ZONING ORDINANCE
OF THE
TOWN OF DUNBARTON

ADOPTED MARCH 10, 1970

REVISED MARCH 12, 2024

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ARTICLE 1. GENERAL PROVISIONS

A. Title

This Ordinance shall be known and may be cited as the *Zoning Ordinance of the Town of Dunbarton, New Hampshire.*

B. Authority

This Ordinance is enacted by the Town of Dunbarton pursuant to the authority granted by the New Hampshire Legislature as stipulated in Sections 674:16-21 of the Revised Statutes Annotated, 1983, as amended.

C. 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, child day care; 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 setback requirements, and limitations on type, height, and placement of vegetation; and the encouragement of the use of solar sky space easements under RSA 477:50, as amended. 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, as amended).

The provisions of this Ordinance reflect the 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, as amended).

D. Applicability

This Ordinance shall apply to 1) all buildings or structures erected, reconstructed, altered, enlarged or relocated after the effective date of this Ordinance; 2) the use of any building, structure, or land which is substantially different from its use prior to the effective date of this Ordinance; and 3) any land which is subdivided after the effective date of this Ordinance. (RSA 674:20, as amended)

E. Interpretation

In interpreting any provision of this Ordinance, it shall be held as the minimum requirement, adopted for the promotion of the public health, moral safety, and general welfare of the town. Whenever any requirement of this Ordinance is at variance with any other provision of the Ordinance, or with the requirements of any other lawfully adopted rule or regulations, the most restrictive, or that imposing the highest standard, shall govern. (RSA 676:14, as amended)

ARTICLE 2. DEFINITIONS

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

State of New Hampshire statutory definitions (e.g.: NH RSAs) are added by the Planning Department as may be considered helpful or appropriate. Such definitions are considered updated as may be amended. [Individuals, applicants, and/or consultants should check for revisional updates.]

The following words are specifically defined.

ABUTTER – Any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration. For purposes of receiving testimony only, and not for purposes of notification, the term "abutter" shall include any person who is able to demonstrate that their land will be directly affected by the proposal under consideration. For purposes of receipt of notification by a municipality of a local land use board hearing, in the case of an abutting property being under a condominium or other collective form of ownership, the term abutter means the officers of the collective or association, as defined in RSA 356-B:3, XXIII, as amended. (see RSA 672:3, as amended, for complete definition) [Amended March 2020]

ACCESSORY BUILDING – A building which exists on the same lot and is customarily incidental and subordinate to the principal building. May also be referred to as accessory structures.

ACCESSORY DWELLING UNIT (ADU) – An attached dwelling unit that is incidental to either a primary structure (e.g.: single-family home) or an accessory building (e.g.: barn or garage) on a single property. An ADU shall conform to the provisions outlined in the Table of Uses in Article 4 (I) as well as other standards outlined in footnote (13) of Article 4 (II) of the Dunbarton Zoning Ordinance ("Table of Uses – Footnotes").

ACCESSORY USE – A non-residential land use which exists on the same lot and is customarily incident and subordinate to the principal use.

ACRE – A measure of land containing 43,560 square feet.

AGRICULTURE – Means all operations of a farm, including, but not limited to, a) the cultivation, conservation, and tillage of the soil; b) the raising and sale of livestock; c) the breeding, boarding, training, riding instruction, and selling of equines; d) the production of greenhouse crops; 3) any practice on the farm incident to, or in conjunction with, such farming operations. (see RSA 21:34-a, II, as amended, for complete definition) [Amended March 2020]

BACK LOT – 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) A land-locked parcel.

BED AND BREAKFAST – An establishment in a private residential dwelling that supplies temporary
to overnight guests for a fee. Such operation shall not provide more than 10 sleeping rooms for rent and the owner or manager of the facility shall also permanently reside on the premises.

BUFFER – An area of land used to separate visibly one use from another or to shield or block noise, lights, or other nuisances.

BUILDING – Any structure larger than 100 square feet built for the shelter, housing or enclosure of persons, animals, chattels, property, or materials of any kind. Such "building" includes open porches and decks, open breezeways, and any other roofed areas. [Amended March 14, 2000]

BUILDING HEIGHT – The vertical distance of a building measured from the average elevation of the finished grade within twenty feet of the structure to the highest point of the roof.

BUILDING, PRINCIPAL – A building in which is conducted the principal use of the lot on which it is located.

CERTIFICATE OF OCCUPANCY (CO) – A document issued by the Building Inspector allowing the occupancy or use of a building and certifying that the structure or use has been constructed or will be used in compliance with all the applicable local ordinances and regulations.

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 setback 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.

CERTIFIED SOIL SCIENTIST – A person who, by reason of special knowledge of pedological principles acquired by professional education and practical experience as specified by RSA 310-A:84, as amended, is qualified to practice soil science, and who has been duly certified by the Board of Natural Scientists.

COMMERCIAL USE – 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.

COMMON OPEN SPACE – Land within or related to a cluster subdivision, not individually owned, which is designed and intended for the common use or enjoyment of the residents of the development or the public.

CONDITIONAL USE APPROVAL – An approval issued by the Planning Board or the Zoning Board of Adjustment stating that the proposed use meets all conditions set forth in the zoning ordinance as stipulated by the Board.

CONDOMINIUM – As defined by RSA 356-B, as amended.

DEVELOPABLE LAND AREA – Is the portion of the tract remaining after deducting the area of all surface water bodies and slopes in excess of 20 percent from the total tract area.

DISTRICT, OVERLAY – A zoning district superimposed on one or more established zoning districts designed to impose supplemental requirements, restrictions, and performance standards in the underlying district(s). (Amended March 9, 2004)

DWELLING, DUPLEX (TWO-FAMILY) – A building/structure containing two dwelling units, sharing a common wall, and otherwise connected by common construction, designed for, or occupied exclusively by two families living independent of one another. [Amended March 2020]

DWELLING, MULTI-FAMILY – A building/structure containing three or more dwelling units, attached and otherwise connected by common construction, designed for, or occupied exclusively by, three families or more living independent of one another. (See Article 9 for Multi-Family Residential Housing District requirements.) [Amended March 2020]

DWELLING, SINGLE FAMILY – A building/structure containing one dwelling unit which is not attached to any other dwelling unit. [Amended March 2020]

DWELLING UNIT – A building or portion thereof containing complete housekeeping facilities and intended for occupancy by a single family. No dwelling unit shall have a net floor area of less than 500 square feet. It shall not pertain to facilities such as hotels, motels, boarding houses or other facilities intended for transient use.

ELEVATION, AVERAGE – The mean location between the highest point and lowest point of the ground within 20 feet of the walls of the building.

FAMILY – Any number of people occupying a dwelling unit and living together as a single housekeeping unit.

FAMILY DAY CARE HOME – Means an occupied residence in which child day care is provided for less than 24 hours per day, except in emergencies, for up to six children from one or more unrelated families. (See RSA 170-E:2 IV (a), as amended, for complete definition.) [Amended March 2020]

FARM – means any land, buildings, or structures on or in which agricultural and farming activities are carried out or conducted and shall include the residence or residences of owners, occupants, or employees located on such land. (See RSA 21:34-a, I, as amended, for complete definition.) [Amended March 2020]

FLOOR AREA, NET – The total of all floor areas of a building, excluding stairwells, equipment rooms, storage areas, interior vehicular parking, and all floors below the first or ground floor, except when used or intended to be used for human habitation.

FRONTAGE – That portion of a lot bordering on a highway, street or right-of-way (RSA 674:24-I, as amended). 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 an Open Space Development a private road may be used to determine frontage. 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.

GENERAL SERVICE ESTABLISHMENTS – A business activity where the primary purpose is the rendering of service and repair activities rather than the sale of goods. (Examples include, but not limited

to, upholstery/furniture repair, bicycle repair shop, caterer, small appliance repair, taxidermist, locksmith, computer repair, dance/art/music/gymnastics/wellness instruction.) This would not apply to home occupations. [Adopted March 10, 2020]

GROUP CHILD DAY CARE CENTER – Means a child day care agency in which daily child day care is provided for preschool children and up to five school-age children whether or not the service is known as day nursery, nursery school, kindergarten, cooperative, child development center, day care center, center for the developmentally disabled, progressive school, Montessori school, or by any other name. (See RSA 170-E:2, IV (c), as amended, for complete definition.) [Amended March 2020]

HIGH INTENSITY SOIL SURVEY (HISS) – A soil map prepared using the methods prescribed by the Society of Soil Scientists of Northern New England, in the publication "High Intensity Soil Maps for New Hampshire, January 1987", as amended.

HOME OCCUPATION – An occupation conducted within the dwelling unit or accessory building(s), 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.

HOTEL – A building designed and used for transient lodging accommodations to the general public and providing additional services such as restaurants, meeting rooms, and recreation facilities. A hotel shall have a minimum of ten sleeping rooms, to which primary access is gained through internal hallways.

JUNK YARD – As defined by RSA 236:112, as amended, a junk yard means any business and any place of storage or deposit, whether in connection with another business or not, which has stored or deposited two or more unregistered motor vehicles which are no longer intended or in condition for legal use on the public highways, or used parts of motor vehicles or old iron, metal, glass, paper, cordage, or other waste or discarded or secondhand material which has been a part, or intended to be a part of any motor vehicle, the sum of which parts or materials shall be equal in bulk to two or more motor vehicles. Junk yard shall also include any place of business or storage, or deposit of motor vehicles purchased for the purpose of dismantling the vehicles for parts or for use of the metal for scrap and where it is intended to burn materials which are parts of a motor vehicle or cut up the parts thereof.

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

LIVESTOCK – Generally accepted outdoor farm animals not to include cats, dogs, and other house pets. Pursuant to RSA 427:38-III. as amended, livestock includes but is not limited to all beef and dairy cattle, steer, oxen, goats, sheep, swine, horses, mules or other equidae, as well as domesticated strains of buffalo, bison, llamas, alpacas, emus, ostriches, poultry, rabbits, yaks, elk (Cervus Canadensis), fallow deer (Dama dama), red deer (Cervus elephus), and reindeer (Rangifer tarandus). [March 14, 2017]

LOT – A parcel of land at least sufficient in size to meet the minimum requirements for use, coverage, and area, and to provide required yards and other open spaces. An undersized lot is permissible if it passes state standards for soil conditions and substantially meets the requirements of this ordinance and if in existence on the date of adoption of this ordinance. (See RSA 674:24-II, as amended)

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.

LOT LINE, FRONT – The lot line separating a lot from a public street right-of-way.

LOT OF RECORD – A lot which exists as shown or described on a plat or deed in the records of the Merrimack County Registry of Deeds.

LOT SIZE, MINIMUM – The smallest lot area established by the zoning ordinance on which a principal use or structure may be located in a particular zoning district.

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. (See RSA 674:31, as amended)

MANUFACTURING – Establishments engaged in the mechanical or chemical transformation of materials or substances into new products including the assembling of component parts, the manufacturing of products, and the blending of materials such as lubricating oils, plastics, resins or liquids.

MOTEL – An establishment providing transient accommodations containing six or more rooms, the majority of which have direct access to the outside without the necessity of passing through the main lobby of the building.

NONCONFORMING USE – The use of land, buildings or premise which is not a use permitted by the provisions of this ordinance for the district in which such land, buildings or premise is located. (See RSA 674:24-IV, as amended)

OPEN SPACE SUBDIVISION – A subdivision in which individual house lot sizes (e.g., "homestead lots") are reduced below those normally required in the zoning district in which the development is located, in return for provisions of permanent open space, in accordance with Article 6 of this Ordinance. [March 14, 2017]

PERSONAL SERVICE ESTABLISHMENTS – A business activity where the primary purpose is the rendering of a service to individuals rather than the sale of goods. (Examples include, but not limited to, shoe repair, dry-cleaning/laundry services, tailoring/dressmaking, massage, tattooing, tanning.) This would not apply to home occupations. [Adopted March 10, 2020]

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 (e.g.: stamped and signed).

PRE-SITE BUILT HOUSING – Any structure designed primarily for residential occupancy which is wholly or in substantial part made, fabricated, formed or assemble in an 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 ordinance, pre-site-built housing shall not include manufactured housing as defined in RSA 674:31, as amended. (See RSA 674:31-a, as amended)

REGULATOR – Shall mean the Dunbarton Planning Board in accordance with RSA 155-E, as may be 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) 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-VIII, as amended). Where setbacks are required, they shall not be less in depth or width than the required minimum dimensions in any part, and they shall be at every point open and unobstructed from the ground, including beneath the ground, to the sky. [Amended March 12, 2019]

SIGN – Any object, device, display or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination or projected images.

SITE PLAN REVIEW – The site review procedure, as required by, and /or provided by the Planning Board to 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; Definition added March 11, 2003]

STREET – Relates to and includes street, avenue, boulevard, road, lane, alley, viaduct, highway, freeway and other ways. (See RSA 672:13, as amended)

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 or attached to something having a fixed location on the ground, exclusive of fences. [Amended March 12, 2019]

SUBDIVISION – As defined in RSA 672:14, as amended, subdivision means the following:

I. The division of the lot, tract, or parcel of land into two or more lots, plats, sites or other divisions of land for the purpose whether immediate or future, of sale, rent, lease, condominium, conveyance or building development. It includes re-subdivision and when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided.

II. The division of a parcel of land held in common and subsequently divided into parts among the several owners shall be deemed a subdivision under this definition.

III. The granting of an easement in gross to a public utility for the purpose of placing and maintaining overhead and underground facilities necessary for the transmission or distribution network such as poles, wires, cable, conduit, manholes, repeaters and supporting apparatus, including any unmanned structures which is less than 200 square feet, shall not be construed as a subdivision under this title and shall not be deemed to create any new division of land for any other purpose.

TRAVEL TRAILER – A vehicular type portable structure without permanent foundation, which can be towed, hauled, or driven and primarily designed as temporary living accommodation for recreational, camping and travel use.

WELL – A system designed and installed to provide a potable water supply.

WORKFORCE HOUSING – Pursuant to NH RSA 674:58, as amended, workforce housing is housing which is intended for sale, and which is affordable to a household with an income of no more than 100 percent of the median income for a four-person household for the metropolitan area or county in which the housing is located as published annually by the United States Department of Housing and Urban Development. "Workforce housing" also means rental housing which is affordable to a household with an income of no more than 60% of the median income for a three-person household for the metropolitan area or county in which the housing is located as published annually by the United States Department of Housing and Urban Development. Housing developments that exclude minor children from more than 20% of the units, or in which more than 50% for the dwelling units have fewer than two bedrooms, shall not constitute workforce housing for the purposes of the Dunbarton Zoning Ordinance (refer to NH RSA 674:58 as may be amended). [Definition added March 14, 2017]

YARD, FRONT – An open unoccupied space within and extending the full width of the lot, between the street property line and the closest part of a building nearest to such street line.

YARD, REAR – An open unoccupied space, the full width of the lot, between the rear wall of the building from the furthest point of the permanent structure throughout its height and the rear line of the lot. In the case of a triangular lot with only one side fronting on a street, the rear yard shall be the open unoccupied space between the rear wall of the building and a line halfway between such rear wall and the point of intersection of the side lines of the lot.

YARD, SIDE – An open unoccupied space within the lot between the side lot line, not a street line, and the parts of the building nearest to such lot line.

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

A. District Names

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

Low-Density Residential – LDR

Medium-Density Residential – MDR

Village District – VD

Multi-Family Residential Housing District (overlay) - MFD

Wetland Conservation District (overlay) – WCD

B. Location of Districts

1. The location of said districts are delineated on the map entitled *Town of Dunbarton, N. H. Zoning Map of 1970,* as revised, which shall hereinafter be referred to as the Zoning Map of the town of Dunbarton and shall be made part of this Ordinance. (RSA 674:9, 10, 11, 12, as amended).
The location of said district boundaries are further described as follows:

a. **Village District (VD) –** said area begins at a point on the centerline of Route 13 300 feet north of its intersection with Barnard Hill Road; thence running easterly at a 90-degree angle from said centerline for a distance of 300 feet; thence running in a southerly direction, 300 feet from and parallel to, the centerline of Route 13 to a point which intersects the line dividing assessors lots D3-1 and D3-2; thence turning and running westerly along said line to its point of intersection with the centerline of Route 13; thence turning and running northwesterly approximately 300 feet along the centerline of Mansion Road; thence turning and running northerly, parallel to, and 300 feet from the centerline of Route 13 to its point of intersection with the centerline of Barnard Hill Road; thence turning and running northwesterly along the centerline of said road to a point of intersection with the extension of the line dividing assessors lots F3-13 and F3-14; thence turning and running easterly along said line to a point where its extension intersect the centerline of Route 13; thence turning and running southerly along the centerline of Route 13 to the point of beginning.

