

**A Bicentennial Community
1798-1998**

**ZONING ORDINANCE
ADOPTED MARCH 13, 2001**

Zoning originally established March 13,1979

Amendments to the Town of Farmington Zoning Ordinance

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INTRODUCTION: HOW TO USE THIS CHAPTER

(A) Read the Ordinance. To gain an understanding of the Town of Farmington Zoning Ordinance and related regulations, it is important to read them. Within this document, Chapter IV, entitled “Farmington Zoning Ordinance”, statements of purpose are included for the Zoning Ordinance as a whole and for many subsections. This will help readers understand what the Ordinance is trying to accomplish.

(B) By-laws, Zoning Ordinance and Related Regulations. To fully understand this is important.

(1) Farmington Land Use Book. The Town has organized its land use ordinances and regulations into a single system:

Chapter I: Planning Board Bylaws

Chapter II: Conservation Commissions Bylaws

Chapter III: Zoning Board of Adjustment Bylaws

Chapter IV: Town of Farmington Zoning Ordinance

Chapter V: Subdivision Regulations

Chapter VI: Site Plan Review Regulations

Chapter VII: Excavation Regulations

(2) Organization of the Ordinance.

(a) Sections. This document, Chapter IV, entitled “Town of Farmington Zoning Ordinance”, is subdivided into five sections. Each section is a grouping of related issues or requirements. Readers can easily identify where an answer is likely to be found.

Information about setbacks is found in Section 2.00 (Base Zoning District & Dimensional Requirements). Information about other concerns like Wetlands Protections or Floodplains are located in Section 4.00 (Overlay Zoning Districts).

(b) Sub-sections. Each section is divided into sub-sections, each of which may be further divided as needed. It is easiest to use the **Table of Contents** to locate the first order sub-sections.

(3) Cross-Referencing System. Within this Ordinance there are many references to other Sections of this code. These cross-references are provided to help the reader find needed information and to inform the reader of related provisions. For example:

§ 1.01 (A) is located on page three of this Ordinance. It is entitled “Purpose.” The symbol “§” stands for “section.” The information following the “§” starts with the Section, then continues to sub-sections in descending order. Additional levels of hierarchy would be shown as follows: \

- § 1.11 (B) (2) (a), located on page 4 of this Ordinance reads:

“Procedure. The Planning Board shall process requests for Special Use Permits using the procedures contained in the chapter and section of the Farmington Land Use Book which requires the SUP an in accordance with RSA 676:4.”

The reader should note that only the first letter is capitalized and that the rounded parentheses are used before square parentheses. Also, the text of each level of hierarchy is indented further than the previous level.

END OF SECTION

INTRODUCTION: HOW TO USE THIS CHAPTER

SECTION 1.00 ADMINISTRATIVE REQUIREMENTS

1.01 PURPOSE. The purpose of the “Town of Farmington Zoning Ordinance”, (hereinafter, “Ordinance”) is to provide for the health, safety and general welfare of the inhabitants; to preserve the rural quality of the Town and the character of the downtown; to enhance and preserve the value and beauty of natural features of the environment; to conserve the value of buildings and encourage the most appropriate use of land; to promote planned and fiscally responsible provisions of facilities, utilities and services and furthermore to carry out the purposes set forth in **RSA 674:17**. It is the intent of this Ordinance to allow landowners as great a degree of freedom in the use and enjoyment of their land as is consistent with the accomplishment of these purposes and the policies set forth in the Town of Farmington Master Plan.

1.02 AUTHORITY.

(A) Authority. Authority to adopt the Ordinance is granted by the State to the Local Legislative Body by **RSA 674:16**, with the conditions set forth in **RSA 674:18**. The Planning Board is required to adopt the objectives and land use sections of the Master Plan prior to adoption of the Ordinance.

(B) Resolution. Pursuant to the grant of authority and finding that the Planning Board adopted objectives and a land use section of the Farmington Master Plan on January 27th 1998, the Local Legislative Body of the Town of Farmington hereby repeals the previous Zoning Ordinance and adopts this new Ordinance.

(C) Amendments. This Ordinance may be amended only by vote of the legislative body of the Town of Farmington in accordance with the provisions of **RSA 672**, **RSA 674** and as otherwise provided by law. The Planning Board has the authority to assign or modify page numbers and section numbers and to correct spelling errors in this Ordinance, provided that no substantive change to this Ordinance shall result from any such Planning Board action and that the Board hold a public hearing prior to making changes.

(D) Site Plan Review Authority. The Planning Board, in accordance with **RSA 674:43**, is empowered to review and approve or disapprove all site plans for non-residential and multi-family housing development, as well as the change or expansion of an existing use. The Planning Board has established the following thresholds for which site plan review shall be required.

(1) New Construction. Site Review and Planning Board approval is required for the development of land for:

- (a) Non-residential uses
- (b) Multi-family dwellings of three (3) or more units
- (c) Uses that are permitted by special exception
- (d) Any construction activities that require a conditional use permit for work located within the Groundwater Protection Overlay or the Route 11 Business Node Overlay District.
- (e) Any construction activities that require a special use permit for work located within the Wetlands Conservation Overlay District, as well as any non-conformity uses.

(2) Technical Review Committee (TRC). The TRC, which is comprised of the Directory of Planning and Community Development, Building Inspector, Police Chief, Fire Chief, Public Works Director, Chief Water Operator and Assessing Clerk, reviews proposals for compliance with town regulations and advises the applicant of any potential issues that may arise as the project moves forward. TRC review is required for the following:

- (a) New construction requiring site plan review
- (b) Redevelopment or expansion activities that result in an increase of:
 - i. Gross floor area exceeding 2,500 square feet
 - ii. Parking exceeding a total of six (6) spaces
 - iii. Land disturbance of more than one acre of 50% of the lot
- (c) Any construction activities that require a conditional use or special use permit.

(3) Change or Expansion of an Existing Use. Site Review will be required for a change in conforming use with a new use allowed in the zoning district in which the structure is located. The following criteria constitutes a change in use:

- (a) Development which causes a multi-family residential structure to be converted resulting in an increase of three (3) or more additional units to the existing structure.
- (b) Residential proposals that would expand the existing structure by more than 1,000 square feet of gross floor space or an increase of 25% of total building area, whichever is less.
- (c) Commercial proposals that would expand the existing structure by more than 1,500 square feet, including additional floors, or an increase of 25% of total building area, whichever is less.

(4) A Change or expansion of use that does not meet this criterion and therefore does not require site plan review at the Planning Board, can be reviewed and approved by staff in the Planning and Community Development Department, with the following conditions:

- (a)** The new or expanded use should remain in compliance with the relevant conditions of approval set forth as part of the original site plan.
- (b)** Any waiver request cannot be issued by staff and shall be approved by the Planning Board.
- (c)** Any variance request cannot be issued by staff and shall be approved by the Zoning Board of Adjustment.
- (d)** A letter shall be sent to all abutters notifying them of the proposed change and/or expansion, at which an abutter has seven (7) business days to provide comments or request a public hearing. Based on public input received, Planning and Community Development staff will determine if a public hearing is needed.
- (e)** The applicant may request a formal process through the Planning Board if they choose.

(E) Business Use Certificate Required.

(1) Applicability. Following the adoption of this article, all non-residential uses as defined in Section 1.14 of this Ordinance shall obtain a Business Use Certificate from the Code Enforcement Officer prior to Site Plan approval for any change in use.

(a) Application. Application for a Business Use Certificate shall be made simultaneously with application for Site Plan Review. The applicant for a Business Use Certificate shall submit all necessary information to the Code Enforcement Officer to allow the Code Enforcement Officer to make a determination of the site's compliance with the Town's Zoning Ordinance and to define the type of intensity of use as it relates to the Table of Permitted Uses (subsection 2.00 (B)) of this Ordinance. All Zoning Variances and Special Exceptions granted to the applicant must be presented with this application. No occupancy of the site shall occur without receiving a Site Plan Approval and no business shall be conducted on the site prior to obtaining the Site Plan Approval. All fees necessary to process certificate applications shall be borne by the applicant.

(b) Review Procedure. All certificate applications meeting the requirements of zoning in the district they are contained within shall be granted. Once all required

information is submitted to the Code Enforcement Officer, a decision to issue or deny the Business Use Certificate shall be made by the Code Enforcement Officer within thirty (30) days of application acceptance by the Planning Board or Site Plan Review Committee. A Business Use Certificate must be issued prior to final deliberation for Site Plan Review. Said Business Use Certificate shall be valid until a change in use occurs and shall only be valid for the particular uses described in the permit application.

1.03 ZONING MAPS

There shall be a Zoning Map for the Town of Farmington which sets forth the Base Zoning District Boundaries delineated in Section 2.00. The boundaries of all Overlay Districts described in Section 4.00 shall also be represented. Overlay District boundaries shall be considered approximate pending site plan or subdivision review at which time site-specific application requirements may cause delineation of Overlay District boundaries to be submitted by the applicant subject to verification by the Planning Board. The Zoning Map shall be available for public inspection at the Farmington Town Offices in the Planning & Code Enforcement Office. This map, in conjunction with physical descriptions of the boundaries contained herein, shall be used for all interpretations of base zoning district boundaries.

1.04 LOTS SPLIT BY ZONING DISTRICT BOUNDARIES

Where an existing Lot of record falls into more than one zoning district, the provisions set forth in the underlining zoning applicable to the larger area of such Lot may also, at the option of the owner, be deemed to govern in the smaller area of the Lot, but only to an extent not more than one hundred (100) linear feet in the dept beyond such Zoning District Boundary, EXCEPT in cases where the Lot of record falls into the Commercial Business District or Industrial Business District and any Residential Zoning District. In those cases, only commercial and industrial uses may extend beyond such Residential Zoning District Boundaries and shall be approved through a Conditional Use Permit.

Standards for the Conditional Use Permit. The Planning Board may issue a Conditional Use Permit approving commercial and industrial uses for the lots in split districts provided the Planning Board determines the following conditions are met:

- (A) The use is allowed by right in either the Commercial Business or Industrial Business District
- (B) The use will not endanger the public health, safety or welfare
- (C) The use will not unreasonably impact residential neighborhoods or abutting uses in the area
- (D) A 50' vegetated buffer shall be maintained along any lot with an existing residential use. In cases where there is no existing buffer, additional landscaping and/or green space may be required at the discretion of the Planning Board to ensure there is an adequate, natural transition to residential uses

1.05 COMPLIANCE WITH CONFLICTING CODES

- (A) As specified in RSA 676:14, whenever the requirements of this Ordinance differ from the requirements of another existing local code, the provision that imposes the greater restriction or higher standard shall be the controlling provision.
- (B) Two or more standards in this Ordinance may also impose conflicting requirements, such as when an Overlay Zoning District overlays a Base Zoning District or when Waterfront Protection Overlay Zones with two different levels of waterfront protection intersect. In all cases where two or more requirements of this Ordinance conflict, the provision that imposes that imposes the greater restriction or higher standards shall be the controlling provision unless otherwise specified.

1.06 ZONING BOARD OF ADJUSTMENTS

This Ordinance provides for the establishment of the Zoning Board of Adjustment (ZBA) as required by **RSA 674:1, IV**. With respect to this Ordinance, the ZBA shall review and decide on appeals from administrative decisions, applications for Special Exceptions, applications for Variances and applications for Equitable Waivers of Dimensional Requirements in accordance with **RSA 674:33 (a)**.

1.07 GENERAL REQUIREMENTS

In addition to the other requirements of this Ordinance, any use of land or development activity within Cocheco River Watershed that is subject to Site Plan Review by the Planning Board, shall conform to the following standards:

- (A) The area of the site stripped of existing vegetation at any time shall be minimized. Stripping of the site shall be phased where practical so that areas are re-vegetated and permanently stabilized before additional areas are stripped of existing vegetation.

- (B) Not more than thirty-five percent (35%) of the total area of the Lot may be covered by impervious surfaces including buildings, structures and paved or gravel surfaces. The Planning Board may allow up to sixty percent (60%) coverage of any Lot with impervious surfaces if engineering designs and drainage calculations provide for sufficient treatment and recharge to render the post-development condition of the site to be the same as, or better than, the existing conditions of the site.
- (C) Any area of disturbed ground resulting from construction or similar activities shall be either temporarily or permanently stabilized by the use of riprap, seed, mulch or other ground cover within one (1) week from the time it was actively worked.
- (D) Vegetated buffer strips at least twenty-five (25) feet wide shall be maintained adjacent to waterways, drainage ditches and swales. Waterways, ditches and swales must be re-vegetated prior to September 15th.
- (E) Stormwater collection systems shall be designed to use overland flow into vegetated buffer strips whenever possible. When enclosed storm drainage systems are not used, provisions for managing nutrient export shall be incorporated consistent with Best Management Practices.
- (F) Silt fencing and hay bale barriers in accordance with Best Management Practices for erosion and sedimentation control standards shall be used during all phases of construction.
- (G) The Planning Board may require an analysis of nutrient export levels and incorporate nutrient loading control devices such as sedimentation/retention ponds, infiltration systems, wet ponds, swales or flow strips, if necessary, to reduce the level of nutrient export to acceptable levels. This analysis shall be carried out in accordance with Best Management Practices.

1.08 HOUSING MAINTENANCE AND OCCUPANCY CODE

- (A) This Ordinance shall be known and may be cited as the Farmington Housing Maintenance and Occupancy Code.
- (B) Definitions. The following definitions shall apply in the inspection and enforcement of this Ordinance:

ACCESSORY STRUCTURE means a detached structure which is not used or intended to be used for living or sleeping by human occupants and which is located on or partially on the premises.

APPROVED as applied to a material, device or method of construction, means approved by the Code Enforcement Officer as being in accordance with provisions of other adopted codes of the Town of Farmington or as listed by a nationally recognized testing firm or laboratory.

ASHES means the residue from the burning combustible materials.

ATTIC means any story situated wholly or partially within the roof, so designed, arranged or built as to be used for business, storage or habitation.

BASEMENT means a portion of any dwelling located partly underground, but having less than half its clear floor-to-ceiling height below the average grade of the adjoining ground.

BUILDING CODE means the most current adopted State Building Code including the most current state Fire Code pursuant to Chapter 155-A:1, IV, IV-a, or as amended.

CELLAR means any portion of any dwelling having half or more than half of the clear floor-to-ceiling height below the average grade of the adjoining around.

CENTRAL HEATING SYSTEM means a single system supplying heat to one (1) or more dwelling unit(s) or more than one (1) rooming unit(s).

CHIMNEY means a properly constructed vertical shaft of brick, or other approved non-combustible, heat resistant material enclosing one or more flues for the purpose of removing products of combustion from solid, liquid or gaseous fuels.

DILAPIDATED means fallen into partial ruin or decay.

DORMITORY means a room or group of rooms in any dwelling used for living and sleeping purposes by four (4) or more persons.

DWELLING means any enclosed space wholly or partly used or intended to be used for living, sleeping, cooking and eating, provided that temporary housing as hereinafter defined, shall not be classified as a dwelling. Industrialized housing and modular construction, which conform to nationally accepted industry standards and used or intended for use for living, sleeping, cooking and eating purposes shall be classified as dwellings.

DWELLING UNIT means a room or group of rooms located within a dwelling forming a single habitable unit with facilities used or intended to be used by a single family for living, sleeping, cooking and eating purposes.

EGRESS means a place or means of going out or an approved method of discharge by the occupants to get to a safe area.

EXTERMINATION means the control and elimination of insects, rodents or other pests by eliminating their harborage places by removing or making inaccessible materials that may serve as their food; poisoning, spraying, fumigating, trapping or by other recognized and legal pest elimination methods approved by the appropriate local or state authority.

FAIR MARKET VALUE means a price at which both the buyer and seller are willing to do business.

FAMILY means an individual, or two or more individuals related by blood, marriage or adoption living together, or not more than four individuals not related by blood, marriage or adoption living together in a single housekeeping unit.

FLUSH WATER CLOSET means a toilet bowl flushed by water under pressure with a water sealed trap above the floor level.

GARBAGE means the animal or vegetable waste resulting from the handling, preparation, cooking, servicing and non-consumption of food.

GRADE means the average elevation of ground adjoining the building or structure on all sides.

GUEST means any person who shares a dwelling unit in a non-permanent status.

HABITABLE ROOM means a room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, furnace rooms, pantries, kitchenettes and utility rooms of less than fifty (50) square feet of floor space, foyers or communicating corridors, stairways, closets, storage spaces and workshops, hobby and recreation areas.

HAZARDOUS BUILDING means any building, which because of inadequate maintenance, dilapidation, physical damage, unsanitary condition or abandonment, constitutes a fire hazard or a hazard to public safety or health.

HEALTH OFFICER means the Code Enforcement Officer or his designee as described in Section 31.4, Code Enforcement of the Municipal Code of Ordinances.

HEATER WATER means potable water heater and dispensed at a temperature of not less than 120° F at the outlet.

HOUSEHOLD means a family, as defined above, and one or more unrelated persons, including servants or one or more unrelated persons who share the same dwelling and use some or all of its cooking, eating or living facilities.

KITCHEN means any room used for the storage of foods or preparation of foods and containing the following equipment: sink or other device for dishwashing, stove or other device for cooking refrigerator or other device for cool storage of food, cabinets, shelves or combination of thereof for storage of equipment and utensils, and counter or table for food preparation.

KITCHENETTE means a small kitchen or an alcove containing cooking facilities.

LEAD-BASED PAINT means any paint containing more lead than established US Consumer Product Safety Commission as being the “safe” level of lead in residential paint and paint products (often found in homes built prior to 1978).

OCCUPANT means any adult person living, sleeping, cooking or eating in, having possession of a dwelling unit or rooming unit, except that in dwelling units a guest will not be considered an occupant. For other purposes of § 27.4 “occupants” shall also mean a person of one (1) year of age or greater.

OPERATOR means any person(s) who has a charge or is responsible for the care, control or management of a building and appurtenance, or part thereof, in which dwelling, rooming or display unit are let.

ORDINARY SUMMER CONDITIONS means a temperature of 10° F below the highest recorded temperature for the prior ten (10) year period.

ORDINARY WINTER CONDITIONS means a temperature of 15°F above the lowest temperature for the prior ten (10) year period.

OWNER means any person who, along or jointly or severally with others:

- (a) Have legal title to any premise, dwelling or dwelling unit, with or without accompanying actual possession thereof
- (b) Have charge, care, control or management of any premises, dwelling or dwelling unit, as owner or agent of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this code.

PREMISSIBLE OCCUPANCY means the maximum number of persons permitted to reside in a dwelling unit, rooming unit or dormitory.

PERSON means and includes an individual, firm, corporation, association, partnership, cooperative or governmental agency.

PLUMBING means and includes all of the following supplied facilities and equipment: gas pipes, gas-burning equipment, water pipes, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed washing machines, catch basins, drains, vents and other similar supplied fixtures, and the installation thereof together with all connection to water, sewer or gas lines.

PREMISES means a platted lot or part thereof or unplatted lot, a parcel of land or plot of land, either occupied or unoccupied, by any dwelling or non-dwelling structure and includes any such building, accessory structure or other structure, recreational vehicle or tent thereon.

PRIVACY means the existence of conditions, which will permit a person or persons to carry out an activity commenced without unreasonable interruption or interference, either by sight or sound, by unwanted persons.

PROPERLY CONNECTED means connected in accordance with all applicable code and ordinances of this town provided however, that the application of this definition shall not require the alteration or replacement of any connection of good working order and not constituting a hazard to life or health.

PUBLIC NUISANCE includes the following:

- (a) The public condition or use of any premises as a public nuisance under common law.
- (b) Any physical condition, use or occupancy of any premises or its appurtenances considered an attractive nuisance to children, including but not limited to, abandonment wells, basements, excavations and unsafe fences and structures.
- (c) Any premises which have unsanitary sewerage or plumbing facilities.
- (d) Any premises designated as unsafe for human habitation or use.
- (e) Any premises from which the plumbing, heating and/or facilities required in this chapter have been removed OR from which utilities have been disconnected, destroyed, removed or rendered ineffective and the required precautions against trespassers have not been provided.
- (f) Any premises which are manifestly capable of being a fire hazard or are manifestly unsafe or unsecure as to endanger life, limb or property.
- (g) Any premises which are unsanitary or littered with rubbish or garbage, or have uncontrolled vegetative growth that is causing additional safety hazards.

(h) Any structure that is in a state of dilapidation, deterioration or decay; damaged by fire, to the extent as not to provide shelter, in danger of collapse or failure and is dangerous to anyone on or near the premises.

RAT HARBORAGE means any conditions or place where rats live, nest or seek shelter.

RATPROOFING means a form of construction which will prevent the ingress or egress of rats to or from a given space or building or from gaining access to food, water or harborage. It consists of the closing and keeping closed of every opening in foundations, basements, cellars, exterior or interior walls, ground or first floors, roofs, sidewalk grating, sidewalk openings and places that may be reached and entered by rats, by the use of materials impervious to rat gnawing and other methods approved by the Code Enforcement Officer.

REFUSE means all putrescible and non-putrescible solids (except body wastes) including garbage, rubbish, ashes and dead animals.

REFUSE CONTAINER means a watertight container that is constructed of a durable material impervious to rodents that is capable of being serviced without creating unsanitary conditions. Openings into the container, such as covers and doors, shall be tight-fitting.

ROOMING HOUSE means any dwelling, or part thereof, containing one (1) or more rooming units, in which space is let to three (3) or more persons. For the purposes of Article 27-5, "Rooming House" shall also include hotels, motels, tourist and guesthouses offering to transient guests for compensation living or sleeping accommodations.

RENTAL UNIT means any residential unit in a building, dwelling or rooming house which provides permanent or transient living facilities and occupied by tenants on a rental basis.

ROOMING UNITS means non-putrescible solid waste, excluding ashes consisting of either:

- (a) **Combustible wastes** such as paper, cardboard, plastic containers, yard clippings and wood; or
- (b) **Non-combustible wastes** such as tin cans, glass and crockery.

SAFETY means the condition of being free from danger and hazards which may cause accidents or disease.

SPACE HEATER means an approved, self-contained, heating apparatus of either the circulating or radiant type and intended primarily to heat or supplement the heat of only one room.

SMOKE PIPE means an approved metal component utilized for the discharge or combustion by-products, installed in an approved manner.

SUPPLIED means paid for, furnished by, provided by or under control of the owner, operator or agent.

TEMPORARY HOUSING means any tent, trailer, mobile homes, motor home or any other structure used for human shelter, which is designed to be transportable, and which is not attached to the ground, to another structure, or to any utility system on the same premises for more than thirty (30_ days in one calendar year.

TOXIC SUBSTANCES means any chemical product applied on the surface of incorporated into any structural or decorative material, which constitutes a potential hazard to human health at acute or chronic exposure levels.

UTILITY means a service that provides electric, gas, water and sewer including equipment that may provide a comparable service.

VENTILATION the process of supplying and removing air by natural and mechanical means to or from any space:

(a) **Mechanical:** ventilation by power driven devices

(b) **Natural:** ventilation by opening to outer air, through windows, skylights doors or louvers

MEANING OF CERTAIN WORDS. Whenever the words “dwelling”, “dwelling unit”, “rooming house”, “rooming units”, “premises”, “structures”, are used, they shall be construed as though they were followed by the words “or any part thereof”. Words used in singular include the plural and the plural singular. The masculine gender includes the feminine and the feminine masculine.

(C) Responsibilities of Owners and Occupants

- (1) A person shall not occupy, permit another to occupy or let to another person any dwelling or dwelling unit as long as it and the premises does not constitute a public nuisance and complies with all applicable provisions of this code.
- (2) The owner of the dwelling containing two (2) or more dwelling units shall maintain the condition of the shared or public areas of the dwelling and all associated real estate so as to not constitute a public nuisance or hazard, including the maintenance of all exterior walls and roofs so as to be weatherproof.
- (3) The owner of the dwelling shall supply facilities or refuse containers for the sanitary and safe storage and/or disposal of rubbish and garbage and assure the disposal of rubbish and

garbage. In the case of single or two-family dwellings, the occupant may furnish such facilities or refuse containers if required in a written agreement between the occupant and the owner.

- (4) The owner of a dwelling or dwelling unit for rent shall provide and install all window screens and windows whenever the same are required under the provisions of the Ordinance.
- (5) The owner of a dwelling or dwelling or dwelling unit shall not accumulate or permit the accumulation of rubbish, boxes, lumber, scrap metal or any other materials in such a manner that may provide rodent harborage in or about the shared or public areas of a dwelling or its premises.
- (6) The owner or the occupant of a dwelling or dwelling unit shall not store, place or allow to accumulate any materials that may serve as food for rodents in a site accessible to rodents.
- (7) The owner of a dwelling or dwelling unit for rent is responsible for maintaining all supplied fixtures and facilities in operable condition unless otherwise specified in the lease.
- (8) The owner or occupant of a dwelling unit shall not store, place, abandon or allow to accumulate unregistered motor vehicles of any classification or variety upon the premises that would cause the premises to become a junkyard as classified by the State in **RSA 236:112**.
- (9) The owner of a dwelling or dwelling unit for rent shall provide and maintain the dwelling or dwelling unit free from hazards to health in accordance with all State and Federal guidelines.

(D) Minimum Standards for Basic Equipment and Facilities. A person shall not occupy or let to another for occupancy any dwelling or dwelling unit for the purposes of living, sleeping, cooking or eating, therein, which does not comply with the following requirements:

- (1) Every dwelling unit shall have a kitchen which is a room or portion of a room which food may be prepared and cooked which shall have adequate circulation area and which shall be equipped with the following:
 - (a) A kitchen sink in good condition and properly connected to the town water supply system or a water supply system which is approved by the Code Enforcement Officer and which provides at all times an adequate amount of heated and unheated potable running water under adequate pressure and which is connected to the town sewer system or a sewer system approved by the Code Enforcement Officer.
 - (b) Cabinets, shelves or combination thereof for storage of eating, drinking, cooking equipment and utensils and of food that does not under ordinary summer conditions require refrigeration for safe keeping; and a counter or table for food preparation; said cabinets, shelves and counter or table shall be adequate for the permissible occupancy of the

dwelling unit and shall be of sound construction furnished with surfaces that are easily cleanable and that will not impart any toxic or harmful effect to food.

(c) A stove or similar device, utilizing an approved fuel source for cooking food, and a refrigerator or similar device, for safe storage of food at temperatures less than 45° (degrees) F. (Fahrenheit), but more than 32° F. under ordinary summer conditions, which are properly installed with all necessary connections for safety.

(2) Every dwelling unit shall have within a non-habitable room which affords privacy to a person within said room and which is equipped with a lavatory sink, bathtub or shower, and a flush water closet in good working condition. Such flush water closet shall be equipped with easily cleanable surfaces, be connected to a water system that at all times provides an adequate supply of running water under pressure to cause the water closet to be operated properly, and shall be connected to the town sewer system or to a sewer system approved by the Code Enforcement Officer. The required kitchen and lavatory sink shall be installed, maintained and designated as separate vessels.

(3) Every dwelling unit shall have at least two (2) means of egress leading to safe and open space at ground level. Every dwelling unit in the multiple dwelling shall have immediate access to two (2) or more approved means of egress leading to safe and open space at ground level as remote from one another as feasibly possible.

(4) Every exterior stair, porch, balcony and all appurtenances attached thereto shall be structurally sound no part thereof shall show excessive wear, be broken, cracked or loose. Carpeting or other covering on stairs and porches shall be maintained in a safe condition. Every flight of stairs which is more than three (3) risers high shall have at least one handrail, and every open portion of a stair, porch, landing or balcony shall have guardrails. Guardrails shall be firmly fastened and maintained in good condition and new or replacement guardrails shall comply with the provisions in the building code.

(5) Access to the egress from each dwelling unit shall be provided without passing through any other dwelling of dwelling unit.

(6) All exterior doors of a dwelling or dwelling unit available for rent shall open with applied force of less than fifty (50) pounds and be equipped with approved functioning locking devices. The capacity and means of egress requirements specified in the current edition of the Life Safety Code shall apply to this paragraph.

(E) Minimum Standards for Light and Ventilation. A person shall not occupy or let to another for occupancy any dwelling or dwelling unit, for the purpose of living therein, which does not comply with the requirements of this section.

(1) Every habitable room shall have at least one (1) window or skylight facing outdoors.

Minimum window or skylight area for every floor area of such room shall be a portion of the floor area of such room consistent with the Town of Farmington Building Code unless mechanical ventilation and artificial lighting is provided which also conforms to requirements of the Town of Farmington Building Code.

(2) Every habitable room shall have at least one (1) window or skylight facing directly outdoors, which can be opened or such other device as will ventilate the room adequately.

(3) When facilities for interior climate control (heating, cooling or humidity) are integral functions or structure containing dwelling units or rooming units, such facilities shall be maintained and capable of being operated in a continuous manner and in accordance with the designed capacity of the installed equipment.

(4) Every bathroom and water closet compartment, laundry room and non-habitable room used for food preparation, shall comply with the light and ventilation requirements for habitable rooms contained in subsection (E) 1 and 2 of this Ordinance, except that no window or skylight shall be required in such rooms if they are equipped with a ventilation system and artificial lighting which is approved by the Code Enforcement Officer.

(5) Every basement, cellar and crawl space shall have some means of ventilation by providing some windows, vents or mechanical vents.

(6) Electric service outlets and fixtures shall be properly installed, shall be maintained in good and safe working condition and shall be connected to a source of electric power in a manner prescribed by the Ordinance, Rules and Regulations of the Town of Farmington and the State Electrical Code. The minimum capacity of such devices and the minimum number of outlets and fixtures shall be as follows:

(a) Every habitable room shall have installed a minimum of two (2) duplex-type approved wall convenience outlets and an adequate lighting fixture.

(b) Every habitable room and non-habitable room for food preparation shall have at least one (1) approved wall-type duplex convenience outlet for each sixty (60) square feet or fraction thereof of total floor area and in no case less than two (2) such outlets. In addition, a lighting fixture shall be provided.

- (c) Every water closet compartment, bathroom and kitchen or kitchenette, laundry room, furnace room and public hall shall contain at least one (1) supplied ceiling or wall-type electric light fixture.
- (d) Every common hallway, common stairway and common stairway discharge, in every multiple dwelling shall be adequately lighted by natural or electric light at all times, so as to provide in all parts thereof at least three (3) foot candles of light at the tread or floor level. Every common hallway and common stairway in structures containing not more than two (2) dwelling units may be supplied with conveniently located light switches controlling an adequate lighting system which may be turned on when needed, instead of full-time lighting. Multiple dwellings of twenty-six (26) units or over shall have emergency lighting capable of supplying light for one and one-half (1- ½) hours.
- (e) Extension cords shall not be used to fulfill the electrical service and facilities required by this section.

(F) Minimum Thermal Standard. A person shall not occupy as owner or occupant to let to another occupancy any dwelling or dwelling unit, for the purpose of living therein, which does not comply with the following requirements:

- (1) Every dwelling or dwelling unit available for rent shall have heating facilities which are properly installed and maintained in safe, good working condition and are capable of safely and adequately heating all occupied habitable rooms, bathrooms and water closet compartments in every dwelling unit located therein to a temperature of 68° degrees Fahrenheit at a distance of eighteen (18) inches above floor level and two (2) feet inside of an exterior wall or opening, when the outside temperature is ten (10) degrees Fahrenheit below zero.
- (2) The owner or occupant shall not install or allow the use of a space heater or hot water heating unit, employing a flame, that is not vented outside the structure.

(G) Defect of Structural Members – Unfit for Human Habitation. Any dwelling, which has any or all of the following defects of structural elements, shall be deemed hazardous and unfit for human habitation. Any dwelling which has been damaged by fire, wind or other causes so as to have become dangerous to life, safety or the general health and welfare of the occupants or the people of the Town of Farmington.

(H) Maximum Density, Minimum Space, Use and Location Requirements. A person shall not let to be occupied any dwelling or dwelling unit, for the purpose of living therein, unless there is compliance with the requirements of this section.

- (1) In every dwelling unit of two (2) or more rooms, every room occupied for sleeping purposes shall contain at least seventy (70) square feet of floor space for the first occupant and at least fifty (50) square feet of floor space for each additional occupant thereof.
- (2) Space located partially below grade in a basement or cellar as defined herein shall not be used as a habitable room of a dwelling unless it complies with NFPA 101. The floors and walls shall be water resistant and the room or rooms shall be well drained and dry.
- (3) Pipes, ducts or other obstructions shall not be less than six (6) feet, four (4) inches above the floor level, which interferes with the normal use of the room or area.
- (4) Occupancy of any dwelling or dwelling unit available for rent, or rooming house, rooming unit or dormitory room, shall not be permitted unless the following requirements are met or unless the Code Enforcement Officer grants an exception from these requirements for existing dwelling units, which by nature of their original construction, cannot in his opinion, be practically altered to conform.
 - (a) The ceiling height of any habitable room shall be at least seven (7) feet, except in any habitable room under a sloping ceiling at least one-half of the floor area, shall have a ceiling height of at least seven (7) feet and the floor area of that part of such a room where the ceiling height is less than five (5) feet, shall not be considered as part of the floor area in computing the total floor area of the room for the purpose of determining the maximum permissible occupancy.
 - (b) A dwelling or dwelling unit containing two (2) or more sleeping rooms shall not have such room arrangements that access to a bathroom or water closet compartment intended for use by the occupants of more than one (1) sleeping room, can be had only by going through another sleeping room; nor shall room arrangements be such that access to a sleeping room can be had only by going through another sleeping room. A bathroom or water closet compartment shall not be used as the only passageway to any habitable room, hall, basement or cellar to the exterior of the dwelling unit.

(I) Violation: Inspections: Power and Duties of the Code Enforcement Officer.

The Code Enforcement Officer shall enforce the provisions of this Ordinance and is hereby authorized and directed to make inspections pursuant to a plan in response to a complaint that an alleged violation of the provisions of this Ordinance may exist or when the Code Enforcement Officer (CEO) finds there is probable cause to believe that a violation of this Ordinance has been or is being committed.

Adopted March 10, 1987. Revision Adopted March 13, 2012

1.09 BUILDING CODE BOARD OF APPEALS

The Zoning Board of Adjustment shall also serve as the Building Code Board of Appeals as permitted under **RSA 673.1.V**.

1.10 INTERPRETATION, ADMINISTRATION AND ENFORCEMENT

(A) Administration and Enforcement.

