

the TOWN of HARRISVILLE

in the Monadnock Region of New Hampshire
incorporated in 1870

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Zoning Ordinances

March 2009

In March, 1955 Building Regulations and Zoning Ordinances proposed by the Zoning Commission were adopted by the Town Meeting. These were later rescinded by a Special Town Meeting held in meeting. In March, 1964 a Zoning Ordinance was published. These Zoning Ordinances were revised at subsequent Town Meetings (see Article XXV).

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ARTICLE I AUTHORITY AND PURPOSE

Authority: This ordinance is established pursuant to the authority conferred by Chapters 672 through 677, New Hampshire Revised Statutes Annotated.

1.2. Purpose: RSA 674:17 outlines the following purposes for these zoning ordinances:

- 1.2.1. To lessen congestion in the streets;
- 1.2.2. To secure safety from fires, panic, and other dangers;
- 1.2.3. To promote health and general welfare;
- 1.2.4. To provide adequate light and air;
- 1.2.5. To prevent overcrowding of land;
- 1.2.6. To avoid undue concentration of population;
- 1.2.7. To facilitate the adequate provision of transportation, solid waste facilities, water, sewerage, schools, and parks; and
- 1.2.8. To assure proper use of natural resources and other public requirements.

ARTICLE II WHEN EFFECTIVE

2.1. This ordinance shall take effect upon its passage.

ARTICLE III DISTRICTS

3.1. For the purpose of this ordinance, the Town of Harrisville is divided into the following Districts:

- 3.1.1. Residential & agricultural district.
- 3.1.2. Commercial district.
- 3.1.3. Industrial district.
- 3.1.4. Lakeside residential district.
- 3.1.5. Village residential district.

3.2. Additional constraints may be placed on properties within any district by the following overlying districts:

- 3.2.1. Historic district(s).
- 3.2.2. Wetlands conservation district.
- 3.2.3. Steep slopes ordinance.
- 3.2.4. Shoreland overlay district.
- 3.2.5. Wireless communication facility overlay district.

3.3. The boundaries of these districts are hereby established as shown and defined on the zoning map of the town of Harrisville as revised and adopted by the planning board. This map is filed with the town clerk.

ARTICLE IV GENERAL PROVISIONS

4.1. In the event that the provisions of one section of these ordinances are found to conflict with other provisions of these ordinances, the more restrictive shall apply. All districts are subject to the following provisions:

4.1.1. No owner or occupant of land in any district shall permit fire ruins or other ruins to be left but shall remove them within one year as required by state law.

4.1.2. The establishment or use of facilities for the production, storage and/or disposal of hazardous wastes (as defined by RSA 147-C) or of radioactive wastes (as defined by the Atomic Energy Act of 1954, as amended) is prohibited.

4.1.3. Uses that may be obnoxious or injurious to the community and its water resource supplies, or incompatible with the comfort, peace, enjoyment, health, environment or safety of the community, are prohibited.

4.1.4. Each lot used for the erection of a building shall meet the minimum dimensions required by the zoning ordinance for the district and shall contain the minimum land area required in that district for the use or uses proposed.

4.1.5. A building permit is required for any construction or alteration of any structure. Building permits shall be issued by or under the authority of the selectmen upon determination that the proposed building or structure does not violate existing ordinances, laws or regulations.

4.1.6. No more than one building used for dwelling purposes shall be erected or placed on a lot, unless such construction is part of a multiple-family development approved by the planning board or is a permitted accessory use in the district. No lot shall be occupied or used for more than one principal use. One or more detached accessory buildings may be located on the same lot as the principal building, provided that all other requirements are met.

4.1.7. No chattel or structures, permanent, temporary or portable, shall be located within ten (10) feet of property lines (excluding fences).

4.1.8. No accumulation of junk is permitted.

4.1.9. No lot on which a structure is located shall be reduced or changed in size or shape so that the use fails to comply with these ordinances. This provision shall not apply when a portion of the lot is taken for public purposes.

4.1.10. Site plan approval by the planning board is required for the following development, change, or use:

4.1.10.1. Any non-residential use.

4.1.10.2. Any multiple-family use.

4.1.10.3. Any cluster development.

4.1.11. Replacement of buildings that have been demolished or burned over fifty (50) percent of the square foot area shall be considered new construction and shall be required to meet current N.H. Department of Environmental Services - Division of Water Supply and Pollution Control standards as printed in the publication "Subdivision and Individual Disposal System Design Rules" unless a valid construction and operating approval exists and the total sewage load will not be increased. Nothing herein shall prevent 100% replacement of any building for any reason, whether damaged or not, providing that current Water Supply and Pollution Control standards can be met.

4.1.12. No structure shall exceed two and one half stories or thirty-five feet (35) feet in height as measured from the average finished grade surrounding the building to the highest point of the roof. Silos, farm outbuildings, and barns are excepted, as are residential chimneys, television and radio antennas and small wind energy system towers.

4.1.13. Prior to commencing any modification, additions, replacement, or use of any structure, including the conversion of a seasonal dwelling to a year-round dwelling, which would result in any increase in the load on a sub-surface sewage disposal system, the selectmen as a condition of granting of a building permit shall require the property owner to supply a certificate of inspection from a licensed septic designer certifying that the existing septic system is adequate for the proposed expanded use and that the system meets the current standards of the Water Supply and Pollution Control Division of the Department of Environmental Services.

4.1.14. In no case shall any parcel or lot have an impervious cover of more than twenty (20) per cent of the lot area. The total shall include the structural footprint, impervious roadway or any other impervious cover.

4.1.14.1 For the purposes of this provision, "impervious roadway" includes any area installed or used as a driveway or parking area, regardless of surface material.

4.1.15. Manufactured homes may be occupied on a temporary basis by permission of the selectmen for a period of one year in conjunction with the construction or reconstruction of a new residence for the property owner.

4.1.16. Recreational vehicles designed for camping and traveling may be parked on any residential lot in all zoning districts, subject to parking regulations. The vehicle may, by permit of the selectmen, be occupied for a period not exceeding ninety (90) days in any calendar year, provided that adequate provisions are made for sewage disposal and water supply.

4.1.17. Manufactured housing is permitted only in the residential and agricultural district, subject to the following provisions:

4.1.17.1. The unit shall be set on a permanent foundation with the wheels removed, and the foundation shall be approved by the town building inspector.

4.1.17.2. The placement of manufactured housing is subject to a building permit and shall comply with lot size, frontage requirements, and other controls that conventional single family housing in the same district must meet

4.1.17.3 For the purposes of this ordinance, “manufactured housing” means any structure, transportable in one or more sections, which, in the traveling mode, is 8 body feet or more in width, and 40 body feet or more in length, or when erected on site is 320 square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, which include plumbing, heating and electrical heating systems contained therein (RSA 674:31).

4.1.18. Home occupations are permitted in all zoning districts provided they are carried on only by residents of the dwelling, involve only a service provided or product produced by those residents, are operated entirely within a principal and/or accessory structure, and results in no external evidence of the enterprise except for a permitted sign.

4.1.19. Home-based businesses are permitted by special exception of the Board of Adjustment subject to the following conditions:

4.1.19.1. It shall be carried on by residents of the premises, and not more than two (2) on-premise employees who are not residents.

4.1.19.2. It shall not have an adverse effect on the environment and water resource supplies or the surrounding properties as a result of noise, odor, smoke, dust or lights; soil, water or air pollution; excessive increases in traffic or in parking requirements; or as a result of other nuisances.

4.1.19.3. It shall have no outdoor display of goods, and no outdoor storage of materials or equipment unless screened from roads and surrounding properties by natural or structural means to such an extent and in such manner as may be specifically required and approved by the Board of Adjustment.

4.1.19.4. The residence or accessory buildings shall not provide window displays or other characteristics or features normally associated with commercial use, except for a permitted sign.

4.1.19.5. There shall be no change in the exterior appearance of the residence or other structures on the property as a result of the use, unless specifically approved or required by the Board of Adjustment.

4.1.19.6. Home-based businesses may be subject to site plan review by the planning board.

4.1.20 When a new residence is built to replace an old residence on the same lot, the old residence must be removed within one year of the completion of the new residence.

ARTICLE V. NONCONFORMING USES, LOTS, AND STRUCTURES

5.1. Intent.

5.1.1. Within the districts established by this ordinance or amendments that may be later adopted there may exist lots, uses, and structures which were lawful before this ordinance was passed or amended, but which would be prohibited under the terms of this ordinance or future amendments.

5.1.2. It is the intent of this ordinance to permit the continuation of these non-conformities until they are removed. Such uses are declared by this ordinance to be incompatible with the permitted uses in the districts involved. Nonconformity may be enlarged and expanded as determined by the zoning Board of Adjustment.

5.2. NONCONFORMING USE: Any non-conforming use may be continued indefinitely and subject to the following limitations:

5.2.1. Resumption after discontinuance: When a non-conforming use of land, structures, or buildings has been discontinued for twelve (12) consecutive months, the land, structures, and or buildings shall be used thereafter only in conformity with this ordinance.

5.2.2. Change or expansion: Any change in, or expansion of, an existing non-conforming use shall require approval of a special exception from the Board of Adjustment of the town of Harrisville. The change must not be a substantial change from the existing use. For a special exception to be approved, a petitioner must prove to the satisfaction of the Board of Adjustment that the proposed change in, or expansion of, the existing non-conforming use will not be more harmful or detrimental than the existing non-conforming use. It must also meet the findings of fact and conditions for granting a special exception as outlined in Article XX.

5.2.3. Superseded by conforming use: If a non-conforming use is superseded by a conforming use, then it shall thereafter conform to the use regulations of this ordinance, and the non-conforming use may not thereafter be resumed. 5.2.4. Restoration, reconstruction and or replacement: Nothing herein shall prevent the substantial restoration, reconstruction, and or replacement within one year of a non-conforming building or structure destroyed in whole or in part by fire or other natural disaster so long as this use does not result in a new increased violation.

5.3. NON-CONFORMING BUILDING: Any non-conforming building may be continued indefinitely and may be repaired or remodeled subject to the following limitations:

5.3.1. Alterations or replacement: Any non-conforming building may be altered or replaced on its original site, provided that such activity conforms with the dimensional controls for building height, yard requirements, setback requirements, and building separation requirements as adopted in this ordinance or amendments thereto. Such replacement must take place within twelve (12) months of the demolition of the pre-existing structure.

5.3.2. A non-conforming building may be replaced or relocated on the property to a more conforming location by special exception of the Board of Adjustment. Nothing herein shall prevent the replacement or relocation of a non-conforming building to a completely conforming location on the property.

5.3.3. By special exception, a non-conforming building may be expanded in either volume or area. This expansion must be in a direction away from the non-conforming aspect of the structure. For the purposes of this ordinance, open decks are not considered expansions, however, roofed porches are.

5.4. NON-CONFORMING LOT: By special exception, a non-conforming lot may be developed for the uses permitted in the district in which it is located provided that the use proposed for such lot will comply with all the health and sanitary regulations for water and sewage systems as required by the state of New Hampshire and the Town of Harrisville and provided that it complies with all other requirements of this ordinance or amendments thereto other than the nonconforming aspect of the lot.

5.4.1. Unlike a non-complying structure, a non-conforming lot (a lot which is smaller than but predates current lot size requirements) is not “grandfathered” for any and all uses allowed in its zoning district.

5.4.2. A building on a non-conforming lot may be replaced or relocated on the property by special exception of the Board of Adjustment, provided it conforms with the dimensional controls for building height, yard setback, and building separation requirements as adopted in this ordinance or amendments thereto.

ARTICLE VI RESIDENTIAL AND AGRICULTURAL DISTRICT

6.1. The residential and agricultural district shall enjoy the following provisions:

6.1.1. It shall be a district of farms or residences. No other uses other than those specified here shall be permitted.

6.1.2. Each lot shall have a minimum frontage of two hundred-fifty (250) feet and a minimum land area of two (2) acres (87,120 square feet).

6.1.3. There shall be a minimum distance of (50) feet between any structure and the nearest boundary of any public right-of-way. No structure shall be placed closer than forty (40) feet to the side and rear boundaries of the lot.

6.1.4. No more than one single family dwelling shall be erected on a lot defined above.

6.1.5. Tourist homes may be maintained and operated in this district.

6.1.6. A residence may be used by the resident as an office for a doctor, engineer, architect, or lawyer, or for any other recognized profession or business, and for such home occupations as hairdressing, dressmaking and the manufacture of home craft products, provided such home occupations do not change the residential character of the dwelling in which they are located.

6.1.7. Home produce and products may be bought and sold and exposed for sale in this district.

6.1.8. Places of worship and schools are permitted in this district.

6.1.9. Advertising signs are allowed as detailed in Article XVII.

6.2. One backlot for single family dwellings on lots of record on day of adoption of ordinance (March, 1992) shall be permitted in this district. The creation of backlots in a subdivision is not intended for the subdivision of land that could be better subdivided by other land use techniques. The following conditions must be met for the creation of backlots:

6.2.1. The minimum land area of the backlot is five acres.

6.2.2. The front lot shall have a minimum continuous frontage on a Class V or better road of at least 300 feet but no greater than 499 feet.

6.2.3. The backlot shall have a permanent access of fifty (50) feet designated and recorded in all deeds, which is not to be included in the calculation of lot size.

6.2.4. The backlot shall be of such shape as to allow a minimum two hundred fifty (250) foot square building envelope, which shall be set back at least fifty (50) feet from all property lines.

6.2.5. There shall be a minimum of three hundred (300) feet from the nearest boundary of the class V or better road to the nearest edge of the building envelope.

6.2.6. No more than one access to the front lot or the back lot shall be permitted.

6.2.7. The back lot shall meet all of the requirements of the Harrisville subdivision regulations.

6.3. Accessory apartments are permitted by special exception of the Board of Adjustment in the Residential-and-Agricultural district, provided the following conditions are met.

6.3.1. Only single family dwellings may accommodate an accessory apartment.

6.3.2. Only one accessory apartment per single family dwelling is permitted.

6.3.3. The property owner shall reside in either the primary residence or the accessory apartment except for bonafide absences.

6.3.4. The accessory apartment shall have a minimum floor area of 500 square feet and a maximum floor area of 800 square feet, and the primary residence shall have a minimum floor area of 800 square feet.

6.3.5. The owner of the residence shall provide documentation to demonstrate that the existing septic system is capable of handling the increased usage, or else a state approved septic system will be installed.

6.3.6. Adequate provision shall be made for off-street parking.

6.3.7. All setback and other requirements for the district shall be observed.

6.3.8. The accessory use shall terminate if any of the above conditions are violated.

6.3.9. Accessory apartments of 800 square feet or less and attached to the primary dwelling shall not require a growth permit.

ARTICLE VII COMMERCIAL DISTRICT

7.1. The commercial district shall enjoy the following provisions:

7.1.1. It shall be a district of single family, duplex and multiple family residences, business enterprise, and activity or undertaking for profit. No other uses than those specified here shall be permitted.

7.1.2. Any non-industrial business use is permitted.

7.1.3. Each lot shall have a minimum frontage of two hundred (200) feet and a minimum land area of thirty five thousand (35,000) square feet.

7.1.4. No building, structure, or storage within this district shall be located within thirty-five (35) feet of the nearest edge of any right-of-way or property lines.

7.1.5. No more than one dwelling shall be erected on a lot defined above.

7.1.6. Tourist homes may be maintained and operated in this district.

7.1.7. A residence may be used by the resident as an office for a doctor, engineer, architect, or lawyer, or for any other recognized profession or business, and for such home occupations as hairdressing, dressmaking, and the manufacture of home craft products, provided such home occupations do not change the residential character of the dwelling in which they are located.

7.1.8. Home produce and products may be bought and sold and exposed for sale in this district.

7.1.9. Places of worship and schools are permitted in this district.

7.1.10. Advertising signs are allowed as detailed in Article XVII.

ARTICLE VIII INDUSTRIAL DISTRICT

8.1. The industrial district shall enjoy the following provisions:

8.1.1. It shall be a district of duplex and multiple family residences, business enterprise, and activity or undertaking for profit. Any manufacturing or storage, which is not obnoxious or offensive, and which does not adversely impact water resource supplies, is permitted.

8.1.2. Any non-industrial business use is permitted.

8.1.3. No building or storage in this district shall be located within thirty-five (35) feet of the nearest edge of any right-of-way or property lines.

8.1.4. Each lot shall have a minimum frontage of two-hundred (200) feet and a minimum land area of forty thousand (40,000) square feet.

