



# Town Of Milford Zoning Ordinance

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2022 Edition

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## **ARTICLE I: INTRODUCTION**

### **1.01.0 PURPOSE**

The regulations set down in this Ordinance are for the purpose of promoting the public health, safety, morals, general welfare and civil rights of the inhabitants of the Town of Milford as provided by Title 64 of the NH RSA, Chapters 672-677 inclusive and, as such may be amended from time to time. (1986)

### **1.02.0 AUTHORIZATION**

**1.02.1** The Planning Board is hereby authorized to make such textual revisions as may be necessary and appropriate to correctly restate statutory citations throughout the remainder of the Ordinance so as to achieve consistency with the purpose and authority, provided that such changes result in no contradictions within the Ordinance or with state law, and further provided that no substantive changes shall occur as a result of any such correction. (1985)

**1.02.2** The Planning Board has the authority to assign such section numbers to the Zoning Ordinance as it may deem appropriate provided that no substantive change to the Ordinance shall occur as a result of this renumbering. (1985)

**1.02.3** Provisions of this Ordinance are activated by “shall” when required, “should” when recommended and “may” when optional. (2012)

### **1.03.0 AMENDMENTS**

This Ordinance may be amended by a majority vote of any legally constituted Town vote when such amendment has received public notices and hearings in accordance with the procedure established in Chapter 31, NH RSA, 1955 as amended.

### **1.04.0 EFFECTIVE DATE**

This Ordinance shall take effect immediately upon its passage.

### **1.05.0 OTHER REGULATIONS, ORDINANCES AND STATUTES**

In addition to complying with the regulations established herein, the applicant shall comply with all other applicable regulations, Ordinances and Statutes of the Town, the State of New Hampshire, and the United States Government, particularly but not limited to the Zoning Ordinance, Open Space and Conservation Zoning District, Wetland Conservation District, Flood Plain Management Ordinance, Development Regulations, Road Specifications, Building Codes and Permits, and the State of New Hampshire Statutes and Regulations relating to land sales and pollution.

### **1.06.0 SEVERABILITY**

If any section, clause, provision, portion or phrase of this Ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect, impair or invalidate any other section, clause, provision, portion or phrase of this Ordinance.

## ARTICLE II: GENERAL PROVISIONS

### 2.01.0 LOT OF RECORD (2012)

Lot of record shall be considered to meet the minimum lot size and frontage requirements of the Ordinance if it was in existence prior to the adoption of the Zoning Ordinance (3/11/69) as long as the lot of record has fifteen (15) feet of frontage on a Class V or better road.

### 2.02.0 NON-CONFORMING USES AND STRUCTURES (2013)

A use or structure lawfully existing prior to the enactment of the Zoning Ordinance (3/11/69), and that is maintained after the effective date of the Ordinance, although it does not comply with the zoning restrictions applicable to the district in which it is situated.

### 2.03.0 NON-CONFORMING USE AND STRUCTURES – CONTINUANCE, DISCONTINUANCE, OR CHANGE (2013)

**2.03.1 INTENT:** The intent of this section is to allow for the lawful continuance of non-conforming uses, and/or structures and to allow a certain reasonable level of alteration, expansion or change that will not change the nature of the use and unduly impact the neighborhood.

- A. **Continuance:** A non-conforming use or structure may be continued, although such use or structure does not conform to the current provisions of this Ordinance.
- B. **Discontinued use:** Whenever a non-conforming use has been discontinued for more than one (1) year for any reason, such non-conforming use shall not thereafter be reestablished, and the future use of the property shall be in conformity with the provisions of this Ordinance.
- C. **Alteration, Expansion, or Change:** Alterations, expansion or change of a non-conforming use or structure shall only be permitted by Special Exception by the Zoning Board of Adjustment if it finds that:
  - 1. The proposed alteration, expansion or change shall not change the nature of the original use or structure and the proposed alteration, expansion, or change shall involve no substantially different effect on the neighborhood; or, (2013)
  - 2. In the case of Home Based Businesses (Article VII, Section 7.12.0), Accessory Dwelling Units (ADU) (Article X, Sec. 10.02.6) and Office in the Residence A and B Districts (Article X Sec. 10.02.7), the proposed alteration, expansion, or change to a non-conforming use or structure complies with those specific Special Exception criteria governing those uses.

### 2.04.0 PUBLIC NUISANCE (2008)

No residential, business, commercial or industrial use shall be permitted which could cause any undue hazard to health or safety or which is offensive to the public because of noise, vibration, noxious odor, smoke or other similar reason.

**2.05.0 USES/STRUCTURES NOT PERMITTED**

Any uses of land and/or structures not specifically included in each zoning district as either acceptable or acceptable by special exception shall be considered as not permitted within that zoning district. (1997)

**2.06.0 EQUITABLE WAIVER (2012)**

Entire section moved to Section 10.7.0

**ARTICLE III: ZONING MAP - ZONING DISTRICT CHANGES (2014)**

**3.01.0 DISTRICTS**

For the purpose of this Ordinance, the Town of Milford is hereby divided into districts located and bounded as shown on the map entitled "Official Zoning Map, Town of Milford, New Hampshire", as amended to reflect most current zoning districts per town vote, copies of which are on file and may be obtained in the Town offices. The Official Zoning Map, as amended from time to time, with all accompanying explanatory material, is hereby made a part of this Ordinance. The Official Zoning Map shall be revised by the Planning Board to incorporate such amendments as may be made by Town vote. This Official Zoning Map shall be the final authority as to the current zoning status of land in the Town. (2010)

**RE-ZONING OF THE FOLLOWING LOTS:**

- 1996 Rezone the following parcels on Elm St. from Industrial to ICI (Integrated Commercial-Industrial): Map 11, Lots 11 and 12; Map 12, Lot 15, also, Map 12, Lot 14 on Elm St. from Commercial to ICI (Integrated Commercial-Industrial).
- 1996 Rezone the following parcels on Nashua St. from Industrial to ICI (Integrated Commercial-Industrial): Map 44, Lots 12, 13 and 13-1.
- 1996 Rezone the following parcels on Nashua St. from Residence "B" to Limited Commercial-Business: Map 32, Lots 2, 3, 4, 5, and 6; Map 43, Lots 51, 52 and 53; and Map 44, Lot 3.
- 1997 Rezone the following parcels on Emerson Rd. from Residence "R" to ICI (Integrated Commercial-Industrial): Map 48, Lots 35, 35-1, 35-2, 37, 38 and 39.
- 2003 Rezone the following parcels on Emerson Rd. from ICI (Integrated Commercial-Industrial) to "C" Commercial: Map 48, Lots 35, 35-1, 35-2, 37, 38 and 39.
- 2003 Rezone the following parcels on Emerson Rd. from Residence "R" to "C" - Commercial: Map 48, Lots 36, 36-1, and that portion of Lot 52 lying westerly of a line beginning at a point on the southerly right-of-way line of Emerson Road, said point being 223.67 feet westerly of the northeasterly corner of Lot 52; said line extending in a southeasterly direction to a point on the southerly boundary line of Lot 52 lying 234.52 feet southwest of the southeast property corner of said lot.
- 2003 Rezone the following parcels on Emerson Rd. and Federal Hill Rd. from Residence "A" to "C" - Commercial: Map 48, Lot 42, and that portion of Map 48, Lot 41 lying northerly of a line extended from the southeasterly corner of Map 48, Lot 44 to the southwesterly corner of Map 48, Lot 52.



- 2005 Rezone the following parcels of land on: Bear Court, Bobby Lane, Colburn Road, Dear Lane, Federal Hill Road, Foster Road, Fox Run Road, Heritage Way, Mountain View Court, Ponemah Hill Road, Settlement Lane, Stone Court, Tarry Lane, Wallingford Road, and Wildflower Way from Residence "A" to Residence "R": Map 48, Lot 15-1 (that portion zoned "A" only), Lots 20, 20-1, 21, 22, 23, 23-1, 24, 25, 26, 27, 28, 29, 30, 46, 47, 51; Map 53, Lots 1, 2, 2-1, 2-2, 2-3, 3, 3-1, 4, 5, 6, 6-1, 6-2, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 21-1, 21-2, 21-3, 21-4, 22, 22-A, 23, 23-1, 24, 25, 29, 30, 30-1, 30-2, 31, 32, 33, 33-1, 34, 34-1, 34-2, 34-3, 34-4, 34-5, 34-6, 35, 35-1, 35-2, 35-3, 35-4, 35-5, 35-6, 35-7, 35-8, 35-9, 35-10, 35-11, 35-12, 35-13, 35-14, 35-15, 35-16, 35-17, 35-18, 35-19, 35-20, 35-21, 35-22, 35-23, 35-24, 35-25, 35-26, 35-27, 35-28, 35-29, 35-30, 35-31, 35-32, 35-33, 35-34, 35-35, 35-36, 35-37, 35-38, 35-39, 35-40, 35-41, 35-42, 35-43, 35-44, 35-45, 35-46, 35-47, 35-48, 35-49, 36, 37, 37-1, 37-2, 38, 38-1, 38-2, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 67-1, 67-2, 68, 69, 70, 70-1, 71, 72, 79-1, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, PSNH R.O.W., 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106; Map 56, Lots: 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, PSNH R.O.W., 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43.
- 2007 From Industrial (I) to Integrated Commercial-Industrial 2 (ICI-2): Map 7, Lots 16, 16-1, 18, 19, 20, 21, 22, 23, 25, 26, 27, and 28; Map 14, Lots 4 and 5; Map 38, Lots 3,4,5,5-1, 6,9,10,11,12, 13 and 14; from Residence "R" to Integrated Commercial-Industrial 2 (ICI-2) that portion of Map 38, Lot 9 currently zoned "R"; and from Industrial "I" to Residence "R" that portion of Map 38, Lot 50 currently zoned "I".
- 2014 Rezone the following parcels of land: a portion of Map 43, Lot 20 from Residence A to Limited Commercial Business "LCB", and a portion from Residence A to Commercial "C"; a portion of Map 43, Lot 69 from Residence "B" to Limited Commercial Business "LCB" and a portion from Residence B to Commercial "C".
- 2022 Rezone the following parcels on Wilton Road from Integrated Commercial-Industrial (ICI) to Residential 'B': Map 11, Lots 13, 14, 14-1, 15, 16, 17, 18, 19, 20, 21, and 22.

## ARTICLE IV: DEFINITIONS

### 4.01.0 PURPOSE

For the purpose of this Ordinance, the word "shall" is mandatory, the word "may" is permissive, and the following terms shall have the following meanings.

**Abutter:** Any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration by the local land use Board. For purposes of receiving testimony only, and not for purposes of notification, the term "abutter" shall include any person who is able to demonstrate that his/her land will be directly affected by the proposal under consideration. For purposes of receipt of notification by a municipality of a local land use Board hearing, in the case of an abutting property being under a condominium or other collective form of ownership, the term abutter means the officers of the collective or association, as defined in NH RSA 356-B:3, XXIII. For purposes of receipt of notification by a municipality of a local land use Board hearing, in the case of an abutting property being under a manufactured housing park form of ownership defined in NH RSA 205-A:1, the term "abutter" includes the manufactured housing park owner and the tenants who own manufactured housing which adjoins or is directly across the street or stream from the land under consideration by the local land use Board. (2007)

**Accessory Dwelling Unit (ADU):** A residential living unit that is within or attached to a single-family dwelling, or its detached accessory structure, or as a stand-alone dwelling unit subordinate to the principal single-family dwelling unit, and that provides independent living facilities for one or more persons, including provisions for sleeping, eating, cooking, and sanitation on the same parcel of land as the principal dwelling unit it accompanies. For the purpose of this Ordinance, an accessory dwelling unit is not considered an accessory use or structure(s). (2017)

**Accessory Use or Structure:** A use or structure on the same lot with, and of a nature incidental and subordinate to, the principal use or structure. For the purpose of this Ordinance an accessory dwelling unit is not considered an accessory use or structure(s). (2013)

**Agriculture:** (Deleted 2010)

**Agriculture and Farming:** As defined in NH RSA 21:34-a, and as amended from time to time, shall mean all operations of a farm, including: the cultivation, conservation, and tillage of the soil; the storage, use of, and spreading of commercial fertilizer, lime, wood ash, sawdust, compost, animal manure, septage, and, where permitted by municipal and state rules and regulations, other lawful soil amendments; the use of and application of agricultural chemicals; the raising and sale of livestock, which shall include, but not be limited to, dairy cows and the production of milk, beef animals, swine, sheep, goats, as well as domesticated strains of buffalo or bison, llamas, alpacas, emus, ostriches, yaks, elk (*Cervus elephus Canadensis*), fallow deer (*Dama dama*), red deer (*Cervus elephus*), and reindeer (*Rangifer tarandus*); the breeding, boarding, raising, training, riding instruction, and selling of equines; the commercial raising, harvesting, and sale of fresh water fish or other aquaculture products; the raising, breeding, or sale of poultry or game birds; the raising of bees; the raising, breeding, or sale of domesticated strains of fur-bearing animals; the production of greenhouse crops; the production, cultivation, growing, harvesting, and sale of any agricultural, floricultural, viticultural, forestry, or horticultural crops including, but not limited to, berries, herbs, honey, maple syrup, fruit, vegetables, tree fruit, grapes, flowers, seeds, grasses, nursery stock, sod, trees and tree products. Christmas trees grown

as part of a commercial Christmas tree operation, trees grown for short rotation tree fiber, compost, or any other plant that can be legally grown and harvested extensively for profit or subsistence.

Agriculture and farming shall also mean any practice on the farm incident to, or in conjunction with such farming operations, including, but not necessarily restricted to: preparation for market, delivery to storage or to market, or to carriers for transportation to market of any products or materials from the farm; the transportation to the farm of supplies and materials; the transportation of farm workers; forestry or lumbering operations; the marketing or selling at wholesale or retail, on-site and off-site, products from the farm; irrigation of growing crops from private water supplies or public water supplies where not prohibited by State or local regulation; the use of dogs for herding, working, or guarding livestock as allowed above; the production and storage of compost and the materials necessary to produce compost, whether such materials originate, in whole or in part, from operations of the farm. (2010)

**Animal feedlot:** Deleted. (2015)

**Aquifer:** Geological formation composed of rock or sand and/or gravel that contains significant amounts of potentially recoverable potable water.

**Assisted Living Facility:** An Assisted Living Facility shall include, but not be limited to, a facility where rooms, meals, personal care and supervision of self-administered medication are provided pursuant to NH RSA 151:9, VII(a) and He-P 804.3 or as amended. Other services may be provided as an accessory use only, such as recreational activities, financial services, and transportation. (2011)

**Bed & Breakfast:** A building for transient occupancy which also provides breakfast to registered guests only and is owner occupied. (1997)

**Building:** Any structure used or intended for supporting or sheltering any use or occupancy. (1992)

**Church:** A building or structure, or groups of buildings or structures that by design and construction are primarily intended for conducting organized religious services. See also House of Worship (1996)

**Community Center:** A building used for recreational, social, educational and cultural activities, open to the public or a designated part of the public, usually owned and operated by a public or non-profit group or agency. (1996)

**Congregate Care Facility:** A Congregate Care Facility shall include, but not be limited to, a facility where communal dining facilities and services such as housekeeping, organized social and recreational activities, transportation services, and other support services appropriate for the residents are provided pursuant to NH RSA 151:9, VII(a) and He-P 814.3 or as amended. (2011)

**Day Care Facility:** Those facilities, as licensed by the State of New Hampshire, and defined by NH RSA 170-E:2 as providing child care under one or more of the following categories: (2007)

**A. Pre-School Program** - A facility regularly providing a structured program up to five (5) hours per day for seven (7) or more children who are three (3) years of age or older and who are not attending a full-day school program. The number of children shall include all children present during the period of the program.

**B. Group Pre-School Center** - A facility regularly providing full-day or half-day child care for thirteen (13) or more pre-school children, whether or not the service is known as a day nursery, nursery school,

kindergarten, cooperative, child development center, day care center, center for the developmentally disabled, progressive school, Montessori school, or by any other name.

**C. After-School Program** - A facility in which child care is regularly provided up to five (5) hours per school day, before and/or after regular school holidays, for six (6) or more children who are enrolled in a full day program.

Day Care facility, for the purposes of this Ordinance, does not include "family day care home" as defined in NH RSA 170-E:2.

**Density:** For the purposes of this Ordinance, density is used to define residential dwelling units per acre, and is based on the allowable units per acre in each residential district. High density refers to allowable densities in the Residence "B" District, medium density refers to allowable densities in the Residence "A" District; and low density refers to allowable densities in the Residence "R" District. (1997)

**Distribution and Mailing Facilities:** Uses which constitute the temporary storage and/or shipping of goods, including mail order processing, package distribution and mailing. (1995)

**Drive Aisle:** The traveled passageway by which vehicles enter and depart parking spaces. (2002)

**Driveway:** A vehicular passageway providing access between a road and a parcel of land. (2002)

**Driveway, common commercial/industrial:** A single driveway that provides access between a road and two (2) or more conforming commercial and industrial lots. (2002)

**Driveway, common residential:** A single driveway that provides access between a road and not more than two (2) conforming residential lots. (2002)

**Dwelling Unit:** One room or rooms connected together, constituting a separate, independent housekeeping establishment physically separated from any other dwelling units in the same structure, and containing independent cooking and sleeping facilities.

**Dwelling, Single-family:** A detached residential dwelling unit, other than a mobile home, designed for one family only.

**Dwelling, Two-family:** A structure which contains two (2) separate dwelling units, each provided with complete and independent living facilities for one or more persons, including provisions for living, sleeping, eating, cooking, and sanitation as well as independent access and egress to and from each dwelling unit. (2013)

**Dwelling, Multi-family:** A structure consisting of three (3) or more dwelling units designed for occupancy by three or more families. (1995)

**Dwelling, Mixed-use:** One room or rooms connected together and designed for use as a dwelling unit; located in a non-residential building with no more than two (2) dwelling units that are in addition to the primary non-residential use. (2012)

**Estate Lot:** A residentially zoned parcel of ten (10) acres or more in size containing or proposed to contain a maximum of three single-family dwellings.

**Family:** One or more persons occupying a dwelling unit and living as a single non-profit housekeeping unit.

**Family Day Care Home:** An occupied residence in which child care is regularly provided for less than twenty-four (24) hours per day, except in emergencies, for one (1) to six (6) children from one or more unrelated families. The six (6) children shall include any foster children residing in the home and all children who are related to the caregiver except children who are (ten) 10 years of age or older. In addition to the six (6) children, one (1) to three (3) children attending a full-day school program may also be cared for up to five (5) hours per day on school days and all day during school holidays. ~~(1994)~~ A Family Day Care Home shall be considered as an acceptable accessory use in any zone where a primary residential use is permitted, and the facility shall not be subjected to any local site plan review. (2025)

**Farm:** As defined in NH RSA 21:34-a, and as amended from time to time, shall mean any land, buildings, or structures on or in which agriculture and farming activities are carried out or conducted and shall include the residence or residences of owners, occupants, or employees located on such land. Structures shall include all farm outbuildings used in the care of livestock, and in the production and storage of fruit, vegetables, or nursery stock; in the production of maple syrup; greenhouses for the production of annual or perennial plants; and any other structures used for 'agriculture' and 'farming' as defined in this Ordinance. A Farm may include a 'Farm roadside stand' as defined by this Ordinance. A farm may include wholesale and retail sale of feed and grain products, incidental and subordinate to agriculture and farming activities, produced either on-site or off-site, along with accessory structures utilized for feed and grain product storage. (2010)

**Farm roadside stand:** An agricultural operation, and not be considered commercial, where at least thirty-five percent (35%) of the product sales in dollar volume is attributable to products produced on the farm or farms of the farm roadside stand owner. Product sales not attributable to the farm or farms of the farm stand owner or farm stand operator shall be agriculturally related and may include, but not necessarily limited to, the sale of garden accessories, cheese, home crafts, cut flowers, dried flowers, value added products such as jams, jellies and baked goods from a licensed kitchen. Proof of farm income may be required to determine conformity with these provisions. (2010)

**Farmer's market:** A seasonal outdoor event or seasonal outdoor series of events, subject to applicable Town health and safety codes, at which two (2) or more vendors of agricultural commodities gather for purposes of offering for sale such commodities to the public. Commodities offered for sale must include, but are not limited to, products of agriculture as defined in this Ordinance. A 'farmer's market' shall not include any event held upon the premises owned, leased, or otherwise controlled by any individual vendor selling therein. (2010)

**Filling Station:** A building or structure, or part thereof, or any premises used in connection with tanks, pumps, and other appliances for supplying motor vehicles with gasoline, oil, water, compressed air and similar supplies, but not used for the purpose of making repairs. (1995)

**Floor Area, Gross:** The floor area within the inside perimeter of the exterior walls of the building under consideration, exclusive of vent shafts and courts, without deduction for corridors, stairways, closets, the thickness of interior walls, columns or other features. The gross floor area shall not include shafts with no openings or interior courts. (2016)

**Frontage, minimum:** That continuous portion of a lot bordering on a road(s) from which access can be taken, that meets the minimum requirements of the underlying zoning district. (2006)

**Funeral Home:** A building used for the preparation of the deceased for burial and the display of the deceased and rituals connected therewith before burial or cremation. (1996)

**Groundwater:** Subsurface water that occurs beneath the water table in soils and geologic formations. [NH RSA 485-C, Groundwater Protection Act] (2015)

**Groundwater Recharge Areas:** Areas composed of permeable stratified sand and/or gravel and certain wetlands, which collect precipitation surface water and carry it to aquifers.

**Harvesting of Natural Resources:** the removal of natural resources, such as timber, freshwater, and earth materials from their existing natural state on-site. (2011)

**Hazardous or Toxic Materials or Liquids:** Materials or liquids that pose a threat present or future to the environment whether in use, storage or transit, including without exception hazardous waste identified and listed in accordance with Section 3001 of the Resource Conservation and Recovery Act of 1976 as amended. (1993)

**Health Service Facilities:** A Health Service Facility shall include but not be limited to a facility providing clinically related outpatient diagnostic, treatment, or rehabilitative services, as well as preventative services, and includes, without limitation, alcohol, drug abuse, and mental health services. (2011)

**Height:** The height of a building or structure shall mean the vertical distance from the average elevation of the finished grade within five feet of the building or structure to the highest point of the building or structure. (2005)

**Home Based Business:** A business use conducted on a property within a dwelling or an accessory building that is secondary and incidental to a primary residential use. (2019)

**Hospice house:** A Hospice House shall include but not be limited to free standing 24-hour residential setting licensed under NH RSA 151 as a supported residential care facility for terminally ill individuals with less than one year to live who no longer have a home or cannot remain safely there. Palliative care such as room, meals, personal care, medication monitoring and emotional support, is provided. Additional health care services may be provided to residents through arrangements with outside organizations as is currently available if the resident was in his/her home. (2011)

**Hospital:** A Hospital shall include but not be limited to an institution licensed by the State of New Hampshire which is engaged in providing to patients, under supervision of physicians, inpatient and outpatient diagnostic and therapeutic services for medical diagnosis, treatment and care of injured, disabled, or sick persons, or rehabilitation services for the rehabilitation of such persons. The term hospital includes psychiatric and substance abuse treatment facilities. (2011)

**Hotel:** A facility offering transient lodging accommodations to the general public supervised by a person in charge at all hours, and which may include additional facilities and services such as restaurants, bars, meeting and function rooms, entertainment, personal services, and recreational facilities. (2011)

**Hotel/Motel:** Deleted. (2011)

**House of Worship:** A building or structure, or groups of buildings or structures that by design and construction are primarily intended for conducting organized religious services. See also Church (2001)

**Independent Senior Housing Units:** Deleted. (2015)

**Junkyard:** Any lots, establishments, or places of business which ~~is~~are maintained, operated, or used for storing and keeping, or storing and selling, trading or otherwise transferring old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste or junked, dismantled or wrecked motor vehicles, or parts thereof, iron, steel or other old or scrap ferrous or nonferrous material. Junkyard shall also include any place of business for the maintenance or operation of an automotive recycling yard, and includes garbage dumps and sanitary fills. Also includes any lots, business and any place of storage or deposit, whether in connection with another business or not, which has stored or deposited two (2) or more unregistered motor vehicles which are no longer intended or in condition for legal use on the public highways, or used parts of motor vehicles or old iron, metal, glass, paper, cordage, or other waste or discarded or second-hand material which has been a part, or intended to be a part, of any motor vehicle, the sum of which parts or material shall be equal in bulk to two (2) or more motor vehicles. Junkyard shall also include any place of business or storage or deposit of motor vehicles purchased for the purpose of dismantling the vehicles for parts or for use of the metal for scrap and where it is intended to burn material, which are parts of a motor vehicle or cut up the parts thereof. Also, includes any lot, yard or field used as a place of storage in which there is displayed to the public view, junk machinery or scrap metal that occupies an area of five hundred (500) square feet and as amended by NH RSA 236:112-114. ~~(2009)(2025)~~

**Kennel:** Deleted. (2012)

**Leachable Wastes:** Deleted. (2015)

**Lot:** The whole area of a single parcel of land, with assertable boundaries in single or joint ownership undivided by a street and established by deeds of record. (1999)

**Lot line, front:** The lot line of record separating a lot from a road. (2002)

**Lot of Record:** Lot of record shall be considered to meet the minimum lot size and frontage requirements of the Ordinance if it was in existence prior to the adoption of the Zoning Ordinance (3/11/1969) as long as the lot of record has fifteen feet (15') of frontage on a Class V or better road. (2012)

**Lot Use:** A parcel of land occupied or capable of being occupied by a building(s) or use(s), and the buildings or uses accessory thereto, including such open spaces and yards as are required by this Ordinance. (2007)

**Manufactured Housing:** A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term manufactured housing does not include a recreational vehicle. Generally, manufactured homes must meet the same requirements as stick built or conventional housing. Because they are usually residential buildings, they must be elevated so that the lowest floor is above the Base Flood Elevation (BFE). (2015)

**Manufactured Housing Park:** A parcel of land upon which two (2) or more manufactured homes are, or are intended to be, placed and occupied as dwellings(1995)

**Manufacturing:** The making of goods or materials from raw materials or unfinished products, includes assembling and processing. (1997)

**Mining of Land:** The removal or relocation of geological materials such as topsoil, sand, gravel, metallic ores or bedrock.

**Motor Vehicle Repair Facility:** A building or structure or part thereof, or any premises used for making changes, adjustments or repairs to motor vehicles, may also include structural repairs, painting and work involving use of machinery. May also include retail sale of motor vehicle parts and accessories and retail sale of petroleum products. (1995)

**Motorized Vehicles Sales Facility:** A building or structure, or part thereof, or any premises used for the commercial display, sale, lease, or rental of new or used internal combustion engine vehicles in operable condition and where no repair work is done. (2007)

**Net Tract Area:** Deleted. (2007)

**Nursery:** Deleted. (2012)

**Nursery Stock:** Deleted. (2012)

**Nursing home or facility:** A Nursing Home or Facility shall include but not be limited to a facility, licensed by the State of New Hampshire, which shall provide, for two (2) or more persons, basic domiciliary services (room, board, and laundry), continuing health supervision under competent professional medical and nursing direction, and continuous nursing care as may be individually required. (2011)

**Office:** The building, room or series of rooms in which the affairs of a business, profession or branch of government are conducted. (1995)

**Open space:** Permeable surface on a lot that is unoccupied by buildings, unobstructed to the sky, not devoted to service driveways or off-street parking that is available to all occupants of the premises. (1995)

**Parking Space:** An off-street space sufficient in size to accommodate the parking of one motor vehicle exclusive of the area necessary for internal access driveways and passageways on any site. The Planning Board shall develop such standards and requirements regulating the size and arrangement of parking spaces, as it may deem necessary and appropriate. (1985)

**Person:** Any individual, firm, co-partnership, corporation, company, association, joint stock association or body politic, trustee, receiver, assignee, or other similar representative thereof.

**Portable Sign:** Deleted. (2013)

**Pre-site Built Housing:** Any structure designed primarily for residential occupancy which is wholly or in substantial part made, fabricated, formed or assembled in off-site manufacturing facilities in conformance with the United States Department of Housing and Urban Development minimum property standards and local building codes, for installation, or assembly and installation on the building site. For the purposes of this definition, pre-site built housing does not include manufactured housing. (See manufactured housing) (1995)

**Principal Route of Access:** Deleted. (2009)



**Private Way:** A driveway which the Town has no duty to maintain which provides access to no more than two (2) building lots but not including any Class VI Highway as defined by NH RSA and subject to Section 7.040 Private Ways. (See Driveway; Driveway, Common) (1995)

**Processing and Warehousing:** The storage of materials in a warehouse or terminal where such materials may be combined, broken down, or aggregated for distribution or storage and where the original material is not chemically or physically changed. Processing and warehousing are considered to be storage and shipment as opposed to manufacturing. (1997)

**Processing of Natural Resources:** A series of operations, usually in a continuous and regular action or succession of actions, performed to create products from materials supplied by nature. (1997)

**Public Utility:** Deleted (2014)

**Recreation, active:** Leisure time activities, usually of a formal nature and often performed with others, requiring equipment and taking place at prescribed places, sites, or fields. (2002)

**Recreation, passive:** Leisure time activities that involve relatively inactive or less energetic activities such as walking, sitting, picnicking, card games, chess, checkers, or similar table games. (2002)

**Recreational Facility, Commercial:** A place designed and equipped for the conduct of leisure-time activities, operated as a business for profit and open to the public for a fee. This includes, but is not limited to, places of amusement such as bowling alleys, miniature golf courses, movie theaters, health and fitness clubs, sports fields, golf courses, accessory food service and concessions, and similar types of establishments. (1997)

**Recreational Facility, Not-for-Profit:** A place designed and equipped for the conduct of leisure-time activities open to the general public, owned and operated by a not-for-profit organization. (1996)

**Recreational Vehicle:** A temporary dwelling for travel, recreation, and vacation use including but not limited to, camping trailer, travel trailer, pick-up coach to be mounted on a truck chassis, or a self-propelled motor home.

**Research and Development:** A place devoted to activities engaged in refinement, investigation or experimental study of methods to improve processes or products. Manufacturing of products is not included within this definition. (1994)

**Retail Businesses:** Uses which constitute the sale of goods or the delivery of service and/or repair. (1994)

**Right-of-way:** A section of land acquired by easement, reservation, dedication, prescription, or condemnation, duly recorded in the Hillsborough County Registry of Deeds, and intended to be occupied by a road, crosswalk, railroad, utility lines, and/or other similar uses; and furthermore, the right to pass over the property of another. (2002)

**Road:** Any vehicular right-of-way that: (1) is an existing federal, state, Town, or privately owned and maintained roadway; (2) is shown upon a plan approved pursuant to NH RSAs; (3) is shown on a plan duly filed and recorded in the Office of the Hillsborough County Registry of Deeds; or (4) is approved by any other official action of the Town of Milford. A road contains all the land within the right-of-way. (2002)

**Roadway:** The traveled portion of a road within a right-of-way. (2002)

**Self-Storage Facility:** A building, group of buildings or other facility having compartments, rooms, spaces, containers or other type of units that are individually leased, rented, sold or otherwise contracted for, by customers solely for the storage of personal or business goods or property. Items prohibited from being stored include: flammable liquids, hazardous or toxic chemicals or explosives (including fireworks) and/or items that would create noxious or offensive odors, dust, noise, or vibration. Self-storage facilities are those where the facility owner/operator has limited access to the units. For purposes of this Ordinance, "self-storage facility" shall be considered synonymous with self-storage warehouse, self-service storage facility, mini-warehouse or mini-storage, and/or portable storage containers. (2019)

**Setback:** That horizontal distance measured between the right-of-way of a road or a side or rear lot line and the closest point of any building or structure contained on the lot.

**Schools:** Any building, part thereof, or group of buildings, the use of which meets State requirements for elementary, secondary, vocational or higher education. (1996)

**Sign:** Any device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public, but not including any flag.

**Small Wind Energy Systems (SWES):** A wind energy conversion system consisting of a wind turbine, a generator, a tower and associated control or conversion electronics, which has a rated capacity of 100 kilowatts or less and will be used primarily for onsite consumption. (2009)

**Solid Waste Disposal Sites:** Areas for disposal of any matter consisting of putrescible material, refuse, or residue from an air pollution control facility; and other discarded or abandoned material. It includes solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations and from community activities. For the purpose of this Chapter, namely NH RSA 149-M and the rules specified in ENV-WM 101.01 Applicability, "it does not include hazardous wastes as defined in NH RSA 147-A:2; solid or dissolved materials in irrigation return flows; cut or uprooted tree stumps incident to clearing of land depicted on a site plan showing burial locations and mailed to the director, provided that such burial locations are not located within seventy-five (75) feet of any well as defined in NH RSA 485:37; municipal and industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended; source, special nuclear or by-product materials as defined by the atomic energy act of 1954, as amended, or septage or sludge as defined in NH RSA 485-a:2, IX-a and XI a" ("Solid Waste" shall not include deceased persons). (1995)

**Solid Wastes:** Useless, unwanted, or discarded solid material with insufficient liquid content to be free flowing including, but not limited to rubbish, garbage, scrap materials, junk refuse, inert fill material and landscape refuse.

**Structure:** A combination of materials for occupancy or use, such as, but not limited to, a building, bridge, trestle, tower, tunnel, pier, wharf, fences and retaining walls over six (6) feet in height above grade, and swimming pools. (1992) (amended 2001)

**Structure, Non-conforming:** A structure which is lawfully maintained at the time this Ordinance became effective and which does not conform with the regulations of the district in which it is located.

**Usable land:** Land that does not consist of wetland and slopes over fifteen (15) percent. (2002)

**Use, Non-conforming:** A use existing prior to the enactment of the Zoning Ordinance (3/11/69) and that is maintained after the effective date of the Ordinance, although it does not comply with the zoning restrictions applicable to the district in which it is situated. (2012)

**Utility, public or private:** Any agency that, under public franchise or private ownership, or under certificate of convenience or necessity, or by grant of authority by a government agency, provides the public, or itself with electricity, gas, heat, steam, communication, transportation, water, sewerage collection, stormwater collection, or similar service. (2017)

**Veterinary Clinics:** A structure in which animals are given medical or surgical treatment and are cared for during the time of treatment only. (1994)

**Warehouse:** A building used primarily for the storage of goods and materials. (1997)

**Wetland:** An area that is inundated or saturated by surface or ground water at a frequency or duration sufficient to support, and under normal conditions, does support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands include, but are not limited to, swamps, marshes, bogs and similar areas. (1996)

**Wholesale Businesses:** Uses which constitute the sale of goods in quantity, usually for resale. (1994)

**Yard:** A required open space parallel to the lot lines which is open to the sky and unoccupied and unobstructed by a building or buildings.

**Yard, Front:** A yard between the building and front lot line, extending the full width of the lot or, in case of a corner lot extending along all streets.

**Yard, Rear:** A yard extending between side lot lines across the rear of the lot.

**Yard, Side:** A yard extending from the rear line of the required front yard to the front line of the required rear yard.

## ARTICLE V: ZONING DISTRICTS AND REGULATIONS

### 5.01.0 (Intentionally Blank)

### 5.02.0 RESIDENCE "A" DISTRICT (1995)

**INTENT:** The intent of the Residence "A" District is to provide for low-density or low-intensity uses, primarily single-family residential on individual lots.

### 5.02.1 ACCEPTABLE USES

- A. Single-family dwellings and their accessory uses and structures
- B. Telecommunication facilities (2000)
- C. Farm roadside stands (2010)
- D. Solar Collection Systems in accordance with Section 7.11.0 (2019)
- E. Home Based Business in accordance with Section 7.12.0 (2019)
- F. Family Day Care Home (2025)

### 5.02.2 ACCEPTABLE USES AND YARD REQUIREMENTS BY: (2009)

#### A. Special Exception

- 1. Home Based Business in accordance with Section 7.12.0 (2019)
- 2. Recreational facility, not-for-profit (1997)
- 3. Day care facilities
- 4. ~~Family day care homes Deleted (2025)~~
- 5. Churches or Houses of Worship (2011)
- 6. Deleted (2014)
- 7. Schools
- 8. Reduced front, side and rear setbacks (2001)
- 9. Bed & breakfast (1997)
- 10. Recreational facility, commercial (1997)
- 11. Building and structure height greater than allowed in 5.02.6:A and 5.02.6:B (2005)
- 12. Deleted (2015)
- 13. Accessory Dwelling Units (2008)
- 14. Utility, public or private (2011)
- 15. Office in accordance with Section 10.02.7 (2011)

#### B. Conditional Use Permit (2009)

- 1. Small Wind Energy Systems (2009)

### 5.02.3 USES NOT SPECIFIED (2010)

Any uses of land and/or structures not specifically included in the "A" District as acceptable, acceptable by Special Exception, or acceptable by Conditional Use Permit shall be considered as not permitted.

#### 5.02.4 LOT SIZES AND FRONTAGES (2009)

The minimum lot size and frontage for single-family residence and all other acceptable uses in the Residence "A" District shall be:

- A. Those areas serviced by both municipal sewerage and water systems shall have lots not less than ~~fifteen thousand~~ fifteen thousand (15,000) square feet in area with one hundred (100) feet of frontage on a Class V or better road.
- B. Those areas not serviced by both municipal sewerage and water systems shall have single-family lots not less in area than forty thousand (40,000) square feet, or larger depending on soil and slope conditions, as may be suitable to sustain development according to State standards, with one hundred fifty feet (150') of frontage on a Class V or better road.

#### 5.02.5 YARD REQUIREMENTS (1996)

- A. Each structure shall be set back at least thirty (30) feet from the front property line.
- B. Each structure shall be at least fifteen (15) feet from the side and rear property lines. In case of a corner lot, the side distance shall be increased to thirty (30) feet on the side bordering the street, lane or public way.

#### 5.02.6 HEIGHT REQUIREMENTS (2005)

- A. The maximum height of a building or structure in the Residence "A" District shall be thirty-five (35) feet, except as noted in B. below.
- B. The maximum height of school and municipal buildings or structures in the Residence "A" District shall be forty-five (45) feet.
- C. A Special Exception shall be required for heights greater than allowed in either A or B above.

### 5.03.0 RESIDENCE "B" DISTRICT (1995)

**INTENT:** The intent of the Residence "B" District is to provide areas for increased residential density and other uses which are compatible with these residential densities.

#### 5.03.1 ACCEPTABLE USES

- A. Single-family dwellings and their accessory uses and structures
- B. Two-family dwellings and their accessory uses and structures
- C. Multi-family dwellings with municipal sewerage and water systems and their accessory uses and structures
- D. Telecommunication facilities (2000)
- E. Deleted (2015)
- F. Farm roadside stands (2010)
- G. Solar Collection Systems in accordance with Section 7.11.0 (2019)
- H. Home Based Business in accordance with Section 7.12.0 (2019)
- I. [Family Day Care Home \(2025\)](#)

#### 5.03.2 ACCEPTABLE USES AND YARD REQUIREMENTS BY: (2009)

##### A. Special Exception

- 1. Hospital and/or related facilities licensed by the State of NH
- 2. Schools
- 3. Funeral homes
- 4. Home Based Business in accordance with Section 7.12.0 (2019)
- 5. Day care facilities
- 6. ~~Family day care homes Deleted (2025)~~
- 7. Recreational facility, commercial (1997)
- 8. Recreational facility, not-for-profit (1997)
- 9. Deleted (2014)
- 10. Bed & breakfast (1997)
- 11. Reduced front, side and rear setbacks (amended 2001)
- 12. Building and structure height greater than allowed in 5.03.8:A and 5.03.8:B (2005)
- 13. Accessory Dwelling Units (2008)
- 14. Hospice House (2011)
- 15. Nursing home or facility (2011)
- 16. Utility, public or private (2011)
- 17. Office in accordance with Section 10.02.7 (2011)

##### B. Conditional Use Permit (2009)

- 1. Small Wind Energy Systems (2009)

### **5.03.3 USES NOT SPECIFIED (2010)**

Any uses of land and/or structures not specifically included in the "B" District as acceptable, acceptable by Special Exception or acceptable by Conditional Use Permit shall be considered as not permitted.

### **5.03.4 ALLOWABLE DENSITY**

Multi-family residences in the Residence "B" District shall adhere to the following conditions for development:

- A. Multi-family dwellings shall be served by both municipal sewerage and water systems and may have a maximum of five (5) units per acre. The maximum density may be reduced by the Planning Board based on recommendations of other qualified consultants.
  - 1. Section Deleted. (2007)
- B. In the conversion of an existing house to apartments or multi-family dwellings, a maximum of five (5) units per acre of land associated with the existing house shall be permitted, given the following conditions:
  - 1. The proposal meets the standards set forth for maximum density 5.03.4, yard requirements 5.03.6 and usable open space 5.03.7. (1996)

### **5.03.5 LOT SIZES AND FRONTAGES**

- A. The following provisions shall apply to all other acceptable uses in this District, except single-family residences. (2009)
  - 1. In those areas serviced by both municipal sewerage and water systems, the minimum lot size in Residence "B" shall have as a minimum, twenty thousand (20,000) square feet in area with one hundred fifty (150) feet of frontage on a Class V or better road.
  - 2. In those Residential "B" areas not serviced by both municipal sewerage and water systems, the minimum lot size shall be sixty thousand (60,000) square feet in area or larger, depending on soil and slope conditions, as may be necessary to sustain development according to state standard with two hundred, twenty-five (225) feet of frontage on a Class V or better road.
  - 3. The minimum lot size and frontage for a single-family residence in this District shall be the same as those set forth for the Residence "A" District in section 5.02.4 of this article.

### **5.03.6 YARD REQUIREMENTS (2011)**

- A. Each structure shall be set back at least thirty (30) feet from the front lot line.
- B. Each structure shall be at least fifteen (15) feet from side and rear property lines. In case of a corner lot, the side distance shall be increased to thirty (30) feet on the side bordering the street, lane or public way.

### **5.03.7 OPEN SPACE**

Open space shall be provided for all uses, other than single-family and two-family dwellings in an amount equal to not less than thirty (30) percent of the total lot area.

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**5.03.8 HEIGHT REQUIREMENTS (2005)**

- A. The maximum height of a building or structure in the Residence “B” District shall be thirty-five (35) feet, except as noted in B. below.
- B. The maximum height of school and municipal buildings or structures in the Residence “B” District shall be forty-five (45) feet.
- C. A Special Exception shall be required for heights greater than allowed in either A or B above.



#### 5.04.0 RESIDENCE "R" DISTRICT (2001)

**INTENT:** The intent of the Residence "R" District is to provide for low-density residential and agricultural land uses, and other compatible land uses, that are sensitive to the rural character and environmental constraints existing in the district.

#### 5.04.1 ACCEPTABLE USES

- A. One single-family dwelling and its accessory uses and structures, per lot
- B. Agriculture and Farming (2010)
- C. One single-family manufactured housing unit, per lot
- D. Harvesting of natural resources
- E. Telecommunication facilities (2000)
- F. Deleted (2011)
- G. Farm Roadside Stands (2010)
- H. Solar Collection Systems in accordance with Section 7.11.0 (2019)
- I. Home Based Business in accordance with Section 7.12.0 (2019)
- J. Estate Lots in accordance with Section 5.04.8 (2022)
- K. [Family Day Care Home \(2025\)](#)

#### 5.04.2 ACCEPTABLE USES AND YARD REQUIREMENTS BY: (2009)

##### A. Special Exception

- 1. One two-family dwelling per lot (2001)
- 2. Veterinary clinics
- 3. Home Based Business in accordance with Section 7.12.0 (2019)
- 4. Day care facilities
- 5. ~~Family day care home~~ Deleted (2025)
- 6. Schools
- 7. Reduced front, side and rear setbacks (2001)
- 8. Bed & breakfast (1997)
- 9. Processing of natural resources on parcels of a minimum five (5) acres in size (2011)
- 10. Recreational facility, not-for-profit (1997)
- 11. Recreational facility, commercial (1997)
- 12. Churches or Houses of Worship (2011)
- 13. Building and structure height greater than allowed in 5.04.7:A or 5.04.7:B (2005)
- 14. Accessory Dwelling Units (2008)
- 15. Hospice house (2011)
- 16. Nursing home or facility (2011)
- 17. Utility, public or private (2011)

##### B. Conditional Use Permit (2009)

- 1. Small Wind Energy Systems (2009)
- 2. Solar Collection Systems in accordance with Section 7.11.0 (2019)
- 3. Home Based Business in accordance with Section 7.12.0 (2019)

### 5.04.3 USES NOT SPECIFIED (2010)

Any uses of land and/or structures not specifically included in the "R" District as acceptable, acceptable by Special Exception or acceptable by Conditional Use Permit shall be considered as not permitted.

