or added landscaping at least six (6) feet in height which must be approved by the Planning Board.

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**SECTION X: RECREATIONAL CAMPING PARKS/
RESIDENTIAL TENTING AND RECREATIONAL VEHICLES**

10.1 PURPOSES

The purposes of this Section are to allow for the placement of seasonal Recreational Camping Parks, and residential tenting and recreational vehicles within specific areas of the community and to provide for standards.

10.2 LIMITATIONS

After the effective date of this Section, Recreational Camping Parks or residential tenting and recreational vehicles shall be located in accordance with this Section. A Recreational Camping Park lawfully existing on the effective date of this Section may be maintained as a Non-conforming Use, provided that when such use shall have been discontinued by the removal of recreational camping vehicles and/or seasonal sites, the use of such land shall thereafter conform to the provisions of this Ordinance.

10.3 RECREATIONAL CAMPING PARKS

Recreational Camping Parks will be allowed providing the following requirements are met:

10.3.1 Approval: No Recreational Camping Park shall be established or operated without the approval of the Planning Board of a plan which clearly defines the area of the proposed park, as well as the seasonal recreational vehicle sites, all utilities, and such other requirements as the Town of Tuftonboro requires.

10.3.2 Size: Recreational Camping Parks shall consist of a minimum of twenty (20) acres.

10.3.3 Site Size: The minimum site size is two thousand (2,000) square feet per tenting or recreational vehicle site.

10.3.4 Placement: No site within the Recreational Camping Park shall be located within one hundred and fifty (150) feet of the nearest boundary of any State or Town road, or within twenty-five (25) feet of any other boundaries of the Park.

10.3.5 Marking: Each Lot shall be clearly marked.

10.3.6 Setbacks: The Setbacks shall be at least ten feet (10').

10.3.7 Other Uses: No principal Building shall be located in a Recreational Camping Park except Buildings maintained in connection with the operation of the Recreational Camping Park.

10.3.8 Screening: Between any state or town road within the 150 foot Setback, there shall be a visual screen of suitable shrubs and trees at least six (6) feet in height, which must be approved by the Planning Board.

10.3.9 Recreation Area: Any proposed Recreational Camping Park shall have a recreational area suitably prepared and maintained for the joint use of all the occupants. This area shall not be less than 20,000 sq. ft. or a minimum of 1,000 sq. ft. per unit capacity of the Park, which is greater.

10.4 RESIDENTIAL TENTING/RECREATIONAL VEHICLES

In order to protect the health, safety, and general welfare of the community, occupancy of residential tents and recreational vehicles will be allowed provided that the following requirements are met. The Code Enforcement Officer is designated as the authority for enforcement of this ordinance.

10.4.1 Limitations: Such occupancy of either tents or recreational vehicles on any lot is limited to one (1) recreational vehicle and two (2) tents at a time. Additional tents or RV's may be available by permit. The use is permitted from April 15th to October 30th.

In addition, one of the following conditions must be met:

- A. The lot has toilet facilities connected to an onsite operational subsurface septic waste system.
- B. Temporary maintained toilet facilities are provided on the lot at all times there is occupancy in either a tent or recreational vehicle.
- C. In case of an RV with a septic holding tank, proof of proper disposal of septic waste at a State licensed facility must be available on site at all times and presented to the Code Enforcement Officer upon request.

10.4.2 Location: Any tent or recreational vehicle temporarily located upon a lot shall be located as inconspicuously as possible so as to minimize to the greatest extent possible the unit's visibility from public roads or neighboring lands. Children's tents, used by the minor children of the occupants of a residence, are exempt from this paragraph.

**ZONING ORDINANCE
TOWN OF TUFTONBORO, NEW HAMPSHIRE**

SECTION XI: LOCAL REGULATION OF EXCAVATION

11.1 AUTHORITY

This Ordinance is enacted pursuant to the authority granted to the Town of Tuftonboro to regulate earth moving activities within its boundaries under the provisions of Chapter 155-E of the N. H. Revised Statutes Annotated.

11.2 PURPOSES

The purpose of this Section is to provide for the regulation of excavation of earth or rock products, minimize safety hazards, ensure that the public health and welfare will be safeguarded, protect natural resources and the environment.

11.3 DEFINITIONS

For the purposes of this Section XI: Local Regulation of Excavation, the following definitions shall apply:

- A. **ABUTTER** means (1) any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration. (2) For the purposes of receiving testimony only, and not for purposes of notification, the term “abutter” shall include any person who is able to demonstrate that his land will be directly affected by the proposal under consideration. (3) In the case of an abutting property being under a condominium or other collective form of ownership, the term “abutter” means the officers of the collective form of ownership or association, as defined in RSA 356-B:3, XXIII.B. (4) For purposes of notification and receiving testimony, “abutter” means all affected towns and the regional planning commission(s) in the case of a development having regional impact, as determined by the Board.
- B. **AGRICULTURAL EXCAVATION** means excavation of earth by the owner of the land to be used on the owners land exclusively for agricultural use.
- C. **AGRICULTURAL USE** means land used for agriculture, farming, dairying, pasturage, apiculture, horticulture, floriculture, silviculture and animal and poultry husbandry.
- D. **APPLICANT** means the owner of the property to be excavated or the owner’s agent, so designated in writing as part of the excavation application.
- E. **BOARD** means the Planning Board of Town of Tuftonboro.

- F. COMMERCIAL EXCAVATION means excavation of earth intended for commerce, this may also include excavation that is strictly conducted for the purpose of alteration, renovation, improvement or construction to the property on which the excavation takes place. Any commercially useful earth material leaving the property for whatever reason is considered to be a commercial operation.
- G. COMMERCIALLY USEFUL means the amount of excavated earth deemed by the regulator to be commercially useful which has been determined to be 1,000 cubic yards or more.
- H. CONTIGUOUS means land whose perimeter can be circumscribed without interruption in common ownership except for roads or other easements, in a single town.
- I. DIMENSION STONE means rock that is cut, shaped or selected for use in blocks, slabs, sheets, or other construction units of specified shapes or sizes and is used for external or interior parts of buildings, foundations, curbing, paving, flagging, bridges, revetments, or for other architectural or engineering purposes. Dimension stone includes quarry blocks from which sections of dimension stone are to be produced. Dimension stone does not include earth as defined below.
- J. EARTH means sand, gravel, rock, top soil, loam or construction aggregate produced by quarrying, crushing or any other mining activity or such other naturally-occurring unconsolidated materials that normally mask the bedrock.
- K. EXCAVATING means extracting earth from a site that is in a natural state, or a site that is reclaimed or naturally reclaimed, by any method, such as dredging, blasting, digging out and removing, or forming a cavity or a hole in any land area. Excavating includes excavate.
- L. EXCAVATION means a land area which is used, or has been used, for the commercial taking of earth, including all slopes.
- M. EXCAVATION AREA means the area within an excavation site where excavation has occurred or is eligible to occur under the provisions of RSA 155-E. This is also known as the pit area.
- N. EXCAVATION SITE means any area of contiguous land in common ownership upon which excavation takes place.
- O. EXISTING EXCAVATION means any excavation, as described in RSA 155-E:2, I, which lawfully existed as of August 24, 1979, from which earth material of sufficient weight or volume to be commercially useful has been removed during the 2-year period before August 24, 1979 and had submitted the report as required by RSA 155-E:2, I, (d).

