



# TOWN OF PITTSFIELD ZONING ORDINANCE

Adopted March 8, 1988

Most recently amended March 9, 2021

## Table of Contents

Article 1. General Provisions .....	6
1. Title .....	6
2. Authority .....	6
3. Applicability .....	6
4. Jurisdiction .....	6
5. Purpose .....	6
6. Administrator .....	7
7. Conflicting Provisions; Relationship to Other Ordinance or Regulation .....	7
8. Separability .....	7
9. Penalty Clause .....	7
10. Mobile Home, Mobile Home Park and Trailer Park Ordinance Repealed .....	7
11. Amendment .....	7
12. Effective Date .....	7
Article 2. Interpretation Rules and Definitions .....	8
1. Word or Phrase Interpretation Rules .....	8
2. All-Capital-Letters Spelling of Defined Words and Phrases .....	8
3. Definitions .....	8
Article 3. Zoning Districts .....	24
1. Establishment and Purpose of Districts .....	24
2. District Boundary Interpretation Rules .....	25
3. Use Regulations .....	25
4. Dimensional Regulations .....	29
Article 4. Nonconforming Uses and Lots .....	32
1. Authority .....	32
2. Purpose .....	33
3. Nonconforming Uses .....	33
4. Merging Nonconforming Lots .....	36
5. Development of Nonconforming Conventional Lots .....	36
Article 5. Board of Adjustment .....	37
1. Establishment and Membership .....	37
2. Method of Adopting Rules of Procedure .....	38
3. Powers of Zoning Board of Adjustment .....	38
4. Equitable Waiver of Dimensional Requirement .....	39
5. Appeals to Board of Adjustment .....	40
6. Materially Similar Applications .....	41

7. Public Hearing; Notice .....	41
8. Review of Developments of Regional Impact .....	41
9. Burden of Proof .....	41
10. Issuance of Decision .....	42
11. Motion for Rehearing, Rehearing, and Appeal to Superior Court .....	42
Article 6. Special Exceptions .....	44
1. Board of Adjustment Has Authority to Approve Special Exceptions.....	44
2. Conditions for Special Exceptions in the Table of Uses and Districts .....	44
3. Conditions for All Special Exceptions .....	45
5. Board of Adjustment May Attach Case-Specific Conditions.....	45
Article 7. Variances.....	46
1. Definitions .....	46
2. Board of Adjustment Has Authority to Approve Variances .....	46
3. Requirements for a Variance under RSA 674:33, I, (b).....	46
4. Requirements for a Variance under RSA 674:33, V (Variances for Disabled Persons) .....	47
5. Requirements for a Dimensional Waiver under RSA 674:33-a .....	47
6. Requirements for an Agricultural Waiver under RSA 674:32-c, II.....	47
7. Burden of Proof .....	47
8. Board of Adjustment May Attach Case-Specific Conditions.....	47
9. Unused Variance Permits Are Deemed Abandoned.....	47
Article 8. Cluster Developments.....	48
Article 9. Signs .....	49
1. Authority .....	49
2. Purpose.....	49
3. Definitions .....	49
4. Permitting Conditions for Outdoor Signs.....	49
Article 10. Mobile Manufactured Housing.....	50
1. Authority .....	50
2. Purpose.....	50
3. Permitting Conditions for Mobile Manufactured Housing .....	50
Article 11. Home Occupations.....	51
1. Authority .....	51
2. Purpose.....	51
3. Permitting Conditions for Home Occupations .....	51
Article 12. [Reserved for future amendment.].....	53
Article 13. [Reserved for future amendment.].....	53
Article 14. Storage Containers .....	54
1. Authority .....	54

2. Purpose.....	54
3. Permitting Conditions for Storage Containers.....	54
Article 15. Dumping .....	55
1. Authority .....	55
2. Purpose.....	55
3. Dumping Prohibited .....	55
Article 16. Parking Regulations .....	56
1. Authority .....	56
2. Purpose.....	56
4. Reduction of Parking Requirements in the Commercial District.....	58
5. Parking Lot Design Standards .....	58
6. Parking Space Dimensional Regulations .....	58
7. Travel Lane Dimensional Regulations.....	58
Article 17. Floodplain Management.....	59
1. Authority .....	59
2. Purpose.....	59
3. Applicability.....	59
4. Definitions .....	59
5. Permits.....	62
6. Construction Requirements.....	62
7. Water and Sewerage Systems.....	62
8. Certification .....	62
9. Other Permits.....	62
11. Special Flood Hazard Areas.....	63
12. Appeals and Variances .....	65
Article 18. Telecommunications Equipment and Facilities .....	66
18.1 Findings and Intent.....	66
18.2 Definitions .....	67
18.3 General Siting Standards and Policies.....	67
18.4 General Provisions .....	68
18.5 Zoning District Requirements .....	68
18.6 Applicability.....	69
18.7 Conditional Use Permits and Site Plan Review; Criteria; Construction and Performance Standards.....	69
18.8 Permit Procedures .....	71
18.9 Security.....	73
18.10 Abandonment, Discontinuance, Repair, Replacement, Removal .....	73
18.11 Waiver/Appeal .....	73

Article 19. Shoreland Protection .....	74
Article 20. Sexually Oriented Businesses.....	75
1. Authority.....	75
2. Purpose.....	75
3. Separation Distance.....	75
Article 21. [Reserved for future amendment.].....	76
Article 22. [Reserved for future amendment.].....	76
Article 23. Senior Housing Ordinance.....	77
23.1 Authority.....	77
23.3 Applicability.....	77
23.4 Definitions.....	77
23.5 Permitted Uses .....	78
23.6 Occupancy Eligibility.....	78
23.8 Street Requirements .....	80
23.9 Ownership Of Open Space & Common Areas .....	81
23.10 Permanent Protection Of Open Space.....	81
23.11 Submission & Review Procedure.....	82
23.12 Change Of Use.....	83
23.13 Enforcement .....	83
23.14 Severability.....	83
23.15 Effective Date.....	83
Legislative History of the Town of Pittsfield Zoning Ordinance.....	84

## **Article 1. General Provisions**

### **1. Title**

This zoning ordinance shall be known as the “Town of Pittsfield Zoning Ordinance” and is herein called the “zoning ordinance” or just the “ordinance” where “ordinance” clearly means the zoning ordinance.

### **2. Authority**

The town meeting’s authority to adopt the zoning ordinance is New Hampshire Revised Statutes Annotated RSA 674:16, Grant of Power; other enabling statutes in NH RSA; and enabling case law.

### **3. Applicability**

No person may use or authorize the use of any land or STRUCTURE except according to all applicable regulations of the zoning ordinance.

### **4. Jurisdiction**

The zoning ordinance shall be effective within the corporate boundaries of the town of Pittsfield, New Hampshire.

### **5. Purpose**

Pursuant to RSA 674:17 and RSA 674:21, VI, (a), the zoning ordinance is designed for the following purposes:

- (a) To lessen congestion in the STREETS.
- (b) To secure safety from fires, panic and other dangers.
- (c) To promote health and the general welfare.
- (d) To provide adequate light and air.
- (e) To prevent the overcrowding of land.
- (f) To avoid undue concentration of population.
- (g) To facilitate the adequate provision of transportation, solid waste facilities, water, sewerage, SCHOOLS, parks, child day care.
- (h) To assure proper use of natural resources and other public requirements.
- (i) To encourage the preservation of agricultural lands and BUILDINGS and the agricultural operations described in RSA 21:34-a supporting the agricultural lands and BUILDINGS.
- (j) To encourage the installation and use of solar, wind, or other renewable energy systems and protect access to energy sources by the regulation of orientation of STREETS, LOTS, and BUILDINGS; establishment of maximum BUILDING height, minimum SETBACK requirements, and limitations on type, height, and placement of vegetation; and encouragement of the use of solar skyspace easements under RSA 477.
- (k) To have reasonable consideration for the character of the area involved and its peculiar suitability for particular uses, to conserve the value of BUILDINGS, and to encourage the most appropriate use of land throughout the municipality. (RSA 674:17, II.)
- (l) To accommodate reasonably amateur radio communications. (RSA 674:17, III.)
- (m) To encourage the preservation of OPEN SPACE wherever possible. (See RSA 674:21, VI, (a).)

## **6. Administrator**

(a) The board of selectmen shall have charge of administering and enforcing the zoning ordinance except as follows:

(1) If the zoning ordinance explicitly designates a specific administrator for a specified part of the zoning ordinance, then that administrator shall administer that part of the zoning ordinance.

(2) The board of selectmen's charge to administer and enforce the zoning ordinance shall not interfere with any state or federal law empowering a specific administrator, for example, RSA 676:13, I, (building inspector); RSA 155-A:4, II, and RSA 155-A:7, I, (fire chief); and RSA 676:5, III, (planning board).

(b) The board of selectmen may authorize an agent to administer and enforce the zoning ordinance on the board's behalf and may revoke that authorization at any time. Such an authorization or revocation shall be effective if and only if the board's minutes record the board's vote to authorize or revoke.

## **7. Conflicting Provisions; Relationship to Other Ordinance or Regulation**

Wherever provisions of the zoning ordinance conflict, or wherever a provision of the zoning ordinance conflicts with a provision of another ordinance or regulation, the provision that imposes the greater restriction or higher standard shall control. (RSA 676:14.)

## **8. Separability**

The invalidity of any provision of the zoning ordinance shall not affect the validity of any other provision.

## **9. Penalty Clause**

Any person who violates any of the provisions of this zoning ordinance, or any provision or specification of any application, plat, or plan approved by, or any requirement or condition of a permit or decision issued by, any local administrator or land use board acting under the authority of this zoning ordinance shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person; and shall be subject to a civil penalty of \$275 for the first offense, and \$550 for subsequent offenses, for each day that such violation is found to continue after the conviction date or after the date on which the violator receives written notice from the municipality that the violator is in violation, whichever is earlier. Each day that a violation continues shall be a separate offense. (RSA 676:17, I; also see RSA 676:15 through RSA 676:18, Penalties and Remedies.)

## **10. Mobile Home, Mobile Home Park and Trailer Park Ordinance Repealed**

The adoption of the zoning ordinance shall repeal the Mobile Home, Mobile Home Park and Trailer Park Ordinance for the Town of Pittsfield as heretofore amended.

## **11. Amendment**

The zoning ordinance may be amended as provided in RSA chapter 675.

## **12. Effective Date**

The zoning ordinance shall take effect immediately upon its passage.

## **Article 2. Interpretation Rules and Definitions**

### **1. Word or Phrase Interpretation Rules**

- (a) All words and phrases of the zoning ordinance shall be interpreted according to this section.
- (b) In this section, “headword” means a word or phrase spelled in all capital letters and placed at the beginning of a definition in article 2, section 3, Definitions.
- (c) If the zoning ordinance explicitly says that a word or phrase has a specific meaning to be used in a specified part of the zoning ordinance, then the word or phrase has that specific meaning throughout the specified part.
- (d) If a word or phrase is a headword in article 2, section 3, Definitions, then the word or phrase has the meaning stated for it as a headword in article 2, section 3, except as provided in paragraph (c) of this section.
- (e) If a word or phrase is not a headword in article 2, section 3, Definitions, then the word or phrase has the meaning stated for it in *Webster’s Third New International Dictionary of the English Language, Unabridged*, Merriam-Webster, except as provided in paragraph (c) of this section.

### **2. All-Capital-Letters Spelling of Defined Words and Phrases**

All-capital-letters spelling is used to indicate that a word or phrase has the meaning stated for it as a headword in article 2, section 3, Definitions.

In this section, “headword” means a headword as defined in article 2, section 1, (b).

### **3. Definitions**

#### **ABUTTER:**

- (a) In this definition of “ABUTTER,” “street” means a street as defined in RSA 672:13.
- (b) “ABUTTER” means any person whose property is located in New Hampshire and 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 receipt of notification by a municipality of a local land use board hearing, in the case of an abutting property being under a CONDOMINIUM or other collective form of ownership, the term “ABUTTER” means the officers of the collective or association, as defined in RSA 356-B:3, XXIII. For purposes of receipt of notification by a municipality of a local land use board hearing, in the case of an abutting property being under a MANUFACTURED HOUSING PARK form of ownership as defined in RSA 205-A:1, II, the term “ABUTTER” includes the MANUFACTURED HOUSING PARK owner and the tenants who own MANUFACTURED HOUSING which adjoins or is directly across the street or stream from the land under consideration by the local land use board. (See RSA 672:3, Abutter.)



**ACCESSORY APARTMENT:**

- (a) In this definition of "ACCESSORY APARTMENT," "house" means a DETACHED DWELLING.
- (b) "ACCESSORY APARTMENT" means the ACCESSORY DWELLING UNIT in a house that contains one PRINCIPAL DWELLING UNIT, one ACCESSORY DWELLING UNIT, and no other DWELLING UNITS.
- (c) Except as provided in article 4, section 3, Nonconforming Uses, every permissible ACCESSORY APARTMENT shall satisfy the following conditions and all other applicable conditions in the zoning ordinance:
  - (1) The ACCESSORY APARTMENT shall share a common wall with or be under the same roof with the PRINCIPAL DWELLING UNIT.
  - (2) The ACCESSORY APARTMENT shall have an interior door between the PRINCIPAL DWELLING UNIT and the ACCESSORY APARTMENT, but this door is not required to remain unlocked. (RSA 674:72, III.)
  - (3) The ACCESSORY APARTMENT shall have a gross floor area that is less than or equal to 750 square feet. (See RSA 674:72, VII.) In this condition, "gross floor area" of an ACCESSORY APARTMENT means the sum of the areas of all floors of the ACCESSORY APARTMENT, as measured from the exterior faces of the walls or from the center line of a wall separating the ACCESSORY APARTMENT from the PRINCIPAL DWELLING UNIT.
  - (4) The ACCESSORY APARTMENT shall be in a DWELLING where the owner of the DWELLING has his principal place of residence. The owner's principal place of residence may be either the PRINCIPAL DWELLING UNIT or the ACCESSORY APARTMENT. (See RSA 674:72, VI.)

**ACCESSORY BUILDING:** "ACCESSORY BUILDING" means an ACCESSORY STRUCTURE that is a BUILDING.

**ACCESSORY DWELLING UNIT:** "ACCESSORY DWELLING UNIT" means an ACCESSORY DWELLING UNIT as defined in RSA 674:71, means a residential living unit that is within or attached to a single-family dwelling, and that provides independent living facilities for one or more persons, including provisions for sleeping, eating, cooking, and sanitation on the same parcel of land as the principal dwelling unit it accompanies.

"Detached dwelling unit" in RSA 674:73, units shall comply with the requirements of, and any municipal ordinances or regulations adopted pursuant to, RSA 674:72, IV through IX.

**Requirement/Limitations:**

- (a) Building Permit is required.
- (b) Only one (1) accessory dwelling unit shall be allowed per principal single family dwelling unit and/or lot.
- (c) The accessory dwelling units shall be no greater than 1,000 sq. ft.
- (d) Detached Accessory Dwelling Units are allowed. These detached ADU's maybe combined with or part of garages or storage areas.
- (e) If an Accessory Dwelling Unit is Attached, an interior door shall be provided between the principal dwelling and the ADU, but it is not required to remain unlocked.
- (f) Maximum number of bedrooms allowed in the ADU is two (2).
- (g) Water supply and sewage disposal must comply with all town and state regulations.
- (h) Adequate off-street parking must be provided.
- (i) OWNER OCCUPIED: Owner of the property must occupy either principal dwelling or ADU.

**ACCESSORY STRUCTURE:** “ACCESSORY STRUCTURE” means a DETACHED STRUCTURE whose use is occasioned by and subordinate to a PRINCIPAL USE and that is on the same LOT with the PRINCIPAL USE.

**ACCESSORY USE:** “ACCESSORY USE” means a use that is occasioned by, subordinate to, and on the same LOT with a PRINCIPAL USE.

**ACTIVITY, NONCONFORMING:** See NONCONFORMING ACTIVITY.

**AGRICULTURE:** “AGRICULTURE” means agriculture as defined in RSA 21:34-a, II, effective June 16, 2016. (See RSA 674:32-a through RSA 674:32-c, Agricultural Uses of Land, including RSA 674:32-a (“In accordance with RSA 672:1, III-d, whenever agricultural activities are not explicitly addressed with respect to any zoning district or location, they shall be deemed to be permitted there, as either a primary or accessory use, so long as conducted in accordance with best management practices adopted by the commissioner of agriculture, markets, and food and with federal and state laws, regulations, and rules.”) and RSA 674:32-c, I (“The tilling of soil and the growing and harvesting of crops and horticultural commodities, as a primary or accessory use, shall not be prohibited in any district.”).)

**AIRPORT:** “AIRPORT” means a public or private place used for takeoff or landing of aircraft other than balloons, kites, kite balloons, ultralights, and unmanned aircraft with wingspan of 9 feet or less. (See RSA 674:16, V (“Unless specifically proscribed by local land use regulation, aircraft take offs and landings on private land by the owner of such land or by a person who resides on such land shall be considered a valid and permitted accessory use.”).)

**AMUSEMENT (INDOOR):** “AMUSEMENT (INDOOR)” means a commercial indoor facility such as a bowling alley, dance hall, gymnasium, tennis center, or similar commercial indoor facility.

**AMUSEMENT (OUTDOOR):** “AMUSEMENT (OUTDOOR)” means a commercial outdoor facility such as a golf driving range, miniature golf course, water slide, or similar commercial outdoor facility.

**APARTMENT, ACCESSORY:** See ACCESSORY APARTMENT.

**AUTOMOBILE DEALER:** “AUTOMOBILE DEALER” means a business that resells five or more new or used automobiles or trucks per year from on-site stock.

**AUTOMOBILE FILLING STATION:** “AUTOMOBILE FILLING STATION” means a RETAIL STORE that services automobiles with gasoline.

**AUTOMOBILE REPAIR SHOP, MAJOR:** “MAJOR AUTOMOBILE REPAIR SHOP” means a business

- (a) that is principally engaged in maintenance, mechanical servicing, repair, providing state inspections, painting, or car washing of motor vehicles that are smaller than the vehicles listed in the definition of “TRUCK, HEAVY EQUIPMENT, OR TRAILER REPAIR,” and
- (b) that does as part of its principal work motor vehicle body repair, painting, or car washing or that stores or displays outdoors either (1) motor vehicles that are to be or have been repaired or (2) equipment or material for repairing motor vehicles.

**AUTOMOBILE REPAIR SHOP, MINOR:** “MINOR AUTOMOBILE REPAIR SHOP” means a business

- (a) that is principally engaged in maintenance, mechanical servicing, repair, or providing state inspections of motor vehicles that are smaller than the vehicles listed in the definition of “TRUCK, HEAVY EQUIPMENT, OR TRAILER REPAIR”;
- (b) that is not engaged in motor vehicle body repair, painting, or car washing; and
- (c) that stores or displays outdoors no motor vehicle that is to be or has been repaired and no equipment or material for repairing motor vehicles.

**BAKERY:** “BAKERY” means an establishment principally engaged in making or selling baked products such as bread, cakes, cookies, or similar products.

**BED-AND-BREAKFAST:**

- (a) “BED-AND-BREAKFAST” means a SINGLE-FAMILY DWELLING with a HOME OCCUPATION offering transient lodging in the SINGLE-FAMILY DWELLING.
- (b) Except as provided in article 4, section 3, Nonconforming Uses, every permissible BED-AND-BREAKFAST shall satisfy the following conditions and all other applicable conditions in the zoning ordinance:
  - (1) The BED-AND-BREAKFAST shall rent no more than four guest rooms at one time.
  - (2) The BED-AND-BREAKFAST shall have no more than two beds in each guest room.
  - (3) The BED-AND-BREAKFAST shall satisfy all conditions for a permissible HOME OCCUPATION.

**BUILDING:** “BUILDING” means a STRUCTURE that has a roof and that is intended to shelter or enclose any human being, animal, or object.

**BUILDING, ACCESSORY:** See ACCESSORY BUILDING.

**BUILDING, PRINCIPAL:** See PRINCIPAL BUILDING.

**CAMPGROUND:** “CAMPGROUND” means land rented for transient occupancy by tents, tent trailers, recreational vehicles, recreational trailers, or other mobile accommodations for transient recreational lodging.

**CEMETERY:** “CEMETERY” means a yard or enclosed area for interring the dead.

**CHILD DAY CARE AGENCY:**

- (a) In this definition of “CHILD DAY CARE AGENCY,” the following terms have the following meanings:
  - (1) “Child” means any person under 18 years of age. (See RSA 170-E:2, II.)
  - (2) “Child day care” means the care and supervision of a child away from the child’s home and apart from the child’s parents. (See RSA 170-E:2, III.)
  - (3) “Regularly” means supervision and care up to and including 7 days a week, whether paid or unpaid, for the following as defined in RSA 170-E:2, IV: (a) family day care home, (b) family group day care home, (c) group child day care center, (d) day care nursery, (e) night care agency, (f) preschool program, and (g) school-age program. (See RSA 170-E:2, XII.)
  - (4) “Related” means any of the following relationships by blood, marriage, or adoption: parent, grandparent, brother, sister, stepparent, stepgrandparent, stepbrother, stepsister, uncle, aunt, niece and nephew, first cousin, or second cousin. (See RSA 170-E:2, XIII.)
- (b) “CHILD DAY CARE AGENCY” means any person, corporation, partnership, voluntary association, or other organization, either established for profit or otherwise, that regularly receives for child day care one or more children unrelated to the operator or staff of the agency. (See RSA 170-E:2, IV.)

**CHURCH:** “CHURCH” means a place where worship of any religion is a PRINCIPAL USE.

**CLUSTER DEVELOPMENT:** “CLUSTER DEVELOPMENT” means CLUSTER SUBDIVISION and development of the CLUSTER SUBDIVISION. (See article 8 for CLUSTER DEVELOPMENT permitting conditions.)

**CLUSTER SUBDIVISION:**

- (a) “CLUSTER SUBDIVISION” means the SUBDIVISION of a parent LOT into descendant LOTS for which an exemption from area and FRONTAGE requirements for conventional SUBDIVISION is permitted upon conditions that include the following: the descendant LOTS shall consist of two or more residential LOTS and one or more CONSERVATION LOTS.
- (b) When appropriate to the context, “CLUSTER SUBDIVISION” relates to the process of cluster subdividing or to the land or territory that is cluster subdivided.

**CONDOMINIUM:** “CONDOMINIUM” means a condominium as defined in RSA 356-B:3, V.

**CONFERENCE CENTER:** “CONFERENCE CENTER” means a facility used principally for seminars, conferences, or other group meetings.

**CONFORMING LOT:**

- (a) In this definition of “CONFORMING LOT,” the terms “street” and “street frontage” have the following meanings:
  - (1) “Street” means a street as defined in RSA 672:13.
  - (2) “Street frontage” means that portion of a LOT that fronts on a street, and “street frontage” also means the length of the front on the street.
- (b) “CONFORMING LOT” means either
  - (1) a LOT that is not part of any CLUSTER SUBDIVISION and that conforms to those area and street frontage standards of the zoning ordinance that would apply to creating the LOT by conventional SUBDIVISION if the LOT did not exist, or
  - (2) a LOT that is part of a CLUSTER SUBDIVISION that conforms to those regulations of the zoning ordinance that would apply to creating the CLUSTER SUBDIVISION if the CLUSTER SUBDIVISION did not exist.

**CONSERVATION LOT:** “CONSERVATION LOT” means a LOT that has a CONSERVATION RESTRICTION.

**CONSERVATION RESTRICTION:** “CONSERVATION RESTRICTION” means a right to prohibit or require, a limitation upon, or an obligation to perform, acts on or with respect to, or uses of, a land or water area, whether stated in the form of a restriction, easement, covenant or condition, in any deed, will, or other instrument executed by or on behalf of the owner of the area or in any order of taking, which right, limitation, or obligation is appropriate to retaining or maintaining such land or water area, including improvements thereon, predominantly in its natural, scenic, or open condition, or in agricultural, farming, OPEN SPACE or forest use, or in any other use or condition consistent with the protection of environmental quality. (See RSA 477:45, Definitions, I.)

**CONSERVATION USE:** “CONSERVATION USE” means the planned management of a natural resource to prevent exploitation, destruction, or neglect.

**CONTIGUOUS:** “CONTIGUOUS” means touching along one or more continuous boundary segments.

**DENSITY:** “DENSITY” of a tract of land means the number of DWELLING UNITS on the tract divided by the area of the tract.

**DETACHED (as applied to a STRUCTURE):** As applied to a STRUCTURE, “DETACHED” means not directly attached to any other STRUCTURE that is not ESSENTIAL PUBLIC SERVICE INFRASTRUCTURE.

**DEVELOPMENT OF REGIONAL IMPACT:** “DEVELOPMENT OF REGIONAL IMPACT” means any proposal before a local land use board which in the determination of such local land use board could reasonably be expected to impact on a neighboring municipality, because of factors such as, but not limited to, the following:

- (a) Relative size or number of DWELLING UNITS as compared with existing stock.
  - (b) Proximity to the borders of a neighboring community.
  - (c) Transportation networks.
  - (d) Anticipated emissions such as light, noise, smoke, odors, or particles.
  - (e) Proximity to aquifers or surface waters which transcend municipal boundaries.
  - (f) Shared facilities such as SCHOOLS and solid waste disposal facilities.
- (See RSA 36:55, Definition.)

**DWELLING:** “DWELLING” means a BUILDING or part thereof that is designed or used principally for residential occupancy by one or more human beings. Where the term “residential occupancy” is used in relation to either “DWELLING” or a term defined as a type of DWELLING, the term “residential occupancy” excludes occupancy in accommodations that are principally for transient lodging.

**DWELLING ABOVE BUSINESS:**

- (a) “DWELLING ABOVE BUSINESS” means a DWELLING on the second or higher STORY of a BUILDING in which the first STORY is occupied by or is designed or intended to be occupied by one or more nonresidential commercial uses and no residential or noncommercial uses. In this definition of “DWELLING ABOVE BUSINESS,” “first STORY” means the STORY whose floor is closest to the ground level.
- (b) Except as provided in article 4, section 3, Nonconforming Uses, every permissible DWELLING ABOVE BUSINESS shall satisfy the following conditions and all other applicable conditions in the zoning ordinance:
  - (1) The DWELLING ABOVE BUSINESS shall contain no more than one DWELLING UNIT if the DWELLING ABOVE BUSINESS is in the Suburban District or the Rural District.
  - (2) The DWELLING ABOVE BUSINESS shall contain no more than two DWELLING UNITS if the DWELLING ABOVE BUSINESS is in the Urban District, the Commercial District, or the Light Industrial/Commercial District.

