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PROPERTY DISCLOSURE - LAND ONLY

New Hampshire Association of REALTORS® Standard Form

REALTOR® EQUAL HOUSING OPPORTUNITY

TO BE COMPLETED BY SELLER

1. **SELLER:** NH Electric Cooperative Inc
2. **PROPERTY LOCATION:** 10 Potters Road, Andover, NH 03216
3. The following answers and explanations are true and complete to the best of SELLER'S knowledge. This statement has been prepared to assist prospective BUYERS in evaluating SELLER'S property. This disclosure is not a warranty of any kind by SELLER, or any real estate broker or salesperson representing SELLER, and is not a substitute for any inspection by BUYER. SELLER'S authorize the Listing Broker in this transaction to disclose the information in this statement to other real estate agents and to prospective BUYERS of this property.
4. **NOTICE TO SELLER(S): COMPLETE ALL INFORMATION AND STATE NOT APPLICABLE OR UNKNOWN AS APPROPRIATE. IF ANY OF THE INFORMATION IN THIS PROPERTY DISCLOSURE FORM CHANGES FROM THE DATE OF COMPLETION, YOU ARE TO NOTIFY THE LISTING FIRM PROMPTLY IN WRITING.**
5. **WATER SUPPLY** (Please answer all questions regardless of type of water supply)
   a. TYPE OF SYSTEM: ☐ None ☐ Public ☑ Private ☐ Seasonal ☐ Unknown
   ☑ Drilled ☐ Dug ☐ Other
   b. INSTALLATION: Location: Installed By:
   Date of Installation What is the source of your information?
   c. USE: Number of Persons currently using the system: 5
   Does system supply water for more than one household? ☐ Yes ☐ No
   d. MALFUNCTIONS: Are you aware of or have you experienced any malfunctions with the (public/private/other) water systems?
   Pump: ☐ Yes ☐ No ☑ N/A Quantity: ☐ Yes ☐ No ☑ Unknown
   Quality: ☐ Yes ☐ No ☑ Unknown
   If YES to any question, please explain in Comments below or with attachment.
   e. WATER TEST: Have you had the water tested? ☐ Yes ☑ No Date of most recent test
   IF YES to any question, please explain in Comments below or with attachment.
   To your knowledge, have any test results ever been reported as unsatisfactory or satisfactory with notations? ☐ Yes ☐ No
   IF YES, are test results available? ☐ Yes ☐ No
   What steps were taken to remedy the problem?
   f. COMMENTS:
6. **SEWAGE DISPOSAL SYSTEM**
   a. TYPE OF SYSTEM: Public: ☐ Yes ☐ No Community/Shared: ☐ Yes ☐ No
   Private: ☑ Yes ☐ No Unknown: ☐ Yes ☐ No
   None: ☐ Yes ☐ No Septic/Design Plan in Process? ☐ Yes ☐ No
   Septic Design Available? ☐ Yes ☐ No
   Comments: I understand the system was replaced several years ago but I don't have the records
   b. IF PUBLIC OR COMMUNITY/SHARED:
   Have you experienced any problems such as line or other malfunctions? ☐ Yes ☐ No
   What steps were taken to remedy the problem?
   c. IF PRIVATE:
   TANK: ☐ Septic Tank ☐ Holding Tank ☐ Cesspool ☑ Unknown ☐ Other
   Tank Size ☐ 500 Gal. ☐ 1,000 Gal. ☑ Unknown ☐ Other
   Tank Type ☐ Concrete ☐ Metal ☑ Unknown ☐ Other
   Location: ☑ Location Unknown Date of Installation:
   Date of Last Servicing: Name of Company Servicing Tank:
   Have you experienced any malfunctions? ☐ Yes ☐ No Comments: Not that I know of
   d. LEACH FIELD: ☑ Yes ☐ No ☐ Other
   IF YES: Size Location: ☑ Unknown
   Date of installation of leach field: Installed By:
   Have you experienced any malfunctions? ☐ Yes ☐ No
   Comments: Not that I know of
   e. IS SYSTEM LOCATED ON "DEVELOPED WATERFRONT" as described in RSA 485-A? ☐ Yes ☑ No ☐ Unknown
   IF YES, has a site assessment been done? ☐ Yes ☐ No ☐ Unknown
   SOURCE OF INFORMATION:
   f. COMMENTS: I have been told the system was replaced recently but I am not aware when. I know it was more than 4 years ago.

FOR ADDITIONAL INFORMATION THE BUYER IS ENCOURAGED TO CONTACT THE NH DEPARTMENT OF ENVIRONMENTAL SERVICES SUBSURFACE SYSTEMS BUREAU

SELLER(S) INITIALS 07/15/26 18:52 AM EDT / **BUYER(S) INITIALS** /

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PROPERTY DISCLOSURE - LAND ONLY
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PROPERTY LOCATION: 10 Potters Road, Andover, NH 03216

7. HAZARDOUS MATERIAL

UNDERGROUND STORAGE TANKS - Current or previously existing:
Are you aware of any past or present underground storage tanks on your property? ☐ YES ☐ NO ☑ UNKNOWN
IF YES: Are tanks currently in use? ☐ YES ☐ NO
IF NO: How long have tank(s) been out of service? ____
What materials are, or were, stored in the tank(s)? ____
Age of tank(s): ____ Size of tank(s): ____ Owner of tank(s): ____
Location: ____
Are you aware of any problems, such as leakage, etc.? ☐ Yes ☐ No Comments: ____
Are tanks registered with the Department of Environmental Services (D.E.S.)? ☐ YES ☐ NO ☑ UNKNOWN
If tanks are no longer in use, have tanks been abandoned according to D.E.S.? ☐ YES ☐ NO ☑ UNKNOWN
Comments: ____

8. GENERAL INFORMATION

a. Is this property subject to Association fees? ☐ YES ☑ NO ☐ UNKNOWN
If YES, Explain: ____
If YES, what is your source of information? ____
b. Is this property located in a Federally Designated Flood Hazard Zone? ☐ YES ☐ NO ☑ UNKNOWN
c. Are you aware of any liens, encroachments, easements, rights-of-way, leases, restrictive covenants, special assessments, right of first refusal, life estates, betterment fees or attachments on the property? ☑ YES ☐ NO ☐ UNKNOWN
If YES, Explain: The property is part of the corporate mortgage or line of credit.
d. What is your source of information? ____
e. Are you aware of any landfills, hazardous materials or any other factors, such as soil, flooding, drainage or any unusual factors? ☐ YES ☐ NO ☑ UNKNOWN
If YES, Explain: ____
f. Are you receiving a tax exemption or reduction for this property for any reason including but not limited to current use, land conservation, etc.? ☐ YES ☐ NO ☑ UNKNOWN
IF YES, Explain: ____
g. How is the property zoned? 01 - V VILLAG Source: Town of Andover Tax Card
h. Has the property been surveyed? ☐ YES ☐ NO ☑ UNKNOWN If YES, is the survey available? ☐ YES ☐ NO
i. Has the soil been tested? ☐ YES ☐ NO ☑ UNKNOWN If YES, are the results available? ☐ YES ☐ NO
j. Has a percolation test been done? ☐ YES ☐ NO ☑ UNKNOWN If YES, are the results available? ☐ YES ☐ NO
k. Has a test pit been done? ☐ YES ☐ NO ☑ UNKNOWN If YES, are the results available? ☐ YES ☐ NO
l. Have you subdivided the property? ☐ YES ☐ NO ☑ UNKNOWN
m. Are there any local permits? ☐ YES ☐ NO ☑ UNKNOWN Please explain: ____
n. Are there attachments explaining any of the above? ☐ YES ☐ NO ☐ UNKNOWN
o. Septic/Design plan available? ☐ YES ☐ NO ☑ UNKNOWN
p. Methamphetamine Production: Do you have knowledge of methamphetamine production ever occurring on the property? (Per RSA 477:4-g) ☐ YES ☑ NO If YES, please explain: ____

9. ADDITIONAL INFORMATION:

Property owned by New Hampshire Electric Cooperative since 1974.

10. NOTE TO PURCHASER(S): PRIOR TO SETTLEMENT YOU SHOULD EXERCISE WHATEVER DUE DILIGENCE YOU DEEM NECESSARY WITH RESPECT TO ADJACENT PARCELS IN ACCORDANCE WITH THE TERMS AND CONDITIONS AS MAY BE CONTAINED IN PURCHASE AND SALES AGREEMENT. YOU SHOULD EXERCISE WHATEVER DUE DILIGENCE YOU DEEM NECESSARY WITH RESPECT TO INFORMATION ON ANY SEXUAL OFFENDERS REGISTERED UNDER NH RSA CHAPTER 651-B. SUCH INFORMATION MAY BE OBTAINED BY CONTACTING THE LOCAL POLICE DEPARTMENT.

SELLER(S) INITIALS ____ 07/15/26 9:53 AM EDT dotloop verified / ____ **BUYER(S) INITIALS** ____ / ____

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TO BE COMPLETED BY SELLER

SELLER(S) MAY BE RESPONSIBLE AND LIABLE FOR ANY FAILURE TO PROVIDE *KNOWN* INFORMATION TO BUYER(S).

ACKNOWLEDGEMENTS:
SELLER ACKNOWLEDGES THAT HE/SHE HAS PROVIDED THE ABOVE INFORMATION AND THAT SUCH INFORMATION IS ACCURATE, TRUE AND COMPLETE TO THE BEST OF HIS/HER KNOWLEDGE. SELLER AUTHORIZES THE LISTING BROKER TO DISCLOSE THE INFORMATION CONTAINED HEREIN TO OTHER BROKERS AND PROSPECTIVE PURCHASERS.

Gary Lemay — dotloop verified 07/15/26 9:53 AM EDT AX6X-FIGP-GRUP-BX4U	
SELLER DATE	SELLER DATE

BUYER ACKNOWLEDGES RECEIPT OF THIS PROPERTY DISCLOSURE RIDER AND HEREBY UNDERSTANDS THE PRECEDING INFORMATION WAS PROVIDED BY SELLER AND IS NOT GUARANTEED BY BROKER/AGENT. THIS DISCLOSURE STATEMENT IS NOT A REPRESENTATION, WARRANTY OR GUARANTY AS TO THE CONDITION OF THE PROPERTY BY EITHER SELLER OR BROKER. BUYER IS ENCOURAGED TO UNDERTAKE HIS/HER OWN INSPECTIONS AND INVESTIGATIONS VIA LEGAL COUNSEL, HOME, STRUCTURAL OR OTHER PROFESSIONAL AND QUALIFIED ADVISORS AND TO INDEPENDENTLY VERIFY INFORMATION DIRECTLY WITH THE TOWN OR MUNICIPALITY.

BUYER DATE	BUYER DATE

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B1228P129

12.75

WARRANTY DEED

TRUSTEES OF PHILLIPS ACADEMY, of Andover, Commonwealth of Massachusetts, an educational institution existing by virtue of and under the laws of the Commonwealth of Massachusetts, for consideration paid, grant to NEW HAMPSHIRE ELECTRIC COOPERATIVE, INC. a New Hampshire electric utility corporation existing under the laws of the State of New Hampshire, with principal place of business on Tenney Mountain Highway, Plymouth, County of Grafton and State of New Hampshire, with WARRANTY covenants

All that land of the grantor located in the Town of Andover, Countyof Merrimack and State of New Hampshire, consisting of the following described three tracts, to wit:

Tract 1. Beginning on the south side of Route 11, the highway leading from Potter Place to Wilmot Flat, and at an iron rod set in a stonewall opposite station no. 265+62.70 as detailed on the State of New Hampshire FAS Project no. S-SG64(2) dated 1956, which point of beginning marks the northwest corner of the aforesaid tract no. 1; thence proceeding along the southerly line of the aforesaid highway right-of-way on a course of N 57 degrees 55 minutes 27 seconds E for a distance of 207.70 feet to an iron rod set in the ground in the westerly line of the right-of-way of Church Street so-called; thence turning and proceeding along the said westerly line of Church Street on a course of S 12 degrees 45 minutes 12 seconds E for a distance of 355.43 feet more or less to an iron pipe set in the ground at the northeast corner of land now or formerly of Wanda F. Snecinski, which marker is set at the end of a stone wall; thence turning and proceeding along said stone wall and land of said Snecinski on a course of S 65 degrees 28 minutes 39 seconds W for a distance of 67.17 feet to the corner of said stone wall, and thereafter continuing on a course of S 63 degrees 11 minutes 25 seconds W for a further distance of 131.83 feet to an iron pipe set in a jog of stone walls, and proceeding from the jog in the stone wall on a course of S 61 degrees 30 minutes 44 seconds W for a further distance of 4.38 feet to the end of another stone wall at land now or formerly of W. and A. Suchadolski; thence turning and proceeding along the stone wall marking the easterly line of land of said Suchadolski on a course of N 12 degrees 26 minutes 4 seconds W for a distance of 333.62 feet more or less tothe point of beginning. Meaning and intending to describe and convey a parcel consisting of 67,600 square feet more or less, approximating 1.6 acres.

Tract 2. Beginning at an iron rod at the northwest corner of the premises herein described, said point being located in the southerly line of the aforesaid Route 11 opposite Highway station no. 268+82.34; thence proceeding

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B1228P129

along the aforesaid highway southerly right-of-way on a course of N 57 degrees 55 minutes 27 seconds E for a distance of 15.50 feet to an iron rod set in the ground at land now or formerly of the Northern Railroad; thence turning and proceeding along the land now or formerly of the said Northern Railroad on a course of S 32 degrees 29 minutes 9 seconds E for a distance of 363.20 feet to an iron pipe set in the ground at land now or formerly of Roman Catholic Bishop of Manchester; thence turning and proceeding along land of the Roman Catholic Bishop of Manchester on a course of S 64 degrees 21 minutes 16 seconds W for a distance of 140.80 feet to a drill hole set in a rock in the stone wall at the easterly line of the right-of-way of said Church Street; thence turning and proceeding along the easterly line of right-of-way of said Church Street on a course of N 12 degrees 45 minutes 12 seconds W for a distance of 368.16 feet to the point of beginning. Meaning and intending to describe and convey a parcel consisting of 28,080 square feet more or less, approximating .6 of an acre.

