

Zoning Ordinance



Town of Gilmanton New Hampshire

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ZONING ORDINANCE
Town of Gilmanton, New Hampshire

An ordinance to help implement the Gilmanton Master Plan, as updated, and to promote the health, safety, convenience and general welfare of the community by providing for efficient and proper use of land in the Town of Gilmanton.

ARTICLE I. PREAMBLE

In pursuance of authority conferred by RSA 673-677, as amended and for the purpose of promoting the health, safety, prosperity, convenience and general welfare, as well as efficiency and economy in the process of development of the incorporated Town of Gilmanton, NH by securing safety from fire, panic, congestion and dangers, providing adequate areas between buildings and various rights-of-way, by preserving the rural charm now possessed by our Town of Gilmanton, the promotion of good civic design and arrangements, wise and efficient expenditures of public funds, now therefore the following ordinance is hereby enacted by the voters of the Town of Gilmanton, NH in official meeting convened.

- A. ESTABLISHMENT OF ZONING DISTRICTS: The establishment and description of zones as depicted on the “Gilmanton Zoning Map” are hereby adopted, below:

Gilmanton Corners Village – V
Gilmanton Iron Works Village – V
Residential Lake – RL
Light Business – LB
Business – B
Rural – R
Conservation – C

DESCRIPTIONS AND OBJECTIVES OF ZONES:

Village – The Gilmanton Corners Village is located in the vicinity of the intersection of Route 140 and Province Road (Route 107). The Gilmanton Iron Works Village is located in the vicinity of Route 140 and Elm Street. The Village Zones have a mixed-use character consisting of concentrated community living, small-scale retail and service businesses, and civic uses. The boundaries of the Village Zones are shown on the Gilmanton Zoning Map. The minimum acreage in these Zones is one acre with 125’ of road frontage on a Class V or better road. The objectives of the Village Zones are to continue the mixed-use village character, to preserve existing structures, to minimize vehicular congestion and provide maximum pedestrian access, and to preserve the significant historic value. New buildings, renovations and signs should be consistent with the present character of the villages and should meet the guidelines of the Historic District Regulations, where applicable. Specific permitted uses allowed in this Zone are listed in Article IV, Table 1 of this Ordinance.

Residential Lake – The Residential Lake Zone encompasses the area surrounding Sawyer Lake. Sawyer Lake Road is located off of Province Road (Route 107) North. The boundaries of the Residential Lake Zone are shown on the Gilmanton Zoning Map. The minimum acreage in this Zone is one acre with 125’ of road frontage on a Class V or better road. This area currently consists of seasonal and single family dwellings; many of which are located on private roads. The purpose of the Residential Lake Zone is to allow for higher density single-family dwellings while protecting the water supply, lake and environment. Specific permitted uses allowed in this Zone are listed in Article IV, Table 1 of this Ordinance.

Light Business – The Light Business Zones are located along Route 140 West from the westerly side of the Historic District to Allens Mill Road, and on Province Road North (Route 107) North from Copp Road to Munsey Hill Road. The boundaries of the Light Business Zones are shown on the Gilmanton Zoning Map. The minimum acreage in these Zones is one acre with 200’ of frontage on a Class V or better road. The purpose of the Light Business Zones is to provide for low impact retail businesses, small-scale service businesses, light manufacturing and professional services. The location of these facilities shall be encouraged to utilize shared accesses to prevent congestion and enhance visual appearance. Specific design standards shall apply as set forth in the Gilmanton Site Plan Regulations to prevent strip development. Specific permitted uses allowed in these Zones are listed in Article IV, Table 1 of this Ordinance.

Business t – The Business Zone consists of an area of NH Route 106, the boundaries of which are depicted on the Gilmanton Zoning Map. The minimum acreage of this Zone is one acre with 200’ of frontage on NH Route 106. The purpose of the Business Zone is to concentrate commercial and industrial growth in this area, which has the best access to major transportation corridors, and is removed from the residential area. Specific permitted uses allowed in this Zone are listed in Article IV, Table 1 of the Ordinance.

Rural Zone – The Rural Zone makes up the majority of area in town, the boundaries of which are located on the Gilmanton Zoning Map. The minimum acreage is two acres with 200’ of road frontage on a Class V or better road. The purpose of the Rural Zone is to provide for a mixture of residential, business, agricultural, recreational and forestry uses. Specific permitted uses allowed in this Zone are listed in Article IV, Table 1 of this Ordinance.

Conservation Zone – The Conservation Zone extends across the northern section of town, the boundaries of which are depicted on the Gilmanton Zoning Map. The minimum lot size in this Zone is ten acres with 400’ of road frontage on a Class V or better road. The purpose of the Conservation Zone is to preserve and protect the Town’s woodlands, wetlands, and the natural heritage of large tracts of undeveloped agricultural and forest lands. The intent of the Conservation Zone is to encourage the continuation of large contiguous tracts of forest land in private ownership to provide forest resources and outdoor recreation, to encourage forestry and timber management, to protect natural areas and wildlife habitat, to preserve scenic views, and to avoid the burden of unreasonable municipal expenditures involved in providing municipal services to remote and difficult locations. Specific permitted uses allowed in this Zone are listed in Article IV, Table 1 of this Ordinance.

* To encourage the preservation of the rural character of the community, open space subdivisions are allowed in all Zones.

B. ZONING MAP

The zoning districts listed above are bounded as shown on the map entitled “Gilmanton Zoning Map” which map is attached to and made a part of this Ordinance and is hereinafter referred to as the “Zoning Map”. The official Zoning Map of the Town of Gilmanton to be used to determine exact zoning district boundaries is drawn to a scale of one mile to three inches, and shall be certified as the official zoning Map of the Town of Gilmanton by the town Clerk upon adoption of this Ordinance, or upon any amendment that affects the Zoning Map and, upon such certification, shall be filed with the Planning Board.

Rev July 2010

C. ZONING DISTRICT BOUNDARIES

The zoning boundaries are depicted on the Gilmanton Zoning Map.

The center of road rights-of-way or the middle of stream channels or other water bodies shall be where the boundary line distance is determined. Any boundary within 10 feet of a property line shall be considered to coincide with such property line. In any instance where there is doubt as to the location of a zoning district boundary, the Planning Board shall determine the location of such boundary, consistent with the intent of this ordinance and zoning map. The frontage or point of access shall determine the applicable Zoning District. In the event that there is insufficient frontage or acreage for that Zone, then the more restrictive requirements shall apply.

The Residential Lake Zone is coterminous with the Sawyer Lake Village Zone.

ARTICLE III. GENERAL PROVISIONS APPLICABLE TO ALL DISTRICTS

A. SANITARY PROTECTION -

All sanitary systems shall be constructed and maintained in accordance with standards set by the New Hampshire Department of Environmental Services, by the Town Subdivision Regulations and applicable health and sanitary codes. Portable toilets are prohibited from use on any lot for the purpose of supporting occupancy of a recreational vehicle, building or any part of a building as a dwelling house, sleeping apartment or tourist cabin. Temporary use of a portable toilet to support construction, special events or emergency repairs is allowed for up to a period of seven days without a permit. Longer periods require a permit from the Town Health Officer.

Added 03/13/07

Any structure that is being improved by adding a bedroom, or whenever a structure is being converted from a seasonal to a permanent use, shall have the existing septic system evaluated by a NH Licensed Designer of Subsurface Disposal Systems to determine the adequacy of the existing septic system for it's current and/or proposed use.

Rev. 03/14/17

B. FIRE RUINED BUILDINGS

Rev. 03/08/11

No owner or occupant of land in any district shall permit fire or other ruins to be left indefinitely, but within one year shall remove or refill the same to clear ground level or shall repair, build or replace the structure. One-year extensions may be granted by the Board of Selectmen or their designee, for good cause shown.

C. OBNOXIOUS USES

1. Any uses that are demonstrated to be offensive or injurious due to odor, dust, smoke, refuse matter, toxic and non-toxic fumes, noise, vibrations, or similar conditions, or that are dangerous to the comfort, peace, and enjoyment, health, or safety of the community shall be prohibited. Unlicensed junkyards shall be an obnoxious use.
2. The keeping or storing of the following shall be an obnoxious use:
 - a. two or more motor vehicles which are no longer intended, or in condition for, legal use according to their original purpose including motor vehicles purchased for the purpose of dismantling the vehicles for parts or for use of the metal for scrap; and/or
 - b. the quantity equal in bulk to two or more motor vehicles or greater of used parts 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.
3. Customary agricultural uses are expressly excluded from these provisions.

D. HOME OCCUPATIONS

Any use conducted by an owner or residential tenant entirely within the owner's or residential tenant's existing dwelling or accessory building for offices for a doctor, engineer, architect, lawyer, or other recognized profession, or for offices for real estate and insurance business, or such home occupations as hairdressing, dressmaking, manufacturing of craft or food product for sale; provided that there are no more than three paid employees on the premises other than the operator of the business or profession. Home occupations shall include service businesses that do not generate noise or fumes, do not have outside storage and do not require deliveries by heavy trucks.

E. HEIGHT REGULATIONS

The height of structures in all districts shall not exceed thirty-five (35) feet above mean ground level, except for domestic radio and television antennas, silos for storage of feed crops or other farm outbuildings, church towers, water storage structures, chimneys, or wind operated devices.

F. SIGNS

Rev 03/09/2022

This section shall regulate the standards for signs. The intent is to promote and protect the aesthetics of the Town, protect hazards to vehicular or pedestrian traffic safety, while supporting business and community vitality by informing the public of available goods, services, and activities.

1. Definitions:

- a. **Permanent sign** means any structure, display, logo, device or representation which is designed or used to advertise or call attention to any item, business, activity or place and is visible from outside a building that is intended to be in place for a period that is longer than 90 days, intended for permanent use, and that does not otherwise meet the definition of “temporary sign.” Wall-mounted sign holders designed for insertion of signs and posters shall be considered permanent signage and subject to all standards.
- b. **Temporary sign** means a sign which is not permanently anchored to a footing extending below grade or permanently affixed to or painted on a building and on which the copy has been painted or affixed in a permanent manner. The copy on the sign shall relate to an activity, use or event of limited time duration not exceeding 90 days. Temporary signs include such signs as political campaign signs, real estate signs, construction identification signs, signs identifying seasonal businesses, signs advertising specific community events, and signs providing temporary identification for developments awaiting installation of a permanent sign.

2. Exempt Signs:

- a. Signs erected by governmental units or required by federal, state or local law are not subject to regulation by this ordinance.
- b. Traffic control devices erected as a government permit requirement are not subject to regulation by this ordinance.
- c. Street numbers associated with private residential homes.
- d. Warning signs marking hazards on private property.

3. Non-conforming signs - Any sign legally erected prior to the adoption of this ordinance may be continued and maintained. Such a sign shall not be altered or enlarged unless it is brought into conformity. Any sign which has been removed or destroyed by any means to an extent of more than 75 percent of the replacement value at the time of destruction shall not be replaced, repaired, or rebuilt except in conformity with this ordinance.

4. All signs shall be maintained in good condition and good repair at all times. Any sign which is or becomes in disrepair in the opinion of the Selectmen, shall be removed upon written order of the Selectmen if not repaired within thirty (30) days.

5. Any sign which refers to a discontinued use shall be removed upon order of the Selectmen, after 30 days' notice.

6. Each new permanent sign must receive a permit before erection from the Building Inspector.
7. Flashing or moving signs, technologies, and devices are prohibited, including:
 - a. Internally illuminated signs
 - b. Electronic message center signs
 - c. Electromechanical or projected signs
 - d. Animated, software-controlled, or remotely controlled signs
 - e. Windblown devices, pennants, or inflated signs
 - f. Signs that change text, graphics, or color as the result of observer position
 - g. Signs made wholly or partially of highly reflective material, so as to generate a contrast between the sign and adjacent surfaces or the surrounding area.
8. External illuminated signs shall be static in terms of intensity and color and shall be shielded in such a way as to produce no glare, undue distraction, confusion or hazard to the surrounding area or to vehicular traffic.
9. The height of any permanent free-standing sign shall not exceed twenty (20) feet, except by special exception.
10. The use of billboards and off-premises signs (excepting Directional Signs found in this article) is not permitted.
11. Permanent signs all zones except the Business and Light Business Zones shall be limited to two (2) in number, shall be displayed on the applicable property and shall total not more than twenty-five (25) square feet per side in area for each sign.
12. Each lot of record in the Business and Light Business Zones are allowed two (2) permanent signs per lot. Such signs shall not exceed more than thirty-two (32) square feet per side.
13. No sign shall be permitted which overhangs any public right-of-way, street or sidewalk.

G. Directional Signs

Rev 03/09/2022

The intent is to provide a means for the public to locate uses within the Town of Gilmanton by providing the opportunity for off-site directional signage while promoting and protecting the safety and aesthetics of the Town.

- a. The use of temporary directional signs for special events is permitted provided all such signs shall be removed within 24 hours following termination of the event.
- b. Directional Signs for seasonal or temporary uses shall be removed during that time the use is not operating.
- c. Only one directional sign per tax lot is allowed.
- d. The size of a directional sign shall not exceed two (2) square feet and shall be placed no closer than one (1) mile apart.
- e. Signs shall be located on land outside of the traveled right-of-way and with written permission from the lot owner on which the sign is located.
- f. Each proposed Directional Sign must obtain a permit from the Planning Board. An application to renew the permit must be made annually by the sign owner. Renewal reviews will be made to confirm that the sign is in compliance with the terms of this Ordinance.

ARTICLE III – CONTINUED

- g. Any sign which the Planning Board determines to be deteriorated or damaged or ineligible under this Ordinance or for which a renewal permit is not issued shall be removed. The costs related to replacement, repair, removal, and/or re-erection of lost, stolen or damaged signs is the responsibility of the sign owner. The erection, repair and/or replacement of signs shall occur only under the direction of the Planning Board or its designated agent.
- h. In addition to the approval procedures required above, Directional Signs may be located within the right of way of a Class V Town road only after final approval by the Board of Selectmen pursuant to RSA 41:11.

H. OFF-STREET LOADING AND PARKING

Adequate off-street loading and parking shall be provided whenever any new use is established or any existing use is enlarged in accordance with the following specifications.

- 1. All new construction of institutional, commercial or industrial uses requiring off-street loading facilities shall provide such facilities so that delivery vehicles are parked outside of the street right-of-way.
- 2. All proposed new development shall provide for adequate off-street parking spaces in accordance with the Site Plan Regulations.

I. REMOVAL OF NATURAL MATERIAL

If clay, sod, loam, sand or gravel is removed within 100 feet of a public highway, street or roadway, the area shall be regraded to assure that the premises will be left in a sightly condition and protected against erosion and washouts within 90 days of the finish of operation and/or material removed. All earth excavation to be in compliance with the Gilmanton Earth Excavation Regulation.

J. SATELLITE DISH ANTENNAS

Satellite dish antennas shall not be located within the applicable set backs. Furthermore, satellite dish antennas greater than 24” in diameter shall not be located in the area between the edge of the public or private right-of-way constituting the lot frontage and a line running parallel thereto and touching a front portion of the dwelling or the principal structure upon the lot. Additionally, as to waterfront lots, no satellite dish antennas greater than 24” in diameter shall be located in the area between the high water line and a line running parallel thereto and touching a rear portion of the dwelling unit or the principal structure upon the lot.

K. PERSONAL WIRELESS COMMUNICATIONS FACILITIES

03/13/18

1. Authority

This Ordinance is adopted by the Town of Gilmanton in accordance with the authority granted in (as amended) RSA 12-K, 674:16 and 674:21 and procedurally pursuant to RSA 675:1, II.