(1) Pursuant to **RSA 673:1** the Town of Farmington hereby authorizes the Board of Selectman to establish a Department of Planning and Community Development, which shall operate using all legally available means along with the following tools to fulfill their responsibilities.

(a) The Director of Planning and Community Development or their designee, as appointed by the Town Administrator, has the authority to interpret, administer and assist in the enforcement of this Ordinance, as well as Planning Board and Zoning Board of Adjustment decisions.

(b) The Code Enforcement Officer has the authority to interpret, administer and enforce all State and local codes; issue building permits as provided in **RSA 676:11-13** and any certificates of occupancy; and to perform inspections as may be necessary to assure compliance with State and local building code and assist in addressing and enforcing any zoning ordinance violations.

(B) Fees. The Board of Selectmen is authorized to establish fees to be charged for Building Permits, inspections and Certificates of Occupancy. The Farmington Board of Selectmen upon their own action or upon recommendation of the Planning Board may change the amount and/or number of fees from time to time.

(C) Occupancy. A certificate of occupancy must be issued by the building inspector prior to the use or occupancy of any building or Structure that is erected or undergoes a change or expansion of use.

(D) Appeal of Decisions. Decisions of the Director of Planning and Community development and/or the Building Inspector/Code Enforcement Officer may be appealed to the Zoning Board of Adjustment. Appeals shall be filed within (30) days of the written order of decision.

(E) Fines and Penalties. Penalties may be levied for non-compliance with this Ordinance or with any orders, rulings or decisions made in accordance with RSA 676:17. Any remedies, mitigation or compensation legally permitted by federal, state and local laws may be required by the Code Enforcement Officer.

1.11 INNOVATIVE LAND USE CONTROLS

(A) Authority. The Town authorizes the Planning Board to administer Innovative Land Use Controls pursuant to the following sections of RSA 674:21 and applied in accordance with the Performance Standards contained in this Ordinance:

- (1) RSA 674:21(b) Phased Development**
- (2) RSA 674:21 (d) Transfer of Development Rights**
- (3) RSA 674:21 (f) Cluster Development**
- (4) RSA 674:21 (m) Impact Fees**

(B) Special Use Permits.

- (1)** Special Use Permits (SUP) are required for certain uses including in the following contexts:
 - (a)** In the Section 4.02 WETLANDS CONSERVATION OVERLAY DISTRICT
 - (b)** Section 4.03 WATER FRONT PROTECTION OVERLAY DISTRICT
 - (c)** Section 1.12 NON-CONFORMITY
 - (d)** As required in other sections of the Farmington Land Use Book

In addition to the general requirements set forth below, specific procedures, requirements and criteria for administering SUP's will vary depending on which section of the Farmington Land Use Book requires them.

(2) General Requirements.

- (a) Procedure.** The Planning Board shall process requests for Special Use Permits using the procedures contained in the chapter and section of the Farmington Zoning Ordinance which requires the SUP and in accordance with **RSA 676:4**.
- (b) Criteria.**
 - (i)** The Board shall grant the SUP only upon finding the proposal is consistent with the purposes of this Ordinance, the general criteria for the issuance of SUPs and with any specific criteria listed in the section requiring the SUP.
 - (ii)** If granted, the Board approve the SUP only after approval of Site Review Plan and/or Subdivision Plan if required.
 - (iii)** In its review of applications for SUPs, the Board shall include a checklist showing the criteria applied and the reasons for the application's success or failure in meeting criteria.

1.12 NON-CONFORMITY

This section specifies those rights to which Non-Conforming Uses, Structures and Lots are entitled.

(A) Non-Conforming Use. The following control Non-Conforming Uses:

- (1)** Any non-conforming use lawfully in existence at the time of adoption of this Ordinance may continue indefinitely. In the event that such use is discontinued for twenty-four (24) consecutive months, its re-establishment shall not be permitted.
- (2)** Certain districts prohibit single-family residential use. To prevent this Ordinance from unduly burdensome, such single-family houses shall be permitted to be physically expanded and accessory Structures added or expanded and all uses that are permitted or permitted with review, Special Exception or special use are allowed subject to the same regulations and review criteria indicated elsewhere in this Ordinance, with the exception that there shall be no increase in the number of Residential Units on the Lot.
- (3)** Certain districts prohibit specific non-residential uses. To prevent this Ordinance from being unduly burdensome, the Planning Board may grant a Special Use permit for the expansion of these uses provided the following conditions are met:
 - (a)** The Lot on which the use exists must conform to all dimensional requirements of this Ordinance at the time of application for the Special Use Permit
 - (b)** All expansions of non-residential Non-Conforming Uses shall require site plan review regardless of the size of the expansion. Special Use Permits shall be approved only after Site Plan approval is granted.
 - (c)** The use shall not negatively impact natural resources.
 - (d)** The use shall conform to the requirements of all Overlay Districts in which it is located, including specific provisions required by SUPs required within those Overlay Districts
 - (e)** Impacts to Wetlands of any Class caused by the expansion shall require review pursuant to the SUP requirements in **Section 4.02 WETLANDS CONSERVATION OVERLAY DISTRICT.**
 - (f)** The use shall not expand onto adjacent Lots of record
 - (g)** The use shall not reduce the effectiveness of buffers that protect adjacent properties, nor shall it negatively impact the property values within the neighborhood

(B) Non-Conforming Structure – Special Exceptions. The following Non-Conforming Structures:

- (1)** It is the intent of this Ordinance for expansions to be conforming, if possible or practical.

(2) If it is determined by the ZBA that the intended purpose of a proposed expansion of a Structure cannot be achieved in a conforming manner, the ZBA may grant a Special Exception if the following conditions are met:

- (a)** In the case of Structures that do not conform to Setback requirements, the expanded Structure may be no closer to the Lot line than the existing Structure.
- (b)** In the case of an upward expansion, the expanded Structure
 - (i)** shall not have any adverse impact on any neighboring property, including but not limited to blocking of views and/or sunlight
 - (ii)** shall not exceed the maximum Height limitations specified in this Ordinance
- (c)** Sanitary sewage disposal and water supply are provided if needed
- (d)** The expansion does not adversely affect abutting properties, public health, safety or general welfare
- (e)** No part of the Structure is located within the 100-year floodplain.

(C) Non-Conforming Lot. The following control Non-Conforming Lot Lots:

- (1)** Existing Lots of record are exempt from Minimum Acreage requirements only
 - (a)** Setback requirements must be met and the Lot have a minimum of 50' Street Frontage
 - (b)** All performance standards, including Sensitive Area Development standards and the provisions of Overlay Districts must be complied with.
- (2)** No action shall be permitted to change the boundary of a non-conforming Lot unless the Lot remains unchanged in total area or it brings the Lot closer to conformance with this Ordinance and it makes no other aspect of the Lot and/or all Structures thereon more non-conforming.
- (3)** In the case of abutting, dimensionally non-conforming Lots, the ZBA may grant a Special Exception to allow a boundary adjustment if the following conditions are met:
 - (a)** Any boundary adjustment does not render a Lot that presently able to build upon unbuildable, including but not limited to considerations such as septic design, separation between subsurface disposal system components and water sources, etc.
 - (b)** A boundary line adjustment does not have an adverse impact on the public safety, health or welfare
 - (c)** Additional Planning Board review and Approval is required

1.13 SAVING CLAUSE

If a court of competent jurisdiction finds any portion of this Ordinance invalid, this finding shall not invalidate the remainder of this Ordinance.

1.14 DEFINITIONS

The terms listed in this section shall have the meanings indicated. Generally, these terms are shown with the first letter capitalized:

(A) Wherever used in this Ordinance; and

(B) Where not otherwise defined in any chapter or section of the Farmington Land Use Book

Words and phrases not defined. Terms and words not defined herein but defined in the Building Code shall have meanings given therein unless a contrary intention clearly appears. Words not defined in either place shall have their common meaning unless otherwise stated.

ABUTTER

(A) As defined by **N.H. RSA 672:3**, as may be amended by the State of NH

(B) For purposes of notification, abutter ownership information for lots located in Farmington, shall be obtained through the Town's Tax Assessing Office

ACCESSORY. A Structure or use subordinate and customarily incidental to a principal structure or use on the same lot

ACCESSORY DWELLING UNIT. A residential living unit that is within, attached or detached (as part of an existing accessory structure) to a single-family dwelling and that provides independent living facilities for one or more persons, including provisions for sleeping, eating, cooking and sanitation on the same parcel of land as the principal dwelling unit it accompanies (**RSA 674:71-73**).

ACRE. An Acre is equivalent to 43,560 square feet of land area.

AGRICULTURE (OR FARMING). All operations of a farm or activities of a farm, as is defined in **RSA 21:34-a, II**, as may be amended by the State of NH.

AGRITOURISM. Agritourism means attracting visitors to a farm to attend events and activities that are accessory uses to a primary farm operation use, including but not limited to, eating a meal, making overnight stays, enjoyment of the farm environment, education about farm operations or active involvement in the activity of the farm, as defined in **RSA 21-34-a, II(b)(5)**, as may be amended by the State of NH.

ANIMAL HUSBANDRY. The commercial breeding and raising of livestock including the keeping of horses and similar animals.

AMUSEMENT ARCADE. An indoor or outdoor area or open structure, open to the public, that contains any of the following as its primary use or purpose: coin or token operated games, rides, shows or similar entertainment facilities and devices.

AQUIFER. Aquifer means a geologic formation, group of formations, or part of a formation that is capable of yielding quantities of ground water usable for municipal or private water supplies.

AQUIFER PROTECTION ZONE. The primary recharge areas of designated aquifers. The Aquifer Protection Zone is shown on an overlay to the official zoning map of the town.

AUTOMOTIVE REPAIR. A building, premises or land in which or upon which a business, service or industry involving the maintenance, servicing, repair or painting of vehicles is conducted. The dispensing of fluids, including fuels, oil and antifreeze shall be included in this use.

BARN. A building, which shall be at least one hundred twenty (120) square feet in floor area, constructed to shelter livestock, equipment, feed or other farm products. It may be free-standing or connected to one or more other structures. Common New Hampshire barn types should be encouraged, which include but are not limited to English Barns, Yankee Barns, Bank Barns and Ground Stable Barns.

BED & BREAKFAST. A use in which an occupied single-family residence also offers for public hire up to three rooms for overnight accommodation and offers meals prepared in the kitchen of the residence. This use shall be subordinate to the residential use of the Structure and the Lot.

BASAL AREA. The cross-sectional area of a tree measured at a height of 4 ½ feet above the ground, usually expressed in square feet or square footage per Acre for a stand of trees.

BEST MANAGEMENT PRACTICE, WETLANDS. Applying the appropriate techniques to minimize disturbances and impact to the Wetland resulting from those activities that will alter the natural character of the Wetland.

BOARD. The Planning Board.

BUILDABLE AREA. That portion of a parcel upon which a structure may be erected. The following are not to be included in the buildable area: steep slopes, wetland soils, rock outcroppings, floodplain, proposed or existing rights-of-way and utility easements; state and local required setbacks.

CAMPGROUND. A plot of ground upon which two or more campsites are located, established or maintained for occupancy by camping units as temporary living quarters for recreation, education or vacation purposes.

CERTIFIED RECOVERY HOME. A family-like, substance free living environment centered upon peer support and a connection to services that promote sustained recovery from substance abuse disorders and addiction. A certified recovery home shall not include court ordered housing or any other facility requiring a license pursuant to **RSA 151**. A certified recovery home shall be registered with the State of New Hampshire and shall adhere to all safety and recovery standards as referenced in **RSA 172-B:2** and enforced by the Department of Health and Human Services or their designee. A certified recovery home shall function as a single-family residence.

CERTIFIED SOIL SCIENTIST. An individual duly qualified in soil classification and mapping, certified by the State of New Hampshire Board of Natural Scientists under the provisions of **RSA 310-A:775** et seq.

CHILD DAY CARE. The care and supervision of a child (any person under 18 years of age) away from the child's home and apart from the child's parents. (Also see: definitions for "Child Day Care, Family" and "Child Day Care, Family Group", and **RSA 170-E:2**).

CHILD DAY CARE, FAMILY. An occupied residence in which Child Day Care is provided for less than 24 hours per day, except in emergencies, for up to six (6) children from one or more unrelated families. The six children shall include any foster children residing in the home and all children who are related to the caregiver except children who are ten (10) years of age or older. In addition to the 6 children, up to 3 children attending a full day school program may also be cared for up to 5 hours per day on school days and all-day during school holidays.

CHILD DAY CARE, FAMILY GROUP. An occupied residence in which Child Day Care is provided for less than 24 hours per day, except in emergencies, for 7 to 12 children from one or more unrelated families. The 12 children shall include all children related to the caregiver and any foster children residing in the home, except children who are 10 years of age or older. In addition to the 12 children, up to 5 children attending a full day school program may also be cared for up to 5 hours per day on school days and all day during school holidays.

CIVIC USE. Land areas and/or structures, publicly or privately owned, which are intended for the use, enjoyment and benefit of the community. Examples include, but are not limited to, the Town Offices, the Post Office, the Community Center and churches.

CLUBS OR LODGES. A use providing meeting, recreational or social facilities for a private or non-profit association, primarily for use by members and guests. Typical uses include social clubs and fraternal organizations.

COMMERCIAL AMUSEMENT. An establishment engaged in providing amusement or entertainment for a fee or admission charge and in which the patron is engaged on the premises as an active participant rather than a spectator.

COMMISSION. Conservation Commission on the Town of Farmington.

CONDOMINIUM. Real property, and any interests therein, as defined in **RSA 356-B:3**, created by the recordation of condominium instruments pursuant to the provisions of Chapter 356-B of the New Hampshire Revised Statutes Annotated (RSAs). No project shall be deemed a condominium unless the undivided interests in the common area are vested in the unit owners. Proposed conversion condominiums and the use thereof that do not conform to the Zoning Ordinance, Subdivision and Site Plan Regulations of the Town of Farmington shall secure all applicable required approvals prior to becoming a conversion condominium.

CONDOMINIUM-STYLE DETACHED SINGLE FAMILY RESIDENCE. A condominium unit as defined in this Ordinance, containing one (1) detached single-family residence. For the purposes of ensuring quality development and public health, well-being and safety, whenever a condominium-style development is proposed consisting of detached single-family residences, the provisions of this Ordinance relation to lot size, area, density, setbacks and all other applicable provisions relating to the single-family residences for the zoning district where the proposed condominium development shall be located, as well as the Subdivision Regulations of the Town of Farmington, shall apply as if the proposed detached single-family condominium unit were a traditional single family residence.

CONDOMINIUM UNIT. A dwelling unit together with the undivided interest in the common area appertaining to that unit.

CONFERENCE CENTER. A facility used for conferences and seminars, which may include accommodations for sleeping, food preparation and eating, recreation, entertainment, resource facilities and meeting rooms.

CONGREGATE LIVING FACILITIES. Means public housing providing congregate services, as defined in **RSA 161-F:36**.

COUNTRY CLUB. Land and structures customarily associated with a golf course, comprising of a club house, recreational facilities and other accessory uses, and open to members and their guests or open to the public.

COURT ORDERED HOUSING. Sometimes referred to as a sober house, means a supervised facility where two or more offenders sentenced by a court to a period of incarceration reside for the purpose of rehabilitation, behavioral modification or therapeutic counseling. This type of housing may provide for the care and supervision of delinquent youth, persons with mental health illnesses or substance abuse issues (e.g., alcoholism, drug addiction) or for the care of persons being aided in reintegration to society following a period of incarceration or institutional treatment.

CULTURAL USE. Establishments that document the social and religious Structures and intellectual and artistic manifestations that characterize a society and include museums, art galleries and botanical and zoological gardens of a natural, historic, educational or cultural interest.

DETOXIFICATION FACILITIES. Facilities that provide treatment for substance abuse, serving care recipients who are incapable of self-preservation or who are harmful to themselves or others, as defined in the 2018 NH State Building Code.

DOG KENNEL. Keeping of dogs for commercial breeding and boarding.

DOG TRAINING FACILITY. A facility used for training of up to five (5) canines in a class at one time. Said facility may include training in obedience, search and rescue, or assistance to individuals with disabilities, but shall not include guard or attack animal training.

EDUCATION FACILITY/ A building or part thereof, which is designed, constructed or used for education or instruction in any branch of knowledge. The facility may be publicly or privately owned.

ELECTRIC VEHICLE CHARGING STATION. Means a battery charging station equipment that has, as its primary purpose, the transfer of electric energy (by conductive or inductive means) to a battery or other energy storage device in an electric vehicle.

ESSENTIAL SERVICES. The following facilities, provided they serve primarily the Town of Farmington or a neighborhood or Structure within the Town of Farmington: steam, fuel, gas, communications, transportation, electric power or water transmission or distribution lines and related equipment; telephone cables or lines, poles and related equipment; gas, oil, water, slurry or other similar pipelines; sewage lines, collection or supply systems; and associated storage tanks. Such systems may include poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police all boxes,

traffic signals, hydrants and similar accessories, but shall not include pumping stations or transmitter towers or buildings which are necessary for the furnishing of such services. Essential Services shall not be subject to the Space and Bulk Standards of this Ordinance.

FAA. An acronym meaning the Federal Aviation Administration.

FARM. Any land, buildings or structures on or in which agriculture and farming activities are carried out or conducted and shall include the residence or residences of owners, occupants or employees located on such land. Structures shall include all farm outbuildings used in the care of livestock and in the production and storage of fruit, vegetables or nursery stock; in the production of maple syrup; greenhouses for the production of annual or perennial plants; and any other structures used in agriculture/farming operations, as defined in **RSA 21:34-a, I**, as may be amended by the State of NH.

FARMERS MARKET. An event series or events at which two (2) or more vendors of agricultural commodities are invited to gather for purposes of offering for sale such commodities to the public as defined in **RSA 21:34-a, V**, as may be amended by the State of NH. Commodities offered for sale must include, but are not limited to, products of Agriculture, as defined above.

FCC. An acronym meaning Federal Communications Commission.

FORESTRY ACTIVITIES. Developing, caring for, or cultivating forests, timber harvesting, silviculture and customary management and supporting activities.

FRONTAGE. That portion of the property boundary shared with a street as defined in this Ordinance.

GARAGE, PRIVATE. An extension of an existing principal residential use designed to be utilized for the parking or storage of one or more motor vehicles, which is enclosed on three or more sides and covered with a solid roof.

GAZEBO/PAVILION. A small, freestanding, outdoor structure that has a rood but is open on all sides that provides shade, shelter, ornamental features in a landscape and a place to rest. They are often built in a park, garden or spacious public area.

GOLF COURSE. A tract of land laid out for at least nine (9) holes for playing the game of golf and improved with trees, greens, fairways and/or hazards. This shall not include miniature golf or other such Commercial Amusements.

GROUP HOME. A facility for social rehabilitation, substance abuse or mental health problems that contains a group housing arrangement that provides custodial care but does not provide medical care, as defined in the 2018 NH State Building Code.

GROSS FLOOR AREA. The sum of the physical areas of all floors of a building as measured to the exterior surfaces of the exterior walls, but not including cellars, attics, porches, decks, garages, balconies, open-side roofed-over areas or areas occupied by heating and ventilating equipment.

GROUND WATER RECHARGE AREA. That area from which water is added to the saturated zone by natural processes such as infiltration or precipitation or by artificial processes such as induced infiltration.

HABITABLE FLOOR AREA. The sum of heated areas used daily for living, eating, cooking, closets and sleeping, but excluding garages, unheated storage areas, utility spaces, etc. as measured to the exterior surfaces of the exterior wall.

HAZARDOUS IMPACT. A potential result of new construction or change of an existing site that: 1) creates an increase in traffic of 250 vehicle trips per day; 2) introduces a drive-through feature to the site, 3) has the potential of creating environmental contamination; 4) includes the storage of any hazardous chemicals on the site or other Hazardous or Toxic Materials and Waste as defined separately in Section 1.14; 5) creates a concern relating to noise, vibration, odor or fumes detectable at the lot lines; 6) involves the use of firearms, gunpowder or explosives; or 7) is deemed by the Director of Planning and Community Development to pose a health hazard to an area of the community, or Farmington as a whole.

(A) Hazardous or Toxic Materials and Waste. Waste material which may pose a present or potential hazard to human health or to the environment when improperly stored, transported or disposed of or otherwise managed including, without exception, hazardous waste identified and listed in accordance with Section 30001 of the Resource Conservation and Recovery Act of 1976. Examples of Hazardous Waste include, but are not limited to:

(1) Toxic (poisonous) wastes

(2) Flammable wastes (paint, varnishes, removers, solvents and oils)

(3) Corrosive wastes (acids)

(4) Leachable Wastes: waste materials, including solid wastes, sludge and agricultural wastes that are capable of releasing contaminants to the surrounding environment.

HEALTH/FITNESS CLUB. This industry comprises establishments primarily engaged in operating fitness and recreational sports facilities featuring exercise and other active physical fitness conditioning or recreational sports activities, such as swimming, skating or racquet sports.

HEALTH SERVICE FACILITY. An out-patient establishment furnishing medical services to humans, including the offices of physicians, dentists and other health practitioners, clinics, medical laboratories, outpatient surgery and blood banks.

HEAVY EQUIPMENT SALES AND SERVICE. Sale or rental of trucks, tractors, construction equipment over 10,000 lbs. Agricultural implements and similar heavy equipment accessories, includes incidental storage, maintenance and servicing of these items.

HEIGHT. When referring to a tower or other Structure, the distance measured from ground level to the highest point on the tower or other Structure or appurtenance, even if said highest point is an antenna or other appurtenance.

HOME BUSINESS. A business which is operated by residents of the premises with no more than three (3) additional employees, occupying a single-family detached dwelling or accessory structure, which business use is accessory to the residential use and which does not alter the residential character of the buildings, grounds or surrounding properties. (Refer to Section 5.02 for standards).

HOTEL/MOTEL. Any building containing six (6) or more guest rooms, intended or designed to be used, or which are used, rented or hired out to be occupied or which are occupied for sleeping purposes of guests.

HOSPITALS AND PSYCHIATRIC HOSPITALS. Facilities that provide care or treatment for the medical, psychiatric, obstetrical or surgical treatment of care recipients who are incapable of self-preservation, as defined in the 2018 NH State Building Code.

HOUSING, AGE-RESTRICTED (ELDERLY). Housing designed for and rented, leased or sold specifically to the elderly, specifically housing that qualifies as elderly housing under the Federal Fair Housing Act.

INCAPABLE OF SELF-PRESERVATION. Persons who, because of age, physical limitations, mental limitations, chemical dependency or medical treatment, cannot respond as an individual to an emergency situation, as defined in 2018 NH State Building Code.

INDOOR RECREATION. An establishment that provides facilities for aerobic and anerobic exercise, swimming, playing course, shooting ranges or similar indoor activities and facilities.

LAND USE BOARD. A land use board of the Town of Farmington, specifically, Planning Board, Zoning Board of Adjustments, Conservation Commission or Historic District Commission.

LAUNDRY SERVICES. This industry comprises establishments primarily engaged in one (1) operating facility with coin-operated or similar self-service laundry for customer use on the premises and/or (2) supplying and servicing coin-operated or similar self-service laundry for customer use in places of business operated by others, such as apartments and dormitories. All dry-cleaning shall provide drop off and pick-up services and does not include dry-cleaning plants that receive articles or goods of fabric to be subjected to a commercial process of laundering, dry cleaning, dry dyeing or cleaning.

LOCAL LEGISLATIVE BODY. Town Meeting Body.

LOT. A parcel of land delineated by boundary lines and deeded to the landowner and which may be restricted by conservation easements, rights of way or other encumbrances.

LOUNGES. An establishment where alcoholic drinks may be purchased for on-site consumption. This may include brewpubs, which brew beer and other such beverages for sale and consumption on-site only.

MANUFACTURED HOUSING. Any Structure, transportable in one or more sections, which, in the traveling mode, is eight 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. This definition does not include Pre-site Built Housing as defined in **RSA 6784:31-a**.

MANUFACTURING, MAJOR. The manufacturing, fabrication, processing and/or assembly of materials in a raw form. Uses in this category typically create greater than usual amounts of smoke, gas, odor, dust, sound or other objectionable influences that might be obnoxious to persons on an adjacent site. Uses include but are not limited to batch plants, rendering plants, aggregate processing facilities and plastics and rubber products manufacturing. Uses involving the manufacture, storage for wholesale distribution of creosote, disinfectants, insecticide, poisons, toxic glues and adhesives that contain hazardous solvents (i.e., toluene and naphtha's), lime gypsum or plaster of Paris, blast furnace, gasoline, petroleum, kerosene, paint, varnish or shellac are prohibited.

MANUFACTURING, MINOR. The manufacturing, fabrication, processing and/or assembly of materials or components to a finished or semi-finished product that does not create excessive

amounts of smoke, gas, dust, sound or other objectionable influences that might be obnoxious to persons on an adjacent site. Uses include, but are not limited to, furniture manufacturing and cabinet shops, laundry and dry-cleaning plants, metal products fabrication and food and beverage manufacturing, processing and assembly. Uses involving the manufacture, storage for wholesale distribution of creosote, disinfectant, insecticide, poisons, toxic glues and adhesives that contain hazardous solvents (i.e., toluene and naphtha's) lime, gypsum of plaster of Paris, blast furnace, gasoline, petroleum, kerosene, paint, varnish or shellac are prohibited.

MEDICAL CARE FACILITY. A structure, not exceeding 7,500 square feet in gross floor area that houses health services providers.

MIXED-USE. A building or structure containing a mix of (a) residential and non-residential uses, or (a) two or more complementary and integrated uses in a compact urban form, provided that such uses are individually allowed in the applicable Zoning District.

MOTOR VEHICLE REPAIR, SERVICES AND SALES FACILITY. This industry comprises establishments primarily engaged in the distribution of new and used passenger automobiles, trucks, trailers and other motor vehicles, such as motorcycles, motor homes, off-highway recreational vehicles (OHRV), snowmobiles and watercrafts. Operations may also provide services to motor vehicles involving bodywork, painting, engine rebuilding and minor structural repairs for motor vehicles.

NON-CONFORMING LOT. A Lot that does not comply with the dimensional requirements of this Ordinance.

NON-CONFORMING, MORE. Any increase in degree or extension of that characteristics of a nonconforming Lot, Structure or use that causes the nonconformity or any increase in that nonconformity.

NON-CONFORMING STRUCTURE. A Structure, which does not comply with the requirements of this Ordinance.

NON-CONFORMING USE. A use that is not permitted in the base zoning district or Overlay District in which it is located.

NON-RESIDENTIAL. Includes land use of a commercial and industrial nature as well as commercial residential uses, exempting however, the construction of single family and multi-family units of no more than two (2) dwelling units to a parcel of land.

NURSING HOMES. Facilities that provide care, including both intermediate care facilities and skilled nursing facilities, where any of the persons are incapable of self-preservation, as defined in the 2018 State of NH Building Code.

OFFICE. A room or group o rooms used for conducting the affairs of a business, profession, service, industry or government and generally furnished with desks, tables, files, computers and communications equipment. This may include areas for customers to be served, such as the lobby at a bank.

OUTDOOR RECREATION (LOW IMPACT). Low intensity activities in nature that do not require major structures or motorized vehicles including but not limited to hunting, hiking, fishing, swimming, canoe/kayaking, biking and skiing. Low impact outdoor recreation will only be regulated when the proposed land use activity is the principle use and shall not apply to pedestrian uses such as those listed above, that utilize trail systems to cross or connect to and from other areas.

OUTDOOR RECREATION (HIGH IMPACT). High intensity activities that require motorized vehicles including but not limited to all-terrain vehicles, snowmobiles, boating (only those that require a temporary boating license) and motocross bikes. High impact outdoor recreation will only be regulated when the proposed land use activity is the principal use and shall not apply to the use of motorized vehicles on private property that utilize trail systems to cross or connect to and from other areas.

OUTDOOR RECREATIONAL FACILITY. A facility that is the primary use of a property and is designed for outdoor recreational activities, but specifically excluding racetracks for motorized vehicles. Examples of outdoor recreational facilities include, but are not limited to, playing fields, tennis courts, running tracks, playgrounds and swimming pools.

OUT-OF-HOME ADULT DAY CARE. A use similar to Child Day Care but provided for adults in need of assistance. The care and supervision of an adult (any person 18 years of age or older) in need of assistance while away from that person's home and apart from the person's care givers.

OVERLAY DISTRICT. A land use district whose boundaries are related to a physical feature, such as a type of natural resource. Provisions of Overlay Districts are applied in addition to those of the underlying zone. Examples of Overlay Districts include the Aquifer Protection Overlay, the Wetlands Conservation Overlay and the Waterfront Protection Overlay.

PLACE OF ASSEMBLY. A facility, which accommodates a gathering of people who are jointly engaged in a singular activity. This shall include, but not limited to, a church, meeting hall, gymnasium, sports stadium and auditorium. The facility may be publicly or privately owned.

POLLUTION. Harmful thermal effect or the contamination, or rendering unclean or impure of any Wetland of the Town of Farmington, by reason of waste or other materials discharged or deposited therein. This includes, but is not limited to, erosion resulting from any filling or excavation activity.

PRE-SITE BUILT HOUSING. Any Structure designed primarily for residential occupancy which is wholly or in substantial part made, fabricated, formed or assembled in off-site Manufacturing facilities in conformance with the United States Department of Housing and Urban Development minimum property standards and local building codes, for installation, or assembly and installation, on the building site. For the purposes of this subdivision, Pre-site Built Housing shall not include Manufactured Housing, as defined herein and in **RSA 674:31**.

PRINCIPAL STRUCTURE. A structure intended for the principal use of the lot. This shall not apply to silos, stables or other similar agriculture or industrial structures when such use is not the primary use of the lot and is clearly accessory and incidental to the principal use.

PRINCIPAL USE. The main or primary purposes for which a structure(s) or lot is designed, arranged or intended or for which it may be used, occupied or maintained under this Ordinance consistent with Section 2.00 of this Ordinance, Table of Principal Uses. This shall not apply to silos, stables or other similar agricultural or industrial structures when such use is not the primary use of the lot and is clearly accessory and incidental to the principal use.

PUBLIC UTILITY. A private organization subject to governmental regulation that provides an essential service or commodity, such as water, electricity, transportation or communication to the public, and which are intended to serve primarily populations outside the Town of Farmington. This term also includes buildings and pumping stations, which are necessary for the furnishing of essential services as defined by this Ordinance, whether local or greater in scope.

RESEARCH AND DEVELOPMENT. An establishment or other facility for carrying on investigation in the natural, physical or social sciences, which may include engineering or product development.

RESIDENCE, DUPLEX. A single Structure containing two Residential Units, neither of which is an Accessory Dwelling Unit.

RESIDENCE, MULTI-FAMILY. A single Structure containing three (3) or more Residential Units, none of which is an Accessory Dwelling Unit.

RESIDENCE, SINGLE-FAMILY. A detached Structure containing one Residential Unit, including Manufactured Housing, with or without permitted Accessory Dwelling Unit.

RESIDENTIAL HOME-CARE FACILITY. Group residence occupied by people in need of assistance in their daily lives. Such facilities are designed and operated to house people with similar or common needs, such as a facility for frail elderly people, or people recovering from head injuries. Professional supervision and some services such as health monitoring, recreational activities and transportation may be an integral component of the use.

RESIDENTIAL UNIT. One or more rooms, designed, occupied or intended for occupancy as a separate living quarter, with cooking, sleeping and sanitary facilities provided within the dwelling unit for the exclusive use of a single household or family.

RESTAURANT An establishment where food and drink are prepared, served and either consumed on site or taken out to consume elsewhere.

RETAIL. Establishments engaged in the sale of goods or merchandise to the general public for personal or household consumption, which may render services incidental to the sale of such goods or merchandise. This shall not include yard sales and other such activities that are incidental to a residential use, unless such incidental activities exceed seven days per year.

RETAIL, SMALL-SCALE. An establishment engaged in Retail not exceeding two thousand five hundred (2,500) square feet of net floor area used for the display of goods and merchandise and for which off-street parking space requirements are fewer than twenty spaces. This shall not include yard sales and other such activities that are incidental to residential use, unless such incidental activities exceed seven days per year.

SELF-SERVICE STORAGE FACILITY. A Structure containing storage spaces of varying sizes leased or rented on individual leases for varying periods of time and specifically for self-storage only, excluding the storage of hazardous or flammable chemicals and explosives.

SERVICE (OR SERVICE USE). A commercial use, which primarily provides services to people or businesses. There may be incidental Retail or Office activity, but the primary commercial activity is service. Examples include, but are not limited to, beauty salons and barbershops.

SETBACK. The horizontal distance between a Structure and the Lot boundaries, measured at right angles or radial to the Lot boundary.

SHOP FRONT. A façade or entryway located on the ground floor or street level of a commercial building, typically one or more display windows. A shop front functions to attract visual attention to a business and its merchandise or services.

SIGN. Any display of lettering, logos, colors, lights or illumination visible from the property lines, which either conveys a message to the public, or intends to advertise, direct, invite, announce or draw attention to, directly or indirectly, a used conducted, goods, products, services or facilities available, either on the Lot or on any other premises. For purposes of this Ordinance, “sign” shall exclude: merchandise display, federal, state, county or municipal property of any sort, necessary highway traffic control or parking control devices on public or private rights-of-way and municipally assigned Structure numbers.

SIGN, DIRECTORY. Signage listing names and locations for multiple business tenants in a building or the companies in an industrial or office park.

SIGN, ELECTRONIC. Signage that contains moving or lighted elements wired for electricity.

SIGN, EXTERNAL ILLUMINATED. Sign that is lit by an external light source that is apart from and directed at sign face, such as with a spot light (not lit from with-in). This is also called direct illumination.

SIGN, FREESTANDING. A self-supporting Sign not attached to any building, wall or fence, but in a fixed location. This does not include movable Signs.

SIGN HEIGHT. The measure from undisturbed ground directly under the Sign to the top of the message area.

SIGN, INTERNAL ILLUMINATED. Sign that is lit by a light source that is contained inside the sign.

SIGN, LIGHTED. Sign that is lit through internal or external illumination.

SIGN, OFF-SITE. A Sign with a message relating to a non-residential activity not conducted on the Lot on which the Sign is located.

SIGN, PROJECTING. A Sign which is affixed to the wall of a building and which extends more than 12 inches beyond the surface to which it is affixed.

SIGN, TEMPORARY. Temporary signs are all signs not permanently affixed to the ground, to a structure or to another sign.

