

TOWN OF WAKEFIELD, NH
ZONING ORDINANCE

With Amendments through March 14, 2006

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ARTICLE 1 – TITLE

This document shall be referred to as “Town of Wakefield, NH Zoning Ordinance, as amended.”

ARTICLE 2 - PURPOSE AND AUTHORITY

The purpose of this Zoning Ordinance is to implement the adopted Town of Wakefield Master Plan, to lessen congestion in the streets; secure safety from fires, panic, and other dangers; promote health and the general welfare; provide adequate light and air; prevent the overcrowding of land; avoid undue concentration of population; facilitate the adequate provision of transportation, solid waste facilities, water, sewerage, schools, parks, child day care; and assure proper use of natural resources and other public requirements.

This Ordinance shall also help to retain the natural beauty of Wakefield; encourage the most appropriate use of land; stabilize the value of land and buildings; and, facilitate the economical provision of future required utilities and facilities.

This Zoning Ordinance is also intended to promote economic and social prosperity in Wakefield, as well as to provide for harmonious and aesthetically pleasing development, which is consistent with the character and rural setting of the town.

This Ordinance is adopted pursuant to the authority granted to municipalities by RSA 674:16 and in accordance with all applicable state statutes.

ARTICLE 3 – TABLES

Table 1 – Permitted Uses

	Residential I	Residential II - Shorefront	Residential III - Rural	Business & Commercial	Village / Residential	Light Industrial	Agricultural	Farming – Prime Soils (O)	Aquifer Conservation (O)	Wetland Conservation (O)	Historic (O)	Floodplain (O)
RESIDENTIAL USES												
Single-family dwelling	P	P	P	C	P	N	P	P	A	N	A ¹	A ²
Two-family dwelling (Duplex)	P	P	P	C	P	N	P	C	A	N	A ¹	A ²
Multi-family dwelling	P	N	P	N	P	N	P	C	A	N	A ¹	A ²
Elderly Housing or Life Care Facility	P	N	P	N	P	N	P	P	A	N	A ¹	A ²
Accessory Use	P	P	P	P	P	P	P	P	A	N	A ¹	A ²
In-Law Apartment	P	P	P	P	P	N	P	P	A	N	A ¹	A ²
Open Space Subdivision	P	C ³	P	N	N	N	P	P	A	P	A ¹	A ²
Private Boat Launch	N	P	N	N	C	N	N	A	A	P	A ¹	A ²
Private Campsite	P ⁴	P ⁵	P ⁴	N	P ⁵	N	P ⁴	A	A	A	A ¹	A ²
BUSINESS & COMMERCIAL USES												
Museum	N	N	C	P	P	N	C	C	A	N	A ¹	A ²
Church	C	N	C	P	P	N	P	P	A	N	A ¹	A ²
Day care facility or nursery school	C	C	C	C	C	N	C	C	A	N	A ¹	A ²
Home Occupation	P	P	P	P	P	N	P	P	A	N	A ¹	A ²

¹ A Certificate of Approval from the Wakefield Heritage Commission is required for any construction, alteration, moving, or demolition within the Wakefield Corner Historic District.

² Structures located in the Floodplain District may require additional permits and structural requirements.

³ Allowed provided all dimensional requirements contained in Tables 2 and 3 are met.

⁴ Not to exceed 120 days per calendar year.

⁵ Not to exceed 30 days per calendar year.

	Residential I	Residential II - Shorefront	Residential III - Rural	Business & Commercial	Village / Residential	Light Industrial	Agricultural	Farming – Prime Soils (O)	Aquifer Conservation (O)	Wetland Conservation (O)	Historic (O)	Floodplain (O)
Theater	N	N	N	P	P	N	N	N	A	N	A ¹	A ²
Recreational facility	C	N	C	P	P	N	C	C	A	N	A ¹	A ²
Marina	N	C	N	N	N	N	N	N	N	N	A ¹	A ²
Essential town service, except maintenance or disposal.	P	P	P	P	P	P	P	P	A	N	A ¹	A ²
Office	N	N	N	P	P	N	N	N	A	N	A ¹	A ²
Retail sales, max 25,000 sq ft.	N	N	N	P	P	N	N	N	A	N	A ¹	A ²
Retail sales of produce grown on site	P	P	P	P	P	P	P	P	P	P	A ¹	A ²
Boat launch facility	N	C	N	N	C	N	N	N	A	N	A ¹	A ²
Personal/professional service shop	N	N	N	P	P	N	N	N	A	N	A ¹	A ²
Repair Service	N	N	N	P	P	N	N	N	A	N	A ¹	A ²
Restaurant, standard	N	N	N	P	P	N	N	N	A	N	A ¹	A ²
Restaurant, drive-thru	N	N	N	N	N	N	N	N	N	N	N	N
Restaurant, restricted operation – less than 60 seats	C	C	C	P	P	N	C	C	N	N	A ¹	N
Snack Bar	P	P	P	P	P	N	P	A	A	A	A ¹	A ²
Rooming home/boarding house	N	N	N	N	P	N	N	N	A	N	A ¹	A ²
Hotel/Motel	N	N	N	P	P	N	N	N	A	N	A ¹	A ²
Parking facility	N	N	N	C	P	N	N	N	A	N	A ¹	A ²
Indoor/Outdoor recreational facility	N	N	N	P	P	N	C	N	A	N	A ¹	A ²
Outdoor storage of (1) road salt or (2) deicing chemicals, or snow contaminated with (1) or (2)	N	N	Z	Z	Z	Z	Z	Z	N	N	N	N
On-site disposal of solid waste	N	N	N	N	N	N	N	N	N	N	A ¹	N

	Residential I	Residential II - Shorefront	Residential III - Rural	Business & Commercial	Village / Residential	Light Industrial	Agricultural	Farming – Prime Soils (O)	Aquifer Conservation (O)	Wetland Conservation (O)	Historic (O)	Floodplain (O)
On-site disposal of septage generated off-site; septage lagoons	N	N	N	N	N	N	C	C	N	N	A ¹	N
Automotive repair shop ⁶	N	N	N	P	P	N	N	N	N	N	A ¹	A ²
On-site hazardous waste or toxic materials storage ⁷	N	N	N	N	N	N	N	N	N	N	A ¹	N
Recreational campground/camping park	N	C	C	N	N	N	C	N	A	N	A ¹	A ²
Bed & Breakfast	C	N	P	P	P	N	P	P	A	N	A ¹	A ²
Personal Wireless Service Facility	P ⁸	P ⁸	P	P	P	P	P	P ⁸	A	P	P ⁸	A ²
INDUSTRIAL USES												
Light industrial	N	N	N	N	N	P	N	N	A	N	A ¹	A ²
Factory outlet store	N	N	N	P	P	N	N	N	A	N	A ¹	A ²
Boat storage facility	N	N	C	P	N	P	N	N	A	N	A ¹	A ²
Lumber yard retail sales	N	N	P	P	N	C	C	C	A	N	A ¹	A ²
Lumber mill	N	N	N	N	N	P	C	C	A	N	A ¹	A ²
Fuel Storage	N	C	C	C	C	P	C	P	N	N	A ¹	A ²
Warehouse	N	N	N	C	C	P	N	C	A	N	A ¹	A ²
Truck Terminal	N	N	N	N	N	C	N	N	A	N	A ¹	A ²
AGRICULTURAL USES												
Forestry using Best Management Practices	C	C	C	N	N	N	P	P	A	A	A ¹	A ²
Agriculture	C ⁹	C ⁹	C ⁹	N	N	N	P	P	A	P	A ¹	A ²

⁶ Including any similar use that may adversely affect water quality, unless adequate safeguards are employed and all permits acquired to ensure hazardous materials are discharged into on-site water or soil.

⁷ Except as may be temporary allowed in the normal course of business, but only with adequate safeguards and required permits

⁸ No ground-mounted facilities allowed.

⁹ Conditional Use Permit required only if parcel is 5 acres or less; otherwise permitted.

	Residential I	Residential II - Shorefront	Residential III - Rural	Business & Commercial	Village / Residential	Light Industrial	Agricultural	Farming – Prime Soils (O)	Aquifer Conservation (O)	Wetland Conservation (O)	Historic (O)	Floodplain (O)
Septage/Sludge application	N	N	C	N	N	N	C	C	N	N	A ¹	N
Earth excavation	N	N	N	N	N	N	C	C	C	N	A ¹	A ²

Legend:

P = Permitted use, subject to Site Plan approval for all uses except a single and two family dwelling

N = Not a permitted use

O = Overlay District

A = Allowed if permitted in base zoning district

C = Conditional, requires Conditional Use Permit

Z = Not permitted if located in overlay zone that prohibits such use, otherwise might be allowed if necessary part of the primary use of the lot.

Table 2 – Minimum Setbacks

	Residential I	Residential II - Shorefront	Residential III - Rural	Business & Commercial	Village / Residential	Light Industrial¹	Agricultural
STANDARD LOTS							
Street ² (ft.) ³	20	20	50 ⁴	20	20	50	50 ⁴
Side (ft.)	20 ⁴	20 ⁴	20	20 ⁵	10	20	20
Rear (ft.)	10	10	15	10	10	10	15
Shoreline (ft.)	N/A	30 ⁶	N/A	N/A	N/A	N/A	N/A
Wetland ⁷ (ft.)	30 ⁹	30 ⁹	30 ⁹	30 ⁹	30 ⁹	30 ⁹	30 ⁹
Default ⁸ (ft.)	20	20	20	20	20	20	20
FLAG LOTS							
Street ² (ft.) ³	20	N/A	35	N/A	N/A	N/A	35
Side (ft.)	20 ⁴	N/A	20	N/A	N/A	N/A	20
Rear (ft.)	10	N/A	15	N/A	N/A	N/A	15
Wetland ⁷ (ft.)	30 ⁹	N/A	30 ⁹	N/A	N/A	N/A	30 ⁹
Default ⁸ (ft.)	20	N/A	20	N/A	N/A	N/A	20

¹ All light industrial uses located on Route 16 shall be shielded from view by use of a natural woodland buffer or other screening method as approved by the Planning Board.

² Measured from the edge of the right-of-way corridor or from the edge of the traveled way, whichever measurement provides the greatest distance from the centerline of the traveled way.

³ May be increased by up to 50% for newly created lots located on a designated “Scenic Byway” under RSA 238:19 *et seq.*

⁴ Reduce by 50% for pre-existing non-conforming (“grandfathered”) lots.

⁵ Reduce by 50% if property adjacent to the affected boundary is used for non-residential purposes

⁶ Except for boathouses and docks, which are subject to the jurisdiction of the State

⁷ Not applicable to setbacks from shorelines. The designated wetland setback may be reduced by the Planning Board, but in no event to less than the applicable front, side or rear setback, upon a showing that additional runoff into the wetland area will not occur.

⁸ This is the minimum dimension when other categories are not applicable.

⁹ No disturbance of vegetation shall occur within 20 feet of the wetland.

	Residential I	Residential II - Shorefront	Residential III - Rural	Business & Commercial	Village / Residential	Light Industrial ¹	Agricultural
Lots Serviced by Municipal or Community Water and/or Municipal or Community Sewer							
Street ² (ft.) ³	20 ¹⁰	20 ¹⁰	35 ¹⁰	20 ¹¹	20 ¹¹	50 ¹¹	35 ¹⁰
Side (ft.)	20 ¹⁰	20 ¹⁰	20 ¹⁰	20 ¹¹	10 ¹¹	20 ¹¹	20 ¹⁰
Rear (ft.)	10 ¹⁰	10 ¹⁰	15 ¹⁰	10 ¹¹	10 ¹¹	10 ¹¹	15 ¹⁰
Shoreline (ft.)	30	30	30	30	30	30	30
Wetland ⁷ (ft.)	30 ⁹	30 ⁹	30 ⁹	30 ⁹	30 ⁹	30 ⁹	30 ⁹
Default ⁸ (ft.)	20	20	20	20	20	20	20

Legend:

ft. = feet

N/A = not applicable

¹⁰ May be reduced by Conditional Use Permit or if property is developed using Open Space Conservation/Cluster Development (See Article 12).

¹¹ May be reduced by Conditional Use Permit.

Table 3 – Density and Minimum Dimensional Requirements

	Residential I	Residential II - Shorefront	Residential III - Rural	Business & Commercial	Village / Residential	Light Industrial	Agricultural
STANDARD LOTS							
Street Frontage (ft.)	150	150	150	100	50	200	200
Shoreline Frontage (ft.)	N/A	150	N/A	N/A	150	N/A	N/A
Maximum Density ¹ /Minimum Lot Size	1 ac.	1 ac.	3 ac.	.5 ac.	.5 ac.	1 ac.	5 ac. ²
- Additional area for each dwelling unit in excess of 1 (sq. ft.) ¹	1 ac.	1 ac.	3 ac.	.5 ac.	10,000	N/A	5 ac. ²
- Additional area for each non-residential unit in excess of 1 (sq. ft.) ¹	1 ac.	1 ac.	3 ac.	.5 ac.	4,000	1 ac.	5 ac. ²
FLAG LOTS							
Street Frontage (ft.)	50	N/A	50	N/A	N/A	50	50
Shoreline Frontage (ft.)	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Maximum Density ¹ /Minimum Lot Size	60,000 sq. ft.	N/A	3 ac.	N/A	N/A	1 ac.	5 ac. ²
- Additional minimum area required for each non-residential unit in excess of 1 (sq. ft.) ¹	1 ac.	N/A	3 ac.	.5 ac.	N/A	1 ac.	5 ac. ²
- Additional minimum area required for each residential unit in excess of 1 (sq. ft.) ¹	1 ac.	N/A	3 ac.	.5 ac.	N/A	N/A	5 ac. ²
Lots Serviced by Municipal or Community Water and/or Municipal or Community Sewer							
Street Frontage (ft.)	150	150	150	100 ³	50	200	200
Shoreline Frontage (ft.)	N/A	150	N/A	N/A	150	N/A	N/A

¹ The minimum area requirement shown in the table is also the maximum density allowed per residential (dwelling) or non-residential unit. For example, an Open Space subdivision in the Residential III zone can have a maximum of 1 dwelling unit per each 3 acres of buildable land.

² Reduced to 3 acres if property is developed using Open Space Conservation/Cluster Development (See Article 12).

³ Can be reduced to not less than 50 feet by the Planning Board upon a showing of reasonable need (e.g. lack of sufficient lot width, etc.).

	Residential I	Residential II - Shorefront	Residential III - Rural	Business & Commercial	Village / Residential	Light Industrial	Agricultural
Maximum Density ¹ /Minimum Lot Size (sq. ft.)	1 ac.	1 ac.	3 ac.	20,000 ⁴	20,000	1 ac.	5 ac. ²
- Additional minimum area required for each non-residential unit in excess of 1 (sq. ft.) ¹	1 ac.	1 ac.	3 ac.	10,000	2,500	1 ac.	5 ac. ²
- Additional minimum area required for each residential unit in excess of 1 (sq. ft.) ¹	1 ac.	1 ac.	3 ac.	20,000	5,000	N/A	5 ac. ²
BUILDING AREA REQUIREMENTS							
Minimum Living Area – Single Family Residence (sq. ft.)	1,100	1,100	1,100	N/A	1,100	N/A	1,100
Minimum Living Area – Single Family Residence <u>with Special Exception or Conditional Use Permit</u> (sq. ft.)	800 ⁵	800 ⁵	800 ⁵	N/A	800 ⁵	N/A	800 ⁵
Minimum Living Area – Multi-Family Unit (sq. ft.)	850	850	850	N/A	850	N/A	850
Building Width (Maximum)(ft.)	N/A	N/A	N/A	N/A	70 ft ⁶	N/A	N/A
Building Height (Maximum) (ft.) ⁷	35	35	35	35	35	35	35

Legend: ac. = acre(s)
ft. = feet
sq. ft. = square feet
N/A = not applicable

⁴ If serviced by municipal water system or municipal sewer system

⁵ Provided structure is consistent with or complimentary to the rural character and setting of Wakefield.

⁶ May be exceeded by Special Exception or Conditional Use Permit.

⁷ Measured from the median height of the ground surrounding the building to the peak of the roof, exclusive of chimneys and antennas.

ARTICLE 4 - OFFICIAL ZONING MAP

The Zoning Districts identified in this Ordinance are bounded as shown on the map entitled "Wakefield Official Zoning Map," which may consist of one map, or a series of maps (collectively "Zoning Map," "Wakefield Official Zoning Map," or "Official Zoning Map"). The Wakefield Official Zoning Map is located in the Wakefield Town Hall and made a part of this Ordinance.

Regardless of the existence of other printed copies of the Wakefield Official Zoning Map, which from time to time may be made or published, the Wakefield Official Zoning Map located in the Wakefield Town Hall shall be the final authority as to the current zoning status of the land and water areas, buildings, and other structures in the Town.

The Wakefield Official Zoning Map for the Town is to be used to determine exact Zoning District boundaries, and shall be certified as the Official Zoning Map of the Town by the Town Clerk upon adoption of this Ordinance. The certified Wakefield Official Zoning Map, and any amendment that affects the Zoning Map, shall be filed with the Planning Board.

ARTICLE 5 - BOUNDARIES

A district boundary shown on the Zoning Map as approximately following the right-of-way of a road, a shoreline of a body of water, or property line, shall be construed as following such line. If the District classification of any land is in question, it shall be deemed to be in the most restricted adjoining district. The Zoning Board of Adjustment shall determine the location of a district boundary upon an appeal from an administrative decision of the Code Enforcement Officer.

ARTICLE 6 - BASE ZONING DISTRICTS

RESIDENTIAL I. This district primarily includes those areas that are already moderately to heavily utilized as residential areas, or consist of areas that are contiguous to such areas.

RESIDENTIAL II - SHOREFRONT. This district includes virtually all property located within 500 feet of lakes and ponds. It is primarily a residential district. A primary purpose of this district is the preservation of the quality of water in the lakes and ponds, and to preserve aesthetics and the environment.

