

Article I
Part A
Establishment of Zones

For the purpose of this Ordinance, the Town of Sandown is divided into zones as depicted on the Official Zoning Map of Sandown, New Hampshire ("Map") filed with the Town Clerk and dated March 10, 1972, as amended from time to time by the voters of the Town, which Map is hereby incorporated into this Ordinance by reference.

Boundaries

Unless otherwise indicated, zoning district boundaries as shown on the Map shall be deemed to coincide with: (Amended March 8, 2005)

1. The centerline of roads, highways, or other public rights-of-way;
2. The shoreline of brooks, rivers or streams;
3. The normal high-water mark of lakes, ponds, or similar bodies of water;
4. The Town's boundaries;
5. The nearest private property boundary approximately parallel to the zonal boundary such to prevent the inclusion of any existing parcel or lot (as hereinafter defined) in more than one zone.

Where boundaries are so indicated that they parallel, approximately, the centerline of any highway, road, other public right-of-way in river, stream or brook, or normal high-water mark of any lake, pond, or similar body of water, or Town boundary, such boundaries shall be interpreted as parallel thereto at the distance specified herein from such centerline, normal high-water mark, or boundary as appropriate.

Zoning Map

The Zoning Map, adopted March 14, 1989, shall be filed with the Town Clerk. The Zoning Map is intended for reference only. Final determination of the zoning district boundaries shall be made by the written description of said boundaries contained elsewhere in the Zoning Ordinance. (Adopted 3/14/89)

Article I
Part B
Wetland Conservation District

Adopted: 1984

District Boundaries

The Sandown Wetland Conservation District is hereby determined to be those areas that contain ponds, lakes, fresh water marshes, alluvial soils, and perennial streams as shown on the Town of Sandown Wetland Conservation District Map. Areas that contain soils identified and outlined as poorly drained or very poorly drained soils by the National Cooperative Soil Survey through field mapping surveys, completed in August, 1981, and shown on field mapping photographic sheets for the Town of Sandown, New Hampshire, are also included. The Wetlands Conservation District, as herein defined, is shown on a map or maps designated as the Town of Sandown Wetland Conservation Map. For a detailed explanation of soil types, see "Soils and their Interpretations for Various Land Uses, Town of Sandown, Rockingham County, New Hampshire," on file with the Planning Board and the U.S.D.A., Soil Conservation Service office in Exeter.

General

In all cases where the Wetland Conservation District is superimposed over another zoning district in the Town of Sandown, the more restrictive district's regulations shall apply.

In the event an area is incorrectly designated as having poorly drained or very poorly drained soils on the Town of Sandown Wetland Conservation District Map, and evidence to that effect is satisfactorily presented to the Building Inspector (in the case of a request for a building permit) or to the Planning Board (in the case of a subdivision pending approval), the restrictions contained in this Article shall not apply. Such evidence shall be obtained by adequate on-site investigation and analysis conducted by a qualified soil scientist (as interpreted herein). The evidence shall be submitted in writing to the Building Inspector (in the case of a request for a building permit) or to the Planning Board (in the case of a subdivision pending approval) with a copy of the evidence to the Town Clerk. The Town Clerk shall retain the copy for record purposes. All expenses shall be undertaken by the applicant.

Purpose

In the interest of public health, convenience, safety and welfare, the regulations of the District are intended to guide the use of areas of land with standing water or extended periods of high water tables, poorly drained soils or very poorly drained soils.

- A. To encourage those uses that can be appropriately and safely located in wetland areas.

ARTICLE I-PART B
WETLAND CONSERVATION DISTRICT

- B. To prevent the destruction of natural wetland which provides flood protection, recharge of groundwater supply, and augmentation of stream flow during dry periods.
- C. To prevent unnecessary or excessive expenses to the Town to provide and maintain essential services and utilities.
- D. To prevent the development of structures and land uses on natural wetlands which would contribute to pollution of surface and groundwater.

Section 1 Permitted Uses

For poorly drained soil areas:

- A. Any use that does not involve the erection of a structure or that does not alter the surface configuration of the land by the addition of fill or dredging, except as a common treatment associated with a permitted use.
- B. Agriculture, including grazing, hay production, truck gardening and silage production, provided that such use is shown not to cause significant increases in surface or ground water pollution by heavy metals, pesticides or toxic chemicals and that such use will not cause or contribute to soil erosion.
- C. Forestry and tree farming to include construction of access roads.
- D. Water impoundments and the construction of well-water supplies.
- E. Drainage ways, to include streams, creeks or other paths of normal runoff water and common agricultural land drainage provided such use is otherwise permitted in the District overlain by the Wetland Conservation District.
- F. Wildlife habitat development and management.
- G. Parks and such recreational uses as are consistent with the purposes and intent of this Ordinance.
- H. Conservation areas and nature trails.
- I. Open space as permitted by subdivision regulations and other sections of this Ordinance.

Section 2

For ponds, lakes, fresh water marshes, alluvial soils, perennial streams and very poorly drained soils.

Such uses as specified under Paragraph A, for poorly drained soils shall be permitted except that no alteration of the surface configuration of the land by filling or dredging and no use which results in the erection of a structure will be allowed.

ARTICLE I-PART B
WETLAND CONSERVATION DISTRICT

Section 3

A Conditional Use Permit may be granted by the Planning Board (RSA 674:21, II) for the following uses within the Wetland Conservation District provided the Planning Board finds in writing after a duly noticed Public Hearing the following conditions have been satisfactorily addressed:

- A. Streets, roads and other access ways and utility right-of-way easements including power lines and pipelines if such location is essential to the productive use of land not so zoned and so constructed as to minimize any detrimental impact upon the Wetland Conservation District.
- B. The construction of wharves, footbridges, catwalks, fences, water impoundments and beaches after review by the Planning Board of adherence to normal construction practices.
- C. The following criteria must be met in order to grant a Conditional Use Permit:
 - 1. Dredging, filling or crossing shall have minimal impact.
 - 2. There is no other logical placement.
 - 3. Application or approval from the State Wetlands Board.
 - 4. Demonstration that this proposal best utilizes the property.
 - 5. Complete set of engineered plans must be submitted along with drainage calculations and written impact statement.
 - 6. Receipt of a favorable report from the Sandown Conservation Commission.
 - 7. Receipt of a favorable report from the Planning Board Engineer.
 - 8. Receipt of a favorable report from the Rockingham County Conservation District.
 - 9. The proposed use would not diminish surrounding property values.
 - 10. Granting the Conditional Use Permit would be in the public interest.
 - 11. Granting the Conditional Use Permit would do substantial justice.
 - 12. The proposed use is not contrary to the spirit of the ordinance.
(Amended April 8, 1997)
- D. Prior to the granting of a Conditional Use Permit under this Section, the applicant shall agree to submit a performance security to ensure that all construction is carried out in accordance with the approved design. The security shall be in a form and amount, with surety and conditions satisfactory to:
 - 1. The Planning Board for site plan and subdivision application; and
 - 2. The Board of Selectmen in all other cases.

The security shall be submitted and approved prior to the issuance of any permit authorizing construction.

- E. The Planning Board, after consultation with the Conservation Commission, may require the applicant to submit an environmental assessment when necessary to evaluate an application made under this Section. The cost of this assessment shall be borne by the applicant. The Planning Board may also assess the applicant reasonable fees to cover the costs of other special investigative studies and for the review of documents required by particular applications.

ARTICLE I-PART B
WETLAND CONSERVATION DISTRICT

- F. Any wetlands altered in violation of this Ordinance shall be restored at the expense of the landowner(s). (Amended March 11, 2003)

Section 4 Vernal Pool Protection

- A. The purpose of this section is to protect water quality, flood storage capacity, and essential breeding habitat areas for amphibians and invertebrates.
- B. For the purposes of this Section, a vernal pool is defined as “a temporary body of water, at least 1,500 square feet in contiguous area, that provides essential breeding habitat for certain amphibians and invertebrates, but does not support fish, as defined in Identification and Documentation of Vernal Pools in New Hampshire; published by the New Hampshire Fish and Game Department (1997), as amended.”
- C. A protective buffer having a width of not less than 25-horizontal feet shall be established and maintained around the perimeter of any known vernal pool.
- D. No cutting of live vegetation nor the alteration of the natural ground surface within the limits of the designated vernal pool and/or a required vernal pool buffer shall be permitted unless approved in advance by the Conservation Commission in writing.

(Adopted March 13, 2007)

Special Provisions

Section 1

No septic tank, leach field, or any other subsurface wastewater disposal system may be constructed or enlarged within seventy-five (75) horizontal feet of any wetland area.

Section 2

Poorly drained soils may be used to fulfill no more than twenty-five percent (25%) of any minimum lot area requirements of the Sandown Zoning Ordinance. No ponds, lakes, fresh water marshes, alluvial soils, perennial streams or very poorly drained soils may be used to fulfill any minimum lot size requirements of the Sandown Zoning Ordinance.

A person certified by the New Hampshire Board of Natural Scientist (Amended 3/12/91) is interpreted to mean a person qualified in soil classification and field analysis and who is recommended or approved by the Rockingham County Conservation District Board of Supervisors.

Article I
Part C
Floodplain Development Ordinance

Adopted: March 12, 2002

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

The following regulations in this Ordinance shall apply to all lands designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its “Flood Insurance Study for the County of Rockingham, NH,” dated May 17, 2005 or as amended, which are declared to be a part of this Ordinance and are hereby incorporated by reference. (Amended March 8, 2005)

Section 1 **Definition of Terms**

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

- A. “Area of Special Flood Hazard” is the land in the floodplain within the Town of Sandown, NH, subject to a one-percent or greater possibility of flooding in any given year. The area is designated on the FIRM as ‘Zone A.’ (Amended March 13, 2007)
- B. “Base Flood” means the flood having a one-percent possibility of being equaled or exceeded in any given year.
- C. “Basement” means any area of a building having its floor subgrade on all sides.
- D. “Building” see “Structure.”
- E. “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, excavating, drilling operation, or storage of equipment or materials. (Amended March 13, 2007)
- F. “FEMA” means the Federal Emergency Management Agency.
- G. “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.

ARTICLE 1-PART C
FLOODPLAIN DEVELOPMENT ORDINANCE

- H. “Flood Insurance Study” (FIS) means an examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation, and determination of mudslide (i.e. mudflow) and/or flood-related erosion hazards. (Added March 13, 2007)
- I. “Flood Insurance Rate Map” (FIRM) means the official map incorporated with this ordinance, on which FEMA has delineated both the special flood hazard areas and the risk premium zones applicable to the Town of Sandown, NH.
- J. “Floodplain” or “Flood-prone area” means any land area susceptible to being inundated by water from any source (see definition of “Flooding”).
- K. “Flood proofing” means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures and their contents.
- L. “Floodway” see “Regulatory Floodway.”
- M. “Functionally dependent use” means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking and port facilities that are necessary for the loading/unloading of cargo or passengers, and ship building/repair facilities but does not include long-term storage or related manufacturing facilities.
- N. “Highest Adjacent Grade” means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- O. “Historic Structure” means any structure that is:
- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
 - b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historic significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 - c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

ARTICLE 1-PART C
FLOODPLAIN DEVELOPMENT ORDINANCE

- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (i) By an approved state program as determined by the Secretary of the Interior; or
 - (ii) Directly by the Secretary of the Interior in states without approved programs.

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

- Q. “Manufactured Home” means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term “manufactured home” includes park trailers, travel trailers, and other similar vehicles placed on site for greater than 180 days. This includes manufactured homes located in a manufactured home park or subdivision. (Amended March 13, 2007)

- R. “Manufactured Home Park or Subdivision” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale. (Added March 13, 2007)

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

- T. “New Construction” means, for the purposes of determining insurance rates, structures for which the start of construction commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, *new construction* means structures for which the *start of construction* commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures. (Added March 13, 2007)

- U. “100-Year Flood” see “Base flood.”

- V. “Recreational Vehicle” is defined as:
 - 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

ARTICLE 1-PART C
FLOODPLAIN DEVELOPMENT ORDINANCE

- d. Designed primarily not for use as a permanent dwelling but as temporary living Quarters for recreational, camping, travel or seasonal use.

- W. “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. (Amended March 13, 2007)

- X. “Special Flood Hazard Area” see “Area of Special Flood Hazard.”

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

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

- AA. “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.

- BB. “Substantial Improvement” means any combination of repairs, reconstruction, alteration, or improvements to a structure in which the cumulative cost equals or exceeds fifty percent of the market value of the structure. The market value of the structure should equal:
 - a. The appraised value prior to the start of the initial repair or improvement; or
 - b. In the case of damage, the value of the structure prior to the damage occurring. For the purposes of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures which have incurred substantial damage, regardless of actual repair work performed. The term does

ARTICLE 1-PART C
FLOODPLAIN DEVELOPMENT ORDINANCE

not, however, include any project for improvements of a structure required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure".

- CC. "Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44CFR § 60.3 (b) (5), (c) (4), (c) (10), (d) (3), (e) (2), (e) (4), or (e) (5) is presumed to be in violation until such time as that documentation is provided. (Added March 13, 2007)
- DD. "Water Surface Elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains.

Section 2 Permits

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

Section 3 Construction Requirements

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

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

Section 4 Water and Sewer Systems

Where new or replacement water and sewer systems (including on-site systems) are proposed in a special flood hazard area, the applicant shall provide the Building Inspector with assurance that

ARTICLE 1-PART C FLOODPLAIN DEVELOPMENT ORDINANCE

these systems will be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters; on-site waste disposal systems will be located to avoid impairment to them or contamination from them during periods of flooding.

Section 5 Certification

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

- a. The as-built elevation (in relation to NGVD) of the lowest floor (including basement) and include whether or not such structures contain a basement.
- b. If the structure has been floodproofed, the as-built elevation (in relation to NGVD) to which the structure was floodproofed.
- c. Any certification of floodproofing.

The Building Inspector shall maintain for public inspection, and shall furnish such information upon request.

Section 6 Other Permits

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

Section 7 Watercourses

1. In riverine situations, prior to the alteration or relocation of a watercourse the applicant for such authorization, shall notify the Wetlands Bureau of the New Hampshire Environmental Services Department and submit copies of such notification to the Building Inspector, in addition to the copies required by the RSA 482-A:3. Further, the applicant shall be required to submit copies of said notifications to those adjacent communities as determined by the Building Inspector, including notice of all scheduled hearings before the Wetlands Bureau and Zoning Board of Adjustment.
2. The applicant shall submit to the Building Inspector, certification provided by a registered professional engineer, assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.
3. The Building Inspector shall obtain, review, and reasonably utilize any floodway data available from Federal, State, or other sources as criteria for requiring that all development located in Zone A meet the following floodway requirement:

ARTICLE 1-PART C
FLOODPLAIN DEVELOPMENT ORDINANCE

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

Section 8 Special Flood Hazard Areas

1. In Zone A, the Building Inspector shall obtain, review, and reasonably utilize any 100-year flood elevation data available from any federal, state or other source, including data submitted for development proposals submitted to the community (i.e. subdivisions, site approvals). (Amended March 13, 2007)

2. The Building Inspector’s 100-year flood elevation determination will be used as criteria for requiring in Zone A that:
 - a. All new construction or substantial improvement of residential structures have the lowest floor (including basement) elevated to or above the 100-year flood elevation.

 - b. That all new construction or substantial improvements of non-residential structures have the lowest floor (including basement) elevated to or above the 100-year flood level, or together with attendant utility and sanitary facilities, shall:
 - (i) Be flood proofed so that below the 100-year flood elevation that structure is water tight with walls substantially impermeable to the passage of water;

 - (ii) Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and

 - (iii) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section.

 - c. All manufactured homes to be placed or substantially improved within special flood hazard areas shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood level; and be securely anchored to resist floatation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces. (Amended March 13, 2007)

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

ARTICLE 1-PART C
FLOODPLAIN DEVELOPMENT ORDINANCE

- (i) The enclosed area is unfinished or flood resistant, usable solely for the parking of vehicles, building access or storage;
 - (ii) The area is not a basement;
 - (iii) Shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.
- e. All recreational vehicles placed on sites within Zone A shall either:
- (i) Be on the site for fewer than 180 consecutive days;
 - (ii) Be fully licensed and ready for highway use; or
 - (iii) Meet all standards of section 60.3 (b) (1) of the National Flood Insurance Program Regulations and the elevation and anchoring requirements for “manufactured homes” in paragraph (c) (6) of Section 60.3.

Section 9 Variances and Appeals:

1. Any order, requirement, decision or determination of the Building Inspector made under this ordinance may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5.
2. If the applicant, upon appeal, requests a variance as authorized by RSA 674:33, I(b), the applicant shall have the burden of showing, in addition to the usual variance standards under state law:
 - a. That the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense;
 - b. That if the requested variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result;
 - c. That the variance is the minimum necessary, considering the flood hazard, to afford relief.