### 5.04.4 LOT SIZES AND FRONTAGES (2009)

- A. The minimum lot size and frontage for a single-family dwelling or a single-family manufactured housing unit and all other permitted uses, unless stated otherwise, in the residence "R" District shall be ~~two (2) acres (87,120 SF)~~, 40,000 SF or greater, depending on soil and slope conditions, with a minimum ~~two hundred (200)~~ one hundred (150) feet of frontage on a Class V or better road.
- B. The minimum lot size and frontage for a two-family dwelling as allowed by Special Exception in the Residence "R" District shall be four (4) acres (174,240 SF), or greater, depending on soil and slope conditions, with a minimum three hundred (300) feet of frontage on a Class V or better road.

### 5.04.5 YARD REQUIREMENTS (2011)

- A. Each structure shall be set back at least thirty (30) feet from the front lot line.
- B. Each structure shall be at least fifteen (15) feet from side and rear property lines. In case of a corner lot, the side distance shall be increased to thirty (30) feet on the side bordering the street, lane or public way.

### 5.04.6 OPEN SPACE

Open space shall be provided for all uses, other than single-family and two-family dwellings, in an amount equal to not less than thirty (30) percent of the total lot area.

### 5.04.7 HEIGHT REQUIREMENTS (2005)

- A. The maximum height of a building or structure in the Residence "R" District shall be thirty-five (35) feet, except as noted in B. below.
- B. The maximum height of school and municipal buildings or structures in the Residence "R" District shall be forty-five (45) feet.
- C. A Special Exception shall be required for heights greater than allowed in either A or B above.

### 5.04.8 ESTATE LOTS (2022)

- A. Parcels of land greater than or equal to ten (10) acres in size may be considered an Estate Lot.
- B. An Estate Lot permits a property owner to construct a maximum of three (3) single-family residential dwellings and their accessory uses and structures on the parcel without requiring a subdivision.
- C. The dwelling units should be assembled on the primary parcel of land in such a manner that a future subdivision could be accomplished without creating non-conforming lots and/or violating the dimensional requirements of the Zoning District.
- D. Title to the overall parcel, to include the land and all dwelling units, must be vested in the same owner and the owner with title to the property must reside on the property.

### 5.05.0 COMMERCIAL "C" DISTRICT (1995)

**INTENT:** The intent of this District is to provide areas for those businesses, institutional, financial, governmental and compatible residential uses which constitute the commercial requirements of the Town.

#### 5.05.1 ACCEPTABLE USES

- A. Retail businesses
- B. Wholesale businesses
- C. Restaurants
- D. Filling stations (2011)
- E. Offices
- F. Banks and financial institutions
- G. Hospitals (2011)
- H. Schools
- I. Hotels (2011)
- J. Churches or Houses of Worship (2011)
- K. Bed & breakfast (1997)
- L. Deleted (2011)
- M. Newspaper and job printing
- N. Funeral homes
- O. Single-family dwellings and their accessory uses and structures, with their respective related conditions set forth in Residence "A" District
- P. Two-family and multi-family dwellings and their accessory uses and structures, with their respective related conditions set forth in Residence "B"
- Q. Deleted (2019)
- R. Recreational facility, not-for-profit (1997)
- S. Recreational facility, commercial (1997)
- T. Telecommunication facilities (2000)
- U. Motor vehicles sales facilities (2011)
- V. Deleted (2015)
- W. Farm roadside stands (2010)
- X. Farmer's market (2010)
- Y. Day care facilities (2011)
- Z. Motor vehicle repair facilities (2011)
- AA. Health services facilities (2011)
- BB. Hospice house (2011)
- CC. Veterinary clinics (2011)
- DD. Nursing home or facility (2011)
- EE. Agriculture and farming (2011)
- FF. Utility, public or private (2011)
- GG. Dwelling, Mixed-use (2012)
- HH. Solar Collection Systems in accordance with Section 7.11.0 (2019)
- II. Family Day Care Home (2025)

### **5.05.2 ACCEPTABLE USES AND YARD REQUIREMENTS BY: (2009)**

#### **A. Special Exception**

1. Deleted (2011)
2. ~~Family day care homes Deleted (2025)~~
3. Reduced front, side and rear setbacks
4. Manufacturing (2011)
5. Building and structure greater than allowed in 5.05.8:A and 5.05.8:B (2005)
6. Accessory Dwelling Units (2008)
7. Distribution and mailing facilities (2011)
8. Research and development (2011)

#### **B. Conditional Use Permit (2009)**

1. Small Wind Energy Systems (2009)

### **5.05.3 USES NOT SPECIFIED (2010)**

Any uses of land and/or structures not specifically included in the Commercial District as acceptable, acceptable by Special Exception or acceptable by Conditional Use Permit shall be considered as not permitted.

### **5.05.4 LOT SIZES AND FRONTAGES (2009)**

- A. In those areas serviced by both municipal sewerage and water systems, the minimum lot size in Commercial District shall be twenty thousand (20,000) square feet, together with one hundred and fifty (150) feet of frontage on Class V or better road.
- B. In those commercial areas not serviced by municipal sewerage and water systems, the minimum lot size shall be sixty thousand (60,000) square feet, together with two hundred twenty-five (225) feet of frontage on a Class V or better road.

### **5.05.5 YARD REQUIREMENTS (1995)**

- A. Each structure shall be set back at least thirty (30) feet from the front lot line.
- B. Each structure shall be at least fifteen (15) feet from side and rear property lines. In case of a corner lot, the side distance shall be increased to thirty (30) feet on the side bordering the street, lane or public way.

### **5.05.6 OPEN SPACE**

Open space shall be provided for all uses, other than single-family and two-family dwellings, in an amount equal to not less than thirty (30) percent of the total lot area.

**5.05.7 OVAL SUBDISTRICT:**

**EXEMPTION FROM YARD AND OPEN SPACE REQUIREMENTS (2007)**

The following area shall be exempt from the open space and yard requirements for all allowable uses in the Commercial District except multi-family residences: bounded by and beginning at the intersection of Great Brook and the Souhegan River, proceeding East along the southern bank of the Souhegan River to the Swinging Bridge, proceeding south along the west line of Pine Street to the intersection with Nashua Street, continuing south along the west line of Franklin Street to its intersection with High Street, then proceeding west along the north line of High Street and continuing west along the south line of Lot 39 on Tax Map 25 to the southwest corner of that parcel intersection with Great Brook and then proceeding north along the east bank of Great Brook to the beginning.

**5.05.8 HEIGHT REQUIREMENTS (2005)**

- A. The maximum height of a building or structure in the Commercial District shall be forty (40) feet, except as noted in B. below.
- B. The maximum height of school and municipal buildings or structures in the Commercial District shall be forty-five (45) feet.
- C. A Special Exception shall be required for heights greater than allowed in either A or B above.

### 5.06.0 INDUSTRIAL “I” DISTRICT (1995)

**INTENT:** The intent of the Industrial District is to provide areas for manufacturing, processing, assembly, wholesaling, research and development.

#### 5.06.1 ACCEPTABLE USES

- A. Harvesting of natural resources (2011)
- B. Manufacturing (from Light manufacturing 2003)
- C. Offices (2011)
- D. Research and development
- E. Distribution and mailing facilities
- F. Processing and warehousing
- G. Telecommunication ~~facilities~~ (facilities) (2000)
- H. Farm roadside stands (2010)
- I. Processing of natural resources (2011)
- J. Newspaper and job printing (2011)
- K. Agriculture and farming (2011)
- L. Utility, public or private (2011)
- M. Solar Collection Systems in accordance with Section 7.11.0 (2019)
- N. Home Based Business in accordance with Section 7.12.0 (2019)

#### 5.06.2 ACCEPTABLE USES AND YARD REQUIREMENTS BY: (2009)

##### A. Special Exception

- 1. Building and structure greater than allowed in 5.06.7:A and 5.06.7:B (2005)
- 2. Accessory Dwelling Units for existing single-family dwellings (2008)
- 3. Reduced front, side and rear setbacks (2009)
- 4. Hotels (2011)

##### B. Conditional Use Permit (2009)

- 1. Small Wind Energy Systems (2009)
- 2. Solar Collection Systems in accordance with Section 7.11.0 (2019)

#### 5.06.3 USES NOT SPECIFIED (2010)

Any uses of land and/or structures not specifically included in the Industrial District as acceptable, acceptable by Special Exception or acceptable by Conditional Use Permit shall be considered as not permitted.

#### 5.06.4 LOT SIZES AND FRONTAGES

- A. In those areas serviced by both municipal sewerage and water systems, no minimum lot size and frontage shall be required, other than those requirements that relate to usable open space so long as access to sewer and water is obtained.

- B. In those areas not serviced by municipal sewerage and water systems, a minimum of forty thousand (40,000) square feet shall be required, depending on soil and slope. No minimum frontage shall be required.

#### **5.06.5 YARD REQUIREMENTS**

- A. Each structure shall be set back at least thirty (30) feet from the front lot line.
- B. Each structure shall be at least fifteen (15) feet from side and rear property lines. In case of a corner lot, the side distance shall be increased to thirty (30) feet on the side bordering the street, lane or public way.

#### **5.06.6 OPEN SPACE**

Open space shall be provided for all uses in an amount equal to not less than thirty (30) percent of the total lot area.

#### **5.06.7 HEIGHT REQUIREMENTS (2005)**

- A. The maximum height of a building or structure in the Industrial District shall be forty (40) feet, except as noted in B. below.
- B. The maximum height of school and municipal buildings or structures in the Industrial District shall be forty-five (45) feet.
- C. A Special Exception shall be required for heights greater than allowed in either A or B above.

### 5.07.0 LIMITED COMMERCIAL-BUSINESS “LCB” DISTRICT

**INTENT:** The intent of the Limited Commercial-Business District is to provide areas for those business activities which are compatible with surrounding residential neighborhoods.

#### 5.07.1 ACCEPTABLE USES

- A. Offices
- B. Health service facilities (2011)
- C. Schools
- D. Bed and breakfast
- E. Churches or Houses of Worship (2011)
- F. Funeral homes
- G. Single-family dwellings and their accessory uses and structures, with their respective related conditions set forth in the Residence "A" District
- H. Two-family and multi-family dwellings and their accessory uses and structures, with their related conditions set forth in the Residence "B" District
- I. Deleted (2019)
- J. Telecommunication facilities (2000)
- K. Deleted (2015)
- L. Farm roadside stands (2010)
- M. Day care facilities (2011)
- N. Hospice house (2011)
- O. Utilities, public or private (2011)
- P. Dwelling, Mixed-use (2012)
- Q. Solar Collection Systems in accordance with Section 7.11.0 (2019)
- R. [Family Day Care Home](#)

#### 5.07.2 ACCEPTABLE USES AND YARD REQUIREMENTS BY: (2009)

##### A. Special Exception

- 1. Deleted (2011)
- 2. ~~Family Day Care Home Deleted (2025)~~
- 3. Recreational facility, not-for-profit (1997)
- 4. Reduced front, side and rear setbacks
- 5. Building and structure height greater than allowed in 5.07.7:A and 5.07.7:B (2005)
- 6. Accessory Dwelling Units (2008)

##### B. Conditional Use Permit (2009)

- 1. Small Wind Energy Systems (2009)

#### 5.07.3 USES NOT SPECIFIED (2010)

Any uses of land and/or structures not specifically included in the Limited Commercial-Business District as acceptable, acceptable by Special Exception or acceptable by Conditional Use Permit shall be considered as not permitted.



#### **5.07.4 LOT SIZES AND FRONTAGES (2009)**

- A. In those areas serviced by both municipal sewerage and water systems, the minimum lot size in Limited Commercial-Business District shall be twenty thousand (20,000) square feet, together with one hundred and fifty (150) feet of frontage on a Class V or better road.
- B. In those Limited Commercial-Business areas not serviced by municipal sewerage and water systems, the minimum lot size shall be sixty-thousand (60,000) square feet, together with two hundred twenty-five (225) feet of frontage on a Class V or better road.

#### **5.07.5 YARD REQUIREMENTS**

- A. Each structure shall be set back at least thirty (30) feet from the front lot line.
- B. Each structure shall be at least fifteen (15) feet from the side and rear property lines. In case of a corner lot, the side distance shall be increased to thirty (30) feet on the side bordering the street, lane or public way.

#### **5.07.6 OPEN SPACE**

Open space shall be provided for all uses, other than single-family and two-family dwellings, in an amount equal to not less than thirty (30) percent of the total lot area.

#### **5.07.7 HEIGHT REQUIREMENTS (2005)**

- A. The maximum height of a building or structure in the Limited Commercial-Business District shall be thirty-five (35) feet, except as noted in B. below.
- B. The maximum height of school and municipal buildings or structures in the Limited Commercial-Business District shall be forty-five (45) feet.
- C. A Special Exception shall be required for heights greater than allowed in either A or B above.

### **5.08.0 INTEGRATED COMMERCIAL-INDUSTRIAL “ICI” DISTRICT (1995)**

**INTENT:** The intent of the Integrated Commercial-Industrial District is to provide an area for sales and service activities, both wholesale and retail, as well as industrial activities. This District is intended to be the area in which vehicular oriented business can occur.

#### **5.08.1 ACCEPTABLE USES**

- A. Wholesale businesses
- B. Retail businesses
- C. Restaurants
- D. Offices
- E. Hotels (2011)
- F. Day care facilities (2011)
- G. Utility, public or private (2011)
- H. Manufacturing (from Light manufacturing 2003)
- I. Distribution and mailing facilities
- J. Research and development (2011)
- K. Motor vehicle repair facilities
- L. Harvesting of natural resources
- M. Banks and financial institutions
- N. Processing and warehousing (1997)
- O. Adult Entertainment Businesses (2000)
- P. Telecommunication facilities (2000)
- Q. Motor vehicle sales facilities (2011)
- R. Farm roadside stands (2010)
- S. Farmer’s market (2010)
- T. Bed and breakfast (2011)
- U. Churches or Houses of Worship (2011)
- V. Processing of natural resources (2011)
- W. Hospitals (2011)
- X. Health services facilities (2011)
- Y. Newspaper and job printing (2011)
- Z. Veterinary clinics (2011)
- AA. Nursing home or facility (2011)
- BB. Agriculture and farming (2011)
- CC. Dwelling, Mixed-use (2012)
- DD. Filling Station (2012)
- EE. Solar Collection Systems in accordance with Section 7.11.0 (2019)
- FF. Home Based Business in accordance with Section 7.12.0 (2019)

## **5.08.2 ACCEPTABLE USES AND YARD REQUIREMENTS BY: (2009)**

### **A. Special Exception**

1. Schools
2. Recreational facility, not-for-profit (1997)
3. Recreational facility, commercial (1997)
4. Deleted (2011)
5. Building and structure height greater than allowed in 5.087.A and 5.087.B (2005)
6. Deleted (2015)
7. Accessory Dwelling Units for existing single-family dwellings (2008)
8. Reduced front, side and rear setbacks (2009)

### **B. Conditional Use Permit (2009)**

1. Small Wind Energy Systems (2009)
2. Solar Collection Systems in accordance with Section 7.11.0 (2019)

## **5.08.3 USES NOT SPECIFIED (2010)**

Any uses of land and/or structures not specifically included in the ICI (Integrated Commercial-Industrial) District as acceptable, acceptable by Special Exception or acceptable by Conditional Use Permit shall be considered as not permitted.

## **5.08.4 LOT SIZES AND FRONTAGES (2009)**

- A. In those areas serviced by both municipal sewerage and water systems, the minimum lot size in the Integrated Commercial-Industrial District shall be twenty thousand (20,000) square feet, together with a minimum of one hundred fifty (150) feet of frontage on a Class V or better road.
- B. In those areas not serviced by municipal sewerage and water systems, a minimum of forty thousand (40,000) square feet shall be required, depending upon soil and slope conditions, together with a minimum of one hundred fifty (150) feet of frontage on a Class V or better road.

## **5.08.5 YARD REQUIREMENTS**

- A. Each structure shall be set back at least thirty (30) feet from the front lot line.
- B. Each structure shall be set back at least fifteen (15) feet from side and rear property lines. In the case of a corner lot, the side distance shall be increased to thirty (30) feet on the side bordering the public way.

## **5.08.6 OPEN SPACE**

Open space shall be provided in an amount equal to not less than thirty (30) percent of the total lot area.

## **5.08.7 HEIGHT REQUIREMENTS (2005)**

- A. The maximum height of a building or structure in the Integrated Commercial-Industrial District shall be forty (40) feet, except as noted in B. below.

- B. The maximum height of school and municipal buildings or structures in the Integrated Commercial-Industrial District shall be forty-five (45) feet.
- C. A Special Exception shall be required for heights greater than allowed in either A or B above.

### **5.09.0 INTEGRATED COMMERCIAL-INDUSTRIAL 2 “ICI-2” DISTRICT (2007)**

**Intent:** The intent of the Integrated Commercial-Industrial 2 District is to provide an area for mixed commercial and industrial development in commercial and industrial park-like settings.

#### **5.09.1 ACCEPTABLE USES**

- A. Wholesale businesses
- B. Retail businesses
- C. Restaurants
- D. Offices
- E. Hotels (2011)
- F. Day care facilities (2011)
- G. Utilities, public or private (2011)
- H. Manufacturing
- I. Distribution and mailing facilities
- J. Research and development
- K. Motor vehicle repair facilities
- L. Harvesting of natural resources
- M. Processing and warehousing
- N. Telecommunication facilities
- O. Recreational facility, commercial
- P. Farm roadside stands (2010)
- Q. Farmer’s market (2010)
- R. Banks and financial institutions (2011)
- S. Bed and breakfast (2011)
- T. Churches and Houses of Worship (2011)
- U. Hospitals (2011)
- V. Health services facilities (2011)
- W. Processing of natural resources (2011)
- X. Filling stations (2011)
- Y. Nursing home or facility (2011)
- Z. Newspaper and job printing (2011)
- AA. Veterinary clinics (2011)
- BB. Hospice house (2011)
- CC. Agriculture and farming (2011)
- DD. Solar Collection Systems in accordance with Section 7.11.0 (2019)

#### **5.09.2 ACCEPTABLE USES AND YARD REQUIREMENTS BY: (2009)**

##### **A. Special Exception**

- 1. Schools
- 2. Deleted (2011)
- 3. Building and structure height greater than allowed in 5.09.7:A and 5.09.7:B
- 4. Accessory Dwelling Units for existing single-family dwellings (2008)
- 5. Reduced front, side and rear setbacks (2009)

**B. Conditional Use Permit (2009)**

1. Small Wind Energy Systems (2009)
2. Solar Collection Systems in accordance with Section 7.11.0 (2019)

**5.09.3 USES NOT SPECIFIED**

Any uses of land and/or structures not specifically included in the ICI-2 (Integrated Commercial-Industrial 2) District as acceptable, acceptable by Special Exception or acceptable by Conditional Use Permit shall be considered as not Permitted.

**5.09.4 LOT SIZES AND FRONTAGES (2009)**

- A. In those areas serviced by both municipal sewerage and water systems, the minimum lot size in the ICI-2 (Integrated Commercial-Industrial 2) District shall be twenty thousand (20,000) square feet, together with a minimum of one hundred fifty (150) feet of frontage on a Class V or better road.
- B. In those areas not serviced by municipal sewerage and water systems, a minimum of forty thousand (40,000) square feet shall be required, depending upon soil and slope conditions, together with a minimum of one hundred fifty (150) feet of frontage on a Class V or better road.

**5.09.5 YARD REQUIREMENTS**

- A. Each structure shall be set back at least thirty (30) feet from the front lot line.
- B. Each structure shall be set back at least (15) feet from side and rear property lines. In the case of a corner lot, the side distance shall be increased to thirty (30) feet on the side bordering the public way.

**5.09.6 OPEN SPACE**

Open space shall be provided in an amount equal to not less than thirty (30) percent of the total lot area.

**5.09.7 HEIGHT REQUIREMENTS**

- A. The maximum height of a building or structure in the Integrated Commercial-Industrial 2 (ICI-2) District shall be forty (40) feet, except as noted in B. below.
- B. The maximum height of school and municipal buildings or structures in the Integrated Commercial-Industrial 2 (ICI-2) District shall be forty-five (45) feet.
- C. A Special Exception shall be required for heights greater than allowed in either A or B above.

## ARTICLE VI: OVERLAY DISTRICTS

### 6.01.0 GROUNDWATER PROTECTION DISTRICT (2003)

#### 6.01.1 GENERAL

- A. **Purpose:** In the interest of public health, safety, and general welfare, the purpose of this Ordinance is to preserve, maintain, and protect from contamination existing and potential groundwater supply areas.

This is to be accomplished by regulating land uses that could contribute pollutants to existing and/or planned public and/or private wells and/or ground water resources identified as being needed for present and/or future public water supply.

B. **Definitions:**

**Groundwater:** subsurface water that occurs beneath the water table in soils and geologic formations. [NH RSA 485-C, Groundwater Protection Act]

**Impervious:** (with respect to stormwater infiltration) not readily permitting the infiltration of water.

**Impervious surface:** (with respect to containment of regulated substances) a surface through which regulated substances cannot pass when spilled. Impervious surfaces include concrete unless unsealed cracks or holes are present. Asphalt, earthen, wooden, or gravel surfaces; or other surfaces which could react with or dissolve when in contact with the substances stored on them are not considered impervious surfaces. [Env-Ws 421.03(c)]

**Junkyard:** An establishment or place of business which is maintained, operated, or used for storing and keeping, or storing and selling, trading or otherwise transferring old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste or junked, dismantled or wrecked motor vehicles, or parts thereof, iron, steel or other old or scrap ferrous or nonferrous material. Junkyard shall also include any place of business for the maintenance or operation of an automotive recycling yard, and includes garbage dumps and sanitary fills. Also includes any business and any place of storage or deposit, whether in connection with another business or not, which has stored or deposited two (2) or more unregistered motor vehicles which are no longer intended or in condition for legal use on the public highways, or used parts of motor vehicles or old iron, metal, glass, paper, cordage, or other waste or discarded or second-hand material which has been a part, or intended to be a part, of any motor vehicle, the sum of which parts or material shall be equal in bulk to two (2) or more motor vehicles. Junkyard shall also include any place of business or storage or deposit of motor vehicles purchased for the purpose of dismantling the vehicles for parts or for use of the metal for scrap and where it is intended to burn material, which are parts of a motor vehicle or cut up the parts thereof. Also, includes any yard or field used as a place of storage in which there is displayed to the public view, junk machinery or scrap metal that occupies an area of five hundred (500) square feet and as amended by NH RSA 236:112. (2013)

**Liquid Petroleum Products:** Any petroleum product that maintains a liquid state when exposed to ambient temperature and atmospheric pressure. Such as but not limited to: gasoline, diesel, home heating fuel, motor oil, etc. (2011)

**Outdoor storage:** storage of materials where they are not protected from the elements by a roof, walls, and a floor with an impervious surface.

**Public water system:** a system for the provision to the public of piped water for human consumption, if such system has at least fifteen (15) service connections or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year. [NH RSA 485:1-a, XV]

**Regulated substance:** petroleum, petroleum products, and substances listed under 40 CFR 302, 7-1-90 edition or as amended, excluding the following substances: (1) ammonia, (2) sodium hypochlorite, (3) sodium hydroxide, (4) acetic acid, (5) sulfuric acid, (6) potassium hydroxide, (7) potassium permanganate, and (8) propane and other liquefied fuels which exist as gases at normal atmospheric temperature and pressure. [1-7 are used in the treatment of water supplies and are not considered to pose a significant risk to groundwater]

**Sanitary protective radius:** The area around a well, which must be maintained in its natural state as required by Env-Ws 378 or 379 (for community water systems) and Env-Ws 372.13 (for other public water systems).

**Secondary containment:** a structure such as a berm or a dike with an impervious surface that is adequate to hold at least one hundred ten (110) percent of the volume of the largest regulated substance container that will be stored. [Env-Ws 421.03(g)]

**Snow dump:** a location where snow, which is cleared from roadways and/or motor vehicle parking areas, is placed for disposal.

**Stratified-drift aquifer:** A geologic formation of predominantly well-sorted sediment deposited by or in bodies of glacial meltwater including gravel, sand, silt, or clay, which contains sufficient saturated permeable material to yield significant quantities of water to wells. [NH RSA 485-C:2, XIV]

**Surface water:** streams, lakes and ponds, including marshes, watercourses and other bodies of water, natural or artificial. [NH RSA 485-A:2 XIV]

**Temporary Storage:** means storage for less than six months.

**Wellhead protection area:** The surface and subsurface area surrounding a water well or well-field supplying a community water system, through which contaminants are reasonably likely to move toward and reach such water well or well-field. [NH RSA 485-C:2, XVIII]

- C. **Location:** The Groundwater Protection District includes all land areas designated as Level I and/or Level II Protection Areas on the map entitled "Groundwater Protection District - Milford, NH", dated October 24, 2002 or as amended. A copy of the map is located in the offices of the Town of Milford Planning Department. The Groundwater Protection District is an overlay district which is superimposed over the existing underlying zoning.



D. **Applicability:** The Groundwater Protection District applies to all uses in the District, except for those uses exempt under 6.01.3:E. (2010)

1. The Groundwater Protection District is an overlay district which imposes additional requirements and restrictions to those of the underlying base district established under the powers granted under NH RSA 674:21. In case of conflict between the requirements of Section 6.01.0 and the requirements presented elsewhere in the Milford Zoning Ordinance, the provisions of 6.01.0 shall apply.

### 6.01.2 PERFORMANCE STANDARDS

The following Performance Standards apply to all uses in the Groundwater Protection District unless exempt under 6.01.3:E.

- A. For any use that will render impervious more than fifteen (15) percent or more than two thousand five hundred (2,500) square feet of any lot, whichever is greater, a stormwater management plan shall be prepared which the Planning Board determines is consistent with Town of Milford Regulations;
- B. Stormwater management plans prepared pursuant to paragraph A shall demonstrate that stormwater recharged to groundwater will not result in violation of Ambient Groundwater Quality Standards (Env-Wm 1403.05) at the property boundary;
- C. All stormwater discharges to surface waters must be in compliance with EPA Phase II regulations;
- D. Post development stormwater discharges must be no greater than predevelopment stormwater discharges;
- E. Animal manures, fertilizers, and compost must be stored in accordance with Manual of Best Management Practices for Agriculture in New Hampshire, NH Department of Agriculture, Markets, and Food, August 1998, and any subsequent revisions;
- F. All regulated substances stored in containers with a capacity of five (5) gallons or more must be stored in product-tight containers on an impervious surface designed and maintained to prevent flow to exposed soils, floor drains, and outside drains;
- G. Facilities where regulated substances are stored must be secured against unauthorized entry by means of a door and/or gate which is locked when authorized personnel are not present;
- H. Outdoor storage areas for regulated substances must be protected from exposure to precipitation and must be located at least one hundred (100) feet from surface water or storm drains, at least seventy-five (75) feet from private wells, and outside the sanitary protective radius of wells used by public water systems;
- I. Secondary containment must be provided for outdoor storage of regulated substances if an aggregate of three hundred thirty (330) gallons or more of regulated substances are stored outdoors on any particular property;

- J. Containers in which regulated substances are stored must be clearly and visibly labeled and must be kept closed and sealed when material is not being transferred from one container to another.

### 6.01.3 USES

#### A. Permitted Uses

All uses permitted by Milford Zoning Ordinance in the underlying district or allowed by special exception in the underlying district are permitted in the Groundwater Protection District unless they are Prohibited Uses, 6.01.3:B or Uses Requiring a Permit, 6.01.3:C. All uses must comply with 6.01.2 Performance Standards unless specifically exempt under section 6.01.3:E.

#### B. Prohibited Uses

The following uses are prohibited in the Groundwater Protection District Level I Protection Area:

1. The siting or operation of a hazardous waste disposal facility as defined under NH RSA 147-A;
2. The siting or operation of a solid waste landfill;
3. The outdoor storage of road salt or other deicing chemicals in bulk;
4. The siting or operation of a junkyard;
5. The siting or operation of a snow dump;
6. The siting or operation of a wastewater or septage lagoon;
7. Storage of liquid petroleum products, except the following:
  - a. That product necessary for the private business use occupying the lot, subject to all applicable State and Federal requirements. The aggregate tank capacity on each lot shall not exceed five thousand (5,000) gallons. No wholesale or retail sale of petroleum products.
  - b. Normal household use and heating of a structure;
  - c. Waste oil retention facilities required by statute, rule, or regulation;
  - d. Emergency generators required by statute, rule, or regulation;
  - e. Treatment works approved by NHDES for treatment of ground or surface waters;

Provided that such storage, listed in items a. through e. above, is in free-standing containers within buildings or above ground with secondary containment adequate to contain a spill one hundred ten (110) percent the size of the aggregate capacity of the stored containers.

#### C. Uses Requiring a Permit in Level I and/or Level II

1. The Code Administrator may grant a Permit for a use which is otherwise permitted within the underlying district, if the permitted use is or is involved in the storage, handling and/or use of a regulated substance in quantities exceeding five (5) gallons or forty (40) pounds dry weight at any one time. Prior to issuing a permit, a containment plan shall be provided or in place to prevent, contain, and/or minimize releases from a spill, which may cause large releases of regulated substances.
2. Planning Board approval is required for any use that will render impervious more than fifteen (15) percent or two thousand five hundred (2,500) square feet of any lot, whichever is greater.
  - a. Prior to the granting of such approval, the Code Administrator must first determine that the proposed use is not a prohibited use.

- b. The Planning Board shall determine that the use will be in compliance with all the Performance Standards as well as all applicable local, state and federal requirements. The Planning Board may, at its discretion, require a performance guarantee or bond, in an amount and with surety conditions satisfactory to the Board, to be posted to ensure completion of construction of any facilities required for compliance with the Performance Standards.

#### **D. Existing Non-Conforming Uses**

Existing nonconforming uses may continue without expanding or changing to another nonconforming use, but must be in compliance with all applicable state and federal requirements, including NH Code of Administrative Rules Env-Ws 421, Best Management Practices.

#### **E. Exemptions**

The following uses are exempt from the specified provisions of this Ordinance as long as they are in compliance with all applicable local, state, and federal requirements:

1. All private residences are exempt from the provisions of this Ordinance provided no portion of the residence is part of a home business that violates the standards or conditions set forth in sections 6.01.2 and 6.01.3 of this Ordinance;
2. Any business or facility where regulated substances are not stored in containers with a capacity of five (5) gallons or more is exempt from Performance Standards G through J;
3. Storage of heating fuels for on-site use or fuels for emergency electric generation, provided that storage tanks are indoors on an impervious concrete floor or have corrosion control, leak detection, and secondary containment in place, is exempt from Performance Standard G;
4. Storage of motor fuel in tanks attached to vehicles and fitted with permanent fuel lines to enable the fuel to be used by that vehicle is exempt from Performance Standards G through J;
5. Storage and use of office supplies is exempt from Performance Standards G through J;
6. Temporary storage of construction materials on a site where they are to be used is exempt from Performance Standards G through J;
7. The sale, transportation, and use of pesticides as defined in NH RSA 430:29 XXVI. are exempt from all provisions of this Ordinance;
8. Household hazardous waste collection projects regulated under NH Code of Administrative Rules Env-Wm 401.03(b)(1) & 501.01(b) are exempt from Performance Standards G through J.

#### **6.01.4 ADMINISTRATIVE**

##### **A. Relationship Between State and Local Requirements**

Where both the State and the municipality have existing requirements the more stringent shall govern.

##### **B. Maintenance and Inspection**

1. For uses requiring Planning Board approval for any reason, a narrative description of maintenance requirements for structures required to comply with 6.01.2 Performance Standards, shall be recorded so as to run with the land on which such structures are located, at the Town of Milford Planning Department. All maintenance required is the responsibility of the owner and as such shall be maintained by the owner. The description so prepared shall comply with the requirements of NH RSA 478:4-a.

2. Inspections may be required to verify compliance with 6.01.2 Performance Standards. Such inspections shall be performed by the Code Administrator at reasonable times with prior notice to the landowner.
3. All properties within the Groundwater Protection District known to the Code Administrator as using or storing regulated substances in containers with a capacity of five (5) gallons or more, except for facilities where all regulated substances storage is exempt from this Ordinance under section 6.01.3:E, shall be subject to inspections under this section.
4. The Board of Selectmen may require a fee for compliance inspections. The fee shall be paid by the property owner. A fee schedule shall be established by the Board of Selectmen as provided for in NH RSA 41:9-a.
5. Underground storage tank systems and above-ground storage tank systems that are in compliance with applicable state rules are exempt from inspections under 6.01.4:B of this Ordinance.

#### **C. Enforcement Procedures and Penalties**

Any violation of the requirements of this Ordinance shall be subject to the enforcement procedures and penalties in NH RSA 676.

#### **D. Saving Clause**

If any provision of this Ordinance is found to be unenforceable, such provision shall be considered separable and shall not be construed to invalidate the remainder of the Ordinance.

## **6.02.0 WETLAND CONSERVATION DISTRICT (2017)**

### **6.02.1 GENERAL**

- A. The Wetland Conservation District shall be considered as overlaying any other district established by this Ordinance. Any use permitted in the portions of the district so overlaid shall only be permitted subject to all provisions of this section.
- B. Except for the permitted uses as listed in 6.02.5 of this section, there shall be no impact of wetlands or surface waters, unless all federal, state and local permits are in place.
- C. All impacts to wetlands shall be regulated in accordance with NH Code of Administrative Rules, Wt. Env-Wt 100-900 as may be amended from time to time and require the receipt of the appropriate permit from the State of New Hampshire Department of Environmental Services Wetlands Bureau. The state process requires a review by the Milford Conservation Commission. (2017)
- D. The Milford Conservation Commission, established under NH RSA 36-A, has statutory standing before the Department of Environmental Services under NH RSA 482-A:11, III and provides a local source of assistance to both the department and the applicants for Dredge & Fill Permits.
- E. A special exception approved by the Milford Zoning Board of Adjustment shall be required for any use within the wetland except for those listed in 6.02.5. Note that state and/or federal permits may be required for uses not requiring a special exception under this Ordinance.
- F. The Wetland Conservation District is an overlay district which imposes additional requirements and restrictions to those of the underlying base district established under the powers granted under NH RSA 674:21. In case of conflict between the requirements of Section 6.02.0 and the requirements presented elsewhere in the Milford Zoning Ordinance, the provisions of 6.02.0 shall apply. (2010)

### **6.02.2 PURPOSE**

By the authority granted in NH RSA 674:16-17 and 674:20-21, the purpose of the Wetlands Conservation District is to protect the values and functions of wetlands, surface waters and their associated buffer zones. It is further intended, but shall not be limited to, the following:

- A. Protect the public health, safety, general welfare and property;
- B. Reduce sedimentation of wetlands and surface waters;
- C. Aid in the control of non-point source pollution; (2017)
- D. Provide a vegetative cover in the case of the buffer zones for filtration of runoff and the prevention of erosion;
- E. Protect fish spawning grounds, aquatic life, and bird and other wildlife habitats;
- F. Conserve natural beauty and open spaces;
- G. Preserve ponds, rivers and streams in their natural state,
- H. Protect persons and property from flood damage by preserving the natural flood storage areas,
- I. Control the development of structures and land uses which contribute to the pollution of surface and groundwater by sewerage, hazardous substances or siltation;

- J. Protect aquifers, which serve as existing or potential water supplies as well as the aquifer recharge system;
- K. Prevent unnecessary or excessive expenses to the Town to provide and maintain essential services and utilities which arise because of the inharmonious use of wetlands;

### 6.02.3 LOCATION OF THE WETLAND CONSERVATION DISTRICT

The areas within the town of Milford to which this section applies are as follows:

- A. **Streams:** This includes both perennial and intermittent streams wherever fresh water flows for sufficient time to develop and maintain a defined channel. The area of the stream shall lie within the banks as defined by the ordinary high water mark established by the fluctuations of water and indicated by physical characteristics such as a clear natural line impressed on the immediate bank, or shelving, or changes in the character of the soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.
- B. **Ponds:** The pond area shall be the extent of water at the full pond as determined by the top of the impoundment structure in artificial ponds or by the natural high water mark in natural ponds.
- C. **Wetlands:** A wetland area shall be delineated based on hydrophytic vegetation, hydric soils and wetland hydrology in accordance with techniques outlined in the Corps of Engineers wetlands Delineation Manual, Technical Report Y-87-1 (January 1987) and defined by NH RSA 482-A:2.X (as amended). (2017)
- D. **Buffers:** The buffer area shall be measured from the edge of any stream, pond, or wetland in a horizontal plane. The buffer is the area adjacent to a wetland and/or open water which should be kept free of uses that may introduce or facilitate pollution, sedimentation or other harmful effects to the wetland. The buffer shall include the area within twenty-five (25) feet from any wetland, stream, or pond area, or vernal pool. For the water bodies named in 6.02.3:E, the buffer shall be fifty (50) feet from the edge of any stream, pond, or wetland in a horizontal plane. (2017)
- E. **Surface waters with 50 foot buffer area:** The following water bodies together with any adjacent very poorly drained wetlands are protected by a fifty (50) foot buffer. These 2<sup>nd</sup> Order and higher streams are described in the Conservation Plan, an Appendix of the Town Master Plan. (2017)
  - 1. **Birch Brook:** from its commencement at the wetland lying between Whitten Road and Chappell Drive to its junction with Great Brook,
  - 2. **Compressor Brook:** from its commencement as follows:
    - a. Compressor Brook, East Branch: from its entry into Milford at the Milford/Brookline Town Line in the southeast portion of Milford to its junction with Compressor Brook south of Melendy Road and east of Ruonala Road,
    - b. Compressor Brook, West Branch: from its beginning at a wetland on the west side of Ball Hill Road to its junction with Compressor Brook, East Branch, as described in a. above,
    - c. Compressor Brook: from the junction of the East Branch and the West Branch south of Melendy Road and east of Ruonala Road to its junction with Great Brook,

3. **Great Brook:** from its commencement at Mile Slip Road, approximately one thousand five hundred (1,500) feet south of Mason Rd. to Railroad Pond, and from Railroad Pond to the Souhegan River, including its passage through said pond,
4. **Hartshorn Brook:** from the Mont Vernon/Milford Town line, through Hartshorn Pond to its junction with the Souhegan River,
5. **Mitchell Brook:** from its entrance into Milford at the Milford/Mason Town line to its junction with Spaulding Brook,
6. **Ox Brook:** from its beginning in a wetland west of Melendy Road to its junction with Compressor Brook,
7. **Purgatory Brook:** from its entrance into Milford at the Milford/Lyndeborough Town line, to its junction with the Souhegan River,
8. **Spaulding Brook:** from its entrance into Milford at the Milford/Mason Town line to its exit from Milford at the Milford/Brookline Town line,
9. **Tucker Brook:** from its entrance into Milford in the vicinity of the granite bound on the Milford/Wilton Town line, to its junction with the Souhegan River,
10. **Compressor Pond,**
11. **Hartshorn Pond,**
12. **Railroad Pond,**
13. **Osgood Pond,**
14. **Souhegan River, see 6.02.3.G.**

F. Surface waters with one hundred (100) foot buffer:

**Peatlands:** Due to their rarity and fragility, these unique wetlands shall be protected by a one hundred (100) foot buffer.

G. Shoreland Water Quality Protection Act (2017)

Osgood Pond and the Souhegan River with the exception of the Urbanized Exemption Parcels are subject to the Shoreland Water Quality Protection Act, NH RSA 483-b as may be amended from time to time. The Shoreland Water Quality Protection Act addresses activities within two hundred and fifty (250) feet of great ponds and fourth order streams. The Souhegan River is a fourth order stream.

#### 6.02.4 DEFINITIONS

**Bank/Edge of Wet:** The transitional slope immediately adjacent to the edge of a surface water body, the upper limit of which is usually defined by a break in slope, or, for a wetland, where a line delineated in accordance with New Hampshire Code of Administrative Rules Chapter Env-Wt 102.15 (as amended) indicates a change from wetland to upland. (2017)

**Buffer:** An upland area adjacent to a wetland and/or surface water which serves to filter surface water flowing into the wetland.

**Bog:** A wetland distinguished by stunted evergreen trees and shrubs, peat deposits, poor drainage, and/or highly acidic soils and/or water conditions.

**Great Pond:** Any natural water body having an area of ten (10) acres or more.

**Fen:** Unique wetlands characterized by saturated organic soils (well-decomposed peat) fed by neutral to somewhat alkaline groundwater.

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

**Peatlands:** Wetlands with thick organic soil, often with a characteristic floating mat of mosses, sedges, shrubs, and/or trees in very acidic conditions, includes bogs and fens.

**Stream, Intermittent:** A place where water flows for sufficient duration and/or in sufficient quantity to maintain a channel.

**Stream, Perennial:** Any channel, natural or manmade, which has water present for twelve (12) months of a normal year but which may dry up during a period in which the rainfall is less than sixty (60) per cent of average for more than three consecutive months.

**Surface water:** Streams, lakes and ponds, including marshes, watercourses and other bodies of water, natural or artificial. [NH RSA 485-A:2 XIV (2017); Env-Wt 104.33 (2019)]. as amended.

**Vernal Pool:** A surface water or wetland, including an area intentionally created for purposes of compensatory mitigation, which provides breeding habitat for amphibians and invertebrates that have adapted to the unique environments provided by such pools and further defined in New Hampshire Code of Administrative Rules Chapter Env-Wt 104.44 (as amended). (2020)

**Very poorly drained:** Water is removed from the soil so slowly that free water remains at or on the surface during most of the growing season.

**Wetland:** An area that is inundated or saturated by surface or ground water at a frequency and duration sufficient to support and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

#### 6.02.5 ACCEPTED USES: (2017)

- A. **Wetlands:** Any of the following uses, the execution, construction or placement of which do not permanently and significantly alter the natural flow of ground or surface water, and that are otherwise permitted by the Zoning Ordinance. (2011)
1. Projects that fall under the Wetland Bureau's Statutory Permit by Notification (SPN) Env-Wt 308.01,04 or Lower Scrutiny Approval (LSA) Permits by Notification Env-Wt 309.05 (as amended). These projects, however, must be reviewed by the Conservation Commission prior to submission to the Wetlands Bureau. (2017)
  2. Repair or reconstruction of an existing legal structure that meets the following conditions:
    - a. Where the size, location and configuration remain the same
    - b. The work shall not require the utilization of tracked or wheeled equipment in the water or wetland; (2017)
    - c. The structure has not been abandoned. Failure to maintain an existing structure in a state so that it is functional, and intact, for a period of five (5) years shall be prima facie evidence of abandonment or non-use.



3. Mowing or cutting of vegetation in a wet meadow, red maple swamp, hemlock swamp, spruce/fir swamp, or white pine swamp, provided that the roots of the vegetation are not disturbed, and that the ground is frozen or sufficiently dry to avoid making ruts and that the area is stabilized once thawed and that the project is not located in prime wetlands.
  4. Hand raking of leaves or other organic debris from the shoreline or lake bed provided that:
    - a. At the time raking is done, the area is exposed by draw down, or
    - b. Raking does not disturb vegetative roots.
  5. Management of a beaver dam as provided in NH RSA 210:9,II and Env-Wt 308.01.g (as amended). (2017)
  6. Removal of a beaver dam by hand or machine provided:
    - a. Machinery does not enter the water or create any impact by filling or dredging to adjacent surface waters, wetlands, or their banks;
    - b. All dredged materials are placed out of wetlands and out of the defined buffer area, and
    - c. Removal of the dam is done in a gradual manner that does not allow a sudden release of impounded water to cause erosion or siltation.
  7. Addition of native vegetation to enhance wetlands, but not the removal of wetlands vegetation except as provided in 6.02.5:A.3.
  8. Drilling of test wells by a public agency for purposes of exploring for public water supplies or hazardous materials.
- B. Buffer Zones:** Any of the following uses that do not alter the surface configuration by the addition of fill, removal of soil, or obstruct in any manner the natural flow of ground or surface water, or disturb in any manner the ground itself to any depth and that are otherwise permitted by the Zoning Ordinance.
1. Forestry, subject to the provisions of RSA 227-J:6, as amended, and tree farming in accordance with good silvicultural practices, outlined in *Good Forestry in the Granite State: Recommended Voluntary Management Practices for New Hampshire*, as amended. (2017)
  2. Agriculture, as defined in NH RSA 21:34-a, as amended, including growing and harvesting of crops using best management practices detailed in *best Management Wetland Practices for Agriculture in NH*, as amended. (2017)
  3. Buildings and structures not to exceed one hundred twenty (120) square feet and without sanitary plumbing and raised above-ground on concrete or similar blocks placed on the ground surface in such a manner as to permit the natural flow of any surface water.
  4. Decks raised above the ground so as to permit the natural flow of any surface waters.
  5. Potable water supply wells and their associated water lines and associated power lines, provided there are adequate erosion control measures in place during work and repair of any disturbance.
  6. Monitoring wells for observation purposes, provided there are adequate erosion control measures in place during work and there is repair of any disturbance
  7. Driveway access if the impact is less than that allowed by the activities permitted in NH Wetland Rules Env-Wt 308 and 309 (as amended). The access is to be located where it causes the least impact to the surrounding landscape.

