

TOWN OF LISBON, NEW HAMPSHIRE

ZONING ORDINANCE

Showing changes proposed by the Planning Board for 2019 Town Meeting.

Proposed additions are shown double underlined.

Proposed deletions are shown ~~struck-out~~.

For those with a color printer, or viewing on-line, proposed changes are also shown in color.

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## PURPOSE

This ordinance, adopted in the year 1972, is designed to promote the health, safety and general welfare of the inhabitants of Lisbon; ~~and~~ to protect the value of property; ~~to~~ prevent overcrowding of land; ~~to~~ provide adequate air and light, and to facilitate the adequate provision of the other public requirements pursuant to NH RSA Title LXIV Planning and Zoning, as amended.

The environment of the Town of Lisbon is of such diversified nature that residential, agricultural, commercial, industrial, recreational, and conservation-based developments are involved. This ordinance therefore is designed to protect, to preserve and to encourage these many developments.

## ARTICLE II

### DEFINITIONS

÷ For the purpose of this ordinance, the present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular. The word “shall” is mandatory, the word “may” is permissive, the words “used” or “occupied” include the words “intended,” “designed,” or “arranged to be used or occupied,” and certain terms or words shall be interpreted as follows:

- 1.1** Accessory dwelling unit: A dwelling unit that is within or attached to a one family dwelling or attached garage, and that provides independent living facilities for one or more persons, including provisions for sleeping, eating, cooking, and sanitation on the same parcel of land as the principal dwelling unit it accompanies; contains an interior door between the principal dwelling unit and the accessory dwelling unit; and has either the principal dwelling or the accessory dwelling unit occupied by the owner as his or her principal place of residence.
- 1.2** Accessory Appurtenant Uses: Any normal residential uses such as, but not limited to, - garages, utility sheds, storage of registered camper or recreational vehicle, and swimming pools. Includes renewable energy generation for onsite usage.
- 1.2**
- 1.3** Building: Any structure for the shelter or enclosure of persons, animals or property of any kind.
- 1.4** Conditional Use: A use allowed upon the granting of a Conditional Use Permit by the Planning Board pursuant to RSA 674:21 II.

~~1.3~~

~~1.5~~ **Dwelling:** A structure designed for residential occupancy.

~~1.4~~

~~1.5~~~~1.6~~ **Frontage:** The ~~l~~Length of the ~~l~~ot bordering on an approved public or improved private road that meets at least minimum state and/ or local standards.

~~1.7~~ **Front Setback:** A setback with a lot line which coincides with a line of a street or public right-of-way.

~~1.6~~

~~1.7~~~~1.8~~ **Height:** The vertical distance between the mean finished grade at the structure and the highest point of the roof of the structure.

~~1.9~~ **Industrial Park:** A group of buildings on a single parcel of land in the Industrial District, each of which will contain a use Permitted or allowed by Special Exception in the District, but which, considered together, if subject to a single site plan application with coordinated planning for utilities, access, parking, green space and other infrastructure, may be considered to be a single Permitted use. Development of an Industrial Park may be phased with site plan approval provided for the master development plan and potential uses, and amended as necessary to accommodate specific future uses.

~~1.8~~

~~1.9~~ ~~1.10~~ **Junk Yard:** The definition of junkyard set forth in RSA 236:112, as amended, is incorporated herein. Motor vehicle dealers registered with the director of motor vehicles under RSA 261:104 and controlled under RSA 236:126 are excluded from the definition.~~Any place of storage or deposit, whether in connection with another business or not, where two (2) or more unregistered, old or second-hand motor vehicles, not longer intended or in condition for legal use of the public highway are held.~~

~~1.11~~ **Lot:** ~~A parcel of land of at lease sufficient size to meet the requirements of this ordinance.~~ A single unit or parcel of land in the same ownership throughout, with ascertainable boundaries and undivided by a street.

~~1.12~~ **Lot Area:** The area in square feet enclosed by the lot lines of a single lot.

~~1.10~~~~1.13~~ **Lot of Record:** (1) A lot which is shown as a separate lot, tract or parcel of land on a subdivision plat lawfully recorded in the office of the County Register of Deeds, as long as subdivision approval has not been revoked under RSA 676:4-a, nor the lot merged with any adjoining lot under RSA 674:39-a; or (2) A lot or parcel whose separate metes and bounds description has been lawfully so recorded, which had, at some point in its chain of title, ownership separate from that of any contiguous land described in the same document, and

which has not been merged with any contiguous land under RSA 674:39-a, nor used or developed conjointly with any commonly-owned contiguous parcel in a manner implying abandonment of the common lot line.

**1.14 ~~Mobile Home:~~ Manufactured Housing:** The term manufactured housing shall mean any structure, transportable in one or more sections, which, in the traveling mode, is 8 body feet or more in width and 40 body feet or more in length, or when erected on site, is 320 square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required facilities, which include plumbing, heating and electrical systems contained therein. Does not include presite built housing. ~~A detached residential unit designed for transportation after fabrication on its own wheels or other trailer and which will be used as a dwelling. A travel trailer is not to be considered a mobile home.~~

**1.15 Nonconforming Lot:** A legally existing lot of record at the time this ordinance or amendment becomes effective, but which does not conform with the regulations for the district in which it is located.

**1.16 Nonconforming Structure:** A structure which ~~is~~ lawfully ~~exists~~maintained at the time this ordinance or amendment becomes effective, ~~but~~ which does not conform with the regulations for the district in which it is located.

**1.17 Nonconforming Use:** A use which lawfully exists at the time this ordinance or amendment becomes effective, ~~but~~ which does not conform with the regulations for the district in which it is located.

~~1.11~~

**1.18 Parking Space:** An off-street space whether inside or outside of a structure, to be used primarily as a parking area for ~~one~~a vehicle.

**1.19 Personal/Commercial Wireless Communication Facilities:** Shall mean any facility including the antenna, equipment shelter, fall zone, tower and any other facility accessory that provides commercial mobile wireless service, unlicensed wireless services and common carrier wireless exchange services, as described by Section 332 of the Telecommunications Act of 1996.

~~1.12~~

**1.20 Renewable energy facility:** A facility for the generation of solar, wind or geothermal energy.

~~1.13~~

**1.21 Service Stations:** ~~A b~~BBuildings where gasoline, oil, grease, batteries, tires, and automobile accessories are sold at retail; servicing and repairs are made; and cold drinks, candy, tobacco and similar goods may be sold.

~~1.14~~

**1.22 Setback:** The distance between a lot line and the closest point of the nearest building.

~~1.15~~

~~**1.23 Setback Front:** A setback with a lot line which coincides with a line of a street or public right of way.~~ **Special Exception:** A use of a building or lot which may be permitted under this ordinance only upon application to the Zoning Board of Adjustment and subject to the approval of the Board in accordance with provisions explicitly set forth herein as provided in RSA 674:33.

~~**1.16**~~

~~**Travel Trailer:** A vehicular portable structure designed to be used as a temporary dwelling whose floor area is not greater than 168 square feet.~~

**1.24 Use by Right:** A use which may be granted a permit ~~expand~~ without the approval of the Zoning Board of Adjustment or a Conditional Use Permit by the Planning Board and which conforms to the ordinance.