**DWELLING, MULTI-FAMILY:** “MULTI-FAMILY DWELLING” means a DETACHED DWELLING that contains three or more DWELLING UNITS.

**DWELLING, SINGLE-FAMILY:** “SINGLE-FAMILY DWELLING” means either

- (a) a DETACHED DWELLING that contains a single DWELLING UNIT, or
- (b) the PRINCIPAL DWELLING UNIT in a DETACHED DWELLING that contains one PRINCIPAL DWELLING UNIT, one ACCESSORY DWELLING UNIT, and no other DWELLING UNITS.

**DWELLING, TWO-FAMILY:** “TWO-FAMILY DWELLING” means a DETACHED DWELLING that contains two PRINCIPAL DWELLING UNITS and no other DWELLING UNITS.

**DWELLING UNIT:** “DWELLING UNIT” means a DWELLING or part thereof that is designed as the living quarters for a single FAMILY and that has food storage and cooking equipment, bathroom facilities with washbowl and toilet, at least one area for eating, and at least one area for sleeping.

**DWELLING UNIT, ACCESSORY:** See ACCESSORY DWELLING UNIT.

**DWELLING UNIT, PRINCIPAL:** See PRINCIPAL DWELLING UNIT.

**ESSENTIAL PUBLIC SERVICE:** “ESSENTIAL PUBLIC SERVICE” means a service provided by a public utility or a government agency and consisting of

- (a) transmission or distribution of water, gas, steam, electricity, or wire communication;
- (b) collection, transmission, or disposal of sewage; or
- (c) traffic control.

**ESSENTIAL PUBLIC SERVICE INFRASTRUCTURE:** “ESSENTIAL PUBLIC SERVICE INFRASTRUCTURE” means equipment reasonably necessary to provide an ESSENTIAL PUBLIC SERVICE. “ESSENTIAL PUBLIC SERVICE INFRASTRUCTURE” includes poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, pumping stations, electrical substations, STREET signs, and all other equipment reasonably necessary to provide an ESSENTIAL PUBLIC SERVICE.

**EXECUTIVE HEADQUARTERS:** “EXECUTIVE HEADQUARTERS” means a place where a business’s own management is a PRINCIPAL USE.

**FAMILY:** “FAMILY” means a group of one or more human beings not necessarily related by blood, marriage, adoption, or guardianship that live together according to a common housekeeping plan.

**FLEA MARKET:** “FLEA MARKET” means an outdoor market where antiques and secondhand articles are sold except that “FLEA MARKET” excludes any garage sale lasting at most three consecutive days and having at least 10 consecutive days between itself and any other garage sale on the same LOT.

**FLOOR AREA, PRINCIPAL:** “PRINCIPAL FLOOR AREA” means the sum of the areas of all floors of a BUILDING, as measured from the exterior faces of the walls or from the center line of a wall separating two BUILDINGS, except that “PRINCIPAL FLOOR AREA” excludes the floor areas of

- (a) basements,
- (b) housing for parking automotive vehicles, including automobiles and trucks, where the parking is an ACCESSORY USE,
- (c) areas unenclosed by walls,
- (d) attics, and
- (e) spaces where the floor-to-ceiling height is less than 6 feet.

**FLOOR AREA RATIO:** “FLOOR AREA RATIO” means the sum of the PRINCIPAL FLOOR AREAS of all BUILDINGS on a LOT divided by the area of the LOT.

**FORESTRY:** “FORESTRY” means commercial growing and harvesting of forest products.

**FRONTAGE:**

- (a) "FRONTAGE" of a LOT means the class V or better highway frontage of the LOT except where the word "frontage" is explicitly defined or qualified otherwise, for example, as in "water frontage."
- (b) In subparagraph (a), "class V or better highway frontage" of a LOT means the single STREET-boundary segment
  - (1) that extends along the front of the LOT for the whole length of the STREET-boundary segment,
  - (2) that bounds a class V (RSA 229:5, VI) or better highway for the whole length of the STREET-boundary segment,
  - (3) that crosses the principal access route into the LOT, and
  - (4) that ends at either an INTERIOR LOT LINE endpoint, a STREET-boundary corner or corner approximation, or a point where the status of the highway as class V or better ends.For the purposes of this subparagraph, the front of a LOT has no corner or corner approximation between the endpoints of the front.
- (c) In subparagraph (a), "class V or better highway frontage" of a LOT also means the length of the STREET-boundary segment defined in subparagraph (b).

**FUEL STORAGE (OIL OR PROPANE):** "FUEL STORAGE (OIL OR PROPANE)" means a facility for the storage, above or below ground, and sale of oil fuel or propane fuel except that such fuel storage for and sale to ultimate consumers who select and buy the fuel on the premises shall not, by itself, make a FUEL STORAGE (OIL OR PROPANE).

**FUNERAL HOME:** "FUNERAL HOME" means an establishment with facilities for preparing the dead for burial or cremation, for viewing the body, and for having funerals.

**GREENHOUSE:** "GREENHOUSE" means a BUILDING enclosed by light-transmitting material and devoted to the cultivation or protection of plants.

**HEALTH CLUB/INDOOR SPORTS FACILITY:** "HEALTH CLUB/INDOOR SPORTS FACILITY" means a BUILDING that contains as a PRINCIPAL USE facilities for the playing of athletic games and contests, and machinery, appliances, and equipment used to maintain a person's physical health.

**HOME OCCUPATION:**

- (a) "HOME OCCUPATION" means a commercial use that a person conducts as an ACCESSORY USE relative to the person's residence.
  - (b) For the purposes of subparagraph (a), a commercial use shall be deemed not occasioned by a person's residence, and thus not a HOME OCCUPATION, if that person does not reside on the LOT where he conducts the commercial use.
  - (c) For the purposes of subparagraph (a), a commercial use shall be deemed not subordinate to any residential use, and thus not a HOME OCCUPATION, if the commercial use by itself or in combination with other commercial uses on the same LOT employs more than four persons or is otherwise not subordinate to the residential use. In this subparagraph, "employ" means to use or engage the services of with or without pay.
- (See article 11 for HOME OCCUPATION permitting conditions.)

**HOSPITAL:** "HOSPITAL" means an institution which is engaged in providing to patients, under supervision of physicians, diagnostic and therapeutic services for medical diagnosis, treatment and care of injured, disabled, or sick persons, or rehabilitation services for the rehabilitation of such persons. The term "HOSPITAL" includes psychiatric and substance abuse treatment HOSPITALS. (See RSA 151-C:2, Definitions, XX.)

**HOTEL:**

- (a) "HOTEL" means a BUILDING that contains guest rooms that are principally for overnight accommodation of transients and that are directly accessible from within the BUILDING.
- (b) A HOTEL may contain any one or more of the following facilities if the facility or facilities is or are permitted in the district where the HOTEL is located: RESTAURANTS; RETAIL STORES offering items of particular interest to a traveler, such as clothes, gifts, candy, THEATER tickets, or travel tickets; PERSONAL SERVICE SHOPS; facilities for recreation or fitness, such as weight rooms or swimming pools; facilities for dancing; facilities for exhibitions; and CONFERENCE CENTERS.

**INTERIOR LOT LINE:** See LOT LINE, INTERIOR.

**JUNK YARD:** "JUNK YARD" means a junk yard as defined in RSA 236:112, I. (See RSA 236:111 through RSA 236:129, Motor Vehicle Recycling Yards and Junk Yards, including RSA 236:124, Effect of Local Ordinances; and RSA 236:90 through RSA 236:110, Control of Junk Yards and Automotive Recycling Yards.)

**KENNEL:**

- (a) "KENNEL" means a business that breeds or boards cats or dogs.
- (b) Except as provided in article 4, section 3, Nonconforming Uses, every permissible KENNEL shall effectively prevent all noise from reaching adjoining property.

**LIGHT INDUSTRIAL USE:** "LIGHT INDUSTRIAL USE" means a commercial PRINCIPAL USE

- (a) that consists of manufacturing, research, testing, assembly, fabrication, processing, reproducing, packaging, packing, bottling, printing, or publishing;
- (b) that is controlled so that no cinders, dust, gases, odors, refuse, smoke, vapors, electromagnetic or radioactive emission, vibration, objectionable noise, or other disturbance is noticeable at the boundary of the property; and
- (c) that is not one of the following uses: garbage disposal; garbage recycling; smelteries; blast furnaces; slaughter houses; rendering plants; hide tanning or curing plants; manufacturing or processing of fertilizer, bone, rubber, asphalt, ammonia, chlorine, petroleum, or explosives; or the bulk storage of explosives or hazardous wastes.

**LOT:** "LOT" means a parcel of land established as an undivided whole for the purpose, whether immediate or future, of ownership transfer or BUILDING development. (RSA 674:54, III, (a) ("the erection of a highway or utility easement across a parcel of land, shall not, in and of itself, be deemed to subdivide the remaining land into 2 or more lots or sites for conveyance for development purposes in the absence of subdivision approval under this title.").)

**LOT, CONFORMING:** See CONFORMING LOT.

**LOT FRONTAGE:** "LOT FRONTAGE" means FRONTAGE of a LOT.

**LOT LINE:** "LOT LINE" means a continuous straight or curved segment of the boundary of a LOT.

**LOT LINE, INTERIOR:** "INTERIOR LOT LINE" means a LOT LINE no part of which lies on any STREET or on the boundary of any STREET.

**LOT LINE, REAR:**

- (a) In this definition of "REAR LOT LINE," "front STREET line" of a LOT means the single continuous STREET boundary at the front of the LOT.
- (b) "REAR LOT LINE" of a LOT means the single INTERIOR LOT LINE that, of all LOT LINES bounding the LOT and not separated from the front STREET line by area in any STREET, is the side farthest opposite the front STREET line.



**LOT LINE, SIDE:** “SIDE LOT LINE” of a LOT means an INTERIOR LOT LINE that bounds the LOT and that has no part of the REAR LOT LINE.

**LOT, NONCONFORMING:** See NONCONFORMING LOT.

**LUMBERYARD:** “LUMBERYARD” means a business principally engaged in selling lumber from on-site stock.

**MAJOR AUTOMOBILE REPAIR SHOP:** See AUTOMOBILE REPAIR SHOP, MAJOR.

**MANUFACTURED HOUSING:**

(a) In this definition of “MANUFACTURED HOUSING,” the words “dwelling” and “structure” have the meanings stated for them in *Webster’s Third New International Dictionary of the English Language, Unabridged*.

(b) “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. “MANUFACTURED HOUSING” shall not include presite built housing as defined in RSA 674:31-a. (See RSA 674:31, Definition.)

**MANUFACTURED HOUSING DISPLAY, MULTI-UNIT:** “MULTI-UNIT MANUFACTURED HOUSING DISPLAY” means two or more MANUFACTURED HOUSING units located on a single LOT and either offered for sale or kept as display units for sales of MANUFACTURED HOUSING.

**MANUFACTURED HOUSING, MOBILE:** “MOBILE MANUFACTURED HOUSING” means MANUFACTURED HOUSING that does not have a fixed location on the ground and that is not merchandized or display units for sales of MANUFACTURED HOUSING. (See article 10 for MOBILE MANUFACTURED HOUSING permitting conditions.)

**MANUFACTURED HOUSING PARK:** “MANUFACTURED HOUSING PARK” means any parcel of land under single or common ownership or control which contains, or is designed, laid out or adapted to accommodate 2 or more MANUFACTURED HOUSES. Nothing herein shall be construed to apply to premises used solely for storage or display of MANUFACTURED HOUSING. (See RSA 205-A:1, Definitions, II.)

**MARINE SALES OR SERVICE:** “MARINE SALES OR SERVICE” means a business that sells or services boats or that provides sheltered or outside storage for boats.

**MEDICAL OFFICE:** “MEDICAL OFFICE” means an office of a medical doctor, dentist, chiropractor, or other medical practitioner where there are no overnight facilities for patients.

**MINOR AUTOMOBILE REPAIR SHOP:** See AUTOMOBILE REPAIR SHOP, MINOR.

**MOBILE MANUFACTURED HOUSING:** See MANUFACTURED HOUSING, MOBILE.

**MOTEL:**

- (a) "MOTEL" means a BUILDING that contains guest rooms that are principally for overnight accommodation of transients and that are directly accessible from one or more outdoor parking areas.
- (b) A MOTEL may contain any one or more of the following facilities if the facility or facilities is or are permitted in the district where the MOTEL is located: RESTAURANTS; RETAIL STORES offering items of particular interest to a traveler, such as clothes, gifts, candy, THEATER tickets, or travel tickets; PERSONAL SERVICE SHOPS; facilities for recreation or fitness, such as weight rooms or swimming pools; facilities for dancing; facilities for exhibitions; and CONFERENCE CENTERS.

**MULTI-FAMILY DWELLING:** See DWELLING, MULTI-FAMILY.

**MULTI-UNIT MANUFACTURED HOUSING DISPLAY:** See MANUFACTURED HOUSING DISPLAY, MULTI-UNIT.

**NONCONFORMING ACTIVITY:** "NONCONFORMING ACTIVITY" means a NONCONFORMING USE that is not a STRUCTURE.

**NONCONFORMING LOT:** "NONCONFORMING LOT" means a LOT that is not a CONFORMING LOT and that is not a LOT whose boundaries or STREET boundaries were set by a VARIANCE.

**NONCONFORMING STRUCTURE:** "NONCONFORMING STRUCTURE" means a STRUCTURE that is a NONCONFORMING USE.

**NONCONFORMING USE:** "NONCONFORMING USE" means a use of land or of one or more STRUCTURES such that (1) the use does not conform to one or more of those regulations of the zoning ordinance that would apply to establishing the use if the use did not exist, (2) the use existed lawfully when the regulation or regulations to which the use does not conform became effective, and (3) the use has continued to exist without abandonment since the regulation or regulations to which the use does not conform became effective. (See article 4 for NONCONFORMING USE regulations.)

**NURSING HOME:** "NURSING HOME" means a place which shall provide, for 2 or more persons, basic domiciliary services (board, room, and laundry), continuing health supervision under competent professional medical and nursing direction, and continuous nursing care as may be individually required. (See RSA 151-C:2, Definitions, XXVI.)

**OFFICE BUSINESS:** "OFFICE BUSINESS" means a business that is principally of an office nature, that is not of a medical or personal-care nature, that is generally not for the sale or service of material products, and that provides services to customers in the general public. "OFFICE BUSINESS" includes banks, insurance companies, insurance brokers, certified public accountants, other financial services, real estate brokers, real estate appraisers, travel agencies, law firms, architect firms, engineering firms, and similar businesses.

**OPEN SPACE:** "OPEN SPACE" means land where no STRUCTURES other than fences more than 50 years old and permanent boundary markers are on or in the land.

**PARKING FACILITY:** "PARKING FACILITY" means a place where automobile parking is a PRINCIPAL USE.

**PARK/RECREATION:** “PARK/RECREATION” means a publicly owned and operated playground, park, or swimming pool.

**PERSONAL SERVICE SHOP:** “PERSONAL SERVICE SHOP” means a business principally engaged in providing services for personal care. “PERSONAL SERVICE SHOP” includes barber shops, shoe-shining services, hairdressers, beauty shops, laundries with or without dry cleaning or pressing, diaper services, shoe-repair shops, clothing-rental shops, photographer’s studios, and similar businesses.

**PRINCIPAL BUILDING:** “PRINCIPAL BUILDING” means a PRINCIPAL STRUCTURE that is a BUILDING.

**PRINCIPAL DWELLING UNIT:** “PRINCIPAL DWELLING UNIT” means a DWELLING UNIT whose residential occupancy is a PRINCIPAL USE.

**PRINCIPAL FLOOR AREA:** See FLOOR AREA, PRINCIPAL.

**PRINCIPAL STRUCTURE:** “PRINCIPAL STRUCTURE” means a DETACHED STRUCTURE where one or more PRINCIPAL USES are principally conducted. Every STRUCTURE that is attached to a PRINCIPAL STRUCTURE and that would be an ACCESSORY STRUCTURE if DETACHED from the PRINCIPAL STRUCTURE shall be deemed to be part of the PRINCIPAL STRUCTURE.

**PRINCIPAL USE:** “PRINCIPAL USE” means a use that, on the LOT where the use exists, is not occasioned by or not subordinate to any other use on the same LOT.

**REAR LOT LINE:** See LOT LINE, REAR.

**RENEWABLE-ENERGY POWER PLANT:**

- (a) “RENEWABLE-ENERGY POWER PLANT” means a generator of electricity from solar radiation, wind, or water motion.
- (b) Establishing a RENEWABLE-ENERGY POWER PLANT as a PRINCIPAL STRUCTURE on a LOT shall not, by itself, preclude establishing another PRINCIPAL STRUCTURE on the LOT.
- (c) Except as provided in article 4, section 3, Nonconforming Uses, every permissible windmill shall have a SETBACK from every STREET boundary or INTERIOR LOT LINE which SETBACK is greater than or equal to 125% of the height of the windmill as measured from the lowest point on the ground adjoining the base of the windmill to the highest point that any part of the windmill can reach. The purpose of this SETBACK is to protect adjoining properties from a falling windmill.

**REPAIR SHOP:**

- (a) “REPAIR SHOP” means a business principally engaged in repairing small appliances, radios, televisions, office equipment, or similar devices.
- (b) Except as provided in article 4, section 3, Nonconforming Uses, every permissible REPAIR SHOP shall not store or display outdoors any customer’s device that is to be or has been repaired, or any equipment or material for repairing any customer’s device.

**RESEARCH LABORATORY:** “RESEARCH LABORATORY” means a LIGHT INDUSTRIAL USE establishment principally engaged in research in the natural, physical, or social sciences. The research may include engineering, product development, or medical laboratory analysis.

**RESTAURANT:** “RESTAURANT” means an establishment that serves food or beverages to members of the public inside a BUILDING that contains seats and tables where the members of the public can sit while consuming the food or beverages.

**REST HOME:** “REST HOME” means a place that provides, for two or more persons, basic domiciliary services (board, room, and laundry) and other personal-assistance services, generally on a long-term basis, but that does not provide services that include a medical component.

**RETAIL STORE:** “RETAIL STORE” means a business principally engaged in selling merchandise to ultimate consumers who select and buy the merchandise on the premises.

**SAWMILL:** “SAWMILL” means a plant having power-driven machinery for sawing logs.

**SCHOOL:** “SCHOOL” means a BUILDING or part thereof that is designed or used for teaching except that teaching one’s own children at home shall not, by itself, make the home a SCHOOL.

**SELF-STORAGE FACILITY:** “SELF-STORAGE FACILITY” means a facility that has as a PRINCIPAL USE one or more containers, such as lockers, that are for individual storage use at the facility, that give users direct access, and that are available for rent, lease, or sale.

**SENIOR HOUSING:** Housing which is restricted to and occupied by at least one person 55 years of age or older per unit in accordance with applicable federal and state laws which allow housing for older persons.

**SETBACK:**

- (a) In this definition of “SETBACK,” “orthographic projection of a specified object onto the ground” means the projection of a single view of the object in which the view is projected from above the object to the ground along lines parallel to the direction of the Earth’s gravity.
- (b) “SETBACK” means the distance from a specified boundary to the nearest part of the orthographic projection of a specified object onto the ground.
- (c) “REAR SETBACK” means the SETBACK from a REAR LOT LINE.
- (d) “SIDE SETBACK” means the SETBACK from a SIDE LOT LINE.
- (e) “STREET SETBACK” means the SETBACK from a STREET boundary.

**SEXUALLY ORIENTED BUSINESS:** “SEXUALLY ORIENTED BUSINESS” means a business open to the public, including any bookstore, video store, nightclub, cabaret, amusement arcade, THEATER, sexual encounter center, or other business

- (a) that derives revenue from the sale, rental, or viewing of live performances or representations in any form of displays or materials meeting the definition of “harmful to minors” or “sexual conduct” in RSA 571-B:1, and
- (b) that devotes more than 20% of its total display, shelf, rack, table, stand, or floor area to live performances or representations in any form of displays or materials meeting the definition of “harmful to minors” or “sexual conduct” in RSA 571-B:1.

(See article 20 for SEXUALLY ORIENTED BUSINESS permitting conditions.)

**SHOPPING CENTER:** “SHOPPING CENTER” means a group of two or more RETAIL STORES or retail service establishments that are planned, constructed, and managed as a unified entity.

**SIDE LOT LINE:** See LOT LINE, SIDE.

**SINGLE-FAMILY DWELLING:** See DWELLING, SINGLE-FAMILY.

**SPECIAL EXCEPTION:** “SPECIAL EXCEPTION” has two meanings as stated in subparagraphs (a) and (b), and the context determines which meaning applies.

- (a) “SPECIAL EXCEPTION” means a use permitted upon (1) certain conditions set forth in the zoning ordinance and (2) an approving authority’s decision that the use satisfies those conditions.
- (b) “SPECIAL EXCEPTION” means the approving authority’s decision that the use defined in subparagraph (a) satisfies the conditions set forth in the zoning ordinance.
- (c) In subparagraphs (a) and (b), “zoning ordinance” means the zoning ordinance excluding article 5, section 3, I, (b); article 5, section 3, V; article 5, section 4, Equitable Waiver of Dimensional Requirement; article 7, Variances; and article 17, section 12, Appeals and Variances. These parts of the zoning ordinance state and are limited to New Hampshire state or United States federal requirements for a VARIANCE under RSA 674:33, I, (b); RSA 674:33, V; or article 17, section 12, Appeals and Variances, or for an equitable waiver of a dimensional requirement under RSA 674:33-a.

(RSA 674:33, IV; also see article 6 for SPECIAL EXCEPTION regulations.)

**STABLE:** “STABLE” means a place that houses one or more horses except that “STABLE” excludes any residence that has three or fewer horses as pets.

**STORAGE CONTAINER:** “STORAGE CONTAINER” means a truck trailer, box trailer, school bus, MANUFACTURED HOUSING unit, or similar mobile container parked continuously for 31 days or more and used principally for storage and not used for any person’s residential occupancy or transient lodging. (See article 14 for STORAGE CONTAINER permitting conditions.)

**STORY:**

- (a) In this definition of “STORY,” the words “attic” and “basement” have the following meanings:
  - (1) “Attic” means that part of a BUILDING such that the roof frame meets the floor on opposite sides of the part of the BUILDING.
  - (2) “Basement” means that part of a BUILDING such that more than one-half of the part the BUILDING vertically is below the average grade of the ground adjoining the BUILDING.
- (b) “STORY” means that part of a BUILDING contained between any floor and the floor or roof next above the part of the BUILDING except that “STORY” excludes attics and basements.

**STREET:** “STREET” means either

- (a) a highway as defined in RSA 229:1 or
- (b) a road dedicated to the public use but not accepted by the city or town in which the road is located.

**STRUCTURE:** “STRUCTURE” means something constructed or built that has a fixed location on or in the ground or that is permanently attached to something that has a fixed location on or in the ground.

**STRUCTURE, ACCESSORY:** See ACCESSORY STRUCTURE.

**STRUCTURE, NONCONFORMING:** See NONCONFORMING STRUCTURE.

**STRUCTURE, PRINCIPAL:** See PRINCIPAL STRUCTURE.

**SUBDIVISION:**

- (a) "SUBDIVISION" means the division of the LOT, tract, or parcel of land into 2 or more LOTS, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale, rent, lease, CONDOMINIUM conveyance or BUILDING development. It includes resubdivision and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided.
- (b) The division of a parcel of land held in common and subsequently divided into parts among the several owners shall be deemed a SUBDIVISION under this zoning ordinance.
- (c) The grant of an easement in gross to a public utility for the purpose of placing and maintaining overhead and underground facilities necessary for its transmission or distribution network such as poles, wires, cable, conduit, manholes, repeaters and supporting apparatus, including any unstaffed STRUCTURE which is less than 500 square feet, shall not be construed as a SUBDIVISION under this zoning ordinance, and shall not be deemed to create any new division of land for any other purpose.
- (d) The rent, lease, development, or grant of an easement to a person for the purpose of placing and maintaining a wireless communications facility shall not be construed as a SUBDIVISION under this zoning ordinance, and shall not be deemed to create any new division of land for any other purpose. For purposes of this subparagraph, "wireless communications facilities" means any towers, poles, antennas, or other unstaffed STRUCTURE of less than 500 square feet intended for use in connection with licensed transmission or receipt of radio or television signals, or any other licensed spectrum-based transmissions or receptions. This subparagraph shall not be deemed to affect other local zoning, site plan, or regulatory authority over wireless communications facilities.

(See RSA 672:14, Subdivision.)

**THEATER:** "THEATER" means a BUILDING or part thereof devoted to showing motion pictures or live performances such as dramatic performances, dance performances, or musical performances.

**TRUCK, HEAVY EQUIPMENT, OR TRAILER REPAIR:** "TRUCK, HEAVY EQUIPMENT, OR TRAILER REPAIR" means a business principally engaged in the repair, reconstruction, rebuilding, or refurbishing of medium-duty or heavy-duty trucks, heavy equipment used principally for construction or off-road applications, or truck trailers used commercially.

**TWO-FAMILY DWELLING:** See DWELLING, TWO-FAMILY.

**USE, ACCESSORY:** See ACCESSORY USE.

**USE, NONCONFORMING:** See NONCONFORMING USE.

**USE, PRINCIPAL:** See PRINCIPAL USE.

**VARIANCE:** "VARIANCE" means an exemption from terms of the zoning ordinance that an approving authority grants in a specific case except that "VARIANCE" excludes the following exemptions:

- (a) any exemption permitted under some part of the zoning ordinance other than article 5, section 3, I, (b); article 5, section 3, V; article 5, section 4, Equitable Waiver of Dimensional Requirement; article 7, Variances; and article 17, section 12, Appeals and Variances, and
- (b) any exemption permitted because of conditions preexisting the terms to which the exemption applies.

(Compare RSA 674:33, I, (b); RSA 674:33, V; and RSA 674:33-a, defining requirements for a VARIANCE or for an equitable waiver of a dimensional requirement, with RSA 674:19, RSA 674:39, and RSA 676:12, VI, defining exemptions permitted because of preexisting conditions; also see article 7 for VARIANCE regulations.)

**VETERINARY HOSPITAL:**

- (a) In this definition of “VETERINARY HOSPITAL,” “animal” means an animal other than a human being.
- (b) “VETERINARY HOSPITAL” means an establishment where providing medical care to animals is a PRINCIPAL USE and where boarding animals may be an ACCESSORY USE relative to the medical care of animals.
- (c) Except as provided in article 4, section 3, Nonconforming Uses, every permissible VETERINARY HOSPITAL shall effectively prevent all noise from reaching adjoining property.

**WAREHOUSE OR WHOLESALE MARKETING:** “WAREHOUSE OR WHOLESALE MARKETING” means a BUILDING used principally for commercial storage, distribution, or wholesale marketing of merchandise other than oil fuel or propane fuel.