- P. EXPANSION means excavation and disturbance of earth beyond the limits as shown on the plan as approved by the regulator.
- Q. INCIDENTAL EXCAVATION means excavation of earth which has been granted an exception from an excavation permit by the regulator.
- R. MINOR TOPOGRAPHICAL ADJUSTMENT means a one-time removal of earth from the site of less than 1,000 cubic yards that is exclusively necessary to change the physical configuration of the land for a specified use or situation.
- S. NORMAL LANDSCAPING means the on-site alteration and contouring of the land exclusively devoted to improving the functional utility and planting of the grounds.
- T. RECLAMATION means the restoration of an excavation site to an acceptable standard as determined and approved by the regulator.
- U. REGULATOR means the Planning Board of the Town of Tuftonboro.
- V. STATIONARY MANUFACTURING AND/OR PROCESSING PLANTS means facilities which are placed on a site for the purposes of sorting, washing, screening, crushing, classifying, drying or processing excavated earth materials.

11.4 REGULATOR

The Planning Board of the Town of Tuftonboro is designated the Regulator as provided in RSA 155-E.

11.5 REGULATIONS

Pursuant to its responsibility as the Regulator, and in accordance with the provisions of RSA 155-E, the Planning Board is hereby authorized to adopt and from time to time amend regulations governing earth moving activities within the Town of Tuftonboro to ensure that said activities are conducted in a safe manner in accordance with sound environmental practice, to protect against erosion, and to further provide proper assurances that suitable restoration of affected areas are obtained.

11.6 PROJECTS REQUIRING A PERMIT

Any excavation of earth unless specifically exempted by either RSA 155-E:2, RSA 155-E:2-a or specifically excepted in Section 11.7 of this Ordinance shall require a permit.

11.7 EXCEPTIONS FROM AN EXCAVATION PERMIT

A. The following projects are deemed to be an exception from a permit:

- 1) Site development, construction activities, or other projects, that require excavation of earth and will not remove more than 1,000 cubic yards of

earth from the site annually. In the event that the project will result in the removal from the site more than 1,000 cubic yards, the project will be considered incidental provided that all of the required state and local permits have been issued.

- 2) Excavation of earth that is a result of agricultural use, normal landscaping or minor topographical adjustment as defined in Section 11.3 of this Ordinance. In the event that the project will result in the removal of more than 1,000 cubic yards from the site annually, the regulator shall determine what is incidental.
- 3) Excavation from a granite quarry for the purpose of producing dimension stone, if such excavation requires a permit under RSA 12-E (Mining and Reclamation).

11.8 ADMINISTRATION

Except as provided in RSA 155-E:2, RSA 155-E:2-a and Section 11.7, no firm, person or corporation shall conduct earth excavation activities as defined in Section XI: Local Regulations of Excavation without first obtaining a Special Exception from the Zoning Board of Adjustment and Site Plan approval and an Excavation Permit from the Planning Board.

11.8.1 Additional Regulations: Said permit shall be granted pursuant to the provisions of RSA 155-E, as well as any additional regulations the Planning Board may have adopted pursuant to RSA 155-E:11.

11.8.2 Fees: The Planning Board may adopt, and from time to time amend, a permit fee schedule so as to recover all reasonable costs of administration of this Section, as well as all inspections.

11.9 EXCAVATION EXPANSION

When the scope of an approved permitted excavation is proposed to be altered as to affect either the size or location of the excavation, the rate of removal, or the plan for reclamation, the owner must submit a new application, plans, and other required submission items for a new excavation permit hearing process. If the approved excavation previously required a special exception or variance, the proposed changes must first be approved by the Zoning Board of Adjustment.

11.10 SITE RECLAMATION STANDARDS

- A. For excavations requiring a permit, the standards contained in RSA 155-E:5 are considered to be the minimum standards and the regulator may require more stringent reclamation standards as deemed necessary by the nature and scope of the operation. The reclamation will be done in accordance with the approved plans and reclamation sequence.

- B. Any excavation permit applicant that requires a RSA 485-A:17 Alteration of Terrain Permit (AOT) from the NHDES shall incorporate the requirements of this Ordinance, to the extent that they are more restrictive, and not in conflict, with the AOT permit. Copies of all such AOT permits and update plans shall be filed with the regulator.
- C. Incidental excavations that have received an exception from the regulator to remove more than 1,000 cubic yards of earth shall reclaim the property in accordance with the specifications dictated by the regulator.

11.11 ENFORCEMENT

The Planning Board may appoint an Enforcement Officer to enforce the provisions of any permit issued hereunder. Said Enforcement Officer shall have the powers and duties prescribed in RSA 155-E:10.

11.11.1 Existing Operations: Any owner or operator of an existing earth excavation area, that has filed a State of New Hampshire Department of Revenue Administration Notice of Intent to Excavate in the two years prior to March 14, 2017 may continue operation subject to Planning Board Site Plan Review approval and issuance of a Permit to Excavate. Any alteration or enlargement of an excavation area must be in conformance with this Ordinance or any regulations adopted pursuant thereto and further provided that the owner shall suitably restore said area of operation within one year following the intended cessation of the excavation or any completed section thereof so as to secure the area against any unsafe or hazardous conditions which may endanger the health and safety of the general public.

11.11.2 Permits

- A. Permits shall be issued only to the owner or his agent and shall not be transferable without the prior written consent of the Planning Board. A copy of the permit shall be prominently displayed at the site or the principal access to the site.
- B. A permit shall be issued for five (5) years and renewable every five (5) years for a maximum of twenty-five (25) years from the date of the Planning Board Site Plan approval. Planning Board Site Plan approval is valid for twenty-five (25) years.
- C. Excavation of earth without a valid permit is a violation of RSA 155-E and this Ordinance. Violators may be issued a cease and desist order for non-compliance.
- D. The Planning Board may include in the permit any such reasonable conditions as are consistent with the purpose of this Ordinance.

- E. The Planning Board will establish a schedule by which all permitted sites are inspected on an annual basis. Incidental excavation exceptions that will remove more than 1,000 cubic yards will have an inspection schedule as determined by the Planning Board.

11.11.3 Inspections

The Planning Board or its designee may make periodic inspections of all excavation sites, or incidental excavations, to determine if the operations are in conformance with this Ordinance, the approved plans, or the exception criteria. A site inspection review letter will be sent to the owner citing any deficiencies and providing a timeline for correction of the deficiency.

11.11.4 Suspensions and Revocations

The Planning Board may suspend or revoke a permit if the regulator determines that any provision of the permit has been violated, a material misstatement made in the application upon which a permit was granted, or any unsafe or hazardous conditions are determined by a site inspection to exist, or failure to correct any deficiency after notice. The Planning Board may suspend or revoke the exception for incidental excavation if the Planning Board determines that any provision of the exception has been violated, a material misstatement made in the exception application upon which an exception was granted, or any unsafe or hazardous conditions are determined by a site inspection to exist, or failure to correct any deficiency after notice. Such suspension or revocation shall be subject to a motion for rehearing thereon and appeal in accordance with this Ordinance.

