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# ZONING ORDINANCE

## Sandown, NH

Adopted March 13, 1956 | Last Amended March 12, 2019

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ZONING ORDINANCE ADOPTED: MARCH 13, 1956

**HISTORY OF AMENDMENTS:**

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Amended October 1, 1957	Amended March 12, 1996	Amended March 12,2019
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**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 March 14, 1989)*

**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 area
- 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.

## **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.  
(Amended April 8, 1997)(Amended March 10, 2015)
- 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.
- 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.

- 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

- 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
  - 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 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 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 flood proofing.

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

## **Section 6**      **Other Permits**

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

## **Section 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:

“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:
    - (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.
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 March 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.
- 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 March 14, 2000) (Amended March 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 March 14, 2000) (Amended March 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 March 11, 1986)*

**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 March 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 March 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 March 13, 1984)*

## **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 March 14, 1989) (Amended March 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 March 14, 1989)*. All issued permits for a project; both state and town shall be displayed in a weatherproof covering while visible from the access road. *(Amended March 12, 1991)*

## **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**

In order to protect irreplaceable groundwater and surface water resources, as well as to maintain the aesthetic qualities of the Town, junkyards, as defined by this Ordinance, shall be prohibited in all Districts. No land shall be used for a dump or for the storage or disposal of junk unless such land is so designated and maintained as a public facility for the collection, handling, storage, disposal or transfer of junk, recyclable materials and other solid waste materials by the Sandown Board of Selectmen. *(Amended March 11, 2008)*

## **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.
- B. Any variance or special exception granted by the board of adjustment is valid for two years from date of notification after which it becomes null and void unless utilized. If utilized, it survives with the property. *(Amended March 11, 1986)(Amended March 10, 2015)*

## **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 March 12, 1991)*

## **Section 13**     *(Amended February 16, 1988), (Amended March 14, 2017)*

### **A. Non-conforming lots:**

1. Notwithstanding the minimum frontage requirements and lot size requirements in the Zoning Ordinance, a structure may be built on the non-conforming lot which does not meet frontage and/or lot size requirements if the owner demonstrates that all the following requirements are met:
  - a. The lot was a legal lot of record and duly recorded at the Rockingham County Registry of Deeds prior to the adoption of the original Zoning Ordinance on March 13, 1956 or prior to the effective date of lot size or frontage amendments affecting the conformity of the lot and the lot has not been divided since either date. The owner shall submit a legal opinion with accompanying documentation from an attorney licensed to practice in New Hampshire demonstrating that this requirement has been met;
  - b. The owner does not own, and has no contract, option or other enforceable legal right to acquire any adjoining property to the extent necessary to make the lot conforming with present standards, or is prevented by law from doing so;
  - c. The lot is capable of supporting a well and septic system designed which can be installed in compliance with all applicable Town and New Hampshire Department of Environmental Services Water Supply and Pollution Control Division regulations;
  - d. All uses, buildings, structures, wells or septic systems shall comply with all setback requirements as defined by this Zoning Ordinance;
  - e. The lot has sufficient frontage to accommodate a private driveway on a public highway or an approved Class V road;
  - f. No portion of said lot shall be used or sold in a manner which diminishes compliance with frontage and lot size requirements established by this Zoning Ordinance, nor shall any division be made which creates a lot with frontage or area below said requirements; and
  - g. The use, building or structure complies with all dimensional requirements, and provisions of this Zoning Ordinance other than those applying to lot size and frontage.

### **B. Non-conforming uses and structures**

1. 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.
2. 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 6 of this Ordinance.
3. No non-conforming structure shall be altered so as to increase its nonconformity with any provision of the Zoning Ordinance.
4. A non-conforming structure may be repaired or altered, provided it does not thereby increase its nonconformity.
5. A non-conforming structure destroyed or damaged by accident or Act of God may be rebuilt and used as before.
6. When any nonconforming use or structure is abandoned, subsequent use and structure shall be in compliance with the Zoning Ordinance.

## **Section 14**

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 March 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)
- 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)
- Q. “Junk” Unregistered motor vehicles no longer intended or in a condition for legal use on the public highways; used parts of motor vehicles or old iron, metal, glass, paper, cordage, or other waste or discarded or second-hand material which has been a part, or intended to be a part, of any machinery; scrap metal or other worn out, cast off, or discarded articles or materials ready for destruction or collected or stored for salvage or conversion or some use. Any article or material which unaltered or unchanged and without further reconditioning can be used for its original purpose as readily as when new, shall not be considered junk. (Adopted March 11, 2008)
- R. “Junkyard” Any space more than 200-feet in area, whether inside or outside a building, used for storage, keeping, processing, salvaging or abandonment or junk. (Adopted March 11, 2008)

## **Section 15**

- 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.
  5. All design plans for individual sewage disposal systems intended to serve new one or two-family residential structures submitted to the Sandown Health Official for review and signature prior to submittal to the NHDES pursuant to the provisions of Article II-Part A-Section 16.B of this Ordinance shall include the following supplemental information:
    - a. Specifications and corresponding details for implementation of site specific temporary erosion and sedimentation control measures and best management practices to be implemented during construction for the purposes of containing wind and water-borne transport of sediment and debris to as limited of an area as the Health Official and/or his designee deems practical. In general, plans and specifications prepared for the purposes of fulfilling this requirement shall be consistent with recommendations provided in a publication entitled: New Hampshire Stormwater Manual - Volume 3 – Erosion and Sediment Control During Construction, as published by the NHDES in December 2008. (Amended March 13, 2012)
- 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 March 14, 1989) (Amended March 14, 2000) (Amended March 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 6. *(Amended February 16, 1988)*

## **Section 16**

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 March 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 March 14, 2000) (Amended March 13, 2001)*

## **Section 17**

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)*

## **Section 18     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.

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.
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)*

## **Section 19    Lighting Requirements**

*(Adopted March 8, 2011)*

All public and private outdoor lighting installed in the Town of Sandown shall comply with the requirements specified below.