8.1.5. The only junk permitted is a reasonable accumulation associated with manufacturing on the premises.

8.1.6. Tourist homes may be maintained and operated in this district.

8.1.7. A residence may be used by the resident as an office for a doctor, engineer, architect, or lawyer, or for any other recognized profession or business, and for such home occupations as hairdressing, dressmaking, and the manufacture of home craft products, provided such home occupations do not change the residential character of the dwelling in which they are located.

8.1.8. Home produce and products may be bought and sold and exposed for sale in this district.

8.1.9. Places of worship and schools are permitted in this district.

8.1.10. Advertising signs are allowed as detailed in Article XVII.

ARTICLE IX LAKESIDE RESIDENTIAL DISTRICT

9.1. The lakeside residential district shall enjoy the following provisions:

9.1.1. Frontage requirements:

9.1.1.1. Each new lot shall have a minimum road frontage of two hundred (200) feet.

9.1.1.2 Each new lot directly on the water shall have a minimum waterline frontage of two hundred (200) feet.

9.1.2. No single family dwelling shall be located on a lot containing less than forty-three thousand, five hundred and sixty (43,560) square feet. No structure shall be located closer than twenty-five (25) feet to the edge of any right-of-way, or to the side or rear boundaries of the lot.

9.1.3. Only single family residences occupied by one family shall be permitted.

9.1.4. No residence in the lakeside district shall be used as a hotel, tourist home, or furnished rooming house.

9.1.5. No trade, business, or commercial use of the land or buildings in the lakeside district shall be permitted.

9.1.6. No dwelling or structure other than docks or fences shall be erected closer than seventy-five (75) feet from the high water mark. In the case of existing non-conforming structures, no additions shall be made which will be closer to the high-water mark than the nearest part of the existing structures.

9.2. The lakeside residential district shall be comprised of those areas indicated on the zoning map and described as follows:

9.2.1. The area surrounding Harrisville Pond, starting at the contact of the southern end of the lake with Main, running west, north, east, and south around the lake to the town beach, to a distance of two hundred and fifty (250) feet from the high water mark, except in the southeast section of Harrisville Pond where the existing village residential district lines shall remain unchanged.

9.2.2. The area surrounding the following bodies of water to a distance of two hundred fifty (250) feet from the high water mark:

9.2.2.1. Chesham Pond

9.2.2.2. Childs Bog

9.2.2.3. Howe Reservoir

9.2.2.4. Russell Reservoir

9.2.2.5. Seaver Reservoir

9.2.2.6. Silver Lake

9.2.2.7. Skatutakee Lake (North Pond)

9.2.2.8. Stanford Pond

ARTICLE X VILLAGE RESIDENTIAL DISTRICT

10.1. The village residential district shall enjoy the following provisions:

10.1.1. It shall be a district of single family, duplex and multiple family residences. No other uses other than those specified here shall be permitted.

10.1.2. Each lot shall have a minimum frontage of one hundred-fifty (150) feet and a minimum land area of thirty five thousand (35,000) square feet.

10.1.3. The village district shall extend to a distance of one hundred (100) feet from the edge of the public right-of-way as per the zoning map for the town of Harrisville.

10.1.4. There shall be a minimum distance of twenty-five (25) feet between any structure and the nearest boundary of any public right-of-way. No structure shall be placed closer than fifteen (15) feet to the side and rear boundaries of the lot.

10.1.5. Single family, duplex and multiple family residential construction or adaptation only, as permitted on the minimum lot size set forth above.

10.1.6. Tourist homes may be maintained and operated in this district.

10.1.7. A residence may be used by the resident as an office for a doctor, engineer, architect, or lawyer, or for any other recognized profession or business, and for such home occupations as hairdressing, dressmaking, and the manufacture of home craft products, provided such home occupations do not change the residential character of the dwelling in which they are located.

10.1.8. Home produce and products may be bought and sold and exposed for sale in this district.

10.1.9. Places of worship and schools are permitted in this district.

10.1.10. Advertising signs are allowed as detailed in Article XVII.

10.2 Deleted in its entirety March 2009

10.3. Accessory apartments are permitted in the Village Residential District provided they meet the conditions under Article 6.3.1 through 6.3.9 of the Harrisville Zoning Ordinances.

ARTICLE XI HISTORIC DISTRICT

(adopted March, 1969)

11.1 **AUTHORITY AND PURPOSE.** By the authority granted in RSA 673:1 et seq., and in the interest of the preservation of structures and places of historic and architectural value, the

Harrisville historic district and historic district regulations is hereby established. This district is established for the public purpose of:

11.1.1. Preserving a district that reflects elements of its cultural, social, economic, political, and architectural history.

11.1.2. Conserving property values in such district.

11.1.3. Fostering civic beauty; promoting the use of an historic district for the education, pleasure and welfare of the citizens, and other considerations as set forth in RSA 674:45.

11.2. The historic district shall be comprised of those areas indicated on the Zoning Map and described as follows:

11.2.1. Beginning at the northwest corner of lot 32-1 at south side of Main Street; thence westerly on south side of said highway 130 feet to a point opposite lot 61-3; thence north 25 feet east across said highway on land of lot 61-3 approximately 350 feet to a point on the south shore of Harrisville Pond; thence easterly about 1300 feet crossing the southern part of said pond and the peninsula containing the Island Cemetery to the northwest corner of lot 51-4 on the east shore of said pond; thence easterly about 140 feet to said lot northeast corner; thence southeasterly on said lot and of lots 52-2 and 52-3 about 200 feet to the west side of Prospect Street; thence southerly on Prospect Street about 130 feet to a point in line with the northwest corner of lot 32-36 and the southwest corner of lot 51-1; thence crossing said street and continuing on land of lot 32-36 and 51-1 southeasterly along a wall about 180 to a point on the wall at land of lot 32-35; thence southerly on the wall on the west line of lot 32-35 and continuing along the line on lot 32-42 a total distance of about 788 feet to a point 105 feet due east of southeast corner of lot 32-42; thence southerly 918 feet on land of lot 30-66-2 to a point on land of lot 30-66-2 at the land of lot 30-66-1 100 feet east of the state highway leading to Dublin from Harrisville; thence easterly on land of lot 30-66 and lot 30-66-1 to said highway; thence still westerly in the same direction as the above line about 280 feet across the highway and to a point on land of lot 30-71; thence northerly about 400 feet to a corner of walls at the southwest corner of lot 32-11, formerly land of the Harrisville School District; thence still northerly on the wall of the west line of lot 32-11 about 75 feet; thence northwesterly about 450 feet to the southeast corner of lot 32-3 and the southwest corner of lot 30-74; thence westerly about 660 feet on the south line of lot 32-3, 32-2, and lot 32-1 to the southwest corner of land of lot 32-1 and land of lot 30-76; thence northerly about 200 feet on line of lot 32-1 and lot 30-76 to the point of beginning.

11.2.2. Within said district, the construction, alteration, moving, the historic district commission shall regulate demolition or use of structures and places. The commission shall be guided by the Historic District Regulations adopted by the town meeting of March 11, 1969.

ARTICLE XII WETLANDS CONSERVATION DISTRICT

(adopted March, 1987)

12.1. AUTHORITY AND PURPOSE. By the authority granted in N.H. RSA 674:16-17 and 674:20-21, and in the interest of public health, safety and general welfare, the Harrisville wetlands conservation district is hereby enacted for the following purposes:

12.1.1. To regulate the uses of lands subject to standing water or extended periods of high water table.

12.1.2. To control the development of structures and land uses on naturally occurring wetlands that would contribute to the pollution of surface and groundwater.

12.1.3. To prevent the destruction of natural wetlands, which provide flood protection, groundwater recharge, pollution abatement, and the augmentation of stream flow during dry periods, and which are important for such other reasons as those cited in RSA 482-A:1.

12.1.4. To prevent unnecessary or excessive expenses to the town and to provide and maintain essential services and utilities, which arise because of unwise use of wetlands.

12.1.5. To allow those uses that can be appropriately and safely located within wetlands areas and which do not adversely impact water resource supplies.

12.1.6. To preserve and enhance those aesthetic values associated with wetlands of this Town.

12.2. DISTRICT BOUNDARIES. The Harrisville wetlands conservation district is defined as those areas of the Town that contain marshes, ponds, bogs, and lakes, as well as soils that are defined by the National Cooperative Soil Survey, as conducted by the Cheshire County Conservation District, as "poorly or very poorly drained".

12.2.1. The district as herein defined is shown on a map designated as the "Town of Harrisville Wetlands Conservation District Map" and is part of the zoning map of the town. Additional soil survey data, based on high intensity soils maps and prepared by a qualified soil scientist, may be substituted for the wetlands conservation district map in determining the location of wetlands. For a detailed explanation of soil types, refer to "Soil Potential Ratings for Development, Cheshire County, New Hampshire, August 1984", on file with the Harrisville planning board and the USDA Natural Resources Conservation Service, Walpole, New Hampshire.

12.3. GENERAL PROVISIONS.

12.3.1. Boundary appeals: In the event that the selectmen or conservation commission question the validity of the boundaries of a wetland area on a specific parcel of land, or upon the written petition of the owner or any abutter of the said property to the planning board, the planning board may call upon the services of a qualified soil scientist to examine said area, using high intensity soils maps, and report his findings to the planning board. This report will assist in their determination of the boundary. The cost of such appeal shall be borne by the owner or where the petitioner is an abutter, by the petitioner.

12.3.2. Lot size determination: Areas designated as having poorly drained soils may be used to fulfill twenty-five (25%) percent of the minimum lot size required by town ordinances and subdivision regulations, provided that the non-wetland area is sufficient in size and configuration to adequately accommodate all required utilities such as sewage disposal and water supply, including primary and auxiliary leach field locations. No part of areas designated as having very poorly drained soils, or bodies of water, may be used to satisfy minimum lot size.

12.3.3. Special provisions: No septic tank or leach field may be located closer than one hundred (100) feet to any designated wetland.

12.4 POORLY DRAINED SOILS. Permitted uses in areas of poorly drained soil are as follows:

12.4.1. Any use otherwise permitted by the zoning ordinance and state and federal laws that does not involve the erection of a structure or that does not alter the surface configuration of the land by the addition of fill or by dredging except as a common treatment associated with a permitted use.

12.4.2. Agriculture, including grazing, hay production, truck gardening and silage production, provided that such use is shown not to cause significant increase in surface or groundwater contamination by pesticides or other toxic or hazardous substances, and that such use will not cause or contribute to soil erosion.

12.4.3. Forestry and tree farming to include the construction of access roads for said purpose.

12.4.4. Wildlife habitat development and management.

12.4.5. Recreational uses consistent with the purpose and intent of this article.

12.4.6. Conservation areas and nature trails.

12.4.7. Water impoundment and the construction of well water supplies.

12.4.8. Drainage ways to include streams, creeks, or other paths of normal runoff water and common agricultural land drainage.

12.5. VERY POORLY DRAINED SOILS: Permitted uses in areas containing very poorly drained soils, marshes, bogs, open water and major streams are as follows:

12.5.1. Uses specified under Section 12.4.(1 through 8) shall be permitted except that no alteration of the surface configuration of the land by filling or dredging and no use which results in the erection of a structure, except as provided for in Section 12.5.2.(1 through 3 below), shall be permitted.

12.5.2. The construction or reconstruction of fences, footbridges, catwalks and wharves, however provided:

12.5.2.1. said structures are constructed on posts or pilings or non-toxic material, so as to permit the unobstructed flow of water;

12.5.2.2. the natural contour of the wetland is preserved;

12.5.2.3. the planning board has reviewed and approved the proposed construction.

12.5.3 WATERCOURSES (part of Floodplain Management Ordinance of the Town of Harrisville, adopted March 2006)

12.5.3.1. In riverine situations, prior to the alteration or relocation of a watercourse the applicant for such authorization shall notify the Wetlands Bureau of the New Hampshire Department of Environmental Services and submit copies of such notification to the Building Inspector, in addition to the copies required by the RSA 482-A: 3. Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Building Inspector, including notice of all scheduled hearings before the Wetlands Bureau.

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

The Building Inspector shall obtain, review, and reasonably utilize any floodway data available from Federal, State, or other sources as criteria for requiring that all development located in Zone A meet the following floodway requirement:

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

12.6. CONDITIONAL USES.

12.6.1. A conditional use permit may be granted by the planning board (RSA 674:21) for the construction of roads and other access ways, and for pipelines, power lines, and other transmission lines, provided that all of the following conditions are found to exist:

12.6.2. The proposed construction is essential to the productive use of land not within the wetlands conservation district.

12.6.3. Design and construction methods will have a minimal detrimental impact upon the wetland and will include restoration of the site as nearly as possible to its original grade and condition.

12.6.4. No alternative route, which does not cross a wetland or has less detrimental impact on the wetland, is feasible.

12.6.5. Economic advantage alone is not reason for the proposed construction.

12.6.6. Prior to the granting of a conditional use permit under this section, the applicant shall agree to submit a performance security to the Board of Selectmen. The security shall be submitted in a form and amount, with surety and conditions satisfactory to the selectmen and approved by town counsel, which guarantee that the construction has been carried out in accordance with the approved design. The security shall be submitted and approved prior to issuance of any permit authorizing construction.

12.6.7. The planning board, with the concurrence of the conservation commission, may require the applicant to submit an environmental impact assessment, when necessary, to evaluate an application made under this section. The cost of this assessment shall be borne by the applicant. The planning board may also assess the applicant reasonable fees

to cover the cost of other special investigative studies and for the review of documents required by particular applications.

12.7. SPECIAL EXEMPTION FOR NONCONFORMING LOTS. Upon application to the Board of Adjustment, a special exception may be granted to permit the erection of a structure within the wetlands conservation district on vacant lots provided that all of the following conditions are found to exist:

12.7.1. The lot upon which an exception is sought was an official lot of record, as recorded in the Cheshire County Registry of Deeds, prior to the date on which this amendment was posted and published in the Town.

12.7.2. The use for which the exception is sought cannot feasibly be carried out on a portion or portions of the lot, which are outside the wetlands conservation district.

12.7.3. Because of the provisions of the wetlands conservation district, no reasonable and economically viable use of the lot can be made without the exception.

12.7.4. The design and construction of the proposed use will, to the extent practical, be consistent with the purpose and intent of this article.

12.7.5. The proposed use will not create a hazard to individual or public health, safety and welfare, due to the loss of wetland, the contamination of groundwater, or other reason.

12.7.6. The Board of Adjustment shall themselves, or upon petition from the selectmen, conservation commission or abutters, hire a qualified consultant or consultants to prepare such studies as are necessary to determine whether the conditions set forth above have been met. The cost of such studies shall be borne by the applicant.

12.8. EXEMPTION FOR RESIDENTIAL STRUCTURES. Notwithstanding other provisions of this article, the construction of additions and extensions to one and two-family dwellings shall be permitted within the wetlands district provided that:

12.8.1. The dwelling lawfully existed prior to the effective date of this article;

12.8.2. The proposed construction conforms with all other applicable ordinances and regulations of the town of Harrisville.

ARTICLE XIII REGULATION OF DEVELOPMENT ON STEEP SLOPES

(adopted March, 1987)

13.1. AUTHORITY AND PURPOSE By the authority granted in N.H. RSA 674:16-17 and 674:20-21, and in the interest of public health, safety and welfare of individual land owners, owners of abutting property, and the town of Harrisville, these regulations are intended to guide the use of steeply sloping land.

13.1.1. Where steep slopes exist in the town of Harrisville, the nature of these soils renders the land exceptionally vulnerable to erosion and water pollution. It affects not only an individual landowner's property but also that of abutters and ultimately the community. These regulations are intended to protect the town from undue hardship of

expense caused by excessive erosion of hill sides due to improper excavation, drainage, construction of driveways, or other activities which disturb the fragile soil conditions of steep slope areas and may result in sedimentation, erosion or the creation of a watercourse where one did not previously exist on neighboring property, town property, or by interference with town or state road drainage systems. They are further intended to protect the town from the public health hazard of improper construction and the possible resulting failure of septic systems constructed in steep slope areas.

13.1.2. Therefore, the town of Harrisville deems it necessary and proper to regulate certain practices upon and uses of such lands in order to preserve our common heritage and protect the health and well being of all the inhabitants.

13.2. DEFINITION AND DELINEATION.

13.2.1. Slope is defined as a percent determined by dividing vertical distance (rise) by horizontal distance (run). "Steep" slopes are generally considered areas where this ratio exceeds fifteen percent. The regulations contained herein apply to any lot, parcel or tract of land in the town of Harrisville regardless of the zoning district in which said lot is located. These regulations come into effect for the construction of driveways with a slope of ten percent or greater, the construction of septic systems where the leaching field location is on a slope of twelve percent or greater, and the construction of buildings where the slope of the building site is fifteen percent or greater. These steep slope regulations provide supplementary controls over land use in addition to the requirements of the several zoning districts. The proposed location of any of the above mentioned construction activities will be checked and a determination of slope made by the agent of the selectmen after an on-site inspection. Where it is alleged that this determination is in error, assistance will be requested from the Cheshire County Conservation District. In such cases, detailed engineering data may also be requested from the land owner to provide a more accurate determination of the slopes involved.