11.11.5 Appeals

Any person affected by the Planning Board's decision to approve or disapprove an application or any amendment thereto or any suspension or revocation of a permit, may appeal to the Zoning Board of Adjustment for a rehearing on such decision or any matter determined thereby. The motion for rehearing shall be filed within ten (10) days of such decision and shall fully specify every ground upon which it is alleged that the decision or order complained of is unlawful or unreasonable. The Zoning Board of Adjustment shall either grant or deny the request for rehearing within ten (10) days, and if the request is granted, a rehearing shall be scheduled within thirty (30) days. Any person affected by the Zoning Board of Adjustment's decision on a motion or rehearing may appeal in accordance with RSA 677:4-15.

11.11.6 Penalties

Fines, penalties and remedies for violations of this Ordinance shall be the same as for violations of RSA 676:15, RSA 676:17, RSA 676:17-a and RSA 676:17-b.

**ZONING ORDINANCE
TOWN OF TUFTONBORO, NEW HAMPSHIRE**

SECTION XII: WETLANDS CONSERVATION DISTRICT

12.1 PURPOSES

The purpose of this Section is to protect the public health, safety and general welfare by controlling and guiding the use of land areas which have been found to be subjected to high water tables for extended periods of time. Its further purposes are to prevent the development of structures and land uses on naturally occurring wetlands which will contribute to pollution of surface and ground water by sewage or toxic substances; prevent the destruction of, or significant changes to, natural wetlands which provide flood protection; protect unique and unusual natural areas; protect wildlife habitats and maintain ecological balances; protect potential water supplies and existing aquifers (water-bearing stratum) and aquifer recharge area; and prevent expenditure of municipal funds for the purposes of providing and/or maintaining essential services and utilities which might be required as a result of misuse or abuse of wetlands.

12.2 AREA

The Wetlands Conservation District is defined as those areas which the New Hampshire Department of Environmental Services defines as Wetlands.

12.3 DELINEATION and LOCATION

On site soils investigation is required to evaluate the Wetland Conservation District boundaries for each lot submitted for subdivision and / or site plan approval. When district boundary mapping is required, delineation shall be completed by any professional recognized by the State of New Hampshire as being certified in this type of field investigation. This body of professionals includes Certified Wetland Scientists, Certified Soil Scientists and Designer of Subsurface Disposal Systems and any other professional recognized by the State of New Hampshire for performing this task. The delineated areas shall be platted by either a Certified Soil Scientist, Designer of Subsurface Disposal Systems, Licensed Land Surveyor, or a Civil Engineer licensed in the State of New Hampshire.

12.3.1 For new lots 5 (five) acres in size or larger, the delineation and location of the Wetlands Conservation District shall not be necessary. Instead, the following certification, signed by a Certified Wetland Scientist, Certified Soil Scientist, Designer of Subsurface Disposal Systems, or other professional recognized by the State of New Hampshire for performing this task, shall be required on the subdivision plan:

“Based on my field investigation conducted on (*date*), Lots (*lot numbers*) contain at least ** Acres of non-wetland soil as specified by Article 12.5.3 of the Town of Tuftonboro Zoning Ordinance.”

Date Title & Seal (*Certified Wetland Scientist, Certified Soil Scientist,
Designer of Subsurface Disposal Systems*)

(** is the minimum number of acres required for a lot in a particular zone in which the parent tract is located.)

12.3.2 For new lots less than 5 (five) acres in size, the limits of the Wetland Conservation District shall be delineated and located according to article 12.3. In addition, the following two certifications shall be required on the subdivision plan:

“The limits of the Wetlands Conservation District depicted hereon are based on my field delineation which was conducted on (*date*).”

Date Title & Seal (*Certified Wetland Scientist, Certified Soil Scientist,
Designer of Subsurface Disposal Systems*)

“Based on my field investigation conducted on (*date*), Lots (*lot numbers*) contain at least ** Acres of non-wetland soil as specified by Article 12.5.3 of the Town of Tuftonboro Zoning Ordinance.”

Date Title & Seal (*Certified Wetland Scientist, Certified Soil Scientist, Designer of
Subsurface Disposal Systems, Civil Engineer, or Licensed Land
Surveyor*)

(** is the minimum number of acres required for a lot in the particular zone in which the parent tract is located.)

12.3.3 When no new Lots are being created, but rather, common Lot lines are being adjusted through the Boundary Line Adjustment process, the delineation and location of the Wetlands Conservation District shall not be necessary. Instead, the following certification, signed by a Civil Engineer, Designer of Subsurface Disposal Systems, or other professional recognized by the State of New Hampshire for performing this task, shall be required on the subdivision plan:

“Based on my field investigation conducted on (*date*), newly configured Tax lots (*lot numbers*) contain adequate non-wetland soil area to support a State approved sewage disposal system.”

Date Title & Seal (*Civil Engineer or Designer of Subsurface Disposal Systems*)

12.3.4 When it is determined that no Wetlands have been found on the new Lots being created, the following certification, signed by a Certified Wetland Scientist, Certified Soil Scientist, Designer of Subsurface Disposal Systems, or other professional recognized by the State of New Hampshire for performing this task, shall be required on the subdivision plan (Applicable to 12.3.1 through 12.3.3):

“Based on my field investigation conducted on (*date*), Lots (*lot numbers*) contain no wetland soils.”

Date Title & Seal (*Certified Wetland Scientist, Certified Soil Scientist, Designer of Subsurface Disposal Systems*)

12.4 RELATIONSHIP TO OTHER DISTRICTS

Where the Wetlands Conservation District is superimposed over another zoning District, the more restrictive regulations shall apply.

12.5 PERMITTED USES

12.5.1 General: Permitted uses are those uses which will not require the erection or construction of any structures or Buildings, will not alter the natural surface configuration by the addition of fill or by dredging, and uses that otherwise are permitted by the Zoning Ordinance. Such uses may include the following:

- A.** Forestry-tree farming, using best management practices in order to protect streams from damage and to prevent sedimentation.
- B.** Cultivation and harvesting of crops according to recognized soils conservation practices, including the protection of wetlands from pollution caused by fertilizers, pesticides and herbicides used in such cultivation.
- C.** Wildlife refuges.
- D.** Parks and recreation uses consistent with the purpose and intent of this Ordinance.
- E.** Conservation areas and nature trails.

F. Open Spaces as permitted or required by the Subdivision Regulations or the Zoning Ordinance.

G. Streets, roads and other Access ways and utility right-of-way easements, including power lines and pipe lines, if essential to the productive use of land not so zoned and if so located and constructed as to minimize any detrimental impact of such uses upon the wetlands.