8. Water impoundments for wildlife, fire protection, stormwater, recreational, or agriculture use.
9. A use or structure lawfully existing prior to the enactment of the Zoning Ordinance (3/11/69), and that is maintained after the effective date of the Ordinance, although it may or may not comply with the zoning restrictions applicable to the district in which it is situated.
10. Replacement or repair of any existing septic system confirmed to be in failure provided:
  - a. The system requiring replacement or repair was in place prior to the date of adoption of this ordinance
  - b. Prior to commencement of such replacement or repair, the property owner has obtained any and all required State and local construction approvals and permits; and
  - c. The planned replacement or repair will not expand the intensity of use of the structure(s) it is intended to serve.

#### **6.02.6 A SPECIAL EXCEPTION IS REQUIRED FOR:**

- A. **Wetlands:** A Special Exception Permit from the Board of Adjustment is required for any project not listed in 6.02.5:A that is located within a wetland and is not in the right-of-way of a public road. (2017)
- B. **Buffer:** A Special Exception from the Board of Adjustment is required for any project not listed in 6.02.5.A or B.
- C. The Board of Adjustment, in acting on an application for a special exception in the Wetlands Conservation District, shall take into consideration the conditions as noted in 10.02.1.
- D. The Board of Adjustment may grant a Special Exception for such projects after the application for the Special Exception has been reviewed and reported upon by the Milford Conservation Commission and forwarded to the Board of Adjustment within forty (40) days of a public meeting at which the Conservation Commission first received detailed plans on the project.
- E. The Planning Board may also be required to submit a report to the Board of Adjustment, if requested by the Board of Adjustment. The Planning Board shall submit its report within the above specified forty (40) day period.

#### **6.02.7 CRITERIA FOR EVALUATION**

- A. For all projects requiring a Special Exception the applicant shall demonstrate by plan or example that the following factors have been considered in their design:
  1. The need for the proposed project;
  2. The plan proposed is the alternative with the least impact to the wetlands, surface waters and/or their associated buffers;
  3. The impact on plants, fish and wildlife;
  4. The impact on the quantity and/or quality of surface and ground water;
  5. The potential to cause or increase flooding, erosion, or sedimentation;
  6. The cumulative impact that would result if all parties owning or abutting a portion of the affected wetland, wetland complex and/or buffer area were also permitted alterations to the wetland and buffer proportional to the extent of their property rights;

7. The impact of the proposed project on the values and functions of the total wetland or wetland complex.
- B. The Town of Milford shall place emphasis in preserving peatlands and marshes. This priority shall be based upon the rarity of those environments and the difficulty in restoration of the value and function of those environments.

### **6.03.0 FLOODPLAIN MANAGEMENT DISTRICT (2020)**

#### **6.03.1 PURPOSE**

- A. This ordinance, adopted pursuant to the authority of RSA 674:16, RSA 674:17, and 674:56, shall be known as the Town of Milford Floodplain Management Ordinance (“Ordinance”). The regulations in this Ordinance shall overlay and supplement the regulations in the Town of Milford Zoning Ordinance, and shall be considered part of the Zoning Ordinance for purposes of administration and appeals under state law.
- B. The purpose of this Ordinance is to promote the public health, safety, and general welfare; minimize hazards to persons and property from flooding; to protect watercourses from encroachment; and to maintain the capability of floodplains to retain and carry off floodwaters.

#### **6.03.2 FINDINGS OF FACT AND APPLICABILITY**

- A. Certain areas of the Town of Milford are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968. Therefore, the Town of Milford chosen to become a participating community in the National Flood Insurance Program (NFIP), and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as detailed in this Ordinance.
- B. The following regulations in this Ordinance shall apply to all lands within Town of Milford and designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its “Flood Insurance Study (FIS) for Town of Milford, NH” dated September 25, 2009 together with the associated Flood Insurance Rate Map (FIRM) panels 33011C0451D, 33011C0452D, 33011C0453D, 33011C0454D, 33011C0456D, 33011C0457D, 33011C0458D, 33011C0459D, 33011C0465D, 33011C0470D, 33011C0478D, 33011C0486D dated September 25, 2009 and associated amendments and revisions, which are declared to be a part of this Ordinance and are hereby incorporated by reference.
- C. This Ordinance establishes a permit system and review procedure for development in a special flood hazard area of the Town of Milford.

#### **6.03.3 ADMINISTRATIVE PROVISIONS**

- A. 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.
- B. Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.
- C. In accordance with RSA 676, the Floodplain Administrator shall enforce and administer the provisions of this Ordinance.
- D. The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur, and flood heights may be increased by man-made or natural causes. This Ordinance does not imply

that land outside of a special flood hazard area or uses that are permitted within such areas will be free from flooding or flood damage.

#### 6.03.4 DEFINITIONS

The following definitions shall apply only to this Floodplain Management Ordinance, and shall not be affected by the provisions of any other Ordinance.

**Accessory Structure** means a structure which is: 1) detached from and clearly incidental and subordinate to the principal use or structure on a lot, 2) located on the same lot as the principal structure or use, 3) clearly and customarily related to the principal structure or use, and 4) only used for vehicle parking, storage, or primarily building access. Examples include garages, garden and tool sheds, and playhouses.

**Base Flood or 1 Percent Annual Chance Flood** means the flood having a one-percent possibility of being equaled or exceeded in any given year.

**Base Flood Elevation (BFE)** means the elevation of the base (one-percent annual chance) flood referenced to a specified vertical datum (National Geodetic Vertical Datum of 1929 or North American Vertical Datum of 1988).

**Basement** means any area of a structure having its floor subgrade (below ground-level) on all sides.

**Building** - see "Structure".

**Conditional Letter of Map Revision (CLOMR)** means FEMA's comment on a proposed project that would, upon construction, affect the hydrologic and/or hydraulic characteristics of a flooding source and thus result in the modification of the existing floodway, base flood elevation, or the special flood hazard area. CLOMRs do not revise an effective FIRM since they do not reflect as-built conditions.

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

**Elevation Certificate** means a form developed by FEMA to collect surveyed elevations and other information about a building, which can be used for the purposes of compliance with a community's floodplain regulations, flood insurance rating, and Letters of Map Amendment applications.

**Enclosed Area** means an area created by a crawlspace or solid walls that fully enclose an area below an elevated building.

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

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

- a. The overflow of inland or tidal waters, or

b. The unusual and rapid accumulation or runoff of surface waters from any source.

**Flood Damage-Resistant Materials** means any building product (material, component or system) capable of withstanding direct and prolonged contact with floodwaters without sustaining significant damage. See FEMA “Technical Bulletin 2, Flood Damage- Resistant Materials Requirements.”

**Flood Insurance Rate Map (FIRM)** means 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 community. The FIRM is a graphic representation of the data contained in the accompanying Flood Insurance Study.

**Flood Insurance Study (FIS)** means a compilation and presentation of flood risk data for specific watercourses, lakes, and coastal flood hazard areas within a community. The FIS report contains detailed flood elevation data in flood profiles and data tables.

**Flood Opening** means an opening in a foundation or enclosure wall that allows automatic entry and exit of floodwaters. See FEMA “Technical Bulletin 1, Openings in Foundation Walls and Walls of Enclosures.”

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

**Floodplain Administrator** means a person responsible for administering and implementing the community’s local floodplain ordinance and ensuring that the community is complying with minimum NFIP standards and enforcing any locally imposed higher standards.

**Floodproofed or Floodproofing** means 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.

**Floodproofing Certificate for Non-Residential Structures** means the form developed by FEMA for use in the certification of non-residential dry floodproofing designs.

**Floodproofing, Dry** means making a structure watertight below the level that needs flood protection to prevent floodwaters from entering.

**Floodproofing, Wet** means permanent or contingent measures applied to a structure and/or its contents that prevent or provide resistance to damage from flooding by allowing flood waters to enter the structure.

**Floodway** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. Highest Adjacent Grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

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

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - (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.

**Letter of Map Change** means an official document issued by FEMA that revises or amends the flood hazard information shown on the FIRM without requiring the FIRM to be physically revised and/or re-published. Letters of Map Change can include Letters of Map Amendment, Letters of Map Revision, and Letters of Map Revision Based on Fill.

**Letter of Map Revision (LOMR)** means FEMA's modification to an effective FIRM, usually as a result of physical changes to the flooding source and floodplain that result in the modification of the existing Regulatory floodway, base flood elevations, or special flood hazard area. LOMRs are a cost effective way to keep FIRMs up to date without republishing an entire map panel or panels. The LOMR is generally accompanied by an annotated copy of the affected portions of the FIRM and/or FIS report.

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

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

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

**Mean Sea Level** means the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other vertical datum to which base flood elevations shown on a community's FIRMs are referenced.

**National Flood Insurance Program (NFIP)** means the program created by the Congress of the United States in 1968 through the National Flood Insurance Act of 1968 (P.L. 90-448). The program enables property owners in participating communities to purchase insurance protection, administered by the government, against losses from flooding.

**Natural Grade** means the grade unaffected by construction techniques such as fill, landscaping or berming.

**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** means a vehicle:

- a. Built on a single chassis;
- b. 400 square feet or less when measured at the largest horizontal projection;
- c. Designed to be self-propelled or permanently towable by a light duty truck; and
- d. Designed primarily not for use as a permanent dwelling but as temporary living quarters (less than 180 consecutive days) for recreational, camping, travel or seasonal use.

**Special Flood Hazard Area (SFHA)** means the land in the floodplain subject to a one-percent or greater possibility of flooding in any given year. The area is designated on the FIRM as Zones A, AO, A1-30, AE, or VE.

**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.

**State Building Code** means the current codes adopted by the state of New Hampshire.

**State NFIP Coordinating Agency** means the agency of the state government (or other office designated by the Governor of the state or by state statute) that, at the request of the Federal Insurance Administrator, assists in the implementation of the National Flood Insurance Program (NFIP) in that state.

**Structure** means 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** means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. The market value of the structure should equal the appraised value of the structure prior to the damage occurring.



**Substantial Improvement** means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- b. Any alteration of a “historic structure,” provided that the alteration will not preclude the structure's continued designation as a “historic structure”.

**Violation** means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations.

#### **6.03.5 FLOODPLAIN ADMINISTRATOR DUTIES AND RESPONSIBILITIES**

- A. The Building Inspector is hereby appointed to administer and implement these regulations and is referred to herein as the “Floodplain Administrator.”
- B. The duties and responsibilities of the Floodplain Administrator shall include, but are not limited to:
  1. Ensure that permits are obtained for proposed development in a special flood hazard area.
  2. Review all permit applications for completeness and accuracy, and coordinate with the applicant for corrections or further documentation, as needed.
  3. Interpret the special flood hazard area and floodway boundaries and determine whether a proposed development is located in a special flood hazard area, and if so, whether it is also located in a floodway.
  4. Provide available flood zone and base flood elevation information pertinent to the proposed development.
  5. Make the determination as to whether a structure will be substantially improved or has incurred substantial damage as defined in this Ordinance and enforce the provisions of this Ordinance for any structure determined to be substantially improved or substantially damaged.
  6. Issue or deny a permit based on review of the permit application and any required accompanying documentation.
  7. Ensure prior to any alteration or relocation of a watercourse that the required submittal and notification requirements in this Ordinance are met.
  8. Review all required as-built documentation and other documentation submitted by the applicant for completeness and accuracy and verify that all permit conditions have been completed in compliance with this Ordinance.

9. Notify the applicant in writing of either compliance or non-compliance with the provisions of this Ordinance.
10. Ensure the administrative and enforcement procedures detailed in RSA 676 are followed for any violations of this Ordinance.
11. Submit to FEMA, or require applicants to submit to FEMA, data and information necessary to maintain FIRMs, including hydrologic and hydraulic engineering analyses prepared by or for the Town of Milford, within six months after such data and information becomes available if the analyses indicate changes in base flood elevations, special flood hazard area and/or floodway boundaries.
12. Maintain and permanently keep and make available for public inspection all records that are necessary for the administration of these regulations, including: local permit documents, flood zone and base flood elevation determinations, substantial improvement and damage determinations, variance and enforcement documentation, and as-built elevation and dry floodproofing data for structures subject to this Ordinance.
13. Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, inspectors, or other community officials as needed.

#### **6.03.6 FLOOD ZONE AND FLOODWAY DETERMINATIONS**

- A. The Floodplain Administrator shall determine whether any portion of a proposed development is located in a special flood hazard area and if so, whether it is also located in a floodway, using the effective FIRM. If the development is located wholly or partially in a special flood hazard area, the Floodplain Administrator shall determine the flood zone and the applicable requirements in the Ordinance that shall apply to the development.
- B. Where it is unclear whether a site is in a special flood hazard area and/or in a floodway, the Floodplain Administrator may require additional information from the applicant to determine the development's location on the effective FIRM.
- C. If any portion of a development including a structure and its attachments (e.g., deck posts, stairs) is located in multiple flood zones, the flood zone with the more restrictive requirements documented in this Ordinance shall apply.
- D. Where a conflict exists between the floodplain limits illustrated on the FIRM and actual natural ground elevation, the base flood elevation(s) in relation to the actual natural ground elevation shall be the governing factor in locating the regulatory floodplain limits.
- E. Within a riverine special flood hazard area designated as Zone A, the Floodplain Administrator shall obtain, review, and reasonably utilize any floodway data available from Federal, State, or other sources. If floodway data is available, the applicant shall meet the floodway requirements in Section 6.03.13 (floodway requirements) of this Ordinance.

#### **6.03.7 SUBSTANTIAL IMPROVEMENT AND DEMANAGE DETERMINATIONS**

- A. For all development in a special flood hazard area that proposes to improve an existing structure, including alterations, movement, enlargement, replacement, repair, additions, rehabilitations, renovations, repairs of damage from any origin (such as, but not limited to flood, fire, wind or snow) and any other improvement of or work on such structure including within its existing footprint, the Floodplain Administrator, in coordination with any other applicable community official(s), shall be responsible for the following:
1. Review description of proposed work submitted by the applicant.
  2. Use the community's current assessed value of the structure (excluding the land) to determine the market value of the structure prior to the start of the initial repair or improvement, or in the case of damage, the market value prior to the damage occurring. If the applicant disagrees with the use of the community's assessed value of the structure, the applicant is responsible for engaging a licensed property appraiser to submit a comparable property appraisal for the total market value of only the structure.
  3. Review cost estimates of the proposed work including donated or discounted materials and owner and volunteer labor submitted by the applicant. Determine if the costs are reasonable for the proposed work, or use other acceptable methods, such as those prepared by licensed contractors or professional construction cost estimators and from building valuation tables, to estimate the costs.
  4. Determine if the proposed work constitutes substantial improvement or repair of substantial damage as defined in this Ordinance.
  5. Notify the applicant in writing of the result of the substantial improvement or damage determination. If the determination is that the work constitutes substantial improvement or substantial damage, the written documentation shall state that full compliance with the provisions of this Ordinance is required.
  6. Repair, alteration, additions, rehabilitation, or other improvements of historic structures shall not be subject to the elevation and dry flood proofing requirements of this Ordinance if the proposed work will not affect the structure's designation as a historic structure. The documentation of a structure's continued eligibility and designation as a historic structure shall be required by the Floodplain Administrator in approving this exemption.

### **6.03.8 FLOODPLAIN PERMITTING REQUIREMENTS**

- A. All proposed development within a special flood hazard area shall require a permit from the Town of Milford, prior to the commencement of any development activities. Development, as defined in this Ordinance, includes both building and non-building activities.

- B. To obtain a permit, the applicant shall first submit a completed application in writing on a form furnished by the Town of Milford, for that purpose. Every application shall include, but is not limited to:
1. The name, address and phone number of the applicant, owner, and contractor(s);
  2. A map indicating the location of the proposed development sufficient to accurately locate property and structure(s) in relation to existing roads and waterbodies;
  3. A description of the proposed development and the use or occupancy for which the proposed development is intended;
  4. If the development involves proposed work on an existing structure, a description of the total costs of the proposed work including all materials and labor;
  5. In a Zone A, for proposed developments either greater than 50 lots or greater than 5 acres, the base flood elevation(s) established for the area, including any data such as hydraulic and hydrologic analyses, used to determine the elevation(s);
  6. Submittal of evidence that all necessary permits have been obtained from those Federal, State, or local government agencies from which prior approval is required; and
  7. Such other material and information as may be requested by the Floodplain Administrator to determine conformance with, and provide enforcement of, this Ordinance.
- C. The Floodplain Administrator shall review all permit applications for completeness and accuracy, and coordinate with the applicant for corrections or further documentation, as needed. If the proposed development will comply with this Ordinance, the Floodplain Administrator shall approve the application and issue a permit. If the proposed development will not comply with this Ordinance, the Floodplain Administrator shall deny the permit application and return to the applicant with a written explanation of denial.
- D. Following completion of new construction of a structure or an existing structure that was substantially improved or replaced, or that incurred substantial damage, or the placement or substantial improvement of a manufactured home, the applicant shall submit the following to the Floodplain Administrator:
1. A completed and certified copy of an Elevation Certificate that includes the as-built elevation (in relation to mean sea level) of the lowest floor of the structure and whether or not the structure has a basement.
  2. If a non-residential structure includes dry flood proofing, a completed and certified copy of the Flood proofing Certificate for Non-Residential Structures that includes the as-built elevation (in relation to mean sea level) to which the structure was dry flood proofed and certification of flood proofing.

- E. The Floodplain Administrator shall review all required as-built documentation and other documentation submitted by the applicant for completeness and accuracy and verify that all permit conditions have been completed in compliance with this Ordinance.

The Floodplain Administrator shall either:

1. Issue a Certificate of Compliance to the applicant if it has been determined that full compliance with this Ordinance has been met; or
2. Notify the applicant in writing of any violation of this Ordinance and the actions required to bring the development into compliance with this Ordinance if it has been determined that full compliance with this Ordinance has not been met.

#### **6.03.9 FLOOD ELEVATION DETERMINATIONS**

- A. The Floodplain Administrator shall determine the flood elevation for a structure as applicable for each permit application in the following flood zones:

1. For Zone AE, the base flood elevation is determined from the data provided in the community's FIS and accompanying FIRM.
2. For Zone A with no base flood elevation shown in the FIS or on the FIRM:
  - a. The Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation data available from any Federal, State or other source including data submitted to the community for development proposals (i.e. subdivisions, site plan approvals).
  - b. 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.
  - c. For a development either greater than 50 lots or greater than 5 acres, the applicant shall develop a base flood elevation for the site and provide it to the Floodplain Administrator with their permit application.

- B. If a structure is affected by multiple base flood elevations, the highest base flood elevation shall apply.

#### **6.03.10 FLOODPLAIN DEVELOPMENT REQUIREMENTS**

- A. All development located in a special flood hazard area shall be:

1. Reasonably safe from flooding;
2. Designed and constructed with methods and practices that minimize flood damage;
3. Designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement (including structures and above ground gas or liquid storage tanks);
4. Constructed with flood damage-resistant materials;

5. Constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
6. Adequately drained to reduce exposure to flood hazards.

#### **6.03.11 STRUCTURE REQUIREMENTS**

- A. New construction of a residential structure, or an existing residential structure to be substantially improved or replaced, or that has incurred substantial damage, located in a special flood hazard area shall have the lowest floor elevated at least to the base flood elevation.
- B. New construction of a non-residential structure, or an existing non-residential structure to be substantially improved or replaced, or that has incurred substantial damage, located in a special flood hazard area shall:
  1. Have the lowest floor elevated at least to the base flood elevation; or
  2. Together with attendant utility and sanitary facilities:
    - a. Be flood proofed at least one foot above the base flood elevation so that below this 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 dry flood proofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided to the Floodplain Administrator in the form of a completed and signed Flood proofing Certificate for Non-Residential Structures.
- C. A fully enclosed area for new construction of a structure, or an existing structure to be substantially improved or replaced, or that has incurred substantial damage located in a special flood hazard area that is below the lowest floor of a structure, below the base flood elevation, and therefore subject to flooding, shall meet the following requirements:
  1. Be constructed with flood damage-resistant materials;
  2. Be used solely for the parking of vehicles, building access, or storage;
  3. Be constructed with the floor of the enclosed area at grade on at least one side of the structure; and
  4. Be constructed with flood openings installed 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:

- a. 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;
  - b. 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
  - c. 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. A fully enclosed area that has a floor that is below grade on all sides, including below-grade crawlspaces and basements are prohibited for new structures, existing structures to be substantially improved or replaced, or that have incurred substantial damage located in a special flood hazard area.

#### **6.03.12 MANUFACTURED HOMES AND RECREATIONAL VEHICLES**

- A. A new manufactured home to be placed, or an existing manufactured home to be substantially improved or replaced, or that has incurred substantial damage, located in a special flood hazard area shall:
1. Have the lowest floor elevated at least to the base flood elevation;
  2. Be on a permanent, reinforced foundation;
  3. Be installed using methods and practices which minimize flood damage;
  4. Be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Methods of anchoring are authorized to include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces; and
  5. Comply with the requirements of Section 10(C) of this Ordinance in cases where fully enclosed areas are present below an elevated manufactured home, including enclosures surrounded by rigid skirting or other material attached to the frame or foundation. Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have flood openings.
- B. A recreational vehicle located within a special flood hazard area shall meet one of the following requirements:
1. Be on a site for fewer than 180 consecutive days; or

2. Be fully licensed, on wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or
3. Meet the requirements for “manufactured homes” as stated in Section 12(A) of this Ordinance.

### **6.03.13 WATER SUPPLY AND SEWAGE DISPOSAL SYSTEMS**

- A. The following standards shall apply to all water supply, sanitary sewage, and on-site waste disposal systems located in a special flood hazard area:
  1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems;
  2. New and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the systems and discharge from the system into flood waters; and
  3. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

### **6.03.14 FLOODWAY REQUIREMENTS**

- A. Within a floodway, for any development, including fill, new construction, substantial improvements and other development or land disturbing-activity the applicant must, prior to a permit being issued by the Floodplain Administrator, submit certification prepared by a registered professional engineer, along with supporting technical data and analyses, that demonstrates that such development will not cause any increase in the base flood elevation at any location in the community.

If the analyses demonstrate that the proposed activities will result in any increase in the base flood elevation, the applicant must obtain a Conditional Letter of Map Revision (CLOMR) from FEMA prior to permit issuance by the Floodplain Administrator. The Floodplain Administrator reserves the right to deny a permit for the project if concerns about the development being reasonably safe from flooding remain following issuance of the CLOMR. If a permit is issued and the project completed, the applicant must also obtain a Letter of Map Revision (LOMR) from FEMA. CLOMR and LOMR submittal requirements and fees shall be the responsibility of the applicant.

- B. Within a riverine special flood hazard area where a base flood elevation has been determined but a floodway has not been designated, for any development, including fill, new construction, substantial improvements and other development or land disturbing-activity, the applicant must, prior to a permit being issued by the Floodplain Administrator, submit certification prepared by a registered professional engineer, along with supporting technical data and analyses, that demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the base flood elevation more than one (1) foot at any point within the community.

If the analyses demonstrate that the proposed activities will result in more than a one (1) foot increase in the base flood elevation, the applicant must obtain a Conditional Letter of Map Revision (CLOMR)



from FEMA prior to permit issuance by the Floodplain Administrator. The Floodplain Administrator reserves the right to deny a permit for the project if concerns about the development being reasonably safe from flooding remain following issuance of the CLOMR. If a permit is issued and the project completed, the applicant must also obtain a Letter of Map Revision (LOMR) from FEMA. CLOMR and LOMR submittal requirements and fees shall be the responsibility of the applicant.

#### **6.03.15 WATERCOURSE ALTERATIONS**

- A. Prior to a permit being issued by the Floodplain Administrator for any alteration or relocation of any riverine watercourse, the applicant shall:
  - 1. Notify the Wetlands Bureau of the New Hampshire Department of Environmental Services and submit copies of such notification to the Floodplain Administrator, in addition to the copies required by RSA 482-A: 3; and
  - 2. Submit to the Floodplain Administrator certification provided by a registered professional engineer, assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.
- B. Prior to a permit being issued for any alteration or relocation of any riverine watercourse, the Floodplain Administrator shall notify adjacent communities and the State NFIP Coordinating Agency, and submit copies of such notification to FEMA's Federal Insurance Administrator.

#### **6.03.16 VARIANCES AND APPEALS**

- A. Any order, requirement, decision or determination of the Floodplain Administrator made under this Ordinance may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5.
- B. 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 variance standards under state law that:
  - 1. The variance will not result in increased flood heights of any magnitude, additional threats to public safety, fraud on or victimization of the public; or extraordinary public expense;
  - 2. The issuance of the variance will not conflict with other State, Federal or local laws or Ordinances;
  - 3. If the requested variance is for activity within a floodway, no increase in flood levels during the base flood discharge will result; and
  - 4. The variance is the minimum necessary, considering the flood hazard, to afford relief.
- C. The Zoning Board of Adjustment shall notify the applicant in writing that:
  - 1. The issuance of a variance to construct below the base flood elevation may result in increased premium rates for flood insurance coverage; and
  - 2. 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.

D. The community shall:

1. Maintain a record of all variance actions, including their justification for their issuance; and
2. Report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.

## **6.04.0 OPEN SPACE AND CONSERVATION DISTRICT (2018)**

### **6.04.1 PURPOSE**

The Open Space and Conservation District is intended to encourage environmentally sound planning to permanently protect open space in order to retain and protect important natural and cultural features, and provide for efficient use of land and community services to advance the goals stated in the master plan. This section is being adopted pursuant to the authority of RSA 674:21 and it is expressly intended to establish an innovative land use provision that allows the Planning Board the discretion to establish the scope and intensity of a proposal under this section.

### **6.04.2 OBJECTIVES AND STANDARDS**

The standards that shall guide the Planning Board in the administration of this section are set forth as follows:

- A. To create permanently protected open space without decreasing the allowable density of the site;
- B. To promote the preservation of and to minimize the adverse impacts on environmental resources and areas of highest ecological value, including but not limited to: streams, ponds, floodplains, wetlands, drinking water supplies, steep slopes, scenic views, open fields, farmland, forests, wildlife habitat, unfragmented blocks of undeveloped land, habitat of rare and endangered species, and historic, archaeological, and cultural sites and features;
- C. To enhance the quality of life with the provision of space for low impact passive recreation and aesthetic enjoyment;
- D. To promote development that incorporates efficient design and siting of the transportation network and infrastructure, to reduce the use of and the impact on natural resources and to minimize maintenance costs;
- E. To maintain rural character;
- F. To locate buildings and structures on those portions of the site that are the most appropriate for development, avoiding constraints such as, but not limited to: poor soil conditions, high water table, areas subject to frequent flooding and excessively steep slopes (greater than 25%).
- G. To create a contiguous network of open spaces or “greenways” by linking the common open spaces within the subdivision to open space on adjoining lands wherever possible.
- H. To reduce impacts on water resources by minimizing land disturbance, impervious surfaces and stormwater runoff.
- I. To minimize the impact of residential development on the municipality, neighboring properties, and the natural environment.
- J. To exclude high functioning wetlands from house lots when practicable.

### 6.04.3 GENERAL REGULATIONS

- A. Any plan submitted under the Open Space and Conservation District section of Milford's Zoning Ordinance (hereinafter Open Space Preservation Design or OSPD) shall mean a development in which the provisions of this Section are met.
- B. All Open Space shall be dedicated as permanently preserved from future development.
- C. The overall dwelling unit density shall not exceed that which would be allowed in the underlying zoning district.
- D. Open Space set asides are ineligible as contributing land area in any subsequent development.
- E. Permitted uses are the same as those allowed in the underlying zoning district.

### 6.04.4 LOCATION AND SCOPE OF AUTHORITY

- A. The Open Space and Conservation District is an overlay district which imposes additional requirements and restrictions to those of the underlying base zoning district established under the powers granted by NH RSA 674:21. In case of conflict between the requirements of 6.04.0 and the requirements presented elsewhere in the Milford Zoning Ordinance, the provisions of 6.04.0 shall apply. (2010)
- B. All subdivisions of land into five (5) or more residential lots, ~~or developments of five (5) or more dwelling units,~~ must incorporate the criteria in OSPD, except as set forth below. The Planning Board will examine the subdivision proposal using the list of resources desirable for preservation (see Open Space Design 6.04.6.D.1) to ensure that the proposed open space is consistent with the criteria set forth and the purpose of the zoning district. At the discretion of the Planning Board, and if the proposed development does not meet the criteria, the development may be required to incorporate the criteria of a conventional subdivision as permitted by the underlying zoning district.
- C. Properties with subdivision proposals of four (4) or fewer residential lots ~~or for development of four (4) or fewer dwelling units~~ will be examined by the Planning Board using the list of resources desirable for preservation (see Open Space Design 6.04.6.D.1). At the discretion of the Planning Board, these developments may be required to incorporate the criteria in OSPD.
- D. Developments of four (4) or fewer lots, ~~or four (4) or fewer dwelling units,~~ that have not been identified by the Planning Board as needing to comply with OSPD, are exempt from the OSPD requirement, provided there is no potential for further subdivision or development of any lots or dwelling units therein or of the parcel from which the four (4) or fewer lots or dwelling units have been subdivided.
- E. Residential subdivisions of land in any zoning district, where each lot is at least 5 times the size required in the underlying zoning district, shall be exempt from OSPD requirements, provided the deed and the subdivision plan for each lot(s) contains a restriction prohibiting the further subdivision of the lot(s).

- F. When a subdivision or development is proposed which includes a lot(s) which may be capable of further subdivision or development, the Planning Board may require that a conceptual, long range plan for the entire parent parcel be presented so that the Board may consider the entirety of a parcel and its impacts. This long-range plan is non-binding. Any future development of the lot or lots will be reviewed by the Planning Board with reference to this long-range plan.

In accordance with Section 5.011 of the Town of Milford Development Regulations, the Planning Board, with input from the Conservation Commission, may require the applicant to submit an 'Environmental Study'.

#### **6.04.5 REVIEW PROCESS**

All applicants for review of Open Space subdivisions are required to follow the review process stated in the Milford Development Regulations ARTICLE IV: PERMITTING PROCEDURE – SITE PLAN AND SUBDIVISION APPLICATIONS.

#### **6.04.6 OPEN SPACE DESIGN**

- A. Every OSPD shall avoid or minimize adverse impacts on and promote the protection and enhancement of the town's natural, cultural and historic resources by incorporating permanently protected Open Space into the design.
- B. Minimum Required Open Space:**
1. Subdivisions in Residence A and B shall have a minimum of fifteen (15%) percent of the gross tract area placed into permanently protected open space. The amount to be included in open space shall include land deemed to serve the public's interest by the Planning Board. Features deemed in the public interest include but are not limited to: land for bike lanes, public walkways, trail connections, public transit stops, pocket parks, stormwater management, and high value natural resources such as the Souhegan River, its tributaries, wetlands and buffers.
  2. Subdivisions in Residence R shall place not less than forty (40) percent of the gross tract area into permanently protected open space.
- C. Of the minimum required Open Space fifty (50) percent must consist of non-wetland soils and soils with slopes less than twenty-five (25) percent. The remaining fifty (50) percent may consist of a mix of high value natural resources as listed in D.1 below and buildable land.
- D. Design Standards:**
1. **List of Resources to Consider for Preservation:**
    - a. Open water, waterways, stream channels, floodplains and very poorly drained soils, including adjacent buffer areas as defined in 6.02.0 Wetland Protection District;
    - b. The habitat of species listed as endangered, threatened, or of special concern by the NH Natural Heritage Inventory or by the NH Fish & Game Department's Non-game & Endangered Wildlife Program;

- c. Moderate slopes, fifteen to twenty-five (15-25) percent, and steep slopes, greater than twenty-five (25) percent, particularly those adjoining water courses and ponds.
- d. Prime (Federal designation) and Important (State designation) Agricultural Soils, as shown on the Agricultural Soils Map in the current Milford Conservation Plan;
- e. Historic sites and features;
- f. Existing or planned trails connecting the tract to other locations, including, but not limited to, the trails on the town trails map maintained by the Milford Conservation Commission of formal and informal trails;
- g. Other space or resources as required by the Planning Board for low-impact recreational or public interest use consistent with Section 6.04.1.
- h. Scenic views and elements of the town's rural character such as forested margins and agricultural fields.
- i. Undeveloped frontage along existing roads to manage increased density by minimizing views of new development from existing roads.

**2. Design and Use considerations for preserved Open Space:**

- a. The preserved open space shall include as many of the resources listed in Section 6.04.6.D.1 (Resources to Consider for Preservation) as practical;
- b. The preserved open space shall be free of all structures except historic sites, features, and structures related to permitted open space uses;
- c. Subsurface disposal systems may not be placed in the preserved open space;
- d. Water supplies may be placed in the preserved open space;
- e. Stormwater management systems may, at the discretion of the Planning Board, be placed in the preserved open space;
- f. Preserved open space shall be accessible to all the lots or units within the development,
- g. Narrow open space strips (of less than fifty (50') feet) shall not be permitted unless the incorporation of the open space strips provides a logical and practical link to, or expansion of, existing or known planned adjacent preserved open space;
- h. Preserved open spaces shall be interconnected wherever possible to provide a contiguous network of open space lands within and adjoining to the development;
- i. Public access, regardless of ownership, shall be provided to trails within open space if they are linked to other publicly accessible pathway systems.

**6.04.7 Protection and Ownership:**

- A. All open space shall be permanently protected by a conservation easement or by covenants and restrictions in perpetuity, approved by the Planning Board after review by the Conservation Commission. The Planning Board may require further legal review of any documents submitted, the cost of which shall be borne by the applicant.
- B. All approved open space shall be marked in the field by the developer with signage approved by the Conservation Commission to distinguish these areas from house lots. The signage for a lot must be in place prior to issuance of a Certificate of Occupancy for that lot.

- C. The Planning Board will be responsible for providing a recommendation, with input from the Conservation Commission, on ownership of the preserved open space to the Board of Selectmen for its consideration and acceptance.
- D. At the completion of the project, the open space shall be owned in one of the following ways:
  - 1. Owned by the Town of Milford and managed by the Conservation Commission.
  - 2. Owned by a Non-Profit Organization dedicated to conservation principles.
  - 3. Owned by a private individual or organization.

#### 6.04.8 DENSITY AND DIMENSIONAL STANDARDS

##### A. Density:

- 1. The density of the proposed development shall be equal to or less than the density allowed in the underlying zoning district;
- 2. The maximum density of a proposed development shall be established by one of the following two methods. The method used is at the discretion of the Applicant:
  - a. Conventional Plan Approach:

A preliminary plan, based on accurate topographic field survey information, shall show the number of lots or units which could be laid out in a conventional subdivision or site plan without the need to obtain variances, special exceptions, and/or waivers for lot frontage, setbacks, area, road and driveway grades, and soil types for subsurface disposal systems (if used).

The purpose of the conventional subdivision or site plan is to provide the applicant at the completion of the design review stage a maximum number of lots or dwelling units to proceed to final design. However, if more detailed final engineering indicates the maximum number of lots/dwelling units approved at the design review stage cannot be reasonably incorporated into the final plan based on the elements noted above, the Planning Board reserves the right to reduce the allowable number of lots/units in the final design.

- b. Formula Approach: Under the formula approach, the base number of dwelling units is determined by the following formula:

$$[\text{Total Area of Parcel} - (\text{Wetlands} + \text{Steep Slopes})] \times \text{Factor} \div \text{Minimum Lot Size} = \text{Maximum Number Dwelling Units}$$

**Table 6.04-1**

Percentage of Parcel that is Wetlands and/or Steep Slopes* [*≥25%]	Factor
0 – <10%	0.75
10 – <20%	0.70
20– <30%	0.65
30% or more	0.60

**B. Dimensional Standards:**

**1. Lot Size**

Once the maximum number of lots has been determined utilizing one of the methods outlined above, the actual minimum size of the individual lots in the subdivision may be determined by the Planning Board which may establish lots in sizes smaller than the prevailing minimum lot size requirement applicable in the underlying zoning district; provided, nevertheless, all such approved lots shall have the required area to meet applicable safety and health requirements.

**2. Other Dimensional Standards:**

All lots, including lots the size of which is reduced pursuant to Section B.1, above, shall comply with the following additional dimensional standards provided; nevertheless, the Planning Board, at its discretion, may expressly waive any of the other dimensional requirements set forth (below):

- a. The minimum lot frontage shall be fifty (50) feet.
- b. The building shall be setback at least thirty (30) feet from the front property line. The building shall be at least fifteen (15) feet from the side and rear property lines.

**3. Waiver Process**

The Planning Board, when exercising the discretion to establish minimum lot sizes under Section B.1, above and to waive otherwise applicable dimensional standards under Sections B.2, above, shall consider evidence relating to the same at a noticed public hearing and, pursuant thereto, shall grant such waivers and/or reduce the minimum lot sizes, only after the Planning Board determines that the waiver and/or reduction, if allowed, will meet the standards set forth in Section 6.04.2.



C. Miscellaneous Requirements:

1. Village Plan alternatives as outlined in NH RSA 674:21.VI shall be permitted. No increase in density will be permitted.
2. The Planning Board may require site plans for individual lots containing slopes greater than fifteen (15) percent, soils rated as having "severe" limitations for septic systems if not on municipal sewer (as determined by the USDA), very poorly drained soils, or when the Board questions the adequacy of a proposed lot to support a dwelling unit and related structures.

## **6.05.0 NASHUA AND ELM STREETS CORRIDOR DISTRICT (2012)**

### **6.05.1 AUTHORITY**

- A. Title: This Ordinance shall be known as the Nashua and Elm Streets Corridor District. (2012)
- B. Authority: The Planning Board is hereby authorized to administer this Ordinance under the provisions set forth in NH RSA 674:21, Innovative Land Use Controls.

### **6.05.2 PURPOSE**

The purpose of this Ordinance is to implement the Town of Milford's vision for the future as set forth in the Community Character Chapter of the Master Plan 2007 Update:

*Goal No. 2: Foster the traditional character of Milford's neighborhoods by encouraging a human scale of development that is similar in setbacks, size and height, and that is comfortable and safe for pedestrians and non-motorized vehicles while allowing for an efficient and safe roadway network.*

In carrying out this goal, this Ordinance is designed to accomplish the following:

- A. Promote development that reflects the intended character of Milford's residential, commercial, and industrial neighborhoods relative to height, lot coverage, and setbacks.
- B. Encourage the development of entryway corridors and gateways relative to architectural and historic heritage, landscaping, stormwater management, traffic management, and parking.
- C. Preserve and enhance the architectural and visual character of the corridors.
- D. Encourage development to reflect the historic pattern of development in Town and enhance Milford's sense of community and place.
- E. Encourage attractive pedestrian scale development.
- F. Improve the overall streetscape of major corridors.
- G. Improve transportation efficiency.
- H. Promote alternative modes of transportation, particularly pedestrian and biking.

The following standards are tools that create a flexible framework to guide the appearance of future development that is compatible with the historic nature of Milford, while allowing for innovation and architectural creativity in order to enhance a special place.

### **6.05.3 FINDINGS**

- A. The Nashua and Elm Streets corridor is becoming increasingly congested due to additional curb cuts and traffic from both local and regional development.
- B. Access management will increase the efficiency, safety and mobility of the corridor.

- C. Inter-site connections are needed to reduce the potential conflict points along major corridors.
- D. Milford's historical architecture is recognized as an important element of community character.
- E. Non-residential development that is indifferent to Milford's architectural heritage constitutes a significant threat to the character and future of the community.
- F. Future development can be guided to encourage building design that is functional, aesthetically pleasing and compatible with the architectural heritage of the community.
- G. The architecture of the community is varied and necessarily will evolve as the community grows. The regulation of architectural design must allow for flexibility, creativity and innovation within the context of an articulated framework.

#### **6.05.4 APPLICABILITY**

The provisions as set forth in this Ordinance shall apply to the following activities within the Corridor Overlay District:

- A. Applications for site plan and subdivision review.
- B. New building construction used for non-residential or multi-family purposes.
- C. Additions or alterations to buildings used for non-residential or multi-family purposes which significantly increases or decreases the square footage of a building.
- D. Additions or alterations to a site plan or buildings used for non-residential or multi-family purposes which significantly alter the visual appearance of the site or a façade visible from a public way.
- E. The Nashua and Elm Streets Corridor District is an overlay district which imposes additional requirements and restrictions to those of the underlying base district established under the powers granted under NH RSA 674:21. In case of a conflict between the requirements of 6.05.0 and the requirements presented elsewhere in the Milford Zoning Ordinance, the provisions of 6.05.0 shall apply. (2010)

#### **6.05.5 DISTRICT BOUNDARIES (2012)**

The Nashua and Elm Streets Corridor District boundaries include the area along Nashua and Elm Streets from Ponemah Hill Road to (and including) Granite Town Plaza, more fully depicted on the map entitled "Nashua and Elm Streets Corridor Overlay District Boundaries" dated 8/6/07, and incorporating the Tax Map lots as listed in Appendix I.

#### **6.05.6 PERFORMANCE STANDARDS**

##### **A. General**

1. Pre-Application Review. The Community Development Director, or designee, shall review all proposals to determine applicability as stated in Section 6.05.4 above.

2. **Development Review.** Upon determination by the Community Development Director, or designee, that an application meets the Section 6.05.4 applicability requirements, the applicant shall consult with the Planning Board using the Development Review Procedure set forth in the Town of Milford Development Regulations.
3. **Consistency with Plans.** In addition to providing the required development review information, the applicant shall demonstrate how the proposed plan will address the specific site recommendations as well as the general principles set forth in the following studies and documents:
  - a. *Evaluation of Highway Improvement Alternatives in Milford, NH (2002)*; Prepared by Hoyle, Tanner and Associates
  - b. *Route 101A Corridor Master Plan and Improvements Program, (2002)*; Prepared by VHB and Nashua Regional Planning Commission
  - c. *Milford Transportation and Community Systems Preservation (TCSP) Plan (2006)*; Prepared by Nashua Regional Planning Commission
  - d. *Town of Milford Nashua and Elm Street Corridor Design Guidelines (2007)*; Prepared by Nashua Regional Planning Commission

## **B. Transportation Standards**

1. **Access Management:**
  - a. All projects subject shall construct wherever feasible interconnecting driveways to adjacent properties or provide secure future connections through easements to adjacent property boundaries. This includes bicycle-pedestrian access to adjacent residential developments, where practical.
  - b. New access points onto Nashua or Elm streets shall only be created when it is not feasible to combine or share existing access points.
  - c. Interior parking lots shall provide for shared use and interconnected drives
  - d. Interior driveways should provide adequate throat length for vehicle stacking (queuing) and unobstructed views for exiting safely.
  - e. Interconnecting driveways shall promote vehicular and pedestrian access between adjacent lots without accessing the roadway.
2. **Transit Facilities.** The development of future transit facilities shall be incorporated within all major site plan developments that could generate high volumes of transit use, particularly senior housing or other multi-family housing as well as retail areas.
  - a. Potential transit routes, access points, bus pull-outs, bus stop, signage and shelter locations may be designated along major roadways and within the perimeter of such projects, and easements reserved for such facilities.
  - b. Transit facilities shall be provided in a manner to encourage transit as an alternative mode of travel.