13.3. PROVISIONS. If the agent of the selectmen determines after an on site investigation that the land upon which a building, driveway, septic system or other structure is to be constructed is of excessively sloping nature according to the standards contained herein, a building permit for uses normally permitted in that zoning district may issued only after evidence that the following conditions will be met.

13.3.1. Driveways: Driveways and other land clearing shall not cause excessive erosion.

13.3.2. Driveway access onto the town or state roads shall not create an undue traffic hazard.

13.3.3. If the slope of the driveway is ten percent or greater, an adequate surface storm-water drainage system shall be designed in order to minimize erosion and sedimentation to the maximum extent possible both during and after construction.

13.3.4. In the event a driveway is to be constructed having a slope of ten percent or greater, engineering data prepared by an engineer, certified by the State of New Hampshire, shall be submitted to show that the following conditions have been met:

13.3.4.1. Sediment in the runoff water both during and after construction shall be trapped by the uses of sediment basins or other acceptable methods, until the disturbed area is stabilized.

13.3.4.2. The storm drainage system and culvert capacity shall be based on a design flow with a minimum return interval of a twenty-five year/twenty-four hour storm.

13.3.4.3. No new drainage ways shall be created nor additional run-off directed to adjacent properties unless necessary easements are obtained.

13.3.5. Septic system leaching areas. Any land area with a natural slope of twelve percent or greater shall not be altered or used for the disposal of septic tank effluent, unless the system is designed by a sanitary engineer (registered with the state of New Hampshire) and overcomes the adverse land conditions to the satisfaction of the planning board.

13.3.6. Building sites where the natural slope of the land, on which a building (any structure for which a building permit is normally required) is to be constructed, is of fifteen percent slope or greater, engineering data shall be submitted to show that the proposed structure is of sound engineering design and footings shall be designed to extend to stable soil or rock.

13.4. ISSUANCE OF A PERMIT. Prior to issuance of a permit, the applicant may be required to post a bond or surety satisfactory to the town selectmen and town counsel if construction is to take place in any area covered by this ordinance.

13.5. ENFORCEMENT AND PENALTIES. The town of Harrisville or its agents have the right to inspect the premises at any time during construction to assure that building and site construction is being carried out according to the approved engineering plans as submitted to the agent of the selectmen for the purposes of obtaining the building permit. If construction does not proceed according to these plans (with minor allowances made for adjustments to previously unknown natural conditions where the overall effect remains the same or is improved) the owner will be liable for a fine of up to five-hundred (500) dollars for each violation or deviation from the plan and be required to cease and desist construction until such violations and or deviations are corrected.

13.6. TOWN LIABILITY. In any case where changes in topography alter the course of water flow, normal or excessive, so as to cause damage to neighboring properties or those downstream, the petitioner for use of steep slopes shall assume all liability for such damage. Even though the Harrisville Board of Selectmen has approved the plan, the town of Harrisville shall be held harmless from any claims for damage resulting from the applicant's actions.

ARTICLE XIV GROWTH MANAGEMENT ORDINANCE

(readopted March, 2009)

14.1. Purpose. To guide Harrisville's growth rate so that the annual increase in population can be adequately served by community facilities as those services are expanded in accordance with the town's capital improvement program and the town's master plan update of 2000, and to accomplish the following objectives:

14.1.1. To provide for the current and future housing needs of existing residents and their families, while accommodating Harrisville's fair share of population growth in the Harrisville region.

14.1.2. To assure fairness in the allocation of building permits.

14.1.3. To ensure this article does not unduly increase construction costs to builders by preventing them from erecting or creating several dwelling units as part of one project.

14.1.4. To plan for continued residential population growth of Harrisville at a rate which will be compatible with the orderly and gradual expansion of community services (including education, fire protection, road maintenance, waste disposal, police protection, recreation, etc.).

14.2. Application.

14.2.1. This article shall apply to all building permits for new construction, as well as repair, replacement, reconstruction, or alteration of any existing seasonal dwelling units if said changes allow for year-round residency in the unit.

14.2.2. This article shall not apply to repair, replacement, reconstruction or alteration of any existing structures or dwelling units, so long as no new dwelling units are created.

14.3. Administration.

14.3.1. The Board of Selectmen shall administer the growth permit process and shall be responsible for issuing growth permits to those applicants who have satisfied the requirements of this article and other town ordinances, as well as the land subdivision regulations and the site plan review regulations.

14.3.1.1 A completed application for a growth permit shall include proof of property ownership and NHDES approval for the septic system design.

14.3.2. The Board of Selectmen shall ensure that the number of permits issued during the calendar year does not exceed the total number of permits available.

14.4 Growth Permit Selection Process.

14.4.1 Applicants shall apply for growth permits on forms provided by the Board of Selectmen. No applicant may apply for a growth permit until the subdivision or project has been approved by the planning board, and all applicable plans and other necessary information are submitted to the Board of Selectmen. Existing lots of record are by definition already approved.

14.4.2 No entity shall apply for or receive more than one growth permit per year.

14.4.3 One Growth Permit shall be issued for each dwelling unit, including accessory apartments, with a duplex requiring two permits, etc.

14.4.4 All growth permits shall be available on a first-come, first serve basis, subject to the provisions of Section 14.4.

14.4.5. Application procedure:

14.4.5.1. Applications shall be received by the Board of Selectmen. The Board of Selectmen, the planning board and the conservation commission shall have thirty (30) days to review the applications. Any applications submitted after the receiving date will automatically be credited to the following six-month period, in the order received.

14.4.5.2. The number of growth permits available for the calendar year for the town of Harrisville shall be determined by the average number of housing units, plus one additional unit, created in the following towns abutting the town of Harrisville: Dublin, Hancock, Marlborough, Nelson, and Roxbury, in addition to the town of Harrisville, as determined by the statistics received for the immediate past reporting period from the state of New Hampshire Office of State Planning. This number will be determined by the Harrisville planning board at its regular February public meeting. The allowable number of growth permits available per year shall not be less than six.

14.4.5.3. In the event that any allowed growth permits for the year are not issued, they shall be carried forward and applied to the following year's quota. No more than two period's growth permits shall be issued in any given calendar year.

14.4.5.4. In the event that the full number of growth permits has not been granted by the end of a permit period, the Board of Selectmen is empowered to grant permits on a first-come first-serve basis until the allowable limit for the preceding period has been filled.

14.4.5.5. A growth permit for a custom dwelling or a conversion of a seasonal dwelling shall expire at the end of six (6) months of the date of issuance, unless the foundation for the new unit has been completed, or a substantial part of the work on a seasonal conversion begun. Issued permits that have expired because of lack of action shall return to the pool to be reissued on a first-come first-serve basis. Expired permits may be renewed at the sole discretion of the Board of Selectmen

14.5. Transferability.

14.5.1. A growth permit shall be valid only for the site specified on the permit application. Should the property be conveyed, the growth permit shall be transferred to the new owner, but the expiration date shall remain unchanged. A growth permit granted on land that has been transferred within the previous twelve (12) month period, cannot itself be transferred.

14.6. Control.

14.6.1. All new dwelling units within the town shall be created or placed only in accordance with the provisions of this article. No building permit for the construction or conversion of any structure, subject to the provisions of this article, will be issued until the applicant has obtained a growth permit under the provisions of this article.

14.7. Periodic Review.

14.7.1. The operation of this article shall be reviewed by the planning board once every year to ensure that the annual maximum growth rate has not become inconsistent with

Harrisville's responsibility and capability of planning, developing, and implementing the necessary municipal systems and facilities to serve the growing town and to insure that Harrisville is assuming its fair share of housing growth within the Harrisville region.

14.8. Expiration.

14.8.1. This article shall automatically terminate on the anniversary date of its enactment unless specifically extended by vote of the annual town meeting.

14.9 Saving Clause

14.9.1. If any article, section, subsection, sentence, clause, or phrase of these regulations is for any reason held to be invalid or unconstitutional, such decision shall not affect the remaining portions of these regulations.

14.10. Effective Date. This amendment shall take effect upon its passage.

ARTICLE XV SHORELAND OVERLAY ORDINANCE

(adopted March, 1993, amended March 2009)

15.1. AUTHORITY. Pursuant to the authority granted by RSA 483-B:8, and RSA 674:16 this ordinance is adopted by the town of Harrisville in order to protect the public health, safety, and general welfare.

15.2. PURPOSE. This ordinance establishes standards for the subdivision, use, and development of shorelands adjacent to public waters as defined herein for the purpose of minimizing degradation of shorelands and assuring retention of the benefits provided by such shorelands. These benefits include: maintenance of safe and healthy conditions; prevention and control of water pollution; protection of important fish, bird and wildlife habitat; reduction or elimination of flooding and accelerated erosion; protection of wetlands and their important natural functions; maintenance of water quantity and related stream flows during low flow periods; protection of shoreland cover as a means of maintaining water quality; and the conservation and protection of natural beauty and the scenic qualities which are critical attributes of the state.

15.3. DEFINITIONS

15.3.1. "Abutter" means any person whose property is located within two hundred (200) feet, adjoins, or is directly across the street or stream from the land under consideration by the local land use board. For purposes of receiving testimony only, and not for purposes of notification, the term "abutter" shall include any person who is able to demonstrate that his land will be directly affected by the proposal under consideration. For purposes of notification and giving testimony, abutter also means a municipality and the applicable regional planning commission.

15.3.2 "Accessory structure" means a structure, as defined in paragraph 15.3.25 of this section, on the same lot and customarily incidental and subordinate to the primary structure, as defined in paragraph 15.3.14 of this section, or a use including but not limited to paths, driveways, patios any other improved surface, pump houses, gazebos, wood sheds, garages or other out buildings.

15.3.3. "Basal area" means the cross sectional area of a tree measured at a height of 4-1/2 feet above the ground, usually expressed in square feet per acre for a stand of trees.

15.3.4. "Commissioner" means the commissioner of the Department of Environmental Services or designee.

15.3.5. "Department" means the Department of Environmental Services.

15.3.6. "Disturbed area" means an area in which natural vegetation is removed, exposing the underlying soil.

15.3.7. "Ground cover" means any herbaceous plant that normally grows to a mature height of four (4) feet or less.

15.3.8 "Impervious surface" means any modified surface than cannot effectively absorb or infiltrate water. Examples of impervious surfaces include, but are not limited to, roofs, decks, patios, and paved, gravel, or crushed stone driveways, parking areas, and walkways unless designed to effectively absorb or filter water.

15.3.9 "Natural ground cover" means any herbaceous plant or any woody seedling or shrub generally less than 3 feet in height. Natural ground cover shall also include naturally occurring leaf or needle litter, stumps, decaying woody debris, stones and boulders. Natural ground cover shall not include lawns, invasive species, exotic species, imported organic or stone mulches, or other artificial materials (refer to Comprehensive Shoreland Protection Act for details).

15.3.10. "Natural woodland buffer" means a forested area consisting of various species of trees, saplings, shrubs, and ground covers in any combination and at any stage of growth.

15.3.11. "Ordinary high water mark" means the line on the shore, running parallel to the main stem of the lake pond or river, established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the immediate bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas. Where the ordinary high water mark is not easily discernible, the Department of Environmental Services may determine the ordinary high water mark.

15.3.12. "Person" means a corporation, company, association, society, firm, partnership or joint stock company, as well as an individual, a state, and any political subdivision of a state or any agency or instrumentality thereof.

15.3.13. "Primary building line" means a setback from the reference line.

15.3.14. "Primary structure" means a structure that is central to the fundamental use of the property and is not accessory to the use of another structure on the same premises.

15.3.15. "Protected shore land" means for natural fresh water bodies without artificial impoundments, for artificially impounded fresh water bodies and for coastal waters and rivers, all land located within two hundred and fifty (250) feet of the reference line of public waters.

15.3.16. "Public waters" shall include:

15.3.16.1. All fresh water bodies listed in the official list of public waters published by the department pursuant to RSA 271:20, II, whether they are great ponds or artificial impoundments.

15.3.16.2. Rivers, meaning all year round flowing waters of fourth order or higher, as shown on the current version of the New Hampshire hydrography dataset archived by the Granit system at the research center of the University of New Hampshire.

15.3.17. "Reference line" means:

15.3.17.1. For natural fresh water bodies without artificial impoundments, the natural mean high water level as determined by the Department of Environmental Services.

15.3.17.2. For artificially impounded fresh water bodies, the waterline at full pond as determined by the elevation of the top of the impoundment structure.

15.3.17.3. For rivers and streams, the ordinary high water mark.

15.3.18. "Removal or removed" means cut, sawed, pruned, girdled, felled, pushed over, buried, burned, killed, or otherwise destructively altered.

15.3.19 "Repair" means work to restore an existing, legal structure by partial replacement of worn, broken or unsound parts or to fix a specific defect, during which all of the exterior dimensions are intact and remain so during construction.

15.3.20 "Replace in kind" means the substitution of a new structure for an existing legal structure, whether in total or in part, with no change in size, dimensions, footprint, interior square footage, and location, with the exception of changes resulting in an increase in the setback to public waters.

15.3.21. "Residential unit" means a structure, or portion thereof, providing complete and independent living facilities, including permanent facilities for living, sleeping, eating, cooking, and sanitation which are used in common by one or more persons.

15.3.22. "Sapling" means any woody plant that normally grows to a mature height greater than 20 feet and has a diameter of less than six inches at a point 4 ½ feet above the ground.

15.3.23. "Shore land frontage" means a straight line drawn between the points at which the reference line intersects the side lines of the property.

15.3.24. "Shrub" means any multi-stemmed woody plant that normally grows to a mature height of less than twenty (20) feet.

15.3.25 "Structure" means anything built for the support, shelter or enclosure of persons, animals, goods, or property of any kind, as well as anything constructed or erected with a fixed location on or in the ground, exclusive of fences.

15.3.26. "Subdivision" means subdivision as defined in RSA 672:14.

15.3.27. "Tree" means any woody plant which normally grows to a mature height greater than twenty (20) feet and which has a diameter of six (6) inches or more at a point four and a half (4.5) feet above the ground.

15.3.28. "Undisturbed state" means native vegetation allowed to grow without interference.

15.3.29. "Urbanization" means the concentrated development found in the sections of towns or cities where there has been an historic pattern of intensive building for commercial or industrial use, or mixed residential, commercial, and industrial use.

15.3.30. "Water dependent structure" means a dock, wharf, pier, breakwater, beach, boathouse, retaining wall, launching ramp, or other similar structure or any part thereof, built over, on or in the waters of the state.

15.4. SHORELAND PROTECTION DISTRICT

15.4.1. The shoreland protection district is an overlay that is superimposed over the conventional existing zoning and includes within its boundary the protected shorelands adjacent to all public waters within the municipality.

15.5. PERMIT REQUIRED

15.5.1. No person shall commence construction, excavation, or filling activity within the protected shore land without obtaining a permit from the Department.

15.5.2. Within the protected shore land, any person intending to

- a. Engage in any earth excavation activity shall obtain all necessary local approvals in compliance with RSA 155-E.
- b. Construct a water-dependent structure, alter the bank, or construct or replenish a beach shall obtain all permits pursuant to RSA 485-A:17.
- c. Install a septic system as described in RSA 483-B:9, V(c) shall obtain all permits pursuant to RSA 485-A:29
- d. Conducting an activity resulting in a contiguous disturbed area exceeding 50,000 square feet shall obtain a permit pursuant to RSA 485-A:17.
- e. Subdivide land as described in RSA 483-B:9, V(e) and (f) shall obtain approval pursuant to RSA 485-A:29.
- f. Conduct an activity regulated under a local zoning ordinance shall obtain all necessary approvals.

15.5.2. The Commissioner shall have the sole authority to issue variances and waivers of the provisions of the Comprehensive Shoreland Protection Act.

15.5.3. No variance, permit or approval issued by a municipality shall exempt the owner from obtaining any other necessary permit or approval from the Department as required by the Comprehensive Shoreland Protection Act.

15.6. PROHIBITED USES

- 15.6.1. Establishment or expansion of salt storage yards, automobile junk yards, and solid or hazardous waste facilities.
- 15.6.2. Bulk storage of chemicals, petroleum products or hazardous materials.
- 15.6.3. Sand and gravel excavations as defined in RSA 155-E.
- 15.6.4. Processing of excavated materials.
- 15.6.5. Dumping or disposal of snow and ice collected from roadways or parking areas outside the district.