RESIDENTIAL III - RURAL. This district includes land that shares characteristics that render it appropriate for primarily residential development, while retaining rural characteristics. The minimum lot size is 3 acres. Many Residential III areas are located contiguous to Residential II areas, and thus serve as a residential buffer between the rather densely populated Residential II districts, and other districts that require a lower density.

BUSINESS AND COMMERCIAL. This district consists of those areas, which based upon historical use as a center for commerce, upon accessibility to major transportation routes, and/or upon access to other infrastructure amenities, are uniquely suited as areas to promote and foster businesses and commercial ventures.

VILLAGE/RESIDENTIAL. This district is created to allow commercial and residential growth to occur while

retaining the heritage and unique qualities of Wakefield. In order to do so, this Ordinance guides development of Village centers to ensure: (1) a mix and variety of uses; (2) that development occurs in a manner which maintains the visual character and architectural scale of existing development in the district; (3) that each Village remains a pedestrian-oriented environment.

LIGHT INDUSTRIAL. This district is for light industrial uses that are not otherwise appropriate to be located in close proximity to residential uses. Whenever possible, no structures or activities shall be visible from any State-maintained highway, “Scenic Byway,” or scenic road.

AGRICULTURAL. These areas contemplate primarily residential and agricultural uses, and are expected to have the lowest density of buildings in the town, in favor of greater expanses of open space and conservation areas. The minimum lot size is 5 acres.

ARTICLE 7 – FARMING – PRIME SOILS OVERLAY DISTRICT

- A. PURPOSE.** The purpose of the Farming – Prime Soils Overlay District is to promote the continuation of agriculture, protect historically viable farmland and prime agricultural soils and preserve Wakefield’s rural character and working landscape.
- B. LOCATION.** The Farming-Prime Soils Overlay District is available in the entirety of Wakefield.
- C. VOLUNTARY COMPLIANCE.** The decision whether to comply with the requirements of this Article is voluntary on the part of the property owner, and is rescindable at any time.
- 1.** Prior to voluntarily designating a parcel or portion thereof to be subject to this overlay zone, the following requirements shall be met:
 - a.** The parcel or portion thereof must contain a minimum of 20 contiguous acres.
 - b.** Preparation and execution of a writing, the form and content of which is to be approved by the Planning Board in advance, and which may be recorded in the Carroll County Registry of Deeds at the applicant’s expense, indicating the parcel or portion thereof being made subject to the overlay.
 - c.** Preparation of a sketch or plat in sufficient detail to clearly identify the parcel or portion thereof being made subject to the overlay. The sketch need not be in recordable format, but shall be placed in the property’s Planning Board file, with a copy provided to the Town Assessor’s Office for inclusion in the Town’s Assessment file.
- D. CONFORMING AND NON-CONFORMING USES AND STRUCTURES.** During the period of time that a parcel or portion thereof is in voluntary compliance with this Article, the uses and structures placed upon the parcel must comply with the requirements for this overlay district as set forth in the tables in Article 3 in effect when the parcel was placed in this overlay district. No use or structure that is commenced or built during the voluntary applicability of this Article shall remain on the parcel or portion thereof unless it complies in all respects with the applicable underlying base and overlay zones in effect when the voluntary applicability of this Article zone is terminated.

E. SUPPLEMENTAL DEVELOPMENT STANDARDS. The establishment of a use or structure on the parcel or portion thereof subject to this overlay zone shall:

1. Minimize the disruption of the scenic quality of the site; and
2. Retain the maximum possible meadowland for agricultural use through means such as, but not limited to, clustering under the Open space subdivision provision, and or the donation of development rights; and
3. Utilize the least productive land and protects primary agricultural soils; and
4. Not conflict with existing agricultural uses in the area.

ARTICLE 8 – AQUIFER CONSERVATION OVERLAY DISTRICT

Pursuant to RSA 674:16,I and RSA 674:21 and in order to help maintain the quality of living in the Town of Wakefield as set forth in the Master Plan, the Town believes that an adequate water supply is indispensable to the health, welfare, and safety of its citizens. Such an adequate supply is also essential to the maintenance of the ecological balance of the natural environment of the Town, an environment that the Town wishes to protect. These water resources are subject to an ever-increasing demand for new and competing uses. Thus, the Town declares and determines that such water resources, whether occurring above or below ground, constitute a precious, finite, and invaluable public resource. These resources should be protected, conserved, and managed in the interest of present and future generations. The intent of this Ordinance is to provide for the protection of the water resources from contamination by polluting, hazardous, or toxic materials.

A. BOUNDARIES. The Aquifer Conservation District is identified as those areas designated by blue shading or crosshatching which appear on Statewide mapping prepared by the U.S. Geological Survey entitled "Availability of Groundwater in the Piscataqua and Other Coastal River Basins, Southeastern New Hampshire" and "Availability of Groundwater in the Saco River Basin, East-Central New Hampshire" by John E. Cotton, 1977 and 1975, respectively, and as may be amended or superseded by the U.S.G.S. or by the Planning Board as provided herein from time to time. This map is on display in the Zoning Office of the Town of Wakefield, and is deemed part of the Wakefield Official Zoning Map. The District shall include mapped primary and secondary recharge areas.

B. PERMITTED USES. Permitted uses shall be as outlined for the Base Zoning District of the parcel in question.

C. SPECIAL CONDITIONS. The following conditions shall apply to all uses in this District:

1. Sanitary wastewater discharge to septic and leaching systems shall conform to the regulations set forth in the New Hampshire Water Supply & Pollution Control Division Regulation;
2. All liquid or solid waste other than normal septic effluent shall be temporarily stored on-site and disposed of in a manner approved by the Planning Board;
3. Monitoring wells shall be established for all industrial and commercial uses utilizing or storing

hazardous or toxic materials. The Planning Board shall determine the number, construction, and location of these wells. These wells shall be checked for compliance with the Interim Primary Drinking Water Regulations and Secondary Drinking Water Regulations as provided for in the Safe Drinking Water Act of 1977, or subsequent revisions to it. The checking of wells shall take place periodically as required by the Planning Board, and the results reported to the Planning Board and/or such other boards and officials as the Planning Board deems appropriate;

4. Storage of petroleum and refined petroleum products shall be above ground in a manner approved by the Fire Department unless Planning Board permission is obtained for subsurface storage. It shall be the responsibility of every applicant for such permit to demonstrate to the satisfaction of the Planning Board that subsurface storage can be accomplished in a manner that will not adversely affect the aquifer. Subsurface storage of such materials is permitted only with permission of the Planning Board and with such conditions specified to prevent the pollution of the aquifer. Permits issued by the Board of Selectmen or its duly authorized agent shall be for a period of not more than fifteen (15) years, renewable upon application;
5. Use of pesticides, herbicides, and other potentially dangerous leachables shall be in compliance with RSA 430:28, *et seq* and the NH Code of Administrative Rules. No fertilizer, except low phosphate, slow release nitrogen fertilizer or limestone, may be used on lawns or areas with grass. Storage of these materials shall not be outdoors;
6. Site review shall be required by the Planning Board when an industrial or commercial use is altered within this District to a use that involves the use, storage, or disposal of hazardous or toxic materials,;
7. No more than 50% of the buildable area of a lot shall be rendered impervious; and
8. Storm water drainage shall be handled according to the best management practices.
9. No permitted use shall result in the following:
 - a. Outdoor storage of road salt or other deicing chemicals or dumping of snow containing road salt or other deicing chemicals;
 - b. On-site disposal of solid waste;
 - c. On-site disposal of septage generated off-site or sewer and septage lagoons;
 - d. Automotive repair shops, and any other use which might potentially adversely affect water quality, unless adequate environmental safeguards are instituted and all required local, state and federal permits are obtained to ensure that no hazardous waste or toxic material is allowed to penetrate into the soil;
 - e. On-site storage of hazardous waste, or toxic materials, except temporarily as necessary in the ordinary course of business. A permit and adequate containment facilities is required for such temporary storage;

- f. Removal of Sand and gravel within ten (10) feet of the seasonal high water table, unless an exception is granted by the Planning Board in accordance with the all Wakefield Earth Excavation Regulations in effect and RSA 155-E:11; and
- g. Discharge of process waters or other wastes generated by industrial uses.

D. INCORRECTLY DESIGNATED AREAS. When the boundary of the Aquifer Conservation District is disputed, the Planning Board, at the complainant's expense and authorization, may engage a professional geologist or hydrogeologist to determine the precise location of the Aquifer Conservation District boundaries in the properties affected. A report of his/her findings shall be submitted to the Planning Board and shall include but not be limited to the following:

- 1. A revised soils map of the area in question prepared by a soils scientist qualified in hydrologic studies along with a written report of his/her on-site field inspection and test boring data.
- 2. A revised hydrogeological map prepared by a Professional Geologist ("P.G.") or a Professional Engineer ("P.E."), including a written report.

The Planning Board may adjust the boundary of this District based on the evidence provided as set forth above. It shall reserve the right to withhold action of any plat pending the results of an on-site inspection by the Board or its appointed agent and shall act to approve or disapprove the plan within sixty-five (65) days of submission or such further time as deemed necessary, but not to exceed an additional ninety (90) days as may be approved by the Board of Selectmen.

ARTICLE 9 – WETLAND CONSERVATION OVERLAY ZONING DISTRICT

A. PURPOSE AND INTENT. The purpose of this Ordinance is to protect the public health, safety and general welfare by controlling and guiding the use of land areas that have been found to be subjected to high water tables for extended periods of time. It is intended that this article shall:

- 1. Prevent the development, on naturally occurring wetlands, of structures and land uses which will contribute to pollution of surface and ground water by sewage or toxic substances;
- 2. Prevent the destruction of or significant changes to, natural wetlands that provide flood protection;
- 3. Protect unique and unusual natural areas;
- 4. Protect wildlife habitats and maintain ecological balances;
- 5. Protect potential water supplies and existing aquifers (water-bearing stratum) and aquifer recharge areas; and
- 6. Prevent expenditure of municipal funds for the purposes of providing and/or maintaining essential services and utilities that might be required as a result of misuse or abuse of wetlands.

B. WETLANDS DEFINED. Wetlands are areas where a significant part of the vegetational community, and soil and land types consist of, but do not necessarily include all, of the following:

1. Swamps are areas where the water table is at or near the ground surface for a significant part of the year. The vegetational community consists mostly of trees and wood shrubs, such as:

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| Alders | Red Maple |
| Arrow-wood | Poison Sumac |
| Atlantic White Cedar | Rhodora |
| Black Ash | Sphagnum Moss |
| Black Gum | Spicebush |
| Black Spruce | Sweet Pepperbush |
| Buttonbush | Tamarac (larch) |
| Common Elder | Willows |
| High-bush Blueberry | Winterberry |
| Marsh Rose | |

2. Marshes are treeless wetlands dominated by soft-stemmed herbaceous plants. The surface of the marsh is covered with water year around, though seasonal fluctuations in water depth are expected. Marshes range from wet meadows, to deep marshes that can be covered with several feet of water. The vegetational community is made up of some or all of the following:

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| Arums | Hydrophylus Grasses |
| Bladder worts | Leatherleaf |
| Bur-reeds | Pickeral Weeds |
| Cat-tails | Rushes |
| Duckweeks | Smartweeds |
| Eelgrass | Sweet Gale |
| Frog's-bits | Water-lilies |
| Horsetails | Water Milfoil |
| Sedges, including Bulrushes | |
| Cotton-grasses and Wool-grasses | |

3. Bogs consist of peat or muck deposits of significant depth and are characterized by a distinct group of trees and plants that are adapted to the bog's highly acidic conditions. The water in a bog is practically devoid of oxygen and nutrients. Bogs usually develop in undrained glacial depressions. Typical plants are:

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|----------------------|----------------|
| Atlantic White Cedar | Leatherleaf |
| Black Spruce | Pale Laurel |
| Bladderworths | Pitcher-plants |
| Bogbean or Buckbean | Rhodora |
| Bog-laurel | Sedges |
| Bot-rosemary | Sheep Laurel |
| Cotton Grass | Sphagnum Moss |
| High-bush Blueberry | Sundews |
| Sweet Gale | |

4. Soil series and land types commonly associated with wetlands, as described by the Soil Survey of Carroll County, New Hampshire, dated December, 1977, include the following "very poorly drained":

Alluvial land, wet (AW)
Chocorua Mucky Peat (CM)
Fresh Water Marsh (FA)
Greenwood Mucky Peat (GW)
Muck and Peat (MU)
Ossipee Mucky Peat (OT)
Whitman very stony loam (Wc)

"Poorly drained" soils include:

Leicester series (LDB, LfA & LfB)
Limerick variant (Lm)
Naumburg (NaB)
Raynham Variant (Ra)
Ridgebury series (RgB, RIA & RIB)
Walpole

C. DISTRICT BOUNDARIES.

1. **Wetlands Conservation District.** The Wetlands Conservation District is defined as those areas delineated as very poorly and poorly drained soils by the U.S. Department of Agriculture, Soil Conservation Service, in the Soil Survey of Carroll County, New Hampshire, dated December, 1977, or as subsequently revised. The Wetland Conservation District also includes those areas such as swamps, marshes and bogs that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of vegetation adapted for life in saturated soil conditions.
2. **Establishment of a District.** The limits of the Wetlands Conservation District are hereby determined to be areas of one acre or more in size, or of any size if contiguous to surface waters such as lakes, ponds and streams, subjected to high water tables of extended periods of time.
3. **Wetlands Incorrectly Delineated.** Where it is determined that an area has been incorrectly delineated as a wetland, or that an area not so designated was subsequently found to meet the criteria for wetlands designation, the Planning Board shall determine whether the regulations contained herein have application.

The Planning Board shall make their judgment under this Article only upon the determination by qualified soils scientist(s) and/or plants scientist(s) on the basis of additional on-site investigation or other suitable research that the information contained on the Wetlands Conservation Map is incorrect. This evidence shall be acceptable only when presented in written form by said scientist(s) to the Planning Board. Any necessary soil testing procedures shall be conducted at the expense of the landowner or developer.

- D. PERMITTED USES.** Permitted uses are those which will not require the erection or construction of any structures of buildings, will not alter the natural surface configuration by the addition of fill or by dredging, and uses that otherwise are not permitted by the Zoning Ordinance. Permitted uses may include the following:
1. Forestry-tree farming, using best management practices in order to protect streams from damage and to prevent sedimentation;
 2. Cultivation and harvesting of crops according to recognized soil conservation practices, including the protection of wetlands from pollution caused by fertilizers, pesticides and herbicides used in such cultivation;
 3. Wildlife refuges;
 4. Parks and recreation uses consistent with the purpose and intent of this article;
 5. Conservation areas and nature trails;
 6. Open spaces as permitted or required by the subdivision regulations or the Zoning Ordinance.
- E. SPECIAL EXCEPTION/CONDITIONAL USE PERMIT.** A Special Exception may be granted by the Zoning Board of Adjustment, or a Conditional Use Permit may be granted by the Planning Board, after proper public notice and public hearing, for undertaking the following uses in the Wetlands Conservation District when the application has been referred to the Planning Board, the Conservation Commission, and the Health Officer for review and comment at least thirty (30) days prior to the hearing:
1. Streets, roads and other access ways and utility right-of-way easements, including power lines and pipe lines, if essential to the productive use of land not so zoned and if so located and constructed as to minimize any detrimental impact of such uses upon the wetlands;
 2. Water impoundments; and
 3. Any use or activity for which a permit has been obtained from the state Wetlands Board and is either a permitted use or use permitted by Special Exception in the zoning district in which the parcel is located. If the permit has not been granted by the state Wetlands Board prior to the ZBA decision, the ZBA's decision shall be conditioned upon the issuance of the permit by the state Wetlands Board.
- F. SPECIAL PROVISIONS.** No part of a wetland may be considered as part of the minimum size requirement of any lot.

ARTICLE 10 – HISTORIC OVERLAY ZONING DISTRICT.

- A. PURPOSE.** New Hampshire State Law declares that preservation of cultural resources, and particularly of structures and places of historic, architectural and community value is a public purpose.

Pursuant to the above, it is the specific purpose of this Ordinance to preserve and safeguard the heritage of the Town of Wakefield by making it possible for the citizens of the town to create one Historic District that will:

1. Preserve for generations to come the picturesque and unique settings and collections of historically, architecturally and culturally significant buildings and structures, which are found within the Town of Wakefield;
2. Encourage the maintenance and restoration of such buildings and structures and their settings, and insure that new buildings and structures and alterations to those existing within the District, are in visual harmony with their neighbors in order to preserve that which reflects the cultural, social, economic, political and architectural history of the Town of Wakefield; and
3. Foster civic pride and beauty, strengthen the local economy, conserve and maintain property values in the District and provide an opportunity to enhance the education, pleasure and welfare of the citizens of the visitors to the Town of Wakefield.

C. BUILDING, STRUCTURES AND USE PERMITS. Buildings, structures and uses within the Historic District shall be those permitted in the Planning and Zoning Ordinance provisions for any site in question except that within any historic district, no building or structure shall be erected, moved or demolished unless, upon written application, a Certificate of Approval shall have been issued therefore by the Wakefield Heritage Commission.

D. CERTIFICATE OF APPROVAL.

1. In the Wakefield Historic District, no building permit shall be issued for any purpose or for any construction or demolition until the Wakefield Heritage Commission has issued a corresponding Certificate of Approval;
2. A Certificate of Approval is required prior to the construction, alteration, moving or demolition of any structure within the Historic District;
3. The Application for Certificate of Approval will be obtained from the Board of Selectmen or its duly authorized agent when obtaining a building permit. In cases where no building permit is required, the Application for Certification of Approval will be obtained from the Heritage Commission Secretary; and
4. A Certificates of Approval shall be applied for in writing to the Wakefield Heritage Commission, stating the location, nature and, where pertinent, the materials, color and texture of the matter or item for which such certificate is sought. Any site plans, building plans, elevations, samples, photographs, sketches, or other information reasonably required by the Commission shall be made available by the applicant.