SIGN, WALL. A Sign affixed to the wall of a building or to an awning, provided the Sign does not extend more than 12 inches beyond the surface to which it is attached.

SITE PREPARATION CONTRACTORS. This industry comprises establishments primarily engaged in site preparation activities, such as excavating and grading, demolition of buildings and other structures and septic system installation. Earthmoving and land clearing for all types of sites (e.g., building, nonbuilding, mining) is included in this industry and includes the incidental processing of materials. Establishments primarily engaged in construction equipment rental with operator are also included.

SMALL EQUIPMENT REPAIR. Means the use of land, buildings or structures for the servicing and repair of outdoor household machinery less than 10,000lbs and includes incidental sales. This definition shall not include the servicing or repair of any motor vehicle, including motorcycles, all-terrain vehicles and the like.

SPECIAL EXCEPTION. A special exception is a use permitted upon certain conditions as set forth in the Ordinance.

SPECIALIZED CONTRACTORS. This is an industry that comprises establishments primarily engaged in specialized trades.

SPECIAL USE PERMIT. A permit for a use not otherwise permitted which may be granted by the Planning Board (as authorized by **RSA 674:21, II**) and by this Ordinance provided it meets the criteria set forth in the applicable sections.

STEEP SLOPES. For the purpose of calculating buildable area, steep slopes are those in excess of 25%.

STORAGE SHED. A small building used for the storage of garden equipment, toys, sports gear and other miscellaneous yard tools. The structure shall be 120 square feet or less in floor area and not situated on a permanent foundation.

SHOP FRONT. “Shop Front” is a façade or entryway located on the ground floor or street level of a commercial building, typically including one or more display windows. A shop front functions to attract visual attention to a business and its merchandise or services.

STREET. The following meet the definition of a Street:

- (A) A Class I or II highway established by the State of New Hampshire
- (B) A Class V highway maintained by the Town of Farmington
- (C) A way shown on a plan of a subdivision duly approved by the Planning Board
- (D) A private way approved by the Planning Board in accordance with the provisions of Section 3.10

STREET FRONTAGE. The horizontal distance between side lot lines measured along the street line. When a Lot is bound by more than one street, only one shall be deemed the frontage street and that street frontage must provide sufficient frontage as required by the Zoning Ordinance.

STRUCTURE. Anything constructed or erected, on or in the ground, or an attachment to something having a fixed location on the ground, including: permanent or temporary buildings, carports, porches and other building features including stacks and antennas. This definition shall not include sidewalks, fences, driveways, septic systems, utility poles or lines, boundary markers, flagpoles or retaining walls.

STRUCTURE HEIGHT. The vertical distance from the lowest point of finish grade at the base of the Structure to the highest point of the Structure, but excluding chimneys, lightning rods and other such appurtenances.

STUDIO. The workshop of an artist, sculptor, photographer or craftsman. Dwelling Units may be considered Studios under this definition only when they contain a single bedroom and when 50% or more of the Unit is actively used as a workshop of an artist, sculptor, photographer or craftsperson.

TIMBER HARVESTING. The cutting and removal of trees from their growing site and the attendant operation of mobile or portable chipping mills and of cutting and skidding machinery, including the creation and use of skid trails, skid roads and haul roads.

UNIFORM SETBACK RELATIONSHIP. The condition in which the two (2) Lots on either side of the subject Lot front on the same Street and where the front Setback of each of the four Lots does not vary from the average of all four (4) front Setbacks by more than five (5) feet.

UPLAND. Land not containing any Wetland areas.

VACANT LOT. Any parcel of land that currently has no buildings or structures on it.

VEHICLE REFUELING/RECHARGING STATION. An establishment, the principal use of which is to provide the sale of gasoline fuel (including, but not limited to, gasoline, diesel, natural gas, electricity or hydrogen) and oil to individual vehicles and retail sale of products required for motor vehicle maintenance such as oil, transmission fluid, brake fluid, polish, wax, fuel additives and treatments, wipers, tires, batteries, windshield wiper fluid, cleaning fluids and similar items. The retail sale of propane and kerosene and over-the-counter retail consumer merchandise is also allowed.

WAREHOUSE. A Structure or space used primarily for the storage of goods and materials.

WATER BODIES. Any surface water body naturally occurring or man-made that is over five (5) acres in size or streams that flow twelve (12) months in the average year.

WETLANDS. An area, which possesses three essential characteristics:

- (1) **Hydrophytic vegetation** – macro phytic plant life growing in water, soil or a substrate that is at least periodically deficient in oxygen as a result of excessive water content
- (2) **Hydric soils** – soils saturated, flooded or ponded long enough during the growing season to develop anaerobic conditions in the upper part of the soil strata
- (3) **Wetland hydrology** – permanent or periodic inundation or soil saturation to the surface, at least seasonally during an average rainfall year and are further defined by the Wetlands Research Program Technical Report Y-87-1 dated January of 1987 and prepared by the Army Corps of Engineers

WETLAND SCIENTIST. An individual duly certified to identify, classify and delineate Wetlands.

WIND GENERATORS. Any device such as wind charger, windmill or wind turbine, which converts wind energy to a form of usable energy.

WHOLESALE. Selling merchandise to: Retailers, to industrial, commercial, institutional or professional business users or to other wholesalers.

YOUTH RECREATION CAMP. A camp in operation for at least ten (10) days per license year for the purpose of providing recreational opportunities, or a combination of recreation and instruction, to ten (10) or more youth per day, at a place which is continuously or periodically used for such purposes and includes residence camps and seasonal and year-round day camps, as defined in Env-Wq 902.21, as may be amended in the NH Code of Administrative Rules.

END OF SECTION 1.00 – ADMINISTRATIVE REQUIREMENTS

SECTION 2.00 BASE ZONING DISTRICTS

(A) ZONING DISTRICTS. For the purposes of regulating the use of land and the location and construction of buildings and in accordance with **RSA 674:20**, the Town of Farmington shall be divided into the following districts:

Table 2.00(A) – Zoning Districts					
Zoning Name	Zone Code	Section Number	Zone Name	Zone Code	Section Number
Agricultural Residential District	(AR)	2.01	Village Center District	(VC)	2.05
Suburban Residential District	(SR)	2.02	Commercial Business District	(CB)	2.07
Rural Residential District	(RR)	2.03	Industrial Business District	(IB)	2.08
Urban Residential District	(UR)	2.04			

(B) PERMITTED LAND USE TABLE CODES. The following codes shall be assigned to the land uses in Table 2.00 (C), delineated in the Farmington Permitted Land Use Table to indicate the degree to which the use is permitted in the base zoning districts:

Table 2.00(B) – Permitted Land Use Table Codes			
Permitted Land Use Table Code	Meaning of Code	Code Description	Other References
“P”	Permitted Uses	Uses allowed by this Ordinance	<ul style="list-style-type: none"> Chapter 3.00 Site Plan Review Regulations
“SE”	Permitted by Special Exception	Use that requires special exception by the Zoning Board of Adjustment	<ul style="list-style-type: none"> Chapter 4.00, Special Exception Zone specific or Overlay-specific Standards Site Plan Review Regulations RSA 674:33
“-”	Prohibited	The use is not permitted in the zone without a variance from the Zoning Board of Adjustment	<ul style="list-style-type: none"> Section 2.00 Prohibited Uses RSA 674:33
			<ul style="list-style-type: none">

(C) PROHIBITED USES. Any use not listed in the Permitted Land Use Table as a permitted use or a use permitted by Special Exception shall be prohibited.

(D) SPECIAL EXCEPTION GENERAL STANDARDS. The ZBA shall only grant requests for Special Exceptions that are in harmony with the general purpose and intent of this Ordinance AND which meet the general standards set forth below:

(1) Special Exceptions shall meet all the following standards:

- (a)** The proposed use is consistent with the character of the Permitted uses allowed within the district
- (b)** No hazard shall be created to the public or adjacent property on account of potential fire explosion or release of toxic materials
- (c)** No detriment to property values shall be created in the vicinity or change in the essential characteristics of any area including residential neighborhoods or business and industrial districts on account of the location or scale of buildings and other Structures, parking areas, access ways, odor, smoke, gas, dust or other pollutant, noise, glare, heat, vibration or unsightly outdoor storage of equipment or other materials
- (d)** No traffic hazard or substantial increase in the level of traffic congestion shall be created
- (e)** No excessive demand on municipal services, including but not limited to, water, sewer, waste disposal, police and fire protection and schools
- (f)** No significant increase of storm water runoff onto adjacent property or Streets shall be created
- (2)** Special Exceptions may be subject to appropriate conditions, including but not limited to:
 - (a)** Front, side, rear yards in excess of minimum requirements of this Ordinance
 - (b)** Screening of the premises from the Street or adjacent property
 - (c)** Landscaping as contained in Appendix 1
 - (d)** Modifications of exterior features, buildings or other Structures
 - (e)** Limitations on the size of buildings and other Structures more stringent than the minimum or maximum requirements of this Ordinance
 - (f)** Limitation on the number of occupants and methods and times of operation
 - (g)** Grading of the premises for proper drainage
 - (h)** Regulation of design of access drives, sidewalks, crosswalks and other traffic features
 - (i)** Off-street parking and loading spaces in excess of the minimum requirements of this Ordinance
 - (j)** Regulation of the number, size, lighting of Signs more stringent than the requirements of this Ordinance
 - (k)** Other Performance Standards as may apply at the discretion of the ZBA

(3) Before approval by the ZBA of any Special Exception, a public hearing shall be held after public notice as required by town policy. All abutters shall be notified by the ZBA by certified mail at least five (5) days prior to any public hearing regarding said site. The names and addresses of the abutters shall be supplied by the applicant on a plot plan to be submitted to the ZBA.

(4) In the event that the ZBA grants a Special Exception subject to conditions, the Planning Board shall not waive or modify such condition(s) without concurrence, by vote, of the ZBA.

(5) The ZBA's decision on the Special Exception is subject to a motion for rehearing and then appeal to the Superior Court.

(E) PRINCIPAL USES. More than one principal use is allowed by Special Exception on lots in Agriculture, Suburban, Rural and Urban Residential Districts, provided that the use is allowed in the Table of Permitted Uses. More than one principal use is allowed by right in the Village Center, Commercial Business and Industrial Business Districts, provided that the use is allowed in the Table of Permitted Uses. Additional accessory uses, which shall be complimentary to the principal use, are allowed in all zoning districts. Each lot requires a principal use in order to have an accessory use.

TABLE 2.00 (C) TABLE OF PERMITTED USES

I. Agricultural	AR	SR	RR	UR	VC	CB	IB
A. Principal Uses							
Aquaculture	P	P	P	-	-	P	P
Agritourism	P	P	P	-	-	-	-
Barns	P	P	P	P	P	P	P
Commercial Agriculture, including Animal Husbandry	P	-	P	-	-	P	P
Commercial processing of wood, including cutting, sawing, splitting, and chipping	P	-	-	-	-	-	P
Forest management	P	P	P	P	P	P	P
Logging impacting more than 50% basal area within a ten-year period	P	P	P	P	P	P	P
Logging not impacted more than 50% of basal area within a ten-year period	P	P	P	P	P	P	P
Non-commercial keeping of animals	P	P	P	P	P	P	P
Non-commercial mineral extraction	P	P	P	P	P	P	P
Sale of agricultural products raised on the premises	P	P	P	P	P	P	P
Timber harvesting	P	P	P	P	P	P	P
Agricultural uses not specified	SE	SE	SE	-	-	SE	SE
II. Residential	AR	SR	RR	UR	VC	CB	IB
A. Principal Uses							

¹ Barns	P/SE	SE	SE	SE	-	-	-
² Garage	P/SE	SE	SE	SE	-	-	-
³ Gazebo/Pavilion	P/SE	SE	SE	SE	-	-	-
Single family detached dwellings	P	P	P	P	P	-	-
Two family dwellings	P	P	P	P	P	-	-
Multi-family dwellings	-	P	-	P	P	-	-
Mixed-use	SE	SE	SE	P	P	P	P
Manufactured housing parks – with access from a class V or better	-	-	-	-	-	-	-
Manufactured housing not located within a manufactured housing park	P	P	P	P	-	-	-
Expansions of existing manufactured housing parks	-	-	-	-	-	-	-
Congregate Living facilities	P	P	P	P	P	P	P
Residential uses not specified	-	-	-	SE	SE	-	-
⁴ Storage sheds	P/SE	SE	SE	SE	-	-	-
B. Uses Accessory to Any Principal Residential Uses	AR	SR	RR	UR	VC	CB	IB
Home Businesses	P	P	P	P	P	P	P
Home Occupations	P	P	P	P	P	P	P
C. Uses Accessory to Single Family Residential Uses	AR	SR	RR	UR	VC	CB	IB
Accessory Apartments	P	P	P	P	P	P	P
Child day care, Family	P	P	P	P	P	P	P
Child day care, Family Group	P	P	P	P	P	P	P
Renting of rooms and furnishing of board	P	P	P	P	P	P	P
III. Institutional	AR	SR	RR	UR	VC	CB	IB
A. Principal Uses							
Adult day care – out of home	SE	P	P	P	P	P	P
Cemeteries	P	P	P	P	P	SE	SE
Churches, including accessory residential uses	SE	SE	SE	SE	SE	SE	SE
Clubs and lodges	SE	SE	SE	SE	SE	PR	P
Daycare centers or nursery school with 12 or more children	SE	SE	SE	SE	P	P	P
Daycare centers or nursery school with less than 12 children	-	P	P	P	P	P	P
Detoxification Facilities	SE	-	SE	-	-	SE	SE
Group Home	SE	-	SE	-	-	SE	SE
Health Service Facility	-	SE	-	P	P	P	P
Hospitals and Psychiatric Hospitals	-	-	-	SE	SE	P	P
Libraries	-	-	-	SE	P	P	-

¹ A barn not intended for agricultural or industrial purposes, and located on a lot that is adjacent or abutting to a lot under the same ownership which has a principal use is allowed by right in the AR district. A barn not intended for agricultural or industrial purposes, and not located on a lot that is adjacent or abutting to a lot under the same ownership which has a principal use is allowed by special exception in the AR district. Either use is not subject to site plan review.

² A garage not intended for agricultural or industrial purposes, and located on a lot that is adjacent or abutting to a lot under the same ownership which has a principal use is allowed by right in the AR district. A garage not intended for agricultural or industrial purposes, and not located on a lot that is adjacent or abutting to a lot under the same ownership which has a principal use is allowed by special exception in the AR district. Either use is not subject to site plan review.

³ A gazebo/pavilion located on a lot that is adjacent or abutting to a lot under the same ownership which has a principal use is allowed by right in the AR district. A gazebo/pavilion not located on a lot that is adjacent or abutting to a lot under the same ownership which has a principal use is allowed by special exception in the AR district. Either use is not subject to site plan review.

⁴ A storage shed located on a lot that is adjacent or abutting to a lot under the same ownership which has a principal use is allowed by right in the AR district. A storage shed not located on a lot that is adjacent or abutting to a lot under the same ownership which has a principal use is allowed by special exception in the AR district. Either use is not subject to site plan review.

Museums	P	P	P	P	P	P	SE
Nursing Home	P	P	P	P	P	P	P
Schools and colleges	-	SE	SE	SE	P	P	P
Court Ordered Housing	SE	-	SE	-	-	SE	SE
Institutional uses not specified	-	-	-	SE	SE	SE	SE
IV. Recreational	AR	SR	RR	UR	VC	CB	IB
A. Principal Uses							
Amusement arcade	-	-	-	-	P	P	SE
Amusement park	-	-	-	-	-	P	SE
Campground	P	P	P	-	-	-	-
Golf course	P	P	P	-	-	SE	SE
Indoor recreation	SE	SE	SE	SE	P	P	P
Movie theaters; drive-ins	SE	-	-	-	P	P	P
Outdoor recreation (low impact)	P	P	P	P	SE	P	P
Outdoor recreation (high impact)	SE	-	SE	-	-	SE	SE
Parks and outdoor recreation	P	P	P	P	SE	P	P
Youth recreation camp	P	SE	P	SE	-	-	-
Recreational uses not specified	SE	SE	SE	-	SE	-	-
IV. Utility Uses	AR	SR	RR	UR	VC	CB	IB
A. Principal Uses							
Essential services	P	P	P	P	P	P	P
Public utilities facilities	SE	SE	SE	SE	SE	P	P
Public utilities, not including facilities	P	P	P	P	P	P	P
Telecommunications Tower	P	P	P	P	P	P	P
Wind generators	P	SE	SE	SE	SE	SE	SE
Utility uses not specified	SE	SE	SE	SE	SE	SE	SE
TABLE 2.00 (C) TABLE OF PERMITTED USES							
VI. Commercial & Industrial	AR	SR	RR	UR	VC	CB	IB
A. Principal Uses – Commercial & Industrial							
Barber Shop/Beauty Salon	-	-	-	P	P	P	P
Bed and Breakfast	P	SE	SE	SE	P	P	P
Car Wash	-	-	-	SE	SE	P	P
Contractors (Specialized)	SE	SE	SE	SE	SE	P	P
Dog Kennel	SE	-	SE	-	-	SE	SE
Financial Institutions	-	-	-	P	P	P	P
Funeral Homes	-	-	-	P	P	P	P
Grocery Store	-	-	-	P	P	P	P
Health/Fitness Club	-	-	-	P	P	P	P
Health Service Facilities	SE	SE	SE	P	P	P	P
Heavy Equipment Sales and Service	-	-	-	-	-	P	P
Hotels and Motels	-	-	-	-	P	P	P
Laboratories	-	-	-	-	P	P	P
Laundry Services	-	-	-	P	P	P	P
Manufacturing, major	-	-	-	-		P	P
Manufacturing, minor					SE	P	P
Lounges/nightclubs/bars	-	-	-	SE	P	P	P

Lumber yards, including the milling and distribution of wood products and the Wholesale and Retail sales of building materials	-	-	-	-	-	P	P
Mineral Exploration and Extraction	P	P	P	P	-	P	P
Motor Vehicle Junkyard	-	-	-	-	-	-	-
Motor Vehicle Repair, Services, and Sales Facility	-	-	-	-	-	P	P
Professional/Business Office	-	SE	-	P	P	P	P
Repair Service not involving motor vehicles	-	-	-	P	P	P	P
Research and Development Facility	-	-	-	-	P	P	P
Restaurant	-	-	-	SE	P	P	P
Retail stores: < 7,500 SF	-	-	-	P	P	P	P
Retail stores: > 7,500 SF	-	-	-	-	P	P	P
Self-service storage facility warehouse	-	-	-	-	-	P	P
Site Preparation Contractors	SE	SE	SE	SE	-	P	P
Small equipment repair	SE	-	-	SE	SE	P	P
Small-scale retail store: < 2,500	P	P	P	P	P	P	P
Trucking and distribution facilities	-	-	-	-	-	P	P
Vehicle Refueling/Recharging Station					SE	P	P
Veterinary clinic/grooming	P	P	P	P	P	P	P
Warehousing	-	-	-	-	-	P	P
Wholesale sales	-	-	-	-	-	P	P
Commercial uses not specified	SE	SE	SE	SE	SE	SE	SE
B. Accessory Uses – Commercial and Industrial	AR	SR	RR	UR	VC	CB	IB
Drive-through services in conjunction with an allowed principal use	-	-	-	-	SE	P	P
Outside storage of materials, equipment & products in conjunction with an allowed principal use	P	P	P	SE	-	P	P
Retail sales of items manufactured on the premises	P	P	P	P	P	P	P
C. Accessory Uses	AR	SR	RR	UR	VC	CB	IB
Accessory buildings and structures	P	P	P	P	P	P	P
Electric Vehicle Charging Stations	P	P	P	P	P	P	P
Off-street parking accessory to a permitted use	P	P	P	P	P	P	P
Signs	P	P	P	P	P	P	P

2.01 AGRICULTURAL RESIDENTIAL (AR)

(A) Purpose. The purpose of the Agricultural Residential District is to provide areas in the Town of Farmington that foster a “working rural” environment and preserve the potential for farming and farmland soils. Other permitted uses shall not impede, restrict, prohibit or render impractical the practice of permitted agricultural activities.

(B) Standards. All buildings and Structures shall be erected, structurally altered, enlarged or moved and all land within the Agricultural Residential District (AR) shall be used in accordance with Table 2.01 (B):

Table 2.01(B) – Space and Bulk Standards – Agricultural Residential District	
Maximum Density	1 dwelling unit per 3 acres & 1 accessory dwelling unit
Minimum Lot Size	3 acres
Minimum Street Frontage	250 feet
Minimum Front Setback	50 feet
Minimum Side and Rear Setback	
Principal Residential Buildings	15 feet
Accessory Buildings or Structures	15 feet
Non-residential buildings or Structures, including Agricultural buildings	One (1) foot for each foot of height, but not less than 15 feet
Maximum Height	
Residential Buildings	35 feet
Non-Residential Buildings	55 feet

(C) A lot upon which residential development is to occur that does not have access to municipal water or wastewater must contain a minimum of 40,000 square feet of contiguous buildable area. The residential development structure(s), including its sewerage disposal, leach field and water supply, must be located within this contiguous 40,000 square foot area to the maximum extent possible.

2.02 SUBURBAN RESIDENTIAL DISTRICT (SR)

(A) Purpose. The purpose of the Suburban Residential District is to provide areas in the Town of Farmington for high quality, residential development containing medium overall density in areas where public water and sewer may be extended in a compact and cost-effective manner.

(B) Standards. All buildings and Structures shall be erected, structurally altered, enlarged or moved and all land within the Suburban Residential District (SR) shall be used in accordance with Table 2.02 (B):

Table 2.02(B) – Space and Bulk Standards – Suburban Residential District	
Maximum Density	
Single Family	1 dwelling unit per acre (43,560 SF)
Duplex	1 dwelling unit per ½ acre (21,782 SF)
Multi-Family	1 dwelling unit per 1/3 acre (14,520 SF)
Minimum Lot Size	1 acre (43,560 SF)
Minimum Street Frontage	150 feet
Minimum Front Set Back	25 feet
Minimum Side and Rear Setback	
Principal Buildings	15 feet
Accessory Buildings or Structures	15 feet
Maximum Height	
Residential Buildings	35 feet
Non-Residential Buildings or Structures	55 feet

(C) Density Bonuses. Where town water and/or sewer utilities are available, the minimum acreage requirements for density for all housing types, except single-family residential, may be reduced by 25% for each utility.

(D) A Lot upon which residential development is to occur that does not have access to municipal water or wastewater must contain a minimum of 30,000 square feet of contiguous buildable area. The residential development structure(s), including its sewerage disposal, leach field and water supply, must be located within this contiguous 30,000 square foot area to the maximum extent possible.

2.03 RURAL RESIDENTIAL DISTRICT (RR)

(A) Purpose. The purpose of the Rural Residential District is to provide areas in the Town of Farmington for high quality, open space, residential development containing low to medium overall density

(B) Standards. All buildings and Structures shall be erected, structurally altered, enlarged or moved and all land within the Rural Residential District (RR) shall be used in accordance with Table 2.03 (B):

Table 2.03(B) – Space and Bulk Standards – Rural Residential District	
Maximum New Residential Density	1 dwelling unit per acre (43,560 SF) & 1 accessory dwelling unit
Minimum Lot Size	1 acre (43,560 SF)
Minimum Street Frontage	150 feet
Minimum Front Setback	25 feet
Minimum Side and Rear Setback	
Principal Buildings	15 feet
Accessory Buildings or Structures	15 feet
Maximum Height	
Residential buildings	35 feet
Non-residential buildings and structures	55 feet

(C) Density Bonuses. Where town water and/or sewer utilities are available, the minimum acreage requirements for density for all housing types, except single-family residential, may be reduced by 25% for each utility.

(D) A lot upon which residential development is to occur that does not have access to municipal water or wastewater, must contain a minimum of 30,000 square feet of contiguous buildable

area. The residential development structure(s), including its sewage disposal, leach field and water supply, must be located within this contiguous 30,000 square foot area to the maximum extent possible.

2.04 URBAN RESIDENTIAL DISTRICT (UR)

(A) Purpose. The purpose of the Urban Residential District is to provide the protection of existing mixed and Multi-Family Residential neighborhoods immediately surrounding the downtown area, while allowing compatible infilling and innovative new development that creates and preserves open space.

(B) Standards. All buildings and Structures shall be erected, structurally altered, enlarge or moved and all land within the Urban Residential District (UR) shall be used in accordance with Table 2.04 (B):

Table 2.04(B) – Space and Bulk Standards – Urban Residential District	
Maximum Density	
Single Family	1 dwelling unit per 30,000 SF
Duplex	1 dwelling unit per 15,000 SF
Multi-Family	1 dwelling unit per 10,000 SF
Mixed Use	1 dwelling unit per 5,000 SF
*Minimum Lot Size	30,000 SF
Minimum Street Frontage	75 feet
Minimum Front Setback ¹	25 feet
Minimum Side and Rear Setback	
Principal Buildings	15 feet
Accessory Buildings or Structures	25 feet
Maximum Height	
Residential Buildings	55 feet
Non-Residential Buildings and Structures	55 feet
*Lots shall remain in compliance with New Hampshire Code of Administrative Rules, Chapter Env-Wq 1000 regarding minimum lot size requirements based on soil type for sewage loading from State Subdivision approval.	

(C) Density Bonuses. Where town water and/or sewer utilities are available, the minimum acreage requirements for density for all housing types, except single family residential, may be reduced by 25% for each utility.

¹ In the case where existing buildings have a uniform Setback relationship to the Street, any new building or alteration of an existing building shall maintain the existing relationship. Where a uniform Setback relationship does not exist, or where abutting lots are not developed, the minimum front setback shall be 25 feet.

2.05 VILLAGE CENTER DISTRICT (VC)

(A) The purpose of the Village Center District shall be to promote new development, reuse, infill and redevelopment within Farmington's town center in a manner that enhances and preserves the unique character of the core area. The Village Center functions as an urban and social center for residents, businesses and visitors to the Town. Furthermore, the purpose of the Village Center District is to:

- (1)** Accommodate sustainable growth in Farmington by encouraging new development on vacant and underutilized properties in the town center that have existing infrastructure, utilities and public facilities (i.e., "infill") while addressing the needs and desires of the local community
- (2)** Encourage efficient use of land and public services in the context of the existing community neighborhood
- (3)** Stimulate economic investment and development in the Town of Farmington
- (4)** Provide developers and property owners reasonable flexibility in order to achieve high quality design and develop infill projects that strengthen the health and well-being of the Town
- (5)** Create a high-quality town center that consists of a balanced compact mix of residential, commercial, institutional, recreational and open space land uses and building types
- (6)** Implement the goals, objectives and policies of the Farmington Master Plan

(B) Standards. All buildings and Structures shall be erected, structurally altered, enlarged or moved and all land within the Village Center District shall be used in accordance with Table 2.05 (B).

Table 2.05(B) – Space and Bulk Standards – Village Center District	
Maximum Density	
Single Family	1 dwelling unit per 8,000 SF
Duplex	1 dwelling unit per 4,000 SF
Multi-Family	1 dwelling unit per 2,500 SF
Mixed Use	1 dwelling unit per 850 SF of gross floor area of available residential space
Minimum Lot Size	0.20 Acre (8,000 SF)
Minimum Street Frontage	50 feet
Minimum Front Setback	Where the existing buildings have a uniform setback relationship to the street (see definitions), any new building or alteration of an existing building shall maintain the existing relationship.
Principal Buildings	

Accessory Buildings	Any accessory building shall not be located closer to the front lot line than the principal buildings.
Minimum Side and Rear Setback (Principal and Accessory Buildings)	None except where residential buffer applies
Maximum Height	
Residential Buildings	55 feet
Non-Residential Buildings	55 feet
Minimum Unit Size	500 SF

(C) Special Considerations.

- (1) In recognizing the space constraints within the densely developed Village Center District, flexible and innovative parking solutions meeting the criteria set forth in the Section 3.08 shall be considered for uses located within the Village Center District.
- (2) Lots that rely on Main Street, Central Street or Spring Street to satisfy their street frontage requirement, have the following restrictions:
 - a. Residential uses are prohibited unless they are considered mixed use and located above commercial or non-residential uses on the first floor.
 - b. Any existing commercial or non-residential uses on the first floor cannot be converted to include residential on the first floor.

2.06 RESERVED

2.07 COMMERCIAL BUSINESS DISTRICT (CB)

(A) Purpose. The purpose of the Commercial Business District shall be to provide areas for retail and commercial uses that serve the community from readily accessible locations and which define entrances to the downtown and to accommodate well-planned, high-quality Office and Service uses either individually or in as business park environment.

(B) Standards. All buildings and Structures shall be erected, structurally altered, enlarged or moved and all land within the Commercial Business District shall be used in accordance with Table 2.07 (B).

Table 2.07(B) – Space and Bulk Standards – Commercial Business District	
Maximum Density	
Mixed Use	1 dwelling unit per 1,000 SF of gross floor area of available commercial space within the same building that must be located on the second floor or above.
Minimum Lot Size	2 acres
Minimum Street Frontage	275 feet
Front Setback (principal & accessory buildings)	50 feet
Minimum Side and Rear Setback	
Principal Buildings	30 feet, or 1 foot for each additional foot of building height above 30 feet
Accessory Buildings	30 feet, or 1 foot for each additional foot of building height above 30 feet
Maximum Height	
Principal Building and Structures	55 feet
Accessory Building and Structures	55 feet
Minimum Unit Size	750 SF

(C) Street Frontage Bonus. Where abutting Lots make provisions for a single shared driveway access to a Class I or II highway that meets the approval of the Farmington Planning Board, the Planning Board may approve a reduction in Street Frontage from 275 feet to 150 feet.

2.08 INDUSTRIAL BUSINESS DISTRICT (IB)

(A) Purpose. The purpose of the Industrial Business District is to provide areas for traditional industrial and business park development, along with individual industrial development in a well-planned environment.

(B) Standards. All buildings and Structures shall be erected, structurally altered, enlarged or moved and all land within the Industrial Business District shall be used in accordance with Table 2.08 (B).

Table 2.08(B) – Space and Bulk Standards – Industrial Business District	
Minimum Lot Size	2 Acres
Minimum Street Frontage	275 feet
Front Setback (principal & accessory buildings)	50 feet
Minimum Side and Rear Setback (Principal and Accessory Buildings)	35 feet, or 1 foot for each additional foot of building height above 35 feet
Maximum Height (Principal and Accessory Buildings and structures)	55 feet

(C) Special Considerations. Required parking for uses located within the Industrial Business District shall be located to the sides and rear of the primary Structure. The front Setback for the primary Structure shall serve as the front Setback for all on-site parking.

(D) Street Frontage Bonus. Where abutting Lots make provisions for a single shared driveway access to a Class I or II highway that meets the approval of the Farmington Planning Board, the Planning Board may approve a reduction in Street Frontage from 275 feet to 150 feet.

2.09 BOUNDARY DESCRIPTION OF DISTRICTS

The zoning district and boundaries shall be as indicated on the official Town Map entitled “Town of Farmington New Hampshire Zoning Districts and Other Protected Areas”, as amended on March 13, 2012.

END OF SECTION 2.00 – BASE ZONING DISTRICT

SECTION 3.00 GENERAL STANDARDS

3.01 RELATIONSHIP OF BUILDINGS TO LOTS

- (A) More than one principal building may be placed on a lot located in the Commercial Business (CB) and Industrial Business (IB) Districts. More than one principal building may also be placed on a lot in all other districts with Planning Board approval through a conditional use permit for non-residential, mixed-use and multi-family developments provided that the proposed use is allowed in the underlying zoning.
- (B) Conditional use approval may be granted by the Planning Board (RSA 674:21 II) after proper public notice and public hearing provided that the proposed project complies with the following standards:
- (1) The proposed building and/or use shall be compatible with abutting uses and the surrounding neighborhood
 - (2) The proposed building and/or use shall not create undue traffic congestion or unduly impair pedestrian safety
 - (3) The proposed building and/or use will not result in objectionable noise or odor which would constitute a public nuisance
- (C) Up to two single-family dwellings shall be allowed without site plan review and approval by the Planning Board when the Lot on which the dwellings are to be located meets all dimensional requirements for subdivision.

3.02 ACCESS TO LOTS TO STREETS - No building shall be erected on a Lot unless the Lot has Street Frontage as defined in Section 1.14.

- (A) **Exception.** A building may be erected on a Class IV Road in accordance with RSA 674:41, I(c).

3.03 DRIVEWAY PERMITS

No person may build or construct a driveway that provides an access to a public street without first obtaining a driveway permit from the Code Enforcement Officer. The CEO shall refer all applications to the Public Works Director for review. If the Public Works Director finds that the application meets the requirements set forth in Sections 3.03(A) and 3.03(B), the Public Works Director shall approve the driveway permit and notify the CEO to use the permit. Such permits may be issued only to the property owner or to the person having an option to lease on the property in question. If the work

authorized by the driveway permit has not been started within 12 months of the date of issuance, the permit is declared null and void.

(A) Driveway Limitations.

- (1)** Each Lot fronting on a Class V or better road shall be entitled to at least one driveway access per Lot. Additional driveway accesses may be permitted with approval by the CEO and the Public Works Director. Any Lot used for multi-family residential, institutional, retail, commercial, service or industrial use having more than one hundred (100) feet of Street Frontage shall be entitled to one (1) additional driveway access for each two hundred fifty (25) feet of Street Frontage or portion thereof in excess of one hundred (100) feet, except for those located on a Class I or Class II highway.
- (2)** The Planning Board shall have the authority in site plan review to require techniques to be utilized to minimize access points along Class I or Class II highways. These techniques include, but are not limited to, shared driveways by abutting property owners, requiring easements for future access roads to non-residential uses along Class I and Class II highways in accordance with an access management plan for said highways.

(B) Driveway Access Requirements.

- (1) Location.** All driveway access points shall be located to minimize the impact on traffic safety and flow. Driveway access points shall be located at least twenty-five (25) feet from the intersection of a Street.
- (2) Separation.** The distance between driveway accesses must be twenty (20) feet.

3.04 DEVELOPMENT OF REAR LOTS

Upon subdivision approval by the Planning Board and in accordance with the provisions of this subsection, rear lots may be created in the following zones: (AR), (SR), (RR) and (UR). Space and bulk standards for rear lot subdivision shall be in accordance with Tables in Section 2.00. For purposes of this Section, a “rear lot” is defined as the back portion of a parent lot proposed for subdivision into two lots where the parent lot has sufficient street frontage on a Class V or better road as required by Section 2.00 and the proposed rear lot has a minimum of 30 feet of fee simple frontage on Class V or better road.

