

This document only depicts those changes proposed to the Dunbarton Zoning Ordinance for Town Meeting March, 2012. Sections that are not impacted by the proposed changes are not depicted in this summary document and will remain unchanged. Changes to the ordinance are depicted below in bold with additions depicted in *italics* and deletions as ~~crossed through~~ text. Text not depicted in either bold italics or crossed through italics will remain unchanged.

ARTICLE 1. GENERAL PROVISIONS

A. Purpose

The purpose of this Ordinance is to promote the health, safety and general welfare of the inhabitants of Dunbarton by: Lessening congestion in streets; securing safety from fires, panic and other dangers; providing adequate light and air; preventing the overcrowding of land and buildings; avoiding undue concentration of population; facilitating the adequate provision of transportation, solid waste facilities, water, sewerage, schools, parks, ~~;~~ ~~and to assure the proper use of natural resources~~ *child day care; and to assure the proper use of natural resources and other public requirements; preserve agricultural lands and buildings; to encourage the installation and use of solar, wind or other renewable energy systems and protect access to energy sources by the regulation of orientation of streets, lots, and buildings; establishment of maximum building height, minimum set back requirements, and limitations on type, height, and placement of vegetation; and the encouragement of the use of solar skyspace easements under RSA 477. Zoning ordinances may establish buffer zones or additional districts which overlap existing districts and may further regulate the planting and trimming of vegetation on public and private property to protect access to renewable energy systems* (RSA 674:17,18,19).

The provisions of this Ordinance reflect the ~~findings~~ *recommendations* of the Dunbarton Master Plan which has given consideration to, among other things: encouraging the most appropriate use of land; preserving environmentally sensitive areas; providing adequate municipal facilities in a cost effective manner; and, providing for a diversity of housing opportunities within the Town (RSA 674:1-4).

ARTICLE 2. DEFINITIONS

Except where specifically defined herein, the words used in this Ordinance shall carry their customary meaning. The following words are specifically defined.

~~ACCESSORY APARTMENT DWELLING UNIT (ADU) – An independent dwelling unit that is either attached or detached to the principal building on the same lot and customarily incidental and subordinate to the principal building or use. An attached dwelling unit that is incidental to either a primary structure (i.e. single-family home) or an accessory building (i.e. barn or garage) on a single property. An ADU shall conform to the provisions outlined in the table of uses in Article 4 as well as other standards outlined in section 4.16 of Article 4 of the Dunbarton Zoning Ordinance (AKA “Table of Use Footnotes”).~~

BACKLOT – 1) For the purposes of this Zoning Ordinance, and in particular building permits, a parcel lacking Class V (or better) road frontage; 2) A parcel whose access is only by a right-of-way, easement or other non-owned access-way; 3) Also, a land-locked parcel.

CERTIFIED PLOT PLAN – A boundary line survey and site plan, certified (stamped and signed) by a land surveyor licensed by the State of New Hampshire. The survey must detail existing natural features (wetlands, topography, ledge, etc.), applicable set back lines and the location and dimensions of all existing and proposed: buildings and structures, septic systems and wells, and driveways; and to the extent practical and accessible, such survey and site plan shall also show comparable site details, within 75 ft., on abutting properties encroachments, protective covenants, easements, and similar land-use restrictions, filed at the Merrimack County Registry of Deeds shall be accurately shown and/or written.

COMMERCIAL USE – ~~Any activity carried out for pecuniary gain.~~ Means when the primary activity or activities on a property are conducted to provide goods or services, or both, or to create, manufacture, or otherwise produce goods of any kind, whether for profit or not, regardless of where the activities occur. The term shall be considered separate from a home occupation.

DAY CARE CENTER - A private establishment enrolling *seven (7)* ~~four (4)~~ or more children under 5 years of age and where tuition, fees or other forms of compensation for the care of the children is charged, and which is licensed or approved to operate as a day care center by the State of New Hampshire. (RSA 672:1 and RSA 170-E).

DWELLING, DUPLEX (TWO-FAMILY) – A building/structure containing two (2) dwelling units, **attached, sharing a common wall,** and otherwise connected by common construction, designed for, or occupied exclusively by two (2) families living independent of one another [Note reference of “Duplex (two-family)” in “Multi-Family” definition as it pertains to two-family unit tract development.] (Amended March 9, 2004)

FAMILY DAY CARE CENTER - The care of up to six (6) full-time pre-school children and three (3) part-time school-aged children ~~in the home of a child care provider~~ (See RSA 672:1).