ARTICLE 1-PART C
FLOODPLAIN DEVELOPMENT ORDINANCE

3. The Zoning Board of Adjustments shall notify the applicant in writing that:
 - a. The issuance of a variance to construct below the base flood level will result in increased premium rates for flood insurance up to the amounts as high as \$25 for \$100 of insurance coverage; and
 - b. Such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions.

4. The community shall:
 - (i) Maintain a record of all variance actions, including their justification for their issuance; and
 - (ii) Report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.

Amended July 26, 2006 as per the March 2, 2002 ballot.

ARTICLE I
PART D
BUSINESS DISTRICT (Be)-REFERENCE TOWN MAP

Adopted: March 8, 1988

Section 1 Description

This district shall extend 1000 feet from the centerline of (as limited by Article I, Part A.5), and on both sides of, and parallel to Main Street from Hampstead Road on the westerly side and Tax Map 10, Lot 38 (or its subdivisions) on the easterly side north and northern side of Tax Map 14, Lot 10 (or its subdivision) on the easterly side and of Tax Map 9, Lot 17 (or its subdivision) on the westerly side of Main Street. This district shall include Tax Map 2, Lot 29, Tax Map 2, Lot 33, and Tax Map 2, Lot 34, (Amended March, 1999) (Amended 3/13/2001)

Section 2 Uses

The following uses shall be permitted in the Business (Be) District:

- A. Retail store or service establishment, not in excess of 5000 square feet each, the principle activity of which shall be the offering of goods or services at retail within the building, for the supply of normal shopping needs of and for the consumption by the residents of the area. Roadside store sign lights must be off after 9:30 p.m. and store must close (to the public) by 12:00 a.m. (midnight), and remain closed until 5:00 a.m.
- B. Business or professional offices and banks.
- C. Restaurants or other places for serving food within the structure. No food or drink shall be served after 11:00 p.m.
- D. All residential uses cited as permitted uses in Zone A pursuant to Article II, Part B of this ordinance.
- E. Accessory building and uses.
- F. Assembly halls, banquet halls, kindergartens, nursery schools, social clubs, nursing homes and governmental buildings and uses.
- G. Funeral homes.
- H. Commercial and non-commercial recreational facilities.
- I. Automotive, equipment service and repair establishments.
- J. Places of worship and related facilities.
- K. Gasoline service stations and related facilities.

ARTICLE 1-PART D
BUSINESS DISTRICT

- L. Light manufacturing, research and development, and information processing facilities.
- M. Local, state and federal government offices and facilities.
- N. Agricultural and forestry uses.
- O. All uses permitted by Special Exception or Conditional Use Permit under the provisions of Article V of this Ordinance.

Each of the permitted uses noted above shall be subject to non-residential site plan review/approval by the Sandown Planning Board. Architectural appearance of all buildings shall be subject to Planning Board approval through the Non-residential Site Plan approval process.

(Amended March 9, 2004)

ARTICLE II
PART A
GENERAL REGULATIONS-ALL ZONES

Section 1

A permit shall be required for the erection of any building or the installation of any potable water supply well. (Amended 3/14/2000) (Amended 3/13/2001)

Foundation Location: A plan shall be submitted to the Building Inspector prior to issuance of certificate of occupancy showing the location of any foundation, water supply well and septic system or outer limit of any proposed building or structure relative to all property lines. Such plan shall certify accuracy of all measurements by a licensed land surveyor by the State of NH. (Amended 3/14/2000) (Amended 3/13/2001)

Section 2

It shall be unlawful to construct, add to, alter, remove or demolish, or to commence construction, addition, alternation, removal or demolition of a building or structure or install plumbing, sanitary disposal systems or electrical equipment, or modify the same for the operation of a building or structure or to convert any summer, recreational or other similar seasonal dwelling into a dwelling which is or is intended to be suitable for year-round habitation without first filing with the building official an application in writing and obtaining a formal permit. (Amended 3/11/86)

Section 3

It shall be the duty of the administrative authority to grant or refuse a permit within thirty days for residential applications and 60 days for nonresidential applications per RSA 676:13, III after receipt of a complete application. The applicant may be called in for consultation by the administrative authority within the thirty or sixty day period for the purpose of gaining further information or making suggestions. (Amended 3/13/2001)

Section 4

Before a permit shall be issued, it shall first be determined by the administrative authority, whether the proposed construction conforms to all conditions of the Sandown Zoning Ordinance and Land Use Regulations (Subdivision, Site Plan and Excavation Regulations, etc.). The permit shall be issued only when such conformity is assured. (Amended 3/14/2000)

Section 5

No permit shall be issued unless the structure or addition will present a reasonable appearance (be finished on the exterior in a permanent manner and be suitably painted on the exterior whenever the exterior is a material which is customarily painted). The unfinished wooden exterior "weathered" finish common to some types of architecture is permitted for those types of architecture for which it is customary. (Amended 3/13/1984)

ARTICLE II, PART A GENERAL REGULATIONS-ALL ZONES

Section 6

The Building Inspector/Code Enforcement Officer shall be the administrative authority to issue all building permits, and shall also be the Code Enforcement Officer for enforcing all building and zoning ordinance regulations except for driveway and health related requirements. (Amended 3/14/1989) (Amended 3/14/2000)

Section 7

There shall be a fee for the issuance of any building permit required pursuant to Article II, Part A, Section 2 of this Ordinance. The Board of Selectmen shall adopt and maintain a schedule of such fees, which shall be available to the public at the Sandown Town Offices. (Amended March 9, 2005)

Section 8

The Selectmen shall appoint the Building Inspector/Code Enforcement Officer and set the fee for the same. It shall be the responsibility of the applicant and builders, whose names will appear on the permit, to adhere to all submitted plans and information for which the permit was granted. (Amended 3/4/89). All issued permits for a project; both state and town shall be displayed in a weatherproof covering while visible from the access road. (Amended 3/12/91)

Section 9

No owner or occupant of any land shall permit any ruins caused by fire, explosion, flood, storm, or other act of God, to be left unfinished or incomplete thereon, but shall finish or complete or remove the same within 12 months of date of occurrence, except where there is a property in court litigation, it will take place within one year after settlement of such court action.

Section 10

No land shall be used for a piggery, fox farm, mink farm, or for a motor vehicle junk yard, or for a commercial camping and/or tenting area. No land shall be used for dump or for the storage of abandoned vehicles or discarded materials of any kind, in a manner that is disorderly, unsightly, noxious or detrimental to the public, or prejudicial to the general welfare. The selection of a public dump maintained or designated by the Selectmen shall not be affected by this regulation.

As used herein, "piggery" is the keeping of three (3) or more pigs; "fox" or "mink" farm is the keeping of three (3) or more foxes or mink.

As used herein, "pig" shall mean a pig and/or hog over twelve (12) weeks of age. (Amended 3/14/2000)

Section 11

- A. Any aggrieved firm, corporation or person may appeal to the Board of Adjustment, who shall have the powers set forth in Article VI, Section 2 of the Town of Sandown Zoning Ordinance to decide those appeals.

ARTICLE II, PART A
GENERAL REGULATIONS-ALL ZONES

- B. Any Variance or Special Exception granted by the Board of Adjustment is valid for one year from date of notification after which it becomes null and void unless utilized. If utilized, it survives with the property. (Amended 3/11/86)

Section 12

The premises from which clay, sod, loam, sand or gravel is removed shall be left in a safe and sightly condition and protected against erosion. Such restoration shall be done within six months after said removal. Earth Excavation as defined by RSA 155-E shall be permitted provided that it is performed in accordance with applicable State statutes and the "Excavation Regulations, Town of Sandown", adopted by the Planning Board. (Amended 3/12/91)

Section 13 (Amended 2/16/88)

- A. Nothing in the Town of Sandown Zoning Ordinance shall be construed to prevent the continuances of any existing use of land or buildings unless said use does not conform to the conditions in the Town of Sandown Zoning Ordinances in effect at the time the non-conforming use was initiated.
- B. No non-conforming use of land or structure shall be expanded or substantially changed except to a use permitted by the Zoning Ordinance; provided that no recreational/seasonal property may be converted to year-round occupancy except by special exception as provided in Article V, Section 5 of this Ordinance.
- C. No non-conforming structure shall be altered so as to increase its nonconformity with any provision of the Zoning Ordinance.
- D. A non-conforming structure may be repaired or altered, provided it does not thereby increase its nonconformity.
- E. A non-conforming structure destroyed or damaged by accident or Act of God may be rebuilt and used as before.
- F. When any nonconforming use or structure is abandoned, subsequent use and structure shall be in compliance with the Zoning Ordinance.

Section 14

Unless provided by the provisions of RSA 674:39 (as amended), contiguous lots or parcels in common ownership, which are of record on the effective date of this ordinance, or amendments hereto, shall be combined to create a lot or lots most nearly consistent with the frontage, width, and minimum lot size requirements of this Zoning Ordinance. No portion of said merged parcel shall be used or sold in manner which diminishes compliance with lot width, frontage, and area requirements established by this ordinance. (Adopted 1990)

ARTICLE II, PART A
GENERAL REGULATIONS-ALL ZONES

Section 15 Definitions, as used in this Ordinance:

- A. “Dwelling Unit” shall mean rooms with cooking, living, sleeping, and sanitary facilities arranged for the use of one or more individuals living together as a single-family unit. (1984)
- B. “Single Family Dwelling” shall mean a structure containing only one dwelling unit. (1984)
- C. “Structure” shall mean any production or piece of work artificially built as composed of the parts and enjoined together in some definite manner. This includes, but is not limited to garages, storage sheds, gazebos, carports or animal housing. (Amended April 8, 1997)
- D. “Business” shall mean a trade or activity, including goods, services and facilitates, offered or furnished to others for monetary or other similar consideration for gain.
- E. “Commercial Use” shall mean the conducting of business involving the sale of one or more products, the provisions of one or more services or any combination thereof. The rental, lease or maintenance of duplex, multi-family dwellings or cluster developments shall not be considered a commercial use for the purposes of this Ordinance. (1985)
- F. “Duplex” shall mean a structure containing two (2), and only two (2) dwelling units. Duplexes shall be permitted by special exception as indicated in the special exception sections of the Sandown Zoning Ordinance, and by special exception only. (1984)
- G. “Frontage” shall mean the length of lot or parcel and bordering on a public right-of-way. If a lot or parcel of land borders on more than one public right-of-way, “public right-of-way” shall mean that public right-of-way over which access to and egress from the said lot or parcel of land is usually affected. (Amended 3/14/2000)
- H. “House Trailer” is synonymous with mobile home. See “Mobile Home”.
- I. “Lot” is a parcel of land separable from surrounding contiguous land by reason of and on the basis of differing ownership.
- J. “Mobile Home” (Mobil home). Any vehicle, trailer or assembled structure or portion of a structure designed for, or with accommodations for, occupancy living quarters, which is readily movable from place to place upon its own accessory wheels or trucks. Excluded here from are travel/camper trailers not used as a dwelling of a length of less than twenty-six (26) feet.
- K. “Use” The manner in which and/or purpose for which a lot is employed.
- L. “Multi-Family Dwelling” shall mean a structure containing more than two (2) dwelling units. (1986)

ARTICLE II-PART A
GENERAL REGULATIONS-ALL ZONES

- M. “Industrial Use” shall mean the use of a floor area in excess of 500 square feet for the manufacture of a product for sale. (1985)
- N. “Abandonment” A non-conforming use which has been discontinued for a period of less than one (1) year shall not be re-established for use other than the non-conforming use that existed at the time of abandonment. A non-conforming use which has been discontinued for a period of more than one (1) year shall not be re-established and future use shall conform with this bylaw. (April 8, 1997)
- O. “Expansion” Any increase in the volume of internal space of an existing structure. (April 8, 1997)
- P. “Shed” shall mean a small storage building less than 200 square feet in size. (March 12, 2002)

Section 16

- A. In any zone within any floodway and no building for human occupancy shall have its first-floor level less than 1 foot above any known flood elevation in any zone within a flood plain outside of any flood way.
- B. Sanitary Protection. All septic disposal system construction and groundwater discharge permit applications must be reviewed and signed by a Sandown Board of Health Official or its agent prior to submission to the New Hampshire Department of Environmental Services, Water Supply and Pollution Control Division, Subsurface Bureau for approval.
 - 1. No septic tank, or any portion of a sewage disposal area, shall be constructed or maintained less than 75 feet from the edge of public water body or from a well or in violation of any provisions of Chapter 149:5, New Hampshire Revised Statutes Annotated, as amended, or in violation of any regulation adopted pursuant to said Chapter.
 - 2. No waste waters or sewages shall be permitted to be discharged upon the surface of the land or run free into a public water body, nor shall any solid waste be so discharged, nor shall any gaseous waste be discharged into ambient air if such discharge or running free is offending or is detrimental to the health of others.
 - 3. All sanitary systems shall be constructed and maintained in accordance with the standards set and enforced by the New Hampshire State Department of Health, the New Hampshire Water Supply and Pollution Commission and all applicable conditions set forth in the Town of Sandown Zoning Ordinance. (1986)
 - 4. A private well or other private water system shall be constructed and maintained in accordance with the requirements of the Public Health Service Drinking Water Standards. (A set of such standards is on file with the Town Clerk.) No well shall be drilled, driven, dug, or constructed closer than 50 feet from any public right-of-way.

ARTICLE II-PART A
GENERAL REGULATIONS-ALL ZONES

- C. The construction of all buildings, dwellings, or other structures to be used for human occupancy shall reasonably conform to the standards of construction for the type of use intended as set forth in the most recently adopted International Building Code or International Residential Code except as amended by this Zoning Ordinance. At least three (3) copies of said Code shall be in the custody of the Town for use by the general public. (Amended March 14, 2006).
- D. All below-ground swimming pools shall be enclosed by a safe and strong continuous fence not less than 4 feet. This means a fence no lower than 4 feet high with holes in link no larger than 4 feet high with holes in link no longer than 2 inches by 2 inches or a fence made out of wood no lower than 4 feet high with the framework (horizontal members) on the pool side, and boards cannot have any gaps larger than 2 inches wide vertically. A gate must be self-closing and self latching and attached so that it can and will be secured when the pool is unattended. For above ground pools, as long as the pool is at least 4 feet high, and the ladder can and will be removed, no fence is needed for pools requiring a ladder. No pools shall be filled with water unless a fence meeting the above description is in place. (Amended 3/14/89) (Amended 3/14/2000) (Amended 3/13/2001)
- E. The conversion of any summer, seasonal, recreational or other non-permanent dwelling into a dwelling which is or is intended to be, suitable for habitation on a year-round basis shall require as a pre-requisite to the issuance of a building permit for such conversion a special exception as provided in Article V, Section 7. (Amended 2/16/88)

Section 17

The use and disposal of Class A and/or Class B biosolids or biosludge , as defined by the US-EPA and the NH-DES Regulations Env-WS 800's and including, but not limited to, the stockpiling, treatment, and land application of sewage sludge, biosolids and/or septage is prohibited in all zoning districts within the Town of Sandown, NH, subject to the following: (Amended 3/13/2001)

- A. Provisions of RSA 674:39 (4-YR Exemption) do not apply.
- B. Residential or commercial septic systems are exempt from the stockpiling provision noted above.
- C. Previous sludge activity, including, but not limited to sludge sites and/or stockpiling, are not grandfathered from this ordinance and, therefore are not exempt.

(Amended 3/14/ 2000)(Amended 3/13/2001)

Section 18

There shall be no outside storage of more than two (2) unregistered and uninspected motor vehicles allowed in any zone. (This does not apply to garaged vehicles.) (March 12, 2002)

ARTICLE II, PART A
GENERAL REGULATIONS-ZONE A

Section 19 In-home Occupation Ordinance

A. In-home occupation uses, as defined herein, are permitted in the Residential and Business zones.

B. Purpose:

The purpose of this ordinance is to:

1. Ensure the compatibility of in-home occupations with other permitted uses.
2. Maintain and preserve the character of the residential neighborhood.
3. Protect residential areas from adverse impacts of activities associated with in-home occupations.
4. Establish criteria for in-home occupations.

C. Definitions:

In-home occupation means:

1. An occupation conducted within the dwelling unit. It is clearly a secondary use of the property which does not adversely affect the residential character of the neighborhood. It is in compliance with the criteria established for an in-home occupation; and
2. In-home occupations do not include garage sales and yard sales or home parties which are held for the purpose of the sale of distribution of goods or services.

D. Permit Procedures:

Application:

Application for an in-home occupation permit shall be made to the Building Department on a form provided by the Building Department and shall be accompanied by a fee as determined by the Board of Selectmen. In-home occupations complying with the criteria established in Paragraph E, shall be considered minor in character and shall receive an in-home occupation permit.

Time Limit:

All in-home occupation permits shall be issued annually.

ARTICLE II, PART A
GENERAL REGULATIONS-ZONE A

Inspection:

In-home occupation applicants shall permit a reasonable inspection of the premises by the Building Department to determine compliance with this ordinance and building/safety codes.