A. Purpose

The intent of this Ordinance is to maintain the rural character of Sandown, in part by preserving the visibility of night-time skies, and to minimize the impact of artificial lighting on nocturnal wildlife. This Ordinance recognizes the importance of lighting for safety and security while encouraging energy efficiency, and promotes good neighborly relations by preventing glare from outdoor lights from intruding on nearby properties or posing a hazard to pedestrians or drivers.

## B. Definitions

Direct Light: Light emitted directly from the lamp, off of the reflector or reflector diffuser, or through the refractor or diffuser lens, of a luminaire.

Fixture: The assembly that houses the lamp or lamps and can include all or some of the following parts: a housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and/or a refractor or lens.

Lamp: The component of a luminaire that produces the actual light.

Luminaire: A complete lighting assembly that includes the fixture and its lamp or lamps.

Flood or Spotlight: Any light fixture or lamp that incorporates a reflector or a refractor to concentrate the light output into a directed beam in a particular direction.

Glare: Light emitting from a luminaire with intensity great enough to reduce a viewer's ability to see and, in extreme cases, causing momentary blindness.

Height of Luminaire: The height of a luminaire shall be the vertical distance from the ground directly below the centerline of the luminaire to the lowest direct-light-emitting part of the luminaire.

IESNA: Illuminating Engineering Society of North America.

Indirect Light: Direct light that has been reflected or has scattered off of other surfaces.

Light Trespass: The shining of light produced by a luminaire beyond the boundaries of the property on which it is located.

Lumen: A unit of luminous flux. One foot candle is one lumen per square foot. For the purposes of this Ordinance, the lumen-output values shall be the initial lumen output rating of a lamp.

Outdoor Lighting: The night-time illumination of an outside area or object by any manmade device located outdoors that produces light by any means.

Temporary Outdoor Lighting: The specific illumination of an outside area or object by any manmade device located outdoors that produces light by any means for a period of less than seven days with at least 180 days passing before being used again.

## C. Outdoor Lighting Design

1. Any luminaire emitting *more than* 1800 lumens (with 1,700 lumens being the typical output of a 100-watt incandescent bulb) shall be fully shielded so as to produce no light above a horizontal plane through the lowest direct light-emitting part of the luminaire.
2. Any luminaire with a lamp or lamps rated at a total of *more than* 1800 lumens, and all flood or spot lights with a lamp or lamps rated at a total of *more than* 900 lumens, shall be mounted at a height equal to or less than the value  $3 + (D/3)$  where D is the distance in feet to the nearest property boundary. The maximum height of the luminaire shall not exceed 20 feet.
3. Any luminaire with a lamp or lamps rated at 1800 lumens *or less*, and all flood or spot lights with a lamp or lamps rated at 900 lumens *or less*, may be used without restriction to light distribution or mounting height, except that, to prevent light trespass, if any flood or spot light is aimed, directed or focused so as to cause direct light from the luminaire to be directed toward residential buildings on adjacent or nearby land, or to create glare perceptible to pedestrians or persons operating motor vehicles on public ways, the luminaire shall be redirected, or its light output reduced or shielded, as

necessary to eliminate such conditions.

4. Any luminaire used to illuminate a public area such as a street or walkway shall utilize an energy efficient lamp such as a low pressure sodium lamp, high pressure sodium lamp or metal halide lamp. Mercury vapor lamps shall not be used due to their inefficiency and high operating costs and toxic mercury content. New or replacement installation of mercury vapor lighting shall not be permitted after the effective date of this Ordinance and the public shall be encouraged to remove and safely dispose of existing mercury vapor bulbs as soon as practicable
5. Luminaires used in public areas such as roadway lighting, parking lots and for exterior building illumination shall be designed to provide the minimum illumination recommended by the IESNA in the most current edition of the IESNA Lighting Handbook.
6. To protect light-sensitive wildlife habitats, artificial lighting in or on the periphery of areas identified as such by the NH Fish and Game Department shall be minimized and fully shielded to prevent any emission above a horizontal plane through the lowest light-emitting part of a luminaire.
7. Whenever practicable, outdoor lighting installations shall include timers, dimmers, and/or motion-sensors to reduce overall energy consumption and eliminate unneeded lighting.
8. Moving, fluttering, blinking, or flashing, neon or tubular lights or signs shall not be permitted, except as temporary seasonal holiday decorations. Signs may be illuminated only by continuous direct white light with illumination confined to the area of the sign and directed downward.
9. Luminaires mounted on a gas station canopy shall be recessed in the ceiling of the canopy so that the lens cover is recessed or mounted flush with the ceiling of the canopy and fully shielded. Luminaires shall not be mounted on the sides or top of the canopy, and the sides or fascia of the canopy shall not be illuminated.

#### D. Exemptions

1. Luminaires used for public-roadway illumination may be installed at a maximum height of 25 feet and may be positioned at that height up to the edge of any bordering property.
- 2.. All temporary emergency lighting needed by the police, fire or other emergency services, as well as all vehicular luminaires, shall be exempt from the requirements of this Ordinance.
3. All hazard warning luminaires required by federal regulatory agencies are exempt from the requirements of this section, except that all such luminaires used must be red and must be shown to be as close as possible to the federally required minimum lumen output requirement for the specific task.
- 4.. Luminaires used primarily for signal illumination may be mounted at any height required to ensure roadway safety, regardless of lumen rating.
5. Seasonal holiday lighting and illumination of the American and State flags shall be exempt from the requirements of this Ordinance, providing that such lighting does not produce glare on roadways and neighboring residential properties.
6. Installations existing prior to the enactment of this Ordinance are exempt from its requirements. However, any changes to an existing lighting system, fixture replacements, or any pre-existing lighting system that is expanded or modified must conform to the requirements of this section meet these.