FRONTAGE - That portion of a lot bordering on a highway, street or right-of-way (RSA 674:24-I). Frontage shall be measured along the common boundary of the front lot line and public street right-of-way on a Class V or better road. However, in a Planned Residential Development a private road may be used to determine frontage. ~~Such measurement shall refer to a continuous line except where otherwise specified.~~ *For the purposes of the required frontage for conforming lots and/or lots considered for subdivision, such measurement shall refer to a contiguous line except where otherwise specified.*

HOME OCCUPATION – An occupation conducted within the dwelling unit or accessory building(s), ~~and~~ customarily, incidental *and* secondary to the *residential* use of the structure for dwelling purposes, and which does not adversely affect or undermine the residential character of the neighborhood. Examples of "home occupations" include but are not limited to: seamstress, hairdresser, lawyer, tutor, musician, photographer, antique dealer, architect, dentist or engineer.

KENNEL – ~~An~~ *A commercial establishment, as defined in this Ordinance, in which more than four (4) dogs or domesticated animals, other than the property owner's licensed pets, are housed, groomed, bred, boarded, trained or sold.*

LOT COVERAGE - That portion of the lot that is covered by buildings and *impervious surfaces or structures.*

LOT LINE ADJUSTMENT – *Is the adjustment of a lot line between two or more legally existing lots of record that, while reconfiguring the shape and size of the existing lots, conforms to current zoning requirements, and does not create any additional lots; and which, in the event of a non-conforming lot(s), does not result in the expansion of an existing non-conformity.*

PLOT PLAN – *Is a graphical depiction of a property and is identical to that of a CERTIFIED PLOT PLAN as described in this Zoning Ordinance above, with the exception being that it may lack “certification” by the surveyor (i.e. stamped and signed).*

REGULATOR – *Shall mean the Dunbarton Planning Board in accordance with RSA 155-E, as amended.*

RIDING ACADEMY – *Is a commercial venture, as defined in this Ordinance, wherein equestrian skills are taught to the public for a fee. Animals may or may not be owned and boarded by the riding academy.*

SETBACK - ~~The distance between the nearest portion of a building and a lot or right-of-way line whichever is closer (See RSA 674:24-VII).~~ *The distance between the nearest portion of: a) a structure ordinarily requiring a permit; or b) any other land-use feature subject to a specified minimum setback; and a lot line or right-of way line as shown by a deed or survey, whichever is closer (See RSA 674:24-VII).*

SITE PLAN REVIEW - The site review procedure (~~Planning Board Responsibility~~), *as required by, and /or provided by the Planning Board is to provide allow* for the safe and attractive development of the site and guard against such conditions as would involve danger or injury to health, safety, or prosperity by reason of inadequate drainage or conditions conducive to flooding of the property or that of another, inadequate protection for the quality of groundwater, undesirable and preventable elements of pollution such as noise, smoke, soot, that might prove harmful to persons, structures, or adjacent properties, and inadequate provision for fire safety, prevention, and control; provide for the harmonious and aesthetically pleasing development of the municipality and its environs; provide for open spaces and green spaces of adequate proportions; require the proper arrangement and coordination of streets within the site in relation to other existing or planned streets or with features of the official map of the municipality; require suitably located streets of sufficient width to accommodate existing and prospective traffic and to afford adequate light, air, and access for firefighting apparatus and equipment to buildings, and be coordinated so as to compose a convenient system; require, in proper cases, that plats showing new streets or narrowing or widening of such streets be submitted to the planning board for approval; require that the land indicated on plats submitted to the planning board shall be of such character that it can be used for building purposes without danger to health; and include such provisions as will tend to create conditions

favorable for health, safety, convenience, and prosperity. (Adopted: July 1989(Adopted March 11, 2003)****

STRUCTURE – *Means anything constructed or erected for the support, shelter or enclosure of persons, animals, goods, or property of any kind, with a fixed permanent location on or in the ground, exclusive of fences and wells.*

WELL - A ~~structure or device~~ *system* designed and installed to provide a potable water supply.

ARTICLE 3. ESTABLISHMENT OF DISTRICTS (*Manufactured Housing District, AKA MHD, removed March 13, 2012*)

A. District Names

For the purpose of this Ordinance, the town of Dunbarton is hereby divided into the following district (RSA 674:20)

Low Density Residential – LDR

Medium Density Residential – MDR

Village District – VD

~~Manufactured Housing District – MHD~~

Multi-Family Residential Housing District (*overlay*) - MFD

Wetland Conservation District (~~overly~~ *overlay*) – WCD

B. Location of Districts

1. The location ...

a. Village District (VD)

b. Low Density Residential (LDR) - Said area shall include all land within the corporate boundaries of the town of Dunbarton which is not defined as part of the Village District *or* the Medium Density Residential District, ~~or the Manufactured Housing District.~~

c. Medium Density Residential (MDR)