Tract 3. A triangular parcel lying on the northerly side of Route 11 beginning at an iron rod set in the ground in the northerly line of said Route 11 opposite highway station no. 266+16.36 at the southwesterly corner of the within described parcel at land now or formerly of Wellington S. and Eva M Reed; thence proceeding along the easterly line of said land of Wellington S. and Eva M. Reed on a course N 12 degrees 26 minutes 4 seconds W for a distance of 885.16 feet to an iron rod set in the ground in the westerly side line of land of the Northern Railroad; thence turning and proceeding along the said westerly line of said Northern Railroad on a course of S 48 degrees 38 minutes 30 seconds E for a distance of 523.34 feet to an iron rod set in the ground; thence turning and continuing still along the westerly line of said Northern Railroad on a course of S 39 degrees 0 minutes 55 seconds E for a distance of 334.49 feet to a ½ inch drill hole set in a large boulder in the northerly line of the right-of-way of said Route 11; thence turning and proceeding along the northerly line of said right-of-way of Route 11 on a course of S 57 degrees 55 minutes 27 seconds W along the aforesaid stone wall for a distance of 113.55 feet to a ½ inch drill hole set in a large boulder at a turning point in the said stone wall; thence turning and continuing along said stone wall on a course of S 83 degrees 49 minutes 29 seconds W along land formerly of the Northern Railroad for a distance of 110.51 feet to a drill hole in a boulder at a turn in the aforesaid stone wall; thence turning and proceeding on a course of S 32 degrees 29 minutes 9 seconds E for a distance of 48.27 feet to an iron rod set in the northerly line of the right-of-way of the aforesaid Route 11; thence turning and proceeding along the northerly line of said Route 11 on a course of S 57 degrees 55 minutes 27 seconds W for a distance of 274.55 feet to the place of beginning. Meaning and intending hereby to describe and convey a parcel approximating 4.9 acres be the same more or less.

Meaning and intending to describe and convey all and the same premises conveyed to the grantor by deeds of Charles B.G. Murphy dated January 8,1958 and recorded in Merrimack County Registry at Book 822, page 172, and Michigan-Yale Phillips Educational Corp. dated January 6, 1958 and recorded said Registry at Book 819, page 477. Reference to plan dated July 1974 by Kear-Wood,Inc. is hereby made for verification of the above description.

Property taxes on said premises for the current tax year are to be pro rated to the date of delivery of this deed.

B1228P131

IN WITNESS WHEREOF, the said TRUSTEES OF PHILLIPS ACADEMY has caused its corporate seal to be hereto affixed and these presents to be signed, acknowledged and delivered in its name and behalf by George A. Neilson, Jr. its Business Manager and Frederic A. Stott its Secretary of the Academy hereto duly authorized this 22 day of August, 1974.

TRUSTEES OF PHILLIPS ACADEMY

Edward F. Cregg
witness to both signatures

By George A. Neilson Jr.

By Frederic A. Stott

THE COMMONWEALTH OF MASSACHUSETTS

Essex, ss. August 22, 1974

Then personally appeared the above named George A. Neilson, Jr., Business Manager and Frederic A. Stott, Secretary as aforesaid, and acknowledged the foregoing instrument to be the free act and deed of the TRUSTEES OF PHILLIPS ACADEMY,

before me

Barbara D. Morrison
Notary Public

My commission expires Dec. 13, 1974

STATE OF NEW HAMPSHIRE
TAX ON TRANSFER OF REAL PROPERTY
STATE TAX COMMISSION
OCT -- '74
P.B. 10660
12.75
R.S.A. 78-B

0 2 8 2 4 2

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B1228P132

PHILLIPS ACADEMY
Andover, Massachusetts

I, THEODORE R. SIZER, hereby certify that I have been duly elected to and now hold the office of Clerk of the Trustees of Phillips Academy.

I FURTHER CERTIFY that at a regular meeting of the Trustees of Phillips Academy held on October 26-27, 1973, at which a quorum was present and acting, it was

VOTED, that, effective October 29, 1973, the Clerk, the Associate Headmaster, the Business Manager, the Associate Treasurer, the Comptroller, the Dean of the Academy, and the Secretary of the Academy be and they hereby are each authorized and empowered severally in the name and on behalf of the Trustees of Phillips Academy to sell, transfer, exchange, and exercise any rights, options, or privileges in connection with any real or personal property and, in furtherance of the foregoing action to sign, execute, and deliver any and all instruments, deeds, conveyances, endorsements, agreements, guarantees, and documents of transfer, which any one of them may deem advisable up to the value of $10,000. If the value exceeds $10,000, the authorization must be indicated and accompanied by the signatures of any two of the following: the Clerk, the Associate Headmaster, the Business Manager, the Associate Treasurer, the Comptroller, the Dean of the Academy, the Secretary of the Academy.

I FURTHER CERTIFY that the aforesaid vote of the Trustees of Phillips Academy has not been amended or rescinded and is in full force and effect.

I FURTHER CERTIFY that Peter Q. McKee has been duly appointed Associate Headmaster and still serves in that capacity; that George A. Neilson, Jr. has been duly appointed Business Manager and still serves in that capacity; that William A. Munroe has been duly appointed Associate Treasurer and still serves in that capacity; that Lockard Row has been duly appointed Comptroller and still serves in that capacity; that Carolyn E. Goodwin has been duly appointed Dean of the Academy and still serves in that capacity; that Frederic A. Stott has been duly appointed Secretary of the Academy and still serves in that capacity.

IN WITNESS WHEREOF I have hereunto set my hand and affixed the seal of the Trustees of Phillips Academy at Andover, Massachusetts.

Theodore R. Sizer
Clerk of the
TRUSTEES OF PHILLIPS ACADEMY

Dated: August 22, 1974

B1228P132

B1228P133

Andover

WARRANTY DEED

Trustees of Phillips
Academy
to
New Hampshire Electric Coop-
erative, Inc

MERRIMACK COUNTY RECORDS
Received Oct. 17, 12-30P.M. 1974
Recorded Lib. 1226 Fol. 236.
Examined: Kathleen M. Roy Geary
Register.

ERRIMACK COUNTY RECORDS

ecorded Nov. 7, 9-00AM 1974

B1228P133

Kathleen M. Roy Geary
REGISTER

ORIGINAL NOT SUITABLE
FOR PROPER REPRODUCTION

Town of Andover Print Now

Parcel ID: 000028 000058 000187 (CARD 1 of 1)
Owner: NEW HAMPSHIRE ELECTRIC COOP
Location: 10 POTTERS ROAD
Acres: 1.600

General

Valuation

Building Value:	$171,100
Features:	$18,400
Taxable Land:	$180,000
Card Value:	$369,500
Parcel Value:	$369,500

Review and Pay Property Taxes Online

Listing History

List Date	Lister
09/11/2018	KCVL
02/11/2018	INSP
11/20/2013	NFVL
08/21/2013	INSP
03/06/2008	DMVL

Districts

District	% In Dist.
ANDO FIRE	100

Notes: CB FNDTN; 11/13 CORR SKETCH; SPLIT LT OVER DEK; BTH HAS 3 FIXTURES; 9/18; CORR BACK, DECK OPF/FENCE; EFF 4-20 ZONE CORRECTED TO VILLAGE PER 2020 TOWN MEETING;

History Of Taxable Values

Tax Year	Building	Features	Land	Value Method	Total Taxable
2024	$171,100	$18,400	$180,000	Cost Valuation	$369,500
2023	$102,100	$12,600	$96,800	Cost Valuation	$211,500
2022	$102,100	$12,600	$96,800	Cost Valuation	$211,500
2021	$102,100	$12,600	$96,800	Cost Valuation	$211,500
2020	$102,100	$12,600	$96,800	Cost Valuation	$211,500
2019	$102,100	$12,600	$96,900	Cost Valuation	$211,600
2018	$185,300	$12,600	$82,800	Cost Valuation	$280,700
2017	$183,700	$13,200	$82,800	Cost Valuation	$279,700
2016	$183,700	$13,200	$82,800	Cost Valuation	$279,700
2015	$183,700	$13,200	$82,800	Cost Valuation	$279,700
2014	$183,700	$13,200	$82,800	Cost Valuation	$279,700
2013	$166,600	$13,100	$89,400	Cost Valuation	$269,100
2012	$166,600	$13,100	$89,400	Cost Valuation	$269,100
2011	$166,600	$13,100	$89,400	Cost Valuation	$269,100
2010	$166,600	$13,100	$89,400	Cost Valuation	$269,100
2009	$166,600	$13,100	$89,400	Cost Valuation	$269,100
2008	$161,900	$13,100	$93,500	Cost Valuation	$268,500
2007	$95,500	$13,100	$93,500	Cost Valuation	$202,100
2006	$95,500	$13,100	$93,500	Cost Valuation	$202,100

Sales

There Are No Sales For This Card

Land

Size:	1.600 Ac.	**Site:**	AVERAGE
Zone:	01 - V VILLAGE	**Driveway:**	PAVED
Neighborhood:	AVERAGE+10	**Road:**	PAVED
Land Use:	UTILITY-ELEC		
		Taxable Value:	$180,000

Land Type	Units	Base Rate	NC	Adj	Site	Road	Dway	Topo	Cond	Ad Valorem	SPI	R	Tax Value	Notes
UTILITY-ELEC	1.000 AC	113,500	F	110	100	100	100	95 MILD	150	177,900	0	N	177,900	USE
UTILITY-ELEC	0.600 AC	2,500	X	100	0	0	0	95 MILD	150	2,100	0	N	2,100	USE

Building

1 STORY CONVENTION Built In 1950

Roof:	GABLE OR HIP	**Bedrooms:**	0	**Quality:**	AVG+10
	RUBBER MEMBRANE	**Bathrooms:**	1.0	**Size Adj.**	0.9711
Exterior:	PREFIN METAL			**Base Rate:**	68.00
		Extra Kitchens:	0	**Building Rate:**	0.9721
Interior:	MINIMUM	**Fireplaces:**	0		
	DRYWALL	**Generators:**	1	**Sq. Foot Cost:**	82.40
Flooring:	CONCRETE	**AC:**	NO	**Effective Area:**	3,099
	VCT			**Gross Living Area:**	2,628
Heat:	OIL	**Comm. Wall Factor:**	125		
	FA DUCTED	**Comm Wall:**	STEEL	**Cost New:**	$255,358

Depreciation

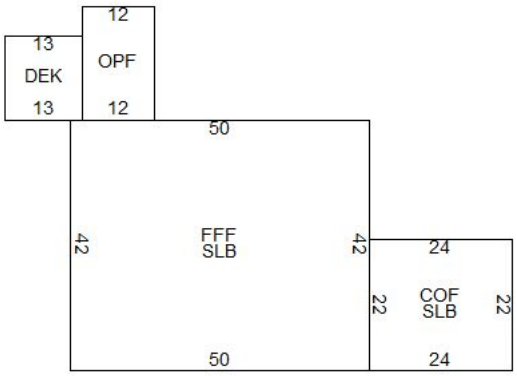
Normal	Physical	Functional	Economic	Temporary	Total Dpr.	Assessment
AVERAGE 33%	0%	0%	0%	0%	33%	$171,100

Features

Feature Type	Units	Length x Width	Size Adj	Rate	Cond	Value	Notes
FENCE COMMERCIAL/FT	384	1 x 384	102	16.00	75	$4,700	48X8 EST
PAVING	5394	1 x 5394	63	3.25	60	$6,627	EST SHAPE
LEAN-TO	437	23 x 19	97	4.00	90	$1,526	ATT 19X12
SIGN-NON ILLUMINATED	15	5 x 3	400	92.00	100	$5,520	EST
					Total:	**$18,400**	

Photo

Sketch



Code	Description	Area	Eff Area	GL Area
FFF	FST FLR FIN	2,100	2,100	2,100
COF	COM OFFICE AREA	528	924	528
DEK	DECK/ENTRANCE	182	18	0
SLB	SLAB FOUNDATION	2,628		0
OPF	OPEN PORCH	228	57	0
	Totals		**3,099**	**2,628**

Map

Printed on 07-10-26

TOWN of ANDOVER
P.O. Box 61
Andover, NH 03216-0061
(603) 735-5332

Incorporated 1779

TOWN OF ANDOVER, NEW HAMPSHIRE
ZONING ORDINANCE
(Revised 2023)

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PREAMBLE

A. **Authority**

This ordinance is established pursuant to the authority conferred by Chapter 672 through 677, New Hampshire Revised Statutes Annotated (RSA).

B. **Title**

This ordinance shall be known and may be cited as “The Andover Zoning Ordinance." It is hereinafter referred to as "this Ordinance."

C. **Purposes**

The general purposes of this Ordinance are to promote the health, safety, and welfare of the inhabitants of the Town of Andover, New Hampshire; to enhance and preserve the rural character of the town; to conserve the value of buildings and properties; to encourage the most appropriate use of land; to carry out the purposes defined in RSA 672:1 and 674:17, and to implement the Andover Master Plan. It is the intent of this Ordinance to allow individual landowners as great a degree of freedom in the use and enjoyment of their land as is consistent with the accomplishment of these purposes.

Among the purposes set out in RSA 674:17, this Ordinance seeks in particular to prevent the overcrowding of land; avoid undue concentration of population; facilitate the adequate provision of transportation, solid waste facilities, water, sewerage, schools, parks, and child day care; assure proper use of natural resources and other public requirements; encourage the preservation of agricultural lands and buildings; and encourage the installation and use of solar, wind, or other renewable energy systems and protect access to energy sources.

Decisions made under this Ordinance, including determinations by the Zoning Administrator, the Andover Planning Board and the Andover Zoning Board of Adjustment, should be at all times consistent with the purposes set out above, and with the Guiding Principles of the Andover Master Plan, which are to:

1. Maintain Andover’s small town, rural character with village centers and generally open spaces elsewhere.

2. Encourage commercial activity that builds on the regional recreation and tourism economy that emphasizes Andover’s location in the Lakes Region near summer and winter recreation places including Highland Lake and Ragged Mountain ski area.

3. Promote and preserve farming and forestry where small-scale agriculture is encouraged and forests are managed for forest products while protecting natural resources.

4. Create specific zones where small-scale light industry and

commercial activities are not only allowed, but encouraged.

5. Preserve views, especially along Andover's major highways – US Routes 4, 4A, and NH Route 11 – including both the near-filed views (by maintaining buffers between roads and buildings) and the far-field views) such as Mt. Kearsarge, wooded hills and ridges, and Ragged Mtn.).

