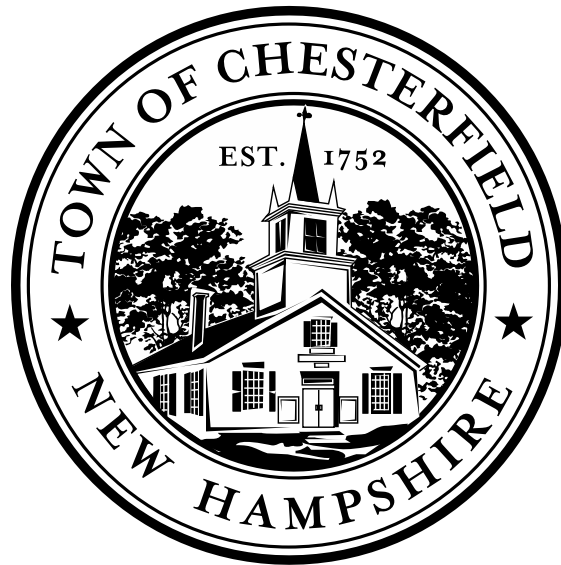


# Town of Chesterfield, New Hampshire



# ZONING ORDINANCE

Year 2019



Town of Chesterfield  
PO Box 175  
Chesterfield, NH 03443

---

# Zoning Ordinance

---

Enacted on March 10, 1987

Amended:

March 8, 1988	March 14, 1989
March 13, 1990	March 12, 1991
March 10, 1992	March 9, 1993
March 14, 1995	March 12, 1996
March 11, 1997	March 9, 1999
March 14, 2000	March 13, 2001
March 12, 2002	March 11, 2003
March 9, 2004	March 8, 2005
March 14, 2006	March 13, 2007
March 11, 2008	March 10, 2009
September 14, 2010	March 8, 2011
March 13, 2012	March 11, 2014
March 10, 2015	March 8, 2016
	March 14, 2017
	March 17, 2018
	March 16, 2019



## TABLE OF CONTENTS

<b>Article and Section</b>	<b>Page</b>
<b>I INTRODUCTION</b>	
100 Title	1
101 Authority	1
102 Purpose	1
103 Applicability	1
104 Origins	1
<b>II USE DISTRICTS</b>	
200 Establishment of Use Districts	2
201 Zoning Map	2
202 Applicability of Use Districts	3
203 Residential District (R)	3
204 Rural/Agricultural District (R/A)	6
205 Village District (V)	7
206 Commercial/Industrial District (C/I)	9
207 Requirements Applicable to all Use Districts	11
208 Office, Retail and Services District (O/R/S)	14
209 Additional Protected Shoreland	16
210 Planned Development District #3	16
211 Planned Development District #4	18
<b>III PLANNED DEVELOPMENTS</b>	
300 Manufactured Housing Parks and Subdivisions	22
301 Cluster Developments	24
302 Planned Development District	26
<b>IV SPECIAL REGULATIONS</b>	
400 Off-Street Parking	32
401 Signs	33
402 Home Occupations	36
403 Multiple Family Dwellings	38
404 Sand and Gravel Pits	38
405 Garage Sales	39
406 Penned Animals and Fowl	39
407 Fire Ruins	39
408 Restrictions on Intermittent and Casual Use	39
409 Telecommunications Facilities	41
410 Junkyards	49
411 Seasonal Use Dwellings	50
<b>V NON-CONFORMITIES</b>	
500 General	51
501 Non-Conforming Lots of Record	51
502 Non-Conforming Uses	51
503 Non-Conforming Buildings and Structures	52

**VI BOARD OF ADJUSTMENT**

600	Establishment of Board of Adjustment	53
601	Powers and Duties	53
602	Applications	54
603	Hearings and Notice	55
604	Hearing Procedure	55
605	Decisions of the Board	56
606	Rehearings and Appeals	56

**VII ADMINISTRATION AND ENFORCEMENT**

700	Administration and Enforcement Responsibility	57
701	Building Permits	57
702	Occupancy Permits	57
703	Enforcement	57

**VIII AMENDMENT, CONFLICTS, SEVERABILITY AND EFFECTIVE DATE**

800	Amendment	58
801	Conflicts	58
802	Severability	58
803	Effective Date	58

**APPENDIX**

Appendix A	Definitions	59
Appendix B	Comprehensive Shoreland Protection Act	65

**AVAILABLE UNDER SEPARATE COVER:**

**Building Ordinance**

**Flood Development Ordinance**

**Land Development Regulations**

# ARTICLE I

## INTRODUCTION

### **100 TITLE**

This ordinance may be known and may be cited as "Zoning Ordinance of the Town of Chesterfield, New Hampshire."

### **101 AUTHORITY**

This ordinance is enacted pursuant to the Planning and Zoning Enabling Legislation of the State of New Hampshire, which is embodied in New Hampshire Revised Statutes Annotated, Title LXIV, Chapters 672-677, as amended.

### **102 PURPOSE**

This ordinance is enacted for the purpose of promoting the health, safety and general welfare of the community. The regulations herein give consideration to the character and suitability for particular uses of areas in the Town of Chesterfield, the conservation of the value of buildings and the encouragement of the most appropriate use of land throughout the Town of Chesterfield. The ordinance is designed to:

- ◆ Lessen congestion in the streets;
- ◆ Secure safety from fire, panic and other dangers;
- ◆ Promote health and the general welfare;
- ◆ Promote adequate light and air;
- ◆ Prevent the overcrowding of land;
- ◆ Avoid undue concentration of population;
- ◆ Facilitate adequate provision of transportation, solid waste, water, sewerage, school and recreation facilities and;
- ◆ Assure proper use of natural resources and other public requirements.

### **103 APPLICABILITY**

No land in the Town of Chesterfield shall hereafter be used for building, development or otherwise and no structure shall be erected, enlarged, materially altered or moved, except in conformance with this ordinance.

### **104 ORIGINS**

This ordinance completely replaces the zoning ordinance currently in effect in the Town of Chesterfield. Chesterfield's first zoning ordinance was adopted on March 13, 1956. However, this ordinance is not intended to repeal: (1) the site plan review authority granted to the Chesterfield Planning Board on March 2, 1976, said authority being currently codified as I-A of the zoning ordinance; (2) the limitations on the number of dwellings per new subdivision **8** per year effective March 4, 1974 and currently codified as 2.05 of the zoning ordinance; (3) the limitations on the number of apartments **36** constructed annually, currently codified as 6.02 H of the zoning ordinance; or (4) the limitation of one mobile home park approval per year, currently codified as 4.12 A of the zoning ordinance.

## ARTICLE II

### USE DISTRICTS

#### **200 ESTABLISHMENT OF USE DISTRICTS**

The Town of Chesterfield is hereby divided into the following use districts:

- ◆ Residential District (R)
  - ◆ Rural/Agricultural District (R/A)
  - ◆ Village District (V)
  - ◆ Commercial/Industrial District (C/I)
  - ◆ Office, Retail and Services District (O/R/S)\*
- \*(ORS Adopted by Town Meeting March 14, 1989)

Each district may be referred to hereinafter by its respective abbreviation.

#### **201 ZONING MAP**

##### **201.1 Establishment**

The districts and the boundaries of such districts shall be as shown upon a map prepared by the Chesterfield Planning Board dated (March 1989) together with all notations, references, and other matter and things set forth and, or attached thereto, on file (March 1989). This same map is hereby adopted and shall be known as the Official Zoning Map of the Town of Chesterfield, and shall be certified by the Selectmen and the Town Clerk. The Selectmen and the Town Clerk shall promptly make all changes effected by amendment to this ordinance.

##### **201.2 Location**

The original of said Zoning Map shall remain on file with the Town Clerk.

##### **201.3 Final Authority**

Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be published, the Official Zoning Map which is on file with the Town Clerk shall be the final authority on current zoning.

##### **201.4 Boundaries of Districts**

Where uncertainty exists with respect to the boundaries of the various districts shown on the Official Zoning Map, the following rules shall apply:

- A. Where a district boundary is shown as following a street, road, railroad, utility line or watercourse, the boundary shall be construed as following the centerline of such facility, unless otherwise indicated.
- B. District boundaries shown as being setback from roads, streets, railroads, utility lines or watercourses are defined by a line parallel to such facility and setback from the centerline the number of feet shown on the map.
- C. Where a district boundary approximates the location of a lot line, the lot line, as it existed at the date of enactment of this ordinance, shall be construed to be the boundary, unless otherwise indicated.



- D. Where a district boundary cuts across a lot, the boundary location shall be determined from the scale of the Official Zoning Map, unless otherwise indicated by dimensions noted on the map.
- E. When a question about the location of a district boundary cannot be resolved by the above provisions, the Planning Board shall determine the exact location of the boundary.

## **202 APPLICABILITY OF USE DISTRICT REGULATIONS**

### **202.1 Use**

No structure shall be erected, reconstructed, or altered nor shall any structure or land be used for any purpose other than is permitted in the district in which such structure or land is located.

### **202.2 Other Regulations**

No structure shall be erected, reconstructed or altered nor shall any structure or lot be used for any purpose if said structure or lot does not conform to all of the regulations of the use district in which it is located.

- A. Non-residential structures and uses for farm and agricultural purposes shall be permitted on a lot whose non-conformity is due to lack of frontage.

## **203 RESIDENTIAL DISTRICT (R)**

### **203.1 Purpose**

The purpose of the R District is to regulate the future use of land in Chesterfield in a manner compatible with the Chesterfield Master Plan's goals for residential areas. The regulations set forth herein will promote the preservation of the natural land and rural character by encouraging primarily residential land uses at densities compatible with the development capability of the land, the limited availability of community facilities and services and the limited capacity of the road network.

### **203.2 Permitted Uses**

In the R District, only the following uses are permitted:

- A. Single family detached dwellings.
- B. Two family dwellings.
- C. Multiple family dwellings subject to compliance with Section 403.
- D. Manufactured Housing Parks and Subdivisions subject to compliance with the requirements of Section 300.
- E. Cluster developments subject to compliance with the requirements of Section 301.
- F. Churches.
- G. Schools.
- H. Municipal buildings and uses.
- I. Public utility buildings necessary for the transmission of essential public utilities.
- J. Public and private non-commercial outdoor recreation facilities.

- K. Cemeteries.
- L. Farming, including the sale of products grown on the premises.
- M. Golf courses and cross-country skiing facilities.
- N. Forestry and wildlife preservation.
- O. Museums
- P. Accessory uses customarily incidental to the above.

**203.3 Uses Permitted By Special Exception**

In the R District only the following uses may be permitted by special exception granted by the Board of Adjustment pursuant to Section 601.3.

- A. Home occupations located in residences or accessory buildings subject to compliance with the additional requirements of Section 402.
- B. Sand and gravel pits subject to compliance with the additional requirements of Section 404.

**203.4 Area, Frontage and Coverage Requirements**

All uses shall comply with the following:

- A. Lot Area: Minimum of two acres except four acres for a two family dwelling. Multiple family dwellings are governed by Sections 403.1 and 403.2.
- B. Frontage: Minimum of 200 feet, except 300 feet for two family dwellings. Multiple family dwellings are governed by Section 403.1.
- C. Coverage: building coverage shall not exceed ten percent (10%) of the area of a lot. Total impermeable coverage (including building coverage) shall not exceed twenty percent (20%) of the area of the lot.

**203.5 Setback and Yard Requirements**

No structures, except fences and walls, shall occupy any yard areas established by the setbacks listed below. Driveways may cross front setbacks.

- A. Front Setback: 50 feet.
- B. Side Setbacks: 20 feet.
- C. Rear Setbacks: 20 feet.
- D. There will be no building or structure within 50 feet of Route 9.
- E. The Setback from all identified cemeteries and burial grounds is 50 feet.

### **203.6 Spofford Lake District**

**Definition:** All lands extending 500 feet from the water line of Spofford Lake at full pond (RSA 483.B-4). In the Spofford Lake District, all uses shall first be regulated by the Shoreland Protection Act (RSA 483.B – see Appendix B) and then permitted in compliance with the existing residential district with the following changes:

#### **203.6a Permitted Uses**

- A. Single family dwellings.
- B. Municipal buildings and uses.
- C. Public utility buildings necessary for the transmission of essential public utilities.
- D. Public and private non-commercial outdoor recreation facilities.
- E. Farming, including the sale of products grown on the premises.
- F. Golf courses and cross country skiing facilities
- G. Forestry and wildlife preservation.
- H. Accessory use customarily incidental to the above.

#### **203.6b Setbacks**

No structure, except fences and walls, shall occupy any yard areas established by the setbacks listed below. Driveways may cross front setbacks.

- A. Road Setback: 50 feet
- B. Side Setback: 20 feet
- C. Lake Setback:  
Primary structure: 50 feet  
Accessory structure: 20 feet
- D. There shall be no building or structure within 50 feet of Route 9.
- E. The setback from all identified cemeteries and burial grounds is 50 feet.

#### **203.6c**

Any dwelling that is occupied less than 9 months from March 1st to November 30th in any calendar year without all of the following shall be deemed a seasonal use dwelling and any dwelling occupied 3 consecutive months December 1st through February 28th shall be deemed year round use and shall meet all the following; Indoor Plumbing with a NHDES approved septic system, Portable year-round water supply, Kitchen with stove, sink and refrigerator, adequate heating system, adequate wall and ceiling insulation, frost-proof foundation. Any dwelling being converted from seasonal use to year-round must meet all of these conditions and be approved by the Chesterfield Code Enforcement Officer.

### **204.1 Purpose**

The purpose of the R/A District is to regulate the future use of land in Chesterfield in a manner compatible with the goals of the Chesterfield Master Plan for rural/agricultural areas. The regulations set forth herein encourage land uses and densities of development compatible with the pursuit of rural and agricultural living.

### **204.2 Permitted Uses**

In the R/A District only the following uses are permitted:

- A. Single family detached dwellings.
- B. Cluster developments subject to compliance with the additional requirements of Section 301.
- C. Churches.
- D. Municipal buildings and uses.
- E. Public utility buildings necessary for the transmission of essential public utilities.
- F. Public and private non-commercial outdoor recreation facilities.
- G. Cemeteries.
- H. Farming, including the sale of products grown on the premises.
- I. Forestry activity and wildlife preservation.
- J. Greenhouses and horticultural enterprises.
- K. Kennels.
- L. Golf courses and cross-country ski facilities.
- M. Manufactured Housing Subdivisions subject to compliance with the additional requirements of Section 300.
- N. Accessory uses customarily incidental to the above.

### **204.3 Uses Permitted by Special Exception**

In the R/A District only the following uses may be permitted by special exception granted by the Board of Adjustment pursuant to Section 601.3.

- A. Home occupations located in residences or accessory buildings, subject to compliance with the additional requirements of Section 402.
- B. Tourist homes and "bed and breakfast" facilities provided there are not more than six (6) guest units, but not motels, hotels or inns.
- C. Manufactured Housing Parks subject to compliance with the additional requirements of Section 300.
- D. Sand and gravel pits subject to compliance with the additional requirements of Section 404.

- E. Two (2) Family Dwelling (see Appendix A, Dwelling Two Family).

**204.4 Area, Frontage and Coverage Requirements**

All uses shall comply with the following area, frontage and coverage requirements:

- A. Lot Area: Minimum of five (5) acres.
- B. Lot Frontage: Minimum of 400 feet.
- C. Coverage: Building coverage shall not exceed ten percent (10%) of the area of a lot. Total impermeable coverage (including building coverage) shall not exceed twenty percent (20%) of the area of the lot.

**204.5 Setback and Yard Requirements**

No structures, except fences and walls, shall occupy any yard areas established by the setbacks listed below. Driveways may cross front setbacks.

- A. Front Setback: 50 feet.
- B. Side Setbacks: 20 feet.
- C. Rear Setbacks: 20 feet.
- D. There will be no building or structure within 50 feet of Route 9.
- E. The Setback from all identified cemeteries and burial grounds is 50 feet.

**205 VILLAGE DISTRICT (V)**

**205.1 Purpose**

The purpose of the V District is to regulate the future use of land in West Chesterfield and Spofford Villages in a manner compatible with the town village character that now exists. The regulations set forth herein are designed to assure that new development is compatible with the land uses and structural types of the village while currently allowing for the filling in of vacant land with appropriate residential and commercial uses.

**205.2 Permitted Uses**

In the V District, only the following uses are permitted:

- A. Single family detached dwellings.
- B. Two family dwellings.
- C. Multiple family dwellings subject to compliance with the requirements of Section 403.
- D. Churches.
- E. Schools.
- F. Libraries.
- G. Municipal buildings and uses.
- H. Public utility buildings necessary for the transmission of essential public utilities.

- I. Meeting halls and lodges for non-profit social, fraternal and club organizations.
- J. Accessory uses customarily incidental to the above.

### **205.3 Special Exceptions**

In the V District, the following uses only are permitted by special exception pursuant to Section 601.3. In addition to the requirements of Section 601.3 such uses shall be permitted by special exception only if they (1) exist as of the date of enactment of this ordinance; or (2) constitute the use conversion of an existing residential structure or barn; or (3) occupy a new structure of residential architecture compatible with the residential architecture of the Village District.

