

TOWN OF LISBON, NEW HAMPSHIRE

ZONING ORDINANCE

As Amended

March 10, 2020, Town Meeting

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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; 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 I 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 Use:** Any normal residential use such as, but not limited to, garage, utility shed, storage of registered camper or recreational vehicle, and swimming pool. Includes renewable energy generation for onsite usage.
- 1.3 Animal Husbandry:** Includes the raising, keeping, breeding and sale of animals other than household pets, including livestock such as beef and dairy cattle, steer, oxen, goats, sheep, swine, horses, mules or other equidae, as well as domesticated strains of buffalo, bison, llamas, alpacas, emus, ostriches, poultry, rabbits, yaks, elk (*Cervus canadensis*), fallow deer (*Dama dama*), red deer (*Cervus elephus*), and reindeer (*Rangifer tarandus*); the breeding, boarding, raising, training, riding instruction, and selling of equine; the commercial raising, harvesting, and sale of fresh water fish or other aquaculture products; the raising, breeding, or sale of poultry or game birds; and the raising, breeding, or sale of domesticated strains of fur-bearing animals.
- 1.4 Building:** Any structure for the shelter or enclosure of persons, animals or property of any kind.
- 1.5 Certified Wetland 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.

- 1.6 Conditional Use:** A use allowed upon the granting of a Conditional Use Permit by the Planning Board pursuant to RSA 674:21 II.
- 1.7 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.
- 1.8 Dwelling:** A structure designed for residential occupancy.
- 1.9 Frontage:** The length of the lot bordering on an approved public or improved private road that meets at least minimum state and/ or local standards.
- 1.10 Front Setback:** A setback with a lot line which coincides with a line of a street or public right-of-way.
- 1.11 Ground Cover:** Any herbaceous plant or any woody seedling or shrub generally less than 3 feet in height. Ground cover shall not include: lawns; landscaped areas; gardens; invasive species as listed by the Department of Agriculture, Markets and Food in accordance with RSA 430:53, III; exotic species as designated by rule of the Department of Environmental Services in accordance with RSA 487:24, VII; imported organic or stone mulches; or other artificial materials.
- 1.12 Height:** The vertical distance between the mean finished grade at the structure and the highest point of the roof of the structure.
- 1.13 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.
- 1.14 Junk Yard:** The definition of junk yard 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.
- 1.15 Lot:** A single unit or parcel of land in the same ownership throughout, with ascertainable boundaries and undivided by a street.
- 1.16 Lot Area:** The area in square feet enclosed by the lot lines of a single lot.
- 1.17 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.

- 1.18 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.
- 1.19 Natural Woodland:** A forested area consisting of various species of trees, saplings, shrubs, and ground covers in any combination and at any stage of growth.
- 1.20 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.
- 1.21 Nonconforming Structure:** A structure 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.
- 1.22 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.
- 1.23 Ordinary High Water Mark:** The line on the shore, running parallel to the main stem of the river, established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the immediate bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.
- 1.24 Parking Space:** An off-street space whether inside or outside of a structure, to be used primarily as a parking area for one vehicle.
- 1.25 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.
- 1.26 Renewable Energy Facility:** A facility for the generation of solar, wind or geothermal energy.

- 1.27 Service Station:** A buildings 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.
- 1.28 Setback:** The distance between a lot line and the closest point of the nearest building.
- 1.29 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.
- 1.30 Use by Right:** A use which may be granted a permit without the approval of the Zoning Board of Adjustment or a Conditional Use Permit by the Planning Board and which conforms to the ordinance.
- 1.31 Variance:** A variance is a relaxation of the terms of this ordinance pursuant to RSA 674:33.
- 1.32 Wetland:** Pursuant to RSA 482-A:2.X, 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.

ARTICLE II **NONCONFORMING LOTS, USES AND BUILDINGS**

- 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.
- 2.3** A nonconforming use or building may be expanded only if granted a Special Exception by the Zoning Board of Adjustment which shall first find such expansion or extension does not increase the degree of nonconformance.
- 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.
- 2.5** Any nonconforming use which has been discontinued for a period of the two (2) years shall not thereafter be resumed.
- 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 by the Lisbon Zoning Board of Adjustment.

ARTICLE III **ESTABLISHMENT OF DISTRICTS**

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

3.1.1 District A: All property north of the southernmost State of New Hampshire railroad right-of-way crossing 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. Parcel numbers refer to the Town of Lisbon Parcel Lines as shown by CAI Technologies on 10/12/18.

3.1.2 District B: All property south of District A 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.

3.1.3 District C: All property not included in District A or B serviced by the Lisbon Public Water system.

3.1.4 District D: All other property not included in Districts A, B, C or the Industrial District.

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 Districts

3.2.1 Pearl Lake Conservation District: All property surrounding Pearl Lake and within the Pearl Lake Watershed.

3.2.2 Flood and Erosion Hazard Areas: The Flood and Erosion Hazard Area Overlay District is an overlay district superimposed over the existing conventional zoning districts in the town of Lisbon. It is comprised of Flood Hazard Areas and Fluvial Erosion Hazard Areas.

A. Flood Hazard Areas

The provisions of this subdistrict as noted shall apply to all lands in the town of Lisbon designated as special flood hazard areas by the Federal Emergency Management Agency in its *Flood Insurance Study for the County of Grafton, NH* dated February 20, 2008 or as amended, together with the associated Flood Insurance Rate Maps dated February 20, 2008 or as amended, which are declared to be a part of this ordinance and are hereby incorporated by reference.

B. Fluvial Erosion Hazard Areas

The provisions of this subdistrict as noted shall apply to areas in the town of Lisbon identified in the maps accompanying the report *Ammonoosuc River Geomorphic Assessment, Floodplain Conservation, and River Corridor Planning*, Dr. John Field, October 2011, as subject to High or Very High risk of erosion, which are declared to be a part of this ordinance and are hereby incorporated by reference.

3.2.3 Shoreland Protection Areas:

The Shoreland Protection Overlay District is an overlay district superimposed over the existing conventional zoning districts of Lisbon. It includes within its boundary all lands within 25 feet of the ordinary high water mark of all perennial streams as identified in the New Hampshire Hydrography Dataset archived by the Geographically Referenced Analysis and Information Transfer System (GRANIT) at the Complex Systems Research Center of the University of New Hampshire, and developed by GRANIT in collaboration with the NH Department of Environmental Services.

3.2.4 Wetlands Conservation Overlay District:

The Wetlands Conservation Overlay District is an overlay district superimposed over the existing conventional zoning districts in the town of Lisbon. Includes all wetlands identified on the most recent National Wetlands Inventory maps produced by the US Fish & Wildlife Service that are contiguous with perennial streams as identified in the New Hampshire Hydrography Dataset archived by the Geographically Referenced Analysis and Information Transfer System (GRANIT) at the Complex Systems Research Center of the University of New Hampshire, and developed by GRANIT in collaboration with the Department of Environmental Services. The Wetlands Conservation Overlay District shall also include a buffer 25 feet wide around such wetlands.

