

**A Bicentennial Community  
1798-1998**

**ZONING ORDINANCE  
ADOPTED MARCH 13, 2001**

Amended March 11, 2003; March 14, 2006; March 13, 2007; March 12, 2008; March 13, 2009; March 9, 2010; March 8, 2011;  
March 13, 2012; March 12, 2013; March 11, 2014; March 10, 2015; March 8, 2016

**Zoning Originally Established March 13, 1979**

# Table of Contents

Amended March 8, 2016

<b>SECTION 1.00 ADMINISTRATIVE REQUIREMENTS</b> .....	<b>1</b>
1.01 PURPOSE .....	1
1.02 AUTHORITY.....	1
1.03 ZONING MAPS.....	3
1.04 LOTS SPLIT BY ZONING DISTRICT BOUNDARIES.....	3
1.05 COMPLIANCE WITH CONFLICTING CODES.....	3
1.06 ZONING BOARD OF ADJUSTMENT .....	4
1.07 GENERAL REQUIREMENTS.....	4
1.08 HOUSING MAINTENANCE AND OCCUPANCY CODE .....	6
1.09 BUILDING CODE BOARD OF APPEALS.....	16
1.10 INTERPRETATION, ADMINISTRATION AND ENFORCEMENT .....	16
1.11 INNOVATIVE LAND USE CONTROLS .....	16
1.12 NON-CONFORMITY.....	18
1.13 SAVING CLAUSE.....	20
1.14 DEFINITIONS.....	20
<b>SECTION 2.00 BASE ZONING DISTRICTS</b> .....	<b>32</b>
2.01 AGRICULTURAL RESIDENTIAL (AR) .....	39
2.02 SUBURBAN RESIDENTIAL DISTRICT (SR).....	40
2.03 RURAL RESIDENTIAL DISTRICT – 1 ACRE (RR).....	41
2.04 URBAN RESIDENTIAL DISTRICT (UR).....	42
2.05 VILLAGE CENTER DISTRICT (VC).....	43
2.06 RESERVED .....	44
2.07 COMMERCIAL BUSINESS DISTRICT (CB).....	44
2.08 INDUSTRIAL BUSINESS DISTRICT (IB).....	45
2.09 BOUNDARY DESCRIPTION OF DISTRICTS .....	46
<b>SECTION 3.00 GENERAL STANDARDS</b> .....	<b>47</b>
3.01 RELATIONSHIP OF BUILDINGS TO LOTS.....	47
3.02 ACCESS OF LOTS TO STREETS .....	47
3.03 DRIVEWAY PERMITS.....	47

3.04 RESERVED .....	48
3.05 PROJECTIONS INTO REQUIRED SETBACKS .....	48
3.06 STRUCTURES PERMITTED ABOVE HEIGHT LIMITS .....	49
3.07 TEMPORARY ACTIVITIES AND EVENTS .....	49
3.08 SMALL WIND TURBINES.....	49
3.09 SIGNS.....	51
3.10 PRIVATE ROAD STANDARDS .....	54
3.11 TELECOMMUNICATIONS TOWERS/STRUCTURES.....	54
3.12 SENSITIVE AREA DEVELOPMENT STANDARDS .....	65
3.13 MANUFACTURED HOUSING STANDARDS.....	69
3.14 HOUSING AND OTHER STANDARDS.....	71
5.15 SLUDGE.....	73
3.16 RECREATIONAL VEHICLES, RECREATIONAL VEHICLE PARKS, AND CAMPGROUNDS .....	73
3.17 OPEN SPACE – RESIDENTIAL CLUSTER DEVELOPMENT STANDARDS. ....	74
3.18 PHASED DEVELOPMENT STANDARDS .....	89
3.19 SEXUALLY ORIENTED BUSINESS STANDARDS .....	92
3.20 ACCESS MANAGEMENT.....	97
3.21 LANDSCAPING .....	101
3.22 IMPACT FEES .....	101
3.23 STORAGE UNITS .....	103
<b>SECTION 4.00 OVERLAY DISTRICTS .....</b>	<b>105</b>
4.01 GROUNDWATER PROTECTION OVERLAY DISTRICT.....	105
4.02 WETLANDS CONSERVATION OVERLAY DISTRICT .....	113
4.03 WATERFRONT PROTECTION OVERLAY DISTRICT.....	121
4.04 FLOODPLAIN PROTECTION OVERLAY DISTRICT.....	126
4.05 LANCELOT SHORES OVERLAY DISTRICT .....	126
4.06 ROUTE 11 BUSINESS NODE OVERLAY DISTRICT.....	127
<b>SECTION 5.00 HOME OCCUPATION AND HOME BUSINESS.....</b>	<b>133</b>
5.01 HOME OCCUPATION .....	133
5.02 HOME BUSINESS.....	134

# **Amendments to the Town of Farmington Zoning Ordinance**

## **ADOPTED**

March 13, 2001

## **AMENDED**

March 11, 2003

March 14, 2006

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March 12, 2008

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March 9, 2010

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March 10, 2015

March 8 2016

Revised Section 4.01 Groundwater Protection Overlay District (formerly Aquifer Protection Overlay District); Adopted Section 3.16 Recreational Vehicle Parks or Campgrounds; Adopted Section 3.23 Storage Units; Technical edits to formatting and Table of Contents.

August 3, 2016

Added revised Section 3.16 into Ordinance.

## INTRODUCTION: HOW TO USE THIS CHAPTER

(A) **Read the Ordinance.**

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

(B) **By-laws, Zoning Ordinance & Related Regulations.**

To fully understand this code, it is important for the reader to understand how the Town has organized this ordinance and its supporting regulations.

(1) **Farmington Land Use Book.**

The Town has organized its land use ordinances and regulations into a single system:

Chapter I:	Planning Board Bylaws
Chapter II:	Conservation Commission Bylaws
Chapter III:	Zoning Board of Adjustment Bylaws
Chapter IV:	Town of Farmington Zoning Ordinance
Chapter V:	Subdivision Regulations
Chapter VI:	Site Plan Review Regulations
Chapter VII:	Excavation Regulations

(2) **Organization of the Ordinance.**

(a) **Sections.** This document, Chapter IV, entitled "Town of Farmington Zoning Ordinance", is divided into five sections. Each section is a grouping of related issues or requirements. Readers can easily identify where an answer is likely to be found. Information about setbacks is found in Section 2.00 (Base Zoning District & Dimensional Requirements); information about other concerns like Wetlands Protections or Floodplains are located in Section 4.00 (Overlay Zoning Districts).

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

(3) **Cross-referencing System.**

Within this ordinance there are many references to other Sections of this code. These cross-references are provided to help the reader find needed information, and to inform the reader of related provisions. For example:

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

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

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

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

**END OF SECTION**  
**INTRODUCTION: HOW TO USE THIS CHAPTER**

## SECTION 1.00 ADMINISTRATIVE REQUIREMENTS

### 1.01 PURPOSE

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

### 1.02 AUTHORITY

- (A) **Authority.** Authority to adopt the Ordinance is granted by the State to the Local Legislative Body by RSA 674:16, with the conditions set forth in RSA 674:18. The Planning Board is required to adopt the objectives and land use sections of the Master Plan prior to adoption of the Ordinance.
- (B) **Resolution.** Pursuant to the grant of authority, and finding that the Planning Board adopted objectives and a land use section of the Farmington Master Plan on January 27, 1998, the Local Legislative Body of the Town of Farmington hereby repeals the previous Zoning Ordinance and adopts this new Ordinance.
- (C) **Amendments.** This ordinance may be amended only by vote of the legislative body of the Town of Farmington in accordance with the provisions of RSA 672, RSA 674, and as otherwise provided by law.
- (D) **Site Plan Review Authority.** The Planning Board, in accordance with RSA 674:43, is empowered to review and approve or disapprove all site plans for the development or change or expansion of use of tracts for non-residential uses or for multi-family dwelling units, which add more than 1,000 sq.ft. of building area, including additional floors, or an increase of 25% of total building area, whichever is less, whether or not such development includes subdivision or re-subdivision of the site. All development or change or expansion of use of tracts for non-residential uses or for multi-family dwelling units below 1,000 sq.ft. or 25% of building area, including additional floors, whichever is less, shall be reviewed and approved or disapproved by the Site Plan Review Committee as authorized in Section 1.02 (D)(2) of this Ordinance, unless the proposed project produces a Hazardous Impact on the Town, as defined in Section 1.14, in which case full review by the Planning Board shall be required. The Site Plan Review Committee shall consist of the Director of the Department of Planning and Community Development, the Building Inspector, and the Fire Chief or his/her designee. All decisions of the Site Plan Review Committee shall be made within sixty

(60) days of application acceptance of the Committee. All decisions of the Site Plan Review Committee shall be unanimous. If no unanimous decision is reached, the application shall immediately be turned over to the Planning Board for review. All applications before the Committee are required to follow the same procedures as full Site Plan Review, including notification of abutters and advertisement for Public Hearing as required in RSA 674:43 and 676:4. The Site Plan Review Committee shall have the right to request comments from other Town Departmental staff and professionals if deemed necessary by the Committee. All appeals of decisions made by the Site Plan Review Committee shall be made to the Planning Board.

(1) It shall be the duty of the Town Clerk to file with the Strafford County Registry of Deeds a certificate of notice showing that the Planning Board has been so authorized, and giving the date of such authorization.

(2) The Planning Board is authorized to create a Site Plan Review Committee comprised of local officials, to approve or disapprove minor site reviews, with decisions of this committee subject to appeal to the Planning Board; and to assist the Planning Board with major site reviews.

(3) **Business Use Certificate Required**

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

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

(c) **Review Procedure.** All certificate applications meeting the requirements of zoning in the district they are contained within shall be granted. Once all required information is submitted to the Code Enforcement Officer, a decision to issue or deny the Business Use Certificate shall be made by the Code Enforcement Officer within thirty (30) days of application acceptance by the Planning Board or Site Plan Review Committee. A Business Use Certificate must be issued prior to final deliberation for Site Plan Review. Said Business Use Certificates shall be valid until a change in use occurs, and shall only be

valid for the particular uses described in the permit application.

- (d) No legally established non-residential uses existing as of the date of this ordinance (March 10, 2009) shall be required to receive a Business Use Certificate until a change in use occurs.

### **1.03 ZONING MAPS**

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

### **1.04 LOTS SPLIT BY ZONING DISTRICT BOUNDARIES**

Where an existing Lot of record falls into more than one zoning district, the following shall apply:

- (A) For Lots that meet the subdivision criteria, the provisions of each district shall apply to each portion of the Lot.
- (B) For Lots that cannot be subdivided, the provisions of the district where the greatest Street Frontage exists, shall apply to the entire Lot.

### **1.05 COMPLIANCE WITH CONFLICTING CODES**

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

## **1.06 ZONING BOARD OF ADJUSTMENT**

This Ordinance provides for the establishment of the Zoning Board of Adjustment (ZBA) as required by RSA 673:1,IV. With respect to this Ordinance, the ZBA shall review and decide on appeals from administrative decisions, applications for the Special Exceptions, applications for Variances, and applications for Equitable Waivers of Dimensional Requirements in accordance with RSA 674:33(a).

## **1.07 GENERAL REQUIREMENTS**

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

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

export to acceptable levels. This analysis shall be carried out in accordance with Best Management Practices.

## 1.08 HOUSING MAINTENANCE AND OCCUPANCY CODE

**(A) Title.** This ordinance shall be known and may be cited as the Farmington Housing Maintenance and Occupancy Code.

**(B) Definitions.** The following definitions shall apply in the inspection and enforcement of this ordinance.

- (1) **ACCESSORY STRUCTURE** means a detached structure which is not used or not intended to be used for living or sleeping by human occupants and which is located on or partially on any premises.
- (2) **APPROVED** as applied to a material, device or method of construction means approved by the Code Enforcement Administrator as being in accordance with provisions of other adopted codes of the Town of Farmington or as listed by a nationally recognized testing firm or laboratory.
- (3) **ASHES** means the residue from the burning of combustible materials.
- (4) **ATTIC** means any story situated wholly or partly within the roof, so designed, arranged or built as to be used for business, storage, or habitation.
- (5) **BASEMENT** means a portion of any dwelling located partly underground, but having less than half its clear floor-to-ceiling height below the average grade of the adjoining ground.
- (6) **CELLAR** means the portion of any dwelling having half or more than half of the clear floor-to-ceiling height below the average grade of the adjoining ground.
- (7) **CENTRAL HEATING SYSTEM** means a single system supplying heat to one (1) or more dwelling unit (s) or more than one (1) rooming unit (s).
- (8) **CHIMNEY** means a properly constructed vertical shaft of brick, or other approved non-combustible, heat resistant material enclosing one or more flues for the purpose of removing products of combustion from solid, liquid or gaseous fuels.
- (9) **DILAPIDATED** means fallen into partial ruin or decay.
- (10) **DORMITORY** means a room or group of rooms in any dwelling used for living and sleeping purposes by four (4) or more persons.
- (11) **DWELLING** means any enclosed space wholly or partly used for or intended to be used for living, sleeping, cooking and eating: provided that temporary housing as hereinafter defined shall not be classified as a dwelling. Industrialized housing and modular construction, which conform to nationally, accepted industry standards and

used or intended for use. For living, sleeping, cooking and eating purposes shall be classified as dwellings.

- (12) DWELLING UNIT means a room or group of rooms located within a dwelling forming a single habitable unit with facilities used or intended to be used by a single family for living, sleeping, cooking and eating purposes.
- (13) EGRESS means a place or means of going out, or an approved method of discharge by the occupants to be safe area.
- (14) EXTERMINATION means the control and elimination of insects, rodents, or other pest by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping, or by other recognized and legal pest elimination methods approved by the appropriate local or state authority.
- (15) FAIR MARKET VALUE means a price at which both the buyer and seller are willing to do business.
- (16) FAMILY means an individual, or two or more individuals related by blood, marriage, or adoption living together, or not more than four individuals not related by blood, marriage or adoption living together in a single housekeeping unit.
- (17) FLUSH WATER CLOSET means a toilet bowl flushed by water under pressure with a water sealed trap above the floor level.
- (18) GARBAGE means the animal or vegetable waste resulting from the handling, preparation, cooking, serving and non-consumption of food.
- (19) GRADE means the average elevation of ground adjoining the building or structure on all sides.
- (20) GUEST means any person who shares a dwelling unit in a non-permanent status for more than thirty (30) days in one calendar year.
- (21) HABITABLE ROOM means a room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purpose, excluding bathrooms, water closet compartments, laundries, furnace room, pantries, kitchenettes and utility rooms of less than fifty (50) square feet of floor space, foyers, or communicating corridors, stairways, closets, storage spaces, and workshops, hobby and recreation areas.
- (22) HEALTH OFFICER means the Code Enforcement Administrator or his designee as described in Section 31.4, Code Enforcement of the Municipal Code of Ordinances.
- (23) HEATER WATER means portable water heater and dispensed at a temperature of not less than 120° degrees F. at the outlet.

- (24) HOUSEHOLD means a family as defined in # 16 above – and one or more unrelated persons, including servants or one or more unrelated persons who share the same dwelling and use some or all of its cooking, eating, or living facilities.
- (25) KITCHEN means any room used for the storage of foods, preparation of foods and containing the following equipment; sink, or other device for dishwashing, stove or other device for cooking, refrigerator or other device for cool storage of food, cabinets, shelves or combination thereof for storage of equipment and utensils, and counter or table for food preparation.
- (26) KITCHENETTE means a small kitchen or an alcove containing cooking facilities.
- (27) LEAD-BASED PAINT means any paint containing more lead than established U.S. consumer Product Safety Commission as being the “safe” level of lead in residential pain and paint products.
- (28) OCCUPANT means any adult person, living, sleeping, cooking, or eating in, or having possession of, a dwelling unit or a rooming unit; except that in dwelling units a guest will not be considered an occupant. For other purposes of Section 27.4 “occupants” shall also mean a person of one (1) year of age or greater.
- (29) OPERATOR means any person (s) who has charge or is responsible for the care, control, or management of a building and appurtenance, or part thereof, in which dwelling, rooming, or display unit are let.
- (30) ORDINARY SUMMER CONDITIONS means a temperature 10° (degrees) F. below the highest recorded temperature for the prior ten (10) year period.
- (31) ORDINARY WINTER CONDITIONS means a temperature 15° (degrees) F. above the lowest temperature for the prior ten (10) year period.
- (32) OWNER means any person who, along or jointly or severally with others:
- a) Have legal title to any premise, dwelling or dwelling unit, with or without accompanying actual possession thereof, or
  - b) Have charge, care, control or management of any premises dwelling or dwelling unit, as owner or agent of the owner, or an executor, administrator, trustee, or guardian of the estate of the owner. Any such person thus representing the actual owner, shall be bound to comply with the provisions of this code.
- (33) PERMISSIBLE OCCUPANCY means the maximum number of persons permitted to reside in a dwelling unit, rooming unit, or dormitory.
- (34) PERSON means and includes any individual, firm, corporation, association, partnership, cooperative or governmental agency.

- (35) **PLUMBING** means and includes all of the following supplied facilities and equipment: gas pipes, gas-burning equipment, water pipes, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed washing machines, catch basins, drains, vents, and other similar supplied fixtures, and the installation thereof together with all connection to water, sewer or gas lines.
- (36) **PREMISES** means a platted lot or part thereof or unplatted lot or parcel of land or plot of land, either occupied or unoccupied by any dwelling or non-swelling structure, and includes any such building, accessory structure or other structure thereon.
- (37) **PRIVACY** means the existence of conditions, which will permit a person or persons to carry out an activity commenced without unreasonable interruption or interference, either by sight or sound, by unwanted persons.
- (38) **PROPERTY CONNECTED** means connected in accordance with all applicable code and ordinances of this town provided, however, that the application of this definition shall not require the alteration or replacement of any connection of good working order and not constituting a hazard to life or health.
- (39) **RAT HARBORAGE** means any conditions or place where rats can live, nest, or seek shelter.
- (40) **RATPROOFING** means a form of construction which will prevent the ingress or egress of rats to or from a given space or building or from gaining access to food, water, or harborage. It consists of the closing and keeping closed of every opening in foundations, basements, cellars, exterior and interior walls, ground or first floors, roofs, sidewalk grating, sidewalk openings, and places that may be reached and entered by rats, by the use of materials impervious to rat gnawing and other methods approved by the Code Enforcement Administrator.
- (41) **REFUSE** means all putrescible and non-putrescible solids (except body wastes) including garbage, rubbish, ashes and dead animals.
- (42) **REFUSE CONTAINER** means a watertight container that is constructed of a durable impervious to rodents that is capable of being serviced without creating unsanitary conditions. Opening into the container such as covers and doors shall be tight fitting.
- (43) **ROOMING HOUSE** means any dwelling, or part thereof containing one (1) or more rooming units, in which space is let to three (3) or more persons. For the purposes of Article 27-5, "Rooming house" shall also include hotels, motels, tourist and guesthouses offering to transient guests for compensation living or sleeping accommodations.

- (44) RENTAL UNIT (for the purpose of this Chapter) means all dwelling units that are leased or rented, but shall not include units in hotels, motels, tourist and guesthouses offering to transient guests for compensation living or sleeping accommodations.
- (45) ROOMING UNITS means any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping but not for cooking or eating purposes.
- (46) RUBBISH means non-putrescible solid waste (excluding ashes consisting of either:
- a) Combustible wastes such as paper, cardboard, plastic containers, yard clippings, and wood; or
  - b) Non-combustible wastes such as tin cans, glass and crockery
- (47) SAFETY means the condition of being free from danger and hazards which may cause accidents or disease.
- (48) SPACE HEATER means an approved self-contained, heating apparatus of either the circulating or radiant type and intended primarily to heat or supplement the heat of only one room.
- (49) SMOKE PIPE means an approved metal component utilized for the discharge of combustion by-products, installed in an approved manner.
- (50) SUPPLIED means paid for, furnished by, provided by, or under control of the owner, operator, or agent.
- (51) TEMPORARY HOUSING means any tent, trailer, mobile homes, motor home, or any other structure used for human shelter, which is designed to be transportable, and which is not attached to the ground, to another structure, or to any utility system on the same premises for more than thirty (30) days in any one calendar year.
- (52) TOXIC SUBSTANCES means any chemical product applied on the surface of or incorporated into any structural or decorative material, which constitutes a potential hazard to human health at acute or chronic exposure levels.

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

### **(C) RESPONSIBILITIES FOR OWNERS AND OCCUPANTS**

- (1) A person shall not occupy, permit another to occupy or let to another person any dwelling or dwelling unit unless it and the premises are clean, sanitary, fit for human occupancy, and comply with all applicable provisions of this code.
- (2) The owner of a dwelling containing two (2) or more dwelling units shall maintain in a clean and sanitary condition the shared or public areas of the dwelling and all associated real estate.
- (3) The owner of the dwelling shall supply facilities or refuse container for the sanitary and safe storage and/or disposal of rubbish and garbage and place the refuse container out for collection. In the case of single or two family dwellings the occupant may furnish such facilities or refuse containers if required in a written agreement between the occupant and the owner.
- (4) The owner of a dwelling or dwelling unit for rent shall provide and hang all screens and double or storm doors and windows whenever the same are required under the provisions of the ordinance.
- (5) The owner of a dwelling or dwelling unit shall not accumulate or permit the accumulation of rubbish, boxes, lumber, scrap metal, or any other materials in such a manner that may provide rodent harborage in or about the shared or public areas of a dwelling or its premises.
- (6) The owner or occupant of a dwelling or dwelling unit shall not store, place, or allow to accumulate any materials that may serve as food for rodents in a site accessible to rodents.
- (7) The owner of a dwelling or dwelling unit for rent is responsible for maintaining all supplied fixtures and facilities in operable condition unless otherwise specified in the lease.
- (8) The owner of a dwelling or dwelling unit for rent shall, from September 15 until May 15, in every dwelling unit or rooming unit maintain a temperature of at least 68° (degrees) F. (Fahrenheit) in all habitable rooms, bathrooms and water closet compartments measured at a distance of eighteen (18) inches above the floor level and two (2) feet inside of exterior wall or opening.
- (9) The owner or occupant of a dwelling unit shall not store, place, abandon, or allow to accumulate unregistered motor vehicles of any classification or variety upon the premises that would cause the premises to become a junkyard as defined by the State in RSA 236:112.
- (10) The owner of a dwelling or dwelling unit for rent shall provide and maintain the dwelling or dwelling unit free from hazards to health due to the presence of toxic substances, e.g. lead-based paint.

**(D) MINIMUM STANDARDS FOR BASIC EQUIPMENT AND FACILITIES:** A person shall not occupy or let to another for occupancy any dwelling or dwelling unit for the purposes of living, sleeping, cooking or eating, therein, which does not comply with the following requirements:

- (1) Every dwelling unit shall have a kitchen which is a room or portion of a room in which food may be prepared and cooked which shall have adequate circulation area, and which shall be equipped with the following:
  - (a) A kitchen sink in good condition and properly connected to the town water supply system or a water supply system which is approved by the Code Enforcement Officer and which provides at all times an adequate amount of heated and unheated potable running water under adequate pressure and which is connected to the town sewer system, or a sewer system approved by the Code Enforcement Officer.
  - (b) Cabinets, shelves or combination thereof for storage of eating, drinking, cooking equipment and utensils and of food that does not under ordinary summer conditions require refrigeration for safe keeping: and a counter or table for food preparation; said cabinets, shelves and counter or table shall be adequate for the permissible occupancy of the dwelling unit and shall be of sound construction furnished with surfaces that are easily cleanable and that will not impart any toxic or harmful effect to food.
  - (c) A stove or similar device, utilizing an approved fuel source for cooking food, and a refrigerator or similar device, for safe storage of food at temperatures less than 45° (degrees) F. (Fahrenheit), but more than 32° F. under ordinary summer conditions, which are properly installed with all necessary connections for safety.
- (2) Every dwelling unit shall have within a non-habitable room which affords privacy to a person within said room and which is equipped with a lavatory sink, bathtub or shower, and a flush water closet in good working condition, such flush water closet shall be equipped with easily cleanable surfaces, be connected to a water system that at all times provides an adequate supply of running water under pressure to cause the water closet to be operated properly, and shall be connected to the town sewer system\_or to a sewer system approved by the Code Enforcement Officer. The required kitchen and lavatory sink shall be installed, maintained and designated as separate vessels.
- (3) Every dwelling unit shall have a least two (2) means of egress leading to safe and open space at ground level. Every dwelling unit in the multiple dwelling shall have immediate access to two (2) or more approved means of egress leading to safe and open space at ground level as remote from one another as feasibly possible.
- (4) Structurally sound handrails shall be provided for dwelling or dwelling units available for rent on any steps containing three (3) or more risers. Required handrails shall be

supplemented or supported by vertical balusters no more than four (4) inches apart, or a functional ornamental grilling providing protection against falls. All handrails shall be capable of supporting two hundred (200) pounds and provide a smooth continuous plane of hand travel.

- (5) Access to the egress from each dwelling unit shall be provided without passing through any other dwelling or dwelling unit.
- (6) All exterior doors of a dwelling or dwelling unit available for rent shall open with applied force of less than fifty (50) pounds and be equipped with approved functioning locking devices. The capacity and means of egress requirements specified in Section 7.2 of the 2003 Edition of the Life Safety Code shall apply to this paragraph.

**(E) MINIMUM STANDARDS FOR LIGHT AND VENTILATION:** A person shall not occupy or let to another for occupancy any dwelling or dwelling unit, for the purpose of living therein, which does not comply with the requirements of this section.