- (A) Purpose.** The purpose of this Section is to offer an opportunity for subdivision for existing Lots of record that lack sufficient street frontage for one (1) additional lot but contains

sufficient acreage for subdivision in its zone, while maintaining the rural character of the community and minimizing impact upon on existing roadways by reducing curb cuts and impervious roads.

(B) Requirements. Rear lot subdivisions shall be subject to review and approval in accordance with the Land Subdivision Regulations of the Town of Farmington, as amended, as well as the following requirements listed below:

- (1)** Parent lot must be created before the adoption of this Section (march 10, 2020)
- (2)** Only one (1) rear lot may be created from the parent lot; any further subdivision of the rear lot must fully comply with the requirements of this Zoning Ordinance and the Subdivision Regulations and cannot further use the benefit of this Section 3.00 to further subdivide a rear lot
- (3)** Parent lot must have sufficient Street Frontage as required by the Section 2.00 on Class V or better road
- (4)** The proposed subdivided front lot must maintain the minimum of fee simple-owned street frontage, as required by the space and bulk standards in the Tables in Section 2.00 for each zoning district on a Class B or better road
- (5)** The proposed subdivided rear lot must have a minimum of 30 feet of fee simple-owned street frontage on a Class V or better road
- (6)** Minimum access width to the rear lot is 30 feet, meaning that the portion of the rear lot to be used for a driveway to access a Class V or better road shall be no less than 30 feet in width for its entire length
- (7)** The use of rear lots created under this Section are limited solely to single family or duplex residential use. Duplexes, as part of a rear lot subdivision, are prohibited in the Agricultural Residential Zone.
- (8)** Unless otherwise expressly excepted in this Section 3.00, the proposed access to the rear lot must conform to this Zoning Ordinance and the Farmington Road and Driveway Design and Construction Standards
- (9)** Unless otherwise expressly excepted in this Section 3.00, the requirements for the lots and the placement of buildings and structures remain subject to all requirements of this Zoning Ordinance and State laws.

3.05 PROJECTIONS INTO REQUIRED SETBACKS

Notwithstanding other provisions of this Ordinance, the following structural elements may project into a required Setback as set forth below:

- (A) A cornice, eave or canopy, or other similar architectural features, but not including a bay window, may project into any required Setback a distance of not more than four (4) feet
- (B) A bulkhead may encroach a distance not to exceed four (4) feet
- (C) A fire escape may project into any required Setback a distance of not more than four (4) feet
- (D) A chimney may project into any required Setback distance of not more than two (2) feet
- (E) An open, unenclosed platform stoop, or steps, not covered by a roof, may project into any required Setback not more than six (6) feet
- (F) Facilities for handicapped access, including ramps, lifts and elevators added to a building constructed prior to the date of adoption of this Ordinance may project into any required Setback area, provided that the facilities are approved by the Farmington Fire Department on the basis that they will not create or aggravate any public safety or firefighting problems.

3.06 STRUCTURES PERMITTED ABOVE HEIGHT LIMITS

Notwithstanding other provisions of this Ordinance, roof Structures for the housing of elevators, stairways, tanks, fans or other building operating equipment, fire or parapet walls, skylights, steeples, flagpoles, chimneys, smokestacks, domestic radio or television masts, water tanks or silos, may be erected above the Height limitations set for in Section 2, but not more than twenty (20) feet above the Height otherwise permitted in the district except as specifically provided for in the space and bulk regulations of the zone in which it is located.

3.07 TEMPORARY ACTIVITIES AND EVENTS

Temporary uses of a community or nonprofit nature such as festivals, fairs, carnivals and similar events may be permitted in any zone by vote of the Board of Selectmen, notwithstanding the provisions of this Ordinance. Such temporary use shall not be contrary to the objectives of this Ordinance. A vote by the Board of Selectmen allowing such temporary use shall not be deemed a change in the zoning and shall apply to the specific event or activity only for its stated duration.

3.08 SMALL WIND TURBINES

- (A) **Purpose.** This section is enacted in accordance with 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. The following definitions shall apply for the purpose of administration of this Section:

- (1) Normal Circumstances.** Weather conditions that produce winds that do not exceed 30 mph.
- (2) 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 related capacity of 100 kilowatts or less and which will be used primarily for onsite energy consumption.
- (3) System Height.** The height above grade of the tower plus wind generator, measured from the preconstruction ground level to the highest point reached by the turbine blades.
- (4) Tower.** The monopole, guyed monopole or lattice structure that supports a wind turbine.
- (5) Tower Height.** The height above grade of the fixed portion of the tower, excluding the wind generator.
- (6) Wind Turbine.** The blades and associated mechanical and electrical conversion components mounted on top of the tower whose purpose is to convert wind energy to generate electricity.

(C) Standards.

- (1) Zoning Districts.** Small wind energy systems are permitted in all zoning districts on parcels where all of the requirements of this Ordinance can be satisfied.
- (2) Maximum Height.** The maximum height of the small wind energy system shall not exceed 30 feet above the average canopy of the predominant tree species within 300 feet of the system. When located in an area cleared of trees, the maximum height of the system shall not exceed 30 feet above the neighboring tree canopy. It is the responsibility of the property owner/applicant to demonstrate the proposed system satisfies this requirement. IN no situation shall the maximum height of the small wind energy system exceed 150 feet.
- (3) Setback.** Where unit size is less than or equal to 20kW: 110% of system height (front, side and rear) with review and approval by the Building Inspector. Where unit size is 21 to 100 kW: 150% of system height (front, side and rear) with review and approval by the Minor Site Plan Review Committee.
- (4) Maximum Sound Level.** Shall not exceed 55 decibels when operating under normal circumstances as measured at the property line using a calibrated decibel meter and verified by the Building Inspector.

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

(6) Visual Impacts. This Ordinance recognizes small wind energy systems may pose some visual impacts due to the tower height necessary to access wind resources. The purpose of this section is to reduce visual impacts, without restricting the owner's access to the wind resources.

(a) The applicant shall demonstrate through project site planning and proposed mitigation that the small wind energy system's visual impacts will be minimized for surrounding the neighbors and the community

(b) The small wind energy system shall be painted or otherwise covered with a non-reflective, unobtrusive color that blends in with the surrounding environment.

(c) No lighting shall be mounted on the tower of a small wind energy system at a height in excess of 15 feet, with the exception of: low wattage seasonal lighting which is permitted up to a maximum height of 55' and lighting required by the Federal Aviation Administration (FAA) at the height required by the FAA.

(d) Spot lights, flood lights and other bright security lighting shall be limited in such a fashion as to not direct light onto neighboring property. Security lighting using motion detection switches are encouraged, but continual lighting must be angled or shielded in such a fashion as to not produce glare onto neighboring property.

(7) Access. No steps or ladders providing ready access to the tower shall be permanently installed on the tower within 8 feet of the ground. All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.

(D) Abutter and Regional Notification. Per **RSA 674:66**, all abutters shall be notified. Abutters shall be afforded a 30-day comment period prior to final action on the application. An abutter may appeal the issuance of an approval to the ZBA pursuant to **RSA 676:5**. Notice of the application shall be provided to the Board of Selectmen. An application for a small wind energy system shall be reviewed pursuant to **RSA 36:55**. If so, the Strafford Regional Planning Commission and the affected municipalities shall be notified by certified mail, which shall be provided 30 days to submit comment prior to final action on the application. The cost of abutter and regional notifications shall be borne by the applicant.

(E) Abandonment. A small wind energy system that is out-of-service for a continuous 12-month period shall be deemed abandoned. The Planning Board or its designee may then

issue a Notice of Abandonment to the owner of the small wind energy system. If within 30 days of receipt of the Notice of Abandonment the owner provides the Planning Board or its designee information that demonstrates the small wind energy system has not been abandoned, the Notice of Abandonment shall be withdrawn. If it is determined the small wind energy system has been abandoned, the owner shall at the owner's sole expense remove the wind turbine from the tower within three (3) months of receipt of the Notice of Abandonment. If the owner fails to remove the wind turbine from the tower, the Planning Board or its designee may pursue legal action to have the wind turbine removed at the owner's expense.

3.09 SIGNS

All Signs shall conform to the provisions of this section.

(A) Purpose. Signs perform important functions that are essential for public safety and general welfare, including communicating messages, providing information about goods and services, orienting and directing people, and are a form of protected free speech under both the United States and New Hampshire Constitutions. It is the intent of this Ordinance to provide a content-neutral regulatory scheme for the placement of signs consistent with the purpose of this Ordinance to further public safety and general welfare. It is further recognized that because of potential detrimental impacts, signs must regulate to:

- (1)** Prevent hazards to vehicular and pedestrian traffic safety by controlling the number, location and placement of signs
- (2)** Provide easy recognition and legibility of permitted signs and uses and promote visual order and clarity on streets
- (3)** Complement the historic and scenic character of the Town of Farmington
- (4)** Support business and community vitality through informing the public of available goods, services and activities

(B) General Provisions.

- (1)** All Signs shall be in conformance with this Section, the International Building Code and NH **RSA 236:69-89**.
- (2)** Except as provided in Section 3.09(c) (5), every sign shall obtain a permit from the Building Inspector. Permit applications are available in the Code Enforcement Office.
- (3)** The Copy on any commercial sign may be substituted with noncommercial copy. Copy is defined as the letters, numerals, figures, symbols, logos and graphic elements

comprising the content of message of a sign, excluding numerals identifying a street address only.

(4) Official town, state or federal signs, including traffic control devices, are considered government speech and shall be exempt from this Section

(5) Refer to Section 1.14 for sign definitions

(C) Temporary Signs.

(1) Temporary signs are all signs not permanently affixed to the ground, to a structure or to another sign

(2) Temporary signs are permitted for no more than ninety (90) days per calendar year

(3) One (1) Temporary Sign per approved driveway is allowed, not to exceed two (2) temporary signs at one time. Except as provided in Section 3.09 (c)(5), a Temporary Sign Permit must be obtained prior to the installation of the temporary sign.

(4) The maximum surface area shall not exceed thirty-two (32) square feet in all areas. Attaching Signs and/or posters to property without permission from the owner or agent shall be prohibited. Temporary signs shall be removed with fifteen (15) days of the special event or activity, where applicable.

(5) Temporary Signs which are less than four (4) square feet in size and are posted for a period not to exceed seven (7) total days per calendar year, do not require a permit. All such non-permitted Temporary Signs must state somewhere on the face of the Sign, legibly, the date the sign was first erected/posted.

(D) Size. All permanent Signs shall conform to the following size limits.

(1) In the AR,SR,RR,UR and VC, there shall be:

(a) No more than one (1) sign mounted perpendicular to the building with a maximum size of four (4) square feet in area shall be allowed for each business or use

(b) No more than one (1) sign mounted flush to the building with a maximum size of twenty-four (24) square feet in area shall be allowed for each business or use

(c) Multiple building developments are allowed one (1) Directory Sign within the complex. The placement of said Directory Sign is subject to Site Plan Review, where Site Plan Review is required.

(2) In the (CB), (CIBO) and (IB), the following is permitted:

(a) No more than one (1) free standing Sign with a maximum of fifty (50) square feet in area shall be allowed for each business or use

- (b) Additionally, up to one wall Sign not exceeding fifty (5) square feet may be exhibited on the outside of the principal Structure.
- (c) Multiple building developments (commercial/industrial subdivisions) are allowed one (1) directory Sign within the complex. The place of said complex directory is subject to Site Plan Review, where Site Plan Review is required
- (d) Non-illuminated Signs on the inside of a window provided it does not exceed one-third (1/3) of the window size

(E) Sign Properties.

- (1) Signs may neither move nor give the illusion of movement. When signs have the capability of changing messages, messages and message background may not scroll, flash or otherwise change appearance. Messages may not change more frequently than once every 30 seconds.
- (2) External Illuminated Signs shall be lit by steady light through the use of sharp cutoff fixtures. Top-down lighting is preferred.
- (3) Lighted signs shall not obstruct motorists' visibility, illumination shall not spill light onto adjacent roadways or property.
- (4) No Sign shall be placed in a manner that will endanger traffic by obscuring the view, by confusion with official signs, by glare or by any other means.
- (5) No Signs shall emit audible sound, noise or visible matter.

(F) Sign Location.

- (1) Signs are prohibited within the public way. High point of roof Signs shall not exceed ten (10) feet above roofline. No Sign shall be closer than ten (10) feet from side or rear property lines. Maximum Height shall not exceed thirty (30) feet. Projecting Signs shall not be closer than two (2) feet from the curb and must be a minimum of nine (9) feet above ground.
- (2) Off-premise Signs are prohibited unless specifically allowed by state law.

(G) Severability. The invalidity of any provision of this Ordinance shall not affect validity of any of the provisions. If any section, clause, provision or portion of this Ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding will not affect or impair any other section, provision or portion of this Ordinance.

3.10 PRIVATE ROAD STANDARDS

The Planning Board may approve the use of private roads controlled by a legally established entity responsible for the maintenance of the private road. Private roads must be built in accordance with the standards set forth in the Farmington Road and Driveway Regulations “Design and Construction Standards”

3.11 TELECOMMUNICATIONS TOWER/STRUCTURES

(A) Purpose and Intent. The following provides general guidelines for the siting of telecommunication facilities and antennas and to enhance and fulfill the following goals:

- (1)** Preserve the authority of the Town of Farmington to regulate and to provide for reasonable opportunities for the siting of telecommunication facilities while ensuring that telecommunications provider service remains effective and efficient
- (2)** Reduce or eliminate adverse impacts such facilities may create
- (3)** Provide for co-location and minimal impact siting options through and assessment of technology, current locational options, future location availability, innovative siting techniques
- (4)** Permit the construction of new towers only where all other reasonable alternatives have been exhausted and to encourage the owners and users of towers and antennas to configure them in a manner that minimizes visual impacts of said Structures
- (5)** Encourage antenna co-location on existing tower Structures through cooperation and agreements between providers
- (6)** Provide for maintenance and safety inspections for all telecommunications facilities and appurtenances
- (7)** Provide for the demolition and removal of abandoned facilities. Provide a means for the Town to remove abandoned towers to provide for the health and safety of citizens

(B) General Provisions.

(1) Applicability.

- (a)** The terms of this Article and the Site Plan Review Regulations shall apply to telecommunications facilities proposed to be located on property that is within the geographic boundaries of the Town of Farmington, NH
- (b)** All applications for a telecommunications facility, pending on the effective date of these regulations, shall be reviewed under the provisions of these regulations

(2) Authority. The Planning Board of Farmington, New Hampshire (hereinafter, “Planning Board”) is vested with the authority to review, approve, conditionally approve and disapprove applications for telecommunications facilities.

(3) Amendments. In keeping with the spirit and intent of the guide, as well as to accommodate changing technology, the Planning Board may propose amendments.

(C) Definitions.

ABANDONED. A telecommunications facility shall be considered abandoned if the facility is not operated for a continuous period of one hundred eighty (180) days, is no longer needed for the operation of the network, or if construction approved by the Planning Board is not completed within twelve (12) months of site plan approval.

ANTENNA. The surface from which wireless radio signals are sent and/or received by a telecommunications facility.

ANTENNA ARRAY. A collection of antennas attached to a mount to send and/or receive radio signals.

AVERAGE TREE CANOPY HEIGHT. An average found by inventorying the Height of all trees over twenty feet in Height for a defined area, such as the area delineated in Section 3.11 (G)4.

CAMOUFLAGED. A telecommunications facility that is disguised or hidden from view.

CO-LOCATION. The use of a single mount by more than one carrier.

ELEVATION. A vertical measurement above mean sea level (AMSL).

EQUIPMENT SHELTER. An enclosed Structure, cabinet, shed, vault or box within which are housed equipment for telecommunications facilities such as batteries and electrical/electronic equipment. Equipment shelters are sometimes referred to as base transceiver stations.

FALL ZONE. The area on the ground from the base of a ground mounted telecommunications facility that forms a radius equal to one hundred-fifty percent (150%) of the Height of the facility, including any antennas or other appurtenances. The fall zone is the area within which there is potential hazard from falling debris (such as ice) or collapsing material.

HEIGHT. The vertical measurement from the natural grade to the highest point of an object above ground level (AGL).

LICENSED CARRIER. A company authorized by the FCC to construct and operate a telecommunications facility. Also referred to as a carrier or provider.

MAST. A thin pole that resembles a streetlight standard or a telephone pole.

MONOPOLE. A thicker type of mount than a mast that is self-supporting with a single shaft of wood, steel or concrete that is designed for the placement of antennas and arrays along the shaft.

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

- (1) Roof-mounted. Mounted on the roof of a building.
- (2) Side-mounted. Mounted on the side of a building.
- (3) Ground-mounted. Mounted on the ground.
- (4) Structure-mounted. Mounted on a Structure other than a building.

RADIOFREQUENCY RADIATION (RFR). The emissions from telecommunications facilities.

SECURITY BARRIER. A wall, fence or berm that restricts an area from unauthorized entry or trespass.

TELECOMMUNICATIONS FACILITY. Facility for the provision of telecommunications services, if present telecommunications facilities include a mount, antenna, equipment shelter and other related equipment.

TELECOMMUNICATIONS SERVICES. The types of services regulated by this Guide: commercial mobile radio services, unlicensed wireless services and common carrier wireless exchange services as defined in the Telecommunications Act of 1996. These services include, but are not limited to, cellular telephone services, specialized mobile radio communications (SMR), enhanced specialized mobile radio (ESMR), personal communications service (PCS), paging services and similar services that are marketed to the general public.

TEMPORARY TELECOMMUNICATION FACILITY. A facility designed for the provision of temporary telecommunications services while a permanent telecommunications facility is under construction.

TOWER. A self-supporting lattice, guyed or monopole Structure constructed from grade, which supports Telecommunications Facilities. The term Tower shall not include amateur radio operators' equipment, as licensed by the FCC.

(D) District Regulations

(1) **Location.** Telecommunications facilities shall be permitted in all Zoning Districts, except as restricted by this Article. Applicants seeking approval for telecommunications facilities shall first evaluate existing Structures for the siting of telecommunications facilities. Only after finding existing Structures unfeasible, shall a provider propose a new ground mounted facility.

(2) **Existing Structures.** Telecommunications facilities shall be located on existing Structures, including but not limited to buildings, water towers, existing telecommunications facilities,

utility poles or towers and related facilities, provided that such installation preserves the character and integrity of those Structures.

(3) Burden of Proof. The applicant shall have the burden of proving that there are no existing Structures, which are suitable to locate its telecommunications facility. To meet that burden, the applicant shall take the following actions:

- (a)** The applicant shall submit to the Planning Board a list of all contacts made with owners of existing Structures regarding the availability of Space for a telecommunications facility. If the Planning Board informs the applicant that additional existing Structures may be satisfactory, the applicant shall contact the property owner(s) of those Structures.
- (b)** The applicant shall provide copies of all letters of inquiry made to the owners of existing Structures and letters of rejection. If letters of rejection are not provided, at a minimum, unanswered "Return Receipt Requested" forms from the U.S. Post Office shall be provided for each owner of existing Structures that was contacted.
- (c)** If the applicant claims that a Structure is not capable of physically supporting a telecommunications facility, this claim must be certified by a licensed professional engineer. The certification shall, at a minimum, explain the structural issues, demonstrate that the Structure cannot be modified to support the telecommunications facility and that alternative locations are not available.
- (d)** If the applicant claims that a Structure is not capable of siting a telecommunications facility due to radio frequency propagation concerns, this claim must be certified by a licensed professional engineer, radio frequency engineer. The certification shall, at a minimum, include radio frequency propagation plots, evidence that alternative locations are not available to provide the level of propagation desired and evidence that the level of service will not be functional.

(4) Ground Mounted Facilities.

- (a) Policy.** If the applicant demonstrates to the satisfaction of the Planning Board that it is not feasible to locate on an existing Structure, ground mounted telecommunications facilities shall be designed so as to be camouflaged to the greatest extent possible, including but not limited to, use of compatible building materials and colors, screening, landscaping and placement within trees.
- (b) Locations for Ground Mounted Facilities.** Ground mounted telecommunications facilities shall be prohibited from the Protected Areas indicated in the following table:

Area Name	Protected Area
Class I State Highways	250 feet on each side
Class II State Highways	100 feet on each side
Farmington Designated Scenic Roads	250 feet on each side
Topographical Viewsheds	Above nine hundred (900) feet elevation
Waterfront Protection Overlay Zone	Controlled Development Zone
Aquifer Protection Zone	All
Wetlands Conservation Overlay District	Class One and Class Two Wetlands
Conservation Lands Layer	All
Sites and properties listed on the National Register	All

(5) Use Regulations. A telecommunications facility shall require a building permit in all cases and may be permitted as follows:

(a) Existing Tower Structures. Subject to the issuance of a building permit that includes review by the Planning Board, carriers may locate a telecommunications facility on any guyed tower, lattice tower, mast or monopole in existence prior to the adoption of this Article or on any telecommunications facility previously approved under the provisions of this Article so long as the co-location complies with the approved Site Plan. All the Performance Standards from this Article shall be met. This provision shall apply only so long as the Height of the mount is not increased, a security barrier already exists and the area of the security barrier is not increased. Otherwise, site plan review by the Planning Board is required.

(b) Reconstruction of Existing Tower Structures. An existing guyed tower, lattice tower, monopole or mast in existence prior to the adoption of this Article may be reconstructed with a maximum twenty (20) foot increase in Height so as to maximize co-location so long as the standards of this Article are met and so long as this twenty (20) foot increase in Height does not cause a facility to exceed one hundred ninety (190) feet in height. The mount shall be replaced with a similar mount that does not significantly increase the visual impact on the community. Site Plan review by the Planning Board is required.

(c) Existing Structures. Subject to the provisions of this Article and site plan review, and except as otherwise permitted under 3.11(5)a, a carrier may locate a

telecommunications facility on an existing Structure, building, utility tower, pole or water tower.

(d) Ground Mounted Facility. A telecommunications facility involving construction of a ground mount shall require site plan review by the Planning Board and be subject to the provisions of this Article.

(e) Temporary Telecommunications Facility. Temporary telecommunications facilities are not permitted.

(6) Dimensional Requirements. Telecommunications facilities shall comply with the following requirements:

(a) Height.

(i) Maximum. In no case shall a telecommunications facility exceed two hundred (200) feet in height unless the mount for the facility was greater than two hundred (200) feet in Height prior to the adoption.

(ii) Height, Existing Structures and Utility Poles. Carriers that locate new telecommunications facilities on water towers, electric transmission and distribution towers, utility poles and similar existing utility Structures, guyed towers, lattice towers, masts and monopoles may be permitted to increase the Height of those Structures no more than twenty (20) feet. This increase in Height shall be permitted once for each Structure.

(iii) Height, Other Existing Structures. Except as permitted in 3.11(F)(2), the Height of a telecommunications facility shall not increase the Height of a Structure by more than twenty (20) feet, unless the telecommunications facility is completely camouflaged; for example, a telecommunications facility completely within a flagpole, steeple or chimney. The increase in the Height of the Structure shall be in scale and proportion to the Structure as originally configured. A carrier may locate a telecommunications facility on a building that is legally non-conforming with respect to height, provided that the provisions of this Article are met.

(iv) Height, Ground-Mounted Facilities. Ground-mounted telecommunications facilities shall not project higher than twenty (20) feet above the average tree canopy Height within a one hundred fifty (150) foot perimeter of the mount, security barrier or designated clear area for access to equipment, whichever is greatest.

(v) Setbacks. All telecommunications facilities and their equipment shelters shall comply with the building Setback provisions of the zoning district in which the telecommunications facility is located.

(vi) Fall Zone for Ground Mounts. In order to ensure public safety, the minimum distance from the base of any ground-mount of a telecommunications facility to any property line, public road, habitable dwelling, business or institutional use or public recreational area shall be, at a minimum, the distance equal to the fall zone, as defined in this Article.

(vii) Fall Zone for Non-Ground Mounts. In the event that an existing Structure is proposed as a mount for a telecommunications facility, a fall zone shall not be required, but the Setback provisions of the zoning district shall apply. In the case of pre-existing, Non-Conforming Structures, telecommunications facilities and their equipment shelters shall not increase any non-conformities.

(H) Performance and Design Standards.

(1) Visibility. Visual impacts are measured on this basis of:

- (a)** Change in community scale, as exhibited in relative Height mass or proportion of the telecommunications facility within their proposed surroundings
- (b)** New visible elements proposed on a contrasting background
- (c)** Different colors and textures proposed against a contrasting background
- (d)** Use of materials that are foreign to the existing built environment

(2) Enhancements. Enhancements are measured on the basis of:

- (a)** Conservation of opportunities to maintain community scale, e.g., buffering areas and low-lying buildings should not be compromised so as to start a trend away from the existing community scale
- (b)** Amount and type of landscaping and/or natural vegetation
- (c)** Preservation of view corridors, vistas and view sheds
- (d)** Continuation of existing colors, textures and materials

(3) Visibility. Visibility focuses on:

- (a)** Eliminating or mitigating visual impact
- (b)** Protecting, continuing and enhancing the existing environment

(4) Camouflage for Facilities on Existing Buildings and Structures:

- (a) Roof Mounts.** When a telecommunications facility extends above the roof Height of a building on which it is mounted, every effort shall be made to conceal or

camouflage the facility within or behind existing or new architectural features to limit its visibility from public ways. Facilities mounted on a roof shall be stepped back from the front façade in order to limit their impact on the buildings silhouette.

(b) Side Mounts. Telecommunications facilities, which are side mounted, shall blend with the existing building's architecture and, if individual antenna panels are over five (5) square feet, the panels shall be painted or shielded with material consistent with the design features and materials of the building.

(5) Camouflage for Ground Mounted Facilities. All ground-mounted telecommunications facilities shall be surrounded by a buffer of dense tree growth that extends continuously for a minimum perimeter of one hundred fifty (150) feet from the mount, security barrier or designated clear area from access to equipment, which is greatest, and screens views of the telecommunications facility in all directions. These trees must be existing on the subject property or planted on site. The Planning Board shall have the authority to decrease, relocate or alter the required buffer based on site conditions. The one hundred fifty (150) foot vegetative buffer area shall be protected by a landscape easement or be within the area of the carrier's lease. The easement or lease shall specify that the trees within the buffer shall not be removed or topped, unless the trees are dead and dying and present a hazard to persons or property.

(6) Color. To the extent that any telecommunications facilities extend above the Height of the vegetation immediately surrounding them, they shall be painted with a color, which blends with the backgrounds or surroundings.

(7) Equipment Shelters. Equipment shelters for telecommunications facilities shall be designed consistent with one or more of the following design standards:

(a) Equipment shelters shall be located in underground vaults

(b) Equipment shelters shall be designed so that the shelters are architecturally consistent, with respects to materials and appearance, to the buildings in the area of the telecommunications facility

(c) Equipment shelters shall be camouflaged behind an effective year-round landscape buffer, equal to the Height of the proposed building, and/or fence

(d) If mounted on a rooftop, the equipment shelter shall be concealed or camouflaged so that the shelter either is not visible at grade or appears to be a part of the original Structure.

(l) Lighting, Signage and Security.

(1) Lighting. Telecommunications facilities shall be lighted only if required by the Federal Aviation Administration (FAA). Lighting of equipment Structures and any other facilities on site shall be shielded from abutting properties. Foot-candle measurements at the property line shall be 0.0 initial foot-candles.

(2) Signage. Signs shall be limited to those needed to identify the property and the owner and warn of any danger and shall comply with the requirements of the Farmington Sign Use Regulation.

(3) Security. All ground-mounted telecommunications facilities should be surrounded by a security barrier. All access roads to ground mounted telecommunications facilities shall be gated to prevent unauthorized vehicular entry to the subject property or any landscape easements provided for in Section 3.11 (H)5.

(J) Historic Buildings.

(1) Any telecommunications facility located on or within a historic Structure shall not alter the character-defining features, distinctive construction methods or original historic materials of the building.

(2) Any alteration made to a historic Structure to accommodate a telecommunications facility shall be fully reversible

(3) Telecommunication facilities authorized by this subsection shall be concealed within or behind existing architectural features or shall be located so that they are not visible from public roads and viewing areas.

(K) Driveways. Existing entrances and driveways to serve a telecommunications facility shall be utilized, unless the applicant can demonstrate that a new entrance and driveway will result in less visual, traffic and environmental impact. New access roads to serve a telecommunications facility shall be designed to provide adequate emergency services to the facility while minimizing impact upon existing foliage and natural landscaping. Final approval of road design will rest with the Planning Board.

(L) Antenna Types. Any antenna array placed upon an existing or proposed ground mount, utility pole or transmission line mount shall have a diameter of no more than four (4) feet. A larger diameter antenna array may be permitted after a finding by the Planning Board that the visual impacts of a larger antenna array is of no significant impact.

(M) Hazardous Waste. No hazardous waste shall be discharged on the site of any telecommunications facility. If any hazardous materials are to be used on site, there shall be provisions for full containment of such materials. An enclosed containment area shall be

provided with a sealed floor, designed to contain at least one hundred ten (110) percent of the volume of the hazardous materials stored or used on the site.

(N) Noise. Generated noise shall be mitigated to the extent possible.

(O) Radio-frequency Radiation (RFR) Standards. All equipment proposed for a telecommunications facility shall be authorized by the FCC Guidelines for Evaluating the Environmental Effects of Radio-frequency Radiation (FCC Guidelines), under *Report and Order*, FCC 96-326, published on August 1, 1996 and all subsequent amendments.

(P) Monitoring Maintenance.

(1) Maintenance. The owner of the telecommunications facility shall maintain the telecommunications facility in good condition. Such maintenance shall include, but shall not be limited to, painting, structural integrity of the mount, security barrier and maintenance of the buffer areas and landscaping.

(2) Monitoring. As part of the issuance of the Site Plan approval or Building Permit, the property owner shall agree that the Town of Farmington may enter the subject property to obtain RFR measurements and noise measurements at the expense of the carrier, but not necessarily accompanied by the carrier and/or property owner.

(Q) Security for Removal. Recognizing the hazardous situation presented by abandoned and unmonitored telecommunications facilities, the Planning Board shall set the form and amount of security that represents the cost for removal and disposal of abandoned telecommunication facilities. In the event that a telecommunications facility is abandoned and/or the telecommunications facility owner is unwilling or unable to remove the facility in accordance with Section 09.2 of the *Telecommunications Site Review Regulations*. The amount of the security shall be based upon the cost of such removal plus fifteen (15) percent, provided by the applicant and certified by a professional civil engineer, licensed in New Hampshire. The owner of the telecommunications facility shall prove the Planning Board with a revised removal cost estimate and structural evaluation prepared by a registered structural engineer every five (5) years from the date of the Planning Board's approval of the site plan. If the cost has increased more than fifteen (15) percent, then the owner of the telecommunications facility shall provide additional security in the amount of the increase.

(R) Abandonment and Discontinuation of Use.

(1) Notification. At such time that a carrier plans to abandon or discontinue operation of a telecommunication facility, such carrier will notify the Town of Farmington by certified

U.S. mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than thirty (3) days prior to abandonment or discontinuation of operations. In the event that a licensed carrier fails to give such notice, the telecommunications facility shall be considered abandoned pursuant to 5.03(A) of this Article.

(2) Removal. Upon abandonment or discontinuation of use, the owner of the telecommunications facility shall physically remove the telecommunications facility within ninety (90) days from the date of abandonment or discontinuation of use.

“Physically Remove” shall include, but not be limited to:

- (a)** Removal of antennas, mount, equipment shelters and security barriers from the subject property
- (b)** Proper disposal of the waste materials from the site in accordance with local and State solid waste regulations. Restoring the location of the telecommunications facility to its natural condition, except that any landscaping and grading shall remain in the after-condition.

(3) Failure to Remove. If the owner of the telecommunications facility does not remove the facility upon the order of the Farmington Code Enforcement Officer, then the Planning Board shall, after holding a public hearing with notice to the owner and abutters, issue a declaration of abandonment. The owner of the telecommunications facility shall dismantle and remove the telecommunications facility within ninety (9)) days of receipt of the declaration of abandonment by the Planning Board. If the abandoned telecommunications facility is not removed within ninety (90) days, the Town may execute the security to pay for this action.

3.12 SENSITIVE AREA DEVELOPMENT STANDARDS

Purpose. This section provides guidelines for the environmental protection of areas with steep slopes. The intent is to prevent erosion and/or flooding caused by human activity.

(A) Applicability. All uses and activities established after the effective date of this Ordinance shall comply with the following standards. Site alterations, re-grading, filling or the clearing of vegetation or any other activity deemed detrimental to any environmentally sensitive area, any steep slope area or any other resource prior to the submission of plans for subdivision or land development shall be a violation of this Ordinance.

(B) Compatibility of Structures with Topography. Structures shall be designed in a manner that requires a minimum amount of alteration to the steep slope and that otherwise complies with the grading standards set forth in this section.

(C) Stormwater Management, Erosion and Sedimentation Control. Particular caution shall be taken to prevent increases in the rate of stormwater runoff and erosion downslope of any steep slope development site. An approved stormwater management plan and an erosion and sediment control plan meeting the requirements of the Town of Farmington's Subdivision and Site Review Regulations shall be submitted before any use is approved.

(D) Steep Slope Conservation.

- (1)** Under no circumstances shall the road bed of a driveway or access road exceed 20%
- (2)** Any site disturbance of slopes exceeding fifteen percent (15%) shall be minimized
- (3)** No site disturbance shall be allowed on slopes exceeding twenty-five (25%), except under the following circumstances:
 - (a)** Logging shall be by specific approval of the Planning Board. A "submission plan" shall include:
 - (i)** an approved soil erosion and sedimentation plan
 - (ii)** a listing of the amounts and species of timber to be harvested, which in no case can be conducted on more than twenty-five percent (25%) of the Basal Area of the timber located on these slopes
 - (iii)** a reclamation plan for restoring the site

Precautions should be taken to avoid destruction or injury of brush and trees not to be harvested.

- (b)** Grading for a portion of a driveway or access road accessing a single-family dwelling when it can be demonstrated that no other routing is possible which avoids slopes exceeding twenty-five percent (25%).
- (c)** Any driveway or other access road must be designed to have a slope length no greater than seventy-five (75) feet.
- (4)** More than thirty percent (30%) average slope: No development shall be allowed except upon submission of a report by a certified soil or geo-technical engineer indicating that the steep slope may be safely developed and execution of a Waiver of Municipal Responsibility agreeing to hold the Municipality harmless from any claims of damages due to approval of such development. If development is allowed to proceed under this subsection, no more than fifteen percent (15%) of such areas shall be developed and/or re-graded or stripped of vegetation.