2. Purposes and Goals

This Ordinance is enacted in order to establish standards and criteria for the siting, construction and development of Personal Wireless Service Facilities or “PWSF” as defined in the federal Telecommunications Act of 1996, 47 U.S.C. Section 332(c)(7)(C)(i) (hereinafter “Tower facilities” as further defined in Section 12 hereof) through the enhancement and fulfillment of the following goals:

- a. Further the vision, goals, objectives and recommendations of the Town of Gilmanton’s Master Plan;
- b. Provide a reasonable balance between the interests of residents, property owners, business owners, personal wireless telecommunication providers and telecommunication customers so as to ensure coordinated development of communications infrastructure while preserving the health, safety and welfare of the Town and its constituents;
- c. Preserve the authority of the Town of Gilmanton to regulate land uses including Personal Wireless Service Facilities;
- d. Provide reasonable opportunities for the siting of Tower facilities in to provide service to as many areas of the community as possible;
- e. Establish a process with clear time frames for the exercise of municipal authority to regulate PWSF;
- f. Permit carriers to locate Tower facilities within the Town of Gilmanton to ensure compatibility with the visual and environmental features, values and priorities of the Town. Compatibility with these features is measured based upon the change in community scale and character in relation to height, mass, material, contrasts and proportion to the surroundings of a proposed facility;
- g. Minimize the adverse impacts such facilities may create, including but not limited to impacts on: community character and community aesthetics, environmentally sensitive areas, community gateways, historically significant properties and structures, village and rural settings, residential development patterns, flight corridors, public health and safety by injurious accidents to person and property and community prosperity though protection of property values;
- h. Require cooperation and co-location to the highest extent possible between competitive providers of Tower facilities where practical and consistent with the goals of this Ordinance, in order to reduce the cumulative negative impacts upon the Town of Gilmanton;

- i. Provide for 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 of Gilmanton;
 - j. Permit the construction of new Tower facilities only where all other reasonable alternatives and opportunities have been exhausted and to encourage the users of Towers and antennas to configure them in a way that minimizes proliferation and other adverse visual impacts of the Towers and antennas;
 - k. Provide continuous maintenance and safety inspections for all facilities; and
 - l. Ensure that all telecommunication carriers providing facilities or services within the Town of Gilmanton comply with the Ordinance and any decisions of the Town of Gilmanton made thereto.
3. Applicability
- a. This local land use ordinance applies to all construction and expansion of PWSF, except as provided in this Section 3.B. Tower
 - b. The following are exempt from the provisions of this Ordinance:
 - (1). Emergency Wireless Telecommunication Facility: Temporary Wireless Telecommunication Facilities for emergency communications by public officials.
 - (2). Amateur (ham) radio services: Amateur (ham) radio services licensed by the Federal Communications Commission (see RSA 674:16).
 - (3). Parabolic (dish) antenna: Parabolic antenna that is accessory to a residential use of property.
 - (4). Maintenance, repair or reconstruction: Maintenance, repair or reconstruction of a PWSF and related equipment including modifications that do not encompass Substantial Modifications as defined in RSA 12-K, shall only require a building permit.
4. District Regulations New Towers
- a. Article IV, Zoning District Regulations, Table I details permitted uses of PWTF's.
 - b. Collocation or modification applications to existing Tower installations shall only require a building permit unless said modification is deemed substantial as defined by RSA 12:K:11, as amended. Substantial modifications shall adhere to the provisions of this Ordinance.
 - c. New Tower construction designed for PWSF or Substantial Modifications of existing PWSF shall require a Conditional Use Permit (As determined by Article IV, Table 1) and site plan approval from the Planning Board.

d. Use Regulations

- (1) Location of Facilities and Use - Generally. Applicants seeking approval for PWSF shall comply with the following general criteria:
 - (a) If feasible, PWSF shall be located in or on existing structures, including but not limited to buildings, water Towers, existing telecom-communication facilities, utility poles and Towers and related facilities, provided that such installation preserves the character and integrity of those structures. The use of each Tower facility shall be maximized. The applicant shall have the burden of proving that there are no feasible existing structures upon which to locate.
 - (b). If the applicant demonstrates that it is not feasible to locate on an existing structure, Tower facilities shall be located and designed so as to minimize any adverse impacts to the greatest extent possible, including but not limited to, use of compatible building materials and colors, screening, landscaping, proportional sizing and placement within trees.
- (2) The installation and/or construction of all PWSF subject to this Ordinance shall require a building permit and a Certificate of Use and Occupancy. No facility shall operate prior to the issuance of a Certificate of Use and Occupancy.
- (3) PWSF shall be considered either a principal or a secondary non-residential use. Such facilities shall not be deemed an accessory use. A different use or an existing structure on the same lot shall not preclude the installation of an antenna or Tower facility on such lot.
- (4) Siting of PWSF is a use of land and is regulated by the terms and provisions of this Ordinance.
- (5) Dimensional Requirements.
 - (a) Height - The requirements set forth in this section shall apply only to PWSF and shall preempt all other height limitations required by the Town of Gilmanton Zoning Ordinance. The maximum Tower height shall be 140 feet above ground level. Actual, permissible Tower heights shall be determined on a case-by-case basis by the Planning Board pursuant to the Conditional Use Permit process.
 - (b) Setbacks - All PWSF and their equipment shelters shall comply with the building setback provisions of the underlying Zoning District in which the facility is located.
 - (c) In addition, the following setbacks shall be observed:
 - (i) In order to ensure public safety, the minimum distance from the base of any Tower facility to any property line, road, dwelling, business, institution or public recreational area shall be equal to 125% of the height of the Tower. This setback shall be known as the fall zone.
 - (ii) In the event that an existing Tower facility is proposed as a mount for a PWSF, a fall zone shall not be required.
 - (iii) In reviewing an application for a Conditional Use Permit the Planning Board may reduce the required fall zone and/or setback distance of the zoning district up to 75% of the required distance if it finds that a substantially better design will result from such reduction. In making such a finding, the Planning Board shall consider both the visual and safety aspects of the proposed use.

5. Performance Standards -All PWSF shall be subject to the provisions of this Section to the extent applicable.
 - a. Camouflage by existing buildings or structures.
 - (1) When a PWSF extends above the roofline of a building on which it is mounted, every effort shall be made to conceal the facility within or behind existing architectural features to limit its visibility from public ways, including but not limited to the use of innovative technologies and treatments. Facilities mounted on a roof shall be stepped back from the front facade in order to limit the impact on the building silhouette.
 - (2) PWSF which are side-mounted shall blend with the existing building's architecture and, if over five (5) square feet, shall be painted or shielded with material which is consistent with the design features and materials of the building.
 - b. Camouflage by vegetation.

Buffers of tree growth and under-story vegetation shall surround ground mounted PWSF facilities. The buffer shall be of sufficient height and depth to effectively screen the base of the Tower compound, and all or a portion of any Tower structure. Trees and vegetation may be existing on the subject property or installed as part of the proposed facility or a combination of both. Existing tree growth and natural landforms on the site shall be preserved to the maximum extent possible. In some cases, natural growth around the property may be deemed a sufficient buffer. As part of the Site Plan Review process, the Planning Board shall determine the type of plant materials and the depth of the needed buffer, based on site conditions. The Planning Board may require certain restrictions, prohibitions or limitations regarding tree removal or tree clearing in order to ensure the vegetative buffer is maintained. All vegetation and/or screening shall be in accordance with the Landscaping Requirements contained within the Site Plan Regulations.
 - c. Camouflage by man-made treatment.

In instances where vegetative treatments may not be sufficient to adequately buffer the visual effect of new PWSF, the Planning Board may require Tower innovative treatments or design, including but not limited to imitation of native vegetation or fire Towers. Innovative alternative Tower structures or a combination of treatments may be required in order to meet the requirements of Site Plan Review.
 - d. Color and Maintenance.
 - (1) PWSF which are side or roof mounted on a building or structure shall be painted or constructed of materials to match or blend with the color of the building material which provides the backdrop to the facility.
 - (2) To the extent that any PWSF extends above the height of the existing vegetation immediately surrounding it and cannot be reasonably camouflaged, the facilities shall be of a neutral, non-reflective color, which blends with the sky and clouds. Any color other than a neutral, non-reflective shall require a Variance.

e. Lighting.

Generally, Towers should not be lighted. Should the Federal Aviation Administration require lighting of a Tower as proposed by an applicant, the proposed lighting feature shall be designed to minimize, to the maximum extent possible, the impact of the light on the community. Lighting of equipment shelters or any other facilities on site shall be shielded and cut off in order to minimize the amount of light that may occur at the property line of an abutting property.

g. Equipment Shelters - Equipment shelters for PWSF shall be designed with one of the following design standards:

- (1) Equipment shelters shall be located in underground vaults, or
- (2) If required by the Planning Board to mitigate the adverse appearance, an equipment shelter shall be designed consistent with traditional New England architectural styles with a pitched roof of at least 8/12 and clapboard siding, or
- (3) Equipment shelters shall be camouflaged behind an effective landscaped buffer, equal to the height of the proposed building and/or fence. The Planning Board shall determine the style of fencing and/or landscape buffer that is compatible with the surrounding area.

h. Historic Buildings and Districts.

Any PWSF located on or within an historic structure shall require approval of the Historic District Commission. Such facility shall not alter the character defining features, distinctive construction methods, or original materials of the building. PWSF within an Historic District shall be concealed within or behind existing architectural features, or shall be located so that they are not visible from public roads and viewing areas within the District.

i. Scenic Landscapes and Vistas.

PWSF shall not be located within open areas that are visible from public roads, recreational areas or residential development. Proposed PWSF should be located among mature trees, with evergreens being preferred.

j. Sensitive Natural Resources.

Specific natural resource characteristics as may be present throughout the Town of Gilmanton that are fundamentally incompatible with new Tower construction such as slopes of 25% or greater, wetlands, deer wintering habitat areas as inventoried by the NH Department of Fish and Game, threatened, rare or endangered flora as determined by the NH Natural Heritage Inventory or other areas identified by the Gilmanton Conservation Commission as being sensitive natural resources. PWSF shall be located and designed so as to avoid or mitigate impacts to such natural resources.

k. Building Codes and Other Safety Considerations.

- (1) To ensure the structural integrity of Tower facilities and antennas, the owner of the facility shall ensure that it is constructed, attached and maintained in compliance with standards contained in the local building code applicable to non-residential structures and facilities. Prior to the issuance of a Certificate of Use and Occupancy, the applicant shall submit to the Code Enforcement Officer written certification that any antenna installation or Tower construction meets or exceeds the applicable codes.

- (2) Owners of Tower facilities shall be required to have annual safety and maintenance inspections performed following the issuance of a Certificate of Use and Occupancy. Written confirmation of the annual inspection and evidence of satisfactory compliance with applicable industry safety and maintenance standards shall be submitted to the Planning Board and Code Enforcement Officer.

1. Co-location.

Licensed carriers shall share PWSF and sites where feasible and appropriate, thereby reducing the number of standalone PWSF within the Town of Gilmanton. All applications for Conditional Use Permit shall demonstrate a good faith effort to co-locate with other carriers.

However, should Substantial Modifications occur to the Tower, as defined in RSA 12-K Deployment of PWSF, as amended, than approval from the Planning Board shall be required.

6. Site Plan Review Procedures

a. Site Plan Review.

Site Plan Review by the Gilmanton Planning Board is required for any proposal involving construction of a new Tower or Substantial Modification to a PWSF. Each applicant requesting Site Plan Review shall submit a scaled site plan and supporting documentation in accordance with the Site Plan Review Regulations and shall submit a Conditional Use Permit application sufficient to satisfy the requirements of this Ordinance.

b. Additional Information - PWSF applications shall include the following additional information:

- (1) Written evidence that the proposed use/facility will comply with the FCC regulations regarding radio frequency exposure.
- (2) Written evidence that the proposed use/facility will meet the requirements of the National Environmental Policy Act, if applicable.
- (3) An inventory of existing Tower facilities that are within the jurisdiction of the Town and those within one mile of the Town borders, including specific information about the location, height, design as well as economic and technical feasibility for co-location. Written evidence shall be presented that no existing structure can accommodate the applicants proposed antenna in a manner that will achieve the required technical result.
- (4) A description of the proposed coverage range together with the technical reasons for the facility design.
- (5) A description of the tree cover on the subject property and adjacent properties by dominant species and average height, as measured by or available from a verifiable source.
- (6) Representations of the proposed facility, antennas, equipment shelters, aboveground wires and other equipment, including elevation drawings of all structures and the vegetative buffer, shall be dimensioned to scale.
- (7) A visual impact assessment including representative before-condition photographs and after-condition photographic simulations of the proposed facility showing what can be seen from public viewpoints in the immediate vicinity of the site as well as from a distance.

c. Site View.

The applicant shall arrange for a balloon or crane test at the site to illustrate the height of the proposed facility. The date, time, location, duration and requirements of such test shall be determined by the Planning Board. Public notice of the Site View shall be posted. The Planning Board may also require that notice of the Site View be published in newspapers of local circulation at the applicant's expense.

d. Criteria for Conditional Use Permit

(1) In order for the Planning Board to grant a Conditional Use Permit, it shall find that:

(a) the proposal is in harmony with purposes and goals set forth in Section K-2, and

(b) the proposal is in accordance with the general and specific provisions of this

Ordinance, particularly the district regulations in Section K-4, and the performance standards in Section K-5 of this Ordinance.

(2) The criteria for approval shall supersede criteria under Article VII of the Zoning

Ordinance. It shall be the burden of the applicant to provide sufficient evidence to

persuade the Planning Board that all applicable criteria have been met and that proposal does not represent unreasonable adverse impacts. An applicant's failure to satisfy the burden of proof shall result in the denial of an application.

e. Outside Technical Review.

The Planning Board may retain a technical expert in the field of radio frequency engineering to review and verify technical claims made by the applicant including but not limited to the co-location findings, alternative locations and innovative design opportunities. The cost of such technical review shall be borne by the applicant.

f. Decisions - Decisions by the Planning Board to approve or deny an application shall be in writing and shall be supported by the evidence before the Board.

g. Waivers: Where the Planning Board finds that a particular application of these regulations would serve no valid purpose in relation to the purposes and goals set forth in Section K.2. of this Ordinance, it may approve waivers to these regulations provided that the result of the waiver would create a benefit in relation to Purposes and Goals of the Ordinance.

h. Conditions. In approving an application for Site Plan Review or an application for Conditional Use Permit, the Board may impose such conditions as it deems appropriate to substantially secure the objectives, standards or requirements of the applicable local land use regulations.

7. Abandonment

a. Any antenna or Tower facility that is not operated for a continuous period of twelve (12) months shall be considered abandoned and hazardous to the public health and safety, unless the owner of said antenna or Tower facility provides proof of current, satisfactory inspection by a qualified person to conduct such inspection. The owner shall remove the abandoned structure within ninety (90) days of receipt of a declaration of abandonment from the Town notifying the owner of such determination.

- b. A declaration of abandonment shall only be issued following a public hearing with notice to abutters and the last known owner/operator of the antenna or Tower facility. If the abandoned antenna or Tower facility is not removed within ninety (90) days, the Town and its agents or contractors shall have all necessary authority to enter the premises and have the antenna or Tower removed. If there are two or more users of a single antenna or Tower, this provision shall not become effective until all users cease using the antenna or Tower facility.