E. Temporary Lighting

1. Any temporary outdoor lighting for construction or other purposes that conforms to the requirements of this article shall be permitted. Non-conforming temporary outdoor lighting may be permitted after considering:
  - a. The public and/or private benefits that will result from the temporary lighting.
  - b. Any annoyance or safety problems that may result from the use of the temporary lighting.
  - c. The duration of the temporary non-conforming lighting.

F. Public Area and Roadway Lighting

Installation of any new public area or roadway lighting fixtures other than for traffic control may be permitted only by decision of the planning board or the Board of Selectmen as applicable following a duly noticed public hearing.

**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 March 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 March 14, 1989 and April 8, 1997):*
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.

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 March 14, 1989*) 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 March 8, 1988*). 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  
  
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:

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

(Sq.Ft.)

*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:

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

(Sq.Ft.)                      Table 1A                      Well Radius

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.

**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	125,000	375*H	N/A	46XCH	195,000
333EH	N/A	411BH	90,000		
334*H	N/A	411CH	135,000		

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)

##### 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 April 8, 1997)*

**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**  
**OPEN SPACE DEVELOPMENT**

*(Adopted March 11, 2008)*

**Section 1**      **Authority**

This article is adopted pursuant to the authority and provisions of RSA 674:21 Innovative Land Use Controls. In administering this Innovative Land Use Control ordinance, the Planning Board shall enjoy the authority to grant conditional use permits, special use permits and waivers from specific requirements of this Article if and when an applicant is able to demonstrate to the satisfaction of the Planning Board that granting of such waiver(s) would not compromise achievement of the stated purpose and intent of this Ordinance. Correspondingly, any decision made by the Planning Board in administering this innovative land use control ordinance must be made to Superior Court pursuant to the provisions of RSA 676:5, III and RSA 677:15.

**Section 2**      **Purpose and Intent**

This Open Space Development Ordinance is intended to promote the preservation of open space within the Town of Sandown in accordance with the stated goals and objectives of the Sandown Master Plan. In addition, this Ordinance intends to afford those choosing to develop their land with greater flexibility in the layout and design of residential subdivisions than would otherwise be possible under the terms and conditions of other Articles of the Sandown Zoning Ordinance. In general, this Open Space Development Ordinance seeks to promote and facilitate; the appropriate use of residential land; the conservation and preservation of open space lands; the economical and efficient layout of public and non-public streets, utilities and infrastructure; the protection of natural and scenic rural qualities of the Town of Sandown; and to foster the opportunity for development of quality affordable housing for Sandown residents.

**Section 3**      **Applicability**

- A. Open Space Development, in accordance with the terms and conditions of this Ordinance, shall be permitted on any parcel situated in Zone A, provided that parcel conforms to the Minimum Tract Requirements outlines in Paragraph B of this Section.
- B. Minimum Tract Requirements:

In order to be eligible for application of this Open Space Development Ordinance, the parcel in question must have a minimum contiguous area of 15-acres, and enjoy a minimum of 200-feet of frontage on a Class V or better public highway. The minimum area and frontage requirements of this Section may be satisfied through the merger or consolidation of two or more adjacent tracts. The minimum frontage requirement of this Section may be satisfied by either contiguous frontage on a public highway or two non-contiguous segments of frontage, each not less than 100-feet in length.

## **Section 4**      **General Provisions**

### **A.**      Permitted Uses:

The following principal and accessory uses shall be permitted within an Open Space Development:

1.      Single-family dwellings with a maximum of four bedrooms per dwelling unit;
2.      Two-family dwellings with a maximum of three bedrooms per dwelling unit;
3.      Manufactured housing as defined in RSA 674:31;
4.      Accessory Recreational facilities for the benefit and enjoyment of residents of an open space development and/or the general public;
5.      Accessory utility and facility maintenance installations, including appurtenant structures; and
6.      Farming and agriculture as defined in RSA 21:34-a within designated open space areas.
7.      Multi Family Housing Buildings or Structures containing a minimum of three and a maximum of eight two bedroom dwelling units per building or structure. *(Amended March 9, 2010)*  
*(Amended March 14, 2017)*

### **B.**      Form of Open Space Development:

An Open Space Development may be laid out in a manner which incorporates one or more of the following platting arrangements:

1.      Fee simple lots conforming to those Minimum Dimensional Requirements contained in Section 6C of this Ordinance.  
  
Not more than one principal residential structure shall be permitted on any single fee simple lot; or
2.      Zero-lot line layouts having two or more principal residential structures located on a single tract which is owned and managed in common by the owners of all dwelling units situated thereon.

### **C.**      Utility Requirements:

1.      Each principal residential structure situated within an open space development shall be served by an on-site subsurface sewage disposal (septic) system located upon the same tract of land as that principal residential structure. In the case of Open space developments configured with a zero-lot line layout, multiple principal residential structures may be served by a common on-site subsurface sewage disposal system. All subsurface sewage disposal systems must be designed and constructed in accordance with applicable NHDES and Town of Sandown requirements.

2. Each residential structure situated within an open space development shall be served by an individual, on-site water well, or by a community water supply system approved and licensed by the NHDES.
3. All utilities, including electric, telephone and cable television service lines shall be installed underground throughout any open space development.

D. Application Review Standards:

Each application for subdivision approval of an open space development shall be subject to review and approval by the Sandown Planning Board in accordance with the provisions of both the Sandown Land Subdivision Control Regulations and Site Plan Review Regulations, as applicable.

In the event a conflict is found to exist between any provision of this Open Space Development Ordinance and any other provision of the Sandown Zoning Ordinance, the provisions of the Open Space Development Ordinance shall control and prevail.