Renewal:

In-home occupation permits shall be renewed each year provided there has not been any violation. Requests for renewals shall be submitted to the Building Department accompanied by the renewal fee prior to expiration of the permit.

Non-transferable:

In-home occupation permits are intended for use by the current resident/owner or tenants with the owner's permission and shall not be transferred from person to person or address to address.

Voiding of Permit:

The Building Department may void any in-home occupation permit for noncompliance with the criteria set forth.

E. Criteria for In-home Occupations:

1. The use shall be conducted entirely within existing structures and the total space shall not exceed a maximum of twenty-five percent (25%) of the gross floor area of the existing structure.
2. The in-home occupation shall be clearly incidental and secondary to the residential use, and shall not change the residential character of the neighborhood.
3. The in-home occupation shall be carried on by the resident/owners or tenants, with the owner's permission, and employ no others.
4. Multiple in-home occupations are permitted within the dwelling, provided that the cumulative impact on the surrounding neighborhood is no greater than the maximum usage of a single in-home occupation.
5. No in-home occupation or any storage of goods, materials, products, equipment, or supplies connected with the in-home occupation shall be allowed outside the dwelling unit.
6. There shall be no display of products visible, in any manner, from the outside of the dwelling.

ARTICLE II, PART A
GENERAL REGULATIONS-ZONE A

7. There shall be no change in the outside appearance of the dwelling or premises or any visible evidence of the conduct of an in-home occupation.
8. No signs or advertising displays shall be permitted.
9. The use shall not create additional pedestrian or vehicular traffic.
10. No equipment or process shall be used within an in-home occupation which creates noise, vibration, glare, fumes, or odor detectable off the property.
11. No equipment or process shall be used which creates visual or audible electrical interference in any radio or television receiver off the premises or cause fluctuations in line voltage off the premises.
12. The in-home occupation shall not involve the use of commercial vehicles for delivery of materials to or from the premises, which is not consistent with normal residential activities.

F. Special Exception Required in Certain Cases:

Any business not meeting the criteria of an in-home occupation shall not be permitted and a special exception will be required to have that use.

(Added March 13, 2007)

ARTICLE II
PART B
LAND REGULATIONS
ZONE A

Section 1

Not more than one dwelling unit shall be located on any single lot, unless otherwise permitted by this Zoning Ordinance. (Amended March 13, 2007)

Section 2

The following uses shall be permitted in Zone A (Zone A is everything not located in Zone BE):

1. Single family residential dwellings;
2. Cluster residential dwellings, subject to the requirements of Article II-Part D of this Ordinance;
3. On-site agricultural and forestry uses, including agricultural sales;
4. Elderly housing developments, subject to the requirements of Article II-Part F of this Ordinance;
5. Places of worship and accessory uses, subject to non-residential site plan approval by the Planning Board;
6. Telecommunications facilities, subject to the requirements of Article IX of this Ordinance;
7. Commercial and non-commercial recreational facilities or community facilities subject to non-residential site plan approval by the Planning Board.
8. Local, State and Federal Governmental offices and facilities;
9. All uses permitted by Special Exception or Conditional Use Permit under the provisions of Article V of this Ordinance.
10. Educational facilities, including day care facilities, subject to non-residential site plan approval by the Planning Board.

(Amended March 8, 2005)

Section 3

- A. Residential Density. Each lot used for residential purposes shall contain the square footage determined by sub-paragraph C-3 below, but in no event less than 40,000 square feet. (Amended 3/13/2001) (Amended March 8, 2005)

Each lot used for a single family residence shall contain a minimum contiguous buildable tract equal to 75 feet in width by 100 feet in length. (Adopted March 14, 2006)

- B. Frontage. Every building lot shall have a minimum frontage of 200 contiguous feet, which must be on (Amended 3/14/89 and 4/8/97):
1. A state highway; or
 2. A Class V Town Road; or
 3. A proposed road which has been approved pursuant to the Town's land subdivision control regulations and is bonded to the Town for proper construction.

ARTICLE II-PART B
LAND REGULATIONS

C. Non-sewered Lots. Every lot not served by Town sewer shall be subject to the following:

1. Receiving Soil. Every lot shall contain at least 20,000 square feet of contiguous natural in-lace soil having the following characteristics.
 - a. The depth to ledge or restrictive layer shall be 3 feet or greater.
 - b. The depth to a seasonal high water groundwater shall be one foot or greater.
 - c. The average slope of the land shall be 25 percent or less. The above items shall be determined by use of current United States Department of Agriculture, Soil Conservation Service, soil classifications, and New Hampshire Department of Environmental Services, Water Supply and Pollution Control Division reclassifications in conjunction with on-site testing. The receiving soil shall not include filled lands, except borrow or gravel pits renovated to meet the above specifications.
2. Receiving Layer. Every receiving soil, defined as aforesaid shall contain within it an area of at least 4,000 contiguous square feet having the following characteristics:
 - a. The depth to ledge or impermeable stratus shall be five feet or greater.
 - b. Land which is poorly drained or very poorly drained, and existing or proposed wells, shall be a minimum of 75 feet distant from said 4,000 contiguous square foot area.
 - c. The 4,000 square foot receiving layer shall be set back 75 feet from land in the "Wetlands Conservation District" and 35 feet from any newly created lot line created after December 20, 1996. (Amended 4/8/97)

The above items shall be determined by the use of current USDA SCS soil classifications and NH DES WSPCD reclassifications in conjunction with onsite testing. Two test pits within the 4,000 contiguous square foot area are required on each lot containing 5 acres or less, and to be separated by at least 50 feet from each other in order to determine that the requirements of Section 3.c.2 are met. (Amended 3/14/89) Lots containing more than five acres shall have at least one conforming test pit. (Amended March 12, 2002)

3. Minimum Lot Sizes and Frontages. Minimum lot sizes within all subdivisions shall meet the lot size requirements specified in Table 1A, "Minimum Lot Size By Soil Type" (Adopted 3/8/88). This requirement is subject to the following qualifications:
 - a. Where more than one soil type is found on a lot, a weighted average of those soils occurring on the lot shall be used to determine the minimum lot size. In the case of Cluster Subdivision, the overall density within the parcel shall be determined by using Table 1A (one dwelling unit for each lot size shown) and computing a weighted average of all soils (excluding wetlands) found in the

ARTICLE II-PART B
LAND REGULATIONS

parcel proposed for subdivision. One additional dwelling unit shall be permitted for each four (4) acres of poorly drained soil. Each dwelling unit will not exceed four (4) bedrooms, unless the scale up formula in 3.c.1 below is used.

- b. Wetlands may be used as a part of the computed lot size according to the following:
 - (i) Areas designated as poorly drained soils may be utilized to fulfill 25% of the minimum lot size required, provided that the non-wetland area is sufficient in size and configuration to adequately accommodate all required utilities such as sewage disposal and water supply, including primary and auxiliary leach field locations.
 - (ii) Areas designated as very poorly drained, fresh or saltwater marsh or alluvial soils may not be utilized to fulfill minimum lot size.
- c. Minimum lot sizes for residential developments with greater than four (4) bedrooms per unit and for commercial and industrial developments shall be determined as follows:

For residential use with 5 or more bedrooms per structure, the minimum lot size shall be proportionately larger than the lot size indicated in Table 1A as determined by the formula:

$$\text{Lot size (Sq.Ft.)} = \frac{\text{No. Of Bedrooms}}{4} \times (\text{Lot Size from Table 1 A})$$

****Duplexes shall follow the requirements of Article V, Section 3, Part A, Paragraph 1.

For commercial and industrial uses, lot sizes will be determined by the formula:

$$\text{Lot Size (Sq.Ft.)} = \frac{\text{Gal. Of Wastewater/Day}}{1837 \text{ (gpd/40,000 sq.ft.)}} \times \text{Lot Size} + \text{Land for Well Radius Table 1A}$$

Gallons of wastewater discharged per day shall be determined from Table 5-1, "Unit Design Flow Figures" of New Hampshire Water Supply and Pollution Control Commission publication, Guide for the Design, Operation and Maintenance of Small Sewage Disposal Systems, January, 1978, as amended.

Final site plan approval for industrial development which is of such nature or character as to require state or federal permits for pre-treatment and discharge or subsurface disposal shall not be granted until all such permits are secured. The conditions upon which such permits are issued shall comply with state and local regulations and be made part of the record before the Planning Board.

ARTICLE II-PART B
LAND REGULATIONS

TABLE 1 A
MINIMUM LOT SIZE (SQ. FT.) BY SOIL TYPE

Soil Type	Lot Size	Soil Type	Lot Size	Soil Type	Lot Size
111BH	40,000	212BH	75,000	23XCH	100,000
111CH	45,000	212CH	80,000	23XDH	140,000
111DH	60,000	212DH	95,000	23XEH	N/A
111EH	N/A	212EH	N/A	241BH	50,000
112BH	75,000	213BH	50,000	241CH	75,000
112CH	80,000	213CH	75,000	241DH	100,00
112DH	95,000	213DH	100,000	241EH	N/A
112EH	N/A	213EH	N/A	243BH	50,000
114*H	N/A	214*H	N/A	243CH	75,000
11XBH	80,000	21XBH	80,000	243DH	100,000
11XCH	100,000	21XCH	100,000	243EH	N/A
11XDH	140,000	21XDH	140,000	244*H	N/A
11XEH	N/A	21XEH	N/A	24XBH	90,000
121BH	40,000	221BH	40,000	24XCH	130,000
121CH	45,000	221CH	45,000	24XDH	180,000
121DH	60,000	221DH	60,000	24EXH	N/A
121EH	N/A	221EH	N/A	251BH	90,000
122BH	75,000	222BH	75,000	251CH	135,000
122CH	80,000	222CH	80,000	251DH	160,000
122DH	95,000	222DH	95,000	251EH	N/A
122EH	N/A	222EH	N/A	253BH	90,000
124*H	N/A	223BH	50,000	253CH	135,000
12XBH	80,000	223CH	75,000	253DH	160,000
12XCH	100,000	223DH	100,000	253EH	N/A
12XDH	140,000	223EH	N/A	254*H	N/A
12EXH	N/A	224*H	N/A	25XBH	130,000
161BH	50,000	22XBH	80,000	25XCH	190,000
161CH	55,000	22XCH	100,000	25XDH	240,000
161DH	70,000	22XDH	140,000	25XEH	N/A

161EH	N/A	22XEH	N/A	261BH	50,000
164*H	N/A	231BH	40,000	261CH	55,000
166*H	N/A	231CH	45,000	261DH	70,000
16XBH	90,000	231DH	60,000	261EH	N/A
16XCH	110,000	231EH	N/A	263CH	60,000
16XDH	150,000	233BH	50,000	263CH	85,000
16XEH	N/A	233EH	75,000	263DH	110,000
211BH	40,000	233DH	100,000	263EH	N/A
211CH	45,000	233EH	N/A	264*H	N/A
211DH	60,000	234*H	N/A	266*H	N/A
211EH	N/A	23XBH	80,000	26XBH	90,000
26XCH	110,000	33XBH	115,000	412BH	145,000
26XDH	150,000	33XCH	155,000	412CH	190,000
26EXH	N/A	33XDH	205,000	413BH	90,000
275*H	N/A	33XEH	N/A	413CH	135,000
311BH	60,000	341BH	75,000	414*H	N/A
311CH	90,000	341CH	100,000	41XBH	150,000
311DH	120,000	341DH	125,000	41XCH	180,000
311EH	N/A	341EH	N/A	421BH	75,000
312BH	95,000	343BH	75,000	421CH	115,000
312CH	125,000	343CH	100,000	42BH	130,000
312DH	155,000	343DH	125,000	422CH	165,000
312EH	N/A	343EH	N/A	423BH	90,000
313BH	60,000	344*H	N/A	423CH	135,000
313CH	90,000	34XBH	115,000	424*H	N/A
313DH	120,000	34XCH	155,000	42XBH	N/A
313EH	N/A	34XDH	205,000	42XCH	180,000
314*H	N/A	34XEH	N/A	431BH	115,000
31XBH	100,000	351BH	90,000	431CH	150,000
31XCH	120,000	351CH	135,000	433BH	115,000
31XDH	160,000	351DH	160,000	433CH	150,000
31XEH	N/A	351EH	N/A	434*H	N/A
321BH	50,000	353BH	90,000	43XBH	175,000
321CH	75,000	353CH	135,000	43XCH	235,000
321DH	100,000	353DH	160,000	441BH	115,000
321EH	N/A	353EH	N/A	441CH	150,000

322BH	85,000	354*H	N/A	443BH	115,000
322CH	100,000	35XBH	130,000	443CH	150,000
322DH	135,000	35XCH	190,000	444*H	N/A
322EH	N/A	35XDH	240,000	44XBH	175,000
323BH	60,000	35XEH	N/A	44XCH	235,000
323CH	90,000	361BH	70,000	451BH	135,000
323DH	120,000	361CH	100,000	451CH	205,000
323EH	N/A	361DH	130,000	453BH	135,000
324*H	N/A	361EH	N/A	453CH	205,000
32XBH	100,000	363BH	70,000	454*H	N/A
32XCH	120,000	363CH	100,000	454XBH	195,000
32XDH	160,000	363DH	130,000	45XCH	285,000
32XEH	N/A	363EH	N/A	461BH	105,000
331BH	75,000	364*H	N/A	461CH	150,000
331CH	100,000	366*H	N/A	463BH	105,000
331DH	125,000	36XBH	110,000	463CH	150,000
331EH	N/A	36XCH	130,000	464*H	N/A
333BH	75,000	36XDH	170,000	466*H	NA/
333CH	100,000	36XEH	N/A	46XBH	165,000
333DH	125,00	375*H	N/A	46XCH	195,000
333EH	N/A	411BH	90,000		
334*H	N/A	411CH	135,000		

ARTICLE II-PART B LAND REGULATIONS

The soil types listed below have one or more limiting characteristics that make the soil type “N/A” or require on-site investigation, no matter what other characteristics of the soil may be present.

<u>Soil Type</u>	<u>Minimum Lot Size</u>
5***H	Poorly drained soil 90,000 for A/B slopes N/A for all other slopes
6***H	N/A, very poorly drained soil
*75*H	N/A, floodplain soil
*66*H	N/A, fill does not meet the Standards for Fill Material (See Key to Soil Types)

The Soil Type symbols are explained in the Key to Soil Type.

“N/A” means not allowed.

“*” means any slope or any number

Minimize lot size interpretation is based on Table 1, page 225 of the Draft Water Quality Management Plan, Southern Rockingham Planning Commission 208 Project and further evaluations.

D. Key to Soil Types (USDA, National Cooperative Soil Survey Program, Soil Conservation Service)

This key is used in determining soil types that are utilized in high intensity soil surveys for administration of lot sizes by soil type and wetland regulations. The soil types are defined as having the same soil characteristics of drainage class, parent material, restrictive feature, and slope; and are designated by a five part symbol-parts A,B,C,D and E.

SYMBOL ‘A’ DRAINAGE CLASS

1. Excessively drained
2. Well drained
3. Moderately well drained
4. Somewhat poorly drained
5. Poorly drained
6. Very poorly drained
7. Not determined (to be used only with Symbol B-6)

ARTICLE II-PART B LAND REGULATIONS

SYMBOL 'B' PARENT MATERIAL

1. Glaciofluvial deposits (outwash/terraces)
2. Glacial till material
3. Marine or glaciolacustrine deposits, very fine sand and silt deposits
4. Marine or glaciolacustrine deposits, loamy/sandy over silt/clay deposits
5. Marine or glaciolacustrine deposits, silt and clay deposits
6. Excavated, regraded, or filled
7. Alluvial deposits
8. Organic materials-fresh water
9. Organic materials-tidal marsh

SYMBOL 'C' RESTRICTIVE FEATURE (if more than one applies, list the most restrictive)

1. None
2. Bouldery, with more than 15% of the surface covered with boulders
3. Mineral restrictive layer(s) are present in the soil profile less than 40 inches below the soil surface-such as hard pan, platy structure, clayey texture. For the soil characteristics that qualify for restrictive feature, see Soil Manual for Site Evaluation in New Hampshire, page 2-22, figure 2-8.
4. Bedrock present in the soil profile 0 to 40 inches below the soil surface (Bedrock is either a lithic or paralithic contact-see Soil Taxonomy p. 48-49),
5. Subject to flooding (must be used with Symbol B-7)
6. Does not meet fill standards (see addendum-Standards for Fill Material) (Only to be used with Symbol B-6)
7. Areas where depth to bedrock is so variable that a single soil type cannot be applied will be mapped as a complex of soil types and will have a Symbol C of X.

SYMBOL 'D' SLOPE CLASS

1. 0 to 8%
2. 8 to 15%
3. 15 to 25%
4. 25%-

SYMBOL 'E' high intensity soil map identifier-H

ARTICLE II
PART C
DRIVEWAY REGULATIONS-ALL ZONES

Adopted 1982

Section 1

A permit shall be required for the establishment of any driveway, unless the issuance of the driveway permits for a roadway is under the jurisdiction of the State of New Hampshire.