8. Administration and Enforcement

Enforcement of this Ordinance shall be in accordance with RSA 676 and the Town of Gilmanton Zoning Ordinance. Any person who violates any section of this PWSF Ordinance shall be subject to the penalties and remedies provided under the relevant provisions of State and local law.

9. Definitions - For purposes of this Section K the following terms have the meanings stated as follows:

Alternative Tower Structure - Innovative siting techniques that shall include man-made trees, clock Towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or Tower facilities.

Antenna – As defined in RSA 12-K2, as amended.

Co-location – As defined in RSA 12-K2, as amended.

Equipment Shelter - An enclosed structure, cabinet, shed or boxes at or near the base of the mount within which is housed electrical equipment.

Fall Zone - The area on the ground within a prescribed radius from the base of a facility within which there is a potential hazard from falling debris (such as ice) or collapsing material.

FAA - An acronym that shall mean the Federal Aviation Administration.

FCC - An acronym that shall mean the Federal Communications Commission.

Height - The vertical measurement from a point on the ground at the mean finish grade adjoining the foundation to the highest designated point of the building or structure. The term “roof line” shall mean the portion of the roof located at the ridgepole. Measurement of Tower height shall include antenna, base pad, footings and other appurtenances.

Historic District - One of the Town’s Historic Districts.

Mount - As defined in RSA 12-K2, as amended.

Roofline – The ridgepole of a structure, not exceeding the chimney or cupola.

Tower – As defined in RSA 12-K2, as amended.

Unreasonable Adverse Impact - An end result from the proposed facility that is excessively out of character with the designated resources affected.

Viewpoint - That location which serves as the basis for the location and determination of a particular visual resource.

Personal Wireless Service Facility (PWSF) - As defined in RSA 12-K2, as amended.

10. Saving Clause

Where any provision of this Ordinance is found to be invalid, such determination shall not affect the validity of the remainder of this Ordinance.

L. RESIDENTIAL LAKE DISTRICT

In the Residential Lake District retaining walls may not exceed five (5) feet in height from the preexisting ground level. Walls shall be constructed with materials and landscaping to compliment the existing setting. Retaining walls must meet setbacks for other structures from roads, waterfront, and property lines as set forth in Article IV Table 2, unless otherwise necessary for slope preservation.

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M. TREATED SOILS

Where permitted, the use of treated soils shall comply with the following guidelines:

1. If the material is not capped in a method approved by the Planning Board, it shall be vegetated; and/or
 - a. A complete agronomic soils test shall be submitted.
 - b. Only soils with a minimum of 20% fines, also classified as sandy loam, loam or silt loam, shall be used within the top six inches of the placement.
 - c. Seeding shall be completed no later than 30 days after material is initially deposited on the site.
 - d. The seeding project shall be in compliance with the recommendation of the USDA, NRCS based on specific soil and site characteristics.
 - e. Areas required to be vegetated shall receive on-going maintenance to assure that the required vegetation occurs and is maintained.
 - f. Bonding to secure vegetation, in an amount approved by the Planning Board shall be required and shall be held for two growing seasons after required vegetation has been achieved.
2. If the material is to be capped, the material, depth, and method of the cap shall be as determined by the Planning Board under Site Plan or Subdivision approval.
3. Material shall not be placed until all protective controls are in place. These include but are not limited to surface water and dust control devices.
4. Material may not be placed or used:
 - a. in residential applications;
 - b. in applications located at playgrounds, schools, churches or public places of assembly;
 - c. within the 100-year floodplain;
 - d. on or in lands used for the production of crops for direct human consumption;
 - e. within a recharge area of any aquifer;
 - f. within 100 feet of any surface water;
 - g. within 100 feet of a wetland.
5. Pre and post soils and/or water testing may be required.
6. Independent review of the proposal, at the cost of the applicant, may be required.

ARTICLE III – CONTINUED

**N. TOWN OF GILMANTON NEW HAMPSHIRE FLOODPLAIN MANAGEMENT ORDINANCE
For Communities with Special Flood Hazard Areas Meets the Minimum Requirements of Section
60.3(b) of the National Flood Insurance Program (NFIP) Regulations**

1. Purpose
2. Establishment
3. Permits
4. Construction Requirements
5. Water and Sewer Systems
6. Certifications
7. Other Permits
8. Watercourses
9. Special Flood Hazard Areas
10. Variances and Appeals
11. Definitions

TOWN OF GILMANTON NEW HAMPSHIRE FLOODPLAIN MANAGEMENT ORDINANCE

1. Purpose

Certain areas of the Town of Gilmanton, New Hampshire are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968. Therefore, the Town of Gilmanton, New Hampshire has chosen to become a participating community in the National Flood Insurance Program (NFIP) and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as detailed in this Floodplain Management Ordinance.

This Ordinance establishes a permit system and review procedure for development activities in the designated flood hazard areas of the Town of Gilmanton, New Hampshire.

2. Establishment

This ordinance, adopted pursuant to the authority of RSA 674: 16, shall be known as the Town of Gilmanton Floodplain Management Ordinance. The regulations in this ordinance shall overlay and supplement the regulations in the Town of Gilmanton Zoning Ordinance, and shall be considered part of the Zoning Ordinance for 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 designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its Flood Insurance Study for Belknap County, NH-12/01/2008 or as amended, which are declared to be a part of this ordinance and are hereby incorporated by reference.

Rev. 03/08/16

3. Permits

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

4. Construction Requirements

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

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

TOWN OF GILMANTON NEW HAMPSHIRE FLOODPLAIN MANAGEMENT ORDINANCE

5. 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.

6. Certification

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

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

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

7. Other Permits

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

8. Watercourses

- a. 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, in addition to the copies required by RSA 482-A:3. Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Building Inspector, including notice of all scheduled hearings before the Wetlands Bureau.
- b. The applicant shall submit to the Building Inspector certification, provided by a licensed Professional Engineer (P.E.), assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.
- c. The Building Inspector shall obtain, review, and reasonably utilize any floodway data available from Federal, State, or other sources as criteria for requiring that all development located in Zone "A" meet the following floodway requirement:

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

ARTICLE III-N – CONTINUED

TOWN OF GILMANTON NEW HAMPSHIRE FLOODPLAIN MANAGEMENT ORDINANCE

9. Special Flood Hazard Areas

- a. In Zone "A" the Building Inspector shall obtain, review, and reasonably utilize any 100-year flood elevation data available from any federal, state or other source including data submitted for development proposals submitted to the community (i.e. subdivisions, site plan approvals).
- b. The Building Inspector's 100-year flood elevation determination will be used as criteria for requiring in Zone" A" that:
 - (1) All new construction or substantial improvements of residential structures have the lowest floor (including basement) elevated to or above the 100-year flood elevation.
 - (2) That all new construction or substantial improvements of non-residential structures have the lowest floor (including basement) elevated to or above the 100-year flood level, or together with attendant utility and sanitary facilities, shall:
 - (a) be flood-proofed so that below the 100-year flood elevation the structure is watertight with walls substantially impermeable to the passage of water;
 - (b) have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
 - (c) be certified by a licensed 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,
 - (3) 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 100-year 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.
 - (4) All recreational vehicles placed on sites within Zone "A" shall either:
 - (a) be on the site for fewer than 180 consecutive days;
 - (b) be fully licensed and ready for highway use; or,
 - (c) meet all standards of Section 60.3(b)(I) of the National Flood Insurance Program Regulations and the elevation and anchoring requirements for "manufactured homes" in Section 60.3(c)(6).
 - (5) 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:
 - (a) the enclosed area is unfinished or flood resistant, usable solely for the parking of vehicles, building access or storage;
 - (b) the area is not a basement; and
 - (c) 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 licensed Professional Engineer or architect or must meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings, or devices provided that they permit the automatic entry and exit of floodwater.

TOWN OF GILMANTON NEW HAMPSHIRE FLOODPLAIN MANAGEMENT ORDINANCE

10. Variances and Appeals

- a. 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.
- b. If the applicant, upon appeal, requests a Variance as authorized by RSA 674:33,I(b), the applicant shall have the burden of showing in addition to the usual Variance standards under state law that:
 - (1) The Variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense.
 - (2) If the requested Variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result; and
- c. 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:
 - (1) The issuance of a Variance to construct below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and
 - (2) Such construction below the base flood level increases risks to life and property.
 - (3) Such notification shall be maintained with a record of all variance actions.
- d. The community shall:
 - (1) Maintain a record of all Variance actions, including their justification for their issuance; and
 - (2) Report such Variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.

11. Definitions

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

Area of Special Flood Hazard is the land in the floodplain within the Town of Gilmanton subject to a one-percent or greater possibility of flooding in any given year. The area is designated as Zone "A" on the Flood Hazard Boundary Map (FHBM).

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

Basement means any area of a building having its floor subgrade 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, excavating or drilling operation or storage of equipment or materials.

FEMA means the Federal Emergency Management Agency.

Flood/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, or
- (2) the unusual and rapid accumulation or runoff of surface waters from any source.

Flood Hazard Boundary Map (FHBM) means an official map of a community, issued by the Administrator, where the boundaries of the flood, mudslide (i.e. mudflow) related erosion areas having special flood hazards have been designation as Zones "A", "M", and/or "E".

Definitions – continued

Flood Insurance Rate Map (FIRM) means an official map of a community, on which the Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

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.

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 that reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures and their contents.

Floodway - see Regulatory Floodway.

Functionally Dependent Use means a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking and port facilities that are necessary for the loading/unloading of cargo or passengers and ship building/repair facilities but does not include long-term storage or related manufacturing facilities.

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:

- (1) 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;
- (2) 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 of the Interior to qualify as a registered Historic District;
- (3) 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
- (4) Individually listed on a local Inventory of Historic Places in communities with Historic Preservation Programs that have been certified either:
 - (a) by an approved state program as determined by the Secretary of the Interior, or
 - (b) 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, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

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

Definitions – continued

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 or other to which base flood elevations shown on a community's Flood Insurance Rate Maps (FIRM) 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 Flood Insurance Rate Map (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.

One-Hundred Year Flood - See Base Flood

Recreational Vehicle for purposes of this Ordinance, is defined as:

- (1) built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projection;
- (3) designed to be self-propelled or permanently towable by a light duty truck; and
- (4) designed primarily not for use as a permanent dwelling but as temporary living quarters for travel, camping, recreational 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.

TOWN OF GILMANTON NEW HAMPSHIRE FLOODPLAIN MANAGEMENT ORDINANCE

Definitions – continued

Start of Construction includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation such as clearing, grading and/or filling; nor does it include the installation of streets and/or walkways. "Start of Construction" also does not include excavation for a basement, footings, piers, and/or foundations or the erection of temporary forms; nor does it include the installation of accessory building on the property 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 fifty percent (50%) of the market value of the structure before the damage occurred.

Substantial Improvement means

- (1) any combination of repairs, reconstruction, alteration, or improvements to a structure in which the cumulative cost equals or exceeds fifty percent (50%) of the market value of the structure. The market value of the structure should equal:
 - (a) the appraised value prior to the start of the initial repair or improvement; or
 - (b) in the case of damage, the value of the structure prior to the damage occurring,
- (2) For the purposes of this definition, "Substantial Improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures that have incurred substantial damage, regardless of actual repair work performed. The term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a "Historic Structure", provided that the alteration will not preclude the structure's continued designation as a "Historic Structure".

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 in 44CFR § 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

Water Surface Elevation means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum where specified) of floods of various magnitudes and frequencies in the floodplains.

O. AQUIFER PROTECTION OVERLAY ZONE (APO)

3/8/11

1. Intent
2. Location
3. Definitions
4. Dimensional Standards In The APO
5. Performance Standards In The APO
6. Prohibited Uses In The APO
7. Nonconforming Uses In The APO
8. Exemptions

AQUIFER PROTECTION OVERLAY ZONE (APO)

1. Intent

By the authority granted in New Hampshire RSA 674:16-17 and 674:20, the Aquifer Protection Overlay Zone (APO) is intended to protect, preserve and maintain existing and potential groundwater supply and groundwater recharge area of known aquifers, as delineated on the Town of Gilmanton Sand and Gravel Aquifer Map, produced by the Lakes Region Planning Commission, thereby assuring the proper use of natural resources and thus protecting public health, safety and general welfare of the people in the Town of Gilmanton from adverse development, land uses, practices and activities which might result in their depletion or contamination.

Additional purposes of the APO Zone include, but are not limited to:

- a. Assuring adequate private and public drinking water supply
- b. Assuring the hydrologic integrity of surface waters and wetlands
- c. Reducing the effects of non-point source pollution
- d. Protecting in-stream habitat for fish and wildlife
- e. Limiting the development of structures and land uses which contribute to the pollution of groundwater by sewage and hazardous substances
- f. Encouraging those uses that can be safely and appropriately located in the APO Zone
- g. Assuring adequate water supply for domestic, agricultural, commercial and industrial uses
- h. Assuring adequate water supply for recreational uses

The standards used in the APO reflect the recommendations of the 2005 Town of Gilmanton Master Plan Update and the September, 2004 Natural Resources Inventory and the Natural Resource Audit, August 2009. The APO is a zoning overlay district, which imposes additional requirements and restrictions to those of the underlying district zoning. In all cases the more restrictive requirement(s) shall apply.

2. Location

The extent of the APO shall be the outermost edge of the surficial extent of all aquifer deposits presently designated as stratified drift in the USGS study, along with designated Wellhead Protection Areas, as shown on maps prepared by the Lakes Region Planning Commission. Areas determined by the USGS as containing stratified drift aquifer and which also have excessively drained soils will be presumed to lie within the APO Zone.

- a. When the actual boundary of the APO is in dispute by any owner or abutter actually affected by said boundary, the Planning Board (or the Board of Adjustment or other Town authority, as appropriate), at the owner's or abutter's expense and request, may engage a certified soil scientist to conduct a Site Specific Soil Map of the area in dispute.
- b. If the results of the Site Specific Soil Mapping are inconclusive or are unsatisfactory to the Planning Board, the owner, or the abutter, the Planning Board (at the owner's or abutter's expense) may engage a professional geologist or hydrologist to conduct a hydrogeological study of the area to determine more accurately the precise boundary of the APO Zone.

AQUIFER PROTECTION OVERLAY ZONE (APO)

3. Definitions - For purposes of the APO, the following definitions shall apply:

Groundwater Subsurface water that occurs beneath the water table in soils and geologic formations.

Impermeable Surface Not readily permitting the infiltration of water.

Surface Water Those waters, which have standing or flowing water at or on the surface of the ground. This includes but is not limited to, rivers, streams, lakes, ponds and tidal waters.

Water Related Resources A natural resource that is dependent on water, such as fish, amphibians and plants.

Wetland Areas as defined in Article XVI of the Gilmanton Zoning Ordinance.

Wellhead Protection Area(s) The surface and subsurface area surrounding a water well or wellfield supplying a community public water system, through which contaminants are reasonably likely to move toward and reach such water well or wellfield.

4. Impermeable Surface Coverage Standards in the APO

- a. Impermeable surfaces may cover no more than 15% of any lot in the APO Zone, unless:
The applicant submits a stormwater management plan, prepared by a New Hampshire licensed professional engineer or a certified professional in erosion and sedimentary control and approved by the Planning Board. The goals of this plan are to maintain, to the maximum feasibility, that same rate of predevelopment water infiltration that exists on the site.
- b. Regardless of the area of disturbance, all groundwater infiltration shall be in compliance with the State of New Hampshire Alteration of Terrain Best Management Practices, along with New Hampshire Stormwater Manual Volumes 1-3, December 2008, NH Department of Environmental Services, as amended.