**WETLANDS:** “WETLANDS” means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. (RSA 674:55, Wetlands, and RSA 482-A:2, Definitions, X.)

## **Article 3. Zoning Districts**

### **1. Establishment and Purpose of Districts**

(a) Authority: RSA 674:20.

(b) Districts: The town of Pittsfield shall be divided into the districts named in subparagraphs (1) through (5) and shown on the official zoning-district map as amended on March 8, 2005. The official zoning-district map is incorporated as part of the zoning ordinance by reference and is a set of property tax maps consisting of (1) a title page with a color code, (2) a town-boundary map, (3) an index to included property tax maps, and (4) 60 property tax maps on which the districts are drawn and colored by hand. The title page at the front of the set of property tax maps says as follows:

**PROPERTY MAPS**

**PITTSFIELD  
NEW HAMPSHIRE**

**PREPARED BY  
JOHN E. O'DONNELL & ASSOCIATES  
AUBURN, MAINE**

**REVISED TO JAN. 1, 1986  
John E. O'Donnell & Associates  
Auburn, Maine**

- (1) Urban District: The purposes of the Urban District are to support high-DENSITY residential neighborhoods while maintaining sufficient LOT size for residential-neighborhood character, and to provide for small-scale commercial activities that are compatible in scale and type of use with high-DENSITY residential neighborhoods.
- (2) Suburban District: The purpose of the Suburban District is to maintain moderate-DENSITY, principally residential neighborhoods for SINGLE-FAMILY DWELLINGS, for low-intensity commercial uses, and for low-intensity professional uses.
- (3) Rural District: The purpose of the Rural District is to maintain a low-DENSITY rural environment for SINGLE-FAMILY DWELLINGS and for low-intensity nonresidential uses that are compatible with low-DENSITY residential living.
- (4) Commercial District: The purpose of the Commercial District is to protect and enhance the economic vitality of the downtown area as the town's principal center of major commercial or professional activities, which are intended to be predominantly RETAIL STORES, OFFICE BUSINESSES, civic activities, and cultural activities. This district is established in recognition of the fact that concentrating commercial or professional activities in a central area facilitates the use of and promotes the vitality of these types of activities.
- (5) Light Industrial/Commercial District: The purposes of the Light Industrial/Commercial District are to accommodate existing industrial uses and to permit other commercial activities as a complement to the Commercial District.



## **2. District Boundary Interpretation Rules**

Where the location of any district boundary as shown on the zoning-district map is uncertain, the following rules of interpretation shall apply:

- (a) Where the zoning-district map shows a district boundary as following a STREET or watercourse, the district boundary shall be construed to be the center line of the STREET or watercourse.
- (b) Where the zoning-district map shows a district boundary as approximating a town boundary, the district boundary shall be construed to be the town boundary.
- (c) Where the zoning-district map shows a district boundary as less than 25 feet from a LOT LINE and does not show the district boundary as following a STREET or watercourse or approximating a town boundary, the district boundary shall be construed to be the LOT LINE.
- (d) Where the zoning-district map shows a district boundary as approximately parallel to a STREET, watercourse, or town boundary, the district boundary shall be construed to be parallel to the STREET, watercourse, or town boundary.
- (e) Where the zoning-district map shows a district boundary and does not dimension the district boundary or show the district boundary according to paragraphs (a) through (c), the scale shown on the map shall determine the location of the district boundary.

## **3. Use Regulations**

(a) Authority: RSA 674:16, I, IV, and V; RSA 674:17; and RSA 674:20.

(b) Permissibility of Uses by Type and District:

- (1) Uses Permitted by Right: Every use that is of a type that subparagraph (6), Table of Uses and Districts, lists with a “Y” relative to a district shall be permitted in that district by right upon the condition that the use shall conform to all applicable regulations of the zoning ordinance.
- (2) Uses Permitted as Special Exceptions: Every use that is of a type that subparagraph (6), Table of Uses and Districts, lists with an “E” relative to a district shall be permitted in that district as provided in article 6, Special Exceptions; article 8, Cluster Development; or article 4, Nonconforming Uses and Lots.
- (3) Uses Explicitly Prohibited: Every use that is of a type that subparagraph (6), Table of Uses and Districts, lists with an “N” relative to a district shall be prohibited in that district except as provided in article 4, Nonconforming Uses and Lots.
- (4) Radio Antennas and Towers: Every radio antenna or tower as defined in article 18, Telecommunications Equipment and Facilities, section 18.2, shall be permitted as provided in article 18 or article 4, Nonconforming Uses and Lots.
- (5) Uses Implicitly Prohibited: Every use that is not of a type listed in subparagraph (6), Table of Uses and Districts, that is not a radio antenna or tower permitted by article 18, Telecommunications Equipment and Facilities, and that is not permitted by article 4, Nonconforming Uses and Lots, shall be prohibited in all districts.

## (6) Table of Uses and Districts:

**Table of Uses and Districts**

Type of Use	District				
	Urban	Suburb.	Rural	Comm.	Lt Ind./ Comm.
ACCESSORY APARTMENT	E	E	E	E	E
ACCESSORY DWELLING UNIT	Y	Y	Y	Y	Y
ACCESSORY DWELLING UNIT - DETACHED	Y	Y	Y	Y	Y
ACCESSORY USE, ACCESSORY STRUCTURE, or other accessory object not explicitly regulated	Y	Y	Y	Y	Y
AGRICULTURE as the keeping of livestock, poultry, or other animals	N	E	Y	N	N
AGRICULTURE as the tilling of soil and the growing and harvesting of crops and horticultural commodities	Y	Y	Y	Y	Y
AGRICULTURE of types not listed elsewhere in this table	N	E	Y	N	N
AIRPORT as an ACCESSORY USE	N	N	E	N	E
AIRPORT as a PRINCIPAL USE	N	N	E	N	E
AMUSEMENT (INDOOR)	N	N	E	E	E
AMUSEMENT (OUTDOOR)	N	N	E	E	E
AUTOMOBILE DEALER	N	N	N	N	Y
AUTOMOBILE FILLING STATION	N	N	N	N	Y
AUTOMOBILE REPAIR SHOP, MAJOR	N	N	E	Y	Y
AUTOMOBILE REPAIR SHOP, MINOR	Y	N	E	Y	Y
BAKERY as a PRINCIPAL USE	N	N	N	Y	E
BED-AND-BREAKFAST	Y	Y	Y	Y	Y
CAMPGROUND	N	N	Y	N	E
CEMETERY	N	N	E	N	N
CHILD DAY CARE AGENCY	E	E	E	N	N
CHURCH	Y	N	E	Y	N
CLUSTER DEVELOPMENT	N	E	E	N	N
CONFERENCE CENTER	N	E	E	N	Y
CONSERVATION USE	Y	Y	Y	Y	Y
DWELLING ABOVE BUSINESS	E	E	E	Y	E
DWELLING, MULTI-FAMILY	E	N	N	N	N
DWELLING, SINGLE-FAMILY	Y	Y	Y	Y	Y
DWELLING, TWO-FAMILY	E	N	N	N	N
EXECUTIVE HEADQUARTERS	N	Y	N	Y	Y
FLEA MARKET	N	N	N	N	Y
FORESTRY	N	Y	Y	N	N
FUEL STORAGE (OIL OR PROPANE)	N	N	N	N	Y
FUNERAL HOME	N	N	N	Y	Y
Government Office (Nonlocal Government)	N	Y	N	Y	Y

Type of Use	District				
	Urban	Suburb.	Rural	Comm.	Lt Ind./ Comm.
GREENHOUSE as a noncommercial ACCESSORY USE	Y	Y	Y	Y	Y
GREENHOUSE as a PRINCIPAL USE or as a commercial use	N	E	E	N	Y
HEALTH CLUB/INDOOR SPORTS FACILITY	N	N	E	Y	Y
HOME OCCUPATION	Y	Y	Y	Y	Y
HOSPITAL	E	E	E	Y	Y
HOTEL as a PRINCIPAL USE	N	E	E	N	Y
JUNK YARD	N	N	N	N	N
KENNEL	N	N	E	N	N
LIGHT INDUSTRIAL USE other than RESEARCH LABORATORY	N	N	N	N	Y
LUMBERYARD	N	N	N	N	Y
MANUFACTURED HOUSING	N	Y	Y	N	Y
MANUFACTURED HOUSING DISPLAY, MULTI-UNIT	N	N	N	N	N
MANUFACTURED HOUSING, MOBILE	Y	Y	Y	Y	Y
MANUFACTURED HOUSING PARK	N	N	N	N	N
MARINE SALES OR SERVICE	Y	N	E	Y	Y
MEDICAL OFFICE as a PRINCIPAL USE	E	E	E	Y	Y
MOTEL as a PRINCIPAL USE	N	E	E	N	Y
NURSING HOME	E	E	N	N	E
OFFICE BUSINESS as a PRINCIPAL USE	Y	E	E	Y	Y
PARKING FACILITY	Y	N	N	Y	Y
PARK/RECREATION	Y	Y	Y	Y	N
PERSONAL SERVICE SHOP as a PRINCIPAL USE	Y	N	E	Y	Y
RENEWABLE-ENERGY POWER PLANT as a PRINCIPAL USE	N	N	E	N	E
REPAIR SHOP as a PRINCIPAL USE	Y	N	E	Y	Y
RESEARCH LABORATORY	N	E	N	N	Y
RESTAURANT as a PRINCIPAL USE	E	N	E	Y	Y
REST HOME	E	E	N	N	E
RETAIL STORES of types not listed elsewhere in this table	Y	N	N	Y	E
SAWMILL	N	N	Y	N	Y
SCHOOL as a PRINCIPAL USE	E	E	E	E	E
SELF-STORAGE FACILITY	N	E	N	N	E
SENIOR HOUSING	E	Y	Y	N	N
SEXUALLY ORIENTED BUSINESS	N	N	N	Y	N
SHOPPING CENTER	N	E	N	N	Y
STABLE	N	N	Y	N	N
THEATER	N	E	N	Y	Y

Type of Use	District				
	Urban	Suburb.	Rural	Comm.	Lt Ind./ Comm.
TRUCK, HEAVY EQUIPMENT, OR TRAILER REPAIR	N	N	N	N	E
VETERINARY HOSPITAL	N	N	E	N	Y
WAREHOUSE OR WHOLESALE MARKETING	N	N	N	N	Y

Key: Y: See article 3, section 3, (b), (1), Uses Permitted by Right.  
E: See article 3, section 3, (b), (2), Uses Permitted as Special Exceptions.  
N: See article 3, section 3, (b), (3), Uses Explicitly Prohibited.

(c) Number of Principal Structures Permitted on a Single Lot: No more than one PRINCIPAL RESIDENTIAL STRUCTURE shall be on any single LOT except as provided in article 2, section 3, RENEWABLE-ENERGY POWER PLANT, (b); article 18, Telecommunications Equipment and Facilities, section 18.4, B; or article 4, Nonconforming Uses and Lots.

(d) Number of Accessory Structures Permitted on a Single Lot: Multiple ACCESSORY STRUCTURES shall be permitted on any single LOT upon the following conditions:

(1) Each ACCESSORY STRUCTURE shall conform to all applicable regulations of the zoning ordinance.

(2) The LOT and all BUILDINGS on the LOT shall conform to article 3, section 4, (g), Maximum Floor Area Ratio, except as provided in article 4, section 3, Nonconforming Uses.

(e) Number of Uses Permitted on a Single Lot: Multiple PRINCIPAL USES or multiple ACCESSORY USES shall be permitted on any single LOT upon the following conditions:

(1) Each use shall conform to all applicable regulations of the zoning ordinance.

(2) The number of PRINCIPAL RESIDENTIAL STRUCTURES on the LOT shall be no more than one except as provided in article 2, section 3, RENEWABLE-ENERGY POWER PLANT, (b); article 18, Telecommunications Equipment and Facilities, section 18.4, B; or article 4, Nonconforming Uses and Lots.

#### 4. Dimensional Regulations

(a) Authority: RSA 674:16, I, IV, and V; RSA 674:17; and RSA 674:20.

(b) Minimum Lot Area:

- (1) Except as provided in article 8, Cluster Development, or article 4, section 4, Merging Nonconforming Lots, whenever the boundary of any LOT is created or moved, the resulting LOT shall have an area that is greater than or equal to the minimum LOT area specified by article 3, section 4, (h), Table of Dimensional Requirements.
- (2) Except as provided in article 8, Cluster Development, or article 4, Nonconforming Uses and Lots, no use shall be on any LOT that does not have an area that is greater than or equal to the minimum LOT area specified by article 3, section 4, (h), Table of Dimensional Requirements.
- (3) The area that subparagraphs (1) and (2) require excludes any area in any STREET.

(c) Minimum Lot Frontage:

- (1) Except as provided in article 8, Cluster Development, or article 4, section 4, Merging Nonconforming Lots, whenever the boundary of any LOT is created or moved, the resulting LOT shall have a FRONTAGE that is greater than or equal to the minimum LOT FRONTAGE specified by article 3, section 4, (h), Table of Dimensional Requirements.
- (2) Except as provided in article 8, Cluster Development, or article 4, Nonconforming Uses and Lots, no use shall be on any LOT that does not have a FRONTAGE that is greater than or equal to the minimum LOT FRONTAGE specified by article 3, section 4, (h), Table of Dimensional Requirements.

(For statutory law on whether a zoning ordinance administrator may allow or disallow for FRONTAGE purposes a road dedicated to the public use but not accepted by the town, see RSA 674:40-a, IV ("A street accepted under this section shall have the status of a public highway under RSA 229:1. Such street shall be deemed a class V highway, subject to the municipality's duty of regular maintenance as set forth in RSA 231, unless otherwise designated pursuant to statute.").)

(3) The purposes of these LOT FRONTAGE regulations are as follows:

- (A) To prevent the overcrowding of land by requiring that every LOT in a row along a STREET meet a standard for minimum width along a STREET. (See RSA 674:17, I, (e).)
- (B) To secure safety from fires, panic and other dangers by ensuring that emergency personnel and vehicles, such as fire trucks, police cars, and ambulances, have expeditious access to any LOT and the PRINCIPAL BUILDING on the LOT in an emergency. The LOT FRONTAGE regulations promote expeditious access to the LOT by requiring that the main entrance to the LOT abut a class V (RSA 229:5, VI) or better highway. (RSA 674:17, I, (b))
- (C) To promote the general welfare (See RSA 674:17, I, (c).)
  - (1) by ensuring that school buses, mail trucks, trash collection vehicles, and other delivery or collection vehicles have expeditious access to any LOT,
  - (2) by providing for safe locations for driveways and for safe distances between driveways, and
  - (3) by protecting the town from highway-maintenance burdens that outweigh the public benefit of the highway maintenance.
- (D) To facilitate the adequate provision of transportation along STREETS where SUBDIVISION causes traffic to increase. (See RSA 674:17, I, (g).)

- (d) Minimum Setbacks from Street Boundaries and Interior Lot Lines: Except as provided in article 8, Cluster Development, or article 4, section 3, Nonconforming Uses, and except for
- (1) STREETS,
  - (2) driveways,
  - (3) walkways,
  - (4) culverts,
  - (5) ESSENTIAL PUBLIC SERVICE INFRASTRUCTURE,
  - (6) mailboxes,
  - (7) fences that have a height of 8 feet or less,
  - (8) signs,
  - (9) lighting devoted to externally illuminated signs, and
  - (10) lampposts that have a height of 8 feet or less, that are 10 feet or less from a boundary of a driveway, and that are 20 feet or less from the boundary of a STREET, every STRUCTURE shall have a SETBACK from every STREET boundary or INTERIOR LOT LINE which SETBACK is greater than or equal to the minimum SETBACK specified for the STREET boundary or INTERIOR LOT LINE by article 3, section 4, (h), Table of Dimensional Requirements.
- (e) Maximum Height: Except as provided in article 18, Telecommunications Equipment and Facilities, section 18.5, D, or article 4, section 3, Nonconforming Uses, and except for windmills (RSA 674:63, II), every STRUCTURE shall have a height that is less than or equal to the maximum height specified by article 3, section 4, (h), Table of Dimensional Requirements.
- (f) Maximum Number of Stories: Except as provided in article 4, section 3, Nonconforming Uses, every BUILDING shall have a number of STORIES that is less than or equal to the maximum number of STORIES specified by article 3, section 4, (h), Table of Dimensional Requirements.
- (g) Maximum Floor Area Ratio: Except as provided in article 4, section 3, Nonconforming Uses, every LOT and all BUILDINGS on the LOT shall have a FLOOR AREA RATIO that is less than or equal to the maximum FLOOR AREA RATIO specified by article 3, section 4, (h), Table of Dimensional Requirements.

(h) Table of Dimensional Requirements:

**Table of Dimensional Requirements**

District	Minimum LOT area (acres)	Minimum LOT FRONTAGE (feet)	Minimum SETBACKS (feet)			Maximum Height (feet)	Maximum Number of STORIES	Maximum FLOOR AREA RATIO
			STREET	SIDE	REAR			
Urban	1/4 acre	50	10	10	10	35	3	0.5
Suburban	1 acre (with municipal water and sewerage)	150	25	25	25	35	3	0.3
Suburban (continued)	1-1/2 acre (without municipal water and sewerage)	150	25	25	25	35	3	0.3
Rural	2 acres	225	50	25	25	35	3	0.1
Commercial	1/4 acre	50	10	10	10	35	3	0.7
Light Industrial/ Commercial	1 acre	150	25	25	25	35	3	0.5

## Article 4. Nonconforming Uses and Lots

### 1. Authority

(a) RSA 674:19, Applicability of Zoning Ordinance:

A zoning ordinance adopted under RSA 674:16 shall not apply to existing structures or to the existing use of any building. It shall apply to any alteration of a building for use for a purpose or in a manner which is substantially different from the use to which it was put before alteration.

(b) RSA 674:39, Five-Year Exemption:

I. Every subdivision plat approved by the planning board and properly recorded in the registry of deeds and every site plan approved by the planning board and properly recorded in the registry of deeds, if recording of site plans is required by the planning board or by local regulation, shall be exempt from all subsequent changes in subdivision regulations, site plan review regulations, impact fee ordinances, and zoning ordinances adopted by any city, town, or county in which there are located unincorporated towns or unorganized places, except those regulations and ordinances which expressly protect public health standards, such as water quality and sewage treatment requirements, for a period of 5 years after the date of approval; provided that:

- (a) Active and substantial development or building has begun on the site by the owner or the owner's successor in interest in accordance with the approved subdivision plat within 24 months after the date of approval, or in accordance with the terms of the approval, and, if a bond or other security to cover the costs of roads, drains, or sewers is required in connection with such approval, such bond or other security is posted with the city, town, or county in which there are located unincorporated towns or unorganized places, at the time of commencement of such development;
- (b) Development remains in full compliance with the public health regulations and ordinances specified in this section; and
- (c) At the time of approval and recording, the subdivision plat or site plan conforms to the subdivision regulations, site plan review regulations, and zoning ordinances then in effect at the location of such subdivision plat or site plan.

II. Once substantial completion of the improvements as shown on the subdivision plat or site plan has occurred in compliance with the approved subdivision plat or site plan or the terms of said approval or unless otherwise stipulated by the planning board, the rights of the owner or the owner's successor in interest shall vest and no subsequent changes in subdivision regulations, site plan regulations, or zoning ordinances, except impact fees adopted pursuant to RSA 674:21 and 675:2-4, shall operate to affect such improvements.

III. The planning board may, as part of its subdivision and site plan regulations or as a condition of subdivision plat or site plan approval, specify the threshold levels of work that shall constitute the following terms, with due regard to the scope and details of a particular project:

- (a) "Substantial completion of the improvements as shown on the subdivision plat or site plan," for purposes of fulfilling paragraph II; and
- (b) "Active and substantial development or building," for the purposes of fulfilling paragraph I.

IV. Failure of a planning board to specify by regulation or as a condition of subdivision plat or site plan approval what shall constitute "active and substantial development or building" shall entitle the subdivision plat or site plan approved by the planning board to the 5-year exemption described in paragraph I. The planning board may, for good cause, extend the 24-month period set forth in subparagraph I(a).



(c) RSA 676:12, I and VI, Certain Building Permits to Be Withheld prior to Zoning Amendments:  
I. The building inspector shall not issue any building permit within the 120 days prior to the annual or special town or village district meeting if:

- (a) Application for such permit is made after the first legal notice of proposed changes in the building code or zoning ordinance has been posted pursuant to the provisions of RSA 675:7; and
- (b) The proposed changes in the building code or the zoning ordinance would, if adopted, justify refusal of such permit.

VI. The provisions of paragraph I shall not apply to any plat or application which has been the subject of notice by the planning board pursuant to RSA 676:4, I(d) prior to the first legal notice of a proposed change in a building code or zoning ordinance or any amendment thereto. No proposed subdivision or site plan review or zoning ordinance or amendment thereto shall affect a plat or application which has been the subject of notice by the planning board pursuant to RSA 676:4, I(d) so long as said plat or application was the subject of notice prior to the first legal notice of said change or amendment. The provisions of this paragraph shall also apply to proposals submitted to a planning board for design review pursuant to RSA 676:4, II(b), provided that a formal application is filed with the planning board within 12 months of the end of the design review process.

(d) RSA 155-B:2, Repair or Removal of Hazardous Building:

The governing body of any city or town may order the owner of any hazardous building within the municipality to correct the hazardous condition of such building or to raze or remove the same.

## **2. Purpose**

The purposes of this article are as follows:

- (a) To codify the New Hampshire state law of NONCONFORMING USES into the zoning ordinance.
- (b) To encourage the discontinuance of NONCONFORMING USES.
- (c) To encourage the elimination or reduction of nonconformance of NONCONFORMING LOTS.
- (d) To provide for the continuance of lawfully established nonconformance if the transition to conformance is unreasonable. (See RSA 674:19, which provides for the continuance of NONCONFORMING USES but says nothing about the development of NONCONFORMING LOTS.)

## **3. Nonconforming Uses**

- (a) Continuance of Nonconforming Activities: Every NONCONFORMING ACTIVITY may continue to exist upon the following conditions:
  - (1) The NONCONFORMING ACTIVITY shall not change to have a purpose, character, or effect on the neighborhood that differs substantially from the purpose, character, or effect on the neighborhood that the NONCONFORMING ACTIVITY had when it was first nonconforming.
  - (2) The NONCONFORMING ACTIVITY shall not expand into any indoor or outdoor space that the NONCONFORMING ACTIVITY has not occupied as a NONCONFORMING ACTIVITY.

- (3) The NONCONFORMING ACTIVITY shall not expand into any indoor or outdoor space that the NONCONFORMING ACTIVITY vacated and never reoccupied during the following two years.
  - (4) The NONCONFORMING ACTIVITY shall not expand so as to render premises or property proportionally less adequate.
  - (5) The NONCONFORMING ACTIVITY shall have no discontinuance of two years or more.
- (b) Abandonment of Nonconforming Activities: Every NONCONFORMING ACTIVITY that satisfies either of the following conditions (1) and (2) shall be deemed abandoned and shall be prohibited:
- (1) The NONCONFORMING ACTIVITY shall be deemed abandoned and shall be prohibited if it violates one or more of the conditions in paragraph (a), (1) through (4), and if
    - (A) within 35 days after the earliest date when the zoning ordinance administrator sends the owner of the NONCONFORMING ACTIVITY a certified-mail notice of the violation, the owner has not submitted a written plan to eliminate the violation or
    - (B) within 95 days after the earliest date when the zoning ordinance administrator sends the owner of the NONCONFORMING ACTIVITY a certified-mail notice of the violation, the owner has not eliminated the violation.
  - (2) The NONCONFORMING ACTIVITY shall be deemed abandoned and shall be prohibited if it has a discontinuance of two years or more. (See article 4, section 3, (a), (5).)
- (c) Continuance of Nonconforming Structures: Every NONCONFORMING STRUCTURE may continue to exist upon the following conditions:
- (1) The NONCONFORMING STRUCTURE may be maintained or renovated and may be repaired or rebuilt after any damage if the maintenance, renovations, repairs, and rebuilding satisfy the following conditions (A) and (B):
    - (A) Maintenance, renovations, repairs, and rebuilding shall not give the NONCONFORMING STRUCTURE a purpose, character, or effect on the neighborhood that differs substantially from the purpose, character, or effect on the neighborhood that the NONCONFORMING STRUCTURE had when it was first nonconforming.
    - (B) Repairs and rebuilding after the NONCONFORMING STRUCTURE has sustained damage greater than or equal to 75% of the NONCONFORMING STRUCTURE'S PRINCIPAL FLOOR AREA shall be in substantial progress within two years after the date of the NONCONFORMING STRUCTURE'S damage. (See article 4, section 1, (c), Vesting of Nonconforming Uses.)
  - (2) The NONCONFORMING STRUCTURE may have additions to its nonconforming parts if the additions satisfy the following conditions (A) through (C):
    - (A) The additions shall not give the NONCONFORMING STRUCTURE a purpose, character, or effect on the neighborhood that differs substantially from the purpose, character, or

effect on the neighborhood that the NONCONFORMING STRUCTURE had when it was first nonconforming.

(B) The additions in total since the NONCONFORMING STRUCTURE was first nonconforming shall not be substantial.

(C) The additions shall not render the LOT proportionally less adequate.

(3) The NONCONFORMING STRUCTURE may have additions to its conforming parts if the additions satisfy the following conditions (A) and (B):

(A) The additions shall not give the NONCONFORMING STRUCTURE a purpose, character, or effect on the neighborhood that differs substantially from the purpose, character, or effect on the neighborhood that the NONCONFORMING STRUCTURE had when it was first nonconforming.

(B) The additions shall create no nonconformance to the zoning ordinance except that an addition may create a nonconformance if the addition satisfies the conditions in subparagraph (2), for additions to nonconforming parts of the NONCONFORMING STRUCTURE.

(d) Abandonment of Nonconforming Structures: Every NONCONFORMING STRUCTURE that satisfies either of the following conditions (1) and (2) shall be deemed abandoned and shall be prohibited:

(1) The NONCONFORMING STRUCTURE shall be deemed abandoned and shall be prohibited if it violates one or more of the conditions in paragraph (c), (1), (A); paragraph (c), (2); or paragraph (c), (3), and if

(A) within 35 days after the earliest date when the zoning ordinance administrator sends the owner of the NONCONFORMING STRUCTURE a certified-mail notice of the violation, the owner has not submitted a written plan to eliminate the violation or

(B) within 95 days after the earliest date when the zoning ordinance administrator sends the owner of the NONCONFORMING STRUCTURE a certified-mail notice of the violation, the owner has not eliminated the violation.