~~**1.17**~~

~~**1.18**~~

**1.25 Variance:** A variance is a relaxation of the terms of this ordinance pursuant to RSA 674:33.

~~**1.19**~~

~~**1.201.1 Use by Right:** A use which may expand without the approval of the Board of Adjustment and which conforms to the ordinance. (March 1984)~~

~~**1.21 Appurtenant Uses:** Any normal residential uses such as but not limited to garages, utility sheds, and swimming pools.~~

~~**1.22 Personal/Commercial Wireless Communication Facilities:** Shall mean any facility including the antenna, equipment shelter, fall zone, tower and any other facility accessory that provides commercial mobile wireless service, unlicensed wireless services and common carrier wireless exchange services, as described by Section 332 of the Telecommunications Act of 1996.~~

## ARTICLE II

### NONCONFORMING LOTS, USES AND BUILDINGS ~~PRESENT USES~~

**2.1** Every use being made of land, dwellings or buildings lawfully existing in the Town of Lisbon, ~~on the effective date of this ordinance~~ or any amendments thereto may be continued.

**2.2** A permit may be granted to construct one principal building on a nonconforming lot for a use that would normally be allowed in the location on a lot of a size and shape meeting the minimum requirements, with the following conditions: (a) A permit for a state-approved septic system has been obtained if required, and (b) All setbacks will be met.

~~**2.1**~~

**2.3** A nonconforming use or building may be expanded only if granted a Special Exception by ~~upon approval of~~ the Zoning Board of Adjustment which shall first find such expansion or extension does not increase the degree of nonconformance ~~create a greater nuisance of detriment.~~

~~2.2~~**2.4** A nonconforming use may be changed to another nonconforming use if granted a Special Exception by the Zoning Board of Adjustment which finds that such use is equally appropriate or more appropriate to the district than the existing non-conforming use.

~~2.3~~**2.5** Any nonconforming use, which has been discontinued for a period of the two (2) years shall not thereafter be resumed.

~~2.4~~**2.6** A nonconforming use, which has been damaged or destroyed by fire, accident, or other causes may be repaired or reconstructed, provided such work is undertaken and completed within one (1) year after such damage or destruction unless extended by the granting of a Special Exception being granted by the Lisbon Zoning Board of Adjustment.

### ARTICLE III

#### ESTABLISHMENT OF DISTRICTS~~FUTURE USE~~

**3.1 Boundaries, Zoning Map, and District Definitions:** The locations and boundaries of the zoning districts are shown on "~~The Zoning Map of the Town of~~ Lisbon, NH" which is a part of this ordinance and are defined as follows:

##### **3.1.1**

**3.1.1 District A:** All property ~~n~~North of the southernmost State of New Hampshire railroad right-of-way ~~crossing adjacent to Clark's Garage~~ on existing US Route 302, bounded on one side by the Ammonoosuc River and on the other side by a parallel line 1250 feet from Route 302, bounded on the north by the Littleton town line and bounded to the south by a line beginning at a point where the eastern boundary of District A joins Mink Brook, then following Mink Brook in a northwesterly direction to the northern boundary of Parcel R20-010-000, then following the northern boundary of Parcel R20-010-000 in a westerly direction to the edge of the right-of-way of Stallion Hill Terrace, then northerly along the western boundary of Parcel R20-008-000 to US Route 302, then following US Route 302 southwesterly to the junction of the US Route 302 right-of-way and the State of New Hampshire railroad right-of-way and southwest corner of Parcel R20-005-000, as indicated on Overlay No. 1 to the Official Zoning Map of the Town of Lisbon, NH. Parcel numbers refer to the Town of Lisbon Parcel Lines as shown by CAI Technologies on 10/12/18.

##### **3.1.2**

**3.1.2 District B:** All property south of District A ~~the railroad crossing adjacent to Clark's Garage on existing Route 302~~ bounded on one side by the Ammonoosuc River and on the other side by the top of the terrace bank formed by the Ammonoosuc River ~~as indicated on Overlay No. 1 of the Official Zoning Map of the Town of Lisbon, NH.~~

##### **3.1.3**

**3.1.3 District C:** All property not included in District A or B serviced by the Lisbon Public Water system ~~as indicated on Overlay No. 1 to the Official Zoning Map of the Town of Lisbon, NH.~~

**3.1.4**

**3.1.4 District D:** All other property not included in Districts A, B, ~~or C~~ or the Industrial District ~~as indicated on Overlay No. 1 to the Official Zoning Map of the Town of Lisbon, NH.~~

**3.1.5**

**3.1.5 Industrial District:** All property located along Mt. Eustis Road on the date of adoption, March 12, 2002, from the Littleton/Lisbon town line to Streeter Pond Road located within 3000' south of the high water mark of the south bank of the Ammonoosuc River. ~~Said~~ district shall not include any property fronting on Streeter Pond Road on the date of adoption.

**3.2 Overlay ~~Special~~ Districts**

**3.1.6**

**3.2.1 Pearl Lake Conservation Districts:** All property surrounding Pearl Lake and within ~~defined as~~ the Pearl Lake Watershed ~~as indicated on Overlay No. 2 to the Official Zoning Map of the Town of Lisbon, NH.~~

~~3.1.6.1 3.2.2 Flood Hazard Conservation District: All property shown on Overlay No. 1 to the Official Zoning Map of the Town of Lisbon, NH, along the Ammonoosuc River Titled "Flood Hazard Area".~~

**Flood Hazard Areas:** All lands designated as flood hazard areas by the Federal Emergency Management Agency (FEMA) in its "Flood Insurance Study for the County of Grafton, NH" dated February 20, 2008, together with the associated Flood Insurance Rate Maps dated February 20, 2008, are declared to be a part of this ordinance and are hereby incorporated by reference.

**3.3** In any case where the Zoning Map differs or appears in conflict with the Zoning Ordinance text, the text shall be controlling.

**3.1.6.2**

~~3.1.6.3 Special Industrial District A: All property located along Mt. Eustis Road from the Littleton/Lisbon town line to Streeter Pond Road located within 3000' south of the high water mark of the south bank of the Ammonoosuc River. Said district shall not include any property fronting on Streeter Pond Road. Minimum lot size: 200,000 sq. ft.~~

**ARTICLE IV**

**OVERLAY SPECIAL DISTRICTS REGULATIONS**

**4.01 Land Use Limitations:** Where uses are planned in the Pearl Lake Conservation District or a Flood Hazard Area which require a Special Exception from the Zoning Board of Adjustment~~on land of such character as shown on the overlays referred to in Article III, Paragraph 3.01.05 as to be detrimental to the health and welfare of the general public due to inherent natural use limitations,~~ plans shall be submitted in sufficient detail to enable the Zoning Board of Adjustment to consider such usage as a Special Exception use as covered by the provisions of Article VIII as well as to determine that the proposed use will not be detrimental to the health and welfare of the general public due to inherent natural use limitations~~the objectives outlined below.~~ In reviewing proposed uses in ~~Hazardous~~ Flood Hazard Areas, or in wet-lands where water tables are at or near ground level for extended periods of time or on slopes in excess of 25%, the following shall be given due consideration: Pollution of ground-water, creation of erosion or sediment producing areas, diversion of water.

## 4.2 Flood Hazard Areas

**4.2.1 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 Lisbon.

~~**Area of Shallow Flooding** means a designated AO, AH, or VO zone on the Flood Insurance Rate Map (FIRM) with a one-percent or greater annual possibility of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and, where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.~~

**Area of Special Flood Hazard** is the land in the floodplain within the Town of Lisbon subject to a one-percent or greater possibility of flooding in any given year. ~~The area is designated as zone A on the FHBM and~~ is designated on the FIRM as zones ~~A, AO, AH, AI 30, or AE, A99, VO, or V1 30, VE or V.~~

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

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

~~**Building** see **Structure.**~~

~~**Breakaway Wall** means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building.~~

~~or supporting foundation.~~  
**Building** - see **Structure**.