5. Performance Standards in the APO

- a. Uses shall conform to the standards and practices delineated in the following documents on file with the Planning Board, unless this Ordinance specifies more strict standards:
 - (1) Manual of Best Management Practices for Agriculture in New Hampshire, NH Dept. of Agriculture, July, 2008, or as amended.
 - (2) Best Management Practices to Control Nonpoint Source Pollution--A Guide for Citizens and Town Officials, NH DES, June 2004, or as amended.
 - (3) Best Management Practices – Groundwater, New Hampshire Code of Administrative Rules, Env-Wq 401, or as amended.

AQUIFER PROTECTION OVERLAY ZONE (APO)

- b. The Planning Board, while reviewing any development application (including, but not limited to subdivisions, site plans, and excavations) shall apply the following criteria when the development occurs in the APO:
 - (1) The proposed use will not detrimentally affect the quality of the groundwater contained in the aquifer by directly contributing to pollution or by increasing the long-term susceptibility of the aquifer to potential pollutants;
 - (2) The proposed use will not cause a significant reduction in the long term volume of water contained in the aquifer or in the storage capacity of the aquifer;
 - (3) The proposed use will discharge no wastewater on the site other than that discharged by approved wastewater disposal systems;
 - (4) The proposed use complies with all other applicable sections of this ordinance.
- c. The Planning Board may require that the applicant provide data or reports prepared by a professional engineer or qualified groundwater consultant, hydrologist, or fisheries biologist to assess any potential damage to the aquifer that may result from the proposed use. The Planning Board shall engage such professional assistance, as it requires to adequately evaluate such reports and to evaluate, in general, the proposed use in light of the above criteria. Costs for any of the above-mentioned services shall be charged to the applicant. When assessing impacts, the following may be required:
 - (1) Preliminary water resource and water related resource use and inventory.
 - (2) Estimation and verification of effects of the activity. Based upon the potential for impacts, monitoring shall be conducted to verify worst-case conditions (i.e. low flow summer conditions, maximum impact). Monitoring may have a range of sampling designs, including but not limited to single season evaluation or pre and post implementation evaluation.
 - (3) Final water resources and water related resources and uses inventory.
 - (4) Description of the impacts to water resources and water related resources used and inventory.

6. Prohibited Uses in the APO

The following uses shall not be permitted in the APO:

- a. Disposal of solid waste other than brush or stumps.
- b. Subsurface storage of petroleum or other refined petroleum products.
- c. Disposal of liquid or leachate wastes, except from single or multi-family residential subsurface disposal systems.
- d. Outdoor unenclosed or uncovered storage of road salts.
- e. Dumping of snow brought from outside the Aquifer Protection Overlay Zone.
- f. Commercial animal feedlots.
- g. Excavation of sand or gravel except where conducted in accordance with an approved excavation or movement of earth materials permit.
- h. All on-site handling, disposal, storage, processing or recycling of hazardous or toxic materials.
- i. Junk and salvage.
- j. Car washes.
- k. Laundromats.
- l. Landfills, solid waste transfer stations and recycling facilities, and incinerators.
- m. Gasoline stations.
- n. The spreading of Class A & B biosolids

AQUIFER PROTECTION OVERLAY ZONE (APO)

7. Nonconforming Uses in the APO

- a. Any nonconforming use may continue and may be maintained, repaired and/or replaced, and to the extent that it shall be made less nonconforming improved, unless such use is determined to be an imminent hazard to public health and safety by the Selectmen and/or Health Officer. No nonconforming use may be expanded, changed to another nonconforming use, or renewed after it has been discontinued for a period of 12 months or more.
- b. Notwithstanding subparagraph 7a above, existing underground storage tank for petroleum or other refined petroleum products may not be replaced. All failed underground storage tanks must be removed according to standards established in State Statutes and regulations. Above ground storage tanks shall be allowed provided they adhere to all applicable State standards.

8. Exemptions

The following uses are exempt from the specified provisions of this ordinance as long as they are in compliance with all applicable local, state, and federal requirements:

- a. Storage of heating fuels for on-site use or fuels for emergency electric generation, provided that storage tanks are indoors on a concrete floor or have corrosion control, leak detection, and secondary containment in place, is exempt from the list of Prohibited Uses;
- b. Storage of motor fuel in tanks attached to vehicles and fitted with permanent fuel lines to enable the fuel to be used by that vehicle is exempt from the list of Prohibited Uses.

P. NUMBER OF RESIDENTIAL UNITS WHICH MAY BE CONSTRUCTED ON A LOT Rev. 3/12/19

Only one single family dwelling unit, or one 2-family dwelling unit, or one single family dwelling unit with an accessory dwelling unit (attached or detached) may be constructed on a single lot, except that, a greater number of dwelling units may be allowed as determined by a Conditional Use Permit under the provisions of this Ordinance relating to multi-family and/or condominium.

Q. STEEP SLOPE PROTECTION

added 3/13/12

1. Purpose

The purpose is to reduce damage to streams and lakes from the consequences of excessive and improper construction, erosion, storm water runoff, or effluent from improperly sited sewage disposal systems, and to preserve the natural topography, drainage patterns, vegetative cover, scenic views, wildlife habitats, and to protect unique natural areas.

2. Delineation

This ordinance shall apply to all areas with a slope greater than 15 percent (C+ slopes) as shown on the Town’s Steep Slopes Map, and where the proposed site disturbance to slopes greater than 15% exceeds 20,000 square feet in area [.459acre].

3. Definitions

Erosion: The wearing away of the ground surface as a result of the movement of wind, water, ice, and/or land disturbance activities.

ARTICLE III-O – CONTINUED

Sedimentation: The process by which sediment resulting from accelerated erosion has been or is being transported off the site of the land-disturbing activity or into a lake or natural watercourse or wetland.

Site Disturbance: Any activity that removes the vegetative cover from the land surface.

Slope: The degree of deviation of a surface from the horizontal, usually expressed in percent or degrees; rise over run.

Vegetative Cover: Grasses, shrubs, trees, and other vegetation which hold and stabilize soils.

4. Application Requirements

- a. Uses that will cause more than one acre of site disturbance shall show the area subject to site disturbance in two-foot contours.
- b. A plan shall be prepared by a professional engineer that shows specific methods that will be used to control soil erosion and sedimentation, soil loss, and excessive stormwater runoff, both during and after construction.
- c. A hydrology, drainage, and flooding analysis will be included that shows the effect of the proposed development on water bodies and/or wetlands in the vicinity of the project.
- d. A grading plan for the construction site and all access routes shall be prepared.

5. Performance Standards

All uses permitted in the underlying Zoning District will be a Conditional Use in the Steep Slope Conservation District and shall meet the following conditions:

- a. Cut and fill slopes should not exceed a 2:1 ratio.
- b. Existing natural and topographic features, including the vegetative cover, will be preserved to the greatest extent possible. In the event that extensive amounts of vegetation are removed, the site shall be replanted with indigenous vegetation and shall replicate the original vegetation as much as possible.
- c. No section of any driveway may exceed a 10 percent slope for residential subdivisions or 8 percent slope for nonresidential site plans.
- d. No structure shall be built on an extremely steep slope (greater than 25 percent prior to site disturbance).

6. Administration

In addition to meeting the conditions set forth in this section, Conditional Use Permits shall be granted in accordance with the following pertinent procedures:

- a. Conditional Use Permit shall be granted by the planning board upon a finding that the proposed use is consistent with the intent of the ordinance and following receipt of a review and recommendation of the conservation commission and any other professional expertise deemed necessary by the board.
- b. The applicant must demonstrate that no practicable alternatives exist to the proposal under consideration, and that all measures have been taken to minimize the impact that construction activities will have upon the district.

7. Costs

All costs pertaining to the consideration of an application, including consultants fees, on-site inspections, environmental impact studies, notification of interested persons, and other costs shall be borne by the applicant and paid prior to the planning board's final action.

R. ACCESSORY DWELLING UNITS

added 03/14/17

1. Purpose

For the purpose of providing expanded housing opportunities and flexibility in household arrangements, accessory dwelling units (in-law apartments) shall be permitted within or attached to an existing single family home or as a separate housing unit on the single family home’s lot.

2. Definition

“Accessory Dwelling Unit” as defined in RSA 674:71, as amended, means a residential living unit that is within or attached to a single family dwelling, and that provides independent living facilities for one or more persons, including provisions for sleeping, eating, cooking, and sanitation on the same parcel of land as the principal dwelling unit accompanies. A detached accessory dwelling unit is also permitted. Rev. 03/12/19

3. Requirements/Limitations

- a. Accessory dwelling units are intended to be secondary and accessory to a principal single-family dwelling unit. Only one accessory dwelling unit shall be allowed per principal dwelling unit and/or lot. The accessory dwelling unit shall have a separate house number from the principal dwelling.
- b. An accessory dwelling unit shall not be considered to be an additional dwelling unit for the purposes of determining minimum lot size.
- c. Detached Accessory Dwelling Units are allowed. These detached ADU’s may be combined with or be a part of garages, storage areas or other such structures that are permitted.
- d. An accessory dwelling unit shall have an area of no less than 300 square feet and no greater than 1,000 square feet of habitable living space as defined by the 2009 International Building Code, as amended, measured by the outside dimension of the exterior wall, or the interior dimension of a common wall.
- e. Attached accessory dwelling units shall be designed to allow for re-incorporation into the principal dwelling units. Internal access to the principal dwelling unit shall be maintained or constructed. The accessory dwelling units and principal dwelling units must share internal heated living space access through a common wall.
- f. The existing or proposed septic systems must be certified by a NH Licensed Designer of Subsurface Disposal Systems as adequate to handle and treat the increased waste volumes generated by the accessory dwelling unit in accordance with New Hampshire RSA 485-A:38 and the Town of Gilmanton septic regulations. If the existing septic system is not capable of adequately handling and treating the waste of the principal dwelling unit and the accessory dwelling unit in accordance with New Hampshire RSA 485-A:38 and the Town of Gilmanton septic regulations, a new or upgraded septic system conforming to the most recent state and local septic standards and regulations shall be required.
- g. Adequate off-street parking shall be provided.
- h. Adequate provisions must exist or be made for ingress, egress and turning of vehicles within the site.
- i. OWNER OCCUPIED: The principal dwelling unit or the Accessory Dwelling Unit shall be owner occupied.

S. BIOSOLIDS

added 3/13/18

To protect the health and welfare of residents, and prevent pollution of surface and ground water resources, the stockpiling or land spreading of municipal sewage sludge, Biosolids Class A and Class B, as defined by New Hampshire statutes and regulations, is not allowed in the Town of Gilmanton.

T. OUTDOOR EVENT VENUE

added 3/9/21

A site that accommodates the gathering of groups and/or individuals to host a commercial event such as a wedding, business meeting(s), or any other outdoor activity. Such events are expected to be conducted outdoors with accessory buildings or structures that are ancillary uses.

U. SOLAR ENERGY SYSTEMS

1. Authority & Purpose

This renewable energy systems ordinance is enacted under the provisions of RSA 674:21,II Innovative Land Use Controls and in accordance with RSA 674:17.(I)(j), and the purposes outlined in RSA 672:1- III-a as amended. The purpose of this ordinance is to accommodate Solar Energy Systems and Distributed Generation Resources in appropriate locations, while protecting the public's health, safety and welfare. Placing systems in locations that result in loss of prime agricultural lands is strongly discouraged. It is preferable to locate systems on disturbed land, nonproductive farmland and/or rooftops.

2. Goals

- a. Allow for the use of Solar Energy Systems in the community while maintaining Gilmanton's scenic vistas.
- b. Preserve the community's rural character, particularly as seen from public roads.
- c. Minimize potential adverse impacts of Solar Energy Systems in the community by ensuring that such facilities are properly screened and are properly sited within existing topographic features of the property.
- d. Ensure consistent maintenance and safety procedures are in place to protect public health.

3. Definitions

- a. Commercial Solar: A use of land that consists of one or more free-standing, ground mounted, solar energy systems regardless of rated nameplate capacity and solar land coverage that is designed primarily to serve off-site uses. A Commercial solar energy system may be authorized by Conditional Use Permit (CUP) as a principal use.
- b. Commercial Solar, Accessory: A solar energy system for on-site commercial use, and consisting of one or more free-standing, ground or roof/building- mounted, solar arrays or modules, or solar related equipment, intended to reduce on-site consumption of utility power.
- c. Community Solar: A shared solar energy system that serves residences and or commercial/industrial structures situated on two or more contiguous lots. The system is considered accessory to the uses on each of the lots that it serves.
- d. Ground Mount, Free-Standing: A solar energy system and associated mounting hardware that is affixed to or placed upon (such as ballasted systems) the ground including, but not limited to, fixed, passive, or active tracking racking systems. Ground mounted solar arrays or modules may be authorized by Conditional Use Permit only (CUP).
- e. Pole Mount, Free Standing: Solar Energy System, Pole-Mounted. A solar energy system that is directly installed on specialized solar racking systems, which are attached to a pole that is anchored and firmly affixed to a foundation in the ground, and wired underground to an attachment point at the building's meter. Pole- mounted systems can be designed to track the sun (with single-axis or dual-axis tracking motors) and maximize solar output throughout the year. Pole mounted solar arrays or modules may be authorized by Conditional Use Permit only (CUP).
- f. Residential Solar, Accessory: A solar energy system for on-site residential use, and consisting of one or more free-standing, ground or roof mounted, solar arrays or modules, or solar related equipment, intended to reduce on-site consumption of utility power.

- g. Roof/Building Mount: A solar energy system that is structurally mounted to a roof or attached to a building. The system shall be no taller than 5 feet above the ridge line of the roof and not extend beyond the building footprint more than 5 feet. The system may include limited accessory equipment that is ground-mounted. For purposes of calculating array sizes or solar land coverage under the solar definitions in this section, roof or building mounted portions shall not be included if the system is made up of both roof or building and ground mounted systems. The building inspector may require information demonstrating that the roof or building can support the solar energy system, with additional supports if necessary.
- h. Solar Energy System: A device and/or structure the purpose of which is to collect, convert and/or store, and/or distribute solar energy for power, heating and/or cooling, and/or water heating.
- i. Solar Energy System, Roof-Mounted: An Active Solar Energy System that is structurally mounted to the roof of a building or structure.
- j. Solar Energy System, Ground-Mounted: An Active Solar Energy System that is structurally mounted to the ground and is not roof-mounted. Ground mounted solar arrays or modules may be authorized by Conditional Use Permit only (CUP).

4. Applicability

- a. General. Any person seeking to construct any ground mounted or pole mounted solar energysystem shall apply to the Planning Board for a conditional use permit.
- b. Any person seeking to construct or to carry out ground mounted commercial or community solarenergy system 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 unless waived by the Board.
- c. Building Permit. No solar energy system shall be erected, constructed, or installed without first receiving a building permit from the Building Inspector. Furthermore, a building permit shall be required for any physical modifications to an existing solar energy system.
- d. Any upgrade, modification or structural change that materially alters the size, placement or output of an existing solar energy system shall comply with this ordinance.
- e. All solar energy systems shall be designed, erected and installed in accordance with all applicable local, state and federal codes, regulations and standards.

