

The TOWN of HARRISVILLE

in the Monadnock Region of New Hampshire

incorporated in 1870

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## Zoning Ordinances

March 2021\*

and

## Subdivision Regulations

July 2005\*\*

\* In March 1955 Building Regulations and Zoning Ordinances proposed by the Zoning Commission were adopted by the Town Meeting. These were later rescinded by a Special Town Meeting held in July 1955. In March 1964 a Zoning Ordinance was published. These Zoning Ordinances were subsequently revised at Town Meetings (see [Article XXV](#)).

\*\* The Harrisville Planning Board amended and adopted the Subdivision Regulations on July 14, 2005.

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**ARTICLE I AUTHORITY AND PURPOSE**

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

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

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

**ARTICLE II WHEN EFFECTIVE**

2.1. This ordinance shall take effect upon its passage.

**ARTICLE III DISTRICTS AND MAPS**

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

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

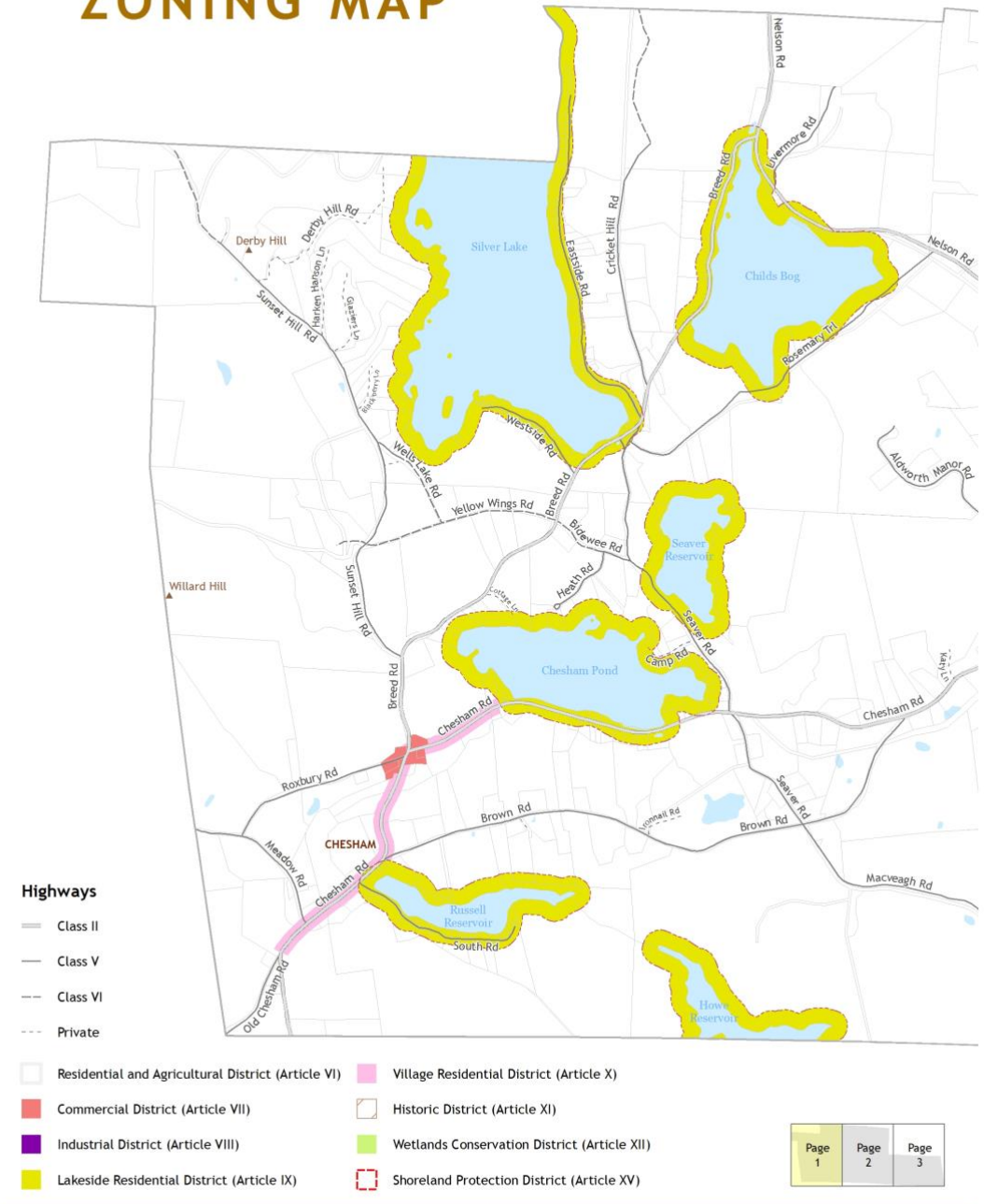
3.2. Additional constraints may be placed on properties within any district by the following overlying districts:

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

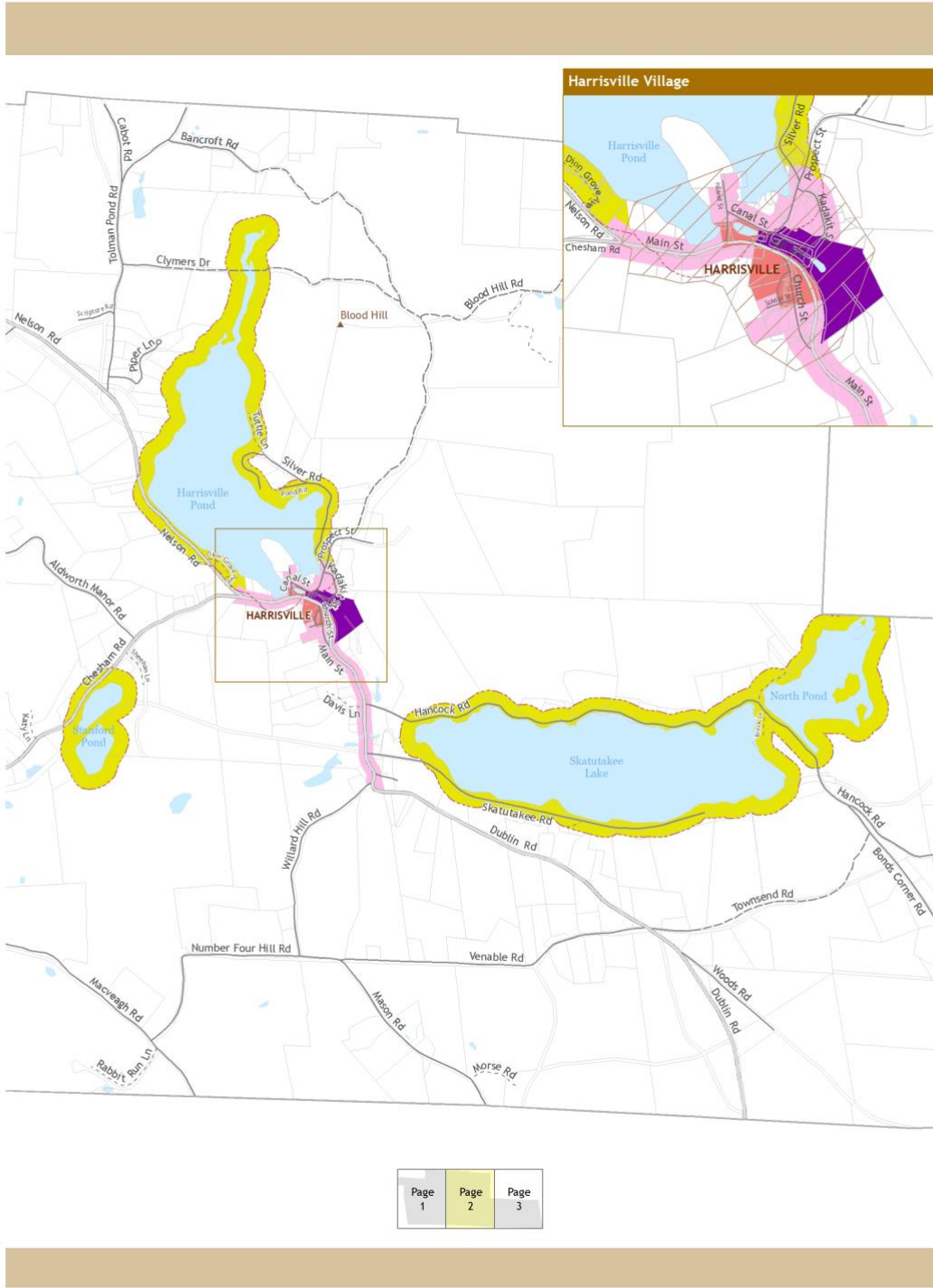
3.2.6 Floodplain Ordinance

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

# TOWN OF HARRISVILLE ZONING MAP



This map was created in December of 2017 by Southwest Region Planning Commission (SWRPC). Maps created by SWRPC are for planning purposes only. SWRPC uses data from multiple sources at various scales of accuracies. No warranties, expressed or implied, are provided for the data herein, its use, or its interpretation.





**ARTICLE IV GENERAL PROVISIONS**

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

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

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

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

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

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

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

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

4.1.8. No accumulation of junk is permitted.

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

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

4.1.10.1. Any non-residential use.

4.1.10.2. Any multiple-family use.

4.1.10.3. Any cluster development.



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

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

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

4.1.14. In no case shall any parcel or lot have an impervious cover of more than thirty (30) per cent of the lot area. The total shall include the structural footprint, impervious roadway or any other impervious cover.

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

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

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

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

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

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

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

4.1.18. Home occupations are permitted in all zoning districts subject to the following:

4.1.18.1. The activity is carried on only by residents of the dwelling and involves only a service provided or product produced by those residents.

4.1.18.2. The activity is operated entirely within the dwelling and/or accessory structure.

4.1.18.3. The activity results in no external evidence of the enterprise except for a permitted sign.

4.1.18.4. The activity has no adverse effect on the environment or surrounding properties from impacts including but not limited to noise, odor, smoke, dust, light, traffic, electrical or electronic interference.