15.7. RESTRICTED USES

- 15.7.1. No fertilizer, except limestone, shall be used within 25 feet of the reference line of any property. Twenty five feet beyond the reference line, low phosphate, slow release nitrogen fertilizer or limestone, may be used on lawns or areas with grass.
- 15.7.2. Water dependent structure meaning is a dock, wharf, pier, breakwater or other similar structure, or any part thereof,, built over, on or in the waters of the state, shall be constructed only as approved by the Department pursuant to RSA 482-A.
- 15.7.3. Public water supply facilities as permitted by the commissioner of the Department of Environmental Services. Private water supply facilities shall not require a permit.
- 15.7.4. The placement of public water and sewage treatment facilities shall be permitted by the Commissioner as necessary.
- 15.7.5. Hydro electric facilities, including, but not limited to dams, dikes, penstocks, and powerhouses, shall be recognized as water dependent, and shall be permitted by the Commissioner as necessary.
- 15.7.6. Public utility lines and associated structures and facilities, public roads, and public water access facilities including boat ramps shall be permitted by the Commissioner as necessary.
- 15.7.7. An existing solid waste facility which is located within two hundred and fifty (250) feet of the reference line of public waters under this chapter may continue to operate under an existing permit, provided it does not cause degradation to an area in excess of that area under Department of Environmental Services permit.
- 15.7.8. No solid waste facility shall place solid waste within two hundred and fifty (250) feet of the reference line of public waters under this chapter except as expressly permitted under RSA 483-B:9, IV-c. However, any solid waste facility may be allowed subject to permitting conditions under RSA 149-M:9, to erect accessory structures and conduct other activities consistent with the operation of the facility within two hundred and fifty (250) feet of the reference line of public waters under this chapter, such as filling, grading and installing monitoring wells and other drainage structures as is consistent with its solid waste permit as issued by the Department of Environmental Services. Under no circumstances shall the toe of any slope encroach within one hundred and fifty (150) feet of the reference line.

15.8. MINIMUM STANDARDS

The following minimum standards shall apply to areas and activities within the protected shoreland with the exception of forest management that is not associated with shoreland development or land conversion, and is conducted in compliance with RSA 227-J:9; forestry conducted by or under the direction of a water supplier for the purpose of managing a water supply water shed; and agriculture conducted in accordance with best management practices as required by RSA 483-B:3,III.

15.8.1 MAINTENANCE OF A WATERFRONT BUFFER

15.8.1.1. The waterfront buffer shall be those protected shorelands within 50 feet of the reference line. The purpose of this buffer is to protect the quality of public waters while allowing homeowner discretion with regard to water access, safety, viewscape maintenance and lot design.

15.8.1.2. Within the waterfront buffer, all of the following prohibitions and limitations shall apply:

- a. No chemicals, including pesticides of any kind or fertilizers of any kind except those specified in RSA 483-B9.
- b. Rocks and stumps and their root systems shall be left intact in the ground unless removal is specifically approved by the Department.
- c. No natural ground cover shall be removed except as necessary for a foot path to the water as provided under RSA 483.9, cutting those portions that have grown over 3 feet in height for the purpose of providing a view, or as specifically approved by the Department.
- d. Starting from the northerly or easterly boundary of the property, and working along the shoreline, the waterfront buffer shall be divided into 50 by 50 foot segments. Within each segment a minimum combined tree and sapling score of at least 50 points shall be maintained. If for any reason there is insufficient area for a full segment, the number of points required to be maintained in that partial segment shall be proportional to that required of a full segment.
 - i. Tree and sapling diameters shall be measured at 4-1/2 feet above the ground and scored as follows: Diameter score 1 inch to 6 inches 1; greater than 6 inches to 12 inches 5, and greater than 12 inches 10.
 - ii. Dead, diseased, or unsafe trees or saplings shall not be included in scoring.
 - iii. If the total tree and sapling score in any 50 foot by 50 foot segment exceeds 50 points, then trees and saplings may be removed as long as the sum of the scores for the remaining trees does not total less than 50 points. Trees and saplings may be removed from partial segments provided the sum of the scores for the remaining trees and saplings in that particular segment is equal to or greater than the proportional point requirement.

- iv. Owners of lots that were legally developed prior to July 1, 2008 may maintain but not enlarge cleared areas, including but not limited to existing lawns and beaches, within the waterfront buffer. Conversion to or planting of cleared areas with native species of ground cover, shrubs, saplings and trees is encouraged but shall not be required unless to meet requirements of other provisions of the law.
- v. Normal trimming, pruning, and thinning of branches to the extent necessary to protect structures, maintain clearances, and provide views is permitted. Trimming, pruning, and thinning of branches for the purpose of providing views shall be limited to the bottom ½ of the trees or saplings.
- vi. A permanent 6 foot wide path to the water body, configured in a manner that will not concentrate storm water runoff or contribute to erosion, is allowed.
- vii. When necessary for the completion of construction activities permitted in accordance with RSA 483-B:6, a temporary 12 foot wide access path shall be allowed. The access path shall be completely restored and replanted with native vegetation upon completion of construction except as allowed under vi. above.

15.8.2. NATURAL WOODLANDS BUFFER.

A natural woodland buffer shall be maintained within one hundred and fifty (150) feet of the reference line. The first 50 feet of this buffer is designated as the waterfront buffer and is subject to the additional requirements of 15.8.1.2 above. The purpose of this buffer shall be to protect the quality of public waters by minimizing erosion, preventing siltation and turbidity, stabilizing soils, preventing excess nutrients and chemical pollution, maintaining natural water temperatures, maintaining a healthy tree canopy and understory, preserving fish, bird and wildlife habitat, and respecting the overall natural condition of the protected shore land.

15.8.2.1. Within the natural woodland buffer of a given lot:

- 15.8.2.1.1. At least 50 percent of the area outside of impervious surfaces shall be maintained in an undisturbed state. Owners of lots legally developed prior to July 1, 2008 that do not comply with this standard are encouraged to, but shall not be required to, increase the percentage of area maintained in an undisturbed state, except where permitted by the Department.
- 15.8.2.1.2. Any person applying to the Department for a septic system construction approval or alteration of terrain permit pursuant to RSA485-A, or an excavating and dredging permit pursuant to RSA482 A, within the protected shoreland shall include photographic documentation of the natural woodland buffer.
- 15.8.2.1.3. Dead, diseased, or unsafe trees, saplings, or shrubs that pose an imminent hazard to structures or have the potential to cause personal

injury may be removed regardless of any requirements that pertain to the natural woodland buffer under this section. Such exemptions shall not be used to contravene the intent of the law.

15.8.2.1.4. Stumps and their root systems that are located within fifty (50) feet of the reference line shall be left intact in the ground.

15.8.2.1.5. Dead and living trees that provide dens and nesting places for wildlife are encouraged to be preserved.

15.8.2.1.6. Native species planting efforts that are beneficial to wildlife are encouraged.

15.9. SUBSURFACE WASTE DISPOSAL SYSTEMS

15.9.1. All new lots created within the protected shoreland are subject to subdivision approval by the Department of Environmental Services.

15.9.2. Adjacent to lakes and ponds, the following conditions, based on the characteristics of the receiving soil as they relate to U.S. Department of Agriculture, Natural Resources Conservation Service drainage classes, shall dictate the setback requirements for all new leaching portions of new septic systems. The soil characteristics shall be based on an Order One soil map or a High Intensity Soil (HIS) map prepared by a certified soil scientist.

15.9.2.1 Where the receiving soil downgradient of the leaching portions of a septic system is a porous sand and gravel material with a percolation rate equal to or faster than 2 minutes per inch, the setback shall be at least 125 feet from the reference line.

15.9.2.2. For soils with restrictive layers within 18 inches of the natural soil surface, the set back shall be at least 100 feet from the reference line.

15.9.2.3. For all other soil conditions, the setback shall be at least 75 feet from the reference line.

15.9.2.4. Adjacent to rivers, the setback shall be no less than one hundred (100) feet from the reference line.

15.10. EROSION AND SEDIMENTATION CONTROL

15.10.1. All new structures, modifications to existing structures, and excavation or earth moving within protected Shoreland shall be designed and constructed in accordance with rules adopted by the Department under RSA 541-A for terrain alterations under RSA 485-A:17, to manage stormwater and control erosion and sediment, during and after construction.

15.10.2. New structures and modifications to existing structures within the protected Shoreland shall be designed and constructed to prevent the release of surface runoff across exposed mineral soils.

15.10.3. A permit under RSA 485-A:17, I shall be required to improved, developed, or subdivided land whenever there is a contiguous disturbed area exceeding 50,000 square feet that is either partially or wholly within protected shoreland.

15.11. MINIMUM LOT REQUIREMENTS

15.11.1. The minimum lot size for new lots in areas dependent on on-site septic systems shall be determined by soil type, lot determinations, as established by the Department of Environmental Services under RSA 485-A and rules adopted to implement it. See also Article IX.

15.11.2. New lots requiring on-site water and sewage systems within this district shall have a minimum of shoreland frontage of two hundred (200) feet.

15.11.3. Setback. No primary structure shall be located within seventy-five (75) feet of the reference line. Accessory buildings such as storage sheds and gazebos but excluding automobile garages may be located within the seventy-five (75) feet setback as a special exception provided:

15.11.3.1. The location and construction of the structure is consistent with the intent of the ordinance to maintain a vegetated buffer.

15.11.3.2. The structure is required as a shelter either for humans, equipment, or firewood.

15.11.3.3. The structure is usually customary and incidental to a legally authorized use located within the shoreland district.

15.11.3.4. Building placement: Buildings should be placed in such a manner as to minimize impact on habitat and at such a location as to have the least impact on the watershed.

15.12. WATER DEPENDENT USES AND STRUCTURES. The following uses and structures are allowed within the shoreland protection district with permits obtained from the Department.

15.12.1. Water dependent structures including, but not limited to, decks, wharves, swimming floats and boat ramps.

15.12.1.1. The least impacting route and methodology for the use have been selected and represent the best practicable alternative.

15.12.1.2. Canopies and seasonal covers shall extend only over the boat slips and shall be removed during the nonboating season.

15.13. NONCONFORMING LOTS OF RECORD

15.13.1. Nonconforming undeveloped lots of record within the protected shore land shall comply with the following restrictions:

15.13.1.1. Except where otherwise prohibited by law, present and successive owners of an individual undeveloped lot may construct a single family residential dwelling on it, notwithstanding the provisions of this chapter. Conditions may be imposed which, in the opinions of the Commissioner, more nearly meet the intent of this chapter, while still accommodating the applicant's rights. Building on nonconforming lots shall be limited to single family residential structures and related facilities, including, but not limited to, docks, piers, boathouses, boat loading ramps, walkways, and other water dependent structures, consistent with the law.

15.13.1.2. All leach fields shall meet the setback requirements of Section 15.8. If leach field cannot be located on the lot in conformity with this ordinance, the owner shall be required to acquire additional land or a permanent easement to such land insofar as is practicable. Should additional undeveloped land not be available, allowable sewage loading shall be reduced by decreasing the number of bedrooms, toilet facilities, and other wastewater generating facilities to bring the proposed development as close to compliance with this ordinance as feasible.

15.14. NONCONFORMING STRUCTURES.

15.14.1. Except as otherwise permitted by law, nonconforming structures located within the protected shoreland may be repaired, renovated, or replaced in kind using modern technologies, provided the result is a functionally equivalent use. Such repair or replacement may alter the interior design or existing foundation, but shall result in no expansion of the existing footprint except as authorized by the Department. An expansion that increases the sewage load to an on-site septic system, or changes or expands the use of a septic system shall require approval by the Department. When reviewing requests for the redevelopment of sites that contain non-conforming structures or any expansions of non-conforming structures, the Commissioner shall review proposals which are more nearly conforming than the existing structures, and may waive some of the standards specified in RSA 483-B:9, so long as there is at least the same degree of protection provided to the public waters. See also Article V.

15.14.2. Open decks as additions to existing and which are proposed within the seventy-five (75) foot setback requirement are permitted conditioned on:

15.14.2.1. Maintaining a minimum setback of fifty (50) feet.

15.14.2.2. A maximum deck width of ten (10) feet

15.14.2.3. Maintaining an open deck.

15.14.2.4. Utilizing simple foundations such as pier or piling foundations to minimize land disturbance.

15.14.2.5. Implementing adequate soil erosion control measures.

15.15. NONCONFORMING USES

15.15.1. Existing uses that are nonconforming under this ordinance may continue until the use ceases to be active or is discontinued for a period of one year. An existing non-conforming use may not be changed to another non-conforming use, except as provided in Article V. Existing nonconforming uses shall be required to meet the shoreland natural buffer, drainage, and related water quality protection requirements of this ordinance to the maximum extent feasible.

15.16. COMMONLY USED WATERFRONT PARCELS OR LOTS

15.16.1. Shorefront lots/parcels, which are intended for use for common access by the non-shoreland property owners within the development or subdivision which owns or has control over the common land, shall:

15.16.1.1. Contain a minimum of two acres.

15.16.1.2. Have a minimum shoreland frontage of two hundred (200) feet for the first residential unit and an additional thirty (30) feet for each additional unit.

15.16.1.3. Have no structures other than toilet facilities, picnic shelters and/or recreational facilities. Necessary leach fields shall be located at least one hundred and twenty-five (125) feet from the public boundary line.

15.16.1.4. Half the shoreland frontage shall be designated for swimming and shall be separate from boating areas. Swimming areas shall be separated from boating areas by ropes or appropriate markers, subject to the approval of the Division of Safety Services of the New Hampshire Department of Safety.

15.16.1.5. Off street parking shall be provided on the basis of three hundred (300) square feet for each residential unit which has use of the common area, and which unit is located one quarter (1/4) mile or more from the common area.

15.16.1.6. Toilet facilities shall be provided on the basis of one facility each for men and women for each twenty-five (25) residential units.

15.16.1.7. Impervious cover for roof area, parking lots, access roads, sidewalks, and any other similar cover over or on the parcel or lot shall not exceed ten (10) percent of the area of the parcel or lot.

15.17. LAND CLEARING FOR AGRICULTURE PURPOSES

15.17.1. All agricultural activities and operations in the state as defined in RSA 21:34-a and as governed by RSA 430, including the use of animal manure, lime, wood ash, irrigation and the clearing of land for agricultural utilization, and other agricultural technologies, shall be exempt from the provisions of this ordinance, provided such activities and operations are in conformance with the most recent best management practices determined by the United States Department of Agriculture Natural Resources Conservation Service, the United States Department of Agriculture Cooperative Extension Service and the Department of Agriculture, Market and Food. Persons carrying out such agricultural activities and operations in the protected shoreland shall work directly with the local representatives of the above agencies for their particular property.

15.18. MODEL SHORELAND PROTECTION ORDINANCE

15.18.1 This ordinance is substantially based upon the Comprehensive Shoreland Protection Act, prepared by the New Hampshire Department of Environmental Services and in force July 1, 2008.

15.19. RELATIONSHIP BETWEEN STATE AND LOCAL REQUIREMENTS

15.19.1. Where both the state and the municipality have existing requirements, the more stringent shall govern.

15.20. SAVING CLAUSE

15.20.1. Where any provision of this ordinance is found to be unenforceable, it shall be considered savable and shall not be construed to invalidate the remainder of the ordinance.

15.20. EFFECTIVE DATE

15.20.1. This ordinance shall be effective upon adoption by the municipal governing body (March, 1993) and amended March 2009.

ARTICLE XVI CONSERVATION SUBDIVISION ORDINANCE

(Formerly CLUSTER DEVELOPMENT. Replaced with new ARTICLE XVI: CONSERVATION SUBDIVISION ORDINANCE March 2009)

I. PURPOSE

This Conservation Subdivision ordinance is intended to encourage environmentally sound planning to conserve open space, retain and protect important natural and cultural features, and provide for efficient use of land and community services to advance the goals stated in the master plan.

II. OBJECTIVES

- To maintain rural character, preserving farmland, forests and maintaining rural viewscapes.
- To preserve those areas of the site that have the highest ecological value, including, for example, wildlife habitat, e.g., large unfragmented blocks of undeveloped land, areas of highest condition identified based on NH Fish and Game’s Wildlife Action Plan, and water resources, e.g., drinking water supply areas and watersheds, wetlands, streams and rivers.
- To locate buildings and structures on those portions of the site that are the most appropriate for development and avoiding developing in areas ill-suited for development, including, for example, areas with poor soil conditions, a high water table, that are subject to frequent flooding or that have excessively steep slopes.
- To preserve historic, archeological, and cultural features located on the site.
- To create a contiguous network of open spaces or “greenways” by linking the common open spaces within the subdivision and to open space on adjoining lands wherever possible.
- To reduce the impacts on water resources by minimizing land disturbance and the creation of impervious surfaces and stormwater runoff.
- To reduce the amount of roads, sidewalks, and stormwater management structures that must be built and maintained.
- To minimize the impact of residential development on the municipality, neighboring properties, and the natural environment.