3. **Bicycle Facilities.** Separate bicycle facilities may be required by the Planning Board where recommended by the studies listed in section VI.A.2. or where otherwise appropriate.
  - a. Bicycle routes may be provided in the form of a separate off-street path or on-street marked bicycle lanes.
  - b. Bicycle racks and other amenities may be required for all developments and shall be located in a convenient and secure location.
4. **Pedestrian Facilities.** Sidewalks shall be constructed as recommended by the studies listed in section VI.A.2. or where otherwise appropriate.
  - a. Sidewalk corridors shall be easily accessible to all users, whatever their level of ability and comply with the Americans with Disabilities Act (ADA) standards.
  - b. The sidewalk shall provide for a landscaped buffer (esplanade) between the roadway pavement and the sidewalk where adequate right of way exists.
  - c. The walking route along a sidewalk corridor shall connect destinations and shall not require pedestrians to travel out of their way unnecessarily.
  - d. Buildings should be sited so as to create pedestrian-scale plazas and gathering places.
  - e. Sidewalk construction shall be in accordance with Department of Public Works specifications.
5. **Gateways.** Some locations contribute to the landscape character of the community because of their location and scenic qualities. Many such properties and approaches act as gateways, providing first impressions and reinforcing Milford's sense of place. Consideration should be given towards complementing these resources through the careful siting of new buildings, and the application of the Site Design Standards. The locations of proposed gateways are identified on the Nashua and Elm Streets Corridor Overlay District Boundaries Map. In these areas, appropriate landscaping or other improvements may be required.
  - a. Nashua Street Neighborhood Gateway – Ponemah Hill Road and Nashua Street
  - b. Elm Street Neighborhood Gateway – Elm Street at Granite Town Plaza
  - c. Oval Area Gateways –
    - i. Elm Street and Cottage Street
    - ii. Nashua Street and Tonella Road
  - d. Other potential gateway locations outside of the District which should be considered for special treatment include:
    - i. Amherst Street and Souhegan Street (outside of St. Patrick's Church)
    - ii. Mont Vernon Street and Granite Street
    - iii. South Street and Lincoln/Prospect Street

## C. Site Design Standards

1. **Natural Features.** Buildings, lots, impervious surfaces and accessory structures shall be sited in those portions of the site that have the most suitable conditions for development.
  - a. Environmentally sensitive areas, including but not limited to, wetlands, steep slopes in excess of 15%, floodplains, significant wildlife habitats and corridors, wooded areas, fisheries, scenic areas, habitat for rare and endangered plants and animals, unique natural communities and natural areas, and sand and gravel aquifers, shall be maintained and preserved to the maximum extent.
  - b. Natural drainage areas shall be preserved to the maximum extent. The development shall include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.
2. **Parking Areas**
  - a. Parking lots shall be located to the rear or side of a building.
  - b. Parking shall not be permitted in front of a building or along the frontage of a lot.
  - c. Side yard parking shall be well buffered from the street.
  - d. Shared parking provisions for any combination of uses on site and adjacent sites are encouraged.
  - e. Offsite parking shall be protected with a shared parking easement agreement which shall be reviewed and recorded with the approved plans, except in areas exempt from parking standards such as but not limited to the Oval Sub-district.
3. **Build-to-Zone.** Building setbacks influence the character of the street. New structures shall be constructed so as to maintain a traditional streetscape edge. The setbacks of adjacent structures and context of spacing between buildings shall be considered in determining the appropriate building setback. At a minimum, a new structure shall be constructed within a Build-to-Zone between 15' and 35' from the public street right of way. If site circumstances dictate a new structure may be constructed within 10' of the public street right of way.
4. **Landscaping.** Required landscaping coverage shall be in accordance with the Town of Milford Subdivision and Site Plan Regulations, and shall be required for all proposals in the Nashua and Elm Streets Corridor District.
  - a. Trees. Required street trees should be species which are native to New Hampshire as set forth on the "*List of NH Native Trees*" (as amended) published by UNH Cooperative Extension (See Appendix II). Recognizing that site and growing conditions vary other appropriate street trees may be considered and approved by the Planning Board.
  - b. Landscaping plants. Landscaping with native plants and materials is strongly encouraged. However, recognizing the need to accommodate varying site and growing conditions, non-native landscaping plants may be permitted in accordance with published recommendations from the UNH Cooperative Extension and Hillsborough County Conservation District. See "*Alternatives to Invasive Landscape Plants*", UNH Cooperative Extension (as amended).

- c. Prohibited Plants and Trees. Plant species as listed on the “*NH Prohibited Invasive Species List*” (as amended) by the NH Department of Agriculture are prohibited. As of 2007, the list includes the species listed in Appendix III. (2012)

#### D. Architectural Design Standards

##### 1. General Criteria

- a. Plans shall show all building elevations and portray the design of all buildings and the relationship of the development to surrounding properties, buildings, natural features and built features.
- b. The Planning Board may require that development proposals be reviewed by an historic preservation consultant or architect, and be designed by a NH licensed architect at the cost of the applicant.

##### 2. Building Orientation. New structures shall orient their main entrance or storefront to a public street.

- a. New structures shall maintain an appropriate street edge in relationship to adjacent structures. (See 6.05.6:C.3 Build-to-Zone)
- b. Buildings shall be sited so that entrances are clearly identifiable and directly accessible from a sidewalk and shall be accessible for pedestrians, bicyclists and future public transit users.

##### 3. Building Massing, Forms and Pedestrian Scale. The size, mass and form of new structures must relate to the appropriate scale of neighboring buildings as well as the context of the corridor. The following architectural features and treatments should be used to enhance the character of new development and the corridor:

- a. Avoid blank walls at ground-floor levels through the use of windows, trellises, wall articulation.
- b. Arcades, materials changes, awnings or other features.
- c. Reduce the apparent scale of the building by introducing small-scaled architectural features, creating an irregular footprint and variations in roof forms and height of roof elements.
- d. Enhance definition of each floor of the building through terracing, articulated structural elements, changes in materials, belt courses and horizontal trim bands.

##### 4. Building Heights. Building heights shall be generally compatible with and transition from the height of adjacent development within the historic context of the corridor. The overall building height and number of floors shall comply with the dimensional requirements of the Town of Milford Zoning Ordinance; however, wall plane heights shall be “stepped back” to minimize the mass of the structure along the frontage or public way.

##### 5. Roof Forms and Materials. Rooflines shall be characteristically sloped and articulated with architectural features such as dormers, chimneys, gables, cupolas, etc.

- a. Rooflines shall not run in continuous planes, and shall be broken into appropriately scaled masses.
- b. Flat roofs are prohibited unless the Planning Board finds that a proposal can provide appropriate visual appeal and does not detract from the character of the corridor.

- c. Where appropriate roofs shall provide adequate overhangs for pedestrian activity.
  - d. Roof materials shall be composed of high quality, durable and architecturally consistent materials, including but not limited to concrete tile, asphalt shingles and standing seam metal.
6. **Architectural Features and Materials.** Architectural features and details shall be considered in every building design.
- a. Traditional features and details such as columns, pilasters, canopies, porticos, awnings or arches associated with Milford's architectural heritage are strongly encouraged.
  - b. Long expanses of repetitive architectural elements and flat unarticulated wall surfaces shall be avoided.
  - c. Use of traditional materials or materials that have the same visual effect shall be used including but not limited to wood, brick, tile, or stone.
7. **Windows.** With the exception of retail storefronts, modestly scaled vertically proportioned windows are the most appropriate to the local building vernacular.
- a. Building facades should have an abundance of windows that use clear non-reflective glass.
  - b. Windows on higher floors should align vertically with windows below, if possible.
  - c. Walls facing streets and pedestrian approaches shall have display windows, recessed windows, detailed entry areas, awnings or prominent sills and a pedestrian scaled lighting element. Storefronts should use windows to reveal indoor amenities, activities and displays.
8. **Building Entrances.** All building entrances shall be clearly defined and highly visible using a variety of the following details (*Please refer to the Town of Milford Design Guidelines for examples*):
- a. Porticos
  - b. Canopies
  - c. Overhangs
  - d. Arcades
  - e. Recesses or projections
  - f. Raised cornice parapets over doors
  - g. Arches with detail (tile work or moldings) integrated with the building
  - h. Outdoor patios
  - i. Display windows
  - j. Integral planters
  - k. Wing walls with planters or seating
9. **Mechanical Equipment and Building Accessory Screening.** All rooftop air conditioning, heating equipment, other large mechanical equipment and building accessories such as dumpsters shall be screened from public view. The screening may be part of the articulation of the building.



10. **Existing Structures.** Existing buildings and structures of historic value should be preserved and if renovated or expanded done so in a manner that is respectful of the character, features and details of the existing structure.
11. **Signs.** Signs shall comply with the Town of Milford Sign Ordinance and should be designed to meet the needs of the individual uses while complementing the building, site and surroundings.
  - a. Wall signs shall be appropriately scaled to the building or surface on which it is placed and should not obscure important architectural features.
  - b. Signs shall be readable for both pedestrians and drivers approaching a site.
  - c. Consideration should be given to form, color, lighting and materials that are compatible with the building and its surroundings.
12. **Lighting.** All new developments shall include pedestrian-scaled light fixtures that are appropriate to the building and location. The use of floodlights, wall packs and tall light posts intended for lighting large areas shall be prohibited.

#### **6.05.7 WAIVER PROVISION**

There may be unusual or exceptional circumstances that exist where the application of one or more of the Performance Standards of Section 6.05.6 would entail practical difficulty or unreasonable hardship when balanced against the public purposes sought to be achieved by this Ordinance. In such circumstances, the Planning Board may waive the applicability of some or all of the Performance Standards in accordance with the Development Regulations waiver process (Section 5.020).

#### **6.05.8 APPEALS**

A decision of the Planning Board made pursuant to the Nashua and Elm Streets Corridor District shall not be appealed to the Zoning Board of Adjustment, but rather shall be appealed to the Superior Court as provided by NH RSA 677:15 and NH RSA 676:5, III.

#### **6.05.9 SAVING CLAUSE**

Where any provision of this Ordinance is found to be invalid, such determination shall not affect the validity of the remainder of this Ordinance.

#### **6.05.10 EFFECTIVE DATE**

The Nashua and Elm Streets Corridor District Ordinance was adopted by the Town of Milford on Tuesday, March 11, 2008 and is effective the same date.

**Appendix I – Parcels included in the Nashua and Elm Streets Corridor District**

**Map and Lot Numbers:** 19/3 thru 19/8, 19/10-19/14, 19/15-1, 19/15-2, 19/16, 19/16-1, 19/17, 19/21, 19/25, 19/25-1 thru 19/25-9, 20/44, 20/45, 20/47, 20/49 thru 20/52, 20/54 thru 20/61, 25/1 thru 25/7, 25/9, 25/9-1, 25/10, 25/11, 25/11-1, 25/12 thru 25/27, 25/32 thru 25/36, 25/38 thru 25/40, 25/42 thru 25/52, 25/56 thru 25/76, 25/112 thru 25/120, 25/122 thru 25/126, 25/126-1, 25/127 thru 25/133, 26/90 thru 26/99, 26/99-1, 26/100 thru 26/103, 26/103-1, 26/104 thru 26/109, 26/111 thru 26/166, 26/166-1, 26/167 thru 26/184, 26/184-1, 30/1 thru 30/4, 30/9, 30/10, 30/31 thru 30/37, 30/40 thru 30/53, 30/57 thru 30/63, 30/63-1, 30/64, 30/65, 30/65-1, 30/66, 31/2 thru 31/13, 31/32, 31/32-1, 31/32-2, 31/33, 31/52 thru 31/55, 32/1 thru 32/7, 32/11, 32/16, 32/17, 32/19 thru 32/24, 32/24-1, 32/28 thru 32/30, 43/46 thru 43/51 and 43/54.

**Appendix II - “List of NH Native Trees”**

Arborvitae	Hackberry	Poplar
Ash	Hawthorn	Sassafras
Basswood	Hemlock	Serviceberry
Beech	Hickory	Spruce
Birch	Hophornbeam	Sumac
Cherry	Juniper	Sycamore
Chestnut	Larch	Viburnum
Dogwood	Maple	Walnut
Elm	Mountain ash	White cedar
Fir	Oak	Willow
Gum	Pine	Witch-hazel

**Appendix III – Invasive Species**

Tree of Heaven	European Frogbit	Yellow Floating Heart
Garlic Mustard	Water-flag	Common Reed
European Barberry	Blunt-leaved Privet	Japanese Knotweed
Flowering Rush	Showy Bush Honeysuckle	Curly-leaf Pondweed
Fanwort	Japanese Honeysuckle	Common Buckthorn
Oriental Bittersweet	Morrow’s Honeysuckle	Glossy Buckthorn
Black Swallow-wort	Tartarian Honeysuckle	Multiflora Rose
Pale Swallow-wort	Purple loosestrife	Water Chestnut
Brazilian elodea	Parrot Feather	Burning Bush
Autumn Olive	Variable Milfoil	Norway Maple
Giant Hogweed	European Water-Milfoil	Japanese Barberry
Hydrilla	European Naiad	

**6.06.0 COMMERCE AND COMMUNITY DISTRICT**

Entire article removed in 2020.

## **6.07.0 WEST ELM STREET GATEWAY DISTRICT**

### **6.07.1 AUTHORITY**

- A. Title: This Ordinance shall be known as the West Elm Street Gateway District.
- B. Authority: The Planning Board is hereby authorized to administer this Ordinance under the provisions set forth in NH RSA 674:21, Innovative Land Use Controls.

### **6.07.2 PURPOSE**

The intent of this District is to encourage economic development in the West Elm Street Gateway District by enhancing, preserving and protecting the natural, historic and cultural resources of the Town. The purpose of this Ordinance is to implement the Town of Milford's vision for the future as set forth in the Community Character Chapter of the Master Plan 2007 Update:

*Goal No. 2: Foster the traditional character of Milford's neighborhoods by encouraging a human scale of development that is similar in setbacks, size and height, and that is comfortable and safe for pedestrians and non-motorized vehicles while allowing for an efficient and safe roadway network.*

The Ordinance implements the Master Plan vision for Milford's gateway corridors and is designed to accomplish the following:

- A. Encourage and promote commercial, industrial and mixed use development sensitive to Milford's agricultural, architectural and historic heritage by preserving and enhancing the streetscape, the unique scenic vistas, views of the Souhegan River, and visual character of the corridor.
- B. Encourage development to reflect the historic pattern of development in Town and enhance Milford's sense of community and place.
- C. Encourage attractive pedestrian scale development.
- D. Improve transportation efficiency, landscaping, stormwater management, traffic management, and parking.
- E. Promote alternative modes of transportation, particularly pedestrian and biking.
- F. Promote development that reflects the intended character of Milford's residential, commercial, and industrial neighborhoods relative to height, lot coverage, and setbacks.

The following standards are tools that create a flexible framework to guide the appearance of future development that is compatible with the historic nature of Milford, while allowing for innovation and architectural creativity in order to enhance a special place.

### **6.07.3 FINDINGS**

- A. Milford's West Elm Gateway District is a unique area with distinctive natural features, scenic vistas and a streetscape that reflects Milford's agricultural and commercial history.

- B. Non-residential development that is indifferent to Milford's history and economic needs constitutes a significant threat to the character and future of the community.
- C. Future development can be guided to encourage building design that is functional, aesthetically pleasing and harmonious with the agricultural and architectural heritage of the community as well as provide positive economic return to the Town and property owners.
- D. The architecture of the community is varied and necessarily will evolve as the community grows. The regulation of architectural design must allow for flexibility, creativity and innovation within the context of an articulated framework.
- E. Access management will increase the efficiency, safety and mobility of the corridor, and inter-site connections are needed to reduce the potential conflict points along the corridors.
- F. Future development should incorporate bicycle, pedestrian, and public transportation amenities as important features that add to Milford's character, sense of place and public health.

#### **6.07.4 APPLICABILITY**

The provisions as set forth in this Ordinance shall apply to the following activities within the Corridor Overlay District:

- A. Applications for site plan and subdivision review.
- B. New building construction for non-residential or multi-family purposes greater than 600 SF.
- C. Additions or alterations to buildings for non-residential or multi-family purposes greater than 600 SF.
- D. Additions or alterations to a site plan or buildings used for non-residential or multi-family purposes which significantly alter the visual appearance of the site or a façade visible from a public way.
- E. The West Elm Street Gateway District is an overlay district which imposes additional requirements and restrictions to those of the underlying base district established under the powers granted under NH RSA 674:21. In case of a conflict between the requirements of 6.07.0 and the requirements presented elsewhere in the Milford Zoning Ordinance, the provisions of 6.07.0 shall apply.

#### **6.07.5 DISTRICT BOUNDARIES**

#### **6.07.6 PERFORMANCE STANDARDS**

"The West Elm Street Gateway District consists of a significant portion of Elm St and Route 101, from the Granite Town Plaza to the Wilton Town Line. It is bounded to the north by the Souhegan River until the fork at Wilton Road and Elm Street, where it is then bounded by North River Road and Wilton Road. The study area is bounded to the south by Elm Street and both sides of Old Wilton Road, and Route 101. The southern boundary also includes Meadowbrook Drive, Scarborough Lane and two large parcels just south of Route 101 and west of Savage Road. The area is fully depicted on the map entitled "West Elm Street Gateway District Boundaries".

## A. General

The West Elm Street Gateway District is a major economic driver in Town and contributes to the overall character of the community because of its location, landscape and scenic qualities. This District provides a first impression and should reinforce Milford's sense of place. Consideration shall be given towards complementing these resources through the careful siting of new buildings, appropriate landscaping and the application of the Site Design Standards.

1. **Pre-Application Review.** The Community Development Director, or designee, shall review all proposals to determine applicability as stated in Section 6.07.4 above.
2. **Development Review.** Upon determination by the Community Development Director, or designee, that an application meets the Section 6.07.4 applicability requirements, the applicant shall submit an application to the Planning Board in accordance with the Development Review Procedure set forth in the Town of Milford Development Regulations.
3. **Consistency with Plans.** In addition to providing the required development review information, the applicant shall demonstrate how the proposed plan will address the specific site recommendations as well as the general principles set forth in the following studies and documents:
  - a. *The Milford Master Plan and subsequent updates.*
  - b. *Town of Milford West Elm Street Gateway District Design Guidelines (2011);* Prepared by Nashua Regional Planning Commission.

## B. General Provisions

1. **General**
2. **Viewshed:** Development must take into account the varied and natural beauty of the corridor. Building scale and siting must foster and enhance the unique natural amenities and landscape.
  - a. Wooded and agricultural areas shall be maintained and preserved to the maximum extent possible.
  - b. Development along the Souhegan River shall be situated to provide views from adjacent buildings as well as pedestrian amenities and lookouts near the River's edge. Natural drainage areas shall be preserved to the maximum extent. The development shall include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.
  - c. Development should be situated in such a way as to not impede views of Dram Cup Hill and Pack Monadnock. Where possible buildings and pedestrian areas should be located to maximize views of these natural features.
3. **Underground Utility Lines:** Utility lines shall be located underground whenever possible in all new developments and during significant upgrades and renovations to existing sites.
4. **Streetscaping:** Amenities such as public art, lighting, street furniture, special sidewalk treatments and banners should be incorporated into site design proposals.

5. **Gateways:** Some locations contribute to the landscape character of the community because of their location and scenic qualities. Many such properties and approaches act as gateways, providing first impressions and reinforcing Milford's sense of place. Consideration should be given towards complementing these resources through the careful siting of new buildings, and the application of the Site Design Standards. The locations of proposed gateways are identified on the West Milford Gateway District Design Guidelines, *Corridor Overlay District and Potential Gateways Map*.

In these areas, appropriate landscaping or other improvements may be required.

- a. Near the Wilton Town Line on Route 101
- b. North River Road just north of the Elm Street / Route 101 intersection
- c. Near Map 7, Lot 12 on Elm Street
- d. Just west of the Route 13 / Route 101 intersection

6. **Screened Loading Docks and Storage Areas:**

- a. All loading docks shall be well screened to conceal delivery trucks and bays from public right-of-way and viewsheds.
- b. Supplies should be stored inside of buildings.
- c. Outside storage of supplies shall be heavily screened with attractive landscaping or fencing.

7. **Natural Features:** Buildings, lots, impervious surfaces and accessory structures shall be sited in those portions of the site that have the most suitable conditions for development.

- a. Environmentally sensitive areas, including but not limited to, wetlands, steep slopes in excess of 15%, floodplains, significant wildlife habitats and corridors, wooded areas, fisheries, scenic areas, habitat for rare and endangered plants and animals, unique natural communities and natural areas, and sand and gravel aquifers, shall be maintained and preserved to the maximum extent.
- b. Natural drainage areas shall be preserved to the maximum extent. The development shall include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.

C. **Mixed Use Development:** Mixed use development as permitted under the Zoning Ordinance can include a combination of residential, commercial or industrial development in either the same building or on the same site.

1. On mixed use development sites, the design shall complement the multiple uses with care placed on creating visual integration of features such as building setbacks, driveways, building entrances, windows, landscaping and pedestrian amenities.
2. In general, any residential uses should be in upper stories of multi-storied buildings with the commercial or industrial use below.

D. **Commercial Development:** Commercial development should be scaled appropriately to provide for a mix of building styles and traditional architectural features and materials, that foster Milford's sense of place.

1. Buildings and building entrances shall be human scale and close to the street when practical.
2. Building siting shall be such that the mass is scaled smaller in appearance.
3. Parking should be situated to the side and rear of the building whenever possible.

E. **Mixed Use and Commercial – Design**

1. **Building Orientation** - New structures shall orient their main entrance or storefront to a public street.
  - a. New structures shall maintain an appropriate street edge in relationship to adjacent structures.
  - b. Buildings shall be sited so that entrances are clearly identifiable and directly accessible from a sidewalk and shall be accessible for pedestrians, bicyclists and future public transit users.

2. **Building Massing, Form and Height**

The mass, form and height of new structures must relate to the appropriate scale of neighboring buildings as well as the context of the corridor. The following architectural features and treatments should be used to enhance the character of new development and the corridor:

- a. Reduce the apparent scale of the building by introducing small-scaled architectural features, creating an irregular footprint and variations in roof forms and height of roof elements.
- b. Enhance definition of each floor of the building through terracing, material changes, articulated structural elements, changes in materials and horizontal trim bands.

3. **Architectural Features and Materials**

Architectural features and details shall be considered in every building design.

- a. Traditional features and details such as columns, pilasters, porticos, awnings or arches associated with Milford's architectural heritage are strongly encouraged.
- b. Long expanses of repetitive architectural elements and flat unarticulated wall surfaces shall be avoided.
- c. Traditional materials or materials that have the same visual effect shall be used, including but not limited to, wood, brick, tile, or stone.

4. **Pedestrian Scale**

Building design should take into consideration pedestrians at the ground level.

- a. Avoid blank walls at ground-floor levels through the use of windows, trellises, material changes, arcades, or other features to increase visual interest.
- b. Pedestrian scale lighting shall be used wherever possible and be consistent with the existing building and location.
- c. Floodlights and tall light posts are not encouraged.



## 5. Parking Areas

- a. Parking lots should be located to the rear or side of a building whenever possible.
- b. Side yard parking shall be well buffered from the street.
- c. Shared parking provisions for any combination of uses on site and adjacent sites are encouraged.
- d. Offsite parking shall be protected with a shared parking easement agreement which shall be approved by the Zoning Administrator and recorded with the approved plans.

## 6. Existing Structures

Existing buildings and structures of historic value should be preserved and if renovated or expanded done so in a manner that is respectful of the character, features and details of the existing structure.

## 7. Roof Form and Materials

Rooflines shall be characteristically sloped and articulated with architectural features such as dormers, chimneys, gables, cupolas, etc.

- a. Rooflines shall not run in continuous planes, and shall be broken into appropriately scaled masses.
- b. Flat roofs are generally discouraged.
- c. Where appropriate roofs shall provide adequate overhangs for pedestrian activity.
- d. Roof materials shall be composed of high quality, durable and architecturally consistent materials, including but not limited to concrete tile, asphalt shingles and standing seam metal.

## 8. Windows

Modestly scaled vertically proportioned windows are the most appropriate to the local building vernacular.

- a. Building facades should have an abundance of windows that use clear non-reflective glass.
- b. Windows on higher floors should align vertically with windows below, if possible.
- c. Walls facing streets and pedestrian approaches shall have display windows, recessed windows, detailed entry areas, awnings or prominent sills and a pedestrian scaled lighting element. Storefronts should use windows to reveal indoor amenities, activities and displays.

## 9. Building Entrances

All building entrances shall be clearly defined and highly visible using a variety of the following details (*Please refer to the West Milford Gateway District Design Guidelines for examples*):

- a. Porticos
- b. Canopies
- c. Overhangs
- d. Arcades

- e. Recesses or projections
- f. Raised cornice parapets over doors
- g. Arches with detail (tile work or moldings) integrated with the building
- h. Outdoor patios
- i. Display windows
- j. Integral planters
- k. Wing walls with planters or seating

#### 10. Signage

Signs shall comply with the Town of Milford Sign Ordinance and should complement the building site and surroundings.

- a. Wall signs shall be appropriately scaled to the building or surface on which it is placed and should not obscure important architectural features.
- b. Signs shall be readable for both pedestrians and drivers approaching a site.
- c. Consideration should be given to form, color, lighting and materials that are compatible with the building and its surroundings.

#### 11. Screening

All rooftop air conditioning, heating and large mechanical equipment, building accessories, and refuse shall have noise reduction screening and be screened from public view and have noise reduction screening.

### F. Mixed Use and Commercial – Traffic Standards

#### 1. Access Management

- a. All projects shall construct wherever feasible interconnecting driveways to adjacent properties or provide secure future connections through easements to adjacent property boundaries. This includes bicycle-pedestrian access to adjacent residential developments, where practical.
- b. New access points onto Elm Street shall only be created when it is not feasible to combine or share existing access points.
- c. Interior parking lots shall provide for shared use and interconnected drives.
- d. Interconnecting driveways shall promote vehicular and pedestrian access between adjacent lots without accessing the roadway.

#### 2. Driveway Throat Length

Interior driveways should provide adequate throat length for vehicle stacking (queuing) and unobstructed views for exiting safely.

#### 3. Bicycle Facilities

Separate bicycle facilities may be required by the Planning Board where recommended by the studies listed in section 6.07.6 A.3. or where otherwise appropriate.

- a. Bicycle routes may be provided in the form of a separate off-street path or on-street marked bicycle lanes.
- b. Bicycle racks and other amenities may be required for all developments and shall be located in a convenient and secure location.

#### 4. **Pedestrian Facilities**

Sidewalks shall be constructed as recommended by the studies listed in section 6.07.6 A.3 or where otherwise appropriate.

- a. Sidewalk corridors shall be easily accessible to all users, and comply with the Americans with Disabilities Act (ADA) standards.
- b. The sidewalk shall provide for a landscaped buffer (esplanade) between the roadway pavement and the sidewalk where adequate right of way exists.
- c. The walking route along a sidewalk corridor shall connect destinations and shall not require pedestrians to travel out of their way unnecessarily.
- d. Buildings should be sited so as to create pedestrian-scale plazas and gathering places.
- e. Sidewalk construction shall be in accordance with Department of Public Works specifications.

#### 5. **Transit Facilities**

The development of future transit facilities shall be incorporated within all major site plan developments that could generate high volumes of transit use.

- a. Potential transit routes, access points, bus pull-outs, bus stops, signage and shelter locations may be designated along major roadways and within the perimeter of such projects, and easements reserved for such facilities.
- b. Transit facilities shall be provided in a manner to encourage transit as an alternative mode of travel.

G. **Industrial Development:** All industrial sites should be visually appealing and well-integrated with adjacent sites, the natural landscape and viewsheds.

##### 1. **Building Orientation and Siting**

- a. Buildings should orient their main entrances toward the street when practical.
- b. Buildings with main entrances not oriented toward the street shall be oriented toward internal roadways and sidewalks within the site.
- c. Main entrances shall have human scale features, architectural details, landscaping and adequate signage.

##### 2. **Building Massing, Form, and Height**

- a. New industrial buildings should have massing, form and height that is compatible with adjacent properties.
- b. Buildings should be designed so as to minimize the appearance in mass and scale.
- c. Architectural features, windows, entrances and building materials may be utilized to reduce the appearance of building size.

##### 3. **Architectural Features and Materials**

- a. Buildings and adjacent walkways shall use a variety of architectural materials, colors and features to create attractive and visually appealing structures.
- b. Corrugated metal buildings and large flat wall surfaces should not be located within view of both internal and external street networks, or shall be screened, or given architectural treatments to break up large surface areas, and situated in less visible areas of the site.

#### **4. Access Management**

- a. Industrial sites should be limited to two main entrances.
- b. If the site is large enough a tree lined roadway through the campus will provide access to smaller connector roads and parking areas.
- c. Where feasible interconnecting driveways should be constructed to provide access to adjacent properties or easements should be provided for interconnecting driveways for future development.

#### **5. Parking**

- a. Parking should be located to the rear and side of buildings when practical to avoid large parking lots in front of buildings adjacent to the public right-of-way.
- b. Landscaping and small street trees shall be densely planted on medians.
- c. Special crosswalk and sidewalk treatments shall be used to create safe internal pedestrian access between parking lots and buildings.

#### **6. Bicycle and Pedestrian Design**

- a. Connections to adjacent trails and networks shall be made where applicable.
- b. Separate bicycle facilities may be required by the Planning Board where recommended by the studies listed in section 6.07.6 A.3. or where otherwise appropriate.
  - i. Bicycle routes may be provided in the form of a separate off-street path or on-street marked bicycle lanes.
  - ii. Bicycle racks and other amenities may be required for all developments and shall be located in a convenient and secure location.

#### **7. Transit**

- a. All sites over 2 acres will be evaluated to determine if the site is a feasible location for future public transit service. An easement to accommodate future bus turnouts and shelters may be required.
- b. Internal sidewalks should be planned to provide access to this easement area.

### **H. Campus Style Development**

Campus style development refers to business and industrial parks that are interconnected by internal roadway and sidewalk networks and accommodate multiple buildings, parking areas and uses. All campus developments should be visually appealing and well-integrated with other internal buildings, the natural landscape and viewsheds.

**1. Building Orientation and Siting**

- a. Buildings should be oriented toward internal streets and sidewalks.
- b. Front entrances shall have human scale features, architectural details, landscaping, and adequate signage indicating the main entrance.
- c. All entrances shall have direct access to sidewalks.

**2. Building Massing, Form and Height**

- a. Campus buildings on the same site should have similar massing, form and height.
- b. Buildings should be designed to minimize the appearance of mass and must conform to the height requirements of the zoning ordinance. Architectural features, windows, entrances, and building materials should be consistent among buildings and should also help to reduce the appearance of building size.

**3. Architectural Features and Materials**

- a. Buildings and adjacent walkways shall use a variety of architectural standards, colors and features to create attractive and visually appealing structures.
- b. Similar materials should be incorporated on buildings and walkways throughout the campus to create a cohesive look.
- c. Interesting features such as brick, patterns, detailed entrances and varied setbacks should be incorporated.

**4. Lighting**

- a. Attractive downcast lighting shall be incorporated in a uniform manner throughout the campus.

**5. Green Space**

- a. Campus style developments must set aside a green space that can accommodate bicycle and pedestrian use.
- b. This space should include landscaping, benches, tables, fountains or public artwork.
- c. This space shall connect to the internal sidewalk network.
- d. This space can be counted towards total open space requirements.

**6. Directional Signs**

- a. Uniform directional signs shall be located at main entrances and throughout the campus. Directional signs should provide clear directional information for deliveries and visitors.

**7. Access Management**

- a. Access to campus styles developments should be limited to two main driveways.

- b. In the case of large sites, a main tree-lined access drive through the campus should provide access to smaller connector drives and parking areas.

#### 8. **Parking**

- a. Parking should be located to the rear and side of buildings to avoid large parking lots in front of buildings.
- b. Landscaping and small street trees shall be densely planted on medians.
- c. Special crosswalk and sidewalk treatments shall be used to create safe internal pedestrian access between parking lots and buildings.

#### 9. **Bicycle and Pedestrian Design**

- a. Connections to adjacent trails and networks shall be made where applicable.
- b. Separate bicycle facilities may be required by the Planning Board where recommended by the studies listed in section 6.07.6 A.3. or where otherwise appropriate.
  - i. Bicycle routes may be provided in the form of a separate off-street path or on-street marked bicycle lanes.
  - ii. Bicycle racks and other amenities may be required for all developments and shall be located in a convenient and secure location.

#### 10. **Transit**

- a. All sites over 2 acres will be evaluated to determine if the site is a feasible location for future public transit service. An easement to accommodate future bus turnouts and shelters may be required.
- b. Internal sidewalks should be planned to provide access to this easement area.

#### **6.07.7 WAIVER PROVISION**

There may be unusual or exceptional circumstances that exist where the application of one or more of the Performance Standards of Section 6.07.6 would entail practical difficulty or unreasonable hardship when balanced against the public purposes sought to be achieved by this Ordinance. In such circumstances, the Planning Board may waive the applicability of some or all of the Performance Standards in accordance with the Development Regulations waiver process (Section 5.020).

#### **6.07.8 APPEALS**

A decision of the Planning Board made pursuant to the West Elm Street Gateway District shall not be appealed to the Zoning Board of Adjustment, but rather shall be appealed to the Superior Court as provided by NH RSA 677:15 and NH RSA 676:5, III.

#### **6.07.9 SAVING CLAUSE**

Where any provision of this Ordinance is found to be invalid, such determination shall not affect the validity of the remainder of this Ordinance.

#### **6.07.10 EFFECTIVE DATE**

The West Elm Street Gateway District Ordinance was adopted by the Town of Milford on Tuesday, March 13, 2012 and is effective the same date.

## **ARTICLE VII: SUPPLEMENTARY STANDARDS**

### **7.01.0 GRAVEL AND EARTH REMOVAL (2014)**

Loam, sand, gravel and similar earth materials may be removed from a lot or land area in Zoning Districts which allow such use only after a permit for earth removal has been issued by the Planning Board. All applications for gravel or earth products removal shall be in conformance with the conditions set forth in NH RSA Chapter 155-E, as amended and the Town of Milford's Gravel and Earth Removal Regulation, that may be amended from time to time.



## **7.02.0 ON-SITE SEWAGE DISPOSAL SYSTEMS**

**7.02.1** No septic tank, leach field, or other on-site sewage disposal system shall be constructed or enlarged within twenty five hundred (2,500) feet of any well of the Milford Town Water System subject to the following exceptions:

- A. On-site sewage disposal systems for one and two family residences shall be permitted.
- B. On-site sewage disposal systems for the treatment of organic wastes with flow not in excess of one thousand (1,000) gallons per twenty-four (24) hour period shall be permitted, however only one disposal system shall be permitted on each parcel of land held in single ownership.
- C. The Board of Adjustment, after proper public notice and public hearing, may grant a Special Exception for the installation or modification of an on-site sewage disposal system within twenty-five hundred (2,500) feet of a town well, when it is satisfied that no pollution of any town well shall result from the action. The application for a Special Exception shall include a written report(s) prepared by a licensed professional engineer, ground water geologist and/or hydrologist, who has been approved in advance by the Board. This report shall be based on on-site inspections, testings, and/or scientific analysis of the ground water transmigration. The report(s) shall include an analysis of the type of pollutants to be introduced into the disposal system, the maximum daily flows that are anticipated, soil types, and other relevant engineering and soils factors. All costs for the preparation of the required reports and any on-site testing shall be borne by the applicant for the Special Exception.
- D. On-site sewage disposal systems shall be permitted when the disposal system is located on one side of a river, stream or other body of water which has a year round flow and the town well is located on the other side.

**7.02.2** However, in no case shall any on-site sewage disposal system be constructed or enlarged within four hundred (400) feet of a town well.

## **7.03.0 CLUSTER OPEN SPACE DEVELOPMENT *Deleted (2000)***

## **7.04.0 PRIVATE WAYS *Deleted (2001)***

## 7.05.0 EXISTING MANUFACTURED MOBILE HOME PARKS

### 7.05.1 ALLOWABLE USES ~~(1992)~~ (2025)

Reasonable expansion of Additions-to manufactured housing in existing manufactured home parks shall be allowed, providing when it can be shown that adequate water and sewer facilities exist.

### 7.05.2 ALLOWABLE USES IN THE INDUSTRIAL DISTRICT BY SPECIAL EXCEPTION

Any manufactured housing park in existence at the time of the passage of this Ordinance that has a minimum of thirty (30) units may expand subject to the limitations contained herein and provided the Board of Adjustment has approved a Special Exception for such expansion pursuant hereto.

The Board of Adjustment in determining whether such a park is entitled to a Special Exception to expand shall apply the following criteria:

- A. The proposed shall only apply to a park with municipal water and sewer service or one which has received permission from the Selectmen to construct such water and sewer services at the park owner's expense;
- B. The proposed shall include a commitment to improve all existing and contemplated roads within the park to such standards as required by the Selectmen for current road improvements;
- C. The Board of Adjustment shall determine that there exists or will be provided, parks, playgrounds, open green space or other amenities sufficient to provide for existing and proposed occupants of the park;
- D. The Board of Adjustment shall determine the extent to which the park shall be allowed to expand provided that they shall not approve any expansion that will result in a total park density greater than the existing multi-family housing density in the Town;
- E. The Board of Adjustment shall consider the proposed expansion and may impose any reasonable conditions on the grant of the Special Exception which are, in the judgment of the Board of Adjustment, necessary to insure that the proposed expansion meets the above criteria, the general criteria for a special exception (set forth in Article X, Para. 10.02.0 of the Ordinance) and also provide for the safety of existing and further occupants in terms of fire safety, flooding, traffic and any other appropriate considerations.

It is understood that once a Special Exception is granted hereunder the applicant will thereafter present a Site Plan to the Planning Board in accordance with existing Development Regulations. All required improvements will be bonded as normally required.

A joint meeting of the Planning Board and Board of Adjustment is permissible if said boards concur. (1989)

## **7.06.0 SIGN ORDINANCE (2019)**

### **7.06.1 PURPOSE AND INTENT**

- A. The purposes of these sign regulations are to:
1. Encourage the effective use of signs as a means of communication in the Town of Milford;
  2. Retain the Town's ability to attract and encourage economic development and growth;
  3. Improve pedestrian and vehicle traffic safety;
  4. Respect the environment;
  5. Address new technologies;
  6. Minimize potential adverse effects of signs on nearby public and other private property;
  7. Complement the character of the zoning districts' existing land uses, including, without limitation, the Oval Sub-District's central role in the social, political and economic life of the Town; and,
  8. Enable fair and consistent enforcement of the sign regulations.
  9. To ensure that the constitutionally guaranteed right of free speech is protected.
- B. It is further intended that this Article will help the Town in its efforts to protect the safety and welfare of the public, implement the Town's Master Plan and reduce potential visual clutter by encouraging the effective use of signs.
- C. This Article is structured on a graduated basis that allows a progressively greater variety and size of signs as the zoning districts increase in scale and minimum lot area required for development. Conversely, as the zoning districts increase in density, this Article allows progressively smaller numbers of types and sizes to reflect the corresponding intensity of mixed land uses and the density of development.
- D. The "Applicability" subsection of each sign structure described in this Article provides a definition of the type of sign subject to this Article. To the extent that a provision of this Article and another section of the Zoning Ordinance conflict, the provisions of this Article shall control.
- E. This Article shall be liberally construed to effectuate its purposes; provided, however, that no sign shall be subject to any limitation based on the content of the message contained in such sign.
- F. If any section, clause, provision, portion or phrase of this Ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect, impair or invalidate any other section, clause, provision, portion or phrase of this Ordinance.

### **7.06.2 SHORT TITLE**

This article shall be known as the Town of Milford Sign Ordinance or the Sign Ordinance. The Sign Ordinance is enacted as part of the Town's Zoning Ordinance.

### **7.06.3 DEFINITIONS**

The following words and phrases in this Article shall have the meaning described herein for all purposes associated with the construction and interpretation of the Sign Ordinance.

**Abandoned sign:** The cessation of the use of a sign as indicated by the visible or otherwise apparent intention of an owner to discontinue the use of a sign and/or structural framework; or the removal of the characteristic equipment or furnishing of the sign, without its replacement by similar equipment or furnishings; or the replacement of a nonconforming sign with a conforming sign.

**Animated Sign:** Any sign employing actual motion, the illusion of motion, or light and/or color changes achieved through mechanical, electrical, or electronic means. Animated signs, which are differentiated from manually activated changeable signs as defined and regulated by this Code, include the following types: Mechanically Activated signs, Electrically Activated Changeable Signs as define herein.

1. **Flashing:** Animated signs or animated portions of signs whose illumination is characterized by a repetitive cycle in which the period of illumination is either the same as or less than the period of non-illumination. For the purposes of this ordinance, flashing will not be defined as occurring if the cyclical period between on-off phases of illumination exceeds five (5) seconds.
2. **Patterned Illusionary Movement:** Animated signs or animated portions of signs whose illumination is characterized by simulated movement through alternate or sequential activation of various illuminated elements for the purpose of producing repetitive light patterns designed to appear in some form of constant motion.

**Area:** The space, on the largest single face of a sign, within and including a perimeter which forms the outside shape of a sign. Where signs are established back to back, the larger face shall be calculated for purposes of determining allowable area. The space of a sign having no such perimeter or border shall be computed by enclosing the entire copy area within the outline of a parallelogram, triangle, circle or any other easily recognized geometric shape and then computing the area. Where a sign is of a three-dimensional, round or irregular shape, the largest cross section shall be used in a flat projection for the purpose of computing sign area.

**Awning:** A removable shelter of canvas, metal or similar material extending over a doorway or window to provide shelter from natural elements.

**Awning sign:** A sign painted on or attached flat or flush against the surface of the awning, but not extending above, below or beyond the awning or attached to the underside. The copy area on awnings is computed as all or a portion of the allowed wall sign area. A minimum clearance of eight (8) feet above sidewalk level must be maintained for pedestrian clearance.

**Background area:** The total area of a sign face on which copy could be placed, often referenced to in connection with wall signs.

**Banner sign:**—A sign made of fabric or other similar non-rigid material supported or anchored at four corners or along top with weighted bottom. A larger banner will require additional support and anchor points.

**Billboard:** A large board on which advertisements are shown, esp. at the side of a road; a Billboard may or may not be an off-premise sign.

**Building face or wall:** All window and wall or façade areas of a building in one (1) plane or elevation.

**Building fascia:** The exterior linear length of a building that has frontage along a right-of-way or the

exterior linear length of a building utilized for public access.

**Building frontage:** The linear length of a building parallel to or closely facing the right-of-way at street level.

**Building marker sign:** A sign lettered to give the name of a building and/or date of construction of the building. Such signs shall include signs recessed into the surface, cut into any masonry surface, or constructed of metallic or other noncombustible material. For purposes of this Article, “building name signs” are deemed to be directional signs.

**Canopy (or marquee):** A permanent roof-like shelter extending from part or all of a building face over a public right-of-way and constructed of a durable material such as metal, glass or plastic.

**Canopy or marquee sign:** Any sign attached to or part of a canopy or marquee. The copy area on such signs is computed as all or a portion of the allowed wall sign area.

**Changeable Sign** - A sign with the capability of content change by means of manual or remote input, includes the following types:

1. Manually Activated - Changeable sign whose message copy or content can be changed manually on a display surface. A manually activated changeable sign may be part of any sign type.
2. Electrically Activated - Changeable sign whose message copy or content can be changed by means of remote electrically energized on-off switching combinations of alphabetic or pictographic components arranged on a display surface. Illumination may be integral to the components, such as characterized by lamps or other light-emitting devices; or it may be from an external light source designed to reflect off the changeable copy area. See also: Electronic Message Center.

**Code Administrator:** The term “Code Administrator” shall also include the designees of the Code Administrator.

**Copy:** The wording or message on a sign surface in either permanent or temporary (removable/changeable) letter or organic form.

**Copy area:** The area in square feet of the smallest geometric figure which describes the area enclosed by the actual copy of a sign. When referring to a wall sign or fascia sign, the copy area refers to the actual message or total area within a border or area highlighted within a contrasting background, not to the illuminated background. Also see “area”.

**Directional sign:** Signage which is necessary for on-site public safety and convenience.

**Directory sign:**—Permanent signs which are necessary to identify and locate occupants of a building when there is more than one occupant in a building or on a site.

**Display Time** – The amount of time a message and/or graphic is displayed on an Electronic Message Center or Sign (EMC).

**Dissolve** – A mode of message transition on an Electronic Message Sign accomplished by varying the light intensity or pattern, in which the first message gradually appears to dissipate and lose legibility with the gradual appearance and legibility of the second message.

**Dynamic Frame Effect** – An Electronic Message Sign frame effect in which the illusion of motion and/or animation is used.

**Electronic awning sign:** A fireproof space frame structure with translucent covering designed in awning

form, but whose purpose and use is signage. Such signs are internally illuminated by fluorescent or other light sources in fixtures approved under national and local electrical codes. The copy area is computed as all or a portion of the allowed wall sign area.

**Electronic Message Center or Sign (EMC)** - An electrically activated changeable sign (also referred to as digital signs or computer-controlled electronic signs) whose variable message and/or graphic presentation capability can be electronically programmed by computer from a remote location. Also known as an EMC. EMCs typically use light emitting diodes (LEDs) as a lighting source. (See also following terms principally associated with Electronic Message Centers: Display Time, Dissolve, Dynamic Frame Effect, Fade, Frame, Frame Effect, Scroll, Transition, Travel)

**Establish:** This term shall mean to attach, alter, build, construct, reconstruct, enlarge, move, hang, place, suspend, affix, erect, manufacture, and includes the painting of wall signs, but does not include copy changes on any permitted sign.