E. REVIEW AND DECISION BY THE WAKEFIELD HERITAGE COMMISSION. In its review of applications and in reaching its decision for the granting or denial of a Certificate of Approval pertaining to

properties located within the boundaries of the Historic District, the Wakefield Heritage Commission shall consider, but not be limited to, the following guidelines:

1. The Commission may hold a public hearing on the Certificate of Approval in the following manner: Within ten days after the filing of an application for a Certificate of Approval or application for demolition, the Commission shall determine the properties deemed by it to be materially affected by such application and shall forthwith cause its secretary to give by mail (postage prepaid) to the applicant and to the owners of all such properties as they appear on the most recent real estate tax list, not less than ten days notice of a public hearing before the Commission on such application. In any case, notice shall be given to the owner of each property abutting the property to which the application pertains;
2. The Commission shall consider the appropriateness of proposed features, buildings, structures, and appurtenant fixtures, location on the lot, and the removal or demolition of any building or structure or appurtenant fixture in the district, wherever such features, buildings, structures, and appurtenant fixtures, are subject to public view;
3. The Commission shall keep in mind the specific purpose of this district as stated in this Ordinance, and shall consider, among other things, the historic and architectural style, the general design, arrangement, textures, materials, and color of the building or structure or appurtenant fixtures in question, the relation of such features to similar features of buildings in the immediate surroundings, and the position of such building or structure in relation to the street or public way and to other buildings and structures;
4. The commission shall request reports and recommendations regarding the feasibility of the applicant's proposal from the Planning Board, Fire Chief, Building Inspector, Health Officer and such other administrative officials as may possess information pertinent to the application. The Commission also shall seek advice from such professional, educational, cultural or other groups or persons to include technical assistance and consultants, as may be deemed necessary for the determination of a reasonable decision, at the expense of the Commission; and
5. The Commission shall not make any recommendations or requirements except for purposes of historic preservation and of preventing developments, construction, or changes incongruous with the historic district, its buildings, sites and surroundings.

F. GRANTING OF CERTIFICATES OF APPROVAL.

1. Within a period of forty-five (45) consecutive days after the filing of such application or within such further time as the applicant may in writing allow, the Commission shall determine whether the action or usage proposed will be appropriate in its opinion in the Historic District in accordance with the purpose of this Article and shall file a Certificate of Approval or notice of disapproval with the Wakefield Board of Selectmen or other duly delegated authority. Failure to file said certificate or notice by the Commission within the specified period of time shall be deemed to constitute approval. In such instances, the Applicant may apply to the Town Clerk for official notification that his application for Certificate of Approval was approved by default;
2. Notwithstanding that the action or usage proposed may be deemed inappropriate, the Commission

may find that failure to issue a Certificate of Approval will involve a peculiar and unusual hardship to the applicant. In the event of such findings, the Commission shall issue a limited Certificate of Approval in which the Commission may impose such conditions as are necessary in its opinion to avoid substantial derogation from the objectives of historic preservation in the District;

3. If the Commission determines that a Certificate of Approval should not be issued, the reasons for such determination shall be entered in its records, and may include recommendations respecting the proposed construction, reconstruction, alteration, moving, or demolition; and
4. Whatever its findings, the Commission shall forthwith notify the applicant and the Board of Selectmen or its duly authorized agent of its determination and shall furnish the applicant in writing a copy of the reasons therefore and of its recommendations, if any, as appearing in the records of said Commission.

G. HISTORIC DISTRICT APPEALS. Any owner or tenant of property wholly or partly within the Historic District, and by any other person, agency, or group aggrieved by a ruling of the Historic District Commission may appeal to the Wakefield Zoning Board of Adjustment. The Zoning Board of Adjustment shall hear and act upon such appeals within the periods of time prescribed by New Hampshire Statutes.

H. INTERPRETATION. Nothing in this Ordinance shall be construed to prevent ordinary maintenance or repair of any structure or place within the Historic District nor to prevent construction, alteration, repair, moving or demolition of any structure under a permit issued by the Board of Selectmen or its duly authorized agent or other duly delegated authority prior to the establishment of any such District.

ARTICLE 11 – FLOODPLAIN DEVELOPMENT OVERLAY DISTRICT.

This district, adopted pursuant to the authority of RSA 674:16, is the Town of Wakefield Floodplain Development District. The regulations in this district shall overlay and supplement the regulations in the Town of Wakefield Zoning Ordinance, and shall be considered part of the Zoning Ordinance for purposes of administration and appeals under state law. If any provision of this Ordinance differs or appears to conflict with any provision of the Zoning Ordinance or other ordinance or regulation, the provision imposing the greater restriction or more stringent standard shall be controlling.

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, Town of Wakefield, New Hampshire, Carroll County (revised 2006) which are declared to be a part of this Ordinance and are hereby incorporated by reference. (Amended March 2006)

- A. DEFINITION OF TERMS.** The following definitions shall apply only to this Floodplain Development District, and shall not be affected by or affect the provisions of any other ordinance of the Town of Wakefield.
1. **Area of Shallow Flooding.** A designated AO, AH or VO Zone on the Flood Insurance Rate Map (FIRM) with a one percent or greater annual possibility of flooding to an average depth of one to three feet where a clearly defined channel does not exit, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet-flow.

2. **Area of Special Flood Hazard.** The land in the floodplain within the Town of Wakefield subject to a one percent or greater possibility of flooding in any given year. The area is designated as Zone A on the FHBM and is designated on the FIRM as Zones A, AE.
3. **Base Flood.** The flood having a one percent possibility of being equaled or exceeded in any given year.
4. **Basement.** Any area of a building having its floor subgrade on all sides.
5. **Building.** See Structure.
6. **Breakaway Wall.** A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation.
7. **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 operation.
8. **FEMA.** The Federal Emergency Management Agency.
9. **Flood or Flooding.** A general and temporary condition of partial or complete inundation or normally dry land areas from:
 - a. The overflow of inland or tidal waters;
 - b. The unusual and rapid accumulation or run-off of surface waters from any source.
10. **Flood Elevation Study.** An examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination and determination of mudslide or flood-related erosion hazards.
11. **Flood Insurance Rate Map (FIRM).** An official map incorporated with this Ordinance, on which FEMA has delineated both the special flood hazard areas and the risk premium zones applicable to the Town of Wakefield.
12. **Flood Insurance Study.** See Flood Elevation Study.
13. **Floodplain or Flood-Prone Area.** Any land area susceptible to being inundated by water from any source. (See definition of Flooding).
14. **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.
15. **Floodway.** See Regulatory Floodway.

- 16. Functionally Dependent Use.** A use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking and port facilities that are necessary for the loading/unloading of cargo or passengers, and ship building/repair facilities but does not include long-term storage or related manufacturing facilities.
- 17. Highest Adjacent Grade.** The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- 18. Historic Structure.** Any structure that is:
- a.** Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
 - b.** Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 - c.** Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
 - d.** Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - 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.
- 19. 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.
- 20. Manufactured Home.** A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" includes park trailers, travel trailers, and other similar vehicles placed on site for greater than 180 days.
- 21. 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.
- 22. 100-Year Flood.** See Base Flood.

- 23. Recreational Vehicle.** A vehicle that is:
- a. Built on a single chassis;
 - b. 400 square feet or less when measured at the largest horizontal projection;
 - c. Designed to be self propelled or permanently towable by a light duty truck; and
 - d. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.
- 24. Regulatory Floodway.** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without increasing the water surface elevation. These areas are designated as floodways on the Flood Boundary and Floodway Map.
- 25. 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, AI-30, AE, A99, AH, VO, VI-30, VE, V, M, or E. (See "Area of Special Flood Hazard").
- 26. Structure.** For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, which is principally above ground, as well as a manufactured home.
- 27. Start of Construction.** Includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include the 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.
- 28. Substantial Damage.** Damage of any origin sustained by a structure whereby the cost of restoring the structure to it's before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
- 29. Substantial Improvement.** Any combination of repairs, reconstruction, alteration, or improvements to a structure in which the cumulative cost equals or exceeds 50 percent of the market value of the structure. The market value of the structure should equal:
- a. The appraised value prior to the start of the initial repair or improvement, or
 - b. In the case of damage, the value of the structure prior to the damage occurring.

For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or

not that alteration affects the external dimensions of the structure. This term includes structures, 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".

30. Water Surface Elevation. 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 flood plains.

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

C. REVIEW OF BUILDING PERMIT. The Board of Selectmen or its duly authorized agent shall review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in a special flood hazard area, all new construction or substantial improvements shall:

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. WATER AND SEWER SYSTEMS. Where new or replacement water and sewer systems (including on-site systems) are proposed in a special flood hazard area the applicant shall provide the Board of Selectmen or its duly authorized agent with assurance that these systems will be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems will be located to avoid impairment to them or contamination from them during periods of flooding.

E. NEW OR IMPROVED STRUCTURES. For all new or substantially improved structures located in Zones A, A1-30, AE, AH or AO, the applicant shall furnish the following information to the Board of Selectmen or its duly authorized agent:

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

3. Any certification of flood proofing.

The Board of Selectmen or its duly authorized agent shall maintain for public inspection, and shall furnish such information upon request.

F. OTHER PERMITS. The Board of Selectmen or its duly authorized agent 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. RIVERINE SITUATION.

1. In riverine situations, prior to the alteration or relocation of a watercourse the applicant for such authorization shall notify the Wetlands Board of the New Hampshire Department of Environmental Services and submit copies of such notification to the Board of Selectmen or its duly authorized agent, 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 Board of Selectmen or its duly authorized agent, including notice of all scheduled hearings before the Wetlands Board;
2. The applicant shall submit to the Board of Selectmen or its duly authorized agent, 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 Board of Selectmen or its duly authorized agent shall obtain, review, and reasonably utilize any floodway data available from federal, State, or other sources as criteria for requiring that all development located Zone A meet the following floodway requirement:

No encroachments, including fill, new construction, substantial improvements, and other development are allowed within the floodway that would result in any increase in flood levels within the community during the base flood discharge.
4. Along watercourses that have not had a Regulatory Floodway designated or determined by a federal, State or other source; no new construction, substantial improvements, or other development (including fill) shall be permitted within zones AI-30 and AE on the FIRM, unless it is demonstrated by the applicant that the cumulative effect of the proposed development, when combined with all existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

H. SPECIAL FLOOD HAZARD AREAS.

1. In special flood hazard areas the Board of Selectmen or its duly authorized agent shall determine the 100-year flood elevation in the following order of precedence according to the data available:
 - a. In zone AI-30, AH, AE, VI-30 and VE refer to the elevation data provided in the community's Flood Insurance Study and accompanying FIRM or FHBM;

- b. In unnumbered A zones the Board of Selectmen or its duly authorized agent shall obtain, review, and reasonably utilize any 100 year flood elevation data available from any federal, State or other source including data submitted for development proposals submitted to the community (i.e. subdivisions, site approvals);
 - c. In zone AO the flood elevation is determined by adding the elevation of the highest adjacent grade to the depth number specified on the FIRM or if no depth number is specified on the FIRM at least two feet.
2. The Board of Selectmen or its duly authorized agent's 100 year flood elevation determination will be used as criteria for requiring in Zones A, A1-30, AE, AH, AO and A that:
- a. All new construction or substantial improvement of residential structures has the lowest floor (including basement) elevated to or above the 100-year flood elevation;
 - b. That all new construction or substantial improvements of non-residential structures have the lowest floor (including basement) elevated to or above the 100 year flood level; or together with attendant utility and sanitary facilities, shall:
 - 1. Be flood proofed so that below the 100-year flood elevation the structure is watertight with walls substantially impermeable to the passage of water;
 - 2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
 - 3. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards or practice for meeting the provisions of this Article.
 - c. Recreational vehicles placed on sites within Zones A1-30, AH and AE shall either:
 - 1. is on 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.
 - d. All manufactured homes to be placed or substantially improved within special flood hazard areas shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood level; and be securely anchored to resist 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;
 - 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.
- f. Proposed structures to be located on slopes in special flood hazard areas, zones AH and AO shall include adequate drainage paths to guide floodwaters around and away from the proposed structures.

I. VARIANCES AND APPEALS.

1. Any order, requirement, decision or determination of the Board of Selectmen or its duly authorized agent made under this Ordinance may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5.
2. If the applicant, upon appeal, requests a variance as authorized by RSA 674:33, I (b), the applicant shall have the burden of showing in addition to the usual variance standards under state law:
 - a. that the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense;
 - b. that if the requested variance is for activity within a designated regulatory floodway, no increases 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.
3. The Zoning Board of Adjustment shall notify the applicant in writing that:
 - a. 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 \$25.00 for \$100.00 of insurance coverage; and
 - b. such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with a record of all variance actions.

4. The community shall:
 - a. maintain a record of all variance actions, including their justification for their issuance; and
 - b. report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.

ARTICLE 12 – OPEN SPACE CONSERVATION/CLUSTER DEVELOPMENT.

- A. **PURPOSE.** The purpose of this section is to allow, by Planning Board approval, Open Space Conservation/Cluster Development. The purpose of such Development is to conserve agricultural and forestlands, habitat, water quality, rural character and scenic areas that might otherwise be lost through conventional development, by encouraging environmentally sound development of land. To accomplish this purpose, greater flexibility and creativity in design is encouraged. Specific objectives are as follows:
 1. Implement the Master Plan philosophy, vision, policies and implementation strategies.
 2. Discourage development sprawl and consumption of rural agricultural, forest, habitat and scenic land.
 3. Conserve areas with productive soils for continued agricultural and forestry use by preserving blocks of land large enough to allow for economic and ecologically sensitive operations.
 4. Encourage the preservation and enhancement of habitat for plant and animal communities, including rare species.
 5. Conserve land that protects water quality and quantity, including watersheds and buffers along streams and rivers, wetlands and floodplains, ponds and lakes and land overlying aquifers.
 6. Protect scenic views and special elements of rural character.
 7. Conserve historic settings, cultural features, archeological sites and structures that serve as significant visible reminders of Wakefield's history.
 8. Create compact neighborhoods accessible to open space amenities by providing for outdoor recreational needs of the subdivision residents and/or the community at large, by including trails, scenic and tranquil beauty, community gardens and playgrounds and other recreational uses such as snowmobiling machines.
 9. Create continuous open space or "greenways" by linking the common open spaces in adjoining subdivisions wherever possible.
 10. Minimize the impact of residential development on the Town, neighboring properties, and the natural environment.

11. Locate the buildings and structures on those portions of each site that are most appropriate for development considering the visual impact and the environmental and conservation value of the site.
12. Minimize water runoff and non-point source pollution by reducing the land area covered by impervious surfaces and using Best Management Practices.

In addition to the above listed objectives/benefits to the Town and the environment, developers should achieve cost saving with Open Space Conservation/Cluster Development because of the reduced requirements for constructing roads and other infrastructure.

B. APPLICABILITY.

1. Open Space Conservation/Cluster Development is allowed by Planning Board approval. Open Space Conservation/Cluster Development is encouraged for all major subdivisions and minor subdivisions if a road is required per the Subdivision Regulations. Cluster development will provide a more efficient use of land resulting in the preservation of natural landforms, wetlands, wildlife and waterfowl habitats, significant vegetation and agricultural lands and other natural resources.
2. Notwithstanding other provisions of this Zoning Ordinance, authority is hereby granted to the Planning Board, as allowed under RSA 674:21II, to issue a conditional use permit to modify the Dimensional Requirements of this Section as specified herein to permit the clustering of residential dwelling units and improve the use and management of the open space. Such modifications shall be consistent with the purposes and standards of this Section so:
 - a. The use will not be detrimental to the character or enjoyment of the neighborhood by reason of undue variation or undue violation of the character of the neighborhood.
 - b. The use will not be injurious, noxious, or offensive and thus detrimental to the neighborhood.
 - c. The use will not be contrary to the public health, safety, or welfare by reason of undue traffic congestion or unhealthful emissions or waste disposal, or similar adverse causes or conditions.
 - d. The location and size of the use, the nature and intensity of the operations involved, the size of the site in relation to the proposed use and the location of the site with respect to the existing or future street giving access to it shall be such that it will be in harmony with the neighborhood.
 - e. The location, nature, and height of buildings, walls, and fences will not discourage the appropriate development and use of the adjacent land and buildings or impair the value thereof.

Said modifications shall not be construed as the granting of a variance to relieve hardship or require a Special Exception(s).

3. Applicants are especially encouraged to consider Open Space Conservation/Cluster Development whenever the property possesses one or more of the following special features:
 - a. Agricultural land used for producing crops, hay (forage), and/or forestry.
 - b. Rare, threatened or endangered species or known habitat area for those species.
 - c. Frontage on a pond, lake, perennial stream or river.
 - d. A portion of a watershed, wellhead and aquifer protection area.
 - e. A portion of a snowmobile trail network.
 - f. Steep slope land covering more than 20% of the total area of the property.
 - g. Historic, cultural, archeological sites and/or structures.
4. Phased Subdivision Applications – This Open Space Conservation/Cluster Development Section shall apply to the phased subdivision of a parcel over a period of time through separate successive applications. The requirements of this section shall apply to phased applications for each phase as though the development of the entire parcel were proposed in one application at one time. The total permitted density will be based upon the acreage and the characteristics of the original parcel that existed as of the date of the application.
5. Previously approved subdivisions having valid final approval may reapply to develop the property under this Section.

C. DEVELOPMENT STANDARDS.

1. **Permitted Districts and Land Uses.** Open Space Conservation/Cluster Development shall be permitted in the zoning districts as provided in Article 3, Table 1.
2. **Maximum Density.** The maximum density of dwelling units permitted shall be consistent with the municipality's adopted Master Plan and Zoning District(s) in which the Open Space Conservation / Cluster Development Subdivision is located, provided in no case shall the density exceed the soil carrying capacity to accommodate a sewage disposal system for each residential dwelling unit as required by the State and Subdivision Regulations.
3. **Parcel Lot Size.** There is no minimum Parcel Lot size, except as required by the State including accommodating a sewage disposal system based on soil conditions to protect groundwater quality. All costs of preparing soil data to determine the minimum lot size shall be borne by the applicant.
4. **Dwelling Unit Lot Size.** There is no minimum Dwelling Unit Lot size, except as required by the State. The minimum lot area for residential dwelling sites shall be flexible to allow for consideration of dwelling sites and types, landscape and topography, adjacent open space and access.