- (1) Every habitable room shall have a least one (1) window or skylight facing outdoors. Minimum window or skylight area for every floor area of such room shall be a portion of the floor area of such room consistent with the Town of Farmington Building Code unless mechanical ventilation and artificial lighting is provided which also conforms to requirements of the Town of Farmington Building Code.
- (2) Every habitable room shall have a least one (1) window or skylight facing directly outdoors, which can be opened, or such other device as will ventilate the room adequately.
- (3) When facilities for interior climate control (heating, cooling, or humidity) are integral functions or structures containing dwelling units or rooming units, such facilities shall be maintained and capable of being operated in a continuous manner and in accordance with the designed capacity of the installed equipment.
- (4) Every bathroom and water closet compartment, laundry room and non-habitable room used for food preparation, shall comply with the light and ventilation requirements for habitable rooms contained in subsection III, 1 and 2, of this ordinance except that no window or skylight shall be required in such rooms if they are equipped with a ventilation system and artificial lighting which is approved by the Code Enforcement Officer.
- (5) Electric service outlets and fixtures shall be properly installed, shall be maintained in good and safe working condition, and shall be connected to a source of electric power in a manner prescribed by the ordinance, rules, and regulations of the Town of Farmington and the State Electrical Code. The minimum capacity of such devices and the minimum number of outlets and fixtures shall be as follows:

- (a) Every habitable room shall have installed a minimum of two (2) duplex-type approved wall convenience outlets and an adequate lighting fixture.
- (b) Every habitable room and non-habitable room used for food preparation shall have at least one (1) approved wall-type duplex convenience outlet for each sixty (60) square feet or fraction thereof of total floor area, and in no case less than two (2) such outlets. In addition, a lighting fixture shall be provided.
- (c) Every water closet compartment, bathroom and kitchen or kitchenette, laundry room, furnace room, and public hall shall contain at least one (1) supplied ceiling or wall-type electric light fixture.
- (d) Every common hallway, common stairway and common stairway discharge, in every multiple dwelling shall be adequately lighted by natural or electric light at all times, so as to provide in all parts thereof at least three (3) foot candles of light at the tread or floor level. Every common hallway and common stairway in structures containing not more than two (2) dwelling units may be supplied with conveniently located light switches controlling an adequate lighting system which may be turned on when needed, instead of full-time lighting. Multiple dwellings of twenty-six (26) units or over shall have emergency lighting capable of supplying light for one and one-half (1-½) hours.

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

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

**(G) DEFECT OF STRUCTURAL MEMBERS – UNFIT FOR HUMAN HABITATION:** Any dwelling, which has any or all of the following defects of structural elements, shall be deemed unfit for human habitation.

Any dwelling which has been damaged by fire, wind or other causes so as to have become dangerous to life, safety or the general health and welfare of the occupants or the people of the Town of Farmington.

**(H) MAXIMUM DENSITY, MINIMUM SPACE, USE AND LOCATION REQUIREMENTS:**

A person shall not let to be occupied any dwelling or dwelling unit, for the purpose of living therein, unless there is compliance with the requirements of this section.

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

**(I) VIOLATION: INSPECTIONS: POWER AND DUTIES OF THE CODE ENFORCEMENT ADMINISTRATOR.**

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

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

## 1.09 BUILDING CODE BOARD OF APPEALS

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

## 1.10 INTERPRETATION, ADMINISTRATION AND ENFORCEMENT

### (A) Administration and Enforcement.

(1) Pursuant to RSA 673:1 the Town of Farmington hereby authorizes the Board of Selectmen to establish a Department of Planning and Community Development, and shall operate with the following tools at their disposal.

(a) The authority to interpret, administer and enforce this Ordinance, local Codes, Planning Board and Zoning Board of Adjustment decisions.

(b) The authority to issue building permits as provided in RSA 676:11-13 and any certificates of occupancy, and to perform inspections as may be necessary to assure compliance with the local building code.

(c) All legally available means to fulfill these responsibilities.

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

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

(D) **Appeal of Decisions.** Decisions of the Building Inspector/Code Enforcement Officer may be appealed to the Zoning Board of Adjustment.

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

## 1.11 INNOVATIVE LAND USE CONTROLS

(A) **Authority.** The Town authorizes the Planning Board to administer Innovative Land

Use Controls pursuant to the following sections of RSA 674:21, and applied in accordance with the Performance Standards contained in this Ordinance:

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

**(B) Special Use Permits.**

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

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

**(2) General Requirements**

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

## 1.12 NON-CONFORMITY

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

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

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

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

- (1) It is the intent of this ordinance for all expansions to be conforming, if possible or practical.
- (2) If it is determined by the ZBA that the intended purpose of a proposed expansion of a Structure cannot be achieved in a conforming manner, the ZBA may grant a Special Exception if the following conditions are met:
  - (a) In the case of Structures that do not conform to Setback requirements, the expanded Structure may be no closer to the Lot line than the existing Structure.
  - (b) In the case of an upward expansion, the expanded Structure
    - i. Shall not have any adverse impact on any neighboring property, including but not limited to blocking of views and/or sunlight.
    - ii. Shall not exceed the maximum Height limitations specified in this Ordinance.
  - (c) Sanitary sewage disposal and water supply are provided if needed.
  - (d) The expansion does not adversely affect abutting properties, public health, safety or general welfare.
  - (e) No part of the Structure is located within the 100-year floodplain.

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

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

(c) Additional Planning board review and Approval is required.

### 1.13 SAVING CLAUSE.

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

### 1.14 DEFINITIONS.

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

- (A) Wherever used in this ordinance; and
- (B) Where not otherwise defined in any other chapter or section of the Farmington Land Use Book.

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

**Accessory.** A Structure or use subordinate and customarily incidental to a primary Structure or use on the same Lot.

**Accessory Apartment.** A self-contained Residential Unit, complete with its own kitchen and bathroom, incorporated within or attached to an existing single family residential Structure, and which is subordinate to the primary residence and is either a Studio apartment or a one-bedroom apartment.

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

**Agriculture.** The production, keeping, or maintenance for sale, lease, or personal use of plants and/or animals useful to humans, including but not limited to: forages and sod crops, grains and seed crops, livestock, bees and apiary products, fruits of all kinds, nuts, berries, and/or flowers.

**Animal Husbandry.** The commercial breeding and raising of livestock including the keeping of horses and similar animals.

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

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

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

**Bed & Breakfast.** A use in which an occupied single family residence also offers for public hire up to three rooms for overnight accommodation, and offers meals prepared in the kitchen of the residence. This use shall be subordinate to the residential use of the structure and the lot.

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

**Best Management Practice, Wetlands.** Applying the appropriate techniques to minimize disturbances and impact to the Wetland resulting from those activities that will alter the natural character of the Wetland.

**Board.** The Planning Board.

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

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

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

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

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

**Child Day Care, Family Group.** An occupied residence in which Child Day Care is provided for less than 24 hours per day, except in emergencies, for 7 to 12 children from one or more unrelated families. The 12 children shall include all children related to the caregiver and any foster children residing in the home, except children who are 10 years of

age or older. In addition to the 12 children, up to 5 children attending a full day school program may also be cared for up to 5 hours per day on school days and all day during school holidays.

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

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

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

**Commission.** Conservation Commission of the Town of Farmington.

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

**Condominium–Style Detached Single Family Residence.** A condominium unit as defined in this ordinance, containing one (1) detached single-family residence. For the purposes of ensuring quality development and public health, well-being and safety, whenever a condominium-style development is proposed consisting of detached single-family residences, the provisions of this ordinance relating to lot size, area, density, setbacks, and all other applicable provisions relating to single-family residences for the zoning district where the proposed condominium development shall be located, as well as the Subdivision Regulations of the Town of Farmington, shall apply as if the proposed detached single-family condominium unit were a traditional single family residence.

**Condominium Unit.** A dwelling unit together with the undivided interest in the common area appertaining to that unit.

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

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

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

**Dog Kennel.** Keeping of dogs for commercial breeding or boarding.

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

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

**Essential Services.** The following facilities, provided they serve primarily the Town of Farmington or a neighborhood or Structure within the Town of Farmington: steam, fuel, gas, communication, transportation, electric power or water transmission or distribution lines and related equipment; telephone cables or lines, poles and related equipment; gas, oil, water, slurry or other similar pipelines; sewage lines, collection or supply systems; and associated storage tanks. Such systems may include poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic Signals, hydrants, and similar accessories, but shall not include pumping stations or transmitter towers or buildings which are necessary for the furnishing of such services. Essential Services shall not be subject to the space and bulk standards of this ordinance.

**FAA.** An acronym meaning Federal Aviation Administration.

**FCC.** An acronym meaning Federal Communications Commission.

**Forestry.** Establishments primarily engaged in the operation of timber tracts, tree farms, forest nurseries, the gathering of forest products, and/or performance of forest services.

**Frontage.** That portion of the property boundary shared with a street as defined in this ordinance.

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

**Ground Water Recharge Area.** That area from which water is added to the saturated zone by: Natural processes such as infiltration or precipitation or by artificial processes such as induced infiltration.

**Hazardous Impact.** A potential result of new construction or change of an existing site that: 1.) creates an increase in traffic of 250 vehicle trips per day; 2.) introduces a drive-through

feature to the site; 3.) has the potential of creating environmental contamination; 4.) includes the storage of any hazardous chemicals on the site or other Hazardous or Toxic Materials and Waste as defined separately in section 1.14; 5.) creates a concern relating to noise, vibration, odor or fumes detectable at the lot lines; 6.) involves the use of firearms, gunpowder, or explosives; or 7.) is deemed by the Director of Planning and Community Development to pose a health hazard to an area of the community, or Farmington as a whole.

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

1. Toxic (poisonous) wastes.
2. Flammable wastes (paint, varnishes, removers, solvents, and oils).
3. Reactive wastes.
4. Corrosive wastes (acids).
5. Leachable Wastes: Waste materials, including solid wastes, sludge and agricultural wastes that are capable of releasing contaminants to the surrounding environment.

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

**Heavy Equipment Sales.** Sale or rental of trucks, tractors, construction equipment over 10,000 lbs. Agricultural implements and similar heavy equipment accessories, includes incidental storage, maintenance and servicing of these items.

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

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

**Home Occupation.** An occupation which is solely operated by residents of the premises occupying a single-family detached dwelling which business use is accessory to the residential use and which does not alter the residential character of the buildings, grounds or surrounding properties. (Refer to Section 5.01 for standards).

**Hotel/Motel.** Any building containing six or more guest rooms, intended or designed to be used, or which are used, rented or hired out to be occupied or which are occupied for sleeping purposes by guests.

**Housing, Age-restricted (elderly).** Housing designed for and rented, leased or sold specifically to the elderly, specifically housing that qualifies as elderly housing under the Federal Fair Housing Act.

**Indoor Recreation.** An establishment that provides facilities for aerobic and anaerobic exercise, swimming, playing course, shooting ranges, or similar indoor activities and facilities.

**Land Use Board.** A land use board of the Town of Farmington, specifically, Planning Board, Zoning Board of Adjustments, Conservation Commission, or Historic District Commission.

**Local Legislative Body.** Town Meeting Body.

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

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

**Manufactured Housing.** Any Structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width and 40 body feet or more in length, or when erected on site, is 320 square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, which include plumbing, heating and electrical heating systems contained therein. This definition does not include Pre-site Built Housing as defined in RSA 674:31-a.

**Manufacturing.** An establishment engaged in the mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the creation of products, and the blending of materials, such as lubricating oils, plastics, resins or liquors, but which does not fit the definition of Light Manufacturing.

**Manufacturing, Light.** The fabrication, processing, finishing, assembly, packing or treatment of articles or merchandise conducted solely within a totally enclosed Structure, and operated in a manner which is not offensive, noxious, detrimental or dangerous to surrounding areas by reason of dust, smoke, fumes, odor, noise, light, or other adverse environmental effect.

**Medical Care Facility.** A structure, not exceeding 7,500 square feet in gross floor area that houses health services providers.

**Motor Vehicle Repair Facilities.** This use includes those operations, which provide services to motor vehicles involving bodywork, painting, engine rebuilding, or structural repairs or alterations but do not include the accessory sale of gasoline.

**Motor Vehicle Sales and Service.** The use of any building or land area for the display and sale of more than one new or used motor vehicle, including automobiles, trucks, vans, trailers, recreation vehicles, motorcycles, or similar motorized vehicles, and which may include repair facilities for such vehicles.

**Motor Vehicle Service Facility.** This use includes those operations, which provide service, maintenance, and minor repairs for motor vehicle, including the accessory sale of gasoline, parts, and supplies. This use shall include service stations, muffler, transmission, and brake shops, car washes, tune-up centers, and similar uses, but shall not include operations involving bodywork, painting, engine rebuilding, or structural repairs or alterations.

**Non-conforming Lot.** A Lot that does not comply with the dimensional requirements of this Ordinance.

**Non-conforming, More.** Any increase in degree or extension of that characteristic of a nonconforming Lot, Structure or use that causes the nonconformity or any increase in that nonconformity. [

**Non-conforming Structure.** A Structure, which does not comply with the requirements of this Ordinance.

**Non-conforming Use.** A use that is not permitted in the base zoning district or Overlay District in which it is located.

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

**Nursing Home.** An institution or a distinct part of an institution that is licensed or approved to provide health care under medical supervision for twenty four or more consecutive hours to two or more patients who are not related to the governing body by marriage, blood, or adoption. Generally, these are homes for the infirm elderly.

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

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

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

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

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

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

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

**Principal Structure.** A structure intended for the principal use of the lot. This shall not apply to barns, silos, stables, garages or other similar agricultural or industrial structures when such use is not the primary use of the lot, and is clearly accessory and incidental to the principal use.

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

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

**Research and Development.** An establishment or other facility for carrying on investigation in the natural, physical, or social sciences, which may include engineering or product development.

**Residence, Duplex.** A single Structure containing two Residential Units, neither of which is an Accessory Apartment.

**Residence, Multi-Family.** A single Structure containing three or more Residential Units, none of which is an Accessory Apartment.

**Residence, Single Family.** A detached Structure containing one Residential Unit, including Manufactured Housing, with or without permitted Accessory Apartments.

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

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

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

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

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

**Self-Service Storage Facility.** A Structure containing storage spaces of varying sizes leased or rented on individual leases for varying periods of time and specifically for dead storage only, excluding the storage of hazardous or flammable chemicals and explosives.

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

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

**Sign.** Any display of lettering, logos, colors, lights, or illumination visible from the property lines, which either conveys a message to the public, or intends to advertise, direct, invite,

announce, or draw attention to, directly or indirectly, a use conducted, goods, products, services or facilities available, either on the Lot or on any other premises. For purposes of this Ordinance, “sign” shall exclude: merchandise display, federal, state, county or municipal property of any sort, necessary highway traffic control or parking control devices on public or private rights-of-way, and municipally assigned Structure numbers.

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

**Sign Height.** The measure from undisturbed ground directly under the Sign to the top of the message area.

**Sign Message Area.** The total area used to display a Sign’s message including all lettering, designs, symbols, logos, together with but not including the support framework, bracing and base, provided that these features remain incidental to the Sign itself. Where the message area consists of letters, symbols, logos or devices affixed to the surface of a Structure, wall, awning or window, the message area shall be measured by a single, continuous, rectangular perimeter drawn to enclose the extreme limits of the Sign elements. The area of one side of a double-faced Sign shall be used to calculate the total message area of the Sign, provided that each of the double faces is parallel to, and attached directly to the other.

**Sign, Movable.** A Sign capable of being readily moved or relocated, including portable Signs mounted on a chassis and wheels, or supported by legs.

**Sign, Neon.** Used in the colloquial sense, to indicate the type of Sign generally made with shaped glass tubes filled with gas (typically a noble gas such as neon or argon) which radiate colored light when an electric current is added. For purposes of this Ordinance, a neon Sign is not considered an internally illuminated Sign but is defined separately.

**Sign, Off-Site.** A Sign with a message relating to a non-residential activity not conducted on the Lot on which the Sign is located.

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

**Sign, Temporary:** Temporary signs include but are not limited to banners, emblems, portable signs, inflatables, wind signs including balloons, pennants and streamers or any other sign that moves in the wind (excluding national or state flags), political signs or any other temporary advertising media intended to identify or direct attention to a product, service, place, activity, special event, or business.

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

**Sign, Window.** A window, or portion thereof, on which Sign message is displayed, whether by permanent or temporary attachment, but exclusive of merchandise display.

**Special Exception.** A special exception is a use permitted upon certain conditions as set forth in the Ordinance.

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

**Steep Slopes.** For the purpose of calculating buildable area, steep slopes are those in excess of 25%.

**Street.** The following meet the definition of a Street:

1. A Class I or II highway established by the State of New Hampshire
2. A Class V highway maintained by the Town of Farmington
3. A way shown on a plan of a subdivision duly approved by the Planning Board
4. A private way approved by the Planning Board in accordance with the provisions of Section 3.10.

**Street Frontage.** The distance between the sidelines of a Lot as measured along the front Lot line of the Street right-of-way limits.

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

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

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

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

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

**Upland.** Land not containing any Wetland areas.

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

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

**Wetlands.** An area, which possesses three essential characteristics:

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

**Wetland Scientist.** An individual duly certified to identify, classify and delineate Wetlands.

**Wind Generators.** Any device such as a wind charger, windmill or wind turbine, which converts wind energy to a form of usable energy.

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

## **END OF SECTION 1.00 – ADMINISTRATIVE PROVISIONS**

## SECTION 2.00 BASE ZONING DISTRICTS

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

**Table 2.00(A) – Zoning Districts**

Zone Name	Zone Code	Section Number	Zone Name	Zone Code	Section Number
Agricultural Residential District	(AR)	2.01	Village Center District	(VC)	2.05
Suburban Residential District	(SR)	2.02	Commercial Business District	(CB)	2.06
Rural Residential District	(RR)	2.03	Industrial Business District	(IB)	2.07
Urban Residential District	(UR)	2.04			

(B) **PERMITTED LAND USE TABLE CODES** The following codes shall be assigned to land uses in Table 2.09, delineated in the Farmington Permitted Land Use Table to indicate the degree to which the use is permitted in the base zoning districts:

**Table 2.00(B) – Permitted Land Use Table Codes**

Permitted Land Use Table Code	Meaning of Code	Code Description	Other References
"P"	Permitted	Uses permitted by right without review by the Planning Board or the Zoning Board of Adjustment.	<ul style="list-style-type: none"> <li>• Chapter 3.00</li> </ul>
"PR"	Permitted with Review	Use requires site plan review prior to approval by the Planning Board or Site Plan Review Committee.	<ul style="list-style-type: none"> <li>• Site Plan Review Regulations</li> </ul>
"SE"	Permitted by Special Exception	Use requires review and approval by the Zoning Board of Adjustment AND site plan review by the Planning Board	<ul style="list-style-type: none"> <li>• Chapter 4.00, Special Exception Zone-specific or Overlay-specific Standards</li> <li>• Site Plan Review Regulations</li> <li>• RSA 674:33</li> </ul>
"_"	Prohibited	The use is not permitted in the zone without a variance from the Zoning Board of Adjustment	<ul style="list-style-type: none"> <li>• Section 2.00 Prohibited Uses</li> <li>• RSA 674:33</li> </ul>

- (C) **PROHIBITED USES.** Any use not listed in the Permitted Land Use Table as a permitted use, a use permitted with review, or a use permitted by Special Exception shall be prohibited.
- (D) **PERMITTED WITH REVIEW.** Use requires site plan review prior to approval by the Planning Board or the Site Plan Review Committee. All development or change or expansion of use of tracts for non-residential uses or for multi-family dwelling units below 1,000 sq.ft. or 25% of building area, including additional floors, whichever is less, shall be reviewed and approved or disapproved by the Site Plan Review Committee, unless the proposed project produces a Hazardous Impact on the Town, as defined in Section 1.14.
- (E) **SPECIAL EXCEPTION GENERAL STANDARDS.** The ZBA shall only grant requests for Special Exceptions that are in harmony with the general purpose and intent of this Ordinance AND which meet the general standards set forth below:
- (1) Special Exceptions shall meet all of the following standards:
- (a) Standards as provided elsewhere in this Ordinance for the particular use allowed by Special Exception. In addition to other specific standards for a use delineated in the Table of Uses as SE, items (b) through (f) of this Section shall apply.
  - (b) No hazard shall be created to the public or adjacent property on account of potential fire explosion or release of toxic materials.
  - (c) No detriment to property values shall be created in the vicinity or change in the essential characteristics of any area including residential neighborhoods or business and industrial districts on account of the location or scale of buildings and other Structures, parking areas, access ways, odor, smoke, gas, dust, or other pollutant, noise, glare, heat, vibration, or unsightly outdoor storage of equipment or other materials.
  - (d) No traffic hazard or substantial increase in the level of traffic congestion shall be created.
  - (e) No excessive demand on municipal services, including but not limited to, water, sewer, waste disposal, police and fire protection and schools.
  - (f) No significant increase of storm water runoff onto adjacent property or Streets shall be created.
- (2) Special Exceptions may be subject to appropriate conditions, including but not limited to:

- a) Front, side, rear yards in excess of the minimum requirements of this Ordinance.
  - b) Screening of the premises from the Street or adjacent property.
  - c) Landscaping as contained in Appendix 1.
  - d) Modifications of the exterior features, buildings or other Structures.
  - e) Limitations on the size of buildings and other Structures more stringent than the minimum or maximum requirements of this Ordinance.
  - f) Limitation on the number of occupants and methods and times of operation.
  - g) Grading of the premises for proper drainage.
  - h) Regulation of design of access drives, sidewalks, crosswalks and other traffic features.
  - i) Off-street parking and loading spaces in excess of the minimum requirements of this Ordinance.
  - j) Regulation of the number, size, lighting of Signs more stringent than the requirements of this Ordinance,
  - k) Other Performance Standards as may apply at the discretion of the ZBA.
- (3) Before approval by the ZBA of any Special Exception, a public hearing shall be held after public notice as required by town policy. All abutters shall be notified by the ZBA by certified mail at least five (5) days prior to any public hearing regarding said site. The names and addresses of the abutters shall be supplied by the applicant on a plot plan to be submitted to the ZBA.
- (4) In the event that the ZBA grants a Special Exception subject to conditions, the Planning Board shall not waive or modify such condition(s) without concurrence, by vote, of the ZBA.

## TABLE OF PERMITTED USES

<b>I. Agricultural</b>	<b>AR</b>	<b>SR</b>	<b>RR</b>	<b>UR</b>	<b>VC</b>	<b>CB</b>	<b>IB</b>
<b>A. Principal Uses</b>							
• Aquaculture	PR	PR	PR	-	-	-	PR
• Commercial Agriculture, including Animal Husbandry	P	-	PR	-	-	-	PR
• Commercial processing of wood, including cutting, sawing, splitting and chipping	PR	-	-	-	-	-	PR
• Forest management	P	P	P	P	P	P	P
• Logging impacting more than 50% Basal Area within a ten-year period	P	P	P	P	P	PR	PR
• Logging not impacting more than 50% of Basal Area within a ten-year period	P	P	P	P	P	P	P
• Non-Commercial keeping of animals	P	P	P	P	P	P	P
• Non-Commercial Mineral Extraction	PR						
• Sale of agricultural products raised on the premises	P	P	P	P	P	P	P
• Timber Harvesting	P	P	P	P	P	P	P
• Agricultural Uses not specified	SE	SE	SE	-	-	-	SE
<b>II. Residential</b>	<b>AR</b>	<b>SR</b>	<b>RR</b>	<b>UR</b>	<b>VC</b>	<b>CB</b>	<b>IB</b>
<b>A. Principal Uses</b>							
• Single family detached dwellings	P	P	P	P	P	-	-
• Two family dwellings	P	P	P	P	P	-	-
• Multifamily dwellings	-	-	-	PR	PR	-	-
• Multifamily dwellings above the ground floor of mixed-use developments	-	-	-	PR	PR	-	-
• Manufactured housing parks with access from a Class V or better road	-	-	-	-	-	-	-
• Manufactured housing not located within a Manufactured Housing park	P	P	P	P	-	-	-
• Expansions of existing Manufactured Housing parks	-	-	-	-	-	-	-
• Convalescent, rest, or Nursing Homes	PR						
• Residential care or congregate care facilities	PR						
• Residential Uses not specified	-	-	-	SE	SE	-	-
<b>B. Uses Accessory to Any Principal Residential Uses</b>	<b>AR</b>	<b>SR</b>	<b>RR</b>	<b>UR</b>	<b>VC</b>	<b>CB</b>	<b>IB</b>
• Home Businesses	PR						
• Home Occupations	P	P	P	P	P	P	PR

**TABLE OF PERMITTED USES (cont.)**

<b>C. Uses accessory to Single Family Residential Uses</b>	<b>AR</b>	<b>SR</b>	<b>RR</b>	<b>UR</b>	<b>VC</b>	<b>CB</b>	<b>IB</b>
• Accessory Apartments	P	P	P	P	P	PR	-
• Child Day Care, Family	P	P	P	P	P	PR	PR
• Child Day Care, Family Group	PR						
• Renting of rooms and furnishing of board	P	P	P	P	P	PR	-
<b>III. Institutional</b>	<b>AR</b>	<b>SR</b>	<b>RR</b>	<b>UR</b>	<b>VC</b>	<b>CB</b>	<b>IB</b>
<b>A. Principal Uses</b>							
• Adult Day Care – Out of Home	-	PR	PR	PR	PR	PR	SE
• Cemeteries	P	P	P	P	P	SE	SE
• Churches, including accessory residential uses	SE						
• Clubs and lodges	SE	SE	SE	SE	SE	PR	-
• Daycare centers or nursery schools with 12 or more children	-	-	-	SE	PR	PR	SE
• Daycare centers or nursery schools with less than 12 children	-	PR	PR	PR	PR	PR	PR
• Hospitals	-	-	-	SE	SE	PR	PR
• Libraries	-	-	-	SE	PR	PR	-
• Museums	PR	PR	PR	PR	PR	PR	SE
• Schools and colleges	-	SE	SE	SE	SE	PR	-
• Institutional uses not specified	-	-	-	SE	SE	SE	-
<b>IV. Recreational</b>	<b>AR</b>	<b>SR</b>	<b>RR</b>	<b>UR</b>	<b>VC</b>	<b>CB</b>	<b>IB</b>
<b>A. Principal Uses</b>							
• Campgrounds	PR	PR	PR	-	-	-	-
• Fully enclosed places of recreation	-	SE	SE	SE	PR	PR	-
• Golf Courses	PR	PR	PR	-	-	SE	-
• Parks and outdoor recreation	PR	PR	PR	PR	SE	PR	SE
• Recreational uses not specified	SE	SE	SE	-	-	-	-
<b>V. Utility Uses</b>	<b>AR</b>	<b>SR</b>	<b>RR</b>	<b>UR</b>	<b>VC</b>	<b>CB</b>	<b>IB</b>
<b>A. Principal Uses</b>							
• Essential Services	P	P	P	P	P	P	P
• Public utilities facilities	SE	SE	SE	SE	SE	PR	PR
• Public utilities, not including facilities	P	P	P	P	P	P	P
• Telecommunications Towers	PR						
• Wind generators	PR	SE	SE	SE	SE	SE	SE
• Utility uses not specified	SE						

TABLE OF PERMITTED USES (cont.)