H. Water impoundments.

12.5.2 Special Exceptions: Special exceptions may be granted by the Board of Adjustment, after proper public notice and public hearing, for undertaking the following uses in the Wetlands Conservation District when the application has been referred to the Planning Board, the Conservation Commission, and to the Health Officer for review and comment at least thirty (30) days prior to the hearing.

A. The undertaking of a use not otherwise permitted in the Wetlands Conservation District, if it can be shown that such proposed use is not in conflict with any and all of the purposes and intentions listed in Paragraph 12.1 of this Section.

12.5.3 Special Provisions:

A. No septic tank or leach field may be constructed or enlarged closer than seventy-five (75) feet laterally to any Very Poorly Drained Soils or surface water, nor any closer than fifty (50) feet laterally to any Poorly Drained Soils, unless the individual disposal system is in failure and the replacement is in the same location. Poorly Drained Soils and Very Poorly Drained Soils are as defined by New Hampshire Department of Environmental Services.

B. No part of a wetland may be considered as part of the minimum size requirement of any Lot, nor may any wetland or part of a wetland divide a Lot in such a manner that its minimum Lot size is not Contiguous unless the Lot can be proved to support on-site water supply and sewage disposal without a Variance or waiver from Town or State regulations.

C. All land included in the Wetlands Conservation District shall be appraised for tax purposes at its full and true value in money, based on its market value as undevelopable land required to remain in Open Space.

D. No person shall disturb areas occupied by wetlands, swamps, streams, ponds or lakes except as provided by New Hampshire Statutes.

**ZONING ORDINANCE
TOWN OF TUFTONBORO, NEW HAMPSHIRE**

SECTION XIII: TELECOMMUNICATIONS FACILITIES

13.1 AUTHORITY. In recognition of the requirements of the federal Telecommunications Act of 1996 and New Hampshire RSA 12-K, this Section is designed and intended to balance the interests of the residents of Tuftonboro, telecommunications providers, and telecommunications customers in the siting of telecommunications facilities within the town of Tuftonboro so as to ensure coordinated development of communications capabilities while preserving the health, safety and welfare of the Town and its residents. This section establishes general guidelines for the siting of telecommunications facilities to enhance and fulfill the following goals:

13.1.1 Preserve the authority of Tuftonboro to regulate and to provide for reasonable opportunity for the siting of telecommunications facilities by enhancing the ability of providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently;

13.1.2 Reduce adverse impacts such facilities may create, including, but not limited to, impacts on aesthetics, environmentally sensitive areas, historically significant locations, flight corridors, health and safety by injurious accidents to person and property, and prosperity through protection of property values;

13.1.3 Provide for collocation and minimal impact siting options through assessment of technology, current location options, future available locations, innovative siting techniques, and siting possibilities beyond the political jurisdiction of the Town;

13.1.4 Permit the construction of new towers only where all other reasonable opportunities have been exhausted, and to encourage the users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas;

13.1.5 Require cooperation and collocation to the highest extent possible between competitors in order to reduce cumulative negative impacts upon the Town;

13.1.6 Provide constant maintenance and safety inspections for any and all facilities;

13.1.7 Provide for the removal of abandoned facilities that are no longer inspected for safety concerns and Building code compliance. Provide a mechanism for the Town to remove these abandoned facilities to protect the citizens from imminent harm and danger; and

13.1.8 Provide for the removal or upgrade of facilities that are technologically outdated.

13.2 DEFINITIONS

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

13.2.2 Alternative Tower Structure. Innovative siting techniques such as artificial trees, clock towers, bell towers, steeples, light poles, and similar alternative design mounting structures that camouflage or conceal the presence of antennas or towers.

13.2.3 Antenna. An apparatus designed for telephonic, radio, television, personal wireless service facilities (PWSF), pager network, or any other communications through the sending and/or receiving of electromagnetic waves of any bandwidth.

13.2.4 Applicant. A carrier, a legally appointed agent or representative of a company authorized and licensed by the FCC to construct and operate a commercial mobile radio services system and/or wireless telecommunications services.

13.2.5 Carrier. An FCC licensed person or company that provides wireless telecommunications services.

13.2.6 Collocation. The use of an existing tower or an existing telecommunications facility for multiple purposes or users.

13.2.7 Fall Zone. The area on the ground surrounding a telecommunications facility within which there is a potential hazard from falling debris (such as ice) or collapsing material.

13.2.8 Guy wire. A cable used to secure and steady a tower.

13.2.9 Height. The distance measured from ground level to the highest point on the tower including its attachments.

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

13.2.11 Monopole. Any self-supporting tower consisting of a single pole or shaft.

13.2.12 Preexisting towers and antennas. Any tower or antenna lawfully constructed or permitted prior to the adoption of this ordinance. Also, any tower or antenna lawfully constructed in accordance with this ordinance that predates an application currently before this Town.

13.2.13 Secondary use. A use of land or of a building or portion thereof which is unrelated to the principal use of the land or building.

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

13.2.15 Telecommunications Facility. Any structure, antenna, tower, or other device that provides commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications, personal wireless communications services, common carrier wireless exchange access services, and the like.

13.2.16 Tower. A structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guyed towers or monopole towers. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, alternative tower structures, and the like.

13.2.17 Vista Termination. A site generally located along the projection of a street or highway centerline toward a site.

13.3 APPLICABILITY

13.3.1 Amateur Radio, Receive-Only Antennas. This ordinance shall not govern any tower, or the installation of any antenna that is under 70 feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive-only antennas. This application adopts the provisions and limitations as referenced in RSA 674:16, IV.

13.3.2 Essential Services and Public Utilities. Telecommunications facilities shall not be considered infrastructure, essential services, or public utilities, as defined or used elsewhere in the Town's ordinances and regulations. Siting for telecommunications facilities is a use of land, and is subject to this ordinance, the Tuftonboro Site Plan Review Regulations and all other applicable ordinances and regulations.

13.4 SITING STANDARDS

13.4.1 General Provisions. The uses listed in this section are deemed to be permitted uses in the designated zoning district in accordance with all other applicable ordinances and regulations of the Town including Site Plan Review and approval by the Tuftonboro Planning Board:

A. Telecommunication facilities may be considered either principal or secondary uses. A different existing use or an existing structure on the same lot shall not preclude the installation of a telecommunication facility on such lot.

B. For purposes of determining whether the installation of a telecommunication facility complies with the Zoning Ordinance and Site Plan Review regulations, the dimensions of the entire lot shall control, even though the facility may be located on leased parcels within such lots.

C. Telecommunication facilities constructed or installed in accordance with the provisions of this ordinance on a nonconforming lot or in conjunction with a nonconforming use, shall not be deemed to constitute the expansion of a nonconforming use or structure.

13.4.2 Districts Permitted. New tower construction and collocation of telecommunication facilities shall be permitted in the districts as indicated in Section 3.6, subject to all applicable local, state and federal regulations and Site Plan Review approval by the Planning Board. If feasible, telecommunications facilities shall be located on existing structures, including but not limited to, buildings, water towers, inside church steeples, existing telecommunications facilities, utility poles and towers, and related facilities, provided that such installation preserves the character and integrity of those structures. The applicant for a new tower construction shall have the burden of proving that there are no feasible existing structures upon which to locate.