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

ARTICLE IV
OVERLAY DISTRICT REGULATIONS

4.1 Pearl Lake Conservation District

Where uses are planned in the Pearl Lake Conservation District which require a Special Exception from the Zoning Board of Adjustment, 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 Section 8.3 as well as to determine that the proposed use will not be detrimental to the health and welfare of the general public. In reviewing proposed uses in wetlands or on slopes in excess of 25%, the following shall be given due consideration: pollution of surface or groundwater, creation of or increase in erosion or sedimentation, and stormwater management in accordance with best management practices.

4.2 Flood and Erosion Hazard Area Overlay District

4.2.1 Authority: The Flood and Erosion Hazard Area Overlay District is adopted under the authority granted pursuant to RSA 674:16, Grant of Power, RSA 674:21, Innovative Land Use Controls, and 674:56, Flood Hazards.

4.2.2 Purpose: The purpose of the Flood and Erosion Hazard Area Overlay District is to protect the health, safety and welfare of residents by promoting the most appropriate use of land in Flood Hazard Areas and Fluvial Erosion Hazard Areas, as follows:

- A. Uses which will result in no increase in base flood levels, flows, peaks or velocity.
- B. Uses which will not increase the potential for flood damage to the owner's property or that of others.
- C. Uses which will protect the benefits provided to the community by the floodplain.
- D. Uses which will result in no increase in erosion and/or sedimentation or other degradation of water quality.
- E. Uses which will not increase the risk to public safety, or to emergency personnel during flood events, or result in an increase in the cost of public services above costs incurred when not in a floodplain or fluvial erosion hazard area.
- F. Uses which will allow the Ammonoosuc River to maintain or re-establish its natural equilibrium to avoid the need for costly and environmentally degrading stream channelization and bank stabilization measures.

4.2.3 Findings: Certain areas of the town of Lisbon are subject to periodic flooding, causing a serious threat to the health, safety and welfare of residents. These areas are shown on the Flood Insurance Rate Maps for Grafton County, NH dated February 20, 2008 and described in the Flood Insurance Study for the County of Grafton, NH dated February 20, 2008.

Certain areas of the town of Lisbon were identified as being subject to a High or Very High risk of erosion in the report *Ammonoosuc River Geomorphic Assessment, Floodplain Conservation, and River Corridor Planning*, Dr John Field, October 2011, which was reviewed by NHDES.

4.2.4 Applicability: All proposed development in the Flood and Erosion Hazard Area Overlay District shall require a building permit. The Selectboard or their designee shall review all building permit applications for new construction, additions to existing structures, and substantial improvement and other development to determine whether the proposed site is within the Flood and Erosion Hazard Area Overlay District. If the site is determined to be within the Flood and Erosion Hazard Area Overlay District, the Selectboard or their designee shall review the application to ensure that the proposal is in compliance with all provisions of the District including all applicable standards contained in Section 4.2.10 Development Standards.

- A. For all new, expanded or substantially improved structures located in Zone A and AE the applicant shall furnish the following information to the Selectboard or their designee:
 - 1. 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.
 - 2. If the structure has been floodproofed, the as-built elevation (in relation to mean sea level) to which the structure was floodproofed.
 - 3. Any certification of floodproofing.
- B. The Selectboard or their designee shall maintain the aforementioned information for public inspection, and shall furnish such information upon request.
- C. The Selectboard or their designee 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.
- D. The Selectboard or their designee shall determine the base flood elevation in the following order of precedence according to the data available:
 - 1. In Zone AE refer to the elevation data provided in the community's Flood Insurance Study and accompanying FIRM.
 - 2. In Zone A the Selectboard or their designee 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 a base flood elevation is not available or not known, the base flood elevation shall be determined to be at least 2 feet above the highest adjacent grade.

4.2.5 Definitions: The following definitions shall apply only to this Flood and Erosion Hazard Area Overlay District, and shall not be affected by the provisions of any other ordinance of the Town of Lisbon.

Addition: An expansion of a structure outside of the footprint of the original building.

Area of Special Flood Hazard: 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 on the FIRM as Zone A and AE.

Avulsion: The geomorphic process in which an active river channel shifts location or creates a new active channel. May occur very rapidly during a catastrophic flow event or over a long period of time.

Base Flood: The flood having a 1 percent possibility of being equaled or exceeded in any given year.

Base Flood Elevation (BFE): The computed elevation to which floodwater is anticipated to rise to during the base flood.

Basement: Any area of a building having its floor subgrade on all sides.

Building: See “Structure.”

Channel: The area that contains continuously or periodic flowing water that is confined by banks and contained within a defined streambed.

Development: 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: The Federal Emergency Management Agency.

Flood or Flooding: A general and temporary condition of partial or complete inundation of normally dry land areas from either the overflow of inland or tidal waters, or the unusual and rapid accumulation or runoff of surface waters from any source.

Flood Insurance Rate Map (FIRM): The 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, NH.

Flood Insurance Study: 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.

Floodplain or Flood-prone Area: Any land area susceptible to being inundated by water from any source (see definition of “Flooding”).

Floodproofing: Any combination of structural and non-structural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures and their contents.

Floodway: See “Regulatory Floodway.”

Fluvial Erosion: The wearing away of river beds and banks by the action of water, which can be accelerated to rates harmful to life, property, and infrastructure during high flow conditions.

Fluvial Erosion Hazard (FEH) Area: The land area adjacent to stream channels subject to fluvial erosion processes or other channel adjustments.

Highest Adjacent Grade: The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic Structure: 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:
 - i. By an approved state program as determined by the Secretary of the Interior, or
 - ii. Directly by the Secretary of the Interior in states without approved programs.

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.

Manufactured Home: A structure, transportable in one or more sections that 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: A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

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's Flood Insurance Rate Map are referenced.

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 floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

Recreational Vehicle: Defined as:

- 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.
- d. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

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 cumulatively increasing the base flood elevation more than a designated height.

Special Flood Hazard Area: See "Area of Special Flood Hazard."

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

Substantial Damage: 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: Any combination of repairs, reconstruction, alteration, or improvements to a structure in which the cumulative cost equals or exceeds 50 percent of the

market value of the structure. The market value of the structure should equal:

- a. The appraised value prior to the start of the initial repair or improvement, or
- b. In the case of damage, the value of the structure prior to the damage occurring.

For the purposes of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures that have incurred substantial damage, regardless of actual repair work performed. The term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary, or safety code specifications that 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.”

Top of Bank: The vertical point along a stream bank where an abrupt change in slope is evident. For streams in wider valleys it is the point where the stream is generally able to overflow its banks and enter the floodplain. For steep and narrow river and stream valleys, top of bank can be, but is not always, the same as the top of slope (or break in topographic profile).