<b>VI. Commercial &amp; Industrial</b>	<b>AR</b>	<b>SR</b>	<b>RR</b>	<b>UR</b>	<b>VC</b>	<b>CB</b>	<b>IB</b>
<b>A. Principal Uses – Commercial &amp; Industrial</b>							
• Barber Shop/Beauty Salon	-	-	-	-	PR	PR	-
• Bed & Breakfasts	SE	SE	SE	SE	SE	PR	-
• Car Wash	-	-	-	SE	-	PR	PR
• Contractors	-	SE	SE	SE	SE	PR	PR
• Dog Kennel	SE	-	SE	-	-	SE	-
• Dog Training Facility	SE	-	SE	-	-	SE	-
• Dry Cleaners	-	-	-	-	PR	PR	PR
• Excavating contractors	SE	SE	SE	SE	-	SE	PR
• Financial institutions	-	-	-	PR	PR	PR	PR
• Financial institutions with a drive-through	-	-	-	PR	-	PR	PR
• Funeral homes	-	-	-	PR	PR	PR	-
• Grocery store	-	-	-	SE	PR	PR	-
• Health/Fitness Club	-	-	-	-	PR	PR	PR
• Health Service Facilities	SE	SE	SE	PR	PR	PR	PR
• Heavy equipment sales	-	-	-	-	-	PR	PR
• Hotels and Motels	-	-	-	-	PR	PR	-
• Laboratories	-	-	-	-	-	SE	PR
• Laundromat	-	-	-	-	PR	PR	PR
• Light Manufacturing	-	-	-	-	PR	-	PR
• Lounges/nightclubs/bars	-	-	-	SE	PR	PR	-
• Lumber yards, including the milling and distribution of wood products and the Wholesale and Retail sales of building materials	-	-	-	-	-	PR	PR
• Mineral Exploration	PR	PR	PR	PR	-	PR	PR
• Mineral Extraction	PR	PR	PR	PR	-	PR	PR
• Motor Vehicle Junkyard	-	-	-	-	-	-	-
• Motor Vehicle Repair Facility	-	-	-	-	-	PR	PR
• Motor Vehicle Sales Facility	-	-	-	-	-	PR	-
• Motor Vehicle Service Facility	-	-	-	-	-	PR	PR
• Professional/Business Office	-	-	-	PR	PR	PR	PR
• Repair service not involving motor vehicles	-	-	-	PR	PR	PR	PR
• Research and Development facility	-	-	-	-	-	SE	PR
• Restaurant, Drive-Thru	-	-	-	SE	SE	PR	-
• Restaurant, Fully Enclosed	-	-	-	SE	PR	PR	-
• Restaurant, Take-Out	-	-	-	SE	PR	PR	-
• Retail sale of gasoline	-	-	-	-	PR	PR	SE
• Retail stores: > 2,500 sf & < 7,500 sf	-	-	-	-	PR	PR	-
• Self-Service Storage Facility Warehouses	-	-	-	-	-	-	PR
• Small engine repair	-	-	-	PR	PR	PR	PR
• Small-scale Retail stores:	PR	PR	PR	PR	PR	PR	-

< 2,500 sf							
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**TABLE OF PERMITTED USES (cont.)**

<b>Commercial and Industrial Uses (cont.)</b>	<b>AR</b>	<b>SR</b>	<b>RR</b>	<b>UR</b>	<b>VC</b>	<b>CB</b>	<b>IB</b>
<ul style="list-style-type: none"> <li>Trucking and distribution facilities</li> </ul>	-	-	-	-	-	-	PR
<ul style="list-style-type: none"> <li>Uses involving the manufacture, storage for Wholesale distribution of creosote, disinfectant, insecticide, poisons, cement, lime, gypsum or plaster of paris, blast furnace, gasoline, petroleum, kerosene, paint, varnish or shellac</li> </ul>	-	-	-	-	-	-	-
<ul style="list-style-type: none"> <li>Veterinary clinic/grooming</li> </ul>	PR	PR	PR	PR	-	PR	-
<ul style="list-style-type: none"> <li>Warehousing</li> </ul>	-	-	-	-	-	SE	PR
<ul style="list-style-type: none"> <li>Wholesale sales</li> </ul>	-	-	-	-	-	PR	PR
<ul style="list-style-type: none"> <li>Commercial Industrial Uses Not Specified</li> </ul>	-	-	-	-	SE	SE	SE
<b>B. Accessory Uses – Commercial &amp; Industrial</b>	<b>AR</b>	<b>SR</b>	<b>RR</b>	<b>UR</b>	<b>VC</b>	<b>CB</b>	<b>IB</b>
<ul style="list-style-type: none"> <li>Drive-through services in conjunction with an allowed principal use</li> </ul>	-	-	-	-	SE	PR	PR
<ul style="list-style-type: none"> <li>Outside storage of materials, equipment &amp; products in conjunction with an allowed principal use</li> </ul>	PR	PR	PR	SE	-	PR	PR
<ul style="list-style-type: none"> <li>Retail sales of items manufactured on the premises</li> </ul>	PR						
<b>VII. Accessory Uses</b>	<b>AR</b>	<b>SR</b>	<b>RR</b>	<b>UR</b>	<b>VC</b>	<b>CB</b>	<b>IB</b>
<ul style="list-style-type: none"> <li>Accessory buildings and Structures</li> </ul>	PR	P	P	P	P	P	P
<ul style="list-style-type: none"> <li>Off-street parking accessory to a permitted use</li> </ul>	PR	P	P	P	P	P	P
<ul style="list-style-type: none"> <li>Signs</li> </ul>	P	P	P	P	P	P	P
<b>NOTE: Additional restrictions can be found within the Overlay Districts outlined in Section 4.00, and within specific Special Exception conditions. The most restrictive conditions apply.</b>							

**2.01 AGRICULTURAL RESIDENTIAL (AR)**

- (A) **Purpose.** The purpose of the Agricultural Residential District is to provide areas in the Town of Farmington that foster a “working rural” environment and preserve the potential for farming and farmland soils. Other permitted uses shall not impede, restrict, prohibit, or render impractical the practice of permitted agricultural activities.
- (B) **Standards.** All buildings and Structures shall be erected, structurally altered, enlarged, or moved and all land within the Agricultural Residential District (AR) District shall be used in accordance with Table 2.01(B):

**Table 2.01(B) - Space and Bulk Standards – Agricultural Residential District**

Maximum Net Residential Density	1 dwelling unit per 3 Acres
Minimum Lot Size	3 Acres
Minimum Lot Area per Dwelling Unit	3 Acres
Minimum Street Frontage	250 feet
Minimum Front Setback	50 feet
Minimum Side and Rear Setback (principal and Accessory Buildings)	15 feet
- Principal Residential Buildings	15 feet
- Accessory Buildings or Structures	One (1) foot for each foot of Height, but not less than 15 feet
- Non-residential Buildings or Structures, including Agricultural Buildings	
Maximum Height	35 feet
- Residential buildings	55 feet
- Non-residential buildings and Structures	(see Section 3.14)
- telecommunications towers	
- wind generators	None

- (C) **Special Exceptions.** For certain proposed uses listed in the Table of Permitted Uses, there are circumstances requiring the Zoning Board of Adjustment to render a written finding that a proposed use will meet certain criteria prior to authorizing the Code Enforcement Officer to issue a Zoning Permit pursuant to Section 1.08. The ZBA shall make a written finding after holding a duly advertised Public Hearing where all abutting property owners have been notified in writing that the proposed use in the AR District meet the following criteria in addition to the criteria specified in Section 2.00 (E):
  - 1) The proposed use is consistent in character with other uses allowed within the AR District and listed in the Table of Permitted Uses as P or PR and is consistent with the purpose of said district.

- (D) **Wetlands and Impact on Minimum Lot Size Calculation.** A Lot upon which residential

development is to occur that does not have access to municipal water or wastewater must contain a minimum of 40,000 square feet of contiguous buildable area.

**2.02 SUBURBAN RESIDENTIAL DISTRICT (SR)**

- (A) **Purpose.** The purpose of the Suburban Residential District is to provide areas in the Town of Farmington for high quality, residential development containing medium overall density in areas where public water and sewer may be extended in a compact and cost-effective manner.
- (B) **Standards.** All buildings and Structures shall be erected, structurally altered, enlarged, or moved and all land within the Suburban Residential District (SR) shall be used in accordance with Table 2.02(B).

**Table 2.02(B) - Space and Bulk Standards – Suburban Residential District**

Maximum Net Residential Density	1 dwelling unit per Acre
Minimum Lot Size	1 Acre
Minimum Street Frontage	150 feet
Minimum Front Setback	25 feet
Minimum Side and Rear Setback (principal and Accessory Buildings)	
- Principal Residential Building	15 feet
- Accessory Buildings or Structures to principal residential bldg.	15 feet
Maximum Height	
- Residential buildings	35 feet
- Non-residential buildings and Structures	55 feet
- telecommunications towers	(see Section 3.14)
- wind generators	None

- (C) **Special Exceptions.** For certain proposed uses listed in the Table of Permitted Uses, there are circumstances requiring the Zoning Board of Adjustment to render a written finding that a proposed use will meet certain criteria prior to authorizing the Code Enforcement Officer to issue a Zoning Permit pursuant to Section 1.08. The ZBA shall make a written finding after holding a duly advertised Public Hearing where all abutting property owners have been notified in writing that the proposed use in the SR District meet the following criteria in addition to the criteria specified in Section 2.00 (E):
  - 1) The proposed use is consistent in character with other uses allowed within the SR District and listed in Table of Permitted Uses as P or PR and is consistent with the purpose of said district.
- (D) **Density Bonuses.** Where town water and/or sewer utilities are available, the minimum Lot size for the SR zone shown in Table 2.02(B) may be reduced by 25% for each of the

utilities to which a single-family dwelling is connected.

- (E) **Wetlands and Impact on Minimum Lot Size Calculation.** A Lot upon which residential development is to occur that does not have access to municipal water or wastewater must contain a minimum of 30,000 square feet of contiguous buildable area.

**2.03 RURAL RESIDENTIAL DISTRICT – 1 ACRE (RR)**

- (A) **Purpose.** The purpose of the Rural Residential District is to provide areas in the Town of Farmington for high quality, open space, residential development containing low to medium overall density.
- (B) **Standards.** All buildings and Structures shall be erected, structurally altered, enlarged, or moved and all land within the Rural Residential District (RR) District shall be used in accordance with Table 2.03(B).

**Table 2.03(B) - Space and Bulk Standards – Rural Residential District**

Maximum Net Residential Density	1 dwelling unit per Acre
Minimum Lot Size	1 Acre
Minimum Street Frontage	150 feet
Minimum Front Setback	25 feet
Minimum Side and Rear Setback (principal and Accessory Buildings)	
- Principal Residential Building	15 feet
- Accessory Buildings or Structures to principal residential bldg.	15 feet
Maximum Height	
- Residential buildings	35 feet
- Non-residential buildings and Structures	55 feet
- Telecommunications towers	(see Section 3.14)
- Wind generators	None

- (C) **Special Exceptions.** For certain proposed uses listed in the Table of Permitted Uses, there are circumstances requiring the Zoning Board of Adjustment to render a written finding that a proposed use will meet certain criteria prior to authorizing the Code Enforcement Officer to issue a Zoning Permit pursuant to Section 1.08. The ZBA shall make a written finding after holding a duly advertised Public Hearing where all abutting property owners have been notified in writing that the proposed use in the RR District meet the following criteria in addition to the criteria specified in Section 2.00 (E):

- 1) The proposed use is consistent in character with other uses allowed within the RR District and listed in the Table of Permitted Uses as P or PR and is consistent with the purpose of said district.

- (D) **Wetlands and Impact on Minimum Lot Size Calculation.** A Lot upon which residential development is to occur that does not have access to municipal water or wastewater must contain a minimum of 30,000 square feet of contiguous buildable area.

**2.04 URBAN RESIDENTIAL DISTRICT (UR)**

- (A) **Purpose.** The purpose of the Urban Residential District is to provide for the protection of existing mixed and Multi-Family Residential neighborhoods immediately surrounding the downtown area, while allowing compatible infilling and innovative new development that creates and preserves open space.
- (B) **Standards.** All buildings and Structures shall be erected, structurally altered, enlarged, or moved and all land within the Urban Residential District (UR) District shall be used in accordance with Table 2.04(B):

**Table 2.04(B) - Space and Bulk Standards – Urban Residential District**

Maximum Net Residential Density	1 dwelling unit per 10, 000 square feet* <i>*This is applicable only to Lots that have access to and are connected to both Town water and wastewater. Otherwise, maximum net residential density shall be 1 dwelling unit per Acre.</i>
Minimum Lot Size	½ Acre (21,780 sf) <i>*This is applicable only to Lots that have access to and are connected to both Town water and wastewater. Otherwise, minimum Lot size shall be 1 Acre.</i>
Minimum Street Frontage	75 feet
Minimum Front Setback	25 feet
Minimum Front Setback (principal and Accessory Buildings)	In the case where existing buildings have a uniform Setback relationship to the Street, any new building or alteration of an existing building shall maintain the existing relationship.  Where a uniform Setback relationship does not exist, or where abutting Lots are not developed, the minimum front Setback shall be 25 feet
Minimum Side and Rear Setbacks (principal and accessory buildings)	15 feet
Maximum Height	55 feet
- Residential buildings	55 feet
- Non-residential buildings and Structures	55 feet

- (C) **Special Exceptions.** For certain proposed uses listed in the Table of Permitted Uses, there are circumstances requiring the Zoning Board of Adjustment to render a written finding that a proposed use will meet certain criteria prior to authorizing the Code

Enforcement Officer to issue a Zoning Permit pursuant to Section 1.08. The ZBA shall make a written finding after holding a duly advertised Public Hearing where all abutting property owners have been notified in writing that the proposed use in the UR District meet the following criteria in addition to the criteria specified in Section 2.00 (E):

- 1) The proposed use is consistent in character with other uses allowed within the UR District and listed in the Table of Permitted Uses as P or PR and is consistent with the purpose of said district.

## 2.05 VILLAGE CENTER DISTRICT (VC)

- (A) **Purpose.** The purpose of the Village Center District shall be to promote the reuse and redevelopment of the downtown core of Farmington in a manner that enhances its unique character and its function as an urban and social center for the citizens of Farmington.
- (B) **Standards.** All buildings and Structures shall be erected, structurally altered, enlarged, or moved, and all land within the Village Center District shall be used in accordance with Table 2.05(B).
- (C) **Special Considerations.** In recognizing the space constraints within a densely developed Village Center District, flexible and innovative parking solutions meeting the criteria set forth in Section 3.08 shall be considered for uses located within the Village Center District.

**Table 2.05(B) - Space and Bulk Standards – Village Center District**

Maximum Net Residential Density	1 per 5,000 SF
Minimum Lot Size	¼ Acre (10,890 sf)
Minimum Street Frontage	50 feet
Front Setback -principal buildings  -accessory buildings	Where the existing buildings have a uniform Setback relationship to the Street (see definitions), any new building or alteration of an existing building shall maintain the existing relationship.  An accessory building shall not be located closer to the front Lot line than the principal building.
Minimum Side and Rear Setbacks (principal and accessory buildings)	None except where residential buffer applies.
Maximum Height -principal buildings -accessory buildings and Structures	55 feet 55 feet

- (D) **Special Exceptions.** For certain proposed uses listed in the Table of Permitted Uses, Farmington Zoning Ordinance – adopted March 13, 2001, amended March 11, 2003; March 14, 2006; March 13, 2007; March 12, 2008; March 13, 2009; March 9, 2010; March 8, 2011; March 13, 2012; March 12, 2013, March 11, 2014, March 10, 2015, March 8, 2016

there are circumstances requiring the Zoning Board of Adjustment to render a written finding that a proposed use will meet certain criteria prior to authorizing the Code Enforcement Officer to issue a Zoning Permit pursuant to Section 1.08. The ZBA shall make a written finding after holding a duly advertised Public Hearing where all abutting property owners have been notified in writing that the proposed use in the VC District meet the following criteria in addition to the criteria specified in Section 2.00 (E):

- 1) The proposed use is consistent in character with other uses allowed within the VC District and listed in the (Table of Permitted Uses as P or PR and is consistent with the purpose of said district.

**2.06 RESERVED**

**2.07 COMMERCIAL BUSINESS DISTRICT (CB)**

- (A) **Purpose.** The purpose of the Commercial Business District shall be to provide areas for retail and commercial uses that serve the community from readily accessible locations and which define entrances to the downtown and to accommodate well-planned, high quality Office and Service uses either individually or in a business park environment
- (B) **Standards.** All buildings and Structures shall be erected, structurally altered, enlarged, or moved, and all land within the Commercial Business District shall be used in accordance with Table 2.07(B).

**Table 2.07(B) - Space and Bulk Standards – Commercial Business District**

Minimum Lot Size	2 Acres
Minimum Street Frontage	275 feet
Front Setback (principal & accessory buildings)	50 feet
Minimum Side and Rear Setbacks (principal and accessory buildings)	30 feet, or 1 foot for each additional foot of building height above 30 feet.
Maximum Height	
-principal buildings	55 feet
-accessory buildings and Structures	55 feet

- (C) **Special Exceptions.** For certain proposed uses listed in the Table of Permitted Uses, there are circumstances requiring the Zoning Board of Adjustment to render a written finding that a proposed use will meet certain criteria prior to authorizing the Code Enforcement Officer to issue a Zoning Permit pursuant to Section 1.08. The ZBA shall make a written finding after holding a duly advertised Public Hearing where all abutting property owners have been notified in writing that the proposed use in the CB District meet the following criteria in addition to the criteria specified in Section 2.00 (E):

- 1) The proposed use is consistent in character with other uses allowed within the CB District and listed in the Table of Permitted Uses as P or PR and is consistent with the purpose of said district.
- (D) **Street Frontage Bonus.** Where abutting Lots make provisions for a single shared driveway access to a Class I or II highway that meets the approval of the Farmington Planning Board, the Planning Board may approve a reduction in Street Frontage from 275 feet to 150 feet.
- (E) **Commercial/Industrial Business Overlay (C/IBO) District.** In the (C/IBO), the type of use proposed will determine which District Standards will apply. If the use is Industrial, the IB standards (Sec. 2.08) apply, if it is Commercial, the CB standards (Sec. 2.07) will apply.

## 2.08 INDUSTRIAL BUSINESS DISTRICT (IB)

- (A) **Purpose.** The purpose of the Industrial Business District is to provide areas for traditional industrial and business park development, along with individual industrial development in a well-planned environment.
- (B) **Standards.** All buildings and Structures shall be erected, structurally altered, enlarged, or moved and all land within the Industrial Business District shall be used in accordance with Table 2.08(B).
- (C) **Special Considerations.** Required parking for uses located within the Industrial Business District shall be located to the sides and rear of the primary Structure. The front Setback for the primary Structure shall serve as the front Setback for all on-site parking.

**Table 2.08(B) - Space and Bulk Standards – Industrial Business District**

Minimum Lot Size	2 Acres
Minimum Street Frontage	275 feet
Front Setback (principal & accessory buildings)	50 feet
Minimum Side and Rear Setbacks (principal and accessory buildings)	35 feet, or 1 foot for each additional foot of building height above 35 feet.
Maximum Height -principal buildings -accessory buildings and Structures	55 feet 55 feet

- (D) **Special Exceptions.** For certain proposed uses listed in the Table of Permitted Uses, there are circumstances requiring the Zoning Board of Adjustment to render a written finding that a proposed use will meet certain criteria prior to authorizing the Code Enforcement Officer to issue a Zoning Permit pursuant to Section 1.08. The ZBA shall

make a written finding after holding a duly advertised Public Hearing where all abutting property owners have been notified in writing that the proposed use in the IB District meet the following criteria in addition to the criteria specified in Section 2.00 (E):

- (1) The proposed use is consistent in character with other uses allowed within the IB District and listed in the Table of Permitted Uses as P or PR and is consistent with the purpose of said district.
- (E) **Street Frontage Bonus.** Where abutting Lots make provisions for a single shared driveway access to a Class I or II highway that meets the approval of the Farmington Planning Board, the Planning Board may approve a reduction in Street Frontage from 275 feet to 150 feet.
- (F) **Commercial/Industrial Business Overlay (C/IBO) District.** In the (C/IBO), the type of use proposed will determine which District Standards will apply. If the use is Industrial, the IB standards (Sec. 2.08) apply, if it is Commercial, the CB standards (Sec. 2.07) will apply.

## 2.09 BOUNDARY DESCRIPTION OF DISTRICTS

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

### END OF SECTION 2.00 - BASE ZONING DISTRICTS

## SECTION 3.00 GENERAL STANDARDS

### 3.01 RELATIONSHIP OF BUILDINGS TO LOTS

Every building hereafter erected shall be located on a Lot. In the Commercial Business (CB) and Industrial Business (IB) Districts, for lots with frontage on Route 11, up to two (2) principal buildings may be located on one (1) lot, if approved through Site Plan Review by the Planning Board, and when complying with the Access Management Ordinance (Section 3.20), For principal structures sharing one (1) lot in these Districts, a combination of commercial and/or industrial uses may be permitted by the Planning Board. Up to two single-family dwellings shall be allowed without site plan review and approval by the Planning Board when the Lot on which the dwellings are to be located meets all dimensional requirements for subdivision into two Lots including but not limited to:

- 1) Sufficient Street Frontage for both structures on an existing Street as defined in Section 1.14 or meets the criteria for rear lot subdivision contained in Section 3.04 below.
- 2) Sufficient distance between principal Structures and all other required Setbacks.
- 3) In the Commercial Business (CB) and Industrial Business (IB) Districts, the minimum distance between principal structures shall be equal to the minimum side and rear setbacks in the respective districts.

### 3.02 ACCESS OF LOTS TO STREETS

No building shall be erected on a Lot unless the Lot has Street Frontage as defined in Section 1.14.

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

### 3.03 DRIVEWAY PERMITS

No person may build or construct a driveway that provides an access to a public Street without first obtaining a driveway permit from the Code Enforcement Officer. The CEO shall refer all applications to the Public Works Director for review. If the Public Works Director finds that the application meets the requirements set forth in Sections 3.03(A) and 3.03(B), the Public Works Director shall approve the driveway permit and notify the CEO to issue the permit. Such permits may be issued only to the property owner or to the person having an option or lease on the property in question. If the work authorized by the driveway permit has not been started within 12 months of the date of issuance, the permit is declared null and void.

#### (A) Driveway Limitations

- (1) Each Lot fronting on a Class V or better road shall be entitled to at least one driveway access per Lot. Additional driveway accesses may be permitted with approval by the

CEO and the Public Works Director. Any Lot used for multifamily residential, institutional, Retail, commercial, service, or industrial use having more than one hundred (100) feet of Street Frontage shall be entitled to one (1) additional driveway access for each two hundred fifty (250) feet of Street Frontage or portion thereof in excess of one hundred (100) feet, except for those located on a Class I or Class II highway.

- (2) The Planning Board shall have the authority in site plan review to require techniques to be utilized to minimize access points along Class I and Class II highways. These techniques include, but are not limited to, shared driveways by abutting property owners, requiring easements for future access roads to Non-residential uses along Class I and Class II highways in accordance with an access management plan for said highways.

#### **(B) Driveway Access Requirements**

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

### **3.04 RESERVED**

### **3.05 PROJECTIONS INTO REQUIRED SETBACKS**

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

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

problems.

### 3.06 STRUCTURES PERMITTED ABOVE HEIGHT LIMITS

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

### 3.07 TEMPORARY ACTIVITIES AND EVENTS

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

### 3.08 SMALL WIND TURBINES

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

**(B) DEFINITIONS.** The following definitions shall apply for the purpose of administration of this Section:

**Normal Circumstances.** Weather conditions that produce winds that do not exceed 30 mph.

**Small Wind Energy System.** A wind energy conversion system consisting of a wind generator, a tower and associated control or conversion electronics, which has a rated capacity of 100 kilowatts or less and which will be used primarily for onsite energy consumption.

**System Height.** The height above grade of the tower plus wind generator, measured from the preconstruction ground level to the highest point reached by the turbine blades.

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

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

**Wind Turbine.** The blades and associated mechanical and electrical conversion components mounted on top of the tower whose purpose is to convert wind energy to generate electricity.

### **(C) STANDARDS**

- (1) **Zoning Districts:** Small wind energy systems are permitted in all zoning districts on parcels where all of the requirements of this ordinance can be satisfied.
- (2) **Maximum Height:** The maximum height of the small wind energy system shall not exceed 30' above the average canopy, of the predominant tree species within 300 feet of the system. When located in an area cleared of trees, the maximum height of the system shall not exceed 30' above the neighboring tree canopy. It is the responsibility of the property owner/applicant to demonstrate the proposed system satisfies this requirement. In no situation shall the maximum height of the small wind energy system exceed 150'.
- (3) **Setback** – Where unit size is less than or equal to 20 kW: 110% of system height (front, side and rear) with review and approval by the Building Inspector  
  
Where unit size is 21 to 100 kW: 150% of system height (front, side and rear) with review and approval by the Minor Site Plan Review Committee
- (4) **Maximum sound level** shall not exceed 55 decibels when operating under normal circumstances as measured at the property line using a calibrated decibel meter and verified by the Building Inspector.
- (5) **Signs:** All signs, including flags, streamers and decorative items, both temporary and permanent, are prohibited on the small wind energy system, except for manufacturer identification or appropriate warning signs.
- (6) **Visual Impacts:** This ordinance recognizes small wind energy systems may pose some visual impacts due to the tower height necessary to access wind resources. The purpose of this section is to reduce visual impacts, without restricting the owner's access to the wind resources.
  - (a) The applicant shall demonstrate through project site planning and proposed mitigation that the small wind energy system's visual impacts will be minimized for surrounding neighbors and the community.
  - (b) The small wind energy system shall be painted or otherwise covered with a non-reflective, unobtrusive color that blends in with the surrounding environment.
  - (c) No lighting shall be mounted on the tower of a small wind energy system at a height in excess of 15', with the exception of: low wattage seasonal lighting

which is permitted up to a maximum height of 55', and lighting required by the Federal Aviation Administration (FAA) at the height required by the FAA.

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

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

- (D) **ABUTTER AND REGIONAL NOTIFICATION:** Per RSA 674:66, all abutters shall be notified. Abutters shall be afforded a 30-day comment period prior to final action on the application. An abutter may appeal the issuance of an approval to the ZBA pursuant to RSA 676:5. Notice of the application shall be provided to the Board of Selectmen.

An application for a small wind energy system shall be reviewed pursuant to RSA 36:56 to determine whether the small wind energy system will have regional impact, as defined in RSA 36:55. If so, the Strafford Regional Planning Commission and the affected municipalities shall be notified by certified mail, which shall be provided 30 days to submit comment prior to final action on the application. The cost of abutter and regional notifications shall be borne by the applicant.