- (5) No landslide prone area may be disturbed. In no case shall any development take place on any portion greater than thirty-five percent (35%).
- (6) No development shall take place within fifty (50) feet of any area determined to be landslide prone by a geo-technical study as referred to in number (4) above.
- (7) All primary and accessory buildings, septic systems, detention basins or other Structures that may create a severe impact upon the slope shall be set back twenty (2) feet from all ridge lines or slope tops.
- (8) Property owners of tillage and nursery operations, on slopes, exceeding eight percent (8%), shall develop a conservation plan for the site in cooperation with the Natural Resource Conservation Service.
- (9) Grading or earthmoving on all sloping lands exceeding fifteen percent (15%) shall not result in earth cuts or fills whose highest vertical dimensions exceed ten (10) feet, except where no alternatives exist for construction of public roads, drainage Structures and other public improvements, in which case such vertical dimensions shall not exceed twenty (20) feet. Finished slopes of all cuts and fills shall not exceed three-to-one (3:1), unless the applicant can demonstrate that steeper slopes can be stabilized and maintained adequately.

(E) Submission Requirements.

- (1) **Applicability.** Prior to commencing any site disturbance for any purpose, a resource plan shall be submitted to and approved by the Planning Board.
- (2) **Resource Plan.**
 - (a) A resource plan shall include the following information. When any of this information already had been prepared as part of an application under the Site Review or Subdivision Regulations, then it shall be duplicated and inserted into the pertinent section(s) of the Resource Plan.
 - (b) Resource Plan review shall have the same notification requirements as those indicated for site review in the Site Review Regulations.
- (3) **Inventory.**
 - (a) **Property Base Map.** A base map of the applicant's property shall meet the requirements for preliminary plan approval under the Subdivision Regulations with respect to: sheet size, scale, property acreage calculations, delineations of courses and distances of property boundaries, dedicated Street rights-of-way and easements.

(b) Boundary and Adjoining Property Conditions. The following information shall be indicated on the property base map: names of adjoining property owners, residential and institutional Structures within on hundred (100) feet of applicant's property boundaries and existing zoning and minimum Setback requirements applicable to the applicant's property and adjoining properties. A smaller scale map, drawn as an inset on the base maps sheet, may be used to present information on adjoining property conditions as set forth in the Site Review or Subdivision Regulation.

(c) Existing Natural Areas. The following information shall be shown on the property base map:

- (i.)** Location and delineation of ponds, streams, Wetlands and natural drainage swales, not only in the subject's property, but also on immediately adjoining properties within 100 feet of the common boundary.
- (ii.)** Surface waters, Aquifers, floodplains and floodways, based upon available information, published or more detailed data obtained by the applicant for his property by professional consultants.
- (iii.)** Topography, the contour line intervals of which shall be not more than two (2) feet for land with average natural slope of four percent (4%) or less and not more than five (5) feet for land with average natural slope exceeding four percent (4%). The benchmark to which contour elevations refer shall be identified; where reasonably feasible, the elevations shall be reference to USGS datum.
- (iv.)** Soil series, types and phases, as mapped by the Natural Resources Conservation Service and accompanying data tabulated for each soil, including: its name, depth, to seasonal high-water table, agricultural capability class, erodibility and hydrologic group and clear denotation of all poorly and very poorly drained soils.
- (v.)** Vegetative cover conditions on the property according to general cover type, e.g., cultivated land, hedgerow, woodlands, etc.
- (vi.)** All scenic vistas and other natural resource areas on the subjects' property and on surrounding parcels are to be clearly designated.

(4) Impact Assessment.

- (a)** All applicants shall assess the on-site and off-site impacts of their proposed activities and improvements on existing environmentally sensitive areas. The assessment shall include the following:
- (i)** Delineation of the location and tabulation of the acreage of resources which would be disturbed. Such features shall, at a minimum, include those cited in this Ordinance.
 - (ii)** Where possible, delineation of the location and tabulation of the acreage of all resources on the applicant's property and surrounding property.
 - (iii)** Delineation of the location and dimensions of all improvements proposed by the applicant, including tabulations of gross square foot coverage of any proposed impervious surfaces.
 - (iv)** Grading plans that clearly show all proposed alterations to the property's existing topography.
 - (v)** Considerations of all reasonable alternatives to minimize disturbances to resources.
- The applicant shall furnish evidence that such alternatives were considered.

(G) Administration.

- (1)** Resource Plans submitted as part of a Subdivision, Site Review Application or a Special Use Permit Application shall be reviewed according to the provisions governing the review of subdivision or site review or special use application.
- (2)** Required Resource Plans which are unrelated to a Subdivision, Site Review or Special Use Applications shall be reviewed according to the following guidelines.

(a) Plan Review

- (i.)** Applications for activities noted in this Ordinance and not related to a subdivision or land development, shall submit a natural resource area plan. The natural resource area plan shall be approved or denied by the Planning Board following the filing of a complete and properly prepared permit application and natural resource area plan.
- (ii.)** All approved plans must be originally signed and dated by the Planning Board and the applicant prior to commencing any site disturbance. The applicant's signature shall constitute a written certification that all work shall be performed in accordance with the plan.

(b) Inspections.

- (i.)** No site disturbance work shall proceed to a subsequent phase, as detailed in Subsection ii, below, until inspected and approved by the Code Enforcement Officer, who shall then file a report thereon with the Planning Board and the Commission.

(ii.) The times of inspection shall be as follows:

- (1) Upon completion of rough grading, but prior to placing top soil, installing permanent drainage or other site improvements or establishing ground covers.
- (2) Upon completion of final grading, landscape improvements and other mitigation of work undertaken in accordance with the approved Resource Plan.
- (3) The Code Enforcement Officer may make random inspections as deemed necessary and appropriate.

3.13 MANUFACTURED HOUSING STANDARDS

- (A) Manufactured housing is 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 that 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. Manufactured housing shall not be construed to mean pre-site built or modular housing.
- (B) Manufactured housing units may be located on lawfully existing lots in manufactured housing parks or on individual lots anywhere conventional single-family homes are permitted. Manufactured housing units are not permitted within Open Space-Residential Cluster Development. No more than one (1) manufactured housing unit may be on a single lot.
- (C) All Manufactured Housing units located in the Town of Farmington must comply with the National Manufactured Housing construction and Safety Standards Act of 1974. A HUD Label applied to the unit at the time of manufacture shall be prima facia evidence that an unaltered unit meets the standards. Newly located Manufactured Housing units greater than five (5) years old are not permitted in the Town of Farmington.
- (D) These Standards shall apply to Manufactured Housing units newly located in the Town of Farmington and any Manufactured Housing unit moved from one location in the Town of Farmington to another location in the Town of Farmington. These Standards shall not apply to Manufactured Housing units that were placed as dwellings prior to the date of adoption of these standards (March 12, 2013) and which remain in the same location they were on as of that date.

3.14 HOUSING AND OTHER STANDARDS

(A) **Building Code.** Pursuant to **RSA 155:A & 674:51**, the Town of Farmington hereby adopts the following building regulations:

- (1) Except as provided in paragraphs b and c, all buildings, building components and Structures constructed in New Hampshire beginning March 12, 2003, shall comply with the state building code and state fire code. The construction, design, Structure, maintenance and use of all buildings or Structures to be erected and the alteration, renovation, rehabilitation, repair, maintenance, removal or demolition of all buildings and Structures previously erected shall be governed by the provisions of the state building code.
- (2) Standards, including definitions, established by the most recent edition of the Life Safety Code, NFPA Doc. No. 101, shall take precedence over all standards in the state building code relative to means of egress.
- (3) All new buildings shall conform to the requirements of the state fire code adopted pursuant to **RSA 153:5** and to the extent that there is any conflict between the state building code and the state fire code, the state fire code shall take precedence unless otherwise determined by the State Building Code Review Board, subject to review provisions contained in **RSA 155-A:10**.
- (4) A Housing Code, previously referred to as the **Farmington Housing Maintenance and Occupancy Code**, adopted 1986, is adopted as Section 1.08, as amended, of the Town of Farmington Zoning Ordinance.
- (5) To the extent that it does not conflict with any other provisions of law, the issuance of permits and the collection of fees pursuant to the state building code is expressly reserved for the Town of Farmington for all building activity in the Town of Farmington.
- (6) Except for buildings owned by the state or the university system, the issuance of certificated of occupancy pursuant to the state building code is expressly reserved for the Town of Farmington for all building activity in the Town of Farmington.
- (7) Pursuant to **RSA 674:51**, the Town of Farmington hereby adopts additional regulations that are not less stringent than the requirements of the state building code pursuant to this chapter and the state fire code pursuant to **RSA 153**.
- (8) The contractor of a building, building component or Structure shall be responsible for meeting the minimum requirements of the state building code. No municipality shall be

held liable for any failure on the part of a contractor to comply with the provisions of the state building code.

- (9) Nothing in this Ordinance shall be construed as amending, repealing or superseding any local law, Ordinance, code or regulation, except local building code requirements that are less stringent than the state building code and all buildings, building components and Structures shall comply with all applicable state and local building and fire code requirements, land use restrictions including but not limited to, subdivision regulations, use and location restrictions, density and dimensional limitations or historic district laws or Ordinances.

(B) Definitions.

BUILDING means building as defined in **RSA 155-A:1**.

“NEW HAMPSHIRE BUILDING CODE” or STATE BUILDING CODE means the building code as defined by **RSA 155-A:1**.

PERSON means any individual or organized group of any kind, including partnerships, corporations, limited liability partnerships, limited liability companies and other forms of association, as well as federal, state or local instrumentalities, political subdivisions or officers.

STRUCTURE means Structure as defined by **RSA 155-A:1**.

(C) Fencing Requirements for Swimming Pools. Any pool in Farmington use for swimming or bathing shall be in conformity with the following requirements:

- (1) Fencing.** Every outdoor pool shall be completely surrounded by a fence or wall not less than four (4) feet in Height, which shall be so constructed as not to have openings, holes or gaps larger than four (4) inches in any dimension, except for doors or gates, and if a picket fence is erected or maintained, the horizontal dimension shall not exceed four (4) inches. A dwelling house or accessory building may be used as part of such enclosure.
- (2) Gates.** All gates and doors opening through such enclosures, shall be securely closed at all times when not in actual use.
- (3) Pools to which provisions are applicable.** The requirements of this Ordinance shall be applicable to all existing swimming pools hereafter constructed which have the capability of accommodating a depth of at least eighteen inches (18”) of water, provided however, that no existing or proposed above-ground swimming pool shall be governed by these provisions unless it shall in fact be filled to a depth of eighteen inches (18”) or greater of water.

(4) Exceptions. Above ground pools with walls in excess of thirty-six (36) inches above the surrounding final grade shall, for the provisions of this chapter, be considered as fenced so long as any means of egress, i.e., ladders, stairways, etc., are removed or rendered impassible, whenever said pool is not in actual use.

(D) Building Permit Required. No person shall commence construction, alteration, installation, electrical or plumbing work, removal or demolition of a building or Structure without obtaining a written permit for the same from the Building Inspector/Code Enforcement Officer and paying a fee in accordance with the fee schedule approved by the Board of Selectmen.

(E) No Building Permit Required. Building permits are not required for normal maintenance and repair work, work that does not involve structural elements and work which is of a minor nature. A more complete list of that work not requiring a building permit is available in the International Building Code Section 105.2. This list may be modified by the laws of New Hampshire as adopted and made part of the State Building Code.

3.15 SLUDGE

(A) To protect the public health and welfare, and to protect surface and groundwater resources, the stockpiling and land spreading of municipal sewage sludge and industrial paper mill sludge is not allowed in the Town of Farmington.

(B) This section shall not apply to Class A sludge-derived products sold by the bag to home gardeners.

3.16 RECREATIONAL VEHICLE PARKS OR CAMPGROUNDS

(A) Where allowed shall meet the following special conditions:

(1) Occupancy by long-term tenants is limited from after May 1st to October 1st of each year

(2) Occupancy after October 1st and before May 1st is limited to no more than four (4) weeks total, whether consecutive or not, in the Town of Farmington

(3) Accurate account of information and/or registration (in the case of parks/campgrounds) must be kept on all tenants and guests along with date of occupancy and their permanent address of residence

(4) Vehicles and facilities shall be maintained in such a manner that is required by applicable codes, regulations and ordinances and shall be subject to inspection by appropriate officials without notice

(5) That all Recreational Vehicle Parks and Campground be licensed and renewed every April 1st

(B) Storage and Temporary Use on a Vacant Lot of a Recreational Vehicle outside of Recreational Vehicle Parks and Campgrounds.

(1) Storage. Storing a single recreational vehicle is allowed in any zoning district, however, only on lots where there is an existing residential use as listed in Table 2.00 (C) Table of Permitted Uses under Principal Uses, or located on a lot that is adjacent or abutting to a lot under the same ownership which has a principal use.

(2) Temporary Use on Vacant Lots. Recreational vehicles may be temporarily parked on and temporarily occupied by the property owner on his/her lessee, on a vacant lot (i.e. a lot that does not have a primary use) for temporary, recreational purposes only. The recreational vehicle must be fully licensed and ready for highway use and not attached to utilities. Unless otherwise prohibited or restricted by this Ordinance or state law, no more than one (1) recreational vehicle may be located on a lot and it may be occupied by the owner, owner's family or the owner's friends between May 1st and October 1st. Such use requires, before placing the recreational vehicle on the lot, an application and permit from the Building Inspector. While the temporary recreational vehicle is in use on the lot, the permit must be prominently displayed (with protective covering from the elements) at the edge of the lot so that it is visible from the right of way/road for inspection by the Building Inspector without requiring access to the property. Failure to so post the permit shall result in revocation of the permit.

No other recreational vehicle use is permitted on any lot except as specifically allowed by this Section 3.16

The following words or phrases are hereby defined for the purpose of this Article:

RECREATIONAL VEHICLE PARK. Any tract or parcel of land occupied or intended for occupancy by two (2) or more recreational vehicles.

RECREATIONAL VEHICLE. A vehicle that is intended to be self-propelled or towed and is equipped to serve as, or intended by the manufacturer for use as, temporary living quarters for recreational camping or travel purposes. It includes, but is not limited to a mobile home, trailer and motor home.

TENANT. Any party, member of a party or in the case of condominium declaration, owner that occupies any particular site.

LONG-TERM TENANT. Any tenant that is registered to occupy any site within the Town of Farmington for more than three (3) continuous weeks (adopted March 1990).

3.17 OPEN SPACE- RESIDENTIAL CLUSTER DEVELOPMENT STANDARDS

(A) Authority. Pursuant to **RSA 674:21, I (f)**, the Planning Board is hereby authorized to review and approve applications for Open Space-Residential Cluster Development after conducting application review in accordance with the requirements of this section and applicable provision of all other Farmington Regulations.

Application for Open-Space Residential Cluster Development shall be voluntary at the request of the applicant.

(B) Purpose. The purpose of this Ordinance is to provide an alternative to conventional development approaches that encourages subdivision designs which preserve open space and result in high quality residential neighborhoods. Applications under this Ordinance should be consistent with the Farmington Master Plan and the following objectives.

(C) Objectives.

- (1)** To encourage greater flexibility and creativity in design
- (2)** To conserve tracts of land of suitable size with productive soils for continued agricultural and forestry use
- (3)** To encourage the maintenance and enhancement of habitat for plant and animal communities, including rare species
- (4)** To minimize site disturbance and erosion through retention of existing vegetation and avoiding development in sensitive areas
- (5)** To conserve land that protects water quality and quantity, including watersheds and buffers along streams and rivers, wetlands and floodplains, ponds and lakes, and land overlying aquifers
- (6)** To further protect water quality by minimizing runoff through reduction of land area covered by impervious surfaces
- (7)** To protect unique natural features, scenic views and other special elements or rural character
- (8)** To conserve and maintain historic settings, stone walls, archeological sites and structures that serve as significant visible reminders of the town's history

- (9) To provide for outdoor recreational needs of the subdivision's residents, including trails, scenic beauty and greens or playgrounds for larger subdivisions
- (10) To contribute where possible to town-wide trail network for the health, enjoyment and safe travel of residents and, where practical, to retain open space accessible to the general public
- (11) To allow siting of infrastructure and the provision of public services in a manner that is efficient and economical for developers and for the community at large
- (12) Encourage flexible road design that will contribute to and enhance a rural atmosphere and maintain acceptable safety design
- (13) To provide opportunities to create a diverse housing mix
- (14) To create compact neighborhoods accessible to open space amenities and with a strong community identity and quality of life
- (15) To encourage development that is harmonious with the existing landscape features

(D) Special Use Permits. All Open Space-Residential Cluster Developments shall obtain a Special Use Permit from the Planning Board. The Special Use Permit shall clearly set forth all conditions of approval and shall clearly list all plans, drawings and other submittals that are part of the approval. Everything shown or otherwise indicated on a plan or submittal that is listed on the Special Use Permit shall be considered to be a condition of approval.

Construction shall not deviate from the stated conditions without approval of the modification by the Planning Board.

The requirements of this section shall constitute the Standards and Criteria for issuance of the Special Use Permit.

(E) Application Procedure. Applications for Special Use Permit for an Open Space Residential Cluster Development shall be made in accordance with the following procedures:

- (1) An initial Preliminary Open Space Review shall be required with the Board prior to review by the Technical Review Committee and prior to Subdivision Review. The purpose of Preliminary Open Space Review shall be to determine the approximate Development Yield for the parcel. For this hearing, the applicant shall provide to the Board and Existing Conditions Plan prepared by a licensed land surveyor. No preliminary subdivision design is required.
- (2) The applicant shall also receive site design input from the Board and estimation of the Density Bonus Allowance from which Development Yield is determined per paragraphs (I)

and (N). **The final Density Bonus Allowance can only be determined through subsequent review of the complete plan.**

(3) The applicant shall then develop the proposed plan to a point at which the plan is eligible for technical review adhering as closely as possible to the conditions upon which the Development Yield was determined.

(4) The application shall then begin technical review, followed by the Open Space-Residential Cluster Development Review outlined in this section and in accordance with the other applicable procedures adopted by the Planning Board.

(5) In all particulars not otherwise addressed in this Ordinance, all applications shall meet those requirements set forth in the relevant sections of the Subdivision Regulations of the Farmington Planning Board.

(6) Where the provisions of the Subdivision regulations conflict with the provisions of this section, the provisions of paragraph (R), "Other Regulations Applicable" shall apply.

(F) Approval of Applications. A Special Use Permit shall be approved by the Planning Board only if an Open Space-Residential Cluster Development complies with all of the requirements of this sections and all other applicable Ordinances and Regulations of the Town of Farmington. The Planning Board may also require additional, reasonable conditions necessary to accomplish the objectives of this section or of the Farmington Master Plan, Zoning Ordinance, or any other federal, state, town resolution or law. The Special Use Permit is meant to provide flexibility, minimize adverse impacts and allow the Board to participate jointly with the applicant to prepare a development that is consistent with this Ordinance, regulations and the Master Plan of the Town of Farmington.

(G) Minimum Requirements. The provisions of this section are minimum development requirements. Each Tract of land possesses different, unique development characteristics and limitations and the Open Space-Residential Cluster Development use allowed on any particular Tract will be a function of innovative land planning and subdivision design interacting with the special characteristics and limitations of the site while remaining consistent with the purpose and objectives of this section.

(H) Tract Frontage. The minimum Tract frontage for the development shall be a contiguous 50 feet and of sufficient length to provide safe access for a right-of-way. At least one access shall be within the minimum Tract frontage. The minimum Tract frontage and access shall be within the Town of Farmington.

Tract frontage may be an important viewshed component to be preserved through the application of this Ordinance. Any Tract that has had more than 50% of its frontage subdivided away from the parent parcel after the enactment of this Ordinance may apply under the Open Space-Residential Cluster Development provisions of this sections, but shall not be eligible for any Density Bonuses normally available to Open Space-Residential Cluster Development applications for a period of seven (7) years from the date of the subdivision approval of the final plat.

Baseline Density. Baseline Density shall be determined by the following Baseline Density Formula:

Formula:		Example:
	Total Parcel Area	100 Acres total tract size
Minus	Non-Buildable Land (See def'n)	- 26 Acres Non – Buildable Land
Equals	Area Remaining	= 74 Acres (Buildable)
X0.9	(Subtracts 10% for roadways)	× 0.9 Roadway Factor
Equals	Net Area	= 66.6 Acres Net
Divided By	Lot Size for Zoning District	÷ 2 Acres (Lot size in sample district)
Equals	Baseline Density (See Def'n)	= 3.33 Units (Rounded to 33 units)

(I) Density Bonus. The Density Bonus shall be applied to the number of lots achievable under the Baseline Density. Except as noted in paragraph (H), the minimum Density Bonus, regardless of percentage achieved, shall be one lot. If required criteria are met, the Board may award the development additional Density Bonuses provided in paragraph (N). The total Density Bonus awarded to a particular development authorized under this section for innovative protection bonuses **shall not exceed 35%** of the Baseline Density. Where a final number 0.5 or greater, the Density Bonus may be rounded up to the next whole number.

Development Yield Example:

Following the example above, the total development yield would equal 33 units (baseline density) + 12 units (maximum allowable density bonus) for a total of 45 units.

(J) Development Yield. The total yield for an Open Space-Residential Cluster Development shall be determined by Baseline Density plus Density Bonuses awarded during the final review. The Development Yield shall constitute the approved number of residential units permitted under the Special Use Permit. **In no event shall the total Development Yield exceed the soil-based carrying capacity for the entire Tract.**

(K) Minimum Open Space Requirements.

- (1)** At least 40% of the Open Space-Residential Cluster Development Tract shall be Open Space permanently protected through one or more of the methods in paragraphs 3 and 4 below.
- (2)** The Open Space shall not include land covered by Structures, such as dwellings, garages, storage sheds, patios, parking areas, driveways, street rights-of-way and above ground utilities. The designated Open Space shall not be used for additional building lots.
- (3)** As a condition on approval of any subdivision Plat, the Open Space shall be permanently protected in perpetuity and the applicant shall choose one or more of the following methods of conveyance prior to or simultaneous with the recording of the subdivision Plat at the Registry of Deeds:

 - (a)** To the Town of Farmington, under the management of the Conservation Commission and accepted by the Board of Selectmen for park, open space or other specified conservation uses
 - (b)** To the State of New Hampshire for permanent open space uses
 - (c)** To a private non-profit organization which is exempt from tax under Section 501 (c)(3), or similar provision of the Internal Revenue Code and whose principal purpose is the conservation of open space and has the financial and organizational means for perpetual stewardship
 - (d)** To a corporation, trust or other entity, such as the Homeowner's Association
 - (e)** To a private landowner that will manage it for uses consistent with the objectives of this Article.
- (4)** Conveyances of the land to the Town or State, under Section (L)3(a), (L)3(b) below, will be subject to permanent deed restrictions. Conveyances of land to private entities, under Section (L)3(c) through (L)3(e) will be subject to permanent Conservation Easement granted to the Town of Farmington or to an organization qualified under Section (L)3(c) below and recorded at the Strafford County Registry of Deeds. Provision of such deed restrictions or conservation easements are subject to the approval of the Planning Board and shall include:

 - (a)** No further subdivision
 - (b)** No residential or industrial development
 - (c)** No roads or commercial uses except for agriculture, forestry or outdoor recreational activities conducted according to best management practices

General public access to the Conservation Areas will not be required unless the land is conveyed in a fee simple to the Town or State or a specific public trail corridor easement is proposed. Except in the aforesaid cases, the rights to post land and limit public access will remain with the land owner.

- (5)** The Planning Board shall approve the arrangements for ownership, control and maintenance of the Open Space as part of the subdivision plan approval. No changes in use or management of the Open Space shall be made without the approval of the Planning Board. This requirement shall be included in the homeowners' association's documents and by-laws.
- (6)** A Homeowners' Association shall be created where appropriate to own and manage the Common Areas and facilities and/or Open Space
 - (a)** Covenants for mandatory membership in the Homeowners' Association, setting forth the owner's rights, interest and responsibilities, shall be required and approved by the Planning Board and shall be included in the deed for each lot.
 - (b)** Membership in said Association shall be mandatory for property owners and made a required covenant in any deed issued or passed. It shall provide voting and use rights in the Common Areas and/or Open Space when applicable and may charge dues to cover expenses, which may include tax liabilities of the Common Areas and/or Open Space, recreational or utility facilities.

(L) Open Space Criteria and Layout.

- (1)** The required open Space shall not contain more than 35% Non-Buildable Land. No portion of public utility easements, of any kind, may be considered part of the minimum required open space.
- (2)** The Open Space shall conform to the requirements of this section and shall be designated as undivided parcels to facilitate easements monitoring, enforcement and maintenance, and to promote land management consistent with deed restrictions, easements or the Planning Board approved subdivision plan. Land management shall be consistent with the goals of the Base Zoning District in which the Open Space-Residential Cluster Development is located and those of this Open Space-Residential Cluster ordinance.
- (3)** As part of the application under this Section, the subdivision plan (Final Plat) shall:
 - (a)** Be recorded at the Registry of Deeds
 - (b)** Clearly delineate Open space and monumentation
 - (c)** Indicate that development is restricted from the Open Space in perpetuity

- (d) Contain any other information required in this Ordinance, including but not limited to the Conditions of Approval specifically related to the final use and development of the site, such as relevant portions of section N below.

This paragraph does not relieve the applicant from the requirements of any other regulation or Ordinance of the Town of Farmington.

- (4) Open Space land shall consist of at least one contiguous, undivided preserve that equals or exceeds 65% of the total Open Space. All Open Space land shall be placed in undivided preserves that equal or exceed 3 acres. All Open Space parcels between three (3) and ten (10) acres shall have a length to width ratio equal to or less than 4:1; except such areas specifically designated and constructed as village greens, ballfields, upland buffers to wetlands, waterbodies or water courses or trail links. Areas less in size or dimensional requirements may be considered Common Area left open, but shall not be included in the minimum required open space calculation.
- (5) Open Space shall be directly accessible to the largest number of lots within the development as is practicable.
- (6) Safe and convenient pedestrian access to open space shall be provided from all lots not adjoining the open space

(M) Density Bonus Allowances. The Board shall, on a case-by-case basis and when specifically requested to do so by the applicant, determine the bonus percentage to be granted based on the quality of the bonus scenario proposed. Applicants shall be eligible for 0% OR 5% OR 10% of the Baseline Density depending on the degree to which they meet the following criteria. While developments may meet the requirements for many or all the following bonus scenarios, the maximum Density Bonus allowed by paragraphs through (J) below shall not exceed 35% of the Baseline Density.

(1) Open Space Bonus 0%, 5% OR 10%

- (a) The proposed Open Space Cluster plan shows 50% or more of the total parcel as permanently protected open space.
- (b) The entirety of the Open Space consists of 25% or less Non-Buildable Land
- (c) The open space is of a particularly high quality for natural resource protection or recreation and for which other bonuses are not concurrently being sought.
- (d) More than 90% of the total Open Space is in one undivided parcel

(2) Public Access Bonus 0%, 5% OR 10%

- (a) The public is granted access to the open space

- (b) The nature of public access required to trigger this bonus is pedestrian traffic. The instrument granting access, acceptable to the Planning Board, may reasonably restrict the use of motorized vehicles

(3) Agricultural Lands and Use Bonus 0%, 5% OR 10%

- (a) The development protects agriculturally valuable lands
- (b) Legally binding instruments provide permissions for the use of the Open Space for active agricultural activity in perpetuity
- (c) The open space portion preserved for agricultural use must amount to a minimum of 50% of the minimum required open space
- (d) The number of acres of farmland preserved is a high percentage of the minimum Open Space reserved

Buffers to agricultural uses shall be required by the Planning Board to ensure that residential development does not unreasonably limit the pursuit of agricultural activities conducted in open Space.

(4) Tree Farm Bonus 0%, 55% OR 10%

- (a) Developments that protect valuable woodland areas by placing Tracts in the American Tree Farm Program
- (b) A Forest Management Plan prepared by a licensed NH forester

(5) Viewshed Bonus 0%, 5% OR 10%

- (a) The development protects lands or corridors of land that contribute to the visual landscape of the town, including items such as open fields containing stonewalls, mature stands of trees, visible water bodies and their natural buffers
- (b) The development screens proposed structures in such a way that the visual impact of the development is minimized from either near or distant vantage points
- (c) Viewsheds that are identified as important for preservation in the Master Plan

(6) Historic Bonus 0%, 5% OR 10%

- (a) Where the development protects historically significant structures and landscapes, identified as such in the Master Plan, that include features and associated uses that are maintained and visually separated from the development portion of the cluster development.
- (b) Structures or landscapes not identified as such through the Master Plan may be determined by sufficient evidence presented to the Planning Board during review of the cluster development

- (c) Comment on the preservation of historical significance submitted by a qualified authority such as the NH department of Historical Resources, the NH Historical Society or the Farmington Historical Society
- (d) Listing or eligibility for listing on the National Register of Historic Landmarks or other qualified statements of historical value

(7) Wildlife Bonus 0%, 5% OR 10%

- (a) Protection of valuable wildlife and environmental areas that are otherwise buildable land
- (b) Prepared environmental resource inventory by a qualified wildlife biologist specializing in either flora or fauna (Reports by a wetlands or soil scientist shall not satisfy this criterion)

(8) Greenway and Trail Bonus 0%, 5% OR 10%

- (a) Developments that link open space parcels or trail corridors through the site with existing trails or open space networks
- (b) The beginning of such a network or trailway may be considered as “linking” where reasonable opportunity is present for establishing through corridors into neighboring parcels
- (c) Conservation Commission recognizes the reserved area as valuable to the completion of a trail network
- (d) Greenways or trail corridors identified as areas of importance in the Master Plan

(9) Recreational Bonus 0%, 5% OR 10%

- (a) Developments reserve recreational areas suitable for playgrounds, playing fields, courts, swimming pools or other active recreation in close enough proximity to residential structures such that residents can monitor the use of the areas
- (b) Playground facilities, courts, swimming pools or other equipment adequate to service the likely youth population of the development are installed as a condition of the approval

(10) Frontage Lot Bonus 1 Lot per Frontage Lot preserved

- (a) For every Frontage Lot, no part of which has been used to qualify for Open Space Bonuses as herein provided, but which is not development and is instead added to the Open Space lands, the development shall receive an additional bonus of one (1) lot for each lot so preserved.

(N) General Requirements.

(1) Conformance. All proposed Open Space-Residential Cluster Development subdivisions shall be in conformance with the provisions of all pertinent state and local codes, ordinances and regulations as required in Section (R), below.

(2) Uses. Uses permitted within an Open Space-Residential Cluster Development shall be limited to the following:

(a) Residence, Single Family

(b) Residence, Duplex

(c) Residence, Multi-family: **(Not allowed in the AR District)** up to four (4) units per building or structure. These are units structurally joined and share walls with no yard between units

(d) Residence, Joined-Array Units: **(Not allowed in the AR District)** Single-family units that are attached by and share a common yard and/or fence as part of a tightly-constructed joined-array, not to exceed four joined units, shall be considered single family units when determining setbacks to other arrays or detached units but shall not require setbacks from each other provided that yard space at least ten (10) feet wide is available for individual use between units. In no case shall structures be less than twenty (20) feet apart.

(e) Agricultural uses in conjunction with designated Open Space

(f) Recreational uses in conjunction with designated Open Space

(g) Limited commercial uses that are clearly subordinate to recreational and/or agricultural uses associated with the designated Open Space

(h) Manufactured housing as defined in **RSA 674:31** shall not be allowed in Open Space-Residential Cluster Developments per this section as granted by **RSA 674:32**.

All non-residential uses permitted above are subject to Planning Board approval in accordance with Farmington Site Review Regulations and must not conflict with the stated goals and objectives of this section.

(3) Lot Frontage.

(a) Each single-family unit shall have a minimum 50' of frontage on interior roadways

(b) Duplex units sharing a common wall shall have a minimum of 75' of frontage per duplex unit

(c) Joined-Array single family units shall have a minimum 125' of frontage per joined array

- (d) Multi-family structures, sharing a common wall shall have a minimum 100' of frontage for three (3) unit structures per three (3) unit multi-family structure and a minimum 125' of frontage for four (4) unit structures per four (4) unit multi-family structure.
- (e) All lots on existing streets/roads just meet required frontage of that particular zone
- (4) Setbacks.** The following setbacks shall apply to all residential structures within the development:
 - (a) Setbacks from exterior property lines of the Tract shall be 50' for single-family detached units with an additional 15' per unit for multi-unit structures (e.g., 4 units attached = 110')
 - (b) 15' setback from the edge of the right of way roadways within, and part of, the development
 - (c) 40' structural separation for all single-family unit structures within the development
 - (d) 50' structural setback for multi-family units from all other structures
 - (e) 10' structural setback from all lot lines
- (5) Lot Configuration and Size.**
 - (a) Lots shall be delineated and shall include a reasonable amount of land surrounding each unit or structure for the exclusive use of the lot holder
 - (b) All lots utilizing on-site septic and water supply shall be sized in accordance with State of New Hampshire Department of Environmental Services Administrative Rules for soil-based lot sizing.
 - (c) The maximum lot size shall be the minimum lot size required by the underlying Zoning District or according to (b) above, whichever is greater.
- (6) Utilities.** All utilities servicing the development shall be installed underground. Waivers to this requirement may be granted by the Planning Board on some portions of the site if it is determined to be impractical due to the presence of ledge, wetlands or other impediments.
- (7) Parking.** Off-street parking shall be provided for two (2) cars per unit.
- (8) Buffers.** The Planning Board may establish reasonable buffers that potentially conflicting uses are adequately segregated.
- (9) Roadways.**
 - (a) The design of the road network shall provide for access to adjacent developed areas or shall reserve rights-of-ways for future connection to adjacent properties that, in the judgement of the Planning Board, are likely to be development. This objective, however, shall be secondary to the goal of protecting open space.

(b) Roadways within Open Space-Residential Cluster Developments, whether intended to be public or private, shall be constructed in accordance with the roadway standards set forth in the Farmington Subdivision Regulations.