(2) The NONCONFORMING STRUCTURE shall be deemed abandoned and shall be prohibited if it has sustained damage greater than or equal to 75% of the NONCONFORMING STRUCTURE'S PRINCIPAL FLOOR AREA and if the NONCONFORMING STRUCTURE is not in substantial rebuilding within two years after the date of the NONCONFORMING STRUCTURE'S damage.

(e) Public-Taking Not-Conforming Structures: Every lawfully existing STRUCTURE that becomes a not-conforming STRUCTURE because of an eminent-domain taking or that increases its nonconformance because of an eminent-domain taking shall be treated as a NONCONFORMING STRUCTURE under the zoning ordinance.

(f) Repair or Removal of Hazardous Buildings: Under RSA chapter 155-B, Hazardous and Dilapidated Buildings, the board of selectmen may order the owner of any hazardous building

within the municipality to correct the hazardous condition of such building or to raze or remove the same. (RSA 155-B:2)

#### **4. Merging Nonconforming Lots**

Every LOT created by merging two or more LOTS shall be exempt from the requirements of article 3, section 4, (b), (1), and article 3, section 4, (c), (1).

#### **5. Development of Nonconforming Conventional Lots**

Every NONCONFORMING LOT that is not part of any CLUSTER SUBDIVISION may be developed with STRUCTURES or uses if the LOT and the development satisfy the following conditions (a) through (d). If the LOT or the development does not satisfy one or more of the following conditions (a) through (d), then the LOT may be developed with STRUCTURES or uses as provided in article 4, section 3, Nonconforming Uses, or RSA 674:39, Five-Year Exemption.

- (a) The subject LOT satisfies one of the following conditions (1) through (4). In conditions (1) through (4), creating a LOT means creating or moving the boundary of the LOT or the boundary of any STREET abutting the LOT.
  - (1) (A) The subject LOT was lawfully created by a plan or deed recorded at the Merrimack County Registry of Deeds or Rockingham County Registry of Deeds before the effective date of adoption of the zoning ordinance (March 8, 1988), or  
  
(B) the subject LOT was created by planning board approval of a SUBDIVISION plat showing the subject LOT before the effective date of adoption of the zoning ordinance (March 8, 1988).
  - (2) (A) The subject LOT was created on or after the effective date of adoption of the zoning ordinance (March 8, 1988), and  
  
(B) the subject LOT was a CONFORMING LOT relative to those regulations of the zoning ordinance that were in effect on the date when the subject LOT was created.
  - (3) The subject LOT was created by an eminent-domain taking.
  - (4) The subject LOT was created by one or more mergers of two or more LOTS that include at least one LOT that satisfies either condition (1), (2), or (3).
- (b) The subject LOT satisfies the requirements of RSA 674:41 for issuing building permits.
- (c) The subject LOT satisfies the requirements of the state fire code for issuing building permits. (RSA 155-A:4, II.)
- (d) Establishing any use on the subject LOT shall conform to those regulations of the zoning ordinance that would apply to establishing the use if the subject LOT were a CONFORMING LOT.

## **Article 5. Board of Adjustment**

### **1. Establishment and Membership**

- (a) A zoning board of adjustment shall be established according to this section. (See RSA 673:1, IV.)
- (b) The zoning board of adjustment shall consist of 5 members. The members of the board shall be elected in the manner prescribed by RSA 669. Elected zoning board of adjustment members shall be elected by ballot. Each member of the board shall be a resident of the municipality in order to be elected. (See RSA 673:3, I; RSA 669:17, V-a; and RSA 669:14.)
- (c) Zoning board of adjustment members who are elected shall be elected for the term provided under RSA 673:5, II. The terms of appointed members of the zoning board of adjustment in office on the effective date of an affirmative decision to elect such board members shall not be affected by the decision. However, when the term of each member expires, each new member shall be elected at the next regular municipal election for the term provided under RSA 673:5, II. (RSA 673:3, II; also see the zoning ordinance as amended March 12, 2013, article 5, section 1, sentence 1: "A Board of Adjustment, appointed by the Board of Selectmen, shall be established...")
- (d) The term of an elected or appointed board of adjustment member shall be 3 years. The initial terms of members first appointed or elected to the board shall be staggered so that no more than 2 appointments or elections occur annually except when required to fill vacancies. (RSA 673:5, II.)
- (e) The elected zoning board of adjustment may appoint 5 alternate members for a term of 3 years each, which shall be staggered in the same manner as elected members pursuant to RSA 673:5, II. (RSA 673:6, II-a.)
- (f) No more than one member of the planning board shall serve on the board of adjustment. (RSA 673:7, I.) Every alternate member appointed to a planning board under RSA 673:6 shall comply with the multiple membership requirements of RSA 673:7, I. (RSA 673:6, IV.)
- (g) Vacancies in the membership of the board of adjustment occurring other than through the expiration of a term of office shall be filled as follows:
  - (1) For an elected member, by appointment by the remaining board members until the next regular municipal election at which time a successor shall be elected to either fill the unexpired term or start a new term, as appropriate.
  - (2) For an appointed or alternate member, by the original appointing or designating authority, for the unexpired term.
  - (3) The chairperson of the board of adjustment may designate an alternate member of the board to fill the vacancy temporarily until the vacancy is filled in the manner set forth in subparagraph (1) or (2).(RSA 673:12.)
- (h) After public hearing, appointed members and alternate members of an appointed board of adjustment may be removed by the appointing authority upon written findings of inefficiency, neglect of duty, or malfeasance in office. (RSA 673:13, I.) The board of selectmen may, upon written findings of inefficiency, neglect of duty, or malfeasance in office, remove an elected member or alternate member after a public hearing. (RSA 673:13, II.)

## **2. Method of Adopting Rules of Procedure**

The board of adjustment shall adopt rules of procedure concerning the method of conducting its business. Rules of procedure shall be adopted at a regular meeting of the board and shall be placed on file with town clerk for public inspection. The rules of procedure shall include when and how an alternate may participate in meetings of the board. (RSA 676:1.)

## **3. Powers of Zoning Board of Adjustment**

I. The zoning board of adjustment shall have the power to:

- (a) Hear and decide appeals if it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of the zoning ordinance; and
- (b) Authorize, upon appeal in specific cases, a VARIANCE from the terms of the zoning ordinance if:
  - (1) The VARIANCE will not be contrary to the public interest;
  - (2) The spirit of the ordinance is observed;
  - (3) Substantial justice is done;
  - (4) The values of surrounding properties are not diminished; and
  - (5) Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.
    - (A) For purposes of this subparagraph, “unnecessary hardship” means that, owing to special conditions of the property that distinguish it from other properties in the area:
      - (i) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and
      - (ii) The proposed use is a reasonable one.
    - (B) If the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a VARIANCE is therefore necessary to enable a reasonable use of it.

The definition of “unnecessary hardship” set forth in subparagraph (5) shall apply whether the provision of the ordinance from which a VARIANCE is sought is a restriction on use, a dimensional or other limitation on a permitted use, or any other requirement of the ordinance.

I-a. VARIANCES authorized under paragraph I shall be valid if exercised within 2 years from the date of final approval, or as further extended by local ordinance or by the zoning board of adjustment for good cause, provided that no such VARIANCE shall expire within 6 months after the resolution of a planning application filed in reliance upon the VARIANCE.

II. In exercising its powers under paragraph I, the zoning board of adjustment may reverse or affirm, wholly or in part, or may modify the order, requirement, decision, or determination appealed from and may make such order or decision as ought to be made and, to that end, shall have all the powers of the administrative official from whom the appeal is taken.

III. The concurring vote of 3 members of the board shall be necessary to reverse any action of the administrative official or to decide in favor of the applicant on any matter on which it is required to pass.

IV. The zoning board of adjustment may, in appropriate cases and subject to appropriate conditions and safeguards, make SPECIAL EXCEPTIONS to the terms of the zoning ordinance. All SPECIAL EXCEPTIONS shall be made in harmony with the general purpose and intent of the zoning ordinance and shall be in accordance with the general or specific rules contained in the ordinance. SPECIAL EXCEPTIONS authorized under this paragraph shall be valid if exercised within 2 years from the date of final approval, or as further extended by local ordinance or by the zoning board of adjustment for good cause, provided that no such SPECIAL EXCEPTION shall expire within 6 months after the resolution of a planning application filed in reliance upon the SPECIAL EXCEPTION.

V. Notwithstanding subparagraph I(b), the zoning board of adjustment may grant a VARIANCE from the terms of the zoning ordinance without finding a hardship arising from the condition of a premises subject to the ordinance, when reasonable accommodations are necessary to allow a person or persons with a recognized physical disability to reside in or regularly use the premises, provided that:

- (a) Any VARIANCE granted under this paragraph shall be in harmony with the general purpose and intent of the zoning ordinance.
- (b) In granting any VARIANCE pursuant to this paragraph, the zoning board of adjustment may provide, in a finding included in the VARIANCE, that the VARIANCE shall survive only so long as the particular person has a continuing need to use the premises.

VI. The zoning board of adjustment shall not require submission of an application for or receipt of a permit or permits from other state or federal governmental bodies prior to accepting a submission for its review or rendering its decision.

VII. Neither a SPECIAL EXCEPTION nor a VARIANCE shall be required for a collocation or a modification of a personal wireless service facility, as defined in RSA 12-K:2.

(RSA 674:33.)

#### **4. Equitable Waiver of Dimensional Requirement**

I. When a LOT or other division of land, or STRUCTURE thereupon, is discovered to be in violation of a physical layout or dimensional requirement imposed by the zoning ordinance, the zoning board of adjustment shall, upon application by and with the burden of proof on the property owner, grant an equitable waiver from the requirement, if and only if the board makes all of the following findings:

- (a) That the violation was not noticed or discovered by any owner, former owner, owner's agent or representative, or municipal official, until after a STRUCTURE in violation had been substantially completed, or until after a LOT or other division of land in violation had been subdivided by conveyance to a bona fide purchaser for value;
- (b) That the violation was not an outcome of ignorance of the law or ordinance, failure to inquire, obfuscation, misrepresentation, or bad faith on the part of any owner, owner's agent or representative, but was instead caused by either a good faith error in measurement or calculation made by an owner or owner's agent, or by an error in ordinance interpretation or applicability made by a municipal official in the process of issuing a permit over which that official had authority;
- (c) That the physical or dimensional violation does not constitute a public or private nuisance, nor diminish the value of other property in the area, nor interfere with or adversely affect any present or permissible future uses of any such property; and

(d) That due to the degree of past construction or investment made in ignorance of the facts constituting the violation, the cost of correction so far outweighs any public benefit to be gained, that it would be inequitable to require the violation to be corrected.

II. In lieu of the findings required by the board under subparagraphs I(a) and (b), the owner may demonstrate to the satisfaction of the board that the violation has existed for 10 years or more, and that no enforcement action, including written notice of violation, has been commenced against the violation during that time by the municipality or any person directly affected.

III. Application and hearing procedures for equitable waivers under this section shall be governed by RSA 676:5 through 7. Rehearings and appeals shall be governed by RSA 677:2 through 14.

IV. Waivers shall be granted under this section only from physical layout, mathematical or dimensional requirements, and not from use restrictions. An equitable waiver granted under this section shall not be construed as a NONCONFORMING USE, and shall not exempt future use, construction, reconstruction, or additions on the property from full compliance with the ordinance. This section shall not be construed to alter the principle that owners of land are bound by constructive knowledge of all applicable requirements. This section shall not be construed to impose upon municipal officials any duty to guarantee the correctness of plans reviewed by them or property inspected by them.

(RSA 674:33-a.)

## **5. Appeals to Board of Adjustment**

I. Appeals to the board of adjustment concerning any matter within the board's powers as set forth in RSA 674:33 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 officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

II. For the purposes of this section:

- (a) The "administrative officer" means any official or board who, in the municipality, has responsibility for issuing permits or certificates under the zoning ordinance, or for enforcing the ordinance, and may include a building inspector, board of selectmen, or other official or board with such responsibility.
- (b) A "decision of the administrative officer" includes any decision involving construction, interpretation or application of the terms of the zoning ordinance. It does not include a discretionary decision to commence formal or informal enforcement proceedings, but does include any construction, interpretation or application of the terms of the ordinance which is implicated in such enforcement proceedings.

III. If, in the exercise of SUBDIVISION or site plan review, the planning board makes any decision or determination which is based upon the terms of the zoning ordinance, or upon any construction, interpretation, or application of the zoning ordinance, which would be appealable to the board of adjustment if it had been made by the administrative officer, then such decision may be appealed to the board of adjustment under this section; provided, however, that if the zoning ordinance contains an innovative land use control adopted pursuant to RSA 674:21 which delegates administration, including the granting of conditional or special use permits, to the planning board, then the planning



board's decision made pursuant to that delegation cannot be appealed to the board of adjustment, but may be appealed to the superior court as provided by RSA 677:15.

(RSA 676:5, I, II, and III.)

## **6. Materially Similar Applications**

If (1) the board of adjustment has disapproved an application, (2) the disapproval was not appealed, (3) a subsequent application is made for a use that does not materially differ in nature and degree from its predecessor, and (4) a material change of circumstances affecting the merits of the subsequent application has not occurred, then the board may not reach the merits of the subsequent application. The applicant bears the burden of proving a material change of circumstances before the board.

## **7. Public Hearing; Notice**

I. Prior to exercising its appeals powers, the board of adjustment shall hold a public hearing. Notice of the public hearing shall be given as follows:

- (a) The appellant and every ABUTTER and holder of CONSERVATION, preservation, or agricultural preservation RESTRICTIONS shall be notified of the hearing by certified mail stating the time and place of the hearing, and such notice shall be given not less than 5 days before the date fixed for the hearing of the appeal. The board shall hear all ABUTTERS and holders of CONSERVATION, preservation, or agricultural preservation RESTRICTIONS desiring to submit testimony and all nonABUTTERS who can demonstrate that they are affected directly by the proposal under consideration. The board may hear such other persons as it deems appropriate.
- (b) A public notice of the hearing shall be placed in a newspaper of general circulation in the area not less than 5 days before the date fixed for the hearing of the appeal.

II. The public hearing shall be held within 30 days of the receipt of the notice of appeal.

III. Any party may appear in person or by the party's agent or attorney at the hearing of an appeal.

IV. The cost of notice, whether mailed, posted, or published, shall be paid in advance by the applicant. Failure to pay such costs shall constitute valid grounds for the board to terminate further consideration and to deny the appeal without public hearing.

(RSA 676:7)

## **8. Review of Developments of Regional Impact**

- (a) Notice and hearing requirements of RSA 36:54 through RSA 36:58 apply to applications for DEVELOPMENTS OF potential REGIONAL IMPACT.
- (b) Review Required: The board of adjustment, upon receipt of an application for development, shall review it promptly and determine whether or not the development, if approved, reasonably could be construed as having the potential for regional impact. Doubt concerning regional impact shall be resolved in a determination that the development has a potential regional impact. (RSA 36:56, I.)

## **9. Burden of Proof**

On issues wherein the exercise of the board of adjustment's discretion is sought, the burden of proof is on the applicant.

## **10. Issuance of Decision**

- (a) The board of adjustment shall issue a final written decision which either approves or disapproves an application for a local permit and make a copy of the decision available to the applicant. If the application is not approved, the board shall provide the applicant with written reasons for the disapproval. If the application is approved with conditions, the board shall include in the written decision a detailed description of all conditions necessary to obtain final approval. (RSA 676:3, I.)
- (b) Whenever the board of adjustment votes to approve or disapprove an application, the board shall set forth in its minutes of the meeting at which the vote is taken every finding of fact and every ruling of law that the board made regarding the application. If the board affirms, modifies, or reverses a decision of an administrative officer, then the board shall set forth in the minutes every reason for the affirmation, modification, or reversal. If the board approves an application for a permit, then the board shall set forth in the minutes how the application has satisfied each of the requirements for the permit. If the board disapproves an application for a permit, then the board shall set forth in the minutes every requirement for the permit that the application failed to satisfy. If the board approves an application for a permit but attaches any conditions, then the board shall set forth in the minutes every reason for each condition.
- (c) Whenever the board of adjustment votes to approve or disapprove an application or deny a motion for rehearing, the minutes of the meeting at which such vote is taken, including the written decision containing the reasons therefor and all conditions of approval, shall be placed on file in the board's office and shall be made available for public inspection within 5 business days of such vote. (RSA 676:3, II.)
- (d) Whenever a plat is recorded to memorialize an approval issued by the board of adjustment, the final written decision, including all conditions of approval, shall be recorded with or on the plat. (RSA 676:3, III.)

## **11. Motion for Rehearing, Rehearing, and Appeal to Superior Court**

- (a) Whenever a person or a municipality seeks a rehearing on or an appeal of a zoning-related order or decision, the procedures enacted under RSA chapter 677 shall be followed. (RSA 677:1.)
- (b) Within 30 days after any order or decision of the zoning board of adjustment, or any decision of the local legislative body or a board of appeals in regard to its zoning, the selectmen, any party to the action or proceedings, or any person directly affected thereby may apply for a rehearing in respect to any matter determined in the action or proceeding, or covered or included in the order, specifying in the motion for rehearing the ground therefor; and the board of adjustment, a board of appeals, or the local legislative body, may grant such rehearing if in its opinion good reason therefor is stated in the motion. This 30-day time period shall be counted in calendar days beginning with the date following the date upon which the board voted to approve or disapprove the application in accordance with RSA 21:35. (RSA 677:2)
- (c) A motion for rehearing made under RSA 677:2 shall set forth fully every ground upon which it is claimed that the decision or order complained of is unlawful or unreasonable. (RSA 677:3, I.) A motion for rehearing is a prerequisite for an appeal to the superior court. (RSA 677:3, I.)
- (d) Upon the filing of a motion for a rehearing, the board of adjustment, a board of appeals, or the local legislative body shall within 30 days either grant or deny the application, or suspend the order or decision complained of pending further consideration. (RSA 677:3, II.)

- (e) If the board grants a rehearing, and if any new basis for aggrievement results from the rehearing, then a subsequent motion for rehearing that raises any new issues that are thrust upon the appealing party is necessary to preserve the new issues for an appeal to the superior court.
- (f) Any person aggrieved by any order or decision of the zoning board of adjustment or any decision of the local legislative body may apply, by petition, to the superior court within 30 days after the date upon which the board voted to deny the motion for rehearing. For purposes of this paragraph, "person aggrieved" includes any party entitled to request a rehearing under RSA 677:2. (RSA 677:4)

## **Article 6. Special Exceptions**

### **1. Board of Adjustment Has Authority to Approve Special Exceptions**

- (a) Every application for a SPECIAL EXCEPTION permit shall be made to the board of adjustment. (RSA 674:33, IV.) Article 5 and the board of adjustment's rules of procedure state requirements and procedures for such an application. Other requirements or procedures may also apply.
- (b) The terms of the zoning ordinance define the cases and conditions in and upon which SPECIAL EXCEPTIONS are permissible, and the board of adjustment's only function in respect to a proposed SPECIAL EXCEPTION is to decide whether the proposal satisfies the conditions that the zoning ordinance defines for permitting the proposal. (RSA 674:33, IV.)

### **2. Conditions for Special Exceptions in the Table of Uses and Districts**

Every use that is of a type that article 3, section 3, (b), (6), Table of Uses and Districts, lists with an "E" relative to a district shall be permitted in that district as a SPECIAL EXCEPTION upon the following conditions and upon all other applicable conditions in the zoning ordinance:

- (a) The use shall not be detrimental or offensive to the neighborhood.
- (b) The use shall not diminish the value of any of the surrounding properties.
- (c) The use, its parking needs, and its access ways shall be no nuisance or serious hazard to pedestrian or vehicular traffic. Parking needs shall be deemed a nuisance if parking needs force vehicles to park on a STREET or on a nearby property.
- (d) The use shall have adequate and appropriate facilities and utilities to ensure the proper operation of the use.
- (e) The use shall satisfy all SPECIAL EXCEPTION permitting conditions in article 6, section 3, Conditions for All Special Exceptions.

### **3. Conditions for All Special Exceptions**

Every use permitted as a SPECIAL EXCEPTION shall satisfy the following conditions:

- (a) The use shall be in harmony with the general purpose and intent of the zoning ordinance. (RSA 674:33, IV.)
- (b) The use shall be started with substantial activity within two years after the date of the SPECIAL EXCEPTION final approval except as provided in this paragraph. If the use is not started with substantial activity within two years after the date of the SPECIAL EXCEPTION final approval, then the SPECIAL EXCEPTION permit shall be deemed abandoned and shall expire except that
  - (1) the board of adjustment may, for good cause, extend the time of abandonment beyond two years and
  - (2) no such SPECIAL EXCEPTION shall expire within 6 months after the resolution of a planning application filed in reliance upon the SPECIAL EXCEPTION.(RSA 674:33, IV.)
- (c) The use shall have no discontinuance of two years or more. If the use is discontinued for two years or more, then the use and the SPECIAL EXCEPTION permit shall be deemed abandoned, and the SPECIAL EXCEPTION permit shall expire.

### **4. Burden of Proof**

The applicant has the burden of presenting sufficient evidence to support a favorable finding on each of the conditions that the zoning ordinance defines for permitting the proposed SPECIAL EXCEPTION.

### **5. Board of Adjustment May Attach Case-Specific Conditions**

In approving a proposed SPECIAL EXCEPTION, the board of adjustment has authority to attach reasonable conditions where they are necessary to satisfy the conditions that the zoning ordinance defines for permitting the proposal.

## Article 7. Variances

### 1. Definitions

- (a) Throughout this article, capitalization and italicization are used to indicate that a term has the meaning stated for it in paragraph (b).
- (b) In this article, the following terms have the following meanings:
  - "Agricultural Waiver"* means a building-requirement or site-requirement waiver under RSA 674:32-c, II, for AGRICULTURE.
  - "Dimensional Waiver"* means a dimensional-requirement waiver under RSA 674:33-a.
  - "Type 1 Variance"* means a VARIANCE under RSA 674:33, I, (b).
  - "Type 2 Variance"* means a VARIANCE under RSA 674:33, V.
  - "Type 3 Variance"* means a VARIANCE under article 17, section 12, Appeals and Variances.

### 2. Board of Adjustment Has Authority to Approve Variances

- (a) Every application for a *Type 1, 2, or 3 Variance* or for a *Dimensional Waiver* shall be made to the board of adjustment. (RSA 674:33, I, (b); RSA 674:33, V; and RSA 674:33-a.) Article 5 and the board of adjustment's rules of procedure state requirements and procedures for such an application. Other requirements or procedures may also apply.
- (b) Only in cases of appeal from the orders of an administrative official may the board of adjustment authorize a *Type 1, 2, or 3 Variance* from a literal enforcement of the zoning ordinance.

### 3. Requirements for a Variance under RSA 674:33, I, (b)

The board of adjustment shall approve an application for a VARIANCE under RSA 674:33, I, (b), if and only if the application satisfies the following requirements:

- (a) The VARIANCE will not be contrary to the public interest.
- (b) The spirit of the ordinance is observed.
- (c) Substantial justice is done.
- (d) The values of surrounding properties are not diminished.
- (e) Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.
  - (1) For purposes of this subparagraph, "unnecessary hardship" means that, owing to special conditions of the property that distinguish it from other properties in the area:
    - (A) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and
    - (B) The proposed use is a reasonable one.
  - (2) If the criteria in subparagraph (1) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a VARIANCE is therefore necessary to enable a reasonable use of it.

The definition of "unnecessary hardship" set forth in subparagraph (e) shall apply whether the provision of the ordinance from which a VARIANCE is sought is a restriction on use, a dimensional or other limitation on a permitted use, or any other requirement of the ordinance.

#### **4. Requirements for a Variance under RSA 674:33, V (Variances for Disabled Persons)**

Notwithstanding RSA 674:33, I, (b), under RSA 674:33, V, the zoning board of adjustment may grant a VARIANCE from the terms of the zoning ordinance without finding a hardship arising from the condition of a premises subject to the ordinance, when reasonable accommodations are necessary to allow a person or persons with a recognized physical disability to reside in or regularly use the premises, provided that:

- (a) Any VARIANCE granted under RSA 674:33, V, shall be in harmony with the general purpose and intent of the zoning ordinance.
- (b) In granting any VARIANCE pursuant to RSA 674:33, V, the zoning board of adjustment may provide, in a finding included in the VARIANCE, that the VARIANCE shall survive only so long as the particular person has a continuing need to use the premises.

#### **5. Requirements for a Dimensional Waiver under RSA 674:33-a**

Article 5, section 4, Equitable Waiver of Dimensional Requirement, states the requirements for a dimensional-requirement waiver under RSA 674:33-a.

#### **6. Requirements for an Agricultural Waiver under RSA 674:32-c, II**

RSA 674:32-c, II, states the requirements for a waiver of building requirements or site requirements for AGRICULTURE.

#### **7. Burden of Proof**

The applicant bears the burden of presenting sufficient evidence to support a favorable finding on each of the requirements for a *Type 1, 2, or 3 Variance* or for a *Dimensional Waiver*. (RSA 674:33-a, I.)

#### **8. Board of Adjustment May Attach Case-Specific Conditions**

In granting a *Type 1, 2, or 3 Variance*, the board of adjustment has the authority to attach reasonable conditions where they are necessary to observe the spirit of the zoning ordinance.

#### **9. Unused Variance Permits Are Deemed Abandoned**

- (a) If any use authorized by a *Type 1, 2, or 3 Variance* is not started with substantial activity within two years after the date of the VARIANCE final approval, then the VARIANCE shall be deemed abandoned and shall expire except that
  - (1) the board of adjustment may, for good cause, extend the time of abandonment beyond two years and
  - (2) no such VARIANCE shall expire within 6 months after the resolution of a planning application filed in reliance upon the VARIANCE.(RSA 674:33, I-a.)
- (b) If any use authorized by an *Agricultural Waiver* is not started with substantial activity within two years after the date of the *Agricultural Waiver* final approval, then the *Agricultural Waiver* shall be deemed abandoned and shall expire.
- (c) If any use authorized by a *Type 1, 2, or 3 Variance* is discontinued for two years or more, then the use and the VARIANCE shall be deemed abandoned, and the VARIANCE shall expire.
- (d) If any STRUCTURE authorized by a *Dimensional Waiver* sustains damage greater than or equal to 75% of the STRUCTURE'S replacement value, then the *Dimensional Waiver* shall expire. (RSA 674:33-a, IV ("An equitable waiver granted under this section shall not be construed as a nonconforming use, and shall not exempt future use, construction, reconstruction, or additions on the property from full compliance with the ordinance.").)
- (e) An *Agricultural Waiver* shall continue only as long as utilized for the permitted agricultural use. (RSA 674:32-c, II.)