6. Conserve natural resources – farm and forest lands, water resources, and wildlife habitat.

7. Provide choices in housing types – single family, duplex, townhouses, senior housing – including opportunity for open space lot configuration.

8. Preserve Andover's historical places and assets.

9. Coordinate with Proctor Academy on our respective plans for the future to preserve the many mutual benefits of Proctor's presence in Andover.

10. Develop community infrastructure.

ARTICLE II: ZONING DISTRICT BOUNDARIES

A. Districts - The Town of Andover is divided into four zoning districts hereinafter referred to as "Districts or Zones," as follows:

Forest and Agriculture District (Zone FA)

Agricultural and Residential (Zone AR)

Rural Residential District (Zone RR)

Village District (Zone V)

B. Zoning Map

The zoning districts listed above are bounded as shown on the map entitled "Official Andover Zoning May of March 2020." The map is attached to and made a part of this ordinance and is hereinafter referred to as the "Zoning Map." (At the March 2020 Town Meeting voters approved the expansion of the Andover Village District and Cilleyville Village District from the original Map of 1974.) The official Zoning Map of the Town of Andover to be used to determine exact zoning district boundaries is drawn to a scale of one thousand feet to the inch, and shall be certified as the official Zoning Map of the Town of Andover by the Town Clerk upon adoption of this ordinance, or upon any amendment that affects the Zoning Map and, upon such certification, shall be filed with the Planning Board.

C. Boundaries

Where appropriate and unless otherwise indicated, zoning district boundaries shown on the Zoning Map are the center lines of streets and railroad and power line rights of way, the middle of the channel of waterways or other bodies of water, or the Town Line. Where a boundary is so indicated that it parallels the center line of a street, such boundary shall be considered to be parallel thereto at the distance therefrom shown on the Zoning Map. Any boundary within 10 feet of a property line shall be considered to be coincident with such property line. Where any distance is not stated on the Zoning Map, the distance shall be determined by use of the scale on the map. In any instance in which there is doubt as to the location of a zoning district boundary, the Board of Adjustment shall determine the location of such boundary, consistent with the intent of this Ordinance and the Zoning Map.

ARTICLE III: INTERPETATION AND APPLICATION

A. Interpretation

This Ordinance shall be interpreted as setting forth minimum requirements for the promotion of the public health, safety and the general welfare. In any instance in which any requirement of this Ordinance is at variance with the requirement of any other lawfully adopted rule, regulation, or ordinance, the most restrictive, or that imposing the highest standard, shall govern.

B. Application

1. This Ordinance shall apply to all structures, uses, and lots within the Town of Andover. If a lawfully established structure, use or lot is not in conformity with the provisions of this Ordinance on the effective date of this Ordinance, it may continue to exist subject to the provisions of Article VI.
2. Any use that is not listed in this Ordinance as a permitted use, or a use permitted as a special exception, is prohibited after the effective date of the ordinance, except a nonconforming use permitted pursuant to Article VI.
3. Any use proposed for a site within two zoning districts shall be governed by the stricter standards, within the discretion of the board of adjustment provided that when the use falls substantially within one of those districts, then the standards of that district shall be applied.

ARTICLE IV: GENERAL PROVISIONS

A. Definitions - In this Ordinance the following terms have the following meanings:

Alteration - Any structural change or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, girders, or interior partitions, as well as any structural in means of ingress or egress, or

any enlargement or diminution of a building or structure, whether horizontally or vertically. Alteration includes the movement of a building from one location to another.

Accessory Building - A subordinate building incidental to and on the same lot occupied by the main building or use.

Accessory Use - A land use located on a lot which is incidental and subordinate to the main building on such lot, or to the main use of such lot.

Building Site - Shall mean each portion of a lot, tract or parcel of land upon which a single building is or is to be placed, sometimes called that building's "footprint".

Campground - A parcel of land with one or more specific sites, with or without water, electricity and sewage hookups, that has provision for the pitching of a tent or the parking of any vehicle or trailer for use as sleeping quarters for not more than 90 days.

Dwelling - A building designed or used as a place of residence.

Dwelling Unit - A dwelling or portion thereof designed or used for one family.

Family - One or more persons occupying a single dwelling unit, provided that unless all members are legally related, no such family shall contain over five (5) persons, but further provided that domestic servants employed on the premises may be housed on the premises without being counted as a family or families.

Frontage - The distance along a lot line on a street.

High Water Mark - In case of a lake or pond, the normal high water mark; in the case of a river, the bank of the river in normal flow.

Home Occupation - Any use conducted entirely within a dwelling or an accessory building which is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof, and in connection with which there is no outside storage or display except a permitted sign.

Inn - A building or buildings containing lodging units consisting of a room or suite of rooms which are offered or to be offered as sleeping accommodations for transient guests for compensation, and also containing dining facilities for such guests.

Lot - A parcel of land under one ownership, undivided by a street or Town Line, with ascertainable boundaries established by deed or by lot boundary lines on a land subdivision plan filed with the Registry of Deeds. The boundary line of a lot abutting on a public right of way shall be the boundary line of the right of way, even though ownership of the land may extend beyond such boundary line.

Manufactured Housing - Any structure, transportable in one or more sections, which, in the traveling mode, is 8 body feet or more in width and 40 body feet or

more in length, or when erected on site, is 320 square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, which include plumbing, heating and electrical systems contained therein. Manufactured housing as defined in this section shall not include pre-site built housing as defined herein. The term manufactured home includes park trailers, travel trailers, and other similar vehicles. The use of any such housing for human habitation shall require a certificate of occupancy from the Zoning Administrator issued under the Building Code.

Motel - A building or buildings containing lodging units consisting of a room or suite of rooms, each with a separate entrance and its own toilet facilities, and offered or to be offered as sleeping accommodations for transient guests for compensation.

Non-conforming Structure. Use or Lot - A structure, use or lot that does not conform to the regulations of the zoning district in which it is carried on or located.

Parking Space - An off-street space available for the parking of one motor vehicle.

Pre-site Built Housing - As used in this Ordinance, "pre-site built housing" means 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. The use of any such housing for human habitation shall require a certificate of occupancy from the Zoning Administrator issued under the Building Code. For the purposes of this Ordinance, pre-site built housing shall not include manufactured housing, as defined herein.

Street - A public thoroughfare, highway, street, road or avenue, lawfully existing and maintained for vehicular travel by the Town of Andover or the State of New Hampshire.

Structure - Shall mean any combination of any materials, including buildings, whether portable, movable or fixed, having a roof and enclosed with exterior walls or otherwise, built for the shelter of persons or property and/or used for residential, commercial, industrial, institutional, religious, recreational, professional or other purposes. For the purposes of interpreting and applying height limitations in this Ordinance only, the term "building" or “structure” shall also include without limitation communications technology antennae, flagpoles, church steeples, decorative additions to buildings, and signs of all kinds.

Tiny House – A dwelling having a minimum ground floor area of less than four hundred eighty (480) square feet outside measurement.

Waterfront - Property that borders on Hopkins Pond (formerly Adder Pond), the Blackwater River, Bog Pond, Bradley Lake, The Cascade and Frazier Brooks, Elbow Pond, Highland Lake and Horseshoe Pond.

Waterfront Lot Line - A straight line connecting two points where each side line meets the normal high water mark or the normal flow of the river bank.

B. Signs

Signs are allowed only in accordance with the Town Sign Ordinance.

C. Agriculture and Forestry

General farming, including horticulture, dairying, livestock, poultry raising and other agricultural uses, is permitted in any district. Forestry and woodlots and accessory uses, including lumbering and the cutting of cordwood and Christmas trees, are permitted in any district.

D. Mobile Homes

Mobile homes are allowed in all districts, subject to the provisions of this Ordinance.

E. Residence Density

Only one dwelling is permitted on one lot in the Forest/Agriculture and Agriculture/Residential Zones. Multiple buildings for dwelling (whether single family, multi-family, or apartment building) may be constructed on a parcel in the Village or Rural/Residential Zones, at a rate of no more than one building per acre of buildable lot area in the parcel. (See definition of “buildable area” in Conservation Subdivision Appendix 1). Required minimum spacing between buildings increases as the number of dwelling units increases, at a rate of 30 feet for the first dwelling unit, plus an additional 10 feet per additional dwelling unit in the building. [For example, a building containing 4 dwelling units must be placed more than 60 feet away from any other dwelling.

F. Set Back

Set back is measured from the side or rear lot lines and on street sides from the street right of way. The following shall apply except where other sections of this Ordinance provide different measures.

Front Yard - In all districts, a minimum of thirty (30) feet will be maintained between any part of any structure and the applicable street(s) right of way line(s). Orientation of the structure on the lot does not determine front yard location for the purpose of this Ordinance.

Side and Rear Yards - A distance of a minimum of fifteen (15) feet will be maintained between any part of any structure and the lot line.

G. Parking

Adequate off-street parking space shall be provided for each use, in accordance

with the following minimum standards:

1. Residential Use

   - No fewer than one off-street parking space of not less than 200 square feet for each dwelling unit.

   - Driveways(s) to parking must be no wider at the curb than to allow two cars to pass by each other safely.

   - Multiple buildings for multi-family or apartment dwellings on one parcel may share the same private driveway.

2. Commercial Use - One square foot of off-street parking space for each square foot of floor space.

3. Motels - One off-street parking space of not less than 200 square feet for each lodging unit.

4. Assembly - Any church, theatre, auditorium, hall, restaurant or any other place of public assembly, shall have provision for at least one off-street parking place of not less than 200 square feet for every four seats.

H. Building Height

No new structure shall be constructed to a height of more than 2-1/2 stories or 35 feet above average ground level, nor shall any existing building be altered or modified so as to increase its height to more than 2-1/2 stories or 35 feet above average ground level. "Height" shall mean the topmost part of any portion of the structure or building.

I. Waterfront Property

1. Each lot created shall have a minimum waterfront lot line of 200 feet.

2. All buildings or structures erected on a waterfront lot shall meet the standards of N.H. RSA 483-B. *et sequelae.*

J. Penalties and Fees

All penalties and fees payable pursuant to this ordinance shall be paid to the Treasurer of the Town of Andover, for the use of the Town.

ARTICLE V: ZONING DISTRICT REGULATIONS

A. Forest and Agriculture Districts (Zone FA)

The following regulations apply to the FA Districts. They are mainly districts of forest, woodlands and farms.

1. Permitted Uses:

- Wood lots and tree farms

- General farming and agricultural, including horticulture, dairying, livestock, and poultry farming

- Accessory uses and buildings

2. Special Exceptions:

a. Single-family dwellings.

b. Home occupations and professional offices accessory to dwellings.

c. Sale of agricultural or woodland products.

d. Areas and facilities for outdoor recreation not having overnight accommodations such as skiing, snowmobiling, skeet shooting and the like.

e. Stables and trails for horseback riding.

f. Sawmills, provided that the lot is of sufficient size and shape to assure that there will be no unreasonable emission of dust, noise, glare, fumes, vibration or smoke beyond the lot line

3. Lot Frontage and Area:

Each lot created after the effective date of this ordinance shall have a minimum frontage of 250 feet and an area of at least 2 acres. Lots in existence on the effective date of this ordinance must have a minimum frontage of 50 feet in order to change the use of such lot.

B. Agricultural and Residential Districts (Zone AR)

The following regulations apply to the AR Districts. They are mainly districts of farms, residences and woodlands.

1. Permitted Uses:

- Single family dwellings

- Any Permitted Use allowed in the FA Zone

- Sale of agricultural or woodland products

- Home occupations and professional offices accessory to dwellings

2. Special Exceptions:

(a) Campgrounds, provided that they are located on a lot of at least 5 acres with 3500 square feet of land for each camping site, with setbacks along all lot boundary lines in conformity with local regulations, and provided that such campgrounds otherwise conform to all applicable local and state regulations

(b) Summer camps for children under 18 years old.

(c) Conference centers for educational, business, professional or scientific purposes, either with or without overnight accommodations.

(d) Areas and facilities for outdoor recreation such as skiing, snowmobiling, skeet shooting and the like, either with or without overnight accommodations.

(e) Stables and trails for horseback riding.

(f) Motels and inns provided that they are located on a lot of at least 5 acres with no less than 200 square feet of habitable interior area for each lodging unit, with a minimum frontage of 250 feet, and yards along all lot boundary lines no less than 30 feet in depth

(g) Retail sale of antiques, art, crafts and handiwork when an accessory use to a dwelling, and with outdoor display.

(h) Cemeteries.

(i) Tiny houses.

3. Lot Frontage and Area:

Each lot created after the effective date of this ordinance shall have a minimum frontage of 250 feet and an area of at least 2 acres. Lots in existence on the effective date of this ordinance must have a minimum frontage of 50 feet in order to change the use of such a lot.

C. Rural Residential Districts (Zone RR)

The following regulations apply to the RR Districts. They are mainly districts of residences and woodlands.

1. Permitted Uses:

Any Permitted Use allowed in the FA and AR Zones

Churches, auditoriums, and other buildings for public assembly

Accessory uses and buildings

Two-family dwellings

Places for public assembly of townspeople

2. Special Exceptions:

(a) Retail sale of antiques, art, crafts and handiwork when an accessory use to a dwelling, and with outdoor display.

(b) Neighborhood stores for the retail sale of new goods.

(c) Parks, playgrounds and other similar outdoor recreational areas and facilities.

(d) Tiny houses.

(e) Multi-family dwellings

3. Lot Frontage and Area:

Each lot created after the effective date of this ordinance shall have a minimum frontage of 150 feet and an area of at least one acre. Lots in existence on the effective date of this ordinance must have a minimum frontage of 50 feet in order to change the use of such lot.

D. Village Districts (Zone V)

The following regulations apply to the V Districts. They are mainly the districts of residences, commercial establishments, community buildings and neighborhood businesses.

1. Permitted Uses:

- Any Permitted Use allowed in the FA, AR and RR Zones

- Neighborhood stores for the retail sale of new goods

- Neighborhood service establishments, including appliance repairs, clothes cleaners, self service laundries and barbers

- Tourist homes in existing buildings

- Single and two-family dwellings

- Apartments constructed by interior alterations to an existing building (Rental single and muti-family dwellings are considered Residential, and not a Commercial use with respect to Andover Zoning Ordinance, Article X “Performance Standards for Commercial Uses”.