III. DEFINITIONS

For the purpose of this chapter, the terms used herein are defined as follows:

Applicant: The owner of land proposed to be subdivided or his representative.

Buffer: Land area within which adequate vegetation is maintained or provided to visibly separate or screen one use from another and/or to minimize potentially negative impacts on

surrounding areas, e.g., shield or block noise, light or other nuisances, reduce water pollution. Also known as a “vegetated buffer.”

Buildable Area: Land area of a parcel excluding non-buildable area.

Buildable Lot: The smallest lot area established by the zoning ordinance on which a use or structure may be located in a particular district.

Building Envelope: Area of a building lot identified on a subdivision plan indicating the allowed limits of clearing and grading, and within which all structures, and, when applicable, the well and septic systems, including the tank and leach field, shall be located.

Conservation Easement: A permanent legal restriction against future development and other activities as specified in the conservation easement deed. An easement may be worded to permit or restrict public access, allow or disallow recreational uses, allow or disallow other uses, such as limited development, agriculture, or forestry. Easements are tied to the title of the land, regardless of subsequent ownership.

Conservation Subdivision: An alternative form of residential development where, instead of subdividing an entire tract into lots of conventional size, a similar number of housing units are arranged on lots of reduced dimensions, with the remaining area of the parcel permanently protected as designated open space. Also referred to as “open space subdivision.”

Deed Restriction: A restriction on the use of land usually set forth in the deed for the property. Also known as a “restrictive covenant.”

Designated Open Space: Reserved land that is permanently protected from further development and remains in a natural condition or is managed according to an approved management plan for natural resource functions, e.g., forestry, agriculture, habitat protection, passive recreation, or limited uses as approved by the planning board under this ordinance as part of a conservation subdivision.

Easement: The right or privilege that a person may have in another person’s property, often for the purposes of installing and maintaining utilities and drainage ways or allowing a right of passage.

Homeowners Association: A private corporation, association, or other legal entity organized in accordance with state law and established by the applicant or the member individuals for the benefit and enjoyment of its members, including oversight and management of common open space, designated open space, and/or shared facilities.

Non-buildable Area: Land area that cannot be counted toward the minimum lot size under a conventional subdivision, including areas with the following characteristics: wetlands or wetland soils as defined by RSA 482-A: 2, X; slopes greater than 25 percent; submerged areas; utility rights-of way; land area within the 100-year floodplain; or land that is restricted from development by covenant, easement or other restriction.

Open Space Common: Land within or related to a development, exclusive of land dedicated as designated open space, not individually owned, which is designed and intended for the common use or enjoyment of the residents of the development and/or the town and may include such complementary structures and improvements as are necessary, appropriate and approved by the planning board.

Restrictive Covenant: A restriction on the use of land usually set forth in the deed for the property.

Sketch Plan: A preparatory sketch of the preliminary subdivision layout that does not include engineering details, which is used to support a general discussion with the planning board as to the form of the plat and the objectives of the zoning ordinance and applicable subdivision or site plan regulations.

IV. AUTHORITY AND APPLICABILITY

A. To facilitate the implementation of the goals of the master plan, all subdivisions for residential use shall use a conservation subdivision design approach, unless exempted under Section IV.B or granted a special use permit under Section IV.C.

B. Exemptions: Subdivisions meeting any one of the following criteria shall be exempt from the requirements of this section, unless a landowner elects to follow the standards of this sections.

1. The subdivision creates lots that are, on average, equal to or greater than 479,160 square feet (11 acres) in size and provided the deed for each lot created contains a restriction prohibiting the further subdivision of the lot;
2. The parent parcel is nine acres or less in total size and the subdivision does not require a new road; or
3. The subdivision creates five or fewer dwelling units and does not require a new road.

C. Authorization to Issue a Special Use Permit: Notwithstanding other provisions of (municipality)'s zoning ordinance, authority is hereby granted to the planning board, as allowed under RSA 674:21, II, to issue a special use permit to modify the requirements of this section as follows:

1. The planning board may issue a special use permit for the parcel to be developed as a conventional subdivision when it finds that:
 - a. The parcel is ill-suited for development using conservation subdivision design, or a conventional design provides greater or equal benefits to the community; and
 - b. The conventional subdivision design retains and protects important natural and/or cultural features identified by the planning board and/or the site inventory.
2. The planning board may issue a special use permit for a modified conservation subdivision design to allow for variations from certain requirements of this section as specified herein. Such modifications shall be consistent with the purposes and standards of this section, fall within the guidelines contained herein, and shall not be detrimental to public health, safety or welfare.

D. Sequential Subdivisions: The provisions of this ordinance shall apply to the sequenced development of a parent parcel over time through separate successive applications. When a subdivision is proposed that involves part of a larger parcel or

includes lots that are capable of further subdivisions, the planning board may require that a site inventory and a conceptual (non-binding) long-range plan be submitted for the entire parcel and used to evaluate the proposed subdivision.

E. Review Process: A subdivision application under this sections shall comply with the application and review process specified in the subdivision regulations, except the sections of the subdivision regulations that are clearly not applicable to a conservation subdivision design shall not be imposed on the applicant by the planning board.

F. Legal Review: Prior to final approval by the planning board, the applicant shall submit for review by the town counsel any restrictive covenants, condominium or cooperative agreements, conservation easement, deed restrictions, or other legal agreements proposed for use in the conservation subdivision. The town counsel shall advise the planning board of the adequacy of such legal provisions. The applicant shall pay all associated costs of the legal review.

V. MAXIMUM DEVELOPMENT DENSITY

A. Base Number of Development Units: The applicant shall choose one of the following methods for calculating the base number of dwelling units that may be constructed on the property:

1. Formula Approach: Under the formula approach, the base number of dwelling units is determined by the following formula:

Base Number Dwelling Units =

(Net Area) x (Factor) ÷ Conventional Minimum Lot Size x (# Dwelling Units/Lot)

where Net Area = Total Area of Parcel – “Non-Buildable Area” on the Parcel

Conventional Minimum Lot Size = lot size determined for a single-family building, two-family building, or multi-family building (or combination of the above as permitted) based on the conventional zoning requirements.

Non-Buildable Area = any area that cannot be counted toward the minimum lot size under a conventional subdivision or is restricted from development by covenant, easement or other restriction (see definition).

Factor = number determined by the following:

Percentage of Parcel that is Wetlands and/or Steep Slopes*	Factor
0-<10%	0.75
10-<20%	0.70
20-<30%	0.65
30% or more	Use Yield Plan Approach

* Steep slopes are those greater than 25%

The number of allowable dwelling units is determined based on the allowable number of units per building under the conventional zoning, where the result is rounded up for single family homes and down to the next whole number for buildings containing more than one dwelling unit.

If the subdivision involves only part of a parcel, the buildable area shall be calculated for that portion of the parcel proposed to be included in the subdivision. If a parcel is located in more than one district, the base number of allowable dwelling units will be determined for each portion of the parcel separately and added together and then rounded to the next whole number.

2. Yield Plan Approach: Under this approach, the applicant presents a yield plan to the planning board to determine the number of allowable buildings and dwelling units permitted within the conservation subdivision. The yield plan is a sketch plan for a conventional subdivision development that fully complies with the requirements for a conventional subdivision.

3. Exceptions

- a. If more than 30 percent of the area of the parcel consists of wetlands or steep slopes, then the applicant shall use the yield plan approach to determine the allowable number of buildings and dwelling units.
- b. The planning board may require the preparation of a yield plan if the subdivision creates 20 or more dwelling units as determined by the Formula Approach. The planning board may require the use of the yield plan for determining the permitted number of dwelling units if it finds, upon review of the yield plan, that the characteristics of the site, e.g., soil types, arrangement of wetlands and steep slopes, support fewer than 90 percent of the number of dwelling units permitted by using the formula approach.

B. Incentives: Additional dwelling units and/or lots, not to exceed 20 percent over and above the base number of dwelling units permitted, may be awarded at the discretion of the planning board for any of the following:

1. Conservation of greater than 40 percent of the buildable area of the parcel within the designated open space shall receive a 5 percent increase in the number of dwelling units allowed for every additional 10 percent of open space protected up to a maximum increase of 15 percent over the base number of dwelling units allowed.
2. Developments that grant public access, i.e., not limited to residents of the subdivision, to the designated open space shall be eligible for up to a 10 percent increase in the number of dwelling units allowed.
3. Developments that provide for a permanent conservation easement and that include a stewardship fund payment, acceptable to the planning board and held by the town, a recognized conservation organization, or land trust, shall be eligible for a 10 percent increase in the number of dwelling units allowed.

VI. DIMENSIONAL REQUIREMENTS

A. Lot Size Requirements

1. **Buildings** in a conservation subdivision may be located on individual residential lots, on common lots, or a combination thereof. If more than one dwelling unit will be located on a lot, the ownership and management arrangements for that lot, and the units thereon, shall be included in the subdivision application. The arrangements shall be subject to approval by the planning board in accordance with the subdivision regulations.

2. Minimum Lot Size

- a. If public wastewater treatment is not available, the minimum lot size permitted shall be based on soil-based lot sizing requirements for wastewater management as specified by the New Hampshire Department of Environmental Services. Developments may utilize individual or community wells and/or septic systems.
- b. The planning board may require lot sizes to be larger than the minimum required under soil-based lot sizing to comply with other requirements of this section, particularly the dimensional and design standards of this section, or to protect human health, welfare and public safety.
- c. The size of the individual lots shall be shown on the subdivision plan and shall be subject to planning board approval based upon its finding that the lot sizes will allow for the creation of a high-quality living environment for the residents of the subdivision and the abutting property owners.

3. **Alternative Lot Sizing:** The planning board may authorize variations from the minimum lot sizes specified above by special use permit, provided the planning board determines that the following conditions are met:

- a. All lots comply with the New Hampshire Department of Environmental Services requirements for subsurface wastewater management (developments may utilize individual or community wells and/or septic systems); and
- b. The goals and design specifications of this section are otherwise achieved.

B. Specifications for Individual Lots

1. A building envelope shall be identified for each new lot in compliance with the standards in Table 1 to ensure an adequate separation between new primary structures on the subdivided parcel and between new primary structures and existing structures on adjacent lots. For new lots, the standard is applied to the average distance between building envelopes on adjacent new lots, i.e., the actual distance of separation may vary and be less than the minimum specified for some lots, provided that, on average, the minimum distance of separation is achieved across all new lots created. Variations from this standard may be granted by the planning board under

special permit provided that the intent of this section is met and an adequate vegetated buffer is maintained or provided between new structures.

Table 1.4.1 Specifications of Minimum Separation Distances between Building Envelopes

District	Minimum Separation Distance of Building Envelopes for New Lots From Existing Structures on Adjacent Parcels	Minimum Average Separation Distance Between Building Envelopes for New Lots
Residential/Agricultural (2 acre lots)	75 feet	50 feet

2. Principal structures located on a common lot (and within a common building envelope) shall be no less than 15 feet apart and shall conform to the requirements of the town’s building code and the NFPA fire protection codes based upon the type of construction and proposed use.

3. Height limits for structures shall be determined by the underlying zoning for the parcel, unless variations are granted by special permit.

4. Building envelopes shall provide for a minimum setback of at least 15 feet from the lot boundaries.

5. Building envelopes shall be delineated to ensure that no structures shall be less than 25 feet from the edge of pavement of the roadway.

6. Building envelopes shall be setback a minimum of 75 feet from wetlands and shorelines. No structures or supporting utilities may be constructed on wetland.

7. Lots may be irregular in size and shape provided they conform to the natural topography and features of the parcel (e.g., the lot lines follow an existing stone wall, stream, or other natural dividing feature).

8. The planning board may authorize variations from the above standards, except for provision (6) pertaining to the setback from a wetland/shoreline or any requirement covered by state regulation or addressed elsewhere in this ordinance, by up to 50 percent by special use permit issued pursuant to Section IV.C.2, for the purpose of providing flexibility in the design of the subdivision to meet the objectives of this section or to support the creation or continuation of a traditional village-style development pattern.

C. Design Standards for Developed Areas: Subdivision plans shall comply with any additional applicable standards governing the location and layout of lots and structures found elsewhere in this ordinance and as set forth in the Subdivision Regulations.

VII. OPEN SPACE REQUIREMENTS

A. At least 40 percent of the buildable area and 80 percent of the non-buildable area of the parcel shall be permanently protected as designated open space subject to the additional conditions below. The planning board may authorize a slight reduction in the area of designated open space by special use permit, when it finds that (1) the reduction is necessary to enable the use of the conservation subdivision approach based on the characteristics of the parcel, and (2) the proposed subdivision adequately meets all other requirements of this ordinance. In no case, shall the designated open space represent less than 40 percent of the total area of the parcel.

B. Portions of the parcel that comprise part of an individual house lot, roadway, driveway, access road, roadway right-of-way, other new or existing right-of-way, utility easement, private or community leach fields or other components of a wastewater management system, storm water management structures, or are part of a required buffer between any new structure and an existing right-of-way, or any area that is less than 100 feet wide shall not count toward the calculation of the designated open space.

C. The location, layout, and management of the designated open space shall conform to the standards and process set forth in the Subdivision Regulations.

D. Any use of the designated open space is subject to approval of the planning board and conservation commission and shall demonstrate that such uses shall not negatively impact the natural and/or cultural amenities preserved through the conservation subdivision design.

E. The following uses generally are permitted in the designated open space, unless specifically prohibited or restricted as a condition of subdivision approval for the purposes of protecting important natural features or characteristics of the parcel:

1. Forest management.
2. Agricultural cultivation and pastures.
3. Passive (non-motorized) trails and recreational uses.

F. Up to 50 percent of the designated open space may be permitted by special permit to be used for the following. The planning board may impose specific criteria or restrictions on such uses as deemed necessary to support the goals of this section:

1. Agriculture involving animal husbandry and/or boarding.
2. Active outdoor recreation uses, including formal playgrounds and fields.
3. Parking areas for access to the designated open space.
4. Individual or community wells provided that this use was approved as part of the subdivision plan and that appropriate legal arrangements are established and approved by the planning board for the maintenance and operation of these facilities.

G. The removal of soil, trees and other natural features from the designated open space is prohibited, except as consistent with conservation objectives or permitted uses as provided above.

H. The designated open space shall be retained in a natural, undisturbed state, except for those activities permitted and approved as provided above, or as required for active management according to a conservation agreement and management plan written by a qualified natural resource professional.

ARTICLE XVII SIGN ORDINANCES

17.1. Specifications.

17.1.1. Internally illuminated, gas filled tubular or flashing electric advertising signs are prohibited.

17.1.2. Externally illuminated signs are permitted by special exception.

17.1.3. A sign shall not be closer than ten (10) feet from the edge of the traveled section of the public right-of-way and no closer than fifty (50) feet to any side property line.

17.1.4. No freestanding sign shall extend more than fifteen (15) feet above the ground.

17.1.5. No sign shall be placed in such a position as to endanger traffic by obscuring a clear view or by confusion with official signs or signals.

17.1.6. Advertising billboards are prohibited.

17.1.7. An advertising sign in the residential and agricultural districts shall not exceed a total area of six (6) square feet.

17.1.8. Advertising signs in the commercial and industrial districts are not to exceed twenty-four (24) square feet. Freestanding signs at one location shall not exceed twelve (12) square feet each and their combined areas shall not exceed thirty (30) square feet.

17.1.9. A sign pertaining to the lease or sale of a lot or building shall not exceed a total area of six (6) square feet.

17.1.10. When a sign is posted on town property, written permission from the selectmen is required. Permits shall be issued for a three (3) month period. This time limit may be extended at the selectmen's option.

17.1.11. When a sign is posted off premise, permission from the owner of the property is required.

17.1.12. Signs on a public right of way must be self-supported.

ARTICLE XVIII PARKING STANDARDS

18.1. Every lot shall provide off-street parking according to the following standards:

18.1.1. Single family, duplex, multi-family. 2 spaces per dwelling unit

18.1.2. Accessory apartments. 1 space per apartment

18.1.3. Tourist homes. 1 space per sleeping room

18.1.4. Offices. 1 space per 750 sq. ft. gross floor

18.1.5. General retail/commercial use. 1 space per 300 sq. ft. gross floor area

18.1.6. Manufacturing. 1 space per 1,000 sq. ft. gross floor area

18.1.7. Wholesale and storage. 1 space per 3,000 sq. ft. gross floor area

ARTICLE XIX WIRELESS COMMUNICATION FACILITIES

19.1. PURPOSE: To establish a designated area of the town suitable for the erection of wireless communication facilities pursuant to authority conferred by the Federal Telecommunications Act of 1996 and to the applicable New Hampshire Statutes, Title LXIV, Planning and Zoning.

