

Horsley Witten Group

Sustainable Environmental Solutions

55 Dorrance Street • Suite 200 • Providence, RI 02903
401-272-1717 • horsleywitten.com



MEMORANDUM

TO: David Sharples, Town Planner, Town of Exeter, NH
FROM: Nathan Kelly, Principal, Horsley Witten Group
DATE: December 2, 2022
RE: Zoning Ordinance: Proposed Edits Readers Guide

Horsley Witten Group, Inc. (HW) is working with the Town of Exeter, NH on several strategic updates to its Zoning Ordinance. Below is a “Readers Guide” that summarizes the proposed changes and the reasoning behind them. Please refer to the full draft Zoning Ordinance for details.

OVERALL CONCEPT

Why is the Town pursuing these zoning changes? In brief, the Town is trying to address several overarching issues:

- **Land is finite.** A lot of Exeter has already been developed. The Town wants to be a good steward of the remaining open space, rural areas, and lightly populated areas of Exeter, which add to the community’s identity and quality of life and help provide habitat and maintain clean water.
- **Exeter and the region are facing a housing crisis.** Housing costs are out of reach for many people in Exeter, and affordability is a major concern. While the Town has done excellent work diversifying its housing options, it is still difficult for many people to find the types of housing they need, particularly young adults, seniors, and people with lower income.
- **Infrastructure is expensive to install and maintain.** Extending public roads, water and sewer pipes, and other infrastructure into areas of town that currently do not have them becomes a liability and a strain on the Town’s budget over time.

What do we do about this? Exeter’s land use policies, with the Zoning Ordinance in the lead, are among the primary tools the Town can use to address these issues. The proposed zoning changes summarized below are intended to:

- Reduce development potential in our more rural areas.
- Provide stability for existing residential subdivisions located between the more rural areas and the more populated areas of town.
- Allow for a greater variety of housing types and infill development for the residential areas closer to the center of town.
- Allow for vibrant, walkable centers, including downtown Exeter, with a mix of new and redeveloped commercial, residential, and community uses that respect Exeter’s historic heritage.
- Continue to allow spaces for neighborhood-serving retail and services as well as heavier commercial and light industrial/warehousing uses.

In summary, the goal is to “grow smart.” Exeter is a very desirable place to live, and development pressure is likely to continue for the foreseeable future. These proposed zoning amendments are designed to help Exeter absorb new development where infrastructure can best handle it and where residents will have access to more housing opportunities, shops, and services. This should also help Exeter be an even better place to live, making it safer and more convenient to walk and bike in town, maintaining nearby access to forested walking trails and other recreational open spaces, and preserving our natural resources for future generations.

Zoning cannot achieve all of this on its own, but it plays a large role.

FREQUENTLY ASKED QUESTIONS

What if I don't support one or more aspects of this proposal?

This is not an “all-or-nothing” proposal. If there are aspects of this proposal that the community does not support, those aspects can be amended or removed while the rest of the proposal advances.

If these proposals are adopted, does that mean the Town won't have to change the Zoning Ordinance again for a while?

Not necessarily. As you will see below, many sections of the current Zoning Ordinance are not being reviewed as part of this effort. Future efforts, for example, may choose to address issues related to such things as signage and parking. Further, whenever a community takes on a significant set of amendments, small adjustments to the new material can be expected shortly thereafter to calibrate results or correct unintended errors.

STRUCTURE OF THE ZONING ORDINANCE

The overall structure of the Zoning Ordinance is not proposed to change. While some of the terminology may be amended slightly, and while some of the subsections are proposed to change, the 14 Sections of the current Zoning Ordinance are proposed to remain largely unchanged and in the same order. The one exception is the elimination of Section 10 Growth Management Ordinance, which is deemed inconsistent with state law. Existing Sections 11-14 have been renumbered accordingly.

SECTIONS WITH MODEST OR NO SUBSTANTIVE CHANGE

The majority of the Zoning Ordinance is not proposed to change. Below is a review of the Sections that are proposed to stay the same or have non-substantive edits. Note that many of the Sections will require non-substantive housekeeping edits, most notably changing references to current zoning districts to the new proposed zoning districts.

Section 1 – Authority and Purpose

No proposed changes.

Section 5 – General Regulations

This Section covers many topics, some with lots of changes and some with none. Note that most subsections largely remain the same, perhaps with some renumbering as follows:

- 5.3.5 Demolition Review (now proposed 5.4)
- 5.4 Height Regulations (now proposed 5.5)
- 5.7 Sign Regulations (now proposed 5.8)
- 5.8 General Landscaping Regulations (now proposed 5.9)
- 5.9 Performance Standards (now proposed 5.10)

Modest changes within Section 5.0 also include the following:

5.3 Existing Lot Regulations

- The first subsection in Existing Lot Regulations in the current ordinance is removed in favor of the non-conformity language above in Sec. 5.1. Some of that language from the existing ordinance is absorbed into Sec. 5.1.
- The standards for Corner Lot Clearance are clarified. They apply to street intersections AND intersections between streets and driveways.

5.5 Yard Regulations

- The existing Transition Yard Requirements are removed from this section. These requirements were deemed to be antiquated and will continue to create unnecessary non-conformity in many areas of Exeter.
- The dimensional standards (setbacks) in Section 4.3 – Schedule II will govern.
- All other provisions are functionally the same.

5.6 Off-Street Parking

- Some housekeeping to ensure compatibility with new districts.
- All other provisions are functionally the same.

Section 6 – Supplementary Use Regulations

This Section includes more subsections than any other, providing additional conditions for specific land uses. The conditions are meant to ensure that these uses are compatible neighbors to other permitted uses. These subsections will largely remain the same. However, there will be housekeeping edits to some of them, most notably changing references to current zoning districts to the new proposed zoning districts.

New Subsections

Five subsections have been added. Three of these new subsections are discussed further below under Substantive Proposed Changes. Two are not new text but have been moved from other parts of the current Zoning Ordinance for clarity and consistency:

- Sec. 6.20 Accessory Dwelling Units has been created from the Notes section of Sec. 4.2 Schedule I: Permitted Uses
- Sec. 6.21 Retirement Planned Community has been created from the Notes section of Sec. 4.3 Schedule II: Density and Dimensional Regulations - Residential

Modest Changes

- 6.8 Epping Road Strip Management Ordinance, C-3 District – the intent of this section remains, but the text had been amended to account for the elimination of the C-3 district.
- 6.9 Manufactured Housing Parks is changed to Mobile Home Parks so as not to be confused with prefabricated manufactured housing. Many modern homes are “manufactured” with prefabricated materials before being assembled on a lot, which is fully permissible. “Mobile” homes more accurately describe this use, the definition of which has not changed (only the name).
- 6.16 Healthcare District is currently used to govern the hospital. Under this zoning proposal, the Healthcare District would be absorbed into the UC-2 and the hospital would be regulated as a “use” rather than a “district.” While this shift requires changing a lot of the language, it is meant to achieve the same goals and the standards and procedures are unchanged. The general approach is to enforce the dimensional standards for the district around the perimeter of the hospital while allowing flexibility for the interior of the complex. This ensures the hospital remains a good neighbor to abutting properties while having the flexibility to change and grow over time. Part of this effort includes clarifying limitations on the height of buildings adjacent to residential districts.
- 6.19 Mixed Use Neighborhood Development (MUND) is staying largely the same but is being split into two sections. The design standards have moved to a new Appendix B and will also serve as the design standards for standard multi-family homes in the UC districts. The rest of the existing text remains in Sec. 6.19.

Section 7 – Open Space Development

This Section remains largely the same. However, there are housekeeping edits, most notably changing references to current zoning districts to the new proposed zoning districts. Two subsections have been added. These are not new text but have been moved from other parts of the Section into their own subsections. This means that the numbering for subsequent subsections has been altered accordingly, but otherwise they are all in the same order.

- Sec. 7.5.5 External Boundaries has been moved to new Sec. 7.6
- Sec. 7.5.6 Internal Dimensional Requirements has been moved to new Sec. 7.7
- Sec. 7.6 Multi-Family Open Space Development is now Sec. 7.8
- Sec. 7.7 General Regulations Governing Open Space Development is now Sec. 7.9

Section 8 – Historic District

No substantive changes. References were updated to reflect renumbering of other sections of the ordinance.

Section 9 – Natural Resource Protection

No substantive changes. References were updated to reflect renumbering of other sections of the ordinance.

Section 11 – Public Capital Facilities Impact Fee

As Section 10 Growth Management Ordinance has been eliminated, this Section is now Section 10. Otherwise, this Section remains largely the same. However, Sec. 11.7 Age Restricted Housing has been deleted. This means that the numbering for subsequent subsections has been altered accordingly, but otherwise they are all in the same order.

Section 12 – Board of Adjustment

As Section 10 Growth Management Ordinance has been eliminated, this Section is now Section 11. No changes to standards, procedures, or powers are proposed for this Section. However, the title has been changed from Board of Adjustment to Zoning Board of Adjustment to match the official name of that body. A new subsection 2.3 Powers enumerates the powers granted to a Zoning Board of Adjustment per state law, and also incorporates former Sec. 12.4 Limits of Approval. The new text was adapted almost word-for-word from state law.

Section 13 – Administration and Enforcement

As Section 10 Growth Management Ordinance has been eliminated, this Section is now Section 12. No substantive changes. References may have been updated to reflect renumbering of other sections of the ordinance.

Section 14 – Validity

As Section 10 Growth Management Ordinance has been eliminated, this Section is now Section 13. No substantive changes.

SUBSTANTIVE PROPOSED CHANGES

The rest of this memorandum summarizes the more substantive proposed changes and the reasoning behind them.

Section 2 – Definitions

This draft maintains a brief Section 2 and moves most of the definitions themselves to a new Appendix A for easier reference and maintenance. This would not change the role or authority of the definitions. Most of the existing definitions will stay the same. However, several new definitions are proposed. These definitions are primarily for uses listed in Sec. 4.2 Schedule I: Permitted Uses that are currently not defined. While some of these have “common sense” definitions, several others would benefit from clear definitions. This will make it easier for

applicants and town staff to determine what is a permitted use and what is not, reducing inefficient ambiguity and subjective decisions. They also help differentiate when a certain scale of use might be appropriate in a particular zoning district but not in another.

Examples of new definitions include . . .

- Differentiating between “light” and “heavy” auto repair
- Differentiating between “neighborhood” and “regional” grocery stores
- Differentiating between “light” and “artisanal” manufacturing
- Differentiating between “standard” and “small-scale” multi-family dwellings
- Farm related uses, meaning the additional uses on a farm other than direct agricultural production, such as tours, classes, petting zoos, or seasonal events like corn mazes.
- Artisanal food and beverage production, for small-batch, generally handmade (as opposed to mass produced) food and non-alcoholic beverages.

Section 3 – Establishment and Designation of Districts

The bulk of the proposed amendments to the Zoning Ordinance rest with the zoning districts themselves. Changes to the names, boundaries, and intent of the Town’s zoning districts serve as the base for all the other proposed changes.

Today, the Zoning Ordinance includes 18 different zoning districts.

- RU, RI, R2, R3, R4, R5, and R6: These residential districts allow a variety of housing types at a variety of densities, from rural residential on large lots (RU), single-family homes on a variety of lot sizes (R1, R2, R3), multifamily housing (R4, R5), and retirement communities (R6).
- M and MS: These residential districts allow manufactured (mobile) housing.
- C1, C2, C3, NP (Neighborhood Professional), and WC (Waterfront Commercial): These districts, while largely commercial, also allow for a range of housing types. They range from the mixed-use commercial areas of downtown, Lincoln Street, and Portsmouth Avenue, to the more auto-oriented commercial along Epping Road and Rte 27.
- CT, CT1, I: These districts allow for Corporate Technology Parks and light industrial uses, and are found at the rear of Continental Drive, along Industrial Drive and Holland Way, and in the Exeter side of the industrial park in Stratham adjacent to Rte 101.
- H (Healthcare): This district is limited to Exeter Hospital.

This is a somewhat overcomplicated set of zoning districts. Further, they largely describe things as they are today rather than laying out a vision for how Exeter would like to develop into the future. In order to make a simpler, more forward-looking Zoning Map, the Town is proposing the following nine (9) zoning districts with a brief description of each.

Neighborhood Preservation (NP)

The purpose of the NP District is to allow for modest development of low-density residential use and agriculture along with preservation of open space. It is the Town’s intention that

the provision of new public sewer and water service will generally be unavailable in order to limit development potential and protect the natural systems in this district to the degree possible. The NP is also designed to stabilize many existing subdivisions, including those developed under Section 7 Open Space Development.

What area the NP Includes: *The NP includes all the current RU zone, most of the R1, and a portion of the R2 and R3. It also includes many of the Town's conservation areas, including those currently in other zoning districts such as the C3.*

Residential Transition (RT)

The purpose of the RT District is to provide for a range of housing opportunities through areas of the Town that generally lie between the more densely developed districts (e.g., Urban Core) and the Neighborhood Preservation District. Residents in the RT District will experience a diversity of housing on smaller lots and may also have access to supportive uses like schools, libraries, day care, recreational areas, and other similar uses.

What area the RT Includes: *The RT is largely clustered around downtown and along the portion of Rte 27 between downtown and Rte 88. It includes much of the R2, some of the R3 and R5, most of the R4, and all of the R6. It also includes some parts of the R1 that have already experienced denser development or are planned to do so in the future, such as River Woods.*

Mobile Home Park (MHP)

The purpose of the MHP District is to preserve the opportunity for manufactured mobile home housing in the Town of Exeter by providing the unique development and performance standards needed to have these neighborhoods thrive.

What area the MHP Includes: *The MHP includes the existing mobile home parks in Exeter, which largely corresponds to the current M and MS zoning districts.*

Neighborhood Commercial (NC)

The purpose of the NC District is to provide opportunities for a mix of uses, some of which require larger parcels for coordinated business or residential models. Professional and medical office complexes and outdoor/garden service operations are examples of commercial operations that are well-suited to this district. Resident care continuum operations or active assisted living facilities are examples of residential uses that are well-suited to this district.

What area the NC Includes: *The NC includes most of the land currently zoned Neighborhood Professional (NP). It also includes properties along Rte 27 that are currently R2 but include a mix of commercial and residential uses. Note that some of the land currently zoned NP along Rt 111 and not currently used for commercial purposes is proposed to change to NP or RT.*

Commercial (C)

The purpose of the C District is to promote the development of larger, more intensive commercial and industrial uses along the Epping Road Corridor and a small portion of the far southeast corner of town at Routes 111 and 101, as indicated on the Zoning Map. Uses

in this district will generally be “auto-oriented,” mostly providing developments that require an automobile to access comfortably. Commercial use allowances are broad, covering retail, hospitality, automobile sale and repair, veterinary hospitals and more. Industrial use allowances are also broad, including, but not limited to, light manufacturing, distribution facilities, and medical research.

What area the C Includes: *The C includes almost all of the current Industrial (I) zoning district as well as much of the C3 and CT1, and the portion of the C2 district along Epping Road.*

Limited Commercial (LC)

The purpose of the LC District is to allow for coordinated development on larger lots along Holland Way. Development potentially suitable to this district would include plaza or park configurations for medical office, hotels, light industrial parks, or similar scale commercial/industrial use.

What area the LC Includes: *The LC includes most of the land currently zoned Corporate Technology Park (CT). Note that some of the CT zone to the south is proposed to change to NC and some of the northern parcels to UC2.*

Urban Core 1 (UC1)

The purpose of the Urban Core 1 District is to allow for a mix of commercial, institutional, and residential uses in a walkable town center context. While taller buildings and denser development are encouraged in this district, this is tempered by the standards of the Historic District.

What area the UC1 Includes: *The UC1 largely includes the portions of the current C1 district located downtown and along the Lincoln Street corridor as well as the current WC district. However, the exact boundaries have shifted a bit from the C1 to the UC1 to account for where mixed-use is desired vs. where a more predominantly residential area is desired.*

Urban Core 2 (UC2)

The purpose of the Urban Core 2 District is to allow for a mix of commercial, institutional, healthcare, and residential uses. While the Urban Core 2 District is likely to remain more auto-oriented than the Urban Core 1 District, allowing more auto-oriented uses, the goal is to make the area more pedestrian-friendly over time. This district is expected to accommodate taller and denser development than other districts in town.

What area the UC2 Includes: *The UC2 largely includes the current C2 district as well as the Portsmouth Avenue portion of the C1. It also includes most of the Healthcare district.*

Private Education (PE)

The purpose of the PE District is to acknowledge the important contribution made by private educational institutions to the community and to enable this activity to continue to thrive within the historical context of Exeter and consistent with the future economic, social, and environmental goals of the Town.

What area the PE Includes: *The PE largely encompasses the main campus of the Phillips Exeter Academy, which is currently zoned R2.*

Section 4 – District Regulations

Currently, this section includes a table of permitted uses, two tables for density and dimensional regulations (residential and non-residential), a series of notes/caveats for each table, and instructions on how to apply the regulations.

Uses

Sec. 4.2 Schedule I: Permitted Uses is a table that currently lists the 18 zoning districts and includes a column for each of the following: permitted principal uses, permitted accessory uses, and uses allowed by special exception. All the various uses allowed in a particular district are included in the same cell under one of those three columns. For the sake of clarity, the proposed Sec. 4.2 Schedule I: Use Table reorganizes this information. The nine (9) proposed zoning districts are at the head of each column. The rows are populated by the various uses, organized by the following categories: Agriculture, Residential, Group Residential, Office, Service, Health Care, Hospitality, Recreation/Entertainment, Retail, Community/Religious, and Industrial/Wholesale. Each use is marked under each zoning district with one of the following:

P – Permitted. May be subject to performance standards or Conditional Use Permit

S – Special Exception

X – Prohibited

AP – Permitted as Accessory Use

AS – Accessory Use as Special Exception

These notations and this formatting make it easier to see which uses are allowed in a given district as well as which districts a certain use is permitted in.

In determining which uses are appropriate within the proposed new zoning district, HW looked at which current zoning district was most predominant within the proposed district, and what uses are currently allowed there.

Dimensions

Density and dimensional regulations are currently managed by two tables: Sec. 4.3 Schedule II: Density and Dimensional Regulations – Residential and Sec. 4.4 Schedule III: Density and Dimensional Regulations – Non-Residential. Both tables are complex and set standards for:

- Minimum Lot Area (with and without municipal water and sewer)
- Minimum Lot Area per Dwelling Unit (i.e. residential density)
- Minimum Lot Width, Depth, and Frontage
- Maximum Building Height (in feet and stories)
- Minimum Yard Setbacks (front, side, and rear)
- Maximum Building Coverage

- Minimum Open Space

Schedule II is followed by 21 notes providing additional details or caveats for the standards in the table. Schedule III is followed by 20 such notes.

Structural Changes

- The two existing tables have been combined into one, with all zoning districts listed together.
- There is a single column for **Minimum Lot Area**, with any differentiation between lots with or without public utilities noted in the Notes section.
- The **Minimum Lot Area per Dwelling Unit** column has been eliminated. These regulations currently serve as an artificial cap on development and can be a hindrance to the “smart growth” infill development envisioned by the Town. There are many other standards that combine to control residential density, including the uses allowed in the Use Table, building coverage and height, parking requirements, and environmental standards. If these other standards can be met, there is no reason to further limit the residential density. For example, a 2,400 SF building could be a single-family home or three 800 SF apartments. As long as the required parking can be accommodated on site, and the underlying zoning district permits 3-family dwellings this density should be allowed.
- On a related note, the current residential dimensional table lists greater **Minimum Lot Areas** for parcels with more than one residential unit. For all the reasons described above, these distinctions have also been deleted.
- There is a single column for **Minimum Lot Width/Frontage**. These two columns in the current tables are redundant, as they have identical standards and as the Town’s definitions of Frontage and Lot Width do not require differentiation in dimensional regulations.
- The current **Minimum Side Yard** regulations are split into two columns – for one side or for both. This is redundant as “both” is always twice as much as “one.” HW proposes having a single column for the minimum setback for each side yard.
- HW has added the concept of “**half-stories**” to the table. A half-story, in brief, has a smaller massing than the floor beneath it, primarily due to the shape of its roof. For example, the RT has a building height maximum of 35 feet or 2.5 stories. While a full 3-story building could be 35 feet high, a 2.5 story building of the same height will feel smaller and more connected with its neighbors. Similarly, a 50 foot or 4.5 story maximum height in the UC2 means you can get the height and density the Town is looking for without the more urban feel of a full 5-story building.

Specific Changes per Zone – since the boundaries of the proposed new zoning districts do not necessarily align with those of the current zoning districts, it is not possible to show how dimensional regulations are proposed to change from one to the other. Anyone interested in the exact changes for a particular lot are encouraged to compare the current and proposed zoning map and reference the current and proposed dimensional tables. As with the Use Table,

HW looked at which current zoning district was most predominant within the proposed district, and what dimensional regulations are currently allowed there.

Section 5 – General Regulations

5.1 Non-Conforming Uses

This Section was revised to incorporate an appropriate level of flexibility for non-conformities (use and dimension).

- As an historic community, Exeter has many non-conforming situations and proposals for modest improvements can create arduous permitting reviews.
- Another important principle for this section was to significantly reduce the number of variances required to perform reasonable work on one’s property so applicants would not need to face the stricter criteria for approval.
- Additional blanket protections were provided for improvements to property to accommodate people with disabilities.
- For pre-existing lots that do not meet the minimum lot size (common in Exeter), the Town would be allowed to shrink the minimum setbacks proportionately.
- In the current ordinance, there can be non-conformity with many standards that have no clear path to approval. These include minimum parking requirements, lot width, frontage, landscaping, and others. This proposal provides a clearer path for dealing with these situations.

Section 6 – Supplementary Use Regulations

6.23 Multi-Family Dwellings and Townhouses

This Section is brand new material providing standards for ensuring that Multi-Family Dwellings are designed to be good neighbors. In particular, the most important aspects of these standards are those for Small-Scale Multi-Family dwellings and Townhouses, both of which are newly defined uses in the zoning ordinance. The intent is to regulate the form and scale of these uses so that they do not overwhelm existing residential uses. This is particularly important in the RT district but is also a good standard for Small-Scale Multi-Family dwellings and Townhouses wherever they are built. For example, caps on Small-Scale Multi-Family dwelling size and dimensions are intended to make these buildings read as large houses from the outside, even if they include multiple apartments on the inside. In addition, these dimensional standards help draw the line between Small-Scale and Standard Multi-Family dwellings.

6.24 Solar Energy Systems (SES), Ground Mounted

This Section is brand new material providing applicable permits, performance standards, and decision criteria related to ground mounted solar systems.

- Rooftop solar is not regulated here and remains under the control of the Building Code.
- The section covers everything from small accessory solar facilities generally for residential or agriculture to large-scale arrays that serve as the primary use of a lot.

Section 10 – Growth Management Ordinance

This section has been deleted. Town staff finds it inconsistent with state law.

1.0	AUTHORITY AND PURPOSE	1
1.1	Short Title	1
1.2	Purposes	1
2.0	DEFINITIONS	1
2.1	Interpretations	1
2.2	Definitions	1
3.0	ESTABLISHMENT AND DESIGNATION OF DISTRICTS	1
3.1	Zoning Districts	1
3.2	Zoning Map	4
3.3	Interpretation of Boundaries	4
4.0	DISTRICT REGULATIONS	5
4.1	Schedule of Regulations	5
4.2	Schedule I – Use Table	5
4.3	Schedule II – Dimensional Regulations	10
4.4	Application of Regulations	13
5.0	GENERAL REGULATIONS	13
5.1	Non-Conformity	13
5.2	Special Exception Uses	17
5.3	Existing Lot Regulations	19
5.4	Demolition Review	20
5.5	Height Regulations	23
5.6	Yard Regulations	24
5.7	Off-Street Parking	25

5.8	Sign Regulations	30
5.9	General Landscaping Regulations	44
5.10	Performance Standards	44
6.0	SUPPLEMENTARY USE REGULATIONS	46
6.1	Elderly Congregate Health Care Facilities – Standards	46
6.2	Junkyards	48
6.3	Junk Cars	49
6.4	Amusement Centers	49
6.5	Sexually Oriented Business Uses	50
6.6	Essential Services	50
6.7	Retail Uses	51
6.8	Epping Road Strip Management, C District	52
6.9	Mobile Home Parks	52
6.10	Home Occupations	54
6.11	Gasoline and/or Automotive Service Stations	56
6.12	Marinas, Docks and Piers	57
6.13	Excavation of Earth Material	57
6.14	Industrial and Manufacturing Uses	58
6.15	Helicopter and Airport Ordinance	58
6.16	Hospitals	60
6.17	Wind Energy Systems	61
6.18	Cemetery Regulations	64
6.19	Mixed Use Neighborhood Development (MUND)	65
6.20	Residential Conversions	69
6.21	Accessory Dwelling Units	70

6.22	Retirement Planned Community	71
6.23	Multi-Family Housing	72
6.24	Solar Energy Systems (SES), Ground Mounted	78
7.0	OPEN SPACE DEVELOPMENT	82
7.1	Purpose.	82
7.2	Objectives	82
7.3	Definitions	83
7.4	Procedure.	83
7.5	Single Family Open Space Development	84
7.6	External Boundaries:	84
7.7	Internal Dimensional Requirements:	84
7.8	Multi-Family Open Space Development	85
7.9	General Regulations Governing Open Space Development	87
8.0	HISTORIC DISTRICT	94
8.1	General Administrative	94
8.2	Purpose And Intent	95
8.3	Scope of Review	95
8.4	Authority to Adopt Regulations	99
8.5	Appeals	99
8.6	Administration, Enforcement, and Limitation	99
8.7	Districts	99
8.8	Standards and Extent	101
8.9	General Policy	103
9.0	NATURAL RESOURCE PROTECTION	103
9.1	Wetlands Conservation District	103

9.2	Aquifer Protection District Ordinance	112
9.3	Exeter Shoreland Protection District Ordinance	120
9.4	Floodplain Development Ordinance	130
10.0	PUBLIC CAPITAL FACILITIES IMPACT FEE	141
10.1	Authority and Applicability	141
10.2	Purpose	142
10.3	Findings	142
10.4	Definitions	143
10.5	Computation of Impact Fee	144
10.6	Assessment & Payment of Impact Fee	144
10.7	Waivers	145
10.8	Appeals	146
10.9	Administration of Funds Collected	146
10.10	Custody and Maintenance of Fund Accounts	146
10.11	Use of Funds	147
10.12	Refund of Fees Paid	147
10.13	Additional Assessments	147
10.14	Premature and Scattered Development	147
10.15	Review	148
11.0	ZONING BOARD OF ADJUSTMENT	148
11.1	Zoning Board of Adjustment Established	148
11.2	Administrative Fees	148
11.3	Powers	148
12.0	ADMINISTRATION AND ENFORCEMENT	151
12.1	Administration	151

12.2	Building Codes	151
12.3	Enforcement	152
13.0	VALIDITY	152
13.1	Saving Clause	152
13.2	Amendments	152
13.3	Conflicting Provisions	152
13.4	Effective Date	152

1.0 AUTHORITY AND PURPOSE

NO CHANGES

1.1 Short Title

This ordinance may be referred to as the Exeter Zoning Ordinance.

1.2 Purposes

The purposes of the Exeter Zoning Ordinance are to lessen congestion in the streets; to secure safety from fires, panic and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements.

2.0 DEFINITIONS

MODEST CHANGES

- *Definitions were moved to an appendix for easier reference and maintenance. Section 2.2 below establishes that Appendix.*

2.1 Interpretations

Unless the context otherwise requires, the following definitions shall be used in the interpretation and construction of the ordinance. Words used in the present tense include the future; the singular number shall include the plural, and the plural the singular. The word “structure” shall include the word “building”; and the word “used” shall include “arranged”, “designed”, “constructed”, “altered”, “converted”, “rented”, “leased”, or “intended to be used”. The word “shall” is mandatory and not optional.

2.2 Definitions

Definitions are located in Appendix A of this Zoning Ordinance, which is considered a component of this ordinance and may only be amended pursuant to Section 13.2.

3.0 ESTABLISHMENT AND DESIGNATION OF DISTRICTS

3.1 Zoning Districts

MAJOR CHANGES

- *“...consistent with the Town’s Master Plan...” was added to the preamble.*
- *New base districts were developed, reducing the overall number of districts from 18 to nine.*
- *Descriptions of the intent of each district were added.*
- *The overlay districts were not changed in location or in substance.*

For the purposes of promoting the public health, safety, and general welfare of the Town of Exeter, and consistent with the Town's Master Plan, the Town is hereby divided into Zoning Districts as listed below.

Residential

- 3.1.1 Neighborhood Preservation (NP). The purpose of the NP District is to allow for modest development of low-density residential use and agriculture along with preservation of open space. It is the Town's intention that the provision of public sewer and water service will generally be unavailable in order to limit development potential and protect the natural systems in this district to the degree possible.
- 3.1.2 Residential Transition (RT). The purpose of the RT District is to provide for a range of housing opportunities through areas of the Town that generally lie between the more densely developed districts (e.g., Urban Core 1) and the Neighborhood Preservation District. Residents in the RT District will experience a diversity of housing on small lots and may also have access to supportive uses like schools, libraries, day care, recreational areas, and other similar uses.
- 3.1.3 Mobile Home Park (MHP). The purpose of the MHP District is to preserve the opportunity for manufactured mobile home housing in the Town of Exeter by providing the unique development and performance standards needed to have these neighborhoods thrive.

Commercial

- 3.1.4 Neighborhood Commercial (NC). The purpose of the NC District is to provide opportunities for a mix of uses, some of which require larger parcels for coordinated business or residential models. Professional and medical office complexes and outdoor/garden service operations are examples of commercial operations that are well-suited to this district. Resident care continuum operations or active assisted living facilities are examples of residential uses that are well-suited to this district.
- 3.1.5 Commercial (C). The purpose of the C District is to promote the development of larger, more intensive commercial and industrial uses along the Epping Road Corridor and a small portion of the far southeast corner of town at Routes 111 and 101, as indicated on the Zoning Map. Uses in this district will generally be "auto-oriented," mostly providing developments that require an

automobile to access comfortably. Commercial use allowances are broad, covering retail, hospitality, automobile sale and repair, veterinary hospitals and more. Industrial use allowances are also broad, including, but not limited to, light manufacturing, distribution facilities, and medical research.

- 3.1.6 Limited Commercial (LC). The purpose of the LC District is to allow for coordinated development on larger lots along Holland Way. Development potentially suitable to this district would include plaza or park configurations for medical office, hotels, light industrial parks, or similar scale commercial/industrial use.