- a. Dwelling Unit Lot size may vary based on the soil capability to accommodate sewage disposal systems as determined by the State and per the municipality's Subdivision Regulations.
 - b. Dwelling Unit Lot shapes may be irregular and shared driveways are permitted.
 - c. Dwelling Unit Lots shall be laid out and graded to eliminate flood or stagnant water pools. No water shall be permitted to run across a street on the surface, but shall be directed into catch basins and/or pipes underground in a pipe of not less than 12 inches in diameter.
5. **Residential Dwelling Units.** The total number of residential units allowable within an Open Space Conservation/Cluster Development shall not exceed the number of units that would otherwise be allowed in the existing zoning district using conventional subdivision design. The total number of units allowed shall be determined using the following formula:

Total Dwelling Units Permitted = Base Density multiplied by Total Acres minus the total acres of the Unbuildable Land and the Road and Utility Right of Way

$$T = BD [A - (U + R)]$$

- T = Total Units Permitted (dwelling units)
- BD=Base Density (dwelling units / acre)
- A = Total Site Area (acres)
- U = Unbuildable Land (acres)
- R = Road and Utility Right of Way (acres)

Example:

Total Dwelling Units	T = # total dwelling units permitted	? dwelling units
Base Density	BD = dwelling units per acre	1 dwelling units per 3 acres
Total Site Area	A = total acres at site	10 acres
Unbuildable Land	U = acres unbuildable land	2 acres
Road and Utility Right of Way	R = acres for road and utility right of way	2 acres

$$T = BD [A - (U + R)]$$

$$T = 1/3 [10 - (2 + 2)]$$

$$T = 1/3 [6]$$

$$T = 2 \text{ total dwelling units permitted}$$

(Note: In applying the above formula, a result that contains a remainder of less than .5 shall be rounded down to the next whole number; a result that contains a remainder of .5 or greater shall be rounded up to the next whole number.)

6. **Sewage Disposal Systems.** Shared sewage disposal systems may be permitted provided the requirements of the State Department of Environmental Services are met, including appropriate provisions for legal obligations related to maintenance and replacement. Said systems may be located in the Open Space area provided the area shall not be sold to another property owner. All sewage disposal systems shall meet state and municipal setback requirements from poorly and very poorly drained soils.
7. **Parking.** The number of parking spaces required for a residential cluster development shall be two spaces per dwelling unit. At least one parking space shall be in an enclosed attached or detached garage.
8. **Dwelling Unit.** A dwelling unit shall contain a minimum 1500 square feet of finished livable floor area; include a full basement with poured foundation and concrete floor; reflect the Town's historic New England building character and have a minimum roof pitch of a 5 feet rise for every 12 feet in length (5:12) for the main roof area. "Dwelling Unit" for purposes of implementing Section 6.02 shall not include "manufactured housing" as defined pursuant to RSA 674:31, but may include "presite built housing" as defined pursuant to RSA 674:31-a.
9. **Landscaping.** Landscaping shall be installed per a landscape plan approved by the Planning Board. Said landscape plan shall show the type, location, and size of trees, shrubs, ground cover and other walls, fences, lighting and other features to stabilize the soil and enhance the development. Said Plan shall retain all possible trees.
10. **Street and Neighborhood Lighting.** Street and neighborhood lighting, if any, shall be low intensity, and fully screened to maintain a dark sky.
11. **Pedestrian and Bicycle Paths.** Designated pedestrian and bicycle paths shall be provided/installed within the development where the lack thereof would give rise to safety concerns. In addition, designated pedestrian and bicycle paths within the development and to adjacent developments, neighborhoods and areas in the Town are encouraged, where appropriate, in order to foster a sense of community, for the convenience of the residents, and to maximize preservation of the natural resources (e.g. through use of a designated pathway versus use of multiple undesignated pathways). Where appropriate, pedestrians and bicyclists may share the same pathway. Pedestrian paths shall be separated from the paved roadway by a minimum of 5 feet.
12. **Utilities.** (Electrical, Telephone, Cable, Street Lighting and Other Overhead Wired Utilities). All utilities shall be installed underground, unless the Planning Board finds that such installation is unfeasible.
13. **Open Space Area Location and Design.**
 - a. A minimum of 50% of the buildable area of the Parcel Lot shall be permanently designated as Open Space area by covenant recorded at the Registry of Deeds and shown on the recorded subdivision plan. Exclusions from the buildable area are:

- (1) Land considered unbuildable (steep slope land, wetland soils, rock outcrops and floodplains).
 - (2) Land covered by existing rights-of-way, utility easements, and structures such as dwellings, garages, storage sheds, patios, parking areas, driveways.
 - (3) Setbacks and lawns.
- b.** The designated Open Space shall not be used for additional building lots.
 - c.** In evaluating the acceptability of a proposed Open Space area, the Planning Board shall consider the extent to which the location and design of the area achieves the following objectives:
 - (1) Large enough areas of land are conserved to retain ecosystem function and habitat integrity.
 - (2) Large enough areas of land are conserved to sustain agriculture or forestry operations and buffer them from nearby development.
 - (3) Trail, or stream corridors and shoreland buffers are provided from building lots.
 - (4) Linkages or contiguity with existing or potential conservation areas on abutting properties are provided.
 - (5) Scenic views from public roads and prominent ridgelines are conserved.
 - (6) Purposes of this section (see Section 6.02 A. “Purpose”) are achieved.
 - (7) Area(s) of sufficient size that is suitable for active recreational use.
 - d.** Reasonable efforts must be made to locate Open Space adjacent to Open Space in an adjoining property or properties to the satisfaction of the Planning Board.
 - e.** At least 50% of designated Open Space shall be designated as Open Space Conservation Area and shall be maintained in an undisturbed Natural Condition.
 - f.** Limited access to Open Space may be allowed in the form of walking, hiking, snowmobiling or biking paths, the total area of which must be no more than 2% of the total Open Space area.
 - g.** Of the remaining designated Open Space a minimum of 10% should be designated “Open Space Homeowners’ Recreation Area” and may be used for passive or active recreation or for the location of stormwater management facilities.

- h. If used for stormwater management, all design, construction, maintenance and public safety requirements shall be met using the design criteria set forth in the municipality's stormwater management Best Management Practices.
- i. If used for active recreation, impervious cover shall not exceed 5% of this Open Space Homeowners' Recreation Area.
- j. Areas set aside for parks and playgrounds to be dedicated or reserved for the public use and/or common use of all property owners shall be of reasonable size and character for neighborhood playgrounds or other recreational uses.

D. DIMENSIONAL REQUIREMENTS

1. Setbacks:

- a. Frontage distance, rear, front and side yard setbacks may be reduced to 50% of the requirements in the zoning district subject to the following:
 - (1) The Parcel Lot front yard setback shall be 30 feet.
 - (2) The required setbacks from Dwelling Unit Lot lines and from street rights-of-way within the Open Space Conservation/Cluster Development may be reduced, but no structure shall be located within 15 feet of any lot line or within 20 feet of any street right-of-way within the Open Space Conservation/Cluster Development.

2. Landscaped Buffer. A landscaped buffer strip shall be provided along the perimeter of the Parcel Lot except: where access streets into the development are located, where adjacent land is part of an open space area or conservation easement, or where clusters of residential dwelling units on adjacent lots or developments are adjacent to each other. The buffer strip shall have a minimum width equal to 1/5 of the required Parcel Lot frontage of the applicable zoning district, except along existing improved public streets, where the buffer strip shall have a minimum width equal to 1/2 of the required Parcel Lot frontage. The buffer strip shall be owned in fee and managed by an association of the owners of the lots within the development.

3. Parcel Lot Frontage. The minimum frontage on an access road to the Parcel Lot shall be 100 feet. This may be divided in two fifty-foot frontage widths to provide two points of ingress/egress.

4. Street Design. Streets shall:

- a. Be curved to follow the natural topography with no straight segment extending farther than 300 feet.
- b. Where appropriate, provide for a bicycle path.

E. OPEN SPACE AREA DESIGNATIONS, PROTECTION, AND OWNERSHIP

1. The boundaries of designated open space, recreation, stormwater management, and naturally vegetated Conservation Areas shall all be clearly delineated on the subdivision plans including plats and marked in the field with signage approved by the Planning Board to distinguish these areas from private property.
2. Open Space areas shall be permanently protected as Open Space by covenant recorded at the Registry of Deeds and shown on the recorded subdivision plan/plat.
3. The designated Open Space areas shall not be used for additional lots or development and shall be so noted on the recorded subdivision plan/plat.
4. Open Space areas shall be conveyed, prior to the sale of any lots, to one of the following, subject to the approval of the Planning Board:
 - a. The Town of Wakefield and accepted by the Board of Selectmen for parks, open space of other specified conservation uses.
 - b. The State of New Hampshire for permanent open space uses.
 - c. To a private non-profit organization, which is exempt from taxation under Section 501 (c)(3) or similar provision of the Internal Revenue Code, and whose principal purpose is the conservation of open space with the financial and organization means for perpetual stewardship, such as the Audubon Society of New Hampshire or the Society for the Protection of New Hampshire Forests.
 - d. A corporation or trust, such as a homeowners' association, owned or to be owned by the owners of the lots or dwelling units within the subdivision.
 - e. A private landowner such as a farmer or forest manager, golfing club, or cross-country ski operator that will manage the Open Space for uses consistent with the purposes of this Section.
5. Conveyances to the town or state will be subject to permanent deed restrictions or permanent conservation easements. Conveyances to private entities will be subject to a permanent conservation easement granted to the Town of Wakefield or organization qualified under section 4(c) above and recorded at the Carroll County Registry of Deeds. Provisions of such deed restrictions or conservation easement shall include:
 1. No further subdivision.
 2. No residential, industrial or commercial development.
 3. No roads except for agriculture, forestry, or passive outdoor recreation conducted according to Best Management Practices.
6. General public access to the Open Space Conservation Area will not be required unless the land is conveyed in fee simple to the Town or State, or if a specific public trail corridor easement is

proposed. Except in the aforesaid cases, the rights to post land and limit access will remain with the landowner.

- F. OPEN SPACE MANAGEMENT.** The developer may structure the management of the Open Space in one or more of the above methods. The Planning Board shall approve the arrangements for the ownership, control and maintenance of the Open Space as part of the subdivision plan approval. No changes in use or management of the Open Space via homeownership, bylaw amendments, or other means shall be made without the approval of the Planning Board. Said prior approval requirement shall be so noted in the recorded "Declaration of Covenants and Homeowner's Association Bylaws.
- G. HOMEOWNERS ASSOCIATION.** A homeowners association shall be created to own and/or manage the Homeowners' Recreation Area Open Space lands and facilities and any other Open Space as approved by the Planning Board, unless an alternate ownership arrangement satisfactory to the Planning Board is implemented. If a homeowners association is created to own and/or manage the Homeowners' Recreation Area Open Space lands and facilities and any other Open Space as approved by the Planning Board, then the following provisions shall apply.
1. Covenants for mandatory membership in the homeowners association, setting forth the owner's rights, interest and responsibilities, shall be required and approved by the Planning Board and shall be included in the deed for each lot and where applicable, the Declaration of Covenants.
 2. A management plan for the Homeowners' Recreation Area land and facilities by the individual lot owners as a homeowners' association shall be required and approved by the Planning Board. The Planning Board shall approve any amendments thereto by the homeowners' association.
- H. CONSERVATION EASEMENT.**
1. If Open Space is owned by a separate entity, other than the homeowners' association, a conservation easement shall be established for the Open Space area as defined in subsection 3 below and shall be offered to the municipality.
 2. A conservation easement, established as defined in subsection 3 below may be transferred to an established and designated land trust organization among whose purposes is to conserve open space and/or natural resources. This option is recommended for natural Open Space Conservation areas. Such transfer is allowable provided:
 - a. The organization is acceptable to the Planning Board and is a bona fide conservation organization with perpetual existence;
 - b. The conveyance contains appropriate provision for proper reversion or retransfer in the event that organization becomes unwilling or unable to continue carrying out its functions; and
 - c. The developer and the organization sign a maintenance agreement acceptable to the Planning Board.
 3. The conservation easement shall:

- a. Protect Open Space from future development, subdivision, and environmental damage by restricting the Open Space area from any future building or subdivision; and the removal of soil, trees and other natural features except as is consistent with conservation, recreation or agricultural uses or uses accessory to permitted uses.
- b. Provide that residents have access to the Open Space at all times.
- c. State whether Open Space is for the benefit of subdivision residents only or may be open to residents of the municipality.
- d. Provide for ongoing management, enforcement and related funding.

- I. OPEN SPACE MANAGEMENT RESPONSIBILITIES.** An Open Space management entity shall assure the Open Space shall be protected in perpetuity from all forms of development except as shown on the approved Subdivision Plan and it will never be changed to another use. The management entity shall:
- 1. Describe all allowable and unallowable uses and activities within such Open Space as approved by the Planning Board,
 - 2. Provide detailed standards and schedules for maintenance of the Open Space including vegetative management, and
 - 3. Allow for county or municipal maintenance of Open Space in the event that maintenance specified under a homeowners' agreement is not complied with.

ARTICLE 13 – RECREATIONAL CAMPGROUNDS AND CAMPING PARKS.

This provision is enacted to allow the placement of seasonal Recreational Campgrounds and/or Camping Parks within specific areas of the community, to provide standards for their use, and to promote growth of the Wakefield economic base.

- A. LIMITATIONS.** Recreational camping parks or residential tenting and recreational camping vehicles shall be located in accordance with this Article. A recreational camping park lawfully existing on the effective date of this Article may be maintained as a non-conforming use, provided that when such use or portions thereof shall have been discontinued or abandoned, the use of such land or portion thereof shall thereafter conform to the provisions of this Ordinance. Recreational campgrounds and camping parks shall not be expanded unless the expanded portion thereof is in conformance with the provisions of this Article.
- B. GENERAL.**
- 1. **Licensing.** All recreational campgrounds and camping parks shall be properly licensed by State and other applicable government agencies.
 - 2. **Applications.** The Planning Board shall have authority to accept applications, impose application

fees, review site plans, and approve or deny applications for any new or proposed recreational campground or camping park and/or the expansion thereof.

3. **Permitted Locations.** A recreational campground or camping park shall be located only in a zoning district where it is classified as a permitted use or is permitted by Special Exception or Conditional Use Permit.
4. **General Conditions.** A recreational campground or camping park shall adhere to the following requirements:
 - a. **Campsite Size.** The minimum campsite size for a recreational vehicle or tent shall be one thousand square feet (1,000 sq. ft.) and one thousand five hundred square feet (1,500 sq. ft.) for a cabin or cottage.
 - b. **Placement.** No site within the recreational camping park shall be located within one hundred feet (100 ft.) of any boundary, except the waterfront boundary of the park. The minimum boundary setbacks may be reduced to as little as fifty feet (50 ft.) by Special Exception or Conditional Use Permit. All sites shall be set back from the waterfront boundary to comply with Article 3.
 - c. **Internal Setbacks.** All setbacks within the campground or park shall be as follows:
 - (1) Campsite perimeters shall be setback 30 feet from surface water and very poorly drained wetlands (unless larger minimums are established elsewhere in these regulations).
 - (2) Campsite perimeters shall be setback 50 feet from any permanent or incidental structure.
 - (3) Campsite perimeters shall be setback 10 feet from internal roads.
 - (4) Cabins or cottages shall be setback 20 feet from other cabins or cottages.
 - (5) Minimum campsite width shall be 15 feet.
 - (6) Minimum distance between Campsite perimeters shall be 12 feet.All other setbacks shall comply with Article 3.
 - d. **Marking.** Each site shall be clearly marked by non-removable metal stakes, clearly identifiable permanent vegetation, or other approved methods.
 - e. **Permanent Residence and/or Office:** One residential home/office occupied by the recreational campground or camping park owner or manager and his or her immediate family will be permitted. This building will be required to meet the full lot requirements for a single family residence based on the Zoning District in which the recreational campground or camping park is located, as well as to comply with local building and other codes and

regulations.

ARTICLE 14 – PERFORMANCE STANDARDS (GENERAL)

These standards are created to ensure that development is compatible with the rural character of the Town. These standards will serve to maintain the rural quality and peaceable enjoyment of residences, neighborhoods, village centers, and other occupied establishments or areas that are located in close proximity to the proposed development. An applicant shall submit appropriate data at the time of site plan review to substantiate those performance standards will not be violated when the use is put into operation.

- A. Noise.** No noise shall be produced that is objectionable to the public due to intermittence, beat, frequency, shrillness or volume;
- B. Vibration.** No vibration shall be produced which is transmitted through the ground and/or discernible beyond the boundary line;
- C. Odor.** No odor shall be produced that is detrimental to the health and welfare or which interferes with the comfort of the public;
- D. Glare or Heat.** No use shall produce heat, intense glare, bright light or reflection of that light that goes beyond the lot line onto neighboring properties;
- E. Pollution.** Emission into the air, water, or ground of dust, dirt, fly ash, fumes, vapors, liquids, solids, gases or hazardous waste or hazardous substances which could be injurious to human health, animals or vegetation, detrimental to the enjoyment of adjoining or nearby property or which could soil or stain persons or property at any point beyond the lot line is prohibited. Emissions into the atmosphere shall not exceed the limits set by, and shall meet the regulations and standards of all applicable local, state and federal regulatory agencies;
- F. Traffic.** Truck traffic shall not be permitted that will unreasonably disturb surrounding neighborhoods.
- G. Aesthetic Compatibility.** All buildings and structures shall be aesthetically compatible in scale and appearance with the existing buildings and structures in the vicinity.