- A. Home occupations subject to compliance with the additional requirements of Section 402.
- B. General stores and variety stores, but not including the sale of gasoline or other fuels requiring bulk storage.
- C. Tourist homes and "bed and breakfast" facilities provided there are not more than six (6) guest units, but not motels, hotels or inns.
- D. Public or private day care facilities.
- E. Banks and lending institutions.
- F. Business, professional and real estate offices.
- G. Gift and antique shops.
- H. Studios.
- I. Accessory uses customarily incidental to any use granted by a special exception.

### **205.4 Area, Frontage and Coverage Requirements**

All uses shall comply with the following area, frontage and coverage requirements:

- A. Lot Area: Minimum of two (2) acres.
- B. Lot Frontage: Minimum 200 feet, except two-family dwellings which require 300 feet.
- C. Coverage: Building coverage shall not exceed ten percent (10%) of the area of a lot. Total impermeable coverage (including building coverage) shall not exceed twenty percent (20%) of the area of the lot.

### **205.5 Setback and Yard Requirements**

No structures, except fences and walls, shall occupy any yard areas established by the setbacks listed below. Driveways may cross front setbacks.

- A. Front Setback: 50 feet.
- B. Side Setbacks: 20 feet.
- C. Rear Setbacks: 20 feet.
- D. The Setback from all identified cemeteries and burial grounds is 50 feet.

### **205.6 Additional Requirements and Restrictions**

- A. Duration and conditions of outside display, lighting, business hours, architecture, screening/buffering and other relevant issues will be addressed during the Site Plan Review Process.

## **206 COMMERCIAL/INDUSTRIAL DISTRICT (C/I)**

### **206.1 Purpose**

The purpose of the C/I District is to regulate the future use of land in Chesterfield in a manner compatible with the Chesterfield Master Plan's goals for commercial and industrial development. Commercial activity and limited types of industrial uses are allowed at specific locations along NH Route 9.

### **206.1a Requirements and Restrictions**

The following requirements and restrictions apply to all uses:

- A. All resulting noise, dust, glare, vapors, smoke odors and refuse are confined to the interior of buildings.
- B. The use is not offensive to surrounding properties due to glare, noise, smoke, dust, odors, fumes, vibrations, excessive traffic or blocked views.
- C. No outside storage of goods or materials except as may be permitted under site plan review.

### **206.2 Permitted Uses**

In the C/I District, only the following uses are permitted:

- A. Offices and laboratories.
- B. Retail sales businesses.
- C. Shopping Centers.
- D. Motels, hotels and inns.
- E. Personal and business services.
- F. Restaurants and eating places
- G. Automobile sales, service or repair businesses including auto body shops.

- H. Travel or camping trailer, motor home, or boat sales, service, repair or storage businesses.
- I. Gasoline filling stations.
- J. Roadside farmstands.
- K. Commercial greenhouses.
- L. Wholesale businesses.
- M. Warehouses and distribution buildings.
- N. Public utility buildings necessary for the transmission of essential public services.
- O. Accessory uses customarily incidental to the above uses.

### **206.3 Uses Permitted by Special Exception**

In the C/I District, the following uses only are permitted as special exceptions granted by the Zoning Board of Adjustment pursuant to Section 601.3. Section 206.1a (Requirements and Restrictions) applies.

- A. Places of manufacturing, assembly, testing or packaging of goods.
- B. Trucking and freight terminals.
- C. Dwelling units in buildings containing uses permitted by Section 206.2 provided that dwelling units occupy no more than 50 percent (50%) of the floor area of a building and that the gross residential density of the site does not exceed one (1) dwelling unit per two (2) acres.

### **206.4 Area, Frontage and Coverage Requirements**

All uses shall comply with the following area, frontage and coverage requirements.

- A. Lot Area: Minimum of two (2) acres.
- B. Lot Frontage: Minimum 200 feet.
- C. Coverage: Building coverage shall not exceed fifty percent (50%) of the area of a lot. Total impermeable coverage (including building coverage) shall not exceed seventy percent (70%) of the area of the lot.

### **206.5 Setback and Yard Requirements**

No structures, except fences and walls shall occupy any yard areas established by the setbacks listed below. Driveways may cross front setbacks.

- A. Front Setback: 50 feet for buildings and/or parking lots.
- B. Side Setbacks: 30 feet.
- C. Rear Setbacks: 30 feet.
- D. There will be no building or structure within 50 feet of Route 9.
- E. The Setback from all identified cemeteries and burial grounds is 50 feet.



## **206.6 Additional Requirements and Restrictions**

- A. Duration and conditions of outside display, lighting, business hours, architecture, screening/buffering and other relevant issues will be addressed during the Site Plan Review Process.

## **207 REQUIREMENTS APPLICABLE TO ALL USE DISTRICTS**

### **207.1 One Residential Building per lot**

There shall be only one single-family detached dwelling on a lot. Single-family detached dwellings in combination with other dwellings options are NOT permitted on a lot. (See specific use district for permitted/excepted dwelling options.)

### **207.2 "Mother-in-Law" Apartments\*\***

\*\* This section excluded March 8, 1988.

### **207.2 Accessory Dwelling Units**

#### **207.2 1 Purpose and Definition**

For the purpose of providing expanded housing opportunities and flexibility in household arrangements, accessory dwelling units as described by RSA: 674:71-73 and further described below, shall be permitted by a conditional use permit granted by the Planning Board or their designee in any district in conformance with these regulations.

Accessory Dwelling Unit (ADU): a secondary dwelling unit within or attached to and subordinate to the permitted principal dwelling unit in accordance with the provisions of this section.

Detached Accessory Dwelling Units are not permitted under this regulation

#### **207.2 2 Standards**

New construction for an accessory dwelling unit shall comply with all the development standards for a single family detached dwelling including, but not limited to, setbacks, height limits and lot coverage and shall not increase any nonconforming aspect of any existing structure unless otherwise addressed by this section. Existing non-conforming structures must comply with current codes and regulations at the time the ADU conditional use permit is applied for.

#### **207.2 3 Requirements/Limitations**

a. Accessory dwelling units are intended to be secondary and accessory to a principal single-family dwelling unit. In granting a conditional use permit, the Board or its designee must find that the secondary dwelling unit is developed in a manner which does not alter the character or appearance of the principal dwelling unit as a single family residence. Only one accessory dwelling unit shall be allowed per principal dwelling unit and/or lot. The accessory dwelling unit shall be designated by a unique address issued by the Town.

b. Exterior alterations, enlargements, or extensions of the structure shall not alter its character or appearance as a single -family residence. Any necessary additional entrances or exits shall be located to the side or rear of the building whenever possible.

c. An attached accessory dwelling unit shall not be considered to be a two-family unit and all regulations for single family units apply except as allowed by these ADU regulations.

d. An accessory dwelling unit shall have an area of no less than 300 square feet and no greater than 800 square feet measured by the outside dimension of the exterior wall or the interior dimension of a common wall. An attached accessory dwelling unit shall occupy no more than 30% of the total heated, above grade floor area of the total dwelling unit, including the accessory dwelling unit.

e. An attached accessory dwelling unit shall be designed to allow for re-incorporation into the principal dwelling unit. Internal access to the principal dwelling unit shall be maintained or constructed. The accessory dwelling unit and the principal dwelling unit must share internal heated living space through a common wall.

f. The existing or proposed septic systems must be certified by a licensed septic designer or engineer 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 Chesterfield 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 Chesterfield 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. There shall be no more than two bedrooms in an ADU

#### **207.2 4 Existing nonconforming accessory dwelling units**

To be considered a nonconforming use, an accessory dwelling unit must have either;

a. Been constructed or installed prior to March 10, 1987, or

b. Have otherwise been legally granted a building permit or certificate of occupancy between the year 1987 and the date of passage of the accessory dwelling unit amendment.

#### **207.2 5 Existing illegal accessory dwelling units**

Accessory dwelling units constructed after March 10, 1987 and before March 2017, which do not have either a building permit or certificate of occupancy, shall apply to the code enforcement officer for a determination of compliance with section 207.2. 2. Applications shall be accompanied by the filing fee, plans and other documentation requested by the code enforcement officer to enable him/her to evaluate compliance with section 207.2 2. The code enforcement officer shall issue one of the following:

a. A determination of compliance with 207.2 2 and a certificate of occupancy;

b. A conditional determination of compliance with 207.2 2 and a description of the corrective changes needed to bring the accessory dwelling unit into compliance. The required changes shall be completed within 90 days of the date of the determination of conditional compliance. Upon successful completion of the required changes, the code enforcement officer shall issue a certificate of occupancy; or

c. A determination of non-compliance with one or more of the requirements of 207.2 2, together with a listing of those requirements and conditions for which compliance cannot be achieved through corrective changes.

### **207.2 6 Failure to comply**

If an owner fails to comply with the requirements of this section, the use of the accessory dwelling unit shall be terminated within 6 months of the date of notice from the building inspector. The owner shall be subject to penalty under RSA 676:17 for each day the accessory dwelling unit fails to comply with the requirements of this section after notice.

### **207.2 7 Owner Occupied**

The principal dwelling unit or the Accessory dwelling unit shall be owner occupied and the owner shall certify occupancy to the Planning Board or its designee yearly by April 1<sup>st</sup>. If the property owner cannot comply with this provision due to hardship such as but not limited to, job relocation or medical/family emergency; the owner may apply to the Zoning Board of Adjustment for a Special Exception. Such relief may be reviewed by the Board of Adjustment annually but in no case shall the relief granted be greater than two years.

### **207.2 8 Maximum occupancy**

The ADU may be occupied by a maximum of two (2) persons per bedroom.

### **207.3 Corner Lots**

- A. Sight Distance: On a corner lot, nothing shall be erected, placed, planted or allowed to grow in such a manner as to materially impede vision between a height of two and a half and ten feet above the center line grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining points along said street lines fifty (50) feet from the point of the intersection of such street lines.
- B. Frontage: On a corner lot, the frontage requirement shall apply to the heavier traveled street. Frontage on the lesser traveled street shall be no less than one-half the required frontage.

### **207.4 Driveways**

- A. Front Yard: Driveways shall commence from the front setback of a lot and shall cross the front yard spaces established by the front setback requirements.
- B. Corner Lots: On a corner lot, the driveway shall be off the lesser traveled street.
- C. A shared driveways is allowed for a maximum of two conforming lots. Shared driveway must cross front setback of first conforming lot and shall cross the side setback to reach the second conforming lot. Such access and maintenance agreements shall be deeded on both lots.

### **207.5 Waste Disposal Systems**

- A. All on-site waste disposal systems shall comply with all applicable NHWSPCC and local regulations. On-site waste disposal systems are exempt from the setback requirements of this ordinance but not the sight distance requirements of Section 207.3. All applicable state setback requirements must be complied with.
- B. All proposed installations or repairs of sewage treatment facilities, not requiring approval of the NHWSPCC, and being within 500 feet of the center line of the road around Spofford Lake or at any location between the road and the lake or in an area which may pollute ponds, brooks, wells, or springs shall require the written approval of the Chesterfield Health Officer for design and construction.

### **207.6 Special Exception for Setbacks**

Structures, in addition to fences and walls, designed and utilized as part of the landscaping of a side or rear yard may be permitted by special exception of the Zoning Board of Adjustment if the Board determines it to be in compliance with the following requirements:

- A. That there is no objection from abutters.
- B. That the structure is designed and utilized solely as a landscaping amenity.
- C. Buildings, parking lots, driveways, dwellings, garages, storage sheds, tennis courts, swimming pools and other structures not designed and utilized exclusively as landscaping amenities, shall not be permitted by special exception under this section.

It is the purpose of this section to permit, in appropriate circumstances, structures such as gazebos, walking paths constructed with brick or stone or similar materials, stonework as part of a landscaping plan, sitting areas and similar uses within the side and rear setbacks subject to compliance with the requirements of this section. The side setback shall extend to the front and rear property lines.

## **208 OFFICE, RETAIL AND SERVICES DISTRICT (O/R/S)**

### **208.1 Purpose**

The purpose of the O/R/S District is to regulate the future use of land in Chesterfield in a manner compatible with the Chesterfield Master Plan's goals for commercial development. Office, retail and service uses are allowed at specific locations along NH Route 9.

### **208.2 Permitted Uses**

In the O/R/S District, only the following uses are permitted:

- A. Offices
- B. Retail Sales
- C. Personal Business Services
- D. Public Utility Buildings
- E. Public or Private Day Care Centers
- F. Banks and Lending Institutions
- G. Clinics, Nursing Homes and Funeral Homes
- H. Private Clubs and Meeting Halls
- I. Accessory uses customarily incidental to the above uses.

No individual business or establishment may occupy more than 20,000 sq. ft. of gross floor area.

### **208.3 Uses Permitted By Special Exception**

In the O/R/S District, the following uses only are permitted as Special Exceptions by the Zoning Board of Adjustment pursuant to Section 601.3:

- A. Restaurants, provided that there be no drive-up service of food.
- B. Distribution, assembly, or repair of goods, provided that no use of combustible fuels, generation of noise or fumes be part of the operation of such business.
- C. Dwelling Units in buildings containing uses permitted by Section 208.2 provided that dwelling units occupy no more than fifty percent (50%) of the floor area of a building and that the gross residential density of the site does not exceed one (1) dwelling unit per two (2) acres.
- D. Motels, Hotels and Inns with a limit of twenty (20) units per establishment.

### **208.4 Area, Frontage and Coverage Requirements**

- A. Lot Size: Minimum of two (2) acres; Maximum of five (5) acres.
- B. Lot Frontage: Minimum of 200 ft.
- C. Coverage: Building coverage shall not exceed twenty percent (20%) of the area of the lot. Total impermeable coverage (including building coverage) shall not exceed fifty percent (50%) of the area of the lot.

### **208.5 Setback and Yard Requirements**

No structure including parking lots, but excluding fences and walls, shall occupy any yard areas established by the setbacks listed below. Driveways may cross front setbacks.

- A. Front Setback: 75 ft. for building and/or parking areas.
- B. Side Setbacks: 30 ft., unless abutting a residential zone, then it is 50 ft.
- C. Rear Setback: 30 ft., unless abutting a residential zone, then it is 50 ft.
- D. There will be no building or structure within 50 feet of Route 9.
- E. The Setback from all identified cemeteries and burial grounds is 50 feet.

### **208.6 Additional Requirements and Restrictions**

- A. No outside storage of goods or materials will be permitted.
- B. No parking area shall contain more than 20 spaces in a row without separation by a 10 ft. landscape barrier.
- C. No building shall contain more than 20,000 sq. ft.
- D. No continuous building front, side or rear wall shall exceed 50 ft. of length without a minimum jog or offset of 5 ft.
- E. Duration and conditions of outside display, lighting, business hours, architecture, screening/buffering and other relevant issues will be addressed during the Site Plan Review Process.

## 209 ADDITIONAL PROTECTED SHORELAND

### 209.1 Brooks, Rivers and Streams

**Definition:** Brooks and Streams listed below will be protected by the town in accordance with the Shoreland Protection Act (RSA 483.B:1-19, see Appendix B).

- A. **Catsbane Brook** from the Connecticut River to the junction of Town and Hubbard Brooks. This junction is about ¼ mile southwest of the intersection of Stage and Gulf Roads.
- B. **Gulf Brook** (also called Leavitts Brook) from the Madame Sherri dam to the Connecticut River.
- C. **Partridge Brook** from Spofford Lake to the Westmoreland town line.
- D. **Very Brook** from Glebe Rd. to its junction with Partridge Brook.
- E. **Hubbard Brook** from the dam at Mill Pond to its junction with Town Brook (see A. above).
- F. **Town Brook** from Route 9 to its intersection with Hubbard Brook (see A. above).
- G. **Connecticut River** from Westmoreland Town line to Hinsdale Town line.

## 210 PLANNED DEVELOPMENT DISTRICT #3

### 210.1 Purpose

The purpose of this document is to regulate the future use of the land in the Planned Development District #3.

The boundary of the Planned Development District containing 7.5 acres more or less shall be as described below and as shown by the zoning map Planned Development District#3 dated 1-5-07, revised 1-23-07.

Beginning at the intersection of the North side of Route 9 and the West side of Old Chesterfield Road (Pierce Rd) being the Southeast corner of the District;  
thence Westerly 467 feet, more or less, along the North side of Route 9 to a point being the Southeast corner of land now or formerly owned by Brooks;  
thence Northerly 176 feet more or less along the east side of said Brooks land to a point;  
thence Northwesterly 115 feet, more or less, to a point along the North side of Said Brooks land, being the west corner of the district;  
thence Northeasterly 158 feet, more or less to a point;  
thence Southeasterly 234 feet more or less to a point on the west side of proposed new road;  
thence Northeasterly 92 feet more or less to a point; thence  
Northeasterly 152 feet more or less to a point;  
thence Northeasterly 179 feet more or less to a point on the south line of land owned by Kevin R. Beal;  
thence Southeasterly 520 feet more or less along said Beal land to a point on the west side of the Old Chesterfield road (Pierce Road), being the Northeast corner of the district;  
thence southwesterly 640 ft more or less along the west side of the Old Chesterfield Road (Pierce Road) to the point of beginning;

### **210.2 Permitted Uses**

In the Planned Development District #3, only the following uses are permitted:

- A. Business Offices
- B. Warehouse and Distribution to include the distribution of product for resale off the premises or to the end user off the premises.
- C. Places of manufacturing, assembly, testing or packaging of goods
- D. Personal and Business Services
- E. Public Utility and Municipal Buildings
- F. Multi-use building containing uses permitted by this section
- G. Accessory uses customarily incidental to the above uses.