- (E) **ABANDONMENT:** A small wind energy system that is out-of-service for a continuous 12-month period shall be deemed abandoned. The Planning Board or its designee may then issue a Notice of Abandonment to the owner of the small wind energy system. If within 30 days of receipt of the Notice of Abandonment the owner provides the Planning Board or its designee information that demonstrates the small wind energy system has not been abandoned the Notice of Abandonment shall be withdrawn. If it is determined the small wind energy system has been abandoned, the owner shall at the owner's sole expense remove the wind turbine from the tower within three (3) months of receipt of the Notice of Abandonment. If the owner fails to remove the wind turbine from the tower, the Planning Board or its designee may pursue legal action to have the wind turbine removed at the owner's expense

### 3.09 SIGNS

All Signs shall conform to the provisions of this section.

- (A) **General Provisions.** All Signs shall be in conformance with this section, the International Building Code, and the NH RSA 236:69 –89.

- (B) **Temporary Signs:**

- (1) Temporary signs are permitted for no more than ninety (90) days per calendar year.
  - (2) One (1) temporary sign per approved entrance is allowed, not to exceed two (2) temporary signs at one time. Except as provided in Section 3.09(B)(3), a Temporary Sign Permit must be obtained prior to the installation of the temporary sign. Permit applications are available in the Code Enforcement Office.
  - (3) The maximum surface area shall not exceed thirty two (32) square feet in all areas. Attaching Signs and/or posters to property without permission from the owner or agent shall be prohibited. Temporary signs shall be removed within fifteen (15) days of the special event or activity, where applicable.
  - (4) Traffic control, road direction Signs and road identifying Signs, no trespassing Signs, Signs advertising yard sales, Signs advertising the sale or lease of the premises and political Signs do not require a permit prior to the installation of the Sign; however, such Temporary Signs are fully subject to the provisions of Section 3.09(B) (2).
- (C) **Size.** All permanent Signs shall conform to the following size limits.
- (1) In the AR, SR, RR, UR, and VC, there shall be:
    - (a) No more than one (1) Sign mounted perpendicular to the building displaying the name of the commercial or institutional occupants with a maximum size of four (4) square feet of message area per side.
    - (b) In a building with multiple commercial/institutional occupants and on-site parking, no more than one (1) Sign displaying the name and address of the occupants with a maximum size of four (4) square feet of message area per occupant. Said signs shall be mounted on a common post, where practical.
    - (c) One identifying Sign mounted flush to the building for each business and/or organization in the building with a maximum of twenty four (24) square feet of message area.
  - (2) In the (CB), (CIBO), and (IB), Signs shall be limited to those which aid identification, advertise goods, services, or products manufactured or offered for sale on the premises as follows:
    - (a) No more than one (1) free standing Sign with a maximum of fifty (50) square feet in area shall be allowed for each business or industrial establishment.
    - (b) Additionally, up to one wall mounted Sign not exceeding fifty (50) square feet may be exhibited on the outside of the principal Structure.
    - (c) Multiple building developments (commercial/industrial subdivisions) are allowed one Sign within the complex to serve as a directory. Up to 2 square feet per

principal use may be used to display the business name or other pertinent information. The placement of said complex directory is subject to Site Plan Review.

- (d) Non-illuminated Signs on the inside of a window not to exceed one- third (1/3) of the window size.
- (e) The number limitation on Signs does not apply to traffic, directional or other utility Signs within residential, commercial or industrial subdivisions.

**(D) Sign Properties**

- (1) Signs may neither move nor give the illusion of movement. When signs have the capability of changing messages, messages and message backgrounds may not scroll, flash or otherwise change appearance. Messages may not change more frequently than once every 60 seconds.
- (2) Signs shall not be lighted with flashing lights. Lighted Signs shall not obstruct motorists' visibility. Illumination shall not spill light onto adjacent roadways or property.
- (3) General advertisement in the form of a billboard shall be prohibited.

**(E) Sign Location**

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

**(F) Directional Signage**

- (1) Directional signs relating to an agricultural enterprise within the Town of Farmington are permitted upon the filing of a permit application provided said signs for any one enterprise do not exceed one (1) sign in any one-half mile length of road, not including those to indicate a change of direction.
- (2) Directional signage shall not exceed two (2) square feet in area and shall contain only information regarding the name of the enterprise, direction and distance.
- (3) Directional signs shall not impede the travel way or visibility along the travel way as determined by the Code Enforcement Officer.

- (4) At intersections directional signs shall be mounted on a common post where possible with a maximum height of six feet.
- (5) Directional signs shall require written approval from the property owner to be submitted and maintained as part of the permit process.

### **3.10 PRIVATE ROAD STANDARDS**

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

### **3.11 TELECOMMUNICATIONS TOWERS/STRUCTURES**

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

(B) **General Provisions**

(1) **Applicability.**

(a) The terms of this Article and the Site Plan Review Regulations shall apply to telecommunications facilities proposed to be located on property that is within the geographic boundaries of the Town of Farmington, N.H.

(b) All applications for a telecommunications facility pending on the effective date of these regulations shall be reviewed under the provisions of these regulations.

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

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

(C) **DEFINITIONS**

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

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

**Antenna Array.** A collection of antennas attached to a mount to send and/or receive radio signals.

**Average Tree Canopy Height** An average found by inventorying the Height of all trees over twenty feet in Height for a defined area, such as the area delineated in Section 3.11(G)4.

**Camouflaged.** A telecommunications facility that is disguised or hidden from view.

**Co-location.** The use of a single mount by more than one carrier.

**Elevation.** A vertical measurement above mean sea level (AMSL).

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

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

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

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

**Mast.** A thin pole that resembles a streetlight standard or a telephone pole.

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

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

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

**Radiofrequency Radiation (RFR).** The emissions from telecommunications facilities.

**Security Barrier.** A wall, fence or berm that restricts an area from unauthorized entry or trespass.

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

**Telecommunications Services.** The types of services regulated by this Guide: commercial mobile radio services, unlicensed wireless services, and common carrier

wireless exchange services as defined in the Telecommunications Act of 1996. These services include, but are not limited to cellular telephone services, specialized mobile radio communications (SMR), enhanced specialized mobile radio (ESMR), personal communications service (PCS), paging services and similar services that are marketed to the general public.

**Temporary Telecommunication Facility.** A facility designed for the provision of temporary telecommunications services while a permanent telecommunications facility is under construction.

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

#### (D) DISTRICT REGULATIONS

- (1) **Location.** Telecommunications facilities shall be permitted in all Zoning Districts, except as restricted by this Article. Applicants seeking approval for telecommunications facilities shall first evaluate existing Structures for the siting of telecommunications facilities. Only after finding existing Structures unfeasible, shall a provider propose a new ground mounted facility.
- (2) **Existing Structures.** Telecommunications facilities shall be located on existing Structures, including but not limited to buildings, water towers, existing telecommunications facilities, utility poles or towers and related facilities, provided that such installation preserves the character and integrity of those Structures.
- (3) **Burden of Proof.** The applicant shall have the burden of proving that there are no existing Structures, which are suitable to locate its telecommunications facility. To meet that burden, the applicant shall take the following actions:
  - (a) The applicant shall submit to the Planning Board a list of all contacts made with owners of existing Structures regarding the availability of Space for a telecommunications facility. If the Planning Board informs the applicant that additional existing Structures may be satisfactory, the applicant shall contact the property owner(s) of those Structures
  - (b) The applicant shall provide copies of all letters of inquiry made to owners of existing Structures and letters of rejection. If letters of rejection are not provided, at a minimum, unanswered "Return Receipt Requested" forms from the U.S. Post Office shall be provided for each owner of existing Structures that was contacted.
  - (c) If the applicant claims that a Structure is not capable of physically supporting a telecommunications facility, this claim must be certified by a licensed professional

engineer. The certification shall, at a minimum, explain the structural issues, demonstrate that the Structure cannot be modified to support the telecommunications facility, and that alternative locations are not available.

- (d) If the applicant claims that a Structure is not capable of siting a telecommunications facility due to radio frequency propagation concerns, this claim must be certified by a licensed professional engineer, radio frequency engineer. The certification shall, at a minimum, include radio frequency propagation plots, evidence that alternative locations are not available to provide the level of propagation desired, and evidence that the level of service will not be functional.

**(E) Ground Mounted Facilities.**

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

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

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

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

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

(3) **Existing Structures.** Subject to the provisions of this Article and site plan review, and except as otherwise permitted under 3.11(F)1, a carrier may locate a telecommunications facility on an existing Structure, building; utility tower, pole or water tower.

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

- (5) **Temporary Telecommunications Facility.** Temporary telecommunications facilities are not permitted.

(G) **Dimensional Requirements.**

- (1) Telecommunications facilities shall comply with the following requirements:

(a) **Height**

- i. **Maximum.** In no case shall a telecommunications facility exceed two hundred (200) feet in height, unless the mount for the facility was greater than two hundred (200) feet in Height prior to the adoption of this article.
- ii. **Height, Existing Structures and Utility Poles.** Carriers that locate new telecommunications facilities on water towers, electric transmission and distribution towers, utility poles and similar existing utility Structures, guyed towers, lattice towers, masts, and monopoles may be permitted to increase the Height of those Structures no more than twenty (20) feet. This increase in Height shall be permitted once for each Structure.
- iii. **Height, Other Existing Structures.** Except as permitted in 3.11(F)(2), the Height of a telecommunications facility shall not increase the Height of a Structure by more than twenty (20) feet, unless the telecommunications facility is completely camouflaged; for example, a telecommunications facility completely within a flagpole, steeple, or chimney. The increase in the Height of the Structure shall be in scale and proportion to the Structure as originally configured. A carrier may locate a telecommunications facility on a building that is legally non-conforming with respect to height, provided that the provisions of this Article are met.
- iv. **Height, Ground-Mounted Facilities.** Ground-mounted telecommunications facilities shall not project higher than twenty (20) feet above the average tree canopy Height within a one hundred fifty (150) foot perimeter of the mount, security barrier, or designated clear area for access to equipment whichever is greatest.
- v. **Setbacks.** All telecommunications facilities and their equipment shelters shall comply with the building Setback provisions of the zoning district in which the telecommunications facility is located.
- vi. **Fall Zone for Ground Mounts.** In order to ensure public safety, the minimum distance from the base of any ground-mount of a telecommunications facility to any property line, public road, habitable dwelling, business or institutional use, or public recreational area shall be, at a minimum, the distance equal to the fall zone, as defined in this Article.

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

**(H) Performance and Design Standards**

- (1) **Visibility.** Visual impacts are measured on the basis of:
  - (a) Change in community scale, as exhibited in relative Height mass or proportion of the telecommunications facility within their proposed surroundings.
  - (b) New visible elements proposed on a contrasting background.
  - (c) Different colors and textures proposed against a contrasting background.
  - (d) Use of materials that are foreign to the existing built environment.
  
- (2) **Enhancements.** Enhancements are measured on the basis of:
  - (a) Conservation of opportunities to maintain community scale, e.g., buffering areas and low-lying buildings should not be compromised so as to start a trend away from the existing community scale.
  - (b) Amount and type of landscaping and/or natural vegetation.
  - (c) Preservation of view corridors, vistas, and view sheds.
  - (d) Continuation of existing colors, textures and materials.
  
- (3) **Visibility.** Visibility focuses on:
  - (a) Eliminating or mitigating visual impact.
  - (b) Protecting, continuing and enhancing the existing environment.
  
- (4) **Camouflage for Facilities on Existing Buildings or Structures:**
  - (a) **Roof Mounts.** When a telecommunications facility extends above the roof Height of a building on which it is mounted, every effort shall be made to conceal or camouflage the facility within or behind existing or new architectural features to limit its visibility from public ways. Facilities mounted on a roof shall be stepped back from the front facade in order to limit their impact on the building's silhouette.
  - (b) **Side Mounts.** Telecommunication facilities, which are side mounted, shall blend with the existing building's architecture and, if individual antenna panels are over five (5) square feet, the panels shall be painted or shielded with material consistent with the design features and materials of the building.

- (5) **Camouflage for Ground Mounted Facilities.** All ground-mounted telecommunication facilities shall be surrounded by a buffer of dense tree growth that extends continuously for a minimum perimeter of one hundred fifty (150) feet from the mount, security barrier or designated clear area for access to equipment, whichever is greatest, and screens views of the telecommunications facility in all directions. These trees must be existing on the subject property or planted on site. The Planning Board shall have the authority to decrease, relocate or alter the required buffer based on-site conditions. The one hundred fifty (150) foot vegetative buffer area shall be protected by a landscape easement or be within the area of the carrier's lease. The easement or lease shall specify that the trees within the buffer shall not be removed or topped, unless the trees are dead or dying, and present a hazard to persons or property.
- (6) **Color.** To the extent that any telecommunications facilities extend above the Height of the vegetation immediately surrounding them, they shall be painted with a color, which blends with the background or surroundings.
- (7) **Equipment Shelters.** Equipment shelters for telecommunications facilities shall be designed consistent with one of the following design standards:
  - (a) Equipment shelters shall be located in underground vaults; or
  - (b) Equipment shelters shall be designed so that the shelters are architecturally consistent, with respect to materials and appearance, to the buildings in the area of the telecommunications facility; or
  - (c) Equipment shelters shall be camouflaged behind an effective year-round landscape buffer, equal to the Height of the proposed building, and/or fence; or;
  - (d) If mounted on a rooftop, the equipment shelter shall be concealed or camouflaged so that the shelter either is not visible at grade or appears to be a part of the original Structure.

**(I) Lighting, Signage, and Security**

- (1) **Lighting.** Telecommunications facilities shall be lighted only if required by the Federal Aviation Administration (FAA). Lighting of equipment Structures and any other facilities on site shall be shielded from abutting properties. Foot-candle measurements at the property line shall be 0.0 initial foot-candles.
- (2) **Signage.** Signs shall be limited to those needed to identify the property and the owner and warn of any danger and shall comply with the requirements of the Farmington Sign Use Regulation.

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

**(J) Historic Buildings**

- (1) Any telecommunications facility located on or within a historic Structure shall not alter the character-defining features, distinctive construction methods, or original historic materials of the building.
- (2) Any alteration made to a historic Structure to accommodate a telecommunications facility shall be fully reversible.
- (3) Telecommunication facilities authorized by this subsection shall be concealed within or behind existing architectural features, or shall be located so that they are not visible from public roads and viewing areas.

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

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

- (M) Hazardous Waste.** No hazardous waste shall be discharged on the site of any telecommunications facility. If any hazardous materials are to be used on site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least one hundred ten (110) percent of the volume of the hazardous materials stored or used on the site.

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

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

**(P) Monitoring and Maintenance.**

- (1) **Maintenance.** The owner of the telecommunications facility shall maintain the telecommunications facility in good condition. Such maintenance shall include, but shall not be limited to, painting, structural integrity of the mount, security barrier and maintenance of the buffer areas and landscaping.
  - (2) **Monitoring.** As part of the issuance of the Site Plan approval or Building Permit the property owner shall agree that the Town of Farmington may enter the subject property to obtain RFR measurements and noise measurements at the expense of the carrier, but not necessarily accompanied by the carrier and/or property owner.
- (Q) Security for Removal.** Recognizing the hazardous situation presented by abandoned and unmonitored telecommunications facilities; the Planning Board shall set the form and amount of security that represents the cost for removal and disposal of abandoned telecommunications facilities. In the event that a telecommunications facility is abandoned and/or the telecommunications facility owner is unwilling or unable to remove the facility in accordance with Section 09.2 of the Telecommunications Site Review Regulations. The amount of the security shall be based upon the cost of such removal plus fifteen (15) percent, provided by the applicant and certified by a professional civil engineer, licensed in New Hampshire. The owner of the telecommunications facility shall provide the Planning Board with a revised removal cost estimate and structural evaluation prepared by a registered structural engineer every five (5) years from the date of the Planning Board's approval of the site plan. If the cost has increased more than fifteen (15) percent, then the owner of the telecommunications facility shall provide additional security in the amount of the increase.
- (R) Abandonment and Discontinuation of Use.**
- (1) **Notification.** At such time that a carrier plans to abandon or discontinue operation of a telecommunication facility, such carrier will notify the Town of Farmington by certified U.S. mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than thirty (30) days prior to abandonment or discontinuation of operations. In the event that a licensed carrier fails to give such notice, the telecommunications facility shall be considered abandoned pursuant to 5.03(A) of this Article.
  - (2) **Removal.** Upon abandonment or discontinuation of use, the owner of the telecommunications facility shall physically remove the telecommunications facility within ninety (90) days from the date of abandonment or discontinuation of use. "Physically Remove" shall include, but not be limited to:
    - (a) Removal of antennas, mount, equipment shelters and security barriers from the subject property

- (b) Proper disposal of the waste materials from the site in accordance with local and State solid waste disposal regulations.
  - (c) Restoring the location of the telecommunications facility to its natural condition, except that any landscaping and grading shall remain in the after-condition.
- (3) Failure to Remove.** If the owner of the telecommunications facility does not remove the facility upon the order of the Farmington Code Enforcement Officer, then the Planning Board shall, after holding a public hearing with notice to the owner and abutters, issue a declaration of abandonment. The owner of the telecommunications facility shall dismantle and remove the telecommunications facility within ninety (90) days of receipt of the declaration of abandonment by the Planning Board. If the abandoned telecommunications facility is not removed within ninety (90) days, the Town may execute the security to pay for this action.

### 3.12 SENSITIVE AREA DEVELOPMENT STANDARDS

- (A) **Purpose.** This section provides guidelines for the environmental protection of areas with steep slopes. The intent is to prevent erosion and/or flooding caused by human activity.
- (A) **Applicability.** All uses and activities established after the effective date of this Ordinance shall comply with the following standards. Site alterations, re-grading, filling or the clearing of vegetation or any other activity deemed detrimental to any environmentally sensitive area, any steep slope area or any other resource prior to the submission of plans for subdivision or land development shall be a violation of this Ordinance.
- (B) **Compatibility of Structures with Topography.** Structures shall be designed in a manner that requires a minimum amount of alteration to the steep slope and that otherwise complies with the grading standards set forth in this section.
- (C) **Stormwater Management, Erosion and Sedimentation Control.** Particular caution shall be taken to prevent increases in the rate of stormwater runoff and erosion downslope of any steep slope development site. An approved stormwater management plan and an erosion and sediment control plan meeting the requirements of the Town of Farmington's Subdivision and Site Review Regulations shall be submitted before any use is approved.
- (E) **Steep Slope Conservation**
  - (1) Under no circumstances shall the road bed of a driveway or access road exceed 20%.
  - (2) Any site disturbance of slopes exceeding fifteen percent (15%) shall be minimized.

- (3) No site disturbance shall be allowed on slopes exceeding twenty-five (25%), except under the following circumstances.
- (a) Logging shall be by specific approval of the Planning Board. A “submission plan” shall include:
    - i. an approved soil erosion and sedimentation plan;
    - ii. a listing of the amounts and species of timber to be harvested, which in no case can be conducted on more than twenty-five percent (25%) of the Basal Area of the timber located on these slopes; and
    - iii. a reclamation plan for restoring the site.

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

- (b) Grading for a portion of a driveway or access road accessing a single family dwelling when it can be demonstrated that no other routing is possible which avoids slopes exceeding twenty-five percent (25%).
  - (c) Any driveway or other access road must be designed to have a slope length no greater than seventy-five (75) feet.
- (4) More than thirty percent (30%) average slope: No development shall be allowed except upon submission of a report by a certified soil or geo-technical engineer indicating that the steep slope may be safely developed and execution of a Waiver of Municipal Responsibility agreeing to hold the Municipality harmless from any claims of damages due to approval of such development. If development is allowed to proceed under this subsection, no more than fifteen percent (15%) of such areas shall be developed and/or re-graded or stripped of vegetation.
- (5) No landslide prone area may be disturbed. In no case shall any development take place on any portion greater than thirty-five percent (35%).
- (6) No development shall take place within fifty (50) feet of any area determined to be landslide prone by a geo-technical study as referred to in number (4) above.
- (7) All primary and accessory buildings, septic systems, detention basins, or other Structures that may create a severe impact upon the slope shall be set back twenty (20) feet from all ridge lines or slope tops.
- (8) Property owners of tillage and nursery operations, on slopes, exceeding eight (8%) percent, shall develop a conservation plan for the site in cooperation with the Natural Resource Conservation Service.
- (9) Grading or earthmoving on all sloping lands exceeding fifteen (15%) percent shall not result in earth cuts or fills whose highest vertical dimensions exceed ten (10) feet, except where no alternatives exists for construction of public roads,

drainage Structures, and other public improvements, in which case such vertical dimensions shall not exceed twenty (20) feet. Finished slopes of all cuts and fills shall not exceed three-to-one (3:1), unless the applicant can demonstrate that steeper slopes can be stabilized and maintained adequately.

(F) **Submission Requirements**

(1) **Applicability.** Prior to commencing any site disturbance for any purpose, a resource plan shall be submitted to and approved by the Planning Board.

(2) **Resource Plan**

(a) A resource plan shall include the following information. When any of this information already has been prepared as part of an application under the Site Review or Subdivision Regulations, then it shall be duplicated and inserted into the pertinent section(s) of the Resource plan.

(b) Resource Plan review shall have the same notification requirements as those indicated for site review in the Site Review Regulations.

(3) **Inventory**

(a) **Property Base Map.** A base map of the applicant's property shall meet the requirements for preliminary plan approval under the Subdivision Regulations with respect to: sheet size, scale, property acreage calculations, delineations of courses and distances of property boundaries, dedicated Street rights-of-way, and easements.

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

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

- i. Location and delineation of ponds, streams, Wetlands, and natural drainage swales, not only in the subject's property, but also on immediately adjoining properties within 100 feet of the common boundary.
- ii. Surface waters, Aquifers, floodplains and floodways, based upon available information, published or more detailed data obtained by the applicant for his property by professional consultants.

- iii. Topography, the contour line intervals of which shall be not more than two (2) feet for land with average natural slope of four percent (4%) or less, and not more than five (5) feet for land with average natural slope exceeding four percent (4%). The benchmark to which contour elevations refer shall be identified; where reasonably feasible, the elevations shall be referenced to USGS datum.
- iv. Soil series, types, and phases, as mapped by the Natural Resources Conservation Service, and accompanying data tabulated for each soil, including: its name, depth, to seasonal high water table, agricultural capability class, erodibility, and hydrologic group, and clear denotation of all poorly and very poorly drained soils.
- v. Vegetative cover conditions on the property according to general cover type, e.g., cultivated land, hedgerow, woodlands, etc.
- vi. All scenic vistas and other natural resource areas on the subjects' property and on surrounding parcels are to be clearly designated.

(4) Impact Assessment

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

**(G) ADMINISTRATION**

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

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

**(b) Inspections**

- i. No site disturbance work shall proceed to a subsequent phase, as detailed in Subsection ii, below, until inspected and approved by the Code Enforcement Officer, who shall then file a report thereon with the Planning Board and the Commission.
- ii. The times of inspection shall be as follows:
  - 1. Upon completion of rough grading, but prior to placing top soil, installing permanent drainage or other site improvements, or establishing ground covers.
  - 2. Upon completion of final grading, landscape improvements, and other mitigation of work undertaken in accordance with the approved Resource Plan.
  - 3. The Code Enforcement Officer may make random inspections as deemed necessary and appropriate.

**3.13 MANUFACTURED HOUSING STANDARDS**

Manufactured housing is any structure, transportable in one or more sections, which, in the traveling mode, is 8 body feet or more in width and 40 body feet or more in length, or when erected on site, is 320 square feet or more, and that is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities. Manufactured housing shall not be construed to mean pre-site built or modular housing.

Manufactured housing units may be located on lawfully existing lots in manufactured housing parks, or on individual lots anywhere conventional single-family homes are permitted. Manufactured housing units are not permitted within an Open Space-Residential Cluster Development. No more than one (1) manufactured housing unit may be on a single lot.

Manufactured housing units located on individual lots must comply with all dimensional standards applicable to conventional housing and must be erected on a permanent foundation defined as a full foundation or 4-foot frost wall.

All Manufactured Housing units located in the Town of Farmington must comply with the National Manufactured Housing Construction and Safety Standards Act of 1974. A HUD Label applied to the unit at the time of manufacture shall be prima facia evidence that an unaltered unit meets the standards. Newly located Manufactured Housing units greater than five (5) years old are not permitted in the Town of Farmington.

These Standards shall apply to Manufactured Housing units newly located in the Town of Farmington, and any Manufactured Housing unit moved from one location in the Town of Farmington to another location in the Town of Farmington. These Standards shall not apply to Manufactured Housing units that were placed as dwellings prior to the date of adoption of these standards (March 12, 2013) and which remain in the same location they were on as of that date.

### 3.14 HOUSING AND OTHER STANDARDS

- (A) **Building Code.** Pursuant to RSA 155:A & 674:51, the Town of Farmington hereby adopts the following building regulations:
- (1) Except as provided in paragraphs b and c, all buildings, building components, and Structures constructed in New Hampshire beginning March 12, 2003, shall comply with the state building code and state fire code. The construction, design, Structure, maintenance, and use of all buildings or Structures to be erected and the alteration, renovation, rehabilitation, repair, maintenance, removal, or demolition of all buildings and Structures previously erected shall be governed by the provisions of the state building code.
  - (2) Standards, including definitions, established by the most recent edition of the Life Safety Code, NFPA Doc. No. 101, shall take precedence over all standards in the state building code relative to means of egress.
  - (3) All new buildings shall conform to the requirements of the state fire code adopted pursuant to RSA 153:5 and to the extent that there is any conflict between the state building code and the state fire code, the state fire code shall take precedence unless otherwise determined by the State Building Code Review Board, subject to the review provisions contained in RSA 155-A:10.
  - (4) A Housing Code, previously referred to as the **Farmington Housing Maintenance and Occupancy Code**, adopted 1986, is adopted as Section 1.08, as amended, of the Town of Farmington Zoning Ordinance.
  - (5) To the extent that it does not conflict with any other provision of law, the issuance of permits and the collection of fees pursuant to the state building code is expressly reserved for the Town of Farmington for all building activity in the town of Farmington.
  - (6) Except for buildings owned by the state or the university system, the issuance of certificates of occupancy pursuant to the state building code is expressly reserved for the Town of Farmington for all building activity in the town of Farmington.
  - (7) Pursuant to RSA 674:51 the Town of Farmington hereby adopts additional regulations that are not less stringent than the requirements of the state building code pursuant to this chapter and the state fire code pursuant to RSA 153.
  - (8) The contractor of a building, building component, or Structure shall be responsible for meeting the minimum requirements of the state building code. No municipality shall be held liable for any failure on the part of a contractor to comply with the provisions of the state building code.
  - (9) Nothing in this ordinance shall be construed as amending, repealing, or superseding any local law, ordinance, code, or regulation, except local building

code requirements that are less stringent than the state building code, and all buildings, building components, and Structures shall comply with all applicable state or local building and fire code requirements, land use restrictions including but not limited to subdivision regulations, use and location restrictions, density and dimensional limitations, or historic district laws or ordinances.