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.

c. **Medium-Density Residential (MDR) -** Said area begins at a point of intersection of the centerlines of the streets Tenney Hill Road and Route 13; thence running easterly and southerly along the centerline of Tenney Hill Road to its point of intersection with the centerline of Grapevine Hill Road; thence turning and running easterly approximately 80 feet along the centerline of Grapevine Hill Road to a point where the extension of the line dividing assessors lots G4-4 and G4-5 intersects the centerline of the road; thence turning

and running southerly approximately 560 feet along said property line which divides assessors lots G4-4 and G4-5; thence turning and running westerly 220 feet along said property line; thence turning and running southerly approximately 610 feet along the line dividing assessors lots G4-4, . G4-7 and G4-10; thence turning and running westerly approximately 150 feet along the line dividing assessors lots G4-3 and G4-10; thence turning and running southerly approximately 2,400 feet along the line dividing assessors lots G4-3 and G4-6; thence turning and running westerly approximately 610 feet along the line dividing assessors lots G4-6, G4-1, and F3-5; thence turning and running southerly approximately 1,660 feet along the line which is the eastern side of the New England Power Company easement to its intersection with the centerline of Guinea Road; thence turning and running southerly along said centerline to its point of intersection of the centerline of Robert Rogers Road; thence turning and running westerly approximately 60 feet to the point where the extension of the line dividing assessors lots E4-6 and E4-7 intersects the centerline of the road; thence turning and running southerly approximately 790 feet along said property line; thence turning and running easterly approximately 110 feet along the line dividing assessors lots E4-5 and D3-1; thence turning and running southerly approximately 1,370 feet along the line dividing assessors lots D3-1 and D4-10; thence turning and running westerly approximately 1,450 along the line dividing assessors lots D3-1 and D4-9; thence turning and running southerly approximately 770 feet along same line; thence turning and running westerly approximately 710 feet along the line dividing assessors lots D3-1, D3-7 and D3-6; thence turning and running northerly approximately 720 feet along the line dividing assessors lots D3-1, D3-2 and D3-6; thence turning and running westerly approximately 130 feet along the line dividing assessors lots D3-1 and D3-2; thence running northwesterly approximately 290 feet along same line; thence running westerly approximately 90 feet along same line to the southeast corner of the Village District zoning district; thence turning and running northerly along the eastern boundary of the Village District; thence turning and running westerly along the northern boundary of the Village District; thence turning and running southerly along the western boundary *of* the Village District to its intersection with the centerline of Mansion Road; thence turning and running northwesterly along the centerline of Mansion Road to its point of intersection with the centerline of Stark Lane; thence turning and running northeasterly along the centerline of Stark Lane to its point of intersection with the centerline of Winslow Road; thence turning and running easterly along the centerline of Winslow Road to its point of intersection with the centerline of Route 13; thence turning and running southerly along the centerline of Route 13 to the point of beginning.

d. **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. 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 which front on said highways or retain access easements and/or rights-of-way directly to these highways. These parcels shall be able to show provisions for direct, reasonable, and safe access to those highways without traversing other existing roadways, at the time of formal application for Site Plan Review.

2. Interpretation of District Boundaries

Where any uncertainty exists with respect to the boundary of any district as shown on the Zoning Map, the following rules shall apply.

a. Boundaries indicated as a street, utility line, watercourse or other water body shall be construed to be the centerline thereof.

b. Boundaries indicated as following approximately parallel to a street, utility line, watercourse or other water body shall be construed to be parallel to the nearest line thereof and the number placed on the Zoning Map between the boundary and such line shall be the distance in feet between them as measured at a right angle from such line.

c. Where a boundary apparently follows a property line, it shall be interpreted as such. Such property line shall be interpreted as the one existing at the time of enactment of this Ordinance.

d. Where a boundary is indicated as intersecting the center line of a street, utility line, watercourse or other water body, it shall be construed to intersect at right angles to said center line or, in the case of a curved center line, at right angles to the tangent of the curve at the point of intersection.

e. Where a district boundary line divides a lot, the use in either zoning district may continue into the adjoining zoning district a distance of not more than 20 feet. [Amended March 2020]

f. In the case of uncertainty of the location of a district boundary, except for parcels considered to configure the Multi-Family Residential Housing District (MFD) (see sub-section g.), the Zoning Board of Adjustment shall determine the exact location of said boundary. (Amended March 9, 2004)

g. For the Multi-Family Residential Housing District (MFD), the Planning Board shall determine the exact location of said boundary and the inclusion of those lots and parcels providing required access to the specified State Highway system. This determination shall be made during the application phase of Site Plan Review and shall be based on proposals that are designed to provide direct, safe, and reasonable access to State Highways 13 and 77, consistent with engineering access standards ordinarily applied to new subdivision roadway proposals. (Amended March 9, 2004)

ARTICLE 4. USE AND DIMENSIONAL REGULATIONS [Revised March 13, 2012 and March 14, 2017]

Except as herein provided, no building or land shall be used except for the purposes permitted in the district as described in this section. A permit for the construction, alteration, enlargement, moving, demolition or use of a building or structure shall not be issued by the Building Inspector unless it complies with the provisions of this section and/or has been granted a variance or special exception by the Zoning Board of Adjustment (RSA 674:20, as amended)

I. TABLE OF USES

	FOOTNOTES LDR DISTRICT	FOOTNOTES MDR DISTRICT	FOOTNOTES VD DISTRICT
A. RESIDENTIAL			
Single Family Dwelling	P	P	P
Multi-family dwelling (see Article 9)	P(1)(12)	P(2)(12)	P(3)(12)
Manufactured housing unit	P	P	P
Open Space Subdivision	P(4)	P(4)	
Home Occupations	P(5)	P(5)	P(5)
Accessory Dwelling Unit	P(13)	P(13)	P(13)
Workforce Housing	P(14)	P(14)	P(14)
Duplex (two family)	P(15)	P(15)	P(15)
B. AGRICULTURAL			
Agriculture, horticulture, and floriculture	P	P	P
Greenhouse, farm stand, et al, with retail sale of agriculture or farm products	P	P	P
Livestock, poultry and swine	P(6)	P(6)	P(6)
Stables	P(6)	P(6)	P(6)
Veterinary office, animal hospital, or kennel	S(7)(12)	S(7)(12)	
Riding Academy or Commercial Stable	S(7)(12)	S(7)(12)	
C. COMMERCIAL			
Bank	S(8)(12)	S(8)(12)	S(8)(12)
Barber or Beauty Shop	S(12)	S(12)	S(12)
Bed & Breakfast Inns	S(12)	S(12)	S(12)
Camping Areas	S(12)	S(12)	
Country Club	S(12)	S(12)	
Eating & Drinking establishments	S(12)	S(12)	S(12)
Funeral Parlor	S(12)	S(12)	S(12)
Gas Station and Auto Repair	S(12)	S(12)	
General Service Establishments	S(12)	S(12)	S(12)
Hotel	S(8)(12)	S(8)(12)	S(8)(12)
Motel	S(8)(12)	S(8)(12)	S(8)(12)
Office	S(12)	S(12)	S(12)
Personal Service Establishment	S(12)	S(12)	S(12)
Recreation Facility	S(12)	S(12)	S(12)
Retail Store	S(12)	S(12)	S(12)
Service Club	S(12)	S(12)	S(12)
Theater	S(12)	S(12)	S(12)
Travel Trailer Park	S(12)	S(12)	S(12)
Wholesaling	S(12)	S(12)	S(12)
D: INDUSTRIAL			
Extraction operations	S(9)(12)	S(9)(12)	
Junk Yards	S(10)(12)		
Lumber Yards	S(12)	S(12)	
Manufacturing	S(11)(12)	S(11)(12)	
Research & development	S(11)(12)	S(11)(12)	
Sawmills & Wood processing	S(12)	S(12)	
Warehousing	S(11)(12)	S(11)(12)	
E: PUBLIC/INSTITUTIONAL			
Church	P	P	P
Clinic	S(12)	S(12)	S(12)
Educational Institution	S(12)	S(12)	S(12)
Hospital	S(12)	S(12)	S(12)
Public Utilities	S(12)	S(12)	S(12)
Public parks and playgrounds	P	P	P
Group Child Day Care Center	S(12)	S(12)	S(12)
Family Day Care Home	P	P	P

II. TABLE OF USES – FOOTNOTES

(1) **LOW-DENSITY RESIDENTIAL DISTRICT (LDR) -** Multi-Family dwellings, up to four units per structure, provided such structures are located on lots of a size to provide five acres for the first unit and two additional acres for each additional unit. Additional structures require an additional five acres for the first unit and two acres for each additional unit up to four. No more than four dwelling units per building are permitted. This results in the following density [March 11, 2003]:

Number of Units	Building Acres	Acres/Unit
1	5	5.00
2	7	3.50
3	9	3.00
4	11	2.75

(2) **MEDIUM-DENSITY RESIDENTIAL DISTRICT (MDR) -** Multi-Family dwellings, up to four units per structure, provided such structures are located on lots of a size to provide three acres for the first dwelling unit and two acres for each additional dwelling unit. Additional structures require an additional three acres for the first unit and two acres for each additional dwelling unit. No more than four dwelling units per building are permitted. This results in the following density [March 11, 2003]:

Number of Units	Building Acres	Acres/Unit
1	3	3.00
2	5	2.50
3	7	2.33
4	9	2.25

(3) **VILLAGE DISTRICT -** Multi-Family dwellings, up to four units per structure, provided such structures are located on lots of a size to provide two acres for the first dwelling unit and two acres for each additional dwelling unit. Additional structures require an additional two acres for the first unit and two acres for each additional dwelling unit. No more than four dwelling units per building are permitted. This results in the following density [Revised March 11, 2003]:

Number of Units	Building Acres	Acres/Unit
1	2	2.00
2	4	2.00
3	6	2.00
4	8	2.00

(4) Open Space Subdivisions shall be developed in accordance with Article 6 of this Ordinance.

(5) Provided that such a use complies with Article 4, Section II.A.5-a [Home Occupations] of this Ordinance.

(6) On any farm or land use where livestock, poultry or swine are boarded; shelters, pens or runs used to contain said animals shall be no closer than 100 feet to any property line. This does not include pastureland.

(7) Provided that the lot contains five acres and that any shelter or runs used to house/contain animals shall be no closer than 100 feet to any property line. This does not include pastureland.

(8) Provided that direct vehicular access is available to a state arterial highway.

(9) Provided that such a use receives approval as provided in Article 7 of this Ordinance.

(10) Provided that a determination is made by the Zoning Board of Adjustment that the property values of land adjacent to such a use will not be compromised. Also, a specific site shall contain at least 10 acres; all related activities shall be adequately fenced and/or screened and in no instance shall any fence be closer than 125 feet to an adjacent land use.

(11) Provided that the lot contains at least five acres and vehicular access is available to a paved highway.

(12) Must require Site Plan Review by the Dunbarton Planning Board. (Amended October 21, 2009 Town Meeting).

(13) Accessory Dwelling Units shall be developed in accordance with Article 4, Section II.E [Accessory Dwelling Units] of this Ordinance.

(14) Formal Workforce Housing Applications shall be permitted to construct five residential rental units per multi-family building [per NH RSA 674:59 as may be amended] Such application is controlled and governed by Article 11 [Workforce Housing] of this Ordinance.

(15) Each duplex building/structure shall require an additional two acres in addition to what is customarily required in the zoning district in which the parcel for development is located. Additionally, the provisions of Articles 9 [MFD Overlay District] and 11 [Workforce Housing] may apply as applicable.

A. Use Regulations

1. **Uses Permitted by Right - A** use listed in the Table of Uses is permitted as a matter of right in the district in which it is denoted by the letter "**P**", subject to all other applicable local, state, and federal regulations.

2. **Uses Permitted by Right with Conditions Imposed -** A use listed in the Table of Uses and denoted by the letter "**P**" and a number (footnote) indicates a use that is permitted by right only when in compliance with the conditions imposed as specified in the appropriate footnote(s); subject to all other applicable local, state and federal regulations.

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 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. **Nonconforming Uses -** Where on the effective date of adoption of this Ordinance or applicable amendment, a lawful use of land exists which would not be permitted by the regulations imposed by this Ordinance, the use may be continued so long as it remains otherwise lawful, provided that:

   a. No such nonconforming use shall be enlarged or increased nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance.

   b. No such nonconforming use shall be moved, in whole or in part, to any portion of the lot other than that occupied by such use at the effective date of adoption or amendment of this Ordinance.

   c. If any such nonconforming use of land ceases for any reason for a period of more than 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 and only at that time it shall conform to the regulations specified by this Ordinance (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.

d. No additional structure not conforming to the requirements of this chapter shall be erected in connection with such nonconforming use of land.

5. **Supplemental Provisions -** The following supplemental provisions shall be applicable to all zoning districts within the Town.

a. **Home Occupations -** 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:

i. There shall not be more than one home occupation carried out in a dwelling unit.

ii. 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.

iii. Adequate parking shall be provided for on the property.

iv. No more than five nonresidents shall be employed.

v. No more than 33%, with a maximum of 2,500 square feet, of the existing gross floor area of the principal dwelling and accessory buildings shall be used for business purposes; and no more than 10,000 square feet of land shall be used for outside purposes.

vi. 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.

vii. There shall be no display of goods or wares visible from the street.

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

ix. 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.

x. 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 a special exception and site plan review in accordance with the Dunbarton Site Plan Regulations, as amended. [Amended March 10, 2020]

b. **Signs -** No sign shall be permitted except in accordance with the Sign Ordinance adopted in 1966 and as amended.

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 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 of the Town of Dunbarton.

d. **Private Residential Water Wells (Adopted at March 8, 2005 Town Meeting)**

Private on-site residential water wells, serving no more than an equivalent of five-bedrooms, shall be located a minimum 75 feet from property lines, public rights-of-way, septic system leach beds, and other observed or probable sources of contamination.

All wells shall be located in a manner to reduce the likelihood of contamination from sources of pollution at or near the ground surface.

In the event a minimum 75-foot protective well radius cannot be maintained on an individual building lot (serving five-bedrooms or less), due to lot size or pre-existing physical constraints of a permanent nature, the Building Official may permit the installation of a private on-site water well with less than the minimum required protective well radius, subject to the following conditions:

i. That a technical site assessment, to consider the need for protection from pollution at a particular building site, be jointly undertaken, by a.) the Town of Dunbarton designated Building Official, and b.) the N.H. licensed water well contractor responsible for constructing the well.

ii. That special methods of construction be implemented, if deemed required per such technical assessment, to provide additional protection from pollution potential.

iii. That a “hold-harmless” agreement, indemnification, and/or standard release form, as determined at the sole discretion of the Building Official be signed by

the lot owner(s), acknowledging that said owner(s) has no cause of action against the State of N.H., the Town of Dunbarton, or any owner of abutting property, if the subject well becomes contaminated as a result of the decreased set-back distance.

iv. That, where applicable, and required by the Building Official, a protective deed easement be recorded, encumbering such other land within the prescribed protective radius, declaring that such land is permanently dedicated to a use that precludes development.

v. That if any part of a well radius extends over the lot lines of any abutting nonconforming lot, which in the opinion of the Building Official is capable of development, the well shall be grouted to below bedrock-depth.

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

In granting any waiver from the minimum 75-foot protective well radius requirement, the Town of Dunbarton, in addition to the above requirements, shall implement and enforce all other provisions of RSA Chapter 485-A:30-b, NH Administrative Rules Env Wq 1008.06 through 1008.12 (Subsurface Systems; well radii), and NH Administrative Rules We 602.5 (Grouting of Well Casings), as amended and as may be applicable.