Violation: The failure of a structure or other development to be fully compliant with the community’s floodplain management regulations contained herein.

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

4.2.6 Permitted Uses: The following uses are permitted in the Flood and Erosion Hazard Area Overlay District provided they are consistent with the purposes of this ordinance and do not involve the placement, expansion or construction of permanent structures or other materials that could impede floodwaters or become flood-carried debris:

- A. Agricultural activities consistent with current best management practices as published by the New Hampshire Department of Agriculture, Markets and Food, including maintenance or improvement of existing crop or pasture land for continued agricultural use, as defined in N.H. Code of Administrative Rules Env-Wt 101.20 and described in Env-Wt 303.04(u).
- B. Forest Management consistent with current accepted best management practices. As specified in N.H. Code of Administrative Rules Env-Wt 304.05 Logging Operations:
 1. All skid trails, truck roads and log landings shall be located far enough from streams or ponds so that waterborne soil particles will settle out before reaching the streams or ponds.
 2. Skid trails and truck roads shall be laid out using appropriate erosion control devices, as outlined in the *Best Management Practices for Erosion Control on*

Timber Harvesting Operations in New Hampshire (NH Department of Natural and Cultural Resources, latest edition) so that the grade approaching a stream or pond is broken, and surface water is dispersed. Crossings of streams and wetlands shall be kept to a minimum and shall be located to minimize impact in accordance with N.H. Code of Administrative Rules Env-Wt 302.04(b) and (c).

- C. Outdoor recreation, such as play areas, boating, hunting, fishing, trails for motorized or non-motorized use.
- D. Wildlife or fisheries management.
- E. Scientific research and educational activities.
- F. Home occupations and home businesses in existing residences consistent with other sections of this ordinance.
- G. Replacement water and sewer systems, including on-site systems, provided that the applicant shall provide the Selectboard or their 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.
- H. Substantial improvement not involving an addition.

4.2.7 Prohibited Uses: Except where otherwise noted, the following uses are prohibited in both Flood Hazard Areas and Fluvial Erosion Hazard Areas:

- A. New buildings or other structures except as allowed below by Conditional Use Permit.
- B. Processing or storage of excavation materials in Flood Hazard Areas.
- C. Storage of construction or other materials which would impede flow of floodwaters or become a hazard downstream during a flood event.
- D. Filling in Flood Hazard Areas.
- E. Grading in Flood Hazard Areas that results in obstruction of flood flows or reduces flood storage capacity.
- F. Grading and excavation conducted in such a manner as to potentially increase the possibility of channel avulsion within Fluvial Erosion Hazard Areas.
- G. Dumping.
- H. Wastewater or septage treatment facilities.
- I. Storage of floatable, or toxic, hazardous, or regulated substances. (Quantities typical for household use are permissible if stored 3 feet or more above base flood elevation.)
- J. Unsecured tanks.
- K. Junkyards.
- L. Landfills.
- M. Subdivision of land that would create a parcel that had inadequate developable land outside the Flood and Erosion Hazard Area.

4.2.8 Uses by Conditional Use Permit: The Planning Board may grant a Conditional Use Permit for the following uses in Flood Hazard Areas and Fluvial Erosion Hazard Areas if determined, based on evidence provided by the applicant, to be in conformance with all of the applicable standards provided in Section 4.2.10 below and the purposes of the Flood and Erosion Hazard Area Overlay District listed in Section 4.2.2 above:

- A. Water impoundments for the purpose of creating a waterbody for wildlife, fire safety, on-site detention of stormwater runoff and/or recreational uses.
- B. Water-dependent uses, such as docks, boathouses, and water powered projects.
- C. Additions to or replacements of existing structures, including manufactured homes. When possible, the addition or replacement of structures in Fluvial Erosion Hazard Areas should not result in a decreased distance between the structure and the top of the bank.
- D. Accessory structures to existing primary uses when it is not practicable to construct the accessory structure on a portion of the lot outside of the Flood and Fluvial Erosion Hazard Area Overlay District.
- E. One principal building on a preexisting lot of record with inadequate developable land outside Flood and Erosion Hazard Area Overlay District. When locating the structure outside Fluvial Erosion Hazard Areas is not possible, the structure should be sited to maximize the distance from the top of the bank.
- F. New or expanded septic systems if no suitable location exists for the system on a portion of the lot outside of the Flood and Erosion Hazard Area Overlay District.
- G. Construction, repair or maintenance of streets, roads, and other access ways, including driveways, footpaths and bridges, and utility right-of-way easements, including power lines and pipe lines, wastewater collection facilities and pump stations, if essential to the productive use of land adjacent to the Flood and Erosion Hazard Area Overlay District.
- H. Undertaking of a use not otherwise permitted in the Flood and Erosion Hazard Area Overlay District, if it can be shown that such proposed use does not involve the erection of structures or filling and is in accordance with all of the purposes of the District as listed in Section 4.2.2 and those of the underlying zoning district.

4.2.9 Nonconforming Uses and Structures: An existing use or structure as of the effective date of this amendment may continue, even though it does not conform to requirements of these regulations. Such non-conforming uses and structures may not be extended, enlarged, or re-established after being discontinued for more than one year. Nor may a non-conforming use and/or structure be modified to create another non-conforming use and/or structure unless it is determined by the Planning Board that the proposed use will not increase the degree of non-conformance with the standards contained in these regulations. Reconstruction of an existing structure will be allowed if for the same use, within the same building footprint, and of the same or smaller dimensions as existed within 12 months prior to reconstruction, provided the construction meets all applicable development standards of this ordinance.

4.2.10 Development Standards:

A. General Standards within Flood Hazard Areas

- 1. All development, including new construction, additions, substantial improvements and fill shall be:
 - a. Designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic

- loads, including the effects of buoyancy.
 - b. Constructed with materials resistant to flood damage.
 - c. Constructed by methods and practices that minimize flood damages.
 - d. Designed to result in no increase in flood levels during the flood event.
2. The Selectboard or their 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 in the floodway unless a registered professional engineer certifies that the proposed development will not result in any increase in base flood levels.
 3. 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 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 in the community.
 4. All new construction and additions to any residential or nonresidential structure shall have the lowest floor, including basement, together with attendant utility and sanitary facilities, elevated to no lower than three feet above the base flood elevation.
 5. All utilities, including electrical, heating, ventilation, plumbing, air conditioning, and other service facilities, including ductwork, shall be elevated or made of flood resistant materials up to three feet above base flood elevation, and designed and located to prevent water from entering or accumulating within the components during conditions of flooding.
 6. All new buildings and additions to existing buildings must be constructed on foundations that are approved by a licensed professional engineer, or constructed on properly designed and compacted fill (ASTM D-698 or equivalent) that extends beyond the building walls before dropping below the level which is three feet above the base flood elevation and has appropriate protection from erosion and scour. The fill design must be approved by a licensed professional engineer.
 7. For all new construction, fully enclosed areas located in a special flood hazard area that are below the lowest floor of a structure, below the base flood elevation, and therefore subject to flooding, shall meet the following requirements:
 - a. Constructed with flood damage-resistant materials;
 - b. Used solely for the parking of vehicles, building access, or storage;
 - c. Constructed with the floor of the enclosed area at or above grade on at least one side of the structure; and