Mixed Use

- 3.1.7 Urban Core 1 (UC1). The purpose of the UC1 District is to allow for a mix of commercial, institutional, and residential uses in a walkable town center context. While taller buildings and denser development are encouraged in this district, this is tempered by the standards of the Historic District. In specific instances, and consistent with the Master Plan, different standards may apply to the discreet Lincoln Street portion and downtown portion of the UC1.
- 3.1.8 Urban Core 2 (UC2). The purpose of the UC2 District is to allow for a mix of commercial, institutional, and residential uses. While the Urban Core 2 District is likely to remain more auto-oriented than the Urban Core 1 District, allowing more auto-oriented uses, the goal is to make the area more pedestrian-friendly over time. This district is expected to accommodate taller and denser development than other districts in town.

Institutional

- 3.1.9 Private Education (PE). The purpose of the PE District is to acknowledge the important contribution made by private educational institutions to the community and to enable this activity to continue to thrive within the historical context of Exeter and consistent with the future economic, social, and environmental goals of the Town.

Overlay Districts

- 3.1.10 Historic District. See Article 8.0
- 3.1.11 Wetlands Conservation District. See Section 9.1
- 3.1.12 Aquifer Protection District. See Section 9.2
- 3.1.13 Exeter Shoreland Protection District. See Section 9.3
- 3.1.14 Floodplain Development. See Section 9.4

3.2 Zoning Map

MODEST CHANGES

- *Date of adoption changed.*

Said districts are bounded as shown on the map entitled, "Zoning Map of the Town of Exeter," adopted [INSERT DATE OF ADOPTION], as amended, and certified by the Town Clerk which accompanies and which, with all explanatory matter thereon, is hereby made a part of this ordinance. The Flood Hazard Area and Regulatory Floodway, as delineated on the Flood Insurance Rate Maps and Floodway Maps for Exeter, New Hampshire, dated May 17, 2005, as prepared by the Federal Emergency Management Agency-Federal Insurance Administration, and as amended, shall become a part of the Zoning Map as previously described. When a property is located in a Flood Hazard Area, all new construction and substantial improvements shall conform to the requirements herein and of the Subdivision Regulations, Site Plan Review Regulations, as well as those for the underlying zone. (See Record of Amendments for summary of map revisions.)

3.3 Interpretation of Boundaries

3.3.1 Designation of District Boundaries: The district boundary lines are intended generally to follow the centerlines of streets, the centerlines of railroad right-of-way, existing lot lines at the time of the adoption of this ordinance, mean level of streams and other waterways, or Town boundary lines, all as shown on the Zoning Map.

3.3.2 Determination of Locations of Boundaries: In case of uncertainty as to the true location of a district boundary line in a particular instance, the Planning Board shall request the Select Board to render its determination with respect thereto.

4.0 DISTRICT REGULATIONS

4.1 Schedule of Regulations

The restrictions and controls intended to regulate development in each district are set forth in Schedules I, II, and III, which are supplemented by other articles of this ordinance.

4.2 Schedule I – Use Table

MAJOR CHANGE

- *The most significant change here is the formatting of the Use Table. A more conventional Use Table was developed that pulls everything into a single matrix.*
- *The manner to which uses are allowed in the current ordinance is generally maintained.*
- *Some new uses were added to the table to account for more recent trends.*
- *The notes for the existing Use Table address Residential Conversions and Accessory Dwelling Units. These notes were moved to performance standards later in the ordinance.*

The following Table enumerates the potentially allowable land uses in the Town of Exeter and how they may or may not be permitted in each district. The following abbreviations apply:

P – Permitted. May be subject to performance standards, Site Plan Review, or Conditional Use Permit

S – Special Exception

X – Prohibited

AP – Permitted as Accessory Use

AS – Accessory Use as Special Exception

	NP	RT	MHP	NC	LC	C	UC1	UC2	PE ⁽¹⁾
Agriculture									
Farms	P	S	X	X	X	X	X	X	P
Farm Related Uses	A	AS	X	X	X	X	X	X	A
Nurseries	S	S	X	P	P	P	X	X	P
Community Garden	P	P	P	X	X	X	P	P	P
Residential Beekeeping	A	AS	AS	X	X	X	AS	AS	P
Residential									
Single-Family Home	P	P	X	X	X	X	P	X	P
Duplex	P	P	X	X	X	X	P	X	P
Multi-Family, Small-Scale See Sec. 6.23	X	P	X	P	X	X	P ⁽²⁾	P ⁽²⁾	P
Townhouses See Sec. 6.23	X	P	X	P	X	X	P ⁽²⁾	P ⁽²⁾	P
Multi-Family, Standard See Sec. 6.23	X	P	X	P	X	X	P ⁽²⁾	P ⁽²⁾	P
Open Space Development See Art. 7	P	P	X	X	X	X	X	X	X
Multi-Family Open Space Development See Art. 7	X	P	X	P	X	X	X	X	X
Mobile Homes See Sec. 6.9	X	X	P	X	X	X	X	X	X
Residential Conversion See Sec. 6.20	P	P	P	X	X	X	P	P	P
Mixed-Use Residential	X	X	X	P	X	X	X	X	P
Accessory Dwelling Units See Sec. 6.21	AP	AP	X	X	X	X	AP	AP	AP
MUND See Sec. 6-19	X	X	X	X	X	X	P ⁽²⁾	P ⁽²⁾	X
Group Residential									
Active Adult Community See Sec. 6.22	X	P	X	P	X	X	X	S	X

	NP	RT	MHP	NC	LC	C	UC1	UC2	PE ⁽¹⁾
Independent Living Facilities See Sec. 6.22	X	P	X	P	X	X	X	S	X
Assisted Living Facilities See Sec. 6.22	X	P	X	P	X	X	X	S	X
Elderly Congregate Health Care Facility See Sec. 6.1	X	S	X	P	X	X	X	S	X
Office									
Professional Office/Business Office	X	S	AP	P	P	P	P	P	P
Medical Office	X	X	X	P	P	P	P	P	P
Veterinary Office	X	X	X	P	P	P	P	P	X
Service									
Professional Trade	X	X	X	P	P	P	P	P	P
Auto Repair, Heavy See Sec. 6.11	X	X	X	S	S	P	X	X	X
Auto Repair, Light See Sec. 6.11	X	X	X	P	P	P	X	P	X
Automobile Rental	X	X	X	S	P	P	X	S	X
Appliance Rental/ Repair	X	X	X	S	P	P	X	S	X
Gasoline Station See Sec. 6.11	X	X	X	S	P	P	X	S	X
Animal Boarding/ Kennel or Animal Hospital	X	X	X	P	P	P	X	P	X
Heliport See Sec. 6.15	S	X	X	S	S	S	X	S	S
Bicycle Rental/Repair	X	S	X	P	P	P	P	P	P
Essential Services See Sec. 6.6	P	P	P	P	P	P	P	P	P
Health Care									
Hospital See Sec. 6.16	X	X	X	X	X	X	X	P	X
Medical Offices	X	X	X	S	P	P	X	P	P

	NP	RT	MHP	NC	LC	C	UC1	UC2	PE ⁽¹⁾
Medical Rehabilitation Facility	X	X	X	S	P	P	X	P	P**
Hospitality									
Restaurant	X	X	X	P	X	P	P	P	P
Drive through See Sec. 6.7.1	X	X	X	P	X	P	X	S	X
Bar	X	X	X	P	X	P	P	P	X
Hotel	X	X	X	P	X	P	P	P	P
Motel	X	X	X	P	X	P	X	P	X
Bed and Breakfast	S	S	X	X	X	X	S	S	X
Recreation/ Entertainment									
Indoor Recreation Facility, Private	X	X	X	P	P	P	X	S	P
Indoor Recreation Facility, Public	P	P	X	P	P	P	P	P	P
Outdoor Recreational Facilities, Private	S	X	X	S	S	S	X	X	P
Outdoor Recreational Facilities, Public	P	P	P	P	P	P	P	P	P
Studio Instruction	X	S	X	P	P	P	P	P	P
Campground	S	X	X	X	X	X	X	X	S
Golf Course	S	X	X	X	X	X	X	X	X
Amusement Center See Sec. 6.4	X	X	X	P	S	S	P	P	P
Marina, Docks, Piers See Sec. 6.12	X	X	X	X	X	X	S	X	X
Limited Adult Gaming	X	X	X	P	P	P	P	P	X
Sexually Oriented Business See Sec. 6.5	X	X	X	X	X	S	X	X	X
Retail See Sec. 6.7									

	NP	RT	MHP	NC	LC	C	UC1	UC2	PE ⁽¹⁾
Garden and Landscape Supply	X	X	X	P	P	P	P	P	P
Retail Services	X	X	X	P	P	P	P	P	P
Neighborhood Grocery	X	X	X	P	P	P	P	P	P
Regional Grocery	X	X	X	P	P	P	X	P	X
Pharmacy Retail	X	X	X	P	P	P	P	P	P
Automobile Sales	X	X	X	X	X	P	X	P	X
Community/ Religious									
Community Building	S	S	S	P	P	P	P	P	P
Child Day Care	S	S	S	P	P	P	P	P	P
Adult Day Care	S	S	X	P	P	P	P	P	X
Pet Day Care	S	S	S	P	P	P	P	P	S
Public School Facilities	P	P	X	P	P	P	P	P	P
Private School Facilities	S	S	X	P	P	P	P	P	P
Social Clubs	S	S	X	P	P	P	P	P	P
Places of Worship	P	P	P	P	P	P	P	P	P
Library	S	S	X	P	P	P	P	P	P
Museum	S	S	X	P	P	P	P	P	P
Cemetery See Sec. 6.18	S	X	X	X	X	S	X	X	S
Industrial/ Wholesale See Sec. 6.14									
Building Material Supply	X	X	X	X	P	P	X	X	X
Wholesale Facility	X	X	X	X	P	P	X	S	X
Warehouse, Storage, and Distribution	X	X	X	X	P	P	X	X	X
Light Manufacturing	X	X	X	X	P	P	X	X	X
Artisanal Food/ Beverage Production	X	X	X	P	P	P	S	S	X
Artisanal Manufacturing	X	X	X	P	P	P	S	S	X
Research and Development	X	X	X	X	P	P	X	P	P
Junkyards See Sec. 6.2	X	X	X	X	X	X	X	X	X

	NP	RT	MHP	NC	LC	C	UC1	UC2	PE ⁽¹⁾
Energy Production									
Solar Energy System, Ground-Mounted See Sec. 6.24									
Residential Accessory	AP	X	AP	X	X	X	X	X	X
Small	AP	X	AP	X	P	P	X	X	P
Large	AP	X	X	X	P	P	X	X	X
Wind Energy System See Sec. 6.17									
Small	AS	AS	AS	AS	AS	AS	AS	AS	AS
Large	X	X	X	X	X	AS/S	X	X	X

Notes:

1. All uses allowed within the PE District must be in direct support of the educational institution, as opposed to a business or use independent of the educational institution and open to the general public.
2. In the UC1 District, density for multi-family housing (including mixed use buildings) shall be limited to 10 dwelling units per acre. In the UC2, density for multi-family housing (including mixed use buildings) shall be limited to 15 dwelling units per acre. For both the UC1 and the UC2, the density limits may be removed for MUND applications or multi-family housing applications subject to inclusionary zoning allowable by Conditional Use Permit by the Planning Board.

4.3 Schedule II – Dimensional Regulations

MAJOR CHANGE

- *The most significant change here is the formatting of the Dimensional Table. A more conventional Dimensional Table was developed that pulls everything into a single matrix.*
- *In the existing ordinance, floodplain and wetlands are unable to apply to minimum lot size for multi-family at different percentages. These limitations are proposed to extend to all uses, not just multi-family.*
- *In proposed districts other than the NP (outlying residential) the approach was to maintain or, in some cases, reduce dimensional standards to accommodate existing development patterns.*

The following schedule provides the base level of compliance related to dimensional standards. Where more stringent requirements of this Zoning ordinance apply, or where unique uses are provided with greater flexibility, those provisions shall supersede requirements listed in the below table. Examples include, but are not limited to, overlay districts, Sec. 6-19 Mixed-Use Neighborhood Development (MUND), and Art. 7 Open Space Development. Significant standards and allowances related to non-conformity are located in Section 5.1.

See Notes (#)	Minimum Lot Dimensions			Maximum Structure Height (1)		Minimum Yard Setbacks (2)			Maximum Building Coverage	Minimum Open Space
	Area (3) (12)	Width/ Frontage (Feet)	Depth (Feet)	Feet	Stories	Front (Feet)	Each Side Yard (Feet)	Rear (Feet)	(%) (4)	(%)
NP – Neighborhood Preservation	2 acres (5)	200	200	35	3	50 (6)	30	50	10	85/75 (7)
RT – Residential Transition	8,000 SF (5)	80	80	35	2.5	20 (6)	10	25	30	30
MHP – Mobile Home Park	10,000 SF	100	100	15	1	20	10	25	25	50
NC – Neighborhood Commercial	20,000 SF	150	100	40	3	50	20	50	30	25
LC - Limited Commercial	4 acres	400	400	50 (8)	-	75	50	50	20	35
C - Commercial	40,000 SF	150	200	50 (8)	-	50	20	50	40	20
UC-1 – Urban Core 1	5,000 SF	50	75	35 (9)	3 (9)	10 (6)	(10)	20	75	5
UC-2 – Urban Core 2	15,000 SF	100	100	50	4.5	35	15	35 (11)	45	15
PE – Private Education	5,000 SF	50	75	50	4.5	50	20	50	50	40

NOTES:

1. See Article 5.5.2 Height Regulations – Special Exception to Height Regulations – Board of Adjustment.
2. See Article 5.3 – Existing Lot Regulations.
3. None of the area within the 100-year flood plain and 25% of the areas defined as jurisdictional wetlands may be used to satisfy minimum lot area requirements. Regulations regarding perimeter buffers (See Site Plan Review and Subdivision Regulation 9.6.1.2) shall apply. The twenty-five percent (25 %) limitation of this section may be increased up to fifty percent (50%) for minimum sized lots in the NP District that are served by municipal water and sewer, provided all setbacks are adhered to.
4. See definition Building Coverage in Appendix A.
5. For proposed subdivisions of an existing lot of record having a total combined area of 10 or greater acres, open space development pursuant to Article 7 is required unless waived by the Exeter Planning Board.
6. Or the average of the block, defined as all parcels on the same side of the street and located between the nearest two street intersections, whichever is less. This shall only apply in the NP District when the parcel is located in or adjacent to an existing Open Space Development.
7. For lots using septic systems, the open space requirement would be the greater percentage required in that district.
8. Except that a building height of 60 feet is allowed if a minimum 200-foot setback is maintained from a residential zoning district or existing residential use.
9. Maximum height of fifty 50 feet and 4.5 stories permitted on the river side of Water Street.
10. Equal to the side yard of the abutting property or 10 feet, whichever is less. Each side yard setback shall be determined separately.
11. Minimum rear yard setback of 20 feet permitted by special exception.
12. For the minimum lot size within the Aquifer Protection District, see Section 9.2.3.C.1.

4.4 Application of Regulations

NO SUBSTANTIVE CHANGE

Except as hereinafter otherwise provided:

- 4.4.1 No building shall be erected and no existing building shall be moved, altered, added to or enlarged, nor shall any land or building be designed, used or intended to be used for any purpose or in any manner other than as permitted in the district in which such building or land is located.
- 4.4.2 No building shall be erected, reconstructed or structurally altered to exceed in height the limit designated for the district in which such building is located.
- 4.4.3 No building shall be erected, no existing building enlarged, nor shall any open space surrounding any building be encroached upon or reduced in any manner, except in conformity to the yard, lot area and building location regulations hereinafter designated for the district in which such building or open space is located.
- 4.4.4 No yard or other open space provided around any building for the purpose of complying with the provisions of this ordinance shall be considered as providing a yard or open space for any other building, and no yard or other open space on one lot shall be considered as providing a yard or open space for a building on any other lot.

5.0 GENERAL REGULATIONS

5.1 Non-Conformity

MAJOR CHANGE

- *This section was revised to incorporate an appropriate level of flexibility for non-conformities (use and dimension). As an historic community, Exeter has many non-conforming situations and proposals for modest improvements can create arduous permitting reviews.*
- *Another important principle for this section was to significantly reduce the number of variances required to perform reasonable work on one's property so applicants would not need to face the stricter criteria for approval.*
- *Additional blanket protections were provided for improvements to property to accommodate people with disabilities.*
- *For pre-existing lots that do not meet the minimum lot size (common in Exeter), the Town would be allowed to shrink the minimum setbacks proportionately.*

- *In the current ordinance, there can be non-conformity with many standards that have no clear path to approval. These include minimum parking requirements, lot width, frontage, landscaping, and others. This proposal provides a clearer path for dealing with these situations.*

5.1.1 Continuance of a Non-Conforming Use: A non-conforming use shall be allowed to continue if the primary use, manner, and function do not change.

5.1.2 Discontinuance of a Non-Conforming Use: In the event a non-conforming use is discontinued for a period of more than one year, it shall not be permitted to recommence. Thereafter the property shall only be used in conformity with this ordinance. The marketing of a building or premises for the continuation of an existing non-conforming use shall be deemed as evidence of intent to continue the use.

5.1.3 Reconstruction of a Building that Housed a Non-Conforming Use: In the event of the damage, destruction, or demolition of any building that housed a non-conforming use the following provisions apply:

- A. Said building may be rebuilt or refurbished for its former non-conforming use in the same manner and extent, provided such construction is started within one year of its damage or destruction and is completed within three years.
- B. The building may be altered or extended to the extent that such improvements will enable compliance with the Town of Exeter Building Code, compliance with the Americans with Disabilities Act, or contemporary construction best practices.
- C. With the exception of improvements made specifically for people with disabilities, which are permitted consistent with any Building Code standards, reconstruction shall not cause new dimensional non-conformity or an increase in any pre-existing dimensional non-conformity.
- D. Where a pre-existing lot is smaller than the minimum lot size provided in Section 4.3, see Section 5.1.6.
- E. The provisions of the Town of Exeter Building Code, as amended, shall apply to any reconstruction.

5.1.4 Expansion of Existing Non-Conforming Uses. Unless specifically restricted elsewhere in this ordinance, expansion of a non-

conforming use is allowed in accordance with the following provisions and, if applicable, the provisions of Site Plan Review:

- A. The proposed expansion does not create a new dimensional non-conformity.
- B. The proposed expansion does not result in an increase to any existing dimensional non-conformity.
- C. Where a pre-existing lot is smaller than the minimum lot size provided in Section 4.3, see Section 5.1.6.

5.1.5 Expansion of a Structure with Existing Dimensional Non-Conformity. Expansion of a structure with existing dimensional non-conformity is allowed in accordance with the following provisions and, if applicable, the provisions of Site Plan Review:

- A. The proposed expansion does not create a new dimensional non-conformity.
- B. The proposed expansion does not result in an increase to any existing dimensional non-conformity.
- C. Where a pre-existing lot is smaller than the minimum lot size provided in Section 4.3, see Section 5.1.6.

5.1.6 Pre-Existing Lots Below the Minimum Lot Size. Expansions, alterations, and construction on pre-existing lots below the minimum lot size may occur in accordance with the following conditions:

- A. No structure shall be erected on any pre-existing lot that is below the minimum lot size if the owner of said lot owns any adjacent vacant land which would create a conforming lot if said vacant land were combined with the lot deficient in area. Said combination of lots shall not result in a new non-conforming lot. See ordinance Appendix A for the definition of "Owner."
- B. Access to an existing non-conforming lot shall comply with the provisions of NH RSA §674:41, Erection of Buildings on Streets; Appeals.
- C. Where pre-existing lots are smaller than the minimum lot size prescribed in Section 4.3, and the requirements of Sections 5.1.6.A and 5.1.6.B are satisfied, the minimum setbacks may be reduced as follows:

1. The setbacks may be reduced proportionally to the relationship between the actual lot size and the minimum lots size for the applicable district. For example, if the minimum lot size is 40,000 SF and the actual lot size is 30,000 SF, the proportion is 0.75. All setbacks may be reduced by multiplying them by 0.75.
2. For calculations related to Section 5.1.6.C that result in a partial foot, the calculation shall be rounded up to the nearest whole foot.
3. Notwithstanding Sections 5.1.6.C.1 and 5.1.6.C.2 above, in no instance shall setbacks be reduced beyond the standards set below.

	Lowest Possible Setback		
	Front (Feet)	Each Side Yard (Feet)	Rear (Feet)
NP – Neighborhood Preservation	20	15	30
RT – Residential Transition	10	8	25
MHP – Mobile Home Park	10	8	25
NC – Neighborhood Commercial	0	10	20
LC – Limited Commercial	50	40	40
C – Commercial	30	10	30
UC-1 – Urban Core 1	0	0	15
UC-2 – Urban Core 2	20	10	25
PE – Private Education	20	10	30

5.1.7 Non-Conformity with Other Zoning Ordinance Standards. Where a pre-existing use or lot does not conform to the following standards or sections of the Zoning Ordinance, applications for expansion, alteration, reconstruction, or change of use shall be

subject to Site Plan Review pursuant to the Site Plan Review and Subdivision Regulations for the Town of Exeter.

- A. Section 4.3 Schedule II – Dimensional Regulations as follows:
 - 1. Lot Width
 - 2. Lot Frontage
 - 3. Lot Depth
 - 4. Maximum Building Coverage
 - 5. Minimum Open Space
- B. Section 5.3.1 Corner Lot Visual Clearance
- C. Section 5.6 Yard Regulations
- D. Section 5.7 Off-Street Parking
- E. Section 5.9 General Landscape Regulations

5.1.8 Temporary Manufactured Housing. In the event of damage or destruction of a residential dwelling unit such that it cannot be safely occupied, the lot owner may request, and the Building Inspector may authorize a temporary occupancy permit for manufactured housing unit to be placed on the lot for a six (6) month period. The Building Inspector may authorize the renewal of the temporary occupancy permit for one additional six (6) month period. Once a certificate of occupancy has been issued for the rebuilt residential unit, the temporary manufactured housing unit must be removed within fifteen (15) days.

5.2 Special Exception Uses

NO SUBSTANTIVE CHANGES

Special exceptions, as enumerated in Section 4.2, Schedule I, shall be permitted only upon authorization by the Board of Adjustment. Such exceptions shall be found by the Board of Adjustment to comply with the following requirements and other applicable requirements as set forth in this ordinance:

- 5.2.1 That the use is a permitted special exception as set forth in Article 4.2, Schedule I Use Table hereof.
- 5.2.2 That the use is so designed, located, and proposed to be operated that the public health, safety, welfare, and convenience will be protected.
- 5.2.3 That the proposed use will be compatible with the zone district and adjoining post 1972 development where it is to be located.

Adjoining principal uses in existence prior to 1972, that are not permitted uses as listed in Section 4.2 Schedule I: Use Table, shall not be considered in determining the compatibility of an applicant's proposed use.

- 5.2.4 That adequate landscaping and screening are provided as required herein.
- 5.2.5 That adequate off-street parking and loading are provided and ingress and egress are so designed as to cause minimum interference with traffic on abutting streets.
- 5.2.6 That the use conforms with all applicable regulations governing the district where located, except as may otherwise be determined for large-scale developments.
- 5.2.7 As a condition of special exception approval, the Applicant may be required to obtain Town Planner review and /or Planning Board approval of the site plan. Additionally, the Board of Adjustment may require the applicant to obtain Planning Board approval of the site plan prior to rendering a decision on an application for Special Exception.
- 5.2.8 That the use shall not adversely affect abutting or nearby property values.
- 5.2.9 That if the application is for a Special Exception for the hazardous storage of a material which is, in the opinion of the Planning Board, potentially explosive, then as per Section 5.2.4, landscaping shall be required to include blast containment, blast dampening or blast channeling features.
- 5.2.10 That if the application is for a use on any of the following Tax Map Parcels: #70-101, #70-102, #70-103, #70-104, #69-2, #69-3 and/or #69-4 (previously zoned as CT-Corporate Technology), such exception will not:
 - A. Affect the water quality of Water Works Pond or other water supplies; or
 - B. Constitute a health and safety hazard to the community; or
 - C. Permit temporary structures; or
 - D. Permit the recycling, disposal or transfer of materials defined as hazardous waste and set forth in Section 5.10.5 of this ordinance.

The applicant shall demonstrate that handling, storage and containment of any chemicals or substances defined as "hazardous" will be handled in strict accordance with the

regulations and recommendations of the EPA and/or any other governmental body charged with enforcing compliance with any laws or statutes regulating hazardous substances.

5.3 Existing Lot Regulations

MODEST CHANGES

- *The first Subsection in Existing Lot Regulations in the current ordinance is removed in favor of the non-conformity language above. Some of that language from the existing ordinance is absorbed into the subsections above.*
- *The standards for Corner Lot Clearance are clarified. They apply to the street intersections AND intersections between streets and driveways.*

5.3.1 Corner Lot Visual Clearance. At all street intersections, including the intersections of streets and driveways, no obstructions to vision (other than an existing building post, column, or tree) exceeding thirty inches (30") in height above the established grade of the street at the property line shall be erected or maintained on any lot within the triangle formed by the street lot lines of such lot and a line drawn between the points along such lot lines thirty feet (30') distance from their point of intersection.

5.3.2 Lots Not Served By Municipal Sewer System:

- A. No subdivision of land will be approved where it creates a lot that will not meet the minimum standards imposed by the State of New Hampshire Water Supply & Pollution Control Commission and requirements of "Rules and Regulations Governing the Subdivision of Land in Exeter, New Hampshire" for lots not served by municipal sewer system.
- B. No building permit will be issued for a lot of record not served by municipal sewer systems unless meeting the requirements of "Rules and Regulations Governing the Subdivision of Land in Exeter, New Hampshire" for lots not served by municipal sewer system.

5.3.3 Removal of Damaged Structures: No owner or occupant of land within the Town of Exeter shall permit fire ruins or other ruins to be left on their property, but shall within three (3) months remove and refill the same to clear ground level. The Building Inspectors/Code Enforcement Officer upon request for reasonable cause that he/she may deem adequate may authorize an extension of up to sixty (60) days.

5.4 Demolition Review

NO SUBSTANTIVE CHANGES

- 5.4.1 Definitions. As used in this section, the following words or phrases shall have the meanings set forth below, except when the context in which they are used requires a different meaning.
- A. Building: Building is defined as in the International Building Code and the International Residential Code, "any structure used or intended for supporting or sheltering any use or occupancy."
 - B. Demolition Review Committee: A subcommittee of the Exeter Heritage Commission comprised of three (3) members of the commission and two (2) alternates appointed by the chair of the commission.
 - C. Demolition: The act of pulling down, destroying, removing, or razing a building or commencing the work of total or substantial destruction with the intent of completing the same. It is not the intent of this article to include interior demolition which does not alter the exterior appearance of the building or structure.
 - D. Code Administrator: For the purposes on this article, means the code enforcement officer who is authorized to interpret and administer the building and/or zoning codes.
 - E. Appurtenances: Any element or feature of local historical or cultural significance.
- 5.4.2 Criteria. Any building or part of a building in the Town of Exeter will fall under the terms of this article where:
- A. The building or appurtenances was constructed more than fifty (50) years before the date of application for the building permit; or is listed or is eligible for listing in the National Register of Historic Places, or is located in an established historic district.
 - B. Mobile homes are exempt from the provisions of this article.
- 5.4.3 Procedure. When an application for a demolition permit, or a building permit involving demolition, or a site plan review involving demolition is made, or a formal written application

is submitted to the Code Administrator for a determination under this article, the Code Administrator will determine if the building, or section of the building, meets the above criteria. If it does, the Code Administrator shall:

- A. Forward a copy of the application to the demolition review committee chair.
- B. Within seven business days of its receipt of a copy of the application, the committee shall issue a preliminary recommendation regarding the granting of a demolition permit. If the committee issues a recommendation in favor of granting of such a permit, a demolition permit shall be issued. If the committee issues a recommendation in opposition to the granting of a permit for demolition, no permit shall be issued until a more thorough investigation is undertaken and a final written recommendation is provided by the committee to the code administrator. Investigation and recommendation shall be completed within 30 business days of the committee's determination of significance.
- C. During the maximum 30 business day-period, the committee shall meet with the property owner and conduct such public hearings and investigations as it may determine to be necessary in the formulation of its written recommendation regarding the granting of such permit.
- D. The committee shall consider the following criteria in its deliberation:
 - 1. The building or structure is of such interest or quality that it would meet national, state or local criteria for designation as a historic, cultural, or architectural landmark.
 - 2. The building or structure is of such unusual or uncommon design, texture, or materials that it could not be reproduced or could be reproduced only with great difficulty and expense.
 - 3. The building or structure is of such architectural or historic interest that its removal would be to the detriment of the public interest.
 - 4. Retention of the building or structure would help preserve and protect a historic place or area of historic interest in the town.

5.4.4 Demolition Review Committee Responsibilities. It is the responsibility of the Demolition Review Committee to:

- A. Make a decision within seven (7) business days of receipt of the demolition application as to whether the building might be of historical or architectural significance.
- B. Notify the Code Administrator in writing by the end of the seven (7) day decision period that if the building is not considered significant, demolition may proceed.
- C. Establish a date and location for a public hearing to occur within twelve (12) days of determination of potential significance. A notice of public hearing shall be submitted to local newspaper within two (2) days of decision.
- D. Hold the public hearing to hear all public testimony regarding demolition of the building. The applicant or representative of the applicant proposing the demolition shall be invited to attend the public hearing to hear the concerns or alternatives that are proposed by members of the public.
- E. Notify the applicant and Code Administrator within two (2) business days following the public hearing that demolition can proceed if the building is found to be not significant.
- F. Hold a meeting between the Demolition Review Committee and the applicant (or applicant's representative) within the remaining thirty (30) business days to discuss alternatives to demolition if the committee determines the building is significant and its loss potentially detrimental to the community.

5.4.5 Demolition

- A. If no alternatives to demolition have been identified and agreed to by the applicant, after the meeting provided for in the preceding section,, the applicant is free to proceed with demolition provided a permit is issued. Prior to demolition, and if the applicant is in agreement, the Demolition Review Committee shall photographically document the building. The committee shall also encourage the applicant to salvage significant architectural features.
- B. Nothing in this article shall be construed to prevent

immediate demolition where public safety is at stake and the building has been determined by the Code Administrator to be a public hazard and demolition is the only viable recourse.