13.4.3 Setbacks. All telecommunications facilities shall comply with the building setback provisions of the zoning district in which the facility is located. In addition, the following setbacks shall be observed:

A. In order to insure public safety, the minimum distance from the base of any ground-mounted telecommunications facility to any property line, road, habitable dwelling, business or institutional use, or public recreational area shall be 100% of the height of the facility, including any antennas or other appurtenances, plus the required setback for the zoning district. This 100% setback is considered a fall zone.

B. In the event that an existing structure is proposed as a mount for a telecommunication facility, a fall zone shall not be required, but the setback provisions of the zoning district shall apply. In the case of pre-existing non-conforming structures, telecommunication facilities shall not increase any non-conformities.

C. Flexibility. In reviewing the Site Plan application for a telecommunication facility, the Planning Board may reduce the required fall zone by as much as 50% of the required distance, if the Board finds that a substantially better design will result from such reduction and that the interest of the Town will be better served. In making such a finding, the Planning Board shall consider both the visual and safety impacts of the proposed use and shall require certification by a licensed structural engineer that the proposed facility will be structurally sound. In making such a finding, the

Planning Board will adhere to the provisions of the Waivers Section of the Site Plan Review Regulations.

13.4.4 Height Standards

A. A telecommunication facility may locate on an existing tower, monopole, electric utility transmission tower, water tower, or the like, provided that the installation of the new facility does not increase the height of the existing structure, and provided that such installation preserves the character and integrity of the structure on which it is located.

B. A telecommunication facility located on an existing structure such as a church, a barn, or the like, shall not be more than ten feet above the highest part of the structure unless the facility is completely camouflaged; for example, a facility can be located completely within a flagpole, steeple, or chimney, in which case, the increase in height of the structure caused by the addition of a flagpole, steeple, chimney, or the like shall be in scale and proportion to the structure as originally configured.

C. A carrier may locate a telecommunication facility on a structure that is legally non-conforming with respect to height, provided that the provisions of this Section are met.

D. Ground mounted telecommunication facilities shall not exceed a maximum of 20 feet above the surrounding vegetative cover within a 150 feet radius of the facility.

E. In reviewing the Site Plan application, the Planning Board may allow an increase of up to 190 feet total height provided that, based on a review of all the required submission data, a substantially better design will result from such increase and the interests of the Town will be better served. In making such a finding, the Planning Board will adhere to the provisions of the Waivers Section of the Site Plan Review Regulations.

13.4.5 Environmental Standards

A. No hazardous waste shall be discharged on the site of any telecommunication facility. If any hazardous materials are to be used on site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least 110% of the volume of the hazardous materials stored or used on site. The applicant shall provide a contingency plan for clean-up and disposal of hazardous materials in the event of spillage or other accident. Such plan shall also be approved by the Fire Chief.

B. Telecommunication facilities equipment shall not generate noise in excess of 50 db at ground level at the property line.

13.4.6 Safety Standards. Radiofrequency Radiation (RFR) Standards. All equipment proposed for a telecommunication facility shall be authorized per the FCC Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation (FCC Guidelines) or subsequently adopted FCC guidelines.

13.5 BONDING, SECURITY AND INSURANCE

Recognizing the extremely hazardous situation presented by abandoned and unmonitored telecommunications facilities, the Planning Board shall set the form and amount of security that represents the cost for removal and disposal of abandoned facilities in the event that the facility is abandoned and the owner is incapable and/or unwilling to remove the facility in accordance with Section 13.6. Bonding and surety shall be consistent with the provisions in the Subdivision Regulations. Furthermore, the Planning Board shall require submission of proof of adequate insurance covering accident or damage. Such insurance shall provide for a minimum of 30 days notice of cancellation to the Town. Absence of such insurance shall constitute abandonment of the facility.

13.6 REMOVAL OF ABANDONED TELECOMMUNICATIONS FACILITY

Any telecommunication facility 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 facility provides proof of quarterly inspections. The owner shall remove the abandoned facility within 90 days of receipt of a declaration of abandonment from the Town. A declaration of abandonment shall only be issued following a public hearing, noticed according to RSA 676:4, with notice to abutters and the last known owner/operator of the facility. If the abandoned facility is not removed within 90 days, the Town may execute the security and have the facility removed. If there are two or more uses of a single facility, this provision shall not become effective until all uses cease using the facility.

**ZONING ORDINANCE
TOWN OF TUFTONBORO, NEW HAMPSHIRE**

XIV. FLOODPLAIN DEVELOPMENT ORDINANCE

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

The following regulations in this ordinance shall apply to all lands designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its "Flood Insurance Study for the County of Carroll, N.H." dated March 19, 2013, together with the associated Flood Insurance Rate Maps dated March 19, 2013 which are declared to be a part of this ordinance and are hereby incorporated by reference.

14.2 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 Tuftonboro.

14.2.1 "Area of Special Flood Hazard" is the land in the floodplain within the Town subject to a one percent or greater possibility of flooding in any given year. The area is designated on the FIRM as zones A and AE.

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

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

14.2.4 "Building": see "structure".

14.2.5 "Development" means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operation or storage of equipment and materials.

14.2.6 "FEMA" means the Federal Emergency Management Agency.

- 14.2.7 **“Flood”** or **“Flooding”** means a general and temporary condition of partial or complete inundation of normally dry land areas from: (1) the overflow of inland or tidal waters; (2) the unusual and rapid accumulation or runoff of surface waters from any source.
- 14.2.8 **“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.
- 14.2.9 **“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 Tuftonboro.
- 14.2.10 **“Flood Insurance Study”**: see “Flood Elevation Study”.
- 14.2.11 **“Floodplain”** or **“Floodprone area”** means any land area susceptible to being inundated by water from any source (see definition of “Flooding”).
- 14.2.12 **“Flood proofing”** means any combination of structural and non-structural addition, 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.
- 14.2.13 **“Floodway”**: see “Regulatory Floodway”.
- 14.2.14 **“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.
- 14.2.15 **“Highest adjacent grade”** means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- 14.2.16 **“Historic Structure”** means any structure that is:
- A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register.
 - B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

- C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior;; or
- D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 1. By an approved state program as determined by the Secretary of the Interior, or
 2. Directly by the Secretary of the Interior in states without approved programs.

14.2.17 “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.

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

14.2.19 “Manufactured Home Park or Subdivision” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

14.2.20 “Mean Sea Level” means the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community’s Flood Insurance Rate Map are referenced.

14.2.21 “New Construction” means, for the purposes of determining insurance rates, structures for which the “start of construction” commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

14.2.22 “100 Year Flood”: see “Base Flood”.

14.2.23 “Recreational Vehicle” is defined as a vehicle that is:

- A. built on a single chassis;
- B. 400 square feet or less when measured at the largest horizontal projection;
- C. designed to be self-propelled or permanently towable by a light duty truck;
and
- D. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

14.2.24 “Regulatory Floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

14.2.25 “Special Flood Hazard Area” means an area having flood, mudslide, and/or flood related erosion hazards, and shown on FIRM as zones A and AE. (See: “Area of Special Flood Hazard”).