~~d. Manufactured Housing District (MHD) — Said area begins at a point of intersection of the centerline of the street right-of-way of N.H. Route 77 and the Dunbarton/Weare town line thence running northerly along said town line to its point of intersection with the Dunbarton/Hopkinton town line' thence running easterly along said town line to its point of intersection with the Dunbarton/Bow town line thence running southwesterly along said town line to its point of intersection with the centerline of N.H. Route 13; thence running westerly along~~

~~the centerline of said road to its point of intersection with N.H. Route 77; thence continuing in a westerly direction along the centerline of said road to the point of beginning.~~

d. ~~e.~~ Multi-Family Residential Housing District (MFD) – *The Multi-Family Residential Housing District (MFD) is defined as an overlay zone situated parallel to both sides of N.H. Said area is an overlay zone situated parallel to both sides of New Hampshire* State Highway Routes 13 and 77, running the length and width of the Town to the respective Town borders of Weare, Bow, and Goffstown, and shall be configured to include all lots and parcels ~~that~~ *which front on said highways or retain access easements and/or right-of-ways directly to these highways. These parcels shall be able to show provisions for provide, or are able to provide,* direct, reasonable, and safe access to those highways *without traversing other existing roadways, at the time of formal application for Site Plan Review.* ~~(See additional description requirements Article 9.) Amended March 9, 2004~~

2. Interpretation of District Boundaries

a. Boundaries...

g. In the case of uncertainty of the location of a district boundary in the *Zoning Board of Adjustment shall determine the exact location of said boundary.*

ARTICLE 4. USE AND DIMENSIONAL REGULATIONS (*Revised March 13, 2012*)

Except as herein provided...

TABLE OF USES

	LDR	MDR	DISTRICT VD	MHD
A. RESIDENTIAL				
Single Family Dwelling	P	P	P	P
Multi-family dwelling (see Article 9)	P(1)(13)	P(2)(13)	P(3)(13)	
Manufactured housing unit	P	P	P	P
Planned Residential Development	S(4)	S(4)		S(4)
Home Occupations	P(5)	P(5)	P(5)	P(5)
Accessory Apartment Dwelling Unit	SP(16)	SP(16)	SP(16)	S(16)
Manufactured Housing Park			S(6)	S(6)
B. AGRICULTURAL				
Agriculture, horticulture, and floriculture	P	P	P	P
Greenhouse, retail sale of agriculture or farm products	P	P	P	P
Livestock, poultry and swine	P(7)	P(7)	P(7)	P(7)
Riding academy and Stables	P	P	P	P
Veterinary office, animal hospital, or kennel	S(8)(13)	S(8)(13)		S(8)(13)
<i>Riding Academy or Commercial Stable</i>	S (8) (13)	S (8) (13)		
C. COMMERCIAL				
Bank	S(9)(13)	S(9)(13)	S(9)(13)	S(9)(13)
Barber or Beauty Shop	S(13)	S(13)	S(13)	S(13)
Bed & Breakfast Inns	S(13)	S(13)	S(13)	S(13)
Camping Areas	S(13)	S(13)		S(13)
Country Club	S(13)	S(13)		S(13)
Eating & Drinking establishments	S(13)	S(13)	S(13)	S(13)
Funeral Parlor	S(13)	S(13)	S(13)	S(13)
Gas Station and Auto Repair	S(13)	S(13)		S(13)

General Service Establishments
 Hotel
 Motel
 Office
 Personal Service Establishment
 Recreation Facility
 Retail Store
 Service Club
 Theater
 Travel Trailer Park
 Wholesaling

S(13)	S(13)	S(13)	S(9)(13)
S(9)(13)	S(9)(13)	S(9)(13)	S(9)(13)
S(9)(13)	S(9)(13)	S(9)(13)	S(13)
S(13)	S(13)	S(13)	S(13)
S(13)	S(13)	S(13)	S(13)
S(13)	S(13)	S(13)	S(13)
S(13)	S(13)	S(13)	S(13)
S(13)	S(13)	S(13)	S(13)
S(13)	S(13)	S(13)	S(13)
S(13)	S(13)	S(13)	S(13)
S(13)	S(13)	S(13)	S(13)

D: INDUSTRIAL

Extraction operations
 Junk Yards
 Lumber Yards
 Manufacturing
 Research & development
 Sawmills & Wood processing
 Warehousing