- Places for public assembly for townspeople

- Antique shops

- Community buildings

- Combinations of the above Village-permitted uses (“mixed-use”)

- Accessory buildings and uses

2. Special Exceptions:

(a) Filling station and automobile repair shops where ingress and egress of motor vehicles is approved by the Board of selectmen as not being likely to endanger vehicular and/or pedestrian traffic, and where the Planning Board finds the building design conforms with the planned development of the district.

(b) Hospitals, rest homes and convalescent homes provided that they are located on a lot of at least two acres, plus 2000 square feet of land for each sleeping room or ward.

(c) Public and private schools provided that they are located on a lot of at least two acres, plus 2000 square feet of land for each sleeping room.

(d) Offices and banks.

(e) Indoor theaters for live performances.

(f) Manufacture of goods for retail sale on the premises.

(g) Restaurants.

3. Lot Frontage and Area:

Each lot created after the effective date of this Ordinance shall have a minimum frontage of 150 feet and an area of at least one acre. Lots in existence on the effective date of this Ordinance must have a minimum frontage of 50 feet in order to change the use of such lot.

ARTICLE VI: NON-CONFORMING STRUCTURES OR USE

Any lawfully established nonconforming structure or use existing on the effective date of this Ordinance may be continued. If a non-conforming structure is damaged or

destroyed, it may be rebuilt to the original size if abandoned for less than one year. If a non-conforming use is abandoned for less than one year the non-conforming use can be reestablished. A non-conforming structure may be enlarged or expanded if the enlargement or expansion of the structure does not exceed 50% of the total floor area of the original structure. The area of a lot with a non-conforming use may be expanded if the expansion does not exceed 50% of the area of the lot originally allocated to the non-conforming use.

A new special exception from the Board of Adjustment is required when one or more of the following actions are desired:

1. Changing to another non-conforming use;

2. Building a new or additional structure;

3. Reestablishment of a structure or use after the abandonment for one year or more;

4. Or enlargement or expansion of a structure or use in excess of the 50% limits imposed by this Article.

ARTICLE VII: BUILDING PERMITS AND CERTIFICATES OF COMPLIANCE

A. Permit Required:

1. Except as provided in 2. below, it shall be unlawful to change the nature or extent of any structure, accessory building, use or lot, or to erect, demolish, alter the size or relocate any building, in any district without first obtaining a Building Permit from the Zoning Administrator.

2. Storage trailers, storage containers (also called shipping containers or conex boxes), fabric covered garages, and prefabricated carports without a foundation:

    a. Do not require a building permit;

    b. Except as provided in c. below, shall be registered with the Zoning Administrator within 60 days of placement; and

    c. If in existence on the date this provision is adopted, shall be registered with the Zoning Administrator within six months of the date of adoption.

B. Certificate of Completion Required:

If a Building Permit is required then a Certificate of Completion is required. A Certificate of Compliance shall be issued by the Zoning Administrator upon his reasonable satisfaction that all applicable requirements of the

Andover Zoning Ordinance have been met.

C. Building Permit Application:
Any person, persons, partnership or corporation intending to change the nature or extent of any structure, accessory building, use or lot, or to erect, demolish, alter the size of or relocate any structure shall first make application for a Building Permit obtained from the Andover Town Office.
-

1. The completed application together with the applicable fee shall be submitted to the Andover Town Office for review by the Zoning Administrator.

2. When the proposed work includes new, modified, relocated, or demolished structures or buildings, the application shall be accompanied by an accurate sketch or plan of the proposed project. The sketch or plan with a scale and North arrow, shall show the structure or building, lot lines, and the septic system and well if applicable.

3. The application shall be accompanied by a signed statement of the intended use of the new or modified buildings or structures upon completion of the proposed work.

D. The Zoning Administrator shall issue or deny a Building Permit within 30 days after receipt of a completed application by the Town Office. If a Building Permit is denied, the Zoning Administrator shall provide the applicant the reason(s) for denial in writing and transmit a copy of the application and written denial to the Board of Adjustment.

E. Requirements for a Building Permit

1. No site preparation (e.g., excavation) shall be commenced and no building or structure shall be started, no alterations shall be made to existing buildings, and no building shall be demolished or put to any different use than on the day of enactment of this Ordinance unless a Building Permit has been issued under the terms of this Ordinance.

2. No Building Permit shall be issued except upon review by the Zoning Administrator and demonstration by the applicant that any Site Plan Review required by Town of Andover ordinances or regulations has been completed, that any other applicable provisions of the Andover Zoning Ordinance, Subdivision Regulations, and other applicable Andover regulations have been met, and that applicable state permits have been obtained.

3. No Building Permit shall be issued unless the applicable fee has been paid.

4. The applicant shall make the premises accessible to the Zoning Administrator at reasonable times for the

performance of his duties.

5. No mobile home shall be moved onto any site, no alterations or additions to a mobile home or trailer shall be undertaken, and no mobile home shall be put to any different use than on the day of enactment of this Ordinance, unless a Building Permit has been issued under the terms of this ordinance.

6. A Building Permit shall remain in effect for two years from the date of issuance or until a Notification of Completion has been received by the Town Office, whichever occurs sooner. If a Notification of Completion has not been received within two years, the permit shall be considered to have been abandoned unless the applicant has obtained a time extension for the permit for a duration of one year. If a time extension is obtained and a Notification of Completion has not been received within the one year time extension, a new Building Permit shall be obtained or the Building Permit shall be considered to have been abandoned.

F. Completion of Work

1. Upon completion of work for which a Building Permit has been issued, the applicant shall file a Notification of Completion with the Town Office.

2. The Zoning Administrator shall observe completed or abandoned work and, upon his reasonable satisfaction that all requirements of the Andover Zoning Ordinance have been met, shall issue a Certificate of Completion.

3. If the Zoning Administrator determines that a Certificate of Completion cannot be issued, he shall issue a Notice of Deficiency that identifies the requirements of the Andover Zoning Ordinance that have not been met, the corrective action needed. If the Zoning Administrator issues a Notice of Deficiency, he shall transmit a copy of the Notice of Deficiency to the Board of Adjustment.

G. Exemptions

1. Repair or Remodeling – Unless construction includes repair or replacement of structural members, a Building Permit shall not be required for remodeling or repairing if the purpose for which the building, structure, or portion thereof to be remodeled or repaired will be used is not changed, and if the building or structure is not enlarged or the use extended. Upon request, the Zoning Administrator may issue a Certificate of Exemption. Activities which do not require a Building Permit include but are not limited to painting, installing or

repairing fences and stone walls, installing playground equipment, and repair or replacement of roofing, siding, or windows.

2. A Certificate of Completion is not required if a Building Permit is not required.

H. Application Forms and Fees

1. The Selectboard, in consultation with the Planning Board, shall from time to time establish fees for Building Permits and Certificates of Completion. The fees shall bear a reasonable relationship to time and skills required for necessary inspections and assessments. The fees shall be published by inclusion in Building Permit application forms.

2 The Selectboard, in consultation with the Planning Board, shall from time to time prepare, revise, and cause to be issued all application, permit, and certificate forms required for the implementation of this article.

ARTICLE VIII: ADMINISTRATION AND ENFORCEMENT

A. Zoning Administrator and Deputy Zoning Administrator

1. Appointment: A Zoning Administrator shall be appointed annually by the Board of Selectmen. The Zoning Administrator shall continue in office until a new appointment is made. In the event of the death, disability, resignation, disqualification or termination of the Zoning Administrator, the Selectmen shall appoint a Zoning Administrator to serve in his place. The Selectmen may, by majority vote, disqualify the Zoning Administrator at any time.

2. A Deputy Zoning Administrator may be appointed annually by the Board of Selectmen. The Deputy Zoning Administrator shall continue in office until a new appointment is made.

3. Duties of the Zoning Administrator: The Zoning Administrator is hereby empowered and shall have the duty to administer this Ordinance. He shall:

a. Receive applications for Building Permits.

b. Issue or deny Building Permits within 30 days after receipt of a completed Building Permit application at the Town Office.

c. As necessary review Building Permit applications, observe sites of proposed projects and study proposed

locations and uses of said buildings.

d. Observe building construction and alterations of existing buildings to see that the terms of this Ordinance are being fulfilled.

e. Report observed violations of this Ordinance to the Board of Selectmen and Planning Board in writing within two business days of observing a violation.

f. Take such action in the enforcement of this Ordinance as may be directed by the Board of Selectmen.

4. Duties of the Deputy Zoning Administrator: The Deputy Zoning Administrator shall serve under the supervision of the Zoning Administrator, and shall perform the duties of the Zoning Administrator in his absence.

5. In the absence of a Zoning Administrator or Deputy Zoning Administrator the Board of Selectmen shall perform the duties of the Zoning Administrator.

B. Enforcement:

1. The Board of Selectmen shall enforce the provisions of this Ordinance, and shall be entitled to recover reasonable attorney's fees, as well as all other costs, where they prevail.

2. The Zoning Administrator shall have authority to enforce the provisions of this Ordinance.

ARTICLE IX: BOARD OF ADJUSTMENT

A. Creation - A Board of Adjustment is hereby created. Its members shall be appointed by the Selectmen in accordance with, and shall have the terms and powers conferred upon the Board of Adjustment by, the provisions of R.S.A. Chapter 31, as amended and by this ordinance.

B. Adoption of Rules - The Board of Adjustment shall adopt rules to govern its proceedings in accordance with the provisions of this ordinance and the provisions of R.S.A. Chapter 31, as amended.

C. Appeals

1. The Board of Adjustment shall hear and decide appeals if it is alleged there is an error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this ordinance.

2. In exercising its powers under subsection 1, the 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.

3. The concurring vote of three (3) members of the Board of Adjustment 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.

D. Special Exceptions

1. Listed Special Exceptions Specified in the Ordinance. The Board of Adjustment may, in appropriate cases, authorize a use as a special exception specified in this Ordinance. Any such special exception must meet and comply with all of the following conditions and safeguards:
    a. The proposed use must be specified in this Ordinance as a special exception which may be permitted in the district, or must be a town or public utility building, structure or use necessary for the service of the public, and must not be detrimental to the character of the district.

    b. The proposed use must be in harmony with the general purposes and intent of this Ordinance and the Master Plan.

    c. The use will not adversely affect the adjacent area.

    d. The proposed use will not create a hazard to pedestrians or vehicles, and must not be conflicting or incongruous to the neighborhood by reason of excessive traffic, assembly of persons or vehicles, proximity to travel routes or proximity to congregations of children or pedestrians.
    e. The proposed use must not create a nuisance, and must not be objectionable by reason of noise, lights, vibration, emissions or other factors.

    f. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.

    g. The proposed use must comply with all the frontage, yard, minimum land area, sanitary protection, and parking requirements for such use or the use most similar thereto.

2. Unlisted Special Exceptions Not Specified in this Ordinance. The Board of Adjustment may also, in specific cases, and subject to the additional conditions and safeguards below, authorize a use as an unlisted special exception. Any unlisted special exception must meet and comply with all of the following conditions and safeguards, in addition to those specified in subparagraphs 1.b through 1.f above:

    a. The proposed use must be compatible with the uses permitted or existing in the district in which the property is located.

    b. The character, size, location and design of the proposed use must be

in harmony with the district and adjacent properties.

c. The proposed use must be consistent with the proper development of the community and its general welfare.

d. The proposed use must not hinder or discourage the appropriate use and development of adjacent uses or impair values of adjacent properties.

e. The public health, morals, safety and general welfare of the neighborhood and the town must not be impaired.

f. Denial of the special exception would unreasonably restrict the applicant without a material balancing benefit to the district in which the property is located.

3. In deciding on any special exception pursuant to this section D, the Board of Adjustment shall set out in meeting minutes its reasoned basis for its determination that each of the criteria set out in the foregoing paragraphs have or have not been fulfilled in the specific instance being permitted.

4. In granting any special exception under this section, the Board of Adjustment may impose such conditions as it deems necessary in furtherance of the intent and purposes of this ordinance.

E. Variance – As specified in RSA 674:33:

1. The Board of Adjustment in appropriate cases and subject to appropriate conditions and safeguards as determined by the Board of Adjustment may authorize, upon appeal in specific cases, a variance from the terms of the zoning ordinance if all of the following are satisfied:

   a. The variance will not be contrary to the public interest;

   b. The spirit of the ordinance is observed;

   c. Substantial justice is done;

   d. The values of surrounding properties are not diminished; and

   e. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.

2. For the purposes of this section, "unnecessary hardship" means that, owing to special conditions of the property that distinguish it from other properties in the area:

   a. 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

   b. The proposed use is a reasonable one.

3. The definition of "unnecessary hardship" set forth in subsection 2 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.

4. If the criteria in subsection 2 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.

5. Variances authorized under this section 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.

6. Notwithstanding subsection 1, the 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 subsection shall be in harmony with the general purpose and intent of the zoning ordinance.

    b. In granting any variance pursuant to this subsection, the 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.

7. The 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.

F. <u>Equitable Waiver of Dimensional Requirement</u>

1. 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 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.

2. In lieu of the findings required by the Board of Adjustment under subparagraphs 1(a) and (b), the owner may demonstrate to the satisfaction of the Board of Adjustment 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.

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

4. 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 Zoning Ordinance. This section shall not be construed to alter the principle that owners of land are bound by constructive knowledge of all applicable requirements. This section shall not be construed to impose upon municipal officials any duty to guarantee the correctness of plans reviewed by them or property inspected by them.

ARTICLE X: PERFORMANCE STANDARDS FOR COMMERCIAL USES

This Article is intended to foster high quality commercial development within the Town. This will be accomplished through the establishment of performance and design standards intended to allow development compatible with the natural environment and preexisting uses, buffer incompatible uses, and provide safe and efficient vehicular and pedestrian access. The elements of this Article relate both to uses permitted as a matter of right and to uses permitted only as special exceptions to the Ordinance. In

issuing a special exception, the Board of Adjustment shall require an applicant to meet all applicable requirements set forth in this Article in addition to the specific requirements of Article VIII, Board of Adjustment, and the other sections of this Ordinance. This Article is adopted in accordance with the provisions of RSA 674:16 and 21, and is in addition to all other requirements of this Ordinance and other ordinances and regulations, now or hereafter adopted. Where this Article and another article or ordinance or regulation apply, the stricter standard shall govern.