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

**FEMA** means the Federal Emergency Management Agency.

**Flood or Flooding** means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters.
- (2) The unusual and rapid accumulation or run-off of surface waters from any source.

~~**Flood Insurance Rate Map (FIRM)** means 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 Lisbon.~~

**Flood Insurance ~~Elevation~~ Study** means an examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination and determination of mudslide or flood - related erosion hazards.

~~**Flood Insurance Rate Map (FIRM)** means 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 Lisbon.~~

~~**Flood Insurance Study**—see **Flood Elevation Study**.~~

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

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

**Floodway** - see **Regulatory Floodway**.

**Functionally dependent use** means 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.

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

**Historic Structure** means any structure that is:

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

2)

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

**Manufactured Home** means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent

foundation when connected to the required utilities. For floodplain management purposes the term **manufactured home** includes park trailers, travel trailers, and other similar vehicles placed on site for greater than 180 consecutive days. This includes manufactured homes located in a manufactured home park or subdivision.

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

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

**New construction** means, for the purposes of determining insurance rates, structures for which the “start of construction” commenced on or after the effective date of an initial FIRM or after December 21, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, “new construction” means structures for which the “start of construction” commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

**100-year flood** - see **base flood**

**Recreational vehicle** means a vehicle which is (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) designed to be self-propelled or permanently towable by a light duty truck; and (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

**Regulatory floodway** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. These areas are designated as floodways on the Flood Boundary and Floodway Map.

~~**Special flood hazard area** means an area having flood, mudslide, and/or flood-related erosion hazards, and shown on an FHBM or FIRM as zone A, AO, A1-30, AE, A99, AH, VO, V1-30, VE, V, M, or E. (See -Area of Special Flood Hazard)~~

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

**Start of -Construction** includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair,

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

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

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

**Substantial Improvement** means any combination of repairs, reconstruction, alteration, or improvements to a structure in which the cumulative cost equals or exceeds fifty percent 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 the 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**.

**Violation** means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required under Section 4.2.5, Section 4.2.6(2)(b), or Section 4.2.8(4) of this ordinance is presumed to be in violation until such time as that documentation is provided.

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

~~Recreational vehicle means a vehicle which is (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) designed to be self-propelled or permanently towable by a light duty truck; and (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use. (March 1994)~~

**4.2.2** All proposed development in any special flood hazard areas shall require a permit.

**4.2.3** The Board of Selectmen (or their ~~designate~~designee) shall review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in a special flood hazard area, all new construction or substantial improvements shall:

- (i) 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;~~ to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads;
- (ii) be constructed with materials resistant to flood damage;
- (iii) be constructed by methods and practices that minimize flood damages; and
- (iv) 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.

**4.2.4** 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 Board of Selectmen (or their ~~designate~~designee) 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.

**4.2.5** For all new or substantially improved structures located in Zones A and AE, the applicant shall furnish the following information to the Board of Selectmen (or their designee) ~~Building Inspector~~:

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

(in relation to NGVD or NAVD as applicable) to which the structure was flood-proofed.

- (c) Any certification of flood proofing.

The Board of Selectmen (or their ~~designate~~designee) shall maintain for public inspection, and shall furnish such information upon request.

#### 4.2.6 Flood elevation determination:

1. In special flood hazard areas the Board of Selectmen (or their ~~designate~~designee) shall determine the 100 year flood elevation in the following order of precedence according to the date available:
  - a. In zone AE refer to the elevation date provided in the community's Flood Insurance Study and accompanying ~~FIRM~~~~or~~ ~~FHBM~~.
  - b. In ~~unnumbered-Zone A zones~~ the Board of Selectmen (or their ~~designate~~designee) shall obtain, review, and reasonably utilize any 100 year flood elevation data available from any federal, state, or other source including data submitted for development proposals submitted to the community (i.e. subdivisions, site approvals).
  - c. Where a 100-year flood elevation is not available or not known, the 100-year flood elevation shall be determined to be at least 2 feet above the highest adjacent grade.
2. The Board of Selectmen's (or their ~~designate~~designee) 100 year flood elevation determination will be used as criteria for requiring in zones A and AE that:
  - a. All new construction or substantial improvement of residential structures have the lowest floor (including basement) elevated to or above the 100 year flood elevation;
  - b. That all new construction or substantial improvements of non-residential structures have the lowest floor (including ~~B~~basement) elevated to or above the 100 year flood level; or together with attendant utility and sanitary facilities, shall:
    - (i) Be flood-proofed so that below the 100 year flood elevation the structure is watertight with walls substantially impermeable to the passage of water;

- (ii) Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
- (iii) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. ~~;~~
- ~~(iii)~~

~~4.2.6~~4.2.7 The Board of Selectmen (or their ~~designate~~designee) shall not grant a building permit until the applicant certifies that all necessary permits have been received from those government 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.

~~4.2.7~~4.2.8 Additional requirements:

1. In riverine situations, prior to the alteration or relocation of a watercourse the applicant for such authorization shall notify the Wetlands Board of the New Hampshire Department of Environmental Services and submit copies of such notification to the Board of Selectmen (or their ~~designate~~designee), in addition to the copies required by the RSA 482-A:3. Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Board of Selectmen (or their ~~designate~~designee), including notice of all scheduled hearings before the Wetlands Board.
2. The applicant shall submit to the Board of Selectmen (or their ~~designate~~designee), cecertification provided by a registered professional engineer, assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.
3. The Board of Selectmen (or their ~~designate~~designee) shall obtain, review, and reasonably utilize any floodway data available from federal, state, or other sources as criteria for requiring that all development located in zone A meet the following floodway requirement:

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

4. Along watercourses that have not had a Regulatory Floodway designated or determined by federal, state, or other source; no new construction, substantial improvements, or other development (including fill) shall be permitted within ~~Z~~zone ~~A1-30 and~~ 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 in the community.

~~4.~~

5. 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 level; 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;

~~4.2.9~~ 6. Recreational vehicles placed on sites in Zones A, A1-30, AH, and AE shall either (i) be on the site fewer than 180 consecutive days, (ii) be fully licensed, and ready for highway use, or (iii) meet all standards of Section 60.3 (b)(1) of the National Flood Insurance Program Regulations and the elevation and anchoring requirements for "manufactured homes" in Paragraph (c)(6) of Section 60.3.

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

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

#### ~~4.2.10~~ 4.2.9 Variances and Appeals:

1. Any order, requirement, decision or determination of the Board of Selectmen (or their ~~designate~~designee) made under this ordinance may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5.

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

- (a) That the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense.
  - (b) That the variance is the minimum necessary, considering the flood hazard, to afford relief.
3. The Zoning Board of Adjustment shall notify the applicant in writing that (i) the issuance of a variance to construct below the base flood level will result in increased premium rates for flood insurance up to amount as high as \$25 for \$100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions.
4. The community shall (i) maintain a record of all variance actions, including their justification for their issuance, and (ii) report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.

