

ZONING ORDINANCE - TOWN OF NEW IPSWICH, N.H.

ADOPTED BY BALLOT VOTE AT TOWN MEETING MARCH 10, 1987

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## **ZONING ORDINANCE - TOWN OF NEW IPSWICH, N.H.**

**ARTICLE I: TITLE:** This ordinance shall be known and may be cited as the zoning ordinance of the Town of New Ipswich, New Hampshire.

**ARTICLE II: PURPOSE AND AUTHORITY:** In order to protect the use and enjoyment of property, to promote the orderly and harmonious development of the town, to promote and conserve the health, safety, convenience and general welfare of the inhabitants of the town of New Ipswich, to lessen the congestion of streets, to lessen the danger from fire and natural disasters, to provide adequate light and air, to prevent overcrowding of land, to avoid undue concentration of the population, to encourage the provision of housing for persons of all income levels, to preserve and increase the amenities of the town, to preserve natural conditions and resources, to preserve and protect public and private water supply, to facilitate the adequate provision of transportation, drainage, schools, parks, open space and other public requirements, to preserve the value of land and buildings, including the prevention of blight, excessive noise and pollution of the environment, to preserve historic sites, to improve and beautify the town by encouraging the most appropriate uses of land within the town, including consideration of a master plan adopted by the Planning Board, the following ordinance embodying these and other purposes as set forth in New Hampshire Revised Statutes Annotated Chapter 674-6-21 as amended, and pursuant to the authority of New Hampshire Revised Statutes Annotated Chapters 672 through 677, as amended, is hereby enacted by the voters of the town of New Ipswich.

In accordance with these purposes, the use, construction, erection, establishment, movement, alterations, enlargement, location, and occupancy of buildings and structures and the uses and occupancy of all land in the town of New Ipswich are hereby regulated and restricted by this ordinance.

**ARTICLE III: ZONING DISTRICTS:** The town of New Ipswich is hereby divided into the following named districts as shown on the zoning map of the town of New Ipswich, New Hampshire, dated March 10, 1987, which with all explanatory matter and any amendments to it is incorporated as part of this ordinance:

1. Village District I
2. Village District II
3. Rural District
4. Conservation Overlay District

**ARTICLE IV: VILLAGE DISTRICT I:**

- A. The purpose of this district is to retain the character of the long established villages in New Ipswich; to relieve the pressure of growth on the rural district by allowing a greater density in the village district in such a manner as to not cause water quality and water supply problems that would necessitate the town providing means of public sewage disposal and a public water supply.
  
- B. PERMITTED USES: In this district land may be used, created, altered for:
  - 1. Single family dwellings and uses accessory thereto
  - 2. Two-family dwellings and uses accessory thereto
  - 3. Places of worship
  - 4. Minimal impact home occupations, as defined in Article XIII, Section M
  - 5. Telecommunications facilities, subject to the provisions of Article XIII-1 and to the provisions of the Site Plan Review regulations of the Town of New Ipswich
  
- C. SPECIAL EXCEPTIONS: The following uses may be allowed by special exceptions of the Board of Adjustment provided they meet the requirements of Article XIV, Section E, in addition to all other requirements of this ordinance.
  - 1. Inns
  - 2. Bed and Breakfast
  - 3. Nursing and convalescent homes
  - 4. Day care, day nurseries and kindergartens
  - 5. Professional uses and customary home occupations
  - 6. Multi-family dwelling

**ARTICLE V: VILLAGE DISTRICT II:**

- A. The purpose of this district is to retain the character of the long established villages in New Ipswich; to relieve the pressure of growth on the rural district by allowing a greater density in the village district; to concentrate residential and service businesses in these centers in such a manner as to not cause water quality and water supply problems that would necessitate the town providing means of public sewage disposal and a public water supply.
  
- B. PERMITTED USES: In this district land may be used, created, altered for:
  - 1. Any use permitted in Village District I in Article IV, Section B.
  
- C. SPECIAL EXCEPTIONS: The following uses may be allowed by special exception of the Board of Adjustment provided they meet the requirements of Article XIV, Section E in addition to all other requirements of this ordinance.

1. Any use permitted as a special exception of the Board of Adjustment in Village District I in Article IV, Section C.
  2. Gas stations
  3. Auto service stations
  4. Eating and drinking establishments
  5. Instructional facilities
  6. Funeral homes
  7. Buildings in which public business is transacted
- D. The following uses may be allowed by special exception of the Board of Adjustment if in addition to the requirements set forth in Article V, Section C and Article XIV, Section E, the total area of the foundation of the building does not exceed 1,500 square feet.
1. Office buildings
  2. Banks
  3. Small retail
  4. Medical facilities

**ARTICLE VI: RURAL DISTRICT**

- A. The remaining area of the town outside the Village District is intended to accommodate development at a lesser density; to allow diverse residential and other uses to co-exist in a manner that will preserve the rural agriculture heritage of the town along with its rich inventory of natural resources while allowing the economic development of the town to take place.
- B. PERMITTED USES: In this district, land may be used, created, altered for:
1. Any use permitted in the Village District I under Article IV, Section B.
  2. Any use permitted in the Village District II under Article V, Section B.
  3. Mobile homes subject to provisions in Article XIII, Section C.
  4. Residential cluster development on 10 acres or more subject to cluster provisions in Article XIII, Section E and to the Subdivision Regulations of the town of New Ipswich
  5. Agricultural uses
  6. Recreational uses
  7. Roadside stands
  8. Greenhouses
  9. Stables and riding schools
  10. Summer camps for children
  11. Large wind energy systems, subject to the provisions of Article XIII-2 and to the provisions of the Site Plan Review regulations of the Town of New Ipswich

- C. SPECIAL EXCEPTIONS: The following uses may be allowed by special exceptions of the Board of Adjustment provided they meet the requirements of Article XIV, Section E.
1. Those uses allowed under Article IV, Section C in Village District I.
  2. Those uses allowed under Article V, Sections C and D in Village District II.
  3. Commercial
  4. Business
  5. Industrial
  6. Excavations
  7. Group home
  8. Camping area
  9. Saw mills
  10. Slaughter houses
  11. Junk yard
  12. Heavy equipment business
  13. Light industry
  14. Veterinary clinics
  15. Kennels
  16. Residential cluster on a tract of less than 10 acres subject to the cluster provisions in Article XIII, Section E and to the Subdivision Regulations of the Town of New Ipswich

## **ARTICLE VII: LIMITED COMMERCIAL DISTRICT**

- A. OBJECTIVES: The Limited Commercial District is intended to:
1. enhance the Town's economic base by encouraging limited extension of retail and office use in the Town Center
  2. preserve the character of the Village Districts by keeping establishments on a smaller scale than allowed in the General Commercial District, consistent with the traditional structures and uses in the Village Districts
  3. provide a focal point for daily shopping, service and municipal activities of the townspeople
- B. PERMITTED USES: Land and buildings may be used for the following:
1. Stores and shops for the conduct of retail business
  2. Personal service enterprises including beauty parlors, barber shops, jewelry repair, post office, retail banking, tailors and the like
  3. Professional offices including medical, legal, financial, real estate, engineering and the like
  4. Shops for custom work or the making of articles to be sold on the premises
  5. Indoor entertainment, recreational and cultural establishments including theaters, clubs, halls and the like
  6. Restaurants, taverns and cafes

7. Churches
8. Schools, day care facilities, day nurseries and kindergartens
9. Bed and breakfast inns
10. Municipal offices
11. Residential uses permitted in Village District I under Article IV, Section B

C. SPECIAL EXCEPTIONS: The following uses may be allowed by special exception of the Board of Adjustment provided they meet the requirements of Article XIV, Section E in addition to all other requirements of this Ordinance.

1. Residential uses permitted by special exception in Village District I under Article IV, Section C
2. Laundries and dry cleaners
3. Indoor, multi-screen movie theaters

D. PROHIBITED USES: Any use not specifically permitted in Subsection B or permitted by special exception in Subsection C is expressly prohibited. Any use which may be obnoxious or injurious due to production or emission of smoke, dust, gases, odors, fumes, noise, vibration, heat, glare, humidity, electrical interference, radiation, refuse matter or waste materials; or endangers the health or safety of the community; or leads to its disturbance or annoyance is prohibited.

1. Refuse disposal facilities including both landfill and transport operation.

E. CONVERSION OF RESIDENTIAL USES: Any alterations to convert existing residential property to accommodate a use permitted in the Limited Commercial district shall provide for off street parking as required by Article XIII.

**ARTICLE VIII. GENERAL COMMERCIAL DISTRICT**

A. OBJECTIVES: The purpose of the General Commercial District is to:

1. provide for the growth of the town's economic base
2. accommodate establishments which will meet most of the weekly shopping and professional and personal service needs of the New Ipswich population which are not met by the Limited Commercial District
3. preserve the rich inventory of natural resources and the rural character of the town

B. PERMITTED USES:

Land may be used and buildings may be erected, altered or used for:

1. All uses permitted in the Limited Commercial District
2. Laundries and dry cleaners

3. Business service enterprises including copying and mailing, building maintenance, small equipment rental and leasing and the like
4. Golf courses
5. Hospitals, nursing homes and other medical facilities licensed by the state of New Hampshire
6. Lodging establishments including hotels and motels
7. Colleges and business or trade schools
8. Funeral homes
9. Job printing shops

C. SPECIAL EXCEPTIONS:

The following uses may be allowed by special exception of the Board of Adjustment provided they meet the requirements of Article XIV, Section E in addition to all other requirements of this ordinance.

1. Filling stations
2. Motor vehicle repair and restoration shops
3. Automobile, trailer, mobile home and boat sales
4. Automotive and utility trailer rental and leasing
5. Storage facilities and warehouses incidental to principal permitted use in the General Commercial District
6. Parking lots, other than those which are incidental to a permitted use
7. Car washes
8. Lumber yards
9. Fast-food service
10. Outdoor entertainment and recreational establishments including drive-in movie theaters, amusement parks, racetracks, shooting ranges
11. Excavation
12. Veterinary clinics and kennels

D. PROHIBITED USES:

Any use not specifically permitted in Subsection B or permitted by special exception in Subsection C is expressly prohibited.

Any use which may be obnoxious or injurious due to production or emission of smoke, dust, gases, odors, fumes, noise, vibration, heat, glare, humidity, electrical interference, radiation, refuse matter or waste materials; or endangers the health or safety of the community; or leads to its disturbance or annoyance is prohibited.

1. Refuse disposal facilities including both landfill and transport operations

**ARTICLE IX: LIGHT INDUSTRIAL DISTRICT:**

**A. OBJECTIVES:** The purpose of the Light Industrial District is to:

1. provide for the growth of the town's economic base
2. specifically provides for uses that rely on truck traffic
3. provides that light industrial uses, while concentrated, are at a scale consistent with the rural nature of the town and will preserve Route 124 as a free flowing highway

**B. PERMITTED USES:**

1. Research and development
2. Distribution and transportation
3. Assembly
4. Storage facilities and warehouses
5. Wholesale establishments
6. Light manufacturing, processing and treatment
7. Construction establishments including plumbing and heating, welding, blacksmithing, ventilation, air conditioning and refrigeration, carpentry and the like
8. Any use permitted in the General Commercial District under Article VII, Section B or permitted by special exception in the General Commercial District under Article VII, Section C except residential uses

**C. SPECIAL EXCEPTIONS:**

The following uses may be allowed by special exception of the Board of Adjustment provided they meet the requirements of Article XIV, Section E in addition to all other requirements of this ordinance.

1. Saw mills
2. Public utilities including switching stations, generation plans, power substations
3. Junk yards

**D. PROHIBITED USES:**

Any use not specifically permitted in Subsection B or permitted by special exception in Subsection C is expressly prohibited.

Any use which may be obnoxious or injurious due to production or emission of smoke, dust, gases, odors, fumes, noise, vibration, heat, glare, humidity, electrical interference, radiation, refuse matter or waste materials, or endangers the health or safety of the community, or leads to its disturbance or annoyance is prohibited.

1. Refuse disposal facilities including both landfill and transport operations.

**ARTICLE X: CONSERVATION OVERLAY DISTRICT:**

- A. As the town of New Ipswich grows, there will be increasing pressure placed on the soil and water resources of the town. The purpose of the Conservation Overlay District is to protect these natural resources while allowing growth to take place. The district will include:

Flood Plain Overlay District  
Steep Slopes Overlay District  
Wetlands and Surface Water Conservation Overlay District

1. Any lot in the Steep Slopes Overlay District or the Wetlands and Surface Water Conservation Overlay District shall have at least one acre of contiguous area that contains no wetlands or surface waters and has no slopes greater than 1%. This contiguous area shall contact a seventy-five foot (75') by seventy-five foot (75') square. The seventy-five foot square shall not be located within the building setbacks. Well and septic system locations may encroach upon or within the 75' by 75' area. The 75' by 75' area is herein required for the purpose of ensuring the creation of reasonably developable lots and does not prohibit development of land outside of the 75' by 75' square and/or the contiguous acre, provided that said development conforms to the requirements of Article X, sections A, C, and D.
- B. FLOOD PLAIN OVERLAY DISTRICT: The Flood Plain Overlay District is established to encourage proper management of flood prone areas within the town of New Ipswich, and to minimize potential threats to life and to property in those flood prone areas. The Flood Plain Overlay District is herein established as an overlay district, superimposed where applicable upon all other districts in the town.
1. OVERLAY MAP: The Flood Plain District includes all special flood hazard areas designated on the New Ipswich Flood Insurance Rate Map of the town of New Ipswich dated May 15, 1991, and as amended, as prepared by the Federal Emergency Management Agent - Federal Insurance Administration. These maps are incorporated into this ordinance herein by reference.
  2. Uses in the Flood Plain Overlay District are governed by the New Ipswich Flood Plain Development Ordinance.
- C. STEEP SLOPES OVERLAY DISTRICT: The purpose of the Steep Slopes Overlay District is to promote the public health, safety and general welfare of the community; to ensure reasonable use and development of land by permitting those uses of land which can be harmoniously, appropriately, and safely located on steep slopes; to reduce damage to streams, lakes and property from erosion, runoff of storm water caused by improper or excessive construction and/or effluent from improperly sited sewage disposal systems; to preserve vegetative cover, wildlife habitat and scenic views; to protect unique and unusual natural areas; and to preserve the groundwater recharge capabilities of the land.

1. DISTRICT BOUNDARIES: The Steep Slopes Overlay District includes all areas within the Town of New Ipswich with slopes in excess of 15%. As a general guide, areas of slope in excess of 15% are portrayed on the January 2004 Town of New Ipswich Steep Slopes Conservation District Map.
2. DEFINITIONS: For the purpose of Article X.C., the following definitions shall apply:
  - a. Slope is defined as the change in the vertical rise of the natural terrain as measured over any segment of 100 foot distance. The slope of an area shall be determined by an on the ground survey conducted by a civil engineer or surveyor licensed in the State of New Hampshire.
  - b. Steep slopes is defined as an area of natural contours that exhibit change in vertical rise (slope) in excess of 15% in any segment of 100 foot distance.
3. PERMITTED USES: Underlying permitted uses and uses allowed by special exception are allowed so long as said uses are not prohibited by and provided they meet the additional requirements of Article X, Sections A and C.
4. SPECIAL PROVISIONS:
  - a. Development will not be allowed on slopes exceeding 25%.
  - b. A Sediment and Erosion Control Plan prepared in accordance with Appendix C of the New Ipswich Subdivision Regulations, adopted March 6, 1986, and as amended, must accompany all requests.
  - c. Driveways shall be constructed in accordance with the driveway regulations contained in the New Ipswich Subdivision Regulations, adopted March 6, 1986, and as amended.
5. DIMENSIONAL CONTROLS: The dimensional controls for lots in the Overlay District(s) shall be inherited from the underlying district in which the specific lot resides.
6. EXEMPTIONS: The following land is exempt from the requirements of the Steep Slopes Overlay District:
  - a. Lots of record recorded in the Hillsborough County Registry of Deeds prior to the adoption of this ordinance and lots created by subdivision prior to the adoption of this ordinance shall be exempt from the requirements of Article X, Sections A and C provided, however, that any proposal shall be subject to the requirements that a sediment and erosion plan in keeping with Appendix

C of the New Ipswich Subdivision Regulations, adopted March 6, 1986 and as amended, be submitted.

- b. Public utility rights of ways or easements: such that land in the Steep Slopes Overlay District is exempt from any requirement of the Steep Slopes Overlay District in so far as that portion of the land that has a public utility right of way or easement on it.

D. WETLANDS AND SURFACE WATER CONSERVATION OVERLAY DISTRICT:

1. GENERAL:

- a. The Wetlands and Surface Water Conservation Overlay District is hereby determined to be those areas delineated as wetlands and surface waters, and the associated minimum setbacks there from, as specified by the New Ipswich Zoning Ordinance and applicable state law.
- b. For the purpose of site plan and subdivision review, wetland boundaries shall be delineated on the basis of hydrophytic vegetation, hydric soils, and wetlands hydrology. Wetland boundaries shall be determined by on site inspections by either a New Hampshire certified soil scientist or a New Hampshire certified wetlands scientist using the standards outlined in the following publications, all of which as may be amended or updated from time to time:

New Hampshire Department of Environmental Services Wetlands Bureau  
“Wetlands Rules”, November 21, 2003;

Corps of Engineers “Wetlands Delineation Manual”, 1987;

“Field Indicators for Identifying Hydric Soils in New England,” Version 2,  
July 1998 (adopted March 2002); and

U.S. Fish and Wildlife Service “National List of Plant Species That Occur in  
Wetlands”, 1988 (adopted March, 2002).

2. PURPOSE:

In the interest of public health, convenience, safety and welfare, the regulations are intended to guide the use of areas within the Wetlands and Surface Water Conservation District.

- a. To regulate the development of structures and land uses on naturally occurring wetlands and surface waters which would contribute to pollution of

- b. surface and ground water by sewage, or other potential sources of pollution. To prevent the destruction of natural wetlands which provide flood protection.
- c. To prevent unnecessary or excessive expenses to the town to provide and maintain essential service and utilities which arise because of improper use of wetlands and surface water.

3. USE WITHIN THE WETLANDS AND SURFACE WATER CONSERVATION OVERLAY DISTRICT:

- a. An application must be made to the Planning Board for any change in the use within the Wetlands and Surface Water Conservation Overlay District.
- b. Permitted use within the Wetlands and Surface Water Conservation Overlay District is any use that does not result in the erection of any structure or alter the surface configuration by the addition or fill or by dredging and that is otherwise permitted by the ordinance.

4. SPECIAL PROVISIONS:

- a. Wetland areas excluding surface water bodies may be used to satisfy minimum lot area and setback requirements and may be used when applying a residential density factor, provided that the remaining lot area or tract area is sufficient in size and configuration to adequately accommodate all required utilities such as sewage disposal and water supply.
- b. Setbacks:
  - 1. No structure may be enlarged or constructed closer than fifty (50) feet to any wetland or to the reference line of any surface water body.
  - 2. The following uses are exempt from this fifty (50) foot setback requirement: docks, boat landings, boathouses and saunas.
- c. Natural Woodland Buffers:
  - 1. A twenty-five (25) foot buffer must be maintained from all wetlands greater than 10,000 square feet in area and from the reference line of Surface Water Bodies.
  - 2. Within the buffer area the cutting of trees, saplings, shrubs, and groundcover must conform to a management system adapted from the New Hampshire Shoreland Water Quality Protection Act (SWQPA), RSA 483-B. The buffer is divided into a 25 x 50 foot grid, and points

are assigned based on the size and number of trees present. Cutting is permitted provided that the point total within each grid segment remains 25 or greater.

The point system is summarized by State guidance as follows:

*Determine each tree and sapling diameter 4 1/2 feet above the ground, uphill side.*

<u>Diameter of Tree or Sapling</u>	<u>Score</u>
<i>1-3 inches</i>	<i>1 pt</i>
<i>Greater than 3 to and including 6 inches</i>	<i>5 pts</i>
<i>Greater than 6 to and including 12 inches</i>	<i>10 pts</i>
<i>Greater than 12 inches</i>	<i>15 pts</i>

- 3 Within the buffer area, the natural surface configuration may not be altered by the addition of fill or by excavation or dredging.
  - 4 The following uses are exempt from this twenty-five (25) foot buffer requirement: docks, boat landings, and saunas.
  - 5 The requirements of the New Hampshire Shoreland Water Quality Protection Act (SWQPA), RSA 483-B, supersede the Town of New Ipswich regulations for the specific water bodies listed by the SWQPA.
- d. Any prior existing non-conforming use of land or buildings on or adjoining wetlands shall be deemed a non-conforming use and when such use is discontinued for one year such land and or buildings become subject to Article X.D.
  - e. If any section, provision, portion, clause or phrase of this ordinance shall be held to be invalid or unconstitutional by any court or competent authority, such holding shall not affect, impair or invalidate any other section, provision, clause or phrase of this ordinance.

**E. GROUNDWATER PROTECTION OVERLAY DISTRICT:**

The purpose of the Groundwater Protection Overlay District is to protect New Ipswich's Stratified Drift Aquifers and Public Wellheads in order to ensure both the quantity and the quality of available groundwater in the present and for the future. This is particularly compelling for the potential development of public water supply sources in the future. New Ipswich lacks suitable surface water such as lakes, ponds, and rivers that might provide a reliable water supply. The fractured bedrock that underlies the Town provides drinking

water for most individual homes, but typically does not exhibit sufficient yield to support a public water supply. Only the mapped Stratified Drift Aquifers within the Town boundaries offer the potential to provide the quantity of water required for public supply wells, and at the necessary flow rate. Even in the absence of public water supply wells, the Stratified Drift Aquifers play an important role in the storage of groundwater and the recharge that ultimately goes to the underlying fractured bedrock aquifer, on which most homeowners in the Town rely.

This ordinance's purpose is in the interest of public health, safety, and general welfare. It will help preserve, maintain, and protect from contamination, existing and potential groundwater supply areas and to protect surface waters that are fed by groundwater.

The purpose is to be accomplished by regulating land uses which could contribute pollutants to designated wells and/or aquifers identified as being needed for present and/or future public water supply. This ordinance does not apply to residential uses.

1. DEFINITIONS: For the purpose of Article X.E, the following definitions shall apply:

Aquifer: a geologic formation composed of rock, sand, or gravel that contains significant amounts of potentially recoverable water.

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

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

Impervious: not readily permitting the infiltration of water.

Impervious Surface: a surface through which regulated substances cannot pass when spilled. Impervious surfaces include concrete unless unsealed cracks or holes are present. Earthen; wooden, or gravel surfaces; or other surfaces which could react with or dissolve when in contact with the substances stored on them are not considered impervious surfaces.

Junkyard: an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automotive recycling yard. The definition of a Junkyard does not include any motor vehicle dealers registered with the director of motor vehicles under RSA 261:104 and controlled under RSA 236:126.

Petroleum Bulk Plant or Terminal: means that portion of the property where petroleum products are received by tank vessel, pipeline, tank car, or tank

vehicle and are stored or blended in bulk for the purpose of distributing such liquids by tank vessel, pipeline, tank car, tank vehicle, portable tank, or container.

Public Water System: a system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly serves an average of at least 15 individuals daily at least 60 days out of the year.

Regulated Container: any device in which a regulated substance is stored, transported, treated, disposed of, or otherwise handled, with a capacity of greater than or equal to 5 gallons, other than a fuel tank attached to a motor vehicle for the sole purpose of supplying fuel to that motor vehicle for that vehicle's normal operation.

Regulated Substance: petroleum, petroleum products, regulated contaminants for which an ambient groundwater quality standard has been established under RSA 485-C:6, and substances listed under 40 CFR 302, 7-1-05 edition, excluding substances used in the treatment of drinking water or waste water at department approved facilities.

Snow Dump: for the purposes of this article, a location where snow, which is cleared from roadways and/or motor vehicle parking areas is placed for disposal.

Stratified-drift Aquifer: a geologic formation of predominantly well-sorted sediment deposited by or in bodies of glacial meltwater, including gravel, sand, silt, or clay, which contains sufficient saturated permeable material to yield significant quantities of water to wells.

Surface Water: streams, lakes, ponds and tidal waters, including marshes, watercourses and other bodies of water, natural or artificial.

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

2. DISTRICT BOUNDARIES:

The Groundwater Protection District is an overlay District which is superimposed over the existing underlying zoning and includes within its boundaries both the Wellhead Protection Areas for public water supply wells and the Stratified Drift Aquifers shown on the map in the USGS Report titled "Geohydrology and Water Quality of Stratified-Drift Aquifers in the Middle Merrimack River Basin, South-Central New Hampshire, Water-Resources

Investigation Report 92-4192, USGS, Bow, NH 1995,” and as amended. (Copies of the map are available in the New Ipswich Town Office and on the Town website.)

3. PERMITTED USES: All uses permitted by right or allowed by special exception in the underlying district are permitted in the Groundwater Protection District unless they are Prohibited Uses under Paragraph 4 of this Article or Conditional Uses under Paragraph 5 of this Article.
4. PROHIBITED USES: The following uses are prohibited in the Groundwater Protection District.
  - a. The development or operation of a solid waste landfill;
  - b. The outdoor storage of road salt or other deicing chemicals in bulk where they are not protected from the elements by a roof, walls, and a floor with an impervious surface;
  - c. The development or operation of a Junkyard;
  - d. The development or operation of a Snow Dump;
  - e. The development or operation of a wastewater or septage lagoon;
  - f. The development or operation of a Petroleum Bulk Plant or Terminal;
  - g. The development or operation of Gasoline Stations.
5. CONDITIONAL USES: The following uses are permitted provided it is a use which is otherwise permitted in the underlying district and it is not a Prohibited Use as listed in Paragraph 4 of this Article. These conditions do not apply to residential uses.
  - a. Storage, handling, and use of Regulated Substances in quantities exceeding 55 gallons or 660 pounds dry weight at any one time, provided that the Planning Board has approved a Spill Control and Countermeasure (SPCC) Plan submitted in accordance with the Site Plan Regulations.
  - b. Any activities that involve blasting of bedrock shall be planned and conducted in a manner consistent with NHDES’ *Rock Blasting and Water Quality Measures That Can Be Taken To Protect Water Quality and Mitigate Impacts*. (2010, and as amended)

6. SPECIAL PROVISIONS: The following Special Provisions apply to all uses in the Groundwater Protection District except private residences:
  - a. Any use, storage or handling of Regulated Substances in Regulated Containers must comply with the New Hampshire Code of Administrative Rules, Part Env-Wq 401 Required Best Management Practices for Groundwater Protection;
  - b. Animal manures, fertilizers, and compost must be stored in accordance with Manual of Best Management Practices for Agriculture in New Hampshire, NH Department of Agriculture, Markets, and Food, (June 2011) and any subsequent revisions;
  - c. All regulated substances stored in containers with a capacity of five gallons or more must be stored in product-tight containers on an impervious surface designed and maintained to prevent flow to exposed soils, floor drains, and outside drains;
  - d. Prior to any land disturbing activities, all inactive wells on the property, not in use or properly maintained at the time the plan is submitted, shall be considered abandoned and must be sealed in accordance with We 604 of the New Hampshire Water Well Board Rules.
  - e. Blasting activities shall be planned and conducted to minimize groundwater contamination. Excavation activities should be planned and conducted to minimize adverse impacts to hydrology and the dewatering of nearby drinking water supply wells.
  - f. All transfers of petroleum from delivery trucks and storage containers over five gallons in capacity shall be conducted in accordance with Env-Wq 401.05(b) and NHDES' publication entitled Best Management Practices for Fueling and Maintenance of Excavation and Earthmoving Equipment.
7. EXEMPTIONS: The sale, transportation, and use of pesticides as defined in RSA 430:29 XXVI are exempt from all provisions of this ordinance.
8. PERFORMANCE BONDS: The Planning Board may, at its discretion, require a performance guarantee or bond, in an amount and with surety conditions satisfactory to the Board, to be posted to ensure completion of construction of any facilities required for compliance with the Special Provisions.

9. EXISTING NON-CONFORMING USES: Existing Non-conforming Uses may continue without expanding or changing to another Non-conforming Use, but must be in compliance with all applicable state and federal requirements, including Env-W 401, Best Management Practices Rules.
10. INSPECTIONS:
  - a. Inspections may be required to verify compliance with the Special Provisions in Paragraph 6. Such inspections shall be performed by the Code Enforcement Officer at reasonable time with prior notice to the landowner.
  - b. All properties in the Groundwater Protection District known to the Code Enforcement Officer as using or storing regulated substances in containers with a capacity of five gallons or more shall be subject to inspections.
  - c. The Board of Selectmen may require a fee for compliance inspections. The fee shall be paid by the property owner. A fee schedule shall be established by the Board of Selectmen as provided for in RSA 41-9:a.
11. SAVING CLAUSE: If any provision of this ordinance is found to be unenforceable, such provision shall be considered separable and shall not be construed to invalidate the remainder of the ordinance.
12. EFFECTIVE DATE: This ordinance shall be effective upon adoption by the legislative body.

#### **ARTICLE XI: DISTRICT BOUNDARIES**

- A. The boundaries of the districts are established as shown on the district map known as the Zoning Map of the town of New Ipswich, New Hampshire, dated March 10, 1987, and which is hereby incorporated into this ordinance. Where the interpretation is necessary in the case of uncertainty, the Board of Adjustment shall determine the location of the boundary.
  1. If the district boundary is a property line, the boundary shall follow such property line as described in the Tax Assessor's records at the effective date of these regulations.
  2. Unless otherwise stated, if a district boundary is stated by a measured distance from a street, the distance shall be measured perpendicularly from the center line of the street.
  3. If opposite sides of a street, river or brook are in different districts, the centerline of the street, river, or brook shall be the district boundary.

4. Lots lying in more than one district: where a district boundary line divides a lot of record at the time such district boundary line is established, the regulations for the less restricted portion of such lot shall extend not more than 30 feet into the more restricted portion, provided the lot has frontage on a street in the district for which the use is being granted.
5. In Village District I and Village District II, the district extends 350 feet from the center of the road or to the normal bank or natural bodies of water, whichever comes first.

6. DESCRIPTION OF THE DISTRICTS:

a. VILLAGE DISTRICT I: BANK VILLAGE

The district starts at the junction of River Road and Old Country Road and continues to a point on River Road 420 feet southeast of the junction of River Road and Lower Road. The district also extends from the junction of River Road and Lower Road to a point on Lower Road 420 feet northeast of that same junction. The district also extends from the northeast corner of Bank Village Common to the point of 1,000 feet west on the road leading to Preston Hill Road.

b. VILLAGE DISTRICT I: SMITH VILLAGE

The district begins on Smithville Road 500 feet northeast of the junction of Smithville Road, Fox Farm Road and Taylor Road. The district continues across the bridge and to a point on Goen Road 1,250 feet southeast from the junction of Goen Road and Page Hill Road. The district also extends to a point on Page Hill Road 875 feet southwest of the junction of Goen Road and Page Hill Road.

c. VILLAGE DISTRICT II: NEW IPSWICH VILLAGE

The district starts at the junction of Thayer Road and Turnpike Road, running southeast to the junction of King Road. From this point they continue southwest down King Road to the junction of King Road and Old Country Road, where it continues southwest on Old Country Road to the junction of Old Country Road and Manley Road. From this point the district continues southwest on Manley Road to the junction of Manley Road and Main Street. From this point it continues north up Main Street to the junction of Porter Hill Road and Main Street. From this point it continues north up Porter Hill Road to the junction of Porter Hill Road and Turnpike Road. From this point it continues west on Turnpike Road to the original starting point at the junction of Thayer and Turnpike Road. All the land, streets, and buildings encircled by this route are included in the district except for the land southeast of Manley Road.

The district also includes the rest of Main Street running from the junction of Manley Road and Main Street to the junction of Main Street, Preston Hill Road and Willard Road. From this junction the district extends in two directions: to a point 750 feet northeast on Preston Hill Road and in the opposite direction 875 feet southwest on Route 123A.

**ARTICLE XII: CONTROLS**

A. DIMENSIONAL CONTROLS: The following dimensional controls shall be required in each zoning district as provided in the table below. Dimensional controls include minimum lot size, minimum frontage, minimum setbacks, and maximum height.

	Village Districts <u>I &amp; II</u>	Rural District <u>District</u>
Minimum lot size in acres	1	2
*Minimum road frontage in feet	200	200
Minimum front setback of structure in feet from boundary of right-of-way of road	30	30
Minimum side and rear setbacks for structures in feet	20	20
**Minimum setback from wetlands and surface waters for structure in feet	50	50
Minimum setback from wetlands for septic system tanks and leach fields in feet	75	75
***Minimum natural woodlands buffer from wetlands and surface waters in feet	25	25
****Maximum height in feet of building above mean ground level	45	45
*****Minimum setback in feet from edge of driveway to property line	20	20

\* For the exception, see Article XIII, Section D

\*\* The following uses are exempt from the 50 foot setback requirement: docks, boat landings, boat houses and saunas.

\*\*\* The following uses are exempt from the 25 foot buffer requirement: docks, boat landings, boat houses and saunas.

\*\*\*\* The following uses are exempt from the 45 foot height requirement: domestic radio and television antennas, silos for storage of feed crops, church towers, water storage structures, chimneys, wind operated devices, barns for agricultural use, and telecommunication facilities. Any other structure proposed to be higher than 45 feet requires a special exception of the Board of Adjustment.

\*\*\*\*\* The Planning Board may waive the 20 foot setback from the edge of the driveway to property line for back lots.

	Limited Commercial <u>District</u>	General Commercial <u>District</u>	Light Industrial <u>District</u>
Minimum lot size in acres	1 acre	2 acres	2 acres
*Minimum frontage on access road	100 ft	200 ft	200 ft
Minimum setback of structure(s) from property line or edge of right of way	30 ft	30 ft	30 ft
Minimum setback of parking lot(s) from property line or edge of right of way	10 ft	10 ft	10 ft
Minimum setback of structures, parking lots and driveways from boundaries of Village I, Village II or Rural zoning district.	30 ft	50 ft	50 ft
** Minimum setback of structures, parking lots and driveways from water bodies	100 ft	100 ft	100 ft
** Minimum setback of leach fields from water bodies	100 ft	100 ft	100 ft
***Maximum height of building above mean ground level	45 ft	45 ft	45 ft
++Minimum setback of driveway from property line	10 ft	10 ft	10 ft
++Maximum number of entrances per lot	1	-	-
Usable open space:	20%	35%	35%

\*, \*\*, \*\*\* See footnotes on previous page.  
+ Shared driveways are encouraged. Exceptions for shared driveways are covered in Article XIII, Section H.

- B. DENSITY CONTROL: The following density controls are intended to carry out the intention of having a greater density in the villages and a lesser density in the rural district. By allowing older homes to be converted to multi-family housing at a greater density, the older housing stock will be maintained while providing a much-needed form of housing for the town and the region. Also by allowing multi-family and cluster development to be constructed in the rural area, diversity of housing will be provided in a way that will allow the town to encourage preservation of open space and protection of natural resources and special wildlife habitat.

**DENSITY CONTROL TABLE**

	VILLAGE DISTRICT I & II	RURAL
Single family dwelling	1 acre minimum lot size; Maximum dwelling units/Lot: 1	2 acre minimum lot size; maximum dwelling units/Lot: 1
Two family dwelling	1 acre minimum lot size; maximum dwelling units/Lot: 2	2 acre minimum lot size; maximum dwelling units/Lot: 2
Multi-family dwelling	1 acre minimum lot size; maximum dwelling units/Lot: 4	2 acres minimum lot size; minimum of 30,000 sq. ft. per dwelling unit
Single family dwelling cluster	See Section E	See Section E

\* This chart incorporated by reference the provisions of the steep slopes overlay district as set forth in Article X, Section A and C.

**ARTICLE XIII: GENERAL PROVISIONS**

A. NON-CONFORMING PRE-EXISTING USES:

1. All non-conforming properties in active use when this ordinance is adopted may continue in their present use.
2. If a use is discontinued or abandoned for two years, it shall thereafter conform to the regulations for the district and any subsequent use shall be considered as a special exception, and the non-conforming use may not thereafter be resumed without the approval of the Board of Adjustment.

3. Any existing non-conforming use may be changed to other non-conforming use provided the Board of Adjustment shall find that the proposed use is equally or more appropriate to the zoning district than the existing non-conforming use.
4. If any non-conforming building is destroyed by fire or other natural disaster, the replacement of such building will be considered to be a special exception and may take place within two years provided that the degree of non-conformity is not increased. An extension to the two year limit may be granted by the Board of Adjustment if just cause can be shown.

B. PROFESSIONAL USES AND CUSTOMARY HOME OCCUPATIONS:

Subject to requirements of this ordinance, nothing shall prevent a professional person from conducting his or her business in his or her residence or in an adjoining accessory building nor shall this ordinance prevent the carrying out in a residence of a customary home occupation, provided, however, that the professional use or customary home occupation is first shown to meet the requirements below.

A professional use or customary home occupation is customarily carried on in a dwelling unit; is carried on by a member of the family residing in the dwelling unit; is clearly incidental and secondary to the use of the dwelling unit for residential purposes: conforms to the following conditions:

1. It shall be carried on wholly within the principal building or within an accessory building or other accessory structure;
2. Not more than five people shall be regularly engaged in the activity on the site;
3. There shall be no obviously commercial interruption of the residential appearance of the neighborhood;
4. A sign complying with the provisions of this ordinance and causing no commercial interruption of the residential appearance of the neighborhood shall be allowed indicating the location of a professional or customary home occupation;
5. No nuisance from offensive noise, vibration, smoke, dust, odors, heat, glare, traffic or parking shall be generated.

C. MOBILE HOMES:

1. Mobile homes are allowed in the rural district and are subject to the same requirements as other dwellings. Those intended for a permanent dwelling unit must be placed on a foundation and tied into all conventional and necessary utility systems.
2. Any mobile home brought into the town of New Ipswich after the effective date of

this ordinance must comply with HUD safety health and construction standards of 1978 and any subsequent amendment thereto.

3. Temporary mobile homes may be allowed by special permission of the Selectmen for specific periods of time during construction of a permanent dwelling provided that a safe and adequate disposal of sewage and a safe water supply can be provided without endangering the health and safety of adjoining residents.

D. DEVELOPMENT OF BACK LOTS:

1. An individual back lot which is also a lot of record at the time this ordinance was adopted, may be used, provided that there is appropriate assurance that the back lot has access to a town road, and that such use shall conform to all other regulations for that district.
2. A proposal for creation of a back lot by subdivision must meet all the requirements of the New Ipswich Subdivision Regulations.

E. CLUSTER DEVELOPMENT:

1. PURPOSE: Cluster development is a type of subdivision designed to enable a developer of land for residential purposes to make such use pursuant to a plan which is in keeping with the overall density and open space objectives of these ordinances, but which depart from the strict application of certain of the required characteristics applicable in the district(s) in which cluster development is permitted in order to:
  - a. Promote the conservation of the natural environment and the development of community uses in harmony with the natural features of the land. Preserve the natural beauty of existing rural roads, topography, and wooded areas and to provide usable open space and recreation facilities in close proximity to dwelling units;
  - b. Encourage a less sprawling form of development which makes more efficient use of land, requires shorter networks of streets and utilizes and fosters less consumption of rural and/or agricultural land;
  - c. Provide an efficient procedure which can insure appropriate, high quality design and site planning and a high level of environmental amenities;
  - d. Avoid development of portions of sites which have poor soil conditions, high water tables, are subject to flooding, or have excessively steep slopes; and
  - e. Establish living areas within the town that provide for a balance of community needs, such as a diversity of housing opportunities, adequate recreation and open space areas, easy accessibility to those and other community facilities, and pedestrian and vehicular safety.

2. Cluster residential developments for single-family dwellings may be permitted in all districts provided that the following conditions are met:
  - a. The minimum lot area (tract of single or consolidated ownership at the time of submission) on which a cluster development may be considered shall be at least ten (10) contiguous acres.
  - b. For the purpose of land preservation a minimum of 55% of the total land tract shall be set aside as open space. The open space may not consist principally of land difficult to utilize. Such land may be included in the open space area, but shall not consist of more than 50% of any combination of wetlands and/or steep slopes as defined in Article X, Section C. The open space shall be designed and reserved for the benefit and enjoyment of the residents of the cluster development.
  - c. A maximum of 15% of the total land area may be used for common area. The common area may include roads, rights of way, common or individual utilities, common buildings and recreational facilities. The common area shall not include any land designated as wetlands, steep slopes as defined by Article X, Section C or floodplain areas.
  - d. To determine the maximum number of buildable lots that can be created in a cluster subdivision, the applicant shall prepare a Yield Plan showing a feasible conventional subdivision plan of one family dwellings, consisting of conventional lot and street layouts, and which may be conceptual in nature and is not intended to involve significant engineering costs, but which would be reasonably capable of receiving subdivision approval in the opinion of the Planning Board. A conventional subdivision is a subdivision, other than a cluster subdivision, which could be created according to the provisions of the New Ipswich Zoning Ordinance. The number of lots shown on the Yield Plan is the maximum number of lots that can be allowed in the Cluster Subdivision.

The cluster development of lots shall be continuous in an arrangement with the 15% common area to promote a “village” concept with the surrounding open space. In order to accommodate the unique characteristics of a tract of land, more than one cluster arrangement may be permitted if, in the discretion of the Planning Board, this would lead to a site layout of the total development which would improve and enhance the appearance and preservation of natural topographic features and open space. No land within the buildable portion shall be wetlands or land of steep slopes.

- e. House lots will conform to regulations for single family dwellings with the following exceptions:

- i. The minimum size of a house lot shall be 1/3 acre.
    - ii. Road frontage may be reduced to 75 feet, as applicable and appropriate for the presented road layout and use of cul-de-sacs.
    - iii. The minimum setback of structures inside a cluster development may be reduced to 20 feet for septic system structures, and 10 feet for all other structures
    - iv. The minimum setback of all structures, except for roads connecting the cluster development to the external road system, shall be 75 feet from the edge of the cluster development parcel.
  - f. The open space shall be deemed to the town as a conservation easement or be conveyed to a community association or deeded to the lot owners association with sufficient covenants on the individual deeds to assure the continuance of the land as open space. Also, other common facilities, private roadways and features within the cluster development shall be protected by covenants running from the land and shall be conveyed by the property owners to a homeowners association, so as to guarantee the continued use of the land for the intended purposes, continuity of proper maintenance and the availability of funding for maintenance and recovery for specific losses. In addition, the covenants, adopted by the homeowners association, shall outline the membership and obligations of the residents of the cluster development. All covenants, deeds and easements shall be subject to review based on the statement of purpose by town counsel and approval by the Planning Board.
  - g. Whenever a proposed cluster subdivision would be visible from any point outside the development, the Planning Board may require an adequate landscape buffer to protect external property values.
3. Proposals for cluster development projects shall be submitted to the Planning Board for review. The Planning Board will review the cluster development for compliance with subdivision and site plan regulations. No building permit shall be issued or construction started without approval from the Planning Board.

F. SIGNS:

1. PURPOSE AND INTENT

In keeping with the Master Plan and rural character of the town, the purpose of this article is to protect and improve community appearance as well as aesthetics, and to protect the health, safety, and welfare of its citizens.

This section recognizes that any business needs identification and the public needs direction. This section aims to encourage the use of street graphics which are compatible with rural character, are readable, clear, non-distracting to vehicular and pedestrian traffic, and are maintained in good repair.

2. DEFINITIONS

IESNA. Illuminating Engineering Society of North America. An organization that recommends standards for the lighting industry.

3. ILLUMINATION

- a. Illumination shall be downward to the ground to cut off all upward transmission of light. Bottom mounted outdoor sign lighting shall not be used.
- b. Commercial lighting shall meet minimum IESNA illumination levels while not exceeding IESNA uniformity ratios and average illumination recommendations.
- c. Signs can only be illuminated during business hours.
- d. Sign illumination cannot glare onto abutting lots.
- e. Direct view of light source cannot result in discomfort to the observer or possible visual impairment.

4. LIMITS ON NUMBER AND SIZE OF SIGNS

a. Home Occupation

- (1) One free-standing sign and one wall sign may be installed at a site where one or more home occupations are located.
- (2) A home occupation sign may not be illuminated, constructed from reflective materials.
- (3) It must be possible to enclose the entire structure (base, supports and display area) of a free-standing sign inside a (hypothetical) box with the following dimensions: 6 feet high, 4 feet wide and 2 feet deep.
- (4) The display area (including background and frame) of a free-standing sign may not exceed 2 square feet.
- (5) The display area (including background and frame) of a home occupation wall sign may not exceed 2 square feet.

b. Single Commercial or Industrial Business

- (1) If there is one highway entrance to the business, one free-standing sign may be erected at the entrance. If there are two or more highway entrances to the business, two free-standing signs may be erected, each at a different entrance.
- (2) It must be possible to enclose the entire structure (base, supports and display area) of each free-standing sign inside a (hypothetical) box with the following dimensions: 12 feet high, 8 feet wide and 4 feet deep.
- (3) The display area (including background and frame) of each free-standing sign may not exceed 32 square feet. If the sign is double-faced, only one face is counted. If the sign has more than two faces, all faces are counted.
- (4) In addition, the business will be allowed to have one wall sign with a display area (including background and frame) not to exceed 12 square feet.

c. Multiple Commercial or Industrial Businesses

- (1) If there is one highway entrance to multiple businesses, one (presumably multi-panel) free standing sign may be erected at the entrance. If there are two or more highway entrances to the multiple businesses, two (presumably multi-panel) free-standing signs may be erected, each at a different entrance.
- (2) It must be possible to enclose the entire structure (base, supports and display area) of each free-standing sign inside a (hypothetical) box with the following dimensions: 12 feet high, 16 feet wide and 4 feet deep.
- (3) The display area (including background and frame) of each free-standing sign may not exceed 64 square feet. If the sign is double-faced, only one face is counted. If the sign has more than two faces, all faces are counted.
- (4) In addition, each of the business will be allowed to have one wall sign with a display area (including background and frame) not to exceed 12 square feet.

5. REMOVAL

All signs shall be maintained in good repair at all times. Any sign which is or becomes in disrepair shall be removed upon order of the Selectmen if it is not repaired. Any sign which refers to a discontinued use shall be removed upon order of the Selectmen.

6. PROHIBITED SIGNS

- a. Any sign that extends above roof peak of the building.
- b. Moving, blinking, flashing, changing, or rotating signs.
- c. Signs in the right of way unless approved by the Board of Selectmen.
- d. Signs that interfere, prohibit, or impair vision or traffic in any manner.
- e. Signs that create a hazard to the health, safety, or welfare of the public.

7. EXISTING NON-CONFORMING SIGNS

- a. Any sign in existence at the time of the adoption of this Ordinance which is deemed to constitute a hazard to health or public safety shall be removed upon order of the Selectmen. Any other sign lawfully in existence at the time of the adoption of this Ordinance may continue in existence and be maintained, but may not be changed in any of its dimensions or character or be moved, unless it is made to comply with this Ordinance.
- b. Any nonconforming sign, the use of which has been discontinued for a period of 12 months or more, shall not be reestablished, restored or repaired, unless it is made to comply with this Ordinance.

8. ENFORCEMENT: VIOLATIONS AND PENALTIES

The enforcement of this Ordinance shall be by the Board of Selectmen, who shall, upon any properly instituted complaint of violation, promptly investigate and take action to cause the offending sign to be removed and to punish offenders.

The owner of property upon which any sign is found to be in violation of this Ordinance, shall be notified in writing to correct the improper conditions. If said condition is not corrected within 15 days after notification, the Board of Selectmen may then cause such sign to be removed. The property owner and/or sign owner shall be liable to the Town of New Ipswich for any costs incurred by the Board of Selectmen in carrying out the provisions of the Section.

Penalty for violation of this Ordinance shall be as authorized by RSA 676:15-17b as the same may be amended from time to time. Each day of offense after proper notification has been given by the Board of Selectmen shall constitute a separate offense.

If, in the opinion of the Board of Selectmen, any violation of this Ordinance constitutes a threat to the health, welfare, or public safety, the Board of Selectmen may, in addition to any other remedy, seek injunctive relief.

- 9. VALIDITY: Whenever the provisions of this section differ from those of other provisions in the New Ipswich Zoning Ordinance, that provision or ruling which imposes greater restrictions or higher standards shall apply.
- 10. SEVERABILITY: The invalidity of any provision of this Article shall not affect the validity of any other provision, nor any prior decisions made on the basis of the valid provisions of this Article.
- 11. EFFECTIVE DATE: This Article shall take effect upon its passage, and as amended.

G. PARKING:

1. Space Determinations:

Off-street parking shall be provided for motor vehicles as follows in connection with all new buildings hereafter erected in town:

- a. Motels, hotels, inns and other lodging establishments: 1 space per sleeping room.
- b. Dwellings: 2 spaces per dwelling unit.
- c. Retail stores: 1 space per each 200 square feet of floor space used for display or sale of merchandise.
- d. Offices: 1 space per 300 square feet of gross floor area or 1.1 spaces for each employee on the largest shift.
- e. Nursing homes and hospitals: 1 space for every 4 beds at design capacity plus 1 space for each employee on the largest shift.
- f. Restaurants and theaters: 1 space for each 3 seats.
- g. Light industrial uses: 1.1 space for each employee on the largest shift.

2. Converting Existing Uses:

Any alterations to convert existing residential property to commercial use shall meet the requirements of Section 1.

All buildings hereafter remodeled into multi-family dwellings shall meet the requirements of Section 1.

3. Dimension Requirements:

Each parking space shall contain not less than 162 square feet (9 x 18) exclusive of driveway and turning areas. A garage or carport qualifies as a parking space, but a driveway qualifies as a parking space only to the extent that the portion of the driveway used for parking does not block the garage or another vehicle parked in the driveway. Adequate snow storage area must be provided.

4. Surfacing:

All parking areas containing more than 4 spaces and driveways thereto shall be surfaced for year round use and must be graded so as to carry off all surface water.

5. Landscaping:

For parking areas containing more than 20 spaces, a landscaping plan shall be submitted to the Planning Board for approval.

6. Placement:

In the Limited Commercial District, parking will be provided to the rear of municipal, retail, office, industrial and other commercial buildings whenever feasible.

H. DRIVEWAYS:

1. A permit must be obtained from the Board of Selectmen before any driveway entrance, exit or approach to any highway within the town shall be constructed or substantially altered. The driveway shall not cause excessive erosion, and the access onto town or state roads shall not create an undue traffic hazard. An adequate surface storm water drainage system shall be designed in order to minimize erosion and sedimentation both during and after construction.

Any driveway bordering on a Class I, II or III highway also requires a permit from the New Hampshire Department of Public Works and Highways.

2. At times it may be desirable to have two or more (but not more than four) properties share a common driveway, the primary consideration being traffic safety. The Board of Selectmen may grant a common driveway permit after a successful site review by the New Ipswich Planning Board. The site review will be conducted in accordance with the New Ipswich Planning Board regulations in existence at the time. The Planning Board may consider any of the following reasons in determining whether a common driveway is the prudent choice:
  - a. To minimize entries onto state highways or other major roadways.

- b. To improve sight distances where they might otherwise be too short for safe entry onto the public road.
- c. To avoid locations where steep slopes preclude or make difficult the construction of a safe driveway.
- d. To take advantage of an existing right of way.
- e. To avoid wetlands.
- f. Any other site specific condition indicating a shared driveway as the prudent choice.

Depending on the length of the driveway and other site conditions, the Planning Board may require: passing areas, turning areas, drainage and erosion control both during and after construction. The Planning Board will also require an approved joint maintenance agreement to be registered with the deeds of the properties involved. With respect to the shared property line, common driveways constructed under this provision need not comply with the setback requirement of Article XII, Section A.

I. LOTS OF RECORD:

In any district, notwithstanding limitations imposed by other sections of this ordinance, single lots of record at the effective date of this ordinance may be built upon, provided that the setbacks are complied with.

J. EXCAVATION AND REMOVAL OF NATURAL MATERIALS:

The commercial excavation and/or removal of sand, gravel, rock, soil or construction aggregate shall be permitted by special exception as required by Article VI, Section C. As provided in RSA Chapter 155-E, an excavation permit must first be issued by the Planning Board, unless the excavation is exempt, pursuant to such regulations adopted by the Planning Board from time to time.

K. SEPTIC DISPOSAL:

No sewage effluent leaching field shall be located within 100 feet of the reference line of surface waters. All requirements of the New Hampshire Water Supply and Pollution Control Commission and the town of New Ipswich shall be strictly complied with by all users, and evidence of compliance shall be required in issuing permits. Satisfying health requirements may, in some cases, require land area in excess of the minimum requirements.

L. PROTECTION OF GROUND WATER AND SURFACE WATER:

To protect the ground water and the surface water in the town of New Ipswich, it must be determined that the following requirements are met for any proposed use:

- 1. The proposed use will not detrimentally affect the quality of the ground water by directly contributing to pollution or by increasing the long-term susceptibility of the

ground water or surface water to potential pollutants.

2. The proposed use will not cause a significant reduction in the long-term volume of groundwater and surface water available.
3. A proposed use shall meet any applicable rules or regulations of the town of New Ipswich, the state of New Hampshire, or the federal government for the storage or disposal of wastes.
4. The Zoning Board of Adjustment, or the Planning Board in site plan review, may require that the applicant provide data or reports prepared by a professional engineer or qualified groundwater consultant to assess any potential damage that may result from the proposed use. The town boards shall engage such professional assistance as it requires to adequately evaluate such reports and to evaluate, in general, the proposed use in light of the above criteria, costs for any of the above mentioned services shall be charged to the applicant.

M. MINIMAL IMPACT HOME OCCUPATIONS:

Minimal impact home occupations are activities which meet all of the following criteria:

1. The activity shall be carried out only by the residents of the premises.
2. The activity shall be operated entirely within the dwelling unit or an accessory structure.
3. There shall be no external evidence of the activity except for a non-illuminated sign.
4. There shall be no adverse effect of the activity on the environment or the surrounding properties as a result of
  - noise;
  - vibration;
  - odors;
  - smoke;
  - dust;
  - lights;
  - glare;
  - soil, water or air pollution; or
  - electrical interference which causes visual or audible interference in any radio or television receivers or fluctuations in line voltage off the premises.
5. There shall be no increase in traffic or parking in the neighborhood.

Any activity that exceeds these criteria may be allowed as provided elsewhere in this Ordinance.

N. ACCESSORY DWELLING UNITS:

1. PURPOSE. For the purpose of providing expanded housing opportunities and flexibility in household arrangements, accessory dwelling units shall be permitted by special exception granted by the Board of Adjustment in any district in conformance with these regulations.
2. DEFINITIONS: The following definitions specifically apply to this section of the Zoning ordinance.

Accessory Dwelling Unit: A residential dwelling unit subordinate to a one family principal dwelling unit and that provides independent living facilities for one or more persons, including provisions for sleeping, eating, cooking and sanitation on the same parcel of land as the principal dwelling unit it accompanies.

Attached Accessory Dwelling Unit: An Accessory Dwelling Unit that is within or attached to a one family dwelling.

Detached Accessory Dwelling Unit: An Accessory Dwelling Unit located within a structure with the appearance of a barn or garage accessory to the principal dwelling unit.

3. REQUIREMENTS/LIMITATION OF ACCESSORY DWELLING UNITS

- a. An applicant for an Accessory Dwelling Unit shall be required as a condition of approval to record a restrictive covenant in the Registry of Deeds indicating that the structure and lot shall not be converted into a condominium or any other form of legal ownership distinct from the ownership of the existing one family dwelling.
- b. One (1) Accessory Dwelling Unit may be allowed per one family home by special exception of the Zoning Board of Adjustment
- c. A second Accessory Dwelling Unit may be allowed per ~~single~~ one family home by special exception of the Zoning Board of Adjustment, when the lot size is 2 or more acres.

Only one (1) Detached Accessory Dwelling Unit is permitted. In cases where a second Accessory Dwelling Unit is permitted on the same property as a Detached Accessory Dwelling Unit, the second unit must be an Attached Accessory Dwelling Unit Accessory Dwelling Units are subject to the following provisions

- i. An Accessory Dwelling Unit must be subordinate and clearly secondary to the principal dwelling unit.

- ii. An Accessory Dwelling Unit shall not alter the general character of the neighborhood or reduce the value of the surrounding properties;
- iii. A Mobile Home is not allowed to be used as an Accessory Dwelling Unit;
- iv. The Accessory Dwelling Unit and the primary dwelling unit must share an access to a town or private street;
- v. Adequate off-street parking (2 per unit) outside of the public right-of-way shall be provided and adequate provisions must exist or be made for ingress, egress and turning of vehicles within the site;
- vi. All setbacks, buffers, and other zoning requirements shall apply to Accessory Dwelling Units;
- vii. The existing or proposed septic system 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 New Ipswich 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 New Ipswich septic regulations, state permitted plans for a new or upgraded septic system conforming to the most recent state and local septic standards and regulations shall be required.
- viii. When the addition of an ADU causes the septic to exceed the current approved bedroom count, the homeowner may submit an affidavit stating that there is existing capacity based on the current occupancy of the home to compensate for bedrooms in the ADU. This affidavit shall allow the code enforcement officer to issue a temporary certificate of occupancy which has a one-time 6-month use. The affidavit must state that a state permitted plan for a new or upgraded septic system shall be submitted to the code enforcement officer within 6 months to obtain a final certificate of occupancy. Failure to do so will result in a revocation of the temporary occupancy permit for the ADU.
- ix. There are no exterior alterations that alter the property's character or appearance as a one family residence with an accessory barn or garage.

- x. The square footage of the Accessory Dwelling Unit is appropriate for the site and neighborhood
  - d. ADUs are not allowed on properties with multiple single-family dwellings attached to each other such as townhouses, and with manufactured housing as defined in RSA 674:31
  - e. An Accessory Dwelling Unit shall not be considered to be an additional dwelling unit for the purposes of determining minimum lot size;
  - f. The owner of the property must occupy one of the dwellings on the property as his or her principal place of residence. In cases where the property is part of a trust, one of the trustees must occupy one of the dwellings on the property as his or her principal place of residence
  - g. A purchaser of a home that had a special exception granted for an Accessory Dwelling Unit who wants to continue its use as an Accessory Dwelling Unit must comply with all conditions of the permit previously granted. Any change to the prior conditions will require a new application;
  - h. A building permit for an Accessory Dwelling Unit must be approved and issued prior to its construction. In the case where no building permit is required, the building inspector must certify compliance with building codes and the New Ipswich Zoning Ordinance; and
  - i. An Accessory Dwelling Unit use shall be recorded by deed addendum at the Registry of Deeds, indicating all the terms of the approval granted. The addendum shall read substantially as follows:
 

“\_\_\_\_\_ of \_\_\_\_\_ covenants and agrees that the property located at \_\_\_\_\_ contains an Accessory Dwelling as defined by the Town of New Ipswich Zoning Ordinance (Article XIII, section O). That use of the property is permitted by special exception granted by the Zoning Board of Adjustment on \_\_\_\_\_, \_\_\_\_\_. The continued use of the Accessory Dwelling Unit is conditioned upon compliance with all ordinances and statutes applicable to the property.”
4. **NON-MUNICIPAL RESTRICTIONS:** The granting of a Special Exception for an Accessory Dwelling Unit does not alter non-municipal restrictions, such as deed restrictions or HOA limitations on the property.
  5. **SEVERABILITY:** The invalidity of any other provision, nor any prior decisions made on the basis of the valid provisions of this Article shall not affect the validity of any other provision, nor any prior decisions made on the basis of the valid provisions of this article.

6. EFFECTIVE DATE: This Article shall take effect upon its passage, and as amended

O. COMMERCIAL AND INDUSTRIAL NOISE

1. PURPOSE: This ordinance is enacted to preserve quality of life, peace and tranquility, and protect the natural environment. This ordinance establishes the acoustic baseline, background sound levels for project design purposes, and limits the maximum noise level emissions for commercial and industrial developments. Residents shall be protected from exposure to excessive noises emitted from commercial and industrial development by regulating noise levels and sound quality.
2. APPLICABILITY AND LIMITATIONS:
  - a. All commercial and industrial development noise(s) generated by operating equipment and devices that can be detected by the human ear on another property. Commercial and industrial development includes all facilities used for: commerce, manufacturing of goods, transportation of goods or materials (including all means of transportation), office use, generation and bulk transmission of energy resources and provision of services.
  - b. The following noise sources are specifically excluded from this ordinance.
    - Residential properties including a home business on the residential property
    - Agricultural use
    - Forestry use
    - Vehicle backup alarms & safety alarms, emergency equipment
    - Short term incidental noise (e.g. lawn mowing or snow removal)
    - Excavation or mining at licensed gravel pits
    - Residential construction (when constructed at the permanent site of the residence)
3. METHOD: This ordinance adopts International Standards Organization (ISO 1996-1:2003) as summarized in Table 1. This standard estimates community response by the increase in the dBA noise level. This ordinance also applies dBA response corrections for objectionable frequency content (sound quality).

**Table 1 – ISO 1996-1:2003**

<b>dBA Above Noise Level Criterion</b>	<b>Estimated Community Response</b>	
	<b>Category (ISO) 1</b>	<b>Description (EPA) 2</b>
0	None	No Observed Reaction
5	Little	Sporadic Complaints
10	Medium	Widespread Complaints
15	Strong	Threats of Community Action
20	Very Strong	Vigorous Community Action

1 ISO 1996-1:2003, Acoustics -- Description, measurement and assessment of

environmental noise -- Part 1: Basic quantities and assessment procedures

2 United States Environmental Protection Agency's document "Information On Levels Of Environmental Noise Requisite To Protect Public Health And Welfare With An Adequate Margin of Safety", 550/9-74-004, March 1974

4. **BACKGROUND BASELINE:** The Town of New Ipswich is situated in a rural area and is therefore a quiet community, which has defined the acoustic baseline as follows.

**Table 2 – Town of New Ipswich Background Sound Levels Criterion**

<b>Zoning District</b>	<b>Day</b> (from 7:00 AM to 7:00 PM)	<b>Night</b> (from 7:00 PM to 7:00 AM)
<b>Rural</b>	35 dBA (10-min L90)	25 dBA (10-min L90)
<b>Village 1</b>	35 dBA (10-min L90)	25 dBA (10-min L90)
<b>Village 2</b>	40 dBA (10-min L90)	30 dBA (10-min L90)

Note: L90 is sound level exceeded 90% of the time

5. **NOISE LIMITS:**
- a. All Commercial and industrial noise emissions shall not exceed the noise limits in Table 3A anywhere at any time on another property unless the owner of that property has granted a noise easement to the facility or a special exception has been granted by the ZBA according to paragraph 5b of this article.

**Table 3A – Operational Noise Limits**

<b>Zoning District</b>	<b>Maximum Noise Limit</b>	<b>Maximum Noise Limit</b>
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	<b>Day</b> (from 7:00 AM to 7:00 PM)	<b>Night</b> (from 7:00 PM to 7:00 AM)
<b>Rural</b>	45 dBA (10-min L10)	35 dBA (10-min L10)
<b>Village 1</b>	45 dBA dBA (10-min L10)	35 dBA (10-min L10)
<b>Village 2</b>	50 dBA dBA (10-min L10)	40 dBA (10-min L10)

Note: L10 is sound level exceeded 10% of the time

- b. The noise limits in Table 3B may be allowed by Special Exception on non-residential property.

**Table 3B - Noise Limits by Special Exception for Non-Residential Properties**

<b>Zoning District</b>	<b>Maximum Noise Limit Day</b> (from 7:00 AM to 7:00 PM)	<b>Maximum Noise Limit Night</b> (from 7:00 PM to 7:00 AM)
<b>Rural</b>	50 dBA (10-min L10)	40 dBA (10-min L10)
<b>Village 1</b>	50 dBA (10-min L10)	40 dBA (10-min L10)
<b>Village 2</b>	55 dBA (10-min L10)	45 dBA (10-min L10)

Note: L10 is sound level exceeded 10% of the time

6. **SOUND QUALITY CORRECTIONS:** When objectionable sound quality is present, a penalty of 5 dB shall be deducted from the maximum noise level limits on Table 3A and Table 3B when the noise emissions meet one (-5 dB) or two (-10 dB) of following conditions (a, b & c). These penalties are cumulative up to a maximum of -10 dB.

**Table 4– Town of New Ipswich Sound Quality Corrections**

<b>Penalty</b>	<b>Description</b>	<b>Method</b>	<b>Correcti</b>	
<b>a</b>	<b>Tone(s)</b>			
	1 Steady Tone	ANSI S1.13; 1/3 Octave	-5 dBA	
	Fluctuating	ANSI S1.13; Narrow		
Multiple Tones	ANSI S1.13; Narrow			
<b>b</b>	<b>Low</b>	20 Hz to 10000	dBC minus dBA >15 dB	-5 dBA
<b>c</b>	<b>Infrasound [1]</b>	≤1.0 Hz to 20	dBL minus dBC >15 dB	-5 dBA

[1] e.g. Wind Turbine

7. **PLANNING BOARD RESPONSIBILITY:** The maximum noise level (L10) increase is 10 dB based on the zoning district baseline background L90. The Planning Board shall have discretion to reduce the 10 dB increase to 7 dB when

there is potential for project future expansion or for another nearby development.

8. NOISE COMPLIANCE: Compliance noise measurements are the financial responsibility of the owner of the facility and shall be independently performed by a qualified professional approved by the Board of Selectmen when directed by the Board of Selectmen or their designated agent. Compliance noise measurements shall not exceed the stipulated noise limits and shall include Project Sound Quality Corrections when warranted.
9. NOISE MEASUREMENTS:
  - a. All noise measurements shall (must) exclude contributions from wind on microphone, tree/leaf rustle, flowing water, and natural sounds such as tree frogs and insects. The latter two can be excluded by calculating the dBA by excluding octave band measurements above the 1000 Hz band.
  - b. All acoustic terminology, noise predictions and sound measurements shall comply with recognized international standards (ANSI, IEC & ISO).

P. LIGHTING AND DARK SKY PROTECTION

1. PURPOSE: The intent of this ordinance is to maintain the rural character of New Ipswich, in part by preserving the visibility of night-time skies and reducing the intrusion of nearby light sources. This ordinance recognizes the importance of lighting for safety and security while encouraging energy efficiency, and promotes good neighborly relations by preventing glare from outdoor lights from intruding on nearby properties or posing a hazard to pedestrians or drivers.
2. DEFINITIONS: For the purpose of Article XIII.P, the following definitions shall apply:

Direct Light: Light emitted directly from the lamp, off of the reflector or reflector diffuser, or through the refractor or diffuser lens, of a luminaire.

Fixture: The assembly that houses the lamp or lamps and can include all or some of the following parts: housing, mounting bracket or pole socket, lamp holder, ballast, reflector or mirror, and/or refractor or lens.

Lamp: The component of a luminaire that produces the actual light.

Luminaire: A complete lighting assembly that includes the fixture and its lamp or lamps.

Flood or Spotlight: Any light fixture or lamp that incorporates a reflector or a refractor to concentrate the light output into a directed beam in a particular direction.

Glare: Light emitting from a luminaire with intensity great enough to reduce a viewer's ability to see and, in extreme cases, causing momentary blindness.

Height of Luminaire: The height of a luminaire shall be the vertical distance from the ground directly below the centerline of the luminaire to the lowest direct-light-emitting part of the luminaire.

Indirect Light: Direct light that has been reflected or has scattered off of other surfaces.

Light Trespass: The shining of light produced by a luminaire beyond the boundaries of the property on which it is located.

Lumen: A unit of luminous flux. One foot candle is one lumen per square foot. For the purposes of this ordinance, the lumen-output values shall be the initial lumen output rating of a lamp.

Outdoor Lighting: The night-time illumination of an outside area or object by any manmade device located outdoors that produces light by any means.

Temporary Outdoor Lighting: The specific illumination of an outside area or object by any manmade device located outdoors that produces light by any means for a period of less than seven days with at least 180 days passing before being used again.

### 3. OUTDOOR LIGHTING SPECIFICATIONS:

- a. Any luminaire emitting *more than* 1800 lumens (with 1,700 lumens being the typical output of a 100-watt incandescent bulb) shall be fully shielded so as to produce no light above a horizontal plane through the lowest direct light-emitting part of the luminaire. (Such fixtures usually are labeled Dark Sky Certified, Dark Sky Compliant or Full Cutoff.) Residential accent lighting is exempt from this provision as long as it complies with the other provisions of this paragraph.
- b. Any luminaire with a lamp or lamps rated at a total of *more than* 1800 lumens, and all flood or spot lights with a lamp or lamps rated at a total of *more than* 900 lumens, shall be mounted at a height equal to or less than the value  $3 + (D/3)$  where D is the distance in feet to the nearest property boundary. The maximum height of the luminaire shall not exceed 25 feet.
- c. Any luminaire with a lamp or lamps rated at 1800 lumens *or less*, and all flood or spot lights with a lamp or lamps rated at 900 lumens *or less*, may be used without restriction to light distribution or mounting height, except that, to prevent light trespass and glare perceptible to pedestrians or persons operating motor vehicles on public ways.
- d. No flood or spot light may be aimed at or toward nearby properties

creating light trespass. No flood or spot light may create glare perceptible to pedestrians or persons operating motor vehicles on public ways, the luminaire shall be redirected, or its light output reduced or shielded, as necessary to eliminate such conditions.

- e. Moving, fluttering, blinking, or flashing, neon or tubular lights shall not be permitted, except as temporary seasonal holiday decorations. Signs may be illuminated only by continuous direct white light with illumination confined to the area of the sign and directed downward.
- f. Luminaires mounted on a canopy shall be recessed in the ceiling of the canopy so that the lens cover is recessed or mounted flush with the ceiling of the canopy and fully shielded. Luminaires shall not be mounted on the sides or top of the canopy unless used for the lighting of signs attached to the canopy. The sides of the canopy shall not be illuminated.
- g. When aviation lighting is required, the latest technologies shall be employed in order to minimize the visual impact of such lighting. This includes the mandatory use of Automatic Obstruction Lighting Systems, such as those manufactured by DeTect and OCAS for FAA Obstruction Lighting.
- h. Lighting of unattended commercial properties shall be reduced to the minimum level needed for installed security cameras after 10pm and through dawn. Light levels may be increased manually or by timer 15 minutes before the scheduled arrival of people.

4. EXEMPTIONS:

- a. Public-roadway illumination, emergency lighting, and vehicular luminaires shall be exempt.
- b. Seasonal holiday lighting and illumination of the American and state flags shall be exempt from the requirements of this ordinance, providing that such lighting does not produce glare on roadways or light trespass on nearby properties.
- c. Installations existing prior to the enactment of this ordinance are exempt from its requirements. However, any changes to an existing lighting system, fixture replacements, or any grandfathered lighting system that is moved, must meet these standards.

5. TEMPORARY LIGHTING: Any temporary outdoor lighting for construction or other purposes that does not conform to the requirements of this article may be permitted by the Selectmen or their designated agent after considering:

- a. The public and/or private benefits that will result from the temporary lighting.
- b. Any annoyance or safety problems that may result from the use of the temporary lighting.
- c. The duration of the temporary lighting.

**ARTICLE XIII-1: TELECOMMUNICATIONS FACILITIES**

**A. PURPOSE**

These regulations have been enacted in order to establish general guidelines for the siting of towers and antennas and to enhance and fulfill the following goals:

- 1. Preserve the authority of the Town of New Ipswich to regulate and provide for reasonable opportunity for the siting of telecommunications facilities.
- 2. Enhance the ability of providers of telecommunications services to provide such services to the community effectively and efficiently.
- 3. Reduce the adverse impacts such facilities may create, including, but not limited to: impacts on aesthetics, environmentally sensitive areas, historically significant locations, flight corridors, wildlife and human health and safety including injurious accidents to person and property, and diminution of property values.
- 4. Preserve New Ipswich’s unique view sheds and scenic values, in particular those associated with the Wapack Range, and all other significant hills and vistas.

**B. DEFINITIONS As used in this Ordinance, the following terms shall have the meanings indicated:**

ANTENNA: Any exterior 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.

TOWER: Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas.

TELECOMMUNICATIONS FACILITIES: 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 transmission/receptions.

**C. LOCATION OF TELECOMMUNICATIONS FACILITIES**

- 1. Telecommunications facilities may be permitted in all districts if located in an

existing building or hidden or camouflaged from view. In no case, however, shall such a facility be sited in a location that would unreasonably impact any significant views.

2. Due to the high quality of scenery in the Town of New Ipswich, tower profiles that interrupt distant or near views are deemed to be detrimental to both property values and the general scenic quality of New Ipswich.

#### E. PERMITTED USES

1. 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 such 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 telecommunications facility on such lot. Sites with multiple existing uses may be precluded from having towers added if, in the opinion of the Planning Board, the additional use has a significant negative impact on the residential or scenic character of the area.

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.

2. Any alteration of the original permitted use and device configuration of the facility will require a new approval.
3. Amateur Radio and Receive-Only Antennas. This Ordinance does not apply to any antenna used exclusively in the amateur radio services that is eligible under the Amateur Radio Preemption, 101 FCC 2nd 952 (1985).
4. Essential Services and 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 facilities is a use of land, and is addressed by this Article.

#### F. CONSTRUCTION PERFORMANCE REQUIREMENTS

1. 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, in accordance with Section J, of the tower or antenna, as abandoned, at the owner's expense through the execution of the posted security.

2. Building Codes/Safety Standards. To ensure the structural integrity of towers and antennas, all facilities will be inspected every five (5) years by an engineer approved by the Town, with the cost to be paid by the owner, and the report submitted to the Town. If the report concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such standards. If the owner fails to bring such tower into compliance within 30 days, such action shall constitute an abandonment and grounds for the removal, in accordance with Section J, of the tower or antenna, as abandoned, at the owner's expense through execution of the posted security.

G. STANDARDS

1. Height

- a. The height of any structure will be the minimum necessary in order to transmit and receive signals. The intent to serve a large area with one tall installation will not be accepted as justification of height. Multiple, minimum-height towers may be preferred and required depending upon the resulting visual impact.
- b. The applicant must demonstrate that every reasonable effort has been made to cause the facility to have the least possible visual impact on the Town at large, including demonstration of the need for the proposed height and camouflage techniques. In no case, however, may any tower extend more than 25 feet above the existing on-site vegetation or average tree canopy height within 150 feet of the Tower. If no vegetation exists on site, any tower may not extend more than 25 feet above ground level.

2. Location

- a. Site location and development shall preserve the existing character of the surrounding buildings and land uses and the zoning district as much as possible. Telecommunications facilities shall be integrated through location and design to blend in with existing characteristics of the site.
- b. The applicant must demonstrate that there are no available opportunities for co-location on existing structures or telecommunications facilities that would provide similar coverage.

- c. The Planning Board reserves the right to require that the applicant reasonably demonstrate that siting the telecommunications facility in a proposed location will not negatively affect historic or significant views or create visual clutter.
- d. If a telecommunications facility is proposed to be sited in a location that the Planning Board has determined will negatively affect historic or significant views or create visual clutter, the applicant must demonstrate that there is no other location that could provide similar coverage.

3. Setbacks and Separation

In addition to compliance with the minimum zoning district setback requirements for other structures, towers shall be set back a distance equal to 125% of the height of the tower from any property lines.

4. Security Fencing

Towers and guy wire anchor points 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.

5. Co-Location

While the Town supports the sharing of telecommunication facilities, where appropriate and feasible, an opportunity for co-location is not to be considered a justification for excessive height of towers. Co-location opportunities also shall not exclude the investigation of alternative sites or multiple towers on one site.

6. Landscaping

- a. A buffer shall be provided that effectively screens the view of the telecommunications facility from adjacent property. The standard minimum buffer shall consist of a landscaped strip at least 10 feet wide outside the perimeter of the telecommunications facility, and shall be expanded as required by the Planning Board based on site-specific considerations. Natural vegetation is preferred.
- b. In locations where the visual impact of the telecommunications facility would be minimal or nonexistent, including the locating of an antenna on or in an existing structure, the landscaping requirement may be reduced or waived entirely.
- c. Existing on-site vegetation and natural landforms on the site shall be preserved and disturbance minimized 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.

7. Camouflaging

- a. Camouflaging of towers is required and must be approved by the Planning Board.
- b. The design of the tower, 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.
- c. Existing on-site vegetation and natural landforms on the site shall be preserved and disturbance minimized 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.
- d. 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.
- e. Where possible, dish antennas will be arranged contiguous to or below the abutting tree line.

H. WAIVERS

1. Any portion of these regulations may be waived or modified when, in the opinion of the Planning Board, literal enforcement will exact undue hardship because of peculiar conditions pertaining to the land in question and provided that such waiver will not be contrary to the public interest or to the purpose and intent of this Ordinance.
2. In approving waivers, the Planning Board may impose such conditions as it deems appropriate to substantially secure the objectives of the standards or requirements of these regulations.
3. A petition for any such waiver shall be submitted in writing by the applicant for Planning Board review. The petition shall state fully the grounds for the waiver and all of the facts relied upon by the applicant.

I. BONDING AND SECURITY INSURANCE

1. The applicant shall provide a bond to the Town 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 form and amount of the security. The Planning Board shall also require the applicant to submit proof of appropriate liability insurance with respect to the proposed facilities prior to construction.

2. Every five years, at the time of inspection per Section F, paragraph 2, the Planning Board will review the adequacy of the bond to assure it would be sufficient to cover the costs of removal and disposal of the facility components. The amount of the bond may be adjusted, upwards or downwards, when required by the Planning Board.
3. If the Planning Board requires an engineering assessment in order to set the amount of the bond, the cost of that assessment shall be borne by the applicant.

J. REMOVAL OF ABANDONED ANTENNAS AND TOWERS

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

K. ADMINISTRATION AND ENFORCEMENT

1. It shall be the duty of the Board of Selectmen, and they are hereby given the power and authority, to enforce the provisions of this ordinance. The Selectmen may appoint an agent to enforce this ordinance.
2. Upon any well-founded information that this ordinance is being violated, the Selectmen shall take immediate steps to enforce the provisions of this ordinance by seeking an injunction in the Superior Court or by any other legal action.

L. SEVERABILITY

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

**ARTICLE XIII-2: LARGE WIND ENERGY SYSTEMS (LWES)**

A. PURPOSE: The purpose of this Article is to provide a regulatory framework for the construction and operation of Large Wind Energy Systems (LWES) in the Town of New Ipswich, subject to reasonable restrictions that will:

1. preserve and protect the public health, safety and welfare and the character of the Town;
2. allow renewable energy in a manner consistent with the vision and goals of the New Ipswich Master Plan;
3. minimize the visual Impact of a LWES;
4. protect individual residents and the Natural Environment from any adverse conditions caused by the LWES and from any potential injury or damage from hazards associated with failure of LWES components and/or Debris Hazards;
5. ensure the financial security necessary for the operation, decommissioning, and removal of these systems;
6. ensure the compatibility of any LWES with other land uses within the Town; and
7. protect property values.

B. DEFINITIONS: The following terms shall have the meanings indicated:

ADVERSE NOISE IMPACTS – Disturbances that interfere with: normal speech and communications both indoors and outdoors, talking, telephone conversations, reading, tasks requiring concentration, listening to music or television, and sleep.

AMPLITUDE MODULATION – Wind turbine noise (measured in 125-millisecond intervals at any location 3.5 to 25 meters outside a dwelling) is defined as exhibiting amplitude modulation (also referred to by AM or impulsive) when and if the A-weighted sound pressure level rises or falls by more than 3 dB within any 2-second period more than five times in any 1-minute period with an average sound level of 28 dBA or more, six or more times in any hour.

APPLICANT/OWNER/OPERATOR - The person, firm, corporation, company, or other entity who applies for approval under this Article, as well as the applicant's successor(s), assign(s) and/or transferee(s) as to any approved LWES or testing facility. An applicant must have the legal authority to represent and bind the landowner or lessee who will construct, own, and operate the LWES or testing facility. The duties and obligations regarding approval for any approved LWES or testing facility shall be with the owner of the LWES or testing facility, and jointly and severally with the owner and operator or lessee of the LWES or testing facility.

APPLICATION - An application for a LWES under this Article.

AUTOMATIC OBSTRUCTION LIGHTING SYSTEM – A lighting system that provides continuous 360 degree surveillance of the airspace around a wind farm from the ground level to above aircraft flight altitudes, automatically activating obstruction lighting when aircraft are detected at a defined outer perimeter and course of travel.

A-WEIGHTED (dBA) – The unit of measure for the human response to noise using an electronic filter as specified by ANSI approximating the frequency response of the human ear from 20 Hz to 20 kHz.

BACKGROUND NOISE – The noise level represented without the wind turbines operating and when man-made and natural intrusive sounds are at a minimum. The intent of this definition is to exclude noise level contributions from intermittent noises such as traffic and emergency vehicles, and from seasonal natural sounds such as tree frogs and crickets that are not present year-round.

BLADE GLINT - The intermittent reflection of the sun off the surface of the blades of a single or multiple wind turbines.

CNR (COMMUNITY NOISE RESPONSE) – United States Environmental Protection Agency methodology to predict the community noise reaction to a new sound source introduced into the environment.

C-WEIGHTED (dBC) – An electronic filter with a band-pass frequency response 20Hz to 20kHz.

DAYTIME – Hours from 7:00 AM to 7:00 PM.

DEBRIS HAZARD – Hazard owing to the possibility that the parts of a LWES, or material (ice or other debris) accumulated on its rotating elements, could be dislodged and fall or be thrown some distance onto surrounding property.

EXCESSIVE NOISE – Any noise that causes a nuisance or disturbance or degrades health or well-being.

FAA - The Federal Aviation Administration.

FREQUENCY – The number of occurrences of a repeating event per unit time; in cycles per second, expressed in Hz (Hertz).

HEALTH – State of complete physical, mental, and social well-being and not merely the absence of disease or infirmity.

HERTZ (Hz) – A unit of frequency equal to one cycle per second.

HUB HEIGHT - The distance to the center of the turbine hub as measured from ground level to the center of the Wind Turbine hub.

IMPACT(S) – Any effect on the environment, including sound and visual impacts such as changes in sound pressure, noise, and light in the environment.

IMPULSIVE SOUND – Single or multiple noise events lasting one second or less; measured with the un-weighted peak sound pressure level and “Impulse” (35msec) or “Fast” (125 msec) meter response.

INFRASOUND – Sound energy below 20 Hz.

LARGE WIND ENERGY SYSTEM (LWES)” - An electricity generating facility, with a generating capacity of over 100 kilowatts and less than 30 megawatts, consisting of one or more Wind Turbines, including any substations, Met Towers, cables/wires and other buildings accessory to such facility.

LDN – The day/night level is the 24 hour average of continuous “A-weighted” sound energy having a 10 decibel penalty added to the nighttime hours of 10 p.m. to 7 a.m.

Leq – The equivalent continuous sound level that has the same acoustic energy for a constant sound level as for a fluctuating or intermittent level in the same period of time.

LOAEL – The “Lowest Observed Adverse Effect Level”; 40 dBA, WHO 2009.

MET TOWER- A meteorological tower used for the measurement of wind speed.

NATURAL ENVIRONMENT – Includes navigable waters, waters of a contiguous zone, ocean waters, and any other surface water, groundwater, drinking water supply, land surface or subsurface strata, or ambient air within the United States or under the jurisdiction of the United States, including wildlife, ecosystems and habitat, historical, cultural, recreational and archeological resources.

NIGHTTIME – Hours from 7:00 PM to 7:00 AM.

NOEL – The “No Observed Effect Level”; 30 dBA, WHO 2009.

NOISE – Unwanted or any sound that is not part of the natural environment.

NOISE EMITTER – Any man-made piece of LWES equipment that is audible beyond the property line of a Participating Landowner.

NOISE LEVEL – Energy-equivalent sound pressure level (Leq) over a minimum of a ten-minute interval.

NON-PARTICIPATING LANDOWNER- All landowners, not including those on whose property all or a portion of a Large Wind Energy System is located pursuant to an agreement with the Applicant/Owner/Operator.

OCTAVE BAND – A band of sound covering a range of frequencies such that the highest is twice the lowest, as defined in ANSI Standard S1.11.

ONE-THIRD OCTAVE BAND – A band of sound covering a range of frequencies such that the highest frequency is the cube root of two times the lowest, as defined in ANSI Standard S1.11.

PARTICIPATING LANDOWNER- Any landowner on whose property all or a portion of a Large Wind Energy System is located pursuant to an agreement with the Applicant/Owner/Operator.

PROJECT BOUNDARY- A continuous line, which encompasses all Wind Turbines and related equipment to be used in association with a Large Wind Energy System.

PURE TONE – Sinusoidal sound energy for a single frequency or pitch.

SHADOW FLICKER- The effect when the blades of an operating wind turbine pass between the sun and an observer, casting a readily observable, moving shadow on the observer and his/her immediate environment.

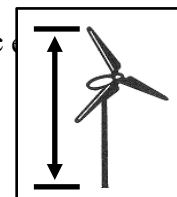
SODAR – A meteorological instrument used to measure the wind speed profile at various heights above the ground, and the atmospheric thermodynamic (lower layer) structure (Sonic Detection and Ranging).

SOUND LEVEL – The weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A, B, or C as specified in ANSI specifications for sound level meters (ANSI S1.4-1971, or the latest revision).

SOUND POWER LEVEL –  $L_w$ . Ten times the logarithm to the base ten of the ratio of the sound power radiated by the source to a reference sound power, expressed in decibels (dBo). The reference sound power is 1 picowatt (pW).

SOUND PRESSURE LEVEL –  $L_p$ . Twenty times the logarithm to the base ten of the ratio of a given sound pressure to a reference sound pressure of 20 microPascals (uPa), expressed in decibels (dB).

TOTAL HEIGHT- When referring to a Wind Turbine, the distance measured from ground level to the blade extended at its highest point.



TOWER SHADOWING- The outline created on the surrounding area by the sun shining on a Wind Turbine.

UN-WEIGHTED (dBL) – A sound pressure level obtained without a weighting filter.

USEFUL LIFE- The LWES or individual Wind Turbine(s) will be presumed to be at the end of its useful life if no electricity is generated for a continuous period of twelve (12) months.

VISUAL CLUTTER – The accumulation of diverse built elements on a site, especially elements that contrast with their surroundings in form, color, texture, or pattern.

WELFARE – A state of well-being.

WELL-BEING – A good or satisfactory condition of existence; a state characterized by health, happiness, and prosperity.

WIND SHEAR – The difference in atmospheric wind speed and direction occurring over relatively small increases in altitude (wind gradient).

WIND TURBINE - A wind energy conversion system which converts wind energy into electricity through the use of a wind turbine generator, including the turbine, blade, tower, base and pad transformer, if any.

C. LARGE WIND ENERGY SYSTEM REQUIREMENTS:

The Applicant/Owner/Operator has the burden of proof to establish that the LWES complies with the following description of a “small New England rural town” as found in the Vision Chapter of the New Ipswich Master Plan, updated March, 2004.

- A country environment which is free from water, air, noise and light pollution;
- Traditional New England scenes characterized by farmlands and woodlands; hills and mountain ridges; rivers, ponds and streams; and traditional New England buildings;
- Shaded, curving roads, lined with mature trees and with low traffic volume, affording views of the natural beauty of the town;
- Active farming and forestry enterprises;
- Habitat that can sustain a wide variety of native animals, plants and aquatic species;
- Access to land providing opportunity for a wide variety of outdoor recreation;
- A development pattern showing variety in the density of housing and providing opportunities to live in densely settled villages (such as the town’s three historic villages) or more sparsely settled areas;
- Historic buildings, fields, stone walls, and cellar holes serving as a reminder of the town’s long history and traditions;
- A low density population creating a sense of safety and security, and providing opportunity for meaningful participation in community life.

In addition, the Planning Board, in determining compliance with the following requirements, will be guided by the applicable recommendations in the document “Proposed Wind Power Siting Guidelines – May 29, 2007” which was developed by the Wind Energy Facility Siting Guidelines Working Group and forwarded to the NH Energy Policy Committee Wind Siting Subcommittee.

1. Design, Manufacture, Construction, and Maintenance Standards.
  - a. In order to minimize Visual Clutter, Wind Turbines shall use tubular towers of similar design, size, operation, and appearance throughout the project and shall be painted a non-reflective, non-obtrusive color.
  - b. At LWES sites, the design of the buildings and related structures shall, to the extent reasonably possible, use materials, colors, textures, screening and landscaping that will blend with the natural setting and the existing environment.
  - c. Wind Turbines shall not be used for displaying any signs or advertising except for signs at ground level for reasonable identification of the manufacturer, owner or operator of the LWES, the utility procuring the power, emergency contact information, and appropriate warnings as required by national, state, and local laws. Such identification shall not be illuminated.
  - d. Control wiring and power lines shall be wireless or below ground except where collector wiring is brought together for connection to the transmission or distribution network, adjacent to that network. The Planning Board may permit above ground wiring if, in the opinion of the Planning Board, its Impact is less than the Impact of below ground wiring.
  - e. The Applicant/Owner/Operator of an LWES shall not undertake any blasting without specific approval of such blasting during Site Plan Review. Terms and conditions for the blasting, including any necessary notifications, shall be specified during Site Plan Survey.
    - i. The Applicant/Owner/Operator shall prepare an inventory of all structures, wells, bridges, and other seismically sensitive structures that could potentially be damaged by blasting.
    - ii. Before each blasting event, the Applicant/Owner/Operator shall notify all Non-Participating Landowners and any owners of a seismically sensitive structure, identified according to sub-paragraph C.1.e.i., of the time and date of the event. The Applicant/Owner/Operator shall receive signature verification of such notice.

- iii. Flyrock traveling in the air or along the ground is not permitted to cross into the property of Non-Participating Landowner(s).
  - iv. A blasting log for each blast will be kept on-site at the LWES office for not less than five (5) years, and copies of the required blasting log will be promptly submitted to the Planning Board upon completion of construction of the LWES.
  - v. Pre-blasting and post-blasting inspection and documentation may be required by the Planning Board.
- f. If at any time during construction, operation, or maintenance of the LWES, the Applicant/Owner/Operator wishes to modify the approved Site Plan, the Applicant/Owner/Operator shall submit to the Planning Board an Amended Site Plan for review and approval.
  - g. Construction and maintenance activities shall be organized and timed to minimize Impacts on residents and wildlife from noise, disruption (including disruption of wildlife habitat), and the presence of vehicles and people. Construction and maintenance, unless there is an imminent threat to life or property, shall be performed only on weekdays between the hours of 7 AM and 6 PM. The Planning Board has the authority to waive this requirement if, in its opinion, there is good reason to do so.
  - h. Any construction equipment or parts (used or unused) kept on site shall be stored indoors except during periods of construction, maintenance, and repair.
2. Height. Due consideration shall be given to the scale of the turbines in relation to the surrounding landscape.
  3. Setbacks. Setbacks from the Project Boundary shall be sufficient to protect people, domestic and farm animals, public and private property, and utilities from Debris Hazard. The ice throw or ice shedding from the LWES shall not cross the Project Boundary. The Applicant/Owner/Operator has the burden of proof to demonstrate to the Planning Board that the setback is sufficient to meet these standards.
  4. Communications Interference. All LWES shall be sited and operated so that it does not interfere with television, telephone (including cellular and digital), microwave, satellite (dish), navigational, or radio reception to neighboring areas. The Applicant/Owner/Operator of the facility shall be responsible for the full cost of any remediation necessary to provide equivalent alternate service or correct any problems; including relocation or removal of the facility, caused or exacerbated by the operation of such equipment and any and all related transmission lines, transformers, and other components related thereto. The Applicant/Owner/Operator

of the LWES shall respond within five (5) business days to any request for a communications interference investigation by a property owner within the Project Boundary and a three-mile radius beyond the Project Boundary. Testing shall commence within ten (10) working days of the request. The Applicant/Owner/Operator is responsible for mitigating within ten (10) working days from determination of interference cause attributed to the operation of the LWES.

5. Noise Level Limits and Measurement. The intent of this section is to preserve the quiet rural environment of New Ipswich and to provide protection from Excessive Noise levels that cause adverse Impacts to public Health, Welfare, and Well-being. The existing Background Noise Levels in New Ipswich are less than 30 dBA. Annoyance due to Noise, as measured by community surveys, is the consequence of activity interference. Noise Level limits are based on the recommended guidelines found in the United States Environmental Protection Agency’s document *Information On Levels Of Environmental Noise Requisite To Protect Public Health And Welfare With An Adequate Margin of Safety, 550/9-74-004, March 1974* and include levels requisite to protect against activity interference. These Noise Level Limits are consistent with the World Health Organization (WHO) night noise guidelines for exposure to noise during sleep found in the following documents: *Night Noise Guidelines (NNLG) for Europe, 2007* and *ISBN 978 92 890 4173 7, 2009.*
  - a. Noise Levels produced by the LWES shall not exceed 33 dBA (Leq 10 minute) anywhere at any time on a Non-Participating Landowner’s property.
  - b. LWES Noise Levels shall not exceed a Community Noise Response (CNR) of “sporadic complaints” as shown on the following table based on the United States Environmental Protection Agency Document titled “Information On Levels Of Environmental Noise Requisite To Protect Public Health And Welfare With An Adequate Margin of Safety, 550/9-74-004, March 1974.”

Community Noise Reaction (CNR)	Leq
Vigorous Action	50 – 58
Appeals to Stop the Noise	44 – 49
Widespread Complaints	34 – 43
Sporadic Complaints	30 – 33
No Reaction	24 – 29

Chart based on EPA Case Studies normalized to Leq in rural areas  
 [Leq (-6dB), quiet rural community (-10dB), no prior exposure to intruding noise (-5dB), pure tone or impulsive noise character (-5dB)]

- c. The Planning Board may impose greater noise constraints if it deems such constraints are necessary to protect the public health, safety, and welfare of the community.
  - d. Any model used to predict Wind Turbine Noise shall use the following parameters:
    - i. Each Wind Turbine shall be considered as an individual and unique noise emitter;
    - ii. The prediction model shall use the Manufacturer's highest sound power levels;
    - iii. The prediction model shall use a wind shear (wind profile power law exponent, alpha) of no less than 0.50, where wind shear is defined as the difference in atmospheric wind speed and direction occurring over relatively small increases in altitude;
    - iv. No attenuation (zero) for ground cover since a Wind Turbine is an elevated noise emitter;
    - v. No attenuation (zero) for foliage since trees have no leaves from November to April;
    - vi. Add a plus 5 dB design margin to the predicted Noise Levels to account for variations in atmospheric propagation due to refraction (the bending of sound waves in the atmosphere due to changes in air temperature or wind gradient).
6. Shadow Flicker, Tower Shadowing and Blade Glint. The facility shall be designed such that Shadow Flicker, Tower Shadowing, or Blade Glint will not fall on or in any Non-Participating Landowner's property.
- a. Shadow Flicker, Tower Shadowing, or Blade Glint expected to fall on a roadway or a portion of a Non-Participating Landowner's property may be acceptable under the following circumstances:
    - 1) The Shadow Flicker, Tower Shadowing, or Blade Glint will not exceed twenty (20) hours per year.
    - 2) The Shadow Flicker, Tower Shadowing, or Blade Glint will fall more than 100 feet from an existing residence.
    - 3) The traffic volumes are less than 500 vehicles per day on the

roadway.

- 4) The Shadow Flicker or Blade Glint shall not fall onto an intersection.
- b. Within twelve (12) months of the date when the project becomes fully operational, or at anytime upon receipt of a verified complaint of Shadow Flicker, Tower Shadowing, and/or Blade Glint, the Applicant/Owner/Operator shall submit to the Planning Board a Shadow Flicker, Tower Shadowing, or Blade Glint study as specified in the Submission Requirements of the New Ipswich Site Plan Regulations, certifying that Shadow Flicker, Tower Shadowing, or Blade Glint present no deleterious effects for any occupied structure located within a one-mile radius of any Wind Turbine. If Shadow Flicker, Tower Shadowing, and/or Blade Glint exceeds any of the conditions listed above, the source Wind Turbine(s) shall be shut down until the flicker or glint problem is remedied.
7. Public infrastructure. The Applicant/Owner/Operator shall avoid, mitigate and repair any and all adverse impacts to any public infrastructure (e.g., road or highway, drainage system, etc.) occasioned by or in any manner related to the installation, operation, maintenance, and repair or decommissioning of the LWES. This includes reimbursement to the Town or State for any repairs or reconstruction reasonably deemed necessary by the Town or State.
8. Erosion and Storm Water Control. During the Useful Life of the LWES, the Applicant/Owner/Operator shall maintain any erosion and storm water control practices described in the Erosion and Storm Water Control Plans and Life Cycle and Decommissioning Plans submitted with the Application for Site Plan Review.
9. Safety.
  - a. Each Wind turbine shall be equipped with both manual and automatic controls to limit the rotational speed of the blade within the design limits of the rotor. All turbines shall be equipped with redundant braking systems. This includes both aerodynamic (including variable pitch) over speed controls, and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode, whereby they are engaged in the case of loss of load on the generator. Stall regulation should not be considered a sufficient braking system for over speed protection. A manual electrical and/or overspeed shutdown disconnect switch shall be provided and clearly labeled on/in the Wind Turbine structure.
  - b. The blade tip of any Wind Turbine shall, at its lowest point, have ground clearance of not less than 75 feet.
  - c. Any Wind Turbine and/or accessory structure shall not be climbable up to

fifteen (15) feet above ground level.

- d. The LWES shall be designed to prevent unauthorized access to electrical and mechanical components and shall have access doors that are kept securely locked at all times when service personnel are not present.
  - e. Appropriate warning and safety signage shall be placed on any Wind Turbine, accessory structure and/or electrical equipment, and posted at all LWES entrances.
  - f. All structures shall be self-supporting. No guy wire supported structures shall be permitted with the exception of meteorological towers.
  - g. A sign shall be posted near the tower or operations and maintenance office building that will contain emergency contact information.
  - h. Signage placed at the road access shall be used to warn visitors about the potential danger of falling ice.
  - i. Any Wind Turbine that is found to present an imminent physical threat of danger to life or significant threat of damage to property shall be immediately shut down and repaired or otherwise made safe and certified so by a New Hampshire licensed Professional Engineer prior to resumption of operation.
10. Rescue, Fire and Hazard Protection. The Applicant/Owner/Operator shall assure that the LWES complies with the following fire control and prevention measures.
- a. Provision for fire fighting and rescue services, including programs and costs associated with any necessary equipment and/or training for local fire protection and rescue personnel.
  - b. Compliance with all laws applicable to the generation, storage, clean up, transportation and disposal of hazardous wastes generated during any phase of the project's life.
11. Environmental Impact. The Applicant/Owner/Opertor shall take appropriate measures to minimize, eliminate, or mitigate adverse Impacts on the Natural Environment during the entire life cycle of the LWES and shall comply with all Federal, State, and local laws regulating environmental Impacts. In making its determination under this section, the Planning Board shall consider the U.S. Fish and Wildlife Service "*Wind Turbine Guidelines Advisory Committee Recommendations,*" dated March 4, 2010, or subsequent updates, the "Proposed Wind Power Siting Guidelines – May 29, 2007" (which was developed by the Wind Energy Facility Siting Guidelines Working Group and forwarded to the NH Energy Policy Committee Wind Siting Subcommittee), and any recommendations of the New

Hampshire Fish and Game Department and the New Ipswich Conservation Commission.

- a. Environmentally Sensitive Areas. The plan for the LWES shall reflect the natural capabilities of the site to support development. Environmentally sensitive areas, including but not limited to, wetlands, vernal pools, seeps or springs, steep slopes (greater than 15%), watersheds, floodplains, significant wildlife habitats, fisheries, habitat for rare or endangered plants and animals, unique natural communities and natural areas, and sand and gravel aquifers will be maintained and preserved to the maximum extent. The Applicant/Owner/Operator shall demonstrate appropriate measures for protecting these resources during the entire life cycle of the project.
- b. Wildlife. The Applicant/Owner/Operator shall demonstrate that the LWES will not have a significant adverse Impact on area wildlife and wildlife habitat. Such analysis shall include but not be limited to adverse Impacts on birds, bats, game animals, and habitat fragmentation. In addition, the Applicant/Owner/Operator must demonstrate that the LWES will have no undue adverse Impact on rare, threatened or endangered wildlife. The wildlife and habitat analysis must include pre-construction field studies conducted by a qualified wildlife biologist approved by the Planning Board and paid for by the Applicant/Owner/Operator.
- c. Birds and Bats. Development and operation of a LWES shall not have an adverse Impact on bird or bat species.
  - i. All above-ground lines, transformers, or conductors should comply with the Avian Power Line Interaction Committee (APLIC, <http://www.aplic.org/>) published standards to prevent avian mortality.
  - ii. The design and installation of the LWES shall avoid, to the extent practicable, the creation of artificial habitat for raptors or raptor prey, such as: electrical equipment boxes on or near the ground that can provide shelter and warmth; horizontal perching opportunities on the towers or related structures; and soil where weeds can accumulate.
  - iii. In order to minimize the detrimental Impacts on bat and bird populations, all Wind Turbines shall be configured and or controlled so that the blades will not turn when wind velocity at hub height is less than 10 mph. Additionally, there may be periods of time when the Wind Turbine operations must be curtailed to protect bats and migratory birds.
- d. Ground and Surface Water. The LWES will not adversely affect the quality or quantity of ground and surface waters. The Applicant/Owner/Operator shall

have to demonstrate to the Planning Board's satisfaction that there are no unusual risks caused by the LWES. The Board may require that spill prevention and control measures be installed, and that all activities involving potentially permeable pollutants, including at delivery and transfer points, be conducted under cover and over an impervious surface surrounded by dikes. Whenever sedimentation is caused by stripping vegetation or grading, it shall be the responsibility of the Applicant/Owner/Operator to remove it from all adjoining surfaces, drainage systems and watercourses and to repair any damage at the Applicant/Owner/Operator's expense as quickly as possible.

12. Visual Impact.

- a. A LWES shall be designed and located so as not to cause adverse visual Impacts, including Visual Clutter and Impacts caused by any lighting, and so as not to dominate views from neighboring residential areas, cultural resource areas, public recreational and scenic areas, trails used by the public, open space within the Town, or any public road right-of-way.
- b. Dominance is determined by how a LWES will be seen within its visual context and occurs when the project would cause a change in the balance or feel of the character of the surrounding area or create a very dominant focal point that detracts from other important natural or cultural focal points. (The Planning Board may use as a reference document *A Visual Impact Assessment Process for Wind Energy Projects*, Vissering, Sinclair, and Margolis, May 2011.) Some of the factors to be considered in evaluating the degree of dominance are:
  - i. appearance of proximity;
  - ii. duration of view;
  - iii. expectation for natural or intact landscape setting;
  - iv. uniqueness of a scenic resource;
  - v. whether the view is directly ahead over extended distances; and
  - vi. whether large numbers of turbines are visible in many views.
- c. All available mitigation techniques to reduce the visual Impacts of the LWES shall be considered, including methods prescribed by the American Landscape Institute.
- d. The use of Automatic Obstruction Lighting Systems, such as those manufactured by DeTect and OCAS, is mandatory for Wind Turbines with

FAA lighting.

- e. Area and security lighting shall be full cut-off and shall not exceed 175 watts each and 25 feet in height and shall be shielded from Non-Participating Landowner's property.

13. Additional Conditions. The Planning Board may grant a LWES Site Plan approval subject to any condition that it deems necessary to minimize any burden on any person affected by granting the approval. Such conditions or exemptions may include but are not limited to restrictions on the location of the LWES and requirements for the compensation of persons affected by granting approval.

D. EASEMENTS AND LEASES:

1. Any Non-Participating Landowner may grant an easement to the Applicant/Owner/Operator for any Impacts of the LWES on their property and shall advise all subsequent owners of the property that the standards permitted by this Article may be exceeded on the property. The terms of the easement must be consistent with the current application for a LWES. Easement periods shall be limited to 30 years.
2. The full terms of any leases or easements shall be recorded with the Registry of Deeds.
3. The option period for any land agreement shall be limited to five (5) years.
4. Wind rights shall not be sold or leased in perpetuity separately from the land.

- F. MONITORING: Upon reasonable notice, New Ipswich officials or their designated representatives may enter a lot on which a LWES has been approved for the purpose of monitoring noise, Impacts on the Natural Environment, and other Impacts which may arise. In such a case, the Board will provide the Applicant/Owner/Operator with a 24 hour telephone notice, followed by e-mail notification for the record.

1. Post-construction Water Quality Study:

- a. Within six (6) months of the first Wind Turbine becoming operational, and every twelve (12) months thereafter for a period of three (3) years, a water quality study of all wells, springs, and water resources specifically identified during the Site Plan Review shall be designed and carried out by a water quality professional approved by the Planning Board. The same procedures shall be followed as those followed in the pre-construction notification and testing procedures specified in the Site Plan Review Regulations.
- b. Upon receipt of a substantiated complaint that the integrity or water quality of any well has been damaged by the LWES construction, the Planning Board

may require prompt investigation of the complaint by a water quality professional approved by the Board.

- c. If degradation or contamination of any well, spring, or water resource is found to have occurred, the Applicant/Owner/Operator shall be considered in violation of this Article and subject to the provisions of the Enforcement Section of this Article.
  - d. The Applicant/Owner/Operator is responsible for all costs associated with water quality testing and corrective action if necessary.
2. Annual Power Production Report: The Applicant/Owner/Operator shall submit an annual power production report to the Planning Board. The power production report shall cover the preceding twelve (12) months, and shall be in the form prescribed by the Planning Board and shall include actual power production in kilowatt-hours for each Wind Turbine.
3. Environmental Impact Studies:
- a. The Applicant/Owner/Operator shall submit to the Planning Board at least three (3) sets of post construction field studies conducted at periodic intervals within three (3) years after the LWES becomes fully operational, the first being within six (6) to twelve (12) months of the first Wind Turbine becoming operational. The studies shall be conducted by a qualified wildlife biologist approved by the Planning Board and paid for by the Applicant/Owner/Operator and shall correspond to the pre-construction studies.
  - b. If the post-construction field studies demonstrate substantive harm to the Natural Environment, the Applicant/Owner/Operator shall develop an appropriate mitigation plan acceptable to the Planning Board. The Applicant/Owner/Operator shall be responsible for the full cost of implementing the mitigation plan.
  - c. In addition, the Applicant/Owner/Operator shall submit a quarterly report to the Planning Board identifying all dead birds and bats found within 500 feet of the LWES. Reporting shall continue for at least three (3) year after the first Wind Turbine becomes operational, or longer if required by the Planning Board. In the event of an extraordinary avian or bat mortality kill of threatened or endangered species, or discovery of an unexpected large number of dead birds or bats of any variety on site, the Applicant/Owner/Operator shall notify the Planning Board and the New Hampshire Department of Fish and Game within 24 hours. Within 30 days of the occurrence, the Applicant/Owner/Operator shall submit a report to the Planning Board describing the cause of the occurrence and the steps taken to avoid future occurrences.

4. Decommissioning Costs. Estimated total costs of decommissioning, prepared at the Applicant/Owner/Operator's expense by an independent New Hampshire licensed Professional Engineer approved by the Planning Board shall be submitted to the Planning Board every fifth year of operation.
  
5. Noise Compliance Report. Within four (4) months of the first Wind Turbine becoming operational and again within two (2) months after all Wind Turbines have become operational and at anytime the Planning Board deems it necessary due to the number of complaints received, the Applicant/Owner/Operator shall submit to the Planning Board a noise compliance report certifying compliance with the noise regulations set forth herein. The report shall be prepared by a professional acoustical engineer, approved by the Planning Board, who is a Full Member of the Institute of Noise Control Engineering (INCE), or who possesses some comparable qualification. The report shall comply with the following:
  - a. Except as specifically noted otherwise, sound measurements shall be conducted in compliance with the latest version of the American National Standards Institute (ANSI) Standard S12.18-1994 "Outdoor Measurements of Sound Pressure."
  - b. Sound level meters and calibration equipment shall comply with the latest version of ANSI Standard S1.4 "Specifications for General Purpose Sound Level Meters," and shall have current calibration traceable to the National Institute of Standards and Testing (NIST).
  - c. Noise measurements shall be taken at locations and times when the Wind Turbine is clearly audible and dominating the acoustical environment. All unattended measurements shall consider the Wind Turbine as dominating the acoustical environment.
  - d. Noise measurements shall be taken with the turbines on and off to determine any Background Noise to be accounted for. The Applicant/Owner/Operator shall cooperate by shutting turbines off and turning them on during acoustic testing at times required by the acoustic monitoring personnel.
  - e. The acoustic monitoring personnel shall determine if extraneous sounds such as insects, frogs, or other sounds are contributing to the measured Leq noise level and remove their contributions either by relocating the measurement microphone to a spot not affected by such sounds or conducting testing at dates and times when such sounds are not present. The acoustic monitoring personnel may correct the Leq noise level using full or 1/3 octave band analysis to subtract Turbine Off levels from Turbine On levels, and by removing data in 1/3 octave bands from the Leq computation that are contaminated by extraneous sounds.

- f. The wind velocity at the sound measurement microphone shall not exceed 2 m/s (4.5 mph) during measurements of Background Noise, and the maximum wind speed at the microphone for noise measurements during turbine operation should not exceed 4 m/s (9 mph).
- g. During Wind Turbine testing the atmospheric profile shall be Pasquill Stability Class E or F preferred, Class D as alternate. Wind Turbine acoustic testing shall be conducted with wind speeds at Hub Height at 8 m/s or greater.
- h. The Wind Turbine shall be fully engaged blades-to-generator and running the standard power output program and producing the maximum power output for the incoming wind speed at Hub Height. Feathering or other blade angle manipulations that are not part of the normal Wind Turbine program to obtain maximum power output shall be prohibited during acoustic testing unless the Wind Turbine must be feathered due to a high wind condition for safety purposes, in which case the testing shall be rescheduled.
- i. Wind Turbine power output and wind speed data at Hub Height at 10-minute or shorter intervals shall be provided to the acoustic monitoring personnel by the Applicant/Owner/Operator for the entire sound measurement period.

F. PUBLIC INQUIRIES AND COMPLAINTS:

The LWES Applicant/Owner/Operator shall maintain a phone number and identify a responsible person for the public to contact with inquiries and complaints throughout the life of the project, including the decommissioning phase. The Complaint Resolution Process submitted with the Site Plan Review application shall be used to resolve complaints. However, this process shall not preclude the local government from acting on a complaint and local provisions for complaint resolution shall prevail and supersede all Applicant/Owner/Operator complaint resolution processes.

- a. Any individual, group of individuals or reasonably identifiable entity may file a signed and dated written complaint with the Applicant/Owner/Operator of the LWES. If any complaints are received by phone, the Applicant/Owner/Operator shall inform the complainant that complaints must be submitted in writing. Any complaints received directly by the Board of Selectmen or the Planning Board shall be referred to the Applicant/Owner/Operator.
- b. The Applicant/Owner/Operator of the LWES shall report to the Planning Board all complaints received concerning any aspect of the LWES construction, operation, or decommissioning as follows:
  - i. Complaints received by the Applicant/Owner/Operator shall be reported to the Planning Board or its designee within five (5) business days, except that complaints regarding unsafe or serious violations of this Article as

defined in Section H of this Article shall be reported to the Planning Board or its designee the following business day.

- ii. The Applicant/Owner/Operator shall document each complaint by maintaining a record including at least the following information:
  - Name of the LWES and the Applicant/Owner/Operator
  - Name of complainant, address, phone number
  - A copy of the written complaint
  - Specific property description (if applicable) affected by complaint
  - Nature of complaint (including weather conditions if germane)
  - Name of person receiving complaint, date received
  - Date reported to the Planning Board or its designee
  - Initial response, final resolution, and date of resolution
- c. The Applicant/Owner/Operator shall maintain a chronological log of complaints received, summarizing the above information. A copy of this log, and a summary of the log by type of complaint, shall be sent on or before January 15, March 15, July 15, and October 15 to the Planning Board, covering the previous calendar quarter. An annual summary shall accompany the January 15 submission.
- d. The Planning Board shall forward copies of any health related complaints to the State Board of Health.
- e. All complaints regarding unsafe and serious violations as defined in Section H of this Article shall be investigated on site. The complainant and a Planning Board designee shall be invited to the investigatory meeting(s).
- f. The Planning Board may designate a person to seek a complaint resolution that is acceptable to the complainant, the Planning Board and the Applicant/Owner/Operator. If such a resolution cannot be obtained, the Board of Selectmen may take action as authorized by the enforcement section of this Article.
- g. The Board of Selectmen may at any time determine that a complaint shall be subject to enforcement and penalties as defined in Section H of this article.

G. ADMINISTRATION AND ASSOCIATED COSTS:

- 1. This Article shall be administered by the Planning Board. Violations found by the Planning Board upon examination of required reports, or from other sources, shall be forwarded to the Board of Selectmen for enforcement action. This does not foreclose any legitimate legal action by the Planning Board.
- 2. As a condition of approval, the Applicant/Owner/Operator shall deposit into an escrow account the amount of \$25,000.

- a. The purpose of this joint escrow account is:
  - i. To reimburse the Town of New Ipswich for the costs incurred to hire consultants and experts as the Town, at its sole discretion, deems desirable to examine, evaluate, and verify the data and statements presented by the Applicant/Owner/Operator.
  - ii. For the life of each Wind Turbine, to cover the administrative and legal costs incurred by the Town of New Ipswich in monitoring and enforcing the Applicant/Owner/Operator's ongoing compliance with this Article.
- b. The escrow account shall be managed as follows:
  - i. Funds may be withdrawn from this account only by the Board of Selectmen.
  - ii. If at any time the balance of this account shall fall below \$15,000, the Applicant/Owner/Operator shall deposit an amount sufficient to bring the account to a minimum value of \$25,000.
  - iii. If at any time the balance of this fund shall fall below \$15,000 for a continuous period of thirty (30) days, the application shall be considered to have been withdrawn, or the Site Plan approval for the LWES may be revoked.
  - iv. The Board of Selectmen or its designee shall be charged with monitoring the escrow account and giving quarterly reports to the Planning Board.
  - v. After the wind energy system has been removed and site restoration has been completed, as defined in this Article, any balance remaining in this account shall be returned to the Applicant/Owner/Operator.

H. ENFORCEMENT AND PENALTIES:

- 1. The enforcement of this Article shall be the responsibility of the New Ipswich Board of Selectmen or its agent who is hereby authorized to cause any LWES, building, place, premises or activities to be inspected, and to order in writing the remedying of any condition found to exist in violation of this Article.
- 2. The Board of Selectmen, Planning Board, or any official having jurisdiction, in addition to other remedies, may institute an action or proceeding to prevent the unlawful erection, alteration, reconstruction, maintenance or use of any LWES, building, place, premises or land and require the Applicant/Owner/Operator to correct or abate any unlawful act or to prevent the illegal occupation of any LWES,

buildings, places, premises, or land and to prevent any illegal act in or about such premises.

3. An Applicant/Owner/Operator not responding to the following conditions in the manner specified shall be considered to be in violation of this Article.
  - a. Unsafe. If a Wind Turbine or the LWES presents an imminent physical threat of danger to life or significant threat to property, as determined by the Planning Board, the Board of Selectmen, or one of their designated agents, it shall be deemed unsafe and immediately shut down and repaired or otherwise made safe and certified so by a New Hampshire licensed Professional Engineer approved by the Planning Board prior to resumption of operation. Members of the Board of Selectmen, or its designee, shall have the right to access the LWES to verify conditions and/or repair progress.
  - b. Serious Violations. The Applicant/Owner/Operator of the LWES is responsible for mitigating any serious violations of standards within ten (10) business days upon receipt of written notification of determination of any cause attributed to the operation of the LWES. A serious violation is defined as any of the following:
    - i. Any measured Noise Level (Leq 10 minute) which exceeds 35 dBA where the Wind Turbine(s) is the dominant and controlling source.
    - ii. The occurrence of Shadow Flicker, Tower Shadowing, or Blade Glint exceeding the standards specified in Section C.6 of this Article.
    - iii. Degradation or contamination exceeding US Environmental Protection Agency standards of any surface or subsurface water resource. (In the case of degradation or contamination of a well, the obligation for mitigation shall be deemed satisfied if the Applicant/Owner/Applicant provides the affected well owner with a reasonable emergency water supply and within (30) thirty days commences implementation of corrective measures to the satisfaction of the well owner and subject to the approval of the Planning Board.
    - iv. Any hazardous substance spill.
    - v. Communication/electromagnetic interference (other than emergency communication).
  - c. Emergency Communication. Interference with emergency communications must be mitigated with 24 hours.
  - d. Other Violations. If the Board of Selectmen determines that a violation of

this Article has occurred, and the violation is determined neither to be unsafe, nor a serious violation, nor interferes with emergency communications, the Board of Selectmen shall provide written notice to the Applicant/Owner/Operator, and the Applicant/Owner/Operator is responsible for mitigating the problem within thirty (30) days. Mitigation involving significant construction or physical modification may have up to ninety (90) days to be completed pursuant to Section XIII-2. C.

4. An Applicant/Owner/Operator failing to comply with any provision of this Article by failing to resolve a violation before the expiration of the mitigation periods defined in Subsection 3 of this Section may be subject to:
  - a. Revocation of Site Plan Approval, and shut down and removal of any Wind Turbine(s);
  - b. Fines pursuant to RSA 676:17;
  - c. Any other remedies the Board of Selectmen deems necessary to assure the safe operation of the LWES and protection of residents;
  - d. Reimbursement to the Town of New Ipswich, for expenses incurred in obtaining relief, including but not limited to, reasonable attorney fees.

I. DECOMMISSIONING:

1. The Applicant/Owner/Operator shall, at their expense, complete decommissioning (including site restoration) of the LWES, or individual Wind Turbine(s) within twelve (12) months after it is deemed unsafe, abandoned, or at the end of its useful life.
2. Site Restoration shall include:
  - a. Removal of Wind Turbines, buildings, cabling, electrical components, foundations and any other associated facilities to a depth of four (4) feet below the ground surface.
  - b. Removal from the property of all items in outdoor storage.
  - c. Road repair, if any, to pre-decommissioning conditions.
  - d. Re-grading and re-vegetation necessary to return the subject property to the condition existing prior to establishment of the LWES. The restoration shall reflect the site-specific character including topography, vegetation, drainage, and any unique environmental features.

- e. Implementation of the post-decommissioning storm water runoff plan.

J. FINANCIAL ASSURANCE:

1. As a condition precedent to Site Plan Approval for a LWES, the Applicant/Owner/Operator must submit an acceptable form of financial assurance such as cash, performance bond, certificate of deposit, or irrevocable letter of credit. The amount of the financial assurance will be established by the Planning Board and be based on what it would cost for the repair of public infrastructure (per Section C, paragraph 7) and for the decommissioning of the LWES and reclamation of the site in the event the Applicant/Owner/Operator fails to do so.
2. The amount of financial assurance shall be reviewed periodically by the Planning Board to assure it equals outstanding decommissioning costs. Financial assurance may be adjusted, upwards or downwards, when required by the Planning Board. For instance, the Planning Board may adjust financial assurance based upon prevailing or projected interest or inflation rates, or the latest cost estimates for decommissioning.
3. Such financial assurance shall be kept in full force and effect during the entire time a LWES facility exists or is in place. Such financial assurance shall be irrevocable and non-cancelable until such time as the Planning Board certifies that decommissioning and reclamation are complete and releases the obligation. If the owner fails to remove the LWES and reclaim the site, the Town of New Ipswich may remove or cause the removal of the LWES and the reclamation of the site. The Town may recover the cost of decommissioning and reclamation from any financial assurance provided by the owner. Any decommissioning and reclamation cost incurred by the Town that is not recovered from the owner will become a lien on the property where the removal or reclamation takes place and may be collected from the landowner in the same manner as property taxes.
4. If the Applicant/Owner/Operator fails to complete decommissioning within the periods prescribed above, then the Town may take such measure as necessary to complete decommissioning. The entry into and submission of evidence of a Participating Landowner agreement to the Town shall constitute agreement and consent of the parties to the agreement, their respective heirs, successors and assigns that the Town may take such action as necessary to implement the decommissioning plan as specified in the New Ipswich Site Plan Review Regulations.
5. The escrow agent shall release the decommissioning funds when the Applicant/Owner/Operator has demonstrated and the Town concurs that decommissioning has been satisfactorily completed, or upon written approval of the Town in order to implement the decommissioning plan.
6. The entry into and submission of evidence of a Participating Landowner agreement to the Town shall constitute agreement and consent of the parties to the agreement, their

respective heirs, successors and assigns that the Town may take such action as necessary to implement the decommissioning plan.

- K. LAW: All references to the New Hampshire RSAs include the Statute in effect at the time of enactment of this Article or as subsequently amended or revised.
- I. WARNING AND DISCLAIMER OF LIABILITY: This Article shall not create a duty or liability on the part of or a cause of action against the Town of New Ipswich, its officers or employees thereof, for any damages that may result from administration of or reliance on this Article.
- J. SEVERABILITY: The invalidity of any provision of this Article shall not affect the validity of any other provision, nor any prior decisions made on the basis of the valid provisions of this Article.
- K. EFFECTIVE DATE: This Article shall take effect upon its passage, and as amended.

**ARTICLE XIII-3: SMALL WIND ENERGY SYSTEMS (SWES)**

A. PURPOSE:

This small wind energy systems ordinance is enacted in accordance with RSA 674:62-66, and the purposes outlined in RSA 672:1-III-a. The purpose of this ordinance is to accommodate small wind energy systems in appropriate locations, while protecting the public's health, safety and welfare. In addition, this ordinance provides a permitting process for small wind energy systems to ensure compliance with the provisions of the requirements and standards established herein.

B. DEFINITIONS: As used in this Ordinance, the following terms shall have the meanings indicated:

METEOROLOGICAL TOWER (MET TOWER): Includes the tower, base plate, anchors, guy wires and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment for anemometers and vanes, data loggers, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location. For the purpose of this ordinance, met towers shall refer only to those whose purpose are to analyze the environmental factors needed to assess the potential to install, construct or erect a small wind energy system.

MODIFICATION: Any change to the small wind energy system that materially alters the size, type or location of the small wind energy system. Like-kind replacements shall not be construed to be a modification.

NET METERING: The difference between the electricity supplied to a customer over the

electric distribution system and the electricity generated by the customer's small wind energy system that is fed back into the electric distribution system over a billing period.

POWER GRID: The transmission system, managed by ISO New England, created to balance the supply and demand of electricity for consumers in New England.

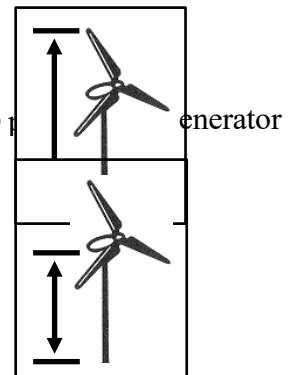
SHADOW FLICKER: The visible flicker effect when rotating blades of the wind generator cast shadows on the ground and nearby structures causing a repeating pattern of light and shadow.

SMALL WIND ENERGY SYSTEM: A wind energy conversion system consisting of a wind generator, a tower, and associated control or conversion electronics, which has a rated capacity of 100 kilowatts or less and will be used primarily for onsite consumption.

TOTAL HEIGHT: The vertical distance from ground level to the tip of the wind generator blade when it is at its highest point.

TOWER: The monopole, guyed monopole or lattice structure that supports the wind generator.

TOWER HEIGHT: The height above grade of the fixed portion of the tower, excluding the wind generator.



WIND GENERATOR: The blades and associated mechanical and electrical conversion components mounted on top of the tower whose purpose is to convert kinetic energy of the wind into rotational energy used to generate electricity.

C. PROCEDURE FOR REVIEW:

1. **Building Permit:** Small wind energy systems and met towers are an accessory use permitted in all zoning districts where structures of any sort are allowed. No small wind energy system shall be erected, constructed, or installed without first receiving a building permit from the building inspector. A building permit shall be required for any physical modification to an existing small wind energy system. Met towers that receive a building permit shall be permitted on a temporary basis not to exceed 3 years from the date the building permit was issued.
2. **Application:** Applications submitted to the building inspector shall contain a site plan with the following information:
  - a. Property lines and physical dimensions of the applicant's property.
  - b. Location, dimensions, and types of existing major structures on the property.

- c. Location of the proposed small wind energy system, foundations, guy anchors and associated equipment.
  - d. Tower foundation blueprints or drawings.
  - e. Tower blueprints or drawings.
  - f. Setback requirements as outlined in this ordinance.
  - g. The right-of-way of any public road that is contiguous with the property.
  - h. Any overhead utility lines.
  - i. Small wind energy system specifications, including manufacturer, model, rotor diameter, tower height, tower type, nameplate generation capacity.
  - j. Small wind energy systems that will be connected to the power grid shall include a copy of the application for interconnection with their electric utility provider.
  - k. Sound level analysis prepared by the wind generator manufacturer or qualified engineer.
  - l. Electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the NH State Building Code.
  - m. Evidence of compliance or non-applicability with Federal Aviation Administration requirements.
  - n. List of abutters to the applicant's property.
  - o. The Building Inspector may require the stamp of a professional engineer licensed to practice in the state of New Hampshire.
3. **Abutter and Regional Notification:** In accordance with RSA 674:66, the building inspector, at the expense of the applicant, shall notify all abutters and the local governing body by certified mail upon application for a building permit to construct a small wind energy system. The public will be afforded 30 days to submit comments to the building inspector prior to the issuance of the building permit. The building inspector shall review the application for regional impacts per RSA 36:55. If the proposal is determined to have potential regional impacts, the building inspector shall follow the procedures set forth in RSA 36:57, IV. Any aggrieved person may appeal to the Zoning Board of Adjustment pursuant to RSA 676:5, as may be appropriate.

D. STANDARDS: The building inspector shall evaluate the application for compliance with

the following standards:

1. Setbacks: The setback shall be calculated by multiplying the minimum setback requirement number by the total height and measured from the center of the tower base to property line, public roads, or nearest point on the foundation of an occupied building.

Minimum Setback Requirements			
Occupied Building on Participating Landowner Property	Utility Lines	Property Lines Of Abutting Property	Public and/or Private Roads
0.0	1.1	1.5	1.5

- a. Small wind energy systems must meet all setbacks for principal structures for the zoning district in which the system is located.
  - b. Guy wires used to support the tower are exempt from the small wind energy system setback requirements but are subject to all other setback requirements of the New Ipswich Zoning Ordinance.
2. Tower: The maximum tower height shall be restricted to 35 feet above the tree canopy within 300 feet of the small wind energy system. In no situation shall the tower height exceed 150 feet.
  3. Sound Level: The small wind energy system shall not exceed 55 decibels using the scale (dBA), as measured at the site property line, except during short-term events such as severe wind storms and utility outages.
  4. Shadow Flicker: Small wind energy systems shall be sited in a manner that does not result in significant shadow flicker impacts. Significant shadow flicker is defined as more than 30 hours per year on abutting property. The applicant has the burden of proving that the shadow flicker will not have significant adverse impact on neighboring or adjacent uses. Potential shadow flicker will be addressed either through siting or mitigation measures.
  5. Signs: All signs including flags streamers and decorative items, both temporary and permanent, are prohibited on the small wind energy system, except for manufacturer identification or appropriate warning signs.
  6. Code Compliance: The small wind energy system shall comply with all applicable sections of the New Hampshire State Building Code.
  7. Aviation: The small wind energy system shall be built to comply with all applicable Federal Aviation Administration regulations including but not limited to 14 C.F.R. part 77, subpart B regarding installations close to airports, and the New Hampshire Aviation regulations, including but not limited to RSA 422-b and RSA 424 and

subsequent revisions.

8. Visual Impacts: It is inherent that small wind energy systems may pose some visual impacts due to the tower height needed to access wind resources. The purpose of this section is to reduce the visual impacts, without restricting the owner's access to the optimal wind resources on the property.
  - a. The applicant shall demonstrate through project site planning and proposed mitigation that the small wind energy system's visual impacts will be minimized for surrounding neighbors and the community. This may include, but not be limited to information regarding site selection, wind generator design or appearance, buffering, and screening of ground mounted electrical and control equipment. All electrical conduits shall be underground, except when the financial costs are prohibitive.
  - b. The color of the small wind energy system shall either be the stock color from the manufacturer or painted with a non-reflective, unobtrusive color that blends in with the surrounding environment. Approved colors include but are not limited to white, off-white or gray.
  - c. A small wind energy system shall not be artificially lit unless such lighting is required by the Federal Aviation Administration (FAA). If lighting is required, the applicant shall provide a copy of the FAA determination to establish the required markings and/or lights for the small wind energy system.
9. Approved Wind Generators: The manufacturer and model of the wind generator to be used in the proposed small wind energy system must have been approved by the California Energy Commission or the New York State Energy Research and Development Authority, or a similar list approved by the state of New Hampshire, if available.
10. Utility Connection: If the proposed small wind energy system is to be connected to the power grid through net metering, it shall adhere to RSA 362-A:9.
11. Access: The tower shall be designed and installed so as not to provide step bolts or a ladder readily accessible to the public for a minimum height of 8 feet above the ground. All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.
12. Clearing: Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the small wind energy system and as otherwise prescribed by applicable laws, regulations, and ordinances.

E. ABANDONMENT:

1. At such time that a small wind energy system is scheduled to be abandoned or discontinued, the applicant will notify the building inspector by certified U.S. mail of the proposed date of abandonment or discontinuation of operations.
2. Upon abandonment or discontinuation of use, the owner shall physically remove the small wind energy system within 90 days from the date of abandonment or discontinuation of use. This period may be extended at the request of the owner and at the discretion of the building inspector. "Physically remove" shall include, but not be limited to:
  - a. Removal of the wind generator and tower and related above-grade structures.
  - b. Restoration of the location of the small wind energy system to its natural condition, except that any landscaping, grading or below-grade foundation may remain in its same condition at initiation of abandonment.
3. In the event that an applicant fails to give such notice, the system shall be considered abandoned or discontinued if the system is out-of-service for a continuous 12-month period. After the 12 months of inoperability, the building inspector may issue a Notice of Abandonment to the owner of the small wind energy system. The owner shall have the right to respond to the Notice of Abandonment within 30 days from Notice receipt date. After review of the information provided by the owner, the building inspector shall determine if the small wind energy system has been abandoned. If it is determined that the small wind energy system has not been abandoned, the building inspector shall withdraw the Notice of Abandonment and notify the owner of the withdrawal.
4. If the owner fails to respond to the Notice of Abandonment or if, after review by the building inspector, it is determined that the small wind energy system has been abandoned or discontinued, the owner of the small wind energy system shall remove the wind generator and tower at the owner's sole expense within 3 months of receipt of the Notice of Abandonment. If the owner fails to physically remove the small wind energy system after the Notice of Abandonment procedure, the building inspector may pursue legal action to have the small wind energy system removed at the owner's expense.

F. VIOLATION:

It is unlawful for any person to construct, install, or operate a small wind energy system that is not in compliance with this ordinance. Small wind energy systems installed prior to the adoption of this ordinance are exempt from this ordinance except when modifications are proposed to the small wind energy system.

G. PENALTIES:

Any person who fails to comply with any provision of this ordinance or a building permit issued pursuant to this ordinance shall be subject to enforcement and penalties as allowed under NH law.

#### **ARTICLE XIV: BOARD OF ADJUSTMENT**

##### **A. AUTHORITY AND ADOPTION OF RULES:**

1. The Board of Selectmen shall appoint a Board of Adjustment consisting of five members and five alternates conforming in duties and authority to the provisions of chapters of the New Hampshire revised statutes annotated amended 673-676.
2. The Board of Adjustment shall adopt rules to govern its proceedings in accordance with the provisions of this ordinance, and the provisions of RSA Chapter 676 as amended, and shall provide for a public hearing to be held on all requests for special exceptions, variances, and appeals.

##### **B. POWERS OF THE BOARD:**

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official, in the enforcement of this ordinance, or any other ordinance, adopted pursuant to this ordinance.
2. To hear and decide special exceptions to the terms of the ordinance upon which such Board of Adjustment is required to pass.
3. To authorize, upon appeal in specific cases, such variance from the terms of the ordinance as will not be contrary to the public interest.
4. In exercising the above-mentioned powers, the Board may, in conformity with the provisions of this ordinance, 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 Board or officer from whom the appeal is taken.

##### **C. APPEALS:**

Appeals may be taken to the Board of Adjustment by any person aggrieved or by any officer, department, board, or bureau of the town affected by the decision of the administrative officer.

1. Any such appeal shall be taken within 30 days from the act of decision appealed from, by filing with the Board and the officer from whom the appeal is taken, a

notice of the appeal stating clearly what the applicant is seeking.

2. HEARINGS:

- a. The public hearing shall be held within 30 days of the receipt of the notice.
- b. The appellant and all the abutters shall be notified of the hearing not less than five (5) days before the date fixed for the hearing of the appeal.
- c. Any party may appear in person or be represented by his agent or attorney at the hearing of an appeal.
- d. The cost of advertising and mailing the notice of the hearing shall be payable by the person making the appeal.

3. REHEARINGS:

- a. A rehearing request must be made within thirty (30) days of the Board's decision.
- b. The Board must grant or deny the request for a rehearing within ten (10) days.
- c. An appeal from the Board's refusal to grant a rehearing or from the Board's decision given at the rehearing must be appealed to the Superior Court within thirty (30) days.

D. VARIANCE:

The Board of Adjustment may authorize a variance from the terms of this ordinance only where the Board finds that all of the following conditions apply.

1. There are special circumstances or conditions applying to the land or structure for which the variance is sought, such as but not limited to, the exceptional narrowness, shallowness, or shape of the property in question, or exceptional topographical conditions, which are peculiar to such land or structure, and the application of the requirements of this ordinance will deprive an owner of such property of reasonable use of it, and will impose on such owner a hardship not shared by the owners of other property in the same district. Financial hardship does not constitute "hardship" in this case.
2. The specific variance as granted is the minimum variance that will grant reasonable relief to the owner and is necessary for a reasonable use of the land or structures.
3. The granting of the variance will be in harmony with the general purposes and intent of this ordinance, and with the convenience, welfare, and character of the district within which it is proposed, and will not be injurious or otherwise detrimental to the public welfare.
4. In authorizing a variance, the Board of Adjustment may attach such conditions and safeguards as it deems necessary to protect the neighborhood and the community,

including, but not limited to, a time limit when the variance will expire if not utilized.

5. An applicant for a zoning variance bears the burden of establishing that his request meets the following five requirements:
  - a. Granting the variance will not cause a diminution in the value of surrounding properties.
  - b. Granting the permit would be of benefit to the public interest.
  - c. Denial of the permit would result in unnecessary hardship to the owner seeking it, where hardship is defined by Article XIV, Section D1.
  - d. By granting the variance, substantial justice will be done.
  - e. The use must not be contrary to the spirit and intent of the ordinance.

E. SPECIAL EXCEPTIONS:

The Board of Adjustment may, in appropriate cases and subject to appropriate conditions and safeguards as determined by the Board, grant a permit for a special exception for those uses listed in Articles IV, V, VI, VII, VIII, IX, XII A footnote 3 as "Allowed by Special Exception." The Board, in acting on an application for a special exception, shall take into consideration the following conditions and criteria:

1. The specific site is an appropriate location for such use.
2. The use as developed will not adversely affect the adjacent area.
3. There will be no nuisance or serious hazard to vehicles or pedestrians.
4. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
5. Such approval would be consistent with the intent of the master plan, after having given due consideration to recommendations received from the Planning Board, Conservation Commission and the Selectmen, within thirty (30) days of receipt of the petition by the Board of Adjustment.

F. Termination of Unexercised Special Exceptions and Variances

1. Variances and special exceptions shall be valid if exercised within 2 years from the date of final approval, or as further extended by local ordinance or by the zoning board of adjustment for good cause consistent with RSA 674:33, provided that no such variance shall expire within 6 months after the resolution of a planning application filed in reliance upon the variance.
2. Unexercised variances and special exceptions authorized before August 19, 2013 are scheduled to terminate on April 1, 2025, unless extended by the zoning board of adjustment for good cause.

**ARTICLE XV: AMENDMENTS**

This ordinance, and the boundaries of zoning districts established by it, may from time to time be amended or changed as provided by Chapter 675 of the New Hampshire Revised Statutes Annotated.

**ARTICLE XVI: ADMINISTRATION AND ENFORCEMENT:**

**A. ADMINISTRATION:**

1. The Board of Selectmen is hereby given power and authority to administer the provisions of this ordinance and may appoint an agent to act on their behalf.
2. A permit shall be required when it is proposed to erect or place a structure for any use outlined in Articles IV, V, VI, VII, VIII, IX or when proposed to alter an existing building to make it suitable for any use outlined in Article IV, V, VI, VII, VIII or IX except for the following:
  - a. All out-buildings less than 120 square feet total area as measured at the base of the structure.
  - b. All portable/transportable vehicle and equipment fabric covered shelters under fifty feet in length.
  - c. All portable/transportable plastic covered greenhouses under twenty-five feet in length.
  - d. All tents, booths, pop-ups and other temporary structures, such those used at parades and assemblies and other gatherings.
3. Written application for a building permit shall be filed with the Building Inspector. The Building Inspector shall have the authority to issue building permits and certificates of occupancy and perform inspections as may be necessary to assure compliance with the 2003 edition of the International Residential Building Code (IRBC) and subsequent revisions, and to authorize the enforcement by the town of the State Building Code per RSA 674:51.
4. Temporary permits may be issued by the Board of Selectmen or its agent for a period not exceeding one year for non-conforming uses incidental to construction projects, provided such permits are conditional upon agreement by the owner to remove the structure or use upon expiration of the permit. Such permits may be renewed upon application for an additional period of one year as along as construction is active.
5. The granting or denial of the permit shall take place not later than thirty (30) days from the date of filing the application unless the applicant and the permitting official shall jointly agree to a reasonable extension.
6. A fee based on a sliding scale determined by the Selectmen shall be charged for

issuance of a permit, a temporary permit, or a renewal of either.

7. Any permit may be revoked by the Board of Selectmen or the Building Permit Officer at any time for just cause.
8. A Certificate of Occupancy will be required by any person building or modifying a structure that involves septic installation and/or fire inspection. The Board of Selectmen, or their representative, will notify the applicant in writing, when the application for a building permit is made, that the certificate must be obtained prior to use of the building.

The Board of Selectmen, or their representative, shall issue the Certificate of Occupancy upon receipt of operational approval from the N.H. Water Supply and Pollution Control Commission and satisfactory completion of fire inspection by the New Ipswich Fire Department. Failure to comply with this regulation may result in fines up to twenty-five dollars (\$25.00) per day.

**B. ENFORCEMENT:**

1. The Board of Selectmen shall enforce the provisions of this ordinance in the name of the town of New Ipswich, New Hampshire under the provisions of Article XVI, Section B.2.
2. A violation of any provision contained in these regulations shall be punishable by civil fine of \$100 for each day that such a violation is found by a court to continue after the conviction date or after the date on which the violator receives written notice from the town of New Ipswich that he is in violation of these regulations, whichever date is earlier. In addition, nothing herein shall prohibit the town of New Ipswich from seeking injunctive or equitable remedies as provided by law.

**ARTICLE XVI-1: IMPACT FEES (rescinded 3/12/2013)**

**ARTICLE XVII: VALIDITY OF REGULATIONS:**

- A. If any section, paragraph, subdivision, clause, or provision of these regulations shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or such provision of adjudged, and the remainder of these regulations of the town shall be deemed to be valid and effective.
- B. Whenever the provisions of this ordinance or rulings made under the authority hereof differ from those of other ordinances or regulations of the town of New Ipswich, that provision or ruling which imposes greater restriction or higher standard shall govern.
- C. The effective date of this ordinance and the zoning map shall be the date of passage of the

regulations.

**ARTICLE XVIII: DEFINITIONS:**

**ACCESSORY BUILDING:** Any subordinate building or portions of the main building, the use of which is customarily incidental to that of the main building on the same lot or premises and which is used primarily by the occupants of the main building.

**ACCESSORY USE:** Any use customarily incidental, related and clearly subordinate to a principal or main use established on the same lot or premises.

**BACK LOT:** A lot meeting the minimum lot area requirements of the zoning district in which it is located, but which does not have the required amount of road frontage on an approved public street, and is situated adjacent to a lot having sufficient frontage on an approved street.

**BASAL AREA:** The cross-sectional area of a tree measured four-and-a half feet from the ground.

**BED AND BREAKFAST:** An owner-occupied home in which the owner rents guest rooms and serves breakfast to those guests as part of the room rent.

**BOAT HOUSE:** A building for storing boats and accessory equipment.

**BUFFER OR NATURAL WOODLAND BUFFER:** A forested area consisting of various species of trees, saplings, shrubs, and ground covers in any combination and at any stage of growth.

**CLUSTER DEVELOPMENT:** A residential subdivision of a tract of land where housing units are grouped on lots of reduced dimensions. The remaining land in the tract which is not built upon is reserved as permanently protected open space.

**COMMON AREA:** Any area, other than open space, set aside for common ownership as a result of a cluster development, including areas for common facilities such as roads, rights of way, common or individual utilities including wells, common buildings, and recreational facilities.

**DRAINAGE SWALE:** A shallow vegetated trough where water flows during runoff and which is insufficient to create a defined channel or to maintain wetlands vegetation.

**DWELLING:** A building, or part of a building, which contains living and sleeping accommodations for permanent occupancy.

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

**DWELLING, ONE FAMILY:** A detached building designated for, or occupied solely as a dwelling by one family.

DWELLING, TWO FAMILY: A detached building designated for, or occupied solely as a dwelling by two families living independently of each other.

DWELLING, MULTI-FAMILY/APARTMENT: A dwelling on one lot containing separate dwelling units for three or more families, having separate or joint entrances, services or facilities.

EXCAVATION: The commercial excavation and/or removal of sand, gravel, rock soil or construction aggregate.

FAMILY: Any number of persons related by blood or by marriage, or not more than six persons not related by blood or by marriage, living together as a single housekeeping unit.

FRONTAGE: The width of a lot measured along its common boundary with a Class V or better street, or with a street in a subdivision approved by the Planning Board. In case a lot fronts on more than one street, the common boundary on only one of the streets may be used to measure the width of the lot.

GROUND COVER: Any herbaceous plant which normally grows to a mature height of 4 feet or less.

HOME OCCUPATION: Any use conducted by a member of the family entirely within a dwelling or an accessory building which is clearly incidental and secondary to the use of the dwelling or residence.

HOMEOWNERS ASSOCIATION: A private non-profit organization (corporation, association, or other legal entity) to manage, maintain, support, and finance the common area, common facilities, and open space land of the cluster development, and enforce certain covenants and restrictions.

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

INN: A building which has accommodations for transient guests and which serves meals to its guests and the public.

INTERMITTENT STREAM: A stream that flows for sufficient time to develop and maintain a defined channel, but which might not flow during dry portions of the year.

LIGHT MANUFACTURING: A use involving the manufacture of a product not requiring heavy, noisy, or otherwise objectionable machinery or transportation equipment.

LOT: A plot or parcel of land occupied, or capable of being occupied, in conformity with these regulations by one principal building and the accessory buildings or uses customarily incidental to it, including such open spaces as are required by these regulations. In the case of multiple dwellings, row dwellings, institutional, industrial or commercial buildings, a group of buildings under one

ownership may be considered as occupying the same lot.

LOT OF RECORD: A lot which is part of a subdivision approved by the New Ipswich Planning Board and recorded in the Hillsborough County Register of Deeds, or a lot or parcel described by metes and bounds, the description of which was so recorded prior to enactment of the present zoning ordinance.

MARSH: A wetland (a) that is distinguished by the absence of trees and shrubs; (b) that is dominated by soft-stemmed herbaceous plants such as grasses, reeds, and sedges; and (c) where the water table is at or above the surface throughout the year, but can fluctuate seasonally.

MOBILE HOME/MANUFACTURED HOUSING: A mobile home is any structure transportable in one or more sections, which, in the traveling mode is eight body feet or more in width and forty body feet or more in length, or when erected on site, is three hundred twenty square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, which include plumbing, heating and electrical heating systems contained herein. Manufactured housing as herein defined shall not include presite built housing as required in RSA 674:31-A.

NON-CONFORMING USE: A use which lawfully occupied a building or land at the effective date of this ordinance or amendments thereto and that does not conform to the use regulations of the district in which it is located.

OPEN SPACE: Undeveloped land set aside for common or other non-individual ownership as a result of a cluster development, with conservation easements and other deeded restrictions to ensure that the land will remain permanently open and undeveloped.

ORDINARY HIGH WATER MARK: The line on the shore, running parallel to the main stem of the river, established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the immediate bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas. Where the ordinary high water mark is not easily discernible, the ordinary high water mark shall be determined by the New Ipswich Conservation Commission, who may consult with the NH Department of Environmental Services for their interpretation.

PARKING SPACE: An off-street space sufficient in size to accommodate the parking of one motor vehicle exclusive of the area necessary for internal driveways and passage ways on any site.

PERMANENT STREAM: A body of water that flows throughout the year.

REFERENCE LINE: is

- 1) for natural fresh water bodies without artificial impoundments, the natural mean high water level as determined by the Department of Environmental Services;
- 2) for artificially impounded fresh water bodies with established flowage rights, the limit of the flowage rights, and for water bodies without established flowage rights, the waterline at full pond as determined by the elevation of the spillway crest;
- 3) for ivers, the ordinary high water mark.

RIGHT-OF-WAY: Shall mean a strip of land on which is built a road or lane over which a legal right of passage has been granted by the owner.

SAPLING: Any woody plant that normally grows to a mature height greater than 20 feet and has a diameter less than 6 inches at a point four-and-a-half feet above the ground.

SETBACK: The minimum horizontal distance between a structure and street or lot line.

SHRUB: Any multi-stemmed woody plant which normally grows to a mature height of less than 20 feet.

SPECIAL EXCEPTIONS: A special exception permits the inclusion into the zoning pattern of uses considered to be essentially desirable, but where the nature of the use is such that its location must be considered in light of special restrictions or conditions tailored to fit the unique problem which the use presents. The special exception relates to a specific use in a specific location, and the regulations controlling these special exceptions are contained in these regulations.

STREET: Shall mean, relate to and include a street, road, lane, alley, viaduct, highway, public street, and other ways existing as state county, or town roadways, or a street shown upon a plat approved in accordance with these regulations or the New Ipswich Subdivision Regulations. The word "street" shall include the entire right-of-way. An "approved street" is defined as a Class I, II, III, IV or V highway. It does not include a Class VI highway or street. These classifications are

further defined in Chapters 230 and 231 of the RSA's.

STRUCTURE: Anything built for the support, shelter or enclosure of persons, animals, goods, or property of any kind, as well as anything constructed or erected with a fixed location on or in the ground, including, but not limited to, parking lots, streets, and driveways, but exclusive of fences.

SURFACE WATER BODY OR SURFACE WATERS: Those portions of waters of the state, as defined by RSA 482-A:4, which have standing or flowing water at or on the surface of the ground. This includes but is not limited to rivers, streams, intermittent streams, lakes, ponds and tidal waters. Surface waters do not include drainage swales.

SWAMP: A wetland that is dominated by trees and/or shrubs.

TREE: Any woody plant that normally grows to a mature height greater than 20 feet and has a diameter of 6 inches or more at a point four-and-a-half feet above the ground.

UNNECESSARY HARDSHIP: A hardship created by a special condition of the land which distinguishes it from other land in the same area. A hardship does not exist if it relates to the personal circumstances of the landowner rather than the land itself.

VARIANCE: An act of the Board of Adjustment which allows a variation from the terms of these regulations as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the regulations will result in unnecessary hardships, and so that the spirit of the regulations shall be observed and substantial justice done.

VERNAL POOL: A contained basin depression which lacks a permanent above ground outlet; which fills with water from the rising water table of fall and winter or from winter and spring precipitation; which may be dry in the summer; and which contains Aobligate@ organisms such as fairy shrimp, the mole salamanders and the wood frog that **must** use a vernal pool for various parts of their life cycle.

WETLAND: An area that is inundated or saturated by surface or ground water at a frequency and duration sufficient to support and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands include, but are not limited to, swamps, marshes, vernal pools, and similar areas.

WIRELESS COMMUNICATION FACILITY: Any tower, pole, antenna, accessway, or other structure intended for commercial use in connection with transmission or reception of radio or television signals, or any other electromagnetic spectrum-based transmission/reception.