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

4.1.19.1. It shall be carried on by residents of the premises, and a maximum number of non-resident employees as approved by the Zoning Board.

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

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

4.1.19.4. It shall not have an adverse effect on the environment and water resource supplies or the surrounding properties from impacts including but not limited to noise, odor, smoke, dust or lights; soil, water or air pollution; electrical or electronic interference; excessive increases in traffic or in parking requirements.

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

4.1.19.6. Parking for employees and/or customers shall be provided on-site.

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

4.1.21. Lot in two (2) districts: Where a district boundary line divides a lot of record, the regulations for either district of such lot may extend up to 50' into the other district, provided the lot has frontage on a street in the district that is being extended.

## **ARTICLE V NONCONFORMING USES, LOTS, AND STRUCTURES**

### **5.1. Intent.**

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

5.1.2. It is the intent of this ordinance to permit the continuation of these non-conformities until they are removed.

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

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

5.2.2. Change or expansion: Any change in, or expansion of, an existing non-conforming use shall require approval of a special exception from the Board of Adjustment of the Town of Harrisville. Nonconformity may be enlarged or expanded as determined by the Board of Adjustment. For a special exception to be approved, a petitioner must prove to the satisfaction of the Board of Adjustment that the proposed change in, or expansion of, the existing non-conforming use will not be more harmful or detrimental than the existing non-conforming use. It must also meet the findings of fact and conditions for granting a special exception as outlined in [Article XX](#).

5.2.3. Superseded by conforming use: If a non-conforming use is superseded by a conforming use, then it shall thereafter conform to the use regulations of this ordinance, and the non-conforming use may not thereafter be resumed.

5.2.4. Restoration, reconstruction and/or replacement: Nothing herein shall prevent the substantial restoration, reconstruction, and/or replacement within one year of a non-conforming building or structure destroyed in whole or in part by fire or other natural disaster so long as this use does not result in a new increased violation.

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

5.3.1. Alterations or replacement: Any non-conforming building may be altered or replaced on its original site. Such replacement must take place within twelve (12) months of the demolition of the pre-existing structure.

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

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

5.4. NON-CONFORMING LOT: Unlike a non-conforming structure, a non-conforming lot is not “grandfathered” for any and all uses allowed in its zoning district. However, by special exception, a non-conforming lot may be developed for the uses permitted in the district in which it is located provided that the use proposed for such lot will comply with all the health and sanitary regulations for water and sewage systems as required by the state of New Hampshire and the Town of Harrisville and provided that it complies with all other requirements of this ordinance or amendments thereto other than the non-conforming aspect of the lot.

5.4.1. A structure on a non-conforming lot may be expanded in volume or area as set forth in 5.3.3, and replaced or relocated on the property by special exception of the Board of Adjustment.

5.4.2. A non-conforming lot may be expanded, even though the expansion does not make the lot conforming.

## **ARTICLE VI RESIDENTIAL AND AGRICULTURAL DISTRICT**

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

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

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

6.1.3. There shall be a minimum distance of (50) feet between any structure and the nearest boundary of any public right-of-way. No structure shall be placed closer than forty (40) feet to the side and rear boundaries of the lot. By Special Exception the following structures may be located no less than twenty-five (25) feet from the nearest boundary of any public right-of-way or side and rear boundaries of the lot; patios, gazebos, greenhouses, garages, storage sheds, hot tubs, swimming pools, and similar structures.

6.1.4. No more than one single family dwelling and one accessory dwelling unit (ADU) shall be erected on a lot defined above.

6.1.4.1. Detached Accessory Dwelling Units are permitted by conditional use permit from the Planning Board.

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

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

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

6.1.8. Earth excavation complying with RSA155-E, as approved by the Planning Board, is permitted in this district.

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

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

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

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

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

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

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

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

## **ARTICLE VII COMMERCIAL DISTRICT**

7.1. The commercial district shall enjoy the following provisions:

7.1.1. It shall be a district of single family, accessory dwelling units (ADUs) as specified in Article XXIX, duplex and multiple family residences, business enterprise, and activity or undertaking for profit. No other uses than those specified here shall be permitted.

7.1.2. Any non-industrial business use is permitted.

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

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

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

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

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

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

## **ARTICLE VIII INDUSTRIAL DISTRICT**

8.1. The industrial district shall enjoy the following provisions:

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

8.1.2. Any non-industrial business use is permitted.

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

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

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

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

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

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

## **ARTICLE IX LAKESIDE RESIDENTIAL DISTRICT**

(Amended March 2014)

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

9.1.1. Frontage requirements:

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

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

9.1.2. No single family dwelling shall be located on a lot containing less than forty-three thousand, five hundred and sixty (43,560) square feet.

9.1.3. Only single family residences and Accessory Dwelling Units granted a conditional use

permit by the Planning Board shall be permitted. See Article XXIX.

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

9.1.5. No trade, business, or commercial use of the land or buildings in the lakeside district shall be permitted, except for home-based businesses.

9.1.6. No dwelling or structure other than docks or fences shall be erected closer than seventy-five (75) feet from the high-water mark. In the case of existing non-conforming structures, no additions shall be made which will be closer to the high-water mark than the nearest part of the existing structures. No structure shall be located closer than fifteen (15) feet to the edge of any right-of-way, or to the side or rear boundaries of the lot. Accessory buildings such as storage sheds and gazebos but excluding automobile garages may be located within the seventy-five (75) feet setback as a special exception provided:

9.1.6.1. The location and construction of the structure is consistent with the intent of the ordinance to maintain a vegetated buffer, which would meet the requirements of 15.8.1.

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

9.1.6.3. The structure is customary or incidental to residential and recreational use.

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

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

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

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

9.2.2.1. Beaver Pond

9.2.2.2. Chesham Pond

9.2.2.3. Childs Bog

9.2.2.4. Dinsmore Pond

9.2.2.5. Howe Reservoir

9.2.2.6. Russell Reservoir

- 9.2.2.7. Seaver Reservoir
- 9.2.2.8. Silver Lake
- 9.2.2.9. Skatutakee Lake (North Pond)
- 9.2.2.10. Stanford Pond

**ARTICLE X VILLAGE RESIDENTIAL DISTRICT**

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

- 10.1.1. It shall be a district of single family, duplex and multiple family residences. Accessory Dwelling Units granted a conditional use permit by the Planning Board shall be permitted. See Article XXIX. No other uses other than those specified here shall be permitted.
- 10.1.2. Each lot shall have a minimum frontage of one hundred-fifty (150) feet and a minimum land area of thirty-five thousand (35,000) square feet.
- 10.1.3. The village district shall extend to a distance of one hundred (100) feet from the edge of the public right-of-way as per the zoning map for the town of Harrisville.
- 10.1.4. There shall be a minimum distance of twenty-five (25) feet between any structure and the nearest boundary of any public right-of-way. No structure shall be placed closer than fifteen (15) feet to the side and rear boundaries of the lot.
- 10.1.5. Single family, duplex and multiple family residential construction or adaptation only, as permitted on the minimum lot size set forth above.
- 10.1.6. Tourist homes may be maintained and operated in this district.
- 10.1.7. Home produce and products may be bought and sold and exposed for sale in this district.
- 10.1.8. Places of worship and schools are permitted in this district.

10.2 [Deleted in its entirety March 2009.]

**ARTICLE XI HISTORIC DISTRICT**

(adopted March 1969)

11.1 AUTHORITY AND PURPOSE. By the authority granted in RSA 673:1 et seq., and in the interest of the preservation of structures and places of historic and architectural value, the Harrisville historic district and historic district regulations is hereby established. This district is established for the public purpose of:

- 11.1.1. Preserving a district that reflects elements of its cultural, social, economic, political, and architectural history.
- 11.1.2. Conserving property values in such district.



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

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

11.2.1. Beginning at the northwest corner of lot 32-1 at south side of Main Street; thence westerly on south side of said highway 130 feet to a point opposite lot 61-4; thence north 25 feet east across said highway on land of lot 61-4 approximately 350 feet to a point on the south shore of Harrisville Pond; thence easterly about 1300 feet crossing the southern part of said pond and the peninsula containing the Island Cemetery to the northwest corner of lot 51-4 on the east shore of said pond; thence easterly about 140 feet to said lot northeast corner; thence southeasterly on said lot and of lots 52-2 and 52-3 about 200 feet to the west side of Prospect Street; thence southerly on Prospect Street about 130 feet to a point in line with the northwest corner of lot 32-34 and the southwest corner of lot 51-1; thence crossing said street and continuing on land of lot 32-34 and 51-1 southeasterly along a wall about 180 to a point on the wall at land of lot 32-35; thence southerly on the wall on the west line of lot 32-35 and continuing along the line on lot 32-42 a total distance of about 788 feet to a point 105 feet due east of southeast corner of lot 32-42; thence southerly 918 feet on land of lot 30-66-2 to a point on land of lot 30-66-2 at the land of lot 30-66-1 100 feet east of the state highway leading to Dublin from Harrisville; thence westerly on land of lot 30-66 and lot 30-66-1 to said highway; thence still westerly in the same direction as the above line about 280 feet across the highway and to a point on land of lot 30-71; thence northerly about 400 feet to a corner of walls at the southwest corner of lot 32-11, formerly land of the Harrisville School District; thence still northerly on the wall of the west line of lot 32-11 about 75 feet; thence northwesterly about 450 feet to the southeast corner of lot 32-3 and the southwest corner of lot 30-74; thence westerly about 660 feet on the south line of lot 32-3, 32-2, and lot 32-1 to the southwest corner of land of lot 32-1 and land of lot 30-76; thence northerly about 200 feet on line of lot 32-1 and lot 30-76 to the point of beginning.

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

## **ARTICLE XII WETLANDS CONSERVATION OVERLAY DISTRICT**

(adopted March 1987; amended March 2021)

12.1. AUTHORITY. By the authority granted in NH RSA 674:47:16-17 and 674:20-21, and in the interest of public health, safety and general welfare, the Harrisville Wetlands Conservation Overlay District (herein after known as “the District”) is hereby enacted.