## **Section 5      Maximum Permitted Residential Density**

The maximum permitted residential density within an open space development shall be determined through preparation of an exhibit, referred to as a “Yield Plan,” illustrating the layout of streets and lots over the proposed open space development tract, configured in such a way as to conform to the provisions of Article II – Part B – Section 3 of this Zoning Ordinance, relative to minimum lot area and frontage requirements, as well as applicable design requirements contained in the Sandown Land Subdivision Control Regulations governing lot configuration and street layout. A yield plan shall be submitted and be subject to review and approval by the Sandown Planning Board, as part of an application for approval of an open space development. The maximum number of single family dwelling units permitted in any open space development shall be equal to that number of lots eligible for single-family residential construction identified on the approved yield plan. In the case of open space developments where two-family dwellings are planned, the maximum number of two-family structures permitted in an open space development shall be equal to the number of lots containing not less than 2.0 acres of land area; and not less than 250 contiguous feet of qualifying street frontage, identified on the approved yield plan.

In the case of open space developments where multifamily housing buildings or structures are planned, a maximum of two multi family dwelling units shall be permitted for each lot eligible for single family residential construction identified on an approved yield plan. Multi-family dwelling units shall not contain more than two-bedrooms. In the case of an open space development where a mix of single family and multifamily residential dwelling units are planned, the maximum number of multi family dwelling units permitted shall be determined by subtracting the total number of single family dwellings planned from the maximum number of single family dwelling units identified on the approved yield plan and multiplying that difference by a factor of two. (As an example, consider a fifty (50) acre tract upon which an approved yield plan suggests a maximum of twenty four (24) single family dwelling units may be permitted. If the applicant desires to develop a mix of single family and multifamily dwellings; and elects to construct a total of sixteen (16) single family homes, the maximum number of multi family dwelling units permitted elsewhere on the property is calculated by multiplying the difference of eight (8) single family dwelling units by a factor of two to yield a total of sixteen (16) multi family dwelling units). *(Amended March 9, 2010)(Amended March 14, 2017)*

## Section 6      Design Requirements

### A. Design Objectives and Priorities:

1. Diversity and Originality:  
Diversity and originality in the layout and design of lots, streets, buildings, open space areas and other elements of the open space development shall be encouraged in order to achieve the most favorable relationship between the built environment, the land and the neighborhood within which a planned open space development is to be located.
2. Design Priorities:  
Lots, streets, buildings, utilities, open space areas and other elements of the open space development shall be laid out and designed to:
  - (a) Avoid the need for excessive alteration of terrain and reduce the potential for adverse environmental impacts;
  - (b) Promote preservation of open space land in contiguity;
  - (c) Allow for the placement of homes and accessory improvements on land most suitable for residential use;
  - (d) Provide for the reasonable integration of existing and future neighborhoods in an aesthetically pleasing manner;
  - (e) Preserve Sandown's rural setting;
  - (f) Provide reasonable accommodations for pedestrian travel within the subdivision;
  - (g) Promote the efficient use of land; and
  - (h) Efficiently reduce initial infrastructure construction and future maintenance costs.

### B. Dimensional Requirements:

1. Fee simple lots intended for single-family residential use, to be served by individual on-lot sewage disposal systems and water wells, shall be configured so as to conform to the following minimum dimensional requirements:

Minimum Lot Area: 32, 500 square feet  
Minimum Lot Frontage: 150 feet  
Minimum Yard Requirements: Front: 30 feet  
Side: 15 feet  
Rear: 10 feet

2. Fee simple lots intended for single-family residential use, to be served by individual on-lot sewage disposal systems and a NHDES approved community water supply system shall be configured so as to conform to the following minimum dimensional requirements:

Minimum Lot Area: 22,500 square feet  
Minimum Frontage: 100 feet  
Minimum Yard Requirements: Front: 30 feet  
Side: 15 feet  
Rear: 10 feet

3. Fee simple lots intended for two-family residential use, to be served by individual on-lot sewage disposal systems and water wells shall be configured so as to conform to the following minimum dimensional requirements:

Minimum Lot Area: 40,000 square feet  
Minimum Frontage: 200 feet  
Minimum Yard Requirements: Front: 30 feet  
Side: 15 feet  
Rear: 10 feet

4. Fee simple lots intended for two-family residential use, to be served by individual on-lot sewage disposal systems and a NHDES approved community water supply system shall be configured so as to conform to the following minimum dimensional requirements:

Minimum Lot Area: 32,500 square feet  
Minimum Frontage: 150 feet  
Minimum Yard Requirements: Front: 30 feet  
Side: 15 feet  
Rear: 10 feet

5. One, two and multi-family residential structures or buildings situated on a parcel under a zero lot line layout arrangement shall be subject to the following minimum dimensional requirements:

Minimum Horizontal Separation (Single-Family): 30 feet  
Minimum Horizontal Separation (Two or Multi Family): 50 feet  
Minimum Yard Requirements: Front: 30 feet  
Side: 30 feet  
Rear: 30 feet

*(Amended March 9, 2010)*

6. All minimum frontage requirements for fee simple lots specific in Sections 6.B.1 through 6.B.4 above shall be fulfilled by use of frontage measured along roadways internal to the planned open space development exclusively.

C. Open Space Development Perimeter Buffering Requirements:

1. A landscaped buffer, having a minimum width of 50-feet, as measured from the exterior parcel boundaries of the open space development tract, shall be provided around the perimeter of the open space development parcel. All lands situated within a perimeter landscaped buffer shall be comprised of existing or planted vegetation and shall be platted as common open space. No portion of any platted fee simple lot intended for residential construction shall encroach upon any portion of the required perimeter landscaped buffer. Further, in the case of an open space development, with a zero lot line layout arrangement, no buildings, pavement (other than site access drives intersecting with exterior roadways), above ground utility installations, or other permanent improvements shall be situated within any portion of the required perimeter landscaped buffer unless so approved by the Planning Board.