S(10)(13)			
S(10)(13)	S(10)(13)		
S(11)(13)			S(13)
S(13)	S(13)		S(12)(13)
S(12)(13)	S(12)(13)		S(12)(13)
S(12)(13)	S(12)(13)		S(13)
S(13)	S(13)		S(12)(13)
S(12)(13)	S(12)(13)		

E: PUBLIC/INDUSTRIAL/INSTITUTIONAL

Church
 Clinic
 Educational Institution
 Hospital
 Public Utilities
 Public parks and playgrounds
 Day Care
 Family Day Care

P			
P	P	P	S(13)
S(13)	S(13)	S(13)	S(13)
S(13)	S(13)	S(13)	S(13)
S(13)	S(13)	S(13)	P
S(13)	S(13)	S(13)	S(13)
P	P	P	P
S(13)	S(13)	S(13)	S(13)
P	P	P	P

TABLE OF USES
 Footnotes

(1) LOW DENSITY DISTRICT ...

- (6) ~~Provided that a Planned Residential Development approval is obtained. This requires a special exception from the Zoning Board of Adjustment and Planning Board approval under Article 6 of this Ordinance. Reserved for future foot note.~~
- (14) ~~Construction of Multi Family dwellings is permitted only in that portion of the respective district determined to be in the overlay Multi Family Residential Housing District. (See Article 10.) (Amended March 9, 2004) Reserved for future foot note.~~
- (15) ~~Use LDR acres/unit for MHD Multi Family uses (Footnote 1.) (Amended March 9, 2004) Reserved for future foot note.~~
- (16) ~~Note that an attached, independent dwelling unit considered an "accessory apartment", may also qualify as a "duplex (two family) structure." (Amended March 9, 2004) each~~ Each Accessory Dwelling Unit must conform to all of the following:
 - i. The ADU shall be attached to either the principal structure (i.e. home) or an accessory structure (i.e. barn or garage) on the lot;*
 - ii. An ADU is permitted only on a lot that conforms to the current minimum lot size requirements as prescribed by the Dunbarton Zoning Ordinance for the district in which the lot lies;*
 - iii. If the ADU is attached to the principal structure (i.e. single family home) it shall not exceed one third of the finished structure's floor area of total living space, and shall not exceed a total of 1,000 square feet. Anything over 1,000 square feet shall require a Variance from the Zoning Board of Adjustment;*
 - iv. If the ADU is attached to an accessory structure (i.e. barn or garage) it shall not exceed 50% of the finished structure's total gross floor area, first floor and above, and in no circumstance shall exceed a total of 1,000 square feet. Anything over 1,000 square feet shall require a Variance from the Zoning Board of Adjustment;*
 - v. An ADU shall have no more than one bedroom;*

vi. There shall be no more than 1 ADU per lot;

vii. Septic design for the ADU shall assume a minimum of two bedroom loading capacity design in addition to the principal structure's loading design;

viii. The ADU must receive its own street address number separate from the principal dwelling; and,

ix. The ADU must receive its own certificate of occupancy.

(17) Formal Workforce Housing Applications shall be permitted to construct five residential rental units per multi-family buildings. Such application is controlled and governed by the Dunbarton Workforce Housing Ordinance.

F. LARGE LOT ZONING WITH REDUCED LOT FRONTAGE

LARGE LOT ZONING with reduced lot frontage		
As an elective option to less-than-traditional frontage requirements, reduced lot frontages shall be permitted under the provisions of this section, provided each lot provides for an increase in the minimum acreage per the Table of Dimensional Regulations.		
District	Minimum Lot Size (1)(2)	Minimum Frontage
Optional Large Lot Zoning with reduced frontage (See Note 5) All districts	12 Acres	225 Feet
	18 Acres	150 Feet
	24 Acres	75 Feet

~~(Note: Requirements for front yard, side yard, rear yard, septic, well, etc. remain the same as the applicable zone.) (Note: Requirements for setback distance at front-yard, side-yard, rear-yard, septic, well, etc. remain the same as the underlying applicable zone.)~~

~~NOTE 5: Minimum lot width, between the principal access point and the generally considered building pocket area shall not be less than 75 ft., measured perpendicular to the opposing side lot lines.~~

- General Notes:
- a.) As an innovative land-use control zoning regulation, implementation under these provisions is voluntary and at the elected option of the applicant.
 - b.) Lot sizing allows for the continuity of current-use taxation, or implementation thereof, for qualified parcels.
 - c.) *Minimum lot width, between the principal access point and the generally considered building pocket area shall not be less than 75 ft., measured perpendicular to the opposing side lot lines.*