### **210.3 Area, Frontage and Coverage Requirements**

- A. Lot Size: Minimum of two (2) acres
- B. Lot frontage: Minimum of 200 ft.
- C. Coverage: Building coverage shall not exceed twenty percent (20%) of the area of the lot. Total impermeable coverage (including building coverage) shall not exceed fifty percent (50%) of the area of the lot.

### **210.4 Setback and Yard Requirements**

No structure including parking lots, but excluding fences and walls, shall occupy any yard areas established by the setbacks listed below. Driveways shall cross front setbacks.

- A. Front setback: 30 ft. for building and/or parking areas.
- B. Side setbacks: 30 ft
- C. Rear setback: 30 ft
- D. There will be no building or structure within 50 feet of Route 9.

### **210.5 Additional Requirements and Restrictions**

- A. No building shall contain more than 40,000 sq. ft. of gross floor area
- B. No outside storage of goods or materials will be permitted unless adequately visually screened from surrounding lots and public roads. Screening shall be thru the use of trees and shrubs of a size suitable to provide adequate visual screening as determined by the planning board.
- C. No parking area shall contain more than 20 spaces in a row without separation by 10 ft. landscape barrier.

- D. All outside lighting shall be 100% downcast in design.
- E. Freight Terminals are not allowed in this zoning.
- F. Duration and conditions of outside display, lighting, business hours, architecture, screening/buffering and other relevant issues will be addressed during the Site Plan Review Process.
- G. All resulting noise, dust, glare, vapor, smoke odors shall be confined to the interior of the buildings. Refuse and recycling will be contained in an enclosure outside the building.
- H. The use cannot be offensive to surrounding properties due to glare, noise, smoke, dust, odors, fumes, vibrations, excessive traffic or blocked views.
- I. The proposed use shall not make an excessive demand on the municipal services.
- J. All provisions of the zoning ordinance not in conflict with the PDD #3 shall apply to the PDD#3

## **211 PLANNED DEVELOPMENT DISTRICT #4**

### **211.1 Purpose**

The purpose of this document is to regulate the future use of the land in the Planned Development District #4.

The boundary of the Planned Development District, containing 5 acres more or less, shall be as described in Addendum A and as shown by the map attached as Addendum B.

### **211.2 Permitted Uses**

In Planned Development District #4, only the following uses are permitted:

- A. Restaurant, bakery, catering, coffee shop, and ice cream creamery, including walk-up service windows.
- B. Places for creating, preparing, and storing food and drink as an accessory use to the other uses permitted in this Section 211.2.
- C. Retail sales business selling food and food-related items, arts, crafts, locally produced goods, horticultural products, and/or gifts, not to exceed 30% of the total floor area of the structure.
- D. Hosting of family compatible events such as birthday parties, wedding receptions, and music. The incremental increase in decibel level due to any such music shall not exceed 40 decibels at the border of the PDD.
- E. Maple sugaring.
- F. Jungle gym and swing set.
- G. Multi-use building containing uses permitted by this Section 211.2.



### **211.3 Lot Coverage Requirements**

- A. Building coverage shall not exceed twenty percent (20%) of the area of the lot. Total impermeable coverage (including building coverage) shall not exceed fifty percent (50%) of the area of the lot

### **211.4 Setback and Yard Requirements**

- A. Front setback: 50 feet for building areas and 25 feet for parking areas provided that there shall be no building or parking area built within 50 feet of the Route 9 pavement edge.
- B. Side setbacks: 30 feet.
- C. Rear setback: 30 feet
- D. Driveways shall not cross side setbacks.

### **211.5 Additional Requirements and Restrictions**

- A. No single building shall contain more than 15,000 square feet of gross indoor floor area.
- B. No parking area shall contain more than 20 spaces in a row without separation by a 10 foot landscape barrier.
- C. No outside storage of goods or materials, including storage in temporary or mobile storage containers, is permitted (other than firewood) except as may be permitted by the Planning Board during site plan review. In any event any such outside storage shall be adequately visually screened from surrounding lots and public roads. Screening shall be through the use of decorative fences, trees and shrubs of a size suitable to provide adequate visual screening. Outside displays and tables for eating are permitted.
- D. Refuse and recycling will be contained in an enclosure outside the building with wildlife inaccessible locks.
- E. No continuous building front, side or rear wall shall exceed 50 feet of length without a minimum jog or offset of 5 feet.
- F. No drive-through restaurant service shall be permitted.
- G. No outdoor amplification shall be permitted.
- H. No business within the PDD shall open for business prior to the hour of 7 a.m. Likewise, no business within the PDD shall remain open for business past the hour of 9 p.m. on Sunday through Thursday (except for those holiday exceptions referenced in the following sentence). No business within the PDD shall remain open for business past the hour of 10 p.m. on Fridays, Saturdays, and the holidays and holiday eves of Memorial Day, July 4 (as observed), and Labor Day.
- I. All provisions of the zoning ordinance not in conflict with PDD #4 shall apply to the PDD #4.

**Addendum A PDD #4**

Description of Planned Development District #4

Beginning at a point 75 feet right of Station 335 – 50 +/- of the State of New Hampshire Route 9 center line of layout at the northwest corner of the Proposed District parcel;

Thence turning and running South 81° 36' 39" East, along the right of way of said Route 9, 568.19 feet more or less to a corner;

Thence turning and running South 18° 35' 59" West, 409.14 feet more or less to a corner in the line of land now or formerly of Melissa and John Reichert;

Thence turning and running North 70° 41' 18" West, along land of said Reichert, 136.24 feet more or less to an angle in a stonewall;

Thence continuing North 70° 41' 18" West, along said stonewall and land of Reichert, 301.12 feet more or less to an angle in said stonewall;

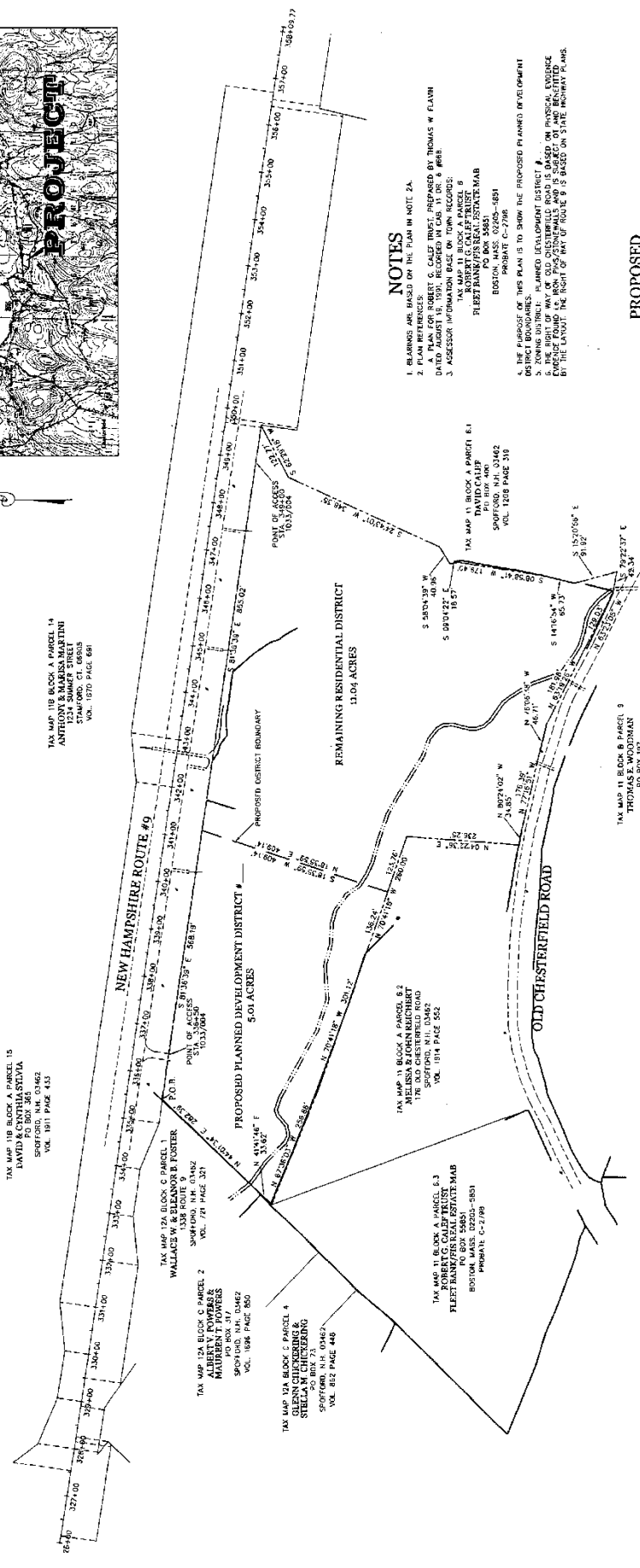
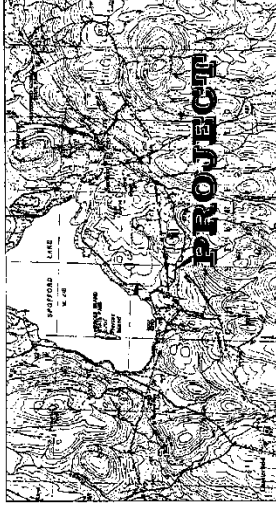
Thence continuing along said stonewall North 67° 36' 03" West, along land of said Reichert, 256.86 feet more or less to a corner of stonewalls;

Thence turning and running North 41° 41' 46" East, along said stonewall and along land of Albert V. and Maureen T. Powers, 33.62 feet more or less to a corner at the intersecting stonewall;

Thence continuing along said stonewall North 44° 01' 34" East, along land of Wallace W. and Eleanor B. Foster, 282.39 feet more or less to the place of beginning.

Containing 5.01 acres more or less.

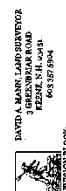
**Addendum B PDD #4**



**NOTES**

1. RELIANCE ARE BASED ON THE PLAN IN NOTE 2A.
2. PLAN REFERENCES TO THE PLAN IN NOTE 2A.
3. ASSESSOR INFORMATION BASE ON TOWN RECORDS:  
TAX MAP 118 BLOCK A PARCEL 14  
FLEET BANK/FLEET ESTATE MAB  
BOSTON MASS 02255-5581  
PROBATE C-2796
4. THE PURPOSE OF THIS PLAN IS TO SHOW THE PROPOSED PLANNED DEVELOPMENT DISTRICT BOUNDARIES. PLANNED DEVELOPMENT DISTRICT #1 IS THE RIGHT OF WAY OF OLD CHESTERFIELD ROAD IS BASED ON PHYSICAL EVIDENCE FOUND ON THE GROUND. THE RIGHT OF WAY OF OLD CHESTERFIELD ROAD IS BASED ON STATE RECORDED PLANS. THE RIGHT OF WAY OF NEW HAMPSHIRE ROUTE #9 IS BASED ON STATE RECORDED PLANS.

**PROPOSED  
PLANNED DEVELOPMENT DISTRICT  
PREPARED FOR  
BEN WYATT  
ROUTE 9  
TOWN OF CHESTERFIELD  
COUNTY OF CHESHIRE  
STATE OF NEW HAMPSHIRE  
SCALE: 1 INCH = 100 FEET  
FEBRUARY 8, 2010**



**LEGEND**

- UTILITY POLE
- IRON PIN FOUND
- CONCRETE FOUNDATION
- SHRUBS
- TREE
- CULVERT



## ARTICLE III

### PLANNED DEVELOPMENTS

#### **300 MANUFACTURED HOUSING PARKS AND SUBDIVISIONS**

##### **300.1 General**

Manufactured housing units shall be permitted only in manufactured housing parks or manufactured housing subdivisions approved as per the provisions of this ordinance. Manufactured housing as defined in this section shall not include presite built housing as defined in NH RSA 674:31-a. Temporary use of a manufactured housing unit is permitted for one hundred eighty (180) days pursuant to Section 300.4 C. Replacement of a manufactured housing unit when there is a change in size requires application to the ZBA for a variance.

##### **300.2 Manufactured Housing Parks**

- A. Approval of Plan: Manufactured housing parks shall be developed in accordance with a plan approved by the Planning Board. The plan approval procedures, informational submittals and hearings shall be as required by the Planning Board's Land Development Regulations for the review and approval of major site plans.
- B. Criteria
  1. Park Size: Manufactured housing parks shall be located on parcels of at least ten (10) acres and shall contain at least four (4) manufactured housing unit spaces. No manufactured housing park shall be larger than 40 acres.
  2. Gross Density: The gross density of a manufactured housing park shall not exceed 1 manufactured housing unit per acre.
  3. Location: No manufactured housing park shall be located on a parcel that is:
    - a. Inaccessible from good roads.
    - b. Close to swamps or other potential breeding places for insects and rodents.
    - c. On poorly drained or very poorly drained land, as defined by the Cheshire County Soil Conservation Service.
    - d. On slopes in excess of 15 percent.
    - e. On land subject to flooding, erosion, fire, safety or traffic hazards.
    - f. On land which is exposed to chronic nuisances such as noise, smoke, fumes and odors.
  4. Spatial Requirements:
    - a. Area: Each manufactured housing unit space shall contain at least 10,000 square feet and 75 feet of frontage. All spaces shall be individually marked and no space shall be occupied by more than one (1) manufactured housing unit.
    - b. Yards: Manufactured housing units shall be placed at least ten (10) feet from each space boundary. No manufactured housing unit,

vehicle or building shall be located within 100 feet of any residential lot.

- c. Parking: Each manufactured housing unit space shall have at least 400 square feet of parking space. Such space shall be well drained, stabilized and maintained in good repair.

5. Access and Circulation

- a. Manufactured housing unit spaces shall not have access directly onto existing public roads and streets.
- b. Interior access streets shall have a paved width of at least 24 feet, if no on-street parking is provided. If on-street parking is provided, the width shall increase eight (8) feet per side of parking.
- c. Adequate access for fire-fighting equipment, fuel delivery and refuse collection shall be provided.
- d. All roads within a manufactured housing park shall be private roads fully maintained by the owner of the park and shall be constructed to standards of the Planning Board's Land Development Regulations.

6. Playgrounds and Open Spaces: Manufactured housing parks shall provide common playground areas and playground equipment adequate to service the needs of the anticipated occupant families, as determined by the Planning Board. At least fifteen percent (15%) of the manufactured housing park shall be set aside as common open space or playground area.

7. Sewage Disposal: Sewage disposal areas shall not be located on individual spaces within a manufactured housing park. The park owner shall provide a common sewage disposal system. The design, location and construction shall be approved by the NHWSPCC and the Planning Board. If the NHWSPCC and Planning Board have different standards of approval, the more stringent standard shall apply.

8. Utilities: All utilities shall be underground.

9. Buffers: The park must be screened on all sides by a vegetative buffer twenty (20) feet wide with the front buffer beginning at least 75 feet back from the center line of the public road.

10. Other Site Criteria: Manufactured housing parks shall comply with all other applicable site plan standards of the Planning Board's Land Development Regulations, including standards requiring adequate lighting, solid waste disposal, utility services and drainage.

11. Bonds: Prior to plan approval an applicant for a manufactured housing park must meet the bonding requirements for site plans as set forth in the Planning Board's Land Development Regulations.

**300.3 Manufactured Housing Subdivisions**

Manufactured housing subdivisions shall be at least ten (10) acres in size; shall contain at least four (4) conforming lots; and shall be occupied only by manufactured housing units. Such subdivisions shall comply with all requirements for the subdivision of land, as set forth in the Planning Board's Land Development Regulations.

### **300.4 Criteria Applicable to All Manufactured Housing**

- A. **Manufactured Housing Standards:** All manufactured housing units, except temporary ones, whether located in parks or subdivisions, shall meet the standards for manufactured housing of NH RSA 674:31, as amended. Additionally:
  - 1. **Living Area:** Each manufactured housing unit shall have a living area of at least 400 square feet.
  - 2. **Skirting:** There shall be a continuous skirting of either fiberglass, aluminum or other material approved by the Building Inspector around each manufactured housing unit. It shall have at least three (3) vents.
  - 3. **Additions:** Additions are prohibited, other than manufacturer's options for the particular model of manufactured housing unit, open porches and awnings.
  - 4. **Concrete Slabs:** Concrete slabs shall be used to site manufactured housing units. There shall be a minimum six (6) anchor bolt tie-downs around the manufactured housing unit.
- B. **Commercial Purposes Prohibited:** No manufactured housing unit or trailer shall be stored or exhibited for sale for commercial purposes within a manufactured housing park or subdivision.
- C. **Temporary Permits:** The Board of Adjustment may, after public hearing, grant a temporary permit not to exceed one hundred eighty (180) days for a single manufactured housing unit to be placed upon a lot in any district and used by the owner or owner's immediate family. No such permit shall be renewable without further public hearing. The storage of no more than one (1) recreation vehicle (motor home) or camping trailer shall be permitted on any lot.