(B) Definitions.

- (1) **Building** means building as defined by RSA 155-A:1.
- (2) **“New Hampshire Building Code”** or **“state building code”** means the building code as defined by RSA 155-A:1.
- (3) **“Person”** means any individual or organized group of any kind, including partnerships, corporations, limited liability partnerships, limited liability companies, and other forms of association, as well as federal, state or local instrumentalities, political subdivisions, or officers.
- (4) **“Structure”** means Structure as defined by RSA 155-A:1.

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

- (1) **Fencing.** Every outdoor pool shall be completely surrounded by a fence or wall not less than four (4) feet in Height, which shall be so constructed as not to have openings, holes or gaps larger than four (4) inches in any dimension, except for doors and gates; and if a picket fence is erected or maintained, the horizontal dimension shall not exceed four (4) inches. A dwelling house or accessory building may be used as part of such enclosure.
- (2) **Gates.** All gates or doors opening through such enclosures shall be securely closed at all times when not in actual use.
- (3) **Pools to which provisions are applicable.** The requirements of this ordinance shall be applicable to all existing swimming pools hereafter constructed which have the capability of accommodating a depth of at least eighteen inches (18”) of water; provided, however, that no existing or proposed above-ground swimming pool shall be governed by these provisions unless it shall in fact be filled to a depth of eighteen inches (18”) or greater of water.
- (4) **Exceptions.** Above ground pools with walls in excess of thirty-six (36) inches above the surrounding final grade shall, for the provisions of this chapter, be considered as fenced so long as any means of egress, i.e., ladders, stairways, etc. are removed or rendered impassible, whenever said pool is not in actual use.

(D) **Building Permit Required.** No person shall commence construction, alteration, installation, electrical or plumbing work, removal, or demolition of a building or Structure without obtaining a written permit for the same from the Building Inspector/Code

Enforcement Officer and paying a fee in accordance with the fee schedule approved by the Board of Selectmen.

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

## 5.15 SLUDGE

- (A) To protect the public health and welfare, and to protect surface and groundwater resources, the stockpiling and land spreading of municipal sewage sludge and industrial paper mill sludge is not allowed in the Town of Farmington.
- (B) This section shall not apply to sewage/septage/sludge generated within the Town of Farmington.
- (C) This section shall not apply to Class A sludge-derived products sold by the bag to home gardeners.

## 3.16 RECREATIONAL VEHICLES, RECREATIONAL VEHICLE PARKS, AND CAMPGROUNDS

- (A) Where allowed, Recreational Vehicle Parks and Campgrounds shall meet the following special conditions:
  - (1) Occupancy by long-term tenants is limited to: May 1<sup>st</sup> to October 1<sup>st</sup> of each year.
  - (2) Occupancy by tenants after October 1<sup>st</sup> and before May 1<sup>st</sup> is limited to no more than four (4) weeks total, whether consecutive or not, in the Town of Farmington.
  - (3) Accurate account of information and/or registration (in the case of parks/campgrounds) must be kept on all tenants and guests along with date of occupancy and their permanent address of residence.
  - (4) Vehicles and facilities shall be maintained in such a manner that is required by applicable codes, regulations and ordinances and shall be subject to inspection by appropriate officials without notice.
  - (5) That all Recreational Vehicle Parks and Campgrounds be licensed and renewed every April 1<sup>st</sup>.
- (B) Temporary Use and Storage of a Recreational Vehicle outside of Recreational Vehicle Parks and Campgrounds:

Unless otherwise prohibited or restricted by this Ordinance or State law, no more than one (1) recreational vehicle may be located on a lot and it may be occupied by the owner, owner's family or the owner's friends, collectively, for no more than 30 days at a time in any 90 day period, in any District except the Commercial Business and Industrial Business Districts. **A permit from the Code Enforcement Office must be obtained for occupation of a recreational vehicle for any period of time longer than 30 days in any 90 day period.** Notwithstanding the above, recreational vehicles must comply with all other provisions of this Zoning Ordinance, Town regulations and State law.

Unless otherwise prohibited or restricted by this Ordinance or State law, the storage only of a functioning, moveable recreational vehicle is allowed in any District without a permit. The storage of more than one (1) recreational vehicle is not permitted on any lot.

The following words or phrases are hereby defined for the purpose of this article.

The following words or phrases are hereby defined for the purpose of this article.

**Recreational Vehicle Park:** Any tract or parcel of land occupied or intended for occupancy by two (2) or more recreational vehicles.

**Recreational Vehicle:** "Recreation vehicle" shall mean a self-propelled or towed vehicle that is equipped to serve as temporary living quarters for recreational, camping, or travel purposes and is used solely as a family or personal conveyance. (RSA 259:84-a)

**Tenant:** Any person that rents, uses, or lives in a recreational vehicle.

**Long-Term Tenant:** Any tenant that is renting, using, or living in a recreational vehicle within the Town of Farmington for more than three (3) continuous weeks.

### 3.17 OPEN SPACE – RESIDENTIAL CLUSTER DEVELOPMENT STANDARDS.

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

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

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

objectives.

(C) **Objectives**

- (1) To encourage greater flexibility and creativity in design.
- (2) To conserve tracts of land of suitable size with productive soils for continued agricultural and forestry use.
- (3) To encourage the maintenance and enhancement of habitat for plant and animal communities, including rare species.
- (4) To minimize site disturbance and erosion through retention of existing vegetation and avoiding development in sensitive areas.
- (5) To conserve land that protects water quality and quantity, including watersheds and buffers along streams and rivers, wetlands and floodplains, ponds and lakes, and land overlying aquifers.
- (6) To further protect water quality by minimizing runoff through reduction of land area covered by impervious surfaces
- (7) To protect unique natural features, scenic views and other special elements of rural character.
- (8) To conserve and maintain historic settings, stone walls, archeological sites and structures that serve as significant visible reminders of the town's history.
- (9) To provide for outdoor recreational needs of the subdivision's residents, including trails, scenic beauty, and greens or playgrounds for larger subdivisions.
- (10) To contribute where possible to a town-wide trail network for the health, enjoyment and safe travel of residents and, where practical, to retain open space accessible to the general public.
- (11) To allow siting of infrastructure and the provision of public services in a manner that is efficient and economical for developers and for the community at large.
- (12) Encourage flexible road design that will contribute to and enhance a rural atmosphere and maintain acceptable safety design.
- (13) To provide opportunities to create a diverse housing mix.
- (14) To create compact neighborhoods accessible to open space amenities and with a strong community identity and quality of life.
- (15) To encourage development that is harmonious with the existing landscape features.

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

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

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

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

- (1) An initial Preliminary Open Space Review shall be required with the Board prior to review by the Technical Review Committee and prior to Subdivision Review. The purpose of Preliminary Open Space Review shall be to determine the approximate Development Yield for the parcel. For this hearing, the applicant shall provide to the board an Existing Conditions Plan prepared by a licensed land surveyor. No preliminary subdivision design is required.
- (2) The applicant shall also receive site design input from the Board and estimation of the Density Bonus Allowance from which Development Yield is determined per paragraphs (I) through (N). **The final Density Bonus Allowance can only be determined through subsequent review of the complete plan.**
- (3) The applicant shall then develop the proposed plan to a point at which the plan is eligible for technical review adhering as closely as possible to the conditions upon which the Development Yield was determined.
- (4) The application shall then begin technical review, followed by the Open Space-Residential Cluster Development Review outlined in this section and in accordance with the other applicable procedures adopted by the planning board
- (5) In all particulars not otherwise addressed in this ordinance, all applications shall meet those requirements set forth in the relevant sections of the Subdivision Regulations of the Farmington Planning Board.
- (6) Where the provisions of the Subdivision regulations conflict with the provisions of this section, the provisions of paragraph (R), "Other Regulations Applicable" shall apply.

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

development that is consistent with this ordinance, regulations and the Master Plan for the Town of Farmington.

- (B) **Minimum Requirements.** The provisions of this section are minimum development requirements. Each Tract of land possesses different, unique development characteristics and limitations, and the Open Space-Residential Cluster Development use allowed on any particular Tract will be a function of innovative land planning and subdivision design interacting with the special characteristics and limitations of the site while remaining consistent with the purpose and objectives of this section.
- (C) **Tract Frontage.** The minimum Tract frontage for the development shall be a contiguous 50 feet and of sufficient length to provide safe access for a right-of-way. At least one access shall be within the minimum Tract frontage. The minimum Tract frontage and access shall be within the Town of Farmington.

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

(I) **Baseline Density.** Baseline Density shall be determined by the following Baseline

Density Formula:

<b>Formula:</b>	
	Total Parcel Area
<b>Minus</b>	Non-Buildable Land (see def'n)
<b>equals</b>	Area Remaining
<b>x 0.9</b>	(subtracts 10% for roadways)
<b>equals</b>	Net Area
<b>divided by</b>	lot size for zoning district
<b>equals</b>	Baseline Density (see def'n)

<b>Example:</b>	
100	acres total Tract size
-	
26	acres Non-Buildable Land
=	
74	acres (buildable)
x	
0.9	roadway factor
=	
66.6	acres net
÷	
2	acres (lot size in sample district)
=	
33.3	Units – rounded to <b>33 Units</b>

(J) **Density Bonus.** The Density Bonus shall be applied to the number of lots achievable under the Baseline Density. Except as noted in paragraph (H), the minimum Density Bonus, regardless of percentage achieved, shall be one lot. If required criteria are met, the Board may award the development additional Density Bonuses provided in Paragraph (N). The total Density Bonus awarded to a particular development authorized under this section for innovative protection bonuses **shall not exceed 35%** of the Baseline Density. Where a final number is .5 or greater, the Density Bonus may be rounded up to the next whole number.

**Density Bonus Example:**

*If the Baseline Density calculated with the Baseline Density Formula equals 33 units, the maximum density bonus allowed shall not exceed 35% of 33 units or 11.5 units (rounded to 12 units).*

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

**Development Yield Example:**

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

**(L) Minimum Open Space Requirements**

- (1) At least 40% of the Open Space-Residential Cluster Development Tract shall be Open Space permanently protected through one or more of the methods in paragraphs 3. and 4. below.
- (2) The Open Space shall not include land covered by structures, such as dwellings, garages, storage sheds, patios, parking areas, driveways, street rights-of-way and aboveground utilities. The designated Open Space shall not be used for additional building lots.
- (3) As a condition of approval of any subdivision Plat, the Open Space shall be permanently protected in perpetuity and the applicant shall choose one or more of the following methods of conveyance prior to, or simultaneous with the recording of the subdivision Plat at the Registry of Deeds:
  - (a) to the Town of Farmington, under the management of the Conservation Commission, and accepted by the Board of Selectmen for park, open space or other specified conservation uses;
  - (b) to the State of New Hampshire for permanent open space uses;
  - (c) to a private non-profit organization which is exempt from tax under Section 501 (c)(3), or similar provision of the Internal Revenue Code, and whose principal purpose is the conservation of open space and has the financial and organizational means for perpetual stewardship;
  - (d) to a corporation, trust, or other entity, such as the Homeowners' Association; or
  - (e) to a private landowner that will manage it for uses consistent with the objectives of this Article.
- (4) Conveyances of land to the Town or State, under Section (L)3(a), (L)3(b)above, will be subject to permanent deed restrictions. Conveyances of land to private entities, under Section (L)3(c) through (L)3(e) will be subject to a permanent Conservation Easement granted to the Town of Farmington or to an organization qualified under Section (L)3(c) above, and recorded at the Strafford County Registry of Deeds. Provision of such deed restrictions or conservation easements are subject to the approval of the Planning Board and shall include:
  - (a) no further subdivision,
  - (b) no residential or industrial development.
  - (c) no roads or commercial uses except for agriculture, forestry or outdoor recreational activities conducted according to best management practices.

General public access to the Conservation Areas will not be required unless the land is conveyed in fee simple to the Town or State or a specific public trail corridor

easement is proposed. Except in the aforesaid cases, the rights to post land and limit public access will remain with the landowner.

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

**(M) Open Space Criteria and Layout**

- (1) The required Open Space shall not contain more than 35% Non-Buildable Land. No portion of public utility easements, of any kind, may be considered part of the minimum required open space.
- (2) The Open Space shall conform to the requirements of this section, and shall be designated as undivided parcels to facilitate easement monitoring, enforcement, and maintenance, and to promote land management consistent with deed restrictions, easements, or the Planning Board approved subdivision plan. Land management shall be consistent with the goals of the Base Zoning District in which the Open Space-Residential Cluster Development is located and those of this Open Space-Residential Cluster ordinance.
- (3) As part of the application under this Section, the subdivision plan (Final Plat) shall:
  - (a) be recorded at the Registry of Deeds; and
  - (b) clearly delineate Open Space and monumentation; and
  - (c) indicate that development is restricted from the Open Space in perpetuity; and
  - (d) contain any other information required in this ordinance, including but not limited to the Conditions of Approval specifically related to the final use and development of the site, such as relevant portions of section N. below.

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

- (4) Open Space land shall consist of at least one contiguous, undivided preserve that equals or exceeds 65% of the total Open Space. All Open Space land shall be placed in undivided preserves that equal or exceed 3 acres. All Open Space parcels between three (3) and ten (10) acres shall have a length to width ratio equal to or less than 4:1; except such areas specifically designated and constructed as village greens, ballfields, upland buffers to wetlands, waterbodies or water courses, or trail links. Areas less in size or dimensional requirements may be considered Common Area left open, but shall not be included in the minimum required open space calculation.
  - (5) Open space shall be directly accessible to the largest number of lots within the development as is practicable.
  - (6) Safe and convenient pedestrian access to open space shall be provided from all lots not adjoining the open space
- (N) **Density Bonus Allowances.** The Board shall, on a case-by-case basis and when specifically requested to do so by the applicant, determine the bonus percentage to be granted based on the quality of the bonus scenario proposed. Applicants shall be eligible for 0% OR 5% OR 10% of the Baseline Density depending on the degree to which they meet the following criteria. While developments may meet the requirements for many or all of the following bonus scenarios, **the maximum Density Bonus allowed by paragraphs a) through j) below shall not exceed 35% of the Baseline Density.**
- (1) **Open Space Bonus** **0%, 5% OR 10%**
    - (a) The proposed Open Space Cluster plan shows 50% or more of the total parcel as permanently protected open space.
    - (b) The entirety of the Open Space consists of 25% or less Non-Buildable Land
    - (c) The open space is of a particularly high quality for natural resource protection or recreation and for which other bonuses are not concurrently being sought.
    - (d) More than 90% of the total Open Space is in one undivided parcel.
  - (2) **Public Access Bonus** **0%, 5% OR 10%**
    - (a) The public is granted access to the open space.
    - (b) The nature of public access required to trigger this bonus is pedestrian traffic. The instrument granting access, acceptable to the Planning Board, may reasonably restrict the use of motorized vehicles.
  - (3) **Agricultural Lands and Use Bonus** **0%, 5% OR 10%**
    - (a) The development protects agriculturally valuable lands
    - (b) Legally binding instruments provide permission for the use of the Open Space for active agricultural activity in perpetuity.

- (c) The open space portion preserved for agricultural use must amount to a minimum of 50% of the minimum required open space.
- (d) The number of acres of farmland preserved is a high percentage of the minimum Open Space reserved.

**Buffers to agricultural uses shall be required by the planning board to ensure that residential development does not unreasonably limit the pursuit of agricultural activities conducted in Open Space,**

- (4) **Tree Farm Bonus** **0%, 5% OR 10%**
  - (a) Developments that protect valuable woodland areas by placing Tracts in the American Tree Farm Program.
  - (b) A Forest Management Plan prepared by a licensed NH forester.
  
- (5) **Viewshed Bonus** **0%, 5% OR 10%**
  - (a) The development protects lands or corridors of land that contribute to the visual landscape of the town, including items such as open fields containing stonewalls, mature stands of trees, visible water bodies and their natural buffers.
  - (b) The development screens proposed structures in such a way that the visual impact of the development is minimized from either near or distant vantage points.
  - (c) Viewsheds that are identified as important for preservation in the Master Plan.
  
- (6) **Historic Bonus** **0%, 5% OR 10%**
  - (a) Where the development protects historically significant structures and landscapes, identified as such in the Master Plan, that include features and associated uses that are maintained and visually separated from the developed portion of the cluster development.
  - (b) Structures or landscapes not identified as such through the Master Plan may be determined by sufficient evidence presented to the Planning Board during review of the cluster development.
  - (c) Comment on the preservation of historical significance submitted by a qualified authority such as the NH Department of Historical Resources, the NH Historical Society, or the Farmington Historical Society.
  - (d) Listing or eligibility for listing on the National Register of Historic Landmarks, or other qualified statements of historic value.
  
- (7) **Wildlife Bonus** **0%, 5% OR 10%**
  - (a) Protection of valuable wildlife and environmental areas that are otherwise buildable land
  - (b) Prepared environmental resource inventory by a qualified wildlife biologist specializing in either flora or fauna (Reports by a wetlands or soil scientist shall not satisfy this criterion).

- (8) Greenway and Trail Bonus** **0%, 5% OR 10%**
- (a) Developments that link open space parcels or trail corridors through the site with existing trails or open space networks.
  - (b) The beginning of such a network or trailway may be considered as “linking” where reasonable opportunity is present for establishing through corridors into neighboring parcels.
  - (c) Conservation Commission recognizes the reserved area as valuable to the completion of a trail network.
  - (d) Greenways or trail corridors identified as areas of importance in the Master Plan.
- (9) Recreational Bonus** **0%, 5% OR 10%**
- (a) Developments reserve recreational areas suitable for playgrounds, playing fields, courts, swimming pools or other active recreation in close enough proximity to residential structures such that residents can monitor the use of the areas.
  - (b) Playground facilities, courts, swimming pools or other equipment adequate to service the likely youth population of the development are installed as a condition of the approval.
- (10) Frontage Lot Bonus** **1 Lot per Frontage Lot preserved**
- (a) For every Frontage Lot, no part of which has been used to qualify for Open Space Bonuses as herein provided, but which is not developed and is instead added to Open Space lands, the development shall receive an additional bonus of one (1) lot for each lot so preserved.

**(O) General Requirements.**

- (1) Conformance.** – All proposed Open Space–Residential Cluster Development subdivisions shall be in conformance with the provisions of all pertinent state and local codes, ordinances and regulations as required in Section (R), below.
- (2) Uses.** – Uses permitted within an Open Space-Residential Cluster Development shall be limited to the following:
- (a) Residence, Single Family.
  - (b) Residence, Duplex.
  - (c) Residence, Multi-family: **(Not allowed in the AR District)** up to four (4) units per building or structure. These are units structurally joined and share walls with no yard between units.
  - (d) Residence, Joined-Array units: **(Not allowed in the AR District)** Single-family units that are attached by and share a common yard and/or fence as part of a tightly-constructed joined-array, not to exceed four joined units, shall be considered single family units when determining setbacks to other arrays

or detached units but shall not require setbacks from each other provided that yard space at least 10 feet wide is available for individual use between units. In no case shall structures be less than 20 feet apart.

- (e) Agricultural uses in conjunction with designated Open Space.
- (f) Recreational uses in conjunction with designated Open Space.
- (g) Limited commercial uses that are clearly subordinate to recreational and/or agricultural uses associated with the designated Open Space.
- (h) Manufactured housing as defined in RSA 674:31 shall not be allowed in Open Space-Residential Cluster Developments per this section as granted by RSA 674:32

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

**(3) Lot Frontage.**

- (a) Each single-family unit shall have a minimum 50' of frontage on interior roadways.
- (b) Duplex units, sharing a common wall shall have a minimum 75' of frontage per duplex unit.
- (c) Joined-Array single family units shall have a minimum 125' of frontage per joined array.
- (d) Multi-family unit structures, sharing a common wall shall have a minimum 100' of frontage for three (3) unit structures per three (3) unit multi-family structure and a minimum 125' of frontage for four (4) unit structures per four (4) unit multi-family structure.
- (e) All lots on existing streets/roads just meet required frontage of that particular zone.

**(4) Setbacks.** The following setbacks shall apply to all residential structures within the development:

- (a) Setbacks from exterior property lines of the Tract shall be 50' for single-family detached units, with an additional 15' per unit for multi-unit structures (e.g. 4 units attached = 110').
- (b) 15' setback from the edge of the right of way roadways within, and part of, the development.

- (c) 40' structural separation for all single family unit structures within the development
- (d) 50' structural setback for multi-family units from all other structures.
- (e) 10' structural setback from all lot lines.

**(5) Lot Configuration and Size.**

- (a) Lots shall be delineated and shall include a reasonable amount of land surrounding each unit or structure for the exclusive use of the lot holder.
- (b) All lots utilizing on-site septic and water supply shall be sized in accordance with State of New Hampshire Department of Environmental Services Administrative Rules for soil based lot sizing.
- (c) The maximum lot size shall be the minimum lot size required by the underlying Zoning District or according to b above – whichever is greater.

**(6) Utilities.** All utilities serving the development shall be installed underground. Waivers to this requirement may be granted by the Planning Board on some portions of the site if it is determined to be impractical due to the presence of ledge, wetlands or other impediments.

**(7) Parking.** Off-street parking shall be provided for two (2) cars per unit.

**(8) Buffers.** The planning board may establish reasonable buffers to ensure that potentially conflicting uses are adequately segregated.

**(9) Roadways.**

- a) The design of the road network shall provide for access to adjacent developed areas, or shall reserve right-of-ways for future connection to adjacent properties that , in the judgment of the Planning Board, are likely to be developed. This objective, however, shall be secondary to the goal of protecting open space.
- b) Roadways within Open Space-Residential Cluster Developments, whether intended to be public or private, shall be constructed in accordance with the roadway standards set forth in the Farmington Subdivision Regulations.
- c) Waivers to the above roadway requirements may be granted by the Planning Board if it is determined that the spirit and intent of this section is preserved or enhanced by granting said waivers.

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

- (1) Any condominium agreements, deed restrictions, organizational provisions for a Homeowner's Association, or any legal entities providing for ownership of individual dwelling units and a sharing of certain utilities, open space, Common Areas, and auxiliary facilities and structures, shall be approved in writing by the Planning Board and by Town Counsel and any other municipal, county, or state agency, body, commission or department required by law to assure the same.
  - (2) The developer shall submit a suitable legal instrument which to the satisfaction of the Board and/or Town Counsel will assure that such open space and/or Common Area will continue to be used for conservation, agriculture, park or recreation, and shall not be disposed of by sale or otherwise except to any organization or individual actively engaged in, or established for, the purpose of owning and maintaining such open space.
  - (3) The developer shall also provide for adequate maintenance of such Open Space area set aside for conservation, park, or recreation. Such developer shall provide for the insertion in all deeds, in a form approved by the Planning Board and/or the Town Counsel any and all safeguards and conditions suitable to carry out the purposes of these regulations.
  - (4) Such legal instruments shall also provide that the Town of Farmington, its agents, servants, and employees, may, without liability, enter upon such land held for conservation, park or recreation and remove, or cause to be removed, any object, or condition which may be deemed to be a nuisance or in the nature of a nuisance.
- (Q) **Expiration.** Any Special Use Permit shall expire if active and substantial development or building has not begun on the site by the owner or the owner's successor in interest in accordance with the approved subdivision plan or Final Plat within twenty-four (24) months after the date of approval. As part of its approval of a subdivision plan or Final Plat , the Planning Board may, with due regard to the scope and details of a particular project, specify the threshold level of work which shall constitute "active and substantial development or building" for purposes of fulfilling this paragraph. In the event a Special Use Permit expires, a new application for a Special Use Permit must be completed.
- (R) **Other Regulations Applicable.**
- (1) The Planning Board is hereby authorized to adopt sections of the Subdivision Regulations that shall apply to Open Space-Residential Cluster Development.
  - (2) In order to approve a subdivision plan for an Open Space-Residential Cluster Development, and notwithstanding other provisions of the Farmington Zoning Ordinance or Subdivision Regulations, the Planning Board may:

- (a) modify dimensional and other requirements as specified in this Section; and
  - (b) apply conditions as specified in this Section.
  - (c) Such modifications shall not be construed as the granting of a variance to relieve hardship.
- (3) Where provisions of the Subdivision Regulations or Zoning Ordinance are not specifically modified by the Planning Board under the authority of paragraph (R)1 above and where such provisions differ from the authority of this ordinance, the provision which imposes the greater restriction or higher standard shall apply.

The Planning Board shall determine whether the provisions of this ordinance pre-empt other regulations under the authority of paragraph (R)1 above, and/or which provision is applicable.

- (S) Strict adherence to these provisions shall not be construed as establishing a legal right to a Special Use Permit for an Open Space-Residential Cluster Development. Those who wish to pursue their “development rights” to a certain use or development of land should consider developing their land with the permitted, conventional subdivision approaches, or through the variance procedure as provided for by New Hampshire law.
- (T) **Conditions.** The Planning Board may impose additional standards than are required by this Section when the Board determines that, because of unique characteristics of the Tract, an adverse impact would be created by allowing development to be built to the standards delineated in this Section.
- U) **Definitions.**

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

**Common Area** Any parcel or area of land and/or area of water set aside as a result of a Residential Open Space Cluster plan which is not also counted as Open Space. Common Areas are designed for the benefit and enjoyment of the residents of a Residential Open Space Cluster development by supporting accessory structures and improvements necessary and appropriate for educational, recreational, cultural, social or other non-commercial/nonresidential/non-industrial uses, or any utility services utilized by the owners of the Common Area.

**Conservation Land.** dedicated to conservation of forests, park land, etc., with the intent of sustaining ecology, safeguarding water supplies, diminishing flood danger, or maintaining a sustainable working landscape.

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

**Density Bonus.** Additional dwelling units allowed when applicants meet certain requirements. Allowing Density Bonuses increases the Residential Density in exchange for features anticipated to benefit the community.

**Density Bonus, Maximum Allowable.** The Maximum Allowable Density Bonus for which any application shall be eligible.

**Development Yield.** The total yield for Open Space-Residential Cluster development determined by adding Density Bonuses to Baseline Density.