6. **Structures Per Lot** - No more than one single-family dwelling structure, or more than one connected two-family dwelling structure (commonly known as a duplex) shall be permitted on any lot, except under those provisions for multi-family dwellings in the MFD overlay district. Each duplex building/structure shall require an additional two acres in addition to what is customarily required in the zoning district in which the parcel for development is located. Use and dimensional requirements for multi-family construction are referenced in this section, and further defined in Article 9, Multi-Family Residential Housing District (MFD)" (Amended March 9, 2004 & March 13, 2012).

B. Dimensional Regulations

No building or structure shall be erected, enlarged, altered or moved, nor shall any existing lot size be changed, or new lot created, except in accordance with the Table of Dimensional Regulations or as otherwise specified herein.

TABLE OF DIMENSIONAL REGULATIONS

Refer to footnotes (1), (2), and (3) below table

District	**Minimum Lot Size (1)(2)**	**Minimum Frontage**	**Building Setbacks**			**Septic System Setback**	**Well Setback**	**Max Building Height**	**Max Lot Coverage**
			Front Yard	**Rear Yard**	**Side Yard**				
	(acres)	**(feet)**	**(feet)**	**(feet)**	**(feet)**	**(feet)**	**(feet)**	**(feet)**	**(percentage)**
Low Density	5 **(3)**	300	50	50	50	50	75	35	15
Medium Density	3 **(3)**	250	40	40	40	50	75	35	15
Village District	2	200	40	40	40	50	75	35	15
Multi-Family	Per Underlying District	Per Underlying District	150	100	100	100	75	35	15
All districts – Optional Large Lot Zoning with Reduced Frontage	12	225	Requirements for building setbacks, septic, well, etc. remain the same as the underlying applicable zone noted above. See note **(4), (5),** and **(6)** below.						
	18	150							
	24	75							

1) Refer to Article 4. Section II.C. 'Nonconforming Lots' for exceptions to these minimum lot sizes.

2) Minimum lot size calculations shall be per dwelling unit except as otherwise specified herein and shall exclude all surface water bodies but may include wetlands.

3) Refer to Article 6, Open Space Subdivisions, for exceptions to these minimum lot sizes.

4) As an innovative land-use control zoning regulation per NH RSA 674:21, as amended, implementation under these provisions is voluntary and at the option of the applicant.

5) Lot sizing allows for the continuity of current-use taxation, or implementation thereof, for qualified parcels.

6) 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.

7) Septic system setbacks – Amended March 11, 1997

8) Well setbacks – Amended March 14, 2000

9) Option Large Lot Zoning with Reduced Frontage – Amended March 11, 2003

10) Multi-Family District – Amended March 9, 2004

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

1. Structures shall be permitted on a lot having frontage or an area which is less than that required by the Table of Dimensional Regulations if said structure is permitted by right within that district and if all of the following provisions (a. thru e.) are met:

   a. The lot was a parcel of record that is: a.) shown on an approved plan, or b.) described within an historical deed; either of which shall have been duly recorded at the Merrimack County Registry of Deeds prior to the effective date (March 10, 1970) or applicable amendment of this Ordinance.

   b. The lot is capable of supporting a well and septic system designed and installed in compliance with all applicable Town of Dunbarton and New Hampshire Department of Environmental Services regulations.

      The proposed septic system shall be designed, insofar as practical, in accordance with the Town of Dunbarton 50-foot setback requirement for conforming lots. Setback distances as allowed per NHDES regulations, however, may be utilized in the event of lot-size dimensional constraints and/or pre-existing physical conditions of a permanent nature that restrict placement of a system designed in accordance with the Town of Dunbarton requirements. The proposed septic system shall not create a threat to individual or public health, safety and welfare, such as degrading ground or surface water, or causing damage to surrounding properties.

      In the event any proposed septic system, or portion thereof, is to be located closer than 50 feet to an abutting property line, notice shall be given by the applicant to the owner(s) of such abutting land; clearly explaining such proposed design and construction. Written notice shall be given by certified mail, return receipt, enclosing a brief explanation of the planned construction, a readable copy of the proposed plan, and a written statement that "any concerns and comments as to the increased likelihood of pollution potential to abutting properties, must be directed in writing, within 30 days of the mailing hereof, to the Dunbarton Building and Planning Department." Such duly submitted comments shall be taken into account in any septic design plan review to be conducted by the Town of Dunbarton and/or the N.H. Department of Environmental Services, Sub-surface Systems Division.

      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.

      Any increase in heated living space in a building or structure on a nonconforming lot that the Building Official determines is reasonably capable of increasing the number of bedrooms on a nonconforming lot, shall require the septic system be reviewed, and if necessary, a new or

modified system be designed and installed, and approved by the New Hampshire Department of Environmental Services and the Town of Dunbarton.

Wells shall meet the setback standards and criteria established under Art. 4. A-6-d: "Private residential water wells." If any part of the well radius extends over the lot lines of a non-conforming lot, the well shall be grouted to below bedrock-depth.

c. All buildings and structures, other than septic systems and wells (as described above), or those uses requiring special setback or requirements per regulations in the underlying zone, shall comply with the following minimum setback requirements:

Total Lot Area	**Side & Rear Yard Setback**	**Front Yard Setback**
Under 1 acre	20'	25'
Between 1 and 2 acres	30'	30'
Between 2 and 3 acres	40'	40'
3 acres and above	See underlying zone requirements	

d. Building permit applications for construction on a non-conforming lot, where current building setbacks cannot be met, must be accompanied by a certified plot plan. The survey must detail existing natural features (wetlands, topography, ledge, etc.), setback 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 feet, on abutting properties. [amended March 10, 2020]

e. All proposed uses, buildings and structures must comply with the provisions of the Town of Dunbarton Wetlands Conservation District, NH Comprehensive Shoreland Protection Act, NHDES Wetland Rules, and all other State, Federal and local regulations as may be applicable. Additional review and permit procedures may be required; other dimensional restrictions may apply.

2. 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. Further, requirements other than those applying to area and frontage, except as established in Section 4.C-1-c above, shall conform to the regulations for the district in which the lot is located.

D. Nonconforming Structures (Adopted/Amended at March 8, 2005 Town Meeting)

1. Where a lawful building or structure exists at the effective date of this Ordinance (March 10, 1970) or applicable amendment that could not be built under the terms of this Ordinance or amendment by reason of restrictions on area, lot coverage, height, yards or other dimensional requirements, the building or structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

   a. No such nonconforming building or structure may be enlarged or altered in a way, which increases its nonconformity, but any building or structure or portion thereof may be altered to decrease its nonconformity.

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

   c. Should a nonconforming building or structure be intentionally moved for any reason for any distance whatsoever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

   d. Building permit applications for exterior additions to non-conforming buildings and structures, which increase a.) the square footage of the footprint, or b.) the total volume of the building or structure, or c.) the height of building or structure; or which change the location or configuration of the footprint of the building layout, must be accompanied by a certified plot plan. The certified plot plan must detail existing natural features (wetlands, topography, ledge, etc.), setback 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 feet, on abutting properties. <u>This requirement only pertains where the exterior addition makes the structure more non-conforming</u>. [Amended March 10, 2020]

   e. Building permit applications for exterior additions and expansion of a nonconforming 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 setback area or excessive lot coverage), absence a variance from the Zoning Board of Adjustment.

      Exterior additions and expansion of a nonconforming building or structure, which are shown by means of the certified plot plan not to be in a restricted zoning area, may receive building permit approval directly from the Building Official.

   f. Any increase in heated living space in a nonconforming structure that the Building Official determines is reasonably capable of increasing the number of bedrooms for a nonconforming dwelling or lot, shall require the septic system to be reviewed, and, if necessary, a new or modified system be designed and installed, and approved by the New Hampshire Department of Environmental Services and the Town of Dunbarton.

      Septic systems shall not create a threat to individual or public health, safety and welfare, such as the degradation of ground or surface water, or damage to surrounding properties.

g. All proposed uses, buildings, and structures must comply with the provisions of the Town of Dunbarton Wetlands Conservation District, NH Comprehensive Shoreland Protection Act, NHDES Wetland Rules, and all other State, Federal and local regulations as may be applicable. Additional review and permit procedures may be required; other dimensional restrictions may apply.

E. Accessory Dwelling Units

Each Accessory Dwelling Unit (ADU) shall require a building permit by the Building, Planning, and Zoning Department and must demonstrate <u>all</u> of the following to the Building, Planning, and Zoning Department for an ADU building permit:

1. The ADU shall be attached to either the principal structure (e.g.: home) or an accessory structure (e.g.: barn or garage) on the lot.

2. ADUs shall only be allowed on lots where one single family home is present.

3. An interior door shall be provided between the principal dwelling unit and the accessory dwelling unit but is not required that the door remain unlocked [per NH RSA 674:72, as amended].

4. If the ADU is attached to the principal structure (e.g.: 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 (though not required to be less than 750 square feet per NH RSA 674:72, as amended). Anything over 1,000 square feet shall require a Variance from the Zoning Board of Adjustment.

5. If the ADU is attached to an accessory structure (e.g.: 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 (though not required to be less than 750 square feet per NH RSA 674:72, as amended). Anything over 1,000 square feet shall require a Variance from the Zoning Board of Adjustment.

6. There shall be no more than one ADU per lot.

7. The ADU must be an independent living unit with its own sleeping, cooking, eating, and sanitation facilities; adequate parking shall be provided.

8. The ADU must maintain the look and feel of the structure it is attached to.

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

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

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

F. Large Lot Zoning with Reduced Frontage

As an elective option to less-than-traditional frontage requirements, reduced lot frontage shall be permitted under the provisions of this ordinance, provided each lot provides for an increase in the minimum acreage per the Table of Dimensional Regulations, and associated footnotes, in Section **B. Dimensional Regulations**, above.

This is an innovative land-use control regulation to allow for, and encourage, larger-lot subdivision parcels, based on an incentive provision allowing less-than-traditional-frontage requirements in the various districts. It is intended to promote open space, to preserve the rural, countrified atmosphere of Dunbarton, and reduce the expansion of Town roadway systems. This is an incentive zoning provision that is voluntary.

ARTICLE 5. WETLAND CONSERVATION DISTRICT (WCD)

A. Purpose

It is intended that this article shall:

1. Prevent the development of structures and land uses on or adjacent to wetlands, which will contribute to pollution of surface and groundwater by sewerage, toxic substances or sedimentation.

2. Prevent the destruction of, or significant changes to wetlands which provide flood protection, recharge the groundwater supply, augment stream flow during dry periods and filtration of water flowing into ponds and streams.

3. Protect unique and unusual natural areas and rare and endangered species.

4. Protect fish and wildlife habitat, maintain ecological balances, and enhance ecological values such as those cited in RSA 482-A:1, as amended.

5. Protect potential water supplies and existing aquifers and aquifer recharge areas.

6. Prevent unnecessary or excessive expense to the Town for the purpose of providing and/or maintaining essential services and utilities which might be required as a result of misuse or abuse of wetlands.

7. Preserve and enhance the aesthetic values associated with wetlands in the town of Dunbarton.

B. Wetland Conservation District Defined

The Wetland Conservation District is defined as the following great ponds and brooks and contiguous wetland soils: Gorham Pond, Purgatory Pond, Kimball Pond, Long Pond, Harry Brook, Gorham Brook, Black Brook, Bela Brook, and Purgatory Brook. The Wetland Conservation District Map is based on the current National Wetlands Inventory map and provides a general indication of the location of the larger wetlands in the community. Field verification of the actual Wetland Conservation District boundary is required through a field-conducted wetland delineation. [Amended March 9, 2021]

C. Applicability

1. All applications for a building permit, subdivision or site plan approval shall be subject to the provisions of this Article.

2. Any applicant seeking said approval(s) will be responsible for providing this information before the appropriate approval or permit can be granted.

3. Standards established herein shall constitute the rules of overlay zoning and shall be superimposed over other zoning districts or portions thereof. The provisions herein shall apply in addition to all other applicable ordinances and regulations.

D. Permitted Uses

Any use otherwise permitted by the Zoning Ordinance, except on-site sewerage disposal systems, may be permitted in a Wetland Conservation District if the proposed use complies with the provisions of Section E herein.

E. Conditional Use Approval

1. Conditional use approval may be granted by the Planning Board (RSA 674:21-II, as amended) after proper public notice and public hearing, for the crossing of a Wetland Conservation District by a road or other access way, utility right-of-way, communication lines, power lines and pipelines provided that the proposed construction complies with the following provisions:

   a. The proposed construction is essential to the productive use of land or water outside the Wetlands Conservation District; and

   b. No reasonable alternative to the proposed construction exists which does not cross or alter a wetland, or which has less detrimental impact on a wetland.

2. The burden of proof that the conditions specified in Subsection 1 above have been met shall be the responsibility of the person(s) requesting the conditional use approval.

3. The conditional use approval shall apply only to the project specified at the time of approval and shall not be transferable to a different project.

4. The Planning Board may attach conditions to any approvals granted under this section to ensure the intent of the Ordinance is met and failure to comply with all such conditions and all provisions of this Article 5 shall be grounds for revocation of such approvals.

F. Procedural Requirements

1. The provisions of Article V shall not apply to such land in the Wetland Conservation District that the owner demonstrates at their expense are not wetlands by means of a wetland delineation. [Amended March 9, 2021]

2. Wetland delineation (identification of wetland boundaries) requires a field-conducted evaluation of soils, hydrology, and plants by a Certified Wetland Scientist, unless exempted under New Hampshire law (RSA 310-A or RSA 482-A or administrative rules Env-VT 100-800, as amended). Three indicators are used to identify wetlands: a. The presence of water at or near the ground surface for part of the growing season. b. The presence of hydric soils. c. The predominance of plants that are adapted to living in saturated soils. Wetland delineations shall be conducted in accordance with current NHDES Wetlands Bureau Rules, as amended. [Added March 9, 2021]

3. Where the presence of a Wetland Conservation District has been identified, the boundaries of said District shall be clearly marked on the site with appropriate flagging along the entire perimeter of the wetland.

4. The Planning Board and/or Building Inspector shall notify the Conservation Commission of all applications for proposed projects, which may impact a Wetland Conservation District for

the purpose of allowing the Commission to make recommendations prior to final action on such application. If a conditional use approval has been issued by the Planning Board for construction in a wetland in accordance with the provisions of Section E, the applicant and his/her contractor shall have a pre-construction meeting with the Conservation Commission to ensure all provisions of the conditional use approval are complied with. Such meeting shall occur prior to the commencement of any earthwork or removal of vegetation in the wetland.

In the event that the accuracy of the wetland boundaries submitted by the applicant are suspect, the Planning Board may call upon the services of a Certified Wetland Scientist to re-examine said area and report the findings to the Planning Board for a boundary determination. The cost of said services shall be paid by the applicant. [Amended March 9, 2021]

G. Specific Provisions

1. Structures shall be set back at least 125 feet from a Wetland Conservation District.

2. No septic tank or leach field (edge of bed) may be constructed or enlarged closer than 125 feet to a Wetland Conservation District.

3. Any proposed changes to a wetland shall comply with all applicable state and federal laws including RSA 482-A, as amended, and shall comply with all permits (including conditions) issued pursuant to such laws.

4. Notwithstanding other provisions of this ordinance, the construction of additions and/or extensions to single family dwellings may be permitted within the Wetland Conservation District provided that the dwelling lawfully existed prior to the effective date of this Ordinance and all other local, state, and federal requirements are met.

5. The authority of the Planning Board and the Zoning Board of Adjustment to review on a case-by-case basis the impact of a proposed project on wetlands located outside of the Wetland Conservation District shall not be affected by the provisions of this Article.

ARTICLE 6. OPEN SPACE SUBDIVISIONS

A. Authority

This Chapter is enacted in accordance with the provisions of RSA 674:16-21, as amended.

B. Purpose

The purpose of this Open Space subdivision Chapter is to provide flexibility in the design and development of land to conserve open space, retain and protect important natural and cultural features, provide for more efficient use of Town services, and promote the development of balanced residential communities in harmony with the natural landscape.

C. Objectives

The objectives of this Chapter are to:

1. Permanently preserve natural topography and features and provide open space and recreation opportunities in close proximity to dwelling units.

2. Encourage flexibility and creativity in the design of developments through a carefully controlled process of negotiation of particular plans rather than the strict pre-regulation of all plans within a zone.