(c) Waivers to the above roadway requirements may be granted by the Planning Board if it is determined that the spirit and intent of this section is preserved or enhanced by granting said waivers.

(O) Legal Review. Legal review of the proposed development shall be conducted under the conditions delineated herein:

(a) Any condominium agreements, deed restrictions, organizational provisions for a Homeowner's Association, or any legal entities providing for ownership of individual dwelling units and a sharing of certain utilities, open space, Common Areas and auxiliary facilities and structures, shall be approved in writing by the Planning Board and by Town Counsel and any other municipal, county or state agency, body, commission or department required by law to assure the same.

(b) The developer shall submit a suitable legal instrument, which to the satisfaction of the Board and/or Town Counsel, will assure that such open space and/or Common Area will continue to be used for conservation, agriculture, park or recreation, and shall not be disposed of by sale or otherwise except to any organization or individual actively engaged in, or established for, the purpose of owning and maintaining such open space.

(c) The developer shall also provide for adequate maintenance of such Open Space area set aside for conservation, park or recreation. Such developer shall provide for the insertion in all deeds, in a form approved by the Planning Board and/or Town Counsel any and all safeguards and conditions suitable to carry out the purposes of these regulations.

(d) Such legal instruments shall also provide that the Town of Farmington, its agents, servants and employees, may, without liability, enter upon such land held for conservation, park or recreation and remove, or cause to be removed, any object or condition which may be deemed to be a nuisance or in the nature of a nuisance.

(P) Expiration. Any Special Use Permit shall expire if active and substantial development or building has not begun on site by the owners or the owner's successor in interest in accordance with the approved subdivision plan or Final Plat within twenty-four (24) months after the date of approval. As part of its approval of a subdivision plan or Final Plat, the Planning Board may, with due regard to the scope and details of a particular project, specify the threshold level of work which shall constitute "active and substantial development or

building” for purposes of fulfilling this paragraph. In the event a Special Use Permit expires, a new application for a Special Use Permit must be completed.

(Q) Other Regulations Applicable.

(a) The Planning Board is hereby authorized to adopt sections of the Subdivision Regulations that shall apply to Open Space-Residential Cluster Development.

(b) In order to approve a subdivision plan for an Open Space-Residential Cluster Development, and notwithstanding other provisions of the Farmington Zoning Ordinance or Subdivision Regulations, the Planning Board may:

(i) Modify dimensional and other requirements as specified in this Section

(ii) Apply conditions as specified in this Section

(iii) Such modifications shall not be construed as the granting of a variance to relieve hardship.

(c) Where provisions of the Subdivision Regulations or Zoning Ordinance are not specifically modified by the Planning Board under the authority of paragraph (Q)(a) above, and where such provisions differ from the authority of this Ordinance, the provision which imposes the greater restriction or higher standard shall apply.

The Planning Board shall determine whether the provisions of this Ordinance preempt other regulations under the authority of paragraph (Q)(a) above, and/or which provision is applicable.

(R) Strict adherence to these provisions shall not be construed as establishing a legal right to a Special Use Permit for an Open Space-Residential Cluster Development. Those who wish to pursue their “development rights” to a certain use or development of land should consider developing their land with the permitted, conventional subdivision approaches, or through the variance procedure as provided for by New Hampshire law.

(S) Conditions. The Planning Board may impose additional standards than are required by this Section when the Board determined that, because of unique characteristics of the Tract, an adverse impact would be created by allowing development to be built to the standards delineated in this Section.

(T) Definitions. The following definitions specifically apply to this Section of the Zoning Ordinance:

COMMON AREA. Any parcel or area of land and/or area of water set aside as a result of a Residential Open Space Cluster plan which is not also counted as Open Space. Common Areas are

designed for the benefit and enjoyment of the residents of a Residential Open Space Cluster development by supporting accessory structures and improvements necessary and appropriate for educational, recreational, cultural, social or other non-commercial/nonresidential/non-industrial uses or any utility services utilized by the owners of the Common Area.

CONSERVATION LAND. Dedicated to conservation of forests, park land, etc., with the intent of sustaining ecology, safeguarding water supplies, diminishing flood danger or maintaining a sustainable working landscape.

DENSITY, BASELINE. Baseline Density is a number arrived at through the use of the formula in paragraph (I) of the Open Space-Residential Cluster Ordinance.

DENSITY BONUS. Additional dwelling units allowed when applicants meet certain requirements. Allowing Density Bonuses increase the Residential Density in exchange for features anticipated to benefit the community.

DENSITY BONUS, MAXIMUM ALLOWABLE. The Maximum Allowable Density Bonus for which any application shall be eligible.

DEVELOPMENT YIELD. The total yield for Open Space- Residential Cluster development determined by adding Density Bonuses to Baseline Density.

EXISTING CONDITIONS PLAN. A plan showing existing conditions including property bounds and all other existing natural and man-made features on the property, including Non-Buildable Land types, easements, buildings, property accesses, stone walls and all other existing conditions which may bear on the proposed application. The plan shall also show buildings and property entrances within two hundred feet (200') of the property bounds. The plan shall not show any proposed additions to the property that are the subject of the proposed application.

FINAL PLAT. A subdivision plan legally approved by the Planning Board and produced in accordance with the requirements set forth in the Farmington Subdivision Regulations.

FRONTAGE LOT. A lot that conforms to the legal standards for frontage, lot size and minimum uplands of the Zoning District in which it is located and which abuts an existing Class I, II or V highway within the Town of Farmington.

HOMEOWNERS' ASSOCIATION. A private corporation, association or other legal entity organized in accordance with state law and established by the developer for the benefit and enjoyment of its members.

NON-BUILDABLE LAND. Land within a Tract that consists of the following types of land:

- (1) Wetlands as defined elsewhere in this Ordinance
- (2) Slopes exceeding a grade of 25%

- (3) Floodways and floodway fringe within the 100-year floodplain as shown on official FEMA maps
- (4) Land under permanent easement or deed restriction that has prohibited development (including easements for drainage, access and utilities) or any other land designated as open space or used to comply with minimum requirements for recreation or open space land
- (5) For the purposes of calculating Baseline Density for Open Space-Residential Cluster Development only, any undeveloped land within the Tract which is located in a municipality abutting Farmington

OPEN SPACE. Land area located within the Town of Farmington or as part of a Tract that crosses the Farmington town bounds and which as a condition of Planning Board approval, deed restriction or conservation easement is permanently protected and which is used to calculate Density Bonuses under Open Space-Residential Cluster Ordinance paragraphs (M) and (N).

OPEN SPACE EASEMENT. (also, Conservation Easement) Land whose development rights have been legally restricted by conservation easement deed. The easement may be so worded as to permit or restrict public access, allow or disallow recreational use or development and similar provisions. Easements are tied to the title of the land, regardless of its subsequent ownership.

OPEN SPACE PLAN. A plan recorded at the Registry of Deeds which delineates Open Space land where development is restricted in perpetuity.

PRELIMINARY OPEN SPACE REVIEW. For the purposes of administering the Open Space-Cluster Ordinance, an initial meeting with the Planning Board, which occurs prior to Technical Review Committee Review and which establishes the Baseline Density, and may estimate the Density Bonus Allowance and/or the Development Yield of a proposed project.

PUBLIC OPEN LAND. Land purchased by or given to the Town of Farmington for parks, playgrounds or an undeveloped open space, generally with the intention of making it accessible for public use.

RESIDENTIAL DENSITY. A measure of density of dwelling units, usually expressed as a unit per square feet of lot. A Residential Density of one unit per 5,000 square feet would result in 8 units per acre of lot.

TRACT. Contiguous land areas (parcels, lots, etc.) included in an application to the Planning Board for subdivision or site plan review, or any change in land use.

3.18 PHASED DEVELOPMENT STANDARDS

(A) Authority. Pursuant to the provisions of the New Hampshire Revised Statutes Annotated 1984 **RSA 674:21**, and Section 1.11 of the Farmington Zoning Ordinance, the Town of Farmington adopts the following provisions to be administered by the Planning Board and enforced as directed by Section 1.10 of the Farmington Zoning Ordinance.

(B) Purpose. To guide the implementation of major subdivision in the Town of Farmington so that:

- (1)** Residents of the town can be adequately served by community facilities as those services are expanded
- (2)** To provide for the current and future housing of existing residents and their families
- (3)** To ensure fairness in the issuance of building permits
- (4)** To ensure that construction costs to builders are not unduly increased by preventing them from erecting or creating several dwelling units as part of one project
- (5)** To phase in or control the implementation and development of tracts of land and future subdivision thereon, at a rate which will be compatible with the orderly and gradual expansion of community services, including but not limited to education, fire protection, road maintenance, waste disposal, police protection and recreation

(C) Applicability. This article shall apply to all subdivision applications filed with the Department of Planning and Community Development and which request approval of ten (10) or more building lots.

(D) Procedure. Phasing Schedule. The Planning Board shall establish a Phasing Schedule of all subdivisions subject to the provision of this article specifying the number of dwelling units per year that can be constructed and the total numbers of years involved.

- (1)** The following phasing plan shall be employed:

Conventional Subdivision						
Quantity*	Phasing (years)					
	1 st	2 nd	3 rd	4 th	5 th	6 th
10	10					
20	10	10				
30	10	10	10			
40	10	10	10	10		
50-75	Divide Quantity by SIX (6)					
76-100	Divide Quantity by SEVEN (7)					
Greater than 100	Divide Quantity by EIGHT (8)					

Open Space – Residential Cluster Subdivision			
Quantity*	Phasing (years)		
	1 st	2 nd	3 rd
Less than 60	No Phasing Required		
Greater than 60	40	½ remainder	½ remainder

*Quantity is total number of dwelling units proposed for the subdivision

- (2) In establishing the Phasing Schedule pursuant to this article, the Planning Board shall take the following factors into consideration:
- (a) The general character of the neighborhood in which the tract lies, the effect of the plan on the area and the effect of the plan on the rural character of the Town
 - (b) The area of the tracts usable and suitable residential construction
 - (c) The relation of the plan to the long-range plans of the Town as contained in the Town of Farmington Master Plan
 - (d) The natural terrain of the tract
 - (e) The impact of the proposed subdivision upon the ability of the Town to provide or expand municipal or community services if it is not phased

- (f) The impact of the proposed subdivision upon the ability of the Town to provide or expand municipal or community services if it is phased.

(E) Limitations. In establishing the Phasing Schedule for Open Space-Residential Cluster Subdivision, the Planning Board shall use for the Quantity figure the actual number of units proposed, including all units awarded as density bonuses. The baseline density shall not be used for calculations related to the Phasing Schedule.

(F) Periodic Review. The operation of this article shall be reviewed by the Planning Board periodically, but not less frequently than once every three years to ensure that the phasing requirements of this article have not become inconsistent with the Town's responsibility and capability in planning, development and implementing the necessary municipal systems and facilities to serve the growing Town and to ensure that the Town is assuming its fair share of housing growth within its market region proposed, including all units awarded as density bonuses.

3.19 SEXUALLY ORIENTED BUSINESS STANDARDS

WARNING: THIS BEGINS A SECTION CONTAINING SEXUALLY EXPLICIT LANGUAGE

(A) Authority. Pursuant to the authority conferred by chapter 674:16 of the New Hampshire Revised Statutes, the Town of Farmington adopts the following ordinance regulating Sexually Oriented Business. This ordinance shall be considered part of the Zoning Ordinance of the Town of Farmington for the purpose of administration and appeals under state law. If any provisions of this ordinance differ or appears to conflict with provisions of the Zoning Ordinance or other ordinance or regulation, the provision imposing the greater restriction or more stringent standard shall be applied.

(B) Purpose. It is the purpose of this Ordinance to regulate Sexually Oriented Businesses and related activities to promote the health, safety and general welfare of the citizens of the Town of Farmington and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of Sexually Oriented Businesses within the Town of Farmington. The provisions of this Ordinance have neither the purpose nor the effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor the effect of this Ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their

intended market. Neither is it the intent nor effect of this Ordinance to condone or legitimize the distribution of obscene materials.

(C) Definitions. For the purposes of this Ordinance, the following items shall be defined as stated:

ADULT (BUSINESS) BOOKSTORE OR ADULT VIDEO STORE. A business that utilizes more than 15% of the total display, shelf, rack, table, stand and floor areas for the display and sale of the following:

- (1)** Books, magazines, periodicals or other printed matter, or photographs, films, motion picture, video cassettes, slides, tapes records, CD-ROMs or other forms of visual or other audio representation which meet the definition of “harmful to minors” and/or “sexual conduct” as defined in **RSA 571-B:1**
- (2)** Instrument, devices or paraphernalia which are designed for use in connection with “sexual conduct” as defined in **RSA 571-B:1**, other than birth control devices

AN ADULT BOOKSTORE OR ADULT VIDEO STORE DOES NOT INCLUDE AN ESTABLISHMENT THAT SELLS BOOKS AND PERIODICALS AS AN INCIDENTAL OR ACCESSORY PART OF ITS PRINCIPAL STOCK AND TRADE AND DOES NOT DEVOTE MORE THAN 15% OF THE TOTAL AREA OF THE ESTABLISHMENT TO THE SALE OF BOOKS AND PERIODICALS.

ADULT MOTION PICTURE THEATER. An establishment with a capacity of five or more persons, where for any form of consideration, films, motion picture, video cassettes, slides or similar photographic reproduction are shown and in which a substantial portion of the total presentation time is devoted to the showing material which meets the definition of “harmful to minors” and/or “sexual conduct” as set forth in the **RSA 571-B:1** for the observation by patrons. For subsection c, d, e and f, a “substantial portion of the total presentation time” shall mean the presentation of films or shows described above for viewing on more than seven days within any 30 consecutive day period.

ADULT MOTION PICTURE PARADE. Any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled still or motion picture machine, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, in which a substantial portion of the total presentation time of the images so displayed is devoted to the showing of materials which meets the definition of “harmful to minors” and/or “sexual conduct” as set forth in **RSA 572-B:1**.

ADULT DRIVE-IN THEATER. An open lot or part thereof, with appurtenant facilities, devoted primarily to the presentation motion pictures, films, theatrical production and other forms of visual productions, for any form of consideration to persons in motor vehicle or on outdoor seats, in which a

substantial portion of the total presentation being presented for observation by patrons is devoted to the showing of material which meets the definition of “harmful to minors” and/or “sexual conduct” as set forth in **RSA 574-B:1**.

ADULT CABARET. A nightclub, bar, restaurant or similar establishment which during a substantial portion of the total presentation time features live performances which meet the definition of “harmful to minors” and/or “sexual conduct” as forth in **RSA 571-B:1** and/or feature films, motion picture, video cassettes, slides or other photographic reproductions, a portion of the total presentation of which meets the definitions of “harmful to minors” and/or “sexual conduct” as set forth in **RSA 571-B:1**.

ADULT MOTEL. A motel or similar establishment offering public accommodation for any form of consideration which provides patrons with closed circuit televisions, transmissions, films, motion pictures, video cassettes, slides or other photographic reproduction in which a substantial portion of the total presentation time of which are distinguished or characterized by an emphasis upon the depiction or description of materials which meet the definition of “harmful to minors” and/or “sexual conduct” as set forth in **RSA 571-B:1**.

ADULT THEATER. A theater, concert hall, auditorium or similar establishment either indoor or outdoor in nature, which, for any form of consideration, features live performances, a portion of the total presentation time of which are distinguished or characterized by an emphasis on activities which meet the definition of “harmful to minor” and/or “sexual conduct” as set forth in **RSA 571-B:1**.

NUDE MODEL STUDIO. A place where a person who appears in a state of nudity, whether male or female, and displayed in a state of sexual arousal and is observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration or such display is characterized by an emphasis on activities which meets the definition of “harmful to minors” and/or “sexual nature” as set in **RSA 571-B:1**.

NUDITY OR A STATE OF NUDITY. Means the appearance of a human bare buttock, anus, anal cleft or cleavage, pubic area, male genitals, female genitals or vulva, with less than a fully opaque covering; or a female breast with less than a fully opaque covering of any part of the areola; or human male genitals in a discernibly turgid state even if completely and opaquely covered.

SEMI-NUDE OR SEMI-NUDITY. Means the appearance of the female breast below a horizontal line across the top of the areola at its highest point. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, skirt, leotard, bathing suit or other wearing apparel provided the areola is not exposed in whole or in part.

SEXUAL ENCOUNTER CENTER. A business or commercial enterprise that as one of its primary business purpose, offers for any form of consideration; (A) a physical contact in the form of wrestling or tumbling between persons of the opposite sex; or (B) activities between male and female and/or persons of the same sex when one or more persons is in a state of nudity or were the activities in (A) and (B) is characterized by and emphasis on activities which meets the definitions of “harmful to minors” and/or “sexual conduct” as set forth in **RSA 571-B:1**.

SEXUALLY ORIENTED BUSINESS. Means an adult arcade, adult bookstore or adult video store, adult cabaret, adult drive-in theatre, adult motel, adult motion picture theater, nude model studio or sexual encounter center as those terms are defined herein.

SPECIFIED SEXUAL ACTIVITIES. Means and includes any of the following:

- (1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts, whether covered or uncovered
- (2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy
- (3) Masturbation, actual or simulated
- (4) Excretory functions as part of, or in connection with, any of the activities set forth in 1 through 3 above

(D) Location Restrictions. A sexually oriented business may only be allowed in the Industrial Business District. For a use to be established under this Ordinance, the applicant must demonstrate that the proposed site satisfies all the site requirements of the Site Plan Review form the Planning Board and must obtain a Special Exception from the Zoning Board of Adjustment. For existing businesses in any district which sells sexually explicit goods, paraphernalia or adult materials, but does not meet the 15% threshold outlined in Section 3, such goods and paraphernalia shall be located either behind a counter or in a separate room or enclosure where citizens under the age of 18 are not allowed to enter. Such sexually explicit goods and paraphernalia must be located so the materials in question are not within view of minors. A sexually oriented business use may only be allowed by the Zoning Board of Adjustment as a special exception, subject to the following conditions:

- (1) No sexually oriented business shall be permitted within 1000 feet of the property line of a church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities.
- (2) No sexually oriented business shall be permitted within 1000 feet of the property line of a public or private educational facility including, but not limited to, child day care facilities,

nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education school, junior colleges and universities; school includes the school ground, but does not include the facilities used primarily for another purpose and only incidentally as a school.

- (3) No sexually oriented business shall be permitted within 1,500 feet of the property line of a public park or recreational area which has been designated for park or recreational activities including, not limited to, a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, skating rink, pedestrian/bicycle paths or other similar public recreation land which is under the control, operation or management of the Town or any of its Departments, Boards or Commissions.
- (4) No sexually oriented business shall be permitted within 500 feet of any posted school bus stop.
- (5) No sexually oriented business shall be permitted within 500 feet of a town border.
- (6) No sexually oriented business shall be permitted with 500 feet of the property line of a lot used for residential purposes.
- (7) Sexually oriented business shall only be permitted in single use, freestanding structures. In no instances shall sexually oriented business share premises, facilities or buildings with businesses which are not sexually oriented.
- (8) There shall be a minimum of 1000 feet between any two sexual oriented businesses. This shall be measure in a straight line.
- (9) The site shall be maintained daily in a condition that is free and clear of any sexual paraphernalia or packaging.
- (10) No sexually explicit material or advertising shall be visible from outside the building.
- (11) No one under the age of 18 shall be permitted inside such a use, structure or business and a procedure shall be developed to keep those under 18 from entering the building.
- (12) No operator or employee shall have been convicted of a misdemeanor or felony of sexually related nature.
- (13) No sexually oriented business shall be permitted within 1000 feet of the junction of Route 11 and Route 153.

(E) Signage. Signage shall comply in all respects with all Town of Farmington ordinances, codes or regulations governing signs and in addition shall comply with the provisions of this section. No sign, whether primary or secondary, shall contain photographs, silhouettes, drawings,

images or pictorial representations in any manner depicting or making linguistic reference to nudity, semi-nudity, specified anatomical areas, specified sexual activity, or any device or paraphernalia designed for use in connection with specified sexual activity and may contain only the name of the enterprise.

(F) Administration. In addition to meeting the specific conditions set out in this Ordinance, no sexually oriented business shall be established without first obtaining a special exception from the Zoning Board of Adjustment. Any such application shall be subject to all of the special exception criteria and discretionary authority of the ZBA set out in section 2.00 (A) and (B) of the general Zoning Ordinance.

(G) Public Nuisance. Violation of the use provisions of this Ordinance is declared to be a public nuisance per se, which shall be abated by the Town of Farmington by way of civil abatement procedures.

(H) Limiting Clause. Nothing in this Ordinance is intended to authorize, legalize or permit the establishment operation or maintenance of any business, building or use which violates any Town of Farmington Ordinance or statute of the State of New Hampshire regarding public nuisances, sexual conduct, lewdness or obscene or harmful matter or the exhibition of public display thereof.

(I) Separability. The invalidity of any provisions of this Ordinance shall not affect the validity of any other provisions of this Ordinance or of the Zoning Ordinance as a whole.

(J) Effective Date. This Ordinance shall be enforced from and after passage by the 2004 Town Meeting.

3.20 ACCESS MANAGEMENT

(A) Authority. The Town is granted authority to develop zoning ordinances to lessen congestion in streets, secure safety from fires, panic and other dangers and facilitate the adequate provision of transportation under **RSA 674:17 (I)(a-j)** and **RSA 236:13(V)** to issue driveway and access permits. The Planning Board regulates subdivision of land under **RSA 674:35** and the use and site development of property adjoining highways under **RSA 674:43**.

(B) Purpose. This Ordinance is intended to ensure safe, efficient access to New Hampshire Route 11 and from non-residential or multi-family lots directly fronting on this state highway and to encourage smart development and economic development in Farmington. It is in the best interests of the Town and residents to ensure planned and share future access to Route

11 in order to preserve highway capacity and public safety, while allowing planned development of the Route 11 corridor through Farmington. Wherever possible, shared access drives, service roads and access easements should be utilized to implement this Ordinance.

(C) Applicability. This Ordinance shall only apply to lots fronting on New Hampshire Route 11 or directly accessing New Hampshire Route 11 over the former railway Right of Way parcel, which require Site Plan or Subdivision approval by the Planning Board. In order to allow for the safest, most efficient circulation of traffic and access to lots along Route 11, the Planning Board may apply the specific provisions of this Ordinance on a case-by-case basis as is appropriate and to ensure safety and reasonable access, without being unduly burdensome to the lot owner.

(D) Definitions.

ACCESS. A way or means of approach to provide physical entrance to a property.

ACCESS MANAGEMENT. The systematic control of the location, spacing, design and operation of driveways, median openings and street connections to a roadway, as well as roadway design applications that affect access, such as a median treatments, auxiliary lanes and appropriate separation of traffic signals.

CROSS ACCESS DRIVE. An easement or service drive providing vehicular access between two or more contiguous sites so that the driver does not need to reenter the public street system.

DRIVEWAY. A private roadway for vehicles which provides entrance, exit, access or approach to or from land in Farmington to a public street or to abutting land.

FRONTAGE ROAD. A private roadway allowing access along the front portion of adjacent properties allowing traffic to move from one site to another without the need to re-enter the Route 11 corridor.

REAR ACCESS DRIVE. Similar to a Frontage Road, a Rear Access Drive provides access to adjacent parcels through the rear of lots along a private roadway, allowing traffic to move from one site to another without the need to re-enter the Route 11 Corridor.

SHARED DRIVEWAY. A driveway providing access to multiple lots along a single access point and a single curb cut. Usually, shared driveways are located on the adjoining property line, but may be used to offer access for multiple properties over a single lot.

TRAFFIC IMPACT STUDY. A comprehensive analysis of the “before” and “after” operational traffic impacts to a road system and site resulting from proposed development and associated traffic movements and volumes. Studies are used to identify capacity, safety and circulation deficiencies and to help identify feasible solutions to these deficiencies.

THROAT. The area of a driveway extending from the access point to any on-site parking or loading area on the property. The throat is designed to store and separate queuing ingressing and egressing vehicles making a transition between on- and off-site the property as well as preventing safety conflicts with on-site and off-site traffic.

(E) Traffic Impact Study. A Traffic Impact Study may be required when deemed necessary by the Planning Board in its deliberation of the Site Plan application. For all developments over 20,000 sq. ft. in gross area or ten (10) residential dwelling units; or which would involve more than 500 vehicles per day, a Traffic Impact Study shall be required.

(F) Minimum Distance Between Driveways. The minimum distance between driveways on the same side of the street shall be in accordance with the following table from the Federal Highway Administration's *Access Management for Streets and Highways*:

Minimum Distance Between Driveways

Highway Speed (mph)	Min. Driveway Spacing (ft)
35	150'
40	185'
45	230'
50+	275'

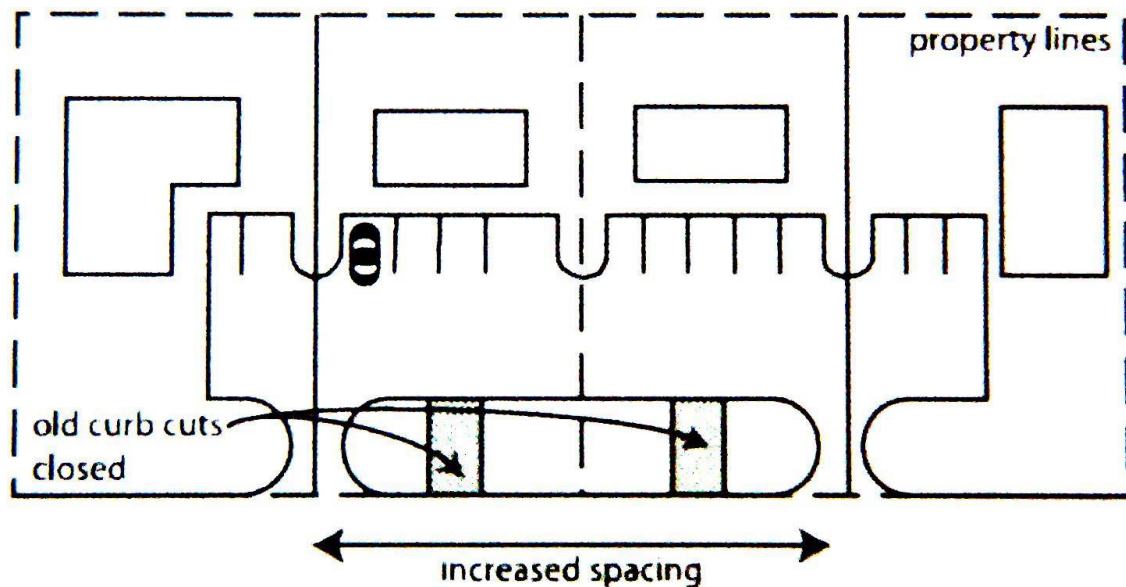
For driveways along highways with speeds of 50 mph, the driveway distance shall be determined by the Planning Board, in consultation with NHDOT and shall not be less than 275ft.

(G) Maximum Number of Driveways Per Lot. Lots without sufficient frontage to allow the above minimum distance between driveways shall be permitted only one (1) driveway per lot.

(H) Shared Driveways. For all new development or redevelopment adjacent to undeveloped sites and all other sites when possible, shared access driveways shall be required to be constructed along the shared lot line. Additionally, access easements granting access to the adjacent or undeveloped site(s) shall be incorporated into the site plan/subdivision and recorded at the Registry of Deeds.

(I) Shared Access. Wherever possible, easements and actual construction of driveways and/or shared access or cross access roads shall be established to allow for future development and access to adjacent non-residential or multi-family parcels along the Route 11 corridor. Such easements shall be recorded at the Registry of Deeds and shall guarantee shared access across adjacent parcels for all parcel owners connecting to the Shared Access Road(s). Before any application for a shared access is approved, the landowner(s) must submit a

maintenance agreement and provide a deeded easement that clearly defines each property owner's rights and responsibilities.



(J) Shared Parking. Wherever possible, when two (2) adjacent lots, both supporting multi-family or non-residential uses exist, cross access and shared parking lots shall be utilized. Before any application for a shared parking is approved, the landowner(s) must submit a maintenance agreement and provide a deeded easement that clearly defines each property owner's rights and responsibilities.

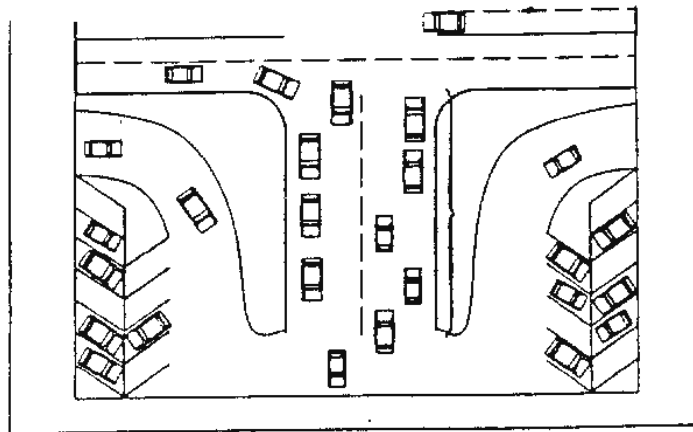
(K) Frontage Roads/Rear Access Roads. Wherever possible and in consultation with adjacent landowners, development along the Route 11 Corridor shall utilize Frontage or Rear Access roads to access their sites. Such roads shall have limited, shared access points to Route 11 and shall provide access for all lots along their route. Such roads shall be privately owned and maintained by the adjoining lot owners whose properties are accessed by the roadway. Frontage/Rear Access roads shall be required, unless the developer can furnish written correspondence indicating that either the adjacent property owners are unwilling to provide access easements or maintenance for the roadway, or that safety issues would render such a roadway less safe than a traditional access point directly fronting on Route 11.

(L) Access to Lots with Frontage on Multiple Streets. Lots with frontage on Route 11 and another highway or local street, shall not be permitted to access Route 11, except where it can be proven that other potential access points would cause greater environmental or traffic impacts to the existing land and traffic patterns, or where a greater safety hazard would be created by accessing another highway or local street, or where such access would create a

dead-end roadway greater than 900 feet in length, as determined by the Planning Board. Where access off Route 11 is desired, a Traffic Impact Study shall be required to provide sufficient evidence for this to the Planning Board, as opposed to access from another highway or local street.

(M)Minimum Driveway/Throat Length. The minimum length of driveways fronting on Route 11 shall be sufficient length to accommodate on-site stacking of vehicles waiting to enter the site. The design of the driveway shall, to the maximum extent possible, cause no vehicles waiting to enter the site to remain on the highway. If a Traffic Impact Study is required for the site, the minimum length of driveway(s) shall be of sufficient length to accommodate on-site stacking of the maximum number of vehicles as defined by the peak period of operation in the Traffic Impact Study for the site.

Example of Sufficient Throat Length



(N)Nodal Development. Wherever possible, development of shared access drives shall be utilized to allow for future growth and development in nodes along the Route 11 corridor, rather than traditional strip development. Wherever multi-structure development is proposed of a single lot or combination of lots, a shared driveway shall be utilized to provide for access to these structures.

(O)Curb Cut Width. The width for a minor driveway curb cut serving primarily passenger vehicles shall be no greater than twenty-four (24) feet, not including the radii. The width for a major driveway curb cut shall be no greater than thirty-six (36) feet, not including the radii.

(P)Angle of Driveway. Access to the highway shall be at an angle of 90 degrees, wherever possible.

3.21 LANDSCAPING

(A) Landscaping. Whereas an objective of this appendix is to encourage the retention of natural landscape and forests, where that is not possible in Commercial Business (CB) District, the Industrial Business (IB) and Commercial/Industrial Overlay (C/IBO) District, all new buildings and Structures, as well as additions greater than twenty-five percent (25%) of the gross floor area of the existing buildings and Structures for which construction is subject to review pursuant to this Ordinance, shall, in addition to site review regulations, satisfy the following landscaping guidelines:

- (1)** Provide a tree lined streetscaped area abutting the principal rights-of-way that shall consist of a mixture of deciduous and/or conifer trees, a minimum of 1" (one inch) in caliper and 2' (two feet) in height, planted at a minimum rate of one (1) tree per thirty (30) linear feet of Street Frontage. For the purposes of this Section, where the site abuts more than one right-of-way, planting may be made to the principal right-of-way or along additional rights-of-way as determined by the Planning Board. **Applicants are strongly encouraged to maintain existing natural vegetation and to supplement that vegetation where necessary pursuant to these guidelines.** Where the Planning Board finds that application of these guidelines is impractical, it may waive any part of the guidelines with a written determination of the reason for said waiver.
- (2)** All nonresidential development of land shall provide landscaping for any part of the project area not used for buildings or other Structures, parking, loading and access ways of consisting of grass, trees and/or shrubs. More specifically, landscaped areas shall be used around the perimeter of the site to screen the proposed use from abutting property. Additionally, landscaping shall be used to break up and screen interior elements of the development to create a more pleasant environment.
- (3)** The property owner or his or her agent shall be responsible for the maintenance, repair and replacement of all required landscaping materials. All required plant materials shall be tended and maintained in a healthy growing condition, replaced when necessary and kept free of refuse and debris. All required fences and walls shall be maintained in good repair. Removal of required landscaping materials is prohibited unless approved by the Planning Board.

3.22 IMPACT FEE

(A) Purpose. This Ordinance is enacted pursuant to **RSA 674:21** and in order to:

- (1)** Promote the public health, safety and welfare and prosperity
- (2)** Ensure that adequate and appropriate facilities are available to individuals who may come to be located in the Town of Farmington
- (3)** Prevent scattered or premature development of land as would involve danger or injury to health, safety or prosperity by reason of the lack of water supply, drainage, transportation, schools, fire protection or other public services, or necessitate the excessive expenditure of public funds for the supply of such services
- (4)** Provide for the harmonious development of the municipality and its environs
- (5)** Ensure the proper arrangement and coordination of Streets
- (6)** Ensure Streets of sufficient width to accommodate existing and prospective traffic

(B) Definitions.

IMPACT FEE. Means a fee or assessment imposed upon development, including subdivision, building construction or other land-use change, in order to help met the needs occasioned by the development for the construction or improvement of capital facilities owned or operated by the municipality, including and limited to water treatment and distribution facilities; wastewater treatment and disposable facilities; sanitary sewers; storm water, drainage and flood control facilities; public road systems and rights-of-way; municipal office facilities; public school facilities; municipality's proportional share of capital facilities of a cooperative or regional school district; public safety facilities; solid waste collection, transfer, recycling, processing and disposal facilities; public libraries and public recreation facilities, not including public open space.