19.2. SPECIAL EXCEPTION: Under all circumstances, application for a wireless communication facility will require special exception approval by the Board of Adjustment.

19.3. WIRELESS COMMUNICATION FACILITY OVERLAY DISTRICT: The wireless communication facility overlay district is an overlay district superimposed over the conventional existing zoning in the area of the town, which falls between New Harrisville Road, Willard Hill Road, Venable Road and Old Harrisville Road, and is bounded on the south by the Dublin town line.

19.4. The applicant must demonstrate to the Board of Adjustment, as part of a special exception procedure, that a proposed wireless communication facility is necessary to provide adequate service not available from other towers.

19.5. An applicant who chooses to site a wireless communication facility in another location from the area set forth in section 19.3, must file for a variance with the Board of Adjustment. The proposed facility may be located only in the rural residential district of the town, and under no circumstances shall such a facility be constructed in the village, lake, or historic districts.

19.6. Application Requirements: The application for approval of wireless communication facilities must address the following:

19.6.1. All projects involving the construction of wireless communication facilities require special exception approval and site plan review approval.

19.6.2. Because the visual impact of such facilities can transcend town lines, communities that may be visually affected shall be formerly notified of the application for such proposed facilities.

19.6.3. Any wireless communication facility shall be designed to accommodate multiple providers of communication services and will only be approved under the condition that the primary developer of the facility will make the facility available upon reasonable terms by lease or other legal instrument to other wireless communication services.

19.6.4. The applicant must demonstrate that every reasonable effort has been made to cause the facility to have the least possible visual impact on the town at large, including demonstration of realistic analysis of multiple sites and the need for proposed height. Record of such conditions shall be recorded in the Cheshire County Registry of Deeds.

19.7. The planning board and the Board of Adjustment may request detailed plans from the applicant and may, at the expense of the applicant, engage the services of professional

consultants to review and comment on the proposal, and testimony of the applicants or their agents relating thereto.

19.8. Any alteration of the original permitted use and device configuration of the facility will require a new special exception and site plan review approval.

19.9. All applications for wireless communication facilities will be heard at a joint public meeting of the planning board and the Board of Adjustment, subject to the provisions of RSA 676:2.

19.10. The following conditions shall be listed on the final plat approval by the planning board or zoning Board of Adjustment:

19.10.1. The tower owner agrees to give notice to the town of any change in ownership of the tower.

19.10.2. The tower owner agrees to remove the tower within ninety (90) days from the date of cessation of operations.

ARTICLE XX BOARD OF ADJUSTMENT

20.1. A Zoning Board of Adjustment is hereby created and its members shall be appointed by the selectmen in accordance with, and shall have the terms and powers hereby conferred upon the Board of Adjustment by the provisions of Chapter 31, New Hampshire Revised Statutes Annotated, 1955, and as may be amended.

20.1.1. The Board of Adjustment shall adopt rules to govern its proceedings in accordance with the provisions of this ordinance, and the provisions RSA 673 et seq as amended.

20.1.2. The Board of Adjustment may, in appropriate cases and subject to appropriate conditions and safeguards as determined by the board, grant a permit for a special exception. The board, in acting on an application for a special exception, shall take into consideration the following conditions:

20.1.2.1. The specific site is an appropriate location for such use.

20.1.2.2. The use as developed will not adversely affect the adjacent area.

20.1.2.3. There will be no nuisance or serious hazard to vehicles or pedestrians.

20.1.2.4. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.

20.1.2.5. The proposed use shall comply with all the frontage, setbacks, minimum land area, sanitary protection, signs, and parking requirements for itself or its most similar use, except where specifically waived by the board, the reasons for such waiver to be set forth in writing by the board.

20.1.3. Special exception criteria for wireless communication facilities. In addition to all other applicable special exception criteria as well as other provisions of this ordinance, an application shall include information stipulating the criteria of need for a tower to

adequately service the area. In addition the Board of Adjustment shall consider the following criteria:

20.1.3.1. The site for the proposed Wireless Communication Facility shall be at least two times the tower height in diameter, and still meet lot line set back requirements.

20.1.3.1.1. The applicant shall demonstrate to the satisfaction of the Board of Adjustment that all precautions have been taken to eliminate any threat from the tower structure to nearby buildings, structures, and pedestrians.

20.1.3.2. The applicant shall demonstrate to the satisfaction of the Board of Adjustment that there will be no impact on the telecommunications systems of neighboring properties.

20.1.3.3. Lighting impacts from the site shall be minimal to neighbors and to those whose view is impacted by the facility.

20.1.4. The Board of Adjustment may authorize a variance from the terms of this ordinance only where the board finds that all of the following conditions apply:

20.1.4.1. The granting of the variance would not be detrimental to the convenience, welfare, and character of the district within which it is proposed, and would not diminish surrounding property values.

20.1.4.2. The granting of the variance will be in harmony with the general purposes and intent of the ordinances.

20.1.4.3. The granting of the variance would not be injurious or otherwise detrimental to the public welfare.

20.1.4.4. The specific variance as granted is the minimum variance that will provide reasonable relief to the owner, and is the minimum necessary for the reasonable use of the property.

20.1.4.5. There are special circumstances or conditions applying to the land or structure for which the variance is sought (such as, but not limited to, the exceptional narrowness, shallowness, or shape of the property in question, or exceptional topographical conditions), which are peculiar to such land or structure, and the application of the requirements of this ordinance will deprive an owner of such property a reasonable use of it, and will impose upon such owner a hardship not shared by the owners of other property in the same district.

20.1.5. The Board of Adjustment may hear and decide a case where it is alleged there is error in any order, requirement, decision, or determination made by the selectmen or their agent in the enforcement of this ordinance.

20.1.6. Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board, or bureau of the municipality affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the officer from whom the appeal is taken and with the board a notice of appeal specifying the grounds thereof. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice

thereof, as well as notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or attorney.

20.1.7. The terms specified in the approval of any and all special exceptions and variances granted by the board shall be carried out within one year after approval by the board; if not, a new request for the granting of a special exception or variance must be made to the board.

ARTICLE XXI ENFORCEMENT

21.1. It shall be the duty of the Board of Selectmen, and the Board is hereby given power and authority, to enforce the provisions of this ordinance.

21.1.1. Upon well-founded information that this ordinance is being violated, the selectmen shall take immediate steps to enforce the provisions of this ordinance, seeking an injunction in the superior court or by taking any other legal action when necessary.

ARTICLE XXII PENALTY

22.1. Every person, firm or corporation violating any of the provisions of this ordinance shall, upon conviction, be fined not more than one hundred dollars for each day such violation may exist.

ARTICLE XXIII AMENDMENTS

23.1. This ordinance may be amended by a majority vote as provided for in RSA 675 as amended.

ARTICLE XXIV SAVING CLAUSE

24.1. The validity of any provisions of this ordinance shall not affect the validity of any other provisions.

ARTICLE XXV SUMMARY OF HISTORICAL CHANGES

25.1. In March, 1955 Building Regulations and Zoning Ordinances proposed by the Zoning Commission were adopted by the Town Meeting. These were later rescinded by a Special Town Meeting held in July, 1955.

25.2. In March, 1958 the Zoning Commission was established anew by a vote of the Town meeting.

25.3. In March, 1964 a Zoning Ordinance was published. These Zoning Ordinances were subsequently revised at Town Meetings in:

25.3.1. March, 1973

25.3.2. March, 1976

- 25.3.3. March, 1982
- 25.3.4. March, 1983
- 25.3.5. March, 1987
- 25.3.6. March, 1991
- 25.3.7. March, 1992
- 25.3.8. March, 1993
- 25.3.9. March, 1994
- 25.3.10. March, 1995
- 25.3.11. March, 1996
- 25.3.12. March, 1998
- 25.3.13. March, 2000
- 25.3.14. March, 2001
- 25.3.15. March, 2002
- 25.3.16. March, 2003
- 25.3.17. March, 2004
- 25.3.18. March, 2005
- 25.3.19. March, 2006
- 25.3.20. March, 2007
- 25.3.21. March, 2008
- 25.3.22. March, 2009

ARTICLE XXVI DEFINITIONS

For the purpose of this ordinance, certain terms used are defined as follows:

ACCESSORY APARTMENT: An independent living unit subordinate to a single family dwelling and under the same ownership as the primary residence. The apartment may be attached to the primary residence or located in an accessory building on the property. Kitchen facilities may be either shared or separate.

ACCESSORY BUILDING: A subordinate building or a portion of the main building on a lot, the use of which is customarily incidental to that of the main or principal building.

ACCESSORY USE: A use on the same lot with, and of a nature customarily incidental and subordinate to the principal use; and not occupying more than forty percent (40%) of the net floor area of any one floor in the principal structure or not more than forty percent (40%) of the lot area.

AGRICULTURE: The science and art of farming including cultivating the soil, producing crops and raising livestock and poultry. Agricultural activities include normal farming operations as well as orchards and vineyards, dairy farms, greenhouses, horticultural operations, nurseries, and agricultural storage and/or processing activities.

ALLEY: A minor right-of-way providing secondary vehicular access to the side or rear of two or more properties.

ALTERATIONS, STRUCTURAL: Any change in the supporting members of a building such as bearing walls, columns, beams or girders.

ALTERATIONS: A change or rearrangement in the structural parts, interior or exterior, of a building or structure, including restoration or reconstruction.

AMENDMENT: A change in use in any district that includes revisions to the zoning ordinance text and/or the official zoning map; and the authority for any amendment lies solely with the governing body.

ANIMAL HOSPITAL: A building used for the treatment, housing or boarding of small domestic animals such as dogs, cats, rabbits and birds or fowl by a veterinarian; and also includes veterinary clinic.

APARTMENT: Any room or suite of rooms forming a habitable unit for one family with its own cooking and food storage, equipment, its own bathing and toilet facilities, and its own living, sleeping, and eating areas fully within such room or suite of rooms.

APARTMENT, "IN LAW": An apartment within a single-family detached residence occupied by a member of the family occupying the primary residence.

APPROVED SEPTIC SYSTEM: A septic system constructed under a valid permit from the New Hampshire Water Supply and Pollution Control Commission and using New Hampshire approved engineering drawings.

AUTOMOBILE REPAIR SHOPS: Any premise used for major automotive and vehicle repairs such as spray painting or body, fender, clutch, transmission, differential, axle, spring, and frame repairs.

BACKLOT: A lot not fronting or abutting a public right-of-way where access is provided through deeded ownership of the access way.

BASEMENT: A story partly underground but having at least one-half of its height above the average level of the adjoining ground. A basement shall be counted as a story for living purposes and for purpose of height measurement if the vertical distance between the ceiling and the average level of the adjoining ground is more than five feet. (See "Cellar").

BED AND BREAKFAST: See TOURIST HOME.

BILLBOARD: A sign of area greater than 30 square feet.

BUILDING: Any structure with a roof supported by walls, columns or other structural support.

BUILDING AREA: The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings, exclusive of uncovered porches, terraces and steps.

BUILDING ENVELOPE: The horizontal area of a lot within which the primary structure and all other structures and mechanical systems shall be placed.

BUILDING LINE SETBACK: The distance between the right-of-way line and the building line. (See "Setback").

BUILDING LINE: The line within the property defining the required minimum distance between any building and the adjacent right-of-way or property line.

BUILDING, MAIN: A building in which is conducted the principal use of the lot on which the building is located.

BUILDING HEIGHT: The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

BUILDING PERMIT: A permit issued by the selectmen for the construction of, or the repair, alteration, or addition to a structure.

BUILDING SITE: The area up to 50 feet from the building foundation.

BULK STORAGE: The outdoor storage of a product or material in large quantities.

CARPORT: An open space for the storage of one or more vehicles in the same manner as a private garage. Said space may be covered by a roof supported by columns or posts except that one or more walls may be the walls of the main building to which the carport is an accessory building or extension.

CELLAR: A story partly underground having more than one-half of its clear height below the average level of adjoining ground. A cellar shall not be considered in determining the permissible number of stories. (See "Basement").

CERTIFICATE OF OCCUPANCY: A statement, based on an inspection, signed by the zoning administration officer, setting forth either that a building or structure complies with this zoning ordinance or that a building, structure or parcel of land may lawfully be employed for specified use or both.

CHILD CARE CENTERS: Either full-day or half-day child care that regularly provides services for any part of a day, but for less than twenty-four (24) hours, for thirteen (13) or more children. This may take place in a facility separate from a residence.

CLUSTER DEVELOPMENT: An area of land developed as a single entity for a number of dwelling units, the development plan for which does not correspond in lot size, bulk or type of dwelling, density, lot coverage and required open space to the regulations established in any one residential district created, from time to time, under the provisions of this ordinance. Such developments usually include a more compact arrangement of individual and/or multi-family dwelling units, grouped in or around common open spaces or green areas. Also, they may include such uses as public and semi-public uses and noncommercial recreational facilities

provided they are functionally integrated into the development and that the character of the development conforms to the purpose and intent of the ordinance. In general, such development projects shall include the necessary covenants or other legal provisions and financial programs as will assure conformity to and achievement of the proposed developmental plan.

COMMERCIAL VEHICLE: Any vehicle designed, intended or used for the transportation of people, goods or equipment other than private passenger vehicles and trailers for the private, nonprofit transport of goods, equipment, other vehicles and/or boats. Such vehicles shall include commercially licensed trucks that have the capacity of one (1) ton or more and include trucks, tractor-trailers, tractors, trailers and construction and/or earth moving equipment. Farm tractors and related farm equipment shall be excluded from this definition.

COMMERCIAL: Engaging in a business, enterprise, activity or other undertaking for profit.

COMMON LAND: Land held and/or used jointly by two or more owners of other land in proximity to it. Usually established by subdivision regulations.

COMPREHENSIVE PLAN: A comprehensive plan (overall program) consists of maps, charts and textural matter, and indicates the recommendations of the planning commission for the continuing development of a municipality. The comprehensive plan includes, but is not limited to, the following related basic elements: a statement of objectives; a plan for land use; a plan for the movement of people and goods; a plan for community facilities and utilities; and a map or statement indicating the relationship of the municipality and its proposed development to adjacent municipalities and areas.

CONDITIONAL USE: A use which is not appropriate to a particular zone district as a whole, but which may be suitable in certain locations within the district only when specific conditions and factors prescribed for such cases within this ordinance are present. Conditional uses are allowed or denied by the planning board.

CONDOMINIUM UNIT: Refers to a type of ownership where an individual owns the dwelling unit within a building and may have a common interest in the property on which the structure is situated. Condominium units must be registered as such with the New Hampshire Attorney General's Office.

CONVERSION APARTMENT: The remodeling of a single family dwelling unit into two or more separate living units, exclusive of cellar dwellings; and having a minimum of one off-street parking space per living unit.

COVENANTS: Conditions established by deed that bind subsequent purchasers in their use of the land.

COVERAGE, BUILDING: That portion or percentage of the plot or lot area covered by the building area.

CUSTOM DWELLING: A dwelling unit built for a known customer who intends to reside there. A notarized photocopy of a signed sales contract, or other evidence acceptable to the Board of Selectmen, may be required to provide evidence that the dwelling is not being built speculatively.

DECK, OPEN: An addition to the existing structure that has no enclosed walls or roof. If the deck is allowed in a nonconforming area, the property owner as a condition of the granting of the

permit shall agree to filing a covenant with the Cheshire County Registry of Deeds that the deck will not be enclosed in any manner except with a safety railing up to no more than 42 inches high around the perimeter of the deck.

DENSITY: A measure of the number of dwelling units that occupy, or may occupy, an area of land.

DISTRICT OR ZONING DISTRICT: An area constituted by or pursuant to this Ordinance and delineated by text and map as to location, extent, nature and contents.

DORMITORY: A building with many rooms that provides sleeping and/or living accommodations for a number of people such as students at a college.

DRIVE-IN USE: Any establishment designed for the general public to make use, from their vehicles, of the sales or service provided on the premises.

DUPLEX. A structure on a single lot containing two dwelling units, each of which is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell to both dwelling units.

DWELLING: A building designed or used as the living quarters for one or more families. The terms "dwelling", "one-family dwelling", "multiple-family dwelling", "two-family dwelling" or "dwelling group" shall not be deemed to include automobile court, rooming house, tourist home or hotel.