**Façade sign:** See “wall sign.”

**Face of sign:** The entire area of the sign on which copy could be placed. Also see “copy area” and “area.”

**Fade** – A mode of message transition on an Electronic Message Sign accomplished by varying the light intensity, where the first message gradually reduces intensity to the point of not being legible and the subsequent message gradually increases intensity to the point of legibility.

**Fascia sign:** See “wall sign.”

**Flag:** A sign made of fabric or other similar non-rigid material supported or anchored along one edge or two corners. If any side is more than three times as long as any other side the flag becomes a banner.

**Flashing sign:** Animated signs or animated portions of signs whose illumination is characterized by a repetitive cycle in which the period of illumination is either the same as or less than the period of non-illumination. For the purposes of this ordinance, flashing will not be defined as occurring if the cyclical period between on-off phases of illumination exceeds five (5) seconds.

**EMC Frame** – A complete, static display screen on an Electronic Message Sign.

**Frame Effect** – A visual effect on an Electronic Message Sign applied to a single frame. See also Dynamic Frame Effect.

**Freestanding sign:** See “Monument sign.”

**Frontage, minimum:** That continuous portion of a lot bordering on a road(s) from which access can be taken, that meets the minimum requirements of the underlying zoning district.

**Height of sign:** The vertical distance measured from the adjacent undisturbed grade of the sign to the highest point of the sign.

**Historic marker sign:** A marker that identifies an historic place, person event or date and is erected by a historical organization or by a government agency.

**Illuminance** – The amount of light falling upon a real or imaginary surface, commonly called “light level” or “illumination” measured in foot candles (lumens/square foot).

**Illuminated sign:** Any sign which emanates light either by means of exposed tubing, electrical bulbs, fluorescent lights, neon tubes or lamps on its surface, or by means of illumination transmitted through the

sign faces. Any decorative lighting that is used expressly for the purpose of advertisement shall be constructed as a sign.

**Individual letter sign:** Any sign made of self-contained letters that are mounted individually. See “copy area.”

**Landmark sign:** An older sign of artistic or historic merit, uniqueness, or extraordinary significance, as identified by the local historic commission or society. The character of landmark signs warrants their preservation in original condition, or their restoration.

**Location:** Any lot, premises, building, structure, wall, or any place upon which a sign is located.

**Long-term temporary (LTT) sign:** Any sign established for a temporary period of not more than six (6) months, but not less than 14 days. (see Short-term Temporary Sign definition.)

**Luminance** – The light that is emitted by or reflected from a surface. Measured in units of luminous intensity (candelas) per unit area and units as foot lamberts and equivalent. This can be measured by means of a luminance meter.

**Maintain:** To permit a sign, sign structure or any part of each to continue; or to repair or refurbish a sign, sign structure or any part of each. A sign shall be maintained in good repair for reasons of public safety and aesthetics.

**Marquee:** See “canopy.”

**Marquee sign:** See “canopy sign.”

**Mechanically Activated sign (animated):** Animated signs characterized by repetitive motion and/or rotation activated by a mechanical system powered by electric motors or other mechanically induced means.

**Message:** The wording or copy on a sign. See “copy.”

**Monument sign:** A sign established on a freestanding structure, frame, mast or pole and not attached to any building. Where such signs are established back to back, the larger face shall be calculated for the purposes of determining allowable area. Also known as detached sign, freestanding sign, pole sign, ground sign and pylon sign.

**Nonconforming sign:** Any sign which was lawfully established prior to the date this Article was adopted, and which fails to conform to the specifications of this Article.

**Off-premises sign:** A sign unrelated to a business or a profession conducted, or to a commodity or service sold or offered, upon the premises where such a sign is located. It is recognized that, unlike on-premises signs which are actually a part of a business, off-premise signs are a separate and distinct use of the public thoroughfare.

**On-premises sign:** Any sign visible from a public right-of-way located on the premises where the sign is installed and maintained.

**Parking signs:** Signs that identify available spaces or areas for parking of vehicles. Parking signs are deemed “Directional signs” for the purposes of this Article.

**Permanent sign:** A permanent sign is any sign established for a period of greater than six (6) months.

**Pole sign:** See “Monument sign.”

**Political sign:** Signs erected on residential property by or with the consent of the property owner, where such signs coincide with the timing of a political campaign or other matter on which voters may vote. Political signs are considered temporary signs for the purpose of this ordinance.

**Portable sign:** Movable sign that is not attached to a structure or the ground, includes: A-boards, portable reader-boards and similar signs.

**Premises:** A lot or number of lots on which are situated a building or group of buildings designed as an unit or on which a building or a group of buildings are to be constructed. The premises and the sign to which it relates must have a physical connection.

**Projecting Sign:** A sign which is affixed to any building wall or structure and extends beyond the building wall, structure, building line or property line more than twelve (12) inches.

**Public right-of-way:** A public right of way includes the portion of a public street, road or highway dedicated to and accepted by the Town and/or the State as measured from property line to property line. When property lines on opposite sides of the public street are not parallel, the public right-of-way width shall be determined by the Code Administrator.

**Real estate rider board:** A typically small sign that either hangs from the base of or is established on top of a real estate sign. The area of these signs shall be included in the total allowable sign area for real estate signs.

**Register:** The register of signs shall consist of an official record maintained by the Code Administrator as to the purpose of signage and containing the date of establishment and removal.

**Roof line:** The top edge of the roof or the top of the parapet, where the junction of the roof and the perimeter wall of the structure forms the top line of the building silhouette.

**Roof sign:** A sign established upon, against, or directly above a roof, or on the top of or above the parapet of a building.

**Rotating sign:** Any sign or portion of a sign which moves in a revolving or similar manner, but not including multi-prism indexing signs. See also Mechanically Animated sign.

**Scroll:** A mode of message transition on an Electronic Message Sign in which the message appears to move vertically across the display surface.

**Short-term temporary (STT) sign:** Any sign which is established for no more than fourteen (14) calendar days.

**Sign:** A permanent or temporary device, structure, light, letter, word, two- or three-dimensional, object or copy, model, banner, streamer, pennant, display, insignia, emblem, trade flag, presentation by figures, designs, pictures, logos or colors visible to the public from outside a building, from a traveled way or otherwise. The purpose of a sign is to convey a message to the public, to advertise, direct, invite, announce, or draw attention to, directly or indirectly, a use conducted, goods, products, services or facilities available, either on the lot or on any other premises, includes any permanently installed or prominently situated merchandise. For the purpose of removal, signs shall also include all sign structures and appurtenances.

**Sign structure:** Any framework, either freestanding or an integral part of the building, which supports or is capable of supporting any sign, including decorative cover.



**Storefront:** The side of the store or business facing the public right-of-way or from which provides primary customer or business access measured at street level.

**Snipe Sign:** any sign that is attached to any public utility pole or structure, streetlight, tree, fence, fire hydrant, bridge, curb, sidewalk, park bench or the location on public property.

**Street:** A public highway, road or thoroughfare which affords the principal means of access to adjacent lots, and measured from property line to property line. Also see “public right-of-way.”

**Suspended Sign:** Any sign that hangs from below a roof, porch or eave and hangs in a horizontal orientation to the ground.

**Temporary sign:** Any sign established for any period of less than six (6) months. Please see definitions for portable, short term temporary, and long term temporary signs.

**Temporary message:** a message that may be changed manually or digitally as part of a permanent sign structure.

**Transition** – A visual effect used on an Electronic Message Sign to change from one message to another.

**Travel** – A mode of message transition on an Electronic Message Sign in which the message appears to move horizontally across the display surface.

**Use:** The purpose for which a building, lot, sign or other structure is arranged, intended, designed, occupied or maintained.

**Utility sign:** These signs are noncommercial in nature and identify the location of gas lines, water lines or phone cables, often warning of the potential hazard of digging or excavation in the immediate area.

**Wall sign:** Any sign attached parallel to the building wall or other surface to which it is mounted that does not extend more than twelve (12) inches from said surface and has only one (1) sign face that is intended to be read parallel to the wall or other surface to which it is mounted. Window signage shall not be included in the total allowable wall sign area. Wall sign also includes any sign established on any other part of a building provided that the sign is on a plane parallel to the wall of the building. Wall signs may not project above the top of a parapet, wall or the roof line at the wall, whichever is highest. A wall sign is also that sign established on a false wall or false roof that does not vary more than thirty (30) degrees from the plane of the building’s parallel wall. See also, fascia signs or façade signs.

**Window sign:** A sign affixed to the surface of a window or within twelve (12) inches of the window plane with its message intended to be visible to the exterior environment. Such sign shall not be construed to include merchandise located in a window.

#### 7.06.4 PROHIBITED SIGNS

Any sign not specifically authorized by this Article is prohibited unless required by law. The following signs and conditions are prohibited:

- A. Any sign located within, on, or projecting over a property line which borders a public or private street, highway, alley, lane, parkway, avenue, road, sidewalk, or other right-of-way, except as provided in this Article. The Code Administrator may cause to be removed any temporary or portable sign erected or displayed upon, or projecting into public property; and,

- B. Any sign attached to any public utility pole or structure, street light, tree, fence, fire hydrant, bridge, curb, sidewalk, park bench, or other location on public property, also known as “snipe signs,” except as provided herein; and,
- C. Any sign placed, which by reason of its location, will obstruct the view of any authorized traffic sign, signal or other traffic control device or which by reason of shape, color, or position interferes with or could be confused with any authorized traffic signal or device; and,
- D. Any sign which is placed so as to prevent or inhibit free ingress to or egress from any door, window, or any exit way required by the Building Code or the Fire Code; and,
- E. Any flashing sign, strobe containing sign or other sign or lighting device, on the exterior of the building, except as provided for herein.
- F. Any sign with unshielded incandescent, metal halide, or fluorescent light bulbs; and,
- G. Any sign which emits audible sound, odor, smoke, steam, laser or hologram lights, or other visible matter, including any sign that employs any stereopticon or motion picture projection; and,
- H. Any sign mechanically animated by attachment affected by the movement of the air; and,
- I. Any rotating sign; and,
- J. Signs placed on or painted on a motor vehicle or trailer parked with the primary purpose of providing signage not otherwise allowed by the Code; Prohibited is any sign displayed on a parked trailer or truck or other vehicle where the primary purpose of the vehicle is to advertise a product, service business, or other activity. This regulation shall permit the use of business logos, identification or advertising on vehicles primarily and actively used for business purposes and/or personal transportation.
- K. Any roof signs; and,
- L. Any billboards.

#### 7.06.5 GENERAL ADMINISTRATION

- A. **PERMITS:** No sign may be established without a sign permit issued by the Code Administrator, except as provided for in (C) below.
- B. **MAINTENANCE:** All signs must be maintained in good repair for reasons of public safety. Ordinary maintenance and minor repair shall not include replacement of the structural framing and supports, enlargements of the area of a sign face or relocation of the sign-
- C. **PERMIT NOT REQUIRED:** The following signs are exempt from the permit requirements of this Article, but are otherwise subject to the standards contained herein. Any failure to comply with these standards and any other provisions of this Article shall be considered a violation of the Zoning Ordinance.

1. Nameplate signs giving property identification names or numbers, or names of occupants; and,
2. Signs on mailboxes or newspaper tubes; and,
3. **Security and Warning Signs** - On-premise signs regulating the use of the premises, such as “private parking”, “no hunting” and “no soliciting” signs that do not exceed one (1) sign two (2) square feet in area in residential areas and one (1) sign five (5) square feet in area in commercial and industrial zones. These limitations shall not apply to the posting of conventional “no trespassing” signs in accordance with RSA 635:4 as amended.
4. **Public Signs** erected by government agencies or utilities, including traffic, utility, safety, railroad crossing and identification signs for public facilities and any signs erected by the Town of Milford;
5. Historic marker signs, erected by any historical organization or governmental agency, provided that said signs are no more than two (2) square feet:
6. Flags of any governmental organization when not displayed in connection with a commercial promotion or as an advertising device. No flag shall be flown from a pole that is more than fifty (50’) feet in height;
7. One temporary sign per lot placed on property which is actively marketed for sale. Such signs shall not be illuminated. In residential districts, such signs shall not exceed sixteen (16) square feet in area and the maximum sign height shall be six (6) feet above grade to the top of the sign and its supporting structure. In non-residential districts, such signs shall not exceed thirty-two (32) square feet in area and the maximum sign height shall be ten (10) feet above grade to the top of the sign and its supporting structure. In all districts, such signs shall be removed immediately after sale, lease, or rental;
8. A temporary sign placed within a parcel of property upon which construction activities of any type are being actively performed. Such signs shall not be illuminated, and may identify the project, the owner or developer, architect, engineer, contractor and subcontractors, funding sources, and may contain information related to sale or leasing of the premises. In residential districts, such signs shall not exceed sixteen (16) square feet in area and the maximum sign height shall be six (6) feet above grade to the top of the sign and its supporting structure. In non-residential districts, such signs shall not exceed thirty-two (32) square feet in area and the maximum sign height shall be ten (10) feet above grade to the top of the sign and its supporting structure. In all districts. Such signs shall not be erected prior to the issuance of a building permit and shall be removed within fourteen (14) days after the issuance of the Final Certificate of Occupancy;
9. Signs erected on residential property by or with the consent of the property owner, where such signs coincide with the timing of a political campaign or other matter on which voters may vote pursuant to NH RSA 664:14-No such sign may exceed the sign area permitted for other signs within the zoning district in which it is located; provided, however, that political signs must be removed within seventy-two (72) hours of the election to which they refer, unless the sign seeks to notify the public of the winner of the said election, in which case, the sign must be removed within ten (10) days of the election to which it refers;
10. Building marker signs that do not exceed four (4) square feet in area;
11. Signs that are located on, or are an integral part of, a property that has been placed on or determined eligible for the National and State Register of Historic Places, provided that such signs

are recognized as contributing to the National Register status of the property;

12. Signs which are not visible from a public roadway; however, these signs must comply with any building and construction provisions enacted by the IBC;
13. Signs inside a building beyond twelve (12) inches of the window plane;
14. Signs carved into a building or raised in integral relief on a building;
15. Painted and/or applied wall accents and decorations;
16. Public Art, including Permitted Original Art Murals;
17. Decals - Decals and/or logos affixed to windows or door glass panels, such as those indicating membership in a business group or identifying credit cards accepted at the establishment.
18. The Oval, as distinct from the Oval Sub district, is owned by the Town of Milford. Signs on the Oval are regulated pursuant to Chapter 7.16 of the Milford Municipal Code.

#### D. APPLICATION PROCEDURE

An application for a sign permit may be obtained from the Community Development Department of the Town of Milford. The Code Administrator shall complete the review of an application for a sign permit within thirty (30) days of the receipt of said application by the Town. A permit shall be approved if a proposed sign conforms to all Town Ordinances and any currently adopted Building Codes that may be applicable.

1. An applicant for a sign permit shall submit to the Code Administrator the following:
  - a. A completed sign permit application form;
  - b. A non-refundable application review fee in an amount to be set by the Board of Selectmen, which may be changed by the Board of Selectmen in their discretion. The Code Administrator shall display notice of the applicable fee in the offices of the Code Administrator in a form and manner designed to give reasonable notice to the public of the amount of the application review fee.
  - c. An illustration of the proposed sign(s) shall be submitted, drawn to scale, that includes the following information:
    - i. The total area of the proposed sign(s) in square feet;
    - ii. The total copy area of the proposed sign(s);
    - iii. The support structure for the proposed sign(s);
    - iv. The overall height, width and depth of the proposed sign(s);
    - v. Any structural, electrical, animation, illumination and other essential characteristics for the proposed sign(s);
    - vi. The location(s) of the proposed sign(s) on the property and/or building(s);
    - vii. A photograph of existing signage, if any, including dimensions drawn onto the photograph; for multi-unit properties, condominiums and the like, the applicant need only submit a photograph detailing existing signage for the Applicant's particular unit;

- viii. The material from which the proposed sign(s) is to be constructed;
  - ix. Any sign may be required to provide engineer licensed stamped plans, at the discretion of the Code Administrator, upon review.
2. **Completeness Review:** The Code Administrator shall determine whether the sign permit application is complete within ten (10) calendar days after the application is filed.
  3. **Decisions:**
    - a. The Code Administrator shall either approve or deny the sign permit application within the time periods specified below after the Code Administrator determines that the application is complete. Applications found to be incomplete shall not be acted upon but returned to the applicant identifying the items needed for completion.
    - b. Upon a finding by the Code Administrator that the sign permit application complies with the provisions of this Article, the Code Administrator shall cause to be issued a sign permit for installation by the applicant. The sign permit shall be issued within ten (10) calendar days of the date on which the application was deemed complete.
    - c. If the sign permit application is denied, the applicant shall be notified within ten (10) calendar days of the date on which the application was deemed complete. The notice of denial shall specifically explain any deficiencies in writing in the application and how the applicant may proceed under this Section and Article 10 of the Zoning Ordinance.
    - d. No sign permit may be issued until all fees have been paid and other requirements of the Sign Ordinance have been satisfied.
  4. **Approval Criteria:** The Code Administrator shall issue the requested sign permit if the sign permit application complies with this Article. Otherwise, the Code Administrator shall deny the sign permit application.
  5. **Revised Applications:** When a sign permit application is denied by the Code Administrator, an applicant may resubmit a revised sign permit application that conforms to the requirements of Section 7.06.5 and specifies what changes were adopted by the applicant to remedy the cause(s) for denial. The Code Administrator may suggest alternative locations or design modifications.
  6. **Appeal:** An applicant may appeal the decision of the Code Administrator pursuant to Article VIII of the Zoning Ordinance within thirty (30) calendar days of the date of Code Administrator's decision.
  7. **Amendments:** No new sign or modification of the size, materials or design characteristics of any existing sign shall occur unless a new sign permit is issued in accordance with the procedures established by this Article.
  8. Signs approved as a part of a Site Plan or Subdivision Approval shall meet the requirements set forth within the Milford Development Regulations for a Signage Plan and Approval.
- E. VARIANCE; APPEALS OF THE ZONING BOARD OF ADJUSTMENT:** The Zoning Board of Adjustment may grant relief by authorizing a variance of this Article. Variances from this Article shall be governed by Article X of the Zoning Ordinance, NH RSA Chapter 677, and applicable case law.

F. **ENFORCEMENT VIOLATIONS:** The Code Administrator is authorized, empowered and directed to enforce the provisions of this Article. Any person, including, without limitation, an owner of real property, who violates, suffers a violation to occur or refuses to comply with any provision of this Article may be subject to the penalty provisions as described in Article VIII of the Zoning Ordinance.

G. **NOTICE OF NON-COMPLIANCE:** If the Code Administrator determines that any sign is unsafe, insecure, dilapidated, or deteriorated, the Code Administrator shall give written notice to remove or replace said sign to the person or persons responsible, in accordance with this Ordinance.

#### H. **ORDER OF REMOVAL**

1. If the permit holder, owner of the sign, or owner of the property on which the sign is located fails to remove or repair the sign within ten (10) days after said notice or fails to file an allegation of error in accordance with this Ordinance, the Code Administrator is hereby authorized to cause the removal of such sign.
2. Any expense incident to the removal of said sign shall be paid by the permit holder, owner of the sign, or owner of the property on which the sign is located.
3. Nothing contained herein shall prohibit the immediate removal, without notice, of any sign or portion of a sign, which is determined by the Code Administrator to be an immediate threat or danger to the health, safety, and general welfare of the public.
4. The removal of the sign or portion of the sign shall be limited to the extent necessary to eliminate the threat to the health, safety, and general welfare of the public.
5. The Town is authorized to file a lien against any property, which is not otherwise exempt, to recover expenses incurred by the Town for the removal of a sign or portion of a sign from a property.

#### **7.06.6 NO DISCRIMINATION AGAINST NON-COMMERCIAL SIGNS OR SPEECH:**

The owner of any sign which is otherwise allowed under this Article may substitute non-commercial copy in lieu of any other commercial or non-commercial copy. This substitution of copy may be made without any additional approval or permitting. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over non-commercial speech, or favoring of any particular non-commercial message over any other non-commercial message. This provision prevails over any more specific provision to the contrary. This provision does not create a right to increase the total amount of signage on a parcel.

#### **7.06.7 NONCONFORMING SIGNS**

- A. **CONTINUANCE:** A nonconforming sign lawfully existing at the time of adoption or subsequent amendment of this Article may continue, although such sign does not conform to the provisions of this Article. Portable not eligible under this section for continuance and shall, therefore, require sign permits and compliance with the provisions of this Article.
- B. **MAINTENANCE:** A nonconforming sign must be maintained in good repair for reasons of public safety. Ordinary maintenance and minor repairs shall not include replacement of the structural

framing and supports, enlargement of the area of a sign face, removable sign panel changes, illumination increase or changes, or relocation of the sign.

- C. **ALTERATION, RELOCATION AND REPLACEMENT:** Alterations, relocation, and/or replacement of a legal nonconforming sign structure is permitted when damage or deterioration does not exceed fifty percent (50%) of the area of the sign and structure. A non-conforming sign that is damaged by any casualty or *force majeure* may be replaced by an identical sign in the same location that is identical to the damaged sign-within three hundred and sixty-five (365) days of such casualty. The replacement sign retains its status as a permitted, non-conforming use.
- D. **REMOVAL:** A nonconforming sign shall be removed within three hundred and sixty-five (365) days if any one of the following conditions exist:
1. If the damage or deterioration of the sign structure exceeds fifty percent (50%) of the area; or,
  2. If the building to which the sign structure is accessory is damaged or demolished to an extent exceeding fifty percent (50%) of the building's appraised value and no plans have been submitted for the building's reconstruction or restoration pursuant to applicable codes and Ordinances; or,
  3. If the sign has been abandoned for at least three hundred sixty-five (365) days.
- E. Any sign that has been removed due to any of the conditions listed in 7.06.6:D above shall not be replaced and any succeeding sign shall conform to the provisions of this Article. If any portion of the sign structure is removed, then all parts and components of the sign shall also be removed.

#### 7.06.8 GENERAL PROVISIONS FOR SIGN TYPES

- A. The following section contains general standards for different types of signs. These standards regulate the dimensions, location and design of signs based upon their structural characteristics and location. The following section lists sign requirements within specific Zoning Districts.

#### B. ELECTRICALLY ACTIVATED CHANGING SIGNS

1. **Applicability:** This subsection applies to any sign that is either electronically or electrically controlled to illustrate different copy changes of the same sign. This sign's message may be changed by electronic switching or automatic switching of lamps or alteration in the level of illumination or other illumination source to form words, letters, designs, figures, numerals and pictures often through the apparent vertical or horizontal movement of light. Such signs shall not include a flashing light source. In the case of an Electrically Activated Changeable Sign, flashing shall be defined as an interval of illumination less than five (5) seconds in duration. These signs are commonly used to display time, temperature, date and message centers or reader boards, indexing signs, and those known as Electronic Message Centers.
2. **Electronic Message Center (EMC):** Where EMC's are permitted, they shall be subject to all of the following restrictions:
  - a. The EMC may not exceed fifty (50) percent of the total of the sign area or twenty-four (24) square feet, whichever is smaller. The remaining 50% shall not include blank area that would be seen as a border, frame or otherwise non-sign area;

- b. All illumination elements on the face of an EMC shall remain at a fixed level of illumination for a period of not less than ten (10) seconds; provided, however, that time and temperature text shall remain at a fixed level of illumination for a period of not less than five (5) seconds;
- c. Changes from one message to another shall be accomplished by the change of all illumination elements on the face of a EMC simultaneously, with the provision that the sign may fade to complete darkness and then re-illuminate with or fade to the new message;
- d. An EMC shall be equipped with down-cast lighting and the ability to adjust the brightness of the sign. No sign can be a danger to public health and safety and cannot exceed seven hundred fifty (750) cd/m<sup>2</sup> or Nits at least one-half hour before Apparent Sunset, All illuminated signs must comply with this maximum luminance level throughout the night, if the sign is energized, until Apparent Sunrise, at which time the sign may resume luminance levels appropriate for daylight conditions, when required or appropriate;
- e. All EMC signs shall have automatic dimming controls, either by photocell (hardwired) or via software settings, in order to bring the EMC lighting level at night into compliance with requirements stated herein;
- f. All EMC and other electronically or electrically changing signs must submit a Certificate of Compliance for said sign prior to a Building Permit being issued for said sign.

**C. AWNING SIGNS/CANOPY SIGNS/MARQUEE SIGNS/PROJECTING AND SUSPENDED SIGNS**

- 1. There must be a minimum clearance of eight (8) feet above sidewalk level must be maintained for pedestrian clearance.
- 2. The copy area of Awning/Canopy/Marquee signs is computed as all or a portion of the allowed wall sign area.
- 3. Copy Area: The copy area on any awning sign, canopy sign, electronic awning sign, or marquee sign is computed as all or a portion of the allowed wall sign area. Copy located on the canopy or awning sign shall not exceed one-half (1/2) of the area bounded by the edges of the canopy or awning visible from the public right-of-way. If copy is only found in fringe drip-flap portion of the canopy, the entire portion of said area may be utilized for signage.
- 4. Right-of-Way: An awning or canopy sign which projects into the right-of-way in the Oval Sub-District may be approved and permitted by the Code Administrator as long as the sign does not interfere with the health and safety of the public use of the right-of-way. If an awning or canopy sign projects into the right-of-way in any allowed district other than the Oval Sub-district, a special exception is required from the Zoning Board of Adjustment.
- 5. Electric Awning Signs: Electric awning signs shall be located on multistory buildings between the first and second story windows, or on single-story buildings above the first story windows. Electric awning signs located on multiple storefronts shall be allowed copy space no more than eighty (80) percent of the individual storefront width, in order to maintain adequate separation between tenant spaces.
- 6. Height/Clearance: Awning, canopy, marquee, projecting and suspended signs shall not exceed five (5) feet in height and shall maintain a minimum of eight (8) feet clearance.



**D. WALL SIGNS (FASCIA SIGN OR FAÇADE SIGN)**

Permitted wall signs shall be calculated using the formula in Chart 7.06.2-A, for the maximum square footage of any particular sign. See “storefront” both single and multi-story building to determine other values.

**Chart 7.06.2-A**

Distance of Storefront from Property Line with main point of access of abutting street	Storefront Multiplied By	Maximum sign area in square feet
50-99	1.0	100
100-249	1.5	110
250 and over	2.0	120

1. The total area for all wall signage shall not exceed the allowable maximum sign area per storefront.
2. The copy area of Awning/Canopy/Marquee signs shall be included in the total area of the allowed wall signage for any individual storefront.
3. One (1) directory wall sign may be located per building entrance or driveway access with frontage on a street or parking area. Maximum area shall be one (1) square foot per tenant with a combined area not to exceed thirty-two (32) square feet. Directory signs shall not require permits if located so as not to be viewed from a public right of way or adjoining premises. If a directory sign can be viewed from a public right of way or adjoining property, the directory sign shall be included in the maximum area allowed for the premises.
4. For the purpose of this section, in the case of multi-tenant buildings, the location of the storefront and its linear measure shall be used to determine distance from abutting street.

**E. DIRECTIONAL SIGNS**

1. The text must be at least sixty-five percent (65%) of the area of the sign.
2. Supplemental Standards for Directional Signs:
  - a. Directional Signs are allowed in addition to other permitted signage on-site.
  - b. A sign permit is required for directional signs that are setback less than fifteen (15) feet from a property line, or located so as to be visible from a public right-of-way.
  - c. Directional signs may be located adjacent to a driveway provided it does not impede lines of sight or visibility.
  - d. Directional signs shall conform to the Manual of Uniform Traffic-Control Devices where applicable.

**F. MONUMENT SIGN - ALSO KNOWN AS: GROUND, IDENTIFICATION, DETACHED,**

### **FREESTANDING, POLE OR PYLON SIGN**

1. Address number(s) must be displayed on each face of the sign so as to be visible from the public way with Arabic numerals or Alphabet letters a minimum of four (4") inches in height. The required address identifier is not considered as part of the total allowable sign area calculation.
2. Monument signs shall be located on the property where the businesses exist and no portion of the sign shall be allowed in the public right of way.
3. Monument signs shall be located at least the same distance from a sidewalk or roadway as the height of the sign. This shall be known as the "fall zone".
4. All monument signs will require stamped engineered plans for signs greater than six (6') in height.
5. The Community Development Office may require building, electrical and other permits to insure code compliance for any monument sign.
6. Permanent subdivision signs are considered monument signs.

### **G. PERMANENT OFF-PREMISE SIGNS**

1. Permanent off-premise signs are directional in nature.
2. For each off-premise sign, written permission of the land owner must be filed with the applicant's sign permit application.
3. No off-premise sign, may be established in any public right-of- way. The purpose of this restriction is to ensure that any type of off-premise sign does not impede pedestrian or vehicle traffic or otherwise create a public safety hazard in any area that is regularly traveled by the public on foot or by vehicle.

### **H. PORTABLE, SHORT-TERM TEMPORARY (STT) AND LONG-TERM TEMPORARY (LTT) ON-PREMISE SIGNS**

1. An applicant may apply no more than six (6) times in any twelve months for a permit for a STT sign. A permit for a STT sign is valid for thirty (30) days and expires without further action by the Code Administrator. The fee for temporary sign permits is waived.
2. An applicant may apply no more than two (2) times in any twelve months for a permit for an LTT sign. A permit for a LTT sign is valid for seven (7) months and expires without further action by the Code Administrator. The fee for LTT sign permits is waived.
3. An applicant in a non-residential district may apply to the Zoning Board of Adjustment for a special exception to be allowed a LTT sign.
4. No STT or LTT signs may be established in any public right-of-way. The purpose of this restriction is to ensure that temporary signs do not impede pedestrian or vehicle traffic or otherwise create a public safety hazard in any area that is regularly traveled by the public on foot or by vehicle.

### **7.06.9 SIGN REQUIREMENTS BY ZONING DISTRICT**

- A. There are eight (8) zoning districts in the Town of Milford: Residence "A" District, Residence "B" District, Residence "R" District, the Commercial District ("C"), the Industrial District ("I"), the Limited

Commercial-Business District (“LCB”), the Integrated Commercial Industrial District (“ICI”) and Integrated Commercial Industrial 2 District (ICI-2) and one Oval Sub-District (“OSD”). The maximum cumulative number and maximum cumulative area of all sign structures permitted for any lot, parcel or business within a zoning district is set forth in following sections.

- B. Any property requiring a site plan approval or subdivision approval shall create a comprehensive sign master plan for the property adhering to the requirements for the various sign types specified in this ordinance.
- C. Please see Section 7.06.9 General Provisions for Sign Types for additional requirements.

**D. RESIDENCE “A”, RESIDENCE “B”, and RESIDENCE “R” DISTRICTS**

1. Permitted Sign Types.

- a. Home Based Business signs not to exceed the allowed signage in Section 7.12.
- b. Subdivision and Site Plan approved signs.
- c. Long-Term Temporary (LTT) Off-Premise Signs.
  - i. A permit is required for this sign.
  - ii. Two signs are allowed per site.
  - iii. The area per sign cannot exceed 16 square feet.
- d. Permanent Off-Premise Signs.
  - i. A permit is required for this sign. The applicant must apply for and receive a special exception from the Zoning Board of Adjustment. The Milford Zoning Board of Adjustment may impose additional conditions or restrictions, as the Board deems appropriate to the public interest.
  - ii. One sign is allowed per site.
  - iii. The area per sign cannot exceed 16 square feet.
  - iv. The maximum height is 8 feet.
- e. Portable On-Premise Signs.
  - i. A sign with an area that is equal to or less than six (6) square feet does not require a permit. A sign with an area that is greater than six (6) square feet must have a permit.
  - ii. Two signs are allowed per site
  - iii. The area per sign cannot exceed 6 square feet.
- f. Long-Term On-Premise Signs.
  - i. A sign with an area that is equal to or less than six (6) square feet does not require a permit. A sign with an area that is greater than six (6) square feet must have a permit.
  - ii. Two signs are allowed per site.
  - iii. The sign area depends on the total acreage of the property where the sign is to be

established. For properties consisting of less than five (5) acres of land, the maximum area permitted is six (6) square feet. For properties five (5) acres or larger, the maximum area permitted is six (6) square feet without a permit and sixteen (16) square feet with a permit.

2. Prohibited Sign Types.

- a. Awning Signs, Canopy Signs, Marquee Signs, Projecting and Suspended Signs, Electronic Message Centers, Electronically Activated Changing Signs.

**E. COMMERCIAL, INTEGRATED COMMERCIAL INDUSTRIAL, INTEGRATED COMMERCIAL INDUSTRIAL 2, and INDUSTRIAL DISTRICTS**

1. Permitted Sign Types.

- a. Changeable Signs.
- b. Awning Signs, Canopy Signs, Marquee Signs, Projecting and Suspended Signs.
  - i. A permit is required for this sign.
  - ii. 3 signs are allowed per site.
  - iii. Fifty percent (50%) of the storefront's linear measure or maximum of one hundred (100) square feet, whichever is less.
- c. Walls Signs (Fascia or Façade Signs).
  - i. A permit is required for this sign.
  - ii. Changeable signs are permitted.
  - iii. For storefronts located within fifty (50) feet from the property line of an abutting street a maximum of fifty (50 %) percent of the storefront's linear measure or one hundred (100) square feet, whichever is less shall be allowed.
  - iv. For storefronts located greater than fifty (50) feet from the property line of an abutting street, please see the requirements under 7.06.8.E.
- d. Directional Signs.
  - i. No permit required in permitted district if part of site plan package; otherwise, permit required.
  - ii. The maximum area per sign is four (4) square feet.
- e. Monument Sign, Also Known as Ground, Identification, Detached, Freestanding, Pole or Pylon Sign
  - i. A permit is required for this sign.
  - ii. Only one ground sign per site is allowed.
  - iii. The maximum area permitted is seventy-five (75) square feet.
  - iv. The maximum height is fifteen (15) feet.
- f. Short-Term Temporary (STT) Off-Premise Signs.

- i. A permit is required for this sign. The applicant must apply for and receive a special exception from the Zoning Board of Adjustment. The Milford Zoning Board of Adjustment may impose additional conditions or restrictions, as the Board deems appropriate to the public interest.
    - ii. Two signs are allowed per site.
    - iii. The area per sign cannot exceed fifty (50) square feet.
  - g. Permanent Off-Premise Signs.
    - i. A permit is required for this sign.
    - ii. Two signs are allowed per site.
    - iii. The area per sign cannot exceed 16 square feet.
    - iv. The maximum height is 8 feet.
  - h. Portable On-Premise Signs.
    - i. A sign with an area that is equal to or less than six (6) square feet does not require a permit. A sign with an area that is greater than six (6) square feet must have a permit.
    - ii. Two signs are allowed per site.
    - iii. The area per sign cannot exceed 6 square feet.
  - i. Short-Term On-Premise Signs.
    - i. A sign with an area that is equal to or less than six (6) square feet does not require a permit. A sign with an area that is greater than six (6) square feet must have a permit.
    - ii. Two signs are allowed per site.
    - iii. The maximum area per sign is fifty (50) square feet.
- 2. Prohibited Sign Types.
  - a. Long-Term Temporary (STT) Off-Premise Signs.
  - b. Long-Term Temporary (STT) On-Premise Signs.

## **F. LIMITED COMMERCIAL-BUSINESS DISTRICT**

- 1. Permitted Sign Types.
  - a. Awning Signs, Canopy Signs, Marquee Signs, Projecting and Suspended Signs.
    - i. A permit is required for this sign.
    - ii. 2 signs are allowed per site.
    - iii. The maximum area per sign is seventy-five percent (75%) of the storefront's linear measure or maximum of fifty (50) square feet, whichever is less.
  - b. Walls Signs (Fascia or Façade Signs).
    - i. A permit is required for this sign.

- ii. Manually Activated Changeable signs are permitted.
- iii. The area per storefront for storefronts located within fifty (50) feet from the property line of an abutting street is a maximum of fifty (50 %) percent of the storefront's linear measure or one hundred (100) square feet, whichever is less shall be allowed
- iv. For storefronts located greater than fifty (50) feet from the property line of an abutting street, please see the requirements under 7.06.8.E.
- c. Directional Signs.
  - i. No permit required in permitted district if part of site plan package; otherwise, permit required.
  - ii. The maximum area per sign is four (4) square feet.
- d. Monument Sign, Also Known as Ground, Identification, Detached, Freestanding, Pole or Pylon Sign.
  - i. A permit is required for this sign.
  - ii. Only one ground sign per site is allowed.
  - iii. The maximum area permitted is thirty-two (32) square feet.
  - iv. The maximum height is ten (10) feet.
  - v. Manually Activated Changeable signs are permitted.
- e. Short-Term Temporary (STT) Off-Premise Signs.
  - i. A permit is required for this sign.
  - ii. Two signs are allowed per site.
  - iii. The area per sign cannot exceed thirty-two (32) square feet.
- f. Permanent Off-Premise Signs.
  - i. A permit is required for this sign. The applicant must apply for and receive a special exception from the Zoning Board of Adjustment. The Milford Zoning Board of Adjustment may impose additional conditions or restrictions, as the Board deems appropriate to the public interest.
  - ii. Two signs are allowed per site.
  - iii. The area per sign cannot exceed 16 square feet.
  - iv. The maximum height is 8 feet.
- g. Portable On-Premise Signs.
  - i. A sign with an area that is equal to or less than six (6) square feet does not require a permit. A sign with an area that is greater than six (6) square feet must have a permit.
  - ii. Two signs are allowed per site
  - iii. The area per sign cannot exceed 6 square feet.
- h. Short-Term On-Premise Signs.

- i. A sign with an area that is equal to or less than six (6) square feet does not require a permit. A sign with an area that is greater than six (6) square feet must have a permit.
  - ii. Two signs are allowed per site.
  - iii. The maximum area per sign is thirty-two (32) square feet.
2. Prohibited Sign Types.
- a. Long-Term Temporary (LTT) Off-Premise Signs.
  - b. Long-Term Temporary (LTT) On-Premise Signs.
  - c. Electronic Message Centers.

## G. OVAL SUBDISTRICT

1. Permitted Sign Types.
  - a. Awning Signs, Canopy Signs, Marquee Signs, Projecting and Suspended Signs.
    - i. A permit is required for this sign.
    - ii. 2 signs are allowed per site.
    - iii. The maximum area per sign is seventy-five percent (75%) of the storefront's linear measure or maximum of fifty (50) square feet, whichever is less.
  - b. Walls Signs (Fascia or Façade Signs).
    - i. A permit is required for this sign.
    - ii. Manually Activated Changeable signs are permitted.
    - iii. The area per storefront for storefronts located within fifty (50) feet from the property line of an abutting street is a maximum of fifty (50%) percent of the storefront's linear measure or one hundred (100) square feet, whichever is less shall be allowed
    - iv. For storefronts located greater than fifty (50) feet from the property line of an abutting street, please see the requirements under 7.06.8.E.
  - c. Directional Signs.
    - i. No permit required in permitted district if part of site plan package; otherwise, permit required.
    - ii. The maximum area per sign is four (4) square feet.
  - d. Monument Sign, Also Known as Ground, Identification, Detached, Freestanding, Pole or Pylon Sign.
    - i. A permit is required for this sign.
    - ii. Only one ground sign per site is allowed.
    - iii. The maximum area permitted is thirty-two (32) square feet.
    - iv. The maximum height is ten (10) feet.

- vi. Manually Activated Changeable signs are permitted.
- e. Short-Term Temporary (STT) Off-Premise Signs.
  - i. A permit is required for this sign.
  - ii. Two signs are allowed per site.
  - iii. The area per sign cannot exceed sixteen (16) square feet.
- f. Portable On-Premise Signs.
  - i. A sign with an area that is equal to or less than six (6) square feet does not require a permit. A sign with an area that is greater than six (6) square feet must have a permit.
  - ii. One sign is allowed per site.
  - iii. The area per sign cannot exceed 6 square feet.
- g. Short-Term Temporary On-Premise Signs.
  - i. A sign with an area that is equal to or less than six (6) square feet does not require a permit. A sign with an area that is greater than six (6) square feet must have a permit.
  - ii. Two signs are allowed per site.
  - iii. The maximum area per sign is sixteen (16) square feet.
- 2. Prohibited Sign Types
  - a. Long-Term Temporary (LTT) Off-Premise Signs.
  - b. Long-Term Temporary (LTT) On-Premise Signs.
  - c. Permanent Off-Premise Signs.
  - d. Electronic Message Centers.



**7.07.0 SENIOR HOUSING DEVELOPMENT (DELETED 2014)**

## **7.08.0 STANDARDS FOR ADULT ENTERTAINMENT BUSINESSES (2000)**

### **A. Purpose**

It is the purpose of this to establish reasonable and uniform regulations to prevent the concentration of adult entertainment businesses within the Town of Milford.

### **B. Intent**

1. It is the intent to promote the health, safety, and general welfare of the citizens of the Town of Milford; and, it is the intent of this that the regulations be utilized to prevent problems of blight and deterioration which accompany and are brought about by the concentration of adult entertainment businesses; and, the provisions of this have neither the purpose nor effect of imposing limitation or restriction on the content of any communicative materials, including sexually oriented materials;
2. It is not the intent nor the effect of this to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market; and, neither is it the intent nor effect of this to condone or legitimize the distribution of obscene materials.

### **C. Allowed locations and Location Restrictions of Adult Entertainment Businesses**

#### **1. Allowed Locations**

Adult entertainment businesses, defined in 7.08.1 are permitted only in the ICI (Integrated Commercial-Industrial District) provided that all other regulations, requirements, and restrictions for the zone in which the adult entertainment business is to be located are met; and no entertainment business shall be permitted within one thousand (1,000) feet of another existing adult entertainment business or one for which a building permit has been applied for; and

#### **2. Location Restrictions**

- a. No adult entertainment business shall be permitted within one thousand (1,000) feet of all other zoning boundaries, except for the Industrial (I) Zone.
- b. No adult entertainment business shall be permitted within one thousand (1,000) feet of any church, place of worship, parish house, convent, public, parochial, or private school, kindergarten, State approved Day Care Center, or Commercial or Not-for Profit Recreational Facilities and no adult entertainment business shall be permitted within one thousand (1,000) feet of the Town boundaries;
- c. No adult entertainment business shall be permitted within five hundred (500) feet of an existing residence; and
- d. No adult entertainment business shall be permitted within one thousand (1,000) feet of another existing adult entertainment business on the date of the passage of this and, no adult entertainment business shall be permitted within a building, premise, structure or other facility that contains a sexually oriented business as defined herein.

#### **3. Measure of Distance**

The distance between any adult entertainment business and a church, school, residence, etc. or another adult entertainment business shall be measured in a straight line, from property boundary to property boundary, without regard to intervening structures.

#### 4. Additional Reasonable Regulations

The Planning Board is empowered hereunder to review and approve permit applications for adult entertainment businesses and impose reasonable restrictions for buffering, outdoor lighting, parking, adequate ingress and egress from the site off of and onto public roads, pedestrian movement, hours of operation, and to provide for appropriate landscaping and building aesthetics as required in the Town of Milford Development Regulations.

### 7.08.1 DEFINITIONS

Except where specifically defined or otherwise referenced within this Ordinance, words and terms used are intended to imply their customary definition and meaning. The following words and terms are specifically defined as follows:

**Adult bookstore or adult video store** - A commercial establishment that devotes more than fifteen (15) percent of the total display, shelf, rack, wall, table, stand or floor area, utilized for the display and sale of the following items listed in a) and b) below. The establishment, as one of the principal business purposes, offers for sale or rental for any form of consideration, any one or more of the following:

- A. Books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, video productions, slides, tapes, records, CD-ROMs or other forms of visual or audio representations which depict or describe “specified sexual activities” or “specified anatomical areas” or meet the definition of “harmful to minors” and/or “sexual conduct” as set forth in NH RSA 571-B:1; or,
- B. Instruments, devices or paraphernalia which are designed for use in connections with “sexual conduct” as defined in NH RSA 571-B:1, other than birth control devices. A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing “specified sexual conduct or activities” and still be categorized as “Adult Video/Book Store”. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an “Adult Video/Book Store” so long as one of its principal business purposes is offering for sale or rental for consideration to specified material which depict or describe specified sexual conduct or activities or specified anatomical areas.
  - 1. Specified sexual conduct or activities means that the male genitals in a state of sexual arousal and/or the vulva or more intimate parts of the female genitals.
  - 2. Specified anatomical areas means and includes any of the following:
    - a. The fondling or other erotic touching of the human genitals, pubic region, buttocks, anus, or female breasts;
    - b. Sex acts, normal or perverted, actual or simulated, including intercourse, or copulation, or sodomy;
    - c. Masturbation, actual or simulated; or

- d. Excretory function as part of or in connection with any of the activities set forth in a) through c) above.