3. Encourage a less sprawling form of development that makes more efficient use of land, requires shorter networks of streets and utilities, and fosters more economical development and less consumption of rural land.

4. Provide an efficient procedure that can ensure appropriate, high-quality design and site planning and a high-level of environmental amenity.

5. Avoid development of portions of sites that contain important natural and/or cultural features, including, for example, scenic views, wildlife habitat (e.g.: large un-fragmented blocks of undeveloped land), areas of highest quality habitat, water resources and historic structures; and

6. Avoid development of portions of sites that are ill-suited for development, including, for example, areas with poor soil conditions, a high-water table, that are subject to flooding, or that have excessively steep slopes.

D. Applicability and Procedures

1. Applicability: Open space subdivisions are permitted on lots that are 20 acres or larger located in one of the following zones:

    a. The Low-Density Residential District (LDR); or,

    b. The Medium-Density Residential District (MDR)

2. Authorization for Planning Board to Administer This Chapter: The Dunbarton Planning Board is hereby granted the authority, in accordance with RSA 674:21, as amended, to issue a

Conditional Use Permit to administer this Chapter and its provisions. The approval of a proposed open space subdivision by the Planning Board shall constitute an approved Conditional Use Permit as described in this Chapter. With the exception of deviations described and presented in this Chapter, approvals shall follow the process prescribed in the Dunbarton Subdivision Regulations.

3. Review Process: An application submitted under the provisions and authority of this Chapter shall, unless directed otherwise by the specifics of this Chapter, follow the standard application and review process specified in the Dunbarton Subdivision Regulations, along with the following additional procedures:

    a. The maximum density shall be determined by dividing the parcel by the minimum lot size of the zone in which the parcel is located. For example: a 50-acre parcel in the LDR zone would yield ten lots. Fractions shall be rounded to the nearest whole number.

    b. The applicant may participate in a Design Review with the Planning Board in accordance with RSA 676:4 II (b), as amended, prior to the submittal of a formal engineered plan. The Design Review plan shall depict, at a minimum, property lines (for parent tract, proposed open space, and individual dwelling lots), buffers, wetland areas and a rough concept of the clustering. The purpose of such a meeting is to, among other things, verify the base number of lots. The applicant is strongly encouraged to participate in Design Review.

4. Legal Review: Prior to final approval by the Planning Board, the applicant shall submit for review by the Town Counsel, any restrictive covenants, condominium or cooperative agreements, conservation easements, or other legal agreements proposed for use in the open space subdivision. The Town Counsel shall advise the Planning board of the adequacy of such legal provisions. Final responsibility for the approval of the adequacy of such documentation shall rest with the Planning Board or their designee.

E. Permitted Uses and Ownership of the Lots/Units and Open Space

1. Permitted Uses:

    a. Single Family Homes

    b. Common area/Open Space Uses described in Section F below.

2. Ownership of the Units and Open Space:

    a. There are no restrictions or requirements with regard to the ownership of individual dwelling units/homestead lots (e.g.: single-family homes).

    b. Open Space ownership shall be limited to the following entities:

        i. The Condominium/Homeowners Association

        ii. The Town of Dunbarton or its designee

        iii. A third-party not-for-profit conservation entity

c. The Planning Board, with the guidance of Section F below, shall approve the entity or entities that will own and operate the open space. Such approval is required for the approval of the subdivision application. Open space proposed to be owned, operated and/or maintained by the Town of Dunbarton is subject to the approval of the Dunbarton Board of Selectmen in addition to Planning Board approval, with consultation and comment from the Dunbarton Conservation Commission.

d. Under formal agreement with one of the entities in Section B above, a third-party private entity may engage in agricultural, forestry, recreation or other activity as approved by the Planning Board with the guidance of Section F below.

F. Open Space Permitted Uses

1. Allowable Uses in Designated Open Space: Such uses include but are not limited to the following:

    a. Undisturbed Land

    b. A "walking trail" or "nature trail"

    c. Developed parks and recreation areas, public or private (not to exceed 10% of Designated Open Space)

    d. Agriculture and/or forestry activity

    e. Historic/cultural center open and free to the Public (not to exceed 25% of the Designated Open Space)

    f. A combination of permitted uses listed in this section

    Open Space uses shall be approved by the Planning Board, in consultation with the Conservation Commission and the Board of Selectmen. Open space shall not be used for dwelling units, infrastructure, or roadways; land to remain, in the opinion of the Planning Board, undisturbed as much as possible.

G. Lot Size and Dimensional Requirements

1. Design Standards for Developed Areas: Except as specified in this Chapter, subdivision plans shall comply with any additional applicable standards governing the location and layout of lots and structures found elsewhere in this Ordinance and as set forth in the Subdivision Regulations.

2. Lot Size Requirements: Individual lots within an Open Space Subdivision shall be a minimum of two acres with at least 125 feet of frontage. Frontage for individual lots shall be controlled by Section I.3 below. Such lots shall be referred to as "homestead lots."

3. Planning Board's Role in Homestead Lot Layout: The Planning Board shall have the authority to approve or require the adjustment of the location and clustering of individual homestead lots

within a cluster subdivision based upon factors including but not limited to terrain, economy/efficiency, access, and safety.

4. Lot Shape Requirements: Homestead lots shall be, in the opinion of the Planning Board, reasonably symmetrical; "flag" or "pork chop" lots shall be discouraged.

5. Setbacks: Front, rear and side setbacks on homestead lots shall be a minimum of 40 feet from all lot line boundaries. Compliance with the 40-foot setback does not eliminate the need to also comply with other setbacks and buffers, including but not limited to, the 100-foot buffer around the entire open space development, wetland setbacks, and any buffers/setbacks/easements described in deeds. The provisions described under this Section shall apply retroactively to any prior approval made by the Planning Board under this Article.

6. Other Requirements: All development proposals and homestead lots shall demonstrate compliance with Town of Dunbarton and/or New Hampshire Department of Environmental Services rules and regulations with regard to septic and well requirements. In the event there are conflicts between State and Town requirements the more stringent requirement shall apply.

H. Designated Open Space

1. Area of Designated Open Space: Designated Open Space shall be considered land that is not part of the developed area as specified above. One hundred percent of the Designated Open Space shall be permanently protected as open space (e.g.: undevelopable and undividable) with the exception of recreational, cultural or historic facilities, if applicable, as specified at the time of plan approval. Designated Open Space shall be considered separate from Common Areas associated with a homeowners' association.

2. Protection and Management of Open Space:

   a. Open Space Boundaries:

      i. Boundaries of all open space lots, including monumentation (per Dunbarton Subdivision Regulations) shall be shown on the plan. Additionally, a plan note shall indicate that further development in and/or subdivision of the Designated Open Space shall be prohibited. Restrictions on development and subdivision within the open space shall also be indicated in any deed(s) associated with the Designated Open Space.

   b. Deeds:

      i. Draft deeds for the open space shall be presented to the Planning Board for review by Town Counsel prior to the final approval of the plan. Deeds shall indicate, among other things, uses permitted in the open space, restrictions on future development and subdivision, management responsibilities of the open space, and what entity will own the open space. The Building Inspector shall not issue a building permit for the development until such a deed is executed and recorded at the Merrimack County Registry of Deeds.

   c. Other Documents:

i. Any homeowners' association documents/restrictive covenants shall be presented to the Planning Board for review by Town Counsel prior to the final approval of the plan. Such documents shall describe, among other things, the structure of the Association as well common area maintenance provisions. Such document(s) shall be executed and recorded at the Merrimack County Registry of Deeds as part of final approval. The Building Inspector shall not issue a building permit for the project until such document(s) are executed and recorded at the Merrimack County Registry of Deeds.

ii. Easements shall be presented to the Planning Board prior to final approval of the plan. This shall include depictions on the plan as well as any accompanying easement documents to be recorded. Such documents shall be subject to review by Town Counsel. Such document(s) shall be executed and recorded at the Merrimack County Registry of Deeds as part of final approval. The Building Inspector shall not issue a building permit for the project until such document(s) are executed and recorded at the Merrimack County Registry of Deeds.

3. Planning Board's Role in Open Space Quality: The Planning Board shall have the authority to determine the adequacy of the open space as presented in an open space subdivision. A significant portion of the open space subdivision shall consist of "desirable" land. The Board may deny the open space subdivision application if the ratio of "desirable" land to "undesirable" land is insufficient. Desirable land shall be made up of and consist of components including but not limited to:

   a. Buildable land (e.g.: non-wetland, non-steep slope per Town of Dunbarton Zoning Ordinance/Subdivision Regulations)

   b. Conservation importance (e.g.: identified as such in the Master Plan, Wildlife Inventory or other recognized conservation document)

   c. Area and/or structure of historic significance (subject to verification by Historical Society or other such entity)

   d. Scenic vistas (as demonstrated via a view-shed analysis)

   e. Farmland/forestry/agricultural soils or other agricultural importance indicator

   f. Land of other value as agreed upon between the Board and the Applicant and as quantitatively demonstrated by a recognized third-party expert (state, archeologist, etc.), documentation (plan, etc.) or other objective sources.

I. Other Requirements

1. Common Areas: Common Area shall be considered separate from Designated Open Space. Common areas shall, in general, provide required services to the residential components of the development. Common areas shall include, but are not limited to roads, drainage structures, community drinking water facilities and community sanitary sewer systems. Except as specified in this Chapter, streets, utilities, drainage facilities and other common area structures

shall comply with applicable sections found elsewhere in this Ordinance and requirements specified in the Subdivision Regulations, including the posting of bonds.

2. Buffers: The perimeter of the entire development (e.g.: the property lines of the original parent tract) shall maintain a 100-foot "no-build" buffer on all sides of said tract (except where specifically exempted by the Planning Board's approval process for allowing developmental needs). No building or development shall take place in the defined buffer area, and it shall remain generally in a natural growth state. During the approval process, the Planning Board may require additional vegetation within the buffer to screen the development, if deemed necessary.

   Homeowners (including homeowners associations and the like) having property within the buffer, may preserve required forested and vegetated areas, including the removal of brush and debris; and harvest incidental limited-use timber products such as firewood, occasional logs for timber, and the like.

   Under no circumstances shall any silviculture activities within the buffer exceed an aggregate basal cut of 30% within any progressive 10-year period. There shall be no excavations, removal of stumps, or removal of other natural resources from the buffer.

   Other groups and agencies having deeded rights of management and jurisdiction shall have comparable rights. Commercial forestry operation shall be allowed:

   a.) Only under the supervision of a New Hampshire licensed forester; and,

   b.) Only pursuant to, and in conjunction with, a properly filed NHDRA "intent-to-cut" permit noting the conditions required herein.

   In accordance with the Town's Zoning Ordinance definition for "buffer," the intended purpose of "limiting visibility, and to shield and block noise, lights, or other nuisances:" shall be maintained.

   The provisions described under this Section shall apply retroactively to any prior approval made by the Planning Board under this Article.

3. Road Design and Access: Individual homestead lots shall front on internal subdivision roads. Driveway access to individual homestead lots shall be from internal subdivision roads only. All other road design and access components shall be adhered to as prescribed in the Dunbarton Subdivision Regulations.

4. Open Space Access: Reasonable physical access to the Designated Open Space shall be provided.

ARTICLE 7. EXCAVATION REGULATIONS

A. Definitions

For purposes of this article the following words are specifically defined (RSA 155-E, as amended)

1. **Earth -** Sand, gravel, rock, soil, or construction aggregate produced by quarrying, crushing or other mining activity or such other naturally occurring unconsolidated materials that normally mask the bedrock.

2. **Excavation -** A land area that is used, or has been used, for the commercial taking of earth, including all slopes.

3. **Regulator -** The Dunbarton Planning Board unless an annual or special Town Meeting grants this authority to the Board of Selectmen or Zoning Board of Adjustment.

B. Applicability

Before any excavation of earth is commenced or expanded, the owner of the property or his/her designated agent shall obtain a special exception from the Zoning Board of Adjustment pursuant to this ordinance and an excavation permit for said excavation from the Regulator in accordance with the provisions of this Article, unless said excavation is exempt as provided for herein. (RSA 155-E, as amended)

C. Exemptions

The provisions of this Article and the requirement to obtain a permit shall apply to all excavation or removal of earth from any lot except when incidental to or in connection with:

1. The lawful construction or alteration of a building or structure or the lawful construction or alteration of a parking lot or way including a driveway on a portion of the premises where the removal occurs; provided that no such excavation shall be commenced without a permit under this Article unless all state and local permits required for the construction or alteration of the building, structure, parking lot, or way have been issued.

2. Agricultural or silvicultural activities, normal landscaping or minor topographical adjustment.

3. Excavation from a granite quarry for the purpose of producing dimension stone, if such excavation requires a permit under RSA 12-E, as amended; and

4. The lawful construction, reconstruction, or maintenance of a class I, II, III, IV, or V highway by a unit of government having jurisdiction for the highway or an agent of the unit of government which has a contract for the construction, reconstruction, or maintenance of the highway. Such activity shall be exempt only from the requirement of obtaining a permit; all other provisions of this Article shall apply. In addition, a pit agreement executed by the owner, the agent, and the town of Dunbarton shall be filed with the Regulator prior to the start of excavation.

D. Prohibited Projects

The Regulator shall not grant a permit under this Article for the following:

1. Where an excavation is proposed below road level within 50 feet of any highway right-of-way unless such excavation is for the purpose of said highway.

2. For excavation within 50 feet of the boundary of a disapproving abutter or within 10 feet of the boundary of an approving abutter unless approval is requested by said abutter.

3. When the excavation is not permitted by zoning or other applicable local or state law.

4. When the issuance of the permit would be unduly hazardous or injurious to the public welfare.

5. Where the required existing visual barriers would be removed, except to provide access to the excavation.

6. Within 150 feet of any dwelling which either existed or for which a building permit has been issued at the time the excavation is commenced.

7. When the excavation is planned beneath or adjacent to inland surface waters in such a manner that a permit is required from the N. H. Department of Environmental Services or federal agencies with jurisdiction over the premises; however, the Board may approve such excavation when all necessary permits have been obtained; or

8. Where the project cannot comply with the reclamation provisions of this Article.

E. Existing Excavations

The owner of an excavation, which lawfully existed and was in use before August 24, 1979, may continue such excavation on the site without a permit subject to the following:

1. Such an excavation may not be expanded, without a permit, beyond the limits of Dunbarton.

2. Such an excavation may not be expanded without a permit beyond the land area which has been contiguous and in common ownership with the excavation site at all times subsequent to August 24, 1979.

3. Such an excavation shall be performed in compliance with the operational standards of RSA 155-E:4-a, as amended, and the reclamation standards of RSA 155-E:5, as amended, and 155-E:5-a, as amended. Any violations of those standards shall be enforceable pursuant to RSA 155-E:10, as amended.

4. The owner and/or operator of any existing excavation site for which no permit has been obtained shall file a report with the Regulator within one year after receiving written notice of this requirement from the Regulator, and in no case later than August 4, 1991. The report shall include:

    a. The location of the excavation and the date the excavation first began.

b. A description of the limits of permissible expansion, as described above, which are claimed to apply to the excavation.

c. An estimate of the area which has been excavated at the time of the report; and

d. An estimate of the amount of commercially viable earth materials still available on the parcel.

5. The exemptions granted under Section C above shall not pertain to abandoned excavations as defined in RSA 155-E:2, II, as amended.

F. Procedural Requirements

1. Any owner or owner's designate seeking an excavation permit under this article shall first obtain a special exception from the Zoning Board of Adjustment.

2. Any owner or owner's designated agent seeking an excavation permit under this Article shall also submit an application to the Regulator, a copy of the application to be given to the Conservation Commission, in accordance with the following minimum requirements.

   a. The name, address, and signature of the owner of the land to be excavated, the person or company who will do the excavating and the names and mailing addresses all abutters to the premises on which the excavation is proposed.

   b. A plat plan of the property prepared by a licensed land surveyor which shows: property boundaries; total acreage; abutting property owners names and property boundaries; existing and proposed contour lines at five foot intervals; existing vegetation, water bodies and other significant natural features; the elevation of the highest annual average ground water table within or next to the proposed excavation; existing and proposed structures; proposed and existing access points to the site; any existing excavation areas; and any proposed excavation areas.

   c. A narrative description of the proposed excavation including: the proposed hours of operation; the breadth, depth and slope of the proposed excavation; the number of acres involved; the estimated duration of the project; and the estimated amount and type of material to be removed.

   d. A plan for the reclamation of the area affected by the excavation which complies with the provisions of this Article.

   e. A review of, and comment on, the proposed application by the Conservation Commission.

   f. An application fee of $50.00.