A. Definitions. As used in this Article:

Buffer: area or strip means land area upon which no buildings, structures (other than a sign otherwise permitted), roads, driveways, parking lots, storage areas, loading areas or receiving areas are placed. Said land area may be left in its natural state, or modified, planted or landscaped, as the Planning Board may permit or require, as useful to insulate the commercial use from highways and other lots adjacent to the commercial use or from which the commercial use can be observed. Unless otherwise permitted or required by the Planning Board, existing trees shall be left in said land area. Buffer depth shall be measured along a level line.

Commercial Use: means all uses other than:

1. residential uses;

2. governmental functions, to the extent performed by government officials or employees;

3. livestock, animal and poultry raising;

4. forestry and tree farms;

5. occupations conducted in the home.

Development: means any one or more of:

(1) the creation of a new use (by new construction or conversion of existing structures or uses); or

(2) the enlargement or expansion of an existing use; or (3) the parcel of land that is the location of such construction, conversion, enlargement or expansion; as the context requires.

Net Land Area: means land other than bluffs, ravines, wetlands, floodplains, and land located within Two Hundred Fifty feet (250') of the high water mark of Bog Pond, Bradley Lake, Elbow Pond, Highland Lake, Hopkins Pond, Horseshoe Pond, Cascade Brook, Frazier Brook and Blackwater River.

Opaque Visual Screen: means a screen which hides completely the thing screened from the unaided human eye, as measured from all points on vertical lines from zero feet to twelve feet above ground level at all points outside the lot upon which the thing screened is located. Unless other

screening options are expressly allowed or required by the Planning Board, the opaque visual screen shall consist solely of plantings, at least fifty (50) percent of which shall be evergreens.

B. Performance Standards.

Except where expressly limited in this section (B), the performance standards established herein shall apply to all commercial uses in any district, and shall be cumulative. The establishment of standards in this Article shall not prevent the Planning Board from adopting subdivision and site review regulations, and exercising its discretion regarding subdivisions and site review, not contrary to this Article.

1. Access and traffic facilities, appropriate to serve the transportation needs of the use in a safe and efficient manner, shall be provided. Such appropriateness shall be evaluated in light of, among other things, (a) the impact of the use on the overall transportation system, and (b) the improvements to that system necessitated by all development within the Town,

2. Adequate disposition of, and treatment of, storm water runoff shall be provided. Storm water management systems shall be designed to detain the twenty-five-year rainfall event, and to emulate the rate and timing of predevelopment offsite discharge. Combined offsite storm water handling and treatment facilities may be substituted for onsite systems provided casements are obtained which allow for the construction, use and maintenance of these facilities.

3. Bluffs and ravines shall not be cleared, altered, excavated or filled within one hundred (100) feet of any wetlands, ponds, permanent or intermittent streams, bluffs or ravines; and then only if (a) necessary in order to make the development suitable for uses permitted by this Ordinance, and (b) the plan presented by the applicant ensures the maintenance of stable slopes which will not be subject to collapse or subsidence and that the clearing, altering, excavating or filling will not have an undue adverse effect on the environment.

4. This subsection (B)(4) shall not apply in the Village District. Except for openings for driveways and walkways, a minimum fifty-foot-deep buffer area shall be provided between all property lines and parking areas, service areas, loading areas, and access ways. Where property lines abut any lot not already in commercial use, the minimum depth of that buffer area shall be one hundred (100) feet. Vehicular access ways and parking areas shall be screened sufficiently to prevent vehicular headlights from shining on abutting lots not already in commercial use. For developments which contain gross parking area in excess of 35,000 square feet, internally, a minimum of twenty (20) percent of the gross parking area shall be landscaped; and no parking shall occur within this landscaped area.

5. In the Village District, the depth of the buffer strip described below shall be equal to the average of the setbacks of adjacent buildings on the lots

adjacent to either side. If a vacant lot exists on one side, it shall be considered as having a building setback of 100 feet. The requirements of this subsection (B)(5) shall not apply to development which consists solely of the conversion, within the Village District, of a building from a residential use to a commercial use without relocation or expansion. Along U. S. Route 4 and N. H. Routes 4A and 11, except for driveway and walkway openings, a buffer strip shall be provided between the edge of the highway right of way and the use. The depth of the buffer strip shall be the greater of one hundred (100) feet measured from the center line of the highway right of way or sixty (60) feet measured from such edge of the highway right of way.

6. All mechanical equipment associated with the use, whether located on the facade of a building, on a rooftop, or elsewhere on the site, and all solid waste disposal areas, shall be separated from all lot lines by an opaque visual screen.

7. In the Village District, the depth of the setback described below shall be equal to the average of the setbacks of adjacent buildings on the lots adjacent to either side; and if a vacant lot exists on one side, it shall be considered as having setbacks equal to those specified in Article IV. No storage structure or outdoor storage or outdoor operations area shall be located closer than one hundred (100) feet to (a) the front lot line, or (b) any lot line adjacent to U.S. Route 4, N.H. Route 11 or N.H. Route 4A, or (c) any lot line abutting a lot not already in commercial use; and all storage structures and all outdoor storage and all outdoor operations areas shall be separated from all lot lines by an opaque visual screen.

8. In the Village District, the depth of the setback described below shall be equal to the average of the setbacks of adjacent buildings on the lots adjacent to either side; and if a vacant lot exists on one side, it shall be considered as having setbacks equal to those specified in Article IV. No outdoor display of products for sale shall be located closer than fifty (50) feet to: (a) the front lot line or; (b) any lot line adjacent to U.S. Route 4, N.H. Route 11 or N.H. Route 4A or; (c) any lot line abutting a lot not already in commercial use; and all outdoor display of products for sale shall be separated from all lot lines by an opaque visual screen. *Exception:* Uses consisting of the retail sale of products shall be exempt from the requirement of an opaque visual screen between the outdoor display of those products for sale and the front lot line.

9. Outside the Village District buildings shall be set back a minimum of one hundred (100) feet from all property lines, except those lot lines abutting (a) a residential use, where building setbacks along such a line shall be one hundred fifty (150) feet, or (b) a commercial use, where building setbacks along such a line shall be fifty (50) feet, The foregoing requirement shall not apply to the following uses when the use is the only use on the lot:

    1. when the building containing the use does not exceed 1600 square feet of building footprint:

1. Barbers;

2. Branch offices of banks;

3. General stores;

4. Retail sale of: antiques, arts, crafts, books, sports apparel and equipment, and similar products;

5. Offices;

6. Restaurants; and

2. regardless of building footprint:

1. Bed-and-breakfast establishments not exceeding ten guest sleeping rooms;

2. Group day care facilities with capacity for, and actually providing care to, not exceeding ten clients;

3. Retirement homes not exceeding ten retiree sleeping rooms.

10. In the Village District, the length of the lot line described below shall be equal to the greater of the frontage specified in Article V. D. 3 or the average of the front lot lines of the lots adjacent to either side. The requirements of this subsection B. 10 shall not apply to development which consists solely of the conversion, within the Village District, of a building from a residential use to a commercial use without relocation or expansion. Any lot which shall front on any one or more of U.S. Route 4, N.H. Route 11 or N.H. Route 4A (hereinafter referred to singly or collectively as "the Highway") shall have a lot line abutting the street or streets upon which it fronts of not less than 500 feet in length. A lot shall be deemed to front on the Highway within the meaning of this subsection B(IO) if any one or more of the following conditions exist:

a. any driveway serving that lot intersects the Highway; or

b. any walkway serving that lot intersects the Highway, or intersects a sidewalk on the Highway, or is, in the judgment of the Planning Board, an entrance walkway for lot from the Highway; or

c. that lot is not served by a driveway, and any building on that lot faces the Highway to a greater degree than any other street.

11. Lighting shall be designed, maintained and operated so as not to increase offsite illumination more than two-tenths (0.2) foot-candle above predevelopment levels as measured at the property line. Lighting

shall be designed so as not to directly illuminate abutting lots not already in commercial use. This standard shall not apply to public street lighting.

12. Structures and uses shall be designed, maintained and operated so as not to result in an offsite sound level above 60 dBA as measured at the property line,

13. Structures and uses shall be designed, maintained and operated so as not to increase offsite smoke, odor, dust or fumes above predevelopment levels as measured at the property line.

14. This subsection (B)(14) shall not apply in the Village District. The total area of all impervious surfaces on a lot divided by the Net Land Area of that lot shall not exceed 25%. Impervious surfaces are those which do not absorb water, including, but not limited to, buildings, structures, parking areas, driveways, roads, walkways, any area of concrete or asphalt, and areas of outside storage of vehicles or materials.

15. Except in the Village District, the floor area on a lot, divided by the Net Land Area of that lot shall not exceed 35%. In the Village District, the percentage shall not exceed 50%. Floor area is the total gross area on all floors as measured to the outside surfaces of exterior walls, excluding crawl spaces, breezeways, attics without all walls being at least five (5) feet in height, attics without floors, open porches and balconies. The requirements of this subsection (B)(15) shall not apply to development, which consists solely of the conversion, within the Village District, of a building from a residential use to a commercial use without relocation or expansion.

ARTICLE XI: GENERAL PERFORMANCE STANDARDS

A. If dwellings, mobile homes, or commercial, public and industrial buildings are equipped with running water, a state approved septic system shall be installed.

B. Except for tiny houses, every building to be used as a residence shall have a minimum ground floor area of four hundred eighty (480) square feet outside measurement.

C. New driveways shall have a maximum slope of 15%.

D. At least 60 percent of the perimeter of a new dwelling shall have less than 5% slope within 20 feet of the dwelling.

E. All manufactured housing and pre-site built housing proposed to be used for residential purposes shall conform to United States Department of Housing and Urban Development Standards as set forth in the National Manufactured Housing Construction and Safety Standards Act of 1974,42 USC. 5402 et sew.; 24 CFR Part 3280 and Part 3282, as both statutes and regulations shall in the future be amended from time to time.

F. Site work for permitted construction shall not alter drainage or runoff in a manner that adversely affects public roads or adjacent lands. If the Zoning Administrator determines that there is risk of adverse effect, a Site Drainage and Runoff Management Plan may be required.

G. Storage trailers, storage containers, and fabric covered garages shall be placed so as to be in compliance with Article IV. F (setbacks) and Article IV. H (height).

H. Tiny houses shall not be permitted in the Forest and Agriculture or Village Districts. Tiny houses, with or without wheels, shall require a special exception in all other districts.

ARTICLE XII: PERSONAL WIRELESS SERVICE FACILITIES (PWSF)

1. PURPOSE AND INTENT

1.1 It is the express purpose of this Article:

- to permit carriers to locate Personal Wireless Service Facilities within particular areas of the Town of Andover consistent with appropriate land use regulations that will ensure compatibility with the visual and environmental features of the Town;

- to minimize adverse visual effects of communications facilities, towers, and antennas through design and siting standards, and by use of alternative structures or systems;

- to minimize environmental, economic, audible and visual impacts on adjacent properties, historical and cultural resources, and on the Town of Andover and neighboring communities;

- to preserve scenic views and vistas, including ridgelines;

- to encourage appropriate uses of historic and cultural properties;

- to reduce land use conflicts and to avoid potential damage to adjacent properties from tower failure through the use of setback requirements;

- to provide for the maintenance and on-going inspection of Personal Wireless Service Facilities, and for their removal upon abandonment or discontinuance of use;

- to maximize the use of existing approved PWSF, including buildings and structures,

- to consistently regulate PWSF needed to serve the community and region.

1.2 New ground mounted PWSF are permitted, but only when the use of

existing structures and buildings is found to be infeasible. Co-location is encouraged for all PWSF applications and the review of a PWSF shall be on the basis of the site being built using all positions on the mount.

2. APPLICABILITY

2.1 The terms of this Article and the Site Plan Review Regulations shall apply to Personal Wireless Service Facilities proposed to be located on all property in the Town of Andover regardless of ownership.

2.2 A building permit shall be required for the construction, alteration, expansion or relocation of related antennas, buildings and structures. The permit shall not be issued until all approvals are obtained by the applicant.

2.3 The Andover Zoning Board of Adjustment shall specify the form, content and timing of application materials to be submitted by the applicant for a Special Exception. The following requirements shall be included in the items to be submitted for a complete application:

A. The applicant shall provide a topographic map showing the location of all PWSF within a 10-mile radius of the proposed facility.

B. The applicant shall provide a summary of all other ground-mounted sites considered for this application, and justification for selecting the proposed site over these other sites,

C. A narrative describing why the proposed facility has been selected and its expected length of usefulness considering the expected growth of the service area and the transition to new technology as it becomes available.

D. A visual impact study of the proposed facility to include drawings and photo simulations taken from perspective locations of importance to the visual quality of the site impact area.

2.4 The latest fee structures for Special Exception and Site Plan Review applications shall apply for PWSF submissions.

3. DEFINITIONS

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

3.1 **Antenna**. The surface from which wireless radio signals are sent and/or received by a personal wireless service facility.

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

3.3 **Average Tree Canopy Height**. An average height found by inventorying the height above ground level (AGL) of all trees having a

6" caliper or more at 4' above the ground for the area delineated in Section 7.1 (F).

3.4 **Camouflaged**. A Personal Wireless Service Facility that is disguised, hidden, part of an existing or proposed structure, or placed within an existing or proposed structure.

3.5 **Carrier**. A Company that provides personal wireless services also sometimes referred to as a provider and a company that builds PWSF provided two letters of intent from service providers are submitted showing legitimate space requests.

3.6 **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.

3.7 **Environmental Assessment (EA)**. An EA is a document required by the Federal Communications Commission (FCC) and the National Environmental Policy Act (NEPA) when a personal wireless service facility is placed in certain designated areas.

3.8 **Equipment Shelter**. An enclosed structure, cabinet, shed, vault, or box near the base of the mount within which are housed equipment for Personal Wireless Service Facilities such as batteries and electrical equipment. Equipment shelters are sometimes referred to as base transceiver stations.

3.9 **Facility**. See Personal Wireless Service Facility.

3.10 **Fall Zone**. The area on the ground from the base of a ground mounted Personal Wireless Service Facility that forms a circle with a radius equal to the height of the facility, including any antennas or other appurtenances. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.

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

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

3.13 **Lattice Tower**. A type of mount with multiple legs and structural cross bracing between the legs that is self-supporting and free-standing.

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

3.15 **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.

3.16 **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.

3.17 **Personal Wireless Service Facility (PWSF)**. A facility for the provision of personal wireless services, as defined by the Telecommunications Act of 1996, as amended. Personal Wireless Service Facilities include a mount, antenna, equipment shelter, and other related equipment.