Section 2

It shall be unlawful to construct, or by any other means establish a driveway connecting to any Town Road or proposed Town Road without first obtaining a formal written permit therefore. It shall be unlawful to construct or by any other means establish a new driveway, or to cause modification to an existing driveway connecting to any town highway without first obtaining a written permit for such work. (Amended March 8, 2005)

Section 3

It shall be the duty of the Administrative Authority to determine that an all season safe sight distance of 200 feet exists in both directions along the highway from the driveway, and that adequate drainage provisions have been made for the proposed driveway.

For the purposes of this Section, all season safe sight distance defined as a line which encounters no visual obstruction between 2 points, each a height of 3 feet, 9 inches above the pavement, and so located as to represent the critical line of sight between the operator of a vehicle using the access and the operator of a vehicle approaching from either direction. The driveway sight point shall be at least eight feet from the edge of highway pavement. (Amended March 12, 2002)

All proposed driveways shall be constructed so as to intersect with an existing or proposed street at a location where the slope of said street is not more than 6 percent. The driveway apron shall include a platform with a negative slope of 2 percent running not less than 6 feet inward from the edge of pavement. (Amended 4/8/97)

Section 4

Before any driveway for which a permit has been issued has been given final approval, the Administrative Authority shall determine that to his satisfaction both the sight distance and drainage requirements specified in the permit have been met.

Section 5

The Administrative Authority for the issuing and monitoring of driveway permits shall be the Sandown Road Agent.

Section 6

There shall be a fee of \$20.00 for the issuance of a driveway permit and for each on-site inspection required pursuant to Sections 1 and 2 of this Article II. (1985)

ARTICLE II
PART D
CLUSTER RESIDENTIAL DEVELOPMENT

Section 1 Overview and Provisions

A. Cluster Permitted

1. Single and two family structures in a cluster concept is permitted in any district within the Town of Sandown and may be exempt from the provisions of minimum required lot and yard regulations, but subject to the conditions which follow:
2. Manufactured Housing. Manufactured Housing may be permitted in a cluster development in any residential district provided such housing meets all other requirements of the Sandown Zoning Ordinance (In particular Article IV).

B. Purpose

The purpose of cluster development, and to which any such development must adhere are the following:

1. Permit greater flexibility in design and to discourage development sprawl.
2. To preserve the natural beauty of existing rural roads, natural and scenic qualities of open space including setback areas, buffer zones, agricultural lands, tree cover, recreation areas and environmentally sensitive lands.
3. Facilitate the economical and efficient provisions of public services.
4. Provide a more efficient use of land in harmony with its natural characteristics.
5. Provide for an efficient use of land, streets and utility systems.
6. To expand the opportunity for the development of affordable housing without increasing the development's overall density and provide a balance of community needs such as adequate recreation and open space areas, easy accessibility to those and other community facilities, and pedestrian and vehicular safety.
7. To stimulate new approaches to land and community development.

C. Other

1. The proposed development will be consistent with the general purpose, goals, objectives and standards of the town's master plan, zoning ordinance, subdivision regulations and site plan review regulations.

ARTICLE II, PART D
CLUSTER RESIDENTIAL DEVELOPMENT

2. The proposed development shall comply with all applicable provisions of the zoning ordinance, subdivision regulations and site plan review regulations unless expressly superseded by this ordinance.

Section 2 Definitions for Cluster Development

The following definitions apply specifically to this Section of the Zoning Ordinance.

1. Cluster Subdivision: A form of residential subdivision that permits housing units to be grouped on sites or lots with dimensions, frontages and setbacks reduced from conventional sizes, provided the density allowed by the zoning district under existing regulations, in which the cluster development is located and the remaining land is devoted to common open space.
2. Buffer: An area of land used to separate visibly one parcel from another or which acts as a separation between two land uses of different intensity.
3. Common Open Space: Land within or related to a cluster residential development, not individually owned, which is designed and intended for the common use of enjoyment of the residents of the development, or the public, which may contain such accessory structures and improvements as are necessary and appropriate for recreational purposes. A condition of the cluster residential development approval shall be that common open space may not be further subdivided.
4. Develop able Land: The developable land area is that portion of the tract remaining after deducting the un-developable land area (such as wetlands, steep slope and roadways) from the total tract area.
5. Homeowner's Association: A private non-profit association which is organized by the developer of a cluster residential development in which individual owners share common interests in open space and/or facilities and are in charge of preserving, managing and maintaining the common property, and enforces certain covenants and restrictions.
6. Tract: An area, parcel, site, piece of land, or property which is the subject of a development proposal and application.
7. Town Road: A Town road shall be defined as a Class V road.

Section 3 Density Change

In each zoning district which allows cluster residential development, the lot size for clustering may be reduced below minimum lot size required for that specific district. All reductions in lot size shall be offset by an equivalent amount of land set aside in common open space, or as may be determined by the planning board. All sections of the subdivision regulations or the zoning ordinance which are not superseded by the cluster residential development options shall be applicable.

ARTICLE II, PART D
CLUSTER RESIDENTIAL DEVELOPMENT

1. The individual lots, buildings, streets and parking areas shall be designed and situated to minimize alteration of the natural site features.
2. The suitability of all cluster open space intended for recreation use or other specified uses shall be determined by the size, shape, topography and location for the particular purpose proposed, and shall be accessible to all residents of the cluster development.
3. The proposed cluster buildings will not have an undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, utility facilities, and other areas related to public health, safety and general welfare.

Section 4 General Requirements

- A. Location. Single and two family structures in a cluster concept is permitted in any district within the Town of Sandown provided it meets all other requirements of the Sandown Zoning Ordinance.
- B. Permitted Uses. No cluster residential development shall include any use other than single and two family dwellings, accessory structures and incidental recreational uses.

Section 5 Minimum Tract Requirements

A. Minimum Tract Size

The tract, lot or parcel of single or consolidated ownership at the time of application shall be:

1. At least 20 contiguous acres of upland soils as delineated by High Intensity Soils Mapping in Zone A.
2. At least 300 feet in depth from an existing Class V or State Highway from which access/frontage for the cluster development is provided.
3. In all instances, the entire tract, lot or parcel of single or consolidated ownership proposed for cluster development, inclusive of all setback buffer zones, and wetlands as defined by the New Hampshire Wetland Board, shall be a buildable lot in accordance with Article II, Part B., Section 3 of the Sandown Zoning Ordinance.
4. In accordance with Article I, Part B. of the Sandown Zoning Ordinance, only 25% of any poorly drained soils and no portion of any ponds, lakes, fresh water marshes, alluvial soils, perennial streams or very poorly drained soils may be used to fulfill the minimum tract size for any proposed cluster development.
5. Subject to approval by the Planning Board under RSA 674:35 as amended.

ARTICLE II, PART D
CLUSTER RESIDENTIAL DEVELOPMENT

B. Permitted Density

The maximum number of dwelling units permitted in any cluster development shall be determined by utilizing the soil type lot requirement contained in Article II, Part B, Section 3 of the Sandown Zoning Ordinance. The maximum number of dwelling units or lots shall not exceed the number of single family units or lots possible in a conventional grid subdivision. In no event shall the maximum number of dwelling units or lots permitted include all wetland soils (except as permitted by Article II, Part B, Section 3. Paragraph C.3.a) as defined by the Wetlands Bureau and all lands with slopes greater than 25%.

C. Lot Size

1. The minimum lot area for one-family residential structures in a cluster residential development shall be not less than 32,500 square feet; and the minimum lot area for two-family residential structures in a cluster residential development shall not be less than 60,000 square feet. (Amended March 14, 2006)
2. Maximum Dwelling Units Per Acre. The residential density within the area being developed shall not exceed two (2) dwellings per acre, as measured on one side of a road or street.

D. Frontage Requirements and Setbacks

1. Cluster Development Frontage. The minimum cluster residential development frontage on a Class V road or state highway shall be a contiguous 250'.
2. Dwelling Unit Frontage. Cluster development shall not be required to conform to the minimum frontage and lot sizes required elsewhere in the Sandown Zoning Ordinance, but shall be designed with a minimum frontage of 100 contiguous feet for each dwelling unit and shall be designed and constructed as to achieve the purposes of cluster development set forth in these regulations.
3. Building Setbacks. Building Setbacks shall be the same as those in Article III, Part A, Section 1 of the Sandown Zoning Ordinance. Building setback distances shall be measured from the buffer zone distance and not the perimeter boundary.

E. Buffer Zone Requirements

1. Frontage setback from an existing Town road or state highway in existence prior to submission of an application shall be 250 linear feet for cluster residential developments. (Amended March 14, 2006)
2. Side and rear setbacks shall be 150 feet from all abutting property lines.
3. Landscape buffer. A cluster development shall have a one hundred (100) foot landscaped buffer around its entire perimeter to provide an adequate division of

ARTICLE II, PART D
CLUSTER RESIDENTIAL DEVELOPMENT

transition from abutting land uses and existing town roads. This landscaped buffer shall be required whether or not the abutting properties, including those across the street, are developed or undeveloped. The Planning Board shall determine whether the type of landscaping proposed is acceptable.

4. Restrictions in Buffer Zone

In no instance, shall any of the following be allowed within the buffer side, and rear setbacks: structures of any type, additions to existing structures within the cluster including garages, decks or porches; parking areas, walkways, driveways, or any privately owned road or street. (Town roads or collector roads may not pass through any side or rear setbacks unless approved by the Planning Board, and may only pass through a front setback for purposes of access to an existing town or state road in existence at the time of submission of application), septic systems, leaching fields, and back-up areas for the same; wells, or back up wells; any other improvements not specifically listed above that would disturb the natural condition of the setback. In the development of the cluster, the setbacks shall be left in their natural state with the following exceptions: Upon approval of the Planning Board, cutting of vegetation and excavation may be allowed to improve sight distance along an access from a town or state road in existence prior to submission of application; drainage and utility easements: required landscaping; entrance sign; and any other improvements deemed necessary by the Planning Board to ensure public health, safety and welfare.

5. A 75' foot buffer zone shall be provided on each side of the cluster access road as measured from the centerline of said road.

F. Utilities

1. Water and Septic Systems. The development may be served by common water and septic systems. The design and construction of which must be approved by the state and local authorities prior to final approval of any cluster site plan or subphase thereof by the Sandown Planning Board. All common water systems shall require state approval under RSA 149:82, if applicable, and approval by the State of New Hampshire Water Supply and Pollution Control Division. Additionally, NHWSPCD subdivision approval for cluster development, if applicable, and individual sewage system approvals must be obtained prior to final approval of any cluster site plan or sub-phase thereof the board. All common wells within the cluster development, shall in no instance have a protective radius of less than 125 feet, and when applicable state requirements for a greater radius shall apply. In no instance, shall any sewage system, road, driveway, parking area, walkway or dwelling unit be allowed within the protective well radius of any common well. Private wells shall not have any roads, walkways, parking, driveways or septic systems within a 75 foot radius. Whenever possible, the well(s) shall be located on an upgradient from any sewage system, structure, roadway, driveway, parking area, or walkway, and any potentially harmful run-off shall be directed away from the protective radius.
2. All electrical, gas, cable and phone lines shall be located underground.

ARTICLE II-PART D
CLUSTER RESIDENTIAL DEVELOPMENT

G. Parking

1. Two parking spaces per bedroom shall be provided.
2. A parking space shall be defined as one which is 9 foot wide and 20 foot long exclusive of traffic and maneuvering space.
3. All parking spaces shall be paved.
4. Parking areas and locations shall be subject to Planning Board approval. Access driveways shall be paved and widths shall be subject to Planning Board approval.
5. Driveways shall meet all other design criteria as set forth in the Sandown Zoning Ordinance.
6. Driveways shall access no more than three dwelling units.

H. Roads

1. Layout. The cluster development plan shall show the lay out of all roads and shall differentiate between collector roads which move traffic through the development and service roads which provide access to the development and individual structures. No service road shall access more than six dwelling units.
2. All collector roads and service roads shall be built to town subdivision requirements for new public roads.
3. Sidewalks shall be provided on one side of the street if the development exceeds 12 or more dwelling units.
4. Traffic signilization, stop signs, street signs and development signs shall be installed or bonded.

I. Emergency Items

1. Emergency vehicle access shall be provided to all structures within the cluster development and shall be subject to Planning Board and Fire Chief approval.
2. A fire pond built to NHPA standards shall be provided along with the installation of a dry hydrant.

J. Common Land

1. Forty percent (40%) of the tract must be permanently protected as common land or open space for recreation, conservation or agricultural uses. No portion of the required common land or open space may consist of wetlands, surface waters and areas with unaltered slopes greater than twenty-five percent (25%). Areas of roadways, driveways

ARTICLE II, PART D
CLUSTER RESIDENTIAL DEVELOPMENT

and other built environments, constructed for non-recreational purposes shall not be used to fulfill this minimum common land requirement. (Amended 3/9/2004)
(Amended 3/13/2001)

2. Areas which are non-buildable (wetlands and steep slopes) and are not included in determining the lot size under a conventional grid subdivision shall not be used in determining lot size and common open space requirements under a cluster development proposal.
3. The land so set aside shall be provided in such a manner that it is usable for recreation, other activities, and it is reasonably accessible to all residents of the cluster development.
4. Use of Common Land. Such common land shall be restricted to open space recreational uses such as tot lot, park, swimming pool, tennis courts, playground, play field, golf courses or conservation. While the setbacks, front, rear and side are considered part of the common land, none of the above uses shall be allowed within these areas that would not be allowed under Section 5, Subsection E of this ordinance, nor any other uses that would disturb the natural vegetation within these areas. These restrictions of the use of the common land within the setbacks (including the landscaped buffer area) shall be so stated in the covenants running with the land.
5. Those areas set aside for conservation or preservation shall remain unimproved unless for safety and welfare of the public mandates improvement. Future development of any common open space is forbidden.
6. Access to Open Land. Such common land shall have suitable access to a road only within the development.
7. Current Use Limitation. The common land areas, open space areas and natural areas in an approved development are considered to be part of the residential use of such development and shall not be considered to be "open space"; "farmland", "forest land", "wetland", "recreational land", "flood plain", or "wild land"; within the meaning of RSA 79-A except where such consists of actively operated farmland. As a condition of approval of a cluster residential development, all deeds to the common open space and natural areas in the development acknowledge that such areas and space are part of the residential use and do not qualify for "current use" under RSA 70-A.

K. Protection of Common Land

Open space, common areas, common facilities, and other features within the cluster development shall be protected by covenants running with the land and shall be conveyed by the property owners to a homeowners association or deed restrictions so as to guarantee the following: (Amended 3/13/2001)

ARTICLE II, PART D
CLUSTER RESIDENTIAL DEVELOPMENT

1. The continued use of the land for the intended purposes;
2. Continuity of proper maintenance for those portions of the development requiring maintenance;
3. The availability of funds required for such maintenance;
4. Recovery for loss sustained as a result of casualty, condemnation or otherwise;
5. A homeowners association of tenancy-in-common or similar form of ownership, that the membership and obligation of the residents of the cluster development be automatic upon conveyance of title or lease to single dwelling units. Homeowners association, tenancy in common or similar form of ownership shall include lien provisions and shall be subject to review and approval by the Planning Board.

Section 6 Site Plan

- A. A site plan for the entire tract at a scale of 1"=100' and the developed portion to the scale of 1"=50' shall be prepared by a registered architect, registered professional engineer or registered land surveyor in the State of NH. The site plan shall be submitted in accordance with the site plan and subdivision regulations for the Town of Sandown.
- B. The location of parks and open space shall be shown on the plan.
- C. Submission of two different design review plans for general discussion before approving the cluster subdivision concept.
 1. One plan shall show a conventional subdivision plat based on existing regulations without cluster design to establish the number of developable lots possible;
 2. One plan shall show a cluster subdivision which would be reviewed to determine whether a cluster design would be appropriate for the specific site.

Section 7 Planning Board Review

- A. Planning Board Review.

The review of any cluster development conducted by the Planning Board under these regulations shall ascertain that adequate provisions have been made by the owner or his authorized agent for the following, but not limited to the following:

1. Traffic circulation and access including adequacy of adjacent street entrances and exits, traffic flow, sight distances, curb cuts, turning lanes, and existing or recommend traffic signalization.
2. Pedestrian safety and access.