3. Upon receipt of an application for an excavation permit the Regulator shall hold a public hearing within 30 days on said application. A notice of said hearing shall be sent to all abutters and shall specify the grounds for the hearing as well as the date, time and place of the hearing. Said notice shall also be published in a newspaper of general circulation in the Town at least

14 days prior to the hearing; and posted in three public places in the Town. The 14 days shall not include the day of publication nor the day of the hearing.

4. Within 20 days after said public hearing or any continuation thereof, the Regulator shall render a decision approving or disapproving the application, giving the reasons for the disapproval. The Regulator may include such reasonable conditions as are consistent with the purpose of this Ordinance. If the Regulator disapproves or approves an application, any interested person affected by such decision may appeal to the Regulator for a rehearing of such decision or any matter determined thereby. The motion for rehearing shall fully specify every ground upon which it is alleged that the decision or order complained of is unlawful or unreasonable and said appeal shall be filed within 10 days, and if the request is granted a rehearing shall be scheduled within 30 days. Any person affected by the Regulator's decision on a motion for rehearing may appeal in conformity with the procedures specified in RSA 677:4-15, as amended.

5. Permits shall be issued for period of 12 months. A copy of the permit shall be prominently posted at the excavation site or the principal access thereto. Said permit shall not be assignable or transferable without the written consent of the Regulator.

6. A performance bond shall be posted by the owner or his/her designee prior to any excavation of the site. Said bond shall be in an amount approved by the Board of Selectmen and sufficient to cover all costs pertaining to the proposed reclamation of the site. Twenty-five percent of said bond shall be retained for a period of 24 months following the completed reclamation as a maintenance bond.

7. When the scope of a project for which an excavation permit has been issued is proposed to be altered so as to affect either the size or location of the excavation, the rate of removal or the plan for reclamation, the owner shall submit an application for amendment of his/her excavation permit which application shall be subject to approval in the same manner as provided for an excavation permit.

G. Standards and Conditions of Operation

1. Any property owner or his/her designee who has received an excavation permit pursuant to this Article shall comply with the following provisions, including RSA 155-E:4-a, as amended.

    a. Truck access to the lot and work area shall be so arranged as to minimize traffic hazards on the street and to avoid nuisance to the residents of the area.

    b. No processing machinery shall be erected or maintained on any lot within three hundred (300) feet of any residential lot line and such machinery shall be removed from the lot upon expiration of the permit.

    c. No material shall be stockpiled or located outside the permit area.

    d. Dust control measures to protect the surrounding properties shall be taken when deemed necessary by the Regulator, including the covering of all trucks carrying excavation material.

e. A visual vegetative, topographical, or other such barrier as determined by the Regulator shall be maintained in the buffer zones between surrounding streets, highways, commercial or residential land uses and the excavation site.

f. Unless otherwise approved by the Zoning Board of Adjustment during the special exemption process, the final depth of the excavation shall be a minimum of four feet above the annual average high-water table.

2. All excavation operations shall be subject to the following provisions whether or not a permit is required under this Article.

   a. No excavation shall be permitted below road level within 50 feet of the right-of-way of any public highway unless such excavation is for the purpose of said highway.

   b. No excavation shall be permitted within 50 feet of the boundary of a disapproving abutter or within 150 feet of any dwelling which either existed or for which a building permit has been issued at the time the excavation is commenced.

   c. Vegetation shall be maintained or provided within the buffer areas described in "a." and "b." above.

   d. Drainage shall be maintained so as to prevent the accumulation of freestanding water for prolonged periods. Excavation practices which result in siltation of streams or degradation of any water supplies are prohibited.

   e. No fuels, lubricants, or other toxic or polluting materials shall be stored onsite unless in compliance with state laws or rules pertaining to such materials.

H. Reclamation Standards

Within 12 months after the expiration date on a permit issued under this Article, or of the completion of any excavation, whether subject to permit or not, whichever occurs first, the owner of the excavated land shall have completed the reclamation of the areas affected by the excavation to meet each of the following minimum conditions.

1. Except for exposed rock ledge, all areas which have been affected by the excavation or otherwise stripped of vegetation shall be spread with topsoil or stripping if any, but in any case, covered by soil capable of sustaining vegetation, and shall be planted with seedlings or grass suitable to prevent erosion. Areas visible from a public way, from which trees have been removed, shall be replanted with tree seedlings, set out in accordance with acceptable horticultural practices.

2. Said area shall be evenly graded to slopes not to exceed one foot of rise to two feet of horizontal distance, or one foot rise to three feet of horizontal distance if the excavation occurs within 100 feet of an abutting property line. The required slope may be modified by the Regulator where rock ledge makes steeper slopes possible or to a lesser degree, if necessary, for soil stability, safety or reasonable reuse and development of the lot.

3. All debris and loose boulders not incorporated into the improvement of the lot shall be buried or removed from the lot.

4. Any standing bodies of water created in the excavation project as may constitute a hazard to the public health and/or safety shall be eliminated unless the Regulator specifies different restoration.

5. All reclamation shall be performed in compliance with the Merrimack County Conservation District's recommendations and guidelines contingent upon the Regulator's approval.

6. Excavation sites, upon completion, shall be permanently closed and gated so that the site cannot be used for dumping.

7. Any excavated area of five contiguous acres or more, which either is depleted of commercial earth materials, excluding bedrock, or from which no earth materials have been removed for a two-year period, shall be reclaimed in accordance with subsections 1-7 above, within twelve months following such depletion of two year non-use, regardless of whether other excavation is occurring on adjacent land in contiguous ownership.

I. Enforcement

1. The Regulator or its duly authorized agent may suspend or revoke the permit of any person who has violated any provision of said permit or other applicable regulation or made a material misstatement in the application upon which his/her permit was granted. Such suspension or revocation shall be subject to a motion for rehearing thereon and appeal in accordance with the provisions of this Article.

2. Fines, penalties, and remedies for violations of this Article shall be enforced in accordance with RSA 155-E, as amended.

3. To ascertain if there is compliance with this Article, a permit issued hereunder, or an order issued hereunder, the Regulator or its duly authorized agent may enter upon any land on which there is reason to believe an excavation is being conducted or has been conducted since the effective date of this Article.

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

A. Authority

This Ordinance is adopted by the Town of Dunbarton on March 9, 2004 in accordance with the authority granted in New Hampshire Revised Statutes Annotated 674:16, 674:21, and 12-K.

B. Purposes

These regulations have been enacted in order to establish general guidelines for the siting of personal wireless service facilities ("PWSFs"), including towers and antennas and to enhance and fulfill the following goals:

1. Preserve the authority of the Town of Dunbarton to regulate and to provide for reasonable opportunity for the siting of personal wireless service facilities, by enhancing the ability of providers of personal wireless services to provide such services to the community quickly, effectively, and efficiently.

2. Reduce adverse impacts such personal wireless service facilities may create, including, but not limited to impacts on aesthetics, environmental sensitive areas, conservation lands, historically significant locations, ridgelines, scenic areas and vistas, flight corridors, health and safety by injurious accidents to person and property, and prosperity through protection of property values.

3. Provide for co-location and minimal impact siting options through an assessment of technology, current locational options, future available locations, innovative siting techniques, and siting possibilities beyond the political jurisdiction of the Town.

4. Permit the construction of new personal wireless service facilities only where all other reasonable opportunities have been exhausted, and to encourage the construction of new PWSFs in a way that minimizes the adverse visual impact of such facilities.

5. Require cooperation and co-location, to the highest extent possible, between competitors in order to reduce cumulative negative impacts upon the Town of Dunbarton.

6. Provide constant maintenance and safety inspections for any and all personal wireless service facilities.

7. Provide for the removal of abandoned personal wireless service facilities that are no longer inspected for safety concerns and code compliance. Provide a mechanism for the Town to remove these abandoned facilities to protect the citizens from imminent harm and danger.

8. Provide for the removal of personal wireless service facilities that are technologically outdated.

C. Definitions

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

Average tree canopy height shall mean the average height above ground level of all trees over a specified height within a 50-foot radius of the center of the mount of a PWSF, such average to be determined by inventorying the trees to remain after the construction of the PWSF.

Camouflaged shall mean a personal wireless service facility that is disguised, hidden, part of an existing or proposed building or structure, or placed within an existing or proposed building or structure.

FAA shall mean the Federal Aviation Administration.

FCC shall mean the Federal Communications Commission.

Height shall mean, when referring to a tower or other structure, the distance measured from ground level of the natural grade of a site to the highest point on the tower or other structure, even if said highest point is an antenna.

Mount shall mean the structure or surface upon which antennas are mounted and include roof-mounted, side-mounted, ground-mounted, and structure-mounted types.

Personal Wireless Service Facility (ies) **or** ***PWSF(s)*** **or** ***facility (ies)*** shall mean any "PWSF" as defined in the federal Telecommunications Act of 1996, 47 U.S.C. section 332(c)(7)(C)(ii), including facilities used or to be used by a licensed provider of personal wireless services, which for purposes of this Ordinance shall also include, as the context may require, all towers and antennas used in connection therewith.

Personal Wireless Services shall mean any wireless telecommunications services, and commercial mobile services including cellular telephone services, personal communications services, and mobile and radio paging services as defined in the federal Telecommunications Act of 1996, 47 U.S.C. section 332 (c)(7)(C)(i).

Planning Board or Board shall mean the Town of Dunbarton Planning Board, which shall be the regulator of this Ordinance.

Pre-existing Facilities shall mean any PWSF, tower or antenna lawfully constructed or permitted prior to the adoption of this Ordinance, as well as the replacement of any such PWSF, tower or antenna, provided that such replacement meets the requirements of Paragraph F. Pre-existing Facilities shall also mean any PWSF, tower or antenna lawfully constructed in accordance with this Ordinance that predates an application currently before the Board.

Radio frequency radiation shall mean the emissions from personal wireless service facilities.

Stealth Facility/Stealth Technology shall mean any PWSF designed to look like a structure which may commonly be found in the area surrounding such proposed facilities such as, but not limited to, flagpoles, traffic lights, farm silos, ranger or forest fire watch towers, or artificial trees.

Tower shall mean any structure that is designed and constructed primarily for the purpose of supporting one or more antennas. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, stealth facilities, and the like.

D. Districts Permitted

1. **General.** Personal wireless service facilities shall be permitted as a principal or accessory (secondary) use in all zoning districts within the Town of Dunbarton governed by this Ordinance only after obtaining a Conditional Use Permit as provided in this Ordinance.

2. **Existing Uses or Structures.** The existence of a permitted use on a site shall not preclude the addition of a PWSF as a secondary use provided all other provisions of this Ordinance are satisfied. A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot. For purposes of determining whether the installation of a PWSF, tower or antenna complies with district development regulations, including but not limited to set-back requirements, lot-coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the PWSF, tower or antenna may be located on an easement or leased parcel within such lot. PWSF, towers that are constructed, and antennas that are installed, in accordance with the provisions of this Ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure.

E. Applicability

1. **General.** The terms of this Ordinance shall apply to all personal wireless service facilities proposed to be located within the Town of Dunbarton whether on property owned by the Town of Dunbarton, on privately owned property, or on property owned by another governmental entity that acts in a proprietary capacity to lease such property to a carrier.

2. **Exceptions.**
   a. **Amateur Radio / Receive-Only Antennas.** This Ordinance shall not govern any tower, or the installation of any antenna that is under 70 feet in height and is owned and operated by a federally licensed amateur radio station operator or is used exclusively for receive only antennas. This Ordinance adopts the provisions and limitations as referenced in RSA 674:16, IV, as amended.

   b. **Essential Services & Public Utilities.** Personal wireless service facilities shall not be considered infrastructure, essential services, or public utilities, as defined or used elsewhere in the Town's ordinances and regulations. Siting for personal wireless service facilities is a use of land and <u>is subject to this Ordinance and all other applicable Town ordinances and regulations.</u>

F. Location, Construction, and Performance Requirements

1. **Setbacks.** All personal wireless service facilities, including equipment compounds, utility buildings, structures, towers, and antennas must meet the minimum setback requirements of this Ordinance. Further, freestanding facilities must be set back from all lot lines and public rights-of-way a minimum distance equal to 125% of the tower's height; provided, however, that this requirement shall not apply to PWSFs and appurtenant facilities located on or within existing buildings or structures; or structures less than 35 feet in height from surrounding grades.

2. **Height Limitations.**

   a. **General.** Subject to any stricter standards as set forth below, a personal wireless service facility shall not exceed 90 feet in height, measured as the vertical distance from the average finished grade surrounding the facility, to its highest point, including all attachments.

   b. **PWSFs in Wooded Areas.** A PWSF located in a wooded area must be camouflaged to blend in with the natural character of such area and must employ stealth technology in order to make the site less obtrusive to surrounding properties and the community. Appropriate stealth technologies for wooded areas include the following: ranger or forest fire watch towers of a size typically found in the State of New Hampshire, artificial trees, or other structures acceptable to the Planning Board.

   c. **PWSFs in Fields or Agricultural Areas.** A personal wireless service facility located in a field or other open area without a tree canopy shall employ stealth technology. Appropriate stealth technologies for fields or open areas include agricultural silos, windmills, or other structures acceptable to the Planning Board and of a size typically found in the State of New Hampshire.

   d. **PWSFs in or on Existing Structures.** A PWSF may be located on or within an existing building or structure provided that such facilities shall employ stealth technologies and shall be architecturally compatible with the host building or structure.

   e. **New PWSF Structures.** A PWSF may be located in a new building or structure provided that such building or structure (i) shall not exceed the maximum building height in the district where a PWSF is proposed, and (ii) shall be architecturally compatible with the buildings in the immediately surrounding area.

3. **Location Prioritization.** Any new personal wireless service facility shall be located in accordance with the following priorities:

   a. Concealed or camouflaged on or within an existing building or structure, including but not limited to an historic building, an agricultural building or structure, a water tank, a utility transmission pole, an outdoor lighting structure, or a church steeple.

   b. On or within a new building or structure having a height not greater than the maximum building height in the zoning district where the PWSF is proposed.

   c. On an existing PWSF (co-location).

   d. On a new facility, which is camouflaged using stealth technologies and subject to the height limitations set forth above.

4. **Easements or Leased Areas.** If a PWSF is to be located on an easement or leased area, said easement or leased area shall have a minimum area equal to an area having a radius of 125% of the tower's height plus additional area for accessory structures and access, if required.

5. **Tower Construction.** Traditional lattice, guyed, and monopole towers are prohibited. All new PWSFs must employ appropriate stealth technologies that are visually compatible and in scale

with the rural character of the Town and its villages and shall satisfy the following additional requirements:

a. The design of the tower, buildings, and related structures on a PWSF site shall, to the maximum extent possible, use materials, colors, textures, screening, and landscaping that will blend such facilities with the natural setting and built environment. These facilities shall also be subject to all other requirements of the Zoning Ordinance and Site Plan Review Regulations.

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

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

d. Towers shall not contain any permanent or temporary signs, writing, symbols, or any graphic representation of any kind, except as required by law for such facilities.

e. An applicant constructing a PWSF in a wooded area shall utilize appropriate construction techniques to minimize damage to trees and other vegetation within the PWSF site and surrounding areas. Moreover, all trees used to determine the average tree canopy height for the PWSF site shall not be damaged or removed during construction, maintenance, repair and operation of the PWSF.

6. **Viewshed Analysis.** As part of the review process the applicant shall conduct a viewshed analysis to include, at a minimum, (i) a mapped viewshed delineation; and (ii) a test balloon or crane extension moored at the site to indicate the visibility of proposed towers and/or antennas. Photographs or video footage of the balloon or crane test shall be provided to the Planning Board and shall provide views of the tower from the PWSF site and other vantage points as determined by the Planning Board.

7. **Landscaping.** The following landscaping requirements shall apply to personal wireless service facilities constructed under this ordinance.