ARTICLE 15 – PERFORMANCE STANDARDS FOR AREAS WITHIN 30 FEET OF LAKE OR POND

These standards are created to ensure that development is compatible with the rural character of the Town, and preservation of the natural resources. These standards will serve to prevent erosion of the shoreline and protection of water resources. Of particular concern is preserving vegetation along the slope of the land near where it comes into contact with a pond or a lake. Any person or entity proposing to conduct any activity within the buffer zone as defined herein shall comply with the requirements of this Article:

- A. Buffer Zone.** For purposes of these Performance Standards, a buffer zone is created to include all land within 20 feet, measured horizontally, of the mean high-water mark of all lakes and ponds.

B. Permit Required. Prior to undertaking any activity within the buffer zone that will result in the removal of live vegetation, stumps, or any placement of any on or offshore structure or other man-made object that will require access into or through the buffer zone, a permit shall be obtained from Wakefield Code Enforcement, to include the following:

1. Removal of dead trees, but no lower than flush with the ground so as to preserve their stumps and root balls, unless the stump or root ball was uprooted when the tree fell, in which case the root ball may be removed and the hole backfilled with clean fill and the surface vegetated or mulched;
2. Removal of structures, and removal of man-made materials if such removal may cause erosion;
3. Construction of a pathway to existing or permitted structures or beach area, provided that the pathway is located so as to minimize the negative impact upon existing vegetation and root structures, is curved, winding or terraced to minimize erosion, and to the extent other materials are necessary in its construction, the use of natural and untreated materials be employed when practical to do so;
4. Construction of steps, and associated rest areas, as shall be required to negotiate steep slopes to the shoreline. Rest areas shall not occur more often than once every 30 steps, or 20 feet in vertical drop, whichever is less, and shall not exceed 50 square feet each.

C. Allowed Activities. Within the buffer zone, the following activities are allowed without a permit, unless otherwise prohibited by any applicable state or local law or regulation:

1. Removal of dead vegetation, to include sticks and branches; excess leaves and pine needles, but leaving a scattering of such material or other decomposing material or mulch to protect the soil from completely drying out;
2. Pruning of live vegetation, but not to an extent that such pruning will damage or kill the vegetation;
3. Construction of a beach and allowable structures, such as docks, boat launching ramps, retaining walls, and boathouses, provided all state permits are obtained.

D. Prohibited Activities.

1. Within the buffer zone, the following activities are prohibited:
 - a. Removal of live vegetation, unless absolutely necessary to construct allowable structures, beaches or pathways as provided above;
 - b. Installation of a lawn or garden;
 - c. Application of fertilizers, herbicides or pesticides, or any activity that will allow or reasonably be expected to result in the leaching of fertilizers, herbicides or pesticides into the buffer zone.

2. Within one hundred feet (100') landward of the buffer zone, the following activities are prohibited:
 - a. Lawns and gardens, unless graded away from the buffer zone to prevent runoff into the buffer zone;
 - b. Application of fertilizer or biocide in an area that would leach into the buffer zone;
 - c. Paving or installations of any impermeable surface (other than a permitted structure) unless runoff therefrom is prevented from reaching the buffer zone.

ARTICLE 16 – PRIVATE CAMPSITES.

A. Private Campsite Permitted. A private campsite is permitted in accord with Article 3, Table 1.

B. Limitations. A private campsite is subject to the following requirements:

1. One private campsite per lot, or per minimum lot area, whichever is less, is allowed.
2. A private campsite associated with the construction of a permitted single-family dwelling or duplex shall be allowed for up to one year while a building permit is valid, or completion of construction, whichever occurs first. The Planning Board may allow the private campsite to remain for up to one (1) additional year if in its judgment the applicant has diligently pursued construction of the single-family dwelling or duplex, and has made substantial construction progress.
3. Private campsite placement on any lot shall conform to the setback requirements in Article I, Table 2.
4. Recreational vehicles shall not be located on any permanent foundation except for a gravel pad, and no structure, including a patio and deck, except canopies, shall be attached to the recreational vehicle.
5. The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter shall be limited to 25 feet from the exterior surface of the recreational vehicle, tent or similar shelter.
6. Written sewage disposal and solid waste disposal plans, describing the proposed method and location of sewage and solid waste disposal, shall be required for each private campsite and shall be approved by the local Code Enforcement Officer. Where disposal is off-site, a written authorization from the receiving facility or landowner is required.
7. If electricity from an external source is provided to the recreational vehicle, tent or similar shelter, there shall be compliance with all applicable electrical codes.
8. When a recreational vehicle, tent or similar shelter is placed and occupied on-site for more than 30 days per calendar year (in those zoning districts where they are allowed to remain in excess of 30 days per calendar year in accord with Article 3, Table 1) all requirements for residential dwellings

shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of New Hampshire Subdivision and Individual Sewage Disposal System Design Rules.

- C. **Storage of Private Camping Structures.** Nothing herein shall preclude the storage of an unoccupied recreational vehicle on private property provided all other State and local requirements are met. Tents and similar structures shall be collapsed and stored when unoccupied. Likewise, recreational vehicles, including campers and pop-ups, shall be stored in their fully collapsed, road-ready configuration, disconnected from all utilities, while unoccupied.

ARTICLE 17 – ROUTE 16 CORRIDOR

All business, commercial and industrial uses that have frontage on Route 16, or that have access from Route 16, shall require a Conditional Use Permit.

ARTICLE 18 – RESERVED

ARTICLE 19 – WATERFRONT ACCESS

- A. **Purpose.** This Article establishes criteria for non-waterfront lots and non-waterfront dwelling units to acquire access to any lake, pond or watercourse.
- B. **Prohibition.** A lot that is contiguous to the shoreline of any lake, pond or watercourse is prohibited from allowing, by grant, lease or otherwise, a right to cross it for the purpose of providing to any other lot access to the lake, pond or watercourse, except as permitted in this Article and RSA Chapter 483-B:9 entitled “Minimum Shoreland Protection Standards”.
- C. **Definitions.** For purposes of this Article, see Article 33 “Definitions” for the meaning of “Recipient Lot or Recipient Dwelling Unit,” “Servient Waterfront Lot,” and “Exclusive Shoreland Frontage.”
- D. **Minimum Standards.** The minimum exclusive shoreland frontage required is 150 feet for the first recipient lot and dwelling unit thereon. For each additional dwelling unit on the recipient lot, an additional 100 feet of exclusive shoreland frontage is required.

The minimum exclusive shoreland frontage required is 150 feet for each recipient dwelling unit not located on a recipient lot.

- E. **Additional Requirements.** The Planning Board shall, when necessary to protect water quality, safety, or health, ensure there is sufficient access/ingress, parking area and toilet facilities on or near the servient waterfront lot for each recipient lot and recipient dwelling unit.
- F. **Subdivision Approval Required.** Any granting of waterfront access shall be considered a subdivision, and prior to granting waterfront access to a Recipient Lot or Recipient Dwelling Unit, the owner of the Servient Waterfront Lot shall obtain subdivision approval from the Planning Board.

ARTICLE 20 - SEASONAL DWELLING CONVERSION

- A. Purpose.** This Article establishes the requirements for the conversion of seasonal dwellings to permanent occupancy.
- B. Application.** This Article applies to the conversion of any seasonal dwelling regardless of date of construction or occupancy.
- C. Conversion/Requirements.** The conversion of a seasonal dwelling to a home that is, or may be used as the primary or year round dwelling, shall not be allowed unless the following conditions are met:
- 1. Septic System.** The applicant must submit proof of compliance with RSA 485-A:38 in full accordance with Env-Ws 1004.15 & 1004.16, any all other pertinent sections of the Administrative Rules of the New Hampshire Department of Environmental Services as they pertain to conversion to full-time use or occupancy of existing structures.
 - 2.** Holding tanks are not permitted.
- D. Permit.** A person seeking to convert a seasonal dwelling to year-round occupancy shall obtain an occupancy permit from the Wakefield Code Enforcement Office to ensure compliance with all applicable town and state codes.

ARTICLE 21 – SIGNS

- A. PURPOSE.** The intent of this Article is to allow the erection of a sign or signs, for the purpose of providing information and advertising, in an orderly, effective, and safe manner. Restrictions on type, location and size of signs are to protect the public from hazardous and distracting displays and create an attractive environment that is conducive to local business, industry, and tourism, yet in keeping with the rural character of the community.
- B. PERMIT REQUIRED.** Any applicant wishing to erect a sign, which is not exempt under this Article, shall first obtain a building permit from the Town. The application shall contain, at a minimum, the following information:
- 1.** Name(s), address and telephone number of the applicant;
 - 2.** Name(s), address and telephone number of the property owner(s), if different;
 - 3.** Tax map and lot number(s) of the premises where the sign is to be located;
 - 4.** Purpose of the sign;
 - 5.** Zoning district in which the sign is to be located;
 - 6.** Sketch drawn to scale of premises, showing location of sign on lot or on building, together with its dimensions and coloring.

7. Sketch drawn to scale showing design of the sign, materials to be used, method of construction and means and position of attachment to the building or the ground;
8. A description of any illumination to be used on or in the sign;
9. Any other information reasonably requested by the building inspector to allow the building inspector to make a determination whether the proposed sign conforms to this Ordinance and/or other applicable regulations.

C. **EXEMPT SIGNS.** The following signs are exempt from the sign regulations of this Ordinance, but may not be exempt from state sign regulations:

1. **Government Sign.** A sign erected by the municipal, State, or federal government that is required for the public safety and welfare.
2. **Preexisting Sign.** A sign that qualifies as a non-conforming structure.
3. **Private Property/Trespass Sign.** A sign that indicates the existence of private property, or which forbid trespassing, hunting, or other such activities. Such signs shall be spaced at least fifty (50) feet apart and shall not exceed two (2) square feet each.
4. **Indoor Sign.** A signs, including a window display, which is located within a residence or structure whose primary purpose is for human habitation, whether as a residence, business, etc.
5. **Incidental Private Property Sign.** A sign located on private property and intended to regulate or guide activities within the property even though such sign may incidentally be visible off the property.
6. **Special Event Sign.** A sign for an annual or special event, such as a fair, political rally, fund-raiser, and the like shall be permitted for not more than twenty-eight (28) days preceding the event and two (2) days following the event. One (1) such sign is exempt per property.
7. **Real Estate Sign.** A sign used in advertising the property for sale or lease. A real estate sign shall clearly indicate that the real estate is for sale, as opposed to other articles (such as a car, boat, etc.) that may also be located on the property. One real estate sign (two-sided) is permitted per property not exceeding nine (9) square feet per side.
8. **Contractor/Artisan Sign.** A sign advertising the presence of a contractor, mason, electrician, plumber, or other artisan on a property during construction on a property. One contractor/artisan sign (two-sided) is permitted per contractor/artisan per property not exceeding nine (9) square feet per side, provided the contractor/artisan is not the owner or tenant of the property, and is actively employed on the property on a full-time basis.
9. **Political Sign.** A sign that supports a candidate, party, or political ideal. A political sign shall be exempt for a period of ninety (90) days prior and seven (7) days subsequent to any town, State, or federal election. The term "election" shall include any town or school district annual or special meeting.

10. **Directional Sign.** A sign having no commercial message, indicating entrance and/or exit to a site, with a message area of two square feet or less (per side if two-sided).
11. **Non-Commercial Identification.** A signs with a message area of one square foot or less, which bears only a property number, post office box number, name of occupant, other non-commercial identification, or a message of the following type: "open", "closed", "now hiring", "vacancy", "no vacancy", etc.
12. **Temporary holiday decoration sign.** A temporary holiday lighted or unlighted decoration, or lighted or unlighted sign that proclaims "Happy Holidays," "Merry Christmas," "Happy Hanukah," "Happy Easter," or other calendar-specific secular or non-secular event. Temporary holiday decoration signs are permitted unless determined by the Codes Enforcement Officer to constitute a hazard to public safety due to excessive brightness causing a distraction to operators of motor vehicles, or for any other reason.
13. **Private Yard Sale Sign.** A sign for a yard sale is permitted for not more than seven (7) days preceding the event and shall be removed within twenty-four hours following conclusion of the event. One (1) such sign is exempt per property, and such signage is allowed for a maximum of three such events per calendar year.

D. DESIGN STANDARDS.

1. No more than one (1) non-free standing sign, with a maximum aggregate area of 32 square feet, is permitted on a premises with the following exceptions:
 - a. Two signs shall be permitted if the business fronts on two roads in which case the total area of each sign shall not exceed 32 square feet.
 - b. The maximum aggregate area shall not exceed 9 square feet if the primary use of the premise is any of the following: a dwelling; home occupation; rest, convalescent, and nursing home; private nursery school; kindergarten; child care center; public, educational, historical, institutional, and non-profit organization use.
 - c. The maximum aggregate area shall not exceed 9 square feet for the following: temporary real estate or artisan sign; yard/garage sale; or roadside stand.
2. Only one (1) free-standing sign with a maximum aggregate area of 50 square feet is permitted per lot, but two signs shall be permitted if the business fronts on two roads in which case the total area of each sign shall not exceed 50 square feet.
3. A sign shall not, by reason of location, size, color, or design interfere with public traffic or be confused with or obstruct the view or effectiveness of any official traffic signal or traffic marking.
4. A sign shall have a maximum height, from the ground to the uppermost point, of 20 feet.
5. A sign shall be illuminated only by an external light source and each light source shall be located,

directed and/or shielded such that it is not visible at any point along the property boundary, nor from any right-of-way or neighboring property.

6. A signs must be attractive and in keeping with the neighborhood.
7. A signs shall not be placed within the side or rear lot line setbacks, but can be placed within the front lot line setback.
8. A wall sign shall be subject to the following additional requirements:
 - a. No wall sign shall extend above the top of the wall upon which it is mounted.
 - b. No wall sign, or any part thereof, shall project more than ten (10) inches from the wall upon which it is mounted.
 - c. No wall sign shall extend beyond the left and right extremities of the wall to which it is mounted.
9. A projecting sign shall be subject to the following additional requirements:
 - a. No projecting sign shall project more than five (5) feet beyond the wall, porch or edge of the building in the direction of the street, nor shall any portion of the projecting sign be closer than two (2) feet to the face of the street curb or curb line.
 - b. No portion of any projecting sign shall be less than eight (8) feet above grade level.
 - c. No projecting sign shall have a vertical dimension greater than three (3) feet.
10. A sign for a multiple use development (such as a shopping center with more than one business) may have a total area of up to 100 square feet by Special Exception or conditional use permit. In the event the multiple use development qualifies to have more than one (1) sign, then each sign may have a total area of up to 100 square feet by Special Exception or conditional use permit.

E. PORTABLE SIGN. A new business may use a portable sign while awaiting the arrival of a permanent sign. A portable sign shall be allowed only after a permit for permanent sign has been obtained, and only until the permanent sign is installed, or for sixty (60) days, whichever is shorter.

F. PROHIBITED SIGNS.

1. A sign that advertises any business or other commercial venture that has permanently ceased conducting business.
2. A sign located off the premises and/or lot of the business, public enterprise, service or household it describes.
3. A search light or the use of a search light or similar bright light beam to attract attention.

4. A sign that incorporates in any manner any flashing or moving illumination or with illumination which varies in intensity or varies in color, that has any visible moving parts, visible revolving parts, or visible mechanical movement of any description, or other apparent visible movement achieved by electric pulsations or by actions of normal wind current or otherwise, except when not visible from motor vehicles traveling on public roadways. A hanging sign which simply swings in the wind, clock and time and temperature signs and barber poles shall be exempt provided it complies with all other provisions of the Zoning Ordinance. A time, date and temperature sign may include a device indicating digital time and temperature, but shall not change in any interval that indicates flashing.
5. A sign, which by reason of size, location, content, coloring, or manner of illumination, obstruct the vision of drivers, or pose an unreasonable distraction to drivers, or obstruct or detract from the visibility or effectiveness of any traffic sign or control device on public streets and roads.
6. A sign which obstructs free ingress to or egress from a fire escape, door, window or other required exit way.
7. A sign on public property or public right-of-way, unless erected by a governmental body, or unless required to be so located by order of a governmental body. No sign located on public property or a public right-of-way shall bear any commercial advertising or announcement.
8. String lights or bare bulb illumination, other than temporary holiday decorations, which are unshielded from view from off the property on which they are located.
9. Flame as a source of illumination.
10. An oversized pennant, banner, spinner, streamer or balloon except for occasions such as grand openings and then only with special written permission of the Selectmen. Use shall be limited to a fifteen (15) day period and shall not be erected again for a period of thirty (30) days thereafter. This does not include banners containing the word "open" or some other salutation and less than fifteen (15) square feet in size which will be permitted at any time that the business is open.
11. A sign or sign structure which constitutes a hazard to public safety or health.

G. MAINTENANCE AND OBSOLESCENCE. All signs and sign structures shall be properly maintained and kept in a neat and proper state of maintenance and appearance. A sign of any type and located within any District found by the Board of Selectmen or its duly authorized representative to be in a state of disrepair or considered dangerous, shall be repaired or removed on order of the Board of Selectmen or its duly authorized representative. Upon failure to comply with the order of the Board of Selectmen or its duly authorized agent within the time specified, the Board of Selectmen or its duly authorized agent shall cause removal of this sign and any expense resulting therefrom shall be borne by the owner of the property upon which the sign is located, or the owner of the sign, or both.

H. NON-CONFORMING SIGN. A sign lawfully in existence prior to the adoption of these regulations that does not conform to these regulations shall be permitted to continue and be maintained. No change in type, size of message area or support structure, height, location, message, illumination, number or material shall be permitted without application to and approval from the Town. Permitted changes may allow reduction

in any one or more of the non-conforming aspects, but shall not allow any non-conforming aspect of the sign to increase in non-conformity.