5. Solar Energy Systems Shall Conform to the Following:

- a. Setbacks - Installations shall, at a minimum, conform to the applicable Zoning District setbacks. However, setbacks may be increased during the conditional use permit and site plan review processes as determined by the Planning Board to address site specific challenges.
- b. All solar or photovoltaic systems shall have a disconnect next to the public utility meter and shall meet all applicable codes.

6. Solar Energy System- Conditional Use Permit

- a. Permit Required: No Solar Energy Systems, except Roof Mounted Systems, shall be erected, constructed, installed or modified without first receiving a Conditional Use Permit (CUP) from the Planning Board.

- b. **Application and Review Procedure:** An Application for a Conditional Use shall be initiated by filing with the Planning Board an application for a Conditional Use Permit. The following procedures shall apply to the processing of such application:
Site Plan Approval Required: A site plan application shall be submitted with any application for a Solar Energy System Conditional Use Permit. The application and review procedure for a CUP shall be made concurrently and in accordance with the Site Plan Regulations as applicable to the particular development.
- c. **Standards of Review:** Following a fully noticed public hearing on the proposed use, the Planning Board may issue a Conditional Use Permit, if it finds, based on the information and testimony submitted with respect to the application, that:
- (1) The use is specifically authorized as a conditional use;
 - (2) The development in its proposed location will comply with all requirements of the Gilmanton Site Plan Regulations, as well as specific conditions established by the Planning Board. For residential solar systems, the Board may accept plan details drawn by hand, displays depicted on aerial photos or other acceptable plans if deemed appropriate for the application being considered.
 - (3) The Planning Board will provide for regulating such systems and resources appropriately;
 - (4) The use may provide adequate screening to ensure adjacent property values are not adversely impacted. Screening may be provided by maintaining existing vegetation or through the installation of site specific evergreen landscaping, suitable fencing, or a combination thereof. Such screening shall be maintained during the operative lifetime of the Solar Energy System Conditional Use Permit.

In granting a conditional use permit pursuant to this section, the Planning Board may impose any reasonable conditions or restrictions deemed necessary to carry out the intended purpose of this ordinance and to minimize any adverse effect of the proposed solar energy system on adjoining properties.

The Planning Board reserves the right to waive any provision of this Ordinance if the Applicant proves to the Planning Board that the requested waiver will not be detrimental to public safety, adjacent property values or the rural character.

7. Abandonment or Decommissioning (Ground Mounted)

- a. Abandonment shall be considered failure to operate for a 12-month period. At such time that a Solar Energy System is scheduled to be abandoned or discontinued, the applicant will notify the Planning Board by certified U.S. mail of the proposed date of abandonment or discontinuation of operations.
- b. Upon abandonment, decommissioning or discontinuation of use, the owner shall physically remove the Solar Energy System within 120 days from the date of abandonment, decommissioning or discontinuation of use. This period may be extended at the request of the owner and at the discretion of the Planning Board. "Physically remove" shall include, but not be limited to:
- (1) Removal of the Solar Energy System and related above-grade structures.
 - (2) Restoration of the location of the Solar Energy System to its natural condition, except that any landscaping, grading or below-grade foundation may remain in its same condition at initiation of abandonment.

- c. In the event that an applicant fails to give such notice, the system shall be considered abandoned or discontinued if the system is out of service for a continuous 12-month period. After the 12 months of inoperability, the Planning Board may issue a Notice of Abandonment to the owner of the Solar Energy System. The owner shall have the right to respond to the Notice of Abandonment within 30 days from the date of receipt. After review of the information provided by the owner, the Planning Board shall determine whether the Solar Energy System has been abandoned. If it is determined that the Solar Energy System has not been abandoned, the Planning Board shall withdraw the Notice of Abandonment and notify the owner of the withdrawal.
- d. If the owner fails to respond to the Notice of Abandonment or if, after review by the Planning Board, it is determined that the Solar Energy System has been abandoned or discontinued, the owner of the Solar Energy System shall remove the system at the owner's sole expense within 90 days of receipt of the Notice of Abandonment.
- e. If the owner fails to physically remove the Solar Energy System after the Notice of Abandonment procedure, the Planning Board may pursue legal action to have the system removed at the owner's expense.

8. Violation

It is unlawful for any person to construct, install, or operate a Solar Energy System that is not in compliance with this ordinance. Solar Energy Systems installed prior to the adoption of this ordinance are exempt from this ordinance except when changes to the layout and expansion of the footprint are proposed to the Solar Energy System.

9. Penalties

- a. Any person who fails to comply with any provision of this ordinance or a building permit issued pursuant to this ordinance shall be subject to enforcement and penalties as allowed by NH Revised Statutes.
- b. All solar energy systems shall be designed, erected and installed in accordance with all applicable local, state and federal codes, regulations and standards.

ARTICLE IV. ZONING DISTRICT REGULATIONS

- A. Permitted uses and uses permitted through Special Exception and Conditional Use Permit for each district are shown in Table I.
- B. Lot requirements for each district are shown in Table 2.

Zoning District Regulations - Permitted Uses and Special Exceptions

Note: P = Permitted Use, E = Special Exception, N = Not Permitted, CUP = Conditional Use Permit

	Village	Rural	Conservation	Lt. Business	Business	Res. Lake
55+ Housing Developments (1-4 unit/building)	CUP	CUP	N	CUP	CUP	N
55+ Housing Developments (5 or greater units/building)	E	E	N	E	E	N
Accessory Dwelling Units	P	P	P	P	P	P
Accessory Building/Use	P	P	P	P	P	P
Adult Oriented Business	N	N	N	N	E	N
Aircraft Landing Area	N	E	E	N	E	N
Agriculture	P	P	P	P	P	P
Auto Service Station	E	E	N	E	P	N
Auto & Truck Repair	N	E	N	E	P	N
Biosolids (sludge)	N	N	N	N	N	N
Boat Storage - Commercial	E	E	E	E	P	E
Business Directional Signs	P	P	P	P	P	P
Camp for Children, Summer	N	E	E	N	N	N
Campground	N	E	E	N	N	N
Childcare Facility	CUP	CUP	CUP	CUP	CUP	CUP
Community Building/House of Worship	E	E	E	N	N	E
Contractor's Yard	E	E	E	E	P	N
Cottage Industry	CUP	CUP	CUP	P	P	CUP
Dwelling, Multi-Family (Interior Alterations)	CUP	CUP	CUP	N	CUP	N
Dwelling, Multi-Family (New Const)*	CUP	CUP	N	N	N	N
Dwelling, Single Family	P	P	P	P	P	P
Dwelling, Two-Family	P	P	P	P	P	P
Forestry	P	P	P	P	P	P
Gravel/Fill/Loam/Stone Removal	N	E	E	N	E	N
Home Occupation	P	P	P	P	P	P
Industrial	N	N	N	P	P	N
Inn (Interior Alterations)	E	E	E	P	P	N
Junkyard	N	E	N	E	P	N
Kennel	N	CUP	CUP	CUP	CUP	N
Landscaping Business	N	E	E	P	P	N
Local Utility Network	E	E	E	P	P	E
Manufacturing, Light	N	N	N	P	P	N
Mobile Home/Manufactured Housing Parks & Subdivisions	N	E	N	N	N	N
Motel	N	N	N	E	P	N
Offices	CUP	CUP	CUP	P	P	CUP
Outdoor Event Venue	CUP	CUP	E	CUP	CUP	N
Recreation Facility - Indoor	E	N	N	E	P	E
Recreation Facility - Outdoor	N	E	N	E	P	N
Repair Shop	E	E	N	P	P	E
Rest/Convalescent Home (3-25 Occupants)	E	E	N	E	E	E
Restaurant (Interior Alterations)	E	E	E	P	P	E
Restaurant (New Construction)	N	N	N	P	P	N
Retail Business	CUP	CUP	CUP	P	P	CUP
Sawmill	N	P	P	N	P	N
School - Public/Private	E	E	E	N	E	E
Service Business	CUP	CUP	CUP	P	P	CUP
Solar Energy Systems (Roof Mounted)	P	P	P	P	P	P
Solar Energy Systems (Ground mounted/Pole mounted)	CUP	CUP	CUP	CUP	CUP	CUP
Treated Soils	N	N	N	E	E	N
Warehouse (Existing Building)	E	E	E	N	P	N
Warehouse (New Construction)	N	N	N	N	P	N
Personal Wireless Service Facilities.	CUP	CUP	CUP	P	P	CUP
Woodlot	P	P	P	P	P	P

Note: If certain uses have not been listed, they may be allowed in town. How they will be regulated by this zoning ordinance shall be based on characteristics the intended use may share with those uses specified in Table 1.

* Multi-family structures must be separated by a minimum of 50 feet.

** Multi-family dwellings (new construction) allowed by conditional use permit within a one mile radius of the center of Gilmanton Corners and Gilmanton Iron Works.

ARTICLE IV**TABLE 2**

Zoning District Regulations - Lot Requirements

	Village	Rural	Conservation	Lt. Business	Business	Res. Lake
Minimum Area, except as provided in Gilmanton Subdivision Regulations						
1. Conventional	1 Acre	2 Acres	10 Acres	1 Acre	1 Acre	1 Acre
2. Open Space Subdivision*	1 Acre	1 Acre	1 Acre	1 Acre	1 Acre	1 Acre
Conventional Lot Line Setbacks:**						
1. Front	35'	35'	35'	50'	50'	35'
2. Side and Rear	20'	20'	20'	20'	20'	20'
Open Space Subdivision						
All Lot Line Setbacks**	20'	20'	20'	20'	20'	20'
Setbacks from Water Bodies						
1. Buildings	75'	75'	75'	75'	75'	75'
2. Septic Systems	State of NH requirements for all zones					75'
Setbacks from Wetlands, Perennial & Intermittent Streams						
1. Buildings	50'	50'	50'	50'	50'	50'
2. Septic Systems	State of NH requirements for all zones					50'
Frontage						
1. Conventional***	125'	200'	400'	200'	200' (NH Rt. 106) 125' (Internal Roads)	125'
2. Open Space Subdivision	75'	75'	75'	75'	75'	75'

* See Article V of this Ordinance.

** School Bus Stop Shelters shall be exempt from all setbacks, but shall not be located within the right-of-way.

*** Any lot that conforms with the 150' frontage requirement in the Rural District in effect prior to March 14, 2000 shall be treated as a conforming lot for the frontage requirement purposes of this ordinance.

Common lots or other lots permanently preserved as open space may be exempted from the minimum frontage and lot size requirements at the discretion of the Planning Board, but shall be accessed by a permanent right-of-way no less than 30' wide.

For two-family and multi-family dwellings, an additional one acre per dwelling unit above one dwelling unit is required in addition to the minimum lot size.

For inns, motels and rest/convalescent homes, an additional 10,000 square feet per bedroom is required in addition to the minimum lot size.

In the case of a corner lot, all buildings shall be set back at least 35 feet from each street or right-of-way.

ARTICLE V. OPEN SPACE SUBDIVISIONS

The purpose of the Open Space Subdivision design is to conserve agricultural and forestlands, habitat, water quality, and rural character that would likely be lost through conventional development approaches.

A. Objective: To accomplish this goal, greater flexibility and creativity in design is encouraged. Specific objectives are as follows:

1. To conserve areas with productive soils for continued agricultural and forestry use by preserving blocks of land large enough to allow for economic and ecologically sensitive operations.
2. To encourage the maintenance and enhancement of habitat for plant and animal communities, including rare species.
3. To minimize site disturbance and erosion through retention of existing vegetation and avoiding development in sensitive areas.
4. To conserve land that protects water quality and quantity, including watersheds and buffers along streams and rivers, wetlands and floodplains, ponds and lakes, and land overlying aquifers.
5. To protect scenic views and special elements of rural character.
6. To conserve and maintain historic settings, cellar holes, stone walls, archeological sites and structures that serve as significant visible reminders of the town's history.
7. To provide for outdoor recreational needs of the subdivision's residents, including trails, scenic beauty, and greens or playgrounds for larger subdivisions.
8. To provide for a town-wide trail network for the health, enjoyment and safe travel of residents.
9. To provide greater efficiency in the siting of services and infrastructure by reducing road length and width and utility runs.
10. To create compact neighborhoods accessible to open space amenities and with a strong community identity and quality of life.
11. To minimize runoff by reducing the land area covered by impervious surfaces.

ARTICLE V. OPEN SPACE SUBDIVISIONS - CONTINUED

B. Applicability:

1. **Twenty Acre Minimum** - In any residential or commercial subdivision consisting of 20 acres or more, an applicant may apply for an Open Space Subdivision under this Article. The minimum acreage may be waived by the Planning Board in instances where an applicant demonstrates that the criteria in Article V. A. are met.
2. **Required for Special Land Features** - The Planning Board may require an applicant to use an Open Space Subdivision design if the property is 20 acres or more and possesses one or more of the following special features, shown on maps available at the Gilmanton Town Office:
 - a. Agricultural land with soils designated “prime” or of “statewide significance” by the U. S. Natural Resource Conservation Service soil survey as shown in Table 1 of Article VI. in the Subdivision Regulations;
 - b. rare, threatened or endangered species or exemplary natural communities according to the New Hampshire Natural Heritage Inventory (Department of Resources and Economic Development);
 - c. frontage on a great pond or perennial stream or river, as shown on topographical maps published by the U. S. Geological Survey;
 - d. a portion of a snowmobile trail network shown on the most recent edition of the “Trail Map” published by the Gilmanton Snowmobile Association;
 - e. a portion of an aquifer with a transitivity in excess of 1,000 sq. ft. per day as shown on the Stratified Drift Aquifer Maps published and updated by the NH Department of Environmental Services.
3. **Phased Subdivision Applications** - This Open Space Subdivision ordinance shall apply to the phased subdivision of a parcel over a period of time through separate successive applications. The density and design requirements of this Article shall apply to phased applications for the original parcel as though the development of the entire parcel were proposed in one application at one time. The total permitted density permitted will be based upon the acreage and characteristics of the original parcel that existed as of the date of enactment of this Article.

C. Density

1. The intent of this Article is to enable the applicant to decrease lot sizes and leave the land “saved” by doing so as open space, thereby lowering development costs and increasing the desirability of the project.

ARTICLE V. OPEN SPACE SUBDIVISIONS - CONTINUED

2. The maximum number of building lots proposed in an Open Space Subdivision shall not exceed the number of building lots otherwise permitted by conventional lot sizes (see Article IV, Table 2) for the zoning district in which the parcel is located, except for bonus lots as determined below.
3. The Planning Board may approve a density bonus that increases the number of buildable lots available under conventional subdivision by 10%, rounded to the nearest whole number. For example, if the calculation results in .49 of a bonus building lot, no bonus lot would be allowed. If the calculation results in .50 of a bonus lot, one bonus lot would be allowed. The Planning Board may allow a portion of the conservation area to be used for the bonus building lot.
4. The Planning Board may approve an additional density bonus allowing up to 20% more building lots for the provision of exceptional public benefits, namely:
 - a. conserving 60% or more of the buildable land as open space;
 - b. providing public access to trails or dedicated conservation areas.

D. Minimum Lot Sizes

The minimum lots size is one acre or larger as determined by Table 1 of Article VI of the Subdivision Regulations.