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

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

c. Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible. In some cases, PWSFs sited on large, wooded lots, natural growth around the property may be deemed a sufficient buffer.

8. **Federal Requirements.** All PWSFs must meet or exceed current standards and regulations of the FAA, FCC, and any other agency of the federal government with the authority to regulate such facilities. If such standards and regulations are changed, the owners of the PWSFs governed by this Ordinance shall bring such facilities into compliance with such revised standards and regulations within six months of the effective date of such revised standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal agency. Failure to bring a PWSFs into compliance with such revised standards and regulations shall constitute an abandonment and grounds for the removal of the PWSF in accordance with Paragraph J at the owner's expense through the execution of the posted security.

9. **Building Codes-Safety Standards.** To ensure the structural integrity of towers and antennas, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the Town concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such standards. If the owner fails to bring such tower into compliance within 30 days, such action shall constitute abandonment and grounds for the removal of the tower in accordance with Paragraph J at the owner's expense through execution of the posted security.

G. Conditional Use Permits

1. **General.** Any person seeking to construct a personal wireless service facility shall apply to the Planning Board for Site Plan Review in accordance with the requirements set forth in the Town's Site Plan Review Regulations. In addition, such applicant shall submit the information required in this Paragraph G.

2. **Issuance of Conditional Use Permits.** In granting a Conditional Use Permit, the Planning Board may impose such conditions as the Board determines are necessary to minimize any adverse effect of the proposed PWSF on adjoining properties, and to preserve the intent of this Ordinance.

   a. **Procedure on Applications.** The Planning Board shall act upon an application in accordance with the procedural requirements of the Site Plan Review Regulations and RSA 676:4, as amended. In addition, applicants shall submit a list of all communities within 20 miles of the Town, with mailing addresses for each, as required by RSA 12-K, as amended. Applicants shall also pay all fees required to notify each such community.

   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, as amended. 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 (e.g.: sites with no previous towers or telecommunications infrastructure).

   c. **Application Requirements.** All applications shall meet the standards set forth in Paragraph F.

d. **Other Factors.** Other factors to be considered by the Board in reviewing applications shall include:

i) The height of the proposed tower or other structure shall not exceed that which is essential for its intended use and public safety.

ii) The proximity of a PWSF to residential developments or zones.

iii) Nature of uses on adjacent and nearby properties.

iv) Surrounding topography.

v) Surrounding tree coverage and foliage.

vi) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.

vii) Proposed ingress and egress to the site.

viii) Availability of suitable existing towers and other structures as discussed in this Article.

ix) Visual impacts on view-sheds, ridgelines, public parks, natural scenic vistas, historic buildings, major view corridors and other impacts by means of tower location, tree and foliage clearing and placement of incidental structures.

e. **Plan Requirements.** Each applicant requesting a Conditional Use Permit under this Ordinance shall submit a scaled plan in accordance with the Site Plan Review Regulations and further information including:

i. A scaled elevation view.

ii. Topography.

iii. Propagation Maps.

iv. Radio frequency coverage.

v. Setbacks.

vi. Adjacent uses (up to 400 feet away).

vii. The location of all buildings and structures within 500 feet of proposed tower.

viii. Diagram of the average tree canopy height determined for the proposed PWSF site.

ix. Driveways and parking.

x. Fencing; and

xi. Landscaping.

3. **Other Information Required.** In order to assess compliance with this Ordinance, the Planning Board shall require the applicant for a PWSF to submit the following information prior to any decision by the Board:

   a. The applicant shall submit written proof that the proposed use/facility complies with the FCC regulations on radio frequency (RF) exposure guidelines.

   b. The applicant shall submit written proof that it has conducted an evaluation of any requirements of the National Environmental Policy Act (NEPA) pertaining to the proposed wireless telecommunication facility, tower or antenna, as may be required under applicable FCC rules, and the results of any such evaluation. If an Environmental Assessment (EA) or an Environmental Impact Statement (EIS) is required under the FCC rules and/or NEPA, the applicant shall submit the EA or EIS to the Board prior to the beginning of the federal 30-day comment period, and the Town proceedings with respect to the proposed wireless telecommunication facility, tower or antenna shall become part of the FCC application requirements.

   c. The applicant shall submit written proof that it has complied with the requirements of Section 106 of the National Historic Preservation Act.

   d. Each applicant for a PWSF shall provide to the Planning Board an inventory of all existing personal wireless service facilities and towers that are within the jurisdiction of the Town and those within two miles of the border thereof, including specific information about the location, height, design of each tower, as well as economic and technological feasibility for co-location on the inventoried towers. The Planning Board may share such information with other applicants applying for approvals or conditional use permits under this Ordinance or other organizations seeking to locate antennas within the jurisdiction of the governing authority, provided, however, the Planning is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

4. If an applicant proposes to build a new PWSF, the applicant shall submit written evidence demonstrating that no existing structure can accommodate the applicant's proposed antenna. The evidence shall consist of:

   a. Substantial evidence that no existing PWSFs, towers or structures are located within the geographic area meet the applicant's engineering requirements, provided that a description of the geographic area required is also submitted.

   b. Substantial evidence that existing towers in the Town are not of sufficient height to meet the applicant's engineering requirements, with supporting reasons.

   c. Substantial evidence that the existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.

d. Substantial evidence that the applicant's proposed antenna or structures would not cause electromagnetic interference with other antennae on the existing towers, and vice versa.

e. Substantial evidence that the fees, costs, or contractual provisions required by the owner in order to share the existing tower or structure are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.

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

g. Information on the number of sites for PWSFs each provider will require.

h. Information on sites outside of the Town of Dunbarton being considered.

i. Information on how future technology may reduce or eliminate the need for towers.

j. Information on how the impact, if any of the PWSF on a competitor's facility on the same property.

k. Information on whether it is feasible for carriers to locate base station equipment underground.

5. The applicant proposing to build a new PWSF shall submit an agreement with the Town that allows for the maximum allowance of co-location upon the new facility. Such statement shall become a condition to any approval. This statement shall, at a minimum, require the applicant to supply available co-location for reasonable fees and costs to other person wireless service providers. Failure to provide such an agreement is evidence of the applicant's unwillingness to cooperate with the orderly and well-planned development of the Town of Dunbarton and grounds for a denial.

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, l (g), as amended, 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 (e.g.: 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 a 120-day 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.**

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

2. 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 30 days. The Town may revoke the notice to remove if adequate new security is provided.

3. 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.

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

J. **Requirement to Maintain Stealth Technology.** Where stealth technology has been employed to reduce the aesthetic impact of a PWSF, said technology or camouflaging techniques must be maintained in perpetuity for the life of the PWSF. Failure to maintain said technology/techniques shall be considered abandonment and grounds for removal of said facility in accordance with Paragraphs I and J of this Ordinance.

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

A. Purpose. It is intended that this Article shall:

1. Permit an increased residential density in areas where transportation networks and proximity of services are more readily available to serve the following: a.) active, mobile residents and families, b.) elderly and or/disabled residents, and c.) the service and supply needs of more integrated and functionally compact communities.

2. Promote accessible open-space conservation that protects natural resources and continues the rural, countrified character of the Town.

3. Encourage and allow for on-site recreational uses consistent with appropriate and reasonable use of the land.

4. Facilitate the economical and efficient provision of public services.

5. Expand opportunities for development of affordable housing.

B. Applicability. The provisions of this section apply to all proposals for the construction of:

1. Three or more dwelling units per building/structure on a single building lot.

2. More than one single-family dwelling building/structure, more than one two-family (duplex) building/structure, or any combination thereof, on a single building lot.

C. Multi-family Residential Housing District Defined – Location of District

The Multi-Family Residential Housing District (MFD) is defined as an overlay zone situated parallel to both sides of N.H. 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 provide, or are able to provide, direct, reasonable, and safe access to those highways, at the time of formal application for Site Plan Review.

D. Permitted Uses

1. Any other use permitted by the underlying zone or district insofar as it does not conflict with the requirements of this section.

2. Multi-family dwelling structures/buildings, including multiple dwelling structures on a single building lot.

3. The tract development and construction of more than one single-family dwelling, or more than one two-family (duplex) structure/building, or any combination thereof, on a single building lot.

4. For the purposes of this section “multi-family” shall pertain to and include so-called “elderly or adult communities,” nursing home facilities, assisted living facilities, and boarding houses.

5. All accessory structures and uses, including recreation facilities, maintenance buildings, garages, storage units, rental offices, management offices, and all other such uses and construction considered ancillary to multi-family residential development for the service and use of the residents therein.

E. Requirements and Specific Provisions

1. All provisions for multi-family construction shall be subject to Site Plan Review by the Planning Board, at duly noticed public hearings, and in accordance with Site Plan Review Regulations enacted for such uses.

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.

3. There shall be a minimum 100-foot "no development, no build, no cut" buffer zone and setback at side and rear yard property lines that allows for screening opportunities to adjacent properties, to be determined per the Site Plan Review process.

4. There shall be a minimum 150-foot setback at the front and/or access portion of the project to all buildings and structures.

5. The Planning Board may increase setbacks based on conditions assessed per individual development proposals, during the Site Plan Review Process.

6. The access portion to the project, may constitute, in whole or part, a private or Town roadway; the primary use point of which shall have frontage on the aforementioned State Highway(s).

7. Each duplex building/structure shall require an additional two acres in addition to what is customarily required in the zoning district in which the parcel for development is located.

ARTICLE 10. FLOODPLAIN DEVELOPMENT ORDINANCE (Adopted March 14, 2000; Revised March 8, 2011, March 13, 2012, and March 12, 2024)

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

The following regulations in this ordinance shall apply to all lands designed as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its Flood Insurance Study for the County of Merrimack, N.H dated April 19, 2010, or as amended, together with the associated Flood Insurance Rate Maps dated April 19, 2010, or as amended, which are declared to be a part of this ordinance and are hereby incorporated by reference.

A. Definition of Terms

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

Area of Special Flood Hazard is the land in the floodplain within the Town of Dunbarton subject to a one-percent or greater possibility of flooding in any given year. The area is designated as zone A and AE on the FIRM.

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

Base Flood Elevation (BFE) means the elevation of surface water resulting from the "base flood."

Basement means any area of a building having its floor sub-grade on all sides.

Building - see "structure".

Development means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operation or storage of equipment or materials.

FEMA means the Federal Emergency Management Agency.

Flood or Flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from: (1) the overflow of inland or tidal waters, and (2) the unusual and rapid accumulation or runoff of surface waters from any source.

Flood Insurance Rate Map (FIRM) means an official map incorporation with this ordinance, on which FEMA has delineated both the special flood hazard areas and the risk premium zones applicable to the Town of Dunbarton.

Flood Insurance Study (FIS) means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e. mudflow) and/or flood-related erosion hazards.

Flood Opening means an opening in a foundation or enclosure wall that allows automatic entry and exit of floodwaters. See FEMA "Technical Bulletin 1, Openings in Foundation Walls and Walls of Enclosures."

Floodplain or Flood-prone area means any land area susceptible to being inundated by water from any source (see definition of "Flooding").

Flood proofing means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures and their contents.

Floodway - see Regulatory Floodway.

Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic Structure means any structure that is:

(a) Listed individually in the national Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the national Register;

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified with; 1) By an approved state program as determined by the Secretary of the Interior, or 2) Directly by the Secretary of the Interior in states without approved programs.

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

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

Manufactured Home Park or Subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean sea level means the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

New construction means, for the purposes of determining insurance rates, structures for which the start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

Recreational Vehicle is defined as:

(a.) built on a single chassis;

(b.) 400 square feet or less when measured at the largest horizontal projection;

(c.) designed to be self-propelled or permanently towable by a light duty truck; and

(d.) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

Regulatory floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Special flood hazard area - see "Area of Special Flood Hazard"

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

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

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

Substantial Improvement means any reconstruction, rehabilitation, addition, or other improvement of a

structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
b. Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Violation means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required under Section E or Section H(2)(b) of this ordinance is presumed to be in violation until such time as that documentation is provided.

Water surface elevation means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, where specified, of floods of various magnitudes and frequencies in the floodplains.

B. All Proposed Development

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 Building Permit as issued by the Building Inspector.

C. Building Inspector Review

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

1. Designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy,

2. be constructed with materials resistant to flood damage,

3. be constructed by methods and practices that minimize flood damages,

4. be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

D. New or Replacement Water and Sewer Systems

Where new or replacement water and sewer systems (including on-site systems) are proposed in a special flood hazard area the applicant shall provide the Building Inspector with assurance that these systems will be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems will be located to avoid impairment to them or contamination from them during periods of flooding.

E. New or Substantially Improved Structures

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

1. An as-built elevation (in relation to mean sea level) of the lowest floor (including basement) and include whether or not such structures contain a basement.

2. If the structure has been flood-proofed, the as-built elevation (in relation to mean sea level) to which the structure was flood-proofed.

3. Any certification of flood-proofing.

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

F. Building Inspector Shall Not Grant

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

G. Watercourses

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. 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, as amended. 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, the Planning Board, and the Wetlands Bureau.

3. 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. Until a Regulatory Floodway is designated along watercourses, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zone AE on the FIRM, unless it is demonstrated by the applicant that the cumulative effect of the proposed development, when combined with all existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

4. 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."

H. Special Flood Hazard Areas, Building Inspector

1. In a special flood hazard area, the Building Inspector shall determine the base flood elevation in the following order of precedence according to the data available:

   a. In Zone AE, refer to the base flood elevation data provided in the community's Flood Insurance Study and accompanying FIRM.

   b. In Zone A the Building Inspector shall obtain, review, and reasonably utilize any base flood elevation data available from any federal, state or other source including data submitted for development proposals submitted to the community (i.e. subdivisions, site approvals). Where a base flood elevation is not available or not known for Zone A, the base flood elevation shall be determined to be at least 2 feet above the highest adjacent grade.

2. The Building Inspector's base flood elevation determination will be used as criteria for requiring in Zone A and AE that:

   a. All new construction or substantial improvement of residential structures have the lowest floor (including basement) elevated to or above the base flood elevation;

   b. That all new construction or substantial improvements of non-residential structures have the lowest floor (including basement) elevated to or above the base flood level; or together with attendant utility and sanitary facilities, shall:

      (i) be flood-proofed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water;

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

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

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

d. All recreational vehicles placed on sites within Zone A and AE shall either:

i. be on the site for fewer than 180 consecutive days;

ii. be fully licensed, on wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or

iii. meet all standards of this ordinance and the elevation and anchoring requirements for "manufactured homes" in this ordinance.

e. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding are permitted provided they meet the following requirements: (1) the enclosed area is unfinished or flood resistant, usable solely for the parking of vehicles, building access or storage; (2) the area is not a basement; (3) shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two flood openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

I. Variances and Appeals

1. Any order, requirement, decision or determination of the building inspector made under this ordinance may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5, as amended.

2. If the applicant, upon appeal, requests a variance as authorized by RSA 674:33, I, as amended, the applicant shall have the burden of showing in addition to the usual variance standards under state law:

   a. that the variance will not result in increased flood heights, additional treats to public safety, or extraordinary public expense.

   b. that if the requested variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result.

   c. that the variance is the minimum necessary, considering the flood hazard, to afford relief.

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

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

ARTICLE 11. WORKFORCE HOUSING ORDINANCE (Adopted March 8, 2011; amended March 16, 2023)

A. Purpose

The purpose of this Article is to provide reasonable opportunities for the development of workforce housing within Dunbarton for both home ownership and rental opportunities. The Town recognizes the importance and benefit to the community and its citizens in the establishment of suitable opportunities for workforce housing. The Town recognizes that there are some situations in which normal zoning, site plan review and/or subdivision requirements may be waived without sacrificing public health, safety and welfare so long as proper safeguards are maintained. Accordingly, it has been deemed advisable to adopt workforce housing in accordance with RSA 674:58-61 in order to:

1. Encourage and provide for the development of workforce or affordable housing;
2. Ensure the continued availability of a diverse supply of home ownership and rental opportunities for moderate income households;
3. Meet the goals related to affordable housing referenced in the Town's current Master Plan; and
4. Comply with the requirements of RSA 674:58-61.

B. Authority

This innovative land use control is adopted under the authority of RSA 674:21, and is intended as an "Inclusionary Zoning" provision as defined in RSA 674:21(I)(k) and RSA 674:21 (IV)(a).