I. SIGNS ALLOWED BY SPECIAL EXCEPTION OR CONDITIONAL USE PERMIT

The following may be allowed by Special Exception or by Conditional Use Permit:

1. A sign whose height exceeds twenty (20) feet. However in no event shall a sign's height exceed thirty (30) feet.
2. More than one free-standing sign.
3. More than one sign per premises.
4. A sign that advertises an off-site business or activity provided the sign does not exceed nine (9) square feet in area.
5. An internally illuminated sign, but only in the Business and Commercial District, and subject to reasonable restrictions as may be imposed by the local land use board to include limiting the degree of illumination, requiring appropriate shielding, and limiting hours of illumination, all to minimize the intrusion of light onto adjacent properties.
6. A sign up to one hundred (100) square feet in area to advertise shopping centers and similar multiple-use developments and businesses.
7. Additional signs in any district.
8. Roof sign.
9. A Window sign that is brightly lit from the rear or internally illuminated.
10. A sign located within a side or rear lot line setback.

Requirements for a Special Exception or Conditional Use Permit for a sign:

1. Any person desiring consideration for a Special Exception by the Zoning Board of Adjustment or a Conditional Use Permit from the Planning Board shall file an application with the Board and in addition to other requirements imposed by this Ordinance attach to it the following information:
 - a. A map or site plan showing the location of the building, structure, or lot to which the sign is to be attached or erected, and showing the position of the sign in relation to nearby buildings and public thoroughfares. Such a map or site plan must be to scale.
 - b. A plan (or picture) showing the design of the sign, materials used, method of construction, and means and position of attachment to the building or the ground. Plans must be drawn to scale.

ARTICLE 22 – YARD SALES.

A yard sale is permitted in all districts and is subject to the following requirements:

- A. A sign for a yard sale shall be in conformance with the requirements of Article 20.
- B. A yard sale shall occur only during daylight hours. Its location and method of operation will cause no unreasonable disturbance, impedance to normal traffic flow, or compromise safety in the neighborhood and the general public.
- C. The premises shall be cleared of trash and debris will be removed immediately at the conclusion of the yard sale. All items not sold shall be removed from the site or stored in a permitted structure or in an area out of the public view within 48 hours of the conclusion of the yard sale.

ARTICLE 23 – RESERVED

ARTICLE 24 – PERSONAL WIRELESS SERVICE FACILITIES

- A. **PURPOSE AND INTENT.** It is the express purpose of this Article to:
 - 1. Permit carriers to locate personal wireless service facilities in Wakefield, in compliance with the Telecommunications Act of 1996 and RSA Chapter 12-K entitled “Deployment of Personal Wireless Service Facilities”;
 - 2. Enable wireless services to become available to the citizens of Wakefield;
 - 3. Ensure that personal wireless service facilities are consistent with the town’s land use policies and goals; and
 - 4. Ensure that personal wireless service facilities are compatible with the rural setting and character of Wakefield, including its aesthetics and visual features.

Compatibility is measured based on the change in community scale and character in relation to the height, mass, materials, contrasts, or proportion within the surroundings of a proposed personal wireless service facility. In particular, Wakefield wishes to preserve its many viewsheds, its historic structures and areas, and its forested and rural appearance.

All four of the above stated purposes have equal value, and none shall take precedence.

- B. **LOCATION.** Construction of personal wireless service facilities shall be sited by the least visually intrusive manner feasible and comply with the following location hierarchy.
 - 1. Carriers shall be co-located on existing towers, whether inside the town limits or in adjacent communities; if such towers are not available, then

2. Carriers shall be located on existing structures such as bell towers, cupolas, barns, etc.; if such structures are not available, then
3. Carriers shall be located on newly constructed tower(s), provided such new towers comply with this Article.

Personal wireless service facilities may be located on existing structures, including, but not limited to, buildings, towers or other mounts, utility poles and towers, and related facilities, provided that such installation preserves the character, appearance and integrity of those structures.

Personal wireless service facilities may not be located on a guyed tower or any tower supported by guy ropes, wires or cables for lateral support.

Applicants seeking approval for personal wireless service facilities shall first evaluate existing structures for the siting of personal wireless service facilities. Only after finding that there are no suitable existing structures pursuant to this Article shall an applicant propose a new ground mounted facility.

If the applicant demonstrates that it is not feasible to locate on an existing structure, personal wireless service facilities shall be designed so as to be camouflaged to the greatest extent possible, including but not limited to use of compatible building materials and colors, screening, landscaping and placement within trees or on the side slope of a hill or mountain. Ground mounted facilities shall not be located within open areas that are clearly visible from public roads, recreational areas, or abutting properties. A buffer of dense tree growth shall surround all ground mounted facilities.

- C. **APPLICABILITY.** This Article shall apply to personal wireless service facilities proposed to be located on property owned by the Town of Wakefield, on privately owned property, and on property that is owned by any other governmental entity that acts in its proprietary capacity to lease such property to a carrier.
- D. **DEFINITIONS.** All New Hampshire statutory (RSA) and Telecommunications Act of 1996 (TCA) definitions shall apply to this Article. Should any conflict arise between the definitions set forth in this Ordinance and those set forth in either the New Hampshire RSAs or the TCA, the definitions set forth in the New Hampshire RSAs or the TCA shall be controlling.
- E. **PROCEDURE.** An applicant shall be required to submit the following information to the Planning Board:
 1. A diagram and/or map showing the view shed of the proposed personal wireless service facility including all buildings and accessory structures.
 2. Photo simulations from at least four directions that adequately represent the appearance of the completed structure when viewed from inhabited areas or roads within the Town during the winter months after leaves have fallen from the trees and other vegetation.
 3. An inventory of existing personal wireless service facilities that are located within Town borders, including specific information about the location, height, design as well as feasibility for co-location.

4. An inventory of existing structures that are within the jurisdiction of the Town and those within two miles of the Town borders, including specific information about the location, height, and availability for location of a personal wireless service facility.
5. If the applicant is proposing a new personal wireless service facility, written evidence demonstrating that no existing facility within four miles of the proposed personal wire service facility can accommodate the applicant's needs. This evidence can consist of:
 - a. Substantial evidence that no existing structures are located within the geographic area.
 - b. Substantial evidence that existing facilities are not of sufficient height to meet the applicant's engineering requirements or do not have sufficient structural strength to support applicant's proposed equipment.
 - c. Substantial evidence that existing facilities have no additional capacity.
 - d. Substantial evidence that co-location on an existing facility would cause electromagnetic interference at the existing facility, or vice-versa.
 - e. Other substantial evidence as may reasonably be required from the applicant.

F. NEW CONSTRUCTION: BURDEN OF PROOF. When applying for construction of a new tower, mast, monopole, or similar structure, the applicant shall have the burden of proving that there are no existing structures available and suitable to locate its personal wireless service facility and/or transmit or receive radio signals. To meet that burden, the applicant shall take all appropriate actions as may be required from the applicant, which may include but not necessarily limited to the following actions:

1. The applicant shall submit a list of all contacts made with owners of potential sites regarding the availability of potential space for a personal wireless service facility.
2. 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.
3. If the applicant claims that a structure is not capable of physically supporting a personal wireless service facility, 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.

G. USE PROVISIONS. A personal wireless facility shall require a building permit in all cases and may be permitted subject to compliance with all land use regulations as indicated by approval by the Zoning Board of Adjustment and the Planning Board.

H. DIMENSIONAL REQUIREMENTS. Personal wireless service facilities shall comply with the following requirements:

1. **Height, Existing Structures and Utility Poles:** Carriers that locate personal wireless service facilities on existing structures may be permitted to increase the height of those structures no more than ten (10) feet, provided the facility is completely camouflaged, such as within a flagpole, steeple, chimney, or similar structure, or by otherwise mounting the facility in a manner which effectively camouflages it.
2. **Height, Existing Structures (Utility).** Antennas located on any of the following structures shall be exempt from the height restriction of this Ordinance provided that there is not more than a ten foot (10') increase in the height of the existing structure as a result of the installation of a personal wireless service facility: electric transmission and distribution towers, telephone poles and similar existing utility structures.
3. **Height, Ground-Mounted Facilities:** Ground-mounted personal wireless service facilities shall not exceed ten (10) feet above the average tree canopy height.
4. **Setbacks:** All personal wireless service facilities and their equipment shelters shall comply with the building setback provisions of this Ordinance.
5. **Ridge Lines:** No personal wireless service facility may be situated within a horizontal distance of 300 feet of topographic summits greater than 1000 feet elevation Geodetic Vertical Datum, or within 300 feet of a ridge line leading to such summit.
6. **Fall Zone for Ground Mounts:** In order to ensure public safety, the minimum distance from the base of any ground-mount of a personal wireless service facility to any property line, public road, habitable dwelling, business or institutional use, or public recreational area shall be, at a minimum, the distance equal to the fall zone, as defined in this Ordinance. The fall zone may cross property lines, so long as the applicant secures a fall zone easement from the affected property owner(s). The area of the easement shall be shown on all applicable plans submitted to the Town, and the terms of the easement shall be provided as part of the Site Plan Review. In the event the Planning Board determines the area of the fall zone will be inadequate to protect the public safety, due to unusual geography of the site or for any other reason, the Planning Board may require an additional area to
7. **Fall Zone for Non-Ground Mounts:** In the event that an existing structure is proposed as a mount for a personal wireless service facility, a fall zone shall not be required, but the setback provision of the Wakefield Zoning Ordinance shall apply. In the case of pre-existing nonconforming structures, personal wireless service facilities and their equipment shelters shall not increase any non-conformity.

I. ABANDONMENT OR DISCONTINUANCE OF USE. Whenever an owner or carrier plans to abandon or discontinue use of a personal wireless service facility, he shall comply with the following:

1. **Notification:** At such time that an owner or carrier plans to abandon or discontinue operation of a personal wireless service facility, such entity will notify the Town by certified U.S. mail of the proposed date of abandonment or discontinuation of operation. Such notice shall be given no less than thirty (30) days prior to abandonment or discontinuation of operation. In the event that the entity fails to give such notice, the personal wireless service facility shall be considered abandoned upon such discontinuation of operation.

2. **Removal:** Upon abandonment or discontinuation of use, the owner of the land and facility shall be jointly and severally liable to physically remove the personal wireless service facility 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, foundations, mount equipment shelters, security barriers, and all other structures and equipment placed on site or constructed in relation to the operation or support of the personal wireless service facility 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 personal wireless service facility to its natural condition and repose.

3. **Failure to Remove:** If the owner of the facility or the owner of the land upon which it is located does not remove the facility upon the Selectmen's order, then the Selectmen shall, after holding a public hearing with notice to the owner and abutters, issue a declaration of abandonment. The owner of the facility and/or the land shall dismantle and remove the facility within ninety (90) days of receipt of the declaration of abandonment by the Selectmen. If the abandoned facility is not removed within ninety (90) days, the Town may execute the security to pay for this action, and take such action as may be appropriate under prevailing law to abate a land use violation, to include a request for injunction, civil fines, and other appropriate relief.

ARTICLE 25 – CONFORMING AND NONCONFORMING STRUCTURES AND USES - GRANDFATHER CLAUSE.

- A. SUBSTANDARD LOTS.** Lots in subdivisions approved by the Planning Board and/or recorded in the Carroll County Registry of Deeds prior to the enactment of this Ordinance, shall be exempt from the lot area requirements of this Ordinance and any amendments thereto provided that lots meet local and state health and safety regulations and to the extent provided by RSA 674:39.

For the purpose of enforcing health and safety provisions, adjacent substandard lots in common ownership may be required to be combined so as to better meet such provisions, even if the new lot created by the combined lots is substandard.

B. NON-CONFORMING STRUCTURES AND USES.

1. Any lawful use of land or of a structure or part thereof at the time of adoption of this Ordinance may be continued provided, however, that:
 - a. A non-conforming use shall not be changed to another non-conforming use;
 - b. A non-conforming use may not be expanded or enlarged upon;

- c. A non-conforming structure may be expanded provided that any expansion meets the setback requirements as required by the regulations for the district in which the structure is located.
2. Non-conforming structures or uses destroyed by fire, natural disaster, or other means may be repaired or replaced within one (1) year if the degree of non-conformity is not increased.
 3. Abandonment of a non-conforming structure or use shall constitute the termination of the right to continue or re-establish the non-conforming structure or use. A non-conforming structure or use shall be considered abandoned if:
 - a. There is the intention to abandon or relinquish the use, and
 - b. There is some overt act or failure to act that carries the implication that the owner neither claims nor retains any interest in the use.

ARTICLE 26 – WAKEFIELD HERITAGE COMMISSION.

The following Article establishes a Heritage Commission whose primary purpose is to administer the provisions of the Historic District.

- A. PURPOSE.** New Hampshire State law declares that its towns and cities are filled with a rich blend of natural and cultural resources that define their special character. Man-made resources, recognized for their historic, cultural, artistic and community significance, frequently suffer from neglect or unsympathetic action.

There is a necessity for identifying and protecting the cultural "cornerstones" of our town. The Wakefield Heritage Commission functions as an advisory board for the entire community.

The Wakefield Heritage Commission is established in accordance with RSA Ch. 673 for the proper recognition, use, and protection of resources, tangible or intangible, primarily man-made, that are valued for their historic, cultural, aesthetic, or community significance within their natural, built, or cultural context.

- B. POWERS.** The Wakefield Heritage Commission shall have advisory and review authority, specifically, as follows:
1. Survey and inventory all cultural resources;
 2. Conduct research and publish findings, including reports to establish the legal basis for a district and preparation of heritage district ordinances within the Town prior to its adoption or amendment as provided in RSA 675:6;
 3. Assist the Planning Board, as requested, in the development and review of those sections of the Master Plan that address cultural and historic resources;
 4. Advise, upon request, local agencies and other local boards in their review of requests on matters

affecting or potentially affecting cultural and historic resources;

5. Coordinate activities with appropriate service organizations and non-profit groups;
6. Publicize its activities;
7. Hire consultants and contractors as needed; and
8. Receive gifts of money and property, both real and personal, in the name of the Town, subject to the approval of the Board of Selectmen, such gifts to be managed and controlled by the Commission for its proper purposes.

The Commission may acquire, in the name of the Town, by gift, purchase, grant, bequest, devise, lease, or otherwise a fee or lesser interest, development rights, covenant, or other contractual right, including conveyances with conditions, limitation or reversions, as may be necessary to acquire, maintain, improve, protect, limit the future use of, or otherwise conserve and properly use the cultural resources of the city or town, and shall manage and control the same; provided, however, that the Town, or Commission shall not have the right to condemn property for these purposes.

C. ADMINISTRATION OF HISTORIC DISTRICT REGULATIONS. In addition to the powers conferred elsewhere in this Ordinance, the Wakefield Heritage Commission shall exercise duties, which include:

1. All the powers and duties assigned the Historic District Commission by RSA 674:46-a, as amended;
2. Administrative authority of the Wakefield Historic District, as identified in this Ordinance.

D. APPROPRIATIONS AND EXPENDITURES. The Town may appropriate money as deemed necessary to fulfill the purposes of the Wakefield Heritage Commission. The whole or any part of money so appropriated in any year and any gifts of money received pursuant to RSA 674:44-b shall be placed in a Heritage Fund and allowed to accumulate from year to year. The Heritage Commission may expend money from such fund for its purposes without further approval of the town meeting.

The Town Treasurer, pursuant to RSA 41:29, shall have custody of all monies in the Heritage Fund and shall pay out the same only upon order of the Heritage Commission. The disbursement of Heritage Funds shall be authorized by a majority of the Heritage Commission. Prior to the use of such funds for the purchase of any interest in real property, the Heritage Commission shall hold a public hearing with notice in accordance with RSA 675:7.

E. MEMBERSHIP. The Selectmen shall appoint a Wakefield Heritage Commission comprised of five members and two alternates. Membership on the Commission shall be as follows:

1. One member shall be a member of the Board of Selectmen;
2. One member may be a member of the Planning Board;
3. No less than two of the members shall be residents of historic districts;

All terms shall be for three years. A vacancy for an unexpired term shall be filled in the same manner as original appointment. The members shall elect a chairperson for a one year term.

- F. SCHEDULING OF MEETINGS.** Meetings of the Wakefield Heritage Commission shall be held at the call of the chairperson and at such other times as the Commission may determine.
- G. DISQUALIFICATION OF MEMBER.** No member of the Wakefield Heritage Commission shall participate in deciding or shall sit upon the hearing of any question which the Commission is to decide in a judicial capacity if that member has a direct personal or pecuniary interest in the outcome, or if that member would be disqualified for any cause to act as a juror upon the trial of the same matter in any action at law. Reasons for disqualification do not include exemption from service as a juror in a trial of the same matter in any action of law or knowledge of the facts involved gained in the performance of the member's official duties.

ARTICLE 27 – ZONING BOARD OF ADJUSTMENT

- A. ESTABLISHMENT.** In accordance with the provisions of RSA 673:1, the Town of Wakefield hereby establishes a Zoning Board of Adjustment.
- B. MEMBERSHIP.** In accordance with RSA 673:3, the Zoning shall consist of five (5) members. These five members shall be appointed by the Board of Selectmen and shall serve terms in accordance with RSA 673:5. Membership shall conform to the multiple board membership requirements of RSA 673:7.

The Board of Selectmen shall also appoint up to five (5) alternate members to the Zoning Board of Adjustment. Alternate members shall serve terms in accordance with RSA 673:6.

- C. DUTIES.** As per RSA 674:33, the Zoning Board of Adjustment shall have the authority to hear and decide upon appeals from administrative decisions, applications for Special Exceptions, and applications for variances from the Zoning Ordinance. All business of the Board shall be conducted in accordance with RSA 674:33 and the Board's adopted procedures.
- D. FEES.** The Zoning Board of Adjustment is hereby authorized to impose reasonable fees upon an applicant for matters pertaining to requests for Variances (where the applicant is not required or expected to also submit an application to the Planning Board arising out of the same operative facts) and requests for Special Exception for the expense of consultant services to review documents. Any such fees shall be subject to the provisions of RSA 673:16.