14.2.26 “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.

14.2.27 “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.

14.2.28 “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.

14.2.29 “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”.

14.2.30 “Violation” means the failure of a structure or other development to be fully compliant with the community’s flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required is presumed to be in violation until such time as that documentation is provided.

14.2.31 “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.

14.3 PERMITS

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

14.4 BUILDING SITES

The Codes Enforcement Officer shall review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding.

If a proposed building site is located in a special flood hazard area, all new construction or substantial improvements shall:

- A.** Be designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy,
- B.** Be constructed with materials resistant to flood damage,
- C.** Be constructed by methods and practices that minimize flood damages,

- D. Be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

14.5 WATER AND SEWER SYSTEMS

Where new or replacement water and sewer systems (including on-site systems) are proposed in a special flood hazard area the applicant shall provide the Codes Enforcement Officer 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.

14.6 NEW OR SUBSTANTIALY IMPROVED STRUCTURES

For all new or substantially improved structures located in Zones A and AE; the applicant shall furnish the following information to the Codes Enforcement Officer:

- 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; and
- C. Any certification of floodproofing.

The Codes Enforcement Officer shall maintain for public inspection and shall furnish such information upon request.

14.7 CODE ENFORCEMENT

The Codes Enforcement Officer 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.

14.8 ALTERATION OR RELOCATION OF A WATERCOURSE

In riverine situations, prior to the alteration or relocation of a watercourse, the applicant for such authorization shall notify the Wetlands Bureau of the New Hampshire Environmental Services Department and submit copies of such notification to the Codes Enforcement Officer, 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 Codes Enforcement Officer, including notice of all scheduled hearings before the Wetlands Bureau.

The applicant shall submit to the Codes Enforcement Officer, certification provided by a registered professional engineer, assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.

The Codes Enforcement Officer shall obtain, review, and reasonably utilize any floodway data available from Federal, State, or other sources as criteria for requiring that all development located in Zone A meet the following floodway requirement: “No encroachments, including fill, new construction, substantial improvements, and other development are allowed within the floodway that would result in any increase in flood levels within the community during the base flood discharge.”

Until a Regulatory Floodway is designated along watercourses or determined by a federal, State or other source; no new construction, substantial improvements, or other development (including fill) shall be permitted within zone AE on the FIRM, unless it is demonstrated by the applicant that the cumulative effect of the proposed development, when combined with all existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

14.9 SPECIAL FLOOD HAZARD AREAS

- A.** In special flood hazard areas the Codes Enforcement Officer shall determine the 100 year flood elevation in the following order of precedence according to the data available:
- 1.** In zone AE, refer to the elevation data provided in the community’s flood Insurance Study and accompanying FIRM.
 - 2.** In A zones the Codes Enforcement Officer shall 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).
- B.** The Codes Enforcement Officer’s 100 year flood elevation determination will be used as criteria for requiring in zones A and AE that:
- 1.** All new construction or substantial improvement of residential structures have the lowest floor (including basement) elevated to or above the 100 year flood elevation;
 - 2.** That all new construction or substantial improvements of non-residential structures have the lowest floor (including basement) elevated to or above

the 100 year flood level; or together with attendant utility and sanitary facilities, shall:

- a. be floodproofed so that below the 100 year flood elevation the structure is watertight with walls substantially impermeable to the passage of water;
 - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
 - c. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section;
3. 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.
4. All recreational vehicles placed on sites within Zones A and AE shall either:
 - a. be on the site for fewer than 180 consecutive days;
 - b. be fully licensed and ready for highway use; or
 - c. meet all standards of Section 60.3(b)(1) of the National Flood Insurance Program Regulations and the elevation and anchoring requirements for “manufactured homes” in Paragraph (c)(6) of Section 60.3. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has not permanently attached additions.
5. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding are permitted provided they meet the following requirements:
 - a. The enclosed area is unfinished or flood resistant, usable solely for the parking of vehicles, building access or storage;
 - b. The area is not a basement;
 - c. The area shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater.

- (1) 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.

14.10 VARIANCES AND APPEALS

- A.** Any order, requirement, decision or determination of the building inspector made under this ordinance may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5.
- B.** If the applicant, upon appeal, requests a variance as authorized by RSA 674:33, I(b), the applicant shall have the burden of showing in addition to the usual variance standards under state law:
 - 1.** That the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense;
 - 2.** 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;
 - 3.** That the variance is the minimum necessary, considering the flood hazard, to afford relief.
- C.** The Zoning Board of Adjustment shall notify the applicant in writing that 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 that 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.
 - 1.** The community shall maintain a record of all variance actions, including their justification for their issuance, and report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.

**ZONING ORDINANCE
TOWN OF TUFTONBORO, NEW HAMPSHIRE**

SECTION XV: SMALL WIND ENERGY SYSTEMS ORDINANCE

15.1 PURPOSE

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

15.2 DEFINITION OF TERMS

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

Modification. Any changes 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.

15.3 PROCEDURE FOR REVIEW

15.3.1 Permits. Small wind energy systems and met towers are an accessory use permitted in all zoning districts where structures of any sort are allowed. The installation or modification of a small wind energy system or met tower shall require a building permit from the building inspector and a Conditional Use Permit from the Planning Board. The permits shall be applied for simultaneously. The Planning Board shall prepare a single permit application for this purpose. Met towers shall be permitted on a temporary basis, not to exceed three (3) years from the date of the issuance of the building permit.

15.3.2 Conditional Use Permit. Conditional Use Permit applications shall be processed in accordance with the Town of Tuftonboro Site Plan Review Regulations. Upon the request of the applicant, the Planning Board may grant waivers to its requirements for soils mapping, surface water drainage plans and storm drainage plans where such plans are not necessary in order to evaluate the application. Applications for a building permit and Conditional Use Permit shall include the following information:

- a. A site plan stamped by a professional engineer or land surveyor, licensed by the State of New Hampshire, showing:
 - A. Property lines and physical dimensions of the applicant's property.
 - B. Location, dimensions and types of existing major structures on the property.
 - C. Location of the proposed small wind energy system, foundations, guy anchors and associated equipment.
 - D. Setback requirements as outlined in this ordinance.
 - E. The right of way of any public road that is contiguous to the property.
 - F. Any overhead utility lines.
 - G. Any wetland, marsh, stream, pond or other water body within 150 feet of the tower.

- b. Small wind energy system specifications, including manufacturer, model, rotor diameter, tower height, tower type, nameplate generation capacity.
- c. 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.
- d. Tower foundation blueprints or drawings.
- e. Tower blueprints or drawings.
- f. Sound level analysis prepared by the wind generator manufacturer or qualified engineer.
- g. Electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the NH State Building Code.
- h. Evidence of compliance or non-applicability with Federal Aviation Administration requirements.
- i. List of abutters.