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

3.19 **Radio Frequency (RF) Engineer**. An engineer specializing in electrical or microwave engineering, especially the study of radio frequencies.

3.20 **Radio Frequency Radiation (RFR)**. The emissions from personal wireless service facilities.

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

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

4. DISTRICT REGULATIONS

4.1 Location: New ground mounted Personal Wireless Service Facilities shall be permitted in all zoning districts as a special exception provided conformance with these standards and the other provisions of the Andover Zoning Ordinance can be met and approved by the Andover Zoning Board of Adjustment. Applicants seeking approval for Personal Wireless Service Facilities shall first evaluate existing structures for the siting of PWSF. Only after finding that there are no suitable existing structures pursuant to Section 4 herein, shall a provider propose a new -ground mounted facility. Personal Wireless Service Facilities, to be mounted on existing or modified structures, shall be permitted providing Site Plan Review approval is granted by the

Andover Planning Board.

4.2 Existing Structures: Policy - Personal Wireless Service 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.

4.3 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 personal wireless service facility and/or transmit or receive radio signals. To meet that burden, the applicant shall provide the following information to the Andover Planning Board to the extent applicable. The Planning Board shall submit their findings to the Andover Zoning Board of Adjustment prior to consideration of new facility sites.

A. 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 personal wireless service 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.

B. The applicant shall provide copies of all letters of inquiry made to owners of existing structures and letters of rejection. 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.

C. If the applicant claims that a structure is not capable of physically supporting a PWSF, this claim must be certified by a licensed professional civil engineer. The certification shall, at a minimum, explain the structural issues and demonstrate that the structure cannot be modified to support the personal wireless service facility without unreasonable costs. The estimated cost shall be provided to the Planning Board.

4.4 Ground Mounted Facilities: Policy - If the applicant demonstrates that it is not feasible to locate on an existing structure, ground mounted Personal Wireless Service Facilities shall be designed so as to be camouflaged to the greatest extent possible, including but not limited to: the use of compatible building materials and colors, screening, landscaping, and placement within trees.

5. USE REGULATIONS

5.1 **Land Use Provisions**:

A. Siting for PWSF shall be treated as a use of land and shall be subject to the Andover Zoning Ordinance as well as other Town ordinances and regulations. PWSF shall not be considered infrastructure, essential services, or public utilities as defined and used elsewhere in local and State ordinances and regulations.

B. Personal Wireless Service Facilities may be considered either a principal or a secondary use. A different existing use or an existing structure on the same lot shall not preclude the installation of a PWSF on such lot.

C. For the purpose of determining whether the installation of a PWSF complies with this ordinance, the dimensions of the entire lot shall control, even though the facilities may be located on leased parcels within such lots.

D. PWSF that are constructed, and antennas that are installed, in accordance with the provisions of this ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure; nor shall such facilities be deemed to be an accessory use.

5.2 A Personal Wireless Service Facility shall require a building permit in all cases and may be permitted as follows:

A. Facilities added to Existing Tower Structures: Site Plan Review approval by the Planning Board is required. The Review shall be limited to issues relating to access, bonding, security for removal, structural integrity and appropriate camouflage of such siting. Carriers may locate a PWSF on any guyed tower, lattice tower, mast, or monopole in existence prior to the adoption of this Article so long as the co-location complies with the approved site plan. All the Performance Standards from this Article 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, full site plan review is required.

B. Reconstruction of Existing Tower Structures: Site Plan Review approval by the Planning Board is required. An existing guyed tower, lattice tower, monopole, or mast in existence prior to the adoption of this Article 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 Article are met and so long as this twenty (20) foot increase in height does not cause a facility previously existing at less than one hundred (100) feet to exceed one hundred (100) feet in height, The mount shall be replaced with a similar mount that does not significantly

increase the visual impact on the community.

C. Existing Structures: Site Plan Approval by the Planning Board is required. A carrier may locate a Personal Wireless Service Facility on an existing structure, building, utility tower or pole, or water tower subject to the provisions of this Article. 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 Personal Wireless Service Facility involving construction of a ground mount shall require a special exception in conformance with the provisions of this Article and if approved by the Zoning Board of Adjustment a Site Plan Review approval by the Planning Board.

E. Town Wireless Service Facility for Public Safety: An application for the installation of a PWSF shall include a statement summarizing the Town's] interest in collocating communication equipment for public safety on the proposed structure. If the Town indicates that equipment will be beneficial, the applicant shall describe accommodation of the public communication equipment in keeping with the requirements of this ordinance.

6. DIMENSIONAL REQUIREMENTS

6.1 Personal Wireless Service Facilities shall comply with the following requirements:

A. Height, Maximum: In no case shall a Personal Wireless Service Facility exceed one hundred (100) feet in height, unless the mount for the facility was greater than one hundred (100) feet in height prior to the adoption of this Article.

B. Height. Existing Structures and Utility Poles: Carriers that locate new Personal Wireless Service 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 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.

C. Height. Other Existing Structures: The height of a PWSF shall not increase the height of a structure by more than fifteen (15) feet, unless the facility is completely camouflaged; for example a facility completely within a flagpole, steeple, or chimney. The increase in the height of

the structure shall be in scale and proportion to the structure as originally configured. A carrier may locate a Personal Wireless Service Facility on a building that is legally nonconforming with respect to height, provided that the provisions of this Article are met.

D. Height. Ground-Mounted Facilities: Ground-mounted Personal Wireless Service Facilities shall not project higher than (10) ten feet above the average tree canopy height within a one hundred and fifty (150) foot radius of the mount, security barrier, or designated clear area for access to equipment, whichever is greatest. An inventory of tree heights surrounding the proposed site shall be provided by the Applicant.

E. Setbacks: All Personal Wireless Service Facilities and their equipment shelters shall comply with the building setback provisions of the zoning district in which the facility is located or 105% the facility height whichever is greatest. Fences 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, in accordance with the appropriate Zoning Ordinances.

F. Fail Zone for Ground Mounts: In order to ensure public safety, the minimum distance from the base of any ground-mount of a PWSF 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 Article. The fall zone may cross property lines, so long as the applicant secures a fall zone easement from the affected property owner. 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.

G. Fall Zone for Non-Ground Mounts. In the event that an existing structure is proposed as a mount for a PWSF, a fall zone shall not be required, but the setback provisions of the zoning district shall apply. In the case of pre-existing nonconforming structures, persona! wireless service facilities and their equipment shelters shall not increase any non-conformities.

7. PERFORMANCE AND DESIGN STANDARDS

7.1 Visibility: The proposed PWSF shall have no unreasonable adverse impact upon scenic resources within the Town of Andover.

A. Visual impacts are measured on the basis of:

1. change in community scale, as exhibited in

relative height, mass or proportion of the Personal Wireless Service Facility within their proposed surroundings.

2. New visible elements proposed on a contrasting background.

3. Different colors and textures proposed against a contrasting background.

4. Use of materials that are foreign to the existing built environment.

B. Visibility focuses on:

1. Eliminating or mitigating visual impact.

2. Protecting, continuing, and enhancing the existing environment.

C. Enhancements are measured on the basis of:

1. Conservation of opportunities to maintain community scale, e.g. buffering areas and low-lying buildings should not be compromised so as to start a trend away from the existing community scale.

2. Amount and type of landscaping and/or natural vegetation.

3. Preservation of view corridors, vistas, and view sheds.

4. Continuation of existing colors, textures, and materials.

D. Camouflage for Facilities on Existing Buildings or Structures - Roof Mounts: When a PWSF 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.

E. Camouflage for Facilities on Existing. Buildings or Structures - Side Mounts: Personal Wireless Service 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.

F. Camouflage for Ground Mounted Facilities: All ground-mounted PWSF shall be surrounded by a buffer of dense tree growth that extends continuously for a minimum distance of one hundred and fifty (150') feet from the mount, security barrier, or designated clear area for access to equipment, whichever is greatest. The facility shall be screened from view in all directions by the dense buffer of trees. These trees must 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 within the buffer shall not be removed or topped, unless the trees are dead or dying and present a hazard to persons or property.

7.2 Color - To the extent that any Personal Wireless Service Facilities extend above the height of the vegetation immediately surrounding it, they shall be of a color which blends with the background or surroundings.

7.3 Equipment Shelters - Equipment shelters for PWSF 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 personal wireless service facility; 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.

7.4 Lighting, Signage, and Security:

A. Lighting: The mounts of PWSF shall be lighted only if required by the Federal Aviation Administration (FAA). Lighting of equipment structures and any other facilities on

site 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 Town of Andover Sign Ordinance administered by the Board of Selectmen.

C. Security Barrier: The Planning Board shall have final authority regarding the need for the installation of a security barrier surrounding a ground mounted PWSF.

7.5 Historic Buildings:

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

B. Any alteration made to an historic structure to accommodate a PWSF shall be fully reversible.

C. Personal Wireless Service 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.

7.6 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 PWSF shall be surrounded by a buffer of dense tree growth as per Section 7.1 (F).

7.7 Driveways - If available, existing entrances and driveways to serve a PWSF 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 PWSF shall not exceed twelve (12) feet in width. A gravel or crushed stone surface is encouraged.

7.8 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.

7.9 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 5.2 (B).

7.10 Hazardous Waste - No hazardous waste shall be discharged on the site of any PWSF. 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 percent (110%) of the volume of the hazardous materials stored or used on the site.

7.11 Noise - Personal Wireless Service Facilities shall not generate noise in excess of that permitted under the Andover Commercial Overlay District regulations.

7.12 Radio Frequency Radiation (RFR) Standards – All equipment proposed for a PWSF shall be fully compliant with the FCC Guidelines for Evaluating the Environmental Effects of Radio frequency Radiation (FCC Guidelines), under Report and Order, FCC 96-326, published on August 1, 1996, and all subsequent amendments.

8. PAYMENT OF COSTS

8.1 In the event that the Town deems it necessary, the Applicant shall reimburse the town for expenses incurred to:

A. Hire experts to provide technical understanding of the proposed new or modified PWSF and alternatives; and

B. Hire experts to interpret test results for radio frequency emissions, at the time of completion of the PWSF and annually thereafter.

9. MONITORING AND MAINTENANCE

9.1 Maintenance - The owner of the facility shall maintain the PWSF 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.

9.2 Monitoring - As part of the issuance of the site plan approval or building permit, the property owner shall agree that the Town of Andover 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 provides them the opportunity to accompany the Town representatives when the measurements are conducted.

9.3 Security for Removal - Recognizing the hazardous situation presented by abandoned and unmonitored telecommunications facilities, the Planning Board shall set the form and amount of security 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 9.2. The amount of the security shall be based

upon the removal cost plus fifteen percent (15%), provided by the applicant and 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's approval of the site plan. If the cost has increased more than fifteen percent (15%) then the owner of the facility shall provide additional security in the amount of the increase.

10. ABANDONMENT OR DISCONTINUATION OF USE

10.1 Notification - At such time that a carrier plans to abandon or discontinue operation of a PWSF, such carrier will 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 thirty (30) days prior to abandonment or discontinuation of operations. In the event that a carrier fails to give such notice, the PWSF shall be considered abandoned upon such discontinuation of operations.

10.2 Removal - Upon abandonment or discontinuation of use, the owner of the facility shall physically remove the PWSF within ninety (90) days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:

A. Removal of antennas, mount, equipment shelters and security barriers from the subject property.

B. Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.

C. Restoring the location of the PWSF to its natural condition, except that any landscaping and grading shall remain in the after-condition.

10.3 Failure to Remove - If the owner of the facility does not remove the facility upon the Zoning Administrator's order, then the Board of Selectmen shall, after holding a public hearing with notice to the 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 to pay for this action.

ARTICLE XIII: FLOODPLAIN DEVELOPMENT

This article is adopted pursuant to the authority of RSA 674:16. The regulations in this article shall overlay and supplement the other regulations in this zoning ordinance. If any provision of this article differs or appears to conflict with any provision of this zoning ordinance, or other ordinance or regulation, the provision imposing the greater

restriction or more stringent standard shall be controlling. The following regulations in this article shall apply to all lands designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its Flood Insurance Rate Map dated April 2, 1986 which is declared to be a part of this article, and is hereby incorporated by reference.

A. Definition of Terms: The following definitions shall apply only to this Floodplain Development Article, and shall not be affected by, the provisions of any other ordinance of the Town of Andover.

Area of special flood hazard is the land in the flood plain within the Town of Andover subject to a one percent or greater chance of flooding in any given year. The area is designated as Zone A on the Flood Insurance Rate Map.

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

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

Building: see Structure and Development: Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations or storage of equipment or materials.

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, excavation or drilling operations or storage of equipment or materials

FEMA: The Federal Emergency Management Agency.

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

1. the overflow of inland or tidal waters.

2. the unusual and rapid accumulation or runoff of surface waters from any source.

Flood Insurance Rate Map (FIRM): An official map incorporated with this ordinance, on which FEMA has delineated with the special flood hazard areas and the risk premium zones applicable to the Town of Andover.

Flood Insurance Study: An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination or mudslide (i.e. mudflow) and/or flood-related erosion hazards.

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

Flood Proofing: Any combination of structural and non-structural additions, changes,

or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures and their contents.

Floodway: see Regulatory Floodway.

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

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

Historic Structure: Any structure that is:

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

b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

d) Individually fisted on a local inventory of historic places in communities with historic preservation programs that have been certified either:

    1) By an approved state program as determined by the Secretary of the Interior, or

    2) Directly by the Secretary of the Interior in states without approved programs.

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

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

subdivision.

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

Mean Sea Level: The National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a communities Flood Insurance Rate Map are referenced.

100-year Flood: see Base Flood.

New Construction means, for the purposes of determining insurance rates, structures for which the start of construction commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such

Recreational Vehicle: A vehicle which is:

1) built on a single chassis;

2) 400 square feet or less when measured at the largest horizontal projection;

3) designed to be self-propelled or permanently towable by a light duty truck; and

4) designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel or seasonal use.

Regulatory Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Special Flood Hazard Area: An area having flood, mudslide, and/or flood-related erosion hazards, and shown on an FHBM or FIRM as zone A, AO, Al -30, AE, A99, AH, VO, VI-30, VE, V, M, or E. (See Area of Special Flood Hazard)

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

Start of Construction: This 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 stab footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement

of manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, 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.

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

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

a) the appraised value prior to the start of the initial repair or improvement or
b) in the case of damage, the value of the structure prior to the damage occurring.