- d. Install flood openings in the enclosure walls so that they are 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:
 - i. A minimum of two flood openings on different sides of each enclosed area 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;
 - ii. The bottom of all flood openings shall be no higher on the enclosure wall than one foot above either the interior or exterior grade, whichever is higher; and
 - iii. Flood openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
8. All recreational vehicles shall either: be on the site for fewer than 180 consecutive days; be fully licensed and ready for highway use; or meet all standards of Section 4.2.4 and the elevation and anchoring requirements for “manufactured homes” in Section 4.2.10 D. 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.
9. 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 Selectboard or their 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.
10. The space occupied by fill, including mounded septic systems, or structure below the level which is three feet above the base flood elevation shall be compensated for and balanced by a hydraulically equivalent volume of excavation taken from below the base flood elevation. All such excavations shall be constructed to drain freely to the watercourse.
11. Proposed structures to be located on slopes in special flood hazard areas shall include adequate drainage paths to guide floodwaters around and away from the proposed structures.
12. The activity must be sited and designed to minimize disruption to shorelines and their banks.

B. Additional Standards for Watercourses in Flood Hazard Areas

1. 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 Selectboard or their 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 Selectboard or their designee, including notice of all scheduled hearings before the Wetlands Bureau.

2. The applicant shall submit to the Selectboard or their designee 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. Standards for Substantial Improvements in Flood Hazard Areas, Not Involving Additions

1. Residential structures to be substantially improved shall have the lowest floor (including basement) elevated to or above the base flood elevation.
2. Nonresidential structures to be substantially improved shall have the lowest floor, including basement, elevated to or above the base flood level; or together with attendant utility and sanitary facilities, shall:
 - a. Be floodproofed 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 section.
3. For all structures to be substantially improved, fully enclosed areas located in a special flood hazard area that are below the lowest floor of a structure, below the base flood elevation, and therefore subject to flooding, shall meet the following requirements:
 - a. Constructed with flood damage-resistant materials;
 - b. Used solely for the parking of vehicles, building access, or storage;
 - c. Constructed with the floor of the enclosed area at or above grade on at least one side of the structure; and
 - d. Install flood openings in the enclosure walls so that they are 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:
 - i. A minimum of two flood openings on different sides of each enclosed area 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;
 - ii. The bottom of all flood openings shall be no higher on the enclosure wall than one foot above either the interior or exterior grade, whichever is higher; and

- iii. Flood openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

D. Additional Standards for Manufactured Homes in Flood Hazard Areas

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 least three feet above the base flood level; and be securely anchored to resist floatation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

E. Additional Standards for Conditional Use Permits in Fluvial Erosion Hazard Areas

1. No reasonable alternative location for the proposed development outside of Fluvial Erosion Hazard Areas is available.
2. The proposed development will not increase the susceptibility of the property to fluvial erosion damage.
3. The proposed development will not increase the potential for damage to other private or public properties or public infrastructure due to fluvial erosion.
4. The proposed development will not increase the potential of materials being swept onto other lands or into the stream by fluvial erosion, thereby causing damage to others from fluvial erosion.
5. The proposed development will not cause an undue burden on public services and facilities including roads, bridges, culverts, and emergency service providers during and after fluvial erosion events.
6. The development plans include maintenance of an undisturbed buffer of native tree, shrub and undergrowth vegetation to be maintained, restored or allowed to naturally regenerate on the property to the maximum extent practicable. The width of the buffer shall be no less than 25 feet, or greater, as recommended by the reviewing qualified professional or the Conservation Commission, if site conditions warrant additional stabilization of land and soil.

4.2.11 Variances and Appeals:

- A. Any order, requirement, decision or determination of the Selectboard or their designee made under this ordinance may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5. Decisions of the Planning Board may be appealed to superior court as set forth in RSA 676:5,III.

B. In Flood Hazard Areas, the following additional variance requirements shall apply:

1. If the applicant, upon appeal, requests a variance as authorized by RSA 674:33, I (b), the applicant shall have the burden of showing, in addition to the usual variance standards under state law, that the variance will not:
 - a. Result in any increase in base flood elevations, flows, peaks or velocity.
 - b. Increase the potential for flood damage to the owner's property or that of others.
 - c. Result in increased erosion and/or sedimentation or other degradation of water quality.
 - d. Increase the risk to public safety or emergency personnel during flood events, or increase the cost to the public by virtue of its location in a flood hazard area.

The variance must additionally be the minimum necessary, considering the flood and erosion hazard, to afford relief.

2. The Zoning Board of Adjustment shall notify the applicant in writing that:
 - a. The issuance of a variance to construct below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and,
 - b. Such construction below the base flood elevation increases risks to life and property. Such notification shall be maintained with a record of all variance actions.
3. The Town shall:
 - a. Maintain a record of all variance actions, including their justification for their issuance, and
 - b. Report such variances issued in Flood Hazard Areas in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.

4.3 Shoreland Protection Overlay District

4.3.1 Purpose: The purpose of the Shoreland Protection Overlay District is to establish regulations for the design of riparian buffers to protect the flowing streams and shorelines of Lisbon to reduce and prevent shoreline erosion; protect the water quality of these resources; to protect Lisbon's riparian and aquatic ecosystems; and to provide for the environmentally sound use of the town's land resources in accordance with the goals and objectives of the Master Plan.

4.3.2 Findings: The Town of Lisbon finds that shoreland protection and riparian buffers adjacent to flowing waters provide numerous environmental benefits. Shoreland vegetated buffers serve to:

- A. Reduce erosion and control sedimentation;
- B. Restore and maintain the chemical, physical and biological integrity of the water resources;
- C. Provide infiltration of stormwater runoff;

- D. Remove pollutants delivered in stormwater runoff;
- E. Stabilize lake and stream banks;
- F. Maintain base flow of streams;
- G. Contribute food and habitat for the aquatic ecosystem;
- H. Moderate the temperature of near shore waters;
- I. Provide and enhance terrestrial wildlife habitat; and,
- J. Enhance scenic value and recreational opportunities.

4.3.3 Prohibited: Within the Shoreland Protection Overlay District there shall be no structures constructed or placed and no removal of vegetation except as otherwise provided for below.