D. Open Space Requirements:

1. A minimum of one-third (1/3) of the gross open space development tract area shall be platted as common open space to be permanently protected and used for recreational, forestry agricultural and/or conservation purposes pursuant to the provisions of RSA 674:21-a.
2. Not more than one-half (1/2) of the required common open space area shall be comprised of lands having natural ground slopes in excess of twenty-five percent (25%), wetlands as defined under RSA 674:55, land encumbered by utility transmission line easement, or land used to satisfy the minimum Open Space Development Perimeter Buffering Requirements outlines in Article II, Part D, Section 6.C of this Ordinance.
3. A minimum of one contiguous tract of common open space, having an area measuring not less than one-half (1/2) of the required common open space area required under Section 6.D.1 above shall be provided within the open space development. This contiguous area of common open space shall be uninterrupted by buildings, streets, pavement or other manmade improvements, unless otherwise approved by the Planning Board.
4. All common open space areas shall be accessible to pedestrians within the open space development. The Planning Board may require pedestrian trails or walkways for the purposes of providing pedestrian access from streets situated within the open space development to those common open space areas intended to be used for recreation, agriculture or other active community purposed.
5. Common open space may be used for one or more of the following purposes:
  - (a) Conservation land;
  - (b) Public and private recreation;
  - (c) Community water supply wells and related infrastructure improvements;
  - (d) Agriculture and forestry; and
  - (e) Other uses which may be permitted by the Planning Board.

**Section 7**      **Management Requirements**

A. Homeowner's Association

Any application submitted to the Planning Board for final approval of an open space development shall include a draft copy of the proposed articles of association or incorporation for the creation of a homeowners association, which shall provide for the on-going governance and maintenance of the open space development in accordance with the requirements of this Ordinance in perpetuity. These documents shall be considered an integral part of any open space development proposal. Correspondingly, no application for final approval of an open space development shall be approved unless and until the Planning Board has determined the articles of association or incorporation conforms to all applicable requirements of this Ordinance. Any subsequent amendments to the articles of association or incorporation shall be considered invalid and without affect unless and until approved by the Sandown Planning Board.

## 1. Membership

Membership in the Homeowner's Association shall be mandatory for all owners of real property situated within an open space development. A covenant acknowledging this requirement shall be contained in all deeds given for the conveyance of real property situated within an open space development.

The articles of association or incorporation adopted for the purposes of creating a Homeowner's Association shall contain provisions for:

- (a) Voting rights and requirements for members;
- (b) Rights and restrictions of members regarding the use and enjoyment of common open space;
- (c) The ability of the Homeowner's Association to assess and collect dues and/or levy assessments upon members duties including, but not limited to:
  - Satisfying tax liabilities
  - Maintenance of common open space
  - Maintenance of commonly owned infrastructure

In general, the Homeowner's Association shall be responsible for the governance, perpetuation, maintenance and function of all common lands, uses, facilities and infrastructure.

## 2. Restrictive Covenants

All lands and improvements situated thereon shall be described and identified as to location, extent, use and control by restrictive covenant. Such restrictive covenants shall run with the land and their existence and applicability shall be acknowledged in all deeds given for the conveyance for any real property situated within the open space development.

## 3. Continuance of Restrictive Covenants and Homeowner's Association

Restrictive covenants shall remain in effect, without suspension or interruption so as to assure the availability of common land, facilities and infrastructure for the intended use and function of the same. The Homeowner's Association shall not be dissolved, nor shall the Association dispose of, convey or transfer ownership of any common land or open space without the approval of the Planning Board.

## 4. Open Space Land

Except as may be permitted by this Ordinance or the Planning Board, all open space and other common lands situated within the open space development shall be held in common ownership by all Homeowner's Association members and shall be used and maintained exclusively for those purposes approved by the Planning Board.

5. Failure to Manage or Maintain Open Space

In the event the Homeowner's Association or its rightful assign shall, for any reason, fail to manage or maintain open space in reasonable order and condition in accordance with the provisions of an application approved by the Planning Board, the Board shall serve written notice upon said Association and/or its individual members specifying the deficiencies in management, maintenance, use, order or condition of said open space, which shall be considered a zoning violation pursuant to RSA 676:15. Such notice shall include a demand that said deficiencies be cured within a specified time period and further require that a written statement of intent is not received by the Planning Board within the specified time period, or in the event a proper statement of intent is received and such deficiencies are not subsequently satisfactorily cured within the time period specified therein, the Planning Board shall hold a public hearing, with notice to members of the Homeowner's Association as required by RSA 676:4, I(d). At such public hearing, the Board shall afford Association members the opportunity to demonstrate cause as to why the demand was not satisfied. If the Planning Board finds sufficient cause has been demonstrated, it may grant the Association an additional period of time to fully satisfy the demand. However, in the event the Association is unable to demonstrate proper cause for lack of compliance with the demand, or in the event the demand is not fully satisfied within any additional time period the Planning Board may elect to grant, the Board may, without further notice or public hearing, initiate court action to remedy the violation. In addition, the Town of Sandown shall also enjoy:

- The right to enter upon the property for the purpose of causing the violation to be cured;
- The right to be recoup costs associated with its enforcement actions;
- The right to place liens on properties owned by Homeowner's Association members;
- The right to collect attorney's fees; and
- Any and all other rights which may be available under New Hampshire Law or may be specified in the articles of association or incorporation of any open space development.

**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 March 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 March 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.

## **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:

- Elderly Housing;
- Elderly Housing Support Facilities

*(Amended March 8, 2005)*

**Section 3**      **Definitions**

Open Space - “Open space” is that portion of a lot upon which an Elderly Housing Development is situated whose terrain remains unaltered and undistributed as a result of full build-out and construction of the development.

*(Amended March 11, 2008)*

**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 March 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. Usage of zoning classifications of abutting land
1. 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

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 Requirements

1. A minimum of one-half (1/2) of the gross Elderly Housing Development tract area shall be platted as open space to be permanently protected and used for recreational, forestry, agricultural and/or conservation purposes pursuant to the provisions of RSA 674:21-a.