(C) Authority to Access Impact Fees. The Planning Board is hereby authorized to access impact fees, as herein defined, and in accordance with the standards herein set forth. The Planning Board shall have the authority to adopt regulations to implement the provisions of this Ordinance.

(D) Assessment Methodology.

- (1)** The amount of any impact fee shall be a proportional share of municipal capital improvement costs which is reasonably related to the capital needs created by the development and to the benefits accruing to the development from the capital improvements financed by the fee.
- (2)** Upgrading of existing facilities and infrastructures, the need for which is not created by new development, shall not be paid for by impact fees.

(E) Administration of Impact Fees.

- (1) Each in face impact fee shall be accounted for separately, shall be segregated from the Town's general fund, may be spent upon order of the governing body and shall be used solely for the capital improvements for which it was collected, or to recoup the cost of capital improvements made in anticipation of the needs for which fees are collected to meet.
- (2) All impact fees shall be assessed prior to, or as a condition for, the issuance of a building permit or other appropriate permission to proceed with development.
- (3) Between the date of assessment and collection, the Planning Board may require developers to post security, in the form of a cash bond, letter of credit or performance bond so as to guaranty future payment of assessed impact fees.
- (4) Impact fees shall be collected as a condition for the issuance of a Certificate of Occupancy; provider however, in projects where off-site improvements are to be constructed simultaneously with a project's development and where the Town has appropriated the necessary funds to cover such portions of the work for which it will be responsible, the Town may advance the time of collection of the impact fee to the issuance of a building permit.
- (5) The Planning Board and the assessed party may establish an alternate, mutually acceptable schedule of payment of impact fees.

(F) Return of Impact Fee. If the full impact fee assessed under this Ordinance is not encumbered or otherwise legally bound to be spent for the purpose of which it was collected within six years, the fee shall be refunded to the assessed party with any accrued interest.

- (1) Whenever the calculation of the impact fee has been predicated upon some portion of capital improvement costs being borne by the Town, a refund shall be made upon the failure of the Town Meeting to appropriate the Town's share of the capital improvement costs within six (6) years from the date of payment thereof.

(G) Applicability. This Ordinance shall not be deemed to affect the existing authority of the Planning Board over subdivisions and site plans, including but not limited to, the authority to declare a development to be premature or scattered in accordance with the regulations of the Board and in accordance with **RSA 674:36, II (a)**.

3.23 STORAGE UNITS

(A) Temporary Storage Unit. A temporary storage unit shall mean a transportable unit, including but not limited to, shipping containers, converted truck bodies, school buses, box trailers or other portable structures, without wheels designed and used primarily for temporary storage of building materials (before they are utilized for building purposes), household goods, personal property or any kind and such materials for use on a limited basis and shall not include storage of hazardous or toxic materials that are not normally used in the construction or maintenance of a property.

- (1) All new temporary storage units require a temporary permit, which is a one-sheet, building permit style document, issued by the Code Enforcement Officer, prior to placing a unit on a property in to verify that the unit will meet the zoning setbacks for the district within which it will be located. No fee will be charged for the temporary permit.
- (2) All temporary storage units, which have previously existed on a property prior to the adoption of amendments to Section 3.23 of the Town's Zoning Ordinance (March 2022), will be considered permanent storage units and do not need a building permit; however, must comply with the standards set forth in Section 3.23 (B).
- (3) The unit must be located on the property and not in the Town's right of way.
- (4) Temporary use as storage in the event of renovations to a home is limited to a maximum of six (6) months but renewable if conditions warrant. One renewal, which is a period limited to a maximum of six (6) months, is allowed.
- (5) Once the temporary permit expires, or after one renewal, a minor building permit is required to reclassify the unit as permanent and taxable, or the unit must be removed entirely.
- (6) No more than one (1) unit may be placed on a property at any time unless reviewed and approved by the Code Enforcement Officer.
- (7) No additions may be attached to the temporary storage unit.

(B) Permanent Storage Unit. A storage unit can only be classified as permanent once a minor building permit is submitted and approved by the Code Enforcement Officer. Permanent storage units must adhere to additional criteria and shall:

- (1) Be encouraged that any unit be located in the back portion of the lot; however, if that is not feasible, the applicant must demonstrate to the Planning Board or the Code Enforcement Officer, a solution to mask its appearance through creative design, landscaping, fencing or other means.
- (2) Be maintained and kept in good condition.

- (3) Meet all zoning setback for the district within which it is located.

END OF SECTION 3.00 – GENERAL STANDARDS

SECTION 4.00 OVERLAY DISTRICTS

4.01 GROUNDWATER PROTECTION OVERLAY DISTRICT

(A) Authority. The Town of Farmington hereby adopts this Ordinance pursuant to the authority granted under **RSA 674:16** as an Innovative Land Use Control pursuant to **RSA 674:21**. This Ordinance shall be administered, including the granting of conditional use permits, by the Planning Board.

(B) Purpose and Intent. The purpose of this Ordinance is, in the interest of public health, safety and general welfare, to preserve, maintain and protect from contamination existing and potential groundwater supply areas that are used as a current source, or may potentially be used in the future as a source, for the Farmington's municipal water system.

(C) Definitions. For purposes of this Section 4.01, the following definitions apply:

AQUIFER. Aquifer means a geologic formation, group of formations or part of a formation that is capable of yielding quantities of groundwater usable for municipal or private water supplies. (See Chapter 1.14 of the Town of Farmington Zoning Ordinance).

FARMINGTON MUNICIPAL WATER SYSTEM. The public treatment and distribution system, which consists of water treatment plants, water main pipes, storage tanks, booster stations and service connections that convey potable water for domestic use, fire protection and other community uses.

GROUNDWATER. Subsurface water that occurs beneath the water table in soils and geologic formations. [[RSA 485-C \(VIII\), the Groundwater Protection Act](#)]

GROUNDWATER RECHARGE AREA. That area from which water is added to the saturated zone by natural processes such as infiltration or precipitation or by artificial processes such as induced infiltration. (See Chapter 1.14 of the Town of Farmington Zoning Ordinance).

GASOLINE STATION. Means that portion of a property where petroleum products are received by tank vessel, pipeline, tank car or tank vehicle and distributed for the purposes of retail sale of gasoline.

IMPERVIOUS. Not readily permitting the infiltration of water.

IMPERVIOUS SURFACE. For the purpose of containment of regulated substances, a surface through which regulated substances cannot pass when spilled. Impervious surfaces include concrete unless unsealed cracks or holes are present. Earthen, wooden or gravel surfaces or other surfaces which could react with or dissolve when in contact with the substances stored on them are not considered impervious surfaces. [[NH Code of Administrative Rules Env-Wq 401.03\(c\)](#)]

JUNKYARD. An establishment or place of business which is maintained, operated or use for storing, keeping, buying or selling junk, or for the maintenance or operation of an automotive recycling yard. The word does not include any motor vehicle dealers registered with the director of motor vehicles under **RSA 261:104** and controlled under **RSA 236:126**. [[RSA 236:91 \(IV\), Control of Junk Yards and Automotive Recycling Yards](#)]

OUTDOOR STORAGE. Storage of materials where they are not protected from the elements by a roof, walls and a floor with an impervious surface.

PETROLEUM BULK PLANT OR TERMINAL. Means that portion of the property where petroleum products are received by tank vessel, pipeline, tank car or tank vehicle and are stored in blended in bulk for the purpose of distributing such liquids by tank vessel, pipeline tank car, tank vehicle, portable tank or container.

PUBLIC WATER SYSTEM. A system for the provision to the public of piped water for human consumption, if such system has at least fifteen (15) service connections or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year.

REGULATED CONTAINER. Any device in which a regulated substance is stored, transported, treated, disposed of or otherwise handled, with a capacity of greater than or equal to five gallons. [[Env- Wq 401.3\(g\), NH Code of Administrative Rules](#)]

REGULATED SUBSTANCE. Regulated substance: petroleum, petroleum products, substances containing a regulated contaminant for which an ambient groundwater quality standard has been established under **RSA 485-C:6** and substances listed under 40 CFR 302, 7-1-05 edition¹ excluding substances used for the treatment of drinking water or waste water at department approved facilities.² [[Env-Wq 401.03\(h\), NH Code of Administrative Rules](#)]

SANITARY PROTECTIVE RADIUS. The area around a public water well which must be maintained in its natural state as required by [Env-Dw 301](#) or [Env-Dw 302](#) (for community water systems); [Env-Dw 405.14](#) and [Env-Dw 406.12](#) (for other public water systems).

SEASONAL HIGH-WATER TABLE. The depth from the mineral soil surface to the upper most soil horizon that contains two (2) percent or more distinct or prominent redoximorphic features that

increase in percentage with increasing depth as determined by a licensed Hydrogeologist, Soils Scientist, Wetlands Scientist, Engineer or other qualified professional approved by the Planning Board or the shallowest measured from ground surface to free water than stands in an unlined or screened borehole for at least a period of seven (7) consecutive days. [[Env-Wq 1502.49, DES Alteration of Terrain Rules](#)]

SECONDARY CONTAINMENT. A structure such as a berm or dike with an impervious surface which is adequate to hold at least one hundred and ten (110) percent of the volume of the largest regulated-substances container that will be stored there. [[Env-Wq 401.03\(i\), NH Code of Administrative Rules](#)]

SNOW DUMP. For the purposes of this Ordinance, a location where snow, which is cleated from roadways and/or motor vehicle parking areas, is placed for disposal off site.

STORMWATER. Surface runoff and/or drainage that is generated from precipitation and snowmelt, including and debris, chemicals, sediment or other substances carried along with the water.

STRATIFIED-DRIFT AQUIFER. A geologic formation of predominantly well-sorted sediment deposited by or in the bodies of glacial meltwater, including gravel, sand, silt or clay, which contains sufficient saturated permeable material to yield significant quantities of water to wells. [[RSA 485-C:2 \(XIV\), Groundwater Protection Act](#)]

SURFACE WATER. Streams, lakes, ponds and tidal waters, including marshes, water-courses and other bodies of water, natural or artificial. [[RSA 485-A:2 \(XIV\) Surface Waters of the State](#)]

WELLHEAD PROTECTION AREA. The surface and subsurface area surrounding a water well or wellfield supplying a community public water system, through which contaminants are reasonably likely to move toward and reach such water well or wellfield. [[RSA 485-C:2 \(XVIII\), Groundwater Protection Act](#)]

(A) Description and Location of Groundwater Protection Overlay District. The Groundwater Protection District is an overlay district which is superimposed over the existing zoning and includes within its boundaries, all existing and future Wellhead Protection Areas for public water supply wells in Farmington as defined under Section C of this Ordinance. The district is shown on the map entitled Town of Farmington, New Hampshire Zoning Districts and Other Protected Areas dated March 2016.

(B) Incorrectly Designated Zones. When the actual boundary of the Groundwater Protection Overlay District is in dispute by any owner or abutter affected by said boundary, the Planning Board, at the owners/abutters expense and request, may engage a professional geologist or hydro geologist to determine more accurately the precise boundary of said Groundwater Protection Overlay District.

- (C) Applicability.** This Ordinance applies to all uses in the Groundwater Protection Overlay District, except for those uses exempt under Section (L) of this Section 4.01.
- (D) Performance Standards.** The following Performance Standards apply to all uses in the Groundwater Protection Overlay District, unless exempt under Section (L) of this Section 4.01:
- (1)** For any use that will render impervious more than fifteen (15) percent, or more than 2,500 square feet, of any lot, whichever is greater, a stormwater management plan that the Planning Board determined is consistent with [New Hampshire Stormwater Manual Volumes 1-3, December 2008, NH Department of Environmental Services](#)³ shall be provided.
 - (2)** Animal manures, fertilizer and compost must be stored in accordance with [Manual of Best Management Practices for Agriculture in New Hampshire, NH Department of Agriculture, Markets, and Food, June 2011](#),⁴ and any subsequent revisions.
 - (3)** Regulated substances stored in regulated containers must be used and stored in accordance with [Env-Wq 401, Best Management Practices for Groundwater Protections](#)⁵:
 - (a)** All regulated substances stored in containers with a capacity of five (5) gallons or more must be stored in product-tight containers on an impervious surface designed and maintained to prevent flow to exposed soils, floor drains and outside drains.
 - (b)** Facilities where regulated substances are stored must be secured against unauthorized entry by means of a door and/or gate that is locked when authorized personnel are not present and must be inspected weekly by the facility owner.
 - (c)** Outdoor storage areas are regulated substances, associated material or waste must be protected from exposure to precipitation and must be located at least fifty (50) feet from surface water or storm drains, at least seventy-five (75) feet from private wells and outside the sanitary protective radius of wells used by public water systems.
 - (d)** Secondary containment must be provided for outdoor storage of regulated substances in regulated containers and the containment structure must include a cover to minimize accumulation of water in the containment area and contact between precipitation and storage container(s).
 - (e)** Containers in which regulated substances are stored must be clearly and visibly labeled and must be kept closed and sealed when material is not being lawfully used or transferred from one container to another.
 - (4)** Prior to any land disturbing activities, all inactive wells on the property, any wells not in use or any wells not properly maintained, shall be considered abandoned and must be sealed in

accordance with [We 604 of the New Hampshire Water Well Board Rules](#)⁶ to prevent the well from becoming a conduit for contamination into or within the subsurface.

(5) Blasting activities shall be planned and conducted to minimize groundwater contamination and in accordance with [The Town of Farmington Earth Removal Regulations](#).

(E) Permitted Uses. All uses permitted by right or allowed by special exception in the underlying district are permitted in the Groundwater Protection Overlay District unless they are Prohibited Uses or Conditional Uses. All uses must comply with the Performance Standards unless specifically exempt under Section (L).

(F) Prohibited Uses. The following uses are prohibited in the Groundwater Protection Overlay District:

- (1) The development or operation of a solid waste landfill
- (2) The outdoor storage of road salt or other deicing chemicals in bulk
- (3) The development or operation of a junkyard
- (4) The development or operation of a wastewater or septic lagoon
- (5) The development or operation of a petroleum bulk plant or terminal
- (6) The development or operation of gasoline stations within 2,000 feet of a public water supply well
- (7) The development or operation of a snow dump within 2,000 feet of a public water supply well

(G) Conditional Uses.

(1) The following uses require a Conditional Use Permit. The Planning Board may grant a Conditional Use Permit for a use otherwise permitted in the underlying district, if the permitted use is:

- (a) Storage, handling and use of regulated substances in quantities exceeding fifty-five (55) gallons or six hundred and sixty (660) pounds of dry weight⁷ at any one time, provided that an adequate spill prevention, control and countermeasure (SPCC) plan is approved by the Code Enforcement Officer/Health Officer. The Code Enforcement Officer/Health Officer shall determine whether the plan will prevent contain and minimize releases from ordinary or catastrophic events such as spills, floods or fires that may cause large releases of regulated substances. The SPCC plan shall include:
 - (i) A description of the physical layout and a facility diagram, including all surrounding surface waters and wellhead protection areas

- (ii) Contact list and phone numbers for the facility response coordinator, cleanup contractors and all appropriate federal, state and local agencies who must be contacted in case of a release to the environment.
 - (iii) A list of all regulated substances in use and locations of use and storage
 - (iv) A description of containment and/or diversionary structures or equipment to prevent regulated substances
 - (v) List of positions within the facility that require training to respond to spills of regulated substances
- (b) Any use that will render impervious more than 15 percent or 2,500 square feet of any lot, whichever is greater.
- (c) Any activities that involve blasting bedrock.
- (2) In granting such approval the Planning Board must first determine that the proposed use is not a prohibited use (as listed in Section (F) of this Ordinance) and will be in compliance with the Performance Standards in Section (D) as well as all applicable local, state and federal requirements. The Planning Board may, at its discretion, require a performance guarantee or bond, in an amount and with surety conditions satisfactory to the Board, to be posted to ensure completion of construction of any facilities required compliance with the Performance Standards. The Planning Board may establish procedures for the review and approval of conditional use permits, including requirements for information to be submitted with an application for a conditional use permit.
- (3) The Planning Board may grant a Conditional Use Permit for those uses listed above only after a public hearing and written findings of fact are made that all of the following conditions are met:
- (a) Development and submissions of stormwater management and pollution prevention plans which include information consistent with [*Developing Your Stormwater Pollution Prevention Plan: A Guide for Industrial Operators \(US EPA, Feb 2009\)*](#).⁸ The plans shall demonstrate that the use will:
 - (i) Meet minimum stormwater discharge setback between water supply wells and constructed stormwater management practices as found within the [*Innovative Land Use Planning Techniques: A Handbook for Sustainable Development, Section 2.1 Permanent \(Post-Construction\) Stormwater Management \(NHDES 2008 or later edition\)*](#).⁹
 - (ii) Minimize, through a source control plan that identifies pollution prevention measures, the release of regulated substances into stormwater. Stipulate that

expansion or redevelopment activities shall require an amended stormwater plan and may not infiltrate stormwater through areas containing contaminated soils without completing a Phase I Assessment in conformance with ASTM E 1572-05, also referred to as All Appropriate Inquiry (AAI).¹⁰

(iii) Maintain a minimum of four feet (4ft) vertical separation between the bottom of a stormwater management practice that infiltrates or filters stormwater and the average seasonal highwater table as determined by a licensed hydrogeologist, soil scientist, engineer or other qualified professional as determined by the Planning Board.

(H) Existing Nonconforming Uses.

Existing nonconforming uses may continue, provided the use is not expanded or changed to another use, but must be in compliance with all applicable state and federal requirements, including Env-Wq 401, Best Management Practice Rules.

(I) Exemptions.

(1) The following uses are exempt from the specified provisions of this Ordinance as long as they are in compliance with all applicable local, state and federal requirements:

(a) Any private residence is exempt from all Performance Standards.

(b) Home Occupations and Home Businesses (see Town of Farmington Zoning Ordinance Section 5.00) are exempt from Section (D), Performance Standards, Sections (1), (2), (4) and (5). (See Section (J), Maintenance and Inspections)

(c) The sale, transportation and use of pesticides as defined in [RSA 430:29 XXVI](#) are exempt from all provisions of this ordinance.

(2) The following exemptions also apply:

(a) Any business or facility where regulated substances are stored in containers with a capacity of less than five (5) gallons is exempt from Section (D), Performance Standards, Sections (III)(a) through (III)(e).

(b) Storage of heating fuels for on-site use or fuels for emergency electric generation, provided that, excluding those used for storing propane, storage tanks are indoors on a concrete floor or have corrosion control, leak detection and secondary containment in place, is exempt from Section (D), Performance Standards, (3)(B).

(c) Storage of motor fuel in tanks attached to vehicles and fitted with permanent fuel lines to enable the fuel to be used by that vehicle is exempt from Section (D), Performance Standards, Section (3)(b) through (3)(e).

- (d) Storage and use of office supplies is exempt from Section (D), Performance Standards, Section (3)(b) through (3)(e).
- (e) Temporary storage of construction materials on a site where they are to be used is exempt from Section (D), Performance Standards, Section (3)(b) through (3)(e), if incorporated within the site development project within six months of their deposit on the site.
- (f) Household hazardous waste collection projects regulated under NH Code of Administrative Rules Env-Wm [401.03\(b\)\(1\)](#) and [501.01\(b\)](#) are exempt from Section G, Performance Standards, Sections (3)(b) though (3)(e).
- (g) Underground storage tank systems and aboveground storage tank systems that are in compliance with applicable state rules ([Env-Or 400](#) and [Env-Or 300](#)) are exempt from inspections under Section (J) of this Ordinance.

(J) Maintenance and Inspection

- (1) For uses requiring Planning Board approval for any reason, if required to be recorded at the Registry of Deeds, a narrative description of maintenance requirements for structures required to comply with Performance Standards shall be recorded so as to run with the land on which such structures are located, at the Registry of Deeds for Strafford County. The description so prepared shall comply with the requirements of **RSA 748:4-a**.
- (2) Prior to issuing a Certificate of Use for a Home Occupation or Home Business within the Groundwater Protection Overlay District, the Public Works Director, with the Code Enforcement Officer and Fire Chief, will verify on site that all regulated substances are stored according to Section D, Performance Standards, Sections (3)(b) through (3)(e) and accordance with [Env-Wq 401, Best Management Practices for Groundwater Protections](#).
- (3) Inspections may be required to verify compliance with Performance Standards. Such inspections shall be performed by the Code Enforcement Officer at reasonable times with prior notice to the landowner.
- (4) All properties in the Groundwater Protection District using or storing regulated substances (as defined by the Code of Federal Regulations, see definition, Section 4.01(C)¹) in containers with a capacity of five gallons or more, except for facilities where all regulated substances storage is exempt from this Ordinance under Section (I), shall be subject to compliance inspections under this Section.

(K) Effective Date. This Ordinance shall be effective upon adoption by the legislative body.

¹ <http://www.gpo.gov/fdsys/pkg/CFR-2005-title40-vol27/pdf/CFR-2005-title40-vol27-sec302-5.pdf>

² This definition includes a focus on both soil morphology and groundwater hydrology.

³ The New Hampshire Stormwater Manual is a planning tool for the communities, developers, designers, and members of regulatory boards, commissions, and agencies involved in stormwater programs in New Hampshire. The NH Stormwater Manual addresses measures to manage stormwater runoff through site design, pollutant source controls, structural Best Management Practices (including associated operation and maintenance measures), and construction-phase practices. The Manual consists of three volumes: [Volume 1: Stormwater and Antidegradation](#) presents an overview of New Hampshire's stormwater program together with related federal program requirements, describes New Hampshire's antidegradation provision (Env-Wq 1708) with respect to controlling water quality impacts due to stormwater discharges, and provides an introduction to the non-structural and structural measures for managing stormwater. [Volume 2: Post-Construction Best Management Practices Selection and Design](#) presents a detailed description of the structural BMPs applicable for use in New Hampshire for the prevention, control, and treatment of stormwater. [Volume 3: Erosion and Sediment Controls During Construction](#) presents a selection of practices applicable during the construction of projects to prevent adverse impacts to water resources as a result of land-disturbance activities.

For more information, see <http://des.nh.gov/organization/divisions/water/stormwater/manual.htm>

⁴ <http://agriculture.nh.gov/publications-forms/documents/bmp-manual.pdf>

⁵ <http://des.nh.gov/organization/commissioner/legal/rules/documents/env-wq401.pdf>

⁶ <http://des.nh.gov/organization/commissioner/legal/rules/documents/we100-1000toc.pdf>

⁷ According to the Pipeline and Hazardous Materials Safety Administration's [Emergency Response Guidebook](#), large spills are considered to involve volumes that are greater than fifty-five (55) US gallons (208 liters) for liquids and greater than six hundred and sixty-six pounds (300 kilograms) for solids with regard to initial isolation and protection action distances. This is the standard that is used by the majority of the voluntary first responder organizations.

⁸ Chapter 2.1 Permanent (Post-Construction) Stormwater Management of The Innovative Land Use Planning Techniques Handbook for Sustainable Land Use Development includes stormwater control recommendations for all development sites. The provisions of Section (J)(III)(a) are consistent with provisions recommended in the handbook, including: recommended discharge setbacks for large volumes of stormwater of between 75 and 400 feet; preparation of a Stormwater Pollution Prevention Plan (SWPPP) (for industrial facilities), which is similar to a source control plan and provides details concerning how operational or structural BMPs segregate clean from contaminated stormwater; and maintaining vertical separation (undisturbed soil) between the bottom of stormwater infiltration or unlined filtration practices and the average seasonal high water table. http://water.epa.gov/polwaste/npdes/stormwater/upload/industrial_swppp_guide.pdf

⁹ http://des.nh.gov/organization/divisions/water/wmb/repp/documents/ilupt_chpt_2.1.pdf

¹⁰ See EPA's Brownfields website at <http://www.epa.gov/brownfields>

4.02 WETLANDS CONSERVATION OVERLAY DISTRICT

This Ordinance shall be known as the "Wetlands Conservation Overlay District of the Town of Farmington, NH" (adopted March 10, 1992). By the authority granted in NH **RSA 674:16-17** and **RSA 674:20-21**, and in the interest of the public health, safety and general welfare, the Farmington Wetlands Conservation Overlay District is hereby established to regulate the uses of lands subject to the standing water, flooding or high-water tables for extended periods of time.

(A) Purpose and Intent. The purpose of this article is to protect the public health, safety and general welfare by controlling and guiding the use of land areas which are subject to standing water, flooding or high-water tables for extended periods of time. The intent of this article is:

- (1) To prevent the development of Structures and land uses on naturally occurring Wetlands which will contribute to Pollution of surface and groundwater by sewage, sediment and/or noxious substances
- (2) To prevent the destruction of, or significant changes to natural Wetlands which provide flood protection
- (3) To protect rare, unique and unusual natural communities and species, both flora and fauna
- (4) To protect wildlife habitats and maintain ecological balances
- (5) To protect existing potential water supplies and Aquifers (water bearing strata) and Aquifer recharge areas
- (6) To prevent the expenditure of municipal funds for the purposes of providing and/or maintaining Essential Services and utilities which might be required as a result of misuse or abuse of Wetlands
- (7) To protect the Wetlands, watercourses, Water Bodies of the Town from degradation and help maintain their natural functions and beauty.

(B) Location. The Wetlands Conservation Overlay District is defined as those areas of the Town of Farmington which meet the definition of Wetlands as defined in Section 1.14 together with all buffer areas associated herewith as herein provided. In all cases, the precise location of Wetland areas shall be determined by the actual character of the land and the distribution of Wetland indicators. Such determination shall be made by field inspection and testing conducted by a Certified Wetland Scientist or Certified Soil Scientist.

(C) Inventory. The Commission or its designated agent(s) is encouraged to begin an inventory of all Wetlands areas, as defined by this article, and the creation of an official Wetland map of the Town. The Commission may amend the inventory and map from time to time as information becomes available relative to more accurate delineation of Wetlands within the Town.

(D) Wetlands Incorrectly Delineated.

- (1) If either the applicant or the Board questions the Wetland Conservation Overlay District boundaries established under this Article, the applicant shall engage a Wetland Scientist or Certified Soil Scientist to conduct field analysis to determine the precise location of the Wetland Conservation District boundaries on the affected properties. The Wetland Scientist or Soil Scientist shall submit a report of their findings to the Board and the Conservation Commission including, but not limited to, a revised map of the area in question, a written on-site field inspection report and test boring data if applicable.

- (2) Upon receipt of the report, the Board in consultation with the Commission may refer it for review to a Wetland Scientist or Certified Soil Scientist of its choosing. The applicant shall be responsible for any and all reasonable costs incurred by the Board in connection with this independent review.

(E) Designation of Significant Wetlands and Buffer Zones.

- (1) For purposes of this Ordinance, all Wetlands in Farmington are designated as either Class One, Class Two or Class Three Wetlands. Those Wetlands are designated as Class One or Class Two Wetlands, based on an evaluation of the criteria and review standards specified in paragraphs (2) and (3) below, are so significant that they merit protection.
- (2) Class One Wetlands are Wetlands that in and of themselves, based on an evaluation of the functions listed in Ammann, Alan P. and A.L. Stone, March 1991, *Method for the Comparative Evaluation of Nontidal Wetlands in New Hampshire*, NH DES-WRD-1991-3 are exceptional or irreplaceable in their contribution to New Hampshire's or Farmington's natural heritage and are therefore so significant, either taken alone or in conjunction with other Wetlands, that they merit protection under this Ordinance.
- (3) Class Two Wetlands are those Wetlands, other than Class One, which based on an evaluation of the functions in the above cited reference, are found to be so significant, either taken alone or in conjunction with other Wetlands, that they merit protection under this Ordinance.
- (4) Class Three Wetlands are those Wetlands which have not been determined by the Commission to be so significant that they merit protection under this Ordinance because they have not been evaluated or because when last evaluated were determined not to be sufficiently significant to merit protection under this Ordinance.

(F) Initial Designations.

- (1) **Class One Wetlands:** Any Wetland designated in accordance with Section 2.02(E)(2) or Section 4.02(K) shall be classified as a Class One Wetland.
- (2) **Class Two Wetlands** shall include all Wetlands shown on the National Wetlands Inventory Maps for the State of New Hampshire encompassing the Town of Farmington and all Wetlands contiguous to such mapped Wetlands unless determined otherwise by the Commission as provided for in Section 4.02(E)(3) except for the following:
- (a) Those Wetlands subsequently designated as Class One Wetlands
- (b) The following categories of Wetlands shown on the National Wetland Inventory maps:

Riverine Lower Perennial Open Water (R20W), Riverine Lower Perennial Beach/Bar (R2BB), Riverine Upper Perennial Open Water (R30W), Riverine Upper Perennial Beach/Bar (R3BB), Lacustrine Limnetic Open Water (L10W), Lacustrine Littoral Open Water (L20W), Lacustrine Littoral Beach/Bar (L2BB)

Each Class Two Wetland is presumed, until otherwise determined by the Commission, to serve all of the functions specified in Ammann, Alan P. and A.L. Stone, March 1991, *Method for the Comparative Evaluation of Nontidal Wetlands in New Hampshire*, NHDES-WRD-1991-3. The functions that make a specific Wetland significant shall be determined pursuant to Section 4.02(E).

- (3) Class Three Wetlands are those Wetlands which are not designated as Class One or Class Two Wetlands.

(G) Buffer Zones.

- (1) **Class One Buffers.** The Commission may designate a buffer zone contiguous to any Class One or Class Two Wetland that is no greater than one hundred (100) feet outward from the boundaries of the Class One Wetland
- (2) **Class Two Buffers.** Unless otherwise designated as provided for in Section 4.02(H)(3) or 4.02(K), there shall be a buffer of fifty (50) feet outward from the boundaries of a Class Two Wetland.

(H) Subsequent Designations. The Commission on its own motion, or acting on petitions in accordance with Section 4.02(K), shall:

- (1) Determine whether to reclassify any Wetland to a higher or lower classification
- (2) Determine which functions make any Wetland significant
- (3) Determine whether the size or configuration of a buffer zone adjacent to a significant Wetland should be increased or decreased
- (4) Wetlands classified by the State of New Hampshire as Prime Wetlands shall be reclassified as Class One Wetlands.

(I) Permitted Uses. The following uses shall be permitted in Wetlands using Best Management Practices to protect Wetlands provided such uses are otherwise permitted by the Ordinance. In no case, other than provided below, shall the use include:

- (1) The erection or construction of any Structures or buildings
- (2) The alteration of the natural surface configuration of Wetlands by the addition of fill or by dredging

- (a) Forestry/tree farming limited to the removal of not more than 50% of the Basal Area of the standing timber in any ten (10) year period, leaving a well-distributed stand of healthy growing trees.
- (b) Grazing, farming, nurseries and cultivation and harvesting of crops using recognized soil conservation practices, including the protection of Wetlands from pollution caused by fertilizers, pesticides and herbicides used in such cultivation
- (c) Wildlife Refuges
- (d) Outdoor and parks and recreation purposes, being low intensity uses, not involving Structures, alteration of the terrain or wheeled vehicles
- (e) Education, scientific research, conservation areas and nature trails
- (f) Open space as required by the Subdivision Regulations or the Zoning Ordinance
- (g) Uses incidental to the enjoyment or maintenance of residential property. Such incidental uses shall include maintenance of existing Structures and existing landscape, but shall not include removal, deposition of material from or into a Wetland or draining a Wetland without first being granted a Special Use Permit per Section 4.02(J) of this Ordinance.
- (h) The construction of single-family dwellings and accessory uses (i.e., driveways, garages, etc.) excluding septic disposal systems on pre-existing Lots of record as of the effective date of this Ordinance (March 10, 1992) except where the Commission has recommended denial of the related Wetlands Board application under **RSA 482-A** and the New Hampshire Wetlands Board, Code of Administrative Rules. Where denial has been recommended, a Special Use Permit under Section 4.02(J) may be applied for.
- (i) The emergency repair of utility poles and lines or the maintenance, reconstruction or routine repair of Structures and facilities (including, but not limited to, public transportation facilities, bulkheads, docks, piers, pilings, paved areas, houses or other buildings) in existence as of March 10, 1992 or additions to such Structures or facilities which does not involve substantial expansion or modification.
- (j) No person shall conduct or maintain other uses without first obtaining a Special Use Permit as described in Section 4.02(J).

(J) Special Use Permits. A Special Use Permit shall be granted by the Board, after public notice and hearing, for undertaking the following uses in the Wetlands Conservation District. The

application shall be referred to the Conservation Commission, Code Officer and Health Officer, for review and comment at least thirty (30) days prior to the public hearing.

- (1) Streets, roads and other access ways and utility rights-of-way easements, including power lines and pipe lines, docks, piers and other water related Structures; if essential to the productive use of land not so zoned and if so located and constructed as to minimize any detrimental impact of such uses upon the Wetlands.
- (2) Water impoundments for the purposes of creating a water body or Wetland for wildlife, fire safety, on-site detention of surface runoff and/or recreational uses.
- (3) The undertaking of a use not otherwise permitted in the Wetlands Conservation Overlay District, if it can be shown that such proposed use is in accordance with all of the purposes and intentions of the Farmington Zoning Ordinance.
- (4) The Board shall regulate any operation within or use of a Wetland involving removal or deposition of material, drainage or any obstruction, construction, alteration or pollution of Wetlands unless such operation or use is permitted pursuant to Section 4.02(E).
- (5) Any person, natural or otherwise, found to be conducting or maintaining an activity without the prior authorization of the Board, or violating any other provision of this Article, shall be subject to the enforcement proceedings and penalties prescribed in Section 4.02(K) and any other remedies provided under the law.
- (6) A Special Use Permit shall be valid for a period of two (2) years from the date of issue and shall expire if the use is not implemented and completed by that time, unless and extension is specified and approved by the Board in conjunction with the Commission.