## **Article 8. Cluster Developments**

The Board of Adjustment may, with the concurrence of the Planning Board, and after public hearing, waive the dimensional requirements contained in article 3, section 4, (b) through (e), and article 3, section 4, (g), provided the following conditions are met:

1. The SUBDIVISION of a parcel of land into residential LOTS would not increase the overall DENSITY of the residential housing had there been compliance with the FRONTAGE and minimum LOT size requirements relevant to the district in which the land lies.
2. Reasonable restrictions are placed on the use of the remaining land to insure its use and upkeep as a park, open land, productive agricultural land or forest in which modern silviculture practices are followed.
3. The development does not adversely affect the appearance, health, safety or general welfare of the neighborhood.
4. The general welfare of the community as a whole is enhanced by the CLUSTER DEVELOPMENT taking into account the affect of the development on the tax base of the community and the potential which the development offers for retaining land in productive agricultural or FORESTRY uses or other uses in keeping with the rural character of the Town.



## Article 9. Signs

### 1. Authority

RSA 674:16, I, (d); RSA 674:16, V; and RSA 674:17.

### 2. Purpose

The purposes of these sign regulations are as follows:

- (a) To protect the public from distracting and hazardous signs. (See RSA 674:17, I, (b) (“To secure safety from fires, panic and other dangers”) and RSA 674:17, I, (c) (“To promote health and the general welfare”).)
- (b) To promote the general welfare by protecting the aesthetics of the town. (See RSA 674:17, I, (c).)

### 3. Definitions

In this article, the following terms have the following meanings:

“Animate” means to depict something moving except that “animate” excludes

- (a) depicting moving text and
- (b) sequentially displaying the letters “O,” “P,” “E,” and “N.”

“Flash” means to maintain an artificially illuminated display constant for more than .015 seconds and less than 3 minutes except that “flash” excludes

- (a) maintaining a display of text constant for 3 seconds or longer,
- (b) depicting moving text, and
- (c) sequentially displaying the letters “O,” “P,” “E,” and “N.”

The purpose of the .015-second constant-display time is to specify a constant-display time at which the human eye sees an illuminated display as not flickering.

### 4. Permitting Conditions for Outdoor Signs

Except as provided in article 4, section 3, Nonconforming Uses, every outdoor sign shall be permitted upon the following conditions and upon all other applicable conditions in the zoning ordinance:

- (a) Prohibited Signs: The sign shall not animate, flash, or emit sound.
- (b) The sign and its illuminator, if any, shall not interfere with pedestrian or vehicular traffic or be confused with or obstruct the view or effectiveness of any official traffic signal or traffic marking.
- (c) The source of lighting for every sign artificially illuminated by an external source shall be mounted and shielded so that the lighting is confined to the area of the sign and so that the light source is not visible three feet above grade at the boundary of adjoining property, including adjoining STREETS.
- (d) Brightness: The luminance of the source of lighting for every artificially illuminated sign shall be less than or equal to 230 candelas per square meter as measured at the brightest area on the face of the sign. (See Freyssinier, J.P., N. Narendran, and J.D. Bullough. 2006. Luminance requirements for lighted signage. *Sixth International Conference on Solid State Lighting, Proceedings of SPIE* 6337, 63371M.)

## **Article 10. Mobile Manufactured Housing**

### **1. Authority**

RSA 674:16, I, (d); RSA 674:16, V; and RSA 674:17.

### **2. Purpose**

The purpose of these MOBILE MANUFACTURED HOUSING regulations is to promote the general welfare by preventing the use of MANUFACTURED HOUSING as unauthorized residences. (See RSA 674:17, I, (c).)

### **3. Permitting Conditions for Mobile Manufactured Housing**

Except as provided in article 4, section 3, Nonconforming Uses, every MOBILE MANUFACTURED HOUSING unit shall be permitted upon the following conditions and upon all other applicable conditions in the zoning ordinance:

- (a) No more than one MOBILE MANUFACTURED HOUSING unit shall be on any single LOT. (Article 3, section 3, (b), (6), Table of Uses and Districts, prohibition against MANUFACTURED HOUSING PARKS in all districts.)
- (b) The MOBILE MANUFACTURED HOUSING unit may be used as either
  - (1) accommodations for a nonpaying guest for at most 90 days during any 12-month period,
  - (2) a contract business office during construction of a BUILDING for at most 12 months or until a certificate of occupancy is issued for the BUILDING, whichever occurs first,
  - (3) living quarters during construction or reconstruction of a residence for at most 12 months or until a certificate of occupancy is issued for the residence, whichever occurs first (RSA 674:32, II), or
  - (4) a STORAGE CONTAINER according to article 14, Storage Containers.
- (c) An unused MOBILE MANUFACTURED HOUSING unit may be parked off STREET indefinitely.
- (d) The MOBILE MANUFACTURED HOUSING unit shall have a SETBACK of at least 50 feet from every STREET boundary or INTERIOR LOT LINE.
- (e) The MOBILE MANUFACTURED HOUSING unit shall conform to article 17, Floodplain Management, if the MOBILE MANUFACTURED HOUSING unit is in a special flood hazard area as defined in article 17, section 4, Definitions.

## **Article 11. Home Occupations**

### **1. Authority**

RSA 674:16, I, (d); RSA 674:16, V; and RSA 674:17.

### **2. Purpose**

The purpose of these HOME OCCUPATION regulations is to protect the residential character of residential neighborhoods.

### **3. Permitting Conditions for Home Occupations**

Except as provided in article 4, section 3, Nonconforming Uses, every HOME OCCUPATION shall be permitted upon the following conditions and upon all other applicable conditions in the zoning ordinance:

- (a) The HOME OCCUPATION shall be conducted in a SINGLE-FAMILY DWELLING or its ACCESSORY BUILDINGS.
- (b) Every BUILDING in which the HOME OCCUPATION is conducted shall appear to be a residence or a customary ACCESSORY BUILDING of a residence if the BUILDING in which the HOME OCCUPATION is conducted is visible from any other property or from any STREET.
- (c) The LOT on which the HOME OCCUPATION is conducted shall have no more than one sign that is related to commercial use and that is visible from any other property or from any STREET.

Such a sign shall satisfy the following conditions:

- (1) The area of the sign shall not exceed the boundary of a rectangle 2 feet wide and 3 feet long.
- (2) The height of the sign shall be less than or equal to 8 feet.
- (3) The sign may be artificially illuminated, but the source of any such artificial illumination shall be a shielded external light source.

- (d) Except for

- (1) stock-in-trade for or of AGRICULTURE,
  - (2) one sign according to condition (c), and
  - (3) BUILDINGS in which the HOME OCCUPATION is conducted,

no stock-in-trade shall be visible from any other property or from any STREET.

- (e) The HOME OCCUPATION shall not generate more than 12 vehicle trips per day to the LOT of the HOME OCCUPATION unless the HOME OCCUPATION is a RETAIL STORE selling AGRICULTURE products grown on the premises of the HOME OCCUPATION.

In this condition, “premises” of a HOME OCCUPATION means a continuous tract of land where the HOME OCCUPATION is located and that the HOME OCCUPATION or its conductor controls.

- (f) The HOME OCCUPATION shall not be detrimental to persons, STRUCTURES, or any of the surrounding properties by reason such as

- (1) inadequate drainage, including inadequate drainage that results in hazardous runoff onto any STREET or that results in flooding another property;

(2) emission into the environment such as noise, vibration, dust, smoke, odor, fumes, emission of light, reflection of light, or emission of radioactivity;

(3) interference with the operation or delivery of electricity, heating gas, water, sewerage services, cable or off-air television, or radio, including radio for cellular telephones;

(4) ground, water, or air contamination not included in the preceding reasons;

(5) fire hazard; or

(6) hours of operation.

(g) The HOME OCCUPATION shall not diminish the value of any of the surrounding properties.

(h) The HOME OCCUPATION, its parking needs, and its access ways shall be no nuisance or serious hazard to pedestrian or vehicular traffic. Parking needs shall be deemed a nuisance if parking needs force vehicles to park on a STREET or on a nearby property.

(i) The HOME OCCUPATION shall have adequate and appropriate facilities and utilities to ensure the proper operation of the HOME OCCUPATION.

(j) The HOME OCCUPATION shall not be a KENNEL.

**Article 12. [Reserved for future amendment.]**

**Article 13. [Reserved for future amendment.]**

## **Article 14. Storage Containers**

### **1. Authority**

RSA 674:16, I, (d); RSA 674:16, V; and RSA 674:17.

### **2. Purpose**

The purpose of these STORAGE CONTAINER regulations is to promote the general welfare by protecting the aesthetics of the town.

(See RSA 674:17, I, (c).)

### **3. Permitting Conditions for Storage Containers**

Except as provided in article 4, section 3, Nonconforming Uses, every STORAGE CONTAINER shall be permitted upon the following conditions and upon all other applicable conditions in the zoning ordinance:

- (a) The STORAGE CONTAINER shall be used for and only for storage.
- (b) The STORAGE CONTAINER shall have a SETBACK from every STREET boundary or INTERIOR LOT LINE which SETBACK is greater than or equal to the minimum SETBACK specified for the STREET boundary or INTERIOR LOT LINE by article 3, section 4, (h), Table of Dimensional Requirements.
- (c) No more than one STORAGE CONTAINER shall be on the LOT if the LOT is in the Urban District, the Suburban District, or the Rural District.
- (d) No more than two STORAGE CONTAINERS shall be on the LOT if the LOT is in the Commercial District or the Light Industrial/Commercial District.
- (e) The sum of the time during which one or more STORAGE CONTAINERS are on any one LOT during any 15-month period shall be no more than 12 months.
- (f) The owner of the LOT where the STORAGE CONTAINER will be put shall tell the zoning ordinance administrator the date when the STORAGE CONTAINER is proposed to be put on the LOT. The zoning ordinance administrator shall issue a permit for the STORAGE CONTAINER, and the permit shall state the date when the STORAGE CONTAINER is proposed to be put on the LOT.

## **Article 15. Dumping**

### **1. Authority**

RSA 674:16, I, (d); RSA 674:16, V; and RSA 674:17.

### **2. Purpose**

The purposes of this article's prohibition against dumping are as follows:

- (a) To promote health and the general welfare. (See RSA 674:17, I, (c).)
- (b) To conserve the value of BUILDINGS and land. (See RSA 674:17, II.)

### **3. Dumping Prohibited**

Except for use of the Barnstead-Chichester-Epsom-Pittsfield transfer and recycling station, no garbage, rubbish, waste, or other refuse shall be dumped in any zoning district of the town of Pittsfield. (See RSA 674:20, Districts, and RSA 674:54, Governmental Land Uses.)

## **Article 16. Parking Regulations**

### **1. Authority**

RSA 674:16, I, (d); RSA 674:16, V; and RSA 674:17.

### **2. Purpose**

The purposes of these parking regulations are as follows:

- (a) To lessen congestion in the STREETS. (See RSA 674:17, I, (a).)
- (b) To secure safety from fires, panic and other dangers by ensuring that emergency personnel and vehicles, such as fire trucks, police cars, and ambulances, have unobstructed, expeditious passage to emergencies. (See RSA 674:17, I, (b).)
- (c) To promote the general welfare by providing for the unobstructed operation of private vehicles and public vehicles, such as police patrols, school buses, mail delivery vehicles, trash collection vehicles, and snowplows and other highway maintenance equipment. (See RSA 674:17, I, (c).)
- (d) To recognize the scarcity of off-STREET parking spaces in the Commercial District and to allow for this scarcity so as to conserve the usefulness and thus the value of BUILDINGS in the Commercial District that have little or no area for off-STREET parking. (See RSA 674:17, II.)

### **3. Number of off-Street Parking Spaces Required on a Lot for One or More Uses**

- (a) In this section, "on-LOT parking space" means a parking space on the same LOT with the use that the parking space serves.
- (b) Except as provided in article 16, section 4, (b), or article 4, section 3, Nonconforming Uses, every use that is of a type listed in article 16, section 3, (e), Table of Parking Requirements, shall have a number of off-STREET, on-LOT parking spaces that is greater than or equal to the minimum number of parking spaces that the table of parking requirements specifies for that use.
- (c) Except as provided in article 16, section 4, (b), or article 4, section 3, Nonconforming Uses, every use that is of a type not listed in article 16, section 3, (e), Table of Parking Requirements, shall have a number of off-STREET, on-LOT parking spaces that is greater than or equal to the minimum number of parking spaces that the table of parking requirements specifies for the most similar use that the table does list.
- (d) If one or more uses are on a single LOT, or if one or more uses off the LOT have off-STREET parking spaces on the LOT, then all of the uses combined shall have on the LOT a number of off-STREET parking spaces that is greater than or equal to the sum of subparagraphs (1) and (2):
  - (1) the sum of the numbers of off-STREET, on-LOT parking spaces that article 16, section 3, (b) and (c), require for all of the individual uses plus
  - (2) the number of off-STREET parking spaces that are on the LOT and that serve some use off the LOT.



(e) Table of Parking Requirements:

**Table of Parking Requirements**

Type of Use	Minimum Number of Parking Spaces
DWELLING	2 per DWELLING UNIT
HOTEL, MOTEL, tourist home, or lodging house	1 per sleeping room plus 1 per 5 seats in ancillary RESTAURANTS plus 1 per each 500 sq ft of other areas that the use occupies
Dormitory, fraternity, or sorority house	1 per every 2 beds
Elementary SCHOOL, junior high SCHOOL, high SCHOOL, or college	1 per each 500 sq ft that the use occupies plus 1 per each teaching station
RESTAURANT, THEATER, Auditorium, CHURCH, or any other place of public assembly whose capacity can be measured as the number of seats	1 per 5 seats
Bowling alley, skating rink, or any other place of public assembly whose capacity cannot be measured as the number of seats	1 per each 500 sq ft that the use occupies
RETAIL STORES	1 per each 200 sq ft of display area for first 30,000 sq ft plus 1 per each 150 sq ft of display area for next 20,000 sq ft plus 1 per each 400 sq ft of display area in excess of 50,000 sq ft.
Furniture or large-appliance store	1 per each 500 sq ft that the use occupies
Office	1 per each 200 sq ft that the use occupies
Industrial	1 per each 1,000 sq ft that the use occupies
Wholesale or storage establishment	1 per each 3,000 sq ft that the use occupies

For the purposes of the table of parking requirements, the area that a use occupies excludes the area that the use uses for parking. If the product that the table specifies for a use—the base parking-space requirement multiplied by the use area, the number of seats, or another indicator of total parking needs—has a fractional part, then the minimum number of parking spaces that the table specifies for the use is that product rounded up to the next whole number.

#### **4. Reduction of Parking Requirements in the Commercial District**

- (a) Pursuant to article 16, section 2, Purpose, the purposes of this section are (1) to recognize and allow for the scarcity of off-STREET parking spaces in the Commercial District and (2) to prevent off-STREET parking spaces in the Commercial District from becoming more scarce.
- (b) Every use that satisfies the following conditions shall be exempt from the requirements of article 16, section 3, (b) and (c):
- (1) The subject use shall be in the Commercial District.
  - (2) The subject use shall be a use that article 3, section 3, (b), Permissibility of Uses by Type and District, permits either by right or as a SPECIAL EXCEPTION.
  - (3) The subject use shall be conducted on a LOT that has at least as much area allocated for parking motor vehicles as the LOT had on the effective date of adoption of this paragraph (b) (March 11, 2014).
  - (4) The subject use shall be conducted on a LOT that has an aggregate floor area that is less than
    - (A) the aggregate floor area that the LOT had on the effective date of adoption of this paragraph (b) (March 11, 2014) plus 200 square feet, if the LOT was not vacant on the effective date of adoption of this paragraph (b), or
    - (B) the aggregate floor area that the LOT most recently had before the LOT became vacant and before the effective date of adoption of this paragraph (b) (March 11, 2014) plus 200 square feet, if the LOT was vacant on the effective date of adoption of this paragraph (b).In this condition (4), "aggregate floor area" of a LOT means the sum of the PRINCIPAL FLOOR AREAS of all BUILDINGS on the LOT.

#### **5. Parking Lot Design Standards**

The following design standards shall apply to all parking lots except on-LOT parking areas for either SINGLE-FAMILY DWELLINGS or TWO-FAMILY DWELLINGS:

- (a) The surface of a parking lot shall have durable and dustless pavement on top of a compacted base. The pavement shall be as durable and dustless as bituminous asphalt.
- (b) A parking lot shall be graded to prevent drainage across sidewalks and curb cuts or onto adjacent property.
- (c) The paved area of a parking lot shall be striped to delineate parking spaces.
- (d) A parking lot shall have a substantial bumper of masonry, steel, or heavy timber to protect pedestrians, BUILDINGS, lawns, trees, and shrubs next to the parking lot.

#### **6. Parking Space Dimensional Regulations**

- (a) Every parking space shall be at least 8 feet by 18 feet.
- (b) All parking spaces placed side by side with a longer side of one parking space facing a longer side of another parking space shall either be at least 9 feet wide or have a 1-foot separation between the parking spaces.

#### **7. Travel Lane Dimensional Regulations**

Every travel lane next to one or more parking spaces shall be at least

- (a) 22 feet wide for 90-degree angle parking,
- (b) 18 feet wide for 60-degree angle parking,
- (c) 11 feet wide for 45-degree angle parking, or
- (d) 10 feet wide for 30-degree angle parking.

## Article 17. Floodplain Management

### 1. Authority

RSA 674:16, RSA 674:17, RSA 674:56, title 44 CFR section 60.3(d), and title 44 CFR section 59.1.

### 2. Purpose

Certain areas of the town of Pittsfield, New Hampshire, are subject to periodic *Flooding*, which causes 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 Pittsfield, New Hampshire, has chosen to become a participating community in the National Flood Insurance Program and has adopted this *Floodplain* management article to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended).

### 3. Applicability

The regulations in this article shall apply to all lands designated as *Special Flood Hazard Areas* by the Federal Emergency Management Agency in its "Flood Insurance Study for the County of Merrimack, NH" dated April 19, 2010, or as amended, together with the associated *Flood Insurance Rate Maps* dated April 19, 2010, or as amended, which are incorporated as part of this article by reference.

### 4. Definitions

(a) Throughout this article, capitalization and italicization are used to indicate that a term has the meaning stated for it in paragraph (b).

(b) In this article, the following terms have the following meanings:

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

"*Base Flood Elevation*" means the computed elevation to which floodwater is anticipated to rise during the *Base Flood*.

"*Basement*" means any area of a *Building* having its floor subgrade on all sides.

"*Building*" - see "*Structure*".

"*Development*" means any man-made change to improved or unimproved real estate, including but not limited to *Buildings* or other *Structures*, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

"*Flood*" or "*Flooding*" means a general and temporary condition of partial or complete inundation of normally dry land areas from

(a) the overflow of inland or tidal waters or

(b) the unusual and rapid accumulation or runoff of surface waters from any source.

"*Flood Insurance Rate Map*" means an official map incorporated with this article on which map the Federal Emergency Management Agency has delineated both the *Special Flood Hazard Areas* and the risk premium zones applicable to the town of Pittsfield.

*“Flood Insurance Study”* means an examination, evaluation, and determination of *Flood* hazards and, if appropriate, corresponding *Water Surface Elevations*, or an examination and determination of mudslide or *Flood*-related erosion hazards.

*“Floodplain”* 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 non-structural additions, changes, or adjustments to *Structures* such that the combination of additions, changes, or adjustments reduces or eliminates *Flood* damage to real estate or improved real property, water and sanitation facilities, or *Structures* and their contents.

*“Historic Structure”* means any *Structure* that is

- (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the secretary of the Interior as meeting the requirements for listing individually in the National Register of Historic Places,
- (b) certified or preliminarily determined by the secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district,
- (c) listed individually on a state inventory of historic places in states with historic preservation programs that the secretary of the Interior has approved, or
- (d) listed individually on a local inventory of historic places in communities with historic preservation programs that have been certified either
  - (1) by an approved state program as determined by the secretary of the Interior, or
  - (2) by the secretary of the Interior directly in states without approved programs.

*“Lowest Floor”* means the lowest floor of the lowest enclosed area, including *Basement*. *“Lowest Floor”* excludes any unfinished or *Flood*-resistant enclosure usable solely for parking vehicles, *Building* access, or storage in an area other than a *Basement* area if such an enclosure is not built so as to render the *Structure* in *Violation* of the applicable non-elevation design requirements of this article.

*“Manufactured Home”* means a *Structure*, transportable in one or more sections, that is built on a permanent chassis and that is designed for use with or without a permanent foundation when connected to the required utilities. *“Manufactured Home”* includes park trailers, travel trailers, other similar vehicles placed on site for more than 180 consecutive days, and *Manufactured Homes* 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* sites or LOTS for rent or sale.

*“New Construction”* means *Structures* for which the *Start Of Construction* was on or after the effective date of a *Floodplain* management regulation adopted by a community and includes any subsequent improvements to such *Structures* except that, for the purposes of determining insurance rates, *“New Construction”* means *Structures* for which the *Start Of Construction* was on or after the effective date of an initial *Flood Insurance Rate Map* or after December 21, 1974, whichever date is later, and includes any subsequent improvements to such *Structures*.

*“Recreational Vehicle”* means a vehicle that is

- (a) built on a single chassis,
- (b) 400 square feet or less when measured at the largest horizontal projection,
- (c) designed to be self-propelled or permanently towable by a light duty truck, and
- (d) designed primarily not for use as a permanent DWELLING but as temporary living quarters for recreational, camping, travel, or seasonal use.

*“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”* means the land in the *Floodplain* within the town of Pittsfield subject to a one-percent or greater possibility of *Flooding* in any given year. The area is designated as zones A and AE on the *Flood Insurance Rate Map*.

*“Start Of Construction”* includes *Substantial Improvement* and means the date when the building permit was issued if and only if the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date.

In this definition of *“Start Of Construction,”*

- (a) the actual start means either (1) the first placement of a *Structure’s* permanent construction 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 (2) the placement of a *Manufactured Home* on a foundation; and
- (b) permanent construction excludes (1) land preparation, such as clearing, grading, and filling; (2) excavation for a *Basement*, footings, piers, or foundations or the erection of temporary forms; and (3) the installation on the property of ACCESSORY BUILDINGS, such as garages or sheds not occupied as DWELLING UNITS and not part of the main *Structure*.

*“Structure”* means a walled and roofed *Building* and includes (1) gas or liquid storage tanks that are principally above ground and (2) *Manufactured Homes*.

*“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 50 percent of the market value of the *Structure*. The market value of the *Structure* should equal (1) the appraised value before the start of the initial repair or improvement or (2) in the case of damage, the value of the *Structure* before the damage occurred. 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* begins, whether or not that alteration affects the external dimensions of the *Structure*. *“Substantial Improvement”* includes any combination of repairs, reconstruction, alteration, or improvements to *Structures* that have incurred *Substantial Damage*, regardless of actual repair work performed. *“Substantial Improvement”* does not, however, include any improvement of a *Structure* required to comply with existing health, sanitary, or safety code specifications that are solely necessary to assure safe living conditions, or any alteration of a *Historic Structure* if 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 *Floodplain* management regulations.

*“Water Surface Elevation”* means the height, in relation to the North American Vertical Datum of 1988, or other datum where specified, of *Floods* of various magnitudes and frequencies in the *Floodplains*.

## **5. Permits**

All proposed *Development* in any *Special Flood Hazard Area* shall require a permit.

## **6. Construction Requirements**

The zoning ordinance administrator 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 in a *Special Flood Hazard Area*, then all *New Construction* or *Substantial Improvements* shall

- (a) be designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the *Structure* resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy,
- (b) be constructed with materials resistant to *Flood* damage,
- (c) be constructed by methods and practices that minimize *Flood* damage, and
- (d) be constructed so that the electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities are designed or located to prevent water from entering or accumulating within the components during a *Flood*.

## **7. Water and Sewerage Systems**

Where new or replacement water and sewerage systems, including on-site systems, are proposed in a *Special Flood Hazard Area*, the applicant shall provide the zoning ordinance administrator 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 that on-site waste disposal systems will be located to avoid impairment to them or contamination from them during a *Flood*.

## **8. Certification**

For all new or substantially improved *Structures* in zone A or AE, the applicant shall furnish the following information to the zoning ordinance administrator:

- (1) The as-built elevation, in relation to the North American Vertical Datum of 1988, of the *Lowest Floor*, including *Basement*.
  - (2) A statement of whether or not such *Structures* contain a *Basement*.
  - (3) If the *Structure* has been *Flood Proofed*, the as-built elevation (in relation to the North American Vertical Datum of 1988) to which the *Structure* was *Flood Proofed*.
  - (4) Any certification of *Flood Proofing*.
- (a) The zoning ordinance administrator shall maintain the information for public inspection and shall furnish the information upon request.

## **9. Other Permits**

The zoning ordinance administrator shall not grant a building permit until the applicant certifies to having received all necessary permits 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.

## 10. Watercourses

- (a) Anyone intending to alter or relocate a watercourse shall notify the wetlands bureau of the New Hampshire Department of Environmental Services. The applicant shall submit copies of this notice to (1) the zoning ordinance administrator and (2) adjacent communities as determined by the zoning ordinance administrator. The applicant shall submit to other agencies such copies as RSA 482-A:3 requires. The applicant shall also submit to the adjacent communities notice of all hearings scheduled before the wetlands bureau.
- (b) The applicant shall submit to the zoning ordinance administrator a registered professional engineer's certification that the altered or relocated watercourse will maintain its *Flood*-carrying capacity.
- (c) The applicant shall submit the notices specified in paragraph (a) and the certification specified in paragraph (b) before the applicant alters or relocates the watercourse.
- (d) Along watercourses with a designated *Regulatory Floodway*, all encroachments, including fill, *New Construction*, *Substantial Improvements*, and other *Development*, shall be prohibited within the *Regulatory Floodway* unless hydrologic and hydraulic analyses performed in accordance with standard engineering practices have demonstrated that the proposed encroachment would not result in any increase in *Flood* levels within the community during the *Base Flood* discharge.
- (e) Until a *Regulatory Floodway* is designated along watercourses within zone AE on the *Flood Insurance Rate Map*, all fill, *New Construction*, *Substantial Improvements*, and other *Development* shall be prohibited within zone AE unless the applicant has demonstrated that the cumulative effect of the proposed *Development*, when combined with all existing and anticipated *Development*, will not increase the *Water Surface Elevation* of the *Base Flood* more than one foot at any point within the community.
- (f) The zoning ordinance administrator shall obtain, review, and reasonably utilize any floodway data available from federal, state, or other sources as criteria for ensuring that, in zone A, all encroachments, including fill, *New Construction*, *Substantial Improvements*, and other *Development*, that would result in any increase in *Flood* levels within the community during the *Base Flood* discharge are prohibited.