An adult bookstore or adult video store does not include an establishment that sells books or periodicals as an incidental or accessory part of its principal stock and trade and does not devote more than fifteen (15) percent of the total display area of the establishment to the sale of books and periodicals.

**Adult cabaret:** A nightclub, bar, restaurant or similar establishment which during a substantial portion of the total presentation time features live performances which meet the definition of “harmful to minors” and/or “sexual conduct” as set forth in NH RSA 571-B:1, and/or feature films, motion pictures, video cassettes, slides or other photographic reproductions, a substantial portion of the total presentation time of which is devoted to showing of material which meets the definition of “harmful to minors” and/or “sexual conduct” as set forth in NH RSA 571-B:1.

**Adult drive-in theater:** An open lot or part thereof, with appurtenant facilities, devoted primarily to the presentation of motion pictures, films, theatrical productions and other forms of visual productions, for any form of consideration to persons in motor vehicles or on outdoor seats, in which a substantial portion of the total presentation time being presented for observation by patrons is devoted to the showing of material which meets the definition of “harmful to minors” and/or “sexual conduct as set forth in NH RSA 571-B:1.

**Adult entertainment business:** means an Adult Bookstore or Adult Video Store, Adult Cabaret, Adult Drive-In Theater, Adult Motel, Adult Motion Picture Arcade, Adult Motion Picture Theater, Adult Theater, Nude Model Studio or Sexual Encounter Center.

**Adult motel:** A motel or similar establishment offering public accommodations of any form of consideration which provides patrons with closed circuit television transmissions, films, motion pictures, video cassettes, slides or photographic reproductions, a substantial portion of the total presentation time of which are distinguished or characterized by an emphasis upon the depiction or description of materials which meet the definition of “harmful to minors” and/or “sexual conduct” as set forth in NH RSA 571-B:1.

**Adult motion picture arcade:** Any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, in which a substantial portion of the total presentation of the images so displayed is devoted to the showing of material which meets the definition of “harmful to minors” and/or “sexual conduct” , as set forth in NH RSA 571-B:1.

**Adult motion picture theater:** An establishment with a capacity of five (5) or more persons, where for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material which meets the definition of “harmful to minors” and/or “sexual conduct” as set forth in NH RSA 571-B:1.

**Adult theater:** A theater, concert hall, auditorium or similar establishment either indoor or outdoor in nature, which for any form of consideration, regularly features live performances, a substantial portion of the total presentation time of which are distinguished or characterized by an emphasis on activities which meet the definition of “harmful to minors” and/or “sexual conduct” as set forth in NH RSA 571-B:1.

**Nude model studio:** A place where a person who appears in the state of nudity or displays male genitals in a state of arousal and/or the vulva or more intimate parts of the female genitals and is observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration or such display is characterized by an emphasis on activities which meets the definition of “harmful to minors” and/or “sexual conduct” as set forth in NH RSA 571-B:1.

**Nudity or a state of nudity:** The appearance of a human bare buttock, anus, male genitals, female genitals, or full female breast.

**Semi-nude:** A state of dress in which clothing covers no more than genitals, pubic region and areola of the female breast, as well as portions of the body supporting straps or devices.

**Sexual encounter center:** A business or commercial enterprise that as one of its primary business purposes offers for any form of consideration:

- a. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
- b. Activities between male and female persons and/or persons of the same sex when one or more persons are in the state of nudity; or
- c. Where the activities in a. or b. is characterized by an emphasis on activities which meets the definition of “harmful to minors” and/or “sexual conduct”, as set forth in NH RSA 571-B:1

### 7.09.0 TELECOMMUNICATION FACILITIES (2013)

#### A. Purpose and Intent

The regulation of telecommunications facilities is important to minimize visual and environmental impacts and assure all new facilities are consistent with the goals and identity of the Town of Milford. It is the express purpose of this Section to preserve the scenic, historical and cultural values of the Town, balance economic growth and enhance the ability of providers of telecommunications services to offer such services to the community effectively and efficiently. Carriers shall be allowed to locate telecommunications facilities within the Town provided they are consistent with the appropriate land use regulations that will ensure compatibility with the natural and built features and character of the Town. Compatibility with these features are measured based on the change in community scale and character in relation to the height, mass, materials, contrasts, or proportion within the surroundings of a proposed telecommunications facility.

The intent of this ordinance is to implement the following goals and objectives throughout the Town of Milford, while conforming to federal, state and local laws and regulations:

1. Facilitate the provision of wireless telecommunication services to the residents and businesses of Milford;
2. Provide for the appropriate location and development of telecommunications facilities;
3. Minimize adverse visual and environmental effects of towers and antennas through careful design and siting standards;
4. Encourage co-location whenever possible; and
5. Minimize economic impacts on adjacent property values.

#### B. Applicability

The terms of this Section and the Development Regulations shall apply to telecommunications facilities (hereinafter "facility(ies)") on property owned by the Town of Milford, on privately owned property, and on property that is owned by any governmental entity that acts in its proprietary capacity to lease such property to a carrier.

### 7.09.1 DEFINITIONS

For the purpose of this Article, the following terms shall have the meaning given herein:

**Antenna:** The surface from which wireless radio signals are sent and/or received by a telecommunications facility.

**Antenna array:** A collection of antennas attached to a mount to send and receive radio signals.

**Average tree canopy height:** An average height found by inventorying the height at above-ground level (AGL) of all trees over twenty (20) feet in height for a defined area.

**Camouflaged:** A telecommunications facility that is disguised, hidden, part of an existing or proposed structure, or placed within an existing or proposed structure.

**Carrier:** A Company that provides telecommunications services. Also sometimes referred to as a provider.

**Co-location:** The use of a single mount on the ground by more than one carrier (vertical co-location) or the same carrier with multiple licenses, and/or the use of several mounts on an existing building or structure by more than one carrier or the same carrier with multiple licenses.

**Environmental assessment (EA):** An EA is a document required by the Federal Communications Commission (FCC) and the National Environmental Policy Act (NEPA) when a telecommunications facility is placed in certain designated areas.

**Equipment shelter:** An enclosed structure, cabinet, shed, vault, or box near the base of the mount within which are housed equipment for telecommunications facilities such as batteries and electrical equipment. Equipment shelters are sometimes referred to as base transceiver stations.

**Facility:** See Telecommunications Facility

**Fall zone:** The area on the ground from the base of a ground mounted telecommunications facility that forms a circle with a diameter equal to the height of the facility, including any antennas or other appurtenances. The fall zone is the area within the area defined by the circle, which there is a potential hazard from falling debris (such as ice) or collapsing material.

**Guyed tower:** A monopole or lattice tower that is secured to the ground or other surface by diagonal cables for lateral support.

**Height:** The height above ground level (AGL) from the natural grade of a site to the highest point of a structure.

**Lattice tower:** A type of mount with multiple legs and structural cross bracing between the legs, that is self-supporting and freestanding.

**Mast:** A thin pole that resembles a streetlight standard or a telephone pole. A dual-polarized antenna is typically deployed on a mast.

**Monopole:** A thicker type of mount than a mast that is self-supporting with a single shaft of wood, steel or concrete, or other material that is designed for the placement of antennas and arrays along the shaft.

**Mount:** The structure or surface upon which antennas are mounted, including the following four types of mounts:

1. Roof-mounted (mounted on the roof of a building)
2. Side-mounted (mounted on the side of a building)
3. Ground-mounted (mounted on the ground)
4. Structure-mounted (mounted on a structure other than a building)

**Radio frequency (rf) engineer:** An engineer specializing in electrical or microwave engineering, especially the study of radio frequencies.

**Radio frequency radiation (rfd):** The emissions from telecommunications facilities.

**Shot Clock:** Federal Communications Commission (FCC) ruling for a “reasonable period of time” to process wireless applications.

1. 90 days for co-location request
2. 150 days for new siting applications

**Security barrier:** A wall, fence, or berm that restricts an area from unauthorized entry or trespass.

**Separation:** The distance between one carrier's array of antennas and another carrier's array.

**Telecommunications facility:** A facility for the provision of personal wireless services as defined by the Telecommunications Act of 1996, as amended. Telecommunications facilities include a mount, antenna, equipment shelter, and other related equipment. Telecommunications facilities do not include private or non-commercial wireless communication facilities such as amateur ham radio and citizen band radio.

**Telecommunications services:** The three types of services regulated by this Section are: Commercial mobile radio services, unlicensed wireless services and common carrier wireless exchange access services as described in the Telecommunications Act of 1996, as amended.

### 7.09.2 DISTRICT & FEDERAL REGULATIONS

- A. Federal Requirements - All facilities shall meet or exceed current standards and regulations of the Federal Aviation Administration (FAA), Federal Communications Commission (FCC) (as per Telecommunications Act of 1996), and any other agency of the federal government with the authority to regulate such facilities.
- B. Location - Telecommunications facilities shall be permitted in all zoning districts in accordance with this ordinance. Applicants seeking approval for these facilities shall first evaluate existing structures for their siting. Only after finding that there are no suitable existing structures pursuant to Section 7.09.2:C herein, shall a provider propose a new ground-mounted facility.
- C. Existing Structures: Policy - When available, telecommunications facilities shall be located on existing structures, including but not limited to buildings, water towers, existing telecommunications facilities, utility poles or towers, and related facilities, provided that such installation preserves the character and integrity of those structures.
- D. Existing Structures: Burden of Proof - The applicant shall have the burden of proving that there are no existing structures which are suitable to locate its telecommunications facility and/or transmit or receive radio signals. To meet that burden, the applicant shall take all the following actions to the extent possible:
  - 1. The applicant shall submit to the Planning Board a list of all contacts made with owners of potential sites regarding the availability of potential space for a telecommunications facility. If the Planning Board informs the applicant that additional existing structures may be satisfactory, the applicant shall contact the property owner(s) of those structures.
  - 2. The applicant shall provide copies of all letters of inquiry made to owners of existing structures, letters of rejection if received, and proof of certified mailing. If letters of rejection are not provided, at a minimum, unanswered "Return Receipt Requested" forms from the U.S. Post Office shall be provided for each owner of existing structures that was contacted.
  - 3. If the applicant claims that a structure is not capable of physically supporting a telecommunications facility, this claim shall be certified by a licensed professional engineer. The certification shall, at a minimum, explain the structural issues and demonstrate that the structure cannot be modified to support the telecommunications facility without unreasonable costs. The estimated cost shall be provided to the Planning Board.



- E. Ground-mounted Facilities: Policy - New ground-mounted facilities are permitted but only when the use of existing structures and buildings are found to not be feasible. If the applicant demonstrates that it is not feasible to locate on an existing structure, ground-mounted telecommunications facilities shall be designed so as to be camouflaged to the greatest extent possible, including but not limited to: use of compatible building materials and colors, screening, landscaping and placement within trees.

### 7.09.3 USE REGULATIONS

A telecommunications facility may require site plan review as noted below, and a building permit in all cases, and may be permitted as follows:

- A. Existing Tower Structures - Subject to the issuance of a building permit that includes site plan approval by the Planning Board, which review shall include, but not be limited to issues relating to access, bonding, and security for removal, structural integrity and appropriate camouflage of such siting. Carriers may locate a telecommunications facility on any guyed tower, lattice tower, mast, or monopole in existence prior to the adoption of this Section, or on any facility previously approved under the provisions of this Section so long as the co-location complies with the approved site plan. All the Performance Standards from this Section shall be met. This provision shall apply only so long as the height of the mount is not increased, a security barrier already exists, and the area of the security barrier is not increased. Otherwise, site plan review is required.
- B. Reconstruction of Existing Tower Structures - An existing guyed tower, lattice tower, monopole, or mast in existence prior to the adoption of this Section may be reconstructed with a maximum twenty (20) foot increase in height so as to maximize co-location so long as the standards of this Section are met and so long as this twenty (20) foot increase in height does not cause a facility previously existing at less than two-hundred (200) feet to exceed two-hundred (200) feet in height. The mount shall be replaced with a similar mount that does not significantly increase the visual impact on the community. Site plan review is required.
- C. Existing Structures - Subject to the provisions of this Section and site plan review under NH RSA 674:43:III and except as otherwise permitted under Section 7.09.3:A, a carrier may locate a telecommunications facility on an existing structure, building, utility tower or pole, or water tower. For the purpose of this section, new structures that are conforming to all other district zoning requirements shall be considered as existing structures.
- D. Ground-mounted Facility - A telecommunications facility involving construction of a ground-mount shall require site plan review and be subject to the provisions of this Section.

### 7.09.4 DIMENSIONAL REQUIREMENTS

- A. All telecommunications facilities erected, constructed, located, replaced, altered, or extended within the Town shall comply with the following dimensional requirements:
1. Height Maximum - In no case shall a telecommunications facility exceed two-hundred (200) feet in height, unless the mount for the facility was greater than two-hundred (200) feet in height prior to the adoption of this Article.
  2. Height, Existing Structures and Utility Poles - Carriers that locate new telecommunications facilities on water towers, electric transmission and distribution towers, utility poles and similar existing utility structures, guyed towers, lattice towers, masts, and monopoles may be permitted to increase the height of those structures no more than twenty (20) feet, or forty (40) feet at the discretion of the Planning Board, if the additional height will not materially impair the visual impacts of the site. This increase in height shall only be permitted once for each structure.

3. Height, Ground-Mounted Facilities – New ground-mounted telecommunications facilities shall not project higher than twenty (20) feet above the average tree canopy height within a one-hundred fifty (150) foot radius of the mount, security barrier, or designated clear area for access to equipment, whichever is greatest.
  4. Setbacks - In addition to compliance with the minimum zoning district setback requirements, ground-mounted telecommunications facilities shall be set back, at a minimum, the distance equal to the fall zone, as defined in Section 7.09.1 and 7.09.4:A.5. Fences necessary for the facility shall comply with the setback provisions of the zoning district in which the facility is located if the fence is six (6) feet or more in height.
  5. Fall Zone for Ground-Mounts - In order to ensure public safety, the minimum distance from the base of any ground-mount of a telecommunications facility to any property line, public road, habitable dwelling, business or institutional use, or public recreational area shall be, at a minimum, the distance equal to the fall zone, as defined in this Section. The fall zone may cross property lines, so long as the applicant secures a fall zone easement from the affected property owner(s). The area of the easement shall be shown on all applicable plans submitted to the Town, and the terms of the easement shall be provided as part of the Site Plan review. Easements shall be recorded at the Hillsborough County Registry of Deeds.
  6. Fall Zone for Non-Ground Mounts - In the event that an existing structure is proposed as a mount for a telecommunications facility, a fall zone shall not be required, but the setback provisions of the zoning district shall apply. In the case of pre-existing non-conforming structures, telecommunications facilities and their equipment shelters shall not increase any non-conformities.
- B. Planning Board Flexibility: Heights - In reviewing a site plan application for a telecommunications facility, the height limit imposed may be increased by the Planning Board by approval of a conditional use permit as defined in section 7.11.0. The Planning Board may permit an increase in the height of a ground-mounted facility up to forty (40) feet above the average tree canopy height, if no material increase in visual or environmental impacts will result from the increased height. The visual and environmental criteria of this Section and the Development Regulations shall be the guidelines in making this determination.

#### **7.09.5 PERFORMANCE AND DESIGN STANDARDS**

A. Visibility:

1. Visual impacts are measured on the basis of:
  - a. Change in community scale, as exhibited in relative height, mass or proportion of the telecommunications facility within their proposed surroundings
  - b. New visible elements proposed on a contrasting background
  - c. Different colors and textures proposed against a contrasting background
  - d. Use of materials that are foreign to the existing built environment
2. Enhancements are measured on the basis of:
  - a. Conservation of opportunities to maintain community scale, e.g. buffering areas and low-lying buildings should not be compromised to as to start a trend away from the existing community scale
  - b. Amount and type of landscaping and/or natural vegetation

- c. Preservation of view corridors, vistas, and view sheds
  - d. Continuation of existing colors, textures and materials
3. Visibility focuses on:
- a. Eliminating or mitigating visual impact
  - b. Protecting, continuing, and enhancing the existing environment
4. Camouflage for Facilities on Existing Buildings or Structures - Roof Mounts when a telecommunications facility extends above the roof height of a building on which it is mounted, every effort shall be made to conceal or camouflage the facility within or behind existing or new architectural features to limit its visibility from public ways. Facilities mounted on a roof shall be stepped back from the front facade in order to limit their impact on the building's silhouette.
5. Camouflage for Facilities on Existing Buildings or Structures - Side Mounts - Telecommunications facilities, which are side-mounted, shall blend with the existing building's architecture and, if individual antenna panels are over five (5) square feet, the panels shall be painted or shielded with material consistent with the design features and materials of the building.
6. Camouflage for Ground-Mounted Facilities - All ground-mounted telecommunications facilities shall be surrounded by a buffer of dense tree growth, primarily of coniferous or evergreen trees, that extends continuously for a minimum distance of one hundred-fifty (150) feet from the mount, security barrier, or designated clear area for access to equipment, whichever is greatest, and screens views of the facility in all directions. These trees shall be existing on the subject property, planted on site, or be within a landscape easement on an adjoining site. The Planning Board shall have the authority to decrease, relocate, or alter the required buffer based on site conditions. The one-hundred and fifty (150) foot vegetative buffer area shall be protected by a landscape easement or be within the area of the carrier's lease. The easement or lease shall specify that the trees are dead or dying and present a hazard to persons or property.
7. Color - To the extent that any telecommunications facilities extend above the height of the vegetation immediately surrounding it, they shall be of a color, which blends with the background or surroundings.
8. Equipment Shelters - Equipment shelters for telecommunications facilities shall be designed consistent with one of the following design standards:
- a. Equipment shelters shall be located in underground vaults; or
  - b. Equipment shelters shall be designed so that the shelters are architecturally consistent, with respect to materials and appearance, to the buildings in the area of the telecommunications facilities; or
  - c. Equipment shelters shall be camouflaged behind an effective year-round landscape buffer, equal to the height of the proposed building, and/or wooden fence. The Planning Board shall determine the style of fencing and/or landscape buffer that is compatible with the neighborhood; or
  - d. If mounted on a rooftop, the equipment shelter shall be concealed or camouflaged so that the shelter either is not visible at grade or appears to be a part of the original structure.

9. Lighting, Signage and Security

a. Lighting:

- i. Facility Lighting- The mounts of telecommunications facilities shall be lighted only if required by the Federal Aviation Administration (FAA).
- ii. Site Lighting- If required, all on site lighting shall be shielded from abutting properties. Foot-candle measurements at the property line shall be 0.0 initial foot candles.

b. Signage - Signs shall be limited to those needed to identify the property and the owner and warn of any danger. All signs shall comply with the requirements of the Milford Zoning Ordinance.

c. Security Barrier - The Planning Board shall have final authority on whether a ground mounted telecommunications facility should be surrounded by a security barrier.

10. Historic Buildings

a. Any telecommunications facility located on or within a historic structure shall not alter the character-defining features, distinctive construction methods, or original historic materials of the building.

b. Any alteration made to a historic structure to accommodate a telecommunications facility shall be fully reversible.

c. Telecommunications facilities authorized by this subsection shall be concealed within or behind existing architectural features, or shall be located so that they are not visible from public roads and viewing areas.

11. Scenic Landscapes and Vistas - Ground-mounted facilities shall not be located within open areas that are clearly visible from public roads, recreational areas, or abutting properties. All ground-mounted telecommunications facilities shall be surrounded by a buffer of dense tree growth as per Section 7.09.5:A.6.

12. Driveways - If available, existing entrances and driveways to serve a telecommunications facility shall be utilized, unless the applicant can demonstrate that a new entrance and driveway will result in less visual, traffic and environmental impact. New driveways to serve a telecommunications facility shall not exceed twelve (12) feet in width. A gravel or crushed stone surface is encouraged.

13. Antenna Types - Any antenna array placed upon an existing or proposed ground mount, utility pole, or transmission line mount shall have a diameter of no more than four (4) feet, exclusive of the diameter of the mount. A larger diameter antenna array may be permitted after a finding by the Planning Board that the visual impacts of a larger antenna array are negligible.

14. Ground and Roof Mounts - All ground mounts shall be of a mast type mount. Lattice towers, guyed towers, and roof mounted monopoles are expressly prohibited, unless constructed as part of a reconstruction project permitted under Section 7.09.3:B.

15. Hazardous Waste - No hazardous waste shall be discharged on the site of any telecommunications facility. If any hazardous materials are to be used on site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided

with a sealed floor, designed to contain at least one hundred and ten (110) percent of the volume of the hazardous materials stored or used on the site.

16. Noise - Telecommunications facilities shall not generate noise in excess of that permitted by Town Ordinance.
17. Radio frequency Radiation (RFR) Standards - All equipment proposed for a telecommunications facility shall be fully compliant with the FCC Guidelines for Evaluating the Environmental Effects of Radio frequency (FCC Guidelines), under *Report and Order*, FCC 96-326, published on August 1, 1996, and all subsequent amendments.

#### **7.09.6 MONITORING AND MAINTENANCE**

- A. Maintenance - The owner of the facility shall maintain the telecommunications facility in good condition. Such maintenance shall include, but shall not be limited to, painting, structural integrity of the mount and security barrier, and maintenance of the buffer areas and landscaping.
- B. Monitoring - As part of the issuance of the site plan approval or building permit, the property owner shall agree that the Town of Milford may enter the subject property to obtain RFR measurements and noise measurements at the expense of the carrier. The Town shall provide reasonable written notice to the carrier and landowner and provide them the opportunity to accompany the Town representatives when the measurements are conducted.
- C. Security for Removal - Recognizing the hazardous situation presented by abandoned and unmonitored telecommunications facilities, all owners of telecommunications facilities shall obtain and maintain a bond or other approved form of security, in an amount set forth by the Planning Board, that represents the cost for removal and disposal of abandoned telecommunications facilities in the event that a facility is abandoned and the facility owner is unwilling or unable to remove the facility in accordance with Section 7.09.8.

The amount of security shall be based upon the removal cost, plus fifteen percent (15%), be provided by the property owner, and the amounts certified by a professional structural engineer licensed in New Hampshire. The owner of the facility shall provide the Planning Board with a revised removal cost estimate and structural evaluation prepared by a professional structural engineer licensed in New Hampshire every five (5) years from the date of the Planning Board approval of the site plan. If the cost has increased more than fifteen percent (15%), then the property owner shall provide additional security in the amount of the increase.

#### **7.09.7 PROCEDURAL REQUIREMENTS**

- A. Application Process - All wireless telecommunications equipment installations and wireless telecommunications site developments, except as provided elsewhere, are subject to review and Site Plan Approval by the Planning Board. The Planning Board shall act upon the application in accordance with 5.03 and 5.04 Submittal Requirements of the Milford Development Regulations and RSA 676:4 as amended. In addition to the following items:
  1. An inventory of existing towers that are within the jurisdiction of the Town and those within two miles of the border thereof, including specific information about the location, height, design of

each tower, as well as economic and technological feasibility for the co-location on the inventoried towers. The Planning Board may share such information with other applicants applying for approvals or conditional use permits under this section or other organizations seeking to locate antennas within the jurisdiction of the Town, provided, however, that the Planning Board is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

2. If the applicant is proposing to build a new tower, the applicant shall submit written evidence demonstrating that no existing structure can accommodate the applicant's proposed antenna in accordance with Section 7.09.2:D.
- B. Review Process - Planning Board Approval and Town Building Permit Required: Non-residential and non-amateur telecommunications facilities may be located within the Town of Milford, subject to Planning Board approval and issuance of a building permit. Modifications to an existing installation shall also be subject to Planning Board approval. Construction or modification of an approved facility shall not begin or continue without a valid building permit issued.
- C. All applications shall be assessed for a basic completeness review within 30 days of receipt of the application. Incomplete applications will not be reviewed by the Planning Board. If an application passes this basic completeness review, it should be date stamped to establish the date when it was filled. If the Board or staff determines additional information is needed to evaluate the application, any request for additional information must be submitted within thirty (30) days of the filing date. The Board shall approve, approve with conditions, or deny the application within 90 days (co-location applications) or 150 days (siting applications) of the filing date in accordance with FCC standards.

#### **7.09.8 ABANDONMENT OR DISCONTINUATION OF USE**

- A. Notification - At such time that a carrier plans to abandon or discontinue operation of a telecommunications facility, the owner of the facility shall notify the Town by certified U.S. mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than sixty (60) days prior to abandonment or discontinuation of operations. In the event that a carrier fails to give such notice, the telecommunications facility shall be considered abandoned upon such discontinuation of operations.
- B. Removal - Any telecommunications facility that is declared abandoned shall be considered hazardous to the public health and safety. Upon abandonment or discontinuation of use, the owner shall physically remove the abandoned structure and restore the site to its natural appearance within ninety (90) days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:
1. Removal of antennas, mount, equipment shelters and security barriers from the subject property.
  2. Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.
  3. Restoring the location of the telecommunications facility to its natural condition, except that any landscaping and grading shall remain in the after-condition.
- C. Failure to Remove - If the owner of the facility does not remove the facility upon the Order of the Zoning Administrator, then the Board of Selectmen shall, after holding a public hearing with notice to

the owner of the facility, the property owner, and abutters, issue a Declaration of Abandonment. The owner of the facility shall dismantle and remove the facility within ninety (90) days of receipt of the Declaration of Abandonment by the Board of Selectmen. If the abandoned facility is not removed within ninety (90) days, the Town may execute the security bond to pay for this action.

## 7.10.0 SMALL WIND ENERGY SYSTEMS

### 7.10.1 AUTHORITY

This Ordinance is established pursuant to The State of New Hampshire RSA 674:62-66, as amended and the purposes outlined in NH RSA 672:I-IIIa. All references in this Ordinance will refer to State of New Hampshire RSAs.

### 7.10.2 PURPOSE AND INTENT

It is the purpose of this Section to protect the public's health, safety and welfare and promote the safe, effective and efficient use of small wind energy systems to reduce the on-site consumption of utility supplied electricity. This Ordinance intends to permit the location of these systems within the Town of Milford consistent with the master plan, and the Ordinances and regulations of the Town.

### 7.10.3 APPLICABILITY

The terms of this Section shall apply to small wind energy systems (hereinafter "system(s)") on property owned by the Town of Milford, on privately owned property, and on property that is owned by any governmental entity that acts in its proprietary capacity to lease such property.

### 7.10.4 DEFINITIONS

For the purpose of this Article, the following terms shall have the meaning given herein:

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

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

**Net metering:** The difference between the electricity supplied to a customer over the electric distribution system and the electricity generated by the customer's small wind energy system that is fed back into the electric distribution system over a billing period.

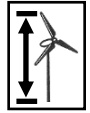
**Power grid:** The transmission system, managed by ISO New England, created to balance the supply and demand of electricity for consumers in New England.

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

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



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



**Tower:** The monopole, guyed monopole or lattice structure that supports a wind generator.

**Tower height:** The height above grade of the fixed portion of the tower, excluding the wind generator.



**Wind generator:** Blades and associated mechanical and electrical conversion components mounted on top of the tower whose purpose is to convert kinetic energy of the wind into rotational energy used to generate electricity.

### 7.10.5 DISTRICT REGULATIONS

Small wind energy systems are permitted by the granting of a conditional use permit and a building permit in all zoning districts.

### 7.10.6 PROCEDURE FOR REVIEW

- A. Conditional Use Permit – Small wind energy systems and met towers require Planning Board approval of a conditional use permit (see section 7.11.0).
  1. Application – Applications submitted to the Planning Department shall conform to the minor site plan regulations and shall contain the following information:
    - a. Property lines and physical dimensions of the applicant’s property.
    - b. Location, dimensions and types of existing major structures on the property.
    - c. Location of the proposed small wind energy system, foundations, guy anchors and associated equipment.
    - d. Setback requirements as outlined in this Ordinance.
    - e. The right-of-way of any public road that is contiguous with the property.
    - f. Any overhead utility lines.
    - g. Small wind energy system specifications including rotor diameter, tower height, tower type and nameplate generation capacity.
    - h. Sound level analysis prepared by the wind generator manufacturer or qualified engineer.
    - i. List of abutters to the applicant’s property.
- B. Abutter and Regional Notification – In accordance with the site plan regulations all small wind energy system conditional use permit applications shall be heard at an abutter notified public hearing where the Planning Board will make a determination on potential Regional Impact in accordance with NH RSA 36:54-58.
- C. Building Permit – Once a conditional use permit has been approved the applicant shall submit and be granted approval for a building permit prior to a small wind energy system being erected, constructed or installed. A building permit shall be required for any physical modifications to an

existing small wind energy system. Met towers that receive a building permit shall be permitted on a temporary basis not to exceed three (3) years from the date the building permit was issued.

1. Application – Applications submitted to the Building Department shall contain the following information:
  - a. Planning Board approved conditional use permit minor site plan
  - b. Tower foundation blueprints or drawings with New Hampshire engineering approval.
  - c. Tower blueprints or drawings with New Hampshire engineering approval.
  - d. Small wind energy systems specifications including manufacturer, model, rotor diameter, tower height, tower type, nameplate generation capacity.
  - e. Small wind energy systems that will be connected to the power grid shall include a copy of the application for interconnection with their electric utility provider.
  - f. Sound level analysis prepared by the wind generator manufacturer or qualified engineer.
  - g. Electrical components in sufficient detail to allow for a determination that a manner of installation conforms to most current adopted Electrical Code.
  - h. Evidence of compliance or non-applicability with Federal Aviation Administration requirements.
2. All Planning Department information will be available to the Building Department to aid the permitting process.

**7.10.7 STANDARDS**

A. The Planning Board shall evaluate the application for compliance with the following standards:

1. Setbacks – The setback shall be calculated by multiplying the minimum setback requirement number by the system height and measured from the center of the tower base to property line, public roads or nearest point on the foundations of an occupied building.
  - a. Small wind energy systems must meet all setbacks for principal structures for the zoning district in which the system is located.
  - b. Guy wires used to support the tower are exempt from the small wind energy system setback requirements.

Minimum Setback Requirements			
Occupied Buildings on Participating Landowner Property	Occupied Buildings on Abutting Property	Property Lines of Abutting Property and Utility Lines	Public Roads
0	1.5	1.1	1.5

Table 7.10- 1

2. Tower – The maximum tower height shall be restricted to thirty-five (35') feet above the tree canopy within three hundred (300') feet of the small wind energy system. In no situation shall the tower exceed 150 feet.

3. Sound level – The small wind energy system shall not exceed 60 decibels using the A scale (dBA), as measured at the site property line, except during short-term events such as severe wind storms and utility outages.
4. Shadow flicker – Small wind energy systems shall be sited in a manner that does not result in significant shadow flicker impacts. Significant shadow flicker is defined as more than thirty (30) hours per year on abutting occupied buildings. The applicant has the burden of proving that the shadow flicker will not have significant impact on neighboring or adjacent uses. Potential shadow flicker will be addressed either through siting or mitigation measures.
5. Signs – All signs, including flags, streamers and decorative items, both temporary and permanent, are prohibited on small wind energy systems, except for manufacturer identification or appropriate warning signs.
6. Visual Impacts – It is inherent that small wind energy systems may pose some visual impacts due to the tower height needed to access wind resources. The purpose of this section is to reduce the visual impacts without restricting the owner’s access to the optimal wind resources on the property.
  - a. The applicant shall demonstrate through project site planning and proposed mitigation that the small wind energy system’s visual impacts will be minimized for surrounding neighbors and the community. This may include, but not be limited to information regarding site selection, wind generator design or appearance, buffering, and screening of ground mounted electrical and control equipment. All electrical conduits shall be underground, except when the financial costs are prohibitive, to be determined by the Planning Board.
  - b. The color of the small wind energy system shall either be stock color from the manufacturer or painted with a non-reflective, unobtrusive color that blends in with the surrounding environment. Approved colors include, but are not limited to, white, off-white or gray.
  - c. A small wind energy system shall not be artificially lit unless such lighting is required by the Federal Aviation Administration (FAA). If lighting is required, the applicant shall provide a copy of the FAA determination to establish the required markings and/or lights for the small wind energy system.
7. Approved wind generators – The manufacturer and model of the wind generator to be used in the proposed small wind energy system must have been approved by the California Energy Commission or the New York State Energy Research and Development Authority, or a similar list approved by the State of New Hampshire, if available.
8. Utility Connection – If the proposed small wind energy system is to be connected to the power grid through net metering, it shall adhere to NH RSA 362-A: 9.
9. Access – The tower shall be designed and installed so as not to provide step bolts or a ladder readily accessible to the public for a minimum height of eight (8’) feet above the ground. All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.

10. Clearing – Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the small wind energy system and as otherwise prescribed by applicable laws, regulations and Ordinances.

B. In addition to the above listed items the Building Inspector will also evaluate a Building Permit application for the following items:

1. Code Compliance – The small wind energy system shall comply with all applicable sections of the New Hampshire State Building Code and any other applicable State and Federal regulations.
2. Aviation – The small wind energy system shall be built to comply with all applicable Federal Aviation Administration regulations including, but not limited to, 14 C.F.R. part 77, subpart B regarding installations close to airports and the New Hampshire Aviation regulations including, but not limited to, NH RSA 422-b and NH RSA 424.

#### **7.10.8 MAINTENANCE AND MONITORING**

A. Maintenance - The owner of the system shall maintain the small wind energy system in good condition.

B. Monitoring - As part of the issuance of the building permit, the property owner shall agree that the Town of Milford may enter the subject property to obtain noise measurements, if required, at the expense of the owner. The Town shall provide reasonable written notice to the owner and provide them the opportunity to accompany the Town representatives when the measurements are conducted.

#### **7.10.9 ABANDONMENT OR DISCONTINUATION OF USE**

A. At such time that a small wind energy system is scheduled to be abandoned or discontinued, the applicant will notify the building inspector by certified U.S. mail of the proposed date of abandonment or discontinuation of operations.

B. Upon abandonment or discontinuation of use, the owner shall physically remove the small wind energy system within ninety (90) days of receipt of the notice of abandonment or discontinuation of use. This period may be extended at the request of the owner and at the discretion of the building inspector. “Physically remove” shall include, but not be limited to:

1. Removal of the wind generator and tower and related above-grade structures.
2. Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.
3. Restoration of the location of the small wind energy system to its natural condition, except that any landscaping, grading or below grade foundation may remain in its same condition at initiation of abandonment.

C. In the event that an applicant fails to give such notice, the small wind energy system shall be considered abandoned or discontinued if the system is out of service for a continuous twelve (12) month period. After the twelve (12) months of inoperability, the building inspector may issue a Notice of Abandonment to the owner of the small wind energy system. The owner shall have the right to

respond to the Notice of Abandonment within thirty (30) days from the Notice receipt date. After review of the information provided by the owner, the building inspector shall determine if the small wind energy system has been abandoned. If it is determined that the small wind energy system has not been abandoned the building inspector shall withdraw the Notice of Abandonment and notify the owner of the withdrawal.

- D. If the owner fails to respond to the Notice of Abandonment or if, after the review by the building inspector, it is determined that the small wind energy system has been abandoned or discontinued, the owner of the small wind energy system shall remove the wind generator and tower at the owner's sole expense within ninety (90) days of receipt of the Notice of Abandonment. If the owner fails to physically remove the small wind energy system after the Notice of Abandonment procedure, the building inspector may pursue legal action to have the small wind energy system removed at the owner's expense.

#### **7.10.10 VIOLATION**

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

#### **7.10.11 PENALTIES**

Any person who fails to comply with any provision of this Ordinance or a building permit issued pursuant to this Ordinance shall be subject to enforcement and penalties as allowed by NH Revised Statutes Annotated Chapter 676:17.

#### **7.10.12 SEVERABILITY**

If any section, phrase, sentence or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

## 7.11.0 SOLAR COLLECTION SYSTEMS

### 7.11.1 Authority

This solar collection system ordinance is enacted in accordance with RSA 674:17(l)(j) and the purposes outlined in RSA 672:1-III-a as amended.

### 7.11.2 Purpose and Intent

The purpose of this ordinance is to accommodate solar energy collection systems and distributed generation resources in appropriate locations, while protecting the public's health, safety and welfare, and the environment. The Town intends to facilitate the State and National goals of developing clean, safe, renewable energy resources in accordance with the enumerated policies of NH RSA 374-G and 362-F that include national security and economic and environmental sustainability.

### 7.11.3 Definitions

**Agriculture Solar - Accessory:** Any ground-mounted or roof-mounted solar collection system designed to primarily reduce on-site consumption of utility power and without a limit to the rated nameplate capacity or solar land coverage provided the existing agricultural use is preserved at the time of installation.

**Agriculture Solar - Primary:** Any ground-mounted solar collection system that is partially used to reduce on-site consumption of utility power and with a rated nameplate capacity up to 1 MW AC in size or has a solar land coverage in excess of 5 acres provided the existing agricultural use is preserved at the time of installation.

**Carport Mount:** Any solar collection system of any size that is installed on the roof structure of a carport over a parking area.

**Commercial Solar:** A use of land that consists of one or more free-standing, ground-mounted solar collection systems with a rated nameplate capacity of up to 1 MW AC and that is less than 5 acres in solar land coverage.

**Community Solar:** A use of land that consists of one or more free-standing, ground-mounted solar collection systems regardless of nameplate capacity that is up to 100 kW AC and that is less than 1 acre of solar land coverage.

**Ground Mount:** A solar collection system and associated mounting hardware that is affixed to or placed upon (such as ballasted systems) the ground including but not limited to fixed, passive or active tracking racking systems.

**Industrial Solar:** A use of land that consists of one or more free-standing, ground-mounted solar collection systems regardless of nameplate capacity that is between 25 acres and 50 acres in solar land coverage.

**Large Commercial Solar:** A use of land that consists of one or more free-standing, ground-mounted solar collection systems with a rated nameplate capacity of between 1 MW and 5 MW that is between 5 and 25 acres in solar land coverage.

**Rated Nameplate Capacity:** Maximum rated alternating current ("AC") output of solar collection system based on the design output of the solar system.

**Residential Solar:** Any ground-mounted or roof-mounted solar collection system primarily for on-site residential use, and consisting of one or more free-standing, ground or roof-mounted, solar arrays or modules, or solar related equipment, intended to primarily reduce on-site consumption of utility power.

**Roof Mount:** A solar collection system that is structurally mounted to the roof of a building or other permitted structure, including limited accessory equipment associated with a system which may be ground-mounted. For purposes of calculating array sizes or solar land coverage under the solar definitions in this section, roof-mounted portions shall not be included if the system is made up of both roof and ground-mounted systems, the roof-mounted portions shall also be excluded.

**Solar Array:** A grouping of multiple solar modules with purpose of harvesting solar energy.

**Solar Cell:** The smallest basic solar electric device which generates electricity when exposed to light.

**Solar Collection System:** Includes all equipment required to harvest solar energy to generate electricity. The Solar Collection System includes storage devices, power conditioning equipment, transfer equipment, and parts related to the functioning of those items. Solar Collection Systems include only equipment up to (but not including) the stage that connection is made to the utility grid or site service point.

**Solar Glare:** The potential for solar panels to reflect sunlight, with an intensity sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

**Solar Land Coverage:** Defined exclusively for the purposes of calculating the footprint of the land area occupied by the components of a solar array. The Solar Land Coverage is the land area that encompasses all components of the solar collection system including, but not limited to mounting equipment, panels and ancillary components of the system. This definition does not include access roads or fencing and is not to be interpreted as a measurement of impervious surface as it may be defined in this ordinance.

**Solar Module:** A grouping of solar cells with the purpose of harvesting solar energy.

**Solar Power Generation Station:** Any solar collection system that is over 30 MW in nameplate capacity. In no case shall a Solar Power Generation Station exceed 150 acres.

**Utility Solar:** A use of land that consists of one or more free-standing, ground-mounted solar collection systems regardless of nameplate capacity that is over 50 acres in solar land coverage and less than 30 MW in rated nameplate capacity.

#### 7.11.4 District Regulations

A. Table of Uses:

<b>Zoning District</b>					
	<b>Residential R</b>	<b>Residential A, B</b>	<b>Commercial / Limited Commercial</b>	<b>ICI</b>	<b>ICI2 / Industrial</b>
<b>Residential Solar</b>	P, CUP	P, CUP	P	P	P
<b>Community Solar</b>	P	X	P	P	P
<b>Accessory Agricultural Solar</b>	P	X	P	P	P
<b>Primary Agricultural Solar</b>	CUP	X	P	P	P
<b>Commercial Solar</b>	CUP	X	X	CUP	CUP
<b>Large Commercial Solar</b>	CUP	X	X	CUP	CUP
<b>Industrial Solar</b>	X	X	X	CUP	CUP
<b>Utility Solar</b>	X	X	X	X	CUP
<b>Solar Power Generation Station</b>	X	X	X	X	CUP

- P = Use permitted by right with building and electrical permit.
- CUP = Use permitted by Conditional Use Permit.
- X = Use prohibited.

B. Specific Solar Collection System Requirements and Exemptions:

1. Ground mounted Residential Solar Collection Systems over seven-hundred fifty (750) cumulative square feet within the Residential 'R', 'A', and 'B' Zoning Districts will require a Conditional Use Permit.
2. A ground-mounted Accessory Residential Solar system over 15 feet in height at any point or larger than seven-hundred fifty (750) square feet shall be located in the rear yard between the primary structure and the rear lot line. All other ground-mounted solar collection systems located in the front yard shall be reasonably screened from abutting residential properties.
3. Non-residential Carport Mounted solar collection systems over parking areas are permitted in all



zones without a Conditional Use Permit. A site plan review shall be required in accordance with the Town Development Regulations.

4. Roof-mounted solar collection systems of any size are permitted in all zones without a Conditional Use Permit except within the Oval District Overlay.
5. Municipal Systems: All solar collection systems for municipal use are exempt from land use regulations pursuant to NH RSA 674:54.

C. Additional Provisions Regarding Solar Collection Systems:

1. Building Height: Roof-mounted solar collection systems shall be exempt from building height limitations.
2. Solar Land Coverage: Ground-mounted solar collection systems shall not exceed 70% of the total lot area. The ground-mounted solar collection system shall not be considered impervious surface. Impervious surface limitations as related to stormwater management for solar collection systems shall be addressed in accordance with this Ordinance and the Milford Stormwater Management And Erosion Control Regulations.

#### 7.11.5 Solar Collection Systems Conditional Use Permits

A. Permit Required: No solar collection system, except as authorized by Section 7.11.4 shall be erected, constructed, installed or modified without first receiving a Conditional Use Permit (CUP) from the Planning Board pursuant to Section 7.14.0. The CUP shall clearly set forth all conditions of approval and shall list all plans, drawings and other submittals that are part of the approved use.

B. Application and Review Procedure:

1. An Application for a Conditional Use shall be initiated by filing with the Planning Board for an application for a Conditional Use Permit.
2. The applicant shall follow the requirements for specific uses as laid out in this Ordinance. The applicant shall submit an application in general accordance with the Minor Site Plan development regulations and shall include the following:
  - a. System Layout.
    - i. A detailed sketch or plan showing the installation area of the site and narrative demonstrating compliance with the requirements of the Zoning Ordinance.
    - ii. A detailed sketch of any land clearing or grading required for the installation and operation of the system.
    - iii. The location of all equipment to be installed on site including utility connection point(s) and equipment. To the maximum extent practical all wiring associated with the utility connection shall be underground.
    - iv. All equipment locations, except for utility connections, shall comply with the required setbacks.
    - v. An elevation drawing or picture of the system from the manufacturer of the proposed solar collection system.

b. Equipment Specification.

- i. All proposed equipment or specifications must be included with the application.
  - ii. Such information can be supplied via manufacturer's specifications or through detailed description.
3. Applicable Site Plan Review Regulations. The specific requirements for a Conditional Use Permit shall pre-empt any similar requirement in the Development Regulations.

C. Standards of Review:

Following a fully noticed public hearing on the proposed use, the Planning Board may issue a Conditional Use Permit, if it finds, based on the information and testimony submitted with respect to the application, that:

1. The use is specifically authorized by Section 7.11.4 as a conditional use.
2. The development in its proposed location will comply with Section 7.14.0 and with all applicable requirements of the Development Regulations not otherwise covered in this section.
3. The use will not materially endanger the public health or safety;
4. Required screening and visual mitigation shall be maintained during the operative lifetime of the Solar Collection System Conditional Use Permit.
5. In granting a conditional use permit pursuant to this section, the Planning Board may impose any reasonable conditions or restrictions deemed necessary to carry out the intended purpose of this ordinance.

**7.11.6 Standards**

A. The Planning Board shall evaluate the application for compliance with the following standards:

1. Setbacks.

Solar collection systems shall be considered structures and shall comply with dimensional setback requirements from lot lines for the entire system – including the panels. Tracking systems shall have the setback measured from the point and time where the array is closest to the lot line. No portion of a system may cross into the setback.