## **301 CLUSTER DEVELOPMENTS**

### **301.1 Purpose**

The purpose of the cluster development provisions of this ordinance is to preserve significant natural land features and/or open spaces while providing greater land development flexibility for larger parcels of land. In a cluster development lot sizes and frontages may be reduced and development densities may be increased in order to permanently preserve areas within the development which contain significant natural features and/or open spaces.

### **301.2 Criteria**

- A. **Parcel Size:** Cluster developments shall not be permitted on parcels less than thirty (30) acres in area. Wetlands and slopes in excess of 25 percent may be counted to make up the minimum parcel size but may not be counted to determine the number of dwellings permitted under Section 301.2 C.
- B. **Type of Dwellings:** In a cluster development only single-family detached and single-family attached dwellings are permitted. No building may contain more than four (4) single-family attached dwellings.
- C. **Number of Dwelling Units:** In cluster developments the total number of dwelling units shall not exceed one dwelling unit for every two (2) acres of gross land area of the tract, not including wetlands or slopes in excess of 25 percent.
- D. **Net Development Densities:**

1. Single Family Detached Dwellings: In a cluster development that includes single family detached dwellings on individually owned lots, the lot area and frontage requirements of the applicable use district may be reduced to not less than 30,000 square feet and 120 feet respectively. Front setbacks may be reduced to forty (40) feet.
  2. Single Family Attached Dwellings: In a cluster development that includes single family attached dwellings the density of the portion(s) of the tract on which such dwellings are sited shall not exceed four (4) dwelling units per acre. All buildings shall be spaced at least thirty (30) feet apart.
  3. Land Capability Adjustment: The above increases in development densities are allowable only if the slope/soils capability of the site will support the increase. The Planning Board shall amend its subdivision and site plan review regulations to assure that the increased development densities allowed by this article will be appropriately adjusted for the soils/slope capability of particular sites.
- E. Minimum Preservation Acreage: The land area reserved for preservation shall not be less than fifty percent (50%) of the tract for cluster developments in the R District nor less than sixty-five percent (65%) of the tract for cluster developments in the R/A District. It may consist of more than one piece of preserved land, but every such piece shall have minimum contiguous area of at least five (5) acres or ten percent (10%) of the parcel size, whichever is greater. The Planning Board shall have the authority to approve or reject the proposed uses of these preserved areas.
- F. Preservation of Significant Natural Features/Open Spaces: The land area reserved for preservation shall be "significant" as per Section 301.3 below.
- G. Location of Dwellings: Dwellings in cluster developments shall not front on existing roads or have access off them. No dwelling shall be located within 50 feet of an existing road or within 50 feet of the property line of a parcel abutting the development.
- H. Frontage on Cul-de-Sacs: Frontage requirements for cluster lots having more than half their frontage on the circumference of a cul-de-sac or teardrop are exempt from any frontage requirements of this ordinance. The Planning Board is hereby authorized to enact appropriate frontage requirements for such cluster lots in its Land Development Regulations.

### **301.3 Preservation of Significant Natural Features/Open Spaces**

It is the intent of this ordinance that only significant amounts and/or types of natural features and open spaces be preserved by cluster developments. The ordinance is not intended to provide the benefit of smaller lot sizes and increased densities to every developer, but, rather, only to those who can demonstrate that the types or amounts of features preserved are significant enough to warrant use of the cluster provisions. Thus, in addition to the threshold requirements of Section 301.2 above, area(s) proposed for preservation must qualify as significant by meeting any one of the following criteria:

- A. The area(s) to be preserved must be at least thirty (30) contiguous acres in size, exclusive of wetlands or slopes over twenty-five percent (25%).
- B. At least two-thirds of the area to be preserved shall be within 200 feet of wetlands.
- C. The area to be preserved must be an active or inactive (but not overgrown) farm tract.

- D. At least half of the area to be preserved must consist of soils with either fair or poor development capabilities.
- E. At least half of the area to be preserved must consist of slopes in excess of fifteen percent (15%) but not twenty-five percent (25%).
- F. At least two-thirds of the area to be preserved must consist of any combination of the following critical resources:
  - 1. Agriculture or inactive agriculture (but not overgrown) farmland.
  - 2. Slopes in excess of 15% but not 25%.
  - 3. Soils with poor or fair development capability.
  - 4. Land within 200 feet of wetlands.
- G. Presence of other locational or site characteristics which, subject to specific findings thereto by the Planning Board, are determined significant enough to warrant preservation in accordance with the intent of this ordinance.

**301.4 Ownership of Preserved Areas**

A cluster development shall provide for ownership in common of preserved areas by all of the owners of the development in a manner that the Planning Board and Town Counsel determine will assure the perpetual preservation and maintenance of the areas. The Planning Board may approve other forms of ownership of preserved areas if it is in the best interest of the neighborhood and Town. All preserved areas shall be accessible to all owners in the development by way of streets or easements.

**301.5 Cluster Subdivision Procedures**

Cluster developments are either subdivisions or multiple-family housing developments requiring site plan reviews. Therefore, proposals for cluster developments must be approved by the Planning Board under either its subdivision and/or its site plan review regulations. The Planning Board shall amend these regulations to provide for cluster developments.

**302 PLANNED DEVELOPMENT DISTRICT**

**302.1 Authority**

This Section, 302 Planned Development District, is adopted pursuant to the power granted in RSA 674:16 II and RSA 674:21 for innovative land use control.

- A. To provide the flexibility needed to achieve the purposes of this Section, the Planning Board is hereby granted authority to clarify and modify the documents submitted by the applicant and to impose standards and conditions pursuant to achieving these purposes. The Planning Board is hereby granted authority to administer this Section.
- B. If the applicant and the Planning Board can not agree on said changes, standards, and conditions, the applicant has the following options:
  - 1. Withdrawal of the application without prejudice.
  - 2. Proceeding by petition to the regular annual meeting of the town's Legislative Body. **(RSA 675:4)**
  - 3. Appeal directly to the Superior Court. **(RSA 676:5 III)**



- C. Adoption of this Section does not establish an applicant's legal right to a Planned Development District and its accompanying Planned Development. In turn, the Planning Board does not have the right to require an applicant to apply under the Planned Development Provisions of this Section.

### **302.2 Purpose**

The Planned Development Districts (PDD) and their accompanying Planned Developments (PD) enabled under this Section provide the Town and the applicants with an alternative development approach intended to promote flexibility and innovation in land planning. It allows the Planning Board to participate jointly with the applicants to formulate and achieve planned developments that are consistent with the balanced needs, objectives, and goals of the Town.

A Planned Development District and its accompanying Planned Development may be established within any use district following review by the Planning Board and approval by the town's Legislative Body. Authorization of a Planned Development District and its accompanying Planned Development shall be in accordance with the procedures, standards, and conditions specified herein and only for one or more of the following purposes, and under the criteria specified herein:

- A. To permit a tract of land to be improved and developed with a use of land, buildings and other structures, and site development that constitutes an innovative, integrated and harmonious design unit which is beneficial to and consistent with the character of the town, the orderly development of the neighborhood, the purpose of this Zoning Ordinance, and the adopted Master Plan for the Town of Chesterfield, New Hampshire.
- B. To permit on a lot a use of land, buildings and other structures, and related site development not permitted within the existing zoning district where the lot is located but which would be beneficial to and consistent with the character of the town, the orderly development of the neighborhood, the purpose of this Zoning Ordinance, and said Master Plan.
- C. To permit on a lot in connection with an existing permitted use the design and construction of buildings and other structures and related site development which would not normally be allowed. Said buildings or other structures shall be of unusual design merit and by virtue of their location, orientation, structure, materials, landscaping, or other features shall be beneficial to and consistent with the character of the town, the orderly development of the neighborhood, the purpose of this Zoning Ordinance, and said Master Plan.

### **302.3 Application**

A Planned Development District is appropriate when, in connection with any of the purposes specified in **Par. 302.2**, the following conditions exist:

- A. The Planned Development is not allowed in the existing zoning district.
- B. The Planned Development is consistent with the adopted Master Plan.
- C. The tract, parcel, or lot is of sufficient size to accommodate a Planned Development compatible with its surrounding.

### **302.4 Procedures, Standards, and Conditions**

A Planned Development District shall conform to the procedures, standards, and conditions of **Par. 302.5, 302.6, and 302.7.**

### **302.5 Special Submission Requirements**

Requests for approval of a Planned Development District shall be submitted in writing and shall be accompanied by the following:

- A. **Report:** A written report explaining the purpose of the Planned Development District under this section and how the Planned Development District meets the criteria specified in **Par. 302.2 and 302.3**, including but not limited to consistency with the adopted Master Plan for the Town of Chesterfield, NH.

Ten (10) copies shall be submitted.

- B. **PDD Regulations:** A written regulation shall be provided in a form suitable for adoption as an amendment to the town's Zoning Ordinance. Said regulation shall contain no less than the following:

1. A suitable boundary description and survey map of the District and any land use areas or sub-districts within the District.
2. The precise uses of land, buildings, and other structures to be permitted.
3. Standards for the area, location and bulk of buildings and other structures, and the area, shape, and frontage of lots.
4. Site development and building standards.
5. Procedures for administrative review and approval of detailed plans and specifications for the Planned Development.
6. Citation of the "General Plans" that are to be applicable within the District.
7. Any other regulatory provisions necessary to carry out the purpose of the District, including citation of other provisions of this Zoning Ordinance that are to be applicable within the District.

Ten (10) copies shall be submitted.

- C. **PDD General Plan:** A General Plan for the entire proposed District. The General Plan combined with the Report and the Regulations for the proposed Planned Development District are the major documents with which the Planning Board and then the town's Legislative body can make an informed judgment concerning the desirability and appropriateness of establishing the Planned Development District .

1. The General Plan is not intended to show the degree of detail required for Major Site Development. However, the General Plan is required to be of such scope and content to clearly define the use, form, and extent of the planned development within the proposed PDD.
2. The General Plan shall consist of conceptual site development drawings, architectural renderings and schematic designs, and other drawings as relevant and in sufficient detail to illustrate location of proposed uses, buildings, structures, streets, driveways, parking and loading facilities, outside storage areas, wetlands, water courses, drainage, sewage disposal, water supply, lighting, and landscaping.

3. In the detail plan phase (**Par 302.6 C**) following the town's adoption of a specific PDD, the Planning Board can not approve the Detail Plan or allow construction to proceed unless it first determines that said Detail Plan is consistent with the General Plan for the Planned Development District adopted by the town's Legislative Body.

Ten (10) copies shall be submitted

- D. Application: Application for a Planned Development District shall be on a form specified by the Planning Board.
- E. Fee: An application fee as specified by the Planning Board. In addition, if the board requires independent engineering and/or other professional assessments in order to evaluate the application and its submittals, the cost shall be borne by the applicant.

### **302.6 PDD Procedures**

Application for a Planned Development District constitutes a request for action to amend this Zoning Ordinance in accordance with New Hampshire Law. The application shall be submitted to the Planning Board and shall be signed by the owner or owners of all the lots within the proposed District, provided however that the District may also include existing street, highway, and utility rights-of-way not owned by the applicant. Upon accepting the application as complete for review, the Planning Board shall hold a public hearing and act thereon in the same manner as required for amendment of this Zoning Ordinance. The following requirements are also applicable:

- A. Findings: A PDD may be recommended by the Planning Board only upon finding that the proposed District and Planned Development meet the applicable purposes and criteria of **Par. 302.2** and **302.3** and the special standards of **Par 302.7** and that the District is compatible with the purpose of the town's existing Zoning Ordinance and consistent with the adopted Master Plan for the town.
- B. Adoption: Following a public hearing and action (Recommended or Not Recommended) by the Planning Board, the following procedures shall apply for adoption of a PDD:
  1. If the PDD is recommended by the Planning Board, a simple majority vote of the Legislative Body at a regular annual meeting or at any duly called special meeting shall be required for adoption.
  2. If the PDD is not recommend by the Planning Board, the applicant may petition for adoption of the PDD at a regular annual meeting of the Legislative Body. A simple majority vote of the Legislative Body at a regular annual meeting shall be required for adoption.
  3. Any adopted PDD shall be shown on the Zoning Map with its own PDD number and with reference to town records where the District provisions may be seen.
  4. The applicant may withdraw the application for a PDD any time prior to the printing deadline for the Legislative Body ballot.
- C. Detail Plans: Following adoption of a Planned Development District by the town's Legislative Body, the use, buildings, structures, and site development permitted by the adopted PDD are allowed subject to Planning Board approval of Detailed Plans as follows:

1. Detail Plans for Planned Development within the adopted PDD shall be submitted to the Planning Board for review and/or modification and, following a public hearing, action by the Planning Board.
  2. Detail Plans shall include no less than the information required for Major Site Developments by the Land Development Regulations of the Town of Chesterfield, New Hampshire and shall include additional information, as deemed necessary by the planning board, to assure compliance with both the town approved General Plan and Regulations for the specific PDD.
  3. Detail Plans may be submitted for approval in sections or stages.
  4. The Planning Board shall act on the Detail Plans in the same manner as specified for Major Site Developments in said Land Development Regulations provided however that the following additional requirements are applicable:
    - a. The Detailed Plans, as determined by the Planning Board, shall conform to the PDD Regulations, shall be consistent with the General Plans that are part of such Regulations, and shall conform to the standards of the town's zoning, land development, and building ordinances as those standards may be modified by such PDD Regulations.
- D. Time Limits: The Planning Board, in connection with adoption of a Planned Development District, may specify the time periods within which submission of Detailed Plans and applications for Building Permits shall be made, construction shall commence, and/or the Planned Development shall be completed and a Certificate of Occupancy obtained.
1. If not so specified, the Planned Development shall be completed and a Certificate of Occupancy obtained within five (5) years from the date the District is approved by the town's Legislative Body.
  2. The Planning Board may extend such time period(s) after a public hearing for good cause shown.
  3. In the event of failure to meet such time periods, as the same may be extended, the Planning Board is deemed authorized by the owner(s) of the tract or lot and by the town's Legislative Body to amend this Zoning Ordinance and the Zoning Map, deleting the Planned Development District and establishing in its place the previous zoning district.

### **302.7 PDD Special Standards**

In its review of PDD applications, the Planning Board may apply standards and conditions in the following areas in addition to those found in other sections of this Zoning Ordinance and/or in the Land Development Regulations to the extent it deems necessary to achieve the purposes of this Section:

- A. Architectural Design
- B. Transportation
- C. Site Development
- D. Lighting
- E. Protection of Natural Resources

F. Protection of Cultural Resources

G. Open Spaces

H. Buffers

I. Sound Abatement

J. Odor Control

## ARTICLE IV

### SPECIAL REGULATIONS

#### **400 OFF-STREET PARKING AND LOADING**

After the effective date of this Ordinance, any building erected or enlarged by more than 25 percent of its gross floor area above ground level and any lot used or occupied for any purpose shall comply with the off-street parking and loading requirements set forth herein.

##### **400.1 Required Number of Parking Spaces**

The following number of off-street parking spaces shall be provided on the same lot or on land adjacent thereto.

##### **TYPE OF USE**

##### **NUMBER OF REQUIRED SPACES**

##### **Residential**

Two (2) spaces per dwelling unit, except elderly housing projects may have one (1) space per dwelling unit.

##### **Public and Semi-Public**

\*Churches and other places of public assembly

One (1) space for every 8 seats.

\*Schools

One (1) space for each employee plus one (1) space for each 500 sq. ft. of gross floor area.

\*Day care facilities

One (1) space for each employee plus one (1) space for every five children.

\*Libraries, community

One (1) space for each centers and similar uses employee plus one (1) space for each 800 sq. ft. of gross floor area.

\*Clubs, meeting halls, etc.

One (1) space for each 100 sq. ft. of gross floor area.

\*Museums

One (1) space for each employee or staff member for the maximum number to be onsite and one (1) space for each 500 sq. ft. of gross floor area.

##### **Business Use**

\*Retail sales

One (1) space for every 150 sq. ft. of sales area plus one (1) space for every additional 600 sq. ft. of gross floor area.

\*Outdoor sales such as autos, boats, campers

Number of spaces required for retail sales plus one (1) space for every 3000 sq. ft. of exterior area used to display sales items.

\*Banks, offices and personnel service businesses

One (1) space for each 150 sq. ft. of gross floor area.

\*Beauty parlors, barber shops

1.5 spaces for each work station.