For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures which have incurred substantial damage, regardless of actual repair work performed. The term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

Violation means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in sections B or H(2b) is presumed to be in violation until such time as that documentation is provided.

Water Surface Elevation: Is the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains.

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

C. The Zoning Administrator shall review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located is a special flood hazard area, all new construction or substantial improvements shall:

1) be designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting

from hydrodynamic and hydrostatic loads, including the effects of buoyancy,

2) be constructed with materials resistant to flood damage,

3) be constructed by methods and practices that minimize flood damages,

4) be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

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

E. For all new or substantially improved structures located in the special flood hazard areas, the applicant shall furnish the following information to the Zoning Administrator:

a) the as-built elevation (in relation to NGVD) of the lowest floor (including basement) and include whether or not such structures contain a basement.

b) if the structure has been flood-proofed, the as-built elevation (in relation to NGVD) to which the structure was flood-proofed.

c) any certification of flood-proofing.

The Zoning Administrator shall maintain for public inspection, and shall furnish such information upon request.

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

G.

1) In riverine situations prior to the alteration or relocation of a watercourse the applicant for such authorization shall notify the Wetlands Bureau of the New Hampshire Department of Environmental Services and submit copies of such notification to the Zoning Administrator, in addition to the copies required by RSA 482-A:3. Further, the applicant shall be required to submit copies of said notification to those adjacent communities] as determined by

the Zoning Administrator, including notice of all scheduled hearings before the Wetlands Bureau.

2) The applicant shall submit to the Zoning 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.

3) The Zoning Administrator shall obtain, review, and reasonably utilize any floodway data available from Federal, State, or other sources as criteria for requiring that all development located in Zone A meet the following floodway requirement:

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

H.

1) In Zone A the Zoning Administrator shall obtain, review, and reasonably utilize any 100 year flood elevation data available from any federal, state or other source including data submitted for development proposals submitted to the community (i.e. subdivisions, site approvals).

2) The Zoning Administrator's 100 year flood elevation determination will be used as criteria for requiring in Zone A that:

a) all new construction or substantial improvement of residential structures have the lowest floor (including basement) elevated to or above the 100 year flood elevation;

b) that all new construction or substantial improvements of nonresidential structures have the lowest floor {including basement) elevated to or above the 100 year flood level; or together with attendant utility and sanitary facilities, shall:

i) be flood-proofed so that below the 100 year flood elevation the structure is watertight with walls substantially impermeable to the passage of water;

ii) have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and

iii) be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section.

c) All manufactured homes to be placed or substantially improved within special flood hazard areas shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the 100 year flood elevation; and be securely anchored to resist floatation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

d) Recreational vehicles placed on sites within Zone A shall either:

(1) be on the site for fewer than 180 consecutive days,

(2) be fully licensed and ready for highway use, or

(3) meet all standards of Section 60.3(b)(1) of the National Flood Insurance Program Regulations and the elevation and anchoring requirements for "manufactured homes" in Paragraph (c)(6) of Section 60.3.

e) For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding are permitted provided they meet the following requirements:

(1) the enclosed area is unfinished or flood resistant, usable solely for the parking of vehicles, building access or storage;

(2) the area is not a basement;

(3) shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

I. Any order, requirement, decision or determination of the Zoning Administrator made under this article may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5.

J. If the applicant, under appeal, requests a variance as authorized by RSA 674:33,1 (b), the applicant shall have the burden of showing in addition to the usual variance standards under state law:

a) that the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense.

b) that if the requested variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result.

c) that the variance is the minimum necessary, considering the flood hazard, to afford relief

The Zoning Board of Adjustment shall notify the applicant in writing that: (i) the issuance of a variance to construct below the base flood level will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions.

The community shall (i) maintain a record of all variance actions, including their justification for their issuance, and (ii) report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.

ARTICLE XIV: SMALL WIND ENERGY SYSTEMS ORDINANCE

A. Purpose:

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

B. Definitions:

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, height, or location of the small wind energy system. Like-kind replacements shall not be construed to be a modification.

Net metering. The difference between the electricity supplied to a customer over the electric distribution system and the electricity generated by the customer's small wind energy system that is fed back into the electric distribution system over a billing period.

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

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

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

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

C. Procedure for Review:

1. Site Plan Review: Small wind energy systems and met towers are allowed uses in all zoning districts where structures of any sort are allowed pending Site Plan Review by the planning board, and issuance of a building permit by the Zoning Administrator. No small wind energy system shall be erected, constructed, or installed without first receiving

Site Plan approval and a building permit from the Zoning Administrator. A building permit shall be required for any physical modification to an existing small wind energy system. Met towers that receive a building permit shall be permitted on a temporary basis not to exceed 3 years from the date the building permit was issued.

2. Site Plan Review Applications submitted to the Planning Board shall contain a site plan with the following information:

   i) Property lines and physical dimensions of the applicant's property.

   ii) Location, dimensions, and types of existing major structures on the property.

   iii) Location of the proposed small wind energy system, foundations, guy anchors and associated equipment.

   iv) Tower foundation blueprints or drawings.

   v) Tower blueprints or drawings.

   vi) Setback requirements as outlined in this ordinance.

   vii) The right-of-way of any public road that is contiguous with the property.

   viii) Any overhead utility lines.

   ix) Small wind energy system specifications, including manufacturer, model, rotor diameter, tower height, tower type, nameplate generation capacity.

   x) 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.

   xi) Sound level analysis prepared by the wind generator manufacturer or qualified engineer.

   xii) Electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the NH State Building Code.

   xiii) Evidence of compliance or non-applicability with Federal Aviation Administration requirements.

   xiv) List of abutters to the applicant's property.

3. <u>Building Permit Application:</u> The building permit application shall consist of copies of the Site Plan Review application and Site Plan Approval issued by the planning board.

4. Abutter and Regional Notification: In accordance with RSA 674:66, the Zoning Administrator shall notify all abutters and the local governing body by certified mail upon application for a building permit to construct a small wind energy system. The public will be afforded 30 days to submit comments to the Zoning Administrator prior to the issuance of the building permit. The Zoning Administrator shall review the application for regional impacts per RSA 36:55. If the proposal is determined to have potential regional impacts, the Zoning Administrator shall follow the procedures set forth in RSA 36:57, IV.

D. Standards:

1. The Planning Board shall evaluate the application for compliance with the following standards;

a. 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 foundation of an occupied building.

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

i) Small wind energy systems must meet all setbacks for principal structures for the zoning district in which the system is located.

ii) Guy wires used to support the tower are exempt from the small wind energy system setback requirements

b. Tower: In no situation shall the tower height exceed 150 feet.

c. 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.

d. Shadow Flicker: Small wind energy systems shall be sited in a manner that does not result in significant shadow flicker impacts. Significant shadow flicker is defined as more than 30 hours per year on abutting occupied buildings. The applicant has the burden of proving that the shadow flicker will not have significant adverse impact on neighboring or adjacent uses. Potential shadow flicker will be addressed either through siting or mitigation measures.

e. Signs: All signs including flags streamers and decorative items, both temporary and permanent, are prohibited on the small wind energy system, except for manufacturer identification or appropriate warning signs.

f. Code Compliance: The small wind energy system shall comply with all applicable sections of the New Hampshire State Building Code.

g. Aviation: The small wind energy system shall be built to comply with all applicable Federal Aviation Administration regulations including but not limited to 14 C.F.R. part 77, subpart B regarding installations close to airports, and the New Hampshire Aviation regulations, including but not limited to RSA 422-b and RSA 424.

h. 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.

i) 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.

ii) The color of the small wind energy system shall be 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.

iii) 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.

i. 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.

j. Utility Connection: If the proposed small wind energy system is to

be connected to the power grid through net metering, it shall adhere to RSA 362-A:9.

k. Access: The tower shall be designed and installed so as not to provide step bolts or a ladder readily accessible to the public for a minimum height of 8 feet above the ground. All ground-mounted \electrical and control equipment shall be labeled and secured to prevent unauthorized access.

E. Abandonment:

1. At such time that a small wind energy system is scheduled to be abandoned or discontinued, the applicant will notify the Zoning Administrator by certified U.S. mail of the proposed date of abandonment or discontinuation of use.

2. Upon abandonment or discontinuation of use, the owner shall physically remove the small wind energy system within one year from the date of abandonment or discontinuation of use. This period may be extended at the request of the owner and at the discretion of the Zoning Administrator. Physically remove shall include, but not be limited to:

   a. Removal of the wind generator and tower and related above-grade structures.

   b. Restoration of the location of the small wind energy system to its natural condition, except that any landscaping, grading or below-grade foundation may remain in its same condition at initiation of abandonment.

3. In the event that an applicant fails to give such notice, the system shall be considered abandoned or discontinued if the system is out-of-service for a continuous 12-month period. After the 12 months of inoperability, the Zoning Administrator may issue a Notice of Abandonment to the owner of the small wind energy system. The owner shall have the right to respond to the Notice of Abandonment within 30 days from Notice receipt date. After review of the information provided by the owner, the Zoning Administrator 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 Zoning Administrator shall withdraw the Notice of Abandonment and notify the owner of the withdrawal.

4. If the owner fails to respond to the Notice of Abandonment or if, after review by the Zoning Administrator, it is determined that the small wind energy system has been abandoned or discontinued, the owner of the small wind energy system shall remove the wind generator and tower at the owner's sole expense within 3 months of receipt of the Notice of Abandonment. If the owner fails to physically remove the small wind energy system after the Notice of Abandonment procedure, the Zoning Administrator may pursue legal action to have the small wind energy system removed at the owner's expense.

F. Violation:

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

G. Penalties:

Any person who fails to comply with any provision of this ordinance or a Site Plan Approval issued pursuant to this ordinance shall be subject to enforcement and penalties as allowed by NH Revised Statutes Annotated Chapter 676:17.

ARTICLE XV: ACCESSORY DWELLING UNITS

A. Purpose:

Pursuant to RSA 674:71-73, the purpose of this article is to allow Accessory Dwelling Units (ADUs) in appropriate zoning districts in order to:

1. increase the supply of affordable housing without the need for more infrastructure or further land development;

2. provide the opportunity for small rental housing units to meet the housing needs of single persons and couples, recent college graduates, aging homeowners, caregivers and disabled persons;

3. improve the inventory of affordable housing;

4. allow the efficient use of the Town's existing stock of dwellings and accessory buildings;

5. provide elderly citizens with the opportunity to live in a supportive family environment with both independence and dignity; and

6. protect and preserve the rural one-family residential character of the Town.

B. Definition:

An Accessory Dwelling Unit (ADU) is a dwelling unit that is accessory to a single-family dwelling, 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 single-family dwelling it accompanies.

C. Provisions:

1. Only one (1) ADU shall be permitted for each single-family dwelling.

2. An ADU shall not be permitted on lots with more than one existing dwelling unit.

3. The ADU shall provide independent facilities for sleeping, eating, cooking and sanitation.

4. Unless a Special Exception is granted by the Board of Adjustment, the ADU shall be attached to or within the single-family dwelling. An attached ADU shall share a common wall and connecting door between the single-family dwelling and the ADU.

5. The ADU shall have an independent means of ingress and egress, or shall have ingress and egress through common space such as a shared hallway to an exterior door.

6. The entrance to the ADU shall be from the side or rear of the building unless it is from the inside of the main entrance. A Special Exception for a second front entrance for handicapped access may be granted by the Board of Adjustment if no other option is available for handicapped access.

7. Except in the Forest and Agriculture (FA) District, the Board of Adjustment may grant a Special Exception for a detached ADU. Any such detached ADU shall comply in all other respects with the purposes and requirements of this Article. No new structure shall be built for the principal purpose of constructing a detached ADU.

8. Either the ADU or the single-family dwelling shall be the primary residence of the property owner.

9. The ADU and the single-family dwelling shall permanently remain under common ownership.

10. The size of the ADU (in square footage measured from the outside) shall be restricted as follows:

    a. The size of an attached ADU shall not exceed the lesser of fifty percent (50%) of the size of the single-family dwelling or one thousand (1000) square feet.

    b. The size of a detached ADU shall not exceed the lesser of fifty percent (50%) of the size of the smaller of the lot's single-family dwelling or of the detached building in which the ADU is to be located, or one thousand (1000) square feet.

    c. Notwithstanding the limitations set out in the subparagraphs (a) and (b) above, no ADU is required to have, but may have, a size less than seven hundred fifty (750) square feet.

11. There shall be no more than two bedrooms in an ADU.

12. An ADU shall be provided with at least one (1) off-street parking space of not less than two hundred (200) square feet on the lot on which it is located.

13. The external appearance of the single-family dwelling and ADU, and of any detached building in which an ADU is permitted, shall be consistent with the rural one-family residential character of the neighborhood and the Town.

14. There shall be adequate water supply and sewage disposal for the ADU together with the single-family dwelling in compliance with RSA 485-A:38 and regulations adopted by the New Hampshire Department of Environmental Services.

15. A Building Permit and a Certificate of Completion are required in accordance with Article VII. No ADU shall be occupied without a Certificate of Completion.

D. Minimum Lot Dimension and Similar Requirements:

1. All provisions of this Zoning Ordinance applicable to a single-family dwelling shall also apply to the combination of a single-family dwelling and an ADU.

2. A single-family dwelling with an attached ADU shall not be required to meet additional requirements for lot area, frontage, space limitations, or other controls beyond what would be required for a single-family dwelling without an ADU.

3. In the case of a single family dwelling with a detached ADU, the Board of Adjustment may require a minimum lot size, minimum frontage, space limitations, or other controls in determining whether or not to grant a Special Exception, or may assign such conditions for approval thereof.

4. Without limitation of the foregoing, an ADU and any construction in connection with an ADU shall comply with all structure setback requirements.

AMENDMENT XVI: AMENDMENT

This Ordinance may be amended in accordance with the provisions of R.S.A. Chapter 31, as amended.

ARTICLE XVII: PENALTY

Every person, firm, or corporation violating any of the provisions of this Ordinance, upon conviction thereof, shall be fined not more than the amount then permitted by applicable state statute, N.H. RSA 676:17, or its successor or amended form.

ARTICLE XVIII: SAVING CLAUSE

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

ARTICLE XIX: EFFECTIVE DATE

This Ordinance takes effect immediately upon its passage.