ARTICLE II, PART D
CLUSTER RESIDENTIAL DEVELOPMENT

3. Off street parking and loading.
4. Emergency vehicle access and protection.
5. Fire protection as it applies to the proximity of buildings to one another and to the existence of firefighting water sources.
6. Storm water drainage based upon a minimum of a ten (10) year storm frequency, utilizing on-site absorption and/or positive outfall.
7. Recreational facilities.
8. Water supply and waste water disposal approved by a civil or sanitary engineer registered in NH.
9. Environmental factors such as protection against pollution, noise, odor, and the protection of natural features.
10. Signing and exterior lighting.
11. Landscaping in keeping with the general character of the surrounding areas.
12. Submission of proposal along with abutting property owners' names and addresses shall be in accordance with the Town of Sandown Subdivision Regulations in order to provide for timely notification to abutters of public hearings to review said parcel.
13. In addition, the Planning Board, shall review the plan to insure compliance with the provisions of the standards set forth in these regulations and other town regulations and ordinances. The Planning Board shall also ascertain that the plan minimizes the encroachment of the cluster development upon neighboring land uses.
14. The Planning Board may retain the services of a consultant and/or engineer qualified to review any specific areas of the plan or to review any engineering or professional studies submitted by the developer as requested by the Board. The cost of said services shall be borne by the owner and/or developer as outlined in the Site Plan Review Regulations and Subdivision Regulations.
15. That the proposed building design and layout be compatible with the predominate architectural styles of the Town.

Section 8 Performance Bond

A performance bond or other acceptable surety and other legal data shall be submitted as required by the Planning Board to ensure the completion of streets, buffers and amenities in accordance with the accepted plans and subdivision regulations of the Town of Sandown as adopted or hereafter.

ARTICLE II, PART D
CLUSTER RESIDENTIAL DEVELOPMENT

Section 9 Amendments to an Approved Plan

The owner, his agent or his successor or assigns will make no alterations or additions or deletions from the approved Cluster Development Plan except as provided in advance by the Planning Board. All requests for changes to the approved plan shall be made in writing to the Board and shall be accompanied by such documents as the Planning Board shall deem necessary to explain the requested change. The Board shall determine if the requested change is minor or major in nature.

1. **Minor Changes.** A minor change shall be one which respects the approved plan's basic land allocations in terms of use and density, the type and variety of facilities and dwelling units being approved, and/or the timing of providing these facilities, but shall not include any increase in the overall density of the development. The Board may hold a public hearing on the proposed change with proper notification to all abutters, including those of the original proposed development as well as any additional ones which may have been created by development activity within the development itself. The Board shall then act to approve or disapprove with written notification to the owner of its action. Any approved changes involving changes in any lot boundaries shall be recorded as a subdivision change in the Rockingham County Registry of Deeds.

2. **Major Changes.** Any requested change which the Board determines does not qualify as a minor change shall be required to be submitted as a separate cluster development plan in accordance with these regulations and procedures.

Section 10 Other Provisions

- A. **Administration.** The Planning Board shall be responsible for the review and approval of all applications for cluster development. To minimize the period of time required for the review, the Board may conduct its Site Plan Review in concert with the cluster provisions contained in the Sandown Zoning Ordinance.

- B. The Planning Board shall adopt such procedures as part of the Site Plan and Subdivision Regulations as it may deem necessary in order to insure sufficient public review of any cluster proposal and to insure compliance with these and other Town ordinances and regulations.

- C. All other land use requirements in the Town of Sandown Zoning Ordinances shall be met including all general requirements of the issuance of a special exception.

(Amended April 8, 1997)

Article II
Part E
Business District Land Regulations

Adopted: March 13, 2001

Section 1

The requirements of this Article shall apply to all lots situated in the Business District.
(Amended March 8, 2005)

Section 2

Each lot not served by Town sewer shall conform to the requirements of Article II, Part B, Section 3.C of this Ordinance relative to the lot area and suitability for on-site sewage disposal. (Amended 3/9/2004)

Section 3

Every lot shall have a frontage sufficient to conform to the requirements of Article II, Part B, Section 3.B of this Ordinance. (Amended 3/9/2004)

Section 3.1

Frontage on Cul-de-sacs. Lots on cul-de-sacs may have frontage along the access road right-of-way of less than 125 feet provided that the frontage of the lot curve is 125 feet at the nearest point of the building closest to the right-of-way.

Section 4

Setbacks-Buildings and other structures shall have a frontage setback of at least 35 feet, and side and rear setbacks of at least 20 feet.

Section 4.1

Setbacks abutting residential zones-Side or rear setbacks from lots which are zoned residential shall be at least 75 feet. All natural vegetation within such setbacks shall not be disturbed during lot development in any manner. Should pre-existing natural vegetation not provide adequate visual barrier from residential buildings, additional landscaping will be subject to the approval of the planning board.

Section 5

Lot Coverage-Buildings, pavement and other impermeable surfaces shall not cover more than 75% of any lot. Storm water runoff from a developed commercial subdivision shall not exceed the rate of runoff prior to development, unless approved by the Planning Board.

ARTICLE II, PART E
BUSINESS DISTRICT LAND REGULATIONS

Section 6

Nuisances prohibited. No activity or material which creates or emits any nuisance, noxious or dangerous odors or conditions is permitted or allowed on any lot. Such restrictions include, but are not limited to explosives, open or smoking fires, fresh manure or uncovered refuse. Any and all chemical emissions must be modeled and/or permitted by the New Hampshire Department of Environmental Services Air Resources Division to insure compliance with its toxic air pollutant regulations Env-A 1400. (Amended March 13, 2007)

Section 7

Noise-Noise generated from any operating equipment shall not exceed 70 dBA at the property line abutting residential lots. (Amended March 13, 2007)

Section 8

Outside storage-There shall be no storage of materials, product or waste outside unless approved by the Planning Board. Covered garbage/trash dumpsters are exempt from this requirement, but must be placed behind the building. Temporary outside storage must be specified during the site plan review and approved by the Planning Board.

Section 9

Vehicles-No mobile homes, motor homes, campers, trailers or unspecified recreational vehicles shall be parked on any lot, unless it is necessary to clean, load or unload same, or pickup or discharge passengers there from. Disabled or unused vehicles shall be removed from the lot within 30 days. Vehicles stored inside buildings are exempt from these restrictions.

Section 10

Architectural Finish-The outside and roof finish of all buildings shall be specified in the site plan application and subject to Planning Board approval.

Section 11

All commercial buildings shall be exempt from both the school building impact fee and the town recreation impact fee.

Article II
Part F
Elderly Housing Development

Adopted: March 13, 2001

Section 1 **Objectives and Characteristics**

The Elderly Housing District is designed to permit an increased residential density above the allowed in Zone A districts and to set criteria that assures that a project for the elderly will address the needs of elderly residents.

Any elderly housing development under this section must be established and maintained in compliance with the Fair Housing Act, as amended, 42 USC Sec. 3601 et seq. The Board may require assurance of compliance with the act by deed restriction or other instrument as condition of approval.

Such assurance may consist of a written plan submitted by the developer which sets forth:

1. The regulations under the Fair Housing Act whereby a project may lawfully discriminate in favor of elderly residents, and
2. How the developer does or proposed to comply with such requirements, including covenants and other deed restrictions and other to-be-recorded agreements.”

Section 2 **Uses**

Permitted Uses:

1. Elderly Housing;
2. Elderly Housing Support Facilities

(Amended March 8, 2005)

Section 3 **Definitions**

Open Space

Open space is that portion of a lot open and unobstructed from its lowest level to the sky. It shall not include land occupied by buildings and structures as well as roads and drives. Where no separate right-of-way is delineated for private streets, only the pavement areas of the street, curbs and sidewalks do no count. A minimum of 30% of the required open space shall be useable land. Minimum areas between dwellings (Section 4) and the minimum setback between the building and the edge of the right-of-way for the internal road system (Section 4, C.) shall not be counted towards the required 30% useable uplands. Up to 50% of the required open space can be wetlands or water bodies.

ARTICLE II, PART F
ELDERLY HOUSING DEVELOPMENT

Section 4 Regulations and Design Criteria

- A. Minimum size of a tract area shall be fifteen (15) acres. This tract shall have a minimum of fifty (50) foot frontage or access on a Class V road or better and, at the discretion of the Planning Board, a second fifty (50) foot frontage or access on a Class V road or better may be required for traffic circulation or safety.
- B. For site design purposes, the minimum dwelling unit separation distance shall be 30' for a single family home or unit; 45' for a duplex and 60' for a building with units in excess of a duplex. Each non-residential building shall have a minimum separation from any other building of sixty (60) feet. (Amended 3/9/2004)
- C. Each building shall have a minimum setback of forty (40) feet from the edge of right-of-way of the internal road system.
- D. Buffers

The Planning Board shall establish the criteria for a buffer zone around the entire perimeter of the site based on the following:

- 1. Topographic features of the site and adjacent lots
- 2. Using of zoning classifications of abutting land
- 3. Degree of visual barrier provided by proposed buffer

In no event shall the buffer zone be less than the following:

Adjacent zone or use: Zone A = 30 feet
Business Zone = 50 feet

The criteria for establishing the buffer zone is found in the "Non-Residential Site Plan Review Regulations" and "Subdivision Regulations for the Town of Sandown, as amended."

- E. Parking

There shall be two (2) parking spaces per dwelling unit. The Planning Board shall carefully consider the location of the parking area and the parking areas access to the unit it serves in keeping with its attendant use by the elderly.
- F. Building Height

The building height shall not exceed thirty-five (35) feet.
- G. Dwelling Units

The standard dwelling unit shall not exceed two (2) bedrooms. The base population shall not exceed an average of two residents per unit for the elderly development site. A site specific floor plan shall be part of the approval process and all designs shall reflect full time occupancy of no

ARTICLE II, PART F
ELDERLY HOUSING DEVELOPMENT

greater than two residents per unit, (a non-spousal person who resides in a unit only as full-time care giver to any elderly resident shall not be counted as part of the base population upon approval by the Homeowner's Association).

H. Open Space

Open Space as defined elsewhere in this section of the zoning ordinance shall constitute no less than fifty (50) percent of the gross tract area of the site.

I. Allowed Support Facility Uses

Upon site plan approval for such support facilities for housing of the elderly may include, but not be limited to the following:

1. Non-denominational chapel;
2. "Neighborhood" market;
3. Recreational Facilities (i.e. card rooms, swimming pools, meeting room, video room, music room, etc.);
4. Postal sub-station;
5. Medical sub-station (i.e. first aid, pharmacy, circuit health-care, etc.);
6. Library;
7. Circuit veterinary care

In the Planning Board's deliberation to allow any non-residential use as a support facility, the Planning Board shall give strong consideration to the needs of the elderly, not the applicant.

J. Site Ownership

At the time of application, the entire site shall either be under one owner, or documents shall be submitted with application that show that all owners of record have applied to the Planning Board for consolidation, pending approval of the site plan.

K. Agreements, Restrictions and Provisions

All agreements, deed restrictions and organization provisions for methods of management and maintenance of the common land, roads, utilities and support facilities shall be approved by the Planning Board. The site must be made subject to permanent covenants which comply with the Federal Fair Housing Act exemption for elderly residents, and restrict the use of residences in the development to unit residents and their spouses aged 55 years of age or older, with authority, but not the obligation to enforce such granted to the Town of Sandown as well as the dwelling owner's association. Any elderly housing development approved as such hereunder must have either a Homeowner's Association or condominium Association whose authority and obligations to collect from unit owners in the development such assessments as are necessary to properly maintain all common or common-owned roads, sewage disposal systems, wells and other commonly-used facilities and area must be permanently guaranteed by a recorded declaration of covenants, restrictions and limitations which declaration must be approved by counsel for the Town of Sandown at the applicant's expense.

ARTICLE II, PART F
ELDERLY HOUSING DEVELOPMENT

L. Road Construction

All roads and drives in a site shall be privately owned and maintained. Street design and construction is subject to the approval of the Planning Board. Easements for emergency access and relief from liability shall be given to the Town in a form acceptable to Town Counsel.

M. Review

Any proposed elderly housing development shall be subject to the “Non-Residential Site Plan Review Regulations, Subdivision Regulations and Zoning Ordinance” for the Town of Sandown, as amended.

N. Density

Maximum density shall be determined as follows:

From Gross Tract Area subtract:

- Soils classified as poorly and very poorly drained;
- Area of slopes greater than fifteen (15) percent;
- Wetlands;
- Bodies of standing water.

The resulting calculation shall be called “net tract area” and shall be the basis for density determinations as follows:

The maximum number of dwelling units permitted shall be limited to two units per acre of net tract area as defined above.”

(Amended March 8, 2005)

O. Limitation of Units

Any elderly housing development defined as “proposed, permitted and approved” shall not exceed 20% of the total existing housing stock of Sandown to qualify for an increase in density. (Amended 3/9/2004)

P. Impact Fee and Recreational Impact Fee Exemption

Elderly housing located under the provisions of these guidelines are not subject to building impact fees or town recreational impact fees.

ARTICLE III
PART A
BUILDING REGULATIONS-ZONE A
PERTAINING TO ALL BUILDINGS

Section 1

A. Each structure in Zone A shall be setback at least thirty (30) feet from the edge of the public right-of-way providing frontage. (Amended 3/14/2000)

B. Side setbacks shall be 15 feet.

Permitted uses in side setbacks:

Sheds, swimming pools and ancillary accessory structures, swing sets, gazebos or animal houses or runs shall be located no closer than 8 feet to the property line.(Amended 3/14/2000) (Amended March 12, 2002)

C. Rear setbacks shall be 10 feet.

Permitted uses in rear setbacks:

Sheds, swimming pools and their ancillary accessory structures, swing sets, gazebos, animal houses or runs shall be located no closer than 8 feet to the property line. (Amended 3/14/2000) (Amended 3/13/2001) (Amended March 12, 2002)

D. No structure shall be constructed to within fifty (50) feet from the high water mark of any lake, stream or surface water system including wetlands. No high water mark shall be moved or disturbed without Planning Board approval. (Amended 4/8/97) (Amended March 12, 2002)

Section 2

Every dwelling shall have a minimum ground floor area of 500 square feet outside measurement for each family unit. Steps or ground level terraces shall not be considered a part of the dwelling for the purposes of this Section.

Section 3

Buildings or structures shall not exceed thirty five (35) feet in height as averaged by all sides of structure. (Amended 4/8/87) (Amended 3/14/2000)

Section 4

Every residential, industrial, and commercial structure, except for mobile homes, shall be on a permanent foundation extending below the frost line to be constructed of concrete, brick, cement, block or stone. Accessory buildings may be set on brick, stone, cement block or reinforced concrete piers. Mobile homes shall be enclosed with a full perimeter permanent skirting material and supported in one of the following manners: (Amended 3/13/2001)

ARTICLE III, PART A
BUILDING REGULATIONS-ZONE A

1. By cement pilings or blocks upon a full size concrete pad; or
2. By a regular permanent foundation upon a permanent footing, both constructed of suitable masonry work; or
3. Mobile homes or manufactured housing that is located in parks shall not be required to be placed on anything other than the structural carriers designed for that purpose (RSA 31:116); (Amended 3/14/89)
4. Mobile homes shall be secured to resist wind uplift. (Amended 3/14/2000)

Section 5

Buildings must be framed according to good building practices and outside walls shall be finished with wood or fire-resistant shingles, sidings, clapboards, brick, stucco, concrete, or cinder block.

Section 6

The roof of every building hereafter erected or recovered, in whole or in part, shall be covered with non-combustible or fire-resistant materials, except that this Section shall not be construed to prohibit the use of wood shingles in repairing any roof now covered with wood shingles.

Section 7

Matters regarding safe practice and building design not specially provided for in the Sandown Zoning Ordinances shall be governed by the locally and state adopted Building Code, pursuant to RSA 674:52, VI the adoption of updates and/or revisions to national codes previously adopted as part of this section shall be allowed after a public hearing held by the Planning Board and approved by the Board of Selectmen and recorded with the Town Clerk. (Amended March 14, 2006)

Section 8

Every new dwelling must be completed on the outside within three years after issuance of permit.

Section 9

Installation or wiring and fixtures for electricity in buildings or structures must comply with the latest state adopted version of the National Electric Code.(Amended 3/13/2001)

- A. All newly constructed housing shall have strapping in the living area prior to the installation of electrical wiring.
- B. All newly constructed housing shall have a three-way switch or a four-way switch at each doorway when a room, hallway, cellar or garage has more than one entrance.
- C. All newly constructed housing shall have a duplex receptacle in hallways.

ARTICLE III, PART A
BUILDING REGULATIONS-ZONE A

- D. All newly constructed housing shall have at least two one-half switched duplex receptacles unless there is an overhead ceiling light in each room.
- E. All full size basements shall have at least four separate lighting outlets.
- F. SE type cable is not allowed on any building exterior. (Amended 3/13/2001)

(Items A-E adopted in 1979)

Section 10

Installation of plumbing must comply with New Hampshire State Laws and Regulations. Sewerage must be disposed of in septic tanks or proper size and its location and drainage system shall comply with New Hampshire State Laws and Regulations.

Section 11

The erection of Quonset Huts or similar structures for living purposes is prohibited.