~~4.2.114.2.9 Recreational vehicles placed on sites in Zones A1-30, AH, and AE shall either (i) be on the site fewer than 180 consecutive days, (ii) be fully licensed and ready for highway use, or (iii) meet all standards of Section 60.3 (b)(1) of the National Flood Insurance Program Regulations and the elevation and anchoring requirements for "manufactured homes" in Paragraph (c)(6) of Section 60.3. (March 1994)~~

## ARTICLE V

### USES AND DIMENSIONAL STANDARDS

**5.1 Allowed Permitted Uses:** Upon receipt of a zoning permit, ~~submission of a Notice of Intent~~ uses are allowed permitted as indicated in the following Tables below. The zoning permit application ~~Notice of Intent~~ shall be filed with the Selectmen or designee prior to any construction or new use (this includes Manufactured Mobile Homes whether in a manufactured mobile home park or as a dwelling or any other use), and shall include a general description of the facility, proposed use of all buildings on the site, temporary or permanent, and anticipated completion date. Application fForms are available in the town administrative ~~Town Clerk's~~ office. ~~Uses other than those listed are not allowed but may be added as provided in NH-RSA Chapter 31:63A and 63B (March 1984)~~

### TABLE OF DISTRICT USES

“P” Denotes a use permitted by right.

“S” Denotes a use permitted only by a Special Exception (See [Section 8.03](#)) granted by the [Zoning Board](#) of Adjustment.

“[CU](#)” [Denotes Conditional Use Permit granted by Planning Board.](#)

“[PE](#)” [Denotes Permitted on lots legally existing prior to effective date of this amendment.](#)

“-“ [Denotes not allowed.](#)

[Uses not listed are prohibited. \(-\) Denoted a use that is expressly prohibited.](#)

Type of Land Use		Zoning Districts				
		A	B	C	D	I
<b>5.2</b>	<b>Residential:</b>					
5.2.1	Single <a href="#">family dwelling with or without accessory dwelling unit, or</a> <del>and</del> two family dwelling.	P	P	P	P	<a href="#">PE</a>
5.2.2	Three or more family dwelling.	S	S	S	S	-
5.2.3	<a href="#">Manufactured Mobile hHome pParks.</a>	S	-	-	S	-
<del>5.2.4</del>	<del>Single travel trailer, not used for living and/or business purposes stored at the rear of the owners premises.</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>	
5.2. <del>4</del> 5	<a href="#">Manufactured Mobile hHome</a> , provided that it meets all the requirements for a dwelling and is placed on a securely fixed in place and skirted foundation and landscaped in a manner compatible with adjacent properties.	P	P	P	P	<a href="#">PE</a>
<a href="#">5.2.5</a>	<a href="#">Cluster development.</a>	<a href="#">CU</a>	-	<a href="#">CU</a>	<a href="#">CU</a>	-
<b>5.3</b>	<b>Commercial:</b>					
5.3.1	Outdoor sales of food, produce, or vegetables.	P	P	P	P	-
5.3.2	Home shop, office or occupation (such as, but not limited to, doctor, realtor, beautician, electrician, or other tradesman) operating entirely within a building ( <a href="#">except for the production of greenhouse crops, or growing of any agricultural, floricultural, viticultural, or horticultural crops</a> ) but occupying not more than one-third <a href="#">of</a> the floor area, operated by a resident of the same premises, employing not more than two persons not members of the family, provided the use is unidentifiable from the exterior except by an identifying sign.	P	P	P	P	<a href="#">PE</a>
5.3.3	Rooming houses, boarding houses, tourist homes, <a href="#">bed and breakfasts</a> , hotels, and motels, housekeeping cottages.	S	S	S	S	-

Type of Land Use		Zoning Districts				
		A	B	C	D	I
5.3.4	Retail <del>e</del> Establishments.	P	P	S	S	=
5.3.5	Restaurants and indoor commercial <del>r</del> Recreational facilities.	P	P	=	S	=
5.3.6	Outdoor commercial recreation facilities.	S	=	S	S	=
5.3.7	Public and private camping <del>areas</del> grounds provided the side and front setbacks are at least 50 feet and the operation is concealed by natural growth.	S	=	=	S	=
5.3.8	Personal service establishment maintained as a separate building; (such as barber shops, laundry pick-up agencies, or self service laundromats).	P	P	=	S	=
5.3.9	Office buildings.	P	P	=	<del>S</del> P	P
5.3.10	Service <del>s</del> Stations.	S	S	=	S	=
5.3.11	Automobile <del>s</del> Sales.	S	P	=	=	=
<a href="#">5.3.12</a>	Factory retail establishments.	=	=	=	=	P
<a href="#">5.3.13</a>	Mail order business.	=	=	=	=	P
<b>5.4</b>	<b>Agricultural:</b>					
5.4.1	Animal husbandry (raising or keeping of animals other than household pets). Said animals to be kept within the confines of the owner's property.	P	S	S	P	<u>S</u>
						<b>S</b>
5.4.2	Growth and harvesting of forest products, orchards, <u>greenhouse -plants, or any other agricultural, floricultural, viticultural, forestry, or horticultural crops,</u> and similar uses including the sale of produce grown on the premises, <u>as a primary or accessory use.</u>	P	P	P	P	<u>P</u>
	<del>Growth and harvesting of forest products (orchards, etc.)</del>					<b>S</b>
<b>5.5</b>	<b>Industrial:</b>					
5.5.1	Home industry such as the production of pottery, furniture, jewelry; (or similar items) subject to the same considerations as Home <del>s</del> Shops ( <a href="#">5.3.2 above</a> ).	P	P	P	P	<u>PE</u>
5.5.2	Manufacturing, research and testing laboratories, <del>provided no pollution results,</del> <u>excluding asphalt plants and concrete batch plants.</u>	S	S	=	S	<u>P</u>
	<del>Manufacturing</del>					<b>P</b>
5.5.3	Automobile <u>or autobody</u> repair garage.	S	P	=	<del>S</del> P	<u>S</u>
5.5.4	Open storage of lumber and building materials.	S	S	=	S	<u>P</u>
5.5.5	Planing mills, sawmills and lumber treatment establishments.	S	S	=	S	<u>P</u>
	<del>Sawmills and lumber treatment facilities</del>					<b>S</b>
5.5.6	Warehouse, storage or wholesale establishment, fuel storage, fuel distribution center, <u>septage receiving facility</u> and other activities involving a substantial amount of	S	S	=	S	<u>S</u>