C. Allowable Districts

Workforce housing is permitted by right in all residential districts in Dunbarton.

D. Definitions

Affordable: means housing with combined rental and utility costs or combined mortgage loan debt services, property taxes, and required insurance that does not exceed 30 percent of the household's gross annual income.

Multi-family housing: for the purpose of workforce housing development means a building or structure containing 5 or more dwelling units, each designed for occupancy by an individual household.

Reasonable and realistic opportunities for the development of workforce housing: opportunities to develop economically viable workforce housing within the framework of Dunbarton's ordinances and regulations adopted pursuant to this chapter and consistent with RSA 672:1III-e.

Workforce housing/owner occupied: housing which is intended for sale, and which is affordable to a household with an income of no more than 100% of the median income for a 4-person

household for the metropolitan area or county in which the housing is located as published annually by the United States Department of Housing and Urban Development.

Workforce housing/renter occupied: rental housing which is affordable to a household with an income of no more than 60% of the median income for a 3-person household for the metropolitan area or county in which the housing is located as published annually by the United State Department of Housing and Urban Development.

Housing developments that exclude minor children from more than 20% of the units, or in which more than 50% of the dwelling units have fewer than two bedrooms, shall not constitute workforce housing for the purposes of this subdivision.

Area Median Income (AMI): the median income of the greater region, either the HUD Metropolitan or NON-Metropolitan Fair Market Rent Area to which the community belongs, as is established, and updated annually by the United States Department of Housing.

E. Density Bonus

1. A site plan or subdivision that will guarantee a designated percentage of units that are committed to affordability as defined by RSA 674:58 will be granted a density bonus. The maximum percent density bonus shall be ½ of the percentage of lots designated as affordable as shown in the table below.

Maximum allowed for any housing Development	Percent of total units that are affordable workforce housing	Density bonus	Percentage lot size reduction
	20% of units	10%	9%
	50% of units	25%	20%
	100% of units	50%	33%

2. The Planning Board may allow a reduction of the minimum lot size to accommodate the increased site density as long as soil conditions permit the siting of septic and wells within the decreased lot size.

3. The applicant shall submit a yield plan that would meet conventional zoning standards. The plan should have sufficient detail including soil types and slope as well as any natural resources constraints such as wetlands/lot size restrictions to determine the achievable density on the parcel.

F. Additional Incentives for Workforce Housing

After considering all cost factors including, but not limited to, land, subdivision improvements for roads, utilities & drainage, marketing, insurance, labor, building materials, and profit to identify a total gross cost of the project and per unit gross costs, the Planning Board may approve one or more of the following incentives only if the applicant demonstrates the Town's land use ordinances and regulations induce a cost prohibitive project.
The Planning Board may:

• Allow a decrease of the minimum lot size

• Allow a decrease in road frontage

• Set minimum setbacks on each lot. Perimeter setbacks shall be sufficient to buffer and protect adjacent properties and the street from encroachment. This may include a vegetative buffer, as determined by the Planning Board, where necessary.

• Approve a reduction in open space. Open space shall be sufficient to accommodate the needs of the proposed occupants of the project.

G. Procedural Requirements

Development of a workforce housing project in accordance with the provisions of this article is permitted through a Conditional Use Permit administered by the Planning Board.

1. Conditional Use Permit Application:
   A complete application for a Conditional Use Permit includes the materials listed below in addition to an application for a Site Plan Review and/or a Subdivision. An application for a Conditional Use Permit can be processed concurrently with the application for a Site Plan Review and/or Subdivision, as required for the specific project.

   a. Notice of Intent to Build Workforce Housing: Any person who applies to the Planning Board for approval of a development that is intended to qualify as workforce housing under RSA 674:58-61 shall file a written statement of such intent as part of the application.

   b. An application form.

   c. A project narrative.

   d. List and 3 copies of mailing labels of the abutters, the applicant, any easement holders, and all professionals as defined in RSA 676:4, I, (d) on the property in question.

   e. Fees as prescribed in the subdivision and site plan review.

   f. An application under this article must include, but is not limited to, the following data to ensure project affordability:

      i. Calculation of the number of units provided under this Article and how it relates to its provisions.

      ii. A project cost estimate including, but not limited to all costs for land; costs for constructing subdivision improvements including roads, utilities, and drainage; financing; profit; sales & marketing; insurance; labor; building materials; and other cost factors. A gross total project cost and gross per housing unit shall be identified.

      iii. Description of each unit's size, type, estimated cost and other relevant data.

iv. List of required variances, conditional use permits, and special exceptions including justification of their necessity and effectiveness in contributing to affordability.

v. Cost savings associated with written waiver request to the application submittal requirements or the standards outlined in the site plan review regulations or the subdivision regulations.

g. Written requests for waiver regulations from any of the application submittal requirements or standards outlined in the site plan review regulations or the subdivision regulations.

2. Conditional Use Permit Criteria:
The applicant shall demonstrate to the Planning Board that the application for workforce housing meets the following criteria before the Planning Board may grant a Conditional Use Permit:

a. The Planning Board must determine that the type and density of proposed workforce housing units is compatible with or provides a compatible transition to the use and density of any neighboring residential areas and that the project will be designated in a manner that is harmonious with neighboring developments, natural surroundings, and housing context (the housing type, density, and land use in the surrounding area).

b. Workforce Housing projects with Multi-Family Housing shall:

i. Have a landscaped vegetative buffer fifty feet in width around the perimeter of the project; and

ii. Have direct access to a Class V or better street; and

iii. Be served by state approved community water and community sewer systems; or be served by public water and public sewer service.

c. The housing proposed shall qualify as Workforce Housing as defined in Section D above, Definitions.

d. The project shall comply with all Zoning Ordinance, Site Plan Review Regulations and/or Subdivision Regulations, other than those standards relaxed under Sections E and F above.

e. In determining the minimum lot size in areas served by on-site water and sewer systems, the minimum lot size shall comply with the New Hampshire Department of Environmental Services minimum lot sizing based on soil type and slope.

f. Until such time as municipal water and/or sewer systems are in place, no multi-family housing shall contain more than five units.

3. Procedural Requirements – Decision Process

a. Notice of Conditions: If the Planning Board approves an application to develop workforce housing subject to conditions or restrictions, it shall notify the applicant in writing of such conditions and restrictions and give the applicant an opportunity to establish the cost of complying with the conditions and restrictions and effect of compliance on the economic viability of the proposed development. The board's notice to the applicant of the conditions and restrictions shall constitute a conditional approval solely for the purposes of complying with the requirements of RSA 676:4 I(i). It shall not constitute a final decision for any other purpose, including the commencement of any applicable appeal period.

b. Submission of evidence to establish cost of complying with conditions: Upon receiving notice of conditions and restrictions as described above, the applicant may submit evidence to establish the cost of complying with the conditions and restrictions and the effect on economic viability within the period directed by the board, which shall not be less than 30 days.

i. Upon receipt of such evidence from the applicant, the Planning Bord shall allow the applicant to review the evidence at the Planning Board's next regular business meeting for which ten days or public notice can be provided. Ten (10) days' notice by certified mail shall be given to abutters', the applicant and the holders of any conservation, preservation, or agricultural easements on the subject property. At such meeting, the Planning Board may also receive and consider evidence from other sources.

ii. The Planning Board may affirm, alter, or rescind any or all the conditions or restrictions of approval after such meeting.

iii. Subject to subparagraph (d), the Planning Board shall not issue its final decision on the application before such meeting, unless the applicant fails to submit the required evidence within the period designated by the Planning Board, in which case it may issue its final decision any time after the expiration of the period.

iv. If an Applicant notifies the Planning Board in writing at any time that the applicant accepts the conditions and restrictions of approval, the Planning Board may issue its final decision without further action under this paragraph.

c. Appeals: Any person who has filed the written notice and whose application is denied or is approved with conditions or restrictions which have a substantial adverse effect on the viability of the proposed workforce housing development may appeal the municipal action to the Superior Court under RSA 677:4 or RSA 677:15 seeking permission to develop the proposed workforce housing. A Planning Board decision on the issuance of a Conditional Use Permit cannot be appealed to the Zoning Board of Adjustment (RSA 676:5 III).

d. In any appeal where the applicant has failed to file the Notice of Intent to Build Workforce Housing as required by Section G.1.a above, the applicant shall not be entitled to a judgement by a court on appeal that allows construction of the proposed development, or otherwise permits the proposed workforce housing development to proceed despite its nonconformance with the municipality's ordinances or regulations.

H. General Requirements of Workforce Housing Units in Mixed Developments

1. Architectural compatibility of all units: In developments with mixed workforce housing and market rate housing, the dwellings qualifying as workforce housing shall be compatible in architectural style and exterior appearance with the market-rate dwellings of similar type, (i.e., affordable and market-rate multifamily units, affordable and market-rate single family homes) in the proposed development. The workforce housing units should be interspersed throughout the overall development and not concentrated in separate areas of development. Workforce Housing units shall be mixed with, and not clustered together or segregated in any way from the market-rate units.

2. Phasing: The phasing plan for development shall provide for the development of workforce housing units concurrently with the market-rate units.

I. Affordability

1. Certification of Income Levels: To ensure that only eligible households purchase/rent the designated affordable housing units, the purchaser/renter of a workforce housing unit must submit copies of their last three years federal income tax returns with written certification, verifying that their annual income level does not exceed the maximum level as established by this ordinance. The tax returns and written certification of income must be submitted to the developer of the housing units, or the developer's agent, prior to the transfer of the title. A copy of the tax return and written certification of income must be submitted to all parties charged with administering and monitoring this ordinance, within 30 days following the transfer of title.

2. Assurance of continued affordability: Workforce housing units offered for sale shall require a lien, granted to the Town of Dunbarton, be placed on each workforce housing unit. The value of the lien shall be equal to the difference between the fair market value of the unit and its reduced affordable sale price, which is indexed according to the qualifying income standards. The municipality's lien is inflated over time at a rate equal to the Consumer Price Index (CPI). Future maximum resale values shall be calculated as the fair market value minus the CPI adjusted lien value. Subsequent sales are not limited based on income targets, but the combination of the maintenance of the municipality's lien and adherence to this Article's definition of affordable housing.

3. Workforce housing rental units shall limit annual rent increases to the percentage increase in the area median income, except to the extent that further increases are made necessary by hardship or other unusual conditions.

4. Documentation of restrictions: deed restrictions, restrictive covenants, or contractual arrangements related to dwelling units established under this Article must be documented on all plans filed with the town's Planning Board and with the Registry of Deeds.

J. Administration, Compliance, and Monitoring

1. This Article shall be administered by the Planning Board.

2. Certificate of Occupancy: No certificate of occupancy shall be issued for a workforce housing unit without written confirmation of the income eligibility of the tenant or buyer of the

workforce housing unit and the confirmation of the rent or price of the workforce housing unit as documented by an executed lease or purchase and sale agreement.

3. Ongoing responsibility for monitoring the compliance with resale and rental restrictions of workforce housing units shall be the responsibility of an organization designated by the Board of Selectman (such as but not limited to the New Hampshire Housing Finance Authority) or, in the absence of an outside monitoring organization, the Dunbarton Planning Board or its designee.

4. Annual Report: The owner of a project containing workforce housing units for rent shall prepare an annual report certifying that the gross rents of affordable units and the household income of tenants of workforce housing units have been maintained in accordance with this Article. Such reports shall be submitted to the monitoring agent indicated in C above or their designee and shall list the contract rent and occupant household incomes of all workforce housing units for the calendar year.

K. Relationship to other ordinances and regulations

No portion of this ordinance shall nullify the provisions of any other town ordinance provisions which relate to environmental protection, water supply, sanitary disposal, traffic safety, and fire and life safety protection. Where workforce housing applicants propose a development of single-family homes or mixed single family and multi-family homes, all provisions of the subdivision and site plan regulations shall apply unless waived by the Planning Board. Where workforce housing applicants propose development of multi-family units or mixed commercial and multi-family units, the site plan regulations shall apply unless waived by the Planning Board.

L. Conflict

If any provisions of this ordinance conflict with the provision of other ordinances, the more restrictive provision shall apply, except for any provision dealing with affordability, in which the provisions of this ordinance shall apply.

ARTICLE 12. ADMINISTRATION

For the purposes of this Ordinance, the Dunbarton Board of Selectmen are hereby given the power to appoint a Building Inspector who shall perform the duties of his/her office as designated in the various provisions of the Ordinance and shall report all violations of said Ordinance to the Board. In the absence of a Building Inspector, the Board of Selectmen shall be given the Building Inspector's powers enumerated herein.

A. Administrative Officer

This Ordinance shall be administered by the Building Inspector under the direction of the Board of Selectmen. The Building Inspector shall have the authority to make inspections necessary to carry out his/her duties in the administration of this Ordinance. The Board of Selectmen shall be responsible for enforcement of this Ordinance.

The Building Inspector shall not approve an application or issue a building permit or certificate of occupancy for any purpose, except in compliance with the provisions of this Ordinance. (RSA 676:13, as amended)

B. Building Permit Procedure

1. **Applicability -** No building or structure shall be constructed, reconstructed, altered, or relocated nor shall any excavation be commenced without a duly authorized building permit issued by such Building Inspector. (RSA 676:11, as amended)

2. **Prerequisite Approvals -** An applicant for building permit approval shall be responsible for providing certified verification of all requisite local, state, and federal approvals prior to the issuance of said building permit.

3. **Application –** a. An application for a building permit shall be made on standard forms provided by the Building Inspector, which are available at the Town Offices during normal business hours.
   b. Footings/foundations for all new building construction will be certified by a State of New Hampshire licensed land surveyor prior to any further construction. The Building Inspector or his/her agent may waive this requirement if in his/her opinion it is obvious there are no setback encroachments. [Added March 9, 2021]

4. **Exemptions -** No building permit shall be required under this Ordinance for structures with a maximum 100 square footage or less. [Amended 2022]

5. **Statute of Limitations -** Any work for which a building permit has been issued shall commence within six months from the date of issuance or such permit shall be **considered null and void. Any work not completed within 12 months of issuance of a permit requires a renewal permit.** [Amended 2022]

6. **Pending Changes (RSA 676:12, as amended) -** The Building Inspector shall not issue a building permit where application for such permit is made after the first legal notice of proposed changes in the Zoning Ordinance has been posted pursuant to the provisions of RSA 675:7, as

amended, if the proposed changes in the zoning ordinance would, if adopted, justify refusal of such a permit. After final action has been taken on the proposed changes in the zoning ordinance, the building inspector shall issue or refuse to issue a permit, which has been held in abeyance under this section pursuant to a final action taken by the Town Meeting.

C. Certificate of Occupancy

1. **Purpose -** The purpose of a certificate of occupancy is to give the Building Inspector a mechanism by which he/she can verify conformance to provisions of this Ordinance, the building permit and other requisite approvals related thereto.

2. **Applicability -** No person shall use or permit the use of any building, structure or premises or part thereof hereafter erected, relocated, altered, repaired, converted, or extended until a certificate of occupancy is issued by the Building Inspector.

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 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. Violations and Penalties

1. **Violations -** The Building Inspector shall serve a notice of violation and order to cease activity to any person, company, corporation, or other association responsible for violating any provision of this Ordinance. Any person, company, corporation, or other association who has been served with a notice and ceases any work or other activity shall not leave any structure or lot in such a condition as to be a hazard or menace to the public safety, health, or general welfare (RSA 676:17, as amended).

2. **Prosecution of Violations -** If the notice of violation and order to cease activity is not complied with, the Building Inspector shall notify the Board of Selectmen who may, in addition to other remedies provided by law, institute injunction, mandamus, abatement, or any other appropriate action or proceeding to prevent, enjoin, abate, or remove such unlawful violation (RSA 676:15, as amended).

   a. Any violation of this Ordinance shall constitute a misdemeanor if a natural person, or a felony if any other person and shall be subject to a civil penalty ~~not to exceed $100~~ for each day that such violation is found to continue after the conviction date or after the date on which the violator receives written notice from the Town that he is in violation, whichever is earlier (RSA 676:17, I, as amended).

   b. In addition, if any successful legal action is brought by the Town to enforce by way of injunctive relief or otherwise, the Town may recover its out-of-pocket costs and reasonable attorney's fees actually expended in pursuing the legal action (RSA 676:17, II, as amended).