A. Use Regulations

1. Uses Permitted By Right ...
3. Uses Permitted By Special Exception - A use listed in the Table of Uses and denoted by the letter "S", may be permitted as a special exception if such approval is granted by the Zoning Board of Adjustment in accordance with the conditions set forth in ~~Article 9, Section 4.3 of~~ this Ordinance; subject to all other applicable local, state and federal regulations. Footnote conditions may also be specified in addition to the special exception requirements.
4. Prohibited Uses - Prohibited uses shall be denoted by a (-) in the Table of Uses. Unless a use is specifically permitted in a district as indicated in the Table of Uses, it shall be

prohibited, unless a variance is granted by the Zoning Board of Adjustment pursuant to **Article 9:B-2 this Ordinance.**

5. Nonconforming Uses ...

- c. If any such nonconforming use of land ceases for any reason for a period of more than ~~twelve (12)~~ **twenty four (24)** consecutive months, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such use is located.

If the physical attributes of such a structure or property have continued to clearly lend it to a particular nonconforming use, such a use shall be considered continued "in effect," regardless of any duration of time that the property may lay dormant or unused, until such a time when a new use is instituted on the property (i.e. the previous grandfathered nonconforming use will become abandoned).

In the event that any grandfathered nonconforming use is converted another use, the previous pre-existing use shall become abandoned (this includes, and is not limited to, changes between business and residential uses) and, abandoned uses that do not meet current zoning requirements shall not be re-established without being granted a Variance or Special Exception from the Zoning Board of Adjustment.

6. Supplemental Provisions ...

- a. Home Occupations – ~~All home occupations must comply with the following provisions in order to be permitted:~~ *The purpose of this subsection is to permit the accessory use of a residence for business purposes which are clearly incidental to the principal residential use, provided that the use does not change the residential character or function of the property to the extent that the property would be distinguishable from other residential properties. Upon determination of compliance with all of the following conditions, the Building Inspector shall issue a certificate of use and occupancy for the home occupation as provided for in this Ordinance if all of the following are met:*

~~(1) Not more than one home occupation shall be carried on in a dwelling unit;~~

~~(2) No more than one (1) nonresident of the home shall be employed therein;~~

~~(3) The use is carried on strictly by the owner of the principal building, who shall also reside in said building;~~

~~(4) No more than twenty five percent (25%) of the existing net floor area of the principal building is devoted to such use;~~

~~(5) There shall be no display of goods or wares visible from the street;~~

~~(6) No advertising on the premises other than a small non-electric sign not to exceed two (2) square feet in area and carrying only the occupant's name and occupation.~~

~~(7) The building or premises occupied shall not be rendered objectionable or detrimental to the residential character of the neighborhood because of exterior appearance, traffic, emission of odor, gas, smoke, dust, noise, electrical disturbance or in any other way;~~

~~(8) A minimum of two (2) off-street parking spaces shall be provided;~~

~~(9) Not more than one (1) commercial vehicle in connection with such home occupation shall be stored on the premises; and~~

~~(10) A certificate of occupancy for the proposed use is issued by the Building Inspector verifying conformance with the preceding standards.~~

(1) There shall not be more than one home occupation carried out in a dwelling unit;

(2) The use is carried on strictly by the owner or residing tenant (with owner's written permission transmitted to the Town) of the principal building, who shall also reside in said building;

(3) Adequate parking shall be provided for on the property;

(4) No more than five (5) nonresidents shall be employed;

(5) No more than 33% of the existing gross floor area of the principal dwelling shall be used for business purposes; and no more than 10,000 square feet of land shall be used for outside purposes;

(6) The use will not change the internal or external residential character or function of the dwelling to the extent that the use will be objectionable to other residential uses in the neighborhood;

(7) There shall be no display of goods or wares visible from the street;

(8) No advertising on the premises other than a small non-electric sign not to exceed two (2) square feet in area and carrying only the occupant's name and occupation and, such a sign may be externally lit;

(9) The building or premises occupied shall not be rendered objectionable or detrimental to the residential character of the neighborhood because of exterior appearance, traffic, emissions of odor, gas, smoke, dust, noise or electrical disturbance or in any other way;

(10) The use will not cause vehicular traffic which is substantially different from that which currently exists on the street;

Home Occupation requirements do not apply to an agricultural business including, farm stands, wood processing, pick-your-own operations, forestry, etc.

A project that is not solely residential in nature and/or does not meet the requirements of this section shall require site plan review in accordance with the Dunbarton Site Plan Regulations, as amended: i.e. a business conducted out of the home that cannot meet the above criteria. Such development shall adhere to the Dunbarton Sign Ordinance requirements.