Type of Land Use		Zoning Districts				
		A	B	C	D	I
	trucking.					
	<del>Warehouse</del>					<del>S</del>
	<del>Wholesale</del>					<del>S</del>
5.5.7	Wholesale bakery, food processing plant, wholesale laundry, cleaners, dyers and similar uses.	S	S	=	=	<u>P</u>
5.5.8	Junk yard or outdoor storage of unregistered and inoperative automobiles.	=	=	=	=	=
5.5.9	Hydro-electric power production.	S	S	S	S	=
<u>5.5.10</u>	<u>Storage of volatile fuels for resale.</u>	=	=	=	=	S
<u>5.5.11</u>	<u>Contractor yard.</u>	=	=	=	=	<u>S</u>
<u>5.5.12</u>	<u>Asphalt plants and concrete batch plants.</u>					<u>S</u>
<b>5.6</b>	<b>Civic:</b>					
5.6.1	Sanatoria, nursing homes, clubs, lodges, and fraternal organizations.	S	S	S	S	=
5.6.2	Educational institutions.	S	S	S	S	=
5.6.3	Churches.	S	S	S	S	=
5.6.4	Public <u>u</u> tility facilities.	S	S	S	S	=
<u>5.6.5</u>	<u>Day care services.</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	S
<b>5.7</b>	<b>Other:</b>					
5.7.1	Temporary dumping on or filling of land as a means for eventual use by conforming or permitted use.	S	S	S	S	<u>S</u>
<del>5.7.2</del>	<del>Commercial removal of soil of any type.</del>	<del>S</del>	<del>S</del>	<del>S</del>	<del>S</del>	
<u>5.7.2</u>	<u>Commercial removal of loam, clay, sand, gravel and ledges</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	S
5.7.3	Above ground storage for volatile fuels in excess of 500 gallons.	S	S	S	S	=
5.7.4	Public <u>p</u> arks and playgrounds.	S	S	S	S	=
5.7.5	Cemeteries for human beings.	P	=	P	S	=
5.7.6	Multiple <u>nonresidential or mixed residential and nonresidential</u> uses and/or <u>buildings dwellings</u> on a single undivided lot.	<del>S</del>	S	<del>S</del>	<del>S</del>	=
<del>5.7.7</del>	<del>Uses not specifically listed in this ordinance.</del>	<del>S</del>	<del>S</del>	<del>S</del>	<del>S</del>	
<del>5.7.7</del> <u>8</u>	<del>Personal/</del> <u>c</u> ommercial <u>w</u> ireless <u>c</u> ommunication facilities.	<u>S</u>	<u>S</u>	<u>S</u>	S	<u>S</u>
	<del>Open storage of building materials for the individual's use on site.</del>					<del>S</del>
<u>5.7.8</u>	<u>Open storage of timber, and lumber and other building material</u> for the individual's use on site.	=	=	=	=	S
<u>5.7.9</u>	<del>Planned unit development</del> <u>Industrial park.</u>	=	=	=	=	<u>PS</u>
	<del>Temporary dumping and filling as a means for eventual use by a conforming and permitted use.</del>					<del>S</del>
<u>5.7.10</u>	<u>Renewable energy facilities.</u>	<u>S</u>	=	<u>S</u>	<u>S</u>	<u>S</u>
<u>5.7.11</u>	<u>Other uses not specifically listed in the Table of District Uses but compatible with other listed uses and so similar in</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>

Lisbon NH Zoning Ordinance showing changes proposed by the Planning Board for 2019 Town Meeting

Type of Land Use		Zoning Districts				
		A	B	C	D	I
	<a href="#"><u>nature to another listed use so as to lead the Zoning Board of Adjustment to determine that issuance of a zoning permit would be reasonable.</u></a>					



**5.8 TABLE OF MINIMUM REQUIREMENTS**

**5.9**

<u>District</u>	<u>Usage</u>	<u>Lot Area- (sq ft)-Sq Ft</u>	<u>Frontage (feet)</u>	<u>Front Setback (feet)</u>	<u>Side Setback (feet)</u>	<u>(feet) Rear Setback (feet)</u>
A	Commercial	80,000	150	50	10	25
	Industrial	200,000	300	50	25	50
	Agricultural	320,000	200	50	25	25
	Residential	80,000	125	50	10	25
B	Commercial	40,000	125	25	10	25
	Industrial	80,000	200	50	25	25
	Agricultural	320,000	200	50	25	25
	Residential	20,000	125	25	10	25
C	Residential	20,000	125	25	10	25
D	Agricultural	320,000	200	50	25	25
	Residential	80,000	125	25	10	25
<u>I</u>	<u>Industrial</u>	<u>200,000</u>	<u>200</u>	<u>50</u>	<u>25</u>	<u>25</u>

**5.10** **5.9 Height:** ~~The Maximum~~ height of any building shall not exceed 35 feet in all districts.

**5.11** **5.10 Space Between Structures:** In any district, there shall be not less than 15 feet between any two unattached buildings on the same lot.

**5.12** **5.11 Average Front Yard:** When a proposed house is to be situated between two other houses fronting on the ~~same~~ street, ~~each~~ of which is not more than 200 feet from the proposed house and has less than the required front setback, the front setback for the proposed house may be reduced to the average setback of the two adjoining houses.

**5.12** **Adjustment to Lot Size:** Outside the area served by town water and sewerage the required minimum lot sizes may be increased according to the soil based lot size classification of the Society of Soil Scientists of Northern New England ~~Grafton County Conservation District~~ in order to ensure adequate areas for on-site sewage disposal and water supply and to prevent future environmental degradation.

**5.13** **One Principal Use:** Except where otherwise noted, only one principal use and one principal building shall be permitted on a lot.

**ARTICLE ~~Article~~ VI**

**GENERAL PROVISIONS**

**6.1** Land in the town shall not be used in a manner that is disorderly, unsightly, noxious, offensive, or detrimental to the public or the owners or occupants of adjacent property, or prejudicial to the welfare of the community.

**6.2** Any structure damaged by fire, wind, or other causes shall be repaired, debris

completely removed and all excavations filled to ground level.

- 6.3** No use, conforming or nonconforming, shall be allowed to stand in a damaged or unfinished condition more than one (1) year unless a Special Exception is granted by the Zoning Board of Adjustment.
- 6.4** On-site temporary buildings or trailers used in conjunction with construction work shall be permitted only during the period that the construction is in progress. Residing in the foundation before completion of the building shall not be permitted in excess of a twelve-month period unless a Special Exception is granted by the Board of Adjustment.
- 6.5** Accessory ppurtenant uses shall be allowed so long as they meet all other provisions of the ordinances.
- 6.6** **Fences:** The finished side of a fence shall face outward from the property on which the fence is located. The side of a fence containing the posts or poles and other bracing appurtenances shall face inward to the property being fenced in or on which the fence is located. When erected near a ~~property~~ lot boundary line, all of the fence and any of its supporting structures or appurtenances shall be constructed no closer than (1) one foot to the boundary line. Any fence exceeding (8) feet in height shall require a Special Exception by the Zoning Board of Adjustment. ~~(March 1999)~~
- 6.7** **Personal/Commercial Wireless Communication Facilities** regulations purpose and intent are to avoid and mitigate adverse impacts such facilities may create, including, but not limited to, the following impacts: visual, environmental, historical, flight corridors, health, safety and prosperity.

**6.7.1** Site Plan Review is required for construction and permitting of all Personal/ Commercial Wireless Communication Facilities in the Town of Lisbon.

#### 6.7.2 Regulations

- (a) In accordance with RSA 674:16(II) and 674:21, authorizing the adoption of innovative land use controls, the location, siting, establishment, erection, installation or operation of a telecommunications facility within the town of Lisbon is hereby declared to be a use, either a primary or accessory use, which is allowed only when authorized by Special Use Permit.
- (b) Responsibility for issuance of Special Use Permits shall be vested in the Planning Board and made part of this Zoning Ordinance.
- (c) Except to the extent of any inconsistency with federal or state law, and subject to the standards contained in this ordinance, the Site Plan Review Regulations shall operate with regard to telecommunications structures, equipment and facilities as they do with regard to any other use to which they apply, provided, however, that the Planning Board may make and adopt special provisions of those regulations for the governing of such structures, equipment or facilities.
- (d) Unless such special provisions of the Site Plan Review Regulations explicitly provide otherwise:

1. Towers, antennas or other telecommunications facilities shall be located and designed so as to preserve the ability of the public to enjoy the scenery of and surrounding the town of Lisbon.
  2. The use of alternative technologies and of co-location shall be thoroughly studied and determined to be infeasible before the construction of any new tower is approved. Stealth technology shall be utilized whenever practicable. Examples include monopines, internal antenna pole towers and/or other camouflaging such as placement inside part of a proposed or existing structure to reduce the visual impact.
  3. No telecommunications tower shall extend more than 80' above surrounding tree cover.
  4. Telecommunications towers, antennas and other electrical and mechanical equipment shall be made with a neutral finish or color or otherwise be treated so as to reduce visual impact.
  5. Towers shall only be artificially lighted if required by some applicable authority and such lighting shall be designed so as to cause the least impact upon the surrounding properties of Lisbon or abutting community.
  6. Towers shall not contain any permanent or temporary signs, writing, symbols or other graphic representation of any kind, except as may be allowed or required by the Planning Board in the interests of public safety.
  7. Towers shall be set back a distance of 125% of the height of the tower from the nearest lot line and from any off-site structures.
  8. Towers, guys, accessory structures and other telecommunications facilities and equipment shall comply with setback requirements.
  9. Towers shall be enclosed by security chain-link, vinyl-clad fencing at least 6 feet in height and shall be equipped with appropriate anti-climbing devices.
  10. Access for motorized vehicles to sites where telecommunications towers are located shall conform to town requirements relating to driveways whenever possible, but if the Planning Board determines that such conformity is not feasible, it may permit such access subject to any conditions it deems reasonably necessary to minimize the impact of the access route upon the surrounding environment.
- (e) For purposes of determining whether the installation of a tower or antenna complies with the town regulations, including, but not limited to, set-backs and other requirements, the boundaries and dimensions of the entire lot shall control, even though the tower or antenna may be located on a leased parcel within the lot.
- (f) The installation or operation of telecommunications equipment or facilities shall not be considered, or permitted, as an extension of a nonconforming use.

### 6.7.3 Applicability

Telecommunications facilities shall not be considered infrastructure, essential services or public utilities and the siting of such facilities shall constitute a use of

the land to be regulated by this ordinance and town regulations.

#### **6.7.4 Performance Standards and Abandonment**

- (a) All towers, antennas and other telecommunications facilities and equipment shall meet or exceed current standards and regulations of the FAA, FCC and any other agency of the federal or state government having controlling regulatory authority. If such standards or regulations are changed and apply to existing facilities, the owners or operators of such facilities or equipment shall ensure that it complies with the revised standards or regulations within six (6) months of the effective dates of any revisions, unless the controlling authority mandates a more stringent compliance schedule. Failure to comply in accordance with the applicable schedule shall constitute abandonment and shall be grounds for the removal of such facilities or equipment at the owner's expense through execution of the posted security.
- (b) The owner of a tower, antenna or other telecommunications facilities and equipment shall be responsible for ensuring that such facilities and equipment at all times conform to town regulations and meet the applicable industry standards, as such standards may be amended from time to time. If, upon inspection, the Planning Board or its designee determines that such regulations or standards are not being met, or that the facilities or equipment pose a danger to persons, property or the community, it shall notify the owner of the defects in writing, and the owner shall within thirty (30) days remedy such defects. Failure to do so shall constitute abandonment and shall be grounds for the removal of the facilities and equipment at the owner's expense through the execution of the posted security.
- (c) Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned and hazardous to the public health and safety, unless the owner provides proof of quarterly inspections, and such antenna or tower shall be removed in accordance with the following procedure:
1. The Planning Board shall hold a public hearing after due notice to abutters and to the last known owner/operator of the antenna or tower.
  2. If at such hearing, the Planning Board determines that the antenna or tower is, in fact, abandoned, it shall issue a declaration of abandonment to the owner/operator.
  3. Within ninety (90) days after issuance of such declaration, the owner shall remove the abandoned structure and, if he shall not, the town may execute the security and have the structure removed at the owner's expense.
  4. If there are two (2) or more users of a single tower, the provisions of this subsection shall not become effective until all users cease using such tower.

#### **6.7.5 Waivers**

In accordance with federal regulations and with RSA 674:21(V)(g), if any entity believes that the procedures or standards contained in this ordinance or in the Site Plan

Review Regulations have created a barrier to its ability to provide interstate or intrastate telecommunication services, it may apply to the Planning Board for administrative relief in accordance with the provisions of the regulations and the Planning Board may grant such waivers if it determines that:

- (a) Strict adherence to regulations is not required to effectuate the purposes of this ordinance; and strict compliance would create practical difficulty and unnecessary inconvenience; or
- (b) Strict compliance would cause a conflict with the Telecommunications Act of 1996.

#### **6.7.6 Security Bonds**

Before, and as a condition of the approval of a Site Plan filed in connection with the installation of any telecommunications facility, the Planning Board shall require the developer or installer to file with the town a bond in an amount adequate to cover the costs of removing the facility together with any structures or equipment appurtenant thereto and of returning the site to its condition prior to such installation.

The provisions of the Site Plan Review Regulations relating to performance bonds may apply to a bond required under this Section, provided, however, that it shall remain on file with the town and shall not be released unless the installation has been decommissioned, dismantled and removed.

The Planning Board shall require the owner/operator of any antenna or tower to provide, annually, proof that it is maintaining adequate liability insurance covering accident or damage.

### **ARTICLE~~rticle~~ VII**

#### **MANUFACTURED~~MOBILE~~ HOME PARKS, CAMPING AREAS AND CLUSTER DEVELOPMENT (SINGLE FAMILY)**

##### **7.1 Manufactured~~Mobile~~ Home Parks**

The lot on which more than two Manufactured~~Mobile~~ Homes is located shall be identified as a Mobile Home Park and shall meet all of the following requirements.

**7.1.1** Each manufactured~~mobile~~ home shall have a minimum unit space of 10,000 square feet.

**7.1.2** Each unit space shall have not less than 50-foot frontage on a street or private roadway whose right-of-way shall be at least 33 feet wide, 20 feet of which shall be a well-drained hard surface maintained in good condition. Each manufactured~~mobile~~ home shall be located no closer than 30-feet from any other unit or property line.

**7.1.3** Before any lot may be used for a Manufactured~~Mobile~~ Home Park, plans and specifications for the layout, access, private roadway, unit spaces, utilities to serve the unit spaces, sanitation, landscaping and the common facilities must be submitted

to the Planning Board and the Selectmen for approval by each body.

~~7.1.3~~7.1.4 Any ~~Manufactured~~Mobile Home Park shall at least meet the requirements of the ~~s~~Sanitary Laws ~~and regulations~~ of the State of New Hampshire. No outside storage (including fuel) shall be allowed unless it is suitably screened. The ~~manufactured~~Mobile home ~~p~~Park as a whole shall be suitably landscaped and maintained. ~~so as to be a benefit to its neighborhood and the community.~~

~~7.1.4~~7.1.5 There shall be provisions for at least ~~te~~e one on-site parking space for each unit space.

~~7.1.5~~7.1.6 A ~~manufactured~~mobile home located in a ~~Manufactured~~Mobile Home Park shall have ~~a~~a temporary or permanent foundations which ~~is~~isare fully enclosed.

**7.2 Camping Areas:** The lot on which more than one tent, tent trailer, or similar shelter is used for transient housing shall be defined ~~as~~ as a camping area subject to the following regulations:

**7.2.1** Before any lot may be used for a Camping Area, plans and specifications for the layout, access, private roadway, space, utilities to serve the unit spaces, sanitation, landscaping and common facilities must be submitted to the Planning Board and the Selectmen for approval by each body.