4.3.4 Permitted:

1. A property owner may remove, or may have removed, any dead, diseased, or unsafe trees, limbs, saplings, or shrubs from the Shoreland Protection Overlay District subject to the following conditions:
 - a. Prevent damage to surrounding healthy trees, limbs, saplings, and shrubs.
 - b. Minimize damage to ground cover.
 - c. Prevent soil erosion and sedimentation to the water body.
2. Normal trimming, pruning, and thinning of branches to the extent necessary to maintain the health of the planted area as well to protect structures, maintain clearances, and provide views is permitted provided such activity does not endanger the health of the plant.
3. A water dependent structure, meaning one which is a dock, wharf, pier, breakwater, or other similar structure, or any part thereof, built over, on, or in the waters of the state, may be constructed as approved by NHDES.
4. Hydroelectric facilities, including, but not limited to, dams, dikes, penstocks, and powerhouses, shall be recognized as water dependent, and may be constructed as permitted by NHDES.
5. Public utility lines and associated structures and facilities, roads and driveways, and public water access facilities including boat ramps may be constructed as permitted by NHDES.
6. Public water supply facilities, including water supply intakes, pipes, water treatment facilities, pump stations, and disinfection stations may be constructed as permitted by NHDES.
7. Sewage treatment facilities may be constructed as permitted by NHDES.
8. A permanent 6-foot wide foot path and/or steps as well as access to any docks, beaches, structures, existing open areas, and the water body, configured in a manner that will not concentrate stormwater runoff or contribute to erosion, are allowed.

9. Stream crossings necessary for forest management, including the transportation of forest products, in conformance with NHDES regulations and *Best Management Practices for Erosion Control on Timber Harvesting Operations in New Hampshire* (NH Department of Natural and Cultural Resources, latest edition).
10. Owners of lots and holders of easements on lots that were legally developed prior to the adoption of this amendment may maintain but not enlarge cleared areas, including but not limited to existing lawns, gardens, landscaped areas, beaches, and rights-of-way for public utilities, public transportation, and public access, and may repair existing utility structures within the Shoreland Protection Overlay District. Conversion to or planting of cleared areas with non-invasive species of ground cover, shrubs, saplings, and trees is encouraged but shall not be required.

4.3.5 Additional Requirements: Within the Shoreland Protection Overlay District all of the following additional prohibitions and limitations shall apply:

1. No chemicals, including pesticides or herbicides of any kind, shall be applied to ground, turf, or established vegetation except if applied by horticultural professionals who have a pesticide application license issued by the Department of Agriculture or as allowed under special permit issued by the Division of Pesticide Control under rules adopted by the Pesticide Control Board under RSA 541-A, or fertilizers of any kind except those specified in RSA 483-B:9, II(d).
2. Rocks and stumps and their root systems shall be left intact in the ground unless removal is specifically approved by NHDES in conjunction with a permitted use.
3. No natural ground cover shall be removed except as necessary for construction of a permitted use or for normal maintenance of a lawfully existing clearing or structure.

4.4 Wetlands Conservation Overlay District

4.4.1 Purpose: The purpose of the Wetlands Conservation Overlay District is to protect the public health, safety and general welfare 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 master plan.

4.4.2 Findings: The wetlands and their buffers in the town of Lisbon are a valuable natural resource requiring careful management to maintain their usefulness to public health, safety and welfare. The Town of Lisbon finds that wetlands and their buffers:

- A. Prevent the destruction of, or significant changes to, those wetland areas, related water bodies and adjoining land which provide flood protection.
- B. Protect persons and property against the hazards of flood inundation by ensuring the continuation of the natural flow patterns of streams and other watercourses.
- C. Provide for nutrient attenuation and augmentation of stream flow during dry periods.
- D. Preserve and protect important wildlife habitat and maintain ecological balance.

- E. Prevent the expenditure of municipal funds for the purposes of providing and/or maintaining essential services and utilities which might be required as a result of abuse or inharmonious use of wetlands.
- F. Protect the wetlands, watercourses, surface and groundwater supplies and waterbodies of the town from degradation.
- G. Preserve and enhance those aesthetic values associated with the Wetlands Conservation Overlay District.

4.4.3 Applicability:

- A. Applies to all proposed development, removal of vegetation, and alteration of the land surface.
- B. Wetlands constructed for stormwater treatment, agricultural use, waste treatment or other such purpose are exempt from the provisions of the Wetlands Conservation Overlay District.
- C. Boundary Disputes. When a boundary of the Wetlands Conservation Overlay District is disputed by either the Planning Board or an applicant, the Planning Board, at the applicant's expense, may engage an independent certified wetlands scientist to determine the location of the Wetland Conservation Overlay District limit on the affected property. The delineation shall be consistent with DES Wetlands Bureau Rules, as amended. The Planning Board shall make the final determination of the wetlands limit based on its consultant's report and the Wetlands Conservation Overlay District boundary shall be considered to be amended.

4.4.4 Permitted Uses: The uses listed below are presumed to be consistent with the protection of wetland functions and values when in accord with the following and so are allowed in the Wetlands Conservation Overlay District without a Conditional Use Permit. These uses will not:

- A. Require the erection or construction of any structure.
- B. Alter the natural surface configuration by re-contouring or grading of the land.
- C. Involve filling, dredging, or draining of the wetland.
- D. Change the flow of water.
- E. Result in the pollution of the wetlands, surface water, or groundwater.
- F. Involve substantial clearing of vegetation, except for the purposes of agriculture or forest management in accord with current best management practices.

Permitted uses include:

1. Passive recreation such as hiking, fishing, hunting on foot, non-motorized boating.
2. Wildlife or fisheries management.
3. Scientific research and educational activities.
4. Agriculture in the wetland buffer, consistent with best management practices published by the NH Department of Agriculture, Markets and Food.
5. Forest management in the wetland buffer, consistent with best management practices published by the NH Department of Natural and Cultural Resources and UNH Cooperative Extension and as specified in N.H. Code of Administrative Rules Env-Wt

304.05 Logging Operations. All skid trails, truck roads and log landings shall be located 50 feet from streams or ponds and designed using appropriate erosion control devices. Stream and wetlands crossings shall be kept to a minimum in size and number.

4.4.5 Prohibited Uses: The following uses may not be established or expanded within the Wetlands Conservation Overlay District:

1. Structures, except as provided in 4.4.6 Conditional Uses.
2. Use of fertilizer on lawns, except lime or wood ash.
3. Bulk storage or handling of chemicals, petroleum products or hazardous materials.
4. Sand and gravel excavations.
5. Impervious surfaces, unless associated with a use approved as a Conditional Use.
6. Activities which result in soil compaction such as parking vehicles or heavy equipment, unless associated with a use approved as a Conditional Use.
7. Underground tanks.