12.1.1. Compliance with this ordinance does not relieve any property owners from complying with applicable state regulations regarding wetlands. A Wetlands Permit from the NHDES Wetlands Bureau is required for excavating, removing, filling, dredging or constructing structures within state jurisdictional areas, including wetlands and surface waters, pursuant to RSA 482-486 and DES Env-WT 100-900.

12.2. PURPOSE The District is hereby enacted for the following purposes:

- 12.2.1. To regulate the uses of lands subject to standing water or extended periods of high-water table.
- 12.2.2. To control the development of structures and land uses on naturally occurring wetlands that would contribute to the pollution of surface and groundwater.
- 12.2.3. To prevent the destruction of natural wetlands, which provide flood protection, groundwater recharge, pollution abatement, and the augmentation of stream flow during dry periods, and which are important for such other reasons as those cited in RSA 482- A:1.
- 12.2.4. To prevent unnecessary or excessive expenses to the town and to provide and maintain essential services and utilities, which arise because of unwise use of wetlands.
- 12.2.5. To allow those uses that can be appropriately and safely located within wetlands areas and which do not adversely impact water resource supplies.
- 12.2.6. To preserve and enhance the values associated with wetlands of this Town, including noteworthiness, uniqueness/heritage, and scenic quality.
- 12.2.7. To provide a buffer around the wetland in order to protect the essential functions of wetlands, which are: ecological integrity; aquatic habitat; flood storage; groundwater recharge/discharge; nutrient removal; sediment stabilization; wildlife habitat; nutrient reduction; and sediment retention/trapping.

12.3 DEFINITIONS

- 12.3.1. Bog: A bog is a non-forested or open wetland that is not dominated by trees, although they may be distinguished by stunted evergreen trees and shrubs, peat deposits, poor drainage, and/or highly acidic soil. They have water at or near the surface at least part of the year, and may have a more or less distinct border defined by the surrounding forest.
- 12.3.2. Buffer: The protected uplands adjacent to wetlands and vernal pools.
- 12.3.3. Vernal pool: A body of water, typically seasonal, that provides breeding habitat for certain amphibians and invertebrates, as well as a wide variety of other wildlife species, but it does not support fish population. It is a small, seasonal wetland that lacks an inlet and outlet and during the dry seasons may only be recognizable as an isolated depression in the forest floor.
- 12.3.4. Wetland: Pursuant to RSA 482-A:2,X, an area that, either through surface water or ground water, is wet enough and wet for a long enough period of time, to support a predominance of vegetation that grows in saturated soil conditions. Wetland soils usually have developed special characteristics, and have water at or near the surface. In order for an area to be deemed a wetland, all three of the following must be present:
  - Hydric soils – soils that are saturated or flooded during the growing season sufficient to produce anaerobic conditions in the upper soil layers.

- Hydrophytic vegetation – greater than 50% of the vegetation present is adapted for life in saturated soil conditions.
- Hydrology – Evidence exists that demonstrates the soils in the area are inundated with water either permanently or periodically at some time during the growing season.

Examples of wetlands include, but are not limited to: swamps, bogs, marshes, forested wetlands, wet meadows and vernal pools.

12.3.5. Forested wetlands: are dominated (or potentially dominated) by trees taller than 20 feet. Forested wetlands vary widely in their characteristics, often have relatively little water directly at the surface, and have indistinct borders. They may require considerable expertise to identify.

12.4. DISTRICT BOUNDARIES. The District consists of:

12.4.1. Wetlands of any size.

12.4.2. A buffer area extending out 100 feet from the wetland edge.

12.4.3. Public waters as defined by RSA 483-B are exempt from the provisions of this ordinance. Wetlands that occur outside of the mean high-water level of public water are subject to the provisions of this ordinance.

12.5. GENERAL PROVISIONS.

12.5.1. Boundary Delineation: Boundaries of the Wetlands Conservation Overlay District are to be delineated on any lot that is the subject of subdivision or site plan; and for any driveway or building permit application for any development that may be within 100 feet of a wetland.

12.5.2. Boundary Disputes: In the event that the Select Board of Conservation Commission question the validity of the boundaries of a wetland area on a specific parcel of land, or upon the written petition of any abutter, the applicant may be required to engage the services of a certified wetland soil scientist to determine the exact location of the District.

12.5.3. Lot size determination: Wetlands may be used to fulfill twenty-five (25%) percent of the minimum lot size required by town ordinances and subdivision regulations, provided that the non-wetland area is sufficient in size and configuration to adequately accommodate all required utilities such as sewage disposal and water supply, including primary and auxiliary leach field locations.

12.6. SPECIAL PROVISIONS.

12.6.1. There shall be a 100-foot buffer around all wetlands greater than 3,000 square feet and vernal pools of any size, with no alteration of natural vegetation allowed, except as otherwise permitted in this ordinance.

12.6.2. There shall be a 25-foot no-build buffer around all wetlands of 3,000 square feet or less, with no alteration of natural vegetation, no habitable buildings and no permanent foundations.

12.7. PERMITTED & RESTRICTED USES

12.7.1. The uses listed below are consistent with the protection of wetland functions and values.

- a. Agriculture, including grazing, hay production, truck gardening and silage production, provided that such use is shown not to cause significant increase in surface or groundwater contamination by pesticides or other toxic or hazardous substances, and that such use will not cause or contribute to soil erosion.
- b. Forestry and tree farming to include the construction of access roads for said purpose.
- c. Wildlife habitat development and management.
- d. Recreational uses consistent with the purpose and intent of this article.
- e. Conservation areas and nature trails.
- f. Water impoundment and the construction of well water supplies.
- g. Drainage ways to include streams, creeks, or other paths of normal runoff water and common agricultural land drainage.

12.7.2. The following uses may be allowed, provided that they do not involve the recontouring or grading of the land, filling, dredging, or draining the wetland, change the flow of water, result in any pollution, or substantial clearing of vegetation.

- 12.7.2.1. The construction or reconstruction of unpaved walkways, fencing, stone walls, and stacks of cordwood, provided they do not create a barrier to wildlife movement.

12.8. PERMITTED USES BETWEEN 50 AND 100 FEET FROM THE WETLAND EDGE, EXCLUDING VERNAL POOLS.

12.8.1. Pathways, decks, gazebos, pergolas, sheds, patios, or similar constructions, provided no more than 20% of the area is impacted and no permanent foundations are involved. Pre-existing lawns and structures shall be included in the 20% area calculation.

12.8.2. Planting of native trees, shrubs and ground covers.

12.9. SPECIAL EXCEPTION USES. Upon application to the Zoning Board of Adjustment (ZBA), a special exception may be granted for the following:

12.9.1. Accessory structures associated with legally preexisting primary structures if it can be demonstrated that no practical alternative exists elsewhere on the lot.

12.9.2. Footbridges, catwalks and wharves, however, provided that said structures are constructed with non-toxic material on posts or pilings that do not obstruct the flow of water; and the natural contour of the wetland is preserved.

12.9.3. The construction of roads and other access ways, and for pipelines, power lines, and other transmission lines, provided that all of the following conditions are found to exist:

12.9.3.1. The proposed construction is essential to the productive use of land not within the District.

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

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

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

12.9.3.5. The ZBA may require the applicant to submit an environmental impact assessment to evaluate an application made under this section. The cost of this assessment shall be borne by the applicant. The ZBA may also assess the applicant reasonable fees to cover the cost of other special investigative studies and for the review of documents required by particular applications.

12.9.4. Development on vacant nonconforming lots provided that all of the following conditions are found to exist:

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

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

12.9.4.3. Because of the provisions of the District, no reasonable and economically viable use of the lot can be made without the exception.

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

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

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

12.9.5. EXEMPTION FOR RESIDENTIAL STRUCTURES. Construction of additions and extensions to one and two-family dwellings within the wetlands district may be permitted provided that:

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

12.9.5.2. It can be demonstrated that no practical alternative exists elsewhere on the lot;

12.9.5.3. Proposed construction footprints within the wetlands district minimize impacts on wetlands natural function (e.g., building on piers rather than foundations so that groundwater flows are uninterrupted); and

12.9.5.4. The proposed construction complies with all applicable provisions of Article V, 5.3. (Nonconforming Structures) and Article XX, 20.1.2. (Special Exception Uses).

## **ARTICLE XIII REGULATION OF DEVELOPMENT ON STEEP SLOPES**

(adopted March 1987)

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

13.1.1. Where steep slopes exist in the town of Harrisville, the nature of these soils renders the land exceptionally vulnerable to erosion and water pollution. It affects not only an individual landowner's property but also that of abutters and ultimately the community. These regulations are intended to protect the town from undue hardship of expense caused by excessive erosion of hill sides due to improper excavation, drainage, construction of driveways, or other activities which disturb the fragile soil conditions of steep slope areas and may result in sedimentation, erosion or the creation of a watercourse where one did not previously exist on neighboring property, town property, or by interference with town or state road drainage systems. They are further intended to protect the town from the public health hazard of improper construction and the possible resulting failure of septic systems constructed in steep slope areas.

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

13.2. DEFINITION AND DELINEATION.

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

inspection. Where it is alleged that this determination is in error, assistance will be requested from the Cheshire County Conservation District. In such cases, detailed engineering data may also be requested from the land owner to provide a more accurate determination of the slopes involved.

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

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

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

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

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

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

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

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

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

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

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

13.5. ENFORCEMENT AND PENALTIES. The town of Harrisville or its agents have the right to inspect the premises at any time during construction to assure that building and site construction is being carried out according to the approved engineering plans as submitted to the agent of the selectmen

for the purposes of obtaining the building permit. If construction does not proceed according to these plans (with minor allowances made for adjustments to previously unknown natural conditions where the overall effect remains the same or is improved) the owner will be liable for a fine of up to five-hundred (500) dollars for each violation or deviation from the plan and be required to cease and desist construction until such violations and or deviations are corrected.

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

#### **ARTICLE XIV GROWTH MANAGEMENT ORDINANCE**

This was a temporary ordinance adopted in 1988. It was last adopted for one-year period in March, 2009. Then it ended automatically by operation of the law, RSA674:23 VII.