DWELLING UNITS:

Single-family, detached - A dwelling unit accommodating a single-family and having two side yards.

Single-family, attached - Two dwelling units accommodating two families which are attached side by side through the use of a party wall, and having one side yard adjacent to each dwelling unit.

Two-family (duplex) - A building having two (2) dwelling units each with its own exterior entrance and containing but two families. The dwelling units may be either semi-detached with one (1) family living on each side of a common party wall or stacked with one family living over the other.

Multiple-family dwelling - A building containing three or more dwelling units or apartments.

Townhouse (row dwelling) - Three or more dwelling units accommodating three or more families which are attached side by side through the use of common party walls and which may have side yards adjacent to each end unit.

ENTITY: any landowner, including but not limited to an individual, corporation, partnership or trust. Two entities sharing a common member shall be treated as one entity. A member shall include but not be limited to a director, officer, spouse, or stockholder.

ESSENTIAL SERVICE: The erection, construction, alteration or maintenance by public utilities or municipal departments, authorities, or commissions of: underground gas, underground or

above ground electrical, telephone, and cable television transmission or distribution systems; and public water, public sanitary sewer and public storm sewer facilities including wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, traffic signals, hydrants and similar equipment and accessories in connection therewith; including buildings necessary for the furnishing of adequate services for the public health, safety and general welfare, but excluding office buildings, the outside storage of equipment or maintenance depots.

EXPANSION: As applied to a nonconforming building, means to enlarge either the volume of the building and/or the building footprint. As applied to a nonconforming use, means to increase the intensity of the use.

FAMILY: Two or more persons related by blood or marriage or adoption, living together in a dwelling unit; or a group of not more than four persons who need not be related by blood or marriage or adoption, living together as a single housekeeping unit in a dwelling unit and sharing common facilities as considered reasonably appropriate for a family related by blood, marriage or adoption.

FAMILY DAY CARE: An occupied residence in which child care is regularly provided for any part of a day, but less than 24 hours, except in emergencies, for one to six children from one or more related or unrelated families. The maximum of six children includes children living in the home.

FARM: A parcel of land that is used for the raising of agriculture products, livestock, poultry and dairy products. It includes necessary farm structures within the prescribed limits and the storage of equipment used. It excludes the raising of fur-bearing animals, riding academies, livery or boarding stables and dog kennels.

FRONTAGE: The length of the lot bordering on a publicly approved road; a Class VI highway or private road, either of which appears on a subdivision plat approved by the planning board; or a body of water. The minimum frontage shall be contiguous. Shoreland frontage is measured on a straight line drawn between the points at which the high water mark intersects the side line of the property.

FULL TIME OCCUPANCY: The occupancy of a structure as a primary domicile for a total of nine months out of a year, regardless of tenancy.

GARAGE, PRIVATE: An enclosed or covered space for the storage of one or more motor vehicles, provided that no business, occupation or service is conducted for profit therein nor space therein is leased to a nonresident of the premises for more than one car.

GARAGE, PUBLIC: A public building or structure where motor vehicles can be temporarily stored or parked for a fee.

GASOLINE STATION: Any premises used for supplying gasoline, oil, minor accessory and service for automobiles at retail direct to the motorist consumer, including the making of minor repairs, but not including major repairs, such as spray painting; body, fender, clutch, transmission, differential, axle, spring and frame repairs; major overhauling of engine requiring removal there from of cylinder head or crankcase pan; repairs of radiator requiring removal thereof; complete recapping or retreading of tires.

GROSS FLOOR AREA: The sum of the total horizontal areas of the several floors of all buildings on a lot, measured from the interior faces of exterior walls. The term shall include basements, elevator balconies and mezzanine.

GROUP RESIDENCE FACILITIES: An establishment that provides room and board to persons who are residents by virtue of receiving supervised specialized service limited to health, social and/or rehabilitative services provided by a governmental agency, their licensed or certified agents, or any other responsible nonprofit social service corporation. These services shall be provided in a family environment and only to persons who are children under 18 years of age; physically or mentally handicapped of any age; or elderly, 62 or more years of age who are in need of supervision and specialized services. This category shall not include facilities for persons 19 or more years of age, released from or under the jurisdiction of a government bureau of corrections or similar institution. Responsible adults whose number shall be determined and certified by the sponsoring agency shall provide supervision. However, one responsible adult shall be available for the residents on a 24 hour-a-day basis while the residents are on the premises.

GROWTH PERMIT. A permit issued by the Board of Selectmen in accordance with the provisions of this ordinance, and being a prerequisite for obtaining a building permit.

GUEST ROOM: A room occupied by a person not related by blood or marriage to the owner of the premises. Guest rooms provided with independent cooking, toilet and bathing facilities shall be considered apartments.

HARDSHIP: An unusual situation or condition that relates to a particular property and which denies the property owner full or reasonable use of his property if strict enforcement of the zoning ordinance is followed. A hardship exists only when it is not self-created or when it is not economic in nature. In other words, a true hardship exists only when the literal interpretation and/or enforcement of the zoning regulations would place a property owner or individual in an unusual situation and, in doing so, would deny him the right to use his property for any permitted use or create an unnecessary burden on him.

HARRISVILLE REGION: Those municipalities bordering Harrisville whose growth rates were used in determining the fair share growth rate for Harrisville as set forth in the Master Plan Update of 2000.

HEALTH CARE FACILITY: An institution such as a nursing home, convalescent home, sanitarium, or home for the aged, in which sick patients or injured persons are given chronic medical, recovery or surgical care; or an institution for the chronic care of contagious diseases or incurable patients; or an institution which provides home and/or care for the aged.

HISTORIC SITE: A site, building, or structure that has local, state or national historical significance, as determined by the appropriate authority.

HOME OCCUPATION: A home occupation or home-based business is an accessory use to a residence involving the manufacture of, provision, or sale of goods and/or services. The use shall be clearly incidental and secondary to the primary use of the residence, and does not change the character thereof or adversely affect the uses permitted in the zoning district in which it is located. The following uses are not to be considered home-based businesses: motor vehicle sales, repair or service; veterinary establishments; restaurants and other eating establishments; retail sales establishments.

HOME PRODUCE, PRODUCTS, AND CRAFTS: Everything of an agricultural nature grown, produced, conditioned or otherwise processed on the property of the resident; also such articles as are manufactured or altered by members of the household of a bona fide resident of any property.

HORTICULTURE: The science and act of growing fruits, vegetables, flowers, or ornamental plants.

HOSPITAL: Unless otherwise specified, the term "hospital" shall be deemed to include sanitarium, sanatorium, preventorium, clinic, rest home, nursing home, convalescent home and any other place for the diagnosis, treatment or other care of human ailments. (See "Health Care Facility").

HOTEL: A building containing rooms intended or designed to be used or which are used, rented or hired out for sleeping purposes by guests and where only a general kitchen and dining room are provided within the building or in any accessory building. (See "Tourist Home").

ILLUMINATED SIGN: Signs that are illuminated by electrical, mechanical, or other means, as well as those using luminous paint or reflectorized glass to reflect light.

IMPERVIOUS COVER: Any modified surface that cannot effectively absorb or infiltrate water. Examples of impervious surfaces include, but are not limited to, roofs, decks, patios, and paved, gravel or crushed stone driveways, parking areas, and walkways unless designed to effectively absorb or filter water.

INDUSTRIAL: The manufacturing, compounding, assembly, processing, packaging or treatment of raw material or other products.

INSTITUTIONS: A non-profit organization, society, or corporation established within or outside of the community, especially one of a public character for the purpose of promulgating the health, welfare and well-being of the community.

JUNK, AUTOMOBILE: A motor vehicle not in running condition, stored in the open, not being restored to operation, unlicensed and without a current state inspection sticker.

JUNK: Any old metals, old bottles, manufacturing waste, old paper products, old rubber products, and other second-hand articles, the accumulation of which is detrimental or injurious to the neighborhood.

JUNK YARD: The use of more than 100 square feet of the area of any lot for the storage, keeping or abandonment of junk, including scrap material from dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereto.

KENNEL: Any lot or premises on which four or more dogs, at least four months of age, are kept or boarded for remuneration or sale.

LAUNDROMAT: A business premises equipped with individual clothes washing machines for the use of retail customers, exclusive of laundry facilities provided as an accessory use in an apartment house or a hotel.

LOADING SPACE OR UNIT: An off-street space or berth on the same lot with a building or contiguous to a group of buildings, for the temporary stopping of commercial vehicles while

loading or unloading merchandise or materials and which abuts upon an alley, street or other appropriate means of access.

LOT: A track or parcel of land designated for conveyance or transfer of ownership, improvement, or sale, whether immediate or future.

LOT AREA: The area of a lot, site, parcel, etc., which is situated within the property lines of said lot, parcel, etc. The area shall be measured only to the right-of-way line of a street, road or alley and shall not include any part of a street, road, alley or area used in common with the owner(s) or occupant(s) of other lots.

LOT DEPTH: The mean horizontal distance between the front lot line and the rear lot lines.

LOT LINES: The lines bounding the lot as defined.

LOT OF RECORD: Any lot which individually or as part of a subdivision has been recorded in the office of the recorder of deeds.

LOT WIDTH: The mean horizontal distance across the lot, between the side lot lines, measured at right angles to the depth.

LOT, INTERIOR: A lot other than a corner lot.

MANUFACTURED HOUSING: Any structure transportable in one or more sections, which, in the traveling mode, is 8 body feet or more in width and 40 body feet or more in length, or when erected on site, is 320 square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, which include plumbing, heating and electrical systems contained therein.

MANUFACTURING: The act of making goods or articles from raw materials of unfinished products. Includes processing and assembling.

MINERAL EXTRACTION: Mineral extraction shall include all activity which removes from the surface or beneath the surface of the land some material mineral resource, natural resource, or other element of economic value, by means of mechanical excavation necessary to separate the desired material from an undesirable one; or to remove the strata or material which overlies or is above the desired material in its natural condition and position. Open pit mining includes, but is not limited to, the excavation necessary to the extraction of: sand, gravel, topsoil, limestone, sandstone, coal, clay, shale and iron ore.

MOBILE HOME PARK: A parcel of land under single ownership that has been planned and improved for the placement of mobile homes for other than transient use, consisting of two or more mobile home lots.

MOBILE HOME: A transportable, single-family dwelling intended for permanent occupancy, office, or place of assembly contained in one unit or in two units designed to be joined into one integral unit capable of again being separated for repeated towing, and that arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used without a permanent foundation.

MOTEL: Any group of attached or detached buildings containing individual sleeping or housekeeping units designed for transients including an auto court, motor court, motor lodge or cabins.

MOTOR VEHICLE DEALERSHIP: An enterprise that sells or rents new and/or used cars, trucks, motorcycles and other motorized vehicles. May also include repair garages, paint shops, and vehicle body shop, accessory to the main use.

NONCOMMERCIAL OUTDOOR RECREATIONAL ACTIVITY: Outdoor recreation as a primary use of the land, for which no admission is charged.

NONCONFORMING: Applies to a building, structure, or a use, whether of land or structure, which does not comply with the applicable use provisions of this ordinance or amendments heretofore or hereafter enacted, where such use was lawfully in existence prior to the enactment of this ordinance or amendment or prior to the application of this ordinance or amendment to its location by reason of annexation.

NONCONFORMING LOT: A lot that is smaller than but predates current lot size requirements.

NURSING HOME: (see Health Care Facility) A proprietary or a non-profit facility licensed by the state of New Hampshire for the accommodation of convalescents or chronically ill persons, in which nursing care and medical services are prescribed by, or are performed under, the general direction of persons licensed to provide such care or services in accordance with state laws.

Skilled nursing care home - provides "skilled nursing care" as its primary and predominant function.

Intermediate care home - provides "skilled nursing care", but not as its primary function.

Residential care home - a facility that may provide some "skilled nursing care" but only as an adjunct to its primary personal residential care function.

Personal care home - a facility that may provide some "skilled nursing care" but only as an adjunct to its primary personal care function.

OPEN SPACE: An unoccupied space open to the sky.

PARKING SPACE: An off street space having an area of not less than two hundred (200) square feet, whether inside or outside of a structure, for the temporary parking of automobile vehicles. Such space is to be used exclusively as a parking stall for one vehicle, plus one hundred and fifty (150) square feet used exclusively for turning and access to the parking stall or space.

PERMIT PERIOD: For the purpose of the Growth Management Ordinance, the permit period is January 1 to December 31.

PLANNED RESIDENTIAL DEVELOPMENT: See cluster development.

PLAT: A map, plan, or layout of a subdivision indicating the location and boundaries of individual properties.

PORCH: A roofed structure projecting from the front, side or rear wall of a building. For the purpose of the zoning ordinance, a porch is considered a part of the principal building and is not permitted to extend into any required yards.

PREFABRICATED OR MODULAR DWELLING UNIT (MANUFACTURED): Two or more portable units designed and built to be towed on a chassis and permanently combined on site to

form a single immobile dwelling unit having a minimum of seven hundred and fifty (750) square feet of habitable floor area. Modular dwellings shall be regarded as single-family detached dwellings.

PRINCIPAL USE: The dominant use of a lot on which it is located.

PRIVATE CLUB: An organization catering exclusively to members and their guests; or premises and buildings for recreational or athletic purposes which are not conducted primarily for gain, providing that any vending stands, merchandise or commercial activities are conducted only as required generally for the membership of such club.

PRIVATELY OWNED SCHOOL: A place for training and instruction in knowledge or physical skills which is operated for profit for that purpose only and on a full-time basis by anyone other than a governmental unit.

PROFESSIONAL OFFICE: Business, professional, and personal service establishments, including but not limited to: banks, medical offices, real estate, insurance, architects, attorneys, and publishing.

PUBLIC NOTICE: Notice published in a newspaper of general circulation in Harrisville, and posted at two public locations. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall be not more than thirty days or less than five days from the date of the hearing.

PUBLIC RIGHT-OF-WAY: Any town, state and federal highway which the public has the right to pass and re-pass, and the town, state, or federal government has a responsibility to maintain, and which is recorded in the Cheshire County Registry of Deeds.

QUALIFIED SOIL SCIENTIST: A person qualified in soil evaluation and mapping whose education and experience meet the qualification requirements of the Cheshire County Conservation District.

RECREATION FACILITY: Recreation facilities are defined as follows: Public recreation facility: includes any facility or area owned and/or operated by a local, county or state government or a school district for the use of the general public. Such facilities may charge user fees.

Commercial recreation facility: includes all indoor and/or outdoor recreation facilities which are operated as a business which is available to the general public for a user fee or which is available on a membership basis.

Non-commercial recreation facility: includes such uses/facilities as camps and retreat centers sponsored and/or owned by a religious organization and camps, recreation facilities and other similar uses/facilities operated by a YMCA or YWCA, United Way or similar nonprofit organization agency or group.

RESEARCH AND DEVELOPMENT LABORATORY: A place devoted to activities engaged in refinement, investigation, or experimental study of methods to improve processes or products. Manufacturing of products is not included within this definition.

RESIDENT: A person who has a fixed and permanent established domicile in Harrisville, and therefore also has the right to vote at any town meetings or elections.

RESTAURANT: Any place where foods or beverages are prepared or served to the public for consumption on the premises.

RIDING ACADEMY: Any establishment where horses are kept for riding, driving or stabling for compensation or incidental to the operation of any club, association, ranch or similar establishment.

RIGHT-OF-WAY: Any town, state and federal highway which the public has the right to pass and re-pass, and the town, state or federal government has a responsibility to maintain, and any road or other right-of-way specifically approved by the Planning Board. (See also PUBLIC RIGHT-OF-WAY)

SCREEN PLANTING: Vegetation of sufficient height and density to conceal from the view of property owners in adjoining residential districts the structures and uses on the premises on which the screen planting is located.

SEASONAL RESIDENCE: A residential structure whose principal function is to provide temporary residential living accommodations for nonpermanent residents who are vacationing in the area.

SENIOR CENTER: A facility operated by a public, nonprofit, or charitable institution, which provides meeting space and organizational administration in assisting the social needs of the community's senior citizens.

SETBACK: The distance between any property line and the nearest point to which any building or structure can be erected. All measurements shall be to the outside edge of the ground floor wall nearest the property line, or to the foundation support of any porch, patio, ramp, awning or other similar structure that is attached to the main structure. It is not intended that stairways, walkways, or other attached access structures less than four (4) feet wide that are necessary to gain entry to the main structure be included in the above measurement. Nor is it intended that any structure necessary to afford access for the handicapped be included in the above measurement as long as such structure is the minimum structure necessary to afford handicapped access and such structure is designed to be as close to the main structure as possible.