E. Ownership and Protection of Conservation Areas

1. Conservation areas provided by Open Space Subdivisions shall be permanently protected as open space and shall be conveyed in one of the following ways, subject to the approval of the Planning Board:
 - a. to the Town of Gilmanton and accepted by the Board of Selectmen for park, open space or other specified conservation uses;
 - b. to the State of New Hampshire for permanent open space uses;
 - c. to a private non-profit organization which is exempt from tax under Section 501 (c)(3), or similar provision of the Internal Revenue Code, and whose principal purpose is the conservation of open space and has the financial and organizational means for perpetual stewardship, such as the Audubon Society of New Hampshire or the Society for the Protection of New Hampshire Forests;
 - d. to a corporation, trust, or other entity, such as a homeowners' association, owned or to be owned by the owners of lots or dwelling units within the subdivision; or
 - e. to a private landowner such as a farmer, forest manager, golfing club, or cross-country ski operator that will manage it for uses consistent with the purposes of this Article.

ARTICLE V. OPEN SPACE SUBDIVISIONS - CONTINUED

2. Conveyances of land to the Town or State, under Section E.1.a. or b. of this Article, will be subject to permanent deed restrictions. Conveyances of land to private entities, under Section E.1.c. through e., will be subject to a permanent conservation easement granted to the Town of Gilmanton or organization qualified under Section E.1.c., above, and recorded at the Belknap County Registry of Deeds. Provision of such deed restrictions or conservation easements are subject to the approval of the Planning Board and shall include:
 - a. no further subdivision,
 - b. no residential or industrial development,
 - c. no roads or commercial uses except for agriculture, forestry or outdoor recreational activities conducted according to best management practices.
3. General public access to the Conservation Areas will not be required unless the land is conveyed in fee simple to the Town or State or a specific public trail corridor easement is proposed. Except in the aforesaid cases, the rights to post land and limit public access will remain with the landowner.

F. Conservation Area Location and Design

1. Except as otherwise provided herein, a minimum of 50% of the buildable area of the property must be included in a Conservation Area. Exclusions from the buildable area are steep slopes in excess of 25% of wetland soils, rock outcroppings, floodplains, septic fields, rights-of-way, and footprints of common recreational facilities.
2. In evaluating the acceptability of proposed Conservation Area(s) the Planning Board shall consider the extent to which the location and design of the area achieves these objectives:
 - a. Large enough blocks of land are conserved to retain ecosystem function and habitat integrity;
 - b. Large enough blocks of land are conserved to sustain agricultural or forestry operations and buffer them from nearby development;
 - c. For trail or stream corridors, and shoreland, wide enough buffers are provided from building lots (minimum of 75 feet);
 - d. Access to and/or benefits from the open space are provided to the greatest number of lots within the subdivision;
 - e. Linkages or contiguity with existing or potential Conservation Areas on abutting properties are provided;
 - f. Scenic views from public roads and prominent ridgelines are conserved as much as possible; and
 - g. Objectives of the Article listed in Section A.1. are most creatively and successfully achieved.

ARTICLE V. OPEN SPACE SUBDIVISIONS - CONTINUED

- G. Site Planning Process - The application process shall consist of one or more informal discussions, a conceptual design review, and a final plat review.
 - 1. Informal Discussion - The applicant is encouraged to schedule an informal discussion with the Planning Board to review the purposes and provisions of the ordinance with respect to the property, the intent of the applicant, and the conservation features of the property and the neighborhood context.
 - 2. Conceptual Design Review - The purpose of the conceptual plan is to identify issues, problems, and opportunities before the applicant incurs extensive engineering costs. Conceptual Design Review for an Open Space Subdivision has four stages;
 - a. identification of conservation features and the proposed Conservation Area(s),
 - b. calculation of number and location of building sites,
 - c. location of roads, and
 - d. location of lot lines.
 - 3. All other requirements of Design Review Phase Approval of the Gilmanton Subdivision Regulations shall also apply, unless deferred by the Planning Board until the Final Plat stage.
 - a. The applicant shall prepare a conceptual plan showing the conservation features and proposed Conservation Areas of the property, using the features listed in Section A.1. of this Article as a guide. The proposed Conservation Areas shall consist of a minimum of 50% of the buildable area of the property, or 40% if the conditions of Article V.C.3. are met. The plan shall show at a minimum:
 - (1).Contours based at least upon topographical maps published by the U.S. Geological Survey;
 - (2). Unbuildable areas (wetlands, steep slopes, floodplains, outcrops)
 - (3).Aquifers, waterbodies and perennial watercourses, NRCS soil types;
 - (4). Fields, treelines, utilities, roads, trails, historic and habitat features;
 - (5).Proposed Conservation Areas.
 - b. The applicant shall calculate the number of building lots to be allowed according to Section C of this Article. The applicant shall locate the potential building sites and preliminary individual or centralized well and septic disposal areas. Potential sites shall be located to advance the purposes of this Article listed in Section A.1. to minimize impacts upon sensitive resources on the property and limit the amount of infrastructure needed to serve the development. When possible, building sites should be screened from existing public vantage points.

ARTICLE V. OPEN SPACE SUBDIVISIONS - CONTINUED

- c. Next, the conceptual plan shall show the roads and curb cuts for the building sites. (See Subdivision Regulations Section VII.A. Table 3. Modified Street Requirements for Cluster and Large-Lot Developments.) Wetland crossings and impacts upon sensitive resources shall be minimized. The applicant shall also lay out any trails needed to access the Conservation Area(s) from the building lots and roads.
 - d. Finally, the applicant shall locate the lot lines for the building lots.
4. Final Plat Review - Once the Conceptual Design has been accepted, the approval of the final plat will be considered according to the Gilmanton Subdivision Regulations. To prepare the final plat engineering and studies for topography, soils, septic design, wetlands delineation, road layout, and other features may be required as specified in the Gilmanton Subdivision Regulations. This stage will also include review of the proposal for ownership and uses of the Conservation Areas, stewardship of any conservation easements, and deed restrictions or conservation easement language assuring permanent protection of Conservation Areas, as required in Section E. of this Article.

ARTICLE VI. MANUFACTURED HOUSING

A. Manufactured Housing Parks and Subdivisions.

Manufactured Housing shall be located only within Manufactured Housing Parks and Subdivisions as follows, except as specified in Section VI. B. below. Manufactured housing parks and subdivisions shall meet the following site design standards:

1. They shall be located on a site with a minimum of ten (10) acres;
2. They shall have a 75' landscape buffer strip along streets (excluding internal park and subdivision streets) and a 50' landscaping buffer strip along abutting property lines, which otherwise conforms to the definition of buffer or screen.
3. They shall conform to the density requirements of the Rural District, but clustering opportunities are encouraged;
4. They shall have a maximum of two access points per development;
5. They shall conform in all other respects to standards set forth in this ordinance and other town regulations.
6. Manufactured Housing in Manufactured Housing Subdivisions shall be placed on permanent foundations.

B. Temporary Manufactured Housing Permits.

The Selectmen may issue a permit for temporary use of a manufactured housing as an office, storeroom or shop in connection with construction work, or for living quarters by a person employed in adjoining construction work, or for whom a residence is being built or repaired after damage sustained from fire or other disaster, provided that such use is shown to be a temporary expedient and also that the use will comply with all applicable sanitary and sewage disposal requirements.

The following conditions shall apply to the granting of any temporary use permits;

1. A permit may be granted for a period not to exceed 180 days while construction is in progress.
2. The applicant shall provide a construction schedule showing that construction will be completed within the 180-day period. The schedule shall provide at a minimum for completion and capping of a foundation within 90 days; initial framing within 120 days, and completion for occupancy within 180 days of the date the temporary use permit is issued.

ARTICLE VI. MANUFACTURED HOUSING - CONTINUED

3. Before a temporary use permit may be issued, a septic system and water supply must be in existence and be capable of being hooked up to the manufactured housing. If a septic system and water supply is not in existence, a temporary use permit may be issued only after a septic design and well location have been approved by the New Hampshire Department of Environment Services. Under no circumstances may physical occupancy occur until both systems are constructed and hooked up to the mobile home/manufactured housing.
4. The applicant shall provide evidence of financial ability to complete the project within the schedule, in the form of bank or other financing or private funds. The Selectmen may require a bond or security in an amount and in such form as to assure removal of the mobile home/manufactured housing within the permit period if financial ability to complete the project is not otherwise assured.
5. The Selectmen may withdraw any temporary use permit at any time after 30 days from date of issue if the construction schedule of completion previously provided by the applicant is not met.
6. The Selectmen may, in their discretion and for good cause shown, extend the permit for a period not to exceed an additional 90 days, providing that substantial construction progress has been made.
7. The Selectmen may, under extraordinary circumstances involving weather or other extenuating circumstances, but not including circumstances of financial hardship, extend a permit for a period not to exceed an additional 90 days.
8. A temporary use permit may under no circumstances be extended beyond 360 days from the date of initial issuance of the permit.

C. Replacement of Manufactured Home

Any owner of a recreational vehicle, other mobile living unit or manufactured housing legally installed on land in the Town of Gilmanton as of the date of enactment of this amendment, March 14, 2000, desiring to replace his present property, on the same site, by the installation of a replacement recreational vehicle or manufactured housing unit shall be permitted to do so, without Special Exception, provided that any said replacement recreational vehicle or manufactured housing comply with all applicable septic system and setback requirements then in effect, and applicable BOCA Codes or any successor codes, and does not exceed the footprint and living area of the replaced unit.

ARTICLE VI. MANUFACTURED HOUSING - CONTINUED

D. Storage and Use of Recreational Vehicles

Rev. 03/09/21

1. Recreational Vehicles may be used or stored only in approved campgrounds, except to the Articles provided herein.
2. Except as provided in Articles VI-D-1, VI-D-6, and VI-D-7, no Recreational Vehicle shall be located on any property unless a permit has been issued by the Town. The Town shall not issue permits for the parking, storage, or use of Recreational Vehicles on vacant lots unless storage or parking is permitted under Article VI-D or VI-B.
3. The holder of a permit issued pursuant to Article VI-D-2 shall, on the first (1st) day of each month and the fifteenth (15th) day of each month, provide the Town with receipts, invoices, or other proof that the septage generated by his/her Recreational Vehicle use has been disposed of within the past fourteen (14) days in accordance with Article VI-D-5. Alternatively, the holder of a permit issued pursuant to Article VI-D-2 may provide the Town with proof that:
 - a. The Recreational Vehicle does not contain any holding tanks; and
 - b. The property where the Recreational Vehicle is parked or stored has toilet and shower facilities that are sufficient to accommodate the number of people using them.

Failure to provide the proof required by this Article shall result in revocation of the permit.

4. During permitted periods between May 15th and November 1st of each year, any property owner or lessee may utilize the Recreational Vehicle upon his/her property provided the following conditions are met:
 - a. The property owner or lessee has obtained a permit pursuant to Articles VI-D-2 and VI-D-3;
 - b. The Recreational Vehicle is used for travel, camping, recreational purposes only;
 - c. The Recreational Vehicle is owned by the property owner, the lessee, or a non-paying guest of the owner or lessee;
 - d. The Recreational Vehicle remains mobile, legally registered, and inspected;
 - e. The placement of the Recreational Vehicle meets the setback requirements for buildings in Article IV, Table 2; and
 - f. Any septage is disposed of as provided in Article VI-D-5.
5. Septage generated by Recreational Vehicle use shall be disposed of in one of the following manners:
 - a. In a septic system which is in compliance with all applicable New Hampshire Department of Environmental Services Rules and Regulations for a temporary connection to a fully functioning septic system;
 - b. Removal from the vehicle by a licensed septic removal company; or
 - c. Disposal at a licensed septic disposal facility.

Unlawful disposal of septage will result in immediate revocation of the permit, the removal of the Recreational Vehicle, the assessment of applicable fines and the financial responsibility to fully remediate the polluted area.

ARTICLE VI. MANUFACTURED HOUSING-CONTINUED

6. Storage and parking: In the Village, Rural, Conservation, Light Business, and Business Zoning Districts, storage or parking of one (1) Recreational Vehicle shall be a permitted accessory use provided the Recreational Vehicle meets applicable setback requirements or is parked on an approved driveway:
 - a. On any lot where the primary use is a Single-Family Dwelling or Two-Family Dwelling; or
 - b. On a vacant lot owned by the same person as, and sharing a common boundary with, a lot where the primary use is a Single-Family or Two-Family Dwelling.
7. A property owner or lessee may place a recreational vehicle on property on which a permanent dwelling exists for temporary non-commercial usage of not more than a total of seven (7) consecutive days in a (60) day period without complying with permit requirements of Articles VI-D-2 and VI-D-3, *but must adhere to VI-D-5*.
8. In the Residential Lake District, Recreational Vehicles and the like may be permitted only on lots where the following conditions are met:
 - a. The Town has issued a permit in accordance with Article VI-D-2 for the 1996 season between March 1996 and November 1, 1996; and
 - b. Placement of the Recreational Vehicle, tent and the like meet all setbacks for buildings for the Residential Lake District; and
 - c. The Recreational Vehicle and the like is placed either on a lot served by a state approved septic disposal system with sufficient capacity to accommodate the number of people using the Recreational Vehicle or the applicant presents proof of advanced payment for pumping of the internal waste disposal receptacle during the entire period for which a permit is requested.

ARTICLE VII. NON-CONFORMING USES, LOTS & STRUCTURES

A. Any lawful use of a lot, or of a structure, or of a part of a structure, which was in existence when this Ordinance or any revisions were approved may be continued.

B. Non-conforming uses and non-conforming structures:

Rev. 3/8/11

1. An existing use of land or a structure which does not conform to uses set forth in Article IV, Table 1, may be changed or expanded by Special Exception.
2. An existing structure which does not conform to the setback requirements set forth in Article IV, Table 2 may be altered, enlarged or relocated by Special Exception provided that the alteration, enlargement or relocation does not increase the non-conformity with the Ordinance. Provided, however, that any alteration, expansion, new construction or change that can be accomplished in a manner that will comply with the applicable setbacks for that district, shall be permitted, provided that all applicable state and local laws and regulations are adhered to. Any proposed increase in the height of the structure shall be consistent with, and not unreasonably impair the view from neighboring properties, provided that the increase shall not exceed the height limitation set forth in Article III.E. If the structure is near a water body, the proposed increase in height shall not adversely affect the visual appearance of the shoreland in a manner inconsistent with structures in the neighborhood.
3. If the non-conformity is eliminated by the proposed action, then a Special Exception is not required. If the non-conformity is increased by the proposed action, then a Variance is required.
4. A non-conforming structure which is destroyed by fire or rendered unusable or uninhabitable by an act of nature may be repaired, rebuilt or replaced with a structure having the same dimensions in the same location. Any alteration, expansion, new construction or change that can be accomplished in a manner that will comply with the applicable setbacks for that district shall be permitted, provided that all applicable state and local laws and regulations are adhered to. Repair, rebuilding or replacement must commence within one year of the occurrence of the event and be completed within one year of the start date. One-year extensions may be granted by the Board of Selectmen or their designee, for good cause shown.

C. Non-Conforming Lots:

Rev. 3/8/11

1. A non-conforming lot may be used to build a new structure for residential purposes if:
 - a. the lot has frontage on a Class V or better road,
 - b. the setback requirements of Article IV, Table 2 are met,
 - c. if applicable, prior to the issuance of a building permit, the owner obtains a New Hampshire State approved septic system design without a waiver from encroachment, well setback, or slope requirements, and
 - d. the owner complies with all other requirements of applicable Town and State laws and regulations, except for the non-conforming aspects of the lot.

ARTICLE VII. NON-CONFORMING USES, LOTS & STRUCTURES - CONTINUED

2. A non-conforming lot may be used to enlarge or add to an existing residential structure if:
 - a. the setback requirements of Article IV, Table 2 are met,
 - b. if applicable, the owner obtains a New Hampshire State approved septic system design without a waiver from encroachment, well setback or slope requirements, and
 - c. the owner complies with all other requirements of applicable Town and State laws and regulations.