4.4.6 Conditional Uses: All activities in the Wetland Conservation Overlay District not listed in Section 4.4.4 Permitted Uses are presumed to impair the wetland functions and values unless proven otherwise by the applicant as provided below. The following uses may be granted a Conditional Use Permit by the Planning Board:

1. Construction of one primary structure in the wetland buffer on a legally preexisting lot, if it is demonstrated that no practicable alternative exists elsewhere on the lot.
2. Construction or placement of an accessory structure in the wetland buffer, if it is demonstrated that no practicable alternative exists elsewhere on the lot.
3. Expansion of a legally preexisting structure in the wetland buffer.
4. The construction, repair, or maintenance of streets, roads, and other access ways, including driveways, footpaths, bridges, and utility right of way easements including power lines and pipelines, if essential to the productive use of land adjacent to the Wetlands Conservation Overlay District. These uses shall be located and constructed in such a way as to minimize any detrimental impact upon the wetlands and consistent with current state recommended design standards, and only if no viable alternative is available.
5. Agricultural activities consistent with best management practices as published by the NH Department of Agriculture, Markets and Food.
6. Forestry activities consistent with best management practices as published by the NH Department of Natural and Cultural Resources and NH Cooperative Extension and as specified in N.H. Code of Administrative Rules Env-Wt 304.05 Logging Operations. All skid trails, truck roads and log landings shall be located 50 feet from streams or ponds and designed using appropriate erosion control devices. Stream and wetlands crossings shall be kept to a minimum in size and number.
7. Water impoundments for the purpose of creating a waterbody for wildlife, fire safety, or recreational uses. Conditional Use Permits may be granted for impoundments for on-site detention of stormwater runoff in wetland buffers only.
8. Construction of a trail for nonmotorized recreation in compliance with NHDES Minimum Impact Project requirements.

9. Other uses that the applicant proves will not interfere with the wetlands functions and values, water quality or value as wildlife habitat, pursuant to Section 4.4.2 Findings.

4.4.7 Conditional Use Permit:

- A. Application for a Conditional Use Permit shall be made on forms supplied by the Planning Board and shall include a site plan containing the following information on one or more sheets at a scale of 1 inch = 100 feet or larger, and a report demonstrating compliance with the requirements listed below in Section 4.4.7.B:
 1. North arrow and date.
 2. Property lines.
 3. Locus map showing adjacent wetlands and other significant hydrological features.
 4. Names and addresses of abutting property owners and holders of conservation restrictions and easements.
 5. Wetland limit and wetland buffer.
 6. Soil types.
 7. Vegetation types.
 8. Topographic contours at no greater than 5 foot intervals.
 9. Surface drainage patterns, intermittent and year-round.
 10. Existing and proposed development, removal of vegetation, and alteration of the land surface.
 11. Computation of the area to be impacted, in square feet of surface area and cubic yards of cut and fill.
 12. Stormwater management proposed during and after construction.
- B. The Planning Board shall provide an opportunity for Conservation Commission comment and shall consider all relevant facts and circumstances in making its decision on any application for a permit and shall make findings that the project is both consistent with the purposes of this ordinance and minimizes impacts to the wetland and wetland buffers, including but not limited to the following:
 1. The proposed activity minimizes the degradation to, or loss of, wetlands and wetland buffers, and compensates for any adverse impact to the functions and values of wetlands and wetland buffers, including but not limited to the capacity of the wetland to:
 - a. Support fish and wildlife
 - b. Prevent flooding
 - c. Supply and protect surface and ground waters
 - d. Control sediment
 - e. Control pollution
 - f. Support wetland vegetation
 - g. Promote public health and safety
 - h. Moderate fluctuations in surface water levels

2. The proposed activity will have no significant negative environmental impact to abutting or downstream property and/or hydrologically connected water and/or wetland resources, including:
 - a. Erosion
 - b. Siltation
 - c. Turbidity
 - d. Loss of fish and wildlife
 - e. Loss of unique habitat having demonstrable natural, scientific, or educational value
 - f. Loss or decrease of beneficial aquatic organisms and wetland plants
 - g. Dangers of flooding and pollution
 - h. Destruction of the economic, aesthetic, recreational and other public and private uses and values of the wetlands to the community
 3. The proposed activity or use cannot practicably be located otherwise on the site to eliminate or reduce the impact to the wetland or its buffer.
 4. The proposed activity utilizes applicable best management practices.
 5. Federal and/or state permit(s) have been received for the proposed activity in accordance with N.H. Code of Administrative Rules Env-Wt 100-800 and the Federal Clean Water Act Section 404 Permit.
 6. Where applicable, proof of compliance with all other state and/or federal regulations has been received.
- C. The Planning Board, in acting on an application for a conditional use permit in the Wetlands Conservation Overlay District, may attach conditions to its approval including but not limited to requirements for more extensive buffers, additional plantings in areas to be revegetated, performance guarantees, and a reduction in proposed impervious surfaces.

4.4.8 Identification of Wetland Buffer: The entire length of the upland limit of the wetland buffer shall be marked with highly visible construction tape prior to, and maintained for the full duration of, any construction-related activities.

ARTICLE V USES AND DIMENSIONAL STANDARDS

5.1 Allowed Uses: Upon receipt of a zoning permit, uses are allowed as indicated in the following Table. The zoning permit application shall be filed with the Selectmen or designee prior to any construction or new use (this includes Manufactured Homes whether in a manufactured 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 forms are available in the town administrative office.

TABLE OF DISTRICT USES

- “P” Denotes a use permitted by right.
- “S” Denotes a use permitted only by a Special Exception (See Section 8.3) 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.

Type of Land Use		Zoning Districts				
		A	B	C	D	I
5.2	Residential:					
5.2.1	Single family dwelling with or without accessory dwelling unit, or two family dwelling.	P	P	P	P	PE
5.2.2	Three or more family dwelling.	S	S	S	S	-
5.2.3	Manufactured home parks.	S	-	-	S	-
5.2.4	Manufactured home, 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	PE
5.2.5	Cluster development.	CU	-	CU	CU	-
5.2.6	Open Space Planned Residential Development (OSPRD)	CU	CU	CU	CU	
5.3	Commercial:					
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 (except for the production of greenhouse crops, or growing of any agricultural, floricultural, viticultural, or horticultural crops) but occupying not more than one-third of 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	PE
5.3.3	Rooming houses, boarding houses, tourist homes, bed and breakfasts, hotels and motels, housekeeping cottages.	S	S	S	S	-
5.3.4	Retail establishments.	P	P	S	S	-
5.3.5	Restaurants.	P	P	S	S	S
5.3.6	Indoor commercial recreational facilities.	P	P	S	-	P
5.3.7	Outdoor commercial recreation facilities.	S	-	S	S	-