Section 12

No overnight camp or Motel so-called shall be constructed, except in a site approved by the Board of Selectmen and complying with the regulations of the Building and Zoning Code.(Amended 3/14/2000)

ARTICLE III
PART B
FLOODPLAIN BUILDING REGULATIONS

Adopted: March 12, 2002

Section 1

The Building Inspector 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 location that has a flood hazard, any proposed new construction or substantial improvement (50% or more of the market value of structure including prefabricated and mobile homes) must:

- A. Be designed or modified and anchored to prevent floatation, collapse, or lateral movement of the structure;
- B. Use construction materials and utility equipment that are resistant to flood damage; and
- C. Use construction methods and practices that will minimize flood damage.

Section 2

The Building Inspector shall obtain, review and reasonably utilize any base flood elevation data available from a federal, state or other source, until such other data has been provided by the Administrator, as criteria for requiring that all new construction and substantial improvements of nonresidential structures have the lowest floor (including basement) elevated or floodproofed to or above the base flood level.

Section 3

The Building Inspector shall require that all manufactured housing to be placed within Zone A on the community's Flood Insurance Rate Map shall be anchored to resist floatation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements shall be that: (Amended March 13, 2007)

- A. Over-the-top ties be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations and mobile homes less than 50 feet long requiring one additional tie per side;
- B. Frame ties be provided at each corner of the home with five additional ties per side at intermediate points and mobile homes less than 50 feet long requiring four additional ties per side;
- C. All components of the anchoring system be capable of carrying a force of 4,800 pounds; and

ARTICLE III, PART B
FLOODPLAIN BUILDING REGULATIONS

- D. Any additions to the mobile home be similarly anchored.

Section 4

Require permits for all proposed developments in any area of special flood hazard. The term “development” is defined to mean “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.” (Amended March 13, 2007)

Section 5

Review permits for proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law.

ARTICLE III, PART C
SIGNS

- F. Signs advertising businesses not located in the Town of Sandown are prohibited beyond one mile from the business.
- G. Commercial franchise businesses which, by franchise agreement, are required to provide signs incompatible with this ordinance must provide copies of franchise sign contracts or agreements which require the sign as condition of franchise operation. Such signs are subject to approval of the Planning Board.
- H. Illuminated roadside signs shall not remain lit after 9:30 p.m.
- I. No sign shall be located within the right-of-way of any town road, nor shall it obstruct driving sight distance.

Section 4 Number of Signs

- A. No more than one (1) sign advertising or promoting a single business activity shall be permitted on any lot in Zone A.
- B. Each business or industry in the business district may have three signs, the combined total area of which, including any free-standing sign, does not exceed the area permitted in III.B.3.c.
- C. A single free-standing sign is permitted for each business in the business district except:
 - 1. When two or more businesses or industries share a lot or tract, a single common free-standing sign listing all tenants and/or occupants shall serve the lot or parcel.
 - 2. In the event of a lot or tract with frontage on more than one right-of-way, the provision of III.B.4.c.I shall apply to each right-of-way.

Section 5 Exceptions

- A. In any zone, the Planning Board may allow two additional non-illuminated home produce and products signs not to exceed twenty four (24) square feet (total of two sides) in area, for a period not to exceed eight (8) months per year.
- B. One temporary sign used by real estate agents advertising property for sale or these used by contractors, architects, painters or other artisans advertising work in progress is permitted on any lot or parcel, provided it is unlit, is located ten (10) feet away from the right-of-way, does not exceed twelve (12) square feet in area, and is removed within a six (6) month period.
- C. Only one residential identification sign per lot, having a surface area of three (3) square feet or less, shall be exempt from the permitting requirements. (Amended 3/13/2001) (Amended March 13, 2007)

Section 6 Enforcement

- A. The Building Inspector shall be the administrative officer of this ordinance.

- B. No sign shall be erected, moved or altered until a permit therefore is issued under the terms of this ordinance. The fee for a permit shall be \$10.00, except for temporary and home products and produce signs.

- C. All unused sign permits shall expire one (1) year from the date of issuance.

- D. All applications for sign permits shall be accompanied by an acceptable sketch of the proposed sign, and an indication of the location and dimensions of all existing signs located on the lot or tract.

ARTICLE IV

HOUSE TRAILER AND MOBILE HOME REGULATIONS

Section 1

A permit, in writing, must be obtained from the Administrative Authority before locating any house trailer (hereinafter referred to as a trailer) or a mobile home in any zone within the Town of Sandown, except that a trailer or mobile home owned by a residential landowner, and used by him for travel or business, may be stored without obtaining a permit provided said storage shall be under cover or to the rear of the landowner's premises and at least twenty-five (25) feet from the side and rear property lines.

Section 2

Each application shall be accompanied by such information, including plans and specifications, as may be required by the Administrative Authority. (Amended 3/8/88)

Section 3

The Administrative Authority shall issue all permits required when the proposed use or location is in accordance with the applicable provisions of this ordinance.

Section 4

A landowner or lessee in any zone may secure, free of charge, a temporary occupancy permit from the Administrative Authority to accommodate the trailer or mobile home of a non-paying guest for a period or periods not to exceed fourteen days upon showing that said trailer or mobile home shall comply with applicable state and local sanitation laws and regulations.

Section 5

Mobile homes are only allowed in subdivisions (including "parks" in cluster subdivisions per Article II, Part D) planned for mobile home construction. No trailer or mobile home shall be allowed within a one mile radius of the Sandown Town Hall. (Amended 3/14/89)

Section 6

All trailers and mobile homes established for living or residential use within Zone A must comply with the land regulations for that Zone contained in this ordinance and with the applicable building regulations established for that Zone. (Amended 3/14/89)

Section 7

The so-called double wides shall not be considered as a trailer or mobile home and shall be classed as a single family dwelling unit for the purposes of the Sandown Zoning Ordinance.(Amended 3/13/2001)

Section 8

This amendment shall take effect upon its passage.

ARTICLE V **SPECIAL EXCEPTIONS**

As authorized by RSA 674:43 and Town meeting vote on March 9, 1988 (W.A. 38), all development or change or expansion of use of lots for nonresidential uses, or for multi-family units (structures containing more than two dwelling units), are required to submit a site plan for such use to and obtain approval from the Planning Board. (Amended March 12, 2002)

Section 1 Industrial Use

An industrial use may be permitted in Zone A as a special exception provided the Board of Adjustment finds, in writing, after a duly noticed public hearing of which the abutting landowners have been notified in writing:

A. Use

It is not a medium or high hazard use as defined in the National Building or National Fire Prevention Code as promulgated by the National Board of Fire Underwriters; it does not emit smoke fumes or noise; and it does not have any characteristics usually attributed to a nuisance type of industry.

B. There is no outside storage of raw materials or waste materials.

C. Height

Maximum of two stories or 30 feet.

D. Set-Back

No structure so used shall be located nearer than 300 feet from any public right-of-way and 100 feet from adjacent property lines, and shall be shielded from view from any abutting properties by natural vegetation and or the addition of trees and shrubbery whose additions has been approved by the Town of Sandown Planning Board. (1986)

E. Lot Area

No lot so used shall be less than three acres per 15,000 square feet of building floor area or any part thereof. (Amended 3/11/86)

F. The said exception required is not for the erection or construction of any structure within 500 feet of the Sandown Old Meeting House. (1984)

G. The applicant has demonstrated that the burden of any substantial increase in demand on municipal services such as, but not limited to, water, waste disposal, police and fire protection shall be borne by the developer. (1984)

H. Impervious surfaces (e.g. buildings and pavement) shall not exceed 50% of the lot area. (Adopted 1990)

ARTICLE V
SPECIAL EXCEPTIONS

Section 2 Duplexes

- A. Duplexes may be permitted as a special exception, provided the Board of Adjustment finds, in writing, after a duly noticed Public Hearing of which the abutting landowners have been notified in writing, that the following have been met:
 - 1. The lot area upon which the proposed duplex is to be constructed contains a minimum lot area which is equal to at least twice that required for a single family home constructed on the same soil type.
 - 2. The lot shall have 250 feet of contiguous frontage. (Amended 3/13/2001)
- B. Proposed duplex dwelling shall be constructed at least 50 feet from any existing public right-of-way and 50 feet from all adjacent property lines.
- C. A proposed duplex dwelling must not bring about any detriment to the property values in the vicinity or change in the essential characteristics of a residential neighborhood on account of the use, location or scale of buildings and other structures, parking areas, or access ways. (Amended 3/10/92)

Section 3 Enactment of Provisions

Upon receipt of the findings of the Planning Board, if applicable, and a formal, properly completed application for special exception, the Board of Adjustment shall schedule a public hearing in accordance with State Law, the Sandown Zoning Ordinance, and its own bylaws, to consider the special exception request. All special exception requests must comply with all Sandown Zoning Ordinance requirements, including proposed amendments awaiting Town meeting approval, except for the requirements listed in the applicable Section of Article V, and if all the requirements are met, the special exception will be granted. (Amended March 12, 2002) If any of the requirements are not met, the special exception will be denied.

Section 4 General Requirements For All Special Exceptions

- A. The special exception requested must not bring about any detriment to property values in the vicinity or change in the essential characteristics of a residential neighborhood on account of the use, location or scale of the buildings or other structures, parking areas, access ways, dust or other pollutant, noise, glare, vehicles, odor, smoke, gas, or the unsightly outdoor storage of equipment or materials. (1984)
- B. No special exception for the construction of a commercial or industrial use shall be granted unless the structure shall be shielded from view from any abutting dwelling by existing natural barriers, or by additional trees and/or shrubbery shown on the plan. (1984) (1986) This paragraph shall not apply to a commercial use to be conducted entirely within the confines of an existing single family dwelling which shall not require the construction of additional structures or additions. (1985)

Section 5 Accessory Apartment Ordinance

A. Authority

This section is enacted in accordance with the provisions of RSA 674:21, using the dwelling unit definition as defined in Article II, Section 15 (a) of this Ordinance.

B. Purpose

The purpose of the accessory apartment provisions is to increase housing alternatives while maintaining public health, safety and neighborhood aesthetics.

C. Objectives

The objectives of this section are to:

1. Provide housing units in single family neighborhoods that are appropriate for different housing demands.
2. Add more affordable rental units to the housing stock to meet the needs of small households, both young and old.
3. Protect stability, property values, and the single family residential character of neighborhoods by ensuring that accessory apartments are installed only in existing owner-occupied houses and under such additional conditions as to protect the health, safety, and welfare of the public.

D. Definitions

Accessory Apartment: One apartment with cooking, living, sleeping, and sanitary facilities provided it is located within a single family dwelling or in an accessory structure, and is clearly subordinate part thereof, and has safe and proper means of entrance and exit, and meets the requirements set forth herein. The apartment can only have one bedroom.
(Amended March 12, 2002)

E. Special Exception

A special exception allowing the installation of one (1) accessory apartment within a single family dwelling or its accessory structure shall be issued by the Zoning Board of Adjustment provided that all of the following conditions have been met:

1. The appearance of the building remains essentially that of a single family dwelling.
2. It shall be contrary to this ordinance to provide accessory apartment uses in duplexes or multi-family dwellings.
3. The size of the accessory apartment shall not exceed the footprint of the existing single family dwelling or accessory structure.

ARTICLE V
SPECIAL EXCEPTIONS

4. One of the dwelling units must be owner occupied.
5. Off-street paved or gravel parking shall be provided for at least four (4) vehicles. Garage parking is encouraged.
6. The structure and lot shall not be converted to a condominium or any other form of legal ownership distinct from the ownership of the existing one family dwelling. The applicant shall record with the Registry of Deeds a notice of the Special Exceptions, including conditions of approval, in a form acceptable to the Board.
7. Prior to granting a Special Exception by the ZBA, the owner shall provide, as part of the ZBA case file, the following:
 - a. The septic system shall meet the NH Water Supply and Pollution Control Division requirements for the combined use.
 - b. A floor plan of one-quarter inch (1/4") to the foot scale showing the proposed changes to the building or accessory structure addition.
 - c. A certified plot plan of the lot, with existing and proposed structures, parking, location of septic system and well.
8. Separate controls for heating, cooling and electrical service shall be accessible in each unit. (Amended March 14, 2006)
9. In accordance with Article II, Part A, Section 2, no construction shall begin without first obtaining a building permit from the Building Inspector. As part of the application for a building permit to construct an accessory apartment, the owner shall provide the Building Inspector with a copy of his/her Special Exception granted under Section V. herein. There shall be no construction of the accessory apartment until the Building Inspector has issued the proper building permit.
10. Once any renovations or construction is complete, or the owner is ready to have a unit occupied, a request must be made to the Building Inspector for an Occupancy Permit. There will be no occupancy of the accessory apartment until the Building Inspector has issued a Certificate of Occupancy.
11. A purchaser of a home that had a Special Exception granted for an accessory apartment who wants to continue renting the accessory apartment must comply with all conditions of the permit previously granted, as well as comply with any current building or life safety codes. Any change to the prior conditions will require a new permit.

F. Provisions

Variances from this Section shall be contrary to the spirit and intent of this ordinance. (Adopted March, 1994) (Amended March 13, 2007)

ARTICLE V
SPECIAL EXCEPTIONS

Section 6 Seasonal to Year-Round Occupancy Reclassification or Conversion (Adopted 1986)

A. Overview and Provisions

Conversion of Seasonal Property from Seasonal to Year Round Occupancy may be permitted as a special exception provided the Board of Adjustment finds, in writing, after a duly noticed Public Meeting of which the abutting landowners have been notified in writing that all requirements as specified in paragraphs 1 and 2 below are met. For the purposes of the Town of Sandown Zoning Ordinance, seasonal property is defined as a dwelling unit that, as of March 5, 1974, was not suitable for habitation on a year-round basis and has not since that date received a permit from the building inspector for conversion to year-round habitation. (Amended 3/12/91)

1. (Deleted 3/12/91) When there are no records available to determine the conversion status of a property, the terms and conditions of NH-DES Regulations ENV-Ws 1004.15, all sections, will apply. (Amended 3/14/2000)
2. For conversion, the current owner must demonstrate that the property has either:
(Amended 2/16/88)
 - a. An existing sanitary system that meets the current State of New Hampshire Department of Environmental Services (WSPCD) standards for on-site septic disposal system or other systems permitted by such standards, or (Amended 4/8/87)
 - b. An unexpired permit from the State of New Hampshire Department of Environmental Services (WSPCD) for installation of such a system. Actual installation shall be a condition of approval of the special exception.

B. Lots meeting the 20,000 ft² receiving layer requirement (as defined in NH DES WSPCD regulations-Ws1001.01 (0), Ws 1004.6 (a) and Ws 1015.01) may install a subsurface disposal system with the following provisions:

1. Test pits for the design of said system shall be witnessed and logged by the Town's Agent, with the cost for said service paid by the applicant; and
2. The sewage disposal system shall not be installed within 75 horizontal feet of any surface water (measured at the seasonal high water level), or any water supply well; and
3. The permit application for said system be reviewed and signed by the Sandown Health Officer prior to submission to the NH DES WSPCD for approval.

C. Holding tanks are allowed when:

1. Someone is already year round and has a holding tank; or
2. Someone is already year round and no other viable alternative exists; or
3. Only for seasonal dwelling; and
4. The owner shall maintain records which document when the holding tank was pumped and submit receipts to the health officer quarterly. (Amended 3/13/2001)

ARTICLE V
SPECIAL EXCEPTIONS

- D. Lots not meeting the 20,000 ft receiving layer requirements may not convert from seasonal to year-round occupancy. (Amended 3/13/2001)

ARTICLE VI BOARD OF ADJUSTMENT

Section 1

The Board of Adjustment shall consist of five (5) members. Present members shall be eligible to fulfill their terms unless removed as provided for by State law. The Board of Selectmen shall, upon the expiration of each member's term of office, fill that vacancy by appointing a member for a three (3) year term. Thereafter, the term of a Board of Adjustment member shall be three (3) years. Said members shall, upon written charges and after a public hearing, be removable by the Board of Selectmen. Vacancies shall be filled for the unexpired term. The Board shall function under all existing and applicable state laws. (Amended 3/13/84)

The Board of Adjustment shall also include three (3) alternate members. Whenever a regular member shall be absent, the Chairman shall designate an alternate, in an alternate is present, to act in the absent member's place. The terms of alternate members shall be three (3) years. The appointing authority for alternate members to the Board of Adjustment is the Board of Selectmen. Said alternate members shall be removable by the Selectmen upon written charges and after public hearing. Vacancies among the alternates shall be filled for the unexpired term. (1984)

Section 2

The Board of Adjustment shall have the following powers:

- A. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement hereof or of any ordinance adopted pursuant hereto.
- B. To hear and decide special exceptions to the terms of this ordinance upon which such Board is required to pass under such Ordinance.
- C. To authorize upon appeal in specific cases such variances from the terms of the Town of Sandown Zoning Ordinance as will not cause a diminution in the value of surrounding property values, will not be contrary to the public interest, where, owing to some unique characteristic in the land which would make the literal application to the Town of Sandown Zoning Ordinance to this property an unnecessary hardship, and so that the spirit of the Town of Sandown Zoning Ordinance shall be observed and substantial justice done. (1986)
- D. In exercising the above-mentioned powers such Board may, in conformity with the provisions hereof, reverse, affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, or decision, as ought be made, and so that end shall have all the powers of the officer from whom the appeal is taken.
The concurring vote of the three members of the Board shall be necessary to reverse any action of such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance, or to effect any variation in such Ordinance.