ARTICLE 28 – SPECIAL EXCEPTION

- A.** The Zoning Board of Adjustment may, in appropriate cases, and subject to safeguards as determined by the Board, grant a permit for a Special Exception. As provided in this Zoning Ordinance, an applicant may have the option of seeking either a Special Exception from the Zoning Board of Adjustment or a Conditional Use Permit from the Planning Board, depending upon the requested use or structure. It is the intention of this Zoning

Ordinance that the applicant utilizes the procedure that is most convenient for the applicant *and* the Town. For example, if the applicant must otherwise appear before the Planning Board (i.e. for a site plan approval, etc.), the applicant should request a Conditional Use Permit, and if the applicant must otherwise appear before the Zoning Board of Adjustment (i.e. for a request for a variance), the applicant should seek a Special Exception. If the applicant is required to appear before both boards, the applicant may elect to pursue either a Special Exception or the Conditional Use Permit, but not both.

B. The Board, in acting on an application, shall take into consideration the following conditions:

1. The proposed use(s) shall be only those allowed in this Ordinance by Special Exception;
2. The proposed use(s) is/are consistent with the adopted Master Plan;
3. The specific site is an appropriate location and is of adequate size for the use;
4. The use, as developed, will not adversely affect the character of the area in which the proposed use will be located;
5. There will be no nuisance or serious hazard to vehicles or pedestrians;
6. The use will not place excessive or undue burden on Town services and facilities;
7. There would be no significant effect resulting from such use upon the public health, safety, and general welfare of the neighborhood in which the use would be located.
8. If the Special Exception is for a Boat Launch Facility, the Zoning Board of Adjustment shall consider whether the addition of the boat launch facility will pose an increased risk of infestation by invasive species to the Town's natural resources (such as milfoil, etc.) and, if so, what steps will be taken to eliminate the increased risk.

C. If the Zoning Board of Adjustment approves an application for a Special Exception, it shall impose relevant conditions specified in all applicable specific standards in this Ordinance. The Board shall also impose such additional conditions as it finds reasonably appropriate to safeguard the neighborhood or otherwise serve the purposes of this Ordinance, including, but not being limited to, the following:

1. Yards larger in area or in any specified dimension than those required by the Ordinance;
2. Screening of all or part of the premises of the proposed use by walls, fencing or planting;
3. Modification of the design of any building involved in the proposed use;
4. Parking facilities greater than those otherwise required under this Ordinance;
5. Limitations of the number of occupants or employees upon the premises, and restrictions of the method and/or time of operation and use, and of size or extent of facilities;
6. Limitations upon the size, location and/or lighting of signs more restrictive than those otherwise

imposed by the Article 20 of this Ordinance, including the prohibition of signs where, in the opinion of the Board, their display would be contrary to the purposes of the Ordinance;

7. Requiring that any future enlargement or alteration of use be accomplished only with the approval of the Zoning Board of Adjustment; and
8. If the Special Exception is for a Boat Launch Facility, the Zoning Board of Adjustment may impose such additional conditions (in addition to any imposed above or by the Planning Board pursuant to its Site Plan Review Regulations or otherwise) as it finds reasonably appropriate and necessary to safeguard the neighborhood and/or natural resources of the Town, or otherwise serve the purposes of this Ordinance, including, but not limited to, the following:
 - a. The size and type (to include whether motorized or not) of watercraft allowed to use the boat launch;
 - b. The number of watercraft allowed to use the boat launch in any given period;
 - c. The dates, days and hours of operation;
 - d. The use (public or private) of the facility;
- D. Prior to the granting of a Special Exception for a Boat Launch Facility, and in addition to the requirements set forth in Sections A and B above, the Zoning Board of Adjustment shall ensure that all of the requirements set forth in the definition of “Boat Launch Facility” are met, failure of which the request for Special Exception shall be denied.

ARTICLE 29 – CONDITIONAL USE PERMIT

- A. The Planning Board may, in appropriate cases, and subject to safeguards as determined by the Planning Board, grant a conditional use permit per RSA 674:21 for a land use in accordance with Table 1 of Article 3. As provided in this Zoning Ordinance, an applicant may have the option of seeking either a Special Exception from the Zoning Board of Adjustment or a Conditional Use Permit from the Planning Board, depending upon the requested use or structure. It is the intention of this Zoning Ordinance that the applicant utilizes the procedure that is most convenient for the applicant *and* the Town. For example, if the applicant must otherwise appear before the Planning Board (i.e. for a site plan approval, etc.), the applicant should request a Conditional Use Permit, and if the applicant must otherwise appear before the Zoning Board of Adjustment (i.e. for a request for a variance), the applicant should seek a Special Exception. If the applicant is required to appear before both boards, the applicant may elect to pursue either a Special Exception or the Conditional Use Permit, but not both.
- B. The Planning Board, in acting on an application, shall take into consideration the following conditions:
 1. The proposed use(s) shall be only those allowed in this Ordinance by Conditional Use Permit;
 2. The proposed use(s) is/are consistent with the adopted Master Plan;
 3. The specific site is in an appropriate location and of adequate size for the use;

4. The use, as developed, will not adversely affect the character of the area in which the proposed use will be located;
 5. There will be no nuisance or serious hazard to vehicles or pedestrians;
 6. The use will not place excessive or undue burden on Town services and facilities;
 7. There would be no significant effect resulting from such use upon the public health, safety, and general welfare of the neighborhood in which the use would be located.
 8. If the Conditional Use is for a Boat Launch Facility, the Planning Board shall consider whether the addition of the boat launch facility will pose an increased risk of infestation by invasive species (such as milfoil, etc.) to the Town's natural resources and, if so, what steps will be taken to eliminate the increased risk.
- C. If the Planning Board approves an application for a conditional use permit, it shall impose relevant conditions (in addition to any imposed above or pursuant to its Site Plan Review Regulations or otherwise) specified in all applicable specific standards in this Ordinance. The Board shall also impose such additional conditions as it finds reasonably appropriate to safeguard the neighborhood or other wise serve the purposes of this Ordinance, including, but not being limited to, the following:
1. Yards larger in area or in any specified dimension than those required by the Ordinance;
 2. Screening of all or part of the premises of the proposed use by walls, fencing or planting;
 3. Modification of the design of any building involved in the proposed use;
 4. Parking facilities greater than those otherwise required under this Ordinance;
 5. Limitations of the number of occupants or employees upon the premises, and restrictions of the method and/or time of operation and use, and of size or extent of facilities;
 6. Limitations upon the size, location and/or lighting of signs more restrictive than those otherwise imposed by the Section 4.03 of this ordinance, including the prohibition of signs where, in the opinion of the Board, their display would be contrary to the purposes of the Ordinance;
 7. Requiring that any future enlargement or alteration of use be accomplished only with the approval of the Planning Board; and
 8. If the Conditional Use Permit is for a Boat Launch Facility, the Planning Board may impose such additional conditions (in addition to any imposed above or pursuant to its Site Plan Review Regulations or otherwise) as it finds reasonably appropriate and necessary to safeguard the neighborhood and/or natural resources of the Town, or otherwise serve the purposes of this Ordinance, including, but not limited to, the following:
 - a. The size and type (to include whether motorized or not) of watercraft allowed to use the boat launch;

- b. The number of watercraft allowed to use the boat launch in any given period;
- c. The dates, days and hours of operation;
- d. The use (public or private) of the facility;

D. Prior to the granting of a conditional use permit for a Boat Launch Facility, and in addition to the requirements set forth in Sections 1 and 2 above, the Planning Board shall ensure that all of the requirements set forth in the definition of “Boat Launch Facility” are met, failure of which the request for conditional use permit shall be denied.

ARTICLE 30 – VARIANCE

Appeals to the Zoning Board of Adjustment may be made by any aggrieved person or by others in accordance with New Hampshire Revised Statutes Annotated as amended.

The Zoning Board of Adjustment may authorize a variance from the terms of this Ordinance only when the Board finds that *all* of the following conditions apply:

- A. No diminution in value of surrounding properties would be suffered;
- B. Granting the permit would be of benefit to the public interest;
- C. By granting the permit substantial justice would be done, i.e., the specific variance granted is the minimum variance that will grant reasonable use of the property;
- D. The use must not be contrary to the spirit of the Ordinance; and
- E. If the request is for a Use Variance:

Denial of the variance would result in unnecessary hardship to the owner because:

- 1. The zoning restriction as applied to the property interferes with the reasonable use of the property, considering the unique setting of the property in its environment;
- 2. No fair and substantial relationship exists between the general purposes of the Zoning Ordinance and the specific restriction on the property; and
- 3. The variance would not injure the public or private rights of others.

If the request is for an Area Variance:

Denial of the variance would result in unnecessary hardship to the owner because:

- 1. Special conditions of the property make an area variance necessary in order to allow the development as designed; and

2. The same benefit cannot be achieved by some other reasonably feasible method that would not impose an undue financial burden.

ARTICLE 31 – RESERVED

ARTICLE 32 – APPEAL

Any person seeking to appeal a decision of the Zoning Board of Adjustment, Planning Board, or any administrative decision must comply with the provisions of RSA Chapters 676 and 677. It is strongly recommended that anyone seeking to appeal a decision consult with legal counsel. Although the clerks for the various Wakefield boards and departments may be able to assist a person in directing him or her to the proper forms for appeals to the Zoning Board of Adjustment for certain matters, they are unable to provide any person with legal advice. Failure to perfect a right of appeal within time limits prescribed by New Hampshire statutes and otherwise may result in the denial of the appeal.

ARTICLE 33 – DEFINITIONS

ACCESSORY USE. A use which is dependant on or pertaining to the permitted use, i.e., subordinate use of the property occasioned by the main use and an incident of it, rather than a principle use in and of itself. An accessory use shall be a use that is customarily associated with the primary use. An accessory use shall not require the existence of a primary use on a lot provided the accessory use is consistent with the permitted uses in the zoning district, and either (1) the primary use is located on a contiguous parcel under the same ownership, or (2) the lot is otherwise unbuildable for a permitted use due to topographical or other unique characteristics of the lot.

AGRICULTURAL. The production, keeping, or maintenance, for sale, lease, or personal use, of plants and/or animals useful to humans, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products, poultry and poultry products; livestock including, beef cattle, sheep, swine, horses, ponies, mules, or goats or any mutations or hybrids thereof; bees and apiary products; fur animals; fruits of all kind; vegetables; nursery, floral, ornamental, or any greenhouse products; or lands devoted to a soil conservation or forestry management program.

ANTENNA ARRAY. A collection of antennas attached to a mount to send and receive radio signals.

AVERAGE TREE CANOPY HEIGHT. An average height found by inventorying the height at above ground level (AGL) of all trees over twenty (20) feet in height within a 400' radius of the proposed facility.

BASE DENISITY. The initial density permitted under the property's residential zoning district, i.e., the number of dwelling units per acre.

BED AND BREAKFAST. A transient lodging facility which is the owner's or innkeeper's personal residence, is occupied by the owner or innkeeper at the time of rental to a patron, and in which the only scheduled meal served to in-house guests is breakfast.

BEST MANAGEMENT PRACTICES. Methods that have been found to be the most effective and practical

means of preventing or reducing pollution.

BOAT LAUNCH FACILITY, PUBLIC. A public or commercial area that is supervised (manned) during hours of operation, and otherwise inaccessible to vehicular traffic by way of a locked barrier or gate, for the launching and retrieval of watercraft into/from a body of water. The area shall consist of not less than two (2) contiguous acres of land having a minimum of one hundred fifty feet (150') of shoreline (at the high water mark), and that contains at a minimum a parking area, sanitary facilities (to include, at a minimum, pump-out facilities for boat sewage connected to a sewage treatment system from where boats are to be serviced, separate men and women's bathrooms with running water and sink connected to a sewage treatment system) and a boat inspection and sanitizing area separate from the parking area with running water and hoses to facilitate removal and disposal of invasive species (i.e. milfoil, etc.) from the watercraft hull, mechanisms, and trailer. The boat inspection and sanitizing area shall be situated such that a natural or man-made earthen berm is located between the body of water and the boat inspection and sanitizing area to ensure that invasive species that are dislodged from the watercraft hull, mechanisms and trailer during the sanitizing process cannot be carried into the body of water through water run-off or otherwise.

BOAT LAUNCH FACILITY, PRIVATE. A boat launch associated with an individual private residence. If the facility is intended for use by more than one residence, then all of the conditions imposed upon a Public Boat Launch Facility (as defined above) shall apply, except that the facility need not be manned.

BOAT STORAGE FACILITY. One or more buildings used for the cold weather warehousing or storage of boats and watercraft owned by third parties. A boat storage facility shall not include the storage of boats or watercraft for sale or resale by a boat dealer.

BUILDING. A structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any individual, animal, process, equipment, goods, or materials of any kind, with the exception of a doghouse constructed for a single animal.

BUILDING WIDTH. The dimension that runs roughly parallel to the street.

BUSINESS AND COMMERCIAL. Activities involving the sale of goods or services carried out for profit.

CAMPSITE. A designated area located in a recreational campground or camping park that is for use by either one recreational vehicle, one tent, or a similar shelter.

CAMPSITE, PRIVATE. A designated area not located in a recreational campground or camping park that is for use by either one recreational vehicle, one tent, or a similar shelter.

CHURCH. A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship, and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

CO-LOCATION (in relation to personal wireless service facilities). 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.

CONSERVATION EASEMENT. A legal agreement between a landowner and a land trust, government agency

or other qualified party that permanently limits uses of land to protect conservation values. It allows the property owner to continue to own and use the land and to sell it or pass it on to heirs. The easement may permit or restrict public access, allow or disallow recreational use and development, and similar provisions. Easements are recorded and linked to the title of the land, regardless of its subsequent ownership. (Per RSA 477:45, 477:46, and 477:47)

DEVELOPMENT. Any construction or grading activities on real estate for other than agricultural or forestry practices.

DWELLING UNIT. One or more rooms, designed, occupied, or intended for occupancy as a separate living quarters, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of a family maintaining a household.

DWELLING UNIT, TWO-FAMILY. A building containing two dwelling units that may be located one over the other or side-by-side, including condominium units.

DWELLING, MULTI-FAMILY. A building containing three to four dwelling units that may be located one over the other or side-by-side, including condominium units.

DWELLING, SINGLE FAMILY. A building containing one dwelling unit that is not attached to any other dwelling by any means, including but not limited to manufactured homes as defined by RSA 674:31 and presite built homes as defined by RSA 674:31-a, and is surrounded by open space, yards, or trees.

EASEMENT. The authorization by a property owner for the use by another and for a specific purpose of any designated part of his/her property.

ELDERLY HOUSING OR LIFE CARE FACILITY. Multi-family housing for the elderly or life care facility for the elderly as provided by the Fair Housing Law (42 U.S.C. 3601, et seq), as amended, having a similar definition as “housing for older persons” as defined under 42 U.S.C. 3607(b)(2), and further restricted and defined as housing:

- A. Provided under any State or Federal program that is specifically designed and operated to assist elderly persons (as defined in the State or Federal program); or
- B. Intended for, and solely occupied by, persons 62 years of age or older; or
- C. Intended and operated for occupancy by persons 55 years of age or older, and
 - 1. One hundred (100) percent of the occupied units are occupied by at least one person who is 55 years of age or older;
 - 2. The housing facility or community publishes and adheres to policies and procedures that demonstrate the intent required under this subparagraph; and
 - 3. The housing facility or community complies with rules for verification of occupancy, which shall:
 - a. Provide for verification by reliable surveys and affidavits; and

- b. Include examples of the types of policies and procedures relevant to a determination of compliance with the requirement of section (c) (2) above.

The maximum density is six (6) dwelling units per buildable acre for lots with on-site septic and fifteen (15) dwelling units per buildable acre for lots with municipal water and sewer. In the Agricultural Zone, the maximum density shall be four (4) dwelling units per buildable acre;

The maximum impervious coverage is limited to eighty (80) percent of the total acreage, but in no case shall the impervious coverage exceed the recommendations of the Site Surface Water Management Plan;

The allowable number of units per building in a multi-family residence is a minimum of four (4) dwelling units and a maximum of thirty (30) dwelling units. Each dwelling unit shall have a maximum of 2 bedrooms and a minimum of 600 square feet of indoor living area. For purposes of this definition a covered walkway shall not be construed as a portion of any building;

The number of full-time residents of a dwelling unit in multi-family housing for the elderly or life care facility for the elderly approved pursuant to section (a) (b) or (c) above shall not exceed two (2).

ESSENTIAL TOWN SERVICES. Municipal facilities such as Town Hall, police and fire stations, schools, libraries, maintenance and disposal facilities, etc.

EXCLUSIVE SHORELAND FRONTAGE. That portion of a servient waterfront lot that is set aside for the exclusive use of a non-waterfront lot or non-waterfront dwelling unit.

FACTORY OUTLET STORE. A building or unit devoted exclusively to the retail sale of commodities manufacture or produced on the same lot.

FALL ZONE. The area on the ground from the base of the ground mounted personal wireless service facility that forms a circle with a diameter equal to the height of the personal wireless service 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.

FAMILY. One or more persons living as a single housekeeping unit.

FRONTAGE. A lot dimension that is contiguous to (1) a public road; (2) a private road, (3) a body of water, other than access, provided that, in the case of shore lots, shoreland (or shoreline) frontage shall be the average of the distances of the actual natural shoreline footage and a straight line drawn between property lines. Driveways to single rear lots shall not be construed as frontage. For lots with frontage on more than one street, street frontage setbacks shall be the dimensions measured from all such streets.

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

HAZARDOUS MATERIALS. See definition of "Toxic Materials."

HOLDING TANK. A sealed tank with no outlet to a dry well or other effluent disposal area and which stores septage or other wastes until the wastes can be pumped out and hauled to an approved disposal site. A holding tank is not an individual sewage disposal system as defined in Env-Ws 1002.40.