 3. A non-conforming lot may be used to build structures accessory to a residential use, such as a shed, barn or garage, if:
 - a. the setback requirements of Article IV, Table 2 are met,
 - b. if applicable, the owner obtains a New Hampshire State approved septic system design without a waiver from encroachment, well setback or slope requirements, and
 - c. the owner complies with all other requirements of applicable Town and State laws and regulations.

 4. Except as provided in Section B.2, a non-conforming lot which does not meet the requirements of Sections C.1, 2 & 3 may be used for building purposes only if a Variance is granted, and the owner complies with all other requirements of applicable Town and State laws and regulations.
- D. Any use or construction permitted under this Article VII must comply with all applicable Town and State laws and regulations, and specifically the Comprehensive Shoreland Protection Act (RSA 483-B).

ARTICLE VIII. ADMINISTRATION, ENFORCEMENT AND PENALTY Rev. 3/8/11

- A. It shall be the duty of the Board of Selectmen or their designee, to administer and to enforce the provisions of this Ordinance. In addition, the Board of Selectmen or their designee shall also have the authority to enforce administrative decisions of the Historic District Commission.

- B. Upon any well-founded information that this Ordinance is being violated, the Board of Selectmen shall take immediate steps to enforce the provisions of same by seeking an injunction in the Superior Court, or by any other legal and appropriate action.

- C. Violation of any provision of this ordinance shall be subject to the penalties as provided by statute, New Hampshire RSA 676:17, as it may be amended. The Board of Selectmen may also institute, in the name of the Town, any legal action, by way of injunctive relief or otherwise, to enforce any ordinance or to restrain, prevent or abate any violations of any ordinance, and shall further be entitled to all of the reimbursement and restitutionary relief granted municipalities by RSA 676:17, as it may be amended.

ARTICLE IX. BOARD OF ADJUSTMENT

A. CREATION

The Board of Selectmen shall appoint a Board of Adjustment consisting of five members whose duties, terms and powers shall conform to the provisions of RSA 673-674 and RSA 676-677, as amended. Thereafter as terms expire or vacancies occur, the appointing authority shall be responsible for filling vacancies and maintaining full membership of the Board of Adjustment. The currently established Board of Adjustment shall continue to perform its responsibilities under this zoning ordinance.

B. SPECIAL EXCEPTIONS

1. General Provisions

- a. The Board of Adjustment may, in appropriate cases and subject to appropriate conditions and safeguards, grant permits for uses permitted as special exceptions as set forth in Article IV of this Ordinance.
- b. In acting on such exceptions, the Board shall take into account the general purpose and intent of this Ordinance to preserve community values and may impose conditions and safeguards in addition to those specified in this Ordinance if the occurrence of certain characteristics of the use or site warrant such.
- c. Duplicate plans for the proposed development of a site for a special exception shall be submitted with an application for a permit, and such plans shall show the location of the buildings, parking area, traffic access and circulation drives, open spaces, landscaping, lighting and other pertinent information that may be necessary to determine that the proposed use meets the requirements and spirit and intent of this Ordinance and of the Town's Site Plan Review requirements.
- d. A permit for a special exception shall expire if such use shall cease for more than one (1) year.
- e. A special exception shall expire if the use or construction permitted in not substantially implemented with four (4) years of the date the Zoning Board of adjustment approves the application.

added 03/14/17

ARTICLE IX. BOARD OF ADJUSTMENT - CONTINUED

2. Conditions for Approval

The Board of Adjustment, in acting on an application for a special exception, must find that the following conditions are met.

- a. The specific site is an appropriate location for such a use.

Among the factors the Board will consider are: site characteristics - topography, soils, water resources, road access and location of driveways, condition of existing structures and other relevant characteristics.

Site location - how the proposed use blends with surrounding land use. Are there peculiar conditions (such as a home very near the property line) which would mitigate against the compatibility of the proposed use with the existing land use?

- b. The use as developed will not adversely affect the neighborhood.

An adverse effect on the neighborhood is one which will limit the use of neighboring property by causing excessive noise, traffic, dust, fumes, glare or other conditions that are clearly associated with the intended use, but are not typical of permitted uses within the area, as well as reduce property values.

- c. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.

Changes in land use often create the need for facilities that are not typical in a particular zone. For example, if a private dwelling is converted to an inn, parking and sewage disposal requirements will increase significantly. A special exception should be granted only on the condition that all reasonable facility requirements will be met.

- d. There will be no nuisance or hazard created.
- e. Any structure proposed must meet all of the dimensional requirements of Table 2, except as allowed by Article VII, Paragraph B "Non-conforming uses and non-conforming structures".
- f. Any additional requirements as found in Article X of this Ordinance shall be met.

ARTICLE IX. BOARD OF ADJUSTMENT - CONTINUED

C. VARIANCES

Rev. 3/8/11

1. The Board of Adjustment may authorize a variance from the terms of this Ordinance only where the Board finds that all of the conditions as defined in RSA 674:33, I-III are met.
2. A variance shall expire if the use or construction permitted by the variance is not substantially implemented within four (4) years of the date the Zoning Board of Adjustment approves the variance.
3. A variance shall be considered abandoned if the use permitted shall cease for more than one (1) year.

D. APPEALS

Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the municipality affected by any decision of the administrative officer, in the manner prescribed by RSA 676:5-7, as amended, within the time limit set by the Board of Adjustment according to said statute. The cost of advertising and costs of mailing and the notices of hearing shall be paid by the person making the appeal prior to the hearing.

Appeals from decision of the Gilmanton Historic Districts Commission shall be heard by the Zoning Board of Adjustment in accordance with procedures for variance and special exception.

E. SEPTIC SYSTEM PLANS

added 3/13/12

The Board of Adjustment shall not require submission of a septic system plan/design (whether or not approved by the State of New Hampshire) as a condition to filing an application for a variance or special exception.

ARTICLE X. ADDITIONAL CONDITIONAL USE PERMIT CRITERIA

In addition to the Conditional Use Permit criteria outlined in Article IX of this Ordinance, the Planning Board, in acting on an application for a Conditional Use Permit as noted below must find that the following conditions are also met.

A. COTTAGE INDUSTRY

1. The use must be conducted by an owner or residential tenant entirely within the owner's or residential tenant's existing dwelling or accessory building.
2. A maximum of six employees, including the owner or residential tenant is allowed.
3. Cottage Industries shall not include uses that generate noise, fumes, outside storage or other activities objectionable to neighboring properties.
4. Cottage Industries shall not include uses that require an unacceptable frequency of major delivery traffic.
5. Cottage Industries shall not include uses that have an adverse impact on the character of the neighborhood.
6. Exterior lighting shall not adversely impact traffic or neighboring properties.
7. Cottage Industries shall also be regulated by the Site Plan Review Regulations.

ARTICLE XI. RELATIONSHIP TO EXISTING ORDINANCES

- A. Nothing contained in this Ordinance shall be construed as repealing or modifying any other ordinance or regulation of this Town, except as may be specifically repealed or modified by this Ordinance, but shall be in addition thereto. Applicable ordinances and regulations include but are not limited to the Gilmanton Subdivision Regulations, Site Plan Review Regulations, Historic District Regulations, Building Codes, Health Regulations, Life Safety Code and Earth Excavation Regulations.
- B. Uses permitted in Historic Districts shall be those set forth in the Zoning Ordinance provisions for the underlying district except that within Historic Districts, no building or structure shall be erected, reconstructed, altered or restored on its exterior, moved or demolished until a certificate of approval has been issued by the Gilmanton Historic District Commission. No building permit shall be issued until said certificate of approval has been filed with the Building Inspector.
- C. Nothing in this Ordinance shall be construed as repealing or modifying any private restrictions placed upon property by covenant, deed, or other private agreement, or any restrictive covenants running with the land to which the Town is party, but shall be in addition thereto.
- D. Whenever the provisions of this Ordinance differ from those prescribed by any other statute, ordinance, regulation or restriction, that provision which imposes the greater restriction or the higher standard shall apply.

ARTICLE XII. SAVING CLAUSE

The invalidity of any provision of this Ordinance shall not affect the validity of any other provisions.

ARTICLE XIII. EFFECTIVE DATE

This Ordinance shall take effect immediately upon its passage.

ARTICLE XIV. AMENDMENTS

This Ordinance may be amended by majority vote of any legal town meeting when such amendment has been processed through the Planning Board pursuant to the same provisions of RSA 675:3-7, as amended, as provided for in its original adoption.

ARTICLE XV. SHORE FRONT DEVELOPMENT

The purpose of this article is to provide for the regulation of shore front development in order to protect water quality and to prevent overcrowding of shore front in the interests of public safety and preservation of aesthetic values.

- A. The minimum shore frontage on a lake or pond shall be 150' for a lot proposed for a single family dwelling with direct water access and whose shore frontage is part of the dimension of the lot.

- B. Shore front common areas for non-shore front development shall include, but is not limited to, single family, multi-family or condominium development in which units are granted rights of access to a shore front common area on a lake or pond, whether such rights of access are created by formal or informal agreement, by cooperative or stockholder ownership, by the provisions of RSA 356-B or by fractional fee simple ownership as joint tenants, tenants in common or otherwise; and whether such rights of access are created according to a common scheme of development or subsequent in time or incidental to the primary development.

- C. A shore front common area shall contain a minimum of two acres.
 - 1. No dwelling units shall be constructed on the shore front common area.
 - 2. Each shore front common area shall have a minimum of 100 feet of shoreline frontage measured by averaging the distance of the actual shoreline frontage and a straight line drawn between property lines both of which are measured at the mean high water line.
 - 3. Where more than four dwelling units have access rights to the shore front common area there shall be provided an additional 10 feet of shore frontage for each dwelling unit more than four.
 - 4. At least one half of the minimum shore front shall be reserved for swimming, and the swimming area shall be appropriately marked.
 - 5. Docks for swimming and non-power boating shall be no larger than the minimum permitted by the rules of the New Hampshire Wetlands Board and/or permit conditions of the U. S. Army Corps of Engineers.
 - 6. Where communal docking for power boats is proposed, there shall be 25 feet of shore frontage for each boat slip proposed. Such docks shall comply with the rules of the New Hampshire Wetlands Board and/or permit conditions of the U. S. Army Corps of

ARTICLE XV. SHORE FRONT DEVELOPMENT - CONTINUED

Engineers. The Conservation Commission may make recommendations to the Wetlands Board relative to the length of docks and number of slips in accordance with the provisions of RSA 483-A. The Commission may consider the size and depth of the lake or pond, the total frontage proposed for the common area and such other considerations as they may deem appropriate for the protection of water quality and public safety, and may consult with the Planning Board in formulating their recommendation.

7. Every shore front common area shall have at last one (1) permanent septic system and toilet facility approved by the New Hampshire Department of Environmental Services.
8. Every shore front common area shall have off-street parking at the rate of one space for each dwelling unit situated more than 1/4 mile from the shore front common area. The parking shall be set back from the high water mark no less than fifty (50) feet and shall be buffered or screened from the waterfront and abutting property by vegetative screening as defined in the Zoning Ordinance.

ARTICLE XVI. DEFINITIONS

In this Ordinance the following terms have the following meanings:

Accessory Building or Use - A subordinate building or use commonly associated with, incidental to and on the same lot, adjacent lot, or across the street or road from, that occupied by the main building or use.

Adult Oriented Business - Any business activity involving the display or sale of sexually oriented materials or services.

Agriculture - As defined in RSA 21:34-a, including agritourism uses.

Agritourism – Means attracting visitors to a working farm for the purpose of eating a meal, making overnight stays, enjoyment of the farm environment, education on farm operations, or active involvement in the activity of the farm, which is ancillary to the farm operation. Said operation shall comply with all applicable state and local laws, ordinances and regulations.

Aircraft Landing Area - An area used for landing and/or takeoff of motorized aircraft.

Automobile Service Station - Buildings and premises where items such as gasoline, oil, grease, tires, batteries and auto accessories are displayed and sold at retail to the general public, and where, in addition, minor servicing and repair may be made and cold drinks, candy, tobacco and similar goods may be sold as accessory to the principal use. Uses permissible at an automobile service station do not include automobile sales, major mechanical and body work, painting, welding, vehicle storage, or other work involving noise, glare, fumes or smoke.

Automobile and Truck Repair Garage - Buildings and premises where the making of major vehicle body and mechanical repairs, body work, painting, welding, customer vehicle storage and other similar work may occur, providing all such repairs and services are conducted wholly within a building sufficiently sound insulated and constructed to confine objectionable noises and smells to the premise and further providing that all such activity shall be sufficiently buffered and screened from public view. Such use, both primary and accessory, shall not include the storage of scrap or wrecked vehicles or equipment or junk yards.

Boat Storage - Commercial - The storage of more than three boats that are not registered to the owner and/or tenant of a property. Such use will be considered a commercial use governed by Table 1 and requiring Site Plan Approval.

Buffer or Screen - A strip of land at least ten (10) feet wide, densely planted (or having equivalent natural growth) with shrubs or trees at least four (4) feet high at the time of planting of a type that will form a year-round dense screen at least six (6) feet high within three (3) years; or an opaque wall, barrier or fence of uniform appearance at least six (6) feet high.

Building - Any combination of materials, whether portable, movable or fixed, having a roof and enclosed within walls, built to form a structure for the shelter of persons, animals or property.

Business Directional Signs - A sign erected in conformance with the standards contained within the Gilmanton Site Plan Review Regulations and intended as a directional device only; not an advertising device.

ARTICLE XVI. DEFINITIONS- CONTINUED

Camp for Children– A supervised program for children or teenagers conducted for the purpose of educational, athletic, or cultural development for overnight campers. Housing shall consist of tents, cabins, or the like. Added 3/10/20

Campground or Recreational Vehicle Park - A place licensed by the State of New Hampshire where visitors may stay overnight or longer on a temporary basis in allotted spaces in recreational vehicles, tents, or cabins with limited facilities. The terms used herein shall be interpreted in a manner consistent with similar terms defined in RSA 216-I :1. rev. 3/12/13

Childcare Facility – A childcare agency licensed by the State of NH in which childcare is provided for any part of the day for five or more children.

Commercial - A use primarily concerned with the making of profit from the sale of goods or services.

Condominium - A form of ownership of real property, or interest therein, governed by the provisions of NH RSA 356-B, wherein the undivided interests in the common area are vested in the unit owners. Condominiums shall be considered a subdivision of land.

Conforming Use - Means the use of a building, structure or land existing at the time of enactment of this Ordinance or subsequently approved use of the building structure or land.

Contiguous Parcels - Contiguous parcels held under the same ownership are considered merged unless each parcel meets current zoning and subdivision requirements except as provided under RSA 674:39.

Contractor’s Yard - Outside storage of owner owned supplies and equipment used in off-site business.

Cottage Industry - The production, assembly, packaging and shipping of materials for sale off-site. Use does not include on-site retail or showroom use. See Article X.

Deck - An exterior floor system supported on at least two opposing sides by an adjoining structure and/or posts, piers, or other independent supports.

Dwelling, Single-Family - A detached residential building other than a mobile home, designed for and occupied by one family only.

Dwelling, Two-Family - A residential building designed for or occupied by two families living independently of each other in individual dwelling units.

Dwelling, Multi-Family - A residential building designed for or occupied by 3 to 5 families, with the number of families in residence not exceeding the number of dwelling units provided.