Type of Land Use		Zoning Districts				
		A	B	C	D	I
5.3.8	Public and private camping areas provided the side and front setbacks are at least 50 feet and the operation is concealed by natural growth.	S	-	-	P	-
5.3.9	Personal service establishment maintained as a separate building (such as barber shops, laundry pick-up agencies, or self service laundromats).	P	P	-	S	S
5.3.10	Office buildings.	P	P	-	S	P
5.3.11	Service stations.	S	S	-	S	S
5.3.12	Automobile sales.	S	P	-	-	-
5.3.13	Factory retail establishments.	-	-	-	-	P
5.3.14	Mail order business.	-	-	-	-	P
5.4	Agricultural:					
5.4.1	Animal Husbandry, when accessory and incidental to a residential use, for personal enjoyment and/or food.	P	S	S	P	S
5.4.2	All other Animal Husbandry	S	-	-	S	S
5.4.3	Growth and harvesting of forest products, orchards, greenhouse plants, or any other agricultural, floricultural, viticultural, forestry, or horticultural crops, and similar uses including the sale of produce grown on the premises, as a primary or accessory use.	P	P	P	P	P
5.5	Industrial:					
5.5.1	Home industry such as the production of pottery, furniture, jewelry (or similar items) subject to the same considerations as Home shops (5.3.2 above).	P	P	P	P	PE
5.5.2	Manufacturing, research and testing laboratories, excluding asphalt plants and concrete batch plants.	S	S	-	-	P
5.5.3	Automobile or autobody repair garage.	S	P	-	S	S
5.5.4	Open storage of lumber, building materials and timber.	S	S	-	P	P
5.5.5	Planing mills, sawmills and lumber treatment establishments.	S	S	-	P	P
5.5.6	Warehouse, storage or wholesale establishment, fuel storage, fuel distribution center, septage receiving facility and other activities involving a substantial amount of trucking.	S	S	-	S	S
5.5.7	Wholesale bakery, food processing plant, wholesale laundry, cleaners, dyers and similar uses.	S	S	-	-	P
5.5.8	Junk yard or outdoor storage of unregistered and inoperative automobiles.	-	-	-	-	-
5.5.9	Hydro-electric power production.	S	S	S	S	-
5.5.10	Storage of volatile fuels for resale.	-	-	-	-	S
5.5.11	Contractor yard.	P	-	-	S	S
5.5.12	Asphalt plants and concrete batch plants.	-	-	-	-	S

Type of Land Use		Zoning Districts				
		A	B	C	D	I
5.6	Civic:					
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 utility facilities.	S	S	S	S	-
5.6.5	Day care services.	S	S	S	S	S
5.7	Other:					
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	S
5.7.2	Commercial removal of loam, clay, sand, gravel and ledges.	S	S	S	S	S
5.7.3	Above ground storage for volatile fuels in excess of 500 gallons.	S	S	S	S	S
5.7.4	Public parks and playgrounds.	S	S	S	S	-
5.7.5	Cemeteries for human beings.	P	-	P	S	-
5.7.6	Multiple nonresidential or mixed residential and nonresidential uses and/or buildings on a single undivided lot.	-	S	-	-	-
5.7.7	Personal/commercial wireless communication facilities.	S	S	S	S	S
5.7.8	Industrial park.	-	-	-	-	P
5.7.9	Renewable energy facilities.	S	-	S	S	S
5.7.10	Other uses not specifically listed in the Table of District Uses but compatible with other listed uses and so similar in 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.	S	S	S	S	S

5.8 TABLE OF MINIMUM REQUIREMENTS

District	Use	Lot Area (sq. ft.)	Frontage (feet)	Front Setback (feet)	Side Setback (feet)	Rear Setback (feet)
A	All	80,000	125	50	10	25
B	All	20,000	125	25	10	25
C	All	20,000	125	25	10	25
D	All	80,000	125	25	10	25
I	Residential	80,000	125	50	25	25
I	All other Uses	200,000	200	50	25	25

- 5.9 Height:** The height of any building shall not exceed 35 feet in all districts.
- 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.
- 5.11 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 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 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 uses shall be allowed so long as they meet all other provisions of the ordinance.
- 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 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.

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 VII

MANUFACTURED HOME PARKS, CAMPING AREAS, CLUSTER DEVELOPMENT, AND OPEN SPACE PLANNED RESIDENTIAL DEVELOPMENT

- 7.1 Manufactured Home Parks:** The lot on which more than two Manufactured Homes is located shall be identified as a Mobile Home Park and shall meet all of the following requirements:
- 7.1.1** Each manufactured 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 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 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.
 - 7.1.4** Any Manufactured Home Park shall at least meet the requirements of the 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 home park as a whole shall be suitably landscaped and maintained.
 - 7.1.5** There shall be provisions for at least one on-site parking space for each unit space.
 - 7.1.6** A manufactured home located in a Manufactured Home Park shall have a temporary or permanent foundation which is 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 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.
- 7.3 Cluster Development (Single Family)** 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 acreage in development, remains substantially the same as in a conventional layout.

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

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

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

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 The Planning Board may grant approval for a reduction in the minimum lot size, minimum frontage, and internal setback requirements of up to 60%. 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 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.

7.3.6 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 7.3.5, 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.

7.3.7 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.

7.3.8 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.

7.3.9 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.

7.4 Open Space Planned Residential Development (OSPRD)

7.4.1 Purpose: The OSPRD is intended:

1. To expand the choice of housing in the town from individual lots and structures to include the planning and development of larger areas with groups of structures erected as a coordinated entity.
2. To preserve and make available open space for conservation, preservation of natural resources, farmland, recreation, wildlife habitat, and maintaining the rural New England flavor of Lisbon.

7.4.2 Permitted Uses:

1. One-family, two-family, and multi-family dwellings in principal buildings subject to the conditions contained herein.
2. Related accessory buildings, structures, and uses, limited to the following:
 - a. Private garages
 - b. Maintenance and utility shops for the upkeep and repair of buildings, structures and equipment on the site
 - c. Recreation facilities limited to the use of individuals living on the premises
 - d. Manager's office
 - e. Utility building and structures
 - f. Community buildings for shared meals and other social or group activities for residents

7.4.3 Objectives: The following criteria must be met before a Conditional Use Permit shall be approved:

1. The development shall provide a creative approach to the development of residential land.
2. The development shall provide an opportunity for greater compatibility with the rural nature of the town and protection of natural resources than would be possible through the strict application of the minimum requirements of the Zoning Ordinance and Subdivision Regulations.
3. The development will be an efficient use of land resulting in smaller networks of utilities and streets.

7.4.4 Development Standards: The following standards and requirements shall apply to any development in OSPRD.

1. The minimum parcel size shall be:

<u>District</u>	<u>Acres</u>
D	10
C	5
B	5
A	10

2. The maximum number of dwelling units permitted shall be determined by dividing the total acreage of the tract by the conventional minimum lot size for the district in which the tract is located after subtracting:
 - a. 100% of all wetland and watercourse areas,
 - b. land with slopes in excess of 25%,
 - c. floodway and floodplain areas, and
 - d. land subject to easement for above-ground utility transmission lines.

3. Buffer - A landscaping buffer area shall be required along all external property boundaries and along all external street lines. The purpose of the buffer shall be:
- a. to protect property values by the preservation of existing vegetation and the planting of new materials;
 - b. to provide privacy from visual intrusion, light, dirt, and noise; and
 - c. to improve the appearance of development within the town.
- In cases where topography, natural features, existing vegetation or compatible land uses do not make a larger buffer necessary, the minimum shall be:

District	Setback from Streetline	Setback from Other Property	Minimum Buffer
A	100	50	50
B	20	15	10
C	40	20	15
D	100	50	50

Additional buffering may be required by the Planning Board to meet the purposes of this section. Existing development on abutting property shall not be deemed as automatically requiring additional buffering.