## 11. Special Flood Hazard Areas

- (a) In *Special Flood Hazard Areas*, the zoning ordinance administrator shall determine the *Base Flood Elevation* in the following order of precedence according to the data available:
  - (1) In zone AE, refer to the elevation data provided in the community's *Flood Insurance Study* and accompanying *Flood Insurance Rate Map*.
  - (2) In zone A, the zoning ordinance administrator shall obtain, review, and reasonably utilize any *Base Flood Elevation* data available from any federal, state, or other source including data submitted for *Development* proposals submitted to the community, for example, SUBDIVISION approvals and site plan approvals.
- (b) The zoning ordinance administrator's *Base Flood Elevation* determination will be used as criteria for the following requirements in zones A and AE:
  - (1) All *New Construction* or *Substantial Improvements* of residential *Structures* shall have the *Lowest Floor*, including *Basement*, at or above the *Base Flood Elevation*.

(2) All *New Construction* or *Substantial Improvements* of non-residential *Structures* shall have the *Lowest Floor*, including *Basement*, at or above the *Base Flood Elevation* or, together with attendant utility and sanitary facilities, shall

- (A) be *Flood Proofed* so that, below the *Base Flood Elevation*, the *Structure* is watertight with walls substantially impermeable to the passage of water,
- (B) have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy, and
- (C) be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subparagraph (2).

(3) All *Manufactured Homes* to be placed within *Special Flood Hazard Areas* and all *Substantial Improvements of Manufactured Homes* within *Special Flood Hazard Areas* shall be elevated on a permanent foundation such that the *Lowest Floor* of the *Manufactured Home* is at or above the *Base Flood Elevation*, and shall be securely anchored to resist flotation, collapse, or lateral movement.

Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

(4) For all *New Construction* and *Substantial Improvements*, fully enclosed areas below the *Lowest Floor* and below the *Base Flood Elevation* are permitted if and only if they meet the following requirements:

- (A) The enclosed area is unfinished or *Flood* resistant and is usable solely for parking vehicles, for *Building* access, or for storage.
- (B) The area is not a *Basement*.
- (C) The area shall be designed to automatically equalize hydrostatic *Flood* forces on exterior walls by allowing for the entry and exit of *Flood* water. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total area of not less than one square inch for every square foot of enclosed area below the *Base Flood Elevation* 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 if and only if they permit the automatic entry and exit of *Flood* water.

(5) All *Recreational Vehicles* placed on sites within zone A or AE shall either

- (A) be on site fewer than 180 days per year,
- (B) be fully licensed and ready for highway use, or
- (C) satisfy the permit requirement of article 17, section 5, Permits, and the elevation and anchoring requirements of paragraph (b), (3), of this section for *Manufactured Homes*.

A *Recreational Vehicle* is ready for highway use if it is on its wheels or jacking system, if it is attached to the site by only quick-disconnect type utilities and security devices, and if it has no permanently attached additions.



## **12. Appeals and Variances**

- (a) Any order, requirement, decision, or determination that the zoning ordinance administrator makes under this article may be appealed to the zoning board of adjustment according to RSA 676:5.
- (b) If the applicant, upon appeal, requests a VARIANCE from the terms of this article, then the applicant shall satisfy the following requirements in addition to the requirements of RSA 674:33, I, (b):
  - (1) The VARIANCE will not result in increased *Flood* heights, additional threats to public safety, or extraordinary public expense.
  - (2) If the requested VARIANCE is for activity within a designated *Regulatory Floodway*, no increase in *Flood* levels during the *Base Flood* discharge will result.
  - (3) The VARIANCE is the minimum necessary, considering the *Flood* hazard, to afford relief.
- (c) The zoning board of adjustment shall notify the applicant in writing (1) that the issuance of a VARIANCE to construct below the *Base Flood* level will result in increased premium rates for *Flood* insurance up to amounts as high as \$25 for \$100 of insurance coverage and (2) that such construction below the *Base Flood* level increases risks to life and property.
- (d) The town shall maintain a record of all VARIANCES granted from the terms of this article. The town shall include in the record (1) the reasons for every such VARIANCE granted and (2) the notice specified in paragraph (c). The town shall report the VARIANCES granted in the town's annual or biennial report submitted to the Federal Emergency Management Agency's federal insurance administrator.

## **Article 18. Telecommunications Equipment and Facilities**

### **18.1 Findings and Intent**

A. The Town of Pittsfield finds that specific regulation of the placement, spacing, installation, location and number of telecommunication facilities is in the public interest so as to conserve and enhance property values, to minimize the visual impact of such facilities upon the natural landscape and scenic vistas within the municipality, to minimize the number of towers and/or reduce the height and visual impact of towers, and to avoid congestion in the location of such facilities.

B. The Town hereby states its intent not to discriminate against or favor providers of telecommunication facilities and services.

C. The Town also finds that regulation of wireless and personal telecommunication facilities, consistent with federal and state policies and law, is in public interest.

D. The purposes of this article are as follows:

1. To preserve the authority of the Town to regulate the siting of telecommunication facilities while facilitating the proper location of facilities to provide such services to the community quickly, effectively, and efficiently.
2. To reduce adverse impacts such facilities may create, including, but not limited to, impacts on aesthetics, environmentally sensitive areas, historically significant locations, flight corridors, health and safety by injurious accidents to person and property, and prosperity through protection of property values.
3. To encourage co-location and minimal impact siting options through an assessment of technology, current locational options, future available locations, innovative siting techniques, and siting possibilities beyond the political jurisdiction of the Town.
4. To permit the construction of new towers only where all other reasonable opportunities have been exhausted, and to encourage the users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas.
5. To require cooperation and co-location, to the highest extent possible, between competitors in order to reduce cumulative negative impacts upon the Town.
6. To assure responsibility for adequate telecommunications maintenance and safety inspections for facilities.
7. To provide the prompt, safe removal of abandoned facilities.
8. To provide for the removal or upgrade of facilities that are technologically outdated.

## 18.2 Definitions

- A. **ACT**, means the federal laws governing telecommunication facilities, as amended, including the Telecommunications Act of 1996, and FCC regulations promulgated thereunder.
- B. **ALTERNATIVE TOWER STRUCTURE**, means an innovative siting technique or structure such as man-made trees, clock towers, bell steeples, light poles, and similar alternative design mounting structures that camouflage or conceal the presence of antennas or towers.
- C. **ANTENNA**, means any exterior apparatus designed for telephonic, radio, television, personal communications service (PCS), pager network, or any other communications through the sending and/or receiving of electromagnetic waves of any bandwidth.
- D. **FAA**, means the Federal Aviation Administration.
- E. **FCC**, mean the Federal Communications Commission.
- F. **Height**, when referring to a tower or other structure, means the distance measured from ground level to the highest point on the tower or structure, even if said highest point is an antenna.
- G. **PREEXISTING TOWER OR ANTENNA**, means any tower lawfully constructed or permitted prior to the adoption of this article.
- H. **TELECOMMUNICATION FACILITY**, includes both:
  - 1. **Wireless telecommunication facilities** such as any structure, antenna, tower or other device which provides commercial mobile services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), and personal communications service (PCS), and common carrier wireless exchange access services; and
  - 2. **Conventional telecommunications facilities** such as any telecommunication facility installed within, upon, or across a public right-of-way including poles, wires, conduits, and similar equipment or property, whether installed above or below ground.
- I. **TOWER**, means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers, the term includes radio, and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like.

## 18.3 General Siting Standards and Policies

Wireless telecommunications facilities shall be permitted within the Town only in accordance with this ordinance, this article and the specific provisions of the following sections. In the case of conflict with any other provisions of this ordinance or any town ordinance or regulation, that provision imposing the more stringent shall apply.

## 18.4 General Provisions

A. Wireless telecommunication facilities may be allowed as primary or secondary uses, either as permitted uses or by conditional use permit issued in accordance with section 18.7. In any case, however, the facility must conform to all other applicable ordinances and regulations, and must be approved by the Planning Board through site plan review. If allowed by the Planning Board, an applicant may combine conditional permit review with site plan review.

B. When allowed by this Ordinance, and after approval by the Planning Board, a wireless telecommunications facility may be placed upon a property as a primary or secondary use of the property on which it is located. A different primary use of the property shall not preclude the use of the property for an antenna or tower, provided that the Planning Board approves such use a conditional use under section 18.7. Any other wireless telecommunications structures or facility shall be allowed only by conditional use permit in accordance with section 18.7.

C. For purposes of determining whether the installation of a tower or antenna complies with this ordinance, including but not limited to set-back requirements, lot-coverage requirements, and other requirements, the dimensions of the entire lot shall control, even though the antenna or tower may be located on a leased parcel within the lot. Towers that are constructed, and antenna that are installed strictly in accordance with this ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure. Wireless telecommunication facilities shall not be deemed to be an accessory use.

## 18.5 Zoning District Requirements

A. Wireless telecommunication towers and antennas may be located within the Town only in accordance with the following table:

Zoning District	New Tower Construction	Co-Location on Existing Tower	Co-Location on Existing Structure
Urban	Not Allowed	CUP	CUP
Suburban	Not Allowed	CUP	CUP
Rural	Not Allowed	CUP	CUP
Commercial	CUP	P	P
Light Industrial / Commercial	CUP	P	P

CUP - means allowed only by conditional use permit issued under section 18.7, and site plan review, also required.

P - means permitted without a conditional use permit, but site plan review still required, and subject to any restrictions on existing tower or structure.

NEW TOWER CONSTRUCTION permits construction of a tower for one or more antennas, as allowed in the permit issued by the Planning Board.

CO-LOCATION ON EXISTING TOWER permits additions of antenna(s) to an existing telecommunication tower in the manner permitted in the CUP or site plan review as appropriate.

CO-LOCATION ON EXISTING STRUCTURE permits the placement of an antenna on an existing structure other than a telecommunication tower in the manner permitted in the CUP or site plan review as appropriate.

B. Wireless telecommunications structures other than towers as allowed amenities may be located on property only in conformity with the use and dimensional requirements otherwise applicable to the property.

C. Where allowed and as approved in site plan review, a telecommunications tower may include reasonable minor, accessory amenities such as one storage building not to exceed 200 square feet and a parking area not to exceed 400 square feet (only with a surface approved by the Planning Board).

D. The maximum height for any telecommunications tower or support for an antenna shall be 190 feet. Any height limit imposed may be decreased by the Planning Board by approval of a CUP if the Board affirmatively finds the intent of the ordinance will be preserved, and where the Board finds that a modification is reasonably necessary and appropriate to further the purpose of this article.

### **18.6 Applicability**

A. PUBLIC PROPERTY. Antennas or towers located on property owned, leased, or otherwise controlled by the Town may be exempt from the permit requirements of this article, except that such uses are permitted only in the commercial and industrial zones. This partial exemption shall be available if a license authorizing such antenna or tower has been approved by the Board of Selectmen. The entity which will use or operate the tower or antenna shall be required to obtain site plan approval.

B. AMATEUR RADIO; RECEIVER-ONLY ANTENNAS. In accordance with RSA 674:16,IV, this article shall not apply to any tower, or the installation of any antenna that is under 70 feet in height and is owned and operated by a federally-licensed amateur radio station operator and is used exclusively for receive-only antennas.

C. ESSENTIAL SERVICES AND PUBLIC UTILITIES. Telecommunication facilities shall not be considered infrastructure, essential services, or public utilities, as defined or used elsewhere in this ordinance or any Town ordinance or regulation. Siting for telecommunication facilities constitutes a use of land and is regulated by this article.

### **18.7 Conditional Use Permits and Site Plan Review; Criteria; Construction and Performance Standards**

A. In acting upon a conditional use permit, or in applying its site plan review regulations to a wireless telecommunication facility, the Planning Board shall apply and utilize the criteria and standards set forth in this section, in addition to such other standards and criteria as it may establish. The Planning Board may waive one or more of these requirements, in accordance with section 18.11, only if it determines that the goals of this article are served thereby.

#### **B. AESTHETICS AND LIGHTING.**

1. Towers shall have a galvanized steel finish, subject to any applicable FAA standards, or shall be painted a neutral color so as to reduce visual obtrusiveness.

2. At a tower site, the design of the buildings and related structures shall, to the maximum extent possible, use materials, colors, textures, screening, and landscaping that will blend the tower facilities with the natural setting and built environment.

3. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment shall be of neutral color that is identical to, or closely compatible with the color of the supporting structure so as to make the antenna and related equipment as visually obtrusive as possible.

4. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the Planning Board may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.

5. Towers shall not contain any permanent or temporary signs, writing, symbols, or any graphic representation of any kind, except as allowed by the Planning Board in the interests of public safety.

C. FEDERAL REQUIREMENTS. All towers and antennas must meet or exceed current standards and regulations of the FAA, FCC, and any other agency of the federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners or operators of the towers and antennas shall bring such towers and antennas into compliance with such revised standards and regulations within 6 months of the effective date of such standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for removal of the tower or antenna in accordance with section 14.10, at the owner's expense through the execution of the posted security.

D. ADDITIONAL REQUIREMENTS FOR WIRELESS TELECOMMUNICATION FACILITIES. These requirements shall supersede any less stringent applicable standards found elsewhere in this ordinance or any Town ordinance or regulation.

1. Setbacks and Separation.

a. Towers shall be setback at least the distance equal to 125% of the height of the tower from the property lines of the lot on which the tower is sited.

b. Tower, guys, and accessory facilities shall comply with the minimum zoning district setback requirements.

c. Towers over 90 feet in height shall not be located within one-quarter mile of any existing tower that is over 90 feet in height.

2. Security Fencing. Towers shall be enclosed by security fencing not less than 6 feet in height and shall also be equipped with an appropriate anti-climbing device.

3. Landscaping.

a. Towers shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from adjacent residential property. The standard buffer shall consist of a landscaped strip at least 10 feet outside the perimeter of the tower compound. Natural vegetation is preferred.

b. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived entirely, in accordance with section 18.11

- c. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. For towers sited on large wooded lots, natural growth around the property may be deemed a sufficient buffer, if approved by the Planning Board.

## **18.8 Permit Procedures**

### **A. GENERAL**

All applications under this section shall apply to the Planning Board for site plan review, in accordance with the Site Plan Review Regulations. In addition, applications under this section shall submit the information required by this section. All applications shall be handled as required by RSA 676:4.

### **B. INFORMATION REQUIRED**

Each applicant requesting a Conditional Use Permit or Site Plan Approval shall submit a scaled plan in accordance with the Site Plan Review Regulations. The applicant shall also provide: a scale elevation view, topography, radio frequency coverage, tower height requirements, setbacks, drives, parking, fencing, landscaping, adjacent uses (up to 200 feet away), and any other information deemed necessary by the Planning Board to assess compliance with this article. The applicant shall also submit the following prior to any approval by the Board.

1. Written proof that the proposed use/facility complies with the FCC regulations on radio frequency (RF) exposure guidelines.
2. Written proof that an evaluation has taken place which demonstrates that the use/facility satisfies the requirements of the National Environmental Policy Act (NEPA). If an Environmental Assessment (EA) or an Environmental Impact Statement (EIS) is required under the FCC rules and NEPA, submission of the EA or EIS to the Board prior to the beginning of the federal 30 day comment period, and the Town process, shall become part of the application requirement.
3. An inventory of existing towers that are within the jurisdiction of the Town and those within 2 miles of the border thereof, including specific information about the location, height, design of each tower, as well as economic and technological feasibility for the co-location on the inventories towers. The Planning Board may share such information with other applicants applying for approvals or conditional use permits under this section or other organizations seeking to locate within the jurisdiction of the Town, provided, however, that the Planning Board is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
4. If the applicant is proposing to build a new tower, the applicant shall submit written evidence demonstrating that no existing structure can accommodate the applicant's proposed antenna. This evidence may consist of:
  - a. Substantial evidence that no existing towers or structures are located within the geographic area required to meet the applicant's engineering requirements, including a description of the geographic area required.
  - b. Substantial evidence that existing towers are not of sufficient height to meet the applicant's engineering requirements, and why.
  - c. Substantial evidence that the existing tower or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.

d. Substantial evidence that the applicant's proposed antenna would cause electromagnetic interference with antennae on existing towers or structures, or antennae on existing towers and structures would cause interference with the applicant's proposed antenna.

e. Substantial evidence that the fees, costs or contractual provisions required by the owner to share the existing tower or structure are unreasonable.

f. Substantial evidence that the applicant can demonstrate other limiting factors that render existing towers and structures unsuitable.

5. An applicant proposing to build a new tower shall execute an agreement that allows for the maximum allowance of co-location upon the new structure, which shall become a condition of any approval. This agreement shall, at a minimum, require the applicant to supply available co-location for reasonable fees and costs to other telecommunication providers. Failure to provide such an agreement is evidence of the applicant's unwillingness to cooperate with the orderly and well-planned development of the Town and grounds for denial of approval for the tower.

6. The applicant shall submit engineering information detailing the size and coverage required for the facility location. The Planning Board may require such information to be reviewed by a consultant for verification of any claims made by the applicant regarding technological limitations and feasibility for alternate locations, or any other matter required by the application. Cost for this review shall be borne by the applicant in accordance with RSA 676:4, I (g).

### **C. FACTORS CONSIDERED IN DECISIONS**

The Planning Board shall consider at least the following criteria when acting upon an application for conditional use permit:

1. Height of proposed tower or other structure.
2. Proximity of tower to residential development or zones.
3. Nature of uses on adjacent and nearby properties.
4. Surrounding topography.
5. Surrounding tree coverage and foliage.
6. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
7. Proposed ingress and egress to the site.
8. Availability of suitable existing towers or other structures.
9. Visual impacts on viewsheds, ridgelines and other impacts by means of tower location, tree and foliage clearing and placement of incidental structures.
10. Availability of alternative tower structures and alternative siting locations.



## **D. DECISIONS**

1. In granting a conditional use permit, the Planning Board may impose conditions necessary to minimize any adverse effect of the proposed tower on adjoining properties, and to preserve the intent of this Ordinance.
2. The Planning Board may approve, approve with conditions, or deny an application. All decisions shall be in writing and a denial shall be based upon the record.

## **E. EXPEDITED REVIEW**

The Planning Board may, by regulation, provide for an expedited review of facilities that utilize existing facilities or sites designated by the Planning Board and Selectmen as desired sites for such facilities.

### **18.9 Security**

As a condition of approval for any new tower and when deemed appropriate for other facilities, the Planning Board shall require the applicant to post adequate surety for the costs of maintenance, repair, or removal thereof. The amount and form of the surety shall be determined by the Planning Board.

### **18.10 Abandonment, Discontinuance, Repair, Replacement, Removal**

To ensure the structural integrity of towers and antennas, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable local building codes and applicable standards for towers that are published by the Electronics Industries Association, as amended from time to time. If, upon inspection, the Town finds that a tower fails to comply with such codes and standards or otherwise constitutes a danger to persons or property, it shall notify the tower owner who shall, within 30 days, bring the tower into compliance with such standards or eliminate the danger. If the owner fails to bring the tower into compliance within 30 days, such action shall constitute an abandonment and grounds for the removal of the tower or antenna, at the owner's expense through execution of the posted security, in accordance with section 18.9.

### **18.11 Waiver/Appeal**

A. In compliance with Section 253 of the Act, the Town does not intend to create barriers to the ability of any entity to provide interstate or intrastate telecommunications service. If any such entity, having duly exhausted all applicable avenues to providing such service, believes that the procedures or standards established by this article have created such a barrier, the entity may apply within 20 days after the final administrative decision, to the Planning Board for administrative relief in accordance with this section.

B. Upon application duly made in accordance with the procedures required for a conditional use permit, the Planning Board may grant waivers for the strict application of the requirements of this article where the board finds, on the probability of evidence presented to it, with the burden upon the applicant for the facility, that:

1. Strict adherence to the requirement of this chapter is not required to effectuate the purposes hereof;
2. Strict compliance would create practical difficulty and unnecessary inconvenience;
3. Strict compliance could potentially cause a conflict with the Act.

## **Article 19. Shoreland Protection**

RSA chapter 483-B regulates certain land uses in or near public waters as defined in RSA 483-B:4, XVI.

The purpose of this article is to notify anyone considering land use in or near public waters that RSA chapter 483-B may apply.

The purpose of this article is not to impose any standards under RSA 483-B:8, I, that are more stringent than the minimum standards contained in RSA chapter 483-B.

## **Article 20. Sexually Oriented Businesses**

### **1. Authority**

RSA 674:16, I, (d), and RSA 674:17.

### **2. Purpose**

(a) The purpose of these SEXUALLY ORIENTED BUSINESSES regulations is to conserve the value of BUILDINGS by preventing such concentrations of SEXUALLY ORIENTED BUSINESSES as will diminish property values. (See RSA 674:17, II.)

(b) The purpose of these SEXUALLY ORIENTED BUSINESSES regulations is not

- (1) to restrict the content of any communicative materials, including sexually oriented materials;
- (2) to restrict adults' access to sexually oriented materials protected by the First Amendment;  
or
- (3) to deny the distributors and exhibitors of sexually oriented entertainment access to their intended market.

### **3. Separation Distance**

Except as provided in article 4, section 3, Nonconforming Uses, every SEXUALLY ORIENTED BUSINESS shall be at least 500 feet from every other SEXUALLY ORIENTED BUSINESS.

For the purposes of this paragraph, the distance from any SEXUALLY ORIENTED BUSINESS to any other SEXUALLY ORIENTED BUSINESS shall be measured in a straight line, without regard to intervening STRUCTURES, from the closest exterior structural wall or temporary or permanent physical divider between each business.

**Article 21. [Reserved for future amendment.]**

**Article 22. [Reserved for future amendment.]**

## **Article 23. Senior Housing Ordinance**

### **23.1 Authority**

The Senior Housing Ordinance is hereby established in the Town of Pittsfield pursuant to RSA 674:21, Innovative Land Use Controls.

### **23.2 Purpose**

The Senior Housing Ordinance shall serve the following purposes:

1. To provide for appropriate sites within the town for the development of housing and related facilities to serve the needs of people age fifty-five (55) years and older.
2. To regulate the intensity and mix of the different types of housing units required to meet the needs of these senior citizens so as to provide ample outdoor and livable space and to retain a sense of personal identity, intimacy and human scale within the development.
3. To provide ample-sized meeting rooms and recreational facilities for the comfort and convenience of the residents.
4. Through review by the Planning Board, to provide for review of the bulk, height and spacing of buildings, architectural design of the buildings, and the circulation and parking pattern within the development to ensure that adequate light, air, privacy and open space for passive recreation and landscaped amenities are provided.
5. To provide such accommodation in a manner harmonious with the surrounding land uses while protecting the natural resources and open space.
6. To preserve the town's character.

### **23.3 Applicability**

Senior Housing shall be permitted in accordance with Article 3, Table 1 of this Zoning Ordinance. An application for a Senior Housing project cannot be made if the subject parcel has been part of a major subdivision in the past 5 years (time shall be calculated based upon the date the application is received by Town Hall).

### **23.4 Definitions**

**Building Height** - The vertical distance from the mean finished grade of the ground adjoining the building to the highest point on the roof for flat or shed roofs, to the deck line for mansard roof, and to the mean height between eaves and ridges for gable, hip and gambrel roofs. Not included are spires, cupolas, TV antennae, or other part of structures which do not include potentially habitable floor space.

**Common Area** - Any land area, other than Open Space, set aside for common ownership as a result of a Retirement Community Development, including areas for common facilities. The following uses shall be allowed within the Common Area: active recreation such as tennis courts, swimming pools, etc.; and community water and sewer systems.

**Common Facilities** - Built facilities which are commonly owned by the property owners within a Retirement Community Development. Common facilities may be proposed but are not required. They may include streets, rights-of-way, common buildings, wells, water and waste treatment systems, and recreation facilities.

**Homeowners Association** - A private non-profit organization (corporation, association, or other legal entity) established by the developer to manage, maintain, support, and finance the common facilities and open space of a Retirement Community Development, and to enforce certain covenants and restrictions.

**Open Space** - Undeveloped land set aside for common or individual ownership as a result of a Retirement Community Development, with conservation easements and other deeded restrictions to ensure that the land will remain permanently open and undeveloped. A condition of approval under the Senior Housing Ordinance is that Open Space may not be further subdivided. Only the following uses shall be allowed within the Open Space: passive recreation, gardening, and horticulture.

**Retirement Community Development** - A form of residential development where the density of dwelling units is slightly increased in exchange for the preservation of permanently protected open space, recreational land, forests, etc.

### **23.5 Permitted Uses**

Under the provisions of this chapter land may be used and buildings may be erected, altered or used for:

1. Detached and/or attached single-family uses and accessory uses thereto with a maximum of three (3) bedrooms per dwelling unit.
2. Duplex dwelling units with a maximum of three (3) bedrooms per dwelling unit.
3. Recreation buildings and grounds for activities, games and sports not carried on for financial gain.
4. Accessory buildings for the storage, repair and maintenance of equipment and vehicles used in the operation of a retirement community.
5. Dining rooms, meeting facilities, and health care facilities necessary to provide services to residents of the development if appropriate.

### **23.6 Occupancy Eligibility**

Seventy five percent (75%) of the units must be restricted to persons age fifty-five (55) years or older, with the following exceptions:

1. A spouse under fifty-five (55) years old married to a resident over the age of fifty-five (55).
2. Adults between the age of eighteen (18) and fifty-five (55) only if their presence is required to minister to a resident over the age of fifty-five (55).