2. Not more than one-half (1/2) of the minimum required open space area shall be comprised of lands having natural ground slopes in excess of twenty-five percent (25%), wetlands as defined under RSA 674:55, land encumbered by utility transmission line easement, or land used to satisfy the minimum buffer zone requirements of Article II – Part F – Section 4.D of this Ordinance.
3. A minimum of one contiguous tract of open space, having an area measuring not less than one-half (1/2) of the minimum open space area required under Article II Part F – Section 4.H.1 above shall be provided within the elderly housing development. This contiguous area of open space shall be uninterrupted by buildings, streets, pavement, or other manmade improvements unless otherwise approved by the Planning Board. A maximum of 25% of this contiguous tract may be comprised of jurisdictional wetlands and/or lands with a ground slope of more than 25%.
4. All open space areas shall be accessible to pedestrians within the elderly housing development. The Planning Board may require pedestrian trails or walkways for the purposes of providing pedestrian access from streets situated within the Elderly housing development to those open space areas intended to be used for recreation, agriculture or other active community purpose.
5. Open space within an elderly housing development may be used for one or more of the following purposes:
  - (a) Conservation land;
  - (b) Public and private recreation;
  - (c) Community water supply wells and related infrastructure improvements;
  - (d) Agriculture and forestry; and
  - (e) Other uses which may be permitted by the Planning Board

*(Amended March 11, 2008)*

#### 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.

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 Elderly Housing Development Density

In order to insure the continued diversity in housing stock available to Sandown residents, the total number of age restricted dwelling units permitted and constructed under this Elderly Housing Development Ordinance shall not exceed twenty-percent (20%) of the total available housing stock on a town-wide basis. In administering this requirement, the Sandown Planning Board shall maintain records which:

- (a) Identify the total number of all dwelling units occupied or are Legally available for residential occupancy within the Town of Sandown as of January 1<sup>st</sup> of each calendar year (TDU);
- (b) Identify the total number of dwelling units located within those elderly housing developments permitted and constructed under the provisions of the Elderly Housing Development Ordinance for which a certificate of occupancy has been granted prior to January 1<sup>st</sup> of each calendar year (EEDU) and;
- (c) Identify the total number of dwelling units located within those elderly housing developments permitted and/or proposed under the provisions of the Elderly Housing Development Ordinance for which a certificate of occupancy has not yet been granted, but whose permit or application enjoys vesting rights pursuant to New Hampshire Laws as of January 1<sup>st</sup> of each year (VEDU).

From these data, the maximum number of additional dwelling units, within elderly housing developments, that may be permitted by the Planning Board during the ensuing year (AEDU) will be calculated using the formula:

$$AEDU = 0.25 \text{ TDU} - 1.25 \text{ EEDU} - \text{VEDU}$$

During the course of any calendar year, any application submitted to the Planning Board for approval of a residential site plan or subdivision plat advanced under the provisions of Article II – Part F shall be denied without prejudice if the total number of elderly dwelling units proposed under that application exceeds the maximum number of additional elderly housing dwelling units, calculated in accordance with the above formula, available as of the application date. In the event multiple applications for approval of elderly residential developments are received, available residential density for any individual calendar year shall be assigned on a first come basis.

*(Amended March 11, 2008)*

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 March 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 March 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 March 14, 2000) (Amended March 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 April 8, 1997) (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 April 8, 1987) (Amended March 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 March 13, 2001)*

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 March 14, 1989*)
4. Mobile homes shall be secured to resist wind uplift. (*Amended March 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 March 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.
- 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 March 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
- 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**

*(Adopted March 8, 1988)(Amended March 14, 2017)*

#### **Section 1**      **Purpose**

The purpose of this article is to permit signs that will not, by reason of size, location, construction or manner of display, endanger public health or safety.

#### **Section 2**      **Definitions**

- A.      *Area:* The area of one side of a not-more-than two sided sign, or one-half of the total area of a sign or more than two sides.
- B.      *Sign:* Any surface, fabric, device or display which bears lettered, pictorial, or sculptured matter designed to convey information visually and which is exposed to public view.
- C.      *Temporary Sign:* A sign intended to be displayed for no longer than six (6) months.

#### **Section 3**      **General Provisions**

- A.      No sign in any district shall be internally illuminated, flashing or animated, nor shall any be illuminated by other than incandescent or fluorescent light; nor shall any illuminated sign or advertising outline any part of a building such as a gable, roof, sidewalk or corner.
- B.      The maximum height of all signs shall not exceed fifteen (15) feet above grade, as determined by the average ground level around the sign.
- C.      There shall be permitted in the following zones no permanent signs larger than:
- D.      Twelve (12) square feet per lot in residential use. *(Amended March 14, 2006)*
- E.      Thirty-five (35) square feet per lot in the business district. *(Amended March 14, 2006)*
- F.      Every sign shall be constructed of durable material and shall be maintained in good condition and repair at all times.
- G.      Signs advertising businesses located in the Town of Sandown may be located off the site of the business, provided the other provisions of this ordinance are met.
- H.      Signs advertising businesses not located in the Town of Sandown are prohibited beyond one mile from the business.
- I.      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.

- J. Illuminated roadside signs shall not remain lit after 9:30 p.m.
- K. 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:
  - a. 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.
  - b. In the event of a lot or tract with frontage on more than one right-of-way, the provision of III.C.1 shall apply to each right-of-way.

#### **Section 5**      **Exceptions**

- A. In any zone, the Planning Board may allow two additional non-illuminated 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 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. In addition to other permitted signs, each residential property may display one permanent sign having a service area of three (3) square feet or less without a permit. *(Amended March 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 March 8, 1988)*

#### **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 March 14, 1989)*

#### **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 March 14, 1989)*

#### **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 March 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 Nation 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 March 11, 1986)*

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)*

## **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 March 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 March 10, 1992)*

## **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 Dwelling Unit Ordinance** *(Amended March 14, 2017)*

- A. Authority

This section is enacted in accordance with the provisions of RSA 674:71 to :73, using the dwellingunit definition as defined in Article II, Section 15 (a) of this Ordinance.