5.5 Height Regulations

NO SUBSTANTIVE CHANGES

- 5.5.1 General Application: No building or structure shall have a greater number of stories, nor have an aggregate height of a greater number of feet than is permitted in the District in which such building is located, except as noted elsewhere in this ordinance.
- 5.5.2 Special Exception to Height Regulations – Board of Adjustment:
- A. Chimneys, cooling towers, elevators, bulkheads, fire towers, ornamental towers or spires, or necessary mechanical appurtenances may be erected as to their structural design in accordance with existing, or hereafter adopted ordinances, of the Town of Exeter, providing they do not exceed height regulations by more than forty percent (40%) and structural specifications comply with BOCA National Building Codes.
 - B. Church spires or towers of public buildings may exceed the height regulations by more than forty percent (40%) providing structural specifications comply with BOCA National Building Codes.
 - C. No tower shall be used as a place of habitation or for tenant purposes.
 - D. No sign, nameplate, display or advertising device of any kind whatsoever shall be inscribed upon or attached to any chimney, tower, tank or other structure that extends above the height limitations.
 - E. Clocks and/or bells shall be permitted.
 - F. Communication towers may exceed the height regulations by more than forty percent (40%) providing the Zoning Board of Adjustment grants special exception approval and finds that:
 - 1. The proposed site and tower promote co-location opportunities.

2. The applicant has exhausted all other reasonable alternatives to a new tower that would minimize the adverse visual impacts.
3. The applicant has made every reasonable effort to locate the tower in a non-residential zoning district.

5.5.3 Amateur Radio Communication Tower Exception to Height Regulation: Amateur radio communications tower may be erected as to their structural design in accordance with existing, or hereafter adopted ordinances, of the Town of Exeter providing they do not exceed a height of eighty feet (80').

5.6 Yard Regulations

MODEST CHANGES

- *The existing Transition Yard Requirements are removed from this section. These requirements were deemed to be antiquated and will continue to create unnecessary non-conformity in many areas of Exeter.*
- *The dimensional standards (setbacks) in Section 4.3 – Schedule II will govern.*
- *All other provisions are functionally the same.*

Every part of a required yard must be open to the sky unobstructed except for the ordinary projection of open porches, balconies, steps, sills, belt courses and cornices. Fences, wells, flagpoles, signs, lighting structures, covered or enclosed walkways, and pumps shall be exempt from the requirements of Article 4.3, Schedule II – Density and Dimensional Regulations – Residential, Yard Dimensions and Article 5.6.4, Accessory Structures in Other Than the NP District and the RT District.

5.6.1 Side Yard of Corner Lot: The side street setback of any corner lot of record at the time of the adoption of this ordinance shall have a width equal to not less than one-half the required minimum front yard setback of any adjoining lot fronting on the side street. Any corner lot delineated by subdivision after the adoption of this ordinance shall have a side street setback equal in width to the minimum front yard setback of any adjoining lot fronting on the side street.

5.6.2 Permissible Structures: Only one principal building shall be allowed on a lot in the NP District and the RT District except where specifically provided for in this Zoning Ordinance.

5.6.3 Accessory Structures in the NP District and the RT District:

Accessory structures, which are not attached to a principal structure, may be erected in accordance with the following requirements:

- A. An accessory building not greater than the height permitted for principal buildings in the district.
- B. Accessory structures shall comply with front, side, and rear yard requirements except one (1) accessory structure with a maximum height of twelve (12) feet and a maximum floor area of 120 square feet is permitted within the side or rear yard setback areas. No such structure shall be allowed within the front yard setback.

5.6.4 Accessory Structures in Other than the NP District and the RT District:

- A. Accessory structures shall comply with front, side, and rear yard requirements that apply to the principal structure to which they are accessory.
- B. One (1) accessory structure of 120 square feet or less is permitted within yard setback areas for parcels that have received Planning Board site plan approval.
- C. Any storage container used on a lot shall be considered an accessory structure regardless of its foundation or lack thereof. It shall adhere to front, side, and rear yard requirements in accordance with the applicable district. Additionally, storage containers shall be screened from abutting properties.

5.7 Off-Street Parking

MODEST CHANGES

- *A parking code provision was added to link each minimum parking requirement directly to uses in the Use Table.*
- *Some housekeeping to ensure compatibility with new districts.*
- *All other provisions are functionally the same.*

5.7.1 In all districts, in connection with every manufacturing business, institutional, recreational, residential or any other use, there shall be provided, at the time any new building or structure is erected, off-street parking spaces for automobiles in accordance with the requirements set forth herein.

5.7.2 Any change of use of the premises, or expansion of building size,

to non-residential use and/or multi-family use, or to another substantially different non-residential use, or any expansion of the number of such multi-family or non-residential uses, shall provide off-street parking as required herein.

5.7.3 Off-Street Parking:

- A. Size and Access: Each off-street parking space shall be rectangular, nine feet by nineteen feet exclusive of access drives or aisles, and shall be of usable shape and condition. The Planning Board may grant a reduction in the size of the space if circumstances on the site, such as perimeter parking which allows overhang, can be provided.

- B. Number of Parking Spaces Required. The number of off-street parking spaces, to the extent of floor area devoted to each specific use, shall be as set forth in the Off-Street Parking Schedule 5.7.6. For sites with multi-uses, the parking requirements must be calculated proportionately for each use.
 - 1. Alternative Parking Calculation. If the proposed use is not represented or if the applicant believes the required number of spaces are not necessary for the specific proposed use as shown in Table 5.7.6 (Off-Street Parking Schedule), the applicant may utilize the most recent data available from the Institute of Transportation Engineers' (ITE) Parking Generation Guide, and/or actual field data collected from a comparable trip/parking generator (i.e., comparable in size, location and setting) to determine the number of required parking spaces. This data will be presented in a summary table such that assumptions on trip generation and parking calculations arrived at by the engineer are fully understandable and approved by the Planning Board.
 - 2. Phased Parking Option. If approved by the Planning Board, the Applicant may utilize a phasing option in which the parking is indicated on the plan but not all initially constructed. The applicant must provide statistics on trip generation and parking rates to prove the reduction is reasonable. The plan must show how

parking space construction is to be phased, depicting the parking to be built at the onset of the project and what may be built if needed at a later date.

- C. Off-Street Parking: Off-street parking areas shall be screened from adjoining residential uses or districts. See Article 5.9.1 General Landscaping Regulations – Unenclosed Uses.

5.7.4 Shared Parking: Shared Parking: Shared parking is parking on a single site utilized by two or more uses in a 24-hour period. It is an allowance to fulfill their individual parking requirements as their prime operational hours may not overlap and their parking demands may vary from specified standards due to the scale of the project. Shared parking recognizes complimentary parking characteristics that may be unique for each case and for the specific users of the site.

5.7.5 The Planning Board may grant reductions in the number and size of required off-street parking spaces in conjunction with its site plan review. The applicant must first submit with the proposal, a parking plan that adheres to Sections 5.7.3 A and B, also with it a proposal for shared parking. The intent of this provision is to grant discretionary review authority to the Planning Board in order to promote:

- A. Better utilization of parking areas, including shared parking, or
- B. A reduction in impervious surface, and
- C. Conservation of open space lands and buffers.

In its discretion, the planning board shall require specific information detailing user parking needs and schedules. The Board may also require parking lot buffers and /or landscaping.

5.7.6 Off-Street Parking Schedule:

USE	REQUIRED PARKING SPACES
Accessory Use	Additional spaces required based on accessory use
Active Adult Community	1 space for each 1 bedroom unit, 2 for each 2+ bedroom unit, plus 1 for every 4 units for guest parking

USE	REQUIRED PARKING SPACES
Amusement Center	1 space per 200 square feet of gross floor area plus 1 space per 200 square feet of ground area devoted to such use. Bike racks should also be provided.
Animal Hospital	1 space per 200 square feet of gross floor area
Animal Kennel	1 space per employee plus one per 1000 sq. ft. of gross floor area
Assisted Living Facility	1 space for every 5 units, 1 space for every 6 units for guest parking, plus one per employee on maximum shift
Bed and Breakfast	2 spaces for dwelling unit plus 1 space for each rented room
Boarding and Rooming Houses	1 for each sleeping room
Business Office	1 space per 250 square feet of gross floor area
Child Day Care	1 space per employee at the maximum shift plus 1 space for every 3 students based upon the facility's capacity
Churches	1 for each 3.5 permanent seats
Community Buildings Social Halls	1 for each 200 square feet of floor area
Conference Center	1 space per 3 seats based on the facility's capacity
Dwelling Units	2 for each single family dwelling unit. 2 for each multi-family unit of 2+ bedrooms. 1 for each multi-family unit of 1 bedroom/studio. Guest parking for multi-family based on total number of units. One (1) additional space for guest parking for each four (4) multi-family dwelling units.
Elderly Congregate Healthcare	1 space for each 1 bedroom dwelling unit, 2 for each 2+ bedroom dwelling unit, 1 per 4 beds, 1 per 6 units for guest parking, plus 1 per employee on the maximum shift
Garden Supply Landscaping Services	1 space per 200 square feet of indoor retail area plus 1 space per 2,000 square feet of exterior nursery sales and greenhouse production area.
Gasoline or Automotive	1 space per 300 square feet of gross retail area

USE	REQUIRED PARKING SPACES
Hospital	2.8 spaces per bed for in-patient hospital space. 4 spaces for each 1,000 square feet of out- patient facilities (excluding storage, utility and maintenance areas). 5 spaces per 1,000 square feet of gross floor area for medical offices (excluding storage, maintenance and utility areas) 0.8 spaces for each nursing home bed. 3 spaces for each 2 living units for elderly housing with available healthcare facilities or services.
Home Occupations	1 for each 200 square feet, or part of floor area used for home occupation
Independent Living Facilities	1 space for unit, plus one space per employee on maximum shift, plus 1 for every 5 units for guest parking
Manufacturing, Research and Development Laboratories, Light Industry, Prototype Production	1 for each employee on the maximum working shift
Medical Offices	1 space per 200 square feet of gross floor area
Medical Rehabilitation Nursing Home	1 space per employee at the maximum shift plus 1 space per 10 beds.
Mini Storage	1 space per 1000 square feet of gross floor area including all storage areas
Motels/ Hotels	1 space for each unit plus 1 space for each employee on the maximum shift, for hotels or motels with restaurants or conference centers, add the required parking for the additional uses.
Museum	1 space per employee on the maximum shift plus 1 space per 1000 square feet of gross floor area
Professional Offices	1 space per 300 square feet of gross floor area
Recreation Facility	1 space for each 300 square feet. of gross floor area (excluding storage, maintenance, and mechanical utility
Restaurants, Bars, Night Clubs	1 for each three seats

USE	REQUIRED PARKING SPACES
Retail Stores, Store Groups Shops other than offices, etc.	1 space for each 300 square feet of gross floor area for buildings less than 30,000 square feet, 1 space for each 500 sq. ft. of gross floor area for buildings over 30,000 square feet
Schools - Elementary and Junior High	1 for each 15 classroom seats
Schools - Senior High	1 for each 5 classroom seats
Schools - Private Dormitories	1 for each 4 beds
Sexually Oriented Business	1 space per 300 square feet of gross floor area
Theater	1 for each 3.5 seats
Wholesale Establishments Warehouses	1 for each employee in the maximum shift; the total parking area shall not be less than 25 percent of the building floor area

5.7.7 Off-Street Loading: In any district, in connection with every building, or building group or part thereof thereafter erected and having a gross floor area of over 4,000 square feet or more, which is to be occupied by manufacturing, or commercial uses or other uses similarly requiring the receipt or distribution by vehicles of material or merchandise, there shall be provided and maintained, on the same lot with such building, off-street loading berths or unloading berths. The required number of loading/unloading berths shall be determined in accordance with the applicable terms of the Site Plan Review Regulations.

5.8 Sign Regulations

MODEST CHANGES

- *Sign regulations are often organized “by district.” The names of districts needed to be updated.*
- *No changes to standards as they currently exist.*

5.8.1 Purpose. The sign regulation article is designed to provide standards for the installation of signs so as to promote the general welfare of the community. This is accomplished by encouraging the creation of an aesthetic appearance along street frontages through the use of attractive signing. The sign

regulations, as set forth in this article, are designed to be logical and equitable for the various uses and identification needs. These sign standards and regulations help to effectuate an aesthetic and safe street environment. Restrictions on type, location, and size of signs protect the public from hazardous and distracting devices.

5.8.2 Definitions:

- A. Sign/Sign Copy: Any device providing identification, advertising or directional information for a specific business, service, product, person, organization, place or building. Included in this definition are graphic devices such as logos, attention-attracting media such as banners, pennants, flags or logo sculpture, and obtrusive colored fascia or architectural elements. The individual letters and/or graphics that make up the sign are known as the sign copy.
- B. Advertising Sign: A sign which includes any copy and/or graphics relating to any service, product, person, business, place, activity or organization in addition to simple identification, excluding directional information.
- C. Awning: A covering supported by a framework attached to the building and used for the purpose of providing shelter or screening.
- D. Banner Sign: A temporary sign made of flexible material for the purposes of advertising a single event.
- E. Directional Sign: A sign that does not contain either identification or advertising copy, but includes pertinent information including assisting in the flow of traffic.
- F. Directory Sign: A sign listing the names and/or uses, and/or locations of various businesses or activities within a building, or a multi-tenant development, not for the purpose of advertising products, goods or services to the attention of vehicular traffic.
- G. Fascia Sign: A sign that is permanently affixed to the horizontal piece covering the joint between the top of a wall and the projecting eaves of the roof.
- H. Free-standing Sign: An identification sign which is erected or mounted on its own self-supporting permanent structure, detached from the supporting elements of the main building which it identifies.

- I. Identification Sign/ or Nameplate: A sign that includes, as copy, only the name of the business, place, organization, building or person it identifies.
- J. Illuminated Sign: A sign whose surface is lighted internally or externally and which identifies, advertises, or attracts attention to a use or activity on the premises.
 - 1. Internally illuminated sign - illuminated by a light source contained within the sign.
 - 2. Externally illuminated sign - illuminated by a steady, stationary, shielded external light source directed solely at the sign.
- K. Mansard and Parapet Signs: A sign permanently affixed to a wall or surface designed to protect the edge of a roof, constructed no more than twenty degrees from vertical.
- L. Marquee: A large signboard depicting the name of a business projecting over the entrance to a building, most commonly a theater and typically containing an area for advertising changing information.
- M. Menu Board: A permanently mounted sign displaying the bill of fare of a drive-in or drive-through restaurant.
- N. Non-Residential District: For purposes of this Sec. 5.8 only, non-residential districts are all districts other than the NP, RT, and MHP.
- O. Price Sign: A permanently mounted sign displaying the retailing cost of fuel on the premises of a service station.
- P. Projecting Sign: A permanent sign mounted perpendicular to the building facade to advertise the business or service.
- Q. Portable Billboard Signs: A sign ordinarily with replaceable letters used to convey a special message advertising products or services available on the premises. A sign not permanently attached to the ground or designed for permanent installation.
- R. Primary Sign: The main identification sign of a business.
- S. Residential District: For purposes of this Sec. 5.8 only, residential districts are the NP, RT, and MHP.
- T. Secondary Sign: A supplementary identification sign, smaller or less prominent than the Primary Sign.
- U. Temporary Signs: A sign, made of flexible materials and held in place along one or more sides or two or more corners by staples, tape, wires, ropes, or straps, that are

not fixed or rigid, whose purpose is to support or oppose political candidates; local, national, or international issues; advertise coming events; or other circumstances of a temporary nature.

- V. Wall-mounted Signs: An identification or advertising sign that is fastened to any vertical portion of the main building which it identifies, or advertises.
- W. Window Signs: A sign using internal or external window space for advertisement or business identification.

5.8.3 General Sign Regulations

A. Sign Area Measurements:

1. Sign copy mounted or painted on a background panel or area distinctively painted, textured or constructed as a background for the sign copy:
 - a. Sign area is measured as that area contained within the outside dimensions of the background panel or surface.
2. Sign copy mounted as individual letters and/or graphics against a wall or fascia of a building or other structure that has not been painted, textured or otherwise altered to provide a distinctive background for the sign copy:
 - a. Sign area is measured as the area enclosed by the smallest single rectangle that will enclose all sign copy.
3. Sign copy mounted or painted on an illuminated sign or illuminated architectural element of a building:
 - a. The entire illuminated surface or illuminated architectural element which contains sign copy, will be counted as sign area.
4. Number of Sign Faces:
 - a. One – area of the single face only;

- b. Two – if the interior angle between the two sign faces is 45 degrees or less, the area will be the area of one face only; if the angle between the two signs is greater than 45 degrees the sign area will be the sum of the areas of the two faces.
 - c. Three or more – the sign area will be the sum of the areas of the three or more faces.
 - d. Spherical, Free Form, Sculptural, Other Non-Planar Signs – sign area will be the sum of the areas of the four vertical sides of the smallest polyhedron that will encompass the sign structure.
5. For a sign having more than one component (e.g., a service station identification/price sign combination mounted on the same surface) the sign area will be the area of the smallest rectangle that will encompass the several components of the sign.

B. Sign Height Measurements:

1. Free-standing Sign: Height shall be the distance from the top of the sign structure to the top of the curb or crown of roadway where no curb exists. The height of any monument base or other structure erected to support or ornament the sign shall be measured as part of the sign height.
2. Wall or Fascia Mounted Signs: Height shall be the distance from the top of the sign structure to the top of the curb or crown of road where no curb exists.

C. Prohibited Sign Types:

1. Signs not specifically authorized are prohibited.
2. Portable billboard sign except as allowed for temporary use (See Sign Tables under Article 5.8.4 and 5.8.5);
3. Signs mounted, attached or painted on trailers, boats, or motor vehicles when used as additional advertising signs on or near the premises;
4. Roof-mounted signs, or signs that project above the highest point of the roofline, parapet, or fascia of the building;

5. Any sign emitting sound;
 6. Any sign with intermittent or flashing illumination, animated, moving, or electronic reader board signs;
 7. Any off-site identification sign or advertising sign unless otherwise herein provided.
- D. **Right-of-Way Limitations:**
1. No sign shall be erected or placed within a public street, sidewalk, bicycle path or any Town right-of-way except as provided in Section 502.2 of the Town Ordinance.
 2. No sign, which by reason of location, size, color, or designs, shall interfere with public traffic or be confused with or obstruct the view or effectiveness of any official traffic signal or traffic marking.
- E. **Non-Conforming Signs.** Non-conforming free-standing signs, sign structures, poles and other related equipment that have been abandoned for more than one year shall be removed.
- F. **Maintenance.** All signs and sign structures shall be properly maintained, so as not to become a public hazard or to become a detriment to the street environment. The Code Enforcement Officer has the right to request reasonable maintenance to be carried out within the calendar year of the request. Light sources shall be maintained to minimize glare for motorists, pedestrians and neighboring premises.
- G. **Illumination.** The source of a sign's illumination shall not be visible from any adjacent residential areas or streets.
- H. **Window Sign (Outside Designated Historic Districts).** When a window sign or signs are placed so as to attract the attention of persons outside the building where such signs are displayed, the total area of all such window signs shall not exceed twenty five percent (25%) of the total area of the window in which such sign is placed. Window signs do not require a sign permit. For window signs within a historic district, see Section 5.8.7.
- I. **Directional Signs.** Directional signs not exceeding two (2) square feet per sign shall be allowed in all zoning districts without requiring a sign permit. Such signs would include

street addresses, safety signs (e.g. “No Smoking”), and signs assisting in the flow of traffic.

J. Projecting Signs. Where wall-mounted signs are allowed, projecting signs are permitted up to ten square feet (10 sq. ft.) in area and must have a minimum height of eight feet (8') to the bottom of the sign and a maximum height of fifteen feet (15') to the top of the sign. Signs may not project more than five feet (5') from a wall surface.

K. Permitting

1. A building permit shall be required in addition to a sign permit, if the cost of the sign and installation together exceeds Fifteen Hundred Dollars (\$1,500). The Select Board may, from time to time establish a new dollar figure by resolution.
2. It shall be unlawful for any person to erect, install, and/or replace any sign that requires a sign permit within the Town without first applying for and obtaining a sign permit from the Planning Department.
3. Failure to conform to the conditions of a sign permit, including any conditions and/or stipulations attached thereto by the Planning Board, Zoning Board of Adjustment, and/or Select Board shall render such permit void.
4. Fees for sign permits shall be required and payable in such sums as the Select Board may from time to time establish by resolution. Fees shall not be required to replace an existing sign.
5. A sign permit does not include electrical work; however, this exemption shall not be deemed to grant authorization for any work to be done in violation of the provisions of any other laws or ordinances.

5.8.4 Dimensional Sign Regulations for Residential Districts:

Permitted signs in the following zoning districts: NP, RT, MHP							
Type of Use	Maximum Aggregate Area (Sq. Ft.) (Note A)	Wall-Mounted Signs Maximum Area (Sq. Ft.)	One, Free-Standing Identification Sign Maximum Area/Height	Illuminated Sign	Sign Permit Required	Off-Site Signs (Sq. Ft.) Temp Perm.	
One and Two Family Dwelling Identification	4	4	4/5	No	No	No	No
Multi-Family Dwellings Apartment & Condominium Identification	24	24	24/10	External	Yes	No	No
Subdivision Identification (each entrance)	24	N/A	24/10	External	Yes	No	No
Mobile Home Parks (each entrance)	24	N/A	24/10	External	Yes	No	No
Civic Organization Group Displays (Note E)	40	N/A	40/10	No	Yes	24	4
Churches, Museums & Schools (per building) (Note E)	24	24	24/10	Yes	Yes	24	4
Health Care Facilities & Libraries (per building) (Note E)	24	24	24/10	Yes	Yes	No	No
Home Occupation	4	4	4/5	No	Yes	No	No
Farm Uses & Garden Supply (Note E)	24	24	4/5	No	Yes	No	No
Legal Non-Conforming Use (Note E)	24	24	24/10	External	Yes	No	No
Permanent Reader board (Note E)	12	12	12/10	Yes	Yes	No	No

Permitted signs in the following zoning districts: NP, RT, MHP							
Type of Use	Maximum Aggregate Area (Sq. Ft.) (Note A)	Wall-Mounted Signs Maximum Area (Sq. Ft.)	One, Free-Standing Identification Sign Maximum Area/Height	Illuminated Sign	Sign Permit Required	Off-Site Signs (Sq. Ft.) Temp Perm.	
Temporary Contractor	12	12	12/5	No	No	No	No

Temporary Real Estate Signs

Permitted signs in the following zoning districts; NP, RT, MHP							
Type of Use	Maximum Aggregate Area (Sq. Ft.) (Note A)	Wall-Mounted Signs Maximum Area (Sq. Ft.)	One Free-Standing Identification Sign Maximum Area/Height	Illuminated Sign	Sign Permit Required	Off-Site Signs (Sq. Ft.) Temp Perm.	
Temporary Real Estate Signs							
Sale, Lease or Rent	6	6	6/5	No	No	No	No
Open House/ Model Home Directional sign (Note B)	24	N/A	6/5	No	No	Yes (B)	No
Parcels greater than 5 acres (Note C)	24	24	24/10	No	Yes	No	No
Subdivision Advertising (Notes C, D)	48	N/A	24/10	No	Yes	No	No
Future Development	24	24	24/10	No	Yes	No	No

Explanatory Notes:

- A. Maximum aggregate sign area is the sum of all identification and advertising signs that require a sign permit.
- B. Four off-site signs may be used only when a salesperson is on duty at the home for sale and in no event may be left overnight even if the homeowner is selling the house himself. The off-site signs must be placed in such a manner as to not create a public hazard.

- C. Oversized Sale, Lease, or Rent signs shall be located at least 100' from adjacent residential structures.
- D. One off-site sign allowed for subdivisions of six (6) or more lots.
- E. A permanent reader-board or non-electronic changeable letter advertising is permitted. The maximum aggregate area is 12 sq. ft. and the maximum mounted height is 10 ft. The sign may be attached to a permanent freestanding identification sign structure. A permit is required and it may be illuminated.

5.8.5 Dimensional Sign Regulations for Non-Residential Districts: For signs located along Epping Road, see Section 6.8 in addition to the following regulations.

Type of Use	Maximum Aggregate Area (Sq. Ft.) (A)	Wall-Mounted Signs Maximum Area (Sq. Ft.)	One Freestanding Identification Sign Maximum Area/Height (F)	Illuminated Sign	Sign Permit Required
Single Business	50 (B)	50 (B)	24/10 24/25(C-2, C-3)	Yes	Yes
Multi-Business (E)	40(C)	40(C)	(D)/10 (D)/25(C-2, C-3)	Yes	Yes
Temporary Real Estate Sign	24	24	24/10	No	Yes
Future Development	24	24	24/10	No	Yes
Service Station Price Sign	12	12	12/10	Yes	Yes
Menu Board	12	12	12/10	Yes	Yes
Permanent Reader board (G)	12	12	12/10	Yes	Yes

Explanatory Notes:

- A. Maximum aggregate sign area is the sum of all identification and advertising signs that require a sign permit.
- B. One (1) additional square foot of sign area is allowed for each additional linear foot of principal building frontage in excess of fifty linear feet (50') to a maximum of one hundred (100) square feet.
- C. One (1) additional square foot of sign area is allowed for each additional linear foot of principal building frontage occupied by each business in excess of forty

linear feet (40') to a maximum of eighty (80) square feet of sign area per business.

- D. One (1) freestanding identification sign per street frontage is allowed for the multi-business building or center. The maximum sign area allowed shall be twenty-four (24) square feet plus an additional four (4) square feet for each business to a maximum of forty-eight (48) square feet, except thirty-two (32) square feet in a UC1 and UC2 district. The free-standing sign may either be a directory sign or identify the building or center only.
- E. All wall fascia-mounted signs for individual businesses shall be uniform in terms of colors, shapes, and maximum vertical dimension with all other such signs in the center. A proposal for signing for the entire center shall be submitted and approved prior to issuance of any sign permit.
- F. The location, size, and height of free-standing identification signs must not obstruct views for safety reasons or obscure other adjacent signs. The precise locations of the proposed sign shall be noted on the sign permit application.
- G. A non-electronic changeable letter advertising sign may be attached to a permanent free-standing identification sign structure.

5.8.6 Regulations for Signs in the Historic District: In addition to the preceding regulations, signs on properties within the boundaries of the Historic Districts, as defined on the official zoning map for the Town of Exeter, must comply with the following instructions and receive approval from the Historic District Commission.

- A. Goals and Standards: The goals and standards of the Exeter Historic District Commission in reviewing and approving applications, as well as considering requests for exceptions in special cases shall be:
 - 1. To ensure that the visual impact of all signs shall be consistent with the historical and architectural qualities of the Historic District.
 - 2. To ensure all signs are consistent with the goals and standards of the Historic District in design, size, color, material and visual impact.
 - 3. To preserve, to the extent practicable, the period architectural details of facades of the buildings in the Historic District.
 - 4. To promote the general visual attractiveness of the Historic District.
 - 5. To be consistent with the goals of NH RSA 674:45.

B. General Guidelines:

1. Application: A sign erected within the Historic District shall require an approved application from the Historic District Commission. Applications must be presented by the building owner or his/her agent. Applicants are urged to consult the Preservation Guidelines for the Exeter Historic District for definitions of terms and helpful suggestions.
2. Sign Area: Only one face of a two-sided sign shall be used in computing sign area.
3. Exempt Signs: Signs required by Federal and/or State law and Historical Markers will not be considered as part of total signage area.
4. Material: Materials appropriate to the Historic District, such as wood, brass, glass, or wrought iron, will be permitted. Other materials may be permitted on a case by case basis.
5. Special Cases: Request for exceptions to any of the requirements listed in the following articles for the Commercial and Residential Historic Districts will be reviewed by the Historic District Commission.
6. Size and Scale: Signs in the Historic Districts should be appropriate in size and scale and, therefore, not dominate the structure with which they are associated. (See Historic District – Table A- Allowable Sign Area- Commercial)
7. Placement: Signs should be placed in locations on or near the structure traditionally used for signage and should not obscure significant architectural features.
8. Trademarks and Product Names: Such signs shall be discouraged in favor of names of proprietors, business owners or business names. If trademarks and product names are desired, the Historic District Commission shall review them carefully to insure that said signs in design, size, colors, materials and visual impact are consistent with the goals and standards of the Historic District.
9. Illumination: Signs shall be illuminated only by steady, stationary, shielded light sources directed solely on the sign without causing glare for motorists, pedestrians, or neighboring premises. Only externally

illuminated signs will be permitted in the historic districts.

10. Lettering: Lettering should be appropriate to the type of business and historic nature of the property to which it is associated.

11. Maintenance: The Historic District Commission has the right to request reasonable maintenance in the Historic District, to be carried out within the calendar year of the request. Light sources shall be maintained to minimize glare for motorists, pedestrians and neighboring premises.

5.8.7 Sign Ordinance for the Historic District – Non-Residential Zoning Districts:

A. Size and Sign Type: Total signage shall be limited to 40 square feet and as specified below by sign type.

Historic District – Table A- Allowable Sign Area (Commercial)

Type of Sign	Size	Notes
Awning	Text is only permitted on front hanging edge of canopy. The awning may not extend over two-thirds of the sidewalk or 6 feet from the building face, whichever is the lesser.	Front edge must be flexible or free hanging. Color and style must be appropriate to the building and lettering will be considered part of the total allowable sign area.
Directory Sign	10 square feet.	
Directional Sign	2 square feet.	Excluded from total allowable sign area.
Free Standing Sign	Maximum height is 10 feet. Single Business - Maximum size allowed is 12 square feet. Multiple Business - Maximum size allowed is 24 square feet.	Permitted where property layout allows sign to be at least 5 feet from the sidewalk.
Marquee	80 square feet.	Only permitted on a case by case basis with documented historical
Nameplate or Plaque	2 square feet.	Used to distinguish primary entrance where multiple businesses are present.

Projecting or Hanging Sign	10 square feet.	Signs with an “open” design in excess of 10 square feet will be evaluated
Wall-Mounted Flat Sign	25 square feet maximum in size and projecting no more than 6” from the surface of the wall.	
Window Sign	Permanent - Text may cover 10 % of the total window area in which they appear. Temporary - Text may cover 25% of the total window area in which they appear.	Temporary signs may be displayed for a period of 30 days or less.

B. Number of Signs/Business:

1. Each business shall be permitted one primary and one secondary sign per street façade.
2. In case of multiple occupancies, the owner of the building is responsible for an overall signage plan. Directory signs shall be designed and constructed with provision to allow for changes of occupancy without reconstruction of the entire sign.
 - a. If occupants have separate entrances, each occupant will be allowed one nameplate or plaque to mark their primary entrance. This counts as the business secondary sign.
 - b. Where a building façade is limited to a single door leading to multiple occupancies, only one of the following is permitted: wall-mounted directory sign; projecting/hanging sign; or window sign. If a wall-mounted or projecting sign is used, the door shall have the building name and/or street number only.