15.3.3 Abutter and Regional Notification. In accordance with RSA 674:66, the building inspector shall notify all abutters and the Board of Selectmen by certified mail upon receipt of an application for a building permit to construct a small wind energy system. The public shall be afforded 30 days to submit comments to the building inspector prior to the issuance of a building permit. The building inspector's notice may be mailed concurrently with the Planning Board's notice of its hearing on the Conditional Use Permit.

An application for a small wind energy system shall be reviewed pursuant to RSA 36:56 to determine whether the system will have regional impact as defined in RSA 36:55. If the proposal is determined to have potential regional impacts, the regional planning commission and the affected municipalities shall be notified by certified mail and shall have 30 days to submit comments prior to final action on the applications for a building permit and conditional use permit, as provided in RSA 36:57.

All costs of abutter and regional notifications shall be borne by the applicant.

15.4 STANDARDS

15.4.1 Prior to approving an application for a Conditional Use Permit, the Planning Board shall determine that the small wind energy system complies 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 of an occupied building.
 - i. Small wind energy systems must meet all setbacks for 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.

MINIMUM SETBACK REQUIREMENTS

Occupied Buildings on Participating Landowner Property	Occupied Buildings on Abutting Properties	Property Lines of Abutting Property and Utility Lines	Public Roads
0	1.5	1.1	1.5

- b. System: The maximum system height shall be restricted to 35 feet above the tree canopy within 300 feet of the small wind energy system or 150 feet, whichever is less.
- 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 systems 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.

15.5 ABANDONMENT

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.

- A. Upon abandonment or discontinuation of use, the owner shall physically remove the small wind energy systems 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.

- B. 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.

- C. 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 systems 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.

15.6 VIOLATION

It is unlawful for any person to construct, install, or operate a small wind energy system or met tower 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.

15.7 APPEAL

In accordance with RSA 674:21 and RSA 676:5, III, appeals of Planning Board decisions on applications for a Conditional Use Permit may be taken to the Superior Court as provided by RSA 677:15.

**ZONING ORDINANCE
TOWN OF TUFTONBORO, NEW HAMPSHIRE**

SECTION XVI: ADMINISTRATION

16.1 POWER AND AUTHORITY

For the purposes of this Ordinance, the Board of Selectmen is hereby given the power to appoint a Code Enforcement Officer who shall perform the duties of his office as designated in the various provisions of this Ordinance and shall make inspections of all Buildings in process of Building or reconstruction and report all violations to the Board of Selectmen. In the absence of a Code Enforcement Officer the Board of Selectmen shall be given the Code Enforcement Officer's powers enumerated herein.

16.1.1 Code Enforcement Officer: The duty of administering and enforcing the provisions of this Ordinance and Building Code is hereby conferred upon the Code Enforcement Officer. It shall be the duty of the Code Enforcement Officer to:

- A.** Review all applications for Building, Demolition, or other permits to determine that the purpose for which the permit is sought will conform to the provisions of this Section.
- B.** Investigate promptly all possible Zoning Ordinance violations and report his findings in writing to the Board of Selectmen.

16.2 BUILDING PERMITS

The following conditions shall be observed.

16.2.1 Permit Required: Any person before commencing work on the erection or Alteration of any Building or Structure must first obtain a permit duly granted for such erection or Alteration by the Code Enforcement Officer. Before a permit shall be issued by the Code Enforcement Officer, he shall determine whether the proposed construction or Alteration conforms to all the conditions of this Ordinance.

16.2.2 Actions Limited: No excavation for foundation nor the erection, construction or structural Alteration of any Structure or part of any Structure shall be undertaken until a Building permit is issued by the Code Enforcement Officer.

16.2.3 Compliance: No Building permit may be issued for any premises unless the Buildings and other structures and use of the premises comply with the provisions of this Ordinance or the terms of a Variance granted by the Board of Adjustment; provided that a permit may be issued when the effect of the construction, reconstruction or Alteration is to eliminate all violations of this Section on the premises.

16.2.4 Other Approvals: No Building permit may be issued unless all necessary Subdivision, and/or special exception approvals have been issued.

16.2.5 Exemptions:

- A.** The construction of small Accessory Buildings, under one hundred (100) square feet, together with minor Alterations, Repairs, and general upkeep of existing Buildings shall be exempt from the provisions of Section 16.2.1.
- B.** The placing of transient recreational vehicles in Recreational Camping Parks or recreational areas is exempt from the provisions of Section 16.2.1.
- C.** Pursuant to RSA 674:41 II-a, island lots on islands served exclusively by boats are excepted from the requirements of RSA 674:41 I and II.

16.3 CERTIFICATE OF OCCUPANCY

The following conditions shall be observed.

16.3.1 Certificate Required: No vacant land shall be occupied or used and no Structure hereafter erected, structurally altered or changed in use shall be occupied or used until a Certificate of Occupancy shall have been issued by the Code Enforcement Officer. (See also Section 10.4 Residential Tenting/Recreational Vehicles.)

16.3.2 Approval Before Occupancy: A Certificate of Occupancy shall be applied for and secured from the Code Enforcement Officer before a Building or Structure is used or occupied. The certificate shall be issued within ten (10) days of application provided that the completed Structure fully complies with applicable codes or ordinances.

16.3.3 Compliance: No Certificate of Occupancy shall be issued for any premises unless the proposed use of the land, Buildings and other structures thereon comply with:

- A.** The provisions of this Ordinance or the terms of a Special Exception or Variance issued by the Board of Adjustment pursuant to RSA 674:41.II.
- B.** All applicable housing, health, fire, safety, Building codes and ordinances.
- C.** RSA 676:12.V. which states that on land which is part of a subdivision plat or site plan, no building shall be used or occupied prior to the completion of required streets and utilities, except upon such terms as the Planning Board may have authorized as part of its decision approving the plat or site plan.

16.4 PROCEDURES FOR PERMITS

The following procedures shall be followed for a Building and/or Certificate of Occupancy permits.

16.4.1 Applications: Applications for Building permits and certificates of occupancy must be made by the owner of the premises or his authorized agent. Applications for Building permits and certificates of occupancy shall be in writing on forms prescribed by the Code Enforcement Officer.

16.4.2 Supporting Materials: All applications for Building permits shall be accompanied by a plat in duplicate drawn to scale showing the actual dimensions of each Lot to be built upon. The size and locations of each Building to be erected upon each Lot and such other information as may be necessary to enable the Code Enforcement Officer to determine the proposed Structure and use of land will conform to the provisions of this Ordinance.

16.4.3 Records: A record of all Building permits and certificates of occupancy shall be kept on file in the office of the Code Enforcement Officer and a copy shall be furnished on request to any person having a proprietary or tenancy interest in the Building or land affected.

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SECTION XVII: BOARD OF ADJUSTMENT

17.1 POWERS

The Board of Adjustment shall have the powers and duties specifically granted to it under RSA 674:33.

17.2 MEMBERSHIP

The Board of Adjustment shall consist of five regular members and up to three alternate members who shall be appointed by the Board of Selectmen and be residents of the community as provided by the New Hampshire Revised Statutes Annotated under RSA 673:3 and 673:6.