C. Purpose

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

D. Objectives

The objectives of this section are to:

3. Provide housing units in single family neighborhoods that are appropriate for different housing demands.
4. Add more affordable rental units to the housing stock to meet the needs of small households, both young and old.
5. 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.

E. Definitions

Accessory Dwelling Unit: A residential living unit that is within or attached to a single-family dwelling or in an accessory structure, and is clearly subordinate part thereof, and that provides independent living facilities for one or more persons, including provision for sleeping, eating, cooking, and sanitation on the same parcel of land as the principal dwelling unit it accompanies. The apartment shall not have more than two bedrooms. (*Amended March 12, 2002*)

F. Special Exception

A special exception allowing the installation of one (1) accessory dwelling unit 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, except that no accessory dwelling unit shall be restricted to less than 750 square feet.
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. An interior door shall be provided between the principal dwelling unit and the accessory dwelling unit, but is not required to remain unlocked.

7. 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.
8. Prior to granting a Special Exception by the ZBA, the owner shall provide, as part of the ZBA case file, the following:
  - a. Demonstration of NHDES subsurface systems bureau construction approval for an on-site subsurface sewage disposal system capable of accommodating the combined wastewater discharge from the principle dwelling unit as well as the planned accessory apartment.
  - 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.
9. Separate controls for heating, cooling and electrical service shall be accessible in each unit to meet local code requirements. *(Amended March 10, 2015)*
10. 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.
11. 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.
12. 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.

G. Provisions

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

**Section 6    Conversion of Residential Structures from Seasonal to Full-Time Occupancy**  
*(Adopted March 9, 2010)*

A.      Special Exception Required

A Special Exception must be granted by the Zoning Board of Adjustment prior to the conversion of any existing residential structure or dwelling from “seasonal” to full-time occupancy. For the purposes of this Ordinance, a “seasonal” residential structure is any existing dwelling which, as of March 5, 1974, was not suitable for habitation on a year-round basis; and since that date, has not been improved to the extent that a certificate of occupancy for full-time residential use has been issued by the Sandown Building Inspector.

B.      Special Exception Requirements for the Conversion of Residential Structures from Seasonal to Full-Time Occupancy

In addition to reaching a finding that an applicant seeking a Special Exception under this Section has demonstrated criteria contained in Article V - Section 4 of this Ordinance – entitled General Requirements For All Special Exceptions – have been satisfied, the Zoning Board of Adjustment must also find, prior to issuance of a Special Exception that:

1.      The property upon which the residential structure or dwelling is situated conforms to the requirements of Article II – Part B – Sections 3.C.1 and 3.C.2 of this Ordinance regarding minimum Receiving Soil and Receiving Layer requirements for non-sewered lots; and
2.      Not more than a single dwelling unit is situated within the residential structure in question; and
3.      The residential structure is served by a potable year-round water supply; and
4.      The applicant has produced documentation issued by the New Hampshire Department of Environmental Services demonstrating that the individual sewage disposal system serving the property conform to the requirements of Parts Env-Wq 1004.16(b); and Env-Wq 1004.18 of the New Hampshire Code of Administrative Rules.

## **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 March 13, 1984)*

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.

- 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 VII**  
**ILLICIT DISCHARGE DETECTION AND ELIMINATION ORDINANCE**  
(Adopted March 12, 2019)

**a. SECTION 1. PURPOSE AND INTENT**

1. The purpose of this Illicit Discharge Detection and Elimination (IDDE) Ordinance is to provide for the health, safety and general welfare of the citizens of Sandown through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable. The IDDE ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this ordinance are to:

1. Regulate the contribution of pollutants to the MS4 by storm water discharges by any user.
2. Prohibit illicit connections and discharges to the MS4.
3. Establish legal authority to carry out all inspection, surveillance, monitoring, and enforcement procedures necessary to ensure compliance with this ordinance.

**b. SECTION 2. DEFINITIONS**

c. For the purposes of this Article VII of the Sandown Zoning Ordinance, the following words and terms shall mean:

d. Authorized Enforcement Agency. Employees or designees of the Town of Sandown designated to enforce this Ordinance.

e. Best Management Practices (BMPs). Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to storm water, receiving waters, or storm water conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

Illegal Discharge. Any direct or indirect non-storm water discharge to the storm drain system, unless otherwise exempted under the terms and conditions of this ordinance.

f. Illicit Connections. An illicit connection is defined as either of the following:

- Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system, including but not limited to any conveyances that allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved; or

- Any drain or conveyance connected from a commercial or industrial land use to the storm drain system that has not been previously approved by the Town of Sandown or others of competent jurisdiction as applicable.

g. Industrial Activity. Activities subject to NPDES Industrial Storm Water Permits as defined in 40 CFR, Section 122.26 (b) (14).

h. Municipal Separate Storm Sewer System (MS4). The system of conveyances (including sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned and operated by the Town of Sandown and designed or used for collecting or conveying storm water, and that is not used for collecting or conveying sewage.

i. National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit. means a permit issued by EPA (or by a State under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to Waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

j. Non-Storm Water Discharge. Any discharge to the storm drain system that is not composed entirely of storm water.

k. Person. Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

l. Pollutant. Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

m. Premises. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

Storm Drainage System. Publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

Storm Water. Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation and resulting from such precipitation.

Storm Water Management Plan. A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Storm Water, Storm Water Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.

Wastewater. Any water or other liquid, other than uncontaminated storm water, discharged from a facility.

## n. **SECTION 3. APPLICABILITY**

This Ordinance shall apply to all water, pollutants or other substances entering the storm drain system generated on all lands unless explicitly permitted under the terms and conditions of this Ordinance.