SIGN: Any device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public, but not including any flag, badge, or insignia of any government or government agency or of any civic, charitable, religious, patriotic or similar organization.

SPECIAL EXCEPTION: The granting of a modification of the provisions of this ordinance as authorized in specific instances listed, and under the terms, procedures and conditions prescribed herein. The zoning Board of Adjustment administers special exceptions.

SPECULATIVE DWELLING: A dwelling unit built for sale to the general public and not as part of a contractual arrangement with a known buyer who intends to reside there.

STORY, HALF: A story under a gable, hip or gambrel roof, the wall plates of which are on at least two opposite exterior walls and are not more than two feet above the floor of such story.

STORY, HEIGHT OF: The vertical distance from top to top of two successive tiers of beams or finished floor surfaces; and, for the topmost story, from the top of the floor finish to the top of the ceiling joists or, where there is no ceiling, to the top of the roof rafters.

STORY: That portion of a building included between the surface of any floor and the surface of the floor next above it; or if there be no floor above it, then the space between any floor and the ceiling next above it.

STREET LINE: The dividing line between the street and the lot, usually referred to as a right-of-way line.

STREET: A public way that affords principal means of access to abutting properties.

STRUCTURE: Anything constructed or erected, whether permanent or temporary, with a fixed location on the ground, or attached to something having a fixed location on the ground, including television antennae, docks and patios, but not including paving, fences, retaining walls, signs, flag poles, or mailboxes.

STRUCTURE, TEMPORARY: A structure without any foundation or footings and which is removed when the designated time period, activity, or use for which the temporary structure was erected has ceased.

STRUCTURAL FOOTPRINT: The structural footprint consists of the two-dimensional object sitting on the plane of the lot. Any attachments to the structure, such as steps, stoops, uncovered porches, overhangs, bay windows, and the like, are not part of the structural footprint.

SUBDIVISION: The division of the lot, tract or parcel of land into two or more lots, tracts, plats, sites or other divisions of land for the purpose, whether immediate or future, of sale, rent, lease, condominium conveyance or building development. It includes re-subdivision and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided. In all cases, the provisions of RSA 672.14 apply to this definition.

SUBDIVISION, MINOR: A subdivision of land into lots where no new public right-of-way is created.

TEMPORARY USE: A use established for a fixed period of time with the intent to discontinue such use upon the expiration of the time period.

TOURIST HOME: Any place consisting of a room or group of rooms located in a residence where transient accommodations for sleeping or living purposes are provided for a price.

TRAILER: Travel trailers, pickup coaches, motorized homes, camping and recreational equipment.

USE: The specific purpose, for which land or a building is designed, arranged, intended or for which it is or may be occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any nonconforming use.

VARIANCE: Permission granted by the zoning board for an adjustment to some requirement of the zoning ordinance which, if literally or strictly enforced, would result in an unnecessary hardship to a property owner by denying him the reasonable use of said property. The granting of a variance shall maintain the spirit and original intent of the zoning ordinance and shall not be contrary to the public interest. A variance applies only to that property for which it is granted. It may modify dimensional or land development standards or the permitted use requirements in order to prevent the unconstitutional taking of the applicant's property or denying him the reasonable use of the same. (Also see definition of Hardship)

WAREHOUSING: Inside storage of goods or materials for future processing or sale other than on the premises.

WHOLESALE: The receipt, storage and sale of goods for resale.

WIRELESS COMMUNICATION FACILITY: A structure consisting of supporting members and a device or devices for the reception or transmission of radio waves.

ARTICLE XXVII TOWN OF HARRISVILLE FLOODPLAIN MANAGEMENT ORDINANCE

(Adopted March 2006)

Meets the Minimum Requirements of Section 60.3(b) of the National Flood Insurance Program Regulations

SECTION I – PURPOSE

Certain areas of the Town of Harrisville, New Hampshire are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968. Therefore, the Town of Harrisville, New Hampshire has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as detailed in this Floodplain Management Ordinance.

This Ordinance establishes a permit system and review procedure for development activities in the designated flood hazard areas of the Town of Harrisville, New Hampshire.

SECTION II - ESTABLISHMENT

This ordinance, adopted pursuant to the authority of RSA 674:16, shall be known as the Town of Harrisville Floodplain Management Ordinance. The regulations in this ordinance shall overlay and supplement the regulations in the Town of Harrisville 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 Cheshire County, NH” dated May 23, 2006 or as amended, together with the associated Flood Insurance Rate Maps dated May 23, 2006 or as amended, which are declared to be a part of this ordinance and are hereby incorporated by reference.

SECTION III – PERMITS

All proposed development in any special flood hazard areas shall require a special exception from the Zoning Board of Adjustment and a building permit issued by the Board of Selectmen, or the Board’s designee.

SECTION IV – CONSTRUCTION REQUIREMENTS

The Board of Selectmen 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:

1. 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;
2. be constructed with materials resistant to flood damage;
3. be constructed by methods and practices that minimize flood damages; and
4. be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

SECTION V – 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 Board of Selectmen 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 onsite waste disposal systems will be located to avoid impairment to them or contamination from them during periods of flooding.

SECTION VI – CERTIFICATION

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

1. the as-built elevation (in relation to NGVD) of the lowest floor (including basement) and include whether or not such structures contain a basement.
2. if the structure has been flood proofed, the as-built elevation (in relation to NGVD) to which the structure was flood proofed.
3. any certification of flood proofing.

The Board of Selectmen shall maintain the aforementioned information for public inspection and shall furnish such information upon request.

SECTION VII – OTHER PERMITS

The Board of Selectmen 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.

SECTION VIII – WATERCOURSES

(Incorporated as Article XII, Sec. 12.5.3, Harrisville Zoning Ordinances.)

SECTION IX – SPECIAL FLOOD HAZARD AREAS

1. In Zone A the Board of Selectmen shall obtain, review, and reasonably utilize any 100-year flood elevation data available from any federal, state or other source including data submitted for development proposals submitted to the community (i.e. subdivisions, site plan approvals).
2. The Board of Selectmen's 100-year flood elevation determination will be used as criteria for requiring in Zone A that:
 - a. All new construction or substantial improvement of residential structures have the lowest floor (including basement) elevated to or above the 100-year flood elevation.
 - b. That all new construction or substantial improvements of nonresidential structures have the lowest floor (including basement) elevated to or above the 100-year flood level; or together with attendant utility and sanitary facilities, shall:
 - i. be flood-proofed so that below the 100-year flood elevation the structure is watertight with walls substantially impermeable to the passage of water;
 - ii. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
 - iii. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section.
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 100-year flood elevation; and be securely anchored to resist floatation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
4. All recreational vehicles placed on sites within Zone A 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.
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; and

c. shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

SECTION X - VARIANCES

1. Any order, requirement, decision or determination of the Board of Selectmen made under this ordinance may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5.
2. If the applicant, upon appeal, requests a variance as authorized by RSA 674:33, I (b), the applicant shall have the burden of showing in addition to the usual variance standards under state law that:
 - a. the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense;
 - b. if the requested variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result; and
 - c. the variance is the minimum necessary, considering the flood hazard, to afford relief.
3. The Zoning Board of Adjustment shall notify the applicant in writing that:
 - a. the issuance of a variance to construct below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and
 - b. such construction below the base flood level increases risks to life and property.
 - c. Such notification shall be maintained with a record of all variance actions.
4. The community shall:
 - a. maintain a record of all variance actions, including their justification for their issuance; and
 - b. report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.

SECTION XI - DEFINITIONS

The following definitions shall apply only to this Floodplain Management Ordinance, and shall not be affected by the provisions of any other ordinance of the Town of Harrisville.

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

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

"Basement" means any area of a building having its floor sub-grade on all sides.

"Building" (See "structure.")

"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, excavating or drilling operation or storage of equipment or materials.

"FEMA" means the Federal Emergency Management Agency.

"Flood" or **"Flooding"** means a general and temporary condition of partial or complete inundation of normally dry land areas from: 1) the overflow of inland or tidal waters; or 2) the unusual and rapid accumulation or runoff of surface waters from any source.

"Flood Insurance Rate Map" (FIRM) means an official map of a community, on which the Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

"Flood Insurance Study" (FIS) means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e. mudflow) and/or flood-related erosion hazards.

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

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

"Floodway": See **"Regulatory Floodway"**

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

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

"Historic Structure" means any structure that is:

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;

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;

individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

by an approved state program as determined by the Secretary of the Interior, or
directly by the Secretary of the Interior in states without approved programs.

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

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

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

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

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

"100 year flood": See **"base flood."**

"Recreational Vehicle" is defined as:

built on a single chassis;

400 square feet or less when measured at the largest horizontal projection;

designed to be self-propelled or permanently towable by a light duty truck; and

designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

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

"Special flood hazard area": See **"Area of Special Flood Hazard."**

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

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

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

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

- a. the appraised value prior to the start of the initial repair or improvement, or
- b. in the case of damage, the value of the structure prior to the damage occurring.

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

"Violation" means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44CFR § 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

"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.

ARTICLE XXVIII SMALL WIND ENERGY SYSTEMS

A. Purpose:

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

B. Definitions:

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

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

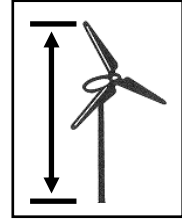
Net metering. The difference between the electricity supplied to a customer over the electric distribution system and the electricity generated by the customer's small wind energy system that is fed back into the electric distribution system over a billing period.

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

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

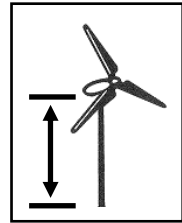
Small wind energy system. A wind energy conversion system consisting of a wind generator, a tower, and associated control or conversion electronics, which has a rated capacity of 100 kilowatts or less and will be used primarily for onsite consumption. For the purpose of this ordinance, the term does not apply to roof-mounted or building integrated roof mounting systems. A wind energy system which has a rated capacity of 25 kilowatts or greater is defined as a commercial system and will be permitted only in commercial districts.

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



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

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



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

C. Procedure for Review:

1. Building Permit: Small wind energy systems and met towers are an accessory use permitted in all zoning districts where structures of any sort are allowed. No small wind energy system shall be erected, constructed, or installed without first receiving a building permit from the building inspector. A building permit shall be required for any physical modification to an existing small wind energy system. Met towers that receive a building permit shall be permitted on a temporary basis not to exceed 3 years from the date the building permit was issued.

2. Application: Applications submitted to the building inspector shall contain a site plan with the following information:

- i. Property lines and physical dimensions of the applicant's property.
- ii. Location, dimensions, and types of existing major structures on the property.
- iii. Location of the proposed small wind energy system, foundations, guy anchors and associated equipment.
- iv. Tower foundation blueprints or drawings.
- v. Tower blueprints or drawings.
- vi. Setback requirements as outlined in this ordinance.
- vii. The right-of-way of any public road that is contiguous with the property.
- viii. Any overhead utility lines.
- ix. Small wind energy system specifications, including manufacturer, model, rotor diameter, tower height, tower type, nameplate generation capacity.

- x. Small wind energy systems that will be connected to the power grid shall include a copy of the application for interconnection with their electric utility provider.
- xi. Sound level analysis prepared by the wind generator manufacturer or qualified engineer.
- xii. Electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the NH State Building Code.
- xiii. Evidence of compliance or non-applicability with Federal Aviation Administration requirements.
- xiv. List of abutters to the applicant’s property.

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

D. Standards:

- 1. The building inspector shall evaluate the application for compliance with the following standards;
 - a. Setbacks: The setback shall be calculated by multiplying the minimum setback requirement number by the system height and measured from the center of the tower base to property line, public roads, or nearest point on the foundation of an occupied building.

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

- i. Small wind energy systems must meet all setbacks for principal structures for the zoning district in which the system is located.
 - ii. Guy wires used to support the tower are exempt from the small wind energy system setback requirements.
- b. Tower: The maximum tower height shall be restricted to 35 feet above the tree canopy within 300 feet of the small wind energy system. In no situation shall the tower height exceed 150 feet.

c. Sound Level: The small wind energy system shall not exceed 60 decibels using the A scale (dBA), as measured at the site property line, except during short-term events such as severe wind storms and utility outages.

d. Shadow Flicker: Small wind energy systems shall be sited in a manner that does not result in significant shadow flicker impacts. Significant shadow flicker is defined as more than 30 hours per year on abutting occupied buildings. The applicant has the burden of proving that the shadow flicker will not have significant adverse impact on neighboring or adjacent uses. Potential shadow flicker will be addressed either through siting or mitigation measures.

e. Signs: All signs including flags streamers and decorative items, both temporary and permanent, are prohibited on the small wind energy system, except for manufacturer identification or appropriate warning signs.

f. Code Compliance: The small wind energy system shall comply with all applicable sections of the New Hampshire State Building Code.

g. Aviation: The small wind energy system shall be built to comply with all applicable Federal Aviation Administration regulations including but not limited to 14 C.F.R. part 77, subpart B regarding installations close to airports, and the New Hampshire Aviation regulations, including but not limited to RSA 422-b and RSA 424.

h. Visual Impacts: It is inherent that small wind energy systems may pose some visual impacts due to the tower height needed to access wind resources. The purpose of this section is to reduce the visual impacts, without restricting the owner's access to the optimal wind resources on the property.

i) The applicant shall demonstrate through project site planning and proposed mitigation that the small wind energy system's visual impacts will be minimized for surrounding neighbors and the community. This may include, but not be limited to information regarding site selection, wind generator design or appearance, buffering, and screening of ground mounted electrical and control equipment. All electrical conduits shall be underground, except when the financial costs are prohibitive.

ii) The color of the small wind energy system shall either be the stock color from the manufacturer or painted with a non-reflective, unobtrusive color that blends in with the surrounding environment. Approved colors include but are not limited to white, off-white or gray.

iii) A small wind energy system shall not be artificially lit unless such lighting is required by the Federal Aviation Administration (FAA). If lighting is required, the applicant shall provide a copy of the FAA determination to establish the required markings and/or lights for the small wind energy system.

i. Approved Wind Generators: The manufacturer and model of the wind generator to be used in the proposed small wind energy system must have been approved by the California Energy Commission or the New York State Energy Research and

Development Authority, or a similar list approved by the state of New Hampshire, if available.

j. Utility Connection: If the proposed small wind energy system is to be connected to the power grid through net metering, it shall adhere to RSA 362-A:9.

k. Access: The tower shall be designed and installed so as not to provide step bolts or a ladder readily accessible to the public for a minimum height of 8 feet above the ground. All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.

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

E. Abandonment:

1. At such time that a small wind energy system is scheduled to be abandoned or discontinued, the applicant will notify the building inspector by certified U.S. mail of the proposed date of abandonment or discontinuation of operations.

2. Upon abandonment or discontinuation of use, the owner shall physically remove the small wind energy system within 90 days from the date of abandonment or discontinuation of use. This period may be extended at the request of the owner and at the discretion of the building inspector. "Physically remove" shall include, but not be limited to:

- a. Removal of the wind generator and tower and related above-grade structures.
- b. Restoration of the location of the small wind energy system to its natural condition, except that any landscaping, grading or below-grade foundation may remain in its same condition at initiation of abandonment.

3. In the event that an applicant fails to give such notice, the system shall be considered abandoned or discontinued if the system is out-of-service for a continuous 12-month period. After the 12 months of inoperability, the building inspector may issue a Notice of Abandonment to the owner of the small wind energy system. The owner shall have the right to respond to the Notice of Abandonment within 30 days from Notice receipt date. After review of the information provided by the owner, the building inspector shall determine if the small wind energy system has been abandoned. If it is determined that the small wind energy system has not been abandoned, the building inspector shall withdraw the Notice of Abandonment and notify the owner of the withdrawal.

4. If the owner fails to respond to the Notice of Abandonment or if, after review by the building inspector, it is determined that the small wind energy system has been abandoned or discontinued, the owner of the small wind energy system shall remove the wind generator and tower at the owner's sole expense within 3 months of receipt of the Notice of Abandonment. If the owner fails to physically remove the small wind energy system after the Notice of Abandonment procedure, the building inspector may pursue legal action to have the small wind energy system removed at the owner's expense.

F. Violation:

It is unlawful for any person to construct, install, or operate a small wind energy system that is not in compliance with this ordinance. Small wind energy systems installed prior to the adoption of this ordinance are exempt from this ordinance except when modifications are proposed to the small wind energy system.

G. Penalties:

Any person who fails to comply with any provision of this ordinance or a building permit issued pursuant to this ordinance shall be subject to enforcement and penalties as allowed by NH Revised Statutes Annotated Chapter 676:17.