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

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

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

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

**Non-Buildable Land.** Land within a Tract that consist of the following types of land:

- 1) Wetlands as defined elsewhere in this ordinance
- 2) Slopes exceeding a grade of 25%
- 3) Floodways, and floodway fringe within the 100-year floodplain as shown on official FEMA maps.
- 4) Land under permanent easement or deed restriction that has prohibited development (including easements for drainage, access and utilities) or any other land designated as open space or used to comply with minimum requirements for recreation or open space land.
- 5) For the purposes of calculating Baseline Density for Open Space-Residential Cluster Development only, any undeveloped land within the Tract which is located in a municipality abutting Farmington.

**Open Space.** Land area located within the Town of Farmington or as part of a Tract that crosses the Farmington town bounds and which as a condition of Planning Board approval, deed restriction, or conservation easement is permanently protected and which is used to

calculate Density Bonuses under Open Space-Residential Cluster Ordinance paragraphs (M) and (N).

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

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

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

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

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

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

### 3.18 PHASED DEVELOPMENT STANDARDS

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

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

residents of the Town can be adequately served by community facilities as those services are expanded; and

(a) to provide for the current and future housing need of existing residents and their families; and

(b) to insure fairness in the issuance of building permits; and

- (c) to insure that construction costs to builders are not unduly increased by preventing them from erecting or creating several dwelling units as part of one project; and
  - (d) to phase in or control the implementation and development of tracts of land and future subdivisions thereon, at a rate which will be compatible with the orderly and gradual expansion of community services, including but not limited to education, fire protection, road maintenance, waste disposal, police protection and recreation.
- (C) Applicability. This article shall apply to all subdivision applications filed with the Department of Planning and Community Development and which request approval of ten (10) or more building lots.
- (D) Procedure. Phasing Schedule. The Planning Board shall establish a Phasing Schedule of all subdivisions subject to the provision of this article specifying the number of dwelling units per year that can be constructed and the total numbers of years involved.

The following phasing plan shall be employed:

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

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

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

- (E) In establishing the Phasing Schedule pursuant to this article, the Planning Board shall take the following factors into consideration:
- (1) The general character of the neighborhood in which the tract lies, the effect of the plan on the area and the effect of the plan on the rural character of the Town.
  - (2) The area of the tracts usable and suitable for residential construction.
  - (3) The relation of the plan to the long-range plans of the Town as contained in the Town of Farmington Master Plan.
  - (4) The natural terrain of the tract.
  - (5) The impact of the proposed subdivision upon the ability of the Town to provide or expand municipal or community services if it is not phased.
  - (6) The impact of the proposed subdivision upon the ability of the Town to provide or expand municipal or community services if it is phased.
- (F) Limitations In establishing the Phasing Schedule for Open Space – Residential Cluster Subdivision, the Planning Board shall use for the Quantity figure the actual number of units proposed, including all units awarded as density bonuses. The Baseline Density shall not be used for calculations related to the Phasing Schedule.
- (G) Periodic Review The operation of this article shall be reviewed by the Planning Board periodically, but not less frequently than once every three years to insure that the phasing requirements of this article have not become inconsistent with the Town's responsibility and capability in planning, developing and implementing the necessary municipal systems and facilities to serve the growing Town and to ensure that the Town is assuming its fair share of housing growth within its market region.

### 3.19 SEXUALLY ORIENTED BUSINESS STANDARDS

#### **WARNING: THIS BEGINS A SECTION CONTAINING SEXUALLY EXPLICIT LANGUAGE**

- (A) **Authority.** Pursuant to the authority conferred by chapter 674:16 of the New Hampshire Revised Statutes, the Town of Farmington adopts the following ordinance regulating Sexually Oriented Business. This ordinance shall be considered part of the Zoning Ordinance of the Town of Farmington for the purpose of administration and appeals under state law. If any provisions of this ordinance 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 applied.
- (B) **Purpose.** It is the purpose of this Ordinance to regulate Sexually Oriented Businesses and related activities to promote the health, safety, and general welfare of the citizens of the Town of Farmington, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of Sexually Oriented Businesses within the Town of Farmington. The provisions of this Ordinance have neither the purpose nor the effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor the effect of this Ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this Ordinance to condone or legitimize the distribution of obscene materials.
- (C) **Definitions.** For the purposes of this ordinance, the following items shall be defined as stated:
- (1) **ADULT (BUSINESS) BOOKSTORE OR ADULT VIDEO STORE.** A business that utilizes more than 15% of the total display, shelf, rack, table, stand and floor areas for the display and sale of the following:
- (a) Books, magazine, periodicals or other printed matter, or photographs, films, motion picture, video cassettes, slides, tapes, records, cd-roms or other forms of visual or other audio representation which meet the definition of “harmful to minors” and/or “sexual conduct” as set forth in RSA 571-B: 1; or
  - (b) Instrument, devices or paraphernalia, which are designed for use in connection with “sexual conduct” as, defined in RSA 571-B: 1, other than birth control devices.

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

- (2) **ADULT MOTION PICTURE THEATER.** An establishment with a capacity of five or more persons, where for any form of consideration, films, motion picture, video cassettes, slides or similar photographic reproduction are shown, and in which a substantial portion of the total presentation time is devoted to the showing material which meets the definition of “harmful to minors” and/or “sexual conduct” as set forth in RSA 572-B: 1 for the observation by patrons. For subsection c, d, e, and f a “substantial portion of the total presentation time “ shall mean the presentation of films or shows described above for viewing on more than seven days within any 30 consecutive day period.
- (3) **ADULT MOTION PICTURE ARCADE.** Any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled still or motion picture machine, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, in which a substantial portion of the total presentation time of the images so displayed is devoted to the showing of material which meets the definition of “harmful to minors” and/or “sexual conduct” as set forth in RSA 571-B:1.
- (4) **ADULT DRIVE-IN THEATER.** An open lot or part thereof, with appurtenant facilities, devoted primarily to the presentation motion pictures, films, theatrical production and other forms of visual productions, for any form of consideration to persons in motor vehicle or on outdoor seats, in which a substantial portion of the total presentation being presented for observation by patrons is devoted to the showing of material which meets the definition of “harmful to minors” and/or “sexual conduct” as set forth in RSA 571-B:1.
- (5) **ADULT CABARET.** A nightclub, bar, restaurant, or similar establishment which during a substantial portion of the total presentation time features live performances which meet the definition of “harmful to minors” and/or “sexual conduct” as set forth in RSA 571-B: 1 and/or feature films, motion picture, video cassettes slides or other photographic reproductions, a portion of the total presentation of which meets the definitions of “harmful to minors” and/or “sexual conduct” as set forth in RSA 571-B:1
- (6) **ADULT MOTEL.** A motel or similar establishment offering public accommodation for any form of consideration which provides patrons with closed circuit televisions, transmissions, films, motion pictures, video cassettes, slides or other photographic reproduction in which a substantial portion of the total presentation time of which are distinguished or characterized by an emphasis upon the depiction or description of materials which meet the definition of “harmful to minors” and/or “sexual conduct” as set forth in RSA 571-B:1 .
- (7) **ADULT THEATER.** A theater, concert hall, auditorium or similar establishment either indoor or outdoor in nature, which, for any form of consideration, features

live performances, a portion of the total presentation time of which are distinguished or characterized by an emphasis on activities which meet the definition of “harmful to minor” and/or “sexual conduct” as set forth in RSA 571-B: 1

- (8) **NUDE MODEL STUDIO.** A place where a person who appears in a state of nudity, whether male or female, and displayed in a state of sexual arousal and is observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration or such display is characterized by an emphasis on activities which meets the definition of “harmful to minors” and/or “sexual nature” as set in RSA 571-B: 1
- (9) **NUDITY or a STATE OF NUDITY** means the appearance of a human bare buttock, anus, anal cleft or cleavage, pubic area, male genitals, female genitals, or vulva, with less than a fully opaque covering; or a female breast with less than a fully opaque covering of any part of the areola; or human male genitals in a discernibly turgid state even if completely and opaquely covered.
- (10) **SEMI-NUDE OR SEMI-NUDITY** means the appearance of the female breast below a horizontal line across the top of the areola at its highest point. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel provided the areola is not exposed in whole or in part.
- (11) **SEXUAL ENCOUNTER CENTER-** A business or commercial enterprise that as one of its primary business purpose, offers for any form of consideration; (A) physical contact in the form of wrestling or tumbling between persons of the opposite sex; or (B) activities between male and female and/or persons of the same sex when one or more persons is in the state of nudity, or where the activities in (A) or (B) is characterized by and emphasis on activities which meets the definition of “harmful to minors” and/or “sexual conduct” as set forth in RSA 571-B:1.
- (12) **SEXUALLY ORIENTED BUSINESS** means an adult arcade, adult bookstore or adult video store, adult cabaret, adult drive in theatre, adult motel, adult motion picture theater, adult theater, nude model studio, or sexual encounter center as those terms are defined herein.
- (13) **SPECIFIED SEXUAL ACTIVITIES** means and includes any of the following:
  - (a) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts, whether covered or uncovered; or
  - (b) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; or
  - (c) Masturbation, actual or simulated; or

- (d) Excretory functions as part of or in connection with any of the activities set forth in 1 through 3 above.

(D) **Location Restrictions.** A sexually oriented business may only be allowed in the Industrial Business District. For a use to be established under this ordinance the applicant must demonstrate that the proposed site satisfies all the site requirement of the Site Plan Review from the planning board and must obtain a Special Exception from the Zoning Board of Adjustment.

For existing businesses in any district which sells sexually explicit goods, paraphernalia or adult materials, but does not meet the 15% threshold outlined in section 3, such goods and paraphernalia shall be located either behind a counter or in a separate room or enclosure where citizens under the age of 18 are not allowed to enter. Such sexually explicit goods and paraphernalia must be located so the materials in question are not within view of minors.

A sexually oriented business use may only be allowed by the Zoning Board of Adjustment as a special exception, subject to the following conditions:

- (1) No sexually oriented business shall be permitted within 1000 feet of the property line of a church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities.
- (2) No sexually oriented business shall be permitted within 1000 feet of the property line of a public or private educational facility including, but not limited to, child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education school, junior colleges, and universities; school includes the school ground, but does not include the facilities used primarily for another purpose and only incidentally as a school.
- (3) No sexually oriented business shall be permitted within 1,500 feet of the property line of a public park or recreational area which has been designated for park or recreational activities including, but not limited to, a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, skating rink, pedestrian/bicycle paths, or other similar public recreation land which is under the control, operation, or management of the Town or any of its Departments, Boards or Commissions.
- (4) No sexually oriented business shall be permitted within 500 feet of any posted school bus stop.
- (5) No sexually oriented business shall be permitted within 500 feet of a town border.
- (6) No sexually oriented business shall be permitted within 500 feet of the property line of a lot used for residential purposes.
- (7) Sexually oriented business shall only be permitted in single use, freestanding structures. In no instances shall sexually oriented business share premises, facilities or buildings with businesses which are not sexually oriented

- (8) There shall be a minimum of 1000 feet between any two sexual oriented businesses. This shall be measured in a straight line
  - (9) The site shall be maintained daily in a condition that is free and clear of any sexual paraphernalia or packaging
  - (10) No sexually explicit material or advertising shall be visible from outside the building.
  - (11) No one under the age of 18 shall be permitted inside such a use, structure, or business, and a procedure shall be developed to keep those under 18 from entering the building
  - (12) No operator or employee shall have been convicted of a misdemeanor or felony of sexually related nature.
  - (13) No sexually oriented business shall be permitted within 1000 feet of the junction of Route 11 and Route 153.
- (E) **Signage.** Signage shall comply in all respects with all Town of Farmington ordinances, codes or regulations governing signs and in addition shall comply with the provisions of this section. No sign, whether primary or secondary, shall contain photographs, silhouettes, drawings, images or pictorial representations in any manner depicting or making linguistic reference to nudity, semi-nudity, specified anatomical areas, specified sexual activity, or any device or paraphernalia designed for use in connection with specified sexual activity and may contain only the name of the enterprise.
- (F) **Administration.** In addition to meeting the specific conditions set out in this ordinance, no sexually oriented business shall be established without first obtaining a special exception from the Zoning Board of Adjustment. Any such application shall be subject to all of the special exception criteria and discretionary authority of the ZBA set out in section 2.00 (A) & (B) of the general Zoning Ordinance.
- (G) **Public Nuisance.** Violation of the use provisions of this Ordinance is declared to be a public nuisance per se, which shall be abated by the Town of Farmington by way of civil abatement procedures.
- (H) **Limiting Clause.** Nothing in this Ordinance is intended to authorize, legalize or permit the establishment operation or maintenance of any business, building or use which violates any Town of Farmington Ordinance or statute of the State of New Hampshire regarding public nuisances, sexual conduct, lewdness, or obscene or harmful matter or the exhibition or public display thereof.
- (I) **Separability.** The invalidity of any provision of this ordinance shall not affect the validity of any other provisions of this ordinance or of the zoning ordinance as a whole.
- (J) **Effective Date.** This Ordinance shall be enforced from and after passage by the 2004 Town Meeting.

### 3.20 ACCESS MANAGEMENT

- (A) **Authority** – The Town is granted authority to develop zoning ordinances to lessen congestion in streets, secure safety from fires, panic and other dangers and facilitate the adequate provision of transportation under RSA 674:17 (I)(a-j), and RSA 236:13(V) to issue driveway and access permits. The Planning Board regulates subdivision of land under RSA 674:35, and the use and site development of property adjoining highways under RSA 674:43.
- (B) **Purpose** – This ordinance is intended to ensure safe, efficient access to New Hampshire Route 11 to and from non-residential or multi-family lots directly fronting on this state highway, and to encourage smart development and economic development in Farmington. It is in the best interests of the Town and residents to ensure planned and shared future access to NH Route 11 in order to preserve highway capacity and public safety, while allowing planned development of the Route 11 corridor through Farmington. Wherever possible, shared access drives, service roads and access easements should be utilized to implement this ordinance.
- (C) **Applicability** – This Ordinance shall only apply to lots fronting on New Hampshire Route 11, or directly accessing New Hampshire Route 11 over the former railway Right of Way parcel, which require Site Plan or Subdivision approval by the Planning Board. In order to allow for the safest, most efficient circulation of traffic and access to lots along Route 11, the Planning Board may apply the specific provisions of this ordinance on a case by case basis as is appropriate and to ensure safety and reasonable access, without being unduly burdensome to the lot owner.

(D) **Definitions –**

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

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

Cross Access Drive –An easement or service drive providing vehicular access between two or more contiguous sites so that the driver does not need to reenter the public street system.

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

Frontage Road – A private roadway allowing access along the front portion of adjacent properties allowing traffic to move from one site to another without the need to re-enter the Route 11 Corridor.

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

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

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

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

- (E) **Traffic Impact Study** – A Traffic Impact Study may be required when deemed necessary by the Planning Board in its deliberation of the Site Plan application. For all developments over 20,000 sq.ft. in gross floor area, or ten (10) residential dwelling units; or which would involve more than 500 vehicle trips per day, a Traffic Impact Study shall be required.
- (F) **Minimum Distance Between Driveways** – The minimum distance between driveways on the same side of the street shall be in accordance with the following table from the Federal Highway Administration’s *Access Management for Streets and Highways*:

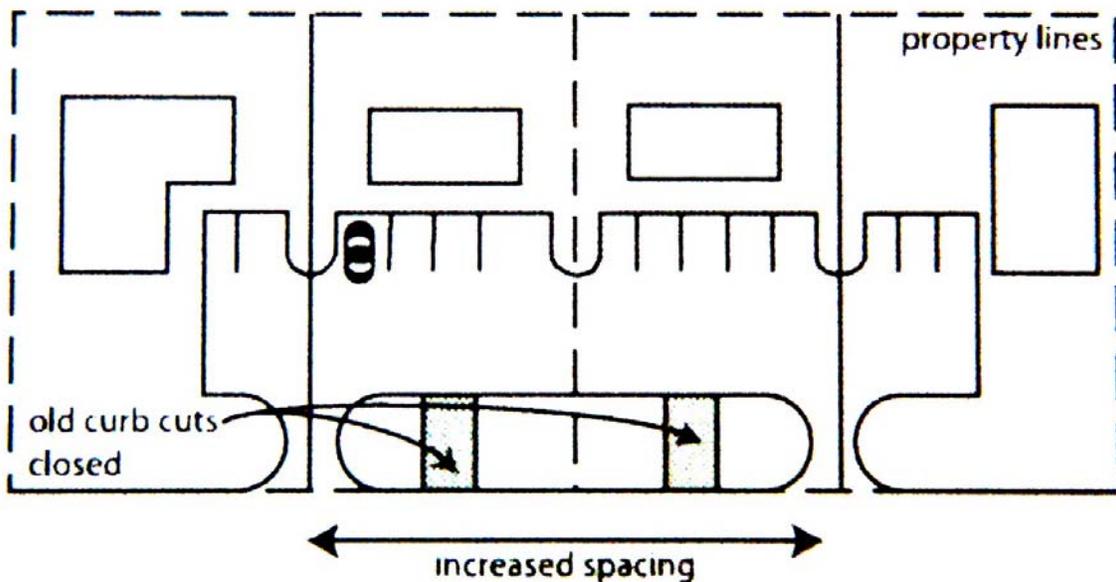
<b><u>Minimum Distance Between Driveways</u></b>	
Highway Speed (mph)	Min. Driveway Spacing (ft.)
35	150'
40	185'
45	230'
50+	275'

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

- (G) **Maximum Number of Driveways Per Lot** – Lots without sufficient frontage to allow the above minimum distance between driveways shall be permitted only one (1) driveway per lot.
- (H) **Shared Driveways** – For all new development or redevelopment adjacent to undeveloped sites, and all other sites when possible, shared access driveways shall be

required to be constructed along the shared lot line. Additionally, access easements granting access to the adjacent or undeveloped site(s) shall be incorporated into the site plan/subdivision, and recorded at the Registry of Deeds.

- (I) **Shared Access** – Wherever possible, easements and actual construction of driveways and or shared access or cross access roads shall be established to allow for future development and access to adjacent non-residential or multi-family parcels along the Route 11 corridor. Such easements shall be recorded at the Registry of Deeds and shall guarantee shared access across adjacent parcels for all parcel owners connecting to the Shared Access Roads(s). Before any application for a shared access is approved, the landowner(s) must submit a maintenance agreement and provide a deeded easement that clearly defines each property owner’s rights and responsibilities.

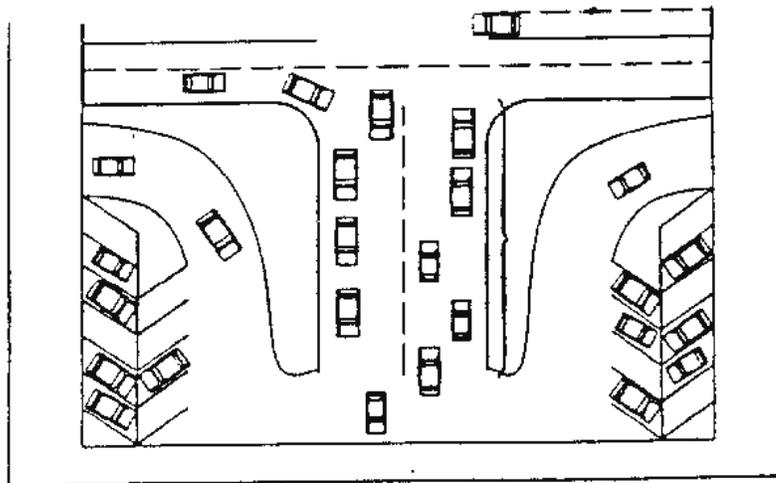


- (J) **Shared Parking** – Wherever possible, when two (2) adjacent lots, both supporting multi-family or non-residential uses exist, cross access and shared parking lots shall be utilized. Before any application for a shared parking is approved, the landowner(s) must submit a maintenance agreement and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

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

- (L) **Access to Lots With Frontage on Multiple Streets** – Lots with frontage on Route 11 and another highway or local street, shall not be permitted to access Route 11, except where it can be proven that other potential access points would cause greater environmental or traffic impacts to the existing land and traffic patterns, or where a greater safety hazard would be created by accessing another highway or local street, or where such access would create a dead end roadway greater than 900 feet in length, as determined by the Planning Board. Where access off Route 11 is desired, a Traffic Impact Study shall be required to provide sufficient evidence for this to the Planning Board, as opposed to access from another highway or local street.
- (M) **Minimum Driveway/Throat Length** – The minimum length of driveways fronting on Route 11 shall be of sufficient length to accommodate on-site stacking of vehicles waiting to enter the site. The design of the driveway shall, to the maximum extent possible, cause no vehicles waiting to enter the site to remain on the highway. If a Traffic Impact Study is required for the site, the minimum length of driveway(s) shall be of sufficient length to accommodate on-site stacking of the maximum number of vehicles as defined by the peak period of operation in the Traffic Impact Study for the site.

**Example of Sufficient Throat Length**



- (N) **Nodal Development** – Wherever possible, development of shared access drives shall be utilized to allow for future growth and development in nodes along the Route 11 corridor, rather than traditional strip development. Wherever multi-structure development is proposed for a single lot, or combination of lots, a shared driveway shall be utilized to provide for access to these structures.
- (O) **Curb Cut Width** - The width for a minor driveway curb cut serving primarily passenger vehicles shall be no greater than twenty-four (24) feet, not including the radii. The width for a major driveway curb cut shall be no greater than thirty-six (36) feet, not including the radii.
- (P) **Angle of Driveway** - Access to the highway shall be at an angle of 90 degrees, wherever

possible.

### 3.21 LANDSCAPING

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

(1) Provide a tree lined streetscaped area abutting the principal right-of-way that shall consist of a mixture of deciduous and/or conifer trees, a minimum of 1" (one inch) in caliper and 2' (two feet) in Height, planted at a minimum rate of one (1) tree per thirty (30) linear feet of Street Frontage. For the purposes of this Section, where the site abuts more than one right-of-way, planting may be made to the principal right-of-way or along additional rights-of-way as determined by the Planning Board. **Applicants are strongly encouraged to maintain existing natural vegetation and to supplement that vegetation where necessary pursuant to these guidelines.**

Where the Planning Board finds that application of these guidelines is impractical, it may waive any part of the guidelines with a written determination of the reason for said waiver.

(2) All nonresidential development of land shall provide landscaping for any part of the project area not used for buildings or other Structures, parking, loading and access ways consisting of grass, trees and/or shrubs. More specifically, landscaped areas shall be used around the perimeter of the site to screen the proposed use from abutting property. Additionally, landscaping shall be used to break up and screen interior elements of the development to create a more pleasing environment.

(3) The property owner or his or her agent shall be responsible for the maintenance, repair, and replacement of all required landscaping materials. All required plant materials shall be tended and maintained in a healthy growing condition, replaced when necessary, and kept free of refuse and debris. All required fences and walls shall be maintained in good repair. Removal of required landscaping materials is prohibited unless approved by the Planning Board.

### 3.22 IMPACT FEES

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

(1) Promote the public health, safety and welfare and prosperity;

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

**(B) Definitions.**

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

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

**(D) Assessment Methodology.**

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

**(E) Administration of Impact Fees.**

- (1) Each in fact impact fee shall be accounted for separately, shall be segregated from the Town's general fund, may be spent upon order of the governing body, and shall be used solely for the capital improvements for which it was collected, or to recoup the cost of capital improvements made in anticipation of the needs for which fees are

collected to meet.

- (2) All impact fees shall be assessed prior to, or as a condition for, the issuance of a building permit or other appropriate permission to proceed with development.
  - (3) Between the date of assessment and collection, the Planning Board may require developers to post security, in the form of a cash bond, letter of credit or performance bond so as to guaranty future payment of assessed impact fees.
  - (4) Impact fees shall be collected as a condition for the issuance of a Certificate of Occupancy; provided however, in projects where off-site improvements are to be constructed simultaneously with a project's development, and where the Town has appropriated the necessary funds to cover such portions of the work for which it will be responsible, the Town may advance the time of collection of the impact fee to the issuance of a building permit.
  - (5) The Planning Board and the assessed party may establish an alternate, mutually acceptable schedule of payment of impact fees.
- (F) Return of Impact Fee.** If the full impact fee assessed under this ordinance is not encumbered or otherwise legally bound to be spent for the purpose for which it was collected within six years, the fee shall be refunded to the assessed party, with any accrued interest.
- (1) Whenever the calculation of the impact fee has been predicated upon some portion of capital improvement costs being borne by the Town, a refund shall be made upon the failure of the Town Meeting to appropriate the Town's share of the capital improvement costs within six (6) years from the date of payment thereof.
- (G) Applicability.** This ordinance shall not be deemed to affect the existing authority of the Planning Board over subdivisions and site plans, including, but not limited to the authority to declare a development to be premature or scattered in accordance with the regulations of the Board and in accordance with RSA 674:36, II (a).

### 3.23 STORAGE UNITS

Definition: A temporary storage unit shall mean a transportable unit, including but not limited to, any container, storage unit, shed-like container or other portable structure, with or without wheels designed and used primarily for temporary storage of building materials (before they are utilized for building purposes), household goods, personal property of any kind and other such materials for use on a limited basis and shall not include storage of hazardous or toxic materials.

- (A) All temporary storage units require a written permit from the Planning, Community Development, and Code Enforcement Department, prior to placing a unit on a property in the Town of Farmington. No fee will be charged for the temporary permit.

- (B) No temporary storage unit shall be used to store solid waste, construction debris or demolition debris.
- (C) Upon request by the Code Enforcement Officer, an owner or user of a temporary storage unit shall provide proof to the Code Enforcement Officer, through documentation or inspection, that the unit is not being used to store said materials.
- (D) The temporary storage unit shall be maintained in good condition.
- (E) Temporary storage units shall meet the zoning setbacks for the district within which it is located. The unit must be located on the property and not in the Town's right of way.
- (F) Temporary use as storage in the event of renovations to a home is limited to a maximum of six (6) months but renewable if conditions warrant.
- (G) After one renewal of the temporary storage unit permit, the Code Enforcement Officer shall reevaluate the need to classify the unit as permanent storage.
- (H) No more than one (1) unit may be placed on a property at any time unless reviewed and approved by the Code Enforcement Officer.

No additions may be attached to the temporary storage unit.

### **END OF SECTION 3.00 – GENERAL STANDARDS**

## SECTION 4.00 OVERLAY DISTRICTS

### 4.01 GROUNDWATER PROTECTION OVERLAY DISTRICT.

#### (A) Authority

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

#### (B) Purpose and Intent

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

#### (C) Definitions

For purposes of this Section 4.01, the following definitions apply:

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

**Farmington Municipal Water System.** The public treatment and distribution system, which consists of water treatment plants, water main pipes, storage tanks, booster stations, and service connections that convey potable water for domestic use, fire protection, and other community uses.