C. Location:

1. A parallel sign can project no more than six inches (6") from the building surface.

5.8.8 Sign Ordinance for the Historic District – Residential Zoning Districts:

A. Location:

1. A parallel sign can project no more than six inches (6") from the building surface.
2. No sign may project from the building face for more than three feet (3') or be more than four square feet in size.
3. One free-standing or one wall mounted sign is allowed with a maximum sign area 6 sq. ft. Historic markers are excluded from this provision. Lettering and illumination shall comply with the dimensional and design requirements in this section of the ordinance and, where applicable, in standards for any MUND application.

5.9 General Landscaping Regulations

NO SUBSTANTIVE CHANGES

5.9.1 Unenclosed Uses. Any unenclosed special exception which may be authorized by the Board of Adjustment shall be landscaped according to this article and shall be required to provide a fence, screen, planted berm or landscaping sufficient to obscure such uses from view from abutting residential uses, properties lying in the NP-District or from a public right-of-way.

5.9.2 Maintenance. Any fencing or landscaping installed in accordance with this article shall be maintained in good order to achieve the objectives of this article. Failure to maintain fencing or to replace dead or diseased landscaping shall be considered a violation of this ordinance.

5.10 Performance Standards

NO SUBSTANTIVE CHANGES

All uses shall comply with the following:

5.10.1 Sound. The volume of sound inherently and recurrently generated shall be controlled so as not to become a nuisance to adjacent uses.

5.10.2 Vibration. An operation that creates intense earthshaking

vibration, e.g., heavy drop forges, heavy hydraulic surges, shall not be discernible beyond the property lines of the industry.

- 5.10.3 Radioactivity. No operation shall be permitted which causes radioactivity in violation of Title 10, Chapter 1, Part 20, Code of Federal Regulations, "Standards for Protection Against Radiation," dated June 16, 1957, or any subsequent revision or amendments.
- 5.10.4 Odor. No emission of odorous gas or other odorous matter in such quantity as to be readily detectable at any point along lot lines without use of instruments shall be permitted.
- 5.10.5 Hazardous Waste.
 - A. Hazardous waste shall be those substances as defined by the Environmental Protection Agency in its proposed Regulations under Section 3001, 3002 of the Solid Waste Disposal Act of 1976, and as said proposed Regulations (including definitions) are more fully set forth in the Federal Register, Monday, December 18, 1978, Part IV, and as said proposed regulations (including definitions) may from time to time be amended and finally adopted. Hazardous Waste shall also be further defined as provided for in "An Act Establishing a Hazardous Waste Management Program," NH RSA §147-A:2, effective July 1, 1979, hereinafter referred to as the "Act", and as same may be amended or enlarged upon by the Rules and Regulations of the Bureau of Solid Waste Management, as is more specifically provided for in the Act.
 - B. The disposal, treatment, bulking or handling (hereinafter collectively called treatment) of hazardous waste within the corporate limits of the Town of Exeter shall be permitted only when such waste is generated within the Town of Exeter and such treatment shall be prohibited except by an operation of facility owned or operated and controlled by the Town of Exeter, its agents or its designees, in which event such treatment shall not be conducted by the Town or delegated to any third party until two prerequisites have been satisfied, namely:
 - 1. The Town shall have adopted by vote at an annual

town meeting or a special town meeting called for such purpose, a comprehensive plan for the treatment of hazardous waste, such plan to be consistent with and in conformity with all State and Federal statutes and regulations governing the same.

2. Approval of the operation or facility proposed shall be in each instance, by vote of the Town at an annual town meeting or special town meeting, called for such purposes by the Town.

C. The temporary storage of hazardous waste other than for treatment is permitted only when it is used, manufactured or generated as a waste as part of an industrial, manufacturing or laboratory process that takes place within the Town of Exeter, and in such event, the same shall be inventoried and stored inside a building with an impermeable floor and otherwise handled in strict conformance with all applicable Federal and State regulations governing same. The records pertaining to such inventory and storage shall be open to the Select Board and/or the Exeter Fire Department upon reasonable request.

5.10.6 Glare. No direct or reflected glare shall be detectable from any NP or RT District boundaries.

5.10.7 Heat. No direct or reflected heat shall be detectable across any district boundaries.

5.10.8 Dust and Fly Ash: No solid or liquid particles shall be emitted in such quantity as to be readily detectable at any point along lot lines or as to produce a public nuisance or hazard beyond lot lines.

5.10.9 Smoke: No smoke shall be emitted in such quantity as to become a nuisance.

6.0 SUPPLEMENTARY USE REGULATIONS

6.1 Elderly Congregate Health Care Facilities – Standards

NO SUBSTANTIVE CHANGES

6.1.1 Purpose: The regulations in this article have been established for the purpose of encouraging the construction of dwelling units suitable for occupancy by elderly persons, while ensuring compliance with local planning standards, land use policies, good building design and other requirements consistent with promoting the public health, safety and general welfare of the inhabitants of Exeter.

6.1.2 General Standards: All Elderly Congregate Health Care Facilities shall conform to the following standards:

- A. Dwelling units shall be on municipal sewer and water.
- B. The occupancy of dwelling units within the development shall be limited generally to persons fifty-five (55) years of age or older.
- C. The minimum tract area shall be three (3) acres.
- D. A landscaped buffer area having a minimum depth of one hundred feet (100') shall be provided between any proposed structure and the perimeter of the property in order to provide an adequate division or transition from abutting land uses. Whenever possible, the natural vegetation shall be retained, or if required, vegetation shall be planted of sufficient size to shield the development from abutting properties. Buffer areas may include fences or berms, as well as shrubs or trees.

No dwelling, accessory structure, collector or service roads or parking areas shall be permitted within the designated buffer area. However, access roads are permitted to cross this buffer area.

6.1.3 Procedure and Criteria: The procedure and criteria for reviewing applications for elderly congregate health care facilities shall be as set forth in the "Site Plan Review/Subdivision Regulations".

6.1.4 Density Bonus: A density bonus of 15% above the number of units permitted in the applicable zoning district will be granted for developments that will guarantee:

- A. 20% of the total number of units proposed within the development shall be affordable, see sections (B) and (C). Affordability shall be defined as housing that can be

purchased under a conventional mortgage whereby the combined annual expenses for principal, interest and property taxes will not exceed 30% of household income.

- B. 15% or more of the units constructed will be sold at initial sale for a price that can be afforded by a household with an income not more than 120% of the median family income for the New Hampshire portion of the Portsmouth-Rochester NH-ME PMSA, as published by US Department of Housing and Urban Development.
- C. 5% or more of the units constructed will be sold at initial sale for a price that can be afforded by a household with an income not more than 80% of the median family income for the New Hampshire portion of the Portsmouth-Rochester NH-ME PMSA, as published by US Department of Housing and Urban Development.
- D. Units will be sold with deed restrictions and a recorded housing agreement that limit, for a period of 30 years renewable upon sale or transfer, the resale value of the unit to not more than the purchase price plus two times the accumulated consumer price index.
- E. The units shall be on-site.

6.2 Junkyards

6.2.1 Junk yards are prohibited in the Town of Exeter.

6.2.2 Without the granting of a special exception, no junkyard existing as a non-conforming use shall be allowed to:

- A. Expand in area.
- B. Install salvage-processing equipment or facilities that would create noise or vibration detectable beyond the property lines.
- C. Extend the hours of operation.
- D. Increase the height of materials stored.

6.2.3 The Board of Adjustment, in considering an application for special exception, shall find that the proposal complies with the following criteria:

- A. The terms of Section 5.2 Special Exception Uses herein are complied with.
- B. To the greatest extent practical the objectives and

- purposes of NH RSA §236:111 shall be promoted.
- C. All materials and equipment shall be stored within the enclosed area, unless an accessory use is specifically authorized.
 - D. A landscaped buffer (per Section 9.7 of the Site Plan Review/Subdivision Regulations) exterior to minimum eight foot (8') high fence shall be provided to effectively screen from view, year-round, all materials and equipment from adjacent rights-of-way and property lines.

6.3 Junk Cars

NO SUBSTANTIVE CHANGES

Even if an unregistered motor vehicle or a registered motor vehicle which does not have a valid state motor vehicle inspection sticker is intended to be repaired or is in condition for legal use on the public highways, no more than one (1) such motor vehicle may be stored outside of a building on a lot for a period not to exceed one year, except for a state licensed new or used motor vehicle dealer or a state licensed junk motor vehicle dealer (See NH RSA §236:124).

6.4 Amusement Centers

NO SUBSTANTIVE CHANGES

6.4.1 General Regulations:

- A. Such uses, when not conducted entirely within an enclosed structure, may be required to be enclosed by appropriate fencing or landscaping.
- B. Off-street parking areas shall be screened from adjoining residential properties in accordance with Section 5.9 General Landscaping Regulations and Section 9.7 of the Site Plan Review/Subdivision Regulations.
- C. No amusement center shall be maintained or operated within 300 feet of an entrance or exit of a public or private school.
- D. Illuminated signs and other lights shall be directed away or shielded from adjoining residential properties and streets in such a way as not to disturb the occupants thereof.
- E. No public address system shall be permitted except where such system is inaudible at any property line.

6.5 Sexually Oriented Business Uses

NO SUBSTANTIVE CHANGES

- 6.5.1 Purpose and Intent: The purpose of this article is to establish reasonable and uniform regulations to limit the location and prevent the concentration of sexually oriented business uses within the Town of Exeter. The intent of this article is to promote health, safety and general welfare of the citizens of the Town of Exeter by preventing problems of blight and deterioration which accompany and are brought about by the concentration of sexually oriented business uses.
- 6.5.2 Permitted Locations. Sexually oriented business uses shall only be permitted in the C District by special exception provided all regulations, requirements and restrictions pertaining to that zoning district are met and the sexually oriented business use shall not be permitted within 1,000 feet of a church or place of worship, funeral home, a public or private school, an approved day care center, another sexually oriented business use, or 500 feet from a residence or residential district, a recreation park or Town of Exeter building.
- 6.5.3 Measure of Distance. The measure of distance between any sexually oriented business use and other named point of reference shall be measured in a straight line from the structure containing the sexually oriented business use to the nearest property line of the named point of reference.
- 6.5.4 Limiting Clause. Nothing in this article or in the zoning ordinance as a whole authorizes any use that violates any Town of Exeter ordinance or State of New Hampshire statute regarding public nuisances, sexual conduct, lewdness, or obscene or harmful material or the exhibition or public display thereof.

6.6 Essential Services

NO SUBSTANTIVE CHANGES

- 6.6.1 Enclosed or Permanent Structures: Such uses when in a residential district shall be subject to the following regulations:
- A. Such facility shall not be located on or under a residential

street (unless no other site is available) and shall be so located as to draw a minimum of vehicular traffic to and through such streets.

- B. The location, design and operation of such facility shall not adversely affect the character of the surrounding residential area.

6.6.2 Open: Where applicable, the landscaping regulations of Section 5.9 General Landscaping Regulations shall apply.

6.7 Retail Uses

NO SUBSTANTIVE CHANGES

6.7.1 Drive-In Commercial Uses: Such businesses, where persons are served in automobiles, shall be not closer than 300 feet to a residential district and shall provide ingress and egress so as to minimize traffic congestion. The number and location of curb cuts shall be subject to the review and approval of the Planning Board.

6.7.2 Retail Trade Size Limitations: For all districts except the C District: Any single or grouped retail business use (i.e., a contiguous strip center, mall) shall not exceed a total of 85,000 square feet of building footprint area.

6.7.3 Retail services allowed as accessory uses in the NP, C, and PP districts are limited to the following floor areas shown below to a maximum of 1000 sq. ft. per lot:

- A. NP: 10% of the gross floor area of the principal building,
- B. CT and CT-1: 20% of the gross floor area of the principal building,
- C. PP: 15% of the gross floor area of the principal building.

Proposed retail areas shall be physically linked to the principle use. Specifically, in cases where there are existing structures, the retail area shall be located in an existing building. For new proposals, the retail area shall be located in the same structure as the principal use.

Drive-thru facilities are not allowed as part of this provision.

6.8 Epping Road Strip Management, C District

MODEST CHANGES

- *The expansion of the C-District required modest housekeeping language specifying these standards applied to lots on Epping Road. This was the original intent and is unchanged.*
- *The substance of these standards is unchanged.*

6.8.1 Purpose. To lessen congestion upon arterial streets and provide for the safe and orderly flow of traffic within a developing commercial area. These regulations intend to prescribe design standards for traffic access, curb cuts, landscaping, lighting, signing and internal traffic circulation on parcels abutting or fronting Epping Road within the C District.

- A. Insofar as possible and as applicable, access points shall be located directly opposite each other across Epping Road.
- B. Where there is primary access on Epping Road, each parcel shall have but one point of access to Epping Road unless it has more than 1,200 feet of frontage, in which case one point of access is permitted for each 600 feet of frontage.
- C. Abutters shall consolidate access points at common property lines or, as may be agreed, elsewhere so as to reduce the number of such points.

6.8.2 Minimum Front Yard, Use Thereof: On Epping Road, the first twenty-five feet (25') of front yard shall be kept clear of obstructions to sight and shall not be used for display of goods or signs; the next twenty-five feet (25') of front yard shall be planted and landscaped and shall permit signage with a minimum setback requirement of thirty-five feet (35').

6.9 Mobile Home Parks

NO SUBSTANTIVE CHANGES

- *The term “manufactured housing park” is changed to “mobile home park” to reflect the more recent trends in manufactured housing.*

6.9.1 Area Requirements. Individual mobile home lots located in a mobile home park shall contain at least 10,000 square feet of lot area and shall not be less than seventy-five feet (75') wide exclusive of easements.

- 6.9.2 Setback Requirements. No structure located on any lot in any mobile home park shall be closer to any front lot line than twenty-five feet (25'); to any side lot line than fifteen feet (15'); nor to any rear lot line than twenty-five feet (25').
- 6.9.3 Lot Requirements. All lots in any mobile home park shall be well drained and graded to a point where mobile homes may be parked so that the parking of the same shall result in safety to all concerned. In all instances as much natural growth as is reasonably possible shall be preserved by any mobile home park developer. A paved parking apron shall extend at least one foot beyond the outside dimensions of any mobile home parked thereon.
- 6.9.4 Utility Improvements. All mobile home parks shall provide to each mobile home lot line both a continuing supply of safe and potable water as approved by the New Hampshire Department of Health, and a connection to public sanitary sewerage disposal facilities of the municipality or to facilities provided by the developer which shall be in accordance with, and as approved by, the New Hampshire State Department of Health.
- 6.9.5 Other Site Improvements. There shall be provided in each mobile home park such other improvements as shall be required whereby such requirements shall at all times be in the best interests of the public's health, safety, and general welfare and shall include garbage and trash collection and disposal facilities as approved by the New Hampshire Department of Health, and an adequate park lighting system.
- 6.9.6 Individual tenants at the mobile home park may construct attached enclosures to individual mobile homes, provided that such enclosures do not exceed 100 percent (100%) of the floor area of the mobile home.
- 6.9.7 All mobile home parks shall have paved access roads to and from all sites and in no instance shall such sites and roads be in conflict with any other ordinance of the municipality.
- 6.9.8 Minimum improvements for all mobile home parks shall include the following:

- A. Streets: All streets within any mobile home park shall conform to the design standards set forth in the “Subdivision Regulations”.
- B. Open Space: All mobile home parks shall provide not less than ten percent (10%) of the total land area for public open space purposes and such lands shall be improved whereby the same will be accessible to all families residing within said tract and whereby such open space may be used for recreational purposes.

6.9.9 Roadway or area lighting shall be reflected away from adjoining properties.

6.9.10 All mobile home parks shall be located on well-drained lands and shall have not less than a total land area of ten (10) acres.

6.9.11 The commercial sale of mobile homes from a mobile home park shall be prohibited.

6.9.12 All proposed mobile home developments shall be subject to the approval of the Planning Board and must conform to subdivision rules and regulations.

6.10 Home Occupations

NO SUBSTANTIVE CHANGES

Inside and outside Residential Districts, permitted home occupations may be operated in any dwelling unit only if they comply with all of the following conditions:

6.10.1 Where Permitted: Within a dwelling unit, or in a building or other structure accessory to a dwelling unit and only by the person or persons maintaining a dwelling therein. No more than two additional non-residents shall be employed in the home occupation.

6.10.2 Evidence of Use: Does not display outside the building or create beyond the lot lines of the premises, any evidence of the home occupation, except a permitted sign and off-street parking, in addition to not more than one commercial vehicle parked at the dwelling overnight and with no detrimental impact on existing

traffic safety on abutting streets.

- 6.10.3 Extent of Use: Does not utilize more than twenty-five percent (25%) of the combined gross floor area of the dwelling unit and accessory structures located on the premise, except foster family care. Where an existing residential building, in existence prior to April 1, 1972, is converted, no more than three (3) dwelling units shall be permitted if a home occupation exists within the principal building or other structure accessory to the principal building (including basement and accessory structures).
- 6.10.4 Permitted Uses: Includes the following uses provided that such uses are clearly incidental and secondary to the use of the dwelling unit for residential purposes and that provisions are made for off-street parking as required herein (See Section 5.7.6 Off-Street Parking Schedule):
- A. Medical offices
 - B. Other professional offices, including lawyer, engineer, architect, etc.
 - C. Custom dressing making, seamstress, milliner
 - D. Artist or Musician
 - E. Foster family care (for not more than four children simultaneously)
 - F. Real estate and insurance offices
 - G. Farm stands and garden supply stands for produce grown or raised on the premises
 - H. Beauticians and barbers
 - I. Art, craft, hobby and antique shops
 - J. Consultants
 - K. Contractors
 - L. Child Day Care (not more than 3)**
 - M. Catering
 - N. Similar occupations as determined by the Code Enforcement Officer.

** Four (4) children or more see Section 4.2, Schedule I: Use Table.

- 6.10.5 Permitted Procedure: A home occupation use permit shall be issued by the Code Enforcement Officer if the requirements of

Section 6.10.1 – 6.10.4 are met.

- 6.10.6 Special Exception: Foster family care for more than four children, child day care for more than three children, and otherwise permitted uses which exceed the standards of Section 6.10.2 Home Occupations – Evidence of Use, as determined by the Code Enforcement Officer, may be permitted by special exception issued under Article 5.2 Special Exception Uses of this ordinance.
- 6.10.7 Also, any home occupation that may have an impact on abutting properties, as determined by the Code Enforcement Officer, shall be required to obtain a special exception.

6.11 Gasoline and/or Automotive Service Stations

MODEST CHANGES

- *The first subsection was removed stating where these are permissible. That issue is covered in the Use Table.*

- 6.11.1 Authorization: No lot or plot shall be used for the sale or storage of gasoline, oil or other fuels until the owner has made application for and received a Special Exception permit therefore from the Board of Adjustment, after a public hearing held for that purpose.
- 6.11.2 Quantity: No more than one gasoline and/or service station facility shall be allowed per each 500 vehicle registrations existing in the Town at the time of application. The number of registrations shall be determined from the Town Clerk's office.
- 6.11.3 Additional Requirements: All gasoline and/or automotive services stations that abut residential properties shall be screened as regulated in Section 5.9 General Landscaping Regulations of this ordinance.
- 6.11.4 Location of Pumps: All pump islands shall be set back at least twenty-five feet (25') from the front property line.
- 6.11.5 Service Work: All service work with the exception of the pumping of gasoline shall be performed within the building.
- 6.11.6 Unregistered Vehicles: No unregistered vehicles are to remain

on the site for more than one week unless enclosed in a building or screened from view of adjacent property. Vehicles shall not be sold upon the premises.

6.12 Marinas, Docks and Piers

NO SUBSTANTIVE CHANGES

6.12.1 Marinas, boatyards, yacht clubs, docks, wharves, floats, waterfront walkways and related development projects may be permitted by Special Exceptions which shall be granted only upon authorization by the Board of Adjustment upon compliance with the following requirements:

- A. Marinas shall be designed so as to result in the least amount of alteration of water area.
- B. Supporting marinas facilities, such as outside winter storage yards, shall be located inland, not along the waterfront.
- C. Pilings or cribbing are to be used to elevate marina structures rather than solid fill.
- D. Pump-out facilities for boat sewage must be provided and connected to the municipal sewer, should any services be offered other than tie-ups.
- E. Marinas, supporting facilities and structures shall be designed and located to enhance and promote the **Waterfront Master Plan**.

6.12.2 No dock, wharf, float, pier, waterfront walkway or any related waterborne structure shall be permitted within 400 feet of the String Bridge downstream abutments.

6.13 Excavation of Earth Material

NO SUBSTANTIVE CHANGES

6.13.1 Excavation operations may be permitted only upon authorization by the Board of Adjustment by Special Exception provided the following requirements are met in addition to Article 5.2 Special Exception Uses:

- A. Excavation operations shall not take place closer than 300 feet to adjacent property.
- B. Planning Board approval of the excavation and

- reclamation plans.
- C. Planning Board approval of the performance bond.

6.14 Industrial and Manufacturing Uses

NO SUBSTANTIVE CHANGES

- 6.14.1 Hazardous Storage: facilities must be a minimum of 1,000 feet from any place of public assembly having a capacity of ten persons or more, or any habitable dwelling. All storage facilities must meet all state and federal regulations.

6.15 Helicopter and Airport Ordinance

NO SUBSTANTIVE CHANGES

- 6.15.1 Purpose: In order to promote the orderly and safe development of helicopter and airport services within the Town of Exeter, it has been deemed appropriate to adopt a special ordinance in order to ensure public safety as well as commercial or recreational convenience.
- 6.15.2 Definitions:
 - A. Heliport: An area used, or to be used, for landing or take-off of helicopters and includes any and all of the area and buildings which are appropriate to accomplish these functions.
 - B. Helicopter: An aircraft propelled and sustained by horizontal propellers, rotary wings, or other aircraft capable of hovering.
 - C. Airport: An area used, or to be used, for the landing or take-off of fixed wing aircraft.
- 6.15.3 Regulation of Heliport and Airports:
 - A. Heliports and airports are permitted in accordance with Section 4.2 – Schedule I: Use Table provided landing area site approval and registration is completed by the State Division of Aeronautics in accordance with NH RSA §424.
 - B. Heliports and airports may be permitted only upon authorization by the Board of Adjustment by Special Exception provided the following requirements are met:

1. The heliport and/or airport must clearly be shown to be incidental to the principal use of the property.
2. The proposed use will not adversely affect the adjoining land uses and the growth and development of the area in which it is proposed to be located.
3. The traffic generated by the proposed use will not impose an undue burden upon the streets and highways designed to carry the traffic in the area.
4. The use will not be detrimental to the public health, safety, welfare and convenience of the citizens of Exeter.
5. Due consideration has been given to the selection of the site and flight paths which are near or adjacent to large open areas or bodies of water so as to minimize public safety concerns.
6. That the applicant agrees as a condition of the Special Exception to obtain Planning Board approval of the site plan in addition to State Division of Aeronautics site approval and registration prior to applying for a building permit. The Board of Adjustment may require the applicant to obtain Planning Board approval of the site prior to scheduling a hearing on an application for a Special Exception.

- C. Permits for establishing and maintaining heliports and/or airports shall be issued to the owner or lessee of the heliport and/or airport by the Code Enforcement Officer after being granted a Special Exception by the Board of Adjustment. All requests shall be considered as non-residential and as such will be subject to the normal application and site plan review process.

6.15.4 General Regulations:

- A. It shall be unlawful to take-off or land a helicopter anywhere within the Town of Exeter except at a heliport and/or airport for which a permit has been issued by the Town of Exeter unless such take-off or landing is performed in conjunction with one of the following:
1. Special events such as an athletic contest, holiday

celebration, parade or similar activity after reasonable advance notice has been given to the Exeter Police and Fire Departments and approval has been issued by the Select Board of their designated agent.

2. When necessary for law enforcement or other public safety purposes.
3. When necessary for aircraft or medical emergencies.
4. When required by the officer in charge of the Exeter Fire Department in conjunction with Fire Department operations.
5. Occasional landing to pick up or discharge passengers at a location where regular use is neither permitted nor anticipated. Such occasional landing shall not exceed more than one per year.

6.16 Hospitals

MODEST CHANGES

- *The existing Healthcare District is used to govern the hospital. Under this zoning proposal, the Healthcare District would be absorbed into the UC-2. So the hospital would be regulated more as a “use” rather than a “district.”*
- *This shift requires changing a lot of the language, but to achieve the same goals.*
- *The general approach is to enforce the dimensional standards for the district around the perimeter of the hospital while allowing flexibility interior to the complex.*
- *Limitations on height of buildings adjacent to residential districts are clarified; standards and procedures are unchanged.*

6.16.1 Dimensional Regulations

- A. Standards for setbacks and, where applicable, minimum frontage found in Section 4.3 - Schedule II: Dimensional Regulations shall apply where the lot lines of a hospital abut lots that are not affiliated with the hospital. Only the setback applicable to abutting lot lines shall apply.
- B. For hospital lots that abut other lots affiliated with the hospital, setbacks and minimum frontage found in Section 4.3 - Schedule II: Dimensional Regulations shall not apply. The Planning Board, in connection with site plan review, may require reasonable separations between buildings.
- C. Standards for lot width, lot depth, and building coverage shall not apply to hospitals and will be approved through

Site Plan Review.

- D. A minimum of 35% of a hospital shall be open space. This shall apply to all affiliated lots as an average and shall not be enforced on individual lots.
 - E. "Affiliated" shall mean owned by a single entity or under common ownership with another entity.
- 6.16.2 Setbacks from Other Districts: Wherever a hospital adjoins a residential district, the building set back shall be not less than fifty (50) feet from the residential district line, and wherever a hospital adjoins a non-residential district, the building set back shall be not less than thirty (30) feet from the non-residential district line.
- 6.16.3 Parking Setbacks: No additional, or enlarged, parking areas shall be installed in a hospital within fifty (50) feet of where the hospital adjoins any residential district or residential uses.
- 6.16.4 Landscape Buffer: In addition to any setbacks required in this Section 6.16, the Planning Board, in its consideration of site plan review applications for site development or redevelopment within a hospital, shall require landscaping and screening within the fifty (50) foot perimeter setback from any adjacent residential district or residential uses.
- 6.16.5 Height: Any portion of a hospital building constructed within seventy-five (75) feet of the boundary of a residential zone shall not exceed the height allowed in the adjoining residential zone unless the Planning Board, through Site Plan Review, determines there will be no adverse effects demonstrated by shadow analyses.

6.17 Wind Energy Systems

MODEST CHANGES

- *Because the CT-1 and Industrial Districts were combined with the C District, the proposed language uses a 200 foot buffer from Epping Road to achieve the original intent of setting wind turbines back off the road.*

6.17.1 Purpose

This wind energy systems ordinance is enacted in accordance with RSA 674:62-66, and the purposes outlined in RSA672:1-III-a. The purpose of this ordinance is to accommodate wind

energy systems in appropriate locations, while protecting the public's health, safety and welfare. In addition, this ordinance provides a permitting process for wind energy systems to ensure compliance with the provisions of the requirements and standards established herein.

6.17.2 Location Allowances:

- A. Small wind energy systems shall be allowed by special exception in all districts in accordance with the following requirements and restrictions.
- B. Large wind energy systems shall be allowed by special exception in the Commercial (C) district in accordance with the following requirements and restrictions.

6.17.3 Definitions:

- A. Small wind energy system consists of a wind turbine, a free-standing tower, and associated control or conversion electronics, which has a rated capacity of 60 kilowatts or less and the generated energy will be used for onsite consumption.
- B. Large wind energy system consists of a wind turbine, a free-standing tower, and associated control or conversion electronics and will allow for a rated capacity of over 60 kilowatts and the generated energy would not be restricted to onsite consumption. (Note: the intent is not to allow for a wind farm).

6.17.4 General Regulations:

- A. The small or large wind energy system footprint is considered as the tower's base pole or poles including any other supporting cables or appurtenances used in mounting the tower and its blade. The system is considered a permanent structure and therefore would require a building permit.
- B. The small or large wind energy system height will be measured at the tower height and not include the blades.
- C. Height restrictions:

1. A small or large wind energy system that is equal or less than the allowed height restriction for structures within the district shall meet the building setbacks as specified within that district.
 2. A small or large wind energy system that has a tower height that exceeds the allowable height in the zoning district in which it is proposed shall be set back a distance equal to 115% of the total height from any public road, sidewalk or trail, overhead utility lines and property lines, as measured from the center of the tower base. Regardless of the above, all systems must be set back a minimum of 200 feet from Route 27 (Epping Road).
 3. The tower height shall not exceed 150 feet.
 4. The applicant shall provide evidence that the proposed tower height does not exceed the height recommended by the manufacturer of the wind turbine.
- D. Noise restriction: The small wind or large energy system shall not exceed 60 decibel (dbA) sound level as measured at the property line, except during short-term events such as severe wind storms and utility outages.
- E. Approved Wind Turbines: The manufacturer and model of the wind turbine 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.
- F. Clearing: It is recommended that clearing of natural vegetation be limited to a minimum which is necessary for the construction, operation and maintenance of the small wind energy system.
- G. Safety/Access: The tower shall be designed and installed so that any step bolts or a ladders readily accessible to the public are at a minimum height of 8 ft. above the ground.
- H. Code Compliance: The small wind energy system shall comply with all applicable sections of the New Hampshire State Building Code.
- I. Wind turbine energy systems may be combined with other uses such as cell tower use, radio or other antenna radio

devices provided they meet all applicable manufacturing and building codes.

- J. Regional Notification shall be adhered to as outlined in applicable NH State RSA (36:57).

6.18 Cemetery Regulations

NO SUBSTANTIVE CHANGES

- 6.18.1 Purpose: Under RSA 289:3 (III) the State of New Hampshire has established certain statutory setbacks from burial sites, burial grounds and cemeteries in the absence of local zoning regulations. This section is intended to serve as said local regulations.
- 6.18.2 Definitions: The terms “cemetery”, “burial site”, and “burial ground” shall all have the definitions, which are provided in RSA 289:1.
- 6.18.3 Structure Setback: No building or structure shall be constructed within 25 feet of a known burial site or within 25 feet of the boundaries of an established burial ground or cemetery. Underlying zoning may require a greater setback for structures, in which case the greater setback will apply.
- 6.18.4 Access Way and Utilities: No driveways and utility services (either above ground or underground) may be placed within 25 feet of a known burial site or 25 feet of the boundaries of an established burial ground or cemetery.
- 6.18.5 Special Exception: Where the foregoing restrictions present practical difficulties to the use and enjoyment of adjoining properties, the Zoning Board of Adjustment may grant special exceptions from these provisions provided that all requirements for a special exception under Section 5.2 Special Exception Uses are met as well as the following:
 - A. The proposed use must have approval of both the Select Board and Cemetery Trustees.
 - B. Such proposal does not impair the integrity of the cemetery walls, facilities, drainage, or other physical attributes.
 - C. The proposed use does not diminish the general

solemnity and solitude of the cemetery setting. In this regard, the Board may require appropriate buffering or screening from such proposed use.