ARTICLE 13. ZONING BOARD OF ADJUSTMENT

A. Authority

In accordance with the requirements of RSA 673:1, IV, as amended, a Zoning Board of Adjustment is hereby established as part of this Ordinance.

B. Membership

The Zoning Board of Adjustment shall consist of five regular members, one of whom may be a member of the Planning Board. Up to five alternate members may be designated. All regular and alternate board members shall be appointed by the Board of Selectmen and shall be residents of the Town in order to be appointed (RSA 673:3, as amended).

The members of the Zoning Board of Adjustment shall elect a chairman and other officers from amongst themselves. The term of the chairman or any other officer shall be for one year. Both the chairman and officers shall be eligible for reelection.

C. Administrative Requirements

The Zoning Board of Adjustment shall adopt rules and regulations governing meetings, hearings, application procedures, fees and other matter for the proper functioning of the Board. The Board shall adopt its own rules of procedure and shall keep a record of its proceedings showing the vote, indicating such fact and shall keep records of its examinations and other official actions. Every rule or regulation, every amendment or repeal thereof, and every order, requirement, decision, or determination of the Board shall immediately be filed in the office of the Board and become a matter of public record (RSA 676:1, as amended).

D. Powers and Duties

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

1. **Administrative Appeals -** Hear and decide appeals if it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of any zoning ordinance.

    a. For the purpose of an administrative appeal

        i. **The "administrative officer"** means any official or board who, in that municipality, has responsibility for issuing permits or certificates under the ordinance, or for enforcing the ordinance, and may include a building inspector, board of selectmen, or other official or board with such responsibility. (RSA 676:5-II (a), as amended).

        ii. **A "decision of the administrative officer"** includes any decision involving construction, interpretation, or application of the terms of the ordinance. It does not include a discretionary decision to commence formal or informal enforcement proceedings, but does include any construction, interpretation, or application of the

terms of the ordinance, which is implicated in such enforcement proceedings. (RSA 676:5-II (b), as amended).

b. In exercising these powers, the Zoning Board of Adjustment may reverse or affirm, wholly or in part, or may modify the order, requirement, decision, or determination appealed from and may make such order or decision as ought to be made and, to that end, shall have all the powers of the administrative official from whom the appeal is taken.

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

2. **Variances -** Authorized, upon appeal in specific cases, pursuant to RSA 674-33, as amended and in accordance with applicable case law. The Board shall make and present findings of fact for each criterium and shall enter all its decisions of such findings in its records. Any conditions necessary to meet one or more of the foregoing standards may be attached to approval of a variance. To be granted a variance, the applicant must meet all five of the following criterium:

a. The variance will not be contrary to the public interest.

b. The spirit of the Ordinance is observed.

c. Substantial justice is done.

d. The values of surrounding properties are not diminished.

e. Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.

3. **Special Exceptions (RSA 674:33, as amended) -** Authorize special exceptions to the terms of the Ordinance for uses specifically identified in the Table of Uses. The Board may grant such special exceptions in appropriate cases and subject to appropriate conditions so as to be in harmony with the general purpose and intent of the Zoning Ordinance. In granting a special exception, the Board shall apply the following standards:

a. No detriment to property values in the vicinity of the proposed development will result on account of the location or scale of buildings, structures, parking areas or other accessways; the emission of odors, smoke, gas, dust, noise, glare, heat, vibration, or other pollutants; or the unsightly outdoor storage of equipment, vehicles, or other materials.

b. No hazard will be caused to the public or adjacent property on account of potential fire, explosion or release of toxic materials.

c. No creation of a traffic safety hazard or substantial traffic congestion in the vicinity of the proposed development.

d. No excessive demand on municipal services and facilities, including, but not limited to waste disposal, police and fire protection and schools.

e. The proposed use will not result in the degradation of existing surface and groundwater water quality standards, nor will it have adverse effects on the natural functions of wetlands on the site which would result in the loss of significant habitat or flood control protection.

f. In addition to the standards specified above, special exceptions may be subject to appropriate conditions including the following: (RSA 674:33-IV, as amended)

i. Front, side, or rear yards in excess of the minimum requirements of the Ordinance.

ii. Screening of the premises from the street or adjacent property by walls, fences, or other devices.

iii. Limitations on the size of buildings and other structures more stringent than minimum or maximum requirements of this Ordinance.

iv. Limitations on the number of occupants and methods and times of operation.

v. Regulation of the design and location of access drives, sidewalks, and other traffic features.

vi. Location and amount of parking and loading spaces in excess of existing standards.

vii. Regulation of the number, size and lighting of signs in excess of existing standards.

4. **Equitable Waiver of Dimensional Requirements (RSA 674:33-a, as amended)**

1. 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, as amended, 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.

2. 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.

3. Application and hearing procedures for equitable waivers under this section shall be governed by RSA 676:5-7, as amended. Re-hearings and appeals shall be governed by RSA 677:2-14, as amended.

4. 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.

E. **Issuance of Decision.**

1. The local land use board shall issue a final written decision, which either approves or disapproves an application for a local permit and make a copy of the decision available to the applicant. If the application is not approved, the board shall provide the applicant with written reasons for the disapproval. If the application is approved with conditions, the board shall include in the written decision a detailed description of all conditions necessary to obtain final approval.

2. Whenever a local land use board votes to approve or disapprove an application or deny a motion for rehearing, the minutes of the meeting at which such vote is taken, including the written decision containing the reasons therefore and all conditions of approval, shall be placed on file in the board's office and shall be made available for public inspection within five business days of such vote. (RSA 676:3, as amended) [Amended 2022]

ARTICLE 14. ADOPTION AND AMENDMENT PROCEDURES

This Ordinance shall be adopted and amended in accordance with the provisions of RSA 675:3 or RSA 675:4 as amended.

ARTICLE 15. SEPARABILITY

Should any provision of this Ordinance be declared invalid by a decision of a court of legal standing, said decision shall not affect the validity of this Ordinance as a whole or any part thereof, other than the part so declared to be invalid.

ARTICLE 16. EFFECTIVE DATE

This Ordinance or subsequent amendment thereto shall take effect immediately upon passage and adoption by the Town Meeting.

AMENDMENTS

MAY 7, 1977 – (ARTICLE II – DISTRICTS & ARTICLE V – ZONING BOARD OF ADJUSTMENT)

MARCH 14, 1978 – (ARTICLE II – DISTRICTS & ARTICLE V – ZONING BOARD OF ADJUSTMENT)

MARCH 11, 1980 – (ARTICLE V – ZONING DISTRICT REGULATIONS)

MARCH 9, 1982 – (ARTICLE II – DISTRICTS)

MARCH 12, 1985 – (ARTICLE IV – GENERAL PROVISIONS)

MARCH 11, 1986 – (ARTICLE II – DISTRICTS, ARTICLE IV – DEFINITIONS, ARTICLE IX BOARD OF ADJUSTMENT)

MARCH 10, 1987 – (ARTICLE IV – DEFINITIONS INCORPORATING WETLANDS DEFINITION)

MARCH 8, 1988 – (ARTICLE IV – DEFINITIONS & ARTICLE V ZONING DISTRICT REGULATIONS)

MARCH 13, 1990 – TOWN MEETING VOTE TO COMPLETELY REPLACE ZONING ORDINANCE WITH A NEW REVISED VERSION

MARCH 11, 1997 – (AMEND SETBACKS FOR WELLS AND SEPTIC SYSTEMS)

MARCH 14, 2000- (NEW ARTICLE 10 – FLOODPLAIN DEVEOLOPMENT ORDINANCE; AMEND ARTICLE 2 – DEFINITIONS; ARTICLE 4 – USE & DIMENSIONAL REGS; ARTICLE 11 ADMINISTRATION)

MARCH 11, 2003 – (AMEND ARTICLE 4 – USE & DIMENSIONAL REGULATIONS & ARTICLE 9 –MULTI-FAMILY RESIDENTIAL HOUSING DISTRICT)

MARCH 9, 2004 – (NEW ARTICLE 8 – PERSONAL WIRELESS SERVICE FACILITIES; NEW ARTICLE 9 - MULTI-FAMILY RESIDENTIAL HOUSING DISTRICT; AND AMENDMENT TO ARTICLE 4 – LARGE LOT ZONING)

MARCH 8, 2005 (AMEND ARTICLE 4 – USE & DIMENSIONAL REGULATIONS)

MARCH 9, 2010 (ARTICLE 10 - N.H. FLOODPLAIN DEVELOPMENT ORDINANCE REVISION)

MARCH 8, 2011 (ARTICLE 16 – WORKFORCE HOUSING ORDINANCE ADOPTED)

MARCH 13, 2012 (CLEANUP (SPELLING, GRAMMAR & FORMATTING ISSUES; REVISE & ADD DEFINITIONS; ABOLISH MANUFACTURING HOUSING DISTRICT (MHD); ADD CRITERIA FOR EQUITABLE WAIVER; AMEND NAME & CRITERIA FOR ACCESSORY APARTMENTS TO ACCESSORY DWELLING UNITS; REVISE HOME OCCUPATIONS; REVISE ARTICLE 4; REVISE PWSF TO CONFORM TO STATE & FEDERAL CASE LAW)

MARCH 12, 2013 (VOTED AND PASSED TO AMEND ARTICLE 6–OPEN SPACE SUBDIVISIONS)

MARCH 14, 2017 (VOTED AND PASSED TO AMEND ARTICLE 2–DEFINITIONS, REGARDING OPEN SPACE SUBDIVISIONS, LIVESTOCK, & WORKFORCE HOUSING; AMEND ARTICLE 4–TABLE OF USES AND USE REGULATIONS, REGARDING DUPLEXES, OPEN SPACE SUBDIVISIONS, WORKFORCE HOUSING, ACCESSORY DWELLING UNITS, & STABLES; AMEND ARTICLE 6–OPEN SPACE SUBDIVISIONS; AMEND ARTICLE 9–MULTI-FAMILY RESIDENTIAL HOUSING DISTRICT; REPEAL ARTICLE 4 (E), REGARDING PHASING OF BUILDING PERMITS, AND ADD A NEW ARTICLE 4 (E) REGARDING ACCESSORY DWELLING UNITS; AND, ADD STATUTORY REFERENCES THOUGHOUT THE ORDINANCE AS APPROPTIATE)

MARCH 12, 2019 (AMEND ARTICLE 2, DEFINITIONS OF SETBACK & STRUCTURE; ALLOW THE BOARD TO ANNUALLY MAKE TYPOGRAPHICAL/GRAMMATICAL/MINOR REVISIONS TO THE ZONING ORDINANCE)

MARCH 10, 2020 (ADDED DEFINITIONS FOR GENERAL SERVICE AND PERSONAL SERVICE ESTABLISHMENTS; AMEND ARTICLE 4, SECTION A, 6 (a) HOME OCCUPATIONS; AMEND ARTICLE 4,

SECTION C, 1 (d) AND ARTICLE 4, SECTION D, 1 (d)); ARTICLES 13 SIGNS AND 14 TEMPORARY SIGNS REMOVED/REMAINING ARTICLES RENUMBERED.

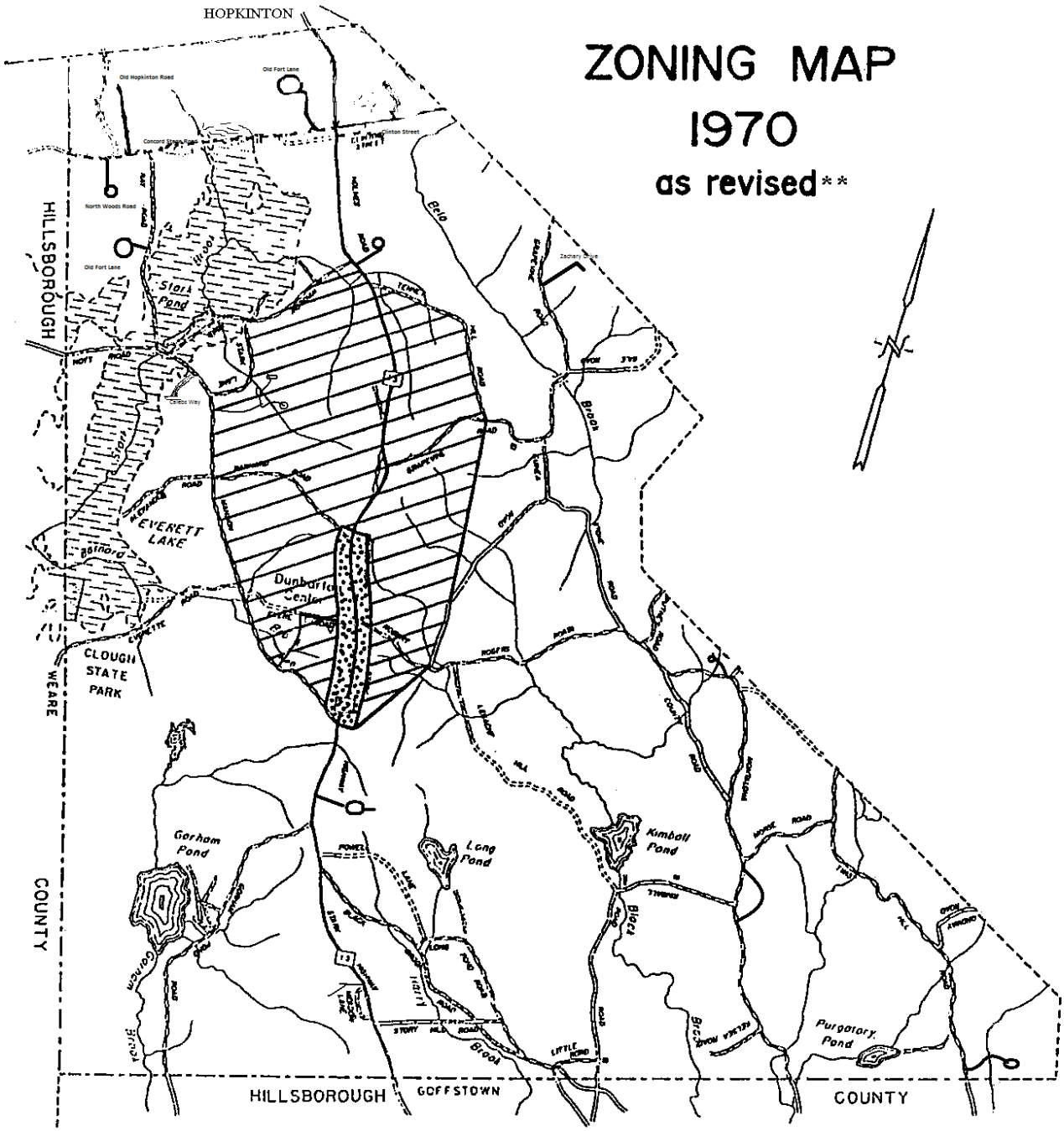
MARCH 9, 2021 (AMEND ARTICLE 5, SECTION B, WETLAND CONSERVATION DISTRICT DEFINED AND SECTION F, PROCEDURUAL REQUIREMENTS; AMEND ARTICLE 5, SECTION B, BY ADDING 3 (b) FOOTINGS/FOUNDATION CERTIFICATION)

JANUARY 20, 2022 (TYPOGRAPHICAL/GRAMMATICAL/MINOR REVISIONS THROUGHOUT; AMEND THE TITLE OF ARTICLE 7; ADDED VARIANCE CRITERIA TO ARTICLE 13)

MARCH 16, 2023 (AMEND ARTICLE 11, WORKFORCE HOUSING ORDINANCE)

MARCH 12, 2024 (AMEND ARTICLE 10, NH FLOODPLAIN DEVELOPMENT ORDINANCE)

TOWN OF DUNBARTON, NH



Low Density Residential

Medium Density Residential

Village District

** Amended March 13, 1990
Amended March 13, 2012

TOWN CLERK'S CERTIFICATION OF RECORD

DUNBARTON ZONING ORDINANCE

Attest:

_____
Jennifer P. Cormier, Dunbarton Town Clerk

Dunbarton, New Hampshire Seal:

Received and recorded by the Dunbarton Town Clerk, Book _____ Page _____.

Date Signed: _____