#### **ARTICLE XV SHORELAND OVERLAY ORDINANCE**

(adopted March, 1993, amended March 2009 and March 2014)

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

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

#### 15.3. DEFINITIONS

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

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



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

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

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

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

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

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

15.3.9. "Natural ground cover" means any herbaceous plant or any woody seedling or shrub generally less than 3 feet in height. Natural ground cover shall also include naturally occurring leaf or needle litter, stumps, decaying woody debris, stones and boulders. Natural ground cover shall not include lawns, invasive species, exotic species, imported organic or stone mulches, or other artificial materials (refer to RSA 483-B for details).

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

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

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

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

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

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

15.3.16. "Public waters" shall include:

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

15.3.16.2. Rivers, meaning all year round flowing waters of fourth order or higher, as shown on the

current version of the New Hampshire hydrography data set archived by the Granit system at the research center of the University of New Hampshire.

15.3.17. "Reference line" means:

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

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

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

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

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

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

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

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

15.3.23. "Shoreland frontage" is measured on a straight line drawn between the points at which the high water mark intersects the side lines of the property.

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

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

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

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

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

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

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

waters of the state.

15.4. SHORELAND PROTECTION DISTRICT

15.4.1. The shoreland protection district is an overlay that is superimposed over the conventional existing zoning and includes within its boundary the protected shorelands set back 250 ft. from all public waters within the municipality, as listed below:

Lakes:

Chesham Pond 74.2 ac; 1152.03 elev.

Beaver Pond 19.8 ac; 955 elev.

Child's Bog 105.4 ac; 1375 elev

Dinsmore Pond 19 ac; 930 elev.

Harrisville Pond Upper Pond 120 ac; 1318 elev.

Howe Reservoir 257.8 ac; 1274.5 elev.

Russell Reservoir 26 ac; 1160 elev.

Seaver Reservoir 45 ac; 1200.25 elev.

Silver Lake 332.7 ac; 1318.75 elev.

Skatutakee Lake 260.9 ac; 1202 elev.

Stanford Pond 11.4 ac; 1245 elev.

15.5 PERMIT NOT REQUIRED

Many activities within the protected shoreland have been identified as not requiring a shoreland or a Town permit because the activity does not constitute construction, excavation or filling. These activities include, but are not limited to:

- a. Trimming, pruning, and thinning of branches to the extent necessary to protect structures, maintain clearances, and provide views.
- b. Maintenance of legal, existing, altered areas, such as mowing lawns, raking leaves and pine needles, mulching landscaped areas and haying fields.
- c. Planting one or more trees within existing altered areas more than 50 feet from the reference line with mechanized equipment.
- d. Planting of non-invasive vegetation and maintenance of existing gardens.
- e. Hand-pulling or use of hand tools to remove invasive species or other noxious or harmful plants such as poison ivy, including the root systems, provided that any area exceeding 10 square feet without vegetation be replanted with non-invasive, non-harmful species.
- f. Placement of stepping stones provided no root systems are removed to accommodate their placement and that no stone shall be larger than 3 sq ft.
- g. Placement or installation of readily moved items such as picnic tables, lawn chairs, and swing sets.
- h. Construction or installation of fences using hand tools.

- i. Maintenance, repair or modification of an existing driveway, including repaving, provided that there is no increase in impervious area.
- j. Installing private water facilities such as a well including the trenching associated with connecting the well to a residential dwelling, provided that it is located behind the 50 ft. setback to the lake reference line.
- k. Digging test pits for the purposes of determining suitability for wastewater disposal under RSA 485-A:29 relating to subdivisions or septic systems, provided there is no disruption of groundcover within 50 feet of the shoreline and no test pits within 75 feet of the shoreline.
- l. Replacing utility poles or guy wires using mechanized equipment, provided that appropriate siltation and erosion controls are used and all temporary impacts are restored.

15.6. PERMIT REQUIRED

15.6.1. No person shall commence construction, excavation, filling or land disturbance in excess of 900 sq ft within the protected shoreland without obtaining permits from the Department and the Board of Adjustment. Existing photographs of area to be further developed are also required prior to making impacts.

15.6.2. Within the protected shoreland, any person intending to

- a. Engage in any earth excavation activity shall obtain all necessary local approvals in compliance with RSA 155-E.
- b. Construct a water-dependent structure, alter the bank, or construct or replenish a beach shall obtain all permits pursuant to RSA 485-A:17, as well as wetlands under RSA 482-A.
- c. Install a septic system as described in RSA 483-B:9, V(c) shall obtain all permits pursuant to RSA 485-A:29
- d. Conducting an activity resulting in a contiguous disturbed area exceeding 50,000 square feet shall obtain a permit pursuant to RSA 485-A:17.
- e. Subdivide land as described in RSA 483-B:9, V(e) and (f) shall obtain approval pursuant to RSA 485-A:29.
- f. Conduct an activity regulated under a local zoning ordinance shall obtain all necessary approvals.

15.6.3. The Commissioner shall have the authority to issue variances and waivers of the provisions of RSA 483-B or its successors. In addition, variances and waivers of provisions of RSA 483-B or municipal ordinance XV must be obtained from the town Board of Adjustment.

15.6.3.1. No variance, permit or approval issued by the Town shall exempt the owner from obtaining any other necessary permit or approval from the Department as required by RSA 483-B.

15.6.3.2 No variance, permit, or approval issued by the Department shall exempt the owner from obtaining any other necessary permit or approval from the Board of Adjustment as required by the Town's Local Ordinances.

15.7. PROHIBITED USES

15.7.1. Establishment or expansion of salt storage yards, automobile junk yards, and solid or hazardous

waste facilities.

15.7.2. Bulk storage of chemicals, petroleum products or hazardous materials.

15.7.3. Sand and gravel excavations as defined in RSA 155-E.

15.7.4. Processing of excavated materials.

15.7.5. Dumping or disposal of snow and ice into any water body

**15.8. RESTRICTED USES**

15.8.1. No fertilizer shall be used within twenty-five 25 feet of the reference line of any property. Twenty-five (25) feet beyond the reference line, low phosphate or slow release nitrogen fertilizer may be used on lawns or areas with grass.

15.8.2. Water dependent structure meaning is a dock, wharf, pier, breakwater or other similar structure, or any part thereof, built over, on or in the waters of the state, shall be constructed only as approved by the Department pursuant to RSA 482-A.

15.8.3. Public water supply facilities as permitted by the commissioner of the Department of Environmental Services. Private water supply facilities shall not require a permit.

15.8.4. No solid waste facility shall place solid waste within two hundred and fifty (250) feet of the reference line of public waters under this chapter except as expressly permitted under RSA 483-B:9, IV-c. However, any solid waste facility may be allowed subject to permitting conditions under RSA 149-M:9, to erect accessory structures and conduct other activities consistent with the operation of the facility within two hundred and fifty (250) feet of the reference line of public waters under this chapter, such as filling, grading and installing monitoring wells and other drainage structures as is consistent with its solid waste permit as issued by the Department of Environmental Services. Under no circumstances shall the toe of any slope encroach within one hundred and fifty (150) feet of the reference line.

**15.9. MINIMUM STANDARDS**

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

**15.9.1 MAINTENANCE OF A WATERFRONT BUFFER**

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

15.9.1.2. Within the waterfront buffer, all of the following prohibitions and limitations shall apply, unless any exception thereto is specifically approved by the Board of Adjustment:

a. No chemicals, including pesticides of any kind or fertilizers of any kind except those specified in RSA 483-B9.

b. Rocks and stumps and their root systems shall be left intact in the ground .

- c. No natural ground cover shall be removed except as necessary for a foot path to the water as provided under RSA 483.9, cutting those portions that have grown over 3 feet in height for the purpose of providing a view.
- d. Starting from the northerly or easterly boundary of the property, and working along the shoreline, the waterfront buffer shall be divided into 50 by 50 foot segments. Within each segment a minimum combined tree and sapling score of at least 50 points shall be maintained. If for any reason there is insufficient area for a full segment, the number of points required to be maintained in that partial segment shall be proportional to that required of a full segment.
  - i. Tree and sapling diameters shall be measured at 4-1/2 feet above the ground and scored as follows: Diameter score 1 inch to 6 inches 1; greater than 6 inches to 12 inches 5, and greater than 12 inches 10.
  - ii. Dead, diseased, or unsafe trees or saplings shall not be included in scoring.
  - iii. If the total tree and sapling score in any 50 foot by 50 foot segment exceeds 50 points, then trees and saplings may be removed as long as the sum of the scores for the remaining trees does not total less than 50 points. Trees and saplings may be removed from partial segments provided the sum of the scores for the remaining trees and saplings in that particular segment is equal to or greater than the proportional point requirement.
  - iv. Owners of lots that were legally developed prior to July 1, 2008 may maintain but not enlarge cleared areas, including but not limited to existing lawns and beaches, within the waterfront buffer. Conversion to or planting of cleared areas with native species of ground cover, shrubs, saplings and trees is encouraged but shall not be required unless to meet requirements of other provisions of the law.
  - v. Normal trimming, pruning, and thinning of branches to the extent necessary to protect structures, maintain clearances, and provide views is permitted. Trimming, pruning, and thinning of branches for the purpose of providing views shall be limited to the bottom ½ of the trees or saplings.
  - vi. A permanent 6 foot wide path to the water body, configured in a manner that will not concentrate storm water runoff or contribute to erosion, is allowed
  - vii. When necessary for the completion of construction activities permitted in accordance with RSA 483-B:6, a temporary 12 foot wide access path shall be allowed. The access path shall be completely restored and replanted with native vegetation upon completion of construction except as allowed under vi. above.

**15.9.2. NATURAL WOODLANDS BUFFER**

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

15.9.2.1. Within the natural woodland buffer of a given lot

15.9.2.1.1. At least 50 percent of the area outside of impervious surfaces shall be maintained in an undisturbed state. Owners of lots legally developed prior to July 1, 2008 that do not comply with this standard are encouraged to, but shall not be required to, increase the percentage of area maintained in an undisturbed state, except where permitted by the Department.