17.3 RULES

The Board of Adjustment shall adopt rules and regulations governing meetings, hearings, fees, and other matters for the proper functioning of the Board. The Board shall adopt its own rules of procedure and shall keep a record of its proceedings showing the vote, indicating such fact and shall keep records of its examinations and other official actions. Every rule or regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the Board shall immediately be filed in the office of the Board and become a matter of public record.

17.4 MEETINGS

Meetings of the Board of Adjustment shall be held upon the call of the Chairman. All meetings shall be opened to the public.

17.5 APPLICATIONS

Applications appealing an administrative decision, seeking a special exception, requesting a Variance or an Equitable Waiver shall be in writing, shall be signed by the property owner applicant, shall be accompanied by such fees as the Board deems necessary to defray its costs in processing the application, and shall be accompanied by a drawn to scale plan of the property in question. The property plan shall contain such information as the Board determines to be necessary for it to reach a decision. In appropriate cases the Board may require that the plan be prepared by a registered professional engineer or licensed land surveyor. The application shall list the name and current mailing addresses of each abutter to the property in question.

17.6 HEARING NOTICE

The Board of Adjustment shall hold a public hearing on each application. Notice thereof shall be given as is required by the N. H. Revised Statutes Annotated.

17.7 HEARINGS

Hearings before the Board shall be conducted by the Chairman, or, in his absence the Acting Chairman, who may administer oaths and compel the attendance of witnesses. At all hearings before the Board, the burden shall be upon the applicant to establish that the administrative decision appealed from is erroneous; or to show that the applicant has met the conditions established for a special exception; or to show that the applicant has met the criteria for granting a Variance. Abutters and residents of the Town shall be permitted to speak on behalf of or against the appeal and to present evidence in support of their position.

The Board in accordance with the provisions of this Ordinance may reverse or affirm, wholly or partly, or may modify any such order, requirement, decision or determination made by the Codes Enforcement Officer. The concurring vote of three members of the Board shall be necessary to reverse or modify any order, requirement, decision or determination of the Codes Enforcement Officer or to decide in favor of the appellant on any matter upon which it is required to pass or to effect any Variance from the strict applications of the provisions of this Ordinance.

17.8 SCOPE OF REVIEW

The Board of Adjustment shall hear and decide appeals de novo from the decisions or orders of the Codes Enforcement Officer, requests for special exceptions as provided for in this Ordinance, and requests for Variances to the terms of this Ordinance in accordance with the provisions delineated herein.

17.8.1 Administrative Appeals: The Board shall hear and decide appeals from the decisions or orders of the Codes Enforcement Officer concerning administration or enforcement of this Ordinance.

17.8.2 Special Exceptions: The Board shall hear and decide requests for special exceptions provided for in this Ordinance. The Board shall grant requests for special exceptions which are in harmony with the general purpose and intent of this Ordinance and meet the standards of this Subsection. Appropriate conditions as set forth in Subsection 17.8.2 (B) may be placed on special exception approvals when necessary. The Board shall deny requests for special exceptions that do not meet the standards of this Section.

A. Special Exceptions shall meet the following standards:

1. Standards provided by this Ordinance for the particular use permitted by special exception.
2. No hazard to the public or adjacent property on account of potential fire, explosion or release of toxic materials.
3. No detriment to property values in the vicinity or change in the essential characteristics of a residential neighborhood on account of the location or scale of Buildings and other structures, parking area, Access ways, odor, smoke, gas, dust, or other pollutant, noise, glare, heat, vibration, or unsightly outdoor storage of equipment, vehicles or other materials.
4. No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity.
5. No excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protection, and schools.
6. No significant increase of storm water runoff onto adjacent property or streets.

B. Special Exception approvals may be subject to appropriate conditions including the following:

1. Front, side, or rear Setbacks in excess of the minimum requirements of this Ordinance.
2. Screening of the premises from the Street or adjacent property by walls, fences, or other devices.
3. Modification of the exterior features or Buildings or other structures.
4. Reasonable limitations on the number of occupants and methods and times of operation.
5. Grading of the premises for proper drainage.
6. Regulation of design of Access drives, sidewalks, and other traffic features.
7. Regulation of the number, size, and lighting of Signs more stringent than the requirements of this Ordinance.

17.8.3 Variances: The Board of Adjustment shall hear and decide requests to vary the terms of this Ordinance. At the hearing on the application, the applicant shall present testimony and other evidence to establish that all five conditions for a Variance have been met. The decision of the Board shall be based on the evidence presented at the hearing, not on allegations contained in the application. Abutters and residents shall be entitled to present testimony and other evidence to establish that the applicant either has or has not met all five of the listed conditions below.

A. No Variance shall be granted unless all of the following conditions are met:

1. Granting the Variance would not be contrary to the public interest.
2. If the Variance were granted, the spirit of the Ordinance would be observed.
3. Granting the Variance would do substantial justice.
4. If the Variance were granted, the values of the surrounding properties would not be diminished.

5. Unnecessary Hardship

A. Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship.

1. There is not a fair and substantial relationship between the general public purpose of the ordinance provision and the specific application of that provision to the property.
2. The proposed use is a reasonable one.

B. If the criteria in subparagraph A has not been established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a Variance is therefore necessary to enable a reasonable use of it.

17.8.4 Equitable Waiver of Dimensional Requirement. The Board shall hear and decide requests for Equitable Waivers in accordance with the provisions of RSA 674:33-a.

17.8.5 Lifetimes: If after a permit has been authorized by the Board, such permit is not lifted from the office of the Codes Enforcement Officer within a period of two (2) years from the date of authorization, then such authorization shall be null and void unless further extended by local ordinance or by the Zoning Board of Adjustment for good cause.

17.9 REPRESENTATIONS

Representations made at the public hearing or material submitted to the Board by an applicant for a special exception or Variance concerning features of proposed Buildings, structures, parking, or uses which are subject to regulations pursuant to Subsection 17.8.2 or 17.8.3 shall be deemed conditions upon such special exception or Variance.

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SECTION XVIII: AMENDMENTS

18.1 PROCEDURE

The provisions of this Ordinance may be amended or changed at any regular or special Town Meeting by a majority of the voters present as provided by the Revised Statutes Annotated of the State of New Hampshire.

SECTION XIX: VIOLATIONS AND PENALTIES

19.1 VIOLATIONS

Upon information that the provisions of this Ordinance are being violated, the Codes Enforcement Officer shall take immediate steps to enforce the provisions of this Ordinance as provided by the Revised Statutes Annotated of the State of New Hampshire.

19.2 PENALTIES

Any person, firm or corporation violating any of the provisions of this Ordinance shall for each violation, upon conviction thereof, pay a designated fine as stipulated in RSA 676:17 for each day such violation shall exist.

SECTION XX: VALIDITY

20.1 DECLARATION

If any section, clause, provision or portion of this Ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect or impair any other section, clause, provision or portion of this Ordinance.

20.2 DATE OF EFFECT

This Ordinance, and amendments, shall take effect upon passage.

Revised March 2019