*Doctors offices, clinics,	One (1) space for each employee dentists (including doctors) plus three (3) spaces for each doctor.
*Motels, hotels, tourist homes, lodging houses, bed & breakfast facilities	One (1) parking space for each sleeping unit plus one (1) space per each employee on the largest shift.
*Restaurants	One (1) space for every table plus one (1) space for each employee on the largest shift.
*Service stations	One (1) space for each pump island plus two (2) spaces per each bay.
*Auto repair facilities, body shops	One (1) space for every 200 sq. ft. of gross floor area plus one (1) space for every 1000 sq. ft. of exterior storage space.
*Wholesale establishments, warehouses, storage	One (1) space for every 3000 sq. ft. of gross floor area.
*Other commercial	One (1) space for every 300 sq. ft. of gross floor area, but Planning Board may require more thorough site plan review process.
*Industries	One (1) space for each employee on the largest shift.

**400.2 Off-Street Loading/Unloading**

All commercial and industrial uses shall provide adequate off-street space for deliveries, loading and unloading. Such space shall not occupy the yards established by the setback requirements of this ordinance and shall not be the same space used to satisfy parking requirements.

**401 SIGNS**

**Purpose.** The purpose of this ordinance is to govern the placement and maintenance of signs, promote signs in keeping with the town character, discourage excessive signs by minimizing the number and size of signs, eliminate intrusive sign lighting, and encourage structurally sound and well-maintained signs in the interest of the health, safety and general welfare of the residents of Chesterfield.

**401.1 Setbacks**

Business and home occupation signs may be erected only on the same premises where the business they advertise is conducted and shall be no closer than fifty (50) feet from any side or rear property line and ten (10) feet from any State or Town ROW. This applies to both permanent and temporary signs.

**401.2 Area**

- A. Surface Area Per Sign: No business sign may have a surface area larger than thirty-two (32) square feet per business.
- B. No home occupation sign may have a surface area larger than six (6) square feet.
- C. Signs intended to be seen from two directions (e.g., back- to-back signs erected perpendicular to a lane of traffic) may have thirty-two (32) square feet of surface area visible to each direction of traffic.

- D. Cumulative Signage: No business may have more than a total of sixty-four (64) square feet accumulative of advertising signs intended for exterior viewing (including product and trade signs and disregarding one side of back-to-back signs).
- E. Buildings that contain multiple businesses shall have one directory sign for the building business with a square footage no more than 32 Sq. ft. each side. This calculation will be used in the total cumulative signage allowance for each business. Each business would use the 32 ft of directory signage and then combine that with the attached signage for a sum not to exceed sum stated in D. ADA signs are exempt from calculation.
- F. No business shall have more than one free standing sign, which is to be included in the total allowable sign coverage under sections A. and D. ADA signs are exempt from calculation.
- G. In addition to the cumulative business signage, a single open flag no larger than three feet by five feet may be used with no cumulative effect on total signage allowed.

#### **401.3 Height**

No free standing sign shall extend more than fifteen (15) feet above ground level, and no such sign shall project into or over any public way.

#### **401.4 Illumination**

Illuminated Signs must be downcast lighted, and lit either on the surface by a lamp whose illuminating bulb or tube is shielded from direct view; or by internal means, with an illuminating bulb or tube which is shielded from direct view. Such lighting shall be shielded at its source from abutting streets and nearby properties. Signs shall not contain rotating, flashing, moving or scrolling words, lights or moving parts. Display elements shall not change so as to cause any distraction to the traveling public. Signs shall change no more than twice per day.

#### **401.5 Projecting Signs**

No sign attached to a building shall project above the roof line or wall coping of that building. All such signs shall have a structural review by NH licensed structural engineer before permit issuance.

#### **401.6 Billboards**

Advertising billboards and permanent off-premises signs are not permitted.

#### **401.7 Temporary Off-Premises Signs**

Temporary off-premises signs are permitted subject to the following regulations and restrictions:

- A. A permit issued by the building inspector shall be required for the placement of each off-premises sign. The fee for each permit shall be as determined by the Selectmen. No more than one off-premises sign shall be placed on any parcel of land and no permit holder may have more than two temporary signs at any one time.
- B. Written authorization from the landowner shall be required prior to the issuance of any off-premises sign permit.
- C. The maximum size shall be 16 square feet per side with a two side limit. No sign shall be more than ten feet above grade.



- D. Lighted signs are not permitted.
- E. There shall be a time limit of 120 days for any sign or succession of signs by any permit holder in any calendar year. Agricultural signs shall be exempt from the 120 day limit; they must be renewed on a yearly basis.
- F. Registered non-profit organizations are exempt from the fee, but not the permit process.
- G. Garage sales, yard sales, tag sales and auctions as per Article IV, Section 405 (Garage sales, yard sales, tag sales and auctions are permitted anywhere in Town on the owner's property for a period up to three (3) days in any one year) are exempt from Article IV, Section 401.7. Signage can be erected no Sooner than 24 hours prior to sale date and shall be removed with in 24 hours after sale date.
- H. Trailers and other vehicles with advertising must be currently registered and must be movable. The location of which must be approved by the Code Enforcement Offices to comply with all setback and other zoning policies. Storage trailers and other vehicles that are not registered must have all forms of advertising removed.
- I. Short Duration (less than 2 weeks per year) Signs not associated with a fixed Commercial enterprise are permitted by notification to the Building Inspector and must comply with the limits of 401.7 size and lighting.

**401.8 Temporary On-Premise Sign**

- A. Construction signs: One temporary sign denoting the architect, engineer and/or general contractor placed on the premises where construction, repair, or renovation is proposed or is in progress may be permitted pursuant to the building permit procedures of this division subject to the following:
  - (1) Such signs shall be unlighted and non-illuminated.
  - (2) Such signs shall be a maximum of 16 square feet
  - (3) Only one construction sign shall be permitted per site.
  - (4) Construction sign permits shall expire one year from the date of issuance or on the date that the first certificate of occupancy is issued for the project for which the permit was acquired, whichever occurs first.
- B. B. Temporary promotional signs: Temporary promotional signs on site in connection with the opening of a business, major remodeling under an active building permit, new owner of a business, closure of a business, or sale or special events at a business may be permitted with approval of code enforcement subject to the following:
  - (1) Such signs shall be limited to four (4) events and an aggregate maximum of 42- days per calendar year.
  - (2) Such signs shall be designed as banners or promotional posters.
  - (3) Such signs shall have a maximum total sign area of 24 square feet.
  - (4) No flags or balloons shall be displayed.
  - (5) If a temporary promotional sign is placed in a window or storefront, the temporary promotional sign, together with all other window signs in said window or storefront, shall not cover more than 25 percent of the window area within which they are placed. In calculating the maximum allowable coverage, exempt signs

placed on the window and permanent window signs shall count against the 25 percent cap.

(6) The use of fluorescent, day-glo, and neon colors is prohibited unless such colors are part of a registered trademark.

(7) Employment opportunity signs may be displayed and are exempt from calculation and be a maximum of 24 square feet.

(8) It shall be the sole responsibility of the building or shopping center owner to a) allow the use of such signs; and b) regulate and monitor said use in conformance with these standards

#### **401.9 Non Commercial Signs in residential districts**

1. A single sign of no more than 6 square feet may be located on a residential property and may be located in the front setback if it is no higher than 6' and does not interfere with sightlines or road maintenance.
2. A second sign with the same restrictions is permitted when the property is for sale or rent and for 30 days after upon notification of the building inspector in writing.
3. Signs may be two sided.
4. Street number signs are permitted.

#### **401.10**

All signs must be kept in good repair.

#### **402 HOME OCCUPATIONS**

Definition: A home occupation is a business producing products or services that may be conducted accessory to a dwelling by the resident at that location.

Home Businesses, Professional Uses & Customary Home Occupations, and Home Industries are the three categories of business (including professions and trades) that may be conducted as Home Occupations accessory to a dwelling.

#### **402.1 General Requirements: All Home Occupations are subject to the following requirements:**

1. The activity must be owned and operated by a resident of the dwelling unit.
2. The activity must be clearly incidental and secondary to the primary use of the premises as a residence.
3. The activity must not change the character of the premises or surrounding neighborhood. There shall be no window displays or other features not normally associated with residential use (such as noise, light, dust, fumes and other pollutants or safety and health hazards).
4. Required parking must be accommodated off street, and must be screened from the view of abutters and from public ways (streets or pedestrian ways) utilizing plantings, fencing, and/or topography. When possible, parking areas shall be located at the side or rear of the residence or accessory building.
5. Professional Uses, Customary Home Occupations and Home Industries are not permitted for all properties within the Spofford Lake Shoreland Protected Area.

**402.2 Home Business:** A business, profession or trade which is not allowable as a principal use under the zoning district at that location. A Home Business does not involve more than occasional business vehicle traffic to the property. Examples include, but are not limited to artists, desktop publishers, software developers, craftspeople, small mechanical repairs and

people who work at home and conduct business by mail or electronic communication including walk-in sales associated with these activities.

1. Home business are permitted in Residential, Rural Agricultural, Village and Spofford Lake District without need for a special exception.
2. The activity must be conducted entirely within the residence or accessory building.
3. Not more than two people not residing on the premises shall be employed in the activity at the site.
4. There shall be no exterior displays, no exterior storage of materials or equipment, and no other variations from the residential character of the premises other than a sign in conformance with Section 401 of the Chesterfield Zoning Regulations.
5. Any resident wishing to establish a Home Business may submit a request on the form provided by the Selectmen's Office to the Town's designee for review. If the Town's designee determines that the proposed business is in compliance with the regulations list above, then he/she shall so note and sign the form. No further review by the Zoning Board of Adjustment is required.

**402.3 Professional Uses and Customary Home Occupations:** A business, profession, or trade which is not allowable as a principal use under the zoning district at that location. Professional Uses and Customary Home Occupations involve an increase in traffic for clients, patients, associates, or employees. Examples include, but are not limited to architects, engineers, doctors, dentists, lawyers, accountants, real estate professionals and beauticians.

1. Professional Uses and Customary Home Occupations are permitted in the Residential, Rural Agricultural, and Village District zones by special exception from the Zoning Board of Adjustment.
2. No more than two people not residing on the premises shall be employed in the activity at the site.
3. There shall be no exterior displays, no exterior storage of materials or equipment, and no other variation from the residential character of the premises other than a sign in conformance with Section 401 of the Chesterfield Zoning Regulations.
4. The use shall not generate a significant increase in traffic that is incompatible with the surrounding neighborhood.
5. No more than four parking spaces for clients, patients, non-resident employees, or other business related demands shall be required for the activity.
6. Any resident wishing to establish a Professional Uses or Customary Home Occupation shall submit a **Home Occupation Application** to the Zoning Board of Adjustment for review.

**402.4 Home Industry:** A business or trade which is not allowable as a principal use under the zoning district at the location. A Home Industry need not be entirely enclosed within the structures. Examples include, but are not limited to contractors, construction business and logging businesses.

1. Home Industries are permitted in the Residential, Rural Agricultural and Office, Retail and Services Districts as a special exception by the Zoning Board of Adjustment.
2. No more than 3 people not residing on the premises shall be employed in the activity at the site.
3. The home industry may be conducted in part outdoors, but all such activities and equipment parking and storage shall be permanently screened from public ways and the view of abutters by buffers such as plantings, fences and/or topography. The Zoning board of Adjustment may refer applicants to the Planning Board for review.
4. Exterior displays, exterior storage of materials, storage trailers and other variations from the residential character of the premises must be properly screened. Signs are allowed in conformance with Section 401 of the Chesterfield Zoning Regulations.
5. A Home Industry shall not generate customer or client traffic which adversely affects safety or is excessive for the road(s) providing access.

6. Any resident wishing to establish a Home Industry shall submit a **Home Occupation Application** to the Zoning Board of Adjustment for review.

#### **403 MULTIPLE FAMILY DWELLINGS**

##### **403.1 Minimum Lot Area and Frontage**

No multiple family dwelling or group of multiple family dwellings shall be converted or constructed on a lot of less than five (5) acres and less than 300 feet of frontage.

##### **403.2 Density**

The lot area of a multiple family dwelling lot shall contain at least:

- A. 10,000 square feet for the first bedroom of each dwelling unit on the lot, plus
- B. 5,000 square feet for each additional bedroom on the lot.

##### **403.3 Building Spacing**

All buildings shall be spaced at least seventy five (75) feet apart.

##### **403.4 Dwelling Units Per Building**

No building shall contain more than five (5) dwelling units.

##### **403.5 Buffer**

All lots on which new multiple family dwellings are built shall have a buffer one hundred (100) feet wide on all sides. The composition of the buffer shall be approved by the Planning Board in accordance with its Site Plan Review Regulations.

##### **403.6 Sewage Disposal**

A common sewage disposal area and water supply shall be constructed and maintained by the owners. The design, location and construction of such areas shall be subject to the approval of the NHWSPCC and of the Planning Board.

##### **403.7 Utilities**

All on-site utilities for new multiple-family dwellings shall be underground.

#### **404 SAND AND GRAVEL PITS**

The removal of clay, sod, loam, sand or gravel deposits shall comply with the requirements set forth herein.

##### **404.1 Limits of Excavation**

Excavation shall not be made within 100 feet of any property line, road right-of-way or natural body of water. All area within said 100 feet shall be left undisturbed in its natural state.

##### **404.2 Hours of Operation**

Excavation, handling, processing and trucking of such materials shall not occur between 8:00 p.m. and 7:00 a.m.

#### **404.3 Removal and Regrading**

- A. All excavation, handling, processing and storage facilities shall be removed and all disturbed areas, including entrance roads, shall be regraded or otherwise covered to assure that the premises are left in a safe and sightly condition and protected against erosion by not less than a 2 to 1 slope.
- B. Such removal and regrading or covering shall be done within:
  1. Ninety (90) consecutive calendar days after depletion of the deposit or completion of the work for which the pit was opened; or,
  2. 250 consecutive calendar days after the last use of the pit as a general source of supply.

#### **404.4 Compliance with NH RSA 155-E**

All other requirements of NH RSA 155-E, as amended, shall be complied with.

#### **405 GARAGE SALES**

Garage sales, yard sales, tag sales and auctions are permitted anywhere in Town on the owner's property for a period up to three (3) days in any one year.

#### **406 PENNED ANIMALS AND FOWL**

##### **406.1 Animals**

Animal enclosures of less than 5000 sq. ft. shall not be allowed within twenty (20) feet of any rear or side property lines.

##### **406.2 Manure**

There shall be no storage of manure within twenty (20) feet of any rear or side property lines.

#### **407 FIRE RUINS**

No owner or occupant of land in any district shall permit fire or other ruins to be left, but within one year shall remove or refill the same to clear ground level or shall repair, rebuild or replace the structure.

#### **408 RESTRICTIONS ON INTERMITTENT AND CASUAL USE**

Occupancy of camping trailers, construction trailers, recreational vehicles, automobiles, buses, trucks, vans, tents, and similar vehicles or structures suited or converted for overnight occupancy shall be permitted in every zoning district, but only upon compliance with the following conditions:

1. Each such vehicle or structure shall have adequate and readily accessible toilet, lavatory disposal facilities and kitchen facilities approved by the Town Health Officer.
2. The owner and/or occupant of such vehicle or structure shall comply with all underlying requirements of the Zoning and the Building Ordinances for the district in which said vehicle or structure is located.

Vehicles or structures not suited or converted for overnight occupancy shall not be permitted in any zoning district under any circumstances for overnight occupancy.

The intent of this ordinance is not to limit or prohibit intermittent or casual use of mentioned vehicles, but it is intended to control longer term or permanent occupancy of mentioned vehicles.

On lots without a dwelling unit the intermittent or casual use shall not exceed 180 days in any 365-day period starting with the first day of the intermittent or casual use. For lots with a dwelling unit the intermittent or casual use shall not exceed 30 days in any 365-day period starting with the first day of the intermittent or casual use.

## 409 TELECOMMUNICATIONS FACILITIES

### 409.1 AUTHORITY

This Land Use Ordinance is adopted by the Town of Chesterfield, NH on January 8, 2001 in accordance with the authority granted by the New Hampshire Revised Statutes Annotated 674:16 and 21.

### 409.2 PURPOSE

These regulations have been enacted in order to establish general guidelines for the siting of towers and antennas. They are intended to be consistent with state and federal law and in particular The Telecommunications Act of 1996 in that: a) they do not prohibit or have the effect of prohibiting the provision of Telecommunications Facilities; b) they are not intended to be used to unreasonably discriminate among providers of functionally equivalent Services; c) they do not regulate Telecommunications Facilities on the basis of environmental effects of radio frequency emissions to the extent the regulated Services and facilities comply with the FCC's' regulations concerning such emissions. A finding that a particular portion of this Ordinance is not in accordance with any state or federal law shall only affect the validity of that portion or section.

They are intended to enhance and fulfill the following goals:

- A. Preserve the authority of the Town of Chesterfield, NH to regulate and provide for reasonable opportunity for the siting of telecommunications facilities.
- B. Enhance the ability of providers of telecommunications services to provide such services to the community effectively and efficiently.
- C. Reduce the adverse impacts such facilities may create on, including, but not limited to: migratory bird flight corridors, impacts on aesthetics, environmentally sensitive areas, historically significant locations, health and safety by injurious accidents to person and property, and diminution of property values.
- D. Preserve unique viewsheds and scenic values.