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

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

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

15.10. SUBSURFACE WASTE DISPOSAL SYSTEMS

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

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

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

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

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

15.11. EROSION AND SEDIMENTATION CONTROL

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

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

15.12. NONCONFORMING LOTS OF RECORD.

15.12.1 Nonconforming undeveloped lots of record within the protected shoreland shall comply with the following restrictions:

15.12.1.1. Except where otherwise prohibited by law or by action of the Department, present and successive owners of an individual undeveloped lot may, by Special Exception, construct a single family residential dwelling on it, notwithstanding the provisions of this Ordinance. Conditions may be imposed

which, in the opinion of the Board of Adjustment, more nearly meet the intent of this Ordinance, while still accommodating as far as possible the applicant's interests. Building on nonconforming lots shall be limited to single family residential structures and related facilities, including, but not limited to, docks, piers, boathouses, boat loading ramps, walkways, and other water dependent structures, consistent with the law.

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

15.13. NONCONFORMING STRUCTURES.

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

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

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

15.13.2.2. A maximum deck width of twenty-four feet parallel to the reference line

15.13.2.3. Maintaining an open deck.

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

15.13.2.5. Implementing adequate soil erosion control measures.

15.14 NONCONFORMING USES

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

15.15. LAND CLEARING FOR AGRICULTURE PURPOSES

15.15.1. All agricultural activities and operations in the state as defined in RSA 21:34-a and as governed



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

15.16. MODEL SHORELAND PROTECTION ORDINANCE

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

15.17. RELATIONSHIP BETWEEN STATE AND LOCAL REQUIREMENTS

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

15.18. SAVING CLAUSE

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

15.19. EFFECTIVE DATE

15.19.1 This ordinance shall be effective upon adoption by the municipal governing body (March, 1993) and amended March 2009 and March 2014.

**ARTICLE XVI CONSERVATION SUBDIVISION ORDINANCE**

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

**I. PURPOSE**

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

**II. OBJECTIVES**

- To maintain rural character, preserving farmland, forests and maintaining rural viewscales.
- To preserve those areas of the site that have the highest ecological value, including, for example, wildlife habitat, e.g., large unfragmented blocks of undeveloped land, areas of highest condition identified based on NH Fish and Game’s Wildlife Action Plan, and water resources, e.g., drinking water supply areas and watersheds, wetlands, streams and rivers.
- To locate buildings and structures on those portions of the site that are the most appropriate for development and avoiding developing in areas ill-suited for development, including, for example,

areas with poor soil conditions, a high water table, that are subject to frequent flooding or that have excessively steep slopes.

- To preserve historic, archeological, and cultural features located on the site.
- To create a contiguous network of open spaces or “greenways” by linking the common open spaces within the subdivision and to open space on adjoining lands wherever possible.
- To reduce the impacts on water resources by minimizing land disturbance and the creation of impervious surfaces and stormwater runoff.
- To reduce the amount of roads, sidewalks, and stormwater management structures that must be built and maintained.
- To minimize the impact of residential development on the municipality, neighboring properties, and the natural environment.

### **III. DEFINITIONS**

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

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

**Buffer:** Land area within which adequate vegetation is maintained or provided to visibly separate or screen one use from another and/or to minimize potentially negative impacts on surrounding areas, e.g., shield or block noise, light or other nuisances, reduce water pollution. Also known as a “vegetated buffer.”

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **IV. AUTHORITY AND APPLICABILITY**

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

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

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

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

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

**D. Sequential Subdivisions:** The provisions of this ordinance shall apply to the sequenced development of a parent parcel over time through separate successive applications. When a subdivision is proposed that involves part of a larger parcel or includes lots that are capable of further subdivisions, the planning board may require that a site inventory and a conceptual (non-binding) long-range plan be submitted for the entire parcel and used to evaluate the proposed subdivision.

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

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

## **V. MAXIMUM DEVELOPMENT DENSITY**

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

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

Base Number Dwelling Units =

$$[(\text{Net Area}) \times (\text{Factor})] \div \text{Conventional Minimum Lot Size (\# Dwelling Units/Lot)}$$

Where Net Area =

Total Area of Parcel (sq. ft.) – “Non-Buildable Area” on the Parcel (sq. ft.)

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

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

Factor = number determined by the following:

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

\* Steep slopes are those greater than 25%

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

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

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

### 3. Exceptions

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

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

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

## VI. DIMENSIONAL REQUIREMENTS

### A. Lot Size Requirements

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

### 2. Minimum Lot Size

- a. If public wastewater treatment is not available, the minimum lot size permitted shall be based on soil-based lot sizing requirements for wastewater management as specified by the New Hampshire Department of Environmental Services. Developments may utilize individual or community wells and/or septic systems.
- b. The planning board may require lot sizes to be larger than the minimum required under soil-based lot sizing to comply with other requirements of this section,

particularly the dimensional and design standards of this section, or to protect human health, welfare and public safety.

- c. The size of the individual lots shall be shown on the subdivision plan and shall be subject to planning board approval based upon its finding that the lot sizes will allow for the creation of a high-quality living environment for the residents of the subdivision and the abutting property owners.

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

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

**B. Specifications for Individual Lots**

- 1. A building envelope shall be identified for each new lot in compliance with the standards in Table 1 to ensure an adequate separation between new primary structures on the subdivided parcel and between new primary structures and existing structures on adjacent lots. For new lots, the standard is applied to the average distance between building envelopes on adjacent new lots, i.e., the actual distance of separation may vary and be less than the minimum specified for some lots, provided that, on average, the minimum distance of separation is achieved across all new lots created. Variations from this standard may be granted by the planning board under special permit provided that the intent of this section is met and an adequate vegetated buffer is maintained or provided between new structures.
- 2. Principal structures located on a common lot (and within a common building envelope) shall be no less than 15 feet apart and shall conform to the requirements of the town's building code and the NFPA fire protection codes based upon the type of construction and proposed use.
- 3. Height limits for structures shall be determined by the underlying zoning for the parcel, unless variations are granted by special permit.
- 4. Building envelopes shall provide for a minimum setback of at least 15 feet from the lot boundaries.

Table 1.4.1 Specifications of Minimum Separation Distances Between Building Envelopes

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

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

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

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

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

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

**VII. OPEN SPACE REQUIREMENTS**

A. At least 40 percent of the buildable area and 80 percent of the non-buildable area of the parcel shall be permanently protected as designated open space subject to the additional conditions below. The planning board may authorize a slight reduction in the area of designated open space by special use permit, when it finds that (1) the reduction is necessary to enable the use of the conservation subdivision approach based on the characteristics of the



parcel, and (2) the proposed subdivision adequately meets all other requirements of this ordinance. In no case, shall the designated open space represent less than 40 percent of the total area of the parcel.

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

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

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

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

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

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

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

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

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

**ARTICLE XVII SIGN ORDINANCES**

17.1. Purpose. The purpose of this section is to protect public safety and aesthetics while ensuring that residents, businesses and organizations have adequate signage. Establishments need identification and the public needs direction; therefore, this section aims to provide for reasonable uniformity in the size, treatment and presentation of signs while, at the same time, ensuring that they are readable and clear, non-distracting and are maintained in good condition.

17.2 Specifications.

17.2.1. Gas-filled, flashing or animated internally-illuminated signs are prohibited.

17.2.1.1. Other internally-illuminated or externally illuminated signs may be allowed by Special Exception.

17.2.2. A sign shall not be closer than ten (10) feet from the edge of the traveled section of the public right-of-way and no closer than twenty (20) feet to any side property line.

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

17.2.4. Except in the Commercial and Industrial Districts, signs shall not exceed a total area of six (6) square feet.

17.2.5. In the Commercial and Industrial Districts building or wall-mounted signs shall not exceed twenty four (24) square feet.

17.2.5.1. A freestanding sign at one location shall not exceed twelve (12) square feet and the combined area of multiple freestanding signs shall not exceed thirty (30) square feet. No freestanding sign shall extend more than fifteen (15) feet above the ground.

17.2.6. When a sign is posted on town property, written permission from the Select Board or its designee is required. Permits shall be issued for a three (3)- month period. This time limit may be extended at the Select Board’s option.

17.2.7. No off-premise sign shall be posted on any property in Town without the prior, written permission of the owner of that property.

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

**ARTICLE XVIII PARKING STANDARDS.**

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

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

18.1.2. Accessory dwelling units (ADUs). 1 space per unit

18.1.3. Tourist homes. 1 space per sleeping room

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

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

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

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

## **ARTICLE XIX PERSONAL WIRELESS FACILITIES**

*[By vote at Town Meeting, March 2019, this Article replaces the former Article XIX, Wireless Communication Facilities, in its entirety.]*

19.1. PURPOSES: (1) To regulate the erection of Personal Wireless Facilities (PWSF) pursuant to authority conferred by the Federal Telecommunications Act of 1996 and to applicable New Hampshire Statutes, Title LXIV, Planning and Zoning; and (2) to facilitate access to wireless services in furtherance of economic development, educational opportunities and public safety in the Town of Harrisville.

19.2. APPLICABILITY: The terms of this Article and any applicable sections of the Town's Subdivision and Site Plan Review Regulations shall apply to any Facility proposed to be located on any private or public property.

19.3. DEFINITIONS: In addition to relevant definitions found elsewhere in the Town's Zoning Ordinances, Subdivision or Site Plan Review Regulations, the following definitions apply specifically to PWSFs.

19.3.1. Attached Antenna Mount. One or more antennas externally attached to any building, barn, silo, or other fixed structure that does not extend more than twelve (12) feet above or two (2) feet beyond the structure.

19.3.2. Camouflage. To disguise or hide a PWSF and any component or support thereof.

19.3.3. Co-location. The placement or installation of new communication equipment on existing towers, mounts, or other structures.

19.3.4. Ground-Mounted Structure. A self-supporting structure that supports an array of antennas that receives and transmits fixed wireless signals.

19.3.5. Limited Height Ground-Mounted Structure. A structure that does not exceed 50 feet in height in a cleared area or will not exceed 20 feet in height above the average tree line measured within a 100-foot radius from the structure in a wooded area.

19.3.6. Modification. The replacement or alteration of an existing Facility within a previously approved equipment compound or upon a previously-approved mount.