ARTICLE VI
BOARD OF ADJUSTMENT

- E. In exercising the above-mentioned powers such Board may, in conformity with the provisions hereof, reverse, affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, or decision, as ought be made, and so that end shall have all the powers of the officer from whom the appeal is taken.
The concurring vote of the three members of the Board shall be necessary to reverse any action of such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance, or to effect any variation in such Ordinance.

ARTICLE VIII
TOWN OF SANDOWN PUBLIC CAPITAL FACILITIES IMPACT FEE
ORDINANCE

Adopted: March, 1998

Section 1 Authority

Authority for this ordinance is established pursuant to New Hampshire RSA's 674:17, 674:21 and 674:44.

Section 2 Intent and Purpose

This ordinance is intended to:

- A. Implement and be consistent with the Town of Sandown's Master Plan and Capital Improvement Program (herein referred to as "CIP").
- B. Allocate a fair and equitable share of the cost of public capital facilities to new development.
- C. Require new development to contribute its proportionate share of funds necessary to accommodate its impact on public facilities having a rational nexus to the proposed development, and for which the need is attributable to the proposed development.

Section 3 Findings

The Sandown Planning Board finds, determines and declares that:

- A. The Town of Sandown is responsible for and committed to the provisions of public capital facilities and services at levels necessary to support residential growth and development.
- B. Such facilities and services have been and will be provided by the Town utilizing funds allocated via the CIP which has been regularly updated pursuant to New Hampshire RSA 674:5.
- C. The rapid rate of growth experienced by the Town in recent years, as well as projected growth rates, would necessitate an excessive expenditure of public funds in order to maintain adequate facility standards.
- D. Each of the types of land development described in Section VII hereof, will create a need for construction, equipping or expansion of public capital facilities.
- E. The imposition of impact fees is one of the preferred methods of ensuring that public expenditures are not excessive, and that new development bears a proportionate share of the cost of public capital facilities necessary to accommodate such new development. This must be done in order to promote and to protect the public health, safety and welfare.

ARTICLE VIII
IMPACT FEE ORDINANCE

- F. The fees established by Section VII are derived from, are based upon, and do not exceed the costs of:
1. Providing additional public school facilities necessitated by new land developments for which the fees are levied; or
 2. Compensating the Town of Sandown for expenditures made for existing public facilities which were constructed in anticipation of new growth and development.
- G. The Planning Board shall set forth a reasonable methodology and analysis for the determination of the impact of new development on the need for and costs of public capital facilities in the Town of Sandown and shall submit its recommendations to the Budget Committee for consideration as part of the annual budget pursuant to New Hampshire RSA 674:8 and the CIP.
- H. The Town of Sandown is a member town of the Timberlane Regional School District (TRSD).
- I. As a member of the TRSD, Sandown is responsible for a proportionate share of all capital costs approved by the TRSD voters based on equalized valuation of property in Sandown relative to equalized property valuation across TRSD, regardless of the town in which such capital facilities are constructed.
- J. Sandown's proportionate share of capital expenditures in TRSD is approximately 17% based on 1992-1996 equalized valuations.
- K. The student enrollment growth in the TRSD has been averaging about 3% per year for the past 32 years.
- L. Sandown's student enrollment in TRSD has been growing at 5% per year for the past five years.
- M. Such student enrollment growth both in Sandown and TRSD will require capital expenditures to provide the classroom space and ancillary support infrastructures for such student enrollment.
- N. The TRSD projected \$19.7 million capital facilities need to accommodate student enrollment through the year 2004-05 in October, 1996.
- O. The Superintendent of Schools for the Timberlane and Hampstead School Districts (SAU 55) has projected full capacity times for five of the six schools within TRSD through the year 2004.
- P. The capital cost impact of Sandown share of these projected capital improvements will reach approximately \$300,000 per year starting in 1999 (assuming that bond approvals are voted) and then over \$400,000 per year starting in 2002.

ARTICLE VIII
IMPACT FEE ORDINANCE

- Q. The cost of school capital facilities is projected to be 150% to 200% of the Town's capital facility needs over the next six years.
- R. The adoption of a school impact fee ordinance will provide an alternative funding mechanism for the projected school capacity costs other than property taxes.
- S. Impact fees for school facilities will provide some property tax relief, especially for fix income taxpayers such as elderly homeowners.

Section 4 Applicability and Rules of Construction

- A. This ordinance shall be uniformly applicable to all new developments which occurs within the corporate boundaries of the Town of Sandown.
- B. The provisions of this ordinance shall be liberally construed so as to effectively carry out its purpose in the interest of public health, safety and welfare.
- C. For the purpose of administration and enforcement of this ordinance, unless otherwise stated in this ordinance, the following rules of construction shall apply to the test of this ordinance.
 - 1. In the case of any difference of meaning or implication between the test of this ordinance and any caption, illustration, summary table or illustrative table, the text shall control.
 - 2. The word "shall" is always mandatory and not discretionary; the word "may" is permissive.
 - 3. The word "person" includes an individual, corporation, a partnership, an unincorporated association, or any other similar entity.

Section 5 Definitions

- A. "Feepayer" is a person applying for a building permit, in the case of a new dwelling or a building permit, in the case of an occupied dwelling or permit for mobile home installation.
- B. "Public Capital Facilities" includes assets, facilities, and equipment which are owned and operated by the Town of Sandown or cooperatively with other municipalities costing more than \$5,000 and considered to be beyond the scope of normal annual operating expenses as set forth in the CIP such as, but not limited to vehicles, land acquisition for public purposes, buildings, equipment and machinery with a useful life of greater than three (3) years, major building or facility renovations and repairs, road renovations which result in long-term improvement in road capacity or conditions and special studies such as Master Plans.

ARTICLE VIII
IMPACT FEE ORDINANCE

- C. "Public Capital Facilities" do not include costs associated with operation, maintenance, repair of such facilities, or with facility replacements which do not increase the capacity or level of service unless the cost of such increase exceeds \$5,000 individually or aggregately.

- D. "New Development" includes any building activity which results in:
 - 1. The creation of a new dwelling unit.
 - 2. The conversion of an existing non-residential use to a residential use or the conversion of a residence from seasonal to year-round use.

- E. "New Development" does not include:
 - 1. The reconstruction of a structure that has been destroyed by fire or natural disaster, provided there is no change in the size or density of the structure.
 - 2. The replacement of a mobile home; and
 - 3. The construction of an accessory structure which would not increase the demand for facilities.

- F. "Dwelling Unit" is any room or collection of rooms forming a habitable unit for one or more persons with its own cooking and food storage equipment and its own bathing and toilet facilities and its own living, sleeping and eating areas wholly within such rooms or collection of rooms.

Section 6 Imposition of Public Facilities Impact Fee

- A. Any person, who after the effective date of this Ordinance, seeks to undertake new development within the Town of Sandown, New Hampshire, by applying for a building permit or permit for a mobile home installation, is hereby required to pay a public capital facilities impact fee in the manner and amount set forth in Section VII of this ordinance.

- B. No new building permit or new permit for mobile home installation for any activity requiring payment of an impact fee pursuant to Section VII of this Ordinance shall be issued unless and until the public capital facilities impact fee hereby required has been paid. (Amended 3/13/2001)

Section 7 Computation of Impact Fees

- A. Fees for MUNICIPAL public facilities impact shall be based upon each dwelling unit.

- B. Fees for SCHOOL facilities impact shall be based upon the type of dwelling unit. (Amended March 11, 2003)

ARTICLE VIII
IMPACT FEE ORDINANCE

- C. In the event of conversion of a non-residential (properties not suitable for year-round habitation, commercial, industrial) use to residential use, impact fees for a new dwelling shall be imposed before the issuance of a building permit.
- D. The amount of the fee charged shall be calculated and reviewed annually by the Planning Board and adjusted as deemed necessary.
- E. The fee calculation shall be based upon:
 - 1. Anticipated expenditures for improvements to Public Capital Facilities under Section XII for the next fiscal year(s), not to exceed ten years. Such anticipated expenditures to be reasonable and prudent.
 - 2. Projected increase of dwellings and excess bedrooms subject to such fees, as in paragraphs A, B and C of this section for the next fiscal year(s), not to exceed six years. Such projections to be reasonable and prudent.

Section 8 Payment of Fee

- A. All impact fees shall be assessed prior to, or as a condition for the issuance of a building permit. The fee payer at its option shall either post a cash performance security with the Planning Board to guarantee payment of the Impact Fee prior to the issuance of a certificate of occupancy, or the fee payer may opt to pay the impact fee prior to the time of building permit issuance. (Amended March 11, 2003)
- B. If said fee shall be paid by check, the check shall not include any other payment or fees. It shall pertain only to impact fees. Fees shall be administered as required in Section X.
- C. All unpaid fees shall constitute a lien on the property and will be collected in the same manner as uncollected property taxes.

Section 9 Appeals

Any aggrieved party may appeal any decision under this ordinance in the same manner provided by statute for appeals from the office or board making that decision, as set forth in RSA 676:5, RSA 677:2-14, or RSA 677:15, respectively.

Section 10 Administration of Funds Collected

- A. All funds collected shall be properly identified and dated and promptly deposited in the appropriate Impact Fee Account as determined in Section XI of this Ordinance and used solely for the purposes specified in Section XII.
- B. The Impact Fee Account shall be a special revenue fund account and under no circumstances will impact fee revenue accrue to the general fund.

ARTICLE VIII
IMPACT FEE ORDINANCE

- C. Impact fees shall be accounted for separately, shall be segregated from the municipality's general fund, may be spent upon order of the municipal governing body, shall be exempt from all provisions of RSA 32 relative to limitation and expenditures of town moneys, and shall be used for any purpose allowed under Section XII.

Section 11 Custody and Maintenance of Fund Accounts

- A. There are hereby established an Impact Fee Account for school impact fees respectively. It shall be a non-lapsing interest bearing account which shall not be commingled with other town funds. The treasurer shall have custody of all accounts and shall pay out of same only upon authorization by the Sandown Board of Selectmen.
- B. Funds collected for school building impact shall be clearly identified and deposited in the respective account.
- C. At the end of each fiscal year, the treasurer shall make a report giving particular account of all impact fee transactions during the year.
- D. Funds withdrawn from the impact fee account must be used in accordance with the provisions of Section XII of this Ordinance.

Section 12 Use of Funds

- A. Funds withdrawn for the Impact Fee Account shall be used solely for the purpose of acquiring, designing, constructing, equipping or making improvements to capital facilities owned and operated by the municipality, or in conjunction with the Timberlane School District, including and limited to water treatment and distribution facilities; municipal office facilities; public safety facilities; solid waste collection; transfer, recycling, processing and disposal facilities; public library facilities; public recreation facilities not including open space.
- B. In the event that bonds or similar debt instruments have been issued for facilities which were constructed in anticipation of current growth, or are issued for advanced provision of capital facilities for which public capital facilities impact fees may be expended, impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities provided are the type described in Paragraph A above.
- C. Effective upon passage of this Ordinance, the annual updates of the Town's CIP shall contain a methodology for assigning funds, including accrued interest, from the Impact Fee Account to specified public capital facilities improvement projects and related expenses. Monies, including any accrued interest, not assigned in any fiscal period shall be retained in the same Impact Fee Account until the next fiscal period except as provided by the refund provisions of this Ordinance.
- D. Funds may used to provide funds as described in Section XIII.
- E. Funds shall be accounted for on a first-in first-out basis.

ARTICLE VIII
IMPACT FEE ORDINANCE

Section 13 Refund of Fees Paid

The current owner of property on which a public capital facilities impact fee has been paid may apply for a full or partial refund of such fees plus accrued interest calculated at the actual rate of interest earned on said funds not to exceed 6% per annum.

The refund shall be owned when the Town has failed within a period of six (6) years from either payment of such fee or the last installment payment, to expend or encumber such fees on public capital facilities intended to benefit the development which paid the fees. In an event that a refund is due, the Planning Board shall notify the owner of record.

Section 14 Credits

- A. Land and/or public capital facilities improvements may be offered by the feepayer as total or partial payment of the required impact fee. The offer must request or provide for an impact fee credit.
- B. Credit for the dedication of land shall be based upon the ad valorem assessed valuation.
- C. Credit for the dedication of land shall be provided when the property has been conveyed at no charge to, and accepted by the Town in a manner satisfactory to the Board of Selectmen.
- D. Applications for credit for construction of municipal or school facilities improvements shall submit acceptable engineering drawings and specifications and construction costs estimates to the Board of Selectmen and/or the Timberlane School Board. The Board of Selectmen and/or the Timberlane Regional School Board shall determine credit for construction based upon either these cost estimates or upon alternative engineering criteria and construction cost estimates if the Board of Selectmen and /or the Timberlane Regional School Board determine that such estimates submitted by the applicant are either unreliable or inaccurate.

The Board of Selectmen and/or the Timberlane School Board shall provide the applicant with a letter or certificate for the dollar amount of the credit, the impact fee component(s) to which the credit will apply, the reason for the credit, and the legal description of other adequate description of the project or development to which the credit may be applied. The applicant must sign and date a duplicate copy of such letter or certificate indicating his agreement to the terms of the letter or certificate and return such signed document to the Board of Selectmen and/or Timberlane Regional School Board before credit will be given. The failure of the applicant to sign, date and return such document within sixty (60) days shall nullify the credit.

- E. Except as provided in Paragraph D above, credit against facility impact fees otherwise due will not be provided until:
 - 1. Construction is completed and accepted by the Board of Selectmen on behalf of the Town, or the Timberlane School District, whichever is applicable.
 - 2. A suitable maintenance and warranty bond is received by the Board of Selectmen

ARTICLE VIII
IMPACT FEE ORDINANCE

and/or the Timberlane School Board, when applicable. A suitable date for completion of construction must be agreed in writing by the applicant and Board of Selectmen and/or Timberlane School Board at the time of issuance of bond. At the end of the agreed period, if construction has not been completed, the Board of Selectmen and/or the Timberlane School Board may call the bond or extend the time for construction, but not beyond the expiration time for holding impact fees as set forth in Section XIII. At the expiration of that time, the Board of Selectmen and/or the Timberlane School Board shall call the bond and order funds expended in sufficient amount to satisfactorily complete the bonded construction before returning any excess funds to the applicant.

- F. Credits shall not be transferable from one project or development to another without the approval of the Board of Selectmen and/or the Timberlane School Board.
- G. Credits shall not be transferred between the school facilities impact fee portion of the impact fee account or the municipal capital facilities account.
- H. Determinations made by the Board of Selectmen and/or the Timberlane School Board pursuant to the credit provisions of the section may be appealed pursuant to the procedures contained in Section IX of this Ordinance.

Section 15 Additional Assessments

Payment of public facilities impact fee does not restrict the Town or Planning Board in requiring other payments from the feepayer, including such payments relating to other infrastructure and facility needs not otherwise included in the public facilities impact fee.

Section 16 Premature and Scattered Development

Nothing in this Ordinance shall be construed so as to limit the existing authority of the Planning Board to provide against development which is scattered or premature, requires excessive expenditures of public funds or otherwise violates the Town of Sandown Site Plan Review Regulations, Subdivision Regulations or Zoning Ordinance.

Adopted March, 1998

ARTICLE IX TELECOMMUNICATIONS FACILITY ORDINANCE

Section 1 Authority

This ordinance is adopted by the Town of Sandown, NH on March, 1998 by the Townspeople of Sandown, NH in accordance with the authority as granted in NH RSA 674:16 and 674:21 and procedurally under the guidance of RSA 675:11.

Section 2 Purpose and Goals

This ordinance is enacted in order to establish general guidelines for the siting of telecommunications towers and antennas and to enhance and fulfill the following goals:

- A. Preserve the authority of Sandown to regulate and to provide for reasonable opportunity for the siting of telecommunication facilities, by enhancing the ability to providers of telecommunications services to provide such services to the community, quickly, effectively and efficiently.
- B. 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, prosperity through protection of property values.
- C. Provide for 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 jurisdiction of the Town.
- D. 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.
- E. Require cooperation and co-location, to the highest extent possible, between competitors in order to reduce cumulative negative impacts upon Sandown.
- F. Provide constant maintenance and safety inspections for any and all facilities.
- G. Provide for the removal of abandoned facilities that are no longer inspected for safety concerns and code compliance. Provide a mechanism for Sandown to remove these abandoned towers to protect citizens from imminent harm and danger.
- H. Provide for the removal or upgrade of facilities that are technologically outdated.