Dwelling Unit - One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, rental or lease, and physically separated from any other rooms or dwelling units, which may be in the same structure and containing independent cooking, bathroom and sleeping facilities.

Earth Excavation- Means sand, gravel, rock, soil or construction aggregate produced by quarrying, crushing, or any other mining activity or such other naturally-occurring unconsolidated materials that normally mask the bedrock for the commercial taking of earth off site. As described in the Town of Gilmanton Earth Excavation Regulations and RSA 155-E. rev. 3/10/20

Existing Non-Conforming Use - Any use existing in a district where it is not allowed and which existed prior to the adoption of the Zoning Ordinance.

ARTICLE XVI. DEFINITIONS- CONTINUED

Family - One or more persons related by blood, adoption or marriage, living and cooking together as a single housekeeping unit, exclusive of household servants. Not more than two (2) persons, not related by blood, adoption or marriage, who are living and cooking together as a single housekeeping unit shall be deemed to constitute a family.

Fence - A manmade enclosure or barrier, as around a field or yard.

Frontage - The width of a lot measured along the line of a street where the lot meets the right of way.

Gross Floor Area - The total horizontal area of all floors of a building included between the surrounding walls.

Home Occupation - Any use conducted by an owner or residential tenant entirely within the owner's or residential tenant's existing dwelling or accessory building for offices for a doctor, engineer, architect, lawyer, or other recognized profession, or for offices for real estate and insurance business, or such home occupations as hairdressing, dressmaking, manufacturing of craft or food products for sale; provided that there are no more than three paid employees on the premises other than the operator of the business or profession. Home occupations shall include service businesses that do not generate noise or fumes, do not have any outside storage and do not require deliveries by heavy trucks.

Industrial - A use involving the manufacture of a product and generally requiring many employees, extensive parking facilities, good routes of transportation and requiring other services not needed by commercial or light manufacturing uses.

Inn - A single structure affording accommodations such as lodging and/or food for not more than twenty (20) transient guests.

Intermittent Stream - Stream that runs seasonally, but not necessarily year-round.

Junkyard - A junkyard as defined in RSA 236:112, but shall not include antique motor vehicle restoration activities as permitted in RSA 236:111-a, III. An unlicensed junkyard is a junkyard that is not licensed by the State of New Hampshire

Kenel - A commercial or nonprofit establishment in which dogs and other domesticated animals are bred, boarded (day or overnight), trained and/or sold. Added 3/13/12

Landscaping Business - Any property used for the storage of equipment and the retail sale of materials used for landscaping, gardening, plowing, and the like.

Light Manufacturing - A use involving the manufacture of a product not requiring heavy, noisy, or otherwise objectionable machinery or transporting equipment.

Local Utility Network Structures - Structures that are required to be located near residences in order to deliver a networked service such as telecommunications or entertainment.

Lot - A lot is a parcel of land occupied or to be occupied by one main building and the accessory buildings or uses customarily incident to it. A lot shall be of sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage as required by this Ordinance.

Lot Measurements - Depth of a lot shall be the average distance between front and rear lot lines. Width of a lot shall be the average distance between the lot side lines.

ARTICLE XVI. DEFINITIONS- CONTINUED

Lot of Record - A lot which is part of a subdivision approved by the Gilmanton Planning Board and recorded in the Belknap County Registry of Deeds. Also a lot or a parcel described by metes and bounds, the description of which was so recorded prior to zoning (1970).

Rev. 3/11/14

Manufactured Housing - Any structure, transportable in one or more sections, which, in the traveling mode, is 8 body feet or more in width and 40 body feet or more in length, or when erected on site, is 320 square feet or more and 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.

Manufacturing of Craft or Food Products - Means and includes everything of an agricultural nature grown, produced, conditioned or otherwise carried on the property of the resident; also such articles as are manufactured or altered by members of the household of the bonafide residents of any property or employees thereof not to exceed three in number.

Manufactured Housing Park - Land upon which five or more Manufactured Housing units may be placed and occupied for living purposes, regardless of whether or not a charge is made for such accommodations.

Manufactured Housing Subdivision - An approved subdivision of five or more lots created by the developer for individual ownership and for the placement, for living purposes, of individually-owned manufactured housing.

Motel - A building or buildings containing lodging units consisting of a room or suite of rooms, each with a separate entrance and its own toilet facilities, and offered or to be offered as sleeping accommodations for transient guests for compensation.

Non-Conforming Structure, Use or Lot - A structure or lot, or the use of any land, building or structure, which does not conform to the regulations of the zoning district in which it is carried on or located as of the date this Ordinance becomes effective.

Office - A room or group of rooms used for conducting the affairs of a business, profession or service.

Parking Space - An off-street space available for the parking of one motor vehicle as regulated by the Site Plan Review Regulations.

Personal Wireless Communications Facilities - Any towers, poles, or other structures used for the provision of personal wireless services as defined by Section 704 of the Telecommunications Act of 1996.

Perennial Stream - Stream that normally runs year-round.

Presite Built Housing - Any structure design primarily for residential occupancy which is wholly or in substantial part made, fabricated formed or assembled in off-site manufacturing facilities in conformance with the United States Department of Housing and Urban Development minimum property standards and local building codes, for installation, or assembly and installation on a permanent foundation on the building site. Manufactured Housing is not included in this definition.

ARTICLE XVI. DEFINITIONS- CONTINUED

Private School - Land and buildings primarily used and occupied for academic and educational instruction and learning and intended to develop the mental faculties and powers and the expansion or knowledge through a systematic course of instruction or schooling and generally resulting in the receipt of a diploma, degree or grade advancement.

Recreation Facility - Indoor - Any recreational use wholly contained inside a building such as bowling alley, dance hall, gymnasium, tennis center or other indoor commercial amusement facility or place of public assembly.

Recreation Facility - Outdoor - Any recreational facility which includes use of outdoor facilities such as golf driving range, miniature golf course, water slide, outdoor theater, race track or other outdoor commercial amusement facility or place of public assembly.

Recreational Vehicle - Any transportable vehicle designed for use as a temporary living unit for travel, camping, recreation, business, or other similar uses. Such vehicle may or may not (1) have wheels, (2) be motorized, (3) have self-contained electrical, running water and/or sanitary facilities, and (4) be designed to be connected to outside plumbing, heating, electrical or sanitary facilities. Examples of recreational vehicles include, but are not limited to, motor homes, trailer coaches, pickup campers, pop-up camper, travel trailers, and any recreational vehicle defined in RSA 216-I:1.

Recreational Vehicle Park – see Campground

rev. 3/12/13

Repair Shop - Business for repair of small appliances, radios, televisions, office equipment, or similar use that exceeds the limitations for a Home Occupation stated in this Ordinance.

Restaurant - A building used for the preparation of and service to the general public, of foodstuffs for immediate consumption and utilizing an interior seating facility for the purpose of such service and consumption.

Rest Home/Convalescent Home - A building housing up to 25 aged or infirm persons who are housed for compensation and licensed by the State of New Hampshire, including a home for the aged.

Retail Business - A business which involves the display and sale to the general public of numerous and varied items, merchandise and finished products, such as a grocery store, drug store, gift shop or hardware store.

Right-of-Way – Reference RSA 674:24.

rev. 3/12/13

School Bus Stop Shelter - A temporary structure not to exceed 50 square feet for the express use as a shelter for school children at a school bus stop.

Service Business - A business which provides a service rather than a product to customers for compensation.

Setback - The minimum distance from the property lines as set forth in Table 2 of this Ordinance for each zoning district. The front property line is defined as the boundary between the right of way of the Road and the subject property. The setback is a line which runs parallel to the property lines. The areas between the property lines and the setback lines shall contain no structures.

rev. 3/11/14

ARTICLE XVI. DEFINITIONS- CONTINUED

Special Event - A special event is an event which takes place no more than once in any 30-day period and for no more than 48 consecutive hours.

Special Exception - A special exception is a use that would not be appropriate generally or without conditions, but which, if controlled as to number, area, location, or relation to the neighborhood, would not be detrimental to the public health, safety, order, comfort, convenience, appearance, prosperity or general welfare.

Storage Building - Non Commercial - A garage, shed, barn or other similar structure, used only for the private storage or agricultural use of the owner of the lot and identified as the primary use of the lot.

Street - A public highway as defined in RSA 672:13, "Street" means, relates to and includes street, avenue, boulevard, road, lane, alley, viaduct, highway, freeway and other ways.

Rev. 3/11/14

Structure – That which is built or constructed.

Treated Soils – Soils decontaminated by treatment process and certified for distribution and use as soil under NH Env-Wm 3203, having originally been contaminated with liquids not regulated by the State of NH as hazardous waste as defined under NH Env-Wm 2603.01.

Variance - A departure from the strict letter of the Zoning Ordinance as it applies to a particular piece of property permitting a property to be developed in a manner that conflicts with specific terms of the Zoning Ordinance, but for which approval is granted by the Zoning Board of Adjustment after public hearing and review.

Warehouse - The use of an existing building, or a newly constructed building (temporary or permanent) for the storage and consignment of materials, goods, merchandise or equipment of the building owner or tenant or a third person, provided that such use is not hazardous by reason of potential fire, fumes, explosion or radiation.

Water Bodies - Including rivers, lakes, natural ponds, and artificial ponds larger than 10 acres.

Wetlands – Those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support and that under normal circumstances do support a prevalence of vegetation adapted for life in saturated soils conditions, as defined by the *Field Indicators for Identifying Hydric Soils in New England*, New England Interstate Water Pollution Control Commission (as amended) and the *Corps of Engineers Wetlands Delineation Manual, Technical Report Y-87-1*, Environmental Laboratory, Department of the Army, 1987.

Woodlot - An undeveloped lot of ten acres or more created and approved in accordance with the standards of the "Woodlot" section of the Subdivision Regulations and restricted to forestry and woodlot activities.

ARTICLE XVII. CONDITIONAL USE PERMIT CRITERIA

- A. The Planning Board may, in appropriate cases, and subject to safeguards as determined by the Planning Board, grant a Conditional Use Permit per RSA 674:21 for a land use in accordance with Article IV, Table 1.

- B. The Planning Board, in acting on an application, shall take into consideration the following conditions:
 - 1. Each proposed use is consistent with the adopted Master Plan
 - 2. The specific site is in an appropriate location and of adequate size for the use
 - 3. The use, as developed, will not adversely affect the character of the area in which the proposed use will be located
 - 4. There will be no nuisance or serious hazard to vehicles or pedestrians
 - 5. The use will not place excessive or undue burden on Town services and facilities
 - 6. And there would be no significant effect resulting from such use upon the public health, safety, and general welfare of the neighborhood in which the use would be locate.

Article XVIII. 55+ HOUSING DEVELOPMENTS

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

B. PURPOSE: The requirements in this Section have been established for the purpose of encouraging the construction of Housing for 55+ in the Town of Gilmanton. The intent is to provide for such housing by the provision of a Conditional Use Permit to allow for relief from the otherwise applicable density requirements while complying with all applicable state and federal laws with respect to such housing, and at the same time, ensuring compliance with local planning standards, land use policies, good building design, and the requirements for the health, safety, and general welfare of all the inhabitants of the Town.

C. STANDARDS OF REVIEW, Conditional Use Permit (CUP): Following a fully noticed public hearing on the proposed use, the Planning Board may issue a CUP if it finds that, in addition to the CUP Criteria specified under Article XVII B:

1. The location proposed for the housing development will not materially endanger public health or safety in particular as it relates to road access and distance from emergency services providers.
2. A proposed site shall have adequate soil to accommodate on-site wastewater treatment along with an adequate and reliable water supply.

D. GENERAL STANDARDS:

All housing for 55+ shall conform to the following standards:

1. Housing for 55+ shall comply with NH RSA 354-A:15, Housing for Older Persons. At least one (1) permanent resident of the housing units built under this Article shall be 55 years or older, in no event shall anyone under the age of nineteen (19) years be allowed to reside in the unit.
2. No more than two bedrooms shall be permitted per housing unit.
3. The Net Tract Area of a site shall be determined by subtracting from the gross tract area all Wetlands, surface waters, floodplains and slopes greater than 25%.
4. The minimum lot area shall be 10 gross acres with a minimum of 50 feet of Frontage.
5. The development shall provide for Open Space of the site's Net Tract Area; in the Rural Zone Open Space shall be 25% and within the Village, Light Business and Business Zones 15%. Open space areas shall be preserved in perpetuity. Low impact recreation activities may occur in the open space such as trails and picnic areas. Efforts shall be made to arrange open space into large contiguous areas instead of narrow bands of land.

6. Adequate on-site space must be provided for off-street parking.
7. All on site roads, utilities, and infrastructure shall be privately maintained. All utilities shall be underground.
8. Any application submitted to the Planning Board for final approval of a Housing for 55+ Development shall include a draft copy of the proposed articles of association or incorporation for the creation of a homeowner’s association, which shall provide for the on-going governance and maintenance of the development in accordance with the requirements of this Ordinance in perpetuity. These documents shall be considered an integral part of any proposal. Correspondingly, no application for final approval of a Housing for 55+ Development shall be approved unless and until the Planning Board has determined the articles of association or incorporation conforms to all applicable requirements of this Ordinance.
9. Building types and styles, including exterior aesthetics and unit arrangements, shall be suitable and appropriate for their intended purpose, in light of the size and scale of the project, the relevant zoning district, the prominence and the visibility of the proposed project in the community, the surrounding neighborhood, and other similar factors. To achieve this goal one, two, three and four family units shall be allowed with the following setbacks (Five or more family units require a Special Exception and if approved, shall follow the standards set for the Rural Zone, unless altered by the Board of Adjustment):
 - a. All units or unit groupings shall be separated by a minimum of 30 feet.
 - b. Village, Lt Business, and Business:

All unit types:	Front: 50 feet	Side/Rear: 20 feet
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 - c. Rural:

(1) One and two family:	Front: 50 feet	Side/Rear: 20 feet
(2) Three and four family:	Front: 100 feet	Side/Rear: 40 feet
10. Housing developments for 55+ shall be exempted from Article III, P. Number of Residential Units on a Lot, which limits the number of housing units on a lot.
11. The design and site layout of the development shall emphasize the rural character of the Town, maximizing the privacy of the dwelling units, preserving the natural character of land, providing for the separation of parking and living areas, and consideration as such factors as orientation, energy usage, views.
12. The development shall be landscaped so as to enhance its compatibility with the Town with emphasis given to the use of existing, natural features where possible. Efforts shall be made, to the maximum extent possible, to preserve existing vegetation within the front setback along public ways. For three and four family buildings, the Planning Board may require additional landscaping along the site’s frontage to preserve the areas rural qualities. Landscape buffers may also be required along other site boundaries as deemed necessary.

13. The Planning Board shall review and approve or disapprove the location and site plans for all proposed Housing for 55+. The Planning Board may impose additional conditions not inconsistent with this or other sections of the Zoning Ordinance and all state and federal applicable laws. In addition, all applications shall comply with the Gilmanton Site Plan Review Regulations, as applicable.
14. All developments of Housing for 55+ should include facilities and services to meet the physical and social needs of residents including the location of the master bedroom.
15. All housing units shall be Adaptable. An adaptable dwelling unit means a dwelling unit designed and constructed to facilitate future modification to provide access for persons with disabilities, or otherwise meet the criteria as “Handicapped Accessible” (See, 610.2.4) It means that some features necessary to be “Handicapped Accessible” may be omitted and/or concealed until needed, but that such features or accommodations can be added or installed without involving structural or material changes.