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

**Groundwater Recharge Area.** That area from which water is added to the saturated zone by natural processes such as infiltration or precipitation or by artificial processes such as induced infiltration. (see Chapter 1.14 of the Town of Farmington Zoning Ordinance)

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

**Impervious.** Not readily permitting the infiltration of water.

**Impervious Surface.** For the purpose of containment of regulated substances, a surface through which regulated substances cannot pass when spilled. Impervious surfaces include concrete unless unsealed cracks or holes are present. Earthen, wooden, or gravel

surfaces, or other surfaces which could react with or dissolve when in contact with the substances stored on them are not considered impervious surfaces. [[NH Code of Administrative Rules Env-Wq 401.03\(c\)](#)]

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

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

**Petroleum bulk plant or terminal.** Means that portion of the property where petroleum products are received by tank vessel, pipeline, tank car, or tank vehicle and are stored or blended in bulk for the purpose of distributing such liquids by tank vessel, pipeline tank car, tank vehicle, portable tank, or container.

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

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

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

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

**Seasonal High Water Table.** The depth from the mineral soil surface to the upper most soil horizon that contains two (2) percent or more distinct or prominent redoximorphic features that increase in percentage with increasing depth as determined by a licensed Hydrogeologist, Soils Scientist, Wetlands Scientist, Engineer or other qualified

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

<sup>2</sup> This definition includes a focus on both soil morphology and groundwater hydrology.

professional approved by the Planning Board or the shallowest measured from ground surface to free water than stands in an unlined or screened borehole for at least a period of seven (7) consecutive days. [[Env-Wq 1502.49, DES Alteration of Terrain Rules](#)]

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

**Snow Dump.** For the purposes of this ordinance, a location where snow, which is cleared from roadways and/or motor vehicle parking areas, is placed for disposal off site.

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

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

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

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

**(D) Description and Location of Groundwater Protection Overlay District**

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

**(E) Incorrectly Designated Zones**

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

**(F) Applicability**

This Ordinance applies to all uses in the Groundwater Protection Overlay District, except for those uses exempt under Section L of this Section 4.01.

**(G) Performance Standards**

The following Performance Standards apply to all uses in the Groundwater Protection Overlay District, unless exempt under Section L of this Section 4.01:

- (1) For any use that will render impervious more than fifteen (15) percent, or more than 2,500 square feet, of any lot, whichever is greater, a stormwater management plan that the Planning Board determines is consistent with [New Hampshire Stormwater Manual Volumes 1-3, December 2008, NH Department of Environmental Services](#)<sup>3</sup> shall be provided.
- (2) Animal manures, fertilizers, and compost must be stored in accordance with [Manual of Best Management Practices for Agriculture in New Hampshire, NH Department of Agriculture, Markets, and Food, June 2011](#),<sup>4</sup> and any subsequent revisions.
- (3) Regulated substances stored in regulated containers must be used and stored in accordance with [Env-Wq 401, Best Management Practices for Groundwater Protections](#)<sup>5</sup>:
  - (a) All regulated substances stored in containers with a capacity of five (5) gallons or more must be stored in product-tight containers on an impervious surface designed and maintained to prevent flow to exposed soils, floor drains, and outside drains.
  - (b) Facilities where regulated substances are stored must be secured against unauthorized entry by means of a door and/or gate that is locked when authorized personnel are not present and must be inspected weekly by the facility owner.
  - (c) Outdoor storage areas for regulated substances, associated material or waste must be protected from exposure to precipitation and must be located at least fifty (50) feet from surface water or storm drains, at least seventy-five (75) feet from private wells, and outside the sanitary protective radius of wells used by public water systems.
  - (d) Secondary containment must be provided for outdoor storage of regulated substances in regulated containers and the containment structure must include

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

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

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

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

a cover to minimize accumulation of water in the containment area and contact between precipitation and storage container(s).

- (e) Containers in which regulated substances are stored must be clearly and visibly labeled and must be kept closed and sealed when material is not being lawfully used or transferred from one container to another.
- (4) Prior to any land disturbing activities, all inactive wells on the property, any wells not in use, or any wells not properly maintained, shall be considered abandoned and must be sealed in accordance with [We 604 of the New Hampshire Water Well Board Rules](#)<sup>6</sup> to prevent the well from becoming a conduit for contamination into or within the subsurface.
- (5) Blasting activities shall be planned and conducted to minimize groundwater contamination and in accordance with [The Town of Farmington Earth Removal Regulations](#).

**(H) Permitted Uses**

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

**(I) Prohibited Uses**

The following uses are prohibited in the Groundwater Protection Overlay District:

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

**(J) Conditional Uses**

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

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

Farmington Zoning Ordinance – adopted March 13, 2001, amended March 11, 2003; March 14, 2006; March 13, 2007; March 12, 2008; March 13, 2009; March 9, 2010; March 8, 2011; March 13, 2012; March 12, 2013, March 11, 2014, March 10, 2015, March 8, 2016

- (a) Storage, handling, and use of regulated substances in quantities exceeding fifty-five (55) gallons or six hundred and sixty (660) pounds dry weight<sup>7</sup> at any one time, provided that an adequate spill prevention, control and countermeasure (SPCC) plan is approved by the Code Enforcement Officer/Health Officer. The Code Enforcement Officer/Health Officer shall determine whether the plan will prevent, contain, and minimize releases from ordinary or catastrophic events such as spills, floods or fires that may cause large releases of regulated substances. The SPCC plan shall include:
    - i. A description of the physical layout and a facility diagram, including all surrounding surface waters and wellhead protection areas.
    - ii. Contact list and phone numbers for the facility response coordinator, cleanup contractors, and all appropriate federal, state, and local agencies who must be contacted in case of a release to the environment.
    - iii. A list of all regulated substances in use and locations of use and storage.
    - iv. A description of containment and/or diversionary structures or equipment to prevent regulated substances.
    - v. List of positions within the facility that require training to respond to spills of regulated substances.
  - (b) Any use that will render impervious more than 15 percent or 2,500 square feet of any lot, whichever is greater.
  - (c) Any activities that involve blasting of bedrock.
- (2) In granting such approval the Planning Board must first determine that the proposed use is not a prohibited use (as listed in Section I of this Ordinance) and will be in compliance with the Performance Standards in Section G as well as all applicable local, state and federal requirements. The Planning Board may, at its discretion, require a performance guarantee or bond, in an amount and with surety conditions satisfactory to the Board, to be posted to ensure completion of construction of any facilities required for compliance with the Performance Standards. The Planning Board may establish procedures for the review and approval of conditional use permits, including requirements for information to be submitted with an application for a conditional use permit.
- (3) The planning board may grant a Conditional Use Permit for those uses listed above only after a public hearing and written findings of fact are made that all of the following conditions are met:
- (a) Development and submission of stormwater management and pollution prevention plans which include information consistent with [Developing Your](#)

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

[Stormwater Pollution Prevention Plan: A Guide for Industrial Operators \(US EPA, Feb 2009\)](#).<sup>8</sup> The plans shall demonstrate that the use will:

- i. Meet minimum stormwater discharge setback between water supply wells and constructed stormwater management practices as found within the [Innovative Land Use Planning Techniques: A Handbook for Sustainable Development, Section 2.1 Permanent \(Post-Construction\) Stormwater Management \(NHDES 2008 or later edition\)](#).<sup>9</sup>
- ii. Minimize, through a source control plan that identifies pollution prevention measures, the release of regulated substances into stormwater. Stipulate that expansion or redevelopment activities shall require an amended stormwater plan and may not infiltrate stormwater through areas containing contaminated soils without completing a Phase I Assessment in conformance with ASTM E 1527-05, also referred to as All Appropriate Inquiry (AAI).<sup>10</sup>
- iii. Maintain a minimum of four feet vertical separation between the bottom of a stormwater management practice that infiltrates or filters stormwater and the average seasonal high water table as determined by a licensed hydrogeologist, soil scientist, engineer, or other qualified professional as determined by the Planning Board.

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

**(L) Exemptions**

- (1) The following uses are exempt from the specified provisions of this ordinance as long as they are in compliance with all applicable local, state, and federal requirements:
  - (a) Any private residence is exempt from all Performance Standards.
  - (b) Home Occupations and Home Businesses (see Town of Farmington Zoning Ordinance Section 5.00) are exempt from Section G, Performance Standards, Sections (I),(II),(IV), and (V). (see Section M, Maintenance and Inspection)
  - (c) The sale, transportation, and use of pesticides as defined in [RSA 430:29 XXVI](#) are exempt from all provisions of this ordinance.

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

<sup>9</sup>[http://water.epa.gov/polwaste/npdes/stormwater/upload/industrial\\_swppp\\_guide.pdf](http://water.epa.gov/polwaste/npdes/stormwater/upload/industrial_swppp_guide.pdf)  
<sup>9</sup>[http://des.nh.gov/organization/divisions/water/wmb/repp/documents/ilupt\\_chpt\\_2.1.pdf](http://des.nh.gov/organization/divisions/water/wmb/repp/documents/ilupt_chpt_2.1.pdf)

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

- (2) The following exemptions also apply:
- (a) Any business or facility where regulated substances are stored in containers with a capacity of less than five gallons is exempt from Section G, Performance Standards, Sections (III)(a) through (III)(e).
  - (b) Storage of heating fuels for on-site use or fuels for emergency electric generation, provided that, excluding those used for storing propane, storage tanks are indoors on a concrete floor or have corrosion control, leak detection, and secondary containment in place, is exempt from Section G, Performance Standards, (III)(b).
  - (c) Storage of motor fuel in tanks attached to vehicles and fitted with permanent fuel lines to enable the fuel to be used by that vehicle is exempt from Section G, Performance Standards, Sections (III)(b) though (III)(e).
  - (d) Storage and use of office supplies is exempt from Section G, Performance Standards, Sections (III)(b) though (III)(e).
  - (e) Temporary storage of construction materials on a site where they are to be used is exempt from Section G, Performance Standards, Sections (III)(b) though (III)(e), if incorporated within the site development project within six months of their deposit on the site.
  - (f) Household hazardous waste collection projects regulated under NH Code of Administrative Rules Env-Wm [401.03\(b\)\(1\)](#) and [501.01\(b\)](#) are exempt from Section G, Performance Standards, Sections (III)(b) though (III)(e).
  - (g) Underground storage tank systems and aboveground storage tank systems that are in compliance with applicable state rules ([Env-Or 400](#) and [Env-Or 300](#)) are exempt from inspections under Section M of this ordinance.

**(M) Maintenance and Inspection**

- (1) For uses requiring Planning Board approval for any reason, if required to be recorded at the Registry of Deeds, a narrative description of maintenance requirements for structures required to comply with Performance Standards shall be recorded so as to run with the land on which such structures are located, at the Registry of Deeds for Strafford County. The description so prepared shall comply with the requirements of RSA 478:4-a.
- (2) Prior to issuing a Certificate of Use for a Home Occupation or Home Business within the Groundwater Protection Overlay District, the Public Works Director, with the Code Enforcement Officer and Fire Chief, will verify on site that all regulated substances are stored according to Section G, Performance Standards, Sections (III)(b) through (III)(e), and in accordance with [Env-Wq 401, Best Management Practices for Groundwater Protections](#).
- (3) Inspections may be required to verify compliance with Performance Standards. Such inspections shall be performed by the Code Enforcement Officer at reasonable times with prior notice to the landowner.
- (4) All properties in the Groundwater Protection District using or storing regulated substances (as defined by the Code of Federal Regulations, see definition,

Section 4.01(C)<sup>1</sup>) in containers with a capacity of five gallons or more, except for facilities where all regulated substances storage is exempt from this Ordinance under Section L, shall be subject to compliance inspections under this Section.

**(N) Effective Date**

This ordinance shall be effective upon adoption by the legislative body, March 8, 2016.

#### **4.02 WETLANDS CONSERVATION OVERLAY DISTRICT**

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

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

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

**(B) Location.** The Wetlands Conservation Overlay district is defined as those areas of the Town of Farmington which meet the definition of Wetlands as defined in **Section 1.14**

together with all buffer areas associated herewith as herein provided. In all cases, the precise location of Wetland areas shall be determined by the actual character of the land and the distribution of Wetland indicators. Such determination shall be made by field inspection and testing conducted by a Certified Wetland Scientist or Certified Soil Scientist.

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

**(D) Wetlands Incorrectly Delineated.**

(1) If either the applicant or the Board questions the Wetland Conservation Overlay District boundaries established under this article, the applicant shall engage a Wetland Scientist or Certified Soil Scientist to conduct a field analysis to determine the precise location of the Wetland Conservation District boundaries on the affected properties. The Wetland Scientist or soil scientist shall submit a report of their findings to the Board and the Conservation Commission including, but not limited to, a revised map of the area in question, a written on-site field inspection report and test boring data if applicable.

(2) Upon receipt of the report, the Board in consultation with the Commission may refer it for review to a Wetland Scientist or Certified Soil Scientist of its choosing. The applicant shall be responsible for any and all reasonable costs incurred by the Board in connection with this independent review.

**(E) Designation of Significant Wetlands and Buffer Zones.**

(1) For purposes of this ordinance all Wetlands in Farmington are designated as either Class One, Class Two or Class Three Wetlands. Those Wetlands designated as Class One or Class Two Wetlands, based on an evaluation of the criteria and review standards specified in paragraphs (2) and (3) below, are so significant that they merit protection.

(2) Class one Wetlands are those Wetlands that in and of themselves, based on an evaluation of the functions listed in Ammann, Alan P. and A.L. Stone, March 1991, Method for the Comparative Evaluation of Nontidal Wetlands in New Hampshire, NH DES-WRD-1991-3 are exceptional or irreplaceable in their contribution to New Hampshire's or Farmington's natural heritage and are therefore so significant, either taken alone or in conjunction with other Wetlands, that they merit protection under this ordinance.

(3) Class Two Wetlands are those Wetlands, other than Class One, which based on an evaluation of the functions in the above cited reference, are found to be so

significant, either taken alone or in conjunction with other Wetlands, that they merit protection under this ordinance.

- (4) Class Three Wetlands are those Wetlands which have not been determined by the Commission to be so significant that they merit protection under this ordinance because they have not been evaluated or because when last evaluated were determined not to be sufficiently significant to merit protection under this ordinance.

**(F) Initial Designations.**

- (1) Class One Wetlands: Any wetland designated in accordance with **Section 4.02(E)(2) or Section 4.02(K)** shall be classified as a Class One Wetland.
- (2) Class Two Wetlands shall include all Wetlands shown on the National Wetlands Inventory Maps for the State of New Hampshire encompassing the Town of Farmington, and all Wetlands contiguous to such mapped Wetlands unless determined otherwise by the Commission as provided for in Section 4.02(E)(3) except for the following:
  - (a) Those Wetlands subsequently designated as Class one Wetlands; and
  - (b) The following categories of Wetlands shown on the National Wetland Inventory maps:

Riverine Lower Perennial Open Water (R20W)  
Riverine Lower Perennial Beach/Bar (R2BB)  
Riverine Upper Perennial Open Water (R30W)  
Riverine Upper Perennial Beach/Bar (R3BB)  
Lacustrine Limnetic Open Water (L10W)  
Lacustrine Littoral Open Water (L20W)  
Lacustrine Littoral Beach/Bar (L2BB)

Each Class Two Wetland is presumed, until otherwise determined by the Commission, to serve all of the functions specified in Ammann, Alan P. and A. L. Stone, March 1991, Method for the Comparative Evaluation of Nontidal Wetlands in New Hampshire, NHDES-WRD-1991-3. The functions that make a specific Wetland significant shall be determined pursuant to Section 4.02(E).

- (3) Class Three Wetlands are those Wetlands which are not designated as Class One or Two Wetlands.

**(G) Buffer Zones.**

- (1) Class One Buffers. The Commission may designate a buffer zone contiguous to any Class One or Class Two wetland, that is no greater than one hundred (100) feet outward from the boundaries of the Class One Wetland

- (2) Class Two Buffers. Unless otherwise designated as provided for in Section 4.02(H)(3) or 4.02(K), there shall be a buffer of fifty (50) feet outward from the boundaries of a Class Two wetland.

**(H) Subsequent Designations.** The Commission on its own motion, or acting on petitions in accordance with Section 4.02(K), shall:

- (1) determine whether to reclassify any Wetland to a higher or lower classification.
- (2) determine which functions make any Wetland significant.
- (3) determine whether the size or configuration of a buffer zone adjacent to a significant Wetland should be increased or decreased.
- (4) Wetlands classified by the State of New Hampshire as Prime Wetlands shall be reclassified as Class One Wetlands.

**(I) Permitted Uses.** The following uses shall be permitted in Wetlands using Best Management Practices to protect Wetlands provided such uses are otherwise permitted by the Ordinance. In no case, other than provided below, shall the use include:

- (1) the erection or construction of any Structures or buildings; or
- (2) the alteration of the natural surface configuration of Wetlands by the addition of fill or by dredging.
  - (a) Forestry/tree farming limited to the removal of not more than 50% of the Basal Area of the standing timber in any ten (10) year period, leaving a well-distributed stand of healthy, growing trees.
  - (b) Grazing, Farming, Nurseries and Cultivation and Harvesting of crops using recognized soil conservation practices, including the protection of Wetlands from Pollution caused by fertilizers, pesticides and herbicides used in such cultivation.
  - (c) Wildlife Refuges.
  - (d) Outdoor and parks and recreation purposes, being low intensity uses, not involving Structures, alteration of the terrain, or wheeled vehicles.
  - (e) Education, scientific research, conservation areas and nature trails.
  - (f) Open space as required by the subdivision regulations or the zoning ordinance.
  - (g) Uses incidental to the enjoyment or maintenance of residential property. Such incidental uses shall include maintenance of existing Structures and existing landscape, but shall not include removal, deposition of material from or into a Wetland or draining a Wetland without first being granted a Special Use Permit per Section 4.02(J) of this ordinance.

- (h) The construction of single-family dwellings and accessory uses (i.e., driveways, garages, etc.) excluding septic disposal systems on pre-existing Lots of record as of the effective date of this ordinance (March 10, 1992) except where the Commission has recommended denial of the related Wetlands Board application under **RSA 482-A** and the New Hampshire Wetlands Board, Code of Administrative Rules. Where denial has been recommended, a Special Use Permit under Section 4.02(J) may be applied for.
- (i) The emergency repair of utility poles and lines or the maintenance, reconstruction or routine repair of Structures and facilities (including, but not limited to, public transportation facilities, bulkheads, docks, piers, pilings, paved areas, houses or other buildings) in existence as of March 10, 1992 or additions to such Structures or facilities which does not involve substantial expansion or modification.
- (j) No person shall conduct or maintain other uses without first obtaining a Special Use Permit as described in Section 4.02(J).

(J) **Special Use Permits.** A Special Use Permit shall be granted by the Board, after public notice and hearing, for undertaking the following uses in the Wetlands Conservation District. The application shall be referred to the Conservation Commission, Code Officer and Health Officer, for review and comment at least thirty (30) days prior to the public hearing.

- (1) Streets, roads and other access ways and utility rights-of-way easements, including power lines and pipe lines, docks, piers and other water related Structures; if essential to the productive use of land not so zoned and if so located and constructed as to minimize any detrimental impact of such uses upon the Wetlands.
- (2) Water impoundments for the purposes of creating a water body or Wetland for wildlife, fire safety, on-site detention of surface runoff and/or recreational uses.
- (3) The undertaking of a use not otherwise permitted in the Wetlands Conservation Overlay District, if it can be shown that such proposed use is in accordance with all of the purposes and intentions of the Farmington Zoning Ordinance.
- (4) The Board shall regulate any operation within or use of a Wetland involving removal or deposition of material, drainage, or any obstruction, construction, alteration or Pollution of such Wetlands unless such operation or use is permitted pursuant to Section 4.02(E).
- (5) Any person, natural or otherwise, found to be conducting or maintaining an activity without the prior authorization of the Board, or violating any other provision of this article, shall be subject to the enforcement proceedings and penalties prescribed in Section 4.02(K) and any other remedies provided under the law

- (6) A Special Use Permit shall be valid for a period of two (2) years from the date of issue and shall expire if the use is not implemented and completed by that time, unless an extension is specified and approved by the Board in conjunction with the Commission.
- (K) **Petitions.** The Board, in concert with the Conservation Commission, upon receipt of a petition from an affected land owner, fifteen (15) or more persons in interest, an organization with fifteen (15) or more persons in interest, or on its own motion, shall:
- (1) Determine whether to reclassify any Wetland to a higher or lower classification.
  - (2) Determine which functions make any Wetland significant.
  - (3) Determine whether the size or configuration of a buffer strip associated with a significant Wetland should be modified.
  - (4) Content of Petitions: Any petition shall be in writing and must contain the following information unless waived by the Board.
    - (a) A description of the specific location of the subject Wetland or buffer zone and the location of a USGS topographic map.
    - (b) A description of the specific action (s) sought by the petitioner.
    - (c) A detailed narrative of why the petitioner believes the action (s) sought is consistent with this Ordinance including a discussion of each Wetland function at issue.
    - (d) Copies of all documents which the petitioner intends to rely upon in support of the petition.
    - (e) The names and complete mailing addresses of all persons owning property within or adjacent to the Wetland or buffer strip in question.
    - (f) Such other information as the Board may require.
- (L) **Considerations for Decisions.** The Board shall consider the following in making its decision on an application or petition:
1. The application or petition and its supporting documentation;
  2. Public comments, evidence and testimony from a public hearing;
  3. Reports from the Commission, Health Officer and the Code Officer.
  4. The Board may also consider comments on any application or petition from the Strafford County Soil Conservation District, Strafford Regional Planning Commission, New Hampshire Wetlands Board, US Army Corps of Engineers or other technical agencies or organizations which may undertake additional studies or investigations.
  5. Non-receipt of reports listed herein within the prescribed time frame shall neither delay nor prejudice the decision of the Board.
- (1) **Standards and Criteria for Decision.** The Board shall consider all relevant facts and circumstances in making its decision on any application for a permit, including but not limited to the following:

- (a) The environmental impact of the proposed action, including: (1) the effects on the Wetlands capacity to support fish and wildlife, (2) the prevention of flooding, (3) the supply and protection of ground waters, (4) the control of sediment, (5) the facilitation of drainage, (6) the control of Pollution, (7) the support of recreational activities, (8) the promotion of public health and safety.
  - (b) The character and degree of injury to, or interference with safety, health or the reasonable use of property, including down stream property, which would be caused or threatened by the proposed activity, or the creation of conditions which may do so. This includes recognition of potential damage from: (1) erosion, (2) turbidity, (3) siltation, (4) loss of fish and wildlife and their habitat, (5) loss of habitat having demonstrable natural, scientific or educational value, (6) loss or diminution of beneficial aquatic organisms and Wetland plants, (7) the dangers of flooding and Pollution and (8) the destruction of the economic, aesthetic, recreational and other public and private uses and values of Wetlands to the community.
- (2) **Mitigation.** The following measures shall be used to mitigate adverse impacts on protected functions, other than minimal impact, to the extent necessary to achieve no net undue adverse effect:
- (a) The proposed activity cannot practically be located on the Upland portion of the site in question or on another site owned, controlled or available to satisfy the basic project purpose; and
  - (b) All practicable measures have been taken to avoid adverse impacts on protected functions; and
  - (c) The applicant has evaluated each of the protected functions in accordance with the protocols established in Ammann, Alan P. and A. L. Stone, March 1991, Method for the Comparative Evaluation of Nontidal Wetlands in New Hampshire, NHDES-WRD-1991-3; and
  - (d) The proposed use has been planned and designed to minimize potential adverse impacts on the protected functions; and
  - (e) A plan has been developed for the prompt restoration of any of the adverse impacts on protected functions.
- (3) **Compensation.** In rare cases it may be possible to reduce adverse impacts on protected functions which cannot be avoided through mitigation by compensating for such impacts so that there is no net undue adverse impact. Such compensation measures may include establishing new Wetlands or enlarging the boundaries of an existing Wetland to compensate for the adverse impact of a proposed use. Compensation to avoid undue adverse impacts on protected functions of Class One Wetlands may only be considered upon the showing that the adverse impacts are necessary in the course of meeting a compelling public need to protect public health or safety. Compensation measures will be allowed in either Class One or Class Two Wetlands only to reduce adverse impacts on those protected functions that are compensable. Compensation may be possible for adverse impacts on the following functions (\*):

- \*water storage for flood water or storm runoff.
- \*nutrient retention or sediment trapping.
- \*wildlife habitat.
- \*open space and aesthetics.

***Any compensation plan must demonstrate the following:***

- (a) There will be no net loss of the protected functions or acreage of significant Wetlands, and;
- (b) The compensation measures will be full implemented prior to, or concurrently with, the proposed use; and
- (c) Where practicable, the compensation proposal shall be contiguous to the impacted Wetlands; and
- (d) The compensation measures shall be monitored and managed for a period necessary to insure full replacement of the protected functions in question and any additional period that may be required by subsequent remedial measures but in advent for less than five (5) years; and
- (e) Shall be designed to be self-sustaining following the period for which monitoring or management is required; and
- (f) Adequate financial surety is provided to carry out the proposed compensation including any necessary remedial measures; and
- (g) The replacement Wetland will be permanently preserved by a conservation easement or deed restriction conveyed to a suitable party or by other appropriate means.

(P) **Administration and Enforcement.** The Board is hereby authorized and empowered to adopt such rules and require such reasonable fees as are necessary for the effective administration of this ordinance.

- (1) Upon receipt of any information in writing that this ordinance is being violated, the Code Enforcement Officer shall notify in writing the owner and tenant of the property on which the violation is alleged to occur with a copy of such notification to the Board and the Commission. Where appropriate, the Board and/or Conservation Commission may notify the New Hampshire Wetlands Board and/or the U.S. Army Corps of Engineers of the violation.
- (2) A civil penalty not to exceed the statutory maximum may be imposed for each day that such violation is found by the court to continue after the conviction date or after the date on which the violator received written notice from the Town that he is in violation, whichever is earlier.
- (3) Any penalty awarded by the court for violation of this Article shall be deposited in the Farmington Conservation Fund established under **RSA 36-A:5** after deduction of any fees and costs incurred by the Town that are not otherwise reimbursed. (Adopted March 1992).