19.3.7. Personal Wireless Service Facility. The set of equipment and network components and devices, exclusive of the underlying tower or mount, for the reception, transmission and/or broadcasting of fixed wireless signals. An antenna for personal radio services use, used only

for providing service to the attached facility, or covered by the Federal Communications Commission’s OTARD rule (47 CFR 1.4000) is not subject to regulation by this Ordinance.

19.3.8. Small Wireless Support Structure. Any structure, such as a lamp post, utility pole, or other structure, that supports devices for the reception, transmission and/or broadcasting of fixed wireless signals, is no more than 70 feet high, has a footprint of no more than 4 square feet, and supports antennas whose total surface area does not exceed 15 square feet.

19.3.9. Tower. A guyed or freestanding structure, such as a monopole or monopine, designed to support PWSFs.

19.4. PERMITTED USES:

19.4.1. Principal or Secondary Use. PWSFs may be considered either principal or secondary uses. Having an existing permitted use on a site shall not preclude the addition of a Facility as a secondary use.

19.4.2. Existing Structures. Pursuant to RSA 12-K:10, collocation and/or modification applications are exempt from zoning or other land use regulations, including public hearing review, but shall be reviewed only for conformance with applicable building permit requirements.

19.4.3. Small Wireless Support Structures. Small Wireless Support Structures may be constructed or utilized without Planning Board review, but do require a building permit.

19.4.4. Attached External Antenna Mounts. Attached External Antenna Mounts are not permitted in the Historic Districts, unless the applicant can demonstrate that no suitable alternative is available and best efforts have been made to minimize visual impacts of the antennas. Putting an attached antenna array on a commercial building may require Site Plan Review in addition to a building permit.

19.4.5. Internal Antennas. If antennas and associated equipment are to be installed entirely in the interior of a building or concealed inside a structure (e.g., church steeple or barn silo), and are not visible from outside, such installation may be located in any zoning district and will require only a building permit and approval by the Historic District Commission if proposed within the Historic District.

19.4.6. Allowable Facility Locations. The table below illustrates which Facility type is permitted in which zoning district. Setback requirements for structures in the district where it is located are applicable to the supporting structure (i.e., tower) and associated buildings (i.e., equipment hut), but are not applicable to Small Wireless Support Structures or Attached Antenna Mounts.

TYPE OF FACILITY		DISTRICT	
	Residential / Agricultural	Village / Lake	Historic

Ground-Mounted PWSF	Yes	No	No
Limited Height Structure	Yes	No	No
Small Wireless Support Structure	Building Permit Only	Building Permit Only	No
Attached Antenna Mount	Building Permit Only	Building Permit Only	Building Permit and HDC Approval
Internal (concealed in a building or other structure)	Building Permit Only	Building Permit Only	Building Permit and HDC Approval

19.5. APPLICATION REQUIREMENTS:

19.5.1. Visual Impacts. The applicant for a PWSF must demonstrate that effort has been made to cause the facility, within reason, to have the least possible visual impact on the town at large, including demonstration of realistic analysis of multiple sites and the need for the proposed height.

19.5.1.1. Wherever any tower or mount of a PWSF is proposed to be visible above the tree line, every effort shall be made to camouflage the structure by whatever means works best for the particular location, such as but not limited to color, type of structure (e.g., monopole or monopine), location or shielding. All ground level equipment and structures shall be screened from rights-of-way by either vegetation or other means appropriate to the particular location.

19.5.2. Noise. Every effort shall be taken to ensure that associated equipment (e.g., air conditioners or emergency generators) do not create a nuisance from undue noise.

19.5.3. Fall Zone. In order to ensure public safety, any proposed PWSFs shall have a fall zone that forms a circle around it with a diameter equal to the height of the facility.

19.5.4. No tower or mount of any PWSF shall be lighted.

19.5.5. All applications for a PWSF shall contain a scaled plan and further information including: a scaled elevation view, topography, radio frequency coverage, tower height requirements, setbacks, drives, parking, fencing, landscaping, adjacent uses (up to 200' away), all information associated with supporting structures and equipment (e.g., generators) and any other information deemed necessary by the Planning Board to assess compliance with this Ordinance.

19.5.6. Co-location Requirements. Any new tower or mount of a proposed PWSF shall be designed to accommodate multiple providers of communication services and will only be approved under the condition that the primary developer of the facility will make the facility

available upon reasonable terms by lease or other legal instrument to other wireless communication services.

19.5.6.1. The Town may request, and the applicant will consider, whether space will be made available on a tower for equipment for local public safety agencies at no cost to the Town.

19.5.7. Unless the proposed PWSF is a Limited Height Structure, the applicant must demonstrate that a proposed PWSF is necessary to provide adequate service not available from other facilities. The application shall identify all existing wireless communication facilities within the area to be served by the proposed structure, except those that are not available for additional collocation, and, for each such existing facility, shall include a projection of the coverage and an estimate of additional capacity or coverage range that would be provided if the applicant's proposed telecommunications equipment were located on or at the existing facility. The applicant also shall compare each such projection and estimate to the coverage and capacity that would be provided at the site of the proposed structure.

19.5.8. Regional Notification. In accordance with RSA 12-K:7, public notice of an application shall be provided to all municipalities within a 20-mile radius of the proposed site.

19.5.9. Balloon Test. The Planning Board may require that the applicant conduct a crane/balloon test at the proposed location and at the height of the proposed PWSF. Public notice shall be given of the date and time of the test not less than 10 days prior to the day. The applicant shall provide photographs of the balloon from various locations around Harrisville; a visual representation of the proposed tower or mount must be superimposed over the crane or balloon and attached cable. If requested by neighboring towns, the Board may also require that photographs be taken in those towns.

19.5.10. FCC Compliance. Applications must include documentation that the proposed Facility meets or exceeds the current regulations of the FAA, FCC, or any other agency with the authority to regulate such facilities.

19.5.11. Plan Review. The Planning Board may request detailed plans from the applicant and may, at the expense of the applicant, engage the services of professional consultants to review and comment on the application, proposal and the testimony of the applicants or their agents relating thereto.

19.5.11.1. Upon the submission of an application, the Board must determine whether additional information is needed within 30 days or no later than the next regularly scheduled Board meeting.

19.5.11.2. The Planning Board must render a decision within 90 days of receipt of an application for a co-location or modification of existing structures; or 150 days for new construction.

19.5.12. Conditions of Approval. Before receiving final approval, the applicant agrees to the following conditions imposed once approval is given:

19.5.12.1 The owner of a PWSF agrees to give notice to the town of any change in ownership of the facility.

19.5.12.2. The owner of a PWSF agrees to remove all facilities and associated equipment within one hundred eighty (180) days from the date of cessation of operations.

19.5.12.3. Record of such conditions shall be recorded in the Cheshire County Registry of Deeds.

19.5.12.4. Any alteration of the original permitted use and device configuration of a PWSF will require a new approval.

**19.6. ADMINISTRATIVE PROCEDURES:**

19.6.1. All projects involving the construction of a PWSF require a Conditional Use Permit (CUP) and Site Plan Review approval from the Planning Board. The requirements of this Ordinance and applicable requirements of Harrisville Subdivision and/or Site Plan Review Regulations shall apply.

19.6.2. Bonding and Security. The applicant will be required to post a bond in an amount to be determined by the Planning Board that represents the cost for removal and disposal of any Facility that is abandoned and the owner is unwilling or unable to remove it in a timely manner.

19.6.3. Waivers. Pursuant to RSA 674:21, the Planning Board is hereby authorized to waive or modify any portion of these provisions when, in the opinion of the Board, strict conformity would pose an unnecessary hardship and such waiver would not be contrary to the spirit and intent of these provisions. Any request for waiver must be submitted in writing to the Board and shall state fully the grounds for the request.

19.6.4 Appeals. Pursuant to RSA 676:5, any decision made under this Ordinance cannot be appealed to the Board of Adjustment, but to the superior court as provided by RSA 677:15.

**ARTICLE XX BOARD OF ADJUSTMENT**

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

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

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

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

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

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

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

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

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

20.1.3.1. There would not be a diminution in value of the surrounding properties as a result of the grant of the variance requested.

20.1.3.2. The grant of the variance requested would not be contrary to the public interests.

20.1.3.3. By granting the variance requested, substantial justice would be done.

20.1.3.4. The requested variance would not be contrary to the spirit of the ordinance.

20.1.3.5. Unnecessary Hardship: Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship as defined by New Hampshire Revised Statutes Annotated Chapter 674, Section 33, as amended.

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

20.1.5. Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board, or bureau of the municipality affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the officer from whom the appeal is taken and with the board a notice of appeal specifying the grounds thereof. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or attorney.

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



**ARTICLE XXI ENFORCEMENT**

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

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

**ARTICLE XXII PENALTY**

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

**ARTICLE XXIII AMENDMENTS**

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

**ARTICLE XXIV SAVING CLAUSE**

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

**ARTICLE XXV SUMMARY OF HISTORICAL CHANGES**

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

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

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

25.3.1. March, 1973

25.3.2. March, 1976

25.3.3. March, 1982

25.3.4. March, 1983

25.3.5. March, 1987

25.3.6. March, 1991

25.3.7. March, 1992

25.3.8. March, 1993

- 25.3.9. March, 1994
- 25.3.10. March, 1995
- 25.3.11. March, 1996
- 25.3.12. March, 1998
- 25.3.13. March, 2000
- 25.3.14. March, 2001
- 25.3.15. March, 2002
- 25.3.16 March, 2003
- 25.3.17 March, 2004
- 25.3.18 March, 2005
- 25.3.19 March, 2006
- 25.3.20 March, 2007
- 25.3.21 March, 2008
- 25.3.22 March, 2009
- 25.3.23 March 2010
- 25.3.24 March 2013
- 25.3.25 March 2014
- 25.3.26 March 2017
- 25.3.27 March 2019
- 25.3.28 March 2020
- 25.3.29 March 2021

**ARTICLE XXVI DEFINITIONS**

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

**ACCESSORY DWELLING UNIT (ADU):** A residential living unit that is within or attached to a single-family dwelling or located in an accessory building on the property 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.