Temporary Facilities, as defined in Section III:L, are exempt from this regulation

### 409.3 DEFINITIONS

- A. **Antenna:** Means any apparatus designed for telephonic, radio, television, personal communications service, pager network, or any other communications through the sending and/or receiving of electromagnetic waves of any bandwidth.
- B. **Antenna Array:** A collection of antennas attached to a mount to send and receive radio signals.
- C. **Average Tree Canopy Height:** Means the average height found by inventorying the height above ground level of all trees over 20 feet in height for a radius of 150 feet.
- D. **Carrier:** A Company that provides Telecommunications Facilities also sometimes referred to as a provider.
- E. **Collocation:** The use of a single mount on the ground by more than one carrier (vertical collation) or the same carrier with multiple licenses, and/or the use of several mounts on an existing building or structure by more than one carrier or the same carrier with multiple licenses.

- F. **Environmental Assessment (EA)** An EA is a document required by the Federal Communications Commission (FCC) and the National Environmental Policy Act (NEPA) when a personal wireless service facility is placed in certain designated areas
- G. **Fall Zone:** The area on the ground from the base of a ground mounted tower that forms a circle with a diameter equal to twice the height of the facility, including any antennas or other appurtenances. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.
- H. **Height:** The height above ground level (AGL) from the natural grade of a site to the highest point of a structure.
- I. **Security Barrier:** A wall, fence, or berm that restricts an area from unauthorized entry or trespass
- J. **Separation:** The distance between one carrier's array of antennas and another carrier's array.
- K. **Telecommunications Facilities:** Means any antenna, tower, or other structure intended for use in connection with the transmission or reception of radio or television signals or any other electromagnetic spectrum-based transmission/receptions.
- L. **Temporary Facility:** Any tower, pole, antenna, etc., designed and intended for temporary testing purposes for use while a permanent facility is under construction or being repaired or for a temporary special event or conference.
- M. **Tower:** Means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas.

#### **409.4 LOCATION OF TELECOMMUNICATIONS FACILITIES**

Telecommunications facilities may be permitted in all districts, provided that they are camouflaged, hidden or disguised. The Planning Board will determine which proposed camouflage method is most suitable to the location and will make the facilities less visible.

#### **409.5 PERMITTED USES**

- A. **Principal or Secondary Use.** Telecommunications facilities may be considered either principal or secondary uses. Having an existing-permitted use on site shall not preclude the addition of a facility as a Secondary Use as long as all other provisions of the Ordinance are met. A different existing use or an existing structure on the same lot shall not preclude the installation of a facility on such lot. For purposes of determining whether the installation complies with district development regulations, including but not limited to setback and lot coverage requirements, the dimensions of the entire lot shall control, even though the facility may be located on leased parcels within such lots. Facilities that are installed in accordance with the provisions of this Ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure. Any alteration of the original permitted Telecommunications Facility and device configuration of the facility will require a new approval.
- B. **Amateur Radio; Receive-Only Antennas.** This Ordinance shall not govern any tower, or the installation of any antenna that is under **70** feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive-only antennas. This Ordinance adopts the provisions and limitations as referenced in RSA 674:16,IV.



- C. **Essential Services & Public Utilities.** Telecommunication facilities shall not be considered infrastructure, essential services, or public facilities, as defined or used elsewhere in the Town's ordinances and regulations. Siting for telecommunications is a use of land, and is addressed by this Section.

**409.6: CONSTRUCTION PERFORMANCE REQUIREMENTS**

- A. **Federal Requirements.** All facilities must meet or exceed current standards and regulations of the FAA, FCC, and any other agency of the federal government with the authority to regulate such facilities. If such standards and regulations are changed, the owners of facilities governed by this Ordinance shall bring these into compliance within six (6) months of the effective date of the changes, unless a more stringent compliance schedule is mandated by the controlling federal agency. Failure to bring facilities into compliance with any changes shall constitute grounds for the removal of the tower or antenna at the owner's expense, in accordance with Section X through the execution of the posted security.
- B. **Building Codes/Safety Standards.** To ensure the structural integrity of towers and antennas, all facilities must be maintained in compliance with standards contained in applicable local building codes and the applicable standards for towers that are published by the Electronic Industries Association. If, upon inspection, the Town concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, the owner will receive notice that he/she has 30 days to bring such tower into compliance with the standards. If the owner fails to comply within 30 days, such action shall constitute an abandonment and grounds for the removal, in accordance with Section X, of the tower or antenna, at the owner's expense through execution of the posted security.
- C. **Additional Requirements for Telecommunications Facilities.** These requirements shall supersede any and all other applicable standards found elsewhere in Town Ordinances or Regulations that are less strict.
1. **Height.** Any new Telecommunication Facility structure may not be higher than **100** feet in open areas, or **20** feet above the average tree canopy in forested locations.
  2. **Fall Zone for Ground Mounts:** In order to ensure public safety, the minimum distance from the base of any ground-mount of a telecommunications facility to any property line, public road, habitable dwelling, business or institutional use, or public recreational area shall be, at a minimum, the distance equal to the fall zone, as defined in this Article. The fall zone may cross property lines, so long as the applicant secures a fall zone easement from the affected property owner(s). The area of the easement shall be shown on all applicable plans submitted to the Town, and the terms of the easement shall be provided as part of the site plan review.
  3. **Fall Zone for Non-Ground Mounts:** In the event that an existing structure is proposed as a mount for a personal wireless service facility, a fall zone shall not be required, but the setback provisions of the zoning district shall apply. In the case of pre-existing non-conforming structures, personal wireless service facilities and their equipment shelters shall not increase any non-conformities
  4. **Setbacks and Separation.** In addition to compliance with the minimum zoning district setback requirements for all structures, ground mounted towers shall be set back a distance equal to **125%** of the height of the tower from any non-related on-site structure, or off-site structure **within 200** feet.

5. Security Fencing. Towers shall be enclosed by security fencing not less than six (6) feet in height and shall also be equipped with an appropriate anti-climbing device. Fences shall not extend into setbacks as defined in the underlying zoning district.
6. Equipment Shelters for Telecommunications Facilities shall be designed consistent with one of the following design standards:
  - a. Equipment shelters shall be designed so that the shelters are architecturally consistent, with respect to materials and appearance, to the buildings in the area of the personal wireless service facility; or
  - b. Equipment shelters shall be camouflaged behind an effective year-round landscape buffer, equal to the height of the proposed building, and/or wooden fence. The Planning Board shall determine the style of fencing and/or landscape buffer that is compatible with the neighborhood; or
  - c. If mounted on a rooftop, the equipment shelter shall be concealed or camouflaged so that the shelter either is not visible at grade or appears to be a part of the original structure.
7. Landscaping.
  - a. A buffer shall be provided that effectively screens the view of the compound from adjacent residential property. The standard buffer shall consist of a landscaped strip at least **10** feet wide outside the perimeter of the compound. Natural vegetation is preferred.
  - b. In locations where the visual impact of the compound would be minimal or non-existent, the landscaping requirement may be reduced or waived entirely.
  - c. Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large wooded lots, natural growth around the property may be deemed a sufficient buffer.
8. Lighting.
  - a. No tower is permitted that requires obstruction marking or lighting. No sky glow or visible light beyond the property boundaries is allowed.
9. Camouflaging.
  - a. At a tower site, the design of the buildings and related structures shall, to the maximum extent possible, use materials, colors, textures, screening, and landscaping that will blend the tower facilities with the natural setting and built environment.
  - b. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment visually unobtrusive.
10. Balloon Test. The applicant shall provide balloon tests and notice of a date on which a balloon (or balloons) will be floated at the proposed site. At least one balloon must float at the maximum height shown on the application. The

applicant will provide pictures from designated locations around town and within 20 miles from which the balloon(s) is visible.

11. A plan shall be submitted indicating methods to mitigate adverse impacts on migrating bird populations.

#### **409.7 CONDITIONAL USE PERMITS**

- A. **General.** Telecommunications Facilities are permitted only after obtaining a Conditional Use Permit from the Planning Board. All such uses must comply with other applicable ordinances and regulations of the Town of Chesterfield, NH.
- B. **Issuance of Conditional Use Permits.** In granting the Conditional Use Permit, the Planning Board may impose conditions to the extent the Board concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties, and preserve the intent of this Ordinance.
  1. Procedure on Application.
    - a. The Planning Board shall act upon the application in accordance with the procedural requirements of the Town of Chesterfield Land Development Regulations and RSA 676:4.
    - b. All towns within 20 miles of the proposed location will be notified of the public hearing, by certified mail, to be paid by the applicant.
  2. Decisions. All decisions shall be rendered in writing. A denial must be based upon substantial evidence contained in the written record.
- C. **Plan Requirements.** Each applicant requesting a Conditional Use Permit under this Ordinance shall submit a scaled plan showing or accompanied by the following information:
  1. Title block that shows the name of the development or project.
  2. North arrow, date of plat, scale; name, address and seal of all persons preparing the plat.
  3. Signature block for Planning Board endorsement.
  4. Vicinity sketch and zoning district(s).
  5. Total area of the parcel in acres and square feet.
  6. Lot frontage.
  7. Boundary lines with dimensions and bearings.
  8. Tax map and lot numbers.
  9. Locations and descriptions of any existing or proposed easements, deed restrictions, or covenants.
  10. Physical features on the site and within 200 feet of the site.
  11. Soil information based on the Cheshire County Soil Survey.
  12. All natural features, such as streams, ponds, wetlands, etc.
  13. Existing and proposed grades and contours, and base flood elevations.

14. Shape, size, height, location and use of existing and proposed structures on the site.
15. Existing buildings and structures within 500 feet of the site.
16. Access to the site, with location and width of existing and proposed driveways.
17. A driveway permit granted from either the NH DOT or the Town of Chesterfield, NH.
18. Locations, names, right-of-way and travel widths of any existing and proposed roads on the property and within 200 feet of the site.
19. Final road profiles and cross sections for any new roads.
20. Locations and sizes of all electric and telephone lines on the site.
21. Existing and proposed fire hydrants and/or fire ponds.
22. Existing and proposed methods of handling stormwater runoff, and the direction of the flow indicated by arrows.
23. Sizes and locations of all stormwater drainage lines, catch basins, drywells, drainage ditches, retention basins, and culverts.
24. Location, types, and sizes of all existing and proposed landscaping and screening.
25. Location of all proposed lighting.
26. Location and graphic of proposed signage.

D. **Other Information Required.** In order to assess compliance with this Ordinance, the Planning Board shall require the applicant to submit the following prior to any approval by the Board:

1. Propagation map showing proposed radio frequency coverage.
2. Photographic documentation of the balloon test(s).
3. The applicant shall submit written proof that the proposed use/facility complies with the FCC regulations on radio frequency (RF) exposure guidelines.
4. The applicant shall submit written proof that it has conducted an evaluation of any requirements of the National Environmental Policy Act (NEPA) pertaining to the proposed facility, as may be required under applicable FCC rules, and the results of any such evaluation. If an Environmental Assessment (EA) or an Environmental Impact Statement (EIS) is required under the FCC rules and/or NEPA, the applicant shall submit the EA or EIS to the Board prior to the beginning of the federal 30-day comment period; the Town proceedings with respect to the proposed facility shall become part of the FCC application requirements.
5. If the applicant is proposing to build a new tower, written evidence will be submitted demonstrating that no existing structure can accommodate the applicant's proposed antenna. The evidence may consist of substantial evidence that:
  - a. no existing towers or structures are located within the geographic area required to meet the applicant's requirements;

- b. the applicant can demonstrate other limiting factors that render existing towers and structures unsuitable; and
6. The applicant will provide the Board with the following information:
  - a. the number of sites for wireless telecommunication facilities each provider will require;
  - b. sites outside of the Town for the particular coverage area that are being considered;
  - c. how the siting of a wireless telecommunication facility will affect the ability to allow a competitor's antennas on the same property;
  - d. whether any of the wireless telecommunications carriers providing service to southwestern New Hampshire use the system known as cable micro-cell integrator/headend interface converter ("CMI/HIC") which utilizes cable television lines and small transceivers mounted on utility poles to communicate with wireless telephones; and
  - e. whether there are any such carriers using CMI/HIC in surrounding cities and towns;
7. The applicant will provide the Board with studies of alternative siting for the towers under consideration.
8. The applicant shall submit an agreement with the Town that allows for the maximum allowance of co-location upon the new structure. Such statement shall, at a minimum, require the applicant to supply available co-location for reasonable fees and costs to other wireless telecommunication providers. An opportunity for co-location is not to be considered a sole justification for increased tower height. Co-location opportunities shall also not exclude the investigation of alternative sites.
9. The applicant will provide the Board with any copies of the federal license from the FCC proving that they, or their contracted client, are eligible to deploy their systems under the Federal Telecommunications Act of 1996. If the applicant is not a carrier, start of construction at any Telecommunication Facility site shall be contingent upon written confirmation of at least one lease contract with a bona fide carrier.
10. Upon request, the applicant will provide:
  - a. detailed maps showing all of the carrier's current visible tower locations within a 20-mile radius, both active and inactive; and
  - b. site descriptions for each of the above locations showing the antenna height and diameter, and all externally visible structures.
11. The applicant will submit an agreement to the Town to the effect that the Town will be held harmless for losses due to fire or other reasons not caused by the Town.

#### **409.8: WAIVERS**

- A. **General.** Where the Planning Board finds that extraordinary hardships or practical difficulties would result from strict compliance with the foregoing regulations or the purposes of these regulations may be served to a greater extent by an alternative proposal, it may approve waivers to these regulations. The purpose of granting waivers under provisions of these regulations shall be to insure that Town objectives are better served by granting a

waiver and that an applicant is not unduly burdened as opposed to merely inconvenienced by said regulations.

- B. The Planning Board shall not approve any waiver(s) unless a majority of those present and voting shall find that both of the following apply:
1. The granting of the waiver will not be detrimental to the public safety, health or welfare or injurious to other property and will not be contrary to the public interest.
  2. A particular and identifiable burden exists or a specific circumstance warrants the granting of a waiver. Factors to be considered in determining action shall include, but not be limited to:
    - a. topography and other site features;
    - b. availability of alternative site locations;
    - c. geographic location of property; and
    - d. Size/magnitude of project being evaluated and availability of co-location.
- C. **Conditions.** In approving waivers, the Board may impose such conditions as it deems appropriate to substantially secure the objectives of the standards or requirements of these regulations.
- D. **Procedures.** A petition for any such waiver shall be submitted in writing by the applicant for Board review. The petition shall state fully the grounds for the waiver and all of the facts relied upon by the applicant.

#### **409.9 MONITORING AND MAINTENANCE**

- A. **Maintenance.** The owner of the facility shall maintain the telecommunications facility in good condition. Such maintenance shall include, but shall not be limited to, painting, structural integrity of the mount and security barrier, and maintenance of the buffer areas and landscaping, including assuring that access roads are kept clear for fire and public works access.
- B. **Monitoring.** The applicant shall submit a statement that the proposed facility will not exceed the FCC guidelines for Maximum Permissible Exposure (“MPE”) levels for radio frequency (non-ionizing) radiation. Upon completion of construction and prior to regular use, and annually thereafter, the applicant shall certify that the facility meets the applicable FCC MPE guidelines for radio frequency (non-ionizing) radiation. The Board may require, where applicable and allowed by federal law, site testing, at the applicant’s expense, to demonstrate compliance. Such testing shall utilize methods in accordance with national Council on Radiation Protection and Measurement Reports 86 and 119, FCC Office of Engineering & Technology Bulletin 65, relevant decisions at the FCC web site ([www.fcc.gov/oet/rfsafety](http://www.fcc.gov/oet/rfsafety)) and Rules & Regulations specified in 47 C.F.R. Part – Practice and Procedure, Subpart 1-Procedures Implementing the National Environmental Policy Act of 1969. The Board may, at its discretion and in compliance with FCC policy, allow worst-case calculations by a qualified radio frequency engineer in lieu of actual measurements. Compliance certification by a site user, since it will demonstrate compliance of all emitters at the site, may be submitted on behalf of all collocated facilities provided there is annual demonstration of compliance. Financial responsibility shall be in accordance with MPE compliance responsibility outlined in FCC policy related to collocation sites

#### **409.10 BONDING AND SECURITY INSURANCE**

- A. The Planning Board shall also require the applicant to submit proof of appropriate liability insurance with respect to the proposed facilities prior to construction. The applicant shall provide to the Town, in the form of a bond from an AM Best “A” rated company, an irrevocable letter of credit or cash in an amount that would be sufficient to cover the costs of removal and disposal of the facility components. The Planning Board shall set the amount of the security. The amount of the security will be based upon the removal cost times five.
- B. The security shall be in place until the Tower is removed. In addition, the Board shall require an independent engineering assessment in order to set the amount of the security, the cost of which shall be borne by the applicant.