HOME OCCUPATION. Any use conducted entirely within a dwelling or an accessory building which is clearly incidental and secondary to the use of the building for dwelling purposes and does not change the character thereof, and in connection with which there is not outside display or storage, nor omission of dust, noise, fumes, vibrations or smoke beyond the owner's lot line. For purposes of determining 'incidental and secondary', home occupations shall be limited to a maximum of forty-nine (49) percent of the total gross square footage of the living area, excluding attached and detached accessory buildings, and employees shall be restricted to a maximum of five (5) on the premises at any one time other than the residential occupant(s).

HOMEOWNERS' ASSOCIATION. A private corporation, association or other legal entity organized in accordance with state law and established by the developer for the benefit and enjoyment of its members.

IMPERVIOUS COVER. Any surface that cannot effectively absorb or infiltrate rainfall.

INDUSTRIAL & LIGHT INDUSTRIAL. Industrial activity involving the manufacturing, packaging, assembly, or wholesale distribution of finished products from previously prepared material, including but not limited to: bakeries, bottling, pharmaceutical, machine shops, precision instruments, watchmakers, musical instrument construction, toys and sporting goods construction, pottery and ceramics using only previously pulverized clay, wood products, jewelry, assembly of electrical components, canteen services, tool and die shops, and the packaging of foods. Light Industrial uses also include a self-storage facility, and industrial activity involving research and development and/or the manufacturing, packaging, assembly, wholesale distribution, warehousing and/or storage of finished products. Light Industrial uses do not include the processing of raw materials or salvaging operations, shall discharge no hazardous or toxic waste on site, and must be environmentally non-polluting. Light Industry does not include on site packaging or assembly operations that are part of a business whose primary purpose is retail sales of goods.

All light industrial uses located on Route 16 shall be shielded from view by use of a natural woodland buffer or other screening method as approved by the Planning Board.

LATTICE TOWER. A type of mount with multiple legs and structural cross bracing between the legs that is self-supporting and freestanding.

LOT. An area of land of limited size whose present or future use entails a structure used as a residence or for other approved purposes.

LOT – DWELLING UNIT LOT. A parcel of land subdivided within a (parcel lot) capable of being used for a residential dwelling unit that is of sufficient size to meet the minimum requirements for use, building coverage, and area.

LOT – FLAG. A lot having reduced frontage requirements where the access to the public or private road is narrow. The access takes the form of the pole of the flag and the main portion of the lot takes the form of the flag attached to the pole. These lots may also be known as back lots.

LOT OF RECORD. Any lot containing a separate and distinct description as of the adoption of this Ordinance.

LOT – PARCEL LOT. A parcel of land capable of being occupied that is of sufficient size to meet the minimum requirements for use, building coverage, and area.

MAST (in relation to personal wireless service facilities). A thin pole that resembles a streetlight standard or a telephone pole. A dual-polarized antenna is typically deployed on a mast.

MIXED USE BUILDINGS. A building containing two or more units, which units are capable of being used for business, commercial and/or residential purposes.

MONOPOLE (in relation to personal wireless service facilities). A thicker type of mount than a mast that is self-supporting with a single shaft of wound steel or concrete or other material that is designed for the placement of antennas and arrays along or within the shaft.

MUNICIPAL WASTEWATER SYSTEM. A wastewater collection, treatment, and disposal system that is owned and operated by a municipality.

MUSEUMS. An establishment operated as a repository or collection of nature, scientific, or literary curiosities or objects of interest or works of art. Museums may have gift shops, but the primary purpose is the display of objects for public benefit, not retail sales.

NATURAL CONDITION. The topography and vegetation of an area that is unaltered by clearing and grading during construction and protected in perpetuity.

NON-CONFORMING USE. A use that does not conform to the regulations herein, but which was lawfully maintained at the time this Ordinance (or amendment thereto that rendered the use non-conforming) became effective.

NON-CONFORMING STRUCTURE. A structure that does not conform to the regulations herein, but which was lawfully maintained at the time this Ordinance (or amendment thereto that rendered the structure non-conforming) became effective.

NON-POINT SOURCE POLLUTION. Pollution that is generated by various land use activities rather than from an identifiable or discrete source and is conveyed to waterways through natural processes such as rainfall, storm water runoff, or groundwater seepage rather than direct discharges.

OPEN SPACE. A portion of a development site that is permanent set aside for public or private uses, and will not be developed. Said open space may be composed of Conservation Area Open Space and/or Homeowners' Recreation Area Open Space.

OPEN SPACE – CONSERVATION AREA. Typically an undisturbed or naturally vegetated portion of a development site that is permanently set aside for public or private use and will not be developed.

OPEN SPACE CONSERVATION/CLUSTER DEVELOPMENT SUBDIVISION. A subdivision that sites houses on smaller dwelling unit lots with a density that will not exceed the density permitted in conventional subdivision. Additional land that would have been allocated to individual lots is converted to common shared Open Space for the subdivision residents and/or the community. It is protected in perpetuity. Typically, road

frontage, lot size, setbacks and other traditional subdivision regulations are redefined to permit the developer to preserve ecologically sensitive areas, historical sites or other unique characteristics of the land being subdivided.

OPEN SPACE – HOMEOWNERS’ RECREATION AREA. The area of Open Space remaining after the Open Space Conservation Area has been designated. The area may be used for passive or active recreation or storm water management.

PARKING FACILITY. The use of land which constitutes the principal use, for the temporary parking of motor vehicles including but not limited to a parking lot, a parking structure, or a parking garage.

PREMISES. The area occupied by a business or other public enterprise. When more than one business occupies a single building or lot, each business area shall be considered separate premises.

RECIPIENT LOT OR RECIPIENT DWELLING UNIT. A lot or dwelling unit (usually, but not exclusively, a non-waterfront lot or dwelling unit) located in Wakefield, NH that has the benefit of a grant, lease, easement or other conveyance of a right for water access over another lot.

RECOGNIZED PHYSICAL DISABILITY. A factual finding made by the Zoning Board of Adjustment that will allow the Zoning Board of Adjustment to 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 of advanced age or with such recognized physical disability to reside in or regularly use the premises, provided that any variance granted under this paragraph shall be in harmony with the general purpose and intent of the Zoning Ordinance. In granting any such variance, the Zoning Board of Adjustment may provide, in a finding included in the variance, that the variance shall survive only so long as the particular person with the recognized physical disability has a continuing need to use the premises. It is contemplated this provision (as codified in RSA 674:33, V) will be invoked when, for example, a need arises for a so-called “mother-in-law apartment” to care for an aged or ailing relative, or when a person having a recognized physical disability requires alterations to the premises to accommodate such disability, which alterations might otherwise be precluded.

RECREATIONAL CAMPGROUND OR CAMPING PARK. A parcel of land under single ownership, consisting of a minimum of ten (10) acres used primarily for transient or temporary occupancy for recreational dwelling purposes only, and not for permanent year-round residence, excluding camps set apart for recreational purposes for boys and girls.

RESIDENCE. A structure designed for residential occupancy by one or more families, but excluding hotels, motels, tourist homes and overnight cabins.

RESIDENTIAL. Restricted to or occupied by residences.

RESTAURANT. Any establishment, however designated, at which prepared food and/or drink is sold for immediately consumption, usually to patrons seated within an enclosed building. Neither a snack bar nor a bed and breakfast shall be deemed to be a restaurant.

RESTAURANT, STANDARD. A restaurant that is neither a “restricted restaurant,” nor a “drive-thru restaurant.”

RESTAURANT, DRIVE-THRU. A restaurant designed, in whole or in part, to cater to or accommodate the

consumption of food and/or beverage in automobiles on or off the premises of such establishment. Typically, but not always, a drive-thru restaurant will have a window from which patrons may purchase and obtain food without exiting their automobile.

RESTAURANT, RESTRICTED. A restaurant that can accommodate 60 or fewer patrons, is open not more than 5 days per week, is 3500 sq. ft. or less, provides no “take out” service, and serves not more than 2 meals per day. Typically, but not always, a restricted restaurant is a “mom and pop” venture located in a residence that is converted into a restaurant, and serves only sit-down meals. They usually offer home cooking, or nouveau or “niche” cuisine, and are often seasonal.

RIDGELINE, MAJOR. A ridgeline that is prominently visible from an open space, waterway or roadway within the town. A major ridgeline is characterized by the lack of a topographical backdrop, i.e. where the sky is visible beyond the ridge. Identified major ridgelines shall include but not be limited to the following: Ballards Ridge, Copp Hill, Cooks Hill, Davis Hill, Foggs Ridge, Long Mountain, Oak Hill, Perkins Hill, Pray Hill, and Province Mountain.

SEASONAL DWELLING. A dwelling unit, or structure containing a roof and that may contain cooking, sleeping, and/or sanitary facilities whose primary use or occupancy is or has been for less than nine (9) months out of twelve (12) consecutive months.

SECURITY BARRIER. A barrier that restricts an area from unauthorized entry or trespass.

SEPARATION (in relation to personal wireless service facilities). The distance between one carrier’s antenna array and another carrier’s antenna array.

SERVIENT WATERFRONT LOT. A lot that is contiguous to the shoreline of any lake, pond or watercourse, and which is subject to a grant, lease, easement or other conveyance of a right that provides water access to any other lot.

SETBACK. An open, unoccupied space on the same lot with a structure.

SETBACK, FRONT. A setback extending across the full width of a lot between the front lot line and the foremost point of the foremost structure excluding steps and septic systems.

SETBACK, REAR. A setback extending across the full width of a lot between the rear lot lines and the rear most part of the structure nearest to the rear lot line excluding steps and excluding septic systems.

SETBACK, SIDE. A setback extending between a side lot line and the nearest structure to it extending from the required rear setback, and excluding *steps and* septic systems.

SEWAGE DISPOSAL SYSTEM. Any onsite sewage disposal or treatment system that receives either sewage or other wastes, or both. For the purposes of this definition, this means all components of the system, including the leach field.

SIGN. Any structure, device, lighting fixture or natural object including the ground itself or any part thereof or any device attached thereto, or painted or represented thereon, which shall be used to identify, advertise, or attract attention to any object, product, place, activity, person, institution, organization, firm, group, commodity,

profession, enterprise, industry, or business, or which shall display or include any letter, word, model, number, banner, flag, pennant, insignia, device or representation used as in announcement, direction or advertisement, and which is intended to be seen from off the premises or from a parking lot. The word "sign" shall not include the structure that supports the sign face, but only the sign face itself. The word "sign" shall not include signs that are affixed to the inside of windows and glass doors of enclosed buildings except for illuminated signs.

In addition to the above, the following types of signs shall be further defined as follows:

- A. Free Standing sign:** A sign supported by one or more uprights, poles, or braces placed in or upon the ground.
- B. Illuminated Sign:** A sign that provides artificial light directly or through any transparent or translucent materials, from a source of light connected with such sign or a sign illuminated by a light focused upon or directed chiefly at the surface of the sign.
- C. Off-Premises Advertising Sign:** A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered at a location other than the premises on which the sign is located.
- D. Permanent Sign:** Any sign that is not a temporary sign.
- E. Portable Sign:** A sign that is placed, erected or constructed on any movable or portable base, sled, trailer, vehicle, stand or device of any type where the principal use of such base, sled, trailer, vehicle, stand or device is for the purpose of displaying a sign face which is capable of being moved or transported from one location to another.
- F. Projecting Sign:** A sign that projects from, and is supported by a wall, porch of any other part of a building.
- G. Roof Sign:** Any sign erected and maintained upon or above the roof of any building.
- H. Temporary Sign:** A sign constructed of cloth, canvas, fabric, wood, paper or other similar material with or without a structural frame and intended for a limited display.
- I. Wall Sign:** A sign, which is attached directly to, or painted upon, a building wall and which does not extend more than ten (10) inches therefrom, nor extend above the roof line.

SIGN AREA. The total area of the sign faces including any framing surrounding the face. The area of the supports, posts, poles and braces or other supporting structure shall not be included as part of the sign area. On dual-faced signs only the area of one sign face (the largest face) shall be used in calculating the total sign area. When individual letters are mounted separately on the surface of a building wall, the spaces between the letters shall be included in calculating the area of the sign. When signs are constructed of separate parts, such as separate boards attached to a post or hung together by hooks, the space between the boards shall be included in calculating the total sign area.

SLOPE. The average steepness of the land surface under consideration. For determining lot size categories, Natural Resource Conservation Service slope ranges shall be used. Slope shall be determined by the preparation of a topographic plan or by on-site measurement through the use of a clinometer.

SLOPE – STEEP SLOPE LAND. Land with slopes of 25% or more.

SNACK BAR. A food service facility located at a public or community playground, playfield or park operated solely by the agency or group operating the recreational facilities, and for the convenience of the patrons of the facility.

SOIL CARRYING CAPACITY. The ability of the soil to accommodate a sewage disposal system as determined by dividing the given area of each soil type by the required area per State standards.

STORMWAER MANAGEMENT. The use of structure or non-structural practices that are designed to reduce storm water runoff pollutant loads, discharge volumes and/or peak flow discharge rates.

STRUCTURE. Anything constructed or erected with a fixed location on or in the ground or attached to something having a fixed location on or in the ground, excluding patios, driveways, walkways, parking lots, whether paved or not; fences; flagpoles less than 45 feet in height; and walls less than 3.5 feet in height which do not obstruct a driver's line of sight.

TOXIC MATERIALS: Any substance or mixture of such physical, chemical, or infectious characteristics as to pose a significant, actual or potential hazard to water supplies, or other hazard to human health, if such substance or mixture were discharged to land or waters of this Town. Toxic or hazardous materials include, without limitation, volatile organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkyds, asphalt and roofing tars, and include products such as pesticides, herbicides, solvents and thinners, and such other substances as defined in New Hampshire Water Supply and Pollution Control Rules, Section Ws 410.04(1), in New Hampshire Solid Waste Rules He-P 1901.03(v), and in the Code of Federal Regulations 40 CFR 261. Wastes generated by the following commercial activities are presumed to be toxic or hazardous, unless and except to the extent that any one engaging in such an activity can demonstrate the contrary to the satisfaction of the Planning Board:

- A. Chemical and bacteriological laboratory operation, including laboratory operations in educational Institutions;
- B. Dry cleaning and laundries;
- C. Electronic circuit manufacturing;
- D. Metal plating, finishing and polishing;
- E. Painting, wood preserving and furniture stripping;
- F. Pesticide and herbicide application;
- G. Photographic and printing processes;
- H. Medical facilities, including doctor's offices and hospitals;
- I. Funeral homes, parlors, and embalmers.

UNBUILDABLE LAND. The area of a site that includes wetlands and submerged areas, steep slope land, and the 100-year flood plain.

UNIT. An area within a building that is separated by solid walls from other portions of the building and which is capable of being sold or leased.

YARD SALE. The sale of assorted items, usually second hand, at noncommercial premises. The term “yard sale” shall include garage sale, porch sale, barn sale, cellar sale, tag sale, et cetera. “Yard Sale” shall not include “Yard Sale Business.”

YARD SALE BUSINESS. The sale of assorted items, usually second hand, at noncommercial premises, which occurs more frequently than (1) three weekends, (2) five consecutive weekdays, or (3) six days total of any calendar year. This term applies also to the following types of sales when they exceed the above-described frequencies: garage sale, porch sale, barn sale, cellar sale, tag sale, etcetera. “Yard Sale Business” shall not include “Yard Sale.”

ARTICLE 34 – USES AND STRUCTURES NOT PERMITTED ARE PROHIBITED

Any use or structure that is not listed in this Ordinance as a permitted use or structure, or that is not listed as a use or structure permitted by Special Exception, is prohibited.

ARTICLE 35 – SPLIT ZONE LOTS.

- A. BASE ZONES.** In the event that a lot is divided by a base zoning district boundary, each section of the lot shall be used in conformity with the regulations of the base zoning district in which it lies. The regulations of either base zoning district may be extended into the other district up to one hundred (100) feet by an application for Special Exception. The application shall include the specifics of the use proposed for the lot, and any approval issued shall be contingent upon the lot being used for the stated purpose. In the absence of specific language to the contrary issued by the Zoning Board of Adjustment as part of any approval issued, the base zoning district boundary shall revert to its original location upon termination of the proposed use.
- B. OVERLAY ZONES.** Overlay zones by their nature do not adhere to lines of property ownership and regularly divide lots. Any portion of a lot that is within one or more overlay zone(s) shall comply with the regulations of the overlay zone(s).

ARTICLE 36 – PERMIT REQUIRED

A permit shall be obtained from the administering authority prior to undertaking any activity regulated by this Ordinance, or for the construction, erection, alteration, movement, or placement of any structure. The administering authority shall ensure that the proposed use or structure meets all the requirements of this Ordinance.

ARTICLE 37 – SEPARABILITY

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

ARTICLE 38 – CONFLICT WITH OTHER REGULATIONS

Where the provisions of this Ordinance conflict with any local, state, or federal rule, ordinance, or regulation, the provision imposing the more stringent standard shall apply.

ARTICLE 39 – ADMINISTRATION, ENFORCEMENT AND PENALTY

The Wakefield Town Selectmen or their duly authorized representative is hereby designated to administer, implement, and enforce the provisions of this Ordinance, in accordance with the New Hampshire Revised Statutes Annotated, as amended. Penalties for violation of this Ordinance shall be as provided for by RSA 676:17, and other statutes, as amended.

ARTICLE 40 – RESERVED

ARTICLE 41 – DATES OF ENACTMENT & AMENDMENT

Adopted March 11, 1986

Amended March 10, 1987

Amended March 14, 1989

Amended March 13, 1990

Amended March 12, 1991

Amended March 10, 1992

Amended March 09, 1993

Amended March 12, 1994

Amended March 14, 1995

Amended March 11, 1996

Amended March 09, 1999

Amended March 14, 2000

Amended March 13, 2001

Amended March 12, 2002

Amended March 11, 2003

Amended March 9, 2004

Amended March 8, 2005

Amended March 14, 2006