**o. SECTION 4. COMPATIBILITY**

The requirements of this Ordinance are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this Ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

**SECTION 5. INTERPRETATION**

The standards set forth herein and promulgated pursuant to this Ordinance are minimum standards; therefore this Ordinance does not intend or imply that compliance by any person will ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants.

**SECTION 6. DISCHARGE PROHIBITIONS**

**p. 6.1. Prohibition of Illegal Discharges.**

q. No person shall throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the MS4 any pollutants or waters containing any pollutants, other than storm water.

2. The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

1. The following discharges are exempt from discharge prohibitions established by this ordinance: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration, uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water.
2. Discharges or flow from firefighting and other discharges necessary to protect public health and safety.
3. Discharges associated with dye testing of public and private storm drains, flow testing of public and private water supply wells and similar activities which may, from time to time, be undertaken in order to lawfully construct and maintain public and private infrastructure and utility systems.
4. A non-storm water discharge permitted under an NPDES Permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the United States Environmental Protection Agency (EPA).

## **6.2. Prohibition of Illicit Connections.**

1. The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
2. A person is considered to be in violation of this Ordinance if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.
3. Improper connections in violation of this Ordinance must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or alternate system accepted to the Town of Sandown.
4. Any drain or conveyance that has not been documented by plans, maps or equivalent, and which may be connected to the storm sewer system, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the Town of Sandown requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be determined, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the storm sewer system or other stormwater discharge point be identified. Results of these investigations are to be documented and provided to the Town of Sandown.

## **r. SECTION 7. SURFACE WATER PROTECTION**

Every person owning property through which surface waters or a watercourse passes, or such person's lessee, shall keep and maintain that part of the surface waters or watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

## **SECTION 8. REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORM WATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES**

The Town of Sandown may adopt regulations identifying Best Management Practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the storm drain system, or Waters of the United States.

## **s. SECTION 9. NOTIFICATION OF SPILLS**

- t. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or waters of the United States, said

person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. Failure to provide notification of a release as provided above is a violation of this Ordinance.

**u. SECTION 10. VIOLATIONS, ENFORCEMENT, AND PENALTIES**

**v. 10.1. Violations.**

w. It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Ordinance. Any person who has violated or continues to violate the provisions of this Ordinance, may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law.

In the event the violation constitutes an immediate danger to public health or public safety, the Town of Sandown is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property.

**10.2. Warning Notice.**

When the Town of Sandown finds that any person has violated, or continues to violate, any provision of this ordinance, or any order issued hereunder, the Town may serve upon that person a written Warning Notice, specifying the particular violation believed to have occurred and requesting the discharger to immediately investigate the matter and to seek a resolution whereby any offending discharge will cease. Investigation and/or resolution of the matter in response to the Warning Notice in no way relieves the alleged violator of liability for any violations occurring before or after receipt of the Warning Notice.

**x. 10.3. Suspension of MS4 Access.**

**y. 10.3.1. Emergency Cease and Desist Orders.**

z. When the Town of Sandown finds that any person has violated, or continues to violate, any provision of this Ordinance, or any order issued hereunder, or that the person's past violations are likely to recur, and that the person's violation(s) has (have) caused or contributed to an actual or threatened discharge to the MS4 or Waters of the United States which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the Town may issue an order to the violator directing it immediately to cease and desist all such violations.

**10.3.2. Suspension Due to Illicit Discharges in Emergency Situations.**

The Town of Sandown may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or Waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the Town may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the United States, or to minimize danger to persons.

### **10.3.3. Suspension Due to the Detection of Illicit Discharge.**

aa. Any person discharging to the MS4 in violation of this Ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The Town of Sandown will notify a violator of the proposed termination of its MS4 access. The violator may petition the Board of Selectmen for a reconsideration and hearing.

A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the Town of Sandown.

## **ARTICLE VIII**

### **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 the cost of funding public capital facilities and improvements.

#### **Section 3**      **Applicability and Rules of Construction**

- A. This ordinance shall be uniformly applicable to all new development which occur within the corporate boundaries of the Town of Sandown. There shall be no assessment made to those units that are lawfully age-restricted to senior occupancy (55+ or 62+), which are subject to age limitations based on deed covenants.
- 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 4**      **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.
- 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 of 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 5**      **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 March 13, 2001)*

## **Section 6**      **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.
- 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 collected as a condition of the Certificate of Occupancy.
- D. The amount of the fee charged may be calculated and reviewed annually by the Planning Board and adjusted as deemed necessary.
- E. Reference Section 9.26 School impact Fee Assessment, Sandown Subdivision Regulations.  
*(Amended March 12, 2018)*

## **Section 7**      **Payment of Fee**

- A. All impact fees shall be assessed prior to, or as a condition for the issuance of an occupancy 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 the occupancy permit issuance. *(Amended March 12, 2013)*
- 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 8**      **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 9**      **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 10 of this Ordinance and used solely for the purposes specified in Section 11.
- 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.
- 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 11.

## **Section 10**     **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 11 of this Ordinance.

## **Section 11**     **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.

## **Section 12**     **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 13 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 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 12. 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 14**    **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 15**    **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.

#### **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.

### **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**

	<b>New Tower Construction</b>	<b>Co-Location on Pre-existing Tower<sup>2</sup></b>	<b>Co-location on Existing Structure<sup>3</sup></b>
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.

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

## **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.
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.

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.
- 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.
- 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,I(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:

6. 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.
7. The waiver will not, in any manner, vary the provisions of the Sandown Zoning Ordinance, Sandown Master Plan, or official map.
8. Such waiver(s) will substantially secure the objectives, standards and requirements of these regulations.
9. 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:
  - g. Topography and other site features
  - h. Availability of alternative site locations
  - i. Geographic location of property
  - j. 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.

## **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.