**409.11 REMOVAL OF ABANDONED ANTENNAS AND TOWERS**

- A. **Notification.** At such time that a carrier plans to abandon or discontinue operation of a personal wireless service facility, such carrier will notify the Town by certified U.S. mail of the proposed date of abandonment or discontinuation of operations.
- B. **Removal.** Upon abandonment or discontinuation of use, the owner of the facility shall physically remove the personal wireless service facility within ninety (90) days from the date of abandonment or discontinuation of use. “Physically remove” shall include, but not be limited to:
  - 1. Removal of antennas, mount, equipment shelters and security barriers from the subject property.
  - 2. Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.
  - 3. Restoring the location of the telecommunications facility to its original condition, except that any landscaping and grading shall remain.
- C. **Failure to Remove** – If the owner of the facility does not remove the facility upon the Town’s Board of Selectmen’s order, then the Town’s Board of Selectmen shall, after holding a public hearing with notice to the owner and abutters, issue a declaration of abandonment.

The owner of the facility shall dismantle and remove the facility within ninety (90) days of receipt of the declaration of abandonment by the Board of Selectmen. If the abandoned facility is not removed within ninety (90) days, the Town may execute the security to pay for this action.

If there are two or more users of a single tower, this provision shall not become effective until all users cease using the telecommunication facility.

**410 JUNKYARDS**

The purpose of the junkyard ordinance is to regulate excessive storage of unregistered and/or inoperable vehicles, storage of inoperable appliances, machinery and/or the storage of parts and/or refuse materials of such items. The intent of the ordinance is to create a balance between a property owner’s right to store materials on his/her property while safeguarding the environment, public safety, health, welfare and property values.

**410.1 DEFINITIONS**

Appliance – An instrument or device designed for a particular household use including such items as stoves, refrigerators, freezers washing machines, dryers, dishwashers, fans, and air conditioners.

Inoperable – Incapable of being used for its intended purpose.

Machinery – A mechanical device or mechanized equipment.

Operable – Being such that the intended use or operation is possible.

Unregistered Vehicle – An operable vehicle lacking current license or registration.

#### **410.2 REQUIREMENTS AND RESTRICTIONS**

- A. Residential landowners are allowed up to two (2) unregistered vehicles within view of any abutter or public right-of-way provided the vehicles are operable and do not pose adverse effects to the environment or public safety.
- B. Landowners maintain their rights to keep additional unregistered vehicles or inoperable vehicles on the property provided the vehicles are owned by the landowner, not for commercial endeavors unless the use is allowed on the property, and are kept out of view of the public and abutters by means of storage inside a permanent structure, suitable fencing, or trees and/or shrubbery that sufficiently block visual access year round. These vehicles shall be stored in a manner which does not pose adverse effects to the environment or public safety.
- C. Inoperable appliances and machinery and/or parts or refuse materials shall be disposed of in an appropriate manner or kept out of view of the public and abutting property owners. The landowner shall ensure these materials do not adversely effect the environment, public safety or property values.
- D. The provisions of this article do not apply to agricultural farming activities provided *the landowner can demonstrate to the Code Enforcement Officer that* the property is currently used for agricultural purposes and that the vehicle, machinery, and/or parts can be used or repaired for use on the property.

#### **411 SEASONAL USE DWELLINGS**

Any dwelling that is occupied less than nine consecutive months in any calendar year without all of the following shall be deemed a seasonal use dwelling:

Indoor plumbing with a NHDES approved septic system  
Potable year-round water supply  
Kitchen with stove, sink and refrigerator  
Adequate heating system  
Adequate wall and ceiling insulation  
Frost-proof foundation

Any dwelling being converted from seasonal use to year-round must meet all of these conditions and be approved by the Chesterfield Code Enforcement Officer.



ARTICLE V  
NON-CONFORMITIES

**500 GENERAL**

At the time this ordinance takes effect, all lawful lots, buildings, structures and uses, which would not be otherwise allowed in the district where the same is located by the terms of this ordinance, are declared to be non-conforming and shall be subject to the regulations set forth herein. All lawful non-conforming lots, buildings, structures and uses when this ordinance takes effect may continue indefinitely in their present use. Nothing in this ordinance shall be deemed to make legal an existing lot, building, structure or use that was not legal at the time of enactment of this ordinance.

**501 NON-CONFORMING LOTS OF RECORD**

In any district in which single family detached dwellings are permitted, such a dwelling and customary accessory buildings may be erected on a vacant lot which was a lawful lot of record as of the date of the zoning regulations making said lot non-conforming. Such buildings may be erected even though the lot does not conform to the area or frontage requirements of this ordinance.

**501.1 Yard Dimensions**

The applicable district requirements for yard dimensions and other requirements not involving area or frontage shall still apply to non-conforming lots of record.

**501.2 Septic System Requirements**

No structure or building shall be erected on a non-conforming lot of record unless the septic system requirements of both the State of New Hampshire and the Town are complied with.

**502 NON-CONFORMING USES**

Lawful uses of land, structures or buildings existent at the effective date of this ordinance may be continued as non-conforming uses so long as they remain lawful, provided that:

**502.1 Expansion**

No such non-conforming use shall be enlarged, increased or extended more than twenty-five percent (25%) (in area of development, land coverage or land use).

**502.2 Change to Another Non-Conforming Use**

If no structural alterations are made, any non-conforming use of a building, structure or land may be changed to another non-conforming use upon approval by the Board of Adjustment, after duly held public hearing, provided that the Board of Adjustment makes a specific finding that the proposed non-conforming use is equally or more appropriate to the district than the existent non-conforming use. In granting approval, the Board of Adjustment may require appropriate conditions and safeguards in accord with the provisions of this Ordinance.

### **502.3 Replacement With Permitted Use**

Any building, structure, or land in or on which a non-conforming use is replaced by a permitted use shall thereafter conform to the regulations for the district in which such structure is located, and the non-conforming use may not thereafter be resumed.

### **502.4 Abandonment, Discontinuance, Destruction**

Any and all non-conforming uses of land, buildings or structures which are abandoned, discontinued or vacated or which are partially or wholly destroyed by reason of any cause whatsoever, including obsolescence, fire, explosion, storm, or other acts of God, may be resumed or restored and operated in their former non-conformity if same is done within one (1) year thereafter. The replacement uses (or buildings and structures, if applicable) must be in the same location, and of the same dimensions as before the damage, unless change of location or dimensions would make the replacement more conforming.

## **503 NON-CONFORMING BUILDINGS AND STRUCTURES**

Where lawful buildings or structures exist at the effective date of this Ordinance which could not be built under the terms of this Ordinance by reason of restrictions on the lot coverage, height, yard, location on the lot or other requirements concerning the building or structure, such buildings or structures may be continued as non-conforming buildings or non-conforming structures, so long as they remain lawful, provided that:

### **503.1 Expansion**

Expansion of non-conforming parts of buildings or structures is not allowed. Those parts of any building or structure which are conforming may be expanded provided the expansion is conforming and the use is not changed. For example, if a non-conforming building encroaches into a yard area established by this ordinance, the bulk of the building within the yard area shall not be expanded at all, either vertically or horizontally, within such yard area.

If buildings, structures, and other impervious surfaces are nonconforming due to excessive lot coverage, no part of building/structures/impervious surfaces may be expanded either horizontally or vertically regardless of whether building/structure/etc. is in or out of any setbacks.

### **503.2 Abandonment, Discontinuance, Destruction**

Any non-conforming building or non-conforming structure which is abandoned or vacated or which is partially or wholly destroyed by reason of any cause whatsoever, including obsolescence, fire, explosion, storm, tides, or other acts of God, may be resumed or restored and operated in its former non-conformity if same is done within one (1) year. If possible, the replacement of the building or structure shall conform to the requirements of this Ordinance with which it previously did not conform, as well as to all other requirements with which it did conform. Otherwise, the replacements shall be in the same location and of the same dimensions as before the damage occurred, unless change of location or dimensions would make the replacement less non-conforming.

## ARTICLE VI

### BOARD OF ADJUSTMENT

#### **600 ESTABLISHMENT OF BOARD OF ADJUSTMENT**

The Board of Adjustment, as established, is hereby continued as such. The word "Board" when used in this section shall be construed to mean the Board of Adjustment.

##### **600.1 Membership**

The Board shall consist of five (5) members appointed by the Selectmen, each to be appointed for three (3) years. The terms shall be arranged so that no more than two (2) appointments occur annually. No person holding the office of Selectmen shall serve on this Board.

##### **600.2 Alternate Membership**

The Selectmen shall appoint not more than five (5) alternate members to the Board.

##### **600.3 Meetings**

Regular and special meetings of the Board shall be held at the call of the chairman or of a majority of the members of the Board at such time as the chairman or majority of the members of the Board may determine. The presence of three (3) members shall be necessary for a quorum.

##### **600.4 Organization**

- A. Rules of Procedure: As required by NH RSA 676:1, the Board shall adopt Rules of Procedure.
- B. Minutes: The secretary shall keep minutes of the proceedings, showing the vote of each member upon every question or, if absent or failing to vote, indicating the fact.
- C. Annual Election of Officers: The Board shall annually elect a Chairman, Vice-Chairman and Secretary.

#### **601 POWERS AND DUTIES**

The powers and duties of the Board shall be as prescribed by NH RSA 674:33, as amended. The powers and duties are:

##### **601.1 Administrative Appeals**

To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by any administrative official in the enforcement of this ordinance. In exercising this power, the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order or decision as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken. An appeal stays all proceedings under the action appealed from unless the officer from whom the appeal is taken certifies to the Board, after notice of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by the Superior Court on notice to the officer from whom the appeal is taken and cause shown.

##### **601.2 Variances**

To authorize upon appeal in specific cases variances from the terms of this ordinance. No variance shall be granted unless each of the following conditions are met:

- A. Denial of the variance would result in unnecessary hardship for the property owner seeking it.
- B. The granting of the variance will not be contrary to the spirit and intent of the ordinance.
- C. The variance is in the public interest.
- D. Denial of the variance would result in injustice.
- E. The variance will not diminish the values of surrounding properties.

Substantial completion of any construction work involved with the variance must be completed within 2 years of the time of variance authorization or such variance will lapse, unless an extension has been previously requested. Satisfaction of the requirements for such substantial completion shall be determined by the code enforcement officer.

### **601.3 Special Exceptions**

To hear and decide special exceptions to the terms of the zoning ordinance upon which such Board is required to pass under such ordinance. In passing upon any application for a special exception, the Board shall make each of the following findings:

- A. The special exception is specifically authorized by Article II of this ordinance.
- B. The proposed use will not be injurious or detrimental to the neighborhood.
- C. Any special conditions required by Article II, Article III, Article IV or Article V will be complied with.
- D. The proposed use will not make an excessive demand on municipal services.
- E. The proposed use will not generate traffic volumes that will overburden existing roads and streets.
- F. The proposed use will not have an adverse impact on the natural environment.

### **601.4 Building Code Board of Appeals**

The Board of Adjustment shall also be the Building Code Board of Appeals. The Building Code Board of Appeals shall have the power upon an appeal filed with it by any person aggrieved by a decision of the Building Inspector dealing with the Building Code to vary the application of any provision of the Building Code to any particular case when in its opinion, the enforcement of the Building Code would do manifest injustice and would be contrary to the spirit and purpose of the Building Code and the public interest.

## **602 APPLICATIONS**

Applications to the Board for an administrative appeal, variance or special exception shall be made on forms provided by the Board in compliance with procedures established by the Board.

- A. Fees: The application shall be accompanied by whatever fees are required by the Board to defray its costs.

- B. Plans and Information: The application shall be accompanied by whatever plans and other information are required by the Board.
- C. Posting of Procedures: The Board shall post its application procedures, fees and informational submittal requirements in a public place and file the same with the Town Clerk.

### **603 HEARINGS AND NOTICE**

The Board shall hold a public hearing on each application.

#### **603.1 Abutters Notice**

The applicant and all abutters shall be notified of the public hearing by certified mail. Such notice shall be given not less than five (5) days nor more than thirty (30) days before the date of the hearing.

#### **603.2 Public Notice**

A public notice of the hearing shall be posted in two public places and shall be published in a newspaper of general circulation in Chesterfield not less than five (5) nor more than thirty (30) days before the date of the hearing.

### **604 HEARING PROCEDURE**

All hearings shall be conducted in accordance with the Rules of Procedure adopted by the Board.

#### **604.1 Witnesses**

The Chairman shall have the power to administer oaths and compel the attendance of witnesses.

#### **604.2 Testimony**

The Board shall hear all abutters who desire to testify and all nonabutters who can demonstrate that they are affected directly by the application under consideration. The Board may hear such others as it deems appropriate.

#### **604.3 Burden of Persuasion**

The applicant bears the burden of introducing sufficient evidence, through testimony or otherwise, to persuade the Board that the application should be granted.

#### **604.4 Conflicts of Interest**

No member of the Board shall sit upon the hearing of any question which the Board is to decide in a judicial capacity if that member would be disqualified for any cause to act as a juror upon the trial of the same matter in any action at law. Reasons for disqualification do not include exemption from service as a juror or knowledge of the facts involved gained in the performance of the member's official duties. If a member is disqualified or unable to act in any particular case pending before the Board, the chairman shall designate an alternate to act in his place.

#### **604.5 Joint Hearings With Planning Board**

In accordance with NH RSA 676:2, as amended, the Board of Adjustment and the Planning Board may hold joint meetings and hearings when the subject matter of an application is within

the responsibilities of both Boards. Each Board shall be responsible for rendering a decision on the subject matter which is within its jurisdiction.

## **605 DECISIONS OF THE BOARD**

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

### **605.1 Majority Vote**

The concurring vote of three (3) members of the Board shall be necessary to reverse any action of the administrative official or to decide in favor of the applicant or any matter on which it is required to pass.

### **605.2 Special Conditions**

In granting any appeals, variances or special exceptions, the Board may attach whatever conditions it deems necessary to the approval decision in order to assure compliance with the purposes of this ordinance.

### **605.3 Issuance of Decision**

- A. **Written Decisions:** The Board shall issue a final written decision which either approves or disapproves an application. If the application is not approved, the Board shall provide the applicant with written reasons for the disapproval.
- B. **Filing of Decisions:** Whenever the Board issues a decision, it shall be placed on file with the Town Clerk and made available for public inspection within 72 hours after the decision is made.

## **606 REHEARINGS AND APPEALS**

As provided by NH RSA 677:2, as amended, within 30 days after any order or decision of the Board, any party to the action or proceeding or any person directly affected by it may apply for a rehearing.

The Board shall either grant or deny a rehearing within thirty (30) days of receiving the request or may suspend the order of decision complained of pending further consideration. Appeals to the NH Superior Court may be taken pursuant to NH RSA 677:4, as amended, within thirty (30) days after the action complained of has been recorded.

## ARTICLE VII

### ADMINISTRATION AND ENFORCEMENT

#### **700 ADMINISTRATION AND ENFORCEMENT RESPONSIBILITY**

It shall be the responsibility of the Building Inspector to administer and enforce this ordinance.

#### **701 BUILDING PERMITS**

No building permit shall be issued for a use, structure or building that does not conform to the requirements of this zoning ordinance.

#### **702 OCCUPANCY PERMITS**

No occupancy permit shall be issued for a use, structure or building that does not conform to the requirements of this zoning ordinance.

#### **703 ENFORCEMENT**

##### **703.1 Duty of Building Inspector to Enforce**

It shall be the duty of the Building Inspector, upon any well founded information or upon complaint, to take any appropriate action or institute any legal proceedings necessary to prevent any unlawful use or development of any land, building, structure, or premises in violation of any provision of this Ordinance.

##### **703.2 Cease and Desist Orders**

The Building Inspector may issue violation and cease and desist orders personally, or by Town Counsel. The Building Inspector may take all actions deemed necessary by them to enforce this ordinance or to prevent violations thereof.

##### **703.3 Injunctive Relief**

In addition to other remedies provided by law, the Building Inspector, Selectmen or Town Counsel may institute injunction, mandamus, abatement, and cease and desist orders permitted by RSA 676:17-a, as amended, (i.e., Chapter 237 of the Laws of 1991), and any other appropriate action or proceeding to prevent or abate or remove erections, construction, alterations or reconstructions that are in violation of this ordinance.

##### **703.4 Penalties**

Any person who violates this ordinance shall be subject to RSA 676-17.

## ARTICLE VIII

### AMENDMENT, CONFLICTS, SEVERABILITY AND EFFECTIVE DATE

#### **800 AMENDMENT**

This Ordinance may be amended from time to time as prescribed in NH RSA Chapter 675 or as prescribed by any statute amending, revising or replacing Chapter 675.

#### **801 CONFLICTS**

In interpreting and applying the requirements of this ordinance, they shall be held to be minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity, or general welfare. Where they are in conflict with other local, state or federal requirements, the stricter requirement shall govern. It is not intended that this ordinance interfere with, abrogate or annul any easements, covenants or other private agreements, provided that, where this ordinance imposes a greater restriction or higher standard than an easement, covenant or private agreement, the requirements of this ordinance shall govern.

#### **802 SEVERABILITY**

Should any section or provision of this ordinance be held to be invalid or unconstitutional by any court or authority of competent jurisdiction, such holding shall not affect, impair or invalidate any other section or provision of this ordinance, and to such end all sections and provisions of this ordinance are declared to be severable.

#### **803 EFFECTIVE DATE**

This ordinance shall take effect upon its passage, and shall thereupon supersede all prior zoning ordinances of the Town of Chesterfield.



# APPENDIX A

## DEFINITIONS

For the purpose of this ordinance, the words listed in this appendix are as defined herein. Further, for this ordinance the present tense includes the future; the singular number includes the plural, and the plural the singular; the word "used" includes the words "designed, arranged, or intended to be used"; the word "person" includes an individual, partnership, firm, association, corporation, or organization; the word "structure" includes the word "building"; the word "shall" is always mandatory and not merely directory.

**ACCESSORY BUILDING:** Means a subordinate building on the same lot, whether attached or unattached to the main dwelling or building thereon. For the purpose of this ordinance, attached barns, sheds and garages are accessory buildings.

**ACCESSORY USE:** Means any subordinate use of premises which customarily is accepted as a reasonable corollary to the principal use thereof.

**BED AND BREAKFAST FACILITY:** An existing residential building that is used as a residence and which contains not more than six (6) sleeping rooms, with or without individual sanitary facilities, for rental accommodations for tourists, for durations less than two weeks, which serves breakfast to guests and which may serve other meals to guests. An accessory building to a residence is not a bed and breakfast facility.

**BUILDING:** Any structure, either temporary or permanent and designed or used for the shelter or enclosure of any person, animal, or property of any kind.

**BUILDING COVERAGE:** The aggregate cross sectional area of all buildings on the lot, including accessory buildings.

**\*\*\*\*\*BUILDING HEIGHT:** The height of a building is the vertical distance from the grade elevation to the highest point of the roof above the natural ground level. "Natural Ground Level" is the ground that is undisturbed prior to the construction process.

**BOGS:** Bogs consist of peat or muck deposits of significant depths and are characterized by a distinct group of trees and plants which are adapted to the bog's highly acidic conditions. The water in a bog is practically devoid of oxygen and nutrients. Bogs usually develop in undrained glacial depressions. Typical plants are:

Atlantic White Cedar	Pale Laurel
Black Spruce	Pitcher-plants
Bladder Worts	Rhodora
Bogbean or Buckbean	Sedges
Bog-laural	Sheep Laurel
Bog-rosemary	Sphagnum Moss
Cotton Grass	Sundews
High-bush Blueberry	Sweet Gale
Leatherleaf	

**DEVELOPMENT:** Means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

**DWELLING:** A building containing one or more dwelling units, but not hotels, motels, boarding houses, clubs, lodges, camping trailers, recreational vehicles or other structures solely for transient or overnight occupancy.

**DWELLING, MULTIPLE FAMILY:** A dwelling designed for or occupied by three (3) or more families living independently and separately of each other, each in their own dwelling unit therein. A building comprised of attached single family dwelling units is a multi-family dwelling under this ordinance. More than one two-family dwelling on a lot is a multiple-family dwelling under this ordinance.

**DWELLING, SINGLE FAMILY, ATTACHED:** A dwelling designed for or occupied by one family exclusively and separated from another dwelling on one or more sides by a vertical party wall.

**DWELLING, SINGLE FAMILY, DETACHED:** A dwelling designed for or occupied by one family exclusively and separated from any other building except accessory buildings.

**DWELLING, TWO FAMILY:** A dwelling designed for or occupied by two families exclusively, living independently and separately of each other each in their own dwelling unit therein.

**DWELLING UNIT:** One or more rooms arranged for the use of one or more persons living together as a single housekeeping unit, and having its own separate and independent cooking, living, sanitary and sleeping facilities.

**FAMILY:** A family is: (1) an individual; (2) group of two or more persons related by blood, marriage, or adoption; or (3) not more than six (6) other persons not so related; provided that in each of the foregoing, all persons constituting any such group are normally living together and sharing the same dwelling unit.

**FACADE:** The exterior, front wall of a building.

**FRONT SETBACK:** See SETBACK, FRONT.

**FRONT YARD:** See YARD, FRONT.

**FRONTAGE:** All that continuous side of a lot or tract of land abutting on one side of a street, measured along the street line. Except as required by NH RSA 674:41, all frontage shall be on a Class V or better road.

**\*\*GENERAL STORE:** A store that sells a wide variety of merchandise, not divided into departments.

**GROSS DENSITY:** The number of dwelling units on a parcel, lot or tract divided by the total area of the parcel, lot or tract.

**GROSS FLOOR AREA:** The total horizontal area of all floors of a building measured from the outside of the walls, but not including fire escapes, unroofed porches or balconies and basements and attics used solely for accessory purposes.

**HEIGHT:** See BUILDING HEIGHT.

**HOME OCCUPATION:** Any use by a resident occupant which is customarily incidental or accessory to the residential use, may properly be carried on entirely within a dwelling or other accessory structure to a dwelling unit, and which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes, by the occupant thereof.

**HOTEL:** A building or group of buildings containing rooms in separate units with individual sanitary facilities and designed for and used for providing rental living accommodations for durations less than two weeks.

**IMPERMEABLE COVERAGE:** All that horizontal area of a lot, parcel or tract due to manmade alterations to the natural surface of the land, including structures, parking lot and driveway areas or other development. All area beneath a structure is impervious. All portions of any ground mounted solar panels other than the portion in direct contact with the ground are considered permeable. All

portions of underground waste disposal systems, along with necessary access covers, vents and risers for pump out and inspection are considered permeable.

**INN:** A building containing rooms used for providing rental living accommodations for durations less than two weeks.

**\*\*LIBRARY:** A facility containing books and other material for reading, study, or reference, open to the public and operated by the local public governing body.

**LOT:** A single unit or parcel of land in the same ownership throughout, with ascertainable boundaries and undivided by a street.

**LOT AREA:** Means the extent in square feet of the surface of a lot, but not including any part of the street right-of-way upon which the lot fronts or abuts.

**LOT LINES:** The lines bounding a lot and dividing the lot from other lots, streets, land, or water.

**LOT OF RECORD:** A lot as described in a deed which has been lawfully recorded in the Registry of Deeds for the County of Cheshire, or which, if not so deeded, is a lot which is part of a subdivision, the plan of which has been lawfully recorded in such Registry of Deeds.

**\*\*\*\*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, 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.

**\*\*\*MANUFACTURED HOUSING PARK:** A parcel of land upon which two or more manufactured housing units may be placed upon rented spaces.

**\*\*\*MANUFACTURED HOUSING SUBDIVISION:** A subdivision, the lots of which shall be occupied only by manufactured housing units.

**MARSHES:** Marshes are treeless wetlands dominated by soft-stemmed herbaceous plants. The surface of the marsh is covered with water year around, though seasonal fluctuations in water depth are expected. Marshes range from the wet meadows variety to deep marshes which can be covered with several feet of water. The vegetational community is made up of some or all of the following:

- |                     |                               |
|---------------------|-------------------------------|
| Arums               | Leatherleaf                   |
| Bladder Worts       | Pickeral Weeds                |
| Bur-reeds           | Rushes                        |
| Cat-tails           | Sedges, including Bulrushes   |
| Duckweeds           | Cotton-grasses & Wool-grasses |
| Eelgrass            | Smartweeds                    |
| Frog's-bite         | Sweet Gale                    |
| Horsetails          | Water-lilies                  |
| Hydrophylus Grasses | Water Milfoil                 |

**\*\*\*MOBILE HOME:** See MANUFACTURED HOUSING.

**MOTEL:** A building or group of buildings containing rooms in separate units with individual sanitary facilities and designed for and used for providing rental living accommodations for durations less than two weeks, for automobile travelers. Motels have automobile parking spaces located generally adjacent to each rental unit.

**MULTIPLE FAMILY DWELLING:** See DWELLING, MULTIPLE FAMILY.

**NHWSPCC:** The New Hampshire Water Supply and Pollution Control Commission, or its successor agency.

**NON-CONFORMING BUILDING:** Any building which does not, in whole or in part, conform to the regulations of the district in which it is located.

**NON-CONFORMING LOT:** Any lot which does not conform to the area or frontage requirements for the district in which it is located.

**NON-CONFORMING STRUCTURE:** Any structure which does not, in whole or in part, conform to the regulations of the district in which it is located.

**NON-CONFORMING USE:** Any use of land and/or a structure that does not conform to the provisions of the district in which it is located.

**ON-SITE WASTE DISPOSAL SYSTEM:** (or facility) See WASTE DISPOSAL SYSTEM.

**\*\*\*OUTSIDE DISPLAY:** Items and goods exhibited outside the business structure.

**\*\*\*OUTSIDE STORAGE:** The outside storage of goods and supplies reserved for future use.

**## PERMANENTLY ATTACHED SIGN** - A sign that is attached to the primary building as approved by the Planning board in the site plan review.

**## PERMANENT FREE STANDING SIGN** - A sign established on a freestanding frame, mast or pole and not attached to any building. Also known as detached sign, freestanding sign, pole sign, ground sign or pylon sign.

**\*\*\*PRESITE BUILT HOUSING:** Any structure designed primarily for residential occupancy which is wholly or in part made, fabricated, formed or assembled in off-site manufacturing facilities in conformance with the United States Department of Housing and Urban Development minimum property standards and local building codes, for installation, or assembly and installation, on the building site.

**\*\*PUBLIC UTILITY:** A utility servicing the public and regulated by the State agency responsible for regulation of public utilities.

**## REAL ESTATE SIGN** - A temporary non-electrical ground or wall sign that either: i. Advertises the on-site sale, rental or lease of the premises or a portion thereof; or ii. The off-site advertising (including balloons and directional signs) of an open house.

**REAR SETBACK:** See SETBACK, REAR.

**REAR YARD:** See YARD, REAR.

**\*\*\*RECREATIONAL VEHICLE (MOTOR HOME)/CAMPER:** A moveable or portable unit designed for seasonal living and built on a chassis so as to be used without a permanent foundation.

**\*\*\*\*\*RESIDENTIAL BUILDING:** A building containing one or more dwelling units.

**ROAD:** See STREET.

**\*\*SCHOOLS:** Educational facilities including buildings and grounds, owned by a government agency and open to the public.

**\*\*\*\*\*SETBACK:** The minimum horizontal distance between the lot line and the nearest part of the structure.

**#SETBACK, FRONT:** The setback as measured from any property line abutting a road.

**SETBACK, REAR:** The setback as measured from the rear lot line.

**SETBACK, SIDE:** The setback as measured from the side lot line.

**SHOPPING CENTER:** A group of commercial establishments primarily devoted to retailing, which is planned, developed and managed as a unit and which has all off-street parking provided on the property.

**SIDE SETBACK:** See SETBACK, SIDE.

**SIDE YARD:** See YARD, SIDE.

**SIGN:** Any permanent or temporary structure, device, letter, word, display, pennant, insignia or trade flag which is used as or is in the nature of an announcement, direction or advertisement and which is visible from any street or from abutting property.

**SINGLE FAMILY DWELLING:** See DWELLING, SINGLE FAMILY

**SITE PLAN REVIEW:** Review of site plans by the Planning Board pursuant to NH RSA 674:43, as amended.

**SPECIAL EXCEPTION:** Exceptions to the terms of this ordinance regarding the types of use which may be permitted in a particular district. Such exceptions are specifically provided for by the terms of a particular district.

**STREET:** A public right-of-way dedicated or intended to be dedicated for public travel or an approved private way offering the principal means of access to abutting properties.

**STRUCTURE:** Any temporary or permanently constructed, erected or placed material or combination of materials in or upon the ground, including, but not limited to buildings, manufactured housing units, radio towers, sheds and storage bins, storage tanks, portable carports, stairs, decks, patios, solar panels, swimming pools, tennis courts, parking lots, driveways, dumpsters and on-site waste disposal systems.

**SUBDIVISION:** The division of the lot, tract, or parcel of land into 2 or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale, rent, lease condominium conveyance or building development. It includes resubdivision and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided. The division of a parcel of land held in common and subsequently divided into parts among the several owners shall be deemed a subdivision.

**SWAMPS:** Swamps are areas where the water table is at or near the ground surface for a significant part of the year. The vegetational community consists mostly of trees and woody shrubs, such as:

Alders	Poison Sumac
Arrow-wood	Red Maple
Atlantic White Cedar	Rhodora
Black Ash	Sphagnum Moss
Black Gum	Spicebush
Black Spruce	Sweet Pepperbush
Buttonbush	Tamarack (Larch)
Common Elder	Willows
High-bush Blueberry	Winterberry
Marsh Rose	

**## TEMPORARY SIGN** - "temporary sign" is any sign, handbill, or poster which is placed to advertise or announce a specific event, or which pertains to a particular event or occurrence, or vendor product

display/endorsement, or which is not designed or intended to be placed permanently. This section excludes political campaign signs which are regulated by state RSA. Examples of temporary signs include, but are not limited to, signs, handbills or posters relating to garage sales, concerts, swap meets, summer sale, clearance sales, new pricing of product, product endorsement, etc.

**TOURIST HOME:** An existing residential building that is used as a residence and which contains not more than six (6) sleeping rooms, with or without individual sanitary facilities, for rental accommodations for tourists for durations less than two weeks, which may or may not serve meals to guests only. An accessory building to a residence is not a tourist home.

**TRUCKING AND FREIGHT TERMINAL:** A use to mean a property with a trucking and freight building, where the building is used for trucking or freight processing or storage purposes. The use of the property for truck or tractor trailer parking or trailer exchanges, drop offs, or deliveries unrelated to the use of the building is insufficient to satisfy this definition.

**TWO-FAMILY DWELLING:** See DWELLING, TWO-FAMILY.

**WASTE DISPOSAL SYSTEM:** (or waste disposal facility) Any sewage disposal or treatment system, other than a municipal-owned or operated system, which receives sanitary sewage or waste, or both, including septic tanks, holding tanks, cesspools, dry wells, leaching fields, beds and trenches and chamber systems.

**WETLANDS:** Any area composed of swamps, marshes or bogs or soils defined as very poorly drained soils by the Cheshire County Soils Conservation Service.

**YARD:** An open and unoccupied space surrounding or adjoining a building.

**YARD, FRONT:** The yard between the extreme front limit of a structure and the street right-of-way.

**YARD, REAR:** The yard between the extreme rear limit of a structure and the rear lot line.

**YARD, SIDE:** The yard between the extreme side limit of a structure and the side lot line.

- \*\* Additional definitions added March 8, 1988.
- \*\*\* Additional definitions added or amended March 8, 1994.
- \*\*\*\* Additional definitions added or amended March 14, 1995.
- \*\*\*\*\* Additional definitions added or amended March 11, 1997
- \*\*\*\*\* Additional definitions added or amended March 12, 2002
- \*\*\*\*\* Additional definitions added or amended March 8, 2005
- \*\*\*\*\* Definition amended March 11, 2008
- # Definition amended March 10, 2009
- ## Definition added March 10, 2015

**Comprehensive Shoreland Protection Act, RSA 483-B**

*Minimum Shoreland Protection Standards*

**LIMITS WITHIN THE PROTECTED SHORELAND**

250 ft

- **Prohibited Uses:**  
Establishment/expansion of salt storage yards, auto junk yards, solid waste & hazardous waste facilities.  
Use of fertilizer, except limestone, and pesticides within 25 feet of the reference line. Low phosphate, slow release nitrogen fertilizer allowed beyond 25 foot zone.
- **Uses Requiring State Permits:**  
Public water supply facilities  
Public water & sewage treatment facilities  
Public utility lines  
Existing solid waste facilities  
All activities regulated by the DES Wetlands Bureau per RSA 482-A

**OTHER RESTRICTED USES**

- All new lots, including those in excess of 5 acres, are subject to subdivision approval by DES.
- Setback requirements for all of new septic systems are determined by soil characteristics.
- Minimum lot size in areas dependent on septic systems determined by soil type.
- Alteration of Terrain Permit standards reduced from 100,000 square feet to 50,000 square feet.
- Total number of residential units in areas dependent on on-site sewage & septic systems, not to exceed 1 unit per 150 feet of shoreland frontage.

**NATURAL WOODLAND BUFFER RESTRICTIONS**

150 ft

- Where existing, a natural woodland buffer must be maintained.
- Tree cutting limited to 50% of the basal area of trees, and 50% of the total number of saplings in a 20 year period. A healthy, well-distributed stand of trees must be maintained.
- Stumps and their root systems must remain intact in the ground within 50 feet of the reference line
- The opening for building construction is limited to 25 feet from the buildings, septic system, driveway.
- The opening for accessory structures is limited to 10' outward from the footprint.

**NEW SEPTIC SYSTEM LEACHFIELD SETBACKS**

- 125 feet where soil down gradient of leachfield is porous sand & gravel.
- 100 feet where soil maps indicate presence of soils with restrictive layers within 18 inches of natural soil surface.
- 75 feet where soil map indicates presence of all other soil types.
- 75 feet minimum setback from rivers.

**PRIMARY BUILDING LINE\***

- Primary buildings setback behind line. 50 ft
- Accessory Structure setback of 20 feet from the reference line. 20 ft

**REFERENCE LINE**

- For coastal waters = highest observable tide line
- For rivers = ordinary high water mark
- For natural fresh water bodies = natural mean high water level
- For artificially impounded fresh water bodies = water line at full pond

\*If a municipality establishes a shoreland setback for primary buildings, whether greater or lesser of 50 feet, that defines the Primary Building Line for that municipality.