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

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

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

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

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

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

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

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

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

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

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

**BED AND BREAKFAST:** See TOURIST HOME.

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

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

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

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

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

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

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

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

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

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

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

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

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

**CLUSTER DEVELOPMENT:** An area of land developed as a single entity for a number of dwelling units, the development plan for which does not correspond in lot size, bulk or type of dwelling, density, lot coverage and required open space to the regulations established in any one residential district created, from time to time, under the provisions of this ordinance. Such developments usually include a more compact arrangement of individual and/or multi-family dwelling units, grouped in or around common open spaces or green areas. Also, they may include such uses as public and semi-public uses and noncommercial recreational facilities provided they are functionally integrated into the development and that the character of the development conforms to the purpose and intent of the ordinance. In general, such development projects shall include the necessary covenants or other legal provisions and financial programs as will assure conformity to and achievement of the proposed developmental plan.

**COMMERCIAL VEHICLE:** Any vehicle designed, intended or used for the transportation of people, goods or equipment other than private passenger vehicles and trailers for the private, nonprofit transport of goods, equipment, other vehicles and/or boats. Such vehicles shall include commercially licensed trucks that have the capacity of one (1) ton or more and include trucks, tractor-trailers,

tractors, trailers and construction and/or earth moving equipment. Farm tractors and related farm equipment shall be excluded from this definition.

COMMERCIAL: Persons or entities engaging in the trading of goods and services. Any building or land for the transactions of business; engaging in business, enterprise, or other undertaking for profit or non-profit; an area for the transaction of business.

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

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

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

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

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

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

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

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

DECK, OPEN: An addition to the existing structure that has no enclosed walls or roof. If the deck is allowed in a nonconforming area, the property owner as a condition of the granting of the permit shall agree to filing a covenant with the Cheshire County Registry of Deeds that the deck will not be enclosed in any manner except with a safety railing up to no more than 42 inches high around the perimeter of the deck.

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

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

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

DWELLING: A single unit providing complete independent living facilities, including provisions for living, sleeping, eating, cooking and sanitation. The terms "dwelling", "one-family dwelling", "multiple-family dwelling", "two-family dwelling" or "dwelling group" shall not be deemed to include automobile court, rooming house, tourist home or hotel. For the purposes of this ordinance, "cooking" means to have the ability to heat, cook, and refrigerate food, with a sink and water supply separate from a bathroom.

DWELLING UNITS:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**GROWTH PERMIT.** A permit issued by the Board of Selectmen in accordance with the provisions of this ordinance, and being a prerequisite for obtaining a building permit. Not required after 2009.

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

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

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

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

**HOME-BASED BUSINESS/ HOME OCCUPATION:** A home occupation or home-based business is an accessory use to a residence involving the manufacture of, provision, or sale of goods and/or services. The use shall be clearly incidental and secondary to the primary use of the residence, and does not change the character thereof or adversely affect the uses permitted in the zoning district in which it is located.

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

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

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

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

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

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

**INDUSTRIAL:** Any building or land in which the industrial operations of manufacturing, processing, fabricating, assembling, finishing, treating, or compounding or similar processes take place.



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

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

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

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

LOADING SPACE OR UNIT: An off-street space or berth on the same lot with a building or contiguous to a group of buildings, for the temporary stopping of commercial vehicles while loading or unloading merchandise or materials and which abuts upon an alley, street or other appropriate means of access.

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

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

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

LOT LINES: The lines bounding the lot as defined.

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

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

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

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

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

MINERAL EXTRACTION: Mineral extraction shall include all activity which removes from the surface or beneath the surface of the land some material mineral resource, natural resource, or other element

of economic value, by means of mechanical excavation necessary to separate the desired material from an undesirable one; or to remove the strata or material which overlies or is above the desired material in its natural condition and position. Open pit mining includes, but is not limited to, the excavation necessary to the extraction of: sand, gravel, topsoil, limestone, sandstone, coal, clay, shale and iron ore.

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

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

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

**NONCONFORMING:** Applies to a structure, lot, or a use, whether of land or structure, which does not comply with the applicable provisions of this ordinance or amendments heretofore or hereafter enacted, where such nonconformity was lawfully in existence prior to the enactment of this ordinance or amendment or prior to the application of this ordinance or amendment to its location by reason of annexation. Specifically it means: 1. A structure that does not meet the setback or height requirements of the district; 2) A use of structure or land that is not permitted in the district; 3) A lot that does not meet either the lot size or frontage requirements of the district.

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

**OPEN SPACE:** An unoccupied space open to the sky.

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

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

**PLANNED RESIDENTIAL DEVELOPMENT:** See cluster development.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

RENTAL OCCUPANCY: Non-ownership occupancy including long term lease occupancy.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**STRUCTURE, TEMPORARY:** A structure without any foundation or footings and which is removed when the designated time period, activity, or use for which the temporary structure was erected has ceased; this includes but is not limited to tents and portable garages.

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

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

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

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

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

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

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

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

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

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

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

**ARTICLE XXVII TOWN OF HARRISVILLE FLOODPLAIN MANAGEMENT ORDINANCE**

(Adopted March 2006)

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

**SECTION I – PURPOSE**

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

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

**SECTION II - ESTABLISHMENT**

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

The following regulations in this ordinance shall apply to all lands designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its “Flood Insurance Study for Cheshire County, NH” dated May 23, 2006 or as amended, together with the associated Flood Insurance Rate Maps dated May 23, 2006 or as amended, which are declared to be a part of this ordinance and are hereby incorporated by reference.

**SECTION III – PERMITS**

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

**SECTION IV – CONSTRUCTION REQUIREMENTS**

The Board of Selectmen shall review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in a special flood hazard area, all new construction or substantial improvements shall:

1. be designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
2. be constructed with materials resistant to flood damage;
3. be constructed by methods and practices that minimize flood damages; and
4. be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

## **SECTION V – WATER AND SEWER SYSTEMS**

Where new or replacement water and sewer systems (including on-site systems) are proposed in a special flood hazard area the applicant shall provide the Board of Selectmen with assurance that these systems will be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and onsite waste disposal systems will be located to avoid impairment to them or contamination from them during periods of flooding.

## **SECTION VI – CERTIFICATION**

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

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

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

## **SECTION VII – OTHER PERMITS**

The Board of Selectmen shall not grant a building permit until the applicant certifies that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U. S. C. 1334.

## **SECTION VIII – WATERCOURSES**

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

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

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

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

### **SECTION IX – SPECIAL FLOOD HAZARD AREAS**

1. In Zone A the Board of Selectmen shall obtain, review, and reasonably utilize any 100-year flood elevation data available from any federal, state or other source including data submitted for development proposals submitted to the community (i.e. subdivisions, site plan approvals).
2. The Board of Selectmen's 100-year flood elevation determination will be used as criteria for requiring in Zone A that:
  - a. All new construction or substantial improvement of residential structures have the lowest floor (including basement) elevated to or above the 100-year flood elevation.
  - b. That all new construction or substantial improvements of nonresidential structures have the lowest floor (including basement) elevated to or above the 100-year flood level; or together with attendant utility and sanitary facilities, shall:
    - i. be flood-proofed so that below the 100-year flood elevation the structure is watertight with walls substantially impermeable to the passage of water;
    - ii. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
    - iii. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section.
3. All manufactured homes to be placed or substantially improved within special flood hazard areas shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the 100-year flood elevation; and be securely anchored to resist floatation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
4. All recreational vehicles placed on sites within Zone A shall either:
  - a. be on the site for fewer than 180 consecutive days;
  - b. be fully licensed and ready for highway use; or,



c. meet all standards of Section 60.3 (b) (1) of the National Flood Insurance Program Regulations and the elevation and anchoring requirements for "manufactured homes" in Paragraph (c) (6) of Section 60.3.

5. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding are permitted provided they meet the following requirements:

a. the enclosed area is unfinished or flood resistant, usable solely for the parking of vehicles, building access or storage;

b. the area is not a basement; and

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

## **SECTION X - VARIANCES**

1. Any order, requirement, decision or determination of the Board of Selectmen made under this ordinance may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5.

2. If the applicant, upon appeal, requests a variance as authorized by RSA 674:33, I (b), the applicant shall have the burden of showing in addition to the usual variance standards under state law that:

a. the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense;

b. if the requested variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result; and

c. the variance is the minimum necessary, considering the flood hazard, to afford relief.

3. The Zoning Board of Adjustment shall notify the applicant in writing that:

a. the issuance of a variance to construct below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and

b. such construction below the base flood level increases risks to life and property.

c. Such notification shall be maintained with a record of all variance actions.

4. The community shall:

- a. maintain a record of all variance actions, including their justification for their issuance; and
- b. report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.

## **SECTION XI - DEFINITIONS**

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

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

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

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

**"Building"** (See "structure.")

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

**"FEMA"** means the Federal Emergency Management Agency.

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

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

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

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

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

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

**"Functionally dependent use"** means a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking and port facilities

that are necessary for the loading/unloading of cargo or passengers, and ship building/repair facilities but does not include long-term storage or related manufacturing facilities.

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

**"Historic Structure"** means any structure that is:

listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

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

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

by an approved state program as determined by the Secretary of the Interior, or

directly by the Secretary of the Interior in states without approved programs.

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

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

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

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

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

construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

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

**"Recreational Vehicle"** is defined as:

built on a single chassis;

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

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

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

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

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

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

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

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

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

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

For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures

that have incurred substantial damage, regardless of actual repair work performed. The term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

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

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

## ARTICLE XXVIII SMALL WIND ENERGY SYSTEMS

### A. Purpose:

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

### B. Definitions:

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

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

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

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

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

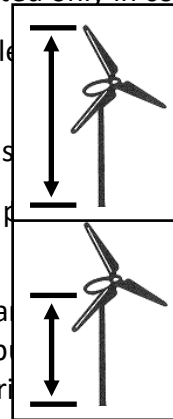
**Small wind energy system.** A wind energy conversion system consisting of a wind generator, a tower, and associated control or conversion electronics, which has a rated capacity of 100 kilowatts or less and will be used primarily for onsite consumption. For the purpose of this ordinance, the term does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

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

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

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

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



**C. Procedure for Review:**

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

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

- i. Property lines and physical dimensions of the applicant’s property.
- ii. Location, dimensions, and types of existing major structures on the property.
- iii. Location of the proposed small wind energy system, foundations, guy anchors and associated equipment.
- iv. Tower foundation blueprints or drawings.
- v. Tower blueprints or drawings.
- vi. Setback requirements as outlined in this ordinance.
- vii. The right-of-way of any public road that is contiguous with the property.