- D. The proposed use does not pose a public safety hazard to the cemetery or patrons thereof.
- E. There are no practical alternatives to the proposed use.

6.19 Mixed Use Neighborhood Development (MUND)

MODEST CHANGES

- *The design standards were moved to an Appendix. The applicability of these standards is proposed to be expanded to larger multi-family development. It was therefore easier to pull these into an Appendix that could be referenced from different sections of the ordinance. The content of the design standards is unchanged.*

6.19.1 Eligibility for Conditional Use Permit. An applicant may petition the Planning Board for a Conditional Use Permit, in conjunction with Site Plan Review, to develop a Mixed Used Neighborhood Development (MUND) in accordance with the following criteria:

- A. Allowed as a Use: MUND must be identified as an allowable use for the zoning district in which the MUND would be developed, per Section 4.2 – Schedule I: Use Table of the Zoning Ordinance.
- B. Collection of Uses: The development would result in a mix of residential and non-residential uses on site. The collection of proposed uses may include only those enumerated in Section 4.2 – Schedule I: Use Table for the zoning district in which the MUND would be developed, except that multi-family residential uses will be deemed a permitted use when included as part of a MUND application. Therefore, any multi-family residential units contained within the MUND do not require a Special Exception.
- C. Required Outcome: Where the site on an application contains non-residential use, and an applicant proposes infill residential development to complement the non-residential use, or vice versa, the application may be reviewed as a MUND project. A mix of newly developed uses is not required as part of a MUND application so long as the resulting development will include a mix of uses on site.

- D. Expansions or Alterations to Previous MUND Projects: Expansions or alternations to projects previously approved as MUND projects may be reviewed under this section of the Zoning Ordinance.
- E. Design and Inclusionary Housing: Compliance with the terms of Section 6.19.4 - Inclusionary Housing and Appendix B - MUND and Standard Multi-Family Housing Design Standards is required unless some ability for relief is specifically identified in those sections.

6.19.2 Parking Requirements

- A. Minimum Parking Space Requirements
 1. For residential use, the minimum number of parking spaces shall be one space per unit regardless of the number of bedrooms.
 2. For non-residential use, the minimum requirements listed in Section 5.7.6 – Off-street Parking Schedule shall be reduced by 50%.
- B. Alternatives to Strict Compliance with Minimum Parking Requirements. The Planning Board may allow the applicant to provide up to 100% of the minimum parking requirements off-site. The applicant must demonstrate, through the use of maps and/or site plans, that the number of spaces is adequate, and access will be safe and convenient.

6.19.3 Dimensional Requirements

The dimensional requirements provided in the zoning district in which the MUND would be developed shall govern with the following exceptions. These standards are unique to MUND applications.

- A. The UC1 District
 1. Minimum front yard setback shall be zero feet.
 2. Maximum setback for a newly constructed frontage building shall be twenty-five (25) feet. The design of the frontage area shall comply with Appendix B - MUND and Standard Multi-Family Housing Design

Standards.

B. The UC2 District

1. Minimum front yard setback shall be zero feet.
2. Maximum setback for a newly constructed frontage building shall be fifty (50) feet. The design of the frontage area shall comply with Appendix B - MUND and Standard Multi-Family Housing Design Standards.

6.19.4 Inclusionary Housing

A. Purpose and Authority

1. Pursuant to the Exeter Master Plan, the Town wishes to expand housing diversity in mixed use districts in order to increase the vibrancy of these districts, stimulate the local economy, and provide access to rental and homeownership options that are not possible in other districts.
2. Pursuant to RSA 647:21, IV(a), MUND (and the associated inclusionary housing requirement) is one of many allowable uses in the zoning districts where it is offered and is therefore voluntarily pursued by an applicant. Further, consistent with the aforementioned statute, the MUND uses inclusionary housing in response to a series of incentives, including:
 - a. Maximum multi-family density in the UC1 District is 10 units per acre except for lots with frontage on Water Street within the UC1 District where the maximum density is 15 units per acre. Maximum multi-family density in the UC2 District is 15 units per acre. MUND removes these density caps and allows for parking requirements, maximum building height, and site constraints to dictate the number of allowable residential units.
 - b. Parking requirements for MUND applications are significantly reduced.

B. Restrictions on Sales and Rental Price

1. A minimum of 10% of all units proposed will be sold or rented at the prices specified herein for rental or home ownership. For the inclusionary units, the applicant may propose exclusively rental, exclusively home ownership, or some combination of the two. Units shall be calculated as whole numbers and rounded up. For example, if 22 units of housing are proposed, three units are needed to meet a minimum of 10%.
2. For home ownership, the initial sales price shall be affordable for a household with an income not more than 80% of the HUD area median income for a family of four as most recently reported by New Hampshire Housing.
3. For rental property, rental rates shall be affordable to a household with an income not more than 60% of the HUD median area income for a family of three as most recently reported by New Hampshire Housing.
4. The inclusionary housing units shall be on-site and shall be designed and constructed in a manner that makes them fully consistent in form, materials, architectural details, and internal systems with market rate units in the same development.
5. Inclusionary housing units will be sold or rented at the required level of affordability in perpetuity using a deed restriction that includes a housing agreement. The deed restriction and housing agreement the owner proposes to use shall be submitted to the Planning Board as part of the development application process. Applicants are encouraged to contact the Planning Department for guidance on the development of an acceptable housing agreement.
6. No certificate of occupancy shall be issued for an inclusionary housing unit without written confirmation of the income eligibility of the tenant or buyer of the inclusionary housing unit and confirmation of the rent or price of the inclusionary housing unit as documented by an executed lease or purchase and sale agreement.
7. On-going responsibility for monitoring the compliance with resale and rental restrictions on inclusionary housing units shall be the responsibility of the Planning Board or its designee.

8. For rental inclusionary units, the owner or his/her designee shall prepare an annual report, due on January 31, certifying that the gross rents of affordable units, the sale and resale price, and the household income of renters/buyers are in compliance with this ordinance. Such reports shall be submitted to the Planning Board or its designee. Failure to submit the annual report, or an annual report that shows non-compliance, will be treated as violations of the Zoning Ordinance.
9. Where monitoring of income levels in rental inclusionary units shows the tenant no longer qualifies based on increases in income, the next available rental unit in the development shall be rented and restricted to the income level specified in subsection B.3 (above).
10. Inclusionary housing units offered for sale and approved by the Planning Board as part of a MUND and subject to RSA 674:58-61 shall require a restrictive covenant and lien granted to the Town of Exeter. The initial value of the lien shall be equal to the difference between the fair market value of the unit and its reduced affordable sale price, which is indexed according to the qualifying income standards. The Town's lien is indexed over time at a rate equal to a consumer price index identified in the restrictive covenant and lien document. Future maximum resale limits shall be calculated as the fair market value minus the adjusted lien value and a transaction administrative fee. Subsequent sales prices are not limited based on income targets, but on the housing unit's fair market value, minus the adjusted lien value.

6.20 Residential Conversions

NO SUBSTANTIVE CHANGES

- *In the current zoning, these are located as notes beneath the Use Table.*

The conversion of existing residential buildings (principal residential structure as well as accessory structures) is allowed per Section 4.2 – Schedule I: Use Table with the following requirements.

- 6.20.1 The original building shall not be divided into more than four (4) dwelling units.
- 6.20.2 The number of spaces for off-street parking shall comply with Section 5.7 Off-Street Parking.
- 6.20.3 The structure has been a residence for a minimum of ten (10) years.
- 6.20.4 The lot must meet a minimum of twenty percent (20%) open space unless otherwise stated in Section 4.3 – Schedule II: Dimensional Regulations.
- 6.20.5 For conversions intended to become rental units, one of the dwelling units shall remain owner-occupied.
- 6.20.6 All conversions consisting of three or more units must receive Site Plan Review by the Planning Board.
- 6.20.7 Any expansion greater than 400 sq. ft. (footprint) shall require Planning Board review of the proposed site plan.
- 6.20.8 Prior to any renovations or building, the owner shall provide evidence to the Town Building Inspector that septic facilities are adequate for both units according to the standards of the Town and the New Hampshire Department of Environmental Services (Water Division). If deemed necessary by the Building Inspector, such evidence shall be in the form of certification by a State of New Hampshire licensed septic systems designer. Also, the owner shall provide evidence that there is adequate potable water according to the standards of the State of New Hampshire.

6.21 Accessory Dwelling Units

NO SUBSTANTIVE CHANGES

- *In the current zoning, these are located as notes beneath the Use Table.*

Accessory Dwelling Units must meet the following conditions, in addition to other applicable standards and conditions elsewhere in the ordinance.

- 6.21.1 The property and proposed use must conform to the dimensional requirements of a one-family lot per Section 4.3 – Schedule II: Dimensional Regulations.
- 6.21.2 No more than one accessory dwelling unit will be allowed in a detached one-family dwelling or its accessory structure.
- 6.21.3 The accessory dwelling unit shall be designed so that the appearance of the building remains essentially that of a one-family dwelling. The permitting authority may require that new entrances be located on the side or in the rear of the building.
- 6.21.4 Accessory dwelling units shall not be allowed in mobile home

- parks.
- 6.21.5 For accessory dwelling units within the principal structure, the accessory dwelling unit shall be limited to a maximum of 900 square feet or one-third of the finished floor area of the principal structure, whichever is less but in no case shall the accessory dwelling unit be restricted to less than 750 square feet in accordance with NHRSA 674:71 to :73, or as the same may be subsequently amended. For accessory dwelling units located in a detached accessory structure, the dwelling unit shall be limited to a maximum of 750 square feet.
 - 6.21.6 One of the dwelling units shall remain owner-occupied.
 - 6.21.7 Off-street paved or gravel parking shall be provided for at least four (4) vehicles. Garage and “piggy-back” parking is encouraged.
 - 6.21.8 The structure and lot shall not be converted to a condominium or any other form of legal ownership distinct from the ownership of the existing one-family dwelling. An accessory dwelling unit use shall be recorded by deed addendum at the Registry of Deeds, indicating all the terms of the approval granted.
 - 6.21.9 Prior to any renovations or building, the owner shall provide evidence to the Town Building Inspector that septic facilities are adequate for both units according to the standards of the Town and the New Hampshire Department of Environmental Services (Water Division). If deemed necessary by the Building Inspector, such evidence shall be in the form of certification by a State of New Hampshire licensed septic systems designer. The owner shall provide evidence that there is adequate potable water according to the standards of the State of New Hampshire.
 - 6.21.10 Once any renovation or construction is completed, or the owner is ready to have a unit occupied, a request must be made to the Building Inspector for an occupancy permit. There will be no occupancy of the accessory unit until the Building Inspector has issued a certificate of occupancy.
 - 6.21.11 A purchaser of a home that had a special exception granted for an accessory dwelling unit who wants to continue renting any one of the accessory units must comply with all conditions of the permit previously granted. Any change to the prior conditions will require a new application.

6.22 Retirement Planned Community

NO SUBSTANTIVE CHANGES

The following standards apply to any Retirement Planned Community.

- 6.22.1 Municipal water and sewer and underground utilities are required. Maximum density of 8 units per acre with multi-family buildings limited to a maximum of 32 units.
- 6.22.2 Multi-unit buildings may have a maximum height of 50 feet.
- 6.22.3 Structures 35 feet or less in height shall require a 100 foot setback from an existing public way. Structures exceeding 35 feet in height shall require a 200 foot setback from an existing public way.
- 6.22.4 Structures 35 feet or less in height shall require a 50 foot setback from external abutting property lines. Structures exceeding 35 feet in height shall require a 200 foot setback from external abutting properties zoned/residential and a 100 foot setback from properties zone non-residential.

6.23 Multi-Family Housing

MAJOR CHANGE

- *This section is brand new material providing more clarity on multi-family housing development.*
- *The regulations essentially divide multi-family into two categories: 1) Small-Scale and Townhouses; and 2) Standard.*
- *The first category deals with townhouse development or multi-unit housing that is constructed to resemble a larger one- or two-family structure.*
- *The second category is more “typical” multi-unit development and would be a catch-all for apartment/condominium developments that do not meet the definition of “small-scale.”*
- *Design standards for small-scale multi-family are provided in this section.*
- *Design standards for large-scale multi-family are connected to the same design standards used for Mixed Use Neighborhood Development, now in Appendix B.*

6.23.1 Purpose

The purposes of these supplementary use regulations are to:

- A. Provide housing types that are responsive to changing household demographics (e.g., retirees, young people entering the workforce, small families, single parent households, single person households, dual owner households).
- B. Provide a larger inventory of lower cost market rate

- housing.
- C. Promote neighborhood interaction and safety through design.
- D. Ensure compatibility with neighboring uses.

6.23.2 Dimensional Regulations

- A. Density of multi-family housing in the UC1 and UC2 Districts: Maximum multi-family density in the UC1 District is 10 units per acre except for lots with frontage on Water Street within the UC1 District where the maximum density is 15 units per acre. Maximum multi-family density in the UC2 District is 15 units per acre.
- B. All Multi-Family Buildings shall comply with the standards of Section 4.3 - Schedule II: Dimensional Regulations unless otherwise specified in the table below. For these uses, the minimum front and corner side yard setbacks shall be measured from the main plane of a building and shall not include any required porch or stoop.
- C. A Multi-Family Building may be developed with buildings on separate lots, a single lot, or a combination thereof. Townhouses may be developed with dwelling units or clusters of attached dwelling units on separate lots, a single lot, or a combination thereof.
- D. Small-Scale Multi-Family Buildings and Townhouses

1. The following dimensional requirements apply to individual Small-Scale Multi-Family Buildings and Townhouses:

	Townhouse	Small-Scale
Unit Area (max)	2,000 square feet	1,200 square feet
Gross Floor Area (max) ¹	N/A	5,000 square feet
Ground Story Area (max)	N/A	3,200 square feet
Front Façade Width (min/max)	16 feet/30 feet (per unit)	20 feet/50 feet
Primary Roof Pitch (min)	8:12	8:12

Other Roof Pitch (min) ²	4:12	4:12
Dormer Length (max)	50% of Roof Length	75% of Roof Length

Notes:

1. For purposes of this section, Gross Floor Area includes only the finished, livable space of a building. It does *not* include unlivable basements or accessory structures.
2. "Other Roof Pitch" applies to anything other than the primary roof, including architectural features such as dormers, porches, bays, etc.

6.23.3 Building Design Standards – Small-Scale Multi-Family Buildings and Townhouses

The following design standards shall apply to all new Townhouses and Small-Scale Multi-Family Buildings. These standards do not apply to Standard Multi-Family Buildings.

A. Entries

1. For Townhouses, each dwelling unit shall have its own individual front entry facing the right of way. Secondary entries may be placed at the side or rear, but there shall be no more than one front entry per dwelling unit.
2. Small-Scale Multi-Family Dwellings shall include no more than two entries at the front of the building, which may access shared internal circulation to access individual units. Secondary entries, both to the shared internal circulation and to individual units, are allowed so long as they are limited to side or rear elevations.

B. Porches and Stoops

1. All Small-Scale Multi-Family Dwellings and all individual Townhouse units shall have a covered porch or stoop at the front entry oriented to the right of way.
2. Front porches shall have a minimum sixty (60) square feet in area with a minimum width or length of six (6) feet.
3. Stoops shall have a minimum width or length of four (4) feet and a maximum width or length of six (6) feet.

4. A porch may extend, but is not required to extend, the full length of the front façade of a building or Townhouse dwelling unit and may also wrap around to the side of a building or an end-unit Townhouse.

6.23.4 Parking – Small-Scale Multi-Family Buildings and Townhouses

The following design standards shall apply to all new Townhouses and Small-Scale Multi-Family Buildings. These standards do not apply to Standard Multi-Family Buildings.

- A. Garages integrated into a single building design, such as ground level or subsurface basement-level parking, shall only be accessed from the rear and shall not be accessed from the front or side.
- B. Parking areas shall be located behind or to the side of the principal building on the property.
- C. Parking areas for five (5) or more cars or any travel lane that lie along a side or rear lot line shall be separated from adjacent properties by a landscaped buffer at least five (5) feet in width. This standard does not apply where the travel lane or parking area is intentionally designed to cross the property line to facilitate better circulation and/or shared parking.

6.23.5 Inclusionary Housing

- A. Purpose and Authority
 1. Pursuant to the Exeter Master Plan, the Town wishes to expand housing diversity in mixed use districts in order to increase the vibrancy of these districts, stimulate the local economy, and provide access to rental and homeownership options that are not possible in other districts.
 2. Pursuant to RSA 647:21, IV(a), Standard Multi-Family housing (and the associated inclusionary housing requirement) is one of many allowable uses in the zoning districts where it is offered and is therefore voluntarily pursued by an applicant. Further, consistent with the aforementioned statute, Exeter applies inclusionary housing to Standard Multi-Family housing with a density incentive as described below.

- a. Maximum multi-family density in the UC1 District is 10 units per acre except for lots with frontage on Water Street within the UC1 District where the maximum density is 15 units per acre. Maximum multi-family density in the UC2 District is 15 units per acre. An applicant may propose to remove these density caps through the use of inclusionary housing, allowing for parking requirements, maximum building height, and site constraints to dictate the number of allowable residential units.

B. Restrictions on Sales and Rental Price

1. A minimum of 10% of all units proposed will be sold or rented at the prices specified herein for rental or home ownership. For the inclusionary housing units, the applicant may propose exclusively rental, exclusively home ownership, or some combination of the two. Units shall be calculated as whole numbers and rounded up. For example, if 22 units of housing are proposed, three units are needed to meet a minimum of 10%.
2. For home ownership, the initial sales price shall be affordable for a household with an income not more than 80% of the HUD area median income for a family of four as most recently reported by New Hampshire Housing.
3. For rental property, rental rates shall be affordable to a household with an income not more than 60% of the HUD median area income for a family of three as most recently reported by New Hampshire Housing.
4. The inclusionary housing units shall be on-site and shall be designed and constructed in a manner that makes them fully consistent in form, materials, architectural details, and internal systems with market rate units in the same development.
5. Inclusionary housing units will be sold or rented at the required level of affordability in perpetuity using a deed restriction that includes a housing agreement. The deed restriction and housing agreement the owner proposes to use shall be submitted to the Planning

Board as part of the development application process. Applicants are encouraged to contact the Planning Department for guidance on the development of an acceptable housing agreement.

6. No certificate of occupancy shall be issued for an inclusionary housing unit without written confirmation of the income eligibility of the tenant or buyer of the inclusionary housing unit and confirmation of the rent or price of the inclusionary housing unit as documented by an executed lease or purchase and sale agreement.
7. On-going responsibility for monitoring the compliance with resale and rental restrictions on inclusionary housing units shall be the responsibility of the Planning Board or its designee.
8. For rental inclusionary units, the owner or his/her designee shall prepare an annual report, due on January 31, certifying that the gross rents of affordable units, the sale and resale price, and the household income of renters/buyers are in compliance with this ordinance. Such reports shall be submitted to the Planning Board or its designee. Failure to submit the annual report, or an annual report that shows non-compliance, will be treated as violations of the Zoning Ordinance.
9. Where monitoring of income levels in rental inclusionary units shows the tenant no longer qualifies based on increases in income, the next available rental unit in the development shall be rented and restricted to the income level specified in subsection B.3 (above).
10. Inclusionary units offered for sale and approved by the Planning Board as part of a MUND and subject to RSA 674:58-61 shall require a restrictive covenant and lien granted to the Town of Exeter. The initial value of the lien shall be equal to the difference between the fair market value of the unit and its reduced affordable sale price, which is indexed according to the qualifying income standards. The Town's lien is indexed over time at a rate equal to a consumer price index identified in the restrictive covenant and lien document. Future maximum resale

limits shall be calculated as the fair market value minus the adjusted lien value and a transaction administrative fee. Subsequent sales prices are not limited based on income targets, but on the housing unit's fair market value, minus the adjusted lien value.

6.23.6 Design Standards for Standard Multi-Family Housing
Design Standards for Standard Multi-Family Housing are located in Appendix B of this Zoning Ordinance, which is considered a component of this ordinance and may only be amended pursuant to Section 13.2.

6.24 Solar Energy Systems (SES), Ground Mounted

MAJOR CHANGE

- *This section is brand new material providing applicable permits, performance standards, and decision criteria related to ground mounted solar systems.*
- *Rooftop solar is not regulated here and remains under the control of the Building Code.*
- *The section covers everything from small accessory solar facilities generally for residential or agriculture to large-scale arrays that serve as the primary use of a lot.*

6.24.1 Ground mounted SES are allowed pursuant to Section 4.2 – Schedule I: Use Table.

6.24.2 The different scales of SES include Residential Accessory, Small, and Large. These are defined in Appendix A – Definitions.

6.24.3 Residential Accessory and Small SES

- A. Residential Accessory SES are permitted by-right as indicated in Section 4.2 - Schedule I: Use Table and may require Site Plan Review per the Town of Exeter Site Plan Review and Subdivision Regulations.
- B. Any installation of a Residential Accessory or Small SES shall comply with the dimensional requirements of Section 4.3 – Schedule II: Dimensional Regulations irrespective of any other allowances related to accessory structures.
- C. In addition to the setback requirements in Section 4.3 – Schedule II: Dimensional Regulations, a Residential Accessory SES must be set back at least fifty (50) feet from the front lot line and any public right-of-way.
- D. Small SES may only be allowed in the required front yard setback where fencing or vegetation provides screening from all public rights-of-way.
- E. The siting of any Residential Accessory or Small SES

shall be done in a manner to preclude nuisance glare to adjacent properties.

- F. The highest point of any Residential Accessory SES shall not be higher than sixteen (16) feet above grade level.
- G. The highest point of any Small SES shall not be higher than sixteen (16) feet above grade level except where a Small SES provides an intentional canopy for another accessory activity, such as parking or a gathering space. Where a canopy design is used, the height shall comply with Section 4.3 – Schedule II: Dimensional Regulations.

6.24.4 Large SES

- A. Large SES that are non-canopy installations are permitted as indicated in Section 4.2 - Schedule I: Use Table and require a Conditional Use Permit from the Planning Board whether they are a primary use or accessory to a primary use. These SES may also require Site Plan Review per the Town of Exeter Site Plan Review and Subdivision Regulations.
- B. Large SES that are canopy installations are permitted as indicated in Section 4.2 - Schedule I: Use Table and do not require a Conditional Use Permit from the Planning Board whether they are a primary use or accessory to a primary use. These SES may require Site Plan Review per the Town of Exeter Site Plan Review and Subdivision Regulations.
- C. Except where otherwise identified below, any installation of a Large SES shall comply with the dimensional requirements of Section 4.3 – Schedule II: Dimensional Regulations irrespective of any other allowances related to accessory structures.
- D. In addition to the setback requirements in Section 4.3 – Schedule II: Dimensional Regulations, a Large SES must be set back at least eighty (80) feet from the front lot line and any public right-of-way.
- E. The siting of any Large SES shall be done in a manner to preclude nuisance glare to adjacent properties.
- F. The highest point of any Large SES shall not be higher than sixteen (16) feet above grade level except where a Large SES provides an intentional canopy for another accessory activity, such as parking areas or a gathering space. Where a canopy design is used, the height shall

comply with Section 4.3 – Schedule II: Dimensional Regulations.

- G. Access and safety. A Large SES shall have adequate and permanent access from a town-accepted roadway or state highway. Reasonable accessibility for emergency service vehicles shall be required, and a means of shutting down the solar energy system connection to any utility provider interconnection shall be clearly and sufficiently marked. The applicant shall provide documentation that a public safety preparedness and response plan, detailing the standards, procedures, and communication protocol to be utilized at the facility and in the event of an emergency has been provided to and approved by the Fire Department.
- H. Buffer. For non-canopy installations, a vegetated buffer, consisting of plantings and, where relevant, earthen berms, designed to screen the installation but not impede its solar energy capture efficiency, shall be planted/installed and maintained. The minimum width of this buffer shall be ten feet. The location of the buffer shall provide a visual screen from all public rights-of-way and adjacent residential properties. The Planning Board may also consider how the topography of the site may be used to achieve this objective.
- I. Security. A fence, of at least six feet in height, shall surround the perimeter of the installation, and be secured from unauthorized entry.
- J. Land clearing. Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the Large SES.
- K. Mechanical equipment. All mechanical equipment associated with a Large SES, including but not limited to controls, energy storage devices, batteries, heat pumps, exchangers or other materials, hardware or equipment necessary to the process by which solar radiation is converted into another form of energy shall be located and enclosed within structures/fencing to prevent unauthorized access.
- L. Ground cover. Where the Large SES is located on earthen material, the ground shall be planted in a

manner that protects the soil. Pollinator plants/flowers are the preferred treatment versus grass, gravel, crushed stone or the like. However, each application shall be assessed during the site plan review process to determine the most appropriate ground cover.

- M. Utility connections. No site plan for the installation of a Large SES shall be approved until evidence has been given that the electric utility company that operates the electrical grid where the facility is to be located has been informed of the customer's intent to install an interconnected customer-owned facility, and adequate information has been submitted to the utility for review and approval.
- N. Signage. No signs are allowed on the security perimeter fencing except for a sign displaying the installation name, address and emergency contact information, and trespassing/warning/danger signs to ensure the safety of individuals who may come in contact with the installation. No sign shall exceed six square feet in area.
- O. Lighting. Lighting of solar energy facilities and appurtenant structures shall be limited to that required for safety and operational purposes.

6.24.5 Decommissioning a Ground-Mounted SES

- A. Any ground-mounted SES which has reached the end of its useful life shall be removed within 180 days from the date of discontinued operations and the owner shall send notice of the proposed date that the site will be remediated to the Planning Board by certified mail. Decommissioning shall consist of:
 1. Physical removal of all SES structures, equipment, security barriers and transmission lines from the site. The utility company the system is interconnected to must be contacted within 90 days of system de-energization to remove the transmission lines from the site.
 2. Disposal of all solid and hazardous waste in accordance with all federal, state, and local laws,

- regulations and ordinances.
3. Stabilization or revegetation of the site as necessary to minimize erosion and in compliance with all state and local laws, regulations and ordinances.

B. Failure to remove. If the owner and operator fail to remove the SES in accordance with the provisions of this section, the Town of Exeter may enter the property and physically remove the SES. The cost of such removal shall be the responsibility of the owner and operator of the SES and the Town will have all rights associated in compliance with the decommissioning agreement, including the recording of a municipal lien against the landowner in the Town's land evidence records for all costs associated therewith.

7.0 OPEN SPACE DEVELOPMENT

NO SUBSTANTIVE CHANGES to this entire section.

7.1 Purpose.

The purpose of this Open Space Development article is to encourage flexibility in design and development of land in order to promote the conservation of open space and the efficient use of land in harmony with its natural features.

7.2 Objectives

7.2.1 To stimulate imaginative and economical approaches to land use and community development.

7.2.2 To facilitate the adequate and economical provision of streets, utilities and public spaces.

7.2.3 To preserve the natural and scenic qualities of open areas.

7.2.4 To establish living areas that provide a diversity of housing opportunities while ensuring adequate standards for public health, safety, welfare and convenience.

7.2.5 To encourage the conveyance of land and easements for use by the general public for recreational and or conservation purposes, in accordance with the terms of Article 7.7.1.A General

Regulations Governing Open Space Development – Density – Bonus.

- 7.2.6 To preserve those areas of the site that have the highest ecological value, for example, wildlife habitat including rare and exemplary species and habitats, water resources, wetlands, streams and rivers.
- 7.2.7 To create a contiguous network of open spaces or “greenways” by linking the common open spaces within the subdivision and to open space on adjoining lands wherever possible.

7.3 Definitions

- 7.3.1 **Vegetated Buffer Strip:** A natural vegetated strip of land required to lessen the impact of development on neighboring communities, wetlands or other features. This land can be considered as part of the common area owned by the homeowners association or donated to the Town for access to conservation land.
- 7.3.2 **Common Area/Common Open Space:** Any parcel or area of land and/or water set aside as a result of an Open Space Development Plan. The common area is designed for the benefit and enjoyment of the residences within the development. These areas may contain utility services to be used by the owners of the common area and may, where appropriate, contain accessory structures and improvements necessary for educational, recreational, cultural, societal or other non-commercial, non-industrial and non-residential uses.
- 7.3.3 **Net Tract Area:** The area of a parcel defined as ninety percent (90%) of the total area of the parcel less all non-buildable land, including all very poorly drained soils, and seventy-five percent (75%) of any poorly drained soils as identified and regulated in the Wetland Conservation District Ordinance.
- 7.3.4 **Greenways:** A contiguous network of open space providing connectivity and movement between larger tracts of protected land.

7.4 Procedure.

An application under this article shall follow the procedures and standards of the Site Plan Review/Subdivision Regulations and applicable terms of the Zoning Ordinance.

7.5 Single Family Open Space Development

7.5.1 The minimum area for a Single-family Open Space Development shall not be less than five (5) acres of contiguous land where single family open space is permitted.

7.5.2 Single-family Open Space Development permits the planned grouping of single-family dwelling units, subject to the requirements set forth in this article.

7.5.3 A Single-family Open Space Development is permissible in the NP District and the RT District.

7.5.4 Single-family Open Space Development on individual lots shall be processed under the applicable terms of the "Site Plan Review/Subdivision Regulations". Single-family Open Space Development on a single lot shall be processed under the applicable terms of the "Site Plan Review/Subdivision Regulations".

7.6 External Boundaries:

7.6.1 Front: No building or parking area shall be within one hundred feet (100') of an existing public way.

7.6.2 Side & Rear yard: Setbacks and vegetated buffer strips shall be in accordance with the Town of Exeter's Subdivision and Site Plan Review Regulations.

7.7 Internal Dimensional Requirements:

7.7.1 Minimum internal right-of-way lot width/frontage shall be fifty feet (50').

7.7.2 Front Yard Setback: No structure shall be closer than twenty-five (25) feet from the right-of-way of a proposed street or parking area.