ARTICLE XX: CONSERVATION SUBDIVISION

A. Purpose

The Town of Andover Master Plan (2011) emphasizes and prioritizes the inclusion of Conservation Subdivisions as an appropriate approach to town zoning. The 2011 Master Plan notes, "Conservation Subdivision can lower public infrastructure development and maintenance costs in addition to protecting community-defined resources of importance" and can potentially "aid Andover in achieving the goal of maintaining large blocks of land in very low-density areas of town".

A Conservation Subdivision is a residential subdivision in which a portion of the site remains as permanently protected open space. Homes are located on a predetermined portion of the remaining lot. Under this approach the Planning Board works with the applicant to fit the development into the newly defined landscape to maximize the protection of important natural features and to maintain the character of the zoning district.

B. Objective

To maintain the rural character of Andover, preserve its farmland and forests, and maintain its rural viewscapes:

A. To preserve those areas of the site that have the highest ecological value, including, for example, large unfragmented blocks of undeveloped land, wildlife habitat corridors and hunting game lands, "Highest Ranked Wildlife Habitat" as assessed by the NH Fish and Game Department's Wildlife Action Plan, and water resources (especially drinking water supply areas and watersheds, wetlands, streams and rivers).

B. To locate buildings and structures on those portions of the site that are the most appropriate for development and not on portions ill-suited for development, including, for example, areas with poor soil conditions, a high water table, vulnerability to frequent flooding, or excessively steep slopes.

C. To preserve historic, archeological, and cultural features located on the site.

D. To create a contiguous network of open spaces or "greenways" by linking the site's open spaces both within the subdivision and to open spaces on adjoining lands wherever possible.

E. To reduce the impacts on water resources by minimizing land disturbance, the creation of impervious surfaces, and stormwater runoff.

F. To reduce the extent of roads, sidewalks, and stormwater management structures that must be built and maintained.

G. To minimize the deleterious impact of residential development on the municipality, neighboring properties, and the natural environment.

C. Requirements

1. Conservation Subdivisions shall comply with all provisions of this Ordinance and the Andover Subdivision Regulations. Where regulations are in conflict, the provisions of this Ordinance shall apply.

2. Conservation Subdivisions are allowed in all zoning districts except Forest & Agriculture zone (FA), provided that the subdivisions are consistent with the predominant character of the district in which they are located.

3. Conservation Subdivisions may be established with either of the two types of ownership included herein. The ownership of homestead sites shall be established at the creation of the Conservation Subdivision:

a. Individual lots and separate ownership for each residential building site. Each building lot will be identified with a property line and dwelling envelope which shows where any building and any well and septic will be placed. The envelopes will be spaced to provide for adequate separation between structures. The lots and envelopes will be designed to enhance the privacy of each dwelling.

b. Land owned by one entity with individual dwelling units owned by others. Each dwelling unit will have an identifiable dwelling envelope indicating the location for each building and any well and septic but will not have separate property lines. The dwelling envelopes will be planned to provide for adequate separation between structures.

4. Permitted Residential Uses

The uses permitted in any Conservation Subdivision shall be the same as the zoning district in which the subdivision lies, and may be further limited by the Planning Board to those enumerated in Appendix 2.

5. Designated Open Space: Delineation and Protection

a. A Conservation Subdivision shall preserve a minimum of 40% of the parent tract as designated open space.

b. Area Boundaries of the designated open space shall be clearly delineated on subdivision plans.

c. It shall be noted on the subdivision plans, and made a condition of approval, that future development in or subdivision of designated open space shall be prohibited. Any incursion into the protected open space shall be remediated.

d. Prior to the approval of the final plan, the designated open space shall be subject to planning board approval.

e. All documents shall be reviewed and approved by town legal counsel prior to final approval from the Planning Board. Fees for town legal review of the development as well reviews by other experts (such as wetland scientists or historic preservationists, etc.) as required by the Planning Board under RSA 676:4-b will be paid by the developer.

6. Open Space Incentive

The number of dwelling units permitted in a Conservation Subdivision shall be determined in the following manner:

a. Yield Plan: A "yield plan" shall be developed to identify the number of dwelling units that could be created as a conservation subdivision, as follows. First, non-buildable area is subtracted from the total acreage of the parent tract. Next, the remaining contiguous buildable acreage of the parent tract is divided by the minimum lot size of the zoning district in which the parent tract is located. The resulting number of units shall be the conservation subdivision's "yield plan".

b. Open Space Incentives: For parent parcels greater than 20 acres, the Planning Board may award the development an open space bonus that increases the maximum number of dwelling units identified in the yield plan. Bonuses beyond 10% may be awarded from any combination of the following criteria, but in no case shall the open space bonuses result in more than a 25% increase in dwelling units. (The number of units generated by the yield plan process in section G:1 above shall serve as the starting point for determining the total number of dwelling units permitted in the subdivision. All fractional numbers of 0.5 or greater shall be rounded up to the nearest whole number; those fractional numbers less than 0.5 shall be rounded down to the nearest whole number).

1. Additional "Designated Open Space" Bonus: 10% increase in number of building sites above the yield plan where the proposed development shows more than 60% of the parent tract as designated open space, protected as such in perpetuity, OR 15% increase in number of dwelling units above the yield plan where the proposed development shows more than 70% of the parent tract as designated open space, protected as such in perpetuity.

2. Trail Bonus: 5% increase in number of building sites above the yield plan when designated open spaces and trails are open to the public, with access points clearly labeled. Public access must allow pedestrian traffic (motorized vehicles can be restricted.)

3. Agricultural Land and Use Bonus: Up to 10% increase in building sites above the yield plan where the proposed development protects agriculturally valuable lands and provides permission for their use as such in perpetuity. If the portion preserved for agricultural use is equal to 25% or more of the parent tract, then the full bonus shall be awarded, with a proportionately smaller bonus for smaller

percentages. The instrument granting this protection may reasonably restrict the type of farming to prevent nuisances. This provision requires only that agricultural uses remain possible; the fact that agricultural uses are not pursued at any particular time does not affect the validity of the bonus. At a minimum, however, agricultural fields should not be allowed to become overgrown, but kept open by mowing.

4. Forest Management Bonus: 15% increase in building sites above the yield plan where the designated open space to be preserved is mostly mature forest (70% or greater), where no more than 30% of this mature forest area shall be cut at one time, and where the cutting is well distributed and will be based on a "best practices" management plan developed by a NH Licensed Forester and approved by the Planning Board.

7. Conservation Incentive

A Conservation Subdivision Plan (submitted to the Planning Board per section E:5) may include energy efficiency and/or resource conservation, in addition to conservation of open space. Up to 25% bonus units above the yield plan may be awarded for energy efficiency and/or resource conservation that are demonstrated to the Planning Board to meet or exceed current LEED-registration benchmarks. Completion of LEED Certification is not required.

8. The maximum total incentive for Open Space plus Conservation Incentives is not to exceed 30% bonus over the yield plan.

9. Roads

A parcel undergoing Conservation Subdivision shall have frontage on a Class V or better road as required by the zoning ordinance and RSA 674:41. Interior roads in the subdivision, which may be private, shall have a 50 foot right of way and shall be built to town standards. Interior roads shall be set back 50 feet from the boundaries of the development. Interior roads may be paved with asphalt or finished with a gravel or hardpack surface. For all such roads (including those upgraded from Class VI) the Town has no obligation to maintain or repair such roads unless and until the Town officially accepts them pursuant to law.

10. Building Setbacks & Buffers

Any structure must follow setback requirements in the Town's zoning ordinance. In the event a subdivision project elects to pursue a density increase, the subdivision must include a perimeter buffer zone of at least 75 feet. The buffer zone must be preserved in perpetuity along with other open spaces approved as part of the plan. The buffer zone is measured from the parcel perimeter property line regardless of suitability for construction.

11. Homeowners Association

All owners of building lots or homestead sites shall become members of the conservation subdivision's Homeowners Association, subject to the requirements in Appendix 3.

The itemized lists in the following Appendices may be amended or altered by the Planning Board through a public hearing process.

Appendix 1 - Definitions

Applicant: The owner of land proposed to be subdivided, or his/her representative.

Buildable Area: Land area of a parcel excluding non-buildable area.

Buffer: Land area within which adequate vegetation is maintained or provided to visibly separate or screen one use from another.

Common Area: land owned by all individual homeowners within the development as tenants-in-common excluding the designated open space.

Conservation Subdivision: An alternative form of residential development where, instead of subdividing a parent tract into lots of conventional size, a similar number of dwelling units are arranged on lots or homestead sites of reduced dimensions, with the remaining area of the parent tract permanently protected as designated open space.

Designated Open Space: Reserved land that is permanently protected from further development and remains in a natural condition or is managed according to a management plan for natural resource functions (forestry, agriculture, habitat protection), which has been approved by the Planning Board under this ordinance as part of a conservation subdivision.

Dwelling Envelope: A homestead site or building lot identified on a subdivision plan indicating the allowed limits of clearing and grading, and within which all structures and, where appropriate, the well and septic systems, shall be located.

Easement: The right or privilege that a person may have in another person's property, often for the purposes of installing and maintaining utilities and drainage ways or allowing a rite of passage.

Homeowners Association: A private corporation, association, or other legal entity organized in accordance with state law, including condominiums under RSA chapter 356-B, and established by the applicant or the member individuals for the benefit and enjoyment of its members, including oversight and management of common space, designated open space, and/or shared facilities.

Homestead site: A lot or area within the subdivision where an individual home or dwelling will be situated.

Non-buildable Area: Land area that cannot be counted toward the minimum lot size under a conventional subdivision, including areas with the following characteristics: wetlands or wetland soils as defined by RSA 482-A:2,X; slopes greater than 25 percent; submerged areas; utility rights-of-way; land area within the 100-year floodplain; or land that is restricted from development by covenant, easement.

Parent Tract: The entirety of the original parcel(s) from which the subdivision is to be created.

Appendix 2 - Allowed in Conservation Subdivisions:

1. Agricultural and Residential District
   Permitted uses:
   - Single family residences
   - Home occupations not involving customer visits or retail sales.
   - Accessory buildings (barns or garages)
   - Two Family residences

   Permitted with Special Exception:
   - Tiny Houses
   - Multi Family Residences

2. Rural Residential Districts
   Permitted uses:
   - Single family residences
   - Home occupations not involving customer visits or retail sales
   - Accessory buildings (including barns and garages)
   - Two family residences

   Permitted with Special Exception:
   - Tiny Houses
   - Multi Family Residences

3. Village District
   - Single family residences
   - Home occupations not involving customer visits or retail sales
   - Accessory buildings (including barns and garages)
   - Multi Family Residences

Appendix 3 - Homeowners Association Requirements

1. The Association articles and by-laws must be approved in writing by the Planning Board and shall be filed with the Planning Board as a condition precedent to final
approval, and contain, among other terms, the following:

a. The Association will be responsible for planning, maintaining, and plowing the private roads in the development. The Association shall be obligated to maintain any designated open space, common areas, private roadways and private utilities.

b. The Association shall charge dues or levy assessments against the property owners in the conservation subdivision and the owners of houses built on land in the conservation subdivision in order to cover expenses for designated open space, common areas, private roadways, and private utilities, including but not limited to tax liabilities, maintenance, and improvements.

c. The Town of Andover has the right to ensure the maintenance of the designated open space, common areas, and private roadways and utilities.

d. In the event that the Association or the homeowners shall, for any reason, fail to maintain the open space, common areas, or private roadways or utilities, the selectmen shall serve written notice upon the Association or the property owners setting forth the deficiencies noted. Such notice shall include a demand that the noticed deficiencies be corrected and that a statement of intent to comply and a date of compliance be filed with the Selectmen within 30 days of such notice.

e. If the Association or property owners fail to correct the noted deficiencies within the time determined by the Selectmen, the Association shall be liable for the fines and penalties provided for in RSA 676:17 et.seq. in addition to any other legal and equitable remedies.

2. The Select Board may arrange to have the deficiencies cured at the expense of the property owners and may record liens on each individual property until each property owner pays his, her, or its prorated share of the incurred expenses, including whatever liens and/or penalties are assessed.

ZONING ORDINANCE REVISION HISTORY

1. 1974 Original Ordinance with 1978 Addition of Article VIII.D1
2. 1976 Original Floodplain Management Ordinance
3. 1978 Amendments adding additional special exception authority
4. 1981 Amendments adding side and rear setbacks and minimum water frontage for new shoreline lots
5. 1986 Amends to Floodplain Management Ordinance

6. 1990 Rescinding 1976 Floodplain Ordinance and enacting Floodplain Development Zoning Overlay ordinance
7. 1994 Amendments regarding commercial development performance standards
8. 1994 Amendment incorporating Floodplain Development Overlay Zoning Overlay Ordinance into Zoning Ordinance proper
9. 2001 Amendments Article XII: Personal Wireless Service Facilities (cell towers) and temporary 1 Year Growth Restrictions
10. 2002 Amendments regarding temporary Growth Restriction expiring March 31, 2007
11. 2004 Amendments making clarification and corrective changes
12. 2008 Amendment to Article XIII: Floodplain Development
13. 2007 Amendments extending temporary growth restrictions to Town Meeting, 2012 *(No copy of the amendment found- section expired as of Town Meeting 2012)*
14. 2010 Added Amendment XIV: Small Wind Energy Systems Ordinance *(no copy of amendment found)*
15. 2017 Amendment XV: Accessory Dwelling Units, Town Meeting March 2017
16. 2018 Five Amendments, Town Meeting 2018:
    a. Storage Trailers, Storage Containers, Fabric-Covered Garages and Prefabricated Garages Without a Foundation (Article VI, A2) Do not require a building permit
    b. Tiny Houses Permitted (with Special Exception) (Article V) In all districts except Village Districts and Forest/Agricultural District
    c. Board of Adjustment Powers for Variances (Article IX, E) Re-defining hardship
    d. Purposes of the Zoning Ordinance (Article I, C) Incorporates Guiding Principles from Master Plan
    e. Special Exceptions (remove Article IX 3, 4) Removed requirement for Planning Board review of Site Suitability before ZBA acts on Special Exceptions
17. 2020 Town Meeting Expansion of Andover Village and Cilleyville District Boundaries
18. 2022 Town Meeting Adoption of the Conservation Subdivision
19. 2023 Town Meeting Article VI Language Clarification between Non-conforming Structure and Non-conforming Use
20. 2023 Town Meeting Zoning changes incorporated to enable Workforce Housing