4. Open Space:
- a. The Planning Board recognizes that one of the town's assets is its varied and unique physical features and open space. It is necessary to preserve these natural assets by encouraging development techniques which will accomplish the objective of preserving this asset. Open Space in an OSPRD must accomplish as many of the following objectives as practicable:
 - (i) Preserving land as common open space to preserve or enhance the appearance, character, and natural beauty of an area;
 - (ii) Preserving land to serve the park and recreation needs of residents;
 - (iii) Preserving land for purposes of conserving natural resources;
 - (iv) Preserving and protecting particular areas and terrain having qualities of natural beauty or historic interest;
 - (v) Protecting streams, rivers, and ponds so as to avoid flooding, erosion, and water pollution;
 - (vi) Preserving and protecting agricultural areas as a historic use of land in Lisbon;
 - (vii) Preserving open space to replicate a traditional New England green; and
 - (viii) Providing larger open space areas by laying out new open space contiguous to existing open space on adjacent parcels.

- b. The minimum open space area in an OSPRD shall be:

<u>District</u>	<u>Minimum % Open Space</u>
A	80
B	50
C	70
D	80

- c. Area within the following distance of buildings, parking lots, driveways, and roads shall not be used in calculating compliance with the minimum open space requirements contained in these regulations:

<u>District</u>	<u>Minimum Open Space Setback (Ft.)</u>
A	30
B	10
C	15
D	30

- d. Open space may only be used for purposes approved by the Planning Board during the approval process. In OSPRDs, those uses, in most cases, shall be limited to lawn and garden areas shown on the original site plan and areas to be left in their natural state adjoining the developed areas. Any use of open space not approved by the Planning Board shall be a violation of these regulations.

5. Architectural Design:

- a. The architectural design, scale and mass of buildings and other structures; and exterior building material, color, roof-line, and building elevations shall be residential in character so as to harmonize and be compatible with the neighborhood, to protect property values in the neighborhood and to preserve and improve the appearance and beauty of the community.
- b. Buildings should be designed and located on the site so as to retain the existing topography and natural features of the land to the greatest extent possible.
- c. Each structure shall consist of no more than six units.

6. Utilities: All utilities within the site shall be underground.

7. Height - Building height shall not exceed 30 feet.

8. Parking - all required parking shall be within 75 feet of the units. A driveway leading to a garage shall not count as one of the required parking spaces.

A maximum of ten consecutive parking spaces may be provided in one line without interruption. If more than ten parking spaces are to be provided, there shall be a minimum landscaped area of 20 feet by 20 feet between each continuous line of ten parking spaces. Parking shall not be permitted in any required setback area.

At least 30% of the minimum required parking spaces shall be provided in garages or carports.

9. Sidewalks - A sidewalk or other pedestrian path on at least one side shall be required along any access road connecting with an existing public road and along the major interior roads of the development unless, in the opinion of the Planning Board, such sidewalks or paths are not necessary. Sidewalks or other pedestrian paths shall be continuous through the development.
10. Recreation Facilities - Swimming pools, tennis courts, and other recreational facilities shall be as centrally located as possible, protected with a suitable and safe fence, located at least 25 feet from any dwelling unit, and shall not be located within any of the required setbacks.
11. Exterior Lighting - Exterior lighting shall be provided and maintained by the property owner at all access points to streets, parking areas, building entrances and elsewhere for the safety of vehicular and pedestrian traffic. All exterior lighting shall be low-level except for required street lights and tennis courts. The glare from light sources shall be shielded from roads and abutting properties.
12. Refuse Areas - Refuse collection areas shall be provided and conveniently located for all buildings. The collection areas shall be screened and supplied with covered receptacles.
13. Storm Drainage - All storm drainage facilities shall be designed and constructed in accordance with Town Standards, subject to the approval of the Town Engineer.
14. Road Standards - All roads shall be constructed in accordance with standards specified in the Town's Subdivision Regulations. A dead-end or cul-de-sac road shall not exceed 600 feet in length and shall be provided with a suitable turnaround. When a turning circle is used it shall have a minimum outside radius of 65 feet. All interior roads shall remain private roads and will not be accepted as Town roads.
15. Fire Hydrants - Fire hydrants shall be installed and located within 500 feet of each dwelling unit if municipal water service is available.
16. Storage - All residential buildings shall have an area equal to 10% of the total floor area as separate storage space. This storage space may be closets.

17. Additions and modifications after approval:

The Planning Board approves each OSPRD as a planned development and is concerned over both the architectural design of each unit and the relationship of each building in the development to other buildings in the development. The Planning Board considers OSPRD developments to be entirely different types of neighborhoods than those developed under traditional subdivision and zoning standards. In an OSPRD, no individual lots are created; all land is owned in common. As such, the following policies shall apply:

- a. Accessory apartments are not permitted.
- b. Additions, including rooms, sun porches and garages, to individual units are not permitted.
- c. Accessory buildings and swimming pools for the exclusive use of individual units are not permitted.
- d. Enlarged decks are not permitted.
- e. Only decorative fencing shown on the site plan, owned and maintained by the homeowners' association and approved by the Planning Board is permitted.

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 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, requirement, decision, or determination made by any official in the enforcement of this ordinance.

8.3 Uses permitted by Special Exception: The Zoning Board of Adjustment may grant Special Exceptions as provided in this ordinance. Before granting approval for a Special Exception the Board shall determine that:

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 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.

Before granting approval for a Special Exception for Animal Husbandry, the Board shall also determine that:

6. The design of buildings, and the size of exercise yards and pasture areas to be provided will be consistent with the standards contained in *Housing and Space Guidelines for Livestock*, UNH Cooperative Extension, December 2017 Update, or most recent version, or other source of appropriate technical expertise.
7. Any manure storage, disposal or composting, will be an appropriate distance from the nearest residence and lot line to ensure that such will not be a nuisance to any neighbors by means of odors or pests. Manure management will be consistent with the *Manual of Best Management Practices for Agriculture in New Hampshire*, NH Department of Agriculture, Markets and Food. June 2011, or most recent version.
8. Stored feed will be kept in a location secure from rodents and bears.

8.4 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:

- (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.

8.6 Application and hearing procedures shall be governed by RSA 676:5 through 7 as amended.

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, as determined by the Board of Selectmen.

ARTICLE X
AMENDMENT

- 10.1** This ordinance may be amended in accordance with the provisions of NHRSA Chapter 675, as have been or may be amended.

ARTICLE XI
VALIDITY

- 11.1** 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

- 12.1** This ordinance and any subsequent amendment shall take effect immediately upon its passage.