- 7.7.3 Detached single family units on one parcel shall be set apart from each other a minimum of twenty-five (25) feet.
 - 7.7.4 Structures shall be a minimum of fifteen (15) feet from side yard property lines and twenty (20) feet from rear yard property lines.
 - 7.7.5 Minimum Lot Size: No lot shall be less than 25,000 square feet in the NP District and 15,000 square feet in the RT District.
 - 7.7.6 Existing Open Space Development: Internal setbacks effective as of the date of the approval of any existing open space development shall be applied to future construction within the same existing open space development. (See Appendix B for table regarding internal setbacks.)
- 7.8 Multi-Family Open Space Development
- 7.8.1 Small-Scale Multi-Family Open Space Development:
 - A. The minimum area for a small-scale Multi-family Open Space Development shall not be less than five (5) acres of contiguous land and not more than 24.9 acres of contiguous land.
 - B. Density calculations for small-scale multi-family open space development shall be in accordance with Section 7.9.1 Density and Section 7.13 Yield Plan of the Site Plan Review and Subdivision Regulations. Small-scale Multi-family Open Space Development permits the planned grouping of up to five (5) attached* dwelling units per structure. On parcels proposed for development that are less than ten (10) acres in size, no more than three (3) attached dwelling units per structure are allowed. The planning board may allow additional dwelling units per structure for the purpose of conserving additional open space. Regulations regarding perimeter buffers (See Site Plan Review and Subdivision Regulation 9.6.1.2) shall apply.
 - C. A small-scale Multi-family Open Space Development is permissible in the NP and RT Districts.
 - D. Small-scale Multi-Family Open Space Development shall be processed under the applicable terms of the "Site Plan Review/Subdivision Regulations".

- E. External Boundaries:
 - 1. Front: No building, lot line or parking area shall be within one hundred feet (100') of an existing public way.
 - 2. Side & Rear: No building, lot line or parking area shall be within fifty feet (50') of an abutting property line.

- F. Internal Setback Requirements:
 - 1. Front Yard Setback: No structure shall be closer than twenty-five feet (25') from the right-of-way of a proposed street or parking area.
 - 2. Side & Rear Yard Setback: No structure shall be closer than forty feet (40') from an abutting structure.

7.8.2 Large-Scale Multi-Family Open Space Development:

- A. The minimum area for a large-scale Multi-family Open Space Development shall not be less than twenty-five (25) acres of contiguous land.
- B. A large-scale Multi-family Open Space Development shall be subject to the granting of a special exception by the Zoning Board of Adjustment, per Section 5.2 Special Exception Uses of this Zoning Ordinance.
- C. Density calculations for large-scale multi-family open space development shall be in accordance with Section 7.9.1. Density and Section 7.13 Yield Plan of the Site Plan Review and Subdivision Regulations. A large-scale Multi-family Open Space Development permits the planned grouping of a minimum of six (6) multi-family dwelling units per structure and a maximum of twelve (12) multi-family dwelling units per structure. The planning board may allow additional dwelling units per structure for the purpose of conserving additional open space. Regulations regarding perimeter buffers (see Site Plan Review and Subdivision Regulation 9.6.1.2) shall apply.
- D. A large-scale Multi-family Open Space Development is permissible in the RT District.
- E. A large-scale Multi-family Open Space Development shall be served by municipal water and sewer service.
- F. Large-scale Multi-family Open Space Development shall

be processed under the applicable terms of the “Site Plan Review/Subdivision Regulations”.

G. External Boundaries:

1. Front Yard Setback: No building, lot line or parking area shall be within one hundred feet (100') of an existing public way.
2. Side & Rear Yard Setback: No building, lot line or parking area shall be within two hundred feet (200') of an abutting property line.

H. Internal Setback Requirements:

1. Front Yard Setback: No structure shall be closer than forty feet (40') from the right-of-way of a proposed street or parking area.
2. Side & Rear Yard Setback: No structure shall be closer than fifty feet (50') from an abutting structure.

* For the purposes of this ordinance, attached “dwelling units” are defined as units separated by party walls in which no portion of a dwelling unit extends over a portion of another.

7.9 General Regulations Governing Open Space Development

7.9.1 Density: Each lot shall be of a size and shape to provide a building site that shall be in harmony with the natural terrain and other features of the land. The dwelling unit density shall be determined using a “Yield Plan” which shall be provided by the applicant and reviewed and accepted by the Planning Board prior to proposing an Open Space Development Plan. The Yield Plan is used to determine the density that is reasonably achievable under a conventional subdivision following the requirements of the Zoning Ordinance and Subdivision and Site Plan Review regulations of the Town. The dwelling unit density shall be no greater than that allowed by the Yield Plan unless the density bonus can be applied. The Planning Board shall adopt regulations that provide for the generation of a yield plan in accordance with this article.

A. Bonus: A density bonus of ten-percent (10%) of the total

allowable number of dwelling units may be granted by the Planning Board to an applicant if fifty-percent (50%) or more of the non-buildable, undeveloped, or common open space land is permanently conveyed to the Town or Conservation Commission for the benefit of the general public for recreational and/or conservation purposes. The density bonus will only be granted upon written notice by the Town or Conservation Commission of their intent to accept a deed or easement conveying an interest in fifty-percent (50%) or more of said non-buildable, undeveloped, or common open space land to the Town of Exeter or Conservation Commission.

B. Density-Bonus (Affordable Housing Sales): Density bonus of 15% above that indicated by the yield plan will be allowed for developments that will guarantee:

1. 20% of the total number of units proposed within the development (including all units allowed by density bonuses) shall be affordable as defined below*, see sections (2) and (3);
2. 15% or more of the units constructed will be sold at initial sale for a price that can be afforded by a household with an income not more than 120% of the median family income for the New Hampshire portion of the Portsmouth-Rochester NH-ME PMSA, as published by US Department of Housing and Urban Development;
3. 5% or more of the units constructed will be sold at initial sale for a price that can be afforded by a household with an income not more than 80% of the median family income for the New Hampshire portion of the Portsmouth-Rochester NH-ME PMSA, as published by US Department of Housing and Urban Development;
4. Units will be sold with deed restrictions and a recorded housing agreement that limit, for a period of 30 years renewable upon sale or transfer, the resale value of the unit to not more than the purchase price plus two times the accumulated consumer price index.
5. The unit shall be on-site.

*Affordability shall be defined as housing that can be

purchased under a conventional mortgage whereby the combined annual expenses for principal, interest, property taxes, homeowner's insurance and condominium fees (if applicable) will not exceed 30% of household income.

- C. Density-Bonus (Affordable Housing Rentals): Density bonus of 15% above that indicated by the yield plan will be allowed for developments that will guarantee:
1. Private Sector Funding – Rent to Buy Program:
 - a. 20% of the total number of units proposed within the development (including all units allowed by density bonuses) shall be affordable as defined below*, see sections (2) and (3);
 - b. 15% or more of the units constructed will be rented for a price that can be afforded by a household with an income not more than 120% of the median family income for the New Hampshire portion of the Portsmouth- Rochester NH-ME PMSA, as published by US Department of Housing and Urban Development;
 - c. 5% or more of the units constructed will be rented for a price that can be afforded by a household with an income not more than 80% of the median family income for the New Hampshire portion of the Portsmouth- Rochester NH-ME PMSA, as published by US Department of Housing and Urban Development;
 - d. Units will be rented with deed restrictions and a recorded housing agreement that limit, for a period of 30 years renewable upon each rental and in the event of sale, (Paragraph B. Density-Bonus (Affordable Housing Sales) shall govern.
 - e. The unit shall be on-site.
 2. Private Sector Funding – Rental Program
 - a. 20% of the total number of units proposed within the development (including all units allowed by density bonuses) shall be affordable as defined below*, see subsections a and b;

- b. 15% or more of the units constructed will be rented for a price that can be afforded by a household with an income not more than 100% of the median family income for the New Hampshire portion of the Portsmouth- Rochester NH-ME PMSA, as published by US Department of Housing and Urban Development;
- c. 5% or more of the units constructed will be rented for a price that can be afforded by a household with an income not more than 60% of the median family income for the New Hampshire portion of the Portsmouth- Rochester NH-ME PMSA, as published by US Department of Housing and Urban Development;
- d. Units will be rented with deed restrictions and a recorded housing agreement that limit, for a period of 30 years renewable upon each rental.
- e. The unit shall be on-site.

3. Public Sector Funding

- a. Terms and conditions of the project to be dictated by The Low Income Housing Tax Credit (LIHTC) program (HFA:109.02) selected by the developer/builder, or
- b. Term and conditions of the project to be dictated by Community Development Finance Authority (RSA 162.L) programs selected by the developer.

*Affordability shall be defined as housing that can be rented whereby the combined annual rental and utility expenses will not exceed 30% of household income.

D. Administration of Worker Housing Units (Sales or Rentals)

- 1. In the event of a unit sale or transfer the Buyer will be certified for eligibility by an agency with expertise acceptable to the Town prior to sale or transfer. A copy of said certification will be provided to the seller.
- 2. In the event of a unit rental or renewal, the Renter will be certified by an agency with expertise acceptable to the Town prior to the rental or renewal. A copy of said certification will be provided to the landlord. Rental

units cannot be sub-let by the current renter of record to a third party.

3. In the event rental units are sold Section 7.9.1. B.1.-5. Density-Bonus (Affordable Housing Sales) will govern.
4. A certification fee will be charged for each sale, transfer or rental term for a unit. The fee to be paid by the purchaser or renter of the unit as designated by the Town of Exeter.
5. The foregoing bonuses are not cumulative and no project shall receive more than a 15% overall density bonus for affordability.

The Planning Board may adopt regulations to effectuate and aid the administration of this section.

7.9.2 Non-Residential Uses:

- A. Non-residential uses may be permitted in projects of fifty (50) acres or greater, provided the Board of Adjustment grants a Special Exception finding such non-residential use complies with Article 5.2 Special Exception Uses of this Zoning Ordinance as well as the following:
 1. The total space allocated to commercial establishments shall not exceed five percent (5%) of the net tract area of the open space development.
 2. No building intended to be used in part or in whole for commercial purposes shall be constructed prior to the completion of sixty percent (60%) of the dwelling units proposed.
 3. Convenience commercial uses designed to serve the development and nearby neighborhoods shall be limited to the following shops and stores: Bakery (outlet only), bank, barber/beauty shop, food and convenience store, ice cream/sandwich shop, flower shop, laundromat, dry cleaning (pick-up only), professional office or similar uses by Special Exception. None of the above non-residential uses shall contain more than 2,000 square feet of floor area.
 4. Non-residential uses shall have access from an interior road with adequate screening and

landscaping.

5. Setback Requirements:

- a. Front: No structure or parking area shall be closer than thirty feet (30') from the internal roadway.
- b. Side & Rear: No structure or parking area shall be closer than one hundred feet (100') from residential structures.
- c. External Boundaries: the setback requirements of Section 7.6 shall apply to the separation of non-residential uses from external uses.

6. Once a certificate of completion has been issued for the commercial area, any change in use shall require approval as a Special Exception by the Zoning Board of Adjustment and a Site Plan Review/Subdivision Regulations by the Planning Board; any physical expansion of the facilities shall require approval by Special Exception from the Zoning Board of Adjustment and Site Plan Review/Subdivision Regulations by the Planning Board.

7. All non-residential uses shall be architecturally compatible with adjacent residential structures within the development.

8. Non-residential uses shall have only one indirectly lighted sign, not to exceed four (4) square feet in area. No sign shall be illuminated after 9:00 p.m.

9. Non-residential uses shall not constitute or contribute to strip development.

7.9.3 Open Space and Common Areas:

- A. A minimum of thirty percent (30%) of the land identified as "Net Tract Area" shall be set aside as common open space intended for the use and enjoyment of the residents of the development. Reasonable efforts must be made to locate common open space adjacent to protected open space in adjoining property or properties to the satisfaction of the Planning Board. This common open space shall be permanently restricted for recreation, open space and conservation uses and protected by a homeowners or condominium association. Except that

upon mutual agreement of the Town, the development and/or the homeowners or condominium association, a portion of the common open space may be permanently protected by a public body which shall maintain the land for the benefit of the general public.

B. Any non-buildable or undeveloped land not identified as part of the common open space may be protected in any of the following manners or combinations prescribed by the Planning Board:

1. A private non-profit corporation, association or other legal entity established by the applicant for the benefit and enjoyment of the residents such as a homeowners or condominium association.
2. A public body that shall maintain the land as open space for the benefit of the general public – for example, the Town.
3. A private non-profit organization which has as its purpose the preservation* of open space through ownership and control, provided, however, that the residents of the development shall have access to the common open space for appropriate recreational uses – for example, the Society for the Protection of New Hampshire Forests.

C. The Town and the property owners within the development shall be assured of enforceable rights with respect to such preservation.

D. Such common open space shall not be re-subdivided further but may contain accessory structures and improvements appropriate for educational, recreational or social uses.

E. In the event an open space development proposes, wholly or partially, the development of prime agricultural land, the Planning Board may waive the requirements of this article to provide for the protection of these lands, whereby the common open space area for the use of the residents of the development may be reduced in favor of setting aside and permanently restricting the development of these prime agricultural areas. This land may be sold, leased or protected in a fashion described in Section 7.9.3.B 1-3 and permanently restricted for agricultural uses, subject to

the approval of the Planning Board.

- F. The developer shall submit, prior to final approval, such legal instruments as the Planning Board may require so as to prescribe the manner of ownership, maintenance and obligations of the developer and future residents, including the articles of incorporation and charter in a form and manner approved by the Board necessary to insure the intent and purpose of this article.
- G. In the event the party entrusted with ownership of the open space within the development shall fail to maintain such open space in a reasonable order and condition, the Town may, through court action, be authorized to assess the costs incurred by the municipality to maintain this open space against the owners as a lien on their properties.
- H. Should the organization managing said open space dissolve, all assets shall be turned over to the public or a non-profit organization dedicated to the preservation of open space. Any such transfer shall be approved by the Planning Board.

* Preservation defined in the general sense, which includes the word, "conservation".

7.9.4 Diversity and Mix: A diversity of housing types (i.e. single family and multi-family) is permitted and encouraged. For developments involving both single family and multi-family dwelling units, the standards of Section 7.5 Single Family Open Space Development and Section 7.8 Multi-Family Open Space Development must be adhered to for each type of development.

7.9.5 Utilities: All electrical, telephone and other utilities shall be located underground.

7.9.6 Allowance for Lots Separated by a Municipal Trail: Parcels separated by a municipal trail right-of-way may be considered contiguous land. All applicable setbacks from public rights-of-way (ROW) shall still apply.

8.0 HISTORIC DISTRICT

NO SUBSTANTIVE CHANGES

8.1 General Administrative

The Town, by the authority granted under NH RSA §674:46, established a Historic District Commission on June 8, 1970.

8.1.1 Membership: The Commission shall consist of seven members appointed by the Selectmen. One of the seven members shall be a Selectman and one shall be a member or an alternate member of the Planning Board, each appointed for a one-year term. Remaining members will be appointed for three-year terms: the initial terms of such members shall be staggered so that no more than three appointments occur annually, except when required to fill vacancies. Selectmen shall appoint four alternate members to serve terms of three years: the initial terms of alternate members shall be staggered so that no more than two appointments occur annually, except when required to fill vacancies.

8.2 Purpose And Intent

8.2.1 The purposes of the Historic District Commission of Exeter are:

- A. To safeguard the heritage of the Town as it is represented in structures of historical and architectural value located, or which may be located, in an historic district;
- B. To preserve and reflect elements of the community's architectural, cultural, social, economic and political history;
- C. To conserve property values;
- D. To foster civic pride; and
- E. To promote use of an historic district for the education, pleasure and welfare of the citizens of Exeter.

8.2.2 The intent of the Downtown Historic District is to preserve the scale and unique character of Exeter's downtown, while permitted new construction of a size, scale and design that will be in harmony with the old. It is intended that the Water Street commercial area retain and enhance its commercial character, and that residential portions of the districts retain their residential qualities.

8.3 Scope of Review

8.3.1 Activities Requiring Review: It shall be unlawful for any person to construct, alter, modify, repair, move or demolish any building, structure or improvement which lies within a Historic District without first obtaining a Certificate of Approval from the Historic District Commission, or in the case of a project of minimal impact, the Code Enforcement Officer and the Deputy Code Enforcement Officer, in the manner prescribed in this section.

8.3.2 Exempt Activities: The following activities are not subject to review under this section:

A. Ordinary maintenance, repair and/or replacement of any architectural feature which does not involve a change in design, materials or outer appearance.

8.3.3 Projects of Minimal Impact: For the purpose of this section, the following activities shall be considered to be projects of minimal impact and shall be reviewed and approved, conditionally approved or disapproved by the Code Enforcement Officer and the Deputy Code Enforcement Officer prior to the issuance of any building or demolition permit:

A. Erection, construction or repair of a fence or shed provided the following criteria are met:

1. The exterior design, arrangement, texture and materials are compatible with the existing building or structure or if new construction, the surrounding area.
2. The scale and general size of the building or structure is compatible with the existing surroundings.
3. All proposed chain link fencing (except in-kind replacement) shall be considered a Major Impact and require Historic District Commission approval.
4. Sheds shall be placed fully behind the principal structure and be 200 square feet or less to be considered as a minimal impact.
5. Alteration, including landscaping, grading, excavating, and/or paving of a site, provided that the following criteria are met:

a. Parking areas, wherever possible, should be

placed to the rear of buildings. Parking areas, wherever visible from the street, shall be screened by planting beds or hedges. Fences and low stone walls are also acceptable as long as they have plantings in front of them. All hardscape features shall be considered a major impact and be reviewed by the Historic District Commission. Hardscape includes landscaping details such as stone or concrete walkways, decks, retaining walls, patios, and other landscaping designs that use stone, wood, pebbles, brick, metal, and other similar materials.

- b. Where appropriate and at the discretion of the Code Enforcement Officer, alterations of a site may be reviewed by the Chair of the Historic District Commission or his/her designee.

B. Erection, alteration, or replacement of a sign(s), provided the proposed signage adheres to the following criteria:

1. Signs shall fit within existing features of the facade. On most buildings, lintels or bands of decorative moldings create natural frames for signs.
2. Projecting signs shall align with some horizontal element on the facade (i.e., top of sign aligns with top of window; bottom of sign aligns with bottom of window; bottom of sign aligns with top of lintel). Where possible, signs shall be aligned with other signs on adjacent buildings. Projecting signs shall be supported by black iron attachments to the building unless already existing and not being altered.
3. Guy wires shall not be permitted as a principal sign support member. No support for the projecting sign shall extend above the cornice to which it is attached.
4. Internally lighted signs shall be prohibited. Only shielded, indirectly lighted signs shall be permitted.
5. Materials, such as wood, glass, bronze, MDO plywood, high density urethane or iron shall be used. Plastic (visible), aluminum, and vinyl (except lettering) shall be considered a Major Impact and are prohibited unless it can be demonstrated the

Historic District Commission that their use is historically consistent with the architecture of the building.

6. Signs within the historic district shall comply with the provisions of Section 5.8.7 and Section 5.8.8 of this ordinance, its successors or amendment ordinance.

- C. Essential outdoor mechanical equipment (ducts, fans, solar panels, etc.) provided they are installed in locations which create the least disturbance to the historical appearance of the building and which involve the minimum alteration to its structural integrity. Any outdoor mechanical equipment that will be visible from a public right-of-way shall be considered a Major Impact and be reviewed by the Historic District Commission.

At the discretion of the Code Enforcement Officer, any application for a project of minimal impact that is not in clear conformance with the above-outlined guidelines shall be referred to the Historic District Commission for review and action.

The Code Enforcement Officer and the Deputy Code Enforcement Officer shall have the final authority to approve, conditionally approve or disapprove applications for projects of minimal impact. However, if the Code Enforcement Officer and the Deputy Code Enforcement Officer are not in full agreement about the disposition of the application, the application shall be forwarded to the Historic District Commission for full review and action. Furthermore, the decision of the Code Enforcement Officer and the Deputy Code Enforcement Officer may be appealed to the Historic District Commission provided that notice of the appeal is filed within thirty (30) workdays of the staff's decision.

- 8.3.4 Projects of Major Impact. Development activity not specifically listed as an exempt activity or as a project of minimal impact shall be considered a project of major impact and shall go through the review process of the Historic District Commission as outlined in the subsections below.

8.4 Authority to Adopt Regulations

The Historic District Commission, after notice and public hearing, may adopt such regulations regarding its procedures in hearing and processing applications and statements of policy as required by NH RSA §31:89-e as it shall deem fit and shall compile such regulations in printed form to be available to applicants and citizens of the Town.

8.5 Appeals

Any person or persons jointly or severally aggrieved by a decision of the Historic District Commission shall have the right to appeal that decision to the Zoning Board of Adjustment within thirty (30) days of the decision being rendered. Any person or persons jointly or severally aggrieved by a decision of the Code Enforcement Officer and the Deputy Code Enforcement Officer shall have the right to appeal that decision to the Historic District Commission within thirty (30) days of the decision being rendered.

8.6 Administration, Enforcement, and Limitation

8.6.1 These articles shall be administered by the Commission, the Code Enforcement Officer and the Deputy Code Enforcement Officer and such other lawfully empowered officers of the Town.

8.6.2 In addition to all others lawfully entitled to enforce these articles, the Historic District Commission is empowered to enforce them in accordance with NH RSA §674:46.

8.6.3 Nothing in these articles shall be construed to prevent ordinary maintenance or repair of any structure or place within any historic district, nor to prevent the construction, alteration, repair, moving or demolition of any structure under a permit issued by the Building Inspector or other duly delegated authority prior to the establishment of any such district.

8.7 Districts

8.7.1 Front Street Historic District: On June 10, 1971, the Town voted to establish the Front Street Historic District that is bound as follows:

At a point beginning at the centerline of Spring Street at the junction of Front Street, thence running northerly along said Spring Street to a point at the centerline of Water Street at

the junction of Spring and Water Streets, thence turning and running in a southeasterly direction along said Water Street to a point at the junction of Water and Front Streets, thence turning and running southerly to a point at the junction at Lincoln and Front Street. This district shall include all properties on both sides of Front Street to the property line or 200 feet from the curb line, whichever comes first. Also included in this district is Gale Park and the Moses Kent House. The Historic District shall include all lands within the bounds as set forth by these boundaries.

- 8.7.2 Downtown Historic District: The Downtown Historic District is bounded as follows (boundaries identical to those voted by the Town on March 20, 1978):

An area beginning at the centerline of Water Street where it intersects with Main Street, then runs easterly along the centerline of Water Street and High Street to the intersection with Portsmouth Avenue, and includes all portions of all properties with frontage on these portions of Water Street and High Street not already included in the so-called "Front Street" Historic District established on June 10, 1971, to a depth of 200 feet from the curb line or the rear property line, whichever comes first; and the district includes all land between Water Street and the banks of the Exeter and Squamscott Rivers, and the Exeter and Squamscott Rivers from a line connecting Jady Hill Avenue to a point on the Swasey Parkway 200 feet from its intersection with Water Street, to a line 200 feet southeasterly of the High Street bridge, including Kimball's Island; the district includes an area beginning at the intersection of Pleasant Street with High Street and running northerly along Pleasant Street and Chestnut Street to its intersection with Chestnut Hill Avenue, then proceeding southwesterly along Chestnut Hill Avenue to its intersection with Water Street and including all properties with frontage on the above portions of Pleasant Street and Chestnut Street to a depth of 200 feet from the curb line or the rear property line, whichever comes first, and all property that fronts on Chestnut Hill Avenue between Chestnut Street and the easterly bank of the river to a depth of 50 feet and all properties lying between said portion of Pleasant and Chestnut Streets and the Exeter/Squamscott Rivers. The

District is intended to specifically include the properties from 1 – 35 High Street, and 2 – 30 High Street, and the properties fronting on Gilman Lane within 200 feet of High Street, and properties at No. 1 and No. 2 – 24 Franklin Street, and the properties at 11 – 13 Chestnut Street. The District is also described on an excerpt from the Exeter Tax Map entitled “Downtown Historic District,” dated January 30, 1978.

- 8.7.3 High Street Historic District: The High Street Historic District is bounded as follows (boundaries identical to those voted by the Town on March 14th, 2006):

An area beginning at the centerline of High Street where it intersects with Portsmouth Avenue, thence running easterly along the centerline of High Street to the intersection of Ridgewood Terrace, and includes all portions of all properties with frontage on these portions of High Street to a depth of 200 feet from the curb line or the rear property line, whichever comes first; and the district includes an area beginning at the intersection of High Street and Rocky Hill Road and running northerly along Rocky Hill Road to the end of Rocky Hill Road, and includes all portions of all properties with frontage on these portions of Rocky Hill Road to a depth of 200 feet from the curb line or the rear property line, whichever comes first. The District is intended to specifically include the properties from 46 – 176 High Street and 39 – 175 High Street, and the properties from 3 – 5 Rocky Hill Road and 2 Rocky Hill Road.

- 8.7.4 Additional Historic Districts: This article shall be applicable to such additional historic districts as may be established by vote of the Town.

8.8 Standards and Extent

- 8.8.1 Jurisdiction of these articles extends to all structures not owned by the Town of Exeter, the State of New Hampshire, or the United States government and located in whole or in part within the boundaries of the District. Other subjects covered by the ordinance include, but are not limited to: signs, landscape features, fences, street furniture, and other factors affecting the character of the streetscape.

8.8.2 Changes or additions to structures and appurtenances, including those described in this paragraph, in the historic districts shall be permitted by written approval of the Historic District Commission after review of the following criteria.

- A. New Building and Structures: New construction shall be evaluated on the basis of its compatibility with existing structures and overall effect on the historic character of the district.
- B. Existing Buildings: The exterior of existing buildings (front, sides and rear visible within the Historic District) may be maintained as is. If there are to be changes, it shall be to maintain or reestablish their basic appearance as of the time of construction, or to another period when the façade attained architectural significance. No significant architectural details may be removed or changed without a Certificate of Approval from the Historic District Commission. Synthetic siding materials shall not be used to cover or replace existing architectural features, unless approved by the Historic District Commission. Contemporary design treatment may be deemed appropriate where previous modifications have removed significant architectural features and on the rear of structures along the Squamscott River. Exterior maintenance and repairs (including but not limited to, painting and staining) are not within the jurisdiction of the Historic District Commission providing surface preparation and repairs do not alter, damage or deface existing architectural elements. Parties interested in promoting the spirit and intent of the District are encouraged to come before the Commission for informal guidance in the selection of historically appropriate colors or details.
- C. Specific Design Considerations. All applications shall be judged on the following criteria:
 - 1. Proportions of facades (scale, massing of elements).
 - 2. Proportions of openings within the façade.
 - 3. Rhythm of solids to voids within the façade.
 - 4. Rhythm of spacing of buildings on street or along roads or pathways.

5. Percent of lot coverage and setback relative to adjacent structures.
6. Size and rhythm of projections.
7. Relationship of materials to existing adjacent structures.
8. Relationship of texture.
9. Relationship of color of pre-finished or natural materials.
10. Relationship of architectural details.
11. Relationship of roof configurations and slopes.
12. Relationship of landscaping.
13. Such other criteria as the Commission may promulgate by regulation proximal to the authority granted in Section 8.3 Scope of Review.

- D. Scale: Story heights of new construction or additions to existing buildings shall not be ten percent (10%) over, or under, the average height of adjacent buildings (within a 250-foot radius of the center of the parcel).
- E. Marina Facilities: Those marina facilities constructed on or over the water shall be of predominantly wooden construction; however, modern engineering methods and treated materials may be used.
- F. Demolition, Removal or Relocation: No structure or portion of any structure shall be demolished, removed, or relocated within the district without the approval of the Commission.
- G. Signs: Signs within the historic district shall comply with the provisions of Section 5.7.7 and Section 5.7.8 of this ordinance, its successors or amendment ordinance.

8.9 General Policy

The Historic District Commission in making decisions shall apply the above paragraphs and consider the Downtown Master Plan, and the Secretary of the Interior's Guidelines for Rehabilitation of Historic Structures.

9.0 NATURAL RESOURCE PROTECTION

9.1 Wetlands Conservation District

NO SUBSTANTIVE CHANGES

9.1.1 Purpose and Intent: The purpose of the Wetlands Conservation District is to protect the public health, safety, and general welfare of the community by promoting the most appropriate use of land and the protection of wetland ecosystems and water quality in accordance with the goals and objectives of the most recent Exeter Master Plan. It is intended that this article shall:

- A. Prevent the development of structures and land uses on wetlands and wetland areas of very poorly drained soils and poorly drained soils and/or their buffers which will contribute to pollution of surface and groundwater by sewage or toxic substances, excess nutrients or sedimentation;
- B. Prevent the destruction of, or significant changes to, those wetland areas, related water bodies, and adjoining land which provide flood protection;
- C. Protect wetland systems that provide filtration of water flowing into ponds and streams, augment stream flow during dry periods and which connect to the ground or surface water supply;
- D. Protect wildlife habitats, maintain ecological function and support other public purposes such as those cited in NH RSA §482-A:1 and as amended from time to time;
- E. Protect potential water supplies and existing aquifers (water bearing stratum) and aquifer recharge areas;
- F. Prevent unnecessary or excessive expense to the Town for the purpose of providing and/or maintaining essential services and utilities which might be required as a result of development in wetlands; and
- G. Prevent damage to structures and properties caused by inappropriate development in wetlands.

9.1.2 Applicability: All proposed development, removal of vegetation, and alteration/disturbance of the land including but not limited to drainage, wastewater disposal system, wells and other utilities within the wetlands conservation overlay district is subject to this ordinance.

9.1.3 Boundaries and Setbacks: The Wetlands Conservation Overlay District includes:

- A. Surface waters of the State.

- B. Wetlands of any size including but not limited to swamps, bogs, marshes, ponds, lakes, and vernal pools.
- C. Inland streams shown on USGS 7.5 minute 1:24,000-scale topographic maps, including intermittent streams.
Note: Additional restrictions and setbacks apply if within Exeter Shoreland Protection District, Article 9.3.
- D. Man-made drainage structures including but not limited to detention ponds, retention ponds, and drainage swales shall not be considered part of the Wetlands Protection Overlay District.
- E. A wetland buffer area comprised of all land parallel to and measured from the edge of the wetland boundary on a horizontal plane to a width defined below:

Wetland Category	Projects Not Requiring Site Plan or Subdivision Application		Projects Requiring Site Plan or Subdivision Application		
	Limited Use Buffer including Parking and Structures	Wastewater System Setback	Limited Use Buffer	Parking and Structure Buffer	Wastewater System Setback
Prime Wetland As identified in the 2005 Prime Wetland Report	100'	125'	100'	125'	125'
Vernal Pool	75'	100'	75'	100'	100'
Exemplary Wetlands *As designated by the NH	50'	75'	50'	75'	75'
Wetlands with Very Poorly Drained (VPD) Soils	50'	75'	50'	75'	75'
Wetlands with Poorly Drained	40'	75'	40'	75'	75'

Inland Streams (including intermittent)	25'	75'	25'	75'	75'
---	-----	-----	-----	-----	-----

- F. **Boundary Appeals:** In the event that the Building Inspector, the Planning Board, or the Conservation Commission questions the validity of the boundaries of a wetland area on a specific parcel of land, or upon written petition of the owner or any abutter of the said property to the Planning Board, the Board may call upon the services of a scientist qualified to delineate wetlands in accordance with the standards and criteria specified in 9.1.4.J Wetlands Delineation in order to examine said area and report the findings to the Planning Board for their determination of the boundary. Expenses incurred in retaining these services shall be paid by the landowner.