- c. Parking - Adequate off-street parking space(s) will be provided for each use in accordance with the following minimum standards. All residential land uses should have one (1) off-street space for each dwelling unit. All other uses permitted under this Zoning Ordinance shall comply with the parking and loading standards specified in the Site Plan Review Regulations ~~Subdivision Regulations~~ of the Town of Dunbarton.
- d. Private Residential Water Wells (Adopted at March 8, 2005 Town Meeting)

In the event a minimum 75 ft....subject to the following conditions:

a.) That a technical site assessment...

f.) That all waivers, and/or lessening of requirements, continue to meet applicable minimum requirements of NHDES.

In granting any waiver from the minimum 75 ft. protective well radius requirement, the Town of Dunbarton, in addition to the above requirements, shall implement and enforce all other provisions of RSA 485-A:30-b, Env. Ws 1008.05 through 1008.11 (Subsurface Systems; well radii), and We 602.5 (Water Well Board; well location), *as amended from time to time*, and as may be applicable.

C. Nonconforming Lots (Adopted/Amended at March 8, 2005 Town Meeting)

1. Structures shall be ... are met:

a. The lot was a parcel of record...

b. The lot is capable ...

No final plan review shall be approved by the Town, or forwarded to NHDES, until such time as the comment period, where required, has lapsed. *In the alternate, nothing in this section shall prevent an applicant from securing written comment from abutters prior to 30 days in an effort to expedite the permitting process. In such cases, the applicant shall demonstrate to the Dunbarton Building Department that: 1.) all*

abutters have been notified and provided comment (or an official "no comment"); and 2.) the substance of any constructive or critical comment. No final plan review shall be approved by the Town, or forwarded to NHDES, until such time as the comment period, where required, has lapsed, or the intent of the comment period has been fulfilled.

~~2. If two (2) or more lots of record are contiguous and in single ownership on the effective date of this Ordinance, and if any of said lots are vacant and do not comply with the dimensional requirements of frontage and area, then those lots shall be considered to be an undivided parcel for the purposes of this Ordinance.~~

2. ~~3.~~No portion of said parcel shall be used or sold in a manner, which diminishes compliance with frontage and area requirements established by this Ordinance, nor shall any division be made which creates a lot with frontage or area below said requirements [*except for lot-line adjustments. See Definition.*]. Further, requirements other than those applying to area and frontage, except as established in section 4 C. above, shall conform to the regulations for the district in which the lot is located.

D. Nonconforming Structures...

1. Where a lawful building... following provisions:

a. No such ...

b. A nonconforming building or structure which is destroyed by fire or other hazard may be restored to its former ~~bulk~~ *square footage, existing dimensions and footprint* provided that it was not destroyed voluntarily and restoration is begun within ~~twelve (12)~~ *twenty four (24)* months after the act of destruction.

e. Building permit applications for exterior additions and expansion of a non-conforming building or structure, showing any new construction, as depicted in section d. above, that is considered to be in a restricted zoning area (such as a set-back area, or excessive lot coverage), *absence a variance* from the Zoning Board of Adjustment.

E. PHASING OF BUILDING PERMITS FOR NEW SUBDIVISION AND MULTI-UNIT DEVELOPMENTS **** (Adopted at March 2003 Town Meeting)

ARTICLE 5. WETLAND CONSERVATION DISTRICT (WCD)

ARTICLE 6. PLANNED RESIDENTIAL DEVELOPMENT (PRD)

A. Purpose

B. Applicability

The provisions ...

1. Application Procedure - An application for a Planned Residential Development shall follow the following procedure.

a. The applicant shall first be required to obtain a special exception from the Zoning Board of Adjustment. In reviewing the PRD special exception application, the Zoning Board of Adjustment shall determine if the proposed site is appropriate under the criteria contained in ~~Article 9:D-3 of~~ this Ordinance. The Zoning Board of Adjustment shall render a determination of the appropriateness of the site for use as a Planned Residential Development within thirty (30) days from the date of the public hearing on the special exception provided that the Zoning Board of Adjustment has received sufficient information upon which to base its decision. The applicant shall be responsible for demonstrating that the characteristics of his/her holdings warrant consideration as a Planned Residential Development.

b. Any PRD application...

C. General Requirements

1. Permitted Uses - A planned residential development may include single-family dwellings, multi-family dwellings or a combination of both. ~~A manufactured housing park is also permitted in the Manufactured Housing District.~~ It may also include any residential accessory uses or structures, which are permitted in the underlying zoning district.