### **23.7 Minimum Requirements shall be as follows:**

1. **TRACT SIZE:** A proposed site shall consist of at least ten (10) acres of contiguous land in single or consolidated ownership and may include parcels separated by existing public roads, provided that such parcels abut. Multiple lots shall be consolidated prior to approval under this ordinance.
2. **DENSITY:** The maximum allowable density of the site shall be 1 acre per 1 unit but shall not exceed a maximum of 35 units. Total density permitted for the proposed development shall not exceed more than 1% of Pittsfield's total housing stock at the time of application. Applicants shall show that the site characteristics can accommodate the proposed density. Adequate and appropriate on-site space must be provided in each development for parking, buildings, water, sewage, utilities, and all other infrastructure and facilities, regardless of the maximum allowable densities.
3. **BUILDING HEIGHT:** No building erected in this district shall exceed thirty-five (35) feet in height.
4. **FRONTAGE ON NEAREST PUBLIC RIGHT-OF-WAY:** Seventy-five (75) feet.
5. **SITE PERIMETER BUFFER:** Each development must be situated within a permanently protected undeveloped site perimeter buffer, identified on the site plan, not less than fifty (50) feet wide which, unless already wooded and satisfactory to the Planning Board, is planted and landscaped to provide a visual barrier between the development and all adjacent property. The Planning Board may require additional buffer width where unique circumstances of an abutting use or property warrant. The intent is to ensure adequate screening where mixed uses abut. The Site Perimeter Buffer can be counted toward the 50% set aside of permanently protected Open Space.
6. **SETBACKS:** All structures shall be set back at least fifty (50) feet from all adjoining property lines. There shall be a minimum of twenty-five (25) feet between all buildings.
7. **OPEN SPACE:** The overall site must have a minimum of fifty percent (50%) common open space, of which no more than twenty-five percent (25%) may be wetlands, slopes over twenty-five percent (25%), or lands located in Article 18, Pittsfield Floodplain Development Ordinance. Open space shall remain undeveloped in perpetuity. This requirement does not apply to those slopes over twenty-five percent (25%) which have been created by prior human activity, which shall be re-graded to less than twenty-five percent (25%). Open space must be contiguous in a layout acceptable to the Planning Board. Rights-of-way, streets, driveways, and/or parking areas shall not be counted as Open Space.
8. **UTILITIES:** A proposed site shall be connected to either a community or municipal water and sewer system. The water system within the site shall be designed to provide the maximum flow practical for fire-fighting purposes as required by the State of NH Building Code (RSA 155-A). Each development shall conform to the regulations promulgated by the NH Department of Environmental Services with respect to water, sewerage, garbage, and other health measures. All utilities such as electric, telephone, and cable shall be required to be placed underground.
9. **LIGHTING:** Roads and main access ways to buildings shall include adequate lighting. The use of "full cut-off" type lighting shall be required for all public areas. A formal site-wide lighting plan shall be submitted, requiring Planning Board approval. Lighting of common and public areas shall be independently controlled from residential units and shall be minimized or turned off at an agreed upon "no later than" time at night. Light trespass, nuisance glare, and over-illumination due to excess wattage or inappropriate lighting type shall be prohibited. Adequate lighting for pedestrian safety shall be provided.

10. **PEDESTRIAN TRAFFIC:** The use of interconnecting walkways, trails and natural walking paths shall be an integral part of the design of any development to facilitate access between common areas, groups of dwelling units and open space areas. Easements shall be requested where trails or potential trails on abutting lands may allow for a local connection. Appropriate timing and restrictions may apply. Primary walkways and sidewalks shall meet Americans with Disabilities Act (ADA) requirements. Trails and natural walking paths are exempt from this requirement, but the Board encourages maximizing accessibility to residents.
11. **BUILDING DESIGN:** Architectural renderings and/or elevations of all buildings and all accessory buildings shall be provided which the Planning Board will evaluate in accordance with the Site Plan Review Regulations to confirm that proposed development is an appropriate scale and arrangement in light of the underlying zoning district, the prominence of the site, viewsheds, adjacent uses and the surrounding neighborhood.
12. **LANDSCAPE PLAN:** A landscaping plan acceptable to the Planning Board shall be provided consistent with the Landscaping and Off Street Parking and Loading requirements in the Site Plan Review Regulations.
13. **OFF-STREET PARKING:** Parking for proposed projects shall be provided in the following manner, and shall be in compliance with the appropriate subsections of off-street parking:
  - a. Two (2) spaces per dwelling unit.
  - b. Adequate visitor's parking.

### **23.8 Street Requirements**

1. All streets and roads internal to the development shall be privately maintained unless the Board of Selectmen, upon recommendation of the Planning Board, presents a street to be a dedicated public roadway to the Town Meeting and the town accepts the roadway.
2. Where retained as private ways, streets shall be posted as such by standard street signs.
3. All streets shall be designed and constructed consistent with local requirements, unless the Planning Board determines that a modification of the width and/or construction standards of said streets will not be detrimental to the circulation or the safety of the development.
4. The number of new access points to existing and proposed public streets and major through roads shall be limited to two (2) unless otherwise determined by the Planning Board.



### **23.9 Ownership Of Open Space & Common Areas**

1. The developer shall hold, manage and maintain Open Space, Common Land, and Common Facilities within a Retirement Community Development until completion of all improvements, whereupon the developer shall transfer the ownership and management and maintenance responsibilities as set forth in Subsections I.2 and 3 below.
2. Common Areas and Common Facilities within a Retirement Community Development shall be owned by and bound by a homeowner's or condominium association or similar form of common ownership set by the developer. Membership in said association shall be mandatory for property owners and made a required covenant in any deed issued or passed. Articles of association or incorporation must be acceptable to the Planning Board and to Town Counsel.
3. Open Space shall be owned by one or a combination of the following:
  - a. A homeowner's or condominium association or similar form of common ownership set forth by the developer;
  - b. A conservation trust or private nonprofit organization such as the Society for the Protection of NH Forests or the The Audubon Society, which has as its purpose the preservation of open space through ownership and control;
  - c. The Town of Pittsfield, subject to acceptance by the Town's Legislative Body;
  - d. The State of New Hampshire for permanent open space uses;
  - e. A private landowner such as a farmer or forest manager that will manage it for uses consistent with the provisions of this ordinance.

### **23.10 Permanent Protection Of Open Space**

All Open Space in a Retirement Community Development, whether held privately or in common, shall be restricted in perpetuity as open space through the use of conservation easements that legally restrict the development rights to that property.

1. The easement may be so worded as to permit or restrict public access, to allow or disallow recreational development, and similar provisions.
2. The burden of the easement conveyed hereby shall run with the property and shall be enforceable against all future owners and tenants in perpetuity; the benefits of this easement shall not be appurtenant to any particular parcel of land but shall be in gross and assignable or transferable only to the State of New Hampshire, the US Government, or the Town of Pittsfield, consistent with Section 170(c)(1) of the US Internal Revenue Code of 1986, as amended or to any qualified organization within the meaning of Section 170(h)(3) of said Code, which organization has among its purposes the conservation and preservation of land and water areas and agrees to and is capable of enforcing the Purposes of this Easement. Any such assignee or transferee shall have like power of assignment or transfer.

### **23.11 Submission & Review Procedure**

1. An application for development in accordance with this ordinance shall begin with a Conceptual Plan Review by the Planning Board. The Conceptual Plan shall contain a plan for phasing the proposed development. This phasing plan must indicate at which periods the various types of dwelling units will be constructed and contain an estimate of possible impacts on the Town of Pittsfield, and must also include a recreation plan indicating proposed indoor and outdoor facilities for use by all residents of the development. Proposals that contain detached single family residential components only would be subject to subdivision review but not be required to undergo Site Plan Review. Proposals that contain a mix of residential and non-residential components and/or attached multi-family units shall be subject to site plan review.
2. The Planning board shall review and approve or disapprove proposals for all proposed retirement community housing developments. Subdivision approval shall also be required when a parcel of land is modified through division or consolidation. Any entity desiring to operate and maintain any site as housing for older persons, shall apply to the Planning Board for the establishment of a development and/or expansion of an existing development within the Town of Pittsfield under the procedure contained herein and further specified in the Site Plan Review Regulations, and if required, Subdivision Regulations, as may be amended from time to time. The review of any site proposed for retirement community housing shall take into account its proximity to those support services necessary to meet the needs of the elderly. Where support services are absent or remote, provisions for such services shall be provided by the developer.
3. A completed application for a Retirement Community Development shall contain at a minimum the following information:
  - a. A demonstrated need for additional Retirement housing;
  - b. If applicable, a Subdivision Plan showing all the information required in the Pittsfield Subdivision Regulations;
  - c. A Site Plan showing all the information required in the Pittsfield Site Plan Review Regulations;
  - d. Typical architectural renderings and/or building elevations and floor plans of all proposed buildings;
  - e. A Landscaping Plan indicating the existing vegetation to be retained and that to be removed as well as the type, size, and numbers of all proposed new plantings;
  - f. A Lighting Plan for the entire site;
  - g. Copies of all legal documents associated with the development including the Homeowners Association By-Laws, Articles of Incorporation, protective covenants and deed restrictions, etc.;
  - h. A timetable for completion of the Retirement Community Development.

**23.12 Change Of Use**

If any structure erected pursuant to this chapter ceases to be used exclusively for Senior Housing, then the full zoning ordinance requirements for the new use must be met. Failure to comply with the zoning ordinance may result in a revocation of the certificate of occupancy for the structure.

**23.13 Enforcement**

The enforcement of this Article is vested with the Board of Selectmen. Upon any well-founded information that this Article is being violated, the Selectmen may, within 14 days, undertake such steps as are legally available to them pursuant to RSA 676:15, 17, 17-a, 17-b.

**23.14 Severability**

The invalidity of any provision of this Article shall not affect the validity of any other provision, nor any prior decisions made on the basis of the valid provisions of this Article.

**23.15 Effective Date**

This article shall take effect upon its passage, and as amended.

## Legislative History of the Town of Pittsfield Zoning Ordinance

Notice: This statement of the legislative history is not part of the zoning ordinance.

### March 8, 1988: adopted as follows:

1. Origin of the zoning ordinance: advertisement in the *Suncook Valley Sun* on January 20, 1988.
2. Revision for submission to the town meeting: planning board minutes of February 1, 1988.
3. Adoption by the town meeting: 1988 town meeting warrant article 1A inserted in the warrant on March 4, 1988, by court order on a petition under RSA 39:9 by 25 or more voters.

### March 14, 1989: amended as follows:

1. Amend article 2, Zoning Districts: Add a subparagraph establishing and describing an Industrial Park District (declared unlawful by *Louis E. Halloran v. Town of Pittsfield*, 1989-E-0288-B, on April 5, 1991, which declared town meeting warrant article 1C unlawful because of “the Town’s failure to provide adequate notice under RSA 675:7, II”).
2. Amend article 2, table 1, Zoning Districts and Uses: Add a column for the Industrial Park District, add “Major Industrial Uses” to the column of listed uses, and indicate how or whether listed uses will be permitted—by right, as special exceptions, or not permitted—in the Industrial Park District (declared unlawful by *Louis E. Halloran v. Town of Pittsfield*, 1989-E-0288-B, on April 5, 1991, which declared town meeting warrant article 1C unlawful because of “the Town’s failure to provide adequate notice under RSA 675:7, II”).
3. Amend article 2, table 2, Dimensional Regulations: Add a row for the Industrial Park District, and list the dimensional standards for lots and buildings in the Industrial Park District (declared unlawful by *Louis E. Halloran v. Town of Pittsfield*, 1989-E-0288-B, on April 5, 1991, which declared town meeting warrant article 1C unlawful because of “the Town’s failure to provide adequate notice under RSA 675:7, II”).
4. Amend article 3, Definitions: Add a definition of “major industrial uses” (declared unlawful by *Louis E. Halloran v. Town of Pittsfield*, 1989-E-0288-B, on April 5, 1991, which declared town meeting warrant article 1C unlawful because of “the Town’s failure to provide adequate notice under RSA 675:7, II”).
5. Amend article 9, Signs: Regulate signs in the Industrial Park District the same as signs in the Commercial District or the Light Industrial/Commercial District (declared unlawful by *Louis E. Halloran v. Town of Pittsfield*, 1989-E-0288-B, on April 5, 1991, which declared town meeting warrant article 1C unlawful because of “the Town’s failure to provide adequate notice under RSA 675:7, II”).
6. Renumber existing articles 11, 12, and 13 as articles 12, 13, and 14 (declared unlawful by *Louis E. Halloran v. Town of Pittsfield*, 1989-E-0288-B, on April 5, 1991, which declared town meeting warrant article 1C unlawful because of “the Town’s failure to provide adequate notice under RSA 675:7, II”).
7. Add article 11, Industrial Park Standards (declared unlawful by *Louis E. Halloran v. Town of Pittsfield*, 1989-E-0288-B, on April 5, 1991, which declared town meeting warrant article 1C unlawful because of “the Town’s failure to provide adequate notice under RSA 675:7, II”).
8. Amend article 2, Zoning Districts: Add table 3, Minimum Parking Requirements.
9. Add article 15, Rubbish, Dumping, Filling.
10. Add article 16, Parking Requirements.

## **Legislative History of the Town of Pittsfield Zoning Ordinance (continued)**

Notice: This statement of the legislative history is not part of the zoning ordinance.

### **March 13, 1990: amended as follows:**

Add article 17, Pittsfield Floodplain Development Ordinance.

### **March 11, 1997: amended as follows:**

1. Amend article 3, Definitions: Delete the definitions of “aquifer,” “apartment building,” “conservation area,” “right-of-way,” and “wetlands.” Add definitions of “park/recreation,” “presite built housing,” “rest/convalescent home,” “sawmill-lumbermill,” “storage containers,” and “two-family dwelling.” Revise the definition of “parking facility.” Replace the definition of “agriculture.”
2. Amend article 2, table 1, Zoning Districts and Uses: Change the single entry “Conservation/Forestry” to two entries “Conservation Uses” and “Forestry” both permitted as conservation/forestry was (by right in the Suburban and Rural Districts and prohibited elsewhere). Change the single entry “Industrial and Manufacturing Uses (Including Warehouses)” to two entries “Light Industrial” and “Warehouse & Wholesale Marketing” both permitted as industrial and manufacturing uses (including warehouses) were (by right in the Light Industrial/Commercial District and prohibited elsewhere). Change “Park” to “Park/Recreation.” Change “Personal Service” to “Personal Service Shop.” Add “Junk Yards” and “Sawmill - Lumbermills” both prohibited in all districts. Reverse the order of “Mobile Home (See Manufactured Home)” and “Medical Center/Hospital” so that these two entries are in alphabetical order.
3. Add article 14, Storage Containers.

### **March 9, 1999: amended as follows:**

1. Add article 18, Telecommunications Equipment and Facilities.
2. Amend article 7, Variances: Replace section 2, Conditions Governing the Granting of Variances, with a new section 2, Requirements for a Variance, reflecting the NH Supreme Court’s interpretations of RSA 674:33, I, (b), and including the requirements for a variance under RSA 674:33, V, for disabled persons. Revise, rename, and renumber section 3, Additional Conditions, as section 4, Board May Impose Special Conditions. Add a new section 3, Additional Conditions Governing the Granting of Variances, containing most of the content of old section 2, Conditions Governing the Granting of Variances. Add section 5, Unused Variances to Expire.
3. Amend article 2, table 1, Zoning Districts and Uses: Replace “Hotel/Motel” with “Hotel/Motel/Conference Center,” and add an “E” in each of the boxes for the Suburban and Rural Districts. Replace “Retail Store” with “Retail Sales,” and add a “Y” in the box for the Urban District. Add “Accessory Uses/Bldgs,” “Airport/Helipad,” “Auto Body Shop,” “Bakery,” “Executive & Administrative Office for Business, Govt. (other than local) or Professional Use,” “Flea Market,” “Fuel Storage (Oil & Propane),” “Health Club/Indoor Sports Facility,” “In-Law Apartment,” “Kennel,” “Marine Facilities,” “Plazas, Malls, Multiple Use Business Parks,” “Research & Development Offices, Medical & Testing Laboratories,” “Self Storage Facilities,” and “Truck, Heavy Equip & Trailer Repair.” Change how or whether the following uses already listed are permitted: amusement (indoor & outdoor), combined dwelling/business, greenhouse, home occupation, manufactured housing park, multi-family dwelling, rest/convalescent home, and restaurant.

## **Legislative History of the Town of Pittsfield Zoning Ordinance (continued)**

Notice: This statement of the legislative history is not part of the zoning ordinance.

### **March 9, 1999 (continued): amended as follows:**

4. Amend article 3, Definitions. Replace the definition of “assessory building” with a definition of “accessory uses/buildings.” Replace the definition of “dog kennel” with a definition of “kennel.” Replace the definition of “hotel/motel” with a definition of “hotel/motel/conference center.” Replace the definition of “retail store” with a definition of “retail sales.” Revise the definitions of “cemetery,” “greenhouse,” “home occupation,” “lot,” and “manufactured housing park.” Add new definitions of “airport/helipad,” “auto body shop,” “bakery,” “executive & administrative office for business, government (other than local government) or professional use,” “flea market,” “fuel storage (oil & propane),” “health club/indoor sports facility,” “in-law apartment,” “junk yards,” “marine facilities,” “plazas, malls, multiple use business parks,” “research & development offices, medical & testing laboratories,” “self storage facility,” “truck, heavy equipment and trailer repair.”
5. Amend article 10, Manufactured Housing and Manufactured Housing Parks. Replace paragraph 2, limiting the age of permitted manufactured housing units to six years, with a new paragraph 2, setting forth six new conditions for using or moving manufactured housing units. Delete paragraph 3, requiring approval from the board of selectmen for utility hookups. Revise current paragraph 4 (new paragraph 3) by replacing “Water Supply and Pollution Control Commission” with “Department of Environmental Services and the Town of Pittsfield Waste Water Treatment Facility.” Revise current paragraph 5 (new paragraph 4) by replacing “Board of Selectmen” with “Building Inspector.”

### **March 14, 2000: amended as follows:**

1. Amend article 17, Pittsfield Floodplain Development Ordinance, item VII: Add subparagraph (f), to regulate recreational vehicles.
2. Amend article 4, Non-Conforming Structures; Lots and Uses, section 3, (c), Expansion, to prohibit any expansion of any nonconforming use.
3. Amend article 4, Non-Conforming Structures; Lots and Uses, section 4, (b), Additions, to prohibit any addition to any nonconforming structure where the addition would increase the extent of nonconformance.
4. Amend article 2, table 1, Zoning Districts and Uses: Delete “In-Law Apartment.”
5. Amend article 3, Definitions: Delete the definition of “in-law apartment.”
6. Add article 19, Shoreland Protection Ordinance.
7. Amend the zoning district map to change the zoning district of Randall Cutter’s property at 125 Concord Hill Road, tax map R-34, lot 8, from Suburban to Light Industrial/Commercial (declared unlawful by Town of Pittsfield v. Cutter, 2000-E-0112, which declared the rezoning of the Cutter property to be spot zoning).

### **March 13, 2001: amended as follows:**

1. Amend article 19, Shoreland Protection Ordinance, section 9, I, (2), b, 1: Delete the phrase “swamps and bogs.”
2. Amend article 2, table 3, Minimum Parking Requirements: Add paragraphs for “Intent of Parking Requirements” and “Reduction of Parking Requirements.”

## **Legislative History of the Town of Pittsfield Zoning Ordinance (continued)**

Notice: This statement of the legislative history is not part of the zoning ordinance.

### **March 12, 2002: amended as follows:**

1. Amend article 6, Special Exceptions: Delete section 2, condition (a), requiring that a site plan be submitted to the planning board. Renumber the remaining conditions (b) through (f) as conditions (a) through (e).
2. Amend article 7, Variances, section 2, Requirements for a Variance: Change “five” to “seven” (of the variance requirements) in the first paragraph, to reflect *Simplex Technologies v. Newington*, 145 N.H. 727, 766 A.2d 713 (2001). Renumber variance requirements 4 and 5 as variance requirements 6 and 7. Replace variance requirement 3, requiring an unnecessary hardship, with new requirements 3, 4, and 5, defining unnecessary hardship according to *Simplex Technologies v. Newington*.

### **March 11, 2003: amended as follows:**

1. Add article 20, Development Phasing and Growth Management.
2. Amend article 2, table 1: Allow two-family dwellings by special exception in the Urban District, and remove two-family dwellings as an allowable use from the Suburban, Rural, and Commercial Districts (thus allowing two-family dwellings only in the Urban District and only by special exception—see planning board minutes of December 5, 2002, page 130 for year 2002).
3. Amend article 3, Definitions: Revise the definition of “density” so that density depends on only dwellings and land area and not on persons or bedrooms.

### **March 8, 2005: amended as follows:**

1. Add article 19, Adult Business Establishments.
2. Amend the zoning district map to change the zoning district of tax map R-3, lots 7, 7A, and 7B, to Rural. Lots 7 and 7B had been split zoned between the Light Industrial/Commercial and Rural Districts, with the district boundary running along the power line of Public Service Co. of New Hampshire, and lot 7A had been entirely in the Light Industrial/Commercial District.

### **March 14, 2006: amended as follows:**

1. Amend article 2, table 1, Zoning Districts and Uses: Add “Adult Business Establishment,” “In-Law Apartments,” and “Nursing, Convalescent Facility.” Delete “Rest/Convalescent Home.”
2. Amend article 3, Definitions: Add new or revised definitions of “accessory use/building,” “adult business establishment,” “adult housing,” “in-law apartments,” “multi-family dwelling,” “nursing, convalescent facility,” and “senior housing.”
3. Amend article 7, Variances: Revise section 2, Requirements for a Variance, by adding the requirements for an area variance according to *Boccia v. Portsmouth*, 151 N.H. 85, 855 A.2d 516 (2004). Delete existing section 3, Additional Conditions Governing the Granting of Variances. Renumber the remaining sections. Add a new section 4, Interim Requirements for Variance.
4. Amend article 20, Development Phasing and Growth Management: Revise the article to reflect minor changes in town growth conditions between 2002 and 2005.

## **Legislative History of the Town of Pittsfield Zoning Ordinance (continued)**

Notice: This statement of the legislative history is not part of the zoning ordinance.

### **March 14, 2006 (continued): amended as follows:**

5. Delete article 11, Industrial Park Standards, which had no content because *Louis E. Halloran v. Town of Pittsfield*, 1989-E-0288-B, declared it unlawful on April 5, 1991.
6. Renumber article 11, Penalty Clause; article 12, Administration and Enforcement; and article 13, Miscellaneous, as articles 22, 23, and 24, leaving spaces for articles 11, 12, and 13 reserved for future use.

### **April 15, 2008: amended as follows at a special town meeting:**

1. Amend article 17, Pittsfield Floodplain Development Ordinance, item I, Definition of Terms: Delete definitions of "area of shallow flooding," "breakaway wall," and "flood boundary and floodway map." Add definitions of "manufactured home park or subdivision," "new construction," and "violation." Revise definitions of "area of special flood hazard," "manufactured home," "regulatory floodway," and "special flood hazard area."
2. Amend article 17, Pittsfield Floodplain Development Ordinance, item IV, 1: Change "Zones A5 or A6" to "Zone AE."
3. Amend article 17, Pittsfield Floodplain Development Ordinance, item VI, 1: Change "RSA 483-A:1-b" to "RSA 483-A:3."
4. Amend article 17, Pittsfield Floodplain Development Ordinance, item VI, 3: Revise the paragraph.
5. Amend article 17, Pittsfield Floodplain Development Ordinance, item VI: Add paragraphs 4 and 5.
6. Amend article 17, Pittsfield Floodplain Development Ordinance, item VII, 1: Revise the paragraph.
7. Amend article 17, Pittsfield Floodplain Development Ordinance, item VII, 2, sentence 1: Change "zones A5 and A6" to "zones AE and A."
8. Amend article 17, Pittsfield Floodplain Development Ordinance, item VII, 2, (f): Change "Zone A1-30, AH, or AE" to "Zone AE or A."

**March 10, 2009:** changed as follows by article 20, Development Phasing and Growth Management, section 10, Sunset: Terminate article 20.

### **March 2, 2010: amended as follows by the board of selectmen under RSA 674:57:**

Amend article 17, Pittsfield Floodplain Development Ordinance, paragraph 2: Revise paragraph 2 to refer to the flood insurance rate maps dated April 19, 2010. Article 17 previously referred to the flood insurance rate maps dated July 3, 1978.



## **Legislative History of the Town of Pittsfield Zoning Ordinance (continued)**

Notice: This statement of the legislative history is not part of the zoning ordinance.

### **March 8, 2011: amended as follows:**

1. Amend article 2, table 1, Zoning Districts and Uses: Add “Senior Housing” after “Service Stations” and permit senior housing as a special exception in the Urban District and by right in the Suburban and Rural Districts.
2. Amend article 2, Zoning Districts, and article 16, Parking Requirements: Consolidate parking regulations in article 16. Describe an area called the “downtown.” Establish conditions for a conditional use permit (RSA 674:21, II) to reduce parking requirements in the downtown. Delete design standards for parking spaces and parking lots.
3. Amend article 3, Definitions: Delete the definition of “adult housing.” Revise the definition of “senior housing” to change the age threshold from 62 years of age to 55 years of age.
4. Amend article 19, Shoreland Protection Ordinance: Replace the contents of article 19 with a reference to RSA 483-B, Comprehensive Shoreland Protection Act.
5. Add article 23, Senior Housing Ordinance, in front of the existing article 23, Administration and Enforcement, which remains as a second article 23.

### **March 13, 2012: amended as follows:**

1. Amend article 3, Definitions: Replace the definition of “special exception.” Add definitions of “floor area, principal”; “principal floor area”; and “street.”
2. Amend article 6, Special Exceptions: Replace the article. Clarify general provisions. Apply section 2 only to specified types of uses, not to all special exception uses. Delete previous article 6, section 2, (a). Provide that special exception permits expire after two years of nonuse.
3. Amend article 16, Parking Requirements: Replace the article. Rename the article as “Parking Regulations.” Clarify the parking requirements for one or more uses on a single lot. Make the parking regulations uniform throughout the Commercial District, as required by RSA 674:20. Establish standards based on floor area to reduce parking requirements for nonresidential uses in the Commercial District. Change relief from parking requirements to be by special exception (RSA 674:33, IV) instead of conditional use permit (RSA 674:21, II). Restore design standards deleted in 2011 for parking spaces and parking lots.

### **March 12, 2013: amended as follows:**

1. Amend article 3, Definitions: Add a definition of “frontage.”
2. Amend article 4, section 1, (c), relating to noncontiguous nonconforming lots: Qualify “frontage” as “street frontage.” Define “street frontage” as used in article 4, section 1, (c), as that portion of a lot that fronts on any road.

## **Legislative History of the Town of Pittsfield Zoning Ordinance (continued)**

Notice: This statement of the legislative history is not part of the zoning ordinance.