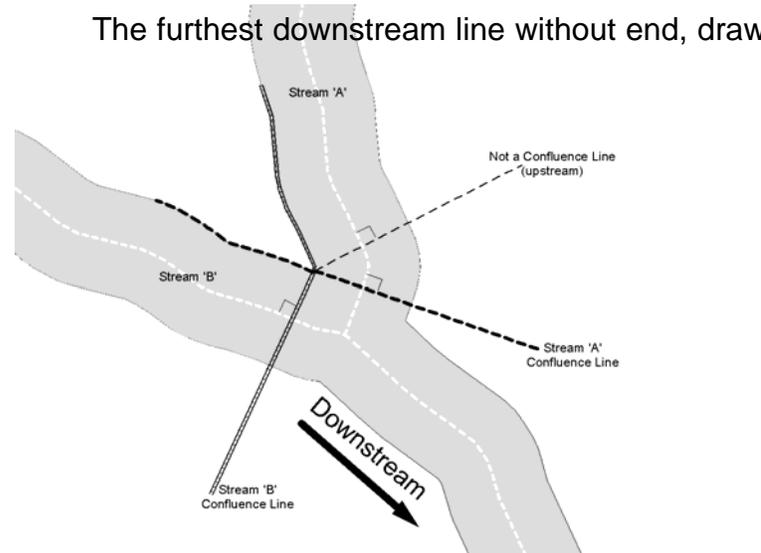
### 4.03 WATERFRONT PROTECTION OVERLAY DISTRICT

The Waterfront Protection Overlay District shall consist of two separate and distinct zones of enforced restrictions. The Setbacks defined in the following zones are not to be construed to limit any other town, state or federal regulations:

**(A) Definitions.**

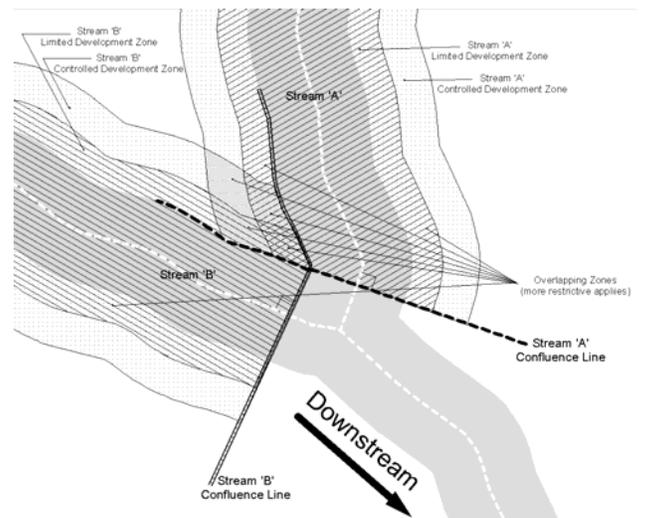
**Confluence Line.**

of the bank, which point is nearest to the confluence and between the two flows, there turning and running upstream along the bank of the second river, stream or flowage.



**(B) Controlled Development Zone.** A Controlled Development Zone comprises all areas that lie within two hundred fifty (250) feet of any water body in the Town of Farmington.

(1) **Permitted Uses.** The Controlled Development Zone shall only be restricted by requiring that all development including but not limited to building, tilling, roads and parking, Timber Harvesting and any other activity that disturbs the natural surface of the land, be conducted with proper erosion control methods that will eliminate unnatural sediments and water velocities from entering a water body.



(2) **Special Use Permit Required.** Any activity that unnaturally changes the water flow (both stage and velocity), water temperature, water chemistry or oxygen content shall not be allowed unless a Special Use Permit has been issued following the procedures listed in Section 4.04(B)(2) and using the considerations and criteria in Section 4.04(B)(3).

**(C) Limited Development Zone.** A Limited Development Zone comprises all areas that lie within one hundred (100) feet of any water body in the Town of Farmington, with the

exception of those areas that lie within the Urban Residential District as defined herein, for which the Limited Development Zone shall comprise all areas that lie within fifty (50) feet of a water body.

(1) **Permitted Uses.** Permitted uses in the Limited Development Zone are:

- (a) Forestry - tree farming using Best Management Practices in order to protect streams from damage and prevent sedimentation.
- (b) Agriculture – cultivation and harvesting of crops according to Best Management Practices, including the protection of the waters from degradation caused by sedimentation and erosion, fertilizers, pesticides and herbicides used in such cultivation.
- (c) Wildlife refuges.
- (d) Parks and recreation uses consistent with the purpose and intent of this ordinance.
- (e) Nature trails, conservation and education areas.
- (f) Open spaces.
- (g) Wells.

(2) **Special Use Permit.** A Special Use Permit shall be granted by the Planning Board when the Planning Board has determined that the criteria contained in Section 4.04(C)(3) have been met, after public notice and hearing for undertaking the following uses within the Waterfront Protection Overlay District. The application shall be referred to the Conservation Commission, the Code Enforcement Officer and the Health Officer for review and comment at least thirty (30) days prior to the public hearing.

- (a) Streets, roads and other access ways; utility right-of-way easements, including power lines and pipelines; docks, piers and other water related Structures, if essential to the productive use of the land not so zoned and if so located and constructed as to minimize any detrimental impact upon Wetlands, waterways and Water Bodies.
- (b) Water impoundments for the purpose of creating a water body or Wetlands for wildlife, fire safety, on-site detention of surface runoff and/or recreational uses.
- (c) The undertaking of a use not otherwise permitted in the Waterfront Protection Overlay District if it can be shown that such proposed use is in accordance with all of the purposes and intentions listed in the Farmington Zoning Ordinance.
- (d) The Planning Board shall regulate any operation within or use of a wetland, waterway or water body involving removal or deposition of material, drainage or any other obstruction, construction, alteration or Pollution of such Wetlands, waterways or Water Bodies unless such operation or use is permitted pursuant to Section 4.04(B)(1).
- (e) Any person (natural or otherwise) found to be conducting or maintaining any activity without prior authorization of the Planning Board or violating any

other provision of this Section shall be subject to the enforcement proceedings and penalties prescribed in Section 4.04(B)(4) and any other remedies provided under law.

- (f) A Special Use Permit shall be valid for a period of two (2) years from the date of issue and shall expire if the use is not implemented and completed by that time, unless an extension is specified and approved by the Planning Board in conjunction with the Conservation Commission.
- (g) Special Use Permits shall not be granted within the limited development zone of the Dick Dame Brook and its tributaries from its Confluence Line with the Kicking Horse Brook to the full extent of its headwaters within the Town of Farmington, nor within the limited development zone of the Mad River and its tributaries, from its Confluence Line with the Cocheco River to the full extent of its headwaters within the Town of Farmington. In addition, any activity otherwise permitted, but which unnaturally changes the water flow (both stage and velocity), water temperature, water chemistry, oxygen content, or natural river gradients is not allowed in either the controlled development zones or the limited development zones of the Dick Dame Brook and Mad River waterways.

(3) **Considerations for Decisions (Special Use Permits).** The Planning Board shall consider in making its decision on an application:

- 1. The application and its supporting documentation;
- 2. Public comments, evidence and testimony from a public hearing;
- 3. Reports from the Conservation Commission, the Health Officer and the Code Enforcement Officer;
- 4. The Planning Board may also consider comments on the application from Strafford County Soil Conservation District, Strafford Regional Planning Commission, New Hampshire Wetlands Board, the U.S. Army Corps of Engineers or any other technical agencies or organizations which may undertake additional studies or investigations;
- 5. Non-receipt of reports listed herein within the prescribed time frame shall neither delay nor prejudice the decision of the Planning Board.

(a) **Standards and Criteria for Decision (Special Use Permits).** The Planning Board shall consider relevant facts and circumstances in making its decision on any application or Special Use Permit, including but not limited to the following:

- [1] The environmental impact of the proposed action, including:
  - [a] the effects on the capacity to support fish and wildlife,
  - [b] the prevention of flooding,
  - [c] the supply and protection of surface waters,
  - [d] the control of sediment,

- [e] the facilitation of drainage,
  - [f] the control of Pollution,
  - [g] the support of recreational activities,
  - [h] the promotion of public health and safety.
- [2] The character and degree of injury to, or interference with safety, health or the reasonable use of property, including downstream property, which would be caused or threatened by the proposed activity or the creation of conditions which may do so. This includes recognition of potential damage from:
- [a] erosion,
  - [b] turbidity,
  - [c] siltation,
  - [d] loss of fish and wildlife and their habitat,
  - [e] loss of habitat having demonstrable natural, scientific or educational value,
  - [f] loss or diminution of beneficial aquatic organisms and Wetland plants,
  - [g] the dangers of flooding and Pollution.
  - [h] the destruction of the economic, aesthetic, recreational and other public and private uses and values of Wetlands, waterways and Water Bodies to the community.

(4) **Administration and Enforcement.**

- (a) The Planning Board is hereby authorized and empowered to adopt such rules and require such reasonable fees as are necessary for the effective administration of this ordinance.
- (b) Upon receipt of any information in writing that this ordinance is being violated, the Code Enforcement Officer shall notify in writing the owner and tenant of the property on which the violation is alleged to occur with a copy of such notification to the Planning Board and the Conservation Commission. Where appropriate, the Planning Board and/or Conservation Commission may notify the New Hampshire Wetlands Board and/or the U.S. Army Corps of Engineers of the violation.
- (c) A civil penalty not to exceed the statutory maximum may be imposed for each day that such violation is found by the court to continue after the conviction date or after the date on which the violator received written notice from the Town that he is in violation, whichever is earlier.

- (d) Any penalty awarded by the court for violation of this Section shall be deposited in the Farmington Conservation Fund established under RSA 36-A:5 after deduction of any fees and costs incurred by the Town that are not otherwise reimbursed. (Adopted March 1992).

#### 4.04 FLOODPLAIN PROTECTION OVERLAY DISTRICT

- (A) **Flood Plain Development Performance Standards.** All development within a flood plain shall conform to the Town of Farmington Flood Plain Development Ordinance (adopted September 1988, amended March 8, 1994, amended March 14, 2001).
- (B) All development within a flood plain shall conform to the Town of Farmington Flood Plain Development Ordinance. The Farmington Flood Plain Ordinance shall apply to all lands designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its "Flood Insurance Study for the County of Strafford, NH dated May 17, 2005 or as amended, together with the associated Flood Insurance Rate Maps dated May 17, 2005 or as amended, which are declared to be a part of this ordinance and are hereby incorporated by reference.

#### 4.05 LANCELOT SHORES OVERLAY DISTRICT

- (A) **Purpose:** Lancelot Shores is a pre-existing subdivision comprised of parcels that are non-conforming under the requirements of the Agricultural Residential zoning district. The Planning Board recognizes the hardship this creates for property owners seeking to build or remodel homes on these parcels. The Planning Board's intent in creating this overlay district is to relieve property owners of some of this hardship, specifically with regard to the front (street) setback.

The purpose of creating this overlay district is to allow a front (street) setback that is reasonable given the size and configuration of lots within the Lancelot Shores subdivision.

- (B) **Standards:** All buildings and Structures shall be erected, structurally altered, enlarged, or moved, and all land within the Lancelot Shores Overlay District shall be used in accordance with Table 2.01 (B) – Space and Bulk Standards - Agricultural Residential District, with the exception of the Minimum Front Setback.
- (C) **Minimum Front Setback:** The minimum front setback for parcels located in the Lancelot Shores Overlay District shall be 25 feet.
- (D) **Description and Location:** The Lancelot Shores Overlay District shall include the land within sections 1, 2 and 3 of the Lancelot Shore subdivision as shown on following plans recorded at the Strafford County Registry of Deeds:

1. Plan Section I, Land of Great Northern Land Corporation in Farmington, N.H. Dated August 1965 and recorded at Pocket #9, Folder #4, Plan #3;
2. Plan Section II, Lancelot Shores, Great Northern Land Corporation, Farmington, N. H. Dated June 1966 and recorded at Pocket #9, Folder #4, Plan #3A; and
3. Plan Section III, Lancelot Shores, Great Northern Land Corporation, Farmington, N.H. Dated September 15, 1966 and recorded at, Pocket #9, Folder #4, Plan #3B.

#### 4.06 ROUTE 11 BUSINESS NODE OVERLAY DISTRICT

**(A) Authority**

This Section is enacted in accordance with the provisions of NH RSA 674:21 (Innovative Land Use Controls) and NH RSA 674: 16-20.

**(B) Purpose**

The purpose of the Route 11 Business Node Overlay District shall be to provide areas for retail, commercial and mixed uses that serve the community from readily accessible locations in a nodal development pattern that encourages economic development while preserving a New England character and landscape.

**(C) Applicability**

The Route 11 Business Node Overlay District shall be those areas delineated on the Town of Farmington Zoning Map. The **Business Node Overlay District (Business NOD)** shall be construed as overlaying other existing zoning districts. This **Business NOD** does not remove or alter the zoning rights permitted by the underlying, existing zoning districts or overlay districts. Review under the **Business NOD** is voluntary, unless the subject site has been previously approved under a **Business NOD** development, and an occupancy permit has been issued.

**(D) Permitted Uses with Site Plan Review**

(1) Agricultural Uses

- (a) Aquaculture
- (b) Sale of locally produced farm goods

(2) Residential

- (a) Residential care or congregate care facilities

(3) Institutional

- (a) Adult Day Care – Out of Home
- (b) Daycare centers
- (c) Hospitals
- (d) Libraries
- (e) Museums
- (f) Schools and colleges
- (g) Clubs and Lodges

(4) Recreational

- (a) Fully enclosed places of recreation
- (b) Parks and outdoor recreation

(5) Commercial and Industrial

- (a) Barber Shop/Salon
- (b) Bed & Breakfast
- (c) Contractors

- (d) Financial Institutions (with or without drive-through)
- (e) Grocery Store
- (f) Health/Fitness Club
- (g) Health Service Facilities
- (h) Hotels and Motels
- (i) Laboratories
- (j) Laundromat
- (k) Light manufacturing (<15,000 sf)
- (l) Lounges/nightclubs/bars
- (m) Professional/Business Office
- (n) Repair services not involving motor vehicles
- (o) Research and Development facility
- (p) Restaurant, Drive-Thru
- (q) Restaurant, Full Enclosed
- (r) Restaurant, Take-Out
- (s) Retail sale of gasoline
- (t) Retail Stores
  - i. < 2,500 sf (small scale retail)
  - ii. >2,500 sf & <7,500 sf
- (u) Distribution facilities
- (v) Veterinary clinic and/or grooming
- (6) Accessory Uses – Commercial and Industrial
  - (a) Drive-through services in conjunction with an allowed principal use
  - (b) Outside storage of materials, equipment & products in conjunction with an allowed principal use
  - (c) Retail sales of items manufactured on the premises
- (7) Accessory Uses
  - (a) Accessory buildings and structures
  - (b) Off-street parking accessory to a permitted use
  - (c) Signs

**(E) Conditional Uses**

- (1) Residential
  - (a) Residential uses in a mixed-use building, where the residential use occurs at upper floors only (2<sup>nd</sup> floor and above) where the building faces the street.
- (2) Recreation
  - (a) Golfing or driving ranges
  - (b) Recreational uses not specified
- (3) Commercial and Industrial
  - (a) Light manufacturing exceeding 15,000 sf
  - (b) Retail uses exceeding 7,500 sf but less than 50,000 sf
  - (c) Commercial and Industrial uses not specified; not to exceed 50,000sf

**(F) Standards for Conditional Use Permit**

The Planning Board may issue a conditional use permit approving uses in Paragraph E

above, provided the Planning Board determines the following conditions are met:

- (1) The use is specifically authorized in this ordinance as a conditional use;
- (2) If completed as proposed by the applicant, the development in its proposed location will comply with all requirements of this Article, and with the specific conditions or standards established in this ordinance for the particular use;
- (3) The use will not materially endanger the public health, safety, or welfare;
- (4) The use will be compatible with the neighborhood and with adjoining or abutting uses in the area in which it is to be located;
- (5) Architecture and landscape design shall be consistent with the Purpose and Intent of this article and comply with the Dimensional Standards contained herein and under applicable site plan regulations.
- (6) The use will provide an environment to ensure both vehicular and pedestrian safety;
- (7) The use will be compatible with the natural and environmental resources of the town; and
- (8) The use will be adequately serviced by necessary public utilities and by community facilities and services of a sufficient capacity to ensure the proper operation of the proposed use, and will not necessitate excessive public expenditures to provide facilities and services with sufficient additional capacity.

**(G) Dimensional Standards**

- (1) **Standards.** All buildings and structures shall be erected, structurally altered, enlarged, or moved, and all land within the District shall be used in accordance with Tables G-1 and G-2 below.

**Table 4.06, G-1: Lot Standards**

Minimum Lot Size <sup>1</sup>	2 Acres
Minimum Street Frontage	Consistent with Town of Farmington Zoning Ordinance Section 3.20 – Access Management Standards
Maximum Lot Coverage, including parking areas.	65%

<sup>1</sup> Note: Smaller lot sizes are allowed under the provisions for a Planned Business Development in Paragraph H.

**Table 4.06, G-2: Building Siting Standards**

<b>Building Height</b>	<b>Front Setback</b>	<b>Minimum Side and Rear Setback</b>
Not to exceed 20 feet	Minimum 35 feet, Maximum 70 feet	20 feet
Not to exceed 35 feet	Minimum 45 feet, Maximum 70 feet	25 feet
Not to exceed 55 feet	Minimum 50 feet, Maximum 75 feet	30 feet and 1 foot for each additional foot of applicable building height above 30 feet

- (2) **Off Street Parking.** All surface parking areas shall be set back at least 50 feet from a public street. Within this required 50-foot setback, the maximum width of any accessway or driveway to a surface parking area shall be 30 feet. Parking will be screened from the street and adjacent properties. To the extent possible, parking will be located to the side or rear of the subject building lot.
- (3) **Street Frontage Bonus.** Where abutting lots make provisions for a single shared driveway access to a Class I or II highway that meets the approval of the Farmington Planning Board, the Planning Board may approve a reduction in street frontage so long as the cumulative frontage for both lots sharing an access is at least 200 feet and neither lots' individual frontage is less than 50 feet.

**(H) Planned Business Development (PBD) Conditional Use Permit**

- (1) **Purpose and Intent.** The purpose of the **Planned Business Development (PBD)** is to allow projects of innovative design and layout that would not otherwise be permitted under this ordinance because of the strict application of zoning district or dimensional standards. Typically, the **PBD** consists of a combination of land uses that provides a higher level of standards through innovative land planning and site design concepts. The **PBD** shall not be used merely as a mechanism to avoid the application of the requirements of the Business Nodal District. The **PBD** district is further intended to:
  - (a) Promote more economical and efficient use of land while providing a harmonious grouping of a variety of land uses and buildings;
  - (b) Promote innovative design of commercial areas and allow for greater densities when additional site amenities are included in the development;
  - (c) Create physical connections between existing and proposed developments in order to achieve an integrated community with common open space, transportation, and public service networks; and
  - (d) Allow for innovative development projects that are consistent with the purpose and intent of this Article and the Town of Farmington Master Plan and not as a device to circumvent development regulations, standards, and good planning practice.

- (2) **Lot. PBD** designation shall be limited to lots of at least four (4) acres and that each such designation shall be accompanied by the adoption of a Comprehensive Development Plan for each lot so designated. Upon such designation and adoption, such lot shall become a "**PBD**" for all purposes of the Zoning Ordinance.
- (3) **Comprehensive Development Plan.** The Planning Board shall require a Comprehensive Development Plan for the full lot under consideration to be submitted by the applicant for its review. Such Plan shall include, but not be limited to, the following:
  - (a) A scaled drawing with a scale between 1"=100' and 1"=50', as appropriate
  - (b) North arrow
  - (c) Property lines
  - (d) Tax map and parcel number
  - (e) Proposed subdivision lines
  - (f) Conceptual proposed site layout including streets, buildings, parking, open spaces, driveways
  - (g) Conceptual landscape plan
  - (h) Typical building architectural profile or rendering
  - (i) Remaining existing features including wet areas, steep slopes, utilities, infrastructure, vegetation (tree lines), as appropriate
  - (j) Easements or other encumbrances
- (4) **Conditional Use Permit.** Authority is granted to the Planning Board to issue a conditional use permit in accordance with the standards of Paragraph F, Standards for Conditional Use Permit, to approve a Comprehensive Development Plan. Compliance with the individual provisions and standards of this Section shall constitute the conditions required for the issuance of a conditional use permit.
- (5) **Amendments to Comprehensive Development Plan.** A Comprehensive Development Plan for a **PBD** lot, once approved by the Planning Board, may not be amended other than by action of the Planning Board upon an application submitted in accordance with the provisions of the Town of Farmington's Zoning Ordinance, including a statement outlining the reasons for any such change.
- (6) **Changes or Subdivision of PBD lot.** Any changes to a portion of a **PBD** shall be subject to the approved Comprehensive Development Plan or an approved amendment by the Planning Board in accordance with this zoning article and Section 30 of the Site Plan Regulations.
- (7) **Site Plan Review.** In addition to the submission and approval of a Comprehensive Development Plan, the applicant shall also be required to submit a Site Plan in conformance with the Town of Farmington Site Plan Review Regulations. Such review may be conducted in phases to allow for incremental development of a site. However, each phase shall conform to the Comprehensive Development Plan and each phase must proceed through Site Plan Review.

- (8) **Standards.** The specific standards for a development within the **PBD** district are set forth in the Site Plan Regulations, Section 30. In the event that a **PBD** zone document (Section 4.06 of the Town of Farmington Zoning Ordinance and Section 30 of the Town of Farmington Site Plan Regulations) fails to address a specific standard, the standard of the most applicable zoning district or use, as determined by the Code Enforcement Officer, shall apply.
- (9) **Parking.** All parking spaces and loading spaces provided in a **PBD** lot shall be deemed off-street parking spaces for purposes of all requirements of the Zoning Ordinance. Such parking spaces may be provided on roads within the **PBD** lot, subject to the requirement that such parking spaces and loading spaces lie entirely within the **PBD** lot. No parking space shall be located so as to obstruct the safe flow of traffic.

#### **END OF SECTION 4.00 OVERLAY DISTRICTS**

## SECTION 5.00 HOME OCCUPATION AND HOME BUSINESS

### 5.01 HOME OCCUPATION

A Home Occupation may be permitted in all districts if it is planned, operated and maintained according to the following standards:

- (A) No person other than a member of the family residing on the premise is engaged in the occupation.
- (B) It shall be operated entirely within a principal living dwelling.
- (C) It shall be secondary and incidental to the residential use of the premises and will not alter the general character of the neighborhood or reduce the value of any surrounding property.
- (D) It shall result in no external evidence of the enterprise and outdoor storage of materials or equipment shall be limited and reasonably screened from view. There is no change in the outside appearance of the building or premises, or any visible evidence of the conduct of such Home Occupation other than one (1) Sign, not exceeding six (6) square feet in area, non-illuminated and mounted flat against the wall of the residence.
- (E) It shall not have an adverse effect on the environment or the surrounding properties as a result of noise, odors, smoke, dust, lights, soil, water or air pollution or as the result of other nuisances.
- (F) Traffic generated by the occupation will not negatively impact the neighborhood.
- (G) Any need for parking generated by the conduct of the occupation is met off the street.
- (H) The following Uses are permitted as Home Occupations:
  - Legal or Financial related Occupations.
  - Engineering and Architectural related Occupations.
  - Trade Occupations such as Carpenter, Plumber, Electrician, and Wood Worker.
  - Artistic Occupations such as Painter, Sculptor and Potter.
  - Personal Grooming Occupations such as Hair Stylist, Barber and Tailor, Seamstress; (limited to one unit operations).
  - Food Service Occupations such as Caterer.
  - Travel and Real Estate Related Occupations.
  - Any other profession or occupation which may be unobtrusively pursued in a Residential Dwelling as determined by the Code Enforcement Officer.
- (I) For any uses not listed in #8, refer to the Table of Permitted Uses for underlying Zoning District.

- (J) It shall comply with all local, state, or federal regulations pertinent to the activity pursued and the requirements of or permission granted by this section shall not be construed as an exception from such regulations.
- (K) An activity that exceeds these standards for Home Occupation requires approval from the Planning Board as a Home Business.

## 5.02 HOME BUSINESS

A Home Business will be permitted in all districts if it conforms to the requirements of this section. An activity which exceeds the standards for Home Occupation requires approval from the Planning Board.

- (A) It shall comply with all local, state, or federal regulations pertinent to the activity pursued and the requirements of or permission granted by this section shall not be construed as an exception from such regulations.
- (B) A Home Business shall be operated and maintained by the residents of the premises and not more than three on-premise employees who are not residents.
- (C) The following Uses are permitted as Home Business:
  - Medical, Legal, or Financial related Occupations.
  - Engineering and Architectural related Occupations.
  - Trade Occupations such as Carpenter, Plumber, Electrician, and Wood Worker.
  - Artistic Occupations such as Painter, Sculptor, and Potter.
  - Personal Grooming Occupations such as Hair Stylist, Barber, and Tailor, Seamstress. (limited to 3 unit operation)
  - Food Service Occupations such as Caterer.
  - Travel and Real Estate Related Occupations.
  - Any other profession or occupation that may be unobtrusively pursued in a residential or Accessory Structure as determined by the Code Enforcement Officer.
- (D) For any uses not listed in #3 above refer to Table of Permitted Uses for underlying Zoning District.
- (E) It shall be secondary and incidental to the residential use of the premises and will not alter the general character of the neighborhood or reduce the value of any surrounding property.
- (F) It shall result in no external evidence of the enterprise except for a permitted non-electrical, non-illuminated sign not exceeding six (6) square feet and subject to the review of the Planning Board.

- (G) It shall have no adverse effect on the environment or the surrounding properties as a result of noise, odors, smoke, dust, lights, soil, water or air pollution, excessive increase in traffic or in parking requirements or as a result of other nuisances.
- (H) It shall have no outdoor display of goods and no outdoor storage of materials or equipment unless screened from roads and surrounding properties by natural or structural means to such an extent and in such manner as may be specifically required and approved by the Planning Board.
- (I) In a situation where more than one (1) client or customer is likely to concurrently visit the premises, adequate off street parking is required to be provided.
- (J) Traffic generated by the occupation will not negatively impact the neighborhood.
- (K) The residence or accessory building shall not provide window displays or other characteristics or features normally associated with a commercial use.
- (L) There shall be no change in the exterior appearance of the residence or other structures on the property as a result of the use unless specifically approved or required by the Planning Board.
- (M) Application for Home Business proposals shall be submitted and processed in accordance with the Site Plan Review Regulations for Planning Board approval.

**END OF SECTION 5.00 – HOME OCCUPATION AND HOME BUSINESS**