**7.2.2** There shall be provisions for at least one on-site parking space for each unit space.

**7.2.3** Any camping area shall at least meet the requirements of the sanitary laws and regulations of the State of New Hampshire. The operator of a camping area shall provide for the periodic collection and disposal of all rubbish from each unit. The camping area as a whole shall be suitably landscaped and maintained. ~~so as to benefit its neighborhood and the community.~~

**7.3 Cluster Development (Single Family):** ~~I~~is the arrangement of single-family dwellings closer together and on smaller lots than those required by the traditional subdivision planning and zoning specifications. The resulting difference in the lot areas is then consolidated into open spaces for the common benefit of the adjacent residents. The overall density, the total number of families to the total ~~area~~area in development, remains substantially the same as in a conventional layout.

~~7.3.1~~7.3.1 ~~The Planning Board may grant a Conditional Use Permit for a c~~The Planning Board may grant a Conditional Use Permit for a cluster development ~~is permitted by special exception as provided in Article V Table of District Uses in districts A and C.~~ A subdivision plan for cluster development must be submitted to the ~~Lisbon~~ Planning Board in accordance with the procedures and provisions of the Board's Subdivision Regulations.

~~7.3.1~~

~~7.3.2~~7.3.2 The maximum number of single family lots permitted in any cluster development shall be determined by dividing the net ~~developable~~developable tract area of the parcel by the minimum lot size for the particular zoning district. The net ~~developable~~developable tract area of a parcel of land shall be defined as the total area of the parcel less all ~~nonbuildable land, including all~~ areas within the mapped flood hazard areas, all ~~wetland areas with poorly or very poorly drained soils, and all areas~~ with a slope of ~~twenty-five~~thirty percent (~~25%~~30%) or greater. ~~-~~

~~7.3.2~~7.3.2 ~~any other areas that must be subtracted pursuant to other sections of this ordinance if any, and a percentage of the property in accord with the table below to account for~~

roads, drainage and other utilities prior to dividing by the minimum acreage required per unit for the district.

<u>Zoning District</u> <u>Lot Size</u>	<u>% Deduction for</u> <u>Roads and Utilities</u>
<u>2 acres or more</u>	<u>10%</u>
<u>less than 2 acres</u>	<u>15%</u>

**7.3.3** The minimum size of a parcel of land to be developed under this section shall be ten (10) acres of gross land area.

~~**7.3.4** Every individual lot shall have an area of at least forty thousand (40,000) square feet.~~

**7.3.4** The Planning Board may grant approval for a reduction in the minimum lot size, minimum frontage, and internal setback requirements of up to 60% .~~Lots within the cluster developments shall not have to provide the minimum frontage and setbacks as otherwise required by this ordinance, but shall be designed and constructed so as to achieve the purpose of the zoning regulations as outlined.~~The minimum lot size, frontage and internal setbacks shall be determined by the Planning Board based on the character of the land and neighborhood; the adequacy of the soils to support on-site wastewater disposal and wells if applicable; safety of access, traffic and pedestrian circulation; impervious surface; and other issues relating to the future use and enjoyment of the property.

The factors regarding the proposed arrangement of lots to be considered by the Planning Board when evaluating an application for a Conditional Use Permit for a Cluster Development shall include, but not be limited to, the following:

- a. Arrangement of roads, stormwater facilities, wastewater and other utilities in conformance with the natural features of the parcel, minimizing changes to the topography.
- b. Minimization of impervious cover.
- c. Protection of stream corridors and other important habitat areas.
- d. Protection of wetlands.
- e. Feasibility of continued or future agricultural use.
- f. Feasibility of continued or future forest management.
- g. Relationship to neighboring property, including conservation easements, or natural, cultural, recreational or scenic features.

Where frontage requirements are reduced, the Planning Board may require shared driveways.

~~**7.3.5**~~

~~**7.3.6** Where a cluster development abuts existing residential lots, a landscaped buffer sufficient to provide an adequate division or transition between uses shall be established, but in no case shall the width~~

~~of such buffer be less than the setbacks otherwise required in that district.~~

~~7.3.7~~7.3.5 Depending on the size and design of the development, it may be necessary that a common open space be permanently reserved and maintained as either a natural, recreational or park area in order to serve the homeowners within the development. Such land shall be usable for recreation and other related activities and accessible to all lots within the development, or if any land is to be dedicated to the Town, accessible to the public.

~~7.3.8~~7.3.6 The excess open space (the land area created through reduced lot sizes) shall be deeded to the property owners and the common open space devoted, as described above in section ~~7.03.057~~, shall be appropriately protected through an easement or other suitable measure given to the homeowners' association, the Town of Lisbon or to another organization approved by the Planning Board.

~~7.3.9~~7.3.7 The developer (original or subsequent) or the homeowners' association of any cluster development shall have the responsibility to repair, maintain, and develop all utilities, streets, drives, recreation areas and other facilities and amenities until and unless the Town of Lisbon has properly received responsibility.

~~7.3.10~~7.3.8 With respect to the front external boundary of the entire cluster development parcel, no building or parking area shall be within one hundred (100) feet of an existing public or private right-of-way. No building or parking area shall be within fifty (50) feet of the side and rear boundaries of the entire development parcel. The required setbacks shall be maintained as wooded buffers to provide visual screening.

~~7.3.11~~7.3.9 With respect to internal setback requirements, no structure shall be closer than twenty (20) feet from an abutting residential structure; however, garages or storage sheds for two (2) adjacent lots may be attached to each other.

## ARTICLE VIII

### ZONING BOARD OF ADJUSTMENT

- 8.1 Creation:** There is hereby created a Zoning Board of Adjustment (in this article referred to as the Board) and its five (5) members shall be appointed by the Selectmen in accordance with RSA 673:3 and shall have the terms and powers conferred by RSA 674:33~~Chapter 31, NH RSA~~ as it has been or may be amended.
- 8.2 Appeals:** The Zoning Board of Adjustment shall hear and decide any case in which it is alleged there is an error in any order, requirements, decision, or determinations made by any official in the enforcement of this ordinance.
- 8.3 Uses permitted by Sspecial Exception:** The Zoning Board of Adjustment may grant Sspecial Exceptions as provided in this ordinance~~Table of Use Regulations. Before reaching a decision, at least two members shall have viewed jointly the subject area and said viewing shall be noted in their records. Before granting approval for a Special Exception~~ The Board in acting on the applications for a special exception, shall determine that~~take into~~

~~consideration the following conditions:~~

1. The specific site is an appropriate location for the use.
2. Property values in the district will not be reduced by the use.
3. ~~The use will not adversely affect the adjacent area and there are not reasonable objections by the owners of the abutting land.~~ The proposed use will be compatible with the character of the area, and will not adversely affect the surrounding property, the neighborhood, or the town, including, but not limited to, consideration of noise, air quality, noxious odors, vibration, traffic, lighting, glare, hours of operation, amount of impervious surface, or building mass.
4. No nuisance or unreasonable hazard will result to vehicles, pedestrians or the environment, including, but not limited to, traffic, air quality, or surface or groundwater quality through increased stormwater runoff or the use of toxic or hazardous substances.
5. Adequate and appropriate facilities will be provided for the proper operation and maintenance of the proposed use.