### **March 11, 2014: amended as follows:**

1. Add a new article 1, General Provisions: Replace the old article 1, Purpose and Authority; article 22, Penalty Clause; article 23, Administration and Enforcement; and article 24, Miscellaneous, with a new article 1, General Provisions, to agree with current state law.
2. Amend article 2, table 1, Zoning Districts and Uses: Change "Manufactured Home" to "Mobile Manufactured Housing", and, in the adjacent row, put a "Y" in each of the boxes for the Commercial and Light Industrial/Commercial Districts. Delete "Mobile Home (See Manufact. Home)".
3. Amend article 3, Definitions: Revise the definition of "abutter" to agree with RSA 672:3. Replace the old definition of "agriculture" with the definition in RSA 21:34-a, II. Revise the definition of "campground" to change "mobile homes" to "MANUFACTURED HOUSING,". Add the definition of "conservation restriction" from RSA 477:45, I. Add the definition of "development of regional impact" from RSA 36:55. Add a definition of "lot line". Revise the definition of "manufactured housing" to agree with RSA 674:31. Revise the definition of "manufactured housing park" to agree with RSA 205-A:1, II. Delete the definition of "mobile home." Add a definition of "multi-unit manufactured housing display." Revise the definitions of "nonconforming use" and "special exception." Revise the definition of "subdivision" to agree with RSA 672:14. Revise the definition of "variance."
4. Amend article 5, Board of Adjustment: Convert the zoning board of adjustment from a board appointed by the selectmen to a board elected by the town voters. Revise the remainder of article 5 to agree with current state law.
5. Amend article 6, Special Exceptions: Revise article 6 to agree with RSA 674:33, IV.
6. Amend article 7, Variances: Revise article 7 to agree with RSA 674:33, I, (b).
7. Amend article 10, Manufactured Housing: Replace the old article 10, Manufactured Housing and Manufactured Housing Parks, with a new article 10, Manufactured Housing, to eliminate building codes, which are superseded by the NH state building code (RSA 155-A), and to eliminate permitting conditions for currently prohibited manufactured housing parks (prohibited since 1999).
8. Amend article 16, Parking Regulations: Eliminate parking requirements for existing nonresidential buildings in the Commercial District. Eliminate the on-street-parking credit created in 2012 to reduce parking requirements for nonresidential buildings in the Commercial District. Clarify that the table of parking requirements, when applicable, applies both to uses explicitly listed and to similar uses not explicitly listed.

## Legislative History of the Town of Pittsfield Zoning Ordinance (continued)

Notice: This statement of the legislative history is not part of the zoning ordinance.

### June 15, 2014:

The planning board secretary, James Pritchard, compiled and verified the zoning ordinance as amended on March 11, 2014, by (1) revising the 2013 zoning ordinance according to the six 2014 amendments, (2) comparing the revised zoning ordinance with the proposed zoning ordinance advertised in the *Suncook Valley Sun* on January 20, 1988, (3) tracking the amendments forward from January 20, 1988, to March 11, 2014, and (4) correcting discrepancies.

1. Article 1, General Provisions: created from and checked against 2014 zoning amendment 5 adopted under town meeting warrant article 6.
2. Article 2, Zoning Districts: checked against
  - (a) proposed zoning ordinance as advertised in the *Suncook Valley Sun* on January 20, 1988,
  - (b) 1988 zoning ordinance,
  - (c) planning board minutes of February 1, 1988 (confirmed no changes in article 2 on February 1, 1988),
  - (d) 1999 town meeting warrant article 4 and minutes (Yes: 290. No: 177.),
  - (e) 2000 town meeting warrant article 5 and minutes (Yes: 411. No: 278.),
  - (f) 2003 town meeting warrant article 3 and minutes (Yes: 379. No: 278.),
  - (g) 2006 town meeting warrant article 4 and minutes (Yes: 547. No: 330.),
  - (h) planning board minutes of January 12, 2006,
  - (i) 2011 town meeting warrant article 7 and minutes (Yes: 387. No: 325.),
  - (j) planning board's 2011 proposed zoning-ordinance revision prepared by Matt Monahan of Central New Hampshire Regional Planning Commission,
  - (k) 2014 zoning amendment 2 adopted under town meeting warrant article 3.
3. Article 3, Definitions: checked against
  - (a) proposed zoning ordinance as advertised in the *Suncook Valley Sun* on January 20, 1988,
  - (b) 1988 zoning ordinance (definition of "campground": added "s" to "dwellings"),
  - (c) planning board minutes of February 1, 1988 (confirmed change in 1988 zoning ordinance),
  - (d) 1997 town meeting warrant articles 2, 3, and 4 and minutes (Y371/N198, Y333/N257, Y395/N196),
  - (e) 1997 zoning ordinance (for new definitions proposed in 1997 town meeting warrant article 2),
  - (f) 1999 town meeting warrant article 5 and minutes (Yes: 284. No: 176.),
  - (g) 2000 town meeting warrant article 5 and minutes (Yes: 411. No: 278.),
  - (h) 2003 town meeting warrant article 3 and minutes (Yes: 379. No: 278.),
  - (i) planning board minutes of December 5, 2002,
  - (j) 2003 zoning ordinance,
  - (k) 2006 town meeting warrant article 4 and minutes (Yes: 547. No: 330.),
  - (l) planning board minutes of January 12, 2006,
  - (m) 2011 town meeting warrant article 7 and minutes (Yes: 387. No: 325.),
  - (n) planning board's 2011 proposed zoning-ordinance revision prepared by Matt Monahan of Central New Hampshire Regional Planning Commission,
  - (o) 2012 town meeting warrant article 2 and minutes (Yes: 350. No: 278.),

## Legislative History of the Town of Pittsfield Zoning Ordinance (continued)

Notice: This statement of the legislative history is not part of the zoning ordinance.

### June 15, 2014: continued:

- (p) 2012 zoning amendment 1 adopted under town meeting warrant article 2,
  - (q) 2013 town meeting warrant article 3 and minutes (Yes: 283. No: 139.),
  - (r) 2013 citizen petition adopted under town meeting warrant article 3 to define “frontage,”
  - (s) 2014 zoning amendments 1, 2, and 4 adopted under town meeting warrant articles 2, 3, and 5.
- 4. Article 4, Non-Conforming Structures; Lots and Uses: checked against
    - (a) proposed zoning ordinance as advertised in the *Suncook Valley Sun* on January 20, 1988,
    - (b) 1988 zoning ordinance (article 4, section 1, (b): deleted “before 1987” and added “prior to the adoption of this Ordinance”),
    - (c) planning board minutes of February 1, 1988 (confirmed changes in 1988 zoning ordinance),
    - (d) 2000 town meeting warrant article 4 and minutes (Yes: 379. No: 294.),
    - (e) 2013 town meeting warrant article 3 and minutes (Yes: 283. No: 139.),
    - (f) 2013 citizen petition adopted under town meeting warrant article 3 to define “frontage.”
  - 5. Article 5, Board of Adjustment: created from and checked against 2014 zoning amendments 3 and 4 adopted under town meeting warrant articles 4 and 5.
  - 6. Article 6, Special Exceptions: checked against
    - (a) 2012 town meeting warrant article 2 and minutes (Yes: 350. No: 278.),
    - (b) 2012 zoning amendment 1 adopted under town meeting warrant article 2, which replaced the previous zoning ordinance article 6 in whole,
    - (c) 2014 zoning amendment 4 adopted under town meeting warrant article 5.
  - 7. Article 7, Variances: created from and checked against 2014 zoning amendment 4 adopted under town meeting warrant article 5.
  - 8. Article 8, Cluster Developments: checked against
    - (a) proposed zoning ordinance as advertised in the *Suncook Valley Sun* on January 20, 1988,
    - (b) 1988 zoning ordinance,
    - (c) planning board minutes of February 1, 1988 (confirmed no changes in article 8)
  - 9. Article 9, Signs: checked against
    - (a) proposed zoning ordinance as advertised in the *Suncook Valley Sun* on January 20, 1988,
    - (b) 1988 zoning ordinance,
    - (c) planning board minutes of February 1, 1988 (confirmed no changes in article 9)
  - 10. Article 10, Manufactured Housing: created from and checked against 2014 zoning amendment 2 adopted under town meeting warrant article 3.

## **Legislative History of the Town of Pittsfield Zoning Ordinance (continued)**

Notice: This statement of the legislative history is not part of the zoning ordinance.

### **June 15, 2014: continued:**

11. Article 14, Storage Containers: checked against
  - (a) 1997 town meeting warrant article 3 and minutes (Yes: 333. No: 257.),
  - (b) 1997 zoning ordinance,
  - (c) planning board minutes of January 2, 1997,
  - (d) planning board minutes of January 13, 1997,
  - (e) planning board minutes of January 16, 1997,
  - (f) planning board minutes of February 3, 1997.
12. Article 15, Rubbish, Dumping, Filling: checked against
  - (a) 1989 town meeting warrant article 1A and minutes (Yes: 361. No: 147.),
  - (b) planning board minutes of February 2, 1989.
13. Article 16, Parking Regulations: checked against
  - (a) 2012 town meeting warrant article 2 and minutes (Yes: 350. No: 278.),
  - (b) 2012 zoning amendment 1 adopted under town meeting warrant article 2, which replaced the previous zoning ordinance article 16 in whole,
  - (c) 2014 zoning amendment 6 adopted under town meeting warrant article 7.
14. Article 17, Pittsfield Floodplain Development Ordinance: checked against
  - (a) 1990 town meeting warrant article 1B and minutes (Yes: 257. No: 95.),
  - (b) planning board minutes of January 4, 1990, and May 3, 1990,
  - (c) 2000 town meeting warrant article 3 and minutes (Yes: 490. No: 190.),
  - (d) April 15, 2008, special town meeting warrant and minutes (Yes: 59. No: 1.),
  - (e) 2003 zoning ordinance,
  - (f) 2008 zoning ordinance,
  - (g) planning board minutes of January 3, 2008,
  - (h) planning board minutes of January 21, 2008,
  - (i) planning board minutes of February 4, 2008,
  - (j) planning board minutes of February 7, 2008,
  - (k) planning board minutes of February 21, 2008,
  - (l) board of selectmen minutes of March 2, 2010.
15. Article 18, Telecommunications Equipment and Facilities: checked against
  - (a) 1999 town meeting warrant article 2 and minutes (Yes: 306. No: 179.),
  - (b) planning board minutes of November 19, 1998.
16. Article 19, Shoreland Protection Ordinance: checked against
  - (a) 2011 town meeting warrant article 6 and minutes (Yes: 464. No: 222.),
  - (b) planning board's 2011 proposed zoning-ordinance revision prepared by Matt Monahan of Central New Hampshire Regional Planning Commission (the revision replaced the previous article 19, Shoreland Protection Ordinance, in whole).
17. Article 19, Adult Business Establishments: checked against
  - (a) 2005 town meeting warrant article 6 and minutes (Yes: 454. No: 307.),
  - (b) planning board minutes, January 27, 2005,
  - (c) planning board's 2005 proposed zoning-ordinance revision.
18. Article 23, Senior Housing Ordinance: checked against
  - (a) 2011 town meeting warrant article 7 and minutes (Yes: 387. No: 325.),
  - (b) planning board's 2011 proposed zoning-ordinance revision prepared by Matt Monahan of Central New Hampshire Regional Planning Commission.

## **Legislative History of the Town of Pittsfield Zoning Ordinance (continued)**

Notice: This statement of the legislative history is not part of the zoning ordinance.

### **March 10, 2015: amended as follows:**

Amend article 3, Definitions: Revise the definition of “junk yards.”

### **March 8, 2016: amended as follows:**

1. Amend article 1, General Provisions:
  - (a) Section 3: Change “all of the applicable provisions” to “all applicable regulations”.
  - (b) Section 5, (g): Change “PARKS” to “parks”.
  - (c) Section 6, (a): Change “the administration and enforcement of” to “administering and enforcing”.
2. Replace article 2, Zoning Districts, and article 3, Definitions, with new article 2, Interpretation Rules and Definitions, and article 3, Zoning Districts.
  - (a) New article 2, Interpretation Rules and Definitions, is a comprehensive revision of old article 3, Definitions, to clarify the old definitions except that the new term “dwelling above business” replaces the old term “combined dwelling and business”.
  - (b) New article 3, Zoning Districts, is a comprehensive revision of old article 2, Zoning Districts, except that the new term “dwelling above business” in new article 3, section 3, (b), (6), Table of Uses and Districts, replaces the old term “combined dwelling and business” in old article 2, table 1, Zoning Districts and Uses.
3. Amend article 4, Non-Conforming Structures; Lots and Uses:
  - (a) Rename the article as “Nonconforming Structures, Lots, and Uses.”
  - (b) Apply all-capital-letters spelling to words or terms defined in new article 2, Interpretation Rules and Definitions.
  - (c) Change “non-conforming” in some places to “nonconforming” and in some other places to “not-conforming” and in some other places to “lawful not-conforming”.
4. Amend article 6, Special Exceptions:
  - (a) Section 2, introductory sentence: Change “article 2, table 1, Zoning Districts and Uses,” to “article 3, section 3, (b), (6), Table of Uses and Districts,” for consistency with new article 3, Zoning Districts.
  - (b) Section 2, (c): Change “undue nuisance” to “nuisance”, and add “Parking needs shall be deemed a nuisance if parking needs force vehicles to park on a STREET or on a nearby property.”
  - (c) Section 2, (d): Change “insure” to “ensure”.
  - (d) Section 3, (b): Reorder the citations.
5. Amend article 7, Variances: Revise the article to cover the five types of variances defined by New Hampshire state law:
  - (a) a VARIANCE under RSA 674:33, I, (b);
  - (b) a VARIANCE under RSA 674:33, V;
  - (c) a VARIANCE under article 17, section 12, Appeals and Variances;
  - (d) a dimensional-requirement waiver under RSA 674:33-a;
  - (e) a building-requirement or site-requirement waiver under RSA 674:32-c, II, for agriculture.
6. Amend article 8, Cluster Developments:
  - (a) Change “Article 2 above,” to “article 3, section 4, (b) through (e), and article 3, section 4, (g),” for consistency with new article 3, Zoning Districts.
  - (b) Apply all-capital-letters spelling to words or terms defined in new article 2, Interpretation Rules and Definitions.

## **Legislative History of the Town of Pittsfield Zoning Ordinance (continued)**

Notice: This statement of the legislative history is not part of the zoning ordinance.

### **March 8, 2016: amended as follows: (continued)**

7. Amend article 9, Signs: Replace vague permitting conditions with objective numerical permitting conditions for the brightness and emission of noise from commercial signs, and eliminate the zoning board of adjustment's authority to decide whether a commercial sign is permitted.
8. Amend article 10, Manufactured Housing:
  - (a) Rename the article as "Mobile Manufactured Housing."
  - (b) Reformat the article.
9. Add article 11, Home Occupations, based on requirements in old article 2, Definitions, HOME OCCUPATION.
10. Amend article 14, Storage Containers: Clarify and reformat the article.
11. Amend article 15, Rubbish, Dumping, Filling:
  - (a) Rename the article as "Dumping."
  - (b) Reformat the article.
12. Amend article 16, Parking Regulations:
  - (a) Section 2, introductory sentence: Change "purposes of the parking regulations" to "purposes of these parking regulations".
  - (b) Section 2, (b): Change "insuring that emergency response personnel" to "ensuring that emergency personnel".
  - (c) Section 3, (d), (1): Change "uses, plus" to "uses plus".
  - (d) Section 3, (e):
    - (1) Change "RETAIL SALES" to "RETAIL STORES".
    - (2) Change "the use area, number of seats, or other indicator of parking needs, multiplied by the base parking-space requirement" to "the base parking-space requirement multiplied by the use area, the number of seats, or another indicator of total parking needs".
  - (e) Section 4, Reduction of Parking Requirements: Rename the section as "Reduction of Parking Requirements in the Commercial District."
  - (f) Section 4, (b), (2): Change "The subject use shall be nonresidential." to "The subject use shall be a use that article 3, section 3, (b), Permissibility of Uses by Type and District, permits either by right or as a SPECIAL EXCEPTION."
  - (g) Section 6, (b): Change "between side-by-side parking spaces" to "between the parking spaces".
13. Amend article 17, Pittsfield Floodplain Development Ordinance:
  - (a) Rename the article as "Floodplain Management."
  - (b) Reformat the article.
  - (c) Comprehensively revise the article to clarify it.
14. Amend article 19, Shoreland Protection Ordinance: Clarify that the purpose of the article is only to notify anyone considering land use in or near public waters that RSA chapter 483-B may apply, and that the purpose of the article is not to impose any standards under RSA 483-B:8, I, that are more stringent than the minimum standards contained in RSA chapter 483-B.

## **Legislative History of the Town of Pittsfield Zoning Ordinance (continued)**

Notice: This statement of the legislative history is not part of the zoning ordinance.

### **March 8, 2016: amended as follows: (continued)**

#### 15. Amend article 19, Adult Business Establishments:

- (a) Renumber and rename the article as article 20, Sexually Oriented Businesses.
- (b) Reformat the article.
- (c) Delete the current unlawful requirements for adult business establishments/sexually oriented businesses:
  - (1) the current unlawful requirement by a zoning ordinance for site plan review (the planning board via site plan review regulations, not the town meeting via a zoning ordinance, has authority over site plan review (RSA 674:43, I)) and
  - (2) the current unlawful requirement that every adult business establishment/sexually oriented business must be at least 1000 feet from every church.

### **March 14, 2017: amended as follows:**

1. Amend article 2, Interpretation Rules and Definitions, section 3, Definitions:
  - (a) Definition of “accessory apartment”: Add three new permitting conditions specifying (1) a door between the principal dwelling unit and the accessory apartment, (2) the maximum floor area of an accessory apartment as 750 square feet, and (3) owner occupancy of either the principal dwelling unit or the accessory apartment.
  - (b) Definition of “nonconforming use”: Delete the phrase “and if the use would not supersede another use.”
  - (c) Definition of “open space”: Revise the definition to permit fences more than 50 years old and permanent boundary markers on or in land designated as open space.
  - (d) Definition of “principal structure”: Revise the definition to clarify (1) that a principal structure is a detached structure and (2) that a principal structure may have one or more principal uses.
  - (e) Definition of “street”: (1) Reorder the currently listed New Hampshire Supreme Court cases and (2) add the following citation of Gossler v. Miller: Gossler v. Miller, 107 N.H. 303, 221 A.2d 249 (1966) (“A sidewalk is a component part of the highway...”)
2. Amend article 2, Interpretation Rules and Definitions, section 3, Definitions: Add definitions of “activity, nonconforming”; “conforming lot”; “lot, conforming”; “lot, nonconforming”; “nonconforming activity”; “nonconforming lot”; “nonconforming structure”; and “structure, nonconforming.”
3. Amend article 4, Nonconforming Structures, Lots, and Uses:
  - (a) Rename the article as Nonconforming Uses and Lots.
  - (b) State the authority and purpose of the regulation of nonconforming uses and of nonconforming lots.
  - (c) Provide that the merger of every two or more lots shall be exempt from zoning requirements for area and frontage.
  - (d) Revise the requirements for building on contiguous nonconforming lots under common ownership so that contiguous nonconforming lots under common ownership cannot be separated in ownership and remain buildable.
4. Amend article 3, Zoning Districts, sections 3 and 4: Replace all (eight) citations of “article 4, Nonconforming Structures, Lots, and Uses” with “article 4, Nonconforming Uses and Lots”.
5. Amend article 3, Zoning Districts, section 4: Replace all (two) citations of “article 4, section 2, Nonconforming Lots (Contiguous)” with “article 4, section 4, Merging Nonconforming Lots”.



## **Legislative History of the Town of Pittsfield Zoning Ordinance (continued)**

Notice: This statement of the legislative history is not part of the zoning ordinance.

### **March 13, 2018: amended as follows:**

1. Amend article 1, General Provisions, section 6, Administrator, (a), (2): Add the fire chief as a preempting administrator under RSA 155-A:7, I.
2. Amend article 2, Interpretation Rules and Definitions, section 3, Definitions, AGRICULTURE: Revise the definition of "agriculture" from meaning agriculture as defined in RSA 21:34-a, II, effective August 10, 2014, to meaning agriculture as defined in RSA 21:34-a, II, effective June 16, 2016, the State of New Hampshire's most recent definition of "agriculture" as of March 13, 2018.
3. Amend article 3, Zoning Districts, section 3, (b), (6), Table of Uses and Districts:
  - (a) BED-AND-BREAKFAST:
    - (1) Change the two letters "E" in the columns for the Urban District and the Suburban District, indicating permitted as a special exception in these two districts, to the two letters "Y," indicating permitted by right in these two districts.
    - (2) Change the two letters "E" in the columns for the Commercial District and the Light Industrial/Commercial District, indicating permitted as a special exception in these two districts, to the two letters "N," indicating prohibited in these two districts.
  - (b) HOME OCCUPATION:
    - (1) Change the two letters "E" in the columns for the Suburban District and the Rural District, indicating permitted as a special exception in these two districts, to the two letters "Y," indicating permitted by right in these two districts.
    - (2) Change the letter "E" in the column for the Commercial District, indicating permitted as special exceptions in this district, to the letter "N," indicating prohibited in this district.
4. Amend article 4, Nonconforming Uses and Lots:
  - (a) Section 1, Authority: Replace current section 1, Authority, with a new section 1, New Hampshire Statutory Law and Case Law.
  - (b) Section 2, Purpose: Replace current section 2, Purpose, with a new section 2, Purpose.
  - (c) Section 3, Nonconforming Uses: Replace current section 3, Nonconforming Uses, with a new section 3, Nonconforming Uses.
  - (d) Section 5, Development of Nonconforming Conventional Lots: Re-letter condition (e) as condition (f), and insert new condition (e): "The subject LOT satisfies the requirements of the state fire code for issuing building permits. (RSA 155-A:4, II.)"

### **March 12, 2019: amended as follows:**

1. Amend Article 3, Section 3(b)(6), Table of Uses and Districts:
  - (1) change DWELLING, SINGLE FAMILY, from prohibited (N) to permitted by right (Y) in both the Commercial and the Light Ind./Commercial Districts.
  - (2) change HOME OCCUPATION from prohibited (N) to permitted by right (Y) in the Comm. and Light Ind./Comm. Districts.
  - (3) change BED-AND-BREAKFAST from prohibited (N) to permitted by right (Y) in the Comm. and Light Ind./Comm. Districts.
  - (4) change ACCESSORY APARTMENT from prohibited (N) to permitted by special exception (E) in the Comm. and Light Ind./Comm. Districts.?
2. Repeal, Article 2, Section 3 (c) (5) of the zoning ordinance which presently reads; The ACCESSORY APARTMENT shall not be rented.

## Legislative History of the Town of Pittsfield Zoning Ordinance (continued)

Notice: This statement of the legislative history is not part of the zoning ordinance.

### March 12, 2019: amended as follows: (continued)

#### 3. Repeal:

- (1) Article 4, Section 5, Development of Nonconforming Conventional Lots, (a) The subject LOT is not CONTIGUOUS to any other LOT under common ownership. (see Vachon v. Concord, 112 N.H. 107, 289 A.2d 646 (1972))
- (2) Article 4, Section 5, Development of Nonconforming Conventional Lots, (b) The subject LOT has not been CONTIGUOUS to any other LOT under common ownership since the date when the subject LOT was first a NONCONFORMING LOT or since the effective date of adoption of this condition (March 14, 2017), whichever date is later.

#### 4. Amend Article 3, Section 3, (c) Number of Principal Structures Permitted on a Single Lot, and Article 3, Section 3, (e) Number of Uses Permitted on a Single Lot, as follows:

- (1) Article 3, Section 3, (c): No more than one PRINCIPAL *RESIDENTIAL* STRUCTURE shall be on any single LOT except as provided in article 2, section 3, RENEWABLE-ENERGY POWER PLANT, (b); article 18, Telecommunications Equipment and Facilities, section 18.4, B; or article 4, Nonconforming Uses and Lots.
- (2) Article 3, Section 3, (e), (2): The number of PRINCIPAL *RESIDENTIAL* STRUCTURES on the LOT shall be no more than one except as provided in article 2, section 3, RENEWABLE-ENERGY POWER PLANT, (b); article 18, Telecommunications Equipment and Facilities, section 18.4, B; or article 4, Nonconforming Uses and Lots.?

#### 5. Amend Article 2, Section 3, Definitions, definition of “PRINCIPAL USE”, as follows: Delete the words as shown below with strikethrough, and add the word as shown below with underlining. The definition below uses strikethrough and underlining only to show what is deleted or added; the strikethrough and underlining are not included in the text of the revised definition.

PRINCIPAL USE: “PRINCIPAL USE” means a use that, on the LOT where the use ~~is conducted~~ exists, is not occasioned by or not subordinate to any other use ~~conducted~~ on the same LOT. (See Salem v. Durrett, 125 N.H. 29, 480 A.2d 9 (1984); Treisman v. Kamen, 126 N.H. 372, 493 A.2d 466 (1985); Treisman v. Bedford, 132 N.H. 54, 563 A.2d 786 (1989).)

### March 10, 2020: amended as follows:

2020 Town Meeting Warrant Article #2 passed to “Remove all citations to court cases located throughout the ordinance.”

### March 9, 2021: amended as follows:

#### 1. 2021 Town Meeting Warrant Article #2 to amend Article 3, Section 3(b)(6), Table of Uses and Districts:

- (1) add MANUFACTURED HOUSING, as prohibited (N) in the Urban & Commercial Districts and to permitted by right (Y) in the Suburban, Rural, and the Light Ind./Commercial Districts.

*The Article’s purpose printed on the ballot was “to prohibit placing manufactured housing (mobile homes) in the concentrated downtown area”.*

## **Legislative History of the Town of Pittsfield Zoning Ordinance (continued)**

Notice: This statement of the legislative history is not part of the zoning ordinance.

### **March 9, 2021: amended as follows: (continued)**

2. 2021 Town Meeting Warrant Article #3 to amend Article 2, Section 3, Definitions, definition of "ACCESSORY DWELLING UNIT", as follows:

- (1) Amend "Accessory dwelling unit" as defined in RSA 674:71, means a residential living unit that is within or attached to a single-family dwelling, and that provides independent living facilities for one or more persons, including provisions for sleeping, eating, cooking, and sanitation on the same parcel of land as the principal dwelling unit it accompanies.

"Detached dwelling unit" in RSA 674:73, units shall comply with the requirements of, and any municipal ordinances or regulations adopted pursuant to, RSA 674:72, IV through IX.

#### **Requirement/Limitations:**

- (a) Building Permit is required.
- (b) Only one (1) accessory dwelling unit shall be allowed per principal single family dwelling unit and/or lot.
- (c) The accessory dwelling units shall be no greater than 1,000 sq. ft.
- (d) Detached Accessory Dwelling Units are allowed. These detached ADU's maybe combined with or part of garages or storage areas.
- (e) If an Accessory Dwelling Unit is Attached, an interior door shall be provided between the principal dwelling and the ADU, but it is not required to remain unlocked.
- (f) Maximum number of bedrooms allowed in the ADU is two (2).
- (g) Water supply and sewage disposal must comply with all town and state regulations.
- (h) Adequate off-street parking must be provided.
- (i) OWNER OCCUPIED: Owner of the property must occupy either principal dwelling or ADU.

*The Article's purpose printed on the ballot was "to provide expanded housing opportunities and flexibility in household arrangements, accessory dwelling units/detached accessory dwelling units shall be permitted within or attached to an existing single-family home or as a separate housing unit on the single-family home's lot".*