9.1.4 Definitions:

- A. **Buffer:** The protected upland areas adjacent to all systems described within the Wetlands Conservation Overlay District. This area acts as essential maintenance and protection of wetland value and function.
- B. **Certified Wetlands Scientist:** A person qualified to delineate wetland boundaries and prepare wetland maps who is certified by the State of New Hampshire Board of Natural Scientists, as defined by RSA 310-A:76, II-A and as amended from time to time.
- C. **Development:** Any human-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading excavation or drilling activities.
- D. **Exemplary Wetlands:** The NH Natural Heritage Bureau tracks "exemplary" natural communities including wetlands. To qualify as exemplary, the wetland in a given place must be of a rare type, or must be a very old occurrence of a common community in good condition.
- E. **Limited Use Buffer:** Uses within this buffer area are restricted to permitted or conditionally permitted uses

through these regulations. Any modification not specifically identified as permitted or conditionally permitted, is considered prohibited.

- F. Prime Wetlands: Those areas designated Prime Wetlands in accordance with RSA 482-A:15, and the NH Code of Administrative Rules Env-Wt 700, and as amended from time to time.
- G. Setback: Distance from the wetland boundary, within which a use is prohibited. Any zoning board action to authorize a use within a setback is still subject to a conditional use permit from the Planning Board.
- H. Surface Waters of the State: Pursuant to RSA 485-A:2.XIV and as amended from time to time, perennial and seasonal streams, lakes, ponds, and tidal waters within the jurisdiction of the state, including all streams, lakes, or ponds bordering on state, marshes, water courses, and other bodies of water, natural or artificial.
- I. Vernal Pool: A body of water, typically seasonal, that provides essential breeding habitat for certain amphibians and invertebrates, does not support viable fish population, and meets the criteria established by the New Hampshire Fish and Game Department, Nongame and Endangered Wildlife Program, *Identification and Documentation of Vernal Pools in New Hampshire*, rev 2004 and as defined in accordance with the NH Code of Administrative Rules Env Wt-100 as subsequently amended.
- J. Wetland: Pursuant to RSA 482-A:2.X and as amended from time to time, an area that is inundated or saturated by surface or groundwater 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. They include, but are not limited to, swamps, bogs, marshes, ponds, lakes, and all such areas as included in the jurisdictional definition of the New Hampshire Wetlands Board Administrative Rules, Chapter Wt 100 as subsequently amended.
- K. Wetland Delineation: Wetlands shall be delineated on the basis of hydrophytic vegetation, hydric soils, and wetlands hydrology, delineated in accordance with Env-Wt 301.01 and as amended from time to time, and whether any wetlands are designated as prime wetlands in accordance with RSA 482-A:15 and as amended from time to time.

9.1.5 Permitted Uses: The following uses, to the extent permitted in the underlying zoning district, shall be permitted in the Wetlands Conservation Overlay District as specified, provided that the proposed use will not cause increases in surface or groundwater contamination, contribute to soil erosion, or cause a degradation of the wetland.

- A. Agriculture, including grazing, hay production, truck gardening and silage production provided the activity does not impact a prime wetland's 100' buffer.
- B. Forestry and tree farming to include the construction of access roads for said purpose provided that the activity does not impact a prime wetland's 100-foot buffer.
- C. Wildlife habitat development and management.
- D. Recreational uses consistent with the purpose and intent of this article.
- E. Conservation area and nature trails.
- F. The construction of well water supplies.
- G. Elevated, uncovered decks attached to an existing structure, free-standing gazebo or garden-type structures, and storage sheds not exceeding 120 s.f. in size when elevated on blocks, sonatubes or similar footing provided they maintain a minimum ten-foot (10') setback from the edge of wetland.
- H. Native, non-invasive plantings such as trees and shrubs.
- I. Projects that reduce impervious surfaces while ensuring the protection of the wetland buffer through erosion and sediment control best management practices as reviewed and approved by the Planning Department.
- J. Projects that re-vegetate or re-vitalize in some way an already disturbed buffer zone as reviewed and approved by the Planning Department.

9.1.6 Conditional Uses:

- A. Conditional Use Permit: Under the enabling authority granted by NH RSA §674:21 II and as amended from time to time, the following uses are only permitted in the Wetlands Conservation Overlay District pursuant to the issuance of a conditional use permit by the Planning

Board. Before the Planning Board undertakes a conditional use review, the applicant shall make application, on forms provided in the Planning Department, to the Conservation Commission for review and comment. The application shall document the degree of permanent and temporary impact and detail how the conditions listed in Section 9.1.6.B below are met. The Planning Board shall consider the comments or recommendations from the Conservation Commission prior to acting upon a Conditional Use Permit.

1. Site development such as but not limited to construction of roads and other access ways, parking areas, utilities, structures, drainage systems, water impoundment and other site improvements that impact the Wetlands Conservation Overlay District.
2. Agricultural activities within the 100' prime wetland buffer including grazing, hay production, truck gardening and silage production in accordance with best management practices.
3. Forestry and tree farming within the 100' prime wetland buffer when conducted consistent with the best management practices as published by the NH Department of Natural and Cultural Resources and NH Cooperative Extension.

B. Conditions: Prior to issuance of a conditional use permit, the Planning Board shall conclude and make a part of the record, compliance with the following criteria:

1. That the proposed use is permitted in the underlying zoning district.
2. No alternative design which does not impact a wetland or wetland buffer or which has less detrimental impact on the wetland or wetland buffer is feasible.
3. A wetland scientist has provided an impact evaluation that includes the "functions and values" of the wetland(s), an assessment of the potential project-related impacts and concluded to the extent feasible, the proposed impact is not detrimental to the value and function of the wetland(s) or the greater hydrologic system.

4. That the design, construction and maintenance of the proposed use will, to the extent feasible, minimize detrimental impact on the wetland or wetland buffer.
5. That the proposed use will not create a hazard to individual or public health, safety and welfare due to the loss of wetland, the contamination of groundwater, or other reasons.
6. The applicant may propose an increase in wetland buffers elsewhere on the site that surround a wetland of equal or greater size, and of equal or greater functional value than the impacted wetland.
7. In cases where the proposed use is temporary or where construction activity disturbs areas adjacent to the immediate use, the applicant has included a restoration proposal revegetating any disturbed area within the buffer with the goal to restore the site as nearly as possible to its original grade and condition following construction.
8. That all required permits shall be obtained from the New Hampshire Department of Environmental Services Water Supply and Pollution Control Division under NH RSA §485-A: 17, the New Hampshire Wetlands Board under NH RSA §483-A, and the United States Army Corps of Engineers under Section 404 of the Clean Water Act.

9.1.7 Prohibited Uses: In reviewing an application for a variance from the provisions of this subsection, the Zoning Board of Adjustment may request that the Conservation Commission and/or the Planning Board review the application and provide written comment as to the potential impacts the proposed use may have on wetlands and wetland buffers. The following uses are not permitted in the Wetlands Conservation Overlay District, notwithstanding that they may be permitted in the underlying zoning district:

- A. Salt storage
- B. Automobile junkyards
- C. Solid or hazardous waste facilities
- D. Use of fertilizer on lawns, except lime or wood ash
- E. Bulk storage or handling of chemicals, petroleum products, underground tanks, hazardous materials, or

toxic substances as defined under NH RSA 147-A2, VII and as amended from time to time.

- F. Snow storage, unless in accordance with NH Department of Environmental Services Snow Disposal Guidelines (Document WMB-3, 2007)
- G. Sand and gravel excavations
- H. Processing of excavated material
- I. Any use not specifically listed as a permitted or conditional use.

9.1.8 Lot Size Determination:

- A. Areas defined as jurisdictional wetlands in this article may be used to satisfy up to twenty-five percent (25%) of the minimum lot size required by the zoning ordinance, provided that the remaining lot area is sufficient in size and configuration to accommodate adequately all required utilities such as sewage disposal and water supply, and will accommodate permitted structures and lot access.
- B. No open bodies of water may be used to satisfy minimum lot sizes.
- C. The twenty-five percent (25 %) limitation of this section may be increased up to fifty percent (50%) for minimum sized lots in the NP District that are served by municipal water and sewer, provided all setbacks are adhered to.

9.1.9 Wetland Boundary Markers: The Planning Board or Conservation Commission may require wetland boundaries or the WCOD, to be marked with an identifiable permanent marking system when adjacent to proposed developed areas.

9.1.10 Non-Local Permits: Notwithstanding the provisions of this article or local approval of proposed uses, any permits required by the New Hampshire Department of Environmental Services Water Supply and Pollution Control Division under NH RSA §485-A:17, the New Hampshire Wetlands Board under NH RSA §482-A, or the United States Army Corps of Engineers under Section 404 of the Clean Water Act shall be obtained prior to the use or alteration of wetlands. Separate local approval of regulated uses in wetlands shall be required irrespective of obtaining non-local permits.

- 9.1.11 Enforcement: Any wetlands altered in violation of this article shall be restored at the expense of the violator(s) as provided by NH RSA §482-A. The Code Enforcement Officer shall be responsible for the enforcement of the provisions of this ordinance.

9.2 Aquifer Protection District Ordinance

NO SUBSTANTIVE CHANGES

- 9.2.1 Administration: The provisions of the Aquifer Protection District shall be administered by the Planning Board. All development proposals, other than single-family residential construction not involving the subdivision of land, shall be subject to subdivision and/or site plan review and approval in accordance with Planning Board rules and regulations. Such review and approval shall precede the issuance of any building permit by the Town.
- 9.2.2 Purpose: The Aquifer Protection Overlay District (A) is designed to protect, preserve and maintain potential ground water supplies and related ground water recharge areas within a known aquifer identified by the Town. The objectives of the district are:
- A. To protect the public health and general welfare;
 - B. To promote future growth and development, in accordance with the Master Plan, by ensuring the future availability of public and private water supplies;
 - C. To encourage uses that can appropriately and safely be located in the aquifer recharge areas;
 - D. To control development and land-use practices that may detrimentally affect the quality of the groundwater contained in the aquifer by directly contributing to pollution or by increasing the long-term susceptibility of the aquifer to potential pollutants;
 - E. To ensure that any proposed use will not cause a significant reduction in the long-term volume of water contained in the aquifer or in the storage capacity of the aquifer;
 - F. To ensure against discharge of wastewater on site other than that typically discharged by domestic wastewater disposal systems, and against on-site storage or disposal

of toxic or hazardous wastes as herein defined.

9.2.3 General Regulations:

A. District Boundaries:

1. The Aquifer Protection overlay district is defined as the area(s) delineated and labeled “Aquifer Protection Overlay District” (A) on the official zoning map of the Town of Exeter. Source document: Geologic and Groundwater Quality Data for Stratified Drift Aquifers in the Exeter, Lamprey and Oyster River Basins, Southeastern New Hampshire, published by the U.S. Geological Survey.
2. For the purposes of this ordinance, the primary recharge area for an identified aquifer is considered to occupy the same area as the aquifer.
3. Appeals: Where the bounds of the identified aquifer or recharge area, as delineated, are in doubt or in dispute, any landowner aggrieved by such delineation may appeal the boundary location to the Planning Board. Upon receipt of such appeal, the Planning Board shall suspend further action on development plans related to the area under appeal and shall engage, at said landowner’s expense, a qualified hydrogeologist to prepare a report determining the proper location and extent of the aquifer and recharge area relative to the property in question. The aquifer delineation shall be modified by such determination subject to review and approval by the Planning Board.

B. Design and Operation Guidelines: Where applicable, the following design and operation guidelines shall be observed within the Aquifer Protection District:

1. Safeguards: Provision shall be made to protect against toxic or hazardous materials discharge or loss resulting from corrosion, accidental damage, spillage, or vandalism through measures such as, but not limited to: spill control provisions in the vicinity of chemicals or fuel delivery points; secured storage areas for toxic or hazardous materials; and indoor

storage provisions for corrodible or dissolvable materials. All fuel storage shall comply with NH Administrative Rule W.S. 411, notwithstanding exemptions provided therein. For operations that allow the evaporation of toxic or hazardous materials into the interiors of any structure, a closed vapor recover system shall be provided for each such structure to prevent discharge of condensate into the groundwater.

2. Location: Where the premises are partially outside of the Aquifer Protection Overlay Zone, potential pollution sources such as on-site waste disposal systems shall be located outside the Zone to the extent feasible.
3. Drainage: All runoff from impervious surfaces shall be recharged on the site, and diverted toward areas covered with vegetation for surface infiltration to the extent possible. Dry wells shall be used only where other methods are not feasible, and shall be preceded by oil, grease, and sediment traps to facilitate removal of contaminants.

C. Use Regulations:

1. Minimum Lot Size: The minimum lot size within the Aquifer Protection District for each dwelling unit if a residential use, or each principal building if a non-residential use, shall be three (3) acres or 130,680 square feet except for lots served by the municipal sewer system, in which case the minimum lot size for the underlying district shall apply.
2. Hydrogeologic Study:
 - a. Site Plan: For multi-family, commercial, or industrial development proposals within, or partially within, the Aquifer Protection District (A), a hydrogeologic study shall be performed by a registered hydrogeologist. This study shall evaluate the development's impacts on groundwater within both the parcel to be developed and the surrounding land. The groundwater quality beyond the property lines of

said site shall not be degraded by polluting substances such as nitrates, phosphates, bacteria, etc. Larger lots may be required based on findings of said study.

- b. Subdivision: For single-family subdivision proposals of four (4) lots or greater, within the Aquifer Protection District (A), a hydrogeologic study shall be performed by a registered hydrogeologist.
 - c. For subdivisions of three (3) lots or less, the Planning Board will determine, on a case-to-case basis, the need for a hydrogeologic study. Particularly sensitive sites may include areas that have septic systems in close proximity to wells, or may contain excessively drained soils or steep slopes.
3. Maximum Lot Coverage: Within the Aquifer Protection District (A), no more than ten percent (10%) of a single lot, may be rendered impervious to groundwater infiltration. Where the requirements of Section 4.3 – Schedule II may be more restrictive, those requirements shall govern.
 4. Septic System Design and Installation: In addition to meeting all local and state septic systems siting requirements, all new on-lot wastewater disposal systems installed in the (A) district shall be designed by a Sanitary Engineer Licensed in New Hampshire. These systems shall be installed under the supervision of said engineer who shall perform a basal area inspection, in person, as part of said supervision.
- D. A designated agent of the Town shall inspect the installation of each new system prior to covering, and shall certify that the system has been installed as designed.
 - E. Septic systems are to be constructed in accordance with the most recent edition of the “Guide for the Design, Operation and Maintenance of Small Sewage Disposal Systems” as published by the New Hampshire Water Supply and Pollution Control Division.
 - F. However, the following more stringent requirements shall apply to all septic systems construction:

1. At least twenty-four inches (24") (rather than six inches) of natural permeable soil above the seasonal high water table.
 2. Four feet (4') (rather than three feet) of natural soil above bedrock.
 3. Standards for fill material: Fill materials consisting of organic soils or other organic materials such as tree stumps, sawdust, wood chips and bark, even with a soil matrix, should not be used.
- G. The in-place fill should have less than fifteen percent (15%) organic soil by volume.
- H. The in-place fill should not contain more than twenty-five percent (25%) by volume of cobbles (six-inch diameter).
- I. The in-place fill should not have more than fifteen percent (15%) by weight of clay size particles (0.002m and smaller).
- J. The fill should be essentially homogeneous. If bedding planes and other discontinuities are present, detailed analysis is necessary.
- K. Prohibited Uses: The following uses are prohibited in the Aquifer Protection Zone:
1. Disposal of solid waste.
 2. Storage and disposal of hazardous waste.
 3. Disposal of liquid or leachable wastes except that from one or two-family residential subsurface disposal systems, or as otherwise permitted as a conditional use.
 4. Industrial uses that discharge contact type process waters on-site. Non-contact cooling water is permitted.
 5. Outdoor unenclosed storage or use of road salt or other de-icing chemicals, except by duly authorized municipal employees on municipally maintained roads in the performance of their duties.
 6. Dumping of snow containing de-icing chemicals brought from outside the district.
 7. Animal feedlots
 8. Automotive services and repair shops, junk and salvage yards.

9. All on-site handling, disposal, storage, processing or recycling of hazardous or toxic materials.
10. Sand and gravel excavation and other mining within eight (8) vertical feet of the seasonal high water table.
11. Any use or activity that, in the opinion of the Zoning Board of Adjustment or its agent, is detrimental or more so than the above uses.
12. The use of fertilizer is restricted to the following conditions:
 - a. Application follows best management practices, limiting the potential for nutrient runoff or groundwater infiltration.
 - b. Fertilizer use is restricted to a minimum of 50% slow release nitrogen.
 - c. Fertilizer must be phosphorus-free unless a recent (within 12 months) soil test indicates a deficiency. In those situations, fertilizer is limited to $\leq 2\%$ phosphorus.
 - d. Application rates may not exceed 0.5 lb. total nitrogen/1,000 ft², with an annual maximum application of 1.5 lb. of nitrogen/1,000 ft².
 - e. Fertilizer restrictions may be waived by the Planning Board or their designee for circumstances indicated, provided the following conditions are met:
 - i. Heavy-Use Turf (i.e. athletic fields or high priority areas of golf courses such as greens): Upon submission of a turf management plan adhering to all other criteria above, the Board or their designee may increase application rate limits established in Section 9.2.3.K.12.d to a maximum rate of 1 lb. total nitrogen/1,000 ft², with an annual maximum application of 3.0 lb. of nitrogen/1,000 ft². Waivers granted shall provide for temporary allowance, not to exceed 3 years.
 - ii. Restoration or Establishment of New Landscaping: Sections 9.2.3.K.12.b, c, and d above may be waived by the Board or

their designee upon submission of written justification addressing the need and the specific location(s) within the property where the request applies and their relationship to the district boundary. Waivers granted will provide for temporary allowance, not to exceed one year.

9.2.4 Definitions:

- A. Animal Feedlot: Any animal feedlot shall be considered one on which more than five (5) animals, other than house pets, are raised simultaneously.
- B. Aquifer: For the purpose of this Ordinance, aquifer means a geologic formation, group of formations, or part of a formation that is capable of yielding quantities of groundwater useable for municipal or private water supplies.
- C. Fertilizer: Any substance containing one or more recognized plant nutrients which are designed for use in promoting plant growth such as nitrogen, phosphorus or potassium. Fertilizer as defined shall not include nitrogen-free soil-building products such as molasses, humic acid, kelp, soil biological stimulants, secondary macronutrients, micronutrients, and biological inoculums.
- D. Groundwater: All the water below the land surface in the zone of saturation or in rock fractures capable of yielding water to a well.
- E. Groundwater Recharge: The infiltration of precipitation through surface soil materials into groundwater. Recharge may also occur from surface waters, including lakes, streams and wetlands.
- F. Leachable Waste: Waste materials, including solid wastes, sludge, and agricultural wastes that are capable of releasing contaminants to the surrounding environment.
- G. Mining of Land: The removal of geologic materials such as topsoil, sand, and gravel, metallic ores, or bedrock to be brushed or used as building stone.
- H. Recharge Area: The land surface area from which groundwater recharge occurs.
- I. Solid Waste: Any discarded or abandoned materials including refuse, putrescible materials, septage, or sludge,

as defined by New Hampshire Solid Waste Rules He-P 1901.03. Solid waste includes solid, liquid, semi-solid, or contain gaseous waste materials resulting from residential industrial commercial, mining, and agricultural operations and from community activities.

J. Toxic or Hazardous Materials: Any substance or mixture of such physical, chemical, or infectious characteristics as to pose a significant, actual or potential hazard to water supplies, or other hazard to human health, if such substance or mixture were discharged to land or waters of this Town. Toxic or hazardous materials include, without limitation, volatile organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalies, and include products such as pesticides, herbicides, solvents and thinners, and such other substances as defined in New Hampshire Water Supply and Pollution Control Rules, Section Ws 410.04 (1), in the New Hampshire Solid Rules He-P 1901.03 (v) and in the Code of Federal Regulations 40 CFR 261, as examples. Waste generated by commercial activities such as, but not limited to, the following, are presumed to be toxic or hazardous, unless and except to the extent that anyone engaging in such an activity can demonstrate the contrary to the satisfaction of the Planning Board:

1. Airplane, boat and motor vehicle service and repair;
2. Chemical and bacteriological laboratory operation;
3. Dry cleaning;
4. Electronic circuit manufacturing;
5. Metal plating, finishing and polishing;
6. Motor and machinery service and assembly;
7. Painting, wood preserving and furniture stripping;
8. Pesticide and herbicide application;
9. Photographic processing;
10. Printing

9.2.5 Additional Information and Site Plan Review/Subdivision Regulations:

A. Landscaping, walls & screening (Section 5.9 General Landscaping Regulations and Section 9.7 of the Site Plan Review/Subdivision Regulations).

- B. Off-Street Parking (Section 5.7 Off-Street Parking and Sections 9.12 & 9.13 of the Site Plan Review/Subdivision Regulations).
- C. Sign Regulations (Section 5.8).
- D. All underlying zoning district classifications (Section 3.0).

9.3 Exeter Shoreland Protection District Ordinance

NO SUBSTANTIVE CHANGES

- 9.3.1 Authority and Purpose: Pursuant to NH RSA §674:16-21 the Town of Exeter hereby adopts the Exeter Shoreland Protection District and accompanying regulations in order to protect and promote public health, resource conservation and the general welfare and to:
- A. Protect, maintain and enhance the water quality of the Exeter River, its tributaries and the Water Works Pond in the Town of Exeter, and to ensure the continued availability of a safe public water supply;
 - B. Protect, maintain and enhance the water quality of the Squamscott River and its tributaries in the Town of Exeter.
 - C. Protect, maintain and enhance the water quality of the Fresh River and its tributaries in the Town of Exeter.
 - D. Conserve and protect aquatic and terrestrial habitat associated with river areas as well as intertidal and riparian areas;
 - E. Preserve and enhance those recreational and aesthetic values associated with the natural shoreline and river environment, both fresh and salt;
 - F. Encourage those uses that can be appropriately located adjacent to shorelines.

9.3.2 Definitions:

- A. Bulk Storage: Storage of materials intended for wholesale distribution or used in a manufacturing facility.
- B. Contiguous Wetland: A wetland which extends landward from its adjacent waterbody to a point where a natural or manmade discontinuity exists. Contiguous wetlands include bordering wetlands as well as wetlands that are situated immediately above the ordinary highwater mark and above the normal hydrologic influence of their

adjacent waterbody. The lateral extent of a contiguous wetland depends upon the existence of a discontinuity. Man-made discontinuities include dikes and barriers such as roads, etc. Natural discontinuities may be river berms, beach dunes, abrupt slope changes or abrupt changes in the soil material.

- C. Fertilizer: Any substance containing one or more recognized plant nutrients which are designed for use in promoting plant growth such as nitrogen, phosphorus or potassium. Fertilizer as defined shall not include nitrogen-free soil-building products such as molasses, humic acid, kelp, soil biological stimulants, secondary macronutrients, micronutrients, and biological inoculums.
- D. Hazardous and Toxic Materials: Includes but is not limited to volatile organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalies, pesticides, herbicides, solvents, and thinners, and such other substances as defined in NH Ware Supply and Pollution Control Rules, Section Ws 410.04 (1), in NH Solid Waste Rules He-P 1901.03 (v), and in code of Federal Regulations 40 CFR 261.
- E. Mean High Water (salt): As determined according to the published tables and standards of the National Ocean Survey, adjusted to the locality from such tables.
- F. Perennial Brooks, Streams, and Creeks: Brooks, streams and creeks that appear on U.S. Geological Survey quadrangle maps revised (7.5", scale 1": 24,000") covering the Town of Exeter.
- G. Residential Accessory Structure: A subordinate structure located on the same lot as the principal building, the use of which is incidental to the principal building, and discharges no sewage or other wastes.
- H. Seasonal High Water Level (fresh): The average annual high water elevation of a stream, brook, or river, including contiguous wetlands and floodplains.
- I. Shoreline (fresh): The water's edge at seasonal high water level.
- J. Shoreline (salt): The water's edge at mean high water.

9.3.3 District Boundaries: The Exeter Shoreland Protection District is defined to include the following:

A. Exeter River (fresh):

1. The area of land within 300 feet horizontal distance of the seasonal high water level of the Exeter River and its major tributaries. Major tributaries of the Exeter River within the Town of Exeter are defined to be the following: water flowing north from Great Meadows, water flowing westerly from the Cove and from wetlands between Hampton and Hampton Falls Roads, Little River, Dudley Brook and Bloody Brook.
2. In addition, the area of land within 150 feet horizontal distance of the seasonal high water level of all perennial brooks and streams within the Exeter River Watershed and all other perennial brooks and streams.

B. Fresh River (fresh):

1. The area of land within 300 feet horizontal distance of the seasonal high water level of the Fresh River and its major tributaries.
2. In addition, the area of land within 150 feet horizontal distance of the season high water level of all perennial brooks and streams within the Fresh River Watershed.

C. Squamscott River (salt):

1. The area of land within 300 feet horizontal distance of the shoreline of the salt water Squamscott River, and the seasonal high water level of its fresh water major tributaries. Major tributaries of the Squamscott River within the Town of Exeter are defined to be the following: Norris Brook to its confluence with Watson Brook, Wheelwright Creek, Parkman Brook, and Rocky Hill Brook, and Dearborn Brook and Water Works Pond, due to their importance to the public water supply.
2. In addition, the area of land within 150 feet horizontal distance of the mean high water level of all perennial brooks, streams and creeks within the Squamscott River watershed.
3. The area of land within 150 feet horizontal distance of

the upland extent of any tidal marsh adjacent to the Squamscott River.

9.3.4 Use Regulations:

- A. Minimum Lot Size: The minimum lot size within the Shoreland Protection District shall be the same as required in the underlying Zoning District and by applicable subdivision regulations for the Town.
- B. Maximum Lot Coverage: Impervious surfaces, shall not cover more than ten percent (10%) of any lot or portion thereof within the Shoreland Protection District as defined in Section 9.3.3, unless a Conditional Use Permit is granted by the Planning Board under the terms of Section 9.3.4.G.2 Exeter Shoreland Protection District Ordinance – Conditional Use.
- C. Building Setbacks: No building (except a structure permitted as a Conditional Use, under Section 9.3.4.G. Exeter Shoreland Protection District Ordinance – Conditional Use or a permitted use under Section 9.3.4.I Permitted Uses) septic system or septic system leaching field, (except a repair or reconstruction) shall be constructed on or moved to a site within 300 feet from the shoreline of the Squamscott River, Dearborn Brook, Waterworks Pond, and Fresh River; within 150 feet from the shoreline of the Exeter River or the major tributaries of the Squamscott River and Exeter River as herein defined, or within 100 feet of the shoreline of perennial brooks and streams located within the Exeter Shoreland Protection District. A building setback of 150 feet upland from tidal marshes adjacent to the Squamscott River shall also be maintained.
 - 1. Exemptions: Prior to the date on which this amendment was posted, the following uses are exempt from the provisions of Article 9.3.4-C.
 - a. Septic Systems: septic systems or septic systems leaching field designs applied for with the State Water Supply and Pollution Control Boards as well as principal buildings associated with such uses.
 - b. Applications Submitted: applications submitted for

consideration by the Planning Board.

- D. Surface Alterations: Alteration of the surface configuration of land by the addition of fill or by dredging shall be permitted within 150 feet of the shoreline of the Exeter River, Squamscott River or their major tributaries only to the extent necessitated by a permitted or conditionally permitted use.
- E. Vegetative Buffer: Alteration of natural vegetation or managed woodland within 75 feet of the shoreline of the Exeter River, Squamscott River or their major tributaries shall be permitted only to the extent necessitated by a permitted or conditionally permitted use.
- F. Prohibited Uses: The following uses shall not be permitted within the Exeter Shoreland Protection District:
 - 1. Disposal of solid waste (as defined by the NH RSA §149-M) other than brush.
 - 2. On site handling, disposal, bulk storage, processing or recycling of hazardous or toxic materials.
 - 3. Disposal of liquid or leachable wastes, except from residential subsurface disposal systems, and approved commercial or industrial systems that are otherwise permitted by this article.
 - 4. Buried storage of petroleum fuel and other refined petroleum products except as regulated by the NH Water Supply and Pollution Control Commission (Ws 411 Control of Non-residential Underground Storage and Handling of Oil and Petroleum Liquids). Storage tanks for petroleum products, if contained within basements, are permitted.
 - 5. Outdoor unenclosed or uncovered storage of road salt and other de-icing chemicals.
 - 6. Dumping of snow containing road salt or other de-icing chemicals.
 - 7. Commercial animal feedlots.
 - 8. Automotive service and repair shops; junk and salvage yards.
 - 9. Dry cleaning establishments.
 - 10. Laundry and car wash establishments not served by a central municipal sewer systems.
 - 11. Earth excavation as defined by NH RSA §155:E,

within 150 feet of the Exeter River, Squamscott River or their major tributaries. It is prohibited to conduct said excavation within four feet of the Seasonal High Water Table.

12. The use of fertilizer is restricted to the following conditions:

a. Fertilizer may not be applied within 100 feet of the shoreline of all regulated waterbodies in the Shoreland Protection District.

b. Between 100 feet from the shoreline of all regulated waterbodies to the extent of the District, fertilizer application must meet the following criteria:

i. Application follows best management practices limiting the potential for nutrient runoff or groundwater infiltration.

ii. Fertilizer must contain a minimum of 50% slow release nitrogen.

iii. Fertilizer must be phosphorus-free unless a recent (within 12 months) soil test indicates a deficiency. In those situations, fertilizer is limited to $\leq 2\%$ phosphorus.

iv. Application rates may not exceed 0.5 lb. total nitrogen/1,000 ft², with an annual maximum application of 1.5 lb. of nitrogen/1,000 ft².

c. Fertilizer restrictions may be waived by the Planning Board or their designee for circumstances indicated, provided the following conditions are met:

i. Heavy-Use Turf (i.e. athletic fields or high priority areas of golf courses such as greens): Upon submission of a turf management plan adhering to all other

criteria above, the Board or their designee may increase application rate limits established in 12.b.iv to a maximum rate of 1 lb. total nitrogen/1,000 ft², with an annual maximum application of 3.0 lb. of nitrogen/1,000 ft². Waivers granted shall provide for temporary allowance, not to exceed 3 years.