- viii. Any overhead utility lines.
- ix. Small wind energy system specifications, including manufacturer, model, rotor diameter, tower height, tower type, nameplate generation capacity.
- x. Small wind energy systems that will be connected to the power grid shall include a copy of the application for interconnection with their electric utility provider.
- xi. Sound level analysis prepared by the wind generator manufacturer or qualified engineer.
- xii. Electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the NH State Building Code.
- xiii. Evidence of compliance or non-applicability with Federal Aviation Administration requirements.
- xiv. List of abutters to the applicant's property.

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

**D. Standards:**

- 1. The building inspector shall evaluate the application for compliance with the following standards;
  - a. Setbacks: The setback shall be calculated by multiplying the minimum setback requirement number by the system height and measured from the center of the tower base to property line, public roads, or nearest point on the foundation of an occupied building.
  - b. Tower: The maximum tower height shall be restricted to 35 feet above the tree canopy within 300 feet of the small wind energy system. In no situation shall the tower height exceed 150 feet.
  - c. Sound Level: The small wind energy system shall not exceed 60 decibels using the A scale (dBA), as measured at the site property line, except during short-term events such as severe wind storms and utility outages.

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

i. Small wind energy systems must meet all setbacks for principal structures for the zoning district in which the system is located.

ii. Guy wires used to support the tower are exempt from the small wind energy system setback requirements.

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

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

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

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

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

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



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

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

i. Approved Wind Generators: The manufacturer and model of the wind generator to be used in the proposed small wind energy system must have been approved by the California Energy Commission or the New York State Energy Research and Development Authority, or a similar list approved by the state of New Hampshire, if available.

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

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

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

**E. Abandonment:**

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

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

a. Removal of the wind generator and tower and related above-grade structures.

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

3. In the event that an applicant fails to give such notice, the system shall be considered abandoned or discontinued if the system is out-of-service for a continuous 12-month period. After the 12 months of inoperability, the building inspector may issue a Notice of Abandonment to the owner of the small wind energy system. The owner shall have the right to respond to the Notice of Abandonment within 30 days from Notice receipt date. After review of the information provided by the owner, the building inspector shall determine if the

small wind energy system has been abandoned. If it is determined that the small wind energy system has not been abandoned, the building inspector shall withdraw the Notice of Abandonment and notify the owner of the withdrawal.

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

**F. Violation:**

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

**G. Penalties:**

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

**ARTICLE XXIX ACCESSORY DWELLING UNITS (ADUs)**

29.1. AUTHORITY: NH RSA 674:71-73, Accessory Dwelling Units and RSA 674:21, Innovative Land Use Controls.

29.2. PURPOSE: In accordance with NH RSA 674:21, to expand the mix of affordable housing opportunities throughout the Town by permitting the creation of secondary dwelling residences as an accessory use to a single family detached dwelling. Primary reasons for the permitting of ADU's within the town are spelled out in the Master Plan and include, but are not limited to: discouraging sprawl; creating housing opportunities to meet the needs of a diverse population; and facilitating the social and economic benefits that derive from a housing stock that meets the needs of all its residents.

**29.3. GENERAL PROVISIONS:**

29.3.1. An accessory dwelling unit (ADU) that is attached to a single family residence is allowed by right in all districts that permit single-family dwellings, except a conditional use permit from the Planning Board shall be required in high-density areas, i.e., village and lakeside districts.

29.3.2. The creation of an ADU in a barn, garage or outbuilding that is detached from the primary residence may be granted by a conditional use permit from the Planning Board.

29.3.3. The creation of these ADUs shall maintain the visual and functional character of single family residential neighborhoods.

29.3.4. The Planning Board may, in appropriate cases and subject to appropriate conditions and safeguards as determined by the Board, grant a conditional use permit. The Board, in acting on an application for a conditional use permit, shall take into consideration the following conditions and the applicant shall demonstrate compliance with the following conditions:

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

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

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

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

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

29.3.4.6. The proposed use shall maintain the visual and functional character, as well as aesthetic continuity, with the neighborhood.

29.4. DESIGNATION: One accessory dwelling unit shall be permitted only on parcels which meet the following conditions:

29.4.1. Is a legally created lot of record.

29.4.2. Contains one single family detached dwelling which is a conforming use.

29.4.3. Contains no other accessory dwelling residence(s).

29.5. PROCEDURE: The creation of a new accessory dwelling unit shall require a building permit and an occupancy permit and meet the standards contained in the section below.

29.6. STANDARDS: New construction for an accessory dwelling unit shall comply with all the development standards for a single family detached dwelling including, but not limited to setbacks, height limits, and lot coverage (for lots in the Shoreland Protection District) and shall not increase any nonconforming aspect of any existing structure unless otherwise addressed by this article. The following standards shall also apply:

29.6.1 The maximum size of an ADU shall not exceed 1000 square feet. The Planning Board may authorize variations from maximum size by conditional use permit for medical needs and/or disabilities, provided that the Planning Board determines the design incorporates Universal Design principles to allow the most usable space for everyone in the home.

29.6.2. Every accessory dwelling residence shall be deemed a residence of workforce housing for purpose of satisfying the municipality's obligation under RSA 674:59.

29.6.3. Both the ADU and the primary residence shall comply with the state Building Code and Fire Code regulations for construction, minimum living space, fire exits and smoke alarms.

29.6.4. An interior door shall be provided between the principal dwelling unit and accessory dwelling unit. There is no requirement for said interior door to remain unlocked.

29.6.5. The architecture of the ADU shall be in keeping with that of the primary residence.

29.6.6. There shall be no exterior stairway on the front of the house leading to the ADU although, in special circumstances, the Planning Board could waive this restriction.

29.6.7. There shall be no more than two bedrooms in an ADU.

29.6.8. The applicant shall make adequate provisions for water supply and sewage disposal in accordance with NH RSA 485-A:38; however, separate utility provisions are not required by the Town.

29.6.9. Any additions to the ADU shall meet the requirements of this article.

29.6.10. An accessory dwelling unit which conforms to the standards in this chapter shall not be considered to exceed the allowable density for the lot upon which it is located and shall be considered a residential use which is consistent with the Master Plan and zoning designation for the lot.

29.7. ADDITIONAL REQUIREMENTS: Accessory Dwelling Units shall be subject to the following requirements:

29.7.1. Sale or ownership of such unit separate from the primary residence is prohibited.

29.7.2. The occupant of either the ADU or the primary residence shall be the owner of the entire property, except for bona fide absences.

29.7.3. NH DES requirements for septic loading shall be met.

### **ARTICLE XXX SOLAR ENERGY SYSTEMS**

30.1. PURPOSE: The purpose of this section is to encourage energy-efficient patterns of development and to decrease dependence on fossil fuels by accommodating solar energy systems in appropriate locations while protecting the public health, safety and welfare. Consideration of the town's scenic views, historic properties, and rural character will be taken into consideration to minimize potential impacts.

30.2. DEFINITIONS: In addition to all relevant definitions contained in other Harrisville ordinances and regulations, the following definitions apply specifically to this sections.

30.2.1. Solar Collection System. All equipment required to harvest solar energy, such as storage devices, transfer equipment and all other necessary parts.

30.2.2. Roof-Mounted Solar Energy System. A system that is affixed to the roof of a building or other structure.

30.2.3. Ground-Mounted Solar Energy System. A system and associated mounting hardware that is affixed to or placed upon the ground.

30.2.4. Accessory Solar System. Any ground- or roof-mounted system intended primarily for residential, non-residential or agricultural on-site power generation. A ground-mounted system may not cover more than 1000 square feet of ground except by special exception. These systems are not to be used for the sale of electricity to other users; however, this is not intended to prohibit the return of excess power generated from time to time to the local utility company.

30.2.5. Commercial Solar System. Any solar collection system that is intended for sale of the generated power to a utility.

30.3. APPLICABILITY. Solar Collection Systems are permitted according to the following Table of Permitted Uses.

30.3.1. Any system proposed for the Historic District also requires approval from the Historic District Commission prior to obtaining any other approvals.

Table Of Permitted Uses						
ZONING DISTRICT						
System Type	Residential Agricultural	Commercial	Industrial	Lakeside Residential	Village Residential	Historic
Accessory Solar:	P	P	P	P	P	P/HDC
▪ Roof-Mounted	P	P	P	P	P	P/HDC
▪ Ground-Mounted <15 feet	P	P	P	SE	SE	SE/HDC
▪ Ground-Mounted >15 feet	SE	SE	SE	SE	SE	SE/HDC
Commercial Solar	SE/SPR	SE/SPR	SE/SPR	SE/SPR	SE/SPR	SE/SPR/HDC
<b>LEGEND:</b>	P = Permitted SE = Permitted by Special Exception from the ZBA SPR = Site Plan Review Approval from the Planning Board HDC = Approval from the Historic District Commission					

30.4. GENERAL STANDARDS

30.4.1. All installations, regardless of type and location, require a building permit and an electrical inspection.

30.4.2. Ground-mounted systems may not be located closer than ten (10) feet from any property line. These systems are subject to applicable district height limitations, but not subject to lot coverage limitations.

30.4.3. All ground-mounted systems shall be reasonably screened from abutting properties and roadways.

30.4.4. The panels of a ground-mounted system are exempt from the impervious lot coverage calculation, although foundations to support them are not exempt.

30.4.5. Roof-mounted systems are exempt from setback requirements. Allowable height above the rood shall be governed by NFPA 70 (National Electrical Code).

30.4.6. For any commercial system, a performance guarantee may be required to cover any costs associated with dismantling an abandoned system.

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