ARTICLE IX
TELECOMMUNICATIONS FACILITY ORDINANCE

Section 3 Definitions

- A. “Alternative Tower Structure” are innovative siting techniques that shall mean 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.

- B. “Antenna” shall mean any exterior apparatus designed for telephonic, radio, television, personal communication service (PCS), pager network, or any other communications through the sending and/or receiving of electromagnetic waves of any bandwidth.

- C. “FAA” is an acronym that shall mean the Federal Aviation Administration.

- D. “Height” shall mean, when referring to a tower or other structures, the distance measured from ground level to the highest point on the tower or other structure, even if said highest point is an antenna.

- E. “FCC” is an acronym that shall mean the Federal Communication Commission.

- F. “Planning Board or Board” shall mean the Town of Sandown Planning Board and the regulator of this ordinance.

- G. “Pre-existing towers and antennas” shall mean any tower or antenna lawfully constructed or permitted prior to the adoption of this ordinance. It shall also mean any tower or antenna lawfully constructed in accordance with this ordinance.

- H. “Telecommunications Facilities” shall mean any structure, antenna, tower or other device which provides commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), and personal communication services (PCS), and common carrier wireless exchange access services.

- I. “Tower” shall mean 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.

Section 4 Siting Standards

A. General

The uses listed in this section are deemed to be permitted uses that may require further review under this ordinance in accordance with Section VII Conditional Use Permits. However, all such uses must comply with other applicable ordinances and regulations of Sandown (including Site Plan Review). The following tables, represent the siting standards for the listed uses as delineated by the districts in which they are located in Sandown.

ARTICLE IX
TELECOMMUNICATIONS FACILITY ORDINANCE

B. Principal or Secondary Use

Subject to this Ordinance, an applicant who successfully obtains permission to site under this ordinance a second and permitted use may construct telecommunications facilities in addition to the existing permitted use. Antennas and towers may be considered either principal or secondary uses. A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot. For purposes of determining whether the installation of a tower or antenna complies with district development regulations, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lots. Towers that are constructed, and antennas that are installed, in accordance with the provisions of this ordinance, shall not be deemed to constitute the expansion of a nonconforming use or structure. Nor shall such facilities be deemed to be an “accessory use”.

C. Use Districts

	New Tower Construction	Co-Location on Pre-existing Tower ²	Co-location on Existing Structure ³
Business District	PCU	P	P
Residential District	X	P	PCU

P = Permitted Use without Conditional Use Permit
 PCU = Permitted Use with Conditional Use Permit
 X = Prohibited

- 1-An antenna may be located on a tower, newly constructed, under this ordinance.
- 2-An antenna may be located on a pre-existing tower, constructed prior to the adoption of this ordinance.
- 3-An antenna may be located on other existing structures with certain limitations (See IV.B below)

D. Height Requirements

These requirements and limitations shall preempt all other height limitations as required by the Sandown Zoning Ordinance and shall apply only to telecommunications facilities. These height requirements may be waived through the Conditional Use Permit process only if the intent of the Ordinance is preserved (e.g. where a 200' tower would not increase adverse impacts but provide a greater opportunity for co-location) in accordance with VIII.Waivers.

	New Tower Construction	Co-location on Pre-existing Tower	Co-location on Existing Structure
Business District	180'	Current Height +15%	Current Height +30%
Residential District	n/a	n/a	n/a

ARTICLE IX
TELECOMMUNICATIONS FACILITY ORDINANCE

Section 5 Applicability

A. Public Property

Antennas or towers located on property owned, leased, or otherwise controlled by the Town may be exempt from the requirements of this ordinance, except that uses are only permitted in the zones and areas as delineated in Section IV, B. This partial exemption shall be available if a license or lease authorization such antenna or tower has been approved by the governing body and governing body elects subject to state law and local ordinance, to seek the partial exemption from this Ordinance.

B. Antenna Radio; Receive-Only Antennas

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

C. Essential Services and Public Utilities

Telecommunications facilities shall not be considered infrastructure, essential services, or public utilities, as defined or used elsewhere in the Town's ordinances and regulations. Siting for telecommunication facilities is a use of land, and is addressed by this Article.

Section 6 Construction Performance Requirements

A. Aesthetic and Lighting.

The guidelines in this subsection (A), shall govern the location of all towers, and the installation of all antennas. However, the Planning Board may waive these requirements, in accordance with Section VIII. Waivers, only if it determines that the goals of this ordinance are served thereby.

1. Towers shall either maintain a galvanized steel finish, subject to any applicable standard of the FAA, or 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. These buildings and facilities shall also be subject to all other Site Plan Review Regulation requirements.
3. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a 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 is visually unobtrusive as possible.
4. Towers shall not be artificially lighted, unless required by the FAA, or other applicable authority. If lighting is required, the governing authority may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.

ARTICLE IX
TELECOMMUNICATIONS FACILITY ORDINANCE

5. Towers shall not contain any permanent or temporary signs, writing, symbols or any graphic representation of any kind.

B. Federal Requirements.

All towers 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 of the towers and antennas governed by this ordinance shall bring such towers and antennas into compliance with such revised standards and regulations within six (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 the removal, in accordance with Section X, of the tower or antenna, as abandoned, at the owner's expense through the execution of the posted security.

C. Building Codes-Safety Standards

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 the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the Town concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such standards. If the owner fails to bring such tower into compliance within 30 days, such action shall constitute abandonment and grounds for the removal, in accordance with Section X, of the tower or antenna, as abandoned, at the owner's expense through execution of the posted security.

D. Additional Requirements for Telecommunication Facilities.

These requirements shall supersede any and all other applicable standards found elsewhere in the Town Ordinances or Regulations that are less strict.

1. Setbacks and Separation

- a. Towers must be set back a distance equal to 125% of the height of the tower from any off-site residential structure.
- b. Tower, guys, and accessory facilities must satisfy 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 and Fencing

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

ARTICLE IX
TELECOMMUNICATIONS FACILITY ORDINANCE

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 wide outside the perimeter of the compound. Natural vegetation is preferred.
- b. In locations where the visual impact of the tower would be minimal, the landscaping requirement might be reduced or waived entirely.
- c. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large wooded lots, natural growth around the property may be deemed as sufficient buffer.

Section 7 Conditional Use Permits

A. General

All applications under this ordinance shall apply to the Planning Board for Site Plan Review, in accordance with the requirements as provided for in the Town's Site Plan Review Regulations. In addition, applications under this ordinance shall also be required to submit the information provided for in this Section.

B. Issuance of Conditional Use Permits

In granting Conditional Use Permits, the Planning Board may impose conditions to the extent the Board concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties, and preserve the intent of this Ordinance.

1. Procedure on application

The Planning Board shall act upon the application in accordance with the procedural requirements of the Site Plan Review Regulations and RSA 676:4.

2. Decisions

Possible decisions rendered by the Planning Board, include Approval, Approval with Conditions, or denial. All decisions shall be rendered in writing, and a denial shall be in writing and based upon substantial evidence contained in the written record.

3. Factors Considered in Granting Decisions

- a. Height of proposed tower or other structure.
- b. Proximity of tower to residential development or zones.
- c. Nature of uses on adjacent and nearby properties.
- d. Surrounding topography.
- e. Surrounding tree coverage and foliage.

ARTICLE IX
TELECOMMUNICATIONS FACILITY ORDINANCE

- f. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
- g. Proposed ingress and egress to the site.
- h. Availability of suitable existing towers and other structures as discussed in Section VII, C.,3.
- i. Visual impacts on view sheds, ridgelines, and other impacts by means of tower location, tree and foliage clearing and placement of incidental structures.
- j. Availability of alternative tower structures and alternative siting locations.

C. Information Required

Each applicant requesting a Conditional Use Permit under this ordinance shall submit a scaled plan in accordance with the Site Plan Review Regulations and further information including; a scaled elevation view, topography, radio frequency coverage, tower height requirements, setbacks, driveways, parking, fencing, landscaping, adjacent uses (up to 200' away), and any other information deemed necessary by the Planning Board to access compliance with this ordinance. Furthermore, the applicant shall submit the following prior to any approval by the Board:

- 1. The applicant shall submit written proof that the proposed use/facility complies with the FCC regulations on radio frequency (RF) exposure guidelines.
- 2. The applicant shall submit written proof that an evaluation has taken place, as well as the results of such evaluation, satisfying the requirements of the National Environmental Policy Act (NEPA) further referenced in applicable FCC rules. 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 requirements.
- 3. Each applicant for an antenna and or tower shall provide to the Planning Board an inventory of its existing towers that are within the jurisdiction of the Town and those within two miles of the border thereof, including specific information about the location, height, design of each tower, as well as economic and technological feasibility for co-location on the inventoried towers. The Planning Board may share such information with other applicants applying for approvals or conditional use permits under this ordinance or other organizations seeking to locate antennas within the jurisdiction of the governing authority, 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.

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 can 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, provided that a description of the geographic area required is also submitted.

ARTICLE IX
TELECOMMUNICATIONS FACILITY ORDINANCE

- 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 towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
 - d. Substantial evidence that applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
 - e. Substantial evidence that the fees, costs, or contractual provisions required by the owner in order to share the existing tower or structure are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
 - f. Substantial evidence that the applicant can demonstrate other limiting factors that render existing towers and structures unsuitable.
4. The applicant proposing to build a new tower, shall submit an agreement with the Town that allows for the maximum allowance of co-location upon the new structure. Such statement shall become a condition to any approval. This statement shall, at a minimum, require the applicant to supply available co-location for reasonable fees and costs to other telecommunications providers. Failure to provide such an agreement is evidence of the applicant's willingness to cooperate with the orderly and well-planned development of Sandown and grounds for denial.
5. The applicant shall submit the engineering information detailing the size and coverage required for the facility location. The Planning Board may have any submitted information reviewed by a consultant for verification of any claims made by the applicant regarding technological limitations and feasibility for alternative locations, or any other matter required by the application. Costs for this review shall be borne by the applicant in accordance with RSA 676:4,1(g).

Section 8 Waivers

Where the board finds that extraordinary hardships, practical difficulties, or unnecessary and unreasonable expense would result from strict compliance with the foregoing regulations or the purposes of these regulations may be served to a greater extent by an alternative proposal, it may approve waivers to these regulations. The purpose of granting waivers under provisions of these regulations shall be to insure that an applicant is not unduly burdened as opposed to merely inconvenienced by said regulations. The board shall not approve any waiver(s) unless a majority of those present and voting shall find that all of the following apply:

- 1. The granting of the waiver will not be detrimental to the public safety, health, or welfare or injurious to other property and will promote the public interest.

ARTICLE IX
TELECOMMUNICATIONS FACILITY ORDINANCE

2. The waiver will not, in any manner, vary the provisions of the Sandown Zoning Ordinance, Sandown Master Plan, or official map.
3. Such waiver(s) will substantially secure the objectives, standards and requirements of these regulations.
4. A particular and identifiable hardship exists or a specific circumstance warrants the granting of a waiver. Factors to be considered in determining the existence of a hardship shall include, but not be limited to:
 - a. Topography and other site features
 - b. Availability of alternative site locations
 - c. Geographic location of property
 - d. Size/magnitude of project being evaluated and availability of co-location.

A. Conditions

In approving waivers, the Board may impose such conditions as it deems appropriate to substantially secure the objectives of the standards or requirements of these regulations.

B. Procedures

A petition of any such waiver shall be submitted in writing by the applicant with the application for Board review. The petition shall state fully the grounds for the waiver and all of the facts relied upon by the applicant. Failure to submit petition in writing shall require an automatic denial.

Section 9 Bonding, Security and Insurance

Recognizing the extremely hazardous situation presented by abandoned and unmonitored towers, the Planning Board shall set the form and amount of security that represents the cost for removal and disposal of abandoned towers in the event that the tower is abandoned and the tower owner is incapable and unwilling to remove the tower in accordance with Chapter X, all security shall be maintained for the life of the tower. Bonding and surety shall be consistent with the provisions in the Subdivision Regulations. Furthermore, the Planning Board shall require the submission of proof of adequate insurance covering accident or damage.

Section 10 Removal of Abandoned Antennas and Towers

Any antenna or tower that is not operated for continuous period of 12 months shall be considered abandoned and hazardous to public health and safety, unless the owner of said tower provide proof of quarterly inspections. The owner shall remove the abandoned structure within 90 days of receipt of a declaration of abandonment from the Town notifying the owners of such abandonment. A declaration of abandonment shall only be issued following a public hearing, noticed per town regulations, with notice to abutters and the last known owner/operator of the tower. If the abandoned tower is not removed within 90 days the Town may execute the security and have the tower removed. If there are two or more users of a single tower, this provision shall not become effective until all users cease using the tower.

ARTICLE IX
TELECOMMUNICATIONS FACILITY ORDINANCE

Section 11 Enforcement

Enforcement of this section shall be in accordance with Chapter 676 of the New Hampshire Revised Statutes Annotated and Sandown Zoning Ordinance. Any person in violation of this section of the ordinance shall be subject to punishment in accordance with referenced provisions.

Section 12 Savings Clause

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

ARTICLE X
CONFLICTING PROVISIONS

Section 1

Whenever the regulations made under the authority hereof differ from those prescribed by any statute, ordinance or other regulations, that provision which imposes the greatest restriction or the higher standard shall govern.

ARTICLE XI
VALIDITY

Section 1

If any section, clause, provision, portion, or phrase of the Sandown Zoning Ordinance shall be held to be invalid or unconstitutional by any court of competent authority, such holding shall not affect, impair or invalidate any other section, clause, provision, portion or phrase of the Ordinance.

ARTICLE XII
ENFORCEMENT AND PENALTY

Section 1

Upon any well founded information that the Sandown Zoning Ordinance is being violated, the Selectmen shall take immediate steps to enforce the provisions of the Sandown Zoning Ordinance.

Section 2

Whoever violates any of these provisions of the Sandown Ordinance or any Town Land/Use Regulation, shall be subject to a civil penalty not to exceed \$275 per day, per violation, after the date the violator receives written notice from the Town that the violator is in violation per RSA 676:17.
(Amended March 14, 2000)

ARTICLE XIII
AMENDMENTS

Section 1

The provisions of the Sandown Zoning Ordinance may be amended or changed at any regular or special Town Meeting by a majority of the voters present as provided by Public Laws.

TABLE OF CONTENTS

<u>ARTICLE</u>		<u>PAGE</u>
ARTICLE 1	ESTABLISHMENT OF ZONES	1
	WETLAND CONSERVATION DISTRICT	2
	FLOODPLAIN DEVELOPMENT ORDINANCE	6
	BUSINESS DISTRICT.....	15
ARTICLE II	GENERAL REGULATIONS – ALL ZONES.....	17
	LAND REGULATIONS – ZONE A.....	26
	DRIVEWAY REGULATIONS – ALL ZONES.....	34
	CLUSTER RESIDENTIAL DEVELOPMENT	35
	BUSINESS DISTRICT REGULATIONS.....	45
	ELDERLY HOUSING DEVELOPMENT	47
ARTICLE III	BUILDING REGULATIONS – ZONE A	51
	FLOODPLAIN BUILDING REGULATIONS	54
	SIGNS	56
ARTICLE IV	HOUSE TRAILER AND MOBILE HOME REGULATIONS.....	59
ARTICLE V	SPECIAL EXCEPTIONS	60
ARTICLE VI	BOARD OF ADJUSTMENT	66
ARTICLE VII	RESERVED FOR FUTURE USE	
ARTICLE VIII	IMPACT FEE ORDINANCE	68
ARTICLE IX	TELECOMMUNICATIONS FACILITY ORDINANCE.....	76
ARTILCE X	CONFLICITING PROVISIONS.....	86
ARTICLE XI	VALIDITY	86
ARTICLE XII	ENFORCEMENT AND PENALTY.....	86
ARTICLE XIII	AMENDMENTS.....	86

Sandown, New Hampshire

ZONING ORDINANCE ADOPTED: MARCH 13, 1956

History of Amendments:

Amended March 12, 1957	Amended March 14, 1995	
Amended October 1, 1957	Amended March 12, 1996	
Amended March 8, 1960 Trailer Ordinance (Article IV)	Amended April 8, 1997	
Amended March 10, 1964	Amended March 10, 1998	
Amended March 8, 1966	Amended March, 1999	
Amended March 12, 1967	Amended March 14, 2000	
Amended March 7, 1972	Amended March 13, 2001	
Amended March 6, 1973	Amended March 12, 2002	
Amended March 5, 1974	Amended March 11, 2003	
Amended March 4, 1975	Amended March 9, 2004	
Amended March 14, 1978	Amended March 8, 2005	
Amended March 11, 1980	Amended March 14, 2006	
Amended March 13, 1984	Amended March 17, 2007	
Amended March 12, 1985		
Amended March 11, 1986		
Amended March 8, 1988		
Amended March 4, 1989		
Amended March 13, 1990		
Amended March 12, 1991		
Amended March 8, 1994		

Sandown New Hampshire



2007 ZONING ORDINANCE