2. Natural Resource Impacts and Buffers.

a. Solar collection systems shall be visually screened through the preservation of existing vegetation or through a landscaped buffer in accordance with the following:

- i. Plan: The buffering plan shall indicate the location, height and spacing of existing vegetation to be preserved and areas where new planting will be required.
- ii. All solar collection systems shall have a reasonable visual buffer as required in the Development Regulations from public ways and neighboring commercial/residential uses based on the viewsheds, contours of the land, and abutting land uses.
- iii. Areas that are within the view shed of significant value as identified in the Master Plan

- shall include additional reasonable mechanisms to mitigate a continuous and uninterrupted view of the system.
- b. Fencing shall be installed, if required, by the electric code or the utility. Additional security or fencing may be required if the location of the system presents a safety concern for abutting land uses.
  - c. Primary Agriculture Solar should minimize impacts to farmland activities and Prime Farmland Soils (as defined and delineated by soil survey and definition of NH NRCS). Dual use arrangements (solar and farming activities are encouraged where practical).
  - d. Land Clearing.
    - i. Land clearing shall be limited to what is necessary for the installation and operation of the system and to insure sufficient all-season access to the solar resource given the topography of the land.
    - ii. Following construction, cleared land areas must be restored with native species that are consistent with the use of the site as a solar collection system (such as slow growth or low ground cover).
    - iii. Erosion control measures during construction shall be detailed as required by the Milford Development Regulations and the Town's Stormwater Management and Erosion Control Ordinance.
  - e. Additional Requirements for Industrial, Utility, and Solar Power Generation Station (I/U/SPGS) Solar:
    - i. A detailed pre-construction and post-construction plan identifying existing vegetation and areas to be cleared with specific identification of locations of buffer areas adjacent to neighboring uses and public ways.
    - ii. The Planning Board, with input from the Conservation Commission, may require the applicant to submit an 'Environmental Study' in accordance with the Milford Development Regulations, Section 5.011 Environmental Study. Efforts and practices that can provide for a dual use of the site should be explored if feasible and encouraged where appropriate.
    - iii. The applicant shall demonstrate effective stormwater infiltration along with erosion control measures and soil stabilization.

### 3. Buffer Plan.

As deemed appropriate, all applications shall submit a detailed buffering plan demonstrating how the proposed ground-mounted solar installation will be incorporated into the local landscape so that effective screening is provided along public ways and from abutting views. The use of existing or created topography is encouraged to reduce visual impacts.

### 4. Stormwater.

#### a. Stormwater and Erosion Control Permits

- i. Ground-mounted systems that are required to obtain a New Hampshire Department of Environmental Services (NH DES) Alteration of Terrain (AoT) Permit in accordance with NH RSA 485:17 shall secure such permit accordingly.

- ii. A Municipal Stormwater Permit and Stormwater Management and Erosion Control Plan (SWMP) shall be provided when required by and in conformance with the requirements of the Town of Milford's Stormwater Management and Erosion Control Regulation.
    - iii. The final Permits issued by NH DES and Town shall be incorporated by reference into the final Town approval and shall be enforceable by the Town in accordance with this zoning ordinance.
  - b. The stormwater management plan shall include the following.
    - i. The stormwater study shall take into account the nature of the solar panel installation and how the spacing, slope and row separate can enhance infiltration of stormwater. Percolation tests or site specific soil information may be provided to demonstrate recharge can be achieved without engineered solutions.
    - ii. Additional information, if required, shall calculate potential for concentrated flows of runoff due to the panels, slope, soil type and the impacts of other regulated impervious areas (such as equipment pads and roadways).
  - c. Required for all systems:
    - i. All ground-mounted systems shall be constructed in accordance with Best Management Practices for erosion and sedimentation control during the pre-construction, construction and post- construction restoration period.
    - ii. Post construction: For purposes of enhancing natural stormwater management, site conditions and plantings post-construction shall insure that areas of soil compaction have been restored to natural conditions. Plantings shall be native species and are recommended to beneficial habitat to song birds, pollinators and/or foraging species in order to maintain a healthy surface and subsurface habitat that can attenuate stormwater on the site.
- 5. Emergency Response.
  - a. Access to the site for emergency response shall be provided and detailed on the plan.
  - b. A narrative or manual for municipal Fire Department detailing response guidance and disconnection locations necessary for fire response.
  - c. Additional industry guidance documents that provide information about safety procedures for specific equipment on site shall be provided as needed to insure adequate public safety.
  - d. Contact information for the solar collection system owner/operator shall be posted on site at the access way and provided and updated to the municipality.
- 6. Glare.
  - a. A statement detailing potential significant glare onto abutting structures and roadways estimating the interaction of sun to panel angle, time of year and visibility locations.
  - b. Based on the above information, the Planning Board may require reasonable mitigation. Mitigation may include angle of panels, details on the anti-reflective nature of the panel coating or any additional specific screening to minimize resulting impacts.

- c. Mitigation through anti-reflective coatings shall have an index of refraction equal to or less than 1.30.

7. Noise.

- a. Estimates of any equipment noise on the site based on equipment specification materials (such as inverters).
- b. Noise levels at the property line shall be in accordance with the Town noise ordinance or at reasonable levels given the location of the facility with due consideration to the surrounding land uses and zone.

8. Lighting.

- a. On site lighting shall be minimal and limited to access and safety requirements only.
- b. All lighting shall be downcast and shielded from abutting properties.

B. General Requirements.

- 1. All Solar Collection Systems shall conform to applicable state and federal laws and regulations and local ordinances, including the State Building Code, the State Electrical Code and the State Fire Code.
- 2. All systems not connected to the grid shall be approved by the electrical inspector or Building Inspector, as required.
- 3. Transmission Lines Underground: All power transmission lines from a Ground-mounted Solar Energy System to any building or other structure shall be located underground and/or in accordance with the State Building Code or Electrical Code, as appropriate.
- 4. Grid-tied systems shall file a copy of a final approved interconnection with the municipality prior to operation of the system.
- 5. All roof-mounted and ground-mounted Solar Collection System require permits.
  - a. Electrical permits are required.
  - b. Plumbing permits may be required.
  - c. Building permits may be required.
  - d. Engineer stamped letter certifying that the roof can accommodate the load may be required.

**7.11.7 Abatement and Decommissioning/Removal**

Solar Collection Systems shall be deemed to be abandoned if operations have discontinued for more than 6 months without written consent of the Town (such as for reasons beyond the control of the owner/operator). An abandoned system shall be removed and the site restored within 6 months of abandonment.

**7.11.8 Violation**

It is unlawful for any person to construct, install or operate a Solar Collection System that is not in compliance with this Ordinance. Solar Collection Systems installed prior to adoption of this Ordinance are exempt from this Ordinance except or until such time as modifications are proposed to the Solar Collection System. If the owner fails to remove the abandoned Solar Collection System within the 6 months, the Town may pursue a legal action to have the system removed at the owner's expense.

#### **7.11.9 Penalties**

Any person who fails to comply with any provision of this Ordinance or a building permit issued pursuant to this Ordinance shall be subject to enforcement and penalties as allowed by NH Revised Statutes Annotated Chapter 676:17.

#### **7.11.10 Severability**

If any section, phrase, sentence or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

## **7.12.0 HOME BASED BUSINESS (2019)**

### **7.12.1 General Provisions**

There are four (4) categories of Home Based Businesses: Home Offices, Home Occupations, Home Businesses, and Home Industries. All categories are subject to the requirements listed below, in addition to the specific criteria contained herein for each individual category of use.

### **7.12.2 Administration of Permits**

- A. Each level of Home Based Business is permitted based on the criteria of the process stipulated in each section.
- B. Any approvals issued hereunder shall automatically terminate when the applicant moves the business, closes the business or no longer resides in the dwelling unit.
- C. Prior to commencement of a Home Based Business, the resident shall make application for a permit to the Community Development Office. The following criteria shall apply:
  - 1. A Certificate of Compliance shall be issued based on the level of approval required for the Home Based Business (administrative approval, Special Exception, Conditional Use Permit);
  - 2. Prior to the issuance of the Certificate of Compliance, the Code Officer will inspect the site to insure that any conditions required for operation of the Home Based Business have been met;
  - 3. The resident business owner shall submit to a Code Compliance Inspection once every three years. In the event that a Home Based Business is found to no longer be in compliance with the original approval, the resident business owner shall either seek additional approvals for the level of Home Based Business in operation relocate the business/operations to a suitable location in the appropriate district for that use.

### **7.12.3 Standard Applicable To All Home Based Businesses**

- A. The Home Based Business must be clearly incidental and secondary to the primary use of the premises as a residence.
- B. The Home Based Business must not change the character of the premises or surrounding neighborhood. There shall be no window displays or other features not normally associated with residential use.
- C. Parking that is necessary for all employed residents, employees, and customers must be accommodated off-street, and new parking areas must be screened from the view of abutters and from public ways (streets or pedestrian ways) utilizing plantings, fencing, and/or topography. When possible, parking areas shall be located at the side or rear of the residence or accessory buildings.
- D. Proof of compliance with all applicable federal, state, and/or local environmental controls is required, as well as any other applicable local zoning regulations.
- E. When the business use will necessitate the construction of new buildings, building additions, or

parking areas, the applicant shall seek a Conditional Use Permit from the Planning Board in conformance with Article 7.11.0 of the Milford Zoning Ordinance.

#### 7.12.4 Home Office

A business that is operated solely by the resident(s) business owner(s) with no additional employees. All business operations shall be conducted by mail or electronic communication and involve no traffic to or from the property by customers, clients or deliveries, and no signage. Home offices are permitted in all districts and no permit or registration is required.

#### 7.12.5 Home Occupation

An accessory business type use located and conducted so that the average neighbor, under normal circumstances, would not be aware of its existence. Types of occupations that would qualify for a Home Occupation Permit might include but are not limited to – tradespeople, artists, tutors, tailors, accountants, lawyers, engineers, realtors, healing practitioners, architects, IT professionals, not-for-profit organizations, bakers, and candy makers. Agriculture and Farming related activities, as defined in NH RSA 21:34-a as amended, are not considered a Home Occupation. Home Occupations are permitted in Residential A, B, R, ICI and IND districts.

##### A. Administrative Review and Approval.

The following criteria must be met for a Home Occupation Permit to be issued by the Community Development Office. A Home Occupation permit must be renewed every 3 years:

1. Location - The Home Occupation shall be conducted entirely within the dwelling or accessory structure.
2. Signs - A sign of not more than four (4) square feet is allowed and shall not advertise in such a way that would encourage customers or salespersons to come to the property without an appointment.
3. Employees - Only residents as employees, personnel or volunteers may be affiliated with the Home Occupation.
4. Area - There shall be not more than five hundred (500) square feet dedicated to the Home Occupation on any property.
5. Vehicles - Only one (1) branded vehicle to be used by the owner of the Home Occupation shall be kept onsite.
6. Traffic - There shall be not more than five (5) clients or deliveries per day.

#### 7.12.6 Home Business

A Home Based Business involving the creation, provision, or sale of services and/or goods to and from the property. Businesses that qualify for a HOME BUSINESS include but are not limited to – tradespeople, artists, tutors, tailors, accountants, lawyers, engineers, realtors, healing practitioners, architects, IT professionals, not-for-profit organizations, bakers, and candy makers, single chair beauty/barber shops, small repair shops, groomers, ~~family day care homes~~ as defined herein. Home



Businesses are permitted in Residential A, B and R districts under the following criteria:

- A. **Special Exception Approval:** The following criteria must be met for a Special Exception for a Home Business to be issued by the Zoning Board of Adjustment.
1. Location - The Home Business shall be conducted entirely within the dwelling or accessory structure.
  2. Signs - a sign of not more than six (6) square feet is allowed and shall not advertise in such a way that would encourage customers or salespersons to come to the property without an appointment.
  3. Employees - There shall be no more than two (2) non-resident employees of the Home Business.
  4. Area - The Home Business shall not be more than 25% of the combined floor area of all structures on the property.
  5. Sales - Retail sales of goods incidental to Home Business are allowed.
  6. Traffic - There shall be not more than sixteen (16) clients or deliveries per day.
  7. Vehicles - There shall be no parking of or deliveries by vehicles with more than two (2) axles. Only one (1) commercial vehicle may be parked on the property in conjunction with the Home Business.
  8. Hours of Operation- A Home Business shall not be conducted in a way that is perceptible in external effects (such as but not limited to noise, odors, traffic) from beyond the lot line between the hours of 9:00 p.m. and 7:30 a.m. This time limit shall also apply to any loading or unloading of vehicles on the property or on a street that causes noise to adjoining residents.
  9. Hazardous Substances - The use shall not involve the storage or use of hazardous, flammable or explosive substances, other than types and amounts commonly found in a dwelling. The use shall not involve the use or storage of toxic substances.

#### 7.12.7 Home Industry

A Home Based Business that has a manufacturing component and/or may involve the storage of equipment and materials outside. Businesses that qualify for a Home Industry include but are not limited to – brewers, landscapers, contractors where storage or manufacturing is included and other building trade professionals. Home Industries are permitted in Residential-R districts once a Conditional Use Permit has been issued by the Planning Board under the following criteria:

- A. **Conditional Use Permit:** In addition to the standards and conditions stated in Section 7.14.0 of the Milford Zoning Ordinance, the following criteria must be met for a Conditional Use Permit to be issued by the Planning Board.
1. No more than six (6) people, including the resident(s), may be employed on the premises.

2. The Home Industry may be conducted in part outdoors, but all such activities, equipment, and storage shall be permanently screened from the view of abutters and from public ways by buffers such as year round vegetation, fences, and/or topography.
3. No more than one quarter (25%) of the lot area, exclusive of areas covered by buildings, shall be used for the Home Industry, including outdoor storage or parking.
4. The Planning Board must determine that access to the premises by all vehicles that are anticipated to commonly serve the use will do so without adversely affecting safety in the vicinity, whether those vehicles are based on the premises or elsewhere.
5. Commercial vehicles may be permitted provided that the vehicles do not adversely affect the character of the neighborhood, as determined by the Planning Board.
6. Hours of Operation- A Home Industry shall be conducted in a way to minimize the external effects (such as but not limited to noise, odors, traffic) on abutting properties. The hours of operation shall be determined through the site plan review process.
7. Hazardous Substances - The use shall not involve the storage or use of hazardous, flammable or explosive substances, other than types and amounts commonly found in a dwelling. The use shall not involve the use or storage of toxic substances.

#### 7.12.8 Home Based Business Table of Uses

HOME BASED BUSINESS Type	Zones	Permit	Employees	Signs	Area	Sales	Traffic	Vehicles	Hours
Home Office	All	No	No	No	N/A	No	No	No	N/A
Home Occupation	Res A, B, R, ICI, IND	Admin Review	Resident	4 sq. ft.	500 sq ft Inside only	Incidental only	5 clients/ deliveries per day	1 branded	N/A
Home Business	Res A, B, R	Special Exception	2 non-resident	6 sq ft	25% GFA, inside only	Incidental only	16 clients/ deliveries	1 commercial	7:30am to 9PM
Home Industry	Res R	Conditional Use	6 total employed on premise or per approval	Inside and out	25% of lot minus buildings	no	Per approval	Per approval	Per approval

## **7.13.0 SELF-STORAGE FACILITIES (2019)**

### **7.13.1 PURPOSE**

Self-Storage Facilities have characteristics in common with both commercial uses and industrial uses. This subsection provides regulations to appropriately site Self-Storage Facilities in Milford while maintaining the desired character of the community compatible with higher quality commercial development and existing neighborhoods.

### **7.13.2 District Regulations**

Self-Service Storage Facilities are permitted in the Integrated Commercial-Industrial, Integrated Commercial-Industrial 2 and Industrial Zoning Districts by the granting of a conditional use permit by the Planning Board.

### **7.13.3 CONDITIONAL USE PERMIT**

In addition to the standards and conditions stated in Section 7.14.0 of the Milford Zoning Ordinance, the following criteria must be met for a Conditional Use Permit to be issued by the Planning Board.

- A. Granting of the application would meet some public need or convenience.
- B. The property in question is reasonably suited for the use requested.
- C. There must be appropriate provision for access facilities adequate for the estimated traffic from public streets and sidewalks, so as to assure public safety and to avoid traffic congestion.
- D. The building design and layout is compatible with the surrounding properties.
- E. Landscaping and screening shall provide adequate visual mitigation to abutting properties.

### **7.13.4 STANDARDS**

- A. The Planning Board shall evaluate the application for compliance with the following standards:
  - 1. The use of the premises shall be limited to storage only, and shall not be used to manufacture, fabricate, or process goods; service or repair vehicles or boats, trailers, small engines or electrical equipment, or to conduct similar repair activities
  - 2. No auctions, garage sales or retail sales of any kind, with the exception of the property owner liquidating abandoned contents of a storage unit, shall be allowed on site.
  - 3. No commercial or industrial activity other than that which pertains to the operation and maintenance of the facility shall be allowed on the site.
  - 4. An individual self-service storage unit or private postal boxes within a self-service storage facility shall not be considered premises for the purpose of assigning a legal or business address.
  - 5. Electrical service to storage units shall be for lighting and climate control only. No electrical outlets are permitted inside individual storage units. Lighting fixtures and switches shall be of a secure design that will not allow tapping the fixtures for other purposes;

6. Exterior light fixtures shall comply with Section 6.06 of the Milford Development Regulations.
7. If the facility abuts residentially zoned property, the facility loading bays, docks or doors shall have appropriate permanent visual mitigation to as to not be visible from the residential property or from public rights-of-way;
8. In order to promote visual compatibility with commercial development allowed in commercial and industrial zones, Self-Storage Facility buildings shall incorporate appropriate landscaping/screening and architectural design features, such as: massing; proportion; facade modulation; exterior building materials and detailing; varied roofline; pedestrian scale; etc.
9. All outdoor storage of merchandise or commodities (including motor vehicles) shall be screened from any lot which is in a residence district by a strip at least four (4) feet wide, densely planted with shrubs or trees which are of a type that may be expected to form a year-round dense screen at least six (6) feet high within three (3) years, or by an opaque wall, barrier or uniform fence at least six (6) feet high above finished grade. Such screening shall be maintained in good condition at all times. Such screening or barrier may be interrupted by normal entrances or exits, and shall have no signs hung or attached thereto other than those permitted in the district. As a part of the Site Plan approval, the Planning Board may require additional screening beyond that set forth in Section 6.08 of the Milford Development Regulations if it determines that additional Screening is necessary or appropriate.
10. Self-storage facilities shall utilize building materials and architectural features which fit into the context of the surrounding properties.
11. Except as provided herein, all property stored on the premises shall be entirely within an enclosed building. Open storage of recreation vehicles, boats and storage pods is permitted, subject to the following:
  - a. Storage shall occur only in a designated area which is clearly delineated for open storage.
  - b. Such areas shall not exceed 10 percent of the lot or parcel area.
  - c. Such areas shall be screened from view from property zoned for detached single family residential use and public property, including the public right-of-way.
  - d. Storage shall not occur in required parking spaces, drives, parking lanes nor within required building setback areas.
  - e. No vehicle maintenance, washing or repair shall be permitted.
12. Vehicle and trailer rental may be permitted on the premises as an accessory use by the Self-Storage Facility owner, subject to review and approval as part of Site Plan Approval. Rental vehicles shall not be parked in required parking spaces, drives or parking lanes.

## **7.14.0 CONDITIONAL USE PERMITS**

### **7.14.1 GENERAL**

Conditional Use Permits as herein provided for shall be deemed to be permitted uses in their respective zones, subject to the satisfaction of the requirements and standards set forth herein, in addition to all other requirements and standards of this Ordinance. All such cases are hereby declared to possess characteristics of such unique and special form that each specific use shall be considered as an individual case. The applicant shall bear the burden of persuasion, through the introduction of sufficient evidence through testimony or otherwise, that the development, if completed as proposed, will comply with this Article and will satisfy the specific requirements for the use contained in the Ordinance.

### **7.14.2 PLANNING BOARD TO ADMINISTER**

Wherever a conditional use permit is authorized by this Ordinance, the authority to administer or grant conditional use permits shall be vested in the Planning Board.

### **7.14.3 STANDARDS APPLICABLE TO ALL CONDITIONAL USE PERMITS**

#### **A. Conditions for Conditional Use Permits**

Before the Planning Board considers the approval of an application for a Conditional Use Permit, the applicant shall prove to the satisfaction of the Planning Board that all the following conditions have been met:

1. That the property in question is in conformance with the dimensional requirements of the zone or is determined to be legally non-conforming and that the proposed use is consistent with the Milford Master Plan.
2. That the proposal meets the purposes of the Ordinance under which the application is proposed.
3. That there will be no significant adverse impacts resulting from the proposed use upon the public health, safety and general welfare of the neighborhood and the Town of Milford.
4. That the proposed use will not be more objectionable to nearby properties by reason of noise, fumes, vibration, or inappropriate lighting than any use of the property permitted under the existing Zoning District Ordinances.
5. That the proposed use will not adversely affect the ground water resource of Milford, in particular the Groundwater Protection District areas as defined in Section 6.01.0 of this Ordinance.

#### **B. The applicant shall follow the requirements for specific uses as laid out in this Ordinance and submit an application in accordance with the Minor Site Plan regulations.**

#### **C. Conditions of Approval**

1. The Planning Board may attach such conditions to its approval as are reasonable, necessary and appropriate.
2. All Conditional Use Permit uses are hereby declared to have special characteristics that shall be considered on a case-by-case basis.

#### **D. Limits on a Conditional Use Permit**

1. Substantial construction must commence within one (1) year of the Planning Board approval of the Conditional Use Permit.
2. If construction is not commenced within this period, prior to expiration, the applicant may apply at a regular Planning Board meeting for one, six-month extension to allow time to commence construction. The approval of this extension shall be at the Board's discretion.

#### **7.14.4 BUILDING PERMITS FOR CONDITIONAL USE PERMITS**

A building permit for a Conditional Use Permit shall not be issued by the Board of Selectmen or their duly appointed representative, the Administrative official, until so directed by the Planning Board who shall first be satisfied that all the standards and conditions of this section and the Ordinance have been met.

#### **7.14.5 WAIVERS**

The Planning Board may grant a waiver from a specific section of the Conditional Use Permit in a special case when:

- A. The strict application would result in peculiar and exceptional practical difficulties or exceptional and undue hardship upon the owner of the affected property; or
- B. An alternative design approach which meets the purpose of the Ordinance equally well or better than compliance with the existing standards and conditions.

In either of the forgoing circumstances, the waiver may be granted so that justice may be done and the public interest secured, provided that such waiver will not have the effect of nullifying the intent and purposes of this section, the Zoning Ordinance, Development Regulations or the Master Plan.

The Planning Board shall approve or disapprove waivers based upon the evidence presented to it in each specific case.

## 7.15.0 MOBILE FOOD VENDORS

### 7.15.1 Purpose

This subsection provides regulations to appropriately site Mobile Food Vendors in Milford while maintaining the desired character of the community. This is differentiated from a mobile canteen truck that operates on a daily route.

### 7.15.2 District Regulations

Mobile Food Vendors are permitted in the Commercial, Integrated-Commercial-Industrial, Integrated-Commercial-Industrial 2, and Industrial Zoning Districts by the granting of an administrative approval or site plan approval by the Planning Board.

### 7.15.3 Definition

**Mobile Food Vendor** shall mean any vending unit, truck, trailer, temporary establishment or pushcart that is not permanently placed and or parked vehicle in which food is cooked and/or prepared to order and is served to walk-up customers.

### 7.15.4 Standard Applicable to All Mobile Food Vendors

- A. All mobile food vendors are required to operate out of a licensed and inspected commissary;
- B. Proof of compliance with all applicable federal, state, and/or local health and safety codes is required, as well as any other applicable local zoning regulations.
- C. The request to locate a mobile food vendor shall be made in writing and signed by the property owner.

### 7.15.5 Administrative Review and Approval

The following criteria must be met for a Mobile Food Vendor approval to be issued by the Office of Community Development.

- A. The Applicant shall make the request in writing (signed by the property owner) and submit two (2) copies of the most recent site plan or as-built plan marked up showing the proposed amendments, notes required by the Office of Community Development, and all other appropriate information for an informed decision, including a narrative of the operation.
- B. The proposal shall not increase the amount of stormwater run-off accommodated by the most recent site plan approval, unless deemed insignificant by the Town's Engineering consultant;
- C. Outdoor seating for the Mobile Food Vendor may occupy existing parking spaces or green areas, however the number of spaces remaining must comply with either these regulations or the most recently approved site plan for the primary use;
- D. The Mobile Food Vendor shall not negatively impact traffic circulation within the property or on public ways;

- E. If the business is seasonal, the vending unit will be removed from the property during the off season.
- F. A single sign of not more than four (4) square feet is allowed;
- G. No temporary utilities (e.g. water, electricity) connections will be permitted;
- H. Mobile Food Vendor Administrative Approval must be renewed annually.
- I. Parking:
  - 1. The Mobile Food Vendor may occupy existing parking spaces, however the number of spaces remaining must comply with either these regulations or the most recently approved site plan;
  - 2. Mobile food vendors and/or their seating may not occupy any required parking space for the primary use, as defined on the approved site plan, during primary use normal business hours. Mobile food vendors and the primary use may share parking spaces when having separate hours of operation. Parking spaces that are overflow or extra according to the regulations in the Zoning Ordinance may be used to park a mobile food vendor;
  - 3. Mobile food vendors may not park in handicapped accessible parking spaces, nor can they park in access or drive aisles.
  - 4. The approved location for the parking mobile food vendors, as shown on the approval, must be physically marked. The mobile food vendor parking space can be marked with tape or any other easily identifiable material.
  - 5. Vending from public parking spaces is not allowed.

#### **7.15.6 Additional Information**

- A. Site plan approval by the Planning Board is required if the criteria in Section 7.15.5 are not met and/or the proposal is on vacant land.
- B. Vendors who wish to operate from public property must receive approval from the Board of Selectmen or designee.



## ARTICLE VIII: ADMINISTRATION

### 8.01.0 ENFORCEMENT (2012)

This Ordinance shall be enforced by the Board of Selectmen, and the Board of Selectmen is hereby given power and authority to enforce the provisions of this Ordinance. The Board of Selectmen is further empowered to confer upon an administrative official appointed by the Board of Selectmen the duty of administering the provisions of this Ordinance in accordance with RSA 676:17 (as amended) or as otherwise authorized by RSA. A copy of RSA 676:17 is included in appendix.

### 8.02.0 BUILDING PERMITS

**8.02.1** No building or dwelling shall be constructed nor shall any structural alteration or enlargement of any existing building or dwelling or the placement of a mobile home for use as a dwelling be commenced until a permit shall have been obtained from the Board of Selectmen or their duly authorized representative.

**8.02.2** The Board of Selectmen or their authorized representative may require of any applicant for a permit such sketches, drawings, plot plans, or other material as may be deemed necessary by the Board in connection with the issuance of the permit.

**8.02.3** If an applicant for a permit requests a permit to undertake an activity on a lot not conforming in size and frontage as otherwise required by this Ordinance, such applicant shall file as part of his application the date of the recording and register of deeds volume and page number of the lot involved.

**8.02.4** The State of New Hampshire Building Code pursuant to NH RSA 155-A more appropriately titled *The International Codes*, including adopted Appendix Chapters and amendments, shall govern and regulate the construction, alteration, movement, enlargement, replacement, repair, equipment, location, removal and demolition of all detached one and two family dwellings, multiple single-family dwellings (townhouses), multiple family dwellings and all other commercial and industrial buildings in the Town of Milford, said Codes also provides for the issuance of permits and collection of fees. (2009)

**8.02.5** A building permit is not required for the construction of an accessory structure that is two hundred (200) sq. ft. or less and does not have electricity or plumbing. A building permit is required for the construction of an accessory structure greater than two hundred (200) sq. ft. or an accessory structure of any size that has electricity or plumbing. A building permit is also required for the addition of electricity or plumbing to any existing accessory structure. (2017)

### 8.03.0 CERTIFICATE OF OCCUPANCY

Any subdivision approved subsequent to March 11, 1986 which requires road system layout and construction, shall have provided in accordance with the Town Road Standards the base coat of surface pavement, which shall be subject to approval by the Department of Public Works and the Planning Board, prior to the issuance of any Certificate of Occupancy for any structure whose lot frontage would include any part of such proposed road system. Private ways shall be considered exempt from this requirement.

#### **8.04.0 DRIVEWAY ENTRANCE PERMIT (2008)**

A driveway entrance permit is required from the Milford Department of Public Works for any construction of any new or alteration of any existing driveway, entrance, exit or approach within the limits of the right of way of any town road. This permit shall be required for new impervious surfaces over 2,500 SF applied to any existing unpaved driveway in the Level 1 or Level 2 Groundwater Protection District (See section 6.01.2).

#### **8.05.0 2009 INTERNATIONAL PROPERTY MAINTENANCE CODE (2010)**

An Ordinance establishing the minimum regulations governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to insure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures; known as the property maintenance code.

##### **8.05.1 SECTION 1: ADOPTION OF PROPERTY MAINTENANCE CODE (2010)**

That a certain document, three (3) copies of which are on file in the office of the town clerk of the Town of Milford, being marked and designated as "the International Property Maintenance Code, 2009," as published by the International Code Council, be and is hereby adopted as the Property Maintenance Code of the Town of Milford, in the State of NH for regulating and governing the conditions and maintenance of all property, buildings, and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said Property Maintenance Code on file in the office of the Town of Milford are hereby referred to, adopted, and made a part hereof, as if fully set out in this Ordinance, with the additions, insertions, deletions and changes, if any, prescribed in Section 2 of this Ordinance.

##### **8.05.2 SECTION 2: ADDITIONS, INSERTIONS AND CHANGES (2010)**

That the 2009 International Property Maintenance Code is amended and revised in the following respects:

- Section -101.1 *Insert: Town of Milford*
- Section 103.5 *Delete section*
- Section 302.4 *Delete section*
- Section 302.7 *Delete the word "fence"*
- Section 304.14 *Insert: May 1 to October 1*
- Section 602.3 *Insert: October 1 to May 31*
- Section 602.4 *Insert: October 1 to May 31*

### **8.05.3 SECTION 3: INCONSISTENT ORDINANCES REPEALED**

That Ordinance No. 8.05.0 of The Town of Milford entitled 1993 BOCA NATIONAL PROPERTY MAINTENANCE CODE and all other Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

### **8.05.4 SECTION 4: SAVING CLAUSE**

That if any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The Town of Milford hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

### **8.05.5 SECTION 5: SAVING CLAUSE**

That nothing in this Ordinance or in the Property Maintenance Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or Ordinance hereby repealed as cited in Section {2} of this Ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Ordinance.

### **8.05.6 SECTION 6: DATE OF EFFECT**

That the Town Clerk shall certify to the adoption of this Ordinance, and cause the same to be published as required by law; and this Ordinance shall take effect and be in force from and after its approval as required by law.

Appendix I

TITLE LXIV  
PLANNING AND ZONING  
CHAPTER 676  
ADMINISTRATIVE AND ENFORCEMENT PROCEDURES  
Penalties and Remedies - Section 676:17

**676:17 Fines and Penalties; Second Offense. –**

I. Any person who violates any of the provisions of this title, or any local ordinance, code, or regulation adopted under this title, or any provision or specification of any application, plat, or plan approved by, or any requirement or condition of a permit or decision issued by, any local administrator or land use board acting under the authority of this title shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person; and shall be subject to a civil penalty of \$275 for the first offense, and \$550 for subsequent offenses, for each day that such violation is found to continue after the conviction date or after the date on which the violator receives written notice from the municipality that the violator is in violation, whichever is earlier. Each day that a violation continues shall be a separate offense.

II. In any legal action brought by a municipality to enforce, by way of injunctive relief as provided by RSA 676:15 or otherwise, any local ordinance, code or regulation adopted under this title, or to enforce any planning board, zoning board of adjustment or building code board of appeals decision made pursuant to this title, or to seek the payment of any fine levied under paragraph I, the municipality shall recover its costs and reasonable attorney's fees actually expended in pursuing the legal action if it is found to be a prevailing party in the action. For the purposes of this paragraph, recoverable costs shall include all out-of-pocket expenses actually incurred, including but not limited to, inspection fees, expert fees and investigatory expenses.

III. If any violation of a local ordinance, code or regulation, or any violation of a planning board, zoning board of adjustment or building code board of appeals decision, results in the expenditure of public funds by a municipality which are not reimbursed under paragraph II, the court in its discretion may order, as an additional civil penalty, that a violator make restitution to the municipality for such funds so expended.

IV. The superior court may, upon a petition filed by a municipality and after notice and a preliminary hearing as in the case of prejudgment attachments under RSA 511-A, require an alleged violator to post a bond with the court to secure payment of any penalty or remedy or the performance of any injunctive relief which may be ordered or both. At the hearing, the burden shall be on the municipality to show that there is a strong likelihood that it will prevail on the merits, that the penalties or remedies sought are reasonably likely to be awarded by the court in an amount consistent with the bond sought, and that the bond represents the amount of the projected expense of compliance with the injunctive relief sought.

V. The building inspector or other local official with the authority to enforce the provisions of this title or any local ordinance, code, or regulation adopted under this title may commence an action under paragraph I either in the district court pursuant to RSA 502-A:11-a, or in the superior court. The prosecuting official in the official's discretion may, prior to or at the time of arraignment, charge the offense as a violation, and in such cases the penalties to be imposed by the court shall be limited to those provided for a violation under RSA 651:2 and the civil penalty provided in subparagraph I(b) of this section. The provisions of this section shall supersede any inconsistent local penalty provision.

**Source.** 1983, 447:1. 1985, 103:25; 210:4. 1988, 19:6, 7. 1996, 226:5, 6. 1997, 92:4, 5. 2004, 242:1. 2006, 101:1, eff. Jan. 1, 2007. 2009, 173:1, eff. Sept. 11, 2009.

## **ARTICLE IX: BOARD OF ADJUSTMENT (1986)**

### **9.01.0 AUTHORIZATION**

In accordance with the provisions of the New Hampshire Revised Statutes Annotated (NH RSA), 1955, Chapter 31 (updated 1985, Chapter 674.33) as amended and as hereinafter a Board of Adjustment is established.

### **9.02.0 MEMBERS**

The Board of Adjustment shall consist of five members appointed by the Board of Selectmen in the Town of Milford. Appointments to the Board shall be for a term of three (3) years. Members of the Board shall serve without compensation. The Board shall elect one of its members to serve as chairman. The Board shall have five (5) alternate members to be appointed by the Board of Selectmen for a term of three (3) years each. (1997)

### **9.03.0 DUTIES & POWERS**

The Board of Adjustment shall perform all the duties and have all the powers provided by the New Hampshire revised statutes annotated, 1955, as amended and as hereinafter provided.

### **9.04.0 MEETINGS**

Meeting of the Board shall be held at the call of the chairman and at such other times as the Board of Adjustment may determine. All meetings shall be open to the public. The Board shall keep a record of all proceedings showing the vote upon every question. Every rule or regulation, every amendment or repeal thereof and every order, requirement or decision of the Board of Adjustment shall immediately be filed in the Office of the Zoning Administrator and shall become a public record. The concurring vote of three members of the Board of Adjustment shall be necessary to reverse any order, requirement, or determination of the administrative office or to decide any matter upon which it is required to pass or effect any variance from the strict application of the provisions of this Ordinance.

### **9.05.0 RULES**

The Board of Adjustment shall adopt and promulgate rules of procedure for the guidance of all persons having business before the Board.

## **ARTICLE X: ADMINISTRATIVE RELIEF**

### **10.01.0 VARIANCES (2012)**

#### **10.01.1**

Any request for a permit of any nature required under this Ordinance which will require a variance from the prescribed standards of this Ordinance shall be made only by the owner of the property in question, the owner's duly appointed agent and shall be transmitted to the Board of Adjustment or its duly appointed official to the Board. All variance requests made to the Zoning Board of Adjustment shall be made in accordance with RSA 676:5 (as amended), a copy of which is included in the Appendix.

#### **10.01.2**

Every variance granted by the Board of Adjustment shall be in accordance with the powers of the Board as stated in RSA 674:33 (as amended), a copy of which is included in the appendix.

### **10.02.0 SPECIAL EXCEPTIONS**

#### **10.02.1**

The Board of Adjustment may in appropriate cases and subject to appropriate conditions and safeguards as determined by the Board, grant permits for such special exceptions as allowed in the various zoning districts as set forth in Article II. The Board may refer all applications for special exceptions to the Planning Board for its review and recommendations prior to holding public hearing on the application. The Board of Adjustment, in acting on an application for a special exception shall take into consideration the following conditions: (1992)

- A. The proposed use shall be similar to those permitted in the district.
- B. The specific site is an appropriate location for the proposed use.
- C. The use as developed will not adversely affect the adjacent area.
- D. There will be no nuisance or serious hazard to vehicles or pedestrians.
- E. Adequate appropriate facilities will be provided for the proper operation of the proposed use.

#### **10.02.2**

The Board of Adjustment shall act upon an application for a special exception in the same manner as prescribed in Section 10.01.1 of this article.

#### **10.02.3 HOME OCCUPATIONS**

- A. In all cases involving home occupations, the Board of Adjustment in addition to the criteria contained herein shall consider the following requirements:

1. The person conducting the home occupation shall reside in the dwelling unit, and there shall be no more than one (1) non-resident person employed in connection with such occupation.
  2. There shall be no evidence outside the dwelling, except permitted signs and required off-street parking, that the dwelling contains a home occupation.
  3. The home occupation shall not exceed 25% of the combined gross floor area of the existing home and any accessory structures, or 1,000 SF, whichever is less. (2016)
  4. Accessory finished goods may be provided for sale in conjunction with the home occupation, sold and stored in allowed home occupation space only. (2008)
  5. The home occupation and the conduct thereof shall not impair the residential character of the premises nor impair the reasonable use, enjoyment and value of other residential property in the neighborhood.
- B. Any special exceptions issued hereunder shall automatically terminate when the applicant no longer resides in the dwelling unit.
- C. Prior to commencement of a Home Occupation, the homeowner shall make application for a permit to the Community Development Office, submit to a Code Compliance Inspection specific to the location or area of the Home Occupation. (2012)

#### **10.02.4 SELF-SERVICE STORAGE FACILITIES (1997)**

Entire Section DELETED in 2019.

#### **10.02.5 MANUFACTURING IN THE "C"- COMMERCIAL DISTRICT (2011)**

Entire Section DELETED in 2011.

#### **10.02.6 ACCESSORY DWELLING UNITS (2017)**

- A. In all cases involving an Accessory Dwelling Unit (ADU):
1. An ADU shall meet the following minimum requirements:
    - a. Only one (1) ADU shall be allowed per property. (2013)
    - b. Either the principal dwelling unit or the ADU must be owner occupied. (2017)
    - c. The size of an ADU shall be no more than 750 SF gross floor area. (2017)
    - d. The ADU shall include no more than two (2) bedrooms. (2017)
    - e. No additional curb cuts shall be allowed.
    - f. An attached ADU shall have and maintain at least one common interior access between the principal dwelling unit and the ADU consisting of a connector that is a minimum of 36" in width or a doorway a minimum of 32" in width. (2017)
    - g. The ADU shall be located in an existing or proposed single-family dwelling, its detached accessory structure(s), or as a stand-alone dwelling unit subordinate to the single-family dwelling. (2017)

- h. Deleted (2013)
  - i. An existing, nonconforming, single-family residential structure or its detached accessory structure shall not be made more nonconforming. (2013)
  - j. An ADU shall meet all applicable local and State Building, Fire and Health Safety Codes. (2012)
  - k. Must have adequate provisions for a water supply and sewerage disposal method for the ADU, in accordance with NH RSA 485-a:38 Approval to Increase Load on a Sewage Disposal System (as amended). (2017)
2. The Board of Adjustment, prior to granting a Special Exception, shall conduct a hearing to determine if the proposed ADU complies with the following criteria:
- a. The ADU must be developed in a manner which does not alter the character or appearance of the principal use as a single-family dwelling. (2017)
  - b. The ADU is intended to be secondary and accessory to a principal single-family dwelling unit.
  - c. The ADU shall not impair the residential character of the premises nor impair the reasonable use, enjoyment and value of other property in the neighborhood.
  - d. Adequate off-street parking must be provided.
  - e. Any necessary additional entrances or exits shall be located to the side or rear of the building whenever possible.
- B. All ADUs must apply for a compliance inspection when a change of ownership occurs, to ensure compliance with Section 10.02.6:A.
- C. Existing Unpermitted Accessory Dwelling Units:  
Unpermitted Accessory Dwelling Units found to be in existence prior to the passage of this Section and are not legally non-conforming, must obtain Special Exception approval to continue to be occupied in accordance with the following criteria: (2010)
- 1. The ADU complies with all requirements in 10.02.6.A.
  - 2. Prior to the Special Exception application being heard by the Zoning Board of Adjustment, a compliance inspection shall be conducted by the Code Enforcement Department.
  - 3. Within forty-five (45) days of the approval of a Special Exception to allow the continuation of an existing unpermitted ADU, the applicant shall complete one of the following:
    - a. If the ADU has been found to meet all applicable codes, or will need alterations that do not require a building permit, obtain a certificate of compliance from Code Enforcement based on the code compliance inspection; or
    - b. If the ADU has been found not to meet all applicable codes, and a building permit is required, the ADU shall pass all required inspections and obtain a certificate of occupancy.
- D. Failure to obtain a certificate of compliance or occupancy for an ADU shall be a violation of the Milford Zoning Ordinance and subject to enforcement action.

**10.02.7 OFFICE IN THE RESIDENCE A AND B DISTRICTS (2011)**



- A. In all cases involving offices in the Residence A and Residence B districts, the following shall be minimum performance standards for approval by the Zoning Board of Adjustment:
1. The specific site of the proposed office use will be located in an existing building that is an appropriate location for the proposed use;
  2. The use as proposed will not adversely affect adjacent areas;
  3. There will be no nuisance, such as but not limited to: noise, odor, hours of operation, traffic, deliveries and lighting;
  4. There will be no outside storage; and
  5. The use shall require site plan approval by the Planning Board, subsequent to Zoning Board approval.

### **10.03.0 APPEALS TO THE BOARD (2008)**

#### **10.03.1**

The Board of Adjustment shall hear and decide appeals in accordance with NH RSA 674:33 and NH RSA 676:5 through 676:7. The rules of the Board of Adjustment shall specify the time within which such an appeal shall be taken.

#### **10.03.2**

Appeals of Planning Board decisions exercising subdivision or site plan review shall be made to the Board of Adjustment in accordance with NH RSA 676:5,III. All other appeals of Planning Board decisions may be made in superior court in accordance with NH RSA 677:15.

### **10.04.0 APPEAL FROM ORDER OF THE BOARD OF ADJUSTMENT (2008)**

Rehearings by the Board of Adjustment shall be conducted in accordance with NH RSA 677:2 and :3. Appeals from the Board of Adjustment's decision on a motion for rehearing shall be conducted in accordance with NH RSA 677:4 through 14.

### **10.05.0 PLANNING BOARD REVIEW NECESSARY (2008)**

Whenever a variance or special exception is required for a use or structure which must also receive subdivision or site plan review by the Planning Board such required variance or special exception must be received from the Board of Adjustment prior to Planning Board final approval of the subdivision or site plan.

### **10.06.0 EXPIRATION (2015)**

If within two (2) years after the granting of a variance or special exception by the Board of Adjustment, none of the work required by a building permit covered by a variance or special exception has been executed, then such variance or special exception shall become null and void except in any case where legal proceedings relative to the variance or special exception shall have caused an undue delay in the execution of the required building permit. Only one, six-month extension may be granted for any variance or special exception. The applicant may apply for the extension at a regularly scheduled Zoning Board meeting.

### **10.07.0 EQUITABLE WAIVER (2012)**

All equitable waivers of dimensional requirements shall be governed by RSA 674:33-a (as amended), a copy of which is included in the Appendix.

**Appendix I - 676:5 Appeals to Board of Adjustment**

**TITLE LXIV  
PLANNING AND ZONING  
CHAPTER 676  
ADMINISTRATIVE AND ENFORCEMENT PROCEDURES  
Zoning Board of Adjustment  
Section 676:5**

**676:5 Appeals to Board of Adjustment. –**

I. Appeals to the board of adjustment concerning any matter within the board's powers as set forth in RSA 674:33 may be taken by any person aggrieved or by any officer, department, board, or bureau of the municipality affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the officer from whom the appeal is taken and with the board a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

II. For the purposes of this section:

(a) The "administrative officer" means any official or board who, in that municipality, has responsibility for issuing permits or certificates under the ordinance, or for enforcing the ordinance, and may include a building inspector, board of selectmen, or other official or board with such responsibility.