(K) Petitions. The Board, in concert with the Conservation Commission, upon receipt of a petition from an affected land, fifteen (15) or more persons in interest, an organization with fifteen (15) or more persons in interest, or on its own motion, shall:

- (1) Determine whether to reclassify any Wetland to a higher or lower classification
- (2) Determine which functions make any Wetland significant
- (3) Determine whether the size or configuration of a buffer strip associated with a significant Wetland should be modified
- (4) Content of Petitions: Any petition shall be in writing and must contain the following information unless waived by the Board:
 - (a) A description of the specific location of the subject Wetland or buffer zone and the location of a USGS topographic map
 - (b) A description of the specific action(s) sought by the petitioner

- (c) A detailed narrative of why the petitioner believes the action(s) sought is consistent with this Ordinance including a discussion of each Wetland function at issue
- (d) Copies of all documents which the petitioner intends to rely upon in support of the petition
- (e) The names and complete mailing addresses of all persons owning property within or adjacent to the Wetland or buffer strip in question
- (f) Such other information as the Board may require

(L) Considerations for Decisions. The Board shall consider the following in making its decision on an application or petition:

- (1) The application or petition and its supporting documentation
- (2) Public comments, evidence and testimony from a public hearing
- (3) Reports from the Commission, Health Officer and the Code Officer. The Board may also consider comments on any application or petition from the Strafford County Soil Conservation District, Strafford Regional Planning Commission, New Hampshire Wetlands Board, US Army Corps of Engineers or other technical agencies or organizations which may undertake additional studies or investigations
- (4) Non-receipt of reports listed herein within the prescribed time frame shall neither delay nor prejudice the decision of the Board

(a) Standards and Criteria for Decision. The Board shall consider all relevant facts and circumstances in making its decision on any application for a permit, including but not limited to the following:

- (i.) The environmental impact of the proposed action, including (1) the effects on the Wetlands capacity to support fish and wildlife, (2) the prevention of flooding, (3) the supply and protection of ground waters, (4) the control of sediment, (5) the facilitation of drainage, (6) the control of Pollution, (7) the support of recreational activities, (8) the promotion of public health and safety.
- (ii.) The character and degree of injury to, or interference with safety, health or the reasonable use of property, including downstream property, which would be caused or threatened by the proposed activity, or the creation of conditions which may do so. This includes recognition of potential damage from: (1) erosion, (2) turbidity, (3) siltation, (4) loss of fish and wildlife and their habitat, (5) loss of habitat having demonstrable natural, scientific or educational value, (6) loss or diminution of beneficial or aquatic organisms and Wetland plants, (7) the dangers of flooding and

Pollution and (8) the destruction of the economic, aesthetic, recreational and other public and private uses and values of Wetlands to the community.

(b) Mitigation. The following measures shall be used to mitigate adverse impacts on protection functions, other than the minimal impact, to the extent necessary to achieve no net undue adverse effect:

- (i.) The proposed activity cannot practically be located on the Upland portion of the site in question or on another site owned, controlled or available to satisfy the basic project purpose; and
- (ii.) All practicable measures have been taken to avoid adverse impacts in protected functions; and
- (iii.) The applicant has evaluated each of the protection functions in accordance with the protocols established in Ammann, Alan P. and A.L. Stone, March 1991, *Methods for the Comparative Evaluation of Nontidal Wetlands in New Hampshire*, NHDES-WRD-1991-3; and
- (iv.) The proposed use has been planned and designed to minimize potential adverse impacts on the protected functions; and
- (v.) A plan has been developed for the prompt restoration of any of the adverse impacts on protected functions.

(c) Compensation. In rare cases, it may be possible to reduce adverse impacts on protected functions which cannot be avoided through mitigation by compensating such impacts so that there is no net undue adverse impact. Such compensation measures may include establishing new Wetlands or enlarging the boundaries of an existing Wetland to compensate for the adverse impact of a proposed use. Compensation to avoid undue adverse impacts on protected functions of Class One Wetlands may only be considered upon the showing that the adverse impacts are necessary in the course of meeting a compelling public need to protect public health or safety. Compensation measures will be allowed in either Class One or Class Two Wetlands only to reduce adverse impacts on those protected functions that are compensable. Compensation may be possible for adverse impacts on the following functions (*):

- * water storage for flood water or storm runoff
- * nutrient retention or sediment trapping
- * wildlife habitat
- * open space and aesthetics

Any compensation plan must demonstrate the following:

- (1) There will be no not loss of the protected functions or acreage of significant Wetlands
- (2) The compensation measures will be fully implemented prior to, or concurrently with the proposed use
- (3) Where practicable, the compensation proposal shall be contiguous to the impacted Wetlands
- (4) The compensation measures shall be monitored and managed for a period necessary to ensure full replacements of the protected functions in question and any additional period that may be required by subsequent remedial measures but in advent for less than five (5) years
- (5) Shall be designed to be self-sustaining following the period for which monitoring or management is required
- (6) Adequate financial surety is provided to carry out the proposed compensation including any necessary remedial measures
- (7) The replacement Wetland will be permanently preserved by a conservation easement or deed restriction conveyed to a suitable party or by other appropriate means

(M)Administration and Enforcement. The Board is hereby authorized and empowered to adopt such rules and require such reasonable fees as are necessary for the effective administration of this Ordinance/

- (1) Upon receipt of any information in writing that this Ordinance is being violated, the Cod Enforcement Officer shall notify in writing the owner and the tenant of the property on which the violation is alleged to occur with a copy of such notification to the Board and the Commission. Where appropriate, the Board and/or Conservation Commission may notify the New Hampshire Wetlands Board and/or the U.S. Army Corps of Engineers of the violation.
- (2) A civil penalty not to exceed the statutory maximum may be imposed for each day that such violation is found by the court to continue after the conviction date or after the date on which the violator received written notice from the Town that he is in violation, whichever is earlier.

- (3) Any penalty awarded by the court for violation of this Article shall be deposited in the Farmington Conservation Fund established under **RSA 36-A:5** after deduction of any fees and costs incurred by the Town that are not otherwise reimbursed. (Adopted March 1992)

4.03 WATERFRONT PROTECTION OVERLAY DISTRICT

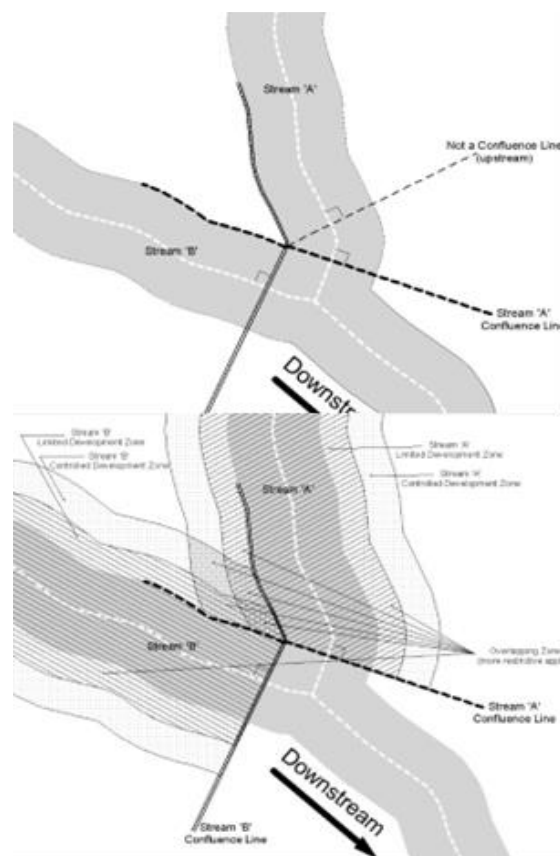
The Waterfront Protection Overlay District shall consist of two separate and distinct zones of enforced restrictions. The Setbacks defined in the following zones are not to be construed to limit any other town, state or federal regulations:

(A) Definitions.

CONFLUENCE LINE. The furthest downstream line without end, drawn perpendicular to the centerline of a river, stream or other flowage, upstream of its confluence with a second river, stream or flowage such that the line is also tangent at a point on the turn of the bank, which point is nearest to the confluence and between the two flows, there turning and running upstream along the bank of the second river, stream or flowage.

CONTROLLED DEVELOPMENT ZONE. A Controlled Development Zone comprises all areas that lie within two hundred fifty (250) feet of any water body in the Town of Farmington.

- (1) **Permitted Uses.** The Controlled Development Zone shall only be restricted by requiring that all development, including but not limited to, building, tilling, roads and parking, Timber Harvesting and any other activity that disturbs the natural surface of the land, be conducted with proper erosion control methods that will eliminate unnatural sediments and water velocities from entering a water body.
- (2) **Special Use Permit Required.** Any activity that unnaturally changes the water flow (both stage and velocity), water temperature, water chemistry or oxygen content shall not be allowed unless a Special Use Permit has been issued following the procedures listed in Section 4.04(C)(2) and using the considerations and criteria in Section 4.04(C)(3).



(B) Limited Development Zone. A Limited Development Zone comprises all areas that lie within one hundred (100) feet of any water body in the Town of Farmington, with the exception of those areas that lie within the Urban Residential District as defined herein, for which the Limited Development Zone shall comprise all areas that lie within fifty (50) feet of a water body.

(1) Permitted Uses. Permitted Uses in the Limited Development Zone are:

- (a)** Forestry – tree farming using Best Management Practices in order to protect streams from damage and prevent sedimentation
- (b)** Agriculture – cultivation and harvesting of crops according to Best Management Practices, including the protection of the waters from degradation caused by sedimentation and erosion, fertilizers, pesticides and herbicides used in such cultivation.
- (c)** Wildlife Refuges
- (d)** Parks and recreation uses consistent with the purpose and intent of this Ordinance
- (e)** Nature trails, conservation and education areas
- (f)** Open spaces
- (g)** Wells

(2) Special Use Permits. A Special Use Permit shall be granted by the Planning Board when the Planning Board has determined that the criteria contained in Section 4.03(C)(3) have been met, after public notice and hearing from undertaking the following uses within the Waterfront Protection Overlay District. The application shall be referred to the Conservation Commission, the Code Enforcement Officer and the Health Officer for review and comment at least thirty (3) days prior to the public hearing.

- (a)** Streets, roads and other access ways; utility right-of-way easements, including powerlines and pipelines; docks, piers and other water related Structures, if essential to the productive use of the land not so zoned and if so located and constructed as to minimize any detrimental impact upon Wetlands, waterways and Water Bodies.
- (b)** Water impoundments for the purposes of creating a water body or Wetland for wildlife, fire safety, on-site detention of surface runoff and/or recreational uses.
- (c)** The undertaking of a use not otherwise permitted in the Waterfront Protection Overlay District if it can be shown that such proposed use is in accordance with all the purposes and intentions listed in the Farmington Zoning Ordinance.

- (d) The Planning Board shall regulate any operation within or use of a wetland, waterway or water body involving removal or deposition of material, drainage or any other obstruction, construction, alteration or Pollution of such Wetlands, waterways or Water Bodies unless such operation or use is permitted pursuant to Section 4.04(B)(1).
 - (e) Any person (natural or otherwise) found to be conducting or maintaining any activity without prior authorization of the Planning Board or violating any other provision of this Section shall be subject to the enforcement proceedings and penalties prescribed in Section 4.03(C)(4) and any other remedies provided under law.
 - (f) A Special Use Permit shall be valid for a period of two (2) years from the date of issue and shall expire if the use is not implemented and completed by that time, unless and extension is specified and approved by the Planning Board in conjunction with the Conservation Commission.
 - (g) Special Use Permits shall not be granted within the limited development zone of the Dick Dame Brook and its tributaries from its Confluence Line with the Kicking Horse Brook to the full extent of its headwaters within the Town of Farmington, nor within the limited development zone of the Mad River and its tributaries, from its Confluence Line with the Cocheco River to the full extent of its headwaters within the Town of Farmington. In addition, any activity otherwise permitted, but which unnaturally changes the water flow (both stage and velocity), water temperature, water chemistry, oxygen content or natural river gradients is not allowed in either the controlled development zones or the limited development zones of the Dick Dame Brook and Mad River waterways.
- (3) Considerations for Decisions (Special Use Permits).** The Planning Board shall consider in making its decision on an application:
- (i.) The application and its supporting documentation
 - (ii.) Public comments, evidence and testimony from a public hearing
 - (iii.) Reports from the Conservation Commission, the Health Officer and the Code Enforcement Officer
 - (iv.) The Planning Board may also consider comments on the application from Strafford County Soil Conservation District, Strafford Regional Planning Commission, New Hampshire Wetlands Board, the U.S. Army Corps of Engineers or any other technical agencies or organizations which may undertake additional studies or investigations

- (v.) Non-receipt of reports listed herein within the prescribed time from shall neither delay nor prejudice the decision of the Planning Board

(a) Standards and Criteria for Decision (Special Use Permits). The Planning Board shall consider relevant facts and circumstances in making its decision on any application or Special Use Permit, including but not limited to the following:

(1) The environmental impact of the proposed action, including:

- the effects on the capacity to support fish and wildlife
- the prevention of flooding
- the supply and protection of surface water
- the control of sediment
- the facilitation of drainage
- the control of pollution
- the support of recreational activities
- the promotion of public health and safety

(2) The character and degree of injury to, or interference with safety, health or the reasonable use of property, including downstream property, which would be caused or threatened by the proposed activity or the creation of conditions which may do so. This includes recognition of potential damage from:

- Erosion
- Turbidity
- Siltation
- Loss of fish and wildlife and their habitat
- Loss of habitat having demonstrable natural, scientific or educational value
- Loss or diminution of beneficial aquatic organisms and Wetland plants
- The dangers of flooding and pollution
- The destruction of the economic, aesthetic, recreational and other public and private uses and values of Wetlands, waterways and Water Bodies to the community

(4) Administration and Enforcement.

(a) The Planning Board is hereby authorized and empowered to adopt such rules and require such reasonable fees as are necessary for the effective administration of this Ordinance.

- (b) Upon receipt of any information in writing that this Ordinance is being violated, the Code Enforcement Officer shall notify in writing the owner and tenant of the property on which the violation is alleged to occur with a copy of such notification to the Planning Board and the Conservation Commission. Where appropriate, the Planning Board and/or the Conservation Commission may notify the New Hampshire Wetlands Board and/or the U.S. Army Corps of Engineers of the violation.
- (c) A civil penalty not to exceed the statutory maximum may be imposed for each day that such violation is found by the court to continue after the conviction date or after the date on which the violator received written notice from the Town that he is in violation, whichever is easier.
- (d) Any penalty awarded by the court for violation of this Section shall be deposited in the Farmington Conservation Fund established under **RSA 36-A:5** after deduction of any fee and costs incurred by the Town that are not otherwise reimbursed. (Adopted March 1992)

4.04 FLOOD PLAIN PROTECTION OVERLAY DISTRICT

- (A) **Flood Plain Development Performance Standards.** All development within a flood plain shall conform to the Town of Farmington Flood Plain Development Ordinance (adopted September 1988, amended March 8, 1994, amended March 14, 2001).
- (B) All development within a flood plain shall conform to the Town of Farmington Flood Plain Development Ordinance. The Farmington Flood Plain Ordinance shall apply to all lands designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its "Flood Insurance Study for the County of Strafford, NH" dated May 17, 2005 or as amended, together with the associated Flood Insurance Rate Maps dated May 17, 2005 or as amended, which are declared to be a part of this Ordinance and are hereby incorporated by reference.

4.05 LANCELOT SHORES OVERLAY DISTRICT

- (A) **Purpose.** Lancelot Shores is a pre-existing subdivision comprised of parcels that are non-conforming under the requirements of the Agricultural Residential zoning district. The Planning Board recognizes the hardship this created for property owners seeking to build or remodel homes on these parcels. The Planning Board's intent in creating this overlay district is to relieve property owners of some of this hardship, specifically with regard to the front

(street) setback. The purpose of creating this overlay district is to allow a front (street) setback that is reasonable given the size and configuration of lots within the Lancelot Shores subdivision.

(B) Standards. All buildings and Structures shall be erected, structurally altered, enlarged or moved and all land within the Lancelot Shores Overlay District shall be used in accordance with Table 2.01 (B) – Space and Bulk Standards – Agricultural Residential District, with the exception of the Minimum Front Setback.

(C) Minimum Front Setback. The minimum front setback for parcels located in the Lancelot Shores Overlay District shall be 25 feet.

(D) Description and Location. The Lancelot Shores Overlay District shall include the land within sections 1, 2 and 3 of the Lancelot Shore subdivision as shown on the following plans recorded at the Strafford County Registry of Deeds:

(1) Plan Section I, Land of Great Northern Land Corporation in Farmington, N.H. dated August 1965 and recorded at Pocket #9, Folder #4, Plan #2;

(2) Plan Section II, Lancelot Shores, Great Northern Land Corporation, Farmington, N.H. dated June 1966 and recorded at Pocket #9, Folder #4, Plan #3A; and

(3) Plan Section III, Lancelot Shores, Great Northern Land Corporation, Farmington, N.H. dated September 15, 1966 and recorded at Pocket #9, Folder #4, Plan #3B.

4.06 ROUTE 11 BUSINESS NODE OVERLAY DISTRICT

(A) Authority. This Section is enacted in accordance with the provisions of **NH RSA 674:21** (Innovative Land Use Controls) and **NH RSA 674: 16-20**.

(B) Purpose. The purpose of the Route 11 Business Node Overlay District shall be to provide areas for retail, commercial and mixed uses that serve the community readily accessible locations in a nodal development pattern that encourages economic development while preserving a New England character and landscape.

(C) Applicability. The Route 11 Business Node Overlay District shall be those areas delineated on the Town of Farmington Zoning Map. The **Business Node Overlay District (Business NOD)** shall be construed as overlaying other existing zoning districts. This **Business NOD** does not remove or alter the zoning rights permitted by the underlying, existing zoning districts or overlay districts. Review under the **Business NOD** is voluntary, unless the subject

site has been previously approved under a **Business NOD** development and an occupancy permit has been issued.

(D) Permitted Uses with Site Plan Review.

(1) Agricultural Uses

- (a)** Aquaculture
- (b)** Sale of locally produced farm goods

(2) Residential

- (a)** Residential care or congregate care facilities

(3) Institutional

- (a)** Adult Day Care – Out of Home
- (b)** Daycare centers
- (c)** Hospitals
- (d)** Libraries
- (e)** Museums
- (f)** Schools and colleges
- (g)** Clubs and lodges

(4) Recreational

- (a)** Fully enclosed places of recreation
- (b)** Parks and outdoor recreation

(5) Commercial and Industrial

- (a)** Barber Shop/Salon
- (b)** Bed & Breakfast
- (c)** Contractors
- (d)** Financial Institutions (with or without drive-through)
- (e)** Grocery Store
- (f)** Health/Fitness Club
- (g)** Health Service Facilities
- (h)** Hotels and Motels
- (i)** Laboratories
- (j)** Laundromat
- (k)** Light manufacturing (<15,000 sf)
- (l)** Lounges/nightclubs/bars
- (m)** Professional/Business Office

(n) Repair services not involving motor vehicles

(o) Research and Development facilities

(p) Restaurant, Drive-Thru

(q) Restaurant, Full Enclosed

(r) Restaurant, Take-Out

(s) Retail sale of gasoline

(t) Retail Stores

(i.) <2,500 sf (small scale retail)

(ii.) >2,500 sf & <7,500 sf

(u) Distribution facilities

(v) Veterinary clinic and/or grooming

(6) Accessory Uses – Commercial and Industrial

(a) Drive-through services in conjunction with an allowed principal use

(b) Outside storage of materials, equipment & products in conjunction with an allowed principal use

(c) Retail sales of items manufactured on the premises

(7) Accessory Uses

(a) Accessory buildings and structures

(b) Off-street parking accessory to a permitted use

(c) Signs

(E) Conditional Uses

(1) Residential

(a) Residential uses in a mixed-use building, where the residential use occurs at upper floors only (2nd floor and above) where the building faces the street

(2) Recreation

(a) Golfing and driving ranges

(b) Recreational uses not specified

(3) Commercial and Industrial

(a) Light manufacturing exceeding 15,000 sf

(b) Retail uses exceeding 7,500 sf but less than 50,000 sf

(c) Commercial and Industrial uses not specified; not to exceed 50,000 sf

(F) Standards for Conditional Use Permit. The Planning Board may issue a conditional use permit approving uses in Paragraph E above, provided the Planning Board determines the following conditions are met:

- (1)** The use is specifically authorized in this Ordinance as a conditional use
- (2)** If completed as proposed by the applicant, the development in its proposed location will comply with all requirements of this Article and with the specific conditions or standards established in this Ordinance for the particular use
- (3)** The use will not materially endanger the public health, safety or welfare
- (4)** The use will be compatible with the neighborhood and with the adjoining or abutting uses in the area in which it is to be located
- (5)** Architecture and landscape design shall be consistent with the Purpose and Intent of this Article and comply with the Dimensional Standards contained herein and under applicable site plan regulations.
- (6)** The use will provide an environment to ensure both vehicular and pedestrian safety
- (7)** The use will be compatible with the natural and environmental resources of the town
- (8)** The use will be adequately serviced by necessary public utilities and by community facilities and services of a sufficient capacity to ensure the proper operation of the proposed use and will not necessitate excessive public expenditures to provide facilities and services with sufficient additional capacity.

(G) Dimensional Standards.

- (1) Standards.** All buildings and structures shall be erected, structurally altered, enlarged or moved, and all land within the District shall be used in accordance with the Tables G-1 and G-2 below.

Table 4.06, G-1: Lot Standards	
Minimum Lot Size ¹	2 Acres
Minimum Street Frontage	Consistent with Town of Farmington Zoning Ordinance Section 3.20 – Access Management Standards
Maximum Lot Coverage, including parking areas.	65%

¹ Note: Smaller lot sizes are allowed under the provisions for a Planned Business Development in Paragraph H.

Table 4.06, G-2: Building Siting Standards		
Building Height	Front Setback	Minimum Side and Rear Setback
Not to exceed 20 feet	Minimum 35 feet, Maximum 70 feet	20 feet
Not to exceed 35 feet	Minimum 45 feet, Maximum 70 feet	25 feet
Not to exceed 55 feet	Minimum 50 feet, Maximum 75 feet	30 feet and 1 foot for each additional foot of applicable building height above 30 feet

(2) Off Street Parking. All surface parking areas shall be set back at least 50 feet from a public street. Within this required 50-foot setback, the minimum width of any accessway or driveway to a surface parking area shall be 30 feet. Parking will be screened from the street and adjacent properties. To the extent possible, parking will be located to the side or rear of the subject building lot.

(3) Street Frontage Bonus. Where abutting lots make provisions for a single shared driveway access to a Class I or II highway that meets the approval of the Farmington Planning Board, the Planning Board may approve a reduction in street frontage so long as the cumulative frontage for both lots sharing an access is at least 200 feet and neither lots individual frontage is less than 50 feet.

(H)Planned Business Development (PBD) Conditional Use Permit.

(1) Purpose and Intent. The purpose of the **Planned Business Development (PBD)** is to allow projects of innovative design and layout that would not otherwise be permitted under this Ordinance because of the strict application of zoning district or dimensional standards. Typically, the **PBD** consists of a combination of land uses that provides a higher level of standards through innovative land planning and site design concepts. The **PBD** shall not be used merely as a mechanism to avoid the application of the requirements of the Business Nodal District. The **PBD** district is further intended to:

- (a)** Promote more economical and efficient use of land while providing a harmonious grouping of a variety of land uses and buildings
- (b)** Promote innovative design of commercial areas and allow for greater densities

when additional site amenities are included in the development

- (c) Create physical connections between existing and proposed developments in order to achieve an integrated community with common open space, transportation and public service networks
 - (d) Allow for innovative development projects that are consistent with the purpose and intent of this Article and the Town of Farmington Master Plan and not as a device to circumvent development regulations, standards and good planning practice.
- (2) **Lot. PBD** designation shall be limited to lots of at least four (4) acres and that each such designation shall be accompanied by the adoption of a Comprehensive Development Plan for each lot so designated. Upon such designation and adoption, such lot shall become a “**PBD**” for all purposes of the Zoning Ordinance.
- (3) **Comprehensive Development Plan.** The Planning Board shall require a Comprehensive Development Plan for the full lot under consideration to be submitted by the applicant for its review. Such Plan shall include, but not be limited to, the following:
- (a) A scaled drawing with a scale between 1” = 100 and 1” = 50, as appropriate
 - (b) North arrow
 - (c) Property lines
 - (d) Tax map and parcel number
 - (e) Proposed subdivision lines
 - (f) Conceptual proposed site layout including streets, buildings, parking, open spaces, driveways
 - (g) Conceptual landscape plan
 - (h) Typical building architectural profile or rendering
 - (i) Remaining existing features including wet areas, steep slopes, utilities, infrastructure, vegetation (tree lines), as appropriate
 - (j) Easements or other encumbrances
- (4) **Conditional Use Permit.** Authority is granted to the Planning Board to issue a conditional use permit in accordance with the standards of Paragraph F, Standards for Conditional Use Permit, to approve a Comprehensive Development Plan. Compliance with the individual provisions and standards of this Section shall constitute the conditions required for the issuance of a conditional use permit.
- (5) **Amendments to Comprehensive Development Plan.** A Comprehensive

Development Plan for a **PBD** lot, once approved by the Planning Board, may not be amended other than by action of the Planning Board upon an application submitted in accordance with the provisions of the Town of Farmington's Zoning Ordinance, including a statement outlining the reasons for any such change.

(6) Changes or Subdivision of PBD lot. Any changes to a portion of a **PBD** shall be subject to the approved Comprehensive Development Plan or an approved amendment by the Planning Board in accordance with this zoning article and Section 30 of the Site Plan Regulations.

(7) Site Plan Review. In addition to the submission and approval of a Comprehensive Development Plan, the applicant shall also be required to submit a Site Plan in conformance with the Town of Farmington Site Plan Review Regulations. Such review may be conducted in phases to allow for incremental development of a site. However, each phase shall conform to the Comprehensive Development Plan and each phase must proceed through Site Plan Review.

(8) Standards. The specific standards for a development within the **PBD** district are set forth in the Site Plan Regulations, Section 30. In the event that a **PBD** zone document (Section 4.06 of the Town of Farmington Zoning Ordinance and Section 30 of the Town of Farmington Site Plan Regulations) fails to address a specific standard, the standard of the most applicable zoning district or use, as determined by the Code Enforcement Officer, shall apply.

(9) Parking. All parking spaces and loading spaces provided in a **PBD** lot shall be deemed off-street parking spaces for purposes of all requirements of the Zoning Ordinance. Such parking spaces may be provided on roads within the **PBD** lot, subject to the requirement that such parking spaces and loading spaces lie entirely within the **PBD** lot. No parking space shall be located so as to obstruct the safe flow of traffic.

END OF SECTION 4.00 – OVERLAY DISTRICT

SECTION 5.00 HOME OCCUPATION AND HOME BUSINESS

5.01 HOME OCCUPATION. A Home Occupation may be permitted in all districts if it is planned, operated and maintained according to the following standards:

- (A)** No person other than a member of the family residing on the premises is engaged in the occupation.
- (B)** It shall be operated entirely within a principal living dwelling.
- (C)** It shall be secondary and incidental to the residential use of the premises and will not alter the general character of the neighborhood or reduce the value of any surrounding property.
- (D)** It shall result in no external evidence of the enterprise and outdoor storage of materials or equipment shall be limited and reasonably screened from view. There is no change in the outside appearance of the building or premises or any visible evidence of the conduct of such Home Occupation other than one (1) Sign, not exceeding six (6) square feet in area, non-illuminated and mounted flat against the wall of the residence.
- (E)** It shall not have an adverse effect on the environment or the surrounding properties as a result of noise, odors, smoke, dust, lights, soil, water or air pollution or as the result of other nuisances.
- (F)** Traffic generated by the occupation will not negatively impact the neighborhood.
- (G)** Any need for parking generated by the conduct of the occupation is met off the street.
- (H)** The following Uses are permitted as Home Occupations:
 - (1)** Legal or Financial related Occupations
 - (2)** Engineering and Architectural related Occupations
 - (3)** Trade Occupations such as Carpenters, Plumber, Electrician and Wood Worker
 - (4)** Artistic Occupations such as Painter, Sculptor and Potter
 - (5)** Personal Grooming Occupations such as Hair Stylist, Barber and Tailor, Seamstress;
(limited to one-unit operations)
 - (6)** Food Service Occupations such as Caterer
 - (7)** Travel and Real Estate Related Occupations
 - (8)** Any other profession or occupation which may be unobtrusively pursued in a Residential Dwelling as determined by the Code Enforcement Officer
- (I)** For any use not listed in **(H)**, refer to the Table of Permitted Uses for underlying Zoning District.

(J) It shall comply with all local, state or federal regulations pertinent to the activity pursued and the requirements of or permission granted by this section shall not be construed as an exception from such regulations.

(K) An activity that exceeds these standards for Home Occupation requires approval from the Planning Board as a Home Business.

5.02 HOME BUSINESS

A Home Business will be permitted in all districts if it conforms to the requirements of this Section. An activity which exceeds the standards for Home Occupation requires approval from the Planning Board. It shall comply with all local, state or federal regulations pertinent to the activity pursued and the requirements of or permission granted by this section shall not be construed as an exception from such regulations.

(A) A Home Business shall be operated and maintained by the residents of the premises and not more than three on-premise employees who are not residents.

(B) The following Uses are permitted as Home Business:

(1) Medical, Legal or Financial related Occupations

(2) Engineering and Architectural related Occupations

(3) Trade Occupations such as Carpenter, Plumber, Electrician and Wood Worker

(4) Artistic Occupations such as Painter, Sculptor and Potter

(5) Personal Grooming Occupations such as a Hair Stylist, Barber and Tailor, Seamstress;
(limited to 3-unit operation)

(6) Food Service Occupations such as Caterer

(7) Travel and Real Estate Related Occupations

(8) Any other profession or occupation that may be unobtrusively pursued in a residential or Accessory Structure as determined by the Code Enforcement Officer

(C) For any uses not listed in **(B)** above, refer to the Table of Permitted Uses for underlying Zoning District.

(D) It shall be secondary and incidental to the residential use of the premises and will not alter the general character of the neighborhood or reduce the value of any surrounding property.

(E) It shall result in no external evidence of the enterprise except for a permitted non-electrical, non-illuminated sign not exceeding six (6) square feet and subject to the review of the Planning Board.

- (F)** It shall have no adverse effect on the environment or the surrounding properties as a result of noise, odors, smoke, dust, lights, soil, water or air pollution, excessive increase in traffic or in parking requirements or as a result of other nuisances.
- (G)** 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 Planning Board.
- (H)** In a situation where more than one (1) client or customer is likely to concurrently visit the premises, adequate off-street parking is required to be provided.
- (I)** Traffic generated by the occupation will not negatively impact the neighborhood.
- (J)** The residence or accessory building shall not provide window displays or other characteristics or features normally associated with a commercial use.
- (K)** 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 Planning Board.
- (L)** Application for Home Business proposals shall be submitted and processed in accordance with the Site Plan Review Regulations for Planning Board approval.

END OF SECTION 5.00 – HOME OCCUPATION AND HOME BUSINESS

SECTION 6.00 ACCESSORY DWELLING UNITS

6.01 ACCESSORY DWELLING UNITS

(A) Authority. This Ordinance is enacted in accordance with the provisions of **RSA 674:71-73**.

(B) An accessory dwelling unit ("ADU") is permitted by right in all zoning districts that permit single family dwellings, subject to the following provisions listed:

- (1)** Only one (1) ADU shall be permitted for each single-family dwelling. An ADU shall not be permitted on a property where more than one dwelling unit currently exists.
- (2)** ADUs shall be permitted only on properties containing an owner-occupied single-family dwelling. Both the primary dwelling unit and the ADU must remain in common ownership. The ADU shall not be converted to a condominium or any other form of legal ownership distinct from the ownership of the principle single-family dwelling. In order to ensure compliance with this requirement, the property owners at the time of the ADU is established shall be required to execute a restrictive covenant that shall include restrictions on ownership, condominium conversion and if the ADU is detached, the requirements as stated in Section 6.01(6). The covenant will run in favor of the Town, which shall be recorded in the Strafford County Registry of Deeds and a copy of which shall be provided to the Planning Department and the Town Assessor prior to the issuance of a certificate of occupancy.
- (3)** The ADU must provide independent living facilities for one or more persons including the four (4) elements of sleeping, eating, cooking and sanitation.
- (4)** The ADU shall have independent means of ingress and egress or shall have ingress and egress through a common space such as a shared hallway to an exterior door.
- (5)** If the ADU is attached to the principal dwelling unit, the ADU must share a common wall between the principle dwelling unit and the ADU and an interior door shall be provided between the principle dwelling unit and the ADU.
- (6)** If the ADU is detached, it must be located entirely within an accessory structure that provides an accessory use the primary structure on the lot. Examples include barns, garages, etc. Standalone detached ADU's are not permitted.
- (7)** The area of the ADU shall have an area of no less than three hundred and fifty (350) square feet and no greater than eight hundred and fifty (850) square feet.
- (8)** The number of bedrooms in the ADU shall not exceed two (2).
- (9)** All required setback shall be complied with.

- (10) Building materials used for additions shall be similar to the principal dwelling unit. ADUs shall maintain an aesthetic continuity with the principal dwelling unit as a single-family dwelling unit.
- (11) A minimum of one dedicated off-street parking space shall be provided for the ADU. The Code Enforcement Officer may require additional off-street parking spaces.
- (12) If the ADU is not on public water and sewer, water supply and sewage disposal shall comply with **RSA 485-A:38** and the regulations adopted by the New Hampshire Department of Environmental Services. Water and wastewater systems for the principal single-family dwelling unit and the ADU may be combined or separate.

(C) Owner Must Reside on the Property.

- (1) If owner of record of the property ceases to reside on the property, a fine shall be levied to the owner of the property, according to the provisions of **RSA 676:17**, until an owner resides on the property of the ADU is discontinued. The property owner must occupy one of the two dwelling units. Electric, water and sewer utilities shall be metered on a single bill. Owners who are temporarily absent from property, such as a member of the armed forces called to active duty, may apply for relief from this provision to the Board of Selectmen. (Reference: Service-members Civil Relief Act, Public Law 108-189, December 2003)/

(D) Discontinuance of an Accessory Dwelling Unit.

- (1) A property owner can notify the Code Enforcement Officer in writing that he or she wishes to discontinue use of an ADU
- (2) The ADU shall not be occupied at the time of discontinued
- (3) An ADU is deemed to be discontinued when the Code Enforcement Officer revokes the Certificate of Occupancy

(E) Enforcement Authority. The Board of Selectmen and/or their designed Code Enforcement Officer shall be the final authority on compliance and enforcement of this Article.

(F) Severability. The invalidity of any provisions of this Ordinance shall not affect validity of any of the provisions. If any section, clause, provision or portion of this Ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding will not affect or impair any other section, clause, provision of this Ordinance.

END OF SECTION 6.00 – ACCESSORY DWELLING UNITS