~~**8.4 Time Limit:** Prior to granting a special exception, the Board may refer the appeal to the Planning Board for a report and recommendation which the Planning Board shall return within 45 days, otherwise, the Board shall rule on all appeals and notify the appellant of their ruling in writing 60 days from the date of application.~~

**8.405 Variance:** The Board may authorize a variance from the terms of this ordinance where the Board finds that all of the following five conditions are met as required by state law ~~apply:~~

- (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.
  1. For purposes of this subparagraph, "unnecessary hardship" means that, owing to special conditions of the property that distinguish it from other properties in the area:
    - i. 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
    - ii. The proposed use is a reasonable one.
  2. If the criteria in subparagraph 1. 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.

The definition of "unnecessary hardship" set forth in subparagraph (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.

**8.5** In authorizing a Variance or Special Exception, the Zoning Board of Adjustment may attach such conditions and safeguards as it deems necessary to protect the neighborhood and community, as to the use of the land, including for example:

- a. Increasing the required lot size or setbacks in order to protect the adjacent properties.
- b. Limiting the coverage or height of buildings because of obstruction to view and reduction of light and air to adjacent properties.
- c. Controlling the location and number of vehicular access points to the property.
- d. Increasing the street width adjacent to the property.
- e. Increasing the number of on-site off-street parking or loading spaces required.
- f. Limiting the number, location and size of signs on or off premises.
- g. Requiring suitable on-site landscaping and screening where necessary to reduce noise and glare and to maintain the property in character and keeping with the surrounding area.
- h. Specifying a time limit for initiation of construction, alteration, or enlargement of a structure.
- i. Providing for specific layout of facilities on the property such as location of the building, parking areas, access to the building so as to minimize the effect on adjoining property.
- j. Requiring that any future enlargement or alteration of use be accomplished only with the approval of the Zoning Board of Adjustment.
- k. Specifying standards for operation so that it will be no more objectionable to the neighborhood by reasons of noise, odors, and vibrations, flashing lights or hours of operation than will be the operation of a permitted use at this site.
- l. Specifying that in case of the remodeling of existing structures into two-family or lodging use that the remodeling of the structure would be done in such a manner that it will not substantially change the exterior appearance of the structure.
- m. Requiring such additional reasonable conditions and safeguards

as it may deem necessary to implement the purpose of this ordinance and to protect the best interests of the surrounding property and the neighborhood.

~~8.5.1~~ — ~~There are special circumstances or conditions applying to the land or structure for which the variance is sought (such as, but not limited to, the exceptional narrowness, shallowness, or shape of the property in question, or exceptional topographical conditions), which are peculiar to such requirements of this ordinance as will deprive an owner of such property a reasonable use of it, and will impose upon such owner a hardship not shared by the owners of other property.~~

~~8.5.2~~ — ~~The granting of the variance will be in harmony with the general purposes and intent of this ordinance, and with the convenience, welfare, and character of the area within which it is approved, and will not be injurious or otherwise detrimental to the public welfare.~~

~~8.5.3~~ — ~~The use proposed is a permitted or allowed use.~~

~~8.5.4~~ — ~~The specific variance is the minimum variance necessary to provide for a reasonable use of the land or structure.~~

~~8.5.5~~ — ~~Not to grant the variance would result in an injustice.~~

8.6 Application and hearing procedures shall be governed by RSA 676:5 through 7 as amended. ~~Owners of land requesting a special exception, or variance, or appealing an executive decision shall bear the expenses of the necessary hearings (such as cost of newspaper and legal notices and required notices by mail). (Adopted 1984).~~

~~8.5.6~~ —

### 8.7 Equitable Waivers of Dimensional Requirements

- A. When a lot or other division of land, or structure thereupon, is discovered to be in violation of a physical layout or dimensional requirement imposed by this zoning ordinance, the Zoning Board of Adjustment shall, upon application by and with the burden of proof on the property owner, grant an equitable waiver from the requirement, if and only if the Board makes all of the following findings:
1. That the violation was not noticed or discovered by any owner, former owner, owner's agent or representative, or municipal official, until after a structure in violation had been substantially completed, or until after a lot or other division of land in violation had been subdivided by conveyance to a bona fide purchaser for value;
  2. That the violation was not an outcome of ignorance of the law or ordinance, failure to inquire, obfuscation, misrepresentation, or bad faith on the part of any owner, owner's agent or representative, but was instead caused by either a good faith error in measurement or calculation made by an owner or owner's agent, or by an error in ordinance interpretation or applicability made by a municipal official in the process of

issuing a permit over which that official had authority;

3. That the physical or dimensional violation does not constitute a public or private nuisance, nor diminish the value of other property in the area, nor interfere with or adversely affect any present or permissible future uses of any such property; and
4. That due to the degree of past construction or investment made in ignorance of the facts constituting the violation, the cost of correction so far outweighs any public benefit to be gained, that it would be inequitable to require the violation to be corrected.

B. In lieu of the findings required by the board under subparagraphs A(1) and (2), the owner may demonstrate to the satisfaction of the board that the violation has existed for 10 years or more, and that no enforcement action, including written notice of violation, has been commenced against the violation during that time by the municipality or any person directly affected.

C. Application and hearing procedures for equitable waivers under this section shall be governed by RSA 676:5 through 7. Rehearings and appeals shall be governed by RSA 677:2 through 14.

D. Waivers shall be granted under this section only from physical layout, mathematical or dimensional requirements, and not from use restrictions. An equitable waiver granted under this section shall not be construed as a nonconforming use, and shall not exempt future use, construction, reconstruction, or additions on the property from full compliance with the ordinance. This section shall not be construed to alter the principle that owners of land are bound by constructive knowledge of all applicable requirements. This section shall not be construed to impose upon municipal officials any duty to guarantee the correctness of plans reviewed by them or property inspected by them.

## **ARTICLE IX**

### **ADMINISTRATION AND ENFORCEMENT**

**9.1 Administration Official:** This ordinance shall be administered and enforced by the Board of Selectmen who may delegate authority.

**9.2 Violations:** The Board of Selectmen is hereby authorized ~~to~~ institute or cause to be instituted, in the name of the Town, any and all actions, legal or equitable, that may be appropriate or necessary for the enforcement of this ordinance; ~~÷~~ this authorization, however, shall not prevent any person entitled to

equitable relief from enjoining any act contrary to the provisions of this ordinance.

- 9.3 Penalties:** Any violation of this ordinance may be subject to injunctive relief as provided by RSA 676:15 as amended and penalties as provided by RSA 676:17 as amended punishable, as determined by the Board of Selectmen, ~~by a civil fine of not more than~~

~~\$100 for each day that such violation is found by a court to continue after the conviction date or after the date on which the violator received written notice from the municipality that he is in violation of this ordinance, whichever date is earlier. (March 1985)~~

## ARTICLE X

### AMENDMENT

- 10.1 This ordinance may be amended in accordance with the provisions of NHRSA Chapter 675:31 ~~NH RSA~~, as have been or may be amended.

~~any person may submit a request for an amendment or repeal of any provision of this ordinance, or any boundary shown on the Planning Map to the Planning Board. The Planning Board shall hold two public hearings on the request and then determine the final form of the request and submit it to the Town Clerk for action by the voters of the Town.~~

## ARTICLE XI

### VALIDITY

- 11.01 -The validity of any provisions of this ordinance shall not affect the validity of any other provision.

- 11.2 If any provision of this ordinance differs or appears in conflict with any other ordinance or regulation, the provision imposing the greater restriction or more stringent standard shall be controlling.

## ARTICLE XII

### EFFECTIVE DATE

- 12.01 -This ordinance and any subsequent amendment shall take effect immediately upon its passage