(b) A "decision of the administrative officer" includes any decision involving construction, interpretation or application of the terms of the ordinance. It does not include a discretionary decision to commence formal or informal enforcement proceedings, but does include any construction, interpretation or application of the terms of the ordinance which is implicated in such enforcement proceedings.

III. If, in the exercise of subdivision or site plan review, the planning board makes any decision or determination which is based upon the terms of the zoning ordinance, or upon any construction, interpretation, or application of the zoning ordinance, which would be appealable to the board of adjustment if it had been made by the administrative officer, then such decision may be appealed to the board of adjustment under this section; provided, however, that if the zoning ordinance contains an innovative land use control adopted pursuant to RSA 674:21 which delegates administration, including the granting of conditional or special use permits, to the planning board, then the planning board's decision made pursuant to that delegation cannot be appealed to the board of adjustment, but may be appealed to the superior court as provided by RSA 677:15.

IV. The board of adjustment may impose reasonable fees to cover its administrative expenses and costs of special investigative studies, review of documents, and other matters which may be required by particular appeals or applications.

V. (a) A board of adjustment reviewing a land use application may require the applicant to reimburse the board for expenses reasonably incurred by obtaining third party review and consultation during the review process, provided that the review and consultation does not substantially replicate a review and consultation obtained by the planning board.

(b) A board of adjustment retaining services under subparagraph (a) shall require detailed invoices with reasonable task descriptions for services rendered. Upon request of the applicant, the board of adjustment shall promptly provide a reasonably detailed accounting of expenses, or corresponding escrow deductions, with copies of supporting documentation.

**Source.** 1983, 447:1. 1987, 256:5. 1989, 69:1. 1991, 231:13. 1995, 243:1, eff. Jan. 1, 1996. 2010, 303:1, eff. Sept. 11, 2010.

**Appendix II - 674:33 Powers of Zoning Board of Adjustment**

**TITLE LXIV- PLANNING AND ZONING**

**CHAPTER 674**

**LOCAL LAND USE PLANNING AND REGULATORY POWERS**

**Section 674:33**

**Zoning Board of Adjustment and Building Code Board of Appeals**

**674:33 Powers of Zoning Board of Adjustment. –**

I. The zoning board of adjustment shall have the power to:

(a) Hear and decide appeals if it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of any zoning ordinance adopted pursuant to RSA 674:16; and

(b) Authorize, upon appeal in specific cases, a variance from the terms of the zoning ordinance if:

(1) The variance will not be contrary to the public interest;

(2) The spirit of the ordinance is observed;

(3) Substantial justice is done;

(4) The values of surrounding properties are not diminished; and

(5) Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.

(A) 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.

(B) If the criteria in subparagraph (A) 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 (5) 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.

I-a. Variances authorized under paragraph I shall be valid if exercised within 2 years from the date of final approval, or as further extended by local ordinance or by the zoning board of adjustment for good cause, provided that no such variance shall expire within 6 months after the resolution of a planning application filed in reliance upon the variance.

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

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

IV. A local zoning ordinance may provide that the zoning board of adjustment, in appropriate cases and subject to appropriate conditions and safeguards, make special exceptions to the terms of the ordinance. All special exceptions shall be made in harmony with the general purpose and intent of the zoning ordinance and shall be in accordance with the general or specific rules contained in the ordinance. Special exceptions authorized under this paragraph shall be valid if exercised within 2 years from the date of final approval, or as further extended by local ordinance or by the zoning board of adjustment for good cause, provided that no such special exception shall expire within 6 months after the resolution of a planning application filed in reliance upon the special exception.

Continued on next page

**TITLE LXIV- PLANNING AND ZONING**  
**CHAPTER 674**  
**LOCAL LAND USE PLANNING AND REGULATORY POWERS**  
**Section 674:33**  
**Zoning Board of Adjustment and Building Code Board of Appeals**

**674:33 Powers of Zoning Board of Adjustment. –**

**(Continued from prior page)**

V. Notwithstanding subparagraph I(b), any zoning board of adjustment may grant a variance from the terms of a zoning ordinance without finding a hardship arising from the condition of a premises subject to the ordinance, when reasonable accommodations are necessary to allow a person or persons with a recognized physical disability to reside in or regularly use the premises, provided that:

(a) Any variance granted under this paragraph shall be in harmony with the general purpose and intent of the zoning ordinance.

(b) In granting any variance pursuant to this paragraph, the zoning board of adjustment may provide, in a finding included in the variance, that the variance shall survive only so long as the particular person has a continuing need to use the premises.

VI. The zoning board of adjustment shall not require submission of an application for or receipt of a permit or permits from other state or federal governmental bodies prior to accepting a submission for its review or rendering its decision.

VII. Neither a special exception nor a variance shall be required for a collocation or a modification of a personal wireless service facility, as defined in RSA 12-K:2.

**Source.** 1983, 447:1. 1985, 103:20. 1987, 256:1. 1998, 218:1, eff. Aug. 17, 1998. 2009, 307:6, eff. Jan. 1, 2010.

**Appendix III - RSA 674:33-a Equitable Waiver of Dimensional Requirement**

**TITLE LXIV  
PLANNING AND ZONING  
CHAPTER 674  
LOCAL LAND USE PLANNING AND REGULATORY POWERS  
Zoning Board of Adjustment and Building Code Board of Appeals  
Section 674:33-a**

**674:33-a Equitable Waiver of Dimensional Requirement. –**

I. 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 a zoning ordinance enacted pursuant to RSA 674:16, 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:

(a) 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;

(b) 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;

(c) 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

(d) 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.

II. In lieu of the findings required by the board under subparagraphs I(a) and (b), 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.

III. 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.

IV. 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.

**Source.** 1996, 226:4, eff. Jan. 1, 1997.

## **ARTICLE XI: IMPACT FEES (2003)**

### **11.01.0 GENERAL**

#### **11.01.1 AUTHORITY**

This Ordinance is established pursuant to The State of New Hampshire RSA 674:21 (V). All references in this Ordinance will refer to State of New Hampshire RSAs.

#### **11.01.2 INTENT**

This Ordinance is intended to:

Implement and be consistent with the Town of Milford's Master Plan; and

Allocate a fair and equitable share of the cost of public capital facilities (including school construction) to new development (exclusive of existing impact fee regulations that relate to sewer and water facilities enacted pursuant to NH RSA 38 and NH RSA 149-I, currently in place); and

Require that new development contribute its proportionate share of funds necessary to accommodate its impact on public facilities; and

Apply to all forms of development identified in NH RSA 674:21 (V), other than the sewer and water facilities identified above.

#### **11.01.3 FINDINGS**

The Town of Milford is responsible for and committed to the provision of public facilities and services at levels necessary to support residential and non-residential growth and development.

Such facilities and services have been and will be provided by the Town utilizing funds allocated via the Capital Improvements Program as regularly updated pursuant to NH RSA 674:5.

The rate of growth experienced by the Town in recent years and projected growth rates, have and will continue to necessitate an expenditure of public funds in order to provide adequate facility standards.

New development may create a need for the construction, equipping or expanding of public capital facilities.

The imposition of impact fees is one of the available methods of ensuring that public expenditures are not excessive, and that new development bears a proportionate share of the cost of public capital facilities necessary to accommodate such development. This must be done in order to promote and ensure the public health, safety and welfare.

The fees established by the Impact Fee Schedules for the categories identified in Section 11.031 are derived from, based upon, and shall not exceed the costs of:

Providing additional public capital facilities necessitated by the new development for which the fees are levied; or

Compensating the Town of Milford for expenditures made for existing public facilities that were constructed in anticipation of new growth and development.

#### 11.01.4 DEFINITIONS

The following definitions shall apply to ARTICLE XI - Impact Fees.

**Accessory Structure - Non-Residential:** A structure on the same lot with, and of a nature incidental and subordinate to, the principal structure.

**Applicant:** A person or agent applying for the issuance of a building permit, permit for manufactured home installation, subdivision, site plan or other local land use decision, permit or approval.

**Dwelling Unit:** One room or rooms connected together, constituting a separate, independent housekeeping establishment physically separated from any other dwelling units in the same structure, and containing independent cooking and sleeping facilities.

**New Development:** Any activity that results in:

- The creation of a new dwelling unit or dwelling units;
- The conversion of a non-residential use to a dwelling unit or dwelling units;
- Construction of new non-residential facilities and/or accessory structures;
- The conversion of a residential use to non-residential use.

New Development does not include:

The reconstruction of a residential or non-residential structure that has been destroyed by fire or natural disaster, provided there is no change in the number of dwelling units or size of the structure;

The replacement of a manufactured home with another manufactured home provided there is no change in the number of dwelling units or size of the structure.

**Public Capital Facilities:** Facilities and equipment which are owned and operated by the Town of Milford, the Milford School System, or cooperatively with other municipalities and which have a useful life of no less than five years. Public capital facilities do not include the costs associated with the operation, maintenance or repair of such facilities, or with facility replacements that do not increase the capacity or level of service, but do include reasonable costs for planning, engineering, design, land acquisition, and other reasonable costs associated with such facilities.

**Total Non-Residential Area:** The total area of a non-residential structure shall equal the sum of the gross horizontal area of each floor and mezzanine. Any non-residential structure with an area of one hundred twenty (120) square feet or less is excluded.

**Total Residential Area:** The total residential area of a residential structure shall be equal to the sum of the gross horizontal area of each floor, including attached decks, porches, breezeways, sun rooms, balconies and attached garages. Total residential area excludes basements, cellars and detached outbuildings.



### **11.02.0 OFF-SITE IMPROVEMENT**

An improvement that is required by the Planning Board for either a site plan or subdivision that is necessary, in the judgment of the Planning Board, for the project to operate properly on the day that it opens shall be considered to be an Off-Site Improvement. Off-site improvements for site specific applications shall be assessed on a case by case basis and shall be in addition to other impact fees imposed pursuant to this Ordinance. In a case in which it is determined that such an improvement is necessary for the proper operation of the project, the Planning Board shall so notify the applicant. The applicant shall be required to present to the Board a study that identifies the proportionate share of the cost of the required improvement. The Planning Board may, at the expense of the applicant, refer such study to a consultant of its own choosing to determine the reliability of the findings that shall be considered by the Board to arrive at an amount to be paid by the applicant for the offsite improvement. The applicant shall be assessed his/her proportionate share of the cost of the project. In cases where it is determined that an improvement is necessary for the proper functioning of a site plan or subdivision, but the applicant, for whatever reason is determined to contribute more than his/her proportionate share to the improvement under this section, and, therefore, that the improvement will also accommodate other future development, the Planning Board, at the request and expense of the applicant, may establish a separate, project related impact fee that assesses other future site plans or subdivisions for their proportionate share of the improvement to reimburse the applicant for such disproportionate contribution. Such future impact fees shall provide for the payment to the original applicant, with any interest.

### **11.03.0 IMPOSITION OF IMPACT FEES FOR NEW DEVELOPMENT**

Any person or agent, who after the effective date of this Ordinance, seeks to undertake new development within the Town of Milford, New Hampshire, by applying for a building permit and who is not vested under NH RSA 674:39, is hereby required to pay the appropriate impact fee in the manner set forth in this Ordinance, in accordance with any Impact Fee Schedule adopted by the Board of Selectmen.

No new building permit for an activity requiring payment of one or more impact fee(s) pursuant to this Ordinance shall be issued unless and until the impact fee(s) hereby required have been assessed and agreed upon.

#### **11.03.1 COMPUTATION OF IMPACT FEES**

##### **A. Amount of Impact Fees and Type of Facilities:**

The amounts of the impact fees shall be determined using the values contained in the Impact Fee Schedules for the following types of facilities:

- \* Storm water, drainage and flood control facilities
- \* Public road systems and rights-of-way
- \* Municipal office facilities
- \* Public school facilities
- \* The municipality's proportional share of capital facilities of a cooperative or regional governmental venture
- \* Public safety facilities

- \* Public health facilities
- \* Solid waste collection, transfer, recycling, processing and disposal facilities
- \* Public library facilities
- \* Public recreational facilities not including public open space.

Sewer and water facilities are excluded from this list because the impacts on these facilities, as well as the fees relating to same, are addressed elsewhere in regulations arising out of NH RSA 38 and NH RSA 149-I.

B. Impact Fees Schedules shall be established and reviewed as set forth in Section 11.06.0 below.

In the case of change of use, redevelopment expansion or modification of an existing use that constitutes New Development, the impact fees shall be based upon the net increase of the total residential area or total nonresidential area of the redevelopment, expansion or modification.

C. Assessment and Payment of Fees. All impact fees imposed pursuant to this Ordinance shall be assessed prior to, or as a condition for, the issuance of a building permit or other appropriate permission to proceed with development. Impact fees shall be collected as a condition for the issuance of a certificate of occupancy.

D. Appeals. If an applicant elects to dispute the amount of the impact fee(s), the applicant may prepare and submit to the Planning Board an independent fee calculation study for the new development activity that is proposed. The Planning Board shall review such study and render a decision within sixty (60) days of the receipt of the independent fee calculation.

All cost(s) incurred by the Town for the review of such study shall be paid by the applicant.

The decision of the Planning Board regarding any disputed fee calculations may be appealed to the Superior Court as provided by NH RSA 677.15.

### **11.03.2 ADMINISTRATION AND CUSTODY OF FUNDS COLLECTED**

Any impact fee collected shall be properly identified and promptly deposited in the appropriate Impact Fee accounts and used solely for the purpose for which it was collected. Impact fee accounts shall be special revenue fund accounts and under no circumstances will impact fee revenues accrue to the General Fund. Each fee collected under a specific Impact Fee Schedule shall not be commingled with any other impact fee accounts or any other funds.

The Town Treasurer shall have custody of all accounts and shall pay out the same only upon written orders of the Board of Selectmen.

At the end of each fiscal year, the Town Treasurer shall prepare a report, showing a full account of all impact fee transactions during the year and deliver same to the Board of Selectmen, the Planning Board, and shall make the report available to the Public.

### **11.03.3 REFUND OF FEES PAID**

A refund shall be owed only when the Town has failed, within the period six (6) years from the payment of a fee, to expend or encumber a fee for public capital facilities intended to benefit the development that had paid the fees.

The Board of Selectmen shall notify the owner of record by certified mail, return receipt requested, that a refund is due.

The current owner of property on which impact fees have been paid may apply for a full or partial refund of such fees, together with any accrued interest.

In the event that the owner elects to apply for a refund, such application shall be submitted in writing to the Board of Selectmen within sixty (60) days from the date of receiving notice from the Board of Selectmen. Payment of a refund will be made within sixty (60) days after receiving the written request for a refund from the current owner of record.

### **11.03.4 CREDITS IN EXCHANGE FOR PUBLIC CAPITAL FACILITIES**

The Board of Selectmen may grant a credit to an impact fee in exchange for public capital improvements. Said public capital improvements may be offered by the applicant as total or partial payment of the required impact fee. Such credit shall be determined to represent an identifiable dollar value computed in a manner acceptable to the Planning Board. The Board of Selectmen shall act on a request for credit only after receipt of a recommendation on the request provided by the Planning Board.

Any claim by the applicant for credit must be made prior to the Planning Board vote on subdivision or site plan approval.

Credits shall not be transferable, and apply only to a specific subdivision or site plan approval.

Credits shall not be transferable from one impact fee to any other impact fee.

Any decision by the Board of Selectmen pursuant to the credit provision of this section may be appealed to the Superior Court in accordance with NH RSA 677:15.

Under no circumstances shall this section imply that the Board of Selectmen has an obligation to accept any credit offer that is proposed.

### **11.04.0 ADDITIONAL ASSESSMENTS**

Payment of an impact fee does not restrict the Town or the Planning Board from requiring other payments from the applicant, including without limitation such payments relating to the cost of the extensions of water and sewer mains or the construction or improvement of roads or streets or other infrastructure and facilities specifically benefiting the development which are required by the development review regulations or as otherwise permitted by law.

### **11.05.0 PREMATURE AND SCATTERED DEVELOPMENT**

Nothing in this Ordinance shall be construed so as to limit the existing authority of the Milford Planning Board to provide against development which is scattered or premature, which requires an excessive expenditure of public funds, or otherwise violates the Town of Milford's Development Regulations or Zoning Ordinance.

### **11.06.0 ESTABLISHMENT, CALCULATION, REVIEW & TERMINATION OF IMPACT FEES**

#### **11.06.1 ESTABLISHMENT OF IMPACT FEES**

In order to establish an impact fee, the Capital Improvements Plan Citizens Advisory Committee as established by the Planning Board shall identify and recommend to the Planning Board projects eligible for impact fee funding. If such recommendations are accepted, the Planning Board will then prepare an Impact Fee Schedule in accordance with NH RSA 674:21 and this Ordinance.

The Planning Board shall conduct a public hearing on the proposed Schedule, and shall consider all comments received prior to finalizing the Schedule. The Planning Board, upon such finalization, shall then submit the Schedule to the Board of Selectmen for its consideration. The Board of Selectmen at a regular meeting shall either accept or reject the proposed Schedule. The Impact Fee Schedule shall become effective when a majority of the Board of Selectmen approves the schedule. Should the Board of Selectmen fail to approve the schedule, it shall state its reason(s) for doing so in writing and shall forward these comments to the Planning Board within 60 days of the receipt of the Impact Fee Schedule. The Planning Board may reconsider the adoption of such a Schedule.

#### **11.06.2 IMPACT FEE SCHEDULE CALCULATION**

The Impact Fee Schedule shall be prepared in accordance with NH RSA 674:21 and based upon the most recent data available. The Impact Fee Schedule shall be calculated using the following factors:

The size of the capital facility;

An estimate of the proportion of users from future Milford commercial, industrial or residential development subject to the impact fee that will use the facility when it has reached its capacity;

Projections of future users based upon new building permit projections;

Estimates of the cost to the Town of Milford for the proposed facility, including financing and excluding non-municipal funding sources;

Credits for property taxes to be paid by the proportion of the project to be financed by impact fees;

A fee assessed for new development based upon the total residential area or total non-residential area;

A determination of the number of building permits that will need to be issued in order to finance the impact fee;

An accounting of the number of permits issued, with a maximum number of permits to be assessed an impact fee prior to the fee's termination;

Exemptions, if any;

Impact fee schedules will be available in the Department of Planning and Community Development and the Building Department.

### **11.06.3 REVIEW OF IMPACT FEES**

The Planning Board shall review all established Impact Fee Schedules on an annual basis.

The Planning Board shall modify the Impact Fee Schedule if it finds that new data is available that may change the schedule. This may include the replacement of factors used in the Impact Fee Schedule with more accurate or recent projections, data and figures. The Planning Board shall submit the Impact Fee Schedule to the Board of Selectmen if modifications are recommended. The Board of Selectmen shall vote to affirm or deny the modifications within sixty (60) days of the receipt of recommendations from the Planning Board. If the Board of Selectmen fails to affirm the modifications, the impact fee schedule in effect shall remain in place.

### **11.06.4 TERMINATION OF IMPACT FEES**

Impact fees shall terminate in accordance with the Impact Fee Schedule, which shall set forth the number of building permits to be issued prior to its expiration.

The Board of Selectmen may terminate a specific impact fee schedule in effect by majority vote. This may be done only after soliciting recommendations from the Planning Board, and after conducting a public hearing. The Planning Board shall be given sixty (60) days' notice prior to any such vote to provide written recommendations to the Board of Selectmen.

### **11.07.0 SEVERABILITY**

If any section, phrase, sentence or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

### **11.08.0 EFFECTIVE DATE**

This Ordinance shall become effective on the date of its passage, subject to the limitations imposed by NH RSA 676:12.

**ARTICLE XII: GROWTH MANAGEMENT AND INNOVATIVE LAND USE CONTROL**

Entire article deleted in 2010.

**Changes/amendments to zoning Ordinance by year**

<b>Year</b>	<b>Article</b>	<b>Section</b>	<b>Effect</b>
2022	III	3.01 Districts	Rezone portion ICI to Res. 'B'
2022	VI	6.02.0 Wetland Conservation District	Amendments throughout section
2022	IV	4.0 Definitions	Add definition for an Estate Lot
2022	V	5.04.1.J, 5.04.8	Add Estate Lots as a new and permitted use in the Res R District
202	VII	7.11.0 Solar Collection Systems	Amendments throughout section
2021	V	5.02.5, 5.03.6, 5.04.5	Remove 6 ft. setback allowance for accessory structures 120 sf or less
2021	VII	7.15 Mobile Food Vendors	Add new section Mobile Food Vendors
2020	VI	6.03 Floodplain Management District	Remove and replace entire section
2020	VI	6.06 Commerce Community Overlay	Delete section
2020	VI	6.07.6 West Elm Overlay District	Revise wording to reflect new boundary area
2019	II	2.03.1.C.2 General Provisions	Revise wording and correct section reference.
2019	IV	4.01.0 Definitions	Remove and replace Home Occupation with Home Based Business
2019	IV	4.01.0 Definitions	Remove and replace Self-Storage Facilities with Self-Storage Facility
2019	V	5.04.2.A.12 Special Exception	Remove Self-service storage facilities in accordance with Section 10.02.4
2019	V	5.02.1, 5.03.1, 5.04.1, 5.05.1, 5.06.1 5.07.1, 5.08.1, 5.09.1 Acceptable Uses	Add Solar Collection Systems in accordance with Section 7.11.0
2019	V	5.02.1, 5.03.1, 5.04.1, 5.06.1, 5.08.1 Acceptable Uses	Add Home Based Business in accordance with Section 7.12.0
2019	V	5.02.2.A, 5.03.2.A, 5.04.2.A Acceptable Uses	Replace Home occupations in accordance with Section 10.02.3 and add Home Based Business in accordance with Section 7.12.0
2019	V	5.04.2.B	Add Home Based Business in accordance with Section 7.12.0
2019	V	5.04.2.B, 5.06.2.B, 5.08.2.B, 5.09.2.B Conditional Use Permits	Add Solar Collection Systems in accordance with Section 7.11.0
2019	VII	7.06.0 Sign Ordinance	Remove and replace entire section
2019	VII	7.11.0 Solar Collection Systems	Add Solar Collection Systems
2019	VII	7.12.0 Home Based Business	Add Home Based Business
2019	VII	7.13.0 Self-Storage Facilities	Add Self-Storage Facilities
2019	VII	7.14.0/7.14.5 Conditional Use Permits	Renumber Section 7.11.0 to 7.14.0 and add Section 7.14.5 Waivers
2019	X	10.02.3 Home Occupations	Delete Section
2018	IV	4.01.0 Definitions	Amend definition for a Utility, public or private
2018	VI	6.04.1/6.04.2/6.04.8	Revise standards and waiver process
2017	IV	4.01.0 Definitions	Amend definition for an Accessory Dwelling Unit
2017	VI	6.02.0 Wetland Conservation District	Amendments throughout section
2017	VIII	8.02.5 Building Permits	Revise accessory structure from 120SF to 200SF
2017	X	10.02.6 Administrative Relief	Amend language relative to Accessory Dwelling Unit
2016	IV	4.01.0 Definitions	Amend Accessory Dwelling Unit
2016	IV	4.01.0 Definitions	Add Floor Area, Gross
2016	VI	6.04.0 Open Space Conservation	Amend entire section
2016	X	10.02.3:A.3 Home Occupations	Revise wording
2016	X	10.02.6:A.1 ADU's	Revise wording
2015	IV	4.01.0 Definitions	Amend Groundwater, Manufactured Housing
2015	IV	4.01.0 Definitions	Remove Animal Feed Lot, Senior Housing Units & Leachable Wastes
2015	V	5.02.2/5.03/5.05.1/5.07.1/5.08.2	Remove Senior Housing Developments
2015	VI	6.02.4 Wetland Conservation	Amend Surface Water definition
2015	VI	6.03.2 Floodplain Management	Replace Manufactured Home with Manufactured Housing
2015	VI	6.04.5:C Open Space Conservation	Amend language relative to Senior Housing Developments
2015	VII	7.06.3 Sign Definitions	Amend Banner, Changing, Flag, Flashing, Portable, Temporary & Wall

**Changes/amendments to zoning Ordinance by year**

<b>Year</b>	<b>Article</b>	<b>Section</b>	<b>Effect</b>
2015	VII	7.06.3 Sign Definitions	Add Storefront
2015	VII	7.06.4 Prohibited Signs	Revise wording
2015	VII	7.06.5 Signs-General Admin	Revise wording for permits required
2015	VII	7.06.7:D Awning signs	Revise wording
2015	VII	7.06.7:E Wall Signs	Remove and replace wording in section
2015	VII	7.06.7:I Temporary On-Premise	Remove and replace entire section
2015	VII	7.06.8:D.5 General Sign Provisions	Add wording for <i>Portable Signs</i> in the Oval Sub District
2015	X	10.06.0 Expiration	Revise expiration from 1 Year to 2 Years
2015	X	10.06 Appendix II	Replace RSA 674:33
2014	III	3.01.0 Zoning Map	Re-zone parcels 43/20 and 43/69
2014	IV	4.01.0 Definitions	Remove <i>Public Utility</i>
2014	V	5.02.2	Remove <i>Public Utility</i>
2014	V	5.03.2	Remove <i>Public Utility</i>
2014	VII	7.01 Gravel/Earth Products	Amend wording
2014	VII	7.07.0 Senior Housing	Remove section
2013	II	2.02 Non-Conforming Uses	Amend title, add language
2013	II	2.03.1 Non-Conforming Uses	Amend to include <i>Structure</i>
2013	II	2.03.1:C Non-Conforming Uses	Amend wording
2013	IV	4.01.0 Definitions	Amend <i>ADU, Accessory Use or Structure, Dwelling-Two family</i>
2013	IV	4.01.0 Definitions	Remove <i>Portable Sign</i>
2013	VI	6.01.1 Groundwater Protection	Amend definition of <i>Junkyard</i>
2013	VII	7.06.3 Sign Definitions	Amend <i>Façade</i> and <i>Wall</i> sign definitions
2013	VII	7.06.5:C Signs-Permit Not Required	Amend wording
2013	VII	7.06.5:D Signs- Procedure	Add, delete and amend wording for <i>Decisions &amp; Amendments</i>
2013	VII	7.06.7 Sign Ordinance	Revise all tables to include <i>ICI-2</i>
2013	VII	7.06.7:A Sign Requirements by type	Amend wording and add <i>ICI-2</i>
2013	VII	7.06.7:E Wall Signs	Amend language to include <i>Façade</i> signs
2013	VII	7.06.7:F Directional Signs	Revise table 7.06-3
2013	VII	7.07.3 Senior Housing	Amend language for <i>Dwelling Unit</i>
2013	VII	7.09.0 Telecommunications	Revise entire section
2013	X	10.02.6 Accessory Dwelling Units	Amend language for ADU's
2012	I	1.02.3 Authorization	Add <i>Shall, Should and May</i> terminology
2012	II	2.01.0 General Provisions	Add wording <i>If in existence</i>
2012	II	2.02.0 Non-Conforming Uses	Amend wording
2012	II	2.06.0 Equitable Waiver	Move entire section to 10.07.0
2012	IV	4.01.0 Definitions	Delete <i>Kenel, Nursery, Nursery Stock</i>
2012	IV	4.01.0 Definitions	Add <i>Apartments</i>
2012	IV	4.01.0 Definitions	Revise <i>Discontinued Use, Lot of Record</i>
2012	V	5.02.2/5.03.2/5.04.2	Add <i>Utility, Public or Private</i>
2012	V	5.05.1/5.07.0/5.08.1	Add <i>Dwelling, Mixed-Use</i>
2012	V	5.08.1	Add <i>Filling Station</i>
2012	VI	6.06.0 Overlay Districts	Revise Nashua & Elm Streets Overlay District wording
2012	VI	6.06.0 Overlay Districts	Add <i>Commerce &amp; Community Overlay District</i>
2012	VI	6.06.0 Overlay Districts	Add <i>West Elm Street Gateway Overlay District</i>
2012	VII	7.06.3 Sign Definitions	Amend <i>Building Marker Sign</i>
2012	VII	7.06.7 Sign Requirements	Amend to permit <i>Directional Signs in Res A</i>
2012	VII	7.06.7 Sign Requirements	Amend <i>Monument Signs</i> to require address numbers
2012	VII	7.06.5 Sign General Admin	Move Section 7.06.5.F.2 to 8.01.0



**Changes/amendments to zoning Ordinance by year**

<b>Year</b>	<b>Article</b>	<b>Section</b>	<b>Effect</b>
2012	VIII	8.01.0 Enforcement	Amend wording
2012	X	10.01.0 Variances	Amend wording
2012	X	10.02.3 Home Occupations	Add Section 10.02.3.C <i>Code Compliance</i>
2012	X	10.02.6 Accessory Dwelling Units	Amend entire section
2012	X	10.07.0 Equitable Waiver	Section relocated from 2.06.0
2011	IV	4.01.0 Definitions	Add <i>Harvesting of Natural Resources</i>
2011	IV	4.01.0 Definitions	Add <i>Health Service Facilities</i>
2011	IV	4.01.0 Definitions	Add <i>Hospice House</i>
2011	IV	4.01.0 Definitions	Add <i>Hospital</i>
2011	IV	4.01.0 Definitions	Add <i>Hotel</i>
2011	IV	4.01.0 Definitions	Add <i>Nursing Home Facility</i>
2011	IV	4.01.0 Definitions	Add <i>Utility, Public or Private</i>
2011	IV	4.01.0 Definitions	Amend <i>Assisted Living Facility</i>
2011	IV	4.01.0 Definitions	Amend <i>Congregate Care Facility</i>
2011	IV	4.01.0 Definitions	Amend <i>Independent Senior Housing Units</i>
2011	IV	4.01.0 Definitions	Delete <i>Hotel/Motel</i>
2011	V	5.02.5/5.03.6/5.04.5	Revise <i>Minimum side/rear setbacks to 6ft</i>
2011	V	5.02.2/5.04.2	Amend <i>Churches &amp; Houses of Worship</i>
2011	V	5.02.2/5.03.2/5.04.2	Add <i>Utility, Public or Private</i>
2011	V	5.02.2/5.03.2	Add <i>Office in accordance with Section 10.02.7</i>
2011	V	5.03.2/5.04.2	Add <i>Hospice House</i>
2011	V	5.03.2/5.04.2	Add <i>Nursing Home or Facility</i>
2011	V	5.04.1	Delete <i>Farms</i>
2011	V	5.04.2	Amend <i>Processing of Natural Resources</i>
2011	V	5.05.1	Delete <i>Laundries and Dry Cleaning</i>
2011	V	5.05.1	Amend <i>Filling Stations</i>
2011	V	5.05.1	Amend <i>Hospitals</i>
2011	V	5.05.1/5.08.1/5.09.1	Amend <i>Hotels</i>
2011	V	5.05.1/5.07.1/5.08.1/5.09.1	Amend <i>Churches or Houses of Worship</i>
2011	V	5.05.1/5.08.1/5.09.1	Amend <i>Motor Vehicles Sales Facilities</i>
2011	V	5.05.1/5.07.1	Add <i>Day Care Facilities</i>
2011	V	5.05.1	Add <i>Motor Vehicle Repair Facilities</i>
2011	V	5.05.1/5.08.1/5.09.1	Add <i>Veterinary Clinics</i>
2011	V	5.05.1/5.07.1	Add <i>Hospice House</i>
2011	V	5.05.1/5.07.1/5.08.1/5.09.1	Add <i>Health Services Facilities</i>
2011	V	5.05.1/5.06.1/5.08.1/5.09.1	Add <i>Agriculture and Farming</i>
2011	V	5.05.1/5.08.1/5.09.1	Add <i>Nursing Home or Facility</i>
2011	V	5.05.1/5.06.1/5.07.1/5.08.1	Add <i>Utility, Public or Private</i>
2011	V	5.05.2	Delete <i>Day Care Facilities</i>
2011	V	5.05.2	Amend <i>Manufacturing</i>
2011	V	5.05.2	Add <i>Distribution and Mailing Facilities</i>
2011	V	5.05.2	Add <i>Research and Development</i>
2011	V	5.06.1	Amend <i>Harvesting of Natural Resources</i>
2011	V	5.06.1	Amend <i>Offices</i>
2011	V	5.06.1	Add <i>Harvesting of Natural Resources</i>
2011	V	5.06.1/5.08.1/5.09.1	Add <i>Newspaper or Job Printing</i>

**Changes/amendments to zoning Ordinance by year**

<b>Year</b>	<b>Article</b>	<b>Section</b>	<b>Effect</b>
2011	V	5.06.2	Add <i>Hotels</i>
2011	V	5.07.1	Delete <i>Hospitals and/or Medical Facilities</i>
2011	V	5.07.2	Delete <i>Day Care Facilities</i>
2011	V	5.08.1/5.09.1	Amend <i>Day Care Facilities</i>
2011	V	5.08.1/5.09.1	Amend <i>Research and Development</i>
2011	V	5.08.1/5.09.1	Add <i>Bed and Breakfast</i>
2011	V	5.08.1/5.09.1	Add <i>Processing of Natural Resources</i>
2011	V	5.08.1/5.08.1	Add <i>Hospitals</i>
2011	V	5.08.2/5.09.2	Delete <i>Processing of Natural Resources</i>
2011	V	5.09.1	Amend <i>Utility, Public or Private</i>
2011	V	5.09.1	Amend <i>Research and Development</i>
2011	V	5.09.1	Add <i>Banks and Financial Institutions</i>
2011	VI	6.01.1 Overlay Districts	Add definition for <i>Liquid Petroleum Products</i>
2011	VI	6.02.5 Overlay Districts	Amend <i>Special Exception requirements</i>
2011	VI	6.02.6 Overlay Districts	Amend <i>Special Exception buffer requirements</i>
2011	VI	6.04.0 Overlay Districts	Replace entire <i>Open Space &amp; Conservation District</i>
2011	VII	7.06.3 Sign Ordinance	Add <i>Building Fascia, Event Sign, PNS, Special Event</i>
2011	VII	7.06.7 Sign Ordinance	Revisions to <i>Wall Sign requirements</i>
2011	VII	7.06.7 Sign Ordinance	Revisions to <i>Monument Sign requirements</i>
2011	VII	7.06.7 Sign Ordinance	Revisions to <i>Changing Sign requirements</i>
2011	VII	7.06.7 Sign Ordinance	Revisions to <i>Off Premise Sign requirements</i>
2011	VII	7.06.7 Sign Ordinance	Revisions to <i>EMC Sign requirements</i>
2011	VII	7.06.7 Sign Ordinance	Add <i>Event Sign requirements</i>
2011	VII	7.07.8 Supplementary Standards	Amend <i>Assisted Living, Congregate Care, Indep. Senior Housing</i>
2011	X	10.02 Special Exceptions	Delete <i>Manufacturing in the C District</i>
2011	X	10.02 Special Exceptions	Add <i>Offices in the A &amp; B Districts</i>
2010	III	3.01.0 Districts	Revise to read Official Zoning Map, removing year
2010	IV	4.01.0 Definitions	Delete <i>Agriculture</i>
2010	IV	4.01.0 Definitions	Add <i>Agriculture and Farming</i>
2010	IV	4.01.0 Definitions	Add <i>Farm</i>
2010	IV	4.01.0 Definitions	Add <i>Farm Roadside Stand</i>
2010	IV	4.01.0 Definitions	Add <i>Farmer's Market</i>
2010	V	5.02.1 Acceptable uses	Add <i>Farm Roadside Stands</i>
2010	V	5.02.3 Uses not specified	Revise to include <i>Conditional Use Permits</i>
2010	V	5.03.1 Acceptable uses	Add <i>Farm Roadside Stands</i>
2010	V	5.03.3 Uses not specified	Revise to include <i>Conditional Use Permits</i>
2010	V	5.04.1 Acceptable uses	Add <i>Agriculture and Farming, Farms &amp; Roadside Stands</i>
2010	V	5.04.3 Uses not specified	Revise to include <i>Conditional Use Permits</i>
2010	V	5.05.1 Acceptable uses	Revise to include <i>Conditional Use Permits</i>
2010	V	5.06.1 Acceptable uses	Add <i>Farm Roadside Stands</i>
2010	V	5.06.3 Uses not specified	Revise to include <i>Conditional Use Permits</i>
2010	V	5.07.1 Acceptable uses	Add <i>Farm Roadside Stands</i>
2010	V	5.07.3 Uses not specified	Revise to include <i>Conditional Use Permits</i>
2010	V	5.08.1 Acceptable uses	Add <i>Farmer's Market &amp; Farm Roadside Stands</i>
2010	V	5.08.3 Uses not specified	Revise to include <i>Conditional Use Permits</i>
2010	V	5.09.1 Acceptable uses	Add <i>Farmer's Market &amp; Farm Roadside Stands</i>

**Changes/amendments to zoning Ordinance by year**

Year	Article	Section	Effect
2010	V	5.09.3 Uses not specified	Revise to include <i>Conditional Use Permits</i>
2010	VI	6.01.1/6.02.1/6.03.1	Revise wording to resolve possible conflicts
2010	VI	6.04.3/6.05.4	Revise wording to resolve possible conflicts
2010	VII	7.06.4 Prohibited signs	Revise to permit A-frame Signs in Oval Sub-Dist
2010	VII	7.06.7.C Sign requirements	Revise timing & dimming for <i>Changing Signs</i>
2010	VII	7.06.7.D Sign types	Add definitions for <i>Projecting &amp; Suspended signs</i>
2010	VII	7.06.7.D Sign types	Revise <i>Height/Clearance restrictions</i>
2010	VII	7.07.0 Senior housing	Amend Age Requirements to 55 (by citizen petition)
2010	VIII	8.05.0/8.05.1/8.05.2	Revise to adopt the 2009 IPMC
2010	X	10.02.6 Accessory Dwellings	Add language for <i>Existing ADU's</i>
2010	XII	12.01.0-12.011.0 GMO	Delete entire article
2009			Entire Ordinance reformatted
2009	IV	4.01.0 Definitions	Revise <i>Agriculture, Junkyard, &amp; Lot of Record</i>
2009	IV	4.01.0 Definitions	Delete <i>Principal Route of Access</i>
2009	IV	4.01.0 Definitions	Add <i>Small Wind Energy Systems</i>
2009	V	5.02.4/5.03.5/5.04.4/5.05.4	Revise to <i>Class V or Better Road</i>
2009	V	5.07.4/5.08.4/5.09.4	Revise to <i>Class V or Better Road</i>
2009	V	5.06.2/5.08.2/5.09.2	Add: <i>Reduced Front, Side &amp; Rear Setbacks</i>
2009	V	5.02.2/5.03.2/5.04.2/5.05.2	Add: <i>Conditional Use Permits &amp; Small Wind Energy Sys</i>
2009	V	5.06.2/5.07.2/5.08.2/5.09.2	Add: <i>Conditional Use Permits &amp; Small Wind Energy Sys</i>
2009	VII	7.10.0 Small Wind Energy Sys	Add section for Small Wind Energy Systems
2009	VII	7.11.0 Conditional Use Permits	Add section for Conditional Use Permits
2009	VIII	8.02.4 Building permits	Revise wording to comply with NH RSA 155-A
2009	X	10.06.0 Expiration	Timeframe changes
2009	XII	12.01.0 Sunset	Change date from 2011 to 2010
2008	II	2.040 Public Nuisance	Amend to include <i>Residential</i>
2008	II	2.060 Equitable Waiver	Remove 2.061, 2.062 & replace with Sections I,II,III,IV
2008	IV	4.010 Definitions	<i>Accessory Dwelling Unit</i>
2008	V	5.022/5.032/5.042/5.052/5.072	<i>Accessory Dwelling Units</i>
2008	V	5.062/5.082/5.092	<i>Accessory Dwelling Units for Existing Single-family</i>
2008	VI	6.050	Add <i>Nashua &amp; Elm St Corridor Overlay District</i>
2008	VII	8.040 Driveways	Revise permit requirements for <i>Existing Driveways</i>
2008	X	10.023 Home Occupations	Revise section A.4 to include <i>Accessory Goods</i>
2008	X	10.026	Add <i>Accessory Dwelling Units</i>
2008	X	10.030/10.040/10.050	Replace and revise <i>Appeals</i> requirements
2008	X	10.031/10.032	Add both sections pertaining to <i>Appeals</i>
2008	XII	12.004.B,C/12.006.B/12.008.B	Replace and revise Section requirements for <i>GMO</i>
2008	XII	12.010/12.011	Replace and add Sections of <i>GMO</i>
2007	III	3.010 Districts	Rezone portions of I, R to ICI-2 and I to R
2007	IV	4.010 Definitions	<i>Abutter, Day Care Facility, Lot Use, Motorized Vehicle Sales</i>
2007	V	5.034.A.1	Amend <i>Allowable Density</i>
2007	V	5.022/.031/.051/.071/.082	Amend <i>Acceptable Uses-Senior Housing Developments</i>
2007	V	5.050/5.080	Add <i>Acceptable Uses; Motorized Vehicle Sales Facility</i>
2007	V	5.057	Amend <i>Oval Sub district-Exemptions from Requirements</i>
2007	V	5.090-5.097	Add <i>Integrated-Commercial Industrial 2 (ICI-2) District</i>
2007	VI	6.030	<i>Floodplain Management District; replaced in entirety</i>

**Changes/amendments to zoning Ordinance by year**

<b>Year</b>	<b>Article</b>	<b>Section</b>	<b>Effect</b>
2007	VII	7.060	<i>Sign Ordinance</i> ; replaced in entirety
2007	VIII	8.050 Administration	Amend with <i>2003 International Property Maintenance Code</i>
2007	X	10.030/10.060 Admin Relief	Amend <i>30 day Time Frame and Expiration</i>
2006	IV	4.010 Definitions	<i>Frontage</i> definition deleted/replaced
2006	VII	7.010-7.067	<i>Sign Ordinance</i> ; replaced in its entirety
2006	XII	12.010-12.009	<i>Growth Mgmt Ordinance</i> replaces <i>Interim GMO</i>
2005	III	3.010 Districts	Rezone portion of Residential "A" to Residential "R"
2005	IV	4.010 Definitions	<i>Height</i> definition added
2005	V	5.022.K, 5.032.L, 5.042.N	Special Exception for Height Greater than Allowed
2005	V	5.026/5.038/,5.047.A,B,C	Height requirements
2005	V	5.052.E/5.062.A/5.072.E	Special exception for Height Greater than Allowed
2005	V	5.058/5.067/5.077, A, B, C	Height requirements
2005	V	5.082.E	Special Exception for Height Greater than Allowed
2005	V	5.087.A, B, C	Height requirements
2005	VII	8.024	Delete and replace with IRC 2003 edition
2005	XII	12.010-12.011	<i>Interim Growth Management Ordinance</i>
2004	VI	6.040-6.045	Replace <i>Open Space &amp; Conservation Zoning District</i>
2003	III	3.010 Districts	Rezone portion of ICI to C; Res. R to C; Res. A to C
2003	V	5.052.D	Special Exception for Manufacturing Use
2003	V	5.061	Revise <i>Light Manufacturing</i> to <i>Manufacturing</i>
2003	V	5.081	Revise <i>Light Manufacturing</i> to <i>Manufacturing</i>
2003	VI	6.010-6.014	Amend <i>Groundwater Protection District</i>
2003	VI	6.020-6.027	Amend <i>Wetland Conservation District</i>
2003	X	10.025	Special Exception for Manufacturing in the C District
2003	XI	11.010-11	<i>Impact Fees</i> ; replaced in its entirety
2002	I, III	1.030, 3.010	<i>Town Vote</i> replaced <i>Town Meeting</i>
2002	I	1.050 Amendments	<i>Open Space</i> replaced <i>Cluster Development</i>
2002	II	2.060-2.062	<i>Equitable Waiver of Dimensional Requirements</i>
2002	IV	4.010 Definitions	Multiple definition revisions
2002	VII	7.070-7.085	<i>Senior Housing Development</i>
2002	X	10.010-10.070	<i>Impact Fees</i>
2001	II	2.030	Delete "Conforming Uses" in section
2001	IV	4.010 Definitions	Amend <i>Church, House of Worship, Structure</i>
2001	V	5.040-5.046	Revisions to Residential "R" District
2001	V	5.022.H, 5.032.K	Replace <i>Reduced Front, Side &amp; Rear Setbacks</i>
2001	V	5.025.C, 5.036.C	Delete sections
2001	V	5.042.I, 5.052.C	Replace <i>Reduced Front, Side &amp; Rear Setbacks</i>
2001	V	5.045.C, 5.055.C	Delete sections
2001	V	5.072.D	Replace <i>Reduced Front, Side &amp; Rear Setbacks</i>
2001	V	5.075.C	Delete section
2001	VI	6.044.D.2.c	Replace <i>Open Space Design</i>
2001	VII	7.040 Private ways	Delete section