ARTICLE 7. EXTRACTION REGULATIONS

A. Definitions....

I. Enforcement

1. The Regulator...

2. Fines, penalties and remedies for violations of this Article ~~are specified in Article 7 subsection D of this Ordinance.~~ *shall be enforced in accordance with RSA 155-E.*

ARTICLE 8. PERSONAL WIRELESS SERVICE FACILITIES (*Revised March 13, 2012*)

A. Authority...

G. Conditional Use Permits

1. General...

2. Issuance of Conditional Use Permits...

a. Procedure on Applications...

b. Decisions. Possible decisions that may be rendered by the Planning Board include approval, approval with conditions, disapproval without prejudice, or disapproval. All decisions shall be rendered in writing, in accordance with RSA 676:3. Further, in accordance with the National Wireless Telecommunications Siting Policy - Section 332(c)(47 U.S.C. 332(c)), a denial shall be based upon substantial evidence contained in the written record. ***The Planning Board shall act within 90 days if the proposal is for the construction of infrastructure at existing town locations and within 150 days for construction at new locations (i.e. sites with no previous towers or telecommunications infrastructure).***

3. Other Information Required

4. If an applicant proposes...

5. The applicant proposing...

6. The applicant shall submit the engineering information detailing the size and coverage required for the facility location. The Board may retain the services of a consultant qualified in personal wireless services to review the application and all associated information submitted by the applicant. The Board may further require, pursuant to RSA 676:4, 1 (g), that the applicant reimburse the Town for reasonable costs of this review. No application shall be approved until such fees, if applicable, are paid in full. ***The Planning Board shall act within 90 days if the proposal is for the construction of infrastructure at existing town locations and within 150 days for construction at new locations (i.e. sites with no previous towers or telecommunications infrastructure).***

H. Bonding and Security Insurance

In recognition of the extremely hazardous situation presented by abandoned and unmonitored PWSFs, towers and antennas, the Planning Board shall set the form and amount of security that represents the cost for removal and disposal of such abandoned facilities in the event that such facility is abandoned and the owner thereof is incapable and unwilling to remove the facility in accordance with Paragraph J. ***The security provided shall include a provision that it may not be cancelled absent 120 days notice to the Town.*** The Planning Board shall also require the applicant to submit proof of appropriate liability insurance with respect to the proposed PWSF, tower or antenna prior to the construction of such facilities.

I. Removal of Abandoned PWSFs

i. Any PWSF...

ii. Notwithstanding the provisions above, in the event the town receives notification that the security for removal posted under Section H above is to be cancelled, the Town may immediately notify the owner of the PWSF to physically remove all portions of the PWSF within thirty (30) days. The Town may revoke the notice to remove if adequate new security is provided.

iii. If the owner of the PWSF fails to physically remove all portions of the PWSF within the required time periods, the Town may execute the security to pay for this action.

iv. "Physically remove" shall include, but not be limited to the town components described above in Section F.5.

ARTICLE 9. MULTI-FAMILY RESIDENTIAL HOUSING DISTRICT (MFD Overlay District)

A. PURPOSE...

E. REQUIREMENTS AND SPECIFIC PROVISIONS.

1. All provisions...
2. Use and dimensional regulations shall be per *the Use and Dimensional Regulations*, Article 4, *of this Ordinance*. Note that dwelling unit acreage densities vary according to the respective underlying district; note that the maximum number of dwelling units per structure, in any district, is four units, *with the exception of workforce housing projects which may have a maximum of five units per structure.*

ARTICLE 10. FLOODPLAIN DEVELOPMENT *ORDINANCE (Adopted March 14, 2000; Revised March 8, 2011 and March 13, 2012)*

This Ordinance...

Item I Definition of Terms...

Item II.

This Ordinance shall be administered by the Building Inspector, Zoning Board of Adjustment and Planning Board as appropriate. All proposed development in any special flood hazard areas shall require a ~~permit~~ *Building Permit as issued by the Building Inspector.*

Item VII.

1. All proposals for development that encroach upon wetlands or wetland buffers, as described in Article 5, the Wetlands Conservation District, shall comply with the provisions of Article 5, the Wetlands Conservation District.

~~2.~~ *1.* In riverine situations, prior to the alteration or relocation of a watercourse the applicant for such authorization shall notify the Wetlands Bureau of the New Hampshire Department of Environmental Services and submit copies of such notification to the Building Inspector, *Zoning Board of Adjustment and Planning Board*, in addition to the copies required by the RSA 482-A:3. Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Building Inspector, *Zoning Board of Adjustment and Planning Board*, including notice of all scheduled hearings before the *Zoning Board of Adjustment and the Planning Board*.

~~3.~~ *2.* The applicant shall submit to the Building Inspector, *Zoning Board of Adjustment and Planning Board*, certification provided by a registered professional engineer, assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.

4. ~~3.~~ The Building Inspector, *Zoning Board of Adjustment and Planning Board* shall obtain, review, and reasonably utilize any floodway data available from Federal, State, or other sources as criteria for requiring that all development located Zone A meet the following floodway requirement:

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

ARTICLE 11. *WORKFORCE HOUSING ORDINANCE (Adopted March 8, 2011; Formatted March 13, 2012) [being re-designated as Article 11 – text of existing ordinance to remain unchanged]*

~~ARTICLE 11~~ 12. ADMINISTRATION (Formerly Article 11, revised March 13, 2012)

For the purposes of this Ordinance...

A. Administrative Officer

This Ordinance ...

D. *Special Exceptions, Variances and Conditional Use Permits*

Unless otherwise indicated by the Planning Board or Zoning Board as a condition of approval during the application approval process, Conditional Use Permits, Special Exceptions and Variances shall automatically expire two (2) years after the date of approval if at that time:

- 1. The conditions of approval have not been met; or*
- 2. Any related state or local permit or approval is outstanding; or*
- 3. The action authorized by the land use board(s) has not commenced.*

E. ~~D~~ Violations and Penalties...

ARTICLE 13. *SIGNS (Adopted March 8, 1966; Formatted March 12, 2012) [being re-designated as Article 13 – text of existing ordinance to remain unchanged]*

ARTICLE 14. *TEMPORARY SIGNS (Adopted February 16, 2006; Formatted March 12, 2012) [being re-designated as Article 14 – text of existing ordinance to remain unchanged]*

~~ARTICLE 12~~ 15. ZONING BOARD OF ADJUSTMENT (Formerly Article 12, revised March 13, 2012)

A. Authority...

D. Powers and Duties

The Zoning Board of Adjustment shall have the following powers (RSA 674:33):

1. Administrative Appeals ...

2. Variances - Authorize, upon appeal in specific cases, *pursuant to RSA 674-33, as amended and in accordance with applicable case law.* ~~such variance from the terms of the Zoning Ordinance, as will not be contrary to the public interest, if owing to special conditions, a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship, and so that the spirit of the Ordinance shall be observed and substantial justice done. No variance may be granted unless all of the following criteria are met:~~

- ~~a. No diminution in values of surrounding properties would be suffered;~~
- ~~b. Granting the variance would be of benefit to the public interest;~~
- ~~c. Denial of the variance would result in unnecessary hardship to the owner seeking it;~~
- ~~d. Granting the variance would do substantial justice; and~~
- ~~e. The use would not be contrary to the spirit of the Ordinance.~~

4. Equitable Waiver of Dimensional Requirements (RSA 674:33-a):

I. When a lot or other division of land, or structure thereupon, is discovered to be in violation of a physical layout or dimensional requirement imposed by a zoning ordinance enacted pursuant to RSA 674:16, the zoning board of adjustment shall, upon application by and with the burden of proof on the property owner, grant an equitable waiver from the requirement, if and only if the board makes all of the following findings:

(a) That the violation was not noticed or discovered by any owner, former owner, owner's agent or representative, or municipal official, until after a structure in violation had been substantially completed, or until after a lot or other division of land in violation had been subdivided by conveyance to a bona fide purchaser for value;

(b) That the violation was not an outcome of ignorance of the law or ordinance, failure to inquire, obfuscation, misrepresentation, or bad faith on the part of any owner, owner's agent or representative, but was instead caused by either a good faith error in measurement or calculation made by an owner or owner's agent, or by an error in ordinance interpretation or applicability made by a municipal official in the process of issuing a permit over which that official had authority;

(c) That the physical or dimensional violation does not constitute a public or private nuisance, nor diminish the value of other property in the area, nor interfere with or adversely affect any present or permissible future uses of any such property; and

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

II. In lieu of the findings required by the board under subparagraphs I(a) and (b), the

owner may demonstrate to the satisfaction of the board that the violation has existed for 10 years or more, and that no enforcement action, including written notice of violation, has been commenced against the violation during that time by the municipality or any person directly affected.

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

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

ARTICLE ~~13~~ 16. ADOPTION AND AMENDMENT PROCEDURES (*Formerly Article 13, revised March 16, 2012*) [*being re-designated as Article 11 – text of existing ordinance to remain unchanged*]

ARTICLE ~~14~~ 17. SEPARABILITY (*Formerly Article 14, revised March 13, 2012*) [*being re-designated as Article 17 – text of existing ordinance to remain unchanged*]

ARTICLE ~~15~~ 18. EFFECTIVE DATE (*Formerly Article 15, revised March 13, 2012*) [*being re-designated as Article 18 – text of existing ordinance to remain unchanged*]