- ii. Restoration or Establishment of New Landscaping: With the exception of 12.b.i., above restrictions 12.a. and 12.b. above may be waived by the Board or their designee upon submission of written justification addressing the need and the specific location(s) within the property where the request applies and their relationship to the district boundary. Waivers granted will provide for temporary allowance, not to exceed one year.

G. Conditional Uses:

1. The following uses, if allowed in the underlying zoning district, are permitted only after a Conditional Use Permit is granted by the Planning Board.
 - a. Industrial and commercial uses not otherwise prohibited in Article 9.3.4.F Exeter Shoreland Protection District Ordinance – Use Regulations.
 - b. Multi-family residential development.
 - c. Transmission lines, access ways, including driveways and parking lots or roadways, paved or unpaved, within 150 feet of the Exeter River, Squamscott River or their major tributaries, or within 100 feet of perennial brooks, streams and creeks located within the Exeter Shoreland Protection District.
 - d. Detention ponds, treatment swales, and other drainage structures as required by State or local regulations.

2. The Planning Board may grant a Conditional Use Permit for those uses listed above only after written findings of fact are made which have been reviewed by technical experts from the Rockingham Conservation District, if required by the Planning Board, at the cost of the developer, provided that all of the following are true:

- a. The proposed use will not detrimentally affect the surface water quality of the adjacent river or tributary, or otherwise result in unhealthful conditions.
- b. The proposed use will discharge no waste water on site other than that normally discharged by domestic waste water disposal systems and will not involve on-site storage or disposal of hazardous or toxic wastes as herein defined.
- c. The proposed use will not result in undue damage to spawning grounds and other wildlife habitat.
- d. The proposed use complies with the use regulations identified in Section 9.3.4 Exeter Shoreland Protection District Ordinance – Use Regulations and all other applicable sections of this article.
- e. The design and construction of the proposed use will be consistent with the intent of the purposes set forth in Section 9.3.1 Exeter Shoreland Protection District Ordinance – Authority and Purpose.

H. Lots of Record: (See subsection I.5 within this article.)

I. Permitted Uses: The following uses are permitted within the Exeter Shoreland Protection District provided they are conducted in accordance with the purpose and intent of this Ordinance.

- 1. Agriculture, including grazing, hay production, Christmas tree growing and harvesting, aquiculture, truck gardening and silage production, provided that such use will not cause increases in surface or groundwater contamination by pesticides, fertilizers, or

other hazardous or toxic substances and that such use will not cause or contribute to substantial soil erosion and stream sedimentation. However, no clearing of natural vegetation within the vegetated buffer (as defined in Section 9.3.4.E) shall be permitted for the purpose of establishing new tilled and cultivated farmland without a conditional use permit. All pesticide applications shall be conducted in strict accordance with the requirements set forth in NH RSA §430:28 et seq.

2. Forest Management, including the construction of access ways for said purpose and all harvests of woody vegetation for conversion of land to non-forest management or agricultural purposes. Partial cutting of trees is limited to thirty percent (30%) of the pre-harvest basal area for all live trees measuring six inches (6") diameter, breast height (4 ½ feet above ground level), or greater. Partial cutting shall be done in such a way that a well distributed stand of healthy growing trees remains. Clear cuts to develop improved wildlife habitat and promote forest regeneration are restricted to one-quarter (¼) acre openings dispersed throughout the Shoreland Protection District. Harvesting of trees in the Shoreland Protection District is limited to one cut per ten years. Salvage necessitated by acts of God shall exempt property owners from the conditions set forth in this paragraph.
3. Residential accessory structures, of less than 400 square feet in first floor area, within 150 feet of the Exeter River, Squamscott River or their major tributaries, or within 100 feet of perennial brooks, streams and creeks located within the Exeter Shoreland Protection District, providing that the Building Inspector has determined that the conditions set forth above have been met.
4. The clearing of natural vegetation for the creation of new agricultural land not closer than twenty feet from a shoreline, provided that any agricultural activities are carried out according to best management practices as prescribed by the Rockingham County Conservation District as determined by the Code

Enforcement Officer.

5. The erection of a single family residence or permitted duplex on an official lot of record, as recorded at the Rockingham county Registry of Deeds, prior to the date on which this amendment was posted and published in the Town, provided the Building Inspector determines the following to be true.
 - a. The use for which the exception is sought cannot feasibly be carried out on a portion or portions of the lot that are outside the Exeter Shoreland Protection District.
 - b. The design and construction of the proposed use will, to the extent practical, be consistent with the purpose and intent of this article.
 6. Uses permitted in the underlying district of the Zoning Ordinance, except for those listed as conditional uses in this Article under G, Conditional Uses and those prohibited in F, Use Regulations.
- J. Non applicability to the UC-1 District: The following provisions within this Section shall not apply to the UC-1 (downtown portion only): 9.3.4: B, C, D, E, and F (8-11).
- K. Validity: The invalidity of any provisions of this ordinance shall not affect the validity of any other provisions.

9.3.5 Administration:

- A. General: The provisions of the Exeter Shoreland Protection District Ordinance shall be administered by the following:
 1. Building Inspector for building permits;
 2. Planning Board for subdivision, site plan review, and conditional use approval; and
 3. Zoning Board of Adjustment for special exception approval of existing lots.
- B. Enforcement: The Code Enforcement Officer shall be responsible for the enforcement of the provisions and conditions of the Exeter Shoreland Protection District

Ordinance.

- 9.3.6 Effective Date: This Article shall become effective upon the date of passage. (Adopted March 1989)

9.4 Floodplain Development Ordinance

NO SUBSTANTIVE CHANGES

- 9.4.1 This ordinance, adopted pursuant to the authority of NH RSA §674:16, shall be known as the Town of Exeter Floodplain Development Ordinance. The regulations in this ordinance shall overlay and supplement the regulations in the Town of Exeter Zoning Ordinance, and shall be considered part of the Zoning Ordinance for purposes of administration and appeals under state law. If any provision of the Zoning Ordinance differs or appears to conflict with any provision of the Zoning Ordinance or other ordinance or regulation, the provision imposing the greater restriction or more stringent standard shall be controlling.
- 9.4.2 The following regulations in this ordinance shall apply to all lands designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its "Flood Insurance Study for the county of Rockingham, NH" dated May 17, 2005, together with the associated Flood Insurance Rate Maps, dated May 17, 2005 which are declared to be a part of this ordinance and are hereby incorporated by reference.
- 9.4.3 **Definition of Terms:** The following definitions shall apply only to this Floodplain Development Ordinance, and shall not be affected by, the provisions of any other ordinance of the Town of Exeter.
- A. Area of Special Flood Hazard: Land in the floodplain within the Town of Exeter subject to a one-percent or greater possibility of flooding in any given year. The area is designated on the FIRM as zone A and AE.
 - B. Base Flood: The flood having a one-percent possibility of being equaled or exceeded in any given year.
 - C. Base Flood Elevation: The water surface elevation having a one percent possibility of being equaled or exceeded in any given year.
 - D. Basement: Any area of a building having its floor sub-

- grade on all sides.
- E. Building: see “Structure”
 - F. Development: Any man-made change to improve or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operation, or storage of equipment or materials.
 - G. FEMA: Federal Emergency Management Agency
 - H. Flood or Flooding: A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - 1. The overflow of inland or tidal waters.
 - 2. The unusual and rapid accumulation or runoff of surface waters from any source.
 - I. Flood Insurance Rate Map: (FIRM) An official map incorporated with this ordinance, on which FEMA has delineated both the special flood hazard areas and the risk premium zones applicable to the Town of Exeter.
 - J. Flood Insurance Study: An examination, evaluation, and determination of flood hazards and if appropriate, corresponding water surface elevation, or an examination and determination of mud slide or flood-related erosion hazards.
 - K. Floodplain or Flood-prone area: Any land area susceptible to being inundated by water from any source (See definition of “Flooding”).
 - L. Flood Proofing: Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures and their contents.
 - M. Floodway: see “Regulatory Floodway”
 - N. Functionally Dependent Use: A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking and port facilities that are necessary for the loading/unloading of cargo or passengers, and ship building/repair facilities but does not include long-term storage or related manufacturing facilities.
 - O. Highest Adjacent Grade: The highest natural elevation of

the ground surface prior to construction next to the proposed walls of a structure.

P. Historic Structure: Any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a. By an approved state program as determined by the Secretary of the Interior, or
 - b. Directly by the Secretary of the Interior in states without approved programs.

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

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

- This includes manufactured homes located in a manufactured home park or subdivision.
- S. Manufactured Home Park or Subdivision: A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
- T. Mean Sea Level: The National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, to which base flood elevations shown on a community Flood Insurance Rate Map are referenced.
- U. New Construction: For the purposes of determining insurance rates, structures for which the “start of construction” commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a flood plain management regulation adopted by a community and includes any subsequent improvements to such structures.
- V. Recreational Vehicle: A vehicle which is:
1. Built on single chassis;
 2. 400 square feet or less when measured at the largest horizontal projection;
 3. Designed to be self-propelled or permanently towable by a light duty truck; and
 4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.
- W. Regulatory Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without increasing the water surface elevation more than a designated height.
- X. Special Flood Hazard Area: See “Area of Special Flood Hazard”.
- Y. Start of Construction: Includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair,

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

Z. Structure: For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tanks, that is principally above ground, as well as a manufactured home.

AA. Substantial Damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

BB. Substantial Improvement: The combination of repairs, reconstruction, alteration, or improvements to a structure in which the cumulative cost equals or exceeds fifty percent (50%) of the market value of the structure. The market value of the structure should equal:

1. The appraised value prior to the start of the initial repair or improvement, or
2. In the case of damage, the value of the structure prior to the damage occurring.

For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures which have incurred substantial damage, regardless of actual repair work performed. The

term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure”.

- CC. Violation: The failure of a structure or other development to be fully compliant with the community’s flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required under this ordinance is presumed to be in violation until such time as that documentation is provided.
- DD. Water Surface Elevation: The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum of 1988, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains.

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

- A. Building Permit Requirement: All proposed development in any special flood hazard areas shall require a building permit.
- B. Building Permit Review: The Building Inspector shall review all building permit applications for new construction or substantial improvements to determine whether the proposed building sites will be reasonably safe from flooding. If a proposed building site is located in a special flood hazard area, all new construction or substantial improvements shall:
 - 1. Be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic

- loads, including the effects of buoyancy;
- 2. Be constructed with materials resistant to flood damage;
- 3. Be constructed by methods and practices that minimize flood damages;
- 4. Be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

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

9.4.6 New Structure Requirements: For all new or substantially improved structures located in Zones A and AE, the applicant shall furnish the following information to the Building Inspector:

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

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

9.4.7 Development Along Watercourses:

- A. In riverine situations, prior to the alteration or relocation of a watercourse the applicant for such authorization shall notify the Wetlands Bureau of the New Hampshire Department of Environmental Services and submit copies

of such notification to the Building Inspector, in addition to the copies required by NH RSA §482-A:3. Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Building Inspector, including notice of all scheduled hearings before the Wetlands Bureau.

- B. The applicant shall submit to the Building Inspector, certification provided by a registered professional engineer, assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.
- C. Along watercourses with a designated Regulatory Floodway no encroachments, including fill, new construction, substantial improvements, and other development are allowed within the floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed encroachment would not result in any increase in flood levels within the community during the base flood discharge.
- D. Along watercourses that have not had a Regulatory Floodway designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within zone AE on the FIRM, unless it is demonstrated by the applicant that the cumulative effect of the proposed development, when combined with all existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
- E. In zone A, the building Inspector shall obtain review, and reasonably utilize any floodway data available from Federal, State, or other sources as criteria for requiring that development meet the following floodway requirement:

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

9.4.8 Base Flood Elevation:

- A. In special flood hazard areas the Building Inspector shall determine the base flood elevation in the following order of precedence according to the data available:
 - 1. In zone AE refer to the base flood elevation data provided in the community's Flood Insurance Study and accompanying FIRM.
 - 2. In Zone A the Building Inspector shall obtain, review, and reasonably utilize any base flood elevation data available from any federal, state or other source including data submitted for development proposals submitted to the community (i.e. subdivisions, site approvals).
 - 3. In Zone A where the base flood elevation is not available, the base flood elevation shall be at least two feet above the highest adjacent grade.

- B. The Building Inspector's base flood elevation, determination will be used as criteria for requiring in zones A and AE that:
 - 1. All new construction or substantial improvement of residential structures have the lowest floor (including basement) elevated at least one foot above the base flood elevation.
 - 2. That all new construction or substantial improvement of non-residential structures have the lowest floor (including basement) elevated to or above the base flood elevation; or together with attendant utility and sanitary facilities, shall
 - a. Be flood-proofed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water;
 - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
 - c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of

this article.

3. Recreational vehicles placed on site within Zones A and AE shall either:
 - a. Be on the site for fewer than 180 consecutive days;
 - b. Be fully licensed and ready for highway use, or;
 - c. Meet all standards of Section 9.4.8.(B)(4) of this ordinance.

4. All manufactured homes to be placed or substantially improved within special flood hazard areas shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation; and be securely anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces;
5. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding are permitted provided they meet the following requirements:
 - a. The enclosed area is unfinished or flood resistant, useable solely for the parking of vehicles, building access or storage;
 - b. The area is not a basement;
 - c. Shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens,

louvers, or other coverings or devices provided that they permit the automatic entry or exit of floodwater.

9.4.9 Variances and Appeals:

- A. Any order, requirement, decision, or determination of the Building Inspector made under this ordinance may be appealed to the Zoning Board of Adjustment as set forth in NH RSA §676:5.
- B. If the applicant, upon appeal, requests a variance as authorized by NH RSA §674:33, I (b), the applicant shall have the burden of showing in addition to the usual variance standards under state law:
 - 1. That the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense.
 - 2. That if the requested variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result.
 - 3. That the variance is the minimum necessary, considering the flood hazard, to afford relief.
- C. The Zoning Board of Adjustment shall notify the applicant in writing that:
 - 1. The issuance of a variance to construct below the base level will result in increased premium rates for flood insurance up to amounts as high as twenty-five dollars (\$25) for one hundred dollars (\$100) of insurance coverage, and
 - 2. Such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with a record of all variance actions.
- D. The community shall:
 - 1. Maintain a record of all variance actions, including their justification for their issuance, and

2. Report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.

10.0 PUBLIC CAPITAL FACILITIES IMPACT FEE

NO SUBSTANTIVE CHANGES

10.1 Authority and Applicability

- 10.1.1 This Article is authorized by New Hampshire RSA 674:21 as an innovative land use control. The administration of this article shall be the responsibility of the Planning Board. This Article, as well as regulations and studies adopted by the Planning Board consistent with and in furtherance of this Article, shall govern the assessment of impact fees imposed upon new development in order to meet the needs occasioned by that development for the construction or improvement of capital facilities owned or operated by the Town of Exeter, the Exeter School District, or the Exeter Region Cooperative School District.
- 10.1.2 The public facilities for which impact fees may be assessed in Exeter may include water treatment and distribution facilities; waste water treatment and disposal facilities; sanitary sewer; storm-water, drainage and flood control facilities; public road systems and right-of way; municipal office facilities; public school facilities including a proportional share of capital facilities of the Exeter Region Cooperative School District ; public safety facilities; public library facilities; and public recreation facilities not including public open space.
- 10.1.3 Prior to assessing an impact fee with exception of off-site improvements required by the Planning Board for one or more of the public capital facilities enumerated above, the Planning Board shall adopt such studies or methodologies and related fee schedules that provide for a process or method of calculating the proportionate share of capital improvement costs that are attributable to new development. Such calculations shall reasonably reflect the capital cost associated with the increased demand placed on capital facility capacity by new development.
- 10.1.4 The following regulations shall govern the assessment of impact fees for public capital facilities in order to accommodate

increased demand on the capacity of these facilities due to new development.

10.2 Purpose

- 10.2.1 Assist in the implementation of the Town of Exeter Master Plan;
- 10.2.2 Provide for the planning and provision of public capital facilities necessitated by the growth of the Town of Exeter;
- 10.2.3 Provide adequate school system capacity to accommodate growth in public school enrollment generated by new development.
- 10.2.4 Assess an equitable proportion of growth-related costs of new and expanded public capital facilities to new development, in proportion to the facility demands created by that development.

10.3 Findings

The Town of Exeter hereby finds that:

- 10.3.1 The Town of Exeter is responsible for and committed to the provision of public capital facilities and services at standards determined by the Town to be necessary to support development in a manner which protects and promotes the public health, safety and welfare;
- 10.3.2 An impact fee ordinance for public capital facilities is consistent with the goals and objectives of the Master Plan and the Capital Improvements Program of the Town of Exeter;
- 10.3.3 New development in Exeter will create the need for the construction, equipment, or expansion of public facilities in order to provide adequate public capital facilities for its residents and businesses.
- 10.3.4 Impact fees may be used to assess an equitable share of the growth-related cost of the capacity of public capital facilities resulting from the new development in proportion to the facility demands created by that development;

10.3.5 Impact fees assessed pursuant to this Ordinance will not exceed the cost of:

- A. Providing additional expanded public capital facilities necessitated by new development in Exeter; and/or
- B. Compensating the Town of Exeter, the Exeter School District, or the Exeter Region Cooperative School District for public capital facility capacity that it provided in anticipation of new development in Exeter.

10.4 Definitions

The following terms are defined for purposes of this article.

10.4.1 Fee Payer: The applicant for a permit that would create new development as defined in this ordinance.

10.4.2 Public Capital Facilities: Facilities and equipment owned, maintained or operated by the Town of Exeter, the Exeter School District, or the Exeter Region Cooperative School District. Facilities which are eligible for impact fee assessment under this Ordinance may include any or all of the facilities which are specifically delineated under NHRSA § 674:21 (V).

10.4.3 Gross Floor Area: The sum of the areas of all floors of main and accessory buildings on the lot as measured to the outside surface of the exterior walls. The gross floor area shall include basement, lobbies, and stair openings, elevator shafts and storage. The gross floor area shall exclude open wells, (atriums), mechanical rooms, crawl spaces and attics without floors, attics used only for mechanical services, porches, balconies and open-sided roofed-over areas.

10.4.4 New Development: An activity, which results in:

- A. The creation of a new dwelling or dwelling units (as defined by Appendix A Definitions); or
- B. The conversion of a legally existing use, or additions thereto, which would result in a net increase in the number of residential units; or
- C. Construction of a new non-residential building or, a net increase in the gross floor area of any non-residential building; or

- D. The conversion of an existing use to another use if such change creates a net increase in the demand on public capital facilities that are the subject of impact fee assessment methodologies adopted by the Planning Board; or
- E. A new or modified service connection to the public water system or the public wastewater disposal system of the Town of Exeter that would result in a net increase in demand on the capacity of these facilities.
- F. New Development shall not include the replacement of an existing mobile home, or the reconstruction of a structure that has been destroyed by fire or natural disaster where there is no change in its size, intensification of, or type of use, and where there is no net increase in demand on public capital facilities.

10.5 Computation of Impact Fee

- 10.5.1 The amount of each impact fee shall be assessed in accordance with subdivision and site plan regulations adopted by the Planning Board, or with written procedures or methodologies adopted and amended by the Planning Board and accepted by the Select Board for the purpose of public capital facility impact fee assessment in Exeter. The computation of an impact fee shall be based on formulas or methods that include documentation of the procedures used to establish the amount of the impact fee. The amount of any impact fee shall be computed based on the municipal public capital improvement cost of providing adequate public capital facility capacity to serve new development. Such documentation shall be available for public inspection in the Planning Department of the Exeter Town Office.
- 10.5.2 In the case of new development created by the conversion or modification of an existing use, the impact fee assessed shall be computed based upon the net increase in the impact fee assessment for the new use as compared to the highest impact that was, or would have been, assessed for the previous use in existence on or after the effective date of this Ordinance.

10.6 Assessment & Payment of Impact Fee

- 10.6.1 Impact fees may be assessed by the Code Enforcement Officer, prior to or as a condition to issuance of a building permit on new development to compensate the Town of Exeter for the proportional share of the public capital facility costs generated by the development. The Code Enforcement Officer may accept impact fee payment at the time the building permit is being issued.
- 10.6.2 Impact fees shall normally be collected as a condition for the issuance of a certificate of occupancy. In the case of impact fees for off-site capital improvements that are to be constructed simultaneously with new development, and where sufficient non-impact fee funds have been appropriated to create the capital improvements, the fee may be collected at the time a building permit is issued. The Town of Exeter and the fee payer may establish an alternate, mutually acceptable schedule of payment.
- 10.6.3 Any person who seeks a permit for new development, may be required to pay the public capital facility impact fees established by the Town of Exeter authorized under this Ordinance, except where all or part of the fees are waived in accordance with the criteria for waivers established in this Ordinance.

10.7 Waivers

The Planning Board may grant a full or partial waiver of impact fees where the Board finds that one or more of the following criteria are met with respect to the particular capital facilities for which impact fees are normally assessed.

- 10.7.1 A person may request a full or partial waiver of school facility impact fees for those residential units that are lawfully restricted to occupancy by senior citizens age 62 or over. The Planning Board may waive school impact fee assessments on age-restricted units where it finds that the property will be bound by lawful deeded restrictions on occupancy for a period of at least 20 years.
- 10.7.2 The Planning Board may agree to waive all or part of an impact fee assessment and accept in lieu of a cash payment, a proposed contribution of real property or facility improvements of equivalent value and utility to the public. The value of

contributions or improvements shall be credited only toward facilities of like kind, and may not be credited to other categories of impact fee assessment. Full or partial waivers may not be based on the value of exactions for on-site or off-site improvements required by the Planning Board as a result of subdivision or site plan review, and which would be required of the developer regardless of the impact fee assessment authorized by this Article.

10.7.3 The Planning Board may waive an impact fee assessment for a particular capital facility where it finds that the subject property has previously been assessed for its proportionate share of public capital facility impacts, or has contributed payments or constructed capital facility improvements equivalent in value to the dollar amount of the fee(s) waived.

10.7.4 A person may request a full or partial waiver of impact fees, other than those that expressly protect public health standards, for construction within a plat or site plan approved by the Planning Board prior to the effective date of this Article (November 20th, 2001). Prior to granting such a waiver, the Board must find that the proposed construction is entitled to the four-year exemption provided by RSA 674:39, pursuant to that statute.

10.8 Appeals

10.8.1 A party aggrieved by a decision under this Article may appeal such decision to the Superior Court as provided by RSA 676:5, III and RSA 677:15 as amended.

10.9 Administration of Funds Collected

Any impact fee collected shall be properly identified by and promptly transferred for deposit in an appropriate Public Capital Facilities Impact Fee Account and used solely for the purposes for which it was collected. Impact fee accounts shall be special revenue fund accounts and under no circumstance will impact fee revenue accrue to the general fund.

10.10 Custody and Maintenance of Fund Accounts

10.10.1 A separate Public Capital Facilities Impact Fee account shall be established for each type of capital facility for which an impact

fee is assessed

- 10.10.2 At the end of each fiscal year, the Finance Director shall make a report giving a particular account of all impact fee transactions during the year.

10.11 Use of Funds

- 10.11.1 Funds withdrawn from any public facilities impact fee account shall be used solely for the purpose of acquiring, constructing, facility equipment, or making improvements to the particular public capital facilities for which the account is designated.
- 10.11.2 In the event that bonds or similar debt instruments have been issued for public capital facilities which were constructed in anticipation of current growth, or are issued for advance provision of capital facilities for which public capital facilities impact fees may be expended, impact fees may be used to pay debt service on such bonds or similar debt instruments.

10.12 Refund of Fees Paid

The owner of record of property for which an impact fee has been paid shall be entitled to a refund of that fee, plus accrued interest where:

- 10.12.1 The impact fee has not been encumbered or legally bound to be spent for the purpose for which it was collected within a period of six (6) years from that date of the final payment of the fee; or
- 10.12.2 The Town has failed, within the period of six (6) years from the date of the final payment of such fee, to appropriate the non-impact fee (town) share to related capital improvements costs.

10.13 Additional Assessments

Payment of a public capital facilities impact fee does not restrict the Town or the Planning Board in requiring other payments from the fee payer, including, but not limited to, water and sewer hook-up fees and other fees related to the cost for extensions of water and sewer mains, including road improvements or other infrastructure and facility needs specifically benefiting the development not otherwise included in the public capital facilities impact fee.

10.14 Premature and Scattered Development

Nothing in this Ordinance shall be construed so as to limit the existing authority of the Exeter Planning Board to provide against development, which is scattered or premature, requires an excessive expenditure of public funds, or is otherwise contrary to the Town of Exeter Zoning Ordinance or Site Plan Review and Subdivision Regulations.

10.15 Review

Procedures and methodologies that are adopted for the purpose of calculating the amount of an impact fee shall be reviewed by the Select Board and Planning Board at a minimum of five-year intervals and may be amended periodically after public hearing.

11.0 ZONING BOARD OF ADJUSTMENT

- MODEST*
- *A significant amount of language was added here but was adapted almost word-for-word from the statute.*
 - *No changes in standards, procedures, or powers are proposed.*

11.1 Zoning Board of Adjustment Established

11.1.1 Within thirty (30) days after the adoption of this ordinance and thereafter as terms expire, or vacancies occur, the Select Board shall make appointments to a Zoning Board of Adjustment of five members conforming in duties to the provisions of NH RSA §673:3, or as amended. Thereafter, as terms expire, or vacancies occur, the appointing authority shall be responsible for filling vacancies and maintaining full membership on the Zoning Board of Adjustment.

11.1.2 The Zoning Board of Adjustment shall conform in membership and terms of office to the provisions of NH RSA §673:3, §673:5, and §673:6, or as amended.

11.2 Administrative Fees

There shall be a fee for applications to the Zoning Board of Adjustment for special exceptions, variances and appeals. This fee shall be set by the Planning Board and shall cover the administrative costs associated with processing such applications.

11.3 Powers

The Zoning Board of Adjustment shall have the power to:

- 11.3.1 Hear and decide appeals if it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of the Town of Exeter Zoning Ordinance.
- 11.3.2 Authorize, upon appeal in specific cases, a variance from the terms of the Zoning Ordinance if:
- A. The variance will not be contrary to the public interest;
 - B. The spirit of the ordinance is observed;
 - C. Substantial justice is done;
 - D. The values of surrounding properties are not diminished;
and
 - E. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. The phrase "unnecessary hardship" means that, owing to special conditions of the property that distinguish it from other properties in the area:
 - 1. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and
 - 2. The proposed use is a reasonable one.
 - F. If the criteria in Section 11.3.2.E are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.
 - G. The definition of "unnecessary hardship" set forth in Section 11.3.2.E shall apply whether the provision of the ordinance from which a variance is sought is a restriction on use, a dimensional or other limitation on a permitted use, or any other requirement of the ordinance.
 - H. The Zoning Board of Adjustment may grant a variance from the terms of the Zoning Ordinance without finding a hardship arising from the condition of a premises subject to the ordinance, when reasonable accommodations are necessary to allow a person or persons with a recognized

physical disability to reside in or regularly use the premises, provided that any such variance shall be in harmony with the general purpose and intent of the zoning ordinance. In granting any variance pursuant to this paragraph, the Zoning Board of Adjustment may provide, in a finding included in the variance, that the variance shall survive only so long as the particular person has a continuing need to use the premises.

- 11.3.3 The board shall use one voting method consistently for all applications until it formally votes to change the method. Any change in the board's voting method shall not take effect until 60 days after the board has voted to adopt such change and shall apply only prospectively, and not to any application that has been filed and remains pending at the time of the change.
- 11.3.4 The concurring vote of any three (3) members of the board shall be necessary to take any action on any matter on which it is required to pass.
- 11.3.5 The Zoning Board of Adjustment may approve special exceptions as provided for in the Zoning Ordinance.
 - A. All special exceptions shall be made in harmony with the general purpose and intent of the Zoning Ordinance and shall be in accordance with the general or specific rules contained herein.
 - B. Special exceptions shall be valid if exercised within two (2) years from the date of final approval, or as further extended by the Zoning Board of Adjustment for good cause, provided that no such special exception shall expire within six (6) months after the resolution of a planning application filed in reliance upon the special exception.
- 11.3.6 **Limits of Approval**

All approvals granted by the Zoning Board of Adjustment shall be valid for a period of three years from the date such approval was granted. The Zoning Board of Adjustment may grant one year extensions provided there have been no changes in the zoning ordinance or other applicable laws or regulations that would affect the approval. Once substantial completion of the

improvements, modifications, alterations or changes in the property or use contemplated by the applicant's petition have occurred in compliance with the terms of the approval, the rights of the owner or of the owner's successor in interest shall vest and the three year limitation of validity of the approval shall not apply.

12.0 ADMINISTRATION AND ENFORCEMENT

NO SUBSTANTIVE CHANGES

12.1 Administration

Administration of the provisions of this Ordinance shall be the responsibility of the Select Board, who may appoint a Zoning Officer to advise and assist them in such manner as they may direct.

12.2 Building Codes

The following regulations are hereby made part of this ordinance. In the event of contradictions between regulations, the regulation imposing the higher standard shall apply. The following codes may be revised according to the provisions of NH RSA §674:52, Part VI.

12.2.1 State:

- A. NH Barrier Free Design Code
- B. NH Energy Code

12.2.2 National:

- A. International Building Code 2000, as amended
- B. International Residential Code 2000, as amended
- C. International Plumbing Code 2000
- D. International Mechanical Code 2000
- E. New Hampshire State Fire Code, as amended.
- F. National Electrical Code 2002, as amended
- G. Life Safety Code N.F.P.A. 101 2000, as amended

*Note: Per Section R105.5, Expiration; any permit issued shall become invalid if the authorized work is not commenced within one (1) year after issuance of the permit, or if the authorized work is suspended or abandoned for a period of one (1) year after the time of commencing the work.

*The Exeter Building Inspector is authorized to deny building permits for proposed fences that he/she determines to be a threat to public safety.

12.3 Enforcement

Enforcement procedures shall be in accordance with NH RSA 676:17.

13.0 VALIDITY

NO SUBSTANTIVE CHANGES

13.1 Saving Clause

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

13.2 Amendments

This ordinance may be amended by a majority vote of any legal Town Meeting after such amendments have been proposed in accordance with NH RSA §675.

13.3 Conflicting Provisions

Where any article of this ordinance conflicts with another, or with any other local regulation or ordinance, the requirement imposing the greater restriction or higher standard shall apply. In addition, the fact that a requirement under this ordinance is less restrictive than federal or state regulation or statute does not relieve an applicant from compliance with the terms of such regulation or statute, unless specifically authorized by said regulation or statute.

13.4 Effective Date